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Principal Office
2nd Floor,
The Reserve
54 Melville Road, Illovo
Jhb, 2196
Docex 123, Jhb

Cape Town Branch
3rd Floor,
The Chambers
50 Keerom Street
Cape Town, 8001

(T) (011) 778 0600 (JHB)
(T) (021) 770 0076 (CPT)
(F) (011) 778 0677

www.ramweb.co.za

ADVOCATE MPHOTHU THOKOA

The Secretary

TRC – CASES INQUIRY

Sci – Bono Discovery Centre

Email: secretary@trc-inquiry.org.za

seme@vmmxenge.co.za

24 February 2026

Our reference: DT/GH/MAT24960

Dear Secretary Thokoa,

RE: STATEMENT OF MR BULELANI THANDABANTU NGCUKA

1. Please find attached the statement of Mr Bulelani Thandabantu Ngcuka (“**Mr Ngcuka**”) which is submitted in response to the Commission’s letter dated 11 October 2025 requesting Mr Ngcuka’s assistance with information relevant to the Commission’s terms of reference.
2. We hereby request that the Chairperson should, in terms of Rule 3.1, approve that Mr Ngcuka be led by his counsel on the dates scheduled for his evidence, being 2 and 3 March 2026. In this regard we confirm that counsel and ourselves have consulted with Mr Ngcuka and assisted him in preparing his statement. Counsel and ourselves have also been instructed to lead Mr Ngcuka’s evidence subject to the Chairperson’s approval and directions.

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The South African Member of



3. We do not anticipate that anyone would be prejudiced by the decision to allow Mr Ngcuka's counsel to lead his evidence.

4. We, accordingly, request the Chairperson to grant the application for Mr Ngcuka's counsel to lead his evidence.

Yours faithfully,



Ramsay Webber Incorporated

Per: Dumisani Tabata | Director | E: dt@ramweb.co.za

T + 27 11 778 0600 | F + 27 11 778 0600

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

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RESPONSE TO THE COMMISSION'S LETTER DATED 11 OCTOBER 2025:
'REQUEST FOR ASSISTANCE WITH INFORMATION IN AID OF THE JUDICIAL
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**STATEMENT OF BULELANI THANDABANTU NGCUKA IN RESPONSE TO THE
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PERSONAL BACKGROUND

- 1 I was born in Middledrift, Eastern Cape, and received my early schooling in the Eastern Cape. After matriculating, I studied law at the University of Fort Hare, where I graduated with a B Proc degree in 1977.

- 2 Whilst at the University of Fort Hare, I was arrested and charged for attending the memorial service of Steve Biko who had died in Police Custody and was convicted and sentenced to 30 days imprisonment which on appeal was reduced to a Cautioned and Discharge.

- 3 Upon completing my degree, I worked for a short stint as a prosecutor at the Mdantsane Magistrate's Court. Thereafter, I joined the GM Mxenge law firm in Durban as an articled clerk and was admitted as an attorney of the Supreme Court of South Africa in 1980. At the time, the law firm was specialising in human rights and political trials throughout the country. These included representing numerous families whose loved ones were murdered by the apartheid regime, including the families of Mohapi Mapetla, Steve Biko,



Joseph Mdluli, and the PAC trial of Zeph Mothopeng and others (the Bethal Trial).

- 4 On 30 November 1981, I was detained in terms of section 29 of the Internal Security Act. I was kept in solitary confinement and denied visits from family and legal representatives only the police had access to me. On 4 August 1982, I appeared in the Pietermaritzburg High Court and was asked to give evidence against Mr Patrick Maqubela and two others who were charged with High Treason. I refused to testify against my fellow comrades. As a result of that refusal, I was convicted and sentenced to three years in imprisonment. I served my sentence at various prisons, including Leeuwkop, Victor Verster, and Helderstroom in Caledon. During my incarceration, I continued my studies and completed my LLB degree through the University of South Africa.
- 5 While I was serving my prison sentence, the Law Society applied to have me struck off as result of my conviction and sentence. I successfully opposed the application.
- 6 Following my release, I joined my wife in Geneva, Switzerland. She was at the time working for the Young Women's Christian Association ("YWCA"). In Geneva I took up employment with the International Labour Organisation ("ILO"), working in the Equality of Rights Division, known as Egalité. While based in Geneva I obtained a Master of Arts in International Relations from Webster University in Geneva, consolidating my academic grounding in these fields.



- 7 I returned to South Africa in 1987 and joined the law firm of NJ Yekiso and Associates in Cape Town. I continued with my legal work, which primarily focused on political and broader human rights matters. I joined the National Association of Democratic Lawyers (“**NADEL**”) and also became active in the United Democratic Front (“**UDF**”).
- 8 In 1988, I was detained for a month under the State of Emergency regulations for being part of the preparatory committee of Nelson Mandela’s 70th Birthday celebrations.
- 9 In 1989, I was again detained for 2 months under the State of Emergency for being part of the Mass Democratic Movement’s Defiance Campaign.
- 10 Upon my release, I was served with a banning order which restricted my movements and confined me to the Newlands Magisterial District.
- 11 After the democratic elections of 1994, I was appointed as the ANC Chief Whip in the Senate. I also became a member of the Constitutional Assembly and its Constitutional Committee, served on the Justice Select Committee, and was Chair of the Joint Committee on the Appointment of the Human Rights Commission, Chair of the Joint Committee for the appointment of the Public Protector, and a member of the Judicial Services Commission.
- 12 After the adoption of the Constitution of the Republic of South Africa, 1996, I was appointed Deputy Chair of the National Council of Provinces.



13 A year later, I was appointed as the National Director of Public Prosecutions (“NDPP”) and assumed office on 1 August 1998. I was the first incumbent of the office of the NDPP.

MY TENURE AS NATIONAL DIRECTOR OF PUBLIC PROSECUTIONS (1998-2004)

14 In its 11 October letter, the Commission requests my assistance by furnishing any material in my possession, or to which I had access during my tenure, and requests my account of any discussions, decisions, or considerations relevant to the Commission’s Terms of Reference.

15 I accordingly, provide this statement to assist the Commission and to place on record such information as I have within my knowledge.

16 At the outset I note that my tenure with the NPA ended more than two decades ago on 31 August 2004. Therefore, to the extent that I do not recall specific events with precision, this is due to the significant time lapse since my departure from office.

17 Should the Commission require me to identify or comment on a specific document, I request that same be identified in order for me to do so.

18 When I started as the NDPP, the office had no resources. I had to start from scratch. I was allocated empty offices, no furniture, no telephone, no basic infrastructure, and no staff. I relied on the co-operation of other state



structures, such as the South African Police Service ("**SAPS**"), the National Intelligence Agencies ("**NIA**"), the South African Secret Service ("**SASS**"), and the Department of Justice which seconded personnel to the NPA at the initial stages and also carried the costs of the seconded staff. There was no National Prosecuting Authority at the time. The Prosecution policy was fragmented. There were 11 jurisdictions, each with its own Attorney General.

19 As the first NDPP, I was responsible for establishing the organisational, administrative, and operational framework for the newly created NPA, including setting prosecutorial policy, determining national prosecution standards, and ensuring consistency, independence, and accountability in the conduct of all prosecutions across South Africa. I had to create the structures and had to present to Parliament the National Prosecutorial Policies within six months of assuming office in terms of the NPA Act of 1998. At the same time, I inherited a prosecutions service, which was characterised by a low staff morale and which lacked credibility and legitimacy in the eyes of the majority of society, which viewed the prosecution services as part and parcel of the state's oppressive state machinery. There were also high levels of criminality, particularly in areas such as the Western Cape. In that year, there were 166 pipe bombs incidents and no arrests or prosecutions. In KwaZulu-Natal ("**KZN**"), there was extreme political violence, and Gauteng experienced a high level of car hijacking.

20 The prosecution service as a whole was at its lowest, salaries and conditions of service were inadequate, backlogs were severe (particularly in the magistrates' courts), and there was no single, coherent national prosecution



policy or reliable statistical information on which to base sound management decisions.

- 21 The NPA Act made provision for the establishment of the Investigating Directorate on Organised Crime and Corruption, which would be established in the office of the NDPP. These directorates would be staffed with multi-disciplinary task teams involving prosecutors, investigators, intelligence operatives, and analysts.

- 22 My immediate priorities were therefore to establish the NPA's basic institutional architecture, to appoint deputy directors and senior staff, to address prosecutors' salaries and conditions of service, and to tackle deep-seated performance problems in the lower courts, where the overwhelming majority of criminal cases are finalised and deal with organised crime within the country specifically in KZN and Western Cape . Under my leadership, the NPA developed and published a National Prosecution Policy, a Prosecutorial Code of Conduct, and Directives that were applicable nationwide, replacing the fragmented system of separate attorneys-general, each with their own prosecution policies and practices.

- 23 Pursuant to the NPA Act, I established the Investigative Directorate for Organised Crime and Corruption ("**IDOC**"), primarily to deal with urban terrorism in the Western Cape, political massacres in KZN, and car jackings Gauteng. This was followed by:



- 23.1 the Asset Forfeiture Unit (“**AFU**”) which was designed to complement the fight against organised crime by confiscating the assets that were the proceeds of crime;
 - 23.2 the Specialised Commercial Crimes Unit (“**SCCU**”) to deal with the backlogs in the investigation and prosecution of commercial crimes particularly in Johannesburg;
 - 23.3 the Sexual Offenses and Community Affairs Unit (“**SOCA**”) to respond to gender-based violence cases. This unit was responsible for setting up ThuThuzela centres throughout the country in order to respond to high levels of gender-based violence.
- 24 A central part of this institutional transformation was a deliberate reorientation of the prosecution service towards a constitutional, human rights, and victim-centred ethos. Prosecutors were expected to see themselves as lawyers for the people, functioning within a constitutional democracy and accountable to the values of the Bill of Rights.

TRC MATTERS

- 25 In October 1998, the TRC submitted its final multi-volume report to President Nelson Mandela. That report documented in detail the structure of apartheid, the role of key state organs and functionaries in implementing apartheid policy, and the gross human rights violations that occurred, including torture, abductions, enforced disappearances, judicial and extra-judicial killings, and the unjustified use of lethal force.



- 26 In its final report and associated materials, the TRC handed over to the NPA a substantial body of information and a list of several hundred matters which it considered capable of prosecution.
- 27 Following this handover, I established the Human Rights Investigative Unit (“**HRIU**”) under the leadership of Mr. Vincent Saldanha, an experienced human rights lawyer and Deputy Director Advocate Brink Ferreira. Its mandate was to review and assess whether there was sufficient evidence for NPA to prosecute anyone, and also to identify which cases required further investigation. The HRIU report identified challenges in several high-profile cases. Notwithstanding the rejection of several amnesty applications by the TRC, the available evidence in many cases was not, in the unit's assessment, sufficient to sustain a successful prosecution in a number of these cases. In some cases, offences had prescribed; in others, witness availability or reliability presented insurmountable obstacles. Many additional matters could not be processed to prosecution stage due to pending Amnesty Committee applications brought by the suspects; further delaying decision making.
- 28 My inclination prior to receiving the HRIU report was to farm out the investigation and prosecution of these cases to various DPP offices. This, however, changed after I received the report of the HRIU. At about the same time, Mr. Silas Ramaite, who was a Special Director in my office, approached me and informed me of dockets in the office DPP Pretoria which related to political violence cases, and recommended that these should be brought to the NDPP's office for attention. I then decided that all TRC cases should be brought to the Special National Projects Unit (“**SNPU**”) within the Scorpions,

headed by Mr Chris MacAdam. In order to ensure a coherent and centralised approach, I issued a directive that all TRC-related cases be transferred to the Office of the NDPP from the various offices of the DPP and the SAPS. This consolidation was intended to avoid duplication, consolidate resources, promote efficiency and consistency in decision-making, and enable a coordinated national strategy for TRC investigations and prosecutions.

- 29 The SNPU operated until approximately 2003. During its lifetime, it reviewed and worked on the TRC dockets referred to it, but it did not institute prosecutions because the amnesty process had not been completed. The SNPU's caseload was subsequently taken forward, in varying stages of completeness when the PCLU was established in 2003 and assumed responsibility for post-TRC prosecutions as part of its broader mandate.
- 30 When the PCLU was formed, I recommended the appointment of Mr. Anton Ackerman, who I considered one of the best prosecutors in the country at the time, as the Special Director and Head of the PCLU. The SNPU staff and its leader, Mr. Chris MacAdam, were transferred to the PCLU.
- 31 The PCLU was mandated to manage investigations and prosecutions relating to priority crimes of national and international concern, including matters involving weapons of mass destruction, mercenary activities, terrorism, and South Africa's obligations under international criminal and human-rights law. In accordance with my authority as the NDPP, I was responsible for managing all TRC-related matters. I directed that all cases arising from the TRC process, in which amnesty had been refused or not applied for, be classified as "priority



crimes" and be dealt with by the PCLU. This ensured a single, specialised, nationally coordinated approach to prosecutions emerging from the TRC.

32 After assessing evidentiary sufficiency, witness availability, legal viability, and the prospects of a constitutionally compliant prosecution, the PCLU identified approximately 21 cases warranting further investigation.

33 By the end of 2002 to the beginning of 2003, in reporting to Parliament on the work of the PCLU and the broader post-TRC prosecutions, I explained that some cases emerging from the TRC process were ready to proceed to prosecution, while in others the NPA awaited rulings from the Supreme Court of Appeal and from the reconvened TRC Amnesty Committee. These pending decisions had a direct bearing on whether particular matters could lawfully and prudently be taken forward.

34 As regards the TRC related cases that were prosecuted during my tenure, I refer to the affidavit of Mr. Silas Ramaite, which was filed with the commission and confirm the correctness thereof.

ALLEGATIONS OF ATTEMPTS TO INFLUENCE OR PRESSURE THE NPA TO STOP INVESTIGATIONS OR PROSECUTIONS DURING MY TENURE – 1998 to 2004

35 At the outset, I wish to state categorically that there was never at any stage during my tenure any attempt by a member of the executive or any other person to influence or pressure the NPA or me as NDPP to stop the



investigation or prosecution of TRC cases. I am also not aware of any collusion by any member of the NPA with any such attempt to stop the NPA from investigating or prosecuting TRC cases.

36 I have in the above background set out the context and circumstances in which the office of the NPA was established within an evolving prosecutorial environment, at a time when South Africa was establishing, for the first time, a single independent national prosecuting authority. This required significant institutional reform, the development of new systems, policies, and standards, and the consolidation of prosecutorial functions previously dispersed across apartheid-era structures.

37 The prosecutorial terrain during the early 2000s was new, complex, and constantly evolving. It was necessary to build national capacity, ensure consistency across nine provinces, establish specialised units, and restore public confidence in the prosecuting authority. These institutional priorities required careful allocation of limited resources and personnel.

38 Within this context, the NPA was simultaneously confronted with high-profile, resource-intensive matters, including complex commercial crime prosecutions, organised crime syndicates, national security cases, and international law matters arising from South Africa's obligations under the Rome Statute.

39 The TRC cases presented particular evidential and operational challenges: they were decades old, relied heavily on witnesses whose memories had



faded or who were no longer available, and required intensive investigation in an environment where both investigative and prosecutorial resources were severely constrained. Evidence had also been destroyed in many cases.

40 Decisions that were taken at the time were not a function of political preference or external influence. They were driven by the need to ensure that prosecutions proceeded only where there was a reasonable prospect of success, where the evidential foundation could sustain a successful prosecution in accordance with its Prosecution Policy and Policy Directives. The limited progress on certain TRC cases must therefore be understood within the broader context of the NPA's developmental stage, the competing demands on its scarce resources, and the operational complexities inherent in prosecuting apartheid-era crimes decades after they occurred.

41 At no stage did I receive, tolerate, or act on any instruction designed to shield any individual, organisation, or political actor from lawful prosecution. The decisions taken under my leadership were consistent with the NPA's constitutional mandate and were informed by its Prosecutorial Policy, evidential sufficiency, institutional capacity, and the need to build a functional and credible National Prosecuting Authority. Suggestions to the contrary overlook the broader historical and institutional context and mischaracterise the realities confronting the NPA during its foundational years.

42 For years, as an activist and practising attorney, I acted for families of those murdered by the apartheid police. That work was not peripheral to my professional life and my very being. As NDPP, I was at all times, fully



committed to ensure that there was accountability for the grave human rights violations of the past.

RESPONSE TO THE ALLEGATION THAT I DID NOT APPROACH THE PRESIDENT

43 In the Calata affidavit, it is alleged that I did not approach the President pursuant to Commissioner De Beer's letter to Mr. Ackermann which *inter alia* demanded that I should approach the President for his written confirmation as to which entity between SAPS and the NPA, the President required to investigate TRC matters. This demand by Commissioner De Beer was with respect nonsensical. The President had in his address to Parliament already stated that the NPA would be responsible for prosecuting TRC related matters. The President's directive by implication gave the NPA the responsibility for sourcing investigators and other resources necessary for the prosecution of TRC matters. The SAPS as an organ of State was required to co-operate with and assist the NPA by providing or seconding investigative resources where these were required. This mutual collaboration and co-operation between organs of State (that is NPA and SAPS) is constitutionally mandated. There was, therefore, no need for me to approach the President in the circumstances. What was required was for the two organs of State to co-operate on the matter and for the leadership of the two institutions to maturely resolve the matter between themselves. Accordingly, when this issue came to my attention, I directed Advocate Silas Ramaite and Advocate McCarthy to resolve the issue.





BULELANI THANDABANTU NGCUKA

February 2026