

Zondo wraps up law enforcement evidence with NPA statements

By  Valencia Talane

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The illegal Zimbabwean rendition matter that has dogged the Hawks and the Independent Police Investigative Directorate (Ipid) for years, along with the South African Revenue Service (Sars) rogue unit investigation, once again took the spotlight before the state capture commission on Friday, 23 July 2021.



Source: John Roman – [123RF.com](https://www.123RF.com)

The versions of eight National Prosecuting Authority (NPA) officials accused of interfering in the investigations were shared by their legal representatives as per a previous arrangement with commission chairperson Deputy Chief Justice Raymond Zondo. The commission also heard versions relating to allegations that some of the eight pursued a state capture agenda in the KwaZulu-Natal Cato Manor “death squad” probe.

Advocate Tebogo Mathibedi, leading the legal team representing the advocates, told the commission that their reputations were tarnished by people who merely wanted to use the commission to hide their own acts of misconduct.

“Chairperson, we respectfully submit that the only crime or sin that the implicated officials committed was that they did their statutory duties as was expected of them without any fear, favour or prejudice,” he said.

Implicated advocates

Former Ipid head Robert McBride, Ipid head of investigations Matthews Sesoko, and former KwaZulu-Natal Hawks head Johan Booysen implicated the advocates – Anthony Mosing; Raymond Mathenjwa; Sello Maema; JP Pretorius SC; George Baloyi; Marshall Mokgatlhe; Andrew Chauke; and Molatlhwa Mashuga – in various roles in the different cases.

McBride was accused by Mosing and Mathenjwa of procedural misconduct and jumping the gun by reporting to the media that an Ipid report had exonerated former national Hawks head Anwa Dramat from taking part in the rendition. They also claimed that before this, he ordered the withdrawal of a previous report that had already been submitted prior to his appointment in March 2013. The second report, according to Mosing, was flawed and it sought to undermine the work that the NPA had already done.

McBride's version in 2019 was that an enthusiastic Mosing pressured the Ipid official in charge of the investigation, Innocent Khuba, into submitting an incomplete report. Mosing however says his role was merely to guide Khuba through the stages of the investigation so as to arrive at a prosecutable case.

Khuba, added Mosing, was ordered by McBride to submit all evidence he had found on the matter, before the latter produced a new report with opposite findings that were in favour of Dramat and his Gauteng counterpart at the time, Shadrack Sibiya. The pair had been under investigation since 2012 for their involvement in what was considered the illegal extradition of Zimbabwean nationals sought by authorities in that country for the murder of a police official. Two of the suspects were later allegedly tortured and killed by the Zimbabwean authorities.

"When you have regard to the probabilities, what had been happening here does not seem to be above board. You can't come in on 6 February (sic), work on an investigation that had been conducted for over a year and make changes," said Advocate Kgaogelo Ramaimela.

Regarding Booysen, the commission heard the matter of the Cato Manor police squad investigation – which he claimed, in earlier testimony, had been bungled and used to persecute him for pursuing political corruption in the province.

"Death squad"

The charges brought against Booysen were linked to allegations that under his watch, the "death squad" operating under the official mandate of an anti-organised crime unit ran amok, killing suspects and using unconstitutional methods to pursue its work. Advocate Mathibedi told the commission that in the defence of the Cato Manor squad, the officers said they killed suspects of violent crimes in self-defence, yet none of them were themselves injured, nor were their vehicles damaged to indicate violent altercations.

"Of critical importance is that in some of the scenes, firearms were planted by members of the Cato Manor unit. Ballistic evidence revealed that some of those firearms that were retrieved by members of the unit were not functional," said Mathibedi.

In terms of the Sars unit, Advocate Zuko Madlanga defended Baloyi's actions, saying that he acted in the public interest in pursuing an investigation into the formation of the unit and how it conducted its investigations. The unit's purpose and mandate has been the subject of extensive media reports and legal proceedings following the 2014 appointment of former Sars commissioner Tom Moyane, who probed its work.

"Advocate Baloyi submits that what is said by Mr McBride against him cannot justify the label that he is enabling the capture of the Sars."

Another investigation that the advocates wanted to provide clarity on involved the early retirement and pension payout in favour of the revenue service's former deputy commissioner Ivan Pillay. He was investigated for having retired early from Sars, only to return to his post – which had not been advertised – with the blessing of then finance minister and former Sars commissioner Pravin Gordhan.

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Valencia Talane is a senior journalist and editor with Corruption Watch in Johannesburg. Talane has followed the hearings of the state capture commission since their commencement in August 2018 with a view to documenting evidence shared therein.

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