

TIMELINE OF THE SYSTEMATIC SUPPRESSION OF THE TRC CASES

CHRONOLOGY

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No.	Date	Event	Reference
1996 - 1999			
1.	1996 - 1998	<p>In 1996 the Truth and Reconciliation Commission (TRC) investigation dockets held by the Unit headed up by Transvaal Attorney General Dr. Jan D'Oliveira were transferred to the National Prosecuting Authority (NPA).</p> <p>Considerable evidence and leads were provided to the TRC's Human Rights Violations and Amnesty Committees.</p> <p>An example was the evidence provided by former Security Branch policeman Sergeant M Veyi who provided evidence to the Amnesty Committee about the abduction, torture and disappearance of Ms. Nokuthula Simelane. Some, but not all suspects applied for amnesty. Some were granted amnesty, and some denied on certain counts. (A murder docket was opened at Johannesburg Central Police Station in February 1996 and assigned to Captain Leask. Initial investigation commenced but suspended during TRC process and then stopped by political interference).</p> <p>On 29 October 1998, volumes 1 – 5 of the Final TRC Report were presented to President Nelson Mandela</p> <p>In 1998, NDPP Ngcuka established a TRC component within the NPA Head Office to attend to prosecutions arising from TRC.</p>	<p>Affidavit of Anton Ackerman, par 9 (annex LC4).</p> <p>TRC Amnesty Hearing AC/2001/185¹</p> <p>TRC Final Report, Vols 1 – 5</p> <p>CAS1469/02/1996 Murder case docket</p> <p>Letter from PCLU to Nkadimeng attorneys, 5 December 2013.²</p>

¹ Annex TN10 to founding affidavit in *TP Nkadimeng v National Director of Public Prosecutions & Others*, Case No.: 3554/2015, Gauteng Division

² Ibid, TN21.2

2.	1999	<p>In February 1999 a meeting was held between the TRC and the NPA to discuss a process of establishing mechanisms for identifying potential cases for prosecution. On 11 March 1999, the TRC commenced referral of cases for potential prosecution to them NPA, which also alerted them to sources of evidence to crimes.</p> <p>The National Director of Public Prosecutions (NDPP) issued a directive that all TRC cases must be transferred from the Directorate of Special Operations (DSO, also known as 'Scorpions'), various offices of the Directors of Public Prosecutions (DPPs) and the South African Police Service (SAPS) to the offices of the National Director of Public Prosecutions (NDPP).</p>	<p>Report: Office of National Director of Public Prosecutions dated 7 March 1999.³</p> <p>Affidavit of Anton Ackerman, par 9 (annex LC4).</p>
3.	1999	<p>The then NDPP Adv Bulelani Ngcuka ("Ngcuka") established a working group called the Human Rights Investigative Unit (HRIU) within the NPA which was mandated to investigate and prosecute cases arising from the TRC process. It operated until 2000 but instituted no prosecutions.</p>	<p>Affidavit of Anton Ackerman, par 10, (annex LC4).</p>
2000 - 2005			
4.	2000	<p>The TRC dockets held by HRIU were transferred to DSO. The Special National Projects Unit (SNPU) headed by Adv Chris Macadam was established within DSO to deal with TRC cases. This unit operated until 2003 but institutes no prosecutions.</p>	<p>Affidavit of Anton Ackerman, par 11, (annex LC4).</p>
5.	12 March 2003	<p>The TRC's Final Report was released. It stressed that amnesty should not be seen as promoting impunity and highlights the imperative need for "<i>a bold prosecution policy</i>" in those cases not amnestied to avoid any suggestion of impunity or of South Africa contravening its obligations in terms of international law.</p>	<p>TRC Final Report, Vol 6, Section 5, Ch 1 at page 24.</p>

³ Ibid, Annex TN23

6.	23 - 24 March 2003	<p>The Priority Crimes Litigation Unit (PCLU) was created by Presidential Proclamation. Officials assume duty during July/ August 2003.</p> <p>Adv Anton Ackerman (“Ackerman”) was appointed by President Mbeki under Presidential Proclamation as the Head of the newly established PCLU and Adv Chris Macadam was transferred from the DSO to become a Deputy Director at PLCU. The PCLU is mandated to deal with TRC cases.</p>	<p>Presidential Proclamation⁴</p> <p>Affidavit of Anton Ackerman, par 2 (annex LC4);</p> <p>Affidavit of Chris Macadam, par 11 (annex LC8).</p>
7.	15 April 2003	<p>President Mbeki’s statement to the National House of Parliament and the Nation, on the Occasion of the Tabling of the Report of the TRC. In relation to criminal accountability and the TRC’s follow-up process, President Mbeki <i>inter alia</i> stated:</p> <ul style="list-style-type: none"> • There should be no general amnesty, but the follow-up process should accommodate those who for various reasons did not take part in the TRC process; • A renewed amnesty process is off the table as it would violate constitutional rights of the victims; • The matter should be in the hands of the NDPP “<i>for it to pursue any cases that, as is normal practice, it believes deserves prosecution and can be prosecuted</i>”; • “<i>However, as part of this process and in the national interest, the [NDPP], working with our intelligence agencies, will have its doors open for those who are prepared to divulge information at their disposal and co-operate unearthing the truth, for them to enter into arrangements that are standard in the normal execution of justice, and which are accommodated in our legislation.</i>” 	<p>Annex VPP1 to Affidavit of Vusi Pikoli (annex LC3).</p>

⁴ Ibid, Annex TN28

		<ul style="list-style-type: none"> “(...) in each instance where any legal arrangements are entered into between the NDPP and particular perpetrators as proposed above, the involvement of the victims will be crucial in determining the appropriate course of action.” 	
8.	May 2003	<p>Ngcuka, the then NDPP, determined that all TRC-related cases, in which amnesty was denied or not applied for, are ‘priority crimes’ to be handled by the PCLU.</p> <p>More than 400 cases were transferred to Special Director Ackerman. Ackerman and Macadam (Senior Deputy Director of Public Prosecutions in the PCLU) analyse the cases and identify 21 as worthy of further investigation.</p>	Affidavit of Anton Ackerman, par 14 (annex LC4).
9.	2003	<p>The NDPP reports that the NPA is attending to the cases of some 500 persons who had been reported missing by the TRC. A Task Team evaluates the TRC Report to identify cases for investigation. Approximately 150 cases were identified for immediate investigation. The disappearance of Nokuthula Simelane was one of these cases.</p> <p>The PCLU requested all DPPs to transfer all outstanding TRC to it.</p>	<p>Document titled “About PCLU”⁵</p> <p>Letter from PCLU to Nkadimeng attorneys, 5 December 2013.⁶</p>
10.	2003	<p>Imtiaz Cajee, nephew of Ahmed Timol, requested Macadam and PCLU to investigate Timol’s death in detention since none of the police officers had applied for amnesty.</p> <p>On 5 May 2003 Macadam wrote a letter to Chief Investigating Officer Andrew Leask (Leask) of the DSO requesting him to investigate the Timol matter.</p>	Affidavit of Chris Macadam, par 16 (annex LC8).
11.	15 May 2003	<p>Macadam submitted a report addressed to the NDPP, Head of DSO, Head of Operations and Ackermann setting out the TRC cases, including the Timol matter, which were identified as a result of the outreach programme undertaken by him and Ackermann.</p>	Affidavit of Chris Macadam, par 17 (annex LC8).

⁵ Ibid, Annex TN29

⁶ Ibid, TN21.2

12.	May, June or July 2003	<p>Ackerman and Macadam met with DSO Special Director Adv MG Ledwaba (“Ledwaba”), who was mandated to issue declarations to investigate certain matters, to ask the DSO to conduct certain TRC investigations. Macadam notes the following:</p> <p><i>“The meeting was unpleasant as Ledwaba made it clear in no uncertain terms that the DSO would not investigate any TRC matters and that these should all be referred to SAPS.”</i></p>	Affidavit of Chris Macadam, para 19 (annex LC8).
13.	15 July 2003	<p>Ledwaba sent a letter addressed to Leask reflecting his decision not to investigate TRC matters.</p> <p>Leask then informed Macadam that as a result of Ledwaba stating that the DSO would not investigate TRC cases he was unable to comply with Macadam’s request for investigations into Timol and the other cases. However, since he was traveling to Cape Town on other business, as a favour, he contacted the journalist with the potential lead, who denied having such a lead.</p>	Affidavit of Chris Macadam, paras 19 and 44 (annex LC8); See also the letter at annex RCM3 to Macadam’s Affidavit.
14.	2003	Macadam and Ackerman met with Commissioner De Beer, the Divisional Head of the Detective Service of SAPS, and requested the SAPS to take over the TRC investigations.	Affidavit of Chris Macadam, para 20 (annex LC8).
15.	26 September 2003	<p>De Beer replied to Ackerman in writing informing him that the request was discussed with Jackie Selebi, the then National Commissioner of Police (“Selebi”) and advised that the TRC cases were the responsibility of the DSO not the SAPS; and the SAPS will only investigate if instructed by the President. In particular the letter stated:</p> <p><i>“It is evident from your letter that the investigation and prosecution of these cases were referred to the National Director of Public Prosecutions, by the President. Our understanding was that this referral was politically inspired.”</i></p>	Affidavit of Chris Macadam, para 19 (annex LC8). Letter by De Beer (Annex RCM4 to Macadam’s affidavit);

			Affidavit of Jacobus Pretorius, par 2.44, (annex LC7) .
16.	11 November 2003	<p>Ackerman wrote a letter to Ledwaba (also copying NDPP and DSO Head) “<i>appealing to him to appoint investigating officers and pointing out that, in the absence thereof, the PCLU would not be able to deliver on its mandate</i>”.</p> <p>The letter set out a number of attempts undertaken by Ackerman and Macadam aimed at persuading Ledwaba to reconsider his decision not to investigate.</p> <p>According to Macadam:</p> <p>“<i>The DSO however did not appoint investigators as requested and consequently none of the TRC matters requiring investigation could be taken further.</i>”</p>	<p>Affidavit of Chris Macadam, paras 22 and 23 (annex LC8).</p> <p>Letter by Ackermann to Ledwaba (Annex RCM5 to Macadam’s affidavit).</p>
17.	2003	NPA and PCLU placed TRC cases “on hold” awaiting formation of a policy on the TRC cases.	Letter from Dr. Ramaite Acting NDPP dated 31 January 2013, para 6. ⁷
18..	July 2004	Advocate Bulelani Ngcuka resigned as NDPP and Dr Silas Ramaite SC was appointed as the Acting NDPP.	Affidavit of Chris Macadam, para 22 (annex LC8) .
19.	23 February 2004	The government's Director-General's Forum, chaired by Adv Vusi Pikoli in his then capacity of the Director-General of the Department of Justice and Constitutional Development, appointed a secret "Amnesty Task Team" ("ATT") to explore a possible amnesty and other means to avoid prosecutions of apartheid era crimes committed by	Report of the Amnesty Task Team (annex LC1) ;

⁷ Ibid, annex TN21.3

		those who were denied amnesty or did not apply for amnesty. One of the proposals contained in the report was the creation of a multi-departmental body (from the NPA, SAPS and departments of Justice, Intelligence Services and others) to take political control of the TRC cases.	Affidavit of Vusi Pikoli, para 19 (annex LC3).
20.	25 February 2004	Macadam wrote to Imtiaz Cajee, nephew of Timol, advising him of " <i>negative results</i> " of the investigation that had purportedly been launched. (This followed Cajee's request to Macadam in 2003 to investigate the death in detention of his uncle since none of police officers had applied for amnesty).	Affidavit of Chris Macadam, par 43 (annex LC8); Annex RCM 9 Macadam's affidavit.
21.	15 May 2004	The NPA published a press releases confirming that NDPP Bulelani Ngcuka declined to prosecute the 'ANC 37' in connection with the conflicts of the past.	Annex VPP3 to Pikoli's Affidavit (annex LC3).
22.	November 2004	The acting NDPP, Dr. Silas Ramaite SC took an initial decision to prosecute Security Police Officers: Major-General Christoffel Smith, Colonels Gert Otto and Johannes 'Manie' van Staden on attempted murder charges relating to the 1989 poisoning of the Rev. Frank Chikane.	Affidavit of Vusi Pikoli, par 24 (annex LC3).
23.	2004	Ackermann came across the docket of Buyile Roni Blani, an ANC member, who was implicated in the mob killing of two people in 1985. Blani was charged with the killings in 1985 but fled to Angola where he remained until his return in 1992. He did not apply for amnesty and since the case was already fully investigated Blani was arrested. On 25 April 2005, following a plea and sentence agreement, he was convicted on all charges and sentenced to five years imprisonment, four of which were suspended for five years.	Affidavit of Anton Ackerman, paras 16.2, (annex LC4);

24.	2004	<p>Gideon Nieuwoudt (who died in 2005), Johannes Martin van Zyl, and Johannes Koole were charged with abduction, assault and murder of the 3 anti-apartheid activists, known as the PEBCO 3 in the first case, in which alleged perpetrators were refused amnesty by TRC.</p> <p>Shortly after their bail hearings in 2004, Nieuwoudt and van Zyl apply to court to review the decisions to refuse them amnesty (they were refused amnesty in 1999).</p> <p>The review of Nieuwoudt and van Zyl's amnesty decision is delayed by five years because of the failure of Department of Justice to file its answering papers. in 2009 the High Court ruled that an Amnesty Committee be convened to rehear the application of van Zyl.</p>	Affidavit of Anton Ackerman, par 16.3, 16.3.2. (annex LC4).
25.	11 November 2004	<p>Ackermann received instructions not to proceed with the arrests of the Security Police (Major-General Christoffel Smith, Colonels Gert Otto and Johannes 'Manie' van Staden) on attempted murder charges relating to the 1989 poisoning of the Rev. Frank Chikane.</p> <p>On the morning of the planned arrest of the 3 police officers, Ackermann received a phone call from Jan Wagener, the attorney for the abovenamed suspects, informing him that he will shortly receive a phone call from a senior official in the Ministry of Justice, who will instruct him not to execute the warrants of arrest. Shortly thereafter Ackermann received such a call in which he was told that a decision was taken that the Chikane matter should be placed on hold pending the development of guidelines to deal with the TRC cases. Ackermann refused to take an order from a ministry official. A few minutes later Acting NDPP, Ramaite instructed him not to proceed with the arrests.</p>	Affidavit of Anton Ackerman, paras 17.1 – 17.3, (annex LC4); Affidavit of Chris Macadam, paras 26-27 (annex LC8).
26.	November 2004	Foundation for Human Rights (FHR) made submission on behalf of the family of Nokuthula Simelane and other families to the PCLU re: prosecutions of persons refused amnesty.	Letter from PCLU to Nkadimeng attorneys,

		During 2005, further discussions were held between FHR and PCLU about charges arising from the alleged torture of Ms. Simelane (in terms of International Law) and the prosecution of Sergeant Radebe on kidnapping charges (who died in 2019 without facing trial) and the possibility of holding an Inquest into this matter.	5 December 2013. ⁸
27.	2004	<p>Ackerman says that all investigations and prosecutions into the TRC cases were put on hold pending the development of the Prosecutorial Guidelines. He stated: "<i>I was instructed by the NDPP to stop working on all the TRC cases.</i>"</p> <p>Macadam confirmed that a moratorium was placed on all TRC investigations and prosecutions pending the adoption of guidelines to deal with this class of cases.</p> <p>Macadam and Ackerman are of the view that the amended Prosecutorial Guidelines are unconstitutional.</p> <p>Pikoli noted that a moratorium was placed on the TRC cases by then acting NDPP, Dr. Silas Ramaite SC.</p>	<p>Affidavit of Chris Macadam, para 27-28 (annex LC8);</p> <p>Affidavit of Vusi Pikoli, par 24 (annex LC3);</p> <p>Affidavit of Anton Ackerman, par 18, (annex LC4).</p>
28.	2004	Macadam is assigned a case which requires his full-time attention until late 2007, which removes him from the TRC cases during that period.	Affidavit of Chris Macadam, par 24 (annex LC8).
29.	30 January 2005	<i>Timol – A Quest for Justice</i> is published. Book was written by Imtiaz Cajee, nephew of Ahmed Timol.	Exhibit C8 submitted in Reopened Timol Inquest
30.	1 February 2005	Adv Vusi Pikoli is appointed the NDPP.	Affidavit of Vusi Pikoli, par 7 (annex LC3).

⁸ Ibid, TN21.2

31.	2005 (before Prosecutorial Guidelines are issued)	Ackerman met with legal representatives of family of Nokuthula Simelane who requested the NPA to proceed with certain investigations and prosecutions. Ackerman noted " <i>I was not able to assist with these requests as at that stage my hands were tied with the effective moratorium in place pending the issuing of the new Prosecution Policy.</i> "	Affidavit of Anton Ackerman, paras 21-22. (annex LC4).
32.	1 December 2005	<p>Amendments to the Prosecution Policy titled: "Prosecuting Policy and Directives relating to the Prosecution of Offences emanating from Conflicts of the Past and which were committed on or before 11 May 1994" become effective.</p> <p>The Prosecutorial Guidelines envisaged:</p> <ul style="list-style-type: none"> • The NDPP was authorized to apply the same amnesty criteria used by the TRC but could also decline to prosecute on other open-ended criteria; • Para B6 of the Policy required that PCLU should be assisted in the execution of its duties by a senior designated official from the following state departments or other components of the NPA, namely NIA, SAPS, DSO, DOJ&CD (a so-called "multi-departmental Task Team"). • The process would be behind closed doors. 	<p>Affidavit of Vusi Pikoli, paras 25-26 (annex LC3);</p> <p>Affidavit of Anton Ackerman, paras 23, 23.1 – 23.3. (annex LC4).</p> <p>Appendix A, National Prosecution Policy dated 1 December 2005.⁹</p>
33.	2005 (after the Prosecutorial Guidelines came to effect)	<p>Ackerman wished to proceed with the 5 TRC cases that he identified as having good prosecution prospects and another 11 cases which required further investigation. These cases were identified as 'major priorities' for PCLU Unit in 2006 – 2007.</p> <p>He recalled: "<i>However, with the exception of the Chikane matter, during the course of 2006 and 2007, the PCLU was unable to pursue any of the TRC cases. These included a lack of investigative capacity as well as difficulties encountered in convening the</i></p>	<p>Affidavit of Anton Ackerman, par 25 (annex LC4);</p> <p>Affidavit of Vusi Pikoli, paras 30, 35, 36 (annex LC3).</p>

⁹ Ibid, TN30

		<i>multi-departmental committee [inter-departmental Task Team] that was meant to advise the PCLU on what cases to pursue.”</i>	
2006 - 2009			
34.	February 2006	Adv Pikoli, the NDPP, gave an initial instruction to proceed with the prosecution of 3 suspects in Chikane matter (Major-General Christoffel Smith, Colonels Gert Otto and Johannes 'Manie' van Staden).	Affidavit of Vusi Pikoli, par 27 (annex LC3).
35.	29 November 2006	<p>The NPA's Task Team produced its internal report, titled: “Report of the Progress made by the Task Team on TRC Cases”, confirming that it had closed the Timol case. In material part, the report stated that:</p> <p><i>“The nephew of the deceased requested that an allegation that one of the police officers who had interrogated the deceased had confessed to a journalist be investigated.</i></p> <p><i>The DSO traced and interviewed the journalist who denied the allegation. There was no other evidence to prove that the deceased had definitely been murdered and all other crimes had prescribed. The matter was therefore closed.”</i></p>	Annex RCM 10 to Affidavit of Chris Macadam, (annex LC8).
36.	March 2006	Ackerman met with the legal representatives of Nokuthula Simelane's family. He advised them that he was unable to take the investigation forward as there were no investigators attached to the PCLU and the request that he “ <i>made to the SAPS and the DSO for competent and experience investigators, in this matter and cases, had fallen on deaf ears.</i> ” In his subsequent encounters with these representatives he advised them to pursue the inquest as he “ <i>realized that there was no prospect of a serious investigation or prosecution taking place in the political context that prevailed at the time.</i> ”	Affidavit of Anton Ackerman, pars 26-27 (annex LC4).

37.	2006	<p>Three suspects in the Chikane matter made representations based on the amended Prosecutorial Guidelines claiming that they should not be prosecuted, but their representations are not accepted, and Pikoli pursues the prosecution.</p> <p>The team assessing the representations is chaired by Dr T. Pretorius, but Ackerman refused to participate in this review as he viewed the amendments to the Prosecutorial Guidelines as unconstitutional.</p>	<p>Affidavit of Vusi Pikoli, par 28 (annex LC3);</p> <p>Affidavit of Anton Ackerman, par 28 (annex LC4).</p>
38.	Early 2006	<p>Pikoli approached the Commissioner of Police, the DG of Justice, and the heads of the National Intelligence Agency (NIA) and the DSO requesting them to nominate senior officials for the inter-departmental Task Team to assist the PCLU in accordance with the Prosecution Policy guidelines. The SAPS and the NIA never provided the PCLU with the necessary support.</p>	<p>Affidavit of Vusi Pikoli, par 29 (annex LC3).</p>
39.	Early 2006	<p>The Commissioner of Police, J Selebi, objected to Adv Ackermann's participation in the TRC cases claiming that Ackermann intended to prosecute the leadership of the ANC. Pikoli advised Selebi that Ackermann was appointed as the head of the PCLU under Presidential proclamation and it was not for the SAPS to determine who should discharge the mandate given to the PCLU.</p>	<p>Affidavit of Vusi Pikoli, par 30 (annex LC3).</p>
40.	Sometime in 2006	<p>Pikoli was summoned to a meeting at the home of the late Minister Zola Skweyiya, then Minister of Social Development. The meeting was called by Acting Minister of Justice and Constitutional Development Thoko Didiza (representing Minister Mabandla who was indisposed). Pikoli was advised that it relates to the prosecution in the Chikane matter. Pikoli was warned that cases like the Chikane matter could open the door to prosecutions of ANC members.</p> <ul style="list-style-type: none"> • The Minister of Safety and Security (Nqakula) was concerned about the decision to proceed with the prosecution and with Ackermann's involvement in the process and wanted to know whether it was Pikoli or Ackermann making the 	<p>Affidavit of Vusi Pikoli, paras 32-33 (annex LC3).</p>

		<p>decisions. The Minister of Defence (Lekota) also wished to know who the decision maker was.</p> <ul style="list-style-type: none"> • The Minister of Social Development (Skweyiya) was concerned about the impact of such prosecutions on ANC cadres. <p>Mr. Loyiso Jafta, then Chief Director in the Presidency was present at the meeting.</p>	
41.	2006	<p>Meeting at the Presidency in relation to the establishment of the inter-departmental Task Team on the TRC cases. Pikoli proposed that Dr S Ramaite head up the Task Team given the opposition to Ackermann.</p> <p>Pikoli recalls: <i>“My recollection of this meeting is that it was decided that the working committee or Task Team would not make recommendations on a decision as to whether prosecute or not, but would be responsible for ensuring that I receive all the necessary inputs and information from the various departments so as to assist me to make a well-considered decision.”</i></p> <p>This view of Pikoli proved to be mistaken as it subsequently became clear that the Task Team were expecting him to take prosecutorial decisions under their direction.</p>	Affidavit of Vusi Pikoli, par 34 (annex LC3). Pikoli affidavit, para 43
42.	12 October 2006	First meeting of the inter-departmental Task Team. The Task Team is composed of designated officials from different departments (NPA, NIA, DSO, DOJ&CD, SAPS) and chaired by Dr Silas Ramaite, the then Deputy NDPP.	Affidavit of Vusi Pikoli, par 38 (annex LC3).
43.	2006/ 2007	On one or two occasions Macadam stands in for Ackerman at the meetings of the interdepartmental Task Team and observes: <i>“I noticed that the task team was predominantly comprised of members of the intelligence community who were more intent on cross-examining me as to why matters should be investigated rather than addressing the issue of all the outstanding cases.”</i>	Affidavit of Chris Macadam, par 30 (annex LC8).

44.	25 October 2006	<p>The inter-departmental Task Team receives an audit report from Ackerman on all PCLU cases and discusses the Chikane matter.</p> <p>Pikoli recalled that Dr Ramaite reported to him that Mr. J Lekaiakala of the SAPS stated that the National Commissioner (Selebi) believed that Rev. Chikane was not interested in a prosecution, whereas Ackerman, who had consulted with Chikane, said he had left the matter in the hands of the NPA.</p>	Affidavit of Vusi Pikoli, par 40 (annex LC3).
45.	6 December 2006	<p>Ackermann received a letter from the head of the SAPS Legal Support section, Major General P C Jacobs indicating that before any prosecutorial decision is made in respect of the TRC cases, the multi-departmental Task Team must submit a final recommendation to a Committee of Directors General in respect of each case, which in turn will advise the NDPP who to prosecute or not.</p>	Affidavit of Anton Ackermann, paras 17.1 – 17.3 (annex LC4).
46.	Early 2007	<p>Pikoli informed Commissioner Selebi and Directors General about the misunderstanding concerning the mandate of the Task Team and approaches Minister of Justice to seek her guidance on the matter.</p> <p>Pending the response, the functioning of the multi-departmental Task Team was suspended until 8 August 2007.</p>	Affidavit of Vusi Pikoli, par 44 (annex LC3).
47.	6 February 2007	<p>Pikoli met with the Minister of Justice and Constitutional Development, Mrs. B S Mabandla (“Mabandla”) who apparently gained the impression that Pikoli agreed not to pursue the TRC cases.</p>	Affidavit of Vusi Pikoli, par 47 (annex LC3).
48.	6 February 2007	<p>The NDPP, Vusi Pikoli, received a letter from the National Commissioner of Police (Selebi) expressing his understanding about the role of the Task Team, namely his understanding is that the inter-departmental Task Team <i>“will provide recommendations to the Director-General who will, as a collective, advise the National Prosecuting Authority as the decision maker of prosecutions.”</i></p>	Pikoli’s Secret Memorandum addressed to Justice Minister Mabandla, par 4.4.3, (annex

			LC5); annex "C" to LC5.
49.	8 February 2007	The NDPP, Vusi Pikoli received a letter from the Director General NIA, in which he reported that he held the discussions with his representatives to the Task Team and received a copy of the National Commissioners letter (6 Feb 2007), and he concurs with the views of the Commissioner.	Pikoli's Secret Memorandum addressed to Justice Minister Mabandla, par 4.4.3, (annex LC5) ; annex "D" to LC5.
50.	8 February 2007	Justice Minister Mabandla sent a letter to Pikoli titled "TRC Matters" in which she states: <i>"I must advise you at the outset that the media articles alleging that the National Prosecuting Authority will go ahead with prosecutions have caught me by surprise. In our discussions you briefly mentioned to me that the NPA will not go ahead with prosecutions. As you had undertaken to advise me in writing, I will appreciate it if you could advise me urgently on the matter so that there can be certainty."</i> Pikoli finds disturbing Mabandla's assumption that the TRC matters will not be prosecuted as this points to an expectation from the political level that he will not prosecute the TRC cases.	Annex VPP2 to affidavit of Vusi Pikoli (annex LC3) ; Affidavit of Vusi Pikoli, para 49 (annex LC3) .
51.	15 February 2007	Adv Pikoli sent a secret memorandum addressed to the Justice Minister Mabandla. Pikoli explained that the Task Team that met for the first time on 12 October 2006 was not set up in terms of the Amended Prosecutorial Policy (Dec 2005) but was based on an internal agreement between the relevant stakeholders. He also stated that he was not aware of any Committee of Directors-General which must supposedly advise the NPA on prosecution decisions in respect of the TRC cases. He asserted that there was a big misunderstanding of the role of the Task Team. Pikoli concluded:	Pikoli's Secret Memorandum addressed to Justice Minister Mabandla, pars 4.5., 5.2. – 5.4 (annex LC5) ; Affidavit of Vusi Pikoli, par 54 (annex LC3) .

		<p><i>"I have now reached a point where I honestly believe that there is "improper interference with my work and that I am hindered and/ or obstructed from carrying out my functions on this particular matter.</i></p> <p><i>It would appear that there is a general expectation on the part of the Department of Justice and Constitutional Development, SAPS and NIA that there will be no prosecutions and that I must play along. My conscience and oath of office that I took, does not allow that.</i></p> <p><i>Based on the above, I cannot proceed further with these TRC matters in accordance with the "normal legal processes" and "prosecuting mandate" of the NPA as originally envisaged by Government. Therefore, and in view of the fact that the NPA prosecutes on behalf of the State, I am awaiting Government's direction on this matter."</i></p> <p>Pikoli never received any response from Minister Mabandla to his memorandum.</p>	
52.	10 July 2007	Pikoli sent a memorandum to Minister Mabandla informing her that the prosecution in the Chikane matter had been set for hearing on 17 Aug 2007, and that all accused wished to plead guilty. The Minister did not respond to this memo.	Affidavit of Vusi Pikoli, par 56 (annex LC3).
53.	17 August 2007	<p>A plea and sentence agreement in respect of Adrian Vlok, Johann van der Merwe and three others accused of the Chikane attempted murder was confirmed in court.</p> <p>In his affidavit, Pikoli noted that he preferred a full prosecution in the Chikane case, which in his view, would have produced greater truth and accountability, but that: <i>"It was clear to me that the government, and in particular the then Minister of Justice (Mabandla) did not want the NPA to prosecute those implicated in the Chikane case".</i></p>	Affidavit of Chris Macadam, par 26 (annex LC8); Affidavit of Vusi Pikoli, par 60 (annex LC3).

54.	19 August 2007	A fabricated news story was published in the Rapport, which claimed that the NPA was on the verge of prosecuting ANC members. Following publication, Pikoli was summoned to a meeting of the subcommittee of the Justice, Crime Prevention and Security (JCPS) Cabinet Committee on Post TRC matters. (See entry at 23 August 2007)	Affidavit of Vusi Pikoli, par 61 (annex LC3); Annex VPP4 to Pikoli's affidavit.
55.	19-21 August 2007	Pikoli launched an investigation into who was behind the fabrication of a letter purportedly written by Ackermann SC, which became the subject of the Rapport article. Ackerman asserted " <i>This office note was a fabrication. I had written this office note in 2003 but the date of the note had been adjusted to give the false impression that it had been compiled in 2006. I believe it was aimed at discrediting me and ultimately stopping the investigations into the TRC cases.</i> "	Affidavit of Anton Ackermann, par 35 (annex LC4).
56.	21 August 2007	The NPA issued a press release in which it denied the allegations made in the Rapport.	Affidavit of Vusi Pikoli, par 61 (annex LC3); annex VPP5 to Pikoli's affidavit.
57.	2007 (around the time the forged document arose)	Ackermann was informed by Pikoli that the then Director-General of the Department of Justice, Menze Simelane, raised concerns about Ackermann's handling of the prosecution of the TRC cases and asked Pikoli to relieve Ackermann of his duties in relation to the TRC cases, which Pikoli declined to do. Adv Pikoli advised Ackermann that senior people in the government want to fire him because he is still pursuing the TRC cases.	Affidavit of Anton Ackermann, par 36 (annex LC4).
58.	23 August 2007	Pikoli was summoned to a meeting of the subcommittee of the Justice, Crime Prevention and Security (JCPS) Cabinet Committee on Post TRC matters where he was urged to stop the prosecutions of the TRC cases. The meeting was attended by several cabinet ministers, directors-general and the Commissioner of Police, J Selebi.	Affidavit of Vusi Pikoli, paras 61 – 65 (annex LC3).

		<p>Cabinet Ministers present included the Minister for National Intelligence Services, Mr. Ronnie Kasrils, Minister Mabandla and the late Minister of Social Development, Zola Skweyiya, amongst others. At the meeting Selebi told Pikoli that “<i>the gloves were off</i>” and he was “<i>declaring war</i>” on him.</p> <p>Concern was expressed at an investigation launched by the NPA into certain members of the South African Police Service in relation to the fabrication of the letter that was subject of the Rapport article. Minister Mabandla told Pikoli to stop this investigation as “<i>we could not be seen to be taking each other to court</i>”. Pikoli refused.</p>	
59.	28 August 2007	<p>Pikoli received a faxed letter from the Minister of Justice Mabandla referring to the meeting on the 23rd of August 2007, in which she complained that she was not advised of the investigation into the forged note and the basis thereof. She further alleges that Commissioner Selebi produced documents indicating that “<i>indeed there is an investigation by the NPA on certain political office bearers</i>”, and requests Pikoli to “<i>respond to the allegation that there is an investigation as mentioned above</i>.”</p>	Affidavit of Vusi Pikoli, par 68 (annex LC3); annex VPP6 to Pikoli’s affidavit.
60.	29 August 2007	<p>Pikoli responded to the Justice Minister Mabandla’s letter dated 28 Aug 2019, confirming that there were no investigations of the ANC leaders and requested a meeting with the Minister, and a possibility of appearing before the National Security Council.</p> <p>The Justice Minister never responded, and the requested meetings never took place.</p>	Affidavit of Vusi Pikoli, par 74 (annex LC3).
61.	23 September 2007	<p>The NDPP, Adv Vusi Pikoli was suspended from office and Adv Mpshe SC (Mpshe) was appointed the Acting NDPP.</p>	Affidavit of Vusi Pikoli, paras 56 – 76 (annex LC3);

			Affidavit of Anton Ackermann, paras 36 – 40 (annex LC4) .
62.	2007 (short after Pikoli is suspended)	<p>Head of the PCLU, Adv Anton Ackermann was summoned to the office of Adv. Mokotedi Mpshe, then acting NDPP, who told him that he was relieved of his duties in respect of the TRC cases.</p> <p>Ackermann holds the view that Adv. Mpshe received a political instruction to summarily remove him from these cases.</p>	Affidavit of Vusi Pikoli (annex LC3) ; paras 56 – 76; Affidavit of Anton Ackermann, paras 36 – 40 (annex LC4) .
63.	4 November 2008	The commission of enquiry into Pikoli's fitness to hold NDPP office (the Ginwala Commission) renders its final report and finds that the government failed to substantiate the reasons for Pikoli's suspension.	Affidavit of Vusi Pikoli, par 9 (annex LC3) . Ginwala Enquiry Report dated 4 November 2008
64.	12 December 2008	Judge Legodi strikes down the amendments to the Prosecution Policy arising from the recommendations of the ATT's report: <i>“...crimes are not investigated by victims. It is the responsibility of the police and prosecution authority to ensure that cases are properly investigated and prosecuted.”</i>	Nkadimeng & Ors v National Director of Public Prosecutions [2008] ZAGPHC 422
65.	Early 2009	The SAPS sent a letter to Acting NDPP Mpshe that it was withdrawing from the inter-departmental Task Team. Mpshe requested Macadam to negotiate with the SAPS to commence investigations of the TRC matters. Mpshe also assigned the TRC cases to Macadam.	Affidavit of Chris Macadam, par 32 (annex LC8) .

		Macadam stated that the withdrawal of SAPS “ <i>would mean that TRC matters would not be investigated because at that stage a decision had already been taken to disband the DSO.</i> ”	
66.	2009	Ackerman informs Macadam that he disposed of a number of matters which did not require investigation and gives a list of a small number of TRC cases to Macadam.	Affidavit of Chris Macadam, par 33. (annex LC8).
67.	2009	Macadam makes efforts to have TRC cases investigated. In his affidavit he refers to a series of meetings with Raymond Lalla, the then Divisional Head of the Detective Service of SAPS, who informs him that the National Commissioner decided that the cases had to be investigated by the Directorate Priority Crimes Investigation (OPCI). Macadam alleges to have made a number of unsuccessful attempts to secure a meeting with Commissioner Dramat, Head: DPCI.	Affidavit of Chris Macadam, par 34 (annex LC8); Annex RCM6 to Macadam’s affidavit.
68.	29 April 2009	Civil society organisations obtained a court interdict against the President of Republic from granting any pardon in terms of the 'Special dispensation for Presidential pardons for political offences' – a process initiated based on the ATT Report.	CSV & Others v President of the Republic of South Africa & Others, Case no. 15320/09, North Gauteng High Court
69.	26 November 2009	Macadam met with SAPS Assistant Commissioner Lebeya and had a “positive discussion” about the TRC investigations. As result, Senior Superintendent Bester is appointed to oversee the investigation of 10 cases identified by Macadam.	Affidavit of Chris Macadam, paras 35-36 (annex LC8); annex RCM7 to Macadam’s affidavit.

70.	2009	<p>The High Court ruled that an amnesty committee be convened to rehear the application of Van Zyl in the PEBCO 3 matter.</p> <p>The case against the three former security policemen was provisionally withdrawn in 2009 since the NPA submitted to the High Court that the prosecution could not proceed while there was an amnesty proceeding pending. The Department of Justice (DOJ) filed an affidavit recommending the provisional withdrawal of the criminal charges against the surviving Johannes Koole, and Martin Van Zyl. The Amnesty Committee was never reconvened and the case against Van Zyl and Koole was never reinstated.</p>	Affidavit of Anton Ackerman, par 16.3.2., 16.3.3. (annex LC4).
71.	Around December 2009	<p>Adv Menze Simelane, the new NDPP, instructed Macadam to investigate corruption cases. Macadam noted: <i>"This made it very difficult for me to focus on the ten (10) TRC matters. I did however increase the number of investigations due to representations being received in new matters."</i></p>	Affidavit of Chris Macadam, par 37 (annex LC8).
2010 - 2019			
72.	23 February 2010	<p>The Constitutional Court confirmed that it was irrational and a violation of the rule of law to exclude victims from the process of presidential pardons.</p>	Albutt v Centre for the Study of Violence and Reconciliation, and Others 2010 (3) SA 293 (CC)
73.	Early 2010	<p>Advocate Macadam appointed by Acting NDPP to take over TRC matters and to liaise with the General Dramat Commander of DPCI.</p>	Letter to Simelane attorney from Dr. Ramaite Acting NDPP dated 31 January 2013, para 10. ¹⁰

¹⁰ Ibid, annex TN21.3

		Since Nokuthula Simelane docket had gone missing, a duplicate docket and the TRC material was requested from the State Archives and made available to PCLU in March 2010.	Letter from Acting NDPP dated 13 August 2013, p 3. ¹¹
74.	30 July 2012	Johannes Hendrick Gloy, the last key suspect in the Timol matter, dies.	Timol Inquest record case no.: I01/ 2017
75.	29 January 2013	<p>The holding of an inquest is requested by Nokuthula Simelane family as authorities were not making progress in their investigation into determining circumstances of death.</p> <p>Multiple correspondence and meetings follow during 2013 and 2014 in an attempt to persuade the NPA and DPCI to finalise their investigations and make a prosecutorial decision or refer Simelane's death to an inquest. All attempts fail, even after attorneys place both institutions on terms.</p>	<p>Inquest Request – letter from T.P. Nkadimeng to NPA dated 29 January 2013¹²</p> <p>Affidavit and annexes Nkadimeng v NDPP & Ors, case no 35554/ 2015, Gauteng Div.</p>
76.	August 2013	Mr. Nxasana is appointed the NDPP. Macadam is removed from his duties at the PCLU and Adv SK Abrahams took over the TRC cases from him.	Affidavit of Chris Macadam, par 38 (annex LC8).
77.	20 May 2015	Thembi Nkadimeng, sister of Simelane and mayor of Polokwane, filed an application before the Gauteng Division of the High Court seeking orders compelling the SAPS to finalize their investigations and an order compelling the NDPP to make a prosecutorial decision or refer the case to an inquest.	Notice of Motion in Thembisile Phumelele Nkadimeng v National Director of Public Prosecutions and 8 others, case no

¹¹ Ibid, annex TN21.4

¹² Ibid, annex TN20

		<p>The application disclosed evidence of gross political interference in the operations of the NPA, as per the supporting affidavits of Pikoli and Ackerman.</p> <p>NPA and SAPS do not file any answering affidavits, nor do they publicly dispute the assertions of political interference.</p>	35554/2015 (annex LC2).
78.	June 2015	<p>Adv Abrahams is appointed the NDPP. Macadam met with Abrahams and indicated that he would be willing to resume the TRC matters if Abrahams terminated his foreign bribery mandate. Macadam recalls <i>“He however informed me that he was thinking of taking all TRC cases away from the PCLU (...)”</i>.</p> <p>Macadam recalled in his affidavit that Adv Andrea Johnson, Acting Head of the PCLU, informed him and another advocate that they should cease work on the TRC cases as the cases were going to be removed from PCLU.</p>	Affidavit of Chris Macadam, paras 39, 41 (annex LC8).
79.	January 2016	Fearing that the TRC cases would be again neglected, Macadam wrote a memorandum requesting NDPP Abrahams to confirm whether the TRC cases would be dealt with by PCLU or the DPPs. He did not receive a reply.	Affidavit of Chris Macadam, par 41 (annex LC8).
80.	19 January 2016	Representatives of Timol family made a presentation to the NPA providing new evidence warranting the reopening of the inquests into the deaths of Ahmed Timol and Neil Aggett and requested that both inquests be reopened.	Cajee affidavit before reopened Timol Inquest, para 33
81.	4 February 2016	Prosecutor Dr Pretorius approached Macadam informing him that the request has been received to re-open Aggett and Timol inquests and requesting Macadam’s opinion on the matter. Macadam prepares an opinion and finds that <i>“both matters should be fully investigated and that consideration to re-opening inquests should only be given once a decision whether or not to prosecute had been taken.”</i>	Affidavit of Chris Macadam, par 42 (annex LC8).

		In para 12 of his opinion he states that it is <i>“imperative that the NDPP should decide whether TRC cases should remain with the PCLU or not.”</i>	
82.	14 March 2016	In response to the 2015 application filed by Thembi Nkadimeng four persons are indicted with murder charges. Accused one, Msebenzi Timothy Radebe (“Radebe”), is also charged with kidnapping but dies in April 2019 without trial commencing.	NPA reference 10/2/11/1-P8/2016; Case No: CC 16/2016
83.	June – August 2016	Lawyers for Timol and Aggett families threatened the NPA with litigation to compel them to reopen the inquests through correspondence on 21 June 2016, 8 July 2016, 11 and 23 August 2016.	Annexes IC21 – 24 to Cajee answering affidavit in <i>Rodrigues</i> case no: 76755/18
84.	26 June – 24 August 2017	Inquest into Ahmed Timol’s death is re-opened before High Court, Gauteng presided over by Mr Justice Motlhe. Judgment is handed down on 12 October 2017 which finds that Timol was murdered by members of the erstwhile South African Police.	Timol Inquest record case no.: I01/ 2017
85.	December 2017	<p>Macadam is contacted by the NDPP Office Manager to collect Pikoli’s documents. The documents include:</p> <ul style="list-style-type: none"> • A second draft Indemnity Bill authorising the President to grant indemnity to persons committing politically motivated crimes; • The terms of reference of the ATT dealing with criteria which the NPA applies to TRC cases, the formulation of Guidelines and whether legislative enactments are necessary, and it concludes by deferring to the views of the intelligence agencies; • A further report of the ATT looking into whether private prosecutions and civil litigation could be eliminated where a decision not to prosecute is taken; and 	Affidavit of Chris Macadam, paras 46.1. – 46.5. (annex LC8) read with annexes RCM13, RCM14, RCM15, RCM16, RCM17

		<p>whether a person aggrieved with a decision not to prosecute may approach the International Criminal Court (ICC).</p> <p>In relation to these documents, Macadam in his affidavit concludes: <i>“[t]hese documents speak for themselves and go a long way in explaining why from 2003 the PCLU constantly struggled to have TRC cases investigated.”</i></p>	
86.	January 2018	<p>20 TRC cases (including the Cradock 4 and Pebco 3 murders) are placed before the NPA and the DPCI (Hawks) for further investigation and prosecution. Hawks appoint investigating officers, but it is soon discovered that the officers leading the investigations are former Security Branch (SB) or associated with the SB. (The most senior investigator was implicated in the torture of a political detainee in the late 1980s. This detainee, together with his wife, were subsequently shot dead by the SB after he sued the SAP for damages).</p>	Affidavit of Lukhanya Calata, par 21.
87.	1 November 2018	<p>The supporting affidavit of Adv Chris Macadam, in the Rodrigues permanent stay application, is signed, in which details of the political interference were supplied. However, the affidavit was not filed with the NPA's answering affidavit in early December but held back and only filed on 4 February 2019.</p> <p>The Court in <i>Rodrigues</i> saw fit to censure the NPA for its attempt to withhold the affidavit of Macadam, noting at para 68 that: <i>“The suggestion that it was deliberately withheld from this Court is difficult to refute especially given its seriousness and the detailed allegations contained therein of political interference.”</i></p>	<p>Affidavit by Chris Macadam (annex LC8).</p> <p><i>Jao Rodrigues v NDPP & Ors Case No. 76755/18 Gauteng Division</i> at para 68</p>
88.	4 February 2019	<p>The NPA admitted, for the first time, to the political interference in the TRC cases in the application brought by Joao Rodrigues to permanently stay the Timol murder prosecution.</p>	<p>Affidavit of Jacobus Pretorius, par 2.3, 2.11 – 2.13, 2.28 – 2.30, pars 66-70 (annex LC7);</p>

		State Adv Pretorius S.C. in his supplementary affidavit admitted to the political interference and its unlawfulness but claimed that the NPA was not responsible for the suppression of the TRC cases, which was imposed upon it by politicians.	Affidavit of Chris Macadam (annex LC8).
89.	2 June 2019	The Full Court in the Rodrigues matter finds that political interference suppressed the TRC cases and affirms the NPA's obligation to pursue TRC cases and to expose the interference. However, it finds " <i>None of this occurred and the NPA must accordingly accept the moral and legal consequences of this most serious omission and dereliction of duty on its part.</i> " The full bench also calls on the NDPP and the Executive to publicly assure the public that such interference will never happen again.	Rodrigues v National Director of Public Prosecutions of South Africa [2019] ZAGPJHC 159 paras 57-70, 90.
90.	April – August 2019	Four former suspects and witnesses in apartheid-era cases die before the trials or inquests commence, including accused former Sergeant Msebenzi 'Vastrap' Radebe in the Nokuthula Simelane murder case; former Lieutenant Stephen Whitehead, lead interrogator of Neil Aggett; witness Ernest Matthis who saw Timol fall and was expected to testify in the murder trial of Jao Rodrigues; and former Security Branch Colonel James Taylor, who was involved in the arrest and brutal interrogation of Dr Hoosen Haffejee.	Affidavit of Lukhanyo Calata, par 79.
91.	July – August 2019	On 29 July and 15 August 2019 lawyers acting on behalf of the families of the late Neil Aggett and Hoosen Haffejee threatened the Minister of Justice with an urgent High Court application if he did not instruct the judge presidents of the Gauteng and KwaZulu Natal Divisions to reopen the inquests. On 16 August 2019 the Minister of Justice released a press statement announcing that the inquests into the deaths of Aggett and Haffejee would be reopened.	Webber Wentzel letters to the Minister of Justice. Press Statement of the Department of Justice and Constitutional Development dated 16 August 2016