



**REPORT TO THE SPEAKER OF THE
NATIONAL ASSEMBLY REGARDING THE
SECURITY UPGRADES AT THE NKANDLA PRIVATE RESIDENCE OF HIS
EXCELLENCY PRESIDENT JACOB G ZUMA**

INTRODUCTION

1. This report to the Speaker of the National Assembly arises out of concerns expressed by government and certain sectors of society concerning the procurement, management and expenditure of the security upgrades at the private presidential residence at Nkandla.
2. The security which attaches to the President is and remains a matter of primary national importance and cannot be denigrated to narrow party-political interests in a proper appraisal of the security upgrades at the Nkandla residence.
3. The need that was established to provide security enhancements at the Nkandla residence is not in dispute. What is the subject of enquiry is the manner and extent in which these security upgrades were effected.
4. I have the benefit of having received and considered:
 - 4.1.1 the report of the Joint Standing Committee on Intelligence, (JSCI);
 - 4.1.2 the report of the Public Protector titled "Secure in Comfort";
 - 4.1.3 the progress report in terms of Section 4(1)(f) of the Special Investigating Units and Special Tribunals Act submitted by the Head of the Special Investigating Unit (SIU).
5. These reports have their origin either in a constitutional or legislative framework, and I consider each to be appropriate to fall under my consideration.
6. I have carefully studied, evaluated and received advice on the reports with a view to determining what the appropriate response should be, mindful as I am of the prescripts of *inter alia*:

- 6.1.1 the Constitution of the Republic of South Africa, 1996;
 - 6.1.2 the Public Finance Management Act, 1999 and all applicable regulations, practice notes, instructions and policy;
 - 6.1.3 the Minimum Information Security Standards;
 - 6.1.4 the National Key Points Act, 1980;
 - 6.1.5 the Executive Members Ethics Act, 1998 and the applicable code;
 - 6.1.6 the Cabinet approved Ministerial Handbook of February 2007;
 - 6.1.7 the Cabinet approved policy relating to security measures at the Private Residence of the President, Deputy President and former Presidents and Deputy Presidents of February 2003;
 - 6.1.8 the Public Protector Act , 1994; and
 - 6.1.9 the practices and culture of government and various departments, to the extent that these are consistent with the applicable regulatory framework.
7. This report is not a critique of the reports referred to in 4 above. The fact that I re-state or offer no comment on:
- 7.1.1 the methodology adopted;
 - 7.1.2 any interpretation of the law or regulatory framework;
 - 7.1.3 the evaluation of evidence;
 - 7.1.4 the analysis, findings and conclusions reached; and/or

7.1.5 the recommendations and remedial action proposed

is not reflective of the fact that I am accepting of the same.

BACKGROUND

8. Nkandla is a rural town located some 55 kilometers south-west of Melmoth and approximately 60 kilometers from Eshowe, which are the nearest towns in the province of KwaZulu-Natal. It is isolated from the major economic development corridors and is accessed by road from the town of Eshowe through to Nkandla Reserve, the main road from Melmoth and via a road from Greytown and Kranskop.
9. The topography of Nkandla is characterized by slopes and hills which pose a challenge in providing accessibility and speedy delivery of basic services. Poverty, unemployment and other socio-economic deficiencies, whilst key challenges in many parts of South Africa, have also taken a firm grip on the community in Nkandla.
10. The Nkandla town lacks basic infrastructure. Hospitals, rescue services, police services, accommodation and links to the national transport grid are only accessed through the neighbouring towns over a considerable distance.
11. My family homestead is located some 24 kilometers south of the Nkandla town centre. The land upon which it is situated is owned by the Ingonyama Trust, the legal entity that owns traditional land and is administered by His Majesty King Goodwill Zwelithini KaBhekuZulu. Together with my family, I occupy the land through a certificate issued by the local *inkosi* termed Permission to Occupy.

12. I turn now to my particular personal circumstances and role in the security upgrades at my family home in Nkandla.
13. During the early 1990's, I returned to South Africa after having spent some time in exile. I resided in Johannesburg where I was deployed by the African National Congress and visited my home in Nkandla from time to time.
14. Unfortunately, this period was characterized by political violence particularly in KwaZulu-Natal, the likes of which is well documented.
15. My home at Nkandla, which at this stage consisted of a few rondavels, was occupied by my immediate family, children of two of my siblings, children of my late brother, as well as my younger brother and his family.
16. In the ensuing violence my home was razed to the ground twice and my family was repeatedly subjected to acts of violence. These occurrences were regrettably common-place in many communities across the country during this politically turbulent time.
17. As the political environment stabilized in the coming years with the advent of our new democracy, I now felt more confident to effect improvements to the family homestead in order that it could cater for our needs more adequately.
18. I, together with my extended family, proceeded to engage a building contractor to effect the improvements to my homestead. Several new rondavels, each self-contained, were constructed.
19. These improvements were financed by a home loan obtained from one of the four largest commercial banking institutions in the Republic upon satisfaction of their collateral requirements. The property is still subject to a mortgage and I continue to meet my financial commitments in terms thereof.

20. In the ensuing years, and as I began to play a leading role in government, I had to submit to the security protocols which senior government executives are subjected to. Static security was provided from the South African Police Services (SAPS) in Ulundi, while protection services were provided from SAPS Eshowe.
21. This meant that additional rondavels were constructed on my homestead in order to cater for the accommodation of those police officers assigned for my protection, given the lack of infrastructure in Nkandla. In addition, a car port and storerooms were also constructed.
22. In 1999 I was appointed as Deputy President of the Republic. As a consequence of my increased responsibilities in government I received a higher volume of frequent guests at my home in Nkandla. This, coupled with the fact that my family had grown over the years, necessitated that my family and I embark on fairly extensive and modern improvements to the property.
23. To this end we engaged contractors and commissioned the building of three new houses which would be developed in phases over additional neighbouring land which we acquired with the consent of the local chief.
24. The construction of the houses commenced under the direction of Minenhle Architects.
25. In 2009 I was appointed as President of the Republic. Immediately upon my inauguration, members of the security cluster engaged with me regarding security requirements at my homestead which are commensurate with a Head of State of the Republic.

26. As President of the Republic I have the benefit of residences at Mahlambandlopfu in Pretoria, Genadendal in Cape Town and John Dube House in Durban, all of which I make extensive use of. Equally, I maintain my private residence at Nkandla.
27. Like most South Africans, I am particularly proud of my community and never miss an opportunity to go home to Nkandla – the demands of my work schedule permitting. I sometimes wish it otherwise, but I do not shed my status as President when I am at home in Nkandla. People continually visit me, seek my advice, support and counsel on a whole range of matters.
28. Similarly, matters of government do not grind to a halt during these all too infrequent visits to my homestead and consequently my role as Head of the Executive is likewise not suspended during these visits.
30. In the course of the engagements with the security cluster, I initially met with then Minister of Public Works, Mr Geoff Doidge, senior SAPS officials and other government officials at my homestead in a consultative process regarding improved security due to my occupying the office of President of the Republic.
31. I thereafter facilitated a meeting between this same grouping of persons and Mr Minenhle Makhanya, the consultant who was already engaged with building work at my home so that they would be appraised of the pre-existing plans for construction of the residences and that there would be as little disruption as possible to the work already commissioned.
32. From time to time I received briefings both formally and informally from the various Ministers engaged with the security enhancements. I was advised at some stage of the need to declare the homestead as a National Security Key Point. Whilst I took no exception to such declaration, I was not intimately involved with the finer details.

33. At these briefings I expressed concern with what appeared to be inordinately lengthy delays which impacted on my family. Equally, I found some of the security features like the bullet-proof windows an excessive encroachment on my use and enjoyment of my property.
34. The security upgrades are to be distinguished from the construction of buildings which provide infrastructural support for security personnel.
35. I take exception to the continued conflation of the security upgrades with the construction of buildings for the benefit of security personnel. Whilst neither were at my behest, the latter is directly attributable to the fact of my residence being located in a rural area with all the attendant challenges.
36. Persons drawn from rural communities can and do play a role in the development of our constitutional democracy.
37. I now turn to a consideration of the reports before me.

JSCI REPORT

38. Honourable Minister Thulas Nxesi, Minister of Public Works, ordered an investigation into Prestige Project A, the project to effect security upgrades at my private Nkandla residence.
39. A Task team of senior government officials was established in consultation with Honourable Siyabonga Cwele, then Minister of State Security and Honourable Nathi Mthethwa, then Minister of Police.
40. This decision was taken in response to government's concern regarding reports of allegations of financial mismanagement and excessive expenditure in relation to Project A. Project A had cost the government R206 420 644.28 as at December 2012.

41. The terms of reference were the following:

- 41.1.1 establish the chronology and process of declaring the Nkandla Residence Complex (NRC) as a National Key Point (NKP);
- 41.1.2 ascertain the legal, procedural and regulations that govern the declaration of premises such as the NRC and the NKP;
- 41.1.3 determine the legal and procedural process of declaring the NRC as a NKP;
- 41.1.4 ascertain in detail the recommendations made by the SSA, SAPS, Public Works and other statutory role-players in respect of the upgrading of security measures at the NRC;
- 41.1.5 determine in detail any other recommendations made by statutory entities on the upgrading of the NRC on non-security aspects (i.e. improvements proposed but that were not related to the securing of the complex);
- 41.1.6 establish details of the initial funds allocation and budget to the project and by whom was it approved;
- 41.1.7 ascertain whether delivery and supply chain prescripts were followed;
- 41.1.8 ascertain whether there were any deviations from the above; and
- 41.1.9 determine whether deviations from the above were in accordance with the legal and procedural prescripts.

42. The mandate of the Task Team derived from Section 92 of the Constitution which reads:

“Accountability and Responsibilities:- (1) The Deputy President and Ministers are responsible for the power and functions of the executive assigned to the President. (2) Members of the Cabinet are accountable collectively and individually to Parliament for the exercise of their powers and the performance of their functions. (3) Members of the Cabinet must-
(a) act in accordance with the Constitution; and
(b) provide Parliament with full and regular reports concerning matters under their control”.

43. The Task Team had regard to a whole host of applicable legislation and proceeded to interview officials and other witnesses, reviewed relevant supporting departmental documentation and conducted site inspections.

44. The findings contained in the report may be summarized as follows:

- 44.1.1 the Minister of Police declared the private residence of President Jacob Zuma a National Key Point on 8 April 2010;
- 44.1.2 the Security Cluster Departments conducted security assessments of the residence and accordingly made recommendations to review and address security shortcomings surrounding the President’s security in line with government policy, in particular Cabinet Memorandum 09 of 2003;
- 44.1.3 in respect of the declaration of the residence as a National Key Point, a special account should have been registered and opened. This was not done.
- 44.1.4 the budget for this particular project was not included in the Medium Term Expenditure Framework(MTEF) for the financial period 2010-2013;
- 44.1.5 the Department of Public Works did not pay any contractor for the construction of the houses of the President;

- 44.1.6 the total amount paid by the state as at December 2012 amounted to R206 420 044.28;
- 44.1.7 the Supply Chain Management Policy and prescripts were not fully complied with in the procurement of goods and services related to the project; and
- 44.1.8 there were security breaches in the procurement of services for the project.

45. The Report then proceeded to principally recommend the following:

- 45.1.1 that the report be referred to the SIU, the Auditor-General and SAPS with a view to investigate any possible acts of criminality;
- 45.1.2 that Parliament review the National Key Point Act and align it with the 2004 proclamation;
- 45.1.3 that DPW develop a policy relating to the management and control of prestige projects;
- 45.1.4 that immediate disciplinary measures be instituted against any government officials who might be implicated in wrong-doing, including the flouting of policies and procedures;
- 45.1.5 the role of Minister Doidge and Deputy Minister Bogopane-Zulu be further investigated and clarified;
- 45.1.6 that the Ministerial Handbook be reviewed in order to align it with Cabinet decisions on security measures at private residences of the President and Deputy President and former Presidents and Deputy Presidents; and
- 45.1.7 that any breach of law must be reported to the relevant authorities for investigation and prosecution.

PUBLIC PROTECTORS REPORT

46. The Public Protector of the Republic of South Africa launched an investigation into allegations of impropriety and unethical conduct relating to the installation and implementation of security and related measures at the private residence of the President of the Republic of South Africa at Nkandla.

47. The investigation was carried out in response to complaints lodged with the office of the Public Protector.

48. In essence the complaints alleged that:

48.1 there was no authority for the expenditure incurred by the state in respect of the security upgrades and in the event that there was such authority, the upgrades were excessive and transcended such authority;

48.2 the procurement process in respect of the security measures were improper and resulted in unduly excessive amounts of public money being spent unnecessarily; and

48.3 the conduct of the President in relation to implementing the impugned upgrades may have been unethical and in violation of the Ethics Code.

49. The Public Protector derives her mandate from:

49.1 Section 181(2) of the Constitution of the Republic of South Africa;

49.2 the Public Protector Act; and

49.3 Section 3 and 4 of the Executive Members Ethics Act.

50. The Public Protector principally found that:

- 50.1 the implementation of the security measures failed to comply with the parameters set out in the Cabinet Policy of 2003 and the National Key Points Act for the proper exercise of such authority. This constitutes improper conduct and maladministration;
- 50.2 no instrument specifically authorized the construction at the request of the Surgeon-General carried out on behalf of the Department of Defence and SAMHS;
- 50.3 the organs of state failed to follow Supply Chain Management prescripts;
- 50.4 the Department of Public Works(DPW) failed to comply with the provisions of GIAMA, which requires a proper asset management plan in respect of the immovable assets of the state;
- 50.5 a number of measures constructed and installed by the DPW went beyond what was reasonably required for the President's security;
- 50.6 the expenditure incurred by the state went beyond what was reasonably required for the President's security, was unconscionable, excessive and caused a misappropriation of state funds;
- 50.7 President Zuma's brother did not improperly benefit from the measures implemented;
- 50.8 President Zuma's immediate family did not improperly benefit from the measures implemented;
- 50.9 President Zuma improperly benefitted from some of the measures implemented in the name of security;
- 50.10 the Minister of Police failed to properly apply his mind when declaring President Zuma's residence a National Key Point;

- 50.11 the Minister of DPW and the Minister of Police could have provided better executive leadership;
- 50.12 the conduct of the DPW, SAPS and DOD officials constitutes improper conduct and maladministration;
- 50.13 the conduct of Minister Doidge and Deputy Minister Bogopane-Zulu insofar as their interventions at problem-solving, does not constitute improper conduct or maladministration;
- 50.14 the reallocation of funds from other DPW projects constitutes improper conduct and maladministration;
- 50.15 President Zuma was never familiarized with the provisions of the National Key Point Act, more particularly the declaration that he should contribute to the cost of the security upgrades;
- 50.16 the DPW mismanaged the process initiated with a view to determining the cost to be paid by President Zuma;
- 50.17 President Zuma tacitly accepted the implementation of all measures at his residence, has unduly benefited and should bear a portion of the costs;
- 50.18 President Zuma and his family benefited from the construction of certain measures;
- 50.19 President Zuma did not mislead Parliament or violate the Executive Ethics Code when he addressed Parliament regarding the security upgrades;
- 50.20 Sections 96 and 237 of the Constitution of the Republic of South Africa required President Zuma to take steps to protect state assets.
51. The Public Protector went on, in the main, to propose the following remedial action:

- 51.1 the President should determine the cost of the measures implemented by DPW which do not relate to security and pay a reasonable percentage of such costs;
- 51.2 the President should reprimand the Minister involved;
- 51.3 the President must report to the National Assembly within 14 days;
- 51.4 the Secretary of Cabinet must take urgent steps to update the Cabinet Policy of 2003;
- 51.5 the Secretary of Cabinet to assist cabinet to set clear standards on security measures and the reasonable cost that can be incurred;
- 51.6 the Secretary of Cabinet to take periodic measures to familiarize Cabinet with the parameters of executive benefits;
- 51.7 the Department of Defence to create Standard Operating Procedures regulating the implementation of benefits extended to Presidents, Deputy Presidents and former Presidents and Deputy Presidents;
- 51.8 the Minister of Police to urgently review the National Key Points Act;
- 51.9 the Minister of Police to ensure that no further security measures are installed at Nkandla;
- 51.10 the National Commissioner of Police to take steps against errant officials and assist the Minister of Police in his understanding of his responsibilities under the National Key Points Act;
- 51.11 the Director-General of DPW to take steps to recover over expenditure;
- 51.12 the Director-General to urgently enter into a lease agreement with the Ingonyama Trust Board in respect of adjacent property occupied by the state.

SIU REPORT

52. In terms of section 2(1)(a) of the SIU Act, the President may by Proclamation require the SIU to investigate matters where among other things the following is alleged: serious maladministration in connection with the affairs of any state institution; improper or unlawful conduct by employees of any state institution; unlawful appropriation or expenditure of public money or property; unlawful, irregular or unapproved acquisitive act, transaction, measure or practice having a bearing upon state property; and/or unlawful or improper conduct by any person which has caused or may cause serious harm to the interests of the public or any category thereof.
53. In December 2013 the President issued Proclamation R59 directing the SIU to investigate certain aspects of the security upgrades at his private residence at Nkandla.
54. In essence it requires the SIU to investigate among other issues the following:
- 54.1 the procurement of goods, works or services in a manner that was not fair, equitable, transparent, competitive or cost-effective;
 - 54.2 the procurement of goods, works or services in a manner that was not consistent with the applicable statutory or other regulatory provisions or prescripts;
 - 54.3 the procurement of goods, works or services from contractors, suppliers or service providers in which Departmental personnel or their close family members or friends held a financial or material interest;
 - 54.4 the manipulation of the Department's procurement processes by any unlawful scheme or practice, such as cover quoting, splitting of orders, etc.;
 - 54.5 the evading of competitive bidding processes by renewing, extending or amending existing contracts;

- 54.6 [the lawfulness and validity] of payments made to contractors, suppliers or service providers;
 - 54.7 undeclared or unauthorised interests held by Departmental personnel in contractors, suppliers or service providers who were appointed to provide goods, works or services;
 - 54.8 the losses or prejudice suffered by the state due to maladministration of the affairs of the Department relating to such matters as overpayments, duplicate payments, payments made despite inadequate performance, and the like;
 - 54.9 improper or unlawful conduct by contractors, suppliers or service providers of the Department or other third parties in relation to the upgrades and alterations.
55. The evidence gathered is still being carefully analysed to consider its full implications for the purposes of seeking positive outcomes in respect of disciplining Departmental officials who have committed misconduct, prosecuting those who have committed criminal offences and approaching the civil courts for appropriate relief, in particular recoveries of money paid.
56. The view has however been formulated that the evidence appears to point to the following:
- 56.1 there was non-compliance by Departmental officials with supply chain management processes with regard to the appointment of at least some of the contractors, suppliers or service providers who were engaged to effect the upgrades and improvements;
 - 56.2 there was overcharging by at least some of the consultants. It would appear that although they were entitled to charge 18,5% of the total value of the contract, they charged 25% of the contract value;
 - 56.3 some of the contractors, suppliers or service providers appear to have submitted fraudulent Tax Clearance Certificates ("TCC");

- 56.4 some of the contractors, suppliers or service providers who were appointed had not been vetted by the State Security Agency (SSA);
- 56.5 some of the contractors who were appointed did not have the required CIDB grading to perform the construction work that they were engaged to perform;
- 56.6 there may have been undue interference by the former Minister and the former Deputy Minister of the Department in the appointment of certain contractors, suppliers or service providers.

57. We are advised that the following steps are in progress:

- 57.1 finalizing “disciplinary dockets” to be handed to the Department’s Director-General in respect of 19 Departmental employees;
- 57.2 preparing “criminal dockets” to be handed to the National Director for Public Prosecutions in respect of persons whom we suspect are guilty of criminal offences;
- 57.3 referring to SARS the TCCs which we suspect are fraudulent;
- 57.4 briefing counsel to settle papers to bring civil claims against certain contractors, suppliers or service providers.

APPRAISAL AND ANALYSIS

58. I have been greatly assisted by the reports referred to above and have had an opportunity to reflect thereon.

59. In terms of Section 83 of the Constitution of the Republic

The President

(a) is the Head of State and head of the national executive;

(b) must uphold, defend and respect the Constitution as the supreme law of the Republic; and

(c) promotes the unity of the nation and that which will advance the Republic.

60. Likewise, as head of state, the executive authority of the Republic is vested in the President and the President exercises such executive authority in terms of the Constitution.

61. A proper appraisal of the commissioning of the security upgrades and expenditure at Nkandla must of necessity include an examination of the conduct of the Executive as measured against the Constitution and the prescripts set out in paragraph 6 above.

62. This examination and intervention has not awaited the compilation of this report and as government, measures have already been adopted to ensure compliance with the legislative framework and the review and determination of best practices.

63. What appears apparent is that whilst a legislative framework exists, it was either deficient in certain respects, wholly ignored or miss-applied.

64. I deem the following to be appropriate:

63.1 the Minister of Police as the implementing Minister under the National Key Points Act, to expedite the review of this legislation which is currently under way and to report to Cabinet periodically of the progress in this regard;

63.2 the Minister of Police as the designated Minister under the National Key Points Act, to report to Cabinet on a determination to whether the President is liable for any contribution in respect of the security upgrades having regard to the legislation, past practices, culture and findings contained in the respective reports;

- 63.3 the Minister of DPW to urgently report to Cabinet on the review of protocols and procedures regarding procurement, expenditure and oversight applicable to prestige and related projects;
- 63.4 the Ministers comprising the Security Cluster and the Minister of DPW to report to cabinet on their clearly defined roles and responsibilities when dealing with the security which attaches to the President and Deputy President and former Presidents and Deputy Presidents when implementing Cabinet policy consistent within the applicable legal framework;
- 63.5 Cabinet to conduct a review of the Cabinet Policy of 2003, relating to security of the President, Deputy President and former Presidents and Deputy Presidents with a view to setting parameters for expenditure and implementation.
65. I am satisfied with the progress reported by the SIU and that the interventions both proposed and actualized in terms of our civil and criminal law, as well as departmental procedures, speak to the seriousness of their findings and in accordance with the terms of reference set out in the proclamation.
66. I am equally satisfied that adequate steps have been taken by parliament and the executive in reviewing the ethical codes applicable to members of cabinet and of parliament.

Mr Jacob G. Zuma

A handwritten signature in black ink, appearing to read 'J. Zuma', written in a cursive style. The signature is positioned below the printed name 'Mr Jacob G. Zuma'.

President of the Republic of South Africa

14 August 2014