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Zondo Commission – Mdluli, Zuma investigations the reason for dismissals of Dramat and Sibiya

The integrity of the Independent Police Investigative Directorate (Ipid) came under attack during the suspension of executive director Robert McBride between April 2015 and October 2016. McBride told the commission of inquiry into state capture on Monday that his successor, Israel Kgamanyane, who was appointed in an acting capacity, lied to Parliament when he reported that the performance of the agency had improved during the time that McBride was away. The common narrative against anti-corruption bodies was that their leadership was removed, and those who replaced them did a better job of running state institutions. McBride said the same was implied by former Hawks head Berning Ntlemeza after he was appointed following the suspension and later departure of Anwa Dramat, and former South African Revenue Service (Sars) commissioner Tom Moyane, who took office in 2014.

The auditor-general also took issue with the manner in which Ipid cases were closed during that time. A case in point was a matter involving former national police commissioner Kgomotso Phahlane, which had duplicate entries on Ipid's system. Both were closed, despite having different case numbers, an indication that it was the subject matter that was the reason, and not a random act.

Upon his return, McBride had to institute a change in Ipid's case management system, and the organisation's definition of a completed, closed case, had to be changed in order to avoid confusion at reporting time. Furthermore, criminal charges were brought against two employees who had presumably participated in the doctoring of performance records, and one was eventually dismissed while another, who had held a senior position, resigned.

McBride was suspended following a Werksmans investigation, commissioned by then police minister Nathi Nhleko, into his attempt to protect Dramat from prosecution. Dramat was at the time the subject of an Ipid investigation into the alleged illegal renditions of two Zimbabwean nationals in 2010. The men had been sought by law enforcement authorities in that country for the murder of a senior police official, and were deported illegally, only to be tortured and killed by authorities. Former Gauteng Hawks head Shadrack Sibiya was accused along with Dramat in the matter, and the two men were suspended in 2014 and 2015 respectively, while a criminal investigation was sought.

McBride, Werksmans found, had participated in the doctoring of some of the evidence in a report initially concluded prior to his arrival at Ipid in March 2014. His signature, along with those of Innocent Khuba, the author of the original, interim report, and Matthews Sesoko, head of investigations, were on a final report that followed a review of the evidence included in the interim version. Khuba was Ipid's investigations head in Limpopo, and had been rushed into compiling the report by January of that year, before giving it to the National Prosecuting Authority (NPA), on the instruction of McBride's predecessor, Koekie Mbeki. Sesoko, despite being Khuba's immediate superior, was kept out of the loop about the investigation, which had been brought to Ipid by the crime intelligence unit of the South African Police Service (Saps).

McBride believes the motive behind the report and the secrecy around it was political, as Dramat and Sibiya had gone after powerful people. Sibiya's team had brought a criminal case against then crime intelligence head Richard Mdluli, for the 1999 kidnapping and murder of his ex-girlfriend's husband, Oupa Ramogibe. This had led to Mdluli's suspension in 2011, pending a criminal trial. The charges against him and two co-accused were provisionally withdrawn in 2012. Dramat, on the other hand, was sitting on the investigation into the exorbitant state funding of security upgrades for the private home of former president Jacob Zuma in Nkandla, KwaZulu-Natal.

It is McBride's belief that his team's intervention, by reviewing the otherwise rushed process, was an irritation for those who wanted Dramat and Sibiya out. The very independence of the investigation, he told Werksmans at the time, was compromised, seeing as it came from the unit headed by Mdluli.

Soon after his own suspension, Khuba and Sesoko were also suspended, by Kgamanyane, on Nhleko's instruction. The pair later submitted supporting affidavits in a Constitutional Court matter in which McBride sought to have Nhleko's decision set aside, on the grounds that it was unconstitutional and harmed the independence of Ipid. The Constitutional Court found against Nhleko, and McBride was reinstated in October 2016. A parallel criminal case against McBride and Sesoko had also ensued in 2015, and was later dismissed by the High Court. Sesoko too was reinstated, and remains with Ipid, while McBride's contract ended in February this year, and was not renewed by current police minister Bheki Cele. McBride is seeking a review and reversal of Cele's decision.

Details pertaining to Sesoko's disciplinary hearing, which was chaired by Mxolisi Zondo, younger brother of the commission's chairperson, were not read into evidence on the day, pending a decision by the commission to first seek legal submissions from the fraternity – in the interest of transparency – on how Raymond Zondo should proceed on that portion of McBride's evidence. Initially, at the beginning of McBride's testimony last week, the legal team's Paul Pretorius had indicated that as this part of the evidence may raise conflict of interest issues, there should be some deliberation over how it is handled. The elder Zondo had ruled then that he would first hear the evidence, and then seek submissions. On Monday, in the light of developments in this area of evidence, Pretorius said he saw it fit to not proceed on it, until further advice had been sought. Zondo agreed.

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