



**14 February 2019**

**Zondo Commission – McBride testimony postponed until implicated persons have been notified**

One of the most highly anticipated witness testimonies of the commission of inquiry into state capture, that of IPID executive director Robert McBride, was postponed indefinitely on Thursday. Although McBride was present and ready to testify on the day, the head of the commission’s legal team, Advocate Paul Pretorius, explained that because his sworn statement was only received late on Wednesday, the commission’s lawyers had not had sufficient time to notify the people implicated in his evidence.

As per the commission’s regulations, each is granted a total of 14 days within which to submit an answering statement and/or apply for permission to cross-examine.

“Mr McBride’s statement deals in the main with the South African Police Service oversight body, IPID, its role and functions, as well as attempts and actions taken by various officials and individuals to undermine, interfere with or render ineffective its functions and its ability to execute its mandate,” said Pretorius.

The statement implicates over 30 people, he added. “These are professional people, and holders of high office in government. The status of persons implicated should not carry with it any special privileges, and we don’t intend to suggest that that should be the case.”

But it is probable that they will want to respond in detail to the evidence.

In fairness to those implicated, said Pretorius, notification could only be sent once the commission’s legal team had received a sworn statement. Also, commission investigators will have to be granted time to check the veracity of the allegations made by McBride in his statement, and this has not been the case thus far.

Furthermore, said Pretorius, the two days on Thursday and Friday of this week would not have been enough to cover this evidence, given its volume. The proceedings experienced some technical delays at the beginning of the week, leading to the rescheduling of some testimonies. With next week having been reserved for witnesses testifying from National Treasury and Eskom – whose testimonies could not be moved – Pretorius requested postponement of McBride’s appearance.

Commission chair Deputy Chief Justice Raymond Zondo expressed the need for his team to conduct its work in a consistent manner, particularly when it comes to the rules regarding implicated persons. Last month, those implicated in the evidence of former Bosasa chief operations officer Angelo Agrizzi were only notified on the day he began testifying, owing to security fears for him. Agrizzi had allegedly been the target of several death threats and so his identity and the commission’s plan to hear his testimony were not made public until just beforehand. Under those circumstances, Zondo allowed his testimony to continue.

“The commission must not only be consistent, but must be seen to be consistent with regard to when it will allow the witness to give evidence in circumstances where implicated persons have not been

given notices, and when it will allow witnesses to go ahead on the basis that the implicated persons will be given the statement and in due course they would respond.”

He said he was aware of instances where the circumstances surrounding the evidence have had to override process, but emphasised that it was important for the commission to exercise consistency. “The commission cannot be accused of being more inclined to proceed and have certain witnesses give evidence maybe where certain people are implicated before they are notified, but with others they want to have them afforded the opportunities before the witnesses give evidence.”

People who are implicated must be given notice in advance, and that is important, he added.

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