

Boipela Ratshikana
Executive Assistant
TRC Cases Inquiry

3 November 2025

To: secretary@trc-inquiry.org.za

Dear Mr Ratshikana,

I, Rayman Lalla, will seek legal representation to assist me in my written response to your notification of 30 October 2025, received on 31 October 2025, advising me that the Commission has identified that evidence presented before it may implicate me in respect of the matters under investigation.

This letter serves as an acknowledgement of the above notification.

Sincerely

Rayman Lalla
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AFFIDAVIT**RAYMAN LALLA - REPRESENTATION TO THE TRC COMMISSION OF INQUIRY**

I, the undersigned Rayman Lalla, do hereby make an oath and say:

1. I am an adult male and worked in the South African Police Services from 1995 to 2011.
2. I was the national head of Crime Intelligence (2001-2007) and the national head of Detective Services (2008-2011).
3. The facts deposed to in this affidavit are, to the best of my knowledge and belief, both true and correct. Unless otherwise stated or the contrary appears from the context, such facts are within my personal knowledge.
4. Refer Para 152:
 - a. In the absence of any documentation or minutes of meetings, to the best of my recollection there was a meeting initiated by the DoJ or NDPP (I do not recall which department chaired the meeting, or if more than one meeting was held).
 - b. I was the national head of Crime Intelligence in 2004. I attended the above meeting as requested by the SAPS Deputy Commissioner (Lt Gen Tim Williams). As the discussion at the meeting Of DoJ and NDPP proceeded, I questioned the relevance of my participation given the nature of the matters presented as they were about the legal approach to the rules and procedures envisaged. This is not my area of expertise.
 - c. I subsequently sought clarity from SAPS Deputy Commissioner Williams as to the purpose of my attending such a meeting/s given the legal procedural nature thereof.
 - d. Lt Gen Williams then requested both Lt General Johann de Beer (at that time head of Detective Services) and Dr Phillip Jacobs (SAPS Legal Services) to meet with us. Both Lt General De Beer and Dr Jacobs were knowledgeable about the workings of the DoJ and NDPP, including with reference to TRC matters.
 - e. Dr Jacobs' understanding was that the discussion at these meetings were matters for the DoJ/NDPP. He expressed the firm view that the DoJ needed to

Affidavit of Mr Rayman Lalla to the TRC Commission of Inquiry

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provide capacity to the NDPP to enable TRC matters to be investigated. Lt General De Beer concurred with Dr Jacobs, and further stated that SAPS did not have a single docket or inquiry of TRC related cases. These were all in the hands of the NDPP. Further, if the mandate was to be changed it would require steps to be taken by Parliament, the Executive and the DoJ.

- f. Given the above, I did not attend further meetings.
- g. I cannot recall being sent minutes of meetings or any document that contained recommendations by the DoJ to any other state bodies.

5. Para 308:

- a. In 2008 I was appointed the national head of Detective Services. In 2009 or thereabouts, I was approached by Adv McAdam for assistance with regard to TRC-related cases. I informed him that SAPS was currently restructuring and that a significant part of the specialised capacity would be transferred from Detective Services to the DPCI (Directorate of Priority Crime Investigations). I referred him to Lt Gen A Dramat, the newly appointed DPCI head, and subsequently I informed Lt General G Lebeya, deputy head of DPCI.
 - b. Adv McAdam also wanted investigators, preferably drawn from former policemen with the relevant investigative experience. I advised him that I had no authority over such processes. However, I reassured him that should he require investigators who were currently in the employ of Detective Services he could approach me for assistance in such instances.
 - c. I left the employment of SAPS in April 2011, and until this time I had no further queries from Adv McAdam.
6. At no stage during the whole of my SAPS career, spanning the period 1995 to 2011, did either the DoJ or NDPP bring any TRC docket or specific inquiry to my personal attention.
7. Furthermore, I offered, as stated in 5(b) above, to make available investigators who were then in the employ of Detective Services should this be requested. No such request was ever made.

Affidavit of Mr Rayman Lalla to the TRC Commission of Inquiry

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8. [Signature] 04/11/2025 KNYSNA
 Deponent Date .Place

I hereby certify that the Deponent has acknowledged that he knows and understands the contents of this affidavit, which was sworn to and signed at Knysna on this 04 of November 2025 in compliance with the regulations contained in Government Notice R1258 dated 21 July 1972 as amended.

[Signature]

 COMMISSIONER OF OATHS

 COMMISSIONER OF OATHS
 Tamryn Reynolds
 30686995 CA (SA)
 Commissioner of Oaths (RSA)
 TH11, Theven Harbour Town, Long Street, Knysna, 6570
 Date: 04/11/2025

I, the undersigned

RAYMAN LALLA

Declare under oath as follows:

1. I have already deposed to an affidavit dated 4 November 2025.
2. I have read the affidavit of Adv Ackerman SC and the transcript of his evidence before the Commission. The meeting took place in my office as I was the then national Head of Crime Intelligence. Adv Ackerman was accompanied by Adv Chris McAdam and Adv Tori Pretorius in my office and the meeting was recorded.
3. A few days after the above-mentioned meeting I gave verbal feedback about the meeting to the National Commissioner, DNC Williams and Commissioner De Beer. My feedback was brief. All I recall, to the best of my ability, was that I told them that the PCLU was having teething problems getting off the ground, and that they would resolve it within the NPA/NDPP.
4. To the best of my recollection, a few weeks to months after my meeting with Adv Ackerman, the National Commissioner telephonically contacted me to enquire about an anthrax investigation ongoing with a foreign law enforcement agency. The Commissioner, at that time, also inquired about having been given a different account of what had been discussed in my meeting with Adv Ackerman (in point 2). I told the National Commissioner that the meeting had been recorded but that I could not recall the details of the meeting myself. Being my accounting officer, he requested the tape of the recording. My office provided the tape to the National Commissioner. I am not aware of the further sequence of what the National Commissioner did with the recording after that point.
5. The making of the recording had nothing to do with the terms of reference of the Commission. The reason for the recording was mainly for my reference to better understand and represent how the new structures of the PCLU and its relationship with SAPS would work. In addition, given that the prevalence of misinformation and disinformation was a reality at that time, and that it was not uncommon for information provided to subsequently be refuted or distorted, I recorded the meeting to protect the integrity of Crime Intelligence and ensure that who said what could be recalled if so required.



6. I did not attend any meeting with Adv Bulelani and Adv Ackerman.

7. I have requested a copy of the recording (from point 2), but to date have not received a copy.

8. I have also perused the evidence of Adv McAdam before the Commission. To the best of my knowledge, I have nothing to add specifically regarding the few meetings I had with him.

9. I have never engaged in any activity to prevent the TRC cases from being prosecuted and, to the best of my recollection, no TRC dockets were under my control.

10. I can state unequivocally that I participated in the TRC process so that our people and the country would know what took place, and so that we could create an environment in which we could, together, move forward. At the same time, I did not oppose, nor was ever instructed to obstruct in any way the efforts to investigate and prosecute TRC-related cases. I also wish to add that the four former security branch officers who tortured me applied for and were granted amnesty under the TRC. In the same breath, I wish to say that I applied for amnesty for my activities in the liberation movement with the ANC, and was granted amnesty.

11. To date I have not been implicated in the matter before the Commission.

Rayman Lalla
9 April 2026

Dated and signed before me by the deponent who confirmed the content of the statement and who further declared that he has no objection to taking the Oath

08/04/2026
[Signature]
Commissioner Of Oaths

08/04/2026
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w/o
Modise Hswickl /Kwale
15 Sturdee Ave
Rosebank



NOTICE IN TERMS OF RULE 3.3 OF THE RULES OF 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.

TO: RAY LALLA.

EMAIL: lalla.rayman@gmail.com

INTRODUCTION AND ESTABLISHMENT OF THE COMMISSION

1. On 29 May 2025, the President of the Republic of South Africa issued Proclamation Notice No. 264 of 2025, establishing 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 (“the Commission”).
2. The Commission was appointed in terms of section 84(2)(f) of the Constitution, 1996. The Honourable Madam Justice S. Khampepe serves as Chairperson, with the Honourable Mr Justice F. D. Kgomo and Adv A. Gabriel SC as members.
3. In terms of its mandate, the Commission is required to inquire into, make findings, report on, and make recommendations concerning allegations that, since 2003, efforts or attempts were made to influence, pressure, or otherwise improperly prevent the South African Police Service and/or the National Prosecuting Authority from investigating or prosecuting TRC cases. The Terms of Reference further require the Commission to determine whether officials within these

institutions colluded in such efforts, and whether further action—including investigations, prosecutions, or the payment of constitutional damages—is warranted.

4. Among the parties identified as having a substantial interest in these proceedings are:
 - a. The applicants in the matter of L.B.M. Calata and 22 Others v Government of the Republic of South Africa and Others (Case No. 2025-005245, North Gauteng High Court, Pretoria); and
 - b. The families of victims in TRC cases who have a substantial interest in the matters under inquiry.

NOTICE IN TERMS OF RULE 3.3

5. This notice is issued in terms of Rule 3.3 of the Rules of the Commission, read with the Regulations made under Government Notice R.278 of 2025.
6. The Commission's Evidence Leaders intend to present the evidence of one or more applicants in the Calata case, and any person who in the opinion of the Evidence Leaders possesses information that relates to the paragraph **Error! Reference source not found.** allegations against you and is relevant to the Commission's work.
7. The specific date and venue for the hearing at which such evidence will be presented will be communicated to you in due course.
8. Below is an extract from the Calata matter's founding affidavit, with corresponding paragraph numbering, which implicate, or may implicate, you in

allegations regarding efforts or attempts to halt or suppress the investigation or prosecution of TRC matters. Further details of the Calata proceedings, including the said affidavit, are available on the Commission's website at www.trc-inquiry.org.za.

PARTICULARS OF IMPLICATION

"The Amnesty Task Team

148. *A Director-General's Forum chaired by Adv Pikoli, the then Director General of the DOJ, met on 23 February 2004 to consider how to give effect to the President's objectives set out in his speech the year before. Essentially this involved how to deal with the TRC cases, which Pikoli described in his affidavit, as being "politically sensitive" (TN7 at pp 170 – 216 in Nkadimeng 2). The Forum appointed a Task Team to report on a mechanism to give effect to the President's objectives. This task team was known as the "Amnesty Task Team" (ATT).*

149. *The ATT was required to:*

149.1 *explore options for the NPA and the intelligence agencies to accommodate persons who still wish to disclose the truth about past conflicts.*

149.2 *consider a further process of amnesty on the basis of full disclosure of the offence committed during the conflicts of the past.*

149.3 *advise whether legislative enactments were required.*

150. *The original terms of reference for the ATT (as attached to Macadam's affidavit*

(FA5) as annex RCM14 (at p863) were to consider and report on:

150.1 *The criteria the NPA applies in deciding on current and impending prosecution of cases flowing from the conflict of the past.*

150.2 *The formulation of guidelines that will inform current, impending and future prosecution of cases flowing from the conflicts of the past.*

150.3 *Bearing in mind the abovementioned guidelines, whether legislative enactments were required.*

150.4 *Whether any of the two Bills that have already been formulated can be taken forward, while taking into account the views of the intelligence agencies.*

151. *The names of the two bills were not disclosed but presumably one of them was the Indemnity Bill (first 2 pages at RCM13 at p861). The views of the Intelligence Agencies were also not disclosed.*

152. *The ATT comprised the following members:*

152.1 *Deon Rudman (Chairperson): DOJ*

152.2 *Yvonne Mabule: National Intelligence Agency (NIA)*

152.3 *Vincent Mogotloane: NIA*

152.4 *Gerhard Nel: NPA*

152.5 *Lungisa Dyosi: NPA*

152.6 Ray Lalla: SAPS

152.7 Joy Rathebe: Department of Defence (DOD)

153. The ATT was requested to submit its report to the Director General's Forum by close of business on 1 March 2004. The ATT met on 26 February 2004 and again on 1 March 2004.

154. The undated 2004 secret report, titled "Report: Amnesty Task Team", which was disclosed during the proceedings in the matter of Nkadimeng & Others v The National Director of Public Prosecutions & Others (TPD case no 32709/07 [2008] ZAGPHC 422) (Nkadimeng 1) as annex TN42 at p431. It is annexed hereto marked FA24. The report set out the ATT's mandate, background, proposals and concerns.

155. The ATT Report noted that a further amnesty would face challenges because of constitutional issues but nonetheless the team still had to find ways to accommodate those perpetrators who did not take part in the TRC process.

In relation to its first task, the ATT recommended the creation of a Departmental Task Team comprising representatives from:

155.1 Department of Justice and Constitutional Development,

155.2 The Intelligence Agencies,

155.3 South African National Defence Force,

155.4 South African Police Service,

155.5 Correctional Services,

155.6 National Prosecuting Authority,

155.7 Office of the President.

156. The functions of the proposed Departmental Task Team would, *inter alia*, be

the following:

156.1 Before the institution of any criminal proceedings for an offence committed during the conflicts of the past, it must consider the advisability of the institution of such criminal proceedings and make recommendations to the NDPP.

156.2 To consider applications received from convicted persons alleging that they had been convicted of political offences with a view to making recommendations for their parole or pardon, and in making such recommendations to consider various criteria. Aside from the TRC's amnesty criteria, other considerations included, *inter alia*:

156.2.1 Whether a prosecution "politically" reflects the aims of the TRC Act

and is not in conflict with the requirements of objectivity.

156.2.2 Various humanitarian concerns.

156.2.3 Whether a prosecution could lead to conflict and traumatising of victims.

156.2.4 The perpetrator's sensitivity to the need for restitution.

156.2.5 *The degree of remorse shown by the offender and his attitude towards reconciliation.*

156.2.6 *The degree of indoctrination to which the offender was subjected.*

156.2.7 *The extent to which to which the perpetrator carried out instructions.*

156.2.8 *Renunciation of violence and willingness to abide by the Constitution.*

156.3 *The Task Team noted that their proposals have various shortcomings, including:*

156.3.1 *A possible negation of the constitutional rights of victims, the public at large and alleged offenders.*

156.3.2 *The possibility of the institution of private prosecutions.*

156.3.3 *The absence of any guarantee that alleged offenders will not be prosecuted, meaning that they might be reluctant to make full disclosure.*

156.3.4 *Public perception regarding the participation in a further amnesty process by the security services as the public may regard them as perpetrators in past conflicts.*

157. *According to Pikoli in his affidavit in Nkadimeng 2, the recommendation of the Interdepartmental Task Team for 'a two-stage process', which would have required its*

recommendation before the NDPP could prosecute was rejected. This was because it would have been a violation of the NDPP's prosecutorial independence enshrined in section 179 of the Constitution. Although the Task Team's role was meant to be advisory in nature it soon became apparent that the non-NPA members of the team saw their role as supervisory rather than advisory. Indeed, as will be seen below, the 'two-stage process' was reintroduced causing a crisis of conscience for Pikoli.

158. *With regard to the ATT's second task, namely, to consider a further amnesty process, the team was of the view that the only way to address the concerns was to provide a further amnesty similar to that of the TRC process.*

158.1 *Some members argued against another amnesty, pointing out it would undermine the TRC process, while others supported a new amnesty to encourage more disclosures.*

158.2 *The ATT decided not to make a recommendation on the question of another amnesty but to leave it in the hands of government.*

158.3 *It attached a draft Indemnity Bill to the report (as annex B) in case government decided to proceed with a further amnesty. The annex was not attached to the report in the version disclosed in Nkadimeng 2. However, the first 2 pages of the draft bill were attached to Macadam's affidavit (FA5) as RCM13 at p861. It would have provided for a rerun of the TRC's amnesty process.*

159. With regard to the ATT's third task, namely, to advise on any legislative steps needed, it noted that its recommendations in relation to the first task do not require any legislation. However, it noted:

“Should Government, however, decide on a further amnesty process ..., legislation will be required since the mechanisms and procedures of the TRC Act have run their course and can no longer be applied. If it is decided to follow the latter route, an amendment of the Constitution is also proposed in order to enable such legislation being adopted and to pass muster in the Constitutional Court.”

160. Much of the ATT's report was accepted by government and implemented, as is evident by the 2005 amendments to the Prosecution Policy and the introduction by President Mbeki of a Special Dispensation for Political Pardons in 2007, to be discussed below.

The Secret Further Report of the Amnesty Task Team

161. The secret Further Report of the ATT was disclosed by Macadam in his affidavit (FA5) as annex RCM15 at p864. Perhaps more than any other document, the Further Report reveals the real intent of those behind the political interference. The report is undated, but it would have been generated in 2004 in the weeks or months following the submission of the ATT's first report to the Heads of Department Forum on 4 March 2004.

162. The report reveals that the Heads of Department Forum discussed the first ATT Report with members of the Task Team, “whereafter they deliberated the Task Team's proposals and recommendations in camera”. Following these deliberations, the Heads

of Department Forum indicated that they preferred the Task Team's recommendations relating to the establishment of a Departmental Task Team (referred to as Option I). However, they requested the Task Team to further consider the following aspects:

162.1 In performing its functions, the proposed Inter-departmental Task Team (ITT) must make use of existing structures rather than parallel structures.

162.2 Consider whether there is a way in which private prosecution and civil litigation can be eliminated if the NDPP decides not to prosecute; and investigate the possibility and desirability of legislation, if required.

162.3 The proposed Task Team should work under the direct supervision of an Inter-Ministerial Committee.

162.4 It is important that the proposed Task Team, the Inter-Ministerial Committee and the NDPP, in performing their functions and reaching decisions, should take the national interest into account.

162.5 Advise the Forum on whether a person who is aggrieved by a decision of the National Director may approach the International Criminal Court (ICC).

162.6 Advise the Forum on a timeline for the completion of the work of the proposed Task Team. Twelve months was mentioned as a possibility.

163. Perhaps most revealing was the Forum's instruction to the ATT to explore ways in which private prosecution and civil litigation could be eliminated where the NDPP decides not to prosecute, including the possibility of fresh legislation to achieve this

end. This exposes the intent to come up with a means to guarantee maximum impunity for apartheid-era perpetrators.

164. The fear that victims and families could turn to the ICC, in the event that avenues for accountability in South Africa were completely closed, presented a real fear to the Forum.

165. Equally chilling was the desire of the Forum for the ITT to “work under the direct supervision of an Inter-Ministerial Committee”.

165.1 If there was any doubt that the prosecution process in relation to the TRC cases was to be under the thumb of political overlords, it was dispelled by this requirement. This is in fact what transpired.

165.2 As will be discussed below, towards the end of 2006, the ITT was instructed that it must submit a final recommendation to a “Committee of Directors General” in respect of each TRC case, which in turn must advise the NDPP in respect of who to prosecute or not.

165.3 In addition, it emerged that at least by 2007, if not earlier, there was a “Cabinet Committee on Post TRC matters”, which was a subcommittee of the Justice, Crime Prevention and Security Cluster.

166. The proposal that all players in the process, including the NDPP, should “take the national interest into account” when making decisions in relation to the TRC cases was ‘shorthand’ for the expectation that all involved, particularly the NPA, would be expected to ‘do the right thing.’

166.1 Needless to say, no attempt was made to define what the national interest meant in this context, although I am advised that the 'national interest' is not necessarily the same as the 'public interest'.

166.2 The national interest constitutes the interests of the state, usually as defined by its government. Typically, politicians invoke the 'national interest' in seeking support for a particular course of action.

166.3 The public interest on the other hand typically refers to the collective interests of a community or society, in particular when steps are taken on behalf of disadvantaged, marginalised and vulnerable people; as well as the pursuit of objectives that benefit society as a whole, such as the protection of civil liberties.

166.4 I am advised that while the national and public interest may coincide, in this instance it does not. The shielding of perpetrators of serious crimes from scrutiny and justice may have served the narrow or expedient interests of the state at that time, but it hardly served the public interests of victim communities or society more generally.

166.5 It goes without saying that the national interests, as espoused by the ATT, were also diametrically opposed to the 'interests of justice'.

Response of the ATT

167. The ATT then met to work out how to take the Heads of Department Forum's directives forward. They consulted legal experts who advised that setting up the Departmental or ITT Team did not require legislation.

167.1 Only a Memorandum of Understanding would be needed, although all existing structures, such as the NPA, would have to “commit themselves and give their full support and cooperation” to the process.

167.2 It was apparent that for this to work, everybody would have to ‘play the game’. As it turned out, they could count on almost everybody in all departments to ‘play the game,’ or at least ‘look the other way’.

167.3 However, two key persons in the NPA, Pikoli and Ackermann, were not willing to bow to political instruction. The charade could not work without them playing along. As will be seen below, the former would be shown the door while the latter was sidelined.

168. According to the Further Report, the question of “eliminating private prosecution[s] and civil litigation in cases of a no prosecution [] elicited much debate” within the ATT.

168.1 The ATT spoke to two State Law Advisers and obtained a legal opinion from Adv JH Bruwer, which was attached to the report, although it was not attached to the copy annexed to Macadam’s affidavit. There appeared to be agreement that “legislation eliminating private prosecution and civil litigation will at least affect a person's right to equality and the right of access to courts”.

168.2 They also doubted that “the motivation for such legislation would meet the requirements of section 36 (the limitations clause) of the Constitution”, which would be “seen as a further amnesty process.”

168.3 The ATT drew the Heads of Department Forum's attention to an article in the Rapport of 7 March 2004 where Archbishop Desmond Tutu was quoted as saying that those who did not receive amnesty should face prosecution and any new initiative to stop prosecutions "would be seen as negating the amnesty process of the TRC."

168.4 The ATT advised that the only way to eliminate private prosecutions and civil litigation would be by way of legislation and a Constitutional amendment which "would not be desirable."

168.5 It is interesting to note that in *Nkadimeng 1*, the Minister of Justice and the NPA argued that the Prosecution Policy amendments did not promote impunity because families and victims could still bring their own private prosecutions, even though they lacked investigative powers and the resources of the State. Judge Legodi, recognising the absurdity of this claim, noted in his judgment in *Nkadimeng 1* that "crimes are not investigated by victims. It is the responsibility of the police and prosecution authority to ensure that cases are properly investigated and prosecuted."

168.6 It is not known if the State Law Advisors and Adv Bruwer were asked to provide an opinion on the constitutionality of the proposed amendments to the Prosecution Policy, which provided for an effective back door amnesty. Archbishop Desmond Tutu filed a supporting affidavit in the legal challenge to the new policy (in *Nkadimeng 1*), where he stated that the efforts of the State "represented a betrayal of all those who participated in good faith in the TRC process. It completely undermined the very basis of the South African TRC." An unsigned copy of the Archbishop's affidavit is annexed hereto marked FA25.

169. In relation to the proposed establishment of an Inter-Ministerial Committee it is recorded in the Further Report that “the Task Team supports this proposal.” The members of the ATT demonstrated their subservience in agreeing with the Heads of Department Forum. However, they were constrained to provide the views of the State Law Advisers who indicated that a further structure could prove cumbersome and “might be seen as an attempt by the Government to put undue pressure on the National Director of Public Prosecutions in reaching an independent decision.”

170. The ATT cast further ignominy on itself when in response to the proposal that the “national interest should be the paramount objective,” it responded in servile fashion: “the Task Team wholeheartedly agrees with this viewpoint of the Forum.” The ATT was more than happy to open the door to the imposition of the dominant political views onto prosecutorial decisions.

171. In relation to the involvement of the ICC, the ATT relied on the advice of Adv Bruwer who concluded that it was “not inconceivable that a complainant who is prohibited [...] from instituting a private prosecution in the national court may approach the International Criminal Court for relief.”

172. In relation to the question of setting a timeline for the Departmental Task Team to complete its work, the ATT declined to propose a timeline but proposed that “the President should rather indicate that it is expected that the Task Team will finalise its work within a specified period and that such period will be determined taking into account the extent to which its objectives are achieved.” Perhaps the ATT realised it should leave this decision in the hands of the office holder who was really calling the

shots. In doing so, the ATT confirmed loudly and clearly that the question of the TRC cases was now firmly in the hands of those in political control.

TRC cases remain stuck

302. In the PCLU's presentation of its performance for the financial year of 2007 – 2008 to Parliament's Justice and Constitutional Development Portfolio Committee in March 2007, the following was noted by Ackermann in slide 8 on TRC prosecutions:

- "Only partial success was achieved due to intervening factors beyond the control of the unit."
- "Sixteen cases have been identified for investigation and possible prosecution."
(**Bold added**).

303. The cryptic reference to "intervening factors beyond the control of the unit" could only have been the political interference alluded to above and to be described in detail below. The sixteen cases were not identified and none of these cases were taken forward. A copy of the presentation is annexed hereto marked FA44.

304. With the political suppression of the TRC cases now in full swing, there was a hiatus of activity for several years, notwithstanding the agitation of families for action. The only notable development in this period was the disappearance of the investigation dockets in the Nokuthula Simelane and Cradock Four cases.

305. *It can be safely assumed that little or no work was carried out by the NPA, SAPS or DSO on the TRC cases during 2008. Acting NDPP Mpshe had already relieved Ackermann of his responsibilities in respect of the TRC cases. He could hardly be expected to champion the TRC cases going forward, and indeed he did not. Although Ackermann was still the head of the PCLU he was no longer permitted to work on the TRC cases, and the files were left largely unattended. He retired from the NPA in 2013. In any event, at that stage, no investigator within state structures would touch the cases.*

306. *Macadam records in his affidavit filed in Rodrigues (FA5), that in early 2009, Mpshe summoned him to his office and showed him a letter written by SAPS indicating that it was withdrawing from the ITT.*

306.1 *Presumably the SAPS took the view that the TRC cases were dead in the water and there was no point in serving on the task team which in practice was doing no work. In addition, following the judgment of Legodi J, the ITT no longer enjoyed a legal basis with the setting aside of the amendments to the Prosecution Policy in December 2008.*

306.2 *Since the SAPS had not been investigating the TRC cases their withdrawal did not mean much. However, according to Macadam it would mean that going forward, the TRC matters would again not be investigated because a decision had already been taken to disband the DSO.*

306.3 *Mpshe asked Macadam to negotiate with SAPS and try to get them to agree to investigate the cases. Mpshe also told Macadam to take over the TRC cases.*

307. *It is hardly surprising that Macadam concluded his 2018 affidavit with this blunt statement: “[t]hese documents speak for themselves and go a long way in explaining why from 2003 the PCLU constantly struggled to have TRC cases investigated.”*

308. *Macadam approached Ackermann for advice, and he disclosed that he had previously closed some matters which had not required investigation and handed over a list of some ten cases. Macadam attached to his affidavit as annex RCM6 (at p821) a trail of emails between himself and various roleplayers in his attempts to get the remaining TRC cases investigated. He initially met with Rayman Lalla, then Divisional Head of the Detective Service of SAPS, who informed him that the National Commissioner had decided that the cases must be handled by the DPCI.*

309. *On 18 May 2009, Macadam sent the following email to Deputy NDPP, Adv Willie Hofmeyr (RCM6 at p821), at a time when there was an expectation that Hofmeyr was about to be appointed the new head of the DPCI:*

“I met this morning with Commissioner Lalla concerning the appointment of SAPS investigators to investigate the TRC cases where victims have asked the NPA to look at prosecutions. We have been taking quite a beating due to the fact that nothing has been done on these matters for a number of years and in fact, in certain cases, the victims are threatening us with mandamus applications. In this regard, Commissioner Lalla asked me to provide him with the names of three/four investigators who had the necessary experience. We are only looking at a small number of cases, plus minus nine. Obviously, no progress at all will be made if the investigators do not have previous knowledge of the relevant Apartheid security structures and role players therein.

The only persons I could think of off-hand, were CSI Marion and three/four of his KZN DSO investigators, who were previously involved with the Goldstone Commission and ITU. All these persons have indicated their willingness to transfer to SAPS. Commissioner Lalla indicated that the TRC investigations would constitute a special tasking and the investigators would be permitted to finalise these cases before taking on other commitments. He also indicated that he would pay the costs of the investigations from his budget. This would ensure that they could deal with these matters irrespective of whether they are located in DPCI or any other police structure. He asked me to communicate directly with you on this issue.” (Bold added).

310. However, Hofmeyr was not appointed to head up the DPCI, so Macadam had to approach the SAPS Commissioner again. On 1 July 2009 he wrote an email (RCM6 (at p822) to Superintendent Colla Bezuidenhout at the SAPS headquarters seeking a meeting with the Commissioner to discuss the TRC cases. He advised in the email:

“We are under intense pressure and have been called upon to report on progress to the Minister and the Justice Portfolio Committee. The one matter which requires investigation prescribes on 12 September 2009 and this case must be fully investigated and the family afforded an opportunity to exercise their right to a private prosecution before the crime prescribes.” (Bold added)

311. Macadam was told to meet with Commissioner Anwar Dramat, the newly appointed Head of the DPCI. He then made a number of unsuccessful attempts to secure a meeting with Dramat. During this period, the unidentified case that was due to prescribe on 12 September 2009, prescribed without being taken further. It can be

safely assumed that a large number of other crimes associated with the TRC cases prescribed during this period.

312. I am advised that at this time the family of the late Nokuthula Simelane and their representatives were working behind the scenes to persuade the Minister of Police to appoint investigators to take on the TRC cases.

313. Ultimately Macadam met with Assistant Commissioner Godfrey Lebeya on 26 November 2009 where the issue of conducting investigations was discussed resulting in Macadam addressing a letter to Lebeya on 18 January 2010, which is attached to Macadam's affidavit (FA5) as annex RCM7 (at p826). The letter is reproduced below:

"My letter dated 13 July 2009, addressed to Deputy National Commissioner Dramat and Divisional Commissioner Lalla, and our meeting of 26 November 2009 have reference.

The issue related to the appointment of investigators to investigate the 11 matters identified by the NPA, which were itemised in my letter of 13 July 2009. Subsequently, the Acting National Director of Public

Prosecutions declined to prosecute in the Lubowski matter and consequently, only the remaining 10 cases on the list required attention.

Senior Superintendent Bester of your office attended our meeting and informed you that he was in possession of a number of further dockets which he felt also required investigation. On 6 December 2009, I had a meeting with Senior Superintendent Bester and established that these dockets related to cases against the Liberation

Movements in respect of which a decision was taken in 2004 by the then National Director not to prosecute. It should be noted that in the main, all the suspects implicated in the dockets had applied for and received amnesty. I therefore informed Senior Superintendent Bester that there was no basis upon which these cases could be reopened.

Consequently, only the remaining 10 cases on the list require attention. Since you raised the sensitivity of the matters with me, the National Director of Public Prosecutions was given a full written briefing on the matters. I had a meeting with him today and he indicated that SAPS should in fact investigate all the matters which required investigation. The matters should be referred to my office once the investigations have been concluded. Should you require any guidance as to how the matters should be investigated, you are at liberty to approach me for any such assistance which you might require.

Given the nature of the cases, it may be desirable that we meet to discuss the issues in person and in this regard, I would be grateful if you could indicate when you would be available to meet with me.” (Bold added).

314. *Senior Superintendent Louis Bester was appointed to oversee the investigations of the ten remaining TRC cases. It appeared that Bester was particularly interested in pursuing cases against members of the former liberation movements. As it transpired, he made no progress in the cases against former apartheid security officers and operatives.*

YOUR RIGHTS AND OBLIGATIONS

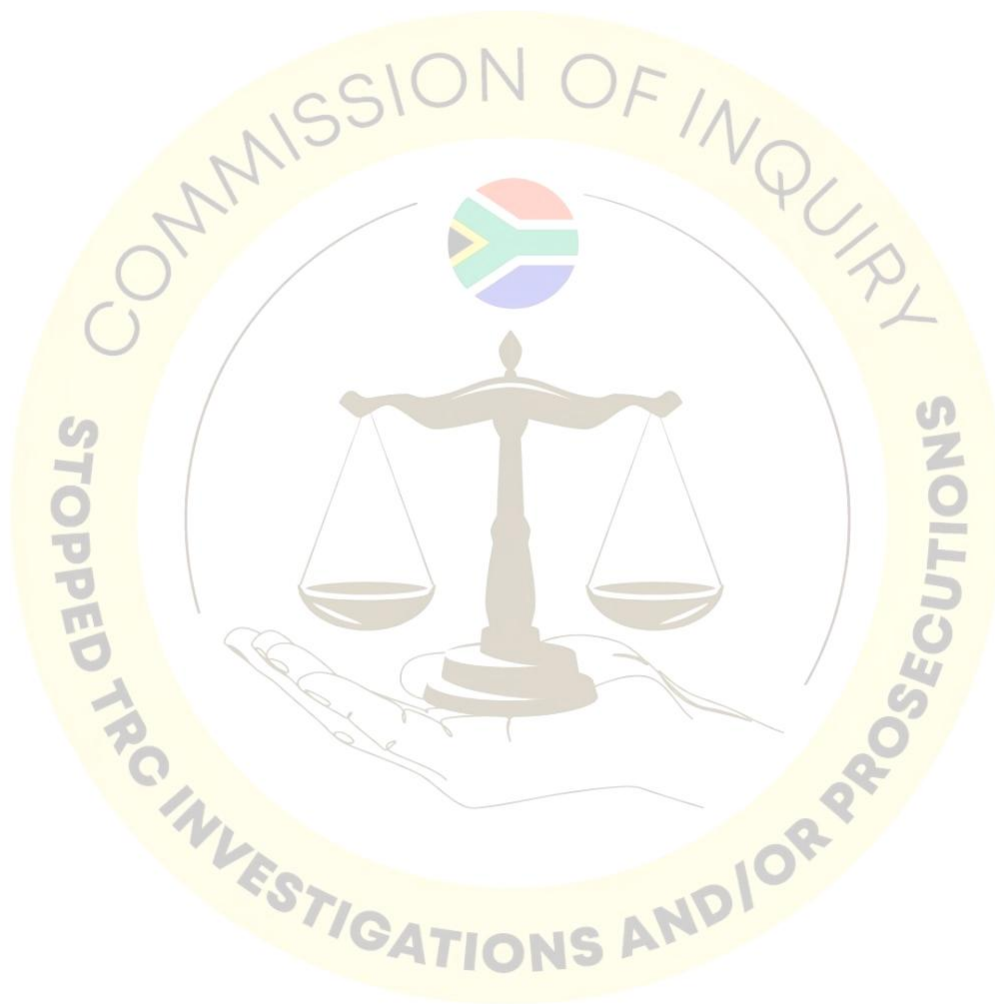
9. You are entitled to attend the hearing at which the evidence relating to the above allegations, and any other that may be led against you, is presented. You may be represented by a legal practitioner of your choice.
10. Rule 3.4 requires that, within fourteen (14) calendar days of this notice, you submit a statement in the form of an affidavit responding to the allegations. Your affidavit must specify which parts of the evidence are disputed or denied, and set out the grounds for such dispute or denial.
11. If you wish to—
 - a. give evidence yourself;
 - b. call any witness in your defence; or
 - c. cross-examine the witness whose evidence implicates you,you must apply in writing to the Commission for leave to do so within fourteen (14) calendar days of this notice, accompanied by your affidavit.
12. You may also apply for leave to make written and/or oral submissions regarding the findings or conclusions that the Chairperson should draw from the evidence relating to you.

COMMUNICATION WITH THE COMMISSION

13. All correspondence, applications, and affidavits must be directed to: The Secretary of the Commission secretary@trc-inquiry.org.za.

DATED at **SCI BONO DISCOVERY CENTRE** Johannesburg on this 30th day of October 2025.

For and on behalf of the Evidence Leaders to the Judicial Commission of Inquiry into Allegations Regarding Efforts or Attempts Having Been Made to Stop the Investigation or Prosecution of TRC Cases.





FW: Lalla/Ackerman

From Baitseng Rangata <Baitseng@brrangata.co.za>
Date Thu 09 Apr 2026 08:59
To Research <research@trc-inquiry.org.za>

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From: Baitseng Rangata <Baitseng@brrangata.co.za>
Date: Thursday, 19 March 2026 at 14:54
To: Jannie Lubbe <jlubbesc@gmail.com>
Cc: secretary <secretary@trc-inquiry.org.za>, Fana Nalane <fana@nalanesc.co.za>
Subject: Re: Lalla/Ackerman

Good afternoon, Counsel

In preparation for the upcoming hearing of Mr Lalla 's evidence on 10 April 2026, please consider the evidence of Adv Ackermann of 4, 5 and 6 March 2026, as well as his affidavit of 25 October 2025, please advise if your client will be submitting another affidavit dealing with the matters raised therein.

Macadam also gave his evidence at the Commission on 18 March 2026, please let me know if you are able to access the mentioned transcripts , if not we shall forward them to you. Please refer to pages, 38, 39, 60 and 61.

Should you wish to discuss the above , please contact me. 076 021 1405.

Baitseng Rangata

Kind Regards

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From: Jannie Lubbe <jlubbesc@gmail.com>
Date: Wednesday, 04 March 2026 at 10:10
To: Baitseng Rangata <Baitseng@brrangata.co.za>
Subject: Re: Lalla/Ackerman

Thank you
J Lubbe SC
Chambers/Kamers
NEWTONS
27 Park Road
Bloemfontein 9301

On Wed, Mar 4, 2026 at 10:07 AM Bait seng Rangata <Baitseng@brrangata.co.za> wrote:

Good day

We have asked for the recording, we dont have it

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From: Jannie Lubbe <jlubbesc@gmail.com>

Sent: Wednesday, March 4, 2026 10:04:23 AM

To: Bait seng Rangata <Baitseng@brrangata.co.za>

Subject: Lalla/Ackerman

Good morning

In the affidavit of Ackerman SC reference is made to a clandestine video/recording made by Lalla. Is a copy available and if so can you please provide me with a copy?

When is Ackerman SC scheduled to testify?

Regards

J Lubbe SC

Chambers/Kamers

NEWTONS

27 Park Road

Bloemfontein 9301

accused while he was a member of the TRC.

In addition, I believed that a prosecution relating to the attempted poisoning of Rev Chikane was also justified and that it would be inappropriate for any person other than myself to conduct the prosecution because of the links to the Wouter Basson matter which I personally had dealt with. I therefore decided to deal with all these matters myself. I appointed Macadam to deal with the Blani matter which SAPS had informed me justified prosecution.

10

12. Due to the fact that the security branch cases were ones where amnesty had been refused, I informed the suspects' attorney of my intention to institute proceedings so that any review of the amnesty process could be dealt with expeditiously.

During the course of the discussions, I was informed by the attorney that he acted for a group of former police generals, who were protecting the interests of any security branch member faced with prosecution. In this context, he informed me that a solid case had been prepared, implicating the President on a charge of terrorism, linked to the MK landmine campaign.

20

The two SAPS members dealing with the APLA and MK cases also informed me that there was a case against the President. It was clear to me that the case against the President was being relied on to intimidate the NPA and not prosecuting security branch members.

10 Due to the fact that neither the lawyer in question nor the SAPS members could on any occasion produce a docket containing evidence implicating the President, I instructed Macadam to go through all the relevant TRC evidence in order to establish whether there was any merit in the allegations against the President. Mr Ngcuka was at all times informed of these developments.

ADV VARNEY: If we can just pause for a moment, Mr Ackermann. The attorney you refer to in this paragraph, was that attorney Mr Jan Waggenaar?

ADV ACKERMANN: That is correct.

20 ADV VARNEY: And just to be clear, that sentence in the middle of that paragraph at the top of page 5 of your memo, and page 11 of the bundle, where you say it was clear to me that the case against the President was being relied on to intimidate the NPA and not prosecuting security branch members. Are you really saying that the case against the President was being relied on to intimidate the NPA not to prosecute security branch members?

ADV ACKERMANN: That is correct, Chair. At some later stage of my evidence I will deal with the matter.

ADV VARNEY: Thanks, you can proceed with paragraph 13.

ADV ACKERMANN:

13. Due to the difficulties encountered with the DSO, my two deputies and I met with Commissioner Lalla to inform him of my unit's mandate and to request him to channel any intelligence relating to the cases to my unit.

10 During the course of these discussions, I did express my dissatisfaction with the DSO and informed him of the allegations being made against the President.

Macadam also asked his assistance concerning the Motherwell case where the accused were alleging that the deceased had been killed because they were MK operatives. As I subsequently discovered, this conversation was clandestinely recorded both on audio and video.

20 That will be a separate matter that I will, a topic that I have identified to be given evidence on. So 14:

14. At a later stage, my two deputies and I were at short notice summoned to a meeting with Mr Ngcuka. Mr Ngcuka informed me that Commissioner Selebi had addressed a meeting of

the Directors General and alleged that Mr Ngcuka was preparing to have the President and six generals arrested and charged with terrorism.

Mr Ngcuka further informed me that Commissioner Selebi was in possession of a video recording in which he had admitted that the President was due to be arrested. I was then shown the video recording of my meeting with Commissioner Lalla and this was how I learned
10 that the meeting had been recorded.

ADV VARNEY: Mr Ackermann, just a small correction. In that sentence starting Mr Ngcuka further informed me that Commissioner Selebi was in possession of a video recording in which 'I', as in you, had allegedly admitted the President was due to be arrested.

ADV ACKERMANN: That is correct.

ADV VARNEY: Please proceed at paragraph 15.

ADV ACKERMANN:

15. Mr Ngcuka further informed me that Commissioner Selebi had complained about the
20 NPA being in possession of SAPS dockets. Apparently, the allegation was that these dockets contained the evidence that would be used to prosecute the President and other high profile ANC leaders. I denied the existence of both an attempt to arrest the President and others, as well

as the existence of the so-called relevant police dockets against them. Mr Ngcuka then made arrangements for you and three police commissioners to be present at Adv Mpshe's office the next day for an inspection of the dockets to be carried out.

10 At Adv Mpshe's office, Mr Ngcuka invited SAPS to identify the dockets relating to the President and others, which they were unable to do. Mr Ngcuka then instructed the SAPS Commissioners to have all the SAPS dockets removed forthwith and for the two SAPS members working with Adv Fick to vacate their office at the DPP's premises.

20 17. Shortly thereafter, Minister Maduna personally visited Mr Ngcuka, myself and Macadam and was fully briefed on all these developments. Macadam had compiled a report to Mr Ngcuka in which he had expressed the opinion that having perused all the relevant TRC material, there was no case against the President or the other prominent ANC members who had been refused amnesty. A copy of the report is attached hereto. Minister Maduna also satisfied himself and said that the allegations made by

Commissioner Selebi were untrue and undertook to inform the President accordingly.

It is Annexure E and F, I have not read them.

While I was absent from the office, I was informed by Macadam that Mr Ngcuka had summoned him to a meeting with Mr Billy Masetla. I was further informed that the purpose of the meeting was to satisfy the Office of the President that there was no intention to prosecute the President.

10 Macadam finally advised me that he had given Masetla a copy of his report and that he was satisfied with the manner in which the manner had been dealt with.

Matter, it should be matter.

ADV VARNEY: Mr Ackermann, if we can just pause on paragraph 18, you refer to Mr Billy Masetla. Was Mr Billy Masetla at that time the Director General of the National Intelligence Agency, NIA?

ADV ACKERMANN: That is correct.

ADV VARNEY: Please proceed.

20 ADV ACKERMANN:

I was angry that Commissioner Lalla had clandestinely recorded a confidential meeting and in my personal capacity, sent him a letter in which I expressed my feelings. I heard nothing further from him.

I will deal with this matter later.

ADV VARNEY: Just for the... [intervenes]

ADV ACKERMANN: Paragraph...

ADV VARNEY: Commission's records, that letter can be found in Bundle 3 at page 27.

ADV ACKERMANN:

Thereafter, Mr Ngcuka resigned and Dr Ramaite was appointed as the Acting NDPP.

10 As a result of pressure to deliver on the TRC matters, I decided that it was important to institute a prosecution relating to the attempted poisoning of Rev Chikane. On the eve of the arrest of the suspects, I was informed by Dr Ramaite that their arrests should be placed on hold until further notice. Shortly thereafter, I was informed that guidelines had to be formulated and incorporated into the NPA's general policy and procedure before any further prosecutions arising from TRC matters could be instituted.

20 ADV VARNEY: Mr Ackermann.

ADV ACKERMANN: Shortly thereafter... [intervenes]

ADV VARNEY: Sorry, Mr Ackermann, just for clarification, you say as a result of pressure to deliver on the TRC matters, where was that pressure coming from?

ADV ACKERMANN: The pressure was in the press, it was from the

complainants, the victims, I think you were one of the persons that complained about being, the cases not being investigated. There were quite a few persons that addressed us and if I remember correctly there were also reports about them, this non-prosecution of TRC cases.

ADV VARNEY: Thanks, you may proceed.

ADV ACKERMANN:

10 Shortly thereafter, Dr Ramaite informed me that he had attended a meeting in Cape Town with the Minister of Justice and Constitutional Development, other cabinet ministers and Commissioner Selebi. He further informed me that Commissioner Selebi had alleged that the NPA was planning to paralyse government by arresting a large number of prominent government officials who had previously been involved in MK activities.

20 As a result, Dr Ramaite submitted a comprehensive, secret internal memorandum to the Minister, explaining in detail how the NPA was managing TRC cases and denying the allegation made by Commissioner Selebi. It is believed that Commissioner Selebi had sight of this report.

23. Due to delays with the finalization of

the processes necessary before the guidelines could be implemented, no significant work was done on TRC prosecutions in 2005.

In the latter part of 2005... [intervenes]

COMMISSIONER KGOMO: Paragraph 24. It is better to refer to the paragraphs, counsel. Paragraph 24, each time just refer to the paragraph, please. That will be... [intervenes]

ADV ACKERMANN: Paragraph 24.

COMMISSIONER KGOMO: Yes, thank you.

10 ADV ACKERMANN:

24. In the latter part of 2005 however, it was publicly announced that the President had appointed a commission to establish whether the DSO should be incorporated into SAPS. I was approached by the NPA's legal advisor, Gerhard Nel, and informed that Commissioner Selebi had submitted an affidavit to the Commission in which he had made several allegations against the PCLU and had in essence recommended its closure.

20

I was required by Mr Nel to respond to these allegations insofar as they related to the PCLU, which I did. I also attended the sittings of the commission and also discussed certain of the allegations with Deputy National Commissioner

Pruis and Commissioner de Beer. It appeared to me that Commissioner Selebi was under the impression that the PCLU was in some way part of the DSO.

25. In early 2006, the guidelines were finally implemented and you instructed me to proceed with prosecutions. The guidelines make provision for the PCLU to be assisted by representatives of SAPS, NIA and the DSO.

10 26. Prior to the implementation of the guidelines, you had advised me to convene a meeting of these role players, so as to inform them of the nature of the guidelines which were due to come into effect. Under your name, an invitation was extended to all the role players. However, only the DSO representative attended the meeting.

20 27. After the guidelines had been implemented, you again requested the relevant state departments to nominate officials as contemplated by the guidelines.

28. I also met with Adv Mngwengwe, who agreed that SAPS could take over the TRC cases currently with the DSO. I also had a series of discussions with Commissioner de Beer in order

to arrange for SAPS to take over all these TRC cases. In the course of these discussions, I gained the impression that Commissioner de Beer was not opposed to doing so, but that he required higher authority because he could agree to do so. In follow-up discussions, it appeared that there was now reluctance on the part of SAPS to take over these cases, which was not the case when I originally had spoken to Commissioner de Beer.

10

29. Eventually, at the request of Commissioner de Beer, I compiled a letter for you to submit to Commissioner Selebi, outlining all the cases which required investigation and requesting him to have the necessary investigators appointed. I have not had sight of a reply from him and only learned from you that he had at this meeting expressed his reluctance to cooperate with the PCLU and made other specific allegations against me.

20

ADV VARNEY: Mr Ackermann, just for... [intervenes]

CHAIRPERSON: [Indistinct]

ADV VARNEY: Clarification, in paragraph 28 you mention a certain individual, Adv Mngwengwe, do you recall who he was?

ADV ACKERMANN: The name is familiar but I cannot recall.

ADV VARNEY: Okay thank you, you may proceed.

ADV ACKERMANN:

30. I must confess to being taken aback by these allegations and deal hereunder with the specific ones which you brought to my attention:

30.1: "The chasing away of NIA from my office"

10 I am not aware of such an incident and deny that such an incident has ever taken place. The only time I have met with a NIA official was on 27 February 2006 at 11:45 in my office at the VGM Building in Weavind Park. This meeting occurred as a result of an invitation the PCLU had extended to NIA to discuss the implementation of the TRC guidelines.

20 NIA failed to send a representative to the first meeting. After approval of the TRC guidelines by the Portfolio Committee of the Department of Justice and Constitutional Development, the PCLU once again addressed a letter to NIA to discuss the possible assistance that NIA could render to it in the prosecution of perpetrators. As already stated, this meeting took place on 27 February 2006.

I stand to correction, but my recollection

of this meeting is as follows:

The meeting was scheduled for 11 am.

The representative of NIA was Ms Yvonne Mabule.

She arrived at plus-minus 11:45.

I provided her with a brief background which had led to the drafting of the guidelines. I also provided her with a copy of the guidelines and referred her specifically to paragraph B6, in which

10 it is stated:

"The PCLU shall be assisted in the execution of its duties by a senior designated official from the following State departments or other components of the NPA:

The National Intelligence Agency.

The Detective Division of the South African Police Service.

20 The Department of Justice and Constitutional Development.

The Directorate of Special Operations."

I am quite certain that I would have stressed the point that the final decision on whether to prosecute or not, is vested in the NPA. She informed me that NIA would only be interested in

matters which threatened national security.

At that point in time, I showed her a draft letter addressed to Commissioner Selebi, setting out the relevant cases under investigation. I am not sure whether I have provided her with a copy of the letter.

10 I think that I also informed her that the only case that came to mind, which could negatively have influenced the security of the Republic, was the Powell case which involved alleged arms caches in KwaZulu-Natal.

I can also recall that I cautioned her to keep the intelligence operations separate from police investigations to avoid any legal challenges.

This meeting was very cordial and tea or coffee was served during the discussions. The meeting lasted at least 45 minutes.

20 The only indication that could have created the perception of "chasing her out of my office" was the fact that according to my diary, I had another appointment at 13h00 with one Sophie Matemane. Although I might have been in a hurry at this point in time, I never "chased her out of my office". I am quite certain that a

verbatim recording of the meeting could be obtained from NIA.

13.2, the heading is:

The reluctance of SAPS to cooperate with Ackermann/PCLU relating to TRC matters.

10 My staff and I have had numerous meetings and dealings with SAPS members in connection with TRC matters and on not one occasion have we been informed of any such reluctance, nor am I in receipt of any written communication from SAPS in which such sentiments are expressed.

20 In fact, on more than 10 occasions, Commissioner de Beer informed me that he was more than willing to provide investigators, but that he required the permission of Commissioner Selebi. In at least three cases, investigators have already been earmarked to commence investigations once the required permission has been obtained.

Since 2003, all the non-TRC matters have been dealt with by a specialised SAPS unit, headed by Senior Superintendent Bester. Commissioner de Beer also informed me that Senior Superintendent Bester and his unit should

also be involved in the investigation of the TRC matters.

I have discussed these matters with Senior Superintendent Bester and some of his investigators and none of them have expressed any reluctance to investigate these matters, nor to work with me or the members of the PCLU. It would therefore appear that the only source of reluctance to investigate TRC cases, emanates from Commissioner Selebi.

10

30.3. As a result, I can see no reason for SAPS not to cooperate with the PCLU in the investigation and prosecution of TRC matters. My staff and I have a more extensive knowledge of such matters than the DPP's offices. In the numerous discussions concerning these matters between myself and the DPP's, they have expressed their difficulties in dealing with these cases and have welcomed the PCLU playing the role set out in the guidelines. It also makes sound sense to centralize all these matters in your office so as to ensure consistency in decision making and to fast track investigations and prosecutions.

20

The next matter is perhaps...

ADV VARNEY: Ja, can we... [intervenes]

ADV ACKERMANN: Important.

ADV VARNEY: Just pause there. The next matter is titled criminal charge against yourself. And as I understand it, Mr Ackermann, these were false allegations and unless you think there is a need for the commission to be aware of this, I think we can skip it and move to the next page dealing with the alleged acrimony... [intervenes]

ADV ACKERMANN: Commissioner, this is just another example of all the criminal cases I had to face during my tenure at the offices. There
10 was no basis for it; it was just to intimidate me. And what was even worse is I was prepared to make an affidavit to give my version what happened. But I know that they said no, no, we want a warning statement and I have to supply them with a warning statement. This warning statement must be Annexure N. I cannot even recall it, but
this was one of the many cases that was brought against me.

31. Alleged acrimony between the National Commissioner and myself.

I have had no direct confrontations with
Commissioner Selebi and in fact, I have never
20 had any personal dealings with him. I can only speculate as to the reason for the alleged animosity.

It would appear that Commissioner Selebi has an obsession concerning a non-existent attempt on my part to prosecute the President

and other prominent ANC leaders. It may be that he was placed in an embarrassing position as a result of his original allegations which were disproved and this coming to the attention of both Minister Maduna and Mr Masella, whom I take it, would have reported it to the President. See also the Secret Internal memorandum addressed to our Minister, especially pages 4 and 6.

ADV VARNEY: I think it reads 4 to 9.

10 ADV ACKERMANN: 4 to 9.

31.2. I was informed... [intervenes]

COMMISSIONER KGOMO: Just a moment. Mr Varney, I am not sure where we skim over 30.4, what happened to the charges against you? The, I am on 30.4.

ADV ACKERMANN: You said 30.4? Ja. I have not read it... [intervenes]

COMMISSIONER KGOMO: I am just... [intervenes]

ADV ACKERMANN: But it was... [intervenes]

COMMISSIONER KGOMO: I am just taking you back, ja. Yes?

20 ADV ACKERMANN: I can only state what I read here, but I do not want to make allegations who I thought was behind it.

COMMISSIONER KGOMO: No.

ADV ACKERMANN: But just the fact... [intervenes]

COMMISSIONER KGOMO: No, I just want to know whether they proceeded with it, whether it was withdrawn or was it just...

[intervenes]

ADV ACKERMANN: I must... [intervenes]

COMMISSIONER KGOMO: Was it just left in limbo or what happened?

ADV ACKERMANN: What happened is I then set out in my warning affidavit, I set out everything and told they are making a serious mistake of identity, because they... if I can recall, it was stated that I intimidated or I did something, I said something to a witness at the offices of the D'Oliveira Investigating...

10 COMMISSIONER KGOMO: Ja, can I just... [intervenes]

ADV ACKERMANN: And they were... [intervenes]

COMMISSIONER KGOMO: Sorry, can I just interrupt you. I just want to know whether you were prosecuted and discharged or whether someone declined to prosecute, that is all that I want to know at this point. Not... [intervenes]

ADV ACKERMANN: I do not know what happened to it, but I was never charged. My warning statement was filed in the docket and I carried on with my work.

20 COMMISSIONER KGOMO: Okay, thank you. You may proceed, Mr Varney.

ADV VARNEY: Thanks Commissioner, for that clarification. Mr Ackermann, I think you were busy with paragraph 31 and the subparagraphs. Maybe you can just start afresh at paragraph 31.

ADV ACKERMANN: Okay, at paragraph 31.

Alleged acrimony between the National

Commissioner and myself.

I have had no direct confrontations with Commissioner Selebi and in fact, I have never had any personal dealings with him. I can only speculate as to the reason for the alleged animosity.

10 31.1. It would appear that Commissioner Selebi has an obsession concerning a non-existent attempt on my part to prosecute the President and other prominent ANC leaders. It may be that he was placed in an embarrassing position as a result of his original allegations which were disproved and this coming to the attention of both Minister Maduna and Mr Masella, whom I take it, would have reported it to the President. See also the Secret Internal memorandum addressed to our minister.

20 31.2. I was informed that there was ill feeling between Mr Ngcuka and himself and I can again speculate that I was perceived as being an ally of Mr Ngcuka.

31.3. It would also appear that he erroneously believes that the PCLU is part of the DSO and his feelings concerning the DSO are a matter of public record. My involvement in the

Khampepe Commission may also be held against me.

31.4. In certain matters accorded a high profile by SAPS, my unit declined to prosecute. In one such matter, the suspect has instituted a multi-million Rand suit against SAPS and Justice. In another matter, he requested that the docket not be read by my staff member, but by persons in the DPP Office, Pretoria. The DPP who read the docket also agreed that there were no grounds to charge the suspects and eventually the complainant also accepted that there was no such case.

31.5. In certain cases, members of my staff have complained about poor police investigations. These complaints however were always done in a constructive manner and not intended to in any way damage SAPS.

I was invited to address the Controlling Body concerning problems with prosecuting South Africans performing security services in Iraq. He attended this meeting and alleged that the NPA was dragging its heels on these matters. Dr Ramaite submitted a detailed letter to him, pointing out that this claim was unfounded. A

copy of this letter was also submitted to the political heads who attended the meeting.

Paragraph 31.7 I said:

A combination of the above.

In the short period of its existence, I believe that the PCLU has proved its worth and achieved considerable success in the fields of:

Nuclear proliferation;

Chemical and biological warfare proliferation;

10 Conventional arms control;

Mercenary activity.

In several of these matters the cases have been investigated by SAPS and the PCLU has always given it credit for its work. On an *ad hoc* basis, my staff members have worked long hours of overtime to assist individual police officers in obtaining search warrants and with other complicated investigations.

20 33. I have, on more than one occasion, spoken to Commissioners De Beer and Pruis and suggested that we meet informally to resolve any differences which may exist between SAPS and the PCLU. After you had informed me of Commissioner Selebi's latest allegation, I also wrote to him, requesting a meeting to discuss the

matter. As of the date of this letter, I have not received a reply from him.

34. Despite this "animosity", my staff and I are perfectly willing to work with Commissioner Selebi and with SAPS. I believe that this will be to the benefit of our country, as the PCLU's short record to date establishes that when it teams up with SAPS, a significant inroad into combating crime is achieved. I believe that both SAPS and the NPA should have the same object of combating crime and not acting in opposition to each other.

10

ADV VARNEY: Thank you, Mr Ackermann. So if I can just return to your paragraph 32 where you point out that the PCLU had worked closely with SAPS in relation to other categories of cases, nuclear proliferation, chemical and biological warfare, conventional arms control and mercenary activity. But of course the TRC cases are not listed in that group. So am I right in saying that it was only actually in relation to the TRC cases where there were issues with SAPS in relation to investigations?

20

ADV ACKERMANN: That is correct.

ADV VARNEY: Now if we can return to the account that you want to give to this commission in relation to, you know, why it was that you had such a struggle to get investigators on the TRC cases. You have already mentioned that the DSO and the SAPS at that time were not

coming to your assistance. What can you add? What explanations do you have?

ADV ACKERMANN: Chair, I could never understand why the two investigating agencies could so blatantly refuse to investigate the TRC cases. It made no sense to me. It was puzzling to me that the DSO was withholding, notwithstanding the President's instructions and Mr Ngcuka's directions that the TRC cases were a priority, they still refused to investigate the cases and they would even put it in writing. I personally asked Adv Ledwaba what his reasons were for
10 this refusal. And if memory serves me, he stated that he is the head of the operations of DSO and that he does not need to give me any reasons. Macadam and I also had a meeting with Commissioner de Beer. De Beer informed us that the police will not investigate TRC cases unless the President so directs.

ADV VARNEY: And perhaps if we can just pause there. Commissioners, Mr Ackermann is relying on a letter from Assistant Commissioner de Beer to Adv Ackermann himself. It is dated 26 September 2003 and it is in Bundle 1 between pages 296 and 297. Mr Ackermann, perhaps it might be useful if you could read that letter
20 into the record.

ADV ACKERMANN:

Dear Adv Ackermann, the investigation...

[intervenes]

ADV VARNEY: Can you just hold on a moment, in case the Commissioners want to find that letter. It is at Bundle 1 at page 296.

CHAIRPERSON: Yes.

ADV VARNEY: Thanks mister... [intervenes]

CHAIRPERSON: We are on the same page, Mr Varney.

ADV VARNEY: Thank you Chairperson, thanks Mr Ackermann, you can proceed.

ADV ACKERMANN: Yes.

“Dear Adv Ackermann.

Investigations of TRC cases.

10 Your letter dated 20 August 23 as well as the preceding discussions between ourselves have reference. As agreed at our meeting, I have discussed your request for the assistance of the South African Police to investigate cases emanating from the TRC processes with the National Commissioner.

20 It is evident from your letter that the investigation and prosecution of these cases were referred to the National Director of Public Prosecution by the President. Our understanding was that this referral was politically inspired. As you know, a large number of cases to be investigated are those of ex-policemen.

It is therefore understandable that your first endeavour to have these cases investigated by the Directorate for Special Operations. From

your letter it is firstly not clear what the DSO do not have the legal mandate to investigate the cases emanating from the TRC. And secondly, why it was not possible to obtain a presidential proclamation to provide such mandate if it was lacking.

10 Your letter only states that in March 2002 consideration was given to the issue of a presidential proclamation, but problems were encountered in this regard. You are aware of the fact that the capacity created by the D'Oliveira committee is presently with the DSO. In view of the nature of the investigations, the fact that the President has referred it to the National Director and that it seems to be common cause that the initial understanding was that the DSO would have investigated it.

20 The opinion is held that you or the National Director should approach the President and confirm the instruction of the President on who he wants to investigate these cases. If the President indicates that the South African Police Service should be involved in the investigation, the instruction should be obtained in writing.

Upon receipt of that instruction, the South

African Police Service shall of course assist. And the terms of reference as well as issues such as logistics, number of investigators, command can be discussed as well as the other issues. You are therefore requested to approach the President on the matter where after we can take the matter further if necessary.

ADV VARNEY: Thank you. To the best of your knowledge, did NDPP Bulelani Ngcuka or anyone else in the NPA ever approached the
10 President?

ADV ACKERMANN: I certainly did not. What happened is, there must be reports that I have written to Mr Ngcuka and to my divisional head, Dr Ramaite, informing them about this letter.

ADV VARNEY: Yes, so you took that action, but are you aware of NDPP Ngcuka ever approaching the President?

ADV ACKERMANN: I was not aware of it. What I know is were no signed 28 authorisations.

ADV VARNEY: I want to put to you a paragraph in Mr Ngcuka's statement dealing directly with this matter. Commissioners, this
20 statement was put up by Mr Ngcuka and it is on the commission's website. The paragraph in question is paragraph 43. And in fact we heard from Mr Ngcuka earlier this week. The title of that paragraph is:

Response to the allegation that I did not approach the President.

'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.

10 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.

20 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.”

Were you aware of the instruction by the NDPP to Ramaite and McCarthy to resolve the issue?

ADV ACKERMANN: I was not aware of the instruction, but I can say that it was not resolved.

10 ADV VARNEY: What do you make of former NDPP Ngcuka’s statement that the demand by Commissioner de Beer was with respect nonsensical and that SAPS was in any event required under law and the Constitution to cooperate and assist the NPA with such investigations, therefore there was no need for him to approach the President? What, do you agree with that contention?

ADV ACKERMANN: I do not want to comment on that at this stage.

ADV VARNEY: Okay. Before we wrap up this section, is there anything further you wish to add?

20 ADV ACKERMANN: Is that regarding the refusal of the two investigating agencies?

ADV VARNEY: Yes.

ADV ACKERMANN: Reluctance. Well you know the facts and the documentation speaks for itself that the SAPS and the Scorpions did not want to investigate. I had no investigative people to do the investigations, we do not have investigation capacity and that was the

fact that there were no investigations, full stop.

ADV VARNEY: Thank you. Commissioners, there has been a request for a 15 minute break.

CHAIRPERSON: Yes.

ADV VARNEY: If the Commissioners so...

CHAIRPERSON: Yes. We will take an adjournment and reconvene at 12:05.

ADV VARNEY: As the Commissioner pleases.

CHAIRPERSON: At 12:10.

10 ADV VARNEY: As the Commissioner pleases.

INQUIRY ADJOURNS

INQUIRY RESUMES

CHAIRPERSON: Mr Varney?

ADV VARNEY: Thank you, Chairperson, and thanks for the indulgence. Chairperson, the request from Cape Town is that we deal with two fairly small, discrete matters before we adjourn for the day.

CHAIRPERSON: Yes.

20 ADV VARNEY: The first matter is a case that Mr Ackermann has already referred to in his evidence, and that is the PEBCO 3 matter. He is not going to go into great detail, but the commissioners are referred to the supporting affidavit of Nomali Ghalela, which is in bundle 9, between pages 168 and 179 for detailed background on that case.

CHAIRPERSON: Pages?

ADV VARNEY: 168 to 179.

CHAIRPERSON: Thank you.

ADV VARNEY: Mr Ackermann, you wanted to speak a little more about the PEBCO 3 prosecution. Please will you proceed?

ADV ACKERMANN: Just to have the following notes on it. I say that the facts of this case are fully set out in the affidavit of Nomali Ghalela. It is on page 1104, I am not sure what the page number is.

ADV VARNEY: Yes, It is already in the record for you.

ADV ACKERMANN: Nine members of the security branch of
10 Port Elizabeth and the Klapplaats unit in Pretoria applied for amnesty.
After the TRC hearing, eight members were refused amnesty
because it was found that they did not make full disclosure about their
role in the murders of PEBCO 3. I decided to prosecute Nieuwoudt
van Zyl and Koenie with three counts of kidnapping and murder in the
Supreme Court of Gqeberha.

During discussions with the legal advisor Jan Wagenaar, the
following came to light. During the discussions with him, he said that
the TRC ruling for not granting amnesty will be taken on review, and
that there are TRC guidelines in the pipeline that will formulate the
20 criteria for TRC prosecutions. I informed Wagenaar that I am taking
note of the intended review proceedings and of the intended
guidelines, but they will still be arrested on 11 February 2004 for the
murder of the PEBCO 3, and a trial date will be set.

I personally appeared about three times in court in that case,
and each time the case was remanded for review proceedings. I was

later informed that the Department of Justice failed to file any court documents. The court apparently provisionally withdrew the case against the accused.

The Department of Justice failed to reconvene an amnesty hearing, and the charges were not reinstated against the accused. I was, of course, taken off. Mr Mshea removed me from the TRC cases, and I was informed by McAdam that Mr Mshea had taken over the PEBCO 3 cases. McAdam will be able to shed further light on this case. All I can state is that the case never proceeded, and
10 somewhere I read in a document that a spokesperson of the Department of Justice said that those are one of the cases that fell through the cracks. I think that was the PEBCO matter, because he just disappeared, but Chris will be able to tell us more about the case.

ADV VARNEY: Thank you, Mr Ackermann. I understand that you rely in part on a document. It is a memorandum, an internal memorandum, that you prepared, and you sent it to Dr. Ramaite, as well as advocates Piccoli and Pilay. The subject matter is details of TRC cases closed by the PCLU and the reappointment of Senior Superintendent Britz. It is dated 30 October 2006. Commissioners,
20 that letter we referred to previously.

It is in bundle 1 at page 315. Now, Mr Ackermann, you do refer to the PEBCO 3 case in this internal memo at page 325. I want you to read certain paragraphs into the record. That paragraph falls under a heading on the previous page, at paragraph 2.28, and the heading is The Reappointment of Senior Superintendent Britz. Just

to give context, can I ask you to read into the record paragraphs 2.28.1 to the end of that letter, please?

ADV ACKERMANN:

10 “At its last meeting, the committee was informed by Assistant Commissioner Jacobs that Senior Superintendent Britz would be reappointed to investigate the docket in possession of SAPS. I wish to express my concern at this. Britz was a former member of the security branch who, prior to the PCLU being involved with TRC cases, assisted the DPP Pretoria with cases involving the liberation movements.

20 Former Police Commissioner General Van Der Merwe had formed an organisation entitled the Foundation for Equality Before the Law, which was intended to ensure that no further prosecutions of security members would take place. When I and my staff were appointed to take over the TRC cases in the DPP's office Pretoria, we gained the firm impression that Britz was not only very sympathetic towards the organisation, but had regular contact with General Van Der Merwe. In particular, Britz tried to persuade me and my deputy on numerous occasions that there was a provable case of

terrorism against President Mbeki arising from the
landmine campaign.

This was raised in the context for security blast
members to be prosecuted. The President would
also have to be charged. It was clear that he was
against prosecutions of security branch members,
despite his claims he could never produce a
docket implicating the President.

10 At one stage he informed me that the docket was
with General Van Der Merwe and his legal
advisor. This raises a very serious question as to
how an official police docket could be retained by
General Van Der Merwe, who was not entitled to
possess police material after his retirement from
SAPS.”

ADV VARNEY: If we can just pause there, you make reference to a
senior superintendent, Britz. Can you recall his first name?

ADV ACKERMANN: Hennie.

20 ADV VARNEY: Hennie Britz. And I am also right in saying that the...
(intervenes)

CHAIRPERSON: Is it Annie or Hennie?

ADV VARNEY: Hennie. H-E-N-N-I-E. Mr Ackermann, am I correct
in saying that the reference in the Calata founding affidavit to senior
superintendent Saker Britz is an error? It should have read Hennie
Britz.

ADV ACKERMANN: That is correct.

ADV VARNEY: And then lastly, the reference to General Van Der Merwe, you state in that last paragraph that he had retired from the SAPS. Was that General Johan Van Der Merwe, the former head of the security branch and commissioner of South African police?

ADV ACKERMANN: That is correct.

ADV VARNEY: Thank you. Please continue.

ADV ACKERMANN: Paragraph 2.28.6:

10 “When the issue of prosecuting security branch members for the PEBCO 3 incident was raised with their lawyer, he immediately indicated that he was preparing to submit a docket calling for the prosecution of the president. I can only draw the inference that sharing of information took place between Britz and Van Der Merwe.

20 2.28.7 The issue of the prosecution of the president was raised at the highest level of government, and it resulted in inquiries being conducted by Minister Maduna, as well as members of the president's office. All parties were satisfied that the NPA had no intention of prosecuting the president. In fact, Mr Ngcuka had been provided with a report that no such case had been established in the TRC record.

2.28.8. This highly embarrassing incident caused

Mr Ngcuka to instruct that Britz vacate the offices of the DPP and that all the relevant SAPS dockets be removed. Britz was subsequently relocated to SAPS Crimes Against the State Unit. He requested the PCLU to provide written confirmation of the fact that the decision had been taken not to prosecute the president. When he received the letter, he tried to persuade the PCLU to reconsider its decision. I therefore believe that Britz lacks the necessary objectivity to be of assistance to the committee and that his reappointment may lead to further controversy as well as a potential leaking of information to General Van Der Merwe.”

10

ADV VARNEY: Thank you, Mr Ackermann. Can we turn to the last issue we'll deal with today? And that is the matter of the clandestine recording of your meeting with Mr Ray Lalla, who at that time was the Commissioner and Head of the Police Crime Intelligence Unit. You have made reference to this earlier in your evidence, but let us deal with it in detail now.

20 ADV ACKERMANN: Ray Lalla was a Commissioner and the Head of the Police Crime Intelligence Unit. We were desperately determined, that is now the PCLU, to find an investigating agency to investigate the TRC cases. McAdam then suggested that we ask for a meeting with Commissioner Lalla, who he described as a sincere and trustful person. He previously appeared at interaction with him.

On 25 August 2003, McAdam, Pretorius and myself had a meeting with Commissioner Lalla in his office at the Police Headquarters. At this meeting, I informed him about my dilemma not having investigators for the TRC cases and the refusal of the DSO to investigate the cases.

I also made uncomplimentary remarks about the Scorpions, the DSO, and Advocate Ledwaba. In short, I bad-mouthed the Scorpions. I cannot recall everything in detail what I said at this meeting. Fortunately, before we went into this meeting, I directed
10 McAdam and Pretorius not to say anything at the meeting because I anticipated that there is the possibility that Lala might report back to his boss, Selebi, and did not want to compromise McAdam and Pretorius.

A few months later, I received a call from Mr Ngcuka instructing me to come to his office and also to bring McAdam and Pretorius with me. From the tone of his voice, it was quite clear to me that he was very angry. Arriving at the office, we found Ramaite, Leonard McCarthy, and Mr Ngcuka sitting in front of a TV. We were ordered to sit down and watch the video recording. In short, it was an
20 audio and visual recording of the meeting in Lalla's office.

It was extremely embarrassing watching the video. We looked like the three stooges and I am doing all the talking. McCarthy and Ramaite were grinning all the time, and I do not blame them. Mr Ngcuka repeatedly asked me how could I have badmouthed his office and the Scorpions. I apologised. He carried on. I apologised

about three times. The fourth time, I gave him a piece of my mind regarding the attitude of the Scorpions.

I always had a very good relationship with Mr Ngcuka, but it was never the same again. I was very fortunate to not be suspended, and I expected to be removed from my office. I was very upset, and I think on the same day, I wrote a letter in my personal capacity to Lala.

ADV VARNEY: Let us just pause there for a moment, Commissioners. That letter that the witness refers to is in bundle 3 at
10 page 27. It is dated 16 March, 2004.

Mr Ackermann, if you do not mind, I'd like you to read that letter into the record.

ADV ACKERMANN: If you look at the right-hand corner, It is my private address. It is PO Box 136, Moreletta Plaza. I was very angry when I wrote this letter. It is addressed to Commissioner Lala, and it just follows.:

20 "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 and such underhand conduct. It is accepted practise amongst professionals when it is desirable that the 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 McAdam and Pretorius as a sincere and trusted colleague. Obviously, they made the 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 regime, security regime, is a change of surnames.

10 I said: See attached documents indicating previous attempts to get rid of me. In a number of court cases, counsel wanted to get rid of me. I did give to Mr Barnier a press clipping. I do not know if they used it, but anyway, the heading of that paper clipping is actually, they tried to get rid of Ackermann or something to that effect. The only time will tell if you have succeeded and whether the end justified the means.

In closing, I wish to echo the answer by Oscar Wilde during the class examination, his class examination, do not you have any decency?"

20 And I signed it and sent it to him.

ADV VARNEY: Thank you, Mr Ackermann. Now, what do you make of that incident? What did it demonstrate to you?

ADV ACKERMANN: If I have to speculate, I think he told Commissioner Selebi about this meeting that he taped it and Commissioner Selebi then sent it to Mr Ngcuka to have put me in a

bad light or probably suspended or something to that effect. But I have not seen that. I saw it once, the tape.

But if I recall, Ngcuka told me that in a meeting, Selebi said I have a video recording where I stated I was going to arrest the president. I can't recall whether it appears on that video. That is why I asked for the police to furnish me with the video recording. I have not received anything from them, but it must be in their possession. In fact, Mr Ngcuka must also have a copy. Bottom line is I was not removed.

10 ADV VARNEY: So, as I understand it, you're really saying that the NPA leadership was very concerned about the image of the Scorpions, but that the actual subject matter, or the purpose of your discussion with Raymond Lalla, that did not seem to register with them. Could you elaborate, please?

ADV ACKERMANN: In my notes I state the following. This meeting with Lala and the subsequent showing of the tape to Ngcuka and company demonstrates two things. That they were so concerned about the image of the Scorpions that the subject matter discussed on the tape did not warrant any discussion. Namely, my desperate plea
20 to the police to assist the PCLU with the investigation of TRC cases.

I say here, one would have expected that Mr Ngcuka will say something like, I did not realise that you did not have investigations for the TRC, or Leonard, why can't you, the Scorpions, please assist with the investigations? Maybe, earlier this morning we heard Mr Ngcuka saying he said to Ramaite and Leonard they must sort out

these problems. Well, in any event, it was not sorted out.

I also read here that I say that I am of the opinion that the purpose of giving the tape to Ngcuka was just another endeavour of Celebi to get rid of me. I was certain that I was going to be suspended or at least have a disciplinary hearing.

It is of great concern to me that the police are not playing open cards with the Commission. Commissioner Lalla says the following in his affidavit to the Commission. At no stage during the whole of my SAPS career spanning the period of 1995 to 2011 did
10 either DOJ or the NDP bring any TRC docket or specific enquiry to my personal attention. It is an affidavit I got on a website.

ADV VARNEY: Thank you, and indeed you contest that claim. Is that correct?

ADV ACKERMANN: Can you repeat that?

ADV VARNEY: You contest the claim made by Raymond Lalla that at no point in his police career did the NPA bring any docket or enquiry to his attention?

ADV ACKERMANN: We did bring an enquiry. Did I find the excuse?

ADV VARNEY: Yes, this is where we are going to ask the
20 Commission to bring the proceedings to an end today. Commissioners, with your indulgence, we'd like to adjourn so that Mr Ackermann can rest in preparation for tomorrow.

CHAIRPERSON: Are you going to proceed with his evidence?

ADV VARNEY: Yes, we'd like to commence again tomorrow morning at 09:00 with his evidence.

DAY 17/wk

- 86 -

04-03-26
A R ACKERMANN

CHAIRPERSON: At 09:00?

ADV VARNEY: Yes.

CHAIRPERSON: Okay. These proceedings are then adjourned until tomorrow morning at 09:00.

ADV VARNEY: As the commission pleases.

INQUIRY ADJOURNS UNTIL 5 MARCH 2026

CERTIFICATE OF VERACITY

We, the undersigned, hereby certify that **as far as it is audible**, the foregoing is a true and correct transcript of the digitally recorded proceedings in the matter of:

JUDICIAL COMMISSION OF INQUIRY INTO TRC

FORUM OF ORIGIN : Inquiry

CASE NUMBER : N/A

TRANSCRIBERS : M Brits, B du Plooy, W Kruger

DATE COMPLETED : 2026-03-04

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TRANSCRIBER'S NOTE:

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who previously been part of the special units that investigated TRC cases, so perhaps in those cases they get a place that a police officer who has no experience in the matter.

COMMISSIONER GABRIEL: Thank you.

ADV BHANA: Thank you, can we go... [intervenues]

COMMISSIONER KGOMO: Mr Bhana, this memo by the acting National Director of Public Prosecutions, Mr Mpshe to the Minister of Justice and Constitutional Development, now at page 1495 at paragraph 5, there Mr Mpshe says:

10 “Although the Pretoria High Court has declared the guidelines unconstitutional and an appeal has been noted, there is no reason why the investigations cannot proceed in the interim.”

Then there are views or decisions by Adv Simelane, by Adv de Lange and Mr Surty, yourself. Now those decisions or views are in handwriting and Adv Macadam tried his best to read the handwriting. I think we need this to be typed out and provided to us.

ADV BHANA: Thank you, Commissioner.

COMMISSIONER KGOMO: Thank you.

20 ADV BHANA: My attorney has taken note of that and we will assist. Can you then turn to paragraph 61, Adv Macadam?

ADV MACADAM: Certainly. Because the task team had still not reconvened, I was requested by Mr Mpshe, the acting national director to see what else I could do to get these matters investigated. So if you want me then to just...

ADV BHANA: Yes, very briefly.

ADV MACADAM: What had happened is when I was doing the political violence in KZN in the 1990s, I worked very closely with Mr Raymond Lalla, it was at stage the Prescribed Intelligence Division. Subsequently when I came to Pretoria to be part of the DSO, he then became the Divisional Head of Crime Intelligence.

So the whole crime intelligence throughout the country fell under his portfolio. And thereafter at this time he was then transferred to become the Divisional Head of the Detective Service of the South African Police Service. So now he was in charge of every single detective and every single police station throughout the country.

Because I had known him and we had very good working relationship, I believed I could approach him directly and he would give me the necessary assistance. I may mention as far as the DSO is concerned that in 2007 a political decision was taken to disband them and in 2009 the process was already in place to disband them.

There were amendments made to the NPA Act removing them and then amendments to the Police Act created the Directorate Priority Crimes Investigations, DPCI, a police unit which will take over the functions of the DSO. And the DSO ended in July 2009.

So my point, it would serve no purpose in trying to get the DSO again to agree, because they only had a very short lifespan. But I did... do you want me to proceed with my engagements with Commissioner Lalla?

ADV BHANA: Please do so.

ADV MACADAM: Certainly. I had a series of meetings with the Commissioner, all these meetings were very positive; he was very keen to help me. We did not discuss individual cases or given police dockets, but I was outlining the type of cases, the issues, the type of skills that would be required from investigators.

And the upshot of all those discussions was shortly before the DSO was disbanded, he indicated that there are a number of former policemen who had previously investigated TRC cases, who had
10 gone over to the DSO but were now coming back to the police.

So he said to me, his plan is that they would form a project reporting directly to him, he would budget them and they would work, doing no other work than focussing on these cases, no other responsibilities. He would personally finance their operations out of his head office budget.

So I said well that is fantastic, that solves my problems. The people that were coming over were people I previously worked with, I knew they were experienced police officers, would be able to very quickly get into these cases. Must I tell you what happened next after
20 that meeting?

ADV BHANA: Very briefly.

ADV MACADAM: What happened is I received a phone call from Commissioner Lalla, please could I urgently meet with him. He said to me that the national commissioner had directed that these cases must go to the DPCI and therefore all his arrangements, my

arrangements with him ...[indistinct]. Why those cases had to go to the DPCI was that the DPCI was not created as a brand new investigative agency. All that happened is the specialised units of the detectives, you know the organised crime, commercial crimes were just transferred over to DPCI. So it was just a change in name. What, having clearly Commissioner Lalla would now be left only with the general detectives who were placed at the police stations to do localised crimes. So those people would not be able to do the specialised investigations I needed. So it was clear that I would have

10 to talk to the DPCI and get them to investigate the matters.

CHAIRPERSON: Mr Bhana, I think we have got to take a tea adjournment at this juncture.

ADV BHANA: Thank you.

CHAIRPERSON: We will take a tea adjournment and reconvene at 11:20.

INQUIRY ADJOURNS

INQUIRY RESUMES

CHAIRPERSON: Mr Bhana.

ADV BHANA: Thank you Chair. Advocate Macadam, I would like to

20 now go to paragraphs 75 and 76 of your statement. You deal with what occurred on the 4th of February 2016.

ADV MACADAM: Correct. I may just add that the DPCI did agree to investigate, and they started investigating these matters again towards the end of 2010. But to deal with my council's issue, on the 4th of February 2016, Dr Pretorius had been appointed as an Acting

Special Director and Head PCLU. He informed me of a meeting that had taken place with Mr Varney, Webber Wentzel Attorneys and the Foundation for Human Rights, where a request was made to reopen the Ahmed Timol and Dr Aggett matters.

And then I was requested by Dr Pretorius to furnish an opinion on the matter. I did so. I set out the work that had been done on these cases, and I advised that a decision to hold an inquest would only be taken once it had been established one could not bring murder charges.

10 ADV BHANA: Yes, your opinion is annexed as AD24. We do not have to go there for now. And in paragraph 76, you say,

"You continued to work on both the Timol and Aggett matters until you were instructed by Dr Pretorius to lead a DPCI investigation into terrorist activities in the Johannesburg area. Dr Pretorius assumed control not only of the Aggett and Timol matters, but also of the entire TRC portfolio."

So for a time, you had nothing further to do with the...

(intervenes)

20 ADV MACADAM: That is correct.

ADV BHANA: Timol matters, which the Commission is interested in. I will then ask you to go to paragraph 83.

CHAIRPERSON: If I may ask Mr Bhana, Advocate Macadam, how long did it take you to continue working on both the Timol and the Aggett matters?

ADV MACADAM: What had happened, Ma'am Chair, is that in, I think this was October 2015, I was supposed to be managing the foreign bribery portfolio, but another colleague had taken those dockets away, despite the fact that the National Director had indicated I must continue with them. And then I decided, because I cannot work on the OECD in the absence of the dockets, let me see if I can help out on the TRC, because I knew there was a problem with these cases.

So on the Aggett matter, I was the prosecutor who had directed that the matter be investigated by the DPCI as a result of
10 representations from a group called the Friends of Neil Aggett. These were doctors who had studied with him, and they were calling for an investigation. What happened is, so I had tasked out the police investigation, and I had had a lot of help from our missing persons task team. They were identifying all the former detainees who could provide relevant information, and we did other work on it. The magistrate's court record had been destroyed, but Advocate Bizos had donated a substantial copy of his record to WITS. So we arranged to have WITS break down their website into little blocks, because we could not print the stuff on our small office printer. And
20 then we got approval to appoint a printing office to print two complete records of everything that also was giving us very useful information.

What I was doing is, I was going through the evidence of the police officers who testified, looking for probabilities or contradictions, and also seeing whether there was one who might likely be prepared to be a witness. So that is what I did up to that point. On the Timol

matter, I then found that this matter had been closed in my absence, and at the time, I came home, and as I put the TV on, Advocate Bizos was being interviewed, and he said that it was clear that the version given by the police was not true, and that Mr Timol had been murdered. So I then sent an e-mail to the DPCI and said, please, you know, open an enquiry. On the very same day, they registered an enquiry and appointed an investigating officer. Then, although the inquest had been destroyed, there was some of it on the WITS website, which I downloaded, and again, I tasked the missing persons task team to start now tracing all the persons who were in detention, and obviously, I identified the police officer who testified for the police investigating officer to follow up.

So that is what I had done, and it is all set out in my opinion. But then, I had to attend to a very urgent and very serious terrorism matter, but the head of the unit, Dr Pretorius said he would not only take over the Aggett and Timol matters, but the whole TRC portfolio.

ADV BHANA: Fine, and then we were about to deal with paragraph 83.

ADV MACADAM: That is correct, Ma'am Chair. So, what happened is on the 1st of February 2019, Advocate Pretorius was appointed as the National Director, and she called me to her office in March and said, "She wanted me to take over as the head of the PCLU", and in April, the Minister of Justice then appointed me as an Acting Special Director. So I now became responsible for the whole PCLU portfolio, which included TRC cases.

ADV BHANA: Perfect, and you say you did that until September 2021?

ADV MACADAM: That is correct.

ADV BHANA: When the decision was made to remove TRC cases from the PCLU?

ADV MACADAM: That is correct.

ADV BHANA: And then, can you take us through paragraphs 84 and 85, and 86?

ADV MACADAM: Certainly, Ma'am Chair, because I had been
10 effectively out for a long time on this terrorism case in Jo'burg and
previously on the foreign bribery portfolio, I needed to take stock of
how many cases the PCLU had and what the status of those matters
were. And that process showed that we had a back club across the
board because there were only three or four advocates in the PCLU,
all based in Pretoria, who were trying to deal these cases all over the
country.

And it is important to emphasise that this is not limited to
TRC. We had these very serious state security matters where you
had to move quickly to prevent harm from taking place. And we also
20 had to investigate all the international crimes under the ICC Act by
virtue of a constitutional court judgement in the South African
Litigation Centre matter. So it was a huge portfolio, and just three
people, because what happens is when you get appointed as the
acting head, nobody's appointed to take over your deputy post, so

you are doing two jobs at the same time. So that concluded that we are not going to come right.

At that stage, it was only Dr Pretorius, Ms Bokow, myself, and only one admin officer. And then if I deal specifically with TRC cases, they were being investigated by a component of the DPCI called the Crimes Against the State Unit. Brigadier Klabo was the head of the unit. So I asked him to give me a list of how many cases they had. And that was 30 cases. So it was reassuring for me to see that there were a lot more cases than when, in 2009, the member
10 went to the minister identifying certain cases we want to investigate.

And what I picked up there is that certain of the cases which are still under investigation in 2019 were ones that I had referred to the DPCI already in 2010. So that showed that the police were themselves struggling to investigate these matters. Not every case that was referred was still under investigation, but there were certain matters. And further enquiries I saw that only four of these 30 matters were receiving the attention of a dedicated prosecutor, which was also a concern. And must I go on to paragraph 86?

ADV BHANA: Yes. In your view, what was the reason that only four
20 of the 30 had?

ADV MACADAM: It was sheer capacity. As I said, you had Dr Pretorius, who is now acting as the head of the unit. Now, the minute you act as head of the unit, you are then part of the MPA's senior management. So you have to attend enormous lot of functions that

have nothing to do with directing investigations, making decisions. It is strategic planning sessions, policy sessions, budgetary reviews.

So now he is trying to do that. And then manage all these cases. I am sitting almost permanently in Jo'burg, which was one of the most protracted cases I had. Literally every day in court there would be a legal challenge. If there was not a legal challenge, you are working with the Jo'burg police officers to get the case properly investigated. And then there was only Dr Bokow, and she was trying to deal with all the work coming into the office. And it is just not
10 doable, you know. We just hopelessly, hopelessly under-resourced.

ADV BHANA: Yes.

ADV MACADAM: And, you know, this backlog is not due to dereliction of duty, people being lazy. It is simply that they gave got far too much work. And if we say there were only four TRC cases, they were significant. The first one that Dr Pretorius did, and he appeared personally in the matter, was the reopened Ahmed Timol matter. And that led then to a decision to prosecute on a charge of murder against Sergeant Rodriguez. Dr Pretorius also had to assist the prosecutors who were going to conduct that prosecution with all
20 the background information.

Another case that was receiving the attention was a prosecution instituted on the murder of Nokuthula Simelane. She had disappeared in 1983. Her body had never been recovered. But the prosecutors believed they could still prove a murder case in the absence of that evidence. That was proceeding. There were lots of

legal challenges by the lawyers. So, again, there was assistance given to the prosecutor. That matter was being prosecuted by two prosecutors from Jo'burg because of lack of capacity within the PCRU at the time.

And then the other two matters that Dr Pretorius was working was the Neil Aggett matter to continue the investigations that I had identified and also the death and detention of Dr Haffejee, who died in detention in Durban. So, I mean, a lot of work had to go into those matters. And obviously, so much efforts are there, you cannot then
10 focus fully on the other matters.

ADV BHANA: Yes, your statement then deals with what occurred in 2019. And if we can then skip to COVID, March 2020, paragraph 96.

ADV MACADAM: Certainly. Ma'am Chair, what I had proposed to address this capacity is that:

"The cases should be dealt with by the DPP's offices where the crimes were committed, with the PCLU providing an oversight and support function."

Now, this meant we could now, we not only increased the number of prosecutors available, but we can simultaneously deal
20 matters in different jurisdictions at the same time. So, that did immediately show progress doing that. What had happened as well, the police were still investigating everything from their little component in Pretoria. We had asked if they could involve the regional DPCI. At that stage, the decision, that request was refused. But then in January 2020, there was a meeting between the National

Director, myself, and General Lebeya, who is now the head of the DPCI, where he said, "He will now get approval to appoint retired police office to work on three-year contracts and they will work exclusively on TRC matters" which then addresses substantially all our concerns, because now we have extra prosecutors and we have full-time investigators.

Now, this was the impact of COVID, is that all the offices were shut down, so General Lebeya was only able to make those appointments in mid-2021. Because even at a contract, there are
10 enormously complex procurement policies that have to be followed. You cannot just say to a person, here you are, here, off you go. So, that only happened then. But with the COVID, you have offices shutting down, where you need to go to the state archives justice as those offices were closed down completely. There were other repositories of information that closed. DPP's offices were closed, staff was required to work from home, and there were also major restrictions on travel.

What I must say is, when COVID arrived, the DPCI said, "Business as usual, we are going to carry on as normal" resulting in
20 massive infections, resulting in orders to say, stay at your office or at home, unless there is something that is absolutely urgent you have to do. Because I work very closely with DPCI people throughout the country, and I was appalled at just how many people contracted with COVID. One of my investigators working a case actually died. A prosecutor who was working with me also died. So, these were all

the impacts that we had. And clearly, this all slows down the pace at which you can investigate. And we wanted to reopen the Aggett and the Haffejee inquests. But with COVID, you could not have a hearing like this.

Do you want to deal with how we try to overcome these matters?

ADV BHANA: I think for present purposes, just to say that you remained at the office seven days a week.

ADV MACADAM: That is correct.

10 ADV BHANA: You even met in parking lots.

ADV MACADAM: Yes, that is correct. Ma'am Chair, I was there seven days a week because the COVID led to an enormous spike in terrorism cases, because everybody was now enforcing lockdown. Nobody was looking at people plotting and planning. And we had a very serious right-wing terrorist case where the plan was to carry out an attack at midnight on Black Friday. They had armed themselves with two semi-automatic weapons that had been converted to fire in full automatic, 6 000 rounds of ammunition, 12 pipe bombs manufactured, one of which had been tested to see they had work.

20 And they had already identified their targets in formal settlements south of Johannesburg. And they were arrested, leaving that pot in a vehicle with all that weaponry.

And what happened in that matter is we had to run the case out of the DPP's office in Mpumalanga, which had just been set up. We had a chief prosecutor acting as a DPP, prosecutors drawn from

the Jo'burg and Pretoria offices and spending a lot of time there. So I had to personally run that case myself, doing all the court appearances, and assisted by Ms Bokow on the legal research and preparing legal documents. But what we said is our office, I was at the seven days a week, but then the office would close because the infections were so high, they would not allow anybody in. Now, Mr Nziyati who at that stage was the deputy national to whom I reported, we used to meet in the parking lot. So we could still try and keep the work going.

10 ADV BHANA: Yes. And you also say in paragraph 97:

"That you took advantage of the initial lockdowns to identify all deaths in detention and matters reported."

Can you elaborate on that?

ADV MACADAM: Yes, Ma'am Chair. With the TRC, we inherited essentially the work of the Goldstone Commission. And then there was a special police unit that fell under Dr Janda Oliveira. He was first the Attorney General in Pretoria. And that was known as the Oliveira Unit. That is the unit that did the prosecutions of Wouter Basson, Eugene de Kock, Ferdie Barnard, et cetera.

20 But the focus on those were on the premeditated killings. Nobody was really looking at the death and detention matters. Because obviously people wanted to have impact. These premeditated would probably be investigated, show that they were planned at a very high level. And that is why the focus was there. But now I would look at the Aggett and the Timol matters. And

although I could not conclude investigating those matters, on what I saw was showing there is something wrong. These police versions that were presented in the 70s are not right. So I said, everything's shut down. I am at the office. Let me go through the lists of death and detention cases. Because it was not only a list by the TLC. There were NGOs that monitored.

So I looked at these lists, reconciled them. And we already did have some death and detention matters. It was not just Aggett, Timol, and Haffejee. We also had the Salege matter. There were two
10 people in Silverton who allegedly slipped in the shower. So I took the cases we had already... That left me with approximately 59 cases. Now what I said is, once things normalise, we can distribute those cases amongst all the regions. Because we did an audit. My audit also showed in which province the crimes were committed. And if we had extra capacity from the DPCI, I believed it was feasible to actually investigate those matters.

What I may also add is, although the focus was on premeditated detentions, by 2019, a lot of the people you wanted to prosecute were already dead, as were their witnesses. So I believe
20 that it was essential that we do these 59 death and detention cases. Must I proceed to, but my difficulty is, I have come up with this idea. But now what about the poor police? If they are struggling with their 30 cases, how are they going to cope with 59 new cases where you have to start from scratch?

ADV BHANA: Yes.

ADV MACADAM: There is no police docket. So was there an inquest? Was there a hearing at the TRC? What is the availability of witnesses?

ADV BHANA: You say there was a promise of extra investigators, and that gave you some confidence, but did that ever materialise?

ADV MACADAM: Due to COVID, the extra investigators were only appointed in mid-2021. And that is not any fault of General Lebeya, that to get those contract appointments, he is got to get a dispensation from the Department of Public Service Administration. It
10 is no easy process. Thereafter, you have to follow a appointment process, because there are interviews, committees, and all those requirements. So he could only sort everything out 2021.

So what we did is, in April 2020, Advocate Rodney De Kok from Cape Town replaced Advocate Nziyati as the head of MPS. There is a report which I gave to Advocate De Kok in May, a month after he had assumed duty, giving him a breakdown of all the work that I was doing on the TRC cases and flagging these additional 59 cases. And then I drafted a letter for Advocate De Kok to submit to General Lebeya, identifying these extra 59 cases and alerting him to
20 the need for additional investigative capacity.

We also had a Microsoft Teams meeting with the General and his staff to discuss this issue. The bottom line is, I then started having a record of the cases. This column one would be cases already inferred. They are being dealt with by a police and a prosecutor. Cases that will be referred once we have capacity. So

this is where these death and detention cases were in the awaiting additional capacity. A third category, on some matters we had so little information, we did not know where to refer them. So that was listed separately, and then we would try and get the extra information and get it to the right prosecutor. And then we also had a couple of crimes that took place outside South Africa that we had listed as foreign offences.

ADV BHANA: If you can then pick up at paragraph 104.

ADV MACADAM: Yes.

10 ADV BHANA: And you had 13 November 2020.

ADV MACADAM: Yes, certainly. If we look at AD 29, that is the spreadsheet which I compiled. It shows that we had actually now in total 112 cases and it is split into active and awaiting capacity. I do not know if it is necessary to take the commission through it.

But you can see, already we have an improvement from 30 cases to 112 in a year. And also with the COVID virus wreaking its havoc.

ADV BHANA: Yes, and you conclude on this aspect at paragraph 110 where you say:

20 "In my view, progress was made under difficult conditions by prosecutors and investigators working on the cases despite the other responsibilities."

And you personally did not take a single day's leave in 2021.

ADV MACADAM: That is correct, Ma'am Chair. Firstly, I was retiring in October. I wanted to leave with a clean slate, not things hanging in

the air. But it was a nightmare year for me. We not only had this right wing terrorism case that I had to deal with. We had the leader of a foreign terrorist organisation that was bringing applications in the Jo'burg and Pretoria High Courts. I had argued this matter in the Constitutional Court a couple of years ago. So I was best placed to deal with those matters. And we had the July unrest land on our laps, because our portfolio did cover the July unrest.

What happened there is, every day, I had to have a meeting with General Lebeja and his commanders to try, and everything was
10 out of control. It was absolute chaos. And we were now trying to say, what cases can we identify that we can get the right people, stop this. Also, most of the crimes related to posts on social media, incitement to violence and murder, et cetera. So I had to advise individual prosecutors and investigators on what were cases that we could properly pursue. Because there was fake news. You had other stuff that they were using platforms that do not cooperate with law enforcement, like Telegram, Signal, et cetera. So I was trying to deal with that, and at the same time be able to retire. My Jo'burg terrorism case only finished one week before retirement.

20 ADV BHANA: Yes, that then deals with generally what was happening with TRC cases. There is a section then in your statement that deals specifically with the allegations by Mr Kajee.

ADV MACADAM: Yes certainly from 115.

ADV BHANA: Yes. Can you take us then carefully through those paragraphs, 115 to 123?

ADV MACADAM: These are in response to allegations made in an affidavit filed at this commission.

"Mr Kajee alleged that he had never mentioned Ivor Powell at all. It was a Mr Piers Pigot, and he had actually given me M Piers Pigot's TRC file."

Now, that is not correct. Piers Pigot and I had worked very closely together when we were both in the TRC. I would never have made a mistake between him and Ivor Powell. Secondly, I was never given a TRC file compiled by Mr Pigot. I referred to my letter in May
10 2003 addressed to Mr Leask, where I identified what had been provided to me. And I may mention that two days after Mr Kajee met with me, already instruction was given to the chief investigating officer. And I emphasise chief investigating officer, not a low-ranking police officer. Mr Leask, I knew as a very experienced police officer. He had worked on certain TRC cases arising from the Jo'burg area.

I may also mention that in October 2015, I did immediately instruct the police to open an investigation into the Timol matter. And this was before the request was brought by the Foundation for Human Rights to have the matter looked at. So when they approached Dr
20 Pretorius, the police were already investigating.

ADV BHANA: Yes and you had done that [indistinct] without any insistence or pressure from anyone?

ADV MACADAM: That is correct.

ADV BHANA: At paragraph 116, you deal with the allegation of reluctance on your part to deal with the Timol matters. And can you take the commission through that?

ADV MACADAM: Ma'am Chair, I stand by what I said. When Mr Kajee met with me, an instruction was given to gather information to lay the basis for section 28. And in October 2015, when I learned that the matter had been closed, I got the police to reopen the investigation.

ADV BHANA: Yes. And you say in that paragraph that:

10 "You believe your energy and efforts to advance TRC-related matters, despite the challenges which have been mentioned, speak for themselves. And you had no wish or motive not to advance the Timol matters."

ADV MACADAM: Correct.

ADV BHANA: There was a... (intervenes)

ADV MACADAM: I mean, when there was an application for stay of prosecution I was approached by the head of the unit and I immediately offered my assistance and provided a supporting affidavit which was used to oppose the stay of prosecution.

20 ADV BHANA: Stay of prosecution in relation to... (intervenes)

ADV MACADAM: The Timol matter.

ADV BHANA: The Timol matter.

ADV MACADAM: Where prosecution was instituted.

ADV BHANA: In paragraph 118 you say:

"You appreciate Mr Kajee's frustrations and pain of his

uncle's case not being investigated in a timely manner.

I deny any dereliction of duty on my part and further deny any need or attempt to conceal the alleged dereliction of duty. I also reject his further allegations that I as a prosecutor prior to April 1994 protected my former colleagues from prosecution. I have demonstrated all my efforts and the extent to which I went to have the matters prosecuted."

Do you wish to add anything to that?

10 ADV MACADAM: No, Ma'am Chair.

ADV BHANA: And then you deal with in 119 of the statement you draw the Commission's attention to an e-mail received from Mr Kajee on 16 April 2022. Can you take us through that?

ADV MACADAM: Yes, that is correct. This is also in response to allegations levelled against me in his affidavit.

20 "I confirm that after I had retired he wrote to me and said he had been through my affidavit which I would filed in the Rodriguez matter and he realised that I had discovered important information that he lacked and could I supply it."

And I immediately then referred him to the former investigating officer and to the head of the missing persons task team who had assisted me in gathering the information in 2015.

ADV BHANA: Is that AD 33?

ADV MACADAM: That is correct, yes.

ADV BHANA: We do not have to go there but AD 33. And paragraph 120, can you take the Commission through that carefully?

ADV MACADAM: Yes, this is also a matter of concern to me. As I said, I did file a confirmatory matter in the Rodriguez case. I did not mention the words "Political interference" at all in the matter. I merely set out facts and documents that I had first-hand knowledge and documentation which the NDPP's office manager had given to me which belonged to Mr Pikoli. And in respect of those documents, Mr Pikoli gave me a confirmatory affidavit confirming the authenticity of those documents.

Now, when the court delivered judgement, it said that, "That affidavit of mine provided further evidence of the extent to which the NPA had been subjected to political interference". Now, Mr Kajee then said, no, "That affidavit is false insofar as my claim of political interference is concerned. The true position is I was trying to hide the fact that I had done nothing at all". And that is not true. The finding of political interference was drawn by the court looking at all the affidavits, in the case not mine, and obviously my affidavit got pieces of the jigsaw puzzle and that leads to that conclusion. So I deny that I ever tried to use political interference as an excuse for not doing my work.

ADV BHANA: Yes. In 121, you also deny that you failed to earnestly follow up on the leads that Mr Kajee furnished?

ADV MACADAM: That is correct. I referred to my letter of May 2003 to CIO Leask.

ADV BHANA: You also deny that you unlawfully placed the burden of investigating his uncle's death on him?

ADV MACADAM: That is correct. All I asked him was to provide me with documents that he had in his own possession. So he could have faxed or e-mailed them to me or I could have gone and collected from him and that is all I did.

ADV BHANA: Yes. And you say in 122:

10 "The logistical and resource-based constraints that we operated under has been set out in detail in earlier parts of your statement. At no stage did you place any onus on Mr Kajee. Whilst I probably invited him to supply any additional information to assist with the case, this in no way shifted the ultimate investigative responsibility onto him."

ADV MACADAM: That is correct Ma'am Chair.

ADV BHANA: That deals with the allegations that Mr Kajee has made. Is there anything else you wish to say in that regard?

ADV MACADAM: Not at all, Ma'am Chair. My affidavit is purely in response to the Rule 3.3 notice served on this.

20 ADV BHANA: I then want to deal with an aspect that is not in your statement. It arises from a document I think that we got from the evidence leaders I speak subject to, or from you, after the statement was prepared. And can I beg leave to hand those up, Chair?

CHAIRPERSON: Yes, you may.

ADV BHANA: It is a memorandum dated 16 August 2007 and it proceeds with the next numbering in the bundle. So it starts at 1597. We will make copies available to our colleagues as well. No, those are unnumbered. Can you take them back as the commission numbers? Have you got a copy in front of you?

ADV MACADAM: I do.

ADV BHANA: Okay.

ADV VARNEY: Sorry, Chairman, we are also waiting for copies. Do we have any more copies by chance?

10 ADV BHANA: No, I think we are a bit short. That is the last. My attorney has one and I have got one. This is a memorandum from you to Advocate Pikoli. It is dated 16 August 2007. Before we go into certain paragraphs, can you tell the Commissioners the purpose of the memorandum?

ADV MACADAM: Correct. Ma'am Chair, it is to respond to a fax that was received from AfriForum addressed to Mr Pikoli, the National Director. I have not been able to locate this fax and I am now not sure if it was a fax or a letter. But it was a call to either now prosecute the leadership of the ANC or to stop all prosecutions into
20 TRC matters.

Now, this fax, let me just see if I have a date. The date of my memo is 16 August 2007, the day before Mr Ackerman entered into a plea and sentence agreement with the former Minister of Police, the former Commissioner of Police, three other members of the police, where they pleaded guilty to a charge of the attempted

murder of Reverend Frank Chikane. They had put poison on his clothing with the intention of killing him. Reverend Frank Chikane was, I am sure, the head of a church council and he was also a member of the United Democratic Front.

ADV BHANA: Yes, and you referred to the AfriForum fax as you then described it in paragraph two, but I would like you to go to paragraph five at page 1598.

ADV MACADAM: Paragraph five? Yes Ma'am Chair... (intervenes)

ADV BHANA: Perhaps just in paragraph four, you record:

10 "As in the case of all previous complaints, AfriForum
refuses to produce the evidence upon which it makes
allegations."

ADV MACADAM: That is correct. Their letter said specifically that although they had evidence proving the case against the ANC, it was not going to be made available at the time when it was, when they wrote to Mr Pikoli.

ADV BHANA: Yes, and then please take us through paragraphs five and six.

ADV MACADAM: Yes, certainly, just as a very brief background to
20 paragraph five is that the South African Police had pre-94
investigated some 400 dockets against the military wing of the African
National Congress. Those were the dockets that were held by
Advocate Fick in the DPP's office, Pretoria, but they then came to the
PCLU, and Advocate Ackerman indicated he would then start reading
those dockets and making decisions on them.

So he did that, and I believe that he read about 50 or 60 dockets, and this was all done in June to August 2003. The next step in the saga is that in early 2004, I cannot recall the date, but Mr Ackerman, myself, and Dr Pretorius were called to the National Director's office. He then inserted a videotape into his TV, and he played back a recording of a meeting that the three of us had had with Commissioner Lalla in August 2003. I was asking Commissioner Lalla to assist me with two of my cases where we believe the intelligence community would be best able to advise us. But as the
10 meeting adjourned, Mr Ackerman said he has to make a decision against the President of South Africa, who is at the stage, Mr Mbeki. And Mr Ngcuka said that this tape recording, we were unaware that a recording was made of that meeting, but Mr Ngcuka said that this tape recording was presented by Commissioner Selebi at a very high-level government, and the allegation is that PCLU is on the point of arresting the President and a number of very senior government officials who had previously been part of the struggle.

And the final allegation is these 400 dockets in the DPP's office, Pretoria, were being used for the prosecution against the
20 President and these other persons. So Mr Ngcuka then said to me, "Take over from Ackerman, read those dockets, and I want a decision on whether there is a case or not". What I also need to refer to is that the TRC, and I think in two separate judgments, I have one but not the other, had refused amnesty to the ANC leadership on the basis that they took collective responsibility for all actions committed by