REPORT ON INVESTIGATION INTO ALLEGATIONS OF THE MISAPPROPRIATION OF SAPS FUNDS IN THE ACQUISITION OF VEHICLES FOR THE SPOUSES OF FORMER PRESIDENT JACOB ZUMA
1. INTRODUCTION

1.1 This is my closing report in terms of section 182 (1) (b) of the Constitution of the Republic of South Africa, 1996 (the Constitution) and section 8 (1) of the Public Protector Act, 1994 (the Public Protector Act).

1.2 This report relates to allegations of misappropriation of public funds by the South African Police Service (SAPS) in the acquisition of vehicles for the spouses of President Jacob Zuma.

1.3 The complaint was lodged Ms. Monique Taute, National Campaign Coordinator, AfriForum on 27 May 2016.

1.4 In summary, the Complainant alleged the following:

1.4.1 Over the last four years, the SAPS has spent more than R8.6 million on eleven vehicles for the spouses of President Zuma. These vehicles were purchased between 2013 and 2016.

1.4.2 In a parliamentary reply published on 6 May 2016 the Minister of Police, Hon. Nkosinathi Nkatha Kholini Thamsanqa Nhleko responded to an oral question from Democratic Alliance (DA), MP, Hon. Zakhele Mbhele, saying that the purchases had been necessary “to provide comprehensive protection of VIP to the spouses”.

1.4.3 In terms of the Presidential Handbook, the SAPS is responsible for the cost of procurement, maintenance and running costs of motor vehicles for the President, Deputy President and their spouses. The handbook however, sets no limits for these expenses, creating an enabling environment for the continued purchasing of such luxury vehicles.

1.4.4 It is the contention of the Complainant that spending R 8.6 million on eleven (11) cars over a period of three (3) years is a “misappropriation of tax money”.
2. **ISSUES TO BE CONSIDERED**

2.1 On analysis of the allegations and the information and documentation received during preliminary enquiries, the following issues were considered and investigated:

2.1.1 Whether the expenditure incurred by the South African Police Service (SAPS) in purchasing eleven (11) vehicles for the spouses of former President Zuma between 2013 and 2016, amounts to misappropriation of funds.

3. **POWERS AND JURISDICTION OF THE PUBLIC PROTECTOR**

3.1 The Public Protector was established in terms of section 181 (b) of the Constitution to support and strengthen constitutional democracy through investigating and redressing improper conduct in state affairs.

3.2 Section 182 (1) of the Constitution provides that the Public Protector has the power to investigate any conduct in state affairs, or in the public administration in any sphere of government, that is alleged or suspected to be improper or to result in any impropriety or prejudice, to report on that conduct and to take appropriate remedial action. Section 182 (2) directs that the Public Protector has additional powers as prescribed in legislation.

3.3 Additional powers of the Public Protector to investigate improper conduct in state affairs are provided for in national legislation, amongst others, sections 6 and 7 of the Public Protector Act, 1994 (Public Protector Act).
4. THE INVESTIGATION

4.1 Methodology

4.1.1 The investigation was conducted in terms of section 182 of the Constitution and sections 6 and 7 of the Public Protector Act.

4.2 Approach to the investigation

4.2.1 The approach to the investigation included analysis of the relevant documentation and consideration and application of the relevant laws, regulatory framework and prescripts.

4.2.2 Like every Public Protector investigation, the investigation was approached using an enquiry process that seeks to find out:

4.2.2.1 What happened?

4.2.2.2 What should have happened?

4.2.3 Is there a discrepancy between what happened and what should have happened and does that deviation amount to a maladministration and improper conduct?

4.2.4 In the event of improper conduct or maladministration, what would it take to remedy the wrong occasioned by the said improper conduct or maladministration?

4.2.5 The question regarding what happened is resolved through a factual enquiry relying on the evidence provided by the parties and independently sourced during the investigation. In this particular case, the factual enquiry principally focused on whether or not the alleged expenditure by the SAPS on eleven (11) cars in three (3) years on the wives of former President Zuma amounts to misappropriation of funds.
4.2.6 The enquiry regarding what should have happened, focuses on the law or rules that regulate the standard that should have been met by the SAPS to prevent the misappropriation of funds.

5. KEY SOURCES OF INFORMATION

5.1 APPLICABLE LEGISLATION AND PRESCRIPTS

5.1.2 The Public Protector Act, 23 of 1994;
5.1.3 Public Finance Management Act, No1 of 1999;
5.1.4 Treasury Regulations of Public Finance Management Act, March 2005
5.1.5 SAPS National Instruction 4 of 2011: State Vehicles;
5.1.6 Presidential Handbook 2015;
5.1.7 Standard Operating Procedure Presidential Protection Service Component: In-transit protection, January 2015
5.1.8 SAPS Supply Chain Management Manual: Directives in respect of Acquisition

5.2 DOCUMENTATION

5.2.1 Special Conditions Contract: RT 57-2016, Supply and delivery of sedan vehicles, light and heavy commercial vehicles, busses and motor cycles to the State for the period 1 July 2016 to 31 March 2018, National Treasury Transversal Contract;
5.2.2 Contract RT57 Benchmark Values, for the period 1 August 2016 to 30 November 2016;
5.2.3 Contract RT57/2016 to 2018 Pricing for the period 1 August 2016 to 30 November 2016;

5.2.4 Standardised procedure for the determination of vehicle needs in the SAPS for 2012/13 financial year;

5.2.5 Information Note to the Section Head: Acquisition Management MGP and Services, Brigadier F Mashika, Re: Application to approve a preferred/sole supplier on quotation basis to purchase six (6) Audi A6 and two (2) Q7 vehicles, approved on 16 March 2016.

5.2.6 Letter from National Treasury, Chief Director: Transversal Contracting to Major-General RS Pillay, SAPS, Re: Mechanical Transport: Approval to purchase vehicles not available on RT 57, dated 11 March 2016;


5.2.8 SAPS, Declaration Quotation Questionnaire, Preference Points Claim Form in terms of the Preferential Procurement Regulations, 2011, 15 March 2016;

5.2.9 Certificate of Independent Bid Determination, 15 March 2016;

5.2.10 Declaration of Interest, 15 March 2016;


5.2.14 Commissioned statement by the Component Head: Presidential Protection Service, Major-General Rhoode, dated 23 April 2019;

5.2.15 Provisioning Administrative System (PAS) system print outs on eleven (11) vehicles, dated 24 April 2019;

5.2.16 National Instruction on State vehicles, 4 of 2011 (Chapters 2 and 20);

5.2.17 Standard Operating Procedure for Presidential Protection Services in-transit protection, 28 January 2015;

5.2.18 Acquisition documentation and purchase orders for eleven (11) vehicles

5.3 **CORRESPONDENCE SENT AND RECEIVED**

5.3.1 Letter to SAPS National Divisional Commissioner, Supply Chain Management, Lieutenant General (Lt Gen) Mokwena from the Office of the Public Protector, dated 6 February 2017;
5.3.2 Response received from Brigadier JL Kruger, SAPS Legal Support: Supply Chain Management, dated 10 February 2017;

5.3.3 Follow up response from Brigadier JL Kruger, SAPS Legal Support: Supply Chain Management, dated 13 February 2017;

5.3.4 Letter to Lt Gen Khomotso Phahlane, SAPS Acting National Commissioner from Public Protector, dated 23 February 2017;

5.3.5 Response received from Lt Gen Khomotso Phahlane, SAPS Acting National Commissioner on 14 March 2017;

5.3.6 Follow up letter to Major-General MMM Dladla, Component Head: Presidential Protection Services from the Office of the Public Protector, dated 3 July 2017;

5.3.7 Email to Major-General Rhoode Component Head: Presidential Protection Services from the Office of the Public Protector, dated 27 August 2018;

5.3.8 Letter to General Khehla Sitole, National Commissioner SAPS from the Public Protector, dated 26 February 2019;

5.3.9 Subpoena issued to the SAPS National Commissioner, General Sitole by the Public Protector, dated 09 April 2019;

5.3.10 Response to subpoena received from General Sitole, requesting extension, dated 17 April 2017;

5.3.11 Response received on 25 April 2019
6. **THE DETERMINATION OF THE ISSUES IN RELATION TO THE EVIDENCE OBTAINED AND CONCLUSIONS MADE WITH REGARD TO THE APPLICABLE LAW AND PRESCRIPTS.**

6.1 **Whether the expenditure incurred by the South African Police Service (SAPS) in purchasing eleven (11) vehicles for the wives of former President Zuma between 2013 and 2016, amounts to misappropriation of ‘tax money’**.

**Issues that are Common Cause**

**It is not disputed that:**

6.1.1 All vehicles procured by the SAPS becomes the property of the SAPS for utilisation by the SAPS. No vehicle becomes the property of any private individual including any political office bearer or their spouse/s. All such vehicles procured remain the property of SAPS until disposal.

6.1.2 Presidential Protection Services is a component within SAPS and its core function is to ensure effective protection services to the Presidency, which include *inter alia*, the provision of in-transit VIP Protection to the President, Deputy President and their spouses, former Presidents and Foreign Heads of State, the provision of planning and executing rapid deployment services, and to manage the Presidential diary.

**Issues that are in dispute**

6.1.3 The issues for my determination is to establish whether the SAPS misappropriated funds when it procured eleven (11) luxury vehicles within a period of three (3) years for the wives of former President Jacob Zuma.

6.1.4 According to the Complainant, the Presidential Handbook confirms that the SAPS is responsible for the cost of procurement, maintenance and running costs of motor vehicles for the use of ground transport in South Africa (SA) for the President, Deputy President and their spouses. Ostensibly, there are no limits set for the cost of purchasing of such luxury vehicles. The Complainant indicated that SAPS spent
more than R8.6 million on eleven (11) vehicles between 2013 and 2016 for the spouses of former President Jacob Zuma and that it is her contention that these purchases amounts to misappropriation of ‘tax money.’

6.1.5 In the National Assembly Question for Written Reply, Question 1354, Mr ZN Mbhele from the Democratic Alliance (DA) posed the following question to former Minister of Police, Mr Nkosinathi Nhleko;

"Have any vehicles been purchased from the SA Police budget for use by the spouses of the President of the Republic of South Africa, Mr Jacob Zuma, in the (a) 2011-12, (b) 2012-13, (c) 2013-2014, (d) 2014-15 and/or (e) 2015-16 financial years; if not, what is the position in this regard; if so, (i) what (aa) model(s) and (bb) make(s) of each vehicle that was purchased in each specified financial years, (ii) what is the year of manufacture of each specified vehicle that was purchased in each of the specified financial years, (iii) what was the cost of the specified purchases and (iv) what was the reason for the purchase in each case”?

6.1.6 In his reply, former Minister Nhleko stated that no vehicles were purchased in the 2011/12 financial year and the 2014/15 financial year. However, vehicles were purchased for the spouses of former President Zuma in the 2012/13, 2013/14 and 2015/16 financial years. The former Minister attached the following table to illustrate such purchases made;

<table>
<thead>
<tr>
<th>MAKE</th>
<th>MODEL</th>
<th>YEAR OF MANUFACTURING</th>
<th>PURCHASE YEAR</th>
<th>COST</th>
</tr>
</thead>
<tbody>
<tr>
<td>Range Rover</td>
<td>SUV</td>
<td>2013</td>
<td>2013/03/12</td>
<td>R 946 612.93</td>
</tr>
<tr>
<td>Range Rover</td>
<td>SUV</td>
<td>2013</td>
<td>2013/03/12</td>
<td>R 946 612.93</td>
</tr>
<tr>
<td>Range Rover</td>
<td>SUV</td>
<td>2013</td>
<td>2013/03/12</td>
<td>R 946 612.93</td>
</tr>
<tr>
<td>Range Rover</td>
<td>SUV</td>
<td>2013</td>
<td>2013/03/12</td>
<td>R 946 612.93</td>
</tr>
<tr>
<td></td>
<td>Model</td>
<td>Year</td>
<td>Date</td>
<td>Amount</td>
</tr>
<tr>
<td>----------------------</td>
<td>-----------</td>
<td>------</td>
<td>------------</td>
<td>---------------</td>
</tr>
<tr>
<td>Land Rover Discovery</td>
<td>SUV</td>
<td>2014</td>
<td>2014/03/07</td>
<td>R 638 831.00</td>
</tr>
<tr>
<td>Land Rover Discovery</td>
<td>SUV</td>
<td>2014</td>
<td>2014/03/07</td>
<td>R 638 831.00</td>
</tr>
<tr>
<td>Audi Q7</td>
<td>SUV</td>
<td>2016</td>
<td>2016/03/30</td>
<td>R 857 047.44</td>
</tr>
<tr>
<td>Audi A6</td>
<td>SEDAN A6</td>
<td>2016</td>
<td>2016/03/30</td>
<td>R 634 992.54</td>
</tr>
<tr>
<td>Audi A6</td>
<td>SEDAN A6</td>
<td>2016</td>
<td>2016/03/30</td>
<td>R 634 992.54</td>
</tr>
<tr>
<td>Audi A6</td>
<td>SEDAN A6</td>
<td>2016</td>
<td>2016/03/30</td>
<td>R 634 992.54</td>
</tr>
<tr>
<td>Audi Q7</td>
<td>SUV</td>
<td>2016</td>
<td>2016/03/30</td>
<td>R 857 047.44</td>
</tr>
</tbody>
</table>

**TABLE 1**


6.1.8 In a follow up response via email, dated 10 February 2017 from Brigadier (Brig) Ramanjulum, Section Head: Procurement Management to the Office of the Public Protector, Brig Ramanjulum explained that SAPS is responsible for the procurement of vehicles for the President, former Presidents, the Minister of Police and the Deputy Minister of Police. The Presidential fleet is driven by Presidential Protection Services (PPS) which is responsible for driving the President and his spouse(s). He stated that no vehicle is personally allocated to a President and/or his/her spouse(s) and that vehicles are procured for the President and/or his/her spouse when the need arises.
6.1.9 He asserted that the Presidential Handbook is used as a guide by the SAPS to procure and use vehicles. Further, that the procurement of these vehicles as well as the maintenance and upkeep thereof are done in conjunction with the *RT 57 Transversal Contract*. Vehicles in the SAPS are procured through the National Treasury *Transversal Contract RT 57: Supply and delivery of motor vehicles, light and heavy commercial vehicles, busses and motor cycles to the State*.  

6.1.10 In a follow up letter to the former Acting National Commissioner of the SAPS, Lt. Gen. Khomotso Phahlane (Lt. Gen. Phahlane) from the Public Protector on 23 February 2017, further information pertaining to *inter alia* the acquisition process and the needs analysis was requested. Lt. Gen. Phahlane responded on 14 March 2017 and stated that the vehicles mentioned in table 1 above are not procured for the spouses of the president only, but also for the spouses of the Deputy President, former Presidents and Deputy Presidents.

6.1.11 He stated further that PPS is in the Office of the National Commissioner and is responsible for identifying the vehicle needs for presidential protection. These vehicle needs are then communicated to the Divisional Commissioner: SCM to procure.

6.1.12 Lt. Gen. Phahlane attached letters from the PPS in the Office of the National Commissioner, to the Divisional Commissioner: SCM outlining the vehicle needs for PPS and indicated the amount available to purchase the specified vehicles.


---

1 "Transversal Term Contract" is defined in National Treasury Guideline to Transversal Contracting, dated March 2017 as a centrally facilitated contract arranged by the National Treasury for goods or services that are required by one or more than one institution. The role and responsibility of the National Treasury is to facilitate the processes of putting together the transversal contract.
6.1.14 The information provided indicated purchases made in the 2012/13 and 2013/14 financial years in terms of the RT 57 Transversal Contract and purchases in the 2015/16 financial year, made in terms of paragraph 16A6.4 of the Treasury Regulations read with paragraph 5.18.6A of the Supply Chain Management user manual. The purchases made in the 2015/16 financial year were not made in terms of the RT 57 Transversal Contract due to the vehicles being new model vehicles, launched towards the end of 2015 when the price for 2016 had not yet been confirmed by the provider, namely Audi South Africa (SA).

6.1.15 These vehicles were procured by way of an application to approach Audi, a preferred supplier on an urgent basis in terms paragraph 5.18.6 of the SAPS Supply Chain Management manual, to submit quotations to purchase six (6) Audi A6 sedans and two (2) Audi Q7 SUVs. The total order was for R6.2 million.

6.1.16 The Chief Director: Transversal contracting in the Department of National Treasury, Mr Kenneth Pillay approved the aforesaid purchases in terms of paragraph 16A6.4 of the Treasury Regulations on 11 March 2016.

6.1.17 The total spending on vehicles for the protection of the spouses of former President Zuma, the former Deputy President and the Deputy President in the 2012/13 financial year was R3.7 million and in 2013/14 it was R1.2 million. The overall SAPS expenditure statement provided indicated no over spending on vehicle purchases for the 2012/13, 2013/14 and 2015/16 financial years.

6.1.18 The Head of PPS, Mr Rhoode was engaged via email to provide additional documentation and information. No response was forthcoming and a letter was addressed to the National Commissioner of SAPS, General Khehla Sitole from the Public Protector on 26 February 2019. Upon failing to respond to the said letter, the Public Protector subpoenaed the Commissioner on 9 April 2019 to appear before her on 24 April 2019 and provide the required information. The Commissioner
requested an extension, but provided the required documentation and information on 25 April 2019.

6.1.19 Attached to the aforesaid response was a commissioned statement, deposed by the Component Head of PPS, Maj. Gen. Walther Rhoode, dated 23 April 2019. Maj. Gen. Rhoode confirmed that the vehicles procured for the transportation of all PPS VIP’s are the property of SAPS and therefore SAPS SCM processes are used for the procurement of same.

6.1.20 He further confirmed that PPS determines the need for a specific vehicle in accordance with its budgetary allocations and that SAPS issued a National Instruction that governs the procurement and boarding of vehicles based on National Treasury prescripts and directives. The aforesaid provisions dictate that, “needs are submitted to the Head of SCM taking into consideration the allocation budget” of the Division, Component and/or Provincial Commissioner’s office in making requests for the procurement of vehicles. It also dictates inter alia that when a vehicle is old and the repair cost is uneconomical, the vehicle must be boarded.

6.1.21 Maj. Gen. Rhoode confirmed that the vehicles in table 1 above were indeed procured in terms of the needs analysis conducted by PPS as well as the prevailing National Treasury Transversal Contract RT57. He stated that the type and model of vehicles procured is based on VIP Protection principles which inter alia imply that vehicles should accord certain luxuries and comforts to the person being protected, for instance it should have an engine capacity of 2L and should suit the terrain where it will most often be utilised. Further, that the vehicle, if needs be, should also have the capacity to perform offensive and defensive manoeuvres.

6.1.22 According to Maj. Gen. Rhoode, table 2 below, illustrates the needs analysis that were conducted on the vehicles concerned:
<table>
<thead>
<tr>
<th>TYPE</th>
<th>REASON FOR PURCHASE</th>
<th>ALLOCATED</th>
</tr>
</thead>
<tbody>
<tr>
<td>Range Rover 2013</td>
<td>Purchased to replace Toyota Land Cruiser SAPS NO. BRR48B, 2009 model with kilometres 254506 (vehicle was boarded).</td>
<td>PPS KZN Office use vehicle for Protection duties for all incoming spouses</td>
</tr>
<tr>
<td>Ranger Rover 2013</td>
<td>Purchase to replace Toyota Land Cruiser SAPS NO. BRR429B, 2009 model with kilometre 215149, because of the late year model, appearance and reliability issues.</td>
<td>Vehicle is used for protection duties for Mrs Khumalo Zuma in Durban.</td>
</tr>
<tr>
<td>Ranger Rover 2013</td>
<td>Purchased to replace Toyota Land Cruiser SAPS NO. BRR430B, 2009 model with kilometres 276096, because of the late year model, appearance and reliability issues.</td>
<td>Vehicle is used for protection duties for Mrs Ntuli Zuma in Durban.</td>
</tr>
<tr>
<td>Ranger Rover 2013</td>
<td>Purchased to replace Mercedes Benz SAPS NO. BNV823B, 2004 model (vehicle was boarded).</td>
<td>Vehicle is used for Protection duties for all incoming spouses in Gauteng.</td>
</tr>
<tr>
<td>Land Rover Discovery a 2014</td>
<td>Purchased to replace BMW 760i SAPS NO. BPS 677B, 2007 model with kilometres 192385 because of the late year model, appearance and reliability issues.</td>
<td>Vehicle is used for Protection duties for all incoming spouses in Gauteng.</td>
</tr>
<tr>
<td>Land Rover Discovery 2014</td>
<td>Purchased to replace BMW 740i SAPS NO. 195163N, 2002 model with kilometres 124357, 165% of the purchase price of R430 000.00 were used to repair vehicle.</td>
<td>Vehicle is used for Protection duties for all incoming spouses in Gauteng.</td>
</tr>
<tr>
<td>Audi Q7 2016</td>
<td>Purchased to replace BMW 730d SAPS NO. BRT970B, 2009 model with kilometres 174209, because of the late year model, appearance and reliability issues.</td>
<td>Vehicle is used for protection duties for Mrs Madiba Zuma in Durban.</td>
</tr>
</tbody>
</table>
| Audi A6 2016 | Purchased to replace Mercedes Benz S500L SAPS NO. 195164K, 2002 model with kilometres 151488, 124.40%, of the purchase price of R671 074.00 were used to repair vehicle. | Vehicle is used for Protection Duties for DR Motspe- Ramaphosa in Pretoria.
<table>
<thead>
<tr>
<th>Model</th>
<th>Description</th>
<th>Purpose</th>
</tr>
</thead>
<tbody>
<tr>
<td>Audi A6 2016</td>
<td>Purchased to replace Mercedes Benz S500 SAPS NO. BNX179B, 2005 model with kilometres 183599, 224.50% of the purchase price of R318 480.00 were used to repair vehicle.</td>
<td>Vehicle is used for Protection duties for Mrs Machel in Pretoria.</td>
</tr>
<tr>
<td>Audi Q7 2016</td>
<td>Purchased to replace BMW 745i SAPS NO. BNV316B 2004 model with kilometres 193908, 101.10% of the purchase price of R732 800.00 were used to repair vehicle.</td>
<td>Vehicle is used for Protection duties for all incoming spouses in Durban.</td>
</tr>
<tr>
<td>Audi A6 2016</td>
<td>Purchased to replace BMW 730d SAPS NO. BRT971B, 2009 model with kilometres 272212, 66.70% of the purchase price of R821 500.00 were used to repair vehicle.</td>
<td>Vehicle is used for Protection duties by Mrs Mbeki in Pretoria.</td>
</tr>
</tbody>
</table>

Table 2

6.1.23 Maj. Gen. Rhoode asserted that the Component Head of PPS takes the final decision on procurement matters affecting the Component and that the Presidency never played a role or influenced the SAPS or any of its Divisions or Components in the procurement of vehicles.

**Application of the relevant legal prescripts**

6.1.24 With regard to whether the expenditure incurred by the SAPS in purchasing eleven (11) vehicles for the wives of former President Zuma between 2013 and 2016, amounts to misappropriation of ‘tax money’, the issue for my determination is whether the applicable laws and prescripts were complied with. The applicable legislation and prescripts with regard hereto are the following:

6.1.25 The Constitution of South Africa is the supreme law of the Republic and all other laws should conform to the constitution.

6.1.26 The legislative mandate of PPS is derived from the Interim Constitution of the Republic of South Africa of 1993 in section 218(1)(l) which states that the National Commissioner shall be responsible for National Protection Services.

6.1.27 With the adoption of the Constitution of the Republic of South Africa, 1996, section 218(1)(l) was retained in Schedule 6, Transitional Arrangements, Item 24, Subsection 1.

The Risk Management System (RIMAS)

6.1.28 The document was not provided as it is considered classified. According to Maj. Gen Rhoode, Cabinet approved RIMAS in 1997 and it provided the SAPS with the mandate to render an in-transit and static protection service to all 'Very Important Persons' (VIP's).

6.1.29 He stated that in terms of Cabinet Memorandum 1A of 2004, dated 10 November 2004, VIP's are defined as "...individuals who act in the interest of the country or whose safety is of significant importance to the country, and whose safety and security is either manifestly threatened or the likelihood of their safety and security being threatened is high".

The Presidential Handbook, 2015

6.1.30 In terms of paragraph 23.1, the SAPS takes full responsibility for all protection, security and related arrangements for the spouses of the President and Deputy President, both in South Africa and when abroad.
6.1.31 Paragraph 23.2 states that the costs of all security and planning arrangements, including personnel, for the spouses are carried by the SAPS.

6.1.32 In terms of paragraph 24.1, the state may provide spouses of the President and Deputy President with a state owned vehicle and a driver/protector for official and private use in South Africa. The costs of procurement, maintenance and upkeep of these vehicles are carried by the SAPS.

**Standard Operating Procedure Presidential Protection Service Component: In-transit protection (SOP)**

6.1.33 The Presidential Protection Services (PPS) was established in 2010 as a component reporting to the Office of the National Commissioner. The vision of the Component is to render a professional, effective and accountable Presidential Protection Service to the President, Deputy President, former Presidents and r Deputy Presidents, their spouses, identified VIP’s including Foreign Heads of State/Government and former Heads of State/Government and their spouses. Their functions include ensuring in-transit protection to the aforementioned dignitaries.

**SAPS National Instruction 4 of 2011**

6.1.34 Chapter 2, paragraph 4.7 states that if the Section Head: Resource Management Vehicle Fleet Management at the Division Supply Chain Management is satisfied that the needs assessment and concept budget for vehicles do not exceed the budget allocation for the financial year, he must make a submission for the purchase and allocation of new vehicles to the Divisional Commissioner: Supply Chain Management for his recommendation. The Divisional Commissioner: Supply Chain Management must, with the concurrence of the Deputy National Commissioner: Physical Resource Management, submit the recommendation to the National Commissioner for approval.
6.1.35 In terms of paragraph 134(1), a state vehicle that cannot be repaired economically, must be boarded. Sub-paragraph (2) states that the repair of a state vehicle is regarded as uneconomical if the accumulated repair cost of a vehicle is 100% or more of the original purchase price. In determining the accumulated costs, *inter alia* the total mechanical repair costs to date are taken into consideration.

6.1.36 In terms of paragraph 135(1)(b), if a state vehicle cannot be economically repaired, the Commander of the Police Garage must complete a specific form with recommendations in this regard and send it to the *Accounting Functionary*. The *Accounting Functionary* must ensure that the form with the recommendation is sent to Supply Chain Management for approval.

**Treasury Regulations of Public Finance Management Act**

6.1.37 Treasury Regulations 16A6.5 provides that “*The accounting officer or accounting authority may opt to participate in transversal term contracts facilitated by the relevant treasury. Should the accounting officer or accounting authority opt to participate in a transversal contract facilitated by the relevant treasury, the accounting officer or accounting authority may not solicit bids for the same or similar product or service during the tenure of the transversal term contract.*”

6.1.38 In terms of Treasury Regulation 16A6.4, if in a specific case it is impractical to invite competitive bids, the Accounting Officer or Accounting Authority may procure the required goods or services by other means, provided that the reasons for deviating from inviting competitive bids must be recorded and approved by the accounting officer or accounting authority.

**SAPS Supply Chain Management Manual: Directives in respect of Acquisition**

6.1.39 In terms of paragraph 5.18.6, Urgent and emergency cases can be defined as:
a) Urgent cases where early delivery is of critical importance and the invitation of competitive bids is either impossible or impractical, an institution may dispense with the invitation of bids and may obtain the required goods, works or services by means of quotations by preferably making use of the database of prospective suppliers;

b) Emergency cases are defined as cases where immediate action is necessary in order to avoid a dangerous or risky situation or misery.

The Conclusions that could be made based on the application of the law to the facts

6.1.40 Based on the information and evidence obtained during the investigation and the application of the legal framework to the facts of the matter, it can be concluded that:

6.1.41 Provisions in the Constitution dictates that the National Commissioner of the SAPS is responsible for National Protection Services. Presidential Protection Services is a component of National Protection Services reporting to the Office of the National Commissioner. PPS provides in-transit protection to the President, Deputy President, former Presidents and Deputy Presidents, their spouses, identified VIP’s including Foreign Heads of State/Government and former Heads of State/Government and their spouses.

6.1.42 The vehicles purchased by PPS between 2013 and 2016 were done by way of a needs assessment (table 2 above) in terms of the provisions of SAPS National Instruction 4 of 2011 and in accordance with the prevailing National Treasury Transversal Contract RT57.

6.1.43 The aforesaid vehicles were procured, not primarily for the protection of the spouses of former President Jacob Zuma, as alleged by the Complainant, but also for the protection of the former Presidents, Deputy Presidents, and former Deputy Presidents'.
6.1.44 The financial statements provided by SAPS, indicate that the concept budget for vehicle orders by PPS for the years in question did not exceed the budget allocation for that Division.

7. FINDINGS

Having considered the evidence uncovered during the investigation against the relevant regulatory framework, I make the following findings:

7.1 With regard to whether the expenditure incurred by the South African Police Service (SAPS) in purchasing eleven (11) vehicles for the wives of former President Zuma between 2013 and 2016, amounts to misappropriation of ‘tax money’.

7.1.1 The allegation that the SAPS is responsible for the ‘misappropriation of tax money’ when spending R8.6 million between 2013 and 2016 on eleven (11) vehicles for the wives of President Jacob Zuma, is not substantiated.

7.1.2 These vehicles are illustrated in table 1 above and indicate four (4) Range Rover SUVs purchased in 2013, two (2) Land Rover Discovery SUVs in 2014 and three (3) Audi A6 sedans and two (2) Audi Q7 SUVs in 2016.

7.1.3 As illustrated in table 2 above, a needs analysis was conducted by PPS, and it revealed that the vehicles used by PPS for in-transit protection were old and had high mileage, therefore needed to be replaced. According to the needs analysis conducted the 2002 BMW, would have cost 165% of the purchase price to repair and therefore needed to be replaced. The Toyota Land Cruiser 2009 and the Mercedes Benz, 2004 was boarded in terms of the provisions of SAPS National Instruction 4 of 2011. Two (2) 2009 Toyota Land Cruisers with kilometers above 200 000 and a BMW, 2007 model with a mileage above 190 000, were replaced because of the late year of the vehicles, the appearance and reliability issues.
7.1.4 These vehicles were replaced by the four (4) Range Rover SUVs in 2013 and the two (2) Land Rover Discovery SUVs in 2014. Procurement was done by virtue of the National Treasury Transversal Contract RT57 CV: Supply and Delivery of Motor Vehicles, light and heavy commercial vehicles, busses and motor cycles to the State and the Special Conditions by National Treasury.

7.1.5 Table 2 further illustrates that the five (5) vehicles procured in 2016, replaced vehicles that were also either too old, had a high mileage or the repairs were above 100% of the purchase price. These vehicles were not procured in terms of the RT57 Transversal Contract, because it was new models launched towards the end of 2015 and Audi did not have the confirmed price in January 2016 to submit. Instead, procurement was done in terms of paragraph 16A6.4 of the Treasury Regulations above which was approved by National Treasury in March 2016.

7.1.6 These vehicles were purchased for the transportation of all PPS VIPs in terms of SAPS SCM processes and remain the property of SAPS. Presidential Protection Service SOP states that for the purposes of protection, VIP is defined as individuals or groups of individuals who act in the interest of the country and whose safety is of significant importance to the country, and whose safety and security is either manifestly threatened or the likelihood of their safety and security being threatened, is high.

7.1.7 Therefore, the type and model of vehicles procured is based on VIP Protection principles which inter alia imply that vehicles should accord certain luxuries and comforts to the person being protected, it should have an engine capacity of 2L and should suit the terrain where it will most often be utilised. The vehicle, if needs be, should also have the capacity to perform offensive and defensive manoeuvres.

7.1.8 The financial implication for the aforesaid order to purchase must be within the budget allocation for the Component. The information provided by the SAPS indicate throughout the procurement process, the price of the order and the budget allocation for the Component and no over-spending was incurred.
8. REASON FOR CLOSURE

8.1 Based on the information and evidence obtained during the investigation, I could not make a finding on the allegation that the SAPS is responsible for the ‘misappropriation of tax money’ when purchasing vehicles on request from PPS for the wives of former President Jacob Zuma between 2013 and 2016.

8.2 The vehicles were not solely procured for the in-transit protection of former President Zuma’s spouses but also for the spouses of other former Presidents, Deputy President, former Deputy Presidents etc. and the vehicles were never the property of the VIP’s.

8.3 A Discretionary Notice was sent on 20 August 2019 to Ms Taute in accordance with Rule 42(1) of the Public Protector Investigation Rules published in Government Gazette No. 41903 and no response was received by the return date of 9 September 2019. The matter will be considered as finalised.

ADV BUSISIWE MKHWEBANE
THE PUBLIC PROTECTOR OF THE
REPUBLIC OF SOUTH AFRICA
DATE: 18/09/2019