
**AFFIDAVIT IN THE SECTION-194 INQUIRY INTO THE REMOVAL OF THE
PUBLIC PROTECTOR, ADV B MKHWEBANE**

I, the undersigned,

LOUISAH BASANI BALOYI

do hereby make oath and say that:

1. I am an adult female, presently employed as a Deputy Director-General in the Gauteng Department of Health. From 1 February 2019 until October 2019, I was employed in the office of the Public Protector South Africa (PPSA) as its Chief Operations Officer (COO).
2. The contents of this affidavit are true and correct and fall within my personal knowledge, unless otherwise stated or clear from the context.

A. BACKGROUND

3. I make this affidavit to place before this Inquiry the reasons why I believe that I was purged from the PPSA by the Public Protector (PP), Adv Mkhwebane, and her former Chief Executive Officer (the former CEO) Mr Vussy Mahlangu.
4. As stated above I was appointed as COO on 1 February 2019 on a fixed, five-year contract with a six-month probationary period. In October 2019, I was

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informed that my employment would not be confirmed beyond the probationary period, despite that period already having concluded and further despite the fact that my employment had already continued for two additional months.

5. In November 2019, I instituted proceedings in the North Gauteng High Court against the PP and the former CEO challenging the legality of the decision not to confirm my fixed term contract. I contended in that case, as I still believe, that the real reasons for this decision were unrelated to my performance in the eight months that I was at the PPSA, but rather emanated from a desire to purge me from the institution. I had come to be viewed by the PP and the former CEO as a barrier standing in the way of them pursuing their personal agendas in the institution unchecked.
6. The PP and the former CEO opposed the litigation. Both the PP and I filed extensive affidavits. The affidavits filed in the litigation form part of the record that is before this Enquiry, and appear from page 2154 onwards. I do not intend to repeat the contents of my founding affidavit. I ask that its contents be read together with what I say in this affidavit. I make this affidavit to emphasise the culture of disrespect and victimisation in which we worked in the PPSA, under the leadership of the PP.
7. From paragraph 23 to 85 of the founding affidavit I made in that case, I set out some of the disagreements I had with the PP and the CEO during my short stint in the PPSA; some of the ways in which they interfered with investigations and were motivated by ulterior motives in the conduct of

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investigations and the issuing of reports. I do not wish to burden this record by repeating the contents of my founding affidavit. I stand by them.

B. THE CULTURE OF FEAR AT THE PPSA

Threats of disciplinary action to staff were routine

8. My primary role as COO was to co-ordinate investigations. Investigations primarily occur in the branches and Provinces. The PPSA has four divisions that are each headed by an Executive Manager. When I was concerned with investigations, I reported directly to the PP. For administrative issues, I reported to the CEO. In addition, the PP had delegated the responsibility for dealing with cases older than two years to the Deputy Public Protector (DPP). I therefore also reported to the DPP on those.
9. When I arrived at the PPSA, there was a massive backlog of approximately 466 cases older than two years. One of the priorities for me was to deal with that backlog. I resolved 284 (63%) of those cases in my first two months before the end of the 2018/19 year, and by the time that I left the organisation in October 2019, I had finalized a further 83 cases.
10. The PP was obsessed with eradicating the backlog. Although annual targets for dealing with the backlog, amongst other things, were set in the Annual Performance Plan, in monitoring the progress of the backlog the PP imposed her own impossible and unreasonable short-term targets. In pursuit of this goal, she would force the executive teams responsible for overseeing

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investigations, and the investigators themselves, to make unachievable commitments, failing which they would be threatened with disciplinary proceedings. During Dashboard meetings, people were forced to commit to targets which they knew were impossible to achieve, because of the PP's attitude of: *'I don't care. I want it'*, even after explanations were provided in these meetings. The attendant threats of disciplinary action did not permit of any other response.

11. The PP's way of overseeing investigations was not to hear or listen to the executives and investigators responsible for conducting them. Her chosen way was to threaten, impose and brook no other views. So-called *'audi letters'* were the PP's weapon of choice, which she would instruct in open meetings in the presence of other staff members, be issued against staff who failed to meet impossible targets.
12. The PP's leadership style was authoritarian. She must be addressed as *'Madam'*. She must be bowed down to, quite literally. Her style of leadership was characterized by inflexibility; irrationality and a failure or refusal to treat her staff with dignity and respect. She fostered a culture of mistrust and insecurity within the organization. In this regard, I recall a WhatsApp text message which the PP sent to me, warning me not to trust Ms Ponatshego Mogaladi, one of the executives who reported to me. Based on my own experience of Ms Mogaladi, I had no reason not to trust her.
13. The PP would not, or could not, allow the professionals employed in the PPSA the space that they required to do their jobs; i.e., to conduct impartial

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investigations, to oversee investigations and to produce quality reports informed by the facts and the law. She sought to manage everything we did, and was conversant with office gossip. The PP involved herself in operational matters of the office to the detriment of reporting structures, and management relationships. It created immense confusion and tension within the office.

14. The PP's pressure on me and other executives to take disciplinary measures against staff who reported to us was relentless. On many occasions I would refuse to take such steps against staff members who reported to me after the PP had instructed me to do so, in circumstances where they had furnished me with reasonable explanations for their failure to perform the tasks at issue. Also, I had managed people before in my professional career and my own approach towards performance management and employee dynamics was different to the PP's. Getting the best outputs from staff is a dynamic process. In order to get the best out of people, you have to not only listen them; hear them treat them with respect, but you must also, as a manager, intervene to provide the necessary support, and create a conducive space for people to perform to the levels that they are required to do. The PP's operational interference, and her dictatorial approach, prevented this. To the PP, any explanations no matter how reasonable, did not matter. When she wanted her reports, she would say, quite simply: *'I do not care. I want it.'*
15. One day she called me into a meeting in her office with Mr Mahlangu (the former CEO) and Mr Nyembe, who was then her Chief of Staff. Mr Nyembe has since passed away. When I got there they told me I was not taking responsibility for the non-performance of the executives who reported to me. I

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had befriended them, I was told, and now they are not performing. The PP specifically mentioned that I should have dealt with Ms Ponatshego Mogaladi after she did not meet her targets. When she mentioned Ms Mogaladi by name, I recalled her earlier SMS text message to me not to trust her. The PP and the former CEO told me that if I did not take action against the executives, action would be taken against me. My response was to say I believed in hearing out an employee first to establish whether or not disciplinary steps are warranted in the first place; and I preferred to make corrective interventions to address performance challenges where those exist, rather than to proceed to disciplinary steps as a first resort.

16. I met with the executives who reported to me to establish their performance challenges, and the challenges I have set out above came up, amongst others - impossible and unreasonable targets imposed upon them; irrational decision-making by the PP; the PP interfering in operational matters and thereby failing to create the space for people to do their jobs; the PP's total disregard for the facts presenting in certain investigations or their complexity. The executive managers warned me that if I did not issue them with the *audi* letters as instructed by the PP, steps would be taken against me. The PP would in fact repeatedly instruct the CEO to take steps against me. This occurred during Dashboard and other meetings, with other and sometimes junior staff present. I was issued with a number of *audi* letters for a number of 'infractions', including for not issuing *audi* letters when instructed to do so. This was the norm in the organization – issuing *audi* letters to staff for not meeting targets. This was the tool by which the PP wanted performance to

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be managed. As I have stated previously, these targets were for the most part unreasonable, and impossible to meet.

The taking of leave was frowned upon and often not permitted

17. In August of 2019 my eight year old daughter was hospitalised after being diagnosed with bronchial pneumonia. I needed to take leave to attend to my family. The CEO refused to allow me to take leave.
18. Whilst I was in the hospital with my daughter the PP called me enquiring when some reports would be ready. I sent a message to her informing her that I was in the hospital with my daughter. I told her of the diagnosis and even sent her photographs of her on her hospital bed as proof. She replied to me, via WhatsApp text saying *"will be taking action against ceo for your failure to meet deadline .We need to lead by example and be accountable. If you submitted all these on time such emergency would not portray one as insensitive"*. Because I had to continue working to meet deadlines whilst my daughter was in the hospital, I had to take files with me to the hospital to attend to whilst visiting with my daughter.
19. We were required to work long hours at the PPSA, under constant pressure to put out reports to coincide with media briefings. On some occasions we would work through the night until 5am, go home quickly to freshen up and be back in the office by 9am to start the new working day. In circumstances where we were working on weekends during loadshedding and were not permitted to

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take leave of any sort, staff wellness suffered. People were simply ill, physically and psychologically.

20. Producing investigation reports under these conditions of course inevitably adversely affected the quality of the reports that the PPSA issued. Investigations were rushed, and the preparation of reports itself was also rushed. By way of example, in paragraphs 71 to 77 of the founding affidavit I made and which was filed in the labour litigation to which I have referred above, I made reference to the IPID investigation that resulted from the complaint laid in June 2018 about the procurement and appointment processes in IPID. Both the investigation and the report were rushed, and I had concerns about the scope of the investigation as well as the contents of the draft report, which concerns I expressed to the PP. She did not agree with me and the report was issued.
21. As far as I am aware, this IPID report was set aside by the North Gauteng High Court earlier this year after being taken on review by Mr McBride. I believe that this vindicates the concerns I expressed in the matter whilst I was the COO.

PP and former CEO's interference in investigations and reports

22. Any case or investigation within the jurisdiction of the PP generally follows this pathway:

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- 22.1. It is assigned to a Senior Investigator/Investigator by the relevant executive manager in a division /province who prepares the first draft of the report.
- 22.2. That is reviewed by the Chief Investigator or Provincial Representative of the province.
- 22.3. The Chief Investigator/ Provincial Representative will review the report and send it to the Executive Manager for review.
- 22.4. Once satisfied, the Executive Manager sends the report to the COO for review.
- 22.5. The COO will consider the report and then send it to the Legal Services and Quality Assurance units for vetting.
- 22.6. If the COO agrees with the views of Legal Services and Quality Assurance, the COO will prepare an executive memorandum explaining the content of the report and submit it to the Public Protector for approval.
- 22.7. In the Public Protector's office, in the private office, the Chief of Staff will review the report.
- 22.8. If the Public Protector is happy, she will sign the report.

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- 22.9. If she is not happy, she will send it back to the COO for clarification or amendments, with hand written notes .
23. This process was not always followed. The former CEO Mr Mahlangu occasionally sought to interfere in the process in order to advance his own interests, even though there is no role to be played by the CEO in investigations. In regard to examples of both the PP's and the former CEO's interference and improper conduct in investigations, I refer to what I set out from paragraphs 39 to 85 of my founding affidavit in the labour litigation.
24. The IPID investigation is but one illustration of how the above process was not followed by the PP herself. The PP would often allocate an investigation directly to an investigator which she chose herself, to the exclusion of the executive manager to whom that investigator reported. The result would be that the executive manager would not even know that a particular complaint had been made; and would not be aware of the ensuing investigation being conducted by an investigator in his or her own division. The executive manager would therefore be kept out of the loop of such an investigation (unless the investigator informed her), until such time as the executive manager was required to report on such at a Dashboard meeting. This was a further ground for creating confusion and mistrust within the organisation; and is a further example of the PP interfering in operational matters to the detriment of the managers employed to perform those functions. Additionally, executive managers would find themselves held to targets in investigations

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that they were not aware were occurring under their watch, because the PP subverted institutional processes to instruct her chosen investigators directly in investigations that she regarded as 'sensitive', without informing the executive managers concerned, or the COO.

BASANI LOUISAH BALOYI

I certify that the above signature is the true signature of the deponent and that she has acknowledged that she knows and understands the contents of this affidavit which affidavit was signed and sworn to before me in my presence at Wierdabrug Saps on this 12 day of **JULY 2022**, in accordance with Government Notice No R1258 dated 21 July 1972, as amended by Government Notice No R1648 dated 19 August 1977, as further amended by Government Notice No R1428 dated 11 July 1980, and by Government Notice No R774 of 23 April 1982.

Ekertifiseer dat boesende in Afrikaans deur my ingedien is en dat die deponent daarvan dat sy dit gelees het en dat sy dit ken en verstaan. Die inhoud van die verklaring is ook in Engels vertaal en verstaanbaar is. I certify that the above statement was taken by me and that the deponent has acknowledged that she knows and understands the contents of the statement. This statement was sworn to before me and deponent's signature/mark/thumbprint was placed thereon in my presence.

Wierdabrug
COMMISSIONER OF OATHS on 18.08
 at 18.08

TOEGESTAAFTING: KOMMISSARIS VAN EDE
 (SIGNATURE) COMMISSIONER OF OATHS

Thelma ngony
 VOLLE VOORNAME EN VAN IN DRUKSKRIEF
 FULL FIRST NAMES AND SURNAME IN BLOCK LETTERS

25 Vindhella Road
 BUSINIS-LOCADRES (STRAATADRES)
 BUSINESS ADDRESS (STREET ADDRESS)

Vindhella

SA POLISIEDIENS
 SA POLICE SERVICE

