

Office of the National Director of Public Prosecutions



The National Prosecuting Authority of South Africa
Igunya Jikelele Labetshutshisi boMzantsi Afrika
Die Nasionale Vervolgingsgesag van Suid-Afrika

TO: MEDIA

DATE: 09 JANUARY 2008

RE: ADV GERRIE NEL ARRESTED

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Advocate Mokotedi Mpshe, the acting National Director of Public Prosecutions (**NDPP**), has expressed his shock and concern about the arrest of Adv Gerrie Nel, the head of the Directorate of Special Operations (or Scorpions) in Gauteng.

The National Prosecuting Authority (NPA) wishes to express its serious concern about the process followed in this matter.

The NPA first became aware of the allegations against Adv Nel in September 2007 when it discovered that an investigating team from the South African Police Service (SAPS) was attempting to obtain an arrest warrant for him. Several different prosecutors were approached and were requested to apply for an arrest warrant for Adv Nel. They all declined on the basis that there was not sufficient evidence in the docket.

The NPA communicated with SAPS and proposed that Adv Sibongile Mzinyathi, the acting head of the Prosecutions Service would take direct charge of the matter to ensure that it enjoys priority attention.

The procedure is not unusual as the Policy Directives approved in terms of the NPA Act state that no prosecutor may be charged without the written authorisation of the relevant Director of Public Prosecutions. (There are similar provisions dealing with the charging of police and correctional services officials.)

On 22 October 2007 Adv Mzinyathi met with the investigating team and indicated that there was no sufficient evidence in the docket to justify an application for an arrest warrant.

He was requested to issue a section 205 subpoena to compel a reluctant witness provide a statement, and did so. He indicated his willingness to assist with whatever was required, and that it was vital that the matter be finalised as speedily as possible. These discussions were confirmed in writing.



It was agreed that all further communication regarding the investigation would be with Adv Mzinyathi, and that the investigating team would bring the docket back to him when the investigation was complete.

On 4 December 2007 Adv Mzinyathi sent a further letter to the investigating team to enquire about progress in the matter, indicating the urgency thereof and stressing the willingness of the NPA to assist.

The investigating team responded to this letter in writing by indicating that they had made progress in the investigation and would approach the NPA when further assistance was required. No mention was made that a warrant had been obtained.

On 5 December the NPA was approached by the media to comment on the fact that SAPS had obtained an arrest warrant for Adv Nel.

Adv Mzinyathi contacted the investigating team who informed him that they were not aware of any such development, and that when an arrest was imminent, they would inform him and Adv Mpshe. These discussions were confirmed in writing.

The NPA was therefore very concerned to learn by that time the investigating team had already applied for an arrest warrant, and that it had been obtained on 22 November 2007, 2 weeks before this exchange.

The NPA would like to stress that it is committed to and will deal with any wrongdoing in its own ranks and that it has never hesitated to act when there was proper evidence to do so. We believe that the law should be allowed to take its course and that the true facts will be established.

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