

**IN THE JUDICIAL COMMISSION OF INQUIRY INTO ALLEGATIONS OF
CRIMINALITY, POLITICAL INTERFERENCE AND CORRUPTION IN THE
CRIMINAL JUSTICE SYSTEM ("THE COMMISSION")**

HELD AT PRETORIA

In the application of:

THE EVIDENCE LEADERS FOR THE COMMISSION

Applicant

and

**AMABHUNGANE CENTRE FOR
INVESTIGATIVE JOURNALISM NPC**

First Respondent

DAILY MAVERICK (PTY) LTD

Second Respondent

MEDIA24 (PTY) LTD

Third Respondent

**WRITTEN SUBMISSIONS OF EVIDENCE LEADERS IN THEIR APPLICATION FO
THE EVIDENCE OF DR N SIFOLO TO BE HEARD *IN CAMERA***

1. The evidence leaders seek a ruling directing that the evidence of Dr Sifolo be heard in camera.
2. Dr Sifolo is the Acting Co-ordinator of the National Intelligence Co-ordinating Committee. The bulk of the questioning of Dr Sifolo will relate to several hundred pages of classified documents comprising:

- 2.1. four National Intelligence Estimates issued over the years 2022 to 2025, and
 - 2.2. 11 (eleven) NICOC Intelligence Briefs and a Special Report, all of which were issued by NICOC in the period January to July 2025.
3. The documents in question deal with issues relating to the infiltration of the criminal justice system by organised crime syndicates. They have been declassified for the limited purpose of their use by the Commission. They have not been declassified for public dissemination.
4. The distinction is material. The declassification permits the Commission to receive and consider the information for purposes of discharging its mandate. It does not authorise the Commission to make the documents or their contents available to the public at large.
5. The Respondents highlight the likely public interest in disclosure of the documents in question. They contend that the mere classification of information cannot, without more, justify a departure from the principle of open justice.
6. However, the Respondents' contentions do not engage with the legal realities of the Commission's position. The Commission is not a High Court. It has no power to set aside a decision to classify information or to vary a decision on the terms on which classified information is declassified.
7. Given the limits of the Commission's powers in relation to classified documents, the situation before the Commission presents it with three choices:
 - 7.1. It can apply urgently to the High Court to review and set aside the decisions to declassify the exhibits on terms which prevent those exhibits and (indirectly) any questioning in relation to the exhibits from being heard publicly;
 - 7.2. It can refuse to hear the evidence of Dr Sifolo in camera, with the practical result that it will not be able to question him on any of the documents in the exhibits bundle; or

7.3. It can hear the evidence of Dr Sifolo in camera, maintaining a complete record of the questioning of Dr Sifolo and the documents to which it relates.

8. The first option is undesirable for the following reasons:

8.1. It will divert the time and focus of the Commissioners and evidence leaders away from their core task and into a collateral dispute over the terms of declassification of documents on which it needs to question Dr Sifolo. The Commission has already had to deal with three urgent applications brought by witnesses seeking to avoid testifying before the Commission. These urgent applications have been extremely disruptive to the work of the Commission and have diverted significant resources of the Commission from the Inquiry that the Commission is established to conduct.

8.2. There is no guarantee that an application will succeed.

8.3. Even if an application does succeed, it will not obviate the need for much of the evidence of Dr Sifolo to be given in camera.

8.4. An application will interfere with the timetable of the Commission and will disrupt the proposed evidence schedule not only of Dr Sifolo, but also of other witnesses who are to be called to deal with issues arising out of the evidence of Dr Sifolo and the documents in his exhibit bundle. It will almost inevitably require those witnesses to be called after 9 November when the Commission resumes calling witnesses in public. Given the tight constraints on the Commission's evidence time, this is likely to require the displacement of other witnesses and to interfere with the ability of the Commission to finish hearing evidence in December.

9. The second option is self-defeating.

10. That leaves the third option as the only desirable option available to the Commission.

- 10.1. It allows the evidence of Dr Sifolo to be heard, and to be heard without disrupting the program of the Commission and diverting evidence leaders and Commissioners from their primary task.
- 10.2. It similarly allows the Commission to hear the evidence of other witnesses who are to be called to deal with issues arising out of the evidence of Dr Sifolo and the documents in his exhibit bundle.
- 10.3. It will enable the Commission to preserve a full record of this evidence and the documents. If the Respondents or any other parties wish to have access to the relevant evidence and documents, they can apply to the High Court to grant them appropriate relief in relation to the evidence and documents.
- 10.4. Apart from the fact that the High Court has the necessary powers to regulate access to the documents and evidence, if it does so after the relevant evidence has been led, it will be performing the exercise retrospectively with reference to a fixed record of evidence and documents. This is much more desirable than attempting prospectively to regulate the national security and intelligence consequences of potential questioning in relation to documents and topics.
- 10.5. In this way, if the Respondents feel sufficiently strongly about the issue, they will be able to secure access for themselves and the public to all of the evidence and documents of Dr Sifolo to which they are constitutionally entitled to have access.
11. In the circumstances, the Evidence Leaders request that the Commission rule that the evidence of Dr Sifolo be heard in camera.

THE EVIDENCE LEADERS
19 October 2026