

14 August 2025

**DRAFT TERMS OF REFERENCE IN RESPECT OF THE AD HOC COMMITTEE  
ENQUIRY ESTABLISHED TO INVESTIGATE WIDE-RANGING ALLEGATIONS  
ON SECURITY MATTERS MADE BY KWAZULU-NATAL PROVINCIAL  
COMMISSIONER, LIEUTENANT GENERAL NHLANHLA MKHWANAZI IN A  
MEDIA BRIEFING ON 6 JULY 2025**

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**Note: The numbering in the table of content and document will be correctly inserted once the document is finalised. Thus, the numbering remains unchanged for ease of reference.**

**ABBREVIATIONS**

IDAC	Independent Directorate Against Corruption
NA	National Assembly
NPA	National Prosecuting Authority
PKTT	Political Killings Task Team
PPIPPLA	Powers, Privileges and Immunities of Parliament and Provincial Legislatures Act, 2004 (Act No.4 of 2004)
SAPS	South African Police Service

Colour Key		
ANC	MKP	EFF
PA	DA	ACTION SA

## 1. BACKGROUND

- 1.1. On 6 July 2025, the Provincial Commissioner of Police for Kwazulu-Natal, Lieutenant General Nhlanhla Mkhwanazi held a media briefing and made public serious concerns regarding the existence and operation of a sophisticated criminal syndicate that has allegedly infiltrated law enforcement and intelligence structures in South Africa.
- 1.2. The Provincial Commissioner also made wide-ranging allegations regarding, amongst others, political interference in the demise of the PKTT, the existence of a potentially corrupt relationship between certain individuals and the Minister of Police, an organized drug cartel that involves various role players across the criminal justice value chain. At the heart of Lieutenant General Mkhwanazi's allegations, is the involvement and control of politicians, law enforcement (SAPS, Metro Police & Correctional Services), Prosecutors, Judiciary as well as Businesspeople by the drug cartel.
- 1.3. On 9 July 2025, the Speaker of the NA ("the Speaker"), Ms Thoko Didiza, requested the Portfolio Committees on Police and Justice and Constitutional Development to consider the matter in terms of their respective mandates. Furthermore, the Speaker requested the two committees to make an assessment on the appropriate approach that Parliament should adopt in dealing with these allegations. The Speaker further invited the two committees to submit recommendations in this regard, for consideration by the NA.
- 1.4. On 16 July 2025, the two committees acting in terms of Rule 169(1) of the Assembly Rules convened with a view of deliberating on this matter. After having deliberated, the two committees agreed that the establishment of an ad hoc committee would be the most viable mechanism to deal with this

matter. Having completed their task, the two committees submitted a joint report to the House, which has since been considered and adopted by the NA.

- 1.5. On 23 July 2025, the NA passed a resolution establishing an ad hoc committee (“the Committee”) in terms of Rule 253 of the Assembly Rules. For that reason, the matter has now been referred to the Committee for a formal enquiry (“the Enquiry”) in terms of NA Rules. The Committee must conduct the Enquiry into the allegations of Lieutenant General Mkhwanazi and report to the House, with a view to improving policing and governance.

EFF: <sup>1</sup> proposes the insertion of the following after the word ‘House’: “, with a view to improving policing, within SAPS and metro police divisions, strengthening prosecution within the NPA, and enhancing governance across SAPS, the NPA, judiciary, correctional services, and metro police divisions”.

- 1.6. A committee of Parliament that holds a public enquiry for purposes of reporting to the House exercises public power and is obliged to do so in accordance with the fundamental principles of the rule of law. The most significant of those principles is the requirement of rationality. It means that both its procedure and its report must be rational.

- 1.7. The Committee agrees to conduct the Enquiry in accordance with the provisions of these terms of reference which are based on the aforesaid principles. The Committee may vary or amend these terms of reference provided that the principle of fairness is observed.

MKP: <sup>2</sup> Given the seriousness of the allegations, including infiltration of law enforcement and intelligence structures, political interference in policing functions, links to organised crime, and possible murders, it is essential that the Terms of Reference meet the highest standards of legality, fairness, and safety, and that they chart a concrete path to institutional reform.

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<sup>1</sup> EFF proposed amended wording in paragraph 1.5 (dated 8 August 2025).

<sup>2</sup> MKP proposes insertion of new paragraph following 1.7. (Dated 14 August 2025).

The complexity of the matters under investigation requires procedures that are rational, proportionate, and rights-compliant, and that any limitations on participation or representation be strictly necessary and reasonable in an open and democratic society.

## 2. LEGAL FRAMEWORK

- 2.1. The NA has both the power and the duty to hold the national executive to account.
- 2.2. Section 42(3) of the Constitution provides that the NA is elected to represent the people and to ensure government by the people under the Constitution. It does this in various ways. One of them is “*by scrutinizing and overseeing executive action*”.
- 2.3. Section 55(2) of the Constitution imposes a duty on the NA to provide for mechanisms to hold the national executive to account:

*“The National Assembly must provide for mechanisms –*

- (a) to ensure that all executive organs of state in the national sphere of government are accountable to it; and*
- (b) to maintain oversight of,*
  - (i) the exercise of national executive authority, including the implementation of legislation; and*
  - (ii) any organ of state.”*

- 2.4. Section 56 of the Constitution provides that the NA or any of its committees may,
  - “(a) summon any person to appear before it to give evidence on oath or affirmation, or to produce documents;*
  - (b) require any person or institution to report to it;*
  - (c) compel, in terms of national legislation or the rules and orders, any person or institution to comply with a summons or requirement in terms of paragraph (a) or (b);*

(d) receive petitions, representations or submissions from any interested persons or institutions.<sup>3</sup> (ANC)

2.5. This constitutional provision is supplemented by section 14 of the PPIPPLA. It describes the form and content of a summons by which a witness is compelled to produce documents or give evidence in a committee enquiry, namely:

“(2) A summons must state -

a. the name of the person summonsed;

b. the name or designation of the person who must serve the summons;

c. the time, place and venue at which the person summonsed is required to appear;

d. the subject of the enquiry;

e. the purpose for which the evidence of that person is required; and

f. a description of the document, if any, which that person is required to produce.”<sup>4</sup> (PA)

2.6. These provisions are echoed in Rule 167(a) of the Assembly Rules which provides that a committee may “*summon any person to appear before it to give evidence on oath or affirmation, or to produce documents*”.

2.7. Rule 361 of the Rules of the Assembly provides that if a witness, whose attendance before the House or a committee or other forum thereof is required, is being detained in any prison, the person in charge of such prison may be ordered to bring the witness in safe custody for examination as often as his or her attendance is deemed necessary, and on the instruction of the Speaker the Secretary may issue his or her warrant accordingly.

2.8. Section 57(a) of the Constitution provides that the NA may determine and control its internal arrangements, proceedings and procedures.

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<sup>3</sup> ANC: During the meeting of 14 August 2025, it was proposed that section 56(d) of the Constitution be inserted.

<sup>4</sup> PA proposes the insertion of the relevant section in the meeting of 14 August 2025.

2.9. The above constitutional provision is echoed in Rule 167(f) which provides that a committee may “*determine its own working arrangements*”.

### MKP<sup>5</sup>

The Committee shall give effect to rights in the Constitution, including legality, rationality, lawfulness, reasonableness, and procedural fairness, and recognise privilege against self-incrimination and legal professional privilege.

The Committee shall, where applicable, act in accordance with the Witness Protection Act 112 of 1998, the Protected Disclosures Act 26 of 2000, and relevant international best practice on the protection of persons providing evidence before public bodies.

The Committee acknowledges its PPIPPLA powers while ensuring fair-hearing safeguards when exercising summons and compulsion.

The Committee shall adopt a Protocol on Classified and Sensitive Information, balancing transparency under section 59 of the Constitution with non-prejudice to ongoing investigations.

The Committee may refer matters to appropriate authorities without purporting to determine criminal liability, respecting the separation of powers.

### **3. OBJECTIVES OF THE ENQUIRY**

The objective of the Enquiry is to:

3.1 investigate the veracity and implications of the allegations made by Lieutenant General Nhlanhla Mkhwanazi during his media briefing on 6 July 2025; and

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<sup>5</sup> MKP proposes insertion of new paras 2.10 to 2.14.

EFF: Investigate the veracity, extent, and implications of the allegations made by Lieutenant General Mkhwanazi, including the evidence of collusion between any State officials and criminal syndicates, and<sup>6</sup>

**OR**

ANC: Enquire into the veracity of the allegations made by Lieutenant General Nhlanhla Mkhwanazi regarding the violations of expected conduct of the executive authority and persons serving in other organs of state, in accordance with the powers of the National Assembly to maintain oversight and ensuring accountability of all executive organs of state.<sup>7</sup>

**OR**

**ACTION SA:** Hear, interrogate and question the implications of the allegations made by Lieutenant General Nhlanhla Mkhwanazi, during his media briefing on 6 July 2025;

3.2 report to the NA on its findings and recommendations by no later than 31 October 2025.

DA: Minority Parties must be permitted to submit dissenting or supplementary reports as part of the record;<sup>8</sup>

**MKP:**<sup>9</sup> **insert after 3.2-**

Determine systemic governance failures and propose concrete reforms, whether legislative, policy-based, or institutional.

Identify oversight lapses and make recommendations for performance auditing of relevant institutions.

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<sup>6</sup> EFF (dated 8 August 2025).

<sup>7</sup> ANC proposes alternative para 3.1. (Dated 12 August 2025).

<sup>8</sup> DA (Submission 1, circulated 8 August 2025).

<sup>9</sup> MKP proposes the insertion of new paragraphs 3.3 to 3.6 after paragraph 3.2 (dated 14 August 2025).

Recommend enhancements to whistleblower and witness-protection measures, including policy and funding.

Propose implementation and monitoring mechanisms for the National Assembly and relevant committees to track compliance with adopted recommendations.

**DA:**<sup>10</sup> The objective of the Enquiry is to:

- 1) Hear the testimony of Lieutenant General Mkhwanazi and any other relevant witnesses and gather evidence and documents to determine the veracity and implications of the allegations made by the Lieutenant General during his media briefing on 6 July 2025; and
- 2) Determine the scope of the issues raised and assess their potential impact on the functioning and reputation of the South African Police Service (SAPS), the Criminal Justice System, the Judiciary and high-ranking individuals and politicians.
- 3) Establish whether any wrongdoing, corruption, or breaches of conduct have occurred within SAPS or any other relevant institution as outlined in the revelations.
- 4) Evaluate the role of SAPS leadership and its response to the allegations.
- 5) Assess the adequacy of internal mechanisms for dealing with corruption, misconduct, and poor management within the SAPS, and any other relevant institution.
- 6) Determine the extent of any unlawful or unethical practices within SAPS and any other relevant institutions and their impact on National security, law enforcement operations, and public trust.
- 7) Develop findings and propose legislative or policy recommendations to improve the functioning of the SAPS and any other relevant institutions with a focus on accountability, oversight, and professionalism.
- 8) Recommend appropriate measures, reforms, and disciplinary actions to be taken, if applicable.

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<sup>10</sup> DA proposes amending paragraph 3, providing new paragraphs 3.10 to 3.10 as an alternative. (Further submissions, dated 12 August 2025).

- 9) Report to the NA on its findings and recommendations by no later than 31 October 2025, with monthly reports to be tabled throughout the duration of the enquiry.
- 10) Parliament establish an oversight mechanism to track implementation and reform progress for at least 12 months post-report.

#### 4. SCOPE OF ENQUIRY

Below is a list of key areas for consideration by the Committee.

ANC proposes the following addition: The evidence of Lieutenant General Nhlanhla Mkhwanazi before the committee shall be used as a basis to establish the approach the committee will take on the appropriate witnesses to be invited.<sup>11</sup>

- 4.1 Political interference within SAPS: Executive oversight versus operational interference by Minister Mchunu (including the directive by the Minister contained in the letter, dated 31 December 2024, to disband the PKTT and the moratorium on filling vacancies in the crime intelligence component of SAPS).

#### DA:<sup>12</sup>

Allegations of corruption: Any claim made by Provincial Commissioner Mkhwanazi regarding financial corruption, bribery, or misuse of public resources within SAPS, or any other relevant institution.

Police misconduct: Evaluating the extent of misconduct, human rights abuses, and unethical behaviour by members of SAPS and any other relevant individuals or institutions.

- 4.2 Evaluating the effectiveness of the PKTT and the official status thereof.

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<sup>11</sup> ANC (dated 12 August 2025).

<sup>12</sup> DA proposed insertion of new para 4.2 and 4.3 (Dated 12 August 2025).

- 4.3 Status of the 121 case dockets allegedly removed from the PKTT as directed by the Deputy National Commissioner for Crime Detection, Lt Gen. S Sibiyi acting on the instruction of Minister Mchunu to disband the PKTT.
- 4.4 Instability within the Crime Intelligence component of SAPS.
- 4.5 Alleged corrupt relationship between Minister Mchunu and Mr. Brown Mogotsi, and between Mr. Mogotsi and Mr. Vusimuzi 'Cat' Matlala.

DA:<sup>13</sup>

Internal oversight and accountability mechanisms: Reviewing the effectiveness of SAPS's internal oversight systems in detecting and addressing corruption and misconduct.

Leadership failures: Investigating whether the SAPS leadership, including Lt. Gen. Mkhwanazi, took appropriate action to address concerns, and the role of senior management in enabling or preventing the issues.

- 4.6 Possible procurement irregularities at SAPS as inferred by Lt Gen Mkhwanazi.

DA: Possible procurement irregularities at the SAPS as inferred by Lt. Gen. Mkhwanazi regarding the R360 million SAPS healthcare contract specifically whether the tender awarded to Mr. Vusimuzi Matlala's company contravened procurement laws, with reference to concerns previously flagged by Babita Deokaran.<sup>14</sup>

- 4.7 Alleged existence of an organised crime syndicate controlled by a drug cartel as well as businesspeople and its infiltration of key criminal justice system role-players involving politicians; law enforcement from SAPS, ~~Johannesburg~~ Metro Police Division, Correctional Services; ~~prosecutors~~ NPA; and the judiciary.<sup>15</sup>
- (EFF proposed amendments indicated in red.)

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<sup>13</sup> DA proposed insertion of new para 4.8 and 4.9 (Dated 12 August 2025).

<sup>14</sup> DA: Proposes additional wording to existing para 4.6, inserted as new para 4.10 (Dated 12 August 2025).

<sup>15</sup> EFF proposes amendments/corrections to wording in existing para 4.7 (Dated 8 August 2025).

4.8 Prosecutorial conduct and the relationship between IDAC and the PKTT. including whether IDAC or any of its officials unlawfully interfered in police investigations or exceeded its mandate.<sup>16</sup> (DA proposed amendments indicated in red).

**EFF<sup>17</sup> proposes insertion of new paragraph -**

Alleged failure of any organ of State or member of the executive to comply with their legal obligations, and if so, recommend appropriate action to address such failure.

4.9 Allegations against Members of Parliament (~~Classified information released to a Members of Parliament~~).<sup>18</sup> **(EFF)**.<sup>19</sup> **(Action SA)**

**DA:**<sup>20</sup> 4.13 Allegations against all implicated Members of Parliament and the classified information released to them.

**Action SA:**<sup>21</sup> re addressing the involvement of MPs as alleged by Lt Gen. Mkhwanazi in scope of Enquiry

In light of the Commission of Inquiry established by the President conducting its own process concerning the same allegations within its terms of reference, it is important that this Committee addresses the omission of the allegations made by Lt General Mkhwanazi, specifically his reference to Members (plural) of Parliament allegedly linked to criminal syndicates.

**DA**<sup>22</sup>

Impact on public trust and safety: Examining the broader impact of these issues on public trust in the SAPS, the Criminal Justice System, the Judiciary and National security.

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<sup>16</sup> EFF: Proposes insertion in para 4.8. (Proposed in document dated 8 August 2025 but not contained in document shared for clarification on 15 August 2025).

<sup>17</sup> EFF: Proposed insertion of new para 4.9 (Dated 8 August 2025).

<sup>18</sup> EFF: Proposes amendment to refer to MPs plural (Dated 8 August 2025).

<sup>19</sup> Action SA: Also proposes amendment to refer to MPs plural (Dated 6 August 2025).

<sup>20</sup> DA proposes amended wording to existing para 4.10 also reflecting the need to refer to MPs in the plural and specifically referring to the release of classified documents (Dated 12 August 2025).

<sup>21</sup> Action SA (Dated 6 August 2025).

<sup>22</sup> DA proposes inserting 2 new paras after existing para 4.10. The new paragraphs are numbered 4.14 and 4.15 (Dated 12 August 2025).

Assess the role of unions (e.g. POPCRU) in undermining disciplinary processes and shielding compromised officers from accountability.

**MKP:** <sup>23</sup> insert after existing paragraph 4.9. -

Assess any threats, intimidation, or reprisals directed at potential or actual witnesses, whistleblowers, or their associates in relation to the allegations under investigation and make recommendations for remedial or preventive measures.

Evaluate chain-of-custody, data-integrity, and record-keeping processes, including digital evidence management.

Establish protocols for handling, redaction, and secure storage of classified or sensitive material to avoid prejudice to ongoing cases.

Identify conflicts of interest (political, financial, or personal) impacting decisions relating to the PKTT, Crime Intelligence, procurement, and case allocation.

Scrutinise inter-agency coordination among SAPS, Crime Intelligence, IDAC/NPA, DCS, and Metro Police, and the legal basis for directives affecting the PKTT.

Review the legality and reasonableness of directives such as the disbandment of the PKTT or moratoria on posts, assessing them for rational basis and proportionality.

**DA proposes inclusion of new section:**<sup>24</sup>

## **LEGAL AND INSTITUTIONAL REFORM CONSIDERATIONS**

The committee must consider and make recommendations in the following areas:

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<sup>23</sup> MKP proposes inserting new paras 4.10-4.15 after existing para 4.9 (Dated 14 August 2025).

<sup>24</sup> DA: First submission (circulated 8 August 2025).

- 1) Reform of SAPS internal disciplinary architecture, including the possible creation of an independent body to adjudicate or oversee misconduct proceedings.
- 2) Establishment of a politically insulated Crime Intelligence command structure.
- 3) Legal protections for whistle-blowers within SAPS, especially officers raising concerns internally.
- 4) Restructuring of IPID to ensure full independence and insulation from political influence.
- 5) Changes to procurement and contract management within SAPS, especially regarding health, logistics, and infrastructure services.

## 5. FORMAT OF THE ENQUIRY

- 5.1. The Enquiry is a process governed by the Rules of the Assembly to establish, on the strength of evidence presented, the veracity and implications of the allegations made by Lieutenant General Mkhwanazi at the aforesaid media briefing, with a view to improving policing and governance within the SAPS and Metro Police Divisions, strengthening prosecution within the NPA, and enhancing governance across SAPS, the NPA, Judiciary, Correctional Services and Metro Police Divisions.<sup>25</sup> (EFF) It is neither a judicial or quasi-judicial process, nor is it an adversarial process. The Enquiry is an inquisitorial process, informed by Parliament's constitutional oversight mandate. The rule of law principles of rationality and procedural fairness shall be observed in the manner in which the Committee conducts the Enquiry.
- 5.2 The Committee shall utilize the services of an external legal counsel in an advisory capacity to assist it carry out its work, subject to adherence to the principles of transparency and public participation, where necessary. The Enquiry will be conducted in line with the format below.

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<sup>25</sup> EFF proposes amendment to/insertion at para 5.1. (Dated 8 August 2025).

Action SA makes proposals re appointment of appropriately experienced evidence leader/ external legal counsel. See full proposals under existing paragraph 6 External Legal Counsel.<sup>26</sup>

ANC proposes new 5.2: The committee shall utilize the services legal counsel located in the Constitutional and Legal Services Office of the National Assembly in an advisory capacity to assist the committee to carry out its work. subject to adherence to the principles of transparency and public participation, where necessary.<sup>27</sup>

MKP: <sup>28</sup> Insert after paragraph 5.2 -

5.2A External counsel's advisory role shall not displace Members' oversight duties; counsel may propose lines of questioning, but Members retain control of scope and evidentiary weighting.

5.2B The Committee shall adopt Written Procedural Directions specifying timelines, sequencing of witnesses, and rules for receiving documents.

5.2C Findings shall be grounded in a probative record sufficient for rational parliamentary recommendations, with reasons recorded.

### **5.3 Witnesses**

5.3.1 The Committee will invite all persons, including those incarcerated in South Africa's correctional centres,<sup>29</sup> (EFF) identified by it as witnesses to submit a sworn written statement and to thereafter appear before it, where deemed necessary, and to answer oral questions related to the subject matter of the Enquiry. (EFF proposed amendments inserted in red.)

5.3.2 The Committee may invite any interested parties to provide input if they wish to do so.

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<sup>26</sup> Action SA (Dated 6 August 2025).

<sup>27</sup> ANC (Dated 12 August 2025).

<sup>28</sup> MKP proposes insertion of new paras 5.2 (A)-(C) (Dated 14 August 2025).

<sup>29</sup> EFF proposes amending para 5.3.1 to refer to incarcerated persons. (Dated 8 August 2025).

5.3.3 In the event that an invited witness refuses to submit a sworn statement and/or avail themselves as requested, the Committee may use its power of subpoena as provided for in the PPIPPLA.

5.3.4 All witnesses will be requested to submit their sworn written statements, including any supporting evidence, at least 7 working days (excluding weekends and public holidays) prior to the commencement of their testimony, provided that the statement and any evidence is limited to the information contained in the scope of the Enquiry.

**Action SA: re witnesses' timely submission of written testimony and documents prior to appearance<sup>30</sup>**

All witnesses should be required to submit sworn written testimony in advance of their appearance before the Committee, accompanied by all relevant evidentiary documentation. This procedural safeguard will ensure that the Committee deals solely with matters of fact and verified evidence, thereby precluding the admission of hearsay or unsubstantiated claims. However, this requirement should not obstruct the Committee's ability to explore further evidence presented by any witness, should new information arise during the inquiry.

**MKP: Insert after paragraph 5.3.4 - <sup>31</sup>**

The Committee shall, in consultation with relevant authorities, implement protective arrangements for witnesses who may face intimidation, threats, or harm, including in-camera testimony, anonymisation, and physical or relocation protection.

A secure disclosure channel shall be established for whistleblowers.

Subpoenas shall include rights advisories covering privilege, self-incrimination, and classification issues.

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<sup>30</sup> Action SA (Dated 6 August 2025).

<sup>31</sup> MKP proposes inserting new paras 5.3.5 – 5.3.9. after existing para 5.3.4(Dated 14 August 2025).

The 7-day filing rule may be relaxed for safety or classification constraints, with sealed submissions permitted.

An Independent Evidence Officer may be appointed to manage secure receipt, logging, and storage of evidence.

### ANC proposes new 5.3:<sup>32</sup>

#### 5.3. Witnesses

The committee may upon reasonable request grant permission for any anonymous persons who wish to appear as witnesses before the committee, where such evidence will be instrumental in achieving the objectives of the enquiry.

The invitation to witnesses or interested parties must clearly specify the purpose for which the witness is called, and the specific matters the committee wants him/ her to assist the committee with.

The evidence presenter shall subject to the committee approval determine the extent of the sensitivity of the evidence at a given time, and make a determination on the relevance of such evidence and how such evidence will be heard or dealt with.

The committee may from time to time determine whether sworn statements received require oral evidence.

The evidence presenter will consult with witnesses prior to the oral evidence to determine the structure of the presentation of evidence.

Where witnesses require assistance with the drafting of sworn statements the Constitutional and Legal Services Office of the National Assembly shall assist with the preparation of such statements.

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<sup>32</sup> ANC (Dated 12 August 2025). [Note numbering is inserted for ease of reference based on the assumption that the paragraphs precede and follow 5.3.5, which was numbered]

### ANC proposes new privilege of witnesses<sup>33</sup>

The chairperson must in accordance with rule 168 prior to giving evidence read to the witnesses the expectation of the committee in terms of section 16 of the Powers and Privileges Act and the Privileges associated with such evidence.

## **5.4 Questions to witnesses**

5.4.1 The external legal counsel will present the evidence of a witness to the Committee.

5.4.2 All members of the Committee will be given an equal opportunity to pose any further questions to witnesses. If members of the Committee are of the view that a certain witness must be recalled for the purpose of answering any further questions, the Committee may do so by resolution. If the Committee resolves to pose further questions, the Committee will agree on whether such questions should be posed in writing or whether the identified witness will be invited to provide an oral response.

Action SA proposes that Committee members be allocated a minimum of 20 minutes for direct engagement and interrogation of witnesses. Furthermore, the format should permit members to question witnesses directly, rather than clustering questions for response only at the end of the session. Following the evidence leader's initial examination and probing, Committee members must be afforded the opportunity to pursue further lines of inquiry independently.<sup>34</sup>

### ANC: <sup>35</sup>

The National Assembly's Constitutional Legal Service office will present the evidence of witnesses to the committee.

The Chairperson shall be empowered to determine the sequencing in which witnesses are called to give evidence.

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<sup>33</sup> ANC (Dated 12 August 2025). [Note no numbering was provided but is inserted before para 5.4.]

<sup>34</sup> Action SA (Dated 6 August 2025).

<sup>35</sup> The ANC (dated 12 August 2025).

Witness questioning is to be subjected to reasonable limitations at the instance of the Chairperson. The chairperson may impose time limits, put a stop to irrelevant and repetitive questions.

MKP: <sup>36</sup> After paragraph 5.4.2 -

External counsel may introduce evidence but shall not determine questioning formats in a way that curtails Members' participation; any protocol must be approved by Committee resolution.

Topic matrix will be circulated to Members at least 48 hours prior to each hearing.

Witness recalls may include document-discovery directions.

Where a witness raises classification or privilege, questioning shall pause pending a ruling by the chairperson, with reasons minuted.

## **5.5 Witnesses to appear under oath or affirmation**

5.5.1 All witnesses (whether attending voluntarily or not) will be requested to take an oath or affirmation in accordance with the provisions of Rule 168, read together with section 16 of the PPIPPLA.

5.5.2 The oath will be administered by the chairperson of the Committee or any other person acting on the instructions of the chairperson.

5.5.3 All witnesses must be informed of the parameters of the Enquiry and must be instructed not to remark on or discuss any matter that is not related to the evidence contained in the scope of the Enquiry.

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<sup>36</sup> MKP proposes insertion of new paras 5.4.3-5.4.6. (Dated 14 August 2025).

MKP: <sup>37</sup> Insert after paragraph 5.5.3

Witnesses shall be informed of their constitutional right against self-incrimination and the process for claiming such a privilege.

The Committee will avoid questioning that foreseeably prejudices pending prosecutions, unless necessary safeguards are applied.

Where classification is invoked, evidence shall proceed under the Classified Information Protocol.

## 5.6 Legal representation

5.6.1 Legal representation will not be allowed. However, witnesses will be allowed to have their own legal assistance at their own cost if they choose.

**EFF:** “5.6.1 Legal representation will not be allowed. However, witnesses will be allowed to have their own legal assistance at their own cost and/or with the assistance of Legal Aid if they choose.”<sup>38</sup>

5.6.2 Witnesses will be allowed to have their lawyers with them and, within reason, consult with and take advice from their lawyers.

5.6.3 The Committee will not allow lawyers to speak on behalf of their clients at all.

5.6.4 The evidence must be given by the witness and not the lawyer.

MKP: <sup>39</sup> Insert after paragraph 5.6.4 -

A witness’s legal representative may note concise procedural objections for the record, limited to scope, privilege, or undue prejudice.

Legal representatives may request a short adjournment to advise on privilege or classification matters.

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<sup>37</sup> MKP proposes insertion of new paras 5.5.4 – 5.5.6 after existing para 5.5.3. (Dated 14 August 2025)

<sup>38</sup> **EFF (Dated 8 August 2025 and clarified in WhatsApp document shared 15 August 2025):**

<sup>39</sup> MKP proposes new paras 5.6.5 – 5.6.7 after existing para 5.6.4. (Dated 14 August 2025).

No legal representative may deliver evidence on behalf of a witness.

## **5.7 Audi**

5.7.1 Should the Committee make adverse findings against persons in its report to the NA, the Committee will afford the affected persons an opportunity to address the evidence against them.

5.7.2 The Committee will, once it has prepared a provisional report, ensure that all the people about whom it proposes to make adverse findings have had an opportunity to address those accusations.

5.7.3 If the affected people have not addressed the said accusations, the Committee will inform them of the accusations and invite them to return to address those accusations.

5.7.4 The Committee may, if it deems it necessary, compel the affected people to return to answer the accusations against them whether the affected people wish to do so or not.

MKP: Insert after paragraph 5.7.4 <sup>40</sup>

Persons afforded an opportunity to respond to adverse findings shall be given reasonable time to prepare their response, having regard to complexity and security considerations.

The provisional report shall state reasons, standards applied, and key evidence relied upon.

Provision shall be made for minority reports by Members.

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<sup>40</sup> MKP proposes new paras 5.7.5 to 5.7.8 after existing para 5.7.4. (Dated 14 August 2025).

All rulings on objections, privilege, and classification shall be minuted and appended to the final report.

**DA<sup>41</sup>**

### **Documentary evidence**

The Committee will request and review relevant documents, reports, and internal communications from the SAPS, as well as any external audits or investigations that may be available and also with respect to other relevant institutions.

### **Expert consultations**

The Committee may consult with law enforcement experts, governance specialists, and other relevant stakeholders to better understand systemic issues and provide insight into possible solutions.

### **Site visits**

If necessary, the Committee may visit police stations, the SAPS facilities, or other relevant institutions to gather firsthand information.

### **Action SA re appointment of forensic investigator<sup>42</sup>**

Proposes that the Committee consider engaging a forensic investigator to complement the evidence leader's expertise and to assist with the technical and evidential complexities anticipated in this inquiry, particularly insofar as they relate to criminal investigations and the work of Crime Intelligence.

**DA insert new Section<sup>43</sup>**

## **CONFIDENTIALITY AND PROTECTION OF WHISTLEBLOWERS**

The Committee should undertake to ensure that:

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<sup>41</sup> DA proposes new paras 5.8 Documentary evidence, 5.9 expert consultations, and 5.10 Site visits (dated 12 August 2025).

<sup>42</sup> Action SA proposes engagement of forensic investigator to assist the Committee (Dated 6 August 2025).

<sup>43</sup> DA insert new para 6 **Confidentiality and Protection of Whistleblowers** (dated 12 August 2025).

- 1) All individuals testifying or providing evidence are afforded appropriate protection from retaliation or threats.
- 2) Whistleblowers and other sources who come forward with sensitive information are protected under the law, possibly with the assistance of Witness Protection.
- 3) Confidential or sensitive information gathered during the investigation should be handled with the utmost discretion and, where necessary, kept confidential to protect the integrity of the investigation.

**Action SA: Re Committee's role in facilitating the consideration and processing of evidence related to Crime Intelligence, including the need to protect identities of witnesses<sup>44</sup>**

In this context, it is imperative that the Committee ensures that evidence pertaining to Crime Intelligence is not effectively obstructed or excluded. Given the interconnected nature of the allegations, allowing a fragmented approach that isolates certain aspects risks undermining the integrity and comprehensiveness of the inquiry. Such fragmentation would be detrimental to the Committee's mandate.

Accordingly, we [Action SA] submit that the Committee proceed to fully consider and process evidence related to Crime Intelligence, while simultaneously taking reasonable and necessary measures to protect the identities of witnesses who may be serving operatives or involved in ongoing covert operations.

## **6. EXTERNAL LEGAL COUNSEL**

- 6.1. The role of external legal counsel will be limited to collecting, organizing and presenting evidence, subject to the Committee's direction at all times.
- 6.2. The format for the questioning of witnesses will be determined by the external legal counsel in consultation with the chairperson of the Committee, and by agreement by the committee. (PA)<sup>45</sup>

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<sup>44</sup> Action SA makes proposals re processing of evidence re crime intelligence and need to protect identity of witnesses. (Dated 6 August 2025).

<sup>45</sup> PA proposed in meeting in 14 August 2025.

6.3. The use of external legal counsel will in no way limit the right of Members of Parliament to put questions to any witness provided that such questions form part of the scope of the Enquiry.

**MKP: <sup>46</sup> Insert after paragraph 6.3 –**

The committee shall source external legal opinion on complex matters of law when necessary, during the course of the enquiry.

Appointment of external counsel shall be subject to a conflict-of-interest declaration, security vetting where appropriate, and a transparent brief.

Counsel's preparatory materials shall be circulated to Members in advance of hearings.

Counsel may advise on referrals to competent authorities but shall not pronounce on criminal liability.

Procurement of experts shall comply with financial controls; a budget note shall be tabled under Section 10.

**Action SA re appointment of Evidence leader / External Counsel<sup>47</sup>**

Recognising the extensive and complex scope of the Committee's work, it is our submission that an evidence leader with demonstrable expertise in criminal law and prosecutorial experience be appointed to effectively guide the evidentiary process. Alternatively, the Committee may consider sourcing counsel with proven experience in handling complex interconnected evidence, such as that demonstrated during the State Capture Commission of Inquiry.

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<sup>46</sup> MKP proposes inserting new paras 6.4 to 6.7 after existing para 6.3 (Dated 14 August 2025).

<sup>47</sup> Action SA (Dated 6 August 2025).

In this regard, we [Action SA] recommend the consideration of the appointment of Adv. Kate Hofmeyr SC as evidence leader, based on her exemplary conduct and management of evidence at the aforementioned Commission. This recommendation is offered with the understanding that further input and deliberation will be necessary, given the specific scope of work and evidentiary complexity involved.

ANC:<sup>48</sup> The National Assembly's Constitutional Legal Services Office appointee will be responsible for collecting, organizing and presenting evidence, subject to the committee's direction at all times.

The committee shall source external legal opinion on complex matters of law when necessary, during the course of the enquiry.

#### **EXTERNAL EXPERTS - NEW INSERTION**

MKP:<sup>49</sup> Engagement of a forensic investigator to complement external legal council's expertise and to assist with the technical and complexities anticipated from this inquiry, particularly insofar as they relate to criminal investigations and the work of Crime Intelligence.

#### DA:<sup>50</sup>

Assistance from the Auditor-General, Public Protector, the Independent Police Investigative Directorate (IPIS), the National Prosecuting Authority (NPA) and the Special Investigating Unit (SIU).

Appoint an independent policing or criminal justice expert to serve as a non-voting technical advisor.

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<sup>48</sup> ANC (Dated 12 August 2025).

<sup>49</sup> MKP (dated 14 August 2025)

<sup>50</sup> DA First submission circulated on 8 August 2025.

## 7. PUBLIC PARTICIPATION AND TRANSPARENCY

- 7.1. Section 59 of the Constitution creates an obligation on the NA to facilitate public involvement in its committee processes.
- 7.2. Whilst the NA Rules do not dictate the manner in which public participation must be conducted, it is of paramount importance that a reasonable opportunity is offered to members of the public and all interested parties to be informed of the work of the Committee and to have an adequate say.
- 7.3. Meetings of the Committee will be held in open and, whenever possible, broadcasted on Parliament TV and on Parliament’s social media channels.
- 7.4. However, the Committee shall sit in camera where necessary to protect the safety of witnesses and the integrity of ongoing investigations where appropriate.
- 7.5. In-camera sessions will only be permitted as an exception following an application by an interested party to the chairperson.

### **MKP: Insert after paragraph 7.5** <sup>51</sup>

In-camera proceedings shall be recorded in full, with transcripts securely retained; redacted versions shall be released where possible.

A call for submissions with clear timelines and scope criteria shall be published; out-of-scope submissions shall be acknowledged and archived.

A redaction and publication policy shall be adopted, balancing transparency with protection of ongoing investigations.

A public dashboard shall be maintained to track hearings, submissions, and milestones.

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<sup>51</sup> MKP proposes insertion of new 7.5 A-D after existing para 7.5. (Dated 14 August 2025).

- 7.6. The Committee must determine the manner in which it will facilitate public participation and the purpose of this will be to obtain information and records that may assist the Committee in fulfilling its mandate.
- 7.7. Only submissions which relate to the scope of the Enquiry will be considered by the Committee.

## **8. VENUE FOR MEETINGS**

- 8.1. Committee meetings will be held within the Parliamentary precinct or any other suitable venue to be determined by the chairperson. Where necessary, and for purposes of accommodating persons who are unable to travel to Cape Town or to physically attend meetings, hybrid or virtual meetings will be held. In this context, suitable venue also means virtual committee meetings.

MKP:<sup>52</sup> Insert after paragraph 8.1 -

Virtual or hybrid proceedings must use secure platforms with identity verification and secure channels for sensitive evidence.

## **9. TIME FRAME**

- 9.1. The Committee will conduct this process within a reasonable time with a view to commencing in August 2025 and concluding by 31 October 2025, it being recorded that these timeframes may be amended or extended by the decision of the Speaker or resolution of the House.

MKP:<sup>53</sup> Insert after paragraph 9.1 -

Stage 1 (Aug–mid-Sept): Documentary discovery; risk and classification screening.

Stage 2 (mid-Sept–Oct): Public and in-camera hearings; application of audi processes.

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<sup>52</sup> MKP proposes insertion of new 8.2 (Dated 14 August 2025).

<sup>53</sup> MKP proposes new 9.1.A – 9.1.C after existing para 9.1 (Dated 14 August 2025).

Stage 3 (by 31 Oct 2025): Provisional report; audi on adverse findings; implementation plan annexed.

The Speaker or House may extend any stage by resolution.

## 10. RESOURCES

**[Note see previous submissions re the appointment of experienced evidence leader, external legal counsel, external forensic investigator, technical policing/criminal justice expert already captured in the document.]**

10.1. External legal counsel, other experts as may be determined by the Committee and a dedicated team of officials, including committee secretaries and assistants, researchers, content advisers and legal advisers, will support the Committee under the direction of the chairperson.

DA:<sup>54</sup> External forensic investigator and technical policing or criminal justice expert (as a non-voting advisor).<sup>55</sup>

### ANC:

External forensic investigator and technical policy or criminal justice expert (as a non-voting advisor).

10.2. The Committee will facilitate, where it deems necessary, and through the Speaker's office, the protection of whistleblowers and the external legal counsel.

MKP:<sup>56</sup> Amend paragraph 10.2 -

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<sup>54</sup> DA First submission circulated 8 August 2025.

<sup>55</sup> ANC (12 August 2025).

<sup>56</sup> MKP proposes amended 10.2 and the insertion of new paras 10.3-10.6 (Dated 14 August 2025).

The Committee will facilitate, where necessary via the Speaker's office, the protection of whistleblowers, witnesses, Members of the Committee, support staff, and external legal counsel.

An Evidence and Records Unit shall be established to manage chain-of-custody, secure storage, and classification handling.

Independent psychosocial support shall be made available to vulnerable witnesses.

Funding shall be allocated for secure technology, including encrypted repositories and audit logs.

A Resources and Risk Register shall be maintained and published to the extent compatible with security.