



**OFFICE OF THE NATIONAL DIRECTOR  
OF PUBLIC PROSECUTIONS**

Victoria & Griffiths Mxenge Building,  
123 Westlake Avenue, Weavind Park Silverton,  
Pretoria, 0001

Private Bag X752, Pretoria, 0001

Contact number: 012 845 6758

Email: [ndpp@npa.gov.za](mailto:ndpp@npa.gov.za)  
[www.npa.gov.za](http://www.npa.gov.za)

16 August 2017

UDF Veterans (Western Cape)  
6<sup>th</sup> Floor  
Constitution House  
124 Adderley Street  
CAPE TOWN  
8001

Email: [zholtzman@gmail.com](mailto:zholtzman@gmail.com)

Dear Sirs/Madams

**PROSECUTION OF ALL THOSE INVOLVED IN STATE CORRUPTION**

1. Your letter, dated 7 August 2017, which was hand-delivered to the Office of the Director of Public Prosecutions: Western Cape, and which was emailed to my Personal Assistant, refers. The contents thereof are noted.
2. I disagree with you that the National Prosecuting Authority (NPA) has failed "*to act in terms of its Constitutional mandate, to root out criminal activity within the State*" over the last decade. It is regrettable that you deemed it necessary to make such a general statement.
3. As you are aware, the South African Police Service (SAPS) is constitutionally mandated to investigate crime. In this regard, I deem it necessary to bring to your attention the provisions of section 205(3) of the Constitution of the Republic of South Africa, which reads as follows:

*"The objects of the police service are to prevent, combat and investigate crime, to maintain public order, to protect and secure the inhabitants of the Republic and their property, and to uphold and enforce the law."*

4. The preamble of the South African Police Service Act, 68 of 1995 (SAPS Act) further *inter alia* provides that:

*" ... there is a need to provide a police service throughout the national territory to –*  
*(a) Ensure the safety and security of all persons and property in the national territory;*

- (b) Uphold and safeguard the fundamental rights of every person as guaranteed by Chapter 3 of the Constitution;
- (c) Ensure co-operation between the Service and the communities it serves in the combating of crime;
- (d) Reflect respect for victims of crime and an understanding of their needs; and
- (e) Ensure effective civilian supervision over the Service:

*AND WHEREAS there is a need to provide for a Directorate in the Service that is dedicated to the prevention, investigation and combating of national priority offences, in particular serious organized and transnational crime, serious commercial crime and serious corruption, and that enjoys adequate independence to enable it to perform its functions.” [My emphasis]*

5. The latter portion of the preamble is with specific reference to the Directorate for Priority Crime Investigation (DPCI), established in terms of Chapter 6A of the SAPS Act, which is responsible for the investigation of national priority offences, which includes serious corruption.
6. The NPA is particularly dependent on the SAPS and the DPCI to investigate alleged acts of criminality prior to exercising its statutory and constitutional powers to institute criminal proceedings on behalf of the State.
7. I hence trust that a similar letter, or at the very least a copy of your letter addressed to me, has been forwarded to the National Commissioner of SAPS and the Head of the DPCI.
8. Notwithstanding the aforementioned, Government is committed to reduce corruption in South Africa as articulated in the Medium Strategic Framework 2014 – 2019, the National Development Plan and the National Security Strategy. Government’s commitment to reduce corruption is evidenced by the release of a Discussion Document Towards a National Anti-Corruption Strategy for South Africa, embracing a whole of Government and societal approach in the fight against corruption. The NPA contributed to the content of this discussion document.
9. In this regard, Government must be equally aggressive in its endeavours to root out corruption and criminal activity within the State, as well as in the private sector. It does concern me that your interest only lies in the eradication of criminal activity within the State. Regrettably, you make no mention of your concerns of corruption and acts of criminal activity around the private sector.
10. The National Anti-Corruption Forum has also recently been revived by the Department of Public Service & Administration, highlighting Government’s

endeavours to eradicate corruption, maladministration and financial mismanagement in all its forms and manifestations. The NPA is represented on this forum.

11. The NPA is represented on the Anti-Corruption Task Team (ACTT) since October 2010, which team is aimed at a multi-disciplinary and integrated operational approach, based on the mandate of the DPCI. In essence, the ACTT is the central body mandated to give effect to Government's anti-corruption initiatives and programmes. In this regard, the ACTT reports to the Anti-Corruption Inter-Ministerial Committee chaired by the Minister for Planning, Monitoring and Evaluation in the Presidency and constituted by the Ministers of Police, State Security, Justice & Correctional Services, Public Service and Administration, Finance, Home Affairs and Social Development.
12. The ACTT is chaired by the Head of the DPCI and is *inter alia* constituted by representatives of the DPCI, the NPA (the Asset Forfeiture Unit (AFU) and the Specialised Commercial Crime Unit (SCCU)), the Special Investigating Unit (SIU), the State Security Agency (SSA), the South African Revenue Service (SARS), Department of Justice & Constitutional Development (DoJ&CD), the Financial Intelligence Centre (FIC), the Accountant General (AG), the Chief Procurement Officer (CPO), the National Intelligence Coordinating Committee (NICOC), the Department of Public Service & Administration (DPSA), the Monitoring & Evaluation Unit in the Office of the Presidency and the Government Communications & Information System (GCIS).
13. The ACTT is committed to a whole of Government and societal approach premised on the creation of resilient anti-corruption system for the country in combating the fight against the scourge of corruption.
14. With regards to your demand in respect of the appeal in the matter of **Acting National Director of Public Prosecutions & Ano v Democratic Alliance & Ano** (the "Spy Tapes" matter), I regret to inform you that I am unable to accede thereto. As you are well aware, the history around this matter predates my appointment as the NDPP. The appeal pending in the Supreme Court of Appeal is premised largely on the powers of the NDPP and the functioning of the NPA. Finality is required in this regard.
15. Your comment in respect of an array of different matters that "*... the NPA has been glaringly absent. All these have been substantially cemented by the #GuptaLeaks, which makes your silence complicit*" is incorrect in its entirety and misplaced. It is rather regrettable that you have to resort to making such comments not understanding the role and functioning of the NPA.

16. During my appearance before the Standing Committee on Public Accounts (SCOPA) in May 2017, I informed the Committee that the DPCI is investigating the allegations levelled in the State of Capture report, referred to both myself and the Head of the DPCI by the Public Protector. I *inter alia* further informed the Committee of the various legs of the investigations conducted by the DPCI and that I had assembled a team of senior prosecutors under the leadership of the Acting Head of the SCCU to provide the requisite guidance to the DPCI investigating team.
17. Your request for “a full list of current cases relating to state capture and corruption, including detailed time frames, charges, where these have been laid and court dates where these have been set” should be directed to the DPCI, who are responsible for the investigations.
18. With regards to your demand that I “urgently proceed with prosecuting all government ministers, officials, board members and civilians involved in bribery, corruption and other related criminal activity in respect of ...” the matters listed in your letter, the NPA can only institute prosecutions against persons or entities where investigations have been concluded and reliable, relevant and admissible evidence dictates that it is in the interest of justice that a prosecution should ensue. As I have previously alluded herein, it would be more appropriate for you to establish what the status of the investigations in these matters are from the DPCI and/or the SAPS.
19. In respect of your demand that I “institute asset forfeiture proceedings against all those who benefitted financially in any manner from any of the above illegal activities”, I can assure you without delving into specifics that the AFU is working closely with the SCCU, the DPCI, the SAPS and the FIC, among others, in respect of matters that are the subject of investigation and where asset forfeiture proceedings are required.
20. Contrary to your belief, indicative of the tone of your letter, the NPA will continue to execute its constitutional mandate without fear, favour or prejudice.

Yours sincerely



**ADV. S. K. ABRAHAMS**  
**NATIONAL DIRECTOR OF PUBLIC PROSECUTIONS**

DATE: 18-08-2017