



HEADED BY
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**REPORT OF THE COMMISSION
OF INQUIRY INTO THE MINIBUS
TAXI-TYPE SERVICE VIOLENCE,
FATALITIES AND INSTABILITY IN
THE GAUTENG PROVINCE**

Contents

Disclaimer	iv
Executive Summary	vi
Part A: Background and Introduction	2
Part B: Definitions, Acronyms and Abbreviations	9
1. Definitions	9
2. Acronyms and Abbreviations.....	11
Part C: Establishment of the Commission	16
1. Introduction	16
2. Terms of Reference of the Commission	16
3. Composition of the Commission.....	18
4. Commission Procedure	18
5. Constraints under which the Commission has worked	21
Part D: Legislative Framework	24
1 Introduction	24
2 Current Laws	24
3 Repealed/Excluded Laws	33
4 Bills/New Laws	40
Part E: Law Enforcement Agencies	44
1 Introduction	44
2 Law Enforcement Agencies in the Province: The Role-Players	44
3 Legislative Basis for Enforcement	45
4 Fragmented Law Enforcement	46
5 Conflicted Law Enforcement Officials.....	47
6 Collusion	48
7 Bribery and Extortion.....	49

8	Fraudulent Route Allocation at GDRT	50
9	Municipal and Traffic Police	50
10	Illegal Operators	53
11	Routes Enforcement.....	53
12	Gauteng Traffic Police and Inspectorate	54
13	RTMC and the Cross-Border Road Agency	56
14	South African Police Services (SAPS)	57
	Part F: Key Findings and Recommendations	62
1	Findings on Minibus Taxi-Type Business Model	62
	Recommendations on the Minibus Taxi-Type Business Model.....	64
2	Findings on Licensing and Compliance.....	66
	Recommendations on Licensing and Compliance	68
3	Findings on Oversight and Monitoring.....	69
	Recommendations on Oversight and Monitoring	70
4	Findings on Criminal Investigations and Prosecutions	70
	Recommendations on Criminal Investigations and Prosecutions.....	71
5	Findings on Contributions by Municipalities	72
	Recommendations on Contributions by Municipalities	74
6	Findings on Information Systems	74
	Recommendations on Information System	75
7	Findings on the National Department of Transport.....	76
	Recommendations on the National Department of Transport	77
	Recommendations on Law Enforcement Agencies.....	77
8	Findings on Other Matters.....	79
	Recommendations on Other Matters	80
	Part G: Concluding Remarks	83

Annexure A: Terms of Reference of the Commission	86
Annexure B: Regulations applicable to the Commission.....	88
Annexure C: Offences and Penalties as per the NLTA	91
Annexure D: Commission Performance Statistics.....	94

Disclaimer

It is significant to note from the onset that the contents of this final report reflect the evidence gathered and the independent professional opinion of the Commissioners. The contents of this report do not in any way reflect the opinion, ideas or agendas of any political party in Gauteng. The report is a product of intensive investigations, public and in-camera hearings as well as independent research. It was not physically and practically possible to interview and receive submissions from all role players, therefore for those we could not reach, we offer our sincere apologies.



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Judge Jeremiah Buti Shongwe



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Mr Rudolph Lungile Mabece



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Mr Hlula Msimang

Executive Summary

Executive Summary

Introduction

It was the Minibus Taxi-Type Service Industry, itself, which appealed to the Gauteng Government to establish a Commission that focuses primarily on the underlying reasons for the recurring violence, conflict, fatalities and instability within the Minibus Taxi-Type Service Industry. The Gauteng Provincial Government heeded the call and a decision to appoint a retired Judge to investigate the root causes of taxi violence in the Gauteng Province led to the establishment of this Commission. Proclamation 101 of 2019 published on 13 September 2019 gave effect to the *Commission of Inquiry into Taxi Violence*. Justice Jeremiah Buti Shongwe was appointed as Chairperson together with Mr Rudolph Lungile Mabece and Mr Hlula Msimang as members of the Commission with Ms Dimakatso Mamiki Selesho as the Secretary. The Commission is the culmination of a long consultative process between the Government and the Minibus Taxi-Type Service Industry in Gauteng.

Historically, there have been various Commissions with a similar mandate of investigating causes of violence and bringing stability to the Minibus Taxi-Type Service Industry. The mandate of the Welgemoed Commission was limited to buses and not Minibus-Taxi's which resulted in Minibus-Taxi Operators having to fend for themselves without any support from the Government at the time. The report states that it was unjustifiable to have a mass-based transport system in historically white urban and developed areas.

On 18 March 1995, the National Taxi Task Team (NTTT) was established leading to the regulation of the Minibus Taxi-Type Service. Such regulation led to the introduction of a minimum standard constitution for Associations. Gauteng Province promulgated the Gauteng Minibus Taxi-Type Service Act of 1997 (Act No.11 of 1997) that sought to act on the NTTTT Recommendations on Governance of the Taxi Industry.

The continuous attempts by the Government to regulate the Minibus Taxi-Type Service Industry highlights the severity of the challenges within the industry. This is why the findings and recommendations of this Commission should make a fundamental impact on the industry at large.

Background

Public transport in South Africa is a Constitutional imperative. To ensure active economic participation, employees need to commute from their homes to where they work. Therefore, the Minibus Taxi-Type Service Industry, as part of an integrated public transport system, occupies a significant space in the development of citizens. However, the scourge of violence in the Minibus Taxi-Type Service Industry has brought untold and unparalleled misery in the Minibus Taxi-Type Service Industry. It would be amiss of this Commission to overlook and downplay the effects of the violence that has plagued Associations, owners, operators, drivers, passengers and innocent bystanders.

There is no doubt that the Minibus Taxi-Type Service Industry is among the most dangerous, if not the most violent and feared industries in South Africa. During November and December 2019, more than twelve (12) people, were shot and killed in Gauteng in connection with Minibus Taxi-Type Service Industry violence. Amid the unabating taxi violence, this Commission could not come at a more opportune time to get to the bottom of the causal factors fuelling the violence. The industry has both legal and illegal operators. The minibus taxi-type business model is so unorthodox and unique in itself to the extent of encouraging and contributing directly to the recurrence of conflict and violence. Perhaps, a fundamental and total transformation of the taxi business model could be the answer to all these questions/concerns.

It was quite telling that at the inception of this Commission, the general sentiment by the ordinary South African citizen was one of scepticism, a lack of trust and hope because of the perception that these Commissions never produce the desired results or any results at all. To ensure that the citizens' concerns regarding taxi violence were addressed, this Commission had to find answers to questions such as: Why is it that after so many years the Minibus Taxi-Type Service Industry has not been properly regulated with no implementation of the law and has not been modernised? Why are there still old vehicles conveying passengers on the roads? Why are there so many violent deaths in this industry? In attempting to fulfil its mandate, this Commission has made findings and put forward recommendations which endeavour to provide the long-awaited answers to these questions

Commission Procedures

The Commission was required to complete its work within six months from date of publication of the Proclamation and submit its report and recommendations in writing to the Premier. However, due to unforeseen circumstances necessitated by organisational and logistical challenges, it was not possible to submit the report within the allocated period of six months. The Commission was thus extended for a further six months.

In the middle of March 2020, the Government declared a National State of Disaster due to the Covid-19 pandemic, which was followed by a country-wide lockdown. The lockdown necessarily meant that the Commission would be unable to function normally and as a consequence, the work of the Commission including public hearings was suspended. The considerable number of workdays lost necessitated another request for an extension of the term of the Commission for a further six months. However, the Commission was granted a further four months only, within which to complete its duties. The Commission was directed to submit its final report on or before 31 January 2021.

Terms of Reference

The Terms of Reference of the Commission are to enquire into and investigate, make findings, report on and make recommendations concerning:

- a) the underlying reasons for the recurring conflict, violence, fatalities and instability within the minibus taxi-type service industry within the Gauteng Province;
- b) the activities of operators, legal and illegal, as well as any other group or person that contributes to the recurring conflict, violence, fatalities and instability;
- c) the provision of minibus taxi transport services authorised by both interchange based and direct route-based permits and licenses;
- d) how the minibus taxi business model, including the formation and management of minibus taxi Associations, contributes to the recurring conflict, violence, fatalities and instability; and

- e) any other matters that are ancillary or related to the matters set out in paragraphs (a) to (d).

Further to this, the Commission must make findings with reference to:

- a) the number, nature, locality and pattern of incidents of conflict, violence, fatalities and instability involving different sections of the public, both as victims and suspects, in the Gauteng Province;
- b) indications whether the incidents are related to criminal activities or any other internal or external influences or factors which may be considered relevant;
- c) the outcome of any police investigations and prosecutions of the incidents, including the number of successful prosecutions of the perpetrators; and
- d) the perceptions of the different sections of the public in respect of the underlying reasons of the incidents of the recurring conflict, violence, fatalities and instability and the effectiveness of policing thereof by the police service in the Gauteng Province.

The Commission must also make recommendations on:

- a) how to address the underlying reasons giving rise to the recurring conflict, violence, fatalities and instability within the minibus taxi-type service industry in the Gauteng Province, including how the regulatory environment, including the actions of minibus taxi-type service industry Associations and their respective internal management and operations, may be changed or better regulated to minimise or eliminate conflict, violence, fatalities and instability in the industry; and
- b) any other matter of whatsoever nature that the Commission considers necessary or appropriate in relation to its Terms of Reference.

The Commission heard evidence from various stakeholders. These included officials of the GDRT and the Provincial Regulatory Entity (PRE). Municipal officials from, the three Metro's (Ekurhuleni, Johannesburg and Tshwane) and two District Municipalities (Sedibeng and Westrand). Officials from the National Department of Transport (DoT), the National Prosecuting Authority (NPA), South African National Civic Organisation (SANCO), a considerable number of members of Taxi Associations affiliated to both South African National Taxi Council (SANTACO) and

National Taxi Alliance (NTA), The South African Police Service (SAPS) and individuals (including experts and victims) of taxi violence.

Three interim reports were handed to the Gauteng MEC for Roads and Transport. The first report related to austerity measures that could be adopted by the PRE to save on the publication fees of applications for operating licenses. The second report related to the unlawful deregistration of Boschkop Taxi Association and the subsequent merger with Menlyn Taxi Association and the third report related to a merger between Central Top Eleven Taxi Associations and Pretoria Burgersfort Taxi Association.

Constraints under which the Commission has worked

Members of the Commission met for the first time on 16 September 2019. It soon became apparent that the cart had been put before the horse in that the period within which the Commission was to start and complete its work had already commenced on the 13 September 2019, instead of setting up the Commission infrastructure first and publish the Proclamation thereafter. On 26 November 2019, the Commission had a meet and greet introduction with the media and the public at large. The first witness to be heard by the Commission was the Gauteng MEC for Roads and Transport on 5 December 2019.

It has not been a smooth ride working with the Department of Roads and Transport of Gauteng. The assistance we expected from the GDRT was not forthcoming.

Legislative Framework

This part of the report (Part D) lays the foundation for understanding the legal basis that governs the Minibus Taxi-Type Service Industry and provides insight into the Legislative Framework which deals in the main with the laws governing the Minibus Taxi-Type Service Industry. The focus in this part of the report is on laws that are relevant and have application in aspects of the Terms of Reference for the Commission. Part D is divided into three sections. Section 1 deals with the current laws that are in force, section 2 deals with repealed or excluded laws that influenced or still influence matters dealt with by the Commission and section 3 deals with the new laws or bills that may result in changes to the current laws. Reference to laws in this report, covers the Constitution of the Republic of South Africa, laws passed by both National and Provincial Legislatures as well as Regulations thereunder.

In explaining the Current Laws, various sections in the National Land Transport Act, 2009 (Act 5 of 2009) (NLTA) are cited. The NLTA came into effect in two parts: The first in August 2009 and the second in December 2009. Another piece of legislation explained under Current Laws is the Road Traffic Management Corporation Act, 1999 (Act 20 of 1999). This Act provides for the establishment of the Road Traffic Management Corporation as a partnership between National, Provincial and Local spheres of Government by effecting the pooling of road traffic powers of the Minister and every MEC and resources of National and Provincial spheres of Government responsible for road traffic management. This Act seeks to enhance cooperative and coordinated road traffic strategic planning, regulation, facilitation and law enforcement. This law further strengthens the National and Provincial Governments' collective capacity to govern road traffic through partnerships with Local Government bodies and the private sector.

The Legislative Framework also deals with Repealed/Excluded Laws such as the Road Transportation Act, 1977 (Act 74 of 1977) (RTA). The RTA came into force on 1 January 1978. It remained in force in the Gauteng Province until it was excluded from application in terms of section 104 of the Gauteng Public Passenger Road Transport Act, 2001 (Act 7 of 2001) (GPPRTA). The RTA provided for the control of certain forms of road transportation and for matters connected therewith. Section 16(1) of the RTA provided that the commission or a board may grant or renew a public permit for an indefinite period or, in its discretion, for such fixed period as it may determine. Despite the exclusion of the RTA in terms of section 104 of the GPPRTA, the Province continued to use the RTA in the form of the application forms as well as the Land Transport Permit System (LTPS).

Another repealed Act is the Transport Deregulation Act, 1988 (Act 80 of 1988). During the hearings, there was evidence to the effect that the deregulation of the Minibus Taxi-Type Service in terms of this Act led to the proliferation of permits without regard to the need and possible detriment to the industry. Another repealed Act is the National Land Transport Transition Act (Act 22 of 2000). Chapter 3 of the NLTTA does not apply in a Province in so far as it relates to a matter where there is a replacing Provincial law in force. In the case of the Gauteng Province, the Gauteng Public Passenger Road Transport Act, 2001 (Act 7 of 2001). This Act established the Transport Operating License Administrative Bodies (TOLAB) and deals very

broadly with matters of operations from the Board to Transport Registrar including the role of the Registrar and the registration and de-registration of Association.

The last part of the Legislative Framework deals with Bills or New Laws. Firstly, the Gauteng Transport Authority Act 2019 (Act No.2 of 2019) is discussed. This Act aims to give effect to the development of an integrated transport system which contributes to environmental sustainability and social cohesion and promotes economic progress in the Province. Further to this, it provides for a well-functioning, effective and modern, integrated and safe public transport system for all users in the Province and the integration of transport infrastructure developments and services in the Province. The National Land Transport Amendment Bill, 2016 [B 7D-2016] is also a new Bill which seeks to introduce various amendments to the NLTA.

Amongst the amendments relevant to the mandate of the Commission is the re-introduction of Associations into the public transport legislation wherein the Association is defined to mean a group of operators which has been formed not for gain whose object is to promote the interests of its members and whose funds are to be applied in promoting those interests. The Bill also provides for the amendment of section 12 of the NLTA to enable for Provincial legislation for the joint performance of certain functions by the Province and Municipalities. The Bill also seeks to amend section 23 of the NLTA to clarify the status of the members of a PRE by prescribing that it consists of not more than seven non-executive members appointed by the MEC who are accountable to the Provincial HoD with regard to administrative and employment issues and who in performing their quasi-judicial functions, exercise independent discretion.

Law Enforcement Agencies

Part E of the report deals with Law Enforcement Agencies. There are several Law Enforcement Agencies in Gauteng that are authorised by the NLTA to conduct law enforcement for the public transport sector. Gauteng has the South African Police Services (SAPS) which is responsible for fighting crime. They are the only Agency in Gauteng that is authorised to gather crime intelligence and conduct criminal investigations and to also run and manage a crime intelligence capacity which is necessary to combat serious and organised crimes including those that are experienced in the Minibus Taxi-Type Service Industry. The SAPS are required to investigate and forward to the NPA for prosecution, all incidents and cases of violence and crime committed in the Minibus Taxi-Type Service Industry.

Gauteng Province has three Municipal Police Services (also called Metro Police) namely the Ekurhuleni Metro Police Department (EMPD); the Johannesburg Metropolitan Police Department (JMPD) and the Tshwane Metropolitan Police Department (TMPD). These Municipal Police Departments are mandated to conduct crime prevention; bylaw enforcement and traffic law enforcement.

In addition to these structures, there is also the Gauteng Traffic Police (GTP) which is situated in the Department of Community Safety. The GTP is responsible for the enforcement of traffic laws as contained in the NRTA, the NLTA and other provincial laws governing traffic. Two other national law enforcement agencies operate in Gauteng namely the National Traffic Police (NTP) and the Cross-border Roads Agency Enforcement Unit (which has now been incorporated into the NTP). Both are also entitled to enforce the provisions of the NLTA.

All the above-mentioned Law Enforcement Agencies are recognised as authorised officers and are entitled to enforce the provisions of the NLTA. Given the number of Law Enforcement Agencies operating in Gauteng, it is virtually inevitable that there would be challenges in coordinating the enforcement activities of these Agencies. It was apparent in the deliberations of the Commission that law enforcement in Gauteng is highly fragmented. This fragmentation makes law enforcement less effective as each Agency operates on its own and often with limited resources. The resulting impact is often minimal and localised and a perception that law enforcement is weak endures. This results in more lawlessness as a sense of

general impunity prevails where those who breach the law are unlikely to be punished.

In instances where joint efforts have been undertaken and despite their success, these have been short-lived and often dissipate without any rational explanation. The Joint Provincial Taxi Task Force which was conceptualised and established in 2014 to coordinate the fight against violence in the Minibus Taxi-Type Service Industry in Gauteng, was considered by the role-players who testified in the Commission, to have been effective in fighting taxi violence. The Commission heard evidence that all Law Enforcement Agencies have other policing responsibilities over and above the enforcement of the NLTA.

Section 13(d) of the NLTA states that an official in law enforcement and his/her immediate family must not have any direct financial or business interest in the public transport sector. However, there is a commonly held public view that law enforcement is highly conflicted which explain why it has been ineffectual in dealing with the taxi-related conflict. Some even go further to believe that some of the weapons used in the violence are issued by the police themselves. This view has been reinforced by the fact that in some of the incidents of violence, state-issued rifles and pistols were used and some of these have been confiscated from suspects. There are also numerous examples where criminals in the industry have been able to avoid arrest due to forewarning which could only have come from elements in the Law Enforcement Agencies who are co-conspirators. The Commission heard of only two instances where the SAPS and JMPD attempted to investigate members who are contravening this law. In both instances, these investigations have stalled for reasons that were not provided to the Commission.

No other Law Enforcement Agency in the Province has interacted with the PRE or any other structure at National level that can assist with such investigations, to establish which of their members are owners and operators in the Minibus Taxi-Type Service Industry. During their submission to the Commission, the senior representatives of the EMPD confessed that they were not aware of this legal requirement and the TMPD has never undertaken such an investigation. It was apparent that Law Enforcement Agencies across the board have no systems in place to establish the identity of participants in the Industry and that officials are not subjected to pre-employment vetting and periodic vetting that Law Enforcement

Officers should be subjected to. The RTMC is a significant player in enforcement. It is responsible for the eNaTIS system as well as the enforcement activities of the Cross-Border Roads Agency which are now integrated into the NTP unit.

Gauteng is a major destination for cross border Taxi Operators. There is however a glaring lack of enforcement with regards to cross-border Taxi Operators. The second component of law enforcement is enforcement required to combat violence and murder and general criminality that has come to characterise this Industry. This part of the report addresses these issues.

Violence in the Minibus Taxi-Type Service Industry in Gauteng manifests in various ways. Of those killed, 100% were shot with high calibre rifles as well as small firearms. Some of the high calibre weapons used are the kind that is issued to state agencies such as the SANDF and the SAPS. Typical assassinations/shootings involved the use of firearms by hired gunmen known widely as *Izinkabi*. In addition to the causes of violence in the Industry mentioned above in this part of the Report, the Commission was presented with testimonies related to fights over money, especially 'bucket' money; competition for executive positions in the associations; fights for territorial dominance; unlawful and criminal take-over of businesses of other operators; retribution; and pure thuggery among other causes. The Commission heard that, according to police stations, there are ten identified hotspots of taxi violence in the Province namely: Johannesburg Central; Everton; Jeppe; Tsakane; Moroka: Lenasia South; Ivory Park; Olievenhoutbosch; Alexander; Hillbrow; Germiston and Vosloorus.

The Gauteng Taxi Violence Task Team faces severe challenges which include the quality of investigative work and that crimes scenes are not attended to in accordance with the practice and principles contained in the National Instruction Crime Scene Management, 13 of 2017. Also, because they are few in number, the members of the Task Team are seldom first responders to crime scenes and this compromising the investigative work of detectives. These and other findings were presented to the SAPS management team and they unreservedly accepted the findings and undertook to give serious consideration to these findings.

Key Findings and Recommendations

The key findings and recommendations made by the Commission are found in Part F of this report. The part highlights the impact and effects of the violence uncovered in the hearings, based on the testimonies given and the evidence that was led. It also makes recommendations on how to proceed with addressing the prevalence of violence in the Minibus Taxi-Type Service Industry.

Among its findings and recommendations, the report includes the following:

Findings on Minibus Taxi-Type Business Model

The Minibus Taxi-Type Service business model is to the effect that an individual or a juristic entity may apply for an operating license to conduct a Minibus Taxi-Type Service. The business model of the Minibus Taxi-Type Service allows for the use of motor cars, midibuses and minibuses. Besides the operators, the business model includes Taxi Associations that may be categorised into four structures namely National, Provincial, Regional and Local. The Associations are currently not regulated but were previously regulated under the NLTTA nationally and under GPPRTA in the Gauteng Province. Despite the Legal Framework, the Minibus Taxi-Type Service is controlled by the Associations. The Associations control who gets to join them, they control routes and dictate where each operator must operate. They also allow those without operating licenses to join them.

The vehicles owned by the Association and by some powerful individuals in the Association do not wait for their turn in loading lines. They simply move to the front when they arrive at a taxi rank which causes a lot of resentment from the general membership. The involvement of Associations in the business of taxi operations, including the different money collection methods, makes the incumbent executives resist vacating their positions even where they have been voted out of office. In certain instances, money collected is for the benefit of these executives. The incumbent executives also generally avoid calling for elections that may have them voted out for fear of losing power and money. Associations have also become a law unto themselves by collecting money from members daily or weekly which money is not accounted for properly (*imali yebakede*).

There are three types of Operators, the first being those who have operating licenses linked to the vehicles operating on the routes per the operating licenses.

The second type has some vehicles with operating licenses operating as the first type but also has other vehicles that have no operating licenses but operating in the routes of the Association and the third type has vehicles without operating licenses that are operating on the routes of the Association. The Commission heard evidence that no individuals who are not members of an Association are allowed to operate, both by the Associations as well as by the Regulator despite the legal framework providing for members and non-members of Associations. The Operators operate at the behest of the Association's executive regardless of the law and operating license conditions.

The Regulators also falls in three categories. One is the Municipal Regulatory Entity (MRE), at a Municipal sphere may be established based on assignment by the Minister. To date, there is no MRE established in the Gauteng Province yet. Two is the Gauteng Provincial Regulatory Entity (PRE) which handles all the applications for operating licenses despite interprovincial matters that are meant to be dealt with by the third category namely the National Public Transport Regulator (NPTR).

The Commission also found that the PRE has not issued operating licenses for a Minibus Taxi-Type Service where the operator intends to use a motor vehicle smaller than a minibus. This is so despite what the legal framework provides for. The result is that some Operators use sedans without operating licenses. PRE requires the applicant to have a letter of recommendation from an Association, despite this not being the requirement of the law. The PRE uses the Associations as gatekeepers to stop individuals who are not members of Associations from entering the Minibus-Taxi Type Service Industry.

Recommendations on Minibus Taxi-Type Business Model

There should be strict compliance with the Legal Framework by both the Operators and the Regulators. All the types of vehicles authorised by law for use in the Minibus Taxi-Type Service Industry be allowed to be used and licensed by the Regulators without delay. The Associations should be rationalised to ensure that there is only one Association per Town or Township.

All Operators without operating licenses should be allowed to apply for operating licenses and their applications be considered according to the legal requirements of the areas where they intend to operate subject to planning conditions of the

respective Municipalities. The process of the corporatisation of Minibus Taxi-Types Services should be accompanied by the economic empowerment of Operators to establish and benefit from the entire value chain.

Regulators should be capacitated to appropriately do their work and enable their semi-independence as quasi-judicial bodies. A code of conduct should be developed for members of the Regulators to ensure that they do not become a law unto themselves. The PRE should be appropriately capacitated through regulations to cover the oversight and monitoring function. All employees of the PRE should undergo periodic vetting by the State Security Agency as an added security measure. Appropriately qualified and knowledgeable people should be recruited to run the PRE. The PRE must immediately withdraw all the unlawful directives that were issued by it allowing for illegal operations which sought to block the law enforcement agencies from applying the provisions of the NLTA to illegal or non-compliant Operators.

The security features in the operating licenses and face value documents should be improved with more advanced security features. The GDRT should also ensure that face value documents that are kept in the various Motor Vehicle Registration Authority (MVRA) offices of the Province, are appropriately secured. The law enforcement officers must be enabled to verify the authenticity of an operating license through technological gadgets without having to phone the office of the PRE or other Regulator.

Findings on Licensing and Compliance

The PRE does not appropriately vet the applicants for criminal records, pending cases and other matters required to be considered before an application for an operating license or transfer of an existing license to a new Operator. In instances of ownership transfer and vehicle replacements, the Commission heard evidence of many vehicles or Operators using the same operating license because of the lack of controls and systems at the PRE. The PRE generally does not deal with monitoring compliance after issuing the operating licenses. The problem has been attributed to the absence of Inspectors as well as the improper structure of the PRE and the GDRT. Most functions of the PRE are currently handled outside the PRE by officials who are not employees of the PRE and who do not even report to the PRE despite doing work of the PRE. Compliance and monitoring are assigned to

employees at the TOLABS who are not part of the PRE and are not trained to assume the responsibilities that fall within the PRE in terms of the NLTA. The GDRT executes most functions of the PRE without reporting and accounting to the PRE. Many of the processes that lead to the issuing of operating licenses and related matters are handled outside the PRE as a result, the PRE has no control of its functions. Also, non-compliance by Operators and the conflict, both within the Associations as well as amongst Associations is handled outside the PRE despite the legal framework.

In so far as Planning Authorities are concerned only two Comprehensive Integrated Transport Plans (CITPs) were submitted to the Commission but appeared unsuitable to be used to assist the planning authorities to give direction to Regulators during the applications for operating license process. The quality and compliance issues around the CITPs reflects a lack of capacity by the planning authorities to develop the CITPs required to guide the transport needs of the Municipality.

Recommendations on Licensing and Compliance

The PRE must follow the letter of the law contained in the NLTA and Regulations including the vetting of applicants to ensure that all applicants are screened as intended. It must be properly established and capacitated for its full function in terms of the NLTA and all its powers and functions must be exercised by it, including its oversight and monitoring function.

The PRE must undo all the joint ventures they created with the facilitation of the GDRT officials and implement compliance with licensing conditions by all operators. The Planning Authorities need to be sufficiently capacitated to carry out the responsibilities of the Planning Authority, even where certain functions like the development of the ITPs are outsourced. The Planning Authorities need to include public transport responsibilities as per the NLTA in its plans and annual targets to ensure that they play their role in ensuring the stability and safety of Minibus Taxi-Type Services in their areas.

The Planning Authorities need to take steps to avoid the development of illegal ranking facilities. They need to develop plans that will enable a proactive approach to new developments so that illegal ranking facilities are discouraged.

Findings on Oversight and Monitoring

The Commission heard that in practice, the oversight and monitoring of public transport including dispute resolution where conflict arises in the Minibus Taxi-Type Service Industry is done by GDRT officials who are not employed by nor report to the PRE. What this means is that the PRE is currently not involved in carrying out its statutory function of monitoring and overseeing public transport in the Province.

Recommendations on Oversight and Monitoring

Regulations to be developed to appropriately clarify the role of the PRE in performing its monitoring and oversight of public transport. All the functionaries carrying out work meant for the PRE should be transferred to the PRE and account to it as soon as possible. PRE should be capacitated for the monitoring and oversight of public transport function.

All the officials assisting with monitoring and oversight of public transport need to be appropriately trained in all aspects of the function including dispute resolution. The GTP (or Inspectors) be transferred back to GDRT to enable compliance with section 85 and 86 of the NLTA.

Findings on Criminal Investigations and Prosecutions

The scope of criminal activities reported to the Commission is wide-ranging from very serious offences including murder, attempted murder, culpable homicide, robbery, assault, arson, kidnapping, offences involving possession and the use of arms and ammunition, extortion, offences referred to in the Prevention of Organised Crime Act, 1998, malicious injury to property, money laundering and the use of fronts to conduct business or obtain money. The scope of investigations identified cover murder, attempted murder, assault, unlawful possession of firearms and ammunition. The quality and character of investigations have not been positive. Out of many cases reported in a year, very few arrests appear to be made. Where there are arrests the prosecutions are also very few, although there are cases of successful prosecutions. There have been instances of overlooking or not following up on evidence including witnesses as well as not acting on the instructions of the prosecutors that would lead to the withdrawal of charges. There has been inefficient use or consideration of technical evidence, delays and reluctance by witnesses to testify for fear of an attack. This often results in unsuccessful prosecutions. There

has not been sufficient cooperation between the Investigators and Prosecutors. Even though there are instances of positive cooperation there have also been instances where the prosecutors have been forced either not to prosecute or withdraw the charges due to a lack of cooperation by the Investigating Officers.

For those cases that ended up in court, there have been mixed outcomes. There have been cases where the accused were convicted and sentenced to varying periods from life imprisonment to years in jail. There have also been acquittals associated with a reluctance by the witnesses to testify for fear of being targeted.

Recommendations on Criminal Investigations and Prosecutions

A dedicated well-resourced Unit to investigate taxi violence is very important. Investigations must be prosecution driven to increase the chances of successful prosecution. Well trained and dedicated investigating officers must be led by a very Senior Police Officer with detective experience. Multidisciplinary teams should be used to ensure all the relevant evidence is secured and processed appropriately. An innovative approach to witness protection should be introduced to encourage the participation of eye-witnesses in solving cases. Technology should be used and crime intelligence should be pro-active.

Findings on Contributions by Municipalities

The NLTA provides for the Municipalities to give direction to regulatory entities based on the Municipality's ITP as to whether it is appropriate to grant an operating license applied for or not. The PRE is required to inquire with the Municipality, being the planning authority, to provide their Integrated Transport Plans (ITPs), to determine whether a new application is necessary or not. However, because PRE and the Municipalities are not aligned there are instances where the ITPs are none existent. This leads to the Industry becoming flooded with operating licenses without the knowledge of the authorities due to non-compliance of the law.

The control and management of ranking infrastructure constitute one of the causes of taxi conflict and violence. Taxi Associations have an arrangement with Municipalities over the use of ranking facilities. However, this often leads to the Associations determining which operator gets to operate from there. In some instances, Taxi Operators create their own ranks including near the shopping centres. Besides the lack of control when it comes to the ranking facilities, the other

challenge is that the Municipalities do not appropriately use the provisions of the NLTA to ensure that developers provide for public transport facilities as part of the development plan. The Commission heard that the public transport and law enforcement component of the Municipalities is not sufficiently capacitated to carry out the responsibilities given to them by the NLTA. The law enforcement is generally controlled somewhere other than by the unit responsible for Transport in the Municipalities and they do not even include the NLTA as part of their performance targets for the year.

Recommendations on Contributions by Municipalities

The cooperation between the Municipalities and the PRE is a matter of necessity and both the Province and the Municipalities need to prioritise the establishment of formal relationships that will address the communication channels. Municipalities also need to be capacitated to understand and appreciate their responsibilities in terms of the NLTA so that they can also play an active role in the monitoring of public transport. Only appropriately licensed Taxi Operators should be allowed by the Municipality to operate at ranking facilities. The public transport and law enforcement functions of a Municipality need to be appropriately capacitated and developed to enable it to carry out its responsibilities as per the NLTA

Findings on Information Systems

The Commission heard evidence that the current information systems being used are inadequate and constitute part of the problems leading to taxi conflict and violence. Another observation is that the current information systems being used were designed for the NLTTA, not the NLTA. For example, the OLAS is also blamed for being very slow leading to delays in processing operating license applications.

The impact of the system on causes of conflict and violence is vast. Conflicts arise at times because of some Associations who fraudulently enter routes so that they can operate on those routes. To that effect, the Commission was provided with a long list of routes and Association names that are said to be operating illegally on certain routes. The weaknesses of the system enable fraudulent changes with the assistance of GDRT officials. The current system facilitates the current Minibus Taxi-Type Service business model as the information about the Associations remains in the system despite the NLTA being silent on Associations. Applicants

are therefore given routes that can accommodate many Associations because the system allows this to happen.

Recommendations on Information System

A new and efficient information system accommodating upgraded OLAS and RAS is urgently required. Moreover, all routes that have been fraudulently registered need to be reversed and those involved be criminally charged. All the officials of the GDRT including former officials, associations' executives and taxi operators positively linked to abuse of the system and irregular activities including fraudulent registration of Associations and Routes need to be criminally charged.

Findings on the National Department of Transport

The DoT is responsible for developing regulations that need to be applied nationally. However, the Regulations on the oversight and monitoring function of the PRE remain outstanding. The DoT acknowledged the slowness and outdatedness of the current information system being used for operating licenses. A new information system is being developed with a view of making it efficient and more secure including more advanced access instead of passwords that can be used by unauthorised persons. The information system will, amongst others, be linked to eNaTIS and the Department of Home Affairs. Regarding subsidies, the focus should not be on the mode of transport but the user. Instead, the DoT is looking to subsidise scheduled and regulated modes. The challenge with subsidising the user is that the more they are the more difficult it would be and as such the fewer they are the more efficient it will be to implement the subsidy system.

Recommendations on the National Department of Transport

Regulations should be developed relating to the oversight and monitoring of public transport for national application. Moreover, the development of a roadmap for the subsidisation of Minibus Taxi-Type Services should begin.

Recommendations on Law Enforcement Agencies

All traffic Law Enforcement Agencies in Gauteng (including the Municipal Police services) have a legal mandate to enforce the provisions of the NLTA and should do so without delay. Moreover, the Members of the various Mayoral Committees responsible for these agencies and both the MEC for the GDRT as well as the MEC for GDCS should ensure that these organs set performance targets related to the

enforcement of the NLTA in their annual plans. The MEC for the GDRT, working with the various Municipalities should coordinate the establishment of vehicle impound yards where impounded public transport vehicles will be kept. There must be at least one such impound yard in each Municipality in the Province. The Province should identify and invest in an automated system and move away from the manual system which will among other things, identify serial offenders. There should be a move away from manual record-keeping in the pound yards.

There should be periodic Police operations conducted through SAPS and these should be undertaken with the objectives of targeting the hideouts of hitmen as well as concealed weapons often used in murders. The Human Resource Development Division of the SAPS should consider specific training interventions for members responsible for the investigation of taxi violence-related cases. The new Taxi Violence Unit should move with speed to conclude all 505 outstanding case dockets many of which are still open due to inept investigations. The Provincial Commissioner should monitor this and receive monthly progress reports.

Conclusion

This executive summary summarises the entire report. For a more comprehensive account of the content contained in this report, it must be read in its entirety.

Part A

Background &

Introduction

Part A: Background and Introduction

1. Background

- 1.1 The Commission of Inquiry into Taxi Violence in Gauteng headed by Justice Jeremiah Shongwe is the culmination of a long consultative process between the Government and the Minibus Taxi-Type Service Industry in Gauteng. On 28 and 29 July 2016, the Premier of Gauteng engaged with the Minibus Taxi-Type Service Industry in a Taxi Indaba at the St. George's Hotel, Irene under the theme "*Towards Transformation, Modernisation and Re-Industrialisation of the Mini-Bus Taxi Industry*". Among its resolutions, the Indaba agreed that retired Judges should be appointed to provide oversight on prosecutions related to criminal offences within the Minibus Taxi-Type Service Industry. This resolution was never followed through.
- 1.2 A subsequent Taxi Summit was held on 24 and 25 July 2019 at Riverside Sun Hotel, Vanderbijlpark. It was under the theme "*Growing the Gauteng economy through the modernization of the Taxi Industry*". As with the previous Indaba, the Summit resolved that the Government should appoint a retired Judge to investigate the root causes of taxi violence. In September 2019, the Commission of Inquiry into Taxi Violence in Gauteng was established.
- 1.3 The first Commission of Inquiry relevant to the Terms of Reference of this Commission is the Welgemoed Commission of 1981 which was headed by Peter Johannes Welgemoed. The mandate of the Welgemoed Commission included investigating "*The effect of taxis on the bus industry and the laying down of guidelines in this regard.*" A recommendation of the Welgemoed Commission led to the Transport Deregulation Act, 1988 (Act 80 of 1988). The Welgemoed Commission led minibus-Taxi Operators to fend for themselves without any support from the Government at the time. The report states that it was unjustifiable to have a mass-based transport system in historically white urban and developed areas.
- 1.4 The advent of Democracy in 1994 did not eliminate the problems within the Minibus Taxi-Type Service Industry. In fact, it was worsening. This subsequently led to the establishment of the National Taxi Task Team (NTTT)¹ in 1995. The first formal meeting consisted of nine Government

¹ Minister of Transport, National Taxi Task Team, 1996

representatives and nine Minibus Taxi-Type Service Industry representatives and was convened on 18 March 1995, “*The mandate of the Plenary was to investigate the issues affecting the taxi industry and formulate recommendations to the Minister of Transport to address them*”. Clearly, the mandate was very wide. The Minibus Taxi-Type Service Industry was operating, safe to say, in a vacuum, hence the establishment of the NTTT as a Ministerial Committee of the Minister of Transport.

- 1.5 These efforts are an indication of how the post-apartheid Government attempted to put in place legislation, regulations and policies of governance in the Minibus Taxi-Type Service Industry. The second formal meeting between the Government and the Minibus Taxi-Type Service Industry resulted in the signing of a Memorandum of Understanding (MoU) of which the purpose was to invite the Minibus Taxi-Type Service Industry and bring peace. The interim solution was to introduce legislation which would regulate the Minibus Taxi-Type Service Industry. The Gauteng Provincial Government promulgated the Gauteng Minibus Taxi-Type Service Act, 1997 (Act No.11 of 1997). It sought to act on the NTTT’s recommendations on the governance of the Taxi industry. This process saw the introduction of the standard minimum constitution as a guideline in the operation of Taxi Associations.
- 1.6 A National Conference Preparatory Committee (NCPC) was also established. The NCPC was a prelude to the founding of South African Taxi Council (SATACO). The signatories to the MoU were initially SATACO and the Government. However, the then Minister of Transport, Mr Dullah Omar realised that some role-players in the Minibus Taxi-Type Service Industry were not part of SATACO and subsequently, a revised MoU was signed which included the Provincial Taxi Council (PROTACOS) and the National Taxi Alliance (NTA).
- 1.7 There have previously been various Commissions mandated to investigate the causes of violence and to bring stability to the Minibus Taxi-Type Service Industry. In February 1999, the *Commission of Inquiry into Taxi Violence and Related Unresolved Deaths in Gauteng Province* was established by then MEC Khabisi Mosunkutu and Chaired by Adv Lindi Nkosi-Thomas. We managed to source the Executive Summary which only provided information on some findings and recommendations. It gives no information on the

evidence that was presented. According to media reports², the Commission's final report was not released because it was felt that individuals who had given evidence (and were named) might be placed in danger and prejudice ongoing investigations.

- 1.8 As much as the focus of this report is on Gauteng, in May 2000, a Commission of Inquiry was set up in Kwazulu-Natal investigating matters related to violence within the Minibus Taxi-Type Service Industry. This was followed by a National Conference in 2001 representing the Minibus Taxi-Type Service Industry and the Government in all the Provinces. In 2005, the Western Cape also set up a Commission investigating the underlying conflict and instability in the Minibus-Minibus Taxi-Type Service Industry in the Cape Town Metropolitan Area.
- 1.9 One of the recommendations of the Western Cape Commission was the "establishment of a semi-permanent dispute resolution body to mediate between Taxi Associations once disputes arise over routes". This was fundamentally due to corrupt activities within the Western Cape Provincial Operating License Board.
- 1.10 The Shongwe Commission of 2019 in Gauteng, is the most recent. The continuous attempts by the Government to regulate the Minibus Taxi-Type Service Industry highlights the severity of the challenges within the industry. This is why the findings and recommendations of this Commission should make a fundamental impact on the industry at large.

² IOL, Gauteng Commission of Inquiry into Taxi Violence Report released, 24 January 2000

2. Introduction

- 2.1 Each Commission of Inquiry is informed by conditions within a particular social context. Often, it is the public who are most affected by these conditions and make calls for the Government to intervene. In this particular Commission into Minibus Taxi-Type violence, it was the Minibus Taxi-Type Service Industry, itself, which appealed to the Gauteng Government to establish a Commission that focuses primarily on the underlying reasons for the recurring conflict, violence, fatalities and instability within the Minibus Taxi-Type Service Industry.
- 2.2 The Government heeded the call and a decision to appoint a retired Judge to investigate the root causes of taxi violence in the Gauteng Province led to the establishment of this Commission. In terms of section 127(2)(e) of the Constitution of the Republic of South Africa, 108 of 1996, and section 2(1) of the Provincial Commission Act 1 of 1997, the Honourable Mr David Makhura, established this Commission.
- 2.3 Public transport in South Africa is a Constitutional imperative. To ensure active economic participation, employees need to commute between their homes and workplaces. Therefore, the Minibus Taxi-Type Service Industry, as part of an integrated public transport system, occupies a significant space in contributing to the development of citizens. However, the scourge of violence in the Minibus Taxi-Type Service Industry has brought untold and unparalleled misery. It would be amiss of this Commission to overlook and downplay the effects of the violence that has plagued Associations, owners, operators, drivers, passengers and innocent bystanders.
- 2.4 There is no doubt that the Minibus Taxi-Type Service Industry is among the most dangerous, if not the most violent and feared industries in South Africa. During November and December 2019, more than twelve people, were shot and killed in Gauteng in connection with Minibus Taxi-Type Service Industry related violence. Amid the unabating taxi violence, this Commission could not come at a more opportune time to get to the bottom of the causal factors fuelling the violence. The Minibus Taxi-Type Service Industry has both legal and illegal operators. The Minibus Taxi-Type business model is so unorthodox and unique to the extent of encouraging and contributing directly to the recurrence of conflict and violence. Perhaps, a fundamental and total

transformation of this business model could be the answer to all these questions/concerns.

- 2.5 According to Senior Programme Officer at the Centre for the Study of Violence and Reconciliation (CSV) Jackie Dugard, the inconsistencies within the public transport industry and specifically the Minibus Taxi-Type Service Industry have been prevalent from as far back as the 1930's. She states that *"According to the Act of 1930 (Motor Carrier Transport Act), only a limited number of licenses were issued and every taxi was restricted to carrying four passengers. This system meant that over ninety percent of taxi permit applications by Blacks/Africans were rejected, thus effectively banning Blacks/Africans from participating in the economy."*³ During this time no attempts were made to regulate the industry. Researcher Londeka Ngubane confirms the above statement in her thesis⁴ by saying that deregulation led to an increase from 3752 taxis to about 39 604 taxis within a period of only three years.
- 2.6 At the very first press conference held at the venue for the Commission, Emoyeni in Parktown, in November 2019, a journalist asked the question: *"What sets this Commission apart from other Commissions, since we are all aware that previous Commissions of Inquiry have had no teeth?"* In his response, the Chairperson of the Commission said, *"This is the Commission that will produce the results"* and further indicated that he was not aware of any other Commission of Inquiry into taxi violence in Gauteng, which produced a final official report.
- 2.7 It was quite telling that at the inception of this Commission, the general sentiment by the ordinary South African citizen was one of scepticism, a lack of trust and hope because of the perception that these Commissions never produce the desired results or any results at all.
- 2.8 To ensure that the citizens' concerns regarding taxi violence were addressed, this Commission had to find answers to questions such as: Why is it that after so many years the Minibus Taxi-Type Service Industry has not been properly

³ Jackie Dugard (2001) *From Low Intensity War to Mafia War: Taxi violence in South Africa (1987 - 2000)*, Violence and Transition Series, Vol. 4, May 2001.

⁴ Londeka Princess Ngubane (2016) *"From political wars to taxi wars": Investigating the transition of taxi violence in a low-income Urban community in the Mpumalanga township*, [Unpublished Master's dissertation], University of KwaZulu-Natal, South Africa

regulated with no implementation of the law and has not been modernised? Why are there still old vehicles conveying passengers on the roads? Why are there so many violent deaths in this Industry? In attempting to fulfil its mandate, this Commission made findings and put forward recommendations which endeavour to provide the long-awaited answers to these questions.

- 2.9 The Minibus Taxi-Type Service Industry provides a significant service that involves conveying more than 75% of public transport users countrywide. The evidence must show and answer these questions to establish where the problem lies – to enable us to make findings and appropriate recommendations.
- 2.10 This report addresses the Terms of Reference of the Commission and it is structured in the following manner:
- 2.10.1 **Part A:** Background and Introduction which provides an account of developments that led to the establishment of this Commission.
 - 2.10.2 **Part B** provides a list of definitions, acronyms and abbreviations used in this report.
 - 2.10.3 **Part C** deals with the establishment of this Commission, the challenges experienced and the processes it followed to produce this report.
 - 2.10.4 **Part D** contains the Legislative Framework which discusses the current laws, those that were repealed and those that are in the process of being promulgated.
 - 2.10.5 **Part E** details the Law Enforcement Agencies responsible for ensuring compliance and highlights the challenges associated with providing these services.
 - 2.10.6 **Part F** of the report contains the Key Findings and Recommendations relating to the Terms of Reference.
 - 2.10.7 **Part G** concludes the report followed by **Annexures A to D**

Part B

Definitions, Acronyms and Abbreviations

Part B: Definitions, Acronyms and Abbreviations

1. Definitions

The following are the relevant definitions, acronyms and abbreviations for the purposes of the Terms of Reference of the Commission and to provide clarity on the terms used in the report. The definitions contained in this part of the report are contained in the National Land Transport Act (Act 5 of 2009). Definitions contained elsewhere in this report (i.e. Part D: Legislative Framework) may differ due to the specific context and the specific Acts and other legislation from which they are cited. An example is the definition of “Authorised officer” which in the NLTA is contained in section 86 whilst the same definition is contained in section 123 in the National Land Transport Transition Act (Act 22 of 2000) (NLTTA).

- 1.1 “**AARTO**” means the Administrative Adjudication of Road Traffic Offences Act, 1998 (Act No. 46 of 1998). It is an Act of the Parliament of South Africa which introduces a points demerit system for violations of traffic law. It is managed by the Road Traffic Management Corporation (RTMC).
- 1.2 “**Authorised officer**” means
 - 1.2.2 An inspector contemplated in section 86(4).
 - 1.2.3 A member of the South African Police Service, including a member of a Municipal Police Service as defined in section 1 of the South African Police Service Act, 1995 (Act No. 68 of 1995).
 - 1.2.4 A person in the service of a Provincial Department or a Municipality, or the Road Traffic Management Corporation established by the Road Traffic Management Corporation Act, 1999 (Act No.20 of 1999), whose duty is to control traffic or to inspect motor vehicles or licenses for motor vehicles.
 - 1.2.5 A road transport inspector contemplated in section 37 of the Cross-Border Road Transport Act, 1998 (Act No 4 of 1998).
- 1.3 “**NaTIS**” (also **eNaTIS**) is essentially an electronic national register and asset, which records and enforces all the requirements of the National Road Traffic Regulations (NRTR) and National Road Traffic Act (NRTA).
- 1.4 “**Holder**” means the holder of an operating license or permit.
- 1.5 “**Inspector**” means an inspector appointed under section 86.

- 1.6 **“Integrated transport plan”** means an integrated transport plan contemplated in section 36.
- 1.7 **“Midibus”** means a motor vehicle designed or modified solely or principally for conveying more than 16 but not more than 35 persons, including the driver, and for the purpose of the NRTA, it is a type of subcategory of a bus.
- 1.8 **“Minibus”** means a motor vehicle designed or modified solely or principally for conveying more than nine but not more than 16 seated persons, including the driver.
- 1.9 **“Minibus taxi-type service”** means an unscheduled public transport service operated on a specific route or routes, or where applicable, within a particular area, by means of a motor car, minibus or midibus.
- 1.10 **“Motor car”** means a motor vehicle, other than a motor cycle, motor tricycle or motor quadrucycle as defined in the National Road Traffic Act, designed or modified solely or principally for conveying not more than nine persons, including the driver.
- 1.11 **“Municipal public transport”** means public transport contemplated in section 11(1) (c) and any other function assigned to the Municipality under section 11(2) or (3).
- 1.12 **“Non-contracted service”** means a public transport service other than one operated in terms of a commercial service contract, subsidised service contract or negotiated contract.
- 1.13 **“Operating license”** means a license required by section 50 and granted and issued in accordance with NLTA or the NLTTA.
- 1.14 **“Operator”** means a person carrying on the business of operating a public transport service.
- 1.15 **“Permit”** means a public road carrier permit issued in terms of the Road Transportation Act, 1977 (Act No.74 of 1977), or another law predating the Transition Act and recognised as valid by the Transition Act, and which is in force and has not yet been converted to an operating license on the date of commencement of this Act.
- 1.16 **“Planning authority”** means a Municipality in relation to its planning functions.
- 1.17 **“Provincial Department”** means the Department within the administration of a Province that is charged with public transport matters.

- 1.18 **“Provincial Regulatory Entity”** means a Provincial Regulatory Entity contemplated in section 23.
- 1.19 **“Provincial law”** includes a Provincial Act or Regulations made by the MEC under this Act.
- 1.20 **“Public transport service”** means a scheduled or unscheduled service for the carriage of passengers by road or rail, whether subject to a contract or not, and where the service is provided for a fare or any other consideration or reward, including cabotage in respect of passenger transport as defined in the Cross-Border Act, and except where clearly inappropriate, the term “public transport” must be interpreted accordingly.
- 1.21 **“Regulatory entity”** means the National Public Transport Regulator, a Provincial Regulatory Entity, or a Municipality to which the operating license function has been assigned.
- 1.22 **“Roadworthy certificate”** means a certificate certifying the roadworthiness of a motor vehicle in accordance with the requirements of the NRTA,
- 1.23 **“Subsidised”** in relation to services, means a situation where passengers are provided with financial assistance to be able to afford services that they could not otherwise afford or where services are subsidised for other reasons, for example to encourage public transport usage, relieve traffic congestion, or to support land use and transport integration.
- 1.24 **“Transfer”** in relation to an operating license, means a transfer from the holder the operating license to another person.
- 1.25 **“Unscheduled service”** means a public transport service operated by road on a particular route or routes, or, where applicable, within a particular area, without a timetable.

2. Acronyms and Abbreviations

AARTO	-	Administrative Adjudication of Road Traffic Offences
A/O	-	Administration Officer
AC	-	Administrative Clerk
Adv	-	Advocate
AG	-	Auditor General
ASD	-	Assistant Director

CD	-	Chief Director
CITP(s)	-	Comprehensive Integrated Transport Plan/Plans
COF	-	Certificate of Fitness
COR	-	Certificate of Registration
CSIR	-	Centre for Scientific and Industrial Research
CRC	-	Chief Registry Clerk
DD	-	Deputy Director
DDG	-	Deputy Director General
DHA	-	Department of Home Affairs
DoT	-	Department of Transport
EMPD	-	Ekurhuleni Metro Police Department
eNaTIS	-	Electronic National Administration Traffic Information System
GDCS	-	Gauteng Department of Community Safety
GDRT	-	Gauteng Department of Roads and Transport
GLEAF	-	Gauteng Law Enforcement Forum
GNTA	-	Gauteng National Taxi Alliance
GPPRTA	-	Gauteng Public Passenger Road Transport Act, 2001 (Act 7 of 2001)
GTP	-	Gauteng Traffic Police
HoD	-	Head of Department
IRR	-	Institute for Race Relations
ITP(s)	-	Integrated Transport Plan/Plans
JMPD	-	Johannesburg Metropolitan Police Department
KZN	-	KwaZulu-Natal Province
LTPS	-	Land Transport Permit System
LRTB	-	Local Road Transportation Board

M&E	-	Monitoring and Evaluation
MEC	-	Member of the Executive Committee
Mincom	-	Ministers' Council on Transport
MoU	-	Memorandum of Understanding
NCPC	-	National Conference Preparatory Committee
NLTA	-	National Land Transport Act, 2009 (Act 5 of 2009)
NLTIS	-	National Land Transport Information System
NLTTA	-	National Land Transport Transition Act, 2000 (Act 22 of 2000)
NPA	-	National Prosecuting Authority
NPTR	-	National Public Transport Regulator
NRTA	-	National Road Traffic Act, 1996 (Act No 93 of 1996)
NTA	-	National Taxi Alliance
NTP	-	National Traffic Police
NTTT	-	National Taxi Task Team
OL	-	Operating License
OLAS	-	Operating License Administration System
PrDP	-	Professional Driving Permit
PRE(s)	-	Provincial Regulatory Entity/Entities
RAS	-	Registration Administration System
RC	-	Registry Clerk
RTMC	-	Road Traffic Management Corporation
SANCO	-	South African National Civic Organisation
SANTACO	-	South African National Taxi Council
SAO	-	Senior Administration Officer
SAPS	-	South African Police Service
SATACO	-	South African Taxi Council

- SOP - Standard Operating Procedure
- TMPD - Tshwane Metropolitan Police Department
- TOLAB - Transport Operating Licensing Administrative Bodies
- TRP - Taxi Recapitalisation Programmes

Part C

Establishment of the Commission

Part C: Establishment of the Commission

1. Introduction

- 1.1 The Commission was required to complete its work within a period of six months from the date of the publication of the Proclamation and submit its report and recommendations in writing to the Premier. However, due to unforeseen circumstances necessitated by organisational and logistical challenges, it was not possible to submit the report within the allocated period of six months.
- 1.2 An extension of a further six months had to be requested and this was duly granted which extended the Commission's term to the end of September 2020. In the middle of March 2020, the Government declared a National State of Disaster due to the Covid-19 pandemic, which was followed by a country-wide lockdown. The lockdown necessarily meant that the Commission would be unable to function normally and as a consequence, the work of the Commission including public hearings was suspended. The Commission resumed its public hearings after the President had announced the Government's risk-adjusted strategy to Alert Level 3 which meant, inter alia, that the work of the Commission could proceed.
- 1.3 The considerable number of workdays lost necessitated another request for an extension of the term of the Commission for a further six months. However, the Commission was granted a further four months only, within which to complete its mandate.
- 1.4 The Commission was directed to submit its final report on or before 31 January 2021.

2. Terms of Reference of the Commission

- 2.1 The Terms of Reference of the Commission are to enquire into and investigate, make findings, report on and make recommendations concerning:
 - a) the underlying reasons for the recurring conflict, violence, fatalities and instability within the minibus taxi-type service industry within the Gauteng Province;

- b) the activities of operators, legal and illegal, as well as any other group or person that contributes to the recurring conflict, violence, fatalities and instability;
- c) the provision of minibus taxi transport services authorised by both interchange based and direct route-based permits and licenses;
- d) how the minibus taxi business model, including the formation and management of minibus taxi Associations, contributes to the recurring conflict, violence, fatalities and instability; and
- e) any other matters that are ancillary or related to the matters set out in paragraphs (a) to (d).

2.2 The Commission must make findings with reference to:

- a) the number, nature, locality and pattern of incidents of conflict, violence, fatalities and instability involving different sections of the public, both as victims and suspects, in the Gauteng Province;
- b) indications whether the incidents are related to criminal activities or any other internal or external influences or factors which may be considered relevant;
- c) the outcome of any police investigations and prosecutions of the incidents, including the number of successful prosecutions of the perpetrators; and
- d) the perceptions of the different sections of the public in respect of the underlying reasons of the incidents of the recurring conflict, violence, fatalities and instability and the effectiveness of policing thereof by the police service in the Gauteng Province.

2.3 The Commission must make recommendations on–

- a) how to address the underlying reasons giving rise to the recurring conflict, violence, fatalities and instability within the minibus taxi-type service industry in the Gauteng Province, including how the regulatory environment, including the actions of minibus taxi-type service industry Associations and their respective internal management and operations,

may be changed or better regulated to minimise or eliminate conflict, violence, fatalities and instability in the industry; and

- b) any other matter of whatsoever nature that the Commission considers necessary or appropriate in relation to its Terms of Reference.

3. Composition of the Commission

- 3.1 The Gauteng Premier, Mr Malemolla David Makhura, after consultation with the Member of the Executive Council (MEC), Mr P. J. Mamabolo, responsible for Public Transport and Roads infrastructure in the Province, published Proclamation 101 of 2019 in the Provincial Gazette, Extraordinary No: 284 on 13 September 2019. On 27 September 2019 Rules governing proceedings of the Commission were published in the Provincial Gazette No: 297 together with guidelines on the media coverage of the Commission.
- 3.2 Justice Jeremiah Buti Shongwe was appointed as Chairperson of the Commission together with Messrs' Rudolph Lungile Mabece and Hlula Msimang as members of the Commission. In terms of section 2(1)(a) of the Act, appointed Ms Dimakatso Mamiki Selesho as the Secretary to the Commission.
- 3.3 The ToR of the Commission are set out in Part A of the Schedule (see Annexure A). The Regulations applicable to the Commission are set out in Part B of the Schedule in terms of section 2(1)(c) of the Act (see Annexure B. Annexure C contains the Offences and Penalties as per the NLTA and Annexure D provides some performance statistics.

4. Commission Procedure

- 4.1 In the furtherance of its duties, the Commission extended invitations to Organisations, Institutions, Taxi Associations, individuals and the public at large. The purpose was for people to come forward to be interviewed by the Commission's Evidence Leaders and Investigators in preparation for submissions. Submissions were in the form of physical evidence (prepared statements, reports, documents, submissions, etc) as well as oral evidence. These were heard by the Commission during its public hearings.
- 4.2 All proceedings of the Commission were recorded and transcribed.

- 4.3 The general public was allowed to attend all sittings of the Commission except where evidence was heard in camera.
- 4.4 The media provided coverage in both print and digital formats.
- 4.5 The Commission heard evidence from among other officials in the GDRT and the Provincial Regulatory Entity (PRE). Officials from Municipalities which include the three Metro's (Ekurhuleni, Johannesburg and Tshwane) and the one District Municipalities (Westrand). Sedibeng District Municipality agreed to appear before the Commission but failed to do so. Also officials from the National Department of Transport (DoT), the National Prosecuting Authority (NPA), the South African National Civic Organisation (SANCO), a considerable number of members of Taxi Associations affiliated to both South African National Taxi Council (SANTACO) and SAPS and individuals which include experts and victims of taxi violence.
- 4.6 Evidence from SANCO, a non-profit organisation (NPO) is to the effect that Government does not care about workers and school children as to how they go to work and school – that the Minibus Taxi-Type Service Industry behaves as a law unto themselves. SANCO advocates a “*One Township One Association*” which concept is also supported by the President of SANTACO. This concept is successfully practiced in the Free State Province.
- 4.7 Evidence was also received from the public in respect of the underlying reasons for the incidents of the recurring conflict, violence, fatalities and instability and the effect of policing by the SAPS in the Gauteng Province.
- 4.8 At some stage of the public hearings, the Commission made an order to the effect that certain evidence, especially from disgruntled members of Associations, be heard in camera. This order was granted to protect the identity of certain Individuals from any adverse repercussions that could follow.
- 4.9 Three interim reports were handed to the Gauteng MEC for Roads and Transport.
- 4.9.1 The first one related to austerity measures that could be adopted by the PRE which proposed savings on the publication fees of applications for operating licenses. Instead of publishing all the routes registered under a particular taxi Association, which could be a bulky document, only the routes applied for by an applicant could be

published in the Government Gazette. By so doing the entity would generate substantial savings. The evidence was to the effect that it is very costly to publish all routes. In some cases, one application would cost the entity R16 000. In the same breath, the Commission implored the MEC, as an interim measure to declare a moratorium on all new applications for an operating license from the commencement of the Commission. The PRE is burdened with a huge backlog of outstanding applications for operating licenses. In order to ease this burden, a moratorium was proposed to provide PRE with an opportunity to address the backlog. At this stage the Commission had received overwhelming evidence to demonstrate that the Municipal sphere of Government was, for some reason, failing to comply with the provisions of section 11(1)(c) of the NLTA. It is the Municipality's responsibility to develop integrated transport plans within their area of jurisdiction.

- 4.9.2 The second interim report related to an unlawful deregistration of Boschkop Taxi Association and the subsequent merger with Menlyn Taxi Association. Upon receiving evidence from members of Boschkop Taxi Association, Mr Peter Dhlamini who was the Acting Registrar of Public Road Transport in Gauteng, who is currently a Deputy Director in the GDRT, undertook to remedy the situation. He was satisfied that not all due processes had been followed in deregistering Boschkop Taxi Association. He further undertook, under oath, to take the lead in facilitating the process of reinstating Boschkop Taxi Association back into operation as an independent taxi association. The process is currently underway. This undertaking was confirmed by Mr Sonwabo Ngqola in an affidavit in his capacity as Deputy Chairperson of the Gauteng PRE in terms of section 23(2) of the NLTA 5 of 2009.
- 4.9.3 The third interim report related to a merger between Central Top Eleven Taxi Association and Pretoria Burgersfort Taxi Association. This merger resulted in the creation of Simunye Taxi Association. However, the merger did not work, as there were disagreements and disputes over the routes. After a lengthy period during which

negotiations were held unsuccessfully, Central Top Eleven Taxi Association approached the North Gauteng High Court (Pretoria) for an order declaring the merger unlawful. The order was granted and the Central Top Eleven Association was reinstated. This order further implied that Simunye Taxi Association could not exist independently. The GDRT was ordered to regularise the positions and they duly complied. However, when Central Top Eleven Association returned to its taxi rank, it was prevented by Simunye Taxi Association which resulted in a stalemate. Ultimately, the GDRT resolved to deregister Simunye Taxi Association.

5. Constraints under which the Commission has worked

- 5.1 Instead of setting up the Commission infrastructure first and publish the Proclamation thereafter, members of the Commission only met for the first time on 16 September 2019. This is in view of the fact that the Proclamation was published on 13 September 2019.
- 5.2 The Commission started by discussing preparatory work that entailed setting up an office, the recruitment of personnel, preparation of practice directives and media guidelines.
- 5.3 The Commission appointed five Evidence Leaders and four Investigators who dealt with the gathering and presentation of evidence. However, during the course of the Commission, one of the Evidence Leaders had to be withdrawn.
- 5.4 After a lengthy search, a convenient venue for public hearings was eventually found in Parktown, Johannesburg at Emoyeni Conference Centre.
- 5.5 In terms of Part B of Regulation 8, applicable to the Commission, any proceedings of the Commission must, in accordance with section 3(2) of the Act, be open to the public. However, in certain circumstances and under certain conditions, the hearings may be conducted in camera. This is, of course, subject to the Commission to direct that the public or any member thereof not attend any proceedings of the Commission or any portion thereof, where this is justified in the interest of the conduct of the proceedings or the consideration of the matter in question, or the protection of the privacy of any person or of the confidentiality of any information related to that person

warrants, or any other reason that would be justified in civil proceedings in a High Court. After considering these requirements, the Commission approved hearings to be heard in camera which created undue delays.

- 5.6 It has not been a smooth ride working with the GDRT. The assistance we expected from the GDRT was not forthcoming. The Commission needed a lawyer who could summarise the evidence led during public hearings. The GDRT refused to make provision for the appointment of such a necessary individual. It cited budgetary constraints.
- 5.7 The Commission needed an Editor to edit the final report, again the GDRT was unable to meet this request.
- 5.8 Lastly, the Commission required written permission from the GDRT in order to allow officials of the CSIR to present evidence on a report which was apparently commissioned by the GDRT. (The report related to the mapping of minibus taxi routes in the Gauteng Province). Such written permission never saw the light of day, as the Commission never received same. Time was running out, however, the Commission did receive the draft report.
- 5.9 The Commission had to conclude public hearings at the beginning of November 2020 to ensure that it has sufficient time to compile its report.

Part D

Legislative Framework

Part D: Legislative Framework

1 Introduction

- 1.1 This part of the report focuses on laws that are relevant and have application in aspects of the Terms of Reference for the Commission. This part of the report is divided into three sections. Section 1 deals with the current laws that are in force, section 2 deals with repealed or excluded laws that influenced or still influence matters dealt with by the Commission and section 3 deals with the new laws or bills in the process of making new laws that may bring changes to the current laws.
- 1.2 Reference to laws covers the Constitution of the Republic of South Africa, laws passed by both National and Provincial Legislatures as well as regulations thereunder.

2 Current Laws

2.1. National Land Transport Act, 2009 (Act 5 of 2009)

- 2.1.1. The National Land Transport Act, 2009 partly came into effect in August 2009 per Proclamation No. 54, 2009. The proclamation determined 31 August 2009 as the date on which section 1, 3, 8(1), (3), and (4), 11(1), 40, 41, 43, 46, 56 and 91 shall come into operation.
- 2.1.2. Proclamation R 87, 2009 determined 8 December 2009 as the date on which sections 2, 4, 5, 6, 7, 8(2), 9, 10, 11(2), (3), (4), (5), (6), (7), sections 12 to 47(4), section 48(1), (2), sections 49 to section 96, were to come into operation. The latter effectively brought the rest of the Act into effect.
- 2.1.3. In terms of section 2, the purpose of the Act includes prescribing national principles, requirements, guidelines, frameworks and national norms and standards that must be applied uniformly in the Provinces and other matters contemplated in section 146(2) of the Constitution. The purpose of the Act is also to consolidate land transport functions and locate them in the appropriate sphere of Government.
- 2.1.4. In terms of section 3, the Act applies throughout the Republic of South Africa. Unlike the previous Act (National Land Transport Transition Act, 2000) which had chapters that could be replaced by Provincial legislation, the current Act does not provide for that.

- 2.1.5. Section 5 lists functions of the Minister of which the most relevant for this report are covered in subsections (2) and (4)(c), (d), (f), (g)(ii) and (iii) as well (h) and (j).
- 2.1.6. The Act also provides for Information Systems of which in terms of section 6(1) the Minister must establish and maintain a national information system with regard to land transport and, in collaboration with Provinces, integrate that system with the information systems kept by Provinces.
- 2.1.7. In terms of section 6(5) read with (6) as part of the national information system, the Minister must establish and maintain an Operating License Administration System (OLAS) which must be accessible to and maintained by regulatory entities. The OLAS must incorporate the information in the existing OLAS, the former Registration Administration System (RAS) and Subsidy Management System and such, OLAS must be interoperable with eNaTIS.
- 2.1.8. Section 8 of the Act empowers the Minister, after consultation with the MECs to make regulations relating to any matter which may or must be prescribed by way of a regulation under the Act. The subsection lists several specific issues where regulations are required. For this report, subsection (1)(h), (i), (j), (k), (l), (m), (v), (aa) and (cc) are more relevant as they relate to issues that constituted part of the evidence before the Commission.
- 2.1.9. Section 8(4) is also relevant as it provides that a regulation made in terms of the Transition Act and in force, immediately before the commencement of the NLTA concerning matters in relation to which the Minister, in terms of subsection (1), is competent to make regulations, is regarded for the purposes of the NLTA as a regulation made under subsection (1) until superseded by a new regulation under section 8.
- 2.1.10. Section 9(2) lists ten functions of the MECs under the NLTA. Paragraphs (c), (e), (g), (h) and (j) are relevant for the purpose of this report.
- 2.1.11. The MEC is empowered by section 10 to make regulations concerning matters listed in subsection (1) (a) to (g).
- 2.1.12. Section 10(3) provides that regulations made in terms of the Transition Act or preceding legislation and in force immediately before the commencement of the NLTA with regard to matters in relation to which the MEC, in terms of subsection (1), is competent to make regulations, are regarded for the

purposes of the NLTA as regulations made in terms of this subsection until such time as the MEC makes new regulations under this section.

- 2.1.13. The responsibilities of the three spheres of Government are provided for in section 11 of the Act. These are read in addition to the functions and powers of the Minister and MECs provided for from section 5 to 10 of the Act that is specific to the offices occupied by the Minister or a MEC. The relevant paragraphs and sub-paragraphs will be specifically dealt with during the analysis and recommendation part of the report.
- 2.1.14. In addition to the responsibilities listed in section 11(1), the Minister may assign any function contemplated in subsection (1)(a) to a Province or Municipality in terms of subsection (2) whilst the MEC may assign any function contemplated in subsection (1)(b) to a Municipality in terms of subsection (3), subject to section 156(4) of the Constitution and sections 9 and 10 of the Systems Act.
- 2.1.15. Section 13 of the NLTA provides for impartiality. In terms of section 13(1), the requirement of impartiality applies to all those listed or occupying positions listed from (a) to (e) of subsection 1 as well as to their spouses, partners and immediate family.
- 2.1.16. Impartiality, as covered in section 13(1), means the listed persons must have no direct financial or business interest in any sector of the public transport industry, and may not decide or adjudicate on a matter in which they have such interest.
- 2.1.17. Section 14 of the Act, inter alia, enjoins the planning authorities to prepare the ITPs as contemplated in section 36 as well as to supply directions to the entities responsible for the granting, renewal, amendment or transfer of operating licenses in terms of their ITPs in the prescribed manner.
- 2.1.18. Regulatory functions of Municipalities are covered in section 18 of the Act. Subsection (1) provides that a Municipality to which the operating licensing function has been assigned under section 11(2) must receive and decide on applications relating to operating licenses for services wholly in their areas of jurisdiction, excluding applications that must be made to the National Public Transport Regulator (NPTR) or a PRE.

- 2.1.19. The Commission heard evidence to the effect that no Municipality in the Gauteng Province has been assigned with regulatory functions under section 11(2).
- 2.1.20. Section 21 provides for functions of the NPTR. Subsection (1)(a) states that the NPTR must monitor and oversee public transport in the country in general and activities of PRE and Municipalities concerning their land transport functions.
- 2.1.21. Section 21(1)(b) provides that the NPTR must receive and decide on applications relating to operating licenses or accreditation for interprovincial transport, excluding daily commuter transport to and from the area of a Municipality to which the operating licensing function has been assigned under section 11(2), which must be dealt with by that Municipality. The Gauteng PRE when appearing before the Commission indicated that section 21(1)(b) NPTR function in as far as the interprovincial transport is concerned in being handled by it despite a section 26 agreement between it and NPTR having expired.
- 2.1.22. Section 21(2) provides that the NPTR must produce and regularly update standardised procedures manual for itself and the PREs, Municipalities, contracting authorities and the Transport Appeal Tribunal in respect of their activities in terms of the NLTA. The Gauteng PRE made no mention of such standardised procedures manual when testifying about its operations.
- 2.1.23. Where a PRE refuses to receive an application or delays an application unduly in the prescribed manner, the applicant may submit the application to the NPTR in the prescribed manner in terms of section 21(4). The Commission heard evidence of delays on applications up to years both from the Gauteng PRE as well as from Taxi Operators but no mention was made of section 21(4) process being used.
- 2.1.24. Section 23 provides for the establishment of a PRE by the MEC to perform the functions of the PRE in the Province. The PRE must consist of dedicated officials of the Provincial Government, appointed on a full-time or part-time basis.
- 2.1.25. The functions of the PRE are provided for in section 24(1) of the NLTA. In terms of paragraph (1)(a) the PRE must monitor and oversee public transport in the Province. The evidence before the Commission showed that

the PRE does not perform this function instead it is partially performed by officials of the Gauteng Department of Roads and Transport who are principally untrained for the function.

- 2.1.26. The function of receiving and deciding on applications relating to operating licenses for intra-provincial transport per paragraph (1)(b) of section 24 seems to be the only function carried out by the PRE through same includes the inter-Provincial transport part of the NPTR function.
- 2.1.27. Powers of the PRE are provided for in section 25 of the NLTA. Section 25(2) provides that in dealing with any matter before it a PRE must have the prescribed powers. Both the National Land Transport Regulations, 2009 and Gauteng Public Transport Regulatory Entity Regulations, 2011 do not provide for the PRE functions provided for in terms of section 24(1)(a) of the NLTA.
- 2.1.28. Agreements on regulatory matters are covered in terms of section 26 of the NLTA. Section 26(1) provides for circumstances under which the regulatory entities established or may be established under the NLTA may agree that one of them will undertake the functions of another relating to receiving and considering applications concerning operating licenses. These provisions were used by the Gauteng PRE and the NPTR for the Gauteng PRE to take over the functions of NPTR in as far as the inter-provincial operating licenses processes starting from the Gauteng Province are concerned.
- 2.1.29. All planning authorities are required to prepare and submit ITPs to the MEC responsible for public transport in the Province in terms of section 36(1). The ITPs are required to be per the requirements and in the manner and form as the Minister may prescribe in consultation with the MECs in terms of section 36(2). In terms of section 93(2) of the NLTA, any transport plan prepared or approved in terms of the Transition Act is deemed to be the corresponding plan prepared or approved, as the case may be, in terms of NLTA until the latter has been prepared or approved.
- 2.1.30. The ITPs produced by the Metropolitan Municipalities before the Commission were prepared before 2016 in terms of the Integrated Transport Plans: Minimum Requirements in terms of the NLTTA, 2007. The Regulations currently applicable for the preparation of ITPs is Minimum Requirements for the Preparation of Integrated Transport Plans, 2016.

- 2.1.31. In terms of section 36(6), every planning authority must make its ITP available to the NPTR and the relevant PRE and make recommendations to them relevant to applications for the new operating licenses, in the prescribed manner.
- 2.1.32. Section 38(2)(b) provides that all persons, including the State and parastatal institutions, agencies and utilities, are bound by the provisions of the ITP published under subsection (1), and developments on property within the area of the planning authority are subject to traffic impact assessments and public transport assessments as prescribed by the Minister.
- 2.1.33. Several provisions provide for rationalisation of public transport and section 49 specifically deal with the rationalisation of Minibus Taxi-Type Services. Subsection (1) provides that permits issued for Minibus Taxi-Type Services remain valid, subject to section 47(1) which provides that all permits issued for a definite period remain valid but lapse when that period expires, provided that if such a permit is still valid on a date calculated as seven years from the date of commencement of the NLTA, it will lapse on that date, and (2) which provides that all permits issued for an indefinite period remain valid, subject to sections 48 and 49, but lapse seven years after the date of commencement of the NLTA, but the holder may apply within that period for its conversion to an operating license to the entity that is responsible for receiving applications for operating licenses for the relevant services.
- 2.1.34. The regulation of road-based public transport is in terms of section 50 of the NLTA. Subsection (1) provides that no person may operate a road-based public transport service unless he or she is the holder of an operating license or permit, subject to sections 47, 48 and 49, issued for the vehicle concerned in terms of the NLTA.
- 2.1.35. Section 50(3) further provides that where an application in connection with an operating license concerns services provided for in an integrated transport plan, the provisions of that plan, where appropriate and where possible, will dictate the decision of the entity considering the application.
- 2.1.36. Section 54 deals with applications for new operating licenses. Subsection (4) provides, where a transport plan shows a need for additional services,

other than tourist transport services, contemplated in subsection (2) on a route or routes in its area, the Municipality to which the operating license has been assigned may invite applications for operating licenses to provide those services.

- 2.1.37. Section 54(5) provides a list of eight requirements that apply to an application, including for a minibus taxi-type service. Important to note and relevant to the Commission includes 54(5)(c) that provides that the applications must be made by completing and submitting the prescribed form, which must allow for the applicant to submit recommendations or documentation in support of the application, either from the applicant or from any other interested person.
- 2.1.38. In terms of section 55(1) of the NLTA, before the NPTR or a PRE considers any application for granting, renewal, amendment or transfer of an operating license, other than a tourist transport service or charter service, and other than a contracted service contemplated in section 56, it must by notice in the prescribed manner inform all planning authorities in whose area the services will be operated of the application with the request to give directions concerning the application based on its integrated transport plan within the period stated in the notice.
- 2.1.39. Section 55(2)(a) provides that the planning authority must in the prescribed format indicate whether there is a need for the service on the route or routes or in the area or areas in terms of its integrated transport plan or not, and, if there is a need for such service, direct the NPTR or a PRE to grant the operating license and make any recommendations it considers fit regarding conditions to be attached to the operating license, having due regard to its integrated transport plan, and if its integrated transport plan is not yet finalised or is inadequate, it must make the decision based on due inquiries and investigations carried out by it.
- 2.1.40. In terms of section 55(5), subject to subsection (6), the NPTR or a PRE, in disposing of an application, must act in accordance with the relevant integrated transport plan and directions of the planning authority submitted in terms of subsection (2), and must not grant an operating license contrary to the directions of the integrated transport plan and planning authority.

- 2.1.41. Section 57 provides a list of considerations by the licensing entities when disposing of applications concerning operating licenses for non-contracted services.
- 2.1.42. Section 64(1) states that an operating license may only be issued to and be held by the person registered, in terms of the National Road Traffic Act, as the owner or operator of the vehicle, as defined in that Act, and specified in the operating license.
- 2.1.43. No cession, alienation or hiring out of the operating license or permit is allowed in terms of section 77(1) except in terms of a transfer under section 58. A transaction concluded in contravention of subsection (1) is invalid and has no legal force in terms of section 77(2).
- 2.1.44. In terms of section 79(2), subject to subsection (3), in the case of an operating license or permit that has not been granted based on a contract, the relevant entity may, at any time, withdraw, amend, or suspend the operating license for such a period as it may deem fit if the holder or employee of the holder has been convicted of an offence under the NLTA or under a law relating to motor vehicles or the regulation of traffic or occupational safety or labour relations, or an offence due to fraud or dishonesty (per section 79(2)(a)); or in the opinion of the entity, has not carried out faithfully the conditions of the operating license or permit (section 79(2)(b)).
- 2.1.45. Section 79(3) provides that any entity may, at any time, withdraw an operating license which was granted or issued by it erroneously or based on incorrect or false information supplied to it.
- 2.1.46. Chapter 7 of the NLTA deals with various aspects of law enforcement. In terms of section 85(2), a MEC or a Municipality are referred to as enforcement authorities. Section 86 provides for the appointment of inspectors that may include employees of a Provincial Department, as appointed by the MEC or a Municipality to which the operating license function has been assigned, as appointed by that authority.
- 2.1.47. The functions of inspectors are to monitor compliance with the NLTA in the Province or area of the Municipality concerned and to assist with the investigation and prevention of offences contemplated in section 90 which

have been committed in the Province or area subject to Provincial laws, if any, and the directions of the appointing authority.

- 2.1.48. Section 90 provides for offences and penalties. Subsection (1) list offences whilst subsection (2) provides for penalties categorised according to the serious to standard ones.

2.2. Road Traffic Management Corporation Act, 1999 (Act 20 of 1999)

- 2.2.1. Section 2 of the Road Traffic Management Corporation Act (RTMCA) provides for the establishment of the Road Traffic Management Corporation as a partnership between National, Provincial and Local spheres of Government by:

2.2.1.1. Effecting the pooling of road traffic powers of the Minister and every MEC and resources of National and Provincial spheres of Government responsible for road traffic management, in support of enhanced cooperative and coordinated road traffic strategic planning, regulation, facilitation and law enforcement;

2.2.1.2. Strengthening National and Provincial Governments' collective capacity to govern road traffic through partnerships with Local Government bodies and the private sector; and

2.2.1.3. Focussing Government on effective strategic planning, regulation, facilitation and monitoring;

- 2.2.2. Section 32 provides for the National Road Traffic Enforcement Code as follows:

2.2.2.1. For the purpose of executing the road traffic law enforcement function, the chief executive officer, in consultation with the National Commissioner and the National organisation recognised in terms of section 2 (a) of the Organised Local Government Act, 1997 (Act 52 of 1997), must develop a national road traffic law enforcement code.

2.2.2.2. The code must, taking into account local developmental needs, capacity and available resources, provide a national framework that sets out in respect of road traffic law enforcement:

- a) Minimum requirements for training and appointment of road traffic law enforcement officers;
- b) Strategic direction and goals to be achieved;

- c) Management practices and human resource practices to be followed;
- d) Operating principles to be applied;
- e) Performance level to be achieved;
- f) Supporting management information systems to be implemented; and
- g) Actions which constitute a failure to comply with the code as contemplated in section 33.

2.2.2.3. The code, once approved by the Shareholders Committee, becomes binding on-

- a) Provincial authorities and Local Government bodies irrespective of whether they perform road traffic law enforcement services under a contract: Provided that the chief executive officer may not force a Local Government body that does not provide road traffic services, to provide those services; and
- b) Any statutory transport institution vested with powers to execute road traffic law enforcement functions for the duration of a contract concluded with the Corporation to provide road traffic law enforcement: Provided that the code may only bind the SAPS and a municipal police service established in terms of section 64 of the South African Police Service Act, 1995 (Act 68 of 1995), upon approval thereof by the Minister for Safety and Security.

3 Repealed/Excluded Laws

3.1 Road Transportation Act, 1977 (Act 74 of 1977)

3.1.1 Road Transportation Act, 1977 (RTA) came into force on 1 January 1978. It remained in force in the Gauteng Province until it was excluded from application in terms of section 104 of the GPPRTA.

3.1.2 The RTA provided for the control of certain forms of road transportation and for matters connected therewith.

- 3.1.3 Section 16(1) of the RTA provided that the commission or a board may grant or renew a public permit for an indefinite period or, in its discretion, for such fixed period as it may determine.
- 3.1.4 Section 16(2) provided that if at the date on which a public permit granted for a fixed period expires, an application for its renewal is pending before the commission or competent board, such permit shall continue in force until the application has been disposed of.
- 3.1.5 Despite the exclusion of the RTA in terms of section 104 of the GPPRTA the Province continued to use the RTA in the form of the application forms as well as the Land Transport Permit System (LTPS).

3.2 Transport Deregulation Act, 1988 (Act 80 of 1988)

- 3.2.1 Section 5(1) provides that, subject to the provisions of subsection (3), the provisions of the Road Transportation Act, 1977 (Act No. 74 of 1977), in so far as they apply to the conveyance of goods or persons, shall cease to be in force with effect from a date determined by the Minister by notice in the Gazette.
- 3.2.2 Subsection (3) provides that the Minister may, subject to the provisions of subsection (4), by a notice issued in terms of subsection (1), declare that any provision specified in the notice, or all the provisions, of the Road Transportation Act, 1977, shall cease to be in force in relation to:
- a) Any class or classes of road transportation;
 - b) Any person or goods or class or classes of persons or goods conveyed by the means of road transportation;
 - c) Road transportation within a particular area or within particular areas in the Republic; or
 - d) Any kind or class of motor vehicle or kinds or classes of motor vehicles used in road transportation, specified in the notice.
- 3.2.3 During the hearings, there was evidence to the effect that the deregulation of the minibus taxi services in terms of this Act led to the proliferation of permits without regard to the need and possible detriment to the industry.

3.3 National Land Transport Transition Act (Act 22 of 2000)

3.3.1 The following definitions found in the National Land Transport Transition Act (NLTTA) have relevance in the Terms of Reference for the Commission:

3.3.1.1 “**Authorised Officer**” means:

- a) An inspector contemplated in section 123;
- b) A member of the South African Police Service, including a member of a municipal police service as defined in section 1 of the South African Police Service Act, 1995 (Act No. 68 of 1995);
- c) A person in the service of a Provincial Department or a Municipality whose duty is to inspect motor vehicles or licenses for motor vehicles or to control traffic;
- d) A road transport inspector contemplated in section 39 of the Cross-Border Road Transport Act, 1998 (Act 4 of 1998).

3.3.1.2 “**Capacity building**” means investment made with the purpose of enhancing the ability of individuals and institutions to achieve their development goals;

3.3.1.3 “**Code of Conduct**” means the code of conduct prescribed for a Province by the MEC under section 116;

3.3.1.4 “**Grievance Procedure**” means the procedure laid down in the constitution of an Association to resolve an internal grievance raised by a member or a group of members;

3.3.1.5 “**Infrastructure**” in relation to land transport, means fixed capital equipment and facilities in the land transport system;

3.3.1.6 “**Member**” means a member of an Association;

3.3.1.7 “**Non-member**” means any person, whether a natural person or a juristic person, who is not a member of an Association;

3.3.1.8 “**Permit**” means a public road carrier permit or similar authority issued under a previous law, and which is in force at the commencement of this Act in terms of section 79;

3.3.1.9 “**previous law**” means any law the operation and application of which is excluded by or in terms of section 3, and which is superseded by this Act in accordance with that section;

- 3.3.1.10 “**Public transport operator**” means a person carrying on the business of operating a public transport service;
- 3.3.1.11 “**Registered**” in relation to any Association, the members of any Association and any non-members means their registration in the Provincial transport register in accordance with this Act and relevant Provincial laws;
- 3.3.1.12 “**Registered constitution**” means an Association’s constitution, filed in the Registrar’s records, pursuant to the Association’s successful application for provisional or full registration;
- 3.3.1.13 “**Registrar**” means the person appointed as the Provincial transport Registrar for a Province by its MEC in compliance with relevant Provincial laws and section 53;
- 3.3.1.14 “**Roadworthy certificate**” means a certificate certifying the roadworthiness of a motor vehicle in accordance with the requirements of the Road Traffic Act, 1989 (Act No. 29 of 1989);
- 3.3.1.15 “**Transfer**” in relation to an operating license, means a transfer from the holder of the operating license to another person;
- 3.3.1.16 Chapter 1, Chapter 2 and Chapter 4 is regarded as provisions contemplated in section 146(2) of the Constitution and apply to the exclusion of any law that is in force in any Province or the Republic as a whole and which is inconsistent with the chapters.
- 3.3.1.17 Chapter 2 of the NLTTA prescribes those policies, principles, requirements, guidelines, frameworks, norms and standards that necessarily must be the same for all the Provinces of the Republic, and other matters contemplated in section 146(2) of the Constitution, in order to achieve and deal effectively with the transformation and restructuring of the land transport system of the Republic nationally, in the process introducing and establishing the new land transport system contemplated in subsection (1), for the Republic as a whole.
- 3.3.1.18 Chapter 3 does not apply in a Province in so far as it relates to a matter with regard to which there is a replacing Provincial law in force in the Province concerned, to the extent that such a replacing law deals with the matter. In the case of the Gauteng Province, the Gauteng Public Passenger Road Transport Act, 2001.

3.3.1.19 Section 119 provided for circumstances when the Registrar must cancel the registration or provisional registration as follows:

- a) An Association:
 - I. Which has ceased to exist or is no longer based in the Province;
or
 - II. If it has secured registration or provisional registration through fraudulent conduct.
- b) A member in respect of a particular Association where:
 - I. The registration or provisional registration of that Association is cancelled;
 - II. Membership of that Association has been duly terminated in accordance with its constitution.
- c) A non-member:
 - I. Who is no longer based in the Province;
 - II. Who, if a juristic person, has ceased to exist; or
 - III. Who does not hold an appropriate operating license or permit for each vehicle used by the non-member to operate a public transport service.
- d) A member of an Association provisionally registered who does not hold an appropriate operating license or permit for each vehicle used by such a member to operate a public transport service, or has not applied for such an operating license.

3.3.1.20 Section 120 provided that where the full registration of an Association lapse or is cancelled, all permits and operating licenses held by the members of that Association which relate to the route or routes in question, lapse on a date calculated as 90 days after such lapsing or cancellation, unless:

- a) The Association has been re-registered provisionally or fully, and the member is still a member thereof;
- b) The member has obtained membership of another registered or provisionally registered Association operating on the route or routes in question; or

- c) The member has obtained registration as a non-member in respect of the route or routes in question.

3.3.1.21 The NLTA is to be read GPPRTA since the Gauteng Province developed its own Provincial legislation that replaced Chapter 3 of the NLTTA.

3.4 Gauteng Public Passenger Road Transport Act (Act 7 of 2001)

3.4.1 The definitions contained in this Act are generally the same as those contained in the NLTTA except the relevant two below:

3.4.1.1 **“Transport operating license administrative body”** means a transport operating license administrative body referred to in section 34;

3.4.1.2 **“Unauthorised public passenger road transport”** means public passenger road transport not authorised by an operating license or permit and includes such transport undertaken by the holder of an operating license or permit otherwise than in accordance with the terms and conditions of the operating license or permit;

3.4.2 Section 34 establishes the Transport Operating License Administrative Bodies (TOLAB), where the HoD is required in terms of subsection (1) to designate one or more Departmental officials to be stationed at offices of each metropolitan authority to fulfil the functions of transport permit administrative bodies, in the manner prescribed.

3.4.3 Sections 65, 66 and 67 detail how the Registrar is to administratively deal with the registration of Associations, their members and non-members.

3.4.4 Section 72 provides the Registrar must grant registration to an Association which upon application satisfies the Registrar:

- a) That it has been in existence for a period not less than the minimum prescribed period;
- b) That the number of members meets the prescribed minimum;
- c) That the constitution and code of conduct submitted by the Association has been signed and accepted by each of its members;
- d) That the said constitution and code of conduct are consistent with and comply with the prescribed requirements;

- e) That the Association enjoys the support of relevant Municipalities and transport authorities;
- f) That each member of the Association holds a valid permit or operating license for each motor vehicle that he or she operates and that his or her operations are within the authority thereof;
- g) That each member of the Association has furnished proof to the satisfaction of the Registrar that the member is registered as a taxpayer under the Income Tax Act, or, in terms of that Act, is not required so to register; and
- h) That all of the information required by the Registrar in terms of this Act or otherwise has been provided and this information has been verified in the manner prescribed.

3.4.5 New members of registered associations are dealt with in terms of section 74. This section provides for provisional admission of new members with and without operating licenses but provides that where an Association has provisionally admitted a new member who does not hold an appropriate permit or operating license for the route or routes in question, it must within 14 days of such admission, notify the Board in writing of such admission and supply to the Board the prescribed particulars.

3.4.6 In terms of section 74(3), a person provisionally admitted as a member of a registered Association without the appropriate permit or operating license must apply for the appropriate operating license within 14 days of being admitted to such membership, and submit proof of such application to the Registrar.

3.4.7 Subsection (4) states that the fact that an operator or new member has been provisionally admitted as a member of an Association or that such operator or member has applied for an operating license does not entitle the person to operate a public passenger road transport service.

3.4.8 In terms of subsection (7) should such a provisionally admitted operator fail to apply for the necessary operating license within the time required by subsection (3), or should the Board notify the operator that such application has been unsuccessful, the Association must terminate the

admission of that operator within seven days after expiry of the period mentioned in subsection (3), or after such notification.

- 3.4.9 Section 76 (1) provides for the Registrar to may suspend or withdraw the registration of an Association or operator for failure to comply with this Act or with the rules set out in the minimum standard constitution or code of conduct for non-members, as the case may be, or for other conduct that has been prescribed as improper conduct.

4 Bills/New Laws

4.1 Gauteng Transport Authority Act 2019 (Act No.2 of 2019)

- 4.1.1 The following definitions are relevant for the purposes herein:

4.1.1.1 “**Relevant Municipality**” means all the Municipalities falling within the Province established under section 12 of Local Government: Municipal Structures Act, 1998 (Act No. 117 of 1998);

4.1.1.2 “**SALGA**” means the organised Local Government Association in the Province contemplated in section 163 of the Constitution and established in terms of the Organised Local Government Act, 1997 (Act No. 52 of 1997);

- 4.1.2 Section 2 of the Act establishes and empower the Gauteng Transport Authority to:

- (a) give effect to the Constitution and National transport policy and legislation within the Province;
- (b) consolidate certain transport functions of organs of State in the Province;
- (c) foster co-operation and co-ordination between public transport authorities and operators in the Province;
- (d) improve and optimise the planning and implementation of public transport service in the Province; and
- (e) facilitate and rationalise the funding of public transport activities and initiatives in the Province.

- 4.1.3 In terms of section 3, the Gauteng Transport Authority is established as a juristic person.

4.1.3.1 The objectives of the Gauteng Transport Authority are to:

- (a) Develop an integrated transport system which contributes to environmental sustainability and social cohesion and promotes economic progress in the Province;
- (b) Provide a well-functioning, effective and modern, integrated and safe public transport system for all users in the Province; and
- (c) Integrate the development of transport infrastructure and services in the Province.

4.1.3.2 Section 5 lists the functions of the Authority to include:

- (a) Undertake strategic transport and integrated planning for the transport network in the Province;
- (b) Promote the development of an integrated and accessible transport network in the Province;
- (c) secure the:
 - (i) provision of public passenger transport services;
 - (ii) provision of public transport infrastructure;
 - (iii) provision of an integrated ticketing and information system for public transport;
 - (iv) effective management of traffic;
 - (v) effective management of transport demand;
 - (vi) development and implementation of a single public transport insignia;
 - (vii) collection of statistical data and Information on transport;
 - (viii) conduct of research on transport; and
 - (ix) fostering of good relations and co-operation with and between various organs of state.

4.1.3.3 The effectiveness of the Gauteng Transport Authority may depend on the cooperation between the Province, the Municipalities as well as other relevant Government Departments such as the Department of Cooperative Governance and Traditional Affairs as well as the National DoT and National Treasury.

4.2 National Land Transport Amendment Bill, 2016 [B 7D-2016]

- 4.2.1 The Amendment Bill seeks to introduce various amendments to the National Land Transport Act, 2009. Amongst the amendments relevant to the Commission is the re-introduction of Associations into the public transport legislation.
- 4.2.2 The Association is defined to mean:
- (a) a group of operators which has been formed not for gain;
 - (b) whose object is to promote the interests of its members; and
 - (c) whose funds are to be applied in promoting those interests.
- 4.2.3 The Bill also provide for the amendment of section 12 of the NLTA to enable for Provincial legislation for the joint performance of certain functions by the Province and Municipalities.
- 4.2.4 The Bill also seek to amend section 23 of the NLTA to clarify the status of the members of a PRE as follows:
- (a) The PRE consist of not more than seven non-executive members appointed by the MEC who are accountable to the Provincial HoD with regard to administrative and employment issues and who in performing their quasi-judicial functions exercise independent discretion.

Part E
Law Enforcement
Agencies

Part E: Law Enforcement Agencies

1 Introduction

1.1 This part of the report provides an account of the different Law Enforcement Agencies in Gauteng that are responsible for enforcing the law and ensuring compliance with existing laws. This section starts by explaining the various role-players, the legislative basis for law enforcement and the evident fragmentation that has a severe impact on effective law enforcement. It also deals with the human element in discussing the issues related to bribery, collusion, extortion and fraud. Various Agencies such as the GTP, RTMC and SAPS are also discussed in detail. This section also highlights the challenges associated with providing these services.

2 Law Enforcement Agencies in the Province: The Role-Players

- 2.1 There are several Law Enforcement Agencies in Gauteng that are authorised by the NLTA to conduct law enforcement in the public transport sector. The specific provisions of the NLTA in this regard are captured in Part D of this report.
- 2.2 Gauteng has the SAPS which is responsible for fighting crime. They are the only Agency that authorised to gather crime intelligence and investigate crime through their detective services. The SAPS is required to investigate and forward all incidents and cases of violence and crime committed in the Minibus Taxi-Type Service Industry to the NPA for prosecution.
- 2.3 There are three Metropolitan Municipal Police Departments namely the EMPD, JMPD and TMPD are mandated to conduct crime prevention; bylaw enforcement and traffic law enforcement (which includes provisions of the NLTA). They were established in terms of the SAPS and unlike the other Traffic Departments, they have the added responsibilities alluded to above.
- 2.4 The Gauteng Traffic Police (GTP) which is situated in the Department of Community Safety (GDSCS) which has the responsibility to enforce traffic laws as contained in the National Road Traffic Act (NRTA), the NLTA and other provincial laws governing traffic. The Inspectors as envisaged in Chapter 7, section 86(1) of the NLTA now reside under the GTP in the Public Transport Directorate.

- 2.5 There are also several Municipal Traffic Departments in Gauteng who are also required to enforce traffic and public transport laws. There are two District Municipalities composed of three Local Municipalities each with their own traffic Department namely: West Rand District composed of Mogale City, Rand West and Merafong. The Sedibeng District Municipality is composed of Emfuleni, Midvaal and Lesedi.
- 2.6 Two other National Law Enforcement Agencies are operating in Gauteng. These are the National Traffic Police (NTP) and the Cross-border Roads Agency Enforcement Unit (which has now been incorporated into the NTP). They are also entitled to enforce the provisions of the NLTA.
- 2.7 The difference between these Law Enforcement Agencies is that in conducting law enforcement, only the SAPS is authorised to conduct criminal investigations and to run and manage crime intelligence necessary to combat serious and organised crimes including those that are experienced in the Minibus Taxi-Type Service Industry.
- 2.8 The NPA in the Province is also a significant player in that it prosecutes cases of taxi violence brought before it by the SAPS detectives.
- 2.9 Law enforcement may not be the source of conflict and instability in the Minibus Taxi-Type Service Industry but its impact, or lack thereof has a significant bearing on the nature, type and frequency of violence, killings and instability that continue to ravage the industry.

3 Legislative Basis for Enforcement

- 3.1 All the above-mentioned Law Enforcement Agencies are recognised as authorised officers and are entitled to enforce the provisions of the NLTA. The powers of the authorised officers are contained in section 81(1)(a) to (h) as well as 81(3)(a) and (b) of the NLTA. The Act further specifies the types of offences that must be monitored by officers and prescribe penalties for these offences (See Annexure C).
- 3.2 Several other laws can be utilised to achieve stability, safety and peace in the industry. These include all laws on the prevention and investigation of crime including money laundering laws as well as asset forfeitures. The NRTA also requires that the drivers and operators in the Minibus Taxi-Type Service Industry should adhere to the law like all other motorists.

3.3 Often, those who instigate instability and are involved in violence also transgress these laws and related regulations. In the absence of effective law enforcement, they feel untouchable. Enforcement of the NRTA can have a positive impact and reduce the rampant lawlessness exhibited by Taxi Drivers on the roads as they breach the conditions of their operating licenses.

4 Fragmented Law Enforcement

4.1 Given the number of Law Enforcement Agencies operating in Gauteng, it is virtually inevitable that there would be challenges in coordinating the enforcement activities of these Agencies. It was apparent in the Commission's hearings that indeed, law enforcement in Gauteng is highly fragmented.

4.2 This fragmentation makes law enforcement less effective as each Agency operates on its own and often with limited resources. The resulting impact is often minimal and localised and a perception that law enforcement is weak endures. This results in more lawlessness as a sense of general impunity prevails where those who breach the law are unlikely to be punished.

4.3 In instances where joint efforts have been undertaken and despite their success, these have been short-lived and often dissipate without any rational explanation. The Joint Provincial Taxi Task Force which was conceptualised and established in 2014 to coordinate the fight against violence in the Minibus Taxi-Type Service Industry in Gauteng, was considered by the role-players who testified in the Commission, to have been effective in fighting taxi violence.

4.4 It made several interventions including responding to shootings and the tracking down and arrests of perpetrators as well as seizures of illegal weapons. While this team was not disbanded officially, it stopped operating when some Agencies withdrew their members and no rationale for this was provided to the Commission.

4.5 It must also be noted that although the institutions responsible for policing of the Minibus Taxi-Type Service Industry seem to be many, the Commission heard evidence that all of them have other policing responsibilities over and above the enforcement of the NLTA. Often these other responsibilities are prioritised, for instance: The three Metro Police Departments also have bylaw enforcement as well as crime prevention.

- 4.6 The GTP have in their structure, a dedicated Unit for public transport enforcement but it too, is sometimes redirected to other policing activities.
- 4.7 The SAPS Taxi Violence Task Team is a temporal or ad hoc team which has not been sufficiently resourced and capacitated to fulfil its mandate and its detectives are on secondment from primary units.

5 Conflicted Law Enforcement Officials

- 5.1 It is perhaps prudent to address the thorny issue of the real or perceived conflict of interest of law enforcement officials, early in this chapter. Section 13(d) of the NLTA states that an official in law enforcement and his/her immediate family must not have any direct financial or business interest in the public transport sector.
- 5.2 There is a commonly held public view that law enforcement is highly conflicted which explains why it has been ineffectual in dealing with the taxi-related conflict. Some even go further to believe that some of the weapons used in the violence are issued by the police themselves. This view has been reinforced by the fact that in some of the incidents of violence, state-issued rifles and pistols were used and some of these have been confiscated from suspects.
- 5.3 There are also numerous examples where criminals in the industry have been able to avoid arrest due to forewarning which could only have come from elements in the Law Enforcement Agencies who are co-conspirators.
- 5.4 It is the responsibility of all Law Enforcement Agencies to ensure that none of their employees is in violation of this law.
- 5.5 Taxi owners are registered on the OLAS and RAS and checking all employees against the lists on the RAS and OLAS systems should be the first and logical exercise to determine which law enforcement employees are owners and direct participants in the Minibus Taxi-Type Service Industry in contravention of the law.
- 5.6 The Commission heard of only two instances where the SAPS and JMPD attempted to investigate members who are contravening this law. In both instances, these investigations have stalled for reasons that were not provided to the Commission.

- 5.7 No other law enforcement agency in the Province has interacted with the PRE or any other structure at National level which can assist with such investigations, to establish which of their members are taxi owners and operators in the Minibus Taxi-Type Service industry.
- 5.8 During their submission to the Commission, the senior representatives of the EMPD confessed that they were not aware of this legal requirement and the TMPD has never undertaken such an investigation.
- 5.9 All the Law Enforcement Agencies that testified in front of the Commission shared a similar view that investigating ownership through the PRE is in all respects an exercise in futility as many employees of Law Enforcement Agencies who own or participate actively in the industry do so through third parties and their involvement and ownership is hidden.
- 5.10 Both the leadership of the Gauteng National Taxi Alliance (GNTA) and SANTACO shared a similar view in their testimony but claimed it is widely known in the Industry that some operators are proxies for law enforcement officers.
- 5.11 It was however very apparent to the Commission that this matter has not received the attention it should among the Law Enforcement Agencies across the board and that there are no systems established to identify who participates in the Industry, in contravention of section 13(d) of the NLTA. Also, apparent, is that this does not form part of the pre-employment vetting and the periodic vetting that law enforcement officials should be subjected to.

6 Collusion

- 6.1 Some of the victims of the violence that has engulfed the Industry, testified and provided anecdotal evidence to the Commission that there is collusion between some law enforcement officials especially the SAPS and those who are responsible for the provocation and fanning of the flames of violence.
- 6.2 Testimony was heard whereby complainants were informed of the details of their confidential complaints to Law Enforcement Officers by the very people against whom they laid their complaints. Often, this was accompanied by intimidation and threats to the complainants.
- 6.3 Many of the witnesses who testified stated that they have very little confidence in the police because they hold a firm belief backed by many examples that

some Law Enforcement Officers are collaborating with criminal elements in the industry and aid and abet their criminal activities while protecting them from the law.

- 6.4 The Commission also heard how planned operations against those who break the law within the Minibus Taxi-Type Service Industry were often compromised by leaks emanating from within the law enforcement officials. Information about raids and roadblocks is often leaked resulting in those who are targets of these operations taking precautions to avoid arrest.

7 Bribery and Extortion

- 7.1 Some law enforcers, required to police public transport laws on the road accept bribes from errant Taxi Operators to such an extent that this practice is being described as a norm. Taxi drivers are reported to budget for everyday encounters with Law Enforcement Officers on the road.
- 7.2 The Commission heard evidence that Officers of the Gauteng Provincial Traffic Police's Public Transport Unit are bribed at higher rates than those of other traffic and Municipal police officers as it is known in the industry that they alone can discontinue a vehicle from operating if it is found that the owner or driver violates the law. In fact, they are still referred to as the Board – which is what the traffic inspectorate in the GDRT used to be called before they were moved to the GDSCS.
- 7.3 Officers are also involved in extortion where taxi drivers and operators are threatened and intimidated into making payments in return for leniency.
- 7.4 Bribery and extortion are the reason many taxi drivers disobey the rules of the road and operating conditions contained in their operating licenses. They are aware that they are most likely to get away with their unlawful conduct if they pay a bribe.
- 7.5 The resultant public perception that taxi drivers are a law unto themselves is made credible especially because some of these transactions of bribery take place right in front of commuters. Both the corrupt officers and the taxi drivers have become so brazen that they no longer conceal the corrupt exchanges.
- 7.6 Allegations of bribery and extortion have also been levelled against police officers of the SAPS who are members of the Taxi Violence Task Team. The Commission was however, unable to obtain any direct evidence to

substantiate this allegation. (However, the behaviour of some of the officers through mishandling of cases and sheer derelict conduct in the execution of their mandate make it difficult to dispute the allegation. It appears that some cases are deliberately muddled such that they cannot be finalised.

8 Fraudulent Route Allocation at GDRT

- 8.1 One of the causes of the conflict already mentioned elsewhere in the report relates to the irregular or fraudulent issuance of routes to competing Associations. The Commission has heard that the Africa Mall route was somehow registered to two associations, which is an anomaly. It has since transpired that one of the Associations involved may have acquired the route irregularly through the assistance of some employees. This led to violence where several people were murdered.
- 8.2 Evidence presented to the Commission showed that although the cases were reported to the SAPS, they remain unresolved years after the incidents. Those involved are probably still employed by the GDRT. Lack of enforcement creates an environment of impunity which perpetuates further lawlessness.
- 8.3 An orderly and peaceful Minibus Taxi-Type Service Industry requires a very high level of compliance with the law and regulations. This includes the regulators as well as operators and other impacted stakeholders. In the first instance, there should be voluntary compliance on the part of all stakeholders, but it is also important that when the law is breached there should be quick, fair, and consistent law enforcement which is something that is missing when it comes to enforcement related to the Minibus Taxi-Type Service Industry.

9 Municipal and Traffic Police

- 9.1 Municipal and traffic police represent the day-to-day front line and first responders policing efforts. They are best placed to combat several transgressions that cause taxi violence in the Province. They can perform these activities through a consistent and firm policing approach to enforce both the provisions of the NRTA as well as the NLTA.
- 9.2 In terms of the NLTA section 11(i)(c)(xiii), the Municipal sphere of Government should be “promoting safety and security in the public transport sector”. Further, the NLTA states section 11(i)(c) (xv) the following with regards to the

role of Municipalities: “liaising on a continuous basis with the South African Police Service, Road Traffic Management Corporation, the relevant Provincial and Municipal Law Enforcement Authorities or Agencies, and the Inspectors appointed under the Cross-Border Act, with a view to ensuring co-ordinated transport law enforcement within its area.”

- 9.3 Although there is liaison and collaboration between the above-mentioned bodies, such collaboration could be improved and the rampant lawlessness in the industry manifested by the disregard of the NRTA and NLTA provisions as well as the criminal murders could be reduced significantly.
- 9.4 The Commission also heard that the Metropolitan Police Services in Gauteng, as well as the other Municipal Traffic Departments, do very minimal public transport-related enforcement. There is an unexplained perception that the enforcement of the NLTA is the preserve of the Provincial Traffic Police. What is even more troubling is that even the enforcement of the NRTA is seldom applied to those who operate minibus taxis and thus they have become a menace on the roads in the Province.
- 9.5 The fragrant disregard of the applicable laws by operators and drivers of taxis occurs daily. In response, law enforcement should also take place daily against those who transgress the law. Unfortunately, the levels of enforcement by the Municipal Traffic Police are far from adequate if it happens.
- 9.6 Some of the most common transgressions which directly or indirectly cause violence are enforceable on the road and include the following: vehicles that operate without operating licenses; drivers that are not licensed to drive any vehicle let alone drive a public transport vehicle; old and unroadworthy minibuses many of which are illegal; vehicles that encroach on the routes allocated to other operators; squad cars that are often operated by armed men who do illegal enforcement and are sometimes involved in the violence engulfing the industry.
- 9.7 Part of the problems that were flagged to the Commission includes the lack of adequate vehicle impound yards. There are just not enough such impound yards in the Gauteng Province given the size of the Minibus Taxi-Type Service Industry.
- 9.8 The NLTA empowers both the Province and the Municipalities to establish impound yards to remove non-compliant public transport vehicles which

include the minibus taxis. Where these impound yards exist, the Commission has also heard that impounded vehicles are often released back to their owners once fines are paid and simply return to operate on the roads in the same non-compliant manner.

- 9.9 Section 87(3) of the NLTA proclaims that the fee to release an impounded vehicle must be increased accordingly, for the second or subsequent impoundment of a vehicle. This is not applied. Part of the problem is that there is inadequate record especially in the impound yards run by the Province where many of the minibus taxis are kept.
- 9.10 Evidence displaying manual handwritten impound yard records which did not contain important data was presented before the Commission. It is almost impossible to identify repeat offenders.
- 9.11 The PRE is also a contributing factor to some of the law enforcement challenges experienced in Gauteng. The PRE is unable to issue operating licenses applied for in the required 60 days period as provided for in the NLTA Regulations.
- 9.12 The Commission was told of applicants who have waited for over 3 years for their operating licenses. Under these conditions, it is almost inevitable that some operators would start to operate without operating licenses and on routes that have not been approved that are often already allocated to others leading to violence.
- 9.13 In an attempt to remedy this anomaly, law enforcers were urged by senior members of the PRE to accept proof of payment receipts as evidence that operators have applied and are simply waiting for their operating licenses to be issued. Instead of dealing with the administrative ineptness that results in such long waiting times, this instruction created more problems. It created an opening for many illegal operators who produced fraudulent receipts. This was cited by the traffic police as one of the reasons they are unable to effectively police the NLTA, particularly minibus taxis.
- 9.14 It has been suggested by several witnesses that the Metro Police and the Traffic Departments in the other Municipalities in the Province are not empowered sufficiently to enforce the provisions of the NLTA concerning public transport. Witnesses from the Traffic Law Enforcement Sector in

Gauteng alleged that most are not trained and have no idea what a taxi operating license should look like and what the law requires.

- 9.15 Where there is sufficient training, there are other deficiencies that prevent them from effectively enforcing the law such as the lack of availability vehicle impound yards.
- 9.16 The Commission received testimony to the effect that the NLTA forms an integral part of the training of Traffic and Metropolitan Officers in the Province. It is however plausible that having not enforced the NLTA for many years, the traffic officers in the Municipalities in Gauteng need to be assisted with refresher courses and be equipped to enforce the law.

10 Illegal Operators

- 10.1 In its findings on the causes of conflict, the Commission heard that there are many illegal operators who either force their way and operate on the routes via threats and intimidation or are allowed to operate by the executives of the Associations mostly in exchange for money.
- 10.2 There are also instances where those who have operating licenses also add unauthorised vehicles on the routes. Other reasons for illegal operators refer to the workings on the PRE which have been discussed above.
- 10.3 These occurrences create an impression that there is an oversaturation of minibus taxis in the Province. This oversaturation has been blamed for some of the violence as operators compete for routes, especially those that are lucrative.
- 10.4 It is generally accepted by many of the witnesses who testified that there are in Gauteng more illegally operated minibus taxis than there are those with operations licenses. The Industry is indeed saturated but not because there are too many authorised operators but because there are way too many illegally vehicles operating.

11 Routes Enforcement

- 11.1 Another cause of the violence in the Industry is that is heavily dependent on policing to mitigate is the encroachment on the routes of others as well as operating on routes that are not authorised as per the operating license conditions.

- 11.2 In this regard, law enforcement officials admitted that they do not enforce the route provisions of the operating licenses or where they attempt to do so, they have no means of verification of the authorised routes and often cannot tell if an operating license is genuine or fake. Given that this is a major source of conflict, Law Enforcement Agencies should have been proactive and worked out enforcement strategies long ago, to grapple with this issue and reduce the violence.
- 11.3 The Commission was also presented with evidence that some routes are issued to more than one Association. This could either be an error or the work of corrupt officials. The issuing of routes to Associations is not a legal requirement but has become a practice in as discussed elsewhere in this report.
- 11.4 The Commission welcomes the initiative of the GDRT to conduct an audit of routes. This should enable appropriate interventions to correct route allocation so that enforcers are able to enforce the law appropriately and deal with those who encroach and cause violence.
- 11.5 Another important issue connected to the monitoring of routes is the issue of taxi ranks where many routes begin and end. Taxi ranks harbour elements that are involved in the violence.
- 11.6 Illegal firearms are prevalent in many of these ranks which are under the control of the various Municipalities. 'Bucket' monies are collected in the ranks which end up paying for the killing of targeted individuals. Security companies that cause terror in the ranks and openly display high calibre firearms are employed without the knowledge of most of the operators and members of Associations using those ranks.
- 11.7 Moreover, these security companies operate without the permission of the Municipalities responsible.

12 Gauteng Traffic Police and Inspectorate

- 12.1 In their testimony to the Commission, the representatives of SANTACO, GNTA, GDRT officials and several other witnesses suggested that the enforcement of the provisions from the NLTA and other related laws was far better when this function was housed under the GDRT.

- 12.2 These witnesses spoke emphatically of and lamented for an era where law enforcement was effective and generated significant respect of the Taxi Operators and drivers.
- 12.3 This was contrasted to the present situation where operators do as they please whereby respect for law enforcement no longer exists. This has resulted in a significant increase in the number of illegal or unlicensed Taxi Operators, and this has subsequently increased tensions in the industry resulting in violence as routes become saturated and drivers become more competitive over passengers.
- 12.4 In the past, such an Inspectorate (referred to as the Board) was housed within the GDRT. The functions of the Inspectorate were, as per a decision of the Provincial Executive Council in 2004, moved to the GDSCS and merged with Provincial Traffic Police to form the GTP. The GTP have a Public Transport Unit dedicated to enforcing the provisions of the NLTA in the entire Province.
- 12.5 Although no evidence was presented to the Commission to compare the performance of the Inspectorate while it was under the GDRT, the perception is very strong that things were much better when the Board was under the GDRT and it would be unwise for the Commission to ignore it.
- 12.6 This perception is strong among the officers who operate in the Unit who testified. It is also strong within the GDRT. It is even stronger among taxi Associations and their structures which the Commission interacted with.
- 12.7 Taxi Associations and individual operators testified that the encroachment of taxis on routes they are not allocated to, is among the significant causes of conflict. This can be prevented by effective law enforcement and on the ground monitoring.
- 12.8 One of the reasons there is encroachment is as a result of saturation which is caused in the main by illegal operators. It is estimated that there are now well over 50% of taxi vehicles operating in Gauteng without operating licenses.
- 12.9 It has also been suggested to the Commission that the GTP is grossly understaffed and is unable to effectively fulfil its mandate in respect to the NLTA, and other laws.

- 12.10 The Unit currently has a staff compliment of 600, of which 350 are dedicated to the enforcement of the NLTA. This is inadequate given that there are well over 100 000 minibus taxi's in Gauteng operating both legally and illegally.
- 12.11 Similarly, at a Municipal level, the Departments of Roads and Transport in the Municipalities that appeared before the Commission lamented the lack of law enforcement related to the Minibus Taxi-Type Service Industry and blamed this of the distance between their Departments and Law Enforcement Agencies.
- 12.12 They argued that the enforcement of public transport-related legislation, regulations and bylaws would be better served if they were directly responsible for those Law Enforcement Units.

13 RTMC and the Cross-Border Road Agency

- 13.1 The RTMC is a significant player in law enforcement. It is responsible for the eNaTIS system as well as the enforcement activities of the Cross-Border Roads Agency which are now integrated into the NTP Unit.
- 13.2 The RTMC sets national training standards for all traffic officers and confirmed to the Commission that the NLTA forms an integral part of the training of all traffic officers. It is thus bewildering that some traffic officers claim that they are not familiar with the NLTA.
- 13.3 Gauteng is a major destination for cross-border Taxi Operators. There is, however, a glaring lack of enforcement with regards to cross border Taxi Operators. The Commission heard evidence about the problems associated with the conditions and routes which allow foreign operators to drop-off and load almost anywhere in the Province, which is a recipe for disaster because it will inevitably result in encroachment on the routes of other operators, leading to violence.
- 13.4 The Cross-Border Road Agency Enforcement Unit should work closely with the PRE and the DoT with respect to route allocation and the tightening of regulations to avoid potential encroachment and avert possible violence.
- 13.5 The eNaTIS system keeps data of drivers and vehicles in South Africa. There is, however, no integration between the OLAS and eNaTIS. The integration of the two would assist law enforcement and would enhance the quality of

the data on the eNaTIS. Currently, the eNaTIS cannot indicate what use a vehicle is registered for i.e. private or public transport use.

14 South African Police Services (SAPS)

- 14.1 The second component of law enforcement is the enforcement required to combat violence and murder and general criminality that has come to characterise the Taxi Industry.
- 14.2 In his testimony to the Commission, the MEC for the GDRT painted a bleak picture of an industry that is so prone to violence that hundreds of people are killed every year because of taxi-related conflicts. This was corroborated by the evidence of many other witnesses including SAPS records that were presented to the Commission.
- 14.3 Violence in the Minibus Taxi-Type Service Industry in Gauteng manifests in various ways. Of those killed, 100% were shot with high calibre rifles as well as small firearms. Some of the high calibre weapons used are the kind that is issued to state agencies such as the SANDF and the SAPS.
- 14.4 Typical assassinations/shootings involved the use of firearms by hired gunmen known widely as *Izinkabi*. *Izinkabi* is hired usually from other Provinces and paid large sums of money to take out operators as directed by those hiring them.
- 14.5 The hiring of *Izinkabi* is done by both operators acting individually and sometimes by groups of operators (either owners or drivers). Several witnesses including executive members of Associations suggested that some of the money used to pay *Izinkabi* is collected from individual drivers (bucket money/*imali yebakede*).
- 14.6 The murders happen almost at any time and any place. Some victims are attacked in their homes as they are arriving or leaving. Some shootings occur at taxi ranks. Others are ambushed while travelling on the roads. There are also instances where victims were shot as they were leaving Association meetings.
- 14.7 It appears that shootings are coordinated because they happen where and when the victims are most vulnerable and where the perpetrators can be able to retreat successfully.

- 14.8 In addition to the causes of violence in the Industry mentioned above in this, the Commission was presented with testimonies related to fights over money, especially bucket money/*imali yebakede*, competition for executive positions in the Associations; fights for territorial dominance; unlawful and criminal take-over of businesses belonging to other operators; retribution; and pure thuggery among other causes.
- 14.9 Civilians who appeared before the Commission also painted a picture of an industry that is feared by its customers. Those who fear it continues to use it because, in many instances, it is the only available and affordable mode of transport.
- 14.10 The SAPS realised that it cannot ignore the violence in the Industry if the fight against crime is to be won. Thus, it formed the Taxi Violence Task Team to combat taxi-related criminality in the Province.
- 14.11 However, in the SAPS, Task Teams are an interim structure and are designed to intervene and address a specific issue/crime and would dissolve after the problem has been resolved. They are composed of members or detectives who are drawn from other Units or stations and they return to these once their mission has been completed.
- 14.12 The Gauteng Taxi Violence Task Team was formed on a similar basis as described above. It was intended to be temporal even though it has existed for over ten years. The Task Team is composed of 12 detectives and headed by two senior officers.
- 14.13 The Task Team is severely under-resourced. It is currently dealing with at least 505 open dockets that represent cases being investigated. On average, each detective has about 40 ongoing investigations to conclude. In the meantime, there are new cases of violence in the Province happening daily.
- 14.14 To their credit, the SAPS Provincial Office has already undertaken measures to address this problem by seeking to establish a permanent Unit dedicated to deal with taxi violence. The Commission was informed of the work that has already included the completion of a work study as well as the identification of other detectives who will form part of the envisaged new Taxi Violence Unit which will also be permanent.
- 14.15 The Commission heard that there are ten identified hotspots of taxi violence in the Province namely: Johannesburg Central; Everton; Jeppe; Tsakane;

Moroka; Lenasia South; Ivory Park; Olievenhoutbosch; Alexander; Hillbrow; Germiston and Vosloorus.

- 14.16 Some of the challenges faced by the Gauteng Taxi Violence Task Team include but are not limited to the quality of investigative work being done on the field which in turn affects the quality of prosecutions by the NPA. Sometimes the refusal to enrol or withdraw cases is due to insufficient evidence or information. Some of the challenges are:
- 14.17 Crime scenes that are not attended to in accordance with the practice and principles contained in the National Instruction Crime Scene Management, 13 of 2017.
- 14.18 The members of the Task Team are seldom the first responders to crime scenes because they are few in number. First responders are usually from nearby precincts and they are often not diligent in securing crime scenes thus compromising the investigative work of detectives.
- 14.19 Witnesses on the scene are not always interviewed especially when the incident is still fresh on their minds and when they have not yet been intimidated to refrain from giving evidence. The same goes for victims who are targets or those caught in the crossfire. Other witnesses move on and some even pass on before they are contacted to provide information. This is after many months and in certain instances where years have passed.
- 14.20 Exhibit collection is poor. Exhibits mentioned in statements of witnesses are not collected. There is also poor recording of collected exhibits and their storage including things such as the names of the detectives or officers who collect the evidence.
- 14.21 Projectiles retrieved from post-mortem examinations are not collected from the Pathology Services even when they can help lead investigators to link them to firearms used.
- 14.22 CCTV footage is also not collected timeously where it is available.
- 14.23 Firearms used in violent crimes in Gauteng that are linked via ballistics linked to crimes in other Provinces are not followed up diligently by the Investigators. Some ballistic information is not shared among detectives to compare.
- 14.24 Information downloaded from cell phones does not seem to be effectively utilised in investigations. This is because there are no analysts attached to

the Investigators that are skilled to unpack pieces of information and identify the links as well as interpret the data downloaded.

14.25 Support and inputs from the Crime Intelligence Agency input is absent and there is no indication that the Agency is actively assisting the Task Team in their investigations or even with foreknowledge of planned attacks on targeted individuals.

14.26 The above findings regarding the SAPS and the Taxi Violence Task Team were presented to the SAPS management team. They responded that they unreservedly accept the findings and are not in a position to dispute them and they undertook to give serious consideration to these findings.

14.27 That response was indeed encouraging to the Commission. The Commission was informed that measures are being put in place to prepare for the implementation of the recommendations of the Commission.

NOTE

The report provides for a specific section that deals with the key findings and recommendations of the Commission (Part F). This preceding part of the report on the Law Enforcement Agencies (Part E) provides the findings of the Commission on the issues related to Law Enforcement. However, due to the manner in which the report is structured, the Recommendations relating to Law Enforcement Agencies have been moved to Part F for ease of reading and referencing

Part F

Key Findings & Recommendations

Part F: Key Findings and Recommendations

1 Findings on Minibus Taxi-Type Business Model

1.1 Legal Framework

1.1.1 The legal framework for the Minibus Taxi-Type Service business model is to the effect that an individual or a juristic entity may apply for an operating license to conduct a Minibus Taxi-Type Service. The business model of the Minibus Taxi-Type Service allows for the use of motor cars, midibuses and minibuses.

1.1.2 Besides the operators, the business model includes Taxi Associations that may be categorised into three structures namely National, Provincial, Regional and Local. The Associations are currently not regulated but were previously regulated under the NLTTA nationally and under GPPRTA in the Gauteng Province. The Associations were established not for gain, but to promote the interests of members and to apply funds in promoting the interests of the members.

1.2 Practice by Associations

1.2.1 Despite the legal framework, the Minibus Taxi-Type Service is controlled by the Associations. The Associations control who gets to join them and they charge exorbitant fees that are generally not accounted for when paid by the new members. The Associations also control routes and operations to the extent of determining where each operator operates and allowing people without operating licenses to join the Association and compete with those with operating licenses.

1.2.2 The Association may even block the operation of members who are not doing as the executive of the Association require, regardless of the legality or not of such instructions. The Associations obtain cars (squad cars) for the purposes of monitoring the routes and enforce their decisions including the unlawful collection of money from the drivers.

1.2.3 Most Associations concentrate in the conveyance of passengers for reward without considering other revenue streams that are part of the Minibus Taxi-Type Service Industry. Many Associations have a practice of obtaining their own vehicles that are sometimes registered under individuals to compete with the members of the Association to generate

revenue for the Association or some members of the executive to the detriment of the operator's business.

- 1.2.4 The vehicles owned by the Association and by some powerful individuals in the Association do not wait for their turn in loading lines but always move to the front when they arrive at a taxi rank. This causes a lot of resentment from general membership who sometimes may not be able to load for the day whilst the Association vehicles make a number of loads per day.
- 1.2.5 The involvement of Associations in the business of taxi operations, including the different money collection methods, makes the incumbent executives resist vacating their positions even where they have been voted out of office. In certain instances, money collected is for the benefit of these executives. The incumbent executives also generally avoid calling for elections that may have them voted out for fear of losing power and money.
- 1.2.6 Associations have also become a law unto themselves by collecting money from members daily or weekly which money is not accounted for properly (*imali yebakede*).
- 1.2.7 The Commission heard that some of the executive members of the Associations do not have vehicles and do not have operating licenses either but they end up in the leadership of the Association through unscrupulous means.
- 1.2.8 The abovementioned conduct of Taxi Associations leads to the emergence of "concerned" or splinter groups, the consequences of which include conflict and violence.

1.3 Practice by Operators

- 1.3.1 There are three types of Operators, the first being those who have operating licenses linked to the vehicles operating on the routes per the operating licenses
- 1.3.2 The second type has some vehicles with operating licenses operating as the first type but also has other vehicles that have no operating licenses but operating in the routes of the Association.
- 1.3.3 The third type has vehicles without operating licenses that are operating on the routes of the Association.

1.3.4 The Commission heard evidence that no individuals who are not members of an Association are allowed to operate, both by the Associations as well as by the Regulator despite the Legal Framework providing for members and non-members of Associations. The Operators operate at the behest of the Association's executive regardless of the law and operating license conditions.

1.4 Practice by Regulators;

1.4.1 The legal framework provides for three types of Regulators that may be established to receive applications for operating licenses and issue operating licenses.

1.4.2 The Municipal Regulatory Entity (MRE) at a Municipal sphere, may be established based on assignment by the Minister. To date, there is no MRE established in the Gauteng Province yet. The Gauteng Provincial Regulatory Entity (PRE) handles all the applications for operating licenses despite interprovincial matters that are meant to be dealt with by the National Public Transport Regulator (NPTR).

1.4.3 The PRE has not issued operating licenses for a Minibus Taxi-Type Service where the operator intends to use a motor vehicle smaller than a minibus. This is so despite what the legal framework provides as a result, the Province has groups of Operators using sedans without operating licenses.

1.4.4 When it comes to the use of minibuses and midibuses, the PRE requires the applicant to have a letter of recommendation from an Association, despite this not being the requirement of the law. The PRE uses the Associations as gatekeepers to stop individuals who are not members of Associations from entering the Minibus-Taxi Type Service Industry.

Recommendations on the Minibus Taxi-Type Business Model

1. There should be strict compliance with the Legal Framework by both the Operators and the Regulators.
2. All the types of vehicles authorised by law for use in the Minibus Taxi-Type Service Industry be allowed to be used and licensed by the Regulators without delay.

3. The Associations be limited to what they are established for in law and should not involve themselves in operational matters.
4. The Associations be rationalised to ensure that there is only one Association per town or township.
5. The individuals holding operating licenses be encouraged to corporatise their operations in the same manner as the current Associations.
6. All Operators without operating licenses be given an opportunity to apply for operating licenses and their applications be considered according to the legal requirements of the areas where they intend to operate subject to planning conditions of the respective Municipalities.
7. Appropriate regulatory framework and monitoring be put in place for the recognition and governance of all the Taxi Associations in the Province, including the Provincial and Regional structures.
8. The process of the corporatisation of Minibus Taxi-Types Services be accompanied by economic empowerment of Operators for the purposes of establishing and benefiting from the entire value chain.
9. Regulators be capacitated to appropriately do their work and enable their semi-independence as quasi-judicial bodies.
10. A code of conduct be developed for members of the Regulators to ensure that they do not become a law unto themselves.
11. The PRE be appropriately capacitated through regulations to cover the oversight and monitoring function.
12. All employees of the PRE should undergo periodic vetting by the State Security Agency as an added security measure.
13. Record keeping in the PRE should be improved to ensure that all Operators, Associations and applicants have records that are accurate and up to date as required by law.
14. Appropriately qualified and knowledgeable people should be recruited to run the PRE.
15. The PRE must immediately withdraw all the unlawful directives that were issued by it allowing for illegal operations which sought to block the law enforcement agencies from applying the provisions of the NLTA to illegal or non-compliant Operators.

16. The security features in the operating licenses and face value documents should be improved to include the latest available features whilst enabling them to be able to be read by devices used by law enforcement officers just by scanning a QR or bar code or other more advanced security features.
17. The GDRT should also ensure that face value documents that are kept in the various Motor Vehicle Registration Authority (MVRA) offices of the Province as well as those managed by the various Municipalities on behalf of the Province. The GDRT should also ensure they are adequately secured to reduce the likelihood of them getting stolen.
18. The law enforcement officers must be enabled to verify the authenticity of an operating license that is handed to them on the road as they do enforcement through technological gadgets without having to phone the office of the PRE or other Regulator.

2 Findings on Licensing and Compliance

2.1 Legal Framework

- 2.1.1 The NLTA and Regulations hereunder appropriately detail the legal framework for all matters pertaining to operating licenses.

2.2 Practice by PRE

- 2.2.1 The practice by the PRE is partially dealt with above. In addition, the PRE does not appropriately vet the applicants for criminal records, pending cases and other matters required to be considered before an application for an operating license or transfer of an existing license to a new Operator.
- 2.2.2 In instances of ownership transfer and vehicle replacements, the Commission heard evidence of many vehicles or Operators using the same operating license because of the lack of controls and systems at the PRE.
- 2.2.3 The PRE generally does not deal with monitoring compliance after issuing the operating licenses. The problem has been attributed to the absence of Inspectors as well as the improper structure of the PRE and the GDRT. Most functions of the PRE are currently handled outside the PRE by officials who are not employees of the PRE and who do not even report to the PRE despite doing work of the PRE.

2.2.4 Compliance and monitoring is assigned to employees at the TOLABS who are not part of the PRE and are not trained to assume the responsibilities that fall within the PRE in terms of the NLTA.

2.3 GDRT Execution of PRE Functions

2.3.1 The GDRT executes most functions of the PRE without reporting and accounting to the PRE i.e. GDRT officials receive applications made to the PRE and conduct oversight and monitoring without reporting to PRE.

2.3.2 Many of the processes that lead to the issuing of operating licenses and related matters are handled outside the PRE as a result, the PRE has no control of its functions.

2.3.3 The non-compliance by Operators and the conflict, both within the Associations as well as amongst Associations is handled outside the PRE despite the legal framework.

2.3.4 The performance of the PRE functioning outside the PRE has undesirable consequences including the unlawful establishment of joint ventures with encroaching Associations and making the entire licensing process unworkable.

2.4 Planning Authorities

2.4.1 There is generally a lack of attention to detail when it comes to the planning responsibilities of the planning authorities.

2.4.2 Two Comprehensive Integrated Transport Plans (CITPs) that were submitted to the Commission appeared unsuitable to be used for the purposes of assisting the planning authorities to give direction to Regulators during the applications for operating license process.

2.4.3 The quality and compliance issues around the CITPs reflects a lack of capacity by the planning authorities to develop the CITPs required to guide the transport needs of the Municipality.

2.4.4 Besides the challenges of the CITPs, the officials from the three Gauteng Metropolitan Municipalities indicated that they play no role in monitoring compliance by Taxi Operators. At best they have staff that supports the GDRT as and when requested. The lack of planning and implantation by planning authorities has the effect of enabling the

development of illegal or informal ranking facilities that ultimately lead to conflict and violence in the Minibus Taxi-Type Service Industry.

Recommendations on Licensing and Compliance

1. The PRE must be encouraged by the HoD to comply with the applicable provisions of the law as a creature of statute when dealing with its licensing and compliance functions, including using the criminal justice system as envisaged by section 90 of the NLTA when necessary.
2. The PRE must follow the letter of the law contained in the NLTA and Regulations including the vetting of applicants to ensure that all applicants are screened as intended.
3. The PRE must be properly established and capacitated for its full function in terms of the NLTA and all its powers and functions must be exercised by it, including its oversight and monitoring function.
4. The PRE must undo all the joint ventures they created with the facilitation of the GDRT officials and implement compliance with licensing conditions by all operators.
5. The Planning Authorities need to be sufficiently capacitated to carry out the responsibilities of the Planning Authority, even where certain functions like the development of the ITPs is outsourced
6. The GDRT also needs to be capacitated to be able to take responsibility for quality ITPs in the Province, including advising the MEC to approve the parts that require such approval
7. The Planning Authorities need to include public transport responsibilities as per the NLTA in its plans and annual targets to ensure that they play their role in ensuring the stability and safety of Minibus Taxi-Type Services in their areas.
8. The Planning Authorities need to take steps to avoid the development of illegal ranking facilities. They need to develop plans that will enable a proactive approach to new developments so that illegal ranking facilities are discouraged.

3 Findings on Oversight and Monitoring

3.1 Legal Framework

3.1.1 The first listed function of the PRE in section 24 of the NLTA is that it must monitor and oversee public transport in the Province. There are no regulations promulgated by the DoT or the GDRT on this function.

3.2 Role of PRE in Practice

3.2.1 The Commission heard that in practice, the oversight and monitoring of public transport including dispute resolution where conflict arises in the Minibus Taxi-Type Service Industry, is done by GDRT officials who are not employed by nor report to the PRE. What this means is that the PRE is currently not involved in carrying out its statutory function of monitoring and overseeing public transport in the Province.

3.3 Provincial Inspectorate, Municipalities and National Traffic Police

3.3.1 The law provides for the appointment of Inspectors by the MEC or a Municipality to which the operating license function has been assigned. The Inspectors that were appointed in terms of the previous legislation were transferred to the GDCS and no new Inspectors were appointed.

3.3.2 Since no Municipality in the Gauteng Province has been assigned the operating license function none have appointed Inspectors.

3.3.3 The Inspectors previously appointed are now part of the GTP reporting to the GDCS. The Commission heard evidence from the Industry, the PRE as well as from the GTP that the move by the inspectors to GDCS has caused harm and lack of law enforcement on behalf of the Regulator.

3.3.4 There are also NTP officers who by law fall within the authorised officer's definition to enforce the provisions of the NLTA. The Commission heard that the NTP does not generally concern themselves with enforcing compliance with the NLTA, public transport monitoring and oversight.

Recommendations on Oversight and Monitoring

1. Regulations to be developed to appropriately clarify the role of the PRE in performing its monitoring and oversight of public transport.
2. All the functionaries carrying out work meant for the PRE should be transferred to the PRE and account to it as soon as possible.
3. PRE be capacitated for the monitoring and oversight of public transport function.
4. All the officials assisting with monitoring and oversight of public transport need to be appropriately trained in all aspects of the function including dispute resolution.
5. The dispute resolution be dealt with by an independent body that is not involved in other functions of the PRE or GDRT. This function may even be carried out by the office of an Ombudsman created for this purpose.
6. The GTP (or Inspectors) be transferred back to GDRT to enable compliance with section 85 and 86 of the NLTA. Alternatively, to appoint new GTP.
7. The GDRT engage the RTMC for the purposes of getting the NTP to jointly, with other law enforcement agencies, undertake the land transport law enforcement function in terms of section 85(2)(b)(iii) of the NLTA.

4 Findings on Criminal Investigations and Prosecutions

4.1 Scope of Criminal Activities and Investigations Identified

4.1.1 The scope of criminal activities reported to the Commission is wide-ranging from very serious offences including murder, attempted murder, culpable homicide, robbery, assault, arson, kidnapping, offences involving possession and the use of arms and ammunition, extortion, offences referred to in the Prevention of Organised Crime Act, 1998, malicious injury to property, money laundering and the use of fronts to conduct business or obtain money.

4.1.2 The scope of investigations identified cover murder, attempted murder, assault, unlawful possession of firearms and ammunition

4.2 Quality and Character of Investigations

4.2.1 The quality and character of investigations have not been positive. Out of many cases reported in a year, very few arrests appear to be made. Where there are arrests the prosecutions are also very few, although there are cases of successful prosecutions.

- 4.2.2 There have been instances of overlooking or not following up on evidence including witnesses as well as not acting on the instructions of the prosecutors that would lead to the withdrawal of charges.
- 4.2.3 There has been inefficient use or consideration of technical evidence that could have led to a successful prosecution in the absence of eye-witnesses.
- 4.2.4 Investigations are unnecessarily delayed with the resultant prejudice that witnesses are no longer available and/or passed on and valuable information gets lost.
- 4.2.5 That witnesses are reluctant to testify even where they are eyewitnesses for fear of an attack. This led to matters being withdrawn by the NPA - this, in turn, leads to a significant number of unsuccessful prosecutions of the perpetrators

4.3 Relationship between Investigations and Prosecutions

- 4.3.1 There has not been sufficient cooperation between the Investigators and Prosecutors. Even though there are instances of positive cooperation there have also been instances where the prosecutors have been forced either not to prosecute or withdraw the charges due to a lack of cooperation by the Investigating Officers.

4.4 Court Outcomes

- 4.4.1 For those cases that ended up in court, there have been mixed outcomes. There have been cases where the accused were convicted and sentenced to varying periods from life imprisonment to years in jail. There have also been acquittals associated with a reluctance by the witnesses to testify for fear of being targeted.

Recommendations on Criminal Investigations and Prosecutions

- 1 A dedicated well-resourced unit to investigate taxi violence is very important.
- 2 Investigations must be prosecution driven to increase the chances of successful prosecution.
- 3 Well trained and dedicated investigating officers must be led by a very Senior Police Officer with detective experience.
- 4 Use of multidisciplinary teams to ensure all the relevant evidence is secured and processed appropriately.

- 5 An innovative approach to witness protection to encourage the participation of eye-witnesses in solving cases.
- 6 Use of technology to track and trace the planning and execution of taxi violence-related crimes.
- 7 Pro-active crime intelligence gathering to avert loss of life wherever possible.

5 Findings on Contributions by Municipalities

5.1 Legal Framework

5.1.1 There is ample Legal Framework for the Municipalities to sufficiently play their role in ensuring the orderly operation of Minibus Taxi-Type Services within their jurisdiction. The Constitution of South Africa, 1996 as well as the NLTA are clear on this issue.

5.2 Cooperation with PRE on Licensing and Monitoring

5.2.1 The NLTA provides for the Municipalities to give direction to regulatory entities based on the Municipality's ITP as to whether it is appropriate to grant an operating license applied for or not.

5.2.2 PRE is required to inquire with the Municipality, being the planning authority, to provide their Integrated Transport Plans (ITPs), to determine whether a new application is necessary or not. This is a concurrent responsibility. Invariably, the Municipalities do not respond because ITPs would not exist. PRE would proceed to adjudicate on the application without the concurrencies. The industry becomes flooded or saturated, unbeknown to the authorities, because of lack of compliance with the requirements of the law. This is a real potential for conflict and instability.

5.2.3 The Commission heard evidence to the effect that the Municipalities take too long to respond to the requests by PRE for comments or they do not respond at all.

5.2.4 One Municipality complained about the PRE, they accused it of not even referring the applications as required by the NLTA but grant operating licenses that flood the Municipal area leading to conflicts.

5.2.5 The Municipalities are not monitoring public transport at all as they were of the understanding that their function is that of giving direction during

the application process and to provide infrastructure for ranking facilities.

5.3 Control and Management of Ranking Infrastructure

5.3.1 The control and management of ranking infrastructure constitutes one of the causes of taxi conflict and violence. The ranking facilities are meant to be controlled by the Municipalities except those in private property like the shopping malls.

5.3.2 The Municipalities indicated that they have an arrangement with Taxi Associations about the use of the taxi ranks.

5.3.3 However, the Municipalities were unable to confirm if they are in control of such taxi ranks as the Associations determined who enters and who does not regardless of whether one has an operating license allowing the person to operate from there.

5.3.4 The Municipalities also reported to be having many illegal and informal ranking facilities used by the Taxi Operators including near the shopping centres.

5.3.5 Besides the lack of control when it comes to the ranking facilities, the other challenge is that the Municipalities do not appropriately use the provisions of the NLTA to ensure that developers provide for public transport facilities as part of the development plan. Section 38 of the NLTA is appropriately structured to empower the Municipalities to get developers to provide for ranking facilities.

5.4 Capacitation of Public Transport and Law Enforcement Component

5.4.1 The Commission heard that the public transport and law enforcement component of the Municipalities are not sufficiently capacitated to carry out the responsibilities given to them by the NLTA.

5.4.2 The law enforcement is generally controlled somewhere other than by the unit responsible for Transport in the Municipalities and they do not even include the NLTA as part of their performance targets for the year.

Recommendations on Contributions by Municipalities

1. The cooperation between the Municipalities and the PRE is a matter of necessity and both the Province and the Municipalities need to prioritise the establishment of formal relationships that will address the communication channels to obviate the problems currently being experienced to the prejudice of the public.
2. The Municipalities need to be capacitated to understand and appreciate their responsibilities in terms of the NLTA so that they can also play an active role in the monitoring of public transport.
3. The Municipalities must provide appropriate control and management of the ranking facilities and only licensed operators should be allowed to use the provided facilities.
4. The Municipalities must develop rules for accessing and use of the Municipal ranking facilities.
5. All the Municipalities must be appropriately capacitated to implement section 38 of the NLTA beyond the public transport unit of the Municipality.
6. The public transport and law enforcement functions of a Municipality need to be appropriately capacitated and developed so as to enable it to carry out its responsibilities as per the NLTA.

6 Findings on Information Systems

6.1 Legal Framework

- 6.1.1 Section 6 of the NLTA provides the legal framework for information systems.

6.2 State of the Information Systems

- 6.2.1 The Commission heard evidence that the current information systems being used are inadequate and constitute part of the problems leading to taxi conflict and violence.
- 6.2.2 The current information systems being used were designed for the NLTTA, not the NLTA. The OLAS is also blamed for being very slow leading to long delays in processing operating license applications.
- 6.2.3 The Province of KZN and the Western Cape have developed their own information systems to try and deal with the challenges of OLAS. The OLAS is used with RAS to verify Operators, Routes and Associations.

RAS is also very unreliable and vulnerable to the extent that the Commission heard that many Associations have falsified routes that are fraudulently recorded in the system even on Sundays and in the evenings when no one is supposed to be working on the system. The officials from the GDRT indicated that the system cannot be relied upon.

6.3 Impact of Information Systems to Causes of Conflict and Violence

6.3.1 The impact of the system on causes of conflict and violence is vast. Conflicts arise at times because of some Associations who fraudulently enter routes so that they can operate on those routes.

6.3.2 The Commission was provided with a long list of routes and Association names that are said to be operating illegally on certain routes because of the weaknesses of the system.

6.3.3 The Associations who fraudulently enter routes operated by others triggers conflict that leads to the loss of life and serious injury for Operators and members of the public.

6.4 Impact of Information Systems to Current Minibus Taxi-Type Business Model

6.4.1 The current system facilitates the current Minibus Taxi-Type Service business model as the information about the Associations remains in the system despite the NLTA being silent on Associations.

6.4.2 The system allows for Operators who apply for a route to be given the entire Taxi Association collective of routes because of the system that is not based on the current legislation.

Recommendations on Information System

1. A new and efficient information system accommodating upgraded OLAS and RAS is urgently required.
2. The Province needs to consider obtaining its own system like KZN or the Western Cape to avoid the delays in processing operating licenses as well as cleaning data on the RAS.
3. All routes that have been fraudulently registered need to be reversed and all involved be criminally charged.

4. All officials of the GDRT, former officials, associations' executives and taxi operators positively linked to abuse of the system and irregular activities including fraudulent registration of Associations and Routes need to be criminally charged.
5. All Operators who are operating on routes that were fraudulently obtained need to be investigated and be dealt with in terms of the relevant provisions of the NLTA and criminal laws of the Republic.

7 Findings on the National Department of Transport

7.1 Legal framework

- 7.1.1 The DoT is the custodian of the NLTA and many provisions apply to it as a National sphere of Government.

7.2 Regulations

- 7.2.1 The DoT is responsible for developing regulations that need to be applied nationally.
- 7.2.2 The Regulations on the oversight and monitoring function of the PRE remain outstanding.
- 7.2.3 There are also regulations on the rationalisation of public transport in terms of section 39(1) that were identified as necessary in order to help the Planning Authorities rationalise public transport services.

7.3 Information Systems

- 7.3.1 The DoT acknowledged the slowness and outdatedness of the current information system being used for operating licenses. A new information system is being developed with a view of making it efficient and more secure including more advanced access instead of passwords that can be used by unauthorised persons.
- 7.3.2 The information system will, amongst others, be linked to eNaTIS and the Department of Home Affairs.

7.4 NPTR

- 7.4.1 The NPTR will be fully functional at the beginning of the new financial year beginning 1 April 2021 and from that time it will be able to take over the interprovincial operating license function from the PRE.

7.5 Subsidies

7.5.1 The focus should not be on the mode of transport but the user making use of the service. Instead, the DoT is looking to subsidise scheduled and regulated modes. The challenge with subsidising the user is that the more they are the more difficult it would be and as such the fewer they are the more efficient it will be to implement the subsidy system.

Recommendations on the National Department of Transport

1. The development of Regulations on oversight and monitoring of public transport by the PRE.
2. The development of Regulations on rationalisation of public transport services in terms of section 39(1) of the NLTA.
3. The development of a roadmap for the subsidisation of Minibus Taxi-Type Services.

Recommendations on Law Enforcement Agencies

1. Municipal and Provincial Traffic Law Enforcement

- 1.1. All traffic Law Enforcement Agencies in Gauteng (including the Municipal Police services) have a legal mandate to enforce the provisions of the NLTA and should do so without delay.
- 1.2. The Members of the various Mayoral Committees responsible for these agencies and both the MEC for the GDRT as well as the MEC for GDCS should ensure that these organs set performance targets related to the enforcement of the NLTA in their annual plans. In the case of the Metro Police Departments, the Provincial Commissioner should ensure that the annual plans reflect NLTA related performance targets before being signed off.
- 1.3. All officers of the municipal traffic and metropolitan police should undergo refresher courses on the NLTA so that they are re- familiarised with its provisions and are able to conduct enforcement as required.
- 1.4. Where possible and appropriate, specialised Units should be created whose responsibility will be to solely police public transport concentrating on the Minibus Taxi-Type Service Industry to end the violence.

- 1.5. The MEC for the GDRT, working with the various Municipalities should coordinate the establishment of vehicle impound yards where impounded public transport vehicles will be kept. There must be at least one such impound yard in each Municipality in the Province.
- 1.6. There should be a move away from manual record-keeping in the pound yards. Together with the Municipalities, the Province should identify and invest in an automated system which will among other things, identify serial offenders.
- 1.7. The GDRT should work with the Gauteng Law Enforcement Forum (GLEAF) and the NPA to set up a systematic way to identify and enable the prosecution of repeat offenders as it is apparent that for some offenders, paying a fine to release an impounded vehicle is not enough of a deterrent.
- 1.8. Officers should ensure that a fine is issued to the owner or driver of the vehicle for breaking the law which must be separate from fees payable to release impounded vehicles.
- 1.9. The Commission recommends that the GLEAF should coordinate joint operations involving all role players to make targeted intelligence-led interventions in hotspot areas where violence is expected or where it has already taken place to aid investigations and the quick arrest of perpetrators.

2. South African Police Service

- 2.1. Periodic Police operations should be undertaken targeting hideouts of hitmen as well as concealed weapons often used in murders.
- 2.2. All firearms recovered at crime scenes must be compared via ballistics to all exhibits collected in taxi violence related crime scenes. This will aid the detection of hitmen.
- 2.3. Money laundering investigation capacity is required to aid investigations and the tracing of funding of the sources of violence. Some incidents of violence are preceded by movements of monies often collected illegally from taxis in the ranks.
- 2.4. The Human Resource Development Division of the SAPS should consider specific training interventions for members responsible for the investigation of taxi violence-related cases. The intervention should be

specifically focused on crime scene management and investigation of crime (statement taking and investigative interview). Cyber skills should also be considered to aid retrieval of CCTV footage, cell phone footage and communication and related. Money laundering investigation skills should also be included.

- 2.5. The new Taxi Violence Unit should move with speed to conclude all 505 outstanding case dockets many of which are still open due to inept investigations. The Provincial Commissioner should monitor this and receive monthly progress reports.
- 2.6. Crime Intelligence should be an active partner to the Unit and should provide support and assist to close cases through successful prosecution and to provide alerts on impending planned attacks.

8 Findings on Other Matters

- 8.1. Evidence was heard on the effect that some of the violence and deaths associated with the Minibus Taxi-Type Service Industry are not related to the matters raised in the report thus far.
- 8.2. Cultural/tribal differences were identified as having a role in the conflict. Certain tribal or cultural groups insist on being the only ones to lead and control Taxi Associations despite a leadership that is elected being broadly representative of the membership.
- 8.3. Some killings are associated with the silencing of the hitmen who were engaged to eliminate a member or members of an Association, whether within or of a rival Association.
- 8.4. Associations hire private security companies to instil fear and intimidate others. The popular belief is that these security companies originate from KZN.
- 8.5. Some killings have nothing to do with the governance of the Minibus Taxi-Type Service Industry but arise out of personal jealousy by one or more members of the same Association. This arises when a member appears to be developing by increasing their fleet and other signs of progress and one or more members of the same Association hatch a plan to eliminate such a progressing member.

- 8.6. The Commission also heard that in some instances the killings arise out of family feuds that stem from rural areas to the urban environment of Gauteng. It happens that some of the victims are people involved in the Minibus Taxi-Type Service but the killings have nothing to do with the industry. The killings may spiral to include revenge killings as the family feuds escalate.
- 8.7. Evidence revealed that, when elections are around the corner, political officials would instruct their juniors not to enforce the law.
- 8.8. Testimony also revealed that most drivers do not earn a fixed wage or salary. They are given a target for the day, upon reaching it, the driver pays him or herself, (Imali yesokisi). This practice encourages reckless driving and a disregard for the traffic laws. Also encourages unnecessary accidents which sometimes results in deaths.
- 8.9. Delays caused by the slow processing of applications by PRE encourages illegal operators (*Makhwapheni*).

Recommendations on Other Matters

1. The removal of the Associations from the business of the Minibus Taxi-Type Service operations as well as the corporatisation of the operations should assist to do away with conflicts associated with the industry.
2. There is a need for a broad range of training to assist the Minibus Taxi-Type Service Industry. The training should include customer care, governance, diversity appreciation and management. In addition, various skills that will facilitate the entry of the Industry in the entire value chain should also be presented.
3. The Law Enforcement Agencies must be as broad as possible in the inclusion of the multidisciplinary teams investigating taxi-related violence. This is because the Commission heard about the fact that some hitmen are paid by Associations by means of allowing the hitmen to operate in certain routes instead of being paid cash only.
4. The killings caused by jealousy may be resolved through the corporatisation of entities operating routes instead of just individuals and the individual operators becoming shareholders in the entities.

5. PRE needs to be capacitated and provided with new technology to be able to cope.

Part G

Concluding Remarks

Part G: Concluding Remarks

The current Minibus Taxi-Type Service Industry model is uniquely South African. In other countries, the taxi business is mostly run by corporations. For example, in the USA (New York) there are the yellow cabs and in England (London) there are the black cabs. The apartheid regime discouraged and/or prohibited Africans ('blacks') from running their own businesses. For people to earn a living they continued defying the law. Currently, there are more illegal Taxi Operators than there are legal ones. Those calling for the formalisation of the Minibus Taxi-Type Service Industry are in fact calling for the corporatisation of the taxi business. Experts will be put together to form and run the company, Taxi Operators will become shareholders. Based on the evidence gathered by this Commission, for example, experts on small business and other business leaders, which evidence is accepted and concurred to by the founding fathers of SANTACO as well as the NTA.

This Commission has recommended the introduction of "*One Township One Association*". Should need be, legislation must be introduced to enable the implementation of the recommendation. Associations are by law non-profit making organisations and must remain that way and not run the business of the Minibus Taxi-Type Service Industry.

By the strict enforcement of the law, the Minibus Taxi-Type Service Industry can be reformed for the better, even its image and perception by the public will change for the better. The willingness of the public to participate in the execution of the work of the Commission is enough evidence to demonstrate the eagerness to bring to a halt the recurring violence in the Industry. The Commission believes that its establishment was the wisest thing to do under the prevailing circumstances, more especially that the idea came from Industry itself.

Thus, the Commission wishes to express its gratitude for, and appreciation of, the great assistance which has been readily afforded by various Government Departments, mother bodies of all Taxi Associations, the members of Taxi Associations and all other role-players and organisations that participated in the provision of submissions and evidence. The Commission further extends a word of thanks to the Secretariat, the Researchers, the Evidence Leaders, the Investigators and the general administrative staff, not forgetting the SAPS and the Emergency

Services for their cooperation and hard work towards assisting the Commission. The Commission intends handing over its final report to the Premier of Gauteng on or before the 31st January 2021.

Annexures

Annexure A: Terms of Reference of the Commission

SCHEDULE

Part A

TERMS OF REFERENCE OF THE COMMISSION OF INQUIRY INTO THE MINIBUS TAXI-TYPE SERVICE VIOLENCE, FATALITIES AND INSTABILITY IN THE GAUTENG PROVINCE

1. The Commission is hereby appointed in terms of section 127(2)(e) of the Constitution, read with section 2(1) of the Act, with the Terms of Reference, generally, to enquire into and investigate, make findings, report on and make recommendations concerning the following aspects:
 - (a) the underlying reasons for the recurring conflict, violence, fatalities and instability within the minibus taxi-type service industry within the Gauteng Province;
 - (b) the activities of operators, legal and illegal, as well as any other group or person that contributes to the recurring conflict, violence, fatalities and instability;
 - (c) the provision of minibus taxi transport services authorised by both interchange based and direct route-based permits and licences;
 - (d) how the minibus taxi business model, including the formation and management of minibus taxi associations, contributes to the recurring conflict, violence, fatalities and instability; and
 - (e) any other matters that are ancillary or related to the matters set out in paragraphs (a) to (d).
2. The Commission must make findings with reference to—
 - (a) the number, nature, locality and pattern of incidents of conflict, violence, fatalities and instability involving different sections of the public, both as victims and suspects, in the Gauteng Province;
 - (b) indications whether the incidents are related to criminal activities or any other internal or external influences or factors which may be considered relevant;
 - (c) the outcome of any police investigation and prosecution of the incidents, including the number of successful prosecutions of the perpetrators; and
 - (d) the perceptions of the different sections of the public in respect of the underlying reasons of the incidents of the recurring conflict, violence, fatalities and instability and the effectiveness of policing thereof by the police service in the Gauteng Province.
3. The Commission must make recommendations on—
 - (a) how to address the underlying reasons giving rise to the recurring conflict, violence, fatalities and instability within the minibus taxi-type service industry in the Gauteng Province, including how the regulatory environment, including the actions of minibus taxi-type service associations and their respective internal management and operations, may be changed or better regulated to minimise or eliminate conflict, violence, fatalities and instability in the industry; and
 - (b) any other matter of whatsoever nature that the Commission considers necessary or appropriate in relation to its terms of reference.
4. The provisions of the Act are applicable to the Commission, subject to such amendments or exemptions as may be specified by the Premier by proclamation in the *Provincial Gazette*.
5. The Department of Roads and Transport in the Gauteng Province is, in accordance with section 11 of the Act, responsible for the funding of the Commission. This includes—
 - (a) the remuneration, allowances and transport expenses of the Chairperson, other members of the Commission, the Secretariat and other personnel involved in the Commission; and
 - (b) related expenses, disbursements and costs, including costs associated with the hiring of venues for and the recording and transcription of the hearings.
6. The venue and dates on which the sittings of the Commission will be held will be determined by the Secretary.

7. The Commission may, where appropriate, refer any matter regarding the conduct of any person for prosecution or further investigation to the appropriate agency department or body.
8. The Commission must complete its work within a period of six months from the date of publication of this Proclamation and submit its report and recommendations in writing to the Premier.
9. Any person or section of the public, including community structures, members of relevant communities and of the public, minibuss taxi-type service associations, drivers, operators, conductors and rank marshals, who or which is in possession of information which may be relevant to the matters to be enquired into by the Commission and wishes to give evidence before the Commission is invited to contact the Secretary to arrange the date and time when it may testify before the Commission. Contact details of the Secretary will be announced in due course.
10. All organs of State and departments are required to assist and co-operate fully with the Commission.
11. These Terms of Reference may be added to, varied or amended from time to time by the Premier.
12. The Commission may, in accordance with section 10 of the Act, determine rules for its own guidance on the conduct and management of its proceedings.

Annexure B: Regulations applicable to the Commission

Part B REGULATIONS APPLICABLE TO THE COMMISSION OF INQUIRY INTO THE MINIBUS TAXI-TYPE SERVICE VIOLENCE, FATALITIES AND INSTABILITY IN THE GAUTENG PROVINCE

1. In these Regulations, unless the context otherwise indicates—
"Chairperson" means the Chairperson of the Commission of Inquiry into the Minibus Taxi-Type Service Violence, Fatalities and Instability in the Province of Gauteng;
"Commission" means the Commission of Inquiry into the Minibus Taxi-Type Service Violence, Fatalities and Instability in the Province of Gauteng;
"document" means any book, pamphlet, record, list, circular, plan, placard, poster, publication, drawing, photograph or picture, in any format, including electronic versions, that are capable of being read;
"enquiry" means the enquiry conducted by the Commission;
"member" means a member of the Commission;
"minibus taxi-type service" has the meaning assigned to that phrase or expression in the National Land Transport Act, 2009 (Act No. 5 of 2009);
"officer" means a person in the full-time service of the Gauteng Provincial Government or State who has been appointed or designated to assist the Commission in the execution of its functions; and
"premises" includes any land, building, structure, part of a building or structure, vehicle, conveyance, vessel or aircraft; and
"the Act" means the Provincial Commissions Act, 1997 (Act No. 1 of 1997);
2. The proceedings of the Commission must be recorded and transcribed in the manner determined by the Chairperson.
3. (1) Any person appointed or designated to take down or record the proceedings of the Commission in shorthand or by mechanical means or to transcribe such proceedings which have been so taken down or recorded must, at the outset, take an oath or make an affirmation in the following form:

"I, AB, declare under oath / affirm and declare—

 - (a) *that I shall faithfully and to the best of my ability take down / record the proceedings of the Commission of Inquiry into the Minibus Taxi-Type Service Violence, Fatalities and Instability in the Province of Gauteng in shorthand / by mechanical means as ordered by the Chairperson of the Commission; and*
 - (b) *that I shall transcribe fully and to the best of my ability any shorthand notes / mechanical record of the proceedings of the said Commission made by me or by any other person."*

(2) No shorthand notes or mechanical record of the proceedings of the Commission may be transcribed except by order of the Chairperson.
4. Any person employed in the execution of the functions of the Commission, including any person referred to in regulation 3(1), must assist to preserve secrecy with regard to any matter or information that may come to his or her knowledge in the performance of his or her duties in connection with the said functions except, insofar as the publication of such matter or information is necessary for the purposes of the report of the Commission, and every such person, except the Chairperson, any member or any officer, must, before performing any duty in connection with the Commission, take and subscribe before the Chairperson an oath of fidelity and secrecy in the following form:

"I, AB, declare under oath / affirm and declare that except insofar as it is necessary in the performance of my duties in connection with the functions of the Commission of Inquiry into the Minibus Taxi-Type Service Violence, Fatalities and Instability in the Province of

Gauteng or by order of a competent court, I shall not communicate to any person any matter of information which may come to my knowledge in connection with the inquiry of the said Commission, or allow or permit any person to have access to any records of the Commission, including any note, record or transcription of the proceedings of the said Commission in my possession or custody or in the possession or custody of the said Commission or any officer".

5. No person may communicate to any other person any matter or information which may have come to his or her knowledge in connection with the enquiry of the Commission, or allow or permit any other person to have access to any records of the Commission, except insofar as it is necessary in the performance of his or her duties in connection with the functions of the Commission or by order of a competent court.
6. The Chairperson may designate one or more knowledgeable persons to assist the Commission in the performance of its functions, in a capacity other than that of a member.
7. The Chairperson or an officer generally or specially authorised thereto by the Chairperson must administer an oath to, or accept an affirmation from, any witness appearing before the Commission.
8. Subject to the provisions of regulation 9, any proceedings of the Commission must, in accordance with section 3(2) of the Act, be open to the public.
9. The Commission may direct that the public or any member thereof not attend any proceedings of the Commission or any portion thereof, where this is justified in the interests of—
 - (a) the conduct of the proceedings or the consideration of the matter in question;
 - (b) the protection of the privacy of any person or of the confidentiality of any information relating to that person warrants the hearing to be conducted in-camera;
 - (c) the proper conduct of the hearing requires it; or
 - (d) any other reason that would be justifiable in civil proceedings in a High Court.
10. Where, at the time of any person giving evidence before the Commission, members of the general public are, or have been, excluded from attendance at the proceedings of the Commission, the Chairperson may, at the request of such a person, direct that no person may disclose in any manner whatsoever the name or address of such person or any information likely to reveal his or her identity.
11. A witness appearing before the Commission may be cross-examined by a person only if the Chairperson permits such cross-examination by such person because the Chairperson deems it necessary in the interest of the functions of the Commission.
12. A witness appearing before the Commission may, in the discretion of the Chairperson and in such manner as may be determined by the Chairperson, be assisted by an advocate or an attorney.
13. An officer, attorney or advocate designated thereto by the Chairperson may be present at the hearing of evidence at the inquiry and may adduce evidence and arguments relating to the enquiry.
14. Whenever the Commission is satisfied upon evidence or information presented to it that the Commission's enquiry may adversely affect any existing, instituted or pending legal proceedings or any investigation instituted in terms of any law, evidence which is relevant to such legal proceedings or investigation must be dealt with by the Commission in such a manner as not to adversely affect such legal proceedings or investigation.
15. The Chairperson, or any member or any officer may, with a warrant, for the purposes of the enquiry, at all reasonable times enter and inspect any premises and demand and seize any document which is on such premises.

16. No person may, without the written permission of the Chairperson—
 - (a) disseminate any document submitted to the Commission by any person in connection with the enquiry or publish the contents or any portion of the contents of such document; or
 - (b) peruse any document, including any statement, which is destined to be submitted to the Chairperson or intercept such document while it is being taken or forwarded to the Chairperson.
17. No person may, except insofar as is necessary in the execution of the Terms of Reference of the Commission, publish or furnish any other person with the report of the Commission or a copy or a part thereof or information regarding the consideration of evidence by the Commission for publication: Provided that the Premier may authorise publication of any such report or part thereof.
18. No person may insult, disparage or belittle the Chairperson or any member of the Commission or prejudice the proceedings or findings of the Commission.
19. Any person who—
 - (a) wilfully hinders, resists or obstructs the Chairperson, any member or any officer in the exercise of any power contemplated in regulation 15; or
 - (b) contravenes a provision of regulation 5, 10, 16, 17 or 18, is guilty of an offence and liable on conviction to a fine or to imprisonment for a period not exceeding 12 months, or both such fine and imprisonment.

Annexure C: Offences and Penalties as per the NLTA

In terms of section 90(1), a person is guilty of an offence:

- a) if that person operates a public transport service in contravention of section 50;*
- b) if the person operates a public transport service contrary to the terms and conditions of an operating license or permit.*
- c) if, being the holder of an operating license or permit or the agent or employee of such a holder, the person allows someone else to use that operating license or permit for a vehicle other than the vehicle specified therein;*
- d) if the person applies for or obtains an operating license knowing that a current operating license has already been issued with regard to the same vehicle;*
- e) if the person, with the intent to deceive, forges, alters, defaces, damages or adds to any operating license or permit other official document issued under this Act;*
- f) if, knowing that a document is not an operating license or permit or such other official document or that it has been altered, defaced, damaged or added to, utters or uses the document;*
- g) if the person furnishes or gives false information in or with regard to any application made in connection with an operating license, or in the course of appearing in any proceedings, investigation or inquiry relating thereto;*
- h) if the person impersonates an authorised officer;*
- i) if the person wilfully obstructs or hinders an authorised officer who is discharging his or her duties;*
- j) if the person refuses or fails to comply with the lawful order, direction or demand made by an authorised officer in the discharge or performance of any function or duty entrusted to the officer by or in terms of this Act;*
- k) if, where the person is conveyed as a passenger in the course of public transport, he or she:
 - (i) fails to pay the fare due for the journey when payment is requested by the driver or conductor;**

- (ii) *smokes or drinks liquor on that vehicle in contravention of a notice on the vehicle which forbids smoking or drinking;*
- (iii) *wilfully acts in a manner that inconveniences a fellow passenger;*
- (iv) *disobeys a reasonable instruction issued by the driver or conductor for the purpose of maintaining order or ending a disturbance or controlling any emergency; or*
- (v) *wilfully performs any act in or on the vehicle that could cause injury to or endanger the life of any person or cause damage to any property; if the person, being the holder of an operating license or permit or the driver of a vehicle to which that operating license or permit relates, fails to comply with any duty or obligation imposed on such a holder or driver by or in terms of this Act; if the person picks up or sets down passengers at or near an international border in contravention of section 75(2); if the person uses a vehicle for a public transport service in contravention of this Act;*
- l) *if the person operates a tourist transport service without accreditation by the National Public Transport Regulator or operates a tourist transport service after his or her accreditation has been cancelled;*
- m) *if the person uses a vehicle for tourist transport services in contravention of section 84(1) and (5); or*
- n) *if the person contravenes any other provisions of this Act.*

Where a person is convicted of any one of the offences mentioned in:

- a) *paragraphs (a), (b), (d), (e) or (o) of subsection (1), a term of imprisonment not exceeding two years, or a fine not exceeding R100 000, may be imposed;*
- b) *any other paragraph of that subsection, a term of imprisonment not exceeding three months or a fine not exceeding R10 000 may be imposed.*


Whenever a manager, agent or employee of the holder of an operating license or permit performs or omits to perform any act which, if the holder had performed or omitted to perform that act personally, would have constituted an offence in terms of subsection (1), that holder is guilty of that offence if:


- a) *the holder:*


- (i) connived at or knowingly permitted the act or omission concerned; or*
 - (ii) did not take all reasonable measures to prevent that act or omission; and*
- b) an act or omission of the nature of the act or omission charged, whether legal or illegal, fell within the scope of the authority or the course of the employment of the manager, agent, or employee.*


Annexure D: Commission Performance Statistics


Duration of Commission's Term of Office	14 Months
Number of sittings	113
Judge and Commissioners	03
Secretary and Administration staff	09
Investigators	04
Total Evidence Leaders	05
Support Staff from the GDRT	03
Number of Associations appearing before the Commission	11
Number of Witnesses appearing before the Commission	127
Number of Experts appearing before the Commission	09
Number of National Department of Transport appearing before the Commission	02
Number of GPDRT appearing before the Commission	19
Number of Local Government Officials appearing before the Commission	06
Number of Government Agencies appearing before the Commission	06
Number of SAPS Officials appearing before the Commission	03
Number of Witnesses giving Oral Evidence	59
Number of Witnesses giving Written Evidence	43
Number of Witnesses giving Evidence in Camera	25
Media Briefings held	03
Media Statements issued	10
Media Coverage (print media)	120
Media Advisories issued	49


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