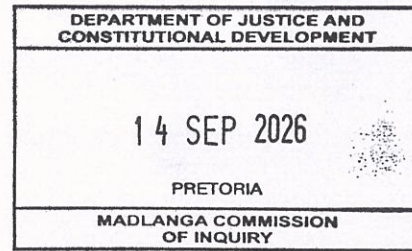


The Pan-African Peace Commission



7th SEPTEMBER 2026



TO:

The Honourable Justice Mbuyiseli Madlanga
Chairperson

Judicial Commission of Inquiry into Criminality, Corruption and Grand Fraud

MADLANGA COMMISSION

PROSECUTORIAL DETERMINATION, EVIDENCE PRESERVATION, CRIMINAL REFERRAL, AND PRECAUTIONARY SUSPENSION OF PERSONS IMPLICATED IN THE DOD CATERING SCHOOL MALADMINISTRATION OF R4 MILLION

S & M FORENSIC REPORT: Ref: DOD CATERING SCHOOL MALADMINISTRATION 2021

PAN-AFRICAN PEACE COMMISSION EVIDENTIAL REPORT Ref: No. 2 - DOD CATERING

1. INTRODUCTION AND PURPOSE OF THIS FORMAL EVIDENTIAL REFERRAL

1.1

The Pan-African Peace Commission respectfully places before the Judicial Commission of Inquiry a second **Formal Referral and Evidential Record** concerning suspected fraud, corruption, procurement irregularities, financial-control failures, maladministration and the misappropriation and/or unlawful expenditure of public funds in connection with the Department of Defence (DoD) Catering School.

1.2

The material presently available includes an official anti-corruption investigation conducted within the Department of Defence, financial and procurement documentation, evidence concerning substantial transfers of public funds, payments to contractors, documents requiring authentication and verification, and identified officials and other persons whose conduct requires determination by the competent investigative and prosecutorial authorities for **R4 million transactions all under R30,000, some without invoices and required authorisations.**

1.3

The evidential material has reached the stage at which **preservation of evidence, immediate criminal referral, identification of all relevant actors and urgent independent prosecutorial determination are warranted.**

1.4

The Pan-African Peace Commission does not ask the Commission to determine criminal guilt, or usurp the constitutional functions of the National Prosecuting Authority ("NPA").

1.5

The relief sought is directed at activating the criminal-justice process, securing relevant evidence and ensuring that competent investigative and prosecutorial authorities determine whether criminal proceedings should be instituted.



1.6

The Commission's Terms of Reference contemplate referral of matters for urgent decisions on prosecution and criminal investigation.

2. OFFICIAL INVESTIGATION AND EVIDENTIAL BASIS

2.1

The principal evidential foundation of this referral is the official DI/DoD Investigation Report contained in **EXHIBIT A**.

2.2

The report was prepared within the Department of Defence's anti-corruption structures and endorsed at Inspector General level. It records irregularities requiring prosecution, further investigation and consequence management.

2.3

The complete official investigative material should be placed before the competent criminal-investigative and prosecutorial authorities so that matters already investigated by the Department are not unnecessarily duplicated.

2.4 Exhibits

EXHIBIT A: DoD/DI Investigation Report.

EXHIBIT B: Pan-African Peace Commission Forensic Report.

3. PRINCIPAL FINANCIAL TRANSACTIONS AND PUBLIC EXPENDITURE



3.1

Approximately **R3.99 million** in public funds was transferred to contractors through substantial payments below the R30,000 departmental threshold. The transactions concern identifiable public expenditure, identifiable recipients, identifiable bank accounts and an identifiable chain of financial authorisation, as further detailed in **EXHIBITS A and B**.

3.2

The complete financial trail requires forensic reconciliation, including identification of every authorisation, recipient, payment, invoice, supporting document and subsequent expenditure.

3.3

The investigation should establish whether any transactions were improperly structured, divided, authorised or processed so as to avoid applicable procurement or financial-control requirements.

4. PROCUREMENT APPROVAL AND POSSIBLE IRREGULAR DEVIATION

4.1

The circumstances require examination against **section 217 of the Constitution**, the applicable procurement framework, departmental policies, delegations of authority and any applicable defence-specific procurement arrangements.

4.2

Section 217(1) requires procurement by an organ of state to be conducted through a system that is fair, equitable, transparent, competitive and cost-effective.

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4.3

The investigation must establish whether any procurement departure was lawfully authorised or constituted an unlawful deviation, and whether it was connected to fraud, corruption, collusion, improper influence or another criminal offence.

4.4

The absence, inadequacy or irregularity of any procurement documentation should itself be investigated, including the identity and authority of each person involved in the relevant procurement and financial decisions.

5. IDENTIFICATION OF ALL RELEVANT PERSONS

5.1

The investigation should establish the complete chain of responsibility from procurement initiation through approval, payment, project verification, performance assessment and subsequent recovery.

5.2

The investigation should identify all officials, contractors, intermediaries, authorising persons, financial officers, procurement personnel, project managers, inspectors and other persons who may possess material information or have exercised relevant authority.

5.3

The failure to identify every potentially implicated individual should not delay the criminal referral.

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5.4

Inclusion of a person's name in an investigative record does **not** constitute a finding that the person committed an offence.

5.5

The purpose of the investigation is to ensure that no potentially material witness, decision-maker or suspect is omitted from the criminal process.

6. STATE LOSS, ADDITIONAL EXPENDITURE AND RECOVERY

6.1

The available material indicates that recovery proceedings against those implicated have not been instituted, notwithstanding the urgency reasonably expected following the evidence contained in the DoD Report.

6.2

On the presently available figures, the State's gross financial exposure is in excess of **R4 million**, subject to complete forensic reconciliation and without prejudging questions of recoverability, duplication or causation.

6.3

The investigation should distinguish between:

- (a) the original expenditure;
- (b) expenditure for work or goods allegedly not properly delivered;



- (c) subsequent expenditure arising from non-performance or remediation;
- (d) recoverable amounts; and
- (e) any additional loss established through forensic examination.

6.4

Criminal liability arising from subsequent acts or omissions must be determined on the evidence and should not be inferred merely from the occurrence of financial loss.

7. POTENTIAL CRIMINAL OFFENCES REQUIRING INVESTIGATION

7.1

Without purporting to charge or convict any person, the evidence should be investigated for potential offences including, where the evidential and statutory requirements are satisfied:

- (a) fraud;
- (b) corruption and offences under PRECCA;
- (c) forgery and uttering;
- (d) theft;
- (e) money laundering, where the requisite elements are present;
- (f) offences relating to unlawful procurement;
- (g) defeating or obstructing the ends of justice, where applicable;
- (h) contraventions of applicable financial-management legislation;
- (i) contraventions of applicable defence or departmental procurement legislation and regulations; and



(j) any other common-law or statutory offences disclosed by the evidence.

7.2

The legal characterisation of the conduct should be made by competent investigators and prosecutors, not by the referring body. This preserves the constitutional independence of the NPA while ensuring that available evidence is acted upon.

8. CRIMINAL REFERRAL AND URGENT PROSECUTORIAL DETERMINATION

8.1

The matter has progressed beyond a stage at which the State is required merely to establish whether an allegation exists. There is an official departmental anti-corruption investigation, supplemented by financial, procurement and documentary material identifying or raising questions concerning:

- (a) substantial public expenditure;
- (b) identifiable financial transfers;
- (c) recipients of public funds;
- (d) procurement decisions;
- (e) officials involved in relevant processes;
- (f) alleged documentary irregularities;
- (g) alleged non-performance and payments associated with disputed or non-existent invoices;
- (h) subsequent State expenditure;
- (i) financial authorisations requiring identification or verification; and



(j) the existence of an official departmental anti-corruption investigation.

8.2

There is accordingly a concrete evidential basis requiring criminal investigation and independent prosecutorial assessment.

8.3

The immediate prosecutorial question is whether the evidence presently available, supplemented where necessary by focused investigation, satisfies the applicable prosecutorial standard for institution of criminal proceedings.

8.4

The Supreme Court of Appeal's decision in *National Director of Public Prosecutions v Sijoyi Robert Mdhlovu [2024] ZASCA 85; 2024 (2) SACR 331 (SCA)* is relevant to the assessment of reasonable and probable cause.

8.5

Outstanding investigative questions do not necessarily require the matter to remain indefinitely at a preliminary administrative stage. They may be addressed through focused criminal investigation alongside an independent prosecutorial assessment.

8.6

The appropriate progression is therefore:

preservation and securing of evidence → criminal referral → independent prosecutorial determination → focused criminal investigation → charging and prosecution where legally warranted.



8.7

The matter should be characterised as **ripe for prosecutorial determination**, rather than as a matter in which prosecution is legally predetermined.

8.8

The competent prosecutor should urgently determine whether:

- (a) charges should immediately be instituted;
- (b) targeted investigation should precede charging; or
- (c) further investigation is required before a final charging decision.

8.9

The request is for an **independent prosecutorial decision**, not a **predetermined prosecutorial outcome**.

9. PROSECUTORIAL STANDARD, CONSTITUTIONAL FUNCTIONS AND LEGAL FRAMEWORK

9.1

Section 179 of the Constitution establishes the national prosecuting authority and provides for its power to institute criminal proceedings on behalf of the State.

9.2

The Pan-African Peace Commission does not seek to interfere with that constitutional function. The purpose of the referral is to ensure that the competent prosecutorial authority



receives the evidential record and makes an independent determination.

9.3

The proper evidential approach is to distinguish between:

- (a) matters already supported by evidence;
- (b) matters requiring corroboration;
- (c) matters requiring forensic examination; and
- (d) matters requiring further investigation.

9.4

The existence of matters falling within categories (b), (c) and (d) does not prevent urgent assessment of the evidence falling within category 9.3 (a) above.

9.5

The Department of Justice has reiterated that the NPA independently assesses evidentiary material and institutes prosecutions where the applicable prosecutorial threshold is met.

9.6

Where the evidence identifies persons whose cooperation or evidence may materially assist the investigation or prosecution, the competent prosecutorial authority may consider any statutory mechanism available in law, including **section 204 of the Criminal Procedure Act**, where legally permissible and where all statutory requirements and prosecutorial considerations are satisfied.

9.7



Any such decision remains exclusively within the lawful discretion of the competent prosecutorial authority and should not be construed as a request that immunity or indemnity from prosecution be granted to any particular person.

10. PRECAUTIONARY SUSPENSION AND PROTECTIVE EXCLUSION

10.1

Given the nature of the evidence, the Pan-African Peace Commission requests that the competent employing authorities urgently consider **precautionary suspension or equivalent exclusion from relevant duties and systems** of every serving officer or official whose continued access to the workplace, financial systems, procurement processes, project records, witnesses or classified information could reasonably prejudice the investigation or related disciplinary proceedings.

10.2

The purpose must be precautionary and protective, not punitive. Relevant purposes include:

- (a) protecting documentary and electronic evidence;
- (b) preventing interference with witnesses;
- (c) preventing alteration of financial records;
- (d) preventing interference with procurement systems;
- (e) protecting classified and defence-intelligence information;
- (f) preventing further expenditure or financial commitments connected to the project;
- (g) preventing collusion between implicated persons;
- (h) preserving disciplinary proceedings; and

(i) protecting the integrity of the criminal investigation.

10.3

The Constitutional Court in ***Long v South African Breweries (Pty) Ltd and Others [2019] ZACC 7; 2019 (5) BCLR 609 (CC)*** recognised the distinction between precautionary and punitive suspension and the protective purpose that precautionary suspension may serve.

10.4

MEC for Education, North West Provincial Government v Gradwell [2012] ZALAC 8; [2012] 8 BLLR 747 (LAC) similarly recognises precautionary suspension as a protective measure where continued workplace presence may compromise an investigation.

10.5

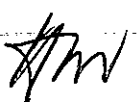
Where there is a credible basis for serious misconduct and a reasonable concern that continued presence or access may compromise an investigation, precautionary exclusion or suspension may be appropriate, subject to the applicable employment framework.

10.6

The measure should not be represented as a finding of guilt. Where the applicable framework permits precautionary suspension, the terms, remuneration and duration must be determined according to that framework.

10.7

Where an implicated person exercises authority over investigators, witnesses, financial systems, procurement processes or classified information, those circumstances may materially strengthen the case for precautionary exclusion.



11. NO PREJUDGMENT OF GUILT AND PRESERVATION OF CONSTITUTIONAL FUNCTIONS

11.1

The Pan-African Peace Commission expressly records that:

- (a) no person named in this **Formal Referral and Evidential Record** is presumed guilty;
- (b) no person should be treated as convicted by reason of this referral;
- (c) all persons remain entitled to the presumption of innocence;
- (d) criminal guilt must be established in accordance with law before a competent criminal court;
- (e) disciplinary liability is distinct from criminal liability; and
- (f) the decision whether to prosecute remains with the constitutionally competent prosecutorial authorities.

11.2

The request for precautionary suspension or exclusion is therefore not punitive. It is based upon institutional risks associated with continued access to evidence, witnesses, financial systems, procurement processes, classified information and State property.

11.3

The Commission is not asked to determine guilt. It is asked to ensure that credible evidence of potentially serious criminality is placed before the institutions constitutionally empowered to investigate and prosecute.

12. EVIDENCE PRESERVATION AND FORENSIC SECURITY



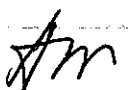
12.1

The Commission is respectfully requested to direct or facilitate immediate preservation of all potentially relevant evidence.

12.2

This should include:

- (a) the complete Catering School file;
- (b) all payment certificates;
- (c) all invoices;
- (d) all Financial Authorisations;
- (e) electronic approval trails;
- (f) emails;
- (g) system audit logs;
- (h) procurement files;
- (i) tender and deviation documentation;
- (j) delegations of authority;
- (k) project-management records;
- (l) site inspection reports;
- (m) photographs and videos;

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- (n) contractor submissions;
- (o) retention records;
- (p) correspondence concerning non-performance;
- (q) recovery correspondence;
- (r) disciplinary records;
- (s) Inspector General investigation material; and
- (t) all relevant classified or restricted material, subject to lawful handling and security requirements.

12.3

The authenticity, provenance, metadata and integrity of these documents should be preserved before further handling or alteration occurs.

12.4

Particular care should be taken to preserve electronic evidence in a manner capable of supporting subsequent forensic examination and, where necessary, admissibility in criminal or disciplinary proceedings.

13. BROADER INSTITUTIONAL GOVERNANCE AND SYSTEMIC CONCERNS

13.1

The description of the Madlanga Commission's referral powers attributed to President Ramaphosa is relevant insofar as clause 10.4 provides for "**immediate decisions on**



prosecution and criminal investigation", while clause 12 contemplates referral for prosecution or further investigation to the appropriate authority.

13.2

The Madlanga Commission may accordingly consider whether evidence arising from this matter reveals broader institutional governance, procurement, financial-control or accountability failures falling within its mandate.

13.3

The Commission should further consider whether this matter, together with other referrals or evidence concerning alleged financial misconduct within the SANDF and related institutions, warrants examination as part of a broader systemic pattern rather than as an isolated incident.

13.4

The Pan-African Peace Commission records that a whistle-blower has described the present two matters as merely the **"tip of the iceberg"** of alleged SANDF misappropriation. That statement is not presented as proof of further criminality, but as a matter warranting appropriate verification and investigation.

13.5

The **R65 million referred to the Madlanga Commission on 26 August 2026**, together with the present matter and the 2021 Forensic Report addressed to Maj. Gen. Buhali concerning further alleged misappropriation, should be assessed on their individual evidence and, where appropriate, collectively for indications of broader institutional failure, patterns of racketeering and/or systemic misconduct.



14. SPECIFIC REFERRAL AND RELIEF REQUESTED

The Pan-African Peace Commission respectfully requests that the Commission:

14.1 Accept and formally record this Formal Referral and Evidential Record

Accept and formally record this Formal Referral and Evidential Record together with its exhibits.

14.2 Make an immediate criminal referral

Refer the complete evidential record to the appropriate criminal-investigative authority, including the Directorate for Priority Crime Investigation where jurisdictionally appropriate, and simultaneously place the matter before the NPA for urgent prosecutorial determination.

14.3 Request an urgent prosecutorial determination

Request the competent prosecutor to determine independently and in accordance with section 179 of the Constitution and applicable prosecution policy whether:

- (a) charges should immediately be instituted;
- (b) targeted investigation should precede charging; or
- (c) further investigation is required before a final prosecutorial determination.

14.4 Investigate the financial trail

Trace the complete movement of approximately **R4 million** from initial authorisation through onward payments and subsequent expenditure.

14.5 Investigate documentary authenticity



Subject relevant documents to forensic examination and determine their authorship, provenance, authenticity, integrity and purpose.

14.6 Investigate procurement

Determine the legal basis for any procurement departure and whether any person unlawfully influenced, manipulated or otherwise compromised the procurement process.

14.7 Precautionary suspension or exclusion

Directly or through the competent employing authorities, urgently determine **precautionary suspension or equivalent exclusion from relevant duties and systems** of serving officials whose continued presence or access could reasonably prejudice the investigation, subject to the applicable employment regime.

14.8 Consider Special Investigating Unit referral

Refer the financial-loss component to the Special Investigating Unit where the statutory jurisdiction and requisite proclamation or other authority exist, for consideration of civil recovery and asset-preservation proceedings.

14.9 Auditor-General intervention

Refer relevant financial-management and procurement matters to the Auditor-General of South Africa where they fall within its statutory mandate.

14.10 Consider wider institutional evidence

Consider whether evidence concerning broader institutional governance failures is relevant to the Commission's mandate and warrants further referral or investigation.

15. CONCLUSION

15.1

The present matter concerns substantial public expenditure within an institution connected with Defence Intelligence. The evidential material is not confined to untested allegations; it includes an official Inspector General anti-corruption investigation, financial records, procurement material, identified transactions, identified decision-makers, alleged irregular documentation and a substantial potential financial loss.

15.2

The evidence presently available is sufficiently concrete to warrant **immediate criminal referral and urgent independent prosecutorial determination**, without prejudging the ultimate decision whether charges should be instituted.

15.3

Further investigation should now occur within the criminal-justice process rather than allowing unresolved investigative questions to result in indefinite administrative delay.

15.4

The competent authorities should therefore:

Preserve; refer; investigate; identify; charge where warranted; prosecute where the applicable threshold is met; and recover public assets where legally possible.

15.5



The Pan-African Peace Commission accordingly calls upon the Madlanga Commission, upon delivery of this **Formal Referral and Evidential Record**, to take urgent and appropriate measures, including precautionary suspension or equivalent lawful exclusion of persons whose continued access may prejudice the investigation and immediate protection of relevant documentary, electronic, financial, procurement and other evidential material.

15.6

The purpose of these measures is strictly precautionary. They are intended to preserve the integrity of any ensuing criminal, disciplinary or other lawful investigation and do not constitute findings of guilt.

15.7

Delay in implementing appropriate evidence-preservation measures may increase the risk of interference with witnesses, alteration or destruction of documentary or electronic evidence, manipulation of financial or procurement records, or other conduct capable of compromising the investigation.

15.8

The Pan-African Peace Commission therefore urges the Madlanga Commission to treat this matter as requiring **immediate protective intervention**, rather than permitting delay to compromise evidence or prejudice the administration of justice.

15.9

Failure to take appropriate protective measures within the stated period will be documented and may be relied upon in any subsequent referral or public-interest disclosure, together with the circumstances then known concerning the preservation or non-preservation of



potentially relevant evidence.

15.10

The broader institutional question is whether the conduct disclosed in this Record forms part of a wider pattern of maladministration, corruption or financial misconduct within the South African National Defence Force and related public institutions. That question should be determined on evidence, independently and in accordance with the Commission's mandate.

15.11

The Pan-African Peace Commission respectfully submits that the evidential material has reached the point at which **continued administrative delay should not substitute for the lawful operation of the criminal-justice process.**

The Madlanga Commission must determine whether the conduct disclosed in this Record of Court forms part of a wider pattern of maladministration and corrupt activity within the South African National Defence Force and related public institutions, in light of a whistleblower's disclosure that this is merely the **"tip of the iceberg"** of SANDF misappropriation.

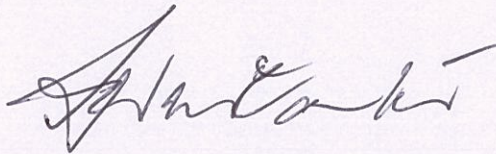
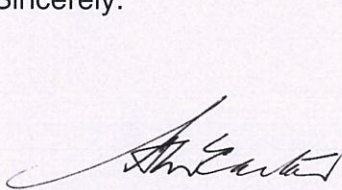
What is perhaps even more troubling is the continued apparent failure, across the institutional chain, to investigate, prosecute and hold accountable those responsible. When allegations of this magnitude can be raised, supplemented by further disclosures, yet appear to encounter little meaningful investigative or prosecutorial consequence, the institutional message is difficult to misunderstand: integrity, honesty, accountability and one's Oath of Office have apparently gone **AWOL**.



This is not merely a question of financial misappropriations. **It raises a far more serious constitutional and national-security concern.** The failure of the **SANDF**, law-enforcement agencies and, where applicable, the judicial system to respond effectively risks becoming an evidential admission of institutional failure - namely, that South Africa is lawless and, rather ironically for the **SANDF** - a defenceless nation.

The South African National Defence Force, is not above the law, is subject to accountability, and exists to defend all the people. It should not require the people to defend themselves from the South African National Defence Force, the very institution entrusted with their safety, dignity and security.

Sincerely.



Henry William McCarter
Chairman

Restoration of Justice is our duty. Truth is our guide. Perpetual Peace and Prosperity for all is our mission.

Executive Council:

Dr. Henry McCarter LLD Hon. (Chairman), HRM Makikele II (Vice-Chairman), HRM Mervyn Dunn, P.M. Dingizwe Manyaka, Lt. Cmdr. Sylvester Mangolele, Nkosi Thulasizwe Ngcobo, Dr. Paolo Brogneri, Dr. Faiez Kirsten, Mrs. Michelle Tovey, Mr. Jannie Meyer, Mr. Ronald Plaatjies, Mr. Phakamani Dlamini, Mr. Cobus Pieterse, HRH Nolubabalo Mcinga, Dr. Grant Satram, Dr. Melanie Wepenaar, Mr. Malungelo Mgolombane, Mr. Godfrey Ngalo, HRM Queen Mashanini; Mr. Denzil Usher, Mr. John Schoemann: (Lead Researcher), Dr. E.K. Gordon-Dudu: (Constitutional Guardian):

Pan-African Region: HRM. Kelvin Morgan (Business Upliftment and & Youth Leader; **Ghana**), HRM King Kalongo Sosola IX (**Malawi**) Mr. Andre Gomes (**Angola**), Mr. Lennox Sola (**Botswana**), HRH. Mduduzi Dlamini (**Eswatini**), Mr. Elisio Faela (**Mozambique**), HRH. Norberth Tjombonde, Adv. E Ndala (**Namibia**), Mr. John Matsora (**Lesotho**), Mr. Godfrey Ngalo, Mr. Moyo Mqondsi (**Zimbabwe**), Prof. Ken G. Morka (**Nigeria**), Mr. Michael Teekay (**Liberia**), Mr. Abdulmajid Oyewumi (Ambassador Extra-Ordinaire: **Nigeria**),

Youth Council: HRM Siyabonga Mkhize, HRM Queen Boresah Fantevie (**Ghana**), Adv. Rolland Shabangu,

Location: Sandton, South Africa

Email: PeaceCommission@afirlegal.com

Mobile: +27 82 491 6728

And to:

The President of the Republic of SA

president@presidency.gov.za

Inspector-General of Intelligence:

info@oigi.gov.za

The Joint Standing Committee on Intelligence:

asombexe@parliament.gov.za

Portfolio Committee on Defence:

azindlani@parliament.gov.za

General Bantu Holomisa

bholomisa@udm.org.za

Madlanga Commission:

MkhwanaziZ@saps.gov.za

The Minister of Justice:

Ministry@justice.gov.za

The Speaker of Parliament:

info@parliament.gov.za

Public Protector of South Africa:

enquiries@pprotect.org

Auditor-General of South Africa:

agsa@agsa.co.za

Directorate for Priority Crime Investigation:

DPCIHEAD@saps.gov.za

National Prosecuting Authority:

ndpp@npa.gov.za

Special Investigating Unit (SIU):

info@siu.org.za

The Asset Forfeiture Unit:

lnongogo@npa.gov.za

Head of Serious Crime and Corruption:

FlynnHF@saps.gov.za

Independent Police Investigative Directorate:

jntlatseng@ipid.gov.za

Revelation 18.4