
AFFIDAVIT

I, the undersigned,

JOHN JEFFERY

state the following under oath -

- 1 I am the former Deputy Minister of Justice and Constitutional Development. I served in that office from July 2013 until June 2024.
- 2 The contents of this affidavit are within my personal knowledge, unless stated otherwise or apparent from the context. I believe the contents to be true and correct.

Introduction and background

- 3 In 1982 I registered as a student at the University of Natal - Pietermaritzburg (now UKZN). Soon after my arrival I became involved in anti-apartheid political activity through the National Union of South African Students (NUSAS) and later the United Democratic Front (UDF) after its establishment in 1983.
- 4 I served two terms on the University of Natal - Pietermaritzburg Student Representative Council. During the national State of Emergency, I was detained from 12 June – 26 June 1986 and again from 13 March – 13 May 1987.

- 5 I became a member of the African National Congress (ANC) in 1990 following its unbanning. I served on the Natal Midlands Regional Executive Committee from 1990 and held the position of Deputy Regional Secretary from 1991 until 1994. Following the establishment of the KwaZulu-Natal Provincial Executive Committee (PEC) in 1994, I served on the PEC until 1999.
- 6 I began my legal career as a paralegal in a Project Office set up by Cheadle Thompson and Haysom Attorneys (CTH) in Pietermaritzburg at the request of the Congress of South African Trade Unions (COSATU). The office was established to explore legal strategies to protect COSATU members and members of the broader community from attacks by Inkatha-supporting vigilantes. I later completed my articles and was admitted as an attorney.
- 7 During this period, a low-intensity civil conflict was taking place in KwaZulu-Natal. Members and supporters of COSATU, the UDF and, following its unbanning, the ANC, were subjected to harassment, intimidation and physical attacks, initially mainly in communities in the KwaZulu-Natal Midlands. Elements within the apartheid security establishment also provided effective immunity from prosecution to certain Inkatha leaders and contributed to violence by fomenting conflict between Inkatha and ANC supporters. The Trust Feed Massacre, perpetrated by the local South African Police commander, Brian Mitchell, is a well-known example.
- 8 My role in the CTH office, and later as an ANC lawyer and leader in the Natal Midlands, involved attending crime scenes where politically motivated murders of Cosatu, UDF or ANC members or supporters had occurred and engaging with

the South African Police (SAP) regarding the steps being taken to investigate those crimes. I was also involved in local peace-making structures and was assigned by the Natal Midlands ANC to serve as its official liaison with the SA Police Force.

- 9 Following South Africa's first democratic elections in 1994, I was elected to the KwaZulu-Natal Provincial Legislature as a member of the ANC. After being admitted as an attorney in 1995, I stopped practising as the work of the Legislature was too time consuming.
- 10 In 1999, after South Africa's second democratic elections, I was elected to the National Assembly for the African National Congress (list for KwaZulu-Natal). I served on several Parliamentary committees including the Rules Committee and the Portfolio Committee on Justice and Constitutional Development.
- 11 From 1999 to July 2013, I served as Parliamentary Counsellor to Deputy President Jacob Zuma and later to Deputy President Phumzile Mlambo-Ngcuka as well President Thabo Mbeki and President Kgalema Motlanthe in his capacity as both President and Deputy President.
- 12 I was appointed as Deputy Minister of Justice and Constitutional Development by President Zuma in July 2013 and again after the 2014 General Elections. I was reappointed by President Cyril Ramaphosa in 2019. I served as Deputy Minister until the end of my term on 19 June 2024.

- 13 As Deputy Minister, I exercised specific delegations from the Minister of Justice and Constitutional Development. My delegations and responsibilities included functions relating to Sheriffs, Magistrates and Small Claims Courts, as well as working with Legal Aid South Africa, the South African Law Reform Commission, and the South African Human Rights Commission. Overseeing the post TRC work of the Department of Justice was not a specific area of responsibility.
- 14 That said, my formal delegations did not confine my involvement to those areas alone. As Deputy Minister, I was routinely consulted on a broad range of departmental matters. In particular, most Ministerial Memoranda, including memoranda originating from the NPA, were submitted to me for comment before being considered by the Minister.
- 15 I also had regular interaction with the section of the Department responsible for implementing the recommendations of the Ad Hoc Joint Committee on Reparations, whose report was adopted by Parliament in 2003 pursuant to section 27 of the Promotion of National Unity and Reconciliation Act. Those recommendations addressed, amongst other matters, symbols and monuments, community rehabilitation, medical benefits and other forms of social assistance, and final reparations.
- 16 The Department was particularly involved in implementing educational assistance programmes for persons identified by the TRC as victims, and for their dependants, as well as in efforts to finalise the regulatory framework for community reparations. The Department also played a role in facilitating the reburial of remains recovered by the National Prosecuting Authority's Missing

Persons Task Team.

- 17 In that regard, I should mention that I was myself listed in the TRC Final Report as a victim of a human rights violation. This occurred without any request or application on my part, and I did not seek or consent to such a designation. I assume that I was included because I testified before the TRC in relation to the murder of Reggie Hadebe, a friend and comrade, who was shot and killed when the vehicle in which we were travelling was ambushed while we were returning from a meeting with Inkatha in Ixopo. Reggie was seated next to me at the time of the attack. I did not seek or receive any benefit, financial or otherwise, arising from that designation. Quite frankly I am embarrassed by this status as there were numerous people who had suffered far greater human rights violations than I did.
- 18 It is also important to understand the respective roles of the executive and the NPA. While the Minister and Deputy Minister of Justice would from time to time engage with the NPA on matters of policy, administration and resources, decisions regarding whether particular individuals should be investigated or prosecuted fell within the sole responsibility of the NPA. In my experience, care was taken not to become involved in decisions relating to individual prosecutions, both out of respect for the independence of the prosecuting authority and to avoid any perception that prosecutorial decisions were being influenced by political considerations.

Mr Calata's evidence and references to me

19 I make this affidavit in response to a Rule 3.3 notice. The notice asks me to respond to comments made by Mr Lukhanyo Calata during his evidence before the Commission on 13 and 16 February 2026.

20 During his evidence on 13 February 2026, Mr Calata referred to a conversation he had with me when I was Deputy Minister, when he was doing research for his book, *"My Father Died For This"*.

21 Mr Calata stated:

"...I had a meeting with the former Deputy Minister of Justice, John Jeffery, where I spoke to him about why the state was not pursuing or prosecuting these cases. I remember that in one of those conversations that I had with him, the Deputy Minister or the former Deputy Minister, said to me that, you know, if it was not for the agreements that were made, they would have, you know, perhaps pursued the Cradock Four matter. I was very disturbed by that, because whatever agreements that had been made did not involve us as a family."

22 When asked by Commissioner Gabriel whether he had asked me about the nature of the *"agreements"* to which he referred, Mr Calata responded that his understanding was that political agreements reached during the transition had resulted in the failure to prosecute his father's case, and that the government's *"hands were tied"*.

23 Mr Calata stated further that I told him that *"this was the price we have to pay in order to move the country forward"*. He said he was deeply disturbed by this, particularly because the Calata family had not been party to any such agreements.

24 In his book, Mr Calata records that, more than 32 years after the Cradock Four murders, he interviewed me in my capacity as Deputy Minister of Justice in order to understand why prosecutions had not followed. He sought an explanation for why the ANC-led government had failed to prosecute those responsible for the deaths of his father and his colleagues. He records that I stated:

"Part of the problem is the nature of our transition [from apartheid to democracy] — the negotiated settlement. That was the price that had to be paid."

25 According to Mr Calata, he then asked whether I was suggesting that the murders of his father and his comrades — as well as those of many other South Africans, including Victoria Mxenge, the PEBCO Three, and Steve Biko — had been used as bargaining tools during the negotiations that led to a democratic South Africa.

26 He records that my response was:

"That's part of the price that had to be paid."

(and)

"We [the ANC-led government] don't have the resources to re-open all these

investigations. We don't have the resources to have inquests into all these murders. Some can be done, as has happened with Ahmed Timol, as has been done with Nokuthula Simelane. The problem is that there are so many. That raid into Mthatha in the Transkei, that killed two young boys — and I mean literally boys — was openly admitted as an operation. It was the army I think that went in, and they claimed they were raiding some or other PAC or MK person's house, and they killed two young boys. I mean, there's so many. The whole of KZN, nobody knows what happened to most of the cases. It's unfortunately the result, I think, of our transition."

- 27 Mr Calata records in his book that he was not satisfied with these responses and pressed me further, asking whether this meant that he would now have to explain to his mother that, according to the Deputy Minister of Justice, she and the rest of his family — in particular his younger sister, Tumani, who had never seen her father except in photographs — would never see justice for the life of Fort Calata.

- 28 He recorded my response as:

"The problem we've got is, yes, you want to know what happened, but what happens if we can't do it all at one time, as it were? I appreciate that what I am saying must sound terrible, but for me the pressure is the issue of getting a functioning justice system now that can deal with present-day crimes and ensure that perpetrators get brought to book."

The meeting with Mr Calata

- 29 The interview took place in Cape Town and was recorded. Mr Calata was accompanied by a colleague, Martina Della Togna. Both participated in the discussion, which was more in the nature of an exchange of views than a formal question-and-answer session. I have since reviewed the recordings and transcripts. My recollection, which is borne out by those recordings, is that the discussion was cordial and informal throughout.
- 30 The interview was not concerned solely with why no post-TRC prosecutions had taken place. Mr Calata and his colleague asked about my recollection of the Cradock Four, how news of their deaths emerged, and broader issues such as memorialisation, reconciliation, and the reopening of historical investigations. We also discussed the difficulty faced by societies emerging from conflict in balancing the need for accountability for past events with present-day institutional demands.
- 31 I knew of Mr Calata before the interview, having followed his views on the failure of the criminal justice system with regard to the Cradock four Murders. I was aware that Mr Calata regarded the failure to secure prosecutions for the Cradock Four murders as a failure of the criminal justice system. I knew that he remained affected by the loss of his father and dissatisfied with the answers the TRC process had provided to his family. In agreeing to the interview, I was happy to engage with Mr Calata to discuss the broader issues relating to the TRC and post TRC processes.



- 32 My own experiences during the conflict in KwaZulu-Natal gave me some understanding of the devastating impact that political violence, and particularly political murders, had on families and communities. In speaking to Mr Calata, I was not seeking to minimise the suffering of the Calata family. Rather, I sought to explain that their experience formed part of a broader national tragedy in which many families were left without full answers about the deaths of their loved ones.
- 33 While the TRC process revealed important information about the circumstances surrounding Fort Calata's murder, many families across South Africa continued to live with uncertainty about what had happened to their loved ones, who was responsible for their deaths and, in some cases, even what had become of their remains.

References to the negotiated settlement and the TRC process

- 34 I did not suggest that prosecutions were abandoned because of any secret or improper agreement. My references to "agreements" and to the negotiated settlement were to the political negotiations that took place between the National Party government and other political parties and organisations during South Africa's transition to democracy, which ultimately led to the Interim Constitution and the establishment of the Truth and Reconciliation Commission (TRC).
- 35 I was not personally involved in the negotiations that preceded South Africa's democratic transition. My understanding, however, is that the question of amnesty was a central issue for the National Party negotiators. The ANC was not prepared to accept a blanket amnesty, and would only consider amnesty on

an individual, case-by-case basis, subject to full disclosure of the relevant facts and compliance with other statutory requirements. That approach was ultimately adopted and given effect through the Truth and Reconciliation Commission process.

36 I understood that the National Party government would have found it difficult to agree to a political settlement without some form of amnesty mechanism for members and supporters of the apartheid state. Where amnesty was granted, the recipient could not be prosecuted for the offence in respect of which amnesty had been awarded. It was in that sense that I referred to "the price that had to be paid" during the transition. In using that phrase, I did not mean that the suffering of victims or the interests of their families were somehow less important. I understand that many families still do not have all the answers about what happened to their loved ones.

37 The point I was seeking to make was that the negotiated settlement, including the Truth and Reconciliation process, formed part of the means by which South Africa brought a period of violent conflict to an end and sought to avoid further loss of life. That is the context in which I referred to "*the price that had to be paid*".

38 My reference to the negotiated settlement and the amnesty process should not be understood as suggesting that there was any agreement not to pursue perpetrators who had not received amnesty. To the contrary, I have no knowledge of any agreement, arrangement or understanding that such persons would be exempt from investigation or prosecution, and I was never aware of any such policy during my time in government.

- 39 During the interview, I expressed the view that, in the early years of South Africa's democracy, the focus was on allowing the TRC to do its work before attention turned to possible prosecutions arising from apartheid-era crimes. I was expressing a personal impression of that period rather than referring to any formal policy, decision or agreement of which I had knowledge. My sense was that the priority at the time was to hear the accounts of victims, consider amnesty applications and allow the TRC process to unfold. It was only later that attention turned to the question of prosecutions.
- 40 As Deputy Minister, I was not responsible for determining the NPA's budget, prosecutorial priorities or the allocation of resources within the NPA. Throughout my discussion with Mr Calata, I sought to distinguish between my own views on the broader issues he raised and matters that fell within the responsibility of the NPA. I made the point that decisions regarding investigations, inquests and prosecutions were matters for the NPA and not for me as Deputy Minister. Whether a particular matter should be investigated further or prosecuted would depend on the available evidence and the assessment of the prosecuting authority.
- 41 During the discussion, I expressed the view that the criminal justice system did not have the capacity to investigate every apartheid-era crime while simultaneously responding to contemporary demands such as serious violent crime, corruption and state capture. I was attempting to explain what I understood to be the practical constraints under which the criminal justice system was operating at the time, including the need to make difficult decisions about the allocation of limited resources. In doing so, I was not suggesting that apartheid-



era crimes were unimportant or undeserving of investigation.

- 42 At the time of my discussion with Mr Calata in 2017, the prosecution of four former Security Branch members in connection with the abduction, torture and murder of Nokuthula Simelane was already under way. That was one of the reasons why I did not regard post-TRC prosecutions as having been abandoned altogether. I was, however, conscious that many families still did not have answers about what had happened to their loved ones. The Simelane prosecution showed that prosecutions could still be pursued where there was sufficient evidence and a decision by the NPA to proceed.
- 43 We discussed where Mr Calata might be able to obtain information if he wished to pursue the matter further, and whether the Department of Justice would be prepared to make information accessible. I told him a lot of historical (non- state) information had been given to the History Archives. I also made it clear that any decision by the NDPP to reopen investigations relating to the Cradock Four would likely depend on the emergence of material information that had not previously been considered during the earlier inquests.
- 44 I did not offer to intervene in any prosecutorial decisions or make any commitments beyond those referred to above. As I recall, and as I was reminded by listening to the recordings, the discussion ended cordially, with Mr Calata indicating that he had found the discussion valuable.

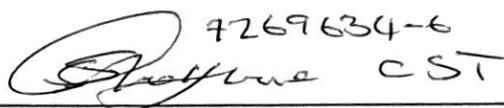
Handwritten signatures and initials in the bottom right corner of the page. There are two distinct signatures: one that appears to be 'S.S.' and another that is a stylized, cursive signature.



JOHN JEFFERY

Thus signed and sworn to before me at Cape Town on 5 JUNE 2026, after the deponent declared that he is familiar with the contents of this affidavit, regards the prescribed oath as binding on his conscience, and has no objection against taking the said prescribed oath, compliance having occurred with the requirements of the regulations contained in Government Gazette R1258 dated 21 July 1972 (as amended).

SUID-AFRIKAANSE POLISIEDIENS
COMMUNITY SERVICE CENTRE
05 JUN 2026
RONDEBOSCH
SOUTH AFRICAN POLICE SERVICES

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COMMISSIONER OF OATHS

NOTICE IN TERMS OF RULE 3.3 OF THE RULES OF THE JUDICIAL COMMISSION OF INQUIRY INTO ALLEGATIONS REGARDING EFFORTS OR ATTEMPTS HAVING BEEN MADE TO STOP THE INVESTIGATION OR PROSECUTION OF TRUTH AND RECONCILIATION COMMISSION CASES.

TO: Former Deputy Minister John Jeffrey

EMAIL: JJeffery@mweb.co.za

INTRODUCTION AND ESTABLISHMENT OF THE COMMISSION

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

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

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

NOTICE IN TERMS OF RULE 3.3

5. This notice is issued in terms of Rule 3.3 of the Rules of the Commission, read with the Regulations made under Government Notice R.278 of 2025.

PARTICULARS OF IMPLICATION

Evidence of Mr Lukhanyo Calata

6. The Commission during its hearings at Sci Bono Discovery Centre on 13 and 16 February 2026 heard the evidence of Mr Lukhanyo Calata whom during his evidence stated that he: *“...had a meeting with the former Deputy Minister of Justice, John Jeffery where I spoke to him about why the state was not pursuing or prosecuting these cases. I remember in that one of those conversations that I had with him, the deputy minister or the former deputy minister said to me that, you know, if it was not for the agreements that were made, they would have, you know, perhaps pursued the Cradock Four matter. I was very disturbed by that, because whatever agreements that had been made did not involve us as a family.”*
7. He further testified that he was upset by what was said by the then deputy Minister of Justice. He stated that: *“...yes, so on 20 July my sister was already then. And then my mother gave birth to my younger sister on 8 August, which was a few weeks after the funeral. So, when the former deputy minister said, you know, this was the price we had to pay, I remember being very upset, because I then asked him: but what about my younger sister? What is the price that she had to pay, because she had to be born into*

a world where her father was killed where she would never get to know her father and then somebody then decided that she would also not have any justice for having her father taken away from her, because politicians had decided that that was the price that they had to pay with someone else's life?

8. We have attached hereto, a copy of the transcript of the hearing that took place on 13 and 16 February 2026. The relevant paragraphs are at pages 14 – 17 of the attached transcripts.

YOUR RIGHTS AND OBLIGATIONS

9. You are entitled to attend the hearing at which the evidence relating to the above allegations, and any other that may be led against you, is presented. You may be represented by a legal practitioner of your choice.
10. Rule 3.4 requires that, within fourteen (14) calendar days of this notice, you submit a statement in the form of an affidavit responding to the allegations. Your affidavit must specify which parts of the evidence are disputed or denied, and set out the grounds for such dispute or denial.
11. If you wish to—

- a. give evidence yourself;
- b. call any witness in your defence; or
- c. cross-examine the witness whose evidence implicates you,

you must apply in writing to the Commission for leave to do so within fourteen (14) calendar days of this notice, accompanied by your affidavit.

12. You may also apply for leave to make written and/or oral submissions regarding the findings or conclusions that the Chairperson should draw from the evidence relating to you.

COMMUNICATION WITH THE COMMISSION

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

DATED at **SCI BONO DISCOVERY CENTRE** Johannesburg on this 2nd day of March 2026.

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