

DRAFT 1

IN THE COMMISSION OF ENQUIRY TO INQUIRE INTO ALLEGATIONS REGARDING EFFORTS OR ATTEMPTS HAVING BEEN MADE TO STOP THE INVESTIGATION OR PROSECUTION OF TRUTH AND RECONCILIATION COMMISSION CASES

STATEMENT

I, the undersigned

MENZI SIMELANE

do hereby state under oath as follows,

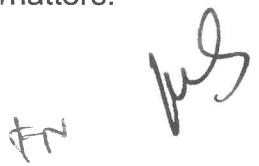
1. I am an adult male legal practitioner practicing as an advocate at Duma Nokwe Group, the Place, Sandton. I am a member of the Johannesburg Society of Advocates (" the JSA") and have been since 1997. I am a member in good standing and registered with the Legal Practice Council with membership number: 104651. The subject of this application arose when I was the Director-General in the Department of Justice and Constitutional Development between 2005 and 2009 and when I was DNDPP and NDPP from 2009 to 2012.

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2. The contents of this affidavit are within my personal knowledge unless the context indicates otherwise and are to the best of my knowledge both true and correct. Where I make legal submissions, I do so on the advice of my legal representatives, whose advice I believe is true and correct. Where I rely on material obtained from another source, I believe such material to be true and correct to the extent possible.

RELEVANT BACKGROUND FACTS

3. In my capacity as DG, I also had the responsibility to co-chair the DGs JCPS Cluster ("the DGs"). It, *inter alia*, included the following departments, Defence, Home Affairs, NIA and SASS (now State Security), DOJ&CD and Correctional Services. There were other departments in the cluster, but these formed the core in light of their areas of responsibility. The responsibility of the cluster is to supervise and oversee the implementation of the Programme of Action (POA) of government in relation to justice, crime and prevention interventions. In this respect it receives regular reports from JOINTS – the operational arm of the departments of the cluster – and assesses progress made on the programmes and then consider all risks consequent on the implementation of the cluster programmes. The DGs of the Cluster ('the cluster") report to the Ministers of the JCPS Cluster.
4. The DGs of the cluster from the security departments also constituted the DGs National Security Council ("the NSC"). Its function was to meet to discuss those matters that were considered to be impacting or could impact national security. This body rarely met. I do not recall however if it met once on these matters.

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5. The role of the cluster, including that in 3 above, essentially involved coordinating the work of the security departments through the JOINTS and then exercise oversight over that work and the policies on security matters. The DGs kept the Minister updated on progress. They also reported on any aspect that affected cooperation between the departments and sought to resolve those matters itself or through the Inter-Governmental Relations Framework (“the IGR”).
6. Within the department itself, it goes without saying that in my capacity as DG, I was responsible for the implementation of government programmes relating to, *inter alia*, the administration of justice, transformation of the judiciary and the legal profession, putting in place policies that respond to the approved programmes, drafting of relevant legislation, eg Superior Courts Bill, Legal Practice Bill (these were subsequently passed by the NA).
7. In my capacity as the DG, I was also the Competent Authority for the Republic of South Africa. This is the designation that authorized me to be the point of contact on behalf of the RSA where another country required mutual legal assistance (MLA) from RSA. This also applied where RSA required mutual legal assistance from another country. In other words, where any department was required to assist another country or if it needed assistance from another country, all such coordination and necessary applications must be brought to the Competent Authority to attend to. In simple terms, the process was centralized. I am advised that this remains the position to this day.
8. In this capacity I once had to intervene in one instance when the department discovered that the Directorate of Special Operations (“the DSO”) had been exchanging communication with the Serious Fraud Office (“the SFO”) relating to

the investigation of the 'arms deal'. This happened when officials in the international unit of the department intercepted communication showing this exchange. The breach was so serious I had to travel with a delegation from the department to the UK, to meet my counterpart at the SFO to express government concerns in that regard. I invited Adv Mpshe SC, the acting NDPP at the time and his team to join the delegation. The matter was eventually resolved.

9. Further in the cluster, there were discussions relating to the conflict between the DSO, SAPS and the intelligence services (SS) and how this posed a security risk to the country and how it affected the work of those respective departments. The main concern was that the officials of the DSO were engaging in various ways with foreign intelligence agencies - a mandate of the Secret Service – which it was alleged were unlawfully operating inside South Africa. Due to, *inter alia*, the sensitivity and the seriousness of the risk to national security, a judicial commission of inquiry was established by the former president to look into the issues. It was headed by Hon. Justice Khampepe. Its report is available on the internet and in the department of Justice. All the support necessary for the Commission to operate optimally was the responsibility of the Minister of Justice and as such, I was responsible, as DG to ensure that appropriate human and financial resources were provided. This also included liaising with any affected department whose input was required. The department seconded a senior official to lead the Secretariat of the Commission.
10. In about 2006 or 2007, I was tasked by the Minister to establish a unit in the department that would be responsible for the implementation of the government programme regarding matters that came from the TRC processes that were

considered incomplete and those requiring attention. We colloquially referred to these as post – TRC cases.

11. The work of the TRC Unit involved essentially two activities. The first related to the reparations or financial assistance to the individuals or families identified using a criteria or assessment that would be developed. The database however would come from the TRC processes particularly the TRC reports. The other activity related to investigations that needed to be carried out in respect of those individuals who did not receive amnesty. That part of the programme was the responsibility of the NPA and the police in the light of their respective duties to prosecute and investigate respectively. I was not involved with that area of work.
12. All the meetings of the cluster were coordinated by the Secretariat jointly made up of the coordinating departments – Justice and SAPS. It was responsible for the agenda, Minutes and the reports.

IMPLEMENTATION OF THE GOVERNMENT PROGRAMME OF ACTION REGARDING TRC MATTERS

13. The President of the RSA, H.E President Ramaphosa by Proclamation on 29 May 2025 established a judicial commission of enquiry to look into allegations Regarding Efforts or Attempts to Stop or Interfere with the Investigations and Proclamations of Truth and Reconciliation Commission cases.
14. The Terms of Reference (“the TOR”) require the Commission to make findings, report and make recommendations concerning efforts to influence or pressure or collusion by members of the SAPS, the NPA to stop investigating or prosecuting TRC Cases.

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15. I received by email a Notice in terms of Rule 3.3 of the Rules of the Commission "the Notice"). The Notice at paragraph 10 states that,

Rule 3.4 requires that, within fourteen (14) calendar days of this notice, you submit a statement in the form of an affidavit responding to the allegations. Your affidavit must specify which parts of the evidence are disputed or denied and set out the ground for such dispute or denial.

16. This statement seeks to comply with the Notice and to provide information that I recall from my engagement in the cluster on the post TRC matters. In the short time between receiving the Notice, I have tried to locate two officials that worked in the TRC Unit in the department but without success. I am informed that they left the department some years ago. I therefore provide this statement purely from memory and without the benefit of documents and/or notes that are in the department that may contain some information on these matters. The official documents of the cluster, in the form of agenda, minutes and reports, should however be available in the department and in the police.
17. Due to the passage of time since my involvement in these matters, I do not recall most of the details of the meeting, communications, the names of some of the individuals and the sequence of events. I therefore provide a high-level account as best as I can recall.
18. The issue of the investigations and prosecutions of post TRC cases was on the agenda of the cluster. When it was discussed, it was to note that such matters are on the agenda of the cluster, and that it therefore had a responsibility to monitor them and receive progress reports. The departments that were responsible to provide the reports was the SAPS and the Department of Justice.

But since these matters related to prosecutions, it was the NPA that was legally responsible for reporting. I recall that Mr Willie Hofmeyer attended some of the meetings. The NDPP did not attend the cluster meetings, and the cluster took it that Mr Hofmeyer was his secondee. I recall one meeting where he indicated that the NPA was engaging with the police. A comment was made by a police representative which triggered a brief discussion about these matters. My recollection is that the other attendees at the meeting weighed in on the importance of getting the matters moving. The conclusion of that discussion was that the cluster must take up with the NDPP any issue that the police had which required attention.

19. At the cluster meeting subsequent to the one above, it was noted that there was no report from the SAPS and the NPA, that was made regarding the progress. The co-chair, Mr Selebi then indicated that the police had a concern which its officials had raised with the NPA team about the NPA team that was going to be leading on these matters. I do not recall if the names were specifically mentioned at that meeting, but it was that meeting at which it became clear to the cluster that there was 'an issue' relating to lack of coordination between the police and the NPA. It was decided that the co-chairs and other members who were available should formally engage with the NDPP on the matter. I recall that the Secretary of Defence, the Correctional Services Commissioner, the National Commissioner of Police, the Presidency and National Intelligence Service (now State Security), were available to attend the meetings that would be scheduled. There may have been others, but I do not recall at this point who they were.

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20. In preparation for the meeting, it was agreed that the Police, Defence and Intelligence Services primarily, but anybody else if they did have, would indicate their concerns to the rest of the team which they did. It was that the presence of Adv Anton Ackerman SC (Ackerman) as the lead person on TRC cases in the NPA was creating unhappiness in some quarters because of his alleged links to the persons it was alleged were likely to be investigated and prosecuted. It was suggested that Ackerman was 'an apartheid prosecutor' meaning that he was a prosecutor before the democratic dispensation and prosecuted 'comrades' on behalf of the apartheid government. It was understood that the word 'comrades' referred to members of the liberation movements who were prosecuted by the government of the apartheid era.

21. I was then tasked, as co-chairperson, to go ahead and indicate to Adv Pikoli what the concern was and that the view held by the police and the intelligence services, is that it was not supported that Ackerman lead this process. Further, that because of his history there was unhappiness especially in the police and the intelligence services about the prospect of dealing with him for the reasons mentioned above. The view expressed at the meeting was that he should not be involved in TRC cases and that Adv Pikoli should remove him from these cases and consider appointing somebody else from the NPA.

22. I requested to meet with Adv Pikoli at the NPA offices and in our meeting, I informed him of the meeting of the members of the cluster. I indicated to him what was discussed and that the view widely held. I also informed him of the request for a formal meeting with the DGs and other members of the cluster to discuss the matter. He agreed to the meeting but not with the suggestion. I do not recall


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everything that we spoke about, but he made it clear that he would not remove Ackerman because he was the head of the PCLU.

23. A meeting was subsequently scheduled, and it took place in the West Wing in the Presidency although this was not the regular cluster meeting including all the departments of the cluster. Present were the members mentioned paragraph 19 above and others who I do not immediately recall. I remember these ones because they were most vocal about the concerns of their departments. From their contributions in the preparatory meeting, they indicated their concerns to be informed in part by their and their members' personal experiences with the operatives of the apartheid government as commissars and commanders in exile, and also in part from a lot of comments and reports that they were receiving from their members in their department and outside of government.
24. These members also raised concerns and dismay at what they stated was a change in attitude in Njiva (I learnt at that time that this is another name by which Adv Pioli was known to them), because immediately prior to being appointed NDPP he was DG; Justice and co-chair of the cluster. In that role he, like them, shared the same views and as DG had penned a memorandum for the cluster motivating for the dissolution of the DSO. They referred to him as being 'isolated' or 'surrounded' and that those who know him best should reach out to him if possible. I do not know if this did happen. What was clear to everyone in the meeting was that these personalities knew each other, and some indicated, from the time that they grew up together in the same area in Gqeberha.

25. At the meeting those gathered requested me to chair because Mr Selebi indicated that he intended to make inputs and therefore would not be in a position to co-chair the meeting.
26. I do not recall how many meetings in all the cluster members had with Adv Pikoli and his team, so I propose to discuss the issues generally and not link them to any specific meeting or sequence.
27. In the meeting, which had only one agenda item, the approach was informal. The meeting though had order. In my observation, there was clearly tension. One could see from the body language of everyone. The colleagues were however polite and respectful towards each other. This surprised the meeting because in the engagements on the other issues of the cluster, we had grown to know that these were close comrades from exile who had known each other for a long time. We expected them to be far more friendly towards each other than they were. The meeting also sensed that the issues were, in any event, weighty and that could have contributed.
28. Adv Pikoli was accompanied by Adv Ackerman SC. I recall at some point Mr Mthunzi Mhaga, Adv Shaun Abrahams and Adv McAdams in the meeting or possibly a later one. These were the prosecutors in the PCLU. It is possible that the others may have been in a subsequent meeting.
29. The meeting then informed Adv Pikoli of the discussions of the members of the cluster and that they had tasked me to go meet with him as described above. They then confirmed the message that I had communicated to Adv Pikoli in our meeting. I do not recall the exact sequence that the inputs were made but most of them spoke to the issue, in particular then SecDef, NasComm and DG NIA.

30. The response of Adv Pikoli was exactly as he had stated to me in our meeting. He indicated that since Ackerman was the head of the PCLU, it was his job to oversee all the work of the unit including the TRC cases and for that reason, he would not remove him.

31. The mood in the meeting changed and there was tension. The members wanted to know why in the light of the concerns raised Adv Pikoli insisted on retaining Ackerman in that role. The members did not have a problem with Ackerman heading the PCLU, but just his involvement in the cases. They argued that since there are other prosecutors in the PCLU, any one of them could be assigned the responsibility for the cases. Adv Pikoli insisted on his position.

32. At some point in the discussion, Adv Pikoli asked Ackerman to make inputs and inform the cluster members what the PCLU was actually doing in going about its work.

33. Ackerman stated that the PCLU had done some investigations and was in fact advanced on a number of cases. He indicated that it was ready to commence with at least one or two prosecutions, but that more work was needed on the others. He stated further that the PCLU had taken statements from various individuals, interviewed them and was analyzing them as part of its investigations. It was made clear that despite the concerns of the members of the cluster, the PCLU was going to continue with its work.

34. Ackerman then indicated that, in any event, as part of its work, some people – he didn't name them – had approached the PCLU to file complaints about their treatment or the treatment of people that they knew by the ANC in exile. He stated that the PCLU had taken their statements and had investigated their claims and

reached a decision that those claims were prosecutable as well. He then indicated that they were also ready to prosecute some of those cases.

35. I recall that the meeting briefly descended into some disorder because the members all started talking at the same time and were visibly upset and somewhat shocked. What they asked was for the NPA to explain what it was doing and was actually involved in because no one in the cluster was aware of those investigations.
36. The argument being made, as I can recall, was that what Ackerman was referring to was not part of the known POA approved by Cabinet on post- TRC matters, and that if the PCLU was conducting those investigations why is that issue being included in the one that was an approved programme of the cluster. Ackerman insisted that they saw these cases as linked and they were going to deal with them accordingly. When the members looked at Adv Pikoli for comment, he said nothing on this aspect. What I recall is that he did not contradict what Ackerman said or clarify it.
37. The argument back and forth continued and then Ackerman sought to provide additional clarity by stating that the PCLU cannot ignore the complaints that it had received and that in prosecuting all the cases, they will proceed with the one involving a former apartheid government individual (he didn't name the person concerned) and when done, then start with the one 'on the other side'. When asked to clarify, he indicated that the NPA had a list of the members of the 'political military council' (I do not recall the exact name) – the highest decision-making structure of the ANC in Lusaka, Zambia, whose members were subject of the PCLU investigations because – in that capacity - they were accountable

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for the decisions that were taken by the commanders on the ground about which the complainants had complained. In that regard, the NPA viewed them as prosecutable. A list was produced and alleged to be of the members of the 'political military council' and it was passed around for everyone to see. I do not recall if it was given back to him or what happened to it afterwards. It contained members of Cabinet at the time.

38. I do not know about the authenticity or otherwise of that list and what Ackerman stated was alleged about those on it. The meeting also did not enquire into those allegations.
39. Ackerman then re-iterated that the NPA approach is that they would be proceeding to prosecute 'this side and then this side' until everyone on the list was prosecuted. Adv Pikoli also reiterated the general mandate of the PCLU, which the members understood it to be an explanation in justification of what Ackerman had just indicated. Adv Pikoli then indicated that if the members insisted on the removal of Ackerman from the TRC cases, then he will remove him but that he will seek his counsel anytime if he needed it. The members stated that they were in agreement with his decision to remove Ackerman from the TRC cases.
40. It became no longer conducive to continue with the meeting because the focus had become this list. Further, that since agreement had been reached and the purpose of the engagements had been achieved, the NPA and the police, as responsible parties for these matters, would then continue with their mandates and take the processes forward and report accordingly in the normal course to the cluster. The meeting ended on that basis.

BRIEFING THE CLUSTER MINISTERS

41. In the light of the developments, the members held a short meeting and concluded that the issues were serious enough to consider the developments as potentially a national security matter. This was in the context that activities were under way in terms of which investigations were being conducted on a programme that was not considered as part of the approved PoA and approved by Cabinet. Further, that these activities being linked to the post- TRC matters is not appropriate since these were not the same and that they were not previously discussed as part of the post-TRC matters. Their inclusion therefore in the post-TRC matters would be inappropriate unless specifically approved. In addition to that, the President and some members of Cabinet were under investigation, possibly without their knowledge, and that the investigations that Ackerman referred to may result in prosecutions then, at a minimum, the members of the cluster needed to report these developments.

42. The first reporting was to the Ministers of the Cluster. At the briefing, the DGs gave an account of their meeting with the NPA and the inputs by Ackerman. The Ministers enquired about these investigations by the NPA and whether the decisions taken on the post-TRC matters included them. The. DGs advised that their understanding of the decisions taken on the post-TRC matters, was that these new matters were not included and that they would require a separate discussion and decision by Cabinet. They reported that the area of concern regarding the involvement of Ackerman in the TRC cases was discussed and

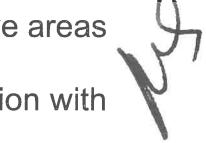
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resolved with the NPA, and that the police and the NPA would then continue with their engagements.

43. The other issue that the Ministers enquired about, was whether there was a framework in terms of which all post-TRC prosecutions being dealt with. It was indicated by the DGs that as far as it was known, there was no separate framework and that the Prosecution Policy of the NPA was the one that was being utilised. Because of the nature of the post -TRC matters, the Ministers suggested that the Minister of Justice engage with the NDPP about having a framework that focuses solely on the post -TRC matters because they were unique, sensitive and important.
44. The Ministers were advised that the nature of the possible security risks inherent in the matter necessitated that they consider reporting to the National Security Council (“the NSC”). They indicated that they would consider that. This was the last involvement of the DGs on this matter as far as I can recall.
45. The normal work of the JCPS cluster continued and the post TRC matters were reported as on-going between the NPA and police and that reports would be provided as the need arose depending on milestones reached by them in their work. That was my last involvement in the cluster on these matters.

BRIEFING TO PARLIAMENT

46. In the normal course as DG of the department, I assisted the Minister to report to Parliament on the work of the department. In respect of the work relating to post-TRC matters, I reported that the work was on-going in the respective areas where it was being carried out and that the issue of concern – cooperation with

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each other - that existed between the NPA and the Police had since been addressed.

GENERAL

47. In paragraph 315 the aleger makes reference to me having '*pressed Adv Pikoli to remove Adv Ackerman...*'. I have already in this affidavit the engagements with Adv Pikoli regarding Ackerman and the post-TRC cases. I therefore deny what is stated by the aleger. I also note that the aleger is engaging in speculation regarding a possible alleged engagement with Adv Mpshe SC, although he/she does not say that I actually did so. As far as I can recall, I never engaged with Adv Mpshe SC regarding the removal of Ackerman from post-TRC cases. There would have been no need because, as far as the cluster was aware, the issues were resolved with Adv Pikoli.
48. During my tenure in the NPA, McAdam and I never met or spoke. A reason never came for a meeting or discussion even in the presence of others. Amongst the changes that I effected, the PCLU fell under a Deputy National Director of Public Prosecutions ('the DNDPP'). That is the functionary who would have dealt with McAdam directly and given him instructions. Where my support was required on the recommendation of the DNDPP, I would have given it. I imagine that before seeking my support, the DNDPP would have first discussed with McAdam the issues and both would have agreed that they should seek my support. So, any instruction to him would not have come from me. I never disagreed or stopped any anything that was requested of me relating to prosecutions. I strictly followed the framework in section 179(5) of the Constitution. Unless I was dealing with representations or a racketeering charges matter, I never got involved in

prosecution decisions. I do not recall such an instruction. In addition, the DPP in the Northern Cape primarily attended to all prosecutions in that jurisdiction. If some assistance from McAdam was needed it would never have required him so much of his time to not attend to his cases. If indeed he was asked to assist in an investigation, it means it was important and specifically required him. Since I don't recall what these investigations were, I cannot comment further on this aspect. McAdam would however have remained supervised by his superior who was responsible for the work of the PCLU. What I know is that the DNDPP concerned would, as the responsible supervisor, have engaged with me if there were concerns. This did not happen. Further as regards the civil matter, the case concerned was within the mandate of the PCLU and specifically an area in which McAdam is a specialist, most experienced and had knowledge of. Besides, the contribution required from him was to assist the counsel that were briefed to represent the NPA in court by providing information so that they could prepare court papers. McAdam did not personally run the matter in court.

49. At paragraphs 322 and 323, I confirm the reporting to Parliament. I describe the responsibility of the DG in this regard. The report mentioned simply sought to inform the members of Portfolio Committee that the issue previously raised with them – as this one was – of lack of coordination between the police, intelligence services and the NPA had been resolved. This meant that the Portfolio Committee would – like the cluster - in future expect to receive specific reports on progress in those investigations and prosecutions.
50. Reference has been made to me possibly talking to former acting NDPP, Adv Mpshe SC and 'stopping' or suggesting that the NPA stops prosecutions.

Although the author/alleger does not state that I, in fact did do this, to the extent that it is suggested, I deny it and put him/her to the proof.

51. The essence of the allegations being made is that in my capacity as DG and/or co-chairperson of the cluster, I stopped the prosecutions or contributed to such alleged stopping or attempts to that effect. I propose to deal below very briefly with this aspect and demonstrate how poorly conceived the suggestion is.
52. First, at paragraph 262 it is stated that Adv Pikoli was summoned to a meeting Cabinet Committee on Post TRC Cases and that the DGs were present in that meeting. In this respect, I do not recall a Sub-Committee of Cabinet as described. I do recall a Sub-Committee of the JCPS Cluster. It is possible that since the meeting concerned related to specific issues only the Minister whose departments dealt with security issues attended this meeting.
53. Second, it is known that the NPA through the PCLU conducted investigations on its own, met and took statements from those it identified they needed statements from. This was also confirmed by Ackerman in a meeting with members of the cluster in the presence of Adv Pikoli and other members of the PCLU. Quite clearly, the NPA did have investigation capacity. In fact, this is confirmed by the fact that there was a media report about the NPA having met with Rev Chikane to discuss an investigation of a matter relating to him. The issue of concern between the NPA and Police related to them not coordinating their responsibilities as was expected. This is because this required that any additional support that the NPA needed from the Police – which had more capacity, the police were expected to assist as part of their duty. It was not because the NPA could not function on its own.

54. Third, it is known that a decision to prosecute is independently taken by the prosecutor concerned in a matter. So, to stop a prosecution would require that the prosecutor concerned be stopped by me. I am not aware of any prosecutor that has alleged that I stopped them from prosecuting. If it is Adv Pikoli, he is not that prosecutor because – as far as I know - he was never entrusted with the prosecution of any person himself as a prosecutor. Further, I never spoke to him in that capacity at any time. It is also not any one of the PCLU prosecutors – Adv Abrahams, Adv Mhaga and Adv McAdam.

55. Third, in terms of the NPA, the authority to take a decision to prosecute vests in the DPP with jurisdiction and no one else. In Pretoria, this would have been Adv Sibongile Mzinyathi. I am not aware that he has complained or implicated me along the lines contained in the Notice. Put differently, he has not alleged that I stopped or attempted to stop a prosecution within his jurisdiction of the type alleged by the aleger.

56. Fourth, in terms of section 179 (5) of the Constitution, the powers of the NDPP are spelt out. It follows that the NDPP cannot execute any power except that specifically provided for in that section. It cannot therefore be alleged that I stopped or attempted to stop the NDPP from prosecuting any case.

57. Fifth, if indeed any prosecutor was stopped by me, I imagine that this would have been reported to the Minister. I am not aware of any person reporting this kind of matter to the Minister. I say so because I imagine that I would have been asked to explain and that I would have been informed what case it was that I stopped from prosecuting or attempted to stop from being prosecuted as the case may be.

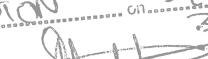
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58. Sixth, a suggestion is being made that a request to remove Ackerman from playing an active role in the investigation and prosecution of post-TRC cases is tantamount to stopping prosecutions. It is not explained how this can be. Adv Pikoli agreed with the request when he did not have to if he was of the view that it stopped prosecutions. One can only conclude that he agreed because it did not affect the prosecutions. It is difficult to imagine that he would agree with a view and then take a decision, that negatively affected the work of the PCLU. The inescapable conclusion is that, whilst not his preferred position, the decision did not affect the PCLU.

59. Fifth, Ackerman indicated that the NPA/PCLU was conducting investigations from which it was going to carry out prosecutions. This value chain is solely controlled by it under the DPP and NDPP. If therefore as Ackerman indicated, the NPA was ready to prosecute '*this side and then this side*', that demonstrates a completion by it alone, of an investigation process that resulted in prosecution ready cases. What then stopped it from prosecuting because the decision to prosecute is solely that of the prosecutor concerned, either under the DPP, Ackerman, McAdam or any other? The engagement by the cluster with the NPA – of which the NPA is also part – could never have been logically considered by any person to be the cluster stopping or attempting to stop any prosecution. I say this also because the cluster has no authority or power over the decision makers in the NPA. Even I, as the DG, had no authority over any person in the NPA in respect of investigations and prosecutions. In that scenario it is not possible to stop any person from doing anything let alone conduct an investigation or take a decision to prosecute.

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60. To the extent that I may not have attended to each specific allegation, it must be taken as denied. I am acutely aware that the aleger is relying on hearsay and does not have first-hand information. I reserve the right to supplement this affidavit should I recall or become aware of information that can be added to this affidavit.

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