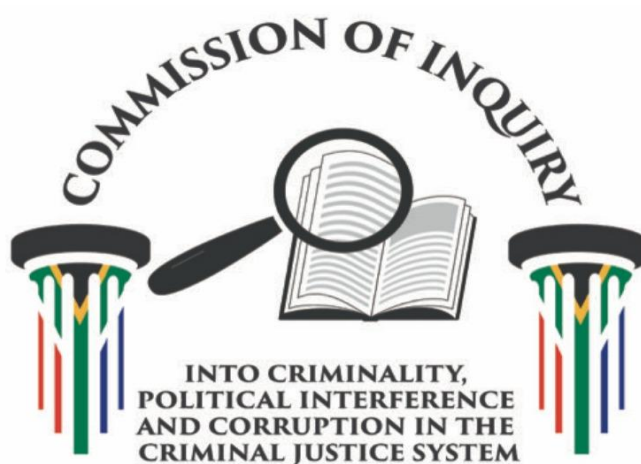


JUDICIAL COMMISSION OF INQUIRY INTO CRIMINALITY,
POLITICAL INTERFERENCE AND CORRUPTION IN THE
CRIMINAL JUSTICE SYSTEM

HELD AT
BRIGITTE MABANDLA JUSTICE COLLEGE

12 JUNE 2026

DAY 119



PROCEEDINGS HELD ON 12 JUNE 2026

CHAIRPERSON: Good morning, Ms Segeels-Ncube. Good morning, Chief Mashaba. Thank you.

ADV SEGEELS-NCUBE: Good morning, Chair. Good morning, Commissioners. Good morning, Chief. Can you please switch on your microphones? Thank you. Chair, yesterday we dealt with the starting on page 95 of CJC274.3 the WhatsApp and screenshots bundle, where we dealt with the Chief's version regarding the name, the
10 reference to DD, and Chair, we had put certain propositions to the witness in response to his version, and Chair then asked that we provide the documentation, the announcement of Cabinet and that. We have now provided it. If I could beg leave for it to be handed up if it has not already? It is CJC276.1, 2 and 3, and I will just take the witness through, Chair.

CHIEF MASHABA: CJ?

ADV SEGEELS-NCUBE: It will be handed to you. It is the loose papers there, CJC276.1. Somebody will assist you.
20 So the first one is CJC276.1, and if I could ask you to go to page 95 of the WhatsApp and screenshot bundle that we were dealing with yesterday?

CHIEF MASHABA: It is CJ ...[intervenes].

ADV SEGEELS-NCUBE: Yes, it is CJC.

CHIEF MASHABA: On the WhatsApp?

ADV SEGEELS-NCUBE: Yes, the WhatsApp, and then page 95 of that bundle. Do you have it?

CHIEF MASHABA: Yes, I have it.

ADV SEGEELS-NCUBE: So you will see this is an article where it speaks about the ANC's election campaign. The date of the article, you will see 5 May 2019 just below the photograph. Do you see that? Below the photo of the President, do you have the right document?

CHIEF MASHABA: Yes.

10 **ADV SEGEELS-NCUBE**: Yes. So there is a date below the image, 5 May 2019.

CHIEF MASHABA: Yes, I see.

ADV SEGEELS-NCUBE: Do you see that? And then if you go to the next page, it refers to the African National Congress will hold its final election rally, at Siyanqoba Rally at the 60 000 seater in Johannesburg on Sunday morning, and then it refers to the next, after the YouTube picture:

“On Saturday, Ramaphosa told crowds at
the party’s mini rally.”

20 Do you see that reference? Do you see the reference to the mini rally? Just after the YouTube? After the YouTube, on the second page?

ADV KHUMALO SC: After the red button with an arrow, do you see the red button and an arrow in the middle of the page?

CHIEF MASHABA: Yes, Chair.

ADV KHUMALO SC: Yes.

ADV SEGEELS-NCUBE: And you see it references that rally, the rally on Saturday.

CHIEF MASHABA: Yes, I see.

ADV SEGEELS-NCUBE: If you then go to your WhatsApp chats on page 95, you see your reference to:

“You must be happy the rally is over.”

Which is also 5 May 2019. Do you see that? I just wanted
10 to show you what we are suggesting is the rallies that you
could have been referring to, it is the election rallies of the
ANC. You do not dispute that you were referring to an ANC
election rally, correct, in this message that you sent to Mr
Nku?

CHIEF MASHABA: I do not dispute.

ADV SEGEELS-NCUBE: And then the next one is
CJC276.2 ...[intervenes].

ADV KHUMALO SC: Before you go there, we also
mentioned the date of the elections, which was the 8th of
20 May.

ADV SEGEELS-NCUBE: The 8th of May.

ADV KHUMALO SC: So in CJC276.1, that page that has
the YouTube link, you will see that on that page there is a
reference to President Ramaphosa and former Presidents
Mbeki and Zuma, and you see that it is in orange colour.

Do you see President Zuma's name and President Ramaphosa's name in orange colour on the second page? Just look for the colours, it will make it easy for you. Look for the orange colours that have President Ramaphosa's name and President Zuma's name. Do you see that?

CHAIRPERSON: Third paragraph.

CHIEF MASHABA: On the same?

ADV KHUMALO SC: Yes.

CHAIRPERSON: But the next page. The next page.

10 **ADV KHUMALO SC:** Ja. Where you are, do you see President Zuma's name and President Ramaphosa's name?

CHIEF MASHABA: Yes, I see.

ADV KHUMALO SC: Just below that, the next paragraph says:

“It is the last weekend of the election
campaign before May 8 polls.”

Do you see that? Thank you.

ADV SEGEELS-NCUBE: Thank you, Commissioner. Then the next document ...[intervenes].

20 **CHAIRPERSON:** Ms Segeels-Ncube, in fact the attorneys, I always say I rely on you to make sure that these loose exhibits or annexures are placed where they should be, please.

ADV SEGEELS-NCUBE: We will do so, Chair.

CHAIRPERSON: There is an odd occasion, Ms Burger,

when I have discovered they are not there, if you could convey that to your colleagues as well. Thank you very much.

ADV SEGEELS-NCUBE: Thank you, Chair. The next one is CJC276.2. Do you have that? It is the South African Government, it has got a South African Government on the right top corner. Do you have it?

CHIEF MASHABA: 272?

ADV SEGEELS-NCUBE: 276.2, yes.

10 **CHIEF MASHABA:** Yes, I have it.

ADV SEGEELS-NCUBE: Okay, go to the second page. It says President Cyril Ramaphosa Cabinet announcement. The date, 29 May 2019, statement on the appointment of members of the National Executive. And he starts out:

“Fellow South Africans, in the election of
8th of May, South Africans provided this
administration with a clear mandate.”

If you go to the next page, the middle of the page, it says:

20 “I have decided to make the following
appointments to the National Executive.”

And the first one there is Deputy President David Mabuza. And if I then reference CJC274, which is the WhatsApp chats, 107, page 107, if you can go to page 107? Your message just after the middle of the page at 5-29, which is the 29th of May, same date as that announcement, 07:42

p.m.:

“Tumza, I see DD is back. Let us move
on our issues.”

Do you see that? So what I had suggested to you yesterday was that that reference to DD Mabuza and him being back is a reference to this announcement by the President of Deputy President David Mabuza, well, Mr David Mabuza being his Deputy President.

CHAIRPERSON: Perhaps let us start here. You accept
10 that the announcement was made on 29 May 2019? You accept that?

CHIEF MASHABA: Now that I have it in front of me, yes.

CHAIRPERSON: Thank you. You may ...[intervenes].

ADV SEGEELS-NCUBE: Thank you.

CHAIRPERSON: Restate the point you are making.

ADV SEGEELS-NCUBE: Yes. And so this suggestion that we put to you yesterday is that the reference in your WhatsApp on page 107 to Mr Nku to a DD is the reference to former Deputy President David Mabuza having been
20 appointed as the Deputy President on the 29th of May 2019 by the President. Do you want to comment?

CHIEF MASHABA: No, no comment.

ADV SEGEELS-NCUBE: So you still maintain
...[intervenes].

CHAIRPERSON: Do you accept what is suggested to you?

CHIEF MASHABA: Sorry, what are you suggesting? Sorry, I missed that.

CHAIRPERSON: No, no, no. He wants to know from you, Ms Segeels-Ncube, what it is that you are suggesting to him.

ADV SEGEELS-NCUBE: Yes, that the reference in your WhatsApp to DD being back and we must move on our issues is a reference to the appointment of the late Mr David Mabuza as the Deputy President on the 29th of May
10 2019 as shown in that announcement.

CHIEF MASHABA: So you are saying what must I accept?

ADV SEGEELS-NCUBE: No, I am saying that was our suggestion yesterday to you.

CHIEF MASHABA: Okay.

ADV SEGEELS-NCUBE: And I want to know if you want to comment on that or do you maintain your version that you were not referencing Mr David Mabuza in that WhatsApp?

CHAIRPERSON: Perhaps more directly as opposed to – what was your verb? Ja. Perhaps more directly, do you
20 now accept that the person you are referring to here, that DD is the Deputy President Mabuza, the late Deputy President? Do you accept that?

CHIEF MASHABA: The person I was referring to?

CHAIRPERSON: Yes, yes, yes.

CHIEF MASHABA: Well, I will have to accept because I

was talking about what he used to call, we can say for instance, like now here, when you say Doggy Mashaba, Doggy Hawks, is it me?

CHAIRPERSON: We are not forcing you to accept because you say you will now accept, but you go on to suggest that you are referring to something else. So, please answer the way you feel you should answer it. You are not being pushed or forced to answer it in any particular way.

CHIEF MASHABA: My apologies, I accept.

10 **CHAIRPERSON**: You accept now. Thank you. And you also accept that the late Deputy President used to be referred to by some as DD. You accept that as well. Do not nod, please speak, it must be captured.

CHIEF MASHABA: Oh, yes, yes.

CHAIRPERSON: Thank you, thank you. How do you feel, should we continue or do you feel like we should take a short adjournment?

CHIEF MASHABA: No, we can continue.

CHAIRPERSON: All right, thank you.

20 **ADV SEGEELS-NCUBE**: You will just alert us if you do need to take a break, Chief. Okay.

CHIEF MASHABA: I will indicate, Chair.

ADV SEGEELS-NCUBE: Yes. Commissioners, we had stopped at page 107. Unless there are any further questions on that, I would like to move to the next

WhatsApp. Oh, the third one, yes. The third one that I want to refer you to is CJC276.3, the last loose set of pages there. Do you have it?

CHIEF MASHABA: Yes.

ADV SEGEELS-NCUBE: Okay, thank you. Now, on 107, you had indicated that – I am not sure if I should still go through because of what you have just accepted now with the Chair, so I do not think, but just for the record to show that the ANC caucus, the note that we have handed up to
10 you references ...[intervenes].

CHAIRPERSON: Let us maybe just put it on record ...[intervenes].

ADV SEGEELS-NCUBE: Yes, on record, yes.

CHAIRPERSON: It is always dangerous to go back because you might get an answer that you do not want.

ADV SEGEELS-NCUBE: Agreed, Chair. So the Parliamentary caucus document:

“ANC caucus welcomes new members of
Parliament.”

20 And if you go to the second page of that document, you will see the date, 15 June 2019, and it says”

“The African National Congress in
Parliament will be welcoming five new
members to fill vacancies in the National
Assembly.”

And then if you go to the next sentence, it says:

“The five comrades who will take up seats in the National Assembly are as follows.”

The second bullet point:

“Comrade Kebby Maphatsoe will replace
Comrade Jeff Radebe.”

And that is on the 15th of June 2019. Now, in fairness to you, you did not suggest that your reference to DD Mabuza being Kebby Maphatsoe and him returning, being back, was
10 a reference to him being a member of Parliament, being appointed as a member of Parliament. You said it was a reference to him being back in the country. Do you recall that?

CHIEF MASHABA: Yes.

ADV SEGEELS-NCUBE: Okay, but we just want to place this on record. Thank you, Chair.

CHAIRPERSON: Thank you.

ADV BALOYI SC: Maybe finally, Ms Segeels, on this, to also note for the record that the swearing-in would or was
20 going to be on the 18th of June 2019. Just for completeness.

ADV SEGEELS-NCUBE: Yes, thank you. Thank you, Commissioner Baloyi. Now, Chief, just to get back to the WhatsApps, I want to take you to page 264, which is the WhatsApp conversation between Iby Boss and Mr Nku.

CHIEF MASHABA: 26?

ADV SEGEELS-NCUBE: 264 of that same bundle. And it is a conversation that occurs on the 7th of April 2021. And perhaps if we can start on the previous page, 263 ...[intervenes].

ADV KHUMALO SC: Before you go there, do you not want to do what you usually do and refer to page 125 or something similar? The page that identifies the phone numbers and other things.

10 **ADV SEGEELS-NCUBE:** Commissioner Khumalo, my understanding is that that will be dealt with when Mr Nku comes.

ADV KHUMALO SC: Yes.

ADV SEGEELS-NCUBE: To confirm it, I do not have the confirmation at this stage. It is just what we are putting to you is these are the conversations until they confirm it here.

ADV KHUMALO SC: Because he confirmed Nku's phone number and his phone number. Now he is being told that this is a conversation between Nku and Iby Boss.

20 **ADV SEGEELS-NCUBE:** Yes. Remember, we dealt with it yesterday when we showed messages that Nku was sending to Iby Boss were also being sent to him. So I did previously refer to this and indicate that it was a conversation between Iby Boss and Mr Nku. Whether the number for Iby Boss is who it relates to, that will be dealt with.

ADV KHUMALO SC: Nku will deal with it.

ADV SEGEELS-NCUBE: Yes. Thank you. So if you go to 263, you will see the conversation on the 7th. And the first message on the 7th of April is a message sent by Mr Nku to Iby Boss and says:

“Salam, Boss. Our guy just called us.

He said those guys said...”

...[intervenes].

CHAIRPERSON: You should please always direct us to
10 ...[intervenes].

ADV SEGEELS-NCUBE: My apologies, Chair. It is the first one that starts on the 04-07-2021. All the others are 6 and the first one is 4-7.

CHAIRPERSON: Thank you, thank you.

ADV SEGEELS-NCUBE: Yes.

CHAIRPERSON: One of the last two, the first one of the last two?

ADV SEGEELS-NCUBE: Yes, I am referring to the green box.

20 **CHAIRPERSON:** Green, okay.

ADV SEGEELS-NCUBE: Salam Boss.

CHAIRPERSON: All right, all right.

ADV SEGEELS-NCUBE: My apologies, Chair.

CHAIRPERSON: Thank you.

ADV SEGEELS-NCUBE:

“Salam, Boss. Our guy just called us.
He said those guys said they will need to
give the immigration people their part
before the shift starts around 4p.m.”

Now, I am not asking you to comment on what this was
because you are not part of the conversation. Then lby
Boss says:

“Call me at 10.”

There is a call. The next page is what I want to show you.

10 You see at 264, at 07.30a.m., lby Boss says:

“Boss, they did not let him on the flight
from Amsterdam. Tell everyone he is not
coming.”

Do you see that?

CHIEF MASHABA: I see that, yes.

ADV SEGEELS-NCUBE: Okay. Then can I take you to
page 120 of that same bundle, which is now the
conversations between you and Mr Nku and it is on the
same day. 120, do you have it?

20 **CHIEF MASHABA:** Almost.

ADV SEGEELS-NCUBE: Okay.

CHIEF MASHABA: Yes, I have it.

ADV SEGEELS-NCUBE: The third green block, which is
from Mr Nku to you:

“Boss, they did not let him on the flight

from Amsterdam.”

So it is at 07:41. The one that we looked at, at 264 was at 07:30. And then it says:

“Tell everyone he is not coming.”

At 07:41. And then the next message:

“Hola. Please postpone preps for today.

Our guy is still busy with paperwork.”

Now, you can see that whatever message is being exchanged between Mr Nku and Iby Boss on page 264 on
10 the 7th of April is being sent to you by Mr Nku in the conversation that you are having. So I want to know what was this in relation to. And it is very specific. They did not let him on the flight from Amsterdam. Can you tell us what this was about?

CHIEF MASHABA: No, I have got no recollection of this.

ADV SEGEELS-NCUBE: Okay, it is a very specific incident. I mean, how often would you and Mr Nku talk about somebody not being let onto a plane on a flight from Amsterdam?

20 **CHIEF MASHABA:** I cannot remember what we were talking about here. I cannot remember.

ADV SEGEELS-NCUBE: I am going to suggest to you, Chief, that you do remember what it is about. It is a very specific conversation about somebody that was – they were expecting somebody to come, and the person was not being

allowed on the flight from Amsterdam. And you knew about it because it is being sent to you. So clearly you had to do something, because otherwise why would it be sent to you? You needed to be notified that this person did not make it onto the flight.

CHIEF MASHABA: Honestly, I cannot remember this one ...[intervenes].

CHAIRPERSON: Chief Mashaba, I can understand if what you recall is something that is very general in nature and
10 also perhaps the sort of thing that is what, ordinary run-of-the-mill type of matter, that after years you easily, easily forget. What we have here is nothing like that at all. As Ms Segeels-Ncube says, this is something quite specific.

CHIEF MASHABA: I think ...[intervenes].

CHAIRPERSON: How many times would you have had discussions about somebody not being allowed onto a flight from Amsterdam? Surely this must be the only occasion. It must be the only occasion. Or not? Have you had several occasions where you were informed about someone who
20 was not allowed onto a flight from Amsterdam? Is that something that happens to you fairly regularly?

CHIEF MASHABA: If my memory serves me well, Chair, I think there was a break where myself and Nku we did not speak for some time.

CHAIRPERSON: But here you spoke. You spoke here.

You wrote to each other here. So that is irrelevant. You did not answer my question. I asked you whether you and Mr Nku had frequent exchanges about people not being allowed onto flights from Amsterdam. Because if you did not, and this was the only instance, surely you must remember. So can you please answer the question I posed, which is, did you and Mr Nku have several exchanges about people who were not allowed onto flights from Amsterdam?

CHIEF MASHABA: No, we did not have.

10 **CHAIRPERSON**: It did not happen.

CHIEF MASHABA: We did not have.

CHAIRPERSON: To your recollection, now that you see it on these WhatsApp chats, this must be the only exchange of such a nature, correct?

CHIEF MASHABA: Honestly ...[intervenes].

CHAIRPERSON: No, answer the question. Is this the only exchange? I am not asking you about whether you recall or not. Now that you see it on these chats, is it the only exchange that you and Mr Nku ever heard about somebody
20 not having been allowed onto a flight from Amsterdam? Is this the only exchange?

CHIEF MASHABA: This is the only exchange.

CHAIRPERSON: Surely you remember then. What was it about? That is Ms Segeels-Ncube's question. Surely you must remember. If you say you do not, I do not believe you.

What was this about?

CHIEF MASHABA: I do not remember, Chair.

CHAIRPERSON: Honestly, you are being untruthful. And I will tell you why you are being untruthful. You are untruthful because you see that all these chats between you and Mr Nku, and this is a point that was made by Commissioner Baloyi yesterday. You see that these countless chats between you and Mr Nku show a picture that is totally different to what you told us, which is that he
10 was just your informer. That is why you purport not to recall any of these chats or the content of these chats. I suggest to you, what is your comment?

You are trying to extricate yourself from the inferences that we may have to draw because of this long existing relationship with all of the exchanges you had. You are trying to avoid the inferences that we may draw, which are that the story about Mr Nku being your informer may well be, I am not saying is, because we are yet to make our conclusions at the end, may well be untrue.

20 That is what you are trying to do right from the onset before we get to a point where we say to you Mr Nku was obviously not just your informer. That is what is happening here, and we see right through it. Your comment?

CHIEF MASHABA: No comment, Chair.

CHAIRPERSON: But you know as you sit there that what I am saying is actually the true position. Yes, Ms Segeels-Ncube? You may comment if you want to.

CHIEF MASHABA: No comment.

CHAIRPERSON: Yes, Ms Segeels?

ADV SEGEELS-NCUBE: Thank you. Thank you, Chair. Chief, there is one more exchange that I want to ask you about and ...[intervenes].

ADV BALOYI SC: Ms Segeels, are you moving off this?

10 **ADV SEGEELS-NCUBE**: Yes.

ADV BALOYI SC: Okay, maybe let me ask a question. Chief, at that page 120, which is now your communication with Mr Nku on this same subject, you have those green boxes that you have been referred to:

“Boss, they did not let him on the flight
from Amsterdam.”

That is Mr Nku to you, which seems to be just forwarding his conversation with Boss Iby. And then the next one:

“Tell everyone he is not coming.”

20 And then this is what seems to be what he directs to you:

“Hola. Please postpone preps for today.

Our guy is still busy with paperwork.”

You do a thumbs-up in your next message, in your response in that white box. You do a thumbs-up. This reflects you knew what he is talking about. Right? You do not ask him

what is he talking about. You do a thumbs-up, so you know what he is talking about when he says in that trail, including postpone preps for today.

CHIEF MASHABA: Chair and Commissioners, usually, usually if – let me say, maybe if Nku gives me an information and information is not executed, it becomes easy for me to forget and just ignore it. But if it would have been something that maybe, let me say, this Amsterdam story, maybe it is something that it was an information that
10 was given, and then we worked on it, or I worked on it, I would easily remember.

So it is maybe whatever he was talking about here did not go anywhere, or I just ignored because not every information that he gives is positive. Other information will be, can you please check? So if we really had an operation on this, I was going to easily remember. So I think because it did not go anywhere, that is why I do not remember.

ADV BALOYI SC: Ja. Except, Chief, I am not asking you to remember. That was not my question. I am not asking
20 you to remember what this was about. You have been asked and you have answered. I am asking you whether you accept that your thumbs up, your response to Mr Nku, which is a thumbs up, means you knew what he is talking about.

I am not asking you now to remember it. I am

saying this thumbs up means you knew and understood what the conversation that he is forwarded to you, and when he says to you, please postpone preps. Your response of a thumbs up means you knew what he is talking about at the time.

CHIEF MASHABA: Yes, I agree.

ADV BALOYI SC: You knew what he was talking about?

CHIEF MASHABA: I agree.

ADV BALOYI SC: Okay. Then having cleared that, I want
10 to ask you to accept, or maybe let me say whether you accept, and I think you should, that the exchanges between Iby, Boss Iby and Mr Nku at page 264 about this person not being led onto the flight from Amsterdam is not coming, that it is forwarded to you by Mr Nku as we see at page 120, and your response is a thumbs up, must mean that you were part of whatever communication was happening between Mr Nku and Boss Iby, Iby Boss. You were part of that circle of communication. You must accept that.

CHIEF MASHABA: Obviously, I do not know this Iby Boss.
20 I do not know this Iby Boss. Whatever he forwards to me will be between me and him. As to where is it coming from, I cannot tell ...[intervenes].

ADV BALOYI SC: Yes, but what I am saying is on the face of these documents where Mr Nku forwards to you his communication with Iby Boss, he forwards it to you, you

respond with a thumbs up, it means you were part of that circle of communication.

CHIEF MASHABA: At the time ...[intervenes].

ADV BALOYI SC: Even if you may not have known, even if you say I did not know where he gets it from, but on this document in front of us you were part of that triangle of communication, the three of you.

CHIEF MASHABA: At that time, yes, even if I might have forgotten now.

10 **ADV BALOYI SC**: Yes.

CHIEF MASHABA: At that time it means yes, I was.

ADV BALOYI SC: Okay, thank you.

ADV KHUMALO SC: Can I ask you the same question but slightly differently? Accepting that you do not remember what the conversation was about, looking at chat number 345, starting with the one that says:

“Boss they did not let him into the flight.”

Ending with where you give a thumbs up. Looking at it now as you are sitting there, what picture does it paint to you

20 now sitting there looking at it?

CHIEF MASHABA: It paints that we were we were talking about something.

ADV KHUMALO SC: Which is what?

CHIEF MASHABA: That I cannot remember. Like I am saying, at that time ...[intervenes].

ADV KHUMALO SC: No, I am not asking you about that time. I am saying looking at it now, what picture does it paint looking at it now? Accepting that you do not remember what you were talking about in 2021. Read it as if you are reading it for the first time. What picture does it paint?

CHIEF MASHABA: Maybe I do not understand the picture part.

ADV KHUMALO SC: Does it not paint a picture which, as
10 Commissioner Baloyi suggests, that you are part of the everyone that Nku needed to inform that the guy is not coming from Amsterdam? And that whatever plan you had for that day had to be postponed?

CHIEF MASHABA: Yes, according to this, it says obviously I am part of it.

ADV KHUMALO SC: Yes.

CHIEF MASHABA: I agree.

ADV KHUMALO SC: Looking at it now, you were part of a plan that needed to be postponed.

20 **CHIEF MASHABA:** The fact that it was even forwarded to me, I agree.

ADV KHUMALO SC: Thank you. Thank you, Ms Segeels.

ADV SEGEELS-NCUBE: Thank you. Chief, can I ask you to go to page 47 of that same WhatsApp bundle? And the reason I am dealing with this WhatsApp is because you are

mentioned in the WhatsApp. I will give some context to the WhatsApp. So on page 47, same bundle, which is CJC2274.1. Go to page 47. Do you have it?

CHIEF MASHABA: Yes.

ADV SEGEELS-NCUBE: Okay. So let me just explain what this document is. So, the document is a consolidation of the messages either between you and Mr Nku or Mr Nku and Iby Boss which the Commission's analysts have been collating. Page 47 you will see is a screenshot in the
 10 yellow highlighted portion. It is a screenshot that was found on Mr Nku's phone of a WhatsApp conversation. The screenshot is dated 29 June 2021, and you will see next in the second column, third column it says image. That is the screenshot. The bigger version of that, to make it clearer for you, on page 324 of the same bundle. 324.

CHAIRPERSON: Thank you.

CHIEF MASHABA: Page 324?

ADV SEGEELS-NCUBE: Yes. So it is Threema conversations, my apologies. Not WhatsApps. Now, you
 20 will see that the one on page 324 does not have a date. It is because of the app that it is on. When you download it, it does not download with the date. But from the analysis that has been done, that is why I took you page 47 first, what was found was that this screenshot was taken on the 29th of June 2021.

And I want to read it to you, and it is between, conversation Alpha is Iby Boss, who we know as Iby Boss from the WhatsApps. On Threema, it is Alpha. And this is Mr Nku's phone, so his messages are the green blocks and then Alpha would be in the white box. So, I am looking at the conversation from the top. It says, we do not know the exact date, but we see it says yesterday:

10 "Salam, Boss. We will talk properly when we meet. Did VJ collect the keys? Yes, I will see you tomorrow. Hopefully, I should be ready for you. VJ, from today, his phone was off. Will try tomorrow morning."

Then Mr Nku says:

 "No problem. Please check with him."

Then the messages that start at today:

20 "Mate, he will not give me the keys or the phone. He says legally, he cannot. He put up a big stink about General Mashaba. Also, he said it was a silver X5 with two white guys. They have footage, but it is not clear. They got in a white Merc. He also said someone called up about the keys. Not Mashaba. Said he works with him. Boss, this IO does

not want to play game.”

Now, although it says General Mashaba, it is from the analysis that has been done by the Commission’s analyst, the reference to General Mashaba is a reference to you. you do not have to comment on that because you do not know. I am just putting it to you.

I want to show you a conversation between you and Mr Nku around the same time, and then ask you to comment on it. And for that, if I can ask you to go to page 1, I think
 10 it starts on page 122? In fact, if we can go to 120 where we were? Because at the foot of 120, there is a – we cannot see what was being sent. You sent an image, which follows on page 121, on the 25th of June.

Now, remember, that screenshot, the image that we have says that the image was taken on the 29th of June, but we do not know the exact date of the conversation. So you sent something to Mr Nku, and then on page 122, the second block you will see there is a message that you sent on the 25th of June, 11:15a.m:

20 “That is the only key I find.”

So I am suggesting that you were sending him a picture of key on page 120 and 121. Let me just finish and then you can comment. On page 123 there is another picture that you send. And then if we go to page 124, it says no message content to display. Then there is a message from

Mr Nku at 12:04, saying:

“Car key?”

Do you see that?

CHIEF MASHABA: Page?

ADV SEGEELS-NCUBE: Page 124.

CHIEF MASHABA: Yes, car key.

ADV SEGEELS-NCUBE: Yes, he says:

“Car key?”

Do you see that?

10 **CHIEF MASHABA**: I see that, yes.

ADV SEGEELS-NCUBE: At 12:04 on the 25th of June. You say:

“He does not see them.”

25 June, 12:21. Then Mr Nku says:

“Maybe they are with the IO.”

And then you say:

“I will ask the IO.”

And then you say:

“Yes.”

20 You respond, yes. Now, I am suggesting that your conversation with Mr Nku on the 25th of June has something to do with the conversation that we saw on page 324 between Mr Nku and Iby Boss. Because you are referencing a key and there is also suggestion about a vehicle. You will see on page 324, he says:

“Also, he says it was a silver X5 with two white guys. They have footage, but it is not clear. They got in a white Merc.”

And then he says:

“He also said someone called up about the keys. Not Mashaba. Said he works with him.”

And there is a reference to the IO does not want to play game, and in your conversation there is also reference to
10 the IO. Do you recall what this was about?

CHIEF MASHABA: The IO in June?

ADV SEGEELS-NCUBE: 2021, yes. Why were you sending him pictures of a car key and speaking about maybe they are with the IO? He does not see them, maybe they are with the IO. I will ask the IO. You said you will ask the IO. And again, it is a very specific thing. It is about a car key that you, when you took a picture of it, why did you take a picture of this car key and send it to Mr Nku?

CHIEF MASHABA: I cannot remember. Honestly, I cannot
20 remember ...[intervenes].

ADV BALOYI SC: Chief ...[intervenes].

CHIEF MASHABA: [Indistinct].

ADV BALOYI SC: Chief, it is not every day that you would be sending pictures of a car key, unless you tell us this is what you used to do with Mr Nku, which would be another

basis for concern. But I am assuming that it is not every day that you would take pictures of a car key that you send to Mr Nku and that you would have a conversation with an investigating officer about keys, that you are discussing only with Mr Nku. And if I am correct, that is not something that you would do regularly. Then it is something that you should remember, surely.

CHIEF MASHABA: I am trying to remember. I am even trying to remember which IO were we talking about or which
10 case. In June? If I may ask, is it the X5 car keys, or?

CHAIRPERSON: We want to find out from you. You were the person that was communicating.

CHIEF MASHABA: Oh.

CHAIRPERSON: And I must tell you that your I-do-not-recall-refrain has become tired a long time ago. It is quite tired refrain by now. You were talking, so you are the one that should know, and therefore you should respond to Commissioner Baloyi ...[intervenes].

CHIEF MASHABA: Honestly, it is also bothering me, Chair,
20 that you even know what will be my answer. I do not recall what ...[intervenes].

CHAIRPERSON: Exactly.

CHIEF MASHABA: Ja.

CHAIRPERSON: That answer we already know by now.

CHIEF MASHABA: And I think because you are talking

with the car keys, I do not think there is any danger about the car keys, about the IO.

ADV BALOYI SC: So you do not think there is any danger?

CHIEF MASHABA: About the car key.

ADV BALOYI SC: Sorry, what do you mean by that? Maybe let us understand, what do you mean you do not think there is any danger about ...[intervenes].

CHIEF MASHABA: No, I mean, if maybe the Commission think I am hiding the car key, if I remember exactly, if you
10 are talking the car key, it is not like you are talking a picture of maybe a bag of drugs or something.

CHAIRPERSON: You know, this is unlike a situation where you would be saying to your family, I cannot find my keys, I cannot find – that happens all the time. So if there was something relating to that and we were questioning you about that, we would understand you when you say I do not recall. But as Commissioner Baloyi says, surely this certainly is a once-off. It is a once-off. Commissioner Baloyi is whispering ...[indistinct].

20 **ADV BALOYI SC:** You see, Chief, you say there is no danger. Maybe let me say to you what it looks like, and I think it is because you have that in mind that it looks like this, and that is why you will not remember it. So do not take it that it is accepted when you say there is no danger. It looks like this.

The picture that it creates is you, Mr Nku, and Boss lby or lby Boss, who is also referred to as Alpha, were involved in a transaction that included car keys that are with an investigating officer, possibly as an exhibit, that are with an investigating officer and you wanted that key to be released, those keys to be released.

You have a picture of the key and you say I will speak to the investigating officer about that key, and I think that is your difficulty why you will not remember or you will
10 say you do not remember, it is because the picture that this presents is, again, in your transactions with Mr Nku, you are interfering and speaking to influence an investigating officer to release an exhibit.

That is what it looks like. That is why you say I will speak to the investigating officer, and you do so at the behest or at the instance of Mr Nku. Again, a civilian about whom there are problematic issues. And that is why you are avoiding remembering this.

CHIEF MASHABA: You know, Commissioners, like taking
20 Nku as my brother, if he needs assistance, I would try by all means to assist him because I know on many things he relies on me. Especially police issues, where he would say maybe, can you maybe assist? I have got this problem, or I have got this, for instance, I have got this IO that is giving me difficulties. If it is possible, can you maybe try talk to

him?

Because it is him, and with the relationship we got, I know I would try and talk to the IO and ask the IO, IO, *die is my laaitie*, can you at least assist him? If you can, can you at least assist him?

ADV BALOYI SC: Do you accept that even if he were your natural brother, even if he were your born brother, as in biological brother, not a friend, not a neighbour, if he were your parents' son, it would be improper for you to speak to
10 an investigating officer to release a key if that key is an exhibit, to release it to Mr Nku because you are asking? Do you accept it would be improper to do that?

CHIEF MASHABA: I accept.

ADV BALOYI SC: Okay.

CHIEF MASHABA: I accept.

ADV BALOYI SC: And I want to suggest to you that that is exactly what was happening here. You were going to speak to the investigating officer, because you do say I will speak to the investigating officer, and we have seen on pages 3 to
20 4 where Mr Nku says to Alpha, The IO is refusing to give me the key. You say, I will speak to the IO

And I want to suggest to you that your speaking to the IO to help Nku get a key because you are trying to help Nku get a key, that is improper conduct, and that is what was happening here. That is what I am suggesting to you

or I am putting to you. You were seeking to get an exhibit from an investigating officer. That is what you were doing here when you say I will speak to the IO. I am suggesting that is what you were doing, and I am further going on to say you were improperly, in fact, doing so. Do you want to comment?

CHIEF MASHABA: If it is an exhibit that I know, let me say it is an exhibit of maybe a car that the IO – other people can be difficult to say, let us say the case is finished, but I
10 hold on to the key because I want to punish this boy, but I would not go out of my way knowing that this thing is still on, but I will go and negotiate for something that I know I will be putting the IO at risk, or risking his job, to do something impossible for me. That I would not do.

ADV BALOYI SC: Thank you.

ADV SEGEELS-NCUBE: Thank you, Chief. Then can I take you to — I just want to deal again with your version before I take you to the next message. You testified yesterday that on the 7th, the evening of the 7th, Mr Nku
20 called you and said to you that there is a truck with drugs coming from Durban to Johannesburg ...[intervenes].

CHIEF MASHABA: On the 8th.

ADV SEGEELS-NCUBE: On the 8th, sorry, and you told him that he must confirm it positively, and he did so the morning of the 9th of July.

CHAIRPERSON: He did not quite give any information intending to show that this is positive, just that the truck is here.

ADV SEGEELS-NCUBE: Correct, Chair, yes. You asked him to confirm positively that indeed the information is correct. You say the 9th, on the morning of the 9th, he calls you and says the truck is here in Joburg. Correct?

CHIEF MASHABA: Yes.

ADV SEGEELS-NCUBE: Now, I had said to you that he did
10 not give you any information that would vary, any new information, other than the truck had arrived on the 9th of July, the morning of the 9th of July. Remember?

CHIEF MASHABA: He did not?

ADV SEGEELS-NCUBE: Give you any new information on the morning of the 9th of July other than to say the truck is now in Joburg. Correct?

CHIEF MASHABA: He did not give?

ADV SEGEELS-NCUBE: You, yes. Remember, you asked
him on the Thursday evening to, we must confirm the
20 information positively because you are not going to waste time on information that is not positive. Correct? That was your version. And then you went to bed, and the next morning he said to you the truck is in Johannesburg. And that, for you, was positive confirmation that there were drugs in that vehicle. Correct? In the truck? Or do you

want to remind us about your version as to what information he told you on the Friday morning that made you activate all your team?

CHAIRPERSON: Do you accept that the last thing Ms Segeels-Ncube said is correct, that is that on the morning of the 9th he said the truck is now in Johannesburg? Is that correct?

CHIEF MASHABA: Ja, he said the truck is in ...[intervenes].

10 **ADV KHUMALO SC:** Rooikop.

CHIEF MASHABA: Ja, ja, ja.

CHAIRPERSON: Yes, Ms Segeels-Ncube?

ADV SEGEELS-NCUBE: Okay. Now I want to take you to, and read to you Mr Nku's statement about what he says. It is on page 1 of his statement. You do not have it in front of you, so I am just going to read it to you.

CHIEF MASHABA: Page?

ADV SEGEELS-NCUBE: I will read it to you:

“2.1. Source of Information.”

20 This is what Mr Nku says:

“I first became aware of the potential shipment during the last week of April 2021 through confidential sources. At that stage, the information was preliminary and indicated a possible

shipment involving arms, contraband, including drugs. I shared this information with Lieutenant General Sindile Mfazi, whom I was initially introduced to by former Deputy Minister of Defence, Kebby Maphatsoe, as he expressed that Lieutenant General Mfazi was his compatriot in exile. Further details were received and shared in late June 2021.

10 All the information was relayed to the Lieutenant General accordingly. By approximately 7 July 2021, certain containers were identified as being prioritised for transportation. One of them was conclusively positively based on.”

That is what he says. And we know the one container that he says we are referring to here was the one with the drugs. He says by the 7th of July, one of them was conclusively

20 positive based on, which means that by the 7th of July, he positively knew that there would be drugs in that truck. That is what he says on his version.

CHIEF MASHABA: But on the 7th of July, he did not — we did not speak.

ADV SEGEELS-NCUBE: Now, I know that is your version.

What I want to put to you is that when he speaks to you on the 8th of July, Thursday the 8th of July, he already knew positively that the drugs were there. And I am suggesting to you that he told you the drugs are there already on Thursday night, not Friday morning. He knew positively because he says he knew on the 7th of July already. So there was nothing he was going to come back to you on Friday morning with he knew on the 7th, on the 7th of July already.

10 So when he spoke to you on the 8th, he told you there will be drugs in that truck, which is what you later conceded that when you spoke to him on the 7th, he said that there will be drugs. It was no longer suspicion. It was that there will be drugs.

CHIEF MASHABA: Like I am saying, we did not speak on the 7th, and that was his information. He said to me on the 8th that I have got this information.

CHAIRPERSON: If I understand the substance of the question, he knew on the 7th, he spoke to you on the 8th.

20 The substance of the question is this, when he spoke to you on the 8th, already having the knowledge that he had from the 7th, he would have ...[intervenes].

CHIEF MASHABA: That I would not know.

CHAIRPERSON: No, no, no, he spoke – I am not asking about your knowledge on the 7th, no, but I am saying he

knew as at the 7th. So when he spoke to you on the 8th, he would have told you or given you the information that he already had, so that there would not have been a need for him to make the confirmation that you say you insisted on, because on the 8th he already had the information from the 7th already.

CHIEF MASHABA: That he sent to me?

CHAIRPERSON: No, when he spoke to you, when he contacted you on the 8th and spoke to you. So on the 8th he
10 already had the information, so he would have communicated what he knew when he spoke to you on the 8th. There would therefore be no need for him to make the confirmation that you say you needed. And that had to be given on the 9th, on the 9th.

CHIEF MASHABA: But I remember saying to him on the 8th, please make sure, tomorrow confirm the positivity of your information on Friday morning. That is when he called and said the truck is here.

CHAIRPERSON: You see, what actually ...[intervenes].

20 **CHIEF MASHABA**: Maybe I do not understand.

CHAIRPERSON: Maybe ...[intervenes].

CHIEF MASHABA: I am sorry.

CHAIRPERSON: He speaks to you on the 8th, or maybe let me take one step back. On the 7th, on the 7th, he has the information that there are drugs being shipped. He knows

this as at the 7th. He speaks to – you understand me thus far? You understand me thus far?

CHIEF MASHABA: But I would not know that on the 7th.

CHAIRPERSON: No, I am just telling you what he knew. This is not about you.

CHIEF MASHABA: Okay ...[vernacular].

CHIEF MASHABA: [Vernacular]... Chair.

CHAIRPERSON: So this is what he knows as at the 7th.

CHIEF MASHABA: Okay.

10 **CHAIRPERSON**: Then on the 8th he speaks to you.

CHIEF MASHABA: All right.

CHAIRPERSON: And he tells you about this same shipment, about which he has full information. So if I understand it correctly, do you think I do?

ADV SEGEELS-NCUBE: You do, Chair.

CHAIRPERSON: Yes. Now, he speaks to you on the 8th, and he has this full information about the shipment of drugs. He must surely have told you the full information that he had, which would have obviated the need for him to
20 give any further positive confirmation. Maybe let me cut out the last bit and just say, so on the 8th, he speaks to you. Correct?

CHIEF MASHABA: Yes, correct.

CHAIRPERSON: Yes.

CHIEF MASHABA: Correct, Chair.

CHAIRPERSON: Now remember that he already has the information from the 7th. Still with me?

CHIEF MASHABA: Correct, Chair.

CHAIRPERSON: Now, the suggestion to you is that he must have told you, or must have given you all the information that he had when he spoke to you on the 8th. On that, I know you are going to say that is not the case. Am I correct? You are going to say he did not give you any full information, he just said there was a shipment of drugs.

10 Correct?

CHIEF MASHABA: No, on Thursday ...[intervenes].

CHAIRPERSON: On your version, when he spoke to you.

CHIEF MASHABA: On Thursday, obviously, I would want to listen to the information and ...[intervenes].

CHAIRPERSON: Ja. Yes, and I suggest to you that because you already heard it from the 7th, when he spoke to you on the 8th, he gave you that information. You deny that. You deny that he gave you the full information with regard to the shipment.

20 **CHIEF MASHABA**: The information I got, it is from Thursday. The confirmation ...[intervenes].

CHAIRPERSON: And what was the information?

CHIEF MASHABA: That the truck is from Durban.

CHAIRPERSON: Okay.

CHIEF MASHABA: With drugs.

CHAIRPERSON: Yes.

CHIEF MASHABA: All I needed on Friday was a confirmation.

CHAIRPERSON: Now, I want to suggest to you that he gave you all the information and there was no need for any confirmation. And I will say to you, what buttresses that view that you have gotten all the information you needed, what buttresses that view is the fact that on the following day, all that you get told is that the truck is now in Gauteng.

10 And you start moving from your side. And you do not say, but what about the confirmation that I asked for yesterday? You do not ask for that. All you are told is the truck is now in Gauteng.

Nothing in that statement, the truck is now in Gauteng, confirms anything. It does not change what you have been told the previous day. So the fact that you just get the truck is now in Gauteng and you start moving and mobilising shows that you actually did not ask for any confirmation the previous day.

20 **CHIEF MASHABA:** No, but if he says to me the truck has landed and I am here with the truck or looking at the truck, it is confirmation.

CHAIRPERSON: Do you say you had opened the truck and looked inside and got the confirmation you wanted? He did not.

CHIEF MASHABA: No, he cannot.

CHAIRPERSON: He could not. He did not, he could not.

CHIEF MASHABA: Yes.

CHAIRPERSON: So where is the confirmation in merely saying the truck is now in Gauteng? Where is the confirmation of what you wanted the previous day?

CHIEF MASHABA: Him saying the truck is here, landed already and I am here, please come. To me, it is confirmation ...[intervenes].

10 **CHAIRPERSON:** What confirmation did you want? When you said you wanted confirmation so that you do not leave things that you are doing, that is the language you used yesterday, what confirmation did you want? Did you want confirmation of the arrival of the truck in Johannesburg? On the 8th, did you want confirmation of the arrival of the truck in Johannesburg? In Gauteng, sorry, in Gauteng?

CHIEF MASHABA: Maybe I am missing it.

CHAIRPERSON: You say on the 8th you asked him to give you confirmation so that you do not leave the things that
20 you were doing for nothing. Did you not say so yesterday?

CHIEF MASHABA: Yes, I said so.

CHAIRPERSON: You said so.

CHIEF MASHABA: I said so.

CHAIRPERSON: Yes. Now what I am asking you is, what confirmation did you want?

CHIEF MASHABA: I think him saying the truck is here was ...[intervenes].

CHAIRPERSON: No, no, no, no, no. That is the 9th. I am asking you about the 8th. What confirmation did you want on the 8th?

CHIEF MASHABA: Remember on the 8th, Chair, he is saying be on standby. This is what might happen tomorrow. This is the information.

CHAIRPERSON: What confirmation did you want, Chief
10 Mashaba?

CHIEF MASHABA: I think maybe I am missing it, but I am saying ...[intervenes].

CHAIRPERSON: I will leave it, I will leave it.

ADV SEGEELS-NCUBE: Thank you, Chair. In fact, remember I read to you yesterday what Mr Nku said about what happened on the 8th of July? But let me just continue with his version on what he discusses with you and when he discusses it with you. He ...[intervenes].

ADV KHUMALO SC: Ms Ncube, sorry to interrupt you. We
20 did not bring our Nku files, so we have got difficulty that when you read, we do not know where you are reading. Is it possible to put it up on our screens?

ADV SEGEELS-NCUBE: Okay, we will just flight the page ...[intervenes].

CHAIRPERSON: Subject, of course, to whatever needs to

be redacted, must be redacted.

ADV SEGEELS-NCUBE: It has been, Chair.

CHAIRPERSON: Okay.

ADV SEGEELS-NCUBE: I will read it into the record in the meantime. It is paragraph – on page 2 he says:

“Communication of information. I
informed Chief Mashaba of the
information...” ...[intervenes].

CHAIRPERSON: Sorry, is it?

10 **ADV SEGEELS-NCUBE**: She is still getting it on the system, Chair.

CHAIRPERSON: Ja, maybe let us wait.

ADV SEGEELS-NCUBE: Okay.

CHAIRPERSON: Ja. Does Chief Mashaba have it? He also does not.

ADV SEGEELS-NCUBE: No, Chair. So, page 2, the first paragraph.

ADV KHUMALO SC: While they are busy with that, maybe, do we need our files for after tea? We do have them here.
20 We just did not bring them to the venue.

ADV SEGEELS-NCUBE: I am only going to be dealing with this because of the inconsistency with the versions. So, page 2. It is the heading on page 1. It says communication of information. And on page 2, he says:

“I informed Chief Mashaba of the

information on or about 8 July 2021
around 07:30p.m. after I became
satisfied that the information was
sufficiently specific to warrant
operational follow-up as the Yellow
Jersey truck which was carrying the
container in question had been travelling
in record time towards Johannesburg. In
relation to Chief Mashaba, it was a last-
10 minute request as the high-ranking
official who was supposed to have
assembled a team to run the operation
was not available at that point.”

So, he says he gave you all the information which he
considered to be sufficiently specific to warrant the
operational follow-up on the 8th, the evening of the 8th. And
then, when you go to 2.5, events of 9 July, he says:

20 “On 8 July, I travelled from Durban to
Johannesburg at around 08:00p.m. after
communicating with Chief Mashaba
regarding the information. On the
morning of 9 July, I met with him and
provided a briefing.”

So, he does not say that on the 9th of July, he calls you and
gives you the confirmation that you told us you needed in

order for you to then activate your plan. On his version, by the Thursday night, the 8th, he had given you all the information which for him was specific enough to commence the operation. Do you see that?

CHIEF MASHABA: So, you are saying – are you not reading ...[intervenes].

ADV SEGEELS-NCUBE: Yes, I am reading Nku's statement. He is not saying that you asked for information for him to verify in order for you to be satisfied on the 9th.
 10 He says he gave you all that information on the 8th of July. The evening, Thursday evening, he gave you all the information sufficiently specific for the operational follow-up. And he does not say that on the 9th he called you to give you this information that you needed to activate the plan. He says on the 9th he just picked you up and gave you a briefing.

CHAIRPERSON: Is there not a file to spare so that Chief Mashaba may have it in front of him? So, you will start looking at the – you no longer need it, Ms Segeels-Ncube?

20 **ADV SEGEELS-NCUBE**: It is just that paragraph, Chair.

CHAIRPERSON: Yes. You will see there is a paragraph at the top, I informed.

CHIEF MASHABA: Yes.

CHAIRPERSON: And then you skip to 2.4 and you do not read the whole of 2.5.

ADV SEGEELS-NCUBE: Yes.

CHAIRPERSON: Read up to which line? Ja, ja, and then you read the first and second sentences of 2.5.

ADV SEGEELS-NCUBE: 2.5:

10 “On 8 July 2021, I travelled from Durban
to Johannesburg around 08:00p.m. after
communicating with Chief Mashaba
regarding the information. On the
morning of 9 July 2021, I met with him
and provided a briefing. He indicated
that he was calling a Warrant Officer
Phokungwana from Alberton Police
Station as the area where the Yellow
Jersey depot was fell under their due
restriction.”

I think he meant jurisdiction.

CHAIRPERSON: Did you finish reading the paragraph at the top that starts with I informed? If you did not, please continue.

20 **CHIEF MASHABA:** Must I read it too?

CHAIRPERSON: No, no, no, no, no. For yourself, for yourself.

CHIEF MASHABA: Okay.

ADV SEGEELS-NCUBE: So you can read the first paragraph on page 2, I informed Chief Mashaba.

CHIEF MASHABA: Yes, I read it.

ADV SEGEELS-NCUBE: So there his version differs from yours on what happened on both the Thursday evening, the 8th of July, about the information that he gave you and on the 9th of July. On his version, all that he did on the 9th of July was he says that on the morning of 9 July, I met with him and provided a briefing. He indicated that he was calling. So you were there. He met with you. There was not another call on the 9th of July to give you more
10 information in order to confirm that the drugs were in the truck.

CHIEF MASHABA: So how will I know?

ADV SEGEELS-NCUBE: You knew on the 8th. I am giving you the benefit of the doubt that you knew not on the 7th, but that you knew on the 8th already all the information that you needed in order to take the proper steps for this investigation.

CHIEF MASHABA: You want to put to me that on Friday he did not call?

20 **ADV SEGEELS-NCUBE:** Yes, he does not say that he called you on Friday. He says, on the morning of 9 July, I met with him and provided a briefing.

CHIEF MASHABA: Well, if this is what he wrote, can you maybe leave it to him? I am saying I got a call. He called in the morning. And clearly, our phones were taken. The IO

would have seen that. Because I remember the IO said it, said that yes, Mashaba did not have Magane's number, did not have Phakula's number. If I remember, they spoke on Friday. And then I am saying, how will I then know where he was on Friday if he did not call?

ADV SEGEELS-NCUBE: Because he told you Thursday night, let us meet on Friday morning.

CHIEF MASHABA: Let us meet at Yellow Jersey?

ADV SEGEELS-NCUBE: He says that I met with him and
10 provided a briefing, yes.

CHIEF MASHABA: No, that is – I am saying to the Commission he called on Friday. Friday morning.

ADV SEGEELS-NCUBE: Okay. So ...[intervenes].

CHIEF MASHABA: Everything did not – sorry, everything did not end on the 8th. On the 9th, in the morning, he called and sent me location. Because I did not even, he had to direct me. I did not even know where Yellow Jersey – I know the area, but I did not even know that is Yellow Jersey.

20 **ADV SEGEELS-NCUBE**: Okay.

CHIEF MASHABA: He had to even send me a location.

ADV SEGEELS-NCUBE: Okay. Then still on this topic, if you go to page 50 of the WhatsApp and screenshots bundle.

CHIEF MASHABA: Page?

ADV SEGEELS-NCUBE: 50, 5-0. Do you have page 50?

CHIEF MASHABA: 5-0, yes.

ADV SEGEELS-NCUBE: Yes. Now, this is again an image that was obtained from Mr Nku's phone, and the timestamp on that image, 7 July 2021, 21:54:35 seconds. And do you see that it is photographs of bags? Well, it is bags covered in tape. Do you see that?

CHIEF MASHABA: I see, yes.

ADV SEGEELS-NCUBE: And on page 51, the first image.

CHIEF MASHABA: Yes.

10 **ADV SEGEELS-NCUBE:** And page, and the second image, that looks like the bags in the container.

CHIEF MASHABA: Yes, I see it.

ADV SEGEELS-NCUBE: And he had this, he had these images on his phone on the 7th of July 2021 already. The image, 7 July 2021 image, that is the timestamp of the image that was found on his phone. Yes.

CHIEF MASHABA: This is in his phone?

ADV SEGEELS-NCUBE: Yes.

CHIEF MASHABA: Okay.

20 **ADV SEGEELS-NCUBE:** Okay. Now, we of course do not know until he comes and gives this evidence that these were in fact images of the drugs that were found at Aeroton. But if we go to, we are going to suggest that it likely is, if you go to the Steyn Exhibit File, Chair, which you should have, CJC204. If somebody can just assist the witness?

Page 4.

ADV BALOYI SC: Ms Ncube, I see this is projected. The Chair and I do not have our Steyn Bundles because we were not told we should bring them.

ADV SEGEELS-NCUBE: Apologies for that, Commissioner Baloyi. We had requested that it be brought to you. So if you look at, these are page 4 of the Steyn Exhibit Bundle, photos of the drugs, well, the bags that were seized at Aeroton. You would remember them because you saw those
10 bags, right? On the 9th of July you saw those bags?

CHIEF MASHABA: Yes.

ADV SEGEELS-NCUBE: Okay. And so that is the image on the 9th of July. And then if you go to page, back to page 50 and 51 of the Exhibit Bundle, does that look like the bags that you saw on the 9th?

CHIEF MASHABA: Page?

ADV SEGEELS-NCUBE: Page 50 and 51, the images of the bags that I showed you, since you saw the bags on the 9th of July, does it look like it was the same bags? We at
20 least have the benefit of having you here because you would have seen those bags on the 9th of July because you handled ...[intervenes].

CHAIRPERSON: Are you saying what?

ADV SEGEELS-NCUBE: I am asking the witness whether the bags that he handled on the 9th of July looks the same

like page 49, page 50 and 51, the photographs ...[intervenes].

CHAIRPERSON: Same or similar?

ADV SEGEELS-NCUBE: Same or similar. Or maybe he will say the same, they are the same.

CHIEF MASHABA: [Indistinct – cross talking] ...[intervenes].

CHAIRPERSON: [Indistinct].

ADV SEGEELS-NCUBE: I want to put it higher than that,
10 Chair, because he is effectively an eyewitness, he saw the bags. He should be able to tell us whether they look the same.

ADV BALOYI SC: Maybe to ask you a question differently if I may. Chief, your evidence and the Magane as well, evidence is that when the container was opened, the bags fell out. You remember that evidence. Now the images that are on page 50 and 51 ...[intervenes].

CHIEF MASHABA: Is it, sorry, is it on Steyn's File? The images?

20 **ADV BALOYI SC**: No, the images as I understand it, the image that is now at page 50 and at page 51 were found, it is said they were found in Mr Nku's phone. Those images. Remember there was a file at page 50? So what Ms Segeels says the evidence will be in due course and what she is putting to you is that according to the analyst, these

pictures that you see, these images that you see at page 50 and 51 were taken from Mr Nku's phone, and they look like they were taken from inside the container. But forget the last part about the container. The question I think that Ms Segeels is seeking to clarify with you is that the bags that you saw fall out of the container, they looked like what you see at page 50 and 51. That is what is being sought to you.

CHIEF MASHABA: I see the wrapping looks the same, but here on this one, I do not see clearly because on the 9th,
10 the one for the 9th.

ADV BALOYI SC: Yes.

CHIEF MASHABA: They got both handles not wrapped ...[intervenes].

ADV BALOYI SC: Which was my question, whether when they fell out of the container, when you first saw them, did they have this kind of wrapping that you see at page 51?

CHIEF MASHABA: Yes, they were ...[intervenes].

ADV BALOYI SC: They had that wrapping? All right, thank you. Ms Segeels?

20 **ADV SEGEELS-NCUBE:** Thank you.

ADV BALOYI SC: Thank you, Chair.

ADV SEGEELS-NCUBE: So it seems to me that if Mr Nku has photographs of the drugs in the container on the 7th of July 2021, I mean, this would have been taken before the container left its destination where it was coming from. So

he had these photographs. He had them on the 7th of July 2021. He speaks to you on the 8th of July. So I am saying to you that it is implausible that knowing what he knew on the 7th of July, that he would not have confirmed with you positively that the drugs will be there. And I am saying to you that when he speaks to you on the 8th of July, you had all the information that you needed to contact the necessary and the relevant authorities to deal with this matter on the 8th of July already.

10 **CHIEF MASHABA**: When you say I had all the information, do you mean I had the details of the truck, I had these pictures, or all information? What do you...

ADV SEGEELS-NCUBE: Yes, I am saying that Mr Nku had the pictures. I am saying that he had the details of the truck. He says that he had given you sufficient information in order to do the operation follow-up. What else would you have needed if he did, in fact, if he comes here and says that he gave you the details of the truck and he told you that the drugs were in the truck on the 8th of July? If that is
20 his evidence that he comes and gives, what more would you have needed from him in order to take the necessary steps to seize these drugs in a lawful manner?

CHIEF MASHABA: I want to answer you correctly. Sorry, please repeat.

ADV SEGEELS-NCUBE: Okay. If Mr Nku gives evidence

before the Commission that when he spoke to you on the 8th of July, he gave you the details of the truck, including where the truck was going, and he gave you the licence plate of the truck, and he told you that he has seen photographs of the drugs in the container, which is also in the truck, if he gave you that information and he gave you that on the 8th of July, what more did you need from him on the 9th of July in order for you to take the necessary steps for this to be a lawful police operation for the seizure of the drugs?

10 **CHIEF MASHABA**: He is saying to me it is Durban to Johannesburg. He might have, that is his information, what he has got in his information, like these things, I do not know, I did not see.

ADV SEGEELS-NCUBE: No, I am saying to you, if he did tell you all of this, everything that he knew, if he told you that, if he told you everything that he knew on the Thursday night, what more did you need on the Friday? Did you need anything more?

CHIEF MASHABA: Yes, I needed, because he is saying to
20 me it is coming to Joburg. What will I do about it if it is still in Durban? If he is saying it is in Joburg, I think that is – I needed that, and I needed the details of the truck.

ADV SEGEELS-NCUBE: But I am telling you that if he comes and he says he gave you the details of the truck.

CHIEF MASHABA: He gave me on Thursday?

ADV SEGEELS-NCUBE: Yes, if – no, I am not saying that that is what happened because you have a different version. I am saying if he did, what more would you need?

CHIEF MASHABA: I know he did not. All I ...[intervenes].

ADV SEGEELS-NCUBE: I know that, Chief. I am saying if. So forget about your version. If he told you this is the truck, here is the licence plate, I even have the coordinates, I am going to send it to you of where the truck is, and there are drugs, I saw photos, there are drugs in that truck, what
10 more did you need from him?

CHIEF MASHABA: That the truck has landed, and if it has landed, give me the number plate, the details of the truck. That is all I needed from him.

ADV SEGEELS-NCUBE: No, he would have already given you the details.

CHIEF MASHABA: No, he did not.

ADV SEGEELS-NCUBE: Okay, okay.

ADV BALOYI SC: Chief, if you, on your version, if you were concerned that you do not waste, you do not end up
20 wasting your time in conducting an operation that, in fact, is a negative, I think that is the language that you have used, is a negative, surely you would have requested more than the registration number of the truck. You would have wanted confirmation from him that there are drugs in that container.

Otherwise, your earlier statement that you did not want to waste your time would not make sense. It only makes sense if one, if you say, yes, I did ask for confirmation that there are drugs in that vehicle, in that container. Surely you would have asked him to confirm that there are drugs in there.

CHIEF MASHABA: But, Chair and Commissioners, here is the information. Mashaba, there is a truck from Durban. The truck is loaded with drugs.

10 **ADV BALOYI SC**: Yes.

CHIEF MASHABA: He would not just say such information. I do not know how he confirms that. I do not know. It is the information he is now giving to me. Here is the – I mean, there is a truck coming from Durban to Joburg transporting drugs.

ADV BALOYI SC: Yes.

CHIEF MASHABA: I said, okay, it is possibility that be on standby for this thing tomorrow. Then I said to him, no problem, if you say so, please confirm that it is positive.

20 **ADV BALOYI SC**: Positive as in there are drugs in the container, or the truck is coming up?

CHIEF MASHABA: The truck is coming up. Remember, I am waiting for the confirmation to say it will land on Friday.

ADV BALOYI SC: Yes, okay.

CHIEF MASHABA: So if he says sharp, no problem, then

on Friday he calls in the morning and says the truck has landed, please come. To me it is enough. That is all I know. The truck he was talking about yesterday is drugs ...[intervenes].

ADV BALOYI SC: You know that it has drugs in it because that is what he told you.

CHIEF MASHABA: Yes.

ADV BALOYI SC: Okay.

CHIEF MASHABA: So it has landed, please come.

10 **ADV BALOYI SC:** Okay.

CHIEF MASHABA: I said sharp, where are you? I am in Yellow Jersey. Where is Yellow Jersey? No, let me send you location.

ADV BALOYI SC: Okay.

CHIEF MASHABA: I get the location. When I get to him, he gives me the details of the truck, the number plate. Was it the number plate? Ja, the number plate. Here is the truck. I said, oh, okay. On my way there, I am already calling to say it is positive. If you are available, please
20 come. I am calling a person in Alberton.

ADV BALOYI SC: Yes.

CHIEF MASHABA: So ...[intervenes].

ADV BALOYI SC: Yes, thank you, Chief. I think you have answered the question.

CHIEF MASHABA: Okay.

ADV BALOYI SC: Thank you.

CHAIRPERSON: Just your response about what you considered positive confuses me. Can you explain the circumstances under which you could possibly have wasted your time? That is, leaving the things that you were doing. Under what circumstances could that possibly have happened then, in the context of what you have just explained to Commissioner Baloyi? I am basing this on the answers you gave yesterday.

10 **CHIEF MASHABA:** What is the exact question, Chair? Sorry.

CHAIRPERSON: Confirm that this is positive because I do not want to leave the things that I am doing and therefore waste my time. Now, I want to have an idea of the possible circumstances under which you could have wasted your time for you to insist on a positive confirmation. What did you have in mind? How could that have arisen?

CHIEF MASHABA: Chair, number one, I am going to mobilise the resources.

20 **CHAIRPERSON:** No, no, no, no, no. That is not about the resources or whatever else you would have had to do once there was positive confirmation, because mobilising is when you are satisfied that there is positive. That is not what I am asking you. You are saying you wanted to be assured that this was positive, correct?

CHIEF MASHABA: Yes, Chair.

CHAIRPERSON: Yes. And that was for a reason. You did not want to waste your time and leave the things that you were doing. You said so yesterday, correct?

CHIEF MASHABA: Yes, Chair.

CHAIRPERSON: Yes. Now you say it was enough if you were just told that the truck is now in Gauteng. That was enough. Now what I want to understand from you is what could possibly have given rise to a waste of your time?

10 **CHIEF MASHABA:** That I come there and there is nothing like that.

CHAIRPERSON: You come where? You go to where you said the truck was?

CHIEF MASHABA: On Friday.

CHAIRPERSON: And how could you possibly go there without him having said, come, the truck is here?

CHIEF MASHABA: That is all I needed to, that is all I needed ...[intervenes].

CHAIRPERSON: And how could you have gone there
20 without him first having told you that the truck is here?

CHIEF MASHABA: Maybe, I do not know ...[intervenes].

CHAIRPERSON: You would never have had to go there without being told that the truck is here, because, one, you did not even know where exactly the truck would have to go. So you would have had to be told by him that the truck is

now here.

CHIEF MASHABA: Yes.

CHAIRPERSON: You get me?

CHIEF MASHABA: Yes.

CHAIRPERSON: So what I am saying is, what I am saying is, your insistence that you should be told that the truck, or rather, this is all positive, your insistence that you should be told that does not make sense because you would have had to be told anyway because you would not have been
10 able to just up and go without him first having told you that the truck is here.

So the positive confirmation that you are telling us about would have had to happen as a matter of course anyway. So it does not make sense that you insisted on positive information or positive confirmation. The positive confirmation you are telling us about would have had to happen as a matter of course. Positive confirmation that would make sense is positive confirmation that this is indeed drugs, and that is what we say he must have told
20 you the previous day, on the 8th already.

Otherwise, positive confirmation that the truck has arrived does not make sense. He would have had to tell you that as a matter of course because how else, or why else would you just up and go, and where on earth would you go to? I can see from your face that you understand

nothing of what I am saying.

CHIEF MASHABA: Maybe, Chair ...[intervenes].

CHAIRPERSON: [Vernacular].

CHIEF MASHABA: At least. I am getting lost.

CHAIRPERSON: No, I will leave it at that.

ADV SEGEELS-NCUBE: Shall we take the tea adjournment, Chair?

CHAIRPERSON: Let us, let us change and come back at 11:40.

10 **INQUIRY ADJOURNS**

INQUIRY RESUMES

CHAIRPERSON: Yes, Ms Segeels-Ncube?

ADV SEGEELS-NCUBE: Thank you, Chair. Chief, just before we continue on the topic of the photographs of the drugs and that, I would just want to close off one of the loose ends that I had not dealt with fully, which is on page 58 of the WhatsApp Bundle Exhibit. It is a conversation between you and Mr Nku. In fact, if we can start on 57. On the 21st of February, the last one on page 57, it is a
20 message from Mr Nku. Do you have it?

CHIEF MASHABA: Yes.

ADV SEGEELS-NCUBE: And he says:

“Hola.”

And then that is at 08:48. You also at 08:48, you have a thumbs up. And then you send him a photograph of

someone, and the next message says, no message content to display. On the next page, page 59, you say Sergeant Mataboge with the finger pointed up, suggesting that the message from earlier on is a photograph of him. Do you see that?

CHIEF MASHABA: Yes.

ADV SEGEELS-NCUBE: And then there is a message from Mr Nku at 03:00 on the 22nd of him saying:

“Ask them to check this number plate.”

10 And then he gives a number plate. You say thumbs up, and then he gives you another number plate to look for. And then we have a photograph on page 60. And at the top of page 61, he says:

“The phone he is using is RICAd to this name.”

And still on the same day, part of the same conversation, he sends you information about a Wild Track orange vehicle. And then we have that message we dealt with yesterday, Gauza. Do you recall why he was sending you number
20 plates to check?

CHIEF MASHABA: I do not recall.

ADV SEGEELS-NCUBE: Is it something he would ask you to do routinely? Is that why you cannot recall it, because it happens so frequently, or?

CHIEF MASHABA: Sorry, what is the question?

ADV SEGEELS-NCUBE: Is it the reason why you cannot recall, because you did it often for him, so you cannot recall the specific instance where he gave you these number plates to check, you do not know why? Or is it that you have now taken your usual stance of not remembering for the sake of convenience?

CHIEF MASHABA: I know that I can check number plates. So, this I do not recall.

ADV SEGEELS-NCUBE: Sorry, what do you mean you
10 know you can check number plates? What do you mean by that?

CHIEF MASHABA: I see here, ask them to check this number plate. If you see here they are saying, or he is saying, here is the number plate that needs not to be checked, but here is the number plate. Hey, I do not understand. I do not recall it ...[intervenes].

ADV KHUMALO SC: You were asked what do you mean you can check number plates, not reading from the chat what you said ...[intervenes].

20 **CHIEF MASHABA:** No, I thought ...[intervenes].

ADV KHUMALO SC: Does it mean you have a gadget or a device as part of your duties, that when I give you a number plate, you are able to check using that device who the car belongs to?

CHIEF MASHABA: I am able to check.

ADV KHUMALO SC: Yes.

ADV SEGEELS-NCUBE: Okay. Now, this is something that you do in your official capacity, to check number plates?

CHIEF MASHABA: Yes.

ADV SEGEELS-NCUBE: Okay, so there would have had to be a basis for you to do it in your official capacity and lawfully. You cannot just randomly for whatever reason, or specifically for personal reasons, just check a number plate of any person.

10 **CHIEF MASHABA:** Yes.

ADV SEGEELS-NCUBE: There must be a basis for it, surely.

CHIEF MASHABA: Yes.

ADV SEGEELS-NCUBE: A lawful basis.

CHIEF MASHABA: The?

ADV SEGEELS-NCUBE: A lawful basis. You must have formed the view that it is a lawful request that is being made by a citizen to you. You cannot just decide that, you cannot just offer to check people's number plates because it
20 is a civilian request that you check them. Can you?

CHIEF MASHABA: No, no, I cannot just.

ADV SEGEELS-NCUBE: Yes.

CHIEF MASHABA: Me, I can, let us say the car is parked next to my yard. Even if I am off, I can take the number plate and check.

ADV SEGEELS-NCUBE: Yes, I know you have the power to do so, but that power is not an unfettered power, there must be a basis for you to do it. It seems to me that a friend cannot just say to you, please can you check this number plate of this person, I want to see who it belongs to. Why would you be entitled to do that?

CHIEF MASHABA: Yes, there will be a reason why.

ADV SEGEELS-NCUBE: Yes, a lawful reason.

CHIEF MASHABA: There will be a reason.

10 **ADV SEGEELS-NCUBE:** Yes.

CHIEF MASHABA: There will be a reason why.

ADV SEGEELS-NCUBE: And in this instance, he is just saying check this number plate, so why are you just checking it? He must have told you the reason that you must check it and you must have thought that it was a proper reason for you to exercise your power to do so.

CHIEF MASHABA: This I cannot remember what was this for.

20 **ADV BALOYI SC:** But whatever it was for, it could not have been for the exercise of your duties, lawful duties as a Traffic Officer. It could not be. It comes from Mr Nku, you are checking for Mr Nku, not in the discharge of your functions as a police, as a Traffic Officer.

CHIEF MASHABA: What is the question, Commissioner?

ADV SEGEELS-NCUBE: The question is, your checking

number plates at the request of Mr Nku could not have happened in the course of you discharging your normal duties as a Traffic Officer when you look up numbers for Mr Nku, registration numbers for Mr Nku. That is not you exercising your functions as a police officer.

CHIEF MASHABA: I do not understand. Maybe you can rephrase the question.

ADV BALOYI SC: Ja, I am going to rephrase it. When Mr Nku, as we have seen with the airport cases of looking for
10 gold, as you tell us, of looking for lost currency, as you told us, for Mr Nku, you agreed yesterday that you called it a side hustle, right? It is not official police duty.

I am saying the same thing, that when Mr Nku gives you people's registration numbers, vehicle registration number, and he says look up this, when you do look it up, that is not official police duty that you are doing. It is not official police work that you are doing.

CHIEF MASHABA: Depending on the reason why he is saying check this number plate.

20 **ADV BALOYI SC:** Why would you look up – you see, the context about Mr Nku is, remember, you are doing other transactions with him and he is your funder, we have established that. When he gives you details of motor vehicles, unless you can explain it to us and say the reason he gave you these motor vehicles to look at is A, B, C, D

and from that we are able to determine that this was legitimate police business that is given to you, Chief, by a member of the public because here is an explanation that you are giving to us.

In the absence of that, it is reasonable to conclude this is yet one of those schemes where he asks you to do things in your side hustle with him or in what you call side hustle with him. It is reasonable to conclude that in the absence of an explanation. And we do not have an
 10 explanation because you say you do not remember.

CHIEF MASHABA: Yes, I do not remember.

ADV BALOYI SC: Yes. Do not focus on the I do not remember. Focus on my saying, it is reasonable to conclude that this is one of the side hustles that you were doing with Mr Nku in 2019. It is reasonable to conclude that, absent an explanation from you of what this was about.

CHIEF MASHABA: Well, I would not agree because I am saying I do not remember. I would not agree it is one of my
 20 side hustles.

ADV BALOYI SC: I am saying it is reasonable to conclude that it is one of the side hustles because we do not have any other explanation from you.

CHIEF MASHABA: Is it reasonable, Commissioner, to me?

ADV BALOYI SC: I am saying it is reasonable for me to

conclude.

CHIEF MASHABA: Okay.

ADV BALOYI SC: I am happy to bring it to me.

CHIEF MASHABA: Well ...[intervenes].

ADV BALOYI SC: It is reasonable for me to conclude. I am suggesting to you, it is reasonable for me to conclude in the absence of an explanation why Mr Nku is giving you registration numbers to check that this is yet another case of your side hustle with him.

10 **CHIEF MASHABA**: Well, I do not have control over that, Commissioner.

ADV BALOYI SC: Over what?

CHIEF MASHABA: Over your conclusion.

ADV BALOYI SC: I am asking you if it is reasonable. I am not asking you whether you have control over my conclusion. I am asking you to apply your thought process that look at these facts. Fact, he sends you people's registration numbers including, in some case, a car, a vehicle model. He gives you that information. We ask you,
20 you get asked, why do you have this? Why is he sending you this stuff? You say, I do not remember. And I am saying to you it is a reasonable conclusion to draw in the absence of an explanation for that activity that this is one of the things that you are doing as a side hustle with Mr Nku. I am saying to you it is reasonable. You can say you do not

have a comment and I will accept that, but you have heard what I say that it is a reasonable conclusion.

CHIEF MASHABA: No comment, Commissioner.

ADV BALOYI SC: Okay. Why were you giving him Mr Mataboge here, Sergeant Mataboge? Is he someone that you know personally and that you have a relationship with?

CHIEF MASHABA: I do not even remember. I do not know a Mataboge.

ADV BALOYI SC: No, I do not accept or I do not believe
10 you that you do not remember because you actually had a meeting with him. You tell Mr Nku at page 56 of that same bundle. So what you do is you send a picture on the 22nd of February, but before you send that picture, on the 18th at page 56 you say:

“Good morning, S. We met very late yesterday with Captain Mataboge. He is talking to his colleagues today and we expect a positive answer.”

This is you writing to Mr Nku. So it is unbelievable. It is
20 difficult to accept that you do not remember. You met with him. You sent a picture of him to Mr Nku. It is simply not true that you do not remember who he is and what it was about.

CHIEF MASHABA: I do not remember, Commissioner.

ADV BALOYI SC: Thank you.

ADV KHUMALO SC: I just want to check something with you in the build up to the Aeroton incident. My question may be asked, same question but for different reasons. Before I ask my question, I understand that you cannot give me the exact figure. You cannot even get close. Our starting point we know is R20 000. I just need to know over the years, how much money has Mr Nku given you? Is it less than R100 000? Is it less than R200 000? Is it more than R200 000? Is it close to R500 000? You can give me
10 a round figure that is close to what you believe is.

CHIEF MASHABA: That is too much money.

ADV KHUMALO SC: How much has he given you over the years? If you had to guess without giving me the exact number if you had to estimate?

CHIEF MASHABA: It would not be more than R50 000.

ADV KHUMALO SC: But it will be more than R20 000, we know that.

CHIEF MASHABA: It would not be more than R50 000.

ADV KHUMALO SC: No, no. It will be more than R20 000,
20 but it will not be more than R50 000. That is what you are saying.

CHIEF MASHABA: Yes.

ADV KHUMALO SC: Yes, because we agreed yesterday that the starting point was R20 000. So he would have given you something between R20 000 and R50 000, and

that is about it.

CHIEF MASHABA: Yes.

ADV KHUMALO SC: Okay.

ADV BALOYI SC: Does that number include payments into Shilobane [?] Lodge? I think yesterday we established that you have a company or you had a company that you, the details of which ...[intervenes].

CHIEF MASHABA: It includes.

ADV BALOYI SC: It includes payments into that company.

10 Thank you.

ADV SEGEELS-NCUBE: Thank you. So we were just dealing with the – I showed you the photographs, we dealt with that. I want to go back to your statement just to – we are now going to move on to the Aeroton scene. Your statement on page 2 about what happened on the 9th of July.

CHIEF MASHABA: Yes.

ADV SEGEELS-NCUBE: Paragraph 5.

CHIEF MASHABA: Yes.

20 **ADV SEGEELS-NCUBE:** You say:

“On the following morning, Friday, 9 July, at about 05:00a.m. I received a call from Mr Nku who confirmed that the information was positive and that I should come meet him at a certain place in

Alberton. I left my house to the agreed location, and which I was driving a silver grey state VW Golf 7.”

What was the agreed location where you were going to meet him in Alberton?

CHIEF MASHABA: Yellow Jersey.

ADV SEGEELS-NCUBE: Yellow Jersey. Did he give you the name of the place? Did he send you a location?

CHIEF MASHABA: Location.

10 **ADV SEGEELS-NCUBE**: He sent you a location? He sent you a pin location?

CHIEF MASHABA: Yes, yes.

ADV SEGEELS-NCUBE: Okay. Did he send you the pin location before or after you spoke to him at 05:00a.m.?

CHIEF MASHABA: When I am leaving the house after his call.

ADV SEGEELS-NCUBE: Yes. So he calls you, does he then send the location or does he first send you the location and then call you?

20 **CHIEF MASHABA**: That I cannot remember, but I think I left, then he sent me the location. That is what I...

ADV SEGEELS-NCUBE: Okay.

CHIEF MASHABA: I cannot remember if he sent the location first or he called me first, but I think he called on my way to him, he sent the pin.

ADV SEGEELS-NCUBE: Okay. Then just at 6, I am going to just read parts of it and then we can deal with it. At 6:

“I met Mr Nku and he gave me a briefing on his information and the truck in question. After the briefing, I decided to engage the process of intercepting the truck and to have it searched.”

So this would have happened after 05:00 o'clock, 05:00a.m., because you meet him after 05:00a.m.?

10 **CHIEF MASHABA**: After 5 o'clock, yes.

ADV SEGEELS-NCUBE: Yes. Do you recall more or less what time you met with him?

CHIEF MASHABA: Between 5 and 6.

ADV SEGEELS-NCUBE: And do you recall what time you would have contacted Warrant Officer Phokungwana to assist?

CHIEF MASHABA: On my way to him.

ADV SEGEELS-NCUBE: So after 5 as well?

CHIEF MASHABA: After 5, yes.

20 **ADV SEGEELS-NCUBE**: Okay.

CHIEF MASHABA: After his call.

ADV SEGEELS-NCUBE: And did he send you the pin location on Telegram? The app Telegram?

CHIEF MASHABA: I cannot remember if it was WhatsApp or Telegram.

ADV SEGEELS-NCUBE: So you were using Telegram at the time?

CHIEF MASHABA: At some stage there was Telegram and WhatsApp.

ADV SEGEELS-NCUBE: Okay. I just want to – Chair, there is a file that would have been given to you. It is called Booyens 98/07/2021. It has a presentation there. We have only provided the witness with the pages that are relevant for his purposes, for sensitivity reasons. We just
10 want to disclose the relevant aspects for him. I am informed by my learned friend, Ms Poole, that it was dealt with by a previous witness. But we are only giving this witness access to the pages that are relevant to him and that I want to engage him on.

Chief, you would have been given 3 pages there, page 26, 27 and 28 of that bundle. Now, page 26 is a report. It is an extract and an analysis from Telegram discussion or conversation between you and Mr Nku on the Telegram app. The analysis part will be the top part and
20 then where you see from that is the chat, the data that comes directly from the chat.

I want to just clarify the time or the date that is reflected. It says on 2021-07-09, that is 9 July 2021, Nku, and it says the illusion owner, it should be not sent, it is that you received from Mr Nku. So that sentence is

incorrect. It should read on the 9th of July 2021, Samuel Mashaba received a location from Mr Nku through the Telegram of where they should go, and the coordinates are that of Yellow Jersey Logistics in Roodekop.

Now, let me just clarify the time, why it says the 9th of July. You received it, or accessed it, at 00:25, so 25 minutes after midnight on the 9th of July 2021, and the time is important because if you look at the message itself, where it says from, from is Mr Nku. The time stamp of the
10 message when he sends it to you is 25 minutes past 10 on the 8th.

ADV BALOYI SC: Ms Segeels, you are moving too fast for us.

ADV SEGEELS-NCUBE: Okay. Can I start with the message itself and then explain? So we will start with from. Take it step by step. Where it says from, where the message says from, that is from Mr Nku. He sends it, time stamp at 22:25 on the 8th of July 2021, which is the day when you said you had the conversation with him. The
20 source app is Telegram, and the body is the message that was sent, and what was shared was GPS coordinates, and those GPS coordinates are to Yellow Jersey Logistics.

Now, the bullet point at the top where it says Tumelo Nku and Samuel Mashaba, this is what the analyst is saying is reflected in that Telegram message. It should

read, Mr Mashaba received or accessed this Telegram message on the 9th of July 2021 at 00:25. So 25 minutes past midnight, you received the pin location that Mr Nku had sent at half past 10 the evening before. Do you see that? At 22:25 he sent it, you only accessed it at 00:25.

ADV BALOYI SC: And where do we see the 00:25?

ADV SEGEELS-NCUBE: It should be on the analyst report. I believe that it has been clarified and it will be updated to reflect the correct time when that evidence is led further.

10 **ADV BALOYI SC:** Okay.

ADV SEGEELS-NCUBE: So that is, and I am going to give you an opportunity to comment about whether you recall receiving the location after midnight, or accessing the location coordinates after midnight on the 9th of July. Do you recall?

CHIEF MASHABA: Midnight?

ADV SEGEELS-NCUBE: Yes, shortly after midnight. You said he sent you the coordinates. Remember, you said he sent you the pin location.

20 **CHIEF MASHABA:** Yes.

ADV SEGEELS-NCUBE: But your suggestion was that he sent it to you either just before the call at 5 o'clock in the morning, or it could have been when you were on your way already to meet him, which would have been after 5 o'clock in the morning.

CHIEF MASHABA: I do not see the time you are talking about.

ADV SEGEELS-NCUBE: Yes, I am telling you about the time that you said. Remember, you said that he would have sent you the pin location either after 5 when you were on your way to meet him already, or before 5 when you called him.

CHIEF MASHABA: Not before 5.

ADV SEGEELS-NCUBE: Okay. So after 5?

10 **CHIEF MASHABA:** After 5.

ADV SEGEELS-NCUBE: So this report shows that he sent it at 22:25 the day before. Do you see the timestamp? The timestamp says 2021-07-08, 2022-2025, which means 22 minutes, 25 minutes past 10 in the evening on Thursday evening. That is when he sent it.

CHIEF MASHABA: No.

ADV SEGEELS-NCUBE: You dispute that?

CHIEF MASHABA: He sent me in the morning after 5.

20 **ADV KHUMALO SC:** The simple point that is being made is that you and Nku were communicating via Telegram, and according to this report, he sent you the location at 25 minutes past 10 on the 8th. And then just after midnight, before your conversation in the morning, just after midnight, you then opened the message. At 25 minutes past midnight, you opened the message, which was before this

call that you say took place at 5 o'clock in the morning. That is the simple point that is being made. And before the call in the morning, you had already accessed the location just after midnight on the 9th.

CHIEF MASHABA: I do not remember that. I remember saying to him, please send location of that Yellow Jersey in the morning after waking up.

ADV SEGEELS-NCUBE: Okay. And then the next message, you will see the messages are divided by, there is
10 a dotted line there. The next message is also from Mr Nku. The time stamp is 22:25:37, so a few seconds after he sends the location that same Thursday evening. And then it is also from Telegram. The body says, that is the message that was in the message:

“We need to go there.”

So that he sends to you at 22:25 on the Thursday:

“We need to go there.”

CHAIRPERSON: Here. We need to go ...[intervenes].

ADV SEGEELS-NCUBE: Here, my apologies, we need to
20 go here. Meaning, we need to go here, we have sent you that pin location, that is where we need to go.

CHIEF MASHABA: I am not like him. Where is my response to this?

ADV SEGEELS-NCUBE: Okay.

CHIEF MASHABA: If maybe you would say I

communicated or I saw.

ADV SEGEELS-NCUBE: I am just telling you what he said. Remember, I did not say to you when you accessed this message, when you have read it. I am just telling you when he sent you the information. So he told you already that he sent you the coordinates on the 8th already, the evening of the 8th. And he told you on the 8th, the evening of the 8th, we need to go here. And then the next message is at 22:28 from him to you again, saying before 06:30. Meaning, we
10 need to go here, to Yellow Jersey Logistics, before 06:30. Do you want to comment?

CHIEF MASHABA: I would have communicated, I would have responded to this if I saw it.

ADV SEGEELS-NCUBE: Okay.

CHIEF MASHABA: I was sleeping on the 8th.

ADV KHUMALO SC: Can I just? Why were you suddenly using Telegram with Mr Nku? What was the reason for moving to the Telegram app?

CHIEF MASHABA: What was the reason?

20 **ADV KHUMALO SC**: Yes.

CHIEF MASHABA: To use Telegram?

ADV KHUMALO SC: You were using WhatsApp previously, and then here we can see that you are now using the Telegram app. What was the reason for that? One of you must have suggested that let us stop using WhatsApp, let

us start using Telegram. What was the reason for that?

CHIEF MASHABA: I do not know exactly what was the reason.

ADV KHUMALO SC: Because I will be honest with you, I did not know about Telegram until September 2025. I did not know that there was such a thing, and I am much younger than you. When I was told that I must use Telegram, I was given the reason. I do not want to share that reason with you, but I was given the reason why we
10 should move from WhatsApp to Telegram. So my question to you is, what made you and Mr Nku decide that, for the purposes of this operation, we are going to communicate via Telegram and not WhatsApp?

CHIEF MASHABA: I do not even remember we used Telegram. All along, I am of the opinion that we used WhatsApp for ...[intervenes].

ADV KHUMALO SC: But we were in your WhatsApp. I think we were dealing with your WhatsApps with Mr Nku, and you could see from those WhatsApps that there were no
20 WhatsApps from July 2021. And this report shows that in July 2021 you were communicating by means of this Telegram app. My simple question to you is, why did the two of you decide that you will communicate via Telegram? And whose idea was it? Because somebody must have said let us stop communicating via WhatsApp, let us start

communicating via Telegram. And then a reason would have been given. So I am trying to understand that.

CHIEF MASHABA: I do not know exactly.

ADV KHUMALO SC: I think even Chair did not know about Telegram.

CHAIRPERSON: Speak for yourself.

ADV KHUMALO SC: To move from one app that you are used to, to another app, there must be a reason. And it is relevant for us to understand what that reason was,
10 because it may be relevant to what is going on, on the 9th of July.

CHIEF MASHABA: I do not think there was a reason.

ADV KHUMALO SC: So it was just a random decision?

CHIEF MASHABA: I do not think, yes.

ADV KHUMALO SC: And you did not ask any questions? You did not say, Nku, why are we now moving from WhatsApp ...[intervenes].

CHIEF MASHABA: I do not even remember that we used Telegram, hence I do not remember the reason why we
20 switched to Telegram.

ADV KHUMALO SC: Because you have to download it. It is not something that is automatically there, and you can just switch from this to that.

CHIEF MASHABA: I know ...[intervenes].

ADV KHUMALO SC: There is a process where you have to

download Telegram.

CHIEF MASHABA: I know, I have got Telegram.

ADV KHUMALO SC: And there is a reason why you would use Telegram instead of WhatsApp if you are used to using WhatsApp. And I do not understand why you are not prepared to tell us what that reason is. And I am not suggesting anything to you, because you are the one who made the decision to move from WhatsApp to Telegram. So I am asking for your reason.

10 **CHIEF MASHABA:** No specific reason per se. If I am in WhatsApp and say let us switch, it would mean we are giving WhatsApp a break. Let us go to Telegram.

ADV KHUMALO SC: Or maybe because you know that it is not easy to access WhatsApp if a third party wanted to access the communication in WhatsApp. It would not be easy to do so. It is more secure. Let me put it in technical language. Telegram is more secure, and a third party cannot easily access your communication with Nku if it is on Telegram.

20 **CHIEF MASHABA:** But here is it accessed. How will I...

ADV BALOYI SC: Do you accept that Telegram is more secure? I mean, Commissioner Khumalo is putting that to you as a fact. Will you accept that?

CHIEF MASHABA: I do not know how secure it is. I do not know.

ADV BALOYI SC: Ja. Why would you, in particular, have downloaded the Telegram app? You have WhatsApp. You conduct official police business, I am assuming, on WhatsApp when you get information, law enforcement, you have no problem doing that on WhatsApp. I assume you have no problem, like most of us, to talk about your personal and family matters on WhatsApp. We have also seen you discussing your transactions with Mr Nku on WhatsApp ...[intervenes].

10 **CHIEF MASHABA:** Maybe ...[intervenes].

ADV BALOYI SC: The question is, why would you have chosen to go onto Telegram at all ...[intervenes].

CHIEF MASHABA: Maybe ...[intervenes].

ADV BALOYI SC: As a ...[intervenes].

CHIEF MASHABA: Maybe ...[intervenes].

ADV BALOYI SC: Basis for communication?

CHIEF MASHABA: No specific reason, Chair. Maybe preference.

ADV BALOYI SC: Okay.

20 **ADV SEGEELS-NCUBE:** Thank you, Commissioners. Then if we go to page 27. So page 27 is an analysis of the WhatsApp. Some of the messages are encrypted. They were not able to access it because it is secured with end-to-end encryption.

But the first block that has a message, that

message is from Warrant Officer Phokungwana to you. And if you look at the timestamp, which is the last column on the right, you will see 2021-07-09, 03:41. So 20 to 4 in the morning. He sends you, if you look at the body, the column that says body, he sends you Warrant Officer Magane's number.

And we know from your evidence that Warrant Officer Phokungwana could not assist you and he referred you to Warrant Officer Magane. And according to this, that
10 happened at 20 to 4 in the morning already. Do you want to comment on that?

CHIEF MASHABA: No comment.

ADV BALOYI SC: What it means, Chief Mashaba, is at 20 to 4 in the morning you already knew that you need assistance from Phokungwana and from Magane. That is what this means. That at this time, when you receive this contact from Magane at 03:41, you already knew at that point that you are going on to this operation and you are going to need assistance.

20 And what that means is your earlier evidence, that you only met with Mr Nku and only when you met with him did you know you are going to need assistance, cannot be true. You knew at 03:41 in the morning. You reached out. You could not wait for the sun to come up. At 03:41, you reached out. Before, in fact, 03:41, you reached out to

Phokungwana to say I need assistance. So you knew what was going to happen. You are shaking your head.

CHIEF MASHABA: I only knew in the morning.

ADV BALOYI SC: That is not true. It is not true. It is false to say you only knew later than 03:41, when we have evidence here that at 03:41 already you had called Phokungwana to say I need assistance. This document proves itself. It does not come from my mouth. This document says it is false, your evidence is false that you
10 only knew in the morning after speaking to Mr Nku on the 9th. That is what the document says.

CHIEF MASHABA: Chair, it is totally unfair that something will be pushed through my throat, even if the authenticity of this thing needs to be investigated. I must just be told this is what happened, just given a paper like this. I am saying in the morning, just because I do not agree to this, it is a lie. I do not think it is fair.

ADV BALOYI SC: All right, let me reformulate. I am happy to reformulate what I am going to say and still put the same
20 proposition that I am making. Assuming this document is a true reflection of what it purports to be, that it is not doctored, it is not a false document, it is not a created document, let us assume for purposes of my proposition, right?

From that premise, assuming that this information

that says at 03:41 in the morning Phokungwana sent you Magane's contact details, assuming there is no question about the reliability of this document and we accept on its face what it says, the 03:41 contact from Phokungwana would mean – let me also choose my words carefully – would mean that your earlier evidence, that you only got to know the details of this operation when you met with Mr Nku, and it is only after he had given you those details on the 9th in the morning that you started mobilising resources,

10 it would mean that evidence is false.

If what is contained in this document, if what is contained in this document is the truth, the timestamp. Do you understand the proposition I am making to you?

CHIEF MASHABA: I do not even want to attempt to say it might be because, really, I really feel things are being pushed to me and I must just be forced. I must just be forced to agree, whereas I am saying, and whatever I am saying here, it is a true reflection of what happened. But now, if I am being proven wrong and I agree to it, I do not

20 think it is fair, and I am pushed again to – I am forced actually to agree, and if I do not agree, I am lying.

ADV BALOYI SC: Okay. Chief, I think you do understand very well what this engagement is. I think you do. Just observing you in the last two days, I know you have a full understanding of what this engagement is about, including

when I say to you, for purposes of our engagement, let us assume this page is a true reflection of what is contained. You fully understand what that means for purposes of engagement.

But I am going to move on and actually make the statement to you because you refuse to engage with my suggestion that let us make an assumption about the contents of this, the truthfulness of it, and then let us see if we can get the kind of comment that I am asking. But you
 10 are refusing to do that because you feel you are being forced, and I have said to you I do not believe that is how you feel about it ...[intervenes].

CHIEF MASHABA: I feel ...[intervenes].

ADV BALOYI SC: No, let me finish. Let me finish. I am going to make my statement. An analyst will come and testify and confirm that the document at page 27 is an accurate, credible and reliable extraction of communication that relates to you and Warrant Officer Phokungwana. We will have an analyst who will confirm the authenticity of this.

20 And from that premise, I am saying to you what this shows, what this document shows, is that your evidence, earlier evidence about when you met with Mr Nku and first became aware of what the operation was going to be about, when you mobilised resources, the timing of it, this proves that evidence of yours is false.

And that is a statement I am making to you, that this document proves that you were untruthful and you continue to be untruthful about your engagement with Mr Nku on the day when you went and operationalised his information. That is a statement I am putting to you. You can comment if you want, and if you do not want to, we will proceed.

CHIEF MASHABA: I will have to comment and start by saying I totally disagree because it is interpreted wrongly.

10 It is interpreted wrongly. For an example, I was listening to the news this morning, that Chief Mashaba, what is it exactly saying, Chief Mashaba agreed that he has been funded by a civilian.

But still on the clip, Commissioner Baloyi says Mashaba is going to be charged because of, criminally charged or prosecuted. But still, I am heard saying no comment. So at no stage did I say yes.

ADV BALOYI SC: Okay. All right. I have put to you my statement. What you are saying has nothing to do with
20 what I have put to you. I am going to move on. Thanks, Ms Segeels.

ADV SEGEELS-NCUBE: Thank you. I just want to clarify one issue. Are you disputing the WhatsApps that you sent that is reflected on page 27, or are you also disputing the Telegram on page 26, that the Telegrams were sent the

night before from Mr Nku to you?

CHIEF MASHABA: No, I am refusing the times.

ADV SEGEELS-NCUBE: Even the Telegram times on page 26?

CHIEF MASHABA: Yes.

ADV SEGEELS-NCUBE: Okay.

CHIEF MASHABA: Because the authenticity of this also needs to be verified again. Even the analysts, I know there must be a certificate for this. So I would not just agree to
10 something that is contrary to what I am saying, and then I will be labelled a liar.

ADV SEGEELS-NCUBE: No, no one is saying you are a liar. You are entitled to do that because that evidence has not yet been verified. That is why we are saying to you that is what will be presented. We are giving you an opportunity. That is why I want to clarify the difference between page 26 and 27, because page 26 relates to messages between you and Mr Nku on Telegram. So I am asking, do you dispute the times there as well, that he sent
20 his communication to you on the 8th of July, the location and we need to go here before 06:30?

CHIEF MASHABA: Can I say something?

ADV SEGEELS-NCUBE: Yes, you can.

CHIEF MASHABA: Things that I say I do not remember, I do not recall, things that they do not pass me. Yesterday

there was one question, I think we were on that question for almost an hour just because you want me to say, you want me to agree and you are forcing me to agree. If I do not agree, I am lying. If it is the other way around, I am not helpful to the Commission. I do not know what to do. I want to do my best to work with the Commission ...[intervenes].

ADV SEGEELS-NCUBE: And ...[intervenes].

CHIEF MASHABA: So ...[intervenes].

10 **ADV SEGEELS-NCUBE**: Can we just take it step by step? I am asking you, on page 26, which is the Telegram conversation, do you dispute that those messages were sent to you on the 8th of July 2021?

CHIEF MASHABA: I dispute.

ADV SEGEELS-NCUBE: Okay. And when do you say you received them? Firstly, do you accept that you received the messages?

CHIEF MASHABA: I do not even remember using. All along I thought, or I am thinking, we used WhatsApp. And
20 the times, I am saying in the morning. I think I am telling the truth. So I am saying in the morning. You give me a piece of paper to say it is not in the morning, it is this time. Again, forced to agree ...[intervenes].

ADV SEGEELS-NCUBE: Sorry, sorry, Chief. I am only talking about page 26. You have an issue with 27. I am not

going to go back to 27. I am talking about page 26. Insofar as page 26, that Mr Nku sent you the location at 22:25 the evening of the 8th of July, are you disputing that he sent it to you via Telegram at that time?

CHIEF MASHABA: I am saying I got location.

ADV SEGEELS-NCUBE: Okay, how did you get it? Did you get it? He sent you the location. How do you say you got it, Telegram or WhatsApp?

CHIEF MASHABA: Now that you are bringing Telegram, I
10 cannot remember we used Telegram or WhatsApp, I cannot remember now, because you are not saying to me you did not use WhatsApp, you used Telegram. Then I do not know which is which now.

ADV SEGEELS-NCUBE: Okay, and so when he, on your version, calls you on the 9th at around 5 o'clock to say meet me, he sends you the location while you are on your way there. Would he have also then said to you before 06:30? You see the last message there on page 26 where he says we need to go here, and then the next message, before
20 06:30. When would he have sent that to you according to you?

CHIEF MASHABA: All I know is the location I got in the morning on the 9th.

ADV SEGEELS-NCUBE: That is the only one you are willing to say that you received?

CHIEF MASHABA: Yes.

ADV SEGEELS-NCUBE: Only on the 9th. These other messages where he says we need to go here, you did not receive them?

CHIEF MASHABA: No.

ADV SEGEELS-NCUBE: And before 06:30, you did not receive those?

CHIEF MASHABA: No, I did not.

ADV SEGEELS-NCUBE: Okay, let us move on then. Now
10 ...[intervenes].

ADV KHUMALO SC: Sorry, did you deal with 28? Maybe I missed it. Sorry, I ...[intervenes].

ADV SEGEELS-NCUBE: I was thinking that, Commissioner Khumalo, because he is disputing it ...[intervenes].

ADV KHUMALO SC: 27?

ADV SEGEELS-NCUBE: Ja, it is the same. 28 is the same. We will rather just leave it until we get the verification. Can we go to the WhatsApp bundle again? I just want to deal with one more WhatsApp before we go to
20 your statement.

ADV KHUMALO SC: Sorry, Advocate Segeels, you have been overruled by the Commissioners. So you must deal with page 28. Chief, what page 28 shows, and I have taken note of your reservations about these documents, what page 28 shows is that you were communicating with Warrant

Officer Magane at around 4a.m. on the morning of 9 July 2021. So you could not have been in communication with him after the 5 o'clock phone call, or after 7 o'clock. You were in communication with him. If you look at the time stamp on the extreme right of that table, just below the dark blue column, it says 9 July 2021, 04:40a.m., and you sent him coordinates to Yellow Jersey Logistics around that time. That is what this extraction shows, this report. Do you also dispute that you sent him, or you spoke to him rather, 10 before 05:00a.m. that day, and you sent him location before 05:00a.m. that day?

CHIEF MASHABA: I got a call around 5 o'clock.

ADV KHUMALO SC: No, no, I am not talking about the call. This is now communication between you and Warrant Officer Magane. That communication happens around 04:40a.m. on the 9th of July 2021.

CHIEF MASHABA: I spoke to Magane after 5 o'clock.

ADV SEGEELS-NCUBE: So then you dispute what this document shows?

20 **CHIEF MASHABA:** I dispute because I am saying only after 5 I got the number ...[intervenes].

ADV KHUMALO SC: What this document shows, Chief Mashaba, is that you did not sleep that night of the 8th of July 2021 leading to the 29th operation. You did not sleep.

CHIEF MASHABA: I slept, Commissioner.

ADV BALOYI SC: Ms Ncube, hat does the UTC mean there in terms of time?

ADV SEGEELS-NCUBE: Yes.

ADV BALOYI SC: I know with the previous witness it was a different set of messages. We had to do the subtracting and adding.

ADV SEGEELS-NCUBE: Yes. Commissioner Baloyi, that is why insofar as the Telegram is concerned, we need to verify because Telegram is correct, but we need to verify
10 the WhatsApp. That is why I said until it has been verified we will not deal with that page, page 28. So I will come back on that to the Commission on it. You will see on page 26 Telegram also uses the UTC, and it is the same on WhatsApp, but we are not sure whether with the WhatsApp if there is a difference between the two times. So that is what we need to clarify in fairness to the witness. That is why I did not want to deal with page 28.

CHAIRPERSON: The point applies to 27 as well.

ADV SEGEELS-NCUBE: It may potentially still apply to 27,
20 but there may be a difference because of what is sent, as opposed to a message versus a location. So that is what we need to clarify. The location may be correct if it is sent that time, but if it is a message there may be a difference in time. That is what we want to clarify. That is why I did not want to deal with page 28 with the witness because that has

two messages.

CHAIRPERSON: Okay.

ADV KHUMALO SC: Chief Mashaba, just in case you did not understand the engagement between the Evidence Leaders and the Commissioners, the question I asked you about page 28 and the times, for now it is fair to withdraw it, and your answer to it, to withdraw it in its entirety, because that time that you see on page 28 must still be verified. It may be that what you see as 04:40a.m. is in fact
10 06:40a.m. So that must still be verified. And to be fair to you, until the analyst confirms the actual time, I must withdraw the question so that you will not be held to the answer that you gave.

CHIEF MASHABA: Okay.

ADV KHUMALO SC: Do you understand?

CHIEF MASHABA: Okay, Commissioner.

CHAIRPERSON: And in my view, that also applies to page 27 as well. That is because of the different time zones. You are aware of that, hey?

20 **CHIEF MASHABA**: Yes, I am aware.

CHAIRPERSON: Time zones and all, ja, ja, ja. So we will not hold you to your responses with regard to the times on these pages, nor will the Commissioners and indeed the Evidence Leaders be insistent on the times appearing here, because in terms of South African time there may be

differences. So for now, we will forget the times until the verification process that Ms Segeels-Ncube is referring to has been undertaken.

CHIEF MASHABA: Thank you, Chair.

ADV BALOYI SC: Can I just check something? Chief, with that in mind, can I just check whether we are in fact that far apart? So Commissioner Khumalo was talking to you about page 28, which records UTC04:40. So it says 25 to 5. If we add two hours, that will be 25 to 7. Does it sound like,
10 when I say 25 to 7, does it sound familiar that that would be the time you would have spoken to Magane?

CHIEF MASHABA: No.

ADV BALOYI SC: You still say it is much later?

CHIEF MASHABA: No, because I know we left Yellow Jersey around 6 o'clock to ...[intervenes].

ADV BALOYI SC: So you spoke to him before 25 to 7, is that what you mean?

CHIEF MASHABA: Yes.

ADV BALOYI SC: Okay. And then applying the same
20 principle to page 27, your communication with Magane, with Phokungwana, here it says 03:41. If we add two hours it will make it 05:41. Does that sound right, that you would have communicated with him around that time, or you still say it was later than 05:41, which is 20 to 6?

CHIEF MASHABA: As long as it is after 5, I will agree.

ADV BALOYI SC: Okay. All right, thank you.

CHAIRPERSON: And we should also make sure that the analyst is an expert with regard to the time as well, because the expert may be an expert with regard to downloading all of this and speaking just more on the content and so on.

ADV SEGEELS-NCUBE: Correct, Chair.

CHAIRPERSON: Yes, yes, yes.

ADV SEGEELS-NCUBE: But of course, this qualification does not apply to page 26, which is the Telegram
10 conversation, insofar as that UTC may very well be correct. But even if it isn't, it is still inconsistent with the time ...[intervenes].

CHAIRPERSON: It is still at night.

ADV SEGEELS-NCUBE: Yes, it is still at night.

CHAIRPERSON: It is either night or very early hours.

ADV SEGEELS-NCUBE: Correct, Chair.

CHAIRPERSON: Thank you.

ADV SEGEELS-NCUBE: Can I then take you to the WhatsApp Bundle so that we can deal with the actual scene
20 and your participation there? But there is one trail of WhatsApps that I would like to refer you to regarding Mr Nku's knowledge when he then activates your involvement in this. You say you were not aware of who Mr Nku's boss was. You did not know what kind of business he was doing, correct?

CHIEF MASHABA: Yes.

ADV SEGEELS-NCUBE: Okay. Can I ask you to go to page 49 of the WhatsApp bundle, which is CJC274.1? Do you have it? Perhaps we can start on page 47 if you have the bundle ...[intervenes].

ADV BALOYI SC: [Indistinct].

ADV SEGEELS-NCUBE: I am going to refer you to the bigger, I just want to show the time stamp because the big picture does not have the time stamp. So page 47, if you
10 will, please. This is again content that was obtained from Mr Nku's phone, which is communication on Threema between him and who we have come to know as Iby Boss, Alpha. I am going to refer you to page 47 and the messages on page 49, but to go to the larger images of that, if you can go to 324, page 324.

CHIEF MASHABA: Page?

ADV SEGEELS-NCUBE: 324. Sorry, it is page 326. My apologies, 326. Let me know when you have it.

CHAIRPERSON: We keep our finger at 47, is it?

20 **ADV SEGEELS-NCUBE:** 49, Chair.

CHAIRPERSON: Okay.

ADV SEGEELS-NCUBE: Do you have it?

CHIEF MASHABA: 326?

ADV SEGEELS-NCUBE: Yes.

CHIEF MASHABA: Yes, I am on 326.

ADV SEGEELS-NCUBE: So on page 326, it is the same image that you see on page 49 and page 49 is just beneficial because it gives us the date of the data from Mr Nku's phone. It is 1 July 2021 at 19:24. So this is before the Aeroton incident on 1 July 2021. So on 326, this is the messages between him and Alpha. His will be in the green and Alpha is the white. Alpha says:

“I only got to know now.”

Then he says:

10 “But what is that container carrying?”

That is Mr Nku. Alpha says:

“No idea, behind door.”

Then Nku says:

“Boss, these people are really making
our job impossible by the day.”

And in response to Alpha's message behind door, Mr Nku says:

20 “Please ask them. Because if they
loaded it on a car or anything that can be
mobile from the container, it will be a
bust.”

And then he sends another message saying:

“Boss, please tell the people that avoid
any containers with metal or anything
auto or mobile. Only load goods or

sugar. Anything that goes to Pier 1 or 2 is workable. Remember, there was a bust a week ago. Now we need to go offloading from trucks again.”

And he has got a surprise emoji. And then next one is call aborted, so he probably attempted a call. So he is saying remember, there was a bust a week ago. The bust which we think he is referring to is the bust that occurred at the Durban CHC Depot on the 22nd of June 2021, which would
10 be just over a week from the 1st when he has this conversation.

And he is saying now we need to go offloading from trucks again. And this is before he communicates with you about a truck that is carrying drugs from Durban to Johannesburg and in respect of which he has photographs of these bags in a container. Were you aware of his involvement in this?

CHIEF MASHABA: I was not aware. I was not aware.

ADV SEGEELS-NCUBE: You were not aware? You were
20 not aware of any of this?

CHIEF MASHABA: I was not aware.

ADV SEGEELS-NCUBE: Okay. And so when he activates you, when he gives you that information, can I just ask you whether you knew that he had engaged with, you said you did not know, but I just wanted to know definitively whether

he had spoken to Lieutenant General Mfazi?

CHIEF MASHABA: No.

ADV SEGEELS-NCUBE: Do you know who that is?

CHIEF MASHABA: Lieutenant General Mfazi?

ADV SEGEELS-NCUBE: Ja.

CHIEF MASHABA: I knew after his death or after he passed on.

ADV SEGEELS-NCUBE: That he was the – did Mr Nku tell you that he had engaged with him before?

10 **CHIEF MASHABA:** No, no, no.

ADV SEGEELS-NCUBE: Okay. You did not know about that?

CHIEF MASHABA: I did not know.

ADV SEGEELS-NCUBE: Okay. So you can see that the person that is giving you information about drugs in a truck that is coming from Durban to Johannesburg in fact is involved in this from the outset. He knows on 1 July 21 already that there is drugs that are going to come through.

CHIEF MASHABA: I would not speak for him.

20 **ADV SEGEELS-NCUBE:** Yes, I am just trying to show you the person that you were dealing with at the time. He was not an informant that was trying to assist you with a lawful drug bust. Do you want to comment on that?

CHIEF MASHABA: To me, to me, it was lawful. But here, hence I am saying I cannot speak for him. But what he

gave me was lawful. And I did not even know it started somewhere.

ADV SEGEELS-NCUBE: Why would you think that this time it would be lawful when every other time that he engaged you it was for unlawful side hustle activities?

CHIEF MASHABA: I trusted what he told me. I trusted the information that he told me.

ADV SEGEELS-NCUBE: So you trusted that this was not going to be a bust. You trusted that this was just another
10 attempt by him to involve you in an unlawful side hustle. Because you have never done anything lawful for him. Why now this time? Unless you have not told us about the lawful stuff you have done for him.

CHIEF MASHABA: So what is your question?

ADV SEGEELS-NCUBE: Why would you think that this time he is engaging you or he is asking you to assist him with a lawful drug bust?

CHIEF MASHABA: You are not correct when you say I have not done anything lawful.

20 **ADV SEGEELS-NCUBE**: Please remind us what you have done that is lawful for him.

CHIEF MASHABA: Yesterday, yesterday, was it yesterday? I even forgot today it is Friday. I spoke about the diesel. The information that he gave in Vereeniging of diesel that we did.

ADV SEGEELS-NCUBE: What was that? Remind me what that was because we do not have any record of it.

CHIEF MASHABA: I was asked either yesterday or the other day.

ADV SEGEELS-NCUBE: Yes, you told us, but we also know that there is no evidence of that in the communication between the two of you. It is your say-so. So just remind us what happened in that. All I know is that you said it was within your jurisdiction. I did not understand you to be
10 saying that it was something that was lawful that you were doing. Just that it was within Vereeniging, but I may have misunderstood you.

CHIEF MASHABA: I was asked, yes, I was asked, did Nku give you information before? I said yes, other information was out of my jurisdiction. I could not do anything about it. He gave me the other one of diesel in Vereeniging.

ADV SEGEELS-NCUBE: Okay, give us the details of that so we can follow up on that. What was it?

CHIEF MASHABA: Diesel, fake diesel or something.

20 **ADV SEGEELS-NCUBE:** When was this?

CHIEF MASHABA: I am not sure, but 2019 somewhere, yes.

ADV SEGEELS-NCUBE: 2019?

CHIEF MASHABA: Yes.

ADV SEGEELS-NCUBE: Okay, what were the facts of that

case?

CHIEF MASHABA: There was a fake diesel somewhere in an illegal depot in Vereeniging somewhere, where I called the police to come and attend to it. And then the police called, I cannot remember, those, the people that are dealing with those petroleum whatever.

ADV SEGEELS-NCUBE: Okay, and was the diesel seized?

CHIEF MASHABA: I do not know what exactly happened because I left it to the police. And because police were
10 calling those people, I cannot remember, I cannot recall what are they called, the experts in testing the authenticity of this fluid.

ADV SEGEELS-NCUBE: Who did you make contact with in Vereeniging? Was it Vereeniging Police Station? Who did you refer the matter to?

CHIEF MASHABA: I think, I cannot remember who did I call, but I know that I left it to the police because police even said they also do not know how to deal with these diesel things. They left to call other people.

20 **ADV KHUMALO SC:** Do you know if an enquiry was opened at Vereeniging Police Station?

CHIEF MASHABA: Honestly, I do not know what happened to that case.

ADV KHUMALO SC: So it will be a waste of our time to go to Vereeniging Police Station and try to make enquiries?

CHIEF MASHABA: I think so because I, even myself, did not even follow up.

ADV KHUMALO SC: Yes.

ADV SEGEELS-NCUBE: Okay, so this was not one of those instances where you decide to go and do the seizure yourself, outside of your powers to do so?

CHIEF MASHABA: This was?

ADV SEGEELS-NCUBE: The diesel incident, this was not one of those incidents where you decided to act outside of
10 your powers to go and do this bust. Here you knew to refer it to the police and not to have any further involvement.

CHIEF MASHABA: I have always called the police. If something is out of my scope or my area of responsibility, I will refer it to the relevant people. That is the police.

ADV BALOYI SC: Unless it is a side hustle. We know from the evidence, and I ask this just to clarify, from yesterday's evidence which involved Gauza and them at the airport, that that is a side hustle. You do not call the police for something like that. I am just clarifying. That is all.

20 **CHIEF MASHABA:** Can I please not comment on that?

ADV BALOYI SC: Why can you not comment? You say you always call the police. That is what you say, remember? Just a second ago you said, I always call the police when it is out of my jurisdiction. That is what you said. And I am saying that that is not always the case. You

have operations such as the airport operation, which you did, which we discussed yesterday, which is outside of your jurisdiction, you did not call the police. So your answer saying I always call the police must be qualified. That is really the point I am saying. You still do not want to comment?

CHIEF MASHABA: Can I please not comment?

ADV BALOYI SC: Okay, thank you.

ADV SEGEELS-NCUBE: And it is surprising that you do
10 remember the diesel incident with such clarity, except when we ask you for specifics as to who you referred it to. But when we ask you about the airport stuff, where there is actual contemporaneous recordals of what you are discussing, it does not jog your memory. So can you see how implausible it is that this diesel incident could have actually happened, the fake diesel incident?

There is no record of it in the WhatsApp conversations between you and Mr Nku. You cannot tell us who you referred it to. And when we ask you about stuff
20 where there is contemporaneous recording, you have amnesia. Do you want to comment on that, Chief?

CHIEF MASHABA: No comment.

ADV SEGEELS-NCUBE: Okay.

ADV BALOYI SC: Sorry, are you moving away from – you had asked a question about page 326, and I am not sure.

Maybe let me ask my own question.

ADV SEGEELS-NCUBE: Please go ahead, Commissioner Baloyi.

ADV BALOYI SC: Which is really more – I think it is my formulation of what you asked to see if we can get a better answer. Chief, you referred to that WhatsApp exchanges. Is it WhatsApp? No, Threema exchanges at page 326. And this is between Alpha and Mr Nku, where they are quite obviously, just from the text, when you read the text, they
10 are talking about how drugs should be transported, with Mr Nku suggesting:

“Please ask your people, if they loaded it on a car or anything that can be mobile from the container, it will be a bust.”

And then he says:

“Avoid any containers with metal or anything automobile. Only load goods or sugar. Anything that goes to Pier 1 or 2 is workable.”

20 That text. And I think Ms Segeels has indicated that this is supposed to have been on the 1st of July 2021. What I am wanting to check with you, and I think this is what she was trying to get you to comment on, that according to this page 326, it conveys – you may not have known it, and for purposes of my question, I am not saying you knew this

which I am going to ask.

That according to this page 326, it is clear, or it conveys that Mr Nku was engaging or arranging in the trafficking or the movement of drugs from wherever, and they landed at the port, and they are going to come out of the port. Pier 1, Pier 2 is preferable. That is what this conveys.

I know you said you cannot speak for him. I am not asking you to speak for him. I am saying this page conveys
10 that he was in fact part of the trafficking of whatever drugs he is talking about here. Do you accept that is what this conveys? You may not have known it, but now as you are sitting there and you are looking at this page, I am asking you whether you agree that is what it conveys.

And I am asking you to comment about it in that way, because I want to suggest that you may well, subject to what Mr Nku says, he may well have been using you to participate in his drug trafficking without your knowledge, even with that operation on the 9th of July. That is what I
20 want to conclude with. When I say when you look at this, it seems to be clear that he was part of a scheme of trafficking drugs into the country.

CHAIRPERSON: And it is very benevolent of Commissioner Baloyi to say this was without your knowledge, but please respond, even with the may have

been, please respond to the question.

CHIEF MASHABA: Can I please not respond for things that were – can we please reserve this for him?

ADV BALOYI SC: No, we will certainly ask him. You can be sure about that. He is coming. We will ask him. All I am doing is saying to you, and if you choose not to respond and that is your final answer, it is what it is, but I will then put to you what I say this conveys. And he will come. Maybe he will say I am wrong in my understanding of what
10 this, but what I am putting to you is or what I am proposing to you is page 326 clearly records and shows that Mr Nku was involved in a process of arranging for the importation and transporting of drugs into the country.

I am saying that is what 326 says. And that is what will be discussed with him, but you say you do not want to comment. That is your last word. Thank you. I will accept that. Thank you, Ms Segeels.

CHIEF MASHABA: No comment.

CHAIRPERSON: But for your benefit, the relevance of
20 what Commissioner Baloyi is asking is if you say he was merely an informer, that is at odds with what Commissioner Baloyi has just drawn to your attention now. Do you follow that?

CHIEF MASHABA: I am afraid, Commissioners, I do not want to fall in the trap of agreeing or disagreeing and then

he comes here and says something else.

CHAIRPERSON: At face value, if we look at this at face value, regardless of where the truth may lie, but if we look at this at face value, that is what it points to. Correct?

CHIEF MASHABA: No, I do not agree to that.

CHAIRPERSON: Okay. All right, thank you.

ADV KHUMALO SC: Do you not even have an opinion of looking at it now, what does it look like?

CHIEF MASHABA: I do not want to speak for him. This is
10 him ...[intervenes].

ADV KHUMALO SC: No, you speak for yourself. You look at a document and you read it and you say, I do not know the full facts, but looking at it is what it looks like to me. And that may well be wrong because it is an opinion, it is not a fact, but you are able to read something or to see something and form a view one way or another. You will not be held to that view because you are not a party to these conversations. It is not you communicating, but you can look at a conversation and say this is what it looks like. Or
20 you can say I can see what it looks like, but I choose not to say anything.

CHIEF MASHABA: I do not even want to attempt to say anything.

ADV KHUMALO SC: But you can see what it looks like.

CHIEF MASHABA: I do not want to.

CHAIRPERSON: You do not even want to see.

CHIEF MASHABA: I choose not to see.

CHAIRPERSON: Let us adjourn and resume at 14:00.

INQUIRY ADJOURNS

INQUIRY RESUMES

CHAIRPERSON: Yes, Ms Segeels-Ncube.

ADV SEGEELS-NCUBE: Thank you, Chair. Chief, can we go to your statement and deal with your involvement at the scene on the day of the bust. We have dealt with when you received the information and now I want to deal with after
10 you have been informed about involving Warrant Officer Magane and you go to the scene. I just wanted to find out from you when Warrant Officer Magane was suggested to you as a replacement for the person you actually wanted, did you get any details about his experience, his speciality, and his ability to assist with this kind of operation?

CHIEF MASHABA: When he?

ADV SEGEELS-NCUBE: Yes, when you, when Warrant Officer Phokungwane was not available and he
20 recommended Warrant Officer Magane, right, that is what happened, correct?

CHIEF MASHABA: Yes.

ADV SEGEELS-NCUBE: He recommended him. Did you tell him what kind of person you needed for this operation, so speciality, somebody that is involved with drug busts.

What information did you give him about the kind of person?

CHIEF MASHABA: No, I did not tell him.

ADV SEGEELS-NCUBE: You did not tell him?

CHIEF MASHABA: I did not tell him. I expected that he would give me somebody who works with him or who works like him.

ADV SEGEELS-NCUBE: And what is ...[intervenes].

CHIEF MASHABA: He is a Detective, so I was expecting he will give me like a person relevant to him.

10 **ADV SEGEELS-NCUBE:** Well, did you ask him for somebody like him?

CHIEF MASHABA: No, I did not. I only asked for assistance.

ADV SEGEELS-NCUBE: Okay. And the person that he recommended, you had never worked with that person before?

CHIEF MASHABA: No, I have never worked with him.

ADV SEGEELS-NCUBE: And why did you consider that person to then be somebody that you could trust to assist in
20 this operation?

CHIEF MASHABA: Like I am saying, because Phokungwane recommended, I maybe jumped into that conclusion to say he is equal to the task.

ADV SEGEELS-NCUBE: It is not about him being equal to the task. I am talking about the trust factor because you

say that you were, that Nku said to you must be cautious because high-profile officials or high-ranking officials could be involved, right, so that is why you do not involve your boss or anybody senior to you. I want to know on what basis do you then go with somebody that you have never worked with before and think that this is somebody who may very well actually inform a high-ranking official about this bust, which is something you were told not to not to do?

CHIEF MASHABA: I trusted what Phokungwane was,
10 would recommend to me.

ADV SEGEELS-NCUBE: Purely on that basis?

CHIEF MASHABA: Yes.

ADV SEGEELS-NCUBE: Okay, so you ...[intervenes].

ADV BALOYI SC: Can I just ask. The, I mean, if Phokungwane does not know that this is a drug bust, surely he could have recommended just anybody and you could never fault him for giving you the wrong person who then ends up taking the information to the seniors that Nku was concerned about, that you and Nku were concerned about.

20 So the question being asked really is, you say in your testimony this is a sensitive operation that had to be kept away from others because you do not, those people should not be trusted and yet you are prepared to bring onto the operation someone that you have no way of knowing where they sit in terms of they could tell, they

could alert the seniors. And it is a risk you take because you do not tell Phokungwane, this is what this operation is about, I need someone that you trust that they will not be compromised or they will compromise, they will not compromise the mission. You just say I need assistance.

I think what Ms Segeels is asking really is how do you reconcile that you ask without telling Phokungwane what it is about. You accept whoever he gives you. He does not know what you are looking for according to you.

10 How do you reconcile that with your explanation why your superiors, why you did not inform your superiors, because you do give us an explanation. That is really the thrust of it, how do you reconcile that kind of conduct?

CHIEF MASHABA: In our line of work, in our line of work, let us say somebody is looking for assistance from Mashaba, if you do not get Mashaba, you know what Mashaba is capable of, if you do not get Mashaba, I would also refer you to somebody that I know I can also work with. So I would not recommend somebody that I know not
20 trustworthy, but let me say competent. In our line of work, I would say, I know this guy can do the job because I cannot do it, please go and assist Mashaba. That is how we work in our line of duty.

ADV KHUMALO SC: So which line is that, because as we have established yesterday that you have two lines of work.

One is the official and the other one is the side hustles. Which line of work are you referring to, the line of work of side hustles or the line of work of official channels?

CHIEF MASHABA: The official, Commissioner.

ADV KHUMALO SC: Yes, can I ask about procedure. But before I do that, Commissioner Baloyi had a follow-up question. I am moving to a different topic.

ADV BALOYI SC: Ja, it was not so much a follow-up, but it was just to clarify what I am asking. Maybe let me do that.

10 So, Chief Mashaba, I am not asking so much about his competence, how did you know you will get a competent person. That is not my question. My question is, your move, your first move, once you got the information from Nku, your first move was informed by the sensitivity, how to treat this information, this operation sensitively because you have been told that there are senior officials that have an interest in this. And you, and for that reason, you proceeded, you did not inform your superiors, you proceeded quietly the way that you did. So there is that
20 evidence, right, from you.

CHIEF MASHABA: Yes.

ADV BALOYI SC: But when you ask Phokungwane for assistance, you do not tell him that the operation involves drugs, even that, or even if you do not mention drugs, you do not say to him, this is a sensitive operation and I do not

want it to leak. You do not do that. Give me someone who will not give me that problem that I am concerned about. You do not do that, so you just say to Phokungwane I need assistance. He says, I cannot help you, and then he gives you somebody to help you, but you do not know who Magane as, in the concern that you have. So the question is, but how do you reconcile that you started off quite sensitive about who gets to know about this mission, and then when you now ask for assistance, you do not alert the

10 person you are asking for assistance from, that this is sensitive because of A, B, C, D, so if you give me anyone to help me, it has to be somebody that can, that you know is not compromised, will not compromise the sensitivity of this mission. So it is two, they look like irreconcilable positions. So I am asking, how do you reconcile what looks like completely opposite ways of conducting the sensitivity, yourself about the sensitivities in this operation.

CHIEF MASHABA: No, the sensitivity part I mentioned to, to ...[intervenes].

20 **ADV BALOYI SC:** Phokungwane.

CHIEF MASHABA: To Phokungwane.

ADV BALOYI SC: Okay.

CHIEF MASHABA: Please treat this very discrete. It is sensitive. Come and assist. No, I cannot come because I have got this problem. Okay. Obviously, when I tell him

that, I am expecting that whoever that he will send, he will also relay the message, the same message I said to him, I relayed to him.

ADV BALOYI SC: And did he know that you need someone that is up to the task of a drug bust from how you discussed with Phokungwane? Did he know that is what you are looking for, because my understanding so far is that from the evidence of others is not everybody is familiar with different kinds of work that you do. So for example, within
10 the SAPS itself, not everybody is familiar with drug busts. So how would Phokungwane have known that he has to give you somebody who is familiar with that kind of operation? What did you say to him that would familiarise him, would have familiarised him with the nature of the mission and therefore the kind of recommendation that he makes to you?

CHIEF MASHABA: Number one, I wanted somebody in the area. Number two, I know, even if Phokungwane knows he cannot do, I know he will know somebody that can do. So he would come, look at the situation, like I did, come and
20 look at the situation, and say no, this one maybe I need so and so. That is how we operate.

ADV BALOYI SC: Thank you.

ADV KHUMALO SC: Just the sequence and procedure. When Advocate Ncube asked you why did you not alert other authorities, you said the information was verified in

the morning. So let us focus on the period after the information is verified. Do not tell us where you live, but am I correct that the suburb where you live is in the Alberton area, so not far from the Alberton Police Station?

CHIEF MASHABA: It is not far, yes.

ADV KHUMALO SC: Yes, and when you say in your statement that you decided to engage in a process of intercepting the truck and to have it searched, you say that in paragraph 5 of your statement, so intercepting a truck
10 and searching it, that is a normal police operation, correct?

CHIEF MASHABA: Yes.

ADV KHUMALO SC: Yes, and what was your reason for not going to the Alberton Police Station and to say to them, look, I will be conducting a search operation in your area of jurisdiction. I cannot give you the details because it is sensitive, I do not want people who may compromise the operation to compromise it, just so that it is recorded in the books of the police and at the very least, there is an entry or an enquiry dealing with the operation that you were about
20 to carry out that day.

CHIEF MASHABA: Maybe looking at the time, Commissioner, it did not allow me to go to the police station and come back. I might go there and it leaves. So ...[intervenes].

ADV KHUMALO SC: No, but Nku is there. He is telling

you that I am here, the truck is there. So if it leaves, he will tell you that the truck is leaving. You told us that Nku was already there, and he told you that this is the location, the truck is here. You are in Alberton, your suburb, from your suburb to the Alberton Police Station I do not think it is even 2 kilometres.

CHIEF MASHABA: Again, I am being careful also as to who do I involve.

ADV KHUMALO SC: So you did not want Alberton Police
10 Station to know that you were engaging in this operation?

CHIEF MASHABA: Not necessarily that I did not want to know. You know, if, in an operation things happen so fast. It happens so fast that you think of the operation, you think of the safety, you think of the urgency, you think of a lot of things.

ADV KHUMALO SC: Chief, the operation has not started. You are at your house in the Alberton area. That suburb where it is and where the Alberton Police Station is cannot be 5 kilometres. It is a short distance. Nothing stops you
20 in 5 minutes to go to the Alberton Police Station and to say, I am a Traffic Officer. I am not a Policeman. I am a Traffic Officer. I will be conducting a search and seizure in your area of jurisdiction. The details are sensitive because my source says I must not disclose it to people who may compromise the operation, just so that the Station

Commander is aware that there is a Traffic Officer who is in his jurisdiction conducting what is essentially police work.

CHIEF MASHABA: The police, the Station Commander is also senior, so he might be one of the people that I might not make aware.

ADV KHUMALO SC: So even if you do not give him the details and you just say, I am conducting an operation, due to its sensitive nature, I cannot disclose the detail. But so that you know there is a Traffic Officer in your area of
10 jurisdiction who is conducting a search and seizure operation, are you saying you could not even do that?

CHIEF MASHABA: How Commanders work, even myself, I know I would want to know is it sensitive, what is it? Remember, you are expecting my station's assistance.

ADV KHUMALO SC: As you should.

CHIEF MASHABA: Yes.

ADV KHUMALO SC: Because this is not a traffic police operation. Let me ask you one last question. Are you familiar with the Roads and Road Traffic Provincial Act of
20 Gauteng, Act 10 of 1997? Are you familiar with it?

CHIEF MASHABA: Which Act?

ADV KHUMALO SC: Gauteng Provincial Road Traffic Act, 10 of 1997.

CHIEF MASHABA: I ...[incomplete].

ADV KHUMALO SC: It is a simple question. Are you

familiar with it, yes or no?

CHIEF MASHABA: I am, yes.

ADV KHUMALO SC: And am I correct that this is the statute that regulates what Traffic Officers in Gauteng are supposed to do, or are allowed to do and not allowed to do? If I am wrong, you can say I am wrong, we can move on.

CHIEF MASHABA: No, I am aware.

ADV KHUMALO SC: I am correct?

CHIEF MASHABA: You are correct.

10 **ADV KHUMALO SC:** And you have it in front of you, am I correct? Go to section 10, please.

CHIEF MASHABA: Yes.

ADV KHUMALO SC: Do you see that the heading to section 10 says “powers and duties of a Traffic Officer”?

CHIEF MASHABA: Yes.

ADV KHUMALO SC: And since you are familiar with this, is there anywhere there where it says you can go, is there anywhere in section 10 where it says Traffic Officers can go to a private facility such as a warehouse and conduct
20 search and seizure operations.

CHIEF MASHABA: This is a Road Traffic Act. I am using Criminal Procedure Act as a Peace Officer now.

ADV KHUMALO SC: Chief, Chair has already engaged you about the Road, the Criminal Procedure Act. I am not going there. This statute says, section 10, “powers and duties of

a Traffic Officer". Do you see the heading?

CHIEF MASHABA: Yes.

ADV KHUMALO SC: And then it sets out what the powers and duties of Traffic Officers are. Now is there anywhere in that section where it says a Traffic Officer can go to private premises of a business and conduct a search and seizure operation?

CHIEF MASHABA: No.

ADV KHUMALO SC: Thank you.

10 **ADV BALOYI SC:** Can I just ask, you said to Commissioner Khumalo that even your Commanders are not to be trusted. When you say, I do not mean necessarily your direct Commander, I did not understand you that way, but you were talking about the senior people, that even those that are Commanders are not to be trusted. Now, how and why would you have known that you can trust Warrant Officer Phokungwane with this mission, because now your evidence is you did tell him it is a sensitive operation, so he understood that it is something that he
20 must keep to himself. How did you know that you could trust him with that?

CHIEF MASHABA: Well, Phokungwane, I can say he also stays in my neighbourhood.

ADV BALOYI SC: Yes.

CHIEF MASHABA: We also form part of neighbourhood

watch or neighbourhood patrol. So I know him, I know him more than others and I have worked with him officially also.

ADV BALOYI SC: You have done other operations with him?

CHIEF MASHABA: Yes.

ADV BALOYI SC: Okay. And are they, were they the kind of operations that, and you can give us what those operations are, are they the kind of operations where sensitivity of information, not to be disclosed to superiors, 10 not just generally, but not to be disclosed to superiors was an issue in those operations. Did he have the same suspicion, or does he, and we will ask him if we have to, does he have the same suspicion of superiors that you have, that you would trust him, that if it is something, a mission, or an operation about which superiors should not know he would oblige.

CHIEF MASHABA: Well, that I do not know.

ADV BALOYI SC: Ja, then that begs my question. If you have not had past dealings with him in these kind of 20 circumstances, comparable circumstances, if you have not had past dealings with him, how would you have known that you can trust him not to alert superiors that Chief Mashaba is involved in a secret operation that superiors should know about. How do you know he was trustworthy?

CHIEF MASHABA: A person that you, when I say in my

neighbourhood, it mean, I would know him more than others that are not staying around with us. I will, as a colleague, as somebody that we always work together or visit, we get to know one another. You get to be comfortable with one another.

ADV BALOYI SC: Okay.

CHIEF MASHABA: That is how you build even a trust.

ADV BALOYI SC: Okay, so from what you are saying, Phokungwane is not an arm's length relationship that you
10 have with him. It is someone that you know fairly closely and you have dealt with him.

CHIEF MASHABA: Yes, Commissioners.

ADV BALOYI SC: Okay. Now, how would have Phokungwane known that he has to give you a police officer who can keep things secret? Did you ask him? Did you say, I need you to give me someone who will keep this mission quiet?

CHIEF MASHABA: Like I am saying, when I say to him, it is sensitive. I know he would treat it as such and he would
20 also prefer somebody that would do the same.

ADV BALOYI SC: Okay, that will keep it quiet.

CHIEF MASHABA: That would do the same, yes.

ADV BALOYI SC: Okay, thank you.

CHAIRPERSON: I just want to make sure that you are not going back on what you said yesterday because when

Commissioner Khumalo is engaging you on the Act that stipulates your powers and functions, you say, I use the Criminal Procedure Act. Maybe I should ask you this. What exactly in the Criminal Procedure Act do you use?

CHIEF MASHABA: Well, it gives us a power and authority to, let me say, almost act similar or exactly powers that the police has.

CHAIRPERSON: By saying what?

CHIEF MASHABA: I cannot hear, Commissioner?

10 **CHAIRPERSON:** By providing what exactly?

CHIEF MASHABA: By giving you powers, you can ...[intervenes].

CHAIRPERSON: Okay, relate, relate that, relate that to what you did in this instance.

CHIEF MASHABA: You can stop, okay, you can search, you can seizure, you can arrest, you can ...[incomplete].

CHAIRPERSON: But is that not within the powers that you have? You have specified powers which Commissioner Khumalo referred you to and you agreed that those are
20 indeed the powers that you have in terms of that Act. So I would imagine that in certain instances but in relation to those powers, you may have to arrest, you may have to search and seize, but in relation to those powers, because if you can now search and seize in respect of matters you have no powers over, it makes nonsense. That would make

nonsense off the powers that are stipulated as being the powers that you have. It would basically mean that you have any powers that you believe you have.

CHIEF MASHABA: I do not get you.

CHAIRPERSON: Why would the Act that Commissioner Khumalo referred you to, stipulate powers if you can basically act outside of your powers, because that is what I understand you to be saying. You are basically saying just because the Criminal Procedure Act provides for searches
10 and seizures, you can then search and seize even in respect of matters you have no powers over.

CHIEF MASHABA: Okay, let me talk about giving you powers now ...[intervenes].

CHAIRPERSON: Or let me ask the question this way. Let me ask the question this way. Are you, by referring to the Criminal Procedure Act, are you suggesting that the Criminal Procedure Act gives you the power to search and seize in respect of offences that fall outside of the powers, your power stipulated in the Act that Commissioner Khumalo
20 referred to?

CHIEF MASHABA: Yes, that is what I, that is what I, correct.

CHAIRPERSON: So, you are saying, you are saying the Criminal Procedure Act adds to the powers that are stipulated in the Act?

CHIEF MASHABA: Because these ones limit me as a law enforcement official.

CHAIRPERSON: I will suggest to you that all that the Criminal Procedure Act does is to say this is how you arrest. It is under A, B, C, D circumstances that you are able to search and seize but that must be read within the powers that you otherwise have. You cannot go outside of those powers. But if you must arrest, then you may arrest according to the Criminal Procedure Act. But arresting in
10 respect of offences that you have powers over in accordance with the Act, you then use the Criminal Procedure Act.

Also, you search and seize, but in respect of the offences specified in the Act, that is how you should read the Criminal Procedure Act. You cannot suddenly, just because there is a Criminal Procedure Act, move outside of the powers that you have. It cannot be, because it will then make nonsense of the powers that have specifically been provided for. I hope you will not again say you do not
20 understand me.

CHIEF MASHABA: Well, when we are talking law, I take the cue from you, Chair.

CHAIRPERSON: Do you accept what I am saying? Do you accept what I am saying?

CHIEF MASHABA: You know it better. You are an expert

compared to me.

CHAIRPERSON: Do you accept what I am saying?

CHIEF MASHABA: I accept.

CHAIRPERSON: Thank you.

ADV SEGEELS-NCUBE: Thank you, Chair. Chief, can I just understand what was your concern about being cautious about involving high-ranking officials in this operation? What was the concern if you involved them?

CHIEF MASHABA: The concern most of the time from
10 seniors is interferences, most of the time.

ADV SEGEELS-NCUBE: Okay, but here you were given a specific, a specific request was made by Mr Nku to you when he told you about this, when he gave you the tip-off. You said he said that you must be cautious about high-ranking officials. Was the concern that the high-ranking officials would interfere in the seizure, or was the concern that they would take over? What was the issue?

CHIEF MASHABA: The issue was like if you involve somebody that is got an interest in whatever operation you
20 want to engage yourself in, obviously you will get a sabotage or you will get discouraged as to no, leave that one.

ADV SEGEELS-NCUBE: Okay, you mean a, if they have an unlawful interest in it, so if they want to compromise the seizure, the operation.

CHIEF MASHABA: Yes.

ADV SEGEELS-NCUBE: Okay. So once you then get to, once you open the, we will get to the procedure that you followed. Once you open the truck and you find the drugs, you have now secured the drugs, why do not you involve DPCI then? Why do not you call them then, because if it is a legitimate operation that you are undertaking, then that fear or that risk is gone. They cannot now do anything about it because the drugs have been secured. Why do not
10 you involve them then?

CHIEF MASHABA: DPCI most specifically are the ones, are the ones that we know, they are more captured. They are worse than a normal police because we know they are captured.

ADV SEGEELS-NCUBE: Okay, even if you have that knowledge, they are not all captured, but even if you have that knowledge, once you find the drugs, you are there, you were witness, the people from Scania, they are witnesses, so the drugs cannot be taken at that point. You can still be
20 there at the scene. They can be. What is the concern then? I do not understand, because if your concern was that they would interfere with the operation and compromise the bust, once the drugs have been found, that is gone. If of course you are, your intention is for this to be a legitimate operation, you actually do want to cease the

drugs.

CHIEF MASHABA: In actual fact, once I have involved the police, I would not want to, I would now start playing a supporting role. I would not want, I leave it to the police and I give it, they know what to do.

ADV SEGEELS-NCUBE: But you did not do that. You had Magane there, but you wanted to arrest Ms Wentzel.

CHIEF MASHABA: Remember we were two there, myself and Magane.

10 **ADV SEGEELS-NCUBE:** Yes.

CHIEF MASHABA: Like the other day, I do not remember, was it Wednesday or yesterday, I said, in the police, you do not command somebody's resources. And in the police, protocol dictates that in a joint operation with the police, protocol dictates that police takes the lead. I will be playing a supporting role. Once I have, a supporting role does not mean I will be standing there folding my arms. Whatever he does, especially if he concentrates on what we are talking about now, this operation, I become busy with
20 the suspects.

ADV SEGEELS-NCUBE: But why are you not calling DPCI or anyone else at that point because the drugs have been secured. You do not know how to do this operation. Magane does not know how to do it. So it would have been at that point, even if we were to accept that you had

legitimate fears about interference, once the drugs are, once you are on the scene and you have seen the drugs, then you could have engaged them. But that is only if it was your true intention to actually seize these drugs in order for it to be taken to the police station, for it to be processed.

If, however, it was part of your side hustle, then would it explain why you would not want to get anyone else involved and why it was only you and Magane, because you
10 thought because Magane is being recommended by Phokungwane, who was your original person, that he would also be in on the deal? That would be the only sensible thing to conclude as to why as soon as the drugs are secured, you do not involve anybody from law enforcement.

CHIEF MASHABA: Like I am saying, once I involve the police, I might have maybe a big mouth standing there, but I leave everything to the police. They know who to call, what to do. They know exactly that is the area, that is the area of expertise.

20 **ADV BALOYI SC:** You are saying it was for Magane to do all of those things. It is now his operation, because when you open the container, it is just the two of you. Are you saying at that point he is in charge of this operation?

CHIEF MASHABA: He is in charge, yes.

ADV BALOYI SC: And what does being in charge mean at

the scene, because I imagine it does not mean everyone, every law enforcement official who is there can choose and decide what to do, otherwise, there is no in charge if all of us can decide what to do. So maybe just unpack for us what is to be in charge at the scene like this when there is the two of you at that point.

CHIEF MASHABA: You take accountability, you take control of the scene.

ADV BALOYI SC: How does he take accountability of your
10 decision to arrest a person if that person should not have been arrested is what I am trying to understand, that he does not seem to direct you. You say, I am at the scene, I also get to do stuff. So if you do something wrong, how does he take accountability for it if he is not in charge? You are both in charge, it seems, on your account.

CHIEF MASHABA: No, I cannot be. Like I am saying, in the police, you do not command somebody's resources.

ADV BALOYI SC: Yes.

CHIEF MASHABA: And when we are jointly working in an
20 operation, they take the lead.

ADV BALOYI SC: Yes.

CHIEF MASHABA: I am being guided by them.

ADV BALOYI SC: But he did not guide you in the decision who to arrest. At least I have not understood that to be your evidence that you ...[intervenes].

CHIEF MASHABA: Yes.

ADV BALOYI SC: You caused the arrest of somebody because Magane said that. And hence my question that it seems you, and you keep using the word joint operation, which seems to be consistent with saying, well, he does his bit, I do mine. We both do what we think is right on the scene. And if that is your evidence, that is your evidence. I am just trying to understand that was Magane in fact in charge of the scene. You say he was in charge. And then I
10 say, well then, how do you explain your independent actions on the scene, including the decision to place somebody under arrest if Magane was in charge?

CHIEF MASHABA: Myself?

ADV BALOYI SC: Yes.

CHIEF MASHABA: If he is in charge, it is not like I am divorcing him for him to do everything while I am there. Arresting, I do not need his permission. I can still do if there is that reasonable suspicion.

ADV BALOYI SC: Even though you are not acting under
20 his direction, you say a Traffic Officer like you has the authority on that scene to effect an arrest.

CHIEF MASHABA: That I can do.

ADV BALOYI SC: Acting independently without it being directed by the SAPS.

CHIEF MASHABA: Yes.

ADV BALOYI SC: Okay. Thank you.

ADV KHUMALO SC: Can I just, your response to Advocate Ncube that because the PCI is captured, you made the decision that you do not want to involve them, it is not up to you to decide that because I am reading Brigadier Shibiri's affidavit. He says when you called him that day, he told you that the investigation of level 3 drug trafficking matters resort under the DPCI. So this is the function of the DPCI because this matter involves drug trafficking. It is not up to
10 you to say DPCI will not be involved because they are captured.

CHIEF MASHABA: DPCI, okay, me knowing not all obviously, it cannot be a blanket statement to all. Most of them we know it is a no-no.

ADV KHUMALO SC: But if it is a matter that resorts under the DPCI, it means you have a responsibility to inform the DPCI. You cannot say it resorts under them, but I choose not to do it. You simply cannot do that, and I will leave that there. I want to ask you these questions. Do you have any
20 training or have you ever conducted a bust that involves opening containers?

CHIEF MASHABA: No, I do not have.

ADV KHUMALO SC: Do you know what process has to be followed before you open a container?

CHIEF MASHABA: I do not know, Commissioner.

ADV KHUMALO SC: Do you know what you must do with the seal when you open the container?

CHIEF MASHABA: I have got no idea.

ADV KHUMALO SC: Do you know what must happen when things fall out of that container while you are opening it?

CHIEF MASHABA: No idea.

ADV KHUMALO SC: Now, what prescripts that is used by the Traffic Police governs the opening of containers?

CHIEF MASHABA: Hence I did not open.

10 **ADV KHUMALO SC:** But you instructed people to open it. What prescripts governs that process where you can instruct the owner to open, because you say in your statement you took a decision to go and search the container. You say that in paragraph 5 of your statement. It is not Magane who said, I am now a policeman in charge, let us go and search. You say you took the decision. Now, what legal instrument or what document that is used by the Traffic Police governs that process and guides you in terms of what you do when you get there? You must take the
20 photos of the seal, for example. You must take the photos of the container before it is opened. You must take the photos of the container after it is opened. You must take the photos of the objects as they fall down. What prescripts or document governs that process and is used by the Traffic Police?

CHIEF MASHABA: I might not know exactly, but under normal circumstances, let me say myself now, independently, as a traffic cop, stopping you on the road ...[intervenes].

ADV KHUMALO SC: No, no, I am not asking about stopping on the road. You went to private premises. You went to somebody's warehouse with the intention to go and search a container that you suspected to be containing drugs. I am asking about that, not when you stop cars on
10 the road, not when you stop trucks on the road, because there you are performing Traffic Officer functions. Here you took a decision that you are going to private premises, you are going to search and seize a container. Now what prescript or what document which is used by Traffic Police governs what a Traffic Police Officer must do when they undertake that process?

CHIEF MASHABA: Well, I might not know that exactly. Like I am saying, if I am there with ...[intervenes].

ADV KHUMALO SC: And please do not tell me about what
20 you do in the street. If there is no document, you must say to me, I do not know that there is a document and I have never seen one.

CHIEF MASHABA: I do not know.

ADV KHUMALO SC: And you have never seen such a document?

CHIEF MASHABA: I do not know.

ADV KHUMALO SC: Does that not explain why Traffic Officers should not be doing that, because if you could do that, you would receive training on how to do that. Is that not so?

CHIEF MASHABA: Well, because now there is MOU's signed with ...[intervenes].

ADV KHUMALO SC: I am not asking about now, Chief. I am asking about in 2021. So if there is an MOU signed in
10 2024, it is irrelevant to our discussion. 9 July 2021 was when you conducted this operation. So let us focus on that.

CHIEF MASHABA: So what is the question, Commissioner?

ADV KHUMALO SC: No, you heard the question and you chose to tell me about the MOU. Must I repeat the question for you?

CHIEF MASHABA: Please do.

ADV KHUMALO SC: Thank you. Does the fact that you do not know of any prescript not indicate to you that Traffic
20 Officers are not supposed to do what you are doing?

CHIEF MASHABA: Yes, we are not supposed to do, especially because, like I am saying, I will call the police.

ADV KHUMALO SC: And here ...[intervenes].

CHIEF MASHABA: People that knows better than I do.

ADV KHUMALO SC: And here we know you did not call the

police. What you called was somebody to tag along with you. What you called was somebody from Zonkizizwe to tag along with you, to legitimize what you were doing, because Magane was not in charge of this operation. He was following your lead.

CHIEF MASHABA: I did not even know that Magane is from Zonkizizwe.

ADV KHUMALO SC: But was he following your lead or were you following his lead? Who was leading?

10 **CHIEF MASHABA:** He was leading.

ADV KHUMALO SC: But how would he lead if he does not know what is going on? You called him to come and assist you.

CHIEF MASHABA: Well, like I am saying, obviously he also informed me that he called Phakula, he called other people. So clearly it is above him also, that is why he also calls relevant people.

ADV KHUMALO SC: Yes, but you did not wait for Phakula to get there before you instructed Scania people to open the
20 container. Phakula in fact says he went to Alberton because he was told that once you have collected what you were collecting, you will be taking it to Alberton. He was called from Alberton once there was an issue in Aeroton and by then you had already opened the containers, you had already arrested people.

CHIEF MASHABA: Well, we did not know how long will Phakula take to arrive.

ADV KHUMALO SC: No, but he was not coming to Aeroton. Phakula was told to go to Alberton because whatever you were collecting in Aeroton, your plan was to take it to Alberton.

CHIEF MASHABA: We were under the impression that because everything started in Alberton ...[intervenes].

ADV KHUMALO SC: Yes.

10 **CHIEF MASHABA:** Not that is the plan.

ADV KHUMALO SC: Yes.

CHIEF MASHABA: Because everything started in Alberton, it will end in Alberton.

ADV KHUMALO SC: So you are going to take the bags and take them to Alberton with you?

CHIEF MASHABA: We were going to end everything in Alberton.

ADV KHUMALO SC: You are going to take the bags and take them to Alberton with you?

20 **CHIEF MASHABA:** We were going to detain, if need be, and take the cargo to 13 in Alberton.

ADV KHUMALO SC: You were going to take the bags, the 27 bags, to the impound in Alberton?

CHIEF MASHABA: To 13 in Alberton, yes.

ADV KHUMALO SC: Okay.

ADV BALOYI SC: Can I just check this. Well, maybe let me first preface myself by saying what is clear from your description of your relationship with Phokungwane, what comes out of that is you actually called a friend. You did not call her a SAPS officer because you know this is, I happen to know this police officer who is in Alberton. You called a friend. You say you socialize with him. So it was quite a deliberate decision or choice of who you call. That is the first observation from how you have described your
10 relationship with him. But my question is not about that. It is about you, when now things were bad, on the scene and in particular you were being placed under arrest, you called, I think you say the first person you called was General Mawela, right?

CHIEF MASHABA: Yes.

ADV BALOYI SC: That is at least one of the people that you called.

CHIEF MASHABA: Yes.

ADV BALOYI SC: Why did you call him at that point? Why
20 did you choose to call him and not another police officer? Why did you not call Pompei, your superior, any other name, choose any other name? It could have been any other name, but I am asking specifically, why did you call General Mawela in particular?

CHIEF MASHABA: Because of the harassment and the

bullying of Khan, General Khan.

ADV BALOYI SC: But remember, you do not trust all these senior officers. You say they have an interest in this. So I am interested in your choice of General Mawela because you do not trust all the seniors. Why did you think he will not have an interest in this?

CHIEF MASHABA: Well, because now already the operation is in progress. There is nothing that there is, now there is a need because now there will be no, there will be
10 not that disturbances or sabotage for this to be a success.

ADV BALOYI SC: Okay, but that is exactly the point, that when you open the container and the drugs come out and others are watching the employees of that place, they will not be sabotaged, whoever you call to the scene, they would not be sabotaged at that point. So you have to explain again why at that point, once you have opened the container and the drugs fall out, why did you not now mobilize, including General Mawela, that clearly you do have access to him at that time, why you did not mobilize
20 other SAPS, appropriate units of SAPS, DPCI, SANEB, LCRC, as soon as those things dropped and then you wait there, because as you say, at that point the opportunity for sabotage is lost, because the drugs are now in the open. No one can intercept them at this point, because it is in full public view. Explain why at that point you do not then

mobilize the appropriate SAPS people.

CHIEF MASHABA: I am under the impression that people that are involved, that I involved, will do the necessary, will know who to call. Yes, they will know who to call and know who to mobilize.

ADV BALOYI SC: No, but you see, you are the one that called Phokungwane, you are the one that calls Mawela, and so we know you do have access to people that you can mobilize to come to the scene. So my question to you is,
10 and it really flows from an earlier question that you were asked, that you are now at the operation. You are no longer concerned about the drugs being intercepted before they land somewhere. They are in full public view. You do not, you do not call others and you say, well, you are under the impression Mr Magane, Warrant Officer Magane will know what to do, but you actually together make a decision to load them onto a van, clearly intending to take them somewhere. You say you were taking them to Alberton, and my question is, well, at that point, why do you not say,
20 Magane, I see you make, we are making the decision to put them on the van, but in fact we should be calling the SAPS people to come here, let us do that because you are making decisions with him. So please do not pretend when it suits that Magane was in charge and he is the one that does things. We see you arresting people. You know, you tell

us, you placed somebody under arrest. We see you fighting for the scene with General Khan, so you really are an active player at that point, together with Magane. So answer my question against that context of the facts as they were unfolding, that why do you not, at that point, you and your friend Magane say to him, we have to call. Now that we are here and it is all down here, it is open It will not be sabotaged, let us call the right people to come and deal with this. Why do you not do that?

10 **CHIEF MASHABA**: It is sometimes, Commissioner, you take long, I end up forgetting.

ADV BALOYI SC: My question is ...[intervenes].

CHIEF MASHABA: [Indistinct]... [cross-talking] question, please.

ADV BALOYI SC: Okay, let me summarize it for you, and I do not understand that you do not understand my question, but I will accept, and I am not going to give you a background. The drugs fall out. They are in full public view. There are spectators. There is zero risk of sabotage.

20 Why do you not, you say to Magane, let us call SAPS, the appropriate SAPS units to come and deal with this, instead of putting this thing on the bakkie, so that we, instead of putting them on the bakkie, let us call the SAPS people to come and deal with this, the appropriate people. Why do not you do that?

CHIEF MASHABA: Like I am saying, I left everything to Magane, and for him to say, I called Phakula, for Phakula on his arrival to say, I called K9, then I know we are safe now because they are calling the relevant people.

ADV BALOYI SC: So why do you fight with Khan when he comes there and takes charge, because there is now SAPS proper. The scene is being managed. Other people are now there. Why are you fighting them? You are saying Magane has called, the version is not as clean and as clear
10 as you are making it to be about what Magane did, but you say Magane has called, Phakula has called, well somebody has called Khan, somebody has called Sebola, someone has called Kadwa, all of them SAPS officials.

Why are you fighting them? You are a Traffic Officer and that does not change. Why are you fighting them about them now taking charge of the scene, because it is a scene? It is being taken charge of by appropriately qualified people. In fact, you and Magane are completely inappropriate for this operation. You are not qualified for
20 this operation. Forget their motives, which maybe they do have other motives, but on the scene descends people who are appropriately qualified, which you and Magane have zero of. Why do you fight when SAPS officials, appropriately qualified, come and take control of the scene?

CHIEF MASHABA: I was not fighting. Khan was fighting

us. We ...[incomplete].

ADV BALOYI SC: So you just handed it over to, is that what you are saying, that you were happy to hand over to Khan, Sebola, Kadwa, and every other person who is not you and Magane? Are you saying you happily were handing it over to them?

CHIEF MASHABA: No, we are not happy because, okay, we are at work. Number one, regardless of your rank, there has to be, we respect one another. So Khan came, bullied
10 us. Number one, every policeman that comes on the scene, you go straight to the first people, first responders on the scene. That did not happen. Instead, he went to, I can say, Scania people and we all are looking at that.

We are saying, I did not even know, I did not even know him. I knew the name. So when he does that, only when he comes nearer to us, I hear and see people saluting, yes, General, yes, General, yes, General. Then I started maybe becoming, I do not know what is the right word, when he started saying to Magane, who are you,
20 where are you from, who is the driver of the bakkie, sit in your car.

Then that is when I went to him and said, I said to him, but why do you, why do you, it looks like it is an arrest to Magane, why do you do that? He said, no, no, no, who are you? I said, wena, who are you? He said, no, I am

General Khan. I said, okay, I am Chief Mashaba, Gauteng Traffic. And I think it all started there because I wanted to, because this is bullying now, this is abuse of power, I wanted to take Magane out of the bakkie.

ADV BALOYI SC: Ja, but that is exactly my point, that there is now a General on the scene, but we also know there are other people as well from the SAPS on the scene. What is your business in continuing these conversations? Now you have the SAPS proper people, including a General.

10 You, what is your business to carry on activity, including trying to get Magane out of the bakkie? What business is this? It is a SAPS operation. It is not a Traffic Department operation. It is a SAPS operation.

You continue to, you want to continue to be active to a point of wanting to take Magane, who you think is under arrest, you want to take him out of that arrest which has been ordered by a General. It is that problem that you seem, it is clear that to me at least, that you had a far greater invested interest in this than just a Traffic Officer
20 who happened to get a tip off, now we know from a friend who called his friend to assist him find a Magane who, with respect to him, is completely helpless about this. He has never done this. He is a desk person. You go with him, you are on the scene.

SAPS people arrive. You do not say, I started this,

it was my tip off, but now there us SAPS. Of course, we are all law enforcement, let them do what they need to do. You are so active, you are even fighting, why is Magane arrested?

And I am suggesting to you that all of that conduct indicates that you had a vested interest other than a law enforcement officer who has found out about drugs and is happy that they are now under the control of the State. That is the impression I have about you, that you had a far
10 greater interest. If you have any comment, you can comment, but that is my view about your conduct here, that it went beyond just everyday Traffic Officer or law enforcement activity.

CHIEF MASHABA: Like I am saying, sometimes you take long and I really want to comment.

ADV BALOYI SC: Yes, you can. It means you heard me. You can comment.

CHIEF MASHABA: Number one, like I said, regardless of your rank, we respect one another.

20 **ADV BALOYI SC:** Can I please stop you, and I do not mean to be disrespectful. Please do not repeat what you have said. It is on record and I remember it clearly and we will read it. So do not repeat it, but please comment freely. I have heard you. You said when the police arrive, regardless of rank, you ask who is in charge, who is who,

people introduce themselves. We have heard all of that. Please do not repeat it. You can comment if you have anything else to say.

CHIEF MASHABA: No comment.

ADV BALOYI SC: Thank you. Ms Segeels.

ADV SEGEELS-NCUBE: Thank you, Commissioner. Chief, why was Mr Nku at the scene? Why was he going with you from Yellow Jersey to Aeroton?

CHIEF MASHABA: Well, Mr Nku asked me that will it be a
10 problem for me to accompany you guys, because other informations that I gave to other people, I get to be told they were unsuccessful or I get to be told stories or excuses. Can I come with you guys? I said, I do not see this as a problem because I know I have worked with a lot of police that comes with their informers. The only thing I said to him, please make sure you sit in your car and you do not participate. So I think by me saying that I think I did the right thing or I contained him because he did exactly that.

20 **ADV SEGEELS-NCUBE**: Were you ...[intervenes].

ADV BALOYI SC: Does it mean he did not trust you? I mean, in spite of your long relationship with him, if his concern is as he says in his statement, exactly what you are saying, does it mean he did not trust you that you will get these drugs to the police SAP13?

CHIEF MASHABA: He trusted me, hence he asked, can I come along? I said, no problem, provided you sit in your car and not participate.

ADV BALOYI SC: If he trusted you in the way you say, then that behaviour does not make sense if he trusted you, if he did not suspect that the drugs may disappear once you have got them. Because remember, it is just the two of you at that time, you and Sergeant, Warrant Officer Magane. If he did not trust that they will not disappear, because you
10 say his concern was drugs disappear on his tip-offs. then it does not make sense if he trusted you that he would want to be present in your bust. It does not make sense. In fact, it indicates one of two things. He did not trust you, which would be a surprise because you have this long history of transactions that you are doing together, or the alternative is he was there not for the reason that you are telling us, but for a different reason, which you are not disclosing. Do you want to comment or do you have any comment? You can comment. Actually, let me say if you want to, you can
20 comment. You do not have to.

CHIEF MASHABA: No comment.

ADV SEGEELS-NCUBE: And were you aware that he had taken photos of the scene while he was there at the scene?

CHIEF MASHABA: I am not aware.

ADV SEGEELS-NCUBE: Okay, can I ask you to go to the

WhatsApp bundles just to show you the WhatsApp exhibit bundle, page 51.

CHIEF MASHABA: Page?

ADV SEGEELS-NCUBE: 51. You may just have to zoom in on the last photo. You cannot really see it. Do you see the third photo, the last one, on page 51? Do you have it, page 51?

CHIEF MASHABA: Yes.

ADV SEGEELS-NCUBE: And do you see the, do you recall
10 that that was the truck?

CHIEF MASHABA: Yes.

ADV SEGEELS-NCUBE: Yes, that was the truck, right, the yellow one.

CHIEF MASHABA: Yes.

ADV SEGEELS-NCUBE: Okay. And if you look at the date, 9 July 2021, and it is at 8:43.

CHIEF MASHABA: Yes.

ADV SEGEELS-NCUBE: He was taking photos of the scene. And then if you go to page 52, if you zoom in on the
20 first image, it is taken at 9 o'clock on the same day, and you can actually see a police van next to the yellow truck. Can you see that?

CHIEF MASHABA: Yes, I see it, Commissioners.

ADV SEGEELS-NCUBE: And the second photograph as well, the next one, and you can see he is sitting in a vehicle

because you can see the mirror. He is taking that photograph.

CHIEF MASHABA: Oh. Yes, I can see.

ADV SEGEELS-NCUBE: Okay. Now when you arrive at Yellow Jersey Logistics, they will not allow you access to the container, to the truck, because you do not have the necessary paperwork, is what you are told, correct?

CHIEF MASHABA: Told by who?

ADV SEGEELS-NCUBE: By Yellow Jersey Logistics.

10 **CHIEF MASHABA:** We did not have any difficulty.

ADV SEGEELS-NCUBE: Okay, what was the difficulty? Why could not you access the truck then?

CHIEF MASHABA: What? Sorry, I cannot hear you.

ADV SEGEELS-NCUBE: When you got to Yellow Jersey ...[intervenes].

CHIEF MASHABA: Yes.

ADV SEGEELS-NCUBE: Why could you not access the truck then?

ADV KHUMALO SC: What was the reason given to you by
20 the people in Roodekop for you not to open the container?

CHIEF MASHABA: No, they said it, what if you open here and then we get in trouble with the client, rather preferably go and open it at the client.

ADV SEGEELS-NCUBE: Yes, but the reason why they would not is because you did not have the paperwork so

they could not open it then. It was not about necessarily the client. You needed to have a search and seizure warrant at the very least, right? It says that you did not have the necessary paperwork in the statements.

CHIEF MASHABA: Well, they did not tell us that.

ADV SEGEELS-NCUBE: Oh, they did not tell you that?

CHIEF MASHABA: No.

ADV SEGEELS-NCUBE: So they told you, we are refusing police officers, because Magane was a police officer, we
10 are refusing a police officer from searching and seizing, from searching a truck where they suspect drugs in there because the owners, we are going to get in trouble with the owner. That is what they tell you.

CHIEF MASHABA: They did not refuse.

ADV SEGEELS-NCUBE: So why did not you just access it then, because according to you, time is of the essence. This is a drug bust. You do not want any interference. Why not seize it at the first opportunity?

CHIEF MASHABA: They advised. We also advised
20 because we could see in their eyes that we do not look genuine in their eyes. We also advised that give us escort, we will go to the client with your escort.

ADV SEGEELS-NCUBE: So you say you did not look genuine in their eyes. What do you mean by that?

CHIEF MASHABA: Well, you know.

ADV SEGEELS-NCUBE: No, I do not know.

CHIEF MASHABA: You know.

ADV SEGEELS-NCUBE: No.

CHIEF MASHABA: There is, I have not say you know what
...[indistinct].

ADV SEGEELS-NCUBE: Continue.

CHIEF MASHABA: There is a lot of bogus cops operating.
So they can see a Golf 7 that is grey. We are not in
uniform. Even the cards, the bogus cards, they look more
10 authentic than originals. So if somebody suspects or do not
believe that you are a cop, now we know a cop and a
criminal, how do they look. We know. The criminal will
always be in a hurry.

ADV SEGEELS-NCUBE: But in this context, were you not
bogus cops, because did you not tell them that you were
Crime Intelligence officers?

CHIEF MASHABA: Told who?

ADV SEGEELS-NCUBE: Jolene Wentzel at Scania.

CHIEF MASHABA: No, people that want to defend
20 themselves would say anything. So how do I say to a
person, I am Crime Intelligence? I know for more than two
decades at work, I know you cannot identify yourself
wrongly. I know.

ADV SEGEELS-NCUBE: Well, you would do it if what you
were busy with was not official police business and you did

not want to be identified, which seems to be a consistent theme from all the other witnesses who did statements, that there was either a reluctance to properly identify yourself or when you did identify yourself, you said that it was Crime Intelligence. If you go to the docket exhibit bundle, I just want to show you the statement of Jolene Wentzel because her statement is prepared on the day at 1 o'clock in the afternoon. So if you can go to the docket exhibit bundle, page, I think it is 267. Somebody can just assist him, the
10 docket exhibit bundle.

CHIEF MASHABA: Page?

ADV SEGEELS-NCUBE: Page 267.

ADV KHUMALO SC: The one that says Khan disciplinary.

ADV SEGEELS-NCUBE: It is 267.

ADV KHUMALO SC: While they are looking at it, can you please deal with 145 as well.

CHIEF MASHABA: 395?

ADV SEGEELS-NCUBE: No, it is page 267. If you just go to page 271, you will see that this statement was deposed
20 to on the 9th of July 2021, so the day of the incident at Aeroton at 13:20, so the same day. And then if you go to page 267, I will read from paragraph 2. She says:

“On Friday, the 9th of July 2021 at 7 o'clock I reported on duty at my workplace on the above address. At

about 8 o'clock I received a phone call on my cellphone from Clinton who is a Manager at Yellow Jersey Logistics. They transport containers for us. Clinton informed me that his driver arrived at his yard with container number ...”

And she mentions it and the seal number. 3:

10 “He was with two males who were driving in a grey VW Golf ...”

That is your vehicle.

“And they have introduced themselves as police officers from Crime Intelligence. He said this gentlemen introduced cards and he asked them if they have the SAPS container stock form because this is normally the procedure followed when stopping a container.”

20 Then at the next page, 268, she says:

“They told him that they do not have the paperwork. Clinton then told me that he told them to escort the container to the client in Aeroton and that is where it will be opened. I said

it is okay, I will wait for them. A few minutes later, Clinton phoned again informing me that his driver called him and notified him that a BMW, black in colour and a black Nissan bakkie is also following the truck also.”

And then, if we can go to the next paragraph:

10 “I then phoned Cornelius Viljoen, who is the Workshop Manager, to inform him of this incident. At that time, he was not on the premises. He was at Scania at 8 O'Connor Road, Aeroton. I panicked from what Clinton told me and I decided to also phone 10111 from the office landline.”

And then just skip a few paragraphs. At paragraph 9 on page 270:

20 “The tall police officer further said that myself and Cornelius, including the driver, that we were under arrest.”

That is consistent with your evidence that you told them they were under arrest.

“One bag was still stuck in the container between the container wall and cab windscreen. He then

instructed for the container to be offloaded with a forklift, which was then dead. At this point, the Booysens Police and Scania HSE Manager arrived on scene. The tall police officer asked very aggressively who called the police because now they are here to interfere with his investigations.”

10 Do you see that?

CHIEF MASHABA: Yes, I see.

ADV SEGEELS-NCUBE: So the indication was that you and Warrant Officer Magane introduced yourselves as Crime Intelligence. Do you see that? And you dispute that you did that.

CHIEF MASHABA: I cannot do that.

ADV SEGEELS-NCUBE: Why would she say that? And remember, this is a contemporaneous statement. It is made that day at 20 past 1 in the morning and in the afternoon.

20 Why would she say that if it is not in fact what you had said to her?

CHIEF MASHABA: I do not know why she said that.

ADV SEGEELS-NCUBE: That is what was communicated to her. And you were aggressive. You arrested them. You had no basis to arrest them, correct?

CHIEF MASHABA: I had no?

ADV SEGEELS-NCUBE: Basis to arrest them for possession.

CHIEF MASHABA: Remember, we, I place you under arrest until we confirm the cargo, hence, K9 was on its way.

ADV SEGEELS-NCUBE: Okay, so then you should not have taken issue with General Khan placing you under arrest, because you were also then in possession of the drugs when he arrived on the scene.

10 **CHIEF MASHABA:** I was in possession?

ADV SEGEELS-NCUBE: Yes. You had given instructions for the drugs to be taken and put onto the bakkie.

CHIEF MASHABA: It is securing exhibit.

ADV SEGEELS-NCUBE: Yes, but how does he know that you do not have the paperwork when you arrive on the scene, you are not authorized to even conduct this operation, so you are, at that point there is suspicion.

CHIEF MASHABA: Suspicion from General Khan?

20 **ADV SEGEELS-NCUBE:** Yes, because you are in possession. On the same basis as which you arrested Jolene Wentzel for merely being a Manager at Scania and saying that she is being arrested for possession and the truck driver. That is the same basis, because you say until I can verify I am going to arrest them.

CHIEF MASHABA: We are at the premises, Scania

promises. These things are offloaded or delivered to them by the driver. So how do I, I went there as a law enforcement official. Whatever action, that does not mean I am in possession as I asked, who is receiving these bags.

ADV SEGEELS-NCUBE: Well, you were there under false pretences because you created the impression that you were from Crime Intelligence. They had no reason to lie that you introduced yourself as being from Crime Intelligence.

10 **CHIEF MASHABA:** Well, I do not know why they said that because I did not say that.

ADV BALOYI SC: Can I raise a different concern in this discussion that you are at Yellow Jersey. You have information. At this point, you know, because that is what Nku has told you, that there are drugs in that truck. So you know there is narcotics, stuff that should not be there, that breaks the law. How do you take instructions from the Yellow Jersey people not to conduct an operation. Here you are in a lawful operation. Let us assume this is a lawful
20 operation. How do you get told by the people that, according to you, at that point are in possession, because Yellow Jersey is in possession at that time, because this is on their property. They transported it. Their driver that you later say he is in possession, you arrest him for possession. He is in possession. You are at Yellow Jersey. How are

you dictated upon not to take action at that point?

CHIEF MASHABA: It is not dictated upon, it is being advised.

ADV BALOYI SC: How do you ...[intervenes].

CHIEF MASHABA: Because Yellow Jersey Manager also did not know what is inside.

ADV BALOYI SC: How do you know? You do not know that. You know there is drugs in there. You know this is a Yellow Jersey truck. You are on Yellow Jersey property.

10 There is a Yellow Jersey driver. Why are you, if this is a lawful operation, why are you not breaking the seal at that point, opening the container, taking the drugs and placing the Yellow Jersey people under arrest.

CHIEF MASHABA: Like I am saying, this might sound easy to you, Commissioners, because you have ample time to sit and research and Google or whatever. Me in an operation, I do not have the time. Things happen so fast.

ADV BALOYI SC: No, there is nothing fast here. There is nothing fast. You knew there is a truck. You were called
20 from home and told there is a truck, it is parked. So you had time. You left your house knowing there is a truck that is parked that we are going to open because it has drugs in it. You know that before you arrive on the scene. You had ample opportunity to mobilize resources.

But that is not even the discussion I am having with

you because I think the discussion about why you did not mobilize resources has been had and it has been exhausted. So that is not what I am raising with you. There is no urgency. You are within secured space. This is somebody's yard that you are in. My question is, you know there are drugs in there, so the law is being broken. You think the driver is in possession, so he is breaking the law. This is a Yellow Jersey truck.

I am saying please explain in a way that makes
10 sense why you are not operationalizing at that point. You have time. You do. So the answer cannot be, and if you are going to say there was no time, please let me be honest with you, I do not accept it and I think that is not an honest answer. Why do you get advised by Yellow Jersey, no, do not do it here, let it first get to another location and you accept that? I am yet to meet a police officer that gives me that kind of generosity.

CHIEF MASHABA: Well, if somebody says, especially please, or asking that I am advising that please do not open
20 it here because if you do not get what you want, the relationship, my relationship with my client will turn sour. I am advising that please, please, I am not saying do not open, but I am advising please escort it to the client, then you open so the client can see what is ...[intervenes].

ADV BALOYI SC: Okay. Maybe let me say this as the last

thing. There is no if you do not get what you want, because you know it is in there. I think that is the premise of my question, but you know there is narcotics in there, because Nku has told you that. You know that for sure, and we cannot go back on that. We know for sure there are drugs, and that is the basis of my question, that you allow, on your version, Yellow Jersey to say to you, no, go open it somewhere else. Let us get to Scania. You do not know at that time who they belong to. At least you have not said
10 you knew they belong to Scania. You do not know. You have stopped a truck. It is there and at least you know where it is and you choose to take the advice of the person who is in possession of the truck at that time, who owns the truck, whose driver it is, you choose to take their advice to say go open it somewhere else.

It absolutely does not make sense. And it I think unavoidably suggest there was another reason why you went all the way to Scania and I want to suggest maybe it is because you saw that it is actually not safe to open it here
20 because these people do not trust us and we may get into trouble. They may call the police, they may do other things. As you say, they looked like they do not trust you and I think it is because you saw that. and you thought they will call the police on you.

That is why you moved on and you were hoping that

where you are going, you will quickly load these things on the van as you did and leave before there was any interruption. That is what I say it looks like. Thank you. You can comment if you want to. I suspect you are going to say you have no comment. You may comment if you want to, Chief.

CHIEF MASHABA: No, I also thought you are dictating to me, so I would not comment.

ADV BALOYI SC: No, I could never dictate to you, Chief.

10 I put to you what I say it looks like to me. I may be wrong entirely. I am putting to you that these facts, because it does not make sense, that you did not operationalize this at New Jersey, you tell us you acted on advice of people who are suspects themselves. You acted on their advice. It does not make sense. And then I say, this is what it looks like, it looks like you aborted Yellow Jersey because you saw these people do not trust you, thought they will call the police on you, and you were hoping at the second location you will be able to take the drugs and do a quick getaway,

20 which I suggest you were doing with a black van. You did not anticipate it will go down as badly as it did. That is why things happen the way that they did. So you can comment, you can say I am wrong if, in what I am saying, and then we can move on.

CHIEF MASHABA: I would not even attempt saying you

are wrong. I have learned to accept that. I do not think I will ever make sense to you, Commissioner, because ...[intervenes].

ADV BALOYI SC: Okay, thank you.

CHIEF MASHABA: Yes.

ADV BALOYI SC: All right, I have heard you. Thank you. Ms Segeels.

ADV SEGEELS-NCUBE: Thank you, Commissioners. Can I just confer with - do you know, sorry Chief, do you know
10 when General Mfazi died?

CHIEF MASHABA: I was told by Nku recently that he died, I think on the 8th of July.

ADV SEGEELS-NCUBE: 2021?

CHIEF MASHABA: Yes.

ADV SEGEELS-NCUBE: The day when you get involved in this by Nku.

CHIEF MASHABA: Yes.

ADV SEGEELS-NCUBE: Okay. Now, we know that Mr Nku, it was his intention now to, well, from the messages
20 that we showed you on page 326 of that bundle where he speaks about now we have to go back to offloading from the trucks again. Do you recall that? Do you recall that message that I had showed you?

CHIEF MASHABA: Yes.

ADV SEGEELS-NCUBE: And he tells you again about a

truck from Durban to Johannesburg. He involves you in that you say he was giving you a tip off so that you could execute a legitimate operation. And really, we do not have anyone to confirm that he had previously engaged with General Mfazi because General Mfazi is no more about the same information that he gives you on the 8th of July 2021. Correct? Are you with me so far?

CHIEF MASHABA: I am with you.

ADV SEGEELS-NCUBE: Okay. You do not tell your boss
10 that you are going to this operation on the 9th of July. In fact, when they engage with, If we can, I will just read it for you. That is Pompi, at page 147 of the State, of the bundle. It is a statement by the Director in traffic management who you indicated was your immediate superior at the time.

CHIEF MASHABA: 1?

ADV SEGEELS-NCUBE: 147. Do you see that? And just let me know when you are there.

CHIEF MASHABA: Yes.

ADV SEGEELS-NCUBE: It is the statement by Director
20 Pompi.

CHIEF MASHABA: Yes, I see that.

ADV SEGEELS-NCUBE: -:

“On the 9th of July 2021 at 10:34 I
phoned Mashaba as the Acting Deputy
Director in the Southern Corridor to

join my visit to all the K78 roadblock in our area to give support to our officers. He indicated to me that he has an urgent matter that he is attending to, but he did not mention the matter. I respected what he told me due to the nature of his meetings and operations. In his area he would normally work morning shift or afternoon shift. In all his work engagements, he keeps communicating with me as his supervisor with regards to his duties.”

Now, can I just pause here. You did indicate earlier that you had a good working relationship with Pompi, with Director Pompi. And we know that by 10:34 you had already discovered the drugs, correct, by 10:34 on the 9th of July 2021.

CHIEF MASHABA: Yes.

ADV SEGEELS-NCUBE: Okay. Was this not an opportunity to say, you are calling me and I have just made this massive drug bust at that stage? I mean, this is not even you calling Director Pompi. Director Pompi is calling you to ask you to join on the roadblock. There is no danger now about interception or anything. Why do not you mention it then?

CHIEF MASHABA: He called me. He called me in the morning.

ADV SEGEELS-NCUBE: Yes, 10:34.

CHIEF MASHABA: Because I have to join for visits. So you are saying, what is the question?

ADV SEGEELS-NCUBE: Why did not you at 10:34 when you received the call from the Director to join, that is, do you dispute that when the call was made it was to join you to visit them at the K78 roadblock? When Director Pompi
10 called you, what did he say to you, why was he calling you?

CHIEF MASHABA: Please join me, let us go visit K78 roadblocks.

ADV SEGEELS-NCUBE: Yes, exactly. So at that stage, why do not you say, I cannot. I am busy with a drug bust. I have just uncovered a massive amount of drugs here at Aeroton, so I cannot come now?

CHIEF MASHABA: No, I was still going to tell him. As to what time, I did not see any urgency.

ADV SEGEELS-NCUBE: That is implausible. You have
20 just made, you as a Traffic Officer have just made a significant drug bust, 700 kilograms. You do not see that when your boss calls you to ask you to join on a roadblock that you say, listen, I have done something bigger here. You do not, you do not see, you want us to accept that you would not have said that if it was a legitimate operation?

CHIEF MASHABA: If I recall, he called me, are you saying he called me at 10:34?

ADV SEGEELS-NCUBE: I am not saying it. That is what he says.

10 “On the 9th of July 2021, at 10:34, I
 phoned Mashaba as the Acting Deputy
 Director in the Southern Corridor to
 join my visit to all the K78 roadblock in
 our area to give support to our
 officers.”

CHIEF MASHABA: No, I think this time, this time I could not, I mean, the scene was a chaos this time already. So I knew I was going to get time to call him, because here we were still, I can say we were still having some misunderstandings with other police as colleagues.

20 **ADV SEGEELS-NCUBE:** Chief, I am going to suggest that
 you did not tell Director Pompi about your discovery
 because you were not on a legitimate operation. It was
 your side hustle with Mr Nku. That is why you did not say
 anything. You only involve people when you are now in a
 bind because you have been arrested, because you are
 being bullied by General Khan. That is when you engage.
 with your superiors. But when you are called to attend to
 official business, you do not say, I cannot attend to official
 business now because I have just made one of the biggest

drug busts in the country.

CHIEF MASHABA: Well, you are telling me I do not have control over that. I will just accept what you are telling me.

ADV SEGEELS-NCUBE: Okay. Thank you.

CHAIRPERSON: No, you did have control over telling your superior what you were doing. You cannot hide behind what you have just said. Nothing stopped you ...[intervenes].

CHIEF MASHABA: Because she is saying ...[intervenes].

CHAIRPERSON: Nothing stopped you from telling him.

10 **CHIEF MASHABA**: No, she is saying she is telling me ...[intervenes].

CHAIRPERSON: Yes.

CHIEF MASHABA: That she is putting to me that it is because it was illegitimate. So I am saying I agree with you because that is your opinion. I cannot say anything.

CHAIRPERSON: What do you mean agree? Do you mean you accept the correctness of what Advocate Segeels-Ncube is saying when you say you agree? What exactly do you mean I agree?

20 **CHIEF MASHABA**: Chair, she is telling me that it was illegitimate. So if somebody says, like now that the picture that is being painted was that we were stealing, I do not have control over what you think as a person. If you are saying I was stealing, it is your word against mine. It is fine. I will accept what you are saying, because one way or

the other, I cannot convince you otherwise. That is what you already concluded.

CHAIRPERSON: Yes, Ms Segeels-Ncube.

ADV SEGEELS-NCUBE: Thank you, Chair. I have no further questions for the witness.

ADV KHUMALO SC: Chief Mashaba, go to page 145 of that bundle. Let me know once you are there.

CHIEF MASHABA: I am there at 145.

ADV KHUMALO SC: Are you there? So this is the
10 Operations Director at New Jersey and you will see that he
signs the statement on page 146, same day at 13:40, 13:21.
Remember we dealt with Ms Jolene who was at Scania and
is a Scania employee. Now, these are the people you
interacted with on the morning of 9 July. If you look at
paragraph 3, they say on the 9th of July, Mr Van Niekerk
was at home when Hardus, their Director, gave him a call
stating that there are people from Crime Intelligence here
asking to open the container. Again, consistent with what
Jolene said, that you and Magane told Yellow Jersey people
20 that you are from Crime Intelligence. Now, if what they are
saying is true, it means you were impersonating a police
officer. You were operating as a bogus Crime Intelligence
officer if what they are saying is true. Do you see that?

CHIEF MASHABA: I see that.

ADV KHUMALO SC: Now, would this person have any

reason to say you introduced yourselves as Crime Intelligence officers, because remember, Yellow Jersey has no issue with you. did not arrest them. They are still at Yellow Jersey in Roodekop. Your arrests were effected at Scania in Aeroton. Why would they say you introduced yourselves as Crime Intelligence officers if that is not what happened?

CHIEF MASHABA: I cannot speak for them. That is what they say.

10 **ADV KHUMALO SC:** All right, and then we continue. They asked for documentation and you did not have documentation. And it goes to the question that Advocate Ncube asked you earlier. And it was because you did not have documentation, it is now the unnumbered paragraph 4, that you ended up having to go to Scania. Going back to Commissioner Baloyi's point, had you had a search warrant, Yellow Jersey would have had no reason to refuse you to search the container.

CHIEF MASHABA: I want to put to you, Commissioners,
20 that ourselves, upon our investigations also, we know people were made to change their statements.

ADV KHUMALO SC: On the same day at 1 o'clock?

CHIEF MASHABA: As to when, I do not know.

ADV KHUMALO SC: All right, but let us leave this statement. Let us go to the Head of Security now at

Scania. It is page 290, Mr Riekert. Let me know when you are there.

CHIEF MASHABA: Yes, I am there.

ADV KHUMALO SC: Paragraph 3, Mr Riekert says he is the Security Manager at Scania. You see that at paragraph 2. Do you see that?

CHIEF MASHABA: Yes, I see.

ADV KHUMALO SC: And then at paragraph 3, he describes the events of the day starting from 8:15 in the morning. And he explains how the two of you were aggressive and you did not want to identify yourselves. and you sounded suspicious and that is why they called the Booyens Police. So if you look at the last two sentences of paragraph 3 on page 290, do you see that?

CHIEF MASHABA: I see that.

ADV KHUMALO SC: So they say the reason for calling Booyens Police was because you did not want to identify yourselves, you were aggressive and you were behaving in a suspicious manner.

20 **CHIEF MASHABA**: Commissioners, I become happy when you talk about the scene because we also advised Sebola that please, please get the video footage so that at least the questions about the scene will answer itself because every answer will be on the footage. And Phakula mentioned that nobody entertained it.

ADV KHUMALO SC: Chief ...[intervenes].

CHIEF MASHABA: I think ...[intervenes].

ADV KHUMALO SC: Chief, please pause there. Sebola is not there yet. Phakula is not there yet. What the account that is being given is what happened when the three of you, including Nku, arrived there. Either you agree with it or you disagree with it. It does not help to say I asked Phakula to look for footage, because we know that footage is not before us, so it will not help us. For the purposes of
10 answering my questions, you either dispute what they say or you agree with it.

CHIEF MASHABA: That I was aggressive?

ADV KHUMALO SC: Yes. Do you agree or you disagree with it?

CHIEF MASHABA: I know people who does not know me always say that I am aggressive, I am arrogant. They call me names.

ADV KHUMALO SC: So that impression, if Riekert formed that impression, it would have been a fair impression
20 ...[indistinct] because you say people who know you also think that way.

CHIEF MASHABA: I am saying, maybe if you can allow me to finish, Commissioner, maybe. Until you get to know me in person, that it is not, and unfortunately it is human nature that if somebody says Mashaba ...[indistinct], other

people do not even give themselves time. They *sommer* believe what they hear. So other things are beyond my control. I am not in any business to prove to anybody that I am not arrogant.

ADV KHUMALO SC: All right.

CHIEF MASHABA: But if you know me, you will know there is no such a thing.

ADV KHUMALO SC: Unfortunately, we will not have time to get to know you, Chief. Paragraph 8 on 291, what Mr
10 Riekert says is that he is a former Police Captain himself, so he is a retired SAPS Captain. So he knows about normal investigation protocols and you see that from line 5 of paragraph 8, sorry, line 2, 4, 6, he says:

“Being a retired Captain in the Police, I
asked him why they were not following
normal investigation protocol. With a
very aggressive attitude he told me not
to try to do his work and that he would
arrest me for interfering in the
20 investigation. I advised him that he
would need to identify himself with his
ID card before he could do that. He
produced a police ID card in identifying
himself as a Warrant Officer. When I
wanted to write down the information

on the card he became very aggressive. I asked him what the contents were of the bag, whereupon he advised me, I do not have to know.”

And then he continues, he says, when he tried to take photos of what was going on, you and Magane were aggressive towards him. And he continues in paragraph 10 that even the police who arrived, you were aggressive towards him and you told them to go away because this was
10 your scene. Do you have any recollection of that? He specifically says in paragraph 11:

“A certain Captain Opthof from Flying Squad went to talk to the four gentlemen at the Nissan bakkie and the men got very aggressive towards Captain Opthof. More police then arrived and took over the scene.”

Do you see that?

CHIEF MASHABA: With Opthof, I was not aggressive.
20 Opthof was in uniform officially in a police car. So obviously when Booyens reports back to, reports back to Control, all patrol cars on duty would hear the report. So we knew for a fact he is coming there knowing what is happening because he must have heard the report from Booyens’ case. But when he got there, he did not even

start with coming to us. Everybody else there started somewhere, ended up with us. So he said to us, guys, who are you and what is happening? No, no, no. guys, who are you? We hear there is a hijack. I said to him, you do not even greet us. You come here and tell us what you are telling us and you know you might have heard from the radio. Why do you come and ask us, knowing exactly that there is nothing like that, because you heard it from the radio. So I am also under the impression that he might be
 10 one of the officers that are sent by people with interest at the scene.

ADV KHUMALO SC: Thank you. The last statement I want to take you to, then I am going to ask you about Mr Nku, page 254, it is Captain Sebola, page 254, same file. Do you see that it is the statement of Captain Nkwana Joseph Sebola?

CHIEF MASHABA: Yes, I see.

ADV KHUMALO SC: Yes, and it is a statement again, same day on page 257, 9 July 2021. But the part I want you
 20 to deal with is 254, paragraph 7.

CHIEF MASHABA: Yes, Commissioners.

ADV KHUMALO SC: You see that it says:

“Sergeant Ndou’s marked police vehicle was parked in front of the black Nissan bakkie, indicating that upon his

arrival, the three mentioned officers wanted to leave with those black bags behind the bakkie, saying that they were taking them to where the truck came from, which is Roodekop.”

Do you see that?

CHIEF MASHABA: Yes, I see.

ADV KHUMALO SC: Is that what you and your colleague told Sergeant Ndou that your plan was to leave with the
10 bakkie to go to Roodekop?

CHIEF MASHABA: You see, Commissioners, I do not know why do you crush or dismiss me when I say I become happy when we talk the scene, because we know that Sebola obtained a video footage, we know. So I am being dismissed, the video footage has been dismissed, and we know that is where the truth is. So whatever that will be asked about the scene, I will still be not listened to because I am also saying, please, can we get the video footage. I am being dismissed, so ...[incomplete].

20 **ADV KHUMALO SC:** Not at all. Chief, let me assure you that if there is video footage depicting the events of the day, efforts will be made to obtain it. And let me say this to you, I am not crushing you. I am asking you to either contradict or confirm what is said in the statements. And you seem to have formed a view already, we have not.

What we are doing is to establish facts. And the exercise I am undertaking now is because I am being fair to you. I do not want to decide the facts on Sebola's version without putting to you what Sebola said. The fairest way of doing this is to put to you what Sebola said so that you can comment on it. Then we have your comments as well as his view. If I do not ask you this, it means I must only rely on his version and that is not fair to you.

CHIEF MASHABA: Okay.

10 **ADV KHUMALO SC:** So the purpose of my exercise, I am aware that there are statements in the bundle that are bad for you because people are saying things about you. If we leave today without me giving you the opportunity to comment on these statements, I would have done an injustice to you because if at the end of these proceedings we write a report relying only on Sebola's version, you would not have had the opportunity to respond or comment. So I have heard you that there is a footage, it must be obtained. I have heard you. I did not crush that. And if it
20 is available, it will be obtained if it still exists. But where people, that footage will not talk about the conversations you had. You say the scene was chaotic. There were a lot of people. Now this affidavit talks about what you said to other people. Now I am asking you, did you or did you not say that? Now look at Magane, paragraph 9. When he was

asked why he did not mention his own station to Sergeant Ndou than lying that he is from the Hawks, so Magane must have said to Sergeant Ndou that he is from the Hawks, he still could not give reasons why. And on the question why they were chasing uniformed police officers on the scene, his answer was that he was thinking that it was his scene. It goes back to Commissioner Baloyi's question. Once proper police officers are there, why are they being chased away? Do you want to comment?

10 **CHIEF MASHABA:** Sorry, what is the question?

ADV KHUMALO SC: I want you to comment on the contents of that paragraph 9, it is true or it is not true. Yes?

CHIEF MASHABA: That, that ...[intervenes].

ADV KHUMALO SC: That when Magane was asked for reasons why he described himself as coming from the Hawks, he could not give an answer. And on the question why he was chasing uniformed police officers on the scene, his answer was that he was thinking that it was his scene,
20 in other words, he had the right to chase away other police officers.

CHIEF MASHABA: No, this is wrong.

ADV KHUMALO SC: It did not happen?

CHIEF MASHABA: It did not happen.

ADV KHUMALO SC: And when he was asked if he does

know drugs, his answer was he did not know drugs. And when he was asked why he was loading them, on why was he loading what he does not know, his answer was he suspected that the consignment could be drugs. Do you see that?

CHIEF MASHABA: I see that, Commissioners.

ADV KHUMALO SC: And then it continues with the other people. So it is the same theme that the police officers who arrived there say, this is how you, Magane, and whoever
10 you were with, behaved. Now, my last question is, Mr Nku, are you aware that he was found with large amounts of hard cash on him on the day in question?

CHIEF MASHABA: I am aware that he was found with 60,000.

ADV KHUMALO SC: R60,000.00. Now, were you aware that he was carrying that amount of cash on the day?

CHIEF MASHABA: I was not aware.

ADV KHUMALO SC: Did he tell you what that amount was for?

20 **CHIEF MASHABA:** No.

ADV KHUMALO SC: Now that you know that he was carrying that much amount of cash as a police officer, what do you think it was for?

CHIEF MASHABA: Well, I would not know, Commissioners.

ADV KHUMALO SC: I am going to say this and this is the last thing I am going to say. Commissioner Baloyi has a few questions to ask you. Many witnesses have come to this Commission and they have said, well, you must prove these things beyond a reasonable doubt. That is not how Commissions of Inquiry work.

CHIEF MASHABA: That was Mr, was it Mr Mnisi?

ADV KHUMALO SC: Mnisi. I was not addressing him, Chair, but it might as well apply. And that is dangerous and
10 it is a wrong approach to take because we are not a criminal court. We are a Commission of Inquiry. We do not prove things beyond a reasonable doubt. We look at all the proven facts, we balance probabilities and in some instances we connect dots and we draw inferences.

You know, so we will look at the documents, look at what happened, look at all the statements and we will draw conclusions from what we see in front of us. That is why it is important that when you are called upon to comment, you must do so because where you have chosen not to
20 comment, you leave it to us to draw inferences and those inferences may be adverse to you and may have serious consequences.

So the attitude that many witnesses have taken that the Commission must prove beyond a reasonable doubt, that does not work here because we are not a criminal court

and we do not operate like a criminal court. So that is the last thing I am going to say to you. Chair, I do not know if you wanted to add to that and then Commissioner Baloyi. Thank you.

ADV BALOYI SC: Sorry, Chief, it is not a question so much from me, it is what I want to put to you from the evidence since you started and then tell you the impression that it gained, that it creates for me and then give you the chance to comment. And it is fair to do that so that when
10 you are gone and you have testified, we have the benefit of what you say, I am wrong about in what I say, I suggest.

So from the evidence, we know now that you and Mr Nku were involved in numerous transactions, activities. We know about the airport activities. We know about Aeroton, so quite a number of transactions. We know from the evidence that, so you can make a mental note of this if you want, but I have to list them and I list them mindful that you have quite a number of times that I speak long, but unfortunately I have to do this with you. I have to give you
20 my list.

CHIEF MASHABA: And this time, sorry to cut, and this time I want to comment.

ADV BALOYI SC: Yes, that is fine. You will have the opportunity. So we know that, so let me start. You and Mr Nku had unauthorized police operations. He asked you for

assistance, you say, and you were ready to give it. And you end up at OR Tambo in an operation and you are talking about arresting people at OR Tambo. We know that. We know there was not official police business that you were involved with.

But from that, we also know that you involved other police officers in those activities and that they were paid by Mr Nku for whatever they were doing for him at the airport where they were stationed, using their positions as SAPS
10 members. That is one that we know from your testimony, that has come out of your testimony. Two, and that you were ready to use your position to assist Mr Nku in that way.

Two, we know that you and Mr Nku, he is not an informer to you. In fact, he is your brother as you describe him. So you have a very close relationship. So everywhere that you have said, you have information from an informer referring to Mr Nku, that was not accurate. In fact, you have got info from your brother.

20 Three, in addition to paying other officers through you, we know that he was funding you. He was giving you money. Today you said it is up to R50,000.00. It does not exceed R50,000.00, but whatever number, we know that you are receiving money from him. We know from your evidence that you wanted, that your operations with him should carry

on so that you can make money and be able to support or to provide for Ms Mazibuko, a politician who had just been appointed, and I yesterday I raised that with you, that now you are bringing a politician into this sphere of Mr Nku's influence, financial influence, so we know all of that.

And come to the Aeroton bust, you, in that operation, you did not inform your superiors, just like you did with the airport once, the other operations. Your superiors did not know that you have this operation until
10 you got arrested. That is when they come to know that you are involved in an operation. The impression that this gives to me at least is that you are part, you are, let me make it present, that you are in fact part of a network with Mr Nku, at the very least just Mr Nku. But we have seen that Mr Nku deals with others as well, where your information is forwarded to others, your messages and their messages, they come to you, they tell you someone did not get on the flight to Amsterdam and all of that.

So you are part, I put to you for your comment.
20 that the appearances here is you are part of a criminal network, and you may possibly still be part of a criminal network that is involved in off the books, in fact, let me call it, not call it off the books SAPS operations because it is a CVD SAPS operations. You are involved in unlawful activities. You personally, two, with Mr Nku, who, from the

WhatsApp messages that we have seen, is involved in activities that involve drug trafficking.

You are involved in involving other police officers in unlawful activities at Mr Nku's instance and funded by Mr Nku. All of that, I want to say to you, suggests or gives appearances that you are part of a criminal network or a network of criminals who deal in illegal activities that include drug trafficking, that include arrests of people without proper authorization. At the airport you wanted to
10 arrest Kensani. That includes spying on people's vehicles. That includes you enquiring with investigating officers about exhibits because Mr Nku wants that.

It places you very badly as being involved in a criminal network. And I would like you to comment. That is the impression I have right now, having listened to the evidence and I am putting it to you so that you can respond or comment if you want to, and maybe I will recheck my impression of it.

If you do not comment, and in fairness to you, I
20 have to say that to you, if you say I have no comment, then the last impression that I am left with at the end of your evidence is that you are part of a criminal network that is engaged in the various activities that we have discussed. I stop there. You can comment if you wish. You have said you would like to comment and I would like to hear your

comment.

CHIEF MASHABA: Thank you, Commissioners. Engaging with people like you have taught me that as a human being you need to be careful who you deal with, you also need to learn more of let me say your work. And then because of maybe that was said about me might end up maybe give an impression that I am this wrong person and I want to say to you, Commissioners, I am not that bad or I am not bad like how people perceive.

10 You have shown me, I respect the fact that the engagement with you, Commissioners, gives me an opportunity to go and introspect. And I want to also, or I wish to also clear Ms Mazibuko, because that person I take as a mother. I have worked with her. She does not mix with the wrong things. She does not want people who does wrong things around her. And I know I continue learning from her. Like she has taught me life, she has taught me how to respect people. I know I am this militant, I know. But then other people interpret it wrongly to say or mistaken
20 it for arrogance. I am not like that. If maybe I also gave the picture to the Commissioners or the city, I want to humbly apologize, because I have learned a lot from the city.

 And I am happy that people like you, Commissioners, continue to give wisdom and knowledge

and will leave legacy to people that will be responsible citizens of tomorrow and I really and I humbly want to thank you for that.

ADV BALOYI SC: Thank you, Chief.

ADV SEGEELS-NCUBE: Thank you, Chair. That is it for this witness.

CHAIRPERSON: Thank you very much, Chief Mashaba. You are excused. That is it for today?

ADV SEGEELS-NCUBE: Wednesday, Chair.

10 **CHAIRPERSON:** Let us adjourn and resume at 9:30 on Wednesday, 17 June 2026. Let us adjourn.

INQUIRY POSTPONED TO 17 JUNE 2026

INQUIRY ADJOURNS

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