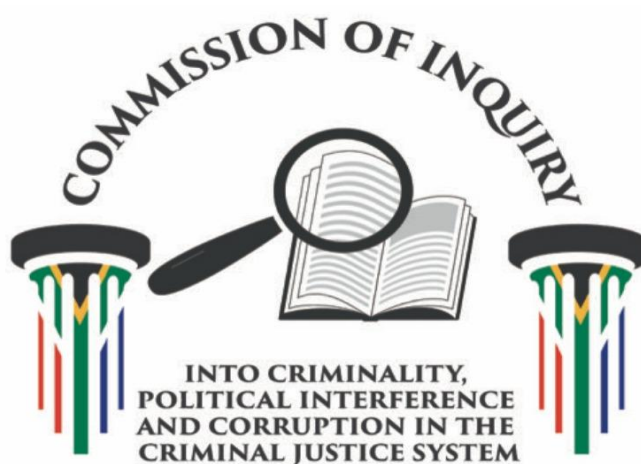


JUDICIAL COMMISSION OF INQUIRY INTO CRIMINALITY,
POLITICAL INTERFERENCE AND CORRUPTION IN THE
CRIMINAL JUSTICE SYSTEM

HELD AT
BRIGITTE MABANDLA JUSTICE COLLEGE

4 JUNE 2026

DAY 113



PROCEEDINGS HELD ON 4 JUNE 2026

CHAIRPERSON: Good morning, Ms Hassim.

ADV HASSIM SC: Morning, Chair. I am only here to take up two minutes of time today and it is in relation to the application that was brought by Witness I for *in-camera* evidence. The initial application was for a fully *in-camera* testimony. We have since negotiated. There was an objection by the media, by Daily Maverick and News24, and we have reached a compromise which is acceptable to the
10 Witness. May I hand up the draft order, Chair? And what you will see in the draft order is that it will be partially *in-camera*. And the Witness is due to appear on the 9th of June.

CHAIRPERSON: An arrangement has been made on the side, as it were, for appearance?

ADV HASSIM SC: That is correct, Chair.

CHAIRPERSON: Ja, thank you, thank you. The first and second respondents are media houses, and who are the private individuals who are third and fourth respondents?

20 **ADV HASSIM SC:** They are each the editors of the first and second respondents.

CHAIRPERSON: Thank you, thank you.

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RULING

The following ruling is made:

[1] By agreement between the parties, the application by Witness I for his evidence to be heard partially in *camera* on 9 June 2026 is granted.

[2] The testimony of Witness I will be heard publicly via audio link and his face or visual features will be concealed.

10 [3] Members of the media and any persons granted access to the proceedings are prohibited from publishing, broadcasting, disseminating or otherwise placing in the public domain any image, photograph, video footage or other visual material that may reveal or tend to reveal the identity of Witness I.

It is so ordered.

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ADV HASSIM SC: Thank you, Chair. May I be excused?

20 **CHAIRPERSON:** You are excused. Thank you, Ms Hassim.
Good morning, Ms Sello.

ADV SELLO SC: Good morning, Chair. Good morning, Commissioners.

CHAIRPERSON: Good morning, Colonel.

COLONEL JACOB: Good morning, Chair. Good morning,

Commissioners.

ADV SELLO SC: Good morning, Colonel.

COLONEL JACOB: Good morning, Commissioners.

ADV SELLO SC: Before we start, there has been some rearrangement of your files. The Commissioners will recall that we started out with two exhibit files. More documents have been added. Now we end up with three exhibit files, but the changes have been made and what needed to be moved from File 2, which was particularly full, is now in
10 Exhibit 3, but everything flows in order and the index has been amended accordingly.

So you should still be able to find your place. Just to warn you that it is now three exhibit files as opposed to two. Thank you. Colonel, and that goes for you too, yesterday we were working off two exhibit files.

COLONEL JACOB: Yes.

ADV SELLO SC: Because more documents were added, we are now working on three exhibit files. So just so you know when I say Exhibit File 1 or 2 or 3, it is that you are
20 able to find your place, okay?

COLONEL JACOB: Yes, Commissioner.

ADV SELLO SC: Before we start this morning with the rest of your testimony, Colonel, you and I had a discussion this morning and you indicated that upon reflection you thought it appropriate that you clarify the certain responses you

provided, you gave yesterday, or to add to the responses you gave to the Commissioners' questions yesterday, and you had asked for an opportunity to do so before we move to the next topic. This is your moment to do so, if you may.

COLONEL JACOB: Okay. Thank you, Commissioners. Thank you, Chair. Okay. Commissioners, I noted yesterday, Commissioner Baloyi rightfully pointed out that Mpangase's statement, together with mine, had the same names, the same designation of persons that were allegedly
10 on the scene, and I do not think I did that answer justice upon reflection.

I would just like to point out that on a crime scene there is a scribe. So in this case, the scribe was Warrant Officer Mpangase, the one who was making notes. So what would happen is that when we are doing statements or now sitting down to discuss this matter, we would look at that scribe's notes.

So that would now have a list of who was there, the warehouse manager, her name, the relevant role players,
20 the guys from Border Police, all of them. So hence, this is one document that would now be used by all of us with regards to compiling our statements. When we look at it, we say, okay, there is this warehouse manager, that is her name. There is the Border Police guy, that is his name. Then we saw a customs guy, this is his name.

So Commissioner, I just wanted to point out that would be the reason that it was exactly the same as Warrant Officer Mpangase's. But also, just flowing from that, I would like to add that there was no deception intended. And it may look like that, and I am going to try and justify why I say that.

I was the Investigating Officer that did obtain statements from Govender and Mkhize. Had I had an intention of misleading or defeating or doing anything
10 underhanded, that would have been reflected in those statements that I obtained from them. My statements that I obtained from these relevant members was indeed a true reflection of their observations on the scene. So I just thought it pertinent to point that out. Thank you, Commissioner.

ADV SELLO SC: Thank you.

COLONEL JACOB: There is one more, sorry.

ADV SELLO SC: Please go ahead.

COLONEL JACOB: Yes, okay. Also, Commissioner Baloyi,
20 I think it is ...[indistinct]. Commissioner, if I remember rightfully so, you queried the investigation diary of where Mpangase had initially written information was received regarding 27 bricks of Cocaine.

During the normal scheme of things, if this was an enquiry that was pre-registered, meaning it was not

registered on the day, then it would have been a correct sequential, chronological diarised sequence of events. Meaning, from the time you obtained the information, Captain Duma called you, this is where we met. It would have flowed in a certain manner.

It is apparent that Mpangase did not make those notes either prior to the operation or possibly not even on the day, or even it could have been after the actual seizure. Hence, he was now writing his investigation diary up, but
 10 working on hindsight as to what had transpired. So, that would be a reason as to why he would start off with information received about 27 kilograms of Cocaine. Although, according to all our accounts, the number was only indicated to us much later or just before proceeding to the depot. So I thought I would just clarify that, Commissioner. Thank you.

ADV BALOYI SC: All right, thank you.

ADV SELLO SC: Yes, Commissioner.

ADV BALOYI SC: When we finished yesterday, I reserved
 20 a question to do with the diary that I had intended to come back to. If you are still going to be discussing the diary, I will hold off for now.

ADV SELLO SC: We were still going to discuss the diary, but in a completely different context. So perhaps, but before you do so, I had invited the Colonel to make

comments because he had requested that he be given an opportunity. And thereafter, once he is done with his comments, then, Commissioner, you can put your question in, if you may.

Colonel, there is another issue you also brought to our attention regarding an information note you had prepared, right? And the fact that your statement, the statement that you filed with the Commission, is overly brief and you would have wanted to highlight once again to the
10 questions posed to you by the Commissioners, the detail that you had in your original information note, as you call it, but somehow did not find its way into the statement.

Now, that information note, as I had undertaken to you, has been added as part of the bundle. Commissioners, it is CJC270, starting at page 954. Colonel, have you found your copy?

COLONEL JACOB: Yes, I have got it, Chair, Commissioner.

ADV SELLO SC: If we could just allow the Commissioners
20 to get there. And this issue you raised, particularly in response to a question the Chair had asked you when you answered the question about the reasons why you moved from the depot to Isipingo, and the Chair said all the reasons you had set out are not in your statement. You recall that?

COLONEL JACOB: That is correct.

ADV SELLO SC: And that is the basis on which then you sought to pull up this note. So we add the note now. Kindly address yourself to the Chair regarding the many reasons you provided yesterday in response to his questions for why you moved the operation from the depot to Isipingo Police Station.

COLONEL JACOB: Yes. Okay. Thank you, Commissioners. Thank you, Chair. Chair, I noted, and
10 understandably so once again, that you did point out I cited a whole lot of reasons regarding my thought process with regards to moving those exhibits. Yet, my statement only reflected one point.

So I would like to point out on my initial engagement with the Evidence Leader, I did what I called an information note, which was much more detailed. So with your indulgence, I would like to just read out that little paragraph that deals with what ...[intervenes].

CHAIRPERSON: And what is important in your favour is
20 that this is as far back as 2021. That is the date of the – I am saying in your favour.

COLONEL JACOB: Yes. Yes, Chair.

CHAIRPERSON: Yes. Yes, go ahead.

COLONEL JACOB: Okay. Chair, if you will bear with me, I am not sure what page it is. I am looking at my own copy

here. This file is voluminous. I am not sure ...[intervenes].

ADV SELLO SC: Just tell me leaf number and I will find it.

COLONEL JACOB: Yes, okay. When we are heading events at the CHC container depot ...[intervenes].

ADV SELLO SC: No, tell me you are at the second page ...[intervenes].

COLONEL JACOB: Okay. The first, second, third. Third page, paragraph 1.

ADV SELLO SC: Third page, paragraph 1. That starts
10 with, I consider possibly carrying.

COLONEL JACOB: Yes.

ADV SELLO SC: That would be page 956.

COLONEL JACOB: Ja. Thank you, Chair:

20 “I considered possibly carrying these bags to a less congested area at the far end of the depot. In my opinion, the risk associated with conveying these exhibits to another part of the depot was greater than the risk of conveying the exhibits to Isipingo SAP, which is approximately four kilometres away from the depot. The depot is situated approximately 11 kilometres away from Umlazi, which is a high-risk area. I considered calling a tactical team to assist to secure the area,

but decided against it as I knew their response time would be longer than I would have required. I also based this decision on the basis that the unpacking and counting at the police station would pose lesser risk.”

So it is just that one paragraph, Chair, that I wanted to allude to.

ADV SELLO SC: Thank you, Colonel. Does that you’re
10 your ...[intervenes].

CHAIRPERSON: I think it still does not cover the many reasons you gave yesterday, but I will leave it at that.

COLONEL JACOB: Thank you, Chair.

CHAIRPERSON: Yes.

ADV SELLO SC: Before we leave this document, for the record, I think it is worth correcting. This information note you referenced, you prepared for purposes of developing a statement for the Commission, so it was not created in 2021.

20 **COLONEL JACOB**: No, it was not.

ADV SELLO SC: I think the Chair was under a wrong impression when he said it is in your favour because it was created as far back as 2021. That is not correct.

CHAIRPERSON: I just looked at the date at the end of that heading. I am sorry.

ADV SELLO SC: You confirm that this is what you prepared ...[intervenes].

COLONEL JACOB: I do confirm ...[intervenes].

ADV SELLO SC: When you were preparing for consultation with the Evidence Leaders.

COLONEL JACOB: That is correct, yes.

ADV SELLO SC: Thank you.

ADV KHUMALO SC: And can I just, to be fair to ...[intervenes].

10 **CHAIRPERSON:** Thank you. Thank you for the correction.

ADV SELLO SC: Thank you, Chair.

ADV KHUMALO SC: Sorry, Chair. To be fair to this witness, the other reasons are mentioned in paragraph 19 of the statement. So we only focused on the one reason in 21. Although rightfully so, Chair, the reasons he mentioned in his evidence are a lot more than the reasons in the statement. The ones he has just read from the information note, they do appear in paragraph 19 of his 14-page statement before the Commission. How far Umlazi is and
20 the fact that the weather was not great and there was a risk of working in an uncovered area and the surface area was not sufficient because of the numerous other containers around.

ADV SELLO SC: Yes.

ADV KHUMALO SC: So to be fair to him, that is in

paragraph 19.

ADV SELLO SC: Of his actual statement.

ADV KHUMALO SC: Of his statement before the Commission now.

ADV SELLO SC: Yes.

ADV KHUMALO SC: So it is not the only reason.

ADV SELLO SC: The point HE wanted to make yesterday is that in finalising his statement for the commission, he was of the view that too much brevity crept in.

10 **ADV KHUMALO SC:** Yes.

ADV SELLO SC: So what is in the statement, as I understand the Colonel, he stands by. It is just that in response to a question by the Chair, he seemed to go beyond the scope of paragraph 19. And he wanted to clarify that those reasons were always there and they are reflected in the information note and he just wanted an opportunity to highlight them to ...[intervenes].

ADV KHUMALO SC: Except when he tried to do that, he said it created the impression that he only had one reason.

20 **ADV SELLO SC:** Yes.

ADV KHUMALO SC: So I was pointing out that in fact in his statement before the Commission, there are several reasons mentioned, starting from paragraph 19.

COLONEL JACOB: Thank you, Commissioner.

ADV KHUMALO SC: So we will catch you when we need to

catch you. But when there are facts that are in your favour, we will mention them.

COLONEL JACOB: I appreciate that, Commissioner.

ADV SELLO SC: And I was going to comment, do not spoil the broth, sir. That was in your favour, let us leave it there. Before we leave these questions of clarification, just please turn to Exhibit File 2. And I am interested in, it is part of CJC244, Exhibit – ja, Exhibit number CJC244. And in particular to draw your attention to 656, page 656. And this
10 goes back to the issue you wanted to clarify to Commissioner Baloyi regarding the order of events when you say in the investigation diary, it appeared that you were aware of the 27 kilograms and the container before you actually got to the depot. That is what you sought to clarify, right?

COLONEL JACOB: Yes, yes, Commissioner.

ADV SELLO SC: And your position is that you actually learned that detail at the depot?

COLONEL JACOB: Not at the depot, Commissioner. The
20 27 kilograms, the number was relayed to us at a briefing spot where we met Captain Duma, which was close by to the depot.

ADV SELLO SC: Okay, but you had made your way towards the depot, away from your home and office?

COLONEL JACOB: Yes, we were close to it at a briefing,

yes.

ADV SELLO SC: So I draw your attention to page 656 because that is the statement of Warrant Officer Mpangase. And if you go to 658, there is ...[intervenes].

COLONEL JACOB: Okay, just bear with me, Commissioner.

ADV SELLO SC: I am looking for CJC244, Exhibit File 2. Particularly page 656. You have located the statement?

COLONEL JACOB: And the page number, Commissioner?

10 **ADV SELLO SC:** 656.

COLONEL JACOB: 656.

ADV SELLO SC: And then I wanted you to turn to page 658, which is the conclusion of that statement. It appears to be dated 23 November 2021. You see that?

COLONEL JACOB: Yes, that is correct.

ADV SELLO SC: And I say it appears to be because it is not most legible.

COLONEL JACOB: Yes, Commissioner.

20 **ADV SELLO SC:** Okay. Now, if we go back to the beginning of that statement at 656 paragraph 2, my challenge with your explanation to Commissioner Baloyi is that the same quote-unquote error appears to have crept in in the development of this statement in November 21 already. Because Warrant Officer Mpangase at paragraph 2 says:

“In the morning of the 22nd of June ‘21, I received information from Crime Intelligence that there was a container possibly containing approximately 27 kilograms of drugs, Cocaine, which was kept at Isipingo CHC Warehouse destined to Johannesburg. The container number was BEAU5...”

And the detail. Do you see that?

10 **COLONEL JACOB**: Yes, I see that.

ADV SELLO SC: At paragraph 3 then Warrant Officer Mpangase continues:

“Myself, Lieutenant Colonel Jacob, and Warrant Officer Sibiya, now Captain, together with the Crime Intelligence member, proceeded to Isipingo to look for the alleged container.”

COLONEL JACOB: Yes.

ADV SELLO SC: So, are you suggesting that Warrant
20 Officer Mpangase made a similar mistake in his own statement at the time?

COLONEL JACOB: Commissioner, I am unable to comment because it is not that detailed. It just tells you that he received information there was a container possibly containing 27 kilograms of drugs, which was kept at CHC

Warehouse destined for Johannesburg. We did receive that in the briefing. So, he is not specific here. So, I cannot tell why he wrote it the way he wrote it, but I will still maintain the sequence of events as I did earlier. So, I am unsure, Commissioner, as to why he would.

ADV SELLO SC: I point you to this because I know that Commissioner Baloyi wants to engage you on the investigation diary, but we will have to flag this because I have questions to you about what is stated in Warrant
10 Officer Mpangase's statement at that paragraph 2, as well as your statement, you know? And we will engage later.

COLONEL JACOB: Ja.

ADV SELLO SC: But Commissioner Baloyi wanted to engage specifically on the investigation diary. Thank you.

ADV BALOYI SC: Thank you. It is about, if you go to the investigation diary, it is File 3.

COLONEL JACOB: Sorry, what number, Commissioner?

ADV BALOYI SC: It is File 3.

COLONEL JACOB: File 3.

20 **ADV BALOYI SC:** And then CJC248, and then the diary starts at 800, page 800.

ADV SELLO SC: As I understand it, we are looking for CJC268, the investigation diary. File 3.

ADV BALOYI SC: Page 800.

COLONEL JACOB: Yes, I got it, Commissioner. Thank

you.

ADV BALOYI SC: Okay. All right, so you have that entry on the 23rd of June, and from what I understand your explanation, your clarification this morning, this would have been entered after the operation.

COLONEL JACOB: That is correct.

ADV BALOYI SC: Am I understanding you correctly?

COLONEL JACOB: Yes.

ADV BALOYI SC: Now, in your testimony yesterday there
10 was discussion about, or in fact, your testimony was that you, when you left the depot, so you opened the container, you took what was in there, it was resealed and then you instructed, I use the word instructed because I do not remember what word you used, the depot manager that the container must remain there. It must not be moved.

COLONEL JACOB: Yes, Commissioner.

ADV BALOYI SC: Okay. But also you said, I think in answer to Ms Sello, you said there was no detention notice that was issued. That is correct?

20 **COLONEL JACOB:** Yes, Commissioner.

ADV BALOYI SC: All right. Now explain this. The decision that the container should be retained there, it should not be released to its owner, it is a big decision.

COLONEL JACOB: Yes.

ADV BALOYI SC: Right?

COLONEL JACOB: Yes.

ADV BALOYI SC: Okay. It is not recorded in the diary that there was such a decision. So we do not have a detention notice, we do not have an entry in the diary that indicates or that records that the police gave that kind of instruction. Can you just explain that?

COLONEL JACOB: Okay, I am just going to page through it quickly.

ADV BALOYI SC: Yes, you can do that.

10 **COLONEL JACOB**: Okay. Commissioner, your investigation diary, yes, it is an indicator of what transpired in your investigation. It is more actions that were taken with regards to who did you call, where did you proceed to, your time, and things like that. Generally, a statement would encompass that type of detail as to further locking of a container and so forth.

So it is not a hard and fast rule that that would necessarily have to be contained in your C-clip, but it would have to be reflected in your statements somewhere along
20 the line to show what happened to that container.

ADV BALOYI SC: That answer cannot be complete or correct because there is a recordal of an instruction to release. There is a recordal later in the same diary where you instructed or you cleared it for release. So that act, the opposite of the instruction to detain, is recorded.

We look at your diary, we see an instruction to release. I expect that there must be an instruction to record and I would be concerned that it would appear in a statement, not in a diary.

COLONEL JACOB: Yes. Commissioner, maybe I can say that Warrant Officer Mpangase was not as thorough as he should have been. I would do things like that. I diarised it.

ADV BALOYI SC: Yes.

COLONEL JACOB: But just to add on to that, it is
10 encompassed in my statement, the fact that we did seal it up again.

ADV BALOYI SC: No, no, no, I do not have a difficulty with where in your statement or in whose statement it appears. Right now I am discussing the contents and reliability. Maybe let me put it to you that, again, it is a concern about the reliability of this investigation diary. You do record that you gave an instruction that they can release the container, so it is of sufficient significance. That is why you record it.

20 **COLONEL JACOB**: Yes.

ADV BALOYI SC: There is no record of a prior decision to detain it. So your explanation that, well, the diary does not record that kind of thing is not correct. The simple point I am making, yet again, is this is another instance where the contents of this diary have to be considered with care or

caution because it is a recordal after the events. I understand that, day one. But two, it does not accurately or fully account for what happened.

COLONEL JACOB: You are correct, Commissioner. Thank you.

ADV BALOYI SC: Thank you.

ADV SELLO SC: Thank you, Commissioner. I think we are not moving off topic, but slightly, and now we are interrogating your reasons for deciding to move to Isipingo.

10 And one of the reasons you stated, or two, related to risk and space. Correct?

COLONEL JACOB: That is correct, Commissioner.

ADV SELLO SC: Are you familiar with the CHC Depot in terms of size and operations around there?

COLONEL JACOB: It was my first visit there, Commissioner.

ADV SELLO SC: And you complained that where the container had been placed was between two other containers. Correct?

20 **COLONEL JACOB**: That is correct, Commissioner.

ADV SELLO SC: And making operations difficult. Is it safe to assume that even if the containers are placed side by side, the door of the container is facing you?

COLONEL JACOB: That is correct, Commissioner.

ADV SELLO SC: So anything you take out of there, you

will bring towards yourself?

COLONEL JACOB: That is correct, Commissioner.

ADV SELLO SC: If you look at these ones lined up, it is a different matter, but the manner in which they are lined up.

COLONEL JACOB: Yes, Commissioner.

ADV SELLO SC: So technically, you do not really need the space – yes, we are trying to do that, Chair. Technically, you do not need the space to either side of the container, right?

10 **COLONEL JACOB**: Yes, that is correct, Commissioner.

ADV SELLO SC: So the fact that the containers were lined side by side cannot be a basis to decide not to complete the search at the scene and rather go to Isipingo. The fact that they are side by side, that is the only point I am making.

COLONEL JACOB: Okay. Commissioner, I think if we had to view photos of the actual placement of that container at the CHC Depot, we will see the situation was a lot different too than what we see on your screen now. It was a much more congested environment.

20 Even when you opened the doors, if you had to lay those bags on the floor, the area was minimal. It was a much, much smaller area than what we see on our screens now. I think the closest we are going to get to know what it looked like was if we look at some of those photos that were flighted at some point in time, but it was a much, much

smaller area as compared to this.

CHAIRPERSON: How much more congested can it be? These are not just alongside each other, but they are against each other. So how much more congested can it be?

COLONEL JACOB: Meaning, Commissioner, in front where you opened the doors, there was a door of the container.

ADV KHUMALO SC: There was a what?

COLONEL JACOB: The doors of your container. I would
10 say, now I will be estimating, Chair, but maybe there was a two metre, three metre, or maybe two metres, just over two metres space in front of it where there was, I am not sure whether it is a fence or some kind of boundary type thing where, and then you have got an area that you have got your heisters driving up and down. You have got machinery moving throughout.

It was not a place like this where, now that I realise it, it was not a designated area for an examination of a container. It did not seem, and since I was not familiar with
20 this warehouse, I just let it slide. I just let them place it down there. I was not familiar with the layout, but it was definitely much smaller, much more congested than this.

CHAIRPERSON: The many things you are referring to, were they on the door side of the container?

COLONEL JACOB: Yes. If you open the door, Chair, that

is what I am saying, in front of it, maybe there was a two metre, just over two metre space, a little area. That is why I said there was machinery traversing around. It is a thoroughfare area. It was not a designated area for examinations.

ADV SELLO SC: Thank you, Chair. But you recall, when we started this engagement, the issue was the fact that there were containers on either side of the container you were targeting becomes irrelevant, because you cannot
10 access the container from either end, right? You can only access it from the door as you are facing it. So what you should be concerned about is the space in front of the container, not to the sides of the container.

COLONEL JACOB: Yes, Commissioner.

ADV SELLO SC: Now, in response to the Chair, you mentioned that ...[intervenes].

CHAIRPERSON: The front is the door side.

ADV SELLO SC: I say the front is the door side, the part where you open the container.

20 **CHAIRPERSON:** Okay, okay.

ADV SELLO SC: For purposes of our engagement, I will call it the front of the container.

CHAIRPERSON: Yes.

ADV SELLO SC: Which renders the side and the back only irrelevant.

COLONEL JACOB: Sorry, repeat that.

ADV SELLO SC: I say, if I am correct in my description of a container, that renders either sides of the container and the back irrelevant.

COLONEL JACOB: Yes, that is correct. Can I just elaborate why I mentioned that, Commissioners?

ADV SELLO SC: No, absolutely.

COLONEL JACOB: Just to show that even if we laid some in front of it and laid some of our exhibits on the side to
10 start processing, there was no space in the front or the sides. I am just trying to give the Commission an idea of the space.

ADV SELLO SC: In response to the Chair's question, you said where this container was placed was not a designated area. You recall that?

COLONEL JACOB: Yes, I recall that.

ADV SELLO SC: And you were aware at the time that they offloaded or lowered the container that was not a designated area. By that, you mean a designated area for
20 purposes of searching the container, I take it?

COLONEL JACOB: Yes, Commissioner.

ADV SELLO SC: When you notice then that they are lowering the container at a place other than the designated area, why did you not stop them and instruct them to take it to a proper designated area to allow you to carry out your

responsibilities?

COLONEL JACOB: Commissioner, it was my first visit to CHC. I assumed that was the area for placing containers. I cannot tell you why it was placed there. It was high up on a stack. Maybe it was difficult to get it to the examination area. I cannot recall now. But for whatever reason, it was placed there. I did not object to it upon opening it.

And especially more in light of the fact, Commissioner, that we were not expecting a quantity like
10 we did. So for me, when they placed it, I did not think that we are going to have an issue now of space required for processing of exhibits.

ADV SELLO SC: So you knew it was not a designated area. You are unfamiliar with CHC Depot. And that is why you allowed them to lower it at the point that you did. But you already know it is not a designated area.

COLONEL JACOB: No ...[intervenes].

ADV SELLO SC: You are the police officer. Let me just finish. You are the police officer in charge. You are the
20 one who is instructing that that container be availed to you. You are aware at the time that the point at which they avail it to you is not the designated area and you shrug your shoulders and you say, well, my first time at CHC.

COLONEL JACOB: Yes, Commissioner.

ADV SELLO SC: I misunderstood you?

COLONEL JACOB: Yes, Commissioner ...[intervenes].

ADV SELLO SC: Okay, please ...[intervenes].

COLONEL JACOB: I was not aware that this was not a designated examination area. I was not even sure that they did have an examination area until I heard what Officer Sander's evidence here.

ADV SELLO SC: Colonel, you are the one who introduced the notion of designated area. You told the Commissioners that where they lowered that container was not their
10 designated area.

COLONEL JACOB: Yes.

ADV SELLO SC: So you cannot now say that you are not sure whether they have one to speak of.

COLONEL JACOB: Commissioner, like I said, I will say it again. It is only when I heard what Officer Sander's evidence that I heard of the magnitude of the examination area and the space of this said depot, I was not aware.

ADV SELLO SC: Okay. Now you remember Ms Pillay, who is the depot manager?

20 **COLONEL JACOB:** Yes.

ADV SELLO SC: You engaged her?

COLONEL JACOB: Yes, I did.

ADV SELLO SC: You obtained the relevant documentation from her?

COLONEL JACOB: Yes.

ADV SELLO SC: She was present when you broke the seal?

COLONEL JACOB: Yes.

ADV SELLO SC: Why, when you realised the quantity then, did you not close the container instructed to take it to a proper place that would allow you to carry out your work?

COLONEL JACOB: Commissioner, I am maintained by those reasons that I did not mention before. All of those thoughts that were running through my mind in terms of the
10 safety of that area, the fact that Isipingo was four kilometres away, the fact that we had no exhibit bags or not adequate exhibit bags for it, that is the reason.

ADV SELLO SC: Okay. Now, I will accept those reasons. You will accept that the risks that you now enumerate apply to all searches of containers at the CHC Depot. They would apply to, the distance to Umlazi stays the same, right?

COLONEL JACOB: Yes.

ADV SELLO SC: The area stays the same. Are you able to explain why it is just over a month 999 kilograms could
20 safely and properly be processed at the very scene that you say was highly risky because it is closer to Umlazi and the like? Are you able to come up with a logical explanation for that?

COLONEL JACOB: Commissioner, 999 ...[intervenes].

ADV SELLO SC: Kilograms, yes. Kilograms, yes, on the

30th of July 2021. You do not know of that seizure?

COLONEL JACOB: In which area was this, Commissioner?

ADV SELLO SC: It was at the CHC Depot.

COLONEL JACOB: No, I am not aware of this.

ADV SELLO SC: It is very concerning, Colonel, because we are going to deal with this. Considering the position you hold now as we speak, we are going to deal with that seizure, and I am very concerned that you say you have never heard of it. You are the head of, currently, the Unit
10 Commander of Durban's COCIU, which comprises of National Priority Violent Crime Section, SANEB, and EPR. And you do not know about that seizure.

COLONEL JACOB: Commissioner, the 999, as far as I recall, was not at the CHC Depot, but I could be mistaken.

CHAIRPERSON: Where was it?

COLONEL JACOB: It was at some other shipping yard, because I did go to the scene. But as far as I recall, it was not at CHC. I am not sure if the Commission can indulge me.

20 **ADV SELLO SC**: Okay, I think I get your point. So you say I am making the mistake in thinking that it was the same place.

COLONEL JACOB: I am not saying that, I am saying I cannot ...[intervenes].

ADV SELLO SC: No, I am happy to take the mistake and

be duly corrected. So if I misunderstood somebody's evidence, I will accept that. But your point is that that particular seizure did not take place at CHC Depot.

COLONEL JACOB: Not that I can recall of.

ADV SELLO SC: I will cross-check on that, and I will come back to you.

CHAIRPERSON: Before you move further away, I just want to make an observation about something you said, Ms Sello.

ADV SELLO SC: Indeed, Chair.

10 **CHAIRPERSON**: You said you accept the reasons. I just want to disabuse your mind, Colonel, of any possible misunderstandings. I hope Ms Sello did not mean that the reasons that she says she accepts are acceptable.

COLONEL JACOB: Yes, Chair.

CHAIRPERSON: That is something we will weigh down the line. So she accepts that subjectively. Those were your reasons, but not necessarily that they are acceptable.

COLONEL JACOB: Yes, Chair.

CHAIRPERSON: I am not saying they are not acceptable.

20 **COLONEL JACOB**: Yes, Chair.

CHAIRPERSON: Thank you. Thank you, Chair, for the precision. I was loose in my words, and by acceptance, I am not going to challenge you on the reasons that you put forward, but I too am not drawing your conclusion that those reasons are correct. That is what I meant, and the Chair

was very helpful in that regard. So thank you, Chair. You understand my position, Colonel.

COLONEL JACOB: Yes.

ADV SELLO SC: You then move, you say, to Isipingo. I understand that there at the harbour, there is a police station called Maydon Wharf.

COLONEL JACOB: That is correct.

ADV SELLO SC: Why did you not move to Maydon Wharf?

COLONEL JACOB: Maydon Wharf has their own exhibits
10 to see, to attend to, Commissioners.

ADV SELLO SC: As with every police station?

COLONEL JACOB: Yes, correct, it is so.

ADV SELLO SC: So, as with Isipingo as well?

COLONEL JACOB: Yes. If I may expand on that, Commissioners? I know I am at the ground level calling station Commanders, phoning the various police stations for assistance, and as much as witnesses will come here and say that we should have tried the nearest station and all of that, I think I highlighted with my Umhlali, the Simbithi case,
20 the difficulty with regards to securing storage locations, and if I had to elaborate on that, it is because these stations know that the lab takes a long while to house those exhibits, destroy it, analyse it, but no station wants to give away the SAP13 space, let you use the entire or half of the exhibit room.

Because remember, more especially stations like Maydon Wharf , which is close to our harbour, they are the stations that receive bulk exhibits that are seized at the harbour. So it could be that they did have storage place at that time, but the reason I did not engage with them was I know that they are going to need that storage place, then they are going to call me to ask me to take away my exhibits from there, like I have had previous experiences.

That was my reluctance, that was the reason for my
10 reluctance in engaging stations, because past experience has taught me certain stations will assist, others will not, others have their own SAP13 needs to attend to.

ADV SELLO SC: The picture you are painting is disturbing. It is like everybody owns a police station, and how do you work? You know, you come across, or at least to me, as suggesting that you have to beg for space when you have done your job and you need secure space, you literally have to beg because somebody is going to reject your request. So in the end, you end up not even making
20 the request.

COLONEL JACOB: Yes.

ADV SELLO SC: Is that how you operate?

COLONEL JACOB: Yes, can I elaborate on that, Commissioner?

ADV SELLO SC: Certainly.

COLONEL JACOB: It may not be a pretty picture to paint, but it is the truth. And if I had to tell the Commission we have had instances, I will give you an example. I think it was a year or just over a year back, my EPR group seized around eight tonnes of copper in the Malvern policing precinct.

Firstly, there is no space to keep eight tonnes of copper. The stakeholders, meaning Transnet, Eskom, PRASA, do not want to safeguard those exhibits like they
 10 usually do. So we are stuck with eight tonnes of copper. The station cannot house it, that big Malvern station. I personally had to acquire a container, a shipping container that we moved at our own logistical, making our own logistical arrangements.

Get a container, call in favours, ask the station to house the said container there, lock up the exhibits in this container at Malvern station. Within a year, every bit of that eight tonne of copper was stolen. There is various cases opened by the police station themselves for petty
 20 thieving, but eight tonnes eventually was lost. That is one incident with Malvern station.

There was another incident at Isipingo station, I think it was in 2024. The Infrastructure Task Team had seized around five tonnes of copper. Isipingo could not house it. They then acquired a shipping container, placed it

on the station premises in order to house these exhibits. All of those exhibits ended up being stolen within a few months as well.

So these are the challenges that we are facing. It is easy for management sometimes to come here and say we should have tried this station, that station has place, this station has a big safe, but in reality, these are the challenges we face.

And I am going to go on further to state, when you
10 seize these type of exhibits, sometimes you have a crime scene for a day or two. To remove eight tonnes of copper, the police is not logistically equipped, even with large amounts of drugs. So you are having now to request specialised units like TRT, NIU, POP, to come and guard those exhibits.

They are okay with guarding it for maybe a night or two, maybe four days max, but they have got their own duties to attend to. Now you have got pressure from their Commanders calling you to say we need to withdraw our
20 members. Then I am calling every District Commissioner, every station Commander, trying to get assistance in this regard.

So I just wanted to highlight the challenges that we face. Hence, sometimes the decisions we take may not be viewed in a favourable light here, but it is because of our

experience of the challenges we know we face.

ADV BALOYI SC: You see ...[intervenes].

CHAIRPERSON: That can never be justification for you not even asking where the storage space was available. You never asked. You never ever asked. All of the things you say can never be justification for not asking. They cannot be. You simply made an assumption that there was no storage. You assumed that there was no storage. Am I correct? You assumed.

10 **COLONEL JACOB:** No, Chair ...[intervenes].

CHAIRPERSON: You assumed because you never asked. It is as simple as all that. Did you ask?

COLONEL JACOB: Chair ...[intervenes].

CHAIRPERSON: Did you ask?

COLONEL JACOB: No, I did not ask.

CHAIRPERSON: So you assumed.

COLONEL JACOB: I knew it would become a problem in the future.

CHAIRPERSON: You assumed that they could not store
20 the suspected container. Is that correct?

COLONEL JACOB: That is correct.

CHAIRPERSON: Why did you make such an assumption on so serious a matter?

COLONEL JACOB: Chair, when I escalated it to the Brigadier's level ...[intervenes].

CHAIRPERSON: Why did you? You escalated it because in paragraph 30, you already took this very strange view that you had:

“...exhausted all avenues...”

For storage. And yet you did not. You simply made an assumption. Is it factually correct that you had exhausted all avenues? Is that factually correct?

COLONEL JACOB: It is not factually correct.

CHAIRPERSON: So why did you say it to your superiors?

10 **CHAIRPERSON**: And why do you continue to say it in your affidavit?

COLONEL JACOB: Chair ...[intervenes].

CHAIRPERSON: Why did you say that?

COLONEL JACOB: Chair, the reason I say it is because of the closest stations that were there were Brighton Beach ...[intervenes].

CHAIRPERSON: I will tell them to you. They were Durban Central, Brighton Beach, Maydon Wharf . And how far is Umbilo? There was also Umbilo. How far is it?

COLONEL JACOB: Ja, Umbilo is not far, Chair.

20 **CHAIRPERSON**: Give us kilometres.

COLONEL JACOB: I cannot estimate, but more or less ...[intervenes].

CHAIRPERSON: We know the furthest, or the farthest was, we know the farthest was 24, and then there was 20, and there was lesser.

COLONEL JACOB: Yes.

CHAIRPERSON: That is about the three we spoke about yesterday. So Umbilo, would you say is within the 24 downwards also?

COLONEL JACOB: I would say so, Chair.

CHAIRPERSON: So we are basically talking four, and in respect of all four, you simply made an assumption. And you have incorrectly stated it as a fact that you had exhausted all avenues. How could you say you had
10 exhausted avenues when you made, when in fact you simply made an assumption?

COLONEL JACOB: Yes, I did. But Chair, if I may just explain about even Umbilo station? I will give you a practical example, Chair. Maybe it will help shed some light. I think it was 900 and something kilos that was seized in their area.

And I think it was the very next day that somehow the lab took reception of these exhibits, but those exhibits as well were stored in an unused cell, a single brick layer
20 cell. That is nearly 1 000 kilograms of Cocaine in a single cell. And the station could only accommodate it for a limited period of time. That is why those measures were taken, and somehow the lab managed to accommodate, and it was sent within a short while to the FSL in Pretoria.

CHAIRPERSON: So I am saying, for argument's sake, let

us leave out Umbilo and look at Durban Central, Brighton Beach, Maydon Wharf. For all you knew at the time, they could well have had space.

COLONEL JACOB: Chair, I knew Durban Central ...[intervenes].

CHAIRPERSON: You did not know for a fact that they did not have space, did you?

COLONEL JACOB: I knew they were complaining about our exhibits ...[intervenes].

10 **CHAIRPERSON**: No, no, no, no, no, I am not talking about complaining. You did not know for a fact that they did not have space.

COLONEL JACOB: I did not phone them to enquire, Chair.

CHAIRPERSON: And yet you say you had exhausted all avenues. So it was incorrect to say you had exhausted all avenues.

COLONEL JACOB: In my ...[intervenes].

CHAIRPERSON: You see, the thing is, in response to Ms Sello, you go so far as to suggest that all, in fact, I think
20 you said so, that basically all police stations have their problems, individual problems about storage. Do you want me to tell you what is very strange with that proposition or that statement?

COLONEL JACOB: Yes.

CHAIRPERSON: Look at what you say in the very

paragraph 30 I have referred you to. You say that Brigadier Nyuswa should then secure a storage location for the drugs. He would have had to secure that storage space from somewhere.

COLONEL JACOB: Yes.

CHAIRPERSON: And what did you expect that somewhere to be? A police station, not so? A police station, not so?

COLONEL JACOB: Yes.

CHAIRPERSON: So how could you give this response that
10 you gave to Ms Sello then? A response that suggests that, ah, there are difficulties with all police stations. He could not have gotten the space from outer space.

COLONEL JACOB: Yes.

CHAIRPERSON: So what point were you making there?

COLONEL JACOB: Chair, I think maybe I did not word it correctly as well. I am going to add this, but at my level as a Colonel and at that stage as a Lieutenant Colonel, there is only so much that I can do to escalate this challenge. Obviously, any station Commander or District Commissioner
20 will not hold my opinion in that high regard or my request, will not take it as seriously as they would take it if they were engaged by, let us say my Brigadier, my Provincial ...[intervenes].

CHAIRPERSON: But you would only get to that if you have seriously done the groundwork, or rather worked the

groundwork that needed to be, or done the groundwork that needed to be done. You only reach that stage after all that. Here, you did not even do that groundwork. You worked on an assumption.

You did not enquire whether space was available, at least at these three police stations. I will not mention their names again. You did not even do that groundwork. So it does not even rise to the level of you having to rely on a senior who can better pull strings than you can ever hope
10 to. It does not get to that level.

COLONEL JACOB: Yes, Chair. And I think I am going to say this honestly as well. Maybe I wanted my Brigadier to bear that burden where he is being inundated with calls from that said station, complaining that we need these exhibits to be removed.

CHAIRPERSON: So you lied to him. You said you had exhausted all avenues.

COLONEL JACOB: I did not lie.

CHAIRPERSON: You lied because you have accepted that
20 you had not. You had not exhausted all avenues.

COLONEL JACOB: I put the decision on him, Chair.

CHAIRPERSON: You lied when you said to him you had exhausted all avenues. Was it true that you had?

COLONEL JACOB: In my mind, Durban Central was out in my view ...[intervenes].

CHAIRPERSON: Was it true, factually, that you had exhausted all avenues? You have already said you had not.

COLONEL JACOB: Yes.

CHAIRPERSON: You have already said you had not. Correct?

COLONEL JACOB: Yes.

CHAIRPERSON: So you lied to him when you said you had exhausted all avenues. Do you agree? It is as simple as all that.

10 **COLONEL JACOB**: I will have to agree.

CHAIRPERSON: You agree?

COLONEL JACOB: I will have to agree, Chair, but I think it is a strong word to say lied, but I ...[intervenes].

CHAIRPERSON: Is it true? Is it true? Was it true when you said to him, I have exhausted all avenues? Okay, let us get offline. Let us step offline. Was it true? Was it factually correct?

COLONEL JACOB: Factually, no, sir.

CHAIRPERSON: Factually, no.

20 **COLONEL JACOB**: No.

CHAIRPERSON: Is that not a lie? Is that not a lie, then?

COLONEL JACOB: It sounds, when you say it like that, it sounds a little harsher than...

CHAIRPERSON: Thank you.

ADV SELLO SC: Thank you ...[intervenes].

ADV BALOYI SC: Ms Sello, still on this, sorry. That decision to move to Isipingo Police Station it is a major decision, right?

COLONEL JACOB: Yes, Commissioner.

ADV BALOYI SC: And one would expect to have a record of it, that it is recorded in the reason for moving to Isipingo.

COLONEL JACOB: Yes, Commissioner.

ADV BALOYI SC: But it is not in the diary of Warrant Officer Mpangase. You can look at it if you want, but he
10 does not account for how that decision or why that decision was made. He merely says, we opened, we found this, it was decided we go to Isipingo. That is problematic.

COLONEL JACOB: Yes, I concur.

ADV BALOYI SC: Yes, and it seems to me, and maybe let me put this to you, that the explanation that you are giving for moving from CHC to Isipingo seems to be an afterthought, because it is not recorded, even if you allow for this diary was completed for the first time on the 23rd. It seems to me, and you accept that, it is quite a big decision
20 to move from the crime scene in the circumstances and go to Isipingo.

And that it is not recorded here is problematic, and we have only your word now that you moved because the reasons that you are giving, that there was nowhere else to go. And yet it is not in the diary of the person that you left

as the Investigating Officer. Explain that.

COLONEL JACOB: I agree with you, Commissioner. I cannot furnish an explanation on behalf of Warrant Officer Mpangase.

ADV BALOYI SC: But you see how it does lead, or it can lead to the impression this is an afterthought, otherwise he would have recorded that big decision in his diary?

COLONEL JACOB: Yes, I can see how it seems.

ADV BALOYI SC: Thank you.

10 **ADV SELLO SC**: Thank you, Commissioner. On that score, Colonel, you will recall yesterday during engagement by Commissioner Baloyi when she referenced the National Instruction.

COLONEL JACOB: Yes.

ADV SELLO SC: Remember that?

COLONEL JACOB: Yes.

ADV SELLO SC: And I understood your answer, or a comment you made during the course of your answer to be that you are bound by National Instruction. That is a
20 national prescript.

COLONEL JACOB: That is correct.

ADV SELLO SC: Okay. Let us just turn to it on this particular score about SAP13s and taking exhibits. And that would be your CJC230, File 1, Exhibit File 1.

COLONEL JACOB: Yes.

ADV SELLO SC: That is National Instruction 8 of 2017.

Have you located it?

FEMALE SPEAKER: 230, page?

ADV SELLO SC: Exhibit 230.

COLONEL JACOB: Yes, Commissioner.

ADV SELLO SC: You have seen that document before.

COLONEL JACOB: Yes, I have.

ADV SELLO SC: It is a National Instruction 8 of 2017, Property and Exhibit Management.

10 **COLONEL JACOB:** Yes, Commissioner.

ADV SELLO SC: Is it fair to assume that at least the district or heads of various police stations have seen the document and are familiar with it? I will take that to be the most basic level of knowledge and understanding by those who lead. Would it be fair to attribute that understanding to them, that they know this document, they have seen it?

COLONEL JACOB: Yes, Commissioner.

ADV SELLO SC: Okay. Now, I would like to refer you to page 25 specifically in that file, it is still part of that, and in
20 paragraph 7.

COLONEL JACOB: Yes.

ADV SELLO SC: Are you there?

COLONEL JACOB: Yes.

ADV SELLO SC: And I am interested in (4) of that paragraph seven and it reads, I quote:

“All property and exhibits seized must be entered in the SAP13 property register of the relevant police station where the crime was committed or where the property was found.”

And it continues:

“...and then transferred to the relevant unit and entered in the SAPS13 of the relevant unit.”

10 Do you see that?

COLONEL JACOB: Yes, I do.

ADV SELLO SC: Now, when I look at the start of that, it prescribes that all seizures must be registered in the SAPS13 of the relevant station where the crime was committed. I interpret that to mean they have, the station Commanders and everybody has got no discretion on this. This prescript compels them, you register. Unlike what you suggest, which you say they refuse to take, you said they were our seizures.

20 **COLONEL JACOB**: Yes.

ADV SELLO SC: Who is the our? Are you not part of the SAPS? Are you not part of people to whom this prescript applies?

COLONEL JACOB: We are part of it.

ADV SELLO SC: So they can tell you in the face of this

prescription that they will not take your seizures. Is that what you want these Commissioners to accept?

COLONEL JACOB: If I may give the example of Isipingo, the previous time for the seizure on the 4th of February 2020? They demanded those exhibits be removed the following day and they could not, although the lab could not house it, Durban Central then housed it. But one would have thought that Isipingo, being the relevant station, would be compelled now to make some sort of arrangement to
10 house those exhibits seeing as it was seized in their police area.

ADV SELLO SC: Yes, yes, but you know that does not help you, right? Because Isipingo took those drugs, it entered them into the SAP13, it kept them overnight and then it required that they be removed. So Isipingo actually complied with that prescription.

COLONEL JACOB: Yes, but in our case, Commissioner, they did not store it at all.

ADV BALOYI SC: You say in our case, you mean which
20 case?

COLONEL JACOB: On the 22nd of June 2020.

ADV BALOYI SC: Because you booked it out. Because Mpangase booked it in and out immediately.

COLONEL JACOB: I maintain, Commissioner, that Warrant Officer Perumal did not want to keep those exhibits.

ADV BALOYI SC: No, well, I think yesterday you sort of gave a more nuanced answer. You said I may have confused a prior discussion with Perumal about whether they have storage or not. And I accept that, I have to accept that I do not have a recollection of discussing with him.

So yesterday, you revisited your much firmer earlier statement where in your earlier statement you had said Perumal refused to accept the exhibits. And yesterday in
10 your explanation, you softened your position and said, ja, I know that I previously heard in another thing, we had had that discussion where he had refused. This time, I have to accept that maybe I did not have the discussion with him. So now you are going back to elevate it to, there was a discussion with Perumal and he refused to take the exhibits. Which one is it?

COLONEL JACOB: Okay, Commissioner, if memory serves me correct, from what I know, the reason I alluded to, or initially I said I was a bit confused and I am not sure if I
20 asked him explicitly, but I did clarify that my members on the scene had reminded me that Perumal explicitly refused to store those exhibits.

And the reason I cited for it not being that clear in my head was possibly because of the previous year's incident that we had had with Isipingo SAPS regarding that

Mandrax tablets.

ADV BALOYI SC: That is another thing that is not in the diary of Mpangase. It is not in his diary. It does not say that Perumal was asked and he refused. It appears later on in statements, yet again, it is a late time justification. But the entry in the diary does not record that, and there are codes with Perumal's denial. In fact, it lends credence to Perumal's denial that there was ever such a discussion.

COLONEL JACOB: I hear you, I accept that,
10 Commissioner, but I still maintain that Perumal was not accepting those exhibits.

ADV BALOYI SC: Can I just develop this a little bit? On this 7.4, that compelled you to go to Maydon Wharf and do exactly what you did at Isipingo, which is you have to enter them in the SAP13 of the nearest police station where the crime was committed and then you could have booked it out. It is not about storage, this here.

COLONEL JACOB: Yes.

ADV BALOYI SC: Why did you not do that? Even with
20 your assumption that they will say they do not have space, why did you not comply with 17.4, which reads, and I will read it again:

“All property and exhibits must be entered in the SAP13 of the relevant police station where the crime was

committed or where the property was found and then transferred to the relevant unit and entered in the SAP13 of that relevant unit.”

The first part says you should have entered these things in the SAP13 of Maydon Wharf being the nearest police station, no?

COLONEL JACOB: No, no, Commissioner. This CHC container depot fell within the Isipingo policing precinct, so
10 they are the relevant station that ...[intervenes].

ADV BALOYI SC: It is not the nearest.

COLONEL JACOB: No, it is the relevant. It does not necessarily have to be the nearest. Police stations fall within a certain jurisdiction.

ADV BALOYI SC: Okay, I accept that.

COLONEL JACOB: Thank you.

ADV BALOYI SC: Thank you.

ADV SELLO SC: If I may develop that? You recall we looked at the SOP, the ORS SOP yesterday, which identified
20 CHC Depot to be a licenced depot around the harbour, I will not say in the harbour, but that falls within the area of ORS Durban Harbour Police. So it is in that area?

COLONEL JACOB: Yes, Commissioner.

ADV SELLO SC: Okay. And it is in the area because it means that the Harbour Police have got access to that

depot as any part of the harbour. Do you accept that?

COLONEL JACOB: That is correct.

ADV SELLO SC: And if, let us then turn and to test your answer, let us look at CJC258 and Bundle B, Bundle 3. That is the statement, I might as well say, of Captain Stephan Albert Moolman.

COLONEL JACOB: Sorry, Commissioner, CJC?

ADV SELLO SC: CJC258. Page 768. Have you located it, Colonel?

10 **COLONEL JACOB**: Yes, Commissioner.

ADV SELLO SC: This is a statement of Captain Stephan Albert Moolman. Do you know him?

COLONEL JACOB: Yes, yes, I am familiar with him, Commissioner.

ADV SELLO SC: If we go to paragraph 3, he states:

“From July 2014 to December 2024, I was the exhibit clerk serving in the SAPS13 exhibit room at SAPS Maydon Wharf.”

And it says:

20 “My duties entail the receiving, safeguarding, and releasing of exhibits at the SAPS Maydon Wharf . All items seized at crime scenes or found...”

And here is the emphasis:

“...within the Durban Harbour Police area

must be handed in as exhibits at the
Maydon Wharf Police Station.”

So in his understanding, where Durban Harbour Police have jurisdiction, everything seized there must go to them. You agree that is what he says?

COLONEL JACOB: That is what he says, I agree.

ADV SELLO SC: Okay. And now you and I have agreed that in terms of SOP, the SOP, the CHC Depot falls under the Durban Harbour, falls within the Durban Harbour Police
10 Area. We agreed that yesterday. We just confirmed this morning.

COLONEL JACOB: Yes, yes.

ADV SELLO SC: Okay. You seem like you want to take issue with what Captain Moolman says. What is your issue?

COLONEL JACOB: Yes, Commissioner, I will still maintain that the Maydon Wharf would not ordinarily receive exhibits that were seized in the Isipingo Policing Area. It is not the norm. He is speaking of exhibits seized within his policing area. I am not familiar with any such case that we have on
20 record where we have now transferred exhibits from one of those identified depots to Maydon Wharf . It has not happened.

ADV SELLO SC: I have a difficulty with your answer because you seem to ignore something I thought we had established. You have accepted that the CHC Depot is

within the harbour area under, in whose jurisdiction, or in whose area the Durban Harbour Police have jurisdiction.

COLONEL JACOB: Yes.

ADV SELLO SC: We have accepted that. The SOP tells us that, in fact. I am not making it up, right? So, if that is in the area, in the Durban Harbour Police area as per the SOP, right?

COLONEL JACOB: Yes.

ADV SELLO SC: Then he has got to be right. It can be
10 the Isipingo. You seem to want to take the CHC Depot out of the harbour area, locate it physically somewhere so that it falls under Isipingo. And I struggle with that notion. So, maybe if you try again because I am not getting it.

COLONEL JACOB: Yes. Commissioners, I have never known of one case of us or even any other station that where these depots, designated depots are situated, I have not known of one case of those exhibits now being sent to Maydon Wharf because they fall under Durban Harbour Policing area.

20 Police jurisdictions are police jurisdictions. Your precinct of where your station is based, you are then responsible for exhibits from that area. So, although there can be this SOP or any other document, the station caters to their area. When he talks here, Warrant Officer Moolman, he says:

“...must be handed in as exhibits at the Maydon Wharf Police Station. This also includes exhibits seized or found by other SAPS units.”

And he goes on, but he does not allude to, in my opinion, and maybe I am reading it incorrectly, to say that even items or exhibits seized in Isipingo or Umbilo will come to them and they will accept it. To me, it is not clear to me, Commissioner. And I have not seen any case where such
10 has happened.

ADV SELLO SC: There have been witnesses here and they have been engaged extensively by the Commissioners about available police stations in and around the CHC Depot. You had that engagement with the Chair this morning. We counted Maydon Wharf. We counted – before we get to Isipingo, I think we counted Umbilo. We counted Durban Central. Correct?

COLONEL JACOB: We did count it.

ADV SELLO SC: Yes. On your reasoning that they must
20 not come into play because we are not in their jurisdictions, they were discussed because they were available facilities within the general area before we go to Port Shepstone. Why then do they come into consideration if they are not applicable? I do not understand anymore, Colonel.

COLONEL JACOB: Like I am saying, Commissioner, I

cannot give you an answer, but I know that we have never ever stored exhibits from Isipingo at Maydon Wharf or Umbilo at Maydon Wharf Station. This statement, from what I am reading, it does not tell me that.

ADV SELLO SC: Then I will go back to your paragraph 30, to your statement now, your statement. And once again, it is the engagement you had with the Chair. In your statement to the Commission you say:

10 “I then called Brigadier Nyuswa and told
 them that I had exhausted all avenues
 and that he should secure a storage
 location for the drugs.”

What all avenues could you potentially have exhausted if you had only, you were bound to go to only one place, which is Isipingo?

COLONEL JACOB: I have been reprimanded for it, Commissioner, but ...[intervenes].

ADV SELLO SC: No, no, no, no, that was a different issue. I am raising a completely different issue now. When you
20 say you exhausted all avenues, why did you even try to exhaust avenues when you know you cannot go there? When you know there are no avenues to exhaust in the very first place?

COLONEL JACOB: I think what I meant by that is that I had no – I acknowledged that those stations that General

Flynn now had mentioned were already carrying our exhibits for ...[intervenes].

ADV SELLO SC: Okay. So those were the avenues you considered perhaps potentially available to you?

COLONEL JACOB: Yes.

ADV SELLO SC: You had exhausted them in a sense that, as the Chair pointed out, it implies that you enquired, you either enquired and confirmed that they do not have space or you know that they did not have space. Which was it?

10 **COLONEL JACOB:** I did not enquire. I drew an assumption.

ADV SELLO SC: Okay, you drew an assumption. Now, staying with Maydon Wharf, we will look at the other. Still on the same document, if you go over leaf, paragraph 4, I want us to start at 769. We are still with Captain Moolman's statement.

COLONEL JACOB: Yes.

ADV SELLO SC: Now, paragraph 4 lists six, records six seizures that were stored at SAPS Maydon Wharf from 8th
20 May 2020, yes, 2020-05-08, that is the first, the sixth one on page 769, until the 2nd of December 2024, 2024/1202. You see that? Do you see what I am reading?

COLONEL JACOB: I cannot see the 2024, Commissioner.

ADV SELLO SC: It is at page 768, as I say.

COLONEL JACOB: Oh, 768, yes.

ADV SELLO SC: They are listed, apologies, they are listed one to six, with one being the latest and six being the earliest. Do you see that?

COLONEL JACOB: That is correct.

ADV SELLO SC: Now, let us look at the earliest, which is at your page 769, that item six. It is 32 kilograms of Cocaine received on the 8th of May 2020. You see that?

COLONEL JACOB: Yes.

ADV SELLO SC: The next is item five, which is the 999kg
10 Cocaine received on 30 July 2021. You see that?

COLONEL JACOB: Yes.

ADV SELLO SC: Unless I am misreading this, it would appear that between that seizure of 30 July 2021 and May 2020, all he had was 32kg of Cocaine. So, your seizure actually occurred before the 30 July 2021 seizure. So, your assumption was wholly wrong, because six weeks after your seizure, he could accommodate 999kg. Your assumption was wholly wrong. Now, please explain to the Commissioners, on what basis could you even make it?

20 **COLONEL JACOB:** Okay. I am going to try and explain it in this fashion, Commissioners. If you look at this 999kg that was seized on the 30th of July 2021, these drugs were kept at the station for a period of three months before they were taken to the lab on the 12th of November 2022. No, 2021, sorry. I apologise.

It was taken to the lab on the 12th of November 2021. So, in effect, this 999kg would have still been at Maydon Wharf in their safe. And together with our 541kg, it would now mean that there is going to be one and a half tonnes of our drug, or of drugs at Maydon Wharf .

ADV SELLO SC: Is there a challenge with that? Is there a problem?

COLONEL JACOB: I am not sure of the capacity, but my point being, Commissioner, was that these drugs lay at
10 Maydon Wharf or three months and it was only subsequent, or after the theft of the drugs in Port Shepstone, that now the lab saw fit to start accepting these exhibits. It is only on the 12th of November 2021 that these exhibits, 999kg of Cocaine, together with those exhibits that were initially at Isipingo and then moved to Durban Central, it was only at that stage now that this 999 was fetched on the 12th of November, together with the 547kg of Mandrax. And at that stage, the lab had taken them up.

ADV SELLO SC: Yes.

20 **COLONEL JACOB:** So, my point being that the SAP13 safes get clogged up, so we were going to have 999kg of Cocaine there with another 500kg, so that is one and a half tonnes. I am not sure of the storage capacity at Maydon Wharf, but that is a practical reason then that ...[intervenes].

ADV SELLO SC: May I point something, and I apologise for interrupting. You have the order wrong.

CHAIRPERSON: Exactly.

ADV SELLO SC: You would have taken up that space that the 900 subsequently took after six weeks.

COLONEL JACOB: Okay.

ADV SELLO SC: So, your space was assured, surely.

COLONEL JACOB: Okay.

ADV SELLO SC: And whoever, I think it was Colonel
10 Sander who was responsible for the July 21 bust, that would have been his problem, not yours. Yours would have been resolved by then. So, why do you worry about a bust still to happen?

COLONEL JACOB: I can accept that, but I still maintain, Commissioner, that the station has to cater for their own area, policing area, and more especially, Maydon Wharf is one of the stations that regularly receives large amounts of drugs and exhibits from the harbour.

CHAIRPERSON: Just where is the logic in that? Where is
20 the logic in that? Because two questions before, you were debating on the basis of the cumulative quantity of the 541 and the 999. Now, you are told that, but you would have gotten space before the 999.

COLONEL JACOB: Yes.

CHAIRPERSON: Now, I do not understand what you are

...[intervenes].

COLONEL JACOB: Okay, Commissioner, yes, I got it backwards, Chair. My apologies.

CHAIRPERSON: But I am trying to understand the logic of what you said just now.

COLONEL JACOB: Yes.

CHAIRPERSON: Do you accept it is completely illogical?

COLONEL JACOB: Okay, I got it mixed up in terms of which exhibits reach first, Chair.

10 **CHAIRPERSON**: But that was clarified.

COLONEL JACOB: Yes, yes.

CHAIRPERSON: It was still clarified to you.

COLONEL JACOB: Yes.

CHAIRPERSON: Clarified it to you.

COLONEL JACOB: Okay, but ...[intervenes].

CHAIRPERSON: And now, you started giving some other explanation, the logic of which I simply do not understand.

COLONEL JACOB: Okay. My point, I think, in essence, Chair, is that exhibits are continuously being entered at
20 certain stations. Now, in the event my 541 kilos was accepted at ...[intervenes].

CHAIRPERSON: If the 999, let us not even use it, because they did accept the 999.

COLONEL JACOB: Yes.

CHAIRPERSON: So, I cannot see why they could not have

accepted your 541.

COLONEL JACOB: Okay.

CHAIRPERSON: Do you accept that ...[intervenes].

COLONEL JACOB: Yes, I accept.

CHAIRPERSON: In all probability, they would have accepted your 541.

COLONEL JACOB: Yes.

CHAIRPERSON: So, what issue are we debating now?

COLONEL JACOB: Okay, can I expand on that?

10 **CHAIRPERSON**: Please, yes.

COLONEL JACOB: And I hope I am not going to annoy you, Chair, with this.

CHAIRPERSON: No, I am not in the least annoyed.

COLONEL JACOB: Okay.

CHAIRPERSON: No.

COLONEL JACOB: I am saying, Chair, this is how it works. If my 541 kilograms was at Maydon Wharf , and like I say, I am not sure of the exact capacity of their safe, and now they received 999. Most stations do not have capacity
20 for all that.

CHAIRPERSON: That is Colonel Sander's problem. When he comes with the 999, you already have your space.

COLONEL JACOB: Yes, so I am saying, what would be the practical challenge, Chair? You would get a call from that station to say, we have got our own exhibits now, there is

999 that we need to store, and they have got my 541. It has not happened ...[intervenes].

CHAIRPERSON: But that has nothing to do with what we are debating, which is why, at the initial stage, you did not go to Maydon Wharf . What happens down the line when there is 999 has nothing to do with why you were not the first at Maydon Wharf . Do you get my point?

COLONEL JACOB: I get your point, Chair.

CHAIRPERSON: So you basically have no answer to Ms
10 Sello's question. Do you accept that? It is as simple as all that. Do you accept that?

COLONEL JACOB: I accept it, but can I give a practical example?

CHAIRPERSON: Yes, okay, all right, no, no, no, go ahead and explain.

COLONEL JACOB: You know, back to my Simbithi case, the one in Umhlali policing area. Similarly, if we sat here today and those exhibits got stolen, I would have been asked, or say it got stolen from Brighton Beach, those
20 chemicals that I said eventually ended up in Brighton Beach. One would have argued, why did I store those exhibits?

CHAIRPERSON: That is a different issue altogether, Colonel. That is a different issue altogether. What we are talking about now is the availability of storage space within

Durban. That is what we are debating.

COLONEL JACOB: Yes.

CHAIRPERSON: And you accepted when I engaged you earlier that you proceeded on the basis of an assumption. Now, Ms Sello is engaging you specifically about Maydon Wharf and is demonstrating to you that what you have been telling us lacks substance because someone who came, a colleague of yours who came a month later was able to get space for an even larger quantity of suspected Cocaine. So
10 this is about your decision at the initial stage. It has nothing to do with the possibility of theft down the line. And in any event, that could not have been your concern at the stage of, where must this Cocaine, suspected Cocaine, be stored? Ms Sello? You may comment if you want to.

COLONEL JACOB: Just like I said, maybe I am labouring on the point, but my point in mentioning the Umhlali case, Chair, was that stations did have capacity closer around to Umhlali. They did have the space to store. They did have, in the case where eventually Brighton Beach assisted, the
20 stations had the physical capacity in terms of their safes.

If you looked at it, they could accommodate more than a tonne. Why they did not accommodate me, I cannot answer you, but I failed ...[intervenes].

CHAIRPERSON: When were you not, why did they, when is it that they did not accommodate you?

COLONEL JACOB: We did this in September 2020, and the reasons they cited, Chair, was not that they would not even give ...[intervenes].

CHAIRPERSON: What has that got to do with June 2021? What has that got to do with June 2021?

COLONEL JACOB: I think, Chair, I was just trying to show that my past experience showed me that stations would ...[intervenes].

CHAIRPERSON: No, surely you could not. You could not
10 base your decision on something that historical. You could not. You accepted earlier when I engaged you that you proceeded on the, or you took your decision purely on the basis of an assumption. You have accepted that, and I think we should move on unless you again want to give some other explanation.

COLONEL JACOB: It is fine, Chair, thank you.

CHAIRPERSON: I am not gagging you. If you want to give some other explanation, you are free to.

COLONEL JACOB: No, it is fine.

20 **CHAIRPERSON**: Thank you.

ADV SELLO SC: Thank you, Chair.

ADV KHUMALO SC: Sorry. Colonel, I want you to say this still on this document. It is a simple yes to say, looking at Item 5, before July of 2021, before the 30th of July 2021, what it shows is that there was space to store 540

kilograms at Maydon Wharf. It is as simple as that.

COLONEL JACOB: You put it like that, Commissioner, yes.

ADV KHUMALO SC: Forget about September, October, the following year. Just looking at that, it is as simple as that.

COLONEL JACOB: Yes, I agree with you, Commissioner.

ADV SELLO SC: Thank you, Commissioner Khumalo.

Colonel, stay with your statement and I think you have touched on this slightly. I want you, I would like you to have regard to your paragraph 29, your statement now, at

10 page 5.

COLONEL JACOB: CJC, Commissioner?

ADV SELLO SC: No, your own statement, your statement to the Commission.

COLONEL JACOB: Okay.

ADV SELLO SC: Do you have it?

COLONEL JACOB: Yes.

ADV SELLO SC: Okay. Page 5, paragraph 29. You state in that paragraph, and I will just read it out quickly:

20 “I knew that two police stations that normally assisted with storage, Durban Central SAP and Brighton Beach SAP, still had exhibits from our drug seizures conducted in February 2020 and September 2020, respectively.”

I will stop there. You see that?

COLONEL JACOB: Yes.

ADV SELLO SC: Now let us talk about the September 2020. Is that the Umhlali seizure that you spoke of?

COLONEL JACOB: That is correct.

ADV SELLO SC: Okay. What was seized there and what was the quantity?

COLONEL JACOB: The exact quantities, I cannot recall ...[intervenes].

ADV SELLO SC: Estimate, in this case you keep saying
10 540kg.

COLONEL JACOB: Looking at maybe a tonne of a precursor chemical.

ADV SELLO SC: A tonne?

COLONEL JACOB: Yes.

ADV SELLO SC: Okay. And then the February 2020 seizure, what was that?

COLONEL JACOB: That was the CHC Depot, that was 547 kilograms of Mandrax.

ADV SELLO SC: Of Mandrax?

20 **COLONEL JACOB:** Yes.

ADV SELLO SC: Okay. Do you know where these drugs are? Or at the time you were confronted with the 541, did you know where those drugs were?

COLONEL JACOB: Yes.

ADV SELLO SC: Did you know they were still at those

respective police stations?

COLONEL JACOB: That is correct.

ADV SELLO SC: Okay. And it is on that basis that you say, you then concluded, because the one was already holding a tonne of chemicals and the other was holding 547 kilograms of Mandrax, you concluded that they are not a viable option?

COLONEL JACOB: Yes.

ADV SELLO SC: Okay. I would like you to go to Exhibit 2.

10 I think, yes, Exhibit 2. No, Exhibit File 2. That is the word I am looking for. And to go to CJC242. CJC242, Chair. Page 544. Have you located it?

COLONEL JACOB: Yes.

ADV SELLO SC: Do you know what that document is?

COLONEL JACOB: I can see the heading, it looks like major Cocaine and Heroin seizures.

ADV SELLO SC: Yes, and this is for from the period 2020 to date, and whatever date is, but we can determine that. Do you know that document?

20 **COLONEL JACOB**: I have not seen it per se. I have not seen this specific document.

ADV SELLO SC: So you would not know who the author is ...[intervenes].

COLONEL JACOB: Just one second, Commissioner. It may be something that I – ja, but the front page does not

look familiar, but this could be a presentation. Yes, it is something that I have prepared, Commissioner.

ADV SELLO SC: You prepared this document?

COLONEL JACOB: Yes.

ADV SELLO SC: Okay. Now ...[intervenes].

COLONEL JACOB: No, sorry, I prepared some of it. I see it is a mixture, Commissioner, I do not want to mislead you. There is some other slides that I am not familiar with, but the photos in the front and the Durban Harbour and all of
10 that, I compiled a similar presentation.

ADV SELLO SC: No, I am talking about this one specifically. You contributed to this particular document?

COLONEL JACOB: I cannot recall contributing to it.

ADV SELLO SC: I will confirm that your seizure is in this document as one of the major Heroin and Cocaine seizures in that period. So it is dealt with in here. That would have been from your contribution, right?

COLONEL JACOB: Remember, Commissioner, these stats are released once we do a seizure or any success. It is out
20 there in our space, so I cannot say I was hands-on ...[intervenes].

ADV SELLO SC: I can live with that.

COLONEL JACOB: Yes.

ADV SELLO SC: Okay. Now, you remember I said this, you see from the title.

COLONEL JACOB: Yes.

ADV SELLO SC: It is major Heroin and Cocaine seizures from 2020 to date. I have determined that it probably is from March 2020, and the basis for that and up to the 14th of October 2025. That is my estimate of the period.

COLONEL JACOB: Okay.

ADV SELLO SC: And the basis for that you will find at page 570, which is a table of all these seizures over the relevant period.

10 **COLONEL JACOB**: Yes, I see.

ADV SELLO SC: And I have determined that the last entry at 572 is dated 4 October 2025. Do you see that?

COLONEL JACOB: Yes.

ADV SELLO SC: At page 572.

COLONEL JACOB: Yes, I see that.

ADV SELLO SC: And so you do not have any challenge with my interpretation of what is stated in this document that is for a period from March 2020 to October 2025.

COLONEL JACOB: Yes.

20 **ADV SELLO SC**: Okay. All right. Now, let us go to page 570. Perhaps before we go to 570, the logical place to start would be page 514 of that document.

COLONEL JACOB: Got it.

ADV SELLO SC: Okay. Now, that is your seizure at 514.

COLONEL JACOB: That is correct.

ADV SELLO SC: Okay. So, we know that it happened on the 21st of June, 22nd June 2021.

COLONEL JACOB: Correct.

ADV SELLO SC: Now, then let us go to 570, which is the table of all these seizures. It is easier to work off that table. If you are there, I take it when this document tells me that it is about major Heroin and Cocaine seizures from a particular date from the DPCI KwaZulu-Natal Serious Organised Crime Unit, that is your office. That is where you
10 are based, right?

COLONEL JACOB: Yes.

ADV SELLO SC: And now you are a senior member within that outfit.

COLONEL JACOB: Yes.

ADV SELLO SC: Yes. So, your office tells us then at 570 that between March 2020 up until Item number 6, those are the seizures that had been made in the Durban area.

COLONEL JACOB: Yes, that is correct.

ADV SELLO SC: Okay. And then I do a very rudimentary
20 arithmetic exercise and I say what this document tells me is that from 2020, what was retained in the various police stations regarding these major seizures, my calculation is a total of plus minus 61 kilograms in all police stations. I must say I exclude the 18 300 Heroin capsules because I have no idea what they potentially were. And item 2, and I

also exclude part of item 4, which is 220 000 Heroin capsules. You can give them any weight you want, but I dare say we do not even reach 100 kilograms by the time you have your seizure at item 6. Do you see that?

COLONEL JACOB: Yes.

ADV SELLO SC: And this I am informed of by your office.

COLONEL JACOB: Yes.

ADV SELLO SC: Of which you are a part.

COLONEL JACOB: Yes.

10 **ADV SELLO SC**: So, it cannot be that there were storage problems. That is first. And secondly, please in this document find for me your seizures of February 2020, which you say is the 547 kilograms of Mandrax and your September 2020 reference there, which you said was a tonne, I think of some.

COLONEL JACOB: Yes.

ADV SELLO SC: Please find it for me in this presentation.

COLONEL JACOB: Yes, okay. Commissioner, it is serial number 4 on page 570.

20 **ADV SELLO SC**: Yes?

COLONEL JACOB: So, we have got, this is misleading, right? Because it says Heroin plus Heroin capsules. I can confirm it was Heroin, Heroin capsules, Mandrax, Mandrax precursors. There is a whole lot more. This is incomplete, Commissioner.

ADV SELLO SC: No, it cannot be. So, now you are telling us that an entire formal presentation by the DPCI is misleading.

COLONEL JACOB: I am saying that.

ADV SELLO SC: And on what do you, please give us the facts to show that this is misleading and you have the right information.

COLONEL JACOB: This looks like it may have been compiled by a colleague at my office without consultation. I
10 can say categorically that this is incorrect. And I will also point out another incorrect statement by yourself, Commissioner. I will go through the evidence ...[intervenes].

ADV SELLO SC: No, I am not a Commissioner. You are evading me, sir.

COLONEL JACOB: The serial number 7, serial number 7, Maydon Wharf , 999 kilograms. That is the same 999, I think, that you had mistaken for the CHC Depot. There is no 999 that was seized at CHC. So, as the Commander of
20 the unit, I am familiar with my cases. So, I thought I would point that out.

ADV SELLO SC: No, it is Maydon Wharf , that 999.

COLONEL JACOB: You said it was CHC Depot.

ADV SELLO SC: I said it was CHC Depot, but we know it was registered at Maydon Wharf. We put it up there.

COLONEL JACOB: But it was not at the CHC Depot, Commissioner.

ADV SELLO SC: And I did accept I may be wrong, but this document does not say anything about depot.

COLONEL JACOB: No, I am just pointing out of your incorrect statement.

ADV SELLO SC: For what it is worth. It is about tea time now. If you maintain this document is incorrect, please can you give us ...[intervenes].

10 **COLONEL JACOB**: I am just saying point 4, Commissioner. I am saying point 4 is incorrect.

ADV SELLO SC: Okay. So, you confine yourself to point 4.

COLONEL JACOB: Yes.

ADV SELLO SC: Then let us find the September 2020 seizure. Being a tonne, that would be a major one.

COLONEL JACOB: Yes, that is the same one I am speaking of ...[intervenes].

ADV SELLO SC: I would expect it to be ...[intervenes].

20 **COLONEL JACOB**: Point 4.

ADV SELLO SC: Okay, then let us find the other one. The 547 kilograms Mandrax, February 2020. I was struggling to find both. And you cannot go beyond item 6, because item 6 is your seizure.

COLONEL JACOB: Yes. I do not see the 547.

ADV SELLO SC: That is my challenge as well.

COLONEL JACOB: Yes.

ADV SELLO SC: So, how do the Commissioners accept that, in fact, you could not get storage for the 541 kilograms of Cocaine because of a supposed 547 kilogram Mandrax seizure which had taken up storage capacity somewhere? How do you persuade them of that? If your own office document does not support that?

COLONEL JACOB: Once again, Commissioner, I am
10 saying to you that I bear no knowledge of this document. It is evident that somebody, I have got it on my memory stick here as well. I have done a presentation for SANEB that was presented in Cape Town at some conference. It is somewhat similar, but I see it is chopped and changed.

ADV SELLO SC: Okay.

COLONEL JACOB: I started off with this intro of the picture of Durban Harbour and giving an overview. But looking at this, the pictures, the writing, the grammar, I can suspect, I think I know where this came from. This was not
20 sanctioned by my office. This is not an official document that is recognised by myself as a Unit Commander.

ADV SELLO SC: All right. Just to be sure, as I said, we are approaching tea, if we are not at tea already. Perhaps it might be an opportune moment. You say you have it, I think, on a memory stick.

COLONEL JACOB: Yes.

ADV SELLO SC: We will take this time during tea to see if we can locate your document that you consider to be more correct and introduce into the record. Would that assist you?

COLONEL JACOB: I do not know what you are looking to prove, Commissioner, so I am not sure.

ADV SELLO SC: I am looking to prove that there was capacity in and around Durban for 541kg Heroin. You did
10 not have to go to Port Shepstone. That is what I am trying to prove.

COLONEL JACOB: I am not disputing, Commissioner, that they would have been ...[intervenes].

ADV SELLO SC: Okay. So you did not talk to Brigadier Nyuswa to find alternative storage capacity because you had exhausted all avenues and there was no storage space in Durban. That is not the case. There was storage in and around Durban. You chose to go elsewhere, to Port Shepstone in this case, on the advice of Brigadier Nyuswa.
20 Is that a fair summary?

COLONEL JACOB: It is not a fair summary to say I chose with regards to Port Shepstone. It is a fair summary to say that I told or informed Brigadier Nyuswa that I exhausted all avenues.

ADV SELLO SC: Okay. So you chose not to store this

seizure anywhere in and around Durban. You chose that one.

COLONEL JACOB: I did not choose to do so. If Brigadier Nyuswa had made a call to some senior ...[intervenes].

ADV SELLO SC: No, no, no. Mine is slightly different. You chose that this seizure will not be stored in and around Durban.

COLONEL JACOB: No, I did not.

ADV SELLO SC: You must have.

10 **COLONEL JACOB**: No, I did not.

ADV SELLO SC: Chair, is this an appropriate time?

CHAIRPERSON: Let us adjourn and resume at 25 to 12.

ADV SELLO SC: Thank you, Chair.

INQUIRY ADJOURNS

INQUIRY RESUMES

CHAIRPERSON: Ms Sello.

ADV SELLO SC: Thank you, Chair. Before we move from this document, we had flighted CJC242, that presentation. I think it is necessary to place on record. You will see on the
20 face of that document it is got marking S2, ANNEXURE S2. That document was provided to the Commission by General Senona. It is ANNEXURE S2 to General Senona's January statement, for the record. Colonel, we discuss that, that this document that you take issue with was provided to the Commission by your General, General Senona?

COLONEL JACOB: Yes, Commissioner.

ADV SELLO SC: Where you and I have spent the tea break trying to determine the extent of inaccuracies that you claim are contained in this document, and that you have another presentation. We have had sight of that presentation, we have considered it, and the exercise we are undertaking now is to see the extent to which the two documents conflict.

Most importantly, to see whether the presentation
10 that the Colonel has provided will alter the position as reflected in the table from page 570, to demonstrate from his presentation that there was no space. My understanding of that presentation, and Colonel, I will need your guidance here, is that because of its nature and its purpose, when the Colonel compiled it, it will not help us cross that line.

Because his presentation, as I understand it, Colonel, listen to me properly and correct me when I am wrong, was to a particular audience in Cape Town, and
20 highlighted only container seizures. So, it is a very limited presentation, with the result that this Umhlali 1 tonne seizure of the chemicals is not in that presentation. And he says, he insists that it was made, but it is not in this table. So, one thing we have been able to determine is, to the table as it stands, the least we can do is to add a tonne of

that ingredient. That is how far we have gotten on that exercise.

CHAIRPERSON: Ms Sello, I just wanted to say that unless the Colonel comes up with something else, whether now or at any other stage, I think the point has been made that, from the fact that the 999 kg could be accommodated, it can never be suggested that there was no space. In June, when they got theirs.

ADV SELLO SC: Indeed, Chair. I agree. I just thought, in
10 all fairness to him, because he objected to the accuracy of the document, and that is the point at which we are adjourned.

CHAIRPERSON: But as you just explained now, even that goes to the very same question.

ADV SELLO SC: In fact, even his presentation does not overturn the status of capacity as reflected in Captain Moolman's statement regarding capacity at Maydon Wharf, it does not, it would not.

CHAIRPERSON: Yes, yes.

20 **ADV SELLO SC:** Thank you, Chair.

CHAIRPERSON: Thank you. Thank you.

ADV SELLO SC: Colonel, does that cover the situation? As the Chair says, whatever is available, whatever you have that you can avail to the Commission, you may do so. We are already conducting the exercise I described. We will

see where it lands us before you finish your testimony. But I think the Chair's invitation is broader. If after you leave, you have other documents that may help address the question of whether or not there was storage capacity in and around Durban, you will file, I suggest, through the Chair, a supplementary statement and make available those documents? Would that be a fair point to leave it? Chair, your mic.

CHAIRPERSON: Oh, it was on throughout and I switched it
10 off just before speaking. I wanted to say, Colonel, in response to the invitation maybe to file something later, that sitting here, I have my doubts as to how you would ever be able to answer the question whether as of June 2021, there was in fact space. Hence, 999 kg could be stored at Maydon Wharf. We are not even talking about the other available, or rather, the other police stations. We are not even talking about those. I am saying yes, Ms Sello made the invitation, but I am thinking you should think carefully before taking up that offer. Thank you.

20 **COLONEL JACOB:** Thank you, Chair.

CHAIRPERSON: Thank you.

COLONEL JACOB: No, I hear what you are saying, Chair. The only issue I had with the presentation that was before the Commission, it was not completely accurate. I get that. I get that.

CHAIRPERSON: I guess my point is more that does that take, does any of that take us anywhere?

COLONEL JACOB: No, and I get your point, Chair. There is no way I am going to show you that Maydon Wharf was not in a position to accept a tonne when it did.

CHAIRPERSON: Thank you.

COLONEL JACOB: So, I concede to that.

CHAIRPERSON: Thank you. Thank you.

ADV SELLO SC: Thank you, Chair.

10 **ADV KHUMALO SC:** Can I steal this moment and just get a yes or no answer from you without elaboration?

COLONEL JACOB: Yes.

ADV KHUMALO SC: Sitting here today, are you prepared to accept that your assumption that there was no storage space for these 551 kilograms in June 2020 was wrong?

COLONEL JACOB: Yes.

ADV KHUMALO SC: Sitting here today, are you prepared to accept that your assumption was wrong and it was not based on fact? Yes or no? If you say yes, I will leave it
20 there. If you say no, I will leave it there. I will not ask you to elaborate.

COLONEL JACOB: Yes. You made my decision easier, Commissioner. Yes, I concede.

ADV KHUMALO SC: Just in terms of us moving forward.

COLONEL JACOB: Yes, Commissioner. I do agree with

what you are saying. I made an assumption based on my past experience, not based on fact.

ADV SELLO SC: Thank you, Commissioner Khumalo. Colonel, we are somewhere between CHC Depot and Isipingo but let us see where we land. Captain Duma testified and I think in one of - yes, Commissioner, Baloyi.

ADV BALOYI SC: We have a lot of open files here that get lost. Can we close any one of them and put it away for now?

10 **ADV SELLO SC:** I may say yes and only have you reach out for it again.

ADV BALOYI SC: The presentation file, can we close that for now?

ADV SELLO SC: Let me see. Okay, we can always close that if we must, yes. Thank you. Thank you, Commissioner. Colonel, I was saying Captain Duma testified and I think in one of your many statements that you made during the enquiry and subsequent investigation following the theft, you indicated that much as you had
20 received a call from Captain Duma on the 22nd of June 2021, you actually had had a conversation prior thereto, but it was not as specific as the engagement you had on the 22nd. So, he had warned you or at least shared with you, intelligence that there may be a shipment coming in with this kind of a cargo. You confirm that?

COLONEL JACOB: I do confirm.

ADV SELLO SC: So, by the time he called you on the 22nd of June 2021, you had been expecting confirmation, if there was one, to be heard of that shipment and that would trigger the need for you to go investigate that container. Correct?

COLONEL JACOB: Correct.

ADV SELLO SC: I would expect, unless I am expecting too much, that when you got the call on the 22nd , because you
10 had been anticipating it, you would at least have prepared some basics, which is evidence bags, gloves and the like, in anticipation of that call when it eventually comes so that you can act immediately. Is that a fair expectation on my part?

COLONEL JACOB: Commissioner, if I may put it this way, we are always supposed to have those on standby. It is not just in preparation for a specific operation. We are always supposed to have that on standby. But I must add that this information was not time-specific, not container-specific. It
20 was just information hanging in the air. There is going to be a container coming with something. How much, we do not know. Which container, we do not know. So, yes, that is it.

ADV SELLO SC: And understanding that you live and therefore at home, and I take it that you would not have

spare equipment at home, but you might, but at least we know that on the day you called Brigadier Nyuswa – no, you called Warrant Officer Mpangase and asked him to inform Brigadier Nyuswa that you are booking back in. Do you recall?

COLONEL JACOB: Yes, Commissioner.

ADV SELLO SC: Why did you not do it yourself?

COLONEL JACOB: I cannot give – you know, maybe I thought the Brigadier was busy. I knew Mpangase was
10 going to speak to him personally or brief him about the situation. And I have never been turned down if ever requesting to work or to book on duty. So, I was a bit complacent in that regard.

ADV SELLO SC: And you knew that they would meet and talk, because they had the office?

COLONEL JACOB: When he said he is going to brief the Brigadier, I understood that he was going to meet with him. I subsequently heard that it was a telephone call.

ADV SELLO SC: So, at the time you assumed they were
20 going to meet?

COLONEL JACOB: I assumed so.

ADV SELLO SC: Was it fair to assume at the office? Or would they meet at home or a coffee shop?

COLONEL JACOB: No, at the office.

ADV SELLO SC: At the office?

COLONEL JACOB: Yes.

ADV SELLO SC: So why did you not ask then? Because by then you had received Captain Duma's call. Why did you not ask Warrant Officer Mpangase to bring evidence bags, whatever he may lay his hands on?

COLONEL JACOB: Commissioner, that is a given. Somebody with Mpangase's experience, there would have not been a need for me to inform him of such. Any SANEB member knows, or any detective knows, you are going out
10 to a scene, you ought to be prepared for that scene. So, I did not see it fit to tell him, because he was a SANEB member. That is a core function of his.

ADV SELLO SC: Yes, and when you met, you did not ask him, where are the evidence bags?

COLONEL JACOB: I did not ask him.

ADV SELLO SC: Now, you said an officer of his level ought to know. You expect him to know. But this is the same officer you advised to enter the exhibits in the Port Shepstone SAP13. Why does he require such a basic
20 reminder?

COLONEL JACOB: I think upon seeing that he did not even come with exhibit bags, then I thought I would rather not leave anything unsaid. Hence my guidance to him thereafter.

ADV SELLO SC: So, it was his failure the previous day to

bring evidence bags that led you to the conclusion that perhaps you placed too much trust in him about his level of knowledge and experience in these matters. Is that what you are saying?

COLONEL JACOB: Not completely, but I am saying I tried to make sure that despite our errors initially, that going forward there was no other hiccups. Hence my calls to him.

ADV SELLO SC: Now, when you opened the container, you realised the actual quantity, at least at face value, you
10 had a number of bags, big bags. And that quantity in large part contributed to your decision to move to Isipingo. Correct?

COLONEL JACOB: That is correct.

ADV SELLO SC: Why did you not enquire from Maydon Wharf and ask them to give you, as a matter of urgency, evidence bags, at least very large evidence bags to bag these very bags, before you even opened them up?

COLONEL JACOB: Okay, once again, Commissioner, it was in the Isipingo policing area. Maydon Wharf is a bit of
20 a further distance away from Isipingo area. I did not ask. My initial thinking was when we get to Isipingo Station, we will bag it there, because Isipingo ought to have bags. It turns out that they did not.

ADV SELLO SC: So, you got to Isipingo then and you requested for the bags?

COLONEL JACOB: That is correct.

ADV SELLO SC: And you maintain that the Warrant Officer Perumal, was the correct name? Please help me.

COLONEL JACOB: Yes.

ADV SELLO SC: Warrant Officer Perumal.

COLONEL JACOB: Yes.

ADV SELLO SC: You insist that you requested storage space and he denied you storage space.

COLONEL JACOB: Yes, I do.

10 **ADV SELLO SC:** You are aware, we do not have to go there, that he is filed two statements where he categorically denies that you ever had any conversation about storage space and that all you ever wanted was the SAP13 book, or whatever it is called, to make the entry regarding the seizure?

COLONEL JACOB: I dispute that, Commissioner.

ADV SELLO SC: So, what the Commissioners have are your version and his version and they will see which is more believable. That is all they can go by.

20 **COLONEL JACOB:** May I just add a comment, Commissioner?

ADV SELLO SC: Okay.

COLONEL JACOB: Once again, I will talk to Warrant Officer Perumal's integrity. Previously, like I did mention, if he was somebody that was credible, somebody who had

some integrity and was interested in speaking the truth, when he was approached by the investigation team and asked about my engagements with him, one would have expected him to have at least mentioned the previous incident with regards to the Mandrax that was stored there.

Even if he said at that stage, it was because Mandrax was making us sick, that is why we could not store it for a lengthy period, that would have been fine with me. But the fact that he remained silent on that and now a
10 version has been portrayed to the Commission as though Isipingo is a station that would gladly accept any exhibits, more especially drugs, I take issue with that.

And also just to add on that, even Warrant Officer Sander confirms in his affidavit, aside from the hazardous nature of the drugs, because I think that is where the Commission is going to look at, but besides that, in Warrant Officer Sander's statement, he does make mention that Warrant Officer Perumal indicated to him that he did not have enough members to guard these exhibits. So, I just
20 thought I would place that before the Commissioners.

ADV BALOYI SC: But that is not the reason why your consignment was not stored in Isipingo, so it is irrelevant, the question of guarding them. Because according to you, he refused, he simply refused to take them because he said, I do not have space. That is your version.

COLONEL JACOB: Yes.

ADV SELLO SC: Would you like to make a comment?

COLONEL JACOB: No, that is fine, Commissioners.

ADV SELLO SC: Okay, and we know that, and you did testify, that you did not call LCRC to the 'CHC Depot scene', nor the Isipingo scene.

COLONEL JACOB: Yes, that is correct, Commissioner.

ADV SELLO SC: And you do know that in terms of the document called Protocol on the Search, Seizure Handling
10 Processes and Disposition of Illicit Drugs, that you must call them to such a scene.

COLONEL JACOB: Yes, I am aware, Commissioner.

ADV SELLO SC: And you chose nonetheless not to call them?

COLONEL JACOB: Yes, I did, Commissioner.

ADV SELLO SC: And I think the reason you gave for that decision was that they will take fingerprints and all you ever get are pictures.

COLONEL JACOB: That is correct.

20 **ADV SELLO SC:** Of the scene.

COLONEL JACOB: Yes.

ADV SELLO SC: Is that something that happens with you only or generally is an issue with LCRC that you do not get the fingerprints back? Results, rather.

COLONEL JACOB: Yes, Commissioner. Like I indicated

previously, out of every single case of this nature that we have had, we have received nothing, as in zero, in terms of fingerprints and DNA.

ADV SELLO SC: Yes.

COLONEL JACOB: Yes.

ADV SELLO SC: Now ...[intervenes]

ADV BALOYI SC: Sorry, when you said this yesterday, actually, I wanted to ask you whether is the suggestion then, or should the suggestion not, from how you have dealt
10 with, how you explain your failure to call the LCRC, that the suggestion is there is no point in requiring that the LCRC should be present when you do seizures of this nature, and therefore that requirement in the procedure manual or whatever, in the protocol, should be done away with? Because then it will avoid you having to justify why you did not call them and it will provide protection to every police officer that they can say, I actually am not required to do that.

COLONEL JACOB: Yes, I think, Commissioner, it will
20 depend on scene to scene.

ADV BALOYI SC: Yes.

COLONEL JACOB: From scene to scene. I cannot make a blanket statement that we do not require LCRC. Once again, I will say where you have got hidden compartments, hidden panels, secret compartments on the floor, wherever

a suspect would have handled some sort of surface that you can uplift prints or DNA, that can now be objectively linked to that drug and the suspect. So yes, in those cases, I would say although we have not had luck, there is that possibility.

ADV BALOYI SC: Well, somebody handled these bags and the packets that are inside, the bricks that are inside. So, what you have just said undermines your explanation or your justification why we should make nothing of the fact
10 that you did not call the LCRCs because you thought, well, anyway, we never get results.

COLONEL JACOB: Yes.

ADV BALOYI SC: It can be. You either suggest with your justification as suggesting there is no point in having this requirement for these kinds of seizures where we are dealing with, I think you call them rip-on-rip-off.

COLONEL JACOB: Yes.

ADV BALOYI SC: There is no point to having it. That is a logic, it seems to me, the logic from how you have thought
20 about it, that the logical thing must be, well, then there is no point in having this requirement. We might as well do away with it. Or, well, there is a point because there is always a chance that some fingerprints may be picked up that are very useful because somebody has handled those goods, and therefore it is a big deal when you do what you

did, which is to contaminate those packages or to prevent the LCRC, deny them a chance completely, in fact, to uplift any material that may ultimately or possibly be linked eventually. You understand what I am raising with you?

COLONEL JACOB: Yes, I understand, Commissioner. And my simple answer is this. Yes, in theory, one would expect fingerprints, DNA on the packaging, the tape that surrounds the handle of the bags. There is also some tape that surrounds the canvas bag itself. Then you have got plastic
10 wrappings on a kilo of brick as well. One would expect those to have prints or DNA. Yes, very well. But we have received nothing. In theory, yes, it is good. So, I am not sure whether they are handling it in a certain manner. That is the reason we are not getting anything. But that is practically my experience.

ADV BALOYI SC: Yes, but what I am putting to you is it can never be a satisfactory explanation, your justification, for them not being at the scene. It can be a satisfactory explanation that, well, we never get anything, any way out
20 of them. It is not a satisfactory explanation because there is always a chance.

COLONEL JACOB: Yes.

ADV BALOYI SC: Even if it is a small chance, there is always a chance that they may pick up something. You accept that?

COLONEL JACOB: I do accept it.

ADV BALOYI SC: Thank you.

ADV SELLO SC: Thank you, Commissioner. When you say you only get results from DNA and fingerprints, what you mean is that you do not get results regarding a positive hit. They do not send you back the fingerprints they took. There is nothing you can do with them. The report they can only send is that we uplifted X number of prints or a different type of DNA. We tested it, and this is the result
10 that we got. We can match this fingerprint to something that is already in the database. Is that the kind of report you would receive, or you expect? Or are you expecting them to give you the actual copies of the prints they uplifted?

COLONEL JACOB: Whichever would have sufficed, Commissioner. Meaning, yes, sometimes you get prints being uplifted or DNA that you cannot really match to a suspect. Remember, it is only if your suspect has been charged before that his prints are on the system, even DNA.
20 The same applies to that. So, I am saying, never mind even linking those prints to somebody who is on the system or linking DNA to somebody who is on the system. We have received nothing, meaning they were not able to uplift any DNA or any fingerprints upon their processing of these crime scenes.

ADV SELLO SC: Now, you do not know whether they would have been able to uplift any in this instance?

COLONEL JACOB: No, I do not know, Commissioner.

ADV SELLO SC: You do know that when there was that 999 kg seizure, LCRC attended to the scene?

COLONEL JACOB: Yes.

ADV SELLO SC: And discharged his duty to uplift any DNA and fingerprints?

COLONEL JACOB: Yes, I am aware, Commissioner.

10 **ADV SELLO SC:** So, then we must accept that that was an exercise in futility because whoever was responsible for that scene will not be hearing further from LCRC.

COLONEL JACOB: I do not want to be as bold as to say it is an exercise in futility. There may be that one in a hundred cases that we do get.

ADV SELLO SC: How do you land on a hundred? Why not one in three?

COLONEL JACOB: I am just thumb-sucking, Commissioner.

20 **ADV SELLO SC:** So just a thumb-suck on your part. Is it possible that – and remember that presentation we dealt with by – provided to the Commission by General Senona on seizures from these seagoing vessels that the Port of Santos, Brazil, appears to be one of the key sources of these drugs. Do you accept that?

COLONEL JACOB: That is correct.

ADV SELLO SC: Do you accept that once that container hits the harbour in Johannesburg – in Durban, I wish we had a harbour. That container is sealed and it is assumed that it was sealed at point of origin.

COLONEL JACOB: That is correct.

ADV SELLO SC: You would not have a difficulty in accepting that if LCRC uplifts any prints, they will not be able to match to anyone in our database because these are
10 people out in Brazil.

COLONEL JACOB: That is correct.

ADV SELLO SC: You do accept, however, that seeing as the number of seizures we have been able to execute precisely out of that port, the more of those fingerprints and DNA we uplift and share with Brazil, the more we empower them that end to try and locate who may consistently be responsible for these shipments. Do you accept that?

COLONEL JACOB: I agree with you, 100 percent.

ADV SELLO SC: And you consider that absolutely
20 unnecessary and therefore will not call LCRC. And I ask this question on the assumption that you, as DPCI, are part of a global law enforcement movement against drug trafficking. You play a significant role there.

COLONEL JACOB: Yes.

ADV SELLO SC: You share and receive intelligence and

other matters.

COLONEL JACOB: Yes.

ADV SELLO SC: But somehow you choose to undermine such a key one simply because you, Colonel, Jacob, do not get back results from LCRC. Is that a fair take on my part?

COLONEL JACOB: If I may explain, Commissioner, what we do when we make a seizure of this nature. Obviously, we do a report that then goes to Interpol. Then there is a purple notice that is issued, meaning we send them the
10 method of concealment, the logo on the drugs, everything regarding the modus operandi, the description. So, with regards to trying to identify the suspects on the other side and try to profile them, we are doing our bit.

Investigations are ongoing in that regard. If I may even elaborate on a recent one, we found a tracking device on a brick of Cocaine where we made a seizure in a reefer, one of those freezer containers. So, there we found a SIM card, obviously, that a tracking device works with. So, we sent it to our SANEB head office. We have shared that
20 information with Interpol, with international law enforcement agencies.

So that is about as far as it goes. What we do have at our disposal, we do communicate with them. But that being said, I have never shared DNA or fingerprints, but I will not say it is an exercise in futility. There may be that

one odd case that comes up. So, I can say going forward, I will not neglect them in future, but I think my past experience played a major role in me not calling them out.

ADV KHUMALO SC: Can I just ask a question or maybe make a statement to you? If the requirements in the national prescripts or National Instruction is that LCRC must be there and it is a requirement, then it is not your call to make based on previous disappointment that because they disappointed me in the past, I am going to decide not
10 to call them to a major seizure of drugs. You simply do not have that power.

COLONEL JACOB: Yes.

ADV KHUMALO SC: If the prescripts say LCRC must be at the scene and they must take photos and fingerprints, whether they mess it up or not, you do not have the power to say, I will not call them.

COLONEL JACOB: Yes, Commissioner.

ADV SELLO SC: Thank you, Commissioner.

COLONEL JACOB: Commissioner, may I add something?
20 Hopefully I am not going to get in trouble. Of those 10 cases that General Flynn did analyse, it was mine together with two others that LCRC were not called out. And I believe there was justification from the investigating officers. But that being said, I hear what you say. We cannot have a blatant disregard for National Instructions.

They are there for a reason.

ADV KHUMALO SC: Because it is binding on you.

COLONEL JACOB: Yes, yes. So that discretionary or the discretion that we exercise at these scenes, I think we no longer can call it any discretion that we are exercising. We should not and we will not be doing that. But I just try to let the Commission know. There are those times that the IO makes those calls. Sometimes it is for a valid reason, but it lends itself to abuse where maybe members or corrupt
10 members have underhanded or ulterior motives and may not call out LCRC for improper reasons.

ADV KHUMALO SC: Especially when things go wrong, like in this case. Because we then go back and we say, did you follow?

COLONEL JACOB: Yes.

ADV KHUMALO SC: The National Instruction to the letter, and quite clearly you did not.

COLONEL JACOB: Yes.

ADV BALOYI SC: Let me maybe also put this to you.
20 Maybe let me do that. That in this case, there was no justification for not calling the LCRC.

COLONEL JACOB: At the time I thought so, but now I realise there was no justification, Commissioner.

ADV BALOYI SC: Thank you.

ADV SELLO SC: Thank you, Commissioners. At least you

appreciate that they take photographs, official photographs.

COLONEL JACOB: Yes, that is correct, Commissioner.

ADV SELLO SC: And they prepare a report based on those photographs taken.

COLONEL JACOB: That is correct, Commissioner.

ADV SELLO SC: Do you understand the value of those photographs? Whether in subsequent criminal cases or even a case brought civilly by the owner of the container claiming damages. Do you appreciate the value of the

10 LCRC report?

COLONEL JACOB: Yes, I do, Commissioner.

ADV SELLO SC: And you appreciate it at the time, but because they do not give you fingerprints, once again you decide that you are not going to waste your time with them.

COLONEL JACOB: Yes, and I will also add a comment to that, Commissioner. We have had cases where our members have taken, on these seizures as well, taken photos, proper photos, photos of bagging, sealing, all of that, and compiled an album, even of those 10 cases that

20 General Flynn looked at. There were two others that did the same. Once again, I am not pointing fingers, but it was something that was generally accepted as well.

ADV SELLO SC: By who? Accepted by who? Noncompliance with prescripts is accepted by who? You cannot, because now the Commissioners are going to be

interested, who next to have a conversation with?

COLONEL JACOB: In this case, I think my point is that it was not something that was picked up by General Flynn as a major flaw in the handling of the crime scene.

ADV SELLO SC: General Flynn is not part of my and your conversation. It is your understanding and appreciation I am testing. I do not know why you keep referencing General Flynn. You are a senior member within DPCI, and I am entitled to test your appreciation and knowledge of
10 applicable prescripts and compliance therewith. So, I do not understand why you keep referring me back to General Flynn.

COLONEL JACOB: Yes. No, I think I would say it again, that we have been complacent. I think old habits die hard, or our experience sometimes made us a little complacent. But like I say, it will not happen again. We will call these relevant role players out to do their job.

ADV SELLO SC: Okay.

ADV BALOYI SC: Sorry, on this issue, it seems to me,
20 Colonel, that the absence of the LCRC and therefore the absence of the report that they would have prepared, which would have told us what was out of the container immediately at the depot, their absence there, in fact, has the consequence that we have your word, and when I say your word, I mean the other police officers as well, only

their words about what was found, in fact, there. Because we do not have photographs, for example, that show – in fact, had the LCRC been there from other evidence, you would have done the count there, you would have done the sealing there, and there would have been photographs of that. So as we sit here, we have only your word and the other officers' as to what, in fact, was found.

COLONEL JACOB: Yes.

ADV BALOYI SC: Is that right?

10 **COLONEL JACOB**: You are correct, Commissioner.

ADV BALOYI SC: Okay, so, if the depot manager were to say, or the security guard were to say, in fact, there was much more than this, it would be your word against theirs. We have no record, proper record, official record, of what you, in fact, found when you were at the depot.

COLONEL JACOB: I will accept that, Commissioners.

ADV BALOYI SC: Thank you.

ADV SELLO SC: Thank you, Commissioner. In fact, I think you state at CJC243.13 at page 605. We do not have
20 to go there. I think we touched on this. I will just read your paragraph 3 of that statement, and that is your statement of the 23rd of June 2022. In that paragraph, you state as follows:

“Photos of the scene were taken by
myself and Captain KG Sibiya on the day

of the seizure. I am unsure if Warrant Officer Mpangase had also taken photos or if Captain Duma had done so as well.”

So, you left this entire photographing of the scene exercise to chance, depending on who wants to take photos.

COLONEL JACOB: No, Commissioner. It was myself and Captain KG Sibiya.

ADV SELLO SC: How many photos did between the two of you take?

10 **COLONEL JACOB:** I cannot say, but we took photos of every step of the way from the opening of the container, the cutting of the lock, the bags that were there. Upon reaching Isipingo, laying it out in rows, the only photos that were absent were obviously sealing them in exhibit bags. But we did take quite a few photos. In fact, what was encompassed in the enquiry was not a holistic reflection. At no stage, if somebody came and asked me, do you have more photos, I would have furnished them with those photos. So, you know, those photos do not do justice to what we did on the
20 scene. Those photos in the enquiry.

ADV SELLO SC: Why would they think to ask you?

COLONEL JACOB: I am just saying if they saw that as a shortfall, you know, that maybe there were not enough photos, we could not see the count or anything of that nature, then I am sure we could have provided with more

photos. I never saw it as an issue.

ADV SELLO SC: Now, your investigation diary, the one you introduced into the record yesterday, I did not pick up from that diary that these photos were formally submitted as part of that investigation diary. Are they recorded in there?

COLONEL JACOB: What annexure is that?

ADV SELLO SC: Oh, you want us to go there?

COLONEL JACOB: Yes, because I know photos were filed. I am just trying to see if they make reference to it in the
10 investigation diary.

ADV SELLO SC: Yes, and that is exactly the exercise I did, to see, because you took us through the mail of how to read that investigation diary, which is step-by-step what transpired, right? And I said what I could not find was an entry regarding these photos.

COLONEL JACOB: It is possible. I am not going to dispute that and make us go through it. If you say it is not there, Commissioner, I will accept it.

ADV SELLO SC: I am not saying it is not there
20 definitively, but I am saying I could not see a reference. But then let us assume that it is indeed not there. It was not made. Is that a problem?

COLONEL JACOB: It is not a major problem, Commissioner. If you look at every other such enquiry, it is not a must that you diarise. Yes, you make reference to it.

I will give you an example. See photos filed as per A7 to A15, something of that nature. But it is not that detailed. You file an affidavit together with your statements, with your photos attached to it. But I do not seem to see any such entry there.

ADV SELLO SC: I am concerned that you downplay the importance of photos of a crime scene, crimes in general. Particularly this one. I would like to invite you to go to page 303. That would be EXHIBIT File 1. If we start on
10 306, perhaps. At 306, that is CJC235. And if you are at 306, you will see it is the LCRC Durban report compiled by Warrant Officer Zungu. You see that?

COLONEL JACOB: Yes, I do.

ADV SELLO SC: In that particular case. You go over leaf. It then speaks to the photographs taken. It looks very formal. It tells the reader, photo 1, taken inside the LCRC premises, whatever gives you the address. It depicts establishing shot of the marked crime scene as was found. And it works through all those photographs, explaining what
20 the photograph depicts to photograph 28 at page 308. Correct?

COLONEL JACOB: Yes.

ADV SELLO SC: Your file, your seizure does not have the benefit of this report. All it has are random pictures taken by yourself and Captain Sibiya, which are not even entered

into the investigation diary.

COLONEL JACOB: Yes, you are correct, Commissioners.

ADV SELLO SC: Yes, now my mind tells me, and I say this quite guardedly because I may be - my mind may be dysfunctioning. It tells me that is wholly wrong unless there is a motive behind why things were done the way they were. And I say so because I want to put a proposition to you and invite you to make a comment as to why you did not call LCRC, as to why there are no formal records, as to why you
10 just took the whole lot and shuttled it off to Isipingo. And that for me is at page 298 of the same file. This is the Maydon Wharf case O04/08/2021. It relates to this. The LCRC photo album relates to the same case. And please note that this is from the July 2021 seizure, so it is after yours. Okay? Please bear that in mind.

COLONEL JACOB: What page, Commissioner?

ADV SELLO SC: 298.

COLONEL JACOB: 298.

ADV SELLO SC: Yes. And in this particular case, this is
20 by Warrant Officer Sander, who handled the seizure. It states at paragraph 3 that:

“On 26th of August 2021, I was on duty
and recovered an amount of narcotics.”

Next line:

“I requested the Provincial LCRC to

attend the scene and collect DNA from the bags. I was informed that DNA samples should not be logged on the various systems if a CAS has not been opened. I therefore registered the case of Maydon Wharf CAS O4/08/2021 for drug trafficking.”

Do you see that?

COLONEL JACOB: Yes, I see it, Commissioner.

10 **ADV SELLO SC**: I suggest to you that why you did not call LCRC was to avoid this formality that Colonel Sander confronted, because this entire seizure was never really meant to go formally into the records of the SAP, besides a cryptic SAPS13 entry at Isipingo.

COLONEL JACOB: No, I disagree with that, Commissioner. Maybe if I had to add, and this is really the reality of it, these types of cases are more of a recovery, more of a seizure. Like I said, we have had a zero percent success rate. Yes, there is always that chance, but in our
20 experience, it is more of a recovery, as long as you are getting these drugs off the street. So that is primarily what the objective of these seizures are, because we can clearly see that, and it is not something that the public wants to hear, but it is difficult to really make inroads and charge a suspect, especially on the rapport of cases. But I do take

what you say, Commissioner.

ADV SELLO SC: Thank you. Moving on then, I would like us to turn our attention to what happened at Isipingo, and in particular SAP13. Yesterday, when we dealt with your statement, you indicated that at the time that SAPS13 form or logbook was being completed, you said firstly it was by Warrant Officer Mpangase, correct?

COLONEL JACOB: Yes, that is correct.

ADV SELLO SC: And you said you did not see what he
10 included in that document. You only became aware of it subsequent to the theft.

COLONEL JACOB: To him making that entry, yes.

ADV SELLO SC: Yes, okay. You said to him making the entry. At which point did you become aware of the content of that?

COLONEL JACOB: I said when I saw it on the Commission, but it ought to have been filed in the enquiry. But obviously I did not really interrogate or analyse it that carefully.

20 **ADV SELLO SC:** No, my question was when did you become aware of that?

COLONEL JACOB: While watching the Commission.

ADV SELLO SC: Oh, from this Commission?

COLONEL JACOB: Yes.

ADV SELLO SC: Oh, you are going to hire a DPCI at this

rate, you see that? I am going to move to CJC193, and I would like to get your comment on that entry.

COLONEL JACOB: I am sorry, which file number?

ADV SELLO SC: I am not sure of my referencing.

ADV KHUMALO SC: What is the document we are looking for?

ADV SELLO SC: The Isipingo SAP13 was completed by Warrant Officer Mpangase. Something went wrong in the notetaking. But if it is not CJC193, you are aware anyway
10 of what he wrote in that SAP13?

COLONEL JACOB: Yes, Commissioner.

CHAIRPERSON: I am looking at the file we were on just now. The very first CJC there is 195, which would mean that the one you are referring to is the one just before that.

ADV SELLO SC: Actually, two before that.

CHAIRPERSON: The difficulty is that this one is one. So, the one you are referring to is definitely not zero.

ADV SELLO SC: Indeed, Chair. In fact, it should be 193, but it would mean that the file starts with 195, not 193 and
20 194.

CHAIRPERSON: Do you want to perhaps skip that issue and move on to another one?

ADV SELLO SC: I will skip it while we locate it.

CHAIRPERSON: And then you can redirect us.

ADV SELLO SC: That is fine, Chair. You testified, and I

think you have in your statement, that when you had, 'exhausted all options', you informed Brigadier Nyuswa of this, and he is the one who came up with the idea that the exhibits be stored at Port Shepstone.

COLONEL JACOB: That is correct, Commissioner.

ADV SELLO SC: Did you know Port Shepstone was not a police station but an office?

COLONEL JACOB: Yes, I was aware of that.

ADV SELLO SC: Can you tell the Commissioners what you
10 made of that advice and whether you thought it would comply with applicable prescripts to permit the storage of these drugs in such a facility?

COLONEL JACOB: Commissioner, I did know that they stored drugs at Port Shepstone, and when the Brigadier did suggest Port Shepstone to me, or not suggest, tell me that the drugs should go to Port Shepstone, he also, I am not sure whether in the same breath, but did remind me, do you recall, we stored Port Shepstone exhibits there previously, meaning Port Shepstone Serious Organised Crime exhibits.
20 And I could not recall, but when he said that, I said, oh, okay, or something like yes. But I was not aware that that was a viable option at that stage. It was then put to me by the Brigadier.

ADV SELLO SC: Now, we are talking to a seasoned Colonel within the DPCI. Did you consider the suggested

storage facility to be appropriate for these purposes?

COLONEL JACOB: When he did describe that it is a vault or a strong room, to me, that was adequate. But I did not look further. I did not think anything about the security issues. I had no knowledge of them having previous attempted break-ins or anything of that nature.

ADV SELLO SC: But was the security of the seizure not of paramount importance to you?

COLONEL JACOB: Yes, it was.

10 **ADV SELLO SC**: So you must have thought of that when you are advised to store it in an office. That is not meant 24 hours. It is an office.

COLONEL JACOB: Yes.

ADV SELLO SC: So, it was paramount. It was uppermost in your mind. But you did not think of it when you now were being so advised.

COLONEL JACOB: This is an instruction coming from my Brigadier.

ADV SELLO SC: Sorry, you called it an instruction. It is
20 an instruction.

COLONEL JACOB: I followed an instruction that I deemed lawful, Commissioner.

ADV SELLO SC: What view did you hold of that instruction?

COLONEL JACOB: At that stage, I saw nothing unlawful

about that instruction, Commissioner.

ADV SELLO SC: Commissioner Khumalo.

ADV KHUMALO SC: Sorry to interrupt you. ANNEXURE, GYJ2 in the same file that has his statement. I see that.

ADV SELLO SC: The statement bundle.

ADV KHUMALO SC: Yes.

ADV SELLO SC: Yes, it is a statement bundle. It takes us to our SAP.

ADV KHUMALO SC: Yes.

10 **ADV SELLO SC:** SAP13.

ADV KHUMALO SC: Isipingo.

ADV SELLO SC: Isipingo, that is correct. I will come back to it. Thank you. I was saying, you said technically Brigadier Nyuswa was instructing you, not advising you.

COLONEL JACOB: Yes.

ADV SELLO SC: You are aware of the legal requirements for storage of exhibits of this nature. Did you appreciate that his instruction might be inconsistent with those prescripts?

20 **COLONEL JACOB:** I did not consider that, Commissioner. I was not sure whether guards were going to be posted there, whether it was an interim measure at that stage. I did not protest. I did not ask any further questions.

ADV SELLO SC: It is your seizure. Should you not be assured that wherever it is stored, it remains safe at all

times? Or you do not bother yourself with such detail?

COLONEL JACOB: No, this is my immediate command, Commissioner. One would expect him to have those considerations also in mind. So, I need not express it to him. It is a given. All of us know nobody wants drugs to get stolen. So, coming from him, he is the one that instructed me that it must go to Port Shepstone. I did not see at that time anything wrong with that location. Like I say, I knew nothing of its history. So, I complied with that
10 instruction. I then relayed that instruction to Warrant Officer Mpangase to ensure compliance.

ADV SELLO SC: Precisely because you knew nothing of the facility, was it not incumbent upon you to at least satisfy yourself that confronted with the challenge that you have, which is that you have exhausted all options in and around Durban, that whatever suggestion you get at least can assure you of the safety of these exhibits. Because otherwise, what you are saying suggests that if Brigadier Nyuswa had suggested storage at the Durban Convention
20 Centre because they have a storeroom or some hotel by the beachfront, you would have just simply accepted it. You are not a junior member of the police force, Colonel. You exercise your mind over these matters. You engage with the issues, and you have to satisfy yourself before you go back to being on leave.

COLONEL JACOB: Yes.

ADV SELLO SC: My understanding of your testimony, and I suggest that is how you are coming across to the Commissioners, that this one time you left it all to Brigadier Nyuswa.

COLONEL JACOB: Commissioner Wenny did indicate to me that, do you remember, we have kept Port Shepstone exhibits there previously. So, to me, I was satisfied. If exhibits were kept there previously, I would have expected
10 that facility to be one that complies with all of the specifications that a storage location should have. But I did not do any due diligence from my side, I must admit.

ADV SELLO SC: This was the biggest seizure you had ever been involved in. It was big, 541.

COLONEL JACOB: Correct.

ADV SELLO SC: We are not talking about a 10 kg seizure. This is huge.

COLONEL JACOB: Yes.

ADV SELLO SC: And I am concerned about the dismissive
20 attitude you appear to have towards these drugs. Firstly, the risk of losing the only evidence you have, but secondly, the fact that they will end up on the streets. Those matters do not cross your mind at all, simply because Brigadier Nyuswa said, go store them in one of our offices. Colonel, please think about that, all right? Thanks.

COLONEL JACOB: Yes, Commissioner, once again I will say, when he made that statement, do you recall, we kept exhibits from Port Shepstone there. And for me, that was good enough. The fact that it had been used before, there were no incidents. I know he is speaking of keeping it in a vault. I am not aware of any security issues. He is my senior.

Due to all of those, the fact that he had arranged a tracking team, an armed escort of tactical members to
10 escort it to Port Shepstone. In my mind, he was taking, or I assumed that he was taking the necessary precautions to safeguard those exhibits. Because now it was left in his hands. I am here at Durban I am based in Durban. He has now made this decision to move it out from Durban. At no stage did I indicate to him that Durban itself is not a viable option.

ADV SELLO SC: You exhausted all avenues, remember?

COLONEL JACOB: Yes, when I say exhausted all avenues, Commissioner, in no way did I mean it must be
20 moved out of Durban. When I say I have exhausted all avenues, and I think we got to that, I do not want to get into that again. But I am saying in no way was I insinuating that now it must be taken to some far-out location that we have never stored exhibits at before. So, that is my answer.

ADV SELLO SC: Then I hear what you are saying, but I

just want to test if I understand you correctly. The moment Brigadier Nyuswa, who is your senior, instructed you to move them to Port Shepstone, he assumed full responsibility for those drugs.

COLONEL JACOB: That is correct.

ADV SELLO SC: They were no longer now your problem, notwithstanding that this is your case. You seized them, so you gave up all responsibility because your senior had so directed you. Am I understanding you correctly? That is all

10 I need to test.

COLONEL JACOB: No, it is not giving up responsibility, Commissioner.

ADV SELLO SC: You shared responsibility with him, where do we land?

COLONEL JACOB: No, I will not share the responsibility, Commissioner. It was an instruction from him that I deemed lawful, and I complied with it.

ADV SELLO SC: So, about responsibility, who bears the responsibility for all that 541 kg of Cocaine? At the
20 moment, you choose to comply with the instruction. Either the responsibility stays with you, or it is transferred to Brigadier Nyuswa. Or if there is a third option, you can tell me. But who bears the responsibility from the moment that instruction is executed?

COLONEL JACOB: Strictly speaking, the member that

booked out the exhibits from the SAP13, and once again, I am not pointing fingers or shying away from responsibility, but it was Warrant Officer Mpangase that had booked in the exhibits, and then in column 5, he books them out, or 6, for analysis, he says. But I am saying at that point, the custodian of those exhibits is now Warrant Officer Mpangase.

ADV SELLO SC: Oh, okay. So that is a third option.

COLONEL JACOB: Yes.

10 **ADV BALOYI SC:** But how does he carry - bear responsibility if in fact he is moving them because you tell him to? I mean, you push away responsibility for the movement to Port Shepstone, or for the decision to store at Port Shepstone because you say, well, my Commander said. So, I was acting on the basis of what my Commander said. It is my Commander that spoke. But the same applies between you and Mpangase. You tell Warrant Officer Mpangase they will go to Port Shepstone. He acts on the basis of what you tell him. Why do you apply a different
20 standard to him and say, well, the one who booked it out is responsible when in fact he booked it out because you said so?

COLONEL JACOB: Okay, the Commissioner's question, Commissioner, to me, the way I understood it was who bears responsibility for those exhibits? And I will say it

again, once again, strictly speaking, whenever you book exhibits in and then book them out, whichever way, when you book exhibits out, it is your responsibility. Yes, I would have made executive decisions or be the one to liaise with the Brigadier to bridge that gap.

But strictly speaking, the custodians of those exhibits was Warrant Officer Mpangase. But I am not shying away from the fact that, yes, I did relay the instruction that the Brigadier did give me. I relayed it to
10 him upon handing over the scene to him to say, the Brigadier has now instructed these drugs need to go to Port Shepstone. The Brigadier has now arranged our tracking team to do an armed escort to Port Shepstone office. So, just for clarity, that was my engagement.

ADV BALOYI SC: Maybe then, if it was a different question that you were answering, let me reframe my question. Warrant Officer Mpangase will be correct. Forget how I phrased it as a question. It is meant to be a question. Warrant Officer Mpangase will be correct to say,
20 I moved these drugs to Port Shepstone on the instruction of Colonel Jacob. There would be nothing wrong with him saying that.

COLONEL JACOB: I think the correct way to say it, and this is the way I relayed it to him, was that the Brigadier has instructed that these exhibits go to Port Shepstone. Yes,

but I am now relaying an instruction from my Commander. I am his Commander. It can be seen in that way.

ADV BALOYI SC: You gave an instruction to Warrant Officer Mpangase based on the instruction to you by Nyuswa. So, there is three people involved. Brigadier Nyuswa did not give Warrant Officer Mpangase an instruction. He never spoke to him.

COLONEL JACOB: Yes.

ADV BALOYI SC: He gave you an instruction.

10 **COLONEL JACOB:** Yes.

ADV BALOYI SC: He said, they will go to Port Shepstone because you said we have nowhere else to go. You then said to Warrant Officer Mpangase, these will go to Port Shepstone. All I am putting to you is Warrant Officer Mpangase cannot rely on Nyuswa's instruction because he never spoke to him. For all I care, you could have been untruthful to Mpangase. All he knows is you, his senior, tell him these will go to Port Shepstone so he would be right to come here if he came here and say, well, I was told by my
20 immediate superior on the scene that these go to Port Shepstone. He would be correct.

COLONEL JACOB: I think 90 percent correct, Commissioner, but I think Warrant Officer Mpangase would say that Colonel Jacob informed me that the Brigadier has issued an instruction.

ADV BALOYI SC: Okay, thank you.

COLONEL JACOB: Thank you, Commissioner.

ADV SELLO SC: And on that score, whether it was an agreement by you and Brigadier Nyuswa or it was Brigadier Nyuswa's instruction, perhaps it might help to have regards to CJC243.6 at page 589. That is your statement dated 9th November 2021.

COLONEL JACOB: Just one second, Commissioners.

ADV SELLO SC: CJC243.6.

10 **ADV BALOYI SC:** Page?

ADV SELLO SC: 589, Commissioner. Page 589. The last page of that is page 592, and you see that it is dated 9th November 2021. And as I understand from our interaction yesterday, this is actually your second statement. Do you remember the first is the unsigned version?

COLONEL JACOB: Yes.

ADV SELLO SC: This is your second statement in November 2021. At page 591, you will find paragraph 11, and it reads as follows:

20 “I made several calls to Brigadier Nyuswa informing of what was transpiring. I indicated to him that we needed a safe place to store the exhibits. He undertook to make enquiries regarding a safe storage place. Eventually, the Brigadier

indicated that the NPVC members, together with the tracking team, would assist to convey the exhibits for storage at Port Shepstone Serious Organised Crime Unit. We were instructed to await for those members for an armed escort.

Then after a while, some people arrived.”

Is that your expression of the instruction that you received?

That is as close as I get to an instruction in your statement.

10 **COLONEL JACOB**: Yes, Commissioner.

ADV SELLO SC: Just to check this. If Brigadier Nyuswa comes before the Commission and states that you put a problem and a challenge to him, and this is an option he could think of at the time, and he put it to you to consider, but that the eventual decision was yours, what would you say?

COLONEL JACOB: No, I would totally disagree with that, Commissioner. It is unheard of that a Brigadier takes the final decision from a subordinate. I disagree with that.

20 **ADV SELLO SC**: And you maintain that it was a direct instruction, you could not disobey?

COLONEL JACOB: It was a direct instruction.

ADV SELLO SC: Okay, just to finish off on one issue. As I understand your testimony, the container arrived, it had a specific seal number. It was locked with a specific seal

number, correct?

COLONEL JACOB: Yes.

ADV SELLO SC: And we have come across that number often enough, H1905754. That is the seal that you broke at CHC Depot. I am looking at your statement, the undated statement, your very first statement at 574. It is not an issue, that seal number. It appears everywhere. So, I just want to understand the order of things. You broke that seal at CHC Depot.

10 **COLONEL JACOB:** Correct.

ADV SELLO SC: You emptied the container of the drugs. You took out the bags.

COLONEL JACOB: The bags, correct.

ADV SELLO SC: Was it sealed thereafter?

COLONEL JACOB: Yes, it was.

ADV SELLO SC: By who?

COLONEL JACOB: My statement will state that. I think I put it somewhere in my statement.

ADV SELLO SC: Okay.

20 **ADV BALOYI SC:** He said by an employee of the depot?

COLONEL JACOB: Yes, if I remember he said it.

ADV SELLO SC: I will read another statement of yours at 650 dated 26 September 2022 at paragraph 3, last line you say:

“It is for this reason that I deducted that

one of the staff at the warehouse
resealed the container with seal number
ALUVINB1034675.”

You gave that detail in your statement, and you say you deduced that one of the staff members had resealed it. Is that your position? So, you do not know who resealed it?

COLONEL JACOB: No, no, no, I never said deduced.

ADV SELLO SC: Okay, then let us go to your page 650.
That is your statement of the 26th of September.

10 **COLONEL JACOB**: Yes.

ADV SELLO SC: Do you have it?

COLONEL JACOB: I do.

ADV SELLO SC: Okay, now just read into the record the last sentence at paragraph 3.

COLONEL JACOB:

“It is for this reason that I deduced that
one of the staff at the warehouse
resealed the container with the seal
number...”

20 And I go on to give a seal number. I think that word deduced does not really fit in there. If you read the line preceding to that, Commissioner, please, a sentence or two before that where it starts:

“The DPCI members on the scene did not
have any seals with us. Upon enquiring

from members on the scene, no member could take responsibility for resealing the container. It is for this reason that I - I do know if deduced is not the right word - that one of the staff at the warehouse resealed the container.”

But it was resealed in our presence, and I think the reason, not I think, the reason this was done this way, the seal belonged to the warehouse staff themselves. You know, we
 10 were not border police, had no seal. Sometimes customs have seals, but this was a seal kept by the warehouse themselves. So, we thought since they could not be the custodians, let them seal it. We had that on record. They put it in a place where there are cameras, so that is what transpired there, Commissioner.

ADV SELLO SC: You started by denying when I read that you said you deduced that the staff sealed it.

COLONEL JACOB: No, I deduced is not the right word.

ADV SELLO SC: No, but it is the word that I am looking
 20 at. I am not making it up.

COLONEL JACOB: Yes, yes, but I am trying to think what would I mean by saying ...[intervenes]

ADV SELLO SC: One thing to want to correct it is another to suggest that I am making the word up.

COLONEL JACOB: Yes, but Commissioner, I do not know

what seems to be the point of this so that I can address your question.

ADV SELLO SC: No, it is all right. You are taking - vehemently took issue with what I read. But now you have read it for yourself, and you see it says that you are explaining that you did not mean deduced.

COLONEL JACOB: Yes.

ADV SELLO SC: You probably intended to use another word.

10 **COLONEL JACOB:** Yes.

ADV SELLO SC: So, I think we are fine. My question really is different. This is the seal after your - okay, I will call it the seal of the 22nd of June 2021.

COLONEL JACOB: Yes.

ADV SELLO SC: Okay? Are we together? Colonel, are we?

COLONEL JACOB: Yes, yes.

ADV SELLO SC: Now, I am familiar through these documents of those two numbers. If you look at your
20 paragraph 35, it reads, your paragraph 35, your statement now to the Commission at page 6:

“On 1st of July 2021, I proceeded to the
CHC Depot with Mpangase and Sibiya. I
had arranged that the clearing agent,
Megafreight, send a representative to

unpack the container, and we conducted
a count of 50 kg of bags of animal feed.”

You remember yesterday you testified that you needed to satisfy yourself that the animal feed, or the commodity that is listed on the bill of lading in the quantities suggested is exactly what you find in there.

COLONEL JACOB: Correct, Commissioners.

ADV SELLO SC: That exercise of the 1st of July ought to have required you to have broken the seal of the 22nd of
10 June.

COLONEL JACOB: That is correct.

ADV SELLO SC: Was the container resealed thereafter?
And if so, by whom?

COLONEL JACOB: On the 22nd of June?

ADV SELLO SC: No, on the 1st of July.

COLONEL JACOB: I actually cannot recall, Commissioner, and the reason for that is we then released the container into the clearing agent's hands, so I cannot say whether it was resealed or not. I am unsure.

20 **ADV SELLO SC**: You break the seal, you do whatever you had decided in the container, then you leave it to the agent, the clearing agent. I ask because that is the one seal number. I have never been able to find this third seal number, if it exists at all. It would suggest that the container, after you opened it on the 1st of July 2021 for the

purposes stated, was never resealed. And I just wanted to test whether that is the correct position, factual position.

COLONEL JACOB: Okay, just so I get clarity, Commissioner, we are saying that when we did conduct the operation on the 22nd of June 2021, the original seal was broken, a new seal was put in place to ensure that that container was locked.

ADV SELLO SC: Indeed.

COLONEL JACOB: On the 1st of July, upon coming back
10 to do an unpack of that container, obviously that seal would have been broken to allow us access to the container. And thereafter, the container itself, after the unpack, was handed over to the clearing agent from Megafreight. So, there is no need for the police now to have any interaction with that container.

ADV SELLO SC: So, the clearing agent then takes full responsibility of the unsealed container at that point.

COLONEL JACOB: That is correct.

ADV SELLO SC: And that is the reason why I cannot find
20 reference to the third seal.

COLONEL JACOB: That is correct, yes.

ADV SELLO SC: Okay.

ADV BALOYI SC: It do say in your diary entry that it was resealed on the 1st of July.

COLONEL JACOB: Okay.

ADV BALOYI SC: On page 804, you just do not give us a picture or a number of that seal.

COLONEL JACOB: Okay, my apologies, Commissioner. I did not - it is a long time ago. But my point, I think, in essence, is that we have no further interest in this container. So, whether I resealed it or not, I have now officially handed it over to the clearing agent.

ADV BALOYI SC: But what do you mean you have no interest, whether you seal it or not is irrelevant? I mean,
10 our understanding of the evidence and the procedures is you seal it to return it where you found it, basically. At the end of whatever the police do, they lock it up so that they are able to say, this is how we left it. That is why you take pictures of everything that you do.

That is why you have a record of what was done, and then you close it up. And then beyond that, if anything is found to be amiss in there, you are able to say, here is our record of what we did and what we found, and when we locked it up, and here is the seal number. So, what you are
20 saying now goes contrary, completely, to those procedures. It means the police can arrive, and in fact, that is what it suggests here. You got there, opened it, did whatever you did, and you just leave it in the hands of the clearing agent, who could turn around and say, stuff was missing.

COLONEL JACOB: No, obviously, he would have to

confirm our inspection or our unpack of that container, and like I said, there were 5 395 bags. We would have made him sign some sort of, something to confirm our unpack. I cannot recall offhand, but I am saying we would safeguard ourselves to ensure that there is no - he does not come back and say, bags are missing.

ADV BALOYI SC: The issue I am taking with you is you saying, we have done what we needed to do, it does not matter that we did not seal it, because remember your
10 evidence earlier, was you accepting that you did not seal it, or you may not have sealed it, and then you seek to justify that by saying it is actually of no consequence, and that it may not have been sealed. And I am taking issue with that, but it is of consequence. It is worrying that you are sitting there, and you are saying it is of no consequence.

COLONEL JACOB: Commissioner, I will say the fact that he is the clearing agent, he was satisfied with the unpack, with all of the occurrences. So, in my mind, there was no need, but it seems like we did seal it. But I hear what you
20 are saying.

ADV BALOYI SC: Is there no requirement that you should seal it? Because, you see, we have to distinguish your ways of doing things from the procedures, the protocols that are required of police officers when they do operations like this. We have to distinguish those. So, if you say that is

your way of doing it, and according to you it was of no consequence, it is a different subject for criticism, however we choose to criticise it.

If you say the protocol does not require that I seal it back, because it is of no consequence, we look at the protocol and confirm that, indeed, you are correct to say that, and maybe even comment, finally, whether that protocol needs to be amended or not. So, I want to understand why you say what you say, that it does not
10 matter. Is it because the protocol says it does not matter?

COLONEL JACOB: Commissioner, as far as I am aware, when you break the seal, yes, the photos issue and all of that, there needs to be proper reference or documentation of photos taken. Also, before an unpack of a container, meaning you have taken out the contraband, you have got the legitimate commodity there, that is a given that you seal that container, before any unpack or anything else happens to that container. As for when the clearing agent is there and you do a final unpack and realise that all is in order, I
20 am not aware of any obligation in terms of the protocol on us.

ADV BALOYI SC: Can I ask you the question differently? If the first time you went there, on the 22nd, you opened and you found no contraband, are you saying you could simply have walked away without sealing that?

COLONEL JACOB: No.

ADV BALOYI SC: So, it does not matter that the clearing agent is there, what matters is what are such protocols, right? That is really what matters. This was a police operation on the 1st of July. It was. When you went and opened there, at least we must assume for now, that you were conducting a police operation on the 1st of July. You got there you instructed that that container be opened in the exercise of police function.

10 That is why it is in your diary, right? There are rules about what you do. You record what you have done, you take pictures of what you found there, and then you close up and you record the seal number. That is what I am suggesting to you, that you record and you take pictures, including pictures on the number of the seal that you have used to reseal the container, whether or not the agent is there.

COLONEL JACOB: Yes, I think I agree with you going forward on that.

20 **ADV BALOYI SC:** Thank you.

ADV SELLO SC: Thank you, Commissioner. And I think it becomes a bit of an issue because - I will put it differently. Warrant Officer Mpangase opened the enquiry file. Correct?

COLONEL JACOB: Yes, correct.

ADV SELLO SC: And one of the very first documents in there is a statement provided by you, the unsigned statement.

COLONEL JACOB: Yes, correct.

ADV SELLO SC: And Warrant Officer Mpangase was the investigating officer for all of the seven days before you came back and you took the enquiry file back.

COLONEL JACOB: Correct.

ADV SELLO SC: We could not find in that enquiry file a
10 statement. Your statement is there. But it does not appear that you took a statement from Warrant Officer Mpangase and Warrant Officer Sibiya for purposes of the enquiry. Why is that? And there is no entry in the investigation diary that either of the statements was obtained from the two. You seem to have collected statements from almost everybody except those two. Why is that?

COLONEL JACOB: There is no particular reason, Commissioner. Generally, when you are preparing for court, when something is going to court, you would want
20 many witnesses to corroborate certain facts because obviously you want to prove your case in court. Yet this is an enquiry that is headed for filing. And like I say, it is deemed more of a recovery and a seizure than a full-blown investigation, seeing as there is no foreseeable prospect of any arrest.

So, I think that is the only simple answer I can give you, that I did not bother to take witness statements who are basically going to say what I am going to say. So, it should have been done, but I think I omitted. I did not see that as something on my priority list. I took statements from all the other entities, the other role players, but had need be, or should the need have arisen for me to take a statement, I would have.

ADV SELLO SC: We know that at Isipingo Police Station,
10 when Warrant Officer Mpangase booked in the exhibits, he also booked in a DPCI enquiry number, right?

COLONEL JACOB: Correct.

ADV SELLO SC: And I think somewhere it stated that he opened that enquiry docket.

COLONEL JACOB: I was not sure, but ...[intervenes]

ADV SELLO SC: Is that not the effect?

COLONEL JACOB: Sorry?

ADV SELLO SC: Is that not the effect?

COLONEL JACOB: I cannot say if he opened it, or he
20 called somebody at the office to open it.

ADV SELLO SC: Okay, in the sense that you did not open it because you were back on leave.

COLONEL JACOB: Yes.

ADV SELLO SC: Okay, but we know it came into being on the 22nd of June 2021.

COLONEL JACOB: Correct.

ADV SELLO SC: I am trying to be most fair and say that was by Warrant Officer Mpangase. I am not going to suggest somebody did it behind his back.

COLONEL JACOB: No, Commissioner, maybe I need to enlighten you on the process.

ADV SELLO SC: You keep elevating my position.

COLONEL JACOB: To enlighten you on how this process works.

10 **ADV SELLO SC:** Yes, please.

COLONEL JACOB: To register an enquiry, there is designated persons at the office, the person that does your CAS, your Crime Administration System. So, they have got the power to register that enquiry. It is not every member that goes to a system that can register an enquiry. I am with you.

ADV SELLO SC: I am with you.

COLONEL JACOB: So, lots of times, if you are on the field, you will phone that member at the office to register an
20 enquiry so that you can have a reference number for your investigation.

ADV SELLO SC: And we know that our SAP13 tells us that because that is an entry by Warrant Officer Mpangase, at least he is the one who did it.

COLONEL JACOB: Yes.

ADV SELLO SC: And from that moment, you did indicate that he was the investigating officer until you took over on the 27th?

COLONEL JACOB: 29th.

ADV SELLO SC: 29th of June. Why is the A1 statement, the first statement in that enquiry file, not his? Because at the point you opened that enquiry file, he was the investigating officer.

COLONEL JACOB: Yes.

10 **ADV SELLO SC:** Why does it not kick off with his statement and awaits your statement after you have assumed responsibility for the enquiry?

COLONEL JACOB: I cannot think of a reason. But you know the simple answer, Commissioner, is that some members do not like writing statements. I am somebody that enjoys writing and drafts, so maybe that is got something to do with it. He should have filed a statement. But like I am saying, in these cases, generally just an A1 will suffice because there is no need for so many
20 corroborations or so many witnesses to corroborate what transpired because you are not going to court. So, it is generally not done where three people say the same thing. It is only we take statements normally in these cases from the different role players just to give a complete overview of what transpired.

ADV SELLO SC: So, as an investigating officer, Officer Mpangase, he is the investigating officer from the 22nd. He opens that enquiry file and absolutely nothing happens in that file until you come back after the 29th of June and then you subsequently file your undated statement. Is that the correct position?

COLONEL JACOB: You know, Commissioner, that statement that is undated and not signed, it is not like me. So, I am thinking maybe while I was on leave, I did a
10 statement and emailed it to him. I am not sure, but there would not be a logical reason why I would not sign my statement. So, I probably sent it to him. Maybe he printed it and put it there and I just neglected when I did get the enquiry file to ensure that it was signed and commissioned.

ADV SELLO SC: You are trying to give him some activity in the week that he was an investigating officer. It is rather a stretch, Colonel.

ADV BALOYI SC: Colonel, sorry, just on this, absolutely nothing happening until you come back from leave. And I
20 would like to hear your comment on this. It looks like you came in from leave, led the operation, you left and went back to leave, to your leave, and then you came back and you took over from where you left off. And the impression that I have is Warrant Officer Mpangase was really holding for you.

You never left this matter. And I want to give you one example why it looks that way to me. You go back to leave on the 22nd. On the 23rd you phone, I think it is Colonel Khuzwayo, of the FSL. So, you are actively involved. You did not leave it to Mpangase. Somewhere down the line in those days did you talk to him about making sure that these things are entered in the SAP13.

So, you continued to be active in this file, in this docket. So, it is misleading, in fact, to say, I got involved
 10 only until 1 o'clock or whatever time, on the 22nd, and I left the Isipingo. And I left and I had nothing to do with the rest of this matter. And then when I came back, he was leaving. Mpangase was going on retirement because everyone in the office knew that was going to happen.

And for that reason, I took over. People took over his dockets, and I took this one over. It seems like it is an engineered set of circumstances that in fact the truth of it is this remained your matter even as you were on leave. As we see from your continued involvement when you are on
 20 leave, I would like to hear your comment about that. That is the impression I have and that is my view at this point until you have explained it.

COLONEL JACOB: I can understand that, Commissioner. The simple answer is this. I am a conscientious Commander. It is a simple answer. Yes, there may have

been no need for me to phone the FSL. There may have been no need for me to continue liaising with him while someone leave. But I felt that is my duty as a Commander. Look at it. I had to ensure or remind him to put it in exhibit bags. I am the one who called the lab albeit that is in dispute and found out how to get the ball rolling. All of this that I had done was to ensure that this investigation gains momentum, gets finalised. So, thank you.

ADV BALOYI SC: The simple fact I am making, you are
10 actually confirming what I am saying, that you never left this matter because the impression you have given or at least that I have gained is that you were brought in and you gave an explanation why you told Commissioner Khumalo yesterday in response to a direct question, why would you come out of leave to deal with this?

You are on leave. Anyone else could have dealt with it. You gave your explanation. I was excited. I have never been involved in a drug bust at a container. And I love my job. That is why I went in. I did not even claim my
20 leave days after I had gone in. But I left because I continued to be on leave. And the proposition I am making to you is in fact you never left.

You continued to be involved in this matter, even as you were on leave. You continued to be involved. You say you are conscientious because you are conscientious.

Say, well, that is your reason for doing it. All I am putting to you is the facts. The facts are Mpangase was acting on your instructions to get exhibit bags, to put things in an SAP13.

You were directing him, do this, do that. Even though you say, I knew him to be an experienced officer who would know what to do. Well, we can see from what has happened that either he did not know what to do or he was grossly negligent. But you were directing and telling
10 him, do this, do that. But not only that, because you are conscientious, you phone Colonel Khumalo, you call the lab.

So, you are very busy in the period that you are on leave. So, you never stepped off this case. You remained throughout. And Mpangase, and I am saying to you, my impression is Warrant Officer Mpangase was holding fort for you and taking directions from you while you were on leave. That is the impression I have and that is what I am putting to you it looks like.

COLONEL JACOB: Okay, Commissioner. That is the role
20 of a Commander is to guide your members on the correct way to do things or to ensure that certain things are done. So that is what I did. And with regards to, I never knew I am going to take this investigation. When I came back, I was caught off guard by Mpangase. I was caught off guard. He reminded me he is going off he does not want all of

these dockets and enquiries.

We can even do a check and see at that stage. It would have been around the same time. All of the dockets and enquiries that were allocated to him were now disseminated to others. So, it was not this specific case. And the reason that this had come to me is generally the norm that where a member is involved in an operation, then you are the IO. Now the three options we had was myself, KG Sibiya, and Mpangase. Mpangase is the one, I did not
10 go ask him, I want this investigation. He was the one that did not want to handle it. When I came back from leave, I never issued an instruction that I want this enquiry. Thank you.

ADV BALOYI SC: You are not disputing my putting to you the fact that even as you were on leave, you continued to be involved with this. You say because it is the duty of a Commander to continue to give directions to their members, you say because you are a conscientious Commander, you give your explanations why. I am putting to you the fact
20 that you continued to be involved.

You give a justification for it. All I am saying to you is the impression that you handed over to Mpangase and you left, and then you came back and he was about to retire and his files were being distributed and this one landed on your desk, it does not look like it was all for

treatise because you continued to be involved with this matter in your office. Other than Mpangase, you knew the most, you had the most involvement with this matter by the time he retired. You and him were the two people closely involved with this matter. Fact, right?

COLONEL JACOB: Yes.

ADV BALOYI SC: That is a fact. Thank you.

COLONEL JACOB: Commissioners ...[intervenes]

ADV BALOYI SC: You can comment if you want to.

10 **COLONEL JACOB:** I think I was actively involved even the two days subsequent or even the day of the operation and possibly the next day where I made those calls. Up until the 29th of June when I returned to work, I had no further engagement or played any part. I told him what needed to be done and that was it. It is only when I came back. So out of my leave days, it was the one day of the operation and one day after that that I was actively involved. But other than that, I enjoyed my vacation leave, came back on the 29th and now I find the situation that they are
20 redistributing it, and this comes to me because I was actively involved in it. Thank you.

ADV SELLO SC: Chair, might this be an appropriate time for a lunch adjournment? Thank you.

CHAIRPERSON: Let us adjourn and resume at 10 past 2.

ADV SELLO SC: Thank you.

INQUIRY ADJOURNS

INQUIRY RESUMES

CHAIRPERSON: Yes, Ms Sello.

ADV SELLO SC: Thank you, Chair. Afternoon, Colonel.

COLONEL JACOB: Afternoon, Commissioner.

ADV SELLO SC: Colonel, I think before we broke, or shortly before that, we were discussing the Isipingo SAPS13. You have testified about that, that you did not see when Warrant Officer Mpangase was making these actual
10 entries.

COLONEL JACOB: Correct, Commissioner.

ADV SELLO SC: Confirm. What I am interested in, if you go to the next page, in column 5, you knew at that time that the seized drugs were going to be entered into the SAPS13 to be booked out immediately, because they were going to Port Shepstone. That much you knew.

COLONEL JACOB: That is correct, Commissioner.

ADV SELLO SC: I know Warrant Officer Mpangase is no longer with the Force, is that correct?

20 **COLONEL JACOB:** Yes, that is correct.

ADV SELLO SC: I just want, as a Head of a unit, your comment on an entry he made here, under 5. In booking these drugs out, he notes:

“Items taken for analysis 22-06-2021.”

You see that?

COLONEL JACOB: I see that, Commissioner.

ADV SELLO SC: Can you comment on that entry?

COLONEL JACOB: Yes, not on face value. It is a misleading entry, I will put it that way.

ADV SELLO SC: Yes.

COLONEL JACOB: Since it says taken for analysis, and we know it was not taken for analysis, it was merely stored at another location.

ADV SELLO SC: And as we saw in the instruction note,
10 what ought to have happened is an entry that it was being transferred to another unit.

COLONEL JACOB: That is correct, Commissioner.

ADV SELLO SC: And in this instance, you already knew what the unit was, so you should have entered, transferred to Port Shepstone, being transferred to Port Shepstone offices.

COLONEL JACOB: That would be correct, Commissioner.

ADV KHUMALO SC: Is it not a specialized unit, in other words, DPCI?

20 **ADV SELLO SC:** DPCI, that is correct. That is correct. Thank you, Commissioner. So, we know, if one looks at the instruction note, that in any event, that process of transfer is not in compliance with the instruction, but at the minimum, this SAPS13 should have recorded the correct position, and not suggest that they are being taken for

analysis.

COLONEL JACOB: That is correct, Commissioner.

ADV KHUMALO SC: Just on that point, should the entry not have reflected that in accordance with the Protocol, the 2016 Protocol dealing with drugs, they are being taken to FSL in their entirety for analysis? That should have been the correct entry.

COLONEL JACOB: But you see, in this case, Commissioner, just because it was, we knew that the lab
10 was not going to accommodate it, generally when you book out exhibits that you know you are taking straight to the lab, those are generally smaller quantities of exhibits. This is the relevant entry, items number so and so, taken by myself for analysis to the FSL ...[intervenes].

ADV KHUMALO SC: Yes.

COLONEL JACOB: Would be a correct terminology for when you are indeed conveying it to the lab.

ADV KHUMALO SC: No, no, forget about the absence of storage capacity. If it was a correct entry and they were
20 being taken for analysis, it would be in accordance with the Protocol.

COLONEL JACOB: If it was taken for analysis, yes, you are correct, Commissioner.

ADV SELLO SC: Thank you, Commissioner. And that leads to my, what was going to be my next question. If you

could quickly turn to page, to Exhibit CJC231. Please assist. That starts at page 81.

ADV KHUMALO SC: Advocate Sello.

ADV SELLO SC: Yes.

ADV KHUMALO SC: I do not know if I am hindering you or helping you. The one in the same file where his statement is, on 106, that is the one I was looking at. I am not sure, it looks like it is the same document, but if it is quicker to go to a different file, then that is also okay.

10 **ADV SELLO SC:** Just a second, Commissioner, 231.

ADV KHUMALO SC: It is the same document.

ADV SELLO SC: The same document.

ADV KHUMALO SC: So the one in the statement file ...[intervenes].

ADV SELLO SC: Yes.

ADV KHUMALO SC: It was on page 106 after tab 2, but if he is already there, it is fine.

ADV SELLO SC: Thank you, thank you, Commissioner. And I would like to draw your attention, or to ask you to
20 please turn to page 87 of that Protocol. I am looking at subheading 5.8. CJC231, starting at page 81, I am asking we go to page 87. You have located it, Colonel?

COLONEL JACOB: I have got it, Commissioner.

ADV SELLO SC: I am particularly interested in paragraph 5.8. The heading of 5.8 reads thus:

“Submission of Illicit Drugs for
Forensic Analysis.”

You see that?

COLONEL JACOB: Correct, I see.

ADV SELLO SC: And then at A it says:

10 “The member from the investigating
unit must ensure that all illicit drugs,
with the exception of Cannabis plant
material, which is visually identifiable,
are submitted to the Chemistry section
of the Forensic Science Laboratory,
FSL, within 7 days after it was handed
in at the police station.”

Do you see that?

COLONEL JACOB: I see that.

ADV SELLO SC: For the moment, let us ignore the 7 days,
the prescribed period. I am interested in the requirement
that for forensic analysis, all illicit drugs, with the exception
of Cannabis, must be submitted to FSL. Do you see that?

20 **COLONEL JACOB**: I see that, Commissioner.

ADV SELLO SC: You have always understood that to be
the legal position?

COLONEL JACOB: I am aware of that, Commissioner.

ADV SELLO SC: Now, when you instructed Warrant Officer
Mpangase to take samples or shavings from the bricks to

send to FSL, it was not in compliance with what is required here.

COLONEL JACOB: I think it is debatable, Commissioner, and maybe I can clarify.

ADV SELLO SC: As long as your debate is within the confines of 5.8(a) ...[intervenes].

COLONEL JACOB: Yes.

ADV SELLO SC: Then I am happy to accept it.

COLONEL JACOB: Yes. It says, the member from the
10 investigating unit must ensure that all illicit drugs, and it says exception of Cannabis and plant material, are submitted to the FSL within 7 days.

ADV SELLO SC: I said, let us not talk about the prescribed period. I accept there are challenges with that.

COLONEL JACOB: Oh.

ADV SELLO SC: It is what must be delivered that I want to engage you on.

COLONEL JACOB: Yes.

ADV SELLO SC: And here, the prescript says, all what you
20 have must be submitted to FSL for forensic analysis. Now, I want to understand, when you instructed Warrant Officer Mpangase to take samples, I will call them shavings, you said they are taking a bit from about 5 bricks.

COLONEL JACOB: Yes.

ADV SELLO SC: That does not seem to comply with this

...[incomplete].

COLONEL JACOB: Prescript, yes.

ADV SELLO SC: Yes.

COLONEL JACOB: Thank you, Commissioner. Okay, I understand you said, let us forget about the 7 days issue, right?

ADV SELLO SC: Yes.

COLONEL JACOB: Now, my thinking was, you know, it is open for debate whether it was meant to be misleading or
10 deceptive in any way, but this is my reasoning behind the samples issue. I knew these drugs, the lab could not accommodate them, FSL Amanzimtoti. I knew we were having a problem with the FSL at Pretoria because of the Isipingo exhibits that were lying there without being taken.

So when I did call Colonel Khuzwayo for guidance, and I would think that was on the 23rd of June, she did guide me on a procedure to take samples because my thinking was, this is not going to get to the lab, I am not sure when is it going to get to the lab. So I thought, let us
20 indeed send something to confirm that it is Cocaine, and if it, at that stage if Colonel Khuzwayo had told me, no, you are not allowed to take samples, we cannot assist you, and that is it, we will not even accept samples because you are not supposed to take samples in that fashion, I would have adhered to it.

But I am saying I called her, she did explain the procedure to me, and I would think shortly thereafter I would have called Warrant Officer Mpangase and given him guidance based on what Colonel Khuzwayo, the Head of Chemistry, had told me. So as much as I understand this and I understand it to mean the entirety of the exhibits need to go to the FSL, I did what I did merely to get the ball rolling, merely to show some activity that these drugs are not just going to sit there, there is parallel to our
10 investigation that I know is going to be headed nowhere.

I wanted to get the ball rolling with the analysis part, analysis, destruction, whatever, but I wanted that those drugs must not lie in storage for a lengthy period unnecessarily so. So I do agree with you, it speaks to the entirety of the drugs, and I am hoping that my reasoning as to why I did what I did comes through. Thank you.

ADV SELLO SC: Okay, so if I understand you correctly, you more or less had a sense of what the Protocol requires that all of them go, you were confronted with this challenge
20 and then you sought guidance from, is it Colonel Khuzwayo.

COLONEL JACOB: That is correct.

ADV SELLO SC: That is in summary what you testified to.

COLONEL JACOB: That is correct, Commissioner.

ADV SELLO SC: And that you ended up taking these shavings from these bricks based on the advice you

obtained from her.

COLONEL JACOB: I ended up guiding Mpangase how to do so, Commissioner.

ADV SELLO SC: And exactly, and you are saying it is because you were so guided by her in doing that.

COLONEL JACOB: Yes, yes, Commissioner.

ADV SELLO SC: My recollection, ja, Commissioner, go ahead.

ADV BALOYI SC: Should I?

10 **ADV SELLO SC:** Please.

ADV BALOYI SC: You called Colonel Khuzwayo on the 23rd.

COLONEL JACOB: I would think it is the 23rd. I was unsure, 22nd or 23rd, but since Mpangase talks about or there is some reflection of him taking samples on the 23rd, that is why I am leaning more towards the 23rd.

ADV BALOYI SC: Yes, these things at this point are not yet sealed, they are not yet in the SAP13 of Port Shepstone, somehow you knew that, that is why you
20 advised him to do it. What is the urgency, you are on leave at this point, what is the urgency that propels you that the first step you take on the very next day is you are now asking about sampling, about taking samples to Amanzimtoti. You have not, at least following the sequence of your statement, you have not phoned Pretoria to tell you

that we do not have storage and you have not told us what exactly they said about whether they will have storage any time soon, but to come back to my question, it is, ja, maybe answer my question.

COLONEL JACOB: Okay, thank you, Commissioner. I was not under the impression that the exhibits were not packed in bags and entered in the 13. My understanding with Mpangase is that as soon as they got to Port Shepstone, the exhibits would be put in bags, entered in the 13 at Port
10 Shepstone, SAP13, and then if they wish to book it out and store it at Port Shepstone, Serious Organized Crime, that was the correct sequence to do things, seeing as how the initial step of Isipingo fell off, now it is gone there, normal course of duties, this is how it would have transpired.

It would have been taken to Port Shepstone, either at the station or at the unit, it would have been bagged in exhibit bags. It would be entered in SAP13 at Port Shepstone and from there, Mpangase could have booked it out, retrieved the samples as I said, retrieved the samples,
20 meaning booked those bags in, booked those bags out, and as Colonel Khuzwayo had explained to me, you can open a bag, make an incision on the brick, take out a minute quantity of powder, do that for 5 different bags and 5 different bricks.

And then when you seal those torn exhibit bags, or

the brick, you seal the brick with tape again, a little bit of tape so it does not leak, you put the old exhibit bag together with this brick that you have now tampered with into a new exhibit bag, you seal that, and then you re-enter that, because now the chain has been a little bit lost, he ought to have re-entered that and also entered that one exhibit bag that now contains five smaller exhibit bags. That should have been entered in SAP13 as well, because now when I took it to the lab, I was not mindful that there is
10 no record of it anywhere, in any SAP13.

So that would have been the logical sequence of events, and hence I am saying I guided him in that regard, thinking that all of this would have been done. But when I speak to him, then I hear from him that he has not even entered it in SAP13, he has not put it in bags as yet, and that was contrary to my understanding with him on the 22nd of June.

ADV BALOYI SC: So did I mishear or, ja, did I mishear your evidence, because I thought your evidence was in the
20 process of guiding him, among the things that you told him was, to have those things sealed in the evidence bag, and then to enter them in the SAP13 as part of you guiding him. But from what you are saying now, it sounds like he is the one that told you, I have not done this and that, and then you said, do it, go ahead and do it. Can you just clarify

what in fact happened?

COLONEL JACOB: When I did call him and tell him about the samples issue, but at that stage, I thought on the 22nd they would have done the bags issue and the SAP13 and Port Shepstone like I said. So this next step, to me, was the next best thing, a presumptive test does not hold up in court, and the next best thing was to get it analysed, just to show that indeed, what we do have there is Cocaine, because nobody would have known what it was, had it just
10 been lying there.

So there was no malicious or there was no intent otherwise than just getting the ball rolling. And I thought these other prerequisites that come before you actually take a sample or send anything to the lab, meaning the booking in the SAP13, the exhibit bags issue, booking it back out, taking those samples, booking that broken or the new exhibit bag in, booking that sample in, I thought by that time when I am giving him advice on how to take samples, the exhibits would have been entered in Port Shepstone 13,
20 they had been in bags, but it was not the case.

That is why it turned out to be so upside down that there is no even record of the exhibit bag that I took to the FSL. And my instructions was to him to take it to the FSL, not for me. So, yes.

ADV BALOYI SC: Okay, I think with that last part, you

have answered what was going to be my next question. You did not give him advice to take the samples to the FSL, you instructed him.

COLONEL JACOB: Yes.

ADV BALOYI SC: That is how you have expressed it there. Okay, so you are still on leave and you give instructions to an investigating officer. How is that? You are on leave, you have no record anywhere as you are on leave that indicates you are on duty and you are giving instructions
10 such as this. This is a big instruction. As it happens in this Commission, it has become a matter of controversy whether that happened, whether you spoke to Khuzwayo or not, and did she give you guidance. But you are on leave, so obviously it is not recorded as you being on duty, and here you are giving instructions. Explain that. It is not advice, it is an instruction.

COLONEL JACOB: Yes. You know, Commissioner, there is, we do not consider at any time I am on leave, it is a weekend, I am not working, it is after hours. Being on leave
20 in our job, it accounts for, yes, it means you are not actively on duty, but it is not something that is set in stone that you are on leave now, you cut off all ties with your duties. You still have to, because I know I am going back to the office, I am going to have to at some point deal with whatever is happening, so I may as well ensure the process is running

smoothly even in my absence.

And like I said, Commissioner, it was I think just for that first two days, the 23rd and, or 22nd, 23rd, I do not think 24th I have had any engagements, I am not sure, but yes.

ADV BALOYI SC: No, no, no, do not worry about the 24th and the rest of the days, I am more interested in what capacity when it comes to, you are off, you are either on duty or you are not, even if it is for that limited purpose of giving instructions and I am interested to, I was merely
10 demonstrating, or seeking to demonstrate the point I made to you much earlier, that you actually continued to be involved actively in this matter.

Your involvement did not end at Isipingo Police Station. It carried on, you say for just one day, you are the witness, we will probably have to go with that, that it was just for one more day, and then you take up where you left off on the 29th and as Ms Sello showed you earlier, or put to you earlier, that in the intervening period, until you come back, Mpangase as the investigating officer does not seem
20 to do anything to do with this matter, including bagging these things, including putting them into the register.

He does not seem to be doing any of that. All of it is done on your instruction. That is all I was pointing out to you, that there is further evidence that you continued to be involved with this.

COLONEL JACOB: Okay. No, Commissioner, I think the only answer I can give to that, you get some conscientious workers that you know, as much as he is a seasoned Detective, you know certain members you need to just give them a little push to ...[intervenes].

ADV BALOYI SC: Do you accept that his handling of this does not reflect a seasoned officer who is used to dealing, he may well be, but this conduct to do with this operation does not reflect a seasoned police officer.

10 **COLONEL JACOB**: Yes, I can see that ...[intervenes].

ADV BALOYI SC: Do you accept that?

COLONEL JACOB: Yes, Commissioner.

ADV BALOYI SC: Thank you.

ADV KHUMALO SC: So just to add to that, the only thing Mpangase really did was to follow your instructions.

COLONEL JACOB: Not even completely, Commissioner, because my instructions was for him to take the sample to the lab, so he did everything upside, like the SAP13 he did the next day.

20 **ADV KHUMALO SC**: But in relation to the case ...[intervenes].

COLONEL JACOB: Yes.

ADV KHUMALO SC: There is nothing independent that was his initiative. So the sealing of the bags, the taking of the samples, which is the sum total of what he did, those

were all your instructions. He may not have carried them out diligently, but all he did was obey your instructions and he did not independently do anything that an investigating officer handling a case should have done.

COLONEL JACOB: I would say with regards to the samples, Commissioner, I will agree with you. The exhibit bags was not really an instruction, it is a norm, you know, it is, I do not know how I can put this.

ADV KHUMALO SC: No, that part I understand.

10 **COLONEL JACOB:** Okay, yes, no, the next part, the samples, was my instruction, yes.

ADV SELLO SC: Thank you, Commissioner.

ADV BALOYI SC: Sorry, if I may just, you are still talking about sampling. Can I just ask this question. So when you speak to Warrant Officer Mpangase to take samples, what in fact do you say to him? There is 541 bricks of suspected Cocaine at this point. You do not know for sure, that is why you want it to go for analysis. What in fact do you say to him he should do?

20 **COLONEL JACOB:** Like I said, it went something along the lines of what I am going to say now, Commissioner. It was taking samples from 5 random bags, 5 bricks, you are going to cut the brick, make an incision on that brick, take a minute quantity of powder, place it in a small, you get a sample exhibit bag, a very small bag, do that same exercise

for 5 different bricks, and then you put it in one bigger exhibit bag, and then the samples now go to the lab for analysis.

ADV BALOYI SC: Yes.

COLONEL JACOB: So that was as per the advice.

ADV BALOYI SC: Okay. I ask the question because we had quite a detailed explanation from an analyst, and I think one can ask you this question because according to your statement, you have a BSc qualification, and I think you
10 said you started off as an Analyst, if I am not mistaken.

COLONEL JACOB: Like a Ballistics, not ...[indistinct].

ADV BALOYI SC: Ballistics, yes. Sorry, you said ballistics. But by virtue of your qualification, and in fact your position or the work that you have done in SANEB, as a member of SANEB, that we get this detailed account of how a sample would be picked, would be chosen, both in terms of the size of the sample, but also you are dealing with 541 bags, and so you explained to us what you would do. You would group them and pick randomly from each lot.

20 Now you say to him, so when I ask you what did you say to him, what I am trying to understand is did you give him guidance? He does not have your qualification, and I think we have seen here that he is either terribly incompetent or deliberate in how he has done everything that he has touched in this operation. You leave it to him to

pick, so as far as you are concerned, the sample could have come from the first 5 bags that were in front of him. There was no method that you gave to him, you just said randomly, pick randomly 5 bricks and take a sample.

COLONEL JACOB: Yes, Commissioner, there is nothing more scientific or in-depth than I told him, that is it, Commissioner.

ADV BALOYI SC: You did not even say to him the size of the sample itself, how much powder from each brick, you
10 did not. Certainly you have not said that to us.

COLONEL JACOB: A small quantity.

ADV BALOYI SC: You just said a small quantity, okay. And because you were not there, you also do not know what exactly he did.

COLONEL JACOB: Yes.

ADV BALOYI SC: You really do not know.

COLONEL JACOB: That is correct, Commissioner.

ADV BALOYI SC: Okay, thank you. Thanks, Ms Sello.

ADV SELLO SC: Thank you, Commissioner. Now, the
20 consolidated statements bundle, please. While she is looking for that, okay, we are trying to get to, let me get the rank right, Khuzwayo, that will be, is it Colonel? I apologize if I get it wrong, tab, you found it? Commissioners, at tab 5 of consolidated statements. On this matter, you say, we have spoken now about your

request for sampling, request for guidance in order to analyse and then being advised to provide samples, you recall that?

COLONEL JACOB: Yes.

ADV SELLO SC: You just had that conversation.

COLONEL JACOB: Yes, yes, Commissioner.

ADV SELLO SC: At your paragraph 44, your statement, you then speak of the engagement you had with Warrant Officer Setshedi of 27 October 2021. You remember that?

10 **COLONEL JACOB:** That is correct, Commissioner.

ADV SELLO SC: And where he then says, at your 45, according to you, he explained that he required 7 to 10 bricks of Cocaine to weigh so that the analysis report could reference the average weight.

COLONEL JACOB: That is correct.

ADV SELLO SC: Okay. Now, that is how you remember the events. Now, we have, we have opened, Ms Setshedi's, for lack of a better ...[indistinct], Ms Khuzwayo's statement.

ADV KHUMALO SC: Sorry to do this to you. Are you
20 moving to October now? I thought we were still dealing with the 23rd of June.

ADV SELLO SC: I was going to deal with them both. If you have something on 23rd, please do go ahead.

ADV KHUMALO SC: No, no. I would rather leave it to you. If you have not dealt with what I want to deal with,

then I will come back to it.

ADV SELLO SC: Okay. And Commissioner Khumalo has just reminded me I did not deal with something, but because I have started this question, may I just complete it. I will also double back to the 23rd. Please go to page 5 of Ms Khuzwayo's statement, from paragraph 15. Are you there, Colonel?

COLONEL JACOB: I am there, Commissioner.

ADV SELLO SC: If we could just quickly read. She says:

10 “Where the crime scene is a non-clan
lab scene, FSL is responsible for
performing analysis on the exhibits.”

You agree with that?

COLONEL JACOB: I agree, Commissioner.

ADV SELLO SC: -:

20 “FSL does not attend the crime scene
or the police station where the drugs
are stored for safekeeping to collect
samples, nor does FSL receive
samples collected from DPCI or other
investigating teams for analysis.”

COLONEL JACOB: Yes, I see that.

ADV SELLO SC: Would you like to comment on that?

COLONEL JACOB: I would like to comment, Commissioner.

ADV SELLO SC: Please go ahead.

COLONEL JACOB: I am going to say it the way I am seeing it, so I hope I am not going to offend anybody. I know what Colonel Khuzwayo had told me. I believe and I think when I did see all the FSL witnesses on the box, it left a lot to be desired. So, I am saying I know what Colonel Khuzwayo told me. I believe that thereafter she realized she made an error, that we are not supposed to take these samples and maybe Colonel Songca reminded her, I am not sure.

10 But I am saying to this Commission, there would be no plausible reason, no reason whatsoever, even if I was planning on stealing drugs in a short, in a few months' time, there would be no reason for me to ask a member to take samples for analysis out of my own accord. There is no upside to it, you know. It is not done, so it is going to raise eyebrows. So, the only reason I did what I did was because of my call to Colonel Khuzwayo and her advice to me.

ADV KHUMALO SC: Here is the upside. If it is worth stealing, then you need to know what quality is this product.
20 Is it really Cocaine? Because, what is the point of stealing soap? You know, that is why analysis is important. If you know that it is Cocaine and you know the quality, then it is worth stealing.

COLONEL JACOB: Okay, can I respond to that, Commissioner? Firstly, during the normal course of duties,

our lab does not give us any indication in terms of purity, in terms of anything distinguishing on Cocaine. When they put it through their machines, all they are checking for is Cocaine, the active ingredient in this.

ADV BALOYI SC: So let me remind you, you said it is possible they can do that if you ask them.

COLONEL JACOB: If you do ask, yes.

ADV KHUMALO SC: Yes.

COLONEL JACOB: But in the normal course of duties,
10 Commissioner, it is just going to tell you it is Cocaine. But I am going to give you advice on how to really check if it is a good quality, and if I was that way inclined, I am going to tell you how it should have been done. Even if you take a small quantity of that powder and get a person on the street, a Cocaine user, to test it, he is going to tell you whether it is a one-way. Then you get maybe somebody else who knows how to cook.

They will tell you whether it is two-way, you know. So, other than the lab, there is quicker methods to have
20 known the quality of that Cocaine. So, there would have been no need to send it to the lab for the lab, unless upon special request I am asking them to check purity or anything of that nature, which was not done.

ADV KHUMALO SC: And remember the allegation is that you wanted to handpick the Analyst.

COLONEL JACOB: No. Okay.

ADV KHUMALO SC: Now, if you handpick the Analyst, it means, and they said we do not allow that, because then it means investigators can unduly influence the Analyst.

COLONEL JACOB: Yes.

ADV KHUMALO SC: So, that is where this whole thing comes in.

COLONEL JACOB: Oh, okay, I see, because I was also a bit confused, Commissioner. But, when I look at it, the
10 reason I asked who is, I spoke to Setshedi because we know him. I have been working with him for years, so this newfound fear is ...[intervenes].

ADV KHUMALO SC: Can I do this? I was just giving you context, and you understand it, because I do not want you to get ahead of questions that are still coming.

COLONEL JACOB: [Indistinct]... [cross-talking]. Ja, no, thank you.

ADV SELLO SC: Thanks, Commissioner. There is a response you gave to a question, and I thought we might
20 use the next 30 seconds, you might as well educate us. What is one-way and two-way Cocaine? If we are dealing with drugs, we might as well be slightly knowledgeable about it.

COLONEL JACOB: Okay. The one-way is Cocaine that is just purely for sniffing, Cocaine addicts that sniff Cocaine,

the powder. Two-way is Cocaine that is also good for cooking into crack Cocaine. And obviously, not obviously, your yield in terms of the amount of crack Cocaine that you can cook with one kilogram of Cocaine, when you have got two-way Cocaine, you get a higher yield. It is better for the rock or crack Cocaine addicts, they get a better high. So that is two-way, you can cook it, and it can be used for sniffing. It is a much more expensive commodity than one-way Cocaine.

10 **ADV SELLO SC**: Thank you. I will resist the temptation of saying I feel empowered. I hope you still have your Protocol on the search, seizure, and handling of drugs.

COLONEL JACOB: It has got to be here somewhere. Ja.

ADV SELLO SC: Is it still - I need you to turn to page 89. I understand that your engagement with FSL on the 27th of October was to seek an expedited destruction of the ...[incomplete].

COLONEL JACOB: Whichever, just something to take those exhibits ...[intervenes].

20 **ADV SELLO SC**: Yes.

COLONEL JACOB: [Indistinct]... yes, Commissioner.

ADV SELLO SC: So I now at 89 read 5.12, which stipulates that:

“The Detective Commander must
provide a written initial disposal

instruction of the illicit drug at column
5 of the SAPS13 register on page 6 of
the case docket.”

Is there any written initial disposal instruction in
this matter? How would the destruction that you desired
happen without complying even with the very first step?

COLONEL JACOB: Yes, I am fully aware of this,
Commissioner.

ADV SELLO SC: Yes.

10 **COLONEL JACOB:** I think the Warrant Officer Setshedi,
the way you put it to the Commission, it is not very clear as
to what I was doing and how I intended to do. When I did
ask about disposal, destruction, that is just merely me
finding out, is it possible, can it be done? Then the next
step, if they tell me, yes, we can dispose or we can destroy,
every drug investigator knows about SAP83A. You cannot
destroy without that.

So my interaction with him was merely finding out,
is it possible? And when he did give me advice, that is
20 when he did point out, no, I am not the Analyst here, you
know, there is some other Analyst. And I did not even force
the issue to find out who is the Analyst, because my
engagement was with him. I had no interest in who the
Analyst was. My interest was merely to get these drugs off
our hands, either to be disposed of, to be analysed, but to

be taken away from our custody.

ADV BALOYI SC: When you say you asked him, is it possible, what were you asking him is possible to do?

COLONEL JACOB: Expedite, yes.

ADV BALOYI SC: To expedite what?

COLONEL JACOB: Okay, Commissioner, let, I think I spoke a little about it initially, but every case follows the same life cycle. You have got exhibits, they need to be analysed, the lab needs to give you a Section 212 analysis
10 report confirming that it is drugs. If you have got a case that is going to court, then you do not complete the SAP83A once you have got an analysis report. Then you let them keep those exhibits until the trial has completed, because the defence may ask to see those drugs. But once the trial is completed, then you complete this SAP83A for them to destroy. You give them the result of your trial, all of that, and you ask them to destroy. That is a SAP83A. That is in a normal course of things.

But in inquiries, when there is an inquiry, more
20 especially of this rip-on, rip-off nature, yes, as a formality, we are asking them for an analysis report so that we can tick that box that, yes, we have sent it for analysis. But if your exhibits have not gone for analysis, and you have got them lying, or even if they have gone for analysis, but they have not analysed them yet, and then you realise, okay, my

case is going nowhere, there is no suspect, then you can also complete that SAP83A at that stage, and hand it to the lab to ask them to destroy those exhibits. So that is how that procedure works.

So when I was finding out about expediting, analysis, destruction, disposal, whatever, basically I was trying to get the ball rolling that, can I get an analysis report from you guys? OK, now that I have got my analysis report, let me file it in my enquiry, then I am going to give
10 you that 83A.

Although the normal course of things, they would have already had custody of my exhibits. So this is a little bit of a tricky thing, because I am sitting with all of those exhibits in Port Shepstone, so it is a little bit of an anomaly, but still, whenever you want exhibits destroyed, you need an 83A. So when I say expedite, I mean expedite your analysis report, or if you tell me, no, we cannot destroy, there is place in Pretoria, or bring it to us, we will send it to Pretoria or to the Western Cape, I would have done so.

20 So that was, every engagement with me and the FSL, was with a view of getting the ball rolling to analyse, destroy, dispose, whatever, but to get rid of those drugs.

ADV BALOYI SC: So the expediting or expedition that you were talking about was what, of the analysis or the destruction?

COLONEL JACOB: Whichever they were willing to do.

ADV BALOYI SC: No, you had a discussion with Setshedi.

COLONEL JACOB: Yes.

ADV BALOYI SC: I want to know what discussion you had with Setshedi.

COLONEL JACOB: Yes, I asked him, firstly, because it was sent for analysis, that is why I enquired, can we expedite the analysis report?

ADV BALOYI SC: All right.

10 **COLONEL JACOB:** Then another part of my conversation would have been, can, do you have a place, can we bring it here for destruction? And they did not have a place.

ADV BALOYI SC: Okay.

COLONEL JACOB: So that is what my engagement with Setshedi was all about. There was no sinister motive, there was no reason for me to even know, I am not sure exactly what his evidence was, but I did not pursue when he, this avenue of finding out exactly who the Analyst is. He may have had that in the back of his mind, I am not sure why,
20 but that was never my intention.

ADV BALOYI SC: Do you, as a matter of course, in your other matters that you have sent for analysis, do you ask the Analyst to expedite? Is there not a process? And I ask you this in fairness to you, and you would have been listening to Setshedi, that he has explained a process that

enquiries are not made to the Analyst about the status of the analysis.

COLONEL JACOB: Yes.

ADV BALOYI SC: Why do you ask him and not the front desk or the admin? How did you know he is the one responsible for this?

COLONEL JACOB: He was not the one responsible for this.

ADV BALOYI SC: So how could he give you an answer if
10 you knew that he is not responsible for this analysis and he is not admin, so he has no, he cannot give you the answer. Why is it him that you ask to expedite, whether they can expedite rather?

COLONEL JACOB: Okay. Warrant Officer Setshedi, I have known him I think since he joined the lab. We have worked on so many clan lab scenes, where it was even over 24 hours, we have been through the trenches together. We have got that relationship, or we had that relationship, where he is the one, like I said, manning the FSL call or
20 standby phone. We have got that relationship. My enquiries were general enquiries. It was not me trying to pressurise him, hey, who is the Analyst, or I want you to expedite. It was me.

ADV BALOYI SC: I am not saying that is what you were doing, I do not know why you are saying that. Just answer

my question. My question to you is simply this. He is clan lab, your sample has nothing to do with clan lab. Why do you pick him? You do not know that he is your Analyst in this particular matter.

COLONEL JACOB: [Indistinct]... [cross-talking]

ADV BALOYI SC: He has described to us a process where if the police want to find out the status of the analysis of their samples, there is a process. They do not go to an Analyst, and he gave us what sounds like good reason why
10 you would not go to an Analyst, or you would not even know. You go to admin, you are asked to produce, I think, a receipt which has a number, and something is looked up in the system, and you get told what happens. You have experience in these things. This is not your first referral to the FSL.

Why you speak to him does not make sense and requires an explanation. It is not a general question, it is specific to a sample. You are not asking how does it work normally. You say, I have a sample in your lab. That is
20 why you are talking to him. I have a sample in your lab. I need it to be expedited. That is what you say.

So my question is, why are you speaking to this person who has absolutely nothing to do with your sample because he is not the allocated Analyst? No one has told you he is the allocated Analyst to his clan lab. Your sample

is not a clan lab sample. Why are you speaking to him about this, about both the expediting and the destruction?

COLONEL JACOB: It was merely seeking advice from him, wanting to hear how do I get this thing fast-tracked. It was not specific that I wanted him to handle it or wanted him to divulge anything. It was just merely general enquiries with a member of the FSL that I am familiar with, I have worked with for years. In fact, most of my engagements when it came to the FSL was either with Colonel Songca or with
10 Setshedi. So he was our go-to person.

Even if you look at my phone records, he is the one I call most of the time. So for me, it was just somebody that I knew at the lab and I asked him. It was not, there was not really any intention behind it. It was just merely seeking guidance, how do I get this thing fast-tracked, how do I get rid of it.

ADV KHUMALO SC: Can I, speaking for myself, I personally do not have issue with you sending samples to FSL because even if they did not know in June that it was
20 samples, certainly by the 27th of October they knew it was samples and they never said to you, because you gave us samples, there is nothing we can do with this, take them back. My issue with you has to do with the timeline, you being there, and by the way, between you and Setshedi there is not much difference in terms of versions. He says

he had worked with you in a seizure in Simbithi and that was quite recent. He says that. Then he says you were there to see Captain Kubheka and while you were there you wanted advice from him. So he says that in his statement.

COLONEL JACOB: Yes.

ADV KHUMALO SC: And then he says this is the nature of your enquiry. He lists it in four parts. You asked for advice on how to destroy exhibits, you asked if destroying exhibits would affect the case, and then you had a discussion about
10 the record of the total mass of exhibits and then the last one was who can analyse your case of the samples that were brought. So I do not have a problem with that because although your versions differ slightly you know, you seem to say the same thing, you are saying it differently.

My problem is he says you told him that there were people who wanted to break into Port Shepstone to steal the drugs and that was your reason for wanting the drugs to be destroyed.

20 **COLONEL JACOB:** Okay.

ADV KHUMALO SC: Now how could you have known that there were people who wanted to come and steal the drugs at Port Shepstone?

COLONEL JACOB: Yes. Thank you, Commissioner. You know, upon my meeting with them this one lately that

Warrant Officer Setshedi alluded to, Commissioners, Colonel Songca was recording the conversation and I am sure she still has it. She was recording the conversation. So what I want to say is ...[intervenes].

ADV BALOYI SC: Ja, let us help out. She says you deleted what you sent to her.

COLONEL JACOB: No, I am saying ...[intervenes].

ADV BALOYI SC: You actually, she said you had disappearing messages ...[intervenes].

10 **COLONEL JACOB:** She has got disappearing ...[intervenes]

ADV BALOYI SC: And whatever you, and what ...[intervenes].

COLONEL JACOB: No.

ADV BALOYI SC: She has got your number.

COLONEL JACOB: Yes.

ADV BALOYI SC: But she does not have anything because the stuff has disappeared because apparently on your side you have done something.

20 **COLONEL JACOB:** Commissioners, I am so glad you even asked that question.

ADV KHUMALO SC: Colonel, I do not want to ...[intervenes].

COLONEL JACOB: Oh, sorry, sorry, I am digressing.

ADV KHUMALO SC: No, no, I want you to think about two

things.

COLONEL JACOB: Yes.

ADV KHUMALO SC: So my concern, as I said, was how did you know that there were people who were going to break into Port Shepstone to steal the drugs? Now that is the first question. If you want to go into the other ...[intervenes].

COLONEL JACOB: [Indistinct]... [constant cross-talking].

ADV KHUMALO SC: ... Colonel, and then the other issue,
10 that should be the second issue you can answer it.

COLONEL JACOB: Yes.

ADV KHUMALO SC: But deal first with your discussion with Setshedi that the real reason why you wanted this exhibits destroyed, because you did not ask for that in September or in August. It was in October.

COLONEL JACOB: Yes.

ADV KHUMALO SC: And then a week later, ten days later the drugs are stolen.

COLONEL JACOB: Yes.

20 **ADV KHUMALO SC:** That is my biggest worry that on the 27th you say to him there are people who want to break into the Port Shepstone facility to steal drugs.

COLONEL JACOB: Yes.

ADV KHUMALO SC: On the 8th of November that actually happens.

COLONEL JACOB: Yes. Okay, Commissioner, it is laughable when I tell you the right story but it has impacted my life so badly that it is, I do not find it funny but others did laugh. I went there after Brigadier Nyuswa had told me there is an attempted break-in at Port Shepstone. When I saw Warrant Officer Setshedi I relayed the exact same thing to him. Brigadier Nyuswa told me there is an attempted break-in at Port Shepstone that is why I am asking you about getting rid of these drugs. There was an attempted
10 break-in.

I am just going to play devil's advocate here, Commissioner. How stupid would I be to go and tell a member of FSL, knowing I am planning to steal drugs in a week's time, that people are planning to break in there? How would I possibly know that? You know, so I am saying this, Commissioner, and I know it is a bit far-fetched but this is the only reason I can think of. It is far-fetched but I want you to just hear me out, Commissioner.

Warrant Officer Setshedi, when Lieutenant Colonel
20 Sibiya and I had arrived there to the FSL just to meet with them he is the one who told me that they were approached by these head office guys and he made it known to me, he said so that they put him under pressure. They asked him, hey, where are my drugs? We want our drugs. He told me that. He said they put him under pressure. They asked

him, where are our drugs? We want our drugs. So, as we were talking, I said, but, and then you recall we had this conversation and I made it clear and I know she was recording, I said firstly, I am not here to sway you or to change whatever statement you have given. I just want an understanding because according to my statements and my notes and what I know this is my discussion with you. But if you say ...[intervenes].

ADV KHUMALO SC: Colonel, let me be rude and interrupt
10 you. I do not usually do this. You are discussing other issues now and you have left my question and I know you have to catch a flight later today so I do not want us to waste 30 minutes dealing with issues ...[intervenes].

COLONEL JACOB: All right, in a nutshell ...[intervenes].

ADV KHUMALO SC: That I have not asked questions about.

COLONEL JACOB: Yes, in a nutshell, Commissioner, I am saying I did not say that to him at all that people are planning to break into Port Shepstone, not at all.

20 **ADV KHUMALO SC:** Thank you.

COLONEL JACOB: Yes.

ADV SELLO SC: Thank you, Commissioner. I understand that your approach to FSL on the 27th was to remove the drugs from Port Shepstone, because of the attempted break-in. Now you were truly worried for their safety.

COLONEL JACOB: That is correct.

ADV BALOYI SC: And your solution to the problem was to destroy them.

COLONEL JACOB: Yes, to – yes.

ADV SELLO SC: And this was three and a half months since their seizure and the basis for that decision is that you are not finding any suspects. Is three and a half months, four months reasonable to investigate and conclude on an operation of this nature and this magnitude?

10 **COLONEL JACOB:** I will answer that in two parts.

ADV SELLO SC: Please.

COLONEL JACOB: These cases normally are even filed before that period. It is even a shorter period.

ADV SELLO SC: Okay. But ...[incomplete].

ADV SELLO SC: So at which point do you stop looking for implicated persons or suspects associated with these drugs or you do not even bother anymore because it is rip-on, rip-off?

20 **COLONEL JACOB:** No, the investigation was headed nowhere, but statements were taken. Whatever investigation could be done.

ADV SELLO SC: 831's.

COLONEL JACOB: So there was nothing further that we could do to find a suspect or to link a suspect to this case.

ADV BALOYI SC: In that case, why did you not ask your

Commander to do the necessary administrative processes for a destruction?

COLONEL JACOB: Okay.

ADV BALOYI SC: Why did you not?

COLONEL JACOB: Good question, Commissioner. They cannot destroy until they have your exhibit. That is how it works. The lab has to be in possession of your exhibits when you submit that SAP83(a).

ADV BALOYI SC: So you would have taken them to the lab
10 for destruction. That is the simple answer that you would have a destruction notice and you would take the whole consignment to the lab for the purpose of destruction.

COLONEL JACOB: And I think we all, it has been established, Commissioner, the lab could not even house that thing for, we could not take it there. They were not accepting it. Whether it be for destruction, disposal, analysis, they were not taking these exhibits. Bottom line, the lab could not take it either for analysis or destruction.

ADV BALOYI SC: No, but you never made a request for a
20 destruction. You certainly have not testified and we do not have anywhere in your statements other than your discussion with Setshedi, which was a general discussion, you say, nowhere was a request made to the lab. At least remind me if I am wrong in my recollection of the evidence. Nowhere is it your evidence that you requested, a request

was made to the lab to destroy these exhibits and that request was refused.

COLONEL JACOB: Commissioner, once again I am going to say, you cannot destroy, how can I ask the lab to destroy exhibits that they do not have? Firstly, it is a matter of getting these exhibits to the lab. Then step two is a destruction or disposal. You do not just, if the lab cannot house it, how are they going to destroy it?

ADV BALOYI SC: Your answer then suggests that the only
10 destiny for these drugs was they were going to be stolen because this lab was not going to have them because they do not have space and Pretoria, you tell us, you even tried Pretoria, it does not have space. So these labs, I mean these drugs were never going to be destroyed by the lab even though you have done the investigation, you have finished, and their destiny was to be stolen. It actually turned out the way that it was going to be on your account.

COLONEL JACOB: Commissioner, if there was a way I could magically make those drugs or destroy them on my
20 own or if there is any other thing further I could have done to destroy those drugs, maybe the Commission can enlighten me what else I could have done, because I fail to see it.

ADV BALOYI SC: No, I cannot enlighten you, I am just a civilian. You are the one with experience in that space.

You are the one that is sitting with these drugs. You are the one that makes a decision to retain them even after you were told that there was an attempt to steal. You are at least, at the very least, you are part of the decision to keep them there even after you were told that there was an attempted break-in. You tell us that the lab could never take these because Amanzimtoti does not have the space.

And really, I am now testing what you are telling us that according to you, what was going to be the fate of
10 these drugs, because you say the lab did not have capacity to take these drugs, they just do not have the space. And now you say they could never destroy them because they do not have the space to take them. So maybe you are the one that should enlighten me at least what was the ultimate fate of these drugs then in your way of, the way you have looked at it and the way you are explaining it?

COLONEL JACOB: Okay. Commissioner, if I may use the example of the Isipingo Mandrax. That was also, it is not that much different to our scenario here at Port Shepstone.
20 We are sitting with a whole consignment of drugs. The lab does not have space to accommodate it. So in that case, there was no analysis done. It is only one year, nine months later, after the theft of this Cocaine that now FSL Pretoria says now we have got place and miraculously they take those exhibits from February 2020.

They take it now on the 12th of November 2021. And they also take those exhibits from Maydon Wharf from the eighth month. It is now three months down the line and they take it on the 12th of November, which should be a clear indication that that is the time the lab realized there, you know, there is a problem here. More drugs are going to get stolen and it is going to point back to us.

So I am saying, if I use that Mandrax as an example, the similar procedure, the lab could not keep it, house it, but when eventually they took it, it went straight for destruction. So that is what my endeavours were to take it for destruction, to do whatever.

ADV BALOYI SC: That is exactly my question, Colonel, that you, what you are explaining about the Mandrax, it went for destruction, not for storage. I am asking exactly the same question. Why did you not ask your commander to issue a destruction notice so that these drugs go for destruction, not for keeping? And I do not hear your answer.

20 **COLONEL JACOB:** Okay. It is not up to us, Commissioner. It is not as simple as today we do a destruction notice and we take it for destruction. The lab has certain periods or intervals that they take drugs for destruction to a certain, I will not disclose the location, but there is an incinerator there. So it is not as simple as I just

complete the 83A and tell them to dispose and they say, okay, bring it up today. That is why I use the Mandrax example, Commissioner. The same story. We were trying to get it disposed of and the lab only managed to do a disposal one year and nine months later.

ADV BALOYI SC: Let us come back to the Cocaine. Let us come back to this Cocaine. Can we agree you have never, except for your conversation with Setshedi, you have never asked the lab to destroy these drugs, that you have
10 drugs that you are keeping and you want them to be destroyed. There is never been that request to the lab. I did not do it in writing, but I did communicate with the FSL in Pretoria and there was no destruction, no place to even house these exhibits.

ADV BALOYI SC: You are dealing with Amanzimtoti, you are speaking to Setshedi, you are speaking to Khuzwayo, they are closest to you. Can we just confine this discussion to that? You have never asked Amanzimtoti to destroy, to take these drugs for destruction. It is a yes or no answer.
20 And if it is a no, you can say, I have asked them and here is proof that we did ask them. Because as matters stand now, all we have about a discussion on destruction, it is with the wrong person, Setshedi. It is with that. So I am asking you for a different person. I am asking you to say, yes we did, and this is how we did it with Amanzimtoti.

COLONEL JACOB: Commissioner, upon my engagements with Colonel Khuzwayo, she was fully aware of our issue with 541 kilos. Like I said, she is the one who guided me on how to take samples. So ...[intervenes].

ADV BALOYI SC: On the 23rd of June, you were already asking Colonel Khuzwayo about destruction.

COLONEL JACOB: No, she was aware, but point being, Commissioner, she was aware that the lab could not, the process, Commissioner, is not that you, they just destroy it.
10 They need to house it first to destroy it. They need to accept it first to destroy it. FSL Toti does not destroy exhibits on their own. They have to liaise with Pretoria, then we take it up. So my hands were tied. They have to accept it first before they destroy it, and they could not accept it.

ADV BALOYI SC: But, no, no, you cannot say they could not accept it if you did not ask. You can say I assumed that because I know they do not have space. This is yet another case of an assumption. I am asking you a direct question,
20 and I think the answer to it is, yes, you did not ask, but I would like you to tell me differently. My question to you is, apart from your discussion with Setshedi, did you ask for a destruction of these exhibits that you are holding in Port Shepstone? Was such a request made to FSL Amanzimtoti?

COLONEL JACOB: I did not do any formal written request, but with my engagements with Colonel Khuzwayo, she was aware of our ...[intervenes].

ADV BALOYI SC: How many engagements did you have with Colonel Khuzwayo and when? You are going to have to be specific because right now we have only the 23rd, and it would be very curious, I think, to everybody that already on the 23rd you were talking destruction. So I want to suggest that you were not discussing destruction on that
10 day, otherwise you have a lot of explaining to do why the day after the seizure you are talking about destruction. So your engagement with Khuzwayo must have been on other occasions. You have not, at least I do not remember reading your statement, coming upon any, any many discussions with Khuzwayo about destruction.

COLONEL JACOB: Okay, I do not know the exact dates or times, and like I say, I did try for my cellphone records, but I would have asked her maybe in a month or two down the line. And she was aware, like I say, and it was telephonic
20 communications, it was not something formalized where we send them emails, it was all done over the phone.

ADV BALOYI SC: But that is not how you ask for destructions, right? You have explained to us that a notice is prepared by your Commander, a destruction notice is signed off by your Commander, and then that gets served

on the FSL.

COLONEL JACOB: Yes, but once again, Commissioner, I am saying completing that SAP83A does not guarantee you are getting to destroy your ...[intervenes].

ADV BALOYI SC: Yes, I am not saying it guarantees. But at the very least, what it would do, it would have given us a record that a request was made to FSL to destroy, and this is how they responded. They said they are not in a position to do this right now because they do not have capacity. It
10 would give us that. Right now, we have your informal, you yourself call it informal, you have your alleged informal telephone discussion, undated telephone discussion with Colonel Khumalo that I asked whether they can do this.

And by the way, you have also said it is your Commander, it is not you. It is actually a Unit Commander who has got the power, whether they call you a Unit Commander, to do that. So it is not your discussion to have. So whatever discussion you had with Colonel Khuzwayo, it does not count.

20 I am asking you about doing it by the book. The book says you do a notice or a release form, whatever that form is called. It is what is given to FSL. You did not do that, right?

COLONEL JACOB: No, I would still maintain, Commissioner, it does not work that way. The SAP83A,

only when the lab has possession of your exhibits, that is when they accept an 83A.

ADV BALOYI SC: That is why I say to you, then these drugs, on your version, were destined to be stolen. Their fate was to be stolen because that lab does not have capacity for this quantity and yet you are talking to them. You are asking informally, Khuzwayo, when will you destroy it, when you know they do not have capacity, according to you.

10 You know they do not have capacity. But you keep, which does not make sense, that you know they do not have capacity, that is what you tell us. You know they do not have capacity, but you keep asking here, when are you going, can you destroy, or however you framed it. You keep doing that. It does not add up, I am sorry. It does not. You can comment if you want to.

COLONEL JACOB: No, I will reserve my comments, Commissioner.

ADV BALOYI SC: Thank you, Ms Sello.

20 **ADV SELLO SC:** Thank you, Commissioner. Just a quick one on that score. How many laboratories, FSL laboratories, are there country-wide? I think I am aware of one in ...[intervenes].

COLONEL JACOB: I think there is three ...[indistinct].

ADV SELLO SC: Cape Town.

COLONEL JACOB: Yes.

ADV SELLO SC: So you say there is three?

COLONEL JACOB: Nationally, that I am aware of.

CHAIRPERSON: No, there is, should at least be four.

COLONEL JACOB: Okay, I know of three, Commissioner.

CHAIRPERSON: Yes, it is Gauteng, there is Western Cape, KZN, Amanzimtoti and Gqeberha.

COLONEL JACOB: Okay, I know of the three. I missed out the last one, Chair.

10 **ADV SELLO SC:** And that is your area. Okay. Did you reach out to Western Cape, because now you are no longer looking for storage, you are looking for destruction.

COLONEL JACOB: Okay. No, I did not, and I am going to clarify why. What the lab had been doing is when Amanzimtoti was inundated with the exhibits and the workload was too much, they would then refer cases, send up our cases that we had submitted here to either FSL Pretoria or to also there is a super lab in the Western Cape. Then when you enquired about your exhibits, they would tell
20 you, okay, now it is sent to the Western Cape.

So it is not, the onus is not on us to make contact with those labs. Our KZN lab was sending our exhibits to these labs because of their workload that they could not cope with. So it is not incumbent on us to contact those labs. This lab is aware of our problem.

ADV SELLO SC: I apologize for interrupting. It simply cannot be. That was not your testimony when you started. You said that you had been in contact with both Amanzimtoti and Pretoria, and in Pretoria it was Captain Shole or somebody ...[intervenes].

COLONEL JACOB: Captain Shole.

ADV SELLO SC: To take this. So how do you say it is not incumbent upon you to contact other labs? You only do so through Amanzimtoti. It cannot be, Colonel.

10 **COLONEL JACOB:** The reason is I know Colonel Shole from Pretoria. In the Western Cape, I know nobody. So the formalized process is that our labs, either Pretoria or Amanzimtoti would be the one to send exhibits or even direct us. If they directed us to say Western Cape has got a place for your disposal, you may take it there. That would have been okay.

ADV SELLO SC: So technically you say you are sitting ducks. Unless Amanzimtoti directs you, they do not have capacity, unless they direct you, you cannot move. Is that
20 what you are suggesting? And if so, please tell the Commissioners what prescript or instruction or any document prescribes that you, DPCI nationally, cannot contact any FSL laboratory. I am thinking if you had problems with DPCI Amanzimtoti, why do not you escalate the matter to DPCI national? Maybe they have got better

access and command.

I am trying to understand this system that you now suggest is in place. What document tells you that you cannot contact Pretoria directly for assistance unless you personally know somebody like Captain Shole? Is there a document like that?

COLONEL JACOB: I am not aware of any document.

ADV SELLO SC: So where do you get that notion that you are precluded somehow from making that contract?

10 **COLONEL JACOB:** That is just the way the system is, Commissioner.

ADV SELLO SC: Which system is that?

COLONEL JACOB: That is the way the lab operates. There is a challenge at the lab and unfortunately it is impacting us and now fingers are being pointed at us because of the labs' inadequacies.

ADV SELLO SC: Because my difficulty with that suggestion and I will tell you, is that we are getting very close to saying those drugs were stolen after an attempt, 20 attempted break-in in October. They were stolen because Amanzimtoti failed to get them off Colonel Jacob's hands. Is that where we are headed? We are now going to blame FSL Amanzimtoti for this, for the eventual theft because they could not store them, they could not take them for destruction, they could not do anything with them. And your

hands were tied. Is that where we are getting to now?

COLONEL JACOB: My hands were tied, Commissioner.

ADV SELLO SC: Is that where we, so we are blaming Amanzimtoti FSL?

COLONEL JACOB: I am not blaming them, I am saying they could not accommodate my ...[indistinct].

ADV SELLO SC: And as a result, therefore, they had to stay idle until they were stolen.

COLONEL JACOB: That ...[indistinct].

10 **ADV SELLO SC**: Okay. Now ...[intervenes].

ADV BALOYI SC: You know, sorry, Ms Sello.

CHAIRPERSON: May we at this point just change very briefly to discuss the Colonel's ...[intervenes].

ADV SELLO SC: Logistics.

CHAIRPERSON: Logistical arrangements.

ADV SELLO SC: Thank you, Chair.

INQUIRY ADJOURNS

INQUIRY RESUMES

CHAIRPERSON: Yes, Ms Sello.

20 **ADV SELLO SC**: Thank you, Chair, and thank you for the indulgence. We have sorted out our logistical challenges. We were still on the issue of your contention that you have no power to approach the other laboratories except the one in KZN, Amanzimtoti. It is a notion that I cannot accept. You cannot direct me to any document that precludes you

from making such contact, firstly. We have established that, correct?

COLONEL JACOB: Correct.

ADV SELLO SC: As a matter of interest, if you were faced with these challenges, did you escalate the problem to at least a national level, to say to, who was it at the time, General Lebeya, I have a crisis, I have 541 kilograms of Heroin under threat of being stolen, Amanzimtoti has no capacity, I need to get them off my hands like yesterday.

10 What stopped you from doing that?

COLONEL JACOB: Thank you, Commissioner. The fact that I am a Lieutenant, I was a Lieutenant Colonel in the police, there is protocol to follow. My immediate Commander, or the Provincial Commander, is my person to direct all of my challenges to.

ADV SELLO SC: Yes.

COLONEL JACOB: And my Provincial Commander was fully aware of the status of the location, as well as the fact that those drugs needed to be moved from there.

20 **ADV SELLO SC**: And your Commander in this instance is?

COLONEL JACOB: It would be Brigadier Nyuswa.

ADV SELLO SC: Brigadier Nyuswa.

COLONEL JACOB: Yes.

ADV SELLO SC: Now, did you tell Brigadier Nyuswa to escalate it further, because, remember, the target is to get

it to national. Did you have that conversation with Brigadier Nyuswa, or you thought it just sufficient to let him know and he will know what to do thereafter? What was your attitude?

COLONEL JACOB: Yes, I cannot give you verbatim what I told him, but we were on the same page. These drugs need to go, they need to be destroyed. He was fully aware of that. He was aware of my stance on those drugs.

ADV SELLO SC: No, no, no, now what he needs to be
10 aware of is that Amanzimtoti, you have now this challenge with Amanzimtoti, and as he knows, according to you, you cannot send them to Pretoria because you still need to go through Amanzimtoti or Western Cape or Gqeberha to destroy them, right? That is your position.

COLONEL JACOB: Yes.

ADV SELLO SC: Are you suggesting that was Brigadier Nyuswa's understanding as well, your limitations about directing these drugs somewhere for immediate destruction?

COLONEL JACOB: Those were my challenges at my level,
20 Commissioner.

ADV SELLO SC: And hence my question, why did you not, did you escalate your challenges to Brigadier Nyuswa?

COLONEL JACOB: Yes.

ADV SELLO SC: What was his response to that? Sit and bear it out?

COLONEL JACOB: Yes. He did not give me a response, but I made it known to him. He made it known to me those drugs are in danger, so I told him, you try what you can. I am trying with Amanzimtoti because our exhibits are there, we forwarded our samples there.

ADV SELLO SC: Okay.

COLONEL JACOB: So it was his duty as a Provincial Commander, that is why, hence his title, Provincial Commander.

10 **ADV SELLO SC:** Indeed.

COLONEL JACOB: I am restricted to KZN, to Durban. I took it upon myself to liaise with the lab in Pretoria, but now we have got a Provincial Commander whose duty it is, obviously a Brigadier's work will be, will hold more importance, especially when communicating with influential people at the FSL, rather than a Lieutenant Colonel. In the police there is protocol and procedure. I cannot bypass my Commander, he is the one at that level that is supposed to be taking those decisions and making those calls.

20 There is another Brigadier at FSL in Pretoria that is always very helpful. I cannot contact her directly. I am aware that Brigadier Nyuswa was in contact with this specific Brigadier. So I am saying to the Commission that Brigadier Nyuswa was well aware of the challenges, my frustrations with getting rid of these drugs in whichever

way, by the disposal or analysis, not by theft, and so ...[incomplete].

ADV SELLO SC: Now ...[intervenes].

ADV BALOYI SC: Sorry, just from what you have said now, about there is a Brigadier in Pretoria, that Brigadier Nyuswa would have been the correct person or the appropriate person in terms of authority to communicate with.

COLONEL JACOB: That is correct.

10 **ADV BALOYI SC:** This person that you were speaking to, therefore, is junior to that Brigadier Shole, I think you say it is Shole.

COLONEL JACOB: That is correct.

ADV BALOYI SC: What is Shole in Pretoria? What does he do?

COLONEL JACOB: I cannot tell you his exact designation, but I know he is one of the officers there that would normally tell us, yes, bring up for disposal, destruction, we have got place for you, send your exhibits here. So he was
20 our liaison person with regards to anything FSL related in Pretoria.

ADV BALOYI SC: He was not the final decision maker?

COLONEL JACOB: No.

ADV BALOYI SC: So, it is quite possible that had you, had Brigadier Nyuswa spoken to his Brigadier, the Brigadier

above Shole, that in fact these drugs may well have ended up in Pretoria. You cannot discount that.

COLONEL JACOB: I cannot discount that, Commissioner.

ADV BALOYI SC: Okay, thank you. So, as matters stand, but for your telephone calls to Shole, we do not have a record of any communication from your people, and when I say your people, including you, Nyuswa, you and General Senona, we do not have any record of communication to the national, to Pretoria FSL, requesting that these exhibits
10 should be transported there, whether for destruction or for storage until they were analysed. We do not have a record of that.

COLONEL JACOB: I am not aware of any such engagements at their level.

ADV BALOYI SC: You are not aware of that?

COLONEL JACOB: Yes.

ADV BALOYI SC: Okay. Thank you.

ADV SELLO SC: And if I then may follow up, you, I accept that you are not aware of the engagement at that level, you
20 did not do anything in particular to ensure that that engagement is had by informing, on your side, your superiors. You did not facilitate that engagement.

COLONEL JACOB: Commissioner, it is not upon me to facilitate such engagements with a senior officer and another senior officer. I would think the brigadier at his

level would know his duties and functions.

ADV SELLO SC: Yes.

COLONEL JACOB: And know that when matters reach a level where it is out of our, where it is escalated to a level that somewhat middle management or junior officer cannot engage with senior counterparts. That is how the police works. So he would have known that, obviously, his engagements on his level with other senior officers at the FSL would have carried more weight than my menial
10 engagements, phone calls to Lieutenant Colonels and full Colonels.

ADV SELLO SC: Okay. So, if I understand your testimony correctly, we are now at a point where the fact that those drugs were eventually stolen, first Amanzimtoti FSL contributed to that outcome, and now Brigadier Nyuswa contributed to that outcome by failing to deal with the crisis that you were faced with at the time when you escalated this problem. Is that a fair summary?

COLONEL JACOB: I would say so, Commissioner.

20 **ADV SELLO SC:** Okay. Do you bear any blame for that eventual theft in any manner or form as you look at it?

COLONEL JACOB: In no manner or form whatsoever, Commissioner.

ADV SELLO SC: Okay.

ADV BALOYI SC: Can I just ask this, because it is not

clear to me from your statement. Did you, in whatever discussions you had with Colonel Khumalo, Khuzwayo rather, did you ask to send the exhibits to the FSL, or is it a case where you assumed, because you know that lab, you assumed or you knew that they would not have space?

COLONEL JACOB: My initial call, Commissioner, on the 22nd of June, like I indicated in my statement, was twofold. Okay, whether she could send members out to take a sample and whether they did have storage place. So,
10 Colonel Khuzwayo was fully aware of my predicament of wanting to store or her to accept those drugs at Amanzimtoti.

ADV BALOYI SC: I mean, I have looked at your statement, and I am looking at it quite quickly again, nowhere, and I do apologize if there is any way that you say this and you can point me to that, nowhere in your statement where you discuss your discussion or your engagement with Colonel Khumalo, Khuzwayo rather, nowhere does it record that you asked her to take the exhibits.

20 **COLONEL JACOB:** It is in my statement. If the Evidence Leader can just refresh my memory as to where it is. I am looking for ...[intervenes].

ADV SELLO SC: Sorry, the statement before the Commission or previous statements? Which one do you want?

COLONEL JACOB: This would be one of those statements furnished to General Flynn's team, maybe my last holistic statement that is very detailed.

ADV SELLO SC: Oh, not the Commission's statement?

ADV BALOYI SC: Not the Commission's statement.

COLONEL JACOB: No, not that one.

ADV SELLO SC: Okay. You may continue. I will try and locate it.

ADV BALOYI SC: Okay, yes. That is fine, I will come
10 back to it, depending on the answer. You can proceed, Ms Sello.

ADV SELLO SC: Thank you, Commissioner. In the meantime I will, the search for that particular statement you want will be undertaken. Now we are considering who could potentially be held responsible for the eventual theft. Now the list as we have it so far is Amanzimtoti FSL for failing to take the drugs when you needed them to be stored and or needed them to be destructed.

The second is Brigadier Nyuswa, your immediate
20 superior, who failed to escalate the matter and deal with it as a superior, including but not limited to bringing it to the attention of the DPCI national office that they have a crisis down in Durban regarding 541 kilograms of Heroin that needs to be destroyed, but there is no movement.

So that will be on Brigadier Nyuswa, if I understand

your testimony. You indicated that you do not think you bear any responsibility whatsoever. And by responsibility, I am not suggesting for a second that you stole the drugs, no. It is responsibility in the context of whether or not there were steps you could have taken to ensure that they are not stolen. It is in that context.

COLONEL JACOB: Yes, yes.

ADV SELLO SC: Now in that context, then, we settled in the morning that when you approach Brigadier Nyuswa for
10 storage, it was on the basis you had claimed that you had exhausted all avenues, right. We have established that actually you had not, you just made assumptions at the time. You conceded as much, correct?

COLONEL JACOB: Correct.

ADV SELLO SC: Now, was this not the moment, then, to exhaust that, those very avenues? For the first time now, you set up, you go to Brigadier Nyuswa and say, my drugs are here. Pay your advice and or instruction. I require you to take steps, alternatively to release my drugs and I am
20 going to find a more secure facility for them. Now I am going to exhaust my options around all Durban police stations. Why could you not do that?

COLONEL JACOB: Commissioner, the decision to store initially, like I said, was Brigadier Nyuswa's. Thereafter, the Brigadier is the one who brought to my attention the

security threat, let us call it that, the attempted break-in at Port Shepstone. Once again, it is the Brigadier who is informing me. If it was vice versa, I was the one who was, who had firsthand knowledge, who was informed initially about an attempted break-in at a location of my choosing, then I would have went to the Brigadier and said, I have chosen a place, it seems like this location is not safe, please can you assist with regards to moving it to another location.

10 Now in this case, it is a place of the Brigadier's choosing, the Brigadier is the one who informs me of the attempted break-in there, he is higher ranking, he is senior to me, he is the one that has more influence in terms of acquiring alternate storage places. So I did not at all feel that it was incumbent upon me to do so. I felt that it was his duty.

ADV SELLO SC: Understood.

ADV BALOYI SC: May, sorry, Ms Sello. May I ask you a question that I had meant to ask yesterday. Is it not the
20 responsibility of an investigating officer to secure, to take responsibility for the security of their exhibits? How does it work?

COLONEL JACOB: Thank you, Commissioner. In the normal course of things, yes, meaning if I had seized exhibits, done a drug bust and I have got exhibits that I am

physically in possession of, I needed no outside intervention, nobody assisted me in finding alternate storage place. I think in a nutshell, I am trying to say, Commissioner, is that it was the decision to be stored in Port Shepstone was taken between the General, General Senona and Brigadier Nyuswa.

ADV BALOYI SC: That, ja, you are not answering my question. My question is, is it not the responsibility of an investigating officer? Maybe let me ask it differently. Is it
10 or is it not the responsibility of an investigating officer to secure their exhibits or to take responsibility for the security of their exhibits?

COLONEL JACOB: There is only one way I can answer that fully, and that is the way I was intending to, Commissioner, if you will allow me.

ADV BALOYI SC: Forget this case for a second, what happened with Senona, with General Senona and Brigadier Nyuswa. Forget that for a second and answer my question with this operation out of your head. Is it or is it not the
20 responsibility of an investigating officer to secure their exhibits?

COLONEL JACOB: Normally, yes.

ADV BALOYI SC: Okay.

COLONEL JACOB: Yes, normally, Commissioner.

ADV BALOYI SC: All right.

COLONEL JACOB: Will you allow me to expand on that?

ADV BALOYI SC: Yes, you can.

COLONEL JACOB: In this case, it was an exceptional circumstance, meaning it was out of the course of our ordinary line of work. I needed intervention from my Brigadier to find a spot. The Brigadier is the one who found a place in Port Shepstone. My area of operation, my day-to-day duties involved the Durban and surrounding areas. Whatever challenges I have would be relayed to my
10 Brigadier. He is my immediate Commander.

So I am saying the onus would fall upon him, on him. It was a place of his choosing. Yes, I am the investigating officer. He is senior to me. He chose a place. Now there is a security threat. There is an attempted break-in. The onus would fall on him, although I am the investigating officer, to find alternate storage.

ADV BALOYI SC: You see, you made the original decision that these exhibits will go to Isipingo Police Station. That was your decision. You were in charge at that time.

20 **COLONEL JACOB:** Yes.

ADV BALOYI SC: We have established you continue to be in charge. But in fact, Brigadier Nyuswa gets involved because you say, I now do not know what to do. You have searched. You tell him, I have run out of options. I do not know what to do. Help find me a place. That is what you

are doing. So his intervention is to assist you get a place, not to take responsibility. It is because you invited him to assist you find a place and he says they can go to Port Shepstone. That is all he does.

COLONEL JACOB: Yes.

ADV SELLO SC: And that, to me, does not mean or does not reflect that he is now responsible for those exhibits. Your answer, your earlier answer, and I think that is a correct position, and it has to be, that you as the
10 investigating officer, who is going to appear in court, if ever there is a court, and testify about the chain of evidence, about what was contained, where, when, you are the one that has an interest in the security of those exhibits and to say that someone that you brought in because you needed them to help you solve a problem of accommodation is now the one that makes decisions about where these exhibits go, it just does not sound correct. I do not think you are correct.

COLONEL JACOB: Commissioner, I am going to maybe
20 emphasize a little more on another avenue of that. The drugs were stored at Port Shepstone Serious Organized Crime Investigation Unit. There is a Unit Commander, or there was an acting Unit Commander, Lieutenant-Colonel Prinsloo. I was also a Lieutenant-Colonel. Now this is outside the Durban area. This is another Hawks or DPCI

office that falls squarely under the responsibility of Brigadier Nyuswa, not myself.

So even if I wanted to do anything with that location, it had to go via the Brigadier since it was his instruction. Colonel Prinsloo would only adhere to an instruction coming from Brigadier Nyuswa. It was not within my powers to make decisions regarding that without the intervention of the Brigadier.

ADV BALOYI SC: You see, what I have a difficulty with is,
 10 and I am not suggesting that you should and you could have moved these drugs without reference again to your Provincial Commander, to Brigadier Nyuswa. I am not suggesting that. But what I have a difficulty with is you washing your hands off responsibility of these exhibits once the decision was made that the safe place to keep them is the Port Shepstone DPCI offices.

I have a difficulty with that and keep in mind, and a further problem of what contributes to my difficulty is, while these exhibits, which as you have answered, an I.O. is
 20 responsible for them, and it has to be that, that an I.O. is responsible for the security of their exhibits, in this entire process, everyone is coming in and out of Port Shepstone dealing with these exhibits.

I know you say you do not know what happened, but everyone is dealing with these exhibits. They have a

key, the key is sitting somewhere else. They go and collect the key, they are opening, they are taking stuff in, out, signing off. These are your exhibits. Something is deeply wrong if you say, I could do nothing about it, but I am the investigating officer. Then I am going to suggest to you that you chose not to do anything about it.

The question is why? Why would you be so happy to watch everybody running around handling your exhibits? There is a report there was an attempted robbery or break-
10 in. You do nothing about it. You do not even say to your Brigadier, I would like them to be moved to another location. I have now found another location.

You do not even do that. But these are your exhibits. So you either chose to do nothing about it, or you were derelict of your duty as an investigating officer, and we must blame you for the loss on that basis, or you were afraid to tell your bosses that I want my exhibits to move because I am not happy here. And the question would be, is the why. You may comment if you want to.

20 **COLONEL JACOB:** Yes, Commissioner, it is difficult to engage your boss and tell him, he is the one who told me about a break-in, now, it is common cause that we would want to look for an alternative accommodation or storage for it. He is aware of that. He has got more influence and I left it in his hands. And also just to comment on the

movement of you know, members in and out of the safe and changing of keys, during that period, it was Warrant Officer Mpangase who was the investigating officer. I was still on leave. I returned on the 29th.

So that whole engagement step, you know, I was not really privy to, neither am I responsible for it. But thereafter, I do agree with you and I will say it again, he is the senior person. He is a Brigadier. It was a place of his choosing. He is aware of the security threat.

10 Yes, I was also and I would expect him to take it as seriously as I did. So the most I could do was to try and engage with the lab to try and get the ball rolling, to get it out of there, which I tried. I was not in a position to find alternate storage place for it. It was there at Port Shepstone. It was taken there of his accord. I left the ball in his court. Maybe I should have been a little more forceful. But the police does not allow for that. It is taken as rude.

ADV BALOYI SC: When he told you that there was an
20 attempted break-in, did you say to him, maybe let us look for another place?

COLONEL JACOB: Commissioner, when he told me there was an attempted break-in, he did not engage me on the level whether they did break-in, whether anything was taken. So I thought it was just some petty kind of

somebody you know, I broke a window or something of that nature. I did not know the seriousness of it. And yes, what I did was just to try and engage with the lab. I did nothing further.

ADV BALOYI SC: My question is, when he told you there was an attempted break-in, did you say to him, let us look at, well, firstly, I am worried that he tells you there was an attempted break-in and you did not ask him what. These are your exhibits worth millions. He tells you there is a
10 break-in.

You tell us I did not ask him, I just assumed it was a broken window. Well, as it happens, the coincidence, if you like, is that the attempt was on a window. But on a more serious level, it is quite concerning that as an investigating officer you say to us, I did not ask him what. But that is not my question. I accept that is how you behaved on the day.

My question is, when he told you there was an attempted burglary, did you say to him, perhaps let us find
20 a new place?

COLONEL JACOB: No, I did not, Commissioner.

ADV BALOYI SC: Okay, thank you.

ADV KHUMALO SC: Colonel, I want to take you back to Advocate Sello's question. You know, sitting here we have the benefit of hindsight and I did not understand her

question to be imputing foresight. I understood her question, and I could have understood it incorrectly, she will clarify, I understood her question to be along these lines. Looking back, do you accept any responsibility, not for the theft, for the loss, the fact that these drugs were in police custody, and it ties up with Commissioner Baloyi's point, you were the investigating officer and so many things went wrong here.

And the police lost what we assumed to be
10 Cocaine, valued between 200 million and 400 million. You saw Mpangase's statement, he said 243 million. I engaged you on it could be between 200 and 400. We do not really know, because no analysis was done. But you now have the benefit of hindsight. You have looked at all the statements. You have looked at everything that has been presented. Do you accept some responsibility for the fact that these drugs were lost or went missing?

COLONEL JACOB: In hindsight, yes. If I knew it was going to turn out like this, I would have really exhausted all
20 avenues to phone, do whatever I could to try and move it from there. I cannot tell you exactly what I would have done, but obviously, if I knew that this was going to happen, I would have really put my mind to it and tried to achieve it.

ADV KHUMALO SC: I would take it a step further and say, even if you did not know that these drugs were going to be

stolen, just looking at how everything was done and knowing what the prescripts say and knowing that they were stored in an unsafe place, because I do not want another policeman to say, I will only accept responsibility when they are stolen, but if they are not stolen and we do wrong things, then that is fine.

So I want you to look at this thing holistically and say, we got so many things wrong, and because we got so many things wrong, these drugs were lost and that is how
10 one looks at it.

COLONEL JACOB: Commissioner, I will go as far as to say, because of the lack of storage place, it had to go to a location that turned out to be unsafe and which led to the theft of these drugs. So yes, I will bear some responsibility, but I do not want to lie to this Commission like as though, you know, it was because of me.

I am not feeling that way. I took instructions from my Brigadier, from a senior member in the police. It was not, he did not ask me to store it at somebody's house or
20 anything like that. It was a vault. Unfortunately, I did not know about the security threat. So I will say, yes, I will take the, I will shoulder some of the blame, responsibility. I could have taken maybe different actions to have a different desired outcome, but we have the benefit of hindsight now and at that stage, I never suspected something of this

nature would happen there.

But yes, I will shoulder some of the blame, and I will say that if I knew that something of this nature was going to happen, something so serious like all of these drugs getting stolen, I would have done everything that I could have done to try and move them out of there.

ADV KHUMALO SC: And lastly, you said something which bothered me when Commissioner Baloyi was engaging you, that you and Warrant Officer Setshedi used to be close.
10 You used to work together. You seem to have had a falling out because of this case. Warrant Officer Setshedi made a statement in January 2022, and it is in file 2, exhibit file 2, on page 639.

And reading that statement, reading it with yours, and I speak for myself, I am prepared to accept that the two of you had a discussion about 5 exhibits being tested and weighed, and if there was variation between those 5, only then will the total follow. So to me, that is not a big deal because it seems like there was a discussion about a small
20 number of bricks being looked at for the purposes of determining the total mass. And only if there are variations, or if there is a big variation, then more exhibits will be needed.

COLONEL JACOB: Okay.

ADV KHUMALO SC: So I do not want you leaving here and

saying he threw you under the bus. Yes, this part about 5 exhibits and others being needed is not in his new statement before the Commission, but in his affidavit a few months after this discussion that you had with him, he says there was such a discussion. So I wanted to draw it to your attention. I do not want you to comment, but I do not want you leaving here thinking, but we did have this discussion, why does he come to the Commission and say it did not happen, because I accept this as his affidavit, and I read it
10 the way I read it, and I will leave it there.

COLONEL JACOB: I will just comment by saying thank you for that, Commissioner. It makes me feel a little better inside.

ADV KHUMALO SC: No, no, I just wanted to show you that there is that discussion about the mass and the fact that initially 5 exhibits will be weighed. If there is a big variation between those 5, then more will be needed for the purposes of determining the total mass. So such a discussion did happen, and it is there and we leave it at
20 that.

COLONEL JACOB: Thank you, Commissioner.

ADV SELLO SC: Thank you, Commissioner.

ADV BALOYI SC: Can I, looking at the same statement, and maybe for completeness, as well in fairness, to Setshedi, Warrant Officer Setshedi, in that same paragraph,

he says, I responded by, you were asking about destroying the exhibits here.

COLONEL JACOB: Yes.

ADV BALOYI SC: And he says:

“I explained, I responded by saying, if they are going to destroy the exhibits, where will the total mass of the whole exhibit come from.”

So it seems even from this discussion with you, he
10 was concerned about all the exhibits being accounted for, that the lab being able to speak to the total mass.

COLONEL JACOB: Commissioner, you are saying he was concerned about it?

ADV BALOYI SC: It seems.

COLONEL JACOB: I think I was more concerned about it, Commissioner. This was the only viable option, according to him, weighing the 7 to 10 bricks. But if he told me, like his evidence here, we do not take samples, bring everything, bring it here, I would have done so.

20 **ADV BALOYI SC**: Yes. No, no, no, I am, all I am doing is I am reading a part of that paragraph where you have had a discussion. Commissioner Khumalo refers to it to point out that Warrant Officer Setshedi does speak to you discussing samples. That is the point that Commissioner Khumalo is saying.

COLONEL JACOB: Yes.

ADV BALOYI SC: And my only reference is to say, well, in the same paragraph, be mindful that he also says, when he asked about destruction, he asked if destroying the exhibits will not affect the case. That is what he says. I responded by saying if they are going to destroy the exhibits, where will the total mass of the whole exhibit come from. You see where I am reading?

COLONEL JACOB: Yes, I see. Commissioner, there is no
10 way I would ask an Analyst, when do I destroy? Or what did he say, how can I destroy exhibits. I am familiar, I have done this hundreds of times. There is no way I am going to ask an Analyst how do I go about destroying exhibits.

ADV BALOYI SC: So that part of his statement, you are saying we must disbelieve it ...[intervenes].

COLONEL JACOB: [Indistinct]... [cross-talking] yes, Commissioner.

ADV BALOYI SC: Okay.

ADV KHUMALO SC: That is why I say ignore how you
20 guys frame this thing because even your statement now before the Commission in paragraph 44 and 45, you do say the concern was about the average weight of the total exhibits. So the total mass was the discussion, and you needed the average, and for that you needed a certain number of bricks. Only if there is a variation, then you

need, but that has to do with the quantity for the purposes of destruction.

COLONEL JACOB: Yes.

ADV KHUMALO SC: Because any sample, if, let us say for example the 5 exhibit bags that were sent to FSL, if that is all that was discovered and that constituted the entire bust, there would have been no difficulty with analysing that.

COLONEL JACOB: Yes.

ADV KHUMALO SC: So the issue is not whether that small
10 sample could be analysed or not. The issue was if you want to destroy, you need to know what the total is.

COLONEL JACOB: Yes.

ADV KHUMALO SC: Yes.

COLONEL JACOB: Yes, Commissioner. Yes, that is correct.

ADV SELLO SC: Thank you, Commissioners. Before I turn to my next question, I just want to be sure that I heard you correctly. I think in response to a question by Commissioner Khumalo who premised his question on
20 “wisdom of hindsight”. Now looking back today, we are older, we are wiser. Your explanation was because of lack or absence of storage capacity, you stored at DPCI Port Shepstone offices. Is that correct? Did I hear correctly?

COLONEL JACOB: It is because of lack of storage space that I indicated to the Brigadier, yes.

ADV SELLO SC: Okay. So it is not because of lack of storage that they went to Port Shepstone. That is misleading, because we have established, we established in the morning, there was storage at Maydon Wharf. So you cannot even, wisdom of hindsight or otherwise, you cannot sit here today and say there was no storage capacity in Durban. On the contrary, it has been demonstrated to you there was. With wisdom of hindsight, you realize now that there was capacity in Durban. You have to accept that

10 ...[intervenes].

COLONEL JACOB: [Indistinct]... [cross-talking]

ADV SELLO SC: ... yes. I just wanted to correct that, less there is a misunderstanding. My challenge on this issue of who is eventually responsible for the seized drugs is this. Earlier, you sought to persuade the Commissioners that when Brigadier Nyuswa instructed you, quote-unquote, that is the word you used, to store them at DPCI Port Shepstone, he thereby assumed full legal responsibility for them. That was the position you held and I think

20 Commissioner Baloyi just re-engaged you on that issue, correct?

COLONEL JACOB: Yes, that is correct.

ADV SELLO SC: All right. My confusion then is when he tells you on the 27th, no, he tells you after the 27th of October that there was an attempted break-in, why do you

get yourself involved? Why do not you say that is your baby? There were drugs. You have taken responsibility for them. Why must you be going to FSL to try and facilitate or expedite their reaction, their destruction, unless you were just doing him a favour?

COLONEL JACOB: No, you are correct. I should have done so. It is a police culture. You very rarely question your superiors, but I should have done so.

ADV SELLO SC: No, it is not about questioning. He told
10 you about a crisis that had befallen them. There was an attempted break-in. Your reaction was to then involve yourself, it would sound, on exhibits that are no longer your responsibility, notwithstanding the fact that you are in the investigating office.

Why did you do all that, because that is how you find yourself against FSL Amanzimtoti as to who said what on what day and what was the content of the conversation. because you went to FSL Amanzimtoti to chase up on drugs for which you had no responsibility, according to you?

20 **COLONEL JACOB**: Yes. Commissioner, it was the Brigadier's direct words, follow up with the lab, when he called me and informed me about the attempted break-in, follow up with the lab to see what we can do to either dispose or destroy. He asked me to follow up with the lab, and that is what I did.

ADV SELLO SC: Did I see that in your statement? Oh, okay. So, was that an instruction?

COLONEL JACOB: He did not say I am instructing you, but I took it as an instruction.

ADV SELLO SC: Right.

ADV BALOYI SC: You know, the problem with your explanations about this is you are the investigating officer, and yet you present to us as if Nyuswa was running this. That is the problem with this discussion about these
10 exhibits where they are sitting, there is an attempted break-in, how you respond, or your absence of a response, actually, to the news that there was an attempted break-in. It is as if this is Brigadier Nyuswa's show, and we will ask him that, so I think whatever answer you are giving to us on this, be assured that it is a matter that he will be engaged on, whether once he had come in to assist you, and I use the word assist because that is what you did, you called him to assist you, to find a place.

Once you had called him to come and assist you,
20 you then sort of washed your hands of it while it is still there. It is now Brigadier Nyuswa's baby. Even when you hear that there is an attempted break-in, it is not my problem, it is the Brigadier's problem. I do have a fundamental problem with accepting that that was your understanding, that what you are telling us is a true

reflection of your understanding, of your continued relationship with those exhibits.

COLONEL JACOB: Commissioner, once again, I will say, in the normal course of things, if it was a small, normal exhibits that we handled, yes, I am fully responsible as the investigating officer, fully responsible. This was an anomaly. It was a special circumstance. It was out of my control, or can I say, it was not within my powers to acquire a suitable storage place, although we have now established
10 I had not exhausted all avenues, albeit, notwithstanding that.

I am saying, once Brigadier Nyuswa made the decision to store at Port Shepstone, it moves away from the Durban area. It moves away from my control. He is a Provincial Commander. Yes, I do bear some sort of responsibility for those exhibits, but I cannot do anything without his say-so.

I cannot go to Colonel Prinsloo and now just remove exhibits. The directive would have to come from a
20 Brigadier. And when he told me about the break-in, his words to me was, follow up with the lab. So, maybe I should have explicitly said it and said, okay, while I am following up with the lab, Brigadier, you can try and acquire another place that is safer.

Maybe I should have done that. But I am still

maintaining that if it was a normal course of things and it was normal exhibits that we deal with, I have seized it, it is an exhibit that is manageable, that I am able to handle, yes, I will take full responsibility. It is outside now. It is so many hundred kilometres away from the Durban area. There is only so much influence I can exert on what happens to those exhibits, seeing as it is now at a unit, a Port Shepstone unit, that is controlled by another Lieutenant Colonel who stored it there on directives of
10 Brigadier Nyuswa.

So, yes, I will not wash my hands off completely, but I will say I am not totally responsible for the exhibits as I would have been had it been a normal bust with a normal amount of exhibits.

ADV BALOYI SC: Thank you.

ADV SELLO SC: Thank you, Commissioner. Thank you, Colonel. Just a brief, a quick one to close on this. After the theft discovered on the 8th of November, were you ever involved in the issues regarding the burglary and theft
20 itself?

COLONEL JACOB: When you say issues?

ADV SELLO SC: Whether it is investigating what happened or were you ever involved in any way regarding the burglary itself?

COLONEL JACOB: Other than going to that scene on the

day when it happened ...[intervenes].

ADV SELLO SC: Yes.

COLONEL JACOB: With Captain Majola and canvassing the area for CCTV footage and that type of thing, there was nothing further I had done.

ADV SELLO SC: You indicated, I think, yesterday that, was it, Warrant Officer Sibiya at the time was a very junior member who was not familiar with narcotics busts, but you thought he was sufficiently knowledgeable that you brought
10 him on this particular operation.

COLONEL JACOB: Yes.

ADV SELLO SC: Are you aware that he instructed members at DPCI Port Shepstone to find information regarding the burglary after it occurred? Are you aware of that?

COLONEL JACOB: He instructed members, Commissioner?

ADV SELLO SC: Huh?

COLONEL JACOB: You say he instructed members?

ADV SELLO SC: I say instructed when he tells a member
20 to initiate an information-seeking exercise. I am avoiding the word formal, I am avoiding the formal word investigation. I want to find out if you are aware.

COLONEL JACOB: No, I am not aware of that. Okay, Commissioner, can I just maybe expand?

ADV SELLO SC: Yes.

COLONEL JACOB: Although I said we did not investigate it, when I say that it means officially we were not investigating officers of the theft of drugs from Port Shepstone. Ultimately head office took over that, which was foreseeable. Although we did not officially investigate it, yes, we tasked informers, we made enquiries, we did all of the necessary to see if those drugs pitched up somewhere in KZN.

ADV SELLO SC: Yes, indeed, this is investigations out
10 there.

COLONEL JACOB: Yes.

ADV SELLO SC: What I am referencing here is Warrant Officer Sibiya instructing another member to officially conduct that.

COLONEL JACOB: Okay, I was not aware of that.

ADV SELLO SC: So you did not instruct him to do so?

COLONEL JACOB: No, Commissioner.

ADV SELLO SC: And in this ...[indistinct] so that to give perspective, CJC267, CJC267, that will be at page 798,
20 page 798, Chair.

COLONEL JACOB: Yes.

ADV SELLO SC: You located it?

COLONEL JACOB: Correct.

ADV SELLO SC: Colonel, I do not know if you have seen this statement before, but it is by Detective Sergeant Morne

Clayton Jones, stationed at Port Shepstone SAPS, attached to the Detectives. You see that?

COLONEL JACOB: Commissioner, maybe I want to point out something ...[intervenes].

ADV SELLO SC: Yes, please do.

COLONEL JACOB: I hope I am not being forward. This is Brigadier Sibiya. It is not the Sibiya that we were referring to with regards to this investigation. This is a Brigadier.

ADV SELLO SC: Okay.

10 **COLONEL JACOB**: Yes.

ADV SELLO SC: Who is Brigadier Sibiya?

ADV BALOYI SC: On 798 is Jones.

ADV SELLO SC: That is Jones.

COLONEL JACOB: Ja, Jones makes reference to a Sibiya, Commissioners.

ADV BALOYI SC: Oh, I see.

ADV SELLO SC: Yes, that is a clarification he is giving. Who is Brigadier Sibiya?

20 **COLONEL JACOB**: The Brigadier Sibiya I know is one of the Commanders at Provincial Organized Crime, based at provincial building in Durban.

ADV SELLO SC: Okay, so you are quite right. He references him at the second paragraph, main paragraph, that on the 8th, after the break-in on the 8th, he was tasked by Brigadier Sibiya to see if he could find any information

regarding this break-in as the drugs, which were stolen, amounted to 200 million in paragraph 4. You see where I am reading?

COLONEL JACOB: Paragraph 4?

ADV SELLO SC: Paragraph 4, first line.

COLONEL JACOB: Yes.

ADV SELLO SC: He says:

10 “I was then tasked by Brigadier Sibiya
 to see if I could find out any
 information regarding the break-in as
 the drugs, which were stolen,
 amounted to 200 million.”

COLONEL JACOB: I see that, Commissioner.

ADV SELLO SC: Okay.

COLONEL JACOB: Yes.

ADV SELLO SC: And if you go over leaf at 799, the last sentence highlighted in yellow:

20 “On 18 November I received a phone
 call from Brigadier Sibiya who informed
 me that I must take this docket to Port
 Shepstone ...”

That CAS number.

“... and hand it over to Lieutenant General Mgabuzi at our provincial office in Durban, which I did. The

investigation of this case was then
taken over by a provincial team.”

And the clarification you provide is that I should not
confuse reference to Brigadier Sibiya here as meaning the
Warrant Officer Sibiya who ...[intervenes].

COLONEL JACOB: Yes, Commissioner.

ADV SELLO SC: I take that, and thank you for that clarity.
And you say Brigadier Sibiya is at Durban provincial office?

COLONEL JACOB: He is at Provincial Organized Crime.

10 **ADV SELLO SC**: Okay.

ADV KHUMALO SC: Can I use this opportunity
...[intervenes].

ADV SELLO SC: Yes.

ADV KHUMALO SC: Because two pages later on 801, just
so that it is on record, it is the investigation diary of the
22nd of June 2021. So you will see further down they say
the estimated value of the drugs seized, 243 450 000. And
how they arrived at that is they say it is 450 000 per
kilogram.

20 **COLONEL JACOB**: Yes.

ADV KHUMALO SC: So if you times that by 541, that is
how you get to the 243 million.

COLONEL JACOB: Yes, Commissioner.

ADV KHUMALO SC: Ja.

COLONEL JACOB: Yes.

ADV KHUMALO SC: Thank you.

ADV SELLO SC: Thank you, Commissioner. I would like to move on to a different point very quickly. I hope we will be able to deal with this. If we could go to, I am looking for page 475 and that is CJC239. CJC239.

COLONEL JACOB: Yes, I have got it, Commissioner.

ADV SELLO SC: This is a letter dated 13 February. Colonel, I was saying that document at page 475 is dated 13 February 2024 and it appears at the bottom to be from
10 General Senona.

COLONEL JACOB: Yes, Commissioner.

ADV SELLO SC: It is addressed to the Acting Provincial Commander, Serious Organized Crime Investigation, Directorate for Priority Crime Investigation, KwaZulu-Natal, correct. Just for the record, who is or was the Acting Provincial Commander at the time?

COLONEL JACOB: I am not sure why it says acting. As far as I know, during that period, it was still Brigadier Nyuswa, so I would think it was him. But I am not sure why
20 it says acting, or maybe if he was on leave, there was someone else in his place. So I am unsure of that, Commissioner.

ADV SELLO SC: But in that period, Brigadier Nyuswa was the Provincial Commander.

COLONEL JACOB: He was.

ADV SELLO SC: This is regarding Warrant Officer Sander and his temporary placement to Provincial Support Services. And it reads, paragraph 1:

10 “A complaint was received on allegations of serious corruption against the above-mentioned member who is attached to the SANEB team at the Durban Serious Organized Crime Investigation. It has been decided that Warrant Officer Sander be placed on Provincial Support Services as from 13 February 2024 ...”

Which is actually the date of the signature of that letter.

“... until further notice pending the outcome of this investigation. Kindly inform the member accordingly.”

First question. At this time, Warrant Officer Sander reported to you?

20 **COLONEL JACOB:** Yes. Yes, Commissioner.

ADV SELLO SC: When did you become aware of this transfer, and how?

COLONEL JACOB: If I look at the date, it must have been on that date, or one or two days afterward. I cannot tell you offhand, but it would be there about, 13 February 2024.

ADV SELLO SC: As his direct superior then, can you shed light on the allegations of this serious corruption allegation against him, that led to this transfer? What was that investigation about?

COLONEL JACOB: Okay, firstly, I will place on record, Commissioner, I was not the one handling the investigation. All I can tell you is second-hand information. It was allegations of dealing or selling drugs to nightclubs in the Florida Road area, and allegations of theft of Cocaine.

10 **ADV SELLO SC:** Now, at the time he was transferred, as his immediate superior, did you engage with the then Provincial Commander, Brigadier Nyuswa, or whether somebody was acting, and or Brigadier Senona, as to why a member of your team is being transferred? Did you engage with anyone about this?

COLONEL JACOB: Yes, I did engage with Brigadier Nyuswa.

ADV SELLO SC: And what was the extent and level of your engagement?

20 **COLONEL JACOB:** Just to ask him what is going on you know, we heard this member is being temporarily placed at Support Services. And he informed us that there is allegations against him. Once the investigation is finalized, if he is cleared he will come back, but he is going to be moved there.

ADV SELLO SC: Was that the extent of your involvement in this transfer?

COLONEL JACOB: In his transfer?

ADV SELLO SC: No, in this investigation that led to this transfer.

COLONEL JACOB: I had no active role in this investigation. It was handled by a Colonel from Port Shepstone office.

ADV SELLO SC: Active or passive, I want to understand
10 whether you played no role. You are his boss, so to speak.

COLONEL JACOB: Yes, yes.

ADV SELLO SC: And you are making it sound like General Senona will sidestep you and begin to transfer members, even under your command, without resort to you. Is that how it works at SAPS DPCI?

COLONEL JACOB: Commissioner, I will give you an example. I faced allegations of ...[intervenes].

ADV SELLO SC: No, we will get to you. Let us stick to this one, Colonel. Thank you.

20 **COLONEL JACOB:** Yes, this was a directive. It was an instruction.

ADV SELLO SC: Yes.

COLONEL JACOB: Not an engagement. This is an instruction that you comply with, but I did engage with Brigadier Nyuswa, and he gave me the gist of it as to why

this member is being moved.

ADV SELLO SC: Why is it only a gist when you are responsible for him, he reports to you directly? I would expect at least an engagement that would talk about the potential impact on your unit's work when suddenly there are transfers like this. I would expect a more meaningful engagement. Are you suggesting none was had with you?

COLONEL JACOB: Commissioner, the way these processes work ...[intervenes].

10 **ADV SELLO SC:** No. No, Colonel, it is late in the day. You have a flight to catch. On this matter ...[intervenes].

COLONEL JACOB: Yes, I am saying I do not have, this investigation goes to an objective party, not to a Commander of the member. That is how the police works. It goes to an objective member who has no relationship with the member for further investigation.

ADV SELLO SC: Colonel, you are not talking generalities. I am asking about this transfer.

COLONEL JACOB: Yes.

20 **ADV SELLO SC:** And this investigation. Were you not engaged in a meaningful way by anyone?

COLONEL JACOB: No, not in a meaningful way. I was told this member is being moved, and these are the reasons.

ADV SELLO SC: And if evidence were to be produced that

in fact you were an active part of this, and it was not Brigadier Nyuswa, what would your comment be, or would you challenge such evidence to be put forward?

COLONEL JACOB: When you say an active part, Commissioner ...[intervenes].

ADV SELLO SC: You were actively engaging with Major General Senona on this matter.

COLONEL JACOB: You know, like I said, the investigation went to a certain individual, a Colonel. But during the
10 course of my career or my engagements with the Brigadier and the General, I will not go into detail, but it is not only this member. There were other members that allegations were made against and we were asked just to ...[indistinct] activate informers and check if there is anything.

But I can say with confidence there is nothing damning, there is nothing that I had done in order to get this to happen, to ensure that he stays away. There is no action that I took that actually prejudiced the member. But
20 if you get an instruction, okay, these are allegations, look into this, we have heard certain, we have heard allegations, look into this, you guys know Durban, that was merely my role.

But with regards to investigating this matter and seeing if the allegations were true, it was incumbent upon another Colonel from Port Shepstone.

ADV BALOYI SC: Is your evidence that you only became aware of this after he was suspended or after he was placed elsewhere, of these allegations, or in fact the fact that he is being placed somewhere else?

COLONEL JACOB: You know, if I look at his date, I cannot recall offhand whether my engagements with Brigadier Nyuswa was when the member was transferred or prior. I cannot recall exactly.

ADV BALOYI SC: But you say that is your only
10 involvement with this?

COLONEL JACOB: With this, yes, with this placement and the movement, yes. I am going to go further to say, at some points, yes, I was asked to draft certain progress reports on things, but not with regards to this member here, not with regards to this member, on other investigations. But this, there was somebody else involved in it. I was not hands-on here.

ADV BALOYI SC: You see, Warrant Officer Sander said you were in the room when he was called in and a document
20 was waved around that there is this email which is making allegations against you. He says you were in that room when that happened.

COLONEL JACOB: Yes, it would only be proper for me as the Unit Commander to be there.

ADV BALOYI SC: Well, I thought your only involvement

with this was when now you were asking what is happening with my member and then Nyuswa, Brigadier Nyuswa, then says to you there are allegations against him. I thought that, in fact, not I thought, that is what you said. I am putting to you that that is not true, that is not correct, that that is all you got involved with.

You were in the room when, according to him, you were in the room when he was called in and was told you are being placed elsewhere, you are going to be placed
10 elsewhere because there are allegations against you. Is it true that you were in the room?

COLONEL JACOB: I cannot even recall, Commissioner, honestly. It may have been the case, I cannot recall it.

ADV BALOYI SC: You do not recall?

COLONEL JACOB: I do not recall.

ADV BALOYI SC: You do not dispute ...[intervenes].

COLONEL JACOB: I do not dispute that.

ADV BALOYI SC: When he says you were in the room?

COLONEL JACOB: It could be possible because it would
20 only be proper that his, that the Unit Commander be there.

ADV BALOYI SC: Indeed.

COLONEL JACOB: Yes.

ADV BALOYI SC: I would expect you to say, I must have been in the room, even if I do not have independent memory, because I am his Unit Commander, not to start

with, my only engagement about this was with Nyuswa.

COLONEL JACOB: Yes, I concur.

ADV BALOYI SC: Thank you.

ADV SELLO SC: Thank you, Commissioner Baloyi. Judging, I think, by my notes, that was my last question to the witness.

ADV BALOYI SC: Is it about this still?

ADV SELLO SC: No, about his testimony to the Commission.

10 **ADV BALOYI SC**: No, I am, I want to see if I can ask a question on this still, this topic.

ADV SELLO SC: Yes, you can. And I take back my words, there is still another question. I keep forgetting this particular question. I apologize.

ADV BALOYI SC: Yes. So, Colonel, he, what Warrant Officer Sander tells us, testified to, is that he then gets placed in, I think, Supply Chain or another place, where he is placed and nothing is said to him. He remains there until he is moved elsewhere and he only finds out that this
20 investigation or supposed investigation was closed, I think, four months or four weeks later, I think he said four weeks after he was first moved.

He found out because he asked someone in Port Shepstone I think he said, and he was told, they looked it up and then they said, no, but this thing was closed four

weeks after it was referred. Now accepting that as what happened for purposes of my discussion with you, are you saying to us, you lose a member of long service with narcotics, an experienced member in your unit who reports to you directly.

You do not know, you do not ask, when is this investigation ending? I am one member short, I am one experienced member short. You do not ask what is happening with this investigation. Is that what you are
10 telling the Commission?

COLONEL JACOB: No, I am not telling the Commission ...[indistinct].

ADV BALOYI SC: Ja, what are you telling the Commission about on that scope?

COLONEL JACOB: Okay, maybe if I had to put it in perspective of how the police works when it comes to these things like that. Firstly, I was informed the member is under investigation, that is why he is being moved. I have got no say in that.

20 **ADV BALOYI SC:** He is under investigation because you were in the room when he was told that an allegation has been made.

COLONEL JACOB: Yes.

ADV BALOYI SC: So it is no longer, you and I have cleared that in fact your first account to us, that you found

out that he is under investigation because of engagement, because you were wondering what is happening with our member, where he is, that that is not an accurate reflection of what happened. You were in the very room where he was told there are allegations against you, okay. So you know, so let us move from this. You know your member, you were in the room when your member was told there are allegations against you. You become aware from that that he gets placed elsewhere, right?

10 My question accepts those two as a basis and my question is, but he gets cleared, in fact that investigation gets shut down. He finds out much later. I am asking you about once, at any point, you do not consider to ask, to check what is happening with my Warrant Officer because I am one person short.

 And I ask that question because I expect that a manager or a superior of an employee who has experience, who is part of a unit, which is now one person weaker, would have an interest in knowing where are things with this
20 member of my team.

COLONEL JACOB: Commissioner, I was not aware the investigation was finalized within four days or four months or whatever he says. When I did get word from, I am not sure whether it was the Brigadier or the General, that there is nothing that is come out of this, it was my call, it was

because of me, I am the one who proposed now it is over, there is no reason to keep him at Supply Chain Management and that is when he came back to the unit.

ADV BALOYI SC: And when you found out, you did not think to tell him whenever you enquired and you were told there is nothing to it, you did not think that as his immediate superior, he is entitled to, it is only right in fact that he be told that that complaint or that allegation against you has in fact been found to have nothing to it and the
10 investigation has been shut. You did not think it was the appropriate thing to do and he right thing?

COLONEL JACOB: I thought it was appropriate and I did so. That is how the member ended up back at the unit.

ADV BALOYI SC: No, the member find out for himself and he says, he says to us, long after he had been moved around, long after he went and asked and that is the only way. In fact, I asked him, did you ever get feedback on this, that this investigation, nothing has come of it? His answer was an emphatic no, I never received anything in
20 writing except for this.

I never received the allegations that were being investigated against me. I was told in a room that there is an email that came in, never given, never shown that email in the room in which you were. I never received anything, any report and it was, it went quiet until eventually I asked

and that is how I found out that I have been cleared. So, according to him, it did not come from you.

COLONEL JACOB: No, according to me, it did come from me.

ADV BALOYI SC: Thank you.

ADV KHUMALO SC: Can I just get clarity on Warrant Officer Sander. In June 2021, was he part of your team?

COLONEL JACOB: Yes, he was, Commissioner.

ADV KHUMALO SC: So you could have dispatched him to
10 the depot on the day?

COLONEL JACOB: Yes, I could have.

ADV KHUMALO SC: Because we know that a month later in July, he was involved in the 999 kilogram bust.

COLONEL JACOB: Yes, Commissioner, you are correct.

ADV KHUMALO SC: And it goes back to tying up my earlier point that because you were on leave and there were capable members of your team who could have attended to the scene, it was not necessary for you to cut short your leave and become involved, especially knowing that even a
20 day after you would need to go back on leave because your leave was only going to end at the end of the month.

COLONEL JACOB: You know, Commissioner, every policeman would like to boost his ego with a good bust. Karl Sander ...[intervenes].

ADV KHUMALO SC: Let us not go back there. For all you

knew, it was 5 kilograms ...[intervenes].

COLONEL JACOB: [Indistinct]... [cross-talking]

Commissioner, if you look at ...[intervenes].

ADV KHUMALO SC: ... for you to wake up and say, come and fetch me, I will attend a briefing where I will be told that it is 27 kilograms or 27 bags, when you got up and you said, come and fetch me ...[intervenes].

COLONEL JACOB: Yes.

ADV KHUMALO SC: You did not know that this was going
10 to boost your ego. You did not know that this was a big bust. All you knew at that point is, at a depot, there is a container and it might contain cocaine.

COLONEL JACOB: Yes.

ADV KHUMALO SC: So to say it was going to boost your ego and your decision was based on that, that cannot fly.

COLONEL JACOB: Commissioner, any container bust, even if you get 5 kilos, 5 kilos of Cocaine is like two million, close to two million street value. It is not every day you get a bust like that. So even the fact that I highlighted that I
20 went from leave to attend a normal search, it does not really matter on the amount, the magnitude.

But this, when I heard it is a container thing, yes, it will boost your ego to know that you have been part of a bust where, and most of the times in the container, you are not getting less than 10 kilos at least. So that was my

reason.

ADV KHUMALO SC: Colonel, it all leaves one with the impression that you wanted to be there. You wanted to take control of the scene. You wanted to manage it the way you managed it. You wanted the drugs to go to a particular place, and we know what happened to the drugs.

COLONEL JACOB: Commissioner, I strongly, strongly disagree with that. You know, and I am going to add something else, Commissioner, just to enlighten the
10 Commission. Drug busts went on even in the absence of Karl Sander's interdictions at the harbour. Not to shoot him down, but it is not the member himself that was prolific in terms of identifying containers or doing further investigations and, it is a matter of getting the information from your contact at Crime Intelligence. So he was not the be-all and end-all. We have got many ...[intervenes].

CHAIRPERSON: No, I think the question is different now. I think Commissioner Khumalo is way past the question of why you came back from leave.

20 **COLONEL JACOB:** Like I said ...[intervenes].

CHAIRPERSON: Now ja, I thought so. I thought so. Can you please respond to ...[incomplete].

COLONEL JACOB: Okay. You know, Commissioner, if I had a history of being office-bound and I am somebody that never goes out, somebody that never carries cases. Ja,

even Setshedi will tell you clan labs, I have identified clan labs. I love that action and I love investigation. I love being out on the field. So if I was somebody that normally did not do it and now all of a sudden I get this energy while I am on leave to go start working, then I can agree with you, Commissioner, that it does not look good. But if you find out from even whether an colleagues that work with me, I am that type of person.

So, I know when your other witnesses appeared
 10 before the Commissioner that we saw guys were office bound and they just went out. For me, that was totally not the case. I am somebody, if you look at my history, my convictions, my clan labs, it speaks for itself. I may not be as articulate as some of our other members and able to promote myself such that the country sees me as a hero, but I have done what I needed to do and, okay, that is it, I will not say more, Commissioner.

CHAIRPERSON: You are actually very articulate. Did you hear me?

20 **COLONEL JACOB:** No. Say it again, Chair?

CHAIRPERSON: I am saying you are actually very articulate.

COLONEL JACOB: Thank you, Chair. Thank you. Just made my day.

ADV SELLO SC: Thank you, Commissioner.

ADV BALOYI SC: May I just, a follow-up on Commissioner Khumalo. You chose Warrant Officer Sibiya to be part of this operation. Why him? Maybe let me start there. You have other members in the unit.

COLONEL JACOB: Yes.

ADV BALOYI SC: Why him?

COLONEL JACOB: When Mpangase and I spoke and then I think he walked around the office. He knew who was around. Then I asked him to check for anybody else. He
10 told me. I am not even sure what he said, but I told him, is KG there, because I think, even I think Karl Sander was on leave at that time, if I am not mistaken.

But I do not think anybody else was around. I cannot recall exactly, but KG Sibiya and I, he worked under me at EPR as well, so we have got a close relationship. I get on well with the member. That is the reason for it.

ADV BALOYI SC: Well, I ask you, because in his statement, and remember the context in which we are asking these questions, is because of these obvious
20 anomalies that happened and resulting in the loss of these drugs, in circumstances that really do not make sense. In his statement, he says he has no experience in these kind of operations. He has never done it. It is not part of what he does in his everyday job. He tells us in his statement what he does.

So there is that curiosity of why would you have picked him? You are on leave. You are not in the office. You do not say to Mpangase, find someone else in the office. So I am not even saying Sander. I do not know if he was or was not on leave. I know he was on leave when the drugs got lost. So I am not concerned so much about him. I am concerned about you run a unit that has other members who do narcotics. Surely it is not just you and Mpangase and Sander, right?

10 **COLONEL JACOB**: Correct.

ADV BALOYI SC: And you pick someone who does not do this in the normal course of their work. In fact, does not have any experience. It does not make sense that you would have picked him away from the office. It is not as if you are walking down the corridor and you saw him.

COLONEL JACOB: Okay.

ADV BALOYI SC: You are sitting in your house and you pick him by name. That is a great curiosity in the circumstances of what happened eventually.

20 **COLONEL JACOB**: Okay. Commissioner, I am going to disclose something in this Commission that I initially chose not to. You know, we do not like to air our dirty laundry. I told you I was moved to Commercial Crime from 2018 to 2019 for one year. There were allegations against me. I was moved there until the investigation was finalized. It

was over a year before I got back to the SANEB unit. And when I got back there, part of my problems of why I landed up in Commercial Crime was due to the fact that certain SANEB members and I were not seeing eye to eye. Allegations were made. I know some were fabricated. Not I know, they were fabricated against me because it was unfounded.

So when I got back to Organized Crime and when this opportunity came up, most of those SANEB members
10 that were available, I have since mended my bridges with. You know, it is water under the bridge now. Honestly, most of those guys there and I were not on good terms. The tension was still there. So I saw fit now to choose guys that I knew I was, you know, we were friends.

There was no issue between us. To choose guys of that standing so that now we can now ride on this high horse to say we have done a nice drug bust, you know. It may sound silly. It may sound petty. I have disclosed this to, I think, the Evidence Leaders behind the scenes. I am
20 not sure whether it was Advocate Sello or Ncube. And I said I do not want to air dirty laundry and that is the reason I made my choice of members of who I did choose.

And I think the Commission knows that maybe my choice in the end is something that worked against me, right. So I am saying I made it because of that, because I

was not getting on very well with some of those guys that were available and that is why I chose who I chose. And to those at the office who wondered why I chose those members, I have disclosed it to them because exactly what you said, Commissioner, I knew they would wonder ...[intervenes].

ADV BALOYI SC: So is Warrant Officer Mpangase, or was, because he is no longer there, the only SANEB member that you got along with at the time?

10 **COLONEL JACOB:** No. Like I said, I am sure Karl was on leave, but maybe there was one or two others, maybe one or two.

ADV BALOYI SC: Yes, and why did you not pick them, because they have experience. You are taking somebody ...[intervenes].

COLONEL JACOB: Yes.

ADV BALOYI SC: Who, on their own account, say, but this is not what I do every day. So you pick someone out of the environment of experience that you have.

20 **COLONEL JACOB:** Yes.

ADV BALOYI SC: And it does not make sense.

COLONEL JACOB: Okay.

ADV BALOYI SC: Unless you say, well, the only one I got along with was Mpangase, so I had to pick somebody else and that is not what you are saying.

COLONEL JACOB: Yes. Commissioner, the role of any other member who I would have called was not that in-depth role that you need to know drug investigations 100%.

ADV BALOYI SC: Ja, but it could have been a member who is pliable and who will tell a story that you tell for example. You all say ORS and Customs were there. It may well be. So it is not as if, do not proceed on the basis that it is common cause, that it would not make a difference who you pick. An experienced member may well have told you,
10 we cannot move these drugs from here at the harbour.

So do not do a it is of no consequence, because it is of consequence. So the answer of they would have played a minimal role, no, that is not a good answer. Give an answer, why did you not pick an experienced member in your team that you get along with? I am prepared to accept maybe pettiness excuses, you not picking Sander or the most experienced members in the team.

I accept that and I do not quarrel with that. But you got along with others who are on duty, who it is their
20 everyday job to do operations like this. You go and pick a junior by your description, a very junior person who, according to you, does not matter that they are there. It is not as if they are going to play a critical role.

You choose to do that. That does require an explanation, especially in an operation that goes so horribly

wrong, where you come in from leave, you go away, you remain involved in the matter, you come back, bad decisions are made throughout, throughout, in the handling of these exhibits, until they are stolen. You have to have a better answer about why this person who is ignorant about these operations, why him? It is suspicious. Give a better answer.

COLONEL JACOB: Okay. Also, Commissioner, I cannot tell you 100% who was available, but it was that time of the
10 morning where members are out on investigation, so if Mpangase had suggested another name of a member who I did not have any tension with, I would have chosen them. There was no special reasoning behind my choosing of Sibiya.

ADV BALOYI SC: You know, in your evidence, you have said to us, when your Commander speaks, I cannot contradict them. That is what you have said, and that is how you have excused your conduct and failure to act. You say, well, my Commander has made a decision, has told me
20 we are going to Port Shepstone, has not moved the drugs. That applies to you, and Mpangase as well. You tell him, you do not ask him, you do not say, who is in the office and then he gives you a list of names, and then you pick from that.

You actually name the person you want, so your

answer has to be premised, the premise of your answer has to be, you made the choice. You told Mpangase who to approach, and on your view that you take about the authority of the words of your superior, of course he was going to follow your instruction, which is to find Sibiya, so do not blame Mpangase for anything to do with this choice. It is all on you, and you have to give a satisfactory explanation on these facts.

On another day it may not matter, but we are
 10 dealing with an operation that went horribly wrong, and so you have to explain all your decisions, and satisfactorily explain your decisions, including why Sibiya, who has nothing to do with the kind of work that you do, which is narcotics.

COLONEL JACOB: Okay. Commissioner, may I answer you with a practical case scenario? I will give you an example of another operation, and members that were used, or is that me pointing fingers, and you do not want to hear that? Can I give you, just to show you how things work?

20 **ADV BALOYI SC:** If it enhances your answer about Sibiya, why you chose Sibiya by all means, but if it is just to relate another case, and it does not enhance the quality of your answer, do not, because it is of no value whatsoever.

COLONEL JACOB: So then I will not.

ADV BALOYI SC: Okay, thank you.

ADV SELLO SC: Thank you, Commissioner Baloyi. The one question I kept forgetting. On the 22nd of June, as you say, till the 29th you were on leave, 2021 now, and you have had engagement with the Commissioners about your continued involvement in the enquiry after the drugs were taken to Port Shepstone, DPCI offices, you recall?

COLONEL JACOB: Yes.

ADV SELLO SC: I want to understand firstly, I guess, how does it work in SAPS or DPCI KZN, when you are on leave,
10 is no one appointed to act in your place?

COLONEL JACOB: There would have been a Captain that was there.

ADV SELLO SC: Oh.

COLONEL JACOB: Yes.

ADV SELLO SC: Now, any challenges that Warrant Officer Mpangase experienced after he took over as an investigating officer, was it not appropriate to direct them to the acting, the person acting in your stead?

COLONEL JACOB: Yes, it would have been appropriate to
20 do so.

ADV SELLO SC: And you seem to have allowed him not to do so, but to direct these queries to you and seek assistance from you. Was that appropriate?

COLONEL JACOB: I deemed it appropriate because I was there for the actual crime scene, but in the normal course of

things, no, it would be prudent to let the acting Commander take charge of that.

ADV SELLO SC: Indeed, because you are no longer responsible. Once somebody is appointed to act in your stead, you are supposed to wash your hands, quote-unquote, of it, otherwise, then you are interfering in their very acting appointment.

COLONEL JACOB: You know, Commissioner, I will not agree 100% with that. It happens all the time. You are on
10 leave, you started a certain process, now you need to follow up. It is only you who can do it, so the leave does not really affect our managerial ...[intervenes].

ADV SELLO SC: Can I stop you, because I think you might just create problems for yourself and perhaps it is not necessary. I accept we are all tired now. I just want to put this proposition to you. The fact that it happens all the time does not make it right. Will you accept that?

COLONEL JACOB: I agree.

ADV SELLO SC: Okay. I accept that it happens all the
20 time, in your case, in the DPCI, and maybe that is part of the problem, nobody seems to comply with any applicable prescripts and protocols. So even acting appointments are affected and they are immediately undermined. That is what is coming across, and I do not know if that is the impression you want to create with the Commissioner. That

is what happens, but the impression that you are trying to create with the Commissioner is that that is quite in order.

COLONEL JACOB: No, I am not trying to create that.

ADV SELLO SC: Okay. As an aside, I ask this question because I kept forgetting about it. I have another question more related to Warrant Officer Sander, but if I pose this one first, I would have once again forgotten my question about being on leave. Have you ever recommended Warrant Officer Sander for promotion?

10 **COLONEL JACOB**: I cannot recall. No, I have not.

ADV SELLO SC: Are you sure?

COLONEL JACOB: I am not sure. I am not even sure. I cannot. Perhaps if you may have something, I cannot recall. There is nothing very special or, you know, that I would remember. I am sure I recommended other members as well. I am not sure in what context, so maybe ...[intervenes].

ADV SELLO SC: I would expect you to have recommended other members. I think yesterday, at least the point you
20 drove home, is that you are a fairly small unit out in the DPCI KZN, right?

COLONEL JACOB: That is correct.

ADV SELLO SC: So if you, and that unit has not grown much, you would know who you have recommended and who you have not recommended. You would not suggest you

have recommended me out of 10, and you are the 10th, in circumstances when you know you have never. It is not like you are recommending 100 people. So you know whether or not you recommended him.

COLONEL JACOB: I cannot recall. It is different intakes, different phases of promotion, you know? So I am not sure which one you are referring to.

ADV SELLO SC: I am referring to the November 2021 and he was seeking to be promoted to the rank of Captain and
10 you, there are a whole lot of documents, and you signed and supported him with the comment that the member is suitable for promotion, signed by you, on 17 November 2021. No recollection?

COLONEL JACOB: Okay. Yes, now I recall. That is a part the Commander recommends his member, whether they are suitable or not for promotion, yes.

ADV SELLO SC: Yes.

COLONEL JACOB: Yes.

ADV SELLO SC: And he was not promoted.

20 **COLONEL JACOB:** Evidently so, Commissioner.

ADV SELLO SC: Do you know why?

COLONEL JACOB: I cannot say why.

ADV SELLO SC: Okay. Did you ever assist him to get promoted to other positions, perhaps or ...[intervenes].

COLONEL JACOB: When you say assist him,

Commissioner?

ADV SELLO SC: However, whether to establish why he was not promoted, and if it is a training issue, to ensure that he receives an appropriate training.

COLONEL JACOB: Commissioner, what I can say, I have never sat on a panel where he has appeared before me on a promotion.

ADV SELLO SC: I am not asking as a panel member, I am asking as somebody who reports to you who sought your
10 support, and you gave that support, and they are unsuccessful in that endeavour.

COLONEL JACOB: Yes.

ADV SELLO SC: What, you bury it there, you do not even interest yourself to find out why?

COLONEL JACOB: Yes, we bury it there. It is improper to now find out from a selection panel. It is not done. It is now that you are interfering.

ADV SELLO SC: You, no, you know that is not what I am talking about. You find out from the person who sought
20 support from you, what went wrong. Was it the question, was it the level of experience? You have that engagement, and you say, we will try again. I never sent you to go ask a panel anything. Why would you be going there?

COLONEL JACOB: That is why I am saying the most I can do is recommend him and say that he is suitable for

promotion. After that, if I am not on a panel, it is out of my hands, Commissioner.

ADV SELLO SC: I thought you would be recommending him for promotion because it would enhance the capacity of your team. No, not necessarily. He was reporting to you at the time?

COLONEL JACOB: Yes, but I am not sure where the promotion he applied for was, Commissioner.

ADV SELLO SC: I will leave it there.

10 **COLONEL JACOB:** Yes.

ADV SELLO SC: Chair and Commissioners, those are my questions. Thank you.

ADV BALOYI SC: Yes, Colonel, just to clarify some aspects of your earlier evidence that I might have missed as you explained them and it is on different topics. There is only, they are not more than four. The first is, when you went, when you got to Isipingo Police Station ...[intervenes].

COLONEL JACOB: Yes.

20 **ADV BALOYI SC:** You say something about the availability of evidence bags when you are there. Can you just repeat what it is that you are saying about the availability? What happened when you were there about the availability of bags?

COLONEL JACOB: Warrant Officer Perumal did not have the required size bags.

ADV BALOYI SC: Okay.

COLONEL JACOB: That I can distinctly remember. He had no bags.

ADV BALOYI SC: Okay.

COLONEL JACOB: Yes.

ADV BALOYI SC: So there was nothing?

COLONEL JACOB: There was no bags.

ADV BALOYI SC: Okay. Did you consider to phone, because I am assuming you accept that these exhibits, soonest possible, they have to be bagged in evidence bags.

COLONEL JACOB: Yes.

ADV BALOYI SC: You are at a police station where you are entering them into the SAP13. Did you not consider to phone other stations and enquire if they have evidence bags so that you can do this properly?

COLONEL JACOB: I did consider that. There is no real go-to person. You phone the station, then he will refer you to an exhibit clerk. But just to let you know, we have done that before, Commissioner.

20 **ADV BALOYI SC:** No, I am asking about this operation.

COLONEL JACOB: No, I ...[intervenes].

ADV BALOYI SC: You are at Isipingo, because in your statement you do not say that you called around to find out if anyone has got these bags. We earlier looked at the instruction which says you go to the police station and this

is what you do. So I am asking my question in that context, that you are at a police station, you tell us that there were no evidence bags, there is a debate, there is a different version from Warrant Officer Perumal that this never even came up.

But I am happy for purposes of our discussion to go with your version, which is you asked him and he said he did not have bags. The question is, well, to do things properly at that point, because now you are not rushing, you
10 are in the precinct of a police station, you have not said there was a risk of anything, we need to do this quickly.

Why did you not phone around to request the right size evidence bags so that they are brought to you or you be told we do not have? Why did you not do that?

COLONEL JACOB: I cannot answer that, but maybe this will answer it a little. I was of the understanding from Mpangase that when they get to Port Shepstone, the bagging can be done there, because by that time it was already entered. Yes, I did not make the decision. I have
20 had experiences where guys run around and get three bags and two bags and five bags.

So based on that, I did not want to waste time. I said, okay, we have crossed that bridge now, we did not put it in bags. We are here at Isipingo, they do not have bags. They do not have space. So now my next step, okay, the

Brigadier has chosen Port Shepstone, and I discussed with Mpangase, when you get to Port Shepstone make sure you put it in bags, enter it in the 13 at Port Shepstone station.

ADV BALOYI SC: You did that well knowing and understanding that you should be asking, you should be bagging them at Isipingo before they are put onto anyone's vehicle and transported to Port Shepstone. You knew that you have to get evidence bags and bag them there at Isipingo. As a matter of rule or law or regulation or
10 instruction, they had to be bagged there.

COLONEL JACOB: Yes, that is correct.

ADV BALOYI SC: You knew that.

COLONEL JACOB: But with no bags, that is why I took that decision ...[intervenes].

ADV BALOYI SC: We know there were no bags. We know that for a fact. So I am not engaging about whether they ever bagged or not. We know they were not bagged. So my discussion with you is different. It is about why did you not phone around? I think you explained earlier why it is
20 important that they are bagged, right? You have explained the importance of it.

And I am asking you important SETs, essential, in fact, SETs, why do you not phone around? Because you are not rushing anyway at that point. There is no risk of attack. All the things that you said about moving from the depot,

they are non-existent now that you are at Isipingo. So you have, if you like, the luxury of time to phone around and hopefully get the bags and do it properly. You did not do that. You did not do that.

COLONEL JACOB: I did not do it. It is time-consuming as well.

ADV BALOYI SC: Ja, but you cannot – no, I think it is worse. I think stop there. Do not say it is time-consuming because it gets worse with that explanation. You did not.

10 You did not call around.

COLONEL JACOB: I did not.

ADV BALOYI SC: Okay. And you accept you should have. National Instruction requires you to bag these things there. You accept you should have found out if you can get the bags elsewhere before you transported them unbagged.

COLONEL JACOB: Yes, I can see that.

ADV BALOYI SC: Okay. Relating to that, in your statement, and here I want to understand the process, you arrived at Isipingo police station. You went into the police
20 station to find the Exhibit Clerk. I think that is what you say. In your statement, you also say that when you got there, the members started offloading while you went in to find the Exhibit Clerk, right?

COLONEL JACOB: Yes.

ADV BALOYI SC: So there is a window where you lost

sight of these exhibits that are not bagged, that are not yet in an SAP13. You lost sight of them at some point. There is a window. There has to be.

COLONEL JACOB: Yes, there was.

ADV BALOYI SC: They started unloading them. You went inside.

COLONEL JACOB: Yes.

ADV BALOYI SC: So in that period, you did not have sight.

10 **COLONEL JACOB**: No, I did not.

ADV BALOYI SC: So you would not know if any of the exhibits may have been tampered with in that period, or would you? And if you say I would know, explain why you would know.

COLONEL JACOB: I would not say I would have known exactly, but every operation, you have to have some element of trust, Commissioner. There will be, at not every point in time, you can have your eyes on exhibits. So there is ...[intervenes].

20 **ADV BALOYI SC**: I am talking about this operation, and I am going to say to you, if LCRC had been on the scene, there would have been eyes on that, right? While you go in, you would have waited. You should have waited. I want to suggest to you that you should know as the leader of that operation, you should not have lost sight of these exhibits,

and the proposition I am making to you, and it has to be, you have to say, yes, I am correct when I say to you that in the time that you left to go and find the Exhibit Clerk, anything could have happened with those exhibits. You would not know.

COLONEL JACOB: Yes, you are correct.

ADV BALOYI SC: Okay. So if Warrant Officer Sibiya took a break, you would not know.

COLONEL JACOB: I would not know, no.

10 **ADV BALOYI SC**: Yes, thank you. And then you also say in your statement, and you can correct me, and we are still at Isipingo, you also say we did the counting. So you get the clerk, and now you are counting. Where are the ORS people? Where are they at that point?

You say in your statement, and I want to tell you this so that I am not tricking you, right? You say in your statement that they were present when the counting, you all did the counting. Am I correct in that reflection?

COLONEL JACOB: You know, when I say they were
20 present, remember, Commissioner, it cannot be four or five people that is counting at the same time. Yes, they were present. They were present enough to know when we inspected those bags, more or less how many was inside each bag. They did not ...[intervenes].

ADV BALOYI SC: What does that mean? Just explain

what you mean when you say they were present when we inspected those bags. What is that inspection that they were present for?

COLONEL JACOB: When we did offload those bags from their marked vehicle, Commissioner, we placed all of those bags on the ground. Those bags were opened. I am not sure who was the first one that took out the bricks, but the bricks were offloaded and was laid there in piles. So I am not sure how many bags were offloaded in their presence.

10 It could have been all the bags that were offloaded in their presence, but maybe – okay, I am jumping ahead of myself. All of these bags were offloaded and the bricks were kept on the side of them.

ADV BALOYI SC: So the bags were offloaded, you include that the bricks were taken out of the bags.

COLONEL JACOB: That is correct.

ADV BALOYI SC: And you say the ORS were still there.

COLONEL JACOB: They were there when we unpacked and counted 20, 20, 20, majority was 20. There was one
20 bag, the 27th bag, that had 21. But the ORS guys, remember, Commissioner, they also need to make a report of how many we seized. So I see they did leave a little prematurely.

They did leave a little prematurely, but they knew the count of the bags, that it had 20 and one had 21.

Maybe they did not do the maths, but they knew there were 27 bags, and when we offloaded them, the 27th one had 21 bricks, all the rest had 20. That I can say with confidence. Maybe they were not there when we did the tally. By that time, they said they had to leave and conduct their other duties, but they were there when the bags were offloaded and the bricks were counted. Enough to say that there was 20 in each one, except for the 27th bag that had 21. I can say that with confidence.

10 **ADV BALOYI SC:** You see, I think his Warrant Officer Govender who says we arrived, we took the bags off the vehicle and we left to go and do our job. So he does not he does not say the same thing that you say.

COLONEL JACOB: I have got his statement, Commissioner.

ADV BALOYI SC: Yes.

COLONEL JACOB: If you can look at the inquiry? I am not sure where it would be, but my ...[intervenes].

ADV BALOYI SC: I am going to try and help you find it,
20 because I also flagged it.

ADV SELLO SC: Whose statement are we looking for?

COLONEL JACOB: I am looking for the Govender.

ADV BALOYI SC: Yes, if you look at File 2, File number 2, and under tab ...[intervenes].

COLONEL JACOB: At 779.

ADV BALOYI SC: Are you at 779?

COLONEL JACOB: Because, Commissioner, I just want to point out, this is not the statement I am alluding to. I am alluding to the statement that is filed in the inquiry and signed by Sergeant Govender.

ADV BALOYI SC: Well, I am looking at page 601, which is Govender, and it has his signature. It is on the 22nd of June 2022. That is the one that I have read. If you have got another one that says what you are saying, then we can go
10 there. In the last paragraph, he says:

“Colonel Jacob informed us that the exhibit must be transported to Isipingo SAPS. We then transported the 27 black bags.” ...[intervenes].

CHAIRPERSON: I do not think the ...[intervenes].

ADV BALOYI SC: He is not there yet. I am so sorry.

COLONEL JACOB: Okay, Commissioner, I just want to point out, this is not the statement filed in my inquiry ...[intervenes].

20 **ADV BALOYI SC:** Sorry, say that again.

COLONEL JACOB: That statement is obtained by somebody else. It is obtained by the team that were investigating the theft of these drugs.

ADV BALOYI SC: Ja, but what is the significance of that?

COLONEL JACOB: The content is different. The content

is different, because I did read this with some concern, but the content is different. If you look at ...[intervenes].

CHAIRPERSON: Perhaps wait for Commissioner Baloyi's point.

COLONEL JACOB: Okay, Chair.

CHAIRPERSON: Yes.

COLONEL JACOB: I think I know where she is headed, but...

CHAIRPERSON: That is the problem. That is the problem.

10 **ADV BALOYI SC**: You can refer to another statement if you want to, but this is the statement that I am referring to where he says:

“We offloaded them at the parking area,
and we left and drove back to continue
with our duties.”

On this statement, at least, they did not stay beyond taking your bags off their vehicle, and then they left. You make them more present than what he is describing here. You say the bags were offloaded, we opened them, and we took
20 the bricks out, and we were lining them up, and they were still there.

COLONEL JACOB: Commissioner, once again, if you see who took this statement, as I when I started off reading my or leading my evidence and reading my statement, it is obtained by the team investigating this theft of drugs. To

me, all of their statements are questionable. I think even if you call Sergeant Govender and show him the statement that I obtained from him, if he says otherwise, then I will say, Commissioner, you have a point here.

These statements, when they were taken from these individuals, I cannot say specifically for Govender, but what I have noticed is a trend, that all of these statements seem to follow a certain pattern where it is pointing fingers at certain individuals.

10 I have got a statement filed in the docket that the same team investigating the theft of drugs from Port Shepstone are very familiar with. They have seen it. They have it.

So you could take another statement that is contradicting what this individual said to me, and maybe for the record, we can read his statement out and compare it, but I am not sure why. I did not have him under duress. I do not make him present when I am opening the lock, so I am not misleading in the statement. If you look at my
20 statement, although initially, you know, there was ...[intervenes].

ADV BALOYI SC: No, you had made him present when you opened the lock at the depot.

COLONEL JACOB: I am saying I did that in error because of Mpangase's notes, but when I did take Govender and

Mkhize's statement, nowhere does it say they were present when we opened the lock. My point being, Commissioner, there is no deception.

ADV BALOYI SC: Are you saying he made these allegations in this paragraph under duress? Is that what you are suggesting?

COLONEL JACOB: I am not saying under duress, but I am saying I took a statement from him freely and voluntarily, and it says otherwise. Maybe we look at that,
10 Commissioner ...[intervenes].

ADV BALOYI SC: Yes, I said you can refer us to it, but maybe before you do that, can we at least accept that we are talking about a signed statement from Govender?

COLONEL JACOB: Yes, that is correct.

ADV BALOYI SC: So he indicated, in fact, it is under oath.

COLONEL JACOB: Yes.

ADV BALOYI SC: He indicated under oath that that which he describes there is, in fact, his testimony under oath in this statement.

20 **COLONEL JACOB:** I will just hear from the Evidence Leader which file is it.

ADV BALOYI SC: Okay.

ADV SELLO SC: Commissioner Baloyi, might it assist to go to the other statement? Then perhaps, I do not know what point the Colonel wants to make.

ADV BALOYI SC: I think he is asking you to assist him locate that other statement.

ADV SELLO SC: It is page 267.

CHAIRPERSON: It looks, it sounds like Commissioner Khumalo has it.

ADV SELLO SC: Page 627. Actually, that is the first Govender statement. The one you are discussing is the second Govender statement. So if I guess, Colonel, you can keep your finger on one of them while you discuss the
10 other so you do not lose. Those are the two state Govender statements that we have.

COLONEL JACOB: Yes.

ADV SELLO SC: And then perhaps then you may address yourself to Commissioner Baloyi.

COLONEL JACOB: Okay. Commissioner, may I read paragraph 5 of page 627?

ADV BALOYI SC: Yes, you may.

COLONEL JACOB:

20 “Sergeant Mkhize and I, together with other DPCI members, transferred these black bags from the container to an H1 marked state vehicle that I was driving. I counted 27 such bags. We were escorted by Lieutenant Colonel Jacob and his team to Isipingo SAP, where we

assisted in offloading the black bags. The DPCI members were busy counting the yellow and black bricks of suspected Cocaine when we left the scene. From my observations, each bag contained approximately 20 such bricks. We then left the scene and proceeded with our normal duties.”

ADV BALOYI SC: Yes, and say that says what?

10 **COLONEL JACOB:** It says that he noticed 20, that is what he is saying, approximately 20 bricks in each bag. And Commissioner, I want to further add that no policeman involved in something of this nature will not write up their pocketbook properly to say what they had done on that day.

ADV BALOYI SC: You see, I raise this with you because in your statement at paragraph 25, you say:

“We proceeded with the count of the bricks of Cocaine with the Police Border members.”

20 **COLONEL JACOB:** Ja.

ADV BALOYI SC: It is not the same as what you are reading in paragraph 5.

COLONEL JACOB: Yes.

ADV BALOYI SC: He is saying you were counting, he left when you were counting. That is what he says in the one

that you are referring to.

COLONEL JACOB: Ja.

ADV BALOYI SC: But you are saying something completely different in your paragraph 25. You say:

“We proceeded with the count of the bricks of Cocaine with the Border Police members.”

COLONEL JACOB: Yes.

ADV BALOYI SC: So you are involving them in the
10 counting in that paragraph 25.

COLONEL JACOB: Yes, and like I am saying, Commissioner, they may not have been part of the physical counting. There is only so many people that can handle exhibits, but they were there. They ...[intervenes].

ADV BALOYI SC: He says he left when you were counting. The statement that you refer to, to assist you, it says he left when you were counting. Your statement says he was involved with the counting. Do you not see and understand ...[intervenes].

20 **COLONEL JACOB**: I said when we proceeded to start counting, Commissioner.

ADV BALOYI SC: You say what?

COLONEL JACOB: We proceeded to start counting.

ADV BALOYI SC: With the Border Police members.

COLONEL JACOB: They were there. The fact that they

chose to ...[intervenes].

ADV BALOYI SC: No, no, no, no, Colonel. We have had a long two days with you. You state in your statement, you counted with the Border Police members. That is what you convey. My English is not that bad. Trust me, it is not that bad. You convey in that first line that you counted with the Border Police members. That is what that line says. Until one reads something different, the only meaning of your sentence is, Govender and Mkhize were involved, were part
10 of the count. Govender says, in the one statement, he says we have loaded the bags and we left, but he says the same thing in even more words. In the one that you referred to he says we offloaded the bags and left when the police were counting. So he does not include himself in the count.

COLONEL JACOB: This is a statement you furnished me, Commissioner.

ADV BALOYI SC: Okay.

COLONEL JACOB: Under oath.

ADV BALOYI SC: All right. Thank you. And then lastly,
20 can I – in fact, two last questions. And the one is just to make sure that I have correctly understood your evidence. In the time after the exhibits are deposited at Port Shepstone, from that date on, you did not have anything to do with these exhibits. You never came to know what is in that room, how many are in that room physically. You have

never walked in to check, nothing. You had nothing to do with the physical exhibits in the entire time until they were stolen.

COLONEL JACOB: No.

ADV BALOYI SC: Yes. Your last engagement with the physical items was at Isipingo, outside the police station.

COLONEL JACOB: Yes.

ADV BALOYI SC: Okay. All right. And then lastly, and I promise you this is lastly, I still do not understand, and it
10 might be that I need you to say it again so I understand the explanation properly. You returned to the container on the 1st of July.

And it is not clear to me why you returned because on the 22nd, you got the consignment that you were told was in the container. You were told 27 bricks. I think that is what you all expected. It is 27 bricks. As it turns out, it is 27 bags, I think. So you all are happy and good.

In fact, your informant, Crime Intelligence, has left. He is happy that in fact what he had been informed was
20 coming through. It has been found. You are done. When you go back, you say, why do you go back?

COLONEL JACOB: To the container?

ADV BALOYI SC: Yes.

COLONEL JACOB: To ...[intervenes].

ADV BALOYI SC: And remember that your evidence is you

also looked around, you did a peek, that is what you tell us, that you did do an eye observation of the container and you were satisfied that you got everything. Why do you go back?

COLONEL JACOB: Okay. It is a norm that we seal the container, we went back. And I think I explained previously, there were 5 300, I think 95 50-kilogram bags, which confirmed what the packing list said. If I had noticed that there were 10 bags short, 10 50-kilogram bags, then we are
10 looking at a 500 kilogram deficit within your load.

If there were 10 bags short, then it would lead me to draw the inference that it is possible the consignee knew about this because they are supposed to be expecting a certain number. Now there are 10 bags short, which amounts to the weight that that Cocaine would have taken up.

Because remember, containers are weighed as well to see whether it corresponds with what the documentation says. So that is the purpose of doing that further unpack.
20 Firstly, to check there is no additional drugs. Secondly, to see if the packing list corresponds, to see if the consignee is being honest with us. So it is purely for that, for the sake of being thorough. That is the only reason.

ADV BALOYI SC: The reason I ask and that I am still confused and not clear about why you would go back is

because in the way that you explain your return there and what you did there, it looks like you just went to count the numbers. You had a paper which tells you there is supposed to be 5 395 bags. And then you are not customs, you are SAPS. You go back to verify that indeed there is 5 395 bags, and from that you are satisfied.

Your operation is done, shut, you got everything and you leave. It does not make sense to me, something does not make sense there, that you would go back just to
10 go and count the bags.

COLONEL JACOB: What exactly does not make sense to you? Maybe I will ...[intervenes].

ADV BALOYI SC: You are looking for Cocaine, counting the bags and finding that they are 5 395 does not tell you anything ...[intervenes].

COLONEL JACOB: It is also inspecting to see that ...[intervenes].

ADV BALOYI SC: So you took them out, you took the bags out and inspected them. Is that what you are saying?

20 **COLONEL JACOB**: Not every bag, a few bags would have been inspected. A few bags would have been inspected. In fact, those bags were such that as you are handling them, you can see a little bit inside of them. You know ...[intervenes].

ADV BALOYI SC: So if there is a few bags, you do not

have intel that there is more, right? So you are just a random police officer who is searching. You now tell us in your statement, you do not say, in fact I think what you explained earlier, in fact your statement says:

10 “I proceeded to the CHC Depot. I had arranged a clearing agent to be present to unpack the container and we conducted a count of the animal feed. They amounted to 5 395, which corresponded with the packing list. This further corroborated the rip-on-rip-off methodology. The container was then officially released.”

So on your own statement in paragraph 35, all you went to do or what you did on the scene was to count the bags. And that is what I say, it does not make sense that a police officer would go back to a container only to go and count how many bags there are. And on the paper it says 5 395 and you say, good, the container can go. That does not
20 make sense at all.

COLONEL JACOB: I am not sure why.

ADV BALOYI SC: And it does not make sense. It does not seem like sensible police conduct and use of time at the very least. It does not seem to be. And so let me put to you that it suggests to me at least, because it does not

make sense, it suggests to me that there has to be another explanation why you did this.

Either appearances of an investigation, you knew you got the 27 bonus bags, you thought it was bricks, you got the 27. So you knew you have got everything that your Intelligence told you. You went there for another reason. Here you tell us I counted the bags and I say that does not make sense, you would go back to count the bags. And then I want to suggest to you that at best, on the most
 10 charitable possible explanation, you went back for appearances of conducting an investigation when in fact there was actually no investigation you were conducting. These drugs were always destined to be stolen, and you knew that.

You knew there is a plot about these drugs and now you were just going through the motions so that you can show up a diary and say, see, we were doing an investigation. We were serious about this. That is what I suggest it looks like to me.

20 **COLONEL JACOB**: Commissioner, it is the norm in every rip-on-rip-off load to do what I had done. So if that is your insinuation with regards to me, then I think I will not take it personally. I would assume you will have the same stance ...[intervenes].

ADV BALOYI SC: Yes, I am saying that is what it looks

like to me.

COLONEL JACOB: But I am saying to you it is the norm. It is a norm ...[intervenes].

ADV BALOYI SC: Okay. Keep in mind, we do not have evidence here of other instances. If you want, you can file an affidavit with the Evidence Leaders which gives us all the other instances, a supported affidavit, where that is the practice. Right now, I am working off what you have told us in your statement, why you went back.

10 And it does not make sense to me what you say in the statement. And then I try and find an answer to the why would you go back? This does not make sense. What could be the real reason that he went back that he is not telling us? And I learned that given the facts of what happened here, from the time you first opened, in fact, from the time you called Sibiya to come and join you, and you spoke to Nyuswa and not your Commander, and you made the decision, unsatisfactorily explained decision to move these exhibits from the depot to Isipingo, that you allowed these
20 things to be moved without being bagged, without being sealed, to be transported to Port Shepstone.

Your failure to act, to speak at the very least to your Commander when he tells you that there was an attempted burglary. The sampling, that does not make sense, that idea to sample and how it is conducted, that by

telephone you tell Mpangase, who is a Warrant Officer, to get a sample, send it to the lab.

Your discussion with Setshedi about destroying these exhibits even before investigations are completed. The failure to invoke the authority of your superior to get your lab attention to deal with these exhibits. And finally, your failure to even speak to him when you are told there was an attempted burglary, and you are excusing yourself by saying, well, it was his to deal with, he is my superior, I
10 could not ask him to try and do something about it.

All of that, all those facts and more that I am listing to you suggest to me that any semblances, any appearances of investigation that are contained in this diary, that you and I agreed yesterday that it is actually on the face of it, we should not take it at face value because it contains a reconstruction of facts after the event, a misrepresentation.

It has dates of entries where we know now, we know the entry was not made on that day. We did not know
20 until you testified. So nothing that is here in that diary is reliable, and I am suggesting to you that my view, the impression I have gained from this, is these recorded investigations in the diary and your returning to that place on the day when there was no detention order, there was no detention order when there are rules about how you go

about issuing an instruction to detail. You did not do that. You release it when it was undersized. You say, I did not know it was undersized.

I am saying all of those facts, they lead me to the impression that your visiting that place on the 1st of July was again part of a scheme of creating the impression that there was a real investigation when in fact there was no investigation at all that was going on. You were just going through the motions. That is the last thing I get to say. You
10 can comment.

COLONEL JACOB: Commissioner, once again, I will say to you it is the norm to go and unpack a container. You are entitled to your view. I think I have said more than enough regarding all of those issues that you alluded to, and I do not think there is much more I can say to change your opinion. You are entitled to it, but I will still stand by it.

There is no semblance of an investigation, no such thing. If you had to compare my inquiry with every other rip-on-rip-off load, you will notice there is much more
20 investigation done. Commissioner, I would have thought that the Commission would have familiarised themselves with the nature of these cases to see if indeed this is something that is a red flag to go and unpack a container just to verify that there is nothing else there, that the packing list corresponds. I do not know what would lead

you to believe that it is a semblance of ...[intervenes].

ADV BALOYI SC: I have invited you to give us a statement that sets out all those, that procedure that you are talking about, because we have listened to many witnesses about these kind of activities, about operations, drug busts. We have listened to many witnesses explaining, including witnesses that have participated.

It is the first time, and maybe that is why I even waste five minutes on it, that I hear that any one witness
10 has come here and said we search and then we go back to the container to search again. So I am inviting you to feel free to file a further statement that sets out that where that procedure is contained, that allows you, whether it is an oral, verbal practice, you tell us, and then you list cases where you say that has been done after the initial search and we found, we ordered that the container be detained, these were the effects, and we went back and searched. I am sure we will not reject that kind of affidavit. And it is only fair that you find it if you have something like that.

20 **COLONEL JACOB:** Okay, Commissioner, I will look for that.

ADV BALOYI SC: Okay, thank you.

ADV SELLO SC: Chair, before, if I may, I can indulge ...[indistinct] because I said I have completed my questions. However ...[intervenes].

CHAIRPERSON: May I quickly ask mine?

ADV SELLO SC: Yes, if it is a question, Chair. I thought you were closing the...

CHAIRPERSON: Thank you. It is just on one issue. The number of questions will depend on your responses, Colonel. Colonel, this relates to what you say in paragraph 9 of your statement, the statement prepared for the Commission. There you say:

10 “Umlazi is 11 kilometres away from the
 depot, which I saw as a risk, and we
 were working in an uncovered area of the
 depot.”

And my sense, I think, when you substantiated on this was basically that you feared that people from Umlazi might descend on the scene and, what, possibly take away the drugs? That was my sense.

COLONEL JACOB: Yes, that is always a possibility.

CHAIRPERSON: So I am correct?

COLONEL JACOB: You are.

20 **CHAIRPERSON:** Yes, yes, yes. I assume that there must be quite a lot of searches and seizures in that area, the CHC Depot, I assume so. Surely this was not an isolated incident.

COLONEL JACOB: The ones I am aware of, Commissioner, was the one of Warrant Officer Sander and

this one ...[intervenes].

CHAIRPERSON: But surely it could not have been. It just could not have been.

COLONEL JACOB: You said, Chair, there could not have been just ...[intervenes].

CHAIRPERSON: I am saying I would be very surprised if this was the only search and seizure at the CHC Depot, even if you yourself are not aware of any others. I would be very surprised.

10 **COLONEL JACOB**: No, there ought to have been.

CHAIRPERSON: There ought to have been, yes. Now, in your experience, have people from Umlazi ever descended on a crime scene and forcibly taken whatever it was that was discovered at the crime scene? In your experience.

COLONEL JACOB: I can answer that in two parts, Chair. The volume of this made me consider the risk factor attached to it, the magnitude of this, the value of these drugs recovered. So there is only two major drug busts that I am aware of at CHC. That was the first one of the
20 Mandrax, 547 kilos, and this was ...[INTERVENES].

CHAIRPERSON: Okay, that is the first part. Second part?

COLONEL JACOB: Yes, so it is only two of those ...[intervenes].

CHAIRPERSON: I am saying you said you were going to answer my question in two parts. So the second part of

answering me ...[intervenes].

COLONEL JACOB: Can you just repeat the question ...[intervenes].

CHAIRPERSON: Sorry, sorry ...[intervenes].

COLONEL JACOB: I lost my train of thought, Chair. Could you please ...[intervenes].

CHAIRPERSON: And I am happy that I did not disturb you. You lost it on your own. All right, but that was not my question anyway.

10 **COLONEL JACOB**: Yes.

CHAIRPERSON: My question was, have people from Umlazi ever descended on a crime scene at the CHC Depot and removed whatever it was that was discovered when a search and seizure was conducted?

COLONEL JACOB: Not that I am aware of, Chair.

CHAIRPERSON: Okay. Now, so your fear was based purely, purely on surmise, pure surmise. There is a township close by, and those people from the township just might come here and forcibly take this suspected Cocaine
20 from us. Mere surprise, people from the township up on the hill. You know, I happen to know Umlazi.

COLONEL JACOB: Commissioner, that is always a real concern of any policeman, of any policeman, when you do a seizure of this nature. That is always a concern, your security issues. And we would be fools to think that in

every situation you are ...[intervenes].

CHAIRPERSON: Is there not a residential area? I think there is a residential area before you go up and reach Umlazi, up at the top. Is there not another residential area somewhere?

COLONEL JACOB: Isipingo?

CHAIRPERSON: Yes.

COLONEL JACOB: Yes, there is.

CHAIRPERSON: So you suspect the people from Umlazi
10 and not the people from Isipingo.

COLONEL JACOB: I am not profiling, but it is known, it is a high-risk area, Chair. I am saying every attack that ever happened, either on police or ...[intervenes].

CHAIRPERSON: You know, people who deal in substances like Cocaine, Heroin, and all that are usually the so-called sophisticated people. So your fears and so on, because part of your suspicion seems to be based on the quantity.

COLONEL JACOB: Yes.

CHAIRPERSON: So that must mean that you thought that
20 the people from Umlazi just might get weaned off the fact that there is this big bust here.

COLONEL JACOB: That is correct, Chair.

CHAIRPERSON: That is true of the people in Isipingo as well. And as I say, the so-called more sophisticated-looking people are by and large the people that are involved in this

sort of thing, or am I also profiling?

COLONEL JACOB: You know, Chair, what I would want to say, when all comes to light, at some point when arrests are made, I think then we all will be enlightened as to why my concerns were also a little valid. I will not go into depth ...[intervenes].

CHAIRPERSON: No, but the important point is that you are not able to say that people from Umlazi ever, ever descended on CHC to forcibly remove drugs or any other
10 thing discovered in a bust or after a search and seizure or pursuant to a search and seizure. That is the important thing.

COLONEL JACOB: Yes.

CHAIRPERSON: So you just assume that the people up on the hill just might do that, pierce their minds.

COLONEL JACOB: Now I realise, Chair, what I was thinking of earlier.

CHAIRPERSON: Now, that is one of your – you just remembered something. Oh, yes, yes, yes.

20 **COLONEL JACOB**: I am saying every attack that ever happened, whether it be policemen robbed for firearms or policemen robbed for monies that they were carrying, which happened not too long ago, was at some stage not heard of. Every attack or every type of incident, there had to be a first time for everything.

So although it may not have happened, it is a risk that we have to consider because there certainly would have been attacks on police, certain robberies on police for their firearms and things that would have been a first in that area, would have been a first for a certain scenario. So as much as it had not happened before, I cannot say that there is no risk of it happening based on the value of those exhibits.

And more especially, Chair, like I said, compounded
10 by the fact that we did not have enough exhibit bags, the station was only four kilometres away. Those were the factors in my mind, and I agree with you. I cannot say with certainty that there would have been an attack and ...[intervenes].

CHAIRPERSON: And you are not aware of an attack since?

COLONEL JACOB: No, I am not aware of an attack. I am not aware of a large amount of ...[intervenes].

CHAIRPERSON: So meaning that if you are the one to
20 conduct a pass, in the vicinity of Umlazi, you will always conduct it differently because you are fearful of Umlazi?

COLONEL JACOB: No.

CHAIRPERSON: Yes or no?

COLONEL JACOB: Commissioner ...[intervenes].

CHAIRPERSON: So whenever you are involved, you go

there, quickly remove the drugs and take them wherever you consider safe, maybe Isipingo.

COLONEL JACOB: No, no, Chair.

CHAIRPERSON: Yes?

COLONEL JACOB: I am saying when we go into these type of locations, we go with adequate manpower, we go with a tactical team, you go with enough vehicles, you go with members armed with rifles.

CHAIRPERSON: Then that raises another question, why
10 did you not do exactly that on this occasion? That is not an answer. Why did you not do that on this occasion as well? You just call Mpangase, that is one person, and you say, hey, is KG there? And KG happened to be there, and that was all.

And then it was just the three of you, and yet you know as you sit there and as you say now, that the proper thing to do is to go to a crime scene like this. You are not going to a crime scene involving maybe the theft of a case of beer. No. It is a crime scene involving Cocaine, a drug
20 bust, serious crime. You do not go there with the necessary manpower. Did you have a reason for not doing so?

COLONEL JACOB: Chair, I think if I was at the office, not I think, if I was at the office ...[intervenes].

CHAIRPERSON: No, no, did you have a reason for not doing so?

COLONEL JACOB: It is because I was on vacation leave, I did not attend to all ...[intervenes].

CHAIRPERSON: What on earth does that mean?

COLONEL JACOB: If I was at the office ...[intervenes].

CHAIRPERSON: Because to get manpower, even if you are not physically at the office, there is the convenience of a telephone.

COLONEL JACOB: Yes.

CHAIRPERSON: You could have made calls, and you
10 could have spoken to someone who could, if you could not do it yourself, someone who could mobilise the necessary resources.

COLONEL JACOB: Yes, you are correct, Chair.

CHAIRPERSON: So you have not answered my question then, why did you not do that? Why did you not make sure that you had enough resources in terms of police officers?

COLONEL JACOB: Yes. I think compounded by the fact, Chair, that I did not know what we were getting into, I just knew it was a container ...[intervenes].

20 **CHAIRPERSON**: You knew, you knew that you were going to – you knew that you were going to a drug bust, you knew that. And it was so important to you that you even said that I came out of leave because it is something quite important to each and every police officer. It is an ego boost. I am paraphrasing, but that was the essence of what you said.

So it is something quite crucial, and leaving aside the ego boost, this is a drug bust.

Again, it is not going to a crime scene involving the theft of beer. It is something quite serious. Why did you not mobilise and get other police officers so that you would not be concerned about Umlazi? Because my sense is that had you had enough police resources, you would not have cared about Umlazi.

COLONEL JACOB: That is correct.

10 **CHAIRPERSON**: Am I correct?

COLONEL JACOB: You are correct.

CHAIRPERSON: So why did you not organise enough people to secure the area?

COLONEL JACOB: Our tactical team, Chair, was out on that day. They were out ...[intervenes].

CHAIRPERSON: Surely, I find that difficult to believe because that would have been the first thing you say once I started engaging you. I am asking this question now for the third time. I find that very hard to believe.

20 **COLONEL JACOB**: It is also in my affidavit or my info note that somewhere I did write that. I even considered calling our tactical team out, but I know they were out on that day. That is why they even took a long time to get to where we were at Isipingo.

CHAIRPERSON: But I was saying that I know the technical

team is a specialised team, but are those the only police officers that could have given reinforcement? Are those the only ones?

COLONEL JACOB: Chair, Isipingo has got less manpower. You see, even in Warrant Officer Sander's statement, he states that Perumal told him we do not have enough manpower ...[intervenes].

CHAIRPERSON: Do you not get resources from other police stations when it is necessary?

10 **COLONEL JACOB**: Yes, we do, Chair. And the ...[intervenes].

CHAIRPERSON: Sorry, sorry, sorry. And you had maybe saying luxury of time, but I will still use that. You actually had the luxury of time because it is not as if that container was going to be spirited away from the CHC Depot.

COLONEL JACOB: Yes.

CHAIRPERSON: So you could have contacted other police stations to get the necessary manpower. Could you not have?

20 **COLONEL JACOB**: I could have, Chair.

CHAIRPERSON: Why did you not do it? So it is not an excuse to say that your own at Isipingo were out, were not at Isipingo, had gone on whatever. So that is not an answer to my question. Why did you not reinforce from elsewhere?

COLONEL JACOB: Chair, even the response time when it

comes to these units when you want this tactical support, it is not at the drop of a hat that you make a call and now within 10, 15 minutes ...[intervenes].

CHAIRPERSON: So you do not even try. So you do not even try. You go there, it is you, it is Mpangase and Sibiya. So that is your choice. And you know that Umlazi, which you fear, is close by. You choose to do that instead of trying to get reinforcements. Because you never know. Trying, maybe you could have gotten reinforcement for all
10 you know as you sit there.

You cannot say I did not try just because it is not a case of getting reinforcement within 15 minutes. You did not know for a fact whether you could or you could not. And add to that what I said earlier, which is that in a sense, you had the luxury of time because it is not as if that container was going to be spirited away.

COLONEL JACOB: Yes, I cannot dispute that, Chair. I took a decision ...[intervenes].

CHAIRPERSON: So you just rushed in with three people.
20 One of them, as Commissioner Baloyi indicated, knows nothing about this sort of operation. Just three of you rushing in. And then perchance being assisted by the ORS SAPS members.

COLONEL JACOB: Chair, chance – you know, Chair, I would not and I can say this with confidence, I would not

have moved to Isipingo Station if those uniformed members were not there. Because I know, obviously, then it is a red flag. It is just the three of us from one unit ...[intervenes].

CHAIRPERSON: No, no, no, no. Now you are talking about what happened at the tail end. I am engaging you about what happened at the beginning. Let us not go to the tail end. I am not there.

COLONEL JACOB: Yes, I did not ask for any backup. I could have. I did not.

10 **CHAIRPERSON**: And my sense is that you had no reason not to.

COLONEL JACOB: Once again, it is my ...[intervenes].

CHAIRPERSON: Let us forget about this thing about it is not a 15 minute thing and so on. You basically had no reason not to.

COLONEL JACOB: It is the time issue. That is all I can say.

CHAIRPERSON: Tell me about the time issue.

COLONEL JACOB: It is just that I know in experience, by
20 the time you call a certain Commander, then he directs you to somebody, then you phone that member and then he mobilises his guys. It is only when you give them prior notice. That is how the police works ...[intervenes].

CHAIRPERSON: Back to my question, so you choose not to even try.

COLONEL JACOB: Yes, I chose not to.

CHAIRPERSON: I will leave it at that. Now, from where I am sitting, it seems to me that the Umlazi issue was not really an issue because you either ought to have gotten reinforcement or tried to. And if it was to be an issue, it would only be an issue if you had tried and failed and then you say, I am here, there is Umlazi here, I fear Umlazi, then I must rush away.

Otherwise, that situation that you are fearful of is
10 self-created. Self-created in the sense that you have not taken necessary steps to ensure that you have reinforcement.

COLONEL JACOB: Yes, I can accept that.

CHAIRPERSON: You accept that?

COLONEL JACOB: Yes.

CHAIRPERSON: All right. Now, what I want to add to this thing about the fear of Umlazi not making sense to me, what I want to add to that is this. Yesterday when I engaged you, you accepted that you could have had the container
20 removed because when you were engaged by Ms Sello today, you said you did not have much space on the door side of the container. I think you said it was only two metres and that there was a lot of whatever it was behind. So just two metres from the doors of the container.

COLONEL JACOB: Yes.

CHAIRPERSON: When I engaged you yesterday, you accepted that you could have gotten the container removed from where it was to some other area within the CHC Depot and that once there, you could have done the necessary cordoning off and then you could have been able to conduct the search and seizure in a proper manner. Do you remember accepting that yesterday?

COLONEL JACOB: Yes, I do, Chair. So when you look at those two issues, the fact that the Umlazi issue does not
10 make sense and to which right at the tail end of that debate you said you accept everything that I am suggesting to you. So when we look at that and we look at the fact that you could have removed that container and then you could have been able to do the search and seizure properly with no impediments, it makes all the other reasons that you gave yesterday to pale into insignificance. Do you accept that?

COLONEL JACOB: I do not want to argue with you. I will ...[intervenes].

CHAIRPERSON: You accept that?

20 **COLONEL JACOB:** Yes.

CHAIRPERSON: Thank you very much.

ADV SELLO SC: Thank you, Chair. Just very quickly, if I may, and this is because I think you either have taken Commissioner Baloyi's offer or you have undertaken to do so to provide a statement explaining processes, prescripts,

governing such an engagement where you go back to the container in the manner that you did on the 1st of July. You remember that?

COLONEL JACOB: Yes.

ADV SELLO SC: I think it, I do not know, I hope it will help you that it might not be a particularly useful exercise. Why do we not try it this way, rather? We see at your paragraph 35, you say on the 1st of July 2021 you proceeded to the depot to go count the 5 395 bags. Correct?

10 **COLONEL JACOB**: Yes.

ADV SELLO SC: Are you aware that in none of the statements, none, that you, that are included in the inquiry file, do you speak of that exercise of the 1st of July? Would you like me to take you there?

COLONEL JACOB: Yes, because it yielded nothing, it was basically handing over a container. There was nothing significant to write a statement about. It is not done.

ADV SELLO SC: No, you were not handing over a container. You were searching a container. You were
20 counting, you went inside the container to go count and that is how you get to the conclusion that 5 395 bags, you satisfied yourself and you released it. So you did something to that container.

COLONEL JACOB: Yes.

ADV SELLO SC: You engaged with it in some form or

other.

COLONEL JACOB: Yes.

ADV SELLO SC: I am saying, you have about five, six statements in the inquiry and in the docket which are all before this Commission. None of them references that activity. Why is that?

COLONEL JACOB: There is no need.

ADV SELLO SC: Okay.

COLONEL JACOB: I mean, whose benefit would that
10 statement be to?

ADV SELLO SC: Whose benefit does it serve for you to come tell the Commissioners about this activity here now?

COLONEL JACOB: I did it, that is what I am saying ...[intervenes].

ADV SELLO SC: Why? Who does it benefit this time now?

COLONEL JACOB: I am not sure who it benefits, but I did it.

ADV SELLO SC: It benefits you because you are aware that your presence on the pier that day, the depot, will have
20 to somehow be answered at some point and you are anticipating that and that is why you include it here in this statement. You go so further, so much as to tie in the Megafreight clearing agent in that exercise of the 1st of July, yet that is one person you never took a statement from.

If this happened and if he was present you would have obtained a statement from him, but you never did. So what exactly went down on that day? It is something you subsequently thought of and you were thinking who to lay it, at whose doorstep to lay it.

COLONEL JACOB: Commissioner, I mentioned the clearing agent that was present when this exercise was conducted ...[intervenes].

ADV SELLO SC: Okay. Let us go to the clearing agent
10 ...[intervenes].

COLONEL JACOB: Did I fabricate or did I imagine him?

ADV SELLO SC: He has got a statement here. He says I was never there.

COLONEL JACOB: No, he was there.

ADV SELLO SC: Okay, so he is not telling you
...[intervenes].

COLONEL JACOB: What does his statement say? Can you read it out?

ADV SELLO SC: Okay, let us go to page 595. That is the
20 first statement. That statement at 595 is the first statement, an earlier one dated May '22. Do you see that?

COLONEL JACOB: Yes.

ADV SELLO SC: And he does not reference that visit on the 1st of July, you see?

COLONEL JACOB: Was he asked about it, Commissioner?

ADV SELLO SC: I do not know. I did not drop the statement.

COLONEL JACOB: Then I cannot answer. I am saying he was there. The statement ...[intervenes].

ADV SELLO SC: But you never asked him because he is not in your docket. He is not ...[intervenes].

COLONEL JACOB: No, I do not agree with this, Commissioner.

ADV SELLO SC: Okay, now let us go to 654. Let us go to
10 page 654. At page 654 the same person, that Megafreight agent, at paragraph 3 states:

“I was not aware of the inspection that allegedly took place at the CHC container depot on the 1st of July 2021 as I was not informed.”

Do not suggest that I made him say that. That is from 2025. I did not even know this matter would come up.

COLONEL JACOB: Commissioner, the warehouse manager can confirm what I am saying. It was not just me
20 in isolation.

ADV SELLO SC: Okay, now that is the challenge and that is why I say when you say to you, you promised Commissioner Baloyi that you are going to bring this statement. That is Ms Pillay, right?

COLONEL JACOB: Yes.

ADV SELLO SC: It does sound what happened, I say, is exactly as Commissioner Baloyi described. There is not even a stitch of a document that recalls what went down on the 1st of July. For that we will go to Ms Pillay, who you so rely on. Let us go to page 577. At 577 is Ms Pillay's first statement. If you go to 578 at paragraph 7, she says:

“On the 1st of July these members were present and an official from Megafreight was present, unnamed.”

10 This is dated the 6th of July 2027. Sorry, 2021. And this is the statement you took. But the statement you did not take is of that Megafreight agent. You never took that statement. It is a fact.

COLONEL JACOB: Yes, I did not.

ADV SELLO SC: Okay. Now, if you go to 654 ...[intervenes].

ADV BALOYI SC: You confirm that you took this Pillay statement?

COLONEL JACOB: Yes, it looks like I did.

20 **ADV BALOYI SC:** Thank you.

ADV SELLO SC: Let us go to 654, and it is Ms Pillay – no sorry, 582, 582. 582. That is Ms Pillay's second statement. 582. If you look at that statement at 583, that is of the 13th May 2022. Less than a year later.

COLONEL JACOB: Yes.

ADV SELLO SC: And in this statement she says it is a further statement. She references the one we just went through. No. She speaks of your visit on the 22nd of June 2021, and that is at paragraph 3. You see that?

COLONEL JACOB: Yes.

ADV SELLO SC: And then she does not reference your visit of 1 July.

COLONEL JACOB: Once again, this statement is taken by somebody from the investigation team. Was she even
10 canvassed about the 1st of July?

ADV SELLO SC: I will take that to be a rhetorical question. You are not asking me that. I am saying, in fact, I think there is a third statement by Ms Pillay. I will locate it. But in the interim, I want us to go to the investigation diary. And your investigation diary is starting at page 800. This is the entry you made at page 803, at the bottom of page 803 against the date 1st July 2021. Second point, you have listed them there. First, you say you went with Mpangase and Sibiya. Second, Tim Floweday of
20 Megafreight present.

COLONEL JACOB: Yes.

ADV SELLO SC: That is what you note.

COLONEL JACOB: Yes, that is what I note.

ADV SELLO SC: But that is the one person you still do not get ...[intervenes].

COLONEL JACOB: I did not need a statement, yes.

ADV SELLO SC: And gets back to the issue we discussed in the morning at 804. You say at 7 container resealed. You even claim you resealed the container here. That is the third seal I said I am looking for.

COLONEL JACOB: Yes.

ADV SELLO SC: And you could not explain where that seal is, but your investigation diary suggests that you actually resealed that container.

10 **COLONEL JACOB:** Yes.

ADV SELLO SC: Which is not true.

COLONEL JACOB: If I wrote the container was resealed, it would have been resealed.

ADV SELLO SC: I ask where? In all your statements and all these statements, even during your inquiry, you consistently provide two seal numbers. The original seal number of the container as you broke it on the 22nd of June.

COLONEL JACOB: Yes.

ADV SELLO SC: The second seal number that you
20 replaced the first with after you took the drugs.

COLONEL JACOB: Yes.

ADV SELLO SC: But then you went and opened on the 1st of July. That is what we started with this morning.

COLONEL JACOB: Yes.

ADV SELLO SC: On the 1st of July, did you reseal? And it

was a rigmarole. You did not remember. Maybe you did. I think eventually you said no, you did not seal because you are releasing the container. But your investigation diary suggests that you actually resealed.

COLONEL JACOB: Yes, okay ...[intervenes].

ADV SELLO SC: So I am saying this makes the point that this investigation diary is absolutely unreliable. I agree with Commissioner Baloyi. It is manufactured fact in all this diary *post facto*.

10 **COLONEL JACOB**: Ja.

ADV SELLO SC: And I will tell you why I say it is manufactured as well. Let us page through it. Yesterday we discussed 24-hour inspection by your senior. That you have at your page 803.

COLONEL JACOB: Yes.

ADV SELLO SC: And before that is conducted by you. Thereafter, the next one is at page 807. That is by Nundlal. I am sorry if I mispronounced that.

COLONEL JACOB: Yes.

20 **ADV SELLO SC**: That is prompted by you, the Investigating Officer, above at 807. You have an entry on the 30th of July 2021. You say Lieutenant Colonel Nundlal said inquiry for inspection. Then he inspects. Then you go further at 808. Once again it is you Inspecting Officer, sir, midway.

And then somebody here, the name is not clear, does an inspection. You said it was inspection by Province. Okay? And beyond that you never subjected this investigation diary to any inspection. You last subjected it to inspection, I should not lie to you, on what you said is the 16th of September 2021.

COLONEL JACOB: Commissioner, I am trying to understand what you want me to respond to.

ADV SELLO SC: No, I am saying this is not to be relied
10 this investigation diary as a publication. It is inconsistent with the evidence before us. I gave you the example of a seal. You say you resealed in this investigation diary and you presented it on the basis that it contains notes contemporaneously made.

Today when you make a statement before this Commission, you cannot address the question of the seal that you put on that container on the 1st of July. And I am saying it is because it was never there in the first place. That is why you are having a challenge.

20 **COLONEL JACOB**: Okay, I may ...[intervenes].

ADV SELLO SC: You note here, you reseal it, but you do not even provide a number.

COLONEL JACOB: Okay, may I respond?

ADV SELLO SC: Please.

COLONEL JACOB: Okay. Firstly, I could not have

imagined an unpack of 5 395 50-kilogram bags
...[intervenes].

ADV SELLO SC: I do not know ...[intervenes].

COLONEL JACOB: Secondly, the warehouse manager's statement, nobody even asked her about the 1st of July. She merely comments on the 22nd of June. So how can we even consider that statement as a reflection of what transpired on the 1st of July?

I did meet with this individual. I am sure even if he
10 is called or we check his phone records or find out or even from the warehouse manager about whether this occurred, because remember he had to come through with staff, with labourers, to physically unpack 5 395 bags. It could not have been me and two DPCI members that did that. They had done that.

So if I say he was there, he was there. The warehouse manager is not disputing or confirming anything. She is silent on it because she was not asked about it. But I am saying if I wrote that the representative Tim Floweday,
20 sorry for mentioning his name, from Megafreight was here, this was the unpack that was done.

And the reason I could not remember whether it was resealed, this happened four, nearly five years ago. I cannot remember every single detail. But the fact now that I am being painted as I am lying about this entire incident, I

take serious issue with that. And I feel the onus should not be on me now to prove that I am telling the truth here. The onus should be on the Commission, if you are alleging that I am lying about this, the onus should be on the Commission to prove that I am lying.

So far what you have showed me is a statement from the warehouse manager not even talking about the 1st of July, what happened there. Obviously we would have had to go through the warehouse manager to make these
10 arrangements. So that statement tells me nothing ...[intervenes].

ADV BALOYI SC: Should we infer from what you are saying that she was not asked about the 1st of July, that is why it is not in her statement? With that, should we infer that you in fact asked her about the 1st of July, it was not an independent recollection?

Because in the one statement you are saying had she been asked about the 1st of July, she would have said something. In your statement she says something. Should
20 we infer that you asked that is why it is in a statement? It was not an independent recollection.

COLONEL JACOB: You know, Chair, I cannot even recall this investigation until I looked at it. But I am saying the bottom line is this. The warehouse manager ought to have been contacted to confirm indeed whether this incident

occurred as per my investigation diary. The investigation team that have investigated this theft, who allege that I am lying in this investigation diary, should they not have contacted Tim Floweday and asked him whether he was there on this specific day? Should they not have checked his phone records to see if he was at CHC Depot? Should they not have checked my vehicle tracker to see if I was there?

Now I am being painted to the whole country as
10 though I am a liar, I am fabricating things, and I take serious issue. There is a whole lot of investigation that was done that is clearly swayed in a certain direction. Every time statements were taken, it is taken with a view of portraying me in a light as though I was part and parcel of this orchestrated placement of a container in Port Shepstone and the subsequent theft thereof.

And I am showing the Commission how statements were taken and individuals were not canvassed on certain issues. Now, we cannot search you today and I am saying I
20 was with a certain individual at a certain warehouse, and you take a statement from a warehouse manager and nobody sees fit to ask her, did indeed this incident occur on that date? But now you call them ...[intervenes].

ADV BALOYI SC: Maybe they did ask her, did you have any other engagement with Colonel Jacob after the 22nd?

Maybe they did. We do not know. And that is why I ask the question, did you ask her about the 1st of June? Because clearly she did not volunteer it.

You say she should have been asked. I do not know, maybe they should have asked her, but she did not volunteer it. So it is not in her statement. I guess I am just now intervening to say, well, maybe let us not put it higher than that it is not in her statement and we have no explanation why it is not in her statement.

10 And because of that, we have to test what you are saying. That is how it works. We have material in front of us and we test it against what you say happened. And all that is happening now is to say to you, but if you were there on the 1st of July, how come Ms Pillay says nothing about it?

 How come the Mr Floweday, whose name has been mentioned, says nothing about it? They both say nothing about it and the only place that Ms Pillay says anything about the 1st of July is in the statement taken by you. It
20 matters to enquire further about it. Why is it in just your statement? Is it because you prompted it? Because clearly, it does not seem like she remembered it independently.

COLONEL JACOB: Commissioner, you know, I am going to put this in layman's terms, right? If the Commission is

alleging that this never occurred, there is no such incident of an unpack and this representative of Megafreight was not there, at least he should have been asked did you attend or did you go for an unpack at CHC Container Depot on the 1st of July 2021 or '22? 21.

And also the warehouse manager, yes, I took a statement where she – I am not sure how it came about – but here she talks about the 1st of July. So now it is the narrative of the Commission that I somehow just fabricated
10 this to cover my back. But should she not have been interviewed by an impartial or an objective party to ask her indeed on the 1st of July was there such an incident, I am sure something must be on the system.

Megafreight must have some sort of record of what transpired on that day. Now for today to portray me to the country as though I am lying, I fabricated this, it shoots down my entire credibility and integrity and I feel this is an ambush because it did occur. Nobody asked these individuals did you go to CHC on the 1st of July? But I am
20 being told now that it never happened because there is no such statement. Did anyone even try to obtain a statement ...[intervenes].

ADV SELLO SC: You are making assumptions. I do apologise for interrupting. You are making assumptions that nobody went to ask her. It is a wrong assumption, and I am

going to show to you that she was in fact asked. So you can explain it away some other way, but do not say that nobody went to ask her to test the truth, the correctness of her first statement.

COLONEL JACOB: Okay.

ADV SELLO SC: For that, let us go to 607. If you turn over leaf at 608, it is a statement of 1st of October 2025. And at paragraph 2, at 607, you see she references a request by Captain ...[indistinct] to give further clarity about
10 paragraph 7 in my previous A66 statement.

COLONEL JACOB: Yes.

ADV SELLO SC: That paragraph 7, is that the paragraph in that statement of the 6th of July 2021, where she says:

“Members of Hawks arrived. An official from Megafreight was present. They indicated they want to verify the packing list. When the members had finished, the container was locked and another was placed on the container.”

20 That is what she said about two weeks after the seizure. She does not identify who the members of the Hawks were. She does not identify this official from Megafreight. She does not give a serial number. She does not do anything ...[intervenes].

COLONEL JACOB: So, that is the ...[intervenes].

ADV SELLO SC: Let me finish. It is in that context, you must read page 607 at paragraph 2, because it requests her to give further clarity about paragraph 7. Do you see where I am reading?

COLONEL JACOB: Yes, I see.

ADV SELLO SC: Okay. Now, her response follows:

10 “I really cannot remember the Hawks members' names who came to our company on the 1st of July 2021 to verify that the packing list corresponded with the contents of the container. It has been long since the 22nd of June 2021 and 1st of July 2021 to can safely say who were the members from the Hawks who visited our office because on the day in question or in my statement, I did not mention their names.”

Now, my understanding of what I am reading is she does not even have a record to prompt her memory in October 2025
20 and say, let me go to my files and see that visit of the 1st of July where these Hawks members came because I, maybe stupidly on my part, would expect her to have had an entry regarding this particular container that it was visited on the 1st of July by these Hawks members in the event of anything to have identified in that document the Megafreight agent

that she references at that paragraph 7. And lastly, to provide the details of the seal that was then placed there because she says it was sealed.

What page 607 tells you that she says, I cannot help you beyond what I have stated there, and it is because she has got, that is my conclusion, no objective tool that can help prompt her memory.

CHAIRPERSON: You keep saying paragraph 7, you mean 2? Or have you moved on?

10 **COLONEL JACOB**: No, paragraph 7 is paragraph 7 of the original statement.

CHAIRPERSON: Okay, okay.

ADV SELLO SC: The paragraph 7 is at 578.

CHAIRPERSON: Okay, sorry.

ADV SELLO SC: This is the statement taken by Colonel Jacob.

CHAIRPERSON: All right.

ADV SELLO SC: So, Colonel Jacob was suggesting that she was never asked about the detail of the Hawks people
20 and the Megafreight, and I am saying at 607, it is a handwritten statement dated 1 October 2025, paragraph 2. It is paragraph 2 that specifically references that paragraph 7 and she says, I have been requested to give further clarity about that paragraph.

Her response is, I cannot recall a stitch. She can

only say so, she cannot even say I looked at my files and this is what I was able to glean from the files to remind myself.

CHAIRPERSON: I know you brought us to this statement to specifically respond to the question whether this had ever been raised with her.

ADV SELLO SC: Indeed.

CHAIRPERSON: So, indeed it does appear that it was raised with her.

10 **ADV SELLO SC**: Yes.

CHAIRPERSON: But what is your understanding, Ms Sello, of the sentence:

“I really cannot remember the Hawks members' names who came to our company on the 1st of July 2021 to verify that the packing list corresponded with the contents of the container.”

What do you make of it?

20 **ADV SELLO SC**: What I make of it, Chair, she has got no record of that visit. Paragraph 7 does not identify those people. When she is required to provide specificity, somebody who is responsible for that facility who exercises control over commercial containers would, I expect, be able to go to wherever they store their data and say, what container are we talking about and what date? I am going

to pull out all documentation relating to that container as to what happened.

That will give me the name of the Hawks members that came. I do not expect her to remember them off the top of her head. It will give me the name of the Megafreight agent who I said in 2022 was present, I would have noted it, and it would give me the detail of the seal that was placed after this exercise. To all that she says, I do not remember, it was four years ago.

10 **CHAIRPERSON**: I read this to mean Hawks members did come, but I do not remember their names because I really cannot remember the Hawks members' names who came. So Hawks members came, but it is just that I do not remember their names. And if that is what this indeed means, then it supports what the Colonel is saying ...[intervenes].

ADV SELLO SC: No, but ...[intervenes].

CHAIRPERSON: About that visit ...[intervenes].

ADV SELLO SC: No, Chair ...[intervenes].

20 **CHAIRPERSON**: Because ...[intervenes].

ADV SELLO SC: Let me try my point again.

CHAIRPERSON: Yes, yes, yes.

ADV SELLO SC: This is now part of the Port Shepstone burglary investigation.

CHAIRPERSON: Yes.

ADV SELLO SC: The investigator is chasing up on the statements that were in the inquiry file. It is the investigator that obtains the statement says, I have received, amongst others, your statement you made in July 2021. Please provide me details regarding paragraph 7.

CHAIRPERSON: Okay.

ADV SELLO SC: That is the request.

CHAIRPERSON: Okay.

ADV SELLO SC: She then files the statement says I
10 cannot remember anything, but I say they did come. That is all she can say. And I say my challenge is the fact that she is an official agent does not even have a record to refer her to, because I take it she is in charge of other businesses, containers, and property, that she cannot even refer to a recorded entry that would help identify those members who came, the Megafreight agent and the seal that was placed. All this does is to confirm a very bland statement that she made on the 6th of July.

Commissioner Baloyi asked, so on the 6th, when
20 she made the second statement, she has no independent recollection of this particular visit because she does not mention it in the second statement. She only mentions it in the statement that Colonel Jacob took. And that is what I would believe prompted the investigator in October 2025 says there are two statements. The one fact is missing

from the second. Let me go to her and give an opportunity to file a further one to clarify, and it takes the matter no further.

ADV KHUMALO SC: But is this not a criticism of her and not of the Colonel? The fact that she does not have independent records?

ADV SELLO SC: And in fact, it was not directed to the Colonel as such as a criticism. I am saying the inference I draw is the difficulty with what went down on the 1st of July
10 2021. Nobody seems to have an official record, notwithstanding the fact that Colonel Jacob's own diary says we resealed. But if you say give me the details of the seal, nobody seems to have it. That is the criticism of what went down that day and what was recorded. It is very poor, and it is what creates these difficulties.

CHAIRPERSON: Before you ask your next question, Ms Sello, may I just invite the Colonel to comment on the debate we have just had?

ADV SELLO SC: Yes, Chair. I am happy with that.

20 **COLONEL JACOB:** Thank you, Chair. Once again, to the Commission, you know, I think that you guys are, obviously, have the intellectual capacity to see what I am saying now. Can you see who to ...[intervenes].

CHAIRPERSON: I am laughing at the reference to us as guys.

COLONEL JACOB: You know, Chair, you can see who commissioned the statement, right? Who the statement was obtained by. Does anywhere in the statement, they even ask this warehouse manager, did a Megafreight representative come to the warehouse? All the statement says is that she cannot recall our names, but Hawks members came there. Nothing further.

This is the quality, this is the string, the theme that runs throughout this entire investigation directed towards
10 myself. Shoddy investigation, statements that are vague. This tells us nothing, but it seems to be the reason I am being called out as a liar. This tells us nothing.

Why could someone not approach the guy from Megafreight himself, who I claim was there, and let us hear what he has to say about this? Nobody has canvassed him on that. It is a vague statement, and now I am being painted as an untruthful or a liar.

And like I am saying, Commissioners, you can see the statement. What does it tell us? What sort of a
20 statement is this? It talks to what I have been saying, that all this entire investigation, there is one central theme. They have already got a pre-determined conclusion in mind, and every statement that has been taken, we do not expect statements of this quality from DPCI Head Office, statements of this quality.

I may have messed up my crime scene, but if you look at my statements, I try and put some content into my statements. These statements here, especially investigating the theft of over R200 000 000 worth of drugs, and now to tell the country that I am involved based on shoddy investigation like this, I am just expressing my dissatisfaction.

ADV SELLO SC: For the record, the agent was approached, and he provided a statement. We dealt with it
10 earlier.

COLONEL JACOB: But he was not asked. Sorry, Commissioner. I am saying, was he asked about the 1st of July? His statement tells me nothing about the 1st of July.

ADV SELLO SC: If you go to 654, that is his statement. 654. That is a statement dated 27 October 2025. It is handwritten.

COLONEL JACOB: Yes.

ADV SELLO SC: Do you see it?

COLONEL JACOB: Yes.

20 **ADV SELLO SC:** Are you there yet?

COLONEL JACOB: Yes, I am here.

ADV SELLO SC: At paragraph 3, he says:

“I was not aware of the inspection that allegedly took place at the CFC container depot on the 1st of July 2021, as I was

not informed.”

That is what he says.

COLONEL JACOB: You know, seriously, Commissioner, this is my response. Sorry to just talk out of turn.

ADV SELLO SC: Yes.

COLONEL JACOB: I feel he was confused maybe about the day of the search, because this was taken in 27 October 2025, the statement. And if you look at it, it is taken by the same individual that I claim to be doing investigation. So
10 now he must be confusing because he is talking about, I was not aware of the inspection that allegedly took place at the CHC container depot. He is probably confusing the inspection where we recovered those drugs, not ...[intervenes].

ADV BALOYI SC: He says the 1st of July ...[intervenes].

COLONEL JACOB: Yes, Commissioner, I hear you. Yes, I am saying the statement was taken in 2025. He probably does not remember that the 22nd of June was the date the recovery and the 1st of July is the day that he came through
20 for an unpack. Because you see, he talks here:

“I was not aware of the inspection that allegedly took place at the depot on the 1st of July.”

Right. I also attached the process ...[intervenes].

ADV BALOYI SC: Remember you said your complaint is he

was not asked. I think that is why we opened. We have been referred to this. You said the statement taking on the investigation is so shoddy.

COLONEL JACOB: Yes.

ADV BALOYI SC: They did not even ask him about the 1st of July.

COLONEL JACOB: Yes.

ADV BALOYI SC: And we are referred to it for the simple, to simply point out that his statement does say something
10 about the 1st of July.

COLONEL JACOB: I am saying this, Commissioner, once again. This statement is taken on the 27th of October 2025 by the very same individual that I am alleging is always taking shoddy statements. So if I read this, I am going to read it, right:

20 “I was not aware of the inspection that allegedly took place at the CHC container depot on the 1st of July 2026 as I was not informed. I also attached the process that will follow in case a container is being detained for inspection. As the cargo stop agency, I must be contacted if the client container is being detained.”

So he is talking about the actual day of our search of that container, the 22nd of June. I put it to you, to the

Commissioner, that if this individual is engaged, he was either misled somehow. But if you read this, you can see he clearly is talking of the date of the seizure of those drugs ...[intervenes].

ADV SELLO SC: May I assist you? Because in truth, I just let you zero in on paragraph 3 because I was interested in the date.

COLONEL JACOB: Yes.

ADV SELLO SC: But let us test what you are saying by
10 looking at paragraph 2.

COLONEL JACOB: Yes.

ADV SELLO SC: Paragraph 2 says that, whatever I understand, that:

“I would like to further my statement I
submitted on a previous occasion.”

So there is a recognition that there is a statement that precedes this one, correct?

COLONEL JACOB: Yes.

ADV SELLO SC: Then he proceeds:

20 “I only attended the inspection of the
container that was found with drugs at
CHC Warehouse Container Depot on 24
June 2021. See attached document.”

COLONEL JACOB: Yes.

ADV SELLO SC: So in paragraph 2, there is a recognition

that the actual seizure was in June 2021. In paragraph 3, he deals with a specific, a different issue, which is the 1st of July 2021. So he appears to have an appreciation that there are two events here.

COLONEL JACOB: Okay, may I respond, Chair?

ADV SELLO SC: Yes, please.

COLONEL JACOB: There was nothing happening on the 24th of June. So my submission is this. You see in paragraph 2 where he says:

10 “I only attended the inspection of the
 container that was found with drugs at
 the CHC warehouse container depot on
 the 24th of June 2021. See attached
 document.”

Right? The way I read this, he was confused. He is talking instead of 24th of June, it is supposed to read 1st of July. And later on, he is supposed to, they got the dates mixed up here. Because if you read it in context, what I am saying makes sense. I will leave it to the Commission. You can
20 read it.

And I am saying it is my submission that paragraph 2 is supposed to read the 22nd of June instead of 24th of June, because that is the date we did the seizure. And this other date here that he has got, I was not aware of the inspection that took place on the 1st of July. No, I think the

statement, because it was taken so many years later, in 2025, he got his dates mixed up. And the statement is, if you look at it in context, it does not make sense. What happened on the 24th of June ...[intervenes].

ADV BALOYI SC: No, Colonel. There is no mistake about the date of the 24th. You have accepted, or at least you are not contesting that he was not there on the 22nd. You keep talking about context. Context is, this is a further statement to the earlier, to the one statement, where he says you
10 opened the container without his presence and without him being informed on the 22nd. So ...[intervenes].

COLONEL JACOB: He says on the 24th, Commissioner.

ADV BALOYI SC: No, no. There is an earlier statement where he has said I was not there on the 22nd. I should have been there. And then here he says, this is a further statement.

COLONEL JACOB: Yes.

ADV BALOYI SC: So we know the first statement. And then he says, I only went on the 24th of June. You were not
20 there, right, on the 24th of June. You were not there. So you do not know what he is talking about when he says I was there.

COLONEL JACOB: Yes.

ADV BALOYI SC: But this is a further statement. He is not making a mistake. Otherwise, if we accept what you are

saying that this is a mistake and you say instead of 24, it should be 22, then it means he was there on the 22nd. But on your own evidence, he was not. Mr Floweday was not there. You have listed who was there, the depot. Do not shake your head. You have told us the depot, ORS, and your people, depot people, and the person that you thought was Customs, and we have cleared there was no Customs there.

So that is on your statement. That is on
 10 Mpangase's diary. There is no mention on the 22nd of an agent being there. So when she says 24th, I was there, he could not be referring to the 22nd. There is no mistake about it. So this is a further statement on the first one that says I was not there on the 22nd. You did not quarrel with that statement.

COLONEL JACOB: Yes.

ADV BALOYI SC: You did not. If you quarrel with it, you quarrel with it only now. Where he says the 24th of June, he is not saying on the day of your inspection he was there.
 20 He is not saying that. And you say, you accept that he was not there on the day of the inspection. So he tells us, he introduces new facts.

New fact is he went there on the 24th. We do not know what he did, right? He says, I went there on the 24th, and then he talks about the 1st of July. He says I was not

aware of the 1st of July inspection. And really at this point, the quarrel, if there is a quarrel, it is about the 1st of July. You claim he was there.

COLONEL JACOB: Yes.

ADV BALOYI SC: He has filed a statement. He says I was not there. And I think we are at a point where the Commission, it is not a question of interpreting the statement. I think the statement is very clear what it is conveying. It is what do we do eventually with these
10 conflicting accounts.

COLONEL JACOB: Okay. I am calming myself down. I am going to try and express myself so that you can understand. There is nothing that happened on the 24th of June for him to say that at CHC Warehouse. It says here:

“I only attended the inspection of the container that was found with drugs at the CHC Warehouse Depot on the 24th of June 2021.”

Right? No, I did not engage with him on the 24th of June
20 2021. None of my members did. So clearly, there is some confusion with this date here because nothing happened on the 24th of June. That was two days after the bust. Then he goes on in paragraph 3 to say:

“I was not aware of the inspection that allegedly took place at the depot on the

1st of July as I was not informed.”

Now, firstly, he has got the date on top wrong. Now at the bottom, we have got the same Captain that is obtaining his statement. And I am saying to the Commission that I think he confused this individual because he was present. And now you take his statement in 2025 in October, in October obviously his memory is not that you know fresh as to what transpired. So he is going to listen to the policeman who is taking his statement.

10 And I am saying to the Commission, if you will allow me to get to the bottom of this, and I will furnish together with that previous request of yours, Commissioner Baloyi, I will get to the bottom of this to show the Commission that this can never be and it will prove that the recurring theme that I have been saying that this investigation is orchestrated to point in a certain direction.

 I can put my neck on the block this individual was there on the said day. He came through with labourers, we did a unpack, and if my investigation diary says that we
20 resealed it, we resealed it. So I will get in contact with this company, I will get to the bottom of this, but I take serious issue.

 You can see the dates, what happened on the 21st, 24th of June? There is nothing but he talks about the 24th of June. So I am saying to you he was confused when the

statement was taken and, once again, it was taken with an objective in mind, and that is to somehow implicate me in this.

ADV SELLO SC: Thank you, Chair. That is the point I just wanted to clarify things for the indulgence. I know I had said I am done with my questions, but this time I truly am done. Thank you.

CHAIRPERSON: There is something I consider important and which I want to say. I want to tender an apology to the
10 people of Umlazi. I meant to challenge the notion that they might descend on CHC Depot to forcibly take the suspected Cocaine.

In doing that I made an unfortunate assertion which implicitly meant that Umlazi people are unsophisticated. I will not go into what that term means. I should rather only have said if the fear of forcible taking was sensible, even people from Isipingo could have descended on CHC Depot and forcibly taken the suspected Cocaine. I apologise unreservedly. Thank you. Are we now at the stage where I
20 should ...[intervenes].

ADV SELLO SC: I think so, before we have to make other logistical, I think it is only proper to release the Colonel.

CHAIRPERSON: Yes.

ADV SELLO SC: Yes, and thank you for availing himself.

CHAIRPERSON: Yes. Colonel, thank you very much.

COLONEL JACOB: Thank you, Chair.

CHAIRPERSON: You are excused.

COLONEL JACOB: Thank you.

NO FURTHER QUESTIONS

ADV SELLO SC: Before the rest of us are excused, Chair, some housekeeping matters that we need to address, and the first, it is about tomorrow. The Chair will recall that on Monday, the 1st of June, General Senona had been subpoenaed to appear, which he duly did, and the Chair
10 stood down his testimony to Friday, the 5th, which is tomorrow.

Yesterday, on the 3rd of June, we received a communication from his attorneys advising that General Senona's counsel is indisposed. She has taken ill and she would not be able to attend tomorrow. The request had been for the Commission to consider whether it could stand down Major General Senona's testimony, as the letter states, to a later date in the week of the 8th of June, which is next week.

20 The letter does make the point that General Senona had been required to file his statement by the 2nd of June 2026, and it was done, and we as Evidence Leaders confirm the filing of the statement has been done. So what was outstanding was for him to appear tomorrow.

If General Senona appears tomorrow, it will only be

after perhaps lunch because we have another witness scheduled in the morning, and with the result that he will not finish, you know, if he starts after lunch. So he would have to come back on a later date, possibly in that week of the 8th.

To assure the Commissioners that I happen to personally know the counsel that represents Major General Senona, and I actually spoke to her on the phone. She had called me and she did sound under the weather. She
10 indicated that if the Commission insists that that General Senona be heard tomorrow, she will just push through and come to attend.

But the request is, to the extent that it is possible, a postponement of the General's testimony is requested. The suggestion here is to any date in the week of the 8th, otherwise we leave it in the Commission's hands. Thank you, Chair.

CHAIRPERSON: Thank you Ms Sello. The hearing of the evidence of General Senona is postponed to a date to be
20 determined during the week of the 8th of June 2026.

ADV SELLO SC: Yes, or such later date as the Commission will determine.

CHAIRPERSON: Or such, or maybe let me just recall that. The hearing of the evidence of General Senona is postponed to a date to be determined.

ADV SELLO SC: Thank you, Chair.

CHAIRPERSON: Yes.

COLONEL JACOB: Secondly, insofar then as the rest of the witnesses are concerned, we are ready to resume at 09:30 tomorrow morning with the next witness.

CHAIRPERSON: Thank you. Let us adjourn and resume at 09:30 tomorrow.

INQUIRY POSTPONED TO 5 JUNE 2026

INQUIRY ADJOURNS

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