

nationals were wanted for criminal offences in Zimbabwe and had been illegally deported by Directorate for Priority Crime Investigation (DPCI).

There is suggestive evidence at my disposal that the Zimbabwean nationals were wanted in Zimbabwe in connection with the murder of a police colonel ... Therefore, in such an instance, mutual legal assistance on criminal matters and extradition procedures should have been instituted.

Evidence at my disposal, suggest that you probably sanctioned the entry of Zimbabwean police to South Africa and further sanctioned a joint operation between Directorate for Priority Crime Investigation (DPCI) and Zimbabwean police to trace the fugitives.

Furthermore, there is suggestive evidence that the South African Department of Home Affairs and the Zimbabwean Embassy were not involved in the illegal deportation of the Zimbabwean nationals.

In this regard you are instructed to furnish reasons to the Minister of Police, within the next five (5) days, as to why you should not be provisionally suspended pending internal investigations on the following acts of misconduct:

- (1) undermining the legislative authority of the Minister of Justice and the South African judiciary to make a determination and adjudication on the extradition of the Zimbabwean nationals wanted in Zimbabwe for the murder of a police colonel ...;

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- (2) bringing the international image of the Republic of South Africa into disrepute by contravening the SADC Protocols on Extradition, Mutual and Legal assistance and the United Nations' Convention against the Torture and Other Cruel Inhuman or Degrading Treatment or Punishment, by allegedly being an accomplice or co-perpetrator on torture, murder and renditions of Zimbabwean nationals;
- (3) possibly misleading the Minister and parliament as to the lawfulness of the deportations in question and the departments involved;
- (4) allegedly committing the following criminal law offences:
  - (i) kidnapping;
  - (ii) defeating the ends of justice;
  - (iii) forgery, fraud;as an accomplice and co-perpetrator;
- (5) allegedly, involving the Directorate for Priority Crime Investigation in illegal renditions activities.

Your co-operation in the spirit of good governance is appreciated.

Kind regards

N P T Nhleko  
Minister of Police

Date: 10/12/2014" (The underlining is presumably that of the Minister.)

- [8] On 12 December 2014 Dramat's attorney wrote a lengthy letter (the contents of which I will not quote, for the sake of brevity) to the Minister in reaction to the 9/10 December notice of Contemplated Provisional Suspension.

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I briefly summarise some of the features of this letter, which, like the 9/10 December notice, is an annexure to the founding affidavit:

The attorney has been acting for Dramat since September 2013 in the matter surrounding the so-called "Zimbabwean rendition". Correspondence had been exchanged between the attorney, the State Attorney, the National Commissioner and IPID (the Independent Police Investigation Directorate to which I will refer as "IPID").

The attorney, correctly in my view, reminded the Minister that section 17DA(2) was found to be invalid and unconstitutional by the Constitutional Court on 27 November 2014 and severed, or deleted from the SAPS Act on that date. The case referred to, which I will revisit later, is *Helen Suzman Foundation v President of the Republic of South Africa and others* (case no CCT 07/14) and *Hugh Glenister v President of the Republic of South Africa and others* (case no CCT 09/14). The attorney pointed out to the Minister that the purpose of this constitutional litigation in *Suzman* and *Glenister* was to ensure that the DPCI is adequately independent and has operational autonomy. The attorney points out to the Minister, correctly, that the main thrust was to forbid improper interference by the Minister and the National Commissioner with the Head and members of the DPCI in the exercise or performance of their powers, duties and functions. (I will refer to the *Suzman* and *Glenister* cases as "the 2014 judgment".)

The attorney also reminded the Minister that he was cited as the second respondent in the Constitutional Court in the aforesaid cases, fully represented by three advocates and that he should be aware of the orders of constitutional invalidity deleting

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section 17DA(2) and the "(2)" in section 17DA(1) from the SAPS Act. The attorney then says the following to the Minister:

"You would therefore be in contempt of the Constitutional Court, should you proceed with the contemplated provisional suspension of Lieutenant General Dramat. Clearly your advisors should from time to time look at the law and recent Constitutional Court judgments against you."

The attorney then reminds the Minister that Dramat dealt with the allegations against him with regard to the so-called Zimbabwean rendition, in a statement of 23 October 2013 which is again attached to the attorney's letter as annexure "A". The attorney also stated that he finds it alarming that it had come to the attention of Dramat that certain witnesses had been told (presumably by IPID officials) that unless they incriminate Dramat, they would be of no value to the investigator. It was also submitted in the aforesaid statement that the DPCI was at the time (and still is according to the attorney) tasked and seized with very sensitive and high profile investigations and that the timing of the then IPID investigation and the current contemplated suspension was seen as a "smear campaign" to derail any investigations or arrests that the DPCI is in the process of conducting. The attorney, correctly, refrained from listing details of the sensitive matters and the high profile individuals.

The attorney then also reminded the Minister that IPID sent an undated letter to Dramat which contained the same allegations as those referred to by the Minister in his Notice of Contemplated Suspension. Dramat was required to answer certain questions regarding the "rendition" of the Zimbabwean nationals which he did in a statement dated 11 November 2013 which is also attached to this letter of the attorney

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as annexure "B". In the statement it was specifically pointed out that Dramat never authorised or sanctioned co-operation or kidnapping of any of the Zimbabwean nationals referred to in the IPID correspondence. It was also pointed out that Dramat unequivocally denied any knowledge of any action whatsoever that he authorised or participated in which was aimed to defeat the due administration of justice. Fraud and theft allegations were equally vague and spurious and denied. The attorney pointed out to the Minister that the Notice of Contemplated Suspension takes the matter far beyond the allegations made by IPID, namely that Dramat undermined the legislative authority of the Minister of Justice and the judiciary and that he is allegedly an accomplice and co-perpetrator on torture, murder and renditions. It was recorded that Dramat was reserving his rights in this regard. It was pointed out that neither IPID, nor the National Commissioner or the NDPP complied with the request of more than a year earlier for concrete evidence in support of these allegations to be furnished to Dramat. At all times, Dramat offered his full co-operation with a *bona fide* investigation. Dramat got information that the authorities were trying to get a warrant for his arrest. It was reiterated by his attorney that Dramat would voluntarily appear before a competent court to answer to any charges. The attorney again recorded that efforts now to press on with the alleged Zimbabwean rendition complaint, more than four years after the event, amounted to nothing other than slanderous, malicious conjecture designed to derail sensitive investigations of the DPCI and/or an attempt to discredit the reputation and integrity of Dramat and the DPCI.

The attorney concludes by reminding the Minister that he does not have the power to suspend the Head of the DPCI and any efforts to continue to do so would be met with an application to this court for urgent relief.

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- [9] The Minister did not answer this letter. The statements, "A" and "B", attached to the letter, are broadly summarised in the letter, and the contents will not be repeated.
- [10] On 23 December 2014, the Minister wrote to Dramat informing him that he was placing Dramat "on precautionary suspension with full pay and benefits" with immediate effect.

In the letter, which is difficult to read because of the quality thereof, the Minister acknowledges the fact that section 17DA(2) of the South African Police Services Act had been struck down. He argues, that he nevertheless retains the right to suspend Dramat. He argues that he is empowered to do so on a certain reading of the 2014 judgment and that he is also empowered to suspend Dramat in terms of certain provisions of the Public Service Act, 1994 ("the Public Service Act" or "the PSA") which came into operation on 3 June 1994 as well as the Public Service Handbook.

- [11] On 24 December 2014, Dramat responded to the suspension notice in a long letter written to the Minister under his own hand.

I find it convenient to quote some of the paragraphs:

- "1. I have for several months reflected very carefully on the issues that have unfolded in front of me. I have consulted my legal representatives and I have been advised of my legal remedies.
2. I respectfully point out that the tactical 'backpedalling' from the initial notice and the current reliance on the Public Service Act and Public

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- Service Regulations and *SMS Handbook* is a clear indication to me that no matter what steps I take to defend my position, a decision had already been made, from the outset, to remove me from my position.
4. Having seen our country enter into a democratic phase, I felt that I could contribute in a meaningful way and continue to develop the principles which I fought and for which I was imprisoned.
  5. My appointment as the Head of the DPCL, I perceived at the time, was based on my credentials, my level of expertise and the fact that I respectfully believe that I have always acted with integrity in the manner in which I deal with people and investigations.
  6. No doubtedly you are aware that I have recently called for certain case dockets involving very influential persons to be brought or alternatively centralised under one investigating arm and this has clearly caused massive resentment towards me.
  7. I can unequivocally point out that I am not willing to compromise the principles that I have always believed in. I am not willing to be 'agreeable' or 'compliant' in so far as I would then be acting contrary to my own moral principles and, also, contrary to the position in which I was appointed.
  - 10.1 The so-called 'Zimbabwean rendition investigation' is a smoke-screen. There are no facts whatsoever that indicate that at any given time I have acted illegally or unlawfully ... Most certainly there has never been any evidence whatsoever that I have, in any way, interfered with any potential witnesses or attempted to jeopardise the investigation against me during the past four years.

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- 10.2 I wish to reserve my rights to fully vindicate myself against all those who have sought to tarnish my name and reputation. I do not wish to engage with those involved in this correspondence, in so far as that is reserved for another forum, if necessary.
11. I therefore deny, with respect that the Notice of Precautionary Suspension is legal, valid or regular. In fact it is totally irregular and constitutionally invalid.
12. I am also aware that in the next two months there will be a drive to remove certain investigations that fell under my 'watch', re-allocate certain cases and that unfortunately, certain sensitive investigations may even be closed down. This is something that I have to live with.
14. I note with interest that a two month period has been set to hold an 'enquiry' (*sic*). I can honestly say that the investigation into the 'Zimbabwean rendition' case, has run for a very lengthy period of time and till to date there has been no evidence whatsoever. It is clear that I am being pushed out.
17. ... After due consideration, with specific reference to the background alluded to above, I am willing to submit a request to vacate office by applying to the National Commissioner to approve my early retirement in terms of section 35 of the Act. Quite clearly there is a pre-condition that the unlawful precautionary suspension be uplifted without me having to approach the court to do so.
18. I therefore require that we should enter into a joint consensus seeking meeting as a matter of urgency to prevent any instability within the

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DPCI. Under the above circumstances your reply is eagerly anticipated by no later than 5 January 2015."

As far as I could make out no such reply was forthcoming.

[12] On 30 December 2014, the present applicant's attorneys wrote to the Minister as follows:

- "1. We represent the Helen Suzman Foundation ('our client').
2. Our client understands that Lt Gen Dramat has been placed on 'precautionary suspension' by you in your capacity as the Minister of the Police and that the suspension is for a period of sixty days from 23 December 2014. Our client also understands that no other disciplinary processes to remove Lt Gen Dramat have been instituted or followed by you or any other body at this stage.
3. As you will know, as a matter of South African law, it is imperative for the DPCI to be adequately independent from the National Executive. The suspension of the National Head strikes at the very heart of our constitutional democracy.
4. As you will also know, our client is (and has been) concerned to ensure that the rule of law is upheld in all spheres, including the essential fight against corruption and organised crime mandated by the Constitution.
5. You will doubtless agree that, in this context, it is important to ensure that any suspension of the National Head or any office-bearers in the DPCI is constitutionally compliant and lawful. It appears that the suspension was not grounded in law.

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6. To this end, our client requires you to furnish the following information in writing by no later than Wednesday, 7 January 2015, so that it may adequately protect its rights and the public interest:
- 6.1 a copy of any document which evidences or constitutes the purported suspension of Lt Gen Dramat, including any letter of suspension issued to Lt Gen Dramat;
  - 6.2 the effective date of the suspension;
  - 6.3 the duration of the suspension;
  - 6.4 whether any of the facts in paragraph 2 above are incorrect and, if so, which facts and for what reason;
  - 6.5 a copy of any documents and information on the basis of which the suspension was decided by you;
  - 6.6 a copy of any reports pertaining to Lt Gen Dramat produced by the Independent Police Investigative Directorate;
  - 6.7 full reasons for the suspension of the National Head;
  - 6.8 details of what empowering provision you have used or invoked for the purposes of the purported suspension of the National Head;
  - 6.9 what disciplinary steps have been taken by you or any other institution or body in relation to Lt Gen Dramat that relate in any way to the suspension or the grounds for such suspension;
  - 6.10 a copy of any letter purportedly appointing any other person, including Major General Berning Ntlemcza, as Acting National Head of the DPCI.

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7. Should you fail to deliver the above information timeously or should the information not negate our client's concerns about the unlawfulness of the decision to suspend the National Head, our client will have no option but to assume that there was no lawful basis for such decision, to assume that the facts in paragraph 2 are correct and to exercise its legal rights in its and the public's interest on an urgent basis.

Yours faithfully"

- [13] There was no answer to this letter, so that the applicant launched its application on 9 January, two days after the dead-line it imposed expired. I have dealt with the procedural development of the case between 15 January, when it was first enrolled, and Monday 19 January.

What could be added to this chronology, is that when the Minister filed his answering affidavit, the applicant called, in terms of rule 35(12), for the opportunity to take copies of certain documents referred to in the answering affidavit including the "IPID report", certain "witness statements", "other relevant documentation", a "report" and a "file". In an answer, the Minister refused to make these copies available claiming that the applicant was shifting the goal-posts having based its application on whether the Minister had the power to suspend the National Head in the light of the 2014 judgment. The Minister also claimed that, according to IPID, the matter was still under investigation and its report, until the investigation is completed, is confidential. On this basis, the Minister offered no evidence whatsoever to show improper involvement of Dramat in the "Zimbabwean rendition" case. Dramat himself, as the only possible role player, before this court, in the affair, expressly denies any

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involvement, as appears from his two statements, dating back to 2013, furnished to the Minister by his attorney. He repeats his denial of any liability in his 24 December letter to the Minister.

Declaratory relief sought by the applicant

[14] The relevant paragraphs of the notice of motion read as follows:

2. declaring that the decision of the Minister of Police, the Honourable Mr Nkosinathi Nhleko (the Minister), of 23 December 2014, to suspend Lt Gen Anwa Dramat, the National Head of the Directorate for Priority Crime Investigation (DPCI) (the suspension decision) is unlawful and setting aside the suspension decision;
3. declaring that the decision of the Minister to appoint Major-General Beming Ntlembeza as Acting National Head of the DPCI (the appointment decision) is unlawful and setting aside the appointment decision;
4. declaring that the Minister is not empowered to suspend the National Head of the DPCI other than in accordance with sections 17DA(3) and (4), read with section 17DA(5), of the South African Police Service Act, 1995;"

There is also a prayer for costs against whoever opposes the application.

Section 17DA and other provisions of the South African Police Service Act, 1995 ("the SAPS Act")

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- [15] The DPCI (also popularly known as "the Hawks") is a creature of the SAPS Act. It is created in terms of section 17 which constitutes Chapter 6A of the SAPS Act. More particularly, it is created by section 17C(1) which provides:

"The Directorate for Priority Crime Investigation is hereby established as a Directorate in the Service."

The "Service" means the South African Police Service established by section 5(1) of the SAPS Act.

Section 17C(2) provides that the Directorate consists of, *inter alia*, the National Head of the Directorate at national level, "who shall manage and direct the Directorate and who shall be appointed by the Minister in concurrence with Cabinet" and subsection (2)(aA) also provides for a Deputy National Head at national level.

- [16] I turn to section 17DA which goes under the heading "Removal from office of National Head of Directorate".

Before portions of this section were struck down as unconstitutional by the Constitutional Court in the 2014 judgment, and deleted from the SAPS Act with effect from the date of the order, which was 27 November 2014, it read as follows:

"(1) The National Head of the Directorate shall not be suspended or removed from office except in accordance with the provisions of subsections (2), (3) and (4).

(2) (a) The Minister may provisionally suspend the National Head of

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the Directorate from his or her office, pending an inquiry into his or her fitness to hold such office as the Minister deems fit and, subject to the provisions of this subsection, may thereupon remove him or her from office --

- (i) for misconduct;
  - (ii) on account of continued ill-health;
  - (iii) on account of incapacity to carry out his or her duties of office efficiently; or
  - (iv) on account thereof that he or she is no longer a fit and proper person to hold the office concerned.
- (b) The removal of the National Head of the Directorate, the reasons therefor and the representations of the National Head of the Directorate, if any, shall be communicated in writing to Parliament within fourteen days after such removal if Parliament is then in session or, if Parliament is not then in session, within fourteen days after the commencement of its next ensuing session.
- (c) The National Head of the Directorate provisionally suspended from office shall during the period of such suspension be entitled to such salary, allowance, privilege or benefit to which he or she is otherwise entitled, unless the Minister determines otherwise.
- (d) An inquiry referred to in this subsection --
- (i) shall perform its functions subject to the provisions of the Promotion of Administrative Justice Act, 2000

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(Act 3 of 2000), in particular to ensure procedurally fair administrative action; and

- (ii) shall be led by a judge or retired judge: provided that the Minister shall make the appointment after consultation with the Minister of Justice and Constitutional Development and the Chief Justice.
- (e) The National Head of the Directorate shall be informed of any allegations against him or her and shall be granted an opportunity to make submissions to the inquiry upon being informed of such allegations.
- (3) (a) The National Head of the Directorate may be removed from office on the ground of misconduct, incapacity or incompetence on a finding to that effect by a Committee of the National Assembly.
- (b) The adoption by the National Assembly of a resolution calling for that person's removal from office.
- (4) A resolution of the National Assembly concerning the removal from office of the National Head of the Directorate shall be adopted with the supporting vote of at least two-thirds of the members of the National Assembly.
- (5) The Minister –
- (a) may suspend the National Head of the Directorate from office at any time after the start of the proceedings of a Committee of the National Assembly for the removal of that person; and

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- (b) shall remove the National Head of the Directorate from office upon adoption by the National Assembly of the resolution calling for the National Head of the Directorate's removal.
- (6) The Minister may allow the National Head of the Directorate, at his or her request, to vacate his or her office –
- (a) on account of continued ill-health; or
- (b) for any other reason which the Minister deems sufficient.
- (7) The request in terms of subsection (6) shall be addressed to the Minister at least six calendar months prior to the date on which the National Head of the Directorate wishes to vacate his or her office, unless the Minister grants a shorter period in a specific case."  
(Emphasis added.)

[17] It is common cause that the Constitutional Court, in the 2014 judgment, dated 27 November 2014:

- (1) declared the "(2)" in section 17DA(1) inconsistent with the Constitution and therefore invalid, and deleted it from the date of the order;
- (2) declared section 17DA(2) inconsistent with the Constitution and therefore invalid, and deleted it from the date of the order.

[18] This means:

- (1) that section 17DA(1) now reads (in peremptory language):

"The National Head of the Directorate shall not be suspended or removed from office except in accordance with the provisions of subsections (3) and (4)."

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- (2) Where section 17DA(2) has now been deleted and declared unconstitutional and invalid, the Minister no longer has the power, in terms of that subsection, to provisionally suspend the National Head and, pending an inquiry, remove him or her from office for the reasons mentioned in the relevant subsection; and
- (3) the powers of the Minister to suspend or remove the National Head are now limited to the provisions of subsection (5)(a) and (b) which renders the Minister's power to suspend and/or remove the National Head subject to the prior start of the proceedings of a Committee of the National Assembly for the removal (subsection (5)(a)) and the passing of a resolution by the National Assembly calling for the removal of the National Head by a two-thirds majority (subsection (5)(b)).

[19] From the foregoing, the following remarks are also, in my view, valid:

1. The "Contemplated Provisional Suspension" notice by the Minister to Dramat of 9/10 December 2014 is invalid because it purports to base this contemplated provisional suspension on the provisions of section 17DA(2)(a)(i) and (iv) which, by then, had already been struck down as invalid and unconstitutional and deleted from the Act.
2. The remarks by the Minister in his suspension notice to Dramat of 23 December 2014 that

"The remaining provisions of the section (my note: which would include subsections (3), (4) and (5)) deal with the suspension and removal of the Head when the process for the removal has been

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initiated by Parliament. These provisions are not applicable to the current situation."

are misplaced. It fails to take into account the peremptory provisions of section 17DA(1), as it now reads and as it read when the suspension notice was given, that "the National Head of the Directorate shall not be suspended or removed from office except in accordance with the provisions of subsections (3) and (4)".

[20] It is common cause that, when the suspension and provisional suspension notices were sent to Dramat, there had not been (and still is not) a "start of the proceedings of a Committee of the National Assembly for the removal of that person" or a resolution by the National Assembly calling for the National Head to be removed, which are the only two occurrences which can trigger the powers of the Minister to suspend or remove the National Head, depending on the circumstances.

[21] In their comprehensive and able argument, counsel for the Minister offered submissions on the interpretation of the 2014 judgment and the effect thereof on the striking down of subsection (2) which are not in harmony with the remarks I have made. I will consider those submissions when dealing with the 2014 judgment.

*Helen Suzman Foundation v President of the Republic of South Africa and others; Glenister v President of the Republic of South Africa and others (CCT 07/14, CCT 09/14) [2014] ZACC 32 of 27 November 2014: "the 2014 judgment"*

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[22] As I have already indicated, the Minister contends for a different conclusion following the deletion by the Constitutional Court of section 17DA(2) to the one I attempted to advance.

[23] Correctly, the Minister says the following:

"33. The contemplated suspension in section 17DA(5) is triggered by the process that is initiated by the Committee of the National Assembly for the removal from office of the Head of the DPCI on account of misconduct, incapacity or incompetence. If the Committee of the National Assembly makes a finding against the Head of the DPCI, he/she may be removed from office by the adoption of a resolution supported by a vote of at least two-thirds of the members of the National Assembly. The procedure in section 17DA(5) for the suspension of the Head of the DPCI is triggered by the commencement of the proceedings before the Committee of the National Assembly. So, the section 17DA(5) suspension is parliamentary initiated. That is the marked difference between the procedure in the repealed section 17DA(2) and the section 17DA(5)."

[24] The Minister then goes on to submit that, despite the striking down and deletion of 17DA(2), he nevertheless retains the right of suspension and removal of the Head. He does so in the following terms:

"34. In striking down section 17DA(2) the Constitutional Court did not explicitly or implicitly say that as the Minister I cannot suspend the Head of the DPCI other than in terms of section 17DA(5). To the

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contrary, the Constitutional Court affirmed my power to suspend and my power to execute an oversight role over the Head of the DPCI. If the judgment of the Constitutional Court were to be read to imply that I cannot suspend the Head of the DPCI other than in terms of section 17DA(5) then this would invariably mean that my oversight role over the Head of the DPCI has been abrogated."

- [25] The Minister then goes on to advance the following interesting and, at first blush, attractive, argument:

"This would mean that I would play a meaningless oversight role to hold the Head of the DPCI accountable to the legislation applicable to him, but I cannot initiate an investigation upon receiving information pointing to serious allegations of misconduct against him, and I cannot initiate an inquiry to ascertain the veracity of such allegations nor to institute a disciplinary inquiry. This would mean that I can only fold my arms and be at the mercy of the parliamentary Committee should it decide to start the proceedings for the removal of the Head of the DPCI. It is also not clear how the parliamentary Committee would initiate the proceedings for the removal of the Head of the DPCI without an investigation relating to the alleged conduct."

- [26] The Minister then goes on to advance what he considers to be the correct interpretation of the judgment in the context of the Minister's powers to suspend the Head:

"36. On a proper reading of the Constitutional Court judgment, it struck down section 17DA(2) on two grounds: first that the subsection lacks

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clarity meaning that it is convoluted; second, that the words 'as the Minister deems fit' gives the Minister the discretion to suspend the Head of the DPCI without pay which invariably compromises the job security of the Head of the DPCI and insulation from political and executive interference. I fully agree with the Constitutional Court's *ratio decidendi* on this issue. The Head of the DPCI and the DPCI must be protected from executive and political interference. He or she must be independent and perform his/her duties without fear, favour or prejudice.

37. However, in finding that section 17DA(2) is inconsistent with the provisions of job security, independence and that it lacks clarity, the Court, however, made it clear that that does not mean that I do not have the power to suspend the Head of the DPCI in the context envisaged in section 17DA(2) save for the offending provisions of the subsection which I have already dealt with above."

[27] In support of his argument, the Minister relies on what was said in paragraph [85] of the 2014 judgment:

"[85] But for 'as the Minister deems fit' and the possibility of a suspension without pay and benefits provided for in subsection (2)(c), I can find no reason to attack the bases on which this subsection empowers the Minister to suspend the National Head. These are specific, objectively verifiable and acceptable grounds for suspension and removal. Suspension without pay defies the exceedingly important presumption of innocence until proven guilty or the *audi alteram partem* rule and

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unfairly undermines the National Head's ability to challenge the validity of the suspension by withholding the salary and benefits. It irrefutably presumes wrongdoing. An inquiry may then become a dishonest process of going through the motions. Presumably, the Minister's mind would already have been made up that the National Head is guilty of what she is accused of. Personal and familial suffering that could be caused by the exercise of that Draconian power also cry out against its retention. It is the employer's duty to expedite the inquiry to avoid lengthy suspensions on pay."

(I emphasised the first portion of this paragraph in the judgment because it is also emphasised by the Minister, if I understand him correctly, as the main thrust of his argument as to how to interpret the judgment.)

[28] What the Minister fails to do, is to also scrutinise the paragraphs in the 2014 judgment following upon paragraph [85]:

"[86] The only real threat to job security is the Minister's power to remove the National Head from office in terms of section 17DA(1) and (2). These provisions are not clearly set out and therefore do not provide even a modicum of clarity. The removal process is initiated through the appointment of a judge by the Minister to head an inquiry into whether the National Head should be removed from office on any of the grounds listed in section 17DA(2)(a). Based on the recommendation of that judge, the Minister may remove the Head. Thereafter the fact of the removal, the reason therefor and the

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representations of the National Head, if any, are to be conveyed to Parliament within fourteen days of the removal.

[87] Unlike section 12(6) of the NPA Act that empowers Parliament to reverse the removal of the NDPP or Deputy NDPP by the President, section 17DA(2)(b) does not say what it is that Parliament is required to do upon receipt of the information relating to the Minister's removal of the National Head. There is no provision made for Parliament's interference with that decision. This begs the question, what purpose does it then serve to inform Parliament? A proper reading of subsection (2) indicates that the Minister's removal of the National Head is, subject to whatever Court processes that may ensue, final. Parliament has no meaningful role to play but merely to note the decision. One would have thought that the requirements that Parliament be informed of the removal, be furnished with reasons for the removal and the representations by the National Head within fourteen days of removal, were intended to facilitate speedy intervention by Parliament before more, possibly unjustified, damage is done to the life of the National Head or the functionality of the DPCI. That intervention would ordinarily entail an assessment of the propriety of the finding of wrongdoing and the punishment meted out to the National Head, if correctly found guilty of wrongdoing.

[88] But, not only is the section silent on what Parliament is supposed to do, it is also silent on how it is to do whatever is supposed to be done, if any, and on the time frames within which any action is to be taken. It is similar to section 17CA(3) which requires the Minister to inform

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Parliament of the appointment of the National Head within fourteen days of the appointment, but does not say what, if any, Parliament is supposed to do with that information. Evidently it is, as in this instance, merely for noting. All these are additional pointers to the lack of clarity that pervades the SAPS Act as amended. Parliament's power to intervene, as in the case in terms of section 12(6) of the NPA Act, cannot be read into this section without the Court usurping the legislative role of Parliament. There is a yawning chasm between the subsection (2) procedure and the role of Parliament set out in subsections (3) to (6).

[89] This subsection (2) removal power is inimical to job security. It enables the Minister to exercise almost untrammelled power to axe the National Head of the anti-corruption entity. The need for job security was articulated in *Glenister II* in these terms:

'At the very least the lack of specially entrenched employment security is not calculated to instil confidence in the members of the DPCI that they can carry out their investigations vigorously and fearlessly. In our view, adequate independence requires special measures entrenching their employment security to enable them to carry out their duties vigorously.'

(My note: this is a reference to *Glenister v President of the Republic of South Africa and others* 2011 3 SA 347 (CC) at paragraph [222].)

[90] Subsections (3) to (6) provide for those special measures that entrench the employment security of the National Head. They deal

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with the suspension of the National Head by the Minister, flowing from a possible removal process initiated by a Committee of the National Assembly. Although the Minister still has the power to suspend, no provision is made for suspension without salary, allowances and privileges. A recommendation by a Committee of the National Assembly for the removal of the National Head would have to enjoy the support of at least two-thirds of the members of the National Assembly to be implemented. The removal would then be carried out by the Minister.

[91] This suspension by the Minister and removal through a Parliamentary process guarantees job security and accords with the notion of sufficient independence for the anti-corruption entity the State creates. That portion of section 17DA(1) that refers to subsection (2) and subsection (2) itself are, however, inconsistent with the constitutional obligation to establish an adequately independent corruption-busting agency. They must thus be set aside. The balance of section 17DA passes constitutional muster and would thus continue to guide the suspension and removal process of the National Head." (Emphasis added.)

[29] The Minister, in his argument, has placed a particular emphasis on the last sentence of paragraph [91] which stipulates: "The balance of section 17DA passes constitutional muster and would thus continue to guide the suspension and removal process of the National Head." The Minister argues that the use of these words "is quite telling" and then submits:

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"The choice of the words in these lines is consistent with what the Court had already found in paragraph [85] that my power to suspend the Head of the DPCI do not get abrogated by the deletion of section 17DA(2)."

The Minister appears to argue that these remaining provisions of section 17DA (including (3), (4) and (5) dealing with suspension and/or removal through the parliamentary process) can be used by the Minister for "guidance" when he exercises his still existing powers of suspension in a manner other than in terms of section 17DA(5).

Astonishingly, the Minister then says the following about the "guidance" so available to him:

"The guidance I received from the remaining provisions of section 17DA is that a suspension must be with pay and the removal if it were to be considered must be done through a parliamentary process." (Emphasis added.)

It seems to me that the Minister concedes that the "guidance" is linked to the suspension or removal through a parliamentary process. This concession, if it is one, flies in the face of the Minister's argument that "... the Court however made it clear that that does not mean that I do not have the power to suspend the Head of the DPCI in the context envisaged in section 17DA(2)..."

[30] I can find no support whatsoever for the Minister's submissions and for the interpretation which he seeks to attach to the 2014 judgment:

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1. In paragraph [91] of the 2014 judgment, it is stated unequivocally that the reference to subsection (2) in 17DA(1) as well as subsection (2) itself are inconsistent with the constitutional obligation to establish an adequately independent corruption-busting agency and must be set aside. This was done with effect from the date of the order, on 27 November 2014.
2. This means that section 17DA(1) now provides, in peremptory terms, that: the National Head of the Directorate shall not be suspended or removed from office except in accordance with the provisions of subsections (3) and (4). There is no room whatsoever for the Minister's argument that he can, somehow, still suspend the Head "in the context envisaged in section 17DA(2)".
3. It follows that the "contemplated provisional suspension" of Dramat, of 9/10 December 2014, which was expressly based on the provisions of section 17DA(2), long after this subsection was deleted by the Constitutional Court, was unlawful as it flew in the face of the 2014 judgment and section 17DA(1), and therefore void *ab initio* ("van die aanvang af nietig" -- Hiemstra and Gomin *Trilingual Legal Dictionary* 2<sup>nd</sup> ed page 144).
4. It follows that the suspension of Dramat by the notice of suspension of 23 December 2014, which incorporates, by reference, the contemplated provisional suspension, and which declares the provisions of section 17DA(3) and (4) to be "not applicable" and which, like the "contemplated provisional suspension" was written well after the deletion of the offending provisions on 27 November 2014, is also unlawful and void *ab initio* as it flies in the face of the 2014 judgment and the provisions of section 17DA(1).

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In *Pikoll v President of Republic of South Africa and others* 2010 1 SA 400 (GNP) at 408C-E the following is said:

"The purported exercise of public power that is not authorised by law is invalid from the outset. A declaration that executive action is invalid 'is merely descriptive of a pre-existing state of affairs'. In the interest of an orderly society, however, such action is treated as if it were valid until it is declared invalid. The Court that finds executive action not authorised by law, must declare it invalid."

See also sections 1(c) and 2 of the Constitution of the Republic of South Africa, 1996.

*Cora Hoexter Administrative Law in South Africa* 2<sup>nd</sup> ed p545-546.

*Fase v Minister of Safety & Security* 1997 3 SA 786 (CC) where the learned Judge, still dealing with the interim Constitution 200 of 1993, says the following at 834F:

"Section 4(1) makes unconstitutional conduct a nullity, even before Courts have pronounced it so."

At 834I, the learned Judge points out that it is not the declaration itself (that administrative or executive conduct is unconstitutional) that renders the conduct unconstitutional. The declaration is merely descriptive of a pre-existing state of affairs.

*Cora Hoexter, op cit*, also referred to by the learned Judge in *Pikoll*, puts it as follows on p545-546 where she deals with remedies in proceedings for judicial

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review (more with regard to the Promotion of Administrative Justice Act no 3 of 2000, or "PAJA", but I am of the view that the same remarks apply to other executive action not necessarily included in the definition of "administrative action" in PAJA. Indeed, in *Pikoli*, the court was confronted with executive action not included in the definition of administrative action, and involving the removal from office by the President of the National Director of Public Prosecutions):

"An administrative action or decision, no matter how blatantly illegal it may appear to be, continues to have effect until such time as it is pronounced invalid by the Court. At that point the decision not only ceases to have effect but may be treated as if it never existed. Invalidity thus operates with retrospective effect, both at common law and under the Constitution, as a consequence of constitutional supremacy and in accordance with the doctrine of objective invalidity. In administrative law 'setting aside' is a logical consequence of declaring the decision to be invalid, and is simply a way of saying that the decision no longer stands, or that it is void. It is one of the remedies provided for in section 8 of the PAJA."

(The learned author here refers to section 8(1)(c) of PAJA.) At 547, the learned author also states: "An invalid act, being a nullity, cannot be ratified, 'validated' or amended." I do not refer to all the authorities listed in the footnotes.

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Mr Mokhari, in his diligent address, and on the subject of the unlawful act being treated as valid until it is declared invalid, also referred me to the well-known case of *Oudekraal Estates (Pty) Ltd v City of Cape Town and others* 2004 6 SA 222 (SCA) where the following is said at 242B-C:

"The proper functioning of a modern State would be considerably compromised if all administrative acts could be given effect to or ignored depending upon the view the subject takes of the validity of the act in question. No doubt it is for this reason that our law has always recognised that even an unlawful administrative act is capable of producing legally valid consequences for so long as the unlawful act is not set aside."

It is clear, as I pointed out, that this principle is recognised both in *Pikoli*, and by *Cora Hoexter*. However, where the declaration of invalidity operates with retrospective effect, and has the effect of the unlawful act being treated as if it never existed, it would seem to me that all actions taken by the Minister following the unlawful suspension will be tainted and of no consequence if I were to declare the suspension to be unlawful and invalid.

- [31] As to the reference by *Cora Hoexter* to PAJA, Mr Mokhari also reminded me of the provisions of section 8 of that Act. If I understood him correctly, he argued that from the wording of paragraph 5.1 of the founding affidavit ("to review and set aside the decisions of the Minister ..."), it is plain that this is an application for review in terms of PAJA, so that the remedy sought falls under section 8(c) of that Act which reads as follows:

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It seems to me that one of the leading cases on the subject is *Fedsure Life Assurance Ltd and others v Greater Johannesburg Transitional Metropolitan Council and others* 1999 1 SA 374 (CC) where the following is said at 400D-F:

"It seems central to the conception of our constitutional order that the Legislature and Executive in every sphere are constrained by the principle that they may exercise no power and perform no function beyond that conferred upon them by law. At least in this sense, then, the principle of legality is implied within the terms of the interim Constitution. Whether the principle of the rule of law has greater content than the principle of legality is not necessary for us to decide here. We need merely hold that fundamental to the interim Constitution is a principle of legality."

In this case, I have found, that the Minister purported to exercise a power and perform a function beyond that conferred upon him by law, following the order in the 2014 judgment.

*Cora Hoexter* distinguishes between the application of the principle of legality and the PAJA route. At 122 she says:

"But legality also has a wider meaning that goes *beyond* administrative action, and this is probably the more common usage of the term today. Here it refers to a broad *constitutional* principle of legality that governs the use of *all* public power rather than the narrower realm of administrative action. This principle of legality (or 'legality and rationality') is an aspect of the rule of law, a concept implicit in the interim Constitution and the founding value of our constitutional order in terms of section 1(c) of the 1996 Constitution. The

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fundamental idea it expresses is that 'the exercise of public power is only legitimate where lawful'."

For these reasons, I am of the view that it is appropriate to attack the actions of the Minister on the strength of the principle of legality, rather than in terms of PAJA. It should also be borne in mind that the executive powers or functions of the National Executive, or some of them referred to in the definition of "administrative action" in PAJA, are excluded from the operation of that Act. One of the actions excluded from the PAJA definition is contained in the provisions of section 92(3) of the Constitution which reads:

"Members of the Cabinet must –

(a) act in accordance with the Constitution ..."

[32] I turn to the position of the third respondent.

The position of the third respondent, Major-General Bernard Ntsemeza ("the third respondent")

[33] In the founding affidavit, the applicant alleges that an Acting National Head (here purportedly the third respondent) cannot be appointed if Dramat was not lawfully suspended. The applicant argues that in the circumstances the appointment decision of the third respondent must suffer the same fate as the suspension decision of Dramat.

[34] This allegation is not dealt with in the opposing affidavit. The Minister only offers a blanket denial of everything in the founding papers inconsistent with his version in the opposing affidavit.

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[35] I have pointed out that section 17C of the SAPS Act provides for the establishment of the DPCI and provides that the Directorate will, *inter alia*, consist of a Deputy National Head at national level.

[36] The procedure involving the appointment of the Deputy National Head as Acting National Head is governed by the provisions of section 17CA(12). This subsection reads as follows:

- "(12)
- (a) Whenever the National Head of the Directorate is absent or unable to perform his or her functions, the Minister shall appoint the Deputy National Head of the Directorate as the Acting National Head of the Directorate.
  - (b) Whenever the office of the National Head of the Directorate is vacant or the National Head of the Directorate is for any reason unable to take up the appointment contemplated in subsection (1), the Minister shall appoint the Deputy National Head of the Directorate as the Acting National Head of the Directorate.
  - (c) If both the National Head of the Directorate and the Deputy National Head of the Directorate are absent the Minister shall appoint a suitably qualified and experienced person as the Acting National Head of the Directorate.

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- (d) Whenever the Deputy National Head of the Directorate is absent or unable to perform his or her functions, the National Head of the Directorate shall appoint a suitably qualified and experienced person as the Acting Deputy National Head of the Directorate.
- (e) Whenever the office of the Deputy National Head of the Directorate is vacant the Head of the Directorate shall appoint a suitably qualified person as the Acting Deputy National Head of the Directorate."

[37] In the Minister's heads of argument, it is stated that the Minister appointed the third respondent as Acting National Head in terms of subsection (12)(c). It is stated that the Minister could not appoint the Deputy National Head of the DPCI because the DPCI does not have a Deputy National Head currently. Under these circumstances, it is questionable whether the Minister complied with the provisions. Subsection (12)(e) provides that if the office of the Deputy National Head is vacant (like here) the Head of the Directorate shall appoint a suitably qualified person as the Acting Deputy National Head, and not the Minister. It is also questionable whether subsection (12)(c) was applicable because that foreshadows a situation where both the National Head and the Deputy National Head "are absent". It may be arguable that such a state of affairs does not apply to the present circumstances. Nevertheless, I make no formal pronouncement on this, as the issue was not pressed before me.

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[38] In prayer 3 of the notice of motion, the applicant seeks declaratory relief to the effect that the appointment of the third respondent by the Minister as Acting National Head of the DPCI is unlawful and also for the setting aside of that appointment decision.

[39] It was argued on behalf of the Minister that the relief sought in prayer 3 would not necessarily follow even if prayer 2 was granted. The relief sought in prayer 2 is a declaration that the decision of the Minister to suspend Dramat as the National Head is unlawful and the setting aside of that suspension decision is also sought.

It was argued on behalf of the Minister that the granting of prayer 3, following upon the granting of prayer 2, will only be a foregone conclusion if further relief is granted to the applicant to the effect that Dramat should be reinstated in his position, something not expressly requested in the notice of motion.

In this regard, I was referred by Mr Mokhari to the case of *Transnet Ltd and others v Chirwa* 2007 2 SA 198 (SCA) where it is stated that the process by which the employee was dismissed was tainted through bias, and was correctly set aside in terms of section 6(2)(a)(iii) of PAJA. It was held that where the learned Judge *a quo*, having set aside the dismissal by the employer, also granted retrospective reinstatement, he was wrong in taking the latter step. It was held that in administrative law the subject is usually entitled only to have the decision at issue set aside and the matter remitted for a fresh decision. It is on this basis, if I understood the argument correctly, that it was argued that reinstatement of Dramat will not follow, even upon granting of the relief in prayer 2 namely a declarator to the effect that the suspension was invalid and unlawful. It was further argued that, even upon the granting of prayer 2, and the

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setting aside of the suspension of Dramat as unlawful, the Minister is still obliged "in the absence of the reinstatement of Dramat" to ensure that the DPCI has a National Head, which the Minister did by appointing the third respondent in compliance with section 17CA(12)(c).

In his replying address, Mr Unterhalter confirmed that reinstatement of Dramat was not specifically sought and need not be granted in those terms. He argued, correctly, that this was not a PAJA application, as I have already pointed out so that the *dicta* in *Chirwa* and, for that matter, the provisions of the Labour Relations Act are not applicable. This is not a case of Dramat approaching the court as an aggrieved employee. The applicant is not acting on behalf of Dramat but as a non-governmental organisation with the objective, *inter alia*, to defend the values that underpin our liberal constitutional democracy and to promote respect for human rights. He pointed out that the applicant approaches the court, firstly, in its own interest. It is an organisation that is primarily concerned with the principles of democracy and constitutionalism, as well as the rule of law. These are all implicated by the unlawful decisions of the Minister to suspend Dramat and to appoint the third respondent. It was argued that, in addition to his unlawful actions, the Minister has failed in his constitutional duty to protect the independence of the DPCI and uphold the rule of law in South Africa. It was argued, secondly, that the applicant also approaches the court in the public interest. All South Africans have an interest in the rule of law, the requirements for a properly functioning constitutional democracy and, in particular, that urgent steps be taken to root out corruption. Counsel confirmed, correctly in my view, that this is a challenge based on the principle of legality, and not a PAJA application.

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[40] I return briefly to the argument raised in the founding papers (not specifically challenged in the opposing affidavit) that the third respondent cannot be appointed if Dramat was not lawfully suspended and that the appointment decision of the third respondent must suffer the same fate as the suspension decision of Dramat.

In *Seale v Van Rooyen NO and others, Provincial Government, North West Province v Van Rooyen NO and others* 2008 4 SA 43 (SCA) the following is said at 50C-D:

"I think it is clear from *Oudekraal*, and it must in my view follow, that if the first act is set aside, a second act that depends for its validity on the first act must be invalid as the legal foundation for its performance was non-existent."

In commenting on this decision, *Cora Hoexter*, at 549-550, says, after quoting the relevant passage from *Seale*:

"In other words, as *Oudekraal* itself makes clear, the factual existence of an act is capable of supporting subsequent acts only as long as the first act is not set aside. In this instance a decision to grant a servitude had indeed been set aside, and the subsequent registration of the servitude was therefore of no force and effect."

[41] In the circumstances, I have concluded that the position is as follows, and I find accordingly:

1. the purported suspension of Dramat was not authorised by law, unconstitutional and invalid from the outset – *Pikoli* at 408C-D;

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2. the appointment of the third respondent as Acting National Head depends for its validity on the suspension of Dramat and is, consequently, invalid as the legal foundation for such an appointment was non-existent – *Seale* at 50C-D;
3. where the suspension of Dramat was invalid and a nullity from the outset, he was, in law, never suspended, so that there is no basis for ordering his reinstatement;
4. where the appointment of the third respondent as Acting National Head depended for its validity on the suspension of Dramat, which was invalid and a nullity, the appointment of the third respondent is also invalid as the legal foundation therefor was non-existent. Such appointment, therefore, also falls to be declared invalid, and, inasmuch as it may be necessary, set aside.

Other legislation and provisions relied upon by the Minister in support of his decision to suspend Dramat

[42] In the face of the striking down and deletion by the Constitutional Court of section 17DA(2) of the SAPS Act, which the Minister argues, as I have illustrated, did not deprive him of his powers to suspend and remove Dramat, the Minister also, in the purported suspension notice of 23 December 2014, suggested that he is empowered to suspend Dramat by the provisions of the Public Service Act, Proclamation no 103 of 1994, and the so-called *SMS Handbook*, and more particularly chapter 7 thereof.

[43] In section 1 of the Public Service Act ("the PSA") "member of the services" is defined as meaning a member of –

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- (b) the South African Police Service appointed, or deemed to have been appointed, in terms of the South African Police Service Act, 1995 (Act 68 of 1995); or
- (c) ..."

Section 2(2) of the PSA provides:

"(2) Where members of the services, educators or members of the Intelligence Services are not excluded from the provisions of this Act, those provisions shall, subject to subsection (2A), apply only in so far as they are not contrary to the laws governing their employment."

(Emphasis added.)

The provisions in subsection (2A) are not applicable for present purposes.

[44] As already pointed out, chapter 6A of the SAPS Act (containing sections 17A to 17L) deals with the DPCI, which is also established in terms of section 17C(1). It also, in section 17CA contains detailed provisions relating to the appointment, remuneration and conditions of service of those comprising the DPCI. I have quoted, at some length, from some of the provisions of the SAPS Act. In short, the provisions of the SAPS Act fully govern the employment of members of the DPCI. This includes 17DA dealing with the removal from office of the National Head of the Directorate. Consequently, any conditions or provisions in the PSA, not in harmony with what is enacted in the SAPS Act, will not apply to Dramat. The argument of the Minister, in this regard, can therefore not be upheld.

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[45] It was pointed out by counsel for the applicant, correctly in my view, that the *Senior Management Service Handbook*, published in 2003 ("*SMS Handbook*") is delegated legislation under the PSA and would therefore also not be applicable to the suspension and/or removal of the Head of the DPCI as this is governed, as pointed out, by section 17DA of the SAPS Act.

[46] In any event, if one has regard to chapter 7 of the *SMS Handbook*, on which the Minister relies, the provisions of paragraph 2.3 thereof under the heading "Scope of application" read as follows:

- "(1) This Code and Procedure applies to the employer and all members. It does not, however, apply to the employer and members covered by a disciplinary Code and Procedure –
- (a) ...
  - (b) contained in legislation or regulations."

The disciplinary procedure in the present case, specifically the suspension and/or removal of the National Head of the DPCI, is covered by the SASP Act so that chapter 7 of the *SMS Handbook* does not apply to Dramat.

It was also argued on behalf of the applicant that the *SMS Handbook* merely confirms that which the SAPS Act makes abundantly clear. Section 17DA(1) of the SAPS Act unambiguously provides, as already mentioned, that the Head of the DPCI shall not be suspended or removed from office except in accordance with the provisions of subsection (3) and (4). Peremptory language in a statute must, in the absence of strong indications to the contrary, be interpreted as compulsory and not merely

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directory. Not only are there no such contrary indications, but all the indications are that it should be interpreted to exclude any other mechanisms for suspension. It follows that the Minister's attempted reliance on any other legislation to justify his actions is misplaced.

Other arguments offered on behalf of the Minister

[47] I have dealt with most of the arguments presented on behalf of the Minister.

[48] An argument advanced on behalf of the Minister, which I have not yet mentioned, was raised for the first time during the proceedings before me. It has to do with a compromise or *transactio*.

In short, it has to do with Dramat's letter to the Minister of 24 December 2014, extracts of which I have quoted. The argument seems to be based on Dramat's utterance that he is willing to submit a request to vacate his office by applying for approval of early retirement but subject to the precondition that the unlawful precautionary suspension be uplifted without Dramat having to approach the court to do so.

[49] The argument, if I understood it correctly, appears to be that these utterances by Dramat constitute a compromise or an agreement not to litigate so that the applicant is debarred from proceeding with this application.

[50] I was referred to the case of *Gollach and Gomperts (1967) (Pty) Ltd v Universal Mills and Produce Co (Pty) Ltd and others* 1978 1 SA 914 (A). In the judgment it was

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stated, at 921B-C that a *transactio* is an agreement between litigants for the settlement of a matter in dispute and the purpose thereof is not only to put an end to existing litigation but also to prevent or avoid litigation.

Inasmuch as such a *transactio* may have been binding on the applicant, which it clearly is not, there is no evidence whatsoever of such an agreement having been entered into between the Minister and Dramat. Indeed, in his opposing affidavit, dated 14 January 2015, the Minister says that he is in the process of arranging a meeting with Dramat.

[51] In any event, as Mr Unterhalter correctly argued, no agreement between Dramat and the Minister, if there were to be one, can act as a bar to the applicant proceeding with the present application. The applicant, as stated, litigates in its own interest and in the public interest in an effort to uphold the principles of democracy and constitutionalism, as well as the rule of law. The application is aimed at attacking the constitutionality and validity of the Minister's actions.

[52] In the circumstances, I see no merit in the Minister's argument based on the alleged compromise or *transactio*.

The applicant's locus standi/standing to launch this application

[53] In the opposing affidavit, the Minister argues that this relief is sought by the applicant "on behalf of the second respondent" in circumstances where the second respondent has not authorised the applicant to bring the application on his behalf neither has he filed an affidavit supporting the application. It is argued that the applicant has no right

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in law to bring an application on behalf of the second respondent for his reinstatement or the upliftment of his suspension when there is no evidence in the founding papers to the effect that the second respondent seeks to challenge the suspension in court. It is argued that the applicant seeks to be the guardian of the second respondent when the latter has the ability and capacity to act on his own behalf and to bring an application himself, if he so wishes.

[54] The applicant's assertion that it brings the application in the public interest is, so the Minister submits, a red herring because the applicant cannot act in the public interest when the aggrieved party is present and available to act on his own. It is argued that the applicant cannot rely on the provisions of section 38 of the Constitution to establish the necessary *locus standi* to launch this application. The applicant is required, so the argument goes, to demonstrate in the founding papers that Dramat is unable to act on his own and for that reason it was in the public interest that the applicant should so act. Consequently, the applicant does not have the necessary legal standing to bring this application.

[55] In response to this argument, it was pointed out on behalf of the applicant that the latter does not contend that it seeks relief "on behalf of the second respondent". This is not a requirement under the law on own-interest standing. Nor is it a requirement that the applicant must demonstrate that Dramat "supports the application". It is irrelevant whether Dramat is "present and available to act on his own". This fact is irrelevant to the objective legal question as to whether or not the Minister acted in accordance with the law in his attempts to remove Dramat from office.

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[56] Counsel for the applicant pointed out that their client relies on own-interest and public interest standing, *inter alia* as provided for in sections 38(a) and (d) of the Constitution.

Section 38 reads as follows:

"38. **Enforcement of rights.** - Anyone listed in this section has the right to approach a competent court, alleging that a right in the Bill of Rights has been infringed or threatened, and the court may grant appropriate relief, including a declaration of rights. The persons who may approach a court are –

- (a) anyone acting in their own interest;
- (b) anyone acting on behalf of another person who cannot act in their own name;
- (c) anyone acting as a member of, or in the interest of, a group or class of persons;
- (d) anyone acting in the public interest, and
- (e) an association acting in the interest of its members."

(Emphasis added.)

[57] I was reminded by counsel for the applicant that their client brings this application, firstly, in its own interest. It was submitted that it is trite that our law accords generous rules for standing which permit applicants to seek relief either on their own behalf or on behalf of others. It is also trite, so it was submitted, that constitutional standing is broader than traditional common law standing. See *Giant Concerts CC v Renaldo Investments (Pty) Ltd and others* 2013(3) BCLR 251 (CC).

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It was further argued that even if the applicant's own interest standing is questionable (which the applicant denies) this may not prohibit a court from hearing the matter, if the interests of justice so demand. CAMERON J said in *Giant Concerts*,

"There may be cases where the interests of justice or the public interest might compel a court to scrutinise action even if the applicant's standing is questionable. When public interest cries out for relief, an applicant should not fail merely for acting in his or her own interest."

[58] Counsel submitted that the applicant has sufficiently demonstrated that as an organisation which is primarily concerned with the principles of democracy and constitutionalism, as well as the rule of law, its rights and interests are affected by the unlawful decisions of the Minister to suspend Dramat and to appoint the third respondent. This is a matter of such grave importance that it is undoubtedly in the interest of justice for the applicant to invoke section 38(a) of the Constitution. This is particularly so in the context of the applicant's involvement in ensuring that the DPCI is properly insulated from political interference and safeguarding the DPCI's independence, through its interventions as an *amicus curiae* in *Glenister II* and as an applicant in the 2014 judgment. In neither of those cases the *locus standi* of the applicant was attacked. It is difficult to see how an objection to the *locus standi* can be upheld in this particular matter under these circumstances. After all, the present matter flows from the 2014 judgment for reasons which have already been explained.

[59] As to public interest standing, which also involves the 2014 judgment, section 38(d) of the Constitution allows a party to bring constitutional challenges "in the public

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interest". It has been held repeatedly that the court should adopt a "generous" or "broad" approach to standing in these matters. CAMERON J held in *Beukes v Krugersdorp Transitional Local Council* 1996 3 SA 467 (W) at 474 that such a generous approach is not limited to the Constitutional Court, but should be adopted by "all courts that are called upon to adjudicate constitutional claims" and the generous nature of the test applies both in respect of who qualifies as having standing and how that standing may be evidenced.

[60] It was also argued that the conduct or views of Dramat do not in any way affect the public interest in upholding the rule of law and dealing with blatantly unlawful acts by the National Executive in respect of a key public institution. In any event, so it was further argued, it is clear from Dramat's letter of 24 December 2014 that the offer (of taking early retirement) was made under duress and because Dramat is disillusioned with the Minister's inability to act lawfully and with attempts to subvert his office and authority.

[61] In all the circumstances, I am satisfied that the applicant has made out a proper case for legal standing and that the attack on the applicant's standing is ill-founded. I add, for the sake of clarity, that I was specifically informed by counsel for the Minister during the proceedings that the issue of standing was not raised as a point *in limine* for immediate decision but that it had to be decided as part of the main judgment.

#### Conclusions

[62]. I have already set out my conclusions, particularly when dealing with the position of the third respondent and other subjects.

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[63] For the reasons mentioned, and because of my finding of unlawful conduct and unconstitutional conduct on the part of the Minister, I am satisfied that a proper case was made out for the relief sought.

Costs

[64] The costs should follow the result in the normal manner. The costs should also include the costs of two counsel.

[65] Counsel on both sides were in agreement before me that the costs flowing from the proceedings of 15 January 2015 should be costs in the application.

The order

[66] I make the following order:

1. It is declared that the decision of the first respondent (the Minister of Police) of 23 December 2014 to suspend Lieutenant General Anwa Dramat, the National Head of the Directorate for Priority Crime Investigation ("the DPCI") is unlawful and invalid and the decision is set aside.
2. It is declared that the decision of the Minister to appoint Major-General Berning Ntsemeza as Acting National Head of the DPCI is unlawful and invalid and the decision is set aside.
3. It is declared that the Minister is not empowered to suspend the National Head of the DPCI other than in accordance with sections 17DA(3) and (4), read with section 17DA(5), of the South African Police Service Act, 1995.

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4. The Minister is ordered to pay the costs of the applicant, which will include the costs of the proceedings of 15 January 2015 and the costs of two counsel.



W R C PRINSLOO  
JUDGE OF THE GAUTENG DIVISION, PRETORIA

1054/2015

HEARD ON: 15 & 19 JANUARY 2015  
FOR THE APPLICANT: D UNTERHALTER SC ASSISTED BY M DU PLESSIS  
INSTRUCTED BY: WEBBER WENTZEL  
FOR THE 1ST RESPONDENT: W MOKHARI SC ASSISTED BY M<sup>rs</sup> T SEBOKO  
INSTRUCTED BY: HOGAN LOVELLS (SOUTH AFRICA) INC AS ROUTLEDGE  
MODISE INC

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

**CASE NO: 1054/2015**

In the application for leave to appeal between:

<b>THE MINISTER OF POLICE</b>	1 <sup>ST</sup> Applicant
<b>MAJOR-GENERAL BERNING NTLEMEZA</b>	2 <sup>ND</sup> Applicant

and

<b>THE HELEN SUZMAN FOUNDATION</b>	1 <sup>ST</sup> Respondent (Applicant in the Court a quo)
<b>LIEUTENANT GENERAL ANWA DRAMAT</b>	2 <sup>ND</sup> Respondent (2 <sup>ND</sup> Respondent in the Court a quo)

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**NOTICE OF APPLICATION FOR LEAVE TO APPEAL**

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**KINDLY TAKE NOTICE THAT** the applicants in the application for leave to appeal lodge an application for leave to appeal against the whole of the judgment and orders made by Honourable Justice Prinsloo J on 23 January 2015 a copy of which is annexed marked "A".

1. The Honourable Justice Prinsloo ("the Court a quo") has made the following orders on pages 52 and 53 of the judgment:

**\*66. I make the following order:**

1. *It is declared that the decision of the first respondent ("The Minister of Police") of 23 December 2014 to suspend Lieutenant General Anwa Dramat, the National Head of the Directorate for Priority Crime*

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*Investigation ("the DPCI") is unlawful and invalid and the decision is set aside.*

2. *It is declared that the decision of the Minister to appoint Major-General Berning Ntsemeza as Acting National Head of the DPCI is unlawful and invalid.*
3. *It is declared that the Minister is not empowered to suspend the National Head of the DPCI other than in accordance with section 17DA(3) and (4), read with section 17DA(5), of the South African Police Service Act, 1995.*
4. *The Minister is ordered to pay the costs of the applicant, which will include the costs of the proceedings of 15 January 2015 and the costs of two counsel."*

2. The two principal issues for determination by the Court a quo were:

- 2.1 whether the applicant had locus standi to launch the application for review and the setting aside of the decision of the first respondent ("the Minister");
- 2.2 whether the Minister had the power to suspend the second respondent ("Lieutenant General Dramat").

#### GROUND OF APPEAL

3. The finding of fact and/or ruling of law appealed against and the grounds upon which the appeal is founded are set out below.
4. In finding that the first respondent ("applicant in the Court a quo") had locus standi to bring the application the effect of which was to reinstate Dramat, the Court a quo erred in law.

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4.1 Dramat did not bring an application before this Honourable Court or any other Court for an order setting aside the decision of the Minister to place him on precautionary suspension.

4.2 Dramat was cited as the second respondent in the application by the first respondent and simply filed a notice to abide.

4.3 Dramat did not file an affidavit in support of the application.

5. The first respondent has not made out a case that in law it is entitled to act in its own interest and in the public interest in respect of a decision taken by an administrative functionary which directly affects an individual who is capable of acting on his own.

#### **THE MINISTER'S POWER TO SUSPEND**

6. The Court a quo has found that the Minister does not have the power to suspend the Head of the DPCI except in terms of section 17DA(3) and (4) read with section 17DA(5) of the South African Police Service Act 1995.

7. The Court a quo found that the deletion of section 17DA(2) from Chapter 6A of the South African Police Service Act, 1995 has left the Minister with no power to suspend other than in terms of section 17DA(3) and (4), read with subsection (5) because the provisions of section 17DA(1) are peremptory.

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8. The Court a quo erred in finding that the Minister has no power to suspend the Head of the DPCI other than as contemplated in sections 17DA(3) and (4) read with section 17DA(5) of the South African Police Services Act, 1995.
9. The Court a quo erred in finding that the provisions of section 17DA(1) are peremptory despite that the Court has found in paragraph 85 of its judgment that the Minister's powers to suspend the Head of the DPCI as contemplated in section 17DA(2) cannot be faltered save for the offending portions of subsection (2) which gave the Minister untrammelled powers from the words "as the Minister deems fit" and the possibility of the suspension of the Head of the DPCI by the Minister without pay.
10. The Court a quo ought to have found that the order of the Constitutional Court in which it struck down section 17DA(2) and deleted it from the South African Police Services Act, must be read together with the reasons that the Constitutional Court gave for making such an order.
11. The Court a quo ought to have found that the order of the Constitutional Court in striking down section 17DA(2) must be read with the reasons given by the Constitutional Court in the majority judgment in paragraph 91 when it said that the remainder of section 17DA will continue to guide suspension of the Head of the DPCI, which must be read to mean that the provisions of section 17DA(1) must not be read to be peremptory to the extent that the Minister's power to suspend the Head of the DPCI have been abrogated and that no suspension of the Head of the DPCI could take place other than as contemplated in subsection (5) of the South African Police Service Act.

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**THE SETTING ASIDE OF THE DECISION TO SUSPEND**

12. The Court a quo has found that in setting aside the decision to suspend it was not necessary to make an order of reinstatement of Dramat because the declaration of the invalidity of the decision of the Minister is *ab initio* and it is as if Dramat had not been suspended.
13. The setting aside of the decision and the declaration of the invalidity of the decision of an organ of State or an executive does not operate retrospectively unless the Court stipulates that it operates with retrospective effect.
14. In making the order of invalidity, the Court a quo failed to deal with an appropriate remedy given that:
- 14.1 Dramat had been on suspension since 23 December 2014;
- 14.2 An Acting Head of DPCI ("second applicant") has been performing the functions and duties of the Head of the DPCI since his appointment immediately after the suspension of Dramat;
- 14.3 No order was sought by the first respondent that decisions made by the Acting Head of the DPCI must be declared null and void;
- 14.4 In law, the decisions made by the Acting DPCI as an administrative functionary, are valid and lawful unless set aside by the Court;

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14.5 the failure by the Court a quo to pronounce itself on the status of the decisions that were made by the Acting Head of DPCI since his appointment on or about 25 December 2014 is a misdirection;

14.6 the Court a quo ought to have pronounced itself on the validity or otherwise of the decisions made by the Acting Head of DPCI during the period of suspension of Dramat and before the Court a quo declared the Minister's decision to suspend invalid and unlawful.

**THE SETTING ASIDE OF THE APPOINTMENT OF MAJOR-GENERAL NTFLEMEZA**

15. The Court a quo set aside the appointment of Major-General Ntlemeza as Acting Head of DPCI on the grounds that once the decision to suspend Dramat was found to be unlawful *ab initio* it follows that the decision to appoint Major-General Ntlemeza is also unlawful.
16. The Court a quo erred in setting aside the appointment of Ntlemeza on this basis.
17. The Minister is required to appoint an Acting Head of DPCI when the Head of DPCI is absent or unable to fulfil his functions.
18. Ntlemeza was appointed by the Minister with the Minister exercising his powers in terms of section 17CA(12) of the South African Police Services Act. This subsection states that:

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**"(12)(a) Whenever the National Head of the Directorate is absent or unable to perform his or her functions, the Minister shall appoint the Deputy National Head of the Directorate as the Acting National Head of the Directorate.**

**(b) Whenever the office of the National Head of the Directorate is vacant, or the National Head of the Directorate is for any reason unable to take up the appointment contemplated in subsection (1), the Minister shall appoint the Deputy National Head of the Directorate as the Acting National head of the Directorate."**

19. It is common cause that upon the suspension of Dramat, Dramat could not perform his functions and could not report for duty and his absence or inability to perform his functions, oblige the Minister in terms of section 17CA(12)(a) to appoint an Acting Head of DPCI.

20. The effect of section 17CA(12)(a) is that the declaration of the invalidity of the suspension of Dramat by the Minister does not necessarily lead to the declaration of the invalidity of the appointment of the Acting Head of the DPCI.

21. The Court a quo erred in setting aside the appointment of Ntlemeza as Acting Head of DPCI.

#### APPROPRIATE REMEDY

22. The Court a quo erred in failing to deal with the appropriate remedy.

23. In an application for review, in setting aside the decision of an organ of State or a functionary, the Court is enjoined to make an appropriate remedy.

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24. The Court a quo ought to have found that:

24.1 the declaration of the invalidity of the suspension of Dramat does not invariably result in his reinstatement. The Court did not pronounce itself on whether in terms of this Court order Dramat is entitled to return to work;

24.2 the declaration of the invalidity of the suspension of Dramat does not operate retrospectively;

24.3 the decisions taken by the Acting Head of DPCI in the absence of Dramat, are lawful decisions and therefore valid;

24.4 the declaration of the invalidity of the suspension of Dramat only operate from the date of the order.

**TAKE NOTICE FURTHER THAT** the applicants seek leave of this Honourable Court to appeal against the whole of the judgment and orders of this Honourable Court and that such leave be granted to the Supreme Court of Appeal ("SCA") on the grounds that:

(a) there are reasonable prospects of success in that the SCA may come to a different conclusion other than the one arrived at by the Court a quo;

(b) the matter raises important and complex legal issues which require clarification by the SCA;

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- (c) the effect of the declaration of the invalidity of the decision of a functionary on decisions made prior to the declaration of the invalidity;
- (d) the constitutional issues that arise from this matter and the interpretation accorded to these constitutional issues by the Court a quo in its judgment.

WHEREFORE may the following order be made:

1. leave to appeal be granted to the SCA;
2. the costs be costs in the appeal.

DATED AT SANDTON ON THIS THE 23<sup>RD</sup> DAY OF JANUARY 2015.

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**as Routledge Modise Inc**  
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TO:  
THE REGISTRAR OF THE ABOVE  
HONOURABLE COURT  
PRETORIA

AND TO:  
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Received copy hereof this  
the \_\_\_\_\_ day of JANUARY 2015.

\_\_\_\_\_  
for: First Respondent's Attorneys

AND TO:  
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*Service by Email*

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MINISTRY OF POLICE  
REPUBLIC OF SOUTH AFRICA

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TO : Lt General Anwar Dramat  
: National Head of the Directorate for Priority Crime Investigation: Republic  
Of South Africa

FROM : The Minister of Police

DATE : 9 December 2014

File Ref : 1/12/2014

Re : Contemplated Provisional Suspension of the National Head of the  
Directorate for Priority Crime Investigation Lt General Dramat in  
Terms of Section 17 DA 2 (a) (i) and (iv) of the South African Police  
Service Act 66 of 1995, SAPS Act.

SUBJECT : Rendition of Zimbabwean Nationals in 2010/2011

This serves to advise your good-self that the Minister of Police is considering placing you on provisional suspension in terms of section 17 DA (2)(a)(i) and (iv) of the SAPS Act on the following grounds:-

The following Zimbabwean nationals were renditioned and/or illegally deported by the Directorate for Priority Crime Investigation in 2010 and 2011 following a joint operation with Zimbabwean police.

- i. Shepard Chuma
- ii. Maqhawe Sibanda
- iii. Nelson Ndlovu

Handwritten initials/signature

- iv. Witness Ndeya
- v. Prichard Chuma
- vi. Johnson Nyoni
- vii. Gudi Dube
- viii. Bongani Moyo

The Zimbabwean nationals in roman figures (i) to (vii) were allegedly fugitives for a crime of murder and robbery committed in Zimbabwe. They were renditioned from South Africa to Zimbabwe; it is further alleged that, two of them were eventually killed by Zimbabwean police. The Zimbabwean national in roman figure (viii) was renditioned from Zimbabwe to South Africa, after his escape from custody in South Africa.


The exchange of criminal suspects between the two law enforcement agencies was allegedly not done in terms of Southern African Development Community's Protocol on Extradition; South Africa's Extradition Act 67 of 1962, as well as national legislation on mutual legal assistance in criminal matters.

According to the Hansard record of parliament of the 13<sup>th</sup> December 2011, your reply dated 25<sup>th</sup> November 2011, you supposedly responded to a parliamentary question on these acts of renditions, wherein you supposedly misled the Minister and Parliament by stating that it was the Department of Home Affairs who deported the Zimbabwean nationals; well knowing that the Zimbabwean nationals were wanted for criminal offences in Zimbabwe and had been illegally deported by Directorate for Priority Crime Investigation (DPCI).

There is suggestive evidence at my disposal that the Zimbabwean nationals were wanted in Zimbabwe in connection with the murder of a police colonel, in KwaBulawayo. Therefore, in such an instance, mutual legal assistance on criminal matters and extradition procedures should have been instituted.

Evidence at my disposal, suggest that you probably sanctioned the entry of Zimbabwean police to South Africa and further sanctioned a joint operation between Directorate for Priority Crime Investigation (DPCI) and Zimbabwean police to trace the fugitives.

Furthermore, there is suggestive evidence that the South African Department of Home Affairs and the Zimbabwean Embassy were not involved in the illegal deportation of the Zimbabwean nationals.

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Attorneys, Notaries and Conveyancers  
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OUR REF: JFR/MAT11144/fwd  
YOUR REF: 1/12/2014

December 12, 2014

The Minister of Police  
Wachthuis  
PRETORIA

Honourable Minister

[amellamonaheg@saps.gov.za](mailto:amellamonaheg@saps.gov.za)

cc: The State Attorney Cape Town

[lgava@justice.gov.za](mailto:lgava@justice.gov.za)

cc: The State Attorney Pretoria

[BMinnaer@justice.gov.za](mailto:BMinnaer@justice.gov.za)

**CONTEMPLATED IRREGULAR AND UNLAWFUL PROVISIONAL SUSPENSION OF THE NATIONAL HEAD OF THE DIRECTORATE FOR PRIORITY CRIME INVESTIGATION**

1. We are the attorneys of record for Lt-Genl A Dramat since September 2013 in the matter surrounding the so-called "Zimbabwe Rendition". Correspondence was exchanged between this office, the State Attorney Pretoria, the National Commissioner and IPID regarding this matter.
2. We refer herewith specifically to the Notice of Contemplated Suspension handed by you to Lt-Gen Dramat on 10 December 2014 with your file reference 1/12/2014. You instructed Lt-Gen Dramat to furnish reasons to you within 5 days as to why you should not provisionally suspend him pending an internal investigation.

DIRECTOR: JOHN FRED RILEY, B.JURIS, LLB  
ASSOCIATES: STEVEN BARKER, B.PROC | DENNIS BURT CAVERNELLE, BA, LL.M | TRACEY-LEE JAMES, BA, LL.B | RUKIA ALLIE DA COSTA, B.COM, LL.B  
CONSULTANT: SAGEER PANSARI, BA, LL.B

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- 3. It is evident from the notice that you are exercising powers in terms of section 17DA(2)(a)(i) and (iv) of the SAPS Amendment Act. On 27 November 2014 the Constitutional Court confirmed in Helen Suzman Foundation / President of the Republic of South Africa (Case No. CCT 07/14) and in Hugh Glenister / President of the Republic of South Africa (Case No. CCT 09/14) that the "(2)" in section 17DA(1) and the whole of section 17DA(2) were invalid and unconstitutional and further, that these sections should be deleted from the Act from the date of the Constitutional Court's order. The purpose of the constitutional litigation in Suzman and Glenister was to ensure that the DPCI is adequately independent both structurally and to have operational autonomy. The main thrust was to forbid improper interference by the Minister and the National Commissioner with the Head and members of the DPCI in the exercise or performance of their powers, duties and functions.
  
- 4. You as the honourable Minister of Police were cited as the second respondent in the Constitutional Court and in the preceding hearing of the matter in the Western Cape Division of the High Court. You were fully represented by three advocates in both courts and we therefore find it alarming and surprising that you are unaware of both judgments and orders of constitutional invalidity of the above impugned sections. You would therefore be in contempt of the Constitutional Court, should you proceed with the contemplated provisional suspension of Lt-Gen Dramat. Clearly your advisors should from time to time look at the law and recent Constitutional Court judgments against you.
  
- 5. It is alleged in the Notice of Contemplated Suspension that Lt-Gen Dramat *"misled the Minister and Parliament by stating that it was the Department of Home Affairs who reported the Zimbabwean nationals; well knowing that the Zimbabwean nationals were wanted for criminal offences in Zimbabwe and had been illegally deported by the Directorate for Priority Crime Investigation (DPCI)."* You further stated in the notice that *"evidence at my disposal, suggest that you probably sanctioned the entry of Zimbabwean police to South Africa and further sanctioned a joint operation between the Directorate for Priority Crime Investigation (DPCI) and Zimbabwean police to trace the fugitives."*
  
- 6. Lt-Gen Dramat dealt with the above allegations in a comprehensive statement dated 23 October 2013 (annexure A). What has alarmed us in the above so-called IPID investigation is that it has already come to the attention of Lt-Gen Dramat that certain witnesses had been told that unless they incriminate Dramat, they would be of no value to the investigator. It was further submitted in the statement that the DPCI was at the time (and still is) tasked and seized with very sensitive and high profile investigations and that the timing of the then IPID investigation and the current contemplated suspension is clearly a *"smear campaign"* to derail any investigations or arrests that the DPCI is in the process of conducting. For obvious reasons we shall not list the details of the sensitive matters or the identity of the high profile individuals.

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7. IPID sent an undated letter to Lt-Gen Dramat which contained the same allegations as referred to in your Notice of Contemplated Suspension. Lt-Gen Dramat was required to answer certain questions regarding the "rendition" of the Zimbabwean nationals. These questions were answered with our assistance in a statement dated 11 November 2013 (annexure B). It was specifically pointed out that Lt-Gen Dramat never authorised or sanctioned co-operation or kidnapping of any of the Zimbabwean nationals referred to in the IPID correspondence. It was further pointed out that Lt-Gen Dramat unequivocally denied any knowledge of any action whatsoever that he authorised or participated in which was aimed to defeat the due administration of justice. It was emphasised that the fraud and theft allegations were equally vague and spurious and that Lt-Gen Dramat could not and still cannot disprove allegations that do not factually exist. Surprisingly the Notice of Contemplated Suspension takes the matter far beyond the allegations made by IPID – i.e. that Lt-Gen Dramat undermined the legislative authority of the Minister of Justice and the judiciary, and that he is allegedly an accomplice and co-perpetrator on torture, murder and renditions. These are, of course, very serious allegations and Lt-Gen Dramat therefore reserves his rights in this regard.
8. We reiterate our request which was contained in paragraph 28 of annexure A and paragraph 32 of annexure B that, as a matter of urgency, we should be furnished with all the relevant affidavits that contain facts to support the above very serious allegations and not be presented only with those spurious allegations in the IPID letter which were clearly cut and pasted into your Notice of Contemplated Suspension. It goes without saying that neither IPID nor the National Commissioner or the NDPP complied with the request to furnish concrete evidence to Lt-Gen Dramat since our request more than a year ago. Lt-Gen Dramat proffered his full co-operation with a *bona fide* investigation if such an investigation exists. It is, however, impossible to do so without having any statements implicating him. Kindly advise specifically if you have seen this correspondence personally.
9. It came to the attention of Lt-Gen Dramat that the powers to be are fervently seeking to obtain a warrant of arrest. We again reiterate what has been said in paragraph 25 of annexure A and paragraph 5 of annexure B, – that is that we rely on the NDPP to appoint a senior advocate who has no vested interest in the outcome of the decision to charge Lt-Gen Dramat if sufficient grounds exist to do so. It was further pointed out that if IPID were to approach any presiding officer, Magistrate or Judge in order to apply for any warrant of arrest, that all the correspondence to date, including the previous statements of Lt-Gen Dramat be annexed to any such application.
10. There is absolutely no reason to arrest Lt-Gen Dramat other than to embarrass him and his family. We have made it abundantly clear that should the NDPP charge him on the spurious allegations, Lt-Gen Dramat will voluntarily appear before a competent court to answer to any charges. We reiterate that the broad nature of the "supposedly" sanctioning

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and involvement in the illegal deportation of the Zimbabwean nationals which took place more than four years ago are nothing other than slanderous, malicious conjecture that have, by design been made in order to derail sensitive investigations of the DPCI and/or an attempt to discredit the reputation and integrity of Lt-Gen Dramat and the DPCI.

11. In conclusion, the Minister of Police does not have the power to suspend the Head of the DPCI. Should you proceed with such unconstitutional and contemptuous conduct, we will approach the High Court on an urgent basis for appropriate relief. Given the clear ulterior motives/purpose underlying the vague allegations against Lt-Gen Dramat, we will ask the High Court to issue a punitive cost order against any individual in his personal capacity who will proceed with any unlawful action against Lt-Gen Dramat.
12. Kindly verify all these facts yourself as Honourable Minister so that there can be no dispute that you yourself applied your mind and that you have not been supplied with false information or misled by individuals who have hidden agenda's or sinister motives which will ultimately cause yourself serious embarrassment.

Yours faithfully

**RILEY INCORPORATED**

Per:  
**JOHN RILEY**

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**IN RE: IPID INVESTIGATION**

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**STATEMENT OF ANWA DRAMAT**

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I, the undersigned,

**Anwa Dramat**

hereby state as follows:

1. I am an adult male Lt. General and Head of the DPCI. I have elected to depose to the following statement. It is not my intention to be overly prolix in this statement insofar as I fully reserve my rights to deal with and comment on any aspect that may emerge at a later stage. I have however decided that it is of the utmost importance that I be transparent in this matter and that I set out my position comprehensively right from the outset.
2. On or about the 12<sup>th</sup> of September 2013 I was advised that I was being investigated in a matter surrounding a so-called "Zimbabwe rendition", whatever that may mean. I was advised by one Mr Khuba who I believe to be the Limpopo Acting Head of IPID that he was busy investigating the matter and that I was a suspect and that I had one week to obtain the necessary legal assistance.

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3. Pursuant to that and without burdening this statement with the content thereof I addressed correspondence to the Honourable National Commissioner of SAPS requesting legal assistance in the matter. Pursuant to this letter certain events took place and a legal representative from the State Attorney was appointed to represent me. This being one Mr Peter Seiska.
4. I have subsequently however engaged the services of Mr John Riley (my attorney) of Riley Incorporated of 212 Rosmead Avenue, Wynberg, Western Cape. I have also requested my attorney to instruct two counsel of my choice to represent me in this matter.
5. The teleological purpose of my current statement is to provide IPID with certain background information and to, right from the outset, set out where I intend to go with this matter and how I intend to deal with it.

#### MY PERSONAL BACKGROUND

6. I was born on the 16<sup>th</sup> of July 1968. Both my parents are alive. I have two brothers and one sister. I grew up in an area known as Bontaherwel in the Western Cape.
7. From a very early age I became acutely aware of the injustices brought about by apartheid in South Africa. I saw many things that were wrong with the country, among other things, the severe impact of racial discrimination and the gross inequality that "non white" and black people were subjected to. !

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was further severely affected by police brutality, torture and detention without trial.

8. I completed my schooling at Spes Bona in Athlone. My intention as a young person was to enrol at the Technikon as I intended to pursue a career in engineering.
9. However I could not stand by passively and watch the injustices unfold in front of me. I became politically conscientised at an early age. As a result I had to take certain decisions at a very young age and became accustomed to the idea that whatever decisions I took would ultimately lead to my death or long term incarceration in my quest to achieve a free and democratic South Africa. At an early age I became politically involved and joined the ANC in the armed struggle against the oppression that was pervasive in this country prior to 1994.
10. I was arrested in 1987, shortly after completing school. I was one of youngest detainees at the time and kept in custody awaiting trial under the Old "Terrorism Act". I was brought before the High Court in the Western Cape and was charged and convicted of, *inter alia*, sabotage. As a result of my beliefs and what I stood for I was sentenced to 22 years imprisonment. I was only required to serve twelve years imprisonment.
11. I was thereafter taken to Robben Island where I was imprisoned. I had made the decision to become involved in the ANC and the armed struggle because I

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wanted a better country where we had a Constitution where people would be treated equally and fairly, where everyone had the same opportunities and that the illegal apartheid system that was in place would cease to exist.

12. At a young age, and based on strong Islamic principles of fairness and equality of treatment, I made a decision that I would stand by my principles even at great cost to myself and my family who clearly suffered tremendously as a result of my incarceration.

13. I pause to mention that even those police officers who had previously investigated me, I had forgiven and I totally reconciled myself with the concept of a new South Africa, a new democracy and a better life for everyone. I was released from prison sometime after the release of President Nelson Mandela. After my release from prison I worked as a volunteer for the African National Congress at Bontsheuwel in the period leading up to the democratic elections of 1994. It was at that time that I was integrated into the South African Police services as a trainee constable.

14. My vision for the South African Police at that stage was that I would do everything I could to ensure that our country transformed into an equal and just society where everyone was treated fairly before the law.

15. My exposure in the police has involved working in crime intelligence, working in situations where there was existing and continued tensions between organised crime syndicates and underworld figures. In general I applied

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myself to learn as much as I could in order to be a respected as the principled police officer which I believe I still am at present.

16. I have two minor children aged 18 and 11 respectively and I am married. I have throughout my life attempted to instil in them the values that I have always stood for and that I have sacrificed my freedom for, and that I hoped to achieve. I verily believe that my integrity and my commitment to a better South Africa has been displayed through various independent acts by myself and in the manner in which I have performed my extremely difficult task as a police man and in particular the present position that I hold.

#### AD MY APPROACH

17. At first glance having heard the wild allegations I thought that it would be proper to immediately attend on meeting with IPID and explain my situation. However, it soon became apparent to me that the newspapers knew more about the investigation against me than I did myself. It concerned me that an investigation of this nature would be out in the public domain before I was appraised of all the relevant facts, presented with cogent evidence or offered a proper opportunity to exercise my right of *audi alteram partem*.
18. I was accordingly shocked and dismayed when I was contacted by a journalist and advised by the journalist that the journalist knew about a meeting that had been scheduled between myself and IPID. At that stage I had not yet been appraised of the date, time or place of the meeting but the journalist had already been advised of this fact. It concerned me and it was self-evident that

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the only source where a journalist could have obtained this information must have been IPID itself.

19. A further issue which has caused me grave concern is that I have reliably learnt that the investigators from IPID, more specifically one Mr Khuba has advised a witness that he would not take an affidavit from this witness if this witness did not furnish him with a version that incriminated myself. If this is proved to be correct, the conduct of Mr Khuba, would in my respectful view amount to an attempt to defeat the ends of justice and further show that IPID has set upon a course of investigating this matter in a selective manner with the object of implicating me in the commission of the alleged offences irrespective of whether there are witnesses and or evidence which exculpates me from blame.

20. Good and sound police practice teaches that it is not for an investigator to tailor his investigation or dismiss exculpatory evidence when such evidence is presented. I intend to reserve my right to deal with this specific issue in the appropriate forum,

The least that I expect at this stage is that IPID conducts whatever investigation they are conducting in an objective manner as is required by the law.

AD INTEGRITY OF THE DPCI

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21. It is self-evident that my unit is tasked and seized with investigating various sensitive and high profile matters. I have no intention whatsoever to ventilate these investigations on paper but I can assure IPID and the National Director of Public Prosecutions that in the execution of my duties I have at all relevant times acted without fear or favour and transparently as I believe that I am required to. It is for this very reason that it is in the interests of justice that this matter be dealt with in terms of the tried rules of evidence and with the due deference and respect to the principles and values enshrined in our Constitution.

22. If it transpires that this investigation is merely a "smear campaign" to derail any investigations I have conducted or which I am in the process of conducting I will have no hesitation in ensuring that those that are behind it are brought to book and that they face the full might of the law.

23. Similarly I do not expect any special treatment whatsoever. I have no hesitation in averring that I will wish for this entire matter, if it needs to be proceeded with, to be dealt with expeditiously, in a court of law and subject to public scrutiny.

24. As an ordinary citizen and as Head of the DPCI I have a responsibility not only to my unit but also to the rule of law to ensure that nothing is done to compromise any of the investigations that my unit is currently busy with.

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25. I also specifically rely on the NDPP to appoint a senior advocate who has no vested interest in the outcome of the decision that is to be made as to whether sufficient grounds exists for charges to be brought against me or not. I am embarrassed to have to point this out, but I feel it necessary to emphasize this point strongly at this stage so that there can be no confusion later should an adverse decision be made on a case against me where there is no merit. I would certainly want to deal with this issue in the appropriate forum.
26. I therefore respectfully request that the NDPP himself and/or a duly delegated senior advocate who has not been involved in any of the matters which my Unit has or is dealing with and, which have been rather controversial in recent times, be involved in the decision-making process as to whether there is merit in pursuing a prosecution against me.

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27. I have taken some time to reflect on how I wish to deal with this particular aspect. My *prima facie* view is that I will do everything necessary to cooperate with a *bona fide* investigation if such an investigation exists. I will however under no circumstances legitimize any attempt, by any person(s), to discredit me through a "smear campaign" or by running a campaign through the print or other media, or leaking disinformation about the case to the media.
28. My position is therefore that if IFID is prepared to present me with a list of questions, together with a proper and transparent summary, of the merits and

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demerits against me, I will most certainly apply myself diligently and provide a comprehensive response to the matters that require my comment.

29. However, if the position is that I am to be cross-examined by ambush, my approach is that the matter be expedited as soon as possible. I can make myself available at any time should the intention be to arrest me, and I will respectfully request that if such an arrest is contemplated that the investigation be finalised and that the matter be enrolled in a court of law as a matter of urgency so that I can confront my accusers and subject myself to judicial scrutiny. In any event it is my respectful view that there is no reason why I should be arrested as there is no reason why I cannot be brought before court by way of a summons.

30. I would not want a situation where there is an expedited arrest and thereafter the State indicates that they need several months, if not years, to investigate the matter. Such a move will only serve to taint and or derail any current investigations, frustrate the rights of various complainants who have legitimate complaints that are being investigated by my unit and serve to sideline me from the work I have to complete.

31. I can respectfully point out that I am ready to go to trial today on any issue and accusation that will be levelled against me subject to me being provided with all the witness statements and evidentiary material whether of an incriminatory and / or exculpatory nature.

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**AD RULES OF ENGAGEMENT**

32. I wish to emphasize that I would expect IPID to respect the rule of law, the policies of transparency and to operate within the framework of the law. If it emerges that my communications have been interfered with, that my legal privilege has been breached in any way, or that witnesses have been threatened or tampered with, or disinformation leaked, I reserve all my rights and remedies against those responsible for such action.
33. Similarly I undertake, from my side, to respect the process and co-operate to the fullest extent.

**CONCLUDING REMARKS**

34. It is self-evident that there is no likelihood that I will not stand my trial. It is further self-evident that there is no likelihood that I will interfere with witnesses or tamper with evidence or undermine the proper functioning of the criminal justice system.
35. From the very limited and vague allegations that have been made, more specifically from the information that I have gleaned from the newspapers, I have no hesitation that I will be acquitted in any court of law, if prosecuted.
36. I wish, however, to emphasize that if the matter goes to court and the evidence emerges that this has been a stratagem to undermine legitimate investigations and to run "smear campaigns" against persons in my position

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who have immense responsibilities towards the citizens of this country, it will be a turning point for our democracy. I will most certainly not rest until those who have attempted to malign me and run smear campaigns against me, are brought before the proper forums and dealt with appropriately in terms of the laws of the Republic.

37. I make this statement freely and voluntarily and respectfully request that it be treated confidentially and that, as a matter of urgency, IPID and/or the NDPP liaise with my instructing attorney.

DATED AT CAPE TOWN THIS 23 DAY OF OCTOBER 2013.

  
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**STATEMENT OF ANWA DRAMAT**

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I, the undersigned

**ANWA DRAMAT**

hereby state as follows:

1. I am an adult male Lieutenant-General and the National Head of the DPCI. By virtue of my post, I am also a Deputy National Commissioner of the South African Police Service.
2. I have been requested by IPID to make a statement with regards to certain very serious, in my view, vexatious "allegations" that have been made against me by IPID.
3. I wish to make certain preliminary remarks. Following an application to the State Attorney for legal representation, and after not having received a definite answer, my attorney, Mr Riley, has entered into correspondence with

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the SAPS Legal Services, Pretoria and the State Attorney in order to request that the legal representatives of my choice be appointed.

4. Despite the urgency created by IPID to provide them with a statement, it appears that no decision had been taken by the State Attorney or SAPS on legal representation. It appears now that I would have to launch review proceedings in the High Court in order to obtain the necessary relief. I have instructed my legal representatives to proceed with this application immediately. I believe that I am entitled to legal representation insofar as there is clear precedent for this and it appears to be trite law. Therefore insofar as I may have to make a further statement, or amplify or have further dealings with IPID I would respectfully request that the proceedings be held in abeyance until such time as there has been an outcome of the application.
  
5. I further respectfully point out that if IPID were to approach any Presiding Officer, Magistrate or Judge in order to apply for any warrant of arrest I will necessarily request that all the correspondence to date, including my previous statement, be annexed to any such application. I have made it abundantly clear as to where I reside, where my details are and that I will, at any time when called upon to do so, voluntarily come in and surrender myself if there are sufficient grounds in law to justify an arrest.
  
6. I have to emphatically point out that I believe that this entire investigation against me is one that has an ulterior purpose. Quite clearly, as I have said before, I am involved in very sensitive investigations and I respectfully point out that, in the appropriate forum, I will have no hesitation in dealing with any

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person who uses his office for an ulterior purpose and who acts irregularly, illegally or unlawfully in fabricating or attempting to create spurious charges against myself as the Head of the DPCI.

7. Conversely I would in the ordinary course and scope of events have no difficulty in answering simple questions. Unfortunately, as can be seen from the questions addressed to me by IPID, these questions are not simple. They are vague, ambiguous and, given the fact that I am precluded by certain pieces of legislation from disclosing classified information, I necessarily need to guard vigilantly as to what I am permitted in law to answer and not. I will need proper legal advice on these issues.

8. Therefore the correct approach to this entire matter is to look at the elements of the alleged offences, unpack them and deal with them *seriatim*. That can only be done upon receipt of statements substantiating the allegations levelled against me.

9. Insofar as it relates to reports that have been drafted, IPID would necessarily have to approach the National Commissioner of Police to get permission to obtain certain reports and/or the Minister himself, where applicable. The aforementioned parties would have to seek independent legal advice as to whether they may disclose certain information. I can only deal with the factual matrix insofar as it is relevant to, what I label, "a *spurious allegation against me*".

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them anywhere. Similarly, I never assaulted them or instructed anyone to assault them.

15. With regards to the alleged offence of defeating the ends of justice, the necessary elements are unlawfully, *mens rea*, an act which defeats or obstructs the due administration of justice. Here too I can unequivocally point out that I know of no action whatsoever that I took, authorised or participated in which was aimed to defeat the due administration of justice. If presented with some tangible evidence and not speculative allegations or averments, I could perhaps deal with it in more detail but unfortunately there is just nothing that I can say in order to disprove something that does not exist in law, or, at the very least, on facts that form a *prima facie* basis.
16. With regards to the charge of fraud and theft, they are equally vague and spurious and I cannot disprove something that does not factually exist. Dealing specifically with the request for a warning statement and the allegations which were set out by IPID in its correspondence, I wish to state the following.
17. I am particularly concerned that IPID only reacts to reports that emanate in the Sunday Times and not based on actual factual complaints that are laid by witnesses. Our criminal justice system, with respect, should rely a lot more on evidence and its probative value, rather than to rely on the veracity of newspaper articles. Be that as it may, I can point out that pursuant to this matter, I launched an investigation re the matter. The outcome of the

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Investigation was furnished to the National Commissioner of Police. It would be up to the National Commissioner of Police to take independent legal advice and decide whether or not such a report may be handed over and whether or not there is anything in law that prevents the National Commissioner of Police from handing such information over to any individual or whether such information may come into the public domain. That is a discretion that the Honourable National Commissioner must exercise.

18. With regards to the allegation that:

***"During the investigation we uncovered that Lieutenant-General [Dramat] sanctioned the operation that led to the arrest and deportation of Zimbabwean nationals."***

I specifically request that IPID reveal on exactly what basis this allegation is made. At the very least I would expect there to be a first-hand statement from a witness and that such witness be credible.

19. Under the heading "*Allegation*" it is stated that certain members acted:

***"through the direction of Major General Sibeyl and Lieutenant-General A Dramat conducted operations in Soweto and Diepsloot to trace the following Zimbabwean nationals...."***

In this regard I specifically call on IPID to furnish myself with evidence of this "*allegation*", as I believe that it is no more than a spurious allegation and an invitation for me to add further "*spin and atmosphere*" to such a bald

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statement. I specifically demand that I be furnished with an affidavit that corroborates this allegation. Then I can deal with facts and not speculative allegations.

20. Turning to the specific questions:

**AD PARAGRAPH 2.1**

21. The answer is "no".

**AD PARAGRAPH 2.2**

22. I am purportedly a suspect in a kidnapping charge and if I was privy to a kidnapping I would be able to answer this question. It is for IPID to investigate who they believe are responsible for offences but not to ask me to attempt to find mischief in something that was apparently not an offence.

**AD PARAGRAPH 2.3**

23. The answer to this again is the same as 2.1 insofar as I was not requested by the Zimbabwean police to assist in tracing and arresting the Zimbabwean nationals mentioned in 2.1.1 to 2.1.7.

**AD PARAGRAPH 2.4**

24. A report was drawn up and sent to the National Commissioner of Police. It would be up to the National Commissioner of Police to decide whether or not she is entitled to release the report.

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**AD PARAGRAPH 2.5**

25. I have had meetings with Zimbabwean police officials. Certain of the meetings may perhaps be classified and I would have to take proper legal advice on it. I can unequivocally however, point out that I have never attended a meeting with Zimbabwean police where I was asked to authorise the kidnapping of any individuals.

**AD PARAGRAPH 2.6**

26. Kindly refer to my answer in 2.1.

**AD PARAGRAPH 2.7**

27. The report to Parliament is not something that I can comment on as that now rests with another entity.

**AD PARAGRAPH 2.8**

28. The crisp answer is that the visit to Zimbabwe between 04/08/2010 and 06/08/2010 did not involve a meeting where I was requested by the Zimbabwean authorities to kidnap the individuals. As to the teleological purpose of that meeting it is irrelevant for the purposes of the alleged offence against me and I do not know whether I am in law permitted to disclose the facts. In this regard I would have to take further legal advice once the review application has been dealt with.

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29. What has alarmed me in this investigation is that it has already come to my attention that certain witnesses have been told that unless they incriminate me, they are of no value to the investigator. I reserve my rights fully in this regard. Secondly, my Unit [DPCI] is in the middle of many very sensitive investigations and the timing of this investigation against me and the progress in my investigations seem far too coincidental to be merely by chance.

30. If I am provided with affidavits that present facts from honest, reliable witnesses, or self-confessed rogues where there is independent corroboration for their say so, I may be able to deal with the issues paragraph by paragraph.

31. I respectfully conclude from the broad nature of the questions that the "allegations" that are being made against me are nothing more than slanderous, malicious conjecture that have, by design, been made in order to derail or in order to attempt to discredit my name and/or to derail the sensitive investigations that I am in charge of.

32. IPID is therefore respectfully requested, as a matter of urgency, to furnish myself with all the relevant affidavits that contain facts, and not spurious allegations. I further request that IPID bring this document to the attention of any Presiding Officer, if any relief is sought against me. I further request that IPID afford me the opportunity to bring the relevant review application insofar as I have adequate legal representation, I intend to ensure that this matter is expedited and that those who are behind a smear campaign against me are

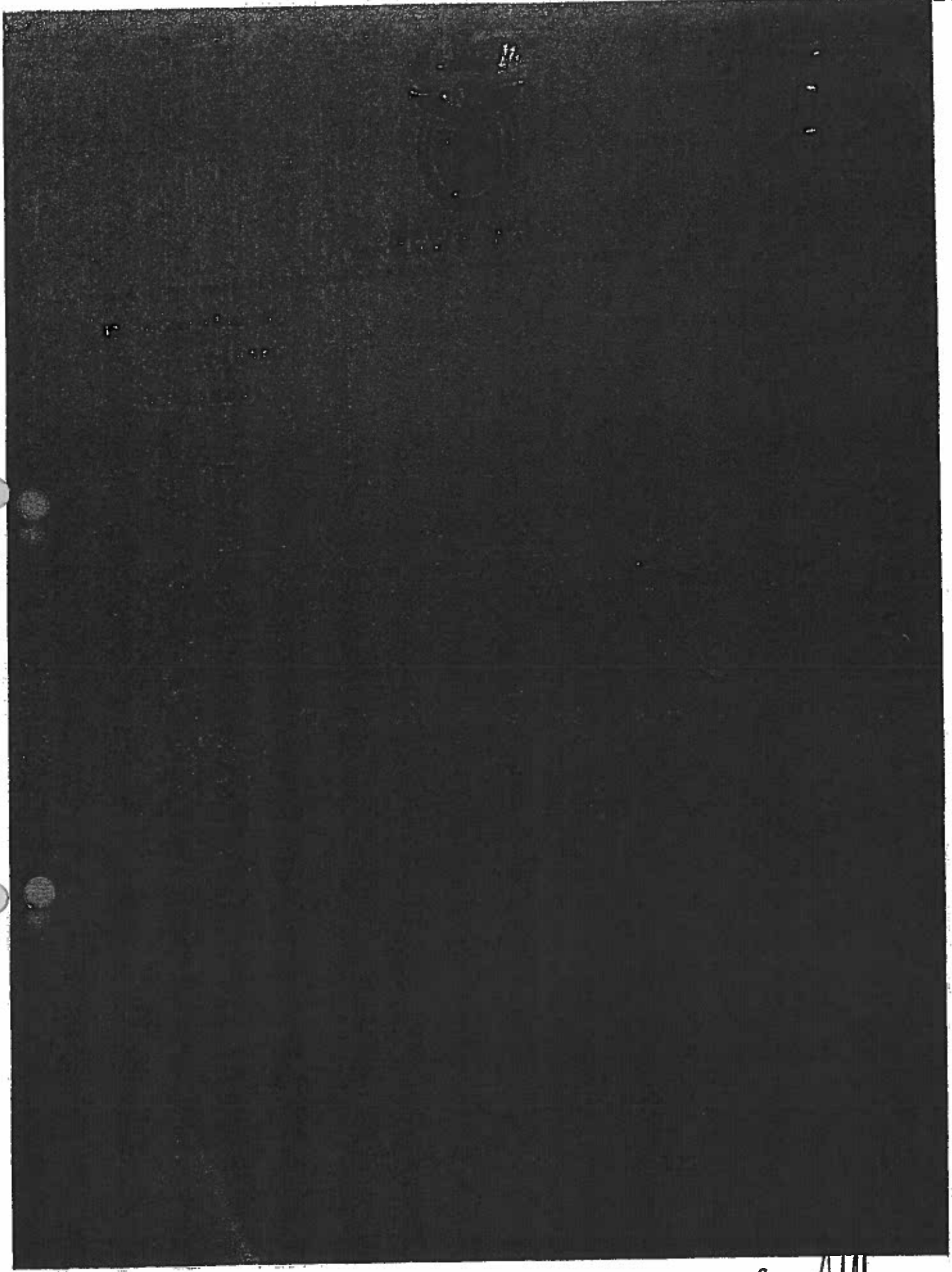
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brought before the appropriate forum and dealt with in accordance with the laws of the Republic of South Africa.

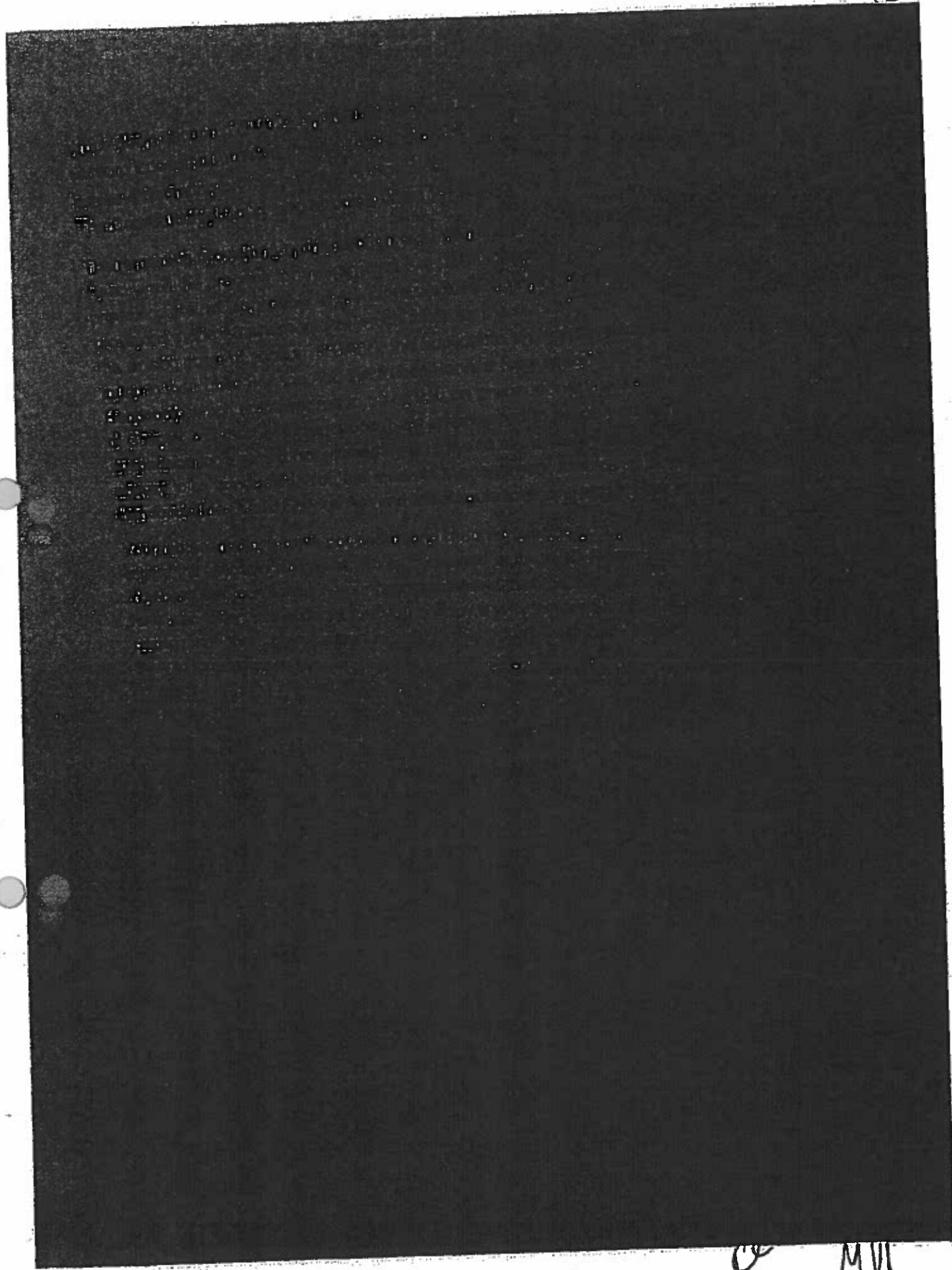
DATED THIS DAY AT THIS DAY OF NOVEMBER 2013

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24 December 2014

To: The Honourable Minister of Police  
NP NHLEKO

And to: The National Commissioner of  
Police

From: Lt-Gen A Dramat

Honourable Minister/Commissioner

Your letter of 23 December 2014 refers.

**IN RE: PRECAUTIONARY SUSPENSION WITH FULL PAY AND BENEFITS**

1. I have for several months reflected very carefully on the issues that have unfolded in front of me. I have consulted my legal representatives and I have been advised of my legal remedies.
  
2. I respectfully point out that the tactical "back pedalling" from the initial notice and the current reliance on the Public Service Act and Public Service Regulations and SMS Handbook is a clear indication to me that no matter what steps I take to defend my position, a decision had already been made, from the outset, to remove me from my position.
  
3. As you will know Honourable Minister, at a very young age I took an informed decision to do whatever it takes to contribute towards the liberation of our country. I did this because I believe in our country, I believe in what was right

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and I wanted there to be a full democracy, as envisaged by our Honourable late President Nelson Mandela. I was young, idealistic and filled with energy.

- 4. Having seen our country enter into a democratic phase, I felt that I could contribute in a meaningful way and continued to develop the principles which I fought and for which I was imprisoned.
- 5. My appointment as the Head of the DPCI, I perceived at the time, was based on my credentials, my level of expertise and the fact that I respectfully believe that I have always acted with integrity in the manner in which I deal with people and investigations.
- 6. No doubtedly you are aware that I have recently called for certain case dockets involving very influential persons to be brought or alternatively centralised under one investigating arm and this has clearly caused massive resentment towards me.
- 7. I can unequivocally point out that I am not willing to compromise the principles that I have always believed in. I am not willing to be "agreeable", or "compliant" insofar as I would then be acting contrary to my own moral principles and, also, contrary to the position in which I was appointed.
- 8. I have been advised, and respectfully believe it to be true that from a purely legal point, I could immediately challenge the precautionary suspension and I would be reinstated. It does, with respect, then beg the question "what is

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next? If it is clear that a decision has been made to remove me from office, for reasons that I have recorded but need not ventilate in this letter, then I am left with hard choices.

9. The choices that I am left with are whether to fight, continue trying to operate within the system in order to effect meaningful change by investigating and root out corruption which has reached the level of epic proportions. On the contrary, I can take a decision that I have done all that I can for the struggle for my country and that my family's interests are paramount.
10. After much introspection and having considered all the options available to me, I have decided that I will not engage on a level that has nothing to do with a "Zimbabwean rendition" but is pregnant with ulterior motives and hence my approach to this matter is as follows:

10.1. The so-called "Zimbabwean Rendition Investigation" is a smokescreen. There are no facts whatsoever that indicate that at any given time I have acted illegally or unlawfully. I verily believe that this investigation is already complete and handed to the National Director of Public Prosecutions. It goes without saying that, had there been *prima facie* evidence against me, of any nature whatsoever, I would have been charged and prosecuted. I am acutely aware of the fact that the, with respect, allegation that "I have reason to believe that your presence in the workplace is likely to jeopardise the investigation and deter potential witnesses from coming forward", has absolutely no probative

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value. The investigation was clearly badly conducted by the investigator of IPID and the spurious allegations were made to tarnish my reputation. From the facts available to me and given my previous representations, which you have in your possession, it is self-evident that I asked for a transparent process and that the facts be evaluated by a suitably qualified legal practitioner who has no vested interest. Most certainly there has never been any evidence whatsoever that I have, in any way, interfered with any potential witnesses or attempted to jeopardise the investigation against me during the past four years.

10.2. I wish to reserve my rights to fully vindicate myself against all those who have sought to tarnish my name and reputation. I do not wish to engage with those involved in this correspondence, insofar as that is reserved for another forum, if necessary.

- 11. I therefore deny, with respect that the Notice of Precautionary Suspension is legal, valid or regular. In fact it is totally irregular and constitutionally invalid.
- 12. I am also aware that in the next two months there will be a drive to remove certain investigations that fell under my "watch", reallocate certain cases and that unfortunately, certain sensitive investigations may even be closed down. This is something that I have to live with.
- 13. I also wish to point out that I have had to give very careful consideration to the message that I am sending to the other members of my Unit by capitulating or

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agreeing to a precautionary suspension without challenging it in a court of law. I do not want there to be a message that there is no hope and that members should just acquiesce or go away when they are targeted. That having been said, I have spent 28 years of my life doing everything I can for the struggle for our country and I have been fully committed. The time has now come for me to consider my options very carefully and, quite clearly take an informed decision as to whether I can sustain my position while my hands are tied behind my back, or there are incremental acts to muzzle me.

14. I note with interest that a two month period has been set to hold an "enquiry" (sic). I can honestly say that the investigation into the "Zimbabwean Rendition" case, has run for a very lengthy period of time and till to date there has been no evidence whatsoever. It is clear that I am being pushed out.
15. I do, however, have to reserve all my rights insofar as this is the "first warning shot over the bow" and, if necessary, I would necessarily have to go to the relevant forum to deal with each and every allegation, including the current precautionary suspension.
16. Lastly I would respectfully urge yourself, Honourable Minister, to proceed with extreme caution in making or allowing any persons under your authority to make vexatious, spurious or defamatory allegations against me or orchestrate campaigns to undermine my standing or my reputation. This is because I am prepared to be totally transparent and I am a family man and any hurt which

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my children may suffer as a result will necessarily mean that I would be forced into taking a position.

17. It became clear to me during the past year that the intention is to get rid of me. You, as the Minister, with respect, should have engaged with me in terms of Section 17DA(4)(b) of the Amendment Act which I am willing to accept depending on the terms and conditions. After due consideration, with specific reference to the background alluded to above, I am willing to submit a request to vacate office by applying to the National Commissioner to approve my early retirement in terms of Section 35 of the Act. Quite clearly there is a precondition that the unlawful precautionary suspension be uplifted without me having to approach the court to do so.
18. I therefore require that we should enter into a joint consensus seeking meeting as a matter of urgency to prevent any instability within the DPCI. Under the above circumstances your reply is eagerly anticipated by no later than 5<sup>th</sup> of January 2015.

Yours sincerely

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LT-GENERAL A DRAMAT

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# WEBBER WENTZEL

in alliance with > Linklaters

The Honourable Mr Nkosinathi Nhleko, MP  
The Minister of Police  
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[TuntulwanaM@saps.gov.za](mailto:TuntulwanaM@saps.gov.za)

Your reference

Our reference

Date

V Moravovich / D Rafferty / K Eksteen  
2329211

30 December 2014

Dear Sir

The purported suspension of Lt Gen Anwa Dramat, the National Head of the Directorate of Priority Crime Investigation ("DPCI") ("the National Head" or "Lt Gen Dramat")

1. We represent the Helen Suzman Foundation ("our client").
2. Our client understands that Lt Gen Dramat has been placed on "precautionary suspension" by you in your capacity as the Minister of the Police and that the suspension is for a period of 60 days from 23 December 2014. Our client also understands that no other disciplinary processes to remove Lt Gen Dramat have been instituted or followed by you or any other body at this stage.

Letter To The Minister 21122014

Senior Partners: DM Lancaster Partners: SM Adcock BS Africa NG Alp KL Appelbaum BA Bailes JM Bellwe AE Bennett HJ Bester DHL Borysen  
 AN Dreyfus PG Soudshaw EG Brandt JL Brink JL Buchland MS Burger RS Coetjue KL Colker SM Cohen DE Coster K Courtney JH Davies HE Davis  
 FN Deyne JHB de Lange BEC Dickinson MA Diment DA Dingley NF Dinnel KC Digby HJ du Preez CP du Toit EK Edmondson JC Els AE Esterhuysen  
 MIR Evans GA Fickardt JB Forman BL Gallo CI Geuns JP Geuns PD Greeff SM Gumede A Harley VW Harrison JH Harvey MH Mathews JS Henning  
 KH Hahn NA Hirschweyler JNC Makhwane S Mackay CH Malfole PN Holloway NGH Hombell SJ Hulsh SJ Jarvis ME Jarvis CH Joubert S Jones  
 LA Kahn M Kennedy A Keyser FN Kingston J Lamb PSG Lren PG Leyden L Maree T Masingi S McCafferty MC McIntosh SI Melzer SM Methzler  
 CS Meyer AJ Mills JA Milner D Ndele NP Ngwenyane VS Moolahy LA Mornet VM Moravovich H Mshah RA Nelson BP Ngwenyane ZH Nkomo  
 MB Mzondele L Oudraal GJP Diner H Pease AHT Perdon AS Pelly S Patel GA Perle SE Phahane C Pelay HK Peyerter D Rensjordan NGA Robb  
 DC Rossman JW Schnitz KE Shepherd DMJ Semaan AJ Serpous J Sengaan H Singh MP Spalding L Steyn PS Steyn LJ Swaine ER Swaneepoel  
 Z Swaneepoel A Thakor A Toefy D Yakkah FZ Yanda JP van der Poel SE van der Heulen ED van der Vyver M van der Walt N van Dyk A van Heerde  
 MH van Schaamsburgh JE Vrehan D Venter HM Venter B Versfeld HG Versfeld TA Versfeld DH Vrenga J Visser JVL Westgate KI Williams  
 MH Wilson M Yulishon Chief Operating Officers: SA Boyd

Webber Wentzel is associated with ALM

3. As you will know, as a matter of South African law, it is imperative for the DPCI to be adequately independent from the National Executive. The suspension of the National Head strikes at the very heart of our constitutional democracy.
4. As you will also know, our client is (and has been) concerned to ensure that the rule of law is upheld in all spheres, including the essential fight against corruption and organised crime mandated by the Constitution.
5. You will doubtless agree that, in this context, it is important to ensure that any suspension of the National Head or any office bearers in the DPCI is constitutionally compliant and lawful. It appears that the suspension was not grounded in law.
6. To this end, our client requires you to furnish the following information in writing by no later than Wednesday, 7 January 2015, so that it may adequately protect its rights and the public interest:
  - 6.1 A copy of any document which evidences or constitutes the purported suspension of Lt Gen Dramat, including any letter of suspension issued to Lt Gen Dramat;
  - 6.2 The effective date of the suspension;
  - 6.3 The duration of the suspension;
  - 6.4 Whether any of the facts in paragraph 2 above are incorrect and, if so, which facts and for what reason;
  - 6.5 A copy of any documents and information on the basis of which the suspension was decided by you;
  - 6.6 A copy of any reports pertaining to Lt Gen Dramat produced by the independent Police Investigative Directorate;
  - 6.7 Full reasons for the suspension of the National Head;
  - 6.8 Details of what empowering provision you have used or invoked for the purposes of the purported suspension of the National Head;

re [Signature]

**WEBBER WENTZEL**

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Page 3

- 6.9 What disciplinary steps have been taken by you or any other institution or body in relation to Lt Gen Dramat that relate in any way to the suspension or the grounds for such suspension;
- 6.10 A copy of any letter purportedly appointing any other person, including Major General Berning Ntlemeza, as Acting National Head of the DPCI.
7. Should you fail to deliver the above information timeously or should the information not negate our client's concerns about the unlawfulness of the decision to suspend the National Head, our client will have no option but to assume that there was no lawful basis for such decision, to assume that the facts in paragraph 2 above are correct and to exercise its legal rights in its and the public's interest on an urgent basis.

Yours faithfully

*P.P. Moshovich*  
**WEBBER WENTZEL**

**V Moshovich**

Direct tel: +27 11 530 5867/5216

Direct fax: +27 11 530 8887

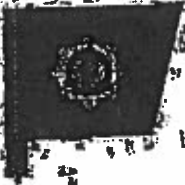
Email: vlad.moshovich@webberwentzel.com

Cc: Lt Gen Dramat  
 Major General Berning Ntlemeza  
 General Mangwashi Victoria Phiyega

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Prokuror Generaal van Suid-Afrika

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Central of the National Head  
 Directorate for Priority Crime Investigation  
 Pretoria  
 10101 001

Prokuror Generaal

Staatsprokuror Generaal van Suid-Afrika

CAUTION: PRODUCE

**MAJOR GENERAL IN CHARGE AND LOCAL HEAD DEPT GAUTENG PROVINCE**

1. It has come to our attention that there are certain allegations of illegal conduct in connection with the operations of the South African Police Service during the period 2010 and 2011.
2. We view these allegations as serious and as they constitute possible criminal offences and/or acts of misconduct on your part and bring the name of the South African government into serious disrepute.
3. We have therefore decided to institute an enquiry against you with regard to these allegations which have implications with regard to your fitness for the position that you occupy.
4. We consider placing you on precautionary suspension pending the finalization of such an enquiry.
5. We hereby afford you an opportunity to inform me why you should not be suspended pending the enquiry mentioned above within five (5) calendar days from the receipt of this letter. Anything that you wish to bring to my attention with respect to the said precautionary suspension must be delivered to this office within the said five (5) calendar days. If no representations have been received by then, it will be accepted that you do not wish to say anything and your possible suspension will be decided on without further notice to you.

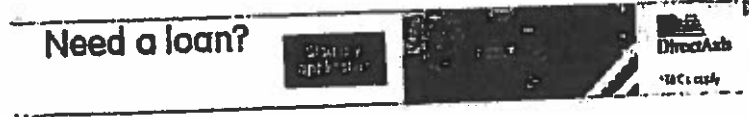
*[Signature]*  
 Maj General  
 ACTING NATIONAL HEAD: DIRECTORATE FOR PRIORITY CRIME INVESTIGATION  
 B N NTLERIZA

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# Sibiya's suspension notice withdrawn

January 14 2015 at 10:23 AM By Sapa

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Johannesburg - The suspension notice served on Gauteng Hawks head Maj-Gen Etadreck Sibiya has been withdrawn, the Hawks said on Wednesday.

"Yes, it has been withdrawn. It was withdrawn yesterday (on Tuesday) by (acting Hawks head) Gen Bheki Nkomo," Hawks spokesman Brigadier Hangweni Mubanda confirmed by phone, ahead of the matter being heard in court.

"Unfortunately, I can't give the reasons why right now, as we still have the case at the Labour Court... It's just a formality at court. We are just following protocol and seeing the matter through."

Sibiya was due to head to the Labour Court on Wednesday to challenge the suspension notice from the Hawks, which was served on him last Monday.

He was given a week to give reasons why he should not be suspended.

The suspension relates to Sibiya's alleged involvement in facilitating the illegal rendition of Zimbabweans.

Senior Hawks official, Colonel Leslie Makhela, was also reportedly served with a notice of suspension last week. On December 23, Hawks boss Aron Drenkel was suspended over his alleged involvement in the November 2010 renditions.

Sapa

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**Thabani Kaufman** • 3 hours ago  
 It will get a lot worse before it gets better. Mazar hier kom 'n ding...

**Babe Felipe** • 3 hours ago  
 "I die daily", Paul in the book of Corinthians. Well, I cry daily!  
 When I read every day just how Mr Zuma has raped (no pun intended) this country. That the ANC have not impeached him is an epic fail on their part.

**Made-In-The South** • 4 hours ago  
 This was addressed to me recently: Made in the South, the bone of contention in the Hawks is the protection of Mdulali supporters with the knowledge that he has the President's ear. Let me tell you, if Phisoaga was honest about clearing house, she shall have suspended Major General Eshon Mepanye who is facing fraud charges in Mpumalanga since May 2013 and not transfer him to Head Quarters of Hawks where all the corruption files are kept; She shall have suspended Major General Jan Mabula of North West for the death of Solomon which is investigated by the IPID; she shall have suspended Colonel Killer Ximba of Crime Intelligence who has a criminal record and is under investigation via Kompton Park CAS 865-01-2012 for perjury; she shall have suspended (Killa Ximba's sibling) Portia Ntshamba Mchabe for perjury via Brooklyn CAS 57-01-2012; she shall have charged the members who used R200 000,00 from church fund to build the wall of Minister Ntshwene; she shall have charged Mdulali for appointing his two wives Lily Mdulali and Theresa Lyons as colonels. No daughter Benny Mdulali as Lieutenant Colonel, his son Clement Mdulali as Captain when they were mere clerks; She shall have suspended Lieutenant General Lamoer who is under investigation for serious crime

**Thabani Kaufman** → **Made-In-The South** • 2 hours ago  
 Thanks for not keeping silent...

**Made-In-The South** → **Thabani Kaufman** • an hour ago  
 Ok no problem. Will continue to talk

**Made-In-The South** → **Made-In-The South** • 4 hours ago  
 cont:  
 The Detectives do not have mandate to investigate serious commercial crime involving R50m, that is the responsibility of the Serious Economic Offences of the Hawks in Pretoria. Major General Benny Ndamaza was appointed by Mdulali to investigate allegations against Mdulali and report the findings to Mdulali; Phisoaga is not clearing house, she can't do it with dirty hands from tipping Lamoer and misleading Marikana Commission

**Michell** • 3 hours ago  
 Well, we didn't see that one coming.

**Made-In-The South** → **Michele** • 3 hours ago  
 Clanne Kohler Bernard has said that the removal of Dramani is also related to attempts by Zuma to remove General Johan Booysen. Only the head of the Hawks can remove General Johan Booysen. Dramani won't do it. So Zuma will find a head of the Hawks that will be prepared to do that and to shelve investigations like Nkomo and other investigations like against John Black, mention is also made of a R50 Million fraud case in ICZN. Phisoaga requested the doctors, and Dramani don't want to hand it over

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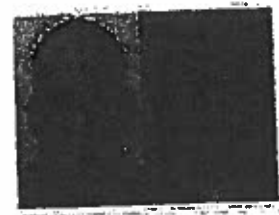
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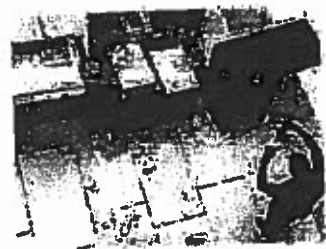
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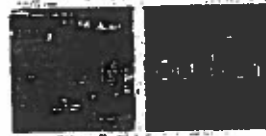
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Telefoon Telephone	012 846 4200
Faksnommer Fax number	012 846 4418

OFFICE OF THE NATIONAL HEAD  
DIRECTORATE FOR PRIORITY CRIME INVESTIGATION  
PRETORIA

14 JANUARY 2015

The Provincial Head  
DPCI  
GAUTENG PROVINCE

Attention: Major General Shadrack M SIBIYA

**NOTICE OF INTENTION TO PLACE YOU ON PRECAUTIONARY SUSPENSION:  
No 0819846-5 MAJOR GENERAL S.M. SIBIYA: PROVINCIAL HEAD: DPCI GAUTENG**

- I intend to place you on precautionary suspension with full pay and benefits as contemplated in the South African Police Service Act 68 of 1995 as amended, read with the Police Discipline Regulations to the extent that same are applicable to you. You are employed by the South African Police Service within the Directorate for Priority Crime Investigation (DPCI) as the Provincial Head of the DPCI in the Gauteng Province. The Directorate is an important crime fighting unit of the SAPS mandated constitutionally and by the SAPS Act as amended, to fight and combat priority crimes such as organised crimes in South Africa. Members of the Directorate in particular, senior members of the Directorate like yourself are required to be men and women of integrity whose conduct must at all times be beyond reproach. In the performance of your duties in fighting organised and priority crimes, you are required to be independent, and perform your duties without fear, favour or prejudice. Your actions and conduct in fighting priority crimes must be lawful and conducted strictly in accordance with the laws of the Republic of South Africa in particular the South African Police Service Act as amended, the Constitution of the Republic of South Africa, and the international obligations of the Republic.

ce  
MJA

259

**NOTICE OF INTENTION TO PLACE YOU ON PRECAUTIONARY SUSPENSION:  
No 0619846-5 MAJOR GENERAL S.M. SIBIYA:PROVINCIAL HEAD: DPCI GAUTENG**

2. The allegations have surfaced, which have been brought to my attention, in my capacity as the Acting Head of the Directorate for Priority Crime Investigation which directly implicate you in serious acts of misconduct, wrongdoing, and possible criminal acts. It has been alleged by various persons whom I will not disclose their names in order to protect their identity because they are possible witnesses, and persons who assist the investigation that you have been involved in the illegal rendition of four Zimbabwean nationals whom, either with your direct participation, or your instructions to the junior officials employed in the DPCI, abducted or caused to be abducted or kidnapped Dumisan! Witness Ndeya; Nelson Ndlovu; Maqhabane Sibanda and Sheperd Chuma under the pretext that they were being arrested by the South African Police Service as illegal immigrants and ought to be deported to Zimbabwe. It is alleged that this illegal action or conduct by yourself or DPCI officers under your command or instruction or who have been directed by you to act as aforesaid occurred on or about the 5<sup>th</sup> of November in the evening in Diepsloot township near Fourways, Johannesburg. They were then, taken to Bell Bridge where the Home Affairs Deportation Forms were falsified for their illegal deportation.
3. Witness statements in my possession, which cannot be disclosed because the investigation is still continuing, and also to protect their identity, have directly implicated you in the alleged offences, and that upon unlawfully arresting the above mentioned Zimbabwean nationals, under your command or direction or instruction you caused them to be illegally deported to Zimbabwe to be unlawfully handed over to the Zimbabwean Police, to be unlawfully arrested, assaulted, and harassed by the Zimbabwean Police. It is also alleged that one of the DPCI officers who directly participated in the rendition of these Zimbabweans either with you present, or upon your direction or instruction is Colonel M.L. Maluteke who has since been placed on suspension arising from the same allegations of unlawful rendition of Zimbabwean nationals.
4. Independent Police Investigative Directorate ("IPID") investigated these allegations against the members of the DPCI. IPID has submitted its report to the National Director of Public Prosecutions (NDPP) for a decision on the criminal aspect of the matter. The investigation relating to the criminal aspect is still continuing and for that reason IPID had been unable to make the report public again such report containing the names of the potential witnesses and the statements made by them, cannot at this stage be disclosed in order to protect the witnesses or the potential witnesses.

ke MLL

**NOTICE OF INTENTION TO PLACE YOU ON PRECAUTIONARY SUSPENSION:  
No 0619846-5 MAJOR GENERAL S.M. SIBIYA:PROVINCIAL HEAD: DPCI GAUTENG**

5. Apart from the fact that the conduct to which you are directly or indirectly implicated constitute serious criminal acts, I have an obligation in my capacity as the employer in these instances to investigate further these allegations on the basis of whether your conduct did not breach your duties and responsibilities as an employee and Head of DPCI and whether such conduct does not constitute gross misconduct. I regard these allegations as very serious given the seniority of your position, the nature of your job, the integrity and the beyond reproach that must accompany your job, that such allegations must be thoroughly investigated, and those who have committed these atrocious acts must be disciplined and brought to book. It is important that this investigation be conducted fairly in order to afford you an opportunity that your name be cleared if it is found that you did not play any role directly or indirectly you did not sanction these atrocious acts directly or indirectly, you did not participate in the commission of these atrocious acts by commission or omission.
6. What makes the alleged acts of misconduct which occurred in or about the 5<sup>th</sup> of November 2010 more serious is that it is alleged that two of the above mentioned Zimbabwean nationals or those who were illegally deported to Zimbabwe and unlawfully handed over to the Zimbabwean authorities were subsequently killed by the Zimbabwean Police. This conduct if it is proven and in respect of yourself will mean that you have committed serious acts of misconduct, contravened the South African International Obligation and adherence by the South African Government to international instruments against torture, contravention of SADC protocol, contravention of the Extradition Act of 1967.
7. I am obliged in these circumstances and in light of the seriousness of the allegations to give you an opportunity to make written representations to me by no later than the close of business on Monday, 19 January 2015 as to why I should not place you on precautionary suspension pending the finalisation of the disciplinary enquiry.
8. Your written representation should be addressed to me, for my consideration and I will upon considering the written representations make a decision on whether or not I should place you on precautionary suspension with full pay.

ke

MJA



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**NOTICE OF INTENTION TO PLACE YOU ON PRECAUTIONARY SUSPENSION:  
 No 0619846-5 MAJOR GENERAL S.M. SIBIYA:PROVINCIAL HEAD: DPCI GAUTENG PROVINCE**

9. I have noted your desire to co-operate fully with these investigations, and I appreciate your gesture in that regard and I look forward to your co-operation in this regard.

Yours faithfully



**Maj General  
 ACTING NATIONAL HEAD: DIRECTORATE FOR PRIORITY CRIME INVESTIGATION  
 B M NTLENEZA**

**DATE: 14/01/2015**



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Zulu La Ganga's letter read on the subject of race is symptomatic of a deeper race problem affecting South Africa, writes Khamiso Manyatho.

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### Gauteng Hawks head disappointed by suspension

2016-01-21 15:49

Johannesburg - The head of the Hawks in Gauteng, Major General Ghadrack Sibya, is disappointed about his suspension and still deciding on the way forward, his lawyer said on Wednesday.

"We are studying the letter that was handed to him yesterday. At the moment, we do not hold instruction of the route he is going to take," Victor Mkhawshu said.

"He is both disappointed and might use the word distressed in the sense that he feels that his representation, which shows his innocence, was not taken into account when the decision was taken to suspend him."

Mkhawshu said he would meet Sibya later on Wednesday to discuss his options.

On Tuesday night, the Hawks confirmed Sibya's suspension.

"I can confirm that he has been suspended. Unfortunately we can't go into the details because it is an internal matter," spokesperson Hengward Mkhawshu said at the time.

"But I can confirm that he was suspended earlier today with full pay."

Mkhawshu said the suspension would last as long as the investigation took and said the Hawks would ensure all processes were followed.

"The investigation will not be compromised. We will ensure that all the processes are followed without prejudging anyone."

Mkhawshu confirmed the suspension was related to Sibya's alleged involvement in facilitating the illegal rendition of Zimbabweans in November 2010.

This was the second time Sibya was handed a notice of suspension.

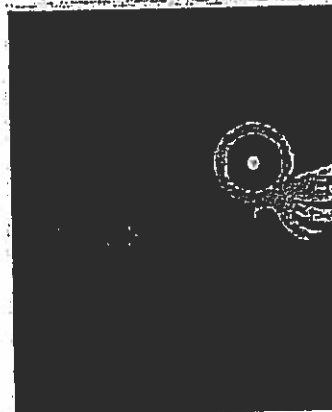
An application to get reasons behind Sibya's first notice of suspension was struck from the roll of the Labour Court in Johannesburg last week Wednesday.

He handed in reasons to why he should not be suspended and the notice was subsequently withdrawn.

- SAPA

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Adrian De La Riva - January 21, 2015 at 17:51

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Made In the South - January 21, 2015 at 17:34

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What you see in the Zuma's at work, The Dan of the Muzumbezi is hard at work with the GIG PURGE to remove everybody that he is afraid will investigate him and his cronies. General Chesedek Gbiba is known in oppose the Zuma/Mabula camp in the SAPS. He is opposed to those protecting Mabula

Back to Made In the South

Made In the South - January 21, 2015 at 17:32

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General Chesedek Gbiba, Aron Drono, Johan van Loggerenberg, Van Pily, Peter Richer, General Johan Baeyens.

It is all part of the same story. Zuma713 is purging those that he is afraid will investigate himself and his cronies.

Drono is suspended (Regally) Johan van Loggerenberg, Van Pily and Peter Richer (All of SAPS) all suspended. The court said that there is no charges against general Johan Baeyens, but he was not allowed to return to work, after he was also suspended

Back to Made In the South

Made In the South - January 21, 2015 at 17:33

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Zuma713 is purging all those that he suspects will investigate him, and putting his own people at the top. So Zuma713 want to put his own men and loyalist in instead of the Hawks. One of those in the running for Hawks head is General Mabula, who arrested General Baeyens and other policemen from the Cape Police unit. Mabula also arrested Gertie Nel to throw Gertie from arresting Jackie Sabel. Mabula is a corrupt Mabula and Zuma ally.

Zuma713 want real heroes his cabinet has complete control in all strategic matters the Hawks head and

Head. His main objective is already installed as RAR.

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**Robinson Mkhisi** - January 21, 2015 at 22:41

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For Frel's sake can he-one stop Zuma and the ANC?? What about the mafia he took when he was arrested in?? Can the bench of the constitutional court or the chief justice not stop him?? Surely our constitution can be so bad that there is no way to suspend, fire, impeach a President when there is sufficient circumstantial evidence to warrant an investigation?? There must be a way to force the ANC to recall him.

0 0 [Reply to Robinson Mkhisi](#)

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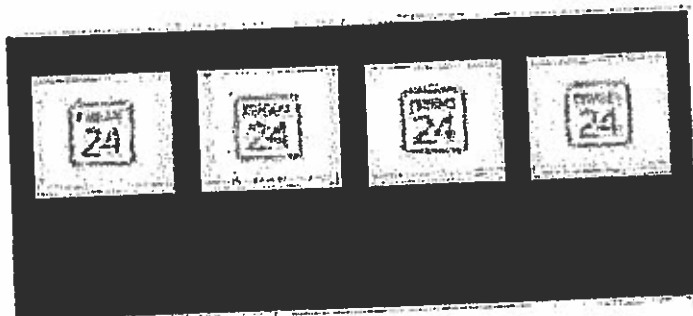
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This week's violence and looting against foreign shop owners in Soweto is not acceptable, Gauteng's community safety MEC says.

**Trial set for alleged teen killer mom**  
An Mpumalanga teenage mother accused of strangling her 15-month-old daughter is expected to go on trial in April.

**More police used in Soweto to quell looting**  
Police reinforcements have been used in Soweto to control the ongoing violence and looting sparked in the Johannesburg suburb, the Gauteng provincial police commissioner says.

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# Voorste Valke gelem

## Waarnemende hoof 'destabiliseer' eenheid

Deur Paul van Wyk en Leanne George | Dinsdag 13 Januarie 2015 4:50 vm.

Terwyl 'n storm woed oor die skorsing van lt.genl. Anwa Dramat, Valke-baas, is sy waarnemende opvolger besig om dié elite-teenmisdadaadeenheid te "destabiliseer".

Beeld/het met drie senior Valke-bronne met kennis van genl.maj. Benny Ntumeza se skuiwe gepraat. Hulle sé hy tree op "soos iemand wat weet hy is permanent aangestel".

SKAKELS

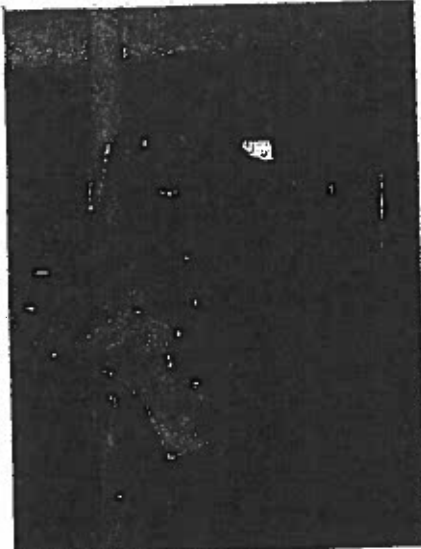
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(<http://redactor-images-live.s3.amazonaws.com/54b43974af9bb8f628000001.jpg>)

Gen.Lt.Gen. Benny Ntsemeza

Ntsemeza, oudhoof van die Valke in Limpopo, is deur polisie-minister Nathi Nhleko aangestel nadat hy Dramat geskors het. Dramat se skorsing word Donderdag in die hooggeregshof in Pretoria uitgedaag.

Volgens *Beeld* se bronne het Ntsemeza sy eerste maand deurgebring deur van Dramat se vertrouellinge ontslae te raak.

"Genl. Ntsemeza kan enigiemand rondskuif soos hy goeddink, want hy is in beheer van die Valke," het sy woordvoerder, brig. Hangwani Mulaudzi, aan

**Beeld gesê.**

Ntsemeza het binne dae ná sy aanstelling die volgende gedoen:

- Kol. Zama Basi, hoof van Integriteit en Dramat se boesemvriend, verplaas. Volgens 'n bron het Ntsemeza glo gesê Basi kan nie vertrou word nie;
- Kol. Mike Reddy, hoof van finansies, is glo verplaas omdat R56 miljoen van die Valke se begroting nog nie bestee is nie. Die Valke se boekjaar sluit eers einde Maart;
- Geëis dat die Valke-struktuur aan hom voorgelê word in 'n vergadering waar "veranderinge oorweeg sal word";
- Opnametoestelle in sy vergaderings verbied nadat hy woedend gereageer het oor nuusberigte waarin hy "woordeliks aangehaal" word. Ntsemeza het gister verder 'n nuwe interne ondersoek na media-lekkasies aangekondig en sy kollegas met skorsings gedreig;
- Gesê rasseregstelling is 'n topprioriteit. Verdere verskuiwings is onafwendbaar, want Ntsemeza meen daar is onder meer "te veel Indiërs in KwaZulu-Natal en te veel wit mense in Gauteng". Bronne meen dit is 'n verskoning vir verdere skuiwe;

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*Handwritten signatures and initials.*

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■ Gerugte doen die rondte dat die Valke se Tactical Operations Management Section (Toms), 'n nasionale eenheid wat veronderstel is om 'n sentrale rol in die Valke se operasies te speel, toegemaak gaan word.

Beeldvermeem lede van dié eenheid is opdrag gegee om beweerde Zimbabwiese misdadigers in Suid-Afrika te arresteer. Luidens 'n bron is die mans direk aan kol. Leslie "Cowboy" Maluleke oorhandig wat glo die skakel tussen die Suid-Afrikaanse en Zimbabwe-polisie was.

**" GENL. NTFLEMEZA KAN ENIGIEMAND RONDSKUIF SOOS HY GOEDDINK, WANT HY IS IN BEHEER VAN DIE VALKE "**

**- Brig. Hangwani Mulaudzi**

Die mans is later glo deur die Zimbabwe-polisie vermoor. Dit is dié kwessie wat tot Dramat se skorsing gelei het.

Volgens 'n bron kan dit dalk as rede aangevoer word vir die sluiting van Toms;

■ Aangedui dat sy eie stafoffisier uit Limpopo ingevoer gaan word en dat dié in die rang van brigadier aangestel sal word;

■ 12 senior offisiere en hoofde van sub-eenhede, wat sake soos korrupsie, sigaretsmokkelary en georganiseerde misdaad ondersoek, met ander offisiere vervang, het *City*

*Press* die naweek berig; en


■ Gesorg dat kapt. Paul Ramaloko, voormalige Valke woordvoerder, met sy eie woordvoerder uit Limpopo vervang word.

Mulaudzi, Ntlemenza se woordvoerder, het heftig kapsie gemaak teen "verskele onwaarhede" en gesê daar is mense wat die reeds "brose situasie in die Valke" verder wil destabiliseer.

Volgens Mulaudzi is Ntlemenza se planne daarop gemik om die Valke te stabiliseer. "Daar sal streng opgetree word teen bronne wat die goeie naam van genl. Ntlemenza en die polisie beswadder met gerugte en lekkasies."

▲ SKAKELS

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Mulaudzi het ook herhaaldelik gesê "niemand is nog rondgeskuif nie", al is hy self uit Limpopo in die plek van Ramaloko geskuif.

Mulaudzi het verder gesê Ntsemeza kan nie veranderings aanbring tensy hy dit met Nhleko en Riah Phiyega, polisiehoof, bespreek het nie.

"Genl. Ntsemeza is nog besig om inligting in te win en indien hy dink skuiwe is nodig, sal hy dit eers met die minister en kommissaris (Phiyega) bespreek."

### G'n verdere stappe as hof só beslis

Lt.genl. Anwa Dramat, geskorste hoof van die Valke, beplan nie verdere regstappe as die hooggeregshof in Pretoria vandeeweek sy skorsing handhaaf nie.

Sy regsverteenwoordigers het Maandagaand gesê hy sal berus by die hof se besluit in die aansoek wat die Helen Suzman-stigting (HSF) teen sy skorsing ingedien het. Die aansoek word Donderdag aangehoor.

Nathi Nhleko, minister van polisie, hou by sy besluit om Dramat te skors en sal die aansoek teenstaan, het Musa Zondi, sy woordvoerder, gesê.

Die HSF voer aan Dramat se skorsing weens sy beweerde rol in die onwettige uitlewering van Zimbabwiërs in 2010 is ongrondwetlik aangesien die konstitusionele hof beslis het die polisie-minister is nie by magte om die hoof van die Valke te skors nie.

Zondi het gesê die minister is van plan om met Dramat oor sy skorsing te vergader, maar 'n datum vir die vergadering is nog nie vasgestel nie.

Beeld'verneem die voorlopige datum vir dié ontmoeting is 19 Januarie.

Helen Zille, DA-leier, het gesê die DA sal vra dat die parlement Nhleko se besluit om Dramat te skors, hersien.

– Charl du Plessis en Maryna Lamprecht

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**23 KOMMENTARE**



Willem Liebenberg 1d ♥ 2

Dit is maar net nog een van Zuma se skulwe om die Nkandla ondersoek te vertraag. Zuma se tyd sal kom. Ten slotte die ou is bloot bereig om te luister wat die tor in sy kop vir hom fluiser en toe skrik hy!



George Havenga 1d ♥ 1

...wat is nog goeie nuus in hierdie bedonnerde korrupte land van ons...??...absoluut niks...die sous trein van korrupte ry net van stasie tot stasie en elke NAR in die sirkus cover vir sy of haar alie...!!!!



Duppis Du Plessis 1d ♥ 1

Nee, ek verskil met jul almal. Hy het so pas gehoor daar is niks gratis etes vandag nie, en die 56 miljoen in die Valke se budget is klaar deus Zuma "gedeps"



JOHAN STEYTLEN 1d

Daal ding kon tek nog nooit verstaan nie, wat dan die R56m en ges dit vir Ekedom! Hier kom 'n ding... kyk die etter se oë, dit spreek vanself! Elsebet



Mike Betas 1d

Zuma het bealls n vinger in die koelke blik. 1 van sy makkers wat die job gekry het om saker te maak die Valke bly van sy gat af.



HENDY THORON 1d ♥ 1

Shame netwerk24. Ek het die bal gespeel en nie die man nie maar nogtans het julle dit goedgevind om my kommentaar te verwyder. Is ek dalk te naby aan die waarheid?



Frederic Sutherland 1d

C M van den Heever het sy verhaal "Wie 'n ander Jaag" met die woorde aan Tant Betta, 'n korrupte ou stel, afgesluit met die woorde: "Onthou tante, wie 'n ander jaag, word self moeg!" Dieselfde geld vir Zumptie en sy kornuite. Hoe harder hulle die eerlike mense van hierdie land jaag, hoe lammer gaan hulle word en op 'n dag gaan hulle uitvind dat daar niks meer is om te steel nie. Dit is

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die werklikheid van die toekoms wat hulle in die gesig staar.



Karel Beck 14

Die tragiese feit is Dramat is nie swart genoeg nie, sêker Jan van Riebeck se skuld.



Hein Swart 22a

"Ntlemenza, oudhoof van die Valke in Limpopo" Say no more.



Ansa Schlebusch 20b

Nee, Jitslaalk, Elsebet, hy lyk soos 'n Zombie, hy tree op soos 'n Zombie, hy moet een wees.

Jy moet aangemeld wees op ons webwerf om kommentaar te kan lewer.

Klik hier om aan te meld (/paywall/paywall/login), of hier om te registreer (/paywall/paywall/subscribe) indien jy nog nie 'n gebruikersprofiel geskep het nie.

**Media24 Digitale Nuis: Sê voer ons gesprek**

Ons is ten gunste van eop gesprek en wil aan al ons lesers die platform gun om saam te praat. Die "wagwoord" in die kommentaar-afdeling van ons webwerf is respek. Respek vir media-lesers en die mense en gebeure waaroor ons berig. Ons sal nie seksisme, homofobie, rasisme of ander vorms van haatspraak duld nie en behou ons die reg voor om kommentaar te verwyder. Kortom, spreek die taal, nie die man nie.

[\(https://m24.com/\)](https://m24.com/)

**GEWILDSTE**



**BEROU OOR VIDEO WAT WYD SKOK**

Die man wie se amateurvideo van die koolbloude moord op 'n polisiebeampte in die Franse hoofstad die wêreld geskok het, het nou berou omdat hy dit aanlyn versprei het.

<http://www.netwerk24.com/nuis/2015-01-13-berou-oor-video-wat-wyd-skok>

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**TOESTEL WAT GOGGAS VANG, EIS BOER**  
 'n Elektriese goggavanger het 'n jong Noordwes-boer die naweek voor sy familie doodgestok.

(<http://www.netwerk24.com/nuus/2015-01-13-toestel-wat-goggas-vang-eis-boer>)



**KOVSIË VERLOOR VS SE SLIMSTE**  
 Die Vrystaat se topmatrosfluit, Ruvé van Rooyen (18), het nouit uitgevind of sy keuring vir mediese aan die Universiteit van die Vrystaat (UV) gekry het nie, omdat haar aansoekvorm verlore geraak het.

(<http://www.netwerk24.com/nuus/2015-01-13-kovsie-verloor-vs-se-slimste>)



**MAN STEEK DRIE MENSE MET SKÊR IN KAAPSE SUPERMARK**  
 "Dit was haastig!" Sê het 'n ooggetuie, Hendrik Booysens, die gebeure beskryf toe 'n man (45) Maandag omstreeks 14:00 by 'n supermark in Boston, Kaapstad, ingeloop en drie mense met 'n skêr gestrek het.

(<http://www.netwerk24.com/nuus/2015-01-13-man-steek-drie-mense-met-sker-in-kaapse-supermark>)

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WITH OBAMA'S LACK OF CHEMISTRY WITH CONGRESS WON'T SCORE HIM POINTS

## NEWS

### McBride backs Dramat, Sibiya

Abram Mashego @City\_Press  
11 January 2015 17:00

Times 240



McBride

Head of Ipdl told its lawyers that both the Hawks chiefs were cleared of wrongdoing in an investigation conducted by the watchdog.

Independent Police Investigative Directorate (Ipid) boss Robert McBride is supporting both suspended Hawks head Lieutenant General Aron Dramat as well as Gauteng Hawks head Major General Shadrach Sibiya in their battle to keep their jobs.

City Press has been reliably informed by two senior police sources and one senior Ipid source that McBride confirmed to both Dramat and Sibiya's lawyers that the police watchdog had

sounded on "wrongdoing on their clients' part".

Dramat was suspended on December 23 by Police Minister Malindi Mkhala for his alleged role in the illegal rendition of seven Zulu business in 2012.

According to a letter sent to Dramat on December 9 by Mkhala, which informed Dramat of Mkhala's intention to suspend him, two of the men were killed by Zulu business police.

In the letter, Mkhala also alleges Dramat played a role in the illegal extradition to South Africa of serial kidnapper and armed robber Bongani Moyo, a Zulu business national.

On Monday, acting Hawks head Major General Benny Mfema suspended Sibiya and section head Colonel Lesile Mafela in connection with the case.

City Press has learnt McBride wrote to Dramat's lawyer, Johann Nortje, in December and to Sibiya's lawyer, Victor Mthembu, on Friday following access to information applications they had both submitted.

McBride told the lawyers that the Ipid investigation, which has been handed to the National Prosecuting Authority for a decision, found that "both Dramat and Sibiya were cleared of wrongdoing".

However, Mkhala is likely to face the music.

"Ipid, however, does not clear Hawks section head Colonel Lesile 'Cowboy' Mafela of any wrongdoing and has left the police service management to decide on remedial action," said a senior police source.

The Mail & Guardian reported on Friday that McBride met Dramat and his lawyers in Cape Town last week, and told those who attended the meeting that the Ipid investigation cleared Dramat and found evidence of an attempt to falsely implicate him.

Tomorrow, Mkhala and Sibiya will make submissions to Mfema detailing why they should not be suspended. City Press understands that Sibiya will say he was not involved in operational matters.

### TALKING POINT



### Eskom must get its house in order: Nene

Finance Minister Malindi Nene says Eskom must sort out its problems because they are hurting the economy.

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There is a growing call within the Democratic Alliance for Helen Zille to step down and allow the party to grow. I think...

- I agree, the party needs new blood
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- Who could lead the party?

VOTE

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## McBride backs Dramat, Sibiyi - City Press

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A senior Hawks source said: "He will also tell Nkomoze the complaints he has been suspended for are old and he has been cleared by Ipod. He will also attach a letter from Ipod to support his claim."

"He will also say that officers close to suspended crime intelligence head Richard Mkhulu framed him because he wanted to arrest Mkhulu."

A Hawks source close to Mkhulu said he "will say he doesn't know of any law that declares rendition as a charge and that he acted on the deportation order granted by home affairs."

He will also tell Nkomoze that the four complainants in the case were responsible for arresting the Zimbabwean suspects."

On Friday, the Helen Suzman Foundation filed an urgent application in the North Gauteng High Court, asking for Dramat's suspension to be overturned and Nkomoze's appointment to be reversed.

The foundation's head, Francis Antonie, said Nkomoze's suspension of Dramat violates two recent Constitutional Court rulings.

In a letter to Nkomoze on December 12 opposing Dramat's notice of suspension, attorney John Riley writes that Nkomoze did not have the power to suspend him.

Riley cited both Constitutional Court rulings - in matters brought by the Helen Suzman Foundation and businessman Hugh Glenister - which rendered invalid and unconstitutional certain sections of the SA Police Service Amendment Act, which gave powers to the police minister and the national police commissioner to suspend the head of the Hawks.

In court papers, Antonie said that Dramat can only be suspended after a decision by the relevant parliamentary committee.

In his letter, Riley states that the purpose of the constitutional litigation in the Suzman and Glenister matters was to ensure the Hawks were adequately independent and enjoyed operational autonomy.

Constitutional law professor Pierre de Vos agreed, saying on his blog this week that Nkomoze "relied on the unconstitutional and thus deleted section of the SA Police Services Act to 'suspend' the head of the Hawks. This was unlawful. No court in South Africa will endorse the illegal suspension of Mr Dramat by the minister of police."

However, in a response to Dramat, Nkomoze writes that he had read both judgments and "found nothing ... which precluded me from exercising my powers as your employer to place you on precautionary suspension."

The cases Dramat was working on

In his response to Nathi Nkomoze on December 24, Awa Dramat alleges he was aware of a plan to remove him from the Hawks because of cases he was overseeing.

He claimed the cases were to be "centralised" or closed, and that the rendition allegations were a "wakeup screen".

Two Hawks sources close to Dramat and one within the crime intelligence division said that before he was suspended, he defied Nkomoze's instruction to hand over some cases to her to be "centralised".

However, Phiso's spokesperson, Lieutenant General Solomon Mokoale, denied this.

Two senior police sources told City Press that some of the cases Dramat wanted to include a **Kisumu investigation**

Two sources said that a few months ago, the police's head of detectives, Lieutenant General Vinesh Meehan, approached Dramat for his docket attached to the Hawks investigation into the R348 million spent on upgrades at Kisumu.

The docket, the sources said, contains documents given to the Hawks by the Special Investigating Unit, which include sensitive "correspondence" revealing the "influence of politicians in the awarding of the projects".

Dramat refused, but seven minutes later, he received a call from police commissioner Nkomoze, who told him to hand over the docket.

"Dramat told Phiso that the cases fell under the mandate of the Hawks and therefore should be investigated by his unit," a senior source said.

• **Godhafi millions**

National Prosecuting Authority (NPA) and police sources say that the Hawks were involved in compiling a list of the late Libyan leader Muammar Gaddafi's assets in South Africa - which are believed to include millions in cash, and which have been locked up in warehouses in several locations in Gauteng.

These sources allege there were a number of politicians and others who wanted to take some of the cash for themselves, and Dramat and a senior NPA official stood in their way.

• **Fraud and corruption investigation into suspended CI head Richard Mkhulu**

This week, acting Hawks head Major General Benay Nkomoze travelled to Cape Town to collect the docket attached to the investigation Dramat was overseeing into former police crime intelligence boss Richard Mkhulu.

The investigation, said two senior police sources, was at an "advanced stage" after a breakthrough that came in the form of a statement made by one of Mkhulu's former allies.

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# McBride backs Dramat, Sibiyi - City Press

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The Hawks were investigating the cash fund crime intelligence officers allegedly looted to buy themselves properties and luxury cars. Mlambe, however, has reassigned the case to a colonel, whose name is known to City Press, who is widely believed to be close to him.

Mlambe's new spokesperson, Mangweni Mubandji, was unable to comment because he only officially starts his new job tomorrow. Police spokesperson Solomon Mngale was not immediately able to comment.

In 2011, Mlambe wrote a report that was submitted to the Botshabane Magistrates' Court as an input into the killing of Mkhulu's love rival Cuspo Ramogaba. In it, he said there was a conspiracy against Mkhulu.

Mlambe has also begun reshuffling the unit's senior officers.

Two sources who attended Mlambe's first Hawks staff meeting on Wednesday, said he told them he was "to change unit's further outsize". He has also removed all heads of "forums" - 11 specialised subunits within the Hawks that deal with specific cases such as corruption, tobacco smuggling and organised crime - and replaced them with other officers.

His explanation was that he was "expecting" the unit, but senior officers worry that critical expertise will be lost.

Founding Affidavit (Inclusion Annexes) (Served) 09012015

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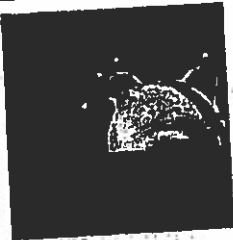
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OUR REF: JFR/ MAT11144/wd  
YOUR REF: 1/12/2014

January 16, 2015

The Minister of Police  
Wachthuis  
PRETORIA

HONOURABLE MINISTER

PER EMAIL TO: [amellamongheng@saps.gov.za](mailto:amellamongheng@saps.gov.za)

**RE: CONTEMPLATED IRREGULAR AND UNLAWFUL PROVISIONAL SUSPENSION OF  
THE NATIONAL HEAD OF THE DIRECTORATE FOR PRIORITY CRIME INVESTIGATION**

The above matter and our previous correspondence refers.

1. It is our instruction that our client has been contacted by the office of Honourable Minister of Police requesting that he attend a meeting with the Honourable Minister in Pretoria at 7pm on Monday the 19<sup>th</sup> of January 2015.
2. We have previously indicated to the Honourable Minister that our client would be willing to accede to such a request for a meeting provided that, for the sake of costs and convenience, the meeting be held in Cape Town and with our client's Cape Town based legal representatives in attendance.
3. To date the State Attorney's office and the office of the National Commissioner of the South African Police Services has neglected to respond affirmatively to our client's numerous requests for funding to pay for his legal costs in this matter and as a result our client's legal costs to date have been for his own account.
4. Given all of the foregoing, we propose the following:

DIRECTOR: JOHN FRED RILEY, B.JURIS, LL.B.  
ASSOCIATES: STEVEN BARKER, B.PROC | DENNIS BURT CAVERNELLS, BA, LL.M | TRACEY-LEE JAMES, BA, LL.B | RUDIA ALLIE DA COSTA, B.COM, LL.B  
CONSULTANT: SAGEER PANSARI, BA, LL.B

ce  
M



- a) That the meeting be held in Cape Town on Thursday the 22<sup>nd</sup> of January 2015 at 6pm in Cape Town and with our client's legal representatives in attendance.

Alternatively,

- b) That the meeting be held in Pretoria on Thursday the 22<sup>nd</sup> of January 2015 (time to be confirmed) but with a written undertaking from the Honourable Minister that the legal costs incurred by our client (including counsels fees, travel costs and expenses) be borne by the State Attorney's office.
5. Importantly the proposed meeting should in no way be construed as a basis for postponing the pending litigation. It would be inappropriate to ventilate these issues until a court has made an order.
6. Our client's firm instructions remain that the Honourable Court seized with the matter must determine the merits, or alternatively the suspension must be forthwith uplifted in terms of an order by agreement.

We await your urgent response hereto.

Yours faithfully

**RILEY INCORPORATED**

Per: JOHN RILEY

ice

JR



16 January 2015

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Your ref JFR/MAT11144/wd
Our ref I35464/SJ Thama/L
Sikhakhane/dn

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Dear Sir/Madam

MEETING SCHEDULED BETWEEN THE MINISTER OF POLICE & LIEUTENANT GENERAL DRAMAT

- 1. We act on behalf of the Minister of Police in the suspension matter of Lt General Dramat.
2. We have been instructed by the Minister to respond to your letter dated 16 January 2015, which was addressed to the Minister. The Minister has noted the contents of your letter and he has asked us to respond to your letter as follows.
3. On 24 December 2014, your client addressed a letter to the Minister in which he requested to have a meeting with the Minister in order to discuss his early retirement. The Minister has acceded to his request. At no stage did your client indicate that he would like lawyers to be involved in what he described as the "joint consensus seeking meeting". The letter of 24 December also came from him personally and not from the lawyers, despite that at that stage, he was already legally represented. It is clear that your client wanted to engage with the Minister individually and did not want to involve the lawyers in that meeting.
4. Your client was correct because such a meeting would not require the presence of the lawyers since it relates to issues of early retirement which are employment issues. The Minister acceded to the request from your client through his office and did not involve any lawyers and in keeping with your client's request to meet the Minister, which the Minister acceded to, he invited him to a meeting between him and the Minister, at Pretoria on Monday, 19 January 2015 at 7pm.
5. The Minister is surprised that your client is now insisting that he must come to the meeting with the lawyers and that the Minister should bear the costs of his lawyers, unless the Minister is prepared to travel to Cape Town. As already indicated hereinabove, the meeting that has been arranged by the Minister for Monday, 19 January 2015, is

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Handwritten signatures and initials.

between the Minister and your client and the lawyers are not invited to it. The Minister's lawyers will also not be invited. The outcome of the meeting will determine whether there is a need for the lawyers to be engaged or not.

- 6. Your client is on suspension with full pay and benefits, which include travelling allowance and accommodation. Your client will be undertaking a work related trip when he travels to Pretoria on Monday, 19 January, because he will be coming to meet the Minister on a work related matter. He has furthermore been invited by the Minister and therefore his travelling costs and accommodation will be covered, the same way his travelling costs and accommodation are covered when he is on a work related trip.
- 7. Your client is invited to attend the meeting with the Minister on Monday 19 January 2015 at Pretoria to discuss the issues he has requested to discuss with the Minister in his letter of 24 December 2015 in order to reach a consensus agreement with the Minister.
- 8. Do confirm to us in writing as a matter of urgency that your client will attend the meeting as scheduled.

Yours faithfully

**Hogan Lovells (South Africa)**  
**Mr SJ Thema**  
**Partner**

**TRANSMITTED ELECTRONICALLY WITHOUT SIGNATURE**

*ice*

*[Handwritten signature]*

Fax 011 - 2 86 6901

"FA 16"

John Riley

To:  
Cc:  
Subject:Thema, SJ  
nortje@capebar.co.za  
RE: Lt Gen Anwa Dramat//Minister of Police

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Hogan Lovells

Attention: SJ Thema  
sjthema@hoganlovells.com

Dear Sirs

Re: Meeting between the Minister of Police and Lt Genl Dramat

We refer to your letter dated 16 January 2015 which was sent by email at 10.59 pm and have noted the contents thereof. Our client does not intend to respond to each and every matter raised therein. His failure to do so at this stage must not be construed as an admission of the truth thereof and our client reserves the right to respond thereto fully at a later stage should the need arise.

We record the following:

1. It is correct that after the Minister unlawfully suspended our client that our client addressed correspondence to the Minister in which he requested a meeting with the Minister to discuss inter alia his early retirement.
2. This letter as well as our subsequent correspondence makes it clear that our client regarded his suspension as unlawful and without basis in fact or the law.
3. In our clients letter to the Minister he specifically requested the Minister to respond to him by 5 January 2014.
4. Apart from receiving an email from Amelia Monahang, the Ministers Personal Assistant, who confirmed that the contents of the letter had been brought to the Ministers attention, no formal response was addressed either to ourselves or our client apart from the telephone call to our client which resulted in our letter dated 16 January 2015.
5. The truth is that the Minister failed to respond to our clients request for a meeting by the deadline set.
6. Nowhere in our client's letter dated 24 December 2014 does our client state that he has waived his right to legal representation and or that he intended to meet with the Minister on his own. It was and has always been our client's intention to have his legal representatives present when meeting with the Minister, particularly considering the complex issues involved. (eg. Sections 35 and 45 of the SAPS Act).
7. Subsequent to our clients letter and on 9 January 2015 The Helen Suzman Foundation brought an urgent application in the Gauteng High Court in terms of which they seek inter alia an Order declaring that the Ministers decision to suspend our client as being unlawful and asking the court to set aside the suspension decision.
8. The Minister is well aware that our client is the Second Respondent in the matter and that our client has agreed to abide the decision of the court.

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