

6 February 2026

The Commission Secretariat

Khampepe Commission of Inquiry into delay in investigation and prosecution of TRC cases

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*Dear Adv. Thokoa,*

**LEADING OF EVIDENCE: MR CARL MARTIN KRIEL / JACOB GABRIËL CELLIERS VAN DER MERWE**

1. We confirm the brief for Advocates Gerrie Nel and Phyllis Vorster to act on behalf of Mr Carl Martin Kriel and Mr Jacob Gabriël Cilliers van der Merwe.
2. We welcome the Chairperson's decision to commence with the Commission on 11 February 2026 and confirm our attendance. A further delay will exacerbate the prejudice already caused by the failure to prosecute those individuals who have either failed to obtain amnesty or have not applied for it.
3. The purpose of this letter is threefold:
  - 3.1. Application in terms of Rule 7.
  - 3.2. Request for leading witnesses. (Rule 3.1)
  - 3.3. Request to make a short opening statement.

June 2024

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**Member Affairs – Email:** [ledesake@afriforum.co.za](mailto:ledesake@afriforum.co.za) • **Directors:** Ms A. Bailey, Mr P.J.W. Buys, Dr H.K. Coetzee, Mr P.L. Dekker, Mr F.J.D. de Klerk, Mr G.R. de Vries, Dr D.J. Hermann, Mr W.G. Human, Mr C.M. Kriel and Dr R. Pretorius. • **Company Secretary:** Mr W.A. Vogel.

**Registration number:** 2005/042861/08 • **NGO number:** 054 - 590

4. Contrary to previous uninformed arguments before the Commission, we, and AfriForum, hold no brief for anyone who has made themselves guilty of crimes and has not been granted amnesty. We do not act for any implicated member of the former security forces.
5. We submitted comprehensive statements by Messrs. Kriel and Van der Merwe on 7 November 2025.

## **APPLICATION IN TERMS OF RULE 7**

6. We formally request that the Chairperson exercise her discretion to call Mr Van der Merwe to provide oral evidence before the Commission, in accordance with Rule 7 of the Commission's rules.
  - 6.1. He provides a unique perspective in dealing with the deliberate failure to prosecute identified and known members of uMkhonto weSizwe (MK) for the murder of his father on 1 November 1978.
  - 6.2. His evidence will focus on the failure to investigate and prosecute the suspects for the murder of his father on 1 November 1978. He was one of five children and was still at school at the time of the murder.
  - 6.3. The remains of the deceased have never been recovered, and his mother died without the privilege of burying her husband.
  - 6.4. The suspects have been known to the South African Police Service since at least December 1981.

- 6.5. At least one known suspect, who is still accessible for prosecution, remains free from scrutiny and has been permitted to build a career within government structures.
7. We reiterate our request that the Chairperson exercise her discretion in terms of the provisions of Rule 7 of the Rules of the Commission in favour of calling Mr Kriel (Kriel) to provide oral evidence before the Commission:
  - 7.1. Kriel is the CEO of AfriForum, a non-profit civil rights organisation with approximately 300 000 members.
  - 7.2. Kriel's evidence implores the Commission to restore the principle of equality before the law in any recommendations it may make.
  - 7.3. Kriel provides a balanced approach to demonstrate that the failure to investigate and prosecute not only prejudiced victims of the apartheid government's security forces but also innocent victims of crimes committed by the ANC and uMkhonto weSizwe (MK).
  - 7.4. Kriel's evidence is relevant because it focuses on individuals who committed or ordered crimes, and the implicated individuals were either unable to meet the requirements for amnesty or did not apply for it.
  - 7.5. Kriel offers a relevant opinion: the book of the past should be closed, and the focus should not be on more and more prosecutions. He remains steadfast in his belief that if prosecutions are ordered, members of the Security Forces, as well as members of the ANC and MK, should face prosecution.

## **APPLICATION TO LEAD WITNESSES.**

8. We request that the Chairperson exercise her discretion to allow Advocates Nel and Vorster to lead the witnesses, Kriel and Van der Merwe.
  - 8.1. Nel and Vorster have consulted at length with the witnesses and assisted in the drafting of their statements.
  - 8.2. The evidence to be presented will be emotional, and the trust established between the advocates and the witnesses, particularly Van der Merwe, is critical to the successful presentation of their evidence before the Commission. Although Van der Merwe will be called to testify, Nel and Vorster consulted various other witnesses to gain a perspective of the failures of the SAPS and the NPA in this instance.
  - 8.3. The drafting of the affidavits of Kriel and Van der Merwe not only spanned hours of consultation but even more hours of research. This was done, and it is unreasonable to expect the evidence leaders to repeat the hours spent in consultations.
  - 8.4. The focus of the evidence is somewhat different from that of the other parties; therefore, it will be beneficial to the evidence leaders, who will focus on failures to prosecute members of the Security Forces.
  - 8.5. We submit that there cannot be any prejudice to any of the parties.

## OPENING STATEMENTS

9. We do not understand the Commission's letter dated 4 February 2026 as requiring a full argument or motivation to be allowed to make an opening statement. Still, we formally request the opportunity to make a short opening statement.
10. We submit that it is essential to address any misconceptions about our brief and our approach to the Commission's mandate.
11. We will consider cross-examining some witnesses. We will do so in accordance with our approach, which will be outlined during the opening address.
12. We again implore the Commission to commence proceedings and not to allow government institutions and officials, former or current, to delay the process further. Delays will undoubtedly undermine the prospects of successful prosecutions, which have languished for decades.

Yours sincerely,



**ADV GERRIE C NEL**