

indicating infighting and new accusations against Nxasana. The controversy surrounding the security clearance of Nxasana deepened with allegations that he may be linked to a second killing. The prosecutions boss made headlines after he was refused clearance because of previous brushes with the law including being tried for murder in the 1980s. (Radio 702 - News - 09 Jun 2014 - 07:01)[South Africa]

**Mxolisi Nxasana 'is a good man'**. The family and former neighbours of beleaguered NPA boss Mxolisi Nxasana have leapt to his defence, saying the murder charges he faced in the eighties was a tragedy he had never fully recovered from. Despite Nxasana's involvement in the stabbing incident and new claims that he had been involved in another murder incident in Nongoma in 1986, they said he was idolised in the community. His role as president of the KwaZulu-Natal Law Society and now head of the NPA was an inspiration to those who lived in Umlazi. Nxasana was asked to step down by former justice minister Jeff Radebe, who accused him of failing to disclose his acquittal in the 1985 murder case. He was aged 18 at the time. At the meeting last month, Nxasana was told he had been denied top secret security clearance for failing to declare the murder acquittal, a R2 000 law society fine and a 2012 traffic offence, and for allegedly wanting to disband NPA integrity management unit head Prince Mokotedi's unit. The Sunday Times reported that Mokotedi claimed he had been blocked from investigating allegations that one of the assault cases Nxasana was convicted of in the eighties might in fact have been a murder. (News24.com - 09 Jun 2014 - 09:02)[South Africa]

<http://bit.ly/1lhv6eb>

**A boss faces uncertain future**. No decision has been taken on how to handle NPA boss Mxolisi Nxasana's security clearance, Justice Minister Mike Masutha said on Monday. "We have... been in liaison with the office of the president," he told reporters in Pretoria. "The decision has not yet been taken on the appropriate course of action." Former justice minister Jeff Radebe reportedly instructed Nxasana to resign a few days before the new Cabinet was announced. Nxasana had apparently not been given a security clearance because of past brushes with the law. He has refused to resign. Masutha pointed out on Monday that under the National Prosecuting Authority Act President Jacob Zuma had the power to initiate an inquiry into Nxasana. (Radio 702 - News - 09 Jun 2014 - 14:01)[South Africa]

**Justice minister calls for calm at NPA**. Minister of Justice and Correctional Services, Michael Masutha, has appealed to senior staff at the National Prosecuting Authority not to abuse disciplinary procedures in order to fight internal battles. Masutha spent several hours at the NPA's headquarters in Pretoria today in the wake of reports about ongoing infighting and a power struggle involving key staff, including its head and deputy. President Jacob Zuma is expected to decide on whether he will initiate a commission of inquiry to address the ongoing controversies, including whether National Director of Public Prosecutions Mxolisi Nxasana is fit for the role. (Radio 702 - News - 09 Jun 2014 - 15:00)[South Africa]

**Only Zuma can stop NPA debacle**. Justice Minister Michael Masutha moved to stabilise relations in the National Prosecuting Authority as he awaits a decision from the Presidency on how to deal with the ongoing tensions in the institution. The minister met with the National Director of Public Prosecutions, Mxolisi Nxasana, and senior staff at the NPA headquarters in Pretoria. Reports emerged of ongoing infighting and a power struggle involving key NPA staff, including its head and deputy. Masutha said the presidency will initiate the appropriate court of action which may include a commission of inquiry. But until President Jacob Zuma makes a decision, he urged NPA staff not to participate in the ongoing turf war. (Radio 702 - News - 10 Jun 2014 - 07:01)[South Africa], (SABC 2 Morning Live - 10 Jun 2014 - 07:01)[South Africa]

**More NPA drama**. It appears there will be no easy solution to the problems facing the NPA. The only person who can stop the power struggle is Zuma himself. While Nxasana said he will fight any attempt to oust him, it's reported his deputy advocate Nomgcobo Jiba, is refusing to give him the Richard Mdluli case file. At the same time, it's claimed the man who withdrew charges against Mdluli, Lawrence Mrgwebi, is going to be arrested for protecting a friend facing fraud charges. But Zuma previously left the body without a head for 10 months. This means it could be some time before he decides to act and clear up the situation. (Radio 702 - News - 10 Jun 2014 - 07:02)[South Africa]

**NPA leadership fiasco: President Jacob Zuma's not-so-hidden hand**. In the short, troubled and tumultuous history of the National Prosecuting Authority, chaos has reigned. Formed only in 1998, it has seen one head resign after being cleared of being an Apartheid spy, the next being fired after trying to charge the National Police Commissioner, a third suffering the humiliation of being declared not "fit and proper" by the Constitutional Court and the fourth being denied security clearance. You might say that to lose one head of the NPA is careless, two is unlucky, and three, well, three is enemy action. Look closer, and in fact, the hand of President Jacob Zuma appears to have been involved at some level in all three of these. It seems hard for him to escape blame for what's happening around the next incumbent in this post. Zuma's appointment of Menzi Simelane to the post in 2009 was so outrageous that it was overturned. While it was then President Kgalema Motlanthe who technically fired Vusi Pikoli (finishing the process started by Mbeki), there is no doubt he would not have done it if Zuma hadn't agreed. And Pikoli says that he was told by Zuma's supporters he could keep his job, if he promised not to

reinstate corruption charges against him. Zuma has refused to explain his appointment of Nxasana. Why an attorney who very few people outside of KZN have heard of? Why this particular person, what is it about them that makes them best suited for the job? Zuma will say that he has no legal duty to explain himself; that he certainly doesn't have to justify his decisions to the likes of me. Fine. But then I will have to assume the worst. That this is simply the continuation of a strategy that's worked so well for Zuma in the past. Keep the NPA weak. And win. For now there is no alternative understanding to the president's baffling appointments. (Daily Maverick - 10 Jun 2014 - 08:30)[South Africa]  
<http://bit.ly/1hL8UO0>

**No decision on NPA boss.** No decision has been taken on how to handle National Prosecuting Authority (NPA) boss Mxolisi Nxasana's security clearance, Justice Minister Mike Masutha said on Monday. "We have been in liaison with the office of the president," he told reporters in Pretoria. "The decision has not yet been taken on the appropriate course of action." Former justice minister Jeff Radebe reportedly instructed Nxasana to resign a few days before the new Cabinet was announced. Nxasana had apparently not been given a security clearance because of past brushes with the law. He has refused to resign. Masutha pointed out on Monday that under the National Prosecuting Authority Act President Jacob Zuma had the power to initiate an inquiry into Nxasana. "No action has been taken so far or decided on so far." He said because of Zuma's ill health the matter had not been dealt with expediently. Due process would be followed, the minister assured. He said he met Nxasana privately on Monday. "Mr Nxasana is still the head of the NPA and holds all authority relating to running the institution." (Kaya FM - 10 Jun 2014 - 09:00)[South Africa], (Polity.org.za - 10 Jun 2014 - 09:00)[South Africa]  
<http://bit.ly/1kVT115>

**NPA ordered to pay maintenance to mom.** The National Prosecuting Authority has been ordered to pay thousands of rands to a mother of three children, Beeld newspaper reported on Wednesday. Acting Chief Magistrate Daniel Thulare ordered South Gauteng NPA director Andrew Chauke, as a representative of the NPA, to pay the woman within seven days an amount of R21 600. This is overdue maintenance money. The NPA is being held responsible because it never appointed an investigating officer to follow up on the father, causing delays in the mother's maintenance claims. The father has not paid maintenance since November 2013. Chauke said the NPA did not have enough maintenance officers and indicated that it would appeal. (News24.com - 11 Jun 2014 - 08:44)[South Africa], (Polity.org.za - 11 Jun 2014 - 08:44)[South Africa]  
<http://bit.ly/1nwB11E>

**Charges against Mdluli to be reinstated.** The National Prosecuting Authority will reinstate some of the charges against suspended crime intelligence boss Richard Mdluli. Mdluli was suspended amid claims of fraud and corruption and charges relating to the murder of his ex-lover's husband Oupa Ramogibe 15 years ago. He also allegedly employed friends and family as intelligence operatives and misused police funding to buy luxury cars. The prosecuting authority confirmed last night that certain charges would be reinstated but would not be drawn on the details. Despite trying to fight being recharged for the past two years, Mdluli will now have to face the music again. (Radio 702 - News - 18 Jun 2014 - 07:04)[South Africa], (Ukhozi FM - 18 Jun 2014 - 07:04)[South Africa], (SABC Online - 18 Jun 2014 - 07:04)[South Africa]  
<http://bit.ly/1pZmeB>

**NPA vs Mdluli.** The NPA has reinstated charges against Former Crime Intelligence Boss Richard Mdluli. NPA spokesperson wouldn't say which charges have been reinstated. He dismissed reports that Mdluli will be charged with kidnapping, assault and intimidation. Mdluli was suspended for charges of fraud, corruption and charges related to the murder of his ex-lover's husband. (Lesedi FM - 18 Jun 2014 - 07:02)[South Africa]

**Charges reinstated against Richard Mdluli.** The National Prosecuting Authority (NPA) says some charges will be reinstated to former Crime Intelligence boss Richard Mdluli. The City Press reported his will be kidnapping, assault and intimidation but the NPA will not confirm this. Mdluli has been suspended and reinstated several times and charges will be reinstated and the charges are fraud and corruption and charges related to the murder of his ex-lovers husband Paul Ramogibe (PowerFM News - 18 Jun 2014 - 08:00)[South Africa]

**Charges against Mdluli reinstated.** Former crime intelligence boss Richard Mdluli has been served with legal papers informing him that some charges against him will be re-instated. Mdluli was suspended amid charges of fraud and corruption, and charges relating to the murder of his ex-lover's husband, Oupa Ramogibe, in 1999. He allegedly employed friends and family as intelligence operatives, and misused police funding to buy luxury cars. NPA spokesperson Nathi Ncube says Mdluli has been informed of the latest development. (SAFM: News - 18 Jun 2014 - 06:00)[South Africa]

**Cameron: NPA appears chaotic and dysfunctional.** The National Prosecuting Authority appears to be "chaotic and dysfunctional" and it is not performing as it should, Constitutional Court Judge Edwin Cameron said on Wednesday. Cameron

said while he was not fully aware of what was happening within the NPA, from the outside "things look chaotic". He was giving a lecture at the University of KwaZulu-Natal in Durban. "There is a lack of confidence in it [the NPA]." Responding to a question on the NPA, Cameron said such chaos would inhibit the NPA's ability to function at its best. "We need a strong output-focused NPA." (News24.com - 18 Jun 2014 - 19:40)[South Africa]  
<http://bit.ly/1iJbvz>

**Breytenbach dismisses NPA accusations.** Former National Prosecuting Authority prosecutor Glynnis Breytenbach has dismissed with contempt recommendations by the authority's Integrity Management Unit that she be charged with fraud, corruption and racketeering. The Star newspaper is reporting that the unit found Breytenbach had abused her position as a senior NPA official and alleges she had an improper relationship with both billionaire businessman Nathan Kirsh and his representing advocate Andre Bezuidenhout. The newspaper has also listed a number of payments made by Kirsh to attorneys apparently helping Breytenbach with funding for her own businesses. The NPA says the integrity management unit's report on Breytenbach was handed to the office of National Police Commissioner Riah Phiyega about three months ago. However, NPA spokesperson Nathi Mncube says there's been no word on whether the police will launch a criminal probe. (Radio 702 - News - 19 Jun 2014 - 07:00)[South Africa]

**NPA has a grudge against Breytenbach.** Democratic Alliance leader Helen Zille says the National Prosecuting Authority has a grudge against former prosecutor Glynnis Breytenbach now a DA MP and has been running a vendetta against her. A newspaper report that the NPA has recommended that Breytenbach be charged for crimes ranging from corruption to racketeering. The NPA recommendation has reportedly been referred to the head of National Detective Services for possible further investigation. Breytenbach says she had not seen the report but was aware of it and if the NPA want to prosecute her must go ahead. (Radio 2000 - 19 Jun 2014 - 11:00)[South Africa]

**Spies probe NPA war.** The State Security Agency (SSA) is investigating an alleged plot to oust prosecutions boss Mxolisi Nxasana - but an affidavit it's using in the probe may be a fake, City Press reports. The document forms the basis of an investigation that the SSA is conducting into the existence of the plot. City Press understands that Nxasana himself gave the agency a copy of the affidavit. The bitter feud in the National Prosecuting Authority (NPA) with Nxasana in one corner and former acting head Nomgcobo Jiba in the other took a new turn last week. (News24.com - 22 Jun 2014 - 20:29)[South Africa]  
<http://bit.ly/1wJh4QR>

**State Security Agency investigating NPA: report.** The State Security Agency (SSA) is investigating an alleged plot to oust prosecutions boss Mxolisi Nxasana - but an affidavit it's using in the probe may be a fake, City Press reports. The document forms the basis of an investigation that the SSA is conducting into the existence of the plot. City Press understands that Nxasana himself gave the agency a copy of the affidavit. The bitter feud in the National Prosecuting Authority (NPA) with Nxasana in one corner and former acting head Nomgcobo Jiba in the other took a new turn last week. The affidavit, obtained by City Press, was allegedly deposed to by senior NPA official Terence Joubert and signed on 25 November last year. The document was sent to Nxasana's private and NPA email addresses from Joubert's official NPA address on the same day. Nxasana had only been in the job since August 2013. Joubert, however, claims this email path must have been forged. It only reached the SSA earlier this week, months after the deposition. Late on Friday, Joubert, the head of NPA security and risk management in KwaZulu-Natal, told City Press that the affidavit was a fake and that he didn't depose to it. (OFM Online News - 23 Jun 2014 - 05:21)[South Africa]  
<http://bit.ly/1IKMqxt>

**No comment from NPA on suspension notice.** The National Prosecuting Authority (NPA) has declined to comment on a report that the head of its integrity management unit (IMU) was served with a suspension notice after a document on former prosecutor Glynnis Breytenbach was leaked to the media. "No comment, I am saying we are not commenting around this issue, it's an internal matter, not a public matter," NPA spokesperson Nathi Mncube told Sapa on Monday. The New Age reported that IMU head Prince Mokotedi was served with a suspension notice on Friday, a day after The Star reported that a final report by the unit recommended that Breytenbach be criminally charged for corruption, misconduct, conflict of interest, fraud, and racketeering over her role in a number of companies. The New Age quoted unnamed sources on the suspension notice. In April 2012, Breytenbach was suspended from the NPA and later faced a lengthy disciplinary hearing on 15 charges, which included failing to act impartially while investigating the Kumba Iron Ore Sishen and Imperial Crown Trading mining rights issue. In May last year, an NPA disciplinary hearing found her not guilty on all the charges and she was allowed to return to work, only to find she was to be transferred. In the Labour Court, Breytenbach unsuccessfully applied to have her transfer overturned. Breytenbach left the NPA to join the Democratic Alliance as an MP. (Polity.org.za - 23 Jun 2014 - 09:30)[South Africa]  
<http://bit.ly/1uapVqr>

**NPA declines to comment on suspension.** The NPA has declined to comment on a report that the head of its integrity management unit (IMU) was served with a suspension notice after a document on former prosecutor Glynnis Breytenbach was leaked to the media. "No comment, I am saying we are not commenting around this issue, it's an internal matter, not a public matter," National Prosecuting Authority spokesman Nathi Mncube told Sapa on Monday. The New Age reported that IMU head Prince Mokotedi was served with a suspension notice on Friday, a day after The Star reported that a final report by the unit recommended that Breytenbach be criminally charged for corruption, misconduct, conflict of interest, fraud, and racketeering over her role in a number of companies. The New Age quoted unnamed sources on the suspension notice. In the unit's report, which was similar to its draft report released in February, Breytenbach is accused of soliciting a loan of US1 million (about R11m) from businessman Nathan Kirsh, a complainant in two cases she was prosecuting. She is also accused of accepting a R6.3m donation from Kirsh through the FW de Klerk Foundation towards legal fees in her labour dispute with the NPA, according to The Star. (OFM Online News - 23 Jun 2014 - 09:11)[South Africa]

**Fresh row brewing at NPA.** A new row is brewing between the National Prosecuting Authority and the suspended head of the integrity management unit of the prosecutions body, Prince Mokotedi. It centres on a complaint Mokotedi made to the head of detectives of the police, Lt-Gen Vineshkumar Moonoo. He complained that his recommendations that former prosecutor Glynnis Breytenbach be investigated for alleged corruption was ignored and that he had been instructed not to cooperate with police investigations. National police commissioner Gen Riah Phiyega wrote to the NPA to ask that it cooperate regarding a probe into Breytenbach, highly placed sources at the NPA said. Mokotedi stepped up his battle with his bosses with a request to the Public Service Commission to investigate Breytenbach's settlement agreement that led to her departure from the NPA, the sources said. The New Age revealed on Monday that Mokotedi was accused of leaking the report on Breytenbach and was served with a notice of suspension by NPA CEO Karen van Rensburg. (Africa News Network (ANN7) - 25 Jun 2014 - 04:38)[South Africa]  
<http://bit.ly/Uj97b>

**NPA told not to talk to the media.** The NPA has been instructed by Justice Minister Michael Masutha not to comment on any organisational matter, including the reported suspension of its integrity management unit (IMU) head Prince Mokotedi. "We are not commenting on that one," National Prosecuting Authority spokesman Nathi Mncube said on Wednesday. "You don't need to know anything of an organisation that is internal. There was a commitment that was undertaken, where minister Masutha came to us and told us not to comment on any matter pertaining to [the] NPA." Justice department spokesman Lawrence Ngobeni referred enquiries to the NPA. "I cannot comment about a suspension that I don't know about, speak to the NPA." He told Sapa he was not in the meeting between the minister and the NPA and did not know if that instruction was given by the minister. (SAPA - 25 Jun 2014 - 08:35)[South Africa], (OFM Online News - 25 Jun 2014 - 08:35)[South Africa]  
<http://bit.ly/VmnZvJ>

**NPA bosses gives Mrwebi ultimatum.** National Prosecuting Authority director of prosecutions Lawrence Mrwebi has been given until today to make a written submission to his superiors explaining why he should not be criminally charged, highly placed sources said yesterday. Mrwebi's decision to withdraw charges against former crime intelligence head Richard Mdluli is found to be illegal, irrational and based on irrelevant considerations and material errors of law by the North Gauteng High Court. He now faces arrest for allegedly interfering with police investigations. Mrwebi is accused of tipping-off the head of NPA security and risk management in the KZN, Terrence Joubert, about an impending raid on his residence. Mrwebi had also allegedly called investigators and instructed them to terminate the raid. The case against Mrwebi was initially opened in February last year by his colleague, now NPA spokesperson Nathi Mncube, who had been assigned to assist the police with their investigation. (Africa News Network (ANN7) - 26 Jun 2014 - 02:50)[South Africa]  
<http://bit.ly/1mqkN5C>

**President Zuma looking into the issues around the Head of the NPA.** Cabinet has announced that President Jacob Zuma is looking into the issues around the Head of the NPA, Mxolisi Nxasana. Communications Minister Faith Muthambi is interviewed. (Ukhozi FM - 27 Jun 2014 - 06:02)[South Africa], (Umlhlobo Wenene FM - 27 Jun 2014 - 06:02)[South Africa]

**Nxasana was informed about the issued statement.** The Presidency has rejected a claim by the National Director of Public Prosecution Mxolisi Nxasana that he first had about the probe into his fitness to hold office in the media. President Jacob Zuma spokesperson Mac Maharaj said in a statement that Zuma wrote a letter to Nxasana to inform him that the enquiry of his fitness to hold office will be held. Maharaj says the letter was sent on Friday evening and that Nxasana was informed by telephone on Saturday that Zuma will be issuing a statement. (Radio 2000 - 07 Jul 2014 - 08:00)[South Africa]

**Motive for Nxasana inquiry questioned.** Freedom Under Law (FUL) chair Johann Kriegler says he believes decisions

taken by National Director of Public Prosecutions Mxolisi Nxasana on Richard Mdluli and Glynnis Breytenbach may be the reason President Jacob Zuma has instituted an inquiry into his alleged conduct. The president unveiled plans to establish the inquiry on Saturday following claims that Nxasana was denied a high-level security clearance because of previous brushes with the law. These include being tried for murder in the 1980s, though he was later acquitted on the grounds of self-defence, and accusations of nepotism and serious traffic offences. But there's still no clarity on whether Nxasana has actually been suspended. (Radio 702 - News - 08 Jul 2014 - 07:03)[South Africa]

**Inquiry into NPA head shows due process was not followed when he was appointed.** A political analyst believes president Jacob Zuma's decision to establish an inquiry into National Prosecuting Authority head, Mxolisi Nxasana, shows due process was not followed when he was appointed. Nxasana was denied security clearance after he apparently failed to disclose his entire criminal record which includes an acquittal on a murder charge in 1985. Analyst Protas Madlala says Zuma should have listened to opposition parties' concerns about Nxasana's fitness to occupy the post before he appointed him. (OFM Online News - 08 Jul 2014 - 07:26)[South Africa], (East Coast Radio - 08 Jul 2014 - 07:26)[South Africa]  
<http://bit.ly/1t1eiUe>

**Nxasana's removal from office won't be easy.** Legal experts say it will be difficult for President Jacob Zuma to remove the National Director of Public Prosecutions, Mxolisi Nxasana. Zuma has announced that he will institute a commission of inquiry into whether Nxasana is fit to hold the office. This after it emerged that Nxasana did not have security clearance because of his past brushes with the law. Professor Pierre de Vos says the allegations against Nxasana relate to things that happened a long time ago which the NPA should have known before appointing him. (Yfm - 08 Jul 2014 - 08:00)[South Africa], (Radio 2000 - 08 Jul 2014 - 08:00)[South Africa], (Lotus FM - 08 Jul 2014 - 08:00)[South Africa]

**DA wants Nxasana probe broadened.** The Democratic Alliance has called on President Jacob Zuma to extend the inquiry into NPA head Mxolisi Nxasana. The official opposition also called for an investigation into whether two of his deputies are fit to hold office. The Presidency on Saturday announced it would set up an inquiry to determine whether Nxasana was fit to hold office amid claims he didn't fully disclose his criminal record before being appointed. The DA said the Supreme Court of Appeal strongly condemned the conduct of both NPA deputy head Nomgcobo Jiba and Commercial Crimes Unit head Lawrence Mgwebi. This after they decided to withdraw criminal charges against former Crime Intelligence boss Richard Mdluli. The DA's Mmusi Maimane argued that the president had too much power in appointing NPA officials. (Radio 702 - News - 08 Jul 2014 - 16:04)[South Africa]

**Frantic search for Zuma spy tapes.** Infighting at the National Prosecuting Authority (NPA) appears to have intensified with a reported frantic search underway for the controversial spy tapes which justified a decision to drop corruption charges against President Jacob Zuma. The Mail and Guardian is reporting that the homes of NPA officials were raided by the Hawks just hours before Zuma announced an inquiry into National Director of Public Prosecutions (NDPP) Mxolisi Nxasana's fitness to hold office. The officials are perceived to be close to the NPA's former acting head Nomgcobo Jiba who is reportedly at loggerheads with Nxasana. The newspaper reports that the raid of NPA officials' homes took place at dawn and search warrants were vaguely drafted to allow the seizure of any documents or files that have relevance to the NPA government or related court cases. (Radio 702 - News - 11 Jul 2014 - 07:00)[South Africa]

**NPA staff reportedly raided and searched of Zuma spy tapes.** It's emerged that hours before President Jacob Zuma's announcement of an inquiry into the National Director of Prosecutions Mxolisi Nxasana, the Hawks reportedly raided the NPA staff. They reportedly searched for the controversial Zuma spy tapes. (PowerFM News - 11 Jul 2014 - 08:00)[South Africa]

**Hawks deny search for Zuma "spy tapes".** A raid conducted at an NPA staff member's residence was to investigate corruption allegations, and not a search for the so-called spy tapes as reported on Friday, the Hawks said. "I can confirm that we obtained a valid search warrant to search only one staff member's residence," said Captain Paul Ramaloko. "The search was a follow up on information we received about allegations of corruption... it had nothing to do with the spy tapes." The Mail and Guardian reported that hours before President Jacob Zuma announced an inquiry into National Prosecutions Authority head Mxolisi Nxasana's fitness to hold office, several residences of NPA employees were raided by the Hawks. The raid, which took place last Friday, was believed to be a frantic search for the controversial Zuma spy tapes, the weekly reported. The so-called spy tapes, and transcripts and other documents, relate to a 2009 NPA decision to drop corruption charges against Zuma. Last week, the Presidency announced that Zuma had ordered an inquiry into Nxasana's fitness to hold office. (OFM Online News - 11 Jul 2014 - 09:39)[South Africa]  
<http://bit.ly/1ztonrz>

**Hawks deny raid allegations.** The Hawks have refuted newspaper reports that they conducted a raid at an NPA staff's residence to search for the so-called spy tapes. Hawks spokesperson Paul Ramaloko instead says they raided the residence

as part of an investigation into corruption allegations. He says they obtained a search warrant following information they received on the corruption allegations. The raid is reported to be Nxasana's desperate attempt to get the recordings before Zuma suspended him. (Radio 2000 - 11 Jul 2014 - 12:00)[South Africa], (Lotus FM - 11 Jul 2014 - 12:00)[South Africa]

**NPA losing the war on drugs – experts.** The National Prosecuting Authority's Asset Forfeiture Unit has been paralysed by the vicious leadership battle in its uppermost ranks, and losing the fight against well-heeled drug barons is collateral damage. This comes in the wake of a string of high-profile drug seizures totalling nearly R75m. The Witness can reveal that just under R6m in cash, several houses and a handful of cars make up the entirety of the unit's successes in the past year. The figures were contained in internal statistics released by the NPA following a formal request. Experts say the NPA is a rudderless ship, with constant battles for succession, and that the attack on head Mxolisi Nxasana from within his own ranks has caused turmoil in the organisation. Spending more time tied up court then stripping drug lords of their flash cars and lavish pads, the unit has become ineffective in the war on international syndicates. While a series of police raids has netted billions in narcotics, asset seizures do not measure up. This as South Africa becomes a known tradeport for illegal substance manufacturing and trafficking. (News24.com - 14 Jul 2014 - 10:24)[South Africa]

<http://bit.ly/1jr0bkC>

**Zuma urged to act fast on NPA head inquiry.** President Jacob Zuma needs to announce the terms of reference for the investigation of National Prosecuting Authority (NPA) head Mxolisi Nxasana, the DA said on Tuesday. "President Jacob Zuma needs to act fast to uphold the rule of law and the integrity of the NPA. We must protect this key criminal justice institution at all costs," Democratic Alliance parliamentary leader Mmusi Maimane said. "It has been 11 days since President Zuma announced the investigation, yet today South Africa is no closer to understanding the nature of this investigation." Presidency spokesperson Mac Maharaj said the terms of reference would be communicated as soon as Zuma made them available. (News24.com - 15 Jul 2014 - 11:41)[South Africa]

<http://bit.ly/1JaJ5vM>

**NPA won't prosecute Duduzane Zuma.** The National Prosecuting Authority has declined to prosecute President Jacob Zuma's son Duduzane following an accident in which one person was killed, due to insufficient evidence. Spokesman Nathi Mncube said the matter would be referred to a magistrate for a formal inquest, to determine whether the accident was caused by a human error. Zuma allegedly hit a minibus taxi in Rivonia, Johannesburg, while driving a Porsche in February, causing the taxi to overturn. One person was killed and three people were injured. (Radio 702 - News - 17 Jul 2014 - 14:01)[South Africa]

**Presidency mum on Nxasana inquiry.** President Jacob Zuma's office says it hasn't yet set the terms of reference for the inquiry into National Prosecuting Authority's head Mxolisi Nxasana, more than two weeks after announcing the inquiry will take place. Nxasana has been accused of not being fit to hold office after he failed to fully disclose his criminal record. The Presidency says it can't say at this stage when the terms of reference of the inquiry will be published and when the person who will chair it will be announced. In the meantime, Nxasana appears to be running the NPA, but with a cloud over his head. It's being claimed that the inquiry is only being instituted as part of serious infighting within the organisation. (Radio 702 - News - 21 Jul 2014 - 07:01)[South Africa]

## CURRENT AFFAIRS

### **PowerFM Current Affairs**

**NPA soap opera playing out.** The on-going soap opera that is playing itself out at the National Prosecuting Authority, to get another twist, last week the suspension of the head of the Integrity Management Unit Prince Mokotedi. Now Mokotedi was suspended after being served with the suspension notice last week. Authorities at the NPA took action against him after a final report that he wrote about the former Prosecutor Glynnis Breytenbach was leaked to the media. The suspension comes against the backdrop of a dirty war within the organisation which has seen him on an opposing side to the NPA head Mxolisi Nxasana. Sharl Du Plessis on the line and talks about the on-going saga. (01-Jul-2014 - 15:39)[South Africa]

### **Radio 702 - John Robbie Show**

**Lawson Naidoo comments on Nxasana inquiry inquiry.** The executive secretary of the Council for the Advancement of the South African Constitution (CASAC), Lawson Naidoo speaks about President Jacob Zuma's decision to institute an inquiry into National Director of Public Prosecutions (NDPP) Mxolisi Nxasana's fitness for office. Naidoo says he is not opposed to the appointment of a politician to head the inquiry into Nxasana's fitness to hold office. He added that while the person who headed the inquiry was important, the process in which the inquiry was conducted was more crucial. Naidoo worked with Ginwala as the commission's deputy secretary. There are many questions on why the President has now decided Nxasana is

deemed not fit to hold office now. (07-Jul-2014 - 07:09)[South Africa]

#### **Radio 702 - Midday Report**

**Removal from the NPA.** Glynnis Breytenbach spoke about the controversy regarding her removal from the NPA. Interview with Glynnis Breytenbach, DA Member of Parliament. (25-Jun-2014 - 12:05)[South Africa]

#### **Radio 702 - Xolani Gwala Show**

**Nxasana being targeted – Glynnis Breytenbach.** NPA head Mxolisi Nxasana is being targeted because he permitted the reinstatement of fraud and corruption charges against suspended police crime intelligence boss Richard Mdluli, a DA MP said on Wednesday. "The national director of public prosecutions appears to have a lot of support among the staff of the NPA on ground level, so they believe these new allegations are a red herring in order to get rid of him," Glynnis Breytenbach, a former senior prosecutor at the National Prosecuting Authority, said. "They all hold the view, the people that I've spoken to, that the NPA cannot possibly survive another period of an acting national director." Breytenbach was speaking at a Democratic Alliance media briefing where the party outlined its intention to call on Parliament to look into Nxasana's appointment. (04-Jun-2014 - 15:30)[South Africa]

**Maimane: NPA integrity in tatters.** Parliament must investigate the allegations against National Director of Public Prosecutions Mxolisi Nxasana, the Democratic Alliance said on Wednesday. It emerged last week that the prosecutions boss, who was appointed to lead the National Prosecuting Authority last year, was refused a high-level security clearance because of previous brushes with the law. These include being tried for murder in the 1980s, though he was later acquitted on the grounds of self-defence, and accusations of nepotism and serious traffic offences. (04-Jun-2014 - 15:31)[South Africa]

**NPA staff backing their boss.** Former senior state prosecutor and now DA MP Glynnis Breytenbach says although morale at the NPA is at an all-time low, Nxasana has the backing of the staff. "The NDPP appears to have a lot of support among staff at the NPA. They believe these new allegations are a red herring to get rid of him." Breytenbach also says staff members believe that Nxasana's decision to resurrect charges against former crime intelligence head Richard Mdluli is one of the factors at play. (04-Jun-2014 - 15:33)[South Africa]

**Michael Masutha addressing NPA matters.** A reporter talks to Xolani about Michael Masutha's progress with issues at the NPA. The Justice and Correctional Services Minister has met with the leadership of the National Prosecuting Authority and called on them to await the decision of the President with regard to the matter relating to the National Director of Public Prosecutions Mxolisi Nxasana. He said he had requested the top management not to pre-empt or act in a manner that could undermine the outcome of the President's decision. Minister Masutha said at a media briefing in Pretoria on Monday, that he had referred the matter to the Office of the President, which has not made a decision as yet. It might not be very long. (09-Jun-2014 - 15:08)[South Africa]

**Breytenbach stands firm.** According to reports former NPA prosecutor Glynnis Breytenbach has dismissed recommendations by its Integrity Management Unit that she be charged with fraud, corruption and racketeering. A report in The Star newspaper says the unit found that she had abused her position in the NPA and had an improper relationship with Donaire businessman Nathan Kirsh and his representing advocate Andre Bezuidenhout. NPA spokesperson told the newspaper that the report was now with the head of the National Detective Services and it was now up to the SA Police service on how to proceed. Breytenbach says if anyone has evidence of her being involved in any wrong doing, they should charge her. (19-Jun-2014 - 15:10)[South Africa]

**National Prosecuting Authority to charge former Crime Intelligence Head, Richard Mdluli and two others.** The National Prosecuting Authority is busy preparing a summons to charge former Crime Intelligence Head, Richard Mdluli and two others. Reports say, there are discussions underway with Mdluli; Warrant Officer, Samuel Dlomo and Colonel Mthunzi's lawyers about a suitable date for all of them to appear court. The Richard Mdluli saga is alleged to be at the centre of the vicious leadership battles that have been continuing within the National Prosecuting Authority. President Jacob Zuma announced his decision to set up a commission of inquiry which will look at the fitness of the National Director of Public Prosecutions Mxolisi Nxasana to hold office. (14-Jul-2014 - 15:02)[South Africa]

#### **SAFM: AM Live**

**The National Prosecuting Authority has reinstated some charges against Crime Intelligence boss, Richard Mdluli.** The NPA has not yet revealed which charges have been reinstated. Mdluli was suspended amid charges of fraud and corruption and charges relating to the murder of his ex-lover's husband, Oupa Ramokgibe in 1999. He allegedly hired friends and relatives as intelligence operators and misused police funding to buy luxury cars. Interview: Nathi Ncube (NPA Spokesperson). (18-Jun-2014 - 07:10)[South Africa]

118

For any Media Monitoring Enquiries, please contact: +27 (0) 12 473 0018

Justice Minister instructed the NPA not to comment on any organizational matter. The NPA has been instructed by the Justice Minister Michael Masutha not to comment on any organizational matter included the reported suspension of its Integrity Management Unit head, Prince Mokoledi. (26-Jun-2014 - 07:20)[South Africa]

**OUR AIM IS TO DISTRIBUTE THIS REPORT URGENTLY TO PROVIDE A SNAPSHOT OF GOVERNMENT-RELATED MEDIA COVERAGE. CLIENTS ARE THEREFORE KINDLY REQUESTED TO EXCUSE TYPING AND LANGUAGE ERRORS.**

**This Report is based on the following criteria:**

Story category: National Prosecuting Authority



RECENT MEDIA REPORTS ON NDPP

1. M&G-01 Jun 2014 16:17

**Advocates body says NPA's Nxasana should not be prejudiced**

The Advocates for Transformation say NPA head Mxolisi Nxasana should not be prejudiced for failing to disclose being acquitted for killing a man.

Advocates For Transformation (AFT) has called on newly appointed Justice Minister Mike Masutha to urgently meet with President Jacob Zuma to ensure national prosecutions boss Mxolisi Nxasana is not prejudiced due to having killed a man at age 18 – allegedly in self-defence.

On Friday, the Mail & Guardian reported that the national director of public prosecutions (NDPP) Nxasana was denied security clearance, apparently for failing to disclose the incident.

Nxasana said he was acquitted of the murder, which took place in 1985 in Umlazi, outside Durban, but this has now come back to haunt him. Nxasana insisted this was part of factional machinations by his rivals at the National Prosecuting Authority (NPA) and politicians who want to get rid of him.

"There have been stories circulating, which I will tell a commission of inquiry if there is one," Nxasana told the M&G. "They have spread rumours that I want to reinstate charges against President Jacob Zuma, that I want to reinstate charges in the Amigos case in Durban [involving ANC politicians]."

"My problem is that there are allegations, I am told, that I also am seeing Bulelani Ngcuka, the former NDPP. I don't know where they get all this rubbish. Because I have never ever done anything like this. There has been no handover of cases. How can I ever talk about reinstatement of charges when I have never ever seen the dockets for that matter?"

He was informed about his security clearance's decision last week, seven months after the State Security Agency started its vetting process.

On Saturday, AFT chairperson advocate Dumiza Ntsebeza said in a statement that the reports were extremely concerning and unfair to Nxasana. "The AFT, if the reports are true, is extremely concerned that a sitting NDPP could, after appointment, be pursued for things that should have been investigated before his appointment," it read.

"We are even more perplexed by the reported view that he should have disclosed that in 1985 he had killed a man. For one thing, one does not see how that has to do anything to do with 'security clearance'. Secondly, it is outrageous that he is expected to resign from a position because he did not disclose having been charged with murder of which he was acquitted by a court of law.

"It is like arguing that Zuma should not have been competent to run for higher office because he had been charged with, and acquitted of, rape," sad Ntsebeza.

Ntsebeza said that was "not how the rule of law works".

"The AFT calls upon the newly appointed minister [Masutha] to seek audience with the presidency urgently with a view to making it very clear that the basic tenants of the doctrine of the rule of law

are that while no one is above the law, it is equally preposterous that anyone, let alone Mr Nxasana, could be prejudiced in his job because he did not disclose a case of murder in which he was acquitted after an open trial."

**'Establishing facts'**

Meanwhile, the justice ministry on Sunday confirmed to the *M&G* that it had requested a meeting with Zuma "to establish the facts" around Nxasana's appointment.

As of Sunday afternoon, the ministry had yet to receive confirmation of a meeting date, according to Masutha's spokesperson Lawrence Ngoveni. But he could not say what the minister would want to discuss with Zuma.

In terms of section 179 of the Constitution, the president appoints the NDPP. But Ngoveni said the issue of security vetting was the sole responsibility of the State Security Agency and so neither the presidency nor the justice minister were responsible for ensuring this was done.

However, Ngoveni told the *M&G* that Masutha wanted to "establish the facts" around Nxasana's appointment from Zuma. As of Sunday afternoon, no response had been received from the presidency, he said.

**Red herring**

At the same time, Ngoveni could not confirm whether other senior NPA officials were in the same position as Nxasana – appointed without being properly vetted. Ngoveni also did not know whether security vetting was a requirement for the appointment of the NDPP. The Constitution requires that the appointee be a "fit and proper person".

"You will appreciate that we are new ... all the appointments were done by the previous ministry," he said, referring to Masutha's appointment last Sunday. Masutha replaced former justice minister Jeff Radebe, who is now minister in the presidency.

Ngoveni also said the ministry was trying to establish what impact, if any, Nxasana's lack of security clearance would have on his day-to-day work within the NPA.

On Sunday, the new Democratic Alliance (DA) justice spokesperson – and former prosecutor – Glynnis Breytenbach said the party would revive a Private Members' Bill in Parliament that sought to bring more "independence" to the process of firing the NDPP.

Her predecessor, Dene Smuts, introduced the Bill in June 2013. Had it been passed, it would have required that any NDPP could only be removed by the president after a resolution by two-thirds of the National Assembly. This would follow an inquiry which would have had to find the NDPP incompetent or unfit to hold office. But the ANC rejected the Bill.

Breytenbach said: "The claims made against Nxasana about having not received the necessary security clearance is simply a red herring. The department of state security is notorious for its lengthy processes and the blame can hardly be placed on Nxasana when the delay is not his own doing.

121

"Furthermore, it is perplexing that the issue of Nxasana's criminal record is only resurfacing now that there is a hit on his back. The question must be asked why this was never raised before and taken to task. It is hardly conceivable that an appointment of this importance was made without vigorous background checks being completed."

## 2. Times Live-08 June, 2014 08:35

**Conflict escalates at NPA as boss allegedly linked to murder case**

**Conflict in the National Prosecuting Authority escalated into open war this week, with embattled boss Mxolisi Nxasana accused of being linked to a second killing.**

NPA integrity management unit head Prince Mokotedi claimed yesterday he had been blocked from investigating allegations that one of the assault cases Nxasana was convicted of in the 1980s might in fact have been a murder.

"I got information that seemingly it's not one murder but actually two - that one of the assault cases was actually a murder," he said.

Mokotedi claimed NPA CEO Karen van Rensburg blocked him from investigating further.

The murder claim follows weeks of public mudslinging and revelations that Nxasana had been asked to step down by former justice minister Jeff Radebe, who accused him of failing to disclose his acquittal in a 1985 murder case, when he was 18.

This has lifted the lid on vicious internal power struggles in the NPA, with Nxasana accusing a grouping led by his deputy, Nomgcobo Jiba, of trying to oust him.

Yesterday, Nxasana and Van Rensburg vehemently denied Mokotedi's allegations.

"This is sheer nonsense," said Nxasana. "Please write the story and quote him [Mokotedi]. I will deal with him. I will sue him."

NPA spokesman Bulelwa Makeke said Van Rensburg "emphatically denies" Mokotedi's allegation.

Mokotedi had laid a complaint with the Public Service Commission "against the CEO in this regard. In respect of the investigative processes of the PSC ... it is premature and completely improper to run to the media with his complaint".

In an interview on Friday, Nxasana said he had paid a R50 admission-of-guilt fine in an assault case in Nongoma, KwaZulu-Natal, in 1986, which concerned "a problem with my girlfriend", and could not recall the second case. "How can you believe I paid a R50 fine if someone died? It's just stupid and naive."

During the interview, Nxasana laid bare the details of his meeting with Radebe on May 21, during which he was told he had been denied top secret security clearance for failing to declare the murder acquittal, a R2000 law society fine and a 2012 traffic offence, and for allegedly wanting to disband Mokotedi's integrity unit.

But Nxasana told Radebe he would not go quietly - which means President Jacob Zuma must decide whether he should face an inquiry into his fitness to hold office. He was appointed last year on the advice of Michael Hulley, Zuma's lawyer.

Nxasana pointed out he had declared two assault convictions - one in the Nongoma case and another in Umlazi in 1985 - and the law society fine when asked to fill out a security clearance form on December 4 2013. It obliged him to declare only convictions and pending cases, which meant the murder acquittal was a "non-issue".

"It's a smoke screen, a red herring. What must you disclose if you've been acquitted?" he said.

He denied disbanding the integrity unit, but said its investigators were "abusing their mandate" by sharing information with state security and crime intelligence agents.

He said that, in April, he had been informed that two state security agents had spent two weeks in KwaZulu-Natal digging into his past. The agency did not confirm the investigation.

This week, he received a letter from the agency, dated May 30, stating his security clearance had been declined. "I have written to them to ask them to give me the reasons. They did not come back to me."

He accused Jiba of being part of a cabal that was colluding with state security agents and police officials to tarnish his name. The "cabal" included NPA commercial crimes unit head Lawrence Mwrebi and security head Tshilidzi Ramahana.

He said they had used Welcome Sthembislo Mhlongo, a colonel in the Hawks based in Durban, to dig up dirt on him to get him fired.

"I said to [Radebe] that I know it was Jiba who instructed Mhlongo [and] that every time she drops your name," he said. He claimed Mhlongo had been offered a promotion to brigadier for his efforts.

Radebe's response was that "it's in your imagination", said Nxasana.

But he insisted that "the minister and Jiba are friends. I am told he'd recommended her and wanted her to be in my job."

Radebe said yesterday he would not "validate these baseless allegations with a response".

An atmosphere of paranoia pervades the NPA offices, with claims of e-mails and calls being intercepted.

"Large amounts of documents are also disappearing from the building," a senior official said.

This week, a security guard controlling access to the top brass's offices and boardroom at the NPA was fired after he was suspected of spying on Nxasana and carting off sensitive documents.

Two senior sources said the guard, who was fired on Wednesday, had allegedly been instructed to spy on Nxasana by Jiba and was caught removing files relating to high-profile cases.

Makeke, the NPA spokesman, confirmed his removal. "The NPA complained of suspected security breaches by a security official [who] was suspended."

Nxasana also accused Jiba of being obstructive when asked to hand over major case files.

These include cases against former spy boss Richard Mdluli, the so-called Amigos case against prominent KwaZulu-Natal politicians, the Cato Manor death squad case and the spy tapes case used to withdraw corruption charges against Zuma.

He said: "Jiba has told these lies that I wanted to reinstate charges against the president."

Mhlongo, the Hawks colonel, insists he "was never tasked by anyone to investigate Mxolisi".

"I never had any meeting with Jiba nor do I have her contact numbers. I have nothing to lose or gain by destroying Mxolisi or investigating him."

He denied Jiba offered him a promotion: "Jiba can't promise me any position. She works for NPA and I am with the South African Police Service."

Mwrebi called the allegation "a figment of [Nxasana's] imagination". Ramahana declined to comment.

Jiba, after asking to be sent questions, responded late yesterday by SMS, saying: "I will not stoop to that level. I choose to channel my energy on ensuring that work of the NPA as mandated by our constitution and NPA Act continues unabated, and I won't be deterred in so doing by these baseless stories."

3. News 24- 09-06-14

Chris Ndaliso, The Witness

Durban - The family and former neighbours of beleaguered NPA boss Mxolisi Nxasana have leapt to his defence, saying the murder charges he faced in the eighties was a tragedy he had never fully recovered from.

Despite Nxasana's involvement in the stabbing incident and new claims that he had been involved in another murder incident in Nongoma in 1986, they said he was idolised in the community.

His role as president of the KwaZulu-Natal Law Society and now head of the NPA was an inspiration to those who lived in Umlazi.

Nxasana was asked to step down by former justice minister Jeff Radebe, who accused him of failing to disclose his acquittal in the 1985 murder case. He was aged 18 at the time.

At the meeting last month, Nxasana was told he had been denied top secret security clearance for failing to declare the murder acquittal, a R2 000 law society fine and a 2012 traffic offence, and for allegedly wanting to disband NPA integrity management unit head Prince Mokotedi's unit.

The Sunday Times reported that Mokotedi claimed he had been blocked from investigating allegations that one of the assault cases Nxasana was convicted of in the eighties might in fact have been a murder.

Love triangle

Nxasana's family, who live in a modest home in E-Section, Umlazi, said the resurrection of the murder claim has put a lot of strain on them.

Neighbours and family members said Nxasana had been caught up in a love triangle in 1985, and his rival had attacked Nxasana and his brother.

Nxasana, speaking to The Witness, said the incident is something he wished he was not reminded about and did not like to talk about.

"I was 18 at the time. Yes, I was at my girlfriend's place in C-Section and we were attacked. I am forced to talk about the incident against my will. When these guys attacked us, my brother was hacked with a bush knife, and I grabbed a kitchen knife and stabbed one guy. Sadly, I heard later that he had passed on."

He said he had heard that the girlfriend had since died.

"I think she would give you more details about the incident," he said.

The Mail & Guardian reported last week that the murder took place in 1985 and Nxasana was acquitted by the Durban regional court in 1986.

His older brother, Sbonelo, said his late father had taken Nxasana to the police after hearing about the incident and the subsequent death of one of the attackers.

"This whole thing weighs heavily - not only on Mxolisi, but on the entire family. A tragedy happened and individuals are using that to get back at my brother for whatever reason they have. Go and talk to the community and they will tell you what kind of a person Mxolisi is," said Sibonelo.

#### Church

The family said whenever Nxasana returned home, he made a point of attending community functions and going to his childhood church.

Mhlobo Nkosi said Nxasana mixed with everyone when he was around. "I know him from when he was a child. He was not a troublesome person, and he loved soccer and going to the cinema. Mxolisi is a good man but now people are just trying to drag his name through the mud," said Nkosi.

Reverend Linda Mandindi of the Methodist Church said Nxasana has contributed a lot to the church. "Recently, the church received a water bill of R11 000 due to illegal water connections. I phoned him and explained [our predicament]. Mxolisi told us not to worry and he settled the bill. When we were building this church, he contributed whenever we would run short of material," said Mandindi.

Khumbuzile Cele said she watched Nxasana growing up in front of her.

"I know him as a very sweet child who respected the adults. As an adult, he still has that respect for people. What happened in 1985 could have happened to any other young man," said Cele.

#### Flawed vetting process

The KwaZulu-Natal Law Society said Nxasana is a victim of a flawed vetting process.

"The office of the NDPP [National Director of Public Prosecutions] is an office of the Constitution and as such an appointment to such office should have proceeded with the highest degree of due diligence," the society's president Poobalan Govindasamy said.

"The current issues raised by the executive reflects a shocking but not surprising incompetence in the due diligence process which should have addressed in the first place, the issues now raised."

Nxasana was appointed into the NPA position by President Jacob Zuma last year.

Govindasamy said the situation sent an incorrect message to the public that someone found not guilty in court "may possibly be lacking in security clearance".

He said the law society had undiminished confidence in Nxasana's integrity.

4. The Citizen 15.6.2014 10.47

**Mxolisi Nxasana's ex girlfriend laid assault charges**

Joyce Khumalo, the former girlfriend of NPA head Mxolisi Nxasana laid an assault charge against him in 1986 because he allegedly beat her up.

When Joyce tried to dump him, Nxasana allegedly beat her so badly that she was admitted to hospital, Khumalo's mother, Aggrieneth Khumalo, the Sunday Times was told.

Nxasana also allegedly attempted to strangle her during the breakup.

Khumalo then laid an assault charge against him in Nongoma, KwaZulu-Natal, and it was believed this was the case for which he paid a R50 admission of guilt fine, the newspaper reported.

Joyce died in 1998 in an unrelated incident.

Last month, former justice minister Jeff Radebe reportedly instructed Nxasana to resign after not being given a security clearance because of past brushes with the law. He has refused to resign.

The Sunday Times reported that he was acquitted on a murder charge in 1985 as it was in self defence, and that he had twice been convicted for assault, charged with reckless and negligent driving and resisting arrest. He was also fined R2000 for misconduct by the law society.

The newspaper said it could not get comment from Nxasana or NPA spokeswoman Bulelwa Makeke. Sapa could also not immediately get comment on the report from the NPA.

5. NEWS 24-2014-06-15 09:21

**NPA boss facing woman beater allegations**

Johannesburg - Embattled National Prosecuting Agency boss Mxolisi Nxasana has been accused of being a woman beater by a former girlfriend's mother.

According to the Sunday Times, Aggrieneth Khumalo, the mother of Nxasana's one-time girlfriend,

the NPA boss was a hothead that would beat her daughter, Joyce, at the slightest provocation.

The 72-year-old mother said that during their year-long relationship "he liked beating her up for every little mistake she made".

When the young woman dumped him, he allegedly tried to strangle her. He also beat her so badly that she landed up in hospital.

She brought an assault charge against him but was apparently too scared to testify.

It is believed that this is the assault case for which Nxasana paid a R50 admission of guilt fine in 1986. Joyce died in 1998 in an unrelated incident.

Controversy around the NPA boss has continued to deepen after he was accused of being linked to a second murder recently.

It was reported last week that the head of the integrity management unit Prince Mokotedi said he had been stopped by the agency from investigating allegations that one of the assault charges against Nxasana in the 1980s had in fact been a killing.

The controversy arose a few weeks back when it emerged that Nxasana was called to a meeting by former justice minister Jeff Radebe and asked to resign only days before President Jacob Zuma announced his new Cabinet. This came after Nxasana failed to get security clearance.

Last week the DA said it is seeking an urgent probe into the October appointment of Nxasana.

Democratic Alliance MP Glynnis Breytenbach said in a statement on Wednesday that Parliament's justice portfolio committee should meet to investigate the process followed in appointing Nxasana, as well as determine whether the National Prosecuting Authority was being politicised.

Breytenbach said allegations had surfaced that Nxasana was not appointed through an appropriate process.



**THE INQUIRY LOOKING INTO THE FITNESS OF MR MXOLISI NXASANA TO HOLD OFFICE OF THE NATIONAL  
DIRECTOR OF PUBLIC PROSECUTION - MINUTES OF 26 FEBRUARY 2015**

Date : Thursday 26<sup>th</sup> February 2015

Time : 10h00 - 13h00

Venue: SA Law Commission  
Spooral Park Building  
2007 Lenchen Ave South  
Centurion

<b>Minutes</b>	
<b>1. Attendees</b>	<ol style="list-style-type: none"> <li>1. Advocate Nazeer Cassim SC- Chairperson</li> <li>2. Advocate Lindi Nkosi-Thomas SC -Commissioner</li> <li>3. Advocate Sthembiso Mdladla SC - Commissioner</li> <li>4. Adv J.B Skosana – Dept. of Justice (representing the Presidency)</li> <li>5. Adv N.H Maenetja – JHB Bar- Evidence Leader</li> <li>6. Adv T Bruinders – JHB Bar for NDPP</li> <li>7. Mr P.B Mabunda – Attorney for NDPP</li> <li>8. Ms F.S Nmutandani - Attorney for NDPP</li> <li>9. Mr M.O Letsoko – State Attorney</li> <li>10. Mr T.L Ramathikhithi – Inquiry Secretary</li> <li>11. Mr E.L Sithole – JHB Bar pupil</li> <li>12. Mr A.B Tshona – Dept of Justice- Communications</li> <li>13. Mr L Ngoveni – Dept of Justice- Communications</li> <li>14. Ms K Maughan – eNCA Journalist</li> </ol>
<b>2. Agenda</b>	<ul style="list-style-type: none"> <li>• OPENING AND WELCOME REMARKS - CHAIRPERSON</li> <li>• INTRODUCTION OF THE ATTENDEES AND PARTIES AND THEIR LEGAL TEAMS</li> <li>• PURPOSE OF THE MEETING:CHAIRPERSON</li> <li>• BRIEF REFLECTION OF THE TERMS OF REFERENCE OF THE RULES OF THE INQUIRY</li> <li>• DISCUSSION ON THE DIARY FOR THE HEARING(INCLUDING DATE FOR THE EXCHANGE OF DOCUMENTS)</li> <li>• DISCUSSION ON THE PROTOCOLS ON MEDIA-ALL</li> <li>• WAY FORWARD &amp; CLOSURE:CHAIRPERSON</li> <li>• Is everybody in a position to start?</li> </ul>
<b>3. Open and welcome remarks</b>	<ul style="list-style-type: none"> <li>• Advocate Nazeer Cassim - Chairperson</li> <li>• Advocate Lindi Nkosi-Thomas -Commissioner</li> <li>• Advocate Sthembiso Mdladla - Commissioner</li> </ul>
<b>4. Introduction of the attendees, parties and their legal teams</b>	<ul style="list-style-type: none"> <li>• Advocate Nazeer Cassim - Chairperson</li> <li>• Advocate Lindi Nkosi-Thomas -Commissioner</li> <li>• Advocate Sthembiso Mdladla - Commissioner</li> </ul>

**THE INQUIRY LOOKING INTO THE FITNESS OF MR MXOLISI NXASANA TO HOLD OFFICE OF THE NATIONAL DIRECTOR OF PUBLIC PROSECUTION- MINUTES OF 26 FEBRUARY 2015**

	<ul style="list-style-type: none"> <li>• Advocate J.B Skosana – Dept. of Justice (representing the Presidency)</li> <li>• Adv N.H Maenetje – JHB Bar</li> <li>• Adv T Bruinders – JHB Bar for NDPP</li> <li>• Mr P.B Mabunda – Attorney for NDPP</li> <li>• Mr F.S Nmutandani - Attorney for NDPP</li> <li>• Mr M.O Letsepho – State Attorney</li> <li>• Mr T.L Ramathikhithi – Enquiry Secretary</li> <li>• Mr E.L Sithole – JHB Bar pupil</li> <li>• Mr A.B Tshona – Dept of Justice</li> <li>• Mr L Ngoveni – Dept of Justice</li> <li>• Mr K Maughan – eNCA Journalist</li> </ul>
<p><b>5. Purpose of the meeting: chairperson</b></p>	<ul style="list-style-type: none"> <li>• The purpose of this meeting is outlined on the Terms of Reference published in the Government Gazette 9 February 2015, Vol.596 &amp; No.38463, where we are all familiar that on 30<sup>th</sup> August 2013 the government employed Mr Mxolisi Nxasana as National Director of Public Prosecution (NDPP).</li> <li>• Now therefore the President acting in terms of the power conferred by section 12(6) of NPA Act 32 of 1988 hereby establishes an Inquiry to enquire into Mr Nxasana's fitness to hold office of the NDPP.</li> </ul>
<p><b>6. Brief reflection of the terms of reference of the rules of the Inquiry: Chairperson</b></p>	<ul style="list-style-type: none"> <li>• The Terms of Reference of the Inquiry are as follows:             <ul style="list-style-type: none"> <li>to enquire into the fitness of Mr Nxasana to hold office of the NDPP and whether the facts and circumstances reflected below are consonant with the conscientiousness and integrity of an incumbent of the office of the NDPP as prescribed by law, regard being given to:                 <ul style="list-style-type: none"> <li>• His two previous separate convictions on charges of assault;</li> <li>• The complaints of professional misconduct laid against him with the KwaZulu-Natal Law Society;</li> <li>• His having faced criminal charges for acts of violence;</li> <li>• His arrest and detention on criminal charges;</li> <li>• And finally, issuing and/or making media statements and/or causing media statements to be issued that undermine or bring the office of the NDPP or the National Prosecuting Authority into disrepute.</li> </ul> </li> <li>Then there is a third of the subsection which reads as follow:                 <ul style="list-style-type: none"> <li>• Any other matter as may be relevant to the afore mentioned issues and his fitness and propriety to hold the office of the NDPP as contemplated in section 9(1)(b) of the NPA Act.</li> </ul> </li> <li>• I have isolated this particular subparagraph because <i>Prima facie</i> it is not of assistance to this Commission and there will have to be greater particularity in supporting this particular charge. It is a matter to which I have no doubt Adv Maenetje will apply his mind.</li> </ul> </li> </ul>

**THE INQUIRY LOOKING INTO THE FITNESS OF MR MXOLISI NXASANA TO HOLD OFFICE OF THE NATIONAL DIRECTOR OF PUBLIC PROSECUTION- MINUTES OF 26 FEBRUARY 2015**

	<ul style="list-style-type: none"> <li>• Our Terms of Reference are to make findings, report on and make recommendation concerning the matters set out above, which I have read out.</li> <li>• Paragraph 4 of publication in the Government Gazette of 9th of February 2015 provides in no uncertain terms that the inquiry shall be completed within six (6) weeks from date of commencement of the Inquiry. This period may be extended by the President on representation by the chairperson. We have in this country become used to and familiar with commissions, that in my respectful submission goes on for too long.</li> <li>• We, however, have to be conscious that this is an important matter for the National Director of the Public Prosecution and it therefore is not a matter that this Commission can rush.</li> <li>• It's an important matter for the public, and for the people practicing law in this country. And I do not in any manner attempt to undermine the need for a full and proper hearing. But at the same time to the extent that it is practical and possible would like to get on with business, and I have no doubt I speak for my fellow commissioners when I say this to you, we must do so economically, efficiently balancing it against the interest of fairness and adjudication of justice.</li> </ul>
<p><b>7. Discussion on the diary for the hearing(including date for the exchange of documents)</b></p>	<p>Chairperson</p> <ul style="list-style-type: none"> <li>• Enquired from the legal representatives as to a time-table period going forward.</li> </ul> <p>He also asked for suggestions from Adv Maenetje because of the Terms of Reference which Adv Maenetje has had a chance of reading, and which state that he has to submit, written submissions and Adv Bruinders will reply to which Adv Maenetje might want to reply back to Adv Bruinders's response and this is simply to isolate, crystallize and narrow the issues.</p> <p>Adv Maenetje</p> <ul style="list-style-type: none"> <li>• He agreed to submit his dossier within the two week time frame given to him by the chairperson</li> <li>• He was advised by the Department of Justice that in a period of not more than two weeks they will present to him a full dossier of the documents on which the Inquiry is based,</li> <li>• He will need time to analyze the documents, meet relevant witnesses and reduce whatever evidence that is unnecessary so that when the file gets to the commissioners contains reliable evidence.</li> </ul> <p>Chairperson</p> <p>Suggested that the Department should take the documentation whether is a dossier or the preliminary work to the presenter on the behalf of the commission, to the person presenting Adv Maenetje within a week.</p> <p>Adv Skosana.</p> <ul style="list-style-type: none"> <li>• Confirmed that they will assist to start the process.</li> <li>• They could submit part of the dossier of everything within a week from the 26<sup>th</sup> February 2015.</li> </ul>

THE INQUIRY LOOKING INTO THE FITNESS OF MR MXOLISI NXASANA TO HOLD OFFICE OF THE NATIONAL DIRECTOR OF PUBLIC PROSECUTION- MINUTES OF 26 FEBRUARY 2015

Chairperson

- He asked if the department could submit the dossier by the 6th March 2015.  
Adv Skosana.

- He agreed, but would request that should some of the information be obtained from other sources the Department would like to be given an opportunity to submit whatever is outstanding by the 13<sup>th</sup> of March  
Chairperson

- Agreed to this request and further requested Adv Maenetje to submit supporting documents by the 20<sup>th</sup> of March 2015.

- He further requested that when Adv Maenetje completes his preliminary work he must notify Adv Bruinders.

Adv Maenetje

- Requested time until the 23<sup>rd</sup> March 2015 to finalise and check all documents before submission.

Chairperson

- He agreed and further asked Adv Bruinders that on the basis that this was a comprehensive case, in terms of what was intended to be the case against the NDPP, which have been agreed upon to be presented to him on the 23<sup>rd</sup> of March, when can he, (Adv Bruinders) be in a position to give an answer?

Adv Bruinders

- Raised an issue which is in page 3 paragraph 2 on rules of submissions which states “**statement on oath by persons who are able to depose to any factual allegations made in the submission**”)
- he then submits two problems that emerged the first being:

- Under submissions a provision is made for the Minister to provide submission and not the President.

He says after all it is the President in the Act who makes the call and has the belief that their client is unfit and improper and so they might want the President make submissions as to what his ( the President) case is against the NDPP.

- He also suggested that the Chairperson makes provision for the President to submit submissions as to why the President believes the NDPP is unfit and proper to run office.

- He then requested that when Adv Maenetje hands in his submissions on the 23<sup>rd</sup>, that also everybody else who makes similar allegations against the NDPP or is in support of allegations of unfitness and impropriety, should also file their submissions on the same date because the NDPP would like to deal with all the allegations at the same time.

- He said he could submit his evidence within the month, but then requested that upon finding that out of the submissions they have received there were submissions that would lead to documents that exist and those are of relevance to the NDPP, there should be some internal procedure, where they have five days to

**THE INQUIRY LOOKING INTO THE FITNESS OF MR MXOLISI NXASANA TO HOLD OFFICE OF THE NATIONAL DIRECTOR OF PUBLIC PROSECUTION- MINUTES OF 26 FEBRUARY 2015**

ask for those identified documents, through the chairperson and whoever was asked for the documents should be given five days to supply them.

Chairperson

- Asked Adv Maenetje what his view were about Adv Bruinders statement that it was the president and not the Minister whom must submit.

Adv Maenetje

- Agreed with Adv Bruinders that it was indeed the President's opinion who gave an opinion on Mr Nxasana fitness for the position.

Chairperson

- Asks if the Minister is not in actually the one who collate on behalf of the President

Adv Maenetje

- he agreed further states that they will bear in mind what Adv Bruinders has raised when they present the evidence

Chairperson

- makes a ruling that whenever he refers to the Minister that includes the President and that any other party which wants to formulate any complaint should do so by the 23<sup>rd</sup> of March
- he further requested that where additional documents which are required and in cases where there is an impasse could all the legal parties meet in the chamber at a time suitable to the two parties.

Both parties agree to this request

- Chairperson will keep the secretariat informed at all times during process
- Asks for a convenient week to view the matter and suggest the 11-15 of May 2015

Both parties agree to this request

- Chairperson ask for the time of commencement

Both Parties agreed on 09h00am-15h00

- Once chairperson has all the documents he will summon a meeting
- He then like to agree on a week to meet both parties
- He then gives Adv Maenetje until 27<sup>th</sup> March to submit his Submissions
- And he then gives Adv Bruinders 4 weeks which will be on the 24<sup>th</sup> April for his submission
- He also gives Adv Maenetje up until the 4<sup>th</sup> of May for his reply
- After the 1<sup>st</sup> May the Chairperson will summon a pre-trial to narrow down the issues and to decide on the witnesses

Both parties agreed.

- Chairperson asks Adv Skosana if the Commission could have the facilities prepared and made ready. Adv Skosana.

149

132

**THE INQUIRY LOOKING INTO THE FITNESS OF MR MXOLISI NXASANA TO HOLD OFFICE OF THE NATIONAL DIRECTOR OF PUBLIC PROSECUTION- MINUTES OF 26 FEBRUARY 2015**

	<ul style="list-style-type: none"> <li>• Agrees</li> </ul> <p>Adv Bruinders</p> <ul style="list-style-type: none"> <li>• Asked to finalise by the 30<sup>th</sup> April</li> <li>• He further asked for a meeting on the 30<sup>th</sup> April</li> </ul> <p>Chairperson</p> <ul style="list-style-type: none"> <li>• Asked to meet on Saturday the 2<sup>nd</sup> May at 10 o'clock at the chambers as he has an important meeting</li> <li>• Asked if parties are available on the week of the 26<sup>th</sup> of May.</li> </ul> <p>After much deliberation all parties agreed to reserve the date for the 20<sup>th</sup> of May in an event they don't finish the work done on the 11-15 May 2015</p>
<p><b>8. Discussion on the protocols on media-all</b></p>	<p>Adv Maenetje</p> <ul style="list-style-type: none"> <li>• He does not have instructions from Mr Skosana on the matter of the Media</li> </ul> <p>Adv Bruinders</p> <ul style="list-style-type: none"> <li>• Would like to get instruction from his client</li> </ul> <p>Mr Ramathikhithi – Inquiry Secretary</p> <ul style="list-style-type: none"> <li>• Request for media accreditation</li> <li>• He also states that electronic devices interrupt the signal especially for the transcribing services</li> <li>• He also suggests that the rules that apply in court be used.</li> <li>• Secretary will make a media statement where he will invite all interested parties to submit their statement of case by the 27<sup>th</sup> of March 2015</li> </ul>
<p><b>9. Way forward &amp; closure: chairperson</b></p>	<ul style="list-style-type: none"> <li>• The President, Minister and all other person(s) interested parties will file a statement of case by the 27<sup>th</sup> March 2015</li> <li>• The NDPP will set the statement of defense by the 27<sup>th</sup> of April 2015</li> <li>• The President, Minister and any other person(s) who has filed a statement of complaint will have an opportunity to reply or thorough rebuttal by the 29<sup>th</sup> of April 2015</li> <li>• There will be a meeting between the legal representatives of the parties who participate in this inquiry at 10am on the 2<sup>nd</sup> of May 2015 at the chambers or at a venue agreed upon, bearing in mind 1<sup>st</sup> May is a public holiday, this date in consultation with the parties may change</li> <li>• For any applications for more documentations, the legal representatives will talk to one another, if that is not resolved amicably that will be dealt with by the parties on an arranged time when the Commission constitutes itself as a matter of urgency.</li> </ul>
<p><b>10. Closure</b></p>	<p>meeting was adjourned at 11h10 am</p>

**MEDIA STATEMENT**

**03 March 2015**

**Invitation for input on the Inquiry of the fitness of Mr Nxasana the National Director of Public Prosecution to hold office.**

The secretary of the inquiry looking into the fitness of Mr Nxasana to hold of the National Director of Public Prosecution (The Cassim Inquiry) has announced the following dates for the commencement of the inquiry: 11<sup>th</sup> – 15 May 2015,

At the meeting 26<sup>th</sup> February 2015 the Inquiry, evidence leaders and the legal team of Mr Nxasana reached an agreement on the dates for exchange of document relevant to the inquiry.

Any interested person or institution who wishes to make submission to the enquiry must do so before 27 March 2015.

All submissions and queries related to the proceedings may be directed to:  
Mr Tshilidzi Ramathikhithi  
Secretary for the Inquiry  
Tel 012 622 6315/6302  
Email: [tramathikhithi@justice.gov.za](mailto:tramathikhithi@justice.gov.za).

**Issued by the Secretary to the Cassim Inquiry.**

**END**

# DRAFT MINUTES OF THE MEETING BETWEEN COMMISSIONERS AND EVIDENCE LEADERS

Date Wednesday 1<sup>st</sup> April 2015

Time: 17h30 -18h30

Venue: Advocates - Maisels Chambers

4 Protea Place

Sandown

2196

#	RESPONSIBILITY	Tasks	STATUS/COMMENTS
	<p><u>Attendees</u></p> <ol style="list-style-type: none"> <li>1. Advocate Nazeer Cassim SC - Chairperson</li> <li>2. Advocate Sthembiso Mdladla - Commissioner</li> <li>3. Advocate N.H Maeneija SC – Evidence Leader</li> <li>4. M.O Letsoko – State Attorney</li> <li>5. W.M Sobahle–Acting Secretary</li> <li>6. Advocate E.L Sello– Evidence Leader</li> </ol>		
	<p><u>Apologies</u></p> <ol style="list-style-type: none"> <li>1. Adv J.B Skosana – Dept Of Justice</li> <li>2. Adv Nkosi Thomas SC - Commissioner</li> <li>3. Mr T. Ramathikhithi - Secretary</li> </ol>		
1.	<p><u>Summary of previous meeting held between:</u> (see responsibility Column)</p>		<ul style="list-style-type: none"> <li>• It was agreed among Skosana, Maeneija and Letsoko that the Presidency would retain its own legal team.</li> <li>• The teams would compile a set of documents with the draft submissions as well as witnesses' statements.</li> <li>• Adv Maeneija SC received a report from Mrs Breytenbach alleging corruption</li> <li>• Documents received were without a covering letter.</li> <li>• Documents received made it difficult to see how it related to this Commission.</li> </ul>



#	RESPONSIBILITY	Tasks	STATUS/COMMENTS
			<ul style="list-style-type: none"> <li>• Adv Skosana and his legal team would need a month of April to submit the draft statement and to facilitate the Evidence Leaders meeting relevant people they would like to meet.</li> <li>• Mr. Nxasana would be given a month to respond (June/July)</li> <li>• Timeframes would need to be relooked.</li> </ul>
2.	<u>Clarity of roles</u>	Evidence Leaders	<p><b>The following questions were asked:</b></p> <ul style="list-style-type: none"> <li>• Are Evidence Leaders' roles to assist in preparing all of the witness's statements to be made submissions to the Commission?</li> <li>• Or would Evidence Leaders receive the statements and assist in presenting them and in cross-examining?</li> <li>• Evidence Leaders did not know witnesses to be called when they got a set of documents.</li> <li>• Presidency should be the one to put documents together that would help build their case against Mr Nxasana.</li> <li>• The previous minutes of 26 February 2015 reflected that Evidence Leaders would make submissions to which Mr Nxasana would reply.</li> <li>• The above scenario suggested that Evidence Leaders represented the Presidency.</li> <li>• With the Presidency now expected to retain their Legal Team, the Evidence Leaders' role needed to be revised.</li> <li>• Evidence Leaders maintained that their role was already defined in their appointment letters.</li> </ul>

#	Submissions Received by the Commission	RESPONSIBILITY	Tasks	STATUS/COMMENTS
3.	<ul style="list-style-type: none"> <li>• Helen Suzman Foundation</li> <li>• Cape Chamber of Commerce</li> <li>• SSASA</li> <li>• Head of the Specialised Commercial Crime Unit</li> </ul>	Mr Sobahle		<ul style="list-style-type: none"> <li>• It was asked why the submissions were not submitted to the Commissioners as soon as they were received?</li> <li>• The response was that it was prudent as well as cost effective not to send submissions one by one but in bulk, especially that submissions were not to be posted.</li> <li>• Initially 4 copies were made from each submission.</li> <li>• In future it was decided that 7 copies from each submission should be made.</li> <li>• The Chairperson proposed that a submission should be sent to his office as soon as it arrived.</li> <li>• The Chairperson to issue a new directive for filling.</li> <li>• Hearing dates needed to be clarified.</li> <li>• New dates agreed upon needed to be republished.</li> <li>• The roles of Evidence Leaders needed to be clarified and Legal Team representing the Presidency needed to be identified.</li> </ul>

**DIARY FOR THE HEARINGS: NDPP INQUIRY-CENTURION**

Date: Friday 24<sup>th</sup> April 2015  
 Time: 12h00 - 12h30  
 Venue: Maisels Chambers  
 4 Protea Place  
 Sandown

#	DESCRIPTION	RESPONSIBILITY	TIMEFRAME	STATUS/COMMENTS
1.	<p><b>Agenda</b></p> <ul style="list-style-type: none"> <li>• OPENING AND WELCOMING REMARKS - CHAIRPERSON</li> <li>• INTRODUCTION OF THE ATTENDEES AND APOLOGIES</li> <li>• PURPOSE OF THE MEETING: CHAIRPERSON</li> <li>• DISCUSSION AND INPUT: ALL</li> <li>• WAY FORWARD &amp; CLOSURE: CHAIRPERSON</li> </ul>			
2.	<p><b>Attendees</b></p> <ul style="list-style-type: none"> <li>• Advocate Nazeer Cassim SC- Chairperson</li> <li>• Advocate Lindi Nkosi-Thomas SC -Commissioner</li> <li>• Advocate Sthembiso Mdladla SC - Commissioner</li> <li>• Adv J.B Skosana – Dept. of Justice</li> <li>• Adv K. Millard – Counsel for NDPP</li> <li>• Mr P.B Mabunda – Attorney for NDPP</li> <li>• Mr. S. Mabelane - Presidency</li> <li>• Mr M.O Letsoko – State Attorney</li> <li>• Mr T.L Ramathikhithi – Inquiry Secretary</li> <li>• Adv W.M Sobahle – Legal Researcher(Cassim Inquiry)</li> <li>• Mr. W Sekwati – Dept. of Justice</li> </ul>			

#	DESCRIPTION	RESPONSIBILITY	TIMEFRAME	STATUS/COMMENTS
3.	<p><b><u>OPENING AND WELCOME REMARKS</u></b></p> <p>1. The Chairperson welcomed everybody present.</p> <ul style="list-style-type: none"> <li>• He apologised to the NDPP delegation for failure to include them in an earlier invitation to a meeting which was scheduled to take place on Friday 24 April at 10h00 at Maisels Chambers, Sandown.</li> <li>• Upon noticing the oversight, the meeting had been rescheduled for 12h00, in order to accommodate the NDPP delegation.</li> <li>• Chairperson again extended an apology to the NDPP for the late notice to request the NDPP to attend the meeting</li> </ul>	Advocate Nazeer Cassim SC - Chairperson		
4	<p><b><u>PURPOSE OF THE MEETING: CHAIRPERSON</u></b></p> <ul style="list-style-type: none"> <li>• The hearing was set for 11 May 2015</li> <li>• The statement of case was still outstanding</li> </ul>	Advocate Nazeer Cassim SC - Chairperson		

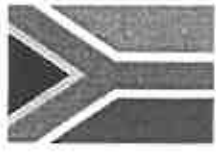
#	DESCRIPTION	RESPONSIBILITY	TIMEFRAME	STATUS/COMMENTS
	<p>from the Presidency/Ministry</p> <ul style="list-style-type: none"> <li>• The Presidency and the Ministry of Justice had also not yet made representations</li> <li>• The purpose of the meeting was also to find a way forward</li> <li>• The Chairperson told the meeting that he had released the Evidence Leaders because their role was not necessary yet</li> <li>• The Chairperson was of the view that both he and his two Commissioners were capable of dealing with the workload thus far</li> </ul>			
4.1	<p><b>DISCUSSION AND INPUT: ALL</b></p> <ul style="list-style-type: none"> <li>• Mr Mabelane from the Presidency stated that, according to their understanding,</li> </ul>	Advocate Nazeer Cassim – Chairperson		•

#	DESCRIPTION	RESPONSIBILITY	TIMEFRAME	STATUS/COMMENTS
	<p>documents were going to be made available to the Evidence Leaders</p> <ul style="list-style-type: none"> <li>• The Evidence Leaders were to prepare the submissions</li> <li>• Now that the Chairperson had released the Evidence Leaders, the Government's position had been changed.</li> <li>• In terms of the time frames and the expectations of each party, what was expected of the Presidency, was that they should file a separate submission in addition to the Evidence Leaders' submission?</li> <li>• The Chairperson explained that the Evidence Leaders understood their role to be that of assisting the Chairperson and the two Commissioners</li> <li>• Should the Commission reach a stage where there were complex legal issues to deal with, the Chairperson might call upon Evidence Leaders to assist</li> <li>• The Presidency requested time to engage their own counsel</li> <li>• Advocate Skosana quoted the rules on submissions and explained that the Government was guided by those rules which had included Evidence Leaders</li> <li>• Adv. Skosana extended his apology on behalf of Government for any delays which might have been caused by misunderstanding of timeframes</li> <li>• The current state of understanding from the Government was that the Presidency/Ministry were represented by the</li> </ul>	<p>Mr. S. Mabelane – Presidency</p> <p>Adv J.B Skosana – Dept. of Justice</p> <p>Adv K. Millard – Counsel for NDPP</p>		

#	DESCRIPTION	RESPONSIBILITY	TIMEFRAME	STATUS/COMMENTS
	<p>Minister</p> <ul style="list-style-type: none"> <li>• Government to submit documents via legal counsel</li> <li>• Adv. Skosana confirmed that there would be one set of legal counsel for the Ministry and Presidency</li> <li>• The legal counsel would consist of a senior and junior Counsels</li> <li>• NDPP was ready to present their submissions by the 11 May 2015, however could only finalise submissions upon receipt of submissions from Presidency /Ministry</li> <li>• NDPP submissions were due on 7 May 2015</li> </ul>			
4.2	<p><b><u>WAY FORWARD &amp; CLOSURE: CHAIRPERSON</u></b>  The Chairman's concluding remarks were that:</p> <ul style="list-style-type: none"> <li>• The NDPP was the number one Law Enforcement Officer in the country and it was not ideal that he was facing charges and those charges were not dealt with urgently.</li> <li>• As soon as the counsels were appointed by Government, there must be liaison between NDPP counsel and Government counsel</li> <li>• Government would approach the Commission on the first week of May 2015 before Friday 7 of May 2015, with draft statements, submissions etc.</li> </ul>			

#	DESCRIPTION	RESPONSIBILITY	TIMEFRAME	STATUS/COMMENTS
	There being no further issues to discuss, the meeting was adjourned at 12h30pm			





# CASSIM INQUIRY

## GENERAL NOTICE

**This is an invitation to the public to make submissions to the Cassim Inquiry which will look into Mr Nxasana's fitness to hold office of the National Director of Public Prosecution.**

In terms of Proclamation No. 102 of 2015 by the President acting under section 84(2) (f) of the Constitution of the Republic of South Africa, 1996 and section 12(6)(a) of the National Prosecuting Authority Act, 1998(ActNo.32of 1998) set up an Inquiry looking into the fitness of Mr Mxolisi Nxasana to hold office of the National Director of Public Prosecution.

**Any interested person or institution who wishes to make submissions to the inquiry must do so before 27 March 2015.**

All submissions and queries related to the proceedings may be directed to:

Mr Tshilidzi Ramathikhithi  
Secretary for the Inquiry  
Tel: 012 622 6315/6302  
Fax: 086 640 2846  
Email: [tramathikhithi@justice.gov.za](mailto:tramathikhithi@justice.gov.za)

**COMMISSION OF ENQUIRY**

In re:

**THE FITNESS OF MR MXOLISI NXASANA TO HOLD OFFICE OF NATIONAL DIRECTOR OF PUBLIC PROSECUTIONS**

---

**RULING**

---

**Introduction**

1. On 9 February 2015, the President caused Notice 1022 of 2014 to be published in the Government Gazette<sup>1</sup> in terms whereof the President established an enquiry to determine the fitness of Mr Nxasana to hold office as the National Director of Public Prosecutions (NDPP) and appointed me as chairperson of the enquiry and two of my esteemed colleagues as additional members, advocate Ms Lindi Nkosi-Thomas SC and advocate Stembiso Mdladla.

2. The terms of reference are as follows:

"1. To enquire into the fitness of Mr Nxasana to hold the office of the NDPP and whether the facts and circumstances reflected below are consonant with the

---

<sup>1</sup> No. 38463

conscientiousness and integrity of an incumbent of the office of the **NDPP** as prescribed by law, regard being had to:

- a. His two previous separate convictions on charges of assault;
  - b. The complaints of professional misconduct laid against him with the Kwazulu-Natal Law Society;
  - c. His having faced criminal charges for acts of violence;
  - d. His arrest and detention on criminal charges;
  - e. Issuing and/or making media statements and/or causing media statements to be issued that undermine or bring the office of NDPP or the National Prosecuting Authority into disrepute;
  - f. Any other matter as may be relevant to the abovementioned issues and his fitness and propriety to hold the office of the NDPP as contemplated in section 9(1)(b) of the NPA Act.
2. To make findings, report on and make recommendations concerning the matters set out in paragraph 1 above.
  3. These terms of reference may be amended or varied at any stage prior to the conclusion of the enquiry, as may be required.
  4. The enquiry shall be completed within six (6) weeks from date commencement of the Enquiry. This period may be extended by the President on representation

by the Chairperson.

5. The Chairperson of the Enquiry shall submit a report and recommendations within a period of two (2) weeks after the Enquiry completes its work. All documents filed during the enquiry shall form part of such report.
  6. The Chairperson shall determine the rules of the enquiry."
3. By way of notice 155 of 2015, I caused Rules for the enquiry to be published in the Government Gazette of 20 February 2015.<sup>2</sup>
  4. Pursuant to the Rules, a first meeting of the enquiry was held on 26 February 2015. The purpose of this meeting was, in the main, to set the timetable for the enquiry.
  5. Arising from the meeting of 26 February 2015, the following directives were issued:
    - 5.1. The Minister<sup>3</sup> was required to file his submissions by 27 March 2015;
    - 5.2. The NDPP is to file his submissions by 22 April 2015;

---

<sup>2</sup> No. 38491

<sup>3</sup> The Minister for Justice and Constitutional Development

- 5.3. The Minister to reply, if he so elected, by 29 April 2015;
- 5.4. The hearing of submissions and evidence, if necessary, was to commence on 11 May 2015.
  
6. I also proceeded to designate on 27 February 2015, as evidence leaders, Advocate Hamilton Maentje SC and Advocate Mahlape Sello.
  
7. The Minister has to date not filed his submissions.
  
8. This matter is not only of public interest but is of public importance, directly impacting on the administration of law and order in our country. This is manifest by written submissions which I have received from the Helen Suzman Foundation, the Cape Chamber of Commerce and Industry, the Society of State Advocates of South Africa and Advocate Mrwebi the Specialised Commercial Crime Unit.
  
9. I am conscious that the public purse must not be burdened with undue delays and the resultant wastage of resources. Equally, I am mindful of the rights of the NDPP to be properly

and fully appraised of the allegations of wrong-doing and his rights to a speedy and yet fair enquiry. It is undesirable that a matter of this nature hangs in the air and is not finalised promptly.

10. The directives that I issue below are qualified by the input of the NDPP. He cannot be prejudiced in any way arising from the delay on the part of the Minister in formulating written submissions as directed by me at the meeting of 26 February 2015.
  
11. Upon careful reflection of the terms of reference, in particular items a. - e., I am of the view that there may not be a need for evidence leaders. This is because the terms of reference as presently read appear to be adversarial in nature and scope and it would appear that the two "opposing" parties would present their respective cases. This is, however, a preliminary decision in terms whereof I put on hold the appointment and role of the evidence leaders until greater clarity appears from the issues to be determined. If the Commission requires the services of the evidence leaders, they will be contacted for

their input. I also do this in the interests of avoiding unnecessary costs.

12. I make the following directives:

12.1. The matter will proceed on 11 May 2015 as previously determined;

12.2. The Minister must do his best and file his submissions, if any, by 20 April 2015.

12.3. The NDPP must thereafter respond by close of business on Thursday, 7 May 2015.

12.4. The Minister must commence presenting his case on 11 May 2015. The NDPP will not be required to immediately cross-examine witnesses nor to present his case until the NDPP has had a reasonable opportunity to prepare.

N CASSIM SC

Chairman: Commission

April 2015



THE PRESIDENCY  
REPUBLIC OF SOUTH AFRICA



150

## **President Zuma respects rights of those who seek court relief**

*07 August 2015*

The Presidency has noted media reports about court cases relating to the settlement with the former National Director of Public Prosecutions, Mr Mxolisi Nxasana and the Nkandla security upgrades.

The Presidency has noted media reports about court cases relating to the settlement with the former National Director of Public Prosecutions, Mr Mxolisi Nxasana and the Nkandla security upgrades.

It should be noted that all South Africans have a right to seek relief from courts and President Jacob Zuma respects the rights of those who wish to go to court over any matter.

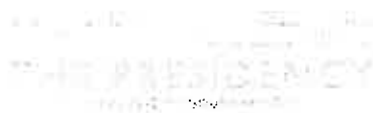
The President will only comment on the merits of the cases at the right time in court and will therefore not engage on the matter in the media, in deference to the courts.

Enquiries: Bongani Majola on 082 339 1993 or [bonganim@presidency.gov.za](mailto:bonganim@presidency.gov.za)

Issued by: The Presidency

Pretoria





151

## **President Zuma reaches a settlement with Mr Nxasana**

31 May 2015

President Jacob Zuma has reached a settlement with the Head of the National Prosecution Authority (NPA), Mr Mxolisi Nxasana, in terms of which Mr Nxasana will vacate his position as National Director of Public Prosecutions from 1 June 2015.

President Jacob Zuma has reached a settlement with the Head of the National Prosecution Authority (NPA), Mr Mxolisi Nxasana, in terms of which Mr Nxasana will vacate his position as National Director of Public Prosecutions from 1 June 2015.

The President had during July 2014 informed Mr Nxasana of his decision to institute an enquiry in terms of Section 12(6)(a)(iv) of the National Prosecutions Authority Act 32 of 1998 in order to determine his fitness to continue to hold such office.

Mr Nxasana had subsequently challenged the President's power to suspend him in the North Gauteng High Court.

Pursuant to discussions and consultations held responsibly and in good faith, the parties recognised that protracted litigation and the holding of an enquiry are not in the best interest of the NPA, Mr Nxasana, nor the government at large and, consequently, the President ceased the holding of such an enquiry.

The Government recognises that Mr Nxasana is professionally competent and possesses the requisite experience and integrity required to hold a senior position.

The President expresses his sincere gratitude to Mr Nxasana for his contribution to the work of the National Prosecuting Authority and wishes him well in his future endeavours.

The President has in terms of section 11(2)(b) of the National Prosecuting Authority Act, 1998, appointed the Deputy Director of Public Prosecutions, Dr Mashau Silas Ramaite, as Acting National Director of Public Prosecutions, with effect from 01 June 2015.

Enquiries: Harold Maloka 082 847 9799 and Mthunzi Mhaga 083 641 8141

152

Issued by: The Presidency

Pretoria



153

## **Update on the National Director of Public Prosecutions**

11 May 2015

The President has today ceased the inquiry into the fitness of the National Director of Public Prosecutions, Mr Mxolisi Nxasana to hold such office.

The President has today ceased the inquiry into the fitness of the National Director of Public Prosecutions, Mr Mxolisi Nxasana to hold such office.

The President had during July 2014 informed Mr Nxasana of his decision to institute an enquiry in terms of Section 12(6)(a)(iv) of the National Prosecutions Authority Act 32 of 1998 in order to determine his fitness to continue to hold such office.

The President is currently engaging with Mr Nxasana with a view to taking decisions which are in the best interest of the National Prosecuting Authority, Mr Nxasana and the country at large.

The Presidency will communicate the outcome of such deliberations once they have been finalised, mindful of the need for certainty and confidence in the NPA.

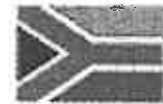
Enquiries: Harold Maloka 082 847 9799 or [harold@presidency.gov.za](mailto:harold@presidency.gov.za) or [maloka.harold@gmail.com](mailto:maloka.harold@gmail.com)

Issued by: The Presidency

Pretoria



THE PRESIDENCY  
OF THE REPUBLIC OF SOUTH AFRICA



154

## **Update on the NPA Inquiry process**

25 July 2014

Processes for the establishment of the Inquiry into the fitness of the National Director for Public Prosecutions to hold office are at an advanced stage.

Processes for the establishment of the Inquiry into the fitness of the National Director for Public Prosecutions to hold office are at an advanced stage.

Progress is also being made with regards to identifying persons who will constitute the Inquiry at various levels, and also to conclude the terms of reference.

An announcement will be made as soon as the processes have been completed.

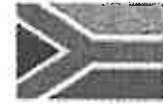
Enquiries: Mac Maharaj on 079 879 3203 or [macmaharaj@icloud.com](mailto:macmaharaj@icloud.com)

Issued by: The Presidency

Pretoria



THE PRESIDENCY  
REPUBLIC OF SOUTH AFRICA



153

## **President Zuma to institute an inquiry into the National Director of Public Prosecutions**

05 July 2014

President Jacob Zuma has, in terms of Section 12(6)(a)(iv) of the National Prosecuting Authority Act 32 of 1998 and after careful consideration of all the matters before him, decided to institute an enquiry into the National Director of Public Prosecutions, Mr Mxolisi Nxasana.

President Jacob Zuma has, in terms of Section 12(6)(a)(iv) of the National Prosecuting Authority Act 32 of 1998 and after careful consideration of all the matters before him, decided to institute an enquiry into the National Director of Public Prosecutions, Mr Mxolisi Nxasana.

The details regarding the establishment of the Enquiry will be communicated to the public in due course.

Enquiries: Mac Maharaj on 079 879 3203 or [macmaharaj@icloud.com](mailto:macmaharaj@icloud.com)

Issued by: The Presidency

Pretoria



**THE PRESIDENCY: REPUBLIC OF SOUTH AFRICA**

Private Bag X1000, Pretoria, 0001

**NATIONAL ASSEMBLY**

**QUESTIONS FOR WRITTEN REPLY**

**QUESTION NO: 2026**

**Date Published: 29 MAY 2015**

**Mr J Selfe (DA) to ask the President of the Republic**

1. Whether he received a request from the National Director of Public Prosecutions in the 2013-14 and/or 2014-15 financial years and/or during the period 1 April 2015 up to the latest specified date to (a) provisionally suspend and/or (b) conduct an enquiry into the fitness to hold office of any Deputy National Directors of the National Prosecuting Authority; if so, (i) who is or are the Deputy National Director(s) concerned, (ii) when did he received this request and (iii) what was the basis on which the request was made;
2. Whether he has acceded to this request; if not, why not; if so, (a) when and (b) what form is the enquiry taking?

**Reply:**

The matter of the suspension of senior personnel within the NPA is under consideration. I have urgently called on the National Director of Public Prosecutions, through the Minister of Justice and Correctional Services, to provide me with the facts and circumstances requisite for such consideration.

NW2288



**THE PRESIDENCY: REPUBLIC OF SOUTH AFRICA**

Private Bag X1000, Pretoria, 0001

**NATIONAL ASSEMBLY**

**QUESTIONS FOR WRITTEN REPLY**

**QUESTION NO: 1786**

**Date Published:**

**The Leader of the Opposition (DA) to ask the President of the Republic**

- 1 a) On what exact date was the decision made to cancel the Cassim Inquiry into Mxolisi Nxasana's fitness to hold office, b) by whom was this decision made, c) who communicated the decision to cancel the specified inquiry to Advocate Nazeer Cassim and d) on what date was the intention to cancel the specified inquiry communicated to Advocate Nazeer Cassim;
  
- 2 what is the exact amount that was spent on a) printing banners, b) remuneration of staff, c) legal fees, d) catering, e) venue hire, f) equipment, g) branded writing materials and h) any other expenses before the specified inquiry was cancelled;
  
- 3 what was the exact reason for the cancellation of the specified inquiry at the last minute?

**Reply:**

The decision was made by me when it became apparent that the holding of the inquiry was no longer necessary. We recognised that protracted litigation and the holding of an inquiry are not in the best interest of the NPA, Mr Nxasana, nor the government at large. The administrative aspects of holding the inquiry are attended to by the Ministry of Justice and Correctional Services.





**the doj & cd**

Department:  
Justice and Constitutional Development  
REPUBLIC OF SOUTH AFRICA

**NATIONAL ASSEMBLY**

**QUESTION FOR WRITTEN REPLY**

**PARLIAMENTARY QUESTION NO: 1220**

**DATE OF QUESTION: 27 MARCH 2015**

**DATE OF SUBMISSION: 10 APRIL 2015**

**Adv G Breytenbach (DA) to ask the Minister of Justice and Correctional Services:**

Since his reply to oral question 32 on 5 March 2015 and with reference to retired Constitutional Court Justice Yacoob's enquiry into the National Prosecuting Authority (NPA) and the findings contained in his report, what are the reasons for not making recommendations to the President, Mr Jacob G Zuma, that persons named in the report, who continue to bring the NPA into disrepute and who continue to undermine the position and authority of the National Director of Public Prosecutions, should be suspended? NW1426E

**REPLY**

I wish to advise the Honourable member, that I was furnished with the National Prosecuting Authority report on the Fact Finding Commission which was conducted by retired Justice Yacoob during February this year. It is also important to mention that the report was only furnished to me after I asked my office to inquire from the Chief Executive Officer of the NPA what the position was regarding the matter involving the Deputy National Directors Adv Nomgcobo Jiba and Adv Lawrence Morwebi and Director of Public Prosecution Adv Sibongile Mzinyathi.

In response to our inquiry, the Justice Yacoob's report was submitted together with other information pertaining to criminal investigations instituted and investigations by the professional body pertaining to the conduct of the above three members of the National Prosecuting Authority.

Upon studying the reports entrusted to me by the NPA including Justice Yacoob's report, I observed that certain matters of law and fact required that I seek clarity and further information. It is important that I obtain all information relevant to the matter to be able to advise the President appropriately.

Not only is the Honourable Member privy of the matters at hand, but she has herself been entangled in this whole debacle and is therefore in a position to share some of the information she now demands from me. She was part of the NPA machinery at that time and not only did the matters surfaced right under her nose, she herself orchestrated some these issues, or aggravated them.

I wish to quote from the following from the statement issued by the SACP on 11 February 2015 questioning manner in which Honourable Breytenbach has persistently pursued this matter.

"The SACP notes with serious concern the comments that "Democratic Alliance" (DA) Member of Parliament (MP) Glynnis Breytenbach continues to make about what is going on inside the National Prosecuting Authority (NPA). We believe that Breytenbach is severely conflicted and compromised to comment as a neutral person on matters relating to the NPA.

Ms Breytenbach still has a lot to answer for about her behaviour whilst she was in the NPA, including very serious allegations of conflicts of interest and corruption on her part. It is a well-known fact that she also went to great lengths to try and sabotage the investigation, including refusal to submit her laptop and attempts at erasing its contents.

161

The SACP remains concerned about the fact that the investigation into Ms Breytenbach by the NPA was not properly concluded and therefore the process, from our standpoint, remains incomplete. As a matter of fact some of the people she is now demonising, abusing her privilege as an MP, were part of the people who were investigating her whilst she was in the NPA.

We are of the view that before Ms Breytenbach starts pointing fingers at the President and other people, she still owes the country and the Justice system a full explanation about her own conduct whilst in the NPA.

The SACP is also deeply concerned that whilst sections of the media are fully aware of these matters relating Ms Breytenbach, but because she is a DA MP, they have chosen to be conveniently silent.” (Close quote)

Honourable Speaker, I am inclined to align myself with some of the views expressed in the statement issued by the SCAP in so far as they question the integrity of Honourable Breytenbach in raising matters in which she has a personal interest. Her conduct obscure what would otherwise been a legitimate oversight function that the Constitution assigns to this esteemed Parliament.

It has become evident that Honourable Breytenbach, under the auspices of the DA, uses this esteemed House to settle old scores with her adversaries at the NPA.

## RECORD 2 IN TERMS OF PRAYER SIX (6)

### INDEX

ITEM	DESCRIPTION	PAGE NO.
1.	Letter from DG – Justice to the CEO : NPA	1
2.	Settlement Agreement	2 -5
3.	Payment form	6
4.	SARS employee tax deduction directive	7
5.	Account Holder details	8 -9
6.	Advice of appointment/staff change form	10 -11
7.	NPA disbursement per employee	12



**the doj & cd**  
Department:  
Justice and Constitutional Development  
REPUBLIC OF SOUTH AFRICA

**OFFICE OF THE DIRECTOR-GENERAL**  
Private Bag X 81, PRETORIA, 0001 • SALU Building, corner of Thabo Sehume and  
Frances Baard Streets, PRETORIA  
Tel (012) 406 4701/4718

Enquiries: Ms B Musekwa  
Telephone: 012 409 4701/18  
Email: BMusekwa@justice.gov.za

**Adv. K van Rensburg**  
Chief Executive Officer  
National Prosecuting Authority  
Private Bag X 762  
PRETORIA  
0001

Dear Adv. Van Rensburg

**SETTLEMENT AGREEMENT : MR NXASANA**

Please find herewith the attached document for your urgent attention and processing.

It would be appreciated if you can process same urgently for relevant authorities approval, noting the time lines that are setout therein.

Your assistance in this regard will be greatly appreciated.

Kind regards

**MS T N SINDANE**  
**DIRECTOR-GENERAL**  
**DEPARTMENT OF JUSTICE AND CONSTITUTIONAL DEVELOPMENT**  
DATE: 3/06/2015

2

**IN THE NORTH GAUTENG HIGH COURT, PRETORIA**

**CASE NO 59160/14**

In the matter between:

**NATIONAL DIRECTOR OF PUBLIC PROSECUTIONS** Applicant

And

**THE PRESIDENT OF REPUBLIC OF SOUTH AFRICA** First Respondent

**MINISTER OF JUSTICE AND CORRECTIONAL SERVICES** Second Respondent

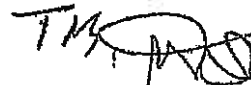
---

**SETTLEMENT AGREEMENT**

---

**WHEREAS**

1. On 4 July 2014, the President informed the Applicant (National Director of Public Prosecutions herein after referred to as the NDPP) of his decision to institute an enquiry in terms of section 12 (6) (a)(iv) of the National Prosecuting Authority Act 32 of 1998 (the Act).
2. On 30 July 2014, the President gave Notice of Intention to suspend the NDPP in terms of section 12 (6) (a) of the Act.
3. The NDPP brought an urgent application in the North Gauteng High Court to interdict the President from suspending him until the President has provided the NDPP with the requested particularity of the allegations



levelled against him, and which allegations were to constitute the subject matter of the enquiry.

- 4. These proceedings now stand adjourned and the parties subsequently entered into discussions and negotiations in an attempt to resolve the matter.
- 5. The parties recognize that a protracted litigation process will not be in the interests of the office of the National Director of Public Prosecutions, the functioning of the National Prosecuting Authority nor the Republic of South Africa.
- 6. The parties are also mindful that the public glare brought on by the holding of an enquiry, whilst necessary for transparency in our democracy, has unintended consequences.
- 7. The parties are fully cognizant of the costs implications for litigating and/or conducting the enquiry which resources may be better applied given the challenges our country faces.

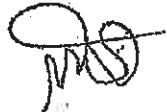
**RECOGNISING** the important and pivotal role which the National Prosecuting Authority occupies in our constitutional democracy and the functioning of the rule of law and the desire to bring certainty and preserve the dignity of both the NDPP and the NPA

**IT IS AGREED THAT**

- 1. The parties understand that this agreement is to be regarded as a "no-fault" settlement, and, as such, this agreement is not intended and will not be construed to constitute an admission or statement by either party as to the validity or invalidity of any legal or factual contention advanced in this matter.

T.M. [Signature]

2. The President recognizes that the NDPP is professionally competent, sufficiently experienced and conscientious and has the requisite Integrity to hold a senior public position both in the public and private sector.
3. The NDPP shall relinquish his post as National Director of Public Prosecutions as from 1 June 2015.
4. In lieu of this, the NDPP shall receive the sum of R 17 357 233,00 within 60(sixty) days of signature of this agreement in full and final settlement of all claims of whatsoever nature arising out of his employment as National Director of Public Prosecutions.
5. The settlement amount shall be subject to taxation, pension benefits, leave benefits, medical aid benefits and resettlement benefits, where ordinarily applicable to the NDPP in terms of his conditions of employment under the legislation and regulations.
6. The NDPP will withdraw his application in the North Gauteng High Court under case number 59160/14 upon signature of this settlement agreement.
7. The President will cease the holding of an enquiry into the fitness of the NDPP to hold such office.
8. The government has paid and will continue to pay the NDPP's legal costs including the cost of this application as well as the holding of the enquiry.
9. In the event that any disputes arises with respect to the Agreement, the party who believes there may be a breach shall contact the other party in writing setting forth the reason(s) for said belief and shall give the party five (5) business days to remedy the matter.

TM  




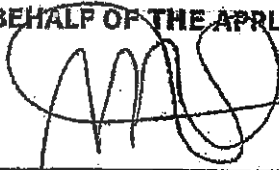
S

10. By signing this Agreement, the parties acknowledge that they have read the Agreement in its entirety and are possessed with the full knowledge and understanding of the Agreement's contents.

11. This agreement shall become effective and enforceable upon signature by both parties.

SIGNED AT Waltham MA ON 09 MAY 2015

FOR AND ON BEHALF OF THE APPLICANT (NDPP)

  
\_\_\_\_\_

SIGNED AT Waltham MA ON 14 MAY 2015

FOR AND ON BEHALF OF THE FIRST AND SECOND RESPONDENTS

  
\_\_\_\_\_



Cancelled 13583354  
 NATIONAL PROSECUTING AUTHORITY  
 Sundry payment approved  
 Maudie A/C: Fin 19  
 8/6/2015

Office SALARIES

Capture by: [Signature]  
 Date capture: 10/06/2015  
 Pre-Authorised by: [Signature]  
 Date authorised: [Signature]  
 Final Authorised by: [Signature]  
 Date authorised: 10 June 2015



Description	SETTLEMENT
Initials	MSO
Surname/ Supplier	NXASANA 26895102
Address	
Postal code	

<input type="checkbox"/> Receipt cheque <input type="checkbox"/> Invoice <input checked="" type="checkbox"/> Sundry <input type="checkbox"/> Credit note	Purchase order no Source doc No. 003378 Source doc. date 18/05/2015 Ref No.	Settlement details Settlement date Discount % Discount Date
---	--	--

<input type="checkbox"/> System cheque <input type="checkbox"/> Manual cheque <input checked="" type="checkbox"/> EBT	Cheque No. Cheque date	Bank acc No 10011627322 Branch code 580105 Bank acc type INVESTEC
---	---------------------------	---

Line Description	VOTED FUNDS
Fund/Vote	NATIONAL DIRECTOR & SUPP STAFF
Responsibility	PROSECUTION SERVICES Specialised Services BUDGET
Objective	H/H : CLAIMS AGAINST STATE
Item	NO PROJECTS
Projects	NON-ASSETS RELATED 2015-06-08
Assets	NAT FUNCTION:WHOLE COUNTRY DOM
Regional Indicator	NON INFRASTRUCTURE Trans Cuv NATIONAL PROSECUTING AUTHORITY
Infrastructure	
Matching Field 2	
Whatever	
Matching Field 3	

Allocation Amount R 10 240 767.47

Total amount to be paid R 10 240 767.47

MOSES	[Signature]	[Signature]
Authorised by	W. Mahlanga	KH. van der Merwe
FC	SSA	GD
8	6	2015
8	06	2015

Certified Correct  
 08/06/2015

NAT RATE, (dd/mm/yyyy)  
 Name of BAC: Salarie  
 Date Invoice Produced: 10/06/15  
 Received By: [Signature]  
 Signature of [Signature]

FA 1358335 rejected by National Treasury (Safety Net) Banking details differs.  
 11 June 2015

Printed in accordance with SARS recommended format



INCOME TAX



Employees' tax deduction directive

Enquiries should be addressed to:

Receiver of Revenue DURBAN

P.O. BOX 921  
DURBAN  
4000

Tel: (031) 328 6000 Fax: (031) 332 2210

Always quote this reference number in  
correspondence with this office or during interviews

Reference number : 0076080142

Date : 2015/06/05

Tax Year : 2016

Directive Number : 18354440

Application number : 000000020963095

**A: Particulars of Employee / Member of Fund**

Surname : nxasana  
 Initials : mso  
 First names : mxolisi  
 Address : 54 bonne view  
 midrand  
 pretoria

Date of Birth : 1967/11/23

Identity number / Other : 6711235284086

Office where registered for Income Tax : DURBAN

Employee, Policy, Pension or Provident fund number : Employee Number - 26895102

**B: Directive Information**

Employees' Tax reference number (PAYE) : 7530738295

Name of fund/employer : national prosecuting authority

Reason for directive : settlement

Date of accrual : 2015/05/31

Under the provisions of paragraphs 2 and 11 of the Fourth Schedule to the Income Tax act, you are  
 required to comply with the directive as set out below, regarding the remuneration paid to the above-  
 named employee or member of fund.

Tax amounting to R 7116466.53 to be deducted from the gratuity / lump sum payment of R  
 17357233.

This directive is valid for the period 2015/03/01 - 2016/02/29

**Please note:**

1. This directive is invalid if any alterations have been made thereto.
2. Please file this on the employee's file in your office.
3. This form must be retained for inspection purposes.
4. You may only act on an original directive issued to your business or institution. You may, therefore, not act upon a photocopy of this form.

10240.767. 47

08:47:34 Mon Jun 08, 2015

8

PF12=ACCOUNT HOLDER DETAILS

PERSAL BETP  
5.06.04 (02)

SALARY ENQUIRIES:NAT PROSECUTING AUTH  
HISTORY - BASIC INFORMATION

2015-06-08  
08:50:27.8  
C80581

PERSALNO...: 26895102 01 MSO NXASANA NAS DIREC NDPP  
PAY DATE....: 20150529 NORMAL  
SAL-EFF-DAT.: 20150531  
ORGANISATION.: NAT PROSECUTING AUTH SEC. ORGANISATION:  
STATUS.....: CURRENT REG SERV COUNCIL.: 23  
STATUS REASON: CURRENT RACE.....: AFRICAN  
STATUS DATE..: MARITAL STATUS...: NEVER MARRIED  
PAY GROUP....: TEMPORARIES P. SERV. NOTCH DATE.....: 20140401  
NOTCH/TARIFF.: 2081868.00 221 IDENTITY NUMBER.: 6711235284086  
PAY METHOD...: DEPOSIT - CURRENT NATURE OF APPT...: CONTRACT  
INSTITUTION..: INVESTEC BANK LTD APPOINTMENT ACT.: NAT PROSECUTING ACT  
MAIN BRANCH..: 580105 INVESTEC BANK GRAYST F/P.: FULLT  
ACCOUNT NO...: 10011627322 SALARY LEVEL.....: 17  
DATE OF BIRTH: 19671123 APPOINTMENT DATE.: 20131001  
DAYS/HOURS...: REGION/PAY POINT.: 0001 / 580000  
DEDUCTIONS...: 64658.80 PROBATION PERIOD.:  
NET SALARY...: 87922.51 RANK TYPE.....: 9 SMS PROF. (70.00%)  
SCALE.....: 81868 - 81868

CHOICE: \_ (2=ALLOW.; 3=IRP5; 4=OBJECTIVE; 5=ADDITIONAL; 6=TAX; 7=DEPEND.; 8=MEDICAL)

08:47:47, Mon Jun 08, 2015

9

PERSAL BMTF  
5.06.04 (06)

SALARY ENQUIRIES:NAT PROSECUTING AUTH  
HISTORY - OBJECTIVE INFORMATION

2015-06-08  
08:50:40.2  
C80581

PERSALNO....:	26895102 01	MSC NKASANA	NAS DIRC NDPP
PAY DATE.....:	20150529	NORMAL	
SAL-EFF-DAT.....:	20150531		
ORGANISATION....:	C8	NAT PROSECUTING AUTH	
COMPONENT.....:	580000	OFFICE OF THE NDPP	
SUBCOMPONENT....:	000001	NATIONAL PROSECUTING	
RESPONSIBILITY...:	4209	NAT DIR SUPP STAFF	
PROVINCE/DEPT...:	99C8	NATIONAL DEPARTMENTS / NPA	
OBJECTIVE 1.....:	012097		
OBJECTIVE 1 %...:	100.00		
OBJECTIVE 2.....:			
OBJECTIVE 2 %...:			
OBJECTIVE 3.....:			
OBJECTIVE 3 %...:			
OBJECTIVE 4.....:			
OBJECTIVE 4 %...:			
OBJECTIVE 5.....:			
OBJECTIVE 5 %...:			

CHOICE: \_ (1=BASIC;2=ALLOWANCE;3=IRP5;5=ADDITIONAL;6=TAX;7=DEPEND.;8=MEDICAL)

**ADVICE OF APPOINTMENT/STAFF CHANGE  
KENNISGEWIG VAN AANSTELLING/PERSONEEL VERANDERING**


Dept./Adm. <b>NPA</b>	Tel No.	Ext. <b>6182</b> Bylyn
Reference number Verwysingsnommer <b>26895102</b>	Date Datum <b>05/06/2015</b>	

THE DIRECTOR-GENERAL, OFFICE OF THE PUBLIC SERVICE COMMISSION  
DIE DIREKTUR-GENERAAL, KANTOOR VAN DIE STAATSDIENKOMMISSIE

THE/DIE **FINANCE**

THE/DIE

*Kindly note the following appointment/staff change/ Gedeeltes van die volgende aanstelling/personneelverandering kennis te neem:*

Surname Van <b>NXASANA</b>	Date of birth Geboortedatum	Conjugal state Huweliksstaat
First names Voornams <b>MSO</b>		
Highest educational qualification Hoogste opvoekindige kwalifikasie		
Nature of change Aard van verandering <b>SETTLEMENT PAYMENT</b>		
Date of effect Datum van inwerkingtreding <b>31 MAY 2015</b>	PSC Ref. No. SDK Verw. No.	
	Before change/Voor verandering	Subsequent to change/Na verandering
Rank Rang		
Salary scale Salarieskaal		
Salary Salaris		
Allowance Toelae		
Increment date Verhogingsdatum		
Dept Adm		
Establishment Dienstaat		
Seniority date - Actual Senioriteitsdatum - Werklik		
Seniority date - Normal Senioriteitsdatum - Nominaal		
Appropriate experience Toepaslike ondervinding	Year(s) Jaar	month(s) maand(e)
<b>PENSION DEDUCTIONS: PENSIOENAFREKKINGS:</b>	From Vanaf	From Vanaf
Government Service Pension Fund.....%	Temporary Employees Pension Fund.....%	
Regeringsdienspensioenfonds	Pensioenfonds vir Tydelike Werknemers	
Arrens/Agterstalling.....%	From/Vanaf.....	
Remarks/ Opmerkings <b>PLEASE PAY THE SETTLEMENT OF R17 357 233,00 AS MR. MSO NXASANA'S LAST WORK DAY WAS 31 MAY 2015. SEE THE ATTACHED</b>		
for Head of Department / vir Hoof van Departement		

FOR USE BY ACCOUNTANT/GEBRUIK DEUR REKENMEESTER

Noted/Aangeteken	Remarks/Opmerkings
Signature/Handtekening	Date/Datum

Debit Transaction Management

Debit Number: 889240 Find

Name: MELASO ROSANA

Debit Number: Find Outstanding Capital: 0.00

Outstanding Affidavits: 0 Outstanding Interest: 0.00

Outstanding Balance: 0.00

Debit Status: ACTIVE

Information: No data were found that meet the specified search criteria.

OK Help

Done



Azu  
2015/06/08

12

SYSCOM  
RP0026BS

DAS  
NAT: PROSECUTING AUTHORITY  
DISBURSEMENTS PER PAYEE

DATE: 31/08/2015  
TIME: 15:49:47  
PAGE: 2

DISBURSMT NUMBER	ACTION DATE	PAYMENT METHOD	NICK/REP NUMBER	BENEFICIARY	AUTHORISED BY	STATUS	PAYMENT TYPE/NO	AMOUNT
0000641599	11/06/2015	CT	693	NXASANA MSO	NGAKOANAT	CANCEL	AP 01358335	10,240,767.47
TOTAL AMOUNT FOR DBNO: 000641599								10,240,767.47
0000641593	15/06/2015	CT	698	NXASANA MSO	NDIVHUBOP	PAID	AP 01358374	10,240,767.47
SOURCE DOC NUMBER :		NOT APPLIC		SOURCE DOC NUMBER :		003378		10,240,767.47
TOTAL AMOUNT FOR DBNO: 000641693								10,240,767.47
TOTAL AMOUNT ISSUED EXCLUDING CANCELLED AND REVENUED PAYMENTS:								10,240,767.47

\* = RECORDED CREDIT TRANSFERS

\*\*\*\* END OF REPORT RP0026BS \*\*\*\*



## RECORD 3 IN TERMS OF PRAYER SEVEN (7)

---

### INDEX

---

ITEM	DESCRIPTION	PAGE NO.
1.	President's minute 162 as well as the Explanatory Memorandum	1 - 10
2.	Curriculum Vitae	11 - 37
3.	Security Clearance Certificate	38 - 39
4.	Certificates and Testimonials	48 - 97
5.	Conditions of service and Benefits	98 - 99
6.	Interview Guide Notes	100 - 102
7.	Statement of Reasons	-103



PRESIDENT'S MINUTE NO. 162

Under section 179(1) of the Constitution of the Republic of South Africa, 1993, read with sections 10 and 12 of the National Prosecuting Authority Act, 1993 (Act No. 32 of 1998), I, as Head of the National Executive, hereby appoint Shaun Kevin Abrahams as National Director of Public Prosecutions with effect from 1 July 2015

Given under my Hand and the Seal of the Republic of South Africa at ~~Cape Town~~ this 15 day of ~~August~~ Two thousand and fifteen.

PRESIDENT

MINISTER OF THE CABINET



PRESIDENT'S MINUTE NO. 162

Under section 179(1) of the Constitution of the Republic of South Africa, 1996, read with sections 10 and 12 of the National Prosecuting Authority Act, 1998 (Act No. 32 of 1998), I, as Head of the National Executive, hereby appoint Shaun Kevin Abrahams as National Director of Public Prosecutions with immediate effect.

Given under my Hand and the Seal of the Republic of South Africa at CAPE TOWN this 18 day of JUNE Two thousand and fifteen.

Handwritten signature of the President of the Republic of South Africa.

PRESIDENT

Handwritten signature of the Minister of the Cabinet.

MINISTER OF THE CABINET



REPUBLIC OF SOUTH AFRICA

Department .....

Delivery address .....

.....

The Director-General  
The Presidency

In accordance with the provisions of section 84 of the Constitution of the Republic of South Africa, 1996, the undermentioned Executive Act is enclosed for submission to the President for consideration and signature:

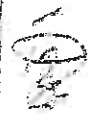

No.	Subject
162	Appointment of Adv. Shaun Kevin Abrahams as National Director of Public Prosecutions.

Director-General

Date .....

Enquiries .....

Tel. ....

 15/10/01 YIC	 15/10/01 IS/202/01					
--	--	--	--	--	--	--



MR PRESIDENT

**APPOINTMENT OF ADV SHAUN KEVIN ABRAHAMS AS NATIONAL DIRECTOR OF PUBLIC PROSECUTIONS**

**1. PURPOSE**

- 1.1 The purpose of this note is to recommend to the President to consider Adv Shaun Kevin Abraham for appointment as National Director of Public Prosecutions (the National Director), in terms of section 179(1) of the Constitution of the Republic of South Africa, 1996 (the Constitution).
- 1.2 The vacancy in the office of the National Director occurred after the previous incumbent, Mr Mxolisi Nxasana vacated the office of the National Director with effect from 1 June 2015 in terms of section 12(8) of the National Prosecuting Authority Act, 1998 (Act 32 of 1998)(the NPA Act). Dr Silas Ramaite was subsequently appointed as acting National Director in terms of section 11(2)(b) of the NPA Act.

**2. REQUIREMENTS FOR APPOINTMENT AS NATIONAL DIRECTOR**

- 2.1 Section 179(1) of the Constitution provides that there is a single National Prosecuting Authority (NPA) in the Republic structured in terms of an Act of Parliament, and consisting of, inter alia, a National Director who is the head of the prosecuting authority, who is appointed by the President, as head of the national executive.
- 2.2 Section 8 of the NPA Act requires the *prosecuting authority* "to reflect broadly the racial and gender composition of South Africa" when its members are appointed.

2.3 Section 9 of the NPA Act sets out the qualifications for appointment as a National Director, Deputy National Directors and Directors of Public Prosecutions. A Person who is eligible for appointment to the latter positions must possess a law degree that would entitle him or her to practise in all the courts of the Republic. This means that he or she must be admitted as an advocate or as an attorney at the time of appointment. The person to be so appointed must be fit and proper with due regard to their experience, conscientiousness and integrity to be entrusted with the responsibilities of the office in question. In the case of the National Director the person must be a South African citizen.

2.4 In the judgment of *The Democratic Alliance v President of the Republic of South Africa and Others* 2013 (1) SA 248 (CC) the Constitutional Court elaborated on the requirements for appointment as National Director. In this case the court held that the requirement in section 9 of the Act that the NDPP must be a fit and proper person with due regard to his or her experience, conscientiousness and integrity to be entrusted with the responsibilities of the office concerned, is an objective jurisdictional fact. The court also highlighted the importance of the incumbent of the office to be non-political and non-partisan. Furthermore, the court contended that "it is correct that the determination whether a candidate does fulfil the fit and proper requirement stipulated by the Act involves a value judgment. But it does not follow from this that the decision and evaluation lie within the sole and subjective preserve of the President. Value judgments are involved in virtually every decision any member of the executive might make where objective requirements are stipulated. It is true that there may be differences of opinion in relation to whether or not objective criteria have been established or are present. This does not mean that the decision becomes one of subjective determination, immune from objective scrutiny."



2.5 What is clear from this case is that the appointment by the President of a National Director is an executive decision which must be rational. This relates to the process by which the decision is made and the decision itself. From the above Court case it is clear that a proper profile of the candidates recommended for appointment as NDPP needs to be compiled. In this regard, information in the public domain about a particular person must be given proper consideration.

### 3. THE SUITABILITY OF ADV SK ABRAHAMS FOR APPOINTMENT AS NATIONAL DIRECTOR

3.1 Adv SK Abrahams is a Senior State Advocate attached to the Priority Crimes Litigation Unit (PCLU) of the National Prosecuting Authority and possesses the Baccalaureus Iuris (B Iuris) and Baccalaureus Prosecutions (B Proc) and Bachelor of Laws (LLB) degrees. He has 17 years prosecutorial experience and as a prosecutor has handled several complex and high profile cases which resulted in successful prosecution. Included in these cases are the following:

- (i) *State versus Henry Okah*, the prosecution of a Nigerian militant leaders on terrorism charges (Reportable).
- (ii) *State v Trollip and Others* prosecution of accused persons who conspired to attack the leadership of the African National Congress during its Mangaung elective conference in 2012.
- (iii) *State versus Kazongo and 19 Others*, the DRC nationals who attempted to recruit mercenaries in South Africa to carry-out a coup-de-tat in the DRC.
- (iv) *State versus Geiges & Wisser* which involved international nuclear proliferation.

3.2 Adv Abrahams held the position of Acting Head of the Priority Crimes and Litigation Unit during the period 1 March 2013 to 31 July 2014. During the latter acting stint he served as member of senior management or leadership of the





NPA and managed and directed the following, among others: the investigation of crimes as contemplated in the Rome Statutes of the International Criminal Court Act; the Non-Proliferation of Weapons of Mass Destruction Act; the Nuclear Energy Act; and the National Conventional Arms Control Act. He was also responsible for the Missing Persons Task Team (MPTT), whose mandate is to trace the remains of persons who disappeared during the period covered by the TRC.

3.3 Adv Abrahams commands respect amongst his peers and the National Prosecuting Authority as a whole. His unwavering commitment and dedication to his work, integrity and professional etiquette make suitable for the office of National Director. There are no legal impediments that preclude the President from appointing him to the Office of National Director.

3.4 A resumé of Adv Abrahams is attached as Annexure A, for the President's consideration.

#### 4. RECOMMENDATION

It is recommended that the President, in terms of section 179(1) of the Constitution appoint Advocate SK Abrahams as National Director of Public Prosecutions.

Subject to the President approving and to facilitate the matter, should the President so decide, a President's Minute and accompanying Proclamation (in English and Afrikaans), in accordance with the above recommendation, is attached for the President's consideration.

  
**T M MASUTA, MP (ADV)**  
**MINISTER OF JUSTICE AND CONSTITUTIONAL DEVELOPMENT**

**APPOINTMENT OF NATIONAL DIRECTOR OF PUBLIC PROSECUTIONS**



***CURRICULUM VITAE***

**ADV SHAUN KEVIN  
ABRAHAMS**

12

Shaun K Abrahams  
*Curriculum Vitae*

---

**INTRODUCTION**

I am employed as a Senior State Advocate in the Priority Crimes Litigation Unit (PCLU), Office of the National Director of Public Prosecutions (NDPP). Until 31 July 2014, I held the position of Acting Special Director of Public Prosecutions, Head: PCLU, having been appointed by the Minister of Justice and Constitutional Development in terms of section 13(3) of the National Prosecuting Authority Act 32 of 1998, a position I held since 1 March 2013. During this period I served as a member of the senior management and/or leadership of the National Prosecuting Authority (NPA).

My duties, *inter alia*, included assisting, supporting, advising and rendering tactical, strategic and legal advice to the NDPP and Deputy NDPP and as Head of the PCLU, to manage and direct the investigation and prosecution of crimes as contemplated in the Rome Statute of the International Criminal Court Act, the Protection of Constitutional Democracy Against Terrorist and Related Activities Act, the Non-Proliferation of Weapons of Mass Destruction Act, the Nuclear Energy Act, the National Conventional Arms Control Act, the Regulation of Foreign Military Assistance Act, Intelligence laws, the Protection of Information Act, crimes emanating from the Truth and Reconciliation process, serious national and international crimes as defined in the Presidential Mandate and matters as referred by the NDPP. I was also responsible for the Missing Persons Task Team (MPTT), whose mandate is to trace the remains of persons who disappeared during the period covered by the TRC.

I hold the degrees Baccalaureus Iuris (B Iuris), Baccalaureus Procuratoris (B Proc and Bachelor of laws (LLB), which I read part-time at the University of Natal, Pietermaritzburg.

Although I was admitted as an Advocate of the High Court of South Africa in the Natal Provincial Division on 11 March 2002, I first received a delegation to prosecute in February 1997 from the Attorney-General of Natal. In effect, I have approximately seventeen (17) years relevant experience in the law.

I am a career prosecutor, who, with the exception of the two aforementioned positions, have held various other positions in the Department of Justice and in the NPA, having started my career with the former in 1994 as an Administration Clerk. In this regard, I have also held the positions of Senior Administration Clerk, Assistant Administration Officer, Prosecutor, Control Prosecutor and State Advocate.

I have prosecuted in numerous high profile cases over the years and have rendered technical legal advice in others (the merits of which are briefly discussed later herein). These, *inter alia*, include:

1. **S v Henry Okah** – The prosecution of a Nigerian militant leader on terrorism charges. [S v Okah, SS94/2011] [2013] ZAGPJHC 6 (21 January 2013) (Reportable)] and [S v Okah SS94/2011 [2013] ZAGPJHC 85 (20 March 2013) (Reportable)]
2. **S v Kirztzidis & 2 Others** – Right-wing extremist who conspired to engage in terrorist acts against black ANC members in Phalaborwa.
3. **S v Trollip & Others** – Right-wing extremist who conspired to attack the leadership of the ANC at the Mangaung Elective Conference in December 2012. [Keevy v S (A66/2013) [2013] ZAFSHC 53 (2 April 2013) (Reportable)] and [Prisloo v S (A40/2013) [2013] ZAFSHC 54 (18 April 2013) (Reportable)]
4. **S v Kazongo & 19 Others** – DRC nationals who attempted to recruit mercenaries in South Africa for a coup in the DRC.
5. **S v Uriwani & 5 Others (Rwandan matter)** – Foreign nationals who attempted to assassinate former Rwandan General Kayumba Nyamwasa.
6. **The Murder of Patrick Karageya** – The former head of Rwandan Intelligence who was murdered in his hotel room in Sandton on 31 December 2013.

Shaun H. Abrahams  
*Curriculum Vitae*

- ✦ **S v Geiges & Wisser** – International Nuclear proliferation. [S v Geiges and Others M & G Media Ltd and Others intervening] 2007 (2) SACR 507 (T)]
- ✦ **Minister of Safety and Security and Others v Mohamed and Another** – lawfulness of a search and seizure warrant executed at the residence of an Islamic extremist on terrorism matter. [Minister of Safety and Security and Others v Mohamed and Another (2012 (1) SACR 321 (SCA)]
- ✦ **S v Eugene Terre'Blanche (AWB Leader)** – Terrorism and sabotage committed prior to the 1994 democratic elections.
- ✦ **S v Andre Visagie** – The prosecution of former AWB Secretary-General on unlawful possession of self-made arms and a large quantity of ammunition.
- ✦ **Muslim Lawyers Association v the Minister of Police and Others** – Request to arrest and investigate US President, Barack Obama.
- ✦ **National Commissioner of SAPS v SALC (Zimbabwean matter)** – request to investigate high profile Zimbabwean officials on charges of crimes against humanity.
- ✦ **Singh v Minister of Justice and Another** – Mandamus for a *nolle prosequi* certificate by a Magistrate to privately prosecute senior NPA officials. [2009 (1) SACR 87 (N)]
- ✦ **NIA leaked document** – A senior State Security operative who leaked a sensitive highly classified operational document to the media
- ✦ **Equatorial Guinea Coup plot** – Mercenary activities involving a number of high profile individuals
- ✦ **S v Chauke (Highwayman)** – Serial murderer and rapists
- ✦ **Kalahari Resources Matter [Majal v S (41210/2010) [2011] ZAGPJHC (19 July 2011) (Reportable)]**
- ✦ **Murder of NUM Chairman** – successfully prosecuted the assassination of the Chairman of the National Union of Mines in 2004

In some of the above matters and in others, I transferred forensic legal skills and experience to colleagues within the NPA, those in the private sector and to other stakeholders, embracing equity and transformation.

I have an incredible work ethic, having consistently received meritorious awards for my outstanding professional performances almost annually from 2000 to date. The former Head: PCLU described me as having consistently been the most outstanding prosecutor in his office. During 2012/2013 I had the honour of having the Best Specialist Prosecutor and Excellence in Prosecution of Crimes that Impact on the Security of the Republic awards bestowed on me.

Due to my experience, integrity and ability, I have over the years regularly been tasked by various NDPP's and/or Acting NDPP's with extremely sensitive and complex matters and am proven to have a sound knowledge of the law, having written many challenging opinions confirming my ability to easily assimilate facts and apply them to the law.

I am in good standing in the legal profession as a whole, being well respected by my peers within the entire legal fraternity, by Judges, regional magistrates and magistrates alike.

As a senior officer of the Court, I have been seen to be a person of integrity in my role as an administrator of justice. In this regard I have been seen to administer justice impartially and independently, acting in the interest of the community, domestically and internationally. I have at all times executed my duties without fear, favour or prejudice and have always presented myself in a fair and transparent manner, applying the law to any given situation with due cognisance of the administration of justice and the Constitution, upholding human dignity and fundamental rights. I have at all times upheld the values, ethos and responsibilities of the office with which I have been entrusted.

I have come to be extremely knowledgeable on international cooperation in criminal matters having formally and informally rendered assistance to various countries and have written

Shawn E. Abrahams  
*Curriculum Vitae*

---

numerous legal opinions on this topic. I have also sought formal and informal assistance from foreign States in numerous matters.

I have considerable experience on terrorist, terror financing and related matters. I have been accredited to having successfully prosecuted the only two terrorism related matters in contravention of the Protection of Constitutional Democracy Against Terrorism and related Activities Act, No 33 of 2004, one of which was a historical extra-territorial prosecution expounded on the international principle *aut dedere aut judicare* (extradite or prosecute), in *S v Henry Okah*. The Institute of Security Studies (ISS) described this prosecution as a victory for Africa in the fight against terror. I have also represented the NPA on an Inter-Departmental Terrorism Working Group where I played leading roles as a local expert on, *inter alia*, legal issues, international cooperation, extraditions, money laundering, terror financing, freezing orders and confiscatory provisions during the United Nation's (UN) Counter-Terrorism Executive Directorate's (CTED) visit to South Africa during 2008 and later, the UN's Financial Action Task Force (FATF) visit. During 2011 I was invited by the US Attorney-General to present a keynote address on the international challenges faced by States in cooperating in terrorism matters. Due to other professional obligations I sadly had to decline the invitation.

I have since received numerous other invitations internationally to present papers on the challenges faced by States in cooperating in terrorism matters. In March 2014, I was elected by the African Prosecutors Association (APA) Executive as the lead drafter of a Counter-Terrorism Training Manual for prosecutors on the African continent. The draft manual, crafted jointly with the ISS, was timeously completed within the very pressing timeframe, having been launched at the APA's Annual Conference in the Côte d'Ivoire during October 2014.

I also have extensive experience in crimes against humanity, war crimes and genocide, having presented a paper at the International Criminal Tribunal of Rwanda (ICTR), representing the South African Government at a Forum between Offices of the Prosecutors of UN ad Hoc Tribunals and National Prosecuting Forums, titled "*Challenges of cooperation in Africa: A South African Perspective*". I have also presented papers to the Institute of Security Studies (ISS) at workshops on International Criminal law.

I hold a Top Security Clearance, which expires on 31 August 2018.

I regularly provide technical legal assistance and strategic advice to stakeholders in both the execution of the PCLU's and the NPA's mandate.

On occasion, I represented the NDPP at extremely sensitive meetings with the National Intelligence Coordinating Committee (NICOC) and briefings to Ministers of the Security Cluster. I have also provided briefings to the Minister of Justice in terms of section 33(2) of the NPA Act. Over the years I have on numerous occasions, and officially, briefed and had discussions with various Cabinet Ministers and/or Ministerial Committees, including the Ministers of Justice, State Security, Police, Defence, Department of International Relations and Cooperation, Home Affairs and the National Conventional Arms Control Committee (NCACC), chaired by the Minister in the Presidency.

During 2014, I had the honour of briefing the President of the Republic of South Africa on an extremely sensitive international matter impacting on the security of the Republic, nationally and internationally.

I have been described by a well-respected and senior Judge as, *inter alia*, exceptionally competent, hard-working, very proficient in forensic skills and a masterful cross-examiner. In support of my consideration to apply for *Senior Consultus* (SC) status, the same judge remarked that my "*experience, integrity, honesty, leadership, character, conscientiousness and general demeanour are all consummate with the high status of SC*"...and that I "*will be a*

Shaun K Abrahams

*Curriculum Vitae*

*valued and respected member of that status, able to give good guidance and leadership to those that follow in" my "footsteps."*

In this regard, I have the support and/or recommendation of senior judges and numerous SC's for the conferral of SC status on me.

**PERSONAL DETAILS**

*First names:* Shaun Nevil

*Surname:* Abrahams

*Date of Birth:* 19 March 1976

*Sex:* Male

*Children/dependents:* Three children

*Nationality:* South African

*Ethnic Group:* Coloured

*Drivers License:* Code 08

*Home Language:* English

*Other Languages:* Afrikaans (read, write, speak)

*Residential Address:* 4 Heath Place  
3 Alliway  
Lonehill  
Sandton

*Postal Address:* PO Box 75303  
Lynnwood Ridge  
0040

*Contact Details:* +27 84 821 2559 (mobile)  
+27 12 845 6454 (office)  
+27 12 8456337 (fax)

(e-mail)  
[sabrahams@supercourt.org.za](mailto:sabrahams@supercourt.org.za)  
[shaun.abrahams@hollands.com](mailto:shaun.abrahams@hollands.com)

*Security Clearance:* Top Security Clearance (issued on 1 August 2013 and expires on 31 August 2018)



Shann K Abrahams  
*Curriculum Vitae*

**SCHOOL EDUCATION**

*Last School Attended:* Haythorne Senior Secondary School,  
Woodlands, Pietermaritzburg

*Highest Standard Passed:* Matric (Senior Certificate)

*Year of completion:* 1993

*Achievements:* Rugby: Captain of the school 1<sup>st</sup> XV  
Captain of the Natal Midlands  
Development Schools 1<sup>st</sup> XV

**TERTIARY QUALIFICATIONS**

BACCALAUREUS IURIS - B Juris (part-time)  
BACCALAUREUS PROCURATIONIS - E Proc (part-time)  
BACHELOR OF LAWS – LLB (part-time)

**SPORTING ACHIEVEMENTS**

Rugby: Natal Under 21 elite squad (1996)  
Young Lions Rugby Football Club 1<sup>st</sup> XV (1995 – 2000)  
Natal Country Districts (2000)  
Maritzburg Blues 1<sup>st</sup> XV (2000 - 2001)  
Maritzburg Collegians 1<sup>st</sup> XV (2002)  
Maritzburg Rugby Sub-union 1<sup>st</sup> XV (2000 – 2002)  
Various Natal invitation teams (1999 – 2002)

**PROFESSIONAL**

1. In-house mentorship (February 1997 – March 2000) (Office of the Attorney-General: Natal and/or DPP KZN) - First received a delegation to prosecute in February 1997
2. Prosecutor (April 2000 – May 2002, Pietermaritzburg Magistrates Court)
3. Admitted as an Advocate on 11 March 2002 (Natal Provincial Division)
4. State Advocate (June 2002 – September 2004, Director of Public Prosecutions, Pretoria)
5. Senior State Advocate (October 2004 – February 2013, Priority Crimes Litigation Unit (PCLU), Office of the NDPP)
6. Acting Special Director of Public Prosecutions, Head: PCLU – (1 March 2013 – 31 July 2014)
7. Senior State Advocate and Head: PCLU (1 August 2014 – to date – PCLU)

17

Shaun K Abrahamus  
*Curriculum Vitae*

---

**HOBBIES**

I enjoy mountain biking, golf, jogging, tennis and reading. I am also a keen rugby, soccer, boxing and cricket enthusiast.

**WORK EXPERIENCE: 1 March 2013 to 31 July 2014**

**Employer:** National Prosecuting Authority  
Priority Crimes Litigation Unit (PCLU), Office of the NDPP

**Designation:** Acting Special Director of Public Prosecutions,  
Acting Head: PCLU

**Period Employed:** 1/3/2013 – 31/7/2014

A. Appointed by the Minister of Justice & Constitutional Development in terms of section 13(3) of the NPA Act. Was a member of the Senior Management of the NPA. Assisted, supported, advised and rendered tactical, strategic and legal advice to the NDPP and Deputy NDPP and as Head of the PCLU, managed and directed the investigation and prosecution of crimes as contemplated in the Rome Statute of the International Criminal Court Act, the Protection of Constitutional Democracy Against Terrorist and Related Activities Act, the Non-Proliferation of Weapons of Mass Destruction Act, the Nuclear Energy Act, the National Conventional Arms Control Act, the Regulation of Foreign Military Assistance Act, Intelligence laws, the Protection of Information Act, crimes emanating from the Truth and Reconciliation (TRC) process, serious national and international crimes as defined in the Presidential Mandate and matters as referred by the NDPP. Was also responsible for the management of the Missing Person's Task Team (MPTT) who are mandated to trace the remains of people who disappeared during the political unrest covered by the TRC.

Managed and offered general management responsibilities to the Head of the National Special Prosecution Services (NSPS), a Deputy NDPP. Co-ordinated, monitored and reviewed authorized projects within the PCLU. Contributed to and directed the development of policies and procedures on investigations and prosecutions within the NPA and PCLU. Contributed to the development and implementation of the strategic plans and business plans of the PCLU and NPA. Performed general management responsibilities as stipulated in the Core Management Competencies. Exercised oversight over asset management and the safeguarding of assets allocated to the PCLU.

Managed and drafted the strategic policy on one of the top five risks of the NPA (emerging crimes). Was the chairperson of the Performance Assessment Moderating Committee of the NDPP's Office.

Drafted the PCLU's Annual Performance Plans for the periods 2013 – 2014 and 2014 – 2015. Managed the PCLU in compliance with the unit's quarterly and annual targets as per the unit's Annual Performance Plans. Drafted the PCLU's Annual Performance Reports for the period 2012 – 2013, and 2013 – 2014. Conducted the performance assessments of the unit and its members in line with the unit's quarterly and annual targets.

18

Shaun K. Abraham  
*Curriculum Vitae*

---

B. Notable forensic experience during this period:

*S v Henry Okah* (Is further commented on below)

[*S v Okah* 5594/2011 [2013] ZAGPJHC 85 (20 March 2013) (Reportable)]

Prior to the sentencing of the accused in March 2013 to serve an effective 24 years imprisonment and after having been convicted of 13 terror related charges in the South Gauteng High Court in January 2013, the accused filed an application in terms of section 317 of Act 51 of 1977, requesting the Court to note special entries of irregularities on three grounds, namely the presence of a Nigerian Barrister at his proceedings, the failure to warn him of his rights in terms of article 7(3)(a), (b), and (c) of the International Convention for the Suppression of Terrorist Bombings and the Courts failure to *mero motu* issue a letter of request for mutual legal assistance to Nigeria in terms of section 2(1) of the International Co-Operation in Criminal Matters Act, No 75 of 1996. In a reportable judgment the Court refused the application. The accused unsuccessfully petitioned the President of the Supreme Court of Appeal in respect of the section 317 ruling. The accused has however been granted leave to appeal to the Supreme Court of Appeal on the legal question of the trial Court's assumption of extraterritorial jurisdiction to hear the matter. The appeal will be heard on 26 November 2014.

*S v Kiratzidis & Another* (Is further commented on below)

The two accused unsuccessfully petitioned the President of the Supreme Court of Appeal after their conviction and sentence on conspiracy to engage in terrorist activities. The accused thereafter unsuccessfully appealed to the Constitutional Court.

*S v Trollip & 3 Others* (Is further commented on below)

[*Prinsloo v S* (A40/2013) [2013] ZAFSHC 54 (18 April 2013) (Reportable)]

[*Keevy v S* (A66/2013) [2013] ZAFSHC 53 (2 April 2013) (Reportable)]

Both appellants are accused in the matter of *S v Trollip and 3 Others*, in which they were refused to be admitted to bail by the Chief Magistrate: Bloemfontein in February 2013 for their roles on high treason and conspiracy to engage in terrorist activities in wanting to eliminate the President of the Republic and other Cabinet Ministers during the African National Congress' (ANC) elective conference in Mangaung during December 2012. Their application fell within the ambit of Schedule 6 of Act 51 of 1977. The two accused appealed against the refusal to admit them to bail. Both appeals were dismissed in reportable judgments. The accused were indicted in the Free State High Court. Accused 1 pleaded guilty and was sentenced to 8 years imprisonment. Accused 2 was found to be a State Presidents patient. The trial against the third accused is prosecuted by a member of the PCLU. With the intention of transferring skills and taking transformation and equity into consideration I requested the DPP: Free State to appoint a suitable advocate from her office to assist a PCLU member in the prosecution thereof, which she kindly assisted with. The accused was convicted and sentenced to serve an effective 12 years imprisonment.

*S v Mzongo & 19 Others*

The accused, of which nineteen (19) are nationals from the Democratic of Republic ("DRC") and one (1) a naturalised US citizen were arrested in an undercover operation for recruiting mercenaries and for receiving military training in South Africa with the aim of overthrowing the DRC government in contravention of the Regulation of Foreign Military Assistance Act. I successfully opposed the bail application of all the accused in the Pretoria Regional Court and the leave to Appeal to the Supreme Court of Appeal by Accused 20. The accused were indicted in the North Gauteng High Court. The trial is presently in progress. A colleague is prosecuting therein. At the outset of the trial, the accused lodged a number of applications, including a constitutional challenge to the Regulation of Foreign Military Assistance Act. No 15 of

19

Shaun K Abrahams  
*Curriculum Vitae*

1998; a review of the decision to approve a section 252A of Act 51 of 1977 undercover operation and the authority to approve same; and whether the Deputy Director of Public Prosecutions who approved the section 252A undercover operation and who guided the criminal investigation was competent to prosecute the matter. I successfully opposed all the aforementioned applications. A reportable judgment will be delivered at the end of the trial.

**Muslim Lawyers Association (MLA) v The Minister of Safety and Security & Others**

Upon hearing the news of the visit to South Africa by the President of the US, Barack Hussein Obama, the MLA filed a dossier with the NPA and the Hawks requesting an immediate investigation, arrest and the prosecution of President Obama into the alleged use of drones by the US President in the US' fight against terror, which it alleged amounts to war crimes, crimes against humanity and genocide of Muslims. The MLA further requested an immediate decision on whether or not President Obama would be investigated, arrested and prosecuted, providing a deadline date. The SAPS declined to investigate and communicated same to the MLA. Prior to the Acting NDPP making a decision in the matter the MLA brought an urgent application in which it cited the Acting NDPP and I as respondents in the matter in that it sought an order compelling the NPA to cause the initiation of an investigation, to prosecute President Obama and in the event of failing to do so, to report the matter to the International Criminal Court. The Deputy Judge President of the North Gauteng High Court dismissed the application with costs. In this regard, I rendered advice to both the Acting NDPP and to Senior Counsel representing the NPA.

**S v Uriwani & 5 Others (Rwandan attempted murder trial)**

The accused appeared in the South Gauteng Regional Court, charged with attempting to murder former Rwandan General Kayumba Nyamwasa who enjoys political asylum in South Africa. Nyamwasa was the former Rwandan Ambassador to India and had also prior thereto been the Head of the Rwandese Army. Nyamwasa fled to South Africa during March 2010 and was granted asylum in June that same year. On 19 June 2010, he was shot at the entrance of the security residential complex in which he resided at the time in Athol-Oaklands Road, Johannesburg. The accused who are all foreign nationals were arrested soon thereafter. Evidence presented by the prosecution is indicative of a failed assassination attempt on Nyamwasa's life, implicating the Rwandan Government and/or persons strongly aligned thereto. Nyamwasa and his family are currently under the protection of Military Intelligence. Nyamwasa's extradition has been sought by the Rwandan Government on terror-related charges, as well as by the French and Spanish Governments on charges of war crimes and crimes against humanity for his alleged role during the Rwandese genocide of 1994. The matter caused a great deal of diplomatic tension between South Africa and Rwanda. 4 of the 6 accused have subsequently been convicted and sentenced to serve an effective 8 years imprisonment. A Notice of Appeal on questions of law has been filed in respect of the acquittal of the remaining 2 accused.

**Murder of Patrick Karegeya (Assassination of Former Chief of Rwandan Intelligence)**

The deceased, Patrick Karegeya, was the Director-General of External Intelligence in the Rwanda Defence Forces (Chief of Intelligence) from 1994 to 2004. He fled Rwanda for South Africa where he enjoyed asylum. During the evening of 31 December 2013, and between 20h15 to 20h45, Karegeya was murdered in one of the rooms at the Michelangelo Towers Hotel, 8 Maudé Street, Sandton. The cause of death was ligature strangulation. Karegeya's assassination by foreign nationals resulted in greater diplomatic tensions between South Africa and Rwanda. Investigations are still under way.

**S v Andre Visagie (Unlawful possession of self-made rifles)**

Shaun K Abrahams  
*Curriculum Vitae*

The accused is the former Secretary General of the AWB and is presently the leader of an extremist right-wing organization, namely the "Geloftevolk Republikeins". As a result of information received of his intention to engage in acts of terrorism, a search and seizure operation was conducted at his residence in Kimberley after which a large quantity of unlicensed ammunition was retrieved, together with a number of self-made shotguns and an unlicensed firearm. The accused was convicted of unlawful possession of firearms and ammunition in contravention of the Firearms Control Act, No 60 of 2000 in the Kimberley Regional Court and sentenced to 5 years imprisonment. He has now appealed against his conviction and has filed a petition against his sentence.

Alleged impropriety by members of the NPA in the Selebi Matter  
(Is commented on further below)

I have recently requested the docket from the police to make a final decision on the matter.

**WORK EXPERIENCE: OCTOBER 2004 to February 2013**

**Employer:** National Prosecuting Authority  
Priority Crimes Litigation Unit

**Designation:** Senior State Advocate

**Period Employed:** 1/10/2004 – 28 February 2013

A. Seconded to the Priority Crimes Litigation Unit (PCLU) to assist in the management of investigations and prosecution of serious national and international crimes which impact on State security. This includes contraventions of South Africa's Implementation of the Rome Statute of the International Criminal Court Act, Non-Proliferation of Weapons of Mass Destruction Act, Nuclear Energy Act, Terrorism and related laws, Conventional Arms Control Act, Mercenary Activity and Military Training laws, Intelligence and Protection of Information laws, crimes emanating from the Truth and Reconciliation process and other matters as directed by the National Director of Public Prosecutions

B. Notable forensic experience during this period:

S v Henry Okah (International Terrorism)

[S v Okah, SS94/2011] [2013] ZAGPJHC 6 (21 January 2013) (Reportable)]

In a test case on the international principle, *aut dedere aut judicare* (i.e. extradite or prosecute), the accused, a Nigerian national, was convicted on thirteen (13) terror related charges in contravention of the Protection of Constitutional Democracy against Terrorist and Related Activities Act, No 33 of 2004 in the South Gauteng High Court. The charges emanated from the accused's role as a leader for the Movement for the Emancipation of the Niger Delta ("MEND"), a rebel militant organization, ostensibly from the oil-rich Niger Delta region which had over the years, been adversely affected by severe poverty, which in the accused and/or MEND's view was a result of the Nigerian Federal Government's unequal and discriminatory sharing of oil revenues. As a result, the accused orchestrated the detonation of vehicle borne improvised explosive devices (VBIED) at the venue of a post amnesty dialogue in Warri on 15 March 2010 which resulted in the death of one person and severe injuries to a number of persons and at the venue of the Nigerian Federal Government's 50th Independence Celebrations in Abuja on 1 October 2010, which resulted in the death of eight persons and severe injuries to over fifty people. The accused was arrested in Johannesburg on 2 October 2010. Whilst awaiting his trial in

21

Shatin K Abrahamas  
*Curriculum Vitae*

---

detention, the accused directed threats to disrupt South Africa's business activities in Nigeria and to kidnap South Africa expats should he not be released from custody. The accused was sentenced to an effective 24 years' imprisonment.

At the inception of the matter the accused was refused bail by the Regional Court Johannesburg after a marathon Schedule 6 bail application where after he unsuccessfully appealed to the South Gauteng High Court. Three different prominent Senior Counsel's had represented the accused during various stages of his matter.

A multi-disciplinary team conducted the investigation under my guidance. Letters of request for mutual legal assistance to Nigeria and the USA were obtained and official visits were undertaken to both the US and Nigeria to secure the required evidence and to consult with witnesses. I drafted the indictment which was described by the former head of the PCLU as a masterpiece. The trial reaffirmed the efficacy of the Republic's international obligations and terrorism laws. The Institute for Security Studies described the successful prosecution as a victory for Africa in the fight on terror. The Minister of Justice, Nigeria commended me for the successful prosecution.

Approximately 30 witnesses travelled from Nigeria to testify in the matter of which 6 or 7 were incorporated into the witness protection programme in South Africa and repatriated back to Nigeria after their evidence.

The accused was sentenced to serve an effective 24 years imprisonment. At various stages of the matter, with the exception of the trial, I made use of two different juniors providing them with the necessary exposure. Equity and transformation policies were applied.

**"Hijacking" of Kalahari Resources (Fty) Ltd (Fraud)**

*[Majali v S (41210/2010) [2011] ZAGPJHC (19 July 2011) (Reportable)]*

Five persons and an entity were charged with fraud for their roles in "hi-jacking" Kalahari Resources (Pty) Ltd. One of the accused, Sandi Majali, was a director of an entity which held 8.33% shares in Kalahari. Kalahari held 40% in a multi-billion Rand entity called Kalagadi Manganese (Pty) Ltd. Majali was in a financial conundrum and had been in a battle with the directors of Kalahari in relation to the payment of dividends estimated to be valued at millions of Rand, which would have relieved his financial woes. The accused misrepresented to CIPRO that the lawful directors of Kalahari had been disqualified as a result of a resolution taken by the board of directors and had been replaced by themselves and other persons. This would have enabled the accused to benefit handsomely. Three of the accused were sent for mental observation in terms of section 77(1), 78(1) and 78(2) of Act 51 of 1977 of which two of them were found unfit to stand trial. Majali, who was well known in the business and political arena, was released on bail during an urgent application which was concluded very late on a Friday evening, into the early hours of the morning of the Saturday of 23 October 2010. Whilst the written judgment was still awaited, and consideration given to take the matter on appeal as it impacted on the interpretation and application of section 50(6)(d), section 60(11)(a) and (b) of Act 51 of 1977 as well as the access to Courts by the indigent man, Majali died. The written judgment was only delivered almost 8 months later. An appeal would have only been historical. Majali was represented by a prominent Senior Counsel. Although a Senior Counsel appeared as my junior in the matter, I later appointed a junior to provide him with the necessary exposure. In this regard, I applied equity and transformation policy considerations.

**S v George Kiratzidis & 2 Others (The Phalaborwa Terrorism trial)**

27

Shaun K Abrahamis  
*Curriculum Vitae*

Accused 1 and 2 were *inter alia* convicted of conspiracy to engage in terrorist activities and an attempt to recruit entities to engage in terrorist activities by the Deputy Judge President of the North Gauteng High Court, in the Circuit Local Division of the Northern Circuit District, sitting in Phalaborwa in contravention of Act 33 of 2004. The accused conspired to detonate improvised explosive devices at the residences of members of the African National Congress (ANC) and/or black people as well as on board public transport facilities used by black people and/or ANC members. The two accused were respectively sentenced to serve periods of twelve (12) and five (5) years imprisonment. Accused 3 was convicted of unlawfully manufacturing explosives and sentenced to pay a fine, coupled with a suspended prison sentence. Accused 1 and 2 were denied leave to appeal to the Supreme Court of Appeal against both their conviction and sentences. During the search and seizure of Accused 1's residence, seven improvised explosive devices, a large quantity of ammunition and an unlicensed firearm were found. During closing argument a point in *limine* was unsuccessfully raised that the certificate to prosecute issued by the NDPP in terms of the terrorism Act was invalid as a result of the decision by the SCA that Adv Simelane's appointment was unconstitutional. Confessions and pointings-out conducted by the accused were not admitted as evidence by the trial judge. The issue of whether a key state witnesses conduct fell within the ambit of section 252A was decided in the State's favour. Two of the accused were represented by prominent Senior Counsels.

**S v Frohlp & 3 Others (Mangaung High Treason trial)**

The four(4) accused were arrested on charges of high treason and conspiracy to engage in terrorist activities which emanated from their elaborate plan to kill the President of the Republic and senior Cabinet Ministers at the ANC's elective conference on 16 December 2012, Mangaung, with the use of mortar bombs and high calibre automatic machine guns. At extremely short notice, I was requested by the leadership of the NPA to prosecute the bail application before the Chief Magistrate, Bloemfontein, which was successfully opposed in respect of three (3) of the accused. A Senior Counsel appeared as my junior in the matter.

**SARS Matter (Re: Dave King's fraudulent SARS settlement Agreement)**

**(Fraud, forgery and uttering)**

This matter relates to a written fraudulent agreement entered into between Dave King and a person purporting to act at the behest of SARS in reaching a settlement agreement in solving Dave King's tax problems. I was appointed by the NDPP to manage the investigations and prosecute the matter. The investigation has revealed improprieties by a former SARS employee, attorneys, tax consultants and other persons. SARS and the NPA have subsequent hereto settled Kings tax affairs by way of a plea and sentence agreement in terms of section 105A of Act 51 of 1977. I intend communicating my decision hereon in the very near future.

**Alleged impropriety by members of the NPA in the Selebi Matter**

As a result of written complaints received from SARS and the legal representative of former Police Commissioner, Jackie Selebi, of improprieties alleged to have been committed by members of the NPA prosecution and investigation teams during the Selebi investigation and subsequent prosecution, I was appointed by the NDPP to manage a SARS investigation into the matter. One of the key issues investigated related to the correctness of the decision by the prosecutor to issue Section 204 status to alleged accomplices and known criminals. The Hawks have resubmitted the docket to me for consideration and at my request. The new NDPP has enquired into the matter and has been apprised. I am presently considering the matter and will shortly advise the NDPP of my findings and decision.

Shamir H. Abraham  
*Curriculum Vitae*

Investigations of alleged corruption against Willie Hofmeyr, Myburgh SC & Another

The matter relates to a complaint by Dave King against Hofmeyr and Myburgh SC of alleged corruption. Hofmeyr, a Deputy National Director of Public Prosecutions, was Acting Head of the DSO (Scorpions) at the time and managed the investigation and prosecution against King on *inter alia* tax related charges. Myburgh SC (of the Sandton Bar) was the lead prosecutor in the matter. Due to the sensitivity of the allegations the facts will not be mentioned save to say that King alleged that Myburgh SC offered him a bribe which was sanctioned by Hofmeyr. After due consideration I submitted a comprehensive legal opinion together with my decision to the ANDPP, in which I had declined to prosecute.

New Generation Ammunition (ammunition proliferation & fraud)

The main suspect is, *inter alia*, a manufacturer of ammunition, and had attempted on two separate occasions to export large quantities of ammunition allegedly destined for UN peace keeping forces in Liberia, Ivory Coast and Burundi, to the Democratic Republic of Congo (DRC) without having obtained export permits from the Registry of Firearms and without the prerequisite authority of the National Conventional Arms Control Committee (NCACC). As a result the ammunition was seized by the SAPS members of the Crime Intelligence Unit at OR Tambo International Airport during the second attempt. The main suspect had through its acting CEO presented fraudulent permits and had attempted to use an SANDF chartered flight to export its private ammunition without having obtained the authority of the Chief of the SANDF, the Minister of Defence and the President of the Republic. The suspect was fraudulently assisted by members of the SANDF who acted outside the scope of their mandates. I briefed the Chief of the SANDF, the Minister of Defence and the NCACC on the matter. As a result of the briefing the NCACC withdrew its authority it had previously granted to the Firearms Registry to issue export permits to the suspect for the export of the ammunition to the three UN peace keeping forces countries. The suspect unsuccessfully brought a number of urgent applications in the North Gauteng High Court to have the ammunition returned, to export same to the DRC as well as a Review application to set aside the decisions by the NCACC and the Firearms Registry which, respectively, revoked its authority to issue the permits and the immediate suspension thereof. The NPA was not cited as a party to the proceedings. I, nevertheless, played a leading role in advising the legal teams acting for the Ministers of SAPS and the SANDF as well as that of the NCACC in successfully defending all High Court applications. Investigations were concluded after engaging the UN in discussions in New York. The UN confirmed the legitimacy of the order. After learning that the company had liquidated, I recommended internal disciplinary steps against members of the SANDF and I declined to prosecute the company.

S v Geiges, Wisser & Krisch Engineering Co (Pty) Ltd (Nuclear Proliferation and Proliferation of Weapons of Mass Destruction)

This matter related to the proliferation of nuclear technology capable of manufacturing several nuclear weapons per annum to Libya and Pakistan in contravention of our Weapons of Mass Destruction, Nuclear, fraud and forgery legislation. It is regarded as the largest case of nuclear proliferation in the world and is part of the Dr AQ Khan network (Khan is the father of the Pakistani nuclear bomb). The investigation spread across several continents and included the following countries: South Africa, USA, UK, Switzerland, Malaysia, Spain, Germany, United Arab Emirates and Turkey. An estimated 76 million USD is alleged to have been utilised by the various role players throughout the world. Both Geiges and Wisser, who were represented by Senior Counsel, were convicted in the Transvaal Provincial Division of the High Court. Over R36 million was seized in assets as a result of forfeiture orders granted to the detriment of the accused.



24

Shawn E. Abrahams  
*Curriculum Vitae*

The investigation included a comprehensive audit and forensic investigation of over 20 000 documents, technical drawings and financial records (local and international) dating back to the early 1970's, which included South Africa's uranium enrichment technical documents, as well as that of Pakistan and Libya. The legal issues included some of the following aspects: International co-operation in criminal matters, evidence via video conferencing, documentary evidence, confessions, admissions, pointing-outs, Section 204 witnesses, Section 205's, search warrants, company law, in-camera applications, computer – and electronic evidence, expert witnesses (computer experts, nuclear experts and water purification experts) and Customs Tariff codes and procedures. National and international security was taken into consideration along with the interaction of key stakeholders during the investigation and prosecution.

I travelled extensively, locally and abroad and interacted with attorneys-general of various countries, ambassadors, directors-general of various government departments, managing directors of multi-million dollar companies and representatives of various law enforcement agencies. I managed an investigation team consisting of senior members of the Crimes Against the State component (CATS) of the Organized Crime Unit of the South African Police Service (SAPS), as well as the National Intelligence Agency (NIA), Proliferation Council, Reserve Bank, SARS, AFU, Customs & Excise. This matter attracted considerable media attention, both locally and abroad. The South African Government was applauded by foreign countries and international organizations, in particular the International Atomic Energy Agency for its successes in the above matter.

In *S v Geiges and Others (M & G Media Ltd and Others intervening) 2007 (2) SACR 507 (T)*, which related to a blanket in-camera application, I was a junior to my colleague in the NPA who appeared with a prominent Senior Counsel. I conducted legal research in the matter and had differed from my colleague on the interpretation of the legal principles, in that I was of the view the Court would not automatically grant a blanket in-camera order and that *ad hoc* applications would have to be brought in relation to specific evidence. My views were confirmed in the above judgment.

**S.v Tshepiso Moeketsi Moletsani (Intelligence/Security breach)**

The accused, a counter-espionage operative in the employ of the National Intelligence Agency (NIA), leaked a highly classified operational document to BDFM Publishers (Pty) Ltd and or Business Day, which, if it had been publicised, would have had far reaching political ramifications in this country. In a historic prosecution, the trial commenced on 9 April 2009. The accused had been charged with contravening the Intelligence Services Act and the Protection of Information Act. In-camera proceedings and documentary evidence were the most prominent aspects during this serious State security breach trial. National security was taken into consideration, by liaising with key government stakeholders at the highest level. The Deputy Director-General: NIA and the spokesperson in the Office of the Minister of Intelligence were key witnesses in this matter. During the presentation of the State's case the newly appointed Director-General made written representations in which he requested the prosecution to be stopped.

**S.v Mustafa Jonker (Mohamed) & Others (Terrorism)**

*[Minister of Safety and Security and Others v Mohamed and Another (2012 (1) SACR 321 (SCA))]*

The South African Police Services (SAPS) conducted search and seizure operations simultaneously at four venues in the Western Cape. During this operation chemicals used to manufacture explosive devices (TATP) along with electronic data with step-by-step instructions to manufacture same were seized from the residence of a member of an Al Qaeda affiliated group. The explosives intended to be manufactured are the same as that used during the London bombings of 7 July 2005. The SAPS brought the investigation to my attention 8 months after the search and seizure operation. Prior to

Shaun K Abrahams

Curriculum Vitae

the matter being submitted to me the suspect successfully brought an application in the Cape High Court, declaring the search and seizure unlawful. I have in the interim advised the SAPS legal team, which includes Senior Counsel, on the prospects of success on appeal (which included leading further evidence on appeal), as well as the investigating team on the technical evidence required to indict the suspect. Application for leave to appeal was granted and the appeal was argued on 29 January 2010 before a full bench of the Cape High Court. In delivering judgment, the Full Bench of the Cape High Court found the search and seizure to be unlawful. The SAPS successfully appealed to the SCA. Guidance given to the investigating team included, *inter alia*, the project planning of the investigation, admissibility of the evidence obtained, computer evidence (generated documents, e-mails & internet material), explosive experts evidence, the use of an Arabic translator to translate sensitive Al Qaeda manuals, expert evidence on Islamic radicalization and evidence obtained from interception directives. The accused eventually pleaded guilty under an agreement in terms of section 105A of Act 51 of 1977.

**S v Imperial Armour (Pty) Ltd (Conventional Arms Control breaches)**

The accused, a multiple winner of the Durban Chamber of Commerce Exporter of the year award, exported controlled body protective gear without the prerequisite permit from the controlling body and in contravention of UN Security Council Resolutions to the Ivory Coast. A UN Security Council trade embargo had been placed on the Ivory Coast, which had been declared a country in armed conflict. The accused also exported large quantities of controlled bullet proof protective gear to entities in other countries without the prerequisite permits. The entire business records and financial records of the company were perused from its inception in early 2000 until July 2008. The accused was represented by Senior Counsel. My legal opinion on this matter was also relied on by the Department of International Cooperation in its submissions to the Security Council of the United Nations. The accused pleaded guilty to the allegations in terms of section 105A of Act 51 of 1977.

**Wa Afrika Investigations (fraud, forgery & uttering)**

The NDPP directed the matter to me after the accused, a journalist, was arrested by the police. I withdrew the charges against the accused due to insufficient and inadmissible evidence. I thereafter rendered key assistance to the SAPS in their investigation into the matter. The matter relates to the alleged fraudulent resignation letter purported to be from the Premier of Mpumalanga so as to create political instability in that province.

**S v Apex Truck & Trailer (Pty) Ltd (Conventional Arms Control breach)**

The accused exported an armoured Ingwe vehicle to the Democratic Republic of Congo (DRC) without being registered as a trader in conventional arms and without the prerequisite export permit from the controlling body. The accused pleaded guilty in terms of a section 105A of Act 51 of 1977 Plea and Sentence Agreement.

**Racketeering Cases & Money Laundering**

The National Prosecuting Services (NPS) has a national nodal point which receives, peruses and presents all racketeering investigations to the National Director of Public Prosecutions and the Head of NPS for authorisation in terms of section 2(4) of the Prevention of Organised Crime Act (POCA).

I rendered assistance to the NPS by perusing, editing and drafting a number of lengthy indictments and authorization certificates which *inter alia* included charges of racketeering and money laundering. This included the following matters:

Shaun K Abrahams  
*Curriculum Vitae*

- *State v Yu-Chen Chao & 18 Others*
  - The accused were members of and/or employed by a criminal enterprise which were involved in the illegal processing, dealing and exporting of abalone. The accused were indicted in the Cape High Court
- *S v Kogilan Mudaly & 3 Others*
  - The accused were members of and or employed by a criminal enterprise which unlawfully harboured and employed Thai nationals as prostitutes. The accused were prosecuted in the Durban regional court.
- *S v Basheer Sayed & 7 Others*
  - The accused were members of and or employed by a criminal enterprise which unlawfully operated as a brothel using Thai nationals.
- *S v Arendse & 8 Others*
  - The accused were members of and or employed by an enterprise dealing in stolen goods.
- *S v Russel Jacobs*
  - The accused managed an enterprise which supplied abalone to other criminal entities who unlawfully exported same.

**Top Cape: In re Asher Karni (Proliferation of Weapons of Mass Destruction)**  
 Karni, an Israeli citizen and rabbi, was resident in Cape Town. He contravened US import and export controls relating to nuclear components for nuclear armaments use by importing triggered spark gaps and other controlled components from the US to SA and re-exported same to Pakistan on false end user certificates. By rendering assistance to the US authorities, Karni was arrested in the US whilst on holiday and sentenced to a period of direct imprisonment. Upon being released, Karni immediately contacted me to offer his assistance in bringing local co-conspirators to book. I interviewed him and obtained his witness statement along with financial records which laid the basis for an ongoing investigation into local and foreign entities.

**Plot against the President: In re S v Bhaki Jacobs (Conspiracy to Murder)**  
 The accused was arrested on charges of fraud relating to the possession of two different identity documents and passports whilst being investigated for conspiring along with other senior politicians to murder the President of the RSA. The document purporting to set out the conspiracy however appeared to be a warning to the President that people close to him were out to oust him. Although senior members of the SAPS desired a prosecution, the accused's defence to the fraud required a response from the intelligence community, which was not forthcoming. The charges preferred against the accused appeared to have a strong political agenda. I however declined to prosecute the accused.

**S v Tyrone Chadwick (Politically motivated murders)**  
 The accused, a British citizen, came to South Africa and joined the AWB, a right winged political party. He assisted in supplying some IFP members with automatic machine rifles and ammunition. During one of these transactions in 1993 he, along with a co-accused, shot two IFP members and buried their bodies in a shallow grave. Chadwick was arrested but fled the country after he was released on bail. He was later arrested in the UK and detained in a mental asylum for 8 years. The State applied for his extradition from the UK back to South Africa. Towards the end of 2004 the UK authorities informed me that he is now fit to stand

27

Shaan E. Abrahams  
*Curriculum Vitae*

trial and could be extradited. Since new evidence had come to light UK legal requirements required extradition proceedings to resume afresh. The crime was also politically motivated. I advised the National Director of Public Prosecutions against proceeding with a fresh extradition application as UK law would not extradite the accused for a political crime, as well as the possible duration of these proceedings. The financial constraints in an unsuccessful extradition application would also have been unacceptable.

**S v Phillip Powell (Politically related arms proliferation)**

In 1993, the IFP denounced the April 1994 elections and indicated that it would resist elections taking place in KZIL. To this end, the IFP embarked on the large-scale training and arming of its supporters. In order to conceal the unlawful nature of these activities and to use State resources to fund them, the activities were disguised as the training of special and tribal constables for the KZP and the training of community members in self-defence. Powell was a member of the KwaZulu Legislature and a member of Parliament. He was placed in charge of the training which was conducted at Mlaba Camp. Powell acquired military weaponry from Eugene De Kock, a former Vaalklaas Commander so as to engage the armed forces. During 1994, on the eve of the country's first democratic election, Mlaba Camp was raided by a South African Police-led Task Team. Known quantities of hand and rifle grenades were found in a locked rondavel of which Powell possessed the keys. In 1999, Powell pointed out about 8 tons of weaponry housed in a bunker on a farm near Nqutu, for which he received indemnity. Although the Attorney-General: Natal declined to prosecute Powell at the time, the National Director of Public Prosecutions overturned the decision and instructed him to be prosecuted. Powell fled the country before he could be charged. I was requested to investigate the matter with the aim of possibly extraditing Powell. I consulted with a number of high ranking KwaZulu Government Officials and worked through comprehensive documentation relating to projects implemented by the KwaZulu Government in 1993/1994. At the time, I, along with the former Head of the PCLU, was involved in sensitive discussions concerning decisions relating to this matter.

**S v Mark Thatcher (Mercenary Activity)**

This matter related to the Equatorial Guinea failed *Coup* in contravention of our Regulation of Foreign Military Assistance legislation. I was nominated to be part of the prosecuting team should the matter have gone to trial. I however assisted in the drafting and concluding of plea and sentence agreements in respect of three accused persons involved in the botched *coup*. I submitted a request for mutual legal assistance to numerous countries and interviewed Simon Mann, the *Coup* mastermind, in Chikurubi Prison, Harare, Zimbabwe. I entered into sensitive discussions with foreign law enforcement agencies from Equatorial Guinea (including the Attorney-General), Zimbabwe and the UK.

**AAK Singh v The Minister of Justice & Constitutional Development (Private prosecution certificate) Singh v Minister of Justice and Another 2009 (1) SACR 87 (N)**

The applicant brought a *mandamus*, compelling the NDPP to issue a certificate *non prosequi* against the former NDPP and senior NPA officials. I assisted the former Head of the PCLU and one of his deputies in researching all the case law, which established that the certificate should not be issued. My legal research was relied on by senior counsel who argued the application and also by the Court who found in favour of the NPA.

**S v Dreyer & Moses (Murder of diplomats son)**

Shaun K Abrahams  
*Curriculum Vitae*

This matter relates to the murder of a former South African ambassador's son. The NDPP requested me to conduct the prosecution after numerous legal hiccups were experienced during previous attempts and prior to my involvement.

S v Swart (Intelligence)

I oversaw the investigation into a former member of the NIA, charged for contravening the Intelligence Services Act. This was the first investigation in terms of the Act and I was required to conduct a number of sensitive consultations with senior members of the intelligence community and to direct the investigators. This also included a former Director-General: Home Affairs. I recommended that the member not be prosecuted due to insufficient evidence.

Cases against various companies in contravention of our Nuclear Energy Act

I managed extremely sensitive investigations in contravention of the above Act which had a major effect on State security. This includes espionage. I conducted sensitive discussions with the NIA and the Department of Minerals and Energy (DME).

Operation Cranbourne and Checkmate (Espionage)

This matter related to the investigation of espionage in contravention of our Protection of Information Act against two diplomats who divulged highly classified and sensitive information to representatives of two foreign intelligence agencies. The evidence against the suspects was inadmissibly obtained and incorrect investigative procedures were followed.

C. Presentations

Counter Terrorism Executive Directorate (CTED) of the Security Council of the United Nations

CTED experts conducted a visit to the RSA to assess the Republic's ability to combat terrorism, terror financing, money laundering, organised crime and crimes related thereto. I actively participated in the presentation of the following themes as one of the South African experts and in the answering of questions posed by CTED's experts:

- Theme III (Legal issues)
- Theme IV (International Co-operation & Extraditions)
- Theme V (Money Laundering, Terror Financing, Freezing Orders and Confiscatory Provisions).

I represented the NPA on the Republic's Counter Terrorism Working Group as an expert on the above Themes. I also successfully hosted the CTED delegation at the National Prosecuting Authority (NPA) during its on site visit to the NPA where an array of legal issues, practical processes and law enforcement cooperation and interaction were discussed. CTED publicised an extremely favourable report on the Republic's ability to successfully combat terrorism, terror financing, money laundering, organised crime, crimes related thereto and its ability to freeze without delay. The NPA was commended for its contribution.

International Criminal Tribunal of Rwanda (ICTR)

Presented a paper on behalf of the South African Government at the *Forum between Offices of the Prosecutors of UN Ad Hoc Criminal Tribunals and National Prosecuting Authorities (NPA Forum)*, held at Arusha, Tanzania, titled "Challenges of Cooperation in Africa: A South African Perspective." The presentation largely focused on the following issues: Complementarity, Jurisdiction, Mutual Legal Assistance, Extraditions, Witness Protection, Retributive Justice, the role of NGO's