



REPORT TO THE PARLIAMENTARY PORTFOLIO COMMITTEE ON JUSTICE AND CORRECTIONAL SERVICES ON ADVOCATE CRONJE'S VACATION OF OFFICE AS INVESTIGATING DIRECTOR

1. PURPOSE

The purpose of this report is to update the Portfolio Committee on the background and context of the vacation of office by Adv Cronje and to provide an overview of the transition and business continuity plan for the Investigating Directorate.

2. BACKGROUND AND CONTEXT

The imminent departure of Adv Cronje as head of ID has been widely reported in the media. On Monday 6 December I, together with my ExCo conducted an in-depth media briefing where we extensively covered this development, and assured the public that the vacation of office by Adv Cronje was not a crisis for the NPA or the ID, and that it's a normal part of the development and growth of the institution that is focused on delivery and impact in the next phase of the ID's life.

There has been engagement between the NDPP and Adv Cronje pertaining to her vacation of office as head of the Investigating Directorate before the end of her term. This decision is in accordance with section 12(8)(a)(ii) read with section 14(3) of the NPA Act, Act 32 of 1998. Adv Cronje has indicated the reasons for her decision and the NDPP fully understands.

3. OVERVIEW OF CURRENT CAPACITY OF THE ID

After a challenging first start-up phase, Adv Cronje leaves the ID well-positioned to deliver on its important mandate, as she reported to this Committee when we last appeared before you. There is confidence, given all the groundwork that has been done, that its work will continue unaffected, in the coming months.

Starting up the ID as an entity has not been an easy task. In addition, the ID operates in a complex legal and institutional context. The ID has received extensive strategic, operational and administrative support since it was established. In just over 2,5 years, the ID is now a well-established Unit within the NPA with over 120 staff (including 4 dedicated substantive units and two administrative and operations support divisions), a substantial budget, new state of the art building, and we are ready to manage the transition of additional capacity and skills from the Zondo Commission, when it wraps up its work in the coming weeks.

The summary of current capacity in the ID is as follows:

- Active bodies 113
- Seconded (SAPS, IPID, DPCI) 31
- Fixed Term Contracts 57
- Permanent 17 (7 vacant positions in the process to be filled)
- Re-assigned 15
- **Total in terms of establishment 120 (expected to grow to over 200 in 2022)**

The annual budget of the ID in 2021 is approximately R107 million, and this is projected to grow substantially in 2022 to R180 million.

The ID has additionally begun the process of onboarding resources from the State Capture Commission in order to manage the process of when the report is submitted to the President.

4. SUMMARY OF IMPACT AND PROGRESS

The ID has managed to enrol about 18 cases on the roll, 70% being criminal cases that are still being ventilated in court while the balance is AFU aided civil recovery matters.

While some other cases are focused on the looting that took place in the State-owned entities, more so Eskom, zoning in on the Kusile PowerStation, the ID has managed to obtain and confirm a R1.4 billion restraint in that respect.

The ID working with the Asset forfeiture Unit obtained and unlimited restraint order against the Assets of the Gupta family through the company Islandsite (the second Gupta family company with assets in the country) as well as Nulane Investment. A matter which is derived from the criminal case involving R24.9m about the feasibility study for the success or lack thereof of the Estina Dairy farm project and other Free state Agricultural projects.

AFU and ID are working in close collaboration to fast track cases to initiate asset forfeiture proceedings & recovery of stolen money from all jurisdictions, both national & foreign.

The ID additionally has roped in other stakeholders such as SARS and Financial Intelligence Centre in a practical sense to optimise the resources available before matters are brought to court.

The ID has commenced the following high impact criminal prosecutions:

- S v Panday (KZN)
- S v Vincent Smith (Palm Ridge)
- S v Angelo Agrizzi (Palm Ridge)
- S v Thabete and Others (Bloemfontein Regional Court)
- S v Moodley (arrest and appearance)
- S v Igbal Sharma and others (Nulane R25 m involved)
- State v Mokwena and 12 others (Blue lights R191m)
- State v Richard Mdluli and 2 others (Crime intelligence Secret Fund)

Eskom

- S v France Hlakudi and three others (R74m at Kusile Power Station)
- S v France Hlakudi (R30m tax fraud) and
- S v Maphoko Kgomoewana (R5m tax fraud case).

The application and issue of arrest warrants and red notices in respect of Indian nationals: R Nath, A Jain, R Bhat and J Parekh. Arrest warrants in respect of Atul Gupta, Rajesh Gupta, Chetali Gupta and Arti Gupta. Red notices and extradition requests are still pending.

The ID, working with AFU, obtained the following asset forfeiture orders:

- A R1.4 billion asset forfeiture order handed down on 21 July 2021 and confirmed in respect of a number of accused and entities involved in corruption at Eskom (including F Hlakudi, A Masango and third parties such as Tubular construction Pty Ltd and its associated entities and individuals, Trindade and Lomas).
- In respect of Vincent Smith, a restraint order to the value of R46 million was handed down in February 2021 and confirmed in August 2021.
- In July 2021 an asset forfeiture order was handed down which resulted in the restraint of R44.5 million in immovable property and an aircraft valued at US\$3 million (US Dollars) (converted to rand is just over R47 million) belonging to Islandsite Investments Pty Ltd, a company owned by members of the Gupta family, and assets worth R16 million owned by Iqbal Sharma and his wife, including their luxury home.
- The ID assisted in Eskom recovering R1.6 billion from ABB ZA Pty Ltd in December 2020 and in Transnet recovering R700 million. Four further investigations have been authorised by the ID involving multi-national corporations identified as complicit in corrupt activity through the work of the Commissions.

5. BUSINESS CONTINUITY PLAN AND SUMMARY OF NPA EXCO POSITION ON THE MATTER

Our priority is to ensure continuity for the ID in the short and longer term, which will include a well-planned transition process lead by Deputy NDPP, Adv Rabaji-Rasethaba who will support Advocate Cronje in this transition period. The NPA will in parallel start the recruitment process to identify a new head of ID, in close consultation the Minister. The process to appoint a new Investigating Director will be rigorous to ensure that it is the right person with the right skills who will deliver.

There will be no leadership gap. The ID is well-capacitated and has a capable senior leadership team in place that will continue driving the work of the ID over the coming months, pending the appointment of a new head. Adv Rabaji-Rasethaba will work closely in support of Adv Cronje during her final months to provide a smooth handover process, with the support and engagement of the rest of the ID's senior leadership team.

The following key points summarise NDPP, and ExCo's position in relation to this matter, as explained to the media and are reiterated herein:

- The NPA is not in crisis and there is no widespread sabotage of the ID or any part of the NPA taking place (as reported by some outlets over the weekend).
- Adv Cronje's resignation and the ExCo's decision to approve is the culmination of factors that I cannot discuss all the details of in parliament. But the incorrect narrative that she left because we could not get on makes for dramatic reporting, but that is where it ends. The interests of the country is important to both Adv Cronje and I. Our decisions are made in the interests of the country, and for me in the interests of the NPA as a whole. Of course, in high pressure and high stakes environments like this, occasional tensions are normal. The ID was and remains under pressure to perform, and it is my job to make sure it delivers. An ID and the NDPP need to be fully aligned on the overall

strategy of the ID, the prosecution strategy, the priorities and case specific strategies, and then act with a razor-sharp focus on these.

- **Leadership transitions are normal and often healthy.** All organisations have staff turnover and our job is to ensure continuity towards the goal. If we are not focused and we cannot ensure this, then we are in crisis. Adv Cronje was appointed of ID in May 2019, two years and 8 months ago. It's a tough job in a tough environment, so it should not be a surprise or a concern that after this period she has decided to move on, and I and the NPA ExCo have supported this. This kind of leadership transition and normal. Not the sign of collapse or crisis. Its good when leaders take an organisation as far as they can then leave to a new leader to take forward with new energy, picking up on the good work done.
- **It takes time to establish a new entity within any organisation, especially within government.** Most business and organisational design experts will agree that it takes at least three years for a new organisation or department to break even. Structures, staffing and policies and processes need to be developed. That's what we have done for the ID in less than 3 years. The Government Technical Advisory Centre (GTAC), an agency of National Treasury which builds public sector capacity to improve governance and enhance public service delivery, has worked very closely with Adv Cronje and the ID for about 2 years. It should not be surprising or concerning that it has taken just over 2.5 years to get to this point.
- **NPA has capacity to prosecute corruption and complex crime; however, the extent and nature of state capture corruption does require additional specialised skills and capacities.**

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