



23 October 2019

DEPUTY PUBLIC PROTECTOR: CANDIDATE LIST

1. INTRODUCTION

In response to a request emanating from the Portfolio Committee meeting on 23 October 2019 for a further breakdown of certain information in respect of the nominees/applicants for the position of Deputy Public Protector the following may be noted:

- **29 Candidates** submitted CV's or were nominated for the position.
- **3 candidates withdrew.** These were as follows:
 - Ms Ntombi Sibeko
 - Mr. Daniel Aubrey Dibetso-Prince
 - Mr Johannes Collen Weapond

Therefore, of the **26 candidates** which remain, the following may be noted:

- There are **19 candidates** that meet the legislative requirements set out in section 2A(4) of the Public Protector Act 23 of 1994.
- **5 candidates** (out of the 19 which meet the legislative requirements set out in the Act) have been '*flagged*' by the Corruption Watch Submission in respect of a desktop vetting process. (This is brought to the attention of the Committee for information purposes it is not intended to influence the selection process in respect of these candidates'.)
- There are **5 candidates** that do **not** appear to meet the legislative requirements.
- It appears that **2 candidates MAY not** meet legislative requirements. (This is because it is quite challenging to determine from the CV's submitted whether the legislative prescripts are met or not.)

The Committee should note that the information provided is guided by the requirements of section 2A(4) of the Public Protector Act and focuses on the information contained in the candidates CV's. More detail is provided on the candidates in the tables that follow:

(i) CANDIDATES THAT APPEAR TO MEET THE CRITERIA IN SECTION 2A(4) OF THE ACT

As the Committee is aware, section 2A(4) of the Public Protector Act provides that the Deputy Public Protector must be a South African citizen who is fit and proper to hold such office and who is:

- A practicing advocate or attorney for at least 10 years (cumulative) OR



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- Qualified to be admitted and has lectured in law at a university for at least 10 years OR
- Has specialised knowledge of or experience in the administration of justice, public administration or public finance for at least ten years (cumulative) OR
- A MP for at least ten years (cumulative) OR
- Have any combination of experience mentioned above for at least 10 years (cumulative).

The following **14 candidates** appear to meet these requirements on the basis of information submitted to the Committee:

	NAME	COMPLIANCE WITH ACT	EXPERIENCE
1.	ADV. HENDRY PIETERSEN Date of Birth. 6 March 1979 (40)	Advocate. Over ten years' experience in administration of justice	<ul style="list-style-type: none"> • Currently a Practising Advocate • Previous work experience: <ul style="list-style-type: none"> ○ Department of Home Affairs (Assistant Director) 2014-2018 ○ Cape Town and Durban Harbour Inspectorate and Port of Entry (2009 -2014) ○ Administration Officer (SAPS) 2002-2008
2	MR GRAEHYMME JESUS WILLIAMS Date of Birth. 8 August 1967 (52)	Attorney Over ten years' experience practicing as an attorney. (Nominated by Mr Michael Carelse)	<ul style="list-style-type: none"> • Currently Chairperson of the Appeals Committee, at the Council for Built Environment. • Previous work experience <ul style="list-style-type: none"> ○ Acting Magistrate at Bloemfontein Magistrates Court) ○ Attorney (GJ Williams Attorneys) 2002 – present.
3.	MR PHUMZILE HUBERT SONGO Date of Birth: 16 January 1971 (48)	Attorney Over ten years' experience practicing as an attorney.	<ul style="list-style-type: none"> • Currently Director and Manager of Phumzile Songo Attorneys, Commissioner of Cala Small Claims Court and employed as a Presiding Officer at the Department of Labour Compensation Fund for Occupational Injuries and Disease. Attorney – own practice – Eastern Cape (Ngcobo and East London) • Previous work experience: <ul style="list-style-type: none"> ○ Acting magistrate



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4	<p>MR. VICTOR MAVHIDULA</p> <p>Date of Birth. 3 March 1973 (46)</p>	<p>Attorney</p> <p>Over ten years' experience in legal practice and administration of justice.</p> <p>(Nominated by Mr Dizline Mfanozelwe Shozi)</p>	<ul style="list-style-type: none"> • Currently Provincial Manager (Limpopo) South African Human Rights Commission (2012 – Present) • Previous work experience: <ul style="list-style-type: none"> ◦ Commission on Gender Equality Acting Provincial Coordinator and Legal Officer (Free State Province) 2006-2007. Senior Complaints Officer (2007-2012). (Also Acting Head of Legal at CGE 2007-2012)
5	<p>MS. HILDA HARRIET SEAPEI MEKWA</p> <p>Date of Birth. 23 December 1969 (50)</p>	<p>More than 10 years' experience in public administration and administration of justice</p> <p>(Nominated by Adv Phuti Setati)</p>	<ul style="list-style-type: none"> • Currently Specialist State Law Advisor (Department of Justice and Constitutional Development) • Previous work experience: <ul style="list-style-type: none"> ◦ Director Legal research and Secretariat - Department of Justice and Constitutional Development) (Jan- May 2009) ◦ Director: Leader of Government Business (Presidency) (2007-2008) ◦ Senior state law Advisor (Department of Justice and Constitutional Development) (2005-2007)
6	<p>MR. MOSHOESHOE JEFFREY TOBA</p> <p>Date of Birth. 25 December 1977 (42)</p>	<p>Attorney</p> <p>More than 10 years' experience in public administration and administration of justice</p> <p>(Nominated by Deon Tsele Mohala)</p>	<ul style="list-style-type: none"> • Currently SARS Senior Manager: Legal Delivery Support & Dispute Resolution (2017- present) • Previous work experience: <ul style="list-style-type: none"> ◦ Specialist: Enforcement Investigation (SARS) – 2015 ◦ Attorneys Fidelity Fund Manager: Prosecutions – 2010 ◦ National prosecuting Authority – 2005



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7	<p>ADV INDHERA GOBERDHAN</p> <p>Date of Birth. 27 July 1962 (57)</p>	<p>Advocate</p> <p>Admitted as an advocate has appears to have practiced law, lectured and been involved in the administration of justice for a period more than 10 years.</p> <p>(Nominated by Ms M Malinga)</p>	<ul style="list-style-type: none"> • Currently practicing as an Advocate, based in KwaZulu-Natal and also employed as the Acting Company Secretary at the uMgungundlovu District Municipality. • Previous work experience: <ul style="list-style-type: none"> ◦ uMgungundlovu Economic Development Agency Board Acting Company Secretary August 2019 ◦ KwaZulu-Natal Legislature Legal Practitioner February 2014 – October 2014 ◦ National Department of Statistics Interim Statistics Counsel
8	<p>ADV SONWABILE MANCOTYWA</p> <p>Date of Birth. 5 November 1965 (54)</p>	<p>Advocate</p> <p>(No admission certificate)</p> <p>Over ten years' experience in public administration</p> <p>(Nominated by Mr Tembile Yako)</p>	<ul style="list-style-type: none"> • Currently, Chief Executive Officer of the National Heritage Council (Feb 2004 to date). • Previous work experience: National Lotteries Distribution Agency for Arts and Culture Department of Trade and Industry Manager: Gambling, Lotteries and Liquor Regulating Office (2000-2002)
9	<p>ADV SHADRACK NKUNA</p> <p>Date of Birth. 5 January 1979 (40)</p>	<p>Advocate</p> <p>Over ten years' cumulative experience in public administration and administration of justice.</p>	<ul style="list-style-type: none"> • Currently, Public Service Commission Deputy Director Public Administration Investigations (March 2015 to present) • Previous work experience: Directorate for Priority Crimes Investigation Unit Specialist Commercial Investigator 2011 – 2015 University of South Africa Face-to-face tutor (independent contractor) January 2011 – November 2014
10	<p>ADV NOXOLO MBANGENI</p> <p>Date of Birth. 20 December 1974 (45)</p>	<p>Advocate</p> <p>Over ten years' cumulative experience in the administration of justice, legal practice and</p>	<ul style="list-style-type: none"> • Practising Advocate – Cape Bar • Previous work experience: Office of the Western Cape Premier: Legal Services Senior State Law Advisor 2016 – 2017 Practising Advocate - 2014 Department of Agriculture, Forestry and Fisheries: Senior Legal Advisor (2007-2013)



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		public administration (Nominated by Mongezi Nqoro)	
11	ADV DINKIE PORTIA DUBE	Advocate Over ten years' cumulative experience in the administration of justice and public administration (Nominated by Prof Cynthia Malehoko Tshoedi)	<ul style="list-style-type: none"> • Currently Chief of the Military Ombud: Chief Director Operations (September 2018- present) • Previous work experience: Ombud for City of Johannesburg: Acting ombud (May 2017-Feb 2018) Ombud for City of Johannesburg: Executive Manager: Complaints and Investigations (2016-2017) Community Schemes Ombud Service Adjudicator General (January 2015 – Sept 2016) Office of the Public Protector Provincial Head Senior Manager: Registry, Intake, Assessment and Customer Service September 2012 – December 2014
12	MR NKOPANE JOSIAS MOTSHELE Date of Birth. 11 April 1967 (52)	Over ten years cumulative experience in lecturing in law and administration of justice	<ul style="list-style-type: none"> • Currently, Director Legal Services at City of Tshwane (Office of the Speaker of the Municipal Council) August 2017 - present • Previous work experience: Brigadier SAPS : Legal services (2003-2017)
13	ADV LWAZI PUMELELA KUBUKELI	Advocate Over ten years' experience as a practicing advocate	<ul style="list-style-type: none"> • Currently a practicing Advocate (East London) 2010 - present • Previous work experience: Practiced at Cape Bar 2006 – 2009; Counsel at Legal Resources Centre)
14	ADV PULENG MATSHELO	Advocate Over ten years cumulative experience in legal practice and public administration	<ul style="list-style-type: none"> • Currently a practising Advocate • Previous work experience: Department of Justice Senior State Advocate Department of Justice (Principal State law Adviser, Senior State Advocate; Acting Chief Director (Research)) Justice College lecturer



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		(Nominated by Orateng Motsoai)	
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(ii) **CANDIDATES WHO MEET THE LEGISLATIVE REQUIREMENTS BUT MAY FACE POSSIBLE CHALLENGES IN RESPECT OF THE OTHER REQUIREMENTS THAT MAY BE CONSIDERED BY THE COMMITTEE (FOR EXAMPLE AS CONCERNS THE 'FIT AND PROPER' REQUIREMENT)**

As noted previously, in respect of **five** of the 19 candidates that meet the legislative requirements, issues were 'flagged' by the Corruption Watch Submission to the Committee. This information is provided to the Committee for information purposes. (The Committee may wish to refer to the Corruption Watch Submission for further details.) The five candidates are:

	NAME	COMPLIANCE WITH ACT	EXPERIENCE	ISSUES IDENTIFIED BY CORRUPTION WATCH
15	MR BUANG JONES 9 November 1984 (35)	Attorney 10 years' experience in legal practice (Nominated by Mr Jacob George Mathabathe and Annah Mapaseka Madonsela)	<ul style="list-style-type: none"> Acting Head legal Services - South African Human Rights Commission (2016-Present) 	<ul style="list-style-type: none"> The South African Human Rights Commission is reportedly investigating Mr Jones' conduct, after the FF Plus brought a complaint against comments he made in relation to the Eben Etzebeth hate speech case.¹
16	ADV KHOLEKA GCALEKA Date of Birth. 12 April 1981 (38)	Advocate More than 10 years' experience in public administration and administration of justice	<ul style="list-style-type: none"> Current Position: Director – Khono Consulting (Jan 2019 – date) Previous Work History. <ul style="list-style-type: none"> Department of Home Affairs Special Advisor to Executive Authority 	(i) In 2010, Advocate Gcaleka was quoted as saying that there should be no concern around the then National Director of Public Prosecutions, Menzi Simelane's plan to close the specialised commercial crime unit and asset

¹ Accessed at <https://www.news24.com/SouthAfrica/News/etzebeth-case-sahrc-investigating-its-legal-head-buang-joness-conduct-20191008>



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	<p>(Nominated by Adv A Barnard)</p>	<p>March 2018 – November 2018</p> <ul style="list-style-type: none"> o Department of Finance Special Advisor to Executive Authority April 2017 – February 2018 o Department of Home Affairs Special Advisor to Executive Authority November 2016 – March 2017 o National Prosecuting Authority Senior Deputy Director of Public Prosecutions - June 2011 – October 2016 and Senior State Advocate August 2008 – May 2011 	<p>forfeiture unit, among others. This raised controversy as she was the Chairperson of the Society of State Advocates at the time, and her comments reportedly caused two senior state attorneys to resign.²</p> <p>(ii) In 2017, a witness in the Richard Mdluli case alleged that Advocate Gcaleka had tried to coerce him into implicating Mdluli as a guilty party. It was also alleged that the recording of the meeting between the witness and the advocate was tampered with by the prosecution team.³</p> <p>(iii) In 2017, when Mr Malusi Gigaba was appointed by then President Jacob Zuma to the position of Minister of Finance, Advocate Gcaleka was appointed as his legal advisor. In 2017, senior treasury officials stated that the Treasury was 'captured', citing among other things, that during a forensic audit by then Director-General Dondo Mogajane, into Eskom's coal</p>
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² Accessed at <https://mg.co.za/article/2010-06-13-silks-split-over-mpa-reforms>

³ Accessed at <https://www.sowetanlive.co.za/news/2017-02-10-witness-in-mdluli-trial-suggests-state-tampered-with-evidence/>



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				contracts with a company that used to be owned by the Gupta family, documents that should have been seen by Mogajane first were sent to then Minister Malusi Gigaba's advisors first, including Advocate Gcaleka. ⁴
17	MR ROBERT JOHN MCBRIDE	Cumulative experience of more than ten years in the administration of justice and public administration	<ul style="list-style-type: none"> • Department of Public Service and Administration: Project Manager • Independent Police Investigative Directorate (Executive Director) 	<p>(i) In 2019, when Mr McBride's term of office came to an end, he challenged the lawfulness of the Minister of Police Bheki Cele taking the decision unanimously to not renew the appointment. The decision was left to the Parliamentary Portfolio Committee on Policing, who decided against renewing his term.⁵</p> <p>(ii) A recent Public Protector report alleges that Mr McBride interfered in procurement processes during his tenure as Executive Director of the Independent Police Investigative Directorate (IPID). He has filed for a suspension of the remedial action, as well as a judicial review.</p> <p>(iii) A Viewfinder expose alleges that Mr McBride was aware of the practice of</p>

⁴ Accessed at <https://www.fin24.com/Economy/senior-officials-say-treasury-is-captured-20171001-2>

⁵ Accessed at <https://ewn.co.za/2019/03/14/mps-ratify-decision-not-to-renew-robert-mcbride-s-ipid-contract>



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				prematurely completing cases at IPID to manipulate the statistics. He has countered these allegations stating that there is no evidence to substantiate them, and that during his tenure he took steps to counter the premature closing of cases.
18	ADV LOYISO MPUMLWANA Date of Birth. 15 March 1947 (72)	Advocate (More than 10 years in legal practice, administration of justice and MP) (Nominated by Adv Matyumza and Nkosi/Adv Nonkonyana)	Practicing Advocate – Eastern Cape (2019) MP 2014-2019	(i) In August 1997 the Truth and Reconciliation Commission laid criminal charges against Adv Mpumlwana alleging he was employed by the TRC and the Premiers office of the Eastern Cape. After a disciplinary hearing he tendered his resignation from the TRC. ⁶ (ii) In 2009 he applied to be a Commissioner at the South African Human Rights Commission. However, it emerged he did not disclose his dismissal from the TRC for fraudulent misrepresentation and he was subsequently recalled as a candidate. (iii) In 2017 Adv Mpumlwana created some controversy when he defended the Former First lady of Zimbabwe Grace Mugabe's alleged beating of a young

⁶ TRUTH AND RECONCILIATION COMMISSION V MPUMLWANA AND MPUMLWANA V TRUTH AND RECONCILIATION COMMISSION AND ANOTHER [2001] 3 All SA 58 (CKI)



19	ADV ZERINA KELLERMAN	<p>Advocate</p> <p>Over ten years' cumulative experience in legal practice, lecturing and public administration.</p>	<ul style="list-style-type: none"> • Director of Baruch Legal (Pty) Ltd 	<p>South African woman in a hotel room.⁷</p> <p>(i) In 2017 a Fin24 Article, stated that "in 2014 the Gupta family opened up a new front in their state capture project via Alexkor [SOC Limited]", where Ms Kellerman was Chief Legal Officer at the time. The article mentions a letter of complaint sent to the then Public Protector, Advocate Thuli Madonsela, which claims that Advocate Kellerman was part of a process to manipulate the awarding of a marketing tender to a company called Scarlet Sky, allegedly linked to the Guptas.⁸</p> <p>(ii) Advocate Kellerman, after resigning from Alexkor, became a special advisor to Minister Zwane in the Department of Mineral Resources. In testimony at the Zondo Commission, former Director General at the Department of Mineral Resources Dr Thibedi Ramontja alleges that Advocate Kellerman along with two other Ministerial advisors were interfering in the government department by issuing</p>
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⁷ Accessed at <https://genderjustice.org.za/news-item/sonke-calls-apology-retraction-adv-mpumlwana-defence-grace-mugabes-use-violence/>

⁸ Accessed at <https://www.fin24.com/Companies/Industrial/a-tale-of-two-captures-alexkor-gupta-inc-and-wmc-20171213>



(iii) CANDIDATES WHO DO NOT APPEAR TO MEET THE LEGISLATIVE REQUIREMENTS ARE AS FOLLOWS:

- Mr Sammy Tlhapi – does not appear to have the necessary experience
- Mr. Douglas Dumisani Soci – does not appear to have the necessary experience
- Ms Leanne Govindsamy –does not appear to have the necessary cumulative experience
- Mr Shadrack Tebeile - does not appear to have the necessary cumulative experience
- Adv Fezeka Magano - does not appear to have the necessary cumulative experience

(iv) CANDIDATES WHO MAY NOT MEET LEGISLATIVE REQUIREMENTS ARE AS FOLLOWS:

- Ms Olwethu Majola- Kinyunyu (the candidate has ten years of post-admission legal practice, but it is not clear whether this has been as an attorney or as a consultant)
- Ms Nobukhosi Thuli Mbatha (though the candidate has little experience as a practising attorney, she may have sufficient experience in the administration of justice from her time working at the Road Accident Fund before her admission.)

⁹Accessed at <https://www.dailymaverick.co.za/article/2019-03-14-tangled-tale-of-resignations-coal-mines-and-costly-contracts/>; <https://citizen.co.za/news/south-africa/state-capture/2102498/how-patronage-captured-the-anc-and-state-jonas/>

