

**ENQUIRY INTO THE SOUTH GAUTENG DIRECTOR OF  
PUBLIC PROSECUTIONS' FITNESS TO HOLD OFFICE**

**HELD AT**

**SALU BUILDING, 316 THABO SEHUME STREET,  
DEPARTMENT OF JUSTICE AND CONSTITUTIONAL  
DEVELOPMENT**

**29 JANUARY 2026**

**DAY 19**



**ENQUIRY INTO THE  
SOUTH GAUTENG  
DIRECTOR OF PUBLIC  
PROSECUTIONS'  
FITNESS TO HOLD OFFICE**

**PROCEEDINGS ON 29 JANUARY 2026**

**CHAIRPERSON:** Good afternoon everyone, good afternoon, Re Chauke, our apologies for starting midday, it is afternoon. As you know, we had some business to do with regard to a pending application by Advocate Chauke's legal team, our apologies for keeping you waiting, all of you, the media, the staff, and Advocate Chauke. I see Advocate Batohi is not here, our apologies to you, all of you, and Advocate Chauke. Advocate Ngcukaitobi?

**ADV NGCUKAITOBI SC:** Thank you Madam Chair. The panel will recall that on the 26th of January 2026, the evidence leaders applied for a postponement of the enquiry to certain dates. One of the reasons they gave for that application was what was described as challenges regarding witnesses, and one of those challenges related to a specific advocate, Advocate Moipone Noko and it was stated that Advocate Moipone Noko is not willing or is no longer willing to be a witness called by the evidence leaders.

Subsequent to that hearing, on the 27th of January 2026, being a Tuesday, Advocate Moipone Noko wrote an email which was copied to Advocate Chauke, in which she disputed the allegation that she was not willing or no longer willing to be a witness. I will not go into the detail of what she claims took place. Yesterday, the 29th of January 2026, Advocate Chauke brought an application before the Panel in

which he asked for certain relief, the most important one being that the Panel should, in its discretion, call Advocate Noko to be a witness, failing which, give permission to Advocate Chauke to call Advocate Noko as a witness.

That application was not opposed. The parties, namely the NPA, the evidence leaders, and Advocate Chauke sought the direction of the Panel in chambers. The panel enabled the parties to negotiate and agree a draft order to resolve the application brought by Advocate Chauke. That draft order is now ready and copies have been circulated to the Panel. I ask for leave to read the order into the record. Oh, I apologise, it has not been handed up. If it could please be circulated. Thank you. I ask for leave to read the order and to ask if the Panel agrees to issue the said direction as a ruling of the Panel.

**CHAIRPERSON:** Yes, you may read the draft order by consent into the record.

**ADV NGCUKAITOBI SC:** Thank you, Madam Chair. The draft order reads:

1. “On Wednesday, 28 January 2026, Advocate Chauke brought an application seeking an order for the Panel to call Advocate Noko to testify, alternatively for Advocate Chauke himself to call Advocate Noko.

2. The application is not opposed.
3. In line with the agreement of the parties, the enquiry directs as follows:
  - 3.1 Advocate Noko shall be called by the Chairperson of the enquiry as a witness of the enquiry.
  - 3.2 Advocate Nkaiseng Khooe is designated to consult with, prepare a witness statement, and to lead the evidence of Advocate Noko.
  - 3.3 Advocate Khooe shall ensure that Advocate Noko's witness statement is submitted to the enquiry and copied to Advocate Chauke's legal team at least two business days before the date of her testimony.
  - 3.4 Days for the hearing of the evidence of Advocate Noko will be communicated by the Panel in due course.”


That is the end of the ruling. If I could ask my colleagues to confirm whether what I have read is in accordance with the agreement.

**CHAIRPERSON:** Thank you, Counsel. Advocate Mohlamonyane?

**ADV MOHLAMONYANE SC:** Thank you, Madam Chair and your two sisters. As evidence leaders, we confirm what my learned colleague has read into the record and also confirm that this draft ruling can be made a ruling of this Panel. Thank you.

**ADV NGCUKAITOBI SC:** I so move, Madam Chair.

**CHAIRPERSON:** Thank you, Advocate Ngcukaitobi.



**ORDER**

The draft order by consent between the parties as read into the record dated the 29th of January 2026 is made an order or ruling of this Panel and/or enquiry. We so order.

**ADV NGCUKAITOBI SC:** As it pleases Madam Chair.

**ADV MOHLAMONYANE SC:** As it pleases the Chair.

**CHAIRPERSON:** Advocate Mohlamonyane, when we adjourned on Monday, we were made to understand that one of your witnesses, is that Advocate Riley or Officer Riley?

**ADV MOHLAMONYANE SC:** Indeed, it is Advocate Riley, Madam Chair.

**CHAIRPERSON:** Advocate Riley is ready to testify. Is my

understanding correct?

**ADV MOHLAMONYANE SC:** In fact, her statement was not yet obtained and efforts were made, Madam Chair, to get in touch with Advocate Riley, who is the Deputy Director of Public Prosecutions seated in Cape Town for the Western Cape. Unfortunately, she did not return calls made to her either by WhatsApp or telephone calls. As matters stand, she has not made contact to date.

**CHAIRPERSON:** It has become apparent since our discussions this morning in chambers, that Advocate Noko is willing to testify as per the order and will be consulted with by Advocate Khooe. Advocate Ngcukaitobi, it is Khooe. I know in the Eastern Cape your G is H, but although it is H, it is pronounced *Gôhe*, *Gôhe*.

**ADV NGCUKAITOBI SC:** Thank you, Madam Chair.

**CHAIRPERSON:** Thank you, sir.

**ADV NGCUKAITOBI SC:** So it is not *ghe*, it is *ge*. [Laughter]

**CHAIRPERSON:** Yes. Advocate Khooe, we are agreed that you will consult with Advocate Moipone Noko, who I believe is in Tshwane. You have tomorrow and the weekend to communicate with her and take her statement. May we then hear from the evidence leader in chief or the evidence leader, your chief leaders, whether it is feasible that you would have consulted by tomorrow and finalise the statement over the weekend and also exchange the statement, the latest by

Monday?

Is it possible, given the fact that we already have documents before us from Advocate Noko, which may be transposed into an affidavit? So the consultation should not really take too long, I think. Or am I wrong?

**ADV MOHLAMONYANE SC:** Madam Chair, the evidence leaders will, to the best of their ability, make a concerted effort to consult with Advocate Noko from tomorrow, so that she can be ready as soon as possible. But I need to mention this. That Advocate Khooe, as we speak ...[intervenes]

**CHAIRPERSON:** *Gôhe.*

**ADV MOHLAMONYANE SC:** *Gôhe*, my apologies. Madam Chair, it is not only people from the Eastern Cape.

**CHAIRPERSON:** Even the advocates from Limpopo?

**ADV MOHLAMONYANE SC:** As it turned out, it is a disease in the north as well. [Laughter]

**CHAIRPERSON:** Okay, it is *Gôhe*.

**ADV MOHLAMONYANE SC:** She had been assigned to consult with Advocate Zais van Zyl, who was the lead prosecutor in the matter of Mdluli, which was in the High Court some years back. Now, she has made efforts to get in touch with Advocate Zais van Zyl, who says he is very old and requested that Advocate Khooe should fly down to the Eastern Cape to consult with her, with him. He asked that the statement of Advocate Batohi be sent to him so that he

should be in a position to see and read what was said in that statement.

Now, the statement has been – and I made to believe that it will be sent by post, by courier today, the latest this afternoon, to him. And as soon as he receives the statement, he will get in touch with Advocate Khooe. And then they can make arrangements to meet sometime during the course of next week. I just wanted to alert the Panel that there is this arrangement.

**CHAIRPERSON:** Yes, but I suppose you are now lining up your witnesses. You have many other witnesses, so this means that – you may confer with your colleagues.

**ADV MOHLAMONYANE SC:** As it pleases the Chair. Thank you for the indulgence, Madam Chair. I am reminded – I have actually forgotten – I am reminded by my co-evidence leaders that we agreed that Advocate Mtsweni will now take over and consult with Advocate Zais van Zyl.

**CHAIRPERSON:** We should not get into the nitty-gritties of what you people are going to do. What is important to us is to have the witnesses coming here to testify. How you go about in doing that, you have to ensure that witnesses are ready and statements have been exchanged, because we do not have control in how you arrange with witnesses and what is possible. What we know, after our long discussion this morning, and having read the papers filed of record, is that

Advocate Moipone Noko, who is in Pretoria now, is ready or will be available to be consulted with and is prepared to testify.

Which means if the three days remaining before Monday can be properly utilised, given the fact that everything is here now almost, all that can be probably finalised by tomorrow, statement exchanged, and then as we postpone, I suppose, you are going to ask for that postponement. We will have to postpone to a specific date, which will probably be Monday, unless if you think otherwise. My sister has asked that before you respond, she will ask something.

**ADV BALOYI-MERE SC:** Good afternoon, Advocate. I want to remind you of a commitment that was made on Monday, before you respond to whether you want a postponement or not. In my notes here, I know there was an exchange between Advocate Skosana SC and my sister, and my note says, Advocate Skosana SC still insists on a postponement to Monday, the 2nd of February, and if Advocate Batohi is not ready to take the witness stand, then the evidence-leading team would be ready to proceed with another witness.

The witness statement would be shared with the Chauke team by Friday, that is tomorrow. And this comes at the backdrop of Advocate Mohlamonyane having said, given the issue about Advocate Mlotshwa, and then you said, apart

from Major General Booyesen, there is Advocate Riley, who is ready to testify, Major General Nhlanhla Mkhwanazi, who will be next, because he is a witness who will not take long. And you even said, in hindsight, I should have gone ahead and taken Major General Nhlanhla Mkhwanazi's statement.

So the impression created was, you wanted a postponement to Monday, but whatever happens on Monday, you will have a witness ready. And that was before Advocate Noko wrote to us. So even before Advocate Noko indicated her willingness to come and testify, there was already a commitment from the evidence-leading team that by Monday, if Advocate Batohi's issue is not yet resolved, and she cannot take the stand, there will be a witness ready to proceed, unless if my understanding is wrong. Thank you, Chair.

**CHAIRPERSON:** Advocate Mohlamonyane?

**ADV MOHLAMONYANE SC:** Yes, Madam Baloyi-Mere, your understanding was correct. The evidence leaders will make concerted efforts to see to it that they have a witness ready.

**CHAIRPERSON:** I beg your pardon? I thought the point made by my sister, when you look at our notes, there was an undertaking that by Friday, the statement of Advocate Riley will be exchanged with the Advocate Chauke's team. So we are looking forward to the statement by tomorrow. So it means that which you had undertaken to do, is not possible now.

**ADV MOHLAMONYANE SC:** It is not possible now, Madam Chair, that Advocate Riley's statement will be in tomorrow because of the challenges that she is not responding. She is not answering calls, she is not responding to WhatsApp messages.

**CHAIRPERSON:** The undertaking was made without having spoken to her?

**ADV MOHLAMONYANE SC:** Yes, indeed so.

**CHAIRPERSON:** What is now going to happen? She is on the list of witnesses, she is not answering the phone, and then what do you plan to do? Because you have given us a list of witnesses, and it seems to me now the only witness, who is now called by this enquiry, is going to testify probably on Monday or Tuesday, and then thereafter, what is to happen?

**ADV MOHLAMONYANE SC:** We have actually taken strides to get another witness, and the witness who was contacted by Advocate Mtsweni, is Advocate Barnard. Unfortunately he is around, he is in Pretoria. Advocate Mtsweni is going to consult with him this afternoon and get his statement, which statement we hope will be finalised before the end of business tomorrow.

**CHAIRPERSON:** My difficulty is that we work on hopes and then undertakings being made, which do not come to any fruition. And if we were to postpone this matter to a specific

date, we should avoid a possible future disruption. Or we are going to be told witnesses are not available, and then we have to adjourn again and postpone. And as I said on Monday, we cannot tell you how to lead your witnesses. If the witnesses are there, please prepare them, exchange statements.

If the witnesses are not there, simply close your case. Because we cannot work on this procrastination without knowing whether we are finishing this enquiry or not. Because by the end of February, we should have made some progress. And now, do you want to postpone it? To which date?

**ADV MOHLAMONYANE SC:** I will not be able to say that at the moment before I confer with my colleagues. May Madam Chair grant us an indulgence to confer with my colleagues?

**CHAIRPERSON:** You want us to adjourn for a short while? Because we have to postpone to a specific date. So that once we start with any of the witnesses, all your witnesses must be lined up to finish your evidence. Then to enable Advocate Chauke's team to also lead, and then you cross-examine. Remember, our time is getting reduced. So I think perhaps, subject to what my sisters think, we will adjourn just for a few minutes and then, give you a chance to let us know, to which date do we postpone the further hearing on this matter?

**ADV MOHLAMONYANE SC:** We will appreciate that, Madam

Chair. A short adjournment.

**MS RAMAGAGA**: Advocate Mohlamonyane, Advocate Riley is still with the NPA, am I correct? Am I correct that Advocate Riley is still with the NPA?

**ADV MOHLAMONYANE SC**: Indeed, I am made to believe she is still with the NPA, to the best of my knowledge.

**MS RAMAGAGA**: Thank you. When you discuss with your team, remember that if you are unable to get hold of Advocate Riley directly, there are other ways of getting hold of him as an employee, or her, I beg your pardon, of her as an employee of the NPA. Thank you. Thank you, Chair.

**CHAIRPERSON**: Yes, thank you, my sister. I also add, Advocate Mohlamonyane, most of your witnesses are officers of court, actually, who are advocates in the NPA. They can prepare their statements. Wherever they are, they can start in the comfort of their offices or in the comfort of their homes. They can prepare their statements and then meet with you, in which event you will need not a long time to finalise those statements. They are better placed to write their own statements, so that you can then start lining up your witnesses.

All of them, those advocates you have listed as potential witnesses, you may give them the carte blanche to prepare their own statements and then arrange for consultation. You can even maybe try to have consultation

online with them, without necessarily having to drive out of the province. This is a suggestion that I make to you, evidence leaders, to consider. I suppose that is doable. Counsel?

**ADV MOHLAMONYANE SC:** It should be, Madam Chair.

**CHAIRPERSON:** And remember, in respect of all witnesses that you are consulting with and whose statements would have been finalised, such statements must be filed of record and be exchanged with the parties, the NPA and Advocate Chauke. Thank you, Counsel, and all of you. There is another matter that we should place on record. All of you will remember that the time allocated to this enquiry was four months. The four months, when you look at the date of publication, expires today.

We had requested an extension of the period allocated by the President. A short while ago, after our discussion, the Minister called to confirm that the President has signed a document signifying his consent to extend the term of this enquiry. We had requested, given the fact that only one witness has so far testified in chief and is still under cross-examination, and also given the list of witnesses that you provided for, we anticipated that we would probably need up to June to finalise the hearings and prepare the report.

We are told that the President has agreed. The publication will happen in due course and the email should

be reaching the Registrar's Office. We thought that we should make this announcement. We have no doubt and we have no reason to doubt the correctness of the ministerial message communication. In that event, it means we have to determine a date to which we postpone this matter. We will therefore adjourn these proceedings, so that we can speak and then let us know, then we can postpone to a specific date when we will be proceeding with the hearing of argument.

In the meantime, I suppose, all other matters pending in respect of the matter of Advocate Batohi, which were discussed extensively, on Monday will be dealt with properly. Remember Advocate Batohi is still under cross-examination and at some stage we should be told, whilst we are calling other witnesses, as to what is going to happen in respect of her testimony. We cannot leave it hanging forever. Someone will have to report to us about the status of her evidence and what has happened in relation to those matters that we were told were going to be looked into by Advocate Skosana. We will adjourn for a few minutes and then send our researchers to let us know when you are ready with the date.

**ADV MOHLAMONYANE SC:** We will do so, Madam Chair.

**CHAIRPERSON:** Thank you. We will adjourn.

**ENQUIRY ADJOURNS**

**ENQUIRY RESUMES**

**CHAIRPERSON:** Good afternoon and thank you, Advocate

Mohlamonyane.

**ADV MOHLAMONYANE SC:** Madam Chair and your two sisters, we are grateful for the indulgence granted to us. Arrangements that have been made are as follows. On Monday, Advocate Noko's statement will be filed, will be exchanged with our learned colleagues. And on Wednesday, Advocate Noko is lined up to testify before this Commission, before this Enquiry, rather. We are consequently asking that the Panel grant us a postponement until Wednesday next week, which will be the 4th of February 2026.

**CHAIRPERSON:** Meaning that all of you would have had an opportunity to consult with all other witnesses, so that when Advocate Noko finishes her testimony, then you will call the next witness.

**ADV MOHLAMONYANE SC:** Indeed so, Madam Chair.

**CHAIRPERSON:** I suppose you are giving us an undertaking that we are not going to adjourn again for any other postponement, to go and consult.

**ADV MOHLAMONYANE SC:** We, as I indicated earlier, we are making concerted efforts to consult with those witnesses and obtain their statements and make them available.

**CHAIRPERSON:** Advocate Ngcukaitobi?

**ADV NGCUKAITOBI SC:** Thank you, Madam Chair. We confirm that we have agreed to receive the statement of Advocate Noko by close of business on Monday and to

commence cross-examination as soon as she is finished. We also agree with the date of Wednesday, the 4th of February. Thank you, Madam Chair.

**CHAIRPERSON:** Thank you, Counsel. It is appropriate to mention that on Wednesday, the 4th, myself and my sister Advocate Lizzie, will be held up in the afternoon. We have medical consultations that we need to undergo and this has been pre-arranged since last year, so we propose in advance to adjourn by one o'clock. She will travel to Johannesburg for her appointment. I will travel to Brooklyn for my afternoon appointment.

We thought that we should indicate in advance that although we will start in the morning, we will wish to adjourn around one o'clock, so that we can attend to those personal engagements. We are told, and I am sure I can mention, Advocate Ngcukaitobi, that we are celebrating your birthday today and we are told that you have offered a birthday cake for everybody to come and celebrate. [Laughter]

**ADV NGCUKAITOBI SC:** I am also told so, Madam Chair. [Laughter]

**CHAIRPERSON:** Is it not that we have always spoken of all of us being a family, so sometimes we are confronted with very serious business, but there are other days when, as a family, we should go and celebrate. May I, on your behalf, and on behalf of my sister, take this opportunity, in Setswana

we say, [indigenous language], it is not my birthday, but do you allow me to announce it?

**ADV NGCUKAITOBI SC:** Yes, Madam Chair. Well, I suppose it is two of us, this Advocate Baloyi-Mere and me, who were unfortunately born in December and we could not celebrate. So this is the moment. So the January babies must wait a little bit. [Laughter]

**CHAIRPERSON:** Yes, thank you very much. We celebrated her birthday, but you had already left on the 15th. You left and then we were here on business and then she provided us a cake or cakes. So all of you, the media, the family, all the family members could not share the cake with us, but we are told that you have provided a cake and there will be something. We will share that cake together.

Thank you very much and everybody, the media, our family up there, we are invited to come and sing a song for your Advocate Ngcukaitobi. [Laughter] Yes, thank you very much to all of you. May I then take this moment to thank the evidence leading team? We thank you in anticipation for the fact that by Wednesday we will start and continue with all the pending witnesses so that we can then make some progress. And also thank the NPA for your presence throughout.

Thank Advocate Chauke's team, in particular you, Advocate Chauke. You have been steadfast in your attendance. We understand that you travel from

Johannesburg every day. We appreciate that. And all of you who have been here to assist us, thank you very much. We are going to adjourn until next week Wednesday. And we will take it from there. Thank you. We adjourn.

**ENQUIRY ADJOURNS UNTIL 4 FEBRUARY 2026**

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**ENQUIRY INTO THE  
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