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13 MARCH 2026

Enquires: MR M MORENA
Email: MMorena@justice.gov.za

My Ref: **0270/2026/Z62**
Your Ref: TRC COI

ADVOCATE MPHOTHU THOKOA

The Secretary

TRC-CASE INQUIRY

“URGENT”

Sci-Bono Discovery Centre

E-mail: secretary@trc-inquiry.org.za

Dear Commissioners and Secretariat of the Commission (TRC)

RE: APPLICATION TO CROSS EXAMINE ACKERMANN SC

1. We act for Adv Simelane and have instruction to file the application attached hereto for permission to cross-examine Adv Ackermann SC.
2. We have been advised that Ackermann SC has agreed to be cross-examined and the Commission has scheduled 19 and 20 March 2026 as the date on which Ackermann SC will be cross-examined.

3. For reasons that are set out in the application we believe that permission to cross examine Ackermann SC is necessary and would advance the mandate of the Commission and therefore should accordingly be granted.
4. We look forward to the Commission's ruling on the application.

Yours faithfully

(Signed Electronically)

MR M MORENA
SENIOR ASSISTANT STATE ATTORNEY
FOR: STATE ATTORNEY (PRETORIA)

IN THE COMMISSION OF INQUIRY INTO ALLEGATIONS REGARDING EFFORTS
OR ATTEMPTS TO STOP THE INVESTIGATION OR PROSECUTION OF TRUTH
AND RECONCILIATION COMMISSION CASES: 2026

BEFORE JUSTICES KHAMPEPE, JUSTICE KGOMO AND GABRIEL SC

SUPPLEMENTARY APPLICATION TO CROSS EXAMINE ACKERMANN SC

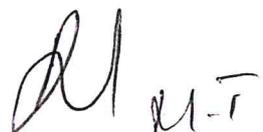
AJ
M.T.

I, the undersigned

MOLWANTWA MORENA

do hereby state under oath as follows,

1. I am an adult male attorney of record for Advocate Menzi Simelane in this Commission of Inquiry and employed in the Office of the State Attorney in Pretoria.
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.
3. This amended application became necessary because of a directive of the Commission that the application to cross examine Ackermann SC be separated from the objection to the application by the Calata group to cross- examine Adv Simelane. This affidavit is therefore amended to only deal with the application to cross-examine Ackermann SC. A separate application with supporting affidavit will be filed setting out the objection to the application to cross-examine Adv Simelane on specific matters
4. Advocate Simelane does not object to being cross-examined on any relevant areas falling within the Commission's terms of reference and which have been covered in his statement or any supplementary statement that he may file or any



viva voce evidence given during his testimony. As previously conveyed to the Commission, he has offered to be of assistance to it to the extent relevant.

5. In this application we seek the Commission's leave to cross examine Ackermann SC on the areas that are identified further below arising directly from his statements and documents before the Commission and the oral evidence he tendered between 4 to 6 March 2026.
6. Adv Simelane has instructed us to prepare an application to cross-examine Ackermann SC which cross-examination is now scheduled to take place on 19 and 20 March 2026 and prior to him giving his oral testimony or filing his supplementary statement which is scheduled on 31 March 2026.
7. We set out the areas on which we seek leave to cross-examine Ackermann SC.

ADV SIMELANE'S APPLICATION TO CROSS-EXAMINATION OF ACKERMANN SC

8. Ackermann SC made serious allegations of Adv Simelane during his oral testimony implicating him in dishonest conduct. On that he correctly expressed the view that he expects that Adv Simelane would apply to have him cross-examined on those allegations. Indeed, Adv Simelane denies that he engaged in dishonest conduct as alleged by Adv Ackermann SC and is unable to discern from the oral evidence or documents presented the factual basis for those unfortunate remarks about him.
9. Adv Simelane has advised us that he has no objection to Ackermann SC being afforded the opportunity to cross-examine him on any relevant matters. In light of the fact that at the Commission hearing on Friday, 6 March 2026, it was agreed



that Ackermann SC will be available to be cross-examined on 19 and 20 March 2026, it would be fair and in the interest of the truth-finding mandate of this Commission that Adv Simelane is granted leave to cross-examine Ackermann SC on the scheduled dates. Without limiting the scope of the issues that the Commission may permit the cross-examination of Ackermann SC, we have identified the areas set out below as those on which Adv Simelane wishes leave to cross-examine Ackermann SC on.

AREAS TO CROSS EXAMINE ACKERMANN SC

10. His denial that he is a former apartheid prosecutor.
11. Whether he had any professional, moral, ideological or ethical objection to working as a prosecutor on behalf of the apartheid state or government.
12. The denial that there was a view held by some DGs of the Cluster on behalf of their members in the SAPS, and security services that the lack of cooperation in relation to the investigation of TRC cases was in part because of the distrust of Ackermann SC on account of his background as an apartheid prosecutor.
13. The implication of his decision to instruct the removal from his affidavit of allegations that he had made regarding Adv Simelane and Adv Mpshe which he reintroduced in his oral testimony after reading Adv Simelane's statement.
14. The basis of the allegation that Adv Simelane gave a political instruction to have him removed from dealing with TRC cases.
15. The basis of the allegation that Adv Simelane would deny his allegation that he instructed Adv Mpshe to remove him in the TRC cases. His view that Adv

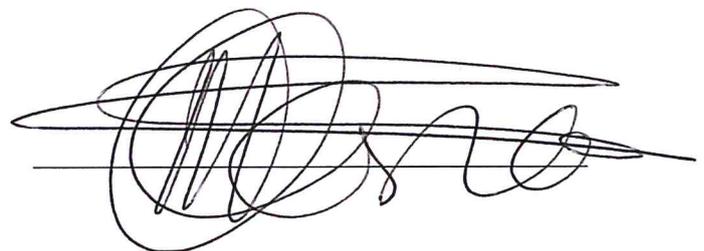
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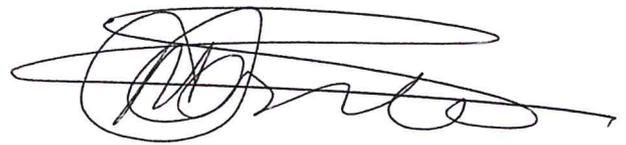
Simelane would “be untruthful” about having allegedly given a political instruction to Adv Mpshe for his removal from TRC cases.

16. The basis of his belief that there was a meeting between Adv Simelane and Adv Mpshe at the airport to give the removal instruction. His experience and knowledge of the methods, tactic and tricks, “underhand handovers and meetings taking place at petrol depots on the highway and petrol stations or airports.”
17. His denial of the West Wing informal meeting convened at the request of the DGs of the JPCS Cluster to discuss the reasons for the lack of cooperation between the SAPS and the NPA relating to the provision of investigative services to prepare the prosecution of the TRC cases.
18. His denial that he produced at meeting a list of ANC leaders of the Military Council in Lusaka whom the PCLU intended to prosecute. Does he deny that the PCLU had a list of ANC leaders whom it was alleged were listed for investigation and prosecution.
19. Ackermann SC’s view on the relevance of the National Intelligence in the investigation and prosecution of TRC cases

CONCLUSION

20. Based on the above, I believe that it would be fair and importantly, advance the mandate of the Commission if the cross-examination of Ackermann SC is permitted.

A handwritten signature in black ink, consisting of several overlapping loops and a long horizontal stroke extending to the right.



MOLWANTWA MORENA



I hereby certify that on the 13 day of **MARCH 2026** in my presence the Deponent signed this affidavit, swore and acknowledged that he knew and understood the contents thereof, had no objection to taking the prescribed oath, considered the oath to be binding on his conscience and thereafter took the prescribed oath before me.



Mustardio T Nkwamelehi
CSZ
M. T. Nkwamelehi

COMMISSIONER OF OATHS

Full names: Mustardio T Nkwamelehi

Address: One James Wright b, molder
Norkem Park

Capacity: Constable

**THE JUDICIAL COMMISSION OF INQUIRY INTO ALLEGATIONS REGARDING
EFFORTS OR ATTEMPTS TO STOP THE INVESTIGATION OR PROSECUTION
OF
TRUTH AND RECONCILIATION COMMISSION CASES (TRC CASES INQUIRY)**

HELD AT:

Sci-Bono Discovery Centre, corner Mirriam Makeba & Helen Joseph Street,

Newtown, Johannesburg

BEFORE THE COMMISSION:

The Honourable Justice Sisi Khampepe (Judge RTD) – Chairperson

The Honourable Justice Frans Diale Kgomo (Judge President RTD)

Adv Andrea Gabriel (SC)

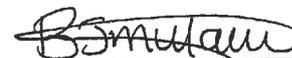
**NOTICE OF APPLICATION IN TERMS OF RULE 3 TO CROSS-EXAMINE ADV.
AR ACKERMANN SC**

KINDLY TAKE NOTICE THAT the Minister of Justice and Constitutional Development hereby makes application to the above Honourable Commission in accordance with Regulation 8(3) of the Commission's Regulations read with the Rules of the Commission, for an order in the following terms:

1. That the Commission grant leave to the representatives of the Minister to cross-examine Ackermann SC.
2. Further and/or alternative relief.

TAKE NOTICE FURTHER that the accompanying affidavit of **JOSEPH MULAUZDI** will be used in support of this application together with the annexure(s) thereto.

DATED AT PRETORIA ON THIS THE 12TH DAY OF MARCH 2026.



THE STATE ATTORNEY

(Attorneys for Minister of Justice & Constitutional Development)

SALU Building

316 Thabo Sehume Street

PRETORIA, 0002

Ref: 00188/25/Z83

Tel: 012 309 1653

Fax: 086 642 7536

Email: RonBaloyi@justice.gov.za

Enq: Mr. J. Mulaudzi

**TO: SECRETARY OF THE COMMISSION
JOHANNESBURG**

AND TO: WEBBER WENTZEL

(Attorneys for Calata Group)

90 Rivonia Road

SANDTON, 2196

Tel: 011 530 5000

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Nkosinathi.Thema@webberwentzel.co.za

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REF: A Thakor/4005095

**THE JUDICIAL COMMISSION OF INQUIRY INTO ALLEGATIONS REGARDING
EFFORTS OR ATTEMPTS TO STOP THE INVESTIGATION OR PROSECUTION
OF
TRUTH AND RECONCILIATION COMMISSION CASES (TRC CASES INQUIRY)**

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BEFORE THE COMMISSION:

The Honourable Justice Sisi Khampepe (Judge RTD) – Chairperson

The Honourable Justice Frans Diale Kgomo (Judge President RTD)

Adv Andrea Gabriel (SC)

**APPLICATION IN TERMS OF RULE 3 TO CROSS-EXAMINE ADV. AR
ACKERMANN SC**

I, the undersigned,

JOSEPH MULAUDZI

do hereby make oath and state that:

1. I am an adult male attorney practicing as such at the Office of the State Attorney, situated at Salu Building, Ground Floor, 316 Thabo Sehume Street, Pretoria, Gauteng

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- Province.. I am the attorney of record for the Minister of Justice and Constitutional Development (“the Minister”).
2. The Minister was appointed by the President of the Republic of South Africa, President Cyril Matamela Ramaphosa (the President) on 3 December 2024, and is a member of Parliament of the Republic of South Africa and the Executive Authority of the Department of Justice and Constitutional Development (DOJ&CD). The DOJ&CD's offices are situated at Momentum Centre, 17th Floor, 329 Pretorius Street, Pretoria, Gauteng Province.
 3. The Minister is cited as the third respondent in the main application brought before the High Court under case number 005245/2025, which forms the genesis of this Commission, in her official capacity as the Minister responsible for the DOJ&CD, and as the Cabinet member responsible for the National Prosecuting Authority (the NPA) in terms of section 179(6) of the Constitution of the Republic of South Africa, 1996 (the Constitution).
 4. I am duly authorised to depose to this affidavit.
 5. The facts contained in this affidavit are within my personal knowledge unless the context indicates otherwise, and are, to the best of my knowledge and belief, true and correct.

A. PURPOSE OF THIS AFFIDAVIT

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6. The President published Proclamation Notice No. 264 of 2025 on 29 May 2025, appointing a Judicial Commission of Inquiry to inquire into allegations regarding efforts or attempts having been made to stop the investigation or prosecution of Truth and Reconciliation Commission cases (the Commission). The Commission was appointed in terms of section 84(2)(f) of the Constitution to investigate allegations of whether efforts or attempts were made to stop the investigation or prosecution of Truth and Reconciliation Commission (TRC) cases.
7. In terms of paragraph 1.1 of the Terms of Reference of the Commission (ToRs), the Commission must, in relation to the period since 2003, inquire into, make findings, report on and make recommendations concerning:

"whether, why, and to what extent and by whom, efforts or attempts were made to influence or pressure members of the South African Police Service or the National Prosecuting Authority to stop investigating or prosecuting TRC cases."
8. Advocate Anton Ackermann SC (Mr Ackermann) submitted a written statement under oath to the Commission dated 25 October 2025. A copy of his statement is attached hereto marked annexure **JM1**.
9. Mr Ackermann testified before the commission on 4, 5, and 6 March 2026, following the filing of his written statement.
10. Mr Ackermann is scheduled to appear before the Commission for cross-examination on 19 and 20 March 2026.

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11. I hereby seek leave for the Minister's legal counsel to cross examine Mr Ackermann ("Ackermann SC") in response to his written statement and oral testimony.
12. This request is brought in terms of Regulation 8(3) of the Regulations governing Commissions of Inquiry read with Rule of the Rules of the Commission.

B. THE REGULATIONS AND RULES REGULATING THE CROSS EXAMINATION OF WITNESS

13. The provisions governing the Commission provides for the cross examination of the implicated person with leave from the Chairperson. Paragraph 8(3) of the Regulations of the Commission read as follows:

"(3) Any witness appearing before the Commission may be crossexamined by a person only if the Chairperson permits such cross-examination should he or she deem it necessary and in the best interest of the functions of the Commission."

14. Paragraph 3 of the Rules of the Commission provide for the *"witnesses presented by the Commission's Evidence Leader and implicated persons and their evidence"* as follows:

"3.1 Subject to anything to the contrary contained in these Rules or to the Chairperson's directions in regard to any specific witness, the Commission's Evidence Leader bears the overall responsibility to present the evidence of witnesses to the Commission.

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3.3 If the Commission's Evidence Leader intends to present to the Commission a witness, whose evidence implicates or may implicate another person, it must, through the Secretary of the Commission, notify that person ("implicated person") in writing within a reasonable time before the witness gives evidence:

3.3.1 that he or she is, or may be, implicated by the witness' evidence;

3.3.2 in what way he or she is, or may be, implicated and furnish him or her with the witness' statement or relevant portions of the statement;

3.3.3 of the date when and the venue where the witness will give the evidence;

3.3.4 that he or she may attend the hearing at which the witness gives evidence;

3.3.5 that he or she may be assisted by a legal representative when the witness gives evidence;

3.3.6 that, if he or she wishes:

3.3.6.1 to give evidence himself or herself;

3.3.6.2 to call any witness to give evidence on his or her

behalf; or

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3.3.6.3 to cross-examine the witness; he or she must, within two weeks from the date of notice, apply in writing to the Commission for leave to do so; and

3.3.7 that the Chairperson will decide the application.”

(own emphasis)

15. Rule 3.3 specifically regulates the circumstances where the Commission’s Evidence Leader intends to present a witness whose evidence implicates or may implicate another person. In such circumstances the Evidence Leader must notify the implicated person and provide, inter alia, enable the implicated person to decide whether to apply for leave to cross-examine the witness within 14 days of receiving such notice.
16. In the present instance, however, Adv Ackermann SC was not lead by the Commission’s Evidence Leader, but by his own legal representatives.
17. This procedural position gives rise to a degree of uncertainty regarding the application of Rule 3.3 in that the rule appears to have been formulated on the premise that the obligation to notify such implicated persons rests with the Commission’s Evidence Leader in relation to witnesses whom the Evidence Leader intends to present.
18. Where, as in the present instance, a witness is called and led by his own counsel, it is not entirely clear how the notification mechanism contemplated in Rule 3.3 is intended to operate.
19. It would appear that, in circumstances where a legal representative intends to lead witnesses whose evidence may implicate other persons, so as to afford them a fair

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opportunity to prepare for possible cross-examination of the witness as contemplated in Rule 3.3.6.

19. At present, I am unaware whether such notification was provided to all those persons implicated by Mr Ackermann's evidence, whether by his legal counsel who led him, or by the Commission's Evidence Leaders.
20. As a consequence of the aforementioned uncertainties, we caused an email to be addressed to the Secretary of the Commission, through our junior counsel, seeking clarity of the formalities of bringing this application.
21. The secretary responded to our email on the same day.
22. A copy of the email correspondence dated 12 March 2026 is attached hereto marked **JM2**.
23. We do not agree with the interpretation of the rule 11 of the Commission's rules to the extent that the rules already provide for cross examination under rule 3 and rule 11.1 makes provision for those aspects not already provided for by the rules.
24. Rule 11 also gives rise one further problems. First, rule 11.1 contemplates an application made within seven days of giving notice to the Commission. Whereas rule 3.3.6.3 contemplates an application to cross examine a witness being made within 14 days.
25. Notwithstanding what we have been advised by the Commission in respect of the applicable rules and our views thereto, we bring this application as per the advice.

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C. SYNOPSIS OF MR ACKERMANN'S EVIDENCE

20. I note that Mr Ackermann's statement and testimony relate primarily to events that are alleged to have occurred during his tenure as the former Special Director of Public Prosecutions in the office of the National Director of Public Prosecutions (NDPP), and as the head of the Priority Crimes Litigation Unit ("PCLU") within the NPA from 2003 to 2013.
21. Mr Ackermann's evidence contains allegations and assertions implicating the Ministry and the Department of Justice in matters falling within the Commission's Terms of Reference.
22. These allegations potentially affect:
- 22.1 the constitutional role of the Minister of Justice,
 - 22.2 the institutional position of the DOJ&CD, and/or
 - 22.3 the integrity of the prosecutorial framework established by the Constitution and national legislation.

D. ISSUES IMPACTING THE MINISTRY AND THE DEPARTMENT OF JUSTICE

23. The role of the Minister and the NPA is governed by the Constitution and the National Prosecuting Authority Act 32 of 1998 ("the NPA Act").

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24. Section 179 of the Constitution provides that the power to institute criminal prosecutions vests in the prosecuting authority, headed by the National Director of Public Prosecutions (“NDPP”).
25. Section 179(4) of the Constitution provides that National legislation must ensure that the prosecuting authority exercises its functions without fear, favour of prejudice.
26. Section 179(5) of the Constitution provides that the NDPP must determine prosecution policy, with the concurrence of the Cabinet member responsible for the administration of justice.
27. Section 179(6) further provides that the Cabinet member responsible for the administration of justice exercises final responsibility over the prosecuting authority.
28. The constitutional framework is given effect through the NPA Act.
29. Section 32 of the NPA Act provides that members of the prosecuting authority must exercise their functions without fear, favour or prejudice and subject only to the Constitution and the law.
30. Section 33 of the Act provides that the Minister exercises final responsibility over the prosecuting authority, including the power to request information or reports from the NDPP regarding matters dealt with by the prosecuting authority.
31. The distinction between executive responsibility, policy oversight, and prosecutorial independence is fundamental to understanding the nature of the allegations placed before the Commission in so far as they relate to the Minister and the Department.

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**E. ISSUES ARISING FROM ACKERMANN'S EVIDENCE IMPLICATING THE
MINISTRY AND THE DOJ&CD**

PEBCO 3 Prosecution

32. In relation to the PEBCO 3 prosecution, Ackermann SC testified that he was later informed that the Department failed to file court papers and failed to reconvene an amnesty hearing, resulting in the charges not being reinstated.
33. He characterised the delay in that matter as “inexcusable”.
34. However, he does not suggest that the Minister (at the time) personally caused those failures, and his evidence appears to attribute the alleged shortcomings to the Department institutionally.
35. Clarification is required regarding the source of the information relied upon by the witness in making these assertions.

Amnesty Task Team (“ATT”) and Draft Terms of Reference and ITT related matters

36. Ackermann SC refers to the Amnesty Task Team and proposed Terms of Reference relating to the management of post-TRC matters.
37. The material referred to suggests that the report recommended proceeding with a Departmental Task Team operating under the supervision of an Inter-Ministerial Committee, using existing governmental structures and guided by considerations of national interest.

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38. While the existence of such structures may place the Ministry or Department within the institutional framework addressing post-TRC matters, their existence does not in itself establish that the Minister personally interfered in prosecutorial decision-making.
39. Clarification is required as to the extent of the witness's personal knowledge regarding these structures and the role allegedly played by the Department or the Minister.

Alleged Plans to Prosecute Former President Thabo Mbeki and ANC Leaders

40. Ackermann SC testified that former Minister Maduna met with Mr Ngcuka, himself and Mr Macadam, implying that the Minister was made aware of allegations that the NPA intended prosecuting former President Thabo Mbeki and other ANC leaders.
41. On Ackermann SC's version, the former Minister accepted that those allegations were false and undertook to communicate that position to the President.
42. This aspect of the evidence raises questions regarding the context in which the Minister was briefed, and whether the engagement described constituted lawful executive engagement rather than interference.

Alleged Cape Town Meeting

43. Ackermann SC testified that Dr Ramaite informed him that Dr Ramaite had attended a meeting in Cape Town with the former Minister, other Cabinet members and Commissioner Selebi.

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44. According to the witness, Commissioner Selebi alleged at that meeting that the NPA was planning to paralyse government by arresting prominent officials previously involved in MK activities.
45. Ackermann SC further states that Dr Ramaite subsequently submitted a confidential memorandum to the Minister denying those allegations.
46. The evidence raises questions regarding the basis of the witness's knowledge, as the information appears to have been conveyed to him by Dr Ramaite.

Rev. Frank Chikane Matter

47. Ackermann SC testified that on the morning that arrests were to be effected in the Rev. Frank Chikane matter, he received a telephone call from an unidentified official in the Minister's office stating that the case should be placed "on hold".
48. He states that he rejected the alleged instruction and informed the official that the Minister did not have the authority to issue instructions relating to prosecutions.
49. The witness further testified that Dr Ramaite subsequently informed him that the Minister had instructed that all investigations and prosecutions relating to TRC cases should be placed on hold.
50. Ackermann SC states that he reminded Dr Ramaite that the Minister did not have the authority to issue such instructions and that he believed Dr Ramaite had succumbed to political pressure.

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51. The evidence on this aspect appears to rely primarily on statements allegedly made to the witness by Dr Ramaite, rather than on any direct communication with the Minister.

“Project Gnome”

52. Ackermann SC also refers to an internal memorandum entitled “Project Gnome”, which includes reference to a letter from former Minister Mabandla to former NDPP Pikoli.
53. The relevance of this document and the extent of the witness’s knowledge of the matters addressed therein require clarification.

Prosecution Policy Amendments¹

54. Ackermann SC testified that “Justice Cluster structures” were engaged in formulating guidelines relating to possible amendments to prosecution policy.
- 54.1 It is unclear whether the witness was directly involved in those engagements or has personal knowledge of the rationale underlying the proposed policy framework.
- 54.2 The role of the Minister and the NPA in developing prosecution policy (s179(5) and (6) of the Constitution).

¹ Transcript dated 05 March 2026, pages 9, 10, 45, 47, 48, 49, 52, 53.

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54.3 Obligations conferred by the NPA Act – including the provisions of sections 32 and 33.

54.4

Alleged political instruction to remove Ackermann from TRC cases

55. Ackermann testified that he believes the Minister instructed Acting NDPP Mpshe to remove him from work relating to TRC cases.

56. However, he also testified that Mr Mpshe informed him that the request came from the Director-General of the Department of Justice, Mr Menzi Simelane.

57. He did not explain the basis upon which he concluded that the instruction originated from the Minister rather than the Director-General

58. Line of cross-examination *re* the alleged political instruction to have him (Ackermann) removed from the TRC cases:

58.1 The alleged instruction from the Minister to have him removed from the TRC cases.

58.2 The alleged instruction from the DG of the Ministry to have him removed from the TRC cases.

58.3 The Mpshe and Simelane meeting, *re*: decision to remove him from TRC cases.

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- 58.4 Role of resident Mbeki and Minister Mabandla re: halting prosecution of TRC cases.
- 58.5 Failure of Minister Mabandla to respond to Pikoli (erstwhile NDPP) memorandum.
- 58.6 The forged document and the alleged role of the Ministry or DOJ&CD.

F. CONCLUSION

59. The questions sought to be posed to Mr Ackermann in cross-examination fall within the Commission's Terms of Reference and are crucial in clarifying the relevant issues identified above and for purposes of executing mandate of the Commission.
60. We submit that a case has been made out for the Commission to grant leave to the representatives of the Minister to cross-examine Ackermann SC.

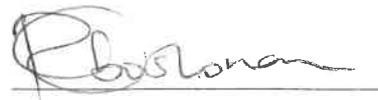
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DEPONENT

I hereby certify that the deponent has acknowledged that the deponent knows and understands the contents of this affidavit, which was signed and sworn before me at Pretoria on the 13th day of ~~November~~ ^{March} 2026, the regulations contained in Re BJ

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Government Notice No. R 1258 of 21 July 1972, as amended, and Government Notice No. R 1648 of 19 August 1977, as amended, having been complied with.



COMMISSIONER OF OATHS

RAISIBE CHRISTINA BOSTON
LEGAL ADMIN CLERK

DIRECTOR OF PUBLIC PROSECUTIONS
PRUDENTIAL BUILDING 28 CHURCH SQUARE
2026 -03- 13
PRETORIA 0001
NORTH GAUTENG PRETORIA

**IN THE COMMISSION OF INQUIRY INTO STOPPED TRC INVESTIGATIONS
AND/OR PROSECUTIONS**

AFFIDAVIT OF ANTON ROSSOUW ACKERMANN

I, the undersigned

ANTON ROSSOUW ACKERMANN

state under oath as follows:

Introduction

1. I am an adult male, a senior counsel, and a former Special Director of Public Prosecutions in the Office of the National Director of Public Prosecutions ("NDPP"). I am currently retired and residing in the Western Cape.
2. In terms of section 13(1)(c) of the National Prosecuting Act No. 32 of 1998 ("the Act"), I was appointed by President TM Mbeki, under a Presidential Proclamation dated 24 March 2003, to head the Priority Crimes Litigation Unit ("PCLU"), located at the head office of the National Prosecuting Authority ("NPA"). I served as head of the PCLU from 2003 to 2013, when I retired.
3. Save where appears from the context, the facts contained in this affidavit are within my own personal knowledge and are to the best of my knowledge and belief both true and correct.

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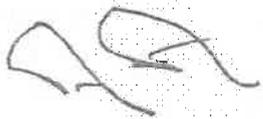
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4. I depose to this affidavit to assist the Judicial Commission of Inquiry into stopped TRC Investigations and/or Prosecutions ("**the Commission**") to address paragraphs 1 to 1.3.2 of the terms of reference of the Commission.

Confirmation of affidavits

5. I confirm the contents of my affidavit dated 7 May 2015 which was attached as a supporting affidavit in the matter of *Nkadimeng v NDPP and Others* (Gauteng Division, Case No. 36554/2015). I will rely on the full contents of this affidavit to address the aforesaid paragraphs of the terms of reference. A copy of this affidavit was supplied by Webber Wentzel attorneys¹ to the Commission on 10 October 2025 in divider (bundle) 3 at paginated pages 890 - 907.
6. I also confirm the contents of the founding affidavit of Lukhanyo Calata dated 17 January 2025 filed in *Calata & Others v Government of South Africa & Others* (Gauteng Division, Case No. 2025-005245), insofar as it pertains to me ("**the Calata affidavit**"). A certified copy of this affidavit was supplied by Webber Wentzel attorneys to the Commission on 10 October 2025 in bundle 1 at paginated pages 1 - 842.
- 6.1 In respect of paragraph 33.1 of my aforesaid affidavit and paragraph 234 of the Calata affidavit I point out that the letter from the SAPS Legal Support Section Maj Gen P C Jacobs was probably addressed to the NDPP not the Priority Crimes Litigation Unit ("**PCLU**").
- 6.2 I also point out that in respect of paragraph 216 and the first line of paragraph 217 of the Calata affidavit the Senior Superintendent Britz

¹ Attorneys for the 22 families and the Foundation for Human Rights.


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referred to therein is "Hennie Britz" and not "Karel Johannes 'Suiker' Britz".

Reliance on Macadam affidavit and annexes

7. I align myself with the contents of the affidavit of Raymond Christopher Macadam ("Macadam") filed in the Joao Rodrigues stay of prosecution case in *Rodrigues v NDPP & Others* (Case No. 76755/18, Gauteng Division). I will rely on the contents of this affidavit, together with the documents attached to that affidavit, to address the aforesaid terms of reference. A copy of this affidavit was supplied by Webber Wentzel attorneys to the Commission on 10 October 2025 in bundle 1 at paginated pages 276 - 359.

Provision of new documents

8. I attach to this affidavit two documents that are not currently part of the record provided by Webber Wenzel attorneys on 10 October 2025.
- 8.1 A letter dated 16 March 2004 I addressed to Raymond Lalla, the Divisional Commissioner of SAPS Crime Intelligence ("Lalla"), annexed hereto marked "A".
- 8.2 An internal memorandum dated 27 September 2007 I addressed to DSO Head, Adv Leonard McCarthy ("McCarthy") titled "Project Gnome".
9. In the letter to Lalla, I expressed my displeasure at him secretly videotaping a confidential meeting I held with him on 25 August 2003, in respect of the TRC cases. In that meeting I voiced my frustration and disgust with the refusal of the DSO to take on the TRC cases. That videotape was then handed over to


 Re
 Britz

NDPP Ngcuka, Deputy NDPP Ramaite and DSO Head McCarthy. I was then called into a meeting with them and confronted with the video recording.

10. The internal memorandum sent to McCarthy on 27 September 2007 dealt with the investigation into the fabricated note I referred to in my 2015 affidavit from paragraph 35 (bundle 1, paginated page 905).² In this memorandum I explained to McCarthy why the note was definitely forged.

Request to locate documents / evidence

11. I respectfully request the Commission to secure or subpoena the following documents and items of evidence:

11.1 From the Department and Ministry of Justice:

11.1.1 Minutes and records of the following bodies:

11.1.1.1 Special Cabinet Committee on the Post TRC cases / Subcommittee of the Justice, Crime Prevention and Security (JCPS) Cabinet Committee on Post TRC matters.

11.1.1.2 Committee of Directors General, in respect of their deliberations on the TRC cases.

11.1.1.3 The Amnesty Task Team.

11.1.1.4 The Inter-departmental Task Team on the TRC cases.

11.2 From the NPA:

² See also paragraph 260 of the Calata affidavit.



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- 11.2.1 A copy of the fabricated note referred to in paragraph 10 above.
- 11.2.2 Relevant documents, including reports and correspondence, from the person commissioned to investigate the hacking of my computer in respect of the fabricated note.
- 11.2.3 Report on the costs expended for the services of the investigator.
- 11.3 From the SAPS:
- 11.3.1 The original fabricated note that was allegedly in the possession of the DSO.
- 11.3.2 The videotape made by Raymond Lalla of the meeting with me, Torie Pretorius and Chris Macadam on 25 August 2003.

Allegations of Imtiaz Cajee

12. I was sent an undated Notice in terms of Rule 3.3 with various allegations made by Imtiaz Cajee arising from his affidavit dated 30 September 2025.

Paragraph 47: No concerted effort

13. In respect of Cajee's allegation in paragraph 47, I point out that I was only appointed as head of the PCLU on 24 March 2003 and the then NDPP declared the TRC cases to be priority crimes in May 2003. I was not personally involved in the Ahmed Timol case, which was being handled by Adv Chris Macadam, but it was one of the TRC cases falling within our mandate.
14. Extensive efforts to secure investigators for the TRC cases were made from early May 2003 shortly after their designation as priority crimes, as set out in


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the Macadam and Calata affidavits. As stated in the aforesaid affidavits both the Directorate for Special Investigations ("DSO" or "Scorpions") and the South African Police ("SAPS") declined to investigate the TRC cases.

15. This effectively blocked the investigation of the TRC cases for several years and severely undermined the prospects of justice in those cases, including the Timol case.
16. I deny that I placed the burden of investigating the Timol case onto Cajee, but I accept that in the absence of investigations by the DSO / SAPS, families, including the Timol family, felt obliged to carry out their own investigations.

Paragraphs 195 - 6: Failure to create mechanism and to approach the President

Paragraph 207: Allegation of no interference

Paragraphs 208-9: Alleged failure to resist

17. I agree that government failed to take steps to investigate the TRC cases. I also agree that the President should have been approached.
18. As I was not the NDPP it was not within my prerogative or power to contact the President.
19. However, after DSO Special Director Adv MG 'Geoph' Ledwaba ("**Ledwaba**") refused to sign the section 28(1)(b)⁹ notices in respect of the TRC cases, I recall that I approached either Adv Leonard McCarthy, then head of the DSO, or Adv Bulelani Ngcuka, then NDPP, or Adv Silas Ramaite, then Deputy NDPP to expedite the signing of the said notices.

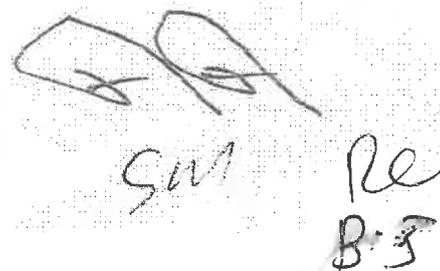
⁹ Inquiries by Investigating Director in terms of the National Prosecuting Act 32 of 1998.



SM
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BS

20. Regrettably, the said notices were not authorised, notwithstanding my efforts. I did not have the power to take the matter further than that.
21. Within the NPA I raised my concern about the obstruction of the TRC cases. I refused to take part in the amendments to the Prosecution Policy, which I regarded as unconstitutional.
22. On 3 May 2007, NDPP Pikoli and I appeared before the Justice Portfolio Committee in Parliament. I advised that the lack of progress in the TRC cases was not the fault of the PCLU. Pikoli advised the Commission that "*there was politically sensitive issue*", and that "*whenever there was an attempt to charge the former police there was a political intervention and that effectively the NPA was being held to ransom by the former generals.*"⁴
23. From around 2006 I advised families and lawyers that we were struggling to get investigators for the TRC cases and suggested they should pursue inquests rather than prosecutions.
24. I agree with the views of the Full Court in the Rodrigues matter that the NPA should have asserted its authority and independence and resisted the political interference.
25. Because of my opposition to the interference in the TRC cases I was relieved of my duties in respect of these cases in September 2007, and it is also one of the reasons why Pikoli was suspended as NDPP.
26. To the extent that Cajee alleges that there was no interference in the work of prosecutors in the TRC cases, I deny such a claim.

⁴ See para 250 of the Calata affidavit.



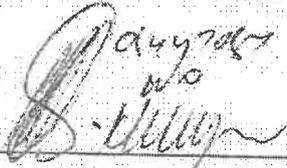
Handwritten signature and initials, including "SM" and "Re B:3".

- 27. To the extent that Cajee describes me as an old order prosecutor acting in the interests of the former regime, I point out that I always prosecuted without fear or prejudice, regardless of the nature of the case. I was the lead prosecutor in the prosecution of former apartheid security operatives: Eugene de Kock, Wouter Basson and Ferdi Barnard, amongst others.
- 28. In this regard I annex hereto marked "C" a note I received from George Bizos SC in relation to my role at the inquest of Jabu Vilakazi, in which he also appeared.



ANTON ROSSOUW ACKERMANN

The Deponent has acknowledged that the Deponent knows and understands the contents of this affidavit, which was signed and sworn to or solemnly affirmed before me at Hermanus on 25 October 2025, the regulations contained in Government Notice No. R1258 of 21 July 1972, as amended, and Government Notice No. R1648 of 19 August 1977, as amended, having been complied with.



COMMISSIONER OF OATHS

Full names: Sirhindile Mchale Khup
 Business address: 61 Mann Road
 Designation: Warrant officer
 Capacity:



Re
B:J

Copy

"A"

P O Box 10036
MORELETA PLAZA
0167
16 March 2004

Commissioner Lalla
The Divisional Commissioner
Crime Intelligence
Private Bag X302
PRETORIA
0001

Dear Commissioner Lalla,

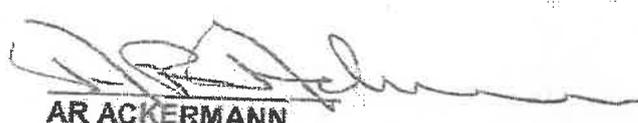
With reference to your clandestine audio and visual monitoring of our confidential discussion on 25 August 2003, I wish to convey my utmost disgust at such underhanded conduct.

It is accepted practice amongst professionals, when it is desirable that a meeting be recorded that it be done openly.

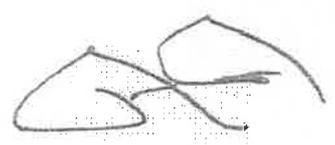
The purpose of my meeting with you was to further the interest of justice. You came highly recommended to me by Macadam and Pretorius as a sincere and trustful colleague. Obviously they made a grave error of judgement.

Unfortunately because of this experience I am left with the firm impression that the only difference between your division and the old security regime is the change in surnames. (See the attached documents indicating previous attempts "to get rid of me"). Only time will tell if you have succeeded and whether the end justify the means.

In closing I wish to echo the answer by Oscar Wilde during his cross-examination: "Don't you have any decency?"



AR ACKERMANN
HEAD: PCLU



SMA RC
BS

"β"

/Z56 forms

Office of the Head
Priority Crimes Litigation Unit
VGM Building
PRETORIA

P. O. Box 752,
PRETORIA
0001

VGM Building
Hartley St.
Weyind Park
0001
Pretoria
South Africa

INTERNAL MEMORANDUM

TO : ADV LEONARD McCARTHY
DIRECTORATE OF SPECIAL OPERATIONS

FROM : ADV AR ACKERMANN
PRIORITY CRIMES LITIGATION UNIT

DATE : 27 SEPTEMBER 2007

SUBJECT : PROJECT GNOME

Dear Leonard

1. I shall be brief.
2. I am adamant and 100% sure that the figure "6" as reflected in the handwriting expert's document, FDC 0095/07 (Annexure "E") is not in my handwriting.
3. I am of the view that you do not need a handwriting expert to establish that fact.
4. Furthermore, it is important to note that the handwriting expert made no such finding and merely remarked:
"...with no alteration to the last figure '6'."
5. Within minutes after I had received the said memorandum from Commissioner Jacobs, I phoned him and informed him that the memorandum was forged and requested him to furnish me with the original. To date, I have not had sight of the original.
6. it is incomprehensible that somebody will post-date by three

Tel: (012) 845 6474
Cell: 082 495 4599

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years the year on a document. To pre-date the year during the months of January or February is quite common.

7. I have never, on any occasion, written to Dr Ramaite in Afrikaans.
8. The crucial question is whether any person in SAPS had a motive or reason to produce a document, emanating from the NPA, to the effect that the NPA was still investigating ANC office bearers during 2006.
9. If no such motive exists, I must accept that the *gravamen* of the disputed document falls away.
10. Kindly find attached hereto a letter from the Minister to Adv Pikoli.
11. I am very interested to know which documents the National Commissioner "... produced to support his argument that indeed there is an investigation by the NPA on certain political office bearers."
12. If the disputed document is relied on by the National Commissioner to prove that there is indeed an investigation by the NPA on ANC office bearers, then this will contradict the explanation given by Commissioners de Beer and Jacobs to the effect that since 2003, SAPS were fully aware that the disputed document had been compiled in 2003 and that an incorrect date had been inserted on it.
13. I will not bore you with the numerous improbabilities which exist.
14. Adv Macadam stated in his report, addressed to you and others, that I had informed him on 25 August 2007 that the disputed report had been discussed between the NDPP and the National Commissioner. That is not correct. Macadam further stated that the NDPP had informed me that the disputed report had been shown to various Ministers. That is also not correct. The NDPP and I surmised that the disputed report had probably been the document shown to the Ministers in the light of the National Commissioner's assertion that he had written proof that I was still investigating the ANC leadership. The Minister's letter sheds more light on this matter.

Regards



AR ACKERMANN



SW

Re
B.J

GEORGE BIZOS S.C.

Office Address:
4th Floor, Elizabeth House
18 Pritchard Street
Johannesburg 2001
Tel: (011) 836-9831
Fax: (011) 834-4273

Postal Address:
P O Box 9495, Johannesburg
2000

Your Ref:

Our Ref: George Bizos/JK

14 January 1998

TO WHOM IT MAY CONCERN:

During 1976 - 1977 I appeared at a formal inquest in the Magistrate's Court, Johannesburg on behalf of the family of Jabu Vilakazi who was killed by members of the South African Police. The prosecutor who led the evidence was Mr A R Ackermann now senior counsel in the office of the Attorney-General in Pretoria. It was contended by us on behalf of the family that members of the Brixton Murder and Robbery Unit arrested the late Vilakazi, took him for a so-called pointing out and then shot him in cold blood and that their story that they did so because he tried to escape was a fabrication. It was customary during that period for prosecutors to defend the police irrespective of the weight of evidence against them. To our surprise, Mr Ackermann's objectivity was demonstrated by submitting that the members of the Brixton Murder and Robbery Unit were criminally responsible for the death of the deceased. In my view, this was a breath of fresh air and gave one hope that despite the pressures that must have existed on a comparatively junior member of the profession, he courageously and correctly submitted what he believed to be in accordance with his oath of office. We were not alone in that belief. The Magistrate made a positive finding in accordance with Mr Ackermann's and our submissions. I have always singled him out as the outstanding exception amongst those who thought that protecting the police was more important than serving justice. Although we have lost touch, I am reliably informed that he has continued to behave in an objective and proper manner throughout his professional career. I am pleased to place on record what has been in my mind for so long.

George Bizos

[Signature]
S.W.

RC
BS

Mothibedi Boitumelo

From: Mulaudzi Joseph
Sent: Friday, 13 March 2026 11:33
To: Mothibedi Boitumelo
Subject: FW: RULE 3.4 CROSS EXAMINATION APPLICATION FORMALITIES

From: Tlotlego Tsagae <ttsagae@rsabar.co.za>
Sent: Friday, March 13, 2026 11:32 AM
To: Mulaudzi Joseph <JMulaudzi@justice.gov.za>; Baloyi Ronald <RonBaloyi@justice.gov.za>
Cc: Moroka <Moroka@thulamelachambers.co.za>; Matseleng Lekoane <mlekoane@counsel.co.za>
Subject: FW: RULE 3.4 CROSS EXAMINATION APPLICATION FORMALITIES

Dear Mr Mulaudzi,

Please see the correspondence below referred to in our cross examination application.

Regards,
 Tlotlego

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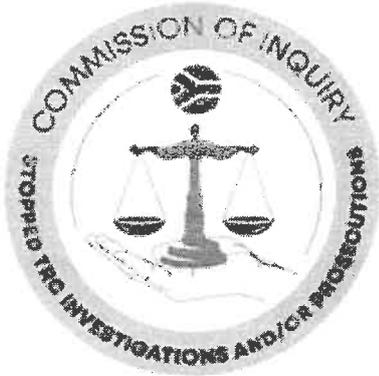
From: Secretary <secretary@trc-inquiry.org.za>
Date: Wednesday, 11 March 2026 at 18:12
To: Tlotlego Tsagae <ttsagae@rsabar.co.za>
Cc: moroka <moroka@thulamelachambers.co.za>, Baitseng Rangata <baitseng@brrangata.co.za>, Nompumelelo Seme <seme@vmxenge.co.za>
Subject: Re: RULE 3.4 CROSS EXAMINATION APPLICATION FORMALITIES

Dear Adv Tsagae,

With reference to your email of 11 March 2026 and our response thereto, we state the following:

1. We note further that you make reference to Regulation 8(3) read with rule 3.4;
2. Please note that the correct provision governing the process of cross examination in addition to what is contained in our earlier email, is provided for in Regulation 8(3) read with Rule 3.7.

Thank you kindly.



Adv Mphothu Thokoa
Secretary
TRC CASES INQUIRY
+27 69 008 8888
secretay@trc-inquiry.org.za
www.trc-inquiry.org.za



TRC_Inquiry



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TRC_Inquiry

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From: Secretary <secretary@trc-inquiry.org.za>
Sent: Wednesday, March 11, 2026 3:45 PM
To: Tlotlego Tsagae <Ttsagae@rsabar.co.za>
Cc: moroka <moroka@thulamelachambers.co.za>
Subject: Re: RULE 3.4 CROSS EXAMINATION APPLICATION FORMALITIES

Dear Adv Tsagae,

We acknowledge receipt of the mail below .

You correctly point to the applicable rule relating to applications for cross-examination.

We further refer you to Rule 11 of the Commission’s rules, particularly, Rule 11.3 which provides that:

11.3. “Wherever the Rules make provision for any person to apply to the Commission or to the Chairperson , the application must be a substantive application on application on affidavit with a notice of motion. The affidavit must, among other things, reflect the relevant facts, the order sought and the grounds relied upon to seek that order”.

We note that your client intends to file such application. We look forward to receiving the formal application as provided for above.

Kind Regards,

PC
BS



Adv Mphothu Thokoa
 Secretary
TRC CASES INQUIRY
 +27 69 008 8888
secretary@trc-inquiry.org.za
www.trc-inquiry.org.za



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From: Tlotlego Tsagae <ttsagae@rsabar.co.za>
Sent: Wednesday, March 11, 2026 11:26 AM
To: Secretary <secretary@trc-inquiry.org.za>
Subject: RULE 3.4 CROSS EXAMINATION APPLICATION FORMALITIES

Good day,

In preparing the request to cross examine Advocate Ackermann SC we revisited regulation 8(3) read with Rule 3.4 of the Rules of the Commission which reads as follows:

"An application in terms of Rule 3.3.6 above must be submitted in writing to the Secretary of the Commission within fourteen calendar days from the date of the notice referred to in Rule 3.3. The application must be accompanied by a statement from the implicated person responding to the witness' statement in so far as it implicates him or her. The statement must make it clear what parts of the witness' statement are disputed or denied and the grounds upon which those parts are disputed or denied."

We write to the Commission seeking clarity on whether the wording of the rule contemplates a formal application accompanied by a commissioned statement or whether a written statement would be appropriate.

Kind regards,
 Tlotlego Tsagae

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RC
 BJ



Office of the State Attorney Pretoria

PRIVATE BAG X 91
PRETORIA
0001

SALU BUILDING
316 THABO SEHUME STREET
CNR FRANCIS BAARD AND
THABO SEHUME STREET

TEL: (SWITCHBOARD): (012) 309 1500
(DIRECT LINE): (012) 309 1502
FAX: 086 507 5051

16 MARCH 2026

Enq: L. Gumede
Email: L.Gumede@justice.gov.za

My Ref: **00188/25/83**
Your Ref:

The Chairperson
Commission of Inquiry: TRC Stopped Investigations and/or Prosecutions
Sci-Bono Discovery Centre
Mirriam Makeba Street
Newtown
Johannesburg

Per email: secretary@trc-inquiry.org.za

Dear Chairperson

**RE: APPLICATION FOR CROSS-EXAMINATION OF ADV ACKERMANN SC: 19
AND 20 MARCH 2026**

1. We act on behalf of the South African Police Service ("the SAPS") in this Commission.

2. This letter serves as an application for the cross-examination of Adv Ackermann SC ("Ackermann SC") on 19 and 20 March 2026. The basis for this application is set out in the affidavit deposed to by Lungelo Gumede, which is attached hereto.

3. Having considered the mandate of the Commission together with its terms of reference, we are of a humble view that it is in the interest of the SAPS that Adv Ackermann SC's evidence be subjected to cross-examination to test the veracity of the allegations he made in relation to the SAPS and/or its officials.

Yours faithfully

State Attorney's signature

17/03/2026

**THE JUDICIAL COMMISSION OF INQUIRY INTO ALLEGATIONS REGARDING
EFFORTS OR ATTEMPTS TO STOP THE INVESTIGATION OR PROSECUTION
OF TRUTH AND RECONCILIATION COMMISSION CASES**

HELD AT:

Sci-Bono Discovery Centre, corner Mirriam Makeba & Helen Joseph Street,
Newtown, Johannesburg

APPLICATION FOR CROSS-EXAMINATION OF ADV ACKERMANN SC

I, the undersigned,

LUNGELO GUMEDE

1. do hereby declare under oath as follows:

- 1.1. I am an adult male attorney in the employ of the State Attorney Pretoria, stationed at Salu Building, 316 Thabo Sehume Street, Pretoria. I am the attorney of record for the South African Police Service ("SAPS") in this Commission.
- 1.2. Due to my acquaintance with the facts of this matter and the issues involved in the present application, I am authorised to depose to this affidavit on behalf of the SAPS.
- 1.3. The facts deposed herein are, save where the contrary appears from the context, within my personal knowledge and to the best of my belief true and correct.
- 1.4. Where I make submissions of a legal nature, I do so in my capacity as an attorney and on advice of counsel on brief for the SAPS in this Commission, which advice I accept as being true and correct.

NR
1/11/11

PURPOSE OF THIS AFFIDAVIT

2. This affidavit is filed in support of the SAPS's application for cross examination of Adv Anton Rossouw Ackermann SC ("Ackermann SC") scheduled to take place on 19 and 20 March 2026. The application is made pursuant to Ackermann SC's affidavit dated 25 October 2025 and his subsequent oral testimony tendered before this Commission on 4, 5 and 6 March 2026.
3. The application is brought in terms of Regulation 8(3) of the Regulations governing the Commission of Inquiry read with the Commission's rules on cross-examination.

BASIS FOR THIS APPLICATION

4. The evidence tendered by Ackermann SC contains the allegations and assertions implicating the SAPS and/or its members in matters falling within the Commission's Terms of Reference.
5. In terms of its mandate, the Commission must, in relation to the period 2003, inquire into, make findings, report on, and make recommendations concerning the following allegations:
 - 5.1. whether, why, and to what extent and by whom, efforts or attempts were made to influence or pressure members of the South African Police Service or the National Prosecuting Authority to stop investigating or prosecuting TRC cases;
 - 5.2. whether any members of the South African Police Service or the National Prosecuting Authority improperly colluded with such attempts to influence

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or pressure them; and

- 5.3. whether any action should be taken by any Organ of State, including possible further investigations to be conducted or prosecutions to be instituted, where appropriate, of persons who may have acted unlawfully by –
- 5.3.1. attempting to influence or pressure members of the South African Police Service or the National Prosecuting Authority to stop investigating or prosecuting TRC cases; or
- 5.3.2. members of the South African Police Service or the National Prosecuting Authority colluded with or succumbed to attempts to influence or pressure such members to stop investigating or prosecuting TRC cases; and
- 5.4. whether, in terms of the law and fairness, the payment of any amount in constitutional damages to any person is appropriate.

ASPECTS ARISING FROM ACKERMANN SC'S EVIDENCE

6. The relevant aspects arising from Ackermann SC's affidavit(s) and oral testimony which require further examination, and form the basis of the SAPS's request for his cross-examination relate to the allegations that:
- 6.1. The first act of political interference which effectively stopped the work of the Priority Crimes Litigation Unit ("PCLU") into the TRC cases was the suspension of such cases during 2004, pending the issuing of the new prosecution guidelines.¹
- 6.2. The PCLU was expected to act under the advisement of a multi-

¹ Paragraph 32: page 14: Bundle 3

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departmental committee, which included the National Intelligence Agency ("NIA") and the SAPS. The entire process would be carried out behind closed doors.²

6.3. Once the guidelines were issued in December 2005, Ackermann SC wanted to proceed with the 5 (five) cases he had identified as having good prosecution prospects and 11 cases which required further investigation. These were identified as "major priorities" for the PCLU for the 2006 - 2007 period. 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 for various reasons. These included a lack of investigative capacity as well as difficulties encountered in convening the multi-departmental committee that was meant to advise the PCLU on what cases to pursue.³

6.4. On 6 December 2006, the PCLU received a letter from '*the head of the SAPS Legal Support section, Major General PC Jacobs*', representing the view of the National Commissioner. The said view was that, before any prosecutorial decision was made in respect of the TRC cases, the Task Team had to submit a final recommendation to a Committee of Director-Generals in respect of each case, which in turn had to advise the NDPP in respect of who to prosecute or not.⁴

6.5. Once the guidelines had been issued, it became clear to Ackermann SC that the SAPS and NIA representatives believed they were part of

² Paragraph 23.3: page 11: Bundle 3

³ Paragraph 25: page 12: Bundle 3

⁴ Paragraph 33.1: page 15: Bundle 3

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the prosecutorial decision making process.⁵

- 6.6. During 2007 an official note purportedly written by Ackermann SC in 2006, was circulated in certain government circles wherein it was reflected that he was behind the investigation of criminal charges against 37 ANC leaders, who were refused amnesty by the TRC Commission. These included the former President Thabo Mbeki among others.⁶
- 6.7. The note he allegedly prepared was compiled in 2003 but the date of the note in question had been fabricated to give a false impression that it was compiled in 2006. Ackermann SC's believes '*the fabricated note*' was aimed at discrediting him and ultimately stopping the investigations into the TRC cases. He is firmly of the view that the then National Commissioner Jackie Selebi ("Commissioner Selebi"), played a '*conspicuous role*' in claiming that he was pursuing the said leaders.⁷
- 6.8. He was advised by the NDPP at the time, Adv Pikoli, that senior people in government wanted to fire him because of still pursuing the TRC cases.⁸ Following the suspension of Adv Pikoli, he was subsequently advised by Adv. Mpshe of the fact that he was relieved of his duties in relation to the TRC cases with immediate effect. He has no doubt that Adv. Mpshe received a political instruction to remove him from these cases.⁹

⁵ Paragraph 33: page 15: Bundle 3

⁶ Paragraph 35: page 16: Bundle 3

⁷ Paragraph 35: page 16: Bundle 3

⁸ Paragraph 36: page 16: Bundle 3

⁹ Paragraph 37: page 16: Bundle 3

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7. Further allegations that require examination are found in Ackermann SC's oral testimony, wherein it is stated that:

7.1. He requested Commissioner de Beer to appoint police officials to take over the investigations of the TRC matters. After a series of meetings held with Commissioner de Beer, the latter approached the National Commissioner, who indicated that the police would only investigate upon a written instruction of the President.¹⁰

7.2. Mr Ngcuka had transferred the TRC cases to the DSO and was adamant that all the TRC matters had to be investigated by the DSO and not SAPS. As a consequence of this decision, the DSO requested Commissioner de Beer to conduct an audit of all the TRC cases carried by the SAPS at the time and refer them to the DSO and the SAPS was perfectly amenable to this request. Only a handful of cases were finalised where the decisions were made not to prosecute in the TRC matters.¹¹

7.3. He met with Commissioner de Beer and requested him to take over the TRC cases dealt with by the DSO. Commissioner de Beer then requested him to put his request in writing so that the matter could be discussed with Commissioner Selebi. After putting the request in

¹⁰ Transcript 4 March 2026: page 34 from lines 7 to 21

¹¹ Transcript 4 March 2026: page 41 from lines 12 to page 42 line 5

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writing, he was advised that the SAPS would not investigate the TRC cases, unless the President authorised it to do so.¹²

7.4. The Task Team had a concern about the decision taken to proceed with the prosecution in the Chikane matter. Adv Pikoli informed him that Chikane was not in favour of the prosecution been proceeded with and gave him his views on the matter.¹³ There was only one way out for the ANC to prevent the prosecution against its leaders; and that was to make sure that no prosecution was instituted in the Chikane matter.¹⁴

7.5. Him and Adv Pikoli were the only two obstacles that the Justice Cluster had to contend with regarding the decisions to prosecute in the TRC matters. They therefore had to find convenable reasons to remove them from the TRC related cases. He is of the view that the reasons advanced by President Mbeki for suspending Mr Pikoli, were unbelievable and far-fetched.¹⁵

8. When stripped to the bone of relevance within the framework of the Commission's mandate, Ackermann SC makes the following allegations in respect of the persons implicated:

8.1. That the collaborators in suppressing the investigation of TRC cases, was at a high level involving the Minister of Justice and Constitutional Development, namely Ms Brigitte Mabandla ("Ms Mabandla"),

¹² Transcript 4 March 2026: page 43 from lines 19 to page 44 line 4

¹³ Transcript 5 March 2026: page 18 from lines 22 to 25

¹⁴ Transcript 6 March 2026: page 21 from lines 8 to 25

¹⁵ Transcript 5 March 2026: page 45 from lines 16 to page 46 line 2

NR
KEC

supported by the DG for the Department of Justice and Constitutional Development (“DCOJ”) at the time, Mr Menzi Simelane (“Mr Simelane”) together with **Commissioner Selebi** with the support of **Major General Jacobs**, to ensure his removal from working on the TRC cases.

- 8.2. That they ensured his removal from investigation of the TRC cases through political instructions and protection; and
- 8.3. That they further conspired against him by ultimately fabricating a note and hacking his computer to plant the said note to ensure that the ‘last obstacle’ in the prosecution and investigation of the TRC cases was stopped.

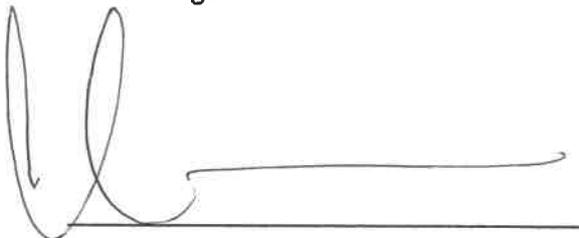
CROSS EXAMINATION FOCUS

9. Flowing from Ackermann SC’s evidence, the following areas of contention will then be addressed during his intended cross examination:
 - 9.1. The various reasons why the PCLU was unable to pursue any cases of the TRC cases;
 - 9.2. The importance of clearly mandated interdepartmental collaboration to have maintained nation building and stability;
 - 9.3. The Chikane matter and a lack of further cases being pursued;
 - 9.4. The establishment of the Interdepartmental Task Team (“the ITT”) and its meetings; and
 - 9.5. The alleged fabricated note.
10. It needs to be stated that the issues identified as focal point(s) for cross examination above are not intended to constitute an exhaustive list, but rather to

assist the Commission in the exercise of its discretion in considering this application.

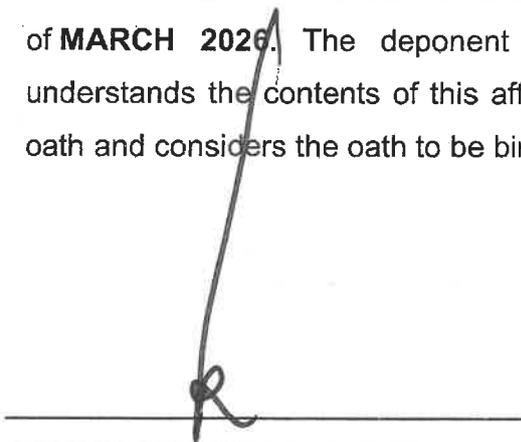
CONCLUSION

- 11. Based on the above, it is submitted that it is in the interest of the SAPS that the veracity of the allegations made by Ackermann SC be tested through cross examination to assist the Commission in its findings.



DEPONENT

THUS SIGNED AND SWORN TO before me at PRETORIA on this 17th day of MARCH 2026. The deponent having acknowledged that he knows and understands the contents of this affidavit, has no objection to take the prescribed oath and considers the oath to be binding on his conscience.



COMMISSIONER OF OATHS

FULL NAMES:

CAPACITY:

ADDRESS:

<p>NYIKO RONALD BALOYI COMMISSIONER OF OATHS EX OFFICIO PRACTISING ATTORNEY PRETORIA, RSA CELL: 078 220 2896 FAX: 086 666 1436 Email: ronaldn@mailbox.co.za</p>
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17 March 2026

Enq: Mr. N.R. Baloyi
Email: RonBaloyi@justice.gov.za

Our Ref: 0188/25/Z83
Your Ref:

The Secretary
Commission of Inquiry into Stopped TRC Investigations & Prosecutions
JOHANNESBURG

BY EMAIL: secretary@trc-inquiry.org.za

Dear Madam.

**COMMISSION OF INQUIRY INTO STOPPED INVESTIGATION OR PROSECUTION
OF TRUTH & RECONCILIATION COMMISSION CASES**

- 1 We confirm that we act for the National Prosecuting Authority before this Commission.
- 2 This letter serves as an application for the cross-examination of Adv Ackermann SC ("Ackermann SC") on 19 and 20 March 2026. The basis for this application is set out in the affidavit deposed to by the state attorney, Mr Nyiko Ronald Baloyi, which is attached hereto.
- 3 Having considered the mandate of the Commission together with its terms of reference, we are of a humble view that it is in the interest of the NPA that Adv Ackermann SC's evidence be subjected to cross-examination to test the veracity of the allegations he made in relation to the NPA and/or its officials.

We trust that you find the above in order.

Yours faithfully.

A handwritten signature in black ink that reads "NR Baloyi". The letters are cursive and fluid, with a prominent flourish at the end of the word "Baloyi".

Mr. N.R. Baloyi
FOR STATE ATTORNEY PRETORIA

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

**HELD AT: Sci-Bono Discovery, Corner Miriam Makeba & Helen Joseph Street,
Newtown, Johannesburg**

BEFORE:

**The Honourable Justice Sisi Khampepe (Judge RTD) - Chairperson
The Honourable Justice Frans Diale Kgomo (Judge President RTD)
Adv Andrea Gabriel (SC)**

NATIONAL PROSECUTING AUTHORITY APPLICATION TO CROSS EXAMINE

I, the undersigned,

NYIKO RONALD BALOYI

do hereby make oath and state:

- 1 I am an adult male attorney of the High Court of South Africa and a Senior Assistant State Attorney practicing as such at the **OFFICE OF STATE ATTORNEY**, situated at **SALU BUILDING, 316 THABO SEHUME STREET, PRETORIA**. I act on behalf of the National Prosecuting Authority ("the NPA") before this Commission.



- 2 The facts deposed to herein fall within my personal knowledge and are, unless the context indicates otherwise, true and correct.

A REASON FOR THE AFFIDAVIT

- 3 This affidavit is filed in support of the request to cross examine Adv Anton Ackerman SC.

B POINTS OF CROSS EXAMINATION

- 4 The National Prosecuting Authority ("the NPA") hereby seeks leave for the witness, Adv Anton Ackermann SC, to be cross-examined on aspects of the evidence he has presented before this Commission.

- 5 The National Prosecuting Authority ("the NPA") participates in these proceedings in circumstances where the Commission is tasked with investigating allegations of political interference in relation to the prosecution of matters arising from the Truth and Reconciliation Commission ("TRC") process. Although the NPA is not formally cited as a party to the proceedings, the issues under investigation concern the manner in which prosecutorial decisions relating to TRC matters were taken, managed and implemented within the prosecutorial authority. The NPA is therefore institutionally implicated in the subject matter of the Commission's inquiry.

- 6 In that context, it is important that the position of the NPA, as the constitutionally mandated prosecuting authority established under section 179 of the Constitution, be properly understood. The Commission's inquiry necessarily



engages with questions concerning the exercise of prosecutorial discretion, the independence of prosecutors, and the internal processes through which prosecutorial decisions were taken during the relevant period. Where evidence is led that touches upon those institutional processes, it is both necessary and appropriate that the NPA be afforded the opportunity to engage with such evidence in order to ensure that the factual record before the Commission is complete and accurate.

- 7 The testimony of Adv Ackermann SC engages directly with matters that occurred within the prosecutorial environment and, in particular, with decisions and processes relating to the handling of TRC-related prosecutions. In those circumstances, the NPA has a legitimate institutional interest in ensuring that the Commission is assisted with a full and balanced account of the relevant events, including the internal structures, reporting lines and decision-making processes that exist within the NPA.
- 8 Furthermore, certain aspects of the witness's evidence concern steps allegedly taken by Adv Ackermann SC himself in the course of dealing with TRC-related matters. These include matters relating to communications within the NPA, the manner in which prosecutorial decisions were pursued or reported internally, and the interactions that took place between the witness and other officials within the prosecutorial authority. It is therefore necessary for the NPA to explore those issues in greater detail in order to obtain clarity regarding the factual basis of the witness's account.

- 9 Cross-examination will also enable the NPA to place before the witness certain facts which relate to evidence that will be led on behalf of the NPA, so that the witness may respond to those matters directly. This process is essential to ensure that the Commission has before it a properly ventilated evidential record when considering issues relating to the functioning of the prosecutorial authority during the relevant period.
- 10 In the course of his testimony, Adv Ackermann SC further advanced a series of serious allegations concerning the NPA. These include allegations of political interference in prosecutorial decision-making; claims that the NPA was intimidated or pressured to refrain from instituting prosecutions arising from matters connected to the Truth and Reconciliation Commission (“TRC”) process; assertions that senior officials within the NPA either acquiesced in, or failed to resist, such alleged interference; and contentions that internal decisions within the NPA resulted in the witness himself being removed from involvement in TRC-related prosecutions. He further indicated that after he was removed from the TRC cases, nothing was done on TRC related cases.
- 11 These allegations are not merely peripheral observations. They strike at the core of the NPA’s constitutional mandate and the conduct of its officials. In several instances, the allegations are framed as conclusions drawn from conversations, impressions or second-hand information, and in other instances they rest on inferences about the motives or conduct of senior officials. These are matters



that cannot properly be evaluated without the opportunity to test the witness's evidence.

- 12 The NPA accordingly submits that the interests of fairness, and the proper administration of justice, require that the evidence of Adv Ackermann SC be subjected to cross-examination. Where testimony raises serious allegations concerning the conduct of an institution and its senior officials, it is both appropriate and necessary that such evidence be tested through the ordinary forensic process before any reliance is placed upon it.

- 13 Cross-examination will enable the Commission to properly assess the accuracy, reliability and evidential basis of the witness's assertions. It will also ensure that the Commission's ultimate findings are made on the basis of evidence that has been fully ventilated and tested.

Indirect allegations concerning Adv Mhaga

- 14 Although less detailed, the witness's evidence implicates Adv Mthunzi Mhaga in two ways. First, the witness refers to emails and task team processes involving Adv Mhaga in the context of Reverend Frank Chikane and task team meetings. Second, he comments on the later document that placed Dr Silas Ramaite SC, Adv Mhaga and the TRC task team in charge of post-TRC investigations and prosecutions, effectively suggesting inaction or opacity thereafter. (05-03-26)

- 15 The NPA further has to place particular documents to Ackerman SC as they relate to evidence that will be led during the evidence of NPA witnesses. The



statement of Adv Mhaga is being prepared but cognisant of the time period, it is not possible to file it together with this application.

Direct areas of cross examination

16 The NPA seeks leave to cross-examine Adv Ackermann SC on, *inter alia*, the following aspects:

16.1 The factual basis for the allegations of political interference in prosecutorial decision-making, including the source of such information;

16.2 The nature, content and context of any alleged communications said to constitute interference;

16.3 The witness's understanding of the internal decision-making processes within the NPA, including reporting lines, authority structures, and the role of various officials in relation to TRC-related prosecutions;

16.4 The steps allegedly taken by the witness in response to the perceived interference, including any internal reports, objections, or formal communications made within the NPA;

16.5 The assertion that no further action was taken in relation to TRC-related prosecutions following the witness's removal, including the evidential foundation for that assertion;



16.6 The witness’s participation in, and knowledge of, task team processes, including meetings, email correspondence, and the roles played by various officials, including Adv Mhaga and Dr Ramaite; and

16.7 The factual foundation for any suggestion of inaction, opacity, or failure on the part of the NPA or its officials, including the extent of the witness’s knowledge of subsequent developments.

C CONCLUSION

17 In these circumstances, permitting cross-examination will assist the Commission in its truth-seeking function by ensuring that the matters raised in the witness’s testimony are explored fully and fairly, and that the institutional context within which those events occurred is properly understood.

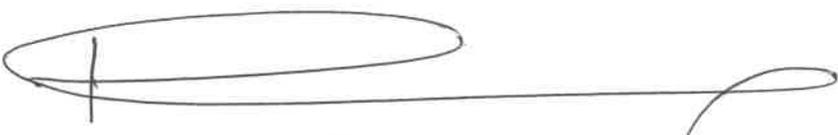
18 Thus, allowing the cross examination will be in the best interest of the work of the commission.



DEPONENT

I certify that the Deponent has acknowledged that he knows and understands the contents of this affidavit, which was signed and sworn to before me at **PRETORIA** on this **17TH** day of **MARCH 2026**, the regulations contained in Government Notice R1258 of 21 July 1972, as amended, having been complied with.





COMMISSIONER OF OATHSFULL NAMES: *NYIKO LUCKY NKUNA*

CAPACITY: PRACTISING ATTORNEY

BUSINESS ADDRESS: FRANCIS BAARD STREET

AREA: PRETORIA, RSA

NYIKO LUCKY NKUNA

COMMISSIONER OF OATHS

PRACTISING ATTORNEY

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