

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

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RELEVANT COMPLETE BUNDLES		
1.	Bundle 14: Dr Jacobs	https://www.trc-inquiry.org.za/wp-content/uploads/2026/04/BUNDLE-14-F.M.G-PC-JACOBS-final.pdf
RELEVANT COMPLETE TRANSCRIPTS		
1.	Dr Jacobs transcript of 14 April 2026	https://www.trc-inquiry.org.za/wp-content/uploads/2026/04/Day-31-Mr.-Jacobs-15-04-2026.pdf

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

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STATEMENT: APPLICATION TO CROSS-EXAMINE PHILIPPUS JACOBS

I, the undersigned.

JOSEF ARNDT VENTER

do hereby make oath and state that:

1. I am an adult male attorney practising as a Senior Associate at Webber Wentzel at Convention Towers, Cape Town. I am the attorney of record for the families and survivors of apartheid-era crimes (known as the "**Calata Group**") as well as Adv Anton Ackermann SC.
2. The facts contained in this statement are within my own personal knowledge unless the context indicates otherwise and are to the best of my knowledge true and correct.
3. I depose to this statement on behalf of my clients, being the families and survivors of apartheid-era crimes who form the Calata Group. I am duly authorised to do so.
4. This statement is made in support of an application in terms of Regulation 8(3) of the Commission's Regulations, read with Rule 3.7 of the Commission's Rules, to cross-examine Philippus Christoffel Jacobs ("**Mr Jacobs**" or "**Jacobs**").

THE APPLICATION

5. Mr Jacobs has filed two statements with the Commission:
 - 5.1 The statement dated 26 February 2026; and
 - 5.2 The supplementary statement dated 25 March 2026.
6. Our clients wish to put questions to Mr Jacobs in relation to the following aspects arising from his statements and testimony before the Commission on 14 April 2026:



The TRC Task Team

7. Mr Jacobs testified that on 10 October 2006 he was assigned to the TRC Task Team (described as the ITT in Jacobs' statements) by former Police Commissioner Jackie Selebi in terms of paragraph B6 of the amendments to the prosecuting policy (14 April 2026 transcript p 7). Paragraph B6 stated as follows:

"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:

- (a) The National Intelligence Agency.
- (b) The Detective Division of the South African Police Service.
- (c) The Department of Justice & Constitutional Development.
- (d) The Directorate of Special Operations."

8. Our clients wish to establish from Mr Jacobs what the nature of his assignment to the Task Team by Commissioner Selebi entailed, particularly:
- 8.1 What the mandate was that he received from the Commissioner;
 - 8.2 What the Commissioner's understanding of SAPS' role in the Task Team was;
 - 8.3 What his understanding of SAPS' role in the Task Team was; and
 - 8.4 What role SAPS actually fulfilled on the Task Team.
9. Our clients wish to establish whether Jacobs has any knowledge about the process that led to the development of the amendments to the prosecuting policy considering his background and involvement in drafting, reviewing and presentation of SAPS legislation and the fact that he described the amendments to the prosecuting policy as "Cabinet's approved guidelines" (Jacobs bundle pp 1763 and 1811).
10. Our clients wish to question Jacobs about the view held by Commissioner Selebi (and supported by NIA) that a recommendation from the TRC Task Team and the Directors-General was necessary in the prosecution of each TRC case before the NDPP made any decision. The Commissioner's view was presented on several

occasions by Jacobs (Jacobs bundle p 1754 and 1756) and Major General Lekalakala (14 April 2026 transcript p 46) who also represented SAPS on the Task Team.

11. We wish to enquire why this requirement does not amount to a clear and unwarranted interference in the work of the NPA to conduct prosecutions as the NPA sees fit under the Constitution and the NPA Act.
12. Our clients wish to obtain clarity from Jacobs about the consultations and briefings, including what instructions, if any, he received from Commissioner Selebi in relation to specific cases or the functioning of the TRC Task Team more broadly. These questions will be asked in the context of statements made by Jacobs during his examination in chief that:
 - 12.1 the minutes of the Task Team meetings were not shared with Commissioner Selebi, and that he briefed the National Commissioner from time to time on the proceedings of the Task Team (14 April 2026 transcript p 77); and
 - 12.2 At all material times during his tenure as a member of the SAPS, he had to perform his work subject to the National Commissioner's approval, who was the person responsible for decision making on behalf of the SAPS (Jacobs bundle p 1714).
13. We wish to know from Jacobs whether he was aware of the overriding concern of the government at that time, namely that prosecutions of former apartheid officials (such as the accused in the Chikane case) "*would give rise to a call for prosecution of ANC cadres arising out of their activities pre-1994.*"
 - 13.1 It will be put to Jacobs that this was ultimately why Selebi insisted on the prerequisite of a DG's Forum (of which he was a member) recommendation before the NDPP could take TRC prosecution decision.
 - 13.2 It will also be put to Jacobs that Selebi wanted the removal of Ackermann from the TRC cases, not because he was pursuing charges against the ANC 37, but because prosecuting former apartheid officials would give rise to calls for cases against the ANC.

The SAPS audit report(s) presented at the TRC Task Team

14. Jacobs stated in his evidence in chief that he was not hands on with TRC cases and sought the services of one Senior Superintendent Hennie Brits to compile the SAPS report of all TRC cases; after he was requested to do so at the TRC Task Team meeting on 12 October 2006 (Jacobs bundle p 1720). According to Jacobs, he made an oral presentation of the SAPS cases at the TRC Task Team meeting on 25 October 2006 (14 April 2026 transcript p 18).
15. Later in his evidence in chief, Jacobs stated that after the 25 October 2006 meeting, he compiled a SAPS audit report and presented the written report at the TRC Task Team meeting on 6 November 2006 (14 April 2026 transcript p 36). The SAPS audit report is attached to Jacobs' first statement as PCJ8 (Jacobs bundle p 1743).
16. Our clients wish to clarify the following with Mr Jacobs:
 - 16.1 The statement that he presented the SAPS report orally at the meeting of 25 October 2006. The text on the written SAPS audit report that was presented at the 6 November 2006 meeting records that:

“At the last meeting of the Committee, a list of dockets in the possession of the South African Police Service, relating to the conflicts of the past was provided to the Committee. ...”
 - 16.2 Whether the report that was presented at the 25 October 2006 meeting differed from the written audit report that was presented at the 6 November 2006 meeting. If so, our clients seek clarity on the differences between the two reports.
 - 16.3 To what extent did Brits, Bester, or any other SAPS official, play a role in compiling the written SAPS audit report that was presented by Jacobs at the 6 November 2006 meeting.
 - 16.4 Whether the report presented contained all the TRC cases that were in the possession of SAPS. If not, why were all the TRC cases in SAPS' possession not reflected in the report as requested by Dr Ramaite at the 12 October 2006 meeting (see PCJ3, Jacobs bundle p 1720)?



17. Mr Jacobs stated in his evidence in chief that he received copies of 73 decisions that were taken by Advocate Ackermann SC on various dockets from Senior Superintendent Louis Bester.
- 17.1 The decisions were used by Jacobs to compile the SAPS audit report that was presented at the 6 November 2006 meeting (14 April 2026 transcript pp 36 and 37).
- 17.2 Jacobs testified that he did not receive the actual dockets from Bester but only copies of the 73 decisions (14 April 2026 transcript p 38).
18. Our clients wish to establish from Mr Jacobs:
- 18.1 Why all 73 decisions were not reflected in the SAPS audit report that was presented by Jacobs at the 6 November 2006 meeting.
- 18.2 Whether he had sight of the original decisions that were made by Ackermann SC. If not, whether he requested the original decisions.
- 18.3 Whether he requested to peruse the dockets in question.
19. In his evidence in chief, Jacobs stated that the cases reflected in the SAPS audit report that was presented by Jacobs at the 6 November 2006 meeting were cases in which SAPS sought clarity from the PCLU regarding the holding of inquests (14 April 2026 transcript p 41).
- 19.1 Our clients dispute Jacobs' version and our clients wish to ascertain the intention of Jacobs and SAPS in putting up of these cases at that time.
- 19.2 It will be put to Jacobs that SAPS put up these cases in order to bolster the false narrative that Ackermann SC was pursuing criminal investigations against the ANC 37 in late 2006. This is particularly in light of the following facts which Jacobs was likely aware at the time that he presented the SAPS audit report:
- 19.2.1 The PCLU audit reports dated 24 October 2006 and 30 October 2006 addressed the decision taken in 2004 not to prosecute the ANC 37. These audit reports were presented at the TRC Task Team meetings of 25 October 2006 and 6 November 2006 respectively. Jacobs was present


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at both Task Team meetings and therefore had no reason to revisit the case(s) against the ANC leadership (cases number 2.1, 2.5, 2.6 and 2.7 on the SAPS audit report) at the 6 November 2006 meeting.

19.2.2 It will be put to Jacobs that his claim of the possible holding of inquests is unsustainable in light of the following facts:

19.2.2.1 In *Messina CR 57/11/85 MZ Ncube and two others* (case number 2.1 on the SAPS audit report), the accused were arrested, charged, convicted and sentenced on a number of criminal charges, including the murder of two policemen Nel and Gerber and an inquest was therefore not required (see Macadam documents bundle pp 124 to 130).

19.2.2.2 In *Ellisras CR A28/8/88 MJ Rapholo* (case number 2.2 on the SAPS audit report), inquests were held in 1989 in respect of all those who died during the incident, there was therefore no need to conduct further inquests (see Macadam documents bundle pp 124 and 131).

19.2.2.3 In *King Williams Town CR 397/11/92 TT Xundu* (case number 2.3 on the SAPS audit report), the inquests into the deaths of the four persons identified by Ackermann on 13 August 2003 was held on 18 February 2004, more than two years before Jacobs presented the matter to the TRC Task Team (see Macadam documents bundle pp 124 and 132 to 135).

19.2.2.4 In *Diepkloof CR 228/8/89 Michael Ndlovu, William Mafa and Ben Bani* (case number 2.4 on the SAPS audit report), Ackermann recorded in his memorandum dated 4 September 2003 (A47) that an inquest into the death of the Constable Mayembela was held on 6 October 1994. There was thus no need to conduct a further inquest. (see Ackermann memorandum A47 in Jacobs bundle);

19.2.2.5 In *Umbumbulu CAS 35/4/87 Steven Mkulusi, Moses Mkize and Sakhile Nzama* (case number 2.5 on the SAPS audit report), Ackermann decided on 3 October 2003 (A54) that SAPS must establish whether an inquest was held into the death Warrant



Officer B Lembede on 12 April 1987. If an inquest was not already held, it should be done (see Ackermann memorandum A54 in Jacobs bundle). The inclusion of this matter in the SAPS audit report is thus questionable because the decision made by Ackermann was clear and unambiguous in respect of what was required from the SAPS.

19.2.2.6 In *Case Docket Jeppe CR 47/7/88* (case number 2.5 on the SAPS audit report), inquests were held in 1988 in respect of the two deceased in the incident. Unidentified persons were held responsible for the deaths (see Macadam documents bundle pp 124 and 136 to 137). Contrary to what is stated in the SAPS audit report, no inquests were thus outstanding. On 9 May 2001 the TRC granted amnesty to Aggie Shoke, Harold Matshidi, Lester Dumakude and John Dube for the murder of the deceased (AC/2001/161). A further inquest was therefore not required nor was one recommended by Ackermann when he made his decision in respect of this matter on 3 October 2003 (see Ackermann memorandum A65 in Jacobs bundle); and

19.2.2.7 In Mayville CR No, A188/1/89; CR Swart Plain CR A567/3/89; CR Swart Plain CR A425/4/89 Mohammed Rafiq Rohan, Riaz Saloojee, Abubaker Ismael (case number 2.5 on the SAPS audit report), not a single death occurred and therefore an inquest could not be held (see Ackermann memorandum A73 dated 10 October 2003 in Jacobs bundle).

The appointment of investigators for TRC cases

20. In December 2006, Jacobs sent a “courtesy request” to SAPS Divisional Commissioner: Detective Service, General JF De Beer, to arrange investigators by provincial commissioners for eight TRC cases (14 April 2026 transcript p 74). The request for investigators was made by way of an undated confidential Information Note (PCJ17, Jacobs bundle pp 1763 to 1767).

20.1 We wish to know whether De Beer responded, and if so, why his response was not provided in the bundle.

21. Reference will also be made to the De Beer letter to four provincial commissioners dated 6 December 2006 (PCJ18, bundle page 1766) with Jacobs listed under enquiry requesting one investigator from each of the 4 provinces and 1 from Head Office and asking that their availability be confirmed.
- 21.1 We wish to know whether Jacobs drafted this letter for De Beer;
- 21.2 Who selected the identified officers;
- 21.3 Whether Head Office and/ or the provincial commissioners responded, and if so, why their responses have not been provided in his bundle.
22. Noting that Jacobs reported to the TRC Task Team on 29 January 2007 (the last Task Team meeting held) that *"feedback was being awaited from the Provincial Commissioners on the appointment of investigators and that some had already provided their lists in that respect"* we would like to pose the following questions:
- 22.1 Whether De Beer, Head Office and/or the Provincial Commissioners ever advised or reported to him on whether the investigators were appointed, and if so, whether they commenced work on the 8 cases. If they did not, why they did not communicate in this regard.
- 22.2 Whether subsequent to 29 January 2007, he ever followed up to establish what transpired and to see if the investigations commenced, and if so, to provide details on such follow-up.
- 22.3 If he did not, the reason(s) he did not; and whether this was because of the effective collapse of the Task Team, bearing in mind that the SAPS suspended its involvement in early March 2007 and the Task Team never met again after 29 January 2007.
23. It will be put to Jacobs that there is no evidence on record that the 8 investigations proceeded and that:
- 23.1 it is the evidence of Adv Magha, who was handling several of the TRC cases at the PCLU, that the cases were never investigated by the SAPS – *"I served on the TRC task team ... but there was never a dedicated investigative capacity*

that was allocated or assigned to the cases that I handled" (Magha transcript, p 70).

23.2 All the 8 cases mentioned remain unresolved today, nearly 20 years later.¹

24. In Jacobs' undated confidential Information Note to De Beer (PCJ17, Jacobs bundle pp 1763 to 1767), he set out the purpose of the requested investigations:

"The purpose of the investigation is to enable the relevant Committee to make a recommendation regarding possible prosecution to the NDPP, in accordance with the said guidelines."

25. The 'relevant Committee' was the TRC Task Team and the 'guidelines' were the amendments to the prosecution policy. It will be put to Jacobs that:

25.1 this was the actual purpose behind the request for investigators, namely, to advise the Task Team on the making of recommendations of possible prosecutions in the identified cases; rather than full investigations in the normal course of criminal investigations; and

25.2 this explains why, following the collapse of the Task Team (arising from the dispute between SAPS/NIA and the NPA described below), these investigations never proceeded;

25.3 It also explains why the NPA did not follow up on this initiative but rather made direct approaches to the SAPS with pleas for investigators (as per Macadam's 2015 affidavit).

¹ Cradock 4: no prosecutions and reopened inquest only commenced in 2025 and is still ongoing in 2026; PEBCO 3: prosecution never reinstated and reopened inquest only to commence in October 2026 (only 1 surviving suspect); S v Coetzee: indictment only issued in 2016 following application to compel by Thembi Simelane in 2015, remains unresolved; S v Hentie Botha and Others: accused only charged in 2024; COSAS 4 – two surviving accused only charged in August 2021, remains unresolved; Heidelberg and St James attacks: Nature of investigation into APLA commander Letlapa Mphahlele unknown, unresolved; Bathandwa Ndondo: Former Transkei Security Branch officer charged in November 2025, unresolved; Moss Morudu: remains never recovered, symbolic burial in 2013; inquest apparently to be held on undisclosed future dates.

The Collapse of the Task Team

26. Pursuant to the above requests to De Beer and the Provincial Commissioners:

26.1 Commissioner Selebi informed NDPP Pikoli that he did not agree with the NPA's interpretation of the amendments to the prosecution policy and insisted that a prerequisite before the NPA could act was a recommendation by the Directors-General (Jacobs bundle p 1756).

26.2 Pikoli in turn escalated the dispute to the Minister of Justice, Bridgette Mabandla (Jacobs bundle p 1762)

26.3 SAPS received an invite to a Task Team meeting scheduled for 13 March 2008, but Acting National Police Commissioner T Williams stated that *"until such time that the matter has been cleared up, I am of the view that the Committee cannot function meaningfully"* and he refused to participate *"until such time that the matter is resolved, I have instructed the representatives of the South African Police Service not to attend meetings of the Task Team"* (Jacobs bundle "SA1", p 1808).

26.4 It will be put to Jacobs that, since the matter was not resolved because the NPA would not agree to its hands being so tied, and indeed it proceeded with the Chikane case without waiting to hear from the DGs,

26.4.1 the SAPS not only withdrew from the Task Team, but also

26.4.2 persisted in withholding investigative support for the TRC cases going forward, and that

26.4.3 this explains why only the Chikane case (which was previously investigated with the Basson case) went ahead – and not a single prosecution or inquest proceeded for a period of 9 years thereafter.

The forged memorandum of 26 June 2003

27. Advocate Ackermann SC disputes Jacobs' assertion that the so-called memorandum of 26 June 2006 was not forged. The NPA issued a press release on

21 August 2007 stating that the document was a forgery and that an immediate investigation had been authorised.

28. We wish to put the following questions to Jacobs:

- 28.1 Where did Jacobs source the impugned memo (presumably the same document at A15) which he faxed to Ackermann on 20 August 2007 (following the publishing of the article in the Rapport on 19 August 2007)? Who gave him the document?
- 28.2 If the impugned document was just a file note for the case docket, this would explain why the SAPS had access to it. However, the impugned document purports to be a memo addressed from the Head of the PCLU to the Deputy NDPP. Why would SAPS be in possession of such an internal memo?
- 28.3 Ackermann denies he would have addressed a memo in Afrikaans to Ramaite who is not a native Afrikaans speaker. Surely this must have raised suspicion about the document?
- 28.4 Why would Ackermann write such a memo in June 2006 (English translation, annexed hereto marked "A" and Afrikaans version (A15) with forgery highlighted annexed as "B") when in 2004 he concluded that no case had been made out against the ANC leadership and NDPP Ngcuka released a press statement on 15 May 2004 noting that there was no basis upon which to prosecute the ANC leadership.
- 28.5 Ackermann's letter faxed on 20 August 2007 to (Jacobs, Bundle 1772) requested Jacobs to have the document delivered to his office by no later than 16h00 on the same date;
- 28.6 Although the original memorandum was not made available to Ackermann SC on 22 August 2007, LJ Bester head of SAPS CATS sent an Information Note to Divisional Commissioner P.J.L. du Toit: Forensic Science Laboratory and Criminal Record Centre stating:

The original document is attached, as well as the copy that was faxed, together with a fax received from Advocate Ackermann on 20 August 2007. (Underline added)

- 28.7 Ackermann wrote to Leonard McCarthy on 27 September 2007 and complained that he has still not been furnished with the original memo (Ackermann COI Bundle p 119, see also p 127).
- 28.8 Why was the original memo not provided to Ackermann SC or the NPA in 2007 when it was requested for independent examination?
- 28.9 It will be put to Jacobs that the failure to provide Ackermann SC or the NPA with the alleged original memo in possession of SAPS was not an oversight but was aimed at preventing an independent forensic investigation being conducted by the NPA.²
- 28.10 Since the original was apparently in the possession of SAPS why has only a copy been placed before this Commission? Presumably it cannot be found. What explains its disappearance?
29. In addition, the following queries will be put to Jacobs:
- 29.1 Why he failed to fax the complete forged memorandum to Ackermann SC upon request. The copy of the memorandum that Jacobs faxed to Ackermann SC on 29 August 2007 consisted only of the first and third pages (PCJ22, Jacobs bundle p 1773 to 1175) whilst the copy that was in the possession of SAPS, and recently obtained by the Commission, consists of all three pages (Memorandum A15 attached to the Jacobs bundle);
- 29.2 Whether the two investigations by SAPS into the forged memorandum (Jacobs bundle pp 1777 to 1802) was truly independent given that the first report was compiled by a police officer; and the second report by a former police officer. The independence of the independent investigator, JF Hattingh, appointed by SAPS to conduct the second investigation is also questioned because Hattingh served in the police from 1981 to 2006 (Jacobs bundle p 1788);

² The absence of the original is a serious limitation because key forensic features disappear or degrade in a copy. Examining a copy is materially less reliable, and any competent expert must qualify their opinion accordingly. The weight of the evidence is reduced if only a copy is used. If forgery is alleged or disputed, the failure to produce the original will count against the party relying on the document.

- 29.3 Whether Jacobs applied his mind objectively to the glaring discrepancies on the forged memorandum, including:
- 29.3.1 Ackermann's file notes were referenced in numerical order. The first memorandum was referenced A1. Memo A15, which is the forged memo, was purportedly written on 26 June 2006. Memo A16, which follows A15, is also dated 26 June 2006. Memo A17 is, however, dated 11 July 2003. The subsequent memos (A18 to A73) are dated between 11 July 2003 and 10 October 2003.
- 29.3.2 The memos A1 to A16 are all dated 26 June 2006 and are all addressed to Ramaite whereas A17 to A73 are all from 2003 and are only file notes, which are not addressed to anyone.
- 29.3.3 None of the memos A1 to A16 reflect any recent developments or need for further investigations which would have caused Ackermann to suddenly knock off 16 memos in one day on 26 June 2006.
- 29.3.4 The telephone number reflected on the memorandum '845 6432' was the number in use in 2003 (see Macadam bundle p 1428), whereas Ackermann SC's telephone number since at least 16 May 2006 was 012 845 6474 (see Ackermann NPA docs from COI bundle pp 7, 81 and 119; Jacobs bundle pp 1718, 1723 and 1737);
- 29.3.5 The fact that the secretary who worked for the PCLU in 2003, Ms Tia Pienaar, was no longer in the employ of the NPA when the 26 June 2006 memos were purportedly typed. Ms Pienaar's initials 'tp' appear at the bottom of the 2006 memos (A1 to A16) despite the fact that she was not with the PCLU in 2006; and
- 29.3.6 The marked differences between the first two handwritten '6s' contained in the date (26/6/2006) and the last '6' on page three of the forged memorandum. (The 6 in 26, the 6 for June and the 6 in 2006).
- 29.4 Whether Jacobs has any knowledge about the leaking of the forged memorandum to Rapport journalist Sonja Carstens, whose article of 18 August 2007 triggered the controversy surrounding memorandum and the allegations

- against Ackermann SC (Jacobs bundle p 1769); and whether the leaking of an internal document to the press was investigated by SAPS, and if not, why not?
- 29.5 Why nobody in SAPS (the SAPS forensic investigators or anyone else in SAPS) sought an interview with Ackermann to hear his explanation why the 26 June 2006 memo was a forgery?
- 29.6 Why the instructions by Bester to Du Toit (Jacobs bundle p 1777) and Hattingh (Jacobs bundle p 1786) was:
- 29.6.1 confined to only these aspects: the authenticity of Ackermann's signature, the paper used in the document, any indication of amendments or alterations to the document; but
- 29.6.2 excluded the obvious differences in the hand written '6s' which appear in the date at the bottom of page 3 of the memorandum and the use of Afrikaans to address a memorandum to an English speaking recipient as lines of enquiry – and
- 29.6.3 whether other information on the document was consistent with a June 2006 communication.
- 29.7 We wish to know from Jacobs if the investigators had been asked to probe the excluded aspects whether their conclusions may have been different.
- 29.8 It will be put to Jacobs that Ackermann was not interviewed, and the above aspects excluded from the instructions in order to ensure that the forensic investigation produced a favourable outcome for the SAPS.
- 29.9 It will be put to Jacobs that he and the SAPS leadership failed to apply their minds and considered the impugned memo in isolation. They relied exclusively on handwriting experts (knowing that SA case law has held that such expert evidence is not decisive) and failed to evaluate the disputed document in the context of all the relevant circumstances and evidence.
- 29.10 It will be put to Jacobs that the document was manifestly altered by elements within SAPS in order to place pressure on the Government and Pikoli to



remove Ackermann from the TRC cases; and to ultimately bring an end to the TRC prosecutions against all sides in the conflict.

General questions regarding TRC cases

30. Our clients wish to put questions to Mr Jacobs regarding, why in January 2007 he believed that the Highgate Hotel matter did not require further investigation (Jacobs bundle p 1753). This question arises in the light of the inquest finding of December 2025 that the culprits were likely engaged in a false flag operation.

CONCLUSION

31. The issues outlined above lie at the heart of the Commission's terms of reference, namely whether efforts were made to stop the investigation or prosecution of TRC cases. The evidence of Mr Jacobs raises serious questions about the role of the SAPS - and especially that of Commissioner Selebi - in impeding the work of the ITT and the prosecutorial authority of the NDPP.
32. These questions cannot adequately be addressed through clarification questions alone and must be posed through cross-examination.
33. It is in the best interests of the work of the Commission, and of the families and survivors whom the Calata Group represents, that the Calata Group's counsel be permitted to cross-examine Mr Jacobs on the matters set out above.
34. In the light of the above, I humbly request the Chairperson to permit the Calata Group's counsel to cross-examine Mr Jacobs.



JOSEF ARNDT VENTER

The Deponent has acknowledged that the Deponent knows and understands the contents of this affidavit, which was signed and sworn to or solemnly affirmed before me at

MILNERTON on 30 April 2026, the regulations contained in Government Notice No. R1258 of 21 July 1972, as amended, and Government Notice No. R1648 of 19 August 1977, as amended, having been complied with.



[Handwritten signature]

COMMISSIONER OF OATHS

Full Names:

Business Address:

Designation:

[Handwritten initials]

REF: A15

ENQUIRY: Adv A R Ackermann SC

TEL: 845 6432

SPECIAL LITIGATION UNIT

26 June 2006

MEMORANDUM

To: Dr S Ramaite SC

From: A R Ackermann SC

Subject: THE STATE v

(1) MTHETHELEDI ZEPHANIA MNCUBE

(2) MZONDELELI EUOLID NONDULA

(3) JABULANI SYDNEY MBULI

Case files:

(1) Messina MR 67/12/85: Murder of 2 SAP members

(2) Messina MR 57/11/85: Landmine explosion

(3) Messina MR 58/11/85: Landmine explosion

(4) Messina MR 67/11/85: Landmine explosion

(5) Messina MR 65/11/85: Landmine explosion

(6) Messina MR 66/11/85: Landmine explosion

(7) Messina MR 34/12/85: Landmine explosion

(8) Messina MR 41/12/85: Landmine explosion

(9) Messina MR 21/02/86: Landmine explosion

(10) Alldays MR 10/10/86: Landmine rendered safe

(11) Alldays MR 11/10/86: Landmine rendered safe

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1. BRIEF DESCRIPTION OF OFFENCES

The investigation relates to 8 landmine explosions that occurred in the Messina area, 2 landmines that were rendered safe in the Alldays area, as well as the escape of a suspect during which two police officers were shot dead.

The following landmine incidents are relevant:

(1) A landmine explosion on 26 November 1985 at Weipe, Messina district, under a private vehicle, resulting in the death of EDWARD MELUBA and the injury of ELIJA MAKGAMATA. (Messina MR 57/11/85)

(2) A landmine explosion on 26 November 1985 in the Messina area which damaged the private vehicle of GERT DE VILLIERS. (Messina MR 58/11/85)

(3) A landmine explosion on 27 November 1985 at Weipe, Messina district, during which a private tractor was damaged and which caused the death of GLABI PHILEMON NCUBE. (Messina MR 67/11/85)

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[Handwritten signature]

- (4) A landmine explosion on 27 November 1985 on the farm Bergen-on-Zoom, near Messina, under a military (SADF) vehicle, which caused injuries to Lt PRINSLOO and a passenger.
- (5) A landmine explosion under a SAP Casspir on 27 November 1985 on the farm Overvlakte in the Messina district, during which Constable P MOTAUNG was injured. (Messina MR 66/11/85)
- (6) A landmine explosion on 12 December 1985 under a military (SADF) vehicle on the farm Berg-on-Zoom during which two persons, FOURIE and P MAPOTELE, were injured. (Messina MR 34/12/85)
- (7) A landmine explosion on 15 December 1985 at Soutpansberg, Messina, which resulted in the deaths of 6 persons and injuries to 5 others. All the victims were members of the DE NYSSCHEN and VAN ECK families travelling in a private bakkie. (Messina MR 41/12/85)
- (8) A landmine explosion under a private vehicle on 12 February 1986 on the farm Overvlakte, Messina, during which WILLEM DU PLESSIS JANSE VAN RENSBURG was injured. (Messina MR 21/2/86)
- (9) On 8 October 1986, two separately placed landmines on the farm Samaria, Pondrft, Alldays were detected and rendered safe. (Alldays MR 10/10/86 and 11/10/86)

Page 3

The investigation further relates to an armed attack on 26 December 1986 on a SADF patrol during which 3 ANC members were shot dead and one (MNCUBE) was arrested. MNCUBE later managed to escape by shooting and killing two SAP members, namely ALOFF GERBER and Sgt NEL. (Messina MR 67/12/86)

The first two persons mentioned above (MNCUBE and NONDULA) were later arrested and prosecuted, convicted and sentenced for all the aforementioned offences, while the third person (MBULI) was never arrested.

2. AMNESTY

Amnesty was granted on 16 March 2001 to all the above-mentioned persons for all offences related to the said explosions. The first-mentioned (MNCUBE) also received amnesty for the murder of the two SAP members.

3. REMARKS

The ANC approved the use of landmines in the Messina border area and instructions in this regard were issued to members through the command structure of Umkhonto we Sizwe (MK). (Amnesty decision of the aforementioned persons).

According to evidence given, the aforementioned persons were under the command of a certain MANCHECK, who issued instructions and reported to MK commanders. MANCHECK is deceased and there is no evidence regarding his link with the MK high command.

All the other ANC members (foot soldiers) involved in these offences are deceased.

4. DECISION

In respect of the so-called "foot soldiers", no further investigation is necessary. In respect of the ANC leadership who issued instructions for the landmine campaign and who did not receive amnesty, a decision must still be taken at an appropriate time after all relevant parties have been consulted.

The above is a difficult decision.


Adv A R Ackermann S C 26/11/2000
SPESIALE DIREKTEUR b
/lp



Verw : A15
Nayraag: Adv A R Ackermann S C
Tel : 845 6432

**SPECIAL LITIGATION UNIT /
SPESIALE LITIGASIE EENHEID**

26 Junie 2006

MEMORANDUM

AAN : Dr S Ramaite S C

VAN : A R Ackermann S C

ONDERWERP : **DIE STAAT teen**

- (1) MTHETHELEDI ZEPHANIA MNCUBE
- (2) MZONDELELI EUELID NONDULA
- (3) JABULANI SYDNEY MBULI

Saakdossiere :

- (1) Messina MR 67/12/85 : Moord van 2 SAP lede
- (2) Messina MR 57/11/85 : Landmynontploffing
- (3) Messina MR 58/11/85 : Landmynontploffing
- (4) Messina MR 67/11/85 : Landmynontploffing
- (5) Messina MR 65/11/85 : Landmynontploffing
- (6) Messina MR 66/11/85 : Landmynontploffing
- (7) Messina MR 34/12/85 : Landmynontploffing
- (8) Messina MR 41/12/85 : Landmynontploffing
- (9) Messina MR 21/02/86 : Landmynontploffing
- (10) Alldays MR 10/10/86 : Landmyn onskadelik gestel
- (11) Alldays MR 11/10/86 : Landmyn onskadelike gestel

Handwritten initials/signature

1. KORT BESKRYWING VAN MISDAAD

Die ondersoek het betrekking op 8 landmyn ontploffings wat in die Messina omgewing plaasgevind het, 2 landmyne wat in die Alldays omgewing onskadelik gestel is asook die ontsnapping van 'n verdagte waartydens twee polisiebeamptes doodgeskiet is.

Die volgende landmynvoorvalle het betrekking :

- (1) 'n Landmynontploffing op 26 November 1985 by Weipe, Messina distrik, onder 'n privaat voertuig wat die dood van **EDWARD MELUBA** en die besering van **ELIJA MAKGAMATA** tot gevolg gehad het. (Messina MR 57/11/85)
- (2) 'n Landmynontploffing op 26 November 1985 in Messina omgewing wat die privaat voertuig van **GERT DE VILLIERS** beskadig het. (Messina MR 58/11/85).
- (3) 'n Landmynontploffing op 27 November 1985 by Weipe, Messina distrik, waartydens 'n privaat trekker beskadig is en wat die dood van **GLABI PHILEMON NCUBE** gehad het. (Messina MR 67/11/85).
- (4) 'n Landmynontploffing op 27 November 1985 op die plaas Bergen-on-Zoom, naby Messina, onder 'n militêre (SAW) voertuig wat die besering van Lt **PRINSLOO** en 'n passasier veroorsaak het.
- (5) 'n Landmynontploffing onder 'n SAP Casspir op 27 November 1985 op die plaas Overvlakte in Messina distrik, waartydens Konst **P MOTAUNG** beseer is. (Messina MR 66/11/85).
- (6) 'n Landmynontploffing op 12 Desember 1985 onder 'n militêre (SAW) voertuig op die plaas Berg-on-Zoom waartydens twee persone, **FOURIE** en **P MAPOTELE** beseer is. (Messina MR 34/12/85).
- (7) 'n Landmynontploffing op 15 Desember 1985 te Soutpansberg, Messina wat die dood van 6 persone en die besering van 5 ander persone tot gevolg gehad het. Al die slagoffers was lede van die **DE NYSSCHEN** en **VAN ECK** gesinne wat met 'n privaat bakkie gereis het. (Messina MR 41/12/85).
- (8) 'n Landmynontploffing onder 'n privaat voertuig op 12 Februarie 1986 op die plaas Overvlakte, Messina waartydens **WILLEM DU PLESSIS JANSE VAN RENSBURG** beseer is. (Messina MR 21/2/86).
- (9) Op 8 Oktober 1986 is twee afsonderlik gestelde landmyn op die plaas Samaria, Ponderift, Alldays opgespoor en onskadelik gestel. (Alldays MR 10/10/86 en 11/10/86).

Die ondersoek het verder op 'n gewapende aanval op 26 Desember 1986 op 'n SAW patroolie betrekking waartydens 3 ANC-lede doodgeskiet en een (MNCUBE) gearresteer is. MNCUBE het later daarin geslaag om te ontsnap deur twee SAP-lede nl ALOFF GERBER en Sers NEL dood te skiet. (Messina MR 67/12/86).

Eersgenoemde twee persone hierbo (MNCUBE en NONDULA) is later gearresteer en is weens al die gemelde misdade vervolgt, skuldig bevind en gevonnissen, terwyl die derde persoon (MBULI) nooit gearresteer was nie.

2. AMNESTIE

Amnestie is op 16 Maart 2001 aan al die bogenoemde persone verleen vir alle misdade wat met gemelde ontploffings verband hou. Eersgenoemde (MNCULBE) het ook amnestie vir die moord van die twee SAP lede ontvang.

3. OPMERKING

Die ANC het die gebruik van landmyne in die Messina grensgebied goedgekeur en opdragte in die verband is deur die bevelstruktuur van Umkhonto we Sizwe (MK) aan lede gegee. (Amnestie uitspraak van vermeldes).

Volgens getuienis gelewer was die vermeldes onder bevel van ene MANCHECK wat opdragte gegee en aan MK gesagvoerders verslag moes doen. MANCHECK is oorlede en daar is geen getuieinis oor sy skakeling met die MK oppergesag nie.

Al die ander ANC-lede (voetsoldate) wat by hierdie misdade betrokke was is oorlede.

4. BESLISSING

Ten opsigte van die sogenaamde voetsoldate is geen verdere ondersoek nodig nie. Ten aansien van die ANC leierskap wat die opdragte vir die landmynveldtog gegee het en nie amnestie ontvang het nie, moet 'n besluit tegeleener tyd nog geneem word nadat al die relevante partye gespreek is.

Bovermelde is 'n moeilike besluit.

Adv A R Ackermann S C
SPESIALE DIREKTEUR

/tp

26/11/2000

AD

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

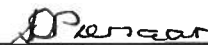
STATEMENT

I, the undersigned.

THEA PIENAAR

do hereby make oath and state that:

1. I am an adult female pensioner. I was formerly employed by the National Prosecuting Authority as a Secretary.
2. The facts contained in this statement are within my own personal knowledge unless the context indicates otherwise and are to the best of my knowledge true and correct.
3. During the period 1 June 2003 to 30 September 2003, I worked for Advocate Anton Ackermann SC in the Priority Crimes Litigation Unit (PCLU). I confirm that the official typing that I did for Ackermann in the scope of my employment with the PCLU was marked with my initials "tp".
4. I left the employ of the National Prosecuting Authority at the end of September 2003 and stopped rendering typist services to Ackermann SC and the PCLU.
5. I did not render any typist services to Ackermann SC or the PCLU after 30 September 2003, including June 2006.



THEA PIENAAR

The Deponent has acknowledged that the Deponent knows and understands the contents of this affidavit, which was signed and sworn to or solemnly affirmed before

NDR

me at Pretoria on 14 May 2026, the regulations contained in Government Notice No. R1258 of 21 July 1972, as amended, and Government Notice No. R1648 of 19 August 1977, as amended, having been complied with.



COMMISSIONER OF OATHS

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DP



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

SECRET INTERNAL MEMORANDUM

TO : MINISTER FOR JUSTICE AND CONSTITUTIONAL
 DEVELOPMENT

FROM : ACTING NATIONAL DIRECTOR OF PUBLIC
 PROSECUTIONS

SUBJECT : MANAGEMENT OF TRC CASES BY THE NPA

DATE : 14 DECEMBER 2004

REF NO. : 3/2/P (PCLU)

1. PURPOSE OF MEMORANDUM

The purpose of this memorandum is to—

- (a) respond to allegations made at a meeting with certain Cabinet Ministers and the National Commissioner of the Police Service regarding the management of TRC cases by the National Prosecuting Authority (NPA);
- (b) to dispel any other misconceptions relating to such cases;
- (c) provide the Minister with a progress report regarding the status of these cases; and
- (d) supply the Minister with the NPA's comment on the proposed guidelines relating to the handling of the TRC cases.

2. HISTORICAL BACKGROUND

- 2.1 After the closure of the Goldstone Commission in 1993/94 the government of the day decided that its work in investigating human rights abuses relating to conflicts of the past should continue under the supervision of the then Attorney General of Pretoria, Dr Jan D'Oliveira, SC. A team of members of the SA Police Services (SAPS) were seconded to his office to conduct the necessary investigations. (Annexure A)
- 2.2 The team was divided into two groups. One focusing on offences committed by security force members and the other group focussing on offences committed by members of the Liberation Movements and the Right Wing.
- 2.3 The latter team comprised of Director Nel and Senior Superintendent Britz of SAPS.
- 2.4 Dr D'Oliveira directed that Deputy Attorney General Paul Fick would supervise all the investigations conducted by the two police officers, while he would deal with cases involving security force members.
- 2.5 On 7 November 1996 the former National Commissioner (JG Fivaz), at the request of Dr D'Oliveira, instructed all Provincial Commissioners to submit all outstanding and unsolved cases pertaining to the entire political spectrum of the conflicts of the past to Dr D'Oliveira's office. Such instruction also related to cases where not all the accused had been prosecuted. (Annexure B)
- 2.6 With the appointment of the National Director of Public Prosecutions (NDPP) in 1998, the cases dealt with by Dr D'Oliveira were transferred to the Office of the NDPP, while Adv Fick continued to deal with the cases originally allocated to him i.e. the Liberation Movement cases. He continued to be assisted by the SAPS members, Nel and Britz. Their contracts were routinely extended by SAPS.
- 2.7 The NDPP however instructed Adv Fick not to institute any prosecutions without his authorisation and no prosecutions were therefore instituted.
- 2.8 With the creation of the Directorate of Special Operations (DSO) in 2000, the cases at the NDPP's Office were transferred to the Head Quarters of the DSO. Adv Fick, however, continued with his cases assisted by the two police officers. Although a number of investigations had been conducted, no prosecutions were instituted, because the TRC's final report, and the President's response thereto, were outstanding.
- 2.9 After the TRC had tabled its final report and the President had mandated the NDPP to institute prosecutions where appropriate,

arising from the TRC process, the NDPP assigned all TRC matters to the Priority Crimes Litigation Unit (PCLU), which Unit was created by the President in March 2003.

- 2.10 The PCLU was not an investigative agency and was therefore dependant on SAPS and the DSO to assist with the investigations. The PCLU reports monthly to a Deputy National Director. The NDPP approved all its decisions to institute TRC prosecutions and, in certain high profile cases, certain decisions not to prosecute. Proper records are kept of all its cases.

3. MANAGEMENT OF TRC CASES BY THE PCLU IN MARCH 2003

- 3.1 The DSO policy guidelines for prosecutions in these matters were accepted by the PCLU. In essence, these were to the effect that prosecutions should only be instituted for serious human rights abuses, based on reliable evidence while accepting that humanitarian factors and the interests of reconciliation could also be taken into consideration.
- 3.2 It was decided that the Head of the PCLU would take over Adv Fick's cases and the Deputy Head of the PCLU would take over the DSO cases.
- 3.3 The PCLU conducted an audit of all the cases in both offices.
- 3.4 In this auditing process it was established that the police officers at Adv Fick's office (the office of the Director of Public Prosecutions, Pretoria) had registered 395 police dockets.
- 3.5 The register (Annexure C) reflected that in the main, cases had been closed. Either because the accused had been granted amnesty or the perpetrators had not been detected. The outstanding cases are listed in Annexure C.
- 3.6 Of these cases, which were still open, the PCLU declined to prosecute about 90 cases on the same basis as mentioned above. In respect of each decision taken, a full report was compiled.
- 3.7 Similarly, about 60 cases from the DSO were finalised. The only outstanding cases are those mentioned in paragraphs 9.1 to 9.6 and 9.8 to 9.10 *infra*.
- 3.8 The audit process further identified a small number of cases warranting prosecution which are dealt with hereunder.

4. MATTERS ARISING

4.1 SAPS INVOLVEMENT PERTAINING TO TRC INVESTIGATIONS

4.1.1 During 2003 a number of meetings were held with Commissioner De Beer (the Divisional Head of the Detective Service) requesting the assistance of SAPS in the investigation of TRC cases other than those dealt with by Nel and Britz.

4.1.2 Specific assistance was sought in the following high profile cases where members of the Liberation Movement were targeted by the former security forces:

- Pebco 3
- Cradock 4
- Motherwell Bombing
- Cosas 4
- Murder of Brian Ngulunga
- Murder of Ntombi Khubekha
- Murder of Victoria Mxenge
(See Annexure D)

4.1.3 On 26 September 2003, Commissioner De Beer advised the PCLU that, having discussed the request with the National Commissioner, no such assistance would be rendered, without the express written instruction of the President. His motivation was that the suspects in the above cases were all ex-policemen (see Annexure E).

4.1.4 The perception unfortunately created by this decision is that SAPS was only interested in targeting members of the Liberation Movement.

4.1.5 This perception was reinforced by the manner in which SAPS dealt with the **Biani** and **ANC-37 cases**, which will be dealt with hereunder.

4.2 ANC-37 CASE

4.2.1 The TRC refused amnesty to 37 prominent leaders of the ANC, including the President, Mr Thabo Mbeki.

4.2.2 Members of the PCLU held various discussions with Nel and Britz during which discussions Nel and Britz persisted that that there was a strong case against the President and other prominent cabinet ministers. This was raised in the context of attempting to persuade the

PCLU not to prosecute former security branch members on the basis that, if such members were prosecuted, the President would have to be prosecuted as well.

- 4.2.3 They claimed that the basis of the charge against the President was the so-called minutes of the Lusaka meeting where the President apparently endorsed the landmine campaign.
- 4.2.4 Despite repeated requests by the PCLU to submit the relevant docket for decision, no such docket was ever submitted, nor were the minutes of this Lusaka meeting ever produced.
- 4.2.5 More than once Britz stated that the docket was with the former National Commissioner Johan van der Merwe and his legal advisor. It is noteworthy that no such case was registered in the 395-docket register. Furthermore, requests made to Van der Merwe and his lawyer to produce the docket were also unsuccessful.
- 4.2.6 The PCLU was then informed by the NDPP that Commissioner Selebi had alleged that the NDPP and the PCLU advocates were on the verge of arresting the President.
- 4.2.7 Consequently Minister Maduna visited the offices of the NDPP and satisfied himself that there was no basis for this allegation.
- 4.2.8 In order to dispel any further speculation on this aspect, the PCLU perused all the available evidence relating to the issue and advised the NDPP that there was no evidence against the President and the others who had been refused amnesty by the TRC.
- 4.2.9 To clear the lines, the NDPP directed that Britz and Nel vacate the office of the DPP in Pretoria and that all their dockets be returned to SAPS. This in fact took place.
- 4.2.10 Britz was reinstated in SAPS: Crimes against the State, Head Office component and mandated by SAPS to continue with his investigations.
- 4.2.11 Britz, thereafter contacted the Deputy Head of the PCLU, wanting written confirmation of the decision not to prosecute the President. On 2 July 2004 he was given a written notice. (Annexure F)
- 4.2.12 On 5 July 2004 Britz and his Unit Commander approached the Deputy Head of the PCLU, complaining about the decision not to prosecute the President and alleged that there was an abundance of evidence to justify a prosecution. They were invited to submit the relevant docket, but as of even date, no such docket has materialised (see Annexure G).

5. STATE VERSUS BLANI

- 5.1 The Murder and Robbery Unit in Port Elizabeth originally investigated this matter.
- 5.2 The suspect was linked to the crime by fingerprint evidence.
- 5.3 A warrant for his arrest was obtained but not executed, because he could not be traced. This warrant was never cancelled by SAPS.
- 5.4 As a result of Commissioner Fivaz's instruction of 7 November 1996, namely, that all cases be referred to Dr D'Oliveira's Unit, the docket came into possession of Britz. The investigation diary of the docket confirms that on 16 July 2003, Director Nel received it for further investigation. See pages C63 to C65 of the investigation diary attached as Annexure H1. Director Nel established that certain suspects were still outstanding on warrants and thereafter traced them. He thereafter furnished the Serious & Violent Crimes Unit in Port Elizabeth with copies of the witness statements with instructions to trace the suspects and witnesses.
- 5.5 In 2003, Britz referred the docket to the PCLU, requesting a prosecution of Blani on the basis that he had been traced by SAPS and had not applied for amnesty. This case is reflected as case No 266 in the SAPS register.
- 5.6 In order to determine whether the evidence was still available, Britz was requested to confirm whether he was now the investigating officer. Britz informed the PCLU that the Serious and Violent Crime Unit in Port Elizabeth would investigate the matter.
- 5.7 The Unit Commander shortly thereafter contacted the PCLU and indicated that he would appoint members to investigate the matter.
- 5.8 On 25 Nov 2003 the Unit Commander was instructed in writing to do the necessary investigations, where after the accused was arrested and charged. (Annexure H2).
- 5.9 On several occasions Britz contacted the PCLU in order to establish what progress had been made in the case.
- 5.10 In view of the above, it is clear that the allegation made by Commissioner Selebi, namely, that the PCLU approached a local low ranking police officer to arrest the accused, is unfounded.

APPENDIX A**PROSECUTING POLICY AND DIRECTIVES RELATING TO THE PROSECUTION OF OFFENCES EMANATING FROM CONFLICTS OF THE PAST AND WHICH WERE COMMITTED ON OR BEFORE 11 MAY 1994****A. INTRODUCTION**

1. In his statement to the National Houses of Parliament and the Nation, on 15 April 2003, President Thabo Mbeki, among others, gave Government's response to the final report of the Truth and Reconciliation Commission (TRC). The essential features of the response for the purpose of this new policy, are the following:
 - (a) It was recognized that not all persons who qualified for amnesty availed themselves of the TRC process, for a variety of reasons, ranging from incorrect advice (legally or politically) or undue influence to a deliberate rejection of the process.
 - (b) A continuation of the amnesty process of the TRC cannot be considered as this would constitute an infringement of the Constitution, especially as it would amount to a suspension of victims' rights and would fly in the face of the objectives of the TRC process. The question as to the prosecution or not of persons, who did not take part in the TRC process, is left in the hands of the National Prosecuting Authority (NPA) as is normal practice.
 - (c) As part of the normal legal processes and in the national interest, the NPA, working with the Intelligence Agencies, will be accessible to those persons who are prepared to unearthing the truth of the conflicts of the past and who wish to enter into agreements that are standard in the normal execution of justice and the prosecuting mandate, and are accommodated in our legislation.
 - (d) Therefore, persons who had committed crimes, before 11 May 1994, which emanate from conflicts of the past, could enter into agreements with the prosecuting authority in accordance with existing legislation. This was stated in the context of the recognition of the need to gain a full understanding of the networks which operated at the relevant time since, in certain instances, these networks still operated and posed a threat to current security. Particular reference was made to un-recovered arms caches.
2. In view of the above, prosecuting policy, directives and guidelines are required to reflect and attach due weight to the following:
 - (a) The Human Rights culture which underscores the Constitution and the status accorded to victims in terms of the TRC and other legislation.
 - (b) The constitutional right to life.
 - (c) The non-prescriptivity of the crime of murder.
 - (d) The recognition that the process of transformation to democracy recognized the need to create a mechanism where persons who had committed politically motivated crimes, linked to the conflicts of the past, could receive indemnity or amnesty from prosecution.
 - (e) The *dicta* of the Constitutional Court justifying the constitutionality of the above process, *inter alia*, on the basis that it did not absolutely deprive victims of the right to prosecution in cases where amnesty had been refused. (See *Azanian Peoples Organisation v The President of the RSA, 1996 (8) BCLR 1015 CC*).
 - (f) The recommendation by the TRC that the NPA should consider prosecutions for persons who failed to apply for amnesty or who were refused amnesty.

- (g) Government's response to the final Report of the TRC as set out in paragraphs 1(a) to (d) above.
 - (h) The *dicta* of the Constitutional Court to the effect that the NPA represents the community and is under an international obligation to prosecute crimes of apartheid. (See *The State v Wouter Basson CCT 30/03*.)
 - (i) The constitutional obligation on the NPA to exercise its functions without fear, favour or prejudice (section 179 of the Constitution).
 - (j) The legal obligations placed on the NPA in terms of its enabling legislation, in particular the provisions relating to the formulation of prosecuting criteria and the right of persons affected by decisions of the NPA to make representations, and for them to be dealt with.
 - (k) The existing prosecuting policy and general directives or guidelines issued by the National Director of Public Prosecutions (NDPP) to assist prosecutors in arriving at a decision to prosecute or not.
 - (l) The terms and conditions under which the Amnesty Committee of the TRC could consider applications for amnesty and the criteria for granting of amnesty for gross violation of human rights.
3. Government did not intend to mandate the NDPP to, under the auspice of his or her own office, perpetuate the TRC amnesty process. The existing legislation and normal process referred to by the President, include the following:
- (a) Section 204 of the Criminal Procedure Act, 1977 (Act No. 51 of 1977), which provides that a person who is guilty of criminal conduct may testify on behalf of the State against his or her co-conspirators and if the Court trying the matter finds that he or she testified in a satisfactory manner, grant him or her indemnity from prosecution.
 - (b) Section 105A of the Criminal Procedure Act, 1977, which makes provision for a person who has committed a criminal offence to enter into a mutually acceptable guilty plea and sentence agreement with the NPA.
 - (c) Section 179(5) of the Constitution in terms of which the NDPP, among others—
 - (i) must determine, in consultation with the Minister and after consultation with the Directors of Public Prosecutions, prosecution policy to be observed in the prosecution process;
 - (ii) must issue policy directives to be observed in the prosecution process; and
 - (iii) may review a decision to prosecute or not to prosecute.
 - (d) The above process would not indemnify such a person from private prosecution or civil liability.
4. The NPA has a general discretion not to prosecute in cases where a *prima facie* case has been established and where it is of the view that such a prosecution would not be in the public interest. The factors to be considered include the following:
- (a) The fact that the victim does not desire prosecution.
 - (b) The severity of the crime in question.
 - (c) The strength of the case.

(d) The cost of the prosecution weighed against the sentence likely to be imposed.

(e) The interests of the community and the public interest.

In the event of the NPA declining to prosecute in such an instance, such a person is not protected against a private prosecution.

5. Therefore, following Government's response, and the equality provisions in our Constitution and the equality legislation, and taking into account the above factors regarding the handling of cases arising from conflicts of the past, which were committed prior to 11 May 1994, it is important to deal with these matters on a rational, uniform, effective and reconciliatory basis in terms of specifically defined prosecutorial policies, directives and guidelines.

B. PROCEDURAL ARRANGEMENTS WHICH MUST BE ADHERED TO IN THE PROSECUTION PROCESS IN RESPECT OF CRIMES ARISING FROM CONFLICTS OF THE PAST

The following procedure must be strictly adhered to in respect of persons wanting to make representations to the NDPP, and in respect of those cases already received by the Office of the NDPP, relating to alleged offences arising from conflicts of the past and which were committed before 11 May 1994:

1. A person who faces possible prosecution and who wishes to enter into arrangements with the NPA, as contemplated in paragraph A1 above (the Applicant), must submit a written sworn affidavit or solemn affirmation to the NDPP containing such representations.
2. The NDPP must confirm receipt of the affidavit or affirmation and may request further particulars by way of a written sworn affidavit or solemn affirmation from the Applicant. The Applicant may also *mero moto* submit a further written sworn affidavit or solemn affirmation to the NDPP containing representations.
3. All such representations must contain a full disclosure of all the facts, factors or circumstances surrounding the commission of the alleged offence, including all information which may uncover any network, person or thing, which posed a threat to our security at any stage or may pose a threat to our current security.
4. The Priority Crimes Litigation Unit (PCLU) in the Office of the NDPP shall be responsible for overseeing investigations and instituting prosecutions in all such matters.
5. The regional Directors of Public Prosecutions must refer all prosecutions arising from the conflicts of the past, which were committed before 11 May 1994, and with which they are or may be seized, immediately to the Office of the NDPP.
6. 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:
 - (a) The National Intelligence Agency.
 - (b) The Detective Division of the South African Police Service.
 - (c) The Department of Justice & Constitutional Development.
 - (d) The Directorate of Special Operations.
7. The NDPP must approve all decisions to continue an investigation or prosecution or not, or to prosecute or not to prosecute.

8. The NDPP must also be consulted in respect of and approve any offer to a perpetrator relating to the bestowing of the status of a section 204 witness and all section 105A plea and sentence agreements.
9. The NDPP may obtain the views of any private or public person or institution, our intelligence agencies and the Commissioner of the South African Police Service, and must obtain the views of any victims, as far as is reasonably possible, before arriving at a decision.
10. A decision of the NDPP not to prosecute and the reasons for that decision must be made public.
11. In accordance with section 179 (6) of the Constitution, the NDPP must inform the Minister for Justice & Constitutional Development of all decisions taken or intended to be taken in respect of this prosecuting policy relating to conflicts of the past.
12. The NDPP may make public statements on any matter arising from this policy relating to conflicts of the past, where such statements are necessary in the interests of good governance and transparency, but only after informing the Minister for Justice and Constitutional Development thereof.
13. The institution of any prosecution in terms of this policy relating to conflicts of the past would not deprive the accused from making further representations to the NDPP requesting the NDPP to withdraw the charges against him or her. These representations would be considered according to the NPA prosecuting policy, directives, guidelines and established practice. The victims must, as far as reasonably possible, be consulted in any such further process and be informed, should the accused's representations be successful.
14. The NDPP may provide for any additional procedures.
15. All state agencies, in particular those dealing with the prosecution of alleged offenders and those responsible for the investigation of offences, must be requested not to use any information obtained from an alleged accused person during this process in any subsequent criminal trial against such a person. Whatever the response of such agencies may be to this request, the NPA records that its policy in this regard is not to make use of such information at any stage of the prosecuting process, especially not to present it in evidence in any subsequent criminal trial against such person.

C. CRITERIA GOVERNING THE DECISION TO PROSECUTE OR NOT TO PROSECUTE IN CASES RELATING TO CONFLICTS OF THE PAST

Apart from the general criteria set out in paragraph 4 of the Prosecuting Policy of the NPA, the following criteria are determined for the prosecution of cases arising from conflicts of the past:

1. The alleged offence must have been committed on or before 11 May 1994.
2. Whether a prosecution can be instituted on the strength of adequate evidence after applying the general criteria set out in paragraph 4 of the said Prosecuting Policy of the NPA.
3. If the answers to paragraphs 1 and 2 above are in the affirmative, then the further criteria in paragraphs (a) to (j) hereunder, must, **in a balanced way**, be applied by the NDPP before reaching a decision whether to prosecute or not:
 - (a) Whether the alleged offender has made a full disclosure of all relevant facts, factors or circumstances to the alleged act, omission or offence.
 - (b) Whether the alleged act, omission or offence is an act associated with a political objective committed in the course of conflicts of the past. In reaching a decision in this regard the following factors must be considered:

- (i) The motive of the person who committed the act, commission or offence.
- (ii) The object or objective of the act, omission or offence, and in particular whether the act, omission or offence was primarily directed at a political opponent or State property or personnel or against private property or individuals.
- (iii) Whether the act, omission or offence was committed in the execution of an order of, or on behalf of, or with the approval of, the organisation, institution, liberation movement or body of which the person who committed the act was a member, agent or a supporter.
- (iv) The relationship between the act, omission or offence and the political objective pursued, and in particular the directness and proximity of the relationship and the proportionality of the act, omission or offence to the objective pursued, but does not include any act, omission or offence committed—
 - (aa) for personal gain; or
 - (bb) out of personal malice, ill-will or spite, directed against the victim of the act or offence committed.
- (c) The degree of co-operation on the part of the alleged offender, including the alleged offenders endeavours to expose—
 - (i) the truth of the conflicts of the past, including the location of the remains of victims; or
 - (ii) possible clandestine operations during the past years of conflict, including exposure of networks that operated or are operating against the people, especially if such networks still pose a real or latent danger against our democracy.
- (d) The personal circumstances of the alleged offender, in particular—
 - (i) whether the ill-health of or other humanitarian consideration relating to the alleged offender may justify the non-prosecution of the case;
 - (ii) the credibility of the alleged offender;
 - (iii) the alleged offender's sensitivity to the need for restitution;
 - (iv) the degree of remorse shown by the alleged offender and his or her attitude towards reconciliation;
 - (v) renunciation of violence and willingness to abide by the Constitution on the part of the alleged offender; and
 - (vi) the degree of indoctrination to which the alleged offender was subjected.
- (e) Whether the offence in question is serious.
- (f) The extent to which the prosecution or non-prosecution of the alleged offender may contribute, facilitate or undermine our national project of nation-building through transformation, reconciliation, development and reconstruction within and of our society.
- (g) Whether the prosecution may lead to the further or renewed traumatising of victims and conflicts in areas where reconciliation has already taken place.

- (h) If relevant, the alleged offender's role during the TRC process, namely, in respect of co-operation, full disclosure and assisting the process in general.
- (i) Consideration of any views obtained for purposes of reaching a decision.
- (j) Any further criteria, which might be deemed necessary by the prosecuting authority for reaching a decision.

<http://www.pmg.org.za/docs/2005/060117advnel.doc>

Adv. M
P. A. 01
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INFORMATION NOTE

To: Assistant Commissioner P J Jacobs

TRC RELATED MATTERS: INQUESTS

- 1 As far as the finalization of certain inquests are concern, the following cases were perused an the findings are as follows:
- 2 **Messina CR 57/11/85 M Z Ncube and two others.**
Inquests were held in respect of the Van Eck and De Nysshen victims. (Attached copies of the J56's - annexures A-F).
Inquests in respect of the two policemen, Nel and Gerber, were not held because the accused, Ncube and two others were charged and convicted but receive amnesty.
- 3 **Ellisras CR A28/8/88 M J Rampolo**
Inquests were held in respect of the policeman N C Claassen and the ANC member J M Kgwahla who were killed during the incident. (Attached copy of the Inquest Register at Seleka Magistrate's Court - annexure G). Unfortunately no J56's could be traced.
- 4 **King Williams Town CR 397/11/92 T T Xundu**
Inquests were held in respect of Gillian Davis, Rhoda MacDonald, David Andre Theresa Davis and Ian Wheelright MacDonald who were killed during the incident. (Attached copies of the J56's - annexures H - K).
- 5 **Diepkloof CR 228/8/89 Micheal Ndlovu, William Mafa and Ben Bani**
The circumstances surrounding Michael Ndlovu in so far as granting of amnesty is concern, is still under investigation.
- 6 **Umbumbulu CAS 35/4/87 Steven Mkulusi, Moses Mkize and Sakhile Nzama**
The Magistrate's Court at Umbumbulu was visited but neither could the Inquest register nor the Inquest file, with a possible J56 been traced.
- 7 **Jeppe CR 47/7/88 Ellispark Bomb**
Inquests were held in the respect of Clive Winston Quayle and Linus Mare who were killed during the incident. (Attaced copies of the J56's - annexures L+M)
- 8 **Fort Beaufort CR 156/3/93 N Diaho-Monehang**
An inquest was held in respect of J F Jerling who was killed during the incident. (Attached copy of J56 - annexure N)

SENIOR SUPERINTENDENT

COMMANDER; CRIMES AGAINST THE STATE
L J BESTER

MESSINA M.R. 677/86

ANNEXURE A 1104

-76-200000 (M-S)

J 56

No. 1 1986

INQUEST: ACT 58 OF 1959
GEREGTELIKE DOODSONDERSOEK: WET 58 VAN 1959

MESSINA

MESSINA

A.J. BOSCH

LIANDROOS O.S.
PRIVATE BAG X82
1986-05-27
MESSINA 0800

esquire, Magistrate for the said district
Landdros van genoemde distrik en
as assessor(s) on the 16de day
as assessor(e) op die dag

1986 into the circumstances attending the death of the person mentioned below.
aangaande die omstandighede in verband met die dood van ondergenoemde persoon.

ns of section 16 of the Act:
volge artikel 16 van die Wet:
of the deceased person
t van die oorledene

CARLA DE NYSSCHEN; BLANKE; DOGTER; 8 JAAR OUD

ill name, race, sex, age and occupation/Meld volle naam, ras, geslag, ouderdom en beroep.)

death 15 DESEMBER 1985
van sterfgeval

r likely cause of death SKOK EN BLOEDING NA ERNSTIGE LEDEMAAT EN HOOF BESERINGS
s of waarskynlike oorsaak van dood

OPGEDOEN TOE LANDMYN ONTPLOF HET ONDER VOERTUIG WAAROP OORLEDENE 'N
PASSASIER WAS.

er the death was brought about by any act or omission involving or amounting to an offence on the part of any
dood veroorsaak is deur 'n handeling of versuim, wat 'n misdryf aan die kant van iemand insluit of uitmaak
JA, ONBEKENDE PERSOON OF PERSONE WIE LANDMYN GEPLANT HET.

MEI 1986

A.J. BOSCH

ADD. Magistrate/Landdros 11.11.81

Section 16 (3) of the Act provides that if the Magistrate is unable to record any of the findings set out above
ERKING.—Artikel 16 (3) van die Wet bepaal dat indien die Landdros nie in staat is om enige van die bevindings
d that fact.
ld aan te teken nie, hy dié feit moet boekstaaf.

RNEY-GENERAL,
JREUR-GENERAAL,
vaatsak X300
TORIA 0001

ms of section 17 (1) of the Inquests Act, 1959 (Act 58 of 1959), I submit herewith the record of proceedings.
olge artikel 17 (1) van die Wet op GeregteLIKE Doodsondersoekte, 1959 (Wet 58 van 1959), word die notule van

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Messina P.N. 67/12/86

ANNEXURE B
A92

G.P.S. 45811-1975-76-200000 (M-S)

J 56

No. 2 19.86

INQUEST: ACT 58 OF 1959
GEREGTELIKE DOODSONDERSOEK: WET 58 VAN 1959

helden at MESSINA in the district of MESSINA
ehou te A.J. BOSCH

of mnr. esquire, Magistrate for the said district
Landdros van genoemde distrik en

MEI 19 86 into the circumstances attending the death of the person mentioned below.
as assessor(s) on the 16de day
as assessor(e) op die dag

ii. in terms of section 16 of the Act
aangaande die omstandighede in verband met die dood van ondergenoemde persoon.

a) Identity of the deceased person: JOHANNES JACOBUS DE NYSSCHEN; BLANKE; SEUN; 3 JAAR OUD;
Identiteit van die oorledene

(State full name, race, sex, age and occupation/Meid volle naam, ras, geslag, ouderdom en beroep.)
Date of death: 15 DESEMBER 1985
Datum van sterfgeval

Cause or likely cause of death: SKOK EN BLOEDING NA ERNSTIGE NEK-, LEDEMAAT- EN 75%
Oorsaak of waarskynlike oorsaak van dood
BRANDWONDE OPGEDOEN TOE LANDMYN ONTPLOF HET ONDER VOERTUIG WAAROP OORLEDENE
'N PASSASIER WAS.

Whether the death was brought about by any act or omission involving or amounting to an offence on the part of any person: JA, ONBEKENDE PERSOON OF PERSONE WIE LANDMYN GEPLANT HET.

6 MEI 1986

A.J. BOSCH
ADD. Magistrate/Landdros 11.11.81

NOTE.—Section 16 (3) of the Act provides that if the Magistrate is unable to record any of the findings set out above
MERKING.—Artikel 16 (3) van die Wet bepaal dat indien die Landdros nie in staat is om enige van die bevindings
word that fact.
meld aan te teken nie, hy dié feit moet boekstaaf.

CLERK GENERAL,
SHERIFF-GENERAAL,
Messina X300

IN WITNESS WHEREOF, I have hereunto set my hand and seal at Messina on the 6th day of May 1986.
In terms of section 17 (1) of the Inquests Act, 1959 (Act 58 of 1959), I submit herewith the record of proceedings in terms of section 17 (1) of the Wet op Geregtelelike Doodsondersoeke 1959.

92
93
94
95
96

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MESSINA M.K. 6/12/86

ANNEXURE C 1776

1-1975-76-200 000 (M-S)

J 56

No. 3/86

INQUEST: ACT 58 OF 1959 GEREGTELIKE DOODSONDERSOEK: WET 58 VAN 1959

MESSINA in the district of MESSINA

A.J. BOSCH

in die distrik

DEURS
PRIVATE BAG 824

Magistrate, Magistrate for the said district
Landdros van genoemde distrik en

as assessor(s) on the 16de day
as assessor(e) op die dag

MEI 1986 into the circumstances attending the death of the person mentioned below,
aangaande die omstandighede van die dood van ondergenoemde persoon.

MAGISTRATE

in terms of section 16 of the Act:
in terme van artikel 16 van die Wet:

Identity of the deceased person: MARIA GERTRUIDA DE NYSSCHEN; BLANKEVROU; 56 JAAR OUD
Identiteit van die oorledene

Full name, race, sex, age and occupation/Meld volle naam, ras, geslag, ouderdom en beroep.)

Date of death: 15 DESEMBER 1985

Place of death: SKOK EN BLOEDING NA ERNSTIGE NEK EN VERMINKTE ONDERSTE

Probable or likely cause of death: LEDEMATE OPGEDOEN TOE LANDMYN ONTPLOF HET ONDER VOERTUIG WAAROP OORLEDENE

Probable or likely cause of death: 'N PASSASIER WAS.

Whether the death was brought about by any act or omission involving or amounting to an offence on the part of any person: JA, ONBEKENDE PERSOON OF PERSONE WIE LANDMYN GEPLANT HET.

16 MEI 1986

A.J. BOSCH

ADD. Magistrate/Landdros Tl. 11.81

NOTE.—Section 16 (3) of the Act provides that if the Magistrate is unable to record any of the findings set out above
OPMERKING.—Artikel 16 (3) van die Wet bepaal dat indien die Landdros nie in staat is om enige van die bevindings
word that fact.
Meld aan te teken nie, hy dié feit moet boekstaaf.

ATTORNEY-GENERAL,
SOLICITOR-GENERAAL,
Private Bag X300
PORT OF SPAIN, JOHANNESBURG

In terms of section 17 (1) of the Inquests Act, 1959 (Act 58 of 1959), I submit herewith the record of proceedings.
In terme van artikel 17 (1) van die Wet op Geregteelike Doodsondersoeke, 1959 (Wet 58 van 1959), word die notule van hiermee voorgelê.

6 MAY 1986

A. J. BOSCH

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MESSINA M.R. 67/12/86

ANNEXURE A112

176-200000 (M-S)

J 56

No. 4 19 86

INQUEST: ACT 58 OF 1959 GEREGTELIKE DOODSONDERSOEK: WET 58 VAN 1959

MESSINA in the district of MESSINA
in die distrik

A.J. BOSCH

1986 Esquire, Magistrate for the said district
Landdroes van genoemde distrik en
as assessor(s) on the 16de day
MESSINA assessor(s) op die dag

19 86 into the circumstances attending the death of the person mentioned below.
aangaande die omstandighede in verband met die dood van ondergenoemde persoon.

ms of section 16 of the Act:
volge artikel 16 van die Wet:
of the deceased person
it van die oorledene

JACOBA VAN ECK; BLANKEVROU; 34 JAAR OUD

all name, race, sex, age and occupation/Meld voile naam, ras, geslag, ouderdom en beroep.)

15 DECEMBER 1985

van sterfgeval

SKOK EN BLOEDING NA ERNSTIGE NEK, LEDEMAAT EN IN-

or likely cause of death
k of waarskynlike oorsaak van dood

ENDIGE BESERINGS OPGEDOEN TOE LANDMYN ONTPLOF HET ONDER VOERTUIG WAAROP
ORLEDENE 'N PASSASIER WAS.

death was brought about by any act or omission involving or amounting to an offence on the part of any
veroorsaak is deur 'n handeling of verstui, wat 'n misdryf aan die kant van iemand insluit of uitmaak

JA, ONBEKENDE PERSOON OF PERSONE WIE LANDMYN GEPLANT HET.

16 MEI 1986

A.J. BOSCH

ADD Magistrate/Landdroes 11.11.81

E.—Section 16 (3) of the Act provides that if the Magistrate is unable to record any of the findings set out at
ERKING.—Artikel 16 (3) van die Wet bepaal dat indien die Landdroes nie in staat is om enige van die bevind

that fact.
d aan te teken nie, hy dié feit moet boekstaaf.

RNEY-GENERAL,
UREUR-GENERAAL,

satsak X300

RIA 0001
ms of section 17 (1) of the Inquests Act, 1959 (Act 58 of 1959), I submit herewith the record of proceedings.
olge artikel 17 (1) van die Wet op Geregte like Doodsondersoeke, 1959 (Wet 58 van 1959), word die notule van
iermee voorgelê.

A.J. BOSCH

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MESSINA 11.11. 67/12/86

Annexure E
1108

S-76-200 000 (M-S)

J 56

No. 5 1986

INQUEST: ACT 58 OF 1959
GEREGTELIKE DOODSONDERSOEK: WET 58 VAN 1959

MESSINA in the district of MESSINA
in die distrik

A.J. BOSCH as assessor(s) on the 16de day
as assessor(e) op die dag

19 86, into the circumstances attending the death of the person mentioned below.
aangaande die omstandighede in verband met die dood van ondergenoemde persoon.

ns of section 16 of the Act:
volge artikel 16 van die Wet:

of the deceased person. IGNATIUS MICHAEL VAN ECK, BLANKE, SEUN; 2 1/2 JAAR OUD
t van die oorledene

ll name, race, sex, age and occupation/Meld volle naam, ras, geslag, ouderdom en beroep.)

death. 15 DESEMBER 1985

likely cause of death. SKOK EN BLÔEDING NA ERNSTIGE HOOF, ROMP- EN LEDEMAAT-

of waarskynlike oorsaak van dood
ERINGS OPGEDOEN TOE LANDMYN ONTPLOF HET ONDER VOERTUIG WAAROP OORLEDENE
PASSASIER WAS.

the death was brought about by any act or omission involving or amounting to an offence on the part of any
ood veroorsaak is deur 'n handeling of verstuijn, wat 'n misdryf aan die kant van iemand insluit of uitmaak
JA, ONBEKENDE PERSOON OF PERSONE WIE LANDMYN GEPLANT HET.

MEI 1986 A.J. BOSCH
ADD. Magistrate/Landdros 11*11.81

Section 16 (3) of the Act provides that if the Magistrate is unable to record any of the findings set out above
KING.—Artikel 16 (3) van die Wet bepaal dat indien die Landdros nie in staat is om enige van die bevindings
that fact.
aan te teken nie, hy dié feit moet boekstaaf.

NEY-GENERAL,
EUR-GENERAAL,
itsak X300

IA.....0001
of section 17 (1) of the Inquests Act, 1959 (Act 58 of 1959), I submit herewith the record of proceedings.

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ANNEXURE F
A100

MESSINA M.R. 67/12/86

-200 000 (M-S)

J 56

No. 6 19 86

INQUEST: ACT 58 OF 1959
GEREGTELIKE DOODSONDERSOEK: WET 58 VAN 1959

MESSINA in the district of MESSINA
in die distrik

A. J. BOSCH

Esquire, Magistrate for the said district
Landdros van genoemde distrik en

as assessor(s) on the 16de day
as assessor(e) op die dag

//////////

ATSAL/PRIVATE BAG X621

19 86 into the circumstances attending the death of the person mentioned below.
aangaande die omstandighede in verband met die dood van ondergenoemde persoon.

section 16 of the Act:
artikel 16 van die Wet:

deceased person
die oorledene

1986-05-27
MESSINA 0900
MAGISTRAT BLANKE
NELMAR VAN SCKE BLANKE

DOGTER; 8 JAAR-OU

name, race, sex, age and occupation/Meld volle naam, ras, geslag, ouderdom en beroep.)

15 DESEMBER 1985

cause of death... SKOK EN BLOEDING NA ERNSTIGE HOOF, EKSTENSIEWE LEDEMAAT
waarskynlike oorsaak van dood.

NEK BESERINGS OPGEDOEN TOE LANDMYN ONTPLOF HET ONDER VOERTUIG WAAROP
LEDENE 'N PASSASIER WAS.

death was brought about by any act or omission involving or amounting to an offence on the part of any
veroorzaak is deur 'n handeling of versuim, wat 'n misdryf aan die kant van iemand insluit of uitmaak
A, ONBEKENDE PERSOON OF PERSONE WIE LANDMYN GEPLANT HET.

1986

A. J. BOSCH

ADD. Magistrate/Landdros 1P.11.81

Section 16 (3) of the Act provides that if the Magistrate is unable to record any of the findings set out above
Art. 16 (3) van die Wet bepaal dat indien die Landdros nie in staat is om enige van die bevindings

to be recorded, the Magistrate, if he is unable to do so, shall record the fact.
as teken nie, hy dié feit moet boekstaaf.

GENERAL,
L-GENERAAL,
X300

0001
Section 17 (1) of the Inquests Act, 1959 (Act 58 of 1959), I submit herewith the record of proceedings.
Art. 17 (1) van die Wet op Geregte Like Doodsondersoek, 1959 (Wet 58 van 1959), word die notule van

Datum naas- bestaandes kennis gegee Date next of kin notified	Datum van aanvang van geregtelike doodsondersoek Date of commencement of inquest	Bevinding en datum daarvan Finding and date thereof	Datum aan Prokureur- generaal gestuur Date sub- mitted to Attorney- General	Datum van Prokureur- generaal terug- ontvang en sy verwysings- nommer Date of return by Attorney-General and his reference number	Datum terug aan polisie Date returned to police
11/1/89	17/1/89	The death was not about by any act or omission involving or amounting to an offence on the part of any person.	N/A	N/A	?
1/1/89	6/2/89	The deceased is a terrorist who was killed during hot pursuit and as such there is no act or omission on the part of any person involving or amounting to an offence but defence.	?	?	?
		The deceased is a terrorist who was killed during hot pursuit and as such there is no act or omission on the part of any person involving or amounting to an offence but defence.	20/2/89	14/3/89 13/1/89	89/3/17
1/8/89	2/8/89	The deceased was killed during hot pursuit and as such there is no act or omission on the part of any person involving or amounting to an offence but defence.	20/2/89	14/3/89 13/1/89	89/3/17
1/8/89	2/8/89	One terrorist was killed while there are some spores of three other	20/2/89	14/3/89 13/1/89	89/3/17

MMUSO WA LEBOWA
Magistrate/Magistrata
1993-01-26
Private Bag/Privaatsak
POTGIETERSRUS
LEBOWA GOVERNMENT SERVICE
LEBOWA REGERINGSDIENST

ADD: MAGISTRATE/MAGISTRAT
PHALALA

ADD: MAGISTRATE/MAGISTRAT
PHALALA 20/2/89

MMUSO WA LEBOWA
Magistrate/Magistrata
1993-02-23
Private Bag/Privaatsak
POTGIETERSRUS
LEBOWA GOVERNMENT SERVICE
LEBOWA REGERINGSDIENST

MMUSO WA LEBOWA
Magistrate/Magistrata
1993-02-23
Private Bag/Privaatsak
POTGIETERSRUS
LEBOWA GOVERNMENT SERVICE
LEBOWA REGERINGSDIENST

SEN OR'AANKLAAR/PROSECUTOR
MOTER/ADVOKAAT
LEBOWA GOVERNMENT SERVICE

GEREGTELIKE DOODSONDERSOEK: WET 58 VAN 1959
INQUEST: ACT 58 OF 1959

Gehou te Held at KING WILLIAM'S TOWN in die distrik in the district of KING WILLIAM'S TOWN
voor by N MJEKULA Landdros van genoemde distrik en Magistrate for the said district
met with as assessor(e) op die dag as assessor(s) on the day

aan 18.2.2004 aangaande die omstandighede in verband met die dood van ondergenoemde persoon. into the circumstances attending the death of the person mentioned below.



Indings ingevolge artikel 16 van die Wet: findings in terms of section 16 of the Act:

(a) Identiteit van die oorledene Identity of the deceased person GILLIAN DAVIS
FEMALE 53 years (Meld volle naam, ras, geslag, ouderdom en beroep/State full name, race, sex, age and occupation)

(b) Datum van sterfgeval Date of death 28.11.1992

(c) Oorsaak of waarskynlike oorsaak van dood Cause or likely cause of death MULTIPLE SCHRAPNEL WOUNDS AND RETROPERITONEAL HAEMORRHAGE

(d) Of die dood veroorsaak is deur 'n handeling of versuim, wat 'n misdryf aan die kant van iemand insluit of uitmaak Whether the death was brought about by any act or omission involving or amounting to an offence on the part of any person
DEATH BROUGHT ABOUT BY AN ACT AMOUNTING TO AN OFFENCE ON THE PART OF THEMBELANI TANDEKILE XUNDU, MALUSI MORRISON, LUNGIS!UMZIWONKE NTINTILE, TOBELA MLAMBISA

Datum 18.2.2004 (SGD) N MJEKULA Landdros/Magistrate

OPMERKINGS.—1. Artikel 16 (3) van die Wet bepaal dat indien die Landdros nie in staat is om enige van die bevindings hierbo NOTE.—1. Section 16 (3) of the Act provides that if the Magistrate is unable to record any of the findings set out above he shall vermeld aan te teken nie, hy dié feit moet boekstaaf. record that fact.

2. Wanneer die notule van verrigtinge ingevolge artikel 18 (1) van die Wet aan 'n regter voorgelê word, word die prosedure voorgeskryf in paragraaf 12 van die Kode Geregtelike Doodsondersoeke gevolg. When the record of proceedings is submitted to a judge in terms of section 18 (1) of the Act, the procedure prescribed in paragraph 12 of the code "Geregtelike Doodsondersoeke" should be followed.

DIE PROKUREUR-GENERAAL THE DIRECTOR OF PUBLIC PROSECUTIONS

GRAHAMSTOWN Ingevolge artikel 17 (1) van die Wet op Geregtelike Doodsondersoeke, 1959 (Wet 58 van 1959), word die notule van verrigtinge In terms of section 17 (1) of the Inquests Act, 1959 (Act 58 of 1959), I submit herewith the record of proceedings. hiermee voorgelê.

Datum 18.2.2004 (SGD) N MJEKULA Landdros/Magistrate

Die stukke gaan hiermee terug vir liassering. My verwysingsnommer is 9/2/9-110/04 The record is returned herewith for filing: My reference number is 1/Bara

PUBLIC PROSECUTOR

GEREGTELIKE DOODSONDERSOEK: WET 58 VAN 1959
INQUEST: ACT 58 OF 1959

Gehou te Held at KING WILLIAM'S TOWN in die in the KING WILLIAM'S TOWN

*afdeling van die Hooggeregshof van Suid-Afrika/streekafdeling/distrik
*division of the High Court of South Africa/regional division/district

voor by N MJEKULA *regter/streeklanddros/landdros
*judge/regional magistrate/magistrate

van genoemde *afdeling/streekafdeling distrik met
of the said *division/regional division/district with (i) as assessor(e)
(ii) as assessor(s)

op (datum) 17.2.2004 aangaande die omstandighede in verband met die dood van ondergenoemde persoon.
on (date) into the circumstances attending the death of the person mentioned below.

bevindings ingevolge artikel 16 van die Wet:
findings in terms of section 16 of the Act:

(a) Identiteit van die oorledene
Identity of the deceased person RHODA MacDONALD

FEMALE 56 years
(Meld volle naam, identiteitsnommer of ouderdom en geslag • State full name, identity number or age and sex)

(b) Datum van sterfgeval
Date of death 29.11.1992

(c) Oorsaak of waarskynlike oorsaak van dood
Cause or likely cause of death MULTIPLE WOUNDS OF BODY

(d) Of die dood veroorsaak is deur 'n handeling of versuim wat prima facie 'n misdryf aan die kant van iemand insluit of uitmaak:
Whether the death was brought about by any act or omission prima facie involving or amounting to an offence on the part of any person:

DEATH BROUGHT ABOUT BY AN ACT AMOUNTING TO AN OFFENCE ON THE PART OF
TEMBELANI TANDEKILE XUNDU, MALUSI MORRISON, LUNGIS'UMZIWONKE NTINTILI
AND TOBELA MLAMBISA

Datum 17.2.2004
Date

(SGD) N MJEKULA
Regterlike Beampte • Judicial Officer

OPMERKINGS: 1. Artikel 16 (3) van die Wet bepaal dat indien die regterlike beampte nie in staat is om enige van die bevindings hierbo vermeld aan te teken, hy dié feit moet boekstaaf.
NOTE: 1. Section 16 (3) of the Act provides that if the judicial officer is unable to record any of the findings set out above he shall record that fact.

*2. Wanneer die notule van verrigtinge ingevolge artikel 18 (1) van die Wet aan die hof of 'n regter daarvan voorgelê word, word die prosedure voorgeskryf in paragraaf 12 van die kode "GeregteLIKE Doodsondersoeke" gevolg.
*2. When the record of proceedings is submitted to the court or a judge thereof in terms of section 18 (1) of the Act, the procedure prescribed in paragraph 12 of the code "GeregteLIKE Doodsondersoeke" should be followed.

DIREKTEUR VAN OPENBARE VERVOLGINGS
DIRECTOR OF PUBLIC PROSECUTIONS

GRAHAMSTOWN

Ingevolge artikel 17 (1) van die Wet op GeregteLIKE Doodsondersoeke, 1959 (Wet 58 van 1959), word die notule van verrigtinge hiermee voorgelê.
In terms of section 17(1) of the Inquests Act, 1959 (Act 58 of 1959), I submit herewith the record of proceedings.

Datum 17.2.2004
Date

(SGD) N MJEKULA
Regterlike Beampte • Judicial Officer

Die stukke gaan hiermee terug vir liassering. My verwysingsnommer is
The record is returned herewith for filing. My reference number is

9/2/9-10/04 114/04

Die Direkteur: Openbare Vervolgings het besluit *om te verwoig/om nie te verwoig nie.
The Director: Public Prosecutions has decided *to prosecute/not to prosecute.

Datum

SV199/96

J 56

47

G.P.-S.

No. 60/2003 19

GEREGTELIKE DOODSONDERSOEK: WET 58 VAN 1959
INQUEST: ACT 58 OF 1959

Gehou te Held at KING WILLIAM'S TOWN in die distrik in the district of KING WILLIAM'S TOWN
voor by N. MJEKULA Landdroos van genoemde distrik en Magistrate for the said district
met with as assessor(e) op die 18 dag as assessor(s) on the 18 day

FEBRUARY 2004xx aangaande die omstandighede in verband met die dood van ondergenoemde persoon. into the circumstances attending the death of the person mentioned below.



Findings ingevolge artikel 16 van die Wet: Findings in terms of section 16 of the Act:

(a) Identiteit van die oorledene Identity of the deceased person DAVID ANDRE THERESA DAVIS

MALE 59 years (Meld volle naam, ras, geslag, ouderdom en beroep/State full name, race, sex, age and occupation)

(b) Datum van sterfgeval Date of death 28.11.1992

(c) Oorsaak of waarskynlike oorsaak van dood Cause or likely cause of death MULTIPLE SCHRAPNEL WOUNDS WITH LEFT HAEMOTHORAX

(d) Of die dood veroorsaak is deur 'n handeling of versuim, wat 'n misdryf aan die kant van iemand insluit of uitmaak Whether the death was brought about by any act or omission involving or amounting to an offence on the part of any person DEATH BROUGHT ABOUT BY AN ACT AMOUNTING TO AN OFFENCE ON THE PART OF THEMBELANI TANDEKILE XUNDU, MALUSI MORRISON, LUNGIS'UMZIWONKE NTINTILE, TOBELA MLAMBISA

Datum 18.2.2004 (SGD) N. MJEKULA Landdroos/Magistrate

OPMERKINGS.—1. Artikel 16 (3) van die Wet bepaal dat indien die Landdroos nie in staat is om enige van die bevindings hierbo NOTE.—1. Section 16 (3) of the Act provides that if the Magistrate is unable to record any of the findings set out above he shall vermeld aan te teken nie, hy dié feit moet boekstaaf. record that fact.

2. Wanneer die notule van verrigtinge ingevolge artikel 18 (1) van die Wet aan 'n regter voorgelê word, word die prosedure voorgeskryf in paragraaf 12 van die Kode Geregte Like Doodsondersoeke gevolg. When the record of proceedings is submitted to a judge in terms of section 18 (1) of the Act, the procedure prescribed in paragraph 12 of the code "Geregte Like Doodsondersoeke" should be followed.

DIE PROKUREUR-GENERAAL THE ATTORNEY-GENERAL DIRECTOR OF PUBLIC PROSECUTIONS

GRAHAMSTOWN

Ingevolge artikel 17 (1) van die Wet op Geregte Like Doodsondersoeke, 1959 (Wet 58 van 1959), word die notule van verrigtinge In terms of section 17 (1) of the Inquests Act, 1959 (Act 58 of 1959), I submit herewith the record of proceedings. hiermee voorgelê.

Datum 18.2.2004 (SGD) N. MJEKULA Landdroos/Magistrate

Die stukke gaan hiermee terug vir lissering. My verwysingsnommer is 9/2/9-10/04 115/04 The record is returned herewith for filing. My reference number is PUBLIC PROSECUTIONS

GEREGTELIKE DOODSONDERSOEK: WET 58 VAN 1959
INQUEST: ACT 58 OF 1959

Gehou te Held at KING WILLIAM'S TOWN In die in the KING WILLIAM'S TOWN

*afdeling van die Hooggeregshof van Suid-Afrika/streekafdeling/distrik
*division of the High Court of South Africa/regional division/district

voor by N MJEKULA *regter/streeklanddros/landdros
*judge/regional magistrate/magistrate

van genoemde *afdeling/streekafdeling distrik met as assessor(e)
of the said *division/regional division/district with (i) as assessor(s)

op (datum) 17.2.2004 aangaande die omstandighede in verband met die dood van ondergenoemde persoon.
(date) into the circumstances attending the death of the person mentioned below.



bevindings ingevolge artikel 16 van die Wet:
findings in terms of section 16 of the Act:

(a) Identiteit van die oorledene IAN WHEELWRIGHT MACDONALD
Identity of the deceased person

MALE 61 years
(Meld volle naam, identiteitsnommer of ouderdom en geslag • State full name, identity number or age and sex)

(b) Datum van sterfgeval 28 NOVEMBER 1992
Date of death

(c) Oorsaak of waarskynlike oorsaak van dood MULTIPLE WOUNDS ON BODY
Cause or likely cause of death

(d) Of die dood veroorsaak is deur 'n handeling of versuim wat prima facie 'n misdryf aan die kant van iemand insluit of uitmaak:
Whether the death was brought about by any act or omission prima facie involving or amounting to an offence on the part of any person:

DEATH BROUGHT ABOUT BY AN ACT AMOUNTING TO AN OFFENCE ON THE PART OF
THEMBELANI XUNDU, MALUSI MORRISON, LUNGIS'UMZIWONKE NTINTILE & TOBELA
MLAMBISA

Datum 17.2.2004 (SGD) N MJEKULA
Date Regterlike Beampte • Judicial Officer

OPMERKINGS: 1. Artikel 16 (3) van die Wet bepaal dat indien die regterlike beampte nie in staat is om enige van die bevindings hierbo
NOTE: 1. Section 16 (3) of the Act provides that if the judicial officer is unable to record any of the findings set out above he shall record
vermeld aan te teken, hy dié feit moet boekstaaf.
that fact.

*2. Wanneer die notule van verrigtinge ingevolge artikel 18 (1) van die Wet aan die hof of 'n regter daarvan voorgelê word, word die
*2. When the record of proceedings is submitted to the court or a judge thereof in terms of section 18 (1) of the Act, the procedure
prosedure voorgeskryf in paragraaf 12 van die kode "Geregteelike Doodsondersoeke" gevolg.
prescribed in paragraph 12 of the code "Geregteelike Doodsondersoeke" should be followed.

DIREKTEUR VAN OPENBARE VERVOLGINGS
DIRECTOR OF PUBLIC PROSECUTIONS
GRAHAMSTOWN

Ingevolge artikel 17 (1) van die Wet op Geregteelike Doodsondersoeke, 1959 (Wet 58 van 1959), word die notule van verrigtinge hiermee voorgelê.
In terms of section 17(1) of the Inquests Act, 1959 (Act 58 of 1959), I submit herewith the record of proceedings.

Datum 17.2.2004 (SGD) N MJEKULA
Date Regterlike Beampte • Judicial Officer

Die stukke gaan hiermee terug vir klassering. My verwysingsnommer is 9/2/9-110/04 113/04
The record is returned herewith for filing. My reference number is

Die Direkteur: Openbare Vervolgings het besluit om te vervolg/om nie te vervolg nie.
The Director: Public Prosecutions has decided to prosecute/not to prosecute.

VEILIGE HEIDSTAD

JOHANNESBURG

G.P.-S. 003-0033

J 56

No. 1919 / 19 19

GEREGTELIKE DOODSONDERSOEK: WET 58 VAN 1959
INQUEST: ACT 58 OF 1959

Gehou te Held at **JOHANNESBURG** in die distrik in the district of **JOHANNESBURG**

voor by **M. K. S. DE LANGE** Landdros van genoemde distrik en Magistrate for the said district

met with as assessor(e) op die as assessor(s) on the dag day

van **1988-12-08** 19... aangaande die omstandighede in verband met die dood van ondergenoemde persoon. into the circumstances attending the death of the person mentioned below.

Bevindings ingevolge artikel 16 van die Wet: Findings in terms of section 16 of the Act:

(a) Identiteit van die oorledene Identity of the deceased person **CLIVE WINSTON D HAYLE**
CLUCAS WIMALLE; 42 YRS
(Meid volle naam, ras, geslag, ouderdom en beroep/State full name, race, sex, age and occupation)

(b) Datum van sterfgeval Date of death **2/7/88**

(c) Oorsaak of waarskynlike oorsaak van dood Cause or likely cause of death **MULTIPLE INJURIES**
Car bomb explosion



(d) Of die dood veroorsaak is deur 'n handeling of versuim, wat 'n misdryf aan die kant van iemand insluit of uitmaak Whether the death was brought about by any act or omission involving or amounting to an offence on the part of any person

Yes - person unknown

Datum Date **1988-12-08**

[Signature]
Landdros/Magistrate

OPMERKINGS.—1. Artikel 16 (3) van die Wet bepaal dat indien die Landdros nie in staat is om enige van die bevindings hierbo vermeld aan te teken nie, hy dié feit moet boekstaaf.
NOTE.—1. Section 16 (3) of the Act provides that if the Magistrate is unable to record any of the findings set out above he shall record that fact.

2. Wanneer die notule van verrigtinge ingevolge artikel 18 (1) van die Wet aan 'n regter voorgelê word, word die prosedure voorgeskryf in paragraaf 12 van die Kode Geregte Like Doodsondersoeke gevolg.
When the record of proceedings is submitted to a judge in terms of section 18 (1) of the Act, the procedure prescribed in paragraph 12 of the code "Geregte Like Doodsondersoeke" should be followed.

DIE PROKUREUR-GENERAAL THE ATTORNEY-GENERAL **JOHANNESBURG**

Ingevolge artikel 17 (1) van die Wet op Geregte Like Doodsondersoeke, 1959 (Wet 58 van 1959), word die notule van verrigtinge hiermee voorgelê.
In terms of section 17 (1) of the Inquests Act, 1959 (Act 58 of 1959), I submit herewith the record of proceedings.

Datum Date **1988-12-08**

[Signature]
Landdros/Magistrate

Die stukke gaan hiermee terug vir liassering. My verwysingsnommer is The record is returned herewith for filing. My reference number is

11712/2682/88

1504

WETLIK HEIDS TAK
JOHANNESBURG

No. 14461/19

50

GEREGTELIKE DOODSONDERSOEK: WET 58 VAN 1959
INQUEST: ACT 58 OF 1959

Gehou te JOHANNESBURG in die distrik JOHANNESBURG
Held at in the district of

voor by MARCELO LANGE Landdros van genoemde distrik en
Magistrate for the said district

met with 1959-12-08 as assessor(e) op die dag
as assessor(s) on the day

van of 19..... aangaande die omstandighede in verband met die dood van ondergenoemde persoon.
into the circumstances attending the death of the person mentioned below.

Bevindings ingevolge artikel 16 van die Wet:
Findings in terms of section 16 of the Act:

(a) Identiteit van die oorledene
Identity of the deceased person LIMUS MARE; W/MALE;
(Meld volle naam, ras, geslag, ouderdom en beroep/State full name, race, sex, age and occupation)

(b) Datum van sterfgeval
Date of death 2/7/88

(c) Oorsaak of waarskynlike oorsaak van dood
Cause or likely cause of death MULTIPLE INJURIES
Carbon monoxide poisoning



Of die dood veroorsaak is deur 'n handeling of versuim, wat 'n misdryf aan die kant van iemand insluit of uitmaak
Whether the death was brought about by any act or omission involving or amounting to an offence on the part of any person

Yes

Datum 1959-12-08
Date Landdros/Magistrate

OPMERKINGS.—1. Artikel 16 (3) van die Wet bepaal dat indien die Landdros nie in staat is om enige van die bevindings hierbo
NOTE.—1. Section 16 (3) of the Act provides that if the Magistrate is unable to record any of the findings set out above he shall
vermeld aan te teken nie, hy dié feit moet boekstaaf.
record that fact.

2. Wanneer die notule van verrigtinge ingevolge artikel 18 (1) van die Wet aan 'n regter voorgelê word, word die prosedure voorgeskryf
When the record of proceedings is submitted to a judge in terms of section 18 (1) of the Act, the procedure prescribed in paragraph
in paragraaf 12 van die Kode Geregte Like Doodsondersoeke gevolg.
12 of the code "Geregte Like Doodsondersoeke" should be followed.

DIE PROKUREUR-GENERAAL
THE ATTORNEY-GENERAL
JOHANNESBURG

Ingevolge artikel 17 (1) van die Wet op Geregte Like Doodsondersoeke, 1959 (Wet 58 van 1959), word die notule van verrigtinge
In terms of section 17 (1) of the Inquests Act, 1959 (Act 58 of 1959), I submit herewith the record of proceedings.
hiermee voorgelê.

Datum 1959-12-08
Date Landdros/Magistrate

Die stukke gaan hiermee terug vir liassering. My verwysingsnommer is
The record is returned herewith for filing. My reference number is 1192127/2/88

Datum 22.12.88
Date Hoofklerk van die Prokureur-generaal
Chief Clerk to the Attorney-General

GEREGTELIKE DOODSONDERSOEK: WET 58 VAN 1959
INQUEST: ACT 58 OF 1959

hou te held at FORT BEAUFORT in die FORT BEAUFORT
In the FORT BEAUFORT

*afdeling van die Hooggeregshof van Suid-Afrika/streekafdeling/
*division of the Supreme Court of South Africa/regional division/

distrik voor JP JAQUIRE *regter/streeklanddree/
district by *judge/regional magistrate/

landdros van genoemde *afdeling/streekafdeling distrik met GEEN as assessor(e) op die 11 dag
magistrate of the said *division/regional division/district with as assessor(s) on the day

van DESEMBER 2003 aangaande die omstandighede in verband met die dood van ondergenoemde persoon.
of 19 into the circumstances attending the death of the person mentioned below.
Bevindings ingevolge artikel 16 van die Wet:
Findings in terms of section 16 of the Act:

(a) Identiteit van die oorledene JOHANNES FREDERICK JERLING
Identity of the deceased person.....
18 JAAR, MANLIK
(Meld volle naam, identiteitsnommer of ouderdom en geslag • State full name, identity number or age and sex)

(b) Datum van sterfgeval 20/03/1993
Date of death.....

(c) Oorsaak of waarskynlike oorsaak van dood SKIETWOND IN KOP NADAT OORLEDENE IN 'N AANVAL
Cause or likely cause of death.....
DEUR APLA IN DIE YELLOWWOODS HOTEL GESKIET IS.
in

(d) Of die dood veroorsaak is deur 'n handeling of versuim wat prima facie 'n misdryf aan die kant van iemand insluit of uitmaak:
Whether the death was brought about by any act or omission prima facie involving or amounting to an offence on the part of any person:
JA. NKOPANE, DIABO-MONAHENG, VUYISILE BRIAN MADASI EN LUNGISA MZIWONKE NTINTILI

Datum 11 DESEMBER 2003
Date
Regterlike Beampte • Judicial Officer

OPMERKINGS.-1. Artikel 16 (3) van die Wet bepaal dat indien die regterlike beampte nie in staat is om enige van die bevindings hierbo vermeld aan te teken, hy dié feit moet boekstaaf.
NOTE.-1. Section 16 (3) of the Act provides that if the judicial officer is unable to record any of the findings set out above he shall record that fact.

*2. Wanneer die notule van verrigtinge ingevolge artikel 18 (1) van die Wet aan die hof of 'n regter daarvan voorgelê word, word die prosedure voorgeskryf in paragraaf 12 van die kode "Geregte like Doodsondersoeke" gevolg.
*2. When the record of proceedings is submitted to the court or a judge thereof in terms of section 18 (1) of the Act, the procedure prescribed in paragraph 12 of the code "Geregte like Doodsondersoeke" should be followed.

DIE PROKUREUR-GENERAAL DIREKTEUR OPENBARE VERVOLGINGS
THE ATTORNEY-GENERAL PRIVAATSAK X1009, GRAHAMSTAD, 6140

Ingevolge artikel 17 (1) van die Wet op Geregte like Doodsondersoeke, 1959 (Wet 58 van 1959), word die notule van verrigtinge hiermee voorgelê.
In terms of section 17(1) of the Inquest Act, 1959 (Act 58 of 1959), I submit herewith the record of proceedings.

Datum 11 DESEMBER 2003
Date
Regterlike Beampte • Judicial Officer

Die stukke gaan hiermee terug vir lassing. My verwysingsnommer is SV 64/95. 9/2/9 - 980/02
The record is returned herewith for filing. My reference number is

Die Prokureur-generaal het besluit om te vervolg/om nie te vervolg nie/dat die polisie ondersoek moet voortgaan.
The Attorney-General has decided to prosecute/not to prosecute/ that police investigation is to continue.

Datum 2003-12-23
Date
GRAHAMSTOWN

Hoofklerk van die Prokureur-Generaal
Chief Clerk to the Attorney-General

* Skrap indien nie van toepassing.

VERSKYNNINGS INGEVOLGE ARTIKEL 11 VAN DIE WET
APPEARANCES IN TERMS OF SECTION 11 OF THE ACT

As Staatsaanklaer
As Public Prosecutor

MR. M. RUSI

en NO-ONE namens
and on behalf of

Die volgende beëdigde/bevestigende verklarings is ingevolge artikel 13 (1) van die Wet toegelaat:
The following affidavits/affirmations were admitted in terms of section 13(1) of the Act:

- A - CLYDE CONWAY SCHWARTZ
- B - HENRY SHANE FERREIRA
- C - JAN JOHANNES NEL
- D - HENDRIK JACOBUS STEPHANUS RAUTENBACH
- E - CHARL JACQUES HURN
- F - KHAYALETHU EVERTON KEPEYI
- G - LANCE PIETER DE KLERK
- H - CHARL JACQUES HURN
- J - JOHANNES PETRUS JACOBUS ERASMUS
- K - DR. BASIL WINGREEN
- L - FREDERICK JACOBUS PETRUS NEL
- L2 Kennisgewing van vrywaring deur Warheid en Versoenings Kommissie
- L3 Beslissing van vrywaringskommissie
- L4 Proklamasie interne van artikel 20(1) Wet 34/1995

Die volgende mondelinge getuienis is afgeleë:
The following oral evidence was adduced:

GEEN

IN THE HIGH COURT OF SOUTH AFRICA
(GAUTENG DIVISION, PRETORIA)

CASE NUMBER: 76755/18

In the matter between:

JOAO RODRIGUES

Applicant

and

THE NATIONAL DIRECTOR OF PUBLIC
PROSECUTIONS OF SOUTH AFRICA

First Respondent

MINISTER OF JUSTICE AND
CORRECTIONAL SERVICES

Second Respondent

THE MINISTER OF POLICE

Third Respondent

SUPPORTING AFFIDAVIT ON BEHALF OF FIRST RESPONDENT

I, the undersigned,

RAYMOND CHRISTOPHER MACADAM,

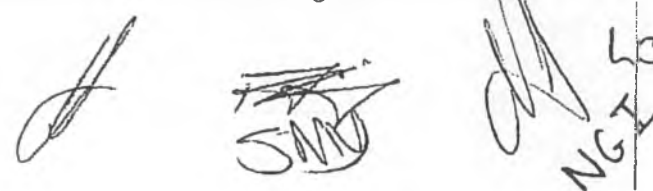
do hereby make oath and state that:

1.

I am an adult male employed by the National Prosecuting Authority (NPA). I am an admitted advocate and since 2003 to date serve as a Senior Deputy Director of Public Prosecutions in the Priority Crimes Litigation Unit (PCLU) located in the Office of the National Director of Public Prosecutions (NDPP) (First Respondent).

2.

I depose to this affidavit solely to comment on the averment made by the Applicant that the NDPP acted improperly in not dealing with the matter which forms the scope of this application in either 1996 or 2003 (the Timol-case). I was not involved in making the decision



to institute the current criminal proceedings against the Applicant and the processes which flowed therefrom.

3.

It is necessary to provide certain background information to give context to my account.

4.

The Truth and Reconciliation Commission (TRC) was established to ascertain the fullest extent of politically motivated human rights' abuses committed between 1 March 1960 and early May 1994. I shall refer to these crimes as TRC cases. The TRC was mandated to grant amnesty to perpetrators who made a full disclosure of their involvement in human rights' violations.

5.

TRC cases were originally dealt with by the Attorneys-General in the Provinces and Self-Governing Territories.

6.

A further development was however the appointment of a Commission of Enquiry headed by Judge Richard Goldstone to investigate some of the most serious cases.

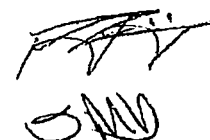
7.

When the Commission dissolved Dr Jan D'Oliveira SC, the then Attorney-General Transvaal, was appointed to head up a team to continue with the work of the Commission and to facilitate the institution of prosecutions.

8.

When the **NPA Act 32 of 1998** came into effect in October 1998 an NDPP (Mr BT Ngcuka) was appointed and the Attorneys-General became Directors of Public Prosecution (DPPs). The DPPs were seized with certain matters, many of which were put on hold pending applications for amnesty lodged by the accused with the TRC. When the TRC released a report calling for the prosecution of persons who had either been refused or not applied for amnesty provided that there was sufficient evidence, Ngcuka set up a TRC unit in his Office to deal with TRC cases not being already dealt with by the DPPs.

9.



LC
NGI

This unit however dissolved because the amnesty process had not been concluded and therefore it was unclear which cases should be considered for prosecution. Furthermore it also lacked an investigative capacity.

10.

The unit headed by Dr D'Oliveira had ceased to function once the **NPA Act** came into effect.

11.

In March 2003 the PCLU was established by **Presidential Proclamation** as a Special Directorate in the Office of the NDPP. The **Proclamation** authorised the NDPP to refer priority crimes to the PCLU. Adv AR Ackerman SC (Ackerman) was appointed as Special Director and I was transferred from a component of the Directorate of Special Operations (DSO) to serve as one of his Deputies.

12.

Shortly after the establishment of the unit Ngcuka summoned Ackerman and I to his Office and informed us that he had decided that the PCLU should take over the TRC cases which had not been finalised either by the DPPs or by the defunct TRC unit. He further advised that the DSO would conduct any investigations which may be necessary. The DSO was a special NPA investigative unit established by virtue of an amendment to the **NPA Act**.

13.

In order to establish what cases required attention Ackerman and I took the following steps:

- 13.1 All the DPPs were visited and invited to handover any TRC cases which they were not in a position to finalise themselves.
- 13.2 We met with the Divisional Head of the Detective Services of the South African Police Services (SAPS) who issued an instruction to his Provincial Heads to refer all outstanding TRC dockets to the PCLU.
- 13.3 Two former TRC researchers were appointed to trawl the TRC archives in order to identify cases warranting attention.
- 13.4 Interviews were conducted with former members of the TRC and D'Oliveira units.

14.

This exercise did not result in the **Timor**-case being identified as one which warranted further attention.

15.



LC
NGI

284

4

Ackerman and I however also entertained requests for investigations from victims and other members of civil society. This resulted in the **Timol**-matter being brought to my attention by a member of his family.

16.

This led to me on 5 May 2003 requesting a Chief Investigating Officer (Leask) of the DSO to conduct investigations into the matter. I attach herewith as **Annexure RCM1** a copy of my letter to Leask setting out the information which had been brought to my attention and outlining what investigative steps should be taken.

17.

On 15 May 2003 I submitted a report setting out the cases which had been identified as a result of the outreach programme described above. The **Timol**-case was identified as a matter which required investigation. This report was addressed to the NDPP, the Head of the DSO and his Head of Operations as well as Ackerman. It is attached as **Annexure RCM2**.

18.

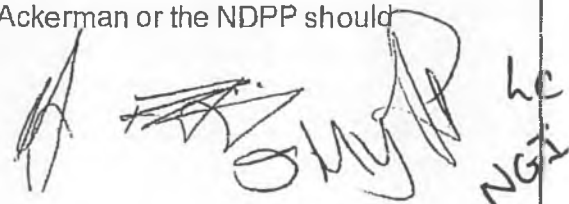
In terms of the DSO's legislative mandate it was for the Special Director of the DSO and not the Head of the DSO to issue declarations to investigate certain matters. At that stage the Special Director was Adv MG Ledwaba (Ledwaba).

19.

Ackerman and I met with Ledwaba to arrange for the DSO to conduct the investigations specified in **Annexure RCM2**. The meeting was unpleasant as Ledwaba made it clear in no uncertain terms that the DSO would not investigate any TRC matters and that these should all be referred to SAPS. A copy of a letter addressed by Ledwaba to Leask dated 15 July 2003 reflecting this decision is attached hereto as **Annexure RCM3**.

20.

As a result of the decision by Ledwaba Ackerman and I met with Commissioner De Beer (De Beer), the Divisional Head of the Detective Service of SAPS, and requested SAPS to take over the investigations. On 26 September 2003 De Beer replied to Ackerman informing him that the request had been discussed with the National Commissioner (Selebi). The letter was further to the effect that the investigation of the matters was a DSO responsibility and that if it was required that SAPS in fact investigate then either Ackerman or the NDPP should



Handwritten signatures and initials at the bottom right of the page, including the letters 'NGI' and 'he'.

approach the President and ask him to confirm which agency should conduct the investigations. A copy of the letter is attached hereto as **Annexure RCM4**.

21.

I can confirm that neither the NDPP nor Ackerman approached the President as recommended.

22.

Ackerman and I however made a number of attempts aimed at persuading Ledwaba to reconsider his decision not to investigate. These are set out in a copy of a letter written to Ledwaba by Ackerman dated 11 November 2003 appealing to him to appoint investigating officers and pointing out that, in the absence thereof, the PCLU would not be able to deliver on its mandate. Both the NDPP and Head: DSO were copied in the letter which is attached as **Annexure RCM5**. The NDPP shortly thereafter resigned and Dr Ramaite SC was appointed as the Acting National Director of Public Prosecutions (ANDPP).

23.

The DSO however did not appoint investigators as requested and consequently none of the TRC matters requiring investigation could be taken further.

24.

In 2004 I was assigned a case relating to an international nuclear weapons syndicate which required my attention on a full-time basis until late 2007.


25.

I therefore no longer continued to deal with TRC matters but Ackerman regularly discussed these cases with me.

26.

At a certain stage Ackerman informed me that he intended prosecuting three former Security Branch members for their role in the poisoning of Reverend Frank Chikane. This was because all the evidence implicating them had already been led in the prosecution of Wouter Basson and no further investigations were necessary. He indicated that he had contacted the suspects' attorney to arrange for them to appear in court.

27.



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Shortly thereafter he informed me that the ANDPP had put the prosecution on hold pending the formulation of special TRC Guidelines. He further indicated that there was now a moratorium on the investigation and prosecution of TRC cases pending the adoption of the Guidelines.

28.

Neither Ackerman nor myself were involved in the drafting of these Guidelines. At a certain stage Ackerman showed me a copy of the Guidelines. We were both of the view that they were unconstitutional in that they made provision for the NDPP not to prosecute perpetrators if they met the criteria for granting amnesty as had been applied by the TRC.

29.

Subsequently an application was brought by members of civil society in the High Court sitting in Pretoria which resulted in the Guidelines being declared unconstitutional for that reason.

30.

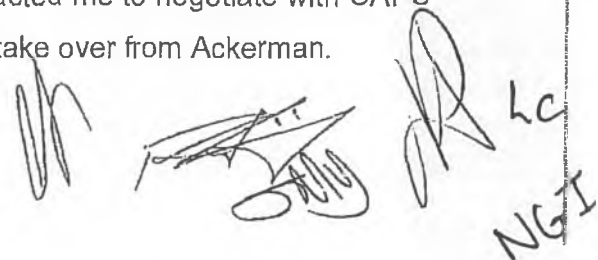
Adv Pikoli (Pikoli) was appointed as the NDPP. I was informed by Ackerman that Pikoli had set up an inter-departmental task team which would advise Pikoli on making decisions in TRC matters. Ackerman and Ramaite were the NPA representatives in the task team. On one or two occasions I stood in for Ackerman in meetings of the task team when he was not available. I noticed that the task team was predominantly comprised of members of the intelligence community who were more intent on cross-examining me as to why matters should be investigated rather than addressing the issue of all the outstanding cases.

31.

At a certain stage Pikoli was suspended and fired despite the Commission which enquired into his fitness to hold office in fact finding that he was competent to be the NDPP. Adv Mpshe SC (Mpshe) was then appointed as the ANDPP.

32.

If memory serves me correct in early 2009 Mpshe summoned me to his office and showed me a letter written by SAPS indicating that it was withdrawing from the task team. This would mean that again TRC matters would not be investigated because at that stage a decision had already been taken to disband the DSO. Mpshe instructed me to negotiate with SAPS to agree to investigate the matters which he said I should take over from Ackerman.



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287

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33.

Ackerman informed me that he had already disposed of a number of matters which had not required investigation and gave me a list of small number of cases (I estimate no more than ten (10)) which I had to attend to. The **Timol**-case was not one which he had indicated should be investigated.

34.

I attach as **Annexure RCM6** a trail of emails between myself and various role-players showing my efforts to try and have these matters investigated. I initially had a series of meetings with Rayman Lalla, the then Divisional Head of the Detective Service of SAPS. He however informed me that the National Commissioner had decided that the cases had to be investigated by the Directorate Priority Crimes Investigation (DPCI). I therefore made a number of unsuccessful attempts to secure a meeting with Commissioner Dramat, Head: DPCI.

35.

Ultimately I met with Assistant Commissioner Lebeya (Lebeya) on 26 November 2009 where the issue of conducting investigations was positively discussed resulting in me writing a letter on 18 January 2010, attached hereto as **Annexure RCM7**.

36.

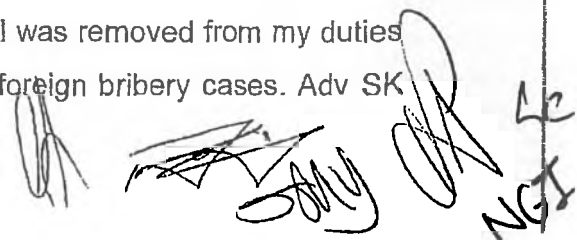
As a result thereof Senior Superintendent Bester was appointed to oversee the investigations of the ten (10) cases I had identified.

37.

Adv Menzi Simelane (Simelane) was appointed as the NDPP and he instructed me to guide a series of serious corruption investigations being conducted by the DPCI in the Northern Cape. He thereafter appointed me to represent the NPA in two (2) civil matters where decisions not to investigate / prosecute international crimes were being challenged. I was thereafter seized with a number of cases where complaints had been made calling for the arrests of current or former Heads of State for war crimes or crimes against humanity. This made it very difficult for me to focus on the ten (10) TRC matters. I did however increase the number of investigations due to representations being received in new matters.

38.

When Mr Nxasana (Nxasana) was appointed as the NDPP I was removed from my duties in the PCLU in order to act as a dedicated prosecutor for foreign bribery cases. Adv SK



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Abrahams (Abrahams), then a Senior State Advocate, was appointed to take the TRC matters over from me.

39.

In June 2015 Abrahams was appointed the NDPP and the issue as to whether I should continue as the dedicated foreign bribery prosecutor arose. I had meetings with him in which I indicated that if he did not wish me to continue with that responsibility I would again be willing to do TRC matters. He however informed me that he was thinking of taking all TRC cases away from the PCLU and did not make a decision on terminating my appointment as the foreign bribery prosecutor.

40.

Due to the fact that another business unit of the NPA had instructed the DPCI to take all the foreign bribery files away from me I could no longer work on those matters. The TRC cases had however become important due to complaints about delays in finalising certain matters. I therefore decided to again give attention to the matters. One of the matters which I had decided should be investigated was the **Aggett**-matter which also related to a death in detention. At that stage the **Timol**-matter was receiving attention in the media and I recall specifically a TV interview with Adv Bizo SC (Bizo) in which he alleged that **Mr Timol** had been murdered. I therefore considered it appropriate to request the DPCI to re-open the matter and gave various instructions (dealt with hereunder) regarding the further investigation of the case.

41.

Adv Johnson (Johnson) who was at that stage acting as the Head of the PCLU informed me and a Senior State Advocate who was assisting me with the cases that we should not continue to work with TRC cases as they were going to be removed from the PCLU. I was however concerned that this would result again in the cases being neglected resulting in me drafting a Memorandum in January 2016 requesting the NDPP to confirm whether the TRC cases would be dealt with by the PCLU or the DPPs. I did not receive a reply to this Memorandum and at this stage cannot locate my copy thereof.

42.

On 4 February 2016 I was approached by Dr Pretorius SC (Pretorius) who had then taken over from Johnson as the Head of the PCLU. He informed me that a request had been received to re-open the inquests in the **Aggett**- and **Timol**-matters and required an opinion

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from me. I attached as **Annexure RCM8** a copy of my opinion of even date in which I expressed the opinion that both matters should be fully investigated and that consideration to re-opening inquests should only be given once a decision whether or not to prosecute had been taken. I emphasise para 12 of my opinion in which I indicated that it was imperative that the NDPP should decide whether TRC cases should remain with the PCLU or not.

43.

Subsequently I was informed by Pretorius that a decision had been taken to re-open the **Timol**-inquest. While the inquest was in progress Pretorius gave me a copy of a letter which I had written on 25 February 2004 to Mr Cajee, the nephew of **Mr Timol**. This letter is attached hereto as **Annexure RCM9**. He also showed me a report addressed by Ackerman to *inter alia* Ramaite and Pikoli dated 30 October 2006. I attach this report hereto as **Annexure RCM10**. He requested me to provide him with an affidavit responding thereto. I attach as **Annexure RCM11** a copy of the affidavit which I subsequently signed and which was commissioned. I have not attached the annexures referred to therein as they have either been attached elsewhere in this affidavit or are no longer relevant for the purpose of this application.

44.

At the time of deposing to this affidavit I was not in possession of **Annexure RCM1**. At this stage when I have now had sight of both this document and **RCM9** I recall that **RCM9** was written after both the DSO and SAPS had refused to investigate TRC cases. If memory serves me correct Leask had informed me that as a result of the decision taken by Ledwaba that the DSO would not investigate TRC cases he was unable to comply with my original request for investigations. Since he was however traveling to Cape Town on other investigations he contacted Ivor Powell and questioned him regarding the confession apparently made by the Applicant in this matter. The allegation was however denied by Powell and Mr Cajee was informed accordingly. I did not hear anything further from Mr Cajee and was shortly thereafter assigned other work.

45.

In order to depose to this affidavit I tried to locate such TRC files as may still be available resulting in me finding a report of 24 October 2006 addressed by Ackerman to Ramaite which is attached hereto as **Annexure RCM12**. This report identifies the advocates dealing with various TRC matters and reflects that I was not the person who decided to close the **Timol**-matter.

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46.

In December 2017 I was contacted by the NDPP's Office Manager who requested me to collect certain of Pikoli's documents which he had found in a strongroom. I collected the documents from him and perused the contents. The documents included the following:

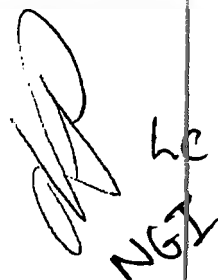
- 46.1 A second draft of an Indemnity Bill making provision for the President to grant indemnity to persons committing politically motivated crimes from 1 March 1960 (**Annexure RCM13**).
- 46.2 The terms of reference of the Amnesty Task Team dealing with the criteria which the NPA applies relating to TRC cases, the formulation of Guidelines and whether legislative enactments are necessary. The document (**Annexure RCM14**) concludes by referring to the views of the intelligence agencies.
- 46.3 The further report of the Amnesty Task Team (**Annexure RCM15**) *inter alia* looking into whether private prosecution and civil litigation can be eliminated where a decision not to prosecute is taken and whether a person aggrieved with a decision not to prosecute can approach the International Criminal Court (ICC).
- 46.4 A letter dated 8 February 2007 (**Annexure RCM16**) addressed to Pikoli by the then Minister of Justice expressing her concern that the NPA was proceeding with TRC prosecutions as she was under the impression that the NPA would not.
- 46.5 A Memorandum (**Annexure RCM17**) addressed to the Minister by Pikoli setting out in considerable detail what he construed to be interference with the dealing of TRC matters by other Government departments and concluding:

"I have now reached a point where I honestly believe that there is improper interference with my work and that I am hindered and / or obstructed from carrying out my functions on this particular matter. Legally I have reached a dead end."

47.

These documents speak for themselves and go a long way in explaining why from 2003 the PCLU constantly struggled to have TRC cases investigated. The first three documents appear to have been authored by the Justice Department during the period when a moratorium was placed on TRC cases pending the formulation of Guidelines. The last two documents were authored by or addressed to Pikoli.

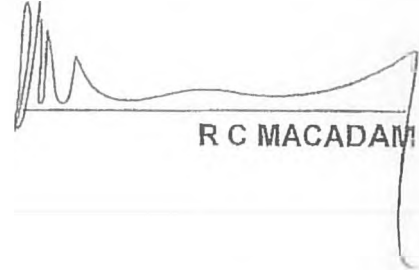
48.



NGI

On the limited occasions when I was seized with TRC matters I always believed that such matters including the **Timol**-matter should be properly investigated so that decisions whether or not to prosecute could be taken.


I know and understand the contents of this statement.
I have no objection to taking the prescribed oath.
I consider the prescribed oath to be binding on my conscience.


R C MACADAM

Date: **1 November 2018**
Time: **09:15**
Place: **PRETORIA**

I certify that the deponent has acknowledged that he knows and understands the contents of this declaration, which was sworn to before me and the deponent's signature was placed thereon in my presence

at **PRETORIA** on **1 NOVEMBER 2018** at **09:20**


: (RANK)
COMMISSIONER OF OATHS

Full names: **ALBERTUS MARTHINUS MATHYS FLYNN**

Rank: **COLONEL**

Address: **218 VISAGIE STREET, PRETORIA**
Ex Officio: **SA Police Service**




NGI

er/timol



SCORPIONS

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Office of the Head
Special National Projects
Directorate of Special Operations
HEADQUARTERS

INTERNAL MEMORANDUM

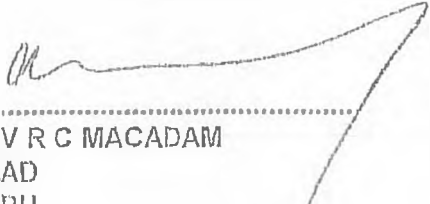
TO: DEPUTY HEAD
CC: CIO A G LEASK
FROM: HEAD SNPU
DATE: 5 MAY 2003 REF: A/INV/5/03 TRC
RE: INQUEST: AHMED TIMOL

*CPM do both
5/5/03*

1. On 2 May 2003 I was requested to investigate the above matter by the deceased's nephew Imtiaz Timol (082 445 2086) after he had been referred to my office by Minister Pahad in the President's Office.
2. The following documentation has been made available:
 - (i) Extract from George Bizoz's Book;
 - (ii) Article by Ivor Powell;
 - (iii) TRC hearing; and
 - (iv) Details of the SAPS members involved in the interrogation.
3. Imtiaz further informed me that:
 - (i) the inquest record has been destroyed;
 - (ii) he has the contact details of a fellow detainee now in England who can assist;
 - (iii) he has photographs of the body of the deceased; and
 - (iv) Ivor Powell informed him that Sgt Rodriguez had told his daughter what had really happened.

JMU
[Signature]
rc
NGI

4. The following investigation focus areas are identified:
- (i) George Bizoz must be interviewed to establish whether he has the post mortem report and any other information;
 - (ii) Ivor Powell (DSO Cpt) must be interviewed re 3(iv);
 - (iii) Researchers to establish whether there is any additional TRC material and whether the policeman involved after linked to any other human rights abuses;
 - (iv) the other detainee will have to be interviewed; and
 - (v) once all the evidence has been obtained the Chief State Pathologist will have to be requested for an opinion on the injuries and the claim that the witness fell from a 10 storey building.



.....
ADV R C MACADAM
HEAD
SNPU



2
hc
NGI

sl/ audit trc cases



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Office of the Head
Special National Projects
Directorate of Special Operations
HEADQUARTERS

INTERNAL MEMORANDUM

TO: NDPP REF: TRC GENERAL
CC: HEAD DSO
HEAD OPERATIONS
ADV ACKERMANN
FROM: HEAD SNPU
DATE: 15 MAY 2003
RE: AUDIT OF TRC CASES

A. CASES BEING PREPARED FOR PROSECUTIONS:

1. MOTHERWELL BOMBING

(a) Leg One

The accused were all refused amnesty. On review however the High Court ordered that their applications be reheard because the TRC failed to lead evidence. Investigations conducted by my office indicate that the accused supplied a false motive for killing the deceased. Evidence will be made available to the TRC so that amnesty can be refused on a proper basis. This will open the way for legs two and three.

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NGI

(b) Leg Two

The three accused convicted in the 1996 prosecution were granted leave to appeal against their convictions to the SCA. I have taken over the argument of the appeal from the DPP Eastern Cape due to the fact that the prosecutor has retired.

(c) Leg Three

The prosecution of SAP General van Rensburg for ordering the killing of the Motherwell Four.

2. BRIAN NGULUNGA

The prosecution of SAP General van Rensburg for ordering the killing of Brian Ngulunga.

3. PEBCO 3

The prosecution of the Security Branch members responsible for the kidnapping of the deceased at Port Elizabeth Airport.

4. WAUGHOPE

Prosecution of AZAPO leader George Wauchope for murder and other related charges. I am awaiting the Minister's response to representations by the accused that he not be prosecuted.

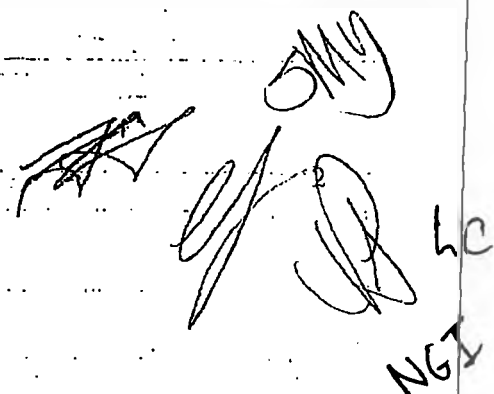
5. POWELL

The prosecution of Phillip Powell for possessing hand grenades in April 1994. The matter is with the NDPP.

6. NQUTU ARMS CACHE

The prosecution of J. M. Nqobobo and others for the concealment of the weapons found in the Nqutu Bunker in May 1999.

7. The prosecution of the CCB members responsible for the bombing of the Early Learning Centre (it must however be established that the accused did not receive indemnity in terms of the Indemnity Act of 1990).

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B. POTENTIAL FURTHER PROSECUTIONS ARISING FROM THE ABOVE1. **Murder of the PEBCO 3**

There is currently no reliable evidence on the murder charge. If the accused are however convicted of kidnapping it is likely that at least one of them may supply information as to the killings in order to obtain a lesser sentence.

2. **Gradock 4**

There is no reliable evidence on this case. The TRC however established that the crime was committed by the same people who were involved in the Motherwell and PEBCO 3 cases. The successful prosecution of these cases could lead to some of the perpetrators coming forward also to obtain lesser sentences.

C. NEW CASES BEING EVALUATED FOR PROSECUTION PURPOSES1. **Murder of the COSAS 4**2. **Murder of Askari Strongman Sambo**3. **Murder of detainee on the East Rand by "Timol" Goetzee**4. **Murder of Askari Dan Maboto**5. **Allegations by IFP sentenced prisoner to have knowledge of murders in the East Rand from 1988**6. **447 dockets relating to APLA handed over by SAPS Crimes Against the State Unit**7. **6-8 dockets linking AWB to Pre election bombings previously dealt with by Advocate Fick****D. HIGH INTEREST CASES WHICH REQUIRE ATTENTION IRRESPECTIVE OF THE NATURE OF AVAILABLE EVIDENCE**1. **Murder of Victoria Mxenge**2. **Kidnapping, torture and murder of Ntombi Khubeka**3. **Kidnapping, torture and murder of Nokutulu Simelane**4. **Decision by DPP Pretoria not to prosecute SAP General Engelbrecht**5. **Uninvestigated allegations against SAP General Bassie Smit**6. **Ciskei Coup De AT**7. **Transkei Coup De AT**

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8. Pre Election Train Violence in Gauteng
9. Murder of Reggie Hadebe
10. Murder of Dulcie September
11. Refusal of Amnesty to 37 High Ranking ANC officials
12. Decision by DPP KZN not to prosecute IFP hit squads

E. REPRESENTATIONS TO INVESTIGATE SPECIFIC CASES

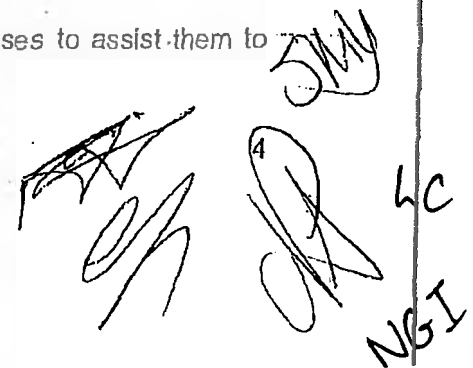
1. Death in detention Ahmed Timol
2. Murder of UDF activist Nelson Sithole
3. Murder of Pro Jack
4. Murder of IFP families in Table Mountain by A. M. Zulu
5. Murder of ANC supporter Batondo
6. False Conviction of Skouldies
7. Assault on A. Bult
8. Vlakplaas member Piet Snyders
9. Murder of Castro Khumalo

F. CASES IN THE PROCESS OF BEING CLOSED

1. Assault on Carl Niehaus- complainant does not desire a prosecution
2. APLA murder Mphahlela attacks on police stations: lack of reliable evidence
3. Mphahlela murder charges- lack of admissible evidence against him
4. Winnie Mandela- lack of reliable evidence
5. Steve Biko- crime prescribed in 1997
6. Smit Murders- perpetrators deceased
7. Ermelo Black Cats- lack of reliable evidence
8. IFP Murders Chadwick- accused in a mental institution in the United Kingdom

G. ASSISTANCE TO OTHER AGENCIES

1. Police Intelligence supplied with a breakdown of AWB amnesty hearings to assist in profiling of persons currently involved in Right Wing Activities
2. TRC supplied with material relating to IFP human rights abuses to assist them to oppose IFP application to have findings against it set aside



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LC

NGI

H. REPARATIONS RELATED ACTIVITIES

- 1. Exhumation of bodies of Mamelodi 10
- 2. Reparations of remains of victims in the Kwaggasnek incident in Lesotho
- 3. Representations by members of the public to locate their missing relatives
- 4. Partnership with SA Disappearance Foundation

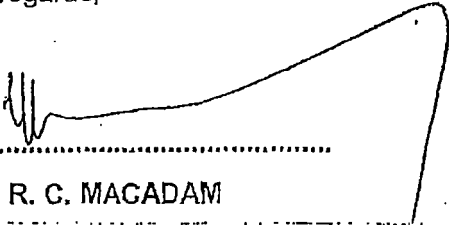
I. INVESTIGATION PUT ON HOLD PENDING THE APPEAL IN THE BASSON CASE RELATING TO JURISDICTION FOR CONSPIRACY TO COMMIT CRIMES OUTSIDE THE RSA

- 1. Murder of Anton Lubauwski
- 2. Lesotho Raid
- 3. Botswana Raid
- 4. Swaziland Raid

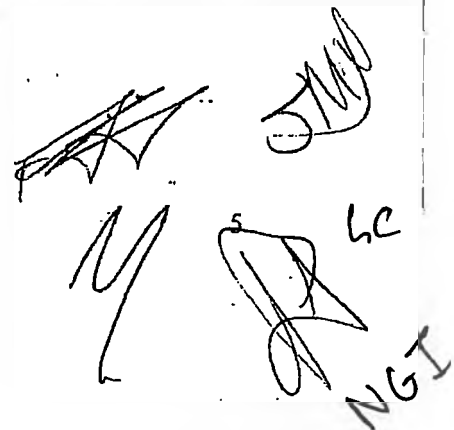
J. POLICY CONSIDERATIONS

- 1. Prosecutions not to be conducted on a piecemeal basis except where special circumstances (e.g. witness on point of death, accused about to leave RSA or engaged in current criminal activities)
- 2. Once all the cases earmarked for prosecution have been investigated a presentation will be given to the NDPP in order for him to confirm the prosecution strategy. Thereafter prosecutions will be instituted
- 3. After convictions have been obtained attention will be given to cases which currently had evidence since convictions may act as incentive for perpetrators to come forward

Kind regards,



ADV. R. C. MAGADAM
 HEAD
 SNPU



/Investigations

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Office of the Head
Priority Crimes Litigation Unit
VGM Building
PRETORIA

INTERNAL MEMORANDUM

TO : CIO Leask
FROM : Adv M G Ledwaba
DATE : 15 JULY 2003

SUBJECT : SNPU INVESTIGATIONS

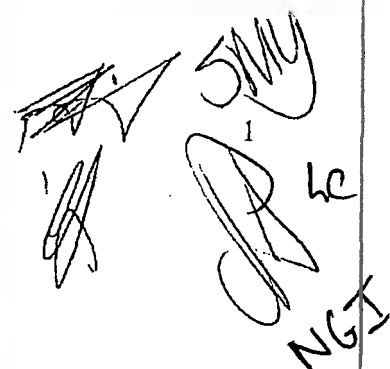
1. Due to the recent creation of the PCLU it has become necessary to re-define the mandate and operations of the SNPU as follows:

(i) TRC cases

I have decided that SAPS must take over the investigations of all such cases currently handled by you. Your files should be closed off and all the material given to the PCLU. It must also be given the storeroom currently being used. Notwithstanding the above decision Adv **TONGWANE** must finalize the Black Cats and Winnie Mandela cases. Due to the fact that NDPP has requested a speedy finalization of the two matters this must be done before 30 July 2003. I have also transferred the two researchers to the PCLU. It may be necessary for your investigators to introduce certain witnesses with whom they have dealt to the SAPS investigators and you are accordingly authorized to conduct the necessary handovers.

(ii) Operation Sunflower

Advocate **MACADAM** will continue to oversee the disruptive action with the Consumer Council with your assistance. Once the SAPS report is received and evaluated, I will make a decision on the final disposal of the case.


NGT

(iii) **Operation Black Widow**

Adv TONGWANE must oversee the finalization of the investigation and conduct the prosecutions which may arise.

(iv) **Operation Final Curtain**

SAPS must continue with the investigations under the direction of the prosecutor arranged by Adv ACKERMANN. You may give limited assistance to SAPS and the prosecutor on specific aspects when necessary.

(v) **Foreign Mercenaries**

Adv PRETORIUS has been delegated to assess all cases currently being investigated by both SAPS and the DSO. (I have communicated separately to the Regional Head Gauteng in this regard). I will make a decision as to the involvement of the DSO in such investigations once I have received a report from Adv ACKERMANN.

Adv M G Ledwaba
HEAD : OPERATIONS

/tp



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SUID-AFRIKAANSE POLISIEDIENS



SOUTH AFRICAN POLICE SERVICE

Privaatsake/Private Bag X302

Verwysing Reference	3/9/91(93)
Navrae Enquiries	Div Comm De Beer
Telefoon Telephone	(012) 393 2191
Faksnommer Fax number	{ 012 } 393 2193

Afdelingskommissaris/Divisional
Commissioner
Speurdiens / Detective Service
Hoofkantoor / Head Office
PRETORIA
0001

2003-09-26

Advocate AR Ackermann, SC
Special Director
Head: Priority Crimes Litigation Unit
National Prosecuting Authority
Church Square
PRETORIA
0001

Dear Advocate Ackermann

INVESTIGATION OF TRC CASES

Your letter dated 20 August 2003, as well as the preceding discussion between ourselves, have reference.

As agreed at our meeting, I have discussed your request for the assistance of the South African Police Service, to investigate cases emanating from the TRC processes, with the National Commissioner. It is evident from your letter that the investigation and prosecution of these cases were referred to the National Director of Public Prosecutions, 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 you first endeavoured to have these cases investigated by the Directorate for Special Operations(DSO).

From your letter it is firstly not clear why 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. 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 for the D'Oliveira Committee is presently with the DSO.

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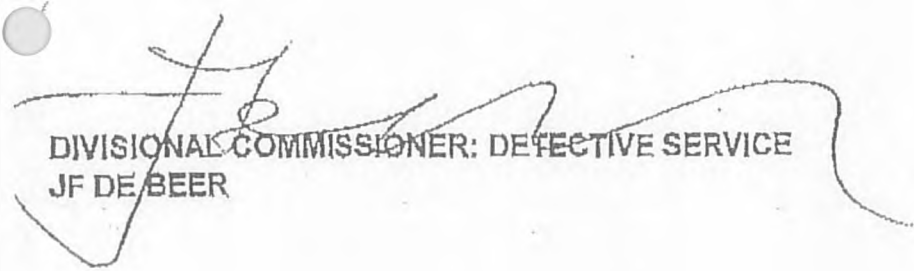
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In view of the nature of the investigations, the fact that the President has referred it to the National Director, and that it seem to be common cause that the initial understanding was that the DSO would have investigated it, the opinion is held that 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 investigations, the instruction should be obtained in writing. Upon receipt of such 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 other relevant issues.

You are therefor requested to approach the President on the matter, where after we can take the matter further, if necessary.

Kind regards.


DIVISIONAL COMMISSIONER: DETECTIVE SERVICE
JF DE BEER


lc
NGI

er/memo

Office of the Head
Priority Crimes Litigation Unit
HEADQUARTERS

INTERNAL MEMORANDUM

TO: ADV GEOPH LEDWABA

CC: 1. NDPP
2. DR S RAMAITE SC
3. ADV LF MCCARTHY SC

FROM: ADV A R ACKERMANN SC

SUBJECT: INVESTIGATION OF TRC CASES BY THE DSO

DATE: 11 NOVEMBER 2003

P. O. Box 1511
SILVERTON
PRETORIA
0127

VGM Building
123 Westlake Str
Weavind Park
0184

Tel: (012) 845 6431
Fax: (012) 845 7224



Dear Geoph

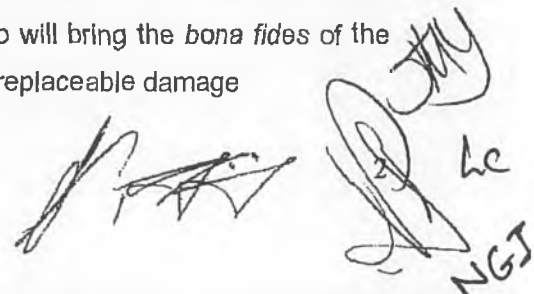
1. In the light of current developments, I am constrained to document the history of the above saga.
 - i) In 2001 the NDPP decided that the DSO was responsible for the investigation and prosecution of the above cases. Both Advocates Sonn and McCarthy made a number of public statements creating an impression that the DSO was making a sincere effort to do justice to the cases. In addition Advocate Sonn gave the President a full briefing on the matter.
 - ii) In 2002 the SNPU was established in order to investigate the cases.
 - iii) In 2003 and in response to the TRC's final report, the President placed the responsibility for the investigation and prosecution of TRC matter on the NDPP
 - iv) In May 2003 I gave the NDPP and his Deputies a full briefing on all TRC cases identified for prosecution.

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My prosecution strategy was endorsed and Advocate McCarthy indicated that there would be no problem in having the cases declared in terms of Section 28 of the NPA Act. The NDPP briefed the Minister and Justice Portfolio Committee accordingly.

- v) Shortly thereafter and in the same month you were presented with applications in terms of Section 28 relating to the cases.
- vi) In July 2003 you verbally informed me that you were not prepared to sign the declarations and were withdrawing the DSO from the further investigation of the cases. A letter to this effect was given to the CIO Leask by you. (Copy attached)
- vii) In response thereto I requested Commissioner De Beer to appoint the police to take over the investigations. After a series of meetings with him, he approached the National Commissioner who indicated that the police would only investigate upon written instruction of the President (Copy of De Beer's letter is attached). His primary reason was that the SAPS had transferred all their members with appropriate experience to the DSO in order to capacitate it to conduct these investigations.
- viii) After receipt of De Beer's letter, I made several unsuccessful attempts to contact you to discuss the matter. Eventually I had to report the matter to Dr Ramaite.
- ix) On 3 November 2003 you informed me that you would sign the declarations in terms of Section 28(1)(b) and would appoint SSI De Lange to conduct the necessary investigations.
- x) On 6 November 2003 Dr Ramaite informed Adv Macadam that he had discussed the matter with Adv McCarthy who indicated that the DSO would investigate.
- xi) On 10 November 2003, Adv Macadam presented you with Section 28(i)(b) declarations. You informed him:
 - a) That you are not prepared to sign any declarations
 - b) De Lange would not be appointed despite the fact that it was explained to you that he was part of the initial investigation and familiar with all the witnesses and the facts of the cases.
 - c) That during the course of 10 November 2003 another investigator will be appointed.
 - d) The President should not be approached to involve SAPS

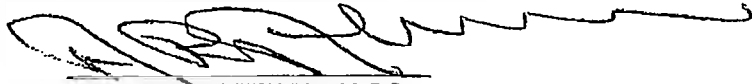
2. As at the date of this letter I have heard nothing further from you. I am constrained to express my concern at the above state of affairs. Since July 2003 no investigations have been conducted. There are certain cases which could have been prosecuted which have prescribed. There is both National and International pressure to institute prosecutions (e.g. Simelane's case). An amnesty hearing for the Motherwell Matter has been set down for early March 2004 and the TRC was given an undertaking that certain investigations would be conducted and made available to the committee. The availability of witnesses and high public interest dictate that the other cases be brought to trial as soon as possible. The failure to do so will bring the *bona fides* of the National Prosecuting Authority into serious dispute and do irreparable damage



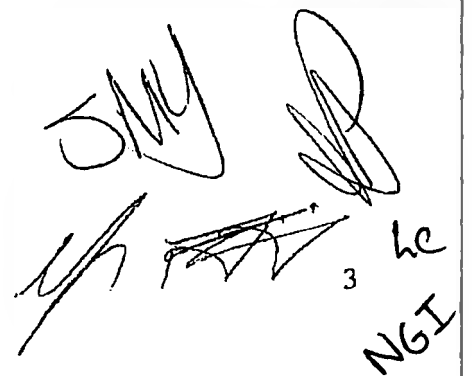
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Since I do not have any investigative capacity, I am powerless to deliver on my mandate. For the sake of justice and expediency, I appeal to you to assign De Lange and another investigator to investigate these cases and to sign the declarations in terms of Section 28(1)(b). This chapter in our country's history must be closed without further delay.

Kind regards



ADV AR ACKERMANN SC
SPECIAL DIRECTOR
HEAD: PCLU



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Helena Zwart (H)

From: Sibongile Mzinyathi
Sent: 20 May 2009 07:50 AM
To: Willie Hofmeyr (WA); Helena Zwart (H); Aubrey T. Mngwengwe
Cc: Mokotedi Joseph Mpshe; Silas Ramaite; Anton R. Ackerman
Subject: RE: Investigators for TRC cases

Thanda

This is for your information/attention.

Kind regards

S Mzinyathi

From: Willie Hofmeyr (WA)
Sent: 19 May 2009 08:56 PM
To: Helena Zwart (H)
Cc: Mokotedi Joseph Mpshe; Silas Ramaite; Anton R. Ackerman; Sibongile Mzinyathi
Subject: RE: Investigators for TRC cases

Hi

It sounds like a good idea, but let me do some consultation in the DSO on the issue.

Regards

Willie

From: Helena Zwart (H)
Sent: Mon, 18 May 09 13:23
To: Willie Hofmeyr (WA)
Cc: Mokotedi Joseph Mpshe; Silas Ramaite; Anton R. Ackerman
Subject: Investigators for TRC cases

Dear Willie

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 Marlon 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.

Kind regards

Chris Macadam


JMY
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NGT

From: Bezuidenhout Colla - Superintendent [mailto:BezuidenhoutColla@saps.org.za]
Sent: 07 July 2009 08:56 AM
To: Helena Zwart (H)
Subject: RE: TRC cases

Hallo Helena,

Comm Lalla agreed to the meeting but requested that we involved Deputy National Commissioner Dramat. Welma will speak to his office and let you know. We are currently looking at the week of the 20th July.

Regards,

Colla

Superintendent Colla Bezuidenhout
Staff officer; Divisional Commissioner: Detective Service
Tel : +27 12 393 1024
Fax : +27 12 393 2193
Cell : +27 82 778 3694

From: Helena Zwart (H) [mailto:hzwart@npa.gov.za]
Sent: 01 July 2009 11:34 AM
To: Bezuidenhout Colla - Superintendent
Subject: TRC cases

Dear Colla

Can you set up a short meeting with the Commissioner when he is available to discuss the TRC matters? 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.

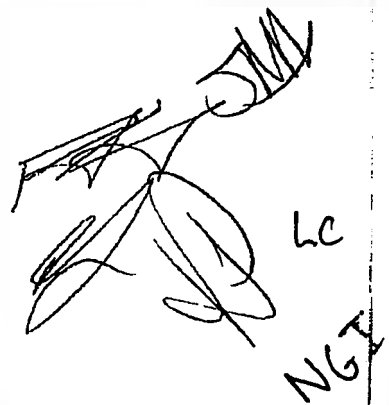
Our previous discussions on this topic did not materialise due to the fact that Willie Hofmeyr was not appointed as the head of DPCI.

Kind regards

Chris Macadam

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www.npa.gov.za/ReadContent458.aspx



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Helena Zwart (H)

From: Lalla Rayman - Divisional Commissioner [LallaR@saps.org.za]
Sent: 14 July 2009 08:32 AM
To: Helena Zwart (H)
Subject: RE: TRC cases requiring investigation

Dagse Helena

Kommissaris Dramat se kantoor het nou net geskakel hy wil die vergadering uitstel na Augustus. Hy is nie beskikbaar volgende week nie.

Ek sal die nuwe datum met jou kommunikeer.

Groete

Welma

-----Original Message-----

From: Helena Zwart (H) [mailto:hzwart@npa.gov.za]
Sent: 13 July 2009 04:08 PM
To: Lalla Rayman - Divisional Commissioner
Subject: TRC cases requiring investigation
Importance: High

Beste Welma

Aangeheg vind asb. 'n lys van die TRC-sake wat by die vergadering bespreek gaan word. Sal jy asb. so vriendelik wees om dit aan te stuur na die twee Kommissarisse, aangesien ons nog nie Kommissaris Dramat se kontakbesonderhede het nie?

Het Colla die dringendheid van die Lubowski-saak met jou bespreek?

Baie dankie en groete!

Helena Zwart
NPA

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Helena Zwart (H)

From: DPCI:Head [dpci.head@saps.org.za]
Sent: 28 August 2009 02:02 PM
To: Helena Zwart (H)
Subject: FW: TRC/Nuclear matters

Good day Mr Macadam,

We wish to acknowledge receipt of your e-mail. DNC Dramat is unable to meet with you presently but will revert back to you in due course.

Thank you

Secretary : Pumla N Mphothulo
The Head : Directorate for Priority Crime Investigations
6th Floor Koedoe Building
Tel : 012 393 5463
Fax : 012 393 5079
Cell : 082 778 3684
E-mail : (internal) DPCI : Head
(external) dpci.head@saps.org.za

From: Bezuidenhout Colla - Superintendent
Sent: 27 August 2009 07:18
To: Helena Zwart (H)
Cc: DPCI:Head
Subject: RE: TRC/Nuclear matters

Good morning,

Commissioner Dramat's office is at room 627, 6th floor, Koedoe building (opposite Police Head office in Pretorius str). His office number is 012 393 5463 and email dpci.head@saps.org.za His secretary is Pumla.

I will ask Comm Lalla about joining the meeting and will inform Helena.

Regards,

Colla

Superintendent Colla Bezuidenhout
Staff officer: Divisional Commissioner: Detective Service
Tel : +27 12 393 1024
Fax : +27 12 393 2193
Cell : +27 82 778 3694

From: Helena Zwart (H) [mailto:hzwart@npa.gov.za]
Sent: 26 August 2009 12:19 PM
To: Bezuidenhout Colla - Superintendent
Subject: TRC/Nuclear matters

Dear Colla

2009/08/16

[Handwritten signature]
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I recently had a telcom with your Commissioner in which he advised that the TRC and the nuclear matters which we have previously discussed would now have to be attended to by Commissioner Dramat. Is it possible to provide me with Commissioner Dramat's address and fax number so that I can set up a meeting with him? Would your Commissioner be amenable to facilitate the meeting, as it might help if the two of us can inform Commissioner Dramat of the history of these matters.

Kind regards

Chris Macadam

Deputy Director of Public Prosecutions
Office of the National Director of Public Prosecutions
National Prosecuting Authority of South Africa
Tel: (012) 845 6431
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Mobile: 082 498 6033

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SMY
[Signature]
[Signature]
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NGI

Priority Crimes Litigation Unit

The National Prosecuting Authority of South Africa
Igunya Jikelele Labeshutshisi boMzantsi Afrika
Die Nasionale Vervolgingsag van Suid-Afrika

HEAD OFFICE

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18 January 2010

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Weavind Park
Pretoria
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0001
South Africa

Docex:
DX207
Pretoria

www.npa.gov.za

Assistant Commissioner Lebeya
Directorate for Priority Crime Investigations
South African Police Service
Private Bag X302
PRETORIA
0001

Dear Commissioner Lebeya

INVESTIGATION BY SAPS OF CRIMINAL OFFENCES ARISING FROM THE TRC

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



Justice in our society, so that people can live in freedom and security



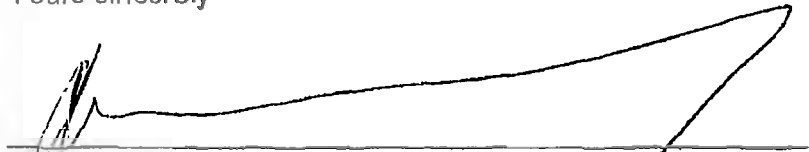
"Together beating the drum for service delivery"

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.

Yours sincerely



ADV RC MACADAM
DEPUTY DIRECTOR OF PUBLIC PROSECUTIONS
PRIORITY CRIMES LITIGATION UNIT
OFFICE OF THE NATIONAL DIRECTOR OF PUBLIC
PROSECUTIONS



Handwritten notes and signatures at the bottom right of the page, including the name 'JMY' and 'NGI'.

/Z56 forms

Office of the Head
Priority Crimes Litigation Unit
VGM Building
PRETORIA

Private Bag X752,
PRETORIA
0001

VGM Building
Hartley St.
Weavind Park
0001
Pretoria
South Africa

INTERNAL MEMORANDUM

TO : DR JP PRETORIUS SC
ACTING SPECIAL DIRECTOR OF PUBLIC
PROSECUTIONS: PCLU

FROM : ADV RC MACADAM
SDDPP: PCLU

DATE : 4 FEBRUARY 2016 (Opinion requested on even
date)

SUBJECT : OPINION: REOPENING TIMOL/AGGETT
INQUESTS

REF : 10/3/1/PCLU

Tel: X126431

Dear Torie

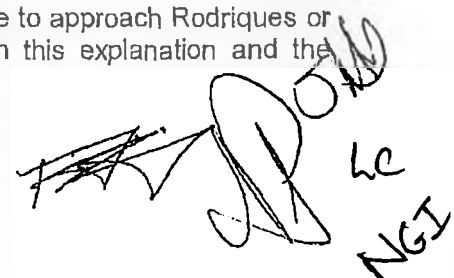
1. This opinion is provided arising from a meeting between members of the NPA and Messrs Varney, Dutton and others. An oral presentation was given, motivating the reopening of both inquests.
2. In order to address the request, it is necessary to briefly refer to the relevant provisions of the Inquest Act:
 - 2.1 Section 5 requires that an inquest be held in respect of each natural death where the deceased is suspected of having died of unnatural causes.
 - 2.2 Section 16 requires the inquest Magistrate to make findings as to:
 - 2.2.1 the identity of the deceased
 - 2.2.2 the date and cause of death
 - 2.2.3 whether the death was caused by a criminal act on the part of any person
 - 2.3 Section 17 requires the Magistrate to refer the inquest to the DPP in the event of either not being able to determine the death or in the event of a finding of criminal liability. He is also required to refer the matter to the DPP irrespective of his findings if so requested.

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- 2.4 Section 17(2) empowers the DPP at any time [my emphasis] after receipt of the inquest request the Judicial Officer to reopen the inquest and take further evidence.
- 2.5 Section 17A(1) also empowers the DPP to request the Minister to request the Judge President to appoint a Judge to reopen the inquest.
3. Sections 17(2) and 17A(1) both empower the DPP to cause inquests to be reopened on the basis of further evidence. The sole difference is whether the Minister and the Judge President must be involved and whether the inquest would be reopened by the original Inquest Court or by a Judge appointed by the Judge President. The invocation of section 17A(1) would be a more time-consuming process and would also place a burden on the High Courts which are under pressure with their existing civil and criminal rolls.
4. In my view, it would be appropriate to invoke section 17(2) where the new evidence would lead to certain of the original findings being amended, but would have no other public interest consequences, e.g. a prosecution or in a transparent manner to test the new evidence orally. Section 17A(1) would in my view be appropriate if there was high public interest in the new evidence, but the DPP was of the view that it should first be tested before instituting a prosecution.
5. It has to be stated that if the DPP is of the view that new evidence justifies the institution of a prosecution, then there is no need to first reopen the inquest before instituting the said prosecution.
6. The background to the two cases is as follows:

6.1 Achmed Timol

- 6.1.1 He died in detention in Johannesburg in October 1971 while under interrogation by the Security Branch having been arrested on charges linked to his involvement with the SACP.
- 6.1.2 The then Attorney General declined to prosecute and a formal inquest was held in the Johannesburg Regional Court, which handed down a verdict that he had committed suicide and that the police were not responsible for his death.
- 6.1.3 Shortly after the establishment of the PCLU in 2003, Mr Timol's nephew (a member of the NIA) approached the unit and indicated that he had established that the inquest record and docket were not available. (Governmental archive directives require the destruction of documentation after a certain period.)
- 6.1.4 He however alleged that the daughter of Sergeant Rodriques (who had been alone with the deceased immediately before he fell to his death) had approached Ivor Powell (then a journalist) and informed him that her father had confessed to her that the deceased had been murdered. The NDPP had directed that the DSO must assist the PCLU with the investigation of TRC matters. The DSO reported that the journalist had been interviewed, denied the allegation and produced the newspaper article which he had written, which contained no confession or new evidence. In the circumstances the DSO deemed it inappropriate to approach Rodriques or his daughter. The nephew was satisfied with this explanation and the matter was not taken further.

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6.1.5 In late 2015, I however asked the DPCI to register an enquiry due to extensive publicity given to the matter by the media and as a result of statements made by Adv Bizos SC and the family.

6.2 Neil Aggett

6.2.1 Dr Aggett died in police custody in Johannesburg in 1982 after a lengthy period of detention and interrogation by the Security Branch.

6.2.2 The then Attorney General declined to institute a prosecution and a formal inquest was held before a Regional Court Magistrate in Johannesburg. He handed down a verdict to the effect that the deceased had committed suicide and that the police were not responsible.

6.2.3 In 2013, a group of Dr Aggett's friends submitted a petition to the President and Minister of Justice, calling for the prosecution of the police officials responsible for his death.

6.2.4 As a result of this petition, the PCLU requested the DPCI to open an enquiry.

7. The status of the PCLU/DPCI investigations:

7.1 Achmed Timol (I/O Captain Ben Nel)

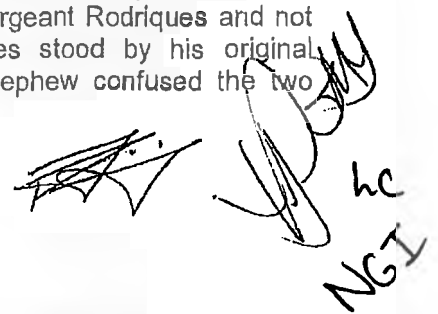
7.1.1 It has been established that the original inquest and docket are not available.

7.1.2 A copy of the inquest donated by the family attorney to Wits has been downloaded. It is missing 652 pages, which include the evidence and cross-examination of all the police officers involved. However, on the remaining evidence it was possible to establish who the witnesses were and what the issues in dispute were.

7.1.3 Captain Nel has been requested to canvas the availability of all the witnesses, i.e. the police officials, medical doctors and members of the deceased's family.

7.1.4 It has been established that other detainees who were never called as witnesses could possibly shed light on the matter. The first is a Mr Mohammed Essop, who was arrested at the same time as Timol. The second is Quentin Jardine, whose identity, it is alleged, led to the deceased deciding to commit suicide. The third is a Mr Pahad, whom it is alleged was arrested arising from Timol's interrogation. Ms Fullard has been tasked to uplift the detention files from DoJ&CD so that Captain Nel can conduct the necessary investigations in this regard.

7.1.5 It has been established that the TRC appointed a journalist, Piers Pigou, as an investigator and he dealt with the Timol matter. He has indicated that he is available for an interview when he returns to the country. As a matter of interest, it was in fact he who approached Sergeant Rodriques and not Ivor Powell. His notes reflect that Rodriques stood by his original statement. It may therefore be that Timol's nephew confused the two journalists and what Rodriques said.

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- 7.1.6 It has been established that Gordon Winter published a book in which he claimed to have first-hand knowledge of the Timol incident. Ms Fullard has undertaken to establish whether he is alive and where he is residing.
- 7.1.7 A Methodist priest in the UK made public statements to the effect that when Timol's body was viewed in the mortuary, it showed signs of gross mutilations. This claim would have to be followed up although it is in conflict with the evidence of the three doctors who testified at the inquest, including a pathologist, appointed by the family.
- 7.1.8 What also has to be followed up is whether the police, who were involved in the incident, were involved in other cases, which could have a bearing on their version in this matter. It would also have to be established whether there were other incidents involving detainees which would be relevant.
- 7.2 Neil Aggett (I/O Col Sam Mahlangu)
- 7.2.1 Col Mahlangu indicated that he was unable to locate the original inquest and docket.
- 7.2.2 He however established that a copy of the inquest was available on the Wits website and requested the PCLU to peruse it and to thereafter indicate whether further investigations were required.
- 7.2.3 The record is in the regional of some 8 500 pages and has been uploaded in blocks, which makes online reading time-consuming. Obviously downloading 8 500 pages would place an extreme burden on the office's printing facilities.
- 7.2.4 It has however been established that Adv Bizos SC, who acted for the family, conceded that there was no evidence to justify the conclusion that the deceased had been murdered. (Adv Bizos SC was assisted by a private pathologist and other medical experts.) He however submitted that Whitehead and Cornwright (the two officers responsible for Aggett's interrogation) should be prosecuted for culpable homicide. If the learned advocate is in fact correct, then the crimes prescribed in 2002 and no prosecution is feasible as requested by the deceased's friends.
- 7.2.5 The matter is however complicated by the fact that the former Deputy Judge President of the KZN High Court (Nicholson DJP) has published a book, alleging that the facts of the Aggett matter demonstrate unequivocally the crime of murder by induced suicide. If the learned Judge is correct, then the NPA would still have jurisdiction to prosecute on a charge of murder.
- 7.2.6 It has been established that Goosen, Pollock and Erasmus applied for amnesty on charges relating to breaking into the house of Aggett's parents, looking for evidence to support the claim that he had committed suicide. The TRC material has been uplifted and has been perused.
- 7.2.7 Aggett's detention file was also uplifted, but it contains no relevant information.
- 7.2.8 Deborah Quin was given the list of witnesses, who testified at the inquest and was requested to establish their availability, present whereabouts and

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also whether any of them were connected to other incidents which would be relevant. She is also looking into the issue of whether there were other deaths in detention at the same time, which could be relevant. She has already indicated that Cornwright is deceased and that Auret van Heerden, who was in detention in close proximity to Aggett, is currently in an old age home in the USA.

- 8. Currently the two matters are not receiving the attention of the PCLU due to firstly, operational constraints which arose since October 2015. (Adv Bukau was given an urgent espionage-related case and uncertainty surrounded Adv Macadam's position due to the NDPP on 8 October 2015, indicating that he had not cancelled his appointment as the OECD Foreign Bribery Prosecutor.) In a meeting with Adv Macadam in September 2015, the NDPP raised the issue as to whether the TRC matters should be taken away from the PCLU. As a result of all these uncertainties, a memorandum was prepared in January 2016, requesting the NDPP to confirm whether the PCLU should continue to deal with TRC cases or whether they should be referred to the DPPs. A response to this memorandum is still outstanding.
- 9. In my view, a decision on the request made by Messrs Dutton *et al* cannot be taken solely by the NPA.
 - 9.1 Both are the subject of enquiries being conducted by the DPCI and clearly the views of the relevant senior managers within the DPCI should be canvassed.
 - 9.2 In the Aggett matter a group of his former colleagues has formed an association, "Friends of Neil Aggett", which has called for the prosecution of the police officials involved. The request to reopen the inquest runs contrary to the group's position. The group has a direct interest in the matter and its view should be consulted.
 - 9.3 Also in regard to the Aggett matter, although Cornwright is dead, Whitehead is still available and would clearly be affected by the reopening of the inquest. He would be entitled to legal representation, access to relevant material and the right to challenge any new evidence.
 - 9.4 In the Timol matter, it still has to be established whether any of the police involved in his interrogation are still alive and whether any new evidence could result in a prosecution of them on a charge of murder.
- 10. In my view, it would be inappropriate at this stage to reopen the two inquests. On what has been placed before me it would not appear that Mr Dutton has conducted a comprehensive investigation which would justify all the relevant factors which would have to be taken into consideration by both the NPA and the presiding officers of the inquests.
 - 10.1 The original inquests are not available and consequently the NPA would have to request Wits to make available its originals and to pay for all the relevant copies to be made.
 - 10.2 A decision would have to be taken as to whether to invoke section 17(2), 17A(1), which would require a determination as to whether the witnesses and suspects are available, whether a charge of murder is feasible, whether a *viva voce* hearing, which would involve having to provide the suspects with legal representation, is necessary.
 - 10.3 In my view, a Presiding Officer and the Judge President (if section 17A(1) is invoked) would be reluctant to reopen the inquests, to receive only Dutton's evidence and before the police have concluded their investigations and the NPA decided that there are no prospects of a successful prosecution. This would be particularly apposite in

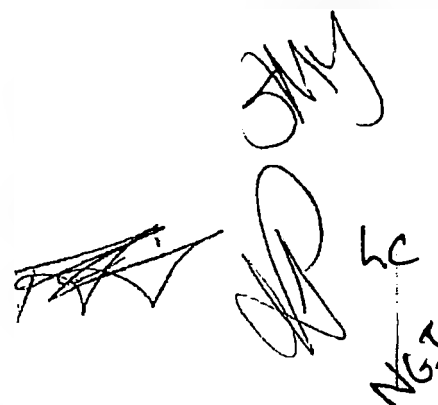
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the Aggett matter where there are 8 500 pages of evidence to be perused, numerous witnesses who would be required to be recalled and where Whitehead could still be prosecuted.

11. In my view therefore, it would be inappropriate to accede to the request prior to the conclusion of the DPCI investigations and the NPA deciding not to prosecute. I am of the view that even if a decision not to prosecute is taken, then there would be new evidence which would justify the reopening of the inquests. At this stage it is not possible to predict what the consequences of this new evidence would be and therefore it cannot be predicted:
 - 11.1 whether the additional statements should simply be placed before the Regional Court, which could in chambers consider them and elect to amend the original Magistrate's findings
 - 11.2 whether a Judge should be appointed to hear the additional evidence *viva voce*
12. Having said that, it has to be, in the strongest possible terms, stated that it is imperative that the NDPP make a decision as to whether the TRC cases must remain with the PCLU or not. It will serve no purpose to decline the request, but to be placed in the position that two or more years down the line the cases have not been finalised because either the DPCI or NPA or both are unable to commit the necessary resources to finalise the matters timeously. It has to be emphasised that the Aggett matter requires a considerable amount of work due to the volume of evidence to be assessed, which may include an MLA request to the USA to interview Van Heerden. In the Timol matter there are also indications that evidence may be located in the UK, which would also have to be accessed through an MLA process.
13. Currently a member of the PCLU could give almost fulltime attention to the two matters. However, it is only to be anticipated that this will not be the case when shortly the unit's current workload will increase.
14. It is recommended that you:
 - 14.1 advise the NDPP not to accede to the request to reopen the inquests until the investigations have been concluded and a decision taken not to prosecute
 - 14.2 request the NDPP to, as a matter of urgency, make a decision as to whether the TRC matters must remain with the PCLU.

Kind regards

ADV RC MACADAM

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Office of the
National Director of Public
Prosecutions



The National Prosecuting Authority of South Africa
Igunya Jikelele Labeleshulshisi baMzantsi Afrika
Die Nasionale Vervolgingsgesag van Suid-Afrika

25 February 2004

Victoria & Griffiths
Mxenge Building,
123 Westlake Avenue,
Weavind Park, Silverton

A/INV/5/03/TRC

Imtiaz C ajee
P O Box 1888
GARSPONTEIN EAST
0060

P/Bag X752

Pretoria

0001

Tel: (012) 045-6000

www.npa.gov.za

Dear Sir

INVESTIGATION INTO TIMOL CASE

I acknowledge receipt of your fax of 18 February 2004 and have to inform you that the case is registered under the above reference number. Last year investigations were conducted into the allegations that former security branch officer Rodrigues had confessed to his daughter who in turn informed IVOR POWELL.

The investigations produced negative results. I confirm that you furnish me with the following documents:

- i) Extract Bizos' book
- ii) Article Powell
- iii) TRC transcripts
- iv) INPUT Detainee
- v) Photographs

The testimony of a detainee who was held out of the window was not included.

I would be grateful if you would furnish me with a copy of it as well as any other relevant material, which you may have. The case will again be considered the light thereof.

Kind regards


RC MACADAM
DEPUTY HEAD: PCLU



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Office of the Head
Priority Crimes Litigation Unit
VGM Building
PRETORIA

P. O. Box 752,
PRETORIA
0001

INTERNAL MEMORANDUM

VGM Building
Hartley St.
Weavind Park
0001
Pretoria
South Africa

TO: DR MS RAMAITE
CC: ADV VP PIKOLI
CC: ADV K PILLAY
FROM: ADV AR ACKERMANN SC
SUBJECT: 1. DETAILS OF TRC CASES CLOSED BY THE PCLU
2. REAPPOINTMENT OF SENIOR SUPER-INTENDENT BRITZ
DATE: 30 OCTOBER 2006

Tel: (012) 845 6474

1. On 25 October 2006, the PCLU was requested by the "TRC Committee" to furnish more details regarding all the cases which the PCLU had declined to prosecute. The PCLU was also requested to furnish the background which led to the prosecution of one Blani.
2. TRC CASES CLOSED
 - 2.1 Death in detention Ahmed Timol
 - 2.1.1 This death in detention matter goes back to 1971.
 - 2.1.2 The nephew of the deceased requested that an allegation that one of the police officers who had interrogated the deceased had confessed to a journalist be investigated.
 - 2.1.3 The DSO traced and interviewed the journalist who denied the allegation. There was no other evidence to prove that the

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deceased had definitely been murdered and all other crimes had prescribed.

2.1.4 The matter was therefore closed.

2.2 Death in detention of Steve Biko

2.2.1 Mr Ngcuka asked that this matter be investigated because of its high profile.

2.2.2 The DPP: Eastern Cape had recommended that no prosecution be instituted due to lack of evidence.

2.2.3 It was established that all the doctors who had treated the deceased were dead, except for the Chief State Pathologist, who, when consulted, conceded that he could not exclude that the injury to the deceased's head could have been accidentally caused.

2.2.4 The police officer in charge of the interrogation who was responsible for making the decisions as to whether the deceased should receive medical treatment himself died after he was denied amnesty by the TRC.

2.2.5 The evidence against the remaining police officers only established culpable homicide which had prescribed in 1997.

2.2.6 The NDPP made a press statement to the effect that no prosecution was possible. An NGO organization obtained the opinion of Adv Trengove who also concurred with the decision.

2.2.7 Subsequent to this decision, the police officer who transported the deceased to Pretoria also died.

2.3 Carl Niehaus

2.3.1 A member of public asked for a prosecution after the media published an interview with Carl Niehaus in which he alleged that he had been tortured during detention.

2.3.2 Mr Niehaus was consulted and did not desire prosecution.

2.3.3 File closed.

2.4 Skoulides

2.4.1 Skoulides had been convicted of murder.

2.4.2 After his release from prison, his sister alleged that he had been framed by the CCB. There was no evidence to substantiate this claim and it was suspected that the purpose of the allegation was made so as to have the convict's criminal record deleted so that he could emigrate to Greece.

2.4.3 The file was closed.

2.5 Nelson Sithole

- 2.5.1 The deceased was a Cape Town activist. He was killed outside his home. No perpetrators were identified and arrested by SAPS.
- 2.5.2 His lawyer alleged that the perpetrators were known to SAPS.
- 2.5.3 The DSO interviewed the eyewitnesses, perused the SAPS docket and interviewed a convicted prisoner whom the lawyer claimed knew about the case. The prisoner denied all knowledge of it. The witnesses had not identified the attackers. SAPS were of the view that the deceased was the victim of a criminal gang which was terrorizing that area. An identification parade had been held to see if the victims could identify members of the gang who were in custody on other charges but with negative results.
- 2.5.4 File closed.

2.6 Pro Jack

- 2.6.1 A person was refused amnesty for the murder of a Western Cape activist.
- 2.6.2 The TRC asked that this matter be looked into.
- 2.6.3 The DSO investigated the matter and came to the same conclusion as the TRC's Amnesty Committee, to the effect that the amnesty applicant had lied in respect of each and every material aspect relating to the murder of the deceased. There was no acceptable evidence to prosecute him or any other person and the file was closed.

2.7 AM Zulu

- 2.7.1 A convicted prisoner was refused amnesty for his role in the killing of a number of people in the Table Mountain area.
- 2.7.2 The TRC: KZN recommended that this matter be looked into further.
- 2.7.3 The convicted prisoner was an unreliable witness in his amnesty application and there was no other acceptable evidence implicating the persons whom he alleged had taken part in the attack with him.
- 2.7.4 The file was therefore closed.

2.8 Bult

- 2.8.1 Representations were made to the NPS by Bult, who alleged that he had been assaulted by the police during the Apartheid Era.
- 2.8.2 His allegations were however not serious enough to warrant investigation by the TRC unit which had been mandated by the NDPP only to consider serious human rights

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abuses.

2.8.3 The file was therefore closed.

2.9 Castro Khumalo

2.9.1 The victims requested that a prosecution be instituted.

2.9.2 The deceased was a member of a group of activists who had been killed by the Security Branch.

2.9.3 The perpetrators had however all received amnesty, but the bodies of the deceased had not been traced.

2.9.4 The case was therefore referred to the Missing Persons' Task Team for further action.

2.10 Winnie Mandela

2.10.1 She was implicated in the kidnapping of a youth in Soweto.

2.10.2 These allegations had been investigated by a component of the D'Oliveira Investigation Unit. It was established that all the relevant witnesses had been extensively interviewed and all had been found to be unreliable. Various allegations as to the location of the body of the missing person had been followed up with negative results.

2.10.3 There was therefore no reliable evidence to institute a prosecution against Mrs Mandela. It was noted that she had been convicted on another charge. The allegations that she was involved in the murder of Dr Asvat were also investigated with negative results. The allegations of Falati, Cebenkulu and Richardson were also looked into and it was found that these three persons were thoroughly unreliable and had strong motives to falsely implicate Mrs Mandela.

2.10.4 The file was therefore closed.

2.11 Ermelo Black Cats

2.11.1 The D'Oliveira Investigation Unit had charged members of an IFP grouping called the Black Cats for various crimes committed in the Ermelo area.

2.11.2 The investigations had been put on hold pending the finalization of the TRC.

2.11.3 The main 204 witness was interviewed by the DSO and found to be thoroughly unreliable.

2.11.4 The TRC had refused to grant him amnesty and the DPP: KZN had also rejected similar allegations made by him relating to activities in KZN.

2.11.5 The witness also indicated that he would not testify unless he was released from prison

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first. There was therefore no evidence to prosecute and the file was closed.

2.12 Chadwick

2.12.1 The accused was a UK citizen who absconded to the UK after being indicted for the murder of two suspected IFP supporters.

2.12.2 The DPP: Pretoria applied for his extradition which he resisted in the UK for a period of almost eight years.

2.12.3 When his final appeal against extradition was exhausted, the UK authorities requested an undertaking from the NPA that the evidence available was sufficient to ensure this conviction.

2.12.4 A key witness had retracted his statement and there were other evidential problems. The original extradition application had to be abandoned although a new witness had been found. The UK authorities indicated that a fresh extradition application would have to be lodged before extradition could be granted on his version. Given the fact that the accused had been in custody for several years, combined with the fact that there was medical evidence suggesting that he could have been insane at the time of the crimes, it was not considered worth bringing a fresh application.

2.12.5 The Acting NDPP confirmed this decision.

2.12.6 Interpol has been requested to establish whether there is truth to the rumours that the accused might try and return to South Africa. If he were to voluntarily come to South Africa, the extradition problems would not apply.

2.13 Anton Lubowski

2.13.1 The original TRC unit was looking into this matter which related to the murder of a Swapo leader in Namibia.

2.13.2 A South African Court would only have jurisdiction in the event of evidence of a conspiracy to murder the deceased formulated in South Africa.

2.13.3 All the available evidence was perused. The most likely candidate to have killed the deceased was an Irish citizen, Aitcheson, who was arrested in Namibia, but skipped bail.

2.13.4 There was no reliable evidence against any other parties and the file was closed.

2.14 Ciskei coup d'etat

2.14.1 The original TRC unit was looking into this matter.

2.14.2 It was established that although certain former Military Intelligence members had indicated their intention to apply for amnesty on the basis that the coup had been

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orchestrated so as to ensure the murder of ANC supporters, they had withdrawn their applications.

2.14.3 The former Head of State of Ciskei had been prosecuted for ordering the killing of two alleged coup conspirators, but had been found not guilty by the Bisho High Court.

2.14.4 There was no other evidence available to justify a prosecution of any person and the file was closed.

2.15 General Basie Smit

2.15.1 Mr Ngcuka asked that this matter be looked into as a result of media attention.

2.15.2 The available evidence as gathered by the D'Oliveira unit was considered and found to be inadequate to base any prosecution for a human rights abuse. The suspect was a former Head of the Security Branch.

2.15.3 The file was therefore closed.

2.16 S v Bongani Wana

2.16.1 This matter relates to the murder of Zolile Sangoni, Zonwabele Mayapi and an MK cadre Gift Mgibe who were killed by Vlakplaas operatives in 1988 in Umtata.

2.16.2 Mr Wana had applied for amnesty but later withdrew his application.

2.16.3 After a careful perusal of the TRC transcript and consulting with all relevant potential witnesses it became clear that there was no sufficient evidence upon which prosecution of Mr Wana can be instituted.

2.16.4 The matter was then closed.

2.17 Representation by Mr SM Mavuya

2.17.1 Mr Mavuya claimed to have been an informer during 1984 and was applying for amnesty and requested protection from members of his community.

2.17.2 We however informed him that we have no such authority and that TRC committee has disbanded. His activity did not amount to any criminal offence thus we could not even consider it in terms of prosecution guidelines.

2.18 Representation by Mpho Masemola

2.18.1 This matter arose from a representation by Mr Masemola, a former ANC who claimed to have been arrested and subsequently tortured in 1985.

2.18.2 He also claimed that in 1991 members of the Counter Insurgency Unit shot at him during a march he had organised. We however informed him that in as far as the

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torture in 1985 the matter has since prescribed and in respect of 1991 shooting there was no evidence to support his allegations as he bases his accusations on assumptions.

2.19. Representation by Mr N Dlamini

2.19.1 Mr Dlamini had made allegations against Swaziland police whom he claimed to have sold out some MK cadres during 1985 to 1986. Unfortunately he could not supply us with any proof apart from a newspaper article from Times of Swaziland which we did not receive.

2.19.2 Apart from lack of substance in his allegations the NPA does not have jurisdiction in crime committed in Swaziland. He could not indicate to us his interest in the matter when requested to do so.

2.20 Thabo Armando Sithole

2.20.1 The mother of Thabo requested the NPA to investigate death of his son who died in police custody after being arrested for robbery in 1976.

2.20.2 They received a report from Greytown police that he committed suicide by hanging himself.

2.20.3 The PCLU could not find any records of the inquest and the police in Greytown police station could not assist us as they could not find any records of Thabo though they remember that he was indeed detained there. The PCLU therefore decided to close the file as there was no further action contemplated.

2.21 Murder of Michael Mcetywa

2.21.1 The matter arises from a representation by Zolile Mcetywa who is the son of the deceased who was an ANC chairperson in Pongola and murdered in 1993.

2.21.2 A man called Mavuso is currently serving 25 years for the murder.

2.21.3 During his amnesty application which was refused, he implicated a number of IFP leaders.

2.21.4 The family of the deceased requested the PCLU to consider prosecution of the implicated IFP leaders.

2.21.5 After reading various documents and consulting with Mavuso it transpired that he is the only witness who can be used but he demanded that the NPA secures his release before he can testify against the IFP leaders.

2.21.6 Apart from his evidence there was nothing to corroborate him. We therefore closed the file as there was no further action contemplated.

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2.22 Smit murders

2.22.1 Perpetrators all deceased except one suspect who apparently lives in Australia.

2.22.2 Insufficient evidence to apply for extradition.

2.22.3 Matter closed.

2.23 Refusal of amnesty to the President and other high-ranking ANC officials

2.23.1 The TRC refused amnesty to the President and plus-minus 37 other high-ranking ANC members certain of whom held Ministerial positions or other key positions in Government.

2.23.2 The TRC found that they had not disclosed that they had committed specified crimes.

2.23.3 There was no evidence implicating them in criminal offences and the file was closed.

2.23.4 The NDPP, Mr Ngcuka, made a media statement to this effect as the DA was making an issue of the matter.

2.24 IFP Hit Squads (allegations of Luthuli, Mbambo, Mkhize and Hlongwane)

2.24.1 The DPP: KZN asked that this matter be looked into as a result of the controversy which the allegations had caused in the province.

2.24.2 Certain IFP supporters, e.g. Luthuli, Mbambo, Mkhize and Hlongwane had made various allegations against high-ranking IFP officials.

2.24.3 Luthuli had been used as a witness in one case, but the accused had been acquitted and Luthuli was found to be an unreliable witness by the Court.

2.24.4 A Deputy in the DPP's Office: KZN had considered all the allegations and had declined to prosecute as a result of the discrepancies between the versions of the accomplice witnesses.

2.24.5 After their release from prison, Mbambo and Mkhize were interviewed and indicated that they did not want to testify in any matters. Hlongwane had been refused amnesty and indicated that he was not prepared to testify unless released from prison. He had a poor reputation for reliability.

2.24.6 There were therefore no reliable grounds upon which the decision of the DPP: KZN not to prosecute could be reversed and the file was closed.

2.25 Bombing of Early Learning Centre and other Western Cape CCB activities

2.25.1 A request was received from the Legal Resources Centre in Cape Town requesting that CCB members who had been refused amnesty for the above case be prosecuted.

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2.25.2 It was established that the main perpetrators had either been granted Indemnity under the Indemnity Act or in terms of section 204 of the Criminal Procedure Act, arising from their testimony in the Wouter Basson and Ferdi Barnard prosecutions.

2.25.3 The only persons who could be prosecuted were Ferdi Barnard and the whistle-blower who had assisted the victims.

2.25.4 In the case of Ferdi Barnard, he was serving a lengthy gaol sentence in C-max. Were he to be charged, he would have to be transferred to Cape Town, posing a burden on Correctional Services. Any sentence he would have received for this case would run concurrently with his current sentence. No useful purpose would therefore be achieved by prosecuting him.

2.25.5 The prosecution of the whistle-blower would undermine reconciliation.

2.26 Plus-minus 80 cases against members of the Liberation Movement

All these cases were investigated by SAPS and closed by Ackermann for a number of reasons, i.e. offences were not of a serious nature, amnesty had been granted to the perpetrators or the perpetrators could not be traced.

2.27 S v Blani

2.27.1 The two deceased were an elderly married couple who resided on the farm, Enhoek.

2.27.2 The accused was associated with an organization known as the "Addo Youth Congress".

2.27.3 At a certain stage the accused conspired with other members of the organization to attack the farm of the deceased.

2.27.4 On the night of 17 June 1985, the accused and his co-conspirators armed themselves and travelled to the farm of the deceased.

2.27.5 Upon arrival, the group cut the telephone connection to the farm and proceeded to the farmhouse.

2.27.6 The group then broke into the house despite attempts by the deceased to defend himself with a firearm.

2.27.7 Both deceased were assaulted and killed inside the house.

2.27.8 The group ransacked the house and removed certain items.

2.27.9 The Murder & Robbery Unit in Port Elizabeth originally investigated this matter.

2.27.10 The suspect was linked to the crime by fingerprint evidence.

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2.27.11 A warrant for his arrest was obtained but not executed, because he could not be traced. This warrant was never cancelled by SAPS.

2.27.12 As a result of Commissioner Fivaz's instruction of 7 November 1996, namely that all cases be referred to Dr D'Oliveira's Unit, the docket came into possession of Britz. The investigation diary of the docket confirms that on 18 July 2003, Director Nel received it for further investigation. Director Nel established that certain suspects were still outstanding on warrants and thereafter traced them. He thereafter furnished the Serious & Violent Crimes Unit in Port Elizabeth with copies of the witness statements with instructions to trace the suspects and witnesses.

2.27.13 In 2003, Britz referred the docket to the PCLU, requesting a prosecution of Blani on the basis that he had been traced by SAPS and had not applied for amnesty. This case is reflected as case No 266 in the SAPS register.

2.27.14 On 25 January 2005, the accused pleaded guilty and received a partially suspended term of imprisonment.

2.28 The reappointment of Senior Superintendent Britz

2.28.1 At its last meeting, the Committee was informed by Assistant Commissioner Jacobs that Senior Superintendent Britz would be reappointed to investigate the dockets in possession of SAPS.

2.28.2 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 Movement.

2.28.3 Former Police Commissioner General van der Merwe had formed an organization entitled "*The Foundation for Equality before the Law*" which was intended to ensure that no further prosecutions of Security Branch members would take place.

2.28.4 When I and my staff were appointed to take over the TRC cases in the DPP Office: Pretoria, we gained the firm impression that Britz was not only very sympathetic towards this organization, but had regular contact with General van der Merwe.

2.28.5 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 that were Security Branch 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. 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.



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2.28.6 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.

2.28.7 The issue of the prosecution of the President was raised at the highest level of Government and resulted in enquiries 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 records.

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 in the 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.

2.28.9 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 the potential leaking of information to General van der Merwe.


ADV AR ACKERMANN SC


NGI
SC

IN THE HIGH COURT OF SOUTH AFRICA
GAUTENG LOCAL DIVISION, PRETORIA

In the matter of:

Case Number: 01/17

RE-OPENED INQUEST: MRAHMED TIMOL

AFFIDAVIT OF ADV. RAYMOND CHRISTOPHER MACADAM

1.

I am a Senior Deputy Director of Public Prosecutions in the office of the National Director of Public Prosecutions.

2.

Since 2003 I have been a member of the PCLU.

3.

My attention has been drawn to paragraphs 27 to 30 of an affidavit made by Mr Imtiaz Cajee, which was placed before this Honorable Court on 14 August 2017. In my view this creates the impression that I had investigated a complaint made to the then National Director that the police officers involved with the death of Mr Timol be charged with murder and had advised Mr Cajee that my investigation had produced "negative results". This is not a true reflection of my involvement in the matter.

4.

I was not aware of a complaint made to the National Director but was approached directly by Mr Cajee who informed me that the daughter of Sgt. Rodrigues had approached a journalist Ivor Powell and informed him that her father had told her how the deceased was murdered. I immediately reported the allegations to the DSO ("The Scorpions") A Chief Investigating Officer was sent to interview Mr Powell and establish whether Sgt. Rodrigues could be charged with murder. I was informed that after

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investigation no basis for the allegations could be established. Mr Powell was emphatic that no such approach had been made to him.

5.

On 25 February 2004 I wrote to Mr Cajee informing him that this investigation had produced negative results. I did however invite him to supply me with additional information so that the case could be reconsidered. I did not however hear anything further from him. I attach a copy of my letter addressed to him as RCM1.

6.

Shortly thereafter, I was assigned a very lengthy prosecution relating to an international nuclear weapons syndicate and was no longer involved in TRC cases.

7.

I have had sight of the letter dated 29 November 2006 entitled "Report of the progress made by the Task Team on TRC Cases" which was attached as Annexure "A" to Mr Cajee's affidavit. I was not the author of the report. As the report clearly indicates it related to the work of a task team. I was not a member of this task team. As the report also reflects it was the decision of this team to close the matter relating to the deceased.

8.

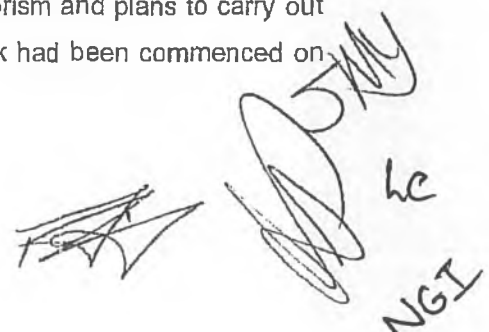
At a later stage I was again instructed to deal with TRC cases. The investigation of these matters was now the responsibility of the DPCI. In late 2015 I looked into this matter and was of the view that it should be investigated. I therefore requested the DPCI to open an investigation into the matter.

9.

I downloaded the copy of the inquest record which was held by Wits and requested the police to establish the whereabouts of the implicated parties, witnesses and medical experts. I also contacted Mr Piers Pigou who had dealt with the matter at the TRC. I also requested a researcher to obtain the detention files of persons who were detained at the same time as the deceased. Copies of my communications are attached hereto as RCM2 and RCM3.

10.

I was however assigned a very urgent matter relating to international terrorism and plans to carry out terrorist attacks in South Africa. I briefed Adv. Pretorius SC on what work had been commenced on



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the matter of the deceased. He informed me that he would monitor the police investigation and later advised me that he had decided that it would be appropriate to hold a formal inquest.

DEPONENT

Thus signed and sworn to at _____ on this _____ day of _____ 2017

The Deponent having knowledge that he knows and understands the contents of this affidavits, that it is both true and correct to the best of his knowledge and belief, that he has no objection to taking the prescribed oath and that the prescribed oath would be binding on his conscience.

COMMISSIONER OF OATHS

FULL NAME: _____

BUSINESS ADDRESS:

CAPACITY: _____

AREA: _____

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Office of the Head
Priority Crimes Litigation Unit
VGM Building
PRETORIA

P. O. Box 752,
PRETORIA
0001

INTERNAL MEMORANDUM

VGM Building
Hartley St.
Weavind Park
0001
Pretoria
South Africa

TO: DR MS RAMAITE
FROM: ADV AR ACKERMANN SC
SUBJECT: AUDIT OF CASES EMANATING FROM TRC PROCESS
DATE: 24 OCTOBER 2006

Tel: (012) 845 6474

1. HISTORICAL BACKGROUND

- 1.1 After the closure of the Goldstone Commission in 1993/94 the government of the day decided that its work in investigating human rights abuses relating to conflicts of the past should continue under the supervision of the then Attorney General of Pretoria, Dr J D'Oliveira. A team of the South African Police Service was seconded to his office to conduct the necessary investigations.
- 1.2 The team was divided into two groups. One focusing on offences committed by security force members and the other group on offences committed by Liberation Movements and the Right Wing.
- 1.3 This latter team comprised of Director Nel and Senior Superintendent Britz.
- 1.4 The Attorney General decided that Deputy Attorney General Flick would supervise all the investigations conducted by the two police officers while he would deal with cases involving security force members.
- 1.5 On 7 November 1996 the National Commissioner at the request

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of Dr D'Oliveira instructed all his Provincial Commissioners to submit all outstanding and unsolved cases pertaining to the entire political spectrum of the conflicts of the past to Dr J D'Oliveira's office. Such instruction also related to cases where not all the accused had been prosecuted.

- 1.6 With the appointment of the NDPP the cases dealt with by D'Oliveira were transferred to his office while Fick continued to deal with the cases originally allocated to him i.e. the Liberation Movement cases. He continued to be assisted by the SAPS members, Nel and Britz. Their contracts were routinely extended by SAPS.
- 1.7 The NDPP however instructed Fick not to institute any prosecutions without his authorisation and no prosecutions were therefore instituted.
- 1.8 With the creation of the DSO in 2001 the cases with the NDPP were transferred to the DSO Head Quarters. Fick however continued with his cases assisted by the two police officers.

No prosecutions were instituted because the TRC's final report and the President's response thereto were outstanding.
- 1.10 With the creation of the PCLU In March 2003, the NDPP assigned all TRC matters to it after the TRC had tabled its final report and the President had mandated the NDPP to institute prosecutions where appropriate, arising from the TRC process.
- 1.11 The PCLU was not an investigative agency and was therefore dependant on SAPS and the DSO for investigations. The PCLU reports monthly to a Deputy National Director and the NDPP approved all its decisions to institute TRC prosecutions and, in certain high profile cases, certain decisions not to prosecute.
- 1.12 The DSO policy guidelines for prosecutions in these matters were accepted by the PCLU. In essence, these were to the effect that prosecutions should only be instituted for serious human rights abuses, based on reliable evidence while accepting that humanitarian factors and the interests of reconciliation could also be taken into consideration.
- 3 It was decided that Ackermann would take over Fick's cases and Macadam would take over the DSO cases.
- 1.14 The PCLU conducted an audit of all the cases in both offices.
- 1.15 In this auditing process it was established that the police officers at Fick's office at the DPP Pretoria had registered 395 police docketts.
- 1.16 During 2003/2004, Ackermann declined to prosecute in +- 80 of the abovementioned cases.
- 1.17 Similarly +- 50 cases from the DSO were finalised by Macadam and Ackermann.



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1.18 The audit process further identified a small number of cases warranting prosecution which are dealt with hereunder.

1.19 The 395 police dockets which were in the possession of Nel and Britz were returned to SAPS and the NDPP informed Commissioner Tim Williams that these dockets were police property and that the NPA had no interest in them except if SAPS desired prosecutions in which case they could be re-submitted for these purposes. The then Director General of Justice, Mr V Pikoli and other high ranking officials were present when this discussion between the NDPP and Williams took place. As of the date of this memo, no such dockets have been submitted to the NPA for decision.

2. CASES FINALISED IN COURT

2.1 S v Khwezi Ngoma and Others (Mhaga)

This matter involved four APLA cadres who attacked Willowvale police station in 1994 resulting in the death of a policeman and another injured. They didn't apply for amnesty. They made representation through their attorneys requesting a withdrawal of the charges but it was rejected and entered into plea bargain and received suspended sentences.

2.2 S v Aron Tyani & Another (Mhaga)

The matter relates to the attempted murder and murder of Stembele Zokwe an MK cadre during 1987 and 1988 by the Transkei security police. They were convicted and sentenced to direct terms of imprisonment in 2005.

2.3 S v Eugène Terre'blanche (Ackermann)

In November 2003 the accused pleaded guilty to several charges of terrorism, linked to 1994 pre-election bombings. He was sentenced to 6 years wholly suspended.

2.4 S v Blani (Macadam and Ackermann)

The accused was convicted on two counts of murder in Grahamstown High Court and sentenced to a partially suspended sentence.

3. MATTERS CLOSED BY PCLU

3.1 Death in detention Ahmed Timol

3.1.1 This matter relates to the death of Ahmed Timol who died in police detention on 27 October 1971 during interrogation by the Apartheid Security Police.

3.1.2 There was an allegation that one of the interrogators had confessed to a journalist that Timol had been murdered and that was followed up but was later denied by the said journalist.

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3.1.3 The matter was therefore closed.

3.2 Death In detention of Steve Biko

The matter prescribed in 1997 as evidence only proves culpable homicide which according to our criminal law prescribes after 20 years.

3.3 Carl Niehaus (Macadam)

3.3.1 Victim tortured during detention.

3.3.2 Victim does not desire prosecution.

3.3.3 File closed.

3.4 Skoulides (Macadam)

3.4.1 Victim's sister alleged that her brother had been framed for a murder committed by the Security Forces.

3.4.2 No evidence to substantiate this claim.

3.4.3 File closed.

3.5 Nelson Sithole (Macadam)

Closed – no evidence as to perpetrators.

3.6 Pro Jack (Macadam)

Closed – no reliable evidence as to perpetrators.

3.7 AM Zulu (Macadam)

No admissible evidence arising from TRC.

3.8 Bult (Macadam)

Offence not serious – assault common.

3.9 Castro Khumalo (Macadam)

Matter was referred to Missing Persons' Task Team.

3.10 Winnie Mandela (Macadam)

No reliable evidence.

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3.11 Ermelo Black Cats (Macadam)

No reliable evidence to prosecute IFP members in Mpumalanga linked to this incident.

3.12 Chadwick (Macadam)

Extradition request withdrawn because of a lack of evidence.

3.13 Anton Lubowski (Macadam)

No evidence.

3.14 Ciskei coup d'etat (Macadam)

No evidence.

3.15 General Basie Smit (Macadam)

No evidence.

3.16 S v Bongani Wana (Mhaga)

3.16.1 This matter relates to the murder of Zolile Sangoni, Zonwabele Mayapl and an MK cadre Gift Mgibe who were killed by Vlakplaas operatives in 1988 in Umtata.

3.16.2 Mr Wana had applied for amnesty but later withdrew his application.

3.16.3 After a careful perusal of the TRC transcript and consulting with all relevant potential witnesses it became clear that there was no sufficient evidence upon which prosecution of Mr Wana can be instituted.

3.16.4 The matter was then closed.

3.17 Representation by Mr SM Mavuya (Mhaga)

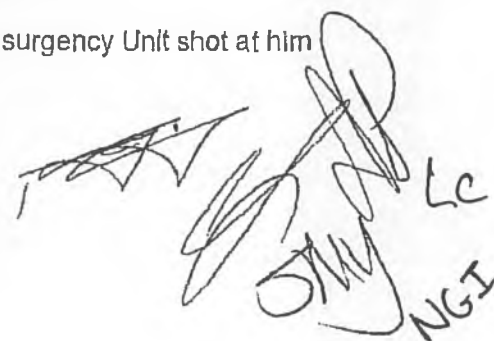
3.17.1 Mr Mavuya claimed to have been an informer during 1984 and was applying for amnesty and requested protection from members of his community.

3.17.2 We however informed him that we have no such authority and that TRC committee has disbanded. His activity did not amount to any criminal offence thus we could not even consider it in terms of prosecution guidelines.

3.18 Representation by Mpho Masemola (Mhaga)

3.18.1 This matter arose from a representation by Mr Masemola, a former ANC who claimed to have been arrested and subsequently tortured in 1985.

3.18.2 He also claimed that in 1991 members of the Counter Insurgency Unit shot at him



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during a march he had organised. We however informed him that in as far as the torture in 1985 the matter has since prescribed and in respect of 1991 shooting there was no evidence to support his allegations as he bases his accusations on assumptions.

3.19 Representation by Mr N Dlamini (Mhaga)

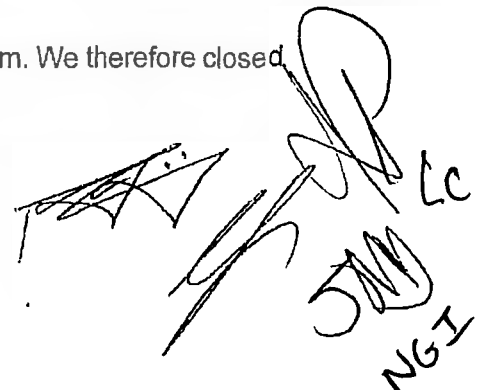
- 3.19.1 Mr Dlamini had made allegations against Swaziland police whom he claimed to have sold out some MK cadres during 1985 to 1986. Unfortunately he could not supply us with any proof apart from a newspaper article from Times of Swaziland which we did not receive.
- 3.19.2 Apart from lack of substance in his allegations the NPA does not have jurisdiction in crime committed in Swaziland. He could not indicate to us his interest in the matter when requested to do so.

3.20 Thabo Armando Sithole (Ackermann)

- 3.20.1 The mother of Thabo requested the NPA to investigate death of his son who died in police custody after being arrested for robbery in 1976.
- 3.20.2 They received a report from Greytown police that he committed suicide by hanging himself.
- 3.20.3 The PCLU could not find any records of the inquest and the police in Greytown police station could not assist us as they could not find any records of Thabo though they remember that he was indeed detained there. The PCLU therefore decided to close the file as there was no further action contemplated

3.21 Murder of Michael Mcetywa (Mhaga)

- 3.21.1 The matter arises from a representation by Zolile Mcetywa who is the son of the deceased who was an ANC chairperson in Pongola and murdered in 1993.
- 3.21.2 A man called Mavuso is currently serving 25 years for the murder.
- 3.21.3 During his amnesty application which was refused, he implicated a number of IFP leaders.
- 3.21.4 The family of the deceased requested the PCLU to consider prosecution of the implicated IFP leaders.
- 3.21.5 After reading various documents and consulting with Mavuso it transpired that he is the only witness who can be used but he demanded that the NPA secures his release before he can testify against the IFP leaders.
- 3.21.6 Apart from his evidence there was nothing to corroborate him. We therefore closed the file as there was no further action contemplated.



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3.22 Smit murders (Dr Pretorius)

3.22.1 Perpetrators all deceased except one suspect who apparently lives in Australia.

3.22.2 Insufficient evidence to apply for extradition.

3.22.3 Matter closed.

3.23 Refusal of amnesty to the President and other high-ranking ANC officials

No evidence that specific crimes had been committed, which attracted personal criminal liability could be found. Consequently, the case was closed.

3.24 IFP Hit Squads (allegations of Luthuli Mbambo and Mkhize)

No reliable evidence upon which to overturn the decision of the DPP: KZN not to prosecute.

3.25 Bombing of Early Learning Centre and other Western Cape CCB activities (Macadam)

The perpetrators were all granted indemnity in terms of the Indemnity Act or in terms of section 204 of the *Criminal Procedure Act, 1977 (Act 51 of 1977)*.

3.26 Plus-minus 80 cases against members of the Liberation Movement (Ackermann)

All these cases were investigated by SAPS and were all closed.

4. POTENTIAL PROSECUTIONS IDENTIFIED BY PCLU4.1 S v Otto & 2 Others (poisoning of Rev. Chikane) (Ackermann)

4.1.1 Indictment already drafted in 2004 – prosecution was put on hold pending approval of guidelines.

4.1.2 In February 2006, NDPP authorized prosecution.

4.1.3 In terms of the guidelines, representations were received from the accused which were considered by the NDPP.

4.1.4 On 19 September 2006, Ackermann was directed to proceed with the prosecution against the accused.

4.1.5 Beginning of October 2006, it was decided to put prosecution on hold, pending the obtaining of a legal opinion on whether the accused have received indemnity or not in terms of the Indemnity Act, 1990.

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4.2 Pebco 3 (Ackermann)

4.2.1 In February 2004, the three accused were charged in the High Court on three counts of kidnapping and murder.

4.2.2 The matter is currently on review.

4.2.3 Next court appearance of accused is August 2007.

4.3 Cradock 4 (Ackermann)

4.3.1 Potential prosecution.

4.3.2 Legal obstacles.

4.3.3 Extensive investigations required.

4.4 S v Botha and Others (kidnapping of Ntombi Kubheka) (Ackermann)

4.4.1 Priscilla Ntombi Kubheka was an MK operative who lived in KwaMashu township in Durban.

4.4.2 She was kidnapped by Askaris, interrogated, tortured and subsequently killed by members of the Security Branch C1 Unit in 1987.

4.4.3 Seven members applied for amnesty for kidnapping, killing and disposing of the body of Kubheka. Only Baker and Radebe received amnesty while Botha, Du Preez, Van der Merwe and Visagie were refused. Docket in possession of PCLU.

4.5 S v Coetzee and Others (Nokuthula Simelane Kidnapping) (Ackermann)

4.5.1 Nokuthula Simelane was an underground MK operative acting as a courier and had been a major communication link between an MK base in Swaziland and SA.

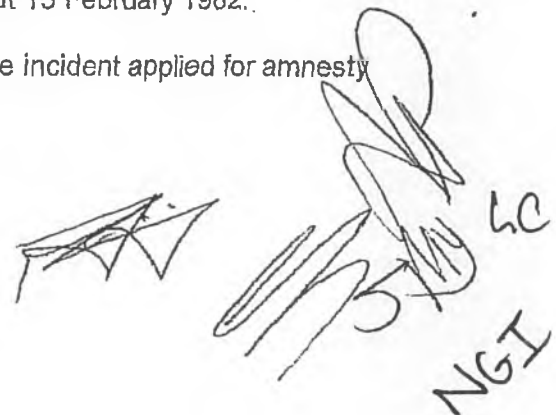
4.5.2 She disappeared in 1983 after being sent on a mission in SA.

4.5.3 Docket in possession of PCLU.

4.6 Cosas Four (Ackermann)

4.6.1 The matter relates to the killing of Eustice Blimbo Madikela, Ntshingo Mataboge, Fanyana Nhlapo and attempted killing of Zandisile Musi (collectively referred to as the Cosas Four) in an explosion at Krugersdorp on or about 15 February 1982.

4.6.2 The four officers and an Askari who were involved in the incident applied for amnesty and were refused.

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4.6.3 The PCLU is not in possession of the docket.

4.7 Murder of Askari Strongman Sambo

The matter had been identified as a potential prosecution case but a decision has already been made by the DPP in Pretoria not to prosecute.

4.8 Matter of SAP General Engelbrecht

The matter had also been identified for prosecution but a decision was made by the DPP in Pretoria not to prosecute General Engelbrecht.

4.9 Death of George Mashele and Lilian Magosha (Mhaga)

4.9.1 This office received representation from Joseph Yende who claims to be the son of Lillian and brother of George.

4.9.2 George and his mother died during a raid by the SAP at his home in July 1992.

4.9.3 According to the police statements and post-mortem reports, the two died as a result of hand grenade explosion.

4.9.4 There is no evidence to rebut that version but Yende claims that there are witnesses who claim to have seen otherwise.

4.9.5 The PCLU is currently arranging consultations with them to verify these allegations. The family was compensated by the TRC for the incident.

4.10 Nicolas Boykie Thlapi (Disappearance in police custody) (Mhaga)

4.10.1 ANC branch in Klerksdorp submitted a memorandum demanding investigation into the disappearance of Boykie in March 1986 after being arrested by police with other members of Ikakgeng Youth Congress.

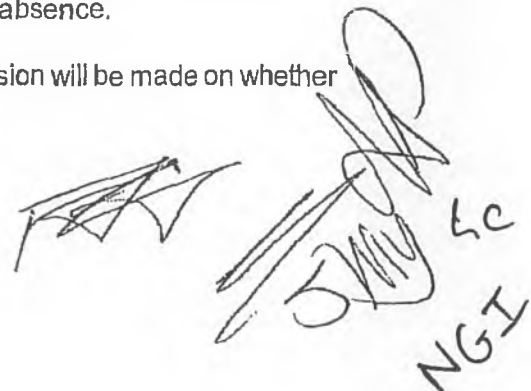
4.10.2 The matter is currently investigated by Capt Mathi of Klerksdorp serious and Violent Crimes Unit.

4.11 Lethlapa Mphahlele (Heidelberg Tavern and St James Massacre)

4.11.1 A representation was received by PCLU from Democratic Alliance and the father of Lynn Fourie who was killed during the attack.

4.11.2 A number of APLA cadres involved in the attack applied for and received amnesty after serving sentences. Mr Mphahlele applied for amnesty but later failed to appear before the commission resulting in his application refused in his absence.

4.11.3 As soon as an investigator is appointed for the case a decision will be made on whether

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to prosecute or not.

4.12 Bathandwa Ndondo (Murder by Vlakplaas operatives in 1985) (Ackermann)

4.12.1 Bathandwa Ndondo was an MK underground cadre operating in Transkei after his expulsion from the University of Transkei for his political involvement.

4.12.2 He was wanted by the Security police in Transkei and the Vlakplaas operatives and subsequently murdered in 1985. We received a representation from Adv Dumisa Ntsebeza requesting prosecution of the police officer who did not receive amnesty.

4.12.3 A decision had been made by the former NDPP not to prosecute him, we are therefore still considering the request as this will require overturning the previous decision if we decide to prosecute.

4.13 Moss Morudu (kidnapping and murder) 1987

4.13.1 Moss Morudu was a Cosas member in Mamelodi and had been politically active during 1986.

4.13.2 He was alleged to be a member of the underground unit of Umkhonto Wesizwe under the command of Obet Masango.

4.13.3 He disappeared from his home during October 1986 after the Security police had been looking for him in connection with a landmine explosion.

4.13.4 He was kidnapped by three security operatives under the pretence that they were MK cadres taking him to exile for military training. He was never seen again by his family.

4.13.5 The three officers who kidnapped Moss received amnesty for kidnapping and others did not apply for amnesty. As soon as an investigator is appointed a decision will be made on whether to prosecute or not.

4.14 Kidnapping and murder of Betty Boom, Mashiya and Selamane

The perpetrators were refused amnesty by the TRC.

4.15 Kidnapping and murder of Mbulelo Ngono

The perpetrators were refused amnesty by the TRC

4.16 Gaberone raid

The perpetrators were refused amnesty by the TRC

4.17 Maseru raid (General Johan van der Merwe implicated)

The perpetrators were refused amnesty by the TRC

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4.18 Samora Machel (Dr Pretorius)

This matter was reopened in 2005.

4.19 Philip Powell (Macadam/Ackermann)

4.19.1 NDPP directed that the PCLU apply for the extradition of Powell.

4.19.2 However, accused indicated that he wished to make representations.

4.19.3 Representations are awaited.

4.20 Victoria Mxenge (Macadam)

Allegations of an amnesty applicant must be investigated.

4.21 George Wauschope (Macadam)

4.21.1 The accused is a former leader of AZAPO. He was indicted to stand trial in the Johannesburg High Court in 1989 on charges of murder and attempted murder.

4.21.2 He absconded and took up exile in Zimbabwe.

4.21.3 The TRC rejected his application for amnesty, because he denied that he had admitted any crime.

4.21.4 In 2003, representations were made on his behalf to Minister Maduna to withdraw the charges.

4.21.5 The DSO evaluated the case in order to enable the Minister to respond.

4.21.6 The victims, who were also the eyewitnesses, were traced and they confirmed their allegations against the accused and also requested that he be prosecuted.

4.21.7 On their version, it would appear that the accused shot the deceased in the mistaken belief that he was a member of COSAS and in the process wounded an innocent bystander.

4.21.8 The former NDPP and the Minister decided that the prosecution should proceed.

4.21.9 The case was referred to the DPP: Johannesburg, who has in turn requested SAPS to conduct investigations.

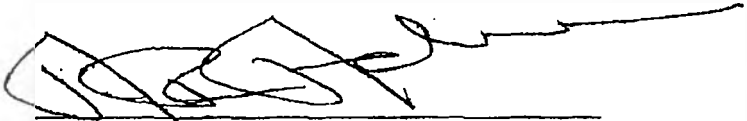
4.21.10 These investigations are in progress.

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4.22 Eugène de Kock

4.22.1 De Kock's legal representative has indicated that he has laid a wide ranging number of charges with SAPS relating to matters which were not put before the TRC or in respect of which false testimony was presented to the TRC.

4.22.2 These allegations must be considered insofar as they are relevant to the TRC processes.



ADV AR ACKERMANN SC



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ANNEXURE "B"

REPUBLIC OF SOUTH AFRICA

INDEMNITY BILL

(Second Draft)

(MINISTER FOR JUSTICE AND CONSTITUTIONAL DEVELOPMENT)

[B - 2003]

REPUBLIEK VAN SUID-AFRIKA

WETSONTWERP OP VRYWARING

(Tweede Konsep)

(MINISTER VIR JUSTISIE EN STAATKUNIDGE ONTWIKKELING)

[W - 2003]


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B I L L

To provide for the granting of indemnity by the President to persons who make full disclosure of all relevant facts relating to acts associated with a political objective committed in the course of the conflicts of the past during the period from 1 March 1960 to the cut-off date; for the said purpose to establish a Committee on Indemnity to consider and investigate applications for indemnity and to make recommendations to the President; and to provide for matters connected therewith.

PREAMBLE

SINCE the Constitution of the Republic of South Africa, 1993 (Act No. 200 of 1993), provided for a law to be adopted by Parliament in terms of which amnesty should be granted in respect of acts, omissions and offences associated with political objectives committed in the course of the conflicts of the past;

AND SINCE that law was adopted and the mechanisms and procedures established by that law have run their course and have been concluded;

AND SINCE there remains a need for reconciliation and reconstruction as contemplated in that Constitution;

TERMS OF REFERENCE OF THE AMNESTY TASK TEAM

The Task Team is to consider and report on the following:

1. What criteria does the National Prosecuting Authority apply in deciding on current and impending prosecution of cases flowing from the conflict of the past.
2. The formulation of guidelines that will inform current, impending and future prosecution of cases flowing from the conflict of the past.
3. Bearing the above-mentioned guidelines in mind, whether legislative enactments are required.
4. Whether any of the two Bills that have already been formulated can be proceeded with, bearing in mind the views of our intelligence agencies.

DRAFT

Leon Radman
0824582621

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AMNESTY TASK TEAM

FURTHER REPORT

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FURTHER REPORT: AMNESTY TASK TEAM

1. Background Information

1.1 On 3 March 2004 the Amnesty Task Team submitted a Report to a Heads of Department Forum for consideration.

1.2 The Heads of Department discussed the 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 indicated that they prefer the Task Team's recommendations relating to the establishment of a Departmental Task Team (hereinafter referred to as Option 1). They, however, requested the Task Team to give further consideration to the following aspects relating to Option 1:

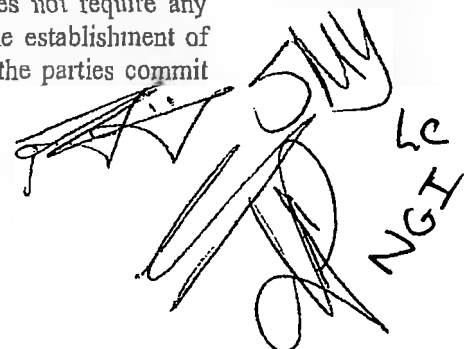
- (a) Parallel structures in order to assist the proposed Departmental Task Team, are not acceptable. In performing its functions the proposed Task Team must make use of existing structures.
- (b) Consider whether there is a way in which private prosecution and civil litigation can be eliminated if the National Director of Public Prosecutions decides not to prosecute? Investigate the possibility and desirability of legislation, if required.
- (c) The proposed Task Team should work under the direct supervision of an Inter-Ministerial Committee.
- (d) It is important that the proposed Task Team, the Inter-Ministerial Committee and the National Director, in performing their functions and reaching decisions, should take national interest into account.
- (e) Advise the Forum on whether a person who is aggrieved by a decision of the National Director may approach the International Criminal Court.
- (f) Advise the Forum on a time line for the completion of the work of the proposed Task Team. Twelve months was mentioned as a possibility.

2. Discussion

2.1 The establishment of a Departmental Task Team

Before discussing the above aspects, the Task Team once again considered the question whether legislation is required to establish the proposed Departmental Task Team. The Task Team met with two senior State Law Advisers of the Office of the Chief State Law Adviser. They confirmed the Task Team's conclusion in paragraph 3.4 of its Report, namely, that the recommendations pertaining to the establishment of a Departmental Task Team is an administrative process and does not require any legislation. They, however, recommended that the process and the establishment of the proposed Task Team be put into writing and suggested that the parties commit

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themselves to the process in a Memorandum of Understanding. The Task Team supports this proposal of the State Law Advisers

2.2 Ad paragraph 1.2(a): The involvement of existing structures

The Task Team supports this proposal of the Forum. However, in order to ensure the effective cooperation of such existing structures it is important that the existing structures, prior to the implementation of the proposed structure, commit themselves and give their full support and cooperation to the proposed process. It is proposed that such existing structures should be parties to the Memorandum of Understanding contemplated in paragraph 2.1 *supra*.

2.3 Ad paragraph 1.2(b): Consider the possibility and desirability of eliminating private prosecution and civil litigation in cases of no prosecution

2.3.1 The question whether it is possible or desirable to eliminate private prosecution and civil litigation elicited much debate within the Task Team. The Task Team obtained a written legal opinion from Adv JH Bruwer (attached hereto as Annexure "A") and also discussed the question with the two State Law Advisers referred to in paragraph 2.1 above. They are all in agreement that any legislation eliminating private prosecution and civil litigation will at least affect a person's right to equality (section 9(1) of the Constitution) and the right of access to courts (section 34). They also indicated that it is doubtful whether the motivation for such legislation would meet the requirements of section 36 (limitation clause) of the Constitution, and in case of the enactment of such legislation, an amendment of the Constitution would be required.

2.3.2 The State Law Advisers referred to in paragraph 2.1 above, indicated that they would advise against the enactment of any further legislation, since it would limit the rights of the victims or other interested parties. They further agreed with the Task Team that the proposed legislation, eliminating private prosecution and civil litigation, might be seen as a further amnesty process, which would be inconsistent with the Heads of the Department's view that Option 2 (a further amnesty process) is not an option at all.

2.3.3 In the final instance we wish to draw the Forum's attention to an article in *Rapport* of 7 March 2004 relating to the question of amnesty. During an interview with Archbishop Desmond Tutu, he expressed the view that every person who has not received amnesty through the TRC-process may be prosecuted and any new agreement to stop prosecutions is undesirable, since it will, among others, have the effect of negating the amnesty process of the TRC.

2.3.4 In the light of the above, the Task Team is of the view that private prosecution and civil litigation can only be eliminated by way of legislation and a Constitutional amendment. The Task Team is of the view that such a step would not be desirable.

2.4 Ad paragraph 2.1(c): The establishment of an Inter-Ministerial Committee

The Task Team supports this proposal. However, it wishes to point out that the State Law Advisers are of the view that the establishment of such a further structure may constitute a cumbersome process and increase the possibility of conflicting views

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between the various role-players and structures. Furthermore, they pointed out that the process 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.

2.5 Ad paragraph 2.1(d): National interest should be the paramount objective

The Task Team wholeheartedly agrees with this viewpoint of the Forum.

2.6 Ad paragraph 2.1(e): The involvement of the International Criminal Court

This question was also referred to Adv JH Bruwer for his advice. In paragraph 3 of Annexure "A" he comes to the conclusion that, taking into account the provisions of section 5(1), read with section 5(6) and the definitions of the relevant crimes of the Rome Statute of the International Criminal Court Act, 2002 (Act No. 27 of 2002), "it is not inconceivable that a complainant who is prohibited by legislation contemplated in paragraph 1(a) from instituting a private prosecution in the national court may approach the International Criminal Court for relief". The Task Team agrees with this viewpoint.

2.7 Ad paragraph 2.1(e): Setting a time line for the Task Team to complete its work

The Task Team is hesitant to propose a specific time line at the stage when the process is to be announced. The setting of a time line in respect of the TRC process led to expectations and the subsequent extension of the TRC process, although justified and unavoidable, led to fierce criticism. It is 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.

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MINISTRY: JUSTICE AND CONSTITUTIONAL DEVELOPMENT
REPUBLIC OF SOUTH AFRICA

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Adv Vusi Pikoli
National Director of Public Prosecutions
Private Bag X752
PRETORIA
0001

8 February 2007

Dear Adv Pikoli

RE: TRC MATTERS

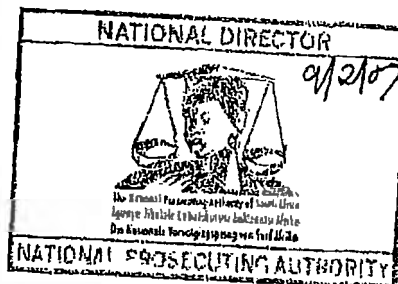
Our discussion in the above matter on Tuesday 6 February 2007 refers.

I must advise you at the outset that the media articles alleging that the National Prosecuting Authority will go ahead with prosecutions have caught me by surprise. In our discussions you briefly mentioned to me that the NPA will not be going ahead with the prosecutions. As you had undertaken to advise me in writing, I will appreciate it if you could advise me urgently on the matter so that there can be certainty.

I trust that you find the above in order.

With warm regards


MRS B S MABANDLA
MINISTER





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

SECRET INTERNAL MEMORANDUM	
TO	MS BS MABANDLA, MP MINISTER FOR JUSTICE AND CONSTITUTIONAL DEVELOPMENT
FROM	ADV VP PIKOLI NATIONAL DIRECTOR OF PUBLIC PROSECUTIONS
SUBJECT	PROSECUTION OF OFFENCES EMANATING FROM CONFLICTS OF THE PAST: INTERPRETATION OF PROSECUTION POLICY AND GUIDELINES
REF NO.	3/2P (PCLU)
DATE	15 FEBRUARY 2007

1. PURPOSE OF MEMORANDUM

The purpose of this memorandum is to—

- (a) inform the Minister about the National Prosecuting Authority's (NPA) understanding and interpretation of the policy and guidelines relating to the prosecution of offences emanating from conflicts of the past which were committed on or before 11 May 1994;
- (b) inform the Minister about the problems the NPA is experiencing in the implementation of this policy and guidelines; and

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(b) propose a way forward.

2. BACKGROUND INFORMATION

2.1 Background relating to initial proposals

2.1.1 On 23 February 2004, a Director-General's Forum, under the chairpersonship of the former Director-General: Justice and Constitutional Development (Adv Vusi Pikoli) appointed a Task Team to consider and report on, *"the nature of the 'arrangements that are standard in the normal execution of justice, and which are accommodated in our legislation' that the NPA and intelligence agencies may come up with in assisting persons who divulge information relating to offences committed during the conflicts of the past."*

2.1.2 In its deliberations, the Task Team took cognisance of the fact that in terms of section 179(1) and (2) of the Constitution, the NPA is an independent constitutional institution and the National Director has full discretion on whether a particular prosecution should or should not be instituted. The Task Team's recommendations should therefore be consistent with this constitutional requirement.

2.1.3 In its Report, the Task Team recommended the establishment of a Departmental Task Team comprising members of the following Departments or institutions:

- The Department of Justice and Constitutional Development
- The Intelligence Agencies (NIA)
- The South African National Defence Force
- The South African Police Service (SAPS)
- Correctional Services
- The National Prosecuting Authority
- Office of the President

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2.1.4 It was proposed that the functions of the proposed Task Team should, among others, be the following:

"(a) *Before the institution of any criminal proceedings for an offence committed during the conflicts of the past, to consider the advisability of the institution of such criminal proceedings and make recommendations to the National Director of Public Prosecutions in this regard.*

(b) *To consider applications received from convicted persons alleging that they had been convicted of political offences committed during the conflicts of the past and to make recommendations to—*

(i) *the President, through the Minister for Justice and Constitutional Development, to pardon the alleged offender in terms of section 84(1)(k) of the Constitution;*

(ii) *the Commissioner of Correctional Services regarding the possible release of the applicant on parole or the conversion of the sentence to correctional supervision." (Emphasis added)*

2.2 Background relating to Amended Prosecution Policy

2.2.1 As the Minister is aware, the abovementioned recommendations were not implemented, since many held the view that the proposed functions of the Task Team could be unconstitutional in view of the provisions of section 179 of the Constitution. Subsequently, Government decided that it was important to deal with these matters on a uniform basis in terms of a specifically defined prosecutorial policy and directives.

2.2.2 Therefore, it was proposed that the National Director, with the concurrence of the Minister, should issue amended Prosecutorial Policy and Directives in terms of section 179(5)(a) of the Constitution, read with section 21 of the National Prosecuting Authority Act, 1998 (Act No. 32 of 1998) (NPA Act), and that such

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- A signature below it.
- The letters "LC" and "NGI" written vertically to the right.

Policy and Directives should be submitted to Parliament in terms of section 21(2) of the NPA Act.

2.2.3 Following discussions with all the relevant stakeholders and a submission to Cabinet, the Prosecution Policy and Directives relating to the prosecution of offences emanating from conflicts of the past which were committed on or before 11 May 1994 (hereinafter referred to as the "Amended Prosecution Policy"), were approved and came into operation on 1 December 2005. The Amended Prosecution Policy was also duly tabled in Parliament and is binding on the prosecuting authority.

3. IMPORTANT FEATURES OF AMENDED PROSECUTION POLICY

3.1 For purposes of this memorandum, it is important to refer the Minister to the under-mentioned features of the Amended Prosecution Policy:¹

- (a) The Amended Prosecution Policy emanates from and is based on the statement of President Thabo Mbeki to the National Houses of Parliament and the Nation, on 15 April 2003, when he gave Government's response to the final report of the Truth and Reconciliation Commission (TRC).
- (b) The President, among others, stated that the question as to the prosecution or not of persons, who did not take part in the TRC process, is left in the hands of the National Prosecuting Authority (NPA) as is normal practice.²
- (c) The President further stated that as part of the normal legal processes and in the national interest, the NPA, working with the Intelligence Agencies, will be accessible to those persons who are prepared to unearth the truth of the conflicts of the past and who wish to enter into agreements that are standard in the normal execution of justice and the prosecuting mandate, and are accommodated in our legislation.³
- (d) It is important to note that the President made it clear that—

¹ Attached hereto as Annexure "A".

² See paragraph A.1(b) of Appendix A to Amended Prosecution Policy.

³ See paragraph A.1(c) and (d) of Appendix A.

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- (i) the decision to be taken by the NPA (whether to prosecute or not) should be in accordance with the normal legal process;
- (ii) in order to reach a well-considered decision, the NPA should work together with the Intelligence Agencies, which include the NIA and the SAPS;
- (iii) the agreements entered into between the NPA and those persons who are prepared to unearth the truth of the conflicts of the past, should be in accordance with standard and normal execution of justice;
- (iv) such agreements should be in accordance with the NPA's prosecution mandate; and
- (v) such agreements should be in accordance with existing legislation.

3.2 Furthermore, it is important to note that the Amended Prosecution Policy expressly states that the prosecuting policy, directives and guidelines are required to reflect and attach due weight to, among others, the following:

- (a) The *dicta* of the Constitutional Court to the effect that the NPA represents the community and is under an international obligation to prosecute crimes of apartheid. (See *The State v Wouter Basson CCT 30/03*).⁴
- (b) The constitutional obligation on the NPA to exercise its functions without fear, favour or prejudice (section 179 of the Constitution).
- (c) The legal obligations placed on the NPA in terms of its enabling legislation, in particular the provisions relating to the formulation of prosecuting criteria and the right of persons affected by decisions of the NPA to make representations, and for them to be dealt with.
- (d) The existing prosecuting policy and general directives or guidelines issued by the National Director to assist prosecutors in arriving at a decision to prosecute or not.

⁴ See paragraph A.2 (h) to (k) of Appendix A.

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3.3 In respect of procedural arrangements, which must be adhered to in the prosecution process, the Amended Prosecution Policy provides, among others, in particular that—

- (a) the Priority Crimes Litigation Unit (PCLU) in the Office of the National Director shall be responsible for overseeing investigations and instituting prosecutions in all such matters;
- (b) 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:
 - (i) The National Intelligence Agency.
 - (ii) The Detective Division of the South African Police Service.
 - (iii) The Department of Justice & Constitutional Development.
 - (iv) The Directorate of Special Operations.

3.4 From the above, it is clear that in relation to the relevant offences—

- (a) the decision whether to prosecute or not vests in the prosecuting authority and in terms of the Amended Prosecution Policy, in particular, the National Director;
- (b) such decision must be exercised in accordance with the Constitution and existing legislation;
- (c) the abovementioned State Departments only have a role to play insofar as they must assist the NPA in the investigation process and the gathering of information so as to assist the NPA in reaching a well-considered decision whether to prosecute or not.

4. PROBLEMS RELATING TO IMPLEMENTATION OF AMENDED PROSECUTION POLICY

4.1 Since the coming into operation of the Amended Prosecution Policy, the NPA has experienced various problems relating to the implementation thereof. These problems are hindering and obstructing the NPA in fulfilling its constitutional

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mandate, namely, to institute criminal proceedings without fear, favour or prejudice. On the one hand, the NPA is experiencing problems investigating cases to ascertain whether there is sufficient and admissible evidence to provide a reasonable prospect of a successful prosecution, since the SAPS and NIA had not made dedicated members available to assist the NPA in this regard. This was subsequently dealt with by the setting up of a "Task Team". On the other, the NPA is now experiencing problems relating to the interpretation of the role of the other State Departments in the process. As indicated hereunder, it seems as if the SAPS and NIA hold the view that the proposals relating to the original proposed Task Team (that were rejected by Government), must be implemented and that such Task Team should play a role in the decision-making process.

- 4.2 During the middle of 2006, a meeting was held at the Office of the Presidency to attend to the abovementioned problems. The National Commissioner, the National Director, the Directors-General of Justice and NIA, and Mr Jafta of the Presidency, attended this meeting. It was agreed that a Working Committee should be established. This recommendation was taken to the Ministers in the Cluster. At a subsequent meeting attended by the Minister for Safety and Security, the Minister of Social Development and Minister Thoko Didiza (as Acting Minister for Justice and Constitutional Development), it was agreed that such Working Committee (now referred to as a Task Team), should be established to assist the NPA.
- 4.3 Following the above agreement, the National Director called a meeting at the Office of the NPA. The Heads of Department as well as representatives of all relevant State Departments to serve on the Task Team were invited. All Departments were represented at this meeting. At this meeting—
- (a) the terms of reference of the Task Team were explained and agreed to;
 - (b) it was agreed that Dr Silas Ramaite (Deputy National Director of Public Prosecutions) would chair the meetings of the Task Team.

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Furthermore, on an issue raised by the representative of NIA, the National Director was explicit in explaining that the mandate of the Task Team would not entail making any recommendations on a decision whether to prosecute or not to prosecute and that the National Director would not be dependent on receiving such a recommendation before he could make a decision. The Task Team should be responsible for overseeing that the NPA obtain the necessary information or to give inputs so as to assist and enable the National Director to reach a well-considered decision whether to institute criminal proceedings or not. Furthermore, the Task Team should deal with all relevant matters identified by the PCLU and the SAPS.

4.4.1 Subsequently, on 6 December 2006, the Office of the PCLU received the e-mail marked "B" from Dr PC Jacobs of the SAPS. Furthermore, the National Director received letters from the National Commissioner and the Director-General: NIA, dated 6 February 2007 and 8 February 2007, respectively. (Attached hereto as Annexures "C" and "D", respectively)

4.4.2 According to Dr Jacobs, his understanding is that the Task Team must submit a final recommendation to a Committee of Directors-General in respect of each case. He also points out that the National Commissioner is of the view that this procedure should be followed in respect of each investigation that has been finalised. However, he does not elaborate on the role of the Committee of Directors-General.

4.4.3 In his letter dated 6 February 2007, the National Commissioner points out that he has been briefed regarding the meeting of the "Task Team set up in terms of the Cabinet guidelines on the outstanding Truth and Reconciliation Commission (TRC) matters". According to the National Commissioner his understanding is that the officials designated on the Task Team "will provide recommendations to the Directors-General who will, as a collective, advise the National Prosecuting Authority as the decision maker of prosecutions". The Director-General: NIA

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indicates that he had a discussion with his representative on the Task Team and he received a copy of the National Commissioner's letter. He concurs with the views of the National Commissioner.

4.5 In the first instance, it is important to note that as far as the NPA is concerned, this Task Team was not set up in terms of the Amended Prosecution Policy, which include the guidelines on TRC matters, but in terms of internal agreement between the relevant stakeholders. Furthermore, the NPA is not aware of any agreement or arrangement in terms of which the Task Team must submit a report to a Committee of Directors-General and which Committee must advise the NPA regarding prosecution decisions. Reading the e-mail of Dr Jacobs and the letter of the National Commissioner in context, it seems as if the above process is a proposal by the National Commissioner and not an agreement reached by the Task Team. For example, Dr Jacobs points out that—

- the National Commissioner is of the opinion that it must be established what disclosures were made...";
- "the National Commissioner is of the opinion that such process need to be followed in each case...".

In the same vein, the National Commissioner writes as follows:

- "I have insisted that the complainant be consulted ...on the basis that the Directors-General will have a opportunity to provide input before a decision on prosecution is taken."
- "In my view a comprehensive report...should be discussed by the Directors-General".

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- "Although I do not insist on a meeting of the Directors-General after each meeting of our officials, I deem it necessary that the substantive reports and recommendations of the officials should be discussed by the Directors-General before a decision is made." (Emphasis added)

4.6 The NPA cannot agree to the above proposal. The effect thereof might be that the National Director would be obliged (as is suggested by the National Commissioner) to wait for the finalisation of the proposed process before he may make a decision whether to prosecute or not. If the Task Team or the Committee of Directors-General, in spite of a "reasonable prospect of a successful prosecution", unnecessarily delays the process, the National Director would be prevented from complying with the prosecuting authority's constitutional obligation. Therefore, such a process would be unconstitutional.

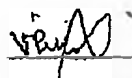
5. CONCLUSION AND WAY FORWARD

5.1 There is clearly a misunderstanding regarding the role of the Task Team and the role of the relevant State Departments referred to in the Amended Prosecution Policy. In accordance with the approved Amended Prosecution Policy⁵, the NPA is of the view that the duty of the Task Team or the relevant State Departments is to assist the NPA "in the execution of its duties". However, nothing prevents such a Task Team or Departments (whether individually or collectively) to make recommendations to the National Director, provided that the National Director should never be in a position where his constitutional duty is dependent on the recommendation of such a Task Team or relevant Department. Such a procedure would be unconstitutional.

⁵ See paragraph B.6 of Appendix A.

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- 5.2 I have now reached a point where I honestly believe that there is improper interference with my work and that I am hindered and/or obstructed from carrying out my functions on this particular matter. Legally I have reached a dead end.
- 5.3 It would appear that there is a general expectation on the part of the Department of Justice and Constitutional Development, SAPS and NIA that there will be no prosecutions and that I must play along. My conscience and oath of office that I took, does not allow that.
- 5.4 Based on the above, I cannot proceed further with these TRC matters in accordance with the "normal legal processes" and "prosecuting mandate" of the NPA, as originally envisaged by Government. Therefore, and in view of the fact that the NPA prosecutes on behalf of the State, I am awaiting Government's direction on this matter.

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Adv VP Pikoli
National Director of
Public Prosecutions

Ms BS Mabandla, MP
Minister for Justice and
Constitutional Development


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Report for the Office of the National Director of Public Prosecutions

Since the meeting with the above office in early February 1999, the Commission has begun a process of establishing mechanisms for identifying potential cases. The following is a report on progress thus far.

A: Categories of violations

In discussing possible prosecutions, we have identified a range of categories and/or issues around which we believe prosecutions can be considered. We would recommend that there be some discussion around these categories to determine viability as well as prioritisation.

1. Torture:

Much of the Commission's data on torture is to be found in HRV statements. However, the 'private' nature of torture and absence of witnesses frequently makes corroboration difficult. Bearing this in mind, the Commission has begun to draw up an initial list of all security force members implicated in torturing more than three victims. This list is extensive and includes many rural cases.

Another possible approach is to look at amnesty applications and hearings where torture was conceded and to identify the names of co-perpetrators who have not applied for amnesty. Such a list could then be checked against our HRV statements for further evidence. This figure would considerably reduce the potential number of cases. It would however be more difficult to extract as few security force members applied specifically for torture. Rather, evidence of torture often only emerges during amnesty hearings and is thus embedded in transcripts rather than on the TRC database.

2. Post-Caprivi hitsquads:

The Commission has a fairly rich seam of data and information on this category. It is also one which we believe would be relatively easy to proceed on immediately given that at least one case was previously prepared by the ITU but not prosecuted [also see KZN report].

3. Cases involving a cover-up by the security forces:

There are a number of potential cases in KZN including the cover-up by senior policemen of the Trust Feeds massacre. Another potential case would be the cover up of the Ribeiro killings by senior military personnel, but this may already be an AG case.

4. Destruction of Documents

The Commission conducted a lengthy enquiry and investigation, assisted by the National Archives and the Human Rights Commission, into the destruction of literally scores of tons of documentation relating to state security in the early 1990s. Much of this destruction, authorised by the former government and overseen by the National Intelligence Service, clearly constituted unlawful destruction. In the course of this investigation, much documentation was collected and an overall report was drawn up, as well as comprehensive reports dealing with the SAP, the SADF and the NIS. Verne

Harris of the National Archives was centrally involved in this investigation and would be prepared to provide assistance.

5. **Gun-running**

The Commission conducted an investigation into gun-running and received several amnesty applications in this regard. While the investigation was inconclusive, a comprehensive report and other documentation is available. This area is seen to be significant in its capacity to begin to unravel networks involved in fomenting violence in the 1990s.

6. **Assassinations**

The Commission has received amnesty applications in respect of several of the high profile assassinations. Not all implicated persons applied in all of these cases and thus possible prosecutions could arise. In other cases such as the assassination of Joe Gqabi in Zimbabwe and Victoria Mxenge, no amnesty applications were received. We are currently assembling information on the Gqabi case.

7. **Winnie Madikizela-Mandela**

Extensive documentation has been collected around Mrs Madikizela-Mandela and the MUFC and a comprehensive investigative report was compiled. [We need to establish whether this is currently being pursued by the AG's office]

8. **Samora Machel**

Also a possible AG matter.

9. **Target Identification**

The Commission investigated the process whereby the security forces identified targets the purpose of which included, inter alia, physical elimination. This included a range of structures, sometimes involving more than one arm of the security forces/ intelligence structures. Such evidence is primarily contained in amnesty applications and section 29 hearings. While there was insufficient time to conclude this investigation, there is evidence regarding the establishment in the mid-1980s of a target identification centre within, firstly military intelligence and subsequently the project section of Special Forces.

However, much of the evidence given to the TRC, while acknowledging the existence and purpose of such target identification groups, refers to planned but subsequently cancelled operations. In other words the gaps in our evidence are in directly linking specific processes of target identification with specific killings. One possible exception would be cross-border raids which are discussed below.

10. **Cross-border raids**

While difficulties clearly exist in bringing charges for the execution of cross-border activities, there are no doubt possibilities of conspiracy to murder charges relating to the planning of such operations, which invariably took place on SA soil.

The Commission did receive several amnesty applications relating to cross border activities from former Security Branch members, but virtually none from the SADF, although SADF members are cited in a number of the Security Branch applications.

Clearly, the possibilities of extradition to a large degree influenced the willingness to disclose involvement in such activities and would presumably be a factor to be considered.

B: Other Regional Cases

In addition to the above, we have asked personnel in regions to identify possible cases for prosecution. This process is logistically difficult owing to the fact that regional offices have closed and documentation has been transferred to the national office in Cape Town. Further, regional staff except for those servicing the Amnesty Committee are no longer in the employ of the Commission. Despite this, we have received some feedback:

1. KZN

The KZN region has begun to identify cases where people who did not apply for amnesty have been implicated. The KZN region also has a number of HRV statements implicating perpetrators where such information was not previously disclosed during investigations due to perceived police partiality.

This is a mammoth task and needs to be weighed up in relation to:

- The likely unwillingness, given the current climate in KZN, of amnesty applicants to testify against their leadership
- The capacity of Chris McAdam's office to deal with new cases considering his involvement in Richmond;
- The mooted Commission of Inquiry into political violence in KZN.

Nonetheless, some preliminary work has been done and a report is attached.

2. Eastern Cape

A former researcher in this region has been approached to identify potential cases. Her report is attached and deals primarily with cases in East London and the western part of the Eastern Cape. A further report is awaited dealing with the eastern side of the Eastern Cape (primarily Ciskei and Transkei regions).

It should be noted that the list of cases drawn up here differs from the KZN one in the sense that it takes as its starting point HRV statements where specific concerns were raised by deponents regarding the failure of the criminal justice system in investigating and successfully prosecuting such cases. Given pressure on resources, a policy of low level corroboration was adopted for most HRV cases and thus most of such cases were not comprehensively investigated by the Commission. This would mean that such cases would still require extensive ground work and investigation. However, such cases may well be important in ensuring that justice is seen to be done in cases that are not well known and do not involve profiled people.

There is a need for some discussion around such issues before proceeding as a different and lengthier modus operandi is required to identify such cases more broadly.

3. Western Cape

A very preliminary list is attached.

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4. Gauteng

Former and current investigators have similarly been approached and a report is awaited.

5. Free State

The former Orange Free State fell under the Commission's KZN office. There are a number of potential cases here, but given the pressure on time, KZN personnel have requested assurance that some capacity exists (or will be established) to deal with such cases before they proceed.

C: Section 30 notices and S29 investigative enquiries

A preliminary spreadsheet of section 30 notices sent out is available. This list only reflects Section 30 notices sent out during the preparation of the TRC Report and does not include all S30 notices arising from individual HRV statements or those sent out by the Amnesty Committee following an amnesty hearing.

Also available is a table of all Section 29 investigative enquiries that were held, reflecting person, issue and whether amnesty applications were received.

D: Analysis of indemnity and amnesty applicants

We are also currently engaged in a process of identifying whether perpetrators implicated either via HRV statements or in amnesty applications previously applied for indemnity. In this regard our IT department has devised a programme whereby lists of those on the various indemnity lists in the 1990 to 1994 period have been correlated with amnesty data. This spreadsheet is currently being analysed. The IT department are engaged in a similar exercise in relation to HRV data.

E: Further issues

1. It needs to be emphasised that the Commission has very limited resources at present. The Commission itself is in suspension; the remaining HRV component consists of one Commissioner and one researcher; regional offices have closed and documentation transferred to the national office; and the Amnesty Committee is hard-pressed to complete the amnesty process on schedule.

Further, it needs to be understood that our HRV material is currently archived according to victims and not perpetrators. Similarly, amnesty material is filed according to applicant and information regarding co-perpetrators is thus potentially scattered across numerous files or embedded in transcripts of amnesty hearings. While our database provides an initial tool for identifying cases to which individual perpetrators may be linked, the task of retrieving all statements and documentation is a lengthy and painstaking one.

Given this, it is suggested that a fairly limited focus is worked out that would enable existing staff to begin feeding cases/ material through, without engaging in what would virtually mean copying the entire TRC archive.

We further propose that in determining a more limited focus, the resources of the TRC Task of the NDPP is taken into consideration. Thus, for example, if the current capacity in KZN is already stretched, it is questionable as to how productive it would be to involve

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already over-burdened TRC staff in assembling numerous dossiers around KZN cases.

We recommend that a draft plan or framework that prioritises specific categories or regions is drawn up.

2. In view of the extremely limited resources, a line of communication needs to be developed that prevents potential duplication of tasks. Thus for instance, the request forwarded to Advocate Coetzee on 4 March 1999 in many respects duplicates work arising from the meeting in Cape Town.
3. We still urgently require a list of cases already being pursued by the various AG offices.

7 March 1999

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Office of the Head
Special National Projects
Directorate of Special Operations
HEADQUARTERS

INTERNAL MEMORANDUM

TO: ACTING HEAD, DSO

FROM: HEAD: SNPU REF: A/INV/TRC

DATE: 10 FEBRUARY 2003

RE: BREAKDOWN OF TRC INVESTIGATIONS

SCORPIONS

P. O. Box 752,
PRETORIA
0001

VGM Building
Hartley St.
Weavind Park
0001
Pretoria
South Africa

Tel: (012) 845 6432

E-mail:
cmacadam@npa.gov.za

TRC INVESTIGATIONS

1/02

MAMELODI 10 AND OTHER CASES - CHARGE: MURDER

Referral

Request by DNDPP that the DSO honour an undertaking given to the Mamelodi community that the bodies of the deceased would be located in return for co-operation by the community in the investigations.

Nature of Case

Security forces targeted the comrades in Mamelodi. Three separate murders were committed in different parts of the country. The TRC held separate amnesty hearings for different groups of perpetrators causing confusion as to the identities of all the perpetrators.

Nature of Investigators

(i) Location of original police dockets and mortuary related documents;

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P. O. Box 752,
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 Weavind Park
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Tel: (012) 845 6474

Office of the Head
 Priority Crimes Litigation Unit
 VGM Building
 PRETORIA

INTERNAL MEMORANDUM

TO : ADV VP PIKOLI
 NATIONAL DIRECTOR OF PUBLIC
 PROSECUTIONS

FROM : ADV AR ACKERMANN
 SPECIAL DIRECTOR OF PUBLIC
 PROSECUTIONS AND HEAD: PRIORITY CRIMES
 LITIGATION UNIT

DATE : 16 MAY 2006

SUBJECT : NATIONAL INTELLIGENCE AGENCY INCIDENTS

Dear Adv Pikoli

1. I confirm that you advised me that at a recent meeting, the National Commissioner made certain allegations against myself, my involvement in cases arising from the TRC process and expressed a reluctance on his part to have SAPS cooperate with the PCLU. I further confirm that you asked me for the basis of the acrimony which exists between myself and the National Commissioner.
2. The purpose of this memo is to respond to the above allegations.

Number of copies: 2

Copy 1: Adv VP Pikoli

Copy 2: PCLU File

TRC COMMITTEE MEMBERS				
NAME	DEPT.	CONTACT No.	EMAIL	
Anton Ackermann	NPA (PCLU)	012-845 6474	arackermann@npa.gov.za	
Mthunzi Mhaga	NPA (PCLU)	012-845 6398	mcmhaga@npa.gov.za	
Dr S Ramaite	NPA (NSSD)	012-845 6765	msramaite@npa.gov.za	Convenor
Marlyn Raswiswi	Justice	012-315 1730 0826600463		
Yvonne Mabule	NIA	012-427 4498 0827872853	yvonnem@nia.gov.za	
Philip Jacobs	SAPS	012-395 0063	jacobspe@saps.gov.za	
Josias Lekalakala	SAPS	0825745870	mjlekalakal@telkomsa.net	
Brian Koopedi	NIA	012-4262602 0824168357	bkoopedi@nia.gov.za	
AT Mngwengwe	NPA(DSO)	012-845 6470	atmngwengwe@npa.gov.za	
NVE Ngidi	NPA(DSO)	012-845 6401	nvengidi@npa.gov.za	
		<u>PRINCIPALS</u>		
Adv Vusi Pikoli	NPA(NDPP)	012-845 6758		
Kalyani Pillay	NPA	012-845 6749		
Loyiso Jafta	Presidency	012-300 5458		
M Simelane	DG justice	012-315 1730		
ME Manzini	NIA			

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Tel: (012) 845 6474

Cell: 082 495 4599

INTERNAL MEMORANDUM

TO : ADV LEONARD McCARTHY
DIRECTORATE OF SPECIAL OPERATIONS

FROM : ADV AR ACKERMANN
PRIORITY CRIMES LITIGATION UNIT

DATE : 27 SEPTEMBER 2007

SUBJECT : PROJECT GNOME

Dear Leonard

1. I shall be brief.
2. I am adamant and 100% sure that the figure "6" as reflect in the handwriting expert's document, FDC 0095/ (Annexure "E") is not in my handwriting.
3. I am of the view that you do not need a handwriting expert establish that fact.
4. Furthermore, it is important to note that the handwriti expert made no such finding and merely remarked:

"...with no alteration to the last figure '6'."
5. Within minutes after I had received the said memorandu from Commissioner Jacobs, I phoned him and informed hi that the memorandum was forged and requested him furnish me with the original. To date, I have not had sight the original.
6. It is incomprehensible that somebody will post-date by thre

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Office of the H
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5. Within minutes after I had received the said memorandu from Commissioner Jacobs, I phoned him and informed hi that the memorandum was forged and requested him furnish me with the original. To date, I have not had sight the original.
6. It is incomprehensible that somebody will post-date by thre

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

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

Regards



AR ACKERMANN

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

HELD AT:

Sci-Bono Discovery Centre, Corner of Miriam Makeba & Helen Joseph Street
Newtown, Johannesburg

BEFORE:

COMMISSIONERS:

The Honourable Ms Justice Sisi Khampepe (Judge Ret.) – Chairperson
The Honourable Mr Justice Frans Diale Kgomo (Judge President Ret.)
Adv Andrea Gabriel (SC)

EVIDENCE LEADERS:

Adv Ishmael Semanya (SC)
Adv Vas Soni (SC)
Adv Fana Nalane (SC)
Adv Nompumelelo Seme
Ms Baitseng Rangata

REPRESENTATIVES

Adv Gwala (SC) – NPA representative
Adv Yanela Ntloko- NPA representative
Adv KD Moroka (SC) – DoJ representative
Adv Tlotlego Tsagae (DoJ representative)
Adv Ebenezer Prophy (for SAPS)
Adv Nwabisa Mtshizana (for Ex-NDPP's Officials)
Adv Bridgette Nthambeleni (for Adv Jiba)
Adv Vivian Rikhotso (for Adv Menzi Simelane)
Adv Varney (SC) – The Calata Group
Adv D Pillay – The Calata Group
Mr Sipho Tlhaole – The Calata Group
Adv Irene de Vos for President Cyril Ramaphosa

17 APRIL 2026

DAY 34

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like to tell your Commission, the Commission insofar as it concerns you? Are you aware of any such influence?

ADV MHAGA: I covered that in paragraph (c) of my affidavit from paragraph 16 to paragraph 21. I do not propose to read that, but I propose later on to read from paragraph 19 to 21. But I can state that Chairperson, during my time serving as a Secretariat of the Interdepartmental Task Team on TRC, prosecuting cases in the PCLU that related to TRC, I was not aware or I am not aware of any efforts or attempts to either stop or frustrate or suppress
10 investigations on prosecution of TRC cases.

In respect of the matters that I handled, the slow pace in effectively investigating and prosecuting these cases can be attributed to resource constraints. I served in the TRC Task Team that is reflected for recorded purposes as the ITT, as the Secretariat. I compiled minutes, I would be given some cases, dockets and all of that, but there was never a dedicated investigative capacity that was allocated or signed to the cases that I handled, which frustrated the progress of those cases at the time.

I am not aware of any pressure that would have been
20 exerted on myself or any person that would have shared that with me by either the member of the Executive or within the NPA or a functionary or anyone during my term or stint at the PCLU until I left to be a spokesperson.

ADV GWALA: If there was it would have constituted a criminal offence, is it not?

308

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Seek, Find, Strike



**PRESENTATION TO THE PORTFOLIO COMMITTEE ON JUSTICE AND CONSTITUTIONAL DEVELOPMENT:
IMPLEMENTATION OF THE RECOMMENDATIONS OF THE TRUTH AND RECONCILIATION COMMISSION (TRC)
20 May 2025**

Presentation by: Lieutenant General (Dr/Advocate) SG Lebeya (SOEG):
National Head of the Directorate for Priority Crime Investigation

Presentation outline

- Introduction and purpose
- Mandate
- Status of cases investigated by the DPCI
- Finalised cases
- Conclusion

Introduction and purpose



The Directorate for Priority Crime Investigation (DPCI) received an invite from the Portfolio Committee on Justice and Constitutional Development to brief the Committee on the implementation of the recommendations of the Truth and Reconciliation Commission (TRC) in line with the provisions of section 17K(1) of the South African Police Service Act 68 of 1995, which provides that Parliament shall effectively oversee the functioning of the Directorate and the Committees established in terms of Chapter 6A of the Police Act.

MANDATE OF THE DPCI

153



In terms of **Section 17D of the South African Police Service Act**, the **Mandate of the DPCI** is as follows:

(1) The functions of the Directorate are to **prevent, combat and investigate**—

(a) national priority offences, which in the opinion of the National Head of the Directorate need to be addressed by the Directorate;

(aA) offences referred to in Chapter 2 and Section 34 of the Prevention and Combating of Corrupt Activities Act (PRECCA), 12 of 2004;

(2) If, during the course of an investigation by the Directorate, evidence of any other crime is detected and the National Head of the Directorate considers it in the **interests of justice, or in the public interest**, he or she may extend the investigation so as to include any offence which he or she suspects to be connected with the subject of the investigation.

Section 17A of the Police Act defines “**National Priority Offence**” as organised crime; crime that **requires national prevention or investigation**; crime that **requires specialised skills** as referred to in section 16(1) of the SAPS Act. The priorities are cross-cutting. One cannot occur without affecting the other(s) and because of this, the DPCI specialises in **project investigations** which draws in the investigative expertise of multiple investigators in different environments.



DOCKETS ON HAND:

155

• Number of cases on the court roll:

14

• Number of cases pending decision from NPA:

60

• Number of cases under Investigation:

81

- Number of finalised cases:

31

❖ Guilty:

2

❖ Declined:

29

COURT CASES

155

Case number	Krugersdorp CAS 86/08/2021 CATS Enq 04/03/2018	<p><u>SYNOPSIS OF CASE</u></p> <p>During February 1982, four male youth from Krugersdorp who were members of the then banned ANC planned to skip the country and join ANC structures in exile. They considered and approached Mr. Tlhmedi Mfalapitsa who was known to be a member of ANC and had returned from exile for guidance and assistance. Unknown to them that Mr. Mfalapitsa has already defected and joined the then SAP Security branch as an Askari. Mr. Mfalapitsa took them into confidence, made promises but behind their back he informed his handlers. He lured them into an entrapment that was disguised as a training session. They were taken into an old mine dump house near Krugersdorp which was laden with explosives.</p> <p>While they were inside the house, Mr. Mfalapitsa left, gave a signal to his handlers who detonated the explosives and three male youth succumbed to detonation. John Musi sustained serious injuries.</p> <p><u>CURRENT STATUS:</u></p> <p>The matter is remanded to 23 May 2025, after unsuccessful attempts to have charge number three (3) removed, they indicated that they would apply the recusal of the judge from the bench (South Gauteng Division of the High Court of South Africa).</p>
Offence	Murder, attempted murder crimes against humanity	
Date Reported	2021/06/11	
Date referred to DPCI	2021/06/11	
Victims	<ol style="list-style-type: none"> 1. Eustice Bimbo Madikela 2. Ntshingo Mataboge 3. Fanyana Nhlapo 4. John Z Musi 	
Suspects/Accused	<ol style="list-style-type: none"> 1. CS Rorich (Major) (Accused 2) 2. TE Mfalapitsa (Askari) (Accused 1) 	
Number of charges	5	
Number of statements obtained	11	

COURT CASES

156

Case number	Jhb Central CAS 1469/02/1996	<p><u>SYNOPSIS OF CASE</u></p> <p>Nokuthula Simelane was an ANC operative (courier) who was responsible to handle communication between ANC members who were in Swaziland and South Africa. The then Soweto Security Branch detected her and on 10 September 1986, she was lured to Carlton Centre parking area and was abducted. It is alleged that she was kept and tortured at a farm in or near Rustenburg. The farm allegedly belonged to Willem Coetzee's in-laws. The victim's body was never recovered to date and was presumed dead by the Gauteng South High Court.</p> <p><u>CURRENT STATUS:</u></p> <p>The case is remanded 19-22 May 2025 for further evidence on Section 77 enquiry of Criminal Procedure Act, 51 of 1977</p>
Offence	Kidnapping, murder	
Date Reported	2021/06/11	
Date referred to DPCI	2021/06/11	
Victim	Nokuthula Simelane	
Suspects/Accused	1. WJ Coetzee (Lt Col) 2. A Pretorius (Lt Col)	
Number of charges	2	
Number of statements obtained	29	

COURT CASES

157

Case number	Daveyton CAS 382/12/2019 PCOMM Enq 4/10/2020	<p><u>SYNOPSIS OF CASE</u></p> <p>On 24 August 1987, Caiphus Nyoka (deceased) was asleep in his home No. 999 Limber Street, Daveyton when the then members of the East Rand Security Branch arrived at his home and shot him multiple times. The members claimed self-defence against the deceased. Johan Maree the then member of the Security Branch eventually admitted that the deceased was not shot in self-defence but was rather murdered in cold blood. Four accused were arrested and charged for murder.</p> <p><u>CURRENT STATUS:</u></p> <p>The case is remanded to 12-20 May 2025 for further evidence. Accused number 1, Johan Marais has pleaded guilty to the charge of murder and he is separated from other accused. His case has been remanded to 6-7 June 2025 for mitigation of sentence and sentencing.</p>
Offence	Murder, attempted murder, conspiracy to commit murder and defeating the ends of justice	
Date Reported	2021/06/18	
Date referred to DPCI	2021/06/18	
Victim	Caiphus Nyoka	
Suspects/Accused	<ol style="list-style-type: none"> 1. Leon Louis van den Berg (Major) 2. Johan Marais (Sgt) 3. Abram Hercules Engelbrecht (Sgt) 4. Pieter Egbert Stander (Lance Sgt) 	
Number of charges	1	
Number of statements obtained	15	

COURT CASES

158

Case number	Durban Central CAS 457/03/2021 Durban SOCI Enq 36/06/2021	<p><u>SYNOPSIS OF CASES</u></p> <p>The victim, Ntombikayise Kubheka was an ANC activist from Umlazi near Durban. In 1987, she was infiltrated by the Askari Mr Frank Mbane and his two colleagues. They were tasked by the former Security Branch Police to infiltrate her. They pretended to be members of MK from exile on a mission to carryout attacks. They presented an AK47 rifle to her which made her to believe that they were fellow comrades. When she started to have doubts, they kidnapped and handed her over to former Security Branch Police who took her to Winkelspruit outside Durban South where she was tortured and killed. Her body was dumped at a deserted area. Later, her decomposed body was found by a passer-by who reported to the police. She was given a paupers burial. Her body was exhumed during TRC and a projectile was found on her skull.</p> <p><u>CURRENT STATUS:</u></p> <p>The case is remanded to 10 June 2025 for legal representatives.</p>
Offence	Abduction and Murder	
Date Reported	21 May 2021	
Date referred to DPCI	21 May 2021	
Victim	Ntombikayise Kubheka	
Suspects/Accused	<ol style="list-style-type: none"> 1. HJP Botha (Lt Col) 2. SJG Du Preez (Capt) 3. M Ras (Capt) 	
Number of charges	2	
Number of statements obtained	68	

COURT CASES

159

Case number	Durban Central CAS 246/04/2024 Durban SOCI Enq 41/06/2021	<p><u>SYNOPSIS OF CASE</u></p> <p>The victim, Musa Phewa was a UDF activist from Lamontville in Durban. In May 1987, he was infiltrated by an Askari who pretended to be a member of ANC and offered a safe passage to exile. Since then he was never seen again. It is believed that he was taken to Winkelspruit where he was tortured and killed. His body was allegedly disposed by the former Security Branch members.</p> <p><u>CURRENT STATUS:</u></p> <p>The case is remanded to 10 June 2025 for legal representatives.</p>
Offence	Murder	
Date Reported	21 May 2021	
Date referred to DPCI	21 May 2021	
Victim	Musa Phewa	
Suspects/Accused	<ol style="list-style-type: none"> 1. HJP Botha (Lt Col) 2. SJG Du Preez (Capt) 3. M Ras (Capt) 	
Number of charges	1	
Number of statements obtained	25	

COURT CASES

160

Case number	Mkhuze CAS 89/10/2023 Durban SOCI Enq 37/06/2021	<p><u>SYNOPSIS OF CASE</u></p> <p>In 1985, Mr. Jameson Ngoloyi Mngomezulu was kidnapped from Swaziland by Askari members who were with members of the Security Branch. They allegedly crossed the border fence and brought him illegally into South Africa. It is further alleged that he was taken to a farm where he was interrogated for a duration of three (3) or four (4) days. Thereafter, he was allegedly taken to Sodwana Bay Ocean where explosives were strapped to his body and detonated. The body was completely destroyed.</p> <p><u>CURRENT STATUS:</u></p> <p>The case is remanded to 31 July 2025 for plea at Mtubatuba High Court for legal representative.</p>
Offence	Murder	
Date Reported	June 2021	
Date referred to DPCI	June 2021	
Victim	Jameson Ngoloyi Mngomezulu	
Suspects/Accused	<ol style="list-style-type: none"> 1. Paul J Van Dyk (Capt) 2. Frederick J Pienaar (WO) 3. Douw Gerbrant Willemse (WO) 4. GS Schoon (Lt Col) 	
Number of charges	1	
Number of statements obtained	31	

COURT CASES (INQUEST COURT)

Case number	Swartkops CAS 39/07/2020 KwaZakhele CAS 60/07/2020 KwaZakhele CAS 61/07/2020 KwaZakhele CAS 62/07/2020 EC:P.Comm Enq.05/06/2016	<p><u>SYNOPSIS OF CASE</u></p> <p>On the night of 27 June 1985, four (4) men known as the Cradock 4 were abducted by the Security Police while on their way from a meeting in Galvendale, Port Elizabeth to Cradock. Their vehicle was found burnt and abandoned just outside Port Elizabeth on the following day. Their lifeless and burnt bodies were found days later at two different locations, just outside Port Elizabeth. Their death was as a result of a signal that was sent out regarding the elimination of Mathews Goniwe and others. The original case dockets could not be traced subsequent to have been submitted to the NPA for decision.</p> <p><u>CURRENT STATUS:</u></p> <p>The inquest is remanded to 2-20 June 2025 in Gqeberha High Court for legal representatives and hearing.</p>
Offence	Murder	
Date Reported	June 2016	
Date referred to DPCI	June 2016	
Victims	<ol style="list-style-type: none"> 1. Matthews Goniwe 2. Fort Calata 3. Sicelo Mhlawuli 4. Sparrow Mkhonto 	
Suspects/Accused	<ol style="list-style-type: none"> 1. E Winter (Col deceased) 2. E Taylor (Col deceased) 3. H Du Plessis (Major deceased) 4. G Lotz (Capt deceased) 	
Number of charges	4	
Number of statements obtained	112	

COURT CASES (INQUEST COURT)

320

162

Case number	EC: P Com Enq 04/08/2021 Cambridge CR 16/05/1993 High Gate Hotel	<p><u>SYNOPSIS OF CASE</u></p> <p>On the night of 1 May 1993, two (2) unknown men entered the men and ladies bar in Highgate Hotel, East London. They shot at the patrons randomly with automatic rifles. Some were seriously injured due to gun shots and five (5) victims died. The perpetrators were armed with automatic rifles, hand grenades and teargas. They killed five (5) victims and injured seven (7) of which three (3) are permanently disabled. One suspect was arrested and later released due to insufficient evidence. The case is commonly known as Highgate matter.</p> <p>CURRENT STATUS: The inquest is re-opened and the Judge has been appointed. The case is remanded to 11-15 August 2025 and also 1-5 September 2025 for further evidence.</p>
Offence	Murder	
Date Reported	1 August 2021	
Date referred to DPCI	1 August 2021	
Victims	<ol style="list-style-type: none"> 1. Derrick Whitefield 2. Royce Michael Wheeler 3. Douglas William Gates 4. Stanley Hacking 5. Deon Wayne Harris 	
Suspects/Accused	Unknown	
Number of charges	5	
Number of statements obtained	75	

COURT CASES (INQUEST COURT)

321

163

Case number	Kwadukuza CAS 363/11/2024 Durban SOCI Enq 39/06/2021	<p><u>SYNOPSIS OF CASE</u></p> <p>It was reported that on 21 July 1967, Dr. Chief Albert Luthuli died after he was allegedly hit by a protruding object from a moving train. He succumbed to his injuries while receiving medical treatment at hospital. It was suggested that Dr. Chief Luthuli was standing on the bridge when the train approached and as usual, he held tight with his hands to the rails, his back at the moving train, waiting for the train to pass because the bridge would usually shake when the train passes. The nature of injuries suggest that Dr. Chief Luthuli might have been struck with an object from the moving train.</p> <p><u>CURRENT STATUS:</u></p> <p>The matter is set down for hearing on 14 April 2025 to 16 May 2025.</p>
Offence	Culpable homicide	
Date Reported	17 May 2021	
Date referred to DPCI	17 May 2021	
Victim	Dr. Chief Albert Luthuli	
Suspects/Accused	1. SA Lategan (Train Driver) 2. AH Pretorius	
Number of charges	1	
Number of statements obtained	22	

COURT CASES (INQUEST COURT)

322

164

Case number	Umlazi CAS 459/11/1981 Durban SOCI Enq:54/06/2021	<p><u>SYNOPSIS OF CASE</u></p> <p>Mr. Griffiths Mxenge was a member of the African National Congress (ANC), he died on 19 November 1981 at Umlazi. He was stabbed with knives, assaulted with a wheel spanner. He sustained 45 lacerations and stab wounds that pierced through his heart, lungs and liver. His throat was slit, ears cut off and stomach ripped open. The case was finalised as being killed by unknown persons. Five (5) Security branch policemen confessed to the killing.</p> <p><u>CURRENT STATUS:</u></p> <p>On 14 April 2025, the inquest is remanded 17 June 2025 for legal representatives for persons of interest.</p>
Offence	Murder	
Date Reported	17 May 2021	
Date referred to DPCI	17 May 2021	
Victim	Griffiths Mxenge	
Suspects/Accused	<ol style="list-style-type: none"> 1. D Coetzee (Capt deceased) – amnesty 2. A Nofomela (Cst) amnesty J Mamasela (Askari) – 204 witness 3. D Tshikalange (Cst deceased) –amnesty 4. Ngqulunga (Askari deceased) 	
Number of charges	1	
Number of statements obtained	17	

COURT CASES (INQUEST COURT)

323

165

Case number	Mkhuze CAS 60/04/2024 Durban SOCI Enq 40/06/2021	<p><u>SYNOPSIS OF CASES</u></p> <p>During the TRC proceedings, it was testified that an unidentified African male person was abducted and killed on an island in a dam at the end of 1979. The person was identified as Mr. Oupa “Scopio” Madondo who was once arrested and detained at Protea police station. Mr. Madondo was an Askari, he opened a case of assault against the police. Mr. Madondo disappeared and the police alleged that Mr. Madondo was stopped by police but he got out of the vehicle and ran away leaving his vehicle next to the road between Krugersdorp and Soweto. However, a witness told Mr. Madondo’s sister that he (witness) was in a bus when he saw the police arresting Mr. Madondo. Mr. Madondo went with the Security Branch Police to a Leeuwspeer farm where he was killed. The police officers went to collect a boat, wrapped Mr. Madondo’s body in a bag and took him to the island in Jozini dam. The body was strapped with explosives and was detonated beyond trace.</p> <p><u>CURRENT STATUS:</u></p> <p>The inquest is remanded to 28 May 2025 for further evidence.</p>
Offence	Abduction and murder	
Date Reported	17 May 2021	
Date referred to DPCI	17 May 2021	
Victim	Scorpion Oupa Madondo	
Suspects/Accused	<ol style="list-style-type: none"> 1. G Schoon (Lt Col deceased) 2. J Van Zyl (Capt) 3. D Carr (W/O deceased) 4. D Gauld (W/O amnesty) 5. S Visser (Brig deceased) 	
Number of charges	2	
Number of statements obtained	22	

CASES PENDING DECISION BY NPA

324

166

Case number	CATS 10/06/2016 (Inquest 139/72) JHB CAS 809/04/2022	<p><u>SYNOPSIS OF CASE</u></p> <p>Dr Neil Aggett was Kenyan and South African medical doctor. He was a trade union organiser. He became a target of harassment by the Security Branch of South African Police and labelled him to be a communist. In late 1981, he was arrested and detained in Pretoria for his role in labour organisation and later transferred to John Vorster Square Police Station in Johannesburg. On 5 February 1982, he died in detention where it was alleged he committed suicide. He was the 51st person to die in detention and the first white person to die under these circumstances. On 21 December 1982, an inquest into his death was concluded. The presiding officer magistrate, Pieter Kotze concluded that no one to blame for his death. The investigation into his death was re-opened and ultimately, the Minister of Justice authorised for an inquest to be re-opened as new evidence emerged that was not presented during the first inquest.</p> <p><u>CURRENT STATUS:</u></p> <p>On 4 March 2022, the Honourable Judge Mothle delivered his judgement at court no. 8F, Gauteng Johannesburg High Court and it is as follows: Death was brought about by acts committed by members of Security Branch stationed at Johannesburg Central Police Station (John Vorster Square) amongst them, Lieutenant Stephen Whitehead and Major Arthur Cronwright.</p> <p>The Judge also indicated that there was evidence implicating Nicholus Deetleefs, Mgezi Eddie Chauke, Joseph Petrus Woengdregt, Daniel Eldards Swanepoel, Joseph Johannes Visser and D/Sgt Blom (Visser) who participated in the cover up in 1982 and in court by denying knowledge of assault and torture. He recommended that investigation be under taken in this regards. The criminal case Jhb Central CAS 806/04/2022 was opened after the judgement for investigation. The criminal case is before South Gauteng DPP for decision to consider criminal prosecution.</p>
Offence	Murder	
Date Reported	18 June 2021	
Date referred to DPCI	18 June 2021	
Victim	Dr. Neil Hudson Aggett	
Suspects/Accused	8	
Number of charges	1	
Number of statements obtained	75	

CASES PENDING DECISION BY NPA

325

167



Case number	CATS 03/11/2019 Inquest case 15/02/2021 JHB Central 768/07/2023	<p><u>SYNOPSIS OF CASE</u></p> <p>The victim was a residence of Soweto and also a political activist. He was arrested on 5 August 1982 by Security Branch Police in terms of Section 6 of the Terrorism Act of 1982. He was detained in John Vorster Square. On 8 August 1982, he was found dead in his cell, allegedly hanged himself. The inquest into his death was finalised on 1 June 1983 at Johannesburg magistrate and the presiding officer concluded that no one to blame for his death. The investigation into his death was reopened in 2022 which discovered new evidence. The Minister of Justice approved for the re-opening of the an inquest based on new evidence that emerged.</p> <p><u>CURRENT STATUS:</u></p> <p>On 12 July 2023, the presiding officer on re-opened inquest, Judge Mahume delivered his judgement that the death of Moabi Ernest Dipale was brought about as a result of actions of Security Branch Police stationed at John Vorster Square. The criminal case docket JHB Central CAS 768/07/2023 was opened as a result of these judgement. The criminal docket is before South Gauteng DPP to consider criminal prosecution.</p>
Offence	Death in detention	
Date Reported	18 June 2022	
Date referred to DPCI	18 June 2022	
Victim	Moabi Ernest Dipale	
Suspects/Accused	1	
Number of charges	1	
Number of statements obtained	30	

CASES PENDING DECISION BY NPA

326

168

Case number	Inquest No: C/T Central 101/2022 Old CPT Central Inquest 50/1970 WC Enq 14/06/2021	<p><u>SYNOPSIS OF CASE</u></p> <p>It is alleged that Imam Abdullah Haroon was arrested and detained under the Terrorism Act, 83 of 1967 by the Security Branch at Caledon Square Police Station on 28 May 1969. It is further alleged that he died on 27 September 1969 after falling from a staircase.</p> <p><u>CURRENT STATUS:</u></p> <p>The investigation was finalised and an inquest was re-opened. The Inquest judgement was delivered by Judge Thulare on 9 October 2023 and ruled that the death of Imam Abdullah was brought about by the former security branch police. All the mentioned persons of interest have since died.</p> <p>The docket is at DPP decision.</p>
Offence	Death in custody	
Date Reported	June 2021	
Date referred to DPCI	June 2021	
Victim	Imam Abdullah Haroon	
Suspects/Accused	8	
Number of charges	1	
Number of statements obtained	15	

CASES PENDING DECISION BY NPA

169

327

Case number	HO CATS Enq 09/12/2020 Klerksdorp Inquest 49/1994 Stilfontein CAS 10/11/2006	<p><u>SYNOPSIS OF CASE</u></p> <p>Boikie Tlhapi was known to be an active member in politics around Klerksdorp and Stilfontein area. He was arrested together with other and detained in Stilfontein. They were assaulted by the police. His lifeless body was seen by a witness put in a black refuse bag and placed in the police car. He was never seen again.</p> <p><u>CURRENT STATUS:</u></p> <p>The Minister of Justice and Constitutional Development approved the re-opening of the inquest. Awaiting Judge President to appoint a presiding judge.</p>
Offence	Murder	
Date Reported	11 June 2021	
Date referred to DPCI	11 June 2021	
Victim	Boikie Tlhapi	
Suspects/Accused	5	
Number of charges	1	
Number of statements obtained	51	

CASES PENDING DECISION BY NPA

170

328

Case number	HO CATS Enq 03/10/2017	<p><u>SYNOPSIS OF CASE</u></p> <p>It is alleged that on 15 February 1977, Matthews Mabelane fell from the 10th floor of JHB Central SAPS during the interrogation.</p> <p>The Security Branch submitted a report alleging that he fell from a ledge outside room number 1008, 10th floor while attempting to escape. An inquest court ruled that the death of Matthews Mabelane was not brought about by an act or omission amounting to an offence on the part of any person.</p> <p><u>CURRENT STATUS:</u></p> <p>The Minister of Justice and Constitutional Development approved the re-opening of the inquest. Awaiting Judge President to appoint a presiding judge.</p>
Offence	Murder	
Date Reported	11 May 2021	
Date referred to DPCI	17 May 2021	
Victim	Mathews Mabelane	
Suspects/Accused	6	
Number of charges	1	
Number of statements obtained	34	

CASES PENDING DECISION BY NPA

171

329

Case number	FS: Park Road SOCIU 05/01/2023	<p><u>SYNOPSIS OF CASE</u></p> <p>It is alleged that on 16 June 1985, Booi Mantyi who was the president of the De Aar Residence Association (DARA) attended a march that was organised by De Aar Youth Congress (DAYCO) where he has subsequently shot and killed by the members of the South African Police. Approximately 71 members of DAYCO were arrested by the police.</p> <p><u>CURRENT STATUS:</u></p> <p>The Minister of Justice and Constitutional Development approved the re-opening of the inquest. Awaiting Judge President to appoint a presiding judge.</p>
Offence	Murder	
Date Reported	11 May 2021	
Date referred to DPCI	17 May 2021	
Victim	Booi Mantyi	
Suspects/Accused	3	
Number of charges	1	
Number of statements obtained	51	

CASES PENDING DECISION BY NPA

172

330

Case number	Ga-Rankuwa Cr 238/07/1991 HO Cats Enq 11/12/2020	<p><u>SYNOPSIS OF CASE</u></p> <p>Sergeant Ngqulunga was one of the Security Branch members who was based in Vlakplaas. It was alleged in their daily duties that he became mentally unstable. The instability led to him indulging in alcohol and subsequently shot his pregnant wife three times. It is alleged that he approached Colonel De Kock asking for a transfer to a different environment and a decision was made to kill him as his superiors feared that he may compromise their Vlakplaas operations. On the day of his murder, he was taken to Kgabalatsane in North West where an AK47 was used to kill him so that it appeared to be ANC operations.</p> <p><u>CURRENT STATUS:</u></p> <p>A decision to re-open the inquest was recommended. The memorandum will be submitted to the Minister of Justice and Constitutional Development for approval.</p>
Offence	Kidnapping and Murder	
Date Reported	14 June 2021	
Date referred to DPCI	14 June 2021	
Victim	Brian Ngqulunga	
Suspects/Accused	6	
Number of charge	2	
Number of statements obtained	28	

CASES PENDING DECISION BY NPA

173

331

Case number	HO CATS Enq 03/03/2018	<p><u>SYNOPSIS OF CASE</u></p> <p>Richard Motasi was a police officer based in Hamanskraal College. At one point, he had a dispute with his commander, Col van Zyl whom as a result assaulted him. Motasi opened a criminal case as well as civil proceedings against his commander. There was a plot against Motasi as a result of problems with his management. The plot involved his management as well as the Security Branch. Amongst others, he was associated with ANC in Zimbabwe, in that he was giving out information that led to the killing of police officer. Motasi was eventually killed together with his wife at Temba, Hamanskraal. The inquest court found that the victims were killed by unknown gunmen. The members of the Security Branch accepted liability for the killing of the victims during the TRC.</p> <p><u>CURRENT STATUS:</u></p> <p>A decision to re-open the inquest was recommended. The memorandum will be submitted to the Minister of Justice and Constitutional Development for approval.</p>
Offence	Murder	
Date Reported	14 June 2022	
Date referred to DPCI	14 June 2022	
Victim	Richard & Irene Motasi	
Suspects/Accused	9	
Number of charges	2	
Number of statements obtained	23	

CASES PENDING DECISION BY NPA

332

174



Case number	Heidelberg CAS 133/12/2023 HO CATS 05/03/2018 Inquest 6/1993	<p><u>SYNOPSIS OF CASE</u></p> <p>On 30 July 1992, Welcome Khanyile was taken from his work place by Security Branch and never returned. It is alleged that Welcome Khanyile was a member of the IFP who was suspected of being involved in an attempted murder case that occurred at a hostel in Heidelberg. During the interrogation, he died and his body was blown up using limpet mine explosives.</p> <p><u>CURRENT STATUS:</u></p> <p>The matter was submitted to the DPP on 12 December 2023, awaiting the DPP's decision.</p>
Offence	Murder	
Date Reported	18 June 2021	
Date referred to DPCI	18 June 2021	
Victims	Welcome Mthokozisi Khanyile	
Suspects/Accused	3	
Number of charges	1	
Number of statements obtained	5	

CASES PENDING DECISION BY NPA

333

175

Case number	HO CATS Enq: 15/02/2022	<p><u>SYNOPSIS OF CASE</u></p> <p>It is alleged that on 12 Nmovember 1981, Tshifhiwa Isaac Moufhe was arrested for suspected of bombing the Sibasa police station. He was taken to Sibasa Security Branch office for interrogation. He was later transported to Matatshe Prison where he was detained and the following morning, he was found dead.</p> <p><u>CURRENT STATUS:</u></p> <p>The matter was submitted to the DPP on 2022-08-11 for decision</p>
Offence	Death in detention	
Date Reported	14 Febuary 2022	
Date referred to DPCI	14 February 2022	
Victims	Tshifhiwa Isaac Moufhe	
Suspects/Accused	4	
Number of charges	1	
Number of statements obtained	10	

CASES PENDING DECISION BY NPA

334

176

Case number	HO CATS Enq 02/03/2018	<p><u>SYNOPSIS OF CASE</u></p> <p>In 1987, Moses Morudi was abducted by former Security Branch members whilst in Ikageng near Potchefstroom for suspected of being an activist and was in possession of an arms cache. It is alleged that he was taken to a farm called Kaallagte near Hammanskraal where he was tortured, eventually killed. His body was never recovered as it is alleged that it was blown up with explosives.</p> <p><u>CURRENT STATUS:</u></p> <p>A decision to re-open the inquest was recommended. The memorandum will be submitted to the Minister of Justice and Constitutional Development for approval.</p>
Offence	Kidnapping & murder	
Date Reported	2021/06/11	
Date referred to DPCI	2021/06/11	
Victims	Moses Morudi	
Suspects/Accused	7	
Number of charges	2	
Number of statements obtained	33	

CASES PENDING DECISION BY NPA

335

177

Case number	HO CATS Enq 05/12/2020	<p><u>SYNOPSIS OF CASE</u></p> <p>On 28 February 1978, an MK member Khehla Nkutha was abducted during a joined operation. It is alleged that the vehicle in which he was travelling in from Swaziland to South Africa was ambushed by the Security Branches. Information suggested that he was abducted into South Africa. During the abduction, there was a shootout and it was said that Khehla Nkutha was killed in the process. His body is still missing.</p> <p><u>CURRENT STATUS:</u></p> <p>A decision to re-open the inquest was recommended. The memorandum will be submitted to the Minister of Justice and Constitutional Development for approval.</p>
Offence	Murder	
Date Reported	2021/06/18	
Date referred to DPCI	2021/06/18	
Victims	Khehla Nkutha	
Suspects/Accused	9	
Number of charges	1	
Number of statements obtained	4	

CASES PENDING DECISION BY NPA

336

178

Case number	HO CATS 09/01/2021	<p><u>SYNOPSIS OF CASE</u></p> <p>Its is alleged that, on 10 July 1986 the Security Branch members received information about six members of ANC who were coming from Botswana into South Africa, armed with firearms. A vehicle was arranged as a Nissan E20 minibus (taxi) that transported the six members. Constable Sehlwane, drove until where the trap was planned. Upon arrival, he disembarked and the ambush took place where all six members were shot and killed.</p> <p><u>CURRENT STATUS:</u></p> <p>The docket was sent to DPP for decision.</p>
Offence	Murder	
Date Reported	2021/06/14	
Date referred to DPCI	2021/06/14	
Victims	<p>All Days 6</p> <ol style="list-style-type: none"> 1. Thabo Rammutla 2. Archie Raymond Lethoko 3. Siphon Koliso 4. Montgomery Molo 5. Tlhabane Rantho Moashoa 6. Walter Titus Alset 	
Suspects/Accused	2	
Number of charges	1	
Number of statements obtained	23	

CASES PENDING DECISION BY NPA

337

179

Case number	Durban SOCI Enq 43/06/2021	<p><u>SYNOPSIS OF CASE</u></p> <p>Dr. Rick Turner was South African academic and anti-apartheid activist who was murdered on 8 January 1978 while in his house. He was assassinated by unknown people and killing was probably politically motivated. The circumstances surrounding his death is also similar to that of Dr. Haffejee and Mr. Mzizi as observation was kept on him and only when it was stopped, he was killed. The <i>modus operandi</i> was similar.</p> <p><u>CURRENT STATUS:</u></p> <p>The decision to hold an inquest was taken. DPP to prepare for the inquest for the allocation of the court and dates for commencement of a hearing.</p>
Offence	Murder	
Date Reported	2022-05-17	
Date referred to DPCI	2022-05-17	
Victim	Dr Rick Turner	
Suspects/Accused	5	
Number of charges	1	
Number of statements obtained	24	

CASES PENDING DECISION BY NPA

338

180

Case number	Durban SOCI Enq 13/07/2022 Durban Central CAS 40/11/1994	<p><u>SYNOPSIS OF CASE</u></p> <p>During 1980, Charles Zakhele Ndaba skipped the country and went to exile. On 14 July 1990 while re entering the country together with Mbuso Shabalala at the Tugela River mouth they were intercepted by the members of the Security Branch. Subsequent to their interrogation they were shot and killed.</p> <p><u>CURRENT STATUS:</u></p> <p>The decision to hold the inquest was recommended and the DPP is in the process to allocate the court.</p>
Offence	Murder	
Date Reported	2022-06-13	
Date referred to DPCI	2022-06-13	
Victims	Charles Zakhele Ndaba Mbuso Shabalala	
Suspects/Accused	5	
Number of charges	1	
Number of statements obtained	17	

CASES PENDING DECISION BY NPA

339

181

Case number	Madeira CAS 56/03/2020 (Original: Mthatha CR 178/10/1993)	<p><u>SYNOPSIS OF CASE</u></p> <p>On 08 October 1993, five minors who are affectionately known as North Crest 5, were studying for the end of year exams at house no 47 AC Jordan Street, North Crest, Mthatha. The SADF and SAP members stormed the house looking for members of Azanian Peoples Liberation Army who were allegedly staying in the house. They opened fire and killed the five minors.</p> <p><u>CURRENT STATUS:</u></p> <p>The decision to hold an inquest was taken. DPP to approach Judge President for the appointment of the judge and allocation of dates for commencement of a hearing.</p>
Offence	Murder	
Date Reported	14 April 2021	
Date referred to DPCI	14 April 2021	
Victims	<ol style="list-style-type: none"> 1. Samora Mpendulo 2. Sadat Mpendulo 3. Tando Mthembu 4. Mzwandile Mfeya 5. Sandiso Yose 	
Suspects/Accused	11	
Number of charges	5	
Number of statements obtained	68	

CASES PENDING DECISION BY NPA

340

182

Case number	HO CATS Enq 07/06/2022	<p><u>SYNOPSIS OF CASE</u></p> <p>It is alleged that Mr Alfred Makaleng who was an SRC and ANC member at Turfloop University in 1998. Subsequent to his arrest, he was detained at Nylstroom prison where he became sick and taken to Milpark Hospital where he died due to natural death.</p> <p><u>CURRENT STATUS:</u></p> <p>The docket was sent to DPP for decision.</p>
Offence	Death in detention	
Date Reported	2022/07/04	
Date referred to DPCI	2022/07/04	
Victim	Alfred Makaleng	
Suspects/Accused	Unknown	
Number of charges	1	
Number of statements obtained	10	

CASES PENDING DECISION BY NPA

341

183

Case number	HO CATS Enq 07/07/2022	<p><u>SYNOPSIS OF CASE</u></p> <p>It is alleged that Ah Yan a Chinese national who lived in Pretoria and was arrested on 16 November 1966 for human smuggling by members of Security Branch. He was later charged in terms of the Terrorism Act 83 of 1987 and detained at Silverton Police Station. On 5 January 1967, he allegedly hung himself in his police cell.</p> <p><u>CURRENT STATUS:</u></p> <p>Sent to DPP for decision on 26 September 2023.</p>
Offence	Death in detention	
Date Reported	2022/07/29	
Date referred to DPCI	2022/07/29	
Victim	Ah Yan	
Suspects/Accused	4	
Number of charges	1	
Number of statements obtained	7	

CASES PENDING DECISION BY NPA

342

184

Case number	HO CATS Enq 10/02/2022	<p><u>SYNOPSIS OF CASE</u></p> <p>It is alleged that on 26 March 1990, Mr Lucas Tihotlhomisang was arrested and he died in detention in Klerksdorp after he was arrested for Act 3 of 1953 Regulation 3(1) Public Violence.</p> <p><u>CURRENT STATUS:</u></p> <p>The docket was sent to DPP for decision.</p>
Offence	Death in detention	
Date Reported	2022/02/08	
Date referred to DPCI	2022/02/08	
Victim	Lucas Tihotlhomisang	
Suspects/Accused	unknown	
Number of charges	1	
Number of statements obtained	9	

CASES PENDING DECISION BY NPA

343

185

Case number	HO CATS Enq 12/06/2022	<p><u>SYNOPSIS OF CASE</u></p> <p>Dr Naboath Ntshuntsha was a member of Pan African Congress who was allegedly recruiting and assisting members to go to exile. He was arrested and detained on 14 December 1976 at Leslie Police Station. The police alleged that he committed suicide on 8 January 1977 while in detention.</p> <p><u>CURRENT STATUS:</u></p> <p>The docket was sent to DPP for decision.</p>
Offence	Death in detention	
Date Reported	2022/06/29	
Date referred to DPCI	2022/06/29	
Victim	Dr. Naboath Ntshuntsha.	
Suspects/Accused	5	
Number of charges	1	
Number of statements obtained	9	

CASES PENDING DECISION BY NPA

344

186

Case number	Kwa Thema CAS 260/08/1996 HO CATS Enq 06/07/2022	<p><u>SYNOPSIS OF CASE</u></p> <p><u>INCIDENT 1 (OPERATION ZERO ZERO)</u></p> <p>During June 1985, Joe Mamasela who was an askari infiltrated members of Congress of South African Student (COSAS) in the East Rand under a pretext of offering training on how to use explosives. He allegedly demonstrated to them how to handle and use a hand grenade. He later supplied the grenades with timing device was reduced to zero second delay and enticed them to use the explosive device simultaneously at 00h00 on identified targets (police and councillor). The operation resulted in the death of eight (8) people and seven (7) were seriously injured. The referral pertains to investigation into matters where Joe Mamasela was involved.</p> <p><u>CURRENT STATUS:</u></p> <p>The docket was sent to DPP for decision.</p>
Offence	Murder	
Date Reported	27 July 2022	
Date referred to DPCI	27 July 2022	
Victim	Steven Modisane	
Suspects/Accused	1	
Number of charges	1	
Number of statements obtained	8	

CASES PENDING DECISION BY NPA

345

187

Case number	Kwa Thema CAS 261/08/1996 CATS Enq 06/07/2022	<p><u>SYNOPSIS OF CASE</u></p> <p><u>INCIDENT 1 (OPERATION ZERO ZERO)</u></p> <p>During June 1985, Joe Mamasela who was an askari infiltrated members of Congress of South African Student (COSAS) in the East Rand under a pretext of offering training on how to use explosives. He allegedly demonstrated to them how to handle and use a hand grenade. He later supplied the grenades with timing device was reduced to zero second delay and enticed them to use the explosive device simultaneously at 00h00 on identified targets (police and councillor). The operation resulted in the death of eight (8) people and seven (7) were seriously injured. The referral pertains to investigation into matters where Joe Mamasela was involved.</p> <p><u>CURRENT STATUS:</u></p> <p>The docket was sent to DPP for decision.</p>
Offence	Murder	
Date Reported	2022/07/27	
Date referred to DPCI	2022/07/27	
Victim	Congress Mtsweni	
Suspects/Accused	1	
Number of charges	1	
Number of statements obtained	9	

CASES PENDING DECISION BY NPA

346

188

Case number	Kwa Thema CAS 262/08/1996 (CATS ENQ. 06/07/2022)	<p><u>INCIDENT 1 (OPERATION ZERO ZERO)</u></p> <p>During June 1985, Joe Mamasela who was an askari infiltrated members of Congress of South African Student (COSAS) in the East Rand under a pretext of offering training on how to use explosives. He allegedly demonstrated to them how to handle and use a hand grenade. He later supplied the grenades with timing device was reduced to zero second delay and enticed them to use the explosive device simultaneously at 00h00 on identified targets (police and councillor). The operation resulted in the death of eight (8) people and seven (7) were seriously injured. The referral pertains to investigation into matters where Joe Mamasela was involved.</p> <p><u>CURRENT STATUS:</u></p> <p>The docket was sent to DPP for decision</p>
Offence	Conspiracy to Murder	
Date Reported	2022/07/27	
Date referred to DPCI	2022/07/27	
Victim	Samuel Lekatsa	
Suspects/Accused	1	
Number of charges	1	
Number of statements obtained	8	

CASES PENDING DECISION BY NPA

347

189

Case number	KwaThema CAS 263/08/1996 (CATS Enq 06/07/2022)	<p><u>INCIDENT 1 (OPERATION ZERO ZERO)</u></p> <p>During June 1985, Joe Mamasela who was an askari infiltrated members of Congress of South African Student (COSAS) in the East Rand under a pretext of offering training on how to use explosives. He allegedly demonstrated to them how to handle and use a hand grenade. He later supplied the grenades with timing device was reduced to zero second delay and enticed them to use the explosive device simultaneously at 00h00 on identified targets (police and councillor). The operation resulted in the death of eight (8) people and seven (7) were seriously injured. The referral pertains to investigation into matters where Joe Mamasela was involved.</p> <p><u>CURRENT STATUS:</u></p> <p>The docket was sent to DPP for decision</p>
Offence	Conspiracy to Murder	
Date Reported	2022/07/27	
Date referred to DPCI	2022/07/27	
Victim	Humphrey Tshabalala	
Suspects/Accused	1	
Number of charges	1	
Number of statements obtained	8	

CASES PENDING DECISION BY NPA

348 **190**

Case number	Kwa Thema CAS 264/08/1996 (CATS ENQ. 06/07/2022)	<p><u>INCIDENT 1 (OPERATION ZERO ZERO)</u></p> <p>During June 1985, Joe Mamasela who was an askari infiltrated members of Congress of South African Student (COSAS) in the East Rand under a pretext of offering training on how to use explosives. He allegedly demonstrated to them how to handle and use a hand grenade. He later supplied the grenades with timing device was reduced to zero second delay and enticed them to use the explosive device simultaneously at 00h00 on identified targets (police and councillor). The operation resulted in the death of eight (8) people and seven (7) were seriously injured. The referral pertains to investigation into matters where Joe Mamasela was involved.</p> <p><u>CURRENT STATUS:</u></p> <p>The docket was sent to DPP for decision</p>
Offence	Conspiracy to Murder	
Date Reported	2022/07/27	
Date referred to DPCI	2022/07/27	
Victim	Johannes Mazibuko	
Suspects/Accused	1	
Number of charges	1	
Number of statements obtained	7	

CASES PENDING DECISION BY NPA

349 **191**

Case number	KwaThema CAS 265/08/1996 (CATS Enq 06/07/2022)	<p><u>INCIDENT 1 (OPERATION ZERO ZERO)</u></p> <p>During June 1985, Joe Mamasela who was an askari infiltrated members of Congress of South African Student (COSAS) in the East Rand under a pretext of offering training on how to use explosives. He allegedly demonstrated to them how to handle and use a hand grenade. He later supplied the grenades with timing device was reduced to zero second delay and enticed them to use the explosive device simultaneously at 00h00 on identified targets (police and councillor). The operation resulted in the death of eight (8) people and seven (7) were seriously injured. The referral pertains to investigation into matters where Joe Mamasela was involved.</p> <p><u>CURRENT STATUS:</u></p> <p>The docket was sent to DPP for decision</p>
Offence	Murder	
Date Reported	2022/07/27	
Date referred to DPCI	2022/07/27	
Victim	Osborne Dlamini	
Suspects/Accused	1	
Number of charges	1	
Number of statements obtained	9	

CASES PENDING DECISION BY NPA

350 **192**

Case number	KwaThema CAS 266/08/1996 (CATS Enq 06/07/2022)	<p><u>INCIDENT 1 (OPERATION ZERO ZERO)</u></p> <p>During June 1985, Joe Mamasela who was an askari infiltrated members of Congress of South African Student (COSAS) in the East Rand under a pretext of offering training on how to use explosives. He allegedly demonstrated to them how to handle and use a hand grenade. He later supplied the grenades with timing device was reduced to zero second delay and enticed them to use the explosive device simultaneously at 00h00 on identified targets (police and councillor). The operation resulted in the death of eight (8) people and seven (7) were seriously injured. The referral pertains to investigation into matters where Joe Mamasela was involved.</p> <p><u>CURRENT STATUS:</u></p> <p>The docket was sent to DPP for decision</p>
Offence	Conspiracy to Murder	
Date Reported	2022/07/27	
Date referred to DPCI	2022/07/27	
Victim	John Mlangeni	
Suspects/Accused	1	
Number of charges	1	
Number of statements obtained	8	

CASES PENDING DECISION BY NPA

351 **193**

Case number	Kwa Thema CAS 267/08/1996 (CATS Enq 06/07/2022)	<p><u>INCIDENT 1 (OPERATION ZERO ZERO)</u></p> <p>During June 1985, Joe Mamasela who was an askari infiltrated members of Congress of South African Student (COSAS) in the East Rand under a pretext of offering training on how to use explosives. He allegedly demonstrated to them how to handle and use a hand grenade. He later supplied the grenades with timing device was reduced to zero second delay and enticed them to use the explosive device simultaneously at 00h00 on identified targets (police and councillor). The operation resulted in the death of eight (8) people and seven (7) were seriously injured. The referral pertains to investigation into matters where Joe Mamasela was involved.</p> <p><u>CURRENT STATUS:</u></p> <p>The docket was sent to DPP for decision</p>
Offence	Conspiracy to Murder	
Date Reported	2022/07/27	
Date referred to DPCI	2022/07/27	
Victims	Joseph Titus Mazibuko	
Suspects/Accused	1	
Number of charges	1	
Number of statements obtained	8	

CASES PENDING DECISION BY NPA

352

194

Case number	Kwa Thema CAS 268/08/1996 (CATS Enq 06/07/2022)	<p><u>INCIDENT 1 (OPERATION ZERO ZERO)</u></p> <p>During June 1985, Joe Mamasela who was an askari infiltrated members of Congress of South African Student (COSAS) in the East Rand under a pretext of offering training on how to use explosives. He allegedly demonstrated to them how to handle and use a hand grenade. He later supplied the grenades with timing device was reduced to zero second delay and enticed them to use the explosive device simultaneously at 00h00 on identified targets (police and councillor). The operation resulted in the death of eight (8) people and seven (7) were seriously injured. The referral pertains to investigation into matters where Joe Mamasela was involved.</p> <p><u>CURRENT STATUS:</u></p> <p>The docket was sent to DPP for decision</p>
Offence	Murder	
Date Reported	2022/07/27	
Date referred to DPCI	2022/07/27	
Victims	Solomon Mashabane	
Suspects/Accused	1	
Number of charges	1	
Number of statements obtained	9	

CASES PENDING DECISION BY NPA

353

195

Case number	Kwa Thema 269/08/1996 (CATS Enq 06/07/2022)	<p><u>INCIDENT 1 (OPERATION ZERO ZERO)</u></p> <p>During June 1985, Joe Mamasela who was an askari infiltrated members of Congress of South African Student (COSAS) in the East Rand under a pretext of offering training on how to use explosives. He allegedly demonstrated to them how to handle and use a hand grenade. He later supplied the grenades with timing device was reduced to zero second delay and enticed them to use the explosive device simultaneously at 00h00 on identified targets (police and councillor). The operation resulted in the death of eight (8) people and seven (7) were seriously injured. The referral pertains to investigation into matters where Joe Mamasela was involved.</p> <p><u>CURRENT STATUS:</u></p> <p>The docket was sent to DPP for decision</p>
Offence	Murder	
Date Reported	2022/07/27	
Date referred to DPCI	2022/07/27	
Victim	Lucky Mogodi	
Suspects/Accused	1	
Number of charges	1	
Number of statements obtained	7	

CASES PENDING DECISION BY NPA

354

196

Case number	Kwa Thema CAS 270/08/1996 (CATS Enq 06/07/2022)	<p><u>INCIDENT 1 (OPERATION ZERO ZERO)</u></p> <p>During June 1985, Joe Mamasela who was an askari infiltrated members of Congress of South African Student (COSAS) in the East Rand under a pretext of offering training on how to use explosives. He allegedly demonstrated to them how to handle and use a hand grenade. He later supplied the grenades with timing device was reduced to zero second delay and enticed them to use the explosive device simultaneously at 00h00 on identified targets (police and councillor). The operation resulted in the death of eight (8) people and seven (7) were seriously injured. The referral pertains to investigation into matters where Joe Mamasela was involved.</p> <p><u>CURRENT STATUS:</u></p> <p>The docket was sent to DPP for decision</p>
Offence	Murder	
Date Reported	2022/07/27	
Date referred to DPCI	2022/07/27	
Victim	Morhoa Mashiane	
Suspects/Accused	1	
Number of charges	1	
Number of statements obtained	8	

CASES PENDING DECISION BY NPA

355

197

Case number	Kwa Thema CAS 271/08/1996 (HO CATS Enq 06/07/2022)	<p><u>INCIDENT 1 (OPERATION ZERO ZERO)</u></p> <p>During June 1985, Joe Mamasela who was an askari infiltrated members of Congress of South African Student (COSAS) in the East Rand under a pretext of offering training on how to use explosives. He allegedly demonstrated to them how to handle and use a hand grenade. He later supplied the grenades with timing device was reduced to zero second delay and enticed them to use the explosive device simultaneously at 00h00 on identified targets (police and councillor). The operation resulted in the death of eight (8) people and seven (7) were seriously injured. The referral pertains to investigation into matters where Joe Mamasela was involved.</p> <p><u>CURRENT STATUS:</u></p> <p>The docket was sent to DPP for decision</p>
Offence	Conspiracy to Murder	
Date Reported	2022/07/27	
Date referred to DPCI	2022/07/27	
Victim	Hosea Lengosane	
Suspects/Accused	1	
Number of charges	1	
Number of statements obtained	7	

CASES PENDING DECISION BY NPA

356 **198**

Case number	Kwa Thema CAS 272/08/1996 (HO CATS Enq 06/07/2022)	<p><u>INCIDENT 1 (OPERATION ZERO ZERO)</u></p> <p>During June 1985, Joe Mamasela who was an askari infiltrated members of Congress of South African Student (COSAS) in the East Rand under a pretext of offering training on how to use explosives. He allegedly demonstrated to them how to handle and use a hand grenade. He later supplied the grenades with timing device was reduced to zero second delay and enticed them to use the explosive device simultaneously at 00h00 on identified targets (police and councillor). The operation resulted in the death of eight (8) people and seven (7) were seriously injured. The referral pertains to investigation into matters where Joe Mamasela was involved.</p> <p><u>CURRENT STATUS:</u></p> <p>The docket was sent to DPP for decision</p>
Offence	Conspiracy to Murder	
Date Reported	2022/07/27	
Date referred to DPCI	2022/07/27	
Victims	Cedrick Nicholas Dladla	
Suspects/Accused	1	
Number of charges	1	
Number of statements obtained	9	

CASES PENDING DECISION BY NPA

357

199

Case number	Kwa Thema CAS 273/08/1996 (HO CATS Enq 06/07/2022)	<p><u>INCIDENT 1 (OPERATION ZERO ZERO)</u></p> <p>During June 1985, Joe Mamasela who was an askari infiltrated members of Congress of South African Student (COSAS) in the East Rand under a pretext of offering training on how to use explosives. He allegedly demonstrated to them how to handle and use a hand grenade. He later supplied the grenades with timing device was reduced to zero second delay and enticed them to use the explosive device simultaneously at 00h00 on identified targets (police and councillor). The operation resulted in the death of eight (8) people and seven (7) were seriously injured. The referral pertains to investigation into matters where Joe Mamasela was involved.</p> <p><u>CURRENT STATUS:</u></p> <p>The docket was sent to DPP for decision</p>
Offence	Murder	
Date Reported	2022/07/27	
Date referred to DPCI	2022/07/27	
Victim	Jabulane Mahlangu	
Suspects/Accused	1	
Number of charges	1	
Number of statements obtained	8	

CASES PENDING DECISION BY NPA

358 **200**

Case number	Kwa Thema CAS 274/08/1996 (HO CATS Enq 06/07/2022)	<p><u>INCIDENT 1 (OPERATION ZERO ZERO)</u></p> <p>During June 1985, Joe Mamasela who was an askari infiltrated members of Congress of South African Student (COSAS) in the East Rand under a pretext of offering training on how to use explosives. He allegedly demonstrated to them how to handle and use a hand grenade. He later supplied the grenades with timing device was reduced to zero second delay and enticed them to use the explosive device simultaneously at 00h00 on identified targets (police and councillor). The operation resulted in the death of eight (8) people and seven (7) were seriously injured. The referral pertains to investigation into matters where Joe Mamasela was involved.</p> <p><u>CURRENT STATUS:</u></p> <p>The docket was sent to DPP for decision</p>
Offence	Murder	
Date Reported	2022/07/27	
Date referred to DPCI	2022/07/27	
Victim	Vincent Khole Nokwindla	
Suspects/Accused	1	
Number of charges	1	
Number of statements obtained	10	

CASES PENDING DECISION BY NPA

359 **201**

Case number	HO CATS Enq 07/09/2017 Thabazimbi CR 43/04/1979	<p><u>SYNOPSIS OF CASE</u></p> <p>On 1 November 1978, Jacobus Van der Merwe a farmer from Thabazimbi was allegedly travelling along Botswana border, where he offered four MK members a lift. While driving with them, they produced firearms, hijacked, killed him and dumped his body along the road. The vehicle was found abandoned next to South Africa/Botswana boarder line. A case of a missing person was reported.</p> <p>Mrs. Van der Merwe approached the TRC and investigation managed to link the four suspects to the murder.</p> <p><u>CURRENT STATUS:</u></p> <p>The docket was sent to DPP for decision</p>
Offence	Murder	
Date Reported	14 June 2021	
Date referred to DPCI	14 June 2021	
Victim	Jacobus van der Merwe	
Suspects/Accused	4	
Number of charges	1	
Number of statements obtained	23	

CASES PENDING DECISION BY NPA

360 **202**

Case number	HO CATS Enq 15/06/2022	<p><u>SYNOPSIS OF CASE</u></p> <p>Solwandle Looksmart Khulile Ngudle was an ANC leader and activist around the Western Cape who was arrested on 19 August 1963 in relation with terrorism activities, including recruiting people to leave the country to join ANC in exile. He was detained at Cape Town police station and on 23 to 24 August 1963, he was transferred to Pretoria North police station and later declared dead on 5 September 1963 as a result of alleged suicide by hanging.</p> <p><u>CURRENT STATUS:</u></p> <p>The docket was sent to DPP for decision.</p>
Offence	Death in detention	
Date Reported	29 June 2022	
Date referred to DPCI	29 June 2022	
Victim	Solwandle Looksmart Khulile Ngudle	
Suspects/Accused	6	
Number of charges	1	
Number of statements obtained	15	

CASES PENDING DECISION BY NPA

361 **203**

Case number	HO CATS CR 04/01/2021 CATS Gauteng 04/01/2021 Springs CR 482/11/1977 & 483/11/1977	<p><u>SYNOPSIS OF CASE</u></p> <p>On the early evening of 22 November 1977, Mrs. Jean-Cora Smit was alone in the house when she was attacked by unknown intruders who stabbed her to death. When Dr. Smit, a political activist as well as a candidate for a post of Finance Minister at the National Party, later arrived at home, he was also shot and killed. The word "Rautem" was spray painted on the kitchen wall as well as on the refrigerator. Their lifeless bodies were found on 23 November 1977 at approximately 07:00 by their personal driver, Daniel Tshabalala.</p> <p><u>CURRENT STATUS:</u></p> <p>The docket was sent to DPP for decision.</p>
Offence	Murder	
Date Reported	2021/07/01	
Date referred to DPCI	2021/07/01	
Victims	Dr Robert and Jean-Cora Smit	
Suspects/Accused	Unknown	
Number of charges	1	
Number of statements obtained	40	

CASES PENDING DECISION BY NPA

362 **204**

Case number	Jabulani CR 468/10/1987	<p><u>SYNOPSIS OF CASE</u></p> <p>Victim Suzan Maripa of Tladi Township in Soweto was murdered with an AK47 riffle while at home 29 October 1987 by two men who were members of Mandela Football Club. It was alleged that she was murdered by unknown members of Mandela Football Club. She was suspected of leaking information about political activities to the Security Branch. One man of a house in Zola 2 Soweto was identified as the one who was in the company of the suspects who shot and killed the deceased.</p> <p><u>CURRENT STATUS:</u></p> <p>Indictment has been prepared and submitted to DPP.</p>
Offence	Murder	
Date Reported	2021/06/08	
Date referred to DPCI	2021/06/02	
Victim	Susan Maripa	
Suspects/Accused	2	
Number of charges	1	
Number of statements obtained	36	

CASES PENDING DECISION BY NPA

363 **205**



Case number	HO CATS Enq 08/06/2022	<p><u>SYNOPSIS OF CASE</u></p> <p>It is alleged that Ernest Mamashila was arrested on 16 December 1976 under Terrorism Act 83 of 1967 detained at Brakpan Police Station and later transferred to Balfour Police Station. On 19 November 1976, he was reported to have hanged himself in a cell.</p> <p><u>CURRENT STATUS:</u></p> <p>The docket was sent to DPP for decision.</p>
Offence	Death in detention	
Date Reported	2022/07/01	
Date referred to DPCI	2022/0701	
Victim	Ernest Mamashila	
Suspects/Accused	Unknown	
Number of charges	1	
Number of statements obtained	3	

CASES PENDING DECISION BY NPA

364 **206**

Case number	HO CATS Enq 13/06/2022	<p><u>SYNOPSIS OF CASE</u></p> <p>Mr Alpheus Madala Madiba was a member of the Communist party of South Africa and served on the executive committee of the ANC. The then government placed a banishment on him and subsequently arrested in 1967 under Terrorism Act of 1967. On 6 September 1967, he was found dead while in custody at Pretoria Central prison.</p> <p><u>CURRENT STATUS:</u></p> <p>The docket was sent to DPP for decision.</p>
Offence	Death in detention	
Date Reported	2022/07/01	
Date referred to DPCI	2022/07/01	
Victim	Alpheus Madaba Madiba	
Suspects/Accused	1	
Number of charges	1	
Number of statements obtained	4	

CASES PENDING DECISION BY NPA

365 **207**

Case number	Durban SOCI Enq 06/09/2021 Durban Central CAS 1153/01/1994	<p><u>SYNOPSIS OF CASE</u></p> <p>Mr. Mohseen Jeenah was member of PAC, he was fatally shot and killed together with two unknown men by the police on 17 January 1994 at approximately 01:00. It is alleged that he was in the process of attacking the then Pine Parkade satellite police station and a crossfire ensued with the Security Branch who were waiting for them. A third person (innocent bystander) Mr Cele was also shot and killed in Crossfire.</p> <p><u>CURRENT STATUS:</u></p> <p>The docket was sent to DPP for decision.</p>
Offence	Murder	
Date Reported	2021- 09- 07	
Date referred to DPCI	2021- 09- 07	
Victim	Mohseen Jeenah	
Suspects/Accused	Members of the riot squad	
Number of charges	1	
Number of statements obtained	77	

CASES PENDING DECISION BY NPA

366 **208**

Case number	Durban SOCI Enq 46/06/2021	<p><u>SYNOPSIS OF CASE</u></p> <p>Ms. Victoria Mxenge was a member of the African National Congress (ANC), who was a practicing lawyer, representing most political activists during arrest. On 1 August 1985, Ms. Mxenge was attacked by two armed men while alighting from a vehicle that was driven by Reverend Xundu at the gate of her house in V Section Umlazi. She was shot multiple times in the upper body, she managed to run into her house and one attacker followed and hit her with an axe on the head. The attackers fled the scene and her son rushed her to the hospital where she succumbed to her injuries.</p> <p>An inquest was held, whereby it was concluded that she died of head injuries. The family applied for a formal inquest to be held but it was denied by the magistrate. No suspect was identified and arrested.</p> <p>No application was made for amnesty. SAP Umlazi 15/08/1985.</p> <p><u>CURRENT STATUS:</u></p> <p>The docket was sent to DPP for decision.</p>
Offence	Murder	
Date Reported	2021-05-17	
Date referred to DPCI	2021-05-17	
Victim	Victoria Mxenge	
Suspects/Accused	Unknown	
Number of charges	1	
Number of statements obtained	45	

CASES PENDING DECISION BY NPA

367 **209**

Case number	Durban SOCI Enq 51/06/2021	<p><u>SYNOPSIS OF CASE</u></p> <p>Mr. Malinga was arrested on 31 January 1977 at his home in Soweto in connection with Pan Africanist Congress activities that led to the Bethal Trial in 1978, later he was transferred to Pietermaritzburg prison where he was detained in terms of Sec 6(1) of the Terrorism Act. On 22 February 1977, he died while at an intensive care unit of Edendale hospital. It is alleged that he suffered from heart failure. Ms. Malinga struggled to locate his whereabouts and disputed the allegations that he was sick or used to carry pills with him.</p> <p><u>CURRENT STATUS:</u></p> <p>The docket was sent to DPP for decision.</p>
Offence	Inquest: died while hospitalised	
Date Reported	2021-05-17	
Date referred to DPCI	2021-05-17	
Victim	Samuel Malinga	
Suspects/Accused	Unknown	
Number of charges	1	
Number of statements obtained	7	

CASES PENDING DECISION BY NPA

368 **210**

Case number	Durban SOCI Eng 50/06/2021	<p><u>SYNOPSIS OF CASE</u></p> <p>Aaron Khoza was a member of the Pan African Congress. He was arrested on 19 December 1976 together with Johnson Vusimuzi and Ivan Nyathi and detained at Krugersdorp Police Station. The victim was transferred to Pietermaritzburg Prison. He died on 26 March 1977 and it is alleged that he hanged himself. His wife testified at the TRC indicating that his body had a lot of scars which shows that he was severely assaulted before his death.</p> <p><u>CURRENT STATUS:</u></p> <p>The docket was sent to DPP for decision.</p>
Offence	Death in police custody	
Date Reported	2021-05-17	
Date referred to DPCI	2021-05-17	
Victim	Aaron Khoza	
Suspects/Accused	Unknown	
Number of charges	1	
Number of statements obtained	11	

CASES PENDING DECISION BY NPA

369 **211**

Case number	Durban SOCI Enq 48/06/2021	<p><u>SYNOPSIS OF CASE</u></p> <p>Mr. Joseph Mdluli was an ANC activist who was assisting members to leave the country and join the ANC in exile. He was arrested in 1976 and detained at CR Swart Plein Police Station. He allegedly died while in police custody on 19 March 1976. It is alleged that he attempted to escape from detention during his interrogation and fell over a chair. The pathologist disputed the version of the four (4) Security Branch police members who were charged with culpable homicide. On 26 October 1976, the four police officers were acquitted due to insufficient evidence that was presented before court, and a further investigation was recommended. In March 1979, Ms. Mdluli sued the State and accepted out of court settlement of R28 016,16).</p> <p><u>CURRENT STATUS:</u></p> <p>The docket was sent to DPP for decision.</p>
Offence	Death in police custody	
Date Reported	2021-05-17	
Date referred to DPCI	2021-05-17	
Victim	Joseph Mdluli	
Suspects/Accused	4	
Number of charges	1	
Number of statements obtained	14	

CASES PENDING DECISION BY NPA

370 **212**

Case number	Durban SOCI Enq 49/06/2021	<p><u>SYNOPSIS OF CASE</u></p> <p>Mr. Ephraim Thami “Papi” Mthethwa was a member of the United Democratic Front (UDF) who was arrested and detained at the then Durban Central prison. During trial, he was referred for psychological observation by the magistrate and the matter was adjourned. It is alleged that on 21 August 1984, he allegedly hanged himself while in his detention.</p> <p><u>CURRENT STATUS:</u></p> <p>The docket was sent to DPP for decision.</p>
Offence	Death in police custody	
Date Reported	2021-05-17	
Date referred to DPCI	2021-05-17	
Victim	Ephraim Thami ‘Papi’ Mthethwa	
Suspects/Accused	Unknown	
Number of charges	1	
Number of statements obtained	10	

CASES PENDING DECISION BY NPA

371 **213**

Case number	EC: P COM ENQUIRY 02/10/2020	<p><u>SYNOPSIS OF CASE</u></p> <p>On 29 July 1986, Madeira Police Station in Mthatha was attacked by members of Mkhonto we Sizwe who shot and killed four (4) policemen. The attackers accidentally shot one of their own Solomzi China Talakumeni and took him to the house of Robert Nogumla for treatment. Unfortunately, he succumbed to his injuries. He was then buried in shallow grave by his fellow comrades at Nqadu forest in Tsolo.</p> <p>One of his comrades, Peter Walken who was part of the informal burial was arrested by the Security Branch and pointed out the shallow grave whereby the body was exhumed and later could not be found.</p> <p><u>CURRENT STATUS:</u></p> <p>The docket was sent to DPP for decision.</p>
Offence	Murder	
Date Reported	21 September 2021	
Date referred to DPCI	21 September 2021	
Victim	Solomzi China Talakumeni	
Suspects/Accused	Unknown	
Number of charges	1	
Number of statements obtained	40	

CASES PENDING DECISION BY NPA

372 **214**

Case number	EC: Prov Comm. Enq 02/05/2021	<p><u>SYNOPSIS OF CASE</u></p> <p>On 8 May 1985, three (3) members from Port Elizabeth Black Civic Organisation (PEBCO) namely Sipho Hashe, Qaqawuli Godolozi and Champion Galela commonly known as PEBCO 3 were kidnapped at HF Verwoerd Airport in Port Elizabeth by the Security Branch Officers. They were taken to Post Chalmers Old Police Station in Cradock where they were interrogated and brutally murdered. Their remains were found by the Missing Persons Task Team (MPTT) in a septic tank at Post Chalmers.</p> <p><u>CURRENT STATUS:</u></p> <p>The docket was sent to DPP for decision.</p>
Offence	Murder	
Date Reported	5 May 2021	
Date referred to DPCI	5 May 2021	
Victims	<ol style="list-style-type: none"> 1. Sipho Hashe 2. Qaqaquli Godolozi 3. Champion Galela 	
Suspects/Accused	4	
Number of charges	3	
Number of statements obtained	57	

CASES PENDING DECISION BY NPA

373 **215**

Case number	EC Prov Enq 03/06/2022	<p><u>SYNOPSIS OF CASE</u></p> <p>It is alleged that Mr Twalimfene Joyi was an ANC member who was actively involved in ANC activities. On 22 February 1977, he borrowed a tractor from his brother, Chief Bangilizwe Joyi to load the sand from Bashe River banks where sand was normally mined. The tractor was driven by a young boy named Pedi. When the trailer was loaded and filled up with sand, they towed it with the tractor back home. On the way, they were stopped by two traffic officers and Twalimfene ran away whereby traffic officers pursued. It is further alleged that the traffic officers shot him, threw his body into Bashe river and left without harming Pedi.</p> <p><u>CURRENT STATUS:</u></p> <p>The docket was sent to DPP for decision.</p>
Offence	Murder	
Date Reported	2022-06-30	
Date referred to DPCI	2022-06-30	
Victim	Twalimfene Joyi	
Suspects/Accused	Unknown	
Number of charges	1	
Number of statements obtained	10	

CASES PENDING DECISION BY NPA

374 **216**

Case number	Claremont CAS 539/7/1993	<p><u>SYNOPSIS OF CASE</u></p> <p>On 25 July 1993, members of the St James Congregation Church were attacked while attending a service. Eleven (11) people died and 58 people were injured during this attack. Later during the investigation it became known that members of APLA carried out the attack on the church. Four (4) members of APLA were arrested, charged and convicted for this attack. All the accused applied for amnesty and three (3) were granted amnesty for the attack. One accused died before his application could be heard. Later a fifth suspect was identified, who also applied for amnesty, but then refused to testify before the Commission. He was not granted amnesty.</p> <p><u>CURRENT STATUS:</u></p> <p>The docket was sent to DPP for decision.</p>
Offence	Murder and Attempted murder	
Date Reported	13 July 2009	
Date referred to DPCI	28 August 2013	
Victims	<ol style="list-style-type: none"> 1. Guy Cooper Javens and 10 others 2. Damitri Makogon and 57 others 	
Suspects/Accused	7	
Number of charges	2	
Number of statements obtained	9	

CASES PENDING DECISION BY NPA

375

217

Case number	Woodstock CAS 628/12/1993	<p><u>SYNOPSIS OF CASE</u></p> <p>On 30 December 1993, members of the public were attacked in the Heidelberg Tavern while relaxing and having a drink. Four (4) people died and five (5) people were injured during this attack. Later during the investigation, it became known that members of APLA carried out the attack on the Tavern. Six (6) suspects were identified and arrested. The case was withdrawn against three (3) of the suspects. The other three (3) were convicted for murder and attempted murder. All three (3) convicted men applied for amnesty and amnesty was granted to all of them. The three (3) suspects against whom the case was withdrawn, also applied for amnesty, but only one (1) was granted amnesty. The other one (1) also applied for amnesty, although he was never identified, arrested or charged. He refused to testify before the Commission and did not receive amnesty.</p> <p><u>CURRENT STATUS:</u></p> <p>The docket was sent to DPP for decision.</p>
Offence	Murder Attempted murder	
Date Reported	13 July 2009	
Date referred to DPCI	19 October 2011	
Victims	<ol style="list-style-type: none"> 1. Bernadette Langford and 3 others 2. Benjamin Broude and 4 others 	
Suspects/Accused	7	
Number of charges	2	
Number of statements obtained	9	

CASES PENDING DECISION BY NPA

376

218

Case number	C/Town Central OCI Enquiry 18/01/2022	<p><u>SYNOPSIS OF CASE</u></p> <p>Bellington Mampe, a unionist who suffered from TB was detained by the Security Branch for 140 days and on 01 September 1963, he allegedly died of natural causes in Worcester Prison Hospital. A relative claimed that he was ill-treated and tortured while in detention.</p> <p><u>CURRENT STATUS:</u></p> <p>The docket was sent to DPP for decision.</p>
Offence	Death in detention	
Date Reported	2022/01/24	
Date referred to DPCI	20 January 2022	
Victims	Bellington Mampe NY 38 no 37 Gugulethu	
Suspects/Accused	Unknown	
Number of charges	1	
Number of statements obtained	11	

CASES PENDING DECISION BY NPA

377

219

Case number	FS: Parkroad SOCI 06/02/2023	<p><u>SYNOPSIS OF CASE</u></p> <p>During the period of December 1987 to March 1988, four MK members (Ladybrand 4) were abducted from Maseru in Lesotho to South Africa by members of the Ladybrand Security Branch. The four (4) persons were: Betty Boom, Nomasonto Mashiya, Tebogo Tax Sejanamane and Mbulelo Ngono. To date, they were never seen or heard of. The Security Branch members applied for amnesty regarding the abduction of the four victims. They alleged during the application that they recruited the four victims and sent them back to Lesotho to infiltrate other MK operatives.</p> <p><u>CURRENT STATUS:</u></p> <p>The docket was sent to DPP for decision.</p>
Offence	Abduction & murder	
Date Reported	31 May2021	
Date referred to DPCI	08 August 2021	
Victims	<ol style="list-style-type: none"> 1. Betty Boom 2. Nomasonto Mashiya 3. Tax Sejanamane 4. Mbulelo Ngono 	
Suspects/Accused	4	
Number of charges	8	
Number of statements obtained	7	

CASES PENDING DECISION BY NPA

378

220

Case number	FS: Parkroad SOCI 02/11/2022	<p><u>SYNOPSIS OF CASE</u></p> <p>On 25 May 1993, a protest march under the auspices of Congress of South African Students (COSAS) and the ANC was held against the policies of the then Bophuthatswana Government. At the Bophuthatswana consulate, a hand grenade was thrown at the entrance of the building but exploded outside the building. The deceased, Ezekiel Lebogang Mokone who was part of the protesters was killed by the explosion and several people were injured, including Jeanne Nel. At the time, Jeanne Nel was the Regional Head of the Peace Secretariat in the Northern Cape. This matter was registered as Kimberly CR 919/05/1993 and Moses Siphon Mbaqa and Darlington Nkohla were charged, convicted and sentenced for culpable homicide, attempted murder and unlawful possession of hand grenade. Afriforum complained on behalf of Jeanne Nel who was injured during the process.</p> <p><u>CURRENT STATUS:</u></p> <p>The docket was sent to DPP for decision.</p>
Offence	Attempted murder & murder	
Date Reported	2022-11-15	
Date referred to DPCI	2022-11-15	
Victims	<ol style="list-style-type: none"> 1. Ezekiel Lebogang Mokone. 2. Jeanne Nel. 	
Suspects/Accused	2	
Number of charges	1	
Number of statements obtained	14	

CASES PENDING DECISION BY NPA

379

221

Case number	FS: Park Road SOCI 03/11/2022	<p><u>SYNOPSIS OF CASE</u></p> <p>On 12 September 1989, Advocate Anton Lubowski was shot dead outside his home in Windhoek. He was the Secretary General of South West Africa People's Organisation (SWAPO). Two amnesty applications were submitted by Mr Derrick Nielsen and Mr Horst Klenz and neither provided any substance to this matter and the applications were set aside. The inquest was held in Namibia before the Namibian High Court. In the 144 page judgement, Irish Mercenary, Donald Archeson was named as the assassin with accomplices from Civil Corporation Bureau (CCB).</p> <p><u>CURRENT STATUS:</u></p> <p>The docket was sent to DPP for decision.</p>
Offence	Attempted murder & murder	
Date Reported	2022-11-15	
Date referred to DPCI	2022-11-15	
Victim	Antoni Lubowski	
Suspects/Accused	9	
Number of charges	1	
Number of statements obtained	0	

CASES UNDER INVESTIGATION

380

222

Case number	Orlando CAS 392/11/1988 Orlando CAS 393/11/1988	<p><u>SYNOPSIS OF CASE</u></p> <p>Lolo Sono of 3699 Orlando East, Soweto and Siboniso Tshabalala of 3365 Zone 10 Meadowlands were members of Mandela Football Club which was managed by the late Ms. W Mandela. It is alleged that on 13 and 14 November 1976 both Lolo and Siboniso were kidnapped from their parents homes by members of Mandela Football Club members and were assaulted at Winnie Mandela's house. They were killed and dumped at mine site in Soweto. 3365 zone 10 Meadowlands</p> <p><u>CURRENT STATUS:</u></p> <p>The docket was sent to DPP for decision.</p>
Offence	Murder, kidnapping	
Date Reported	2021/06/14	
Date referred to DPCI	2021/06/14	
Victim	Siboniso Tshabalala	
Suspects/Accused	2	
Number of charges	2	
Number of statements obtained	51	

CASES UNDER INVESTIGATION

381

223

Case number	HO CATS Enq 02/06/2018	<p><u>SYNOPSIS OF CASE</u></p> <p>Peter Nchabeleng was a member and co-founder of the United Democratic Front (UDF) around Sekhukhune area during 1986. It is alleged that he mobilised the communities against the apartheid regime. Most of the unrests in the area were alleged to have been organised by him. On 11 April 1986, the Riot Police arrested, assaulted and detained him at Sekhukhune police station.</p> <p>It is alleged that the Security Branch members kept him under surveillance and during his arrest, they got involved in the investigation. He later died while in the hands of the police.</p> <p><u>CURRENT STATUS:</u></p> <p>The docket was sent to DPP for decision.</p>
Offence	Murder.	
Date Reported	2021/06/11	
Date referred to DPCI	2021/06/11	
Victim	Peter Nchabeleng.	
Suspects/Accused	8	
Number of charges	1	
Number of statements obtained	26	

CASES UNDER INVESTIGATION

382

224

Case number	EC: Prov Comm Enq 02/01/2022	<p><u>SYNOPSIS OF CASE</u></p> <p>James Tyita was an anti-apartheid activist. It is alleged that James Tyita was detained in Port Elizabeth police station, under the 90-day detention law. On 24 January 1964, he was then found hanging with a scarf in his cell. There is no information of any case opened as his death is alleged to be suicide. There is no information of the exact place (jail) where he was detained in Port Elizabeth, there is no information of the next of kin.</p> <p><u>CURRENT STATUS:</u></p> <p>The docket was sent to DPP for decision.</p>
Offence	Death in custody	
Date Reported	2022-01-05	
Date referred to DPCI	2022-01-05	
Victim	James Tyita	
Suspects/Accused	Unknown	
Number of charges	1	
Number of statements obtained	5	

CASES UNDER INVESTIGATION

383

225

Case number	HO CATS Enq 08/02/2022	<p><u>SYNOPSIS OF CASE</u></p> <p>Clayton Sithole was a former Umkhonto we Sizwe (MK) underground operative and also member of the Mandela Football Club. On 26 January 1990, he was arrested for murder of Kenneth Dlamini, taken to Protea police station for detention. He was later transferred to Johannesburg Central for interrogation. On 30 January 1990, he was found hanging with shoelaces and belt in the police cells.</p> <p><u>CURRENT STATUS:</u></p> <p>The case is still under investigation.</p>
Offence	Death in detention	
Date Reported	04 February 2022	
Date referred to DPCI	04 February 2022	
Victim	Clayton Sithole	
Suspects/Accused	unknown	
Number of charges	1	
Number of statements obtained	10	

CASES UNDER INVESTIGATION

384 **226**

Case number	HO CATS Enq 11/02/2022	<p><u>SYNOPSIS OF CASE</u></p> <p>On 11 December 1989, three members of the ANC Military wing, Umkhonto we Sizwe who belonged to the underground cell of the late Ahmed Timol namely, Yusuf Akhalwaya, Prakasa Napier and Jameel Chand approached Hilbrow Police Station and placed a limpet mine along the border fence. They then proceeded to Johannesburg Train Station with the intention to place the second limpet mine. Upon their arrival, Jameel kept the observation while Yusuf and Napier walked into the train station. The limpet mine detonated while in their possession resulting in their death and Jameel survived.</p> <p>It is suspected that the explosives were intercepted, tempered with by the Security Branch before they can reach Ahmed Timol's cell.</p> <p><u>CURRENT STATUS:</u></p> <p>The case is still under investigation.</p>
Offence	Murder	
Date Reported	2022/02/07	
Date referred to DPCI	2022/02/07	
Victims	<ol style="list-style-type: none"> 1. Yusuf Akhalwaya 2. Prakash Napier 	
Suspects/Accused	Unknown	
Number of charges	1	
Number of statements obtained	08	

CASES UNDER INVESTIGATION

385 **227**

Case number	HO CATS 32/11/2016	<p><u>SYNOPSIS OF CASE</u></p> <p>Mlahleni Ignatius Mthebule was part of the uMkhonto weSizwe (MK) cell that was operating underground in the East Rand between 1986 and 1987. Mthebule was infiltrated by the Security Branch female agent. The police Brigadier was the handler of an agent and tasked her to infiltrate him. It is alleged that, Mthebule was last seen enroute to meet with an agent. Prior to their meeting, an agent raised a concern and indicated that her identity could have been compromised and she was scared to proceed with the appointment. Brigadier took her into confidence that Mthebule will not be seen again because Captain's team from the Soweto Security Branch will take care of him.</p> <p>To date Mthebule was never seen or heard of again.</p> <p><u>CURRENT INVESTIGATIONS:</u></p> <p>The case is still under investigation.</p>
Offence	Missing persons of MK Operatives in JHB: Presumed dead	
Date Reported	2021/06/11	
Date referred to DPCI	2021/06/11	
Victim	Mlahleni Ignatius Mthebule	
Suspects/Accused	2	
Number of charges	1	
Number of statements obtained	11	

CASES UNDER INVESTIGATION

386

228

Case number	HO CATS Enq 05/07/2022	<p><u>SYNOPSIS OF CASE</u></p> <p>It is alleged that on 10 September 1968, a Namibian national, Jundea Tubakwa who was also a member of South West Africa Peoples Organisation (SWAPO) was arrested under Section 6(1) of the Terrorism Act by the Security Branch. He was detained at Pretoria Prison and on 11 September 1968, it was reported that he was found hanging in his cell.</p> <p><u>CURRENT STATUS:</u></p> <p>The case is still under investigation.</p>
Offence	Death in detention	
Date Reported	29 July 2022	
Date referred to DPCI	29 July 2022	
Victim	Jundea B Tubakwa	
Suspects/Accused	Unknown	
Number of charges	1	
Number of statements obtained	10	

CASES UNDER INVESTIGATION

387

229

Case number	CATS Enq 12/02/2022	<p><u>SYNOPSIS OF CASE</u></p> <p>The victim was a member of the Chemical Workers Industrial Union. He was arrested for Terrorism by Security Branch Police and detained at Tsakane Police Station. He was taken to Baragwanath Hospital for medical treatment and he died on 6 May 1985.</p> <p><u>CURRENT STATUS:</u></p> <p>The case is still under investigation.</p>
Offence	Death in detention	
Date Reported	9 February 2022	
Date referred to DPCI	9 February 2022	
Victim	Andries Raditsela	
Suspects/Accused	2	
Number of charges	1	
Number of statements obtained	19	

CASES UNDER INVESTIGATION

388

230

Case number	HO CATS Enq 13/02/2022	<p><u>SYNOPSIS OF CASE</u></p> <p>Bonaventura Sipho Malaza was a 16-year-old student at Mosupatsela High School in Kagiso. It is alleged that during 1976, he was part of the students who planned the 1976 uprising and was arrested by the Security Branch while attending a meeting with fellow students at the Roman Catholic Church in Kagiso. He was detained at Groenpunt Prison later transferred to Krugersdorp Prison where it is alleged that on 16 November 1977, he hanged himself in his cell.</p> <p><u>CURRENT STATUS</u></p> <p>The case is still under investigation.</p>
Offence	Death in detention	
Date Reported	7 February 2022	
Date referred to DPCI	7 February 2022	
Victim	Bonaventura Sipho Malaza	
Suspects/Accused	6	
Number of charges	1	
Number of statements obtained	15	

CASES UNDER INVESTIGATION

231

389

Case number	HO CATS Enq 18/02/2022	<p><u>SYNOPSIS OF CASE</u></p> <p>It is alleged that Simon Thembuyise Mndawe was ANC member who was arrested by the Security Branch in terms of Section 29 of the Internal Security Act, he was detained at Nelspruit Police Station. On 9 March 1983, he was allegedly found hanging in his cell.</p> <p><u>CURRENT STATUS:</u></p> <p>The case is still under investigation.</p>
Offence	Death in detention	
Date referred to DPCI	28 February 2022	
Victims	Simon Thembuyise Mndawe	
Suspects/Accused	6	
Number of charges	1	
Number of statements obtained	20	

CASES UNDER INVESTIGATION

390

232

Case number	HO CATS Enq 09/02/2022	<p><u>SYNOPSIS OF CASE</u></p> <p>It is alleged that Leong Yun Pin a Chinese national who lived in Johannesburg and was arrested on 16 November 1966 for human smuggling by members of Security Branch and detained at Leeuwkop Prison. He was later charged in terms of Section 29 of the Internal Security Act, 1966. On 19 November 1966, he allegedly hung himself in prison cell.</p> <p><u>CURRENT STATUS:</u></p> <p>The case is still under investigation.</p>
Offence	Death in detention	
Date Reported	03 February 2022	
Date referred to DPCI	03 February 2022	
Victims	Leong Yun Pin	
Suspects/Accused	3	
Number of charges	1	
Number of statements obtained	8	

CASES UNDER INVESTIGATION

233

391

Case number	HO CATS Enq 11/03/2018 JHB Inquest 2463/64	<p><u>SYNOPSIS OF CASES</u></p> <p>Suliman Bable Salojee was an activist of Transvaal Indian Congress of South Africa and arrested on 6 July 1964 by the Johannesburg Security Branch at Grays Building. He was detained at the Old Rosebank Police Station. It is alleged that on 9 September 1964, he was booked out for interrogation at Gray's building where it is alleged that he jumped from the 7th floor of the building trying to escape. He sustained injuries, taken to General Hospital where he was declared dead on arrival.</p> <p><u>CURRENT STATUS:</u></p> <p>The case is still under investigation.</p>
Offence	Death in detention	
Date Reported	2021/06/11	
Date referred to DPCI	2021/06/11	
Victim	Suliman Bable Salojee	
Suspects/Accused	7	
Number of charges	1	
Number of statements obtained	18	

CASES UNDER INVESTIGATION

392 **234**

Case number	HO CATS Enq 02/02/2022	<p><u>SYNOPSIS OF CASE</u></p> <p>Jacob Zungwane Mashabane was arrested for terrorism by security police and detained at Johannesburg Fort. On 5 October 1976, he allegedly hung himself in his cell.</p> <p><u>CURRENT STATUS:</u></p> <p>The case is still under investigation.</p>
Offence	Death in detention	
Date Reported	3 February 2022	
Date referred to DPCI	3 February 2022	
Victim	Jacob Zungwane Mashabane	
Suspects/Accused	Unknown	
Number of charges	1	
Number of statements obtained	7	

CASES UNDER INVESTIGATION

393 **235**

Case number	HO CATS Enq 03/12/2022	<p><u>SYNOPSIS OF CASE</u></p> <p>Tshikudu Samuel Mugivhela, former uMkhonto weSizwe underground operative was arrested on 18 November 1983 by Venda Security Branch for allegedly harboring terrorists and detained at Vuwani Police Station. While in detention, he was booked multiple times in and out of the cells for interrogation. On 19 January 1984, he was booked to Tshilidzini Hospital for medical treatment and died on the same day. The doctor who treated him indicated that he died of typhoid; however, the post mortem report conducted on 6 January 1984 by Johannesburg Government Mortuary indicates that he died due to dehydration.</p> <p><u>CURRENT STATUS:</u></p> <p>The case is still under investigation.</p>
Offence	Death in detention	
Date Reported	9 December 2022	
Date referred to DPCI	9 December 2022	
Victim	Tshikudu Samuel Mugivhela	
Suspects/Accused	3	
Number of charges	1	
Number of statements obtained	13	

CASES UNDER INVESTIGATION

394 **236**

Case number	HO CATS Enq 05/11/2022	<p><u>SYNOPSIS OF CASE</u></p> <p>Onkgopotse Tiro was a member of the Black Consciousness Movement as well as South African Student Organisation who was expelled from the University of the North in 1972. He proceeded to render services at Moris Isaacson High School in White City, Soweto. While in Soweto, he was harassed by the Bureau of State Security (BOSS) Operatives and that led to him leaving the country and stayed in exile (Botswana). On 1 February 1974, he received a parcel bomb that killed him upon opening.</p> <p>Boy Rudolphus Mvemve @ John Langalibalele Dube was a member of ANC who left South Africa and stayed in exile, Zambia. On 11 February 1974, he received a parcel bomb that killed him upon opening.</p> <p>The two matters occurred in Botswana and Zambia; however, they were combined due to similar fact information. It is alleged that the conspiracy took place in South Africa, the <i>modus operandi</i> is consistent with the activities of BOSS.</p> <p><u>CURRENT STATUS:</u></p> <p>The case is still under investigation.</p>
Offence	Murder	
Date Reported	2022/11/16	
Date referred to DPCI	2022/11/16	
Victims	<ol style="list-style-type: none"> 1. Onkgopotse Tiro. 2. Rudolphus Mvemve @ John Langalibalele Dube. 	
Suspects/Accused	2	
Number of charges	2	
Number of statements obtained	4	

CASES UNDER INVESTIGATION

395

237

Case number	HO CATS Enq 06/07/2022 Nietverdiendt 10	<p><u>SYNOPSIS OF CASE</u></p> <p><u>INCIDENT 2</u></p> <p>During June 1986, Joe Mamasela approached a group of youth from Mamelodi and offered to take them for training in exile. On 10 June 1986, 10 youth were transported from Mamelodi under the pretext of leaving the country to Botswana and they were served with alcohol beverages that made them to be highly intoxicated.</p> <p>A pre-planned operation was awaiting the youth ahead and when they arrived at Nietverdiend in the then Western Transvaal, a joint operation by the Security Branch and SADF (Special Forces) stopped the vehicle. They removed the 10 youth out of the vehicle, injected them with an unknown substance and dragged them into a stolen vehicle (Kombi). The vehicle was loaded with explosives and set alight. All the 10 youth were burnt beyond recognition.</p> <p><u>CURRENT STATUS:</u></p> <p>The case is still under investigation.</p>
Offence	Murder	
Date Reported	2022/07/27	
Date referred to DPCI	2022/07/27	
Victims	<ol style="list-style-type: none"> 1. Abram Makolane. 2. Samuel Masilela. 3. Siphon Phillip Sibanyoni. 4. Jeremiah Magagula. 5. Thomas Phiri. 6. Umzoki Sibanja. 7. Morris Nkabinde. 8. Mathews P Lerutla. 9. Stephen Makena. 10. Elliot Sathege. 	
Suspects/Accused	1	
Number of charges	10	
Number of statements obtained	21	

CASES UNDER INVESTIGATION

396 **238**

Case number	HO CATS Enq 06/07/2022 Makapanstad CR11/05/1987	<p><u>SYNOPSIS OF CASE</u></p> <p><u>INCIDENT 3</u></p> <p>On 6 May 1987, Joe Tsele a United Democratic Front (UDF) Activist was at his home in Makapanstad near Moretele in the then Bophuthatswana watching television when two men arrived. Joe did not see the intruders and they pointed AK47's through the windows and fired multiple shots that killed him. It is alleged that the two men were carrying out instructions given by a Brigadier and a Captain.</p> <p><u>CURRENT STATUS:</u></p> <p>The case is still under investigation.</p>
Offence	Murder	
Date Reported	2022/07/27	
Date referred to DPCI	2022/07/27	
Victim	Joe Tsele	
Suspects/Accused	4	
Number of charges	1	
Number of statements obtained	19	

CASES UNDER INVESTIGATION.

397

239

Case number	HO CATS Enq 06/07/2022	<p><u>SYNOPSIS OF CASE</u></p> <p><u>INCIDENT 4</u></p> <p>Dr. Fabian Ribeiro was a medical doctor who dedicated his services to victims of Security Branch violent actions. Dr. Ribeiro was married to Florence and they were staying in Mamelodi. On 1 December 1986, Dr. Fabian and Florence Ribeiro returned home, alighted from their vehicle when they were accosted by two armed men with balaclavas, who fired at them and as the two men were about to drive away into a Opel Kadett, Dr. Ribeiro's son came running and grabbed the passenger's hand.</p> <p>The passenger's hand was exposed when the sleeve was pulled and the son could see that it was white skinned persons. The vehicle drove off, neighbours came to assist, some drove after the Opel Kadett which encountered a breakdown. Its occupants abandoned it by jumping into a Leyland Land Rover and sped off. The registration number of the Leyland Land Rover was recorded as it drove away and that led to the arrest of one man.</p> <p><u>CURRENT STATUS:</u></p> <p>The case is still under investigation.</p>
Offence	Murder	
Date Reported	2022/07/27	
Date referred to DPCI	2022/07/27	
Victims	1. Dr Ribiero. 2. Florence Ribiero.	
Suspects/Accused	1	
Number of charges	2	
Number of statements obtained	19	

CASES UNDER INVESTIGATION

398 **240**

Case number	HO CATS Enq 06/07/2022 Jerico CR26/07/1987 Pienaarsrivier CR13/07/1987	<p><u>SYNOPSIS OF CASE</u></p> <p><u>INCIDENT 5</u></p> <p>It is alleged that Jackson Maake was an informer, handled by members of the then Northern Transvaal Security Branch. The police became concerned with regard to his conduct and they suspected that he was also servicing the ANC. He was taken for an interrogation at Piernaarsrivier in Pretoria East. The interrogation made him to mention the roles of Andrew Makupe and Harold Sefolo who were also interrogated. Subsequent to that, they were tortured, electrocuted and killed. Their bodies were placed on explosives which were then detonated. Their bodies (body parts) were taken to Garankuwa Government Mortuary where their remains were placed in one coffin and buried. In July 2005, their bodies were exhumed at Winterveld cemetery.</p> <p><u>CURRENT STATUS:</u></p> <p>The case is still under investigation.</p>
Offence	Murder	
Date Reported	2022/07/27	
Date referred to DPCI	2022/07/27	
Victims	1. Jackson Maake 2. Andrew Makupe 3. Harold Sefolo	
Suspects/Accused	1	
Number of charges	3	
Number of statements obtained	21	

CASES UNDER INVESTIGATION

399 **241**

Case number	HO CATS Enq 06/07/2022 Bedwang CR 02/04/1996	<p><u>SYNOPSIS OF CASE</u></p> <p><u>INCIDENT 6</u></p> <p>It is alleged that during April 1986, members of the Northern Transvaal Security Branch became aware that Jeffrey Sibiya and Mpho Leruthla were members of the ANC and were planning to carry out attacks against police members at their residential premises. One man infiltrated them, lured them for undergoing a training across the border. As they were going to meet the man, they were intercepted somewhere in Mamelodi by a Captain and other three people. It is alleged that they were taken to a spot at Pienars river where they were both tortured and killed by wire. The bodies were blown up by the land mine.</p> <p><u>CURRENT STATUS:</u></p> <p>The case is still under investigation.</p>
Offence	Murder	
Date Reported	2022/07/27	
Date referred to DPCI	2022/07/27	
Victims	1. Jeffery Sibiya 2. Mpho Leruthla	
Suspects/Accused	5	
Number of charges	2	
Number of statements obtained	28	

CASES UNDER INVESTIGATION

400 **242**

Case number	CATS Enq 09/07/2022	<p><u>SYNOPSIS OF CASE</u></p> <p>Flag Marutle Boshielo was a South African anti-apartheid activist, trade unionist and communist. He went into exile with the ANC after the party was banned in 1960. he went missing in August 1970 during an unsuccessful MK operation after his contingent was ambushed. It is believed that he was captured and incarcerated by Ian Smith's Forces in the then Rhodesia.</p> <p><u>CURRENT STATUS:</u></p> <p>The case is still under investigation.</p>
Offence	Murder	
Date Reported	2022/07/22	
Date referred to DPCI	2022/07/22	
Victim	Flag Marutle Boshiela	
Suspects/Accused	Unknown	
Number of charges	1	
Number of statements obtained	9	

CASES UNDER INVESTIGATION

401 **243**

Case number	CATS Enq 04/11/2020	<p><u>SYNOPSIS OF CASE</u></p> <p>Joe Ndzingo Gqabi was an ANC activist who was arrested and acquitted on terrorism charges in the Pretoria Twelve Trial. He later left for exile in Botswana. He relocated to Zimbabwe after being alerted by Botswana Intelligence Services that the RSA Security Police was planning his assassination in Botswana. He became the chief representative in Zimbabwe in 1980. He was assassinated on 1 February 1981 at residence in Harare. Suspects were apprehended in Harare and eventually, the case was withdrawn.</p> <p><u>CURRENT STATUS:</u></p> <p>The case is still under investigation.</p>
Offence	Murder and Conspiracy to Commit Murder.	
Date Reported	2021/06/14	
Date referred to DPCI	2021/06/14	
Victim	Joe Ndzingo Gqabi	
Suspects/Accused	Special Forces members	
Number of charges	2	
Number of statements obtained	5	

CASES UNDER INVESTIGATION

402 **244**

Case number	CATS Enq 09/11/2022	<p><u>SYNOPSIS OF CASE</u></p> <p>Heloise Ruth First was an anti-apartheid activist and scholar. On 17 August 1982, Ruth First was killed by parcel bomb while in exile in Maputo, Mozambique.</p> <p>Jeanette Schoon was an anti-apartheid activist, she and her daughter, Katryn Schoon were also killed by parcel bomb while they were in Angola on the 28 June 1984 in an operation that was carried out by the Security Branch.</p> <p><u>CURRENT STATUS:</u></p> <p>The case is still under investigation.</p>
Offence	Murder	
Date Reported	2022/11/16	
Date referred to DPCI	2022/11/16	
Victims	<ol style="list-style-type: none"> 1. Ruth First. 2. Jeanette Schoon 3. Kathryn Schoon 	
Suspects/Accused	Unknown	
Number of charges	3	
Number of statements obtained	7	

CASES UNDER INVESTIGATION

403 **245**

Case number	HO CATS Enq 05/06/2022	<p><u>SYNOPSIS OF CASE</u></p> <p>Makompo Lucky Kutumela was an old journalist, and member of Azanian People's Organization (AZAPO). He was accused by the police as being a troublemaker and was arrested and detained at Mahwelereng police station. The police interrogated and tortured him until he died.</p> <p>The inquest found that he had been murdered. A post mortem report revealed that he had sustained a number of sjambok norks on his body.</p> <p><u>CURRENT STATUS:</u></p> <p>The case is still under investigation.</p>
Offence	Murder	
Date Reported	2022/06/29	
Date referred to DPCI	2022/06/29	
Victim	Makompo Lucky Kutumela	
Suspects/Accused	7	
Number of charges	1	
Number of statements obtained	6	

CASES UNDER INVESTIGATION

404 **246**

Case number	CATS Enq 05/09/2018 Nelspruit CR221/10/1996	<p><u>SYNOPSIS OF CASE</u></p> <p>Adriano Louis Bambo was an informer for the Security Branch and was arrested and detained at Modderbee for armed robbery. It is alleged that the Security Branch was afraid that he had a lot of information about their activities, so whilst detained he was booked out by a Captain and his team indicating that he was going to conduct a pointing out for the crime scene and arms cache.</p> <p>It is alleged that he was shot for trying to grab a firearm from the alleged arms cache threatening to use on the officer on the alleged scene.</p> <p><u>CURRENT STATUS:</u></p> <p>The case is still under investigation.</p>
Offence	Murder	
Date Reported	2021/06/14	
Date referred to DPCI	2021/06/14	
Victim	Adrian Louis Bambo	
Suspects/Accused	5	
Number of charges	1	
Number of statements obtained	49	

CASES UNDER INVESTIGATION

405 **247**

Case number	HO CATS Enq 07/10/2023	<p><u>SYNOPSIS OF CASE</u></p> <p>On 8 June 1988, Surendra Lenny Naidu, Lindiwe Mthembu, Makhosi Nyoka and Nontsikelelo Cothoza who were members of African National Congress (ANC) who were returning from exile to continue with the struggle. It is alleged that as they have crossed into the country, they met 'Amos' whom they believed was an ANC member at the eSwatini border between Houtkop and Piet Retief; however, he was a police lieutenant. The lieutenant transported them to an area where the Security Branch was waiting to carry out an ambush. Upon arrival, the lieutenant alighted from the vehicle and ran away while the Security Branch opened fire at the vehicle, killing all four persons.</p> <p><u>CURRENT STATUS</u></p> <p>The case is still under investigation.</p>
Offence	Murder	
Date Reported	2023/10/26	
Date referred to DPCI	2023/10/27	
Victims	<ol style="list-style-type: none"> 1. Surendra Lenny Naidu 2. Lindiwe Mthembu 3. Makhosini Nyoka 4. Notshikelelo Cothoza 	
Suspects/Accused	2	
Number of charges	1	
Number of statements obtained	48	

CASES UNDER INVESTIGATION

406 **248**

Case number	CATS Enq 32/05/2016 Krugersdorp CAT245/12/1994	<p><u>SYNOPSIS OF CASE</u></p> <p>On 25 September 1985, Japie Maponya was abducted in Krugersdorp and taken to Vlakplaas, where he was interrogated regarding whereabouts of his brother, Odirile Maponya. Odirile Maponya was wanted by the Security Branch for the suspicion of being involved in the bombings in the West Rand Gauteng. On 26 September 1985, he was allegedly taken across Swaziland Border where he was shot and killed, buried inside a shallow grave and his body was never found.</p> <p><u>CURRENT STATUS:</u></p> <p>The case is still under investigation.</p>
Offence	Murder	
Date Reported	2021/06/14	
Date referred to DPCI	2021/06/14	
Victim	Japie Maponya	
Suspects/Accused	9	
Number of charges	1	
Number of statements obtained	21	

CASES UNDER INVESTIGATION

407 **249**

Case number	HO CATS Enq 06/02/2022	<p><u>SYNOPSIS OF CASE</u></p> <p>Wellington Mlungisi Tshazibane was a political activist. He was arrested on 10 December 1976 at the Rand Airport, Johannesburg as he was coming from Lesotho. He was accused of having bombed Carlton Centre. He was detained at John Vorster Square. On 11 December 1976, he allegedly hanged himself in the police cells. The initial Inquest Court ruled that he died as a result of hanging and no one to blame.</p> <p><u>CURRENT STATUS:</u></p> <p>The case is still under investigation.</p>
Offence	Death in detention	
Date Reported	2022/02/07	
Date referred to DPCI	2022/02/07	
Victim	Wellington Mlungisi Tshazibane.	
Suspects/Accused	1. 5	
Number of charges	1	
Number of statements obtained	80	

CASES UNDER INVESTIGATION.

408 **250**

Case number	HO CATS Enq 04/10/2024	<p><u>BACKGROUND:</u></p> <p>Joel Marobele Paile was a political activist and in August 1975, he went to Angola for military training. He was arrested on 31 December 1977 along Malamulele-Giyani road by a police general and detained at Malamulele Police Station.</p> <p>On the following day, he was transferred to Tzaneen Police station for further detention. It is alleged that he was released after 16 days of his detention and immediately taken by Pretoria Security Branch members and never seen again.</p> <p>CURRENT STATUS:</p> <p>The case is still under investigation.</p>
Offence	Missing Person	
Date Reported	2024/10/09	
Date referred to DPCI	2024/10/09	
Victim	Joel Marobele Paile	
Suspects/Accused	Unknown	
Number of statements obtained	2	
Number of charges	1	

CASES UNDER INVESTIGATION

409 **251**

Case number	HO CATS Enq 08/12/2020	<p><u>SYNOPSIS OF CASE</u></p> <p>James Lenkoe was an apartheid activist and on 5 March 1969 was arrested in terms of the Terrorism Act, for his role in the activities involving the uprisings against Catherine Monnakgotla who was the regent for Bakubung tribe. He was arrested for terrorism and tortured. It is alleged that on 10 March 1969, he hanged himself in his cell.</p> <p><u>CURRENT STATUS:</u></p> <p>The case is still under investigation.</p>
Offence	Death in detention.	
Date Reported	2021/06/11	
Date referred to DPCI	2021/06/11	
Victim	James Lenkoe.	
Suspects/Accused	1	
Number of charges	1	
Number of statements obtained	09	

CASES UNDER INVESTIGATION

410

252

Case number	HO CATS Enq 01/07/2022	<p><u>SYNOPSIS OF CASE</u></p> <p>On 14 June 1985, twelve people were inside a house in Gaborone, Botswana when a group that consisted of members from the Security Branch and SADF Special Operations attacked them. The operation was termed “Operation Plecksy”. They fired and threw explosives into the house and 12 people were killed. Eight (8) of the deceased were South Africans. The others were nationals from Somalia, Lesotho and Botswana. There was also a minor amongst the deceased.</p> <p><u>CURRENT STATUS:</u></p> <p>The case is still under investigation.</p>
Offence	Murder.	
Date Reported	2022/07/04	
Date referred to DPCI	2022/07/04	
Victims	Pahle & eleven others.	
Suspects/Accused	5	
Number of charges	1	
Number of statements obtained	11	

CASES UNDER INVESTIGATION

411 **253**

Case number	HO CATS Enq 4/11/2022	<p><u>SYNOPSIS OF CASE</u></p> <p>On 04 June 1986, three anti-apartheid activists, Mr Phillip Nwanematsu, Mr Buzi Mzala Majola and Mr Siphon Dlamini were in exile in eSwatini, staying in Dalraich section, Mbabane where they were attacked and killed. Their house was raided by the Security Branch members who shot and killed them.</p> <p><u>CURRENT STATUS:</u></p> <p>The case is still under investigation.</p>
Offence	Murder.	
Date Reported	2022/11/16	
Date referred to DPCI	2022/11/16	
Victims	<ol style="list-style-type: none"> 1. Phillip Nwanematsu @ Pantsu Smith. 2. Buzi Mzala Majola. 3. Siphon Dlamini. 	
Suspects/Accused	8	
Number of charges	1	
Number of statements obtained	04	

CASES UNDER INVESTIGATION

412 **254**

Case number	HO CATS Enq 07/11/2022	<p><u>SYNOPSIS OF CASE</u></p> <p>It is reported that Mr Petros and Mrs Jabulile Nyawose who were members of the ANC left South Africa for exile in eSwatini. It is alleged that on 4 June 1982, their vehicle was mounted with explosives. They were seated inside the vehicle, parked outside their flat in Matsapha near Manzini in eSwatini when the explosives detonated.</p> <p><u>CURRENT STATUS:</u></p> <p>The case is still under investigation.</p>
Offence	Murder, conspiracy to commit murder	
Date Reported	2022/11/16	
Date referred to DPCI	2022/11/16	
Victims	1. Petros Nyawose. 2. Jabulile Nyawose.	
Suspects/Accused	7	
Number of charges	1	
Number of statements obtained	04	

CASES UNDER INVESTIGATION

413 **255**

Case number	HO CATS Enq 06/06/2022	<p><u>SYNOPSIS OF CASE</u></p> <p>Donald Thapelo Madisha was an ANC activist and he was arrested on 17 January 1990 by Security Branch. He was detained at Mokopane Police Station. On 1 June 1990, he allegedly hanged himself in his cell.</p> <p><u>CURRENT STATUS:</u></p> <p>The case is still under investigation.</p>
Offence	Murder.	
Date Reported	2022/07/04	
Date referred to DPCI	2022/07/14	
Victim	Thapelo Donald Madisha	
Suspects/Accused	5	
Number of charges	1	
Number of statements obtained	25	

CASES UNDER INVESTIGATION

414 **256**

Case number	HO CATS Enq 06/12/2021	<p><u>Synopsis of case</u></p> <p>Benedict Mashoke was an ANC Activist, who was arrested in 1987 by Security Branch and detained at Burgerfort Police station. On 26 March 1987, he allegedly hanged himself using his long sleeve shirt in his police cell.</p> <p><u>CURRENT STATUS:</u></p> <p>The case is still under investigation.</p>
Offence	Murder	
Date Reported	2022/01/12	
Date referred to DPCI	2022/01/12	
Victim	Benedict Mashoke.	
Suspects/Accused	3	
Number of charges	1	
Number of statements obtained	25	

CASES UNDER INVESTIGATION

415 **257**

Case number	HO CATS Enq 10/10/2024	<p><u>SYNOPSIS OF CASE</u></p> <p>Thomas Mmaledimo was a member of uMkhonto weSizwe who went into exile in 1975 with his cousin, Joseph Phala. Mmaledimo were part of the Unit that was operating in Sekhukhune. He was arrested in 1978 by the Security Branch and detained at Nebo police station under the Terrorism Act. It is alleged that he was last seen in the yard of Nebo police station chained to a big tractor tyre.</p> <p><u>CURRENT STATUS:</u></p> <p>The case is still under investigation.</p>
Offence	Missing Person	
Date Reported	2024/10/09	
Date referred to DPCI	2024/10/09	
Victim	Thomas Tumishi Mmaledimo	
Suspects/Accused	Unknown	
Number of charges	1	
Number of statements obtained	2	

CASES UNDER INVESTIGATION

416 **258**

Case number	HO CATS Enq 01/05/2024	<p><u>SYNOPSIS OF CASE</u></p> <p>Petrus Lubane was an ANC courier, between eSwatini and South Africa to uMkhonto weSizwe commanders. During 1987, Petrus was lured by an Askari to meet with him at the Pretoria train station and upon arrival, he was abducted, taken to a farm at or near Rust de Winter outside Hammanskraal. He was interrogated and killed with explosives that disintegrated his body. His body was never found.</p> <p><u>CURRENT STATUS:</u></p> <p>The case is still under investigation.</p>
Offence	Murder	
Date Reported	2021/06/14	
Date referred to DPCI	2021/06/14	
Victim	Petrus Lubane.	
Suspects/Accused	5	
Number of charges	1	
Number of statements obtained	2	

CASES UNDER INVESTIGATION

417 **259**

Case number	HO CATS Enq 02/04/2024	<p><u>SYNOPSIS OF CHARGES</u></p> <p>On 30 March 1992, Mafemani Judas Baloyi was travelling in a taxi from Soweto to Johannesburg. There were uprisings in the township and the police were facing of with the protesters. A stray bullet hit Mafemani on the chest and the driver took him to Baragwaneth Hospital for medical treatment; however, he was certified dead on arrival.</p> <p><u>CURRENT STATUS:</u></p> <p>The case is still under investigation.</p>
Offence	Death in detention	
Date Reported	2023/04/14	
Date referred to DPCI	2023/04/14	
Victim	Mafemani Judas Baloyi	
Suspects/Accused	Unknown	
Number of charges	1	
Number of statements obtained	2	

CASES UNDER INVESTIGATION

418 **260**

Case number	HO CATS Enq 05/10/2024	<p><u>SYNOPSIS OF CHARGES</u></p> <p>During 1976, Thabo Stanley Pule was a Pan Africanist Congress (PAC) activist who was arrested at or near Oshoek border post near eSwatini, taken to Jabulani SAP for detention. It is alleged that he was released from police cells on an unknown date and went missing till to date.</p> <p><u>CURRENT STATUS:</u></p> <p>The case is still under investigation.</p>
Offence	Missing Person.	
Date Reported	2024/10/09	
Date referred to DPCI	2024/10/09	
Victim	Thabo Stanley Pule	
Suspects/Accused	Unknown	
Number of charges	1	
Number of statements obtained	10	

CASES UNDER INVESTIGATION

419 **261**

Case number	HO CATS Enq 06/10/2024	<p><u>SYNOPSIS OF CASE</u></p> <p>Lucas Janana Ngwenya, a Pan Africanist Congress (PAC) activist who was arrested on 22 June 1977, transported to Jabulani SAP for detention. It is alleged that on 4 August 1977, he was released from police cells and was never seen again.</p> <p><u>CURRENT STATUS:</u></p> <p>The case is still under investigation.</p>
Offence	Missing Person.	
Date Reported	2024/10/09	
Date referred to DPCI	2024/10/09	
Victim	Lucas Janana Ngwenya	
Suspects/Accused	Unknown	
Number of charges	1	
Number of statements obtained	13	

CASES UNDER INVESTIGATION

420 **262**

Case number	HO CATS Enq 04/10/2023 Kwaggafontein CR 72/07/1986	<p><u>SYNOPSIS OF CASE</u></p> <p>During June 1986, Joe Mamasela infiltrated a group of COSAS members in Mamelodi. He transported them to KwaNdebele where he offered to train them how to handle and use firearms. During the night of 14 June 1986, Joe Mamasela and other Security Branch members shot and killed nine youths. Their bodies were dosed with petrol and set alight.</p> <p><u>CURRENT STATUS:</u></p> <p>The case is still under investigation.</p>
Offence	Murder	
Date Reported	2023/10/26	
Date referred to DPCI	2023/10/27	
Victims	KwaNdebele 9	
Suspects/Accused	4	
Number of charges	9	
Number of statements obtained	8	

CASES UNDER INVESTIGATION

421 **263**

Case number	HO CATS Enq 05/10/2023	<p><u>SYNOPSIS OF CASE</u></p> <p>Sydney Nkosinathi @ Colbert Kgomane was a member of uMkhonto weSizwe who was in exile in Swaziland. It is alleged that during 1992, he returned from exile on a mission to infiltrate the police. He went to Badplaas police station and was never seen again. It was further alleged that the police arrested him but the place of detention remains unknown.</p> <p><u>CURRENT STATUS:</u></p> <p>The case is still under investigation.</p>
Offence	Missing person	
Date Reported	2023/10/26	
Date referred to DPCI	2023/10/27	
Victim	Sydney Nkosinathi Mavuka @ Colbert Kgomane	
Suspects/Accused	Unknown	
Number of charges	1	
Number of statements obtained	6	

CASES UNDER INVESTIGATION

422
264

Case number	HO CATS Enq 07/03/2018	<p><u>SYNOPSIS OF CASE</u></p> <p>The two victims; Nichodimus Kgoathe and Solomon Modipane were members of Bakwena Ba Mokgopa Tribe in Hebron. The two challenged the authority of the tribal chief. They were also suspected of being responsible for setting the tribal office alight. On 4 June 1969, they were arrested, charged with sabotage, arson and terrorism by the then Security Branch members. Whilst in detention, they were severely assaulted and eventually died in detention on an unknown date.</p> <p>Jacob Monnakgotla was later arrested on the same accusations while attending the funeral of the two. He also went through the same treatment and died under the same circumstances.</p> <p><u>CURRENT STATUS:</u></p> <p>The case is still under investigation.</p>
Offence	Murder	
Date Reported	2021/06/18	
Date referred to DPCI	2021/06/18	
Victims	Nicodemus Kgoathe Solomon Modipane Jacob Monnakgotla	
Suspects/Accused	8	
Number of charges	1	
Number of statements obtained	19	

CASES UNDER INVESTIGATION

423 **265**

Case number	Durban SOCI Enq 9/07/2022	<p><u>SYNOPSIS OF CASE</u></p> <p>It is alleged that between 7 August 1984 and 4 November 1984, Johannes Cele was at Amaoti when he was shot and killed by three (3) police and members of South African Railway & Harbour security branch. It is alleged that the killing was to avenge after an attack on one of the police officers who was shot and injured.</p> <p><u>CURRENT STATUS:</u></p> <p>The case is still under investigation.</p>
Offence	Murder	
Date Reported	2022-06-13	
Date referred to DPCI	2022-06-13	
Victim	Johannes Cele	
Suspects/Accused	3	
Number of charges	1	
Number of statements obtained	9	

CASES UNDER INVESTIGATION

424 **266**

Case number	Durban SOCI Enq 42/06/2021	<p><u>SYNOPSIS OF CASE</u></p> <p>Bayempini Mzizi was a South African Inyanga (traditional healer) who was arrested and detained on 9 July 1977 in Brighton Beach police station, Durban for suspected of being involved with uMkhonto we Sizwe (MK), the armed wing of the ANC. On 10 August 1977, he was found hanging in his cell. His death is similar to that of Dr. Hoosen Haffejee, who also died in police custody at Brighton Beach police station.</p> <p><u>CURRENT STATUS:</u></p> <p>The case is still under investigation.</p>
Offence	Death in police custody	
Date Reported	2021-05-17	
Date referred to DPCI	2021-05-17	
Victim	Bayempini Mzizi	
Suspects/Accused	4	
Number of charges	1	
Number of statements obtained	27	

CASES UNDER INVESTIGATION

425 **267**

Case number	Durban SOCI Enq 5/07/2022	<p><u>SYNOPSIS OF CASE</u></p> <p>Mr. Sithembiso Ndzuzza (Mzuza or Nzuzza) AKA Joshua from G Section, KwaMashu and Moses Ramatlotlo were shot by three (3) police officers on 6 November 1986. It was reported that they died in combat in Verulam.</p> <p>The inquest was carried out at Ndwedwe and concluded that the cause of death was not caused by act or omission amounting to an offence on the part of any persons, magistrate Pitcher 5/12/85.</p> <p><u>CURRENT STATUS:</u></p> <p>The case is still under investigation.</p>
Offence	Murder	
Date Reported	2022-06-13	
Date referred to DPCI	2022-06-13	
Victims	Sithembiso Ndzuzza Ramatlotlo Moses	
Suspects/Accused	2	
Number of charges	1	
Number of statements obtained	15	

CASES UNDER INVESTIGATION

426 **268**

Case number	Durban SOCI Enq 14/10/2023 Amanzimtoti CAS 278/01/1987	<p><u>SYNOPSIS OF CASE</u></p> <p>The SADF deployed a parallel military force in KwaZulu-Natal to support Inkatha Freedom Party (IFP) under the code name operation “Marion”. On 12 January 1987 at approximately 01:00, the SADF approached the house of Mr. Victor Ntuli at KwaMakutha whom they believed that he was at home. They fired shots that killed 13 people, and injured four (4) others. Mr. Ntuli was not at home during the attack.</p> <p><u>CURRENT STATUS:</u></p> <p>The case is still under investigation.</p>
Offence	Murder Attempted murder	
Date Reported	2023-10-23	
Date referred to DPCI	2023-10-23	
Victims	1. Hlohlo Ntuli 2. Jabulile Ndhlovu and other 11 deceased persons 4 injured	
Suspects/Accused	1	
Number of charges	17	
Number of statements obtained	5	

CASES UNDER INVESTIGATION

427 **269**

Case number	Durban Central CAS 1071/04/2024 Durban SOCI Enq 17/07/2022	<p><u>SYNOPSIS OF CASE</u></p> <p>During 1992, Madoda Bobby Mkhize and three (3) others were traveling in a vehicle from the then Transkei to Durban. They were members of the uMkhonto weSizwe (MK). They drove into a police roadblock where they were stopped and when a police officer approached their vehicle, one of the occupants pulled a firearm and shot him. A chase ensued, Madoda was shot, arrested and detained at a hospital in Durban. Madoda's two (2) friends came at the hospital, overpowered the police guard and left with him. They encountered a police chase, whereby two (2) police officers were shot and killed but they managed to evade the arrest.</p> <p>On 21 July 1992, Madoda was spotted in Durban while going to collect his stipend from the ANC office. When the police attempted to effect an arrest, it is alleged that he produced a firearm and he was shot and killed.</p> <p><u>CURRENT STATUS:</u></p> <p>The case is still under investigation.</p>
Offence	Murder	
Date Reported	2022-06-13	
Date referred to DPCI	2022-06-13	
Victim	Madoda Mkhize	
Suspects/Accused	Unknown	
Number of charges	1	
Number of statements obtained	19	

CASES UNDER INVESTIGATION

428 **270**

Case number	Gamalakhe CAS 100/05/2024 Durban SOCI Enq 18/07/2022	<p><u>SYNOPSIS OF CASE</u></p> <p>On 4 October 1993, Wellington Beki Mbili, an ANC supporter was shot dead by members of the SAP in Gamalakhe, near Port Shepstone, KwaZulu-Natal, after he was arrested on suspicion of being involved with MK activities. The police booked out Mr. Mbili to conduct a pointing out, he was handcuffed, taken to a forest where it is alleged that he was fatally wounded when he tried to grab and detonate a hand grenade.</p> <p><u>CURRENT STATUS:</u></p> <p>The case is still under investigation.</p>
Offence	Murder	
Date Reported	2022-06-13	
Date referred to DPCI	2022-06-13	
Victim	Wellington Beki Mbili	
Suspects/Accused	Unknown	
Number of charges	1	
Number of statements obtained	19	

CASES UNDER INVESTIGATION

429 **271**

Case number	Durban SOCI Enq 7/07/2022 Umlazi Cas 182/05/2024	<p><u>SYNOPSIS OF CASE</u></p> <p>Vusimuzi Mbatha, Sifiso Tutu Shezi and Bhekani S Mbonambi were MK members who were killed during a shootout with the police in 1987 at Umlazi. It is alleged that they were inside the house when the police arrived and ordered them to surrender. They did not comply with order and the shootout ensued. They were killed during the shootout and a police Captain was injured.</p> <p><u>CURRENT STATUS:</u></p> <p>The case is still under investigation.</p>
Offence	Murder	
Date Reported	2022-06-13	
Date referred to DPCI	2022-06-13	
Victims	Vusimuzi Mbatha & Sifiso Tutu Shezi & Bhekani S Mbonambi	
Suspects/Accused	5	
Number of charges	1	
Number of statements obtained	20	

CASES UNDER INVESTIGATION

430 **272**

Case number	Durban SOCI Enq 10/07/2022	<p><u>SYNOPSIS OF CASE</u></p> <p>It is alleged that during 1984, Vusumuzi Meshack Msani was at Amaoti when he was shot and killed by three (3) police officers and members of South African Railway & Harbour security branch. It is alleged that the killing was to avenge after an attack on a police officer who was shot and injured.</p> <p><u>CURRENT STATUS:</u></p> <p>The case is still under investigation.</p>
Offence	Murder	
Date Reported	2022-06-13	
Date referred to DPCI	2022-06-13	
Victim	Vusumuzi Meshack Msani	
Suspects/Accused	3	
Number of charges	2	
Number of statements obtained	3	

CASES UNDER INVESTIGATION

431 **273**

Case number	Durban SOCI Enq 05/10/2024	<p><u>SYNOPSIS OF CASE</u></p> <p>On 25 April 1987, Phindile Mfeti went to town in Durban to buy clothes. He disappeared and was never seen again. It is believed that the Security Police was involved in the disappearance as he was a trade unionist, who was arrested numerous times by the Security Branch. It is suspected that his disappearance is linked to the then kidnappings by Security Branch.</p> <p><u>CURRENT STATUS:</u></p> <p>The case is still under investigation.</p>
Offence	Missing	
Date Reported	2024-10-04	
Date referred to DPCI	2024-10-04	
Victim	Phindile Mfeti	
Suspects/Accused	Unknown	
Number of charges	1	
Number of statements obtained	10	

CASES UNDER INVESTIGATION

432 **274**

Case number	Durban SOCI Enq 06/10/2024	<p><u>SYNOPSIS OF CHARGES</u></p> <p>It is alleged that on 9 July 1987, Bongani Edwin Cele a member of UDF was detained for armed robbery and booked out for pointing out of the crime scene at Mobeni Heights in Chatsworth. They alleged that he tried to detonate a hand grenade while he was pointing out a crime scene. During the pointing out of the crime scene, he was shot and killed.</p> <p><u>CURRENT STATUS:</u></p> <p>The case is still under investigation.</p>
Offence	Murder	
Date Reported	2024/10/04	
Date referred to DPCI	2024/10/04	
Victim	Bongani Edwin Cele	
Suspects/Accused	2	
Number of statements obtained	0	

CASES UNDER INVESTIGATION

433 **275**

Case number	Durban SOCI Eng 07/10/2024	<p><u>SYNOPSIS OF CASE</u></p> <p>Blessing Ninela was arrested by the Security Branch on 13 June 1988. He was questioned and taken to Bulwer where he was shot and killed. His body was placed next to a railway line and a limpet mine was placed under his head. It was detonated. Applicants applied for amnesty and it was granted.</p> <p><u>CURRENT STATUS:</u></p> <p>The case is still under investigation.</p>
Offence	Murder	
Date Reported	2024-10-04	
Date referred to DPCI	2024-10-04	
Victim	Blessing Ninela	
Suspects/Accused	5	
Number of charges	1	
Number of statements obtained	5	

CASES UNDER INVESTIGATION

434 **276**

Case number	Durban SOCI Enq 08/10/2024	<p><u>SYNOPSIS OF CASE</u></p> <p>During April 1977, Jobe Ngwenya an MK member was traveling in a vehicle with two (2) other persons. The police stopped them at Jozini, assaulted, arrested and detained them at Jozini police station. The following morning when the other two (2) woke up, they learned that Jobe was missing, they made inquiries and were told that Jobe was detained at Paulpietersburg. Further inquiries were met with negative results.</p> <p><u>CURRENT STATUS:</u></p> <p>The case is still under investigation.</p>
Offence	Missing	
Date Reported	2024/10/04	
Date referred to DPCI	2024/10/04	
Victim	Jobe Ngwenya	
Suspects/Accused	Unknown	
Number of charges	1	
Number of statements obtained	1	

CASES UNDER INVESTIGATION

435 **277**

Case number	Durban SOCI Enq 09/10/2024	<p><u>SYNOPSIS OF CASE</u></p> <p>Accaduis Ngubo went into exile in 1977 and in 1984, when he returned, the police intercepted and arrested him. The police visited his family and informed them about his arrest, conviction and further mentioned that he will be transferred to Howick police station. The family did visit him but were not allowed to speak to him. The family was then informed that they are not allowed to visit again, but should return after two (2) years. After two (2) years, the family was told that Accaduis escaped, his whereabouts are unknown.</p> <p><u>CURRENT STATUS:</u></p> <p>The case is still under investigation.</p>
Offence	Murder	
Date Reported	2024/04/10	
Date referred to DPCI	2024/04/10	
Victim	Accaduis Ngubo	
Suspects/Accused	Unknown	
Number of charges	1	
Number of statements obtained	1	

CASES UNDER INVESTIGATION

436 **278**

Case number	Durban SOCI Enq 10/10/2024	<p><u>SYNOPSIS OF CASE</u></p> <p>During 1977, two siblings from the Mngomezulu family had a dispute over the chieftaincy, one of the siblings relocated to eSwatini with his supporters and settled. One day, they decided to walk and cross the borderline, returning to their homestead in order to collect their belongings. Bhojo Makhunga, who was a member of the Pan Africanist Congress (PAC) was part of the group that supported the other sibling. They walked on the path that was passing next to the SADF camp that was under the command of a Schoon.</p> <p>The SADF started to shoot at them, they ran away, scattering in different directions. Bhojo was shot and fell on the ground. Later the people went back but they could not trace his body. To date, his whereabouts are unknown.</p> <p>After he was shot, he was airlifted by SADF in a helicopter and was never seen again.</p> <p><u>CURRENT STATUS:</u></p> <p>The case is still under investigation.</p>
Offence	Murder	
Date Reported	2024/10/04	
Date referred to DPCI	2024/10/04	
Victim	Bhojo Makhunga	
Suspects/Accused	Schoon (SADF)	
Number of charges	1	
Number of statements obtained	1	

CASES UNDER INVESTIGATION

437 **279**

Case number	Durban SOCI Enq 11/10/2024	<p><u>SYNOPSIS OF CASE</u></p> <p>Blessing Mabaso, Brian Memela, Luvuyo Mgobozi and Mbongeni Zondi were trained members of Umkhonto weSizwe. On 7 September 1986, Blessing, Brian, Luvuyo and Mbongeni were caught by members of the Security Branch who took them to a quarry, placed them inside a vehicle with firearms. The Security Branch then fired multiple shots at them and left them for dead.</p> <p>It was also alleged that they were responsible for numerous politically motivated attacks.</p> <p><u>CURRENT STATUS:</u></p> <p>The case is still under investigation.</p>
Offence	Murder	
Date Reported	2024/10/04	
Date referred to DPCI	2024/10/04	
Victims	<ol style="list-style-type: none"> 1. Blessing Mabaso 2. Brian Memela 3. Luvuyo Mgobozi 4. Mbongeni Zondi 	
Suspects/Accused	4	
Number of charges	4	
Number of statements obtained	2	

CASES UNDER INVESTIGATION

438 **280**

Case number	Durban SOCI Enq 14/10/2024	<p><u>SYNOPSIS OF CASE</u></p> <p>Phumeza Nxiweni was a United Democratic Front (UDF). On 5 November 1988, Phumeza was kidnapped by members of the Security Branch while at Kings Park Stadium and taken to a farm in Verulam. Phumeza was questioned and interrogated. Security Branch members took him to another place where a shallow grave was dug. They shot, killed and buried him.</p> <p><u>CURRENT STATUS:</u></p> <p>The case is still under investigation.</p>
Offence	Murder	
Date Reported	2024-10-04	
Date referred to DPCI	2024-10-04	
Victim	Phumeza Nxiweni	
Suspects/Accused	Unknown	
Number of charges	1	
Number of statements obtained	0	

CASES UNDER INVESTIGATION

439

281

Case number	Durban SOCI Enq 15/10/2024	<p><u>SYNOPSIS OF CASE</u></p> <p>Russel Mngomezulu, Russell Mthembu, Muntuwakhe Khanyile and Sandile Khawula were members of the United Democratic Front (UDF). It is alleged that on 19 June 1986, Russell Mngomezulu, Russell Mthembu, Muntuwakhe Khanyile and Sandile Khawula were shot by a group of people who were given firearms by members of Vlakplaas in Chesterville, Durban.</p> <p><u>CURRENT STATUS:</u></p> <p>The case is still under investigation.</p>
Offence	Murder	
Date Reported	2024/10/04	
Date referred to DPCI	2024/10/04	
Victims	<ol style="list-style-type: none"> 1. Russel Mngomezulu 2. Russell Mthembu 3. Muntuwakhe Khanyile 4. Sandile Khawula 	
Suspects/Accused	3	
Number of charges	4	
Number of statements obtained	0	

CASES UNDER INVESTIGATION

440 **282**

Case number	Durban SOCI Enq 03/11/2024	<p><u>SYNOPSIS OF CASE</u></p> <p>Blessing Sindiswa Mnyazana was a member of the ANC who went to exile on 25 December 1976 and joined its military wing in Angola. Blessing received military training in Funda ANC military camp. On 27 February 1978, Blessing travelled back to South Africa and he was intercepted at Oshoek border post. He was arrested and detained at Dannhauser police station, allegedly released on 11 April 1978 and was never seen again.</p> <p><u>CURRENT STATUS:</u></p> <p>The case is still under investigation.</p>
Offence	Missing	
Date Reported	2024/11/15	
Date referred to DPCI	2024/11/15	
Victim	Blessing T Sindiswa Mnyazana	
Suspects/Accused	Unknown	
Number of charges	1	
Number of statements obtained	1	

CASES UNDER INVESTIGATION

441 **283**

Case number	Durban SOCI Enq 13/03/2025	<p><u>SYNOPSIS OF CASE</u></p> <p>Eulogious Trusty Ndlovu was an Umkhoto weSizwe (MK) operative who left the country in 1977 to join the ANC in exile. It is alleged that in 1984, Eulogious died in unclear circumstances in Swaziland. It is alleged that he died in a hand grenade attack in Swaziland.</p> <p><u>CURRENT STATUS:</u></p> <p>The case is still under investigation.</p>
Offence	Conspiracy to commit murder	
Date Reported	2025/03/31	
Date referred to DPCI	2025/03/31	
Victim	Eulogious Conrad Trusty Ndlovu alias George Matlala	
Suspects/Accused	Unknown	
Number of charges	1	
Number of statements obtained	0	

CASES UNDER INVESTIGATION

442 **284**

Case number	EC: Prov Comm Enq 03/07/2021	<p><u>SYNOPSIS OF CASE</u></p> <p>Steve Biko was born in Tylden, Eastern Cape in 1946. He was a medical student and founded a black student organisation in 1969 and was an anti-apartheid activist. He was at the forefront of grassroots anti-apartheid campaign known as the Black Consciousness Movement. Steve Biko was arrested in Grahamstown on 18 August 1977 under the Terrorism Act and was detained in Walmer police station. He was interrogated by the Security Branch members where he was allegedly assaulted. He was later sent to Sydenham prison hospital where he was seen by several doctors as he was no longer speaking, eating nor able to walk properly.</p> <p>On 11 September 1977, he was transferred to Pretoria prison, transported at the back of a police van from Port Elizabeth. On 12 September 1977, he was declared dead in Pretoria prison.</p> <p><u>CURRENT STATUS:</u></p> <p>The case is still under investigation.</p>
Offence	Murder	
Date Reported	2021-07-03	
Date referred to DPCI	2021-07-03	
Victim	Steve Biko	
Suspects/Accused	6	
Number of charges	1	
Number of statements obtained	115	

CASES UNDER INVESTIGATION

443 **285**

Case number	EC: Prov Comm Enq 03/01/2022	<p><u>SYNOPSIS OF CASE</u></p> <p>George Botha was a 30-year-old educator at Paterson High School in Gqeberha (Port Elizabeth) also a member of ANC. The Security Branch linked him to the 1976 uprising and during December 1976, he was arrested and detained for contravening the Terrorism Act at Tinklebos police station, booked out to Sanlam Building for interrogation. It is alleged that on 15 December 1976, George jumped down from the 6th floor stairs, fell and died.</p> <p><u>CURRENT STATUS:</u></p> <p>The case is still under investigation.</p>
Offence	Death in detention	
Date Reported	03 January 20212	
Date referred to DPCI	03 January 2022	
Victim	George Botha	
Suspects/Accused	3	
Number of charges	1	
Number of statements obtained	30	

CASES UNDER INVESTIGATION

444 **286**

Case number	EC: Prov Comm Enq 10/02/2022	<p><u>SYNOPSIS OF CASE</u></p> <p>The victim was arrested on 31 August 1976 together with Chief Neo Msibi and they were detained at Butterworth Prison. He was the leader of a Sotho Minority Group which strongly opposed the independence of the Homeland. He was detained for 87 days under the Transkei proclamation R400. It is alleged that he died on 26 November 1976 of internal bleeding.</p> <p><u>CURRENT STATUS:</u></p> <p>The case is still under investigation.</p>
Offence	Death in detention	
Date Reported	15 February 20212	
Date referred to DPCI	15 February 2022	
Victim	Thabo Mosala	
Suspects/Accused	Unknown	
Number of charges	1	
Number of statements obtained	8	

CASES UNDER INVESTIGATION

445 **287**

Case number	EC: Prov Comm Enq 01/06/2022	<p><u>SYNOPSIS OF CASE</u></p> <p>Mapetla Mohapi was a member of Black Consciousness activists who was arrested and detained at Kei Road police station on 16 July 1976. He was kept in detention without trial. It is alleged that on 5 August 1976, he was found dead in his cell with a suicide note. The alleged suicide note was found to be a fraudulent suicide note.</p> <p><u>CURRENT STATUS:</u></p> <p>The case is still under investigation.</p>
Offence	Death in detention	
Date Reported	02 June 2022	
Date referred to DPCI	02 June 2022	
Victim	Mapetla Mohapi	
Suspects/Accused	5	
Number of charges	1	
Number of statements obtained	5	

CASES UNDER INVESTIGATION

446
288

Case number	EC Prov Comm Enq 2/07/2021	<p><u>SYNOPSIS OF CASE</u></p> <p>During May 1981, Siphiwo Mtimkhulu was a member of the Congress of South African Students (COSAS) who was arrested sometime in 1981 by the members of the Security Branch for his involvement in political activities. Siphiwo was then released in October 1981 with ill-health. He complained of stomach and feet pains. Due to the ongoing pain, he was taken to Livingstone hospital for treatment where he was transferred to Groote Schuur hospital in Cape Town. He was later discharged from Groote Schuur hospital but with no improvement. Siphiwo was placed on medical treatment and had to collect medication as per scheduled dates at Livingstone hospital. On 14 April 1982, Siphiwo was accompanied to Livingstone hospital for check-up by his friend, Topsy Madaka. They drove with Topsy Madaka's car to Livingstone hospital and never returned, to date. Topsy Madaka's car was found abandoned near the border of Lesotho with no sign of them.</p> <p><u>CURRENT STATUS:</u></p> <p>The case is still under investigation.</p>
Offence	Murder Kidnapping	
Date Reported	2021-07-06	
Date referred to DPCI	2021-07-06	
Victims	1. Siphiwo Mthimkulu 2. Topsy Madaka	
Suspects/Accused	3	
Number of charges	2	
Number of statements obtained	38	

CASES UNDER INVESTIGATION

447 **289**

Case number	EC Prov Enq 03/05/2021	<p><u>SYNOPSIS OF CASE</u></p> <p>In 1980, Mr Duckworth Twalo went to Mthatha to visit his family and the next morning he disappeared and they thought maybe he went back to exile. The family heard that he has been arrested by the Security Branch and was detained at Wellington Prison. It was also alleged that he was moved from one prison facility to the other, which includes Glamorgan in East London, Mt Fletcher, Mt Frere and Aliwal North. Searches and inquiries were met with negative results.</p> <p><u>CURRENT STATUS:</u></p> <p>The case is still under investigation.</p>
Offence	Missing	
Date Reported	2021-05-04	
Date referred to DPCI	2021-05-04	
Victim	Gwaza Duckworth Twalo	
Suspects/Accused	Unknown	
Number of charges	1	
Number of statements obtained	12	

CASES UNDER INVESTIGATION

448 **290**

Case number	EC Prov Comm Enq 04/01/2022	<p><u>SYNOPSIS OF CASE</u></p> <p>Lungile Tabalaza was 20-year-old student activist from Gqeberha (Port Elizabeth). It is alleged that he was arrested by the Security Branch on 10 July 1978, taken to Sanlam building for interrogation whereby it was reported that he jumped from the 6th floor and died. The Inquest Court ruled that he died as a result of suicide. He was in detention for one (1) day only and died at Sanlam Building. His death was ruled as suicide and he was the fourth,</p> <p><u>CURRENT STATUS:</u></p> <p>The case is still under investigation.</p>
Offence	Murder	
Date Reported	2022-01-03	
Date referred to DPCI	2022-01-03	
Victim	Lungile Tabalaza	
Suspects/Accused	2	
Number of charges	1	
Number of statements obtained	10	

CASES UNDER INVESTIGATION

449 **291**

Case number	EC: Prov Comm Enq 10/02/2022	<p><u>SYNOPSIS OF CASE</u></p> <p>Mr Thabo Mosala was detained on 31 August 1976 together with Chief Neo Msibi at Butterworth Prison. He was the leader of a Sotho Minority Group in the Transkei who strongly opposed the “independence” of the Homeland. After being held at Butterworth prison for 87 days under Transkei proclamation R400 he died in prison on 26 November 1976. According to Transkei authorities, Mr Mosala died of internal bleeding from gastric ulcer.</p> <p><u>CURRENT STATUS:</u></p> <p>The case is still under investigation.</p>
Offence	Murder	
Date Reported	2022-02-15	
Date referred to DPCI	2022-02-15	
Victim	Thabo Mosala	
Suspects/Accused	Unknown	
Number of charges	1	
Number of statements obtained	8	

CASES UNDER INVESTIGATION

450
292

Case number	EC: Prov Comm CATS Enquiry 01/05/2024	<p><u>SYNOPSIS OF CASE</u></p> <p>Mr Batandwa Ndondo was a student at UNITRA and was also a representative on the SRC. He was suspended from UNITRA because of his political activities. He had been arrested by the Security Branch on a numerous occasions; however, on 24 September 1985, he was pick up by two police officers who were accompanied by Askaris. It is alleged that they shot and killed Batandwa.</p> <p><u>CURRENT STATUS:</u> The case is still under investigation.</p>
Offence	Murder	
Date Reported	2024-04-21	
Date referred to DPCI	2024-04-21	
Victim	Batandwa Ndondo	
Suspects/Accused	5	
Number of charges	1	
Number of statements obtained	14	

CASES UNDER INVESTIGATION

Case number	EC: Prov Comm CATS Enquiry 1/08/2024	<p><u>SYNOPSIS OF CASE</u></p> <p>It is alleged that the Mr Louis Van Schoor who resigned from the police in the 1980's started his own security company and during his period of the late 1980's early 1990's he killed over a 100 people (as mentioned by him personally in a BBC documentary on 24 August 2024). He was however, arrested and in late 1990's charged on 39 murder cases but was eventually convicted on only five (5) murder cases, two (2) attempted murder cases and one (1) assault GBH case.</p> <p>It is also alleged that in more than 40 cases the Inquest Court over this said period closed cases where "justifiable shooting" was declared by the Magistrates in East London. These incidents happened between East London and Cambridge policing area.</p> <p><u>CURRENT STATUS:</u></p> <p>The case is still under investigation.</p>
Offence	Murder	
Date Reported	2024-08-01	
Date referred to DPCI	2024-08-01	
Victims	Unknown	
Suspects/Accused	1	
Number of charges	1	
Number of statements obtained	3	

CASES UNDER INVESTIGATION

452

294

Case number	EC: Prov Comm CATS Enq 1/10/2024	<p><u>SYNOPSIS OF CASE</u></p> <p>Mr Nomgqokwana was an anti-apartheid activist and a former Rhodes University student from Port Elizabeth (Gqeberha). He was repeatedly detained in the period from 1976 to 1978. He disappeared during his last detention around August 1978.</p> <p><u>CURRENT STATUS:</u></p> <p>The case is still under investigation.</p>
Offence	Murder	
Date Reported	2024-10-17	
Date referred to DPCI	2024-10-17	
Victim	Brian Miselo "Malawu" Nomgqokwana	
Suspects/Accused	Unknown	
Number of charges	1	
Number of statements obtained	2	

CASES UNDER INVESTIGATION

453
295

Case number	WC:CATS Enq 22/08/2020 Athlone CAS 23/07/1989	<p><u>SYNOPSIS OF CASE</u></p> <p>Robbie Waterwitch and Coline Williams were African National Congress (ANC) activists. It was believed that the underground cell Williams and Waterwitch were part of was under surveillance and some sources speculated that it had already been infiltrated by the South African security apparatus. On 23 July 1989, Robbie and Coline planned to plant an explosive at Athlone Court. While they were on their way to plant the explosive, it exploded while still in their possession and killed both of them.</p> <p><u>CURRENT STATUS:</u></p> <p>The case is still under investigation.</p>
Offence	Murder	
Date Reported	2009/07/13	
Date referred to DPCI	2020/08/25	
Victims	1. Robbie Waterwitch 2. Coline Williams	
Suspects/Accused	Unknown	
Number of charges	2	
Number of statements obtained	22	

CASES UNDER INVESTIGATION

454

296

Case number	WC:CATS Enq 07/08/2021	<p><u>SYNOPSIS OF CASE</u></p> <p>Anton Fransch was member of Congress of South African Students (COSAS) during the 1980's. He also joined Bonteheuwel Military Wing, went to Angola to receive military training. He returned in 1989 to expand the network and actions of the Umkhonto WeSizwe (MK), the military wing of the ANC. His position was discovered and on 17 November 1989, he was killed in a house in Athlone, Cape Town, after a 6-hour gun battle with the Security Forces of the apartheid regime.</p> <p><u>CURRENT STATUS:</u></p> <p>The case is still under investigation.</p>
Offence	Murder	
Date Reported	2009/07/13	
Date referred to DPCI	2021/08/19	
Victim	Anton Fransch	
Suspects/Accused	Unknown	
Number of charges	1	
Number of statements obtained	38	

CASES UNDER INVESTIGATION

455
297

Case number	WC:CATS Enq 15/06/2021 Athlone Inquest 23/1987	<p><u>SYNOPSIS OF CASE</u></p> <p>Ashley Kriel, a 20-year-old was a South African anti-apartheid activist. On 9 July 1987, Security Branch members went to Athlone to arrest Ashley at his hideout for his role in the anti-apartheid movement. It is alleged that during arrest, struggle ensued and they shot and killed him.</p> <p><u>CURRENT STATUS:</u></p> <p>The case is still under investigation.</p>
Offence	Murder	
Date Reported	09 July 1987	
Date referred to DPCI	Investigated by Detectives WC	
Victims	Ashley Kriel	
Suspects/Accused	2	
Number of charges	1	
Number of statements obtained	10	

CASES UNDER INVESTIGATION

456 **298**

Case number	C/Town Central OCI Enquiry 09/02/2022	<p><u>SYNOPSIS OF CASE</u></p> <p>Luke Mazwembe was a member of the Western Province Workers Advice Bureau and of the South African Student Association. Luke was detained under Section 22 of the General Law Amendment Act 62 of 1966 on 2 September 1976 at Caledon Square police station, Cape Town. He was reported to have been found dead, hanging in his cell.</p> <p><u>CURRENT STATUS:</u></p> <p>The case is still under investigation.</p>
Offence	Murder	
Date Reported	2022/02/02	
Date referred to DPCI	2022/02/02	
Victim	Luke Mazwembe	
Suspects/Accused	Unknown	
Number of charges	1	
Number of statements obtained	15	

CASES UNDER INVESTIGATION

457 **299**

Case number	C/Town Central OCI Enquiry 10/02/2022	<p><u>SYNOPSIS OF CASE</u></p> <p>Elijah Nkwenkwe Loza was an organiser for the African Food and Canning Workers' Union. He joined the African National Congress (ANC) and Communist Party (CP) and in 1955 participated in a study group in a squatter camp near Elsie's River which helped organised in the Western Cape for the Congress of the People. In the early 1970s, he was involved in starting the Western Province Workers' Advice Bureau, which later became the General Workers' Union. He was also detained in connection with the Cape Town stay-away of September 1976, released in November and re-banned for five (5) years. In May 1977, he was again detained and died on 1 August 1977 whilst still in detention, in Cape Town's Tygerberg Hospital, of a stroke almost certainly brought on by torture at the hands of the police.</p> <p><u>CURRENT STATUS:</u></p> <p>The case is still under investigation.</p>
Offence	Murder	
Date Reported	2022/02/02	
Date referred to DPCI	2022/02/02	
Victim	Elijah Nkwenkwe Loza	
Suspects/Accused	Unknown	
Number of charges	1	
Number of statements obtained	7	

CASES UNDER INVESTIGATION

458

300

Case number	C/Town Central OCI Enq 8/11/2022	<p><u>SYNOPSIS OF CASE</u></p> <p>Dulcie Evonne September cultivated her social awareness concerning the state of apartheid and dedicated herself to political activism, fighting for national liberation, democracy, and social justice. September joined the African Peoples' Democratic Union of Southern Africa (APDUSA), established in 1960. On 12 July 1963, September's home was raided by Security Branch when the National Liberation Front (NLF) materials were found, She was arrested and detained on 7 October 1963 and put into Roeland Street Prison without trial. She left South Africa on 19 December 1973.</p> <p>On the morning of 29 March 1988, September was shot 5 times with a silenced .22 caliber rifle outside the ANC's Paris office at Rue des Petites-Écuries, as she was opening the office after collecting the mail. She was 52 years old. Her death stoked a strong popular reaction in Paris where more than 20,000 gathered to mourn.</p> <p><u>CURRENT STATUS:</u></p> <p>The case is still under investigation.</p>
Offence	Murder, conspiracy to commit murder	
Date Reported	2022/11/17	
Date referred to DPCI	2022/11/17	
Victim	Dulcie Evonne September	
Suspects/Accused	Unknown	
Number of charges	1	
Number of statements obtained	11	

CASES UNDER INVESTIGATION

459

301

Case number	C/Town Central OCI Enq 4/07/2023	<p><u>SYNOPSIS OF CASE</u></p> <p>Mziwonke “Pro” Jack was the African National Congress (ANC) activist on 19 June 1991 while at his home in Nyanga, Jack was gunned down. Jack was a taxi conflict mediator in Cape Town when he was murdered. The escalating violence after his death developed a suspicion of police involvement and allegations that a third force was fanning the violence to destabilise the community.</p> <p><u>CURRENT STATUS:</u></p> <p>The case is still under investigation.</p>
Offence	Murder	
Date Reported	2023/07/14	
Date referred to DPCI	2023/07/14	
Victim	Mziwonke “Pro” Jack	
Suspects/Accused	1	
Number of charges	1	
Number of statements obtained	10	

CASES UNDER INVESTIGATION

460 **302**

Case number	FS: Parkroad SOCI 12/01/2023	<p><u>SYNOPSIS OF CASE</u></p> <p>Mxolisi Dikkies Johannes Jacobs was an anti-apartheid youth activist who was arrested by the Security Branch in Uppington, few days before 16 June 1986 and spent 129 days in detention. It was alleged that on 22 October 1986, for 20 minutes a warder watched as the young detainee Mxolisi Dikkie Jacobs wrapped a jersey around his neck, climbed into the toilet seat below and then slid from the toilet to his death.</p> <p><u>CURRENT STATUS:</u></p> <p>The case is still under investigation.</p>
Offence	Murder	
Date Reported	2022-02-10	
Date referred to DPCI	2022-04-01	
Victim	Mxolisi Dikkie Johannes Jacobs	
Suspects/Accused	1	
Number of charges	1	
Number statements obtained	of 23	

CASES UNDER INVESTIGATION

461 **303**

Case number	FS: Parkroad SOCI 13/01/2023	<p><u>SYNOPSIS OF CASE</u></p> <p>Phakamile Harry Mabija lived in Vergenoeg, in the Northern Cape. He was a member of the Anglican Church's NOMAD team, a delegate in the National Youth Leadership Programme, which was a three and a half month training course initiated by the Anglican Church at the beginning of 1977. He was also politically affiliated with the ANC. On 27 June 1977, he was arrested detained by the South African Police under the Riotous Assemblies Act, 1956, for alleged involvement in an incident when African and Coloured commuters stoned public transport during a bus boycott in Galeshewe, Kimberley, South Africa.</p> <p>Police Sergeant alleged that on 7 July 1977, he was escorting Mr Mabija from the toilet when he suddenly broke loose and ran into an office and plunged from the 6th floor of Transvaal Road police station in Kimberley. An independent Pathologist said Mabija had cuts on his face and hands which could have been caused by clutching glass and lacerations of the liver that could have been caused by assault.</p> <p><u>CURRENT STATUS:</u></p> <p>The case is still under investigation.</p>
Offence	Murder	
Date Reported	2022-02-03	
Date referred to DPCI	2022-02-03	
Victim	Phakamile Harry Mabija	
Suspects/Accused	1	
Number of charges	1	
Number of statements obtained	16	

CASES UNDER INVESTIGATION

462 **304**

Case number	FS: Parkroad SOCI 03/07/2024	<p><u>SYNOPSIS OF CASE</u></p> <p>Thabo Wilson Mabona was a supporter of the United Democratic Front (UDF). Thabo was assaulted and shot dead by members of the Free State Security Branch. The matter was handled at the TRC with reference number AC 1999/0026, One of the men was the applicant with reference number AM 2422/96 and the amnesty application was refused.</p> <p><u>CURRENT STATUS:</u></p> <p>The case is still under investigation.</p>
Offence	Murder	
Date Reported	2024-07-26	
Date referred to DPCI	2024-07-26	
Victim	Thabo Wilson Mabona	
Suspects/Accused	2	
Number of charges	1	
Number of statements obtained	9	

CASES UNDER INVESTIGATION

463 **305**

Case number	FS: Parkroad SOCIU Enq 04/10/2024	<p><u>SYNOPSIS OF CASE</u></p> <p>George Musi was a political activist who was suspected of providing safe passage who fellow activist into Lesotho. It is alleged that on 8 April 1986, George was at his house, on Melk Street, Bochabela, Mangaung near Bloemfontein when Security Branch members attacked him. During the scuffle, the two could not overpower George and a Sergeant took out a firearm, shot and killed him.</p> <p><u>CURRENT STATUS:</u></p> <p>The case is still under investigation.</p>
Offence	Murder	
Date Reported	2024-10-10	
Date referred to DPCI	2024-10-10	
Victims	George Musi	
Suspects/Accused	2	
Number of charges	1	
Number of statements obtained	5	

COURT CASES (CONVICTION)

464 **306**

Case number	Cato Manor CAS 161/05/2023	<p><u>SYNOPSIS OF CASE</u></p> <p>On 02 February 1989 in the evening, Siphelele Nxumalo a member of ANC was standing with his girlfriend on a walkway at road 12-Masuku Road, Chesterville when four men (The A Team) approached them. Two men produced firearms and started shooting Siphelele without saying a word while his girlfriend escaped unharmed. Siphelele was taken to hospital by his mother and uncle and succumbed to his injuries. A person was arrested and vindicated in court. A 2nd suspect absconded bail and bail was forfeited to the State. Person was now traced after J50 was obtained and an eyewitness statement obtained.</p> <p><u>CURRENT STATUS:</u></p> <p>On 9 Nov 2023, accused Wesley Madonsela was found guilty of murder by Durban Regional Court and sentenced to 10 years imprisonment</p>
Offence	Murder	
Date Reported	13 June 2022	
Date referred to DPCI	13 June 2022	
Victims	Spumela Sphelele Nxumalo @ Spumela Spelelo Mfeti	
Suspects/Accused	Wesley Madonsela	
Number of charges	1	
Number of statements obtained	14	

CASES FINALISED

465 **307**

Case number	Durban SOCI Enq 44/06/2021	<p><u>SYNOPSIS OF CASE</u></p> <p>Mr Michael Mcetywa was an active member of the African National Congress (ANC) in Pongola/Piet Retief area. He was murdered on 22 November 1993 in Pongola by Mr. Emmanuel Nkosinathi Mavuso who was a member of the Inkatha Freedom Party (IFP). Mr. Mavuso was tried and found guilty of Murder, Attempted Murder of a bystander and Possession of Arms and Ammunition. He was sentenced to 15 years imprisonment. Mr. Mavuso applied for amnesty on three (3) counts. During amnesty hearing, he alleged that Senior IFP Officials had tasked him to kill Mr. Mcetywa. He was refused amnesty on all three counts. Subsequent to that, Mr. Mavuso appealed his conviction which was unsuccessful and re-applied for amnesty which was granted. The next of kin of Mr. Mcetywa is of the view that those who conspired with Mr. Mavuso should also have their day in court. After the murder of Mr. Mcetywa, Pongola/Piet Retief area became destabilised where violence erupted, more people were killed and properties were damaged.</p> <p><u>CURRENT STATUS:</u></p> <p>DPP declined to prosecute, the family wrote a letter refusing for the matter to be re-opened. File closed on 2022/11/30.</p>
Offence	Murder	
Date Reported	2021-05-17	
Date referred to DPCI	2021-05-17	
Victim	Michael Ncetywa (Mcetywa)	
Suspects/Accused	Emmanuel Nkosinathi Mavuso	
Number of charges	1	
Number of statements obtained	4	

CASES PENDING DECISION BY NPA

466

308



Case number	Durban SOCI Enq 02/08/2021 UMLAZI INQUEST 43/2022	<p><u>SYNOPSIS OF CASE</u></p> <p>In 1987, Mr. Zamukwenzani Mlobeli was an activist from Lamontville and had ambitions to join African National Congress (ANC) structures abroad. He was infiltrated by three askaries who promised to give him safe passage to leave the country. The victim knew that his friend was helped by the same askaries to get out of the country. They drove with him to the sacred location. It is alleged that one of the askaries shot and killed him. They alleged that they shot him after he produced a Makarov pistol and attempt to kill the security branch members. The victim was dumped near a hotel in Umlazi, passer-by took him to hospital where he succumbed his injuries.</p> <p><u>CURRENT STATUS:</u></p> <p>The matter was declined by DPP, it was sent to inquest to court ruled that the death of the victim was brought about by unknown members of former Security Branch.</p>
Offence	Murder	
Date Reported	17 May 2021	
Date referred to DPCI	17 May 2021	
Victim	Zamukwenzani Mlobeli	
Suspects/Accused	Jimmy Mbane - Witness Simon Radebe Deceased T Dube - deceased	
Number of charges	1	
Number of statements obtained	15	

CASES FINALISED

467

309

Case number	Durban SOCI Enq 47/06/2021	<p><u>SYNOPSIS OF CASE</u></p> <p>Goodwill Sikhakhane was an askari, killed by security branch members citing ill discipline. He was shot and dumped a SAPPI Plantation.</p> <p><u>CURRENT STATUS:</u></p> <p>The DPP declined to prosecute on 2022/10/17. The family wrote a letter and stated that they do not want this matter to be re-opened.</p>
Offence	Murder	
Date Reported	2021-05-17	
Date referred to DPCI	2021-05-17	
Victim	Goodwill Collin Sikhakhane	
Suspects/Accused	<ol style="list-style-type: none"> 1. Taylor (deceased) 2. Myeza (deceased) 3. Mngadi (deceased) 4. Steyn 5. Nortje (deceased) 6. Britz 7. Swart 8. Hanton (deceased) 	
Number of charges	1	
Number of statements obtained	5	

CASES FINALISED

468

310

Case number	Durban SOCI Enq 06/11/2021	<p><u>SYNOPSIS OF CASE</u></p> <p>Mr. Mqiniseni Simon Zwane was a resident of Umlazi during the 1980's. On 08 August 1985, he was 15 years old, walking from school when the then security branch police officer WO Myeza shot him. Mr. Zwane fell to the ground and WO Myeza prevented people from offering medical treatment or transporting Mr. Zwane to a nearby medical facility. After some hours, while Mr. Zwane was lying on the ground, a passer-by forced himself to Mr. Zwane, ignored WO Myeza's instructions and transported him to King Edward VIII hospital where he was admitted and treated. As a result of the incident, the victim became permanently paraplegic. to date,</p> <p><u>CURRENT STATUS:</u></p> <p>The DPP declined to prosecute on 30 November 2022. The perpetrator had passed away.</p>
Offence	Attempted murder	
Date Reported	2021-05-17	
Date referred to DPCI	2021-05-17	
Victim	Mqiniseni Simon Zwane	
Suspects/Accused	Myeza "Spyker" (deceased)	
Number of charges	1	
Number of statements obtained	8	

CASES FINALISED

469

311

Case number	Durban SOCI Enq 38/06/2021 (CATS Enq 04/10/2017 - Inquest No 8/1977)	<p><u>SYNOPSIS OF CASE</u></p> <p>Dr. Hoosen Haffejee was arrested and detained at SAP Brighton Beach near Durban. Dr. Haffejee was found dead in the cells on 3 August 1977. It is alleged that he hanged himself from the bottom grills using his trouser. The inquest was reopened upon the completion of the investigation.</p> <p><u>CURRENT STATUS:</u></p> <p>The DPP declined to prosecute. The judgement on reopened inquest was handed down on 2023/09/14.</p>
Offence	Death in detention	
Date Reported	17 May 2021	
Date referred to DPCI	17 May 2021	
Victim	Dr.Hoosen Haffejee	
Suspects/Accused	Taylor – deceased, Du Toit, Benjamin – deceased, Gopal. VR Naidoo	
Number of charges	1	
Number of statements obtained	20	

CASES FINALISED

470 **312**

Case number	EC Prov Enq 9/02/2022	<p><u>SYNOPSIS OF CASE</u></p> <p>This matter was received from HO during February regarding the death of above mentioned person in Engcobo, former Transkei, it is alleged that he died while in custody during 1981, September 17th. The investigation is completed and sent to DPP for decision.</p> <p><u>CURRENT STATUS:</u></p> <p>The DPP declined to prosecute on 30 April 2024 due to insufficient evidence.</p>
Offence	Unknown (possible death in custody)	
Date Reported	2022-02-04	
Date referred to DPCI	2022-02-04	
Victim	Manana Mqgweto	
Suspects/Accused	Unknown	
Number of charges	1	
Number of statements obtained	11	

CASES FINALISED

471 **313**

Case number	EC Prov Comm Enq 2/8/2022	<p><u>SYNOPSIS OF CASE</u></p> <p>Ngeni Gaga was arrested and detained in Transkei in 1965 and he died within 24 hours of his detention. The cause of death was allegedly reported as natural causes.</p> <p><u>CURRENT STATUS:</u></p> <p>The DPP declined to prosecute on 2024/11/20 due to insufficient evidence.</p>
Offence	Death in custody	
Date Reported	2022-08-05	
Date referred to DPCI	2022-08-05	
Victim	Ngeni Gaga	
Suspects/Accused	Unknown	
Number of charges	1	
Number of statements obtained	5	

CASES FINALISED

472 **314**

Case number	EC: Prov Comm Enquiry 11/02/2022	<p><u>SYNOPSIS OF CASE</u></p> <p>Saul Kholisile Ndzumo was an active member of the ANC holding multiple position in the Transkei government. His political career came to an end when he was arrested in October 1980 under the Terrorism Act. It is alleged that two days following his arrest, he was found dead in his cell at Mhlababomvu Police Station in Lusikisiki. Investigation is completed with no evidence to prosecute and the matter is sent to DPP with recommendation to close the file.</p> <p><u>CURRENT STATUS:</u></p> <p>The DPP declined to prosecute on 2024/05/28 due to insufficient evidence.</p>
Offence	Death in custody	
Date Reported	2022-02-15	
Date referred to DPCI	2022-02-15	
Victims	Saul Kholisile Ndzumo	
Suspects/Accused	Unknown	
Number of charges	1	
Number of statements obtained	21	

CASES FINALISED

473 **315**

Case number	EC Prov Enq 12/02/2022	<p><u>SYNOPSIS OF CASE</u></p> <p>This office was tasked to investigate the matter of the murder and disappearance of Mxolisi Sipele. It is alleged that he was an activist during his time and was arrested in June 1984 where he died in police cells. Mr Sipele was from the region of Transkei at Ngcobo. The investigation is completed and matter was referred to DPP for decision.</p> <p><u>CURRENT STATUS:</u></p> <p>The DPP declined to prosecute on 30 April 2024 by due to insufficient evidence.</p>
Offence	Death in custody	
Date Reported	2022-02-15	
Date referred to DPCI	2022-02-15	
Victim	Mxolisi Sipele	
Suspects/Accused	Unknown	
Number of charges	1	
Number of statements obtained	8	

CASES FINALISED

474 **316**

Case number	EC Prov Comm Enq : 1/08/2022	<p><u>SYNOPSIS OF CASE</u></p> <p>On 21 December 1970, Mr Cutsela Mthayeni was arrested by the security police at his home in Pondoland . In an affidavit before Justice Harcourt in the Maritzburg Supreme Court, Mr Mfolwane Mbele stated that the deceased had been tortured over a long period of time . He complained to Captain Baker and requested medication . On January 1971 he subsequently died after been taken to Umtata hospital.</p> <p><u>CURRENT STATUS:</u></p> <p>The DPP declined to prosecute on 30 April 2024 due to insufficient evidence.</p>
Offence	Death in custody	
Date Reported	2022-08-05	
Date referred to DPCI	2022-08-05	
Victims	Cutsela Mthayeni	
Suspects/Accused	Unknown	
Number of charges	1	
Number of statements obtained	14	

CASES FINALISED

475 **317**

Case number	<u>EC: Prov Comm. Enquiry</u> <u>01/02/2022</u>	<p><u>SYNOPSIS OF CASE</u></p> <p>Mr Eric Mntonga was detained in police Cells in Mdantsane. His lifeless body was found days later near the road to King Williams town. Date of death 24 July 1987.</p> <p><u>CURRENT STATUS:</u></p> <p>DPP declined to prosecute on 29 June 2022 because the accused were arrested and charged for the same offence and sentenced by Bisho High court in September 1989.</p>
Offence	Murder	
Date Reported		
Date referred to DPCI		
Victims	MR Eric Mxolisi Mntonga	
Suspects/Accused	1. General Sandisile Ngwanya 2. General Ngcenga	
Number of charges	1	
Number of statements obtained	1	

CASES FINALISED

476 **318**

Case number	EC Prov Comm Enq 2/8/2022	<p><u>SYNOPSIS OF CASE</u></p> <p>Ngeni Gaga was arrested and detained in Transkei in 1965 and he died within 24 hours of his detention. The cause of death was allegedly reported as natural causes.</p> <p><u>CURRENT STATUS:</u></p> <p>The docket was closed on 2024/11/20 due to insufficient evidence.</p>
Offence	Death in custody	
Date Reported	2022-08-05	
Date referred to DPCI	2022-08-05	
Victim	Ngeni Gaga	
Suspects/Accused	Unknown	
Number of charges	1	
Number of statements obtained	5	

CASES FINALISED

477 **319**

Case number	EC: Prov Comm Enquiry 03/08/2022	<p><u>SYNOPSIS OF CASE</u></p> <p>Mr Pongoloshe Hoye was arrested and detained, he was then declared dead after only 24 hours of detention in the Transkei. He died on the 9th of May 1965.</p> <p><u>CURRENT STATUS:</u></p> <p>The DPP declined to prosecute on 2024-02-29 due to insufficient evidence.</p>
Offence	Death in custody	
Date Reported	2022-08-02	
Date referred to DPCI	2022-08-02	
Victims	Pongoloshe Hoye	
Suspects/Accused	Unknown	
Number of charges	1	
Number of statements obtained	2	

CASES FINALISED

478 **320**

Case number	CATS ENQ. 11/06/2022	<p><u>SYNOPSIS OF CASE</u></p> <p>Mr Mbatha was detained together with a group of students under Section 6 of the Terrorism Act in Johannesburg on 16 September 1976. during a demonstration by Soweto students he was held at Modderbee prison. He was reported missing for several days. His parents made enquiries at John Vorster Square where they learned of his death cause of death was natural causes. Place of death was recorded as far East Rand hospital, Springs.</p> <p><u>CURRENT STATUS:</u></p> <p>The DPP declined to prosecute on 2023-07-10. The evidence found that the victim died of natural causes.</p>
Offence	Death in detention	
Date Reported	2022/07/04	
Date referred to DPCI	2022/07/04	
Victim	Isaac Dumisane Mbatha	
Suspects/Accused	Unknown	
Number of charges	1	
Number of statements obtained	None	

CASES FINALISED

479 **321**

Case number	CATS 06/03/2018	<p><u>SYNOPSIS OF CASE</u></p> <p>Peter Thabuleka who was trained as an MK member was sort and arrested by the police in Mamelodi. He was interrogated by Security Branch to obtain information about other MK members and their operations. He was reported missing and presumed to have been killed.</p> <p><u>CURRENT STATUS:</u></p> <p>The DPP declined to prosecute on 2024/12/18. The victim was found to be alive.</p>
Offence	Kidnapping and Torture	
Date Reported	2021/06/18	
Date referred to DPCI	2021/06/18	
Victim	Peter Maluleka	
Suspects/Accused	5	
Number of charges	2	
Number of statements obtained	4	

CASES FINALISED

480

322

Case number	CATS Enq 03/02/2018	<p><u>SYNOPSIS OF CASE</u></p> <p>On 10 January 1977, Mr Elmon Malele was arrested for Terrorism Act. He allegedly fell and hit his head against corner of the table while interrogated in the office at John Vorster Square by Captain Arthur Cronwright. He died eight days later and according to the Police he died of hypertension and spontaneous intracerebral heamorrhage on 20/01/1977.</p> <p><u>CURRENT STATUS:</u></p> <p>The DPP declined to prosecute on 2024/12/18 due to insufficient evidence.</p>
Offence	Death in detention	
Date Reported	2022/02/07	
Date referred to DPCI	2022/02/07	
Victims	Elmon Malele	
Suspects/Accused	3	
Number of charges	1	
Number of statements obtained	6	

CASES FINALISED

481

323

Case number	Pretoria Central 822/10/2017	<p><u>SYNOPSIS OF CASE</u></p> <p>During a formal inquest held on 12 October 2017 before Judge Motlhe into the death of Ahmed Essop Timol. Neville Els and Seth Sons were members of the Security Branch testified that they did not know anything about the assault of detainees. Els stated that he had only heard from the media that detainees was assaulted. He himself never witnessed an assault.</p> <p>Els was shown police records in which he has indicated that he was one of the interrogators when Kantilal Naik was tortured. Els said he could not recall.</p> <p>In judgement, Judge Mothle came to the conclusion that Els and Seth Sons should be investigated for misleading the court.</p> <p><u>CURRENT STATUS:</u></p> <p>The DPP declined to prosecute, and closed on 2023-07-20 the key witness in the matter refused to give statement.</p>
Offence	Perjury	
Date Reported	2017/10/15	
Date referred to DPCI	2017/10//15	
Victims	Ahmed Essop Timol	
Suspects/Accused	1	
Number of charges	1	
Number of statements obtained	2	

CASES FINALISED

482

324

Case number	Pretoria Central 824/10/2017	<p><u>SYNOPSIS OF CASE</u></p> <p>During a formal inquest held on 12 October 2017 before Judge Motlhe into the death of Ahmed Essop Timol. Neville Els and Seth Sons were members of the Security Branch testified that they did not know anything about the assault of detainees. Els stated that he had only heard from the media that detainees was assaulted. He himself never witnessed an assault.</p> <p>Els was shown police records in which he has indicated that he was one of the interrogators when Kantilal Naik was tortured. Els said he could not recall.</p> <p>In judgement, Judge Mothle came to the conclusion that Els and Seth Sons should be investigated for misleading the court.</p> <p><u>CURRENT STATUS:</u></p> <p>The DPP declined to prosecute, and closed on 2023-07-07. DPP the key witness in the matter refused to give statement.</p>
Offence	Perjury	
Date Reported	2017	
Date referred to DPCI	2017	
Victims	Ahmed Essop Timol	
Suspects/Accused	1	
Number of charges	1	
Number of statements obtained	2	

CASES FINALISED

483

325

Case number	CATS ENQ. 05/02/2022	<p><u>SYNOPSIS OF CASE</u></p> <p>Mr Lawrence Ndzanga former Secretary of the Railway Workers Union and NEC member of SACTU. He died after 51 days of detention on 8 January 1977, at Johannesburg Fort Prison</p> <p><u>CURRENT STATUS:</u></p> <p>The DPP declined to prosecute, and closed on 2023-05-30 due to insufficient evidence.</p>
Offence	Death in detention	
Date Reported	2022/02/03	
Date referred to DPCI	2022/02/03	
Victims	Lawrence Ndzanga	
Suspects/Accused	unknown	
Number of charges	1	
Number of statements obtained	None	

CASES FINALISED

484

326

Case number	JHB Central CAS 798/10/2017	<p><u>SYNOPSIS OF CASE</u></p> <p>Dr Timol died on the 27 October 1971 at the hands of the erstwhile internal security members of the South African Police Service. It is alleged that he was under detention for terrorism related charges.</p> <p>It is further alleged that during his incarceration, he was brought to John Vorster Square Police Station in Johannesburg, currently known as the Johannesburg Central SAPS, by the security branch members for interrogation.</p> <p>According to the members of the security branch, Dr Timol jumped from the 10th B floor of the John Vorster Square building and fell on the ground. He was later certified dead after he allegedly jumped out of the window to the ground. An Inquest was held in 1972 vide inquest no 2361/71 to determine his cause of death. The presiding officer at the time concluded that Dr Timol was neither assaulted nor tortured by the Security Branch and no one could be held responsible for his death. It was declared that he committed a suicide.</p> <p>On 12 July 2021, the Supreme Court of Appeal dismissed the accused application for a permanent stay of prosecution for the murder of anti-apartheid Activist Ahmed Timol. The accused petitioned the Constitutional Court for a permanent stay of prosecution which was not successful. On 7 September 2021, Mr J Rodrigues was announced dead.</p> <p><u>CURRENT STATUS:</u></p> <p>The DPP declined to prosecute, and closed on the death of the accused.</p>
Offence	Murder	
Date Reported	2017/10/15	
Date referred to DPCI	2017/10/15	
Victims	Ahmed Timol	
Suspects/Accused	1	
Number of charges	1	
Number of statements obtained	35	

CASES FINALISED

485

327

Case number	CATS Enq 13/03/2018	<p><u>SYNOPSIS OF CASE</u></p> <p>The victim Johannes Sweet Sambo was arrested for suspicion that he was in possession of illegal firearm. Whilst interrogated by the detectives, he died. The office of Eugene De Kock was contacted for the disposal of the body. The body was eventually destroyed with the use of explosives.</p> <p><u>CURRENT STATUS:</u></p> <p>The DPP declined to prosecute, and closed on 2023-02-08 prosecute because the accused were prosecuted and acquitted for the same matter.</p>
Offence	Murder	
Date Reported	2021/06/18	
Date referred to DPCI	2021/06/18	
Victim	Johannes Sweet Sambo	
Suspects/Accused	10	
Number of charges	1	
Number statements obtained of	8	

CASES FINALISED

486

328

Case number	CATS Enq 04/02/2022	<p><u>SYNOPSIS OF CASE</u></p> <p>Mr Edward Mzolo died on 9 October 1976 at the age of 40 years. He was the third person who died at JHB Fort in two weeks. No information made available regarding the official cause of death, nor the Act under which he was detained, or whether a post mortem was conducted or an Inquest held.</p> <p>On 29 March 1983, the then Minister of Law and Order Mr Louis Legrange stated that there was no such person detained. However he was held at the same time that other Security detainees at the Fort were detained.</p> <p><u>CURRENT STATUS:</u></p> <p>The DPP declined to prosecute, and closed on 2023-02-19 due to insufficient evidence.</p>
Offence	Death in detention	
Date Reported	2022/02/07	
Date referred to DPCI	2022/02/07	
Victims	Edward Mzolo	
Suspects/Accused	Unknown	
Number of charges	1	
Number of statements obtained	9	

CASES FINALISED

487

329

Case number	CATS Enq 08/01/2021	<p><u>SYNOPSIS OF CASE</u></p> <p>In 1969, Michael Shivute was arrested and detained in Oshakati prison, in Namibia for terrorism. He was assaulted and tortured by the Security Branch. He was found hanging in his cell. The incident happened before Namibia became independent in 1990.</p> <p><u>CURRENT STATUS:</u></p> <p>The DPP declined to prosecute, and closed on 18 December 2024.</p>
Offence	Death in detention	
Date Reported	2021/06/14	
Date referred to DPCI	2021/06/14	
Victims	Michael Shivute	
Suspects/Accused	Unknown	
Number of charges	1	
Number of statements obtained	4	

CASES FINALISED

488

330

Case number	CATS Enq 10/07/2022	<p><u>SYNOPSIS OF CASE</u></p> <p>Mohammed Faizel Abrams/Ebrahims was involved in an altercation with the Police and shot dead in February 1988.</p> <p><u>CURRENT STATUS:</u></p> <p>The DPP declined to prosecute, and closed on 2023-02-19 due to insufficient evidence.</p>
Offence	Murder	
Date Reported	2022/07/27	
Date referred to DPCI	2022/07/27	
Victims	Mohammed Faizel Abrams/Ebrahims	
Suspects/Accused	Unknown	
Number of charges	1	
Number of statements obtained	7	

CASES FINALISED

489

331

Case number	CATS Enq16/06/2022	<p><u>SYNOPSIS OF CASE</u></p> <p>Death in detention whereby Dr Mr Hangula Shonyeka allegedly committed suicide, possibly in Pretoria Central prison on 9 October 1966.</p> <p><u>CURRENT STATUS:</u></p> <p>The DPP declined to prosecute, and closed on 2023-04-19 due to insufficient evidence.</p>
Offence	Death in detention	
Date Reported	2022/06/29	
Date referred to DPCI	2022/06/29	
Victim	Hangula Shonyeka (James Hamakwayo)	
Suspects/Accused	5	
Number of charges	1	
Number statements obtained of	12	

CASES FINALISED

490

332

Case number	CATS Enq 01/02/2022	<p><u>SYNOPSIS OF CASE</u></p> <p>Mr Malatji was an AZAPO Activist shot dead by a named member of SAP in Soweto on 6 June 1983 in Protea Police Station. On 6 June 1983 Mr Paris Malatji was in detention at Protea SAPS when he was shot and killed by Sgt van As who is alleged never went to imprisonment after sentenced to 10 years imprisonment.</p> <p><u>CURRENT STATUS:</u></p> <p>The DPP declined to prosecute, and closed on 2023-04-19 due to insufficient evidence.</p>
Offence	Death in detention	
Date Reported	2022/02/03	
Date referred to DPCI	2022/02/03	
Victims	Paris Mosefi Malatji	
Suspects/Accused	1	
Number of charges	1	
Number of statements obtained	02	

CASES FINALISED

491 **333**

Case number	CATS Enq 07/02/2022	<p><u>SYNOPSIS OF CASE</u></p> <p>The deceased unknown man was detained in Johannesburg Central Police station under Terrorism act. He later died in detention by hanging in the police in 1976.</p> <p><u>CURRENT STATUS:</u></p> <p>The DPP declined to prosecute, and closed on 27 November 2023 due to insufficient evidence.</p>
Offence	Death in detention	
Date Reported	2022/02/14	
Date referred to DPCI	2022/02/14	
Victims	Not yet known (unknown person died)	
Suspects/Accused	unknown	
Number of charges	1	
Number of statements obtained	5	

CASES FINALISED

492 **334**

Case number	CATS Enq 09/06/2022	<p><u>SYNOPSIS OF CASE</u></p> <p>Simon Marule was detained under emergency Laws at Dannottar Police station and later transferred to Modder B Prison. He was unwell after being assaulted by the Police with a bat on his back. He was suffering from kidney failure. He then died as a result of negligence from the Police and the medical personnel on 23/12/1986.</p> <p><u>CURRENT STATUS:</u></p> <p>The DPP declined to prosecute, and closed on 10 April 2024 due to insufficient evidence.</p>
Offence	Death in detention	
Date Reported	2022/07/04	
Date referred to DPCI	2022/07/04	
Victim	Simon Marule	
Suspects/Accused	unknown	
Number of charges	1	
Number of statements obtained	10	

CASES FINALISED

493

335

Case number	FS:Park Road SOCI Enq 14/01/2023	<p><u>SYNOPSIS OF CASE</u></p> <p>The victim was a member SANDF. He was working at 21 battalion in Lenisia. On 1 April 1992 he got married and two days later on 3 April 1992 he was found dead near a railway station.</p> <p><u>CURRENT STATUS:</u></p> <p>The DPP declined to prosecute, and closed on 2023/07/11 due to insufficient evidence.</p>
Offence	Murder	
Date Reported	unknown	
Date referred to DPCI	2022/03/14	
Victim	Johannes Mmuso Khohokoane	
Suspects/Accused	Unknown	
Number of charges	1	
Number of statements obtained	06	

CASES FINALISED

494 **336**

Case number	FS:Parkroad SOCI 06/11/2022	<p><u>SYNOPSIS OF CASE</u></p> <p>On 19 December 1985, seventeen (17) strong team of Vlakplaas operatives lead by Eugene de Kock attacked houses in Maseru and killed six (6) South Africans and three (3) Basotho citizens. The deceased were invited to the party and the house was attacked and seven(7) people were killed. Those in the house were shot by Warrant Officer Willie Nortje and Eugene de Kock. By arrangement Macaskills sister was not killed. The MK Commander Leon Meyer and his wife Jacqui Quin (deaths investigated under PCLU (28/21) were both also murdered after de Kock instructed Macaskill to lead Anton Adamson to their home. The seven (7) persons killed include: Lulamile Dantile (aka Morris Seabelo), Vivian Stanley Matee, Joseph Themba (aka Mayoli), Mankaeleng Mohatle, Boemo Tau, Amelia Lesenyebo and Nomkhosi Mary Mini.</p> <p><u>CURRENT STATUS:</u></p> <p>The DPP declined to prosecute, and closed on 05 February 2025.</p>
Offence	Murder	
Date Reported	2022-11-15	
Date referred to DPCI	2022-11-17	
Victims	<ol style="list-style-type: none"> 1. L Dantile (aka Morris Seabelo) 2. L Meyer (aka Joe) 3. J Quin 4. V S Matee (aka Glen Dorris aka Trevor) 5. M T Mayoli 6. N Mini 	
Suspects/Accused	6	
Number of charges	1	
Number of statements obtained	8	

CASES FINALISED

495 **337**

Case number	FS:Parkroad SOCI 06/01/2023	<p><u>SYNOPSIS OF CASE</u></p> <p>Mpilo Atwel Maqkeza was an MK Operative and Commander of the Cape in the 1980s and in the late 1987 Mpilo Maqkeza was assassinated by the apartheid Security Agent in Queen Elizabeth II hospital in Maseru, in Lesotho. He was admitted in the hospital after sustaining serious injuries from an ambush that was laid by the apartheid Security Forces at Mafeteng in Lesotho.</p> <p>CURRENT STATUS:</p> <p>The DPP declined to prosecute, and closed on 05 February 2025.</p>
Offence	Murder	
Date Reported	2019-11-22	
Date referred to DPCI	2020-09-20	
Victim	Mpilo Attwel Maqkeza	
Suspects/Accused	1	
Number of charges	1	
Number of statements obtained	12	

The DPCI shall at all times enforce the Law of the Republic without fear, favour or prejudice and, as the circumstances of any particular case may require, in accordance with the Constitution and the Law

Thank You

Seek, Find, Strike



"TNT"
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IN THE HIGH COURT OF SOUTH AFRICA
GAUTENG DIVISION, PRETORIA

Case Number:

In the matter between:

THEMBISILE PHUMELELE NKADIMENG

Applicant

And

NATIONAL DIRECTOR OF
PUBLIC PROSECUTIONS

First Respondent

THE NATIONAL COMMISSIONER OF THE
SOUTH AFRICAN POLICE

Second Respondent

THE MINISTER OF JUSTICE AND CORRECTIONAL
SERVICES

Third Respondent

THE NATIONAL MINISTER OF POLICE

Fourth Respondent

WILLEM HELM COETZEE

Fifth Respondent

ANTON PRETORIUS

Sixth Respondent

FREDERICK BARNARD MONG

Seventh Respondent

MSEBENZI TIMOTHY RADEBE

Eighth Respondent

TPM

v.p. N
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WILLEM SCHOON

Ninth Respondent

SUPPORTING AFFIDAVIT

I, the undersigned


VUSUMZI PATRICK PIKOLI

state under oath as follows:

INTRODUCTION

1. I am an advocate of the High Court of South Africa and a former National Director of Public Prosecutions.
2. Save where appears from the context, the facts contained in this affidavit are within my own personal knowledge and are to the best of my knowledge and belief both true and correct.
3. I depose to this affidavit at the request of the applicant's legal representatives and in order to ensure that all the relevant facts are placed before this Court.

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PROFESSIONAL EXPERIENCE

4. Prior to 1990 I was a member of Umkhonto weSizwe and I worked for the ANC's legal and constitutional affairs department in exile.
5. Between 1991 and 1994 I worked as a legal adviser with the Munich Reinsurance Company of Africa Limited Group. From 1994 until 1997 I was the Special Advisor to the then Minister of Justice, Mr. Abdullah Omar. My specific mandate was to help restructure the Department of Justice. At the time, there were eleven departments countrywide and I was tasked with amalgamating those departments into one central department.
6. From 1997 to 1999, I served as Deputy-Director General of the Department of Justice. In 1999, I was appointed Director General of the Department of Justice and Constitutional Development and worked in that role until 2005.
7. On 1 February 2005, I was appointed the National Director of Public Prosecutions ("NDPP") by the President in terms of Section 10 of the National Prosecuting Authority Act 32 of 1998 ("NPA Act") as read with Section 179 of the Constitution. My appointment was for a 10 year term as contemplated in Section 12(1) of the NPA Act.
8. As a result of my decision to authorize the prosecution of a former commissioner of police on corruption charges I was suspended from duty

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by the then President, Mr. T. Mbeki on 23 September 2007. I also have reason to believe that my decision to pursue prosecutions of apartheid-era perpetrators who had not applied for amnesty or had been denied amnesty by the Truth and Reconciliation Commission ("TRC") contributed to the decision of President Mbeki to suspend me. The President suspended me from office in terms of section 12(6) of the NPA Act and ordered an Enquiry into my fitness to hold office as the NDPP.

9. During 2008, a commission of enquiry into my fitness to hold office, led Dr. F. Glinwala, found that the Government had failed to substantiate the reasons for my suspension and that I was a fit and proper person to hold the position of National Director of Public Prosecutions. She further recommended that I be restored to the office of the NDPP. Notwithstanding this finding and recommendation, acting President Mr. K. Mofekeng dismissed me from my post. In 2009 I obtained an order from the High Court restraining President Zuma from appointing a successor to my position. Later that year I accepted a monetary out-of-court settlement from the government.
10. Between 2010 and 2012 I was a partner at Sizwe Ntsaluba Gobodo and the director of its Forensic Investigations department.
11. Between 2012 and 2014 I served as a commissioner of the Khayelitsha

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Commission, which investigated allegations of police inefficiency in Khayelitsha as well as allegations of a breakdown in relations between the community of Khayelitsha and the Police. In December 2014 I was appointed as the Western Cape's first police ombudsman.

12. I am a former trustee of the Constitutional Court Trust, a former member of the Magistrate's Commission and a founding member of the International Association of Anti-Corruption Authorities. I am currently an independent director on the board of Cricket South Africa, where I chair the social and ethics committee. Amongst my awards, I was conferred the International Association of Prosecutors Award in 2008.

CONFIRMATION

13. I confirm the contents of the founding affidavit of Themblsile Phumelele Nkadimeng ("the applicant") and the supporting affidavit of Anton Ackermann SC ("Ackermann"), insofar as they relate to me.
14. In particular, I confirm the contents of the applicant's affidavit under the heading "Political constraints". I confirm that there was political interference that effectively barred or delayed the investigation and possible prosecution of the cases recommended for prosecution by the TRC, including the kidnapping, assault and murder of Nokuthula Aurelia Simelane, ("Nokuthula") in the case: Priority Investigation: JV Plein: 1469/02/1996

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("the TRC cases").

- 15. In this affidavit I set out evidence that reflects such political interference. I also set out the serious impact that such interference had on the pursuit of the TRC cases by the National Prosecuting Authority (NPA).

THE INDEPENDENCE OF THE NPA

- 16. The Office of the NDPP was created on 1 August 1998 in terms of section 179 (1) of the Constitution. The NDPP is the head of the NPA, and manages the directors of public prosecutions, investigating directors, special directors, and other members of the prosecuting authority either appointed or assigned. During my tenure I was duty bound to carry out the responsibilities set out in the NPA Act as well as the Constitution of the Republic of South Africa.

- 17. As NDPP I strongly believed in the independence of the NPA. I maintained that prosecutors were required to conduct themselves independently, objectively and professionally in making decisions whether to prosecute or not. This view is underscored by section 179(4) of the Constitution and section 32 of the National Prosecuting Authority Act 32 of 1998 ("the NPA Act") which both impose a duty on prosecutors to act "*without fear, favour or prejudice*". These provisions provide both a constitutional and statutory guarantee of independence to the NPA.

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THE TRC CASES

18. In April 2003 President Mbeki received the final TRC report. The President announced in Parliament that the prosecution of persons who did not take part in the TRC process was to be left in the hands of the NPA as part of the "normal legal processes". He also said that those perpetrators who were prepared to unearth the truth would be welcome to enter into agreements that are standard in the normal execution of justice and the prosecuting mandate, and are accommodated in existing legislation. Former President Mbeki's statement to the national houses of Parliament dated 15 April 2003 is annexed hereto marked "VPP1". Regrettably what was to follow in relation to the TRC cases was anything but the "normal legal processes."
19. In my former capacity as Director General ("DG") of the Department of Justice and Constitutional Development ("DoJ") I had previously been involved in the formulation of a policy to deal with the TRC cases, which were regarded as politically sensitive. On 23 February 2004, I had chaired a Director-General's Forum which appointed a Task Team to report on a mechanism to give effect to the President's objectives.

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20. It is important to note that the recommendation of the Task Team of a two stage process which would have required a recommendation from an inter-departmental task team before the NDPP could institute any criminal proceedings in the political cases was rejected. This was because such a process would have been a violation of prosecutorial independence enshrined in Section 179 of the Constitution.
21. Some of these developments have been highlighted in the extracts from my affidavit filed before the Ginwala Commission in May 2008, which have been annexed to the founding affidavit. For the sake of completeness I highlight some of these facts in this affidavit.
22. In relation to the steps taken by the NPA with regard to the TRC cases prior to my appointment as NDPP on 1 February 2005 I refer to the affidavit of Anton Ackermann SC filed evenhly herewith. On my appointment as NDPP, the Priority Crimes Litigation Unit (PCLU), a sub-unit within the NPA, had already been tasked with handling the TRC cases. The PCLU was headed by Special Director Advocate Anton Ackermann.
23. The decision to prosecute those implicated in the attempted murder, through poisoning, of former church leader and head of the South African Council of Churches, the Reverend Frank Chikane, on 23 April 1989 at the then Jan Smuts Airport, Kempton Park ("the Chikane matter), saw the

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unravelling of the attempts by the NPA to hold apartheid-era perpetrators accountable for their crimes.

24. The initial decision to prosecute three Security Branch members, former Colonel C L Smith, and former Captains G J L H Otto and H J Van Staden, was taken prior to my appointment as NDPP. This decision was taken in November 2004 by Dr. Silas Ramaite SC in his capacity as Acting National Director of Public Prosecutions. However, he instructed that this matter, and all other TRC cases, be held over pending the development of the guidelines to deal with the TRC cases that were to be incorporated into the Prosecution Policy.

Developments since 2005

25. Following the approval by the Minister of Justice, and after consultation with the Directors of Public Prosecutions as required by the NPA Act, the amendments to the Prosecution Policy were tabled in Parliament and became effective on 1 December 2005. The amendments to the Prosecution Policy were titled: "PROSECUTING POLICY AND DIRECTIVES RELATING TO THE PROSECUTION OF OFFENCES EMANATING FROM CONFLICTS OF THE PAST AND WHICH WERE COMMITTED ON OR BEFORE 11 MAY 1994" ("the Prosecution Policy Guidelines" or "the Guidelines"). A copy of the said amendments is annexed to the founding affidavit marked "TN30".

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26. In terms of paragraph B6 of the amended Prosecution Policy it was stipulated that that the PCLU should be assisted in the execution of its duties by a senior designated official from the following State departments or other components of the NPA:

- 26.1. The National Intelligence Agency ("NIA");
- 26.2. The Detective Division of the South African Police Service ("SAPS");
- 26.3. The Department of Justice and Constitutional Development; and
- 26.4. The Directorate of Special Operations ("DSO").

27. When the Prosecution Policy became effective in December 2005 I reviewed the available evidence implicating the three suspects in the Chikane matter, which, in my opinion, was clearly sufficient to justify a prosecution. None had applied for amnesty for this offence. I therefore gave the initial instruction to proceed with the prosecution in February 2006.

28. In response to the said notification the three suspects made representations to me in terms of the Guidelines in support of their contention that they should not be subject to prosecution. These representations were reviewed by a team within the NPA under the

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leadership of Advocate T. Pretorius who reported to me that the representations did not comply with the requirements set out in the Guidelines, insofar as the suspects declined to disclose the full truth. After reviewing the report and the underlying documentation I wrote to the legal representative of the suspects in July 2006 informing him of my intention not to accede to the representations and to pursue the prosecution.

29. Meanwhile in early 2006 I had approached the then Commissioner of Police, the DG of Justice, and the heads of the NIA and the DSO (also known as 'the Scorpions') requesting them to nominate senior officials to assist the PCLU in accordance with the Prosecution Policy guidelines. Unfortunately the SAPS and the NIA never provided the PCLU with the necessary support to conduct its investigations adequately.
30. In early 2006, then Commissioner of Police, Mr. J Selebi, objected to Advocate Ackermann's participation claiming that Ackermann intended to prosecute the leadership of the ANC. This is notwithstanding the formal denial by the NPA that no such plans were in place. I advised Mr. Selebi that Ackermann was appointed as the head of the PCLU under Presidential proclamation and it was not for the SAPS to determine who should discharge the mandate given to the PCLU.
31. I then approached the Presidency in order to secure the necessary

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collaboration of the parties to apply the Prosecution Policy Guidelines. A meeting was arranged in mid-2006 by Reverend Frank Chikane, the then Director General in the Presidency. The meeting was attended by himself, the DGs of Justice and the NIA, Mr. Selebi, the Secretary of the Defence Secretariat, Mr. Jafta from the Presidency and I. Mr. Selebi again complained about Advocate Ackermann's Involvement in the process.

32. Later in 2006 I was summoned to a meeting which was convened at the home of Minister Skweyiya, the then Minister of Social Development. The meeting was attended by the Ministers of Safety and Security and Defence, Minister Thoko Didiza (Acting Minister of Justice and Constitutional Development representing Minister Mabandla who was indisposed) and Mr. Jafta. The meeting was called by Acting Minister Didiza and I was advised that it related to the prosecution in the Chikane matter.
33. At this meeting it became clear that there was a fear that cases like the Chikane matter could open the door to prosecutions of ANC members. I quote hereunder from my affidavit filed before the Ginwala Commission as to what transpired at this meeting:

"The Minister of Safety and Security was concerned about the decision to proceed with the prosecution and with Advocate Ackermann's involvement in the process and the issue of whether it was Advocate Ackermann or me who was behind the decision to

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prosecute.

The Minister of Social Development was concerned about the impact of the decision to prosecute on the ranks of ANC cadres who were worried that a decision to prosecute in the Chikane matter would then give rise to a call for prosecution of the ANC cadres themselves arising out of their activities pre-1994.

The Minister of Defence had concerns about where the decision to prosecute rested – did it rest with me or did it rest with Advocate Ackermann.

I explained to the Ministers that the decision to proceed with the prosecution rested with me as did all other decisions in regard to post-TRC prosecutions being considered by the PCLU. I assured them that no prosecution would be undertaken without my specific direction and reiterated my concern about the delay in the process particularly in view of the requirement that I report to parliament on these matters.

...The Minister of Defence appeared satisfied with my explanation that I would exercise the decision as to whether there was a prosecution or not. The Minister of Safety and Security appeared to continue to be worried about the involvement of Advocate Ackermann. I have no recollection of a particular position adopted by the Acting Minister of Justice."

- 34. Also in 2006 a further meeting took place at the office of the Presidency. My recollection of this meeting is that it was decided that the working committee or Task Team would not make recommendations on a decision

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as to whether to prosecute or not, but would be responsible for ensuring that I received all the necessary inputs and information from the various departments so as to assist me to make a well-considered decision.

- 35. At this meeting I proposed that Dr Silas Ramaite, the Deputy National Director of Prosecutions, should chair the Task Team. I suggested this in order to counter the complaints in regard to Advocate Ackermann and to get the Task Team working. The proposal was accepted.

- 36. Subsequent to this meeting there was a further meeting of Ministers in the security cluster at the office of the Minister of Safety and Security. This was attended by the Minister for Safety and Security, the Minister of Social Development, Acting Minister Didiza, Mr. Selebi, various DGs and Mr. Jafta. The proposal for the establishment of a working group was put to the Ministers and accepted.

- 37. After this meeting, in early October 2006 I again sent letters to the various Directors General, Mr. Selebi and the DSO inviting them each to nominate a senior official to perform the functions set out in paragraph B6 of the Guidelines.

- 38. The Task Team met for the first time on 12 October 2006. I attended the opening session of the first meeting together with Ms. Kalyani Pillay (my

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adviser), the Directors General of the NIA and Justice and Mr. Jafta from the Presidency. Aside from this meeting, I did not participate further in the activities of the Task Team. I received reports from time to time on their activities. These reports led me to believe that the committee was functioning and securing the requisite co-operation from the other agencies which had previously been missing.

39. Meanwhile I had received further representations from the suspects in the Chikane matter contending that they had received indemnity in respect of the threatened prosecution in terms of the original Indemnity Act of 1990. I sought an independent opinion from senior counsel concerning the validity of this claim of indemnity. The opinion was received in November 2006 and concluded that the claimed indemnities were no bar to prosecution and that the said law had been repealed in 1995.
40. Dr Silas Ramaite reported to me that at the Task Team meeting on 25 October 2006 had received an audit report from Advocate Ackermann on all cases in the possession of the PCLU. Dr. Ramaite reported to me further that the Chikane matter was discussed by Task Team for the first time at its meeting on 6 November 2006. Mr. J Lekalakala of the SAPS stated that the National Commissioner believed that Rev. Chikane was not interested in a prosecution. Advocate Ackermann however indicated that Rev. Chikane had left the matter in the hands of the NPA.

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41. In early December 2006 I was Informed by Dr Ramaite of the renewed contention by Mr. Selebi that Reverend Chikane had not been consulted. Reverend Chikane had In fact been extensively consulted in relation to the proposed prosecution. I personally held discussions with him during the course of interactions during 2006 and 2007. I also met with him separately. Reverend Chikane's advised me that while he may have forgiven his perpetrators, Insofar as the application of the laws of the land was concerned, the matter must take its ordinary course. If a decision was made by the prosecuting authorities he would accept that.
42. Although I knew that Ackermann had discussed the matter with Rev. Chikane as far back as 2004, In December 2006 I instructed Advocate Ackermann to once again visit Rev Chikane to confirm his position.
43. However, towards the end of 2006 it became clear to me that powerful elements within government structures were determined to impose their will on my prosecutorial decisions. In this regard I quote from my affidavit filed before the Ginwala Commission:

"In December 2006 Dr Ramaite reported to me In regard to the contention raised by Mr. Selebi through Commissioner Jacobs that it was the function of the Task Team that It should make a final recommendation to a body identified as the "Committee of Directors

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General" which would in turn make recommendations to me. In essence the proposal made by Mr. Selebi and subsequently supported by the Directors General of Justice and NIA amounted to a reversion to a two stage process in which my decision on any prosecution would be dependent upon a prior recommendation by an Intervening committee of directors general which would be subject to the same constitutional challenge as had led to the rejection of this proposal in 2004.

It became clear to me that there was a material misunderstanding in regard to the role of the Task Team and that unless this was resolved, I would not be able to carry out my functions within the contemplation of the relevant legislation and as envisaged by the Government."

Developments from 2007

44. In early 2007, as a result of the differences in approach that had developed between the NPA and the SAPS, NIA and DoJ I informed Mr. Selebi and the Directors General that there was a serious misunderstanding. I resolved to approach the Minister of Justice and request her guidance. Pending such response the functioning of the Task Team was compromised by the uncertainty and it held no further meetings until 8 August 2007.
45. Towards the end of January 2007 Advocate Ackermann and Advocate Mthunzi Mhaga (also of the PCLU) reported to me that they had met with

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Reverend Chikane on 22 January 2007 and that he had reaffirmed his attitude, namely that he was not against a prosecution and that the matter should take its ordinary course. In the light of this confirmation I wrote to the legal representatives of Messrs. Otto, Smith and van Staden on 25 January 2007 and informed them that the matter would now proceed and I instructed the PCLU to act accordingly.

46. Around this time, the former Minister of Police, Adriaan Vlok and the former Commissioner of Police, General Johann van der Merwe, had both made representations to me as contemplated in the Guidelines. They both admitted to authorising the murder of Reverend Chikane and requested me not to prosecute them in the light of this disclosure. However, they declined to make full disclosure in response to requests for information. I accordingly declined to accede to their request that they be given immunity from prosecution in terms of the Guidelines.
47. On 6 February 2007 I had a meeting with the Minister of Justice and Constitutional Development, Mrs. B S Mabandla. During this meeting it appears that she had gained the impression that I had agreed not to pursue the TRC cases. On 8 February 2007, she addressed a letter to me titled "TRC MATTERS", a copy of which is annexed hereto marked "VPP2" in which she stated the following:

"I must advise you at the outset that the media articles alleging that

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the National Prosecuting Authority will go ahead with prosecutions have caught me by surprise. In our discussions you briefly mentioned to me that the NPA will not go ahead with prosecutions. As you had undertaken to advise me in writing, I will appreciate it if you could advise me urgently on the matter so that there can be certainty."

48. An example of one of the articles in the press is from the Beeld newspaper titled "Cops up for apartheid crimes" which was published on 7 February 2007. A copy of this article is annexed hereto marked "VPP3".
49. I am at a loss to explain how the Minister reached such a conclusion. Her letter disclosed an assumption that the TRC matters will not be prosecuted. I found this to be a disturbing development as it appeared that at a political level there was an expectation that I would not prosecute the TRC cases. I regarded such an expectation as unwarranted interference in my constitutional duty to prosecute without fear, favour or prejudice.
50. It is most likely that I would have clarified my position with the Minister, either through a meeting or a telephone discussion. I would have confirmed to the Minister that it was not my intention to drop the TRC cases.
51. I decided to prepare a detailed memorandum for the Minister to set out the history behind the policy to the TRC cases and to inform the Minister of the

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problems experienced in implementing this policy. This memorandum is titled 'PROSECUTION OF OFFENCES EMANATING FROM CONFLICTS OF THE PAST: INTERPRETATION OF PROSECUTION POLICY AND GUIDELINES' and was dated 15 February 2007. This memorandum was annexed to my affidavit before the Ginwala Commission marked as "TRC1".

52. In this memorandum I concluded that there had been improper interference in relation to the TRC cases and that I had been obstructed from taking them forward. I complained that such interference impinged upon my conscience and my oath of office. I indicated that I was unable to deal with these cases in terms of the normal legal processes and sought guidance on the way forward.

53. As I had marked this memorandum as an "*internal secret memorandum*" I have not attached it to this affidavit. I have attached it to an *in camera* affidavit which will be filed separately and which will not be made available to the public, unless this honorable Court authorizes such release. In this regard I make the following submissions:

53.1. The issues and complaints raised in the memorandum have already been discussed in the body of my affidavit filed before the Ginwala Commission, which has been part of the public record

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since 7 May 2008. and which was also part of the court record in the matter of *Nkadimeng & Others v The National Director of Public Prosecutions & Others* (TPD case no 32709/07).

- 53.2. In my view, there is nothing in the memorandum that implicates or impairs national security.
- 53.3. Since the memorandum points to unlawful and unconstitutional conduct it would be in the public interest for this memorandum to be released
- 53.4. The public interest in the disclosure of the memorandum far outweighs any possible contemplated harm, inconvenience or embarrassment.
54. I never received any response from the Minister to this memorandum. Given the serious issues I was raising in the memorandum, and given that the NPA Act criminalizes obstruction of the work of the prosecuting authority, I would have expected an immediate response from the Minister. The failure or refusal of the Minister to respond to my memorandum suggested to me that she preferred for the deadlock between the NPA and the SAPS, NIA and DoJ to remain in place.

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55. During the course of the next few months the legal representative of Messrs. Otto, Smith and van Staden, Vlok and van der Merwe, held detailed negotiations with Advocate Ackermann and members of the PCLU in regard to a plea and sentencing agreement.
56. The negotiation of the plea and sentencing agreements with the five accused was an extended process and was only concluded in early July 2007. On 10 July 2007 I sent a memorandum to the Minister informing her of the fact that the prosecution had been set down for hearing on 17 August 2007 and that all accused had indicated their intention to plead guilty to a charge of attempting to murder Reverend Chikane by means of poisoning. The memorandum informed her of the fact that plea and sentencing agreements had been entered into. To the best of my recollection the Minister did not respond to this memorandum.
57. On or about 10 July 2007 I went off on compassionate leave because of the illness and subsequent death of my mother. In my absence, on 17 July 2007, Dr Ramaite and Advocate Ackermann were summoned to a meeting with the Minister and reported to her on these developments.
58. In August 2007, those implicated in the Chikane case pleaded guilty to the charges in exchange for suspended sentences as per Section 105A of the Criminal Procedure Act, 1977. Vlok and Van der Merwe were sentenced to

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ten years in prison suspended for five years, while the other three received five year prison sentences, suspended for five years.

59. I would have preferred a full prosecution in this case because Adriaan Vlok and Johan van der Merwe only made limited disclosure. They largely confined their disclosure to facts that were already in the public domain. They declined to disclose detailed information in relation to the compiling of the hit list and who was behind such compilation. They did not reveal the other names on the list; the *modus operandi* of the other hits or the identities of the other masterminds and perpetrators.

60. A full prosecution in the Chikane case would have produced greater truth and accountability. However there was strong political resistance to this prosecution and the pursuit of the other political cases. It was clear to me that the government, and in particular the then Minister of Justice, did not want the NPA to prosecute those implicated in the Chikane case. This was due to their fear of opening the door to prosecutions of ANC members, including government officials. Moreover I could not rely on the police to investigate this case, and the other political cases, thoroughly. Therefore, a plea and sentence bargain was in my view the most appropriate compromise in the circumstances.

61. Shortly after the plea and sentence agreement had been confirmed in court

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a newspaper article appeared in the Rapport newspaper of 19 August 2007 in which it was claimed that the NPA was preparing to prosecute ANC leaders. The claim was made on the basis of a fabricated document. A copy of this newspaper article is annexed hereto marked "VPP4". The NPA responded to this article by way of a press statement dated 21 August 2007 in which the allegations made in the Rapport article were denied. A copy of this press statement is annexed hereto marked "VPP5".

62. After the newspaper article was published, I was summoned to a meeting of the of the subcommittee of the Justice, Crime Prevention and Security (JCPS) Cabinet Committee on Post TRC matters, which was held on 23 August 2007. This meeting was attended by several cabinet ministers, directors-general and Mr. Selebi. Cabinet Ministers included the Minister for National Intelligence Services, Mr. Ronnie Kasrils, Minister Mabandla, Minister Skweylya amongst others.
63. During the meeting, Mr. Selebi said to me that the *'gloves are now off'* and that he was *'declaring war'* on me. In response I told him: *"for once in your life can you tell the truth and shame the devil"*.
64. Those at the meeting demanded answers from me about TRC prosecutions. They were also particularly concerned that I was instituting an investigation into certain members of the South African Police Service.

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This was in relation to my investigation into who was behind the fabrication of the letter purportedly written by Ackermann SC. Minister Mabandla told me to stop this investigation as we could not be seen to be taking each other to court. I advised the Minister that I would not stop the investigation.

65. I explained that:

65.1. the NPA was bound by law to continue with prosecutions of individuals who did not apply for or who were refused amnesty.

65.2. the NPA was actively preparing for those prosecutions and that we should not be stopped from doing our job.

65.3. It was my role as the NDPP to decide who would be charged.

66. On 28 August 2007 I received a faxed letter from the Minister of Justice, Ms. B S Mabandla. A copy of this letter is annexed hereto marked "VPP6". She referred to the meeting held on 23 August 2007. She noted that the National Commissioner of Police and I had different views on the Rapport article regarding the alleged forgery of certain NPA documents. She noted that I had initiated an investigation into the alleged forgery but she complained that she had not been advised of this decision or the basis thereof. Paragraphs 4 and 5 of the Minister's letter are particularly

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revealing:

4. In the course of the discussion, it became clear that Mr. J Selebi was of the view that there is no truth in the Rapport article, and he produced documents to support his argument that indeed there is an investigation by the NPA on certain political office bearers.

5. It was suggested at the meeting then that it would be useful if you could respond to the allegation that there is an investigation as mentioned above. (Emphasis added).

67. The Minister's letter was further indication of the view held at ministerial level that I should not enjoy actual discretion to make prosecutorial decisions in relation to the so-called political cases arising from the conflicts of the past.

68. I responded to the Minister's letter by way of a letter dated 29 August 2007, a copy of which is annexed hereto marked "VPP7". My copy of this letter is not on an NPA letterhead, but I confirm that the contents thereof were transmitted to the Minister.

69. In this letter I referred to the 23 August 2007 meeting:

"...which I considered to be most unpleasant. Despite the information I put before the committee, I am both surprised and disappointed to see that I now stand accused of misleading alternatively having lied to the sub-committee members."

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70. I confirmed that there was no investigation by the NPA *"against the 37 ANC leaders including the President of this country, contrary to the assertions of the National Commissioner of Police"*.
71. In relation to paragraph 4 of the Minister's letter I noted that it is:
- "...clear that my account of the position as it relates to the NPA's handling of the post TRC matters has been completely ignored."*
72. I reminded the Minister that my predecessor had satisfied himself that there was no basis for the leadership of the ANC to be investigated and he had then briefed the then Minister of Justice, as well as the President. I also advised the Minister that all the dockets relating to the TRC cases, which had been stored at the Office of the Director of Public Prosecutions (DPP) in Pretoria, had been handed over to the SAPS in early and mid-2004. In my capacity as then DG of Justice I was actually present in the office of the DPP when representatives from the SAPS collected the said dockets.
73. I concluded my letter by requesting an urgent meeting with the Minister and myself and my Deputies. I also requested an opportunity to appear before the National Security Council *"to give a true account of this issue"*.
74. The Minister did not respond to my requests and these meetings never

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took place. On 23 September 2007 I was suspended from office by President Mbeki. Shortly after my suspension I learned that Advocate Ackermann had been relieved of his duties in relation to the TRC cases.

CONCLUSION

75. I have little doubt that my approach to the TRC cases contributed significantly to the decision to suspend me. It is no coincidence that there has not been a single prosecution of any TRC matter since my suspension and the removal of the TRC cases from Advocate Ackermann.
76. The political interference or meddling that I have set out in this affidavit is deeply offensive to the rule of law and any notion of independent prosecutions under the Constitution. It explains why the TRC cases have not been pursued. It also explains why the disappearance and murder of Nokuthula Simelane was never investigated with any vigour and why the pleas of her family and her representatives were ignored.


VUSUMZI PATRICK PIKOLI

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I hereby certify that the deponent has acknowledge that he knows and understands the contents of this affidavit, which was signed and sworn to before me, Commissioner of Oaths, at CAPE TOWN on this the 6th day of MAY 2017 the regulations contained in Government Notice No R1258 of 21 July 1972, as amended, and Government Notice No R1648 of 19 August 1977, as amended, having been complied with.



COMMISSIONER OF OATHS

Andrew Lehloyo Darcky Mohohlo
 Commissioner of Oaths
 Practising Attorney
 2nd Floor, Leadership House, 40 Shortmarket Str
 Greenmarket Square, Cape Town, 8001

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STATEMENT BY PRESIDENT THABO MBEKI TO THE NATIONAL HOUSES OF PARLIAMENT
AND THE NATION, ON THE OCCASION OF THE TABLING OF THE REPORT OF THE TRUTH
AND RECONCILIATION COMMISSION; CAPE TOWN, APRIL 15, 2003.

Madame Speaker and Deputy Speaker;
Chairperson and Deputy Chairperson of the Council of Provinces;
Deputy President;
Chief Justice and Members of the Judiciary;
Former Members of the Truth and Reconciliation Commission;
Ministers and Deputy Ministers;
Distinguished Premiers;
Honoured Traditional Leaders;
Leaders of the Chapter Nine Institutions;
Honourable Leaders of our Political Parties;
Your Excellencies, Ambassadors and High Commissioners;
Honourable Members;
Distinguished Guests;
Fellow South Africans:

We have convened today as the elected representatives of the people of South Africa to reflect on the work of the Truth and Reconciliation Commission, to examine its Recommendations and to find answers, in practical terms, to the question - where to from here!

We wish to acknowledge the presence of Commissioners of the erstwhile TRC, who took time off their busy schedules to join us in commending the Report to our national parliament.

I am confident that I speak on behalf of all Honourable Members when I say to these Commissioners, and through them, to Archbishop Desmond Tutu and the other Commissioners not present here today, that South Africa sincerely appreciates the work that they have done. Our thanks also go to the staff of the Commission and all who contributed to the success of the work of the TRC, which we are justified to celebrate today.

They did everything humanly possible to realise the objectives of a process novel in its conception, harrowing in its execution and, in many respects, thankless in balancing expectation and reality. Our assessment of the TRC's success cannot therefore be based on whether it has brought contrition and forgiveness, or whether at the end of its work, it handed us a united and reconciled society. For this was not its mandate. What the TRC set out to do, and has undoubtedly achieved, is to offer us the signposts in the Long March to these ideals.

What it was required to do and has accomplished, was to flag the dangers that can beset a state not premised on popular legitimacy and the confidence of its citizens, and the ills that would befall any society founded on prejudice and a belief in a "master race".

The extent to which the TRC could identify and pursue priority cases; its ability to bring to its hearings all relevant actors; the attention that it could pay to civil society's role in buttressing an illegitimate and illegal state; and the TRC's investigative capacity to pursue difficult issues with regard to which the actors had decided to spurn its call for co-operation - all these weaknesses were those of society and not the TRC as such.

And, we make bold to say that all these complexities make the product of the work of the TRC that much more outstanding and impressive.

The pain and the agony that characterised the conflict among South Africans over the decades, so vividly relived in many hearings of the Commission, planted the seed of hope - of a future bright in its humanity and its sense of caring.

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It is a future whose realisation gave life to the passion for the liberation of our people, of Oliver Tambo and Chris Hanl, the tenth anniversary of whose passing away we mark this month. This includes others such as Robert Mangaliso Sobukwe and Steve Bantu Biko, who passed away 25 years ago this year and last year respectively. They joined and have since been joined by many other patriots to whom freedom meant life itself.

We are indebted to all of them; and we shall work to ensure that their memory lives on in the minds of generations to come, inspired by our common determination that never again should one South African oppress another.

At a critical moment in our history, as a people, we came to the conclusion that we must, together, end the killing. We took a deliberate decision that a violent conflict was neither in the interest of our country nor would it solve our problems.

Together, we decided that in the search for a solution to our problems, nobody should be demonised or excluded. We agreed that everybody should become part of the solution, whatever they might have done and represented in the past. This related both to negotiating the future of our country and working to build the new South Africa we had all negotiated.

We agreed that we would not have any war crimes tribunals or take to the road of revenge and retribution.

When Chris Hanl, a great hero of our people was murdered, even as our country was still governed by a white minority regime, we who represented the oppressed majority, said let those who remained in positions of authority in our country carry out their responsibility to bring those who had murdered him to book. We called on our people neither to take the law into their hands nor to mete out blind vengeance against those they knew as the beneficiaries of apartheid oppression.

We imposed a heavy burden particularly on the millions who had been the victims of this oppression to let bygones be bygones. We said to them - do not covet the material wealth of those who benefited from your oppression and exploitation, even as you remain poor.

We walked among their ranks saying that none among them should predicate a better future for themselves on the basis of the impoverishment of those who had prospered at their expense. We said to them that on the day of liberation, there would be no looting. There would be celebrations and no chaos.

We said that as the majority, we had a responsibility to make our day of liberation an unforgettable moment of joy, with none condemned to remember it forever as a day of bitter tears.

We said to our people that they should honour the traditions they had built and entrenched over centuries, never to hate people because of their colour or race, always to value all human beings, and never to turn their backs on the deeply-entrenched sentiment informed by the spirit of ubuntu, to forgive, understanding that the harm done yesterday cannot be undone today by a resolve to harm another.

We reminded the masses of our people of the values their movement for national liberation had upheld throughout a turbulent century, of everything they had done to defend both this movement and its values, of their obligation never to betray this noble heritage. Our people heeded all these calls.

By reason of the generosity and the big hearts of the masses of our people, all of us have been able to sleep in peace, knowing that there will be no riots in our streets. Because these conscious masses know what they are about, the Truth and Reconciliation Commission was able to do its work enjoying the cooperation of those who for ages had upheld the vision of a united humanity, in which each would be one's brother and sister. These are an heroic people whose greatest reward is the liberation of their country.

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Of them, the TRC says: "Others did not wish to be portrayed as a 'victim'. Indeed, many said expressly that they regarded themselves instead as soldiers who had voluntarily paid the price of their struggle... Many have expressed reservations about the very notion of a 'victim', a term which is felt to denote a certain passivity and helplessness... Military operatives of the liberation movements generally did not report violations they experienced to the Commission, although many who were arrested experienced severe torture. This is in all likelihood a result of their reluctance to be seen as 'victims', as opposed to combatants fighting for a moral cause for which they were prepared to suffer such violations. The same can be said for most prominent political activists and leadership figures... The Commission did not, for example, receive a single Human Rights Violation statement from any of the Rivonia trialists."

Some of these, who had to go through the torture chambers of the apartheid regime to bring us our liberty, are with us in this chamber today. There are others who sit on the balcony as visitors, who lost their loved ones whom they pride as liberators, and others who also suffered from repression.

Surely, all of us must feel a sense of humility in the face of such selfless heroism and attachment to principle and morality, the assertion of the nobility of the human spirit that would be demeaned, denied and degraded by any suggestion that these heroes and heroines are but mere 'victims', who must receive a cash reward for being simply and deeply human.

I know there are some in this House who do not understand the meaning of what I have just said. They think I have said what I have said to avoid the payment of reparations to those whom the TRC has identified as 'victims', within the meaning of the law.

Indeed, the TRC itself makes the gratuitous comment (para 16, p 163, Vol 6) that: "Today, when the government is spending so substantial a portion of its budget on submarines and other military equipment, it is unconvincing to argue that it is too financially strapped to meet this minimal (reparations) commitment."

Apart from anything else, the government has never presented such an argument. It is difficult to understand why the Commission decided to make such a statement.

Elsewhere in Vol 6, the Rev Frank Chikane, Director General in the Presidency and former General Secretary of the South African Council of Churches, is falsely reported as having made a presentation to the Amnesty Committee, which he never did.

He is then said to have told this Committee that he had participated in killing people. We do not understand how this grave and insulting falsification found its way into the Report of the TRC. We are pleased to report that Archbishop Tutu has written to Rev Chikane to apologise for this inexplicable account.

The poet, Mongane Wally Serote teaches us: 'to every birth its blood'. And so, today we acknowledge the pain that attended the struggle to give birth to the new life that South Africa has started to enjoy. In this era of increased geopolitical tension, we dare celebrate as South Africans that we found home-grown solutions that set us on a course of reconstruction and development, nation-building, reconciliation and peace among ourselves.

At this time, when great uncertainty about the future of our common world envelops the globe, we dare stand on mountain-tops to proclaim our humble contribution to the efforts of humanity to build a stable, humane and safer South Africa, and by extension, a more stable, more humane and safer world.

Honourable Members;

If we should find correct answers to the question, where to from here, we will need to remind ourselves of the objectives of the TRC from its very inception, so aptly captured in the preamble to the Promotion of National Unity and Reconciliation Act:

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"...the Constitution of the Republic of South Africa, 1993 provides a historic bridge between the past of a deeply divided society characterised by strife, conflict, untold suffering and injustice, and a future founded on the recognition of human rights, democracy and peaceful co-existence for all South Africans, irrespective of colour, race, class, belief or sex;

"...the Constitution states that the pursuit of national unity, the well-being of all South African citizens and peace require reconciliation between the people of South Africa and the reconstruction of society;

"...It is deemed necessary to establish the truth in relation to past events as well as the motives for and circumstances in which gross violations of human rights have occurred, and to make the findings known in order to prevent a repetition of such acts in future;

"...the Constitution states that there is a need for understanding but not for vengeance, a need for reparation but not for retaliation, a need for ubuntu but not for victimisation".

I am certain that we are all at one that the pursuit of national unity, the well-being of all South African citizens and peace, require reconciliation among the people of South Africa and the reconstruction of our society.

These are the larger and fundamental objectives that should inform all of us as we work to give birth to the new South Africa. The occasion of the receipt of the Report of the TRC should give us an opportunity to reflect on these matters.

Both singly and collectively, we should answer the question how far we have progressed in the last nine years towards the achievement of the goals of national unity, national reconciliation and national reconstruction. Both singly and collectively, we have to answer the question, what have we contributed to the realisation of these goals.

These larger questions, which stand at the heart of what our country will be, did not fall within the mandate of the Truth and Reconciliation Commission. The TRC was therefore but an important contributor to the achievement of the larger whole, occupying an important sector within the larger process of the building of a new South Africa.

As stated in the Act, the TRC had to help us to establish the truth in relation to past events as well as the motives for and circumstances in which gross violations of human rights occurred, and to make the findings known in order to prevent a repetition of such acts in future.

It had to help us to promote understanding and avoid vengeance, to extend reparation to those who had been harmed and discourage retaliation, to rely on the spirit of ubuntu as a deterrent against victimisation.

The TRC has done its work as was required. As stipulated in the TRC Act, we are here to make various recommendations to our national parliament, arising out of the work of the TRC.

As the Honourable Members are aware, there is a specific requirement in the law that parliament should consider and take decisions on matters relating particularly to reparations. It would then be the task of the Executive to implement these decisions.

The law also provides that the national legislature may also make recommendations to the Executive on other matters arising out of the TRC process, as it may deem fit.

Let us now turn to some of the major specific details that the TRC enjoins us to address.

The first of these is the matter of reparations.

First of all, an integrated and comprehensive response to the TRC Report should be about the continuing challenge of reconstruction and development: deepening democracy and the culture of human rights, ensuring good governance and transparency, intensifying economic growth and social programmes, improving citizens' safety and security and contributing to the building of a humane and just world order.

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The TRC also argues for systematic programmes to project the symbolism of struggle and the ideal of freedom. This relates to such matters as academic and informal records of history, remaking of cultural and art forms, erecting symbols and monuments that exalt the freedom struggle, including new geographic and place names. The government accepts these recommendations.

Special emphasis will continue to be paid to rehabilitation of communities that were subjected to intense acts of violence and destruction. Experience gained with the projects in Katorus in Gauteng and Mpumalanga in KwaZulu/Natal demonstrates that great progress can be made in partnership between communities and government.

Further, with regard to specific cases of individual victims identified by the TRC Act, government has put in place and will intensify programmes pertaining to medical benefits, educational assistance and provision of housing and so on. From time to time, Ministers have elaborated and will continue to expatiate on the implementation of these and other related programmes.

The TRC has reported that about 22 000 individuals or surviving families appeared before the Commission. Of these, about 19 000 required urgent reparations, and virtually all of them, where the necessary information was available, were attended to as proposed by the TRC with regard to interim reparations.

With regard to final reparations, government will provide a once-off grant of R30 000 to those individuals or survivors designated by the TRC. This is over and above other material commitments that we have already mentioned.

We intend to process these payments as a matter of urgency, during the current financial year. Combined with community reparations, and assistance through opportunities and services we have referred to earlier, we hope that these disbursements will help acknowledge the suffering that these individuals experienced, and offer some relief.

We do so with some apprehension, for as the TRC itself has underlined, no one can attach monetary value to life and suffering. Nor can an argument be sustained that the efforts of millions of South Africans to liberate themselves, were for monetary gain. We are convinced that, to the millions who spared neither life nor limb in struggle, there is no bigger prize than freedom itself, and a continuing struggle to build a better life for all.

The second of the specific details in the TRC recommendations pertains to the issue of amnesty. A critical trade-off contained in the TRC process was between "normal" judicial processes on the one hand, and establishment of the truth, reparations and amnesty on the other.

Besides the imperatives of managing the transition, an important consideration that had to be addressed when the TRC was set up, was the extent to which the new democratic state could pursue legal cases against perpetrators of human rights violations, given the resources that would have to be allocated to this, the complexities of establishing the facts beyond reasonable doubt, the time it would take to deal with all the cases, as well as the bitterness and instability that such a process would wreak on society.

The balance that the TRC Act struck among these competing demands was reflected in the national consensus around provision of amnesty - in instances where perpetrators had provided the true facts about particular incidents - and restorative justice which would be effected in the form of reparations. Given that a significant number of people did not apply for amnesty, what approach does government place before the national legislature and the nation on this matter?

Let us start off by reiterating that there shall be no general amnesty. Any such approach, whether applied to specific categories of people or regions of the country, would fly in the face of the TRC process and subtract from the principle of accountability which is vital not only in dealing with the past,

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but also in the creation of a new ethos within our society.

Yet we also have to deal with the reality that many of the participants in the conflict of the past did not take part in the TRC process. Among these are individuals who were misled by their leadership to treat the process with disdain. Others themselves calculated that they would not be found out, either due to poor TRC investigations or what they believed and still believe is too complex a web of concealment for anyone to unravel. Yet other operatives expected the political leadership of the state institutions to which they belonged to provide the overall context against which they could present their cases; and this was not to be.

This reality cannot be avoided.

Government is of the firm conviction that we cannot resolve this matter by setting up yet another amnesty process, which in effect would mean suspending constitutional rights of those who were at the receiving end of gross human right violations.

We have therefore left this matter in the hands of the National Directorate of Public Prosecutions, for it to pursue any cases that, as is normal practice, it believes deserve prosecution and can be prosecuted. This work is continuing.

However, as part of this process and in the national interest, the National Directorate of Public Prosecutions, working with our intelligence agencies, will leave its doors open for those who are prepared to divulge information at their disposal and to co-operate in unearthing the truth, for them to enter into arrangements that are standard in the normal execution of justice, and which are accommodated in our legislation.

This is not a desire for vengeance; nor would it compromise the rights of citizens who may wish to seek justice in our courts.

It is critically important that, as a government, we should continue to establish the truth about networks that operated against the people. This is an obligation that attaches to the nation's security today; for, some of these networks still pose a real or latent danger against our democracy. In some instances, caches of arms have been retained which lend themselves to employment in criminal activity.

This approach leaves open the possibility for individual citizens to take up any grievance related to human rights violations with the courts.

Thirdly, in each instance where any legal arrangements are entered into between the NDPP and particular perpetrators as proposed above, the involvement of the victims will be crucial in determining the appropriate course of action.

Relevant Departments are examining the practical modalities of dealing with this matter; and they will also establish whether specific legislation is required in this regard.

We shall also endeavour to explain South Africa's approach on these matters to sister-governments across the world. Our response to any judicial matters from these countries will be handled in this spirit and through the legal system. In this regard, we wish to reiterate our call to governments that continue to do so, that the maltreatment of former anti-apartheid fighters, based on the legal definitions of an illegal regime characterised by the United Nations as a crime against humanity, should cease.

In the recent past, the issue of litigation and civil suits against corporations that benefited from the apartheid system has sharply arisen. In this regard, we wish to reiterate that the South African Government is not and will not be party to such litigation.

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In addition, we consider it completely unacceptable that matters that are central to the future of our country should be adjudicated in foreign courts which bear no responsibility for the well-being of our country and the observance of the perspective contained in our constitution of the promotion of national reconciliation.

While Government recognises the right of citizens to institute legal action, its own approach is informed by the desire to involve all South Africans, including corporate citizens, in a co-operative and voluntary partnership to reconstruct and develop South African society. Accordingly, we do not believe that it would be correct for us to impose the once-off wealth tax on corporations proposed by the TRC.

Consultations are continuing with the business community to examine additional ways in which they can contribute to the task of the reconstruction and development of our society, proceeding from the premise that this is in their own self-interest. In addition to intensifying work with regard to such tasks as poverty eradication, and programmes such as Black Economic Empowerment, encouraging better individual corporate social responsibility projects, implementation of equity legislation and the Skills Training Levy, we intend to improve the work of the Business Trust.

In this context, we must emphasise that our response to the TRC has to be integrated within the totality of the enormous effort in which we are engaged, to ensure the fundamental social transformation of our country. This requires that at all times, we attain the necessary balance among the various goals we have to pursue.

The TRC also recommends that what it describes as the beneficiaries of apartheid should also make contributions to a reparation fund. The government believes that all South Africans should make such contributions. In the pursuit of the goal of a non-racial society, in which all South Africans would be inspired by a common patriotism, we believe that we should begin to learn to work together, united to address the common national challenges, such as responding to the consequences of the gross violations of human rights of which the TRC was seized.

In this regard, I am certain that members of our government will be among the first to make their contributions to the reparation fund, despite the fact that they stood on one side of the barricades as we engaged in struggle to end the apartheid system.

Many in our country have called for a National Day of Prayer and Traditional Sacrifice to pay tribute to those who sacrificed their lives and suffered during the difficult period of oppression and repression whose legacy remains with us. The government accepts this suggestion and will consult as widely as possible to determine the date and form of such prayer and traditional sacrifice. This is consistent with and would be an appropriate response to the proposals made by the TRC for conferences to heal the memory and honour those who were executed.

We shall also continue to work in partnership with countries of the sub-continent, jointly to take part in the massive reconstruction and development effort that SADC has identified as critical to building a better life for all. The peoples of Southern Africa, including the majority in South Africa endured untold privations and were subjected to destabilisation and destruction of property and infrastructure. They all deserve the speeding up of programmes of integration, reconstruction and development that governments of the region have agreed upon.

Madame Speaker;

The Truth and Reconciliation Commission has made many detailed observations and recommendations on structures and systems, which will be dealt with by relevant Ministers and Departments.

For the purpose of reparations, the government has already established the President's Fund, which is now operational, and has, as we earlier indicated, successfully dealt with the matter of urgent reparations. Like the TRC, we do hope that citizens from all sectors will find it within themselves to

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make a contribution to this Fund. Most of the resources that have been allocated for individual and community reparations that we referred to above will be sourced from this Fund, over and above the normal work of the relevant Departments.

We concur with the TRC that intensive work should be undertaken on the matter of monuments as well as geographic and place names. A Trust with the requisite infrastructure, headed by Mongane Wally Serote has been set up to implement the main project in this regard, which is the construction of the Freedom Park whose constituent parts are the Memorial, the Garden of Remembrance and the Museum. This should start by the tenth anniversary of freedom in 2004.

The National Directorate of Public Prosecutions and relevant Departments will be requested to deal with matters relating to people who were unaccounted for, post mortem records and policy with regard to burials of unidentified persons. We would like to encourage all persons who might have any knowledge of people still unaccounted for to approach the National Directorate of Public Prosecutions, the South African Police Service and other relevant departments.

The Department of Justice and Constitutional Development will monitor the implementation of all these programmes, and it will report to Cabinet on an on-going basis.

What we have identified today, arising out of the report of the TRC, forms part of the panoply of programmes that define the first steps in a journey that has truly begun. South African society is changing for the better. The tide has turned and the people's contract for a better tomorrow is taking shape.

The goals we defined for ourselves a decade ago, as we adopted the Interim Constitution, to pursue national unity, to secure peace and the well-being of all South African citizens, to achieve national reconciliation and the reconstruction of our society, have not fully been realised, despite the progress we have made.

The situation we face demands that none of us should succumb to the false comfort that now we live in a normal society that has overcome the legacy of the past, and which permits us to consider our social tasks as mere business as usual.

Rather, it demands that we continue to be inspired by the determination and vision that enabled us to achieve the transition from apartheid rule to a democratic order in the manner that we did. It demands that we act together as one people to address what are truly national tasks.

We have to ask ourselves and honestly answer simple questions.

Have we succeeded to create a non-racial society? The answer to this question is no!

Have we succeeded to build a non-sexist society? The answer to that question is no!

Have we succeeded to eradicate poverty? Once more the answer to that question is no!

Have we succeeded fully to address the needs of the most vulnerable in our society, the children, the youth, people with disabilities and the elderly? Once again the answer to this question is no!

Without all this, it is impossible for us to claim that we have met our goals of national reconciliation and reconstruction and development. It is not possible for us to make the assertion that we have secured the well-being of all South African citizens.

The road we have travelled and the advances we have made convey the firm message that we are moving towards the accomplishment of the objectives we set ourselves. They tell us that, in the end, however long the road we still have to travel, we will win.

In the larger sense, we were all victims of the system of apartheid, both black and white. Some among us suffered because of oppression, exploitation, repression and exclusion. Others among us suffered because we were imprisoned behind prison walls of fear, paralysed by inhuman beliefs in our racial superiority, and called upon to despise and abuse other human beings. Those who do such things cannot but diminish their own humanity.

To be true to ourselves as human beings demands that we act together to overcome the legacy of this common and terrible past. It demands that we do indeed enter into a people's contract for a better tomorrow.

Together we must confront the challenge of steering through a complex transition that demands that we manage the historical fault-lines, without papering over the cracks, moved by a new and common patriotism.

It says to all of us that we must honour those who shed their blood so that we can sit together in this Chamber by doing all the things that will make it possible for us to say, this South Africa that we have rebuilt together, truly belongs to all who live in it.

I am honoured to commend the Report of the Truth and Reconciliation Commission to our National Houses of Parliament and the nation.

Thank you.



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MINISTRY OF JUSTICE AND CONSTITUTIONAL DEVELOPMENT
REPUBLIC OF SOUTH AFRICA

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Adv Vusi Pikoli
National Director of Public Prosecutions
Private Bag X752
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8 February 2007

Dear Adv Pikoli

RE: TRC MATTERS

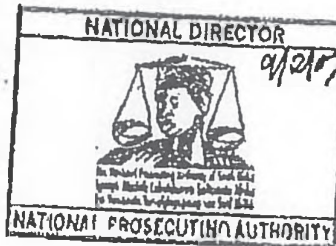
Our discussion in the above matter on Tuesday 6 February 2007 refers.

I must advise you at the outset that the media articles alleging that the National Prosecuting Authority will go ahead with prosecutions have caught me by surprise. In our discussions you briefly mentioned to me that the NPA will not be going ahead with the prosecutions. As you had undertaken to advise me in writing, I will appreciate it if you could advise me urgently on the matter so that there can be certainty.

I trust that you find the above in order.

With warm regards

MRS B S MABANDLA
MINISTER



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Cops up for apartheid crimes

http://www.news24.com/SouthAfrica/News/Cops-up-for-apartheid...

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Cops up for apartheid crimes

2007-02-07 07:15

Jan-Jan Joubert and Willem Jordaan

Capa Town - The national prosecuting authority (NPA) has informed three security policemen that they are to be prosecuted for apartheid crimes.

These will be the first prosecutions since the Truth and Reconciliation Commission (TRC).

The case is related to attempts to poison the Rev Frank Chikane, who is now the director-general of the presidency.

Beeld has the names of the three security police officers and has established that they have been informed by their legal representative that the NPA intends to go ahead with prosecutions.

The move paves the way for prosecution of former minister of law and order Adriaan Vlok and former chief of police General Johan van der Merwe, who are both fully aware of, and prepared for, what will follow, according to sources.

Address to the nation

The NPA did not want to confirm or deny that the prosecutions were to begin.

In political circles, speculation is rife that the planned prosecutions could open a hornet's nest in the week of President Thabo Mbeki's address to the nation.

The question of prosecuting apartheid-era crimes is politically loaded, as some believe that they're necessary to conclude the TRC process, while others feel they could destroy reconciliation.

It appears that members of the latter group could use high-level political pressure to try to prevent prosecutions.

In terms of policy and the constitution, the decision to prosecute lies with the national director of prosecutions, advocate Vusi Pikoli, and not with the government.

Questions already have been asked in high circles about the equanimity of the NPA, and if well-known African National Congress figures who did not get amnesty, would be prosecuted.

One of the ANC members whose amnesty application was turned down was Thabo Mbeki, who applied with a number of other ANC members.

Vlok was in the news recently when he washed Chikane's feet to atone for the attempt to poison him while he was general secretary of the South African Council of Churches.

The three security policemen were connected to the same plot to kill Chikane.

Vlok's step was lauded last year by Mbeki, who added that South Africans should learn to listen more closely to each other across the boundaries of apartheid.

Vlok did not want to respond to rumours that he could be prosecuted. Van der Merwe also remained silent.

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Handwritten notes and arrows at the bottom right, including 'V.P.', 'LC', and 'NGI'.

Cops-up-for-apartheid... <http://www.news24.com/SouthAfrica/News/Cops-up-for-apartheid...>

John Wegener, legal representative of the three security policemen, said the NPA informed him of their decision at the end of last month.

He did not want to comment on any particulars.

The latest events follow the tabling in parliament last January of a new prosecution policy on apartheid crimes, among other things.

The victim has a say

It includes a clause that gives the NPA discretion on whether or not to prosecute, if it is not in "the national interest".

One of the factors that must be taken into account is whether the apartheid victim wants the prosecution to go ahead.

In Chikane's case, he has indicated that he is not interested in prosecution, but that he wants full disclosure on the attempt on his life.

He has also indicated that the government is not interested in time-consuming prosecutions.

The NPA has indicated, nevertheless, that prosecution will go ahead.

Beeld

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Dossiere oor leiers se vergrype lê al jare in kluis ANC-lêers 'verdwyn'

Sonja CarstensPretoria

Die polisie het nog niks gedoen om meer bewyse en getuïenis te kry vir die moontlike vervolging van 37 destydse leiers van die ANC aan wie amnestie vir apartheidsmisdade geweer is nie.

Rapport het die afgelope week uit onberispelike bronne verneem die polisdossiere wat twee afgetrede polisielede vroeër saamgestel het, is al jare toegesluit by die hoofkantoor van die polisie se speurdienste. Die bronne se name word op versoek verswyg weens die sensitiewe poste wat hulle beklee.

Volgens die bronne is geen verdere ondersoekwerk na die inligting in die dossier gedoen nie. Die dossier is vroeër verwyder uit 'n kluis in die kantore van die direkteur van openbare vervolgings (DOV) in Pretoria waar adv. Paul Fick, SC, hoof van die vervolgingspan wat die vermeende Boeremagde aankla, die hoof was van 'n span wat verder ondersoek ingestel het met die oog op moontlike vervolging.

Die nasionale vervolgingsgesag (NV) het die ondersoek jare gelede weggeneem van Fick. Hy wou die afgelope week glad nie op vrae reageer nie.

Rapport verneem sedert dit uit Fick se kantoor verwyder is, is dit toevertrou aan 'n span by die NV wat dit verder moes ondersoek, maar wat welig aan die ondersoek gedoen het.

Hierin is adv. Anton Ackermann, SC, in Junie 2003 aangestel as hoof van 'n eenheid wat onder meer misdade teen die staat moes ondersoek. Ackermann was die aanklaer in die Vlok-Van der Merwe-verhoor.

Genl. Johan van der Merwe, voormalige polisiehoof, het Vrydag gesê "oorgenoeg getuïenis" bestaan teen die ANC-leierskorps oor hul betrokkenheid by die landmynontploffing in 1995 waarin verskeie lede van die Van Eck- en De Necker-gesin gesterf het.

In Junie 2004 het mnr. Sipho Ngwema, destydse woordvoerder van die NV, gesê nie een van die 37 leiers, onder wie pres. Thabo Mbeki, mnr. Jacob Zuma, komm. Jackie Selebi, polisiehoof, mnr. Linda Mti, vorige kommissaris van korrekte diens, en min. Essop Pahad kan vervolgt word nie omdat "daar eenvoudig nie genoeg getuïenis is om 'n klagstaat op te stel nie".

Ngwema het destyds gesê die NV weet nie wêreld wat gedoen of wie die opdragte gegee het nie. "Indien die NV dit met die getuïenis tot sy beskikking sou doen, is dit net so goed die vervolger besluit oudpres. PW Botha of oudpres. FW de Klerk moet teregstaan weens voorvalle in die apartheidsjare waarvoor niemand anders verantwoordelikheid aanvaar het nie," was Ngwema se woorde.

Mnr. Dirk van Eck het reeds aangedui hy is gereed om 'n klag in te dien teen ANC-leiers wat nie amnestie ontvang het nie vir die aanval wat meer as die helfte van sy gesin uitgewis het.

Die politieke omstredenhede oor vervolgings vir misdade uit die verlede sal uitbrei as die NV 'n vervolging instel teen genl. Basle Smit, 'n voormalige hoof van die polisie se speur- en veiligheidstak. Een van die klousules in Vlok en Van der Merwe se pleitooreenkoms dwing hulle om in 'n moontlike verhoor teen Smit te getuig.

Rapport verneem Ackermann het vroeër skriftelik opdrag gegee dat die polisie nog getuïenis in die ondersoek na die ANC-leiers moet versamel met die oog op moontlike vervolging. Maar die afgelope week het die polisie geweer om te sê of die opdrag nagekom is en wat die vordering daarmee is.

Dir. Sally de Beer, Selebi se woordvoerder, het navrae na dlr. Phuti Setati, woordvoerder van nasionale speurdienste, verwys.

"Die polisie wil sy kommentaar oor die saak voorbehou," het Setati gesê.

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scarstenss@rapport.co.za

) Vlok en Van der Merwe vra Mbeki en De Klerk om in te gryp - bl. 14

Google translate:

Dossiers on leaders' abuses lay for years in safe ANC files' disappear'
Sonja CarstensPretoria

The police have done nothing to get more evidence and testimony for the possible prosecution of 37 former leaders of the ANC who amnesty for apartheid crimes were refused.

Report this week from impeccable sources learned that the police docket that two retired police officers have made earlier, for years locked up at the headquarters of the police's detective services. The sources' names are withheld at the request because of the sensitive positions that they hold. According to the sources, no further investigation into the information taken in the case files. The dossiers were earlier removed from a safe in the office of the Director of Public Prosecutions (DPP) in Pretoria Advocate. Paul Fick, SC, head of the prosecution team who accuse the alleged Boer force members, the head of a team that further investigation instituted with a view to possible prosecution.

The National Prosecuting Authority (NPA) has taken the examinations years ago Fick. He wanted the past week did not respond at all to questions.

Butchery since it was removed from Fick's office, it was entrusted to a team at the NA that it had investigated further, but that did little to investigations.

After this, Adv. Anton Ackermann, SC, was appointed in June 2003 as head of a unit that had investigated include crimes against the state. Ackermann was the prosecutor in the Vlok Van der Merwe trial.

Gen. Johan van der Merwe, a former police chief, said Friday "ample evidence" exists against the ANC leadership over their involvement in the landmine explosion in 1995 in which several members of the Van Eck- and the Necker family died.

In June 2004, Mr. Sipho Ngwema former spokesperson of the NPA, said none of the 37 leaders, including President. Thabo Mbeki, Mr. Jacob Zuma, Comm. Jackie Selebi, the police chief, Mr. Linda Mti, former commissioner of correctional services, and more. Essop Pahad can be prosecuted because "there is simply not enough evidence for an indictment to prepare,".

Ngwema said then that the NPA do not know who has what or who did not give the orders.

"If the SA would do this with the evidence at its disposal, it is as well the prosecutor decides former president. PW Botha or former president. FW de Klerk arraigned because of incidents in the apartheid years for which no one has accepted responsibility," was Ngwema's words.

Mr. Dirk van Eck has indicated he is ready to file a complaint against ANC leaders not yet received amnesty for the attack that wiped out more than half of his family.

The political controversy over prosecutions for crimes of the past will expand as the NPA a prosecution against Gen. Institute. Basie Smit, a former head of the police detective and security branch. One of the clauses of Vlok and Van der Merwe's plea agreement forcing them into a possible trial to testify against Smith.

Butchery Ackermann had earlier instructed in writing that the police have evidence in the investigation of the ANC leaders have gathered with a view to possible prosecution. But last week, the police refused to say whether the assignment is carried out and the progress it.

Dir. Sally de Beer, Selebi's spokesperson, referred questions to Dir. Phuti RAF spokesman national detective refers.

"The police want his comments on the case reserved," the RAF said.

scarstenss@rapport.co.za

) Vlok and Van der Merwe asked Mbeki and De Klerk to intervene - p. 14

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<http://www.gov.za/national-prosecuting-authority-rapport-article-ackermann>

National Prosecuting Authority on Rapport article on A Ackermann

21 Aug 2007

Response to article in rapport

21 August 2007

With reference to the statements attributed to Anton Ackermann SC in the rapport of 19 August 2007, the National Prosecuting Authority (NPA) wishes to place on record the following:

* In May 2004, Bulelani Ngcuka, the then National Director of Public Prosecutions, declined to prosecute the African National Congress (ANC) leadership in connection with the conflicts of the past. A press statement confirming this was released on 15 May 2004.

* Since that press release the National Prosecuting Authority and in particular Ackermann has not directed any further investigation into this matter.

* Subsequent to the media report by the Rapport on 19 August 2007, and on request by the National Prosecuting Authority, the South African Police Service (SAPS) provided a copy of letter purporting to be written by Ackermann on 26 June 2006, to the National Prosecuting Authority. The NPA regards this letter as a forgery and has authorised an immediate investigation into the matter.

Contact person:

Tlali Tlali

Cell: 082 333 3880

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28-AUG-2007 16:49 FROM DEPT OF JUSTICE

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MINISTRY
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Our ref: 2/20
Enq: Adv. M Simlana

Adv V P Pikoll
National Director of Public Prosecutions
Office of the National Director of Public Prosecutions
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Dear Adv Pikoll

MEETING OF THE SUB COMMITTEE OF THE JCPB CABINET COMMITTEE ON
POST TRC MATTERS

1. I refer to the discussions in the above meeting of 23 August 2007.
2. You will recall that both you and the National Commissioner, Mr. J Selebi, provided the sub-committee with different facts on the Report article regarding an alleged forgery of certain NPA documents.
3. You further confirmed that you have instituted a thorough investigation into the alleged forgery. I was however not advised of this decision and the basis thereof.
4. In the course of the discussion, it became clear that Mr. J Selebi was of the view that there is no truth in the Report article, and he produced documents to support his argument that indeed there is an investigation by the NPA on certain political office bearers.
5. It was suggested at the meeting then that it would be useful if you could respond to the allegation that there is an investigation as mentioned above.

Your urgent response would be highly appreciated. Any information that could shed light to the issues will also be welcome.

I trust that you find this above in order.

Yours sincerely

M S MABANDLA, MP
Minister for Justice and Constitutional Development
Date: 28.08.07



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Ref: NDPP/kp

Minister B. Mabandla
Minister of Justice and Constitutional Development
Momentum Building
cnr Prinsloo and Pretorius Streets
PRETORIA

29 August 2007

Dear Minister

**MEETING OF THE SUB-COMMITTEE OF THE JCPS CABINET
COMMITTEE ON POST TRC MATTERS**

- 1. I refer to your fax of 28 August 2007
- 2. I refer to the meeting of the sub-committee of 23 August 2007, which I considered to be most unpleasant. Despite the information I put before the committee, I am both surprised and disappointed to see that I now stand accused of misleading alternatively having lied to the sub-committee members.
- 3. I confirm that I stand by what I said about the National Commissioner of Police and the South African Police Service (SAPS).
- 4. I confirm and repeat the following:
 - 4.1 That I have instructed that an investigation be carried out in respect of the forgery of the memo by Adv. Ackermann SC.
 - 4.2 As borne by the attached annexure and the numerous communications to the Minister, there is no investigation by the NPA or any of its officials against the 37 ANC leaders including the President of this country, contrary to the assertions of the National Commissioner of Police, I give the

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Minister the assurance that no investigations or decisions to prosecute in these matters are done without my express authorization as per the prosecution guidelines as they pertain to the post TRC matters.

5. While I am not certain as to what the meaning of paragraph 4 of your letter is, it is, however, clear that my account of the position as it relates to the NPA's handling of the post TRC matters has been completely ignored.
6. Arising from allegations made by two police officers, as well as a threat by a lawyer representing former Security Branch members who were facing prosecution, my predecessor had the material relating to the ANC leadership perused and satisfied himself that there was no basis for the leadership to be investigated. He also briefed your predecessor, as well as members of the Office of the Presidency to this effect. In my presence and in my capacity as the then Director General of the Department of Justice & Constitutional Development, all the police dockets stored at the Office of the Director of Prosecutions: Pretoria were handed over to the police. These events all took place in early and mid-2004. I confirm as well that the Minister was made aware of all these facts as far back as December 2004 and I am surprised that this issue is now resurfacing.
7. In view of all that is transpiring now, I request an urgent meeting with the Minister, my Deputies and myself. Further, I request an opportunity to appear before the National Security Council to give a true account of this issue.

Kind regards

Adv. VP Pikoli
National Director of Public Prosecutions
Date:

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