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KwaZulu-Natal
20 May 2016

To: Vidhulekha Vedalankar,
Chief Executive Officer and Information Officer
Legal Aid South Africa
29 De Beer Street, Braamfontein
Johannesburg 2017

And to cc list

Dear Ms Vedalankar

**LASA'S ONGOING FALSE ANNUAL PAIA REPORTING TO THE SAHRC
FOR THE MISINFORMATION OF THE NATIONAL ASSEMBLY TO OBSTRUCT
AND DEFEAT ITS CONSTITUTIONAL OVERSIGHT FUNCTION**

Legal Aid South Africa ('LASA') has filed yet another dishonestly false annual report under section 32 of the Promotion of Access to Information Act 2 of 2000 ('PAIA' or 'the Act'), also omitting prescribed information, to conceal from the South African Human Rights Commission ('SAHRC') and from the National Assembly its illegal refusals last year to allow me access to its business records, duly requested under PAIA in the exercise of my fundamental right to information held by public bodies, entrenched by section 32(1) of the Bill of Rights in the Constitution.

Why these records, including insurance records disclosing insurance fraud, are being so anxiously and determinedly suppressed, like Nixon clinging to his Oval Office tapes, is for another day, coming soon.

This is now the fifth false and defective section 32 report LASA has filed since 2011 to conceal its repeated and persistent illegal refusals of my PAIA requests made

since 2010, in a pattern of what the SAHRC calls ‘malicious compliance’ by public bodies with their reporting obligations so as to conceal their violations of their constitutional information transparency obligations, or to put it more plainly, their illegal refusals to open their books. To conceal other things obviously.

Accurate section 32 reporting and PAIA manual updating ‘were stressed’ to LASA as ‘key forms of compliance’ with PAIA at the special PAIA training workshop the SAHRC conducted for it on 6 October 2011, as a direct result of its illegal refusals of my first three PAIA requests in 2010 and 2011 and false reporting to the SAHRC about this afterwards. The workshop report further recorded: ‘The mandatory obligation for all government organizations to compile a report in terms of section 32 of PAIA was discussed. LASA compliance history was flagged with participants and most responded to the reporting of LASA as non compliant to Parliament with concern.’

You’ll recall being taxed about this by the then chairperson of the Justice Portfolio Committee, Hon Landers, and by then Committee member Hon Jeffery, now Deputy Minister, when presenting LASA’s annual report later in the month. The minute records that Hon Jeffery ‘was curious about a Promotion of Access to Information Act (PAIA) report that was released that stated the South African Human Rights Commission was unhappy with LASA and their cooperation in terms of PAIA’, and that when you failed to deal with it, i.e. the SAHRC’s section 84 PAIA report about LASA as ‘a case in point’, ‘The Chairperson said that he wanted to know about the PAIA report.’ (The Committee was independently aware from my communications with it that you’d been illegally refusing my PAIA requests.) You managed to duck the Committee’s enquiry by falsely calling the SAHRC’s PAIA report ‘untrue’ and by untruthfully obfuscating.

LASA then blithely persisted with making false and defective section 32 reports for 2013/14 and 2014/15, and now 2015/16. What makes this extraordinarily serious is that the SAHRC necessarily relies on and is dependent on truthful and accurate

reporting by public bodies to discharge its own annual reporting obligations regarding public body compliance with PAIA to the National Assembly under section 84 of the Act. Without reliable and accurate section 84 reporting by the SAHRC to the National Assembly, based on accurate section 32 reporting by public bodies to the SAHRC, the National Assembly can't effectively oversee public body performance, as required of it by section 55(2)(b)(ii) of the Constitution, and, more particularly, supervise the compliance of public bodies with their constitutional freedom of information and transparency obligations.

LASA's five false and defective section 32 reports for the years 2010/11, 2011/12, 2013/14 and 2014/15, and now again for 2015/16, have concealed its persistent illegal, unconstitutional refusals to permit me access to its business records duly requested under PAIA, and they have obstructed and frustrated, and threaten to continue obstructing and frustrating, the National Assembly's constitutional oversight function over LASA. They have prevented it thus far from holding you and your colleagues to account. Of course this has been the whole idea of these false and defective reports.

I approach you directly in this matter because when in August 2012 the SAHRC's then PAIA Unit director Fola Adeleke demanded that LASA's defective section 32 report for 2011/12 be amended to include your deputy information officer Brian Nair's persistent illegal refusal in April 2011 to comply fully and properly with my three PAIA requests addressed to you in August and December 2010 and March 2011, your Corporate Services Executive Thembile Mtati waved him away with an effusion of non-sequiturs in which he displayed his abysmal ignorance of PAIA (the PAIA workshop attendance register shows that he'd been expected to present himself to be taught how it works, but bunked the lesson), leading the SAHRC to report LASA's repeated false section 32 reporting to the National Assembly later in the year in its annual report under section 84 presented in October 2012. This is what the Portfolio Committee repeatedly asked you about.

Accordingly I call on you as information officer of LASA, ultimately responsible under section 17 for its compliance with PAIA, to see to it that LASA's false section 32 report for 2015/16, signed and submitted by Mtati, is withdrawn and replaced with an amended, truthful, correct, complete and legally compliant one, for the true and full information of the National Assembly in the SAHRC's section 84 report later this year, in conformity with the detailed reporting requirements of the Act.

The false, defective and missing information in Mtati's report filed with the SAHRC on 15 April 2016 is identified below, followed by the true, correct and full information that section 32 requires you to provide.

Item 1: (a) the number of requests received

Mtati reports '2'. It's a minor inaccuracy relative to the egregiously dishonest and misleading reporting and concealment discussed below, but this wrong figure needs correction all the same.

Under 'Comments', Mtati refers to (i) my 'letter dated 4 May 2015', which 'sought two documents', and (ii) my PAIA 'request ... addressed to the information officer of the Department of Justice and Correctional Services on 27 November 2015' for the budget applications LASA made to the Department to pay nine Senior Litigator salaries for the several years I stated, which the Department 'referred to the information officer of Legal Aid South Africa on 3 December 2015 in terms of section 20 of the Act' to respond to. (I'd asked the Department for these records, because LASA has routinely refused my PAIA requests since 2010 on any number of idle grounds, ultimately abandoned (see below).)

Mtati ought to have reported '1' – my request for the budget records, because my letter in May was not a separate PAIA request. Referring to my PAIA request in March 2015 for eight records, still being considered under extended time that Mtati had asked me for, my letter amplified my request by including two further records

in my Form A request list annexure, namely: ‘9. LASA’s report to the SAHRC under section 32 of PAIA for 2014/15’ and ‘10. CEO Vedalankar’s approved leave application in respect of her absence from office in April 2015’.

My May letter was not an independent PAIA request because the Act requires that any PAIA request must comply with certain prescribed formalities, namely that it be (i) made on a completed Form A template, and (ii) covered by a request fee. I didn’t use Form A in May and no request fee accompanied my letter, nor was any demanded. Cf. Nair’s due demand in respect of my PAIA request addressed to him on 20 November 2014 (after I’d asked him for LASA’s bank details for the purpose): ‘Please be advised that before I can consider your request you are required to deposit a fee of R35 into the bank account set out below: [details]. ... upon depositing the fee, we will consider your request.’

My May letter, referring to my Form A PAIA request in March, and asking for access to two additional records, was consequently not a separate PAIA request as defined by the Act.

Indeed, in previous reporting under section 32, LASA itself recognised that such a supplementary request made in a postscript to a Form A PAIA request is not a separate request but is part of the main request. LASA’s section 32 report for 2013/14 did not report as a separate request my request by letter on 17 October 2013 for a further document, namely ‘42. The spreadsheet attached to Nair’s email [etc]’, in addition to the ‘41 specified records’ I’d requested of you in my then ‘pending request of the 1st instant’ conforming to the prescribed formalities: a Form A request submitted covered by a request fee. Again, no additional request fee for the further record requested was paid or demanded.

A letter not complying with Form A and not covered by a request fee, which requests the inclusion of additional records in a list annexed to a just-submitted Form A PAIA request still under consideration, is not a PAIA request within the meaning of the Act and is not an independent PAIA request for reporting purposes.

As information officer you need to amend this item of the report to accurately reflect that one request for access was made in the reporting cycle: my request for LASA's budget applications.

Item 2: (b) the number of requests granted in full

Mtati reports '2' and that 'All requests were granted in full.' This is untrue. Only one request was granted in full: my PAIA request for LASA's budget applications (which Nair granted only because the Department was watching).

As said, my letter of 4 May 2015 was not an independent PAIA request, but even if it had been, it's untrue that access to both additional records I sought was granted. I was given a copy of LASA's section 32 report for 2013/14 (also non-compliant), but refused access to your leave form, for the reason Mtati gave me that 'This is personal information that has no relevance in exercising your rights in terms [of] the Act. Please find the acting delegations of CLE, COO and NOE.'

Granting access to an official record of a public officer's absence from office plainly does not entail 'the unreasonable disclosure of personal information about a third party' as contemplated by section 34 of the Act (any particularly personal reason you might have given for taking leave could have been redacted). And it's elementary that a PAIA requester's right to access and examine a public record is not dependant on its 'relevance' to 'exercising [his] rights' or to anything else. The refusal was accordingly not justified under any of the 'Grounds for Refusal of Access to Records' permitted by sections 34–45 in Chapter 4 of part 2 of the Act, and was therefore unlawful. Nonetheless, I didn't pursue your leave form because the other documents given me instead satisfied me that you were indeed out of office for much of April 2015, which allegation I was testing with my request – having been told so many lies by LASA's national management executives over the years: big lies, small lies, central lies and peripheral lies, a sea of lies told to me and to high authorities, some lies contradicting each other, some lies told under oath and to the National Assembly: serious crimes to be catalogued with supporting documents for

prosecution in due course. But the fact remains that access to the particular record I requested was refused. It was not granted as falsely reported.

You need to amend this item of the report to accurately reflect that one request was granted in full: my request for budget records. That is, Mtati's false claim, 'All requests were granted in full', must be changed to reflect the true position: 'One request was granted in full'.

Item 4: (d) the number of requests for access

(i) refused in full

Mtati has reported '0'. This is untrue. He's failed to report his blanket refusal on 26 May 2015 of my requests (made in the previous reporting cycle) for 83 specified records, addressed to:

- Patrick Hundermark, for access to 23 records/sets of records;
- Hundermark again, for access to 4 records/sets of records;
- Jerry Makokoane, for access to 56 records/sets of records.

You need to amend this item of your report to accurately reflect that three requests for access, comprising a total of 83 specified records, were refused in full.

(ii) refused partially

Mtati has reported '0'. This is untrue. As mentioned above, my PAIA request addressed to you on 19 March 2015, supplemented by my letter of 4 May 2015 asking that two further records be included in it, was partially refused by providing me with one record (the section 32 report) and refusing five requests (your leave form and all four sets of insurance records that I specified). Two records were stated not to exist. Although this wasn't certified under section 23 as required, I took Mtati at his word that no records whatsoever exist to vouch that Hundermark and Makokoane and their 'teams' spent 187 and 220 hours respectively on (irrelevant) background reading of 'the documents relating to case 529/11', per the language of Mtati's report, as alleged to me and unlawfully charged for – about which more

below.

You need to amend this item of the report to accurately reflect that one request for access, comprising eight specified records, was refused partially.

(iii) number of times each provision of this Act was relied on to refuse access in full or partially

Mtati reports '0': 'Not applicable for current reporting cycle.' This is untrue.

On 26 May 2015 within the 'current reporting cycle' Mtati refused me access to the 83 records I'd requested from Hundermark and Makokoane in the previous cycle. He did not expressly stipulate what sections of the Act he was relying on, but in objecting in paragraph 10.3 of his letter that (i) the records I'd requested were 'related to and ancillary to the litigation proceedings you have brought against Legal Aid South Africa under case number 529/11 at the Labour Court in Durban' and 'against Legal Aid South Africa officials under case numbers 257/14, 258/14 and 259/14' in the Eshowe Magistrate's Court to compel compliance with my three PAIA requests unlawfully refused in November 2013, and (ii) the 'requests are malicious and seek to divert the resources of Legal Aid South Africa', Mtati was clearly alluding to sections 7 and 45 of PAIA as grounds for his refusals, which same two sections he'd explicitly cited and relied on in November 2013, using similar language, to justify his refusal of all my PAIA requests addressed to regional deputy information officers Bambiso and Msweli and nearly all my requests addressed to you, made in October 2013 (hence my said three applications to compel, launched in April 2014).

Mtati expressly relied on section 36 to refuse me access to the four sets of insurance records I requested of you in March 2015.

Mtati impliedly relied on section 34 in refusing my request for access to your leave form on the ground that it's 'personal information', which section justifies the refusal of 'the unreasonable disclosure of personal information about a third party'.

You need to amend this item of the report to reflect that:

- sections 7 and 45 were relied on 83 times to refuse me access to 83 specified records (requested of Hundermark and Makokoane);
- section 36 was relied on four times to refuse me access to four records (requested of you);
- section 34 was relied on once to refuse me access to one record (requested of you).

You need to record your frank concession in the ‘Comments’ column for the true and candid information of the SAHRC and the National Assembly that, as the SAHRC has repeatedly taught LASA (see below), section 7 of PAIA and the fact that a record request in some manner ‘relates to and is ancillary to’ past or pending litigation does not afford any ‘Grounds for Refusal of Access to Records’ allowed by sections 34–45 in Chapter 4 of Part 2 of the Act; and further that you accept that my requests were made, not frivolously or maliciously to waste LASA’s time as falsely alleged to avoid dealing with them, but for exceedingly grave purposes, namely for the intended criminal, civil and disciplinary purposes that I stated, including perjury prosecutions, as indeed Mtati acknowledged (quoted below); and that Mtati’s reliance on sections 7 and 45 to refuse me access to the records I duly requested was unlawful. As was his reliance on section 34 for the reason stated above. As was also his reliance on section 36 to refuse me access to the insurance records I requested, on the spurious and irrelevant basis that they ‘contain commercial information of a third party’ (and recently, differently, equally spuriously, also falsely, in refusing them again on 15 April 2016 (see below)), because they ‘belong to a third party’ – which is both untrue and anyway not a ground for refusal permitted by section 36, which bars disclosure ‘if the record contains – (a) trade secrets of a third party, (b) financial, commercial, scientific or technical information, other than trade secrets, of a third party, the disclosure of which would be likely to cause harm to the commercial or financial interests of that third party, or (c) information supplied in confidence by a third party, the disclosure of which could reasonably be expected – (i) to put that third party at a disadvantage

in contractual or other negotiations, or (ii) to prejudice that third party in commercial competition.’ The insurance records I requested aren’t hit by any of this.

Item 5: (e) number of instances where the 30 day period to deal with a request was extended

Mtati reports ‘0’: ‘No requests for extension was sought in respect of the two requests submitted during the reporting cycle.’ This is materially false and misleading. In truth and in fact, on 28 April 2015 Mtati extended the period within which to respond to my request addressed to you in March 2015.

It’s unsurprising that Mtati should wish to conceal from the SAHRC and from the National Assembly the ordinarily unremarkable fact that he requested an extension as usual, because, as I informed you in the draft section 32 report that I took the trouble to draw and send you on 24 March 2016, hoping LASA might use it as the basis for a true and correct report to the SAHRC for a change, the grounds Mtati advanced for the extension were not only legally irrelevant, they were lies.

The first reason he advanced for seeking more time, namely that you were ‘on leave’ (so ‘She has, unfortunately not been able to finalise your request’) was legally incompetent under section 26(1), not being among the several permissible reasons enumerated for an extension. (This is what deputy information officers are for: section 17 empowers you to ‘designate such number of persons as deputy information officers as are necessary to render the public body as accessible as reasonably possible for requesters of its records’, especially when you’re not around.)

Worse, the reason Mtati gave – and repeated on 26 May 2015: ‘In order to apply her mind ...’ – was a lie, revealed by his subsequent confirmation on affidavit that ‘the CEO has not read’ my request and was not dealing with it, and that he was, because, he thought in his ignorance and incompetence, you as CEO had to decide appeals against refusals by deputy information officers of requests for access to LASA’s records. (The SAHRC has repeatedly tried teaching LASA, including at its

PAIA training workshop, that under section 1 of the Act LASA is a category-b type public body, which means it has no ‘relevant authority’ to appeal to, and an aggrieved record requester’s remedy against the refusal of access is an application directly to court under section 78(2)(c.)

The second basis Mtati stated for extending the 30-day time limit to respond to my request had no application at all. Section 26(1)(c) that he cited allows an extension if ‘consultations among divisions of the public body or with another public body is necessary or desirable to decide the request that cannot reasonably be completed within the original period.’ No such consultations were necessary, much less engaged in, and the implication that they were was dishonestly false, which is to say another lie in keeping with the culture of mendacity in your national office that I’ve encountered over the years, again and again.

You need to amend this item to truthfully reflect that the period prescribed by section 25 was extended once, but not on any ground permitted by section 26, and that the two reasons Mtati advanced for the extension were false.

Item 9: (i) other matters as may be prescribed.

In his ‘Comments’ column for this item, Mtati refers to ‘the previous reporting cycle’, but not to the current 2015/16 one, during which, on 26 May 2015, he illegally refused me access to 88 of LASA’s duly requested business records – only some of his justifications for doing so he then mentions under this head, leaving out the others. This is seriously misleading and needs correction.

Mtati states that my record requests ‘were not granted as they ... relate to the litigation proceedings under case [LC D]529/11 which has since been finalised and further that Adv Brink refused to pay the search fees in terms of section 22 of the Promotion of Information Act 2 of 2000.’ This dishonestly conceals LASA’s subsequent implicit concession that these were not valid and lawful reasons for

obstructing and refusing my PAIA requests when it later reversed itself and agreed to allow me access to all the records I'd requested (see below).

Firstly, Mtati's refusal of my requests 'as they ... relate to the litigation proceedings under case 529/11' wasn't justified on any of the 'Grounds for Refusal of Access to Records' permitted by sections 34–45 in Chapter 4 of Part 2 of the Act.

The SAHRC has repeatedly taught LASA that the fact that records appear to have been requested, or are stated to have been requested, for use in legal proceedings, whether 'finalised', pending, or intended, is no lawful ground for refusing them under the Act – more especially since section 7(2) of PAIA gives judicial officers the discretion to admit documents obtained via the Act after the commencement of the cases they're trying, if 'the exclusion of such record by the court in question would, in its opinion, be detrimental to the interests of justice.'

The report of the SAHRC's PAIA training workshop on 6 October 2011 for sixteen of LASA's head office attorneys, including Corporate Legal Manager Solly Sekgota, records: 'It has also been deemed important on the basis of the SAHRC's monitoring of LASA institutional compliance with PAIA and the need to ensure that clients who are wishing to litigate on the basis of PAIA are responded to on the same basis as other applicants with recognised rights.'

The SAHRC's then PAIA Unit director Adeleke repeated this advice to Mtati in email correspondence with him in August 2012, in which he was requiring the amendment of LASA's false and defective section 32 report for 2011/12, which I'd brought to his attention. Adeleke emailed Mtati on the 22nd: 'We note with concern however that reference is made in your email to a number of requests from Adv. Brink. This does not reflect in either of your reports to the SAHRC. We note further that the requester's reason for requesting particular information is being deduced. It should be noted that PAIA is quite clear that requests made to public bodies do not have to be supported or justified by a reason for the request. Similarly, requests made prior to notification of litigation should not have to be supported by a reason

or purpose for the stipulated information. We remain concerned therefore about the accuracy of your section 32 report and need to advise that we intend auditing the veracity shortly. Notice of the audit will be issued in due course.’ (As said, Mtati refused to correct the false report for 2011/12, leading the SAHRC to report LASA to the National Assembly in October 2012 for repeatedly making non-compliant section 32 reports.)

You need to amend this ‘Comment’ to clarify your appreciation that the refusal of my requests on the ground that ‘they ... relate to the litigation proceedings under case 529/11’ was unlawful and a violation of my fundamental right to information. It’s dishonestly misleading for Mtati to pretend in his report that this was a valid ground for refusing me access to the records I requested, well knowing it wasn’t, as the SAHRC has repeatedly taught, which is why it was eventually abandoned.

Mtati’s deliberate total omission to report to the SAHRC his reliance on section 45 eighty-three times in refusing my requests for access to as many records, on the false basis alleged that they were an ill-motivated waste of LASA’s time, reveals his bad faith in having persistently and repeatedly refused me access to LASA’s business records on this basis since 2013, more especially since he himself very correctly acknowledged in his letter of 11 December 2014, asking for an extension under section 26, that ‘your requests ... incorporate allegations that have far reaching implications on the officials of Legal Aid South Africa.’ Like getting sacked, struck off, jailed, and sued under section 83 of the Public Finance Management Act 1 of 1999 to recover millions in damages LASA has suffered.

The second bogus reason Mtati states for having denied me access to the records I requested is that I ‘refused to pay the search fees in terms of section 22 of the Promotion of Information Act 2 of 2000.’

Again, the SAHRC has repeatedly taught LASA about the kinds of fees PAIA allows, but its lessons just go in one ear and out the other. The report of the PAIA training workshop for LASA on 6 October 2011 reflects that ‘types of fees’ were

explained to Sekgota and his fellow national office attorneys. And under the heading 'Fees' in her recent letter to you on 25 January 2016, the SAHRC's current PAIA Unit director Kisha Candasamy pertinently advised you (in boldface to drive the repeated lesson home) that search fees may only be charged under section 22 **'if the request is granted.'**

Hundermark and Makokoane hadn't granted me access to the records for which they were demanding I pay 'search fees'. Moreover the fees demanded weren't for searching but for time spent reading 'the documents relating to case 529/11', as Mtati puts it in item 4 of his latest section 32 report. Consequently their demands were not for search fees contemplated and allowed by section 22, and were unlawful; and Mtati's refusal to grant me access to the records I duly requested from Hundermark and Makokoane because, as he says in his report, I refused to pay the money they had unlawfully demanded, was equally unlawful. It's dishonestly misleading for Mtati to pretend in his report that my refusal to pay money I didn't owe was a valid ground for refusing me access to the records I'd requested.

You need to amend this 'Comment' to clarify your appreciation that the fees demanded by Hundermark and Makokoane, which demands Mtati persisted with until earlier this year when he dropped them (see below), were not search fees contemplated and allowed by section 22, and that Mtati's refusal to allow me access to the records I'd requested on the ground that I refused to pay the reading fees demanded of me was unlawful and a violation of my fundamental right to information.

Another aspect to be frankly included in your 'Comment' here, is the marvellous revelation, after LASA's capitulation at court (see below), that contrary to Mtati's repeated perjury on affidavit to falsely refute my repeatedly made charge that he, Hundermark and Makokoane held no written delegations as deputy information officers under section 17(6) of PAIA – 'I am, without question a Deputy Information

Officer'; 'I have shown that I am a Deputy Information Officer'; and he, Hundermark and Makokoane as 'Deputy Information Officers have been duly appointed, alternatively duly designated by law' – in truth and in fact, you only designated Mtati on 16 January 2016, and Hundermark and Makokoane not at all, which means at the time they handled and blocked/refused my PAIA requests all three of them were acting ultra vires and unlawfully for that reason alone.

In conclusion, your revised report, amended in the manner described above so as to truthfully, accurately, fully and properly comply with section 32, will frankly disclose LASA's PAIA delinquency in 2015/16, and not continue to conceal its many repeated obvious basic refractory errors, even after I pointed them out again and again, in persistently illegally refusing me access to documents I'd duly sought under PAIA, in violation of my fundamental right to information held by the state, guaranteed by section 32(1) of the Constitution.

Which plainly illegal and unconstitutional refusals were finally reversed at court on 11 February 2016, before I commenced arguing my applications for orders compelling LASA's compliance with my PAIA requests for access to documents I'd been requesting since October 2013, to avoid looming inevitable judgment against LASA and the enormous reputational damage it faced – apparently foreseen and anticipated by your newly briefed advocate Chris Carelse.

Formerly employed in your national office, the attendance register shows that this sharp fellow, named at the very top of it, attended the SAHRC's PAIA training workshop in 2011. Unlike your other hopeless head office lawyers present, including Sekgota, who, the workshop reports records, repeatedly admitted that they had no idea how to handle PAIA requests properly, Carelse was evidently able to benefit from the special remedial lesson and acquire an understanding of constitutional information law from his SAHRC tutors, because his last-minute entry into the case for LASA's big day in court coincided with its total reversal of its persistent illegal

refusals of my PAIA requests on the advice since 2010 of your other junior counsel, an utterly clueless but now very rich legal novice called Thabiso Machaba.

Which very obviously wrong advice from this smiling person Mtati, Sekgota and your other Corporate Services attorneys eagerly grabbed at to obstruct my access to the documents I'd duly requested, with the object of suppressing further documentary evidence of pervasive and systemic recruitment and financial corruption at LASA, and of a top-level criminal cover-up entailing lying to me; lying to the SAHRC; lying to LASA's Board of Directors; false reporting to the Minister; lying and false reporting to the Portfolio Committee (both crimes under section 17(2) of Act 4 of 2004); false pleading; contradictory perjury committed in PAIA affidavits, in a discovery affidavit, in interlocutory affidavits, in oral evidence, and in opposing and condonation affidavits on petition; defeating the ends of justice with a lying, defamatory 'memorandum' corruptly slipped to a judge to improperly influence and pervert his decision; major maladministration; abuse of power; financial misconduct involving many millions of rands; unauthorised and unlawful deviation from LASA's approved Strategic and Performance Plans; unauthorised and unlawful deviations from LASA's Code on Recruitment and Approval Framework, including unauthorised and unlawful direct, active interference in staff recruitment by the non-executive chairperson of the Board and by unauthorised management executives; massive failures of proper corporate governance both at managerial and Board levels; and the wholesale breakdown of due process and the rule of law in LASA's top echelons – all coming up in complaints later this year to the Public Protector, to the Auditor General, to the Directorate for Priority Crime Investigation copied to the National Director of Public Prosecutions, to the Judicial Service Commission, to the Law Society of the Northern Provinces, and to the General Council of the Bar.

After reading which, I'm not sure anyone will still be agreeing much with former Deputy Minister Andries Nel quoted in *Business Day* on 12 January 2011: 'The world would be a better place if it were run by Legal Aid.'

LASA's deliberate, persistent, repeated illegal and unconstitutional refusals to comply with PAIA since 2010, despite the SAHRC's repeated attempted but unsuccessful remedial interventions, are detailed in a comprehensive draft 'Special Report on Legal Aid SA: An aggravated case of repeated non-compliance with the Promotion of Access to Information Act 2 of 2000' that I've substantially completed for the SAHRC, for the information of the National Assembly in the SAHRC's next section 84 report to be presented later this year.

As Mtati duly mentions in his section 32 report, at court on 11 February 2016, before the argument of my five applications to compel LASA's compliance with my PAIA requests, LASA decided to abandon its obviously incompetent and unlawful justifications for refusing them (Mtati was visibly taking instructions over the phone), along with its several lever-arch files full of professionally puerile, incompetent, irrelevant and untruthful defences to my applications piled up by young Mr Machaba like so much garbage strewn across the road, and 'agreed ... to provide records ... requested as set out in a ... consolidated list' that I agreed to provide to make things easy, comprising (in the language of clause 2 of the settlement agreement) 'an assembly of the several annexures to the PAIA requests in question ... and ... amendments to certain ... requests made by letter'; and to furnish 'an affidavit in terms of section 23' regarding 'records ... not located or [that] do not exist'.

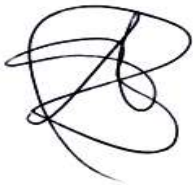
In view of this complete surrender at court, it's dishonestly misleading for Mtati to then state in his report that 'without admission of liability or any concession of legal argument advanced by the requester', LASA agreed to furnish me with all the records I'd sued for (obtaining third party consent where necessary; none was) or certify any that don't exist or can't be found. This greasy way of talking (LASA's papers are full of it) falsely implies that the refusals of my PAIA requests and the money demands were justified, or were at least fairly arguable, when in truth and in fact they were manifestly illegal to anyone with a passing acquaintance with the provisions of the Act. And to anyone like Chris Carelse paying attention during the

SAHRC's lecture on how PAIA works, delivered in special class for LASA's head office lawyers. And repeated by correspondence when the extra lesson for the slow learners failed, because they seemingly lacked the brains to understand it.

How LASA contemptuously reneged on the settlement agreement on the due date for performance, 15 April 2016, by making a desultory, token show of it, including an obviously perjured sworn certificate regarding records not provided, falls into the 2016/17 reporting cycle and is not material to detail here. Suffice it to say that my five applications will shortly be back in court and you can expect another subpoena.

Since your Corporate Services attorneys have repeatedly shown and repeatedly admitted that they don't know whether they're coming or going with PAIA, I've copied your six Senior Litigators around the country in the hope that your 'most senior and experienced lawyers', as Nair correctly describes them, part of whose professional function is to 'Provide legal opinion[s] for [LASA] as requested', will appreciate the enormity of the matters raised in this letter and advise you accordingly. Because when I raise this heavy stuff with your Chief Legal Executive Patrick Hundermark – who, the records show, has been involved in PAIA matters including mine since 2010 – he tells me he's not interested and that it's none of his business: 'I have responsibility for client legal matters and not the corporate legal matters of Legal Aid SA, which resort under [sic] the Corporate Services Executive.'

Yours sincerely

A handwritten signature in black ink, appearing to be 'Anthony Brink', with a stylized, cursive script.

ANTHONY BRINK

arbrink@iafrica.com

Cc: Chief Legal Executive Patrick Hundermark and Board Secretary Langa Lethiba

All material documents in this matter are posted online at: goo.gl/prqE1N

Cc on 31 May 2016 to:

Michael Masutha, Minister of Justice and Correctional Services

John Jeffery, Deputy Minister of Justice and Correctional Services

Mathole Motshekga, Chairperson: Portfolio Committee on Justice and Correctional Services, and to all members

Pregaluxmi Govender, PAIA Commissioner: South African Human Rights Commission

Thulisile Madonsela: Public Protector

LASA Senior Litigators William Karam at Johannesburg, Herman Alberts at Pretoria, Mornay Calitz at Cape Town, Elizabeth Crouse at Port Elizabeth, Pieter Nel at Bloemfontein, and Nzame Skibi at Mahikeng

Mukelani Dimba, Executive Director: Open Democracy Advice Centre

Catherine Kennedy, Director: South African History Archive, Freedom of Information Programme

Mark Weinberg, National Coordinator: Right2Know

Pansy Tlakula, Special Rapporteur on Freedom of Expression and Access to Information in Africa: African Union

Sanjay Pradhan, Chief Executive Officer: The Open Government Partnership

Henri Maina, Chairperson: Africa Freedom of Information Centre

José Carlos Ugaz, Chairperson: Transparency International

Ferial Haffajee, Editor: City Press

Adriaan Basson, Editor: News24

Bongani Siqoko, Editor: Sunday Times

Jovial Rantao, Editor: Sunday Independent

Aakash Bramdeo, Editor: Sunday Tribune

Waldimar Pelsler, Editor: Rapport

Tim Cohen, Editor: Business Day

Steven Motale, Editor: The Citizen

Kevin Ritchie, Editor: The Star

Verashni Pillay, Editor: Mail & Guardian