



**16 April 2019**

### **Zondo Commission – Saps used dirty tricks to go after Ipid, O’Sullivan and Trent**

The South African Police Service (Saps) runs on a system of patronage – “I do favours for my seniors, I get promoted” – which has a serious consequence for South Africa’s fight against corruption, unless it is curbed. This is the view of Robert McBride, the former head of the Independent Police Investigative Directorate (Ipid), who completed his testimony at the commission of inquiry into state capture on Tuesday.

The courts system, in addition, is used to settle scores between senior law enforcement officials who refuse to account for their actions. People tend to align their favours along the lines of growing up in the same village, having gone to the same training college or participated in the same patrol operations.

McBride was creating the context to the events that happened following his return to Ipid in late 2016 after having successfully challenged former police minister Nathi Nhleko’s decision to suspend him a year earlier, on a charge of misconduct relating to what the minister said was interference with evidence in Ipid’s possession. On his return, McBride found that his successor, Israel Kgamanyane, had sought all Ipid investigations related to then acting national police commissioner Kgomo Phahlane, for the purpose of quelling them. One of these, he told the inquiry, had to do with Phahlane having an alleged corrupt relationship with certain Saps suppliers.

The originator of the complaint against Phahlane was private investigator Paul O’Sullivan, who brought it to Ipid around March 2016 – during McBride’s absence. The complaint had to do with forensics gear used by police being sub-standard. The gear had been procured on a large scale, at a large cost to Saps. Phahlane was previously the head of forensic services at Saps.

On McBride’s return in October, O’Sullivan complained that nothing had come of his initial complaint, and asked for a status update. When head of investigations Matthews Sesoko, who had also been suspended, returned, he brought to McBride’s attention a trend that had transpired while they were on suspension – that of cases being closed at a rapid pace, despite not having been completed. McBride told the inquiry in earlier testimony that Kgamanyane had boasted in Parliament about the increased productivity and performance of Ipid since the departure of McBride, which was a misleading notion to discredit him. Kgamanyane was among those Ipid officials who underwent an investigation and disciplinary process in relation to the manipulation of the case management system, and he was subsequently moved to the Hawks. Another employee was dismissed, while one other left the directorate.

### **Going after Phahlane**

Two cases, both relating to Phahlane, were found by Sesoko to have been closed prematurely. Although they had different reference numbers, they related to the same matter. A task team was

then established to look into O’Sullivan’s complaint and the contents of the duplicate cases. Around the same time, members of the police union Popcru also engaged McBride over the same matter.

An Ipid investigation found that one service provider had contributed to a portion of the funding for the construction of Phahlane’s house. The company, Criminalistics, operates in the forensic investigations equipment field. Another aspect of the investigation had to do with a car dealership that provided vehicles to Phahlane’s family members and several Saps officials, which, it would be claimed later, was for sponsorships, despite no proof of community work that would have been rewarded with sponsorship.

Once some work had been done on the case, Ipid aimed to move in on Phahlane, and a search-and-identification warrant was sought in January 2017, following up on allegations that a sound system had been installed at his house that was facilitated and processed by the service provider.

Phahlane sued Ipid for this, claiming that the team had used an invalid warrant. That litigation is still ongoing. “Whatever the outcome of the litigation, it will in any case be moot because General Phahlane himself admitted that a system is installed in his house,” said McBride. The matter was dormant for some time.

Following the resignation from Ipid of Cedric Nkabinde, who had been a member of the task team, Phahlane sought a reinstatement of the matter, based on new evidence in the form of testimony from Nkabinde.

Witnesses sought by Ipid with the help of O’Sullivan submitted statements to assist in the investigation that related to the rate at which Phahlane’s house had been constructed. They were approached together with O’Sullivan and his attorney, Sarah Jane Trent, at the same Sable Hills residential estate where Phahlane’s property was. Following the visit, Phahlane complained through the police that the visit warranted a security breach, further requesting that a team be put together by acting divisional commissioner in crime intelligence Agnes Makhele to investigate the security breach. He further requested the help of Jan Mabula and his team in the North West, and this resulted in a crime intelligence investigation into the breach, a record of which cannot be located to date. This is because the report contains the details of the involvement of Mabula and his team in the matter.

“Allegedly that report is what resulted in General Mabula and his team getting involved,” said McBride. “The people who conducted the report, upon realising that Ipid was doing an investigation, came to the conclusion that there was no security breach.”

### **Mabula moves in on Ipid**

Mabula’s team moved to Gauteng, setting up in Tshwane, and were permanently based there for about a year, just to deal with Ipid, O’Sullivan and Trent, said McBride. Their investigation led to a case being opened against O’Sullivan and Trent, who were charged with impersonating Ipid officials during the visit to Sable Hills, when they accompanied investigators who spoke to witnesses. Trent was arrested, and according to McBride her mobile phone confiscated and given to Kgamanyane to download its contents. To his knowledge, the phone was never returned to her. O’Sullivan was also arrested and granted bail with certain conditions that he did not breach – despite this he was arrested a second time by Mabula’s team. Furthermore, all the witnesses were also visited by Mabula’s team, and there were changes to their initial statements. Ipid then opened a case of defeating the ends of justice against Mabula’s team.

A point of contention between McBride and Mabula is that for the latter to be able to conduct an investigation in one province’s office, while in the employ of another, was outside of the norm.

Makhele, along with North West provincial commissioner Baile Motswenyane and Mabula's team, concocted a report that was used to authorise their travel to Gauteng to investigate the purported security breach, according to McBride.

“Crime intelligence had earlier done an investigation of the alleged security breach and it found that there was in fact no security breach. The officers who did the investigation made statements to this effect. As a result of the concocted report, a second defeating investigation was opened against them,” said McBride.

A series of court proceedings would follow from here, with both sides, Ipid and Mabula, going after each other. Phahlane currently faces a case of fraud in the Johannesburg Specialised Commercial Crimes Court. Mabula was also charged in 2018 for assault in a 2006 alleged torture case in Benoni.

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