

**THE JUDICIAL COMMISSION OF INQUIRY INTO ALLEGATIONS REGARDING
EFFORTS OR ATTEMPTS TO STOP THE INVESTIGATION OR PROSECUTION OF
TRUTH AND RECONCILIATION COMMISSION CASES**

SUPPLEMENTARY AFFIDAVIT OF ADV DOCTOR MASHABANE

I, the undersigned, **ADV DOCTOR MASHABANE**,

do hereby make oath and state as follows:

- 1 The facts contained in this supplementary affidavit are, unless the context indicates otherwise, within my personal knowledge and are true and correct.

- 2 I depose to this affidavit to supplement the affidavit I already provided to the Commission dated 6 July 2026 and to deal with further matters arising from the consultation held with the evidence leaders on 7 July 2026.

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- 3 I hold the following degrees: B.Proc, LLB and an LLM in International Human Rights.
- 4 My employment background spans 2002 to 2005. I served as a senior state law advisor in the Department of Justice on constitutional development and human rights matters.
- 5 Thereafter I served in the Department of International Relations and Cooperation, including as Deputy Ambassador to the United Nations from approximately December 2009 to December 2014.
- 6 I joined the Ministry of Justice as an advisor to Minister Ronald Lamola in or about August 2019 and served in that capacity until my appointment as Director-General of the Department of Justice and Constitutional Development. I served as Director-General from approximately 1 March 2021 and until my departure in February 2026.
- 7 I am requested to address my involvement and the role I played in handling TRC cases in my capacity as the Director-General ("DG") of the Department of Justice and Constitutional Development.
- 8 In terms of section 179(2) and (4) of the Constitution read with section 20 of the National Prosecuting Authority Act 32 of 1998("NPA Act") prosecutorial decision rests with the National Director of Public Prosecutions and the National

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Prosecuting Authority, and not with the Minister of Justice. It is under this system that I carried out my functions as DG.

9 It is important that the Commission understand the role of the Minister as provided for in NPA Act, including involvement in prosecution policy and the receipt of information or reports regarding matters handled by the National Director of Public Prosecutions. The Minister plays no role in making decisions on whether to prosecute, stop, pause, or withdraw a prosecution. The decision to prosecute or not to prosecute is the sole responsibility of the NPA.

10 The Minister may request information about a case, but such request does not give the Minister the power to overrule or direct a prosecutorial decision. Section 33(1) of the National Prosecuting Authority states that:

(1) *"The Minister shall, for purposes of Section 179 of the Constitution, this Act or any other law concerning the prosecuting authority, exercise final responsibility over the prosecuting authority in accordance with the provisions of this Act".*

Section 33(2) further provides that:

(2) *To enable the Minister to exercise his or her final responsibility over the prosecuting authority, as contemplated in section 179 of the Constitution, the National Director shall, at the request of the Minister-*

(a) furnish the Minister with information or a report with regard to any case, matter or subject dealt with by the National Director or a Director in the exercise of their powers, the carrying out of their duties and the performance of their functions;

(b) provide the Minister with reasons for any decision taken by the Director in the exercise of his or her powers, the carrying out of his or her duties or the performance of his or her functions;

(c) furnish the Minister with information with regard to the prosecution policy referred to in section 21(1)(a);

(d) Furnish the Minister with information with regard to the policy directives referred to in section 21(1)(b);

(e) Submit the reports contemplated in section 34 to the Minister; and

(f) arrange meetings between the Minister and members of the prosecuting authority”.

11 As the Director-General, my involvement with the National Prosecuting Authority was primarily administrative and financial. As the accounting officer I was governed by the Public Finance Management Act and the provisions of the NPA Act governing the accounting for state monies and related records.

12 My interactions with the National Director concerned matters such as the budget, personnel, administrative capacity, procurement, briefing patterns, and related resource issues.

13 The Director-General does not exercise prosecutorial authority. The Director-General acts only within powers expressly conferred by statute or delegated in accordance with law as outlined above.

14 I am aware that this Commission is investigating allegations of efforts to stop or delay the investigation or prosecution of TRC cases. What I can recall is that when I joined the Department of Justice in 2019, the issue concerning TRC cases was already being discussed in the context of allegations of interference and delays in prosecutions.

13. My recollection of the TRC cases is that the Rodrigues matter brought renewed attention to allegations of non-prosecution and interference in TRC-related cases. I do not recall being assigned responsibility for advising the Minister specifically on whether any TRC matter should be prosecuted. Any involvement I may have had would have been document-based, arising from memoranda, reports, requests, or other submissions from the National Prosecuting Authority to the Minister, which, at this stage, I do not recall given the length of time since I have been in office.

14. I understood that, around that period, the National Director of Public Prosecutions was considering or implementing measures to strengthen the NPA's capacity to handle TRC matters, including a special project or dedicated capacity to fast-track them.

15. If there was any support or involvement from the Minister required by the NPA, I believe that it would have been to assist the National Director to obtain resources, capacity or cooperation from other government actors such as the

police or relevant departments, and not on any matter to direct prosecutorial outcomes.

16. I became aware that at the time, of the Rodrigues case involving alleged interference in prosecution of certain TRC cases. I also became aware of other matters which had been referred for Inquests to be opened. As the Director-General, I have no direct interaction or involvement in such processes. These matters fell squarely within the office of the Minister. I recall, by way of example, that inquiries such as the Hani Family inquest request would come to my attention administratively, but I would refer or direct such matters to the appropriate office, including the National Director, where they were being dealt with.

17. I believe there may be documents that could help refresh my memory, including memoranda, reports, opinions, requests, or submissions from the NPA to the Minister concerning the Rodrigues matter, the prosecution of TRC cases, the capacity of the TRC or PCLU unit, or any special project related to TRC prosecutions.

18. I believe that such documents may be in the custody of the National Prosecuting Authority and/or the Department of Justice and Constitutional Development, including the office of the Director-General. I would also expect that documents concerning requests for additional resources, investigators, capacity, or interdepartmental cooperation may help place the relevant events

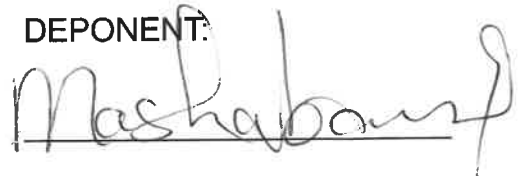
in context. Obtaining this information would greatly assist me in providing detailed information to the Commission, and I request that the Commission request the documents from the institutions mentioned herein.

Conclusion

19 This affidavit is intended to provide the Commission with context regarding the respective roles of the Minister, the National Prosecuting Authority, and the Director-General. I have done so by illustrating the different roles played by the Minister, the National Director of Public Prosecutions, and the Director-General. In doing so, I confirm that I have been involved in any attempt to stop, pause, delay, or interfere with the investigation or prosecution of TRC cases.

20 To the extent that I was involved in TRC cases, such involvement was administrative, advisory, or resource-related and depended on requests, reports, or memoranda initiated by the National Prosecuting Authority or directed through the Department.

DEPONENT:

A handwritten signature in dark ink, appearing to read 'Mashabane', written over a horizontal line.

ADV DOCTOR MASHABANE

Handwritten initials 'GM' and 'ML' with a small superscript '7' next to 'GM'.

SIGNED and SWORN to before me at Centurion on this
16 day of July 2026, the Deponent having acknowledged that
he knows and understands the contents of this affidavit, has no objection to taking the
prescribed oath, and considers the prescribed oath to be binding on his conscience.



COMMISSIONER OF OATHS:

Sa 7109114-9
ml 161016
616 Barden and Gerhard
street