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JUDICIAL COMMISSION OF INQUIRY INTO CRIMINALITY, POLITICAL INTERFERENCE AND CORRUPTION IN THE CRIMINAL JUSTICE SYSTEM

APPLICATION FOR IN CAMERA HEARINGS

Introduction

The evidence leaders respectfully request that the next witnesses scheduled to appear before the Commission be permitted to do so in camera, in the presence of the Commissioners and evidence leaders only.

The Rules of the Commission expressly recognise that there may be circumstances in which it is appropriate for hearings to be conducted in camera.

Rule 4 provides:

4.1. Subject to rule 4.2, the hearings of the Commission will be held in public and there must be physical attendance of all parties involved.

4.2. In an appropriate case, the Chairperson may make an order that a hearing be held in camera or via electronic means. In such a case, the Chairperson shall specify

in the order those persons who will be permitted to attend the hearing in camera or by some other means.

4.3. At the request of the witness whose evidence is to be heard in camera, or, mero motu, the Chairperson must order that nobody may, directly or indirectly, disclose the identity of the witness who is to give evidence in camera.

In view of the sensitive nature of the evidence to be presented, and the imperative to protect witnesses and safeguard the integrity of the proceedings, the evidence leaders submit that it necessary and appropriate that the hearings for the period 13 October to 17 October 2025 be conducted in camera and that the hearings on 20-22 October be anonymized. For the anonymous evidence, the witnesses will testify remotely and with only an audio feed.

There are four principal reasons for this request.

Safety of witnesses

The personal safety of certain witnesses who will appear before the Commission will be seriously endangered if their identities are made public. Exposure could lead to intimidation, retaliation, or physical harm.

This risk is real and documented. Lieutenant-General Mkhwanazi, in his evidence to the Commission, detailed the threats faced by officers investigating the Vereeniging

murder.¹ A threat and risk assessment conducted by a Colonel in Crime Intelligence found that the investigators were at High Risk. Of the five detectives assigned to that case, two withdrew out of fear after receiving threats; one has since been replaced with another officer whose identity is not yet publicly known and the remaining two were placed under witness protection, where they remain to this day.

Other witnesses before this Commission who implicate cartel members or who disclose their identities as police officers with a central role in the investigation of the cartel face comparable threats, but many lack formal protection. Their cooperation depends on the assurance that their identities and testimony will not be publicly exposed.

Protection of ongoing criminal investigations

As the Commissioners are aware, the subject matter of Commission's investigations concern individuals and entities involved in criminal syndicates. Several of the forthcoming witnesses will testify about the operations of these syndicates and their connections within law enforcement agencies.

Portions of their evidence directly concern ongoing criminal investigations. If such information were disclosed publicly in real time, it could alert suspects, facilitate the destruction of evidence, or otherwise compromise the work of law enforcement authorities.

¹ Transcript, 17 September 2025, pp97-107

The public interest in accountability and justice would be undermined if transparency at this stage were to prejudice the successful prosecution of offenders. A temporary closed session will allow the Commission to receive vital evidence without jeopardising parallel criminal proceedings.

It is hoped that by the time that the Commission finalises its proceedings, the relevant investigations will have reached a point where the public disclosure of the evidence will no longer compromise those investigations. In such an event, the transcript of the relevant evidence can then be made public.

Protection of Investigative Methods and Operational Security

Third, and related to the above, is that certain evidence will necessarily refer to internal operational strategies and methods of the South African Police Service (SAPS). Disclosure of investigative techniques—such as intelligence-gathering, surveillance methods, or analytical tools—would risk revealing how SAPS detects and disrupts criminal activity.

Revealing these techniques would equip criminal networks with the knowledge needed to evade law-enforcement scrutiny. A closed hearing is therefore warranted to preserve the confidentiality of policing methods and to protect the integrity of both ongoing and future investigations.

Protection of Informants and Confidential Sources

Fourth, some of the evidence relies on information received provided by confidential informants and sources whose identities must remain secret. Disclosure of this information could endanger their lives and severely undermine the ability of investigators to obtain information in future.

Informants and whistle-blowers provide critical assistance to law enforcement on the assurance of anonymity. Breaching that assurance would not only expose them to harm but would also have a chilling effect on others who might otherwise approach the SAPS with information about organised crime, or come to the Commission with information that is relevant to its Terms of Reference.

Conclusion and safeguards

For these reasons, the evidence leaders submit that it is in the interests of justice, the safety of witnesses and the integrity of the Commission's work that the hearing of evidence of witnesses scheduled for 13 October to 22 October 2025 take place in a closed session. Ensuring that witnesses can testify fully and frankly serves the Commission's mandate more effectively than risking the loss of critical evidence through fear of exposure.

The witnesses in question and their testimony fall into the following classes, all of which can be substantiated in testimony given by the witnesses in camera:

Witnesses who will be exposed to a serious threat of harm if their identities are publicly disclosed;

Witnesses who will be testifying to matters concerning ongoing investigations which may be prejudiced if their testimony is disclosed at this stage;

Witnesses who will disclose police techniques for investigating organized crime cartels;

Witnesses who will disclose information that may lead to the identification of police informants and will thus expose those informants to the risk of serious harm.

The witnesses will elaborate on the facts of their circumstances at the commencement of their oral evidence. If the evidence given at the outset by a witness in camera to substantiate the need for an in camera hearing of that witness is not persuasive, the Commission can withdraw, or modify, its ruling in relation to the in camera hearing at that point.

The evidence leaders remain mindful of the importance of transparency. To balance openness with the need for protection, information will be disclosed publicly wherever it can be done without compromising investigations or endangering individuals. This may take the form of publishing redacted statements, redacted transcripts, annexures to statements or other underlying material that can be safely disclosed.

The evidence leaders therefore respectfully request that the Chairperson make an order in terms of Rule 4.2 directing that the hearings for 13-17 October 2025 be conducted in closed session and those for 20-22 October 2025 in partially closed session (voice only), and that the identities of the relevant witnesses be protected under Rule 4.3.

THE EVIDENCE LEADERS

11 OCTOBER 2025