

**THE HIGH COURT OF SOUTH AFRICA
GAUTENG DIVISION, PRETORIA**

Case No: CC 03/2026

In the matter between:

THE STATE

and

**PATRICK MSHOTHOLA
THULANI DLOMO**

Accused 1
Accused 2

In re the application of:

**MEDIA24 (PTY) LTD
AMABHUNGANE CENTRE FOR
INVESTIGATIVE JOURNALISM NPC
DAILY MAVERICK (PTY) LTD
CAMPAIGN FOR FREE EXPRESSION NPO**

First Applicant

Second Applicant
Third Applicant
Fourth Applicant

and

**THE STATE
PATRICK MSHOTHOLA
THULANI DLOMO**

First Respondent
Second Respondent
Third Respondent

NOTICE OF MOTION

KINDLY TAKE NOTICE THAT the applicant intends to apply to this Court before the commencement of proceedings on **Monday 19 September 2026** for an order in the following terms:

1. The forms and service provided for in the Rules of Court are dispensed with and that the matter be heard as an urgent application in terms of Rule 6(12) of the Rules of this Court
2. The order of 14 October 2026 ("the 14 October order") is varied as follows:
 - 2.1 paragraphs 1, 3, 4, 5(g), 6, 7 and 8 are replaced by this order;
 - 2.2 paragraph 2 (protection of the identities of SSA members) remains in force, subject to paragraph 4 below;
 - 2.3 paragraphs 5(a) to 5(f) remain in force on an interim basis only, as provided in paragraph 12 below.

Open court

3. The trial shall be conducted in open court, as required by section 152 of the Act. There shall be no blanket exclusion of the public or the media. No part of the proceedings shall be closed, and no document withheld, merely because the evidence concerns the State Security Agency ("SSA"), a witness is a current or former SSA member, a document is classified, or a party asserts that disclosure would harm national security. The addresses of counsel and all rulings and judgments shall be given in open court.
4. The courtroom may be cleared only on the direction of the presiding Judge, given in open court, identifying the ruling under paragraph 11 on which it is

based. The closure shall extend only to the part of the evidence covered by that ruling, and the public and media shall be readmitted as soon as it ends.

Protected SSA witnesses

5. Current or former SSA members whose identities are protected shall testify in open court under a pseudonym, may be screened from the public gallery, and may not be photographed, filmed or identified in any publication. Such a witness may testify behind closed doors only if the Court, on an application under paragraph 5 relating to that witness, is satisfied under section 153(2) of the Act that harm is likely to result to the witness if he or she testifies in open court. Even then, the Court shall consider permitting accredited members of the media to remain.

Applications to withhold evidence

6. A party (the State or the accused) who contends that any evidence, or any document or part of a document, should be withheld from the public and the media on grounds of national security shall apply to the Court for a direction under section 153(1) or (2) of the Act. The application shall be served on the other parties and on the applicants' attorneys at least 5 court days before the evidence is to be led, or, where that is not reasonably possible, as soon as the need arises.
7. The application shall be supported by affidavits of persons with personal knowledge of the facts, which shall:
 - 7.1 identify specifically each document (by page and paragraph) and each portion of oral evidence (by witness and subject) for which protection

is sought; a claim in respect of a class or category of material is not sufficient;

7.2 set out the facts showing what harm would follow from disclosure and how disclosure would cause it;

7.3 state whether the information is already in the public domain; and

7.4 explain why less restrictive measures would not suffice, and attach a proposed redacted version or summary of each document.

8. The media may deliver answering affidavits within 3 court days of service. The Court shall decide the application only after hearing all affected parties, including the media. The application shall be heard in open court, save to the extent that argument cannot be presented without revealing the material itself. The Court may examine the material to determine whether the objection is justified.

Transitional provisions

9. The documents listed in paragraphs 5(a) to 5(f) of the 14 October order shall remain withheld pending the determination of an application under paragraph 5, provided the application is served within 10 court days of this order. Any document, or part of a document, not covered by such an application shall then be open to public access.
10. Any party who contends that any part of the transcript of evidence already heard in camera should remain withheld shall bring an application under paragraph 5 within 5 court days of this order, identifying that part by page

and line. Pending its determination, the transcript shall be kept under seal. Every other part of the transcript shall be made available to the media on request, with the identities of protected witnesses redacted.

11. Any party, and the media, may approach the Court on notice for further directions on the implementation of this order.
12. In the alternative to paragraphs 2 to 15 above, the criminal trial is postponed to afford the respondents time to file answering papers in this application, on a timetable to be directed by this Court.
13. Any respondent opposing this application shall pay the costs, including the costs of two counsel on Scale C.

TAKE NOTICE FURTHER that the founding affidavit of Charl du Plessis and accompanying annexures will be used in support of this application.

The applicants have appointed the offices of **Willem de Klerk Attorneys** as set out below as the address at which they will accept all service and pleadings. Service via email per [REDACTED] is accepted.

SIGNED at JOHANNESBURG on this 18th day of October 2026.



**WILLEM DE KLERK
ATTORNEYS**

Attorneys for the First and
Second Applicants
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Email [REDACTED]

TO: THE HONOURABLE PRESIDING JUDGE:
Ms Justice Munzhelele
c/o THE CLERK OF THE ABOVE HONOURABLE COURT
Pretoria
Per email: [REDACTED]

AND TO: THE STATE
Mr Terry Motau
Per email: [REDACTED]

AND TO: ATTORNEYS FOR THE FIRST ACCUSED
Mr Danny-Junior Maimele
Per email: [REDACTED]

AND TO: ATTORNEYS FOR THE SECOND ACCUSED
Mr Amigo Ndlovu
Per email: [REDACTED]

CC TO: THE NATIONAL DIRECTOR FOR PUBLIC PROSECUTIONS
Mr Andy Mothibi
Per email: [REDACTED]

CC TO: THE HONOURABLE ACTING DEPUTY JUDGE PRESIDENT:
Mr Justice Neukirker
Per email: [REDACTED]

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PATRICK MSHOTHOLA
THULANI DLOMO
DIRECTOR-GENERAL: STATE SECURITY AGENCY**

First Respondent
Second Respondent
Third Respondent
Fourth Respondent

FOUNDING AFFIDAVIT

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I, the undersigned,

CHARL DU PLESSIS

do hereby make oath and state:

- 1 I am a 40-year-old attorney practicing as a junior partner at Willem de Klerk Attorneys, the attorneys of record for the applicants. I am duly authorised to depose to this affidavit and prosecute this application on behalf of the applicants.
- 2 The facts set out in this affidavit are true and correct and, save where context indicates otherwise, fall within my personal knowledge.

PARTIES

- 3 The first applicant is Media24 (Pty) Ltd ("**Media24**"), a company duly registered in terms of the company laws of South Africa, with its principal place of business at 40 Heerengracht Street, Cape Town. Media24 is the owner and publisher of the news and current affairs website news24.com.
- 4 The second applicant is the AmaBhungane Centre for Investigative Journalism ("**AmaBhungane**"), a nonprofit company, with its principal place of business at The Media Mill, 11 Quince Street, Milpark, Johannesburg. AmaBhungane NPC is the owner and publisher of the news and current affairs website amabhungane.org.
- 5 The third applicant is Daily Maverick (Pty) Ltd ("**Daily Maverick**"), a company duly registered in terms of the company laws of South African, with its principal

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place of business at 32 on Kloof, Kloof Street, Gardens, Cape Town, 8001. Daily Maverick is the owner and publisher of the news and current affairs website dailymaverick.co.za.

- 6 The fourth applicant is the Campaign for Free Expression, a nonprofit organisation with its principal place of business at 139 Greenway, 2nd Floor, Greenside Johannesburg. The organisation's focus is the protection and advancement of the right to freedom of expression for all citizens.
- 7 The first respondent is the State, represented in these proceedings by the National Prosecuting Authority, situated at VGM Building, 123 Westlake Avenue, Weavind Park, Silverton, Pretoria, 0184.
- 8 The second and third respondents are Mr Patrick Mshothola and Mr Thulani Dlobo, both former employees of the State Security Agency ("SSA"), and the two accused in the main proceedings. For purposes of these proceedings, Messrs Mshothola and Dlobo will receive service via their respective attorneys of record, Mr Danny-Junior Maimela [REDACTED] and Mr Amigo Ndlovu [REDACTED]

INTRODUCTION AND OVERVIEW

- 9 On 14 October 2026, this Court granted an order concealing the identities and evidence of key witnesses in the main proceedings, preventing public access to any evidence marked "confidential", and preventing disclosure of the record of proceedings. For ease of reference, I attach the order as annexure "CD1".

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- 10 The order has so far implemented as a blanket prohibition on any public access to the trial proceedings. Three days of the criminal trial have seemingly already been conducted in complete secrecy, in camera.
- 11 The order was sought and granted without notice to the applicants, any other media house, or the public. Its effect is that the first criminal prosecution of SSA personnel, centrally implicated in State Capture, will be shielded from the public. Matters of acute public interest – reported on by the media for over decade – will thus occur without any public scrutiny.
- 12 The order of 14 October 2026, and its subsequent implementation, thus strike directly at the open justice principle and the right to freedom of expression and access to information. It amounts to precisely the type of blanket prohibition on disclosure which our courts have consistently held to be impermissible.
- 13 The order and its implementation are also unlawful because:
- 13.1 The proceedings have so far been held entirely in camera, despite the fact that this is not sanctioned by the order;
- 13.2 The order fails to consider less restrictive measures, impermissibly prohibits disclosure on the sole basis that documents are marked “confidential”;
- 13.3 The order indicates that no consideration was given to whether particular parts of the evidence justify the non-disclosure order and ignores that much of the information is already in the public domain; and

- 13.4 The order was granted without prior notice to the applicants or the public and without any hearing of the media.
- 14 I am advised that the order is inconsistent with the binding Constitutional Court authority in *Independent Newspapers (Pty) Ltd v Minister for Intelligence Services: In re Masetlha v President of the Republic of South Africa and Another* 2008 (5) SA 31 (CC).
- 15 The applicants accordingly bring the present application for variation to vindicate their own and the public's rights to freedom of expression, access to information, and open justice. The relief sought is intended to appropriately balance these rights with the State's legitimate interest in national security. In essence, it preserves the default open justice principle, and requires the State, upon notice to the applicants, to appropriately justify any prohibition on disclosure.
- 16 In what follows, I first set out the lengthy publicly documented background, which culminated in these proceedings. Then, I address the implementation of the order, and the events which precipitated the present application. I then show that the order is unlawful and unconstitutional, that it should be varied in accordance with the notice of motion, and that such relief is urgently required.

BACKGROUND

- 17 From 2012 to 2017, the second accused, Mr Dlomo, was the head of the Chief Directorate for Special Operations ("CDSO"), a unit with the SSA. He was subsequently appointed as South Africa's ambassador to Japan. During the 2012

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to 2017 period, the first accused, Mr Patrick Mshothola, served as an investigator and later a project manager within the CDSO.

- 18 Two high profile investigations, commissioned by the State, have revealed that under Mr Dlomo's tenure, the CDSO acted unlawfully and for the political benefit of former President Zuma. The High Level Review Panel Report, commissioned by President Ramaphosa and published in March 2019, recorded, inter alia, that "[d]ue to wide-ranging resource abuse, the SSA became in effect a 'cash cow' for many its members and external stakeholders."¹ The State Capture Report recorded that, "particularly under the direction of Ambassador Thulani Dlomo, [the CDSO] was a law unto itself, launching many projects that operated illegally".² I attach the relevant excerpts from these reports as annexures "CD2" and "CD3".
- 19 In these proceedings, the State alleges that, during their tenure at the State Security Agency, the accused misappropriated R12m in funds allocated to the agency. The current proceedings therefore represent the State's first attempt to hold senior SSA members liable for the alleged looting of SSA resources during the tenure of former President Zuma. These proceedings thus concern matters of singular public importance: misappropriation of public funds; abuse of power; and criminal conduct perpetrated by senior members of the State Security Agency allied to the former President.

¹ High Level Review Panel ("HLRP") report, page 99, bullet two.

² Paragraph 866, Part V, Volume 1.

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20 The facts central to these proceedings are detailed in the indictment and summary of substantial facts. They are therefore not repeated here, save where necessary. Instead, in what follows, I provide a chronology of the public reporting of the allegations relevant to these proceedings. This chronology reveals both the substantial and obvious public interest in these proceedings and that much of the information subject to the 14 October 2026 order is already in the public domain. Thereafter, I set out the facts relevant to the 14 October 2026 order and its implementation.

Relevant reports

High Level Review Report on the SSA

- 21 Former President Zuma resigned as president on 14 February 2018 and President Ramaphosa was sworn in on 15 February 2018.
- 22 On 8 May 2018, in response to questions from the National Assembly, President Ramaphosa recorded that he was “deeply concerned about allegations of corruption and other acts of wrongdoing in some of our intelligence service”. He accordingly decided to “set up a Review Panel to assess the structure of the Agency relative to its mandate and inquire into its systems and capacity.”
- 23 I attach the notice of the President’s remarks as annexure “CD4”.
- 24 President Rampahosa subsequently appointed former Minister Sydney Mufamadi to chair the Review Panel. It finalised its report in December 2018 and, upon the Review Panel’s recommendation, a redacted version of the report was

publicised in March 2019. I have previously attached the relevant extracts from the report above as annexure CD2.

25 The Review Panel found as follows:

25.1 “From about 2005, with the emergence of the divisions in the ANC, there has been a growing politicisation and factionalisation of the civilian intelligence community based on the factions in the ANC. This has been partly aggravated by the fact that many of the leadership and management of the intelligence services have come from an ANC and liberation struggle background and have seemingly, in some cases, not been able to separate their professional responsibilities from their political inclinations. This became progressively worse during the administration of the former President, with parallel structures being created that directly served the personal and political interests of the President and, in some cases, the relevant ministers. All this was in complete breach of the Constitution, the White Paper, the legislation and other prescripts.”³ (emphasis added).

25.2 From 2009, there was a marked doctrinal shift in the civilian intelligence community, “away from the prescripts of the Constitution, White Paper and legislation and plain good practice”. This was reflected in the increased use of covert structures and the projects they executed – including the CDSO.⁴

³ HLRP report, page 98, bullet one.

⁴ HLRP report, page 98, bullet two.

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- 25.3 "The Panel was able to identify the key player in the politicisation of SO and the SSA in general (the member is currently serving government in a senior capacity). According to reports, he was 'deployed' to SSA by the then President via the Minister at the time to head up the SO chief directorate. This was in spite of allegations that he left his previous employ under a cloud of corruption allegations. According to his CV, the member served in the ANC underground structures and Department of Intelligence and Security. The Panel needs to put on record that this member was the most recalcitrant and evasive 'witness' it had encountered in all its interviews. He invoked the 'need to know principle' to withhold information – particularly with regard to his interaction with the Executive – from the Panel."⁵ (emphasis added).
- 25.4 "It is clear to the Panel that the SSA's SO unit, especially under the watch of the member mentioned above, was a law unto itself and directly served the political interests of the Executive. It also undertook intelligence operations which were clearly unconstitutional and illegal."⁶ (emphasis added).
- 25.5 There was a disproportionate application of secrecy within the SSA stifling effective accountability and facilitating "serious non-compliance with controls including blatant criminality".⁷

⁵ HLRP report, page 65.

⁶ HLRP report, page 65.

⁷ HLRP report, page 99, bullet one.

25.6 “Due to wide-ranging resource abuse, the SSA became in effect a ‘cash cow’ for many its members and external stakeholders.”⁸

26 These findings were widely reported by South Africa’s leading media houses, as is apparent from the sample of reports included as annexures **CD5** to **CD8**.

State Capture Commission

27 During February 2020, the State Capture Commission heard evidence from a SSA member, referred to as Mr Y. I attach the relevant portions of his evidence as annexure **CD9**.

28 Mr Y confirmed, inter alia, that the “key player” identified in the High Level Review Report referred to Mr Dlomo.⁹ Mr Y confirmed further that, under Mr Dlomo’s tenure, the CDSO became “a parallel intelligence structure serving a faction of the ruling party and in particular the personal political interest of the sitting President of the party and the country”.¹⁰

29 The following year, in January 2021, the State Capture Commission heard further evidence from another SSA member, referred to as Ms K. I attach the relevant parts of her evidence as annexure **CD10**.

30 Ms K confirmed, inter alia, that:

⁸ HLRP report, page 99, bullet two.

⁹ Transcript of Mr Y’s evidence, lines 10-20, page 186.

¹⁰ Transcript of Mr Y’s evidence, lines 20-10, pages 187-8.

- 30.1 “Under Ambassador ’s [Mr Dlomo’s] watch the CDSO engaged in exponential overspending and flouted the SSA’s financial operational and HR directives through covert mechanisms and illegal contracts.”¹¹
- 30.2 The CDSO conducted “rampant looting of SSA funds”.¹²
- 30.3 Mr Dlomo “illegally signed contracts on behalf of the SSA ... with Several Companies”.¹³
- 31 Mr Y and Ms K’s evidence was widely reported, as is evident from annexures **CD11 – CD14**.
- 32 In June 2022, President Ramaphosa publicly disclosed Part V of the State Capture Report, which addressed the SSA. I have previously attached the relevant parts of this report as annexure CD3.
- 33 The Report substantially corroborated Mr Y and Ms K’s evidence and found that:
- 33.1 The level of political interference in the SSA prevented it from investigating a potential breach of national security by the Gupta family around their prior knowledge of the appointment of a Cabinet minister. The halting of this investigation led to a lack of scrutiny on the Gupta family that in all likelihood, could have prevented their actions in securing funds from state owned enterprises, and the loss of billions of rands to the fiscus.¹⁴

¹¹ Transcript of Ms K’s evidence, day 332, lines 20-6, page 114.

¹² Transcript of Ms K’s evidence, day 332, lines 24-2, pages 115-6.

¹³ Transcript of Ms K’s evidence, day 334, lines 17-25, page 56.

¹⁴ Paragraphs 852 to 856, Part V, Volume 1.

- 33.2 Dlomo established a Presidential Security Support Services unit within the CDSO to protect former president Zuma, with Zondo finding this is a “task that properly belonged to the SAPS. Dlomo also irregularly removed the President’s health services from the SANDF to the CDSO.”¹⁵
- 33.3 The Special Operations Unit “particularly under the direction of Ambassador Thulani Dlomo, was a law unto itself, launching many projects that operated illegally...”¹⁶
- 33.4 Some of the CDSO’s operations contravened the Constitution and legislation governing intelligence services.¹⁷
- 33.5 Mr Dlomo handled “a lot of cash; in many respects, the use and destination of the monies remained obscure”.¹⁸
- 33.6 Mr Dlomo was “involved in the withdrawal of large sums of cash and its movement, for which no proper accounting was made. This related largely to certain projects under the umbrella project, Project Mayibuye.”¹⁹
- 33.7 By way of examples, “there was a case where cash in the amount of R145m was stolen within the SSA offices. Varying amounts were withdrawn; for example, R38.5m over the period March 2014 to

¹⁵ Paragraph 848, Part V, Volume 1.

¹⁶ Paragraph 866, Part V, Volume 1.

¹⁷ Paragraph 867, Part V, Volume 1.

¹⁸ Paragraph 872, Part V, Volume 1.

¹⁹ Paragraph 953, Part V, Volume 1.

September 2016; money withdrawn by then Minister Mahlobo for, allegedly, former President Zuma at R2.5 p/m in 2015/2016, which was later raised to R4.5 p/m in 2016/2017. Ambassador Dlomo approved and caused the withdrawal of cash in large amounts; for example, R5m, R13.5m and R4.510m. Mr Arthur Fraser instructed a junior to receive and take cash in the amount of R1.5m to the then Minister Mahlobo; signed in approval the withdrawal of R4.510m to be taken to the then Minister Mahlobo, and for yet another R4.510m the following month to be taken to the then Minister.”²⁰

34 The Commission accordingly recommended that—

“The role played by Ambassador Thulani Dlomo, Mr Mahlobo, Mr Arthur Fraser and other people involved in the withdrawal, handling and distribution of SSA's money, should be looked into by the law enforcement agencies”.²¹

Reporting on the arrest and trial

35 On 30 November 2025, the accused were arrested. The following day, on 1 December 2025, they made their first court appearance, and the matter was postponed to 26 January 2026.

36 On 2 December 2025, the NPA released a statement, which I attach as annexure **CD15**, in which it set out these developments.

²⁰ Paragraph 869, Part V, Volume 1.

²¹ Paragraph 879, Part V, Volume 1.

- 37 The accused's arrest, and the forthcoming trial proceedings, were reported on by leading media house, as is evident from annexures **CD16** to **CD18**. The Daily Maverick described the arrest as "a major State Capture breakthrough".
- 38 On 3 December 2025, News24 published an article entitled "the case against Zuma's spy, and how Dlomo helped 'steal' SSA millions". I attach this article as annexure **CD19**. Importantly for present purposes, the article references the documents itemised in the 14 October 2026 order including the SSA's request for funding dated 20 January 2015, the contracted purportedly concluded between Korolo Investments Holdings (Pty) Ltd and the SSA, and the temporary advance applications.
- 39 News24 obtained the indictment through a confidential source and published the article because of its clear public importance. News24 described the documents listed in the indictment and limited information about the contents of the documents in its 3 December 2025 report. To date, the publication has not been challenged.

The 14 October 2026 order

- 40 Subsequent to the NPA's statement of 2 December 2025, News24 learned that proceedings were postponed on 26 January 2026. As far as I am aware, neither the NPA, nor anyone else, disclosed that the NPA had brought an application to prevent disclosure of a substantial part of the evidence to be led. The NPA also did not disclose that the trial was scheduled to proceed in the week of 12 October 2026.

- 41 News24 first learned of these development on 16 October 2026, at approximately 8:57am, when its Mr Cowan received information from a source to the effect that the trial had commenced in the High Court in Pretoria. The source informed Mr Cowan that the public gallery had been entirely cleared of members of the public at the commencement of proceedings after other matters had been dispensed with. Mr Cowan has deposed to a confirmatory affidavit, which I will deliver together with this affidavit, in which he confirms the correctness of these facts and those that follow.
- 42 Mr Cowan immediately left News24's offices in Randburg, Johannesburg to travel to the Pretoria High Court. At the same time, at approximately 09:50am, I was contacted telephonically by Mr Pieter du Toit, the assistant editor of investigations of News24, who informed me that the hearing of Mr Dlomo's criminal trial was proceeding in camera. I informed Mr Du Toit that Mr Cowan should obtain 1) the court order granting an in camera hearing, 2) the application for an in camera hearing and 3) the contact details of the presiding judge's clerk, and those of the state and the accused's legal representatives.
- 43 Mr Cowan arrived at Courtroom GC at approximately 11:00am. When he attempted to enter the court orderly, an SAPS officer gestured that he could not do so. Mr Cowan could see that the public gallery of the court was empty. He informed the police officer, whose name he did not record, that he was a member of the media and that he wanted to attend the trial. The officer stated that he could not attend the proceedings because the matter was being heard "*in camera*".

- 44 Shortly thereafter, during the tea adjournment, Mr Cowan again entered the court, introduced himself to representatives of the defence and indicated that he wished to speak to the prosecutor. Counsel for the defence and prosecution both informed Mr Cowan that, in order to secure media access to proceedings, he would have to bring a formal application. Mr Cowan requested the 14 October 2026 order and was provided a printed copy of the order by the state's representatives. He then emailed the photographed order to me.
- 45 During the lunch adjournment, Mr Cowan requested the State's application, which precipitated the 14 October 2026. The State's representatives informed him that they could not disclose the information because it contained classified information.
- 46 At 13h44, I addressed correspondence on behalf of our clients to the Honourable Justice Munzhelele, the acting deputy Judge President of the Division, Mr Justice Neukirker, and the representatives of the parties. A copy of the letter is attached as annexure **CD20**.
- 47 The purpose of the letter, which I had hoped might be brought to Ms Justice Munzhelele's attention during the lunch adjournment, was: 1) to request compliance with the Order of 14 October 2026, which appeared to us not to provide for the blanket exclusion that was being enforced, 2) to request a full copy of the application for the order, and 3) request directives from Ms Justice Munzhelele regarding the filing of affidavits in the event that an application was necessary.

48 Mr Cowan informed me that shortly after the letter was sent, the criminal proceedings again commenced on an in camera basis. I have not yet received a response to my letter of 16 October 2026.

THE VARIATION IS JUSTIFIED

49 The order of 14 October 2026 is interlocutory and, I am advised, can therefore be varied by this Court upon application. In what follows, I show that such variation is justified. I thus first set out the salient legal principles. I then show that the variation sought is urgently needed: the public has a clear interest to be informed about these proceedings; the implementation of the order, and the order itself, are unconstitutional; the relief sought cures these defects; and the continued implementation of the order has caused, and will continue to cause, irreparable harm.

Relevant principles

50 Our courts have consistently recognised the “open justice” principle – the public has an inherent interest in knowing about court proceedings and such proceedings are therefore, by default, to be held in public. This principle is anchored in sections 16 and 32 of the Constitution and is concretised in section 152 of the Criminal Procedure Act.

- 51 In order to upset the open justice principle, a litigant must place material before the court, justifying the non-disclosure of evidence.²² The fact that evidence is marked confidential does not provide a sufficient basis to exclude evidence from the public record. Nor is a blanket assertion that disclosure will harm the public interest sufficient.²³
- 52 Instead, a party must place material before the court, identifying the specific piece of evidence which they contend should not be disclosed, explaining why disclosure of specific evidence will cause harm, and explaining why measures less restrictive of the open justice principle are not available.
- 53 The Court must, in turn, evaluate whether a sufficient basis has been set out, in respect of each relevant piece of evidence, to prevent disclosure of the information. In making that assessment, a court must consider all relevant circumstances.²⁴ I again emphasize that the fact that a document is marked confidential does not relieve a court of this burden. It must instead consider, inter alia, the nature of the evidence, the public interest in proceedings, whether the information is already in the public domain, whether disclosure or non-disclosure will harm the prosecution of a fair trial, other investigations, or the safety of witnesses or third parties, and whether operational evidence relates to operations which have ended.

²² *Independent Newspapers (Pty) Ltd v Minister for Intelligence Services (Freedom of Expression Institute as Amicus Curiae) In re: Masetlha v President of the Republic of South Africa and Another* (CCT38/07) [2008] ZACC 6; 2008 (5) SA 31 (CC); 2008 (8) BCLR 771 (CC) at para 46.

²³ *Masetlha* above at para 54.

²⁴ *Masetlha* above at para 55.

54 A court must then consider whether there are less restrictive measures to non-disclosure and must deliver a particularised order and reasons, providing justification for the decision to permit or withhold disclosure of each piece of relevant evidence.²⁵

Public interest

55 The public interest in court proceedings is particularly acute where matters concern powerful state officials and misappropriation of state funds. For this reason alone, the public plainly has a substantial interest in these proceedings.

56 However, as is evident from the facts set out above, these proceedings concern issues of singular public importance. The charges in this case relate directly events covered by the media for over a decade, and which culminated in the findings of the High Level Panel and the State Capture Commission. They concern State Capture and, in particular, the capture and subversion of SSA, a state institution of fundamental importance by the accused, former President Zuma, and the Gupta family. The public interest in these proceedings is therefore clear.

Unlawful implementation of the order

57 For reasons detailed further below, I respectfully submit that the 14 October 2026 order is unlawful and unconstitutional and should therefore be varied in

²⁵ *Van Breda v Media 24 Ltd and Others* 2017 (5) SA 533 (SCA) at paras 61 and 73.

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accordance with the notice of motion. However, on its own terms, the order does not permit the proceedings to be held *in camera* in entirety.

58 Instead, the order provides that proceedings will be held *in camera* when SSA officials give evidence (paras 1-2); when evidence is led concerning the SSA's operational and intelligence collection methods (para 3); and where evidence is led concerning classified documents (paras 4-5).

59 The present blanket exclusion of media from proceedings is therefore not sanctioned by the order itself. Nor, for reasons set out above, could any such blanket exclusion ever be permissibly imposed.

The order is unlawful

60 While the order of 14 October 2026 does not permit a blanket exclusion of media, it nonetheless offends the principles detailed above, and is therefore unlawful. I submit so for the following reasons:

60.1 First, paragraphs 1 and 2 of the order provide for blanket non-disclosure in respect evidence given by current and former SSA members. I have not had sight of the NPA's application and am therefore unable to comment on whether it presented sufficiently particularised evidence, showing that disclosure of the relevant SSA member's identities would cause harm.

60.2 Nonetheless, it is apparent that less restrictive measures could adequately protect the SSA witnesses' identity, without a blanket prohibition on public disclosure of their evidence. Amongst others

things, such witnesses could use a pseudonym, be screened from the public gallery, or testify only in front of accredited members of the media who are embargoed from disclosing the relevant witnesses identity.

60.3 Second, paragraph 3 provides for non-disclosure in respect of "evidence concerning the operational and intelligence methods of the SSA". It therefore provides for precisely the type of blanket non-disclosure which our courts have held is impermissible. There is no indication that this Court considered whether a) the particular items of evidence should be disclosed; b) the operational and intelligence methods are current or historical; and c) whether there are measures less restrictive of the open justice principle than the blanket prohibition on disclosure.

60.4 Third, paragraph 4 prohibits disclosure of any document marked as classified. As indicated above, this is impermissible. The mere fact that a document is marked as confidential does not provide a sufficient basis to exclude it from the public record. Instead, this Court is required to assess, with regard to all relevant circumstances, whether disclosure will harm the public interest, and whether there are not measures less restrictive than non-disclosure. And, importantly, this Court must assess each piece of evidence on a case by case basis. Paragraph 4 flouts these rules.

60.5 Fourth, paragraph 5 prohibits the disclosure of the itemised list of documents, which are allegedly confidential. However, as indicated

above, the relevant documents have already been referred to in the media. For this reason alone, paragraph 5 constitutes an unjustifiable incursion of the principle of open justice.

60.6 It is also impermissible because there is no apparent basis why these documents should be excluded from the record, save for the assertion that the documents are classified. Paragraph 5g impermissibly provides for a blanket exclusion of all classified documents. Paragraphs 5a, c, d, e, and f, all concern an alleged fictitious contract concluded between the SSA and Korolo. It is decidedly unclear how disclosure of any material, contained in or relating to a fictitious contract, could harm the public interest. In any event, even if there is material within these documents which can permissibly be withheld from the public record, a suitably redacted set of documents provides a clear less restrictive measure to the present order.

60.7 Fifth, paragraph 7 perpetuates the mischief in paragraph 5. It requires that all documents itemised in paragraph 5 are excluded from the record. For reasons set out above, this is impermissible.

60.8 Last, paragraph 8 provides that the entire record of proceedings must be kept confidential. It therefore amounts to an impermissible blanket non-disclosure provision.

Audi alteram partem

61 The order is unlawful for a further reason: it is self-evidently prejudicial to the media's interest in reporting on proceedings but the media was not given notice

that the NPA had applied for a sweeping non-disclosure order. As a consequence, the media was not given any right to be heard before the order was granted.

- 62 In proceedings of this nature, the media plainly had a legitimate expectation that it would receive notice of any such application. As detailed above, these proceedings concern matters of acute public interest. The NPA has also previously publicly disclosed the trial date of proceedings. In these circumstances, the applicants plainly held a legitimate expectation that they would be informed of any application intended to prevent reporting on proceedings.

The relief sought

- 63 The variation sought will cure the deficiencies identified above, while appropriately protecting legitimate state interests in non-disclosure. In summary:

63.1 Paragraphs 3 and 4 give effect to the open justice principle and ensure that any prohibition on access is narrowly tailored.

63.2 Paragraph 5 ensures that SSA member's identity may be restricted where required, while stipulating that less restrictive measures should be used instead of a blanket prohibition on media coverage.

63.3 Paragraphs 6, 7, and 8 cater for the state to apply to restrict access to evidence, while requiring it to justify particular restrictions on access and provide notice to the media.

63.4 Paragraphs 9 and 10 provide a suitable interim arrangement, ensuring that the relevant documents are not disclosed until such time as this application is decided.

Urgency and irreparable harm

64 The applicants, and all members of the media and public, have already been harmed by the 14 October 2026 order. The trial proceedings have run for three days without any member of the public or media present. Every day the order endures, the principle of open justice is violated, and the applicants and public are irreparably harmed.

65 The relief sought is thus self-evidently urgently required. Absent an urgent variation of the 14 October 2026 order, the trial proceedings will continue to run, and the media and public will remain frozen out of proceedings. Three days of the trial have already been conducted in complete secrecy. As a result, the public have been deprived of their right to receive information about those proceedings.

66 The applicants have prosecuted the present application as expeditiously as possible. They learned of the order on Friday, 16 October 2026, and delivered the present application by 14h00 on Sunday 18 October.

CONCLUSION

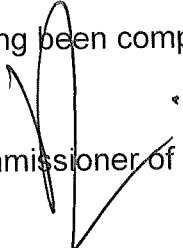
67 For all the above reasons, the applicants seek the relief set out in the notice of motion.

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DEPONENT

The Deponent has acknowledged that the Deponent knows and understands the contents of this affidavit, which was signed and sworn to or solemnly affirmed before me at PARKWOOD on 18 OCTOBER 2026, the regulations contained in Government Notice No. R1258 of 21 July 1972, as amended, and Government Notice No. R1648 of 19 August 1977, as amended, having been complied with.


Commissioner of oaths

Full names:

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IN THE HIGH COURT OF SOUTH AFRICA
GAUTENG DIVISION, PRETORIA

CD1

CASE NO: CC 03/2026

In the matter between:

THE STATE

And

PATRICK MSHOTHOLA

THULANI DLOMO

APPLICANT

14 October 2026

FIRST RESPONDENT

SECOND RESPONDENT

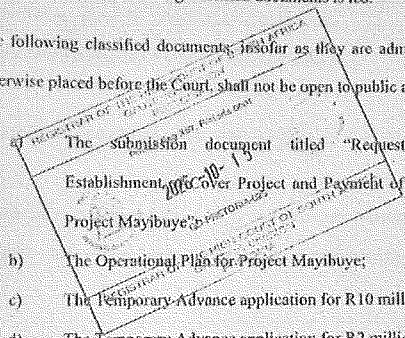
DRAFT ORDER

HAVING HEARD THE PARTIES, the following order is made:

1. In terms of section 153(1) of the Criminal Procedure Act 51 of 1977, the public shall be excluded from the Court during those portions of the proceedings in which current or former members of the State Security Agency, whose identities remain protected, testify.
2. The identities of the members referred to in paragraph 1 shall be protected from public disclosure and shall not be disclosed in the publicly accessible record of the proceedings.

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3. The public shall be excluded from the Court during those portions of the proceedings in which evidence concerning the operational and intelligence collection methods of the SSA is led.
 4. The public shall be excluded from the Court during those portions of the proceedings in which evidence concerning classified documents is led.
 5. The following classified documents, insofar as they are admitted into evidence or otherwise placed before the Court, shall not be open to public access:

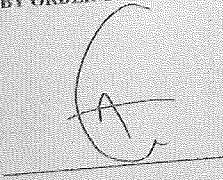


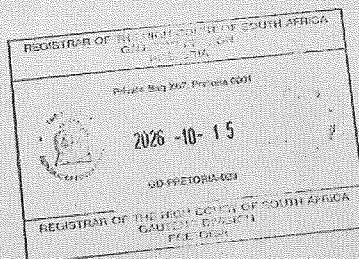
- a) The submission document titled "Request for Authorisation: Establishment, ¹⁰⁻¹over Project and Payment of Related Expenses for Project Mayibuye";
- b) The Operational Plan for Project Mayibuye;
- c) The Temporary Advance application for R10 million;
- d) The Temporary Advance application for R2 million;
- e) Pages 3 and 4 of the Temporary Advance documentation relating to the settlement of the R12 million;
- f) The contract purportedly entered into between Korole Investments Holdings (Pty) Ltd and the SSA, signed on 14 December 2014; and
- g) Any other document or material produced or relied upon during the trial which is classified or which contains information which the Director-General of the SSA is required to protect from unauthorised disclosure in terms of section 10(4) of the Intelligence Services Act 65 of 2002.

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6. Where any document or material contemplated in paragraph 5(g) is produced or relied upon during the trial, the Applicant may approach the Court for such further directions as may be necessary concerning its treatment, retention and public accessibility.
 7. The documents referred to in paragraph 5 shall, upon the conclusion of the trial and provided that no appeal has been lodged within (3) three months thereafter, be excluded from the publicly accessible record and returned to the SSA.
 8. The record of the proceedings shall be kept confidential.
 9. The parties may approach this Court for further directions concerning the implementation of this order where circumstances arising during the trial so require.

BY ORDER OF THE COURT


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**HIGH LEVEL
REVIEW PANEL REPORT
ON THE STATE SECURITY AGENCY**



DECEMBER
2018

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Preface

The High-Level Review Panel on the SSA and Related Matters is pleased to submit its final report to his Excellency, President Matamela Cyril Ramaphosa. We hope that the findings and recommendations contained in this report respond adequately to the concerns that led the President to establish this Panel, and that those of our recommendations that are accepted and implemented play a decisive role in achieving *'a professional national intelligence capability for South Africa that will respect and uphold the Constitution, and the relevant legislative prescripts'* as required by our Terms of Reference.

We think it prudent to highlight here that our key finding is that there has been a serious politicisation and factionalisation of the intelligence community over the past decade or more, based on factions in the ruling party, resulting in an almost complete disregard for the Constitution, policy, legislation and other prescripts, and turning our civilian intelligence community into a private resource to serve the political and personal interests of particular individuals. In addition, we identified a doctrinal shift towards a narrow state security orientation in the intelligence community from 2009 in contradiction to the doctrines outlined in the Constitution, White Paper on Intelligence and other prescripts. We are concerned that the cumulative effect of the above led to the deliberate re-purposing of the SSA.

The Panel has made many detailed findings and recommendations, but most importantly it is recommending an overarching overhaul of the intelligence and security architecture of the country, the implementation of which will require extensive consultation and a good dose of determination.

The Panel has done its best to meet the requirements of the task given to it, within the parameters of certain constraints. These include the scope and range of issues referred to the Panel, the tight timelines given to it, and the fact that most of the panellists were also in full-time employ elsewhere. One of the challenges the Panel faced was having to keep reminding itself that it was not an investigative commission or task team. There were many issues brought before the Panel that it would have liked to delve into in more detail but reassured itself by the understanding that 'high-level' in its title refers to the depth of the review rather than the social standing of the panellists.

We would like to express our gratitude to the President for entrusting us with this task, to the Minister and her staff for their support, to the Acting Director-General for his support, and to the Secretariat for their efficiency, constant availability and hard work above and beyond the call of duty. Lastly, we thank all those who submitted inputs and appeared before the Panel for their invaluable contribution to its work.

High-Level Review Panel on the SSA

The Panel was able to identify the key player in the politicisation of SO and the SSA in general (the member is currently serving government in a senior capacity). According to reports, he was 'deployed' to SSA by the then President via the Minister at the time to head up the SO chief directorate. This was in spite of allegations that he left his previous employ under a cloud of corruption allegations. According to his CV, the member served in the ANC underground structures and Department of Intelligence and Security. The Panel needs to put on record that this member was the most recalcitrant and evasive 'witness' it had encountered in all its interviews. He invoked the 'need to know principle' to withhold information – particularly with regard to his interaction with the Executive – from the Panel.

It is clear to the Panel that the SSA's SO unit, especially under the watch of the member mentioned above, was a law unto itself and directly served the political interests of the Executive. It also undertook intelligence operations which were clearly unconstitutional and illegal. Information made available to the Panel indicated that these operations included, *inter alia*:

- The training of undercover agents in VIP protection and assigning some of these to provide protection to the then President, as well as to others who were not entitled to such protection, such as the former Chairperson of the South African Airways (SAA) Board; the former National Director of Public Prosecutions (NDPP); the ANC Youth League (ANCYL) President and former Acting Head of the Department of Priority Crimes Investigations (DPCI- the Hawks). VIP protection is a mandate of the SAPS and, although the Panel is aware of initiatives some years ago to try to make this a then NIA responsibility, this did not happen.
- Infiltrating and influencing the media in order, apparently, to counter bad publicity for the country, the then president and the SSA.
- The Panel also heard testimony and was provided with legal papers about a union that was established with the support of the SO Unit of the SSA (the Workers' Association Union) ostensibly to neutralise the instability in the platinum belt. The Panel also heard testimony from the IGI about the SSA having put under surveillance unions that were critical of the then President.
- Intervention in the #FeesMustFall protests to influence the direction of the student movement which was justified as supporting 'young bright minds' to be patriotic and to be strategically deployed to institute counter measures and ensure stability and peace in universities.

These are just some of the SO projects that the Panel was made aware of. In addition, the Panel was given access to a document which was purportedly a report to the then DG on the SO unit's 'achievements' in the 2016/17 year:

- During the 2016 ANC January 8 statement in Rustenburg, the unit

'initiated 3 countering operations to impede the distribution of CR17 regalia, impede transportation system of dissident groups from GP...'

- During the February 2016 State of the Nation Address the unit was 'able to infiltrate and penetrate the leadership structure' of the movement against the then President. Indications were that more than 5 000 people would embark on parliament, but with efficient and effective countering actions, and the dissemination of "disinformation" to supporters, only approximately 50 anti-president supporters attended the march.'
- During the ANC's manifesto launch in Port Elizabeth in 2016, the unit 'initiated a media campaign to provide positive media feedback through the placement of youths of various ethnic groups in photographic vision [sic] of media personnel, thereby promoting social cohesion.' [Our emphasis]

The report 'boasts' of various other similar operations, including that 'Active monitoring of the South Africa First, Right to Know, SAVESA, CASAC and Green Peace was done due to the penetration ability of the group.'

It is clear from the above information and other information available to the Panel that SO had largely become a parallel intelligence structure serving a faction of the ruling party and, in particular, the personal political interests of the sitting president of the party and country. This is in direct breach of the Constitution, the White Paper, the relevant legislation and plain good government intelligence functioning.

9.3.6 Executive Involvement in Operations

Although the focus area of this chapter is indeed on the involvement of members of the executive in intelligence operations, we have gone to some length to discuss the politicisation of the SSA and the activities of its SO arm, as these issues relate directly to the extent of executive overspill in the last decade or so.

There was more than enough information before the Panel that the then Minister, in particular, involved himself directly in operations. The Panel interviewed one member of SSA who had previously served in the Minister's office during his time as Minister of State Security, who confirmed to the Panel that he had, from time to time, been asked by a member of SO to pass parcels containing cash to the Minister.

One concern that was brought to the Panel's attention by a number of its interlocutors was the extent to which members of the Executive were able to be manipulated by information peddlers. Information peddlers have been a bane of the South African intelligence community since the dawn of democracy. These are people, often with an apartheid security background, who approach politicians and security services with apparently 'juicy' information. They usually know well what these politicians and services *want* to believe and thus tailor

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14 Conclusion (What Went Wrong?)

Throughout its deliberations, every now and then, the Panel had to raise itself above the vast amount of written and verbal information before it and ask itself the question: 'What on earth went wrong?' The Panel accepted that it was established precisely because there was a concern in the mind of the President and the recently appointed leadership of the civilian intelligence community that things had indeed gone wrong. And much of the information available to the Panel confirmed that things had gone badly wrong.

It must, however, be said that the findings of this Panel on what went wrong do not impugn every member of the State Security Agency and its management. The information available to the Panel and the interviews it conducted did show that there were many things going right and many members doing their best in a difficult environment.

With some exceptions, the Panel has not pointed fingers at particular individuals. This was largely due to the fact that it was not an investigative commission or task team – it was not able to ascertain blame without having had the time and capacity to hear additional evidence, to re-examine witnesses on the basis of further testimony heard, or to examine in minute detail documentation and other records that might have served as evidence. Such work will need to follow the outcome of this Panel's findings and recommendations where appropriate.

In sum, and at a high level, these are the key things, in the view of the Panel that 'went wrong':

- From about 2005, with the emergence of the divisions in the ANC, there has been a growing politicisation and factionalisation of the civilian intelligence community based on the factions in the ANC. This has been partly aggravated by the fact that many of the leadership and management of the intelligence services have come from an ANC and liberation struggle background and have seemingly, in some cases, not been able to separate their professional responsibilities from their political inclinations. This became progressively worse during the administration of the former President, with parallel structures being created that directly served the personal and political interests of the President and, in some cases, the relevant ministers. All this was in complete breach of the Constitution, the White Paper, the legislation and other prescripts.
- From about 2009, we saw a marked doctrinal shift in the civilian intelligence community, away from the prescripts of the Constitution, White Paper and legislation and plain good practice. This was most publicly reflected in the change of name from 'national intelligence' to 'state security'. But, more seriously, it was reflected in the increasing turn to covert structures and projects, the PAN and SO projects, and was taken to extremes in the proposals contained in the Strategic Development Plan.
- The amalgamation of NIA and SASS into the SSA was a monumental blunder. Apart from the fact that it did not take place on the basis of a formal change of policy

involving parliamentary and public consultation and was initially irregularly effected, it did not achieve its stated intentions of reducing expenditure, effecting better coordination, reducing duplication and so on. It might have achieved some of those in small measure, but it created more problems than it solved.

- There is a disproportionate application of secrecy in the SSA stifling effective accountability and facilitating serious non-compliance with controls including blatant criminality.
- Due to wide-ranging resource abuse, the SSA became in effect a 'cash cow' for many of its members and external stakeholders.

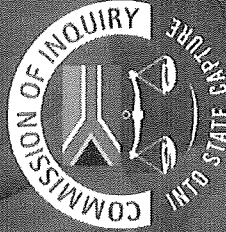
These, in the view of the Panel, are the key answers to the question: What Went Wrong? But, of course, there are many subsidiary answers in the body of the report.

[End of Report]

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Judicial Commission of Inquiry into State Capture Report: Part V

Vol. 1: State Security Agency
and Crime Intelligence



This is the report of the Judicial Commission of Inquiry into allegations of State Capture, Corruption and Fraud in the Public Sector including organs of state, also known to the public and the media as the Zondo Commission

Chairperson: Justice RMM Zondo

Chief Justice of the Republic of South Africa

Report of the Judicial Commission of Inquiry into State Capture: Part V: Vol. 1



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Judicial Commission
of
Inquiry into Allegations
of
State Capture, Corruption and Fraud in the
Public Sector Including Organs of State

Report: Part V
Vol. 1: State Security Agency,

and

Crime Intelligence

Chairperson: Justice R.M.M Zondo
Chief Justice of the Republic of South Africa

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that to date some of them still get worried that the weapons used might be traced back to the armoury ⁹⁸⁴

843 In concluding her evidence, Ms K made the point to be recorded that the majority of the officials within the SSA were courteous, qualified and committed people and that not everybody should be painted with the same brush; that they did not have the opportunity to express themselves, and that their commitment should be acknowledged; she, finally, expressed that we could rebuild the organization (the SSA) for the sake of the country. There is little doubt that Ms K was pained by the evidence she gave, but felt it was her duty to do so in the interests of the country ⁹⁸⁵ There is therefore good reason to believe that, like the other witnesses, she told the truth as she saw it

SUMMARY OF FINDINGS AND RECOMMENDATIONS

844 On the basis of the oral and documentary evidence placed before it, the Commission sets out below its Findings and Recommendations regarding certain aspects of the State Security Agency in line with the Commission's Terms of Reference. They are not made in any order of importance. The evidence revealed a plethora of problems that bedevilled the SSA; they are almost innumerable. It would serve no purpose to engage in a hair-splitting exercise. Therefore, in making both the Findings and the Recommendations, the Commission will address at least some of the root causes, and not the consequent symptoms.

⁹⁸⁴ Page 148 line 4 to line 15

⁹⁸⁵ Page 153 line 21 to page 154 line 13

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Regarding the amalgamation, restructuring and re-organization of the erstwhile National Intelligence Agency (NIA) and the South African Secret Service (SASS) into the State Security Agency (SSA)

Findings

845. The period under consideration by the Commission is the period from 2009. Evidence was placed before the Commission presenting the organograms of the national intelligence services in three stages: the period from 1994 to 1997; and then for the period 1997 to 2009; and lastly, for the period 2009 to 2019. The last organogram reflects the structure brought about by former President Zuma through Proclamation 59 of 2009, 11 September 2019. It amalgamated the National Intelligence Agency (NIA) and the South African Secret Service (SASS) into a new structure, namely, the State Security Agency. Until then, the NIA's mandate was domestic intelligence, while the SASS mandate was foreign intelligence.
846. On the evidence presented to the Commission, it has to be accepted that the new intelligence regime resulted in a shift from the spirit, philosophy, and some principles of the Intelligence White Paper, which were reflected in the Constitution. The virtues of the Intelligence White Paper were articulated by amongst others Ambassador Maqetuka, the first Director General of the SSA, who had extensive experience in the field of intelligence, and Mr Shaik. Under the new intelligence regime there was for the first time a dedicated Minister of Security ("Minister of State Security") as opposed to the past, when a deputy Minister of Justice was only assigned to be responsible for the administration of the NIA but not involved in its working; there was therefore no reporting to a Minister, but directly to the President as also apparent from the two previous organograms.

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847. The new 2009 regime also for the first time introduced the concept of "*State Security*" as opposed to "*National Security*". This brought in a paradigm shift: The emphasis fell on the security of the State, as opposed to National Security which laid emphasis on the security of the people; that is, the welfare of the people. As the evidence indicated, that paradigm shift paved the way for the use of the SSA to serve the power and interests of the incumbents, including especially former President Zuma. In fact, members of the SSA were made to take an additional oath in terms of which they swore allegiance to the President and also to recognize the authority of the Minister of State Security who was Dr Siyabonga Cwele at the time whereas, prior to that, members only took oath of allegiance to the Constitution and to the Agency.
848. A special section, namely, the Presidential Security Support Services (PSSS) was created by Ambassador Thulani Dloomo within the DSCO to protect former President Zuma, a task that properly belonged to the SAPS; he also irregularly removed the President's health services from the SANDF to the DSCO. There was also political overreach by the Minister of State Security, Mr David Mahlobo by becoming involved directly in the operations of the SSA as will be shown below. One of the consequences of the amalgamation was that the powers that were enjoyed separately by the Director General of the NIA, and the Director General of the SASS, were put in the hands of one person, namely, the Director General of the SSA. The result was the potential for its abuse. The evidence before the Commission has shown that such abuse did in fact occur. Most of the problems that beset the SSA were the consequence of the amalgamation. It indeed constituted a paradigm shift from what was espoused by the Intelligence White Paper. That abuse manifested itself in various ways; for example, using the SSA and its resources for political ends; being involved in the ANC's factional battles or to improve its political fortunes etc –more about which later. The proclamation also usurped the powers of Parliament; and the intelligence services were made to report directly to the Minister and no longer to the President.

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849. The High-Level Review Panel, as testified to by Dr F S Mufamadi, the chair thereof, also made similar findings regarding the paradigm shift from the Intelligence White Paper

Recommendations

850. The period prior to 2009 might have had its own challenges and therefore not perfect but the Commission has not been told of any major problems that existed prior to the amalgamation of the NIA with the SASS into the SSA. As already mentioned, in that period there was no dedicated "*Minister of State Security*" and there was no notion of "*State Security*", but of "*National Security*"; all these were in line with the Intelligence White Paper and the Constitution. The Commission therefore recommends a close look once more at the spirit, guidelines and principles of the Intelligence White Paper, while recognizing that it, too, might need to be adapted. As said in the evidence, it is still important and sound. Therefore, there is no need to reinvent the wheel. One of the characteristics of the pre 2019 era was that there being no dedicated Minister of intelligence, the NIA and the SASS reported directly to the President who directed their activities. Since about August 2021, the country seems to have reverted to that. However, concerns have been expressed, especially in the media, about the concentration of such powers in the President. It is not for the Commission to adjudicate on this, save to state that, in the course of discussions about the Intelligence White Paper, no doubt all the views would be heard and considered.
851. A lot of commendable work was done by the High-Level Review Panel. The Commission therefore commends the recommendations it made for consideration, together with the Intelligence White Paper, which the Panel's Report holds in high regard.

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Regarding the barring or discontinuation of investigations against the Guptas and its probable consequences.

Findings

852. The State Security Agency under the leadership of Ambassador Maqetuka as the Director General, Mr Shaik as Head of the Foreign Branch and Mr Njenje as the Head of the Domestic Branch (the trio) wanted to conduct investigations into the Guptas. This followed information that the Guptas had informed Minister Mbalula of his then forthcoming appointment as Minister of Sport and Recreation. In the trio's view, there were three possible sources of information to the Guptas, all of which warranted investigation. Firstly, whether there was a breach of national security in the office of the President in that there was a leak; secondly, whether the Guptas had overheard a discussion where the then President, Mr Zuma, was consulting someone, and they were peddling the information for their own benefit. Thirdly, whether they had suggested Mr Mbalula's appointment to the former President. All the three scenarios would have been serious, with the latter even more so because it would have meant foreign nationals suggested who should be in the Cabinet of another country. All the three issues fell within the purview of national security. The other concern was that, by informing Minister Mbalula in advance, the Guptas would be creating dependency on the part of Mr Mbalula as Minister of Sport on them that would make him feel beholden to them. This was serious as the Guptas had interests in businesses that included stadia. The Commission's finding is that the investigations were justified.

853. The Commission was, however, told that the investigations were stopped by Minister Cwele, then as Minister of State Security. With regard to President Zuma, although the trio agreed that he never instructed them to stop the investigation, it was clear from what he said and his body language that he disapproved of the investigation. In his evidence,

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Dr Cwele denied giving instructions that the investigations be stopped. Probabilities are, however, overwhelming that he did not want the investigations into the Guptas to continue and therefore that they be discontinued; for example, his version would not explain why the trio, would have decided of their own to stop the investigation if he did not make it clear to them that the investigation should be stopped or if he did not show himself to be against the investigation. Secondly, it would not explain why the three decided to go and see former President Zuma to pursue the matter; furthermore, at no stage did Minister Cwele ask for an update or progress report on the investigation. Moreover, Minister Cwele's position towards the investigation was given as one of the reasons for the breakdown of their relationship with Minister Cwele. It is also the Commission's finding that former President Zuma did not want the investigation to go on. He said, according to the evidence, that there was no need to investigate the Guptas and said that they were good people with whom he had a good relationship. He defended his friendship with them. Although Mr Zuma may not have given instructions that the investigation be stopped, he said enough at the meeting with the trio to make it clear to them that his view was that there was no justification for the investigation and, in his view, it should not be pursued.

854. It is also the Commission's finding that a Minister, in the person of Dr Cwele, involved himself in operations of the SSA by interfering with the investigation
855. The stopping of the investigations into the Guptas demoralized at least some members of the SSA; not least the top three: Ambassador Maqetuka, Mr Shaik and Mr Njenje, to the point that they decided to leave, more or less at the same time for that matter. A question arises as to what otherwise would have prompted all three of them to decide to leave and more or less at the same time.

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856. The stopping of the investigation into the Guptas was not a small matter. In all probability, considering all the evidence relating to, for example, their involvement in the businesses of State-Owned Enterprises such as Eskom, timeous investigations could probably have prevented at least some of their activities that led to the State Capture and, by all indications, the loss of billions of Rands.

Recommendations

857. The basic reason why the investigation was discontinued was the interference by Minister Cwele; that is, it was discontinued through conduct which amounted to Ministerial interference in the operations of the country's intelligence services. The Commission recommends in the appropriate section and for the reasons therein stated, that a Minister should not be involved in the operations of the country's intelligence services.

858. The Commission's finding that former President Zuma also inhibited if not stopped the investigations might, as alluded to earlier, itself prompt debates about the President being involved inasmuch as the SSA reports to him/her and she/he directs their operations. It may, indeed, be an issue for debate, leading to discussions about appropriate checks and balances. This view is, moreover, based on the Commission's finding that a sitting President did in fact himself contribute significantly to the discontinuation of the investigation with serious consequences to the country; that is a sitting President himself interfered with legitimate operations by the country's three most senior intelligence officers who by all indications had legitimate reasons to pursue the investigation.

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Executive/Ministers involvement in operational issues and its probable consequences

Findings

- 859 The creation of the Ministry of State Security and the consequent appointment of "*Minister of State Security*" through the 11 September 2009 proclamation, made the SSA to report to a Minister, at the time Dr Siyabonga Cwele, who was later followed by Mr David Mahlobo; that paved the way for a Minister's involvement in the operations of the SSA, and that was exactly what happened. The evidence is overwhelming that both Ministers in particular did just that.
- 860 One of the ways in which that happened was when Minister Cwele, on the weight of the evidence before the Commission by the country's then top intelligence chiefs, interfered in the investigation against the Guptas; he said investigating them would amount to investigating former President Zuma. He was also against the Hawks investigating Mr Arthur Fraser. This issue is dealt with separately later.
861. Minister David Mahlobo, on the evidence, not only involved himself in the operations, but also directed them. He was actively involved in for example projects under Project Mayibuye such as Project Wave (about the media), Project Justice about alleged attempts to bribe some judges. Above all, there was a letter entitled "*Projects approved by the Minister*" which involved the spending of some R130m. In fact, one of his responses was that the law did not prohibit him from being involved. If what he says is correct, the situation would certainly require a very close look. However, even more worrying, was his involvement in the withdrawals, handling and distribution of large sums of money, an aspect that is dealt with separately herein. Former Minister Bongo also involved himself to some extent in the operations.

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862. Some of the dangers attendant upon a Minister's involvement in operational matters were clearly articulated by witnesses, in particular, the top three. A few examples were given. The Minister of State Security would have knowledge of the identities of operatives, which knowledge the Minister would take along with upon leaving office; secondly, that he/she might acquire information about other fellow Ministers, which would make him/her better placed than them. Nothing further really needs to be said to make the point that a Minister should not be involved in operations, except to add political bias in favour of his or her own party or own faction in intra-party politics; all of which, on the evidence before the Commission, did happen.

Recommendations

863. Whether the two former Ministers deny involvement in operations or not, does not detract from the importance of the principle against Ministerial involvement. The recommendation, therefore, holds good under any weather; accordingly, the Commission recommends that a Minister should not be involved in the operations of the intelligence services.

Illegal operations by the State Security Agency (SSA)

Findings

864. Section 199(7) of the Constitution prohibits a security service or a member thereof, in the performance of their functions, to prejudice the interests of a political party that is legitimate in terms of the Constitution, or to further any interests of a political party in a partisan manner. Yet, there was evidence that some of the activities of the SSA did just that. There was evidence, for example, that SSA money was withdrawn, at the instance of Ambassador Dlomo, and used to transport, accommodate and feed ANC MK veterans, for the party's January 8 rally in Rustenburg in 2016.

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865. A member of the SSA (Dorothy) was also used to assist at the ANC NASREC Conference, for which she withdrew subsistence allowance. There were also some activities undertaken to improve the fortunes of the ANC in the Western Cape, Eastern Cape and Northern Cape amongst the Coloured people.
866. The Special Operations Unit (SOU) of the SSA, particularly under the direction of Ambassador Thulani Dlomo, was a law unto itself, launching many projects that operated illegally as indicated above.
867. Not only were the activities against the Constitution, but there is a strong indication that some of them contravened legislation governing intelligence services.

Recommendations

868. Investigations should be carried out internally for disciplinary action against members, and also by law enforcement agencies against possible criminal statutory contraventions. The use of the resources and services of national intelligence agencies to destabilize opposition parties, to benefit a ruling party and to fan intra-party factions in order to influence political or electoral outcomes, amounts to a serious threat to democracy. Steps therefore need to be taken to deal with this.

Cash withdrawals, movement of cash and accountability for cash

Findings

- 869 Cash withdrawals: Large sums of money were withdrawn. Given the covert operations of the SSA, the withdrawal in cash was inevitable. However, what was striking was the huge amounts at any one time; running literally into millions. There was a case where cash in the amount of R145m was stolen within the SSA offices. Varying amounts were withdrawn; for example R38.5m over the period March 2014 to September 2016; money

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withdrawn by then Minister Mahlobo for, allegedly, former President Zuma at R2.5 pm in 2015/2016 which was later raised to R4 5 pm in 2016/2017. Ambassador Dlomo approved and caused the withdrawal of cash in large amounts; for example, R5m, R13.5m and R4.510m. Mr Arthur Frazer instructed a junior to receive and take cash in the amount of R1.5m to the then Minister Mahlobo; signed in approval the withdrawal of R4 510m to be taken to the then Minister Mahlobo, and for yet another R4 510 the following month to be taken to the then Minister. All these are just examples.

870. Abuse of the advance payment system. Money would be paid in advance and in cash for operations. There were many problems with this; for example, the purpose for the money would be obscure or not set out, nor was the final destination (supposedly some operatives). To sum up, the motivation would be inadequate; financial controls, such as were there, were poor or not adequately enforced.

871. Poor or no accountability. There would be no verification as to what the money was used on because, to start with, the intended use would itself be obscure; no verification as to whether the intended recipient actually got the money, such as in the form of receipts; one of the service providers was found to be non-existent. Lack of accountability manifested itself in various ways; to give two astonishing examples: Firstly, whereas the person to whom an advance payment was made was disqualified from taking a further advance before accounting for the first one, this rule would be circumvented. A different person would be used in whose name the money was withdrawn and handed over to the one disqualified; one of the people whose name was used in this manner told the Commission as much. The second example was where a person simply acknowledged debt in terms of the money they were unable to account for with the money amounting to millions without any effective recovery of the money. Instead, the money, amounting to millions, would be offset against the person's

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pension; in some instances, such people simply resigned thereafter. A witness estimated that over the period 2012 to 2018 an amount of R1 5b was lost

872 As shown above, Ambassador Thulani Dlomo, in his capacity as the Head of the Special Operations Unit, handled a lot of cash; in many respects, the use and destination of the monies remained obscure.

873 Minister Mahlobo, too, as shown above, then as Minister of State Security, handled large sums of cash. For example, on the evidence, there was a time when he received R2.5m a month, later increased to R4.5 m a month, which he allegedly said was for former President Zuma. Details were given by two witnesses that in the presence of both of them on at least two occasions, millions in cash were delivered to Mr Mahlobo, and counted, apart from an earlier occasion when that was done by only one of them. The Commission noted the denials by Mr Mahlobo, now Deputy Minister Mahlobo. However, as said, there were at least two eyewitnesses; secondly, the details were too much to be a figment of their imagination. Probabilities are overwhelming against Mr David Mahlobo. After his appointment, the budget of the SSA increased hugely. This conclusion was based on the scrutiny of the budget as documentary evidence relating to the budget.

874. Mr Arthur Fraser, then DG of the SSA, also handled and caused a lot of cash to be withdrawn, as shown above. After his appointment, budgetary allocations increased from about R42m in the 2016/2017 financial year to about R303m in the 2017/2018 financial year, approximately 74% (R225m) of which was used for covert operations from his office. It was said by the Project Veza investigation team that an amount of about R125m remained accounted for by Mr Fraser, even as investigations were still going on. Add to all these, the findings of the PAN Report that were referred to the Hawks and the NPA.

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Recommendations

- 875 To state the obvious, financial controls and accountability need to be tightened
- 876 As already said, the handling and use of cash is inevitable, especially in covert operations. However, consideration should be given to minimizing the amounts involved.
- 877 There should be consequence management, including the recovery of the monies lost
878. There was a report, the PAN report, that had been compiled by an internal investigation team which revealed, amongst others, at least *prima facie* criminal activities, which recommended criminal investigations that could have involved Mr Fraser. After the report had been handed over to the Directorate of Special Crime Intelligence Unit (the Hawks), Minister Cwele ordered that the matter be taken from the Hawks. The resumption of the investigations should be reconsidered by the Hawks; it might be that whoever were involved, including Mr Fraser, get absolved; but the investigations should be allowed to take their normal course. The Commission has noted Ambassador Cwele's denial that he ordered the discontinuance of the investigations, but it would remain a puzzle why they stopped. In any event, the denial is irrelevant to the Commission's recommendations.
879. The role played by Ambassador Thulani Dlomo, Mr Mahlobo, Mr Arthur Fraser and other people involved in the withdrawal, handling and distribution of SSA's money, should be looked into by the law enforcement agencies
880. The Inspector General of Intelligence should be allowed more access into the activities of the country's intelligence services. There has been evidence by the current IGI that attempts were made to frustrate some of his investigations

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881. Consideration should be given to allowing the Auditor General adequate access to audit the country's intelligence agencies; without prescribing, consideration may be given to giving top clearance certificate to some staff of the Auditor General; consultations with the IGI and the Auditor General should be considered by the SSA. The Commission notes as commendable the efforts of Mr L Jafta, the former Acting Director-General of the SSA, that he has opened the door to the Auditor-General to audit the SSA. It is a step in the right direction and an indication that this recommendation is implementable, particularly subject to other conditions such as security clearance at the appropriate level

Maintenance of Secrecy: The balancing act

Findings

882 The Commission appreciates and agrees that there is a need for secrecy regarding covert operations. However, there is also a need to balance that with transparency and, in particular, accountability; be it in the form of financial accountability or accountability in respect of activities carried out to ensure compliance with the law; for example, that intelligence services are not abused to serve the personal interests of some individuals. As was said in the evidence, which must be accepted, not everything should be locked up in the vaults.

883 Various instances of the abuse of the secrecy principle were mentioned. The Commission gives a few examples of them. To start with, there was a ridiculous case in which SAPS Crime Intelligence reportedly withheld information in respect of the purchase of curtains for a house on the basis of secrecy, whereas details of the purchase could have been given without disclosing the address of the house such as where the curtains were bought. Regarding the SSA, it was as a result of reliance on the secrecy principle that no verification could be made that intended beneficiaries did

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receive monies intended for them; that some service providers were found to be non-existent; that attempts were made to thwart investigations by the Inspector-General of Intelligence; that the Auditor-General arranged with the SSA for a qualified audit annually; and the Hawks were taken off criminal investigations against certain people including Mr Arthur Fraser for the reason that it would not be in the interests of the State or national security to prosecute him, despite Mr Njenje's firm stance that that would not be the case

Recommendations

- 884 The Commission recognizes the difficulty in balancing the maintenance of secrecy, on the one hand, with transparency and accountability, on the other
885. The evidence has revealed abuse of secrecy. The situation should not be left entirely in the hands of the intelligence agencies themselves. There must be some measures to hold them to account, otherwise they would become law unto themselves. The role of the IGI, the AG, and Parliament through its Joint Standing Committee on Intelligence, must be sharpened. Secrecy should not be used to hide criminal activity; law enforcement agencies should therefore be able to investigate and, where appropriate, the NPA should prosecute, otherwise there would be criminal impunity under the cover of secrecy. A situation cannot be allowed where intelligence officers are their own guardian

The use of SSA firearms and their disappearance

Findings

- 886 A few witnesses testified that firearms and ammunition were taken out of the SSA's Armoury, Musanda. On one occasion, they were taken out at the instance of

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Ambassador Dlomo, the person who collected them did not even have the competence to handle a firearm. They were therefore issued to that person in contravention of prescripts and the law. It was an assortment of firearms including rifles and submachine guns. When instructions were later given by Mr Fraser for their return, only some were brought back; some were still outstanding at the time of the evidence. The purpose for the arms was not explained. Issuing firearms under those circumstances amounted to the abuse of the assets of the SSA. One Johan, who was at the armoury, played a major role in facilitating the irregular issuance of the firearms.

- 887 The release and distribution of weapons from the SSA armoury appeared to have been lax; for example, it would not be clear what they were to be used for or by whom, or whether the people for whom they were meant had the necessary competence to handle them.

Recommendations

888. The involvement of Ambassador Thulani Dlomo and Johan, constitute, *prima facie*, criminal conduct in violation of the Firearms Control Act, and the SSA prescripts governing the issuance and control of the SSA armoury. The matter calls to be referred to the law enforcement agencies for further and thorough investigation, particularly as some of the firearms and ammunition have not been returned. It is noted, in this respect, that the witness (Dorothy) who was involved in the collection of the firearms on the instructions of Ambassador Thulani Dlomo, testified that she opened a case of missing firearms with the police; the question is: what have the Police done with that matter?
- 889 The process for the issuance of firearms out of the SSA armoury needs to be tightened up, bearing in mind that even rifles and submachine guns were issued. These are weapons of war. The country presently has a problem with the illegal possession and use of firearms. As indicated earlier, the emphasis of intelligence services should not

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be on the security of the State (State Security) but on the interests of the citizens (National Security) The wanton distribution of SSA weapons by the SSA undermines its very core function to ensure the security of the citizens

The abuse of the vetting system

Findings

- 890 One of the issues before the Commission was the manner, and the purpose for which, the vetting system was conducted.
891. Firstly, the evidence established that, apart from the normal vetting system of the SSA, Ambassador Thulani Dlomo established a parallel vetting system which may well have been probably illegal. He also actually recruited somebody from outside the SSA to do the vetting of certain people. This created a potential danger to the country in that people who did not qualify were given security clearance. Evidence was further that the process of vetting was flawed in many ways. For example, some forms not being properly completed, a person being interviewed by more than one person thereby breaking the consistency; and names and information not being loaded onto the official system.
892. Then there was the abuse of the vetting system. For example, questions were asked about the regularity of Mr Arthur Fraser himself, the former DG of the SSA, regarding his top-secret clearance certificate which was said to have been issued on an expedited basis; while the practice of expedited clearance was acknowledged, questions arose about the need to do so in his case. Then there was the most glaring abuse of the vetting system by Mr Fraser himself. Once the Inspector General of Intelligence, Dr Dintwe, told him that he was investigating him because of certain activities, Mr Fraser invoked Dr Dintwe's clearance certificate! Dr Dintwe had to go to court to have his

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certificate restored but the matter was resolved without the Court deciding the matter. Another case of apparent abuse of the vetting system was the withdrawal, or refusal, of the security clearance certificate to the former National Director of Public Prosecutions, Mr Mxolisi Nxasana, who Mr Zuma may have feared was poised to reinstate criminal charges against former President Zuma.

Recommendations

It appears from the evidence that the parallel vetting system created and implemented by Ambassador Thulani Dlomo was discontinued. However, given the danger posed to national security by issuing security clearance certificates to people who might not have qualified, makes for a serious matter; moreover, Ambassador Dlomo and those involved might have transgressed the law. An investigation by law enforcement agencies is warranted. An internal investigation should also be conducted in respect of those whose certificates are suspect.

On the irregular recruitments and appointments to Intelligence Services

Findings

893 Evidence tendered was that there were no clear criteria for the recruitment of non SSA members. Ministers were even involved in the recruitment of their relatives or people they knew. Ambassador Thulani Dlomo also became involved in the recruitment even before his appointment as General Manager: Special Operations on 18 January 2012. The danger with the recruitment based on connectivity was its potential to make the recruited people beholden to those who brought them in; they might tell those who recruited them only what the latter wanted to hear, thus compromising the objectivity of information. The recruitment was therefore not always done in the best interests of the SSA, but primarily to benefit individuals.

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arose when the three wanted to investigate the Guptas such as the fallout they found themselves in as a result, was given to demonstrate the point. Some of the appointees are referred to below. As said already, it is the view of this Commission that the stopping of the investigation at the behest of former President Zuma, if not the fundamental cause of State Capture, certainly one of them. In the absence of explanations by the former President which he chose not to proffer despite compulsion, the Commission agrees with the above view. This conclusion is not reached simply on a default basis, but after thorough consideration of all the evidence placed before it, including evidence relating to some State-Owned Enterprises. The evidence relating to the State Security Agency cannot and should not be considered in isolation.

951. 773.2 Ambassador Thulani Dlomo: The evidence shows Mr Dlomo's massive involvement in operational issues and, secondly the handling of cash. Witness K and Mr Y's affidavit: The affidavit of Mr Y, who was too ill to come and testify in person, together with the evidence of Ms K which confirmed the contents thereof, show Ambassador Thulani Dlomo's massive involvement in the activities and operations of the SSA. He was appointed to the SSA on 18 January 2012 as General Manager Special Operations. Investigations by the Veza team established that some of the operations that were run by the Chief Directorate Special Operations under him fell outside the lawful mandate of the SSA; prescribed procedures were not followed and applicable governance, financial and operation directives of the SSA totally ignored.¹⁰⁰⁴ Shortly after Ambassador Dlomo's appointment on 18 January 2012 (as General Manager Special Operations) the scope of his authority was expanded further. Presidential Security Support Service and the Cover Support Unit were brought under his control as General Manager Special Operations.¹⁰⁰⁵ He recruited non SSA people outside of the vetting procedures of the SSA. Through the Chief Directorate Special

¹⁰⁰⁴ Page 71 line 11 to page 72 line 9 and paragraph 3.8 of Mr Y's affidavit

¹⁰⁰⁵ Page 112 line 17 to page 113 line 13 and paragraph 4.20 of Mr Y's affidavit

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Operations (CDSO) under him, the SSA assumed responsibility for former President Zuma's food and toxin security, his physical security and the static protection of the President's aircraft; and sources that should have been used by legitimate intelligence structures were channelled through this parallel structure that served the interests of President Zuma rather than national interests.¹⁰⁰⁶

952 Witness Dorothy: On the evidence of Dorothy, Ambassador Dlomo's activities included the irregular issuance and distribution of firearms from the SSA Armoury, some of which were said to be still missing at the time of the hearing; in the process, not only infringing prescripts within the SSA, but also the provisions of the Firearms Control Act 60 of 2000. He possibly could have contravened the law in terms of activities relating to the establishment of parallel vetting structures, providing protection to civilians, and taking away protection services to former President Zuma from the SAPS VIP protection services to the Special Operations Unit (SOU) he had created, thereby usurping the function of the SAPS; he did the same with the health services for former President Zuma that used to be the responsibility of the SANDF; his SOU also offered protection services to some private individuals, which should not have been given without a prior threat assessment by the SAPS; which protection could, at any rate, have only been given by the police once it was to be at the taxpayers' expense. Ambassador Dlomo, at least *prima facie*, acted irregularly

953 Ambassador Dlomo was also involved in the withdrawal of large sums of cash and its movement, for which no proper accounting was made. This related largely to certain projects under the umbrella project, Project Mayibuye. There were a number of such smaller projects. Reference to only part of the evidence of Ms K will illustrate the point. The witness pointed out that, without describing activities for which the money was

¹⁰⁰⁶ Page 86 line 22 to page 91 line 18 and paragraph 4.7 of Mr Y's affidavit

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meant and without effective financial controls, an amount of R24million, over the initial R30million granted, was given without sufficient financial details, which was in contravention of the prescripts.¹⁰⁰⁷ Although she did not look at other units within the SSA to compare with, Ms K was sure that at least they would have indicated in their motivations the financial implication of their operation plans.¹⁰⁰⁸ It was also her evidence that regarding project Construc ao, vague and undetailed invoices were paid (in cash) A company with pseudonym Carrot Export Company issued three invoices totalling R20million (R10m, R5m and R5m) using up almost all the money allocated within three months; the invoices simply said it was for services rendered; the point the witness was making was that no details were given on the invoices as to what was being paid for and the existence of the company could not be verified.¹⁰⁰⁹ How the monies were spent under the name of all the projects need to be looked into.

954 Minister Cwele: He was at the relevant time the Minister of State Security. He involved himself in operational issues; he, either alone or on the instructions of former President Zuma, *inter alia*, stopped investigations against the Guptas, and the criminal investigations by the Hawks against Mr Arthur Fraser and possibly others. The Commission has already dealt with the significance of the stopping of investigations against the Guptas, and the consequences thereof to the country. Regarding the stopping of criminal investigations and possible prosecution of Mr Fraser for his activities in relation to the PAN project, it is possible, without prejudging the outcome, that he might not have been appointed Director-General of the SSA, as it happened about three years after the criminal process had been stopped; therein might lie the significance of the stopping of the investigations against him. Minister Cwele was at the relevant time the Minister of State Security. He involved himself in operational issues.

¹⁰⁰⁷ Page 74 line 21 to page 76 line 11, and paragraph 614 of Mr Y's affidavit

¹⁰⁰⁸ Page 76 line 25 to page 78 line 1

¹⁰⁰⁹ Page 79 line 20 to page 84 line 8, and paragraph 6.15 of Mr Y's affidavit

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President Cyril Ramaphosa Replies to Questions in the National Assembly – 8 May 2018

 thepresidency.gov.za/node/5496

May 8, 2018

South Africa's recently appointed special envoys on investment are poised to present South Africa as an attractive investment destination with unrealised potential, "bouyed by a new optimism, with improving business confidence, customer confidence and investor sentiment," President Cyril Ramaphosa has told Parliament.

President Ramaphosa briefed Parliament on South Africa's investment drive as part of responding to Questions for Oral Reply in the National Assembly today, Tuesday, 08 May 2018.

President Ramaphosa told Parliament the special envoys he appointed to meet with potential investors would convey a message that South Africa is on a path of economic renewal.

The President also had an opportunity to brief the nation on other issues, including on the role of competition authorities in opening up markets and promoting small business, and on measures undertaken to restore the credibility of the country's security agencies.

Question 1 – President Ramaphosa on the country's investment drive

Honourable Members,

Last month, I appointed four special envoys on investment to meet with potential investors in South Africa and around the world as part of a new investment drive.

This is in preparation for an Investment Conference to be held later this year.

The message that these special envoys will convey to potential investors is that South Africa is on a path of economic renewal.



We have launched an initiative in collaboration with the private sector to provide work experience opportunities for one million young people over the next three years.

As part of the work underway to improve South Africa's investment climate, government is successfully rolling out the Invest SA 'One Stop Shop' programme and has partnered with World Bank to improve the country's competitiveness.

They will also provide details on the support Government provides in the form of incentives and special economic zones to attract and facilitate investment.

The investment recruitment drive and roadshows will culminate in the Investment Conference, which will be a platform for investors to announce new investments and to be exposed to potential opportunities.

We are aiming to raise \$100 billion in new investment over the next five years.

More broadly, our aim through this investment drive is to make South Africa an investment destination of choice for many years to come, so that we can achieve sustained growth and create jobs, reduce poverty and transform our economy.

I thank you.

Question 2 – President Ramaphosa on efforts to restore the credibility of law enforcement agencies

Honourable Members,

During the State of the Nation Address in February, I said that a priority of government would be to restore the integrity of public institutions that are charged with very critical mandates in our constitutional democracy.

In line with that commitment, we are working to stabilise key institutions in the security cluster, strengthen law enforcement institutions and shield them from any external interference or manipulation.



We are deeply concerned about allegations of corruption and other acts of wrongdoing in some of our intelligence services.

With respect to the State Security Agency, I will shortly be setting up a Review Panel to assess the structure of the Agency relative to its mandate and inquire into its systems and capacity.

I have also instructed the Minister of State Security to take the necessary steps to attend to all governance and operational challenges confronting the Agency and to work restore the public's confidence in this critical institution.

The Minister of Police is similarly undertaking measures to address the challenges in the Crime Intelligence Division of the South African Police Service.

These include the appointment in March 2018 of a new Divisional Commissioner for Crime Intelligence, Lt Gen Anthony Jacobs.

At the same time, it is necessary for critical oversight bodies like the Joint Standing Committee on Intelligence and the Office of the Inspector-General of Intelligence to be empowered to undertake their respective mandates.

I am confident that through the work that government is undertaking to address the challenges within the intelligence services, together with the work being undertaken by these oversight bodies, we will succeed in restoring the integrity and operational capability of services that play a vital role in keeping our country and its people safe.

I thank you.

Question 3 – President Ramaphosa on efforts to bring about social cohesion

Honourable Members,

The colonial conquest of our country, which began over 300 years ago, was achieved through violence and brutality.



I thank you.

Media enquiries: Khusela Diko, Spokesperson to the President on 072 854 5707

Issued by: The Presidency Pretoria

Date:

Tuesday, May 8, 2018 - 00:00

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President Cyril Ramaphosa

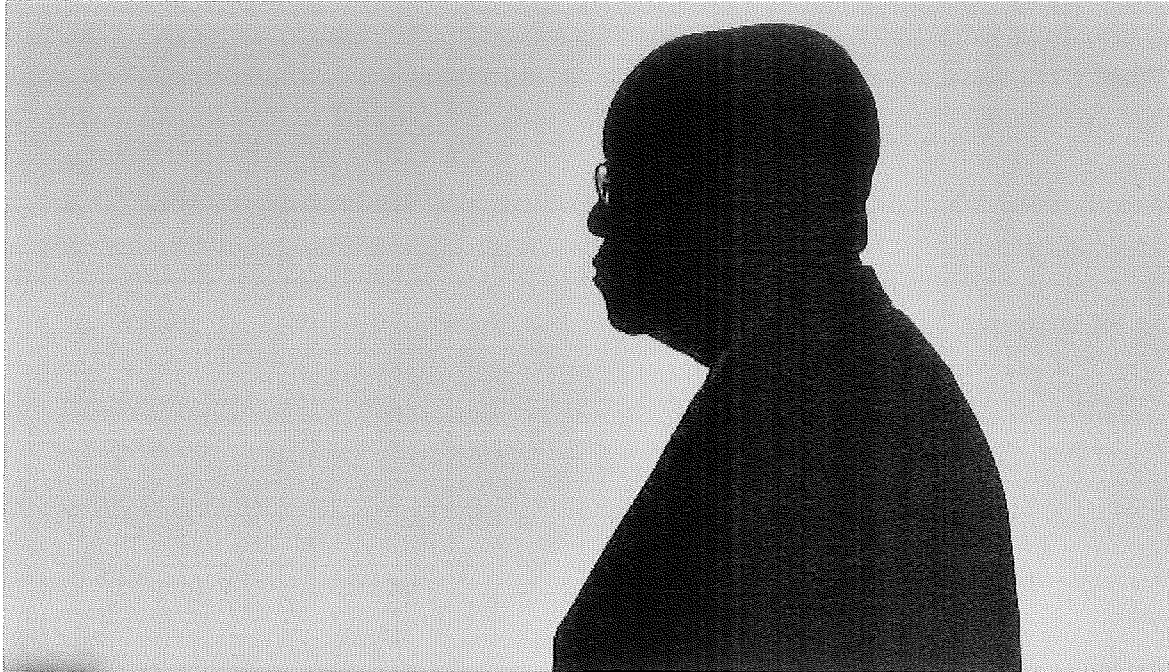
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Spy Wars: How Jacob Zuma established his own network of spooks

24 news24.com/SouthAfrica/News/spy-wars-how-jacob-zuma-established-his-own-network-20190310

Kyle Cowan

January 1, 1



Former president Jacob Zuma oversaw the creation of parallel structures within the intelligence service to serve his personal and factional ANC party political interests, breaching the Constitution in the process.

This, according to the findings of a high-level review panel report on the State Security Agency (SSA), which revealed that not only was the SSA repurposed to serve Zuma's interests, but was created irregularly in terms of the Constitution, which requires intelligence structures to be set up through legislative changes and not presidential proclamations.

By amalgamating the National Intelligence Agency and South African Secret Service, Zuma also effectively decimated the efficient functioning of their successor, the SSA.

The bombshell report, published by President Cyril Ramaphosa's office on Saturday afternoon, is a damning indictment on how factions within the ANC, led by Zuma, subjugated the intelligence capabilities of the state since 2005, a key year in Zuma's rise to power.

Under Zuma, the SSA spied on unions and civil society organisations such as Right2Know and the Council for the Advancement of the South African Constitution (Casac). It also

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influenced the media, established fake unions in Marikana, abused funds and conducted illegal intelligence gathering operations.

The report recommends:

- A forensic investigation into the finances of the SSA to make a full determination of abuse of secret funds to establish basis for disciplinary charges and/or criminal prosecution;
- Changes to financial controls, including giving wider access to finances to the Auditor General and chief financial officers and alternative methods of payment to cut down on cash uses;
- Sweeping legislative reforms to seek a clearer mandate for envisaged return to two separate agencies focused on foreign and domestic intelligence and stricter controls on governance of agencies;
- The legislative changes should include decentralisation of decision-making powers held by the director general and minister, and suggests a change in the appointment processes of spy bosses;
- Disciplinary action and/or criminal prosecution for Zuma, ministers, SSA bosses and staff who wilfully violated laws in issuing and executing illegal orders;
- Giving the Inspector General of Intelligence independence, to enable the office of the IG to conduct its work without interference;
- And the establishment of a task team and restructuring team to deal with the proposed restructuring into two agencies and to undertake an extensive review of current legislation, with an eye on implementation.

The panel, which was led by Sydney Mufamadi, handed its report to Ramaphosa in December, and a redacted version was released on Saturday.

Rise to power

"From about 2005, with the emergence of the divisions in the ANC, there has been a growing politicisation and factionalisation of the civilian intelligence community based on the factions in the ANC. This has been partly aggravated by the fact that many of the leadership and management of the intelligence services have come from an ANC and liberation struggle background and have seemingly, in some cases, not been able to separate their professional responsibilities from their political inclinations", the report concludes.

"This became progressively worse during the administration of the former president, with parallel structures being created that directly served the personal and political interests of

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the president and, in some cases, the relevant ministers. All this was in complete breach of the Constitution, the White Paper, the legislation and other prescripts."

The year 2005 was a seminal year in Zuma's rise to political power. He was fired from his position of deputy president by then-head of party and state Thabo Mbeki, shortly after his friend Schabir Shaik was convicted of fraud and corruption relating to the multi-billion rand "arms deal" saga.

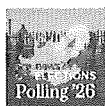
Months after his 2005 axing, the ANC's National General Conference expressed overwhelming support for Zuma, eventually leading to his election as ANC president at the party's now infamous 2007 National Elective Conference, held in Polokwane.

By the time of his election, Zuma had already turned to the National Intelligence Agency, whose then-deputy boss Arthur Fraser had already allegedly handed over the so-called "spy tapes" to Zuma's lawyers. The tapes, which included intercepted phone conversations between former NPA head Bulelani Ngcuka and then-Scorpions boss Leonard McCarthy, were the main reason behind the NPA withdrawing corruption charges against Zuma.

This paved the way for Zuma to stand for election, while Fraser was later appointed as the director general of the SSA. He is accused of operating the Principle Agent Network (PAN).

PAN, abolished in 2011, is described as another parallel intelligence structure that allegedly spirited away nearly R1bn in state funds over three years, and diverted the intelligence mechanisms of the state to Fraser.

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State Security Agency report recommends splitting of agency into two



President Cyril Ramaphosa on Saturday authorised the publication of SSA High Level Review Panel report.

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AFP

10 March 2019, 22:00

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The High Level Review Panel's report on the State Security Agency (SSA) has recommended splitting the agency in two to create a domestic and a foreign service.

This comes after the report whose publication President *Cyril Ramaphosa* (<http://www.sabcnews.com/sabcnews/?s=Cyril+Ramaphosa+>) authorised on Saturday night, found that former President *Jacob Zuma* (<http://www.sabcnews.com/sabcnews/?s=Jacob+Zuma+>) used the country's intelligence services for his own political and personal interests, most notably against his successor, Ramaphosa.

The report details Zuma's serious breach of the Constitution, during his nearly nine years in office. It says the SSA targeted Ramaphosa in the run-up to his becoming head of the ANC in 2017, and then president of the country.

Zuma stepped down in early 2018 amid charges of massive corruption. He has denied any wrongdoing.

Former State Security Minister and member of the ANC Sub-Committee on Peace and Security *David Mahlobo* (<http://www.sabcnews.com/sabcnews/?s=David+Mahlobo+>) says government will implement the panel's recommendations.

"Where wrongdoings have happened, there's accountability, we're leaving no stone unturned. In other words we are not only hounding down the foxes. We reaffirm our support on the work that is done, it is part of the resolution of the ANC."

A redacted version of the High Level Review Panel on the State Security Agency has been declassified. Read the report below:

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Cash 'parcels' to minister, spying on media and infiltration of anti-Zuma movement highlighted in report on SA spy agency

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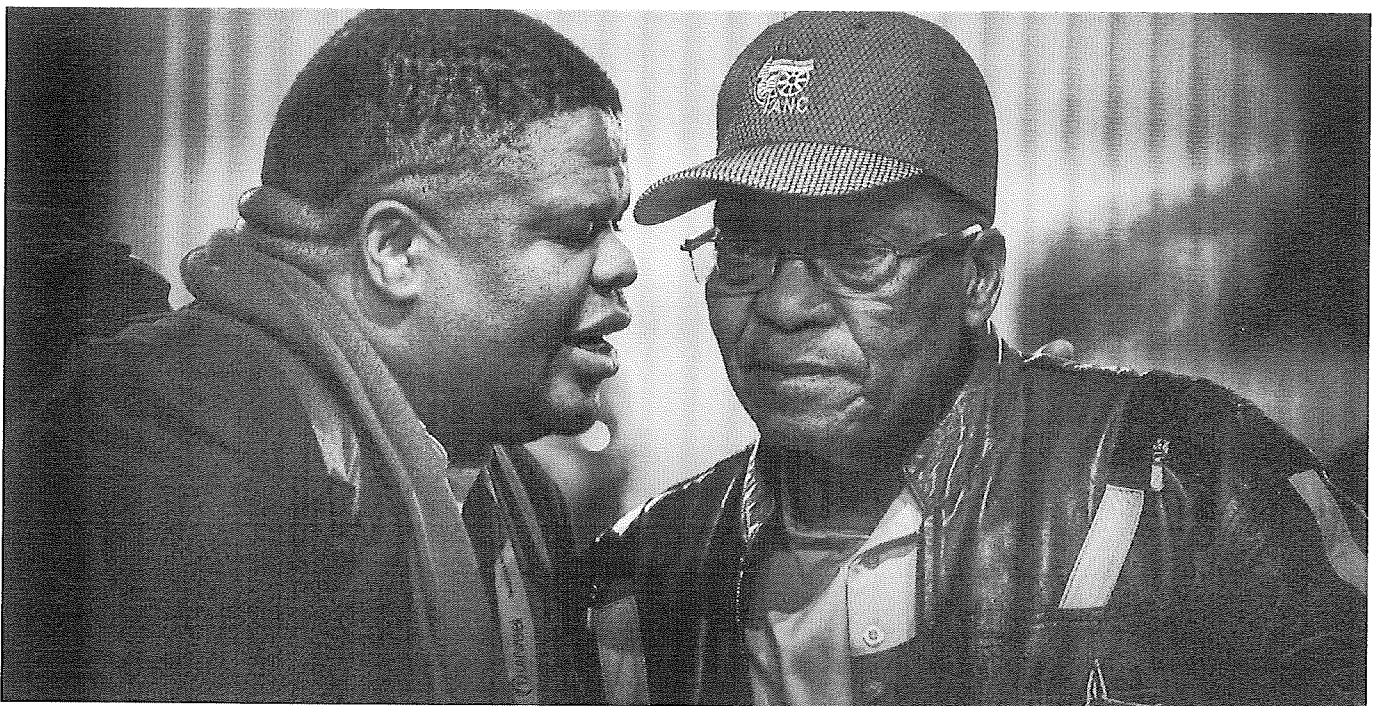
[dailymaverick.co.za/article/2019-03-09-cash-parcels-to-minister-spying-on-media-and-infiltration-of-anti-zuma-movement-highlighted-in-report-on-sa-spy-agency](https://www.dailymaverick.co.za/article/2019-03-09-cash-parcels-to-minister-spying-on-media-and-infiltration-of-anti-zuma-movement-highlighted-in-report-on-sa-spy-agency)

Pieter-Louis Myburgh for Scorpio

March 9, 2019

This article is **more than 7 years old**
The Real Rogue Unit

The long-awaited high-level review panel report on the activities of the State Security Agency (SSA) highlights a plethora of alleged rogue intelligence operations driven by South Africa's spy agency and its controversial Special Operations (SO) unit.



Former State Security Minister David Mahlobo is seen in conversation with President Jacob Zuma at the final session of the ANC's National Policy Conference which was held at the Nasrec Expo Centre in Johannesburg.

Picture: IHSAAN HAFJEJEE

Released by the government late on Saturday afternoon, the high-level review panel report on the activities of the State Security Agency (SSA) found that the agency's Special Operations (SO) unit had become "a law unto itself", especially after President Jacob Zuma moved key personnel to the SSA.

The report includes the following explosive findings on the SSA and its SO unit's allegedly rogue operations:

- The SO unit had infiltrated and influenced South Africa's media to "counter bad publicity for the country, the then president [Zuma] and the SSA";

- In 2016, the SO unit involved itself in clandestine operations that were clearly intended to derail the political campaigns of Zuma's opponents within the ANC and to disrupt the broader anti-Zuma movement. "During the 2016 ANC January 8 statement in Rustenburg, the unit 'initiated 3 countering operations to impede the distribution of CR17 regalia [and] impede [the] transportation system of dissident groups from GP [Gauteng]," the panel found, quoting from a document the SO unit had compiled to highlight its "achievements" in the 2016/2017 financial year; and
- The report on the SO unit's "achievements" also made reference to its infiltration of a planned march against Zuma at Parliament in Cape Town in 2016 before that year's State of the Nation Address (SOPA). The SO unit was "able to infiltrate and penetrate the leadership structure" of the anti-Zuma movement. The clandestine unit also distributed "disinformation" to members of the anti-Zuma movement. According to the report, the SO unit's intervention ensured that far fewer protestors ended up joining the demonstration.

The report also highlights serious financial misconduct at the SSA and the SO unit, especially regarding the use of covert funds. "Due to wide-ranging resource abuse, the SSA became in effect a 'cash cow' for many of its members and external stakeholders," reads the report.

Most distressingly, the alleged abuse of resources possibly benefitted senior government officials and even ministers in Zuma's then cabinet.

"There was more than enough information before the Panel that the then Minister [of State Security], in particular, involved himself directly in [SSA] operations. The Panel interviewed one member of [the] SSA who had previously served in the Minister's office during his time as Minister of State Security, who confirmed to the Panel that he had, from time to time, been asked by a member of SO to pass parcels containing cash to the Minister," according to the report.

The panel did not explicitly state which of Zuma's state security ministers was being referred to. Siyabonga Cwele and David Mahlobo both served as State Security ministers at different times in Zuma's administration.

The review panel also looked at a few of the SSA's dubious dealings that had been exposed by investigative journalists in recent years.

The SO unit's role in the establishment of a fake labour union, the Workers Association Union (WAU), receives brief mention. "The Panel also heard testimony and was provided with legal papers about a union that was established with the support of the SO Unit of the SSA (the Workers' Association Union) ostensibly to neutralise the instability in the platinum belt. The Panel also heard testimony from the IGI [Inspector General of Intelligence] about the SSA having put under surveillance unions that were critical of the then President," reads the report.

The Principal Agent Network (PAN), which features in investigative journalist Jacques Pauw's book *The President's Keepers*, comes under fire in the review panel report. "It appeared to the Panel there had been instances of serious criminal behaviour which had taken place under the guise of

conducting covert work and that this behaviour may have involved theft, forgery and uttering, fraud, corruption, and even bordered on organised crime and transgressions of the Prevention of Organised Crime Act (POCA)," the panel found with regards to the PAN's activities.

The wide-ranging problems at the SSA and especially at the SO unit could at least be partly blamed on "growing politicisation" and factionalism within the "civilian intelligence community". This was linked to the widening divisions within the ruling ANC that began to take shape circa 2005, the report found.

"This became progressively worse during the administration of the former President, with parallel structures being created that directly served the personal and political interests of the President and, in some cases, the relevant ministers. All this was in complete breach of the Constitution, the White Paper, the legislation and other prescripts," the report states. DM

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EXPLAINED: Nine things you must know about the bombshell report into spies

news24.com/opinions/analysis/explained-nine-things-you-must-know-about-the-bombshell-report-into-spies-20190311

Kyle Cowan

March 11, 2019



Oudpres. Jacob Zuma in die hooggeregshof in Durban waar hy op klagte van korrupsie verhoor word. Foto: Felix Dlangamandla

The office of President Cyril Ramaphosa this weekend published a bombshell report by the high-level review panel into the State Security Agency, revealing damning evidence of how the SSA was repurposed to serve the political interests of former president Jacob Zuma and his cronies within the ANC.

The panel was headed by Dr Sydney Mufamadi and drew on mounds of documents and interviews with former and current ministers, staff and operatives to conduct its review of the SSA.

READ: [Spy Wars: Report reveals how Zuma's man at SSA helped build parallel network](#)

READ: [Spy Wars: How Jacob Zuma established his own network of spooks](#)

READ: [Zuma manipulated intelligence agency, finds shocking report](#)

In essence, the panel attempted to answer a simple question: "What the hell happened?"

Here are nine things you need to know about the report:

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Cowan

1. Former president Jacob Zuma and ministers he appointed, including Siyabonga Cwele and David Mahlobo, as well as senior staff at the SSA, violated the Constitution by overseeing and allowing the repurposing of the spy agency to serve their own personal and political interests, a process that started in 2005.
2. The core purpose of the SSA was changed by Zuma, Cwele and others as part of their faction within the ANC since 2009 when Zuma became president. This shift was removed from the purpose envisaged in the Constitution and legislation.
3. The report found widespread abuse of funds, in violation of regulations, and has recommended increased access to financial information for the Auditor General and chief financial officer as well as sweeping forensic investigations to determine who should be charged and/or disciplined for the misuse of funds.
4. Recommendations include criminal prosecution for Zuma, Cwele, Mahlobo and SSA staffers for the blatant disregard of legislation that governs the operation of intelligence agencies and the Constitution.
5. The creation of the SSA, through the amalgamation of the National Intelligence Agency and South African Secret Service, was irregular in terms of the Constitution as it was not established through legislation but rather a presidential proclamation signed by Zuma.
6. Operations undertaken by the SSA's Special Operations arm under Zuma ally Thulani Dlomo, including spying on unions and civil society organisations, the creation of a fake union in Marikana, influencing the media and conducting politically motivated projects are to be investigated by a multi-disciplinary task team with an eye on criminal prosecutions.
7. The SSA should be split into two agencies, each focused separately and independently on foreign and domestic intelligence, as it was before Zuma's "monumental blunder" in amalgamating the NIA and the SSA.
8. The report recommends changes to outdated legislation governing intelligence agencies to narrow their mandates and effect changes to powers and decision making privileges given to ministers and agency bosses.
9. The SSA relied far too heavily on the application of secrecy to stifle effective accountability and non-compliance which includes "blatant criminality".

- Read the full report [here](#).

READ MORE: [Zuma says SSA report was written by 'apartheid spies'](#)

OB
CP

**Jacob G Zuma**

@PresJGZuma

I have never been asked any questions by this committee. This committee has 2 well known Apartheid spies. I've never sold out nor written letters to the SB. I feel nothing when Apartheid spies call me corrupt. I hope people are not opening a can of worms which they might regret

Mar 10, 2019 · [View on X](#)

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COMMISSION OF INQUIRY INTO STATE CAPTURE

HELD AT

PARKTOWN, JOHANNESBURG

10

19 FEBRUARY 2020

DAY 215

20

Cap 03

PROCEEDINGS RESUME ON 19 FEBRUARY 2020

CHAIRPERSON: Good morning Ms Hofmeyr, good morning everybody.

ADV KATE HOFMEYR: Good morning Chair.

CHAIRPERSON: Yes are we ready?

ADV KATE HOFMEYR: We are indeed. Chair this morning there is first a matter of an application for the first witness to give his evidence in-camera. I use that term loosely again as I did previously this week because there are only specific respects in which the witness seeks not to have his identity disclosed.

10 He is however legally represented and I would like to offer an opportunity for my learned friend to introduce himself and move that application if I may?

CHAIRPERSON: Yes thank you.

ADV DAVID MTSWENI: Morning Chairperson.

CHAIRPERSON: Good morning.

ADV DAVID MTSWENI: My name is Advocate David Mtsweni I practice with the ...

CHAIRPERSON: Just raise your voice

ADV DAVID MTSWENI: My name is Advocate David Mtsweni I practice
20 with the Pretoria Society of Advocates.

CHAIRPERSON: Yes.

ADV DAVID MTSWENI: On brief by the office of the State Attorney on behalf of a witness to be known as Mr Y for the record purposes.

CHAIRPERSON: Yes.

ADV DAVID MTSWENI: Chair – Chairperson in a nutshell the reasons

Colp DB

some of the agents that- their complaint was their salaries was stopped. What they called salaries and they opened up complaints with the Office of the Inspector General. In the course of interviewing those agents obviously the Inspector General's office then became aware of the certain operations that were running that would have been unlawful. As far as I know the report has not been finalised yet and it is running parallel with an investigation that is taking place into the same issues but from within SSA itself.

ADV MICHAEL MBIKIWA: And if you turn over the page to page 237.

10 It says;

The Panel was able to identify the key player in the politicisation of SO and the SSA in general. The member is currently serving government in a senior capacity. According to reports he was deployed to SSA by the then President via the Minister at the time to head up the Special Operations Chief Directorate.

Are you able to shed any light on who is being referred to there?

MR Y: That is Mr Thulani Dlomo.

ADV MICHAEL MBIKIWA: Right. Your- in terms of your evidence
20 earlier was responsible for the diversion of the mandate of the unit.

MR Y: Correct.

ADV MICHAEL MBIKIWA: I would like then to go to the paragraph starting with, it is clear.

MR Y: Right, yes.

ADV MICHAEL MBIKIWA: It is clear to the Panel that the SSA SO unit

especially under the watch of the member mentioned above was a law onto itself and directly served the political interest of the Executive. It also undertook intelligence operations which were clearly unconstitutional and illegal.

Information made available to the Panel indicated that these operations included inter alia the training of undercover agents in VIP protection and assigning some of these to provide protection to the then President as well as to others who were not entitled to such protection such as the former chairperson of the South African Airways Board.

10 Does that accord with your understanding of the- what you described as the diversion of the mandate of the Special Operations Unit?

MR Y: Correct. I would just want to clarify the training of undercover agents. The undercover there should not be seen as implying that these agents were members of the State Security Agency.

ADV MICHAEL MBIKIWA: Indeed. Can I then ask you to turn over to page 238 and just the last paragraph above Executive involvement in operations?

MR Y: Yes.

20 ADV MICHAEL MBIKIWA: It says there;

It is clear from the above information and other information available to the Panel that Special Operations had largely become a parallel intelligence structure serving a faction of the ruling party and in particular the personal political interest of the sitting President of the party and country.

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I will pause there. Do you have any comment on that?

MR Y: I would agree with that.

ADV MICHAEL MBIKIWA: It then says;

This is in direct breach of the Constitution, the white paper, the relevant legislation and plain good government intelligence functioning.

I will not ask for your opinion as to whether it breaches the law but would you agree that it is in breach of plain good government intelligence functioning?

MR Y: Definitely.

- 10 ADV MICHAEL MBIKIWA: I then Mr Y would like to address with you the question of the protection services that were provided to Ms Myeni. And for that purpose, I would like to go back to your affidavit and pick it up at page 12.

MR Y: Okay.

ADV MICHAEL MBIKIWA: Sorry, in fact page 11 at paragraph 5.2.

MR Y: Alright.

ADV MICHAEL MBIKIWA: Can you tell us if Ms Myeni wanted security protection? What would have been the proper process to have followed?

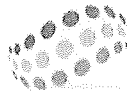
- 20 MR Y: The normal process would have been we have a function within the Agency called Security Advising. You would have a security advisor allocated to a government department or state-owned entity and any request highlighting for instance that Ms Myeni thought her life was in danger could have been channelled via the advisor and the South African Police Services.

CD10

COMMISSION OF INQUIRY INTO STATE CAPTURE
HELD AT
CITY OF JOHANNESBURG OLD COUNCIL CHAMBER
158 CIVIC BOULEVARD, BRAAMFONTEIN

27 JANUARY 2021

DAY 332



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COMMISSION OF INQUIRY INTO STATE CAPTURE

HELD AT

CITY OF JOHANNESBURG OLD COUNCIL CHAMBER

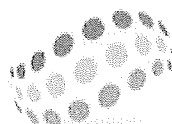
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the President's projects at the SSA."

Those two sentences, do you have any comment, do you agree with them, are they reasonable? Are you in agreement?

MS K: I agree with them, Chair.

ADV PRETORIUS SC: Thank you. It continues, the paragraph, that is, continues:

10 "The structural changes approved by Mr Cele in December 2011 meant that when Ambassador Dlomo was officially appointed in January 2012 the SSA's counter intelligence architecture had already been transformed in order to provide him with the power and resources to directly serve the political interests of President Zuma through intelligence operations that were clearly unconstitutional and illegal."

What do you say about that conclusion?

MS K: I agree with the conclusion.

ADV PRETORIUS SC: Alright. It continues:

20 "Under Ambassador's watch the CDSO engaged in exponential overspending and flouted the SSA's financial operational and HR directives through covert mechanisms and illegal contracts."

What do you say about that largely factual observation?

MS K: That is factual.

Cap 03

ADV PRETORIUS SC: Right. 4.22 – oh and you agree with it, do you?

MS K: Yes, I agree with it.

ADV PRETORIUS SC: Thank you. 4.22:

“The impact...”

And this again is a summary so you can comment freely:

“The impact of the centralisation of power within counter intelligence is borne out by the activities subsequently carried out by the CDSO, the presidential security support service and cover support unit as detailed below. In summary, the consequences of structural changes were:

4.22.1 The infiltration into the SSA by co-workers who bypassed official recruitment, training and vetting processes.

4.22.2 The overreach of the duly authorised mandate of the SSA.

4.22.3 Illegal activities carried out by a parallel counter intelligence structure under the guise of covert operations.

4.22.4 Executive interference and operational activities.

4.22.5 The rampant looting of SSA funds, and

4.22.6 The illegal use of SSA firearms.”

Would you comment on some or all and inform the Chair to

Cap DB

what extent you agree or disagree with those conclusions?

MS K: I agree with all of them, all of these conclusions.

ADV PRETORIUS SC: Thank you.

MS K: Chair.

ADV PRETORIUS SC: Thank you, Ms K. In paragraph 5 you deal in some detail ...[intervenes]

CHAIRPERSON: Mr Y deals in some detail.

ADV PRETORIUS SC: Yes.

MS K: Yes.

10 ADV PRETORIUS SC: In paragraph 5, the Directorate for Presidential Security Support is dealt with in some detail by Mr Y. and let us go through it paragraph by paragraph.

MS K: Yes.

ADV PRETORIUS SC: 5.1, the first sentence says that:

"The extent to which the activities conducted by the SSA's CDSO..."

And CDSO for reference is the Chief Directorate Special Operations.

20 "...exceeded the duly authorised mandate of the Agency."

Is that is a correct statement of fact?

MS K: Yes, it is.

ADV PRETORIUS SC: It continues, the paragraph continues:

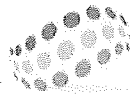
"The establishment and operation of the Directorate

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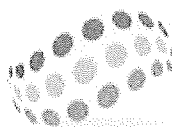
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should be fully accounted for in terms of prescript.

In both cases and in relation what is set out below the prescripts were not followed.”

What comment do you have in relation to those general principles That governs that governs the SSA?

MS K: The first one - the first sentence there I am not sure of because I am not an expert in covert operations and prescripts but the rest I can attest to, yes.

10 ADV PRETORIUS SC: So if there is expenditure in relation to an entity, you say that the prescript requires that should be fully accounted for?

MS K: Yes, I do.

ADV PRETORIUS SC: Are you able to say that those prescripts at least were not followed?

MS K: Yes, I am able to confirm that.

ADV PRETORIUS SC: Alright. 8.5 reads:

20 “In December 2014 Ambassador Dlomo illegally signed contracts on behalf of the SSA with SSA with Several companies.

These companies were integral to facilitating the illicit financial closing of CDSO Projects and operations.”

Are you able to comment on that statement?

MS K: Yes, this is a hundred percent correct.

MB
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Zuma pointed his renegade spooks at the judiciary, commission hears

CD11

 [dailymaverick.co.za/article/2021-01-29-zuma-pointed-his-renegade-spooks-at-the-judiciary-commission-hears](https://www.dailymaverick.co.za/article/2021-01-29-zuma-pointed-his-renegade-spooks-at-the-judiciary-commission-hears)

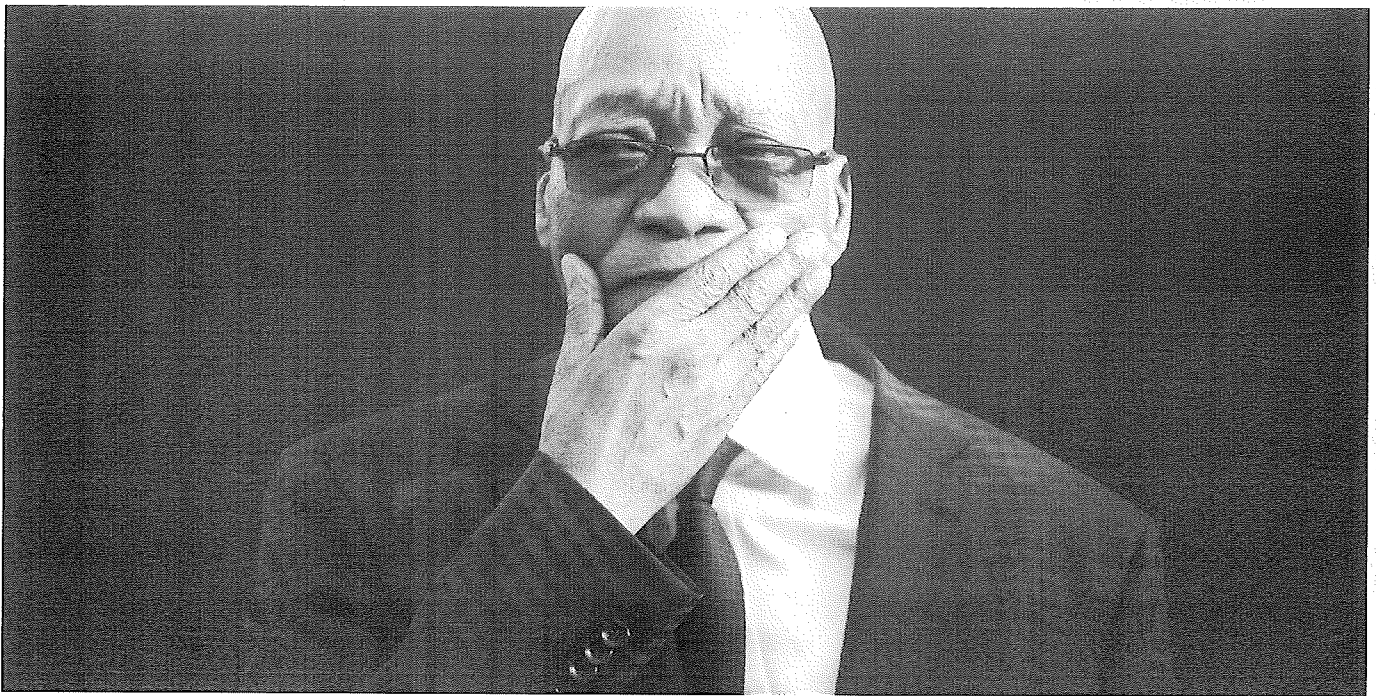
Steve Kretzmann

January 29, 2021

This article is more than 5 years old

DAYS OF ZONDO

Revelations of abuses by Jacob Zuma's unconstitutional parallel security state directorate continued to drop at the Zondo Commission on Thursday.



Former president of South Africa, Jacob Zuma. (Photo: Neville Hopwood/Getty Images)

The Chief Directorate Special Operations (CDSO) within the State Security Agency (SSA) spent, according to conservative estimates, R1-billion to protect former president Jacob Zuma and his close associates between 2012 and 2018.

The Commission of Inquiry into State Capture heard that a portion of this public money went to spying on, and trying to influence, the judiciary.

This is contained in an affidavit prepared for Deputy Chief Justice Raymond Zondo by Mr Y and corroborated by Ms K (names withheld). Mr Y and Ms K are investigators within Project Veza, which was tasked with investigating allegations of irregularities and criminality at the SSA between 2012 and 2018.

Handwritten signature: *Colp*

With Mr Y's affidavit and Ms K's corroboration, it was revealed there were a number of unlawful projects run by the CDSO, which was set up in 2012 and run by then SSA deputy director-general Thulani Dlomo. Each project conducted numerous operations.

One such was Project Mayibuye, under which was Operation Justice, which came into being in the latter half of 2015.

Operation Justice's alleged aim was to influence, recruit and handle sources within the judiciary. The "sources" were members of the judiciary who would, according to Mr Y's affidavit and based on interviews with people who were involved in the project, "ensure harmony between the state and the justice fraternity". This allegedly included efforts to influence the outcome of cases.

Operation Justice was itself a continuation of Operation Simunye, which was intended to "intensify and strengthen state authority within the judiciary system under which contacts and relevant assets (informants) were to be acquired and utilised for the purposes of positively influencing state power and control over the judiciary", read evidence leader advocate Paul Pretorius.

This information, added Ms K, was discovered in annexures to documents provided to them during the course of their investigations.

In a 31 May 2016 submission to the SSA's then director-general, Sonto Kudjoe, for renewal of Project Mayibuye, an "alarming concern" was noted over "the friction that existed between the state and the justice fraternity".

An operative with the pseudonym Frank said there was a complaint that there were judges colluding to overthrow the government, which formed the basis for establishing Operation Justice.

Cash also allegedly flowed to former SSA minister David Mahlobo under Operation Justice, with one person telling Project Veza investigators she personally delivered R4.5-million to Mahlobo's office on at least three occasions. The cash, said Frank, was to "deal with the issue of judges".

Mr Y put a conservative estimate of R1-billion in illegal and largely unaccounted expenditure by the CDSO between 2012 and 2018, much of it withdrawn in cash.

Additionally, as much as 40% of the CDIS's annual budget of approximately R47.5-million was redirected from other, legitimate activities involving national security, to pay for the protection of the presidential aircraft during the 2015/16 and 2016/17 financial years, despite such protection not being within the agency's mandate.

This was a follow-on from what was revealed on Wednesday, that shortly after taking office in 2009 Zuma signed a proclamation that, as *Daily Maverick's* Marianne Thamm wrote, "paved the way for an unlawful, parallel, secret security state, funded by public money, much of which remains unaccounted for, and which served Zuma's personal and political interests for more than a decade".

Alongside the approximately R1.5-million a month spent for the protection of the presidential aircraft – a service within the parallel SSA structure – the many abuses of Zuma's parallel security operations within the SSA continued to be stated before Zondo.

Among the host of revelations was that members of the Chief Directorate Intelligence Services (CDIS) implicated in the theft of R17-million from a safe inside the intelligence services training campus in Musanda, Pretoria, in December 2015 were still working in the CDIS.

Ms K stated that CDSO operatives in junior positions were made to act in positions four levels higher, receiving the concomitant allowances, including to travel wherever the president and deputy president travelled, resulting in 'a whole lot of expenditure'.

But as brazen as the theft was, the amount of public money lost paled into insignificance against what was spent – seemingly solely for Zuma's personal and/or political gain – by the CDSO.

Further, the Project Veza investigators found the CDSO members were unskilled – some without a matric certificate – and were irregularly recruited and vetted, even receiving fake security clearance certificates signed by Dlomo. Yet they were the largest consumers of SSA resources and provided no intelligence feedback to the agency. Instead, they seemed to report directly to Zuma or members of his executive.

Ms K stated that CDSO operatives in junior positions were made to act in positions four levels higher, receiving the concomitant allowances, including to travel wherever the president and deputy president travelled, resulting in "a whole lot of expenditure".

This cost was not only the rand values involved, but also the weakening of the SSA's function, the paralysing of the legitimate functionaries responsible for presidential security, and reducing capacity crucial for SSA functions, including foreign intelligence.

This was despite the SSA having units that existed to perform the functions performed by the CDSO.

Official accountability mechanisms were bypassed, with operatives withdrawing astonishingly large sums of cash in the form of temporary allocations, or TAs, which were never properly reconciled. But the complicity of the Chief Directorate Intelligence Services was disputed by Ms K, who noted attempts by senior managers to bring the CDSO into line.

With no annual performance plan, the CDSO appeared to have an almost unlimited budget to service Zuma's interests.

Each project, which ran numerous operations, was established with generic documentation, little to no detail of proposed plans and outcomes, and conflicting accounts of their deliverables.

Three major projects, projects Construcão, Wave, and Mayibuye all contained the same wording, and were authorised by the same person, all on the same day, 23 January 2015.

"Notwithstanding their vague and generic motivation, the operational activities were clearly in breach of constitutional prohibition against partisan and politicised intelligence," stated Pretorius as he read Mr Y's affidavit, to which Ms K agreed.

The pervasive financial irregularities and weak financial controls made it difficult to establish how much money was spent. The abuse of TAs, with no reconciliation of expenditure also meant the final destination for the cash was difficult to verify. For example, a request for expenses related to the projects on 22 March 2016 amounted to R8.9-million, with no breakdown of what the payments were for, only an amount per operation.

For Project Construcão, established in January 2015, the budget was R30-million, said Ms K. But this had all been spent by April the same year, with only R5-million allocated for operational expenses. Thereafter, more money was allocated from retained expenses, which was essentially money unspent in other, legitimate projects.

Project Construcão, revealed Ms K, was for CDSO recruitment and VIP protection training – apparently for high-ranking officials such as Dudu Myeni – but it was pouring its money into paying private companies for VIP protection services. The project was renewed on 1 April 2016 to run until 31 March 2017, with an extra R24-million for expenditure. Invoices for this expenditure state no more than "services rendered".

Furthermore, Domo, as deputy director-general, was signing off on amounts up to R10-million in almost every project when his domestic limit was R50,000 and his foreign branch signing limit was R200,000.

There were numerous other operations brought to light, including investigating Zuma's wife MaNtuli whom he accused of trying to poison him, the provision of a safe house and salary for Eugene de Kock after his release from prison, monitoring high-profile and politically connected people, and the investigation and resolution of the #feesmustfall protests.

Testimony from Ms K is scheduled to continue at the Commission of Inquiry into State Capture on Friday 29 January. **DM**

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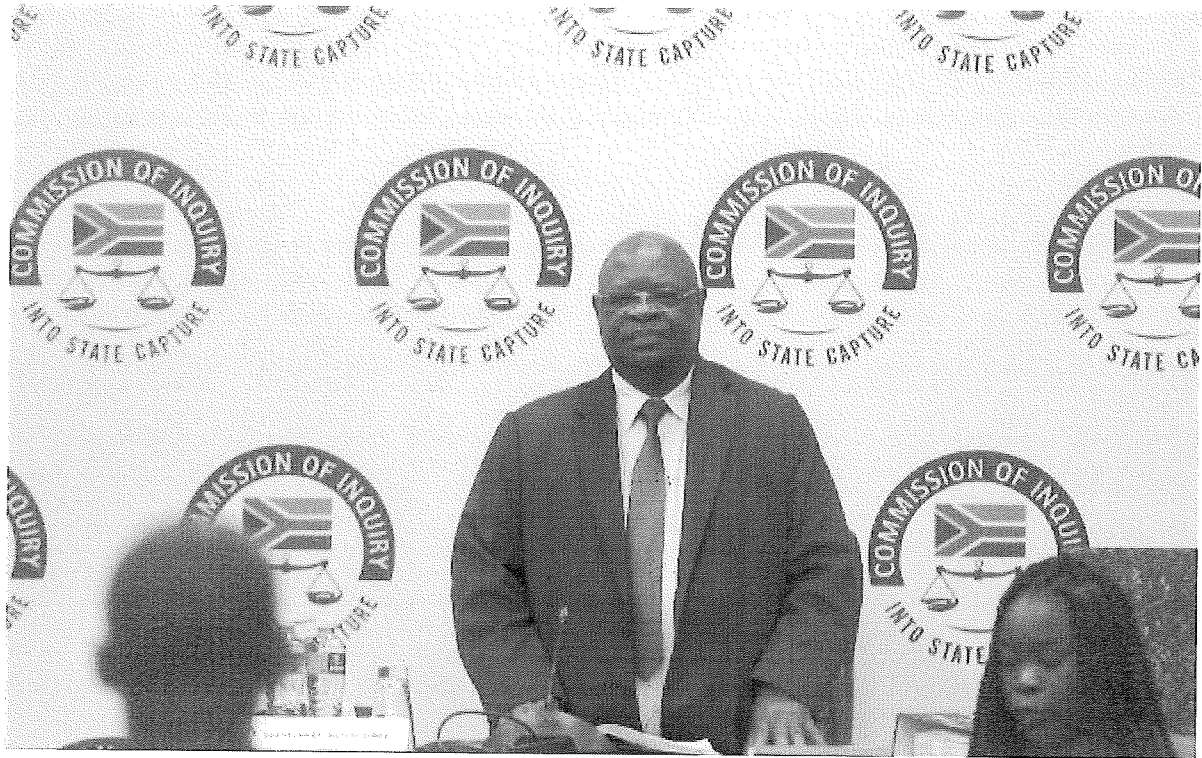
Call 03

Parallel SSA structure for Zuma set up by former spy boss, Zondo commission hears

24 news24.com/southafrica/news/parallel-ssa-structure-for-zuma-set-up-by-former-spy-boss-zondo-commission-hears-20210127

Alex Mitchley

January 1, 1



- A team of non-SSA members were recruited and trained by Thulani Dlomo, before he became a spy boss, according to an unidentified witness.
- These members would form part of a parallel SSA structure tasked with protecting and serving the interests of former President Jacob Zuma.
- This was revealed on Wednesday at the State Capture Inquiry.

While still working for the Kwazulu-Natal Department of Social Development, Thulani Dlomo - who would later become a spy boss - trained 48 non-SSA members with the purpose of establishing a parallel intelligence and protection unit for former president Jacob Zuma.

These details were contained in an affidavit by a State Security Agency (SSA) operative, known as Mr Y and corroborated by Ms K at the state capture inquiry on Wednesday.

Ms K, who appeared before the commission via a video link at a protected location, was part of the team in Project Veza, tasked with investigating allegations of irregularities and criminality within SSA between 2012 and 2018.

Mr Y, who deposed an affidavit, but could not testify physically due to ill health, also played a role in Project Veza as a sponsor.

Ms K's testimony was to confirm the contents of the affidavit by Mr Y.

READ | Sanef wants probe after ANA admits it took money from spy agency to write 'positive stories'

One of the main focus points of the testimony focused on the protection and intel unit created for Zuma.

According to Mr Y and Ms K, these operatives received training by Dlomo, and were deployed after the 2009 elections that saw Zuma elected as president.

Ms K confirmed that Dlomo, who was later appointed as an ambassador to Japan, was responsible for laying the groundwork of the unit before Zuma became president and before he was officially in the employ of the SSA.

Trained

Ms K confirmed that the recruits were trained while he was with social development and that letters were seen where Dlomo's employers were informed that he was assisting the SSA.

These members were also trained in an unnamed country.

Mr Y and Ms K also detailed that these members were not subjected to normal recruitment and vetting processes of the SSA and that they were given access to SSA funds and resources such as firearms.

READ | Spy boss claims SSA gave firearms, ammunition to 'non-members'

These funds were channeled to this parallel structure that were solely tasked with serving Zuma and his interests, forming a private force for the president.

This unit, which was called the Presidential Security Support Services, also did not appear to be beholden to structures of the SSA and were asked to sign contracts that were not from the agency.

"It seems to me that whatever their duties were, they did not perform them within SSA structures?" Zondo asked Ms K.

Ms K answered that the unit's operations were never disclosed to the SSA and thus effectively operated outside of the SSA.

These members were eventually absorbed into a unit that coincided with the appointment of Dlomo as the manager of the chief directorate of special operations (CDSO) in 2012.

Police

Ms K further said that no memorandum of understating between the unit and the South African Police Services, who are legally tasked with the president's protection services, had been found.

Cap PR

Mr Y, in his affidavit, also claimed that Dlomo reported directly to Zuma, while Ms K said it was a deduction she had made as there was not proof of the reporting line.

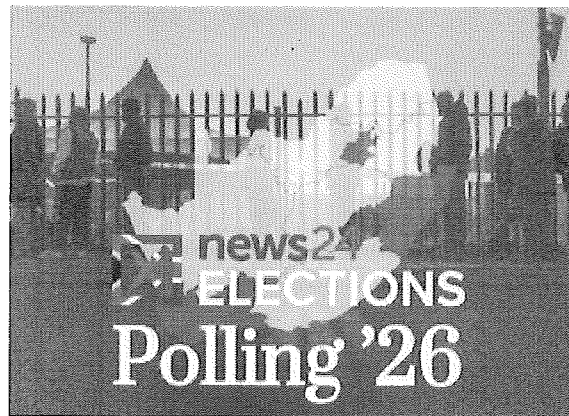
However, Ms K said operatives of the unit had told her that they were reporting directly to Zuma.

One operative even said they felt very powerful because he reported directly to the president at the time.

She added that, while the core members of the unit were non-SSA members, over time, a handful of SSA members were recruited into the CDSO.

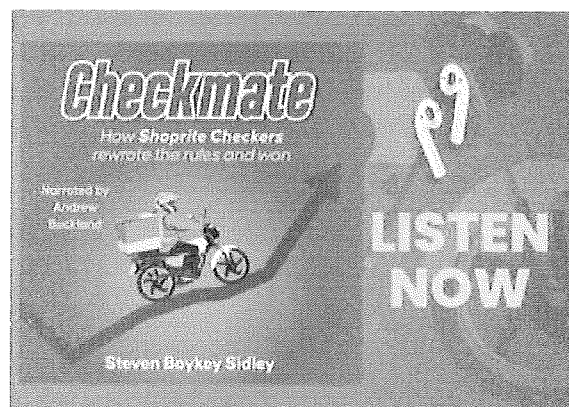
Earlier on Wednesday, Ms K named former intelligence ministers, Siyabonga Cwele, David Mahlobo and advocate Bongani Bongo as the political leadership that abused the SSA and its mandate, while naming Arthur Fraser and Dlomo as those who implemented and executed the abuses.

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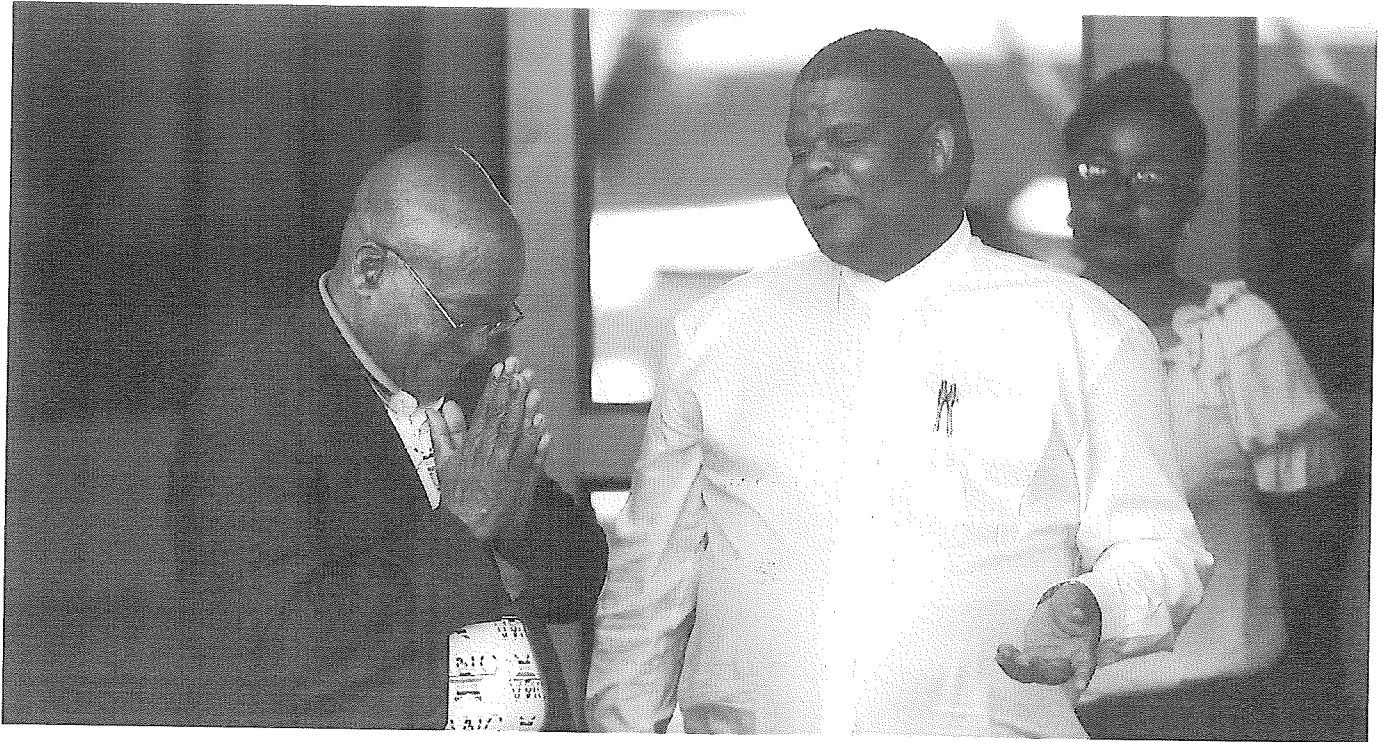
Cap 03

Broken Silence: how 'Zuma's spy' spent R1bn of SSA cash in 6 years

[timeslive.co.za/sunday-times-daily/politics/2021-01-28-broken-silence-how-zumas-spy-spent-r1bn-of-ssa-cash-in-6-years](https://www.timeslive.co.za/sunday-times-daily/politics/2021-01-28-broken-silence-how-zumas-spy-spent-r1bn-of-ssa-cash-in-6-years)

Mawande AmaShabalala

January 28, 2021



The State Security Agency (SSA) special operations unit headed by “Zuma’s spy”, Thulani Dlomo, was a big spender of your tax money – all while it was engaged in allegedly unlawful missions.

The Zondo commission heard on Thursday that Dlomo’s unit spent a staggering R1bn between 2012 and 2018, and did not even account for those expenses.

Dlomo, who is also known as “Silence”, was former president Jacob Zuma’s trusted foot soldier at the agency. So useful was Dlomo that he started working at the SSA off the books way before he was officially hired to head the special ops team.

99

As a person who has seen and gone through most of the documentation, I still cannot sit here and say I know the full extent of the activities that were undertaken under Operation Construcão.

Witnesses told the state capture inquiry this week that from as early as 2008 – before Zuma took office the following year and while Dlomo was working in KZN – he had started recruiting operatives who would serve the former president’s “interests” when he ascended to Union Buildings.

Thursday was an unidentified SSA operative’s turn to sing, and she presented a breakdown of the allegedly illegal missions that Dlomo oversaw.

Colp 93

The spook, identified only as "Ms K" after being granted permission to have their identity concealed, said: "When we look at the official financial records of SSA in terms of budget and expenditure, when we looked at the period covered [2012-2018], CDSO [Chief Directorate of Special Operations] as a unit had spent just under R1bn.

"It has to be seen under the context that it is a chief directorate; it is not counterintelligence in its entirety but one element of counterintelligence. And the cost driver was the covert projects and without proper accounting."

Most of the expenditure happened during operations that Dlomo launched during the tenure of David Mahlobo as minister of intelligence between 2014 and 2017.

Among these expensive operations, said Ms K, was "Project Construcacao" – with the stated intention of "neutralising threats or possible threats capable of destabilising the Republic of SA".

Ms K said she was in doubt that this mission – which had 22 operatives, 18 of whom were trained in a foreign country, and which started in January 2015 because "Zuma wanted younger VIP protectors" – was involved in those stated objectives.

The operation, after being set up in January, was allocated R30m and the budget breakdown stated that only R5m would go to operational costs.

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However, four months later, the entire R30m had been spent on operational costs and no one could account for exactly why this was the case.

"As a person who has seen and gone through most of the documentation, I still cannot sit here and say I know the full extent of the activities that were undertaken [under Operation Construcacao]," said Ms K.

"There is no full disclosure of the full extent of the activities of those individuals who belonged to this operation. The budget was R30m for a period of a year. Only R5m was allocated for operational expenses, but when the project was approved, by April, the entire R30m had been withdrawn – and all of it for operations. It does not tally with what was in the operational plan."

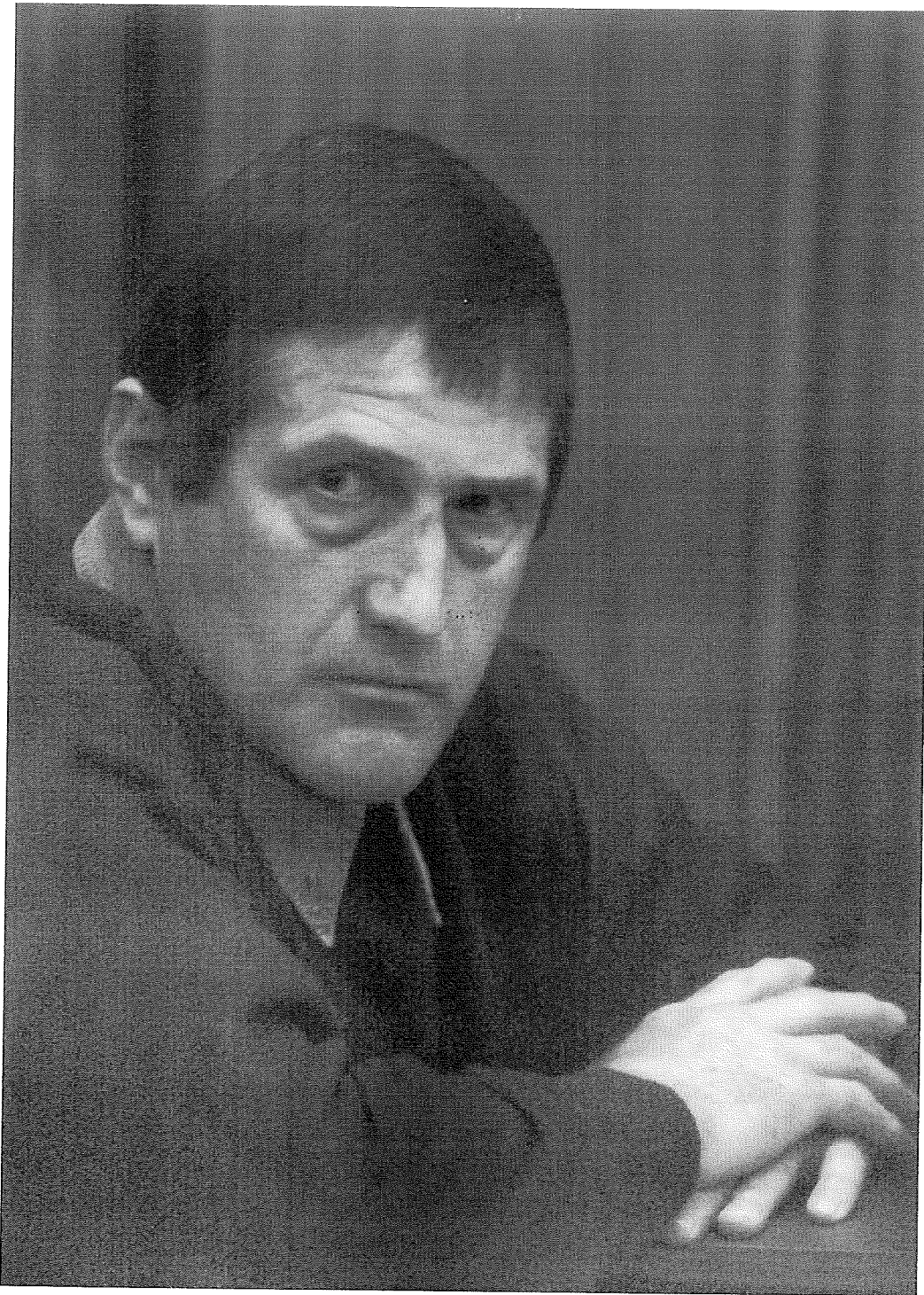
To make matters worse, the agency went on to outsource the same VIP protection services meant to be provided by operatives belonging to this unit, essentially double-dipping.

SSA went on to finance this operation, which provided VIP protectors for Dlomo himself, with a further R34m after it was extended twice.

The biggest project under Dlomo's directorate was "Operation Mayibuye", which was established in January 2016 and approved by the SSA director-general at the time, Sonto Kudjoe. It had a broad objective to provide counterintelligence support against "radical intents" in parliament and the provincial legislatures.

Copy Done

Within this project were several operations, including "Operation Lock", which spent R200,000 to handle paroled apartheid assassin Eugene de Kock.



Eugene de Kock scored from an about R200,000 a month package from government after he was released on parole.

De Kock was paid a salary of R40,000 per month while the state also accommodated him in a safe house and carried all its costs.

Under Operation Mayibuye was also "Operation Lungisa", with the stated objective of clamping down on those intent on "undermining the authorities".

Despite withdrawing R500,000 every month, it went on to outsource various services, which included data collection and analysis as well as the interviewing of assets and compiling reports.

"Project Ses'khona" also fell under Operation Mayibuye, and it was aimed at "stabilising the nature of public protest" to save the country's face for foreign investors after the famous Cape Town International Airport "poo protesters" civil movement, Ses'khona.

More than R50m was channelled towards this mission.

Other projects under Operation Mayibuye were "Khusela" and "Tinroof".

Khusela was to provide toxicology services for Zuma and, for this, the operation was claiming R1.8m a month from SSA before two R9.5m invoices from an outside company were settled.

Tinroof was meant for the provision of a safe house for one of Zuma's wives, Nompumelelo Ntuli, who was suspected of poisoning Zuma.

Sunday Times Daily

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Scapegoat

@AndiMakinana

This is what Sydney Mufamadi says about #OperationLock in his affidavit to the Zondo Commission.
<https://t.co/kbmygQpd3s>

7 .11. Operation Lock: This involved providing a safe house and protection to Mr Eugene de Kock when he was released from prison, apparently on the basis of a Memorandum of Understanding with the Department of Correctional Services. The Panel was aware that, prior to Mr De Kock's release on parole, he had been assisting the NPA's Missing Persons Task Team to locate the bodies of murdered cadres of MK. According to the Task Team, the SSA blocked access to Mr De Kock for some time.

Jan 28, 2021 · [View on X](#)

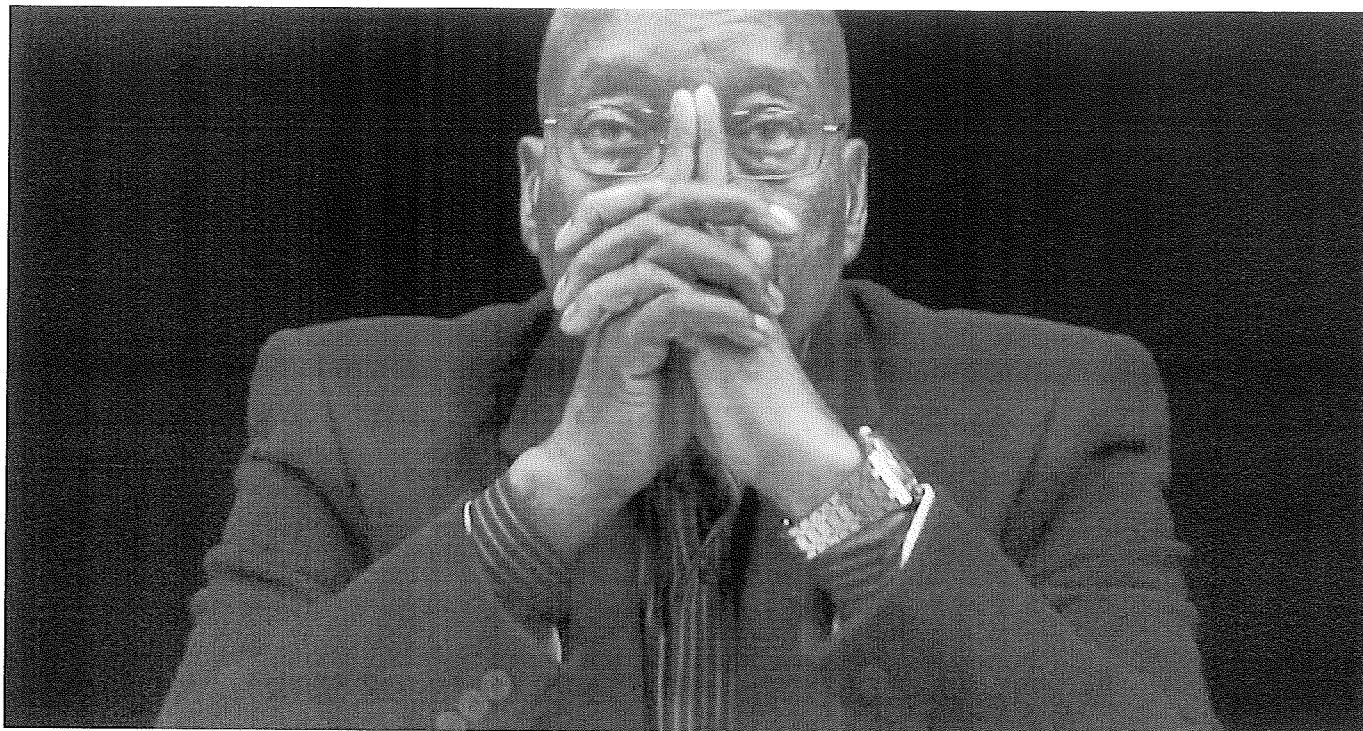
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Zuma, Dlomo turned SSA special ops into 'parallel' intelligence, security unit

[timeslive.co.za/politics/2020-02-19-zuma-dlomo-turned-ssa-special-ops-into-parallel-intelligence-security-unit](https://www.timeslive.co.za/politics/2020-02-19-zuma-dlomo-turned-ssa-special-ops-into-parallel-intelligence-security-unit/)

ZINGISA MVUMVU

February 19, 2020



The former boss of the State Security Agency (SSA) special operations unit, Thulani Dlomo, allegedly turned the unit into a factional structure meant to protect former president Jacob Zuma and his political allies.

This is according to a "Mr Y", a SSA member testifying in camera at the state capture commission on Wednesday.

According to Mr Y, some 200 people were recruited for the unit from KwaZulu-Natal and received intelligence training overseas.

This should not have happened, he said, as only permanent members of the SSA were legally allowed to be members of the special ops unit and receive such training.

Mr Y told the commission that the unit used to solely "deal with strategic projects that are very sensitive".

"That was the position until 2012, when the mandate of the structure was changed. It became more about counter-intelligence, VIP protection services and support of former president Jacob Zuma," said Mr Y.

Cap 03

"It happened with the appointment of Mr Thulani Dlomo. All the members of the unit were informed that they would no longer be working on identified focus areas, for instance transnational organised crime [and] counter-terrorism. It was decided that they would now be doing risk assessment and security directly related to the president at the time, Mr Zuma."

It was at this point, claimed Mr Y, that only between 20 to 30 members of the unit were retained, while 200 new recruits were brought in - sourced directly by Dlomo, exclusively from KZN.

Their primary task, he said, was to protect and guard the interests of Zuma and his allies in the ANC, the government and state-owned companies.

In line with this, said Mr Y, former SAA board chairperson Dudu Myeni was also protected by members of the unit.

As a result of the "diversion of mandate" of the unit, said Mr Y, the special ops unit under Dlomo "duplicated" lots of functions already delegated to other security cluster department - such as VIP protection services, which is the mandate of the SA Police Service (Saps).

The unit had in fact become a "parallel" intelligence and security wing for Zuma and his loyalists, he said.

"The structure duplicated functions that were part of other units within SSA or other stakeholder departments - for instance technical surveillance counter measures (TSCM), which was brought together under the command of Mr Dlomo, although the function actually resorted with another SSA structure," said Mr Y.

"The unit took over functions relating to other government departments.

"One would be [the] South African Military Health Service. The police service ... is the only department with the mandate to do physical protection, but special ops members were trained as VIP protectors. In the air force, special operations unit members were designated to guard former president Zuma's airplane.

"All of these were functions that were duplicated on behalf of other departments."

Mr Y said the fact that the likes of Myeni also received protection from the unit - despite not meeting the requirement - was proof that the unit had become embedded in a faction of the governing party, led by its president.

"We have found no paperwork that indicates a request or instruction from the agency [relating to the protection extended to Myeni]. Any request highlighting that Ms Myeni thought her life was in danger could have been channelled to the SA Police Service. The SSA's mandate is in the area of counter-intelligence."

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FORMER SENIOR OFFICIALS OF THE SSA ARRESTED FOR THEFT AND FRAUD OF APPROXIMATELY R12 MILLION

on 2ND DEC 2025

01 December 2025

FORMER SENIOR OFFICIALS OF THE SSA ARRESTED FOR THEFT AND FRAUD OF APPROXIMATELY R12 MILLION

The Investigating Directorate Against Corruption (IDAC) of the NPA, working closely with the State Security Agency (SSA) arrested two former members of the SSA on charges relating to the misappropriation of state funds, on Sunday, 30 November 2025. They subsequently made their first court appearance at the Specialised Commercial Crimes Court in Pretoria on 01 December 2025, and their matter was postponed to 26 January 2026 for disclosure and a high court date to be secured.

The two were granted R20 000 bail each with stringent conditions attached. The conditions includes them surrendering their travel documents to the state, not interfering with the state witnesses, reporting to their respective police stations every Friday between 08h00 and 16h00, and they were prohibited from disposing of their immovable properties. Patrick Mshothola, who acted as Project Manager on various projects within the Chief Directorate Special Operations (CDSO) of the then State Security Agency (SSA), together with his co-accused, Thulani Dlomo who held the position of Deputy Director: Counterintelligence within the SSA, are being charged on allegations of theft, fraud, forgery and uttering.

Enquiries:

Henry Mamothame

IDAC – Spokesperson

082 317 5731

Open Document Link

[VIEW DOCUMENT \(HTTPS://WWW.NPA.GOV.ZA/MEDIA-RELEASES\)](https://www.npa.gov.za/media/former-senior-officials-ssa-arrested-theft-and-fraud-approximately-r12-million)

<https://www.npa.gov.za/media/former-senior-officials-ssa-arrested-theft-and-fraud-approximately-r12-million>

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The arrest and charging of Zuma's 'superspy' Thulani Dlomo is a major State Capture breakthrough

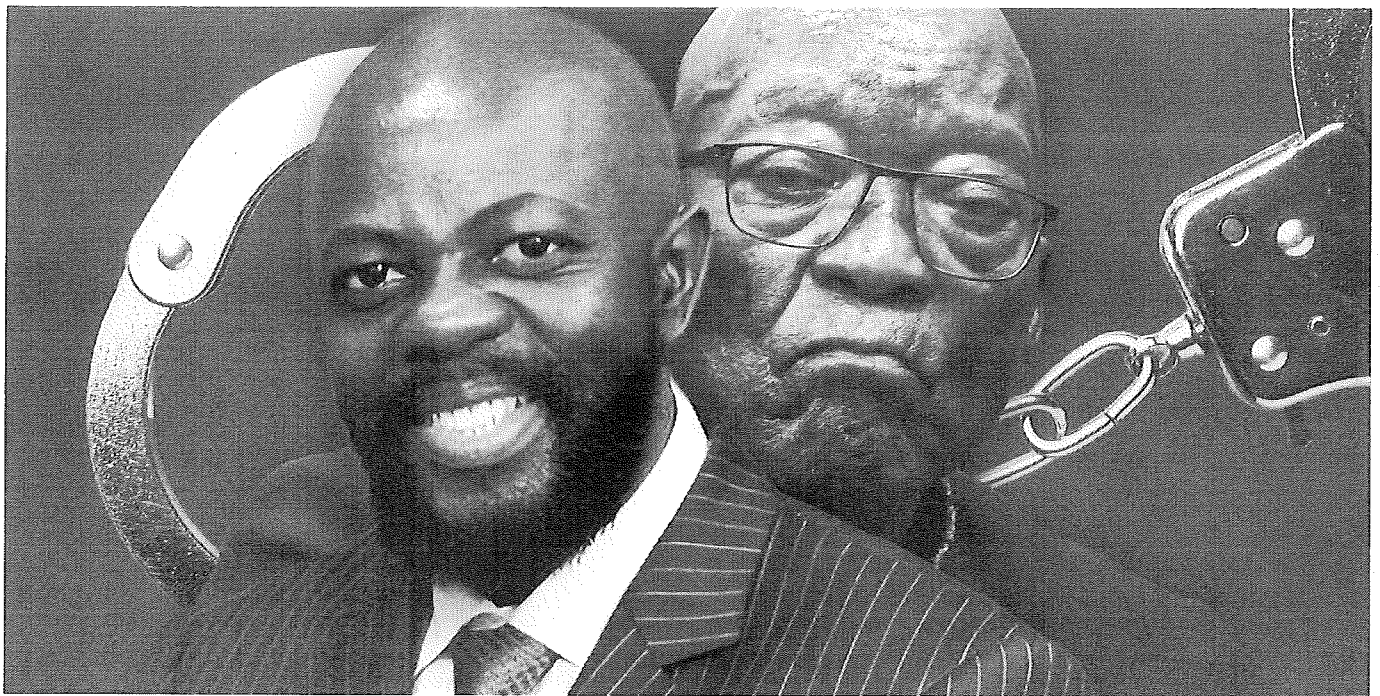
[dailymaverick.co.za/article/2025-12-02-the-arrest-and-charging-of-zumas-superspy-thulani-dlomo-is-a-major-state-capture/](https://www.dailymaverick.co.za/article/2025-12-02-the-arrest-and-charging-of-zumas-superspy-thulani-dlomo-is-a-major-state-capture/)

Marianne Thamm

December 2, 2025

IN THE DOCK

With the arrest of former president Jacob Zuma's 'personal spy', Thulani 'Silence' Dlomo, the Investigating Directorate Against Corruption has struck an artery in the heart of State Capture. Will it bleed?



Illustrative image (from left): Thulani Dlomo, former head of the SSA's Special Operations Unit (Photo: Sourced / Rikkyo University) | Former president Jacob Zuma at the Durban Magistrates' Court. (Photo: Gallo Images / Darren Stewart) | Handcuffs (Photo: Freepik) | (By Daniella Lee Ming Yesca)

Analysis

This article is an **Analysis**. It goes beyond the basic facts of a news story to provide deeper context, explanation and interpretation. While it may include the author's judgment and expertise, it aims to be more objective.

Thulani "Silence" Dlomo, former Deputy Director of Counterintelligence in the State Security Agency (SSA), and Patrick Mshotholo, project manager of the Directorate of Special Operations (DSO), have been arrested and charged with theft, fraud, forgery and uttering involving about R12-million.

Dlomo – a former ambassador to Japan – and Mshotholo appeared in the Specialised Commercial Crimes Court in Pretoria on 1 December 2025 after they were arrested by the Investigating Directorate Against Corruption (Idac). The matter was postponed to 26 January 2026. The accused were granted R20,000 bail.

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Read more: [Former special ops boss Thulani 'Silence' Dloomo dismissed by State Security Agency](#)

Superspy

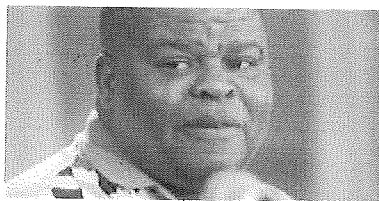
The "superspy" was recalled by President Cyril Ramaphosa after damning findings in the High-Level Panel Review into the intelligence services, released in December 2018.

Dloomo operated variously under the supervision of former SSA DG Arthur Fraser, who is still to face charges, and former minister of state security David Mahlobo, currently an ANC deputy minister.

The Zondo Commission's final report found that Mahlobo "not only involved himself in operations, but also directed them".

These projects included Project Wave, an attempt to infiltrate the media, as well as other covert operations to spy on NGOs, the judiciary and students, and were described as "projects approved by the Minister".

Read more: [SSA rogue actors constitute clear and present danger to our democracy](#)



Former minister of state security David Mahlobo. (Photo: Gallo Images / Netwerk24 / Felix Dlangamandla)

Factionalisation of intelligence

The Zondo Commission heard that Project Veza, an investigation into the SSA's operations from 2012 to 2018, found that various projects initiated by Dloomo and the Special Operations Unit "were established in breach of the SSA's policy and regulatory prescripts".

These included illegal surveillance and the unaccounted squandering of about R1.5-billion of public funds.

This allegedly went towards the purchase and leasing of properties (worth R48-million), the purchase of some 293 cars for 72 Principal Agent Network agents and stored in warehouses (at the cost of R24-million) and the employment of a network of undercover agents – none of whom had been vetted.

A key finding of the [High Level Panel Review](#) was that there had been a serious politicisation and factionalisation of the intelligence community based on tensions in the ANC, "resulting in an almost complete disregard for the Constitution, legislation, policy and other prescripts".

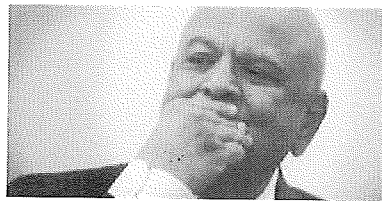
And Dloomo was there through it all.

This clandestine behaviour remained unchecked as the position of the Inspector General of Intelligence remained vacant after the death of IG Faith Radebe in 2018.

Weaponisation

In 2014, Mahlobo requested Radebe to conduct an investigation into the intelligence services after fake reports about a SARS "rogue unit" first appeared in the Sunday Times. These were later withdrawn and the paper apologised.

Radebe released two classified reports, one of which was later made public by impeached former Public Protector Busiswe Mkhwebane in the years-long hounding of the late Pravin Gordhan as well as senior SARS officials. The report was shamelessly weaponised by Mkhwebane as well as EFF leader Julius Malema.



The late minister of public enterprises
Pravin Gordhan. (Photo: ESA Alexander /
Sunday Times)

Read more: [Busisiwe Mkhwebane's big fat fishing expedition for Radebe Report](#)

Zondo found that apart from the normal vetting system of the SSA, Dlomo had established "an unlawful parallel vetting system" which created "a potential danger to national security".

Nasrec and beyond

A witness at the Zondo Commission who testified anonymously (Dorothy) said under oath that she was a member of the SSA and that she had been used "to assist at the ANC Nasrec Conference".

She had withdrawn a subsistence allowance for her services, and Zondo said her employment pointed to the "intelligence services rendering financial and other assistance to the ruling party in connection with its Nasrec conference".

Read more: [The walls have ears: The backpackers, the Police Minister, his adviser and the R45m Nasrec grabber swindle](#)

All the way back to Mdluli and Sibiya

When old NIA (before Zuma collapsed the services into the SSA) comrades Mo Shaik, Gibson Njenje and Jeff Maqetuka became concerned about the Gupta brothers' growing empire, they went to then president Zuma, to alert him, of course.

They thought he would be concerned.

CEP

However, Zuma swiftly got rid of the intelligence trio and fired the head of GCIS, Themba Maseko, for refusing to kowtow to the Gutpas.

Zuma had phoned Maseko at the time and had advised in isiZulu: "My brother, there are these Gupta guys who need to meet you and who need your help. Please help them and see what you can do to help them."

Maseko, when he refused, was fired, only to be replaced by Mzwanele Manyi, the man who would later "buy" the Gupta media empire ANN7. Manyi is now a member of Parliament with Jacob Zuma's uMkhonto Wesizwe (MK) party.

Enter Richard Mdluli, then head of SAPS Crime Intelligence.

Zuma chose his word above those of his intelligence chiefs in the end, and from that day forth, the political project rolled out.



Richard Mdluli. (Photo: Bongiwé Gumede / Foto24)

Remember the old Crime Intelligence report about Shadrack Sibiya (ring ding ding), Robert McBride and Paul O'Sullivan plotting to overthrow the state? That was Mdluli.

The "Zimbabwe Rendition" – Mdluli.

The firing of Gauteng Hawks head, Anwar Dramat – Mdluli.

Empty vessels?

In July 2021, that month of fire and flame after Jacob Zuma was driven to jail in Estcourt and Duduzile Zuma-Sambudla's eyes danced while the flames flared on her X feed, Dlomo published a book, *The Encounter*.

He had time on his hands and in the silence, he had "heard the voice of God", he said in a YouTube interview.

Read more: Confessions of a dangerous mind, a 'divinely inspired' Zuma spy, Thulani Dlomo

Dlomo said he wrote the book because "I refuse to bury my talent". He spoke with urgency about "the crisis we are facing which points to the end of days".

"It is my desire to get to grips with and understand and not undermine or underestimate the author, but to understand the message."

Cell Dm

"When I leave this earth to meet with my creator, I must be empty... there must be nothing in me. I must give everything."

We look forward to seeing him in the dock in the new year. DM

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Phumzile Mlangeni

2 December 2025,

08:30 /SAST/

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Two former *State Security Agency* employees (<https://www.sabcnews.com/sabcnews/state-security-members-arrested-for-alleged-r6-million-fraud/>) will be back in the Specialised Commercial Crimes Court in Pretoria on January 26, 2026.

Former project manager Patrick Mshothola and former Deputy Director for Counterintelligence, Thulani Dlomo, appeared in court on Monday and they were granted bail of R20 000 each.

Mshothola and Dlomo were arrested on Sunday for allegedly misappropriating about R12 million in state funds.

They are facing charges including theft, fraud, and forgery.

Investigative Directorate Against Corruption spokesperson, Henry Mamothane says, "The case against two former State Security Agency employees who are facing 4 charges that include theft, fraud, forgery and uttering was postponed to 26 January 2026 for the disclosure of the indictment and a High Court date to which the matter can be transferred."

"Patrick Mshotola, together with Thulani Dlomo, allegedly acted in common purpose in the misappropriation of approximately R12 million belonging to the State Security Agency during their tenure as employees of the agency. They were both granted 20,000 rands bail with stringent conditions attached."

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Three suspects arrested over the murder of Ndivhuwo Khadzianil (<https://www.sabcnews.com/sabcnews/three-suspects-arrested-over-the-murder-of-ndivhuwo-khadzianil/>)

Pope's surgeon says full recovery possible within 10 days (<https://www.sabcnews.com/sabcnews/1169578-2/>)

Mbalula recovering after collapsing from emotional exhaustion: ANC (<https://www.sabcnews.com/sabcnews/mbalula-recovering-well-after-collapsing-from-emotional-exhaustion/>)

Kaizer Chiefs suffer defeat to Red Arrows in Confederation Cup clash (<https://www.sabcnews.com/sabcnews/kaizer-chiefs-suffer-red-arrows-setback-in-confederation-cup/>)

Former SSA boss Thulani Dlomo, co-accused arrested on R12m theft, fraud charges

news24.com/southafrica/crime-and-courts/former-ssa-boss-thulani-dlomo-co-accused-arrested-on-r12m-theft-fraud-charges-20251201-1042

Noxolo Sibiya

December 1, 2025

05:17



Former SSA counterintelligence head Thulani Dlomo appeared in the Pretoria Specialised Commercial Crime Court after being arrested over an alleged R12 million fraud scheme.

Supplied/GCIS

- Ex-SSA counterintelligence chief Thulani Dlomo and project manager Patrick Mshothola were arrested on charges of theft, fraud, and forgery amounting to R12 million.
- They appeared in the Pretoria Specialised Commercial Crimes Court where they were granted R20 000 bail each with strict conditions.

Cap

- **Dlomo, who was dismissed from the SSA in 2019, has a controversial history marked by allegations of rogue intelligence operations and protecting former President Jacob Zuma.**

Former head of the State Security Agency's (SSA) counterintelligence structures Thulani Dlomo and former project manager Patrick Mshothola have been arrested on charges relating to the misappropriation of state funds.

The pair appeared in the Pretoria Specialised Commercial Crime Court on Monday after being apprehended on Sunday by the Investigating Directorate Against Corruption (IDAC) of the National Prosecuting Authority.

They face charges of theft, fraud, forgery and uttering amounting to approximately R12 million.

According to IDAC spokesperson Henry Mamothame, the two were granted bail of R20 000 each, subject to stringent conditions.

"The conditions include surrendering their travel documents to the State, not interfering with State witnesses, reporting to their respective police stations every Friday between 08:00 and 16:00, and they are prohibited from disposing of their immovable properties," said Mamothame.

READ | Zuma's spy Thulani Dlomo falls on hard times with mounting debt and a R4.1m SARS judgment

Mshothola acted as project manager on various projects within the chief directorate special operations.

Dlomo, who had served as South Africa's ambassador to Japan, was appointed to head up the SSA's special operations unit (SOU) in 2012, before later being appointed as head of counterintelligence in the domestic branch of the SSA.

At the time of his SOU position, he told colleagues he reported directly to former president Jacob Zuma, earning him the label "Zuma's spy", a term he previously rebuked.

Dlomo, accused of plundering the agency's coffers, establishing a parallel intelligence structure to protect Zuma, and heading up rogue operations, was dismissed from the SSA in 2019 for effectively going AWOL for several months, despite being told to report for duty.

READ | SSA DECLASSIFIED: Thulani Dlomo's private armoury, and the gun he gave his cousin

He approached the Gauteng High Court in Pretoria to challenge his dismissal but was unsuccessful.

A high-level panel led by Sydney Mufamadi and tasked with investigating the rot at the intelligence agency, found, with Dlomo at the centre, the SSA:

- Trained undercover agents in VIP protection, assigning some to protect Zuma, as well as others that were not entitled to such protection, including former SAA chairperson Dudu Myeni, the

former National Director of Public Prosecutions, the ANC Youth League president and the former acting head of the Hawks.

- Infiltrated and influenced the media in order, apparently, to counter bad publicity for the country, the then-president and the SSA.
- Intervened in the #FeesMustFall protests to influence the movement.
- Executed disruptive operations to impede the distribution of CR17 (Ramaphosa's presidential campaign) regalia during the 2016 ANC January 8 event in Rustenburg.

In the State Capture Commission report, Chief Justice Raymond Zondo said: "The Special Operations Unit [SOU] of the SSA, particularly under the direction of Ambassador Thulani Dlomo, was a law unto itself, launching many projects that operated illegally..."

Zondo also found:

- SSA money was drawn at the insistence of Dlomo and used to transport, accommodate and feed ANC MK veterans for the party's January 8 rally in Rustenburg in 2016.
- Dlomo approved and caused several withdrawals of large cash amounts from the SSA coffers, for which the use and destination of remain obscured.
- Dlomo established a parallel vetting system that may have been illegal.
- Dlomo allegedly irregularly distributed firearms from the SSA Armoury.
- In addition, News24 reported that in a trove of documents submitted to the Zondo Commission, it was revealed Dlomo took control of the spy outfit's vast arsenal of guns and even saw to it that his cousin – a civilian – was illegally handed a weapon.

Dlomo and Mshothola's case has been postponed to 26 January 2026 for disclosure and the securing of a high court date.

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The case against Zuma's spy, and how Dlomo helped 'steal' SSA millions

news24.com/investigations/the-case-against-zumas-spy-and-how-dlomo-helped-steal-ssa-millions-20251202-1135

Kyle Cowan and Jeff Wicks

December 2, 2025

09:05



Former SSA investigator Patrick Mshothola (left) and Thulani Dlomo were arrested on graft charges by the Investigating Directorate Against Corruption.

Image credits: Supplied; Thulani Dlomo Foundation/Facebook

- Jacob Zuma's spy, Thulani Dlomo, is facing charges of theft, fraud, forgery and uttering for the production of a fake contract to withdraw R12 million in cash from State Security Agency coffers in 2015.
- His co-accused, Patrick Mshothola, was his subordinate in the infamous special operations directorate that Dlomo ran between 2012 and 2017.
- The money was extracted under the guise of the legally dubious Project Mayibuye, with fake contracts and forged signatures, to give the transactions a veneer of legitimacy.

Cell 03

- For secure, anonymous communication with News24's investigations team, click [here](#).

The case against Thulani Dloomo, the former spook who ran dozens of counterintelligence operations to the benefit of former president Jacob Zuma, is centred on the alleged theft of R12 million from the State Security Agency's (SSA) coffers more than a decade ago.

A fake contract, a forged signature and an intelligence operation were used to extract the cash as part of a much larger scheme under the name "Project Mayibuye".

Dloomo, who was arrested alongside former SSA investigator Patrick Mshothola by the National Prosecuting Authority's (NPA) Independent Investigating Directorate Against Corruption (IDAC) on Monday, has long been known as Zuma's "personal spy".

He was appointed as the head of the Chief Directorate for Special Operations (CDSO) at the spy agency in 2012. Mshothola was a project manager in the CDSO at the time.

The pair appeared before the Pretoria Specialised Commercial Crime Court on charges of theft, fraud, forgery and uttering, and were granted bail of R20 000 each. Their next appearance is on 26 January 2026.

How the scheme worked

According to the charge sheet, R12 million was withdrawn in three transactions in January and February 2015 through financial mechanisms known as temporary advances.

An official SSA submission for funding of the project, dated 20 January 2015, requested permission to acquire R12 million in funding for Operation Mayibuye. This was approved by, among others, Dloomo and Sonto Kudjoe, the director-general of the SSA.

R6 million was collected on 28 January 2015, with another R1 million withdrawn on the same day. A further R3 million was handed to Mayibuye operatives on 5 February 2015.

Another temporary advance of R2 million was approved on 13 February 2015 and collected the same day.

The advances are intended to enable SSA officials to draw down cash to fund project requirements and are made in cash due to the nature of covert intelligence operations. This makes it extremely difficult to trace and track disbursed funds from SSA accounts.

Forged documents

The withdrawal of such large sums of cash is meant to be strictly controlled and audited, but as the charge sheet sets out, Dloomo and Mshothola were able to sidestep these controls by simply forging a contract.

A company named Korolo Investment Holdings, based in Kimberley, was used as a conduit for extraction.

The entity provided operational support services for surveillance operations in the private sector but had never had a contract with the SSA and was not listed in the agency's supplier database, according to the charge sheet.

The sole director of Korolo has turned State witness and is expected to testify that he never saw the contract, never signed it and never met Dloomo, despite his signature appearing on the document.

The director informed IDAC investigators that he had been approached by two men from the SSA with the intention of establishing a contractual relationship, and he was subsequently asked to prepare three invoices on his company's letterhead.

He never heard from the SSA again. He simply assumed the deal had hit a dead end.

The charge sheet states:

The contract purportedly entered into between Korolo and [the] SSA as represented by [Dloomo], as well as the three invoices totalling R12 million in the name of Korolo, and signed by [Mshothola] are false in that Korolo was not party to any contract with the SSA nor did they render any service to the agency, nor receive payment for services rendered to the SSA in respect of said invoices.

The Korolo contract, prosecutors hold, is merely a false paper trail in order to justify the withdrawal of R12 million in cash over a period of a week.

Dloomo approved the motivations for the funding of Project Mayibuye, drawn up by Mshothola. The entire project, meanwhile, was approved by former SSA director-general Kudjoe in January 2015 and later renewed in 2016 by SSA boss Arthur Fraser when he assumed the top job.

Three-year investigation

Their arrest comes after a three-year investigation by IDAC and signals a major breakthrough in accountability for former SSA officials who, until now, have escaped criminal consequences.

Two major reports – the report of the High-Level Review Panel, chaired by Sydney Mufamadi, and the Zondo Commission report by former chief justice Raymond Zondo – recommended criminal investigations into Dloomo and other former SSA officials.

READ | Former SSA boss Thulani Dloomo, co-accused arrested on R12m theft, fraud charges

Dloomo famously reported directly to Zuma and was feared as a highly influential SSA operative. He played a critical role in the politicisation of the agency during the Zuma era.

Cap 03

He was close to SSA boss Fraser, as well as David Mahlobo, state security minister under Zuma. Despite the Zondo Commission recommending criminal investigations against Domo, Mahlobo and Fraser, the latter two were retained in senior positions under President Cyril Ramaphosa.

Domo was recalled as ambassador in Japan by Ramaphosa but continued to work for the SSA for several months, until he was subsequently dismissed for being absent without leave from work.

Fraser meanwhile became director-general of the Department of Correctional Services until September 2021 and Mahlobo is still a deputy minister.

Project Mayibuye

News24 reported in February 2022 that a total of R84 million was siphoned from the SSA under the auspices of Mayibuye, all allegedly for Zuma's benefit – either as cash for his use, or for projects supporting his interests.

Operations under the auspices of Mayibuye included:

- Operation Commitment, which allegedly involved the withdrawal of cash every month, ranging from R1.8 million to R2 million, that would be delivered to Mahlobo, allegedly for him to hand it over to Zuma directly; and
- Operation Justice, which involved the alleged influencing, recruiting and handling of sources within the judiciary. It has never been shown that this project was real.

"Under him (Domo), the SSA assumed responsibility for former president Zuma's food and toxin security, his physical security and the static protection of the president's aircraft; and sources that should have been used by legitimate intelligence structures were channelled through this parallel structure that served the interests of president Zuma rather than the national interest," Zondo found.

"In particular, it is recommended that law enforcement agencies conduct further investigations with a view to the NPA possibly bringing criminal charges against such people including Mr Arthur Fraser, in relation to the PAN programme and any other matter revealed by the evidence before the commission, and Mr David Mahlobo and Mr Thulani Domo in regard to SSA cash received and/or illegitimately handled by each one of them," Zondo's final report reads.

**Editor's note: This article was updated after publication to clarify that Domo was recalled by Ramaphosa from his position as ambassador in Japan.*

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URGENT**16 October 2026**

TO: The HONOURABLE PRESIDING JUDGE:
Ms Justice Munzhelele
Per email: [REDACTED]

AND TO: THE HONOURABLE DEPUTY JUDGE PRESIDENT
Mr Justice Neukirker
Gauteng Division of the High Court (Pretoria)
Per email: [REDACTED]

AND TO: Mr Terry Motau
Prosecutor on behalf of the Investigative Directorate of the NPA
Per email: [REDACTED]

AND TO: Mr Jan Mothibi
The National Director of Public Prosecutions
Per WhatsApp

AND TO: Mr Amigo Ndlovu
Attorneys for the Accused
Per email: [REDACTED]

RE: BARRING OF THE MEDIA AND PUBLIC FROM ACCESS TO CRIMINAL PROCEEDINGS IN S v MSHOTOTHOLA AND DLOMO (CASE NO: CC 03/2026)

1. We refer to the above matter and confirm that we act on behalf of Media24 (Pty) Ltd, the owner and publisher of the news and current affairs website News24, on behalf of Mr Adriaan Basson, its editor in chief, and on behalf of the journalists and editors employed by News24.
2. We are instructed that Mr Kyle Cowan, a journalist employed by News24 and attending court in his capacity as a journalist, was today barred from attending the criminal proceedings in

In association with Rosengarten Feinberg Attorneys

Partners: Willem Kruger de Klerk BComm LLB LLM | Chari du Plessis BA BPhil LLB
Associate: Yann Ngameni BA LLB
Consultant: Zanele Mbuyisa BA LLB

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the above matter. This took place as the general public were also cleared from the court room.

3. We are furthermore instructed that Mr Cowan was informed that the hearing of this criminal trial was to be held in camera. Mr Cowan was subsequently provided with an Order dated 13 October 2026. Mr Cowan requested a copy of the application from the legal representatives of the NPA present, but this was refused and we are accordingly hamstrung with regard to some of what we say below.
4. We are instructed that the trial has been ongoing for three days. The prejudice to members of the media and, by implication, members of the public in respect of that testimony already heard is, with respect, irremediable. If the trial proceeds on Monday, on the same basis, the prejudice will be ongoing.
5. Given the seriousness of the constitutional prejudice attendant upon this matter, I briefly record the following issues:
 - 5.1. The Order taken by the defence, with the apparent consent of the National Prosecuting Authority, appears to be inconsistent with numerous Constitutional Court, Supreme Court of Appeal and Full Bench rulings that deal with the constitutional principle of open justice and media access to court proceedings. These rulings have made it clear that the "default position" with regard to court proceedings is openness and that a blanket approach of exclusion is impermissible.
 - 5.2. It is not clear to us that the relevant authorities that govern these questions have been placed before Ms Justice Munzhelele, since our client's request to be provided with a copy of the judgment was refused.
 - 5.3. Given the urgency attendant upon this matter, I do not set out comprehensive legal submissions in this letter and we will refer to them in due course should the need for a formal application arise. I reference here a recent ruling of the Full Bench in KwaZulu- Natal that covers many of those authorities and the relevant tests for closing the doors of the court to the media and the public:

<https://www.saflii.org/za/cases/ZAKZPHC/2025/96.pdf>

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- 5.4. It is also not clear if any submissions were made to Ms Justice Munzhelele about the importance of less restrictive means aimed at ensuring the balance between freedom of expression and the public's right to information, versus considerations regarding the interests of justice.
- 5.5. We further record that no advance notice was given to our client or as far as we are aware, or indeed to any members of the media or public, about the intention to hold these criminal proceedings in camera, whether in part or, as appears to be the effective outcome, entirely behind closed doors. Members of the media have effectively been deprived of an opportunity to be heard in respect of a criminal trial that is of *manifest and overwhelming public interest*, and that the public has a right to be informed about.
- 5.6. Moreover, having read the Order, such as it is, it is clear that the order does not provide for the hearing to be held entirely *in camera*. The decision to clear members of the public and the media from the public gallery, by court staff or court orderlies, is therefore itself inconsistent with the order of the court and is inexplicable.
6. We respectfully request that members of the media be permitted to access the criminal proceedings in the above matter on the actual basis outlined in the Order, as an immediate interim measure to remediate the constitutional prejudice.
7. We are furthermore instructed to bring a formal application to secure media access in the above matter and respectfully request that Ms Justice Munzhelele issue directives
- 7.1. directing the parties to make the full application that resulted in the order of the 13th of October 2026 available to the representatives of the media, and;
- 7.2. stipulating the timelines upon which affidavits should be filed. We are mindful that urgency attaches to this issue and we are in the process of attempting to secure counsel for argument on Monday.
8. I can be contacted at any time on my cell phone or via email: Charl du Plessis [REDACTED]
[REDACTED] and [REDACTED]

CP DB

Yours sincerely

WILLEM DE KLERK ATTORNEYS
Per: Charl du Plessis

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CDP

IN THE HIGH COURT OF SOUTH AFRICA
(GAUTENG DIVISION, PRETORIA)

Case no: CC 03/2026

In the matter between:

THE STATE

and

**PATRICK MSHOTHOLA
THULANI DLOMO**

**Accused 1
Accused 2**

In re the application of:

**MEDIA24 (PTY) LTD
AMABHUNGANE CENTRE FOR
INVESTIGATIVE JOURNALISM NPC
DAILY MAVERICK (PTY) LTD
CAMPAIGN FOR FREE EXPRESSION NPO**

First Applicant

**Second Applicant
Third Applicant
Fourth Applicant**

and

**THE STATE
PATRICK MSHOTHOLA
THULANI DLOMO
DIRECTOR-GENERAL: STATE SECURITY AGENCY**

**First Respondent
Second Respondent
Third Respondent
Fourth Respondent**

CONFIRMATORY AFFIDAVIT

I, the undersigned,

KYLE COWAN

do hereby make oath and state that:

1. I am an adult male, employed as an investigative journalist by News24. News24 is a news and current affairs platform owned and published by Media24 (Pty) Ltd, the

T.P



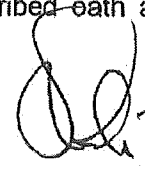
first applicant in this matter, having its principal place of business situated at 40 Heerengracht Street, Cape Town.

2. The facts contained in this affidavit fall within my personal knowledge, except where the context indicates otherwise, and are true and correct.
3. I have read the founding affidavit in this application, deposed to by Charl du Plessis, the attorney of record for the applicants, and I confirm the contents thereof insofar as they relate to me.
4. In particular, I confirm the correctness of the facts set out in paragraphs 61 to 65 and 68 of the founding affidavit, which describe the events of 16 October 2026.


DEPONENT

Thus, deposed to and signed at **JOHANNESBURG** on this the 18 day of October 2026, by the Deponent who has acknowledged that he knows and understands the contents hereof, that he has no objection to taking the prescribed oath and that he considers the oath binding on his conscience.




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7-11-2026
COMMISSIONER OF OATHS