**MEDIA STATEMENT**

**COMMITTEE FOR SECTION 194 HEARS PUBLIC PROTECTOR’S APPLICATION TO HAVE EVIDENCE LEADERS REMOVED**

**Parliament, Monday, 28 November 2022 –** The Committee for Section 194 Enquiry into Public Protector (PP) Adv Busisiwe Mkhwebane’s fitness to hold office today heard an application from the PP to have the evidence leaders removed and/or replaced.

Committee Chairperson Mr Qubudile Dyantyi said at the start of the meeting that Adv Dali Mpofu, SC, would have one hour to make an oral presentation on his application, as the committee had already received the written application and members have had the opportunity to work through it.

Adv Mpofu said this is an application for the committee to remove and/or replace the evidence leaders whose conduct has disqualified them from discharging the duties imposed on the committee in terms of Rule 129 of the National Assembly Rules. According to this rule, “The committee must ensure that the enquiry is conducted in a reasonable and procedurally fair manner, within a reasonable timeframe.”

The committee heard that one of the complaints against the evidence leaders is that during the testimony of Mr Neels van der Merwe, legal services manager, they made public and displayed the names and fees of various black counsel and attorneys who do work for the office the PP while knowing that the proceedings are aired on YouTube and watched by millions of people.

Adv Mpofu said the evidence leaders failed to give any prior warning to the advocates and attorneys concerned. He stated further that they also failed to give context to the figures so displayed in terms of the period during which the fees were earned, the number of matters that each advocate was briefed on, the complexity of each matter, the volume of work to be done and the applicable tax deductions and other associated expenses.

He went on to say that the evidence leaders are also advocates and they knew that their conduct was prejudicial to the privacy and dignity of their colleagues and prejudicial to the legal profession as a whole. According to him, they knew that their conduct would cause professional harm to the advocates and attorneys in question. Furthermore, he claimed that the evidence leaders knew very well that publicly displaying such amounts without proper context would be misleading to the committee and would paint the incorrect picture for the public and anyone watching the proceedings.

Adv Mpofu said the evidence leaders did not apologise for the “hurt” they have caused by displaying incorrect fees for some of the legal practitioners, and this should be a concern for a reasonable committee. He said the testimony about the legal fees was completely irrelevant. He argued again today that legal fees are not legal costs; the latter being the term used in the motion.

Adv Mpofu’s second complaint relates to one of the evidence leaders, Adv Nazreen Bawa, SC, and her questioning of Mr Muntu Sithole, which he said amounted to cross examination. “The evidence leaders have no right to cross-examine, simply because, unlike the Public Protector, they have no version to assert or test by way of cross-examination. Neither do they have a right to “discredit” any witnesses. That can only be done by a person or party which has a version and a desired outcome which is in conflict with the evidence of that particular witness. That is the sole purpose of cross-examination."

Adv Mpofu earlier in the day also requested the assistance of the committee to subpoena witnesses, as five had already either indicated an unwillingness to be present or not responded to requests to appear as a witness before the committee. Adv Mpofu indicated assistance is required for ensure Minister Pravin Gordhan, Adv Thuli Madonsela and Ms Natasha Mazzone appeared as witnesses. He said Minister Gordhan has sent the PPs legal team an attorney’s letter to inform them that he will indicate his availability this week. “The others have not even bothered to respond,” said Adv Mpofu.

Mr Dyantyi said the committee had to adjourn before lunch today as the response by the evidence leaders on the application for removal had erroneously not been forwarded to the PP’s legal team when it was sent yesterday to committee members. “This is in order to grant the PP’s legal team the time to study the response.”

The committee will continue tomorrow with its deliberation on the removal application. The committee was established by the National Assembly on 16 March 2021 to conduct a constitutional inquiry into the Public Protector’s fitness to hold office. Committee documents can be found at [Committee for Section 194 Enquiry - Parliament of South Africa](https://parliament.us15.list-manage.com/track/click?u=174940c63c5e06b60f5650bea&id=333d74fbf7&e=da105e4f6a)

**ISSUED BY THE PARLIAMENTARY COMMUNICATION SERVICES ON BEHALF OF THE CHAIRPERSON OF THE COMMITTEE FOR SECTION 194 ENQUIRY, MR QUBUDILE DYANTYI.**

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