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Zondo commission – McBride defends Ipid stance on Phahlane probe

Former Ipid head Robert McBride told the commission of inquiry into state capture on Thursday that if the directorate received enough funding from the state, it would not have to rely on outside help in its cases. He was defending Ipid's use of information and assistance from private investigator Paul O'Sullivan in a case involving former acting national police commissioner Kgomotso Phahlane in 2016.

McBride was being cross-examined by Advocate Dawie Joubert, on behalf of Major-General Jan Mabula and North West commercial crimes head Brigadier Pharasa Ncube, two members of a team assigned in November 2016 to investigate an alleged security breach at Phahlane's private home in Pretoria. The pair had testified earlier in the day, insisting that their investigation was legitimate, given that on the day in question, O'Sullivan and a member of his team, Sarah-Jane Trent, had tried to gain access to Phahlane's home in the Sable Hills estate in Pretoria, along with two investigators from Ipid.

Mabula told the commission that his instruction to set up a team came from his superior, Lieutenant-General Baile Motswenyane, who was the provincial police commissioner for the North West at the time. Both Mabula and Ncube have held senior positions within the service in the North West, and when the question of whether they acted outside of their jurisdiction came up in their evidence, Mabula said it was not his place to question an instruction from his seniors when deployed to a case. He told the commission that the NPA was also involved in their investigation, which was guided by authority.

McBride, however, believed that the selection of the team to investigate the alleged breach was not random. In his view, Phahlane had a say in who made it into the team but, he added, he couldn't prove it. According to McBride, the team led by Mabula was comprised mostly of senior detectives and investigators who had themselves been under scrutiny from Ipid for various crimes. "In my view General Mabula should have recused himself from the process, at a certain stage, at least."

But it was unacceptable for a complainant in the case to get involved to the extent that O'Sullivan did, said Joubert, seeking McBride's confirmation.

"In fairness to the investigators and to O'Sullivan and Trent, there is an explanation which they give in their affidavits [to the commission] as to why they came to be together in the same car at that specific time," said McBride. "I think whilst I acknowledge that there was too much assistance, if I can put it that way, they have explained the circumstances in which this happened."

Joubert questioned if it was as punishment that Ipid revived old cases against the group when, in early 2017, warrants of arrests for O'Sullivan and Trent were issued and the matter made it into the media. McBride said this was not so, as the cases against the officials in question had gone as far as the courts prior to the security breach investigation, and the only reason there was a break in the

process was that the courts sought to have them centralised - as the incidents had occurred across different parts of the North West - and this took some time.

“Complainants do get involved in investigations. Perhaps Mr O’Sullivan was more helpful than others,” said McBride, adding that before taking the case to Ipid, the officials who had actually brought the complaint against Phahlane had gone to O’Sullivan first, and in the process he had gotten statements from them. This, said McBride, all happened even before he joined Ipid.

“The key reason is more than just the aspects related to this case, the issue is funding,” said McBride. “If you want Ipid to be independent, then make sure there’s enough funding, so it’s not forced to rely on anybody else.”

The alternative is to ask help from police, which defeats the purpose.

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