

Seek, Find, Strike



Presentation to the Standing Committee on Public Accounts (SCOPA) on allegations of corrupt and fraudulent activities and other maladministration issues at Eskom reported by the former Group Chief Executive of Eskom, Mr Andre de Ruyter

**Presentation by the National Head of the Directorate for Priority Crime Investigation (DPCI)
Lt General (Dr/Adv) SG Lebeya (SOEG)**

09 May 2023

Presentation outline

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Introduction

- The Directorate for Priority Crime Investigation (DPCI) received an invitation from the Standing Committee on Public Accounts (SCOPA) aimed at establishing if allegations of corrupt and fraudulent activities and other maladministration issues at Eskom were indeed reported by former Group Executive of Eskom, Mr Andre de Ruyter to the law enforcement agencies, and what the case numbers are and to what extent these allegedly reported cases have received attention.
- The purpose of this presentation is to respond to the Committee's request and the application of Section 34 reports in terms of the Prevention and Combating of Corrupt Activities Act 12 of 2004 (PRECCA), the process followed and matters dealt with by the DPCI.

Mandate of the DPCI

In terms of Section 17D of the Police Act, the Mandate of the DPCI is as follows:

- (1) The functions of the Directorate are to **prevent, combat and investigate**—
- (a) **national priority offences**, which in the opinion of the National Head of the Directorate need to be addressed by the Directorate;
- (aA) offences referred to in Chapter 2 and **Section 34 of the Prevention and Combating of Corrupt Activities Act (PRECCA), 12 of 2004**;
- (2) If, during the course of an investigation by the Directorate, evidence of any other crime is detected and the National Head of the Directorate considers it in the **interests of justice, or in the public interest**, he or she may extend the investigation so as to include any offence which he or she suspects to be connected with the subject of the investigation.

Section 17A of the Police Act defines “National Priority Offence” as organised crime; crime that **requires national prevention or investigation**; crime that **requires specialised skills** as referred to in section 16(1) of the SAPS Act. The priorities are cross-cutting. One cannot occur without affecting the other(s) and because of this, the DPCI specialises in **project investigations** which draws in the investigative expertise of multiple investigators in different environments.





HYPERLINK TO SECTION 34 REPORTING IN TERMS OF PRECCA ACT 12 OF 2004



[REPORTING AND PROFORMAS FOR SECTION 34 REPORTING IN TERMS OF PRECCA ACT 12 OF 2004](#)

Reporting Requirements in terms of Section 34 of the PRECCA Act 12 of 2004

Duty to report:

- **Section 34** places the duty on **certain persons to report certain offences**. **Failure** to report is an offence

What to report:

- Corruption:
 - Chapter 2 of the Prevention and Combating of Corrupt Activities Act 12 of 2004 defines corruption as;
 - any person who gives or accepts or offers to give or accept any gratification amounting to an unauthorised or improper inducement to act or not to act in a particular manner using is guilty of an offence.
 - Common law offences under Section 34 of the Prevention and Combating of Corrupt Activities
 - Theft: It consists of the unlawful appropriation of moveable corporeal property belonging to another with intent to deprive the owner permanently of the property.
 - Fraud: It is the unlawful and intentional making of a misrepresentation which causes actual prejudice or which is potentially prejudicial to another.
 - Extortion: It consists of taking from another some patrimonial or non-patrimonial advantage by intentionally and unlawfully subjecting that person to pressure which induces him or her to submit to the taking.
 - Forgery: Forgery consists of unlawfully and intentionally making a false document to the actual or potential prejudice of another.
 - Uttering of forged document: Uttering consists of unlawfully and intentionally passing off a false document (forged) to the actual or potential prejudice of another;
- These offences must involve an amount of **R100,000.00** or more.

Who must report: (1(a))

- According to **section 34(1) of the Act**, any person who **holds a position of authority** (defined in section 34(4) of the Act), who knows or ought reasonably to have known or suspected that any other person has committed an offence (of corruption) in terms of sections 3 to 16 or 20 to 21 of the Act or theft, fraud, extortion, forgery or uttering of a forged document involving an amount of R100 000,00 or more, **must** report such knowledge or suspicion or cause such knowledge or suspicion to be reported a police official in the **Directorate for Priority Crime Investigation**
- Section 34(2) of the Act provides that **any person who fails to report** such corrupt activities is guilty of an offence.
- The following are the people who must report:
 - the **Director-General or head, or equivalent officer**, of a national or provincial department;
 - in the case of a municipality, the **municipal manager** appointed in terms of section 82 of the Local Government: Municipal Structures Act 117 of 1998;
 - **any public officer** in the **Senior Management Service** of a public body;
 - **any head, rector or principal** of a tertiary institution;

Who must report: 1(b)

- the **manager, secretary or a director of a company** as defined in the Companies Act 61 of 1973, and includes a member of a close corporation as defined in the Close Corporations Act 69 of 1984;
- the **executive manager** of any bank or other financial institution;
- **any partner** in a partnership;
- **any person** who has been **appointed as chief executive officer** or an equivalent officer of any agency, authority, board, commission, committee, corporation, council, department, entity, financial institution, foundation, fund, institute, service, or any other institution or organisation, whether established by legislation, contract or any other legal means;
- **any other person** who is responsible for the **overall management and control** of the business of an employer; or
- **any person** contemplated in paragraphs mentioned above, who has been **appointed in an acting or temporary capacity**.



Reporting Requirements in terms of Section 34 of PRECCA Act 12 of 2004

Where to report:

- As amended by the South African Police Service Amendment Act 10 of 2012, reporting should be made to the police official in the **Directorate for Priority Crime Investigation** in terms of Section 34(1) of the Prevention and Combating of Corrupt Activities Act 12 of 2004.
- **Responsibility of the reporting person/whistleblower**
 - Go to or contact the **Directorate for Priority Crime Investigation (DPCI)** office through the email or fax number provided on the website
 - A telephonic communication should be used as the last resort for reporting



Reporting Requirements in terms of Section 34 of PRECCA Act 12 of 2004

Where to report:

Provide the **compulsory critical information** to the designated member of the **Central Reporting Office** as contained in the **prescribed form**:

- Identification
- Contact Details
- Position of authority
- Allegation(s)
- Details of person(s) involved in the alleged commission of the offence(s).



Role of the Central Reporting Office within Directorate for Priority Crime Investigation (DPCI)

- **Assess** the report;
- **Take down** the report in a format of the form provided;
- **Register** the report in the Directorate for Priority Crime Investigation database;
- **Allocate a unique reference** number to the reporting person; and
- **Allocate** the case to the relevant operational component for preliminary investigation.



Proforma:- Taking down of report contemplated in Section 34(3)(a) of the PRECCA Act 12 of 2004

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Annexure A

TAKING DOWN OF REPORT CONTEMPLATED IN SECTION 34(3)(a) OF THE PREVENTION AND COMBATING OF CORRUPT ACTIVITIES ACT, 2004

TO: CENTRAL REPORTING OFFICE: DIRECTORATE FOR PRIORITY CRIME INVESTIGATION (DPCI)

I, _____
(Full Names and Surname)

Rank _____ PERSAL Number

stationed at _____

Tel.No _____ Cellular No _____

Email Address _____

a designated member of the Directorate for Priority Crime Investigation (DPCI) in the South African Police Service have received the following report (report attached where applicable) from a person holding a position of authority as contemplated in section 34(4) of the Act.

(Full Names and Surname of person making the report)

ID.No

with the following contact particulars:

Residential Address _____
(Address)

(Suburb)

(Town/City)

(Country)

Tel.No(Private) _____ Cellular No _____

Email (Private) _____

Work Address _____
(Employer)

(Address)

(Suburb)

(Town/City)

(Country)

Tel.No (Work) _____ Fax No _____

Email (Work) _____

Preferred Communication Method(s) _____
Acknowledgement of Receipt
Contact by DPCI

The report received entails the following:

Description of the alleged offence – Tick the applicable offence(s)		Tick
Part 1	Sec 3 General Offence of Corruption	<input type="checkbox"/>
Part 2	Sec 4 Offences in respect of Corrupt Activities relating to Public Officers	<input type="checkbox"/>
	Sec 5 Offences in respect of Corrupt Activities relating to Foreign Public Officials	<input type="checkbox"/>
	Sec 6 Offences in respect of Corrupt Activities relating to Agents	<input type="checkbox"/>
	Sec 7 Offences in respect of Corrupt Activities relating to members of Legislative Authority	<input type="checkbox"/>
	Sec 8 Offences in respect of Corrupt Activities relating to Judicial Officers	<input type="checkbox"/>
Part 3	Sec 9 Offences in respect of Corrupt Activities relating to members of Prosecuting Authority	<input type="checkbox"/>
	Sec 10 Offences of receiving or offering of unauthorised gratification by or to party to an employment relationship	<input type="checkbox"/>
Part 4	Sec 11 Offences in respect of Corrupt Activities relating to witnesses and evidential material during certain proceedings	<input type="checkbox"/>
	Sec 12 Offences in respect of Corrupt Activities relating to Contracts	<input type="checkbox"/>
	Sec 13 Offences in respect of Corrupt Activities relating to procuring and withdrawal of tenders	<input type="checkbox"/>
	Sec 14 Offences in respect of Corrupt Activities relating to Auctions	<input type="checkbox"/>
	Sec 15 Offences in respect of Corrupt Activities relating to Sporting Events	<input type="checkbox"/>
Part 6	Sec 16 Offences in respect of Corrupt Activities relating to Gambling Games or Games of Chance	<input type="checkbox"/>
	Sec 20 Other offences relating to corrupt activities - Accessory to or after offence as contemplated in Part 1, 2, 3 or 4. or section 21	<input type="checkbox"/>
	Sec 21 Other offences relating to corrupt activities - Attempt, conspiracy and inducing another person to commit offence in terms of this Act	<input type="checkbox"/>
Chap 7	Sec 34 (1)(b) Theft, fraud, extortion, forgery or uttering of a forged document involving an amount of R 100,000-00 or more.	<input type="checkbox"/>

1. Provide a brief description of the suspicion of or alleged offence(s) committed. (What, when, where, why and how). Is it still ongoing?

2. How did the suspicion or knowledge of the alleged offence(s) come to your attention?



Proforma:-Taking down of report contemplated in Section 34(3)(a) of the PRECCA Act 12 of 2004

3. Full Names, Identity number or Date of Birth and contact details of person(s) allegedly involved in offence(s), as well as his/her/their position held and the role that he/she/they played in the commission of such offence(s)

4. What is the real or potential impact, losses or consequences of such alleged offence(s)?

5. Does documentation or evidence in support of the allegations exist and where/from whom can such documentation or evidence be obtained? Indicate what information was provided with the report?

6. Was the matter reported to any other person or authority and if so to whom, when and what reference number was provided?

7. What is the nature and extent of the gratification or benefit involved? Any information to the reporter's knowledge about the standard of living of the person(s) allegedly involved.

8. Name and contact details of possible witnesses to the alleged offence(s):

Signed at _____ on this ____ day of _____ 20 ____

SIGNATURE OF THE DESIGNATED MEMBER
DIRECTORATE FOR PRIORITY CRIME INVESTIGATION (DPCI)

Unique reporting reference number _____
To be inserted by the designated DPCI members to whom the report is made. A corresponding number must appear on the acknowledgement of receipt (Annexure B).



Proforma: Acknowledgement of receipt in terms of Section 34(3)(a) of the PRECCA Act 12 of 2004



Annexure B

Unique reference Number _____

ACKNOWLEDGEMENT OF RECEIPT IN TERMS OF SECTION 34(3)(a) OF THE PREVENTION AND COMBATING OF CORRUPT ACTIVITIES ACT, 2004 (ACT NO. 12 OF 2004)

I, _____
(Full Names and Surname)

Rank _____ PERSAL Number

--	--	--	--	--	--	--	--	--	--

stationed at _____

Tel.No _____ Cellular No _____

Email Address _____

acknowledge receipt from _____

(Full Names and Surname of the person who made the report)

The following documentation was received with the report:

Signed at _____ on this _____ day of _____ 20 _____

SIGNATURE OF THE DESIGNATED MEMBER
DIRECTORATE FOR PRIORITY CRIME INVESTIGATION (DPCI)

Investigations linked to Mr de Ruyter

There are currently **three known investigations** linked to Mr de Ruyter, namely:

- An **alleged poisoning case**, in which Mr de Ruyter is a **complainant**;
- **Alleged failure to lodge a section 34 report** in terms of PRECCA, in which **Mr de Ruyter is cited as suspect by Mr Mmusi Maimane**; and lastly;
- A report in terms of **section 34** of PRECCA, submitted on **25 April 2023** by a **firm of attorneys on behalf of Mr de Ruyter**. It is important to note that this is the first section 34 report that was reported to the Central Reporting Office on behalf of Mr de Ruyter in relation to Eskom corruption allegations. It was **received a day before Mr de Ruyter** appeared before the Standing Committee on Public Accounts (**SCOPA**).

The following slide contains the **acknowledgement of receipt** that was communicated to the attorney on **2023-04-26**:

Acknowledgement of the sec 34 Report after it was received by the DPCI from Mr de Ruyter's attorneys



Annexure B

Our unique reference Number IR2023/04/337

Your reference number(s) W0073

CAS number(s) None

I, PM Tjale
(Full Names and Surname)

Rank Lt Colonel Persal Number 7 0 2 8 8 1 6 - 0

Stationed at Priority Crime Management Centre: Section 34 reports Central Reporting Office

Tel. No 012 843 0148 Cellular No. 071 481 3414

Email Address CorruptionReports@saps.gov.za

Section 34 report acknowledgement of receipt to: Willem Janse van Rensburg Attorneys

Comments:
Kindly note that the matter will be referred to the office of the Divisional Commission: National Priority Offences: Operations: DPCI for further handling.

Signed at Meyerspark on this 26 Day of April Year 2023


SIGNATURE OF THE DESIGNATED MEMBER
DIRECTORATE FOR PRIORITY CRIME INVESTIGATION (DPCI)
LT COLONEL TJALE



HAWKS
DIRECTORATE FOR PRIORITY CRIME INVESTIGATION

Investigations linked to Mr de Ruyter

- The DPCI, through Major General Gerber, the Provincial Head: Mpumalanga, reached out to Mr de Ruyter, immediately after his media interview to ascertain the information first hand.
- Mr de Ruyter declined to meet Major General Gerber, but referred him to his lawyer, Mr Willem Janse van Rensburg, who promised to talk to Mr de Ruyter and revert to the DPCI.
- Unfortunately the promise was not fulfilled.

Overview of Eskom Related Investigations

This slide provides an overview of the cases investigated by the DPCI

STATUS OF CASE DOCKETS	NUMBER
Number of cases on the court roll	27 <i>(with 67 arrests)</i>
Number of cases submitted for decision	12
Number of cases under investigation-	60
Number of enquiry files under investigation	17



Some successes and Media highlights for Eskom related cases



Hawks nab Eskom scalps in Mpumalanga

The upfront payment of nearly R15m for a pump tender at Arnot Power Station led to the arrest of a mother and son team together with a former Eskom senior buyer.

Hlakudi is among four accused facing charges of fraud, corruption, money laundering, offering unauthorised gratifications and receiving unauthorised gratification in connection with the **Eskom Kusile R745m case.**

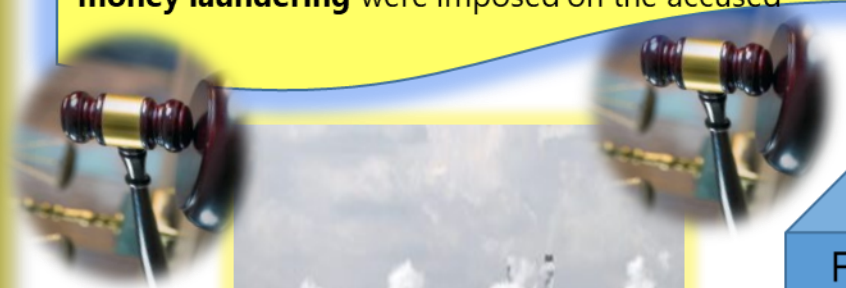
Former Eskom Administration Clerk Sentenced for R2.6 Million

Nwabisa Ngxola was sentenced to **ten (10) years imprisonment for sixteen (16) counts of fraud.** A further **seven years imprisonment for thirty-nine (39) counts of corruption and another additional seven years imprisonment for forty-eight (48) counts of money laundering** were imposed on the accused

Former Eskom accountant ordered to pay back money stolen from parastatal

Sifiso Jacob Masina, a former mid-level accountant at Kriel Power Station, was sentenced this week to eight years in prison, five of them suspended, for cranking out invoices to the tune of R513 630 to companies he controlled for no work done.

The judge ordered that Masina make an immediate payment of R30 000 and 48 instalments of R10 000 a month until 1 April 2027 to settle the remaining balance.” Eskom said it was disappointed that someone in a position of trust defrauded the organisation.



Four accused in R4.9 million Eskom fraud case granted bail
It is alleged that the group benefited from several illegally awarded contracts at Eskom's Duvha Power Station in Mpumalanga.



Former Eskom Administration Clerk Sentenced for R2.6 Million

3 May 2023

Nwabisa Ngxola (40), a **former Administration Clerk at Eskom**, was found **guilty and sentenced** by the Mbombela Specialized Commercial Crime Court on Wednesday, 3 May 2023. She was arrested for **Fraud, Corruption and Money Laundering**.

Nwabisa Ngxola was sentenced to **ten (10) years imprisonment for sixteen (16) counts of fraud. A further seven years imprisonment for thirty-nine (39) counts of corruption and another additional seven years imprisonment for forty-eight (48) counts of money laundering were imposed on the accused.** The court ordered that the sentences should run concurrently, therefore Ngxola will serve 10 years direct imprisonment without option of fine.

The conviction and sentence followed a **lengthy investigation conducted** by the Nelspruit **Hawks** in collaboration with **Eskom Forensic Investigators**.

It is alleged that during November 2013 the accused who was working as an administration Clerk at Eskom together with her co-accused Cinderella Moropane, colluded with Chimanzi, the sole Director of Chimanzi Investments and **submitted fraudulent invoices to Eskom for services which were never rendered.**

These fraudulent transactions were channelled to Chimanzi Investment business accounts, which **prejudiced Eskom the amount of R2.6 million.** Michael Chimanzi (56) was found guilty and sentenced when he appeared in the Nelspruit Specialised Commercial Crime Court on 1 March 2023 for Fraud, Theft and Money Laundering.

During the sentencing, the court took into consideration that Chimanzi already served four years imprisonment since his arrest in 2018. Furthermore, the accused showed remorse and pleaded guilty from the beginning without wasting state resources.

Chimanzi, together with his company, were sentenced to **eight (8) years imprisonment wholly suspended for 5 years** on condition that he is not found guilty and convicted for similar offenses during the period of suspension. The case against the third accused **Cinderella Moropane was postponed to 17 May 2023** as she was hospitalised due to illness.

The Hawks, commended the good work done by the Hawks investigation team in collaboration with Eskom Forensic Investigators. and applauded the court for ensuring that the accused received an **appropriate sentence** which will serve as an example to those who are still prejudicing Eskom and causing the country to be in state of prolonged power cuts which has a negative impact on the economy.

Media highlights : Eskom related cases



Former Eskom Senior Manager France Hlakudi, appears before the Pretoria Regional Court

Hlakudi faces tax fraud charges to the value of R30 million related to his personal tax affairs and that of his companies:

Hlakudi Translation and Interpretation cc, Coxinel Chicken (Pty)Ltd, and Bon Services Telcom cc.

Hlakudi is **among four accused facing charges of fraud, corruption, money laundering, offering unauthorised gratifications and receiving unauthorised gratification** in connection with the **Eskom Kusile R745m case**.

Eskom group executive for the group capital division Abram Masango, Hlakudi, businessman Maphoko Kgomoeswana and Tubular Construction chief executive Antonio Trindade are **accused of committing these offences between 2014 and 2017**.

Masango and Hlakudi are accused of receiving undue gratification valued at R30m each from the contractors, Trindade and Lomas.

Kgomoeswana and his company, Babinatlou Business Services cc, are accused of facilitating the bribes on behalf of the Eskom Kusile contractors to the state-owned power generations' senior bosses.

The matter is ongoing.



Media highlights : Eskom related cases

Accused remanded in custody for R14.7 million Eskom fraud and money laundering

Thandeka Innocentia Nkosi (42) appeared before the Hendrina Magistrate Court for Theft, Fraud and Money Laundering.

Her appearance followed an intensive investigation conducted by Eskom Forensic Investigators concerning **money which was stolen from Eskom**. After they uncovered the fraud, a case was opened and referred to the Middelburg based Hawks Serious Commercial Crime Investigation for further exploration.

During their probe it was discovered that during **March to April 2013**, Nkosi, who was **employed by Eskom at Arnot Power Station as a Senior Buyer**, allegedly colluded with his accomplices, a director of Angel Frost Investment (PTY) LTD. The accused acting in concert, **defrauded Eskom amount of R14 736 882.00**.

She was **arrested, charged and appeared before the Hendrina Magistrates court** on Friday, 17 March 2023.

The matter is ongoing in court and she is expected to join other four suspects.



Media highlights : Eskom related cases

Eskom's Former Financial Controller and Accomplice Sentenced for Fraud

The Palm Ridge Specialised Commercialised Crimes Court handed down a **hefty sentence to Eskom's former Financial Controller, Mosai Barnard Moraka (46) and co-accused Victor Tshabalala (51) on 53 counts of fraud** which costed **Eskom over R34.9 million.**

It was reported **that between 2016 and 2018** when Moraka was **employed by Eskom as a Financial Controller**, he fraudulently created **fictitious payment invoices for coal transportation** to Palesa Mine. Moraka made payment transactions into Merga Transport, which according to Eskom and Palesa Mine, did not have contract to transport coal to Palesa Mine. The matter was reported to Hawks' Serious Commercial Crime Investigation in Johannesburg for further probing.

A **warrant of arrest** was issued for the accused's apprehension. The investigation team **arrested** both Moraka and Tshabalala in October and November 2019, respectively. They were both **granted a R20 000 bail each.**

The Hawks' Priority Crime Specialised Investigation together with Asset Forfeiture unit **seized both Moraka and Tshabalala's fixed and movable properties worth approximately R12 million combined**, forfeited to the state for **Eskom to recover stolen money.**

In August last year, both the accused pleaded guilty to fraud and money laundering charges against them.

On Tuesday, 29 March the court successfully sentenced Moraka and Tshabalala to **20 years direct imprisonment with no option of fine.**



Media highlights : Eskom related cases Hefty Bail for Ghost Vending Syndicate Members

Sibusiso Alfred Migal (33), Siphon Joseph Mdlalose (38), Phindile Florence Mdlalose (28), Donald Vusumuzi Rammusi (32) and Magala Petros Mohapi (42), as well as Victor Mdlalose (67) were arrested on Wednesday, 09 June 2021 by a multidisciplinary team that swooped on various premises in Gauteng. The joint team traced and disrupted the criminal network responsible for **large-scale pre-paid electricity fraud and theft**.

Their arrests were effected during the first phase of the project driven investigation carried out by the Free State Hawks Serious Commercial Crime Investigation team **in concert with Eskom Investigators, Hawks Digital Forensic Investigation (DFI), Tactical Response Team (TRT), Public Order Policing (POP) as well as Local Criminal Record Centre (LCRC)**.

The **project driven investigation ensued in May 2020** in Bloemfontein, Free State probing the **illicit sale of electricity** facilitated by **illegal vendors** who have in their **possession illegal electricity vending machines**.

Ghost vending involves the illegal sales and purchases of electricity.

The accused were granted bail as follows Magala Petros Mohapi and Siphon Joseph Mdlalose on R100 000 bail each. Sibusiso Alfred Migal, Phindile Florence Mdlalose, Donald Vusumuzi Rammusi, each **granted R30 000** and Victor Mdlalose released on warning. The case is continuing in court.



Media highlights : Eskom related cases

Man in court for stealing diesel worth R500 000 at Eskom power station

Angelo Cysman (40), a plant operator employed by Eskom in Atlantis briefly appeared before the Atlantis Magistrate Court for **allegedly stealing diesel worth R500 000**. This comes after his arrest on 23 December 2022.

Cysman was arrested whilst at home during his suspension. Through internal investigations, it was established that the plant operator **permitted a vehicle to collect the stolen diesel from the site** in lee way he declared the diesel tanker empty and that all diesel has been offloaded , whereas it was not.

Internal investigation was conducted by Eskom and the Hawks' Crimes Against the State team based in Bellville arrested the plant operator a month **after Eskom laid a complaint** for the theft of diesel.

The matter has been postponed for further investigation and the accused was released on **R50 000.00 bail**.



Conclusion

The DPCI shall at all times enforce the Law of the Republic without fear, favour or prejudice and, as the circumstances of any particular case may require, in accordance with the Constitution and the Law

Thank You

Seek, Find, Strike