

14 May 2018

## **Report by an Independent Panel on the Conduct of Private Security Companies and Police on the Bloemfontein and Qwaqwa Campuses during October 2017**

### ***Response from the Rectorate of the University of the Free State (UFS)***

#### **Introduction**

The Rectorate welcomes the report on the **Conduct of Private Security Companies and Police on the Bloemfontein and Qwaqwa Campuses during October 2017**, which was compiled by an independent panel. This was not a judicial commission of inquiry, but an independent administrative proceeding conducted under the auspices of the UFS in accordance with its internal rules and policies. We would like to thank Ashraf Mahomed and Nomfundo Walaza for the professional and ethical way in which the investigation was conducted, and for the comprehensive compilation of the report.

The panel recommended that a process of reflection follow the tabling of the final report. There was consensus that the panel would be afforded an opportunity to present its findings and recommendations in a workshop involving all relevant stakeholders and interested parties.

#### *Response:*

*The Institute for Reconciliation and Social Justice has been tasked with arranging a workshop, during which the panel will present their findings to the university community and the Rectorate and Student Representative Council (SRC) will have the opportunity to respond. This engagement is scheduled for 15 May 2018.*

Furthermore, the panel recommended that the Rectorate considers a series of peace- and trust-building initiatives, mediation, a relationship by objective (RBO) approach and related alternative dispute-resolution processes where appropriate.

#### *Response:*

*The Rectorate supports the general sentiment of the panel in this regard, and the Vice-Rector: Institutional Change, Student Affairs, and Community Engagement, together with the Institute for Reconciliation and Social Justice, will develop appropriate sessions to ensure the realisation of the panel's intent.*

The panel stated that, while there were legitimate concerns for the safety and security of students, staff, and property on both campuses and the situation did warrant some form of external intervention, three critical findings emerged from the report.

Firstly, the altercations between students, private security companies (PSCs), and police contained elements of disproportionate violence, which pose concerns for the culture of protest, debate, and levels of tolerance on campus. Indeed, the democratic

space, which is so vital for a thriving and transformative university, was severely impacted by the security services' misconduct. The panel concluded that the use of force was unwarranted and resulted in the violation of human rights.

*Response:*

*The university management took the necessary steps to ensure a peaceful solution to the protests. This included managing the situation with its own security officers on the Qwaqwa and Bloemfontein Campuses, and by continuously engaging with students. An interdict was obtained to ensure stability and to protect staff, students, and infrastructure. As a last resort and having no other choice, private security companies were approached as an interim measure.*

*When management became aware that the PSCs overstepped their mandate, the following decisive action was taken:*

- i) The services of the PSC on the Qwaqwa Campus were terminated. The services of the PSC on the Bloemfontein Campus were suspended, and ultimately terminated.*
- ii) PSC employees who were involved in criminal activity in relation to managing the protest on the Qwaqwa Campus were identified. Two individuals were criminally charged and their services were ultimately terminated by the company. No criminal charges were brought against any employee(s) of the PSC on the Bloemfontein Campus. Evidence of any criminal acts against anyone could, however, still be submitted to Protection Services.*

*Furthermore, as a commitment from the university and to address their actions during the protests, the PSCs will be reported to the Private Security Authority (PSA).*

Secondly, the evidence regarding the quality of psychological services rendered on both campuses indicated there were serious shortcomings, which must be addressed, especially for those who were traumatised and desperately in need of assistance.

*Response:*

*This matter is addressed in Point 2 of the Specific Recommendations.*

Thirdly, there was confusion regarding the relationship between Campus Protection Services (CPS), Private Security Companies (PSCs) and South African Police Services (SAPS) and the appropriate means for respective designations. The report notes that this lack of clarity impacted escalation procedures, which resulted in haphazard arrangements and a lack of coordination in designated areas of responsibility and action.

*Response:*

*The Rectorate will, through proper consultation, develop an integrated protocol between the CPS, PSCs, and SAPS.*

## **Specific Recommendations:**

### **1. Payment of Compensation**

The UFS should provide the necessary, appropriate assistance to students and staff identified as having experienced direct physical and emotional harm as a result of the force employed by the PSCs and SAPS during the period under review.

*Response:*

*The report refers to two students who were shot with live ammunition and one shot in the eye; it recommends monetary assistance to cover all medical bills and counselling sessions associated with their treatments. The UFS did pay for the medical costs, and any further counselling sessions in relation to the two students need to be provided by the UFS. The UFS Student Counselling and Development services, in conjunction with Student Affairs, should follow up on those who suffered emotional harm and are in need of further assistance. With regard to the incident involving the use of live ammunition at Qwaqwa, the panel advised that criminal investigations should proceed and the justice process followed. The Rectorate supports this statement.*

### **2. Arrange Dedicated Counselling Sessions**

The panel recommended the appointment of independent and reputable counsellors to be arranged for those who suffered psychological harm during October 2017.

*Response:*

*This is a recommendation which the Rectorate does not accept. The UFS is currently strengthening its capacity in the areas of counselling and mental health. It would therefore not make sense to seek independent professional counselling services from outside the university. However, the Rectorate recognises the concern of the specific students during the time of crisis, and the functioning of the UFS Student Counselling Development services, in understanding the sensitivity of culture and race in providing their services in an environment of protest. Therefore, an independent review will be performed (which is part of the university's normal quality assurance processes) on this department to assess the professional, non-bias nature of its services.*

### **3. Adopt a Policy and Protocols on Counselling Services**

The UFS management should adopt a policy and appropriate protocols regarding the provision of counselling services in the context of student protests, which would endeavour to ensure that the Centre for Health and Wellness is not (ab)used in a manner that may create the perception that it is an information or evidence-gathering service.

*Response:*

*The Vice-Rector: Institutional Change, Student Affairs, and Community Engagement (with the Dean of Student Affairs and the Director: Student Counselling and Development) will revise or update the existing policies, as well as develop the appropriate protocols.*

#### **4. Engage a Dedicated Specialist PSC Unit**

The UFS management should engage dedicated specialist PSC units with appropriately trained personnel having the necessary skills, expertise, and experience to deal with protesting students on all three campuses. These PSC units should be properly introduced to the UFS community in times of peace and before any protest action takes place.

*Response:*

*The Rectorate accepts this recommendation. The Vice-Rector: Operations, together with the Director: Protection Services and the Director: Free State Centre of Human Rights, will engage with such PSC units which have shown the necessary skills, expertise, and experience in managing protesters, based on a sound human-rights approach. The Vice-Rector: Institutional Change, Student Affairs, and Community Engagement will also engage with PSCs across the country to develop a protocol for PSCs during protests. This protocol should be aligned with the proposed policy on the limits of progressive, peaceful protests, as stated in Point 8 of the Specific Recommendations.*

#### **5. Address Disparities between the Bloemfontein and Qwaqwa Campuses**

While this issue is being resolved in the wider context of the Integrated Transformation Plan (ITP), the UFS will investigate the prevailing perceptions that the Qwaqwa Campus student protests are treated more harshly when compared to the Bloemfontein Campus student protests. Remedial steps will be taken in this regard.

*Response:*

*The Rectorate is taking this recommendation very seriously. The Vice-Rector: Operations and the Director: Protection Services, together with the management on the Qwaqwa Campus, will perform a systematic assessment of these claims and, if found to be true, the Rectorate will accordingly act on these immediately and decisively.*

#### **6. Approach External Bodies for Support and Assistance**

The UFS acknowledges that it needs support and assistance from other institutions of state that have specialist mandates to advance constitutional democracy.

*Response:*

*The Rectorate supports the recommendation that this report be shared purposefully with the Chapter 9 institutions (in particular, the SAHRC, CGE, and CRL Commission), IPID, PSIRA, and the office of the Provincial Commissioner of Police in the Free State. The Institute for Reconciliation and Social Justice will ensure that this report is shared with the relevant Chapter 9 institutions.*

#### **7. Establish a Mechanism for Meaningful Engagement**

The Rectorate agrees with the panel that meaningful engagement is one of the fundamental principles regulating the use of security services. In this context, it therefore means that parties and stakeholders must, through their respective representatives, have proper consultations with the view to reaching agreement on a plan that not only ensures that a proposed intervention takes account of issues of rights, safety, and security, but also determine whether, and under what conditions, security services may be deployed in the context of protest action.

*Response:*

*The Rectorate supports the principle of meaningful engagement, and will strengthen the formal and informal engagement approach with the SRC, the unions, and all staff. The recently established Institutional Multi-stakeholder Group (IMG) will be used more effectively in this regard. The suggestion by the panel to use institutions such as the South African Human Rights Commission (SAHRC) is noted. The Rectorate will also assess other independent observers who can monitor any proposed interventions. The Institute for Reconciliation and Social Justice and Student Affairs will develop such an engagement framework.*

### **8. Towards a Progressive Protest Policy**

The UFS should adopt a policy that operationalises the right to freedom of assembly, demonstration, and picket (i.e. A Protest Policy), which balances the right to legitimate, peaceful, and unarmed protest with the broader interests of the university community. It is important that we engage with the numerous guidelines in the report which essentially aligns constitutional, legislative, and executive precepts.

*Response:*

*The Rectorate supports this recommendation, and the Free State Centre for Human Rights will develop a policy on the limits of progressive, peaceful protest at the university in consultation with the relevant stakeholders.*

### **Conclusion**

It is with deep regret that the Rectorate acknowledges that some staff and students suffered physical and emotional harm during the October 2017 protests. The Rectorate recognises the fact that the PSCs overstepped their mandate in managing the protests. We condemn any acts or forms of violence on any of the campuses, and in particular the conduct of PSCs during the protests. The Rectorate will work with all relevant stakeholders to implement the recommendations of the report.