

22 AUGUST 2025

**DRAFT TERMS OF REFERENCE IN RESPECT OF THE AD HOC COMMITTEE
ENQUIRY ESTABLISHED TO INVESTIGATE WIDE-RANGING ALLEGATIONS
ON SECURITY MATTERS MADE BY KWAZULU-NATAL PROVINCIAL
COMMISSIONER, LIEUTENANT GENERAL NHLANHLA MKHWANAZI IN A
MEDIA BRIEFING ON 6 JULY 2025**

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ABBREVIATIONS

IDAC	Independent Directorate Against Corruption
NA	National Assembly
NPA	National Prosecuting Authority
PKTT	Political Killings Task Team
PPIPPLA	Powers, Privileges and Immunities of Parliament and Provincial Legislatures Act, 2004 (Act No.4 of 2004)
SAPS	South African Police Service

1. BACKGROUND

- 1.1. On 6 July 2025, the Provincial Commissioner of Police for Kwazulu-Natal, Lieutenant General Nhlanhla Mkhwanazi, (hereinafter referred to as Lieutenant General Nhlanhla Mkhwanazi), held a media briefing and made public, serious allegations regarding the existence and operation of a sophisticated criminal syndicate that has allegedly infiltrated law enforcement and intelligence structures in South Africa.
- 1.2. Lieutenant General Mkhwanazi also made wide-ranging allegations regarding, amongst others, political interference in the demise of the Political Killings Task Team (“PKTT”), the existence of a potentially corrupt relationship between certain individuals and the Minister of Police and organised drug cartels that involve various role players across the criminal justice value chain. At the heart of Lieutenant General Mkhwanazi’s allegations, is the drug cartels’ involvement in and control of politicians, law enforcement (South African Police Service (“SAPS”), Metro Police, Correctional Services, National Prosecuting Authority (“NPA”), the judiciary, as well as businesspeople.
- 1.3. On 9 July 2025, the Speaker of the National Assembly (“the Speaker”), Ms Thoko Didiza, requested the Portfolio Committees on Police, Justice and Constitutional Development to consider the matter in terms of their respective mandates. Furthermore, the Speaker requested the two committees to make an assessment on the appropriate approach that Parliament should adopt in dealing with these allegations. The Speaker further invited the two committees to submit recommendations in this regard, for consideration by the NA.
- 1.4. On 16 July 2025, the two committees, acting in terms of Rule 169(1) of the Rules of the NA, convened with a view of deliberating on this matter. After having deliberated, the two committees agreed that the establishment of an *ad hoc* committee would be the most viable mechanism to deal with this matter. Having completed their task, the two committees submitted a joint report to the NA, which has since been considered and adopted by the NA.

- 1.5. On 23 July 2025, the NA passed a resolution establishing the *Ad Hoc* Committee to Investigate the Allegations of Lieutenant General Mkhwanazi (“the Committee”) in terms of Rule 253 of the Rules of the NA. For that reason, the matter has now been referred to the Committee for a formal enquiry (“the Enquiry”) in terms of the Rules of the NA. The Committee must conduct the Enquiry into the allegations of Lieutenant General Mkhwanazi and report to the NA, with a view to improving policing, and enhancing governance across SAPS, the NPA, judiciary, Correctional Services, and metro police divisions.
- 1.6. A committee of Parliament that holds a public enquiry for purposes of reporting to the NA exercises public power and is obliged to do so in accordance with, but not limited to, the fundamental principles of the rule of law, legality, rationality, procedural fairness and justice ensuring that its procedure and report adheres thereto.
- 1.7. The Committee agrees to conduct the Enquiry in accordance with the provisions of these terms of reference which are based on the aforesaid principles. The Committee may vary or amend these terms of reference in line with the objectives of the Enquiry provided that the above principles are observed.

2. LEGAL FRAMEWORK

- 2.1. The NA has both the power and the duty to hold the national executive to account.
- 2.2. Section 42(3) of the Constitution of the Republic of South Africa, 1996 (“Constitution”), provides that the NA is elected to represent the people and to ensure government by the people under the Constitution. It does this in various ways. One of them is “*by scrutinizing and overseeing executive action*”.

2.3. Section 55(2) of the Constitution imposes a duty on the NA to provide for mechanisms to hold the national executive to account:

“The National Assembly must provide for mechanisms –

- (a) to ensure that all executive organs of state in the national sphere of government are accountable to it; and*
- (b) to maintain oversight of –*
 - (i) the exercise of national executive authority, including the implementation of legislation; and*
 - (ii) any organ of state.”*

2.4. Section 56 of the Constitution provides that the NA or any of its committees may:

- “(a) summon any person to appear before it to give evidence on oath or affirmation, or to produce documents;*
- (b) require any person or institution to report to it;*
- (c) compel, in terms of national legislation or the rules and orders, any person or institution to comply with a summons or requirement in terms of paragraph (a) or (b); and*
- (d) receive petitions, representations or submissions from any interested persons or institutions.”*

2.5. This constitutional provision is supplemented by section 14 of the PPIPPLA. It describes the form and content of a summons by which a witness is compelled to produce documents or give evidence in a committee enquiry, namely:

“(3) The summons must state -

- (a) the name of the person summonsed;*
- (b) the name or designation of the person who must serve the summons;*
- (c) the time, place and venue at which the person summonsed is required to appear;*
- (d) the subject of the enquiry;*
- (e) the purpose for which the evidence of that person is required; and*

(f) *a description of the document, if any, which that person is required to produce.*”

- 2.6. These provisions are echoed in Rule 167(a) of the Rules of the NA, which provides that a committee may “*summon any person to appear before it to give evidence on oath or affirmation, or to produce documents*”. The Committee acknowledges its PPIPPLA powers and will ensure the rights to a fair hearing are upheld when exercising any of its powers.
- 2.7. Rule 361 of the Rules NA provides that “*[i]f a witness, whose attendance before the NA or a committee or other forum thereof is required, is being detained in any prison, the person in charge of such prison may be ordered to bring the witness in safe custody for examination as often as his or her attendance is deemed necessary, and on the instruction of the Speaker, the Secretary may issue his or her warrant accordingly.*”
- 2.8. Section 57(1)(a) of the Constitution provides that the NA may determine and control its internal arrangements, proceedings and procedures.
- 2.9. The above constitutional provision is echoed in Rule 167(f) of the Rules of the NA, which provides that a committee may “*determine its own working arrangements*”.
- 2.10. The Committee shall, where applicable, act in accordance with the Witness Protection Act, 1998 (Act No. 112 of 1998), and the Protected Disclosures Act, 2000 (Act No. 26 of 2000), and relevant international best practice on the protection of persons providing evidence before public bodies.
- 2.11. The Committee acknowledges the protections afforded by the various privileges, including, but not limited to legal privilege, and shall ensure that any rights thereto are upheld.
- 2.12. Parliament has developed and the Speaker approved a practice prescribing the process for the handling of confidential, classified, and/or sensitive information in order to safeguard such information whilst balancing the

interests of transparency, access of the public to parliamentary processes as provided for in section 59 of the Constitution, and facilitating committees to perform their oversight functions.

- 2.13. The Committee will ensure that any confidential, classified, and/or sensitive information documents will be placed in a safe set aside for this purpose equipped with two different locks. One key will be held by the Speaker and the other by the Secretary to Parliament.
- 2.14. The Committee acknowledges that its members will require the authority of the chairperson of the Committee, in writing, to gain access to any confidential, classified, and/or sensitive information, and that such access will be limited to set block times in which the requesting members will have access to such documents.
- 2.15. The Committee further acknowledges that only full – not alternate or co-opted – members of the Committee may access such documents.
- 2.16. The Committee further acknowledges that on entering the venue wherein such documentation is stored, members must identify themselves, sign a register, and record their time of entering and leaving the venue and that no member will be permitted to remove any such documents from the venue.
- 2.17. The Serjeant-at-Arms will always be present in the viewing venue while the documents are inspected by members, and a representative of the SAPS may be stationed outside the venue for additional security. No member will be permitted to enter the venue with any cameras, mobile phones, recording instruments or other devices. Furthermore, members are cautioned that the contents of the documents cannot be disclosed to any person, copied or reproduced in any form, and that any disclosure will amount to a breach of parliamentary privilege and contempt of Parliament.
- 2.18. Any suspected or actual breach of security regarding confidential, classified or sensitive information must be reported immediately to the Secretary to Parliament and the National Intelligence Agency in accordance with the

Protocol on Handling and Viewing Classified Information by the National Assembly.

- 2.19. The Committee may refer matters to the appropriate authorities without purporting to determine criminal liability, in order to respect the separation of powers between the various spheres of government.

3. OBJECTIVES OF THE ENQUIRY

The objectives of the Enquiry are to:

- 3.1 Investigate the veracity, extent, and implications of the allegations made by Lieutenant General Mkhwanazi during his media briefing on 6 July 2025, including the evidence of collusion between any State officials and criminal syndicates.
- 3.2 Determine systemic governance failures and propose concrete reforms, whether legislative, policy-based, or institutional, should the need arise.
- 3.3 Identify oversight lapses and make recommendations for performance auditing of relevant institutions, should the need arise.
- 3.4 Determine the scope of the issues raised and assess their potential impact on the functioning and reputation of the SAPS, the Criminal Justice System, the judiciary and high-ranking individuals and politicians.
- 3.5 Establish whether any wrongdoing, corruption, or breaches of conduct have occurred within SAPS or any other relevant institution as outlined in the revelations.
- 3.6 Assess the adequacy of internal mechanisms for dealing with corruption, misconduct, and poor management within the SAPS, and any other relevant institution.

- 3.7 Report to the NA on its findings and recommendations by no later than 31 October 2025.
- 3.8 Recommend that the relevant portfolio committees of Parliament must track and report on the implementation of the findings and recommendations of the NA.

4. SCOPE OF ENQUIRY

- 4.1 The evidence provided by Lieutenant General Nhlanhla Mkhwanazi, along with any other submissions presented to the Committee, will inform the Committee's approach in determining which witnesses to invite. However, such evidence or submissions shall not restrict the Committee's discretion in deciding who may be called as witnesses. Below is a list of key areas of consideration by the Committee:
 - 4.1.1 Political interference within SAPS: Executive oversight versus operational interference by Minister Mchunu (including the directive by the Minister contained in the letter, dated 31 December 2024, to disband the PKTT and the moratorium on filling vacancies in the crime intelligence component of SAPS).
 - 4.1.2 Any related claim regarding corruption (financial or otherwise), bribery, or misuse of public resources within SAPS, or any other relevant institution.
 - 4.1.3 Evaluating the extent of misconduct and unethical behaviour by members of SAPS and any other relevant individuals or institutions.
 - 4.1.4 Evaluating the effectiveness of the PKTT and the official status thereof.
 - 4.1.5 The status of the 121 case dockets allegedly removed from the PKTT as directed by the Deputy National Commissioner for Crime Detection, Lt Gen. S Sibiya acting on the instruction of Minister Mchunu to disband the PKTT.
 - 4.1.6 Instability within the Crime Intelligence component of SAPS.

- 4.1.7 The alleged corrupt relationship between Minister Mchunu and Mr. Brown Mogotsi, and between Mr. Mogotsi and Mr. Vusimuzi 'Cat' Matlala.
- 4.1.8 Internal oversight and accountability mechanisms: Reviewing the effectiveness of SAPS's internal oversight systems in detecting and addressing corruption and misconduct.
- 4.1.9 Leadership failures: Investigating whether the SAPS leadership, including Lt. Gen. Mkhwanazi, took appropriate action to address concerns, and the role of senior management in enabling or preventing the issues.
- 4.1.10 Possible procurement irregularities at SAPS regarding the R360 million SAPS healthcare contract, specifically whether the tender awarded to Mr. Vusimuzi Matlala's company contravened procurement laws, with reference to concerns previously flagged by Babita Deokaran. Bearing in mind that these flagged concerns or this particular contract does not limit the scope of the Committee.
- 4.1.11 Alleged existence of an organised crime syndicate controlled by drug cartels, as well as businesspeople and its infiltration of key criminal justice system role-players involving politicians, law enforcement from SAPS and the Metro Police Division, Correctional Services, the NPA, and the judiciary.
- 4.1.12 Prosecutorial conduct and the relationship between the Independent Directorate Against Corruption "IDAC" and the PKTT, including whether IDAC or any of its officials unlawfully interfered in police investigations or exceeded its mandate.
- 4.1.13 Alleged failure of any organ of State or member of the executive to comply with their legal obligations, and if so, recommend appropriate action to address such failure.
- 4.1.14 Allegations against Members of Parliament with regards to the classified information released to them, specifically the reference to Members of Parliament who are allegedly linked to criminal syndicates.

- 4.1.15 Impact on public trust and safety: Examining the broader impact of these issues on public trust in the SAPS, Correctional Services, the NPA, the Criminal Justice System, the judiciary and national security.
- 4.1.16 Evaluate chain-of-custody, data-integrity, and record-keeping processes, including digital evidence management.
- 4.1.17 Identify conflicts of interest (political, financial, or personal) impacting decisions relating to the PKTT, Crime Intelligence, procurement, and case allocation.
- 4.1.18 Scrutinise inter-agency coordination among SAPS, Crime Intelligence, IDAC/NPA, Correctional Services, and Metro Police, and the legal basis for directives affecting the PKTT.

5. FORMAT OF THE ENQUIRY

- 5.1. The Enquiry is a process governed by the Rules of the NA to establish, on the strength of evidence presented, the veracity and implications of the allegations made by Lieutenant General Mkhwanazi at the aforesaid media briefing, with a view to improving policing and governance within the SAPS, Metro Police Divisions, NPA, judiciary and Correctional Services. It is neither a judicial or quasi-judicial process, nor is it an adversarial process. The Enquiry is an inquisitorial process, informed by Parliament's constitutional oversight mandate. The rule of law principles of rationality, legality, and procedural fairness shall be observed in the manner in which the Committee conducts the Enquiry.
- 5.2 The Committee shall utilise the services of external legal counsel in an advisory capacity to assist it to carry out its work, subject to adherence to the principles of transparency and public participation, where necessary. The Enquiry will be conducted in line with the format below.

5.3 Findings shall be grounded in a probative record sufficient for rational parliamentary recommendations, with reasons recorded.

5.4 **Witnesses**

5.4.1 The Committee will invite all relevant persons, including those incarcerated in South Africa's correctional centers, to submit sworn written statements as witnesses and to thereafter appear before it to answer oral questions, where the Committee deems necessary, and where reasonably possible to do so.

5.4.2 The Committee may invite any interested parties to provide input if they wish to do so.

5.4.3 The invitation to witnesses or interested parties must clearly specify the purpose for which the witness is called, and the specific matters the committee wants them to assist the committee with.

5.4.4 The committee may upon reasonable request grant permission for any anonymous persons who wish to appear as witnesses before the committee, where such evidence will be instrumental in achieving the objectives of the enquiry.

5.4.5 All witnesses will be requested to submit their sworn written statements, including any supporting evidentiary documentation, at least 7 working days (excluding weekends and public holidays) prior to the commencement of their testimony, provided that the statement and any evidence is limited to the information contained in the scope of the Enquiry.

5.4.6 In the event that an invited witness refuses to submit a sworn statement and/or avail themselves as requested, the Committee may use its power of subpoena as provided for in the PPIPPLA.

5.4.7 This procedural safeguard as indicated in 5.4.5 above, is to ensure that the Committee deals solely with matters of fact and verified evidence, thereby precluding the admission of hearsay or unsubstantiated claims. However, the

safeguard should not prevent the Committee from exploring further evidence or new information presented by any witness during the Enquiry.

5.4.8 The Chairperson must in accordance with Rule 168 of the Rules of the NA, prior to giving evidence, read to the witnesses the expectation of the Committee in terms of section 16 of the PPIPPLA and the privileges associated with such evidence.

5.5 **Questions to witnesses**

5.5.1 The external legal counsel will present the evidence of a witness to the Committee.

5.5.2 All members of the Committee will be given an equal opportunity to pose any further questions to witnesses for a maximum of 30 minutes per member, (where questioning requires such time.

5.5.3 If members of the Committee are of the view that a certain witness must be recalled for the purpose of answering any further questions, the Committee may do so by resolution. If the Committee resolves to pose further questions, the Committee will agree on whether such questions should be posed in writing or whether the identified witness will be invited to provide an oral response.

5.5.4 The external legal counsel shall, subject to the Committee's approval, determine the extent of the sensitivity and the relevance of any evidence at a given time and whether such evidence will be considered.

5.5.5 The external legal counsel will consult with witnesses prior to the oral evidence to determine the structure of the presentation of evidence.

5.5.6 The Committee shall determine the sequencing in which witnesses are called to give evidence.

5.6 **Witnesses to appear under oath or affirmation**

5.6.1 All witnesses (whether attending voluntarily or not) will be requested to take an oath or affirmation in accordance with the provisions of Rule 168 of the Rules of the NA, read together with section 15 of the PPIPPLA.

5.6.2 The oath or affirmation will be administered by the chairperson of the Committee or any other person acting on the instructions of the chairperson.

5.6.3 All witnesses must be informed of the parameters of the Enquiry and must be instructed not to remark on or discuss any matter that is not related to the evidence contained in the scope of the Enquiry.

5.7 **Legal representation**

5.7.1 The witnesses will be allowed to have their own legal assistance at their own cost and/or with the assistance of Legal Aid or any other institution that is legally accredited, if they choose.

5.7.2 Witnesses will be allowed to have their legal practitioners with them and, within reason, consult with and take advice from their lawyers.

5.7.3 The Committee will not allow legal practitioners to speak on behalf of their clients at all.

5.7.4 The evidence must be given by the witness and not by the legal practitioner.

5.8 ***Audi alteram partem* principle**

5.8.1 Should the Committee make adverse findings against persons in its report to the NA, the Committee will afford the affected persons an opportunity to address the evidence against them.

5.8.2 The Committee will, once it has prepared a provisional report, ensure that all the persons about whom it proposes to make adverse findings have had an opportunity to address those findings.

5.8.3 If the affected persons have not addressed the said accusations, the Committee will inform them of the accusations and invite them to return, alternatively submit a written reply, to address those accusations.

5.8.4 The Committee may, if it deems it necessary, compel the affected persons to return to answer the accusations against them, whether the affected persons wish to do so or not.

5.9 **Confidentiality and Protection of Whistleblowers and Witnesses**

5.9.1 The Committee will facilitate, where it is necessary, and through the Speaker's office and the relevant authorities, the protection of witnesses, whistleblowers and the external legal counsel, to ensure that they are protected from retaliation, threats and intimidation.

5.9.2 Persons making disclosures and any disclosed information are protected by the Protected Disclosures Act, 2000 (Act No. 26 of 2000), and therefore disclosed information including that which may be confidential, classified or sensitive information gathered by the Committee should be handled with the utmost discretion, security and where necessary, kept confidential.

5.9.3 The Committee, using any resources available to it, shall assess any threats, intimidation, or reprisals directed at potential or actual witnesses, whistleblowers, or their associates, in relation to the allegations under investigation and make recommendations for remedial or preventive measures.

5.10 **Documentary evidence**

5.10.1 In order to prepare for the hearing of any oral evidence, the Committee may request from any person or representative from any relevant institution, to first provide any relevant information, including but not limited to, documents, reports, and internal communications that support such oral evidence, in order for the Committee to review same prior to the hearing of oral evidence.

5.10.2 The Committee may also request any reports, external audits, documents, or other information relating to any investigations from the SAPS or any relevant institution that may be available.

5.11 **Expert consultations**

The Committee may consult with law enforcement experts, governance specialists, and other relevant stakeholders to better understand systemic issues and provide insight into possible solutions.

5.12 **Site visits**

If necessary, the Committee may visit any relevant institutions to gather firsthand information.

6. PUBLIC PARTICIPATION AND TRANSPARENCY

6.1. Section 59 of the Constitution creates an obligation on the NA to facilitate public involvement in its committee processes.

6.2. Whilst the Rules of the NA do not dictate the manner in which public participation must be conducted, it is of paramount importance that a reasonable opportunity is offered to members of the public and all interested parties to be informed of the work of the Committee and to have an adequate say.

6.3. Meetings of the Committee will be held in open and broadcast on Parliament TV and on Parliament's social media channels.

6.4. However, the Committee shall sit *in camera* where necessary to protect the safety of witnesses and the integrity of ongoing investigations where appropriate.

6.5. *In-camera* sessions will only be permitted as an exception following an application by an interested party to the chairperson.

- 6.6. The Committee must determine the manner in which it will facilitate public participation and the purpose of this will be to obtain information and records that may assist the Committee in fulfilling its mandate.
- 6.7. Only submissions which relate to the scope of the Enquiry will be considered by the Committee.

7. VENUE FOR MEETINGS

- 7.1. Committee meetings will be held physically within the Parliamentary precinct or any other suitable venue to be determined by the chairperson. Where necessary, and for purposes of accommodating persons who are witnesses and who are unable to physically attend meetings due to exceptional circumstances, on written application to the chairperson and on approval by the committee, those witnesses , may be accommodated by attending the meeting virtually.

8. TIME FRAME

- 8.1. The Committee will conduct this process within a reasonable time with a view to commencing in August 2025 and concluding by 31 October 2025, it being recorded that these timeframes may be amended or extended by the decision of the Speaker or resolution of the NA.
- 8.2. The Committee shall adopt a programme framework timeously, which will detail the targets and milestones and the timeframe within which they are to be achieved by the Committee in order to ensure the timeous completion of the Committee's report to the NA.

9. RESOURCES

9.1. A dedicated team of officials, including committee secretaries and assistants, researchers, content advisers and legal advisers, will support the Committee under the direction of the chairperson.

9.2. External Legal Counsel and Other Experts

9.2.1. Parliament will appoint external senior legal counsel, one of which who are suitably qualified and have expertise in such matters to assist with collecting, organising and presenting evidence, subject to the Committee's direction at all times.

9.2.2. The format for the questioning of witnesses will be determined by the external legal counsel in consultation with the chairperson of the Committee, and agreement by the committee.

9.2.3. The use of external legal counsel will in no way limit the right of Members of Parliament to put questions to any witness provided that such questions form part of the scope of the Enquiry.

9.2.4. The Committee may make use of other experts as may be necessary in order to acquire the necessary expertise with regards to policing functions and procedures, amongst others.

9.2.5. Depending on the evidence presented before the Committee, the Committee may decide to consult any of the organs of state that may assist in the evidence presented.

9.3. The chairperson will identify any further resources required to conduct the Enquiry and timeously obtain the necessary approvals, in compliance with procurement prescripts if applicable, to secure the resources as needed.

9.4. The Committee shall procure the services of an independent psychosocial support professional, taking into account the available budget of the Committee, to be made available to any vulnerable witnesses.