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Date: 23 October 2018

**To: The Honorable President of the Republic of South Africa:
Cyril Matamela Ramaphosa, MP**

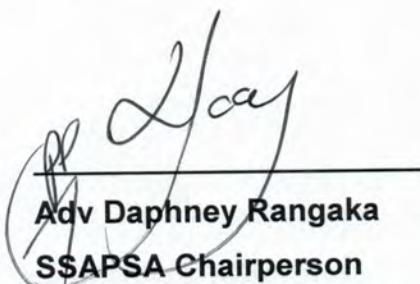
Dear Mr President,

**Follow Up Open Letter to The President of the Republic of South Africa
Re: The Appointment of the NDPP and Advisory Panel**

1. Our previous open letter to you, dated 17 September 2018 refers.
2. As stated earlier, the Society of State Advocates and Prosecutors of South Africa (SSAPSA) is the only association for prosecutors in South Africa and currently represents 501 prosecutors. SSAPSA membership consists of prosecutors who are in the fulltime employ of the National Prosecuting Authority. SSAPSA is managed by prosecutors, for all prosecutors (whether they are members or not) and is an organisational member of the International Association of Prosecutors. As one of the founding members of the IAP, SSAPSA was instrumental in drafting the International Standards of Professional Responsibility and Statement of the Essential Duties and Rights of Prosecutors which was adopted by the IAP on 23 April 1999 and to which our members subscribe.

3. We welcome the process to appoint the next National Director of Public Prosecutions adopted by you, Mr. President, as it followed the suggestion we made in our letter dated 17 September 2018. The appointment of a panel to identify and interview candidates for the position of NDPP has been our stance for many years. Furthermore, our request is that such interviews should be conducted in the public domain, as it is in the public interest.
4. However, we note with disappointment and grave concern that prosecutors have been excluded from serving on the advisory panel. Prosecutors have a substantial interest in the legitimacy of the appointment process itself as well as the suitability of the person appointed to lead them.
5. To date prosecutors have only heard of the process from the media. This is undesirable, especially where prosecutors already work in a volatile and stressful milieu and the morale of prosecutors is at an all-time low.
6. We reiterate that the test, for determining whether a candidate is a qualified fit and proper person (not only in regard to the NDPP, but any prosecutor), requires the application of professional standards specific to the prosecution profession. It is a best practice rule that every profession has to lay down standards and ethical principles applicable to its members. Once those standards have been laid down, it becomes easy to assess and determine what the profession prescribes for one to be a fit and proper person, as is the case with the appointment of judges. Prosecutors should therefore be able to give input on the appointment of the leader of the organisation they serve.
7. Prosecutors note the fact that the position of NDPP is advertised by *inter alia* the LSSA, for specifically their members. We urge that the panel should be mindful that being a worthy attorney does not necessarily equip such a candidate with the requisite knowledge, understanding, experience of and expertise within the prosecution service. The panel should also be mindful of existing and long-standing loyalties and whether those can be reconciled with the duty to prosecute without fear, favour or prejudice in a necessarily adversarial legal system.

8. After all, as NDPP the LSSA nominee will be tasked to lead those who may have been his/her former opponents in litigation and to take decisions notwithstanding vehement opposition from members of the very LSSA who nominated that NDPP. This raises the bar considerably for such a nominee when testing the traits of being objective and resolute. The same applies to nominees from the ranks of the GCB.
9. The advisory panel, according to media reports, was formed to include all sectors within the legal profession. The exclusion of prosecutors is thus unjustifiable.
10. The constant exclusion of prosecutors (including state advocates) is also evident in that the Legal Practice Act makes no provision for a prosecutor as "legal practitioner" and that prosecutors are not selected to act as judges in the High Court. Yet society depends on prosecutors each time a member of the public is wronged by some criminal act and seeks justice.
11. Insofar as prosecutors have a substantial interest in the fair appointment of the most worthy candidate as NDPP, they ought to have representation on the advisory panel appointed by yourself. It is an anomaly that everyone within the legal profession is consulted in this process, except prosecutors.
12. We would thus request that you consider the inclusion of a representative from SSAPSA on the advisory panel. Furthermore, we would like to make suggestions as to questions put to the nominees or to make inputs once the nominees are made known.



Adv Daphney Rangaka
SSAPSA Chairperson