

**IN 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)**

STATEMENT BY ADV NOMGCOBO JIBA

1. I am an adult female and a practising advocate of the High Court Court of South Africa and a member of the Pan African Bar Association of South Africa with chambers situated at number 82 Maude Street, Sandton.
2. The facts deposed to herein are within my personal knowledge and to the best of my knowledge and ability, unless otherwise stated, true and correct. Where I make submissions of a legal nature, I do so on advice from my legal representatives, which I verily believe to be true.
3. I was previously employed by the National Prosecuting Authority of South Africa (NPA) as a Deputy National Director of Public Prosecutions (DNDPP) having been appointed as such on 22 December 2010. During my tenure as DNDPP, I was appointed to act as a National Director of Public Prosecutions (“ANDPP”) from around 20 December 2011 until around 30 August 2013 when Mr Mxolisi Nxasana was appointed as National Director of Public Prosecutions (“NDPP”). I recall that I acted in this position for a period of approximately twenty months.

*N. J
lm*

4. The President has established a Commission of Inquiry to investigate allegations into attempts to influence or to stop the investigation or prosecution of Truth and Reconciliation Commission ("TRC") cases.
5. Paragraph 1 of the Terms of Reference ("ToR"), states that the Commission must, in respect of the period since 2003, inquire into, make findings and recommendations on, amongst others:
 - 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 ("SAPS") or the NPA to stop investigating or prosecuting TRC cases;
 - 5.2 whether any members of the SAPS or the NPA improperly colluded with, or succumbed to, such attempts;
 - 5.3 whether any action should be taken by any organ of state, including further investigations or prosecutions against persons who may have acted unlawfully by attempting to influence, or colluding with attempts to influence, SAPS or NPA members not to investigate or prosecute TRC matters; and
 - 5.4 whether, in law and fairness, the payment of constitutional damages to affected persons is appropriate.
- 6 The commission has thus requested me to furnish it with any information to assist it in the furtherance of its investigations. The statement is submitted in response to the Commission's request for assistance, and to respond to the false innuendo made against me by Adv Chris McAdam in relation to the Cradock Four docket. I state from the onset that at no stage did I make a request for the Cradock Four docket as it is stated, or any docket for that matter.
- 7 In this statement :

N.J
LM

7.1 First, I explain my interaction with the Priority Crimes Litigation Unit (PCLU) which dealt with the TRC matters in my capacity as the Acting National Director of Public Prosecutions;

7.2 Second, I explain my interaction with PCLU in my capacity as the Deputy National Director of Public Prosecutions .

A. Interaction with PCLU as Acting National Director of Public Prosecutions

8 As I have mentioned in paragraph 3 above, I was appointed by former President Zuma to act as the National Director of Public Prosecutions from around 20 December 2011. My acting stint as mentioned above ended around 30 August 2013 when Mr Mxolisi Nxasana was appointed as NDPP.

9 The NPA leadership at head office consisted of four Deputy National Directors of Public Prosecutors, who were responsible for four business units. The Priority Crimes Litigation Unit is one of the units that fell under Dr Ramaite as the Deputy National Director of Public Prosecutions.

10 In so far as PCLU matters are concerned, as ANDPP I would receive reports emanating from PCLU through the DNDPP, Dr Ramaite, in charge of PCLU. The reports that I received from PCLU did not allude to any political interference and as such I have no knowledge of political interference in the prosecution of TRC cases in my time.

11 With regard to the alleged cradock four missing docket, I never tasked anyone to go and collect a docket from PCLU, neither did I receive the said docket from PCLU. I find it strange that Chris MacAdam remembers that *a person from ANDPP office came to take the*

docket, but does not know who that person is; something that is very important. He is able to remember clearly things that occurred way before the alleged missing docket, but chooses not to remember who took the docket from his office. He conveniently states that he does not remember who came and took the docket from him. I submit that the allegations that he makes are false and unsubstantiated. No one was sent by me to take any docket from his office. It is unfortunate that these misleading and false allegations made by Adv Chris McAdam have been used as a justification for the delays in finalizing the investigations and prosecution of the Cradock four case.

- 12 I attach herewith a letter that was sent by Ms Lepinka the manager executive support in the office of the NDPP, which must have been a response to a report that was submitted by PCLU in the normal course of events and the memorandum received from Adv Shaun Abrahams, the Acting Special Director (PCLU) at the time as **Annexure NJ1 & NJ2** respectively. The request has no reference to the docket. The request only sought more information and clarity which was furnished. From the memorandum there is, and there was, no reason to request any docket because the information that was requested was furnished.
- 13 Adv Chris McAdam must not seek to use me, or the Office of the ANDPP during my tenure, as a scapegoat for his own failure to finalize the investigations. Whatever political interference there was in the past which he relies upon for the delays in finalizing the investigations and prosecutions of the TRC matters, there was none during my era as Acting National Director of Public Prosecutions.
- 14 Far from delaying the investigations and prosecutions of the TRC matters, I show hereunder that I took steps to ensure that these TRC cases are dealt with.

N.J
cm

B. Interaction with PCLU as Deputy National Director of Public Prosecutions

- 15 After the appointment of Mr Mxolisi Nxasana as National Director of Public Prosecutions by former President Zuma, I was assigned to the Legal Affairs Division Unit (LAD) as a Deputy National Director of Public Prosecutions in charge of that unit. LAD dealt with all civil litigation instituted against the organization. After Mr Nxasana left the NPA, Adv Shaun Abrahams was appointed as National Director of Public Prosecutions. I was then assigned to the National Prosecuting Service (NPS) as a Deputy National Director of Public Prosecutions responsible for the unit. NPS dealt with prosecutions in general, reviews and representations made to the National Director of Public prosecutions.
- 16 In order to manage and monitor prosecutions, I would have bi-monthly operational meetings with the Directors of Public Prosecutions from all the divisions to discuss performance, challenges and agree on strategies that should be put in place in order to address bottlenecks which hampered performance and successful prosecutions of cases where there is a need to. These meetings were called the National Operational Management Meetings (NOMM).
- 17 Because of the depth in which performance was discussed and successes attributable to NOMM, the NDPP (Adv Shaun Abrahams) decided that the PCLU and Special Commercial Crimes Unit (SCCU) must also fall under the NPS so that performance by these specialist units could also be interrogated in the same way as the divisional performance.
- 18 I recall that I only had one or two NEEC meetings after the inclusion of PCLU. In one of those meetings a presentation was made on the cases emanating from TRC. As a result

N. J
LM

of that presentation which showed lack of progress in the investigation and prosecution of the TRC cases, a resolution was taken that PCLU must submit a report consisting of the list of all TRC cases in their possession indicating the area of jurisdiction in respect of each and every case, the summary of evidence contained in the dockets and the dockets. This information was to be submitted to Adv Trish Matzke who was then the Senior Deputy Director of Public Prosecutions in the NPS, the business unit that I headed. I attach herewith the email implementing this resolution as **Annexure NJ3**.

19 Unfortunately, I was not able to see the investigations and prosecutions of these cases to completion as I was placed on precautionary suspension with full pay by the Honourable President Cyril Matamela Ramaphosa on 25 October 2018 pending institution of an inquiry into my fitness to hold office as DNDPP, arising from prosecutorial decisions I took in relation to the prosecution of the Cato Manor police officials, a decision that I to date maintain was the correct prosecutorial decision on available evidence at the time, and I therefore have no regrets of having taken the decision.

20 The report on the TRC cases referred to above is amongst the documents that I requested from the NPA in order to assist the Commission in its work. I was informed that the report, together with all memorandums that I requested cannot be found. I know for a fact that the report was submitted to Adv Trish Matzke, who I understand is now on retirement.



NOMGCOBO JIBA

I certify that the deponent has acknowledged that she knows and understands the contents of this statement, which was signed and sworn to before me at PRETORIA on 09 March 2026.



Lm. Hlateni
Cot
72693037

NJI

**Office of the
National Director of Public
Prosecutions**



received 29/4/2013

INTERNAL MEMORANDUM

TO: ADV S ABBRAHAMS
ACT SPECIAL DIRECTOR: PCLU

FROM: J LEPINKA
MANAGER EXECUTIVE SUPPORT TO THE NDPP

REFERENCE: ANDPP/JL/04/2013

DATE: 26 APRIL 2013

SUBJECT: CRADOCK 4 MATTER

contact 1/0
re polygraph
affidavit.
He is in
Nelspruit
will try
to check
in
next
week.

Dear Adv Abrahams,

The above matter refers.

The ANDPP would appreciate the below mentioned areas to be attended to, to enable her to apply her mind accordingly:-

1. In your memo that you wrote to Adv. Mahlathi in paragraph 9, you state that after, accused received amnesty for the death of Goniwe – who are those accused persons – please specify their names.
2. Para 11 – who are the 6 former members of the Port Elizabeth Security Branch who applied for amnesty;
3. Who of those implicated in the murder of the deceased is still alive?
4. a. With regard to the affidavit made by the polygraph expert in Crime Intelligence, did the investigation establish why he made the allegation that he made against Gen Hankel?;
- b. Who is the Polygraph expert? Can his affidavit be attached to your memorandum.

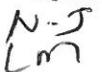
N-J
Lm

In light of the above you are requested to submit a memo addressing all aspects as contained herein above. (bullet a – 4(b))

Kind regards



J LERINKA
MANAGER EXECUTIVE SUPPORT TO THE NDPP



/Z.56 forms



The National Prosecuting Authority of South Africa
Igunya Jikelele Labelshutshisi Bo Mzantsi Afrika
Die Nasionale Vervolgingsgesag van Suid-Afrika

INTERNAL MEMORANDUM

P. O. Box 752,
PRETORIA
0001

VGM Building
Hartley St.
Weavind Park
0001
Pretoria
South Africa

Tel: (012) 845 6000

TO: ADV N JIBA
ACTING NATIONAL DIRECTOR OF PUBLIC PROSECUTIONS

CC: DR MS RAMAITE SC
DEPUTY NATIONAL DIRECTOR OF PUBLIC PROSECUTIONS

CC: ADV RC MACADAM
SENIOR DEPUTY DIRECTOR OF PUBLIC PROSECUTIONS

FROM: ADV SK ABRAHAMS
ACTING HEAD: PCLU

REF: ANDPP/JL/04/2013

SUBJECT: CRADOCK 4 MATTER

DATE: 22 MAY 2013

Dear Adv Jiba

1. PURPOSE

The purpose of this memorandum is to respond to the queries raised by the ANDPP in her letter dated 26 April 2013 relating to the above matter.

2. RESPONSE TO QUERIES

2.1 Adv Macadam from my office is presently dealing with this matter and has advised me hereon.

N.J
LM

2.2 Ad para 1 of the ANDPP's letter, dated 26 April 2013:

Identities of persons who received amnesty for the death of Mr Goniwe (paragraph 9 of the letter of Adv Macadam to Adv Mahlathi):

As indicated in para 8 of Adv Macadam's letter, the amnesty hearing did not relate to the death of Mr Goniwe and his associates. The amnesty hearing was in relation to the murder of three Security Branch members, namely Glen Mgoduka, Desmond Mapipa and Amos Faku, as well as a police informer, namely Charles Jack.

Gideon Nieuwoudt, a Port Elizabeth Security Branch member, was convicted for the aforementioned murders and subsequently refused amnesty. In delivering judgment, the Court found that the three Security Branch members and the police informer had been murdered as they had key information in relation to the deaths of Mr Goniwe and his associates.

The two persons who received amnesty in relation to the deaths of these four persons were Marthinus Ras, a member of Vlakplaas and Wahl du Toit, the Head of the Police Technical Unit.

2.3 Ad paras 2 and 3 of the ANDPP's letter, dated 26 April 2013:

Details of the six former Security Branch members who applied for amnesty in respect of the murder of Mr Goniwe and his associates:

The particulars of the six Security Branch members are as follows (The details hereof are also contained in paragraph 11 of Macadam's letter):

2.3.1 Herold Snyman: Head of Port Elizabeth Security Branch (deceased).

2.3.2 NJ Janse van Rensburg: Senior member of Port Elizabeth Security Branch (deceased).

2.3.3 Sakkie van Zyl: Port Elizabeth Security Branch (deceased).

2.3.4 Eric Taylor: Port Elizabeth Security Branch (alive).

2.3.5 Gerhard Lotz: Port Elizabeth Security Branch (alive).

N-J
LM

2.3.6 Herman du Plessis: Port Elizabeth Security Branch (alive).

All the aforementioned persons were refused amnesty.

2.4 Ad paras 4(a) to (b) of the ANDPP's letter, dated 26 April 2013:

Issues relating to polygraph expert:

The polygraph expert is Superintendent Josiah Stoffel Kgoroswe Maponyane. To date the basis for him having made the allegation against General Hankel has not been investigated at the instance of the NPA. My understanding hereof was that his statement related to the application for a security clearance by Hankel. As such, this is a matter that should be investigated internally by the relevant unit in the South African Police Service.

Nevertheless the allegations levelled against Hankel by Maponyane were investigated and proved to be false.

It must be borne in mind that a decision not to prosecute in the Goniwe matter may be reviewed in terms of the Promotion of Administrative Justice Act, No 3 of 2000 (PAJA) and may also be subject to a request for information in terms of the Promotion of Access to Information Act, No 2 of 2000 (PAIA).

The allegations levelled by Maponyane were made at a time when the Crime Intelligence Component, of which Hankel was a member, had publicly been embroiled in a number of internal conflicts. An enquiry by the NPA into the reason why Maponyane had levelled the allegations against Hankel may delve into these aspects. As such, I would be cautious in directing the SAPS to investigate the reason for Maponyane to have levelled the allegations against Hankel under the umbrella of the Goniwe investigation.

Such an investigation would not only unduly delay the decision in the Goniwe matter, but may potentially place all the unsatisfactory issues relating to Crime Intelligence into the public domain.

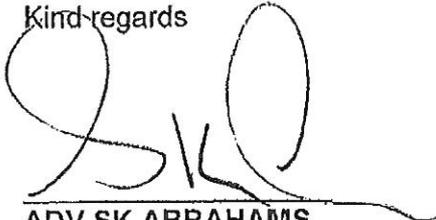
As requested, I attach hereto the affidavit of Maponyane, as well as the affidavit of his Commanding Officer and a letter from the Registrar of Fort Hare University.

N-J
LM

3. CONCLUSION

Should the ANDPP require any further information and/or documentation in relation to the matter *in casu*, this office will be pleased to provide the necessary assistance.

Kind regards


22/5/2013
ADV SK ABRAHAMS

COMMENTS

DR MS RAMAITE SC
DNDPP
DATE:

COMMENTS

ADV N JIBA
ANDPP
DATE:

N-J
LM