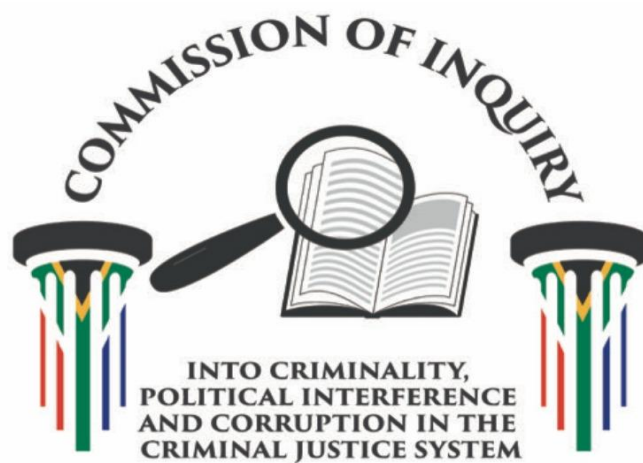


JUDICIAL COMMISSION OF ENQUIRY INTO CRIMINALITY,
POLITICAL INTERFERENCE AND CORRUPTION IN THE
CRIMINAL JUSTICE SYSTEM

HELD AT
BRIGITTE MABANDLA JUSTICE COLLEGE

17 JUNE 2026

DAY 120



PROCEEDINGS ON 17 JUNE 2026

CHAIRPERSON: Good morning, Ms Sello. Who is leading the witness?

ADV SELLO SC: Advocate Segeels-Ncube.

CHAIRPERSON: Okay, thank you, thank you.

ADV SELLO SC: Thank you, Chair.

CHAIRPERSON: Thank you. And good morning, Brigadier.

BRIGADIER NYUSWA: Good morning, Commissioners.

CHAIRPERSON: Thank you. Must I proceed to swear in
10 the Brigadier, or are there any ...[intervenes].

ADV SEGEELS-NCUBE: Yes, Chair, he will swear.

CHAIRPERSON: Okay. Brigadier, will you be swearing or affirming?

BRIGADIER NYUSWA: Swearing, Commissioner.

CHAIRPERSON: Please state your full names for the record.

BRIGADIER NYUSWA: Campbell Msizi Nyuswa, Commissioner.

CHAIRPERSON: Do you swear that the evidence you are
20 going to give is the truth, the whole truth, nothing but the truth. If so, please raise your right hand and say, "So help me God".

BRIGADIER NYUSWA: So help me God.

CAMPBELL MSIZI NYUSWA (duly sworn states)

CHAIRPERSON: Thank you, Brigadier. I am being

prevailed upon by my co-Commissioners that we stand down for a few minutes to talk to Counsel outside.

INQUIRY ADJOURNS

INQUIRY RESUMES

CHAIRPERSON: There was initially an application for the hearing to be *in camera*. We are advised by Counsel that that is no longer going to be the case and that the hearing of the Brigadier's testimony will be fully in open session. You confirm that, Brigadier?

10 **BRIGADIER NYUSWA:** I confirm, Commissioner.

CHAIRPERSON: Thank you.

ADV SEGEELS-NCUBE: Thank you, Chair. Chair, before we begin with the Brigadier's statement, if I could just give some context as to the statement that he will be reading into the record or dealing with as part of his initial evidence. The Commission had sent Rule 3 notices to the Brigadier, and, three notices, and in respect of those notices, he submitted three statements where he responded *ad seriatim* to each of those statements. When we
20 consulted with him at the time that he was supposed to initially give evidence, he indicated that he was not aware that he could ask for assistance insofar as preparing a statement for him is concerned. We then consulted with him and assisted him with a statement to consolidate the three statements that he initially submitted as *ad seriatim*

responses to the Rule 3 notices.

That notice has been, or that statement was produced over the weekend, and the Commissioners have it as the first statement in your bundle, which is Brigadier Nyuswa's statement bundle. The purpose of that statement is really to just consolidate those three statements, but also for him to put forward his version in the manner that he would have wanted to had he had the assistance from the beginning, and he will then give his evidence. So the main
 10 statement that will be read is the statement that is before you now, is the first statement in that bundle, but the other three statements should not be ignored to the extent that the first statement does not deal with some aspects that those other statements dealt with pertinently, but we will get to that when he is done with this main statement. And that statement appears at page 1 to 19.

CHAIRPERSON: So does this mean we go by the statement, the 24-page statement?

CHAIRPERSON: Yes, Chair. It is from page 1 to 19 is the
 20 statement and it was signed, and then there is an annexure, which is from page 20 to 25, which is his SAP96.

CHAIRPERSON: So that is what you will be leading him on?

ADV SEGEELS-NCUBE: Correct, Chair.

CHAIRPERSON: 1 to 19.

ADV SEGEELS-NCUBE: Yes, and ...[intervenes].

CHAIRPERSON: I have read 1 to 24.

ADV SEGEELS-NCUBE: Oh, my apologies for that, Chair.

The statement was produced only this morning by the Brigadier. He had some amendments that he wanted to make to the statement, and unfortunately, because he was traveling last night, could not get it to us in time, so he was only able to sign it, it is the statement that is signed the 17th of June 2026. That is the statement that he will be

10 going through.

CHAIRPERSON: Thank you. We may start then.

EXAMINATION IN CHIEF BY ADV SEGEELS-NCUBE:

Thank you. Brigadier, you have the statement in front of you that you signed this morning. Can you please go to page 19 of that statement and confirm that that is your signature that appears on page 19?

BRIGADIER NYUSWA: I confirm, Commissioners.

ADV SEGEELS-NCUBE: Okay. Do you confirm that, the accuracy and correctness of the statement, the contents of
20 the statement?

BRIGADIER NYUSWA: I confirm, Commissioners.

ADV SEGEELS-NCUBE: And then just to place on record that when we get to the conclusion, you had indicated that you wanted to read something into the record that is not contained in your statement.

BRIGADIER NYUSWA: That is correct, Commissioners.

ADV SEGEELS-NCUBE: Thank you. Can we then start on page 1.

CHAIRPERSON: Also, just flipping through this one, the 1 to 19, it looks like it does not have the ad paragraph as does the 1 to 24.

ADV SEGEELS-NCUBE: Correct, Chair.

CHAIRPERSON: All right.

ADV SEGEELS-NCUBE: So that he wanted to put it in a
10 more narrative form to tell the story ...[intervenes].

CHAIRPERSON: Yes, yes.

ADV SEGEELS-NCUBE: As opposed to the manner
...[intervenes].

CHAIRPERSON: Responded.

ADV SEGEELS-NCUBE: In which he had done it. So that is really the purpose. And he does state it in paragraph 3 of the statement what the purpose of the statement is.

CHAIRPERSON: Yes. Oh, it will make going through it much, much smoother because looking at the 1 to 24, I
20 thought it would delay us quite considerably ...[intervenes].

ADV SEGEELS-NCUBE: Indeed, Chair.

CHAIRPERSON: Because we would have to read what paragraph 2 said, if, for example, he was responding to paragraph 2, the ad 2, then we must read 2 to make sense of it.

ADV SEGEELS-NCUBE: Yes, Chair. That is ...[intervenes].

CHAIRPERSON: This will be much smoother. Thank you.

ADV SEGEELS-NCUBE: That is precisely why we advised him to do it this way, Chair.

CHAIRPERSON: Thank you. Thank you.

ADV SEGEELS-NCUBE: You may proceed, Brigadier. So, Brigadier, just to let you know, so this is the part of your evidence where you are invited to give us your version, 10 primarily uninterrupted. We will ask some clarification questions if we have to. You are welcome to read the statement and where you feel the need to explain anything, you may do so, which is always the more preferable way to do it. But it is up to you when you want to pause and explain something that may not be clear from the statement. Do you understand?

BRIGADIER NYUSWA: I understand, Commissioners.

ADV SEGEELS-NCUBE: Thank you. So, can we then start with page 1.

20 **BRIGADIER NYUSWA:** Thank you.

“I, the undersigned, Campbell Msizi Nyuswa, do state as follows. I am an adult male Brigadier in the South African Police, SAPS. I am a Provincial Commander for Serious

Organized Crime Investigation (SOCl)
of the Directorate for Priority Crime
Investigation (DPCI), in KwaZulu Natal.
On the 2nd of June 2026, I was served
with a Notice of Precautionary
Suspension. My suspension relate to
November 2021, theft of 541 kilograms
of suspected Cocaine from the DPCI
offices in Port Shepstone. The
suspected cocaine was seized on the
22nd June 2021 by Lieutenant-Colonel
Gavin Jacob's team. The allegations
relate to the Port Shepstone theft. It is
alleged that I failed to comply with, or
contravened legislation or legal
obligations by storing exhibits at the
Port Shepstone DPCI offices, which did
not have adequate security, resulting in
the theft of exhibits and that I acted in
a manner which brought the SAPS into
disrepute and that there is an element
of dishonesty involved in the storing of
the exhibits. I had no involvement in
the Port Shepstone theft.
I had previously submitted three

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statements in response to notices sent by the Commission. The purpose of this statement is to consolidate those statements and give my version to the Commission in a comprehensive manner.

10 My background. I joined the Police (SAPS) in 1987 as a trainee at the police training college in Hammanskraal. In December 1987, I was posted to the special guard unit in Port Edward as a Constable. Port Edward is in KwaZulu-Natal. My career in the SAPS included a transfer to the Murder and Robbery Unit in Port Shepstone in 1998 and a promotion to a rank of a Captain in 2000.

20 In 2002, I was transferred to Detective Services in Scottburgh and in 2004, I was appointed Unit Commander for Organized Crime Unit in Port Shepstone. In 2009, when the Directorate of Special Operations (DSO), known as Scorpion, was dissolved and was replaced with the

Directorate for Priority Crime, DPCI, known as Hawks, the Port Shepstone Organized Crime Unit, where I was the Unit Commander, was incorporated into the Port Shepstone DPCI. I remained the Unit Commander at the Port Shepstone DPCI with the rank of a Lieutenant Colonel until 2013, when I was requested to assist at the provincial office in the Serious Organized Crime section as a Coordinator.

10

In January 2017, I was seconded to the Crimes Against the State (CATS) Unit at DPCI head office in Pretoria, reporting to Brigadier Xaba. He was the CATS Section Head. In March 2017, I was promoted to the rank of a Colonel and appointed Unit Commander of SOCI in Klerksdorp, that is in North West. But I ultimately did not take up that post because I was too busy with CATS matters and could not move at the time.

20

In July 2018, the DPCI National Head,

Lieutenant General Lebeya, transferred me to DPCI Serious Organized Crime Unit in Durban. I was reporting to the late Colonel Mlaba, who was the Acting Unit Commander.

10 In April 2020, the Provincial Commander of SOCI post in KZN was vacant and I was appointed as the Acting Provincial Commander. At that time, the Provincial Head for DPCI KZN post was also vacant. Brigadier Mbatha and Brigadier Kgamane were both acting in that post interchangeably. Later that year, in August, I was promoted to a rank of a Brigadier and appointed Provincial Commander, SOCI, the same post I was acting in April 2020. Major General Senona was appointed the
20 Provincial Head of DPCI KZN in August 2020, the same month as my permanent appointment as Provincial Commander, SOCI.

In 2021, I reported direct to Major General Senona as one of the three

Provincial Commanders.

My academic qualifications. I hold a National Diploma in Policing, a B.Tech degree in Policing, M.Tech Forensic Investigation degree, and the LLB. All these qualifications were obtained through UNISA.

10 Appointment of General Senona in August 2020. As stated earlier, General Senona and I were both appointed to our position in 2020. Prior to that, I had not worked with General Senona. I was the most junior Brigadier at the time. There was a tension between General Senona and the other two Brigadiers, being Brigadier Mbatha and Brigadier Kgamane, because they were shortlisted for the Provincial Head
20 post, which ultimately went to General Senona.

When General Senona arrived on the 1st of August 2020, he instructed each Provincial Commander to present a report of their current workload, which

included cases the section was currently investigating and personnel. This was a time-consuming exercise which took approximately three months from the time that General Senona arrived. My understanding was that General Senona wanted to understand the operations of DPCI KZN, and this exercise would give him an understanding of operational aspects. When the exercise was completed, General Senona informed the Section Commanders ...”

I should say the Provincial Commanders.

“... that he intended to align the DPCI KZN. He did not explain what this meant. General Senona was not someone who could consult when he made decisions. He will make the decision and expect everyone to fall in line, even if the decision had an impact on the working of your section as a Commander.

One such instance was when he moved members around as part of his

alignment of the DPCI KZN. Another example was when he moved a Colonel from my section in 2022 or 2023. This Colonel was appointed as my Section Coordinator, assisting me with coordinating reports and successes for the SOCI section. SOCI section is the busiest section, and this Colonel was an integral part of my team. General Senona transferred the Colonel to Priority Crime Specialized Investigation, PCSI, Asset Forfeiture Investigations, AFI. He was moved without consulting me. PCSI already had a Colonel in charge of that section, which meant that the section now had two Colonels and I had none. I had to find another coordinator. I ended up with a Lieutenant Colonel who had to be trained for the position. There is an incorrect perception that I am General Senona's "guy". I suspect it is because we were appointed at the same time to the province.

However, I had no dealings with

General Senona prior to August 2020.

When he was appointed the Provincial Head, our relationship was strictly that of a senior and a junior colleague. I had never been to his home, and he has never been to mine. I have never socialized with him outside work.”

CHAIRPERSON: For transcription purposes, I just want to indicate that you have guy in inverted commas or quotation marks. There is an incorrect perception that I am General Senona's “guy”.

BRIGADIER NYUSWA: Thank you, Commissioner.

CHAIRPERSON: You may continue.

BRIGADIER NYUSWA: -:

“I do recall that he invited the DPCI management to his father's unveiling ceremony in 2021 in Pretoria, which I attended as I was in Gauteng that weekend. Brigadier Kgamane also attended the unveiling, as did other SAPS members. In 2024, General Senona attended my father's funeral in KZN, together with KZN DPCI management and members. When General Senona was appointed, all

three Section Heads were stationed at the provincial office, which is the head office of the Hawks in KZN.”

ADV SEGEELS-NCUBE: Sorry, Brigadier, should that not be Provincial Heads?

BRIGADIER NYUSWA: Provincial commanders.

ADV SEGEELS-NCUBE: Yes, provincial commanders.

BRIGADIER NYUSWA: Yes.

10 “I got the sense that General Senona felt that Brigadier Mbatha and Kgamane were undermining him and that I was the more respectful of the three. I think this is because of the two Brigadiers who were shortlisted for his post. I recall that in 2023, when Brigadier Kgamane retired, he did not attend his farewell function. And it was said, although I do not know for a fact that the reason for his non-attendance was the strained relationship with General Senona.

20

It was not unusual for Provincial Commanders to be based at the provincial office, although the preference is to be based where your

team is based. However, in 2023 and 2024, when the other Brigadiers retired and replaced as Provincial Commanders, General Senona stationed those Provincial Commanders elsewhere and I remained at provincial office. This may have also created the impression that I was close to General Senona, but I was not. General Senona did not have much regard for me, but I was respectful to him as my senior. As the Provincial Head, he felt that he could bypass me and give instructions directly to my members without informing me.”

CHAIRPERSON: Sorry, sorry, and where was your team based, because you say that Provincial Commanders, the preference would be to base them where their team is based.

20 **BRIGADIER NYUSWA:** That is correct.

CHAIRPERSON: And that the replacements of the two Brigadiers who retired, were at, were now where their teams are or were based. So where was your team based or where is your team based?

BRIGADIER NYUSWA: Commissioner, I have one office in

Durban, but not in the provincial office. It is in Victoria Embankment.

CHAIRPERSON: Where is your team based?

BRIGADIER NYUSWA: In that office. But I am still coming to that, Commissioner, on my statement because I have got more offices throughout KZN. But there is one office in Durban, in Victoria Embankment.

CHAIRPERSON: I am not sure whether that clarifies where your team is based because my sense from the first
10 sentence of paragraph 18 is that you are able to say X team is based at such a place and Y team is based at such a place. So that is why I want to have an idea of where your team is based. Are you able to say? I am not asking about, you are referring to several offices that you have. I am not asking about that. I want to know where your team is based.

BRIGADIER NYUSWA: I have an office in Durban, in Victoria Embankment.

CHAIRPERSON: Is it your office that determines where the
20 team is based?

BRIGADIER NYUSWA: Yes, Chair. I do not know if I understand the comment.

CHAIRPERSON: Let us read your first sentence. Let us read paragraph 18.

“It was not unusual for the Provincial

Commanders to be based at the provincial office, although the preference is to be based where your team is based.”

So that last part, where your team is based, gives me the distinct impression that you are able to say that a team is based at such and such a place. Do you follow me thus far?

BRIGADIER NYUSWA: I follow you, Commissioner.

10 **CHAIRPERSON**: Yes, yes. Now, and you say once the two Brigadiers who competed for the provincial headship with General Senona, once they had retired ...[intervenes].

BRIGADIER NYUSWA: Yes.

CHAIRPERSON: Their replacements were then placed where their teams were based. Am I correct thus far?

BRIGADIER NYUSWA: You are correct, Commissioner.

CHAIRPERSON: Yes, yes.

BRIGADIER NYUSWA: So all those teams, sorry to come in ...[intervenes].

20 **CHAIRPERSON**: Yes.

BRIGADIER NYUSWA: All those teams are based in Durban, but not in the provincial office.

CHAIRPERSON: They are based in Durban?

BRIGADIER NYUSWA: Yes.

CHAIRPERSON: Oh, all right. So, and you say your team,

you say your team is based where?

BRIGADIER NYUSWA: I have got one team that is also in Durban.

CHAIRPERSON: In Durban?

BRIGADIER NYUSWA: Yes.

CHAIRPERSON: All right. Does that mean you have another team elsewhere?

BRIGADIER NYUSWA: Yes, Commissioner, but I was still talking.

10 **CHAIRPERSON**: All right, all right, I will leave it. Thank you. Thank you, Brigadier. I think you were to start at paragraph 19.

BRIGADIER NYUSWA: -:

20 “In September or October 23, a prominent businessman from KwaDukuza was kidnapped. Captain Enoch was the investigating officer and Lieutenant Colonel Govender was the head of the tracing team. The members worked on this case. At some point, I realized that I was not kept up to date with the progress of the investigation. I called Captain Enoch ...”

He is now a Lieutenant Colonel, that is why I keep

on mistaking.

“... the investigating officer and I enquired why I was not being updated, and he told me that the team was reporting direct to the General Senona. I told him that I still expected to be kept informed even if they were reporting to General Senona. Following the investigation, two
10 Mozambican nationals and a policeman were arrested relating to kidnapping. One of the suspects was Mr Nangy. The NPA took the decision to withdraw the case against the suspect and lodged a complaint to the DPCI head office regarding the manner in which the investigation was handled. General Senona, Lieutenant Colonel Govender, other members, and I were charged for
20 misconduct, and the disciplinary proceedings are not yet finalized. Apart from the above disciplinary action and the precautionary suspension relating to Port Shepstone, I do not have any other disciplinary

matters.”

CHAIRPERSON: What were you charged with in connection with the kidnapping investigations?

BRIGADIER NYUSWA: The misconduct was that we failed to manage the case. As a result of that, it was withdrawn by the NPA, because the NPA also wrote a letter, a complaint to the head office stating the reason why the matter was withdrawn.

CHAIRPERSON: Yes, please continue.

10 **BRIGADIER NYUSWA:** Thank you.

“Serious Organized Crime section duties as a Provincial Commander. My duties, amongst others, are to ensure that project and major investigations are conducted by Serious Organized Crime sections against identified individuals, so-called high flyers and criminal groupings and syndicates. The Serious Organized Crime section has three sections, namely Serious Organized Crime units, Crimes against the State (CATS), and the Truth and Reconciliation Section (TRC). TRC is staffed by contract workers, members, members that are retired and apply

20

again as contract members. In SOCI
there are three units, namely ...”

I should say sections in SOCI.

“There is a National Priority Violent
Crime (NPVC), South African Narcotic
Enforcement Bureau, SANEB, and
Economic Protected Resources. Each
unit has a Unit Commander and a team
leader. The team leader reports to the
10 Unit Commander, who reports to me as
a Provincial Commander. In KZN there
are five SOCI units. There is one in
Durban, Port Shepstone,
Pietermaritzburg, Richards Bay, and
Newcastle.

SANEB seizure on the 22nd of June
2021. On the 22nd of June 2021, I was
on duty when I received a call from
Warrant Officer Mpangase from the
20 SANEB section. He reports to
Lieutenant Colonel Jacob, who was the
SANEB team leader at the time. He is
now a Unit Commander of the same
unit, Durban. Warrant Officer
Mpangase informed me that he was

contacted by Crime Intelligence regarding suspected drug in a shipping container at Isipingo. He told me that he was attending the operation with Lieutenant Colonel Jacob and Warrant Officer Sibiya. Also, Warrant Officer Sibiya is a member of SOCI, but at the time, for EPR unit. There was nothing unusual about the call, because members will call me about operations that they were busy with or attending to.

10

I am not the direct reporting line for these members. They reported to Colonel Dhlomo, who at the time was a former retiree who had been offered a short-term contract. As stated, Lieutenant Colonel Jacob was the SANEB team leader, but he was also an EPR team leader. Whereas my expertise was murder and robbery and police murders, Lieutenant Colonel Jacob's expertise was drugs investigation. When I joined as a Provincial Commander of SOCI in

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August 2020, Lieutenant Kenneth Jacob was already in SANEB. In fact, he is a former DSO member, and when he came to the police, he was already working at SANEB.

10 In June 2021, we had been working together for 10 months. I relied on him as the SANEB team leader. Drug investigations were not within my area of expertise, and even now. Later that morning, I received ..." [intervenues].

ADV BALOYI SC: Sorry, Brigadier, can you just explain the, or clarify the reporting relationship between Colonel Jacob, yourself, and Colonel Dhlomo, how did it work?

BRIGADIER NYUSWA: Thank you, Commissioners. Colonel Jacob is supposed to report to Colonel Dhlomo, and Colonel Dhlomo will in turn report to me. That is the line.

ADV BALOYI SC: Okay, thank you.

BRIGADIER NYUSWA: -:

20 "Later that morning, I received a call from Lieutenant Colonel Jacob informing me that the team searched a container at Isipingo container depot and found 27 black bags containing bricks suspected to be Cocaine. I told

Colonel Jacob to ensure that all necessary and relevant aids were called to the crime scene. I did not have to tell him this because he is a well-experienced investigator, but it was just something I said at the time during the conversation. Thereafter, I called General Senona to inform him of the discovery, and I told him I will update him.

10

A while later, perhaps shortly after noon, Lieutenant Colonel Jacob called me and told me that the team encountered a problem at Isipingo who would not allow the exhibit to be stored at Isipingo police station. He also told me that he had exhausted all avenues. By this, I understood him to mean that he had contacted the nearby police station to store the exhibit and had been unsuccessful.

20

I told him I will try to find space somewhere, and I will call him back. I contacted Brigadier Maluleka and Colonel Khuzwayo of the Forensic

Science Laboratory in Amanzimtoti to find out if they had space to store the exhibit. I do not recall if I got hold of Brigadier Maluleka or if I did, and he may have told me to call Colonel Khuzwayo, but I do recall speaking to Colonel Khuzwayo that afternoon. I asked her if FSL had the space to store the exhibit, and she said they did not.

10 I was not aware that Lieutenant Colonel Jacob had also called FSL because he did not tell me. He only said that he had exhausted all avenues, and to me, that just meant the local police station.”

ADV KHUMALO SC: Brigadier, where is Colonel Dhlomo in all this process? I understood that in your response to Commissioner Baloyi, you said Colonel Jacob reported to Colonel Dhlomo, but here he is now calling you directly and

20 you are taking all the steps. Where is his immediate supervisor in all this process?

BRIGADIER NYUSWA: I understand, Commissioners. He was at the office, but he was never consulted because I think they felt that he did not know much about the operational matters because he was a retiree coming back

to work again.

ADV KHUMALO SC: What confuses me is you emphasized that you are not the direct line, they do not report to you, they report to Colonel Dhlomo.

BRIGADIER NYUSWA: Yes, ordinarily ...[intervenes].

ADV KHUMALO SC: Now it seems like, it seems like on this matter they did not regard Colonel Dhlomo as somebody they should speak to. You were the, for the purposes of this operation, you were, in fact, the person
10 they reported to.

BRIGADIER NYUSWA: I admit that, Commissioner. I think I am in 31.

“I then remembered that when I was the Unit Commander at Port Shepstone, the premises had two strong room safes. What made the property attractive for the DPCI was that the landlord had informed us that those safes could not be breached.
20 They could only be accessed with the key. I was aware of the security lapse at the premises, such as the alarm not working after loadshedding, but my main focus was the safe that could be used since it was very secure and

could only be accessed with the key. I
was only aware ..." [intervenes].

ADV SEGEELS-NCUBE: Also, I was also aware.

BRIGADIER NYUSWA: -:

"I was also aware that Hashish
compressed dagga was stored in one
of the safes until it was disposed of
without any problem."

Commissioner, I must also mention that this
10 Hashish was from Durban Organized Crime Unit. The
investigating officer then was Captain ...[indistinct], and I
was still a Unit Commander when it was brought.

"In 2018, all Mandrax tablets were
seized at a large clandestine
laboratories in Harding and were stored
in the same safe until exhibit were
disposed of without incident. I called
General Senona and informed him of
the dilemma and suggested a strong
20 room at Port Shepstone premises. He
agreed and instructed me to instruct
the Acting Unit Commander at Port
Shepstone, Lieutenant Colonel
Prinsloo, to prepare the safe for the
exhibit. General Senona also

instructed me to instruct Lieutenant Colonel Prinsloo to get the spare key to the safe from the Supply Chain Management.

10 Thereafter, I called Lieutenant Colonel Prinsloo and instructed him to prepare the safe. I also contacted Lieutenant Colonel Jacob and informed him of the arrangement and told him to liaise with Lieutenant Colonel Prinsloo. General Senona also instructed me to arrange for the provincial tracking team to escort the investigators from Isipingo to Port Shepstone DPCI, SOCI, which I did.

20 A while later, at approximately 15h00 hours, General Senona instructed me to go with him to Isipingo to oversee the operation. I did not think this was untoward because it is a big drug bust and there is senior leadership. He wanted to oversee the operation. We drove with my car and as we were approaching Isipingo, we contacted the team but they informed us that they

were already on their way to Port Shepstone offices. We changed course and headed to Port Shepstone.

Upon arrival, the exhibit had already been placed in the strongroom and I could see that they were still in that 27 black bags. Warrant Officer Mpangase and Sibiya were present. I asked

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Warrant Officer Mpangase why the exhibit were not in the exhibit bags. He informed me that Isipingo SAPS did not have exhibit bags but that the exhibit were entered into the Isipingo SAPS and booked out again. This was

a concern for me because, as an investigator, I knew that the chain of custody must be preserved. However, since I was informed that Warrant Officer Mpangase had remained with the exhibit throughout, the chain of custody was preserved.

20

I accept now that once the team left the crime scene without the exhibit being placed in the exhibit bag, the evidence was already compromised.

However, at the time, I told Warrant Officer Mpangase to ensure that the exhibit are placed in the bag and entered into the SAPS to preserve the integrity of the evidence. The strongroom was locked and General Senona asked that both set of keys, original and spare keys, be given to him. Warrant Officer Mpangase gave both set of keys to General Senona in my presence. At the time, it made sense to me that the Provincial Head should take the keys because this was a big drug bust and who better to have ownership and responsibility over the keys than the Provincial Head, especially since the safe could not be accessed without the keys.

The following day, 23rd of June 2021, General Senona called me and told me to inform Lieutenant Colonel Prinsloo that Warrant Officer Mpangase would be going to the strongroom to take samples of the exhibit. I called Lieutenant Prinsloo and relayed the

message. I was not sure why the sample would be taken because it is not my area of expertise but I knew that Warrant Officer Mpangase as the investigating officer, will have to place the exhibit in the exhibit bag and book the exhibit into the SAP13. I had no further involvement with the exhibit because it was the investigating officer's responsibility to ensure that the exhibits make their way to the FSL and that the investigation is finalized so that the exhibit could be destroyed. In July 2021, my vacation leave was cut short by the widespread civil unrest. General Senona informed me that General Lebeya wanted me to come back to deal with the civil unrest, which I did, given my experience in CATS. I headed the CATS team tasked with identifying the instigators of crime and working closely with the Director of Public Prosecution office. I would give General Senona a regular progress report in the investigation. I was

working with the CATS team on a daily basis. I had very little involvement in other cases at this time.”

I must also add here, Commissioner, that as a result of these cases, the head office also gave us four members from the provinces which were not affected by this civil unrest. We had a Sergeant from Eastern Cape, a Sergeant from Limpopo, a Warrant Officer from Free State, and a Lieutenant Colonel from Northern Cape.

10 These members, they remained in KwaZulu Natal until the latter part of 2023 because these cases were very, very, very hard to solve. It was not like a daily crime that we were solving. We were going through the data, looking at the messages that the people had posted. There were emojis, and us as police officers, we did not know what the interpretation of the emojis.

 I had to go to CSIR, the security section department of them, and ask the head to interpret, to find someone to interpret the emojis, and they assisted us.

20 There were a lot of other things. We had to get the social media experts to give their expert opinion on what data that we had found and we were working very closely with the DPP. And we were reporting on a daily basis to the Provincial, to the National Head. The meeting will start at 4 o'clock, and we would finish whenever we finish. It included

NPA, DPCI, General Detective, as well as Crime Intelligence and we would also get the tasking from that meeting.

10 “The theft. Sometimes late in October 21, while I was on leave, I received a call from Lieutenant Colonel Prinsloo, who informed me that there was an attempted break in at Port Shepstone DPCI premises. For the first time, he voiced concern about the safety of the suspected Cocaine exhibit in the strongroom. Although I was too concerned, I thought the drugs will be safe, because General Senona had the keys, and the safe could not be breached, and certainly not without being detected.”

CHAIRPERSON: What do you mean for the first time, can you just explain that?

20 **BRIGADIER NYUSWA:** Because when I called him the first time to arrange the space, he never raised any concern to me about the security of the building, but when I ...[intervenes].

CHAIRPERSON: Of the building?

BRIGADIER NYUSWA: Of the building, as well as the

safes.

CHAIRPERSON: If I am correct, if I am correct, when he testified, I think he showed us several items of communication in which he communicated that the building was not safe, at least the building.

BRIGADIER NYUSWA: Yes.

CHAIRPERSON: The state of the alarm system, and several other issues around the security of the building and in this regard, he was communicating with the head office in
10 Durban, if my recollection of the testimony is correct.

BRIGADIER NYUSWA: That is correct.

CHAIRPERSON: So your reference to the security of the “building”, is at variance with what he said. And as I say, he actually showed us the items of communication. So your first cannot, subject to what you say, correctly relate to the building.

BRIGADIER NYUSWA: Yes, Commissioner. When I called him the first time, he never raised those concerns, hence I am saying now, when there was this attempted, he then said
20 to me, he is concerned about the safety of the exhibits.

CHAIRPERSON: All right, all right, thank you.

BRIGADIER NYUSWA: I called Lieutenant Colonel Jacob ...[intervenes].

ADV BALOYI SC: Sorry, before you carry on, does that mean, your answer, does it mean you never became aware

that there were concerns, not necessarily relating to these exhibits, but concerns about the security in that building until there was a theft? You never became aware of that?

BRIGADIER NYUSWA: Commissioners, I was aware. The breaches that were there were not directed at the safe, were directed at the offices and the safes are in the very private space. Only members of the DPCI and employees will know where the safes are, not any private person. It was out of sight, and is still out of sight.

10 **ADV BALOYI SC:** Okay, thank you.

ADV SEGEELS-NCUBE: Sorry, Brigadier, so, just to clarify, what you are saying is you knew about the concerns, the safety issues at the time that you suggested the Port Shepstone premises be used to store the drugs.

BRIGADIER NYUSWA: Yes.

ADV SEGEELS-NCUBE: But when you suggested it, and it was approved by General Senona, and you communicated that to Prinsloo, he did not at that stage say to you, but there is a problem with the safety of this premises. That is
20 what you mean?

BRIGADIER NYUSWA: That is what I am trying to make clear.

ADV SEGEELS-NCUBE: Okay, but you were aware of it?

BRIGADIER NYUSWA: I was aware.

ADV BALOYI SC: And then where you say, still in that

paragraph 39, Brigadier, where you say, I too was concerned, I thought the drugs would be safe, because General Senona had the keys, and the safe could not be breached, and certainly not without being detected, it is this last part that I want to understand. When you say, certainly not without being detected, what are you speaking to there?

BRIGADIER NYUSWA: I think I will still come to that, because during my time when I was there, the landlord, there was a space that the state was not renting, and the
10 landlord would come during the working hours, and we will have this talk with him about the safe and everything. He will tell me how secure those safes are, and that those safes can never be accessed without the key.

ADV BALOYI SC: Yes, sorry, what I am trying to understand is when you say without being detected, is it that there was a mechanism about the safe that would raise alarm? When you say it could not be breached without being detected, what would happen that would cause alertness that the safe is being breached?

20 **BRIGADIER NYUSWA:** No, there was no alertness. I concede there is an error on my part.

ADV BALOYI SC: Okay.

BRIGADIER NYUSWA: Thank you.

ADV BALOYI SC: All right, thank you.

CHAIRPERSON: I am not sure that it is clear to me what

you mean by detection. Without being detected, what exactly do you, you may have explained in response to Commissioner Baloyi, but what exactly do you have in mind when you say without being detected?

BRIGADIER NYUSWA: Commissioner, as I said that the safes were out of the public eyes, and only DPCI members and employees will know.

CHAIRPERSON: I hope this will not sound as if I am probing, but seeing that you were aware that there were
10 security concerns about, certainly about the building itself, so that should mean that as a result of those, or rather, concerns stemmed from foreseen possibilities that the building could be broken into. Am I understanding the situation correctly?

BRIGADIER NYUSWA: At that moment, Commissioners ...[intervenes].

CHAIRPERSON: I am talking about the building now, not the safes.

BRIGADIER NYUSWA: Yes, Commissioners.

20 **CHAIRPERSON:** So you agree to ...[intervenes].

BRIGADIER NYUSWA: Ja, I do agree.

CHAIRPERSON: Yes. Now, if some, once somebody had broken into the building, they would then have all the time in the world to explore the building, not so?

BRIGADIER NYUSWA: It is true, Commissioners.

CHAIRPERSON: And in so exploring the building, they could easily, or if not easily, but eventually find the safe or safes, correct?

BRIGADIER NYUSWA: It is true, Commissioners, but also in that building, there are other very important documents.

CHAIRPERSON: Ja, ag, I am just focusing on the safes and your point about ...[intervenes].

BRIGADIER NYUSWA: Detection.

CHAIRPERSON: And your point that it would not be easy
10 to detect the safes. I have just established now, if somebody has broken into the building and once inside, they have time to walk around and that they may eventually find the safes, you have agreed to that.

BRIGADIER NYUSWA: I agree, but also, Commissioner ...[intervenes].

CHAIRPERSON: Yes, yes.

BRIGADIER NYUSWA: I want to add, there were two safes next to one another.

CHAIRPERSON: Yes.

20 **BRIGADIER NYUSWA:** And outside, how will you know which safe contains what?

CHAIRPERSON: Ag, let us just leave it there. Your point was about detection, not any other issues, and I was just engaging you on detection, and you have agreed that eventually, once somebody had broken in, they could find

the safes. I have established that.

BRIGADIER NYUSWA: Thank you, sir.

CHAIRPERSON: Thank you.

ADV SEGEELS-NCUBE: Thank you, Chair. Brigadier, I just want to take it a step further from what Chair is saying. You specifically say that your understanding was that the safe could not be breached and certainly not without being detected, meaning that if it was going to be breached or an attempt was going to be made to breach it, the person
10 would be detected, you would be able to detect them whilst they are in the process of trying to breach the safe without the key, because we want to understand what do you mean in that sentence where you say, the safe could not be breached and certainly not without being detected. So is it they being detected in the process of the breach?

BRIGADIER NYUSWA: Yes, Commissioners.

ADV SEGEELS-NCUBE: So you are saying even if the person makes it to the safe, they would get, you would be able to detect them while they are in the process of trying
20 to breach the safe. We just want to understand what do you mean.

BRIGADIER NYUSWA: No, from now what I have seen, it was not possible.

ADV SEGEELS-NCUBE: It was not possible, what was impossible?

BRIGADIER NYUSWA: It was impossible to detect them, hence I am saying, I concede this is an error.

ADV SEGEELS-NCUBE: Okay, thank you. You may proceed.

BRIGADIER NYUSWA: Thank you, Commissioner.

10 “I called Lieutenant Jacob and told him to speed up the finalisation of the investigation in order for the exhibit to be sent to FSL for destruction. If I recall correctly, Lieutenant Colonel Jacob told me that he went to Amanzimtoti FSL but that they needed more samples. They informed him that they needed more samples and still did not have space for the exhibit. Lieutenant Colonel Jacob also informed me that he contacted FSL in Pretoria to ascertain if they had space but they did not.

20 I also called Major General Senona and informed him about the attempted break in at Port Shepstone DPCI, SOCI. I did this because as a Provincial Head, he needed to know about the security breaches in the

DPCI offices and the fact that he had the keys to the safe. I further told him that I informed Lieutenant Colonel Jacob to speed up the investigation.

The local elections were held on the 1st of November 2021. I was posted in Harry Gwala district to perform election duties in Kokstad. On the 2nd of November 2021, on my way back home,

10

I stopped by the Margate police station and Port Shepstone DPCI offices. At the DPCI offices, I met with Lieutenant Colonel Prinsloo and Lieutenant Colonel Mjali. Lieutenant Colonel Mjali was the new team leader for NPVC at Port Shepstone, appointed in September 2021 from Gauteng province. We had a brief meeting and I left the office. I mention this because I

20

have been informed that General Senona took issue with the fact that Lieutenant Colonel Prinsloo did not mention this meeting during his testimony at the Commission. I am not sure why Lieutenant Colonel Prinsloo

will not have mentioned this meeting or
why not mentioning the meeting is
something of concern.”

CHAIRPERSON: Please re-read that. I do not think you
read what is on there, “I am not sure”.

BRIGADIER NYUSWA: -:

10 “I am not sure why Lieutenant Colonel
Prinsloo would have to mention this
meeting or why not mentioning the
meeting is something of concern. It
was not a significant meeting and I can
only assume that General Senona is
suggesting that there is some
connection to the theft, given that the
meeting occurred a few days before the
theft.”

ADV KHUMALO SC: Sorry Brigadier, can I just understand
this. When you say I have been informed that General
Senona took issue with the fact that Colonel Prinsloo did
20 not mention this meeting, who informed you of this?

BRIGADIER NYUSWA: I was informed by the Evidence
Leaders of the Commission. I myself did not know but
luckily when they asked me, it was on my diary. I gave
them a copy of my diary to say yes, I was there.

ADV KHUMALO SC: So just to be clear, this is not a

discussion you had with General Senona?

BRIGADIER NYUSWA: No, it was not a discussion we had with General Senona and I still do not know how he found out about it because I never told him about my visit to Port Shepstone. The only thing I could say is that if he was not told by Prinsloo, then he was told by Colonel Mjali. But also when you visit the office, there is a register there to sign.

CHAIRPERSON: Seeing that General Senona has this
10 concern and even suspects that this may have something to do with the theft, do you want to tell us what the meeting, the brief meeting was about?

BRIGADIER NYUSWA: Thank you Commissioners. When I went there, Port Shepstone had a problem with CIT robberies, cash in transit robberies, and Colonel Mjali was the new NPVC team leader. I wanted to talk to them because I came from Harry Gwala and Harry Gwala is one of their policing areas. I wanted him and Colonel Prinsloo, because they were having, there is a meeting that we have
20 which is called CIT meeting, cash in transit meeting. We invite the stakeholders and we talk to them. They also assist us in speeding up these cash in transit robbery cases.

So, I wanted them to start engaging the District Commissioners, one, at Harry Gwala, which is the area of

Port Shepstone DPCI, and one at Ugu so that they can sit and find solutions to the problem, because the vehicles were attacked coming from Kokstad on the road to Port Shepstone, especially in the afternoon. And that happened and it really decreased the number of CIT in Port Shepstone for a while.

And also, we discussed about the manpower. It is also in my diary, but I said human resources, because when I was there, we had staff of about 40, including the support
10 services. But then, in 2021, there were less than 20. And Koos was, Koos is Lieutenant Colonel Prinsloo. I call him by first name because we work with him. I met him when he was a Warrant Officer in 2004.

So he expressed concern about the personnel that they do not have members, and I said I will look into that if they are posts available, but they must also try and recruit members around Port Shepstone to apply into the DPCI, because you cannot just take a person and bringing them. That was the meeting about. As I said, Commissioner,
20 Lieutenant-Colonel Mjali must have informed General Senona of the meeting.

“On the morning of the 8th November 2021, I received a call from Lieutenant Colonel Prinsloo who informed me that the Port Shepstone DPCI office has

been broken into and entry gained through Warrant Officer BJ Pienaar's office. He said that suspected Cocaine exhibit had been stolen and the safe door had been cut by what looked to be a grinder to gain entry to the safe room.

10 I told Lieutenant Colonel Prinsloo to secure the scene, called the local police and LCRC to attend to the crime scene. I called Colonel Jacob and informed him of the theft and I told him to proceed to Port Shepstone since it was his stolen exhibit as the investigating officer of the initial seizure on 22 June 2021."

If I recall, Commissioners, Mpangase was the first investigator and then Jacob also took over immediately in July. So, he was the one that was investigating the matter.

20 "Thereafter, I went to General Senona's office to inform him about the theft and he called the National Head, Lieutenant-General Lebeya, the Provincial Commissioner, Lieutenant-General Mkhwanazi, and the Provincial

Head of Crime Intelligence, Major General Tshika, and informed them of the theft. General Senona instructed me to attend to the scene with him. On our arrival at the crime scene, I contacted Brigadier Sibiya, the District Detective Commander, to inform him of the theft since the theft occurred in his district and he also came to the crime scene. I also called the District Commissioner, Major General Nxamangele to the crime scene because the crime happened in her district.”

She is a female as well.

“On the way to the crime scene, I also contacted the Provincial Crime Scene Management Team as their mandate is to attend to serious and complex crime scenes. Given this was a theft of suspected Cocaine exhibit from the police custody, I considered it to be a serious crime warranting their attendance. This team arrived at the same time as General Senona and me.

Lieutenant Colonel Prinsloo briefed us at the scene and I noticed that Captain Van Wyk from the local Criminal Record Centre was also on the crime scene. Captain Van Wyk did a walk-through with the Provincial Crime Scene Management Team who took over the crime scene and Captain Van Wyk left. I also activated the Provincial Tracking Team but they never arrived. I was informed that they went to town in an attempt to obtain information relating to the theft.

I must state that when I observed the scene, I was shocked that the safe had been breached but more than that, I was sceptical that the safe had been breached by grinding the door. I would have expected the DPCI investigators to have investigated the possibility that the scene was staged and obtain an expert opinion on whether the cuts out that we observed could have indeed resulted in the safe being breached. To date, I am not aware of any such

report being obtained by the
investigators.”

CHAIRPERSON: What was your scepticism based on?

BRIGADIER NYUSWA: I did not get you, Commissioner.

CHAIRPERSON: You were saying that you were sceptical that the safe had been breached by grinding the door. So I am saying, or rather I am asking, what was your scepticism based on? Why were you sceptical?

BRIGADIER NYUSWA: Earlier on, Commissioner, I said
10 that the owner of the, the landlord told us that this safe could never be breached without a key, so that caused my scepticism.

CHAIRPERSON: All right, thank you.

ADV KHUMALO SC: What is your suspicion, because now you leave us guessing. I do not think you have quite answered Chair's question, because you are saying you are sceptical that it could have been breached this way. So you might still be coming to it later, I do not know, but what is your suspicion? Because you say also here that you
20 believe that it was staged.

BRIGADIER NYUSWA: I suspected it to be staged because I was under the impression that those strongroom can never be accessed without a key.

CHAIRPERSON: Had the owner ever explained this view?

BRIGADIER NYUSWA: Yes. He used to come to the

office. We will talk. He was an old man, very friendly.

CHAIRPERSON: Did he explain why he said ...[intervenes].

BRIGADIER NYUSWA: He used to say it is a state of art strongroom. But then I would have expected that this needed to be investigated further so that what the landlord said can be proved or disapproved.

CHAIRPERSON: All right, all right.

ADV KHUMALO SC: Can I ask a more direct question. Is
10 it your suspicion, let me not call it a belief, is it your suspicion that the safe was opened first and the grinding happened after, because reading between the lines, that is what it looks like you are saying here, and I could be wrong, so I need you to clarify that.

BRIGADIER NYUSWA: Commissioners, I am not an expert, hence, I am saying if we can get people who are experts in safes, they can clarify that.

ADV KHUMALO SC: Certainly. Thank you.

BRIGADIER NYUSWA: -:

20 “During the course of the day, there were scheduled interviews for the appointment of Lieutenant Colonel. General Senona and I returned to the office for those interviews as well as scheduled civil unrest virtual meeting

chaired by General Lebeya.”

As I stated, Commissioners, every day we almost had those meetings round about 4 o'clock. And on this day too, there was the scheduled appointment, I mean interviews for Lieutenant Colonels.

10 “To the best of my recollection, the theft docket was given to Brigadier Sibiya because General Senona suggested that General Detective investigate the matter until a final decision is made by senior management.”

ADV SEGEELS-NCUBE: Sorry, Brigadier, can you just tell us what is General Detectives?

BRIGADIER NYUSWA: Okay. General Detectives are Detectives from the SAPS because we are the Hawks and the mother body, what we call the mother body, they have also got General Detectives.

20 **ADV SEGEELS-NCUBE:** So, General Senona had suggested that the Detective from SAPS conduct the investigation, is that ...[intervenes].

BRIGADIER NYUSWA: Initially, yes.

ADV SEGEELS-NCUBE: Initially, okay.

BRIGADIER NYUSWA: Yes.

ADV BALOYI SC: Brigadier Sibiya that you are referring to

here and Jones, were they from the SAPS therefore?

BRIGADIER NYUSWA: Yes, Brigadier Sibiya was the District Commander for Detectives who appointed Sergeant Jones.

ADV BALOYI SC: Okay, thank you.

BRIGADIER NYUSWA: Or Warrant Officer Jones.

10 “Brigadier Sibiya was instructed to appoint a Detective to investigate the matter. I later learned that Warrant Officer Jones was appointed as the investigator. On the 18th of November 2021, I met the then Deputy National Head of the DPCI, Lieutenant General Mosikile and she informed me that the docket had been taken from the Port Shepstone Detective and that it will be assigned to an investigator from the DPCI head office. This meant that the DPCI head office will be investigating

20 the case.”

ADV SEGEELS-NCUBE: Brigadier, in other words, DPCI would be investigating itself?

BRIGADIER NYUSWA: That is correct.

ADV SEGEELS-NCUBE: Okay.

BRIGADIER NYUSWA: -:

“Thereafter, I was introduced to Colonel Mojela and Captain Mashao as the investigating officers. Colonel Mojela used to work with General Senona at Gauteng DPCI. He was subsequently promoted to the rank of a Brigadier and appointed to the same position as me in Northern Cape. I cooperated with the investigators. I was aware that the DPCI members were subjected to polygraph examination as part of the investigation, but I was not called for the polygraph examination.

However, I recall that during that time, I was busy with the civil unrest matters and not involved at all with the Port Shepstone theft investigation. I do not know why I was not subjected to a polygraph test, but I would have taken it if so required and I am still prepared to take the test.”

ADV BALOYI SC: Brigadier, did you, my recollection of General Senona's evidence on the polygraph test is that he requested that all his subordinates be subjected to a

polygraph test. You would have been one of those.

BRIGADIER NYUSWA: That is correct.

ADV BALOYI SC: Did you ever become aware that he made that kind of a general request which would have included you?

BRIGADIER NYUSWA: No, Commissioners.

ADV BALOYI SC: Okay, thank you.

BRIGADIER NYUSWA: -:

10 “My top secret security clearance was
due to expire at the end of September
2023. In June 2023, after the theft, I
applied for the renewal of my top
secret security clearance. The process
involved submitting references, bank
statement, being interviewed by a
vetting officer and undergo a polygraph
test. Although the questioning during
the polygraph examination were not
focused on the Port Shepstone theft,
20 the questions asked relate to whether
you have ever been involved in corrupt
activities, colluded with criminals,
shared information with criminals and
the likes. I passed the polygraph test
and I was issued with my new top

secret clearance certificate in March
2025, as it is evident from my updated
SAP96 ...”

Not 69.

“... attached hereto.”

I think from page ...[intervenes].

CHAIRPERSON: Please repeat that correction.

BRIGADIER NYUSWA: Instead of 69, it is 96.

CHAIRPERSON: Oh, thank you.

10 **BRIGADIER NYUSWA**: From page 20 onwards, but to be
specific, it says SAP96 and then they say security
clearance ...[intervenes].

ADV SEGEELS-NCUBE: Please refer us to the page
number, please do not forget.

BRIGADIER NYUSWA: Page 20, sorry, Commissioners.

ADV SEGEELS-NCUBE: Yes, Brigadier, you can tell us
where you want to refer us to.

BRIGADIER NYUSWA: Okay, it has all my details and then
at the last, there is a security clearance, there is four top
20 secret and then the clearance date is 2025-03-04. That
means that is the date it was issued.

ADV SEGEELS-NCUBE: Thank you.

CHAIRPERSON: Other matters.

BRIGADIER NYUSWA: Thank you, Commissioners.

“During his testimony before the

Commission, Warrant Officer Karl Sander gave evidence regarding his move from SANEB to Supply Chain Management in February 2024. He testified that I was present in the meeting when General Senona informed him of the allegations together with other officials. I was on leave at the time and I was not present at that meeting. I have been informed by the Commission that Warrant Officer Sander has since looked at his diary entry of the day and confirmed that I was not present at the meeting.

Although Warrant Officer Sander was in my section, he reported to Lieutenant Colonel Jacob as the SANEB team leader. I was surprised when I returned from the leave to find that Warrant Officer Sander had been moved to Support Services at the provincial office. General Senona did not consult me on this. General Senona merely informed me on my return from leave that a complaint had

been received regarding Warrant Officer Sander that needed to be investigated.

10 The Commission is in possession of the emails containing the complaint. The email was sent to General Lebeya, who sent the email to General Senona with the instruction to reach out to the complainant, investigate the matter and report back on the progress by the 23rd of February 2024. I am aware that General Senona assigned the complaint to Lieutenant Colonel Mjali to investigate. I will receive progress reports, consider same and submit to General Senona. I know that the NPA sent a letter to the complainant, but the complainant could not be traced.

20 General Senona sent a progress report on the 29th of February 2024, but I do not recall the content of the report. I know that the complainant could not be found.

I assumed that the report will have been to inform General Lebeya that the

complainant could not be traced. However, the investigation continued because these were serious allegations. Prior to the February 2024 complaint, another complaint was received from the office of the DPCI Judge in July 2023 about a certain Captain who used to work at SANEB, but the name of Warrant Officer Sander was not mentioned.

10

The complaint contained the Captain and the complaint was about white members of the KZN DPCI in SANEB and other units working with drug syndicate. Lieutenant Colonel Jacob and Lieutenant Colonel Dwarika were assigned to investigate the complaint, but to date there has not been no outcome. I do not know whether the complaints were genuine or orchestrated.”

20

I must say also I have submitted this report to the Commission. It is a very detailed report with pictures.

ADV KHUMALO SC: Brigadier, what is a DPCI Judge?

BRIGADIER NYUSWA: The DPCI Judge is the Judge that

oversees the DPCI. When members have complained about the conduct of the DPCI members or when the DPCI members felt that there are some interference with their duties, they can report direct to the DPCI Judge.

ADV BALOYI SC: Brigadier, when you say there in the very last sentence that you do not know whether the complaints were genuine or orchestrated attacks, but you also say the last thing you said was you submitted a report with pictures, which is confusing in the light of what you say
10 in that very last sentence. Can you just explain that to me?

BRIGADIER NYUSWA: I say this because this complainant, whenever the report of them, when the investigators tried to reach out to them, they could not find them, but yet they have these complaints.

ADV BALOYI SC: No, I am asking a different question. The report with pictures that you say you have submitted, you say you have submitted them to the Commission?

BRIGADIER NYUSWA: That is correct, Commissioner.

ADV BALOYI SC: That report and pictures, do they bear
20 out the complaint, these allegations against these officers?

BRIGADIER NYUSWA: Yes.

ADV BALOYI SC: They do?

BRIGADIER NYUSWA: That is correct, Commissioner.

ADV BALOYI SC: Okay, thank you.

ADV SEGEELS-NCUBE: Just to clarify, Brigadier, you are

not referring to the report, you are referring to the complaint itself, the complaint itself has pictures. There is no report that has been submitted to the Commission. You gave the Commission the complaint, which contains the pictures.

BRIGADIER NYUSWA: Yes, it was the complaint.

ADV SEGEELS-NCUBE: Yes, there is no report.

BRIGADIER NYUSWA: Report?

ADV SEGEELS-NCUBE: Ja.

BRIGADIER NYUSWA: Okay.

10 **ADV SEGEELS-NCUBE**: No, I am asking because you have given it to us, but there was no report. It was just a complaint with a covering letter from the office of the DPCI Judge.

BRIGADIER NYUSWA: DPCI Judge. I will check, Commissioners.

ADV SEGEELS-NCUBE: Okay, we will clarify it over the tea adjournment.

BRIGADIER NYUSWA: Yes.

CHAIRPERSON: Just ...[intervenes].

20 **BRIGADIER NYUSWA**: Because there were progress reports on that, but I will check.

CHAIRPERSON: Maybe I am missing something, Brigadier. In response to Commissioner Baloyi, you say it appeared as though there was substance in the complaints, but at the same time, you question whether the complaints were

genuine. I have difficulties following that.

BRIGADIER NYUSWA: My take on this is that these complainants were not willing to come forth. Like the one of 2023, the email that he used looked like the email was used for the specific emailing this, and we could not get. We even tried with the DPCI Judge to reach out to them, to the complainant, but to be honest, what is detailed in that complaint, it is very serious allegations.

CHAIRPERSON: I would have thought that there is a
10 difference between the complainants not being traceable and the complaints themselves having substance. I would have thought there is a difference between the two. Now, in answering the question whether there was substance, you seem to suggest a lack of substance because the complainants were not traceable. I still do not get that.

BRIGADIER NYUSWA: Okay. Commissioners ...[intervenes].

CHAIRPERSON: Do you get the distinction I am drawing?

BRIGADIER NYUSWA: Yes, yes. I think the substance
20 was there. The substance was there.

CHAIRPERSON: The substance was there. All right, thank you. Thank you. If that is so, then why question the genuineness? If there was substance, why question the genuineness of the complaints?

BRIGADIER NYUSWA: Maybe I wrote it because of us not

getting hold of them, but there was substance.

CHAIRPERSON: All right, thank you.

BRIGADIER NYUSWA: I will retract the latter part, Commissioners, the genuine, whether the complaints were genuine or orchestrated.

CHAIRPERSON: All right, all right. Oh, so you are basically saying you are withdrawing that part that questions the genuineness.

BRIGADIER NYUSWA: Yes.

10 **CHAIRPERSON:** All right, thank you. Yes, yes.

ADV SEGEELS-NCUBE: Thank you, Chair.

ADV BALOYI SC: Maybe one last question on this. This Captain and the other members, were they removed from their posts? Is there any action that was taken? We know with Warrant Officer Sander that when the complaint was received, he was removed from his position. What happened with these?

BRIGADIER NYUSWA: The Captain was already out of the SANEB and he was a partner of, while he was in SANEB,
20 was a partner of Warrant Officer Sander.

CHAIRPERSON: And for the record, you say this latter complaint did not concern him, that is Warrant Officer Sander. This, the latter one that we are debating now, you are saying it did not concern Warrant Officer Sander.

BRIGADIER NYUSWA: Commissioner, I would say he was

not mentioned in the report ...[intervenes].

CHAIRPERSON: Yes.

BRIGADIER NYUSWA: In the complaint, but indirectly when you read, you could associate him to that, but his name was never mentioned.

CHAIRPERSON: All right, thank you. Thank you.

ADV BALOYI SC: And the other white members, because you speak of the Captain, and you say the complaint was about white members, were any members in addition to the
10 Captain, and reading between the lines, you say Sander, Warrant Officer Sander as well, but these other white members, were any other members mentioned by name?

BRIGADIER NYUSWA: No, they were never mentioned. The complainant just mentioned one person.

ADV BALOYI SC: Okay, thank you.

ADV SEGEELS-NCUBE: And Brigadier, just to clarify on the progress reports that you were referring to, those progress reports, were they able to verify the allegations made in the complaint?

20 **BRIGADIER NYUSWA:** The matter is being investigated, and the photos of the people, it appeared that some of them, they had previously been investigated by the DPCI for drug trafficking.

ADV SEGEELS-NCUBE: Ja, my question was the complaint that was made, were you able to verify the

allegations in the complaint as part of your investigation to date?

BRIGADIER NYUSWA: Commissioners, at the moment, I cannot answer that question.

ADV SEGEELS-NCUBE: Okay, thank you.

CHAIRPERSON: Please continue, Brigadier.

ADV SEGEELS-NCUBE: Paragraph 55.

BRIGADIER NYUSWA: -:

10 “In March 2025, an information note
was prepared and sent to General
Lebeya. No report back was given on
the main allegation of serious
corruption, but during the course of the
investigation, it was discovered that
Warrant Officer Sander had not
declared his directorship in a shooting
club. He received a verbal warning,
and the matter was closed. To date,
there has been no outcome on the
20 investigation regarding the allegation
of serious corruption. I did not get any
feedback from General Senona
regarding the outcome of Warrant
Officer Sander's matter.
At some point, Warrant Officer Sander

came to me to speak to me about the returning to SOCI. I told him that I will speak to General Senona, who agreed that Warrant Officer Sander could return to SOCI, but not to SANEB. General Senona said Warrant Officer Sander must go to EPR.

10 I communicated this to Warrant Officer Sander as instructed by General Senona, and Warrant Officer Sander was moved from the Support Service to EPR. I reiterate to the Commission that I had nothing to do with the Port Shepstone theft, and I hope that my evidence will be of assistance to the Commission.”

I just want to read further that:

20 “I reiterated that I had nothing to do with the Port Shepstone theft. As testified by Warrant Officer Sander and Lieutenant Colonel Jacob, there is a credible evidence on the identity as to who is behind the theft. I have no association with that person. There was a person that came to Durban

office and gave information about it,
and he was taken to senior officers,
and DPCI investigators were told about
this person. In the hindsight perhaps I
should not have suggested the Port
Shepstone premises, but as a former
Unit Commander, I was confident that
the safe could be accessed with the
keys. Once General Senona took both
10 keys, this gave me the further
assurance that the exhibit would be
safe in the strong room, because the
Provincial Head would be the only
person with both set of keys to secure
the exhibit, so surely the exhibit would
be safe.”

That is my statement, Commissioners, signed
today.

CHAIRPERSON: I have a clarity-seeking question, but
20 perhaps let us take the adjournment now and resume at half
past 11. Let us adjourn.

INQUIRY ADJOURNS

INQUIRY RESUMES

CHAIRPERSON: Perhaps, Brigadier, before putting the
question to you, let me find out from Ms Lee Seegels,

should I ask any questions about the person whose name was not mentioned or should I leave it?

ADV SEGEELS-NCUBE: Chair, you may. My apologies. Chair, you may. I am not sure why the Brigadier did not mention the name, there was no indication given that the name...

CHAIRPERSON: Thank you, thank you. Brigadier, right at the end, you mentioned a person that you appear to suspect to be the person that stole the exhibits in Port Shepstone, 10 but you did not mention that person's name. Who was that person? Or ...[intervenes]

ADV SEGEELS-NCUBE: My apologies, Chair. I thought you were referring to a different person.

CHAIRPERSON: No, no, no. I am talking about what the Brigadier said right at the end ...[intervenes]

ADV SEGEELS-NCUBE: No, Chair, that cannot be mentioned.

CHAIRPERSON: ...so I steer clear of that one?

ADV SEGEELS-NCUBE: Yes, Chair.

20 **CHAIRPERSON:** Thank you. That is why I wanted to find out from you. Please forget my question then, Brigadier.

BRIGADIER NYUSWA: Thank you, Commissioner.

ADV SEGEELS-NCUBE: Thank you, Chair. Chair, I thought you were referring to the Captain whose name he did not mention but appears in his statement, that is what I,

my apologies.

CHAIRPERSON: All right, no problem.

ADV SEGEELS-NCUBE: Brigadier, is there anything else you want to say before we move on to your questions?

BRIGADIER NYUSWA: No, Commissioners.

ADV KHUMALO SC: Can I just ask a question to the evidence leaders? Brigadier appeared to be reading from a document we do not have, can you just clarify whether positively is that part of his statement or how do we deal
10 with it as the Commission?

ADV SEGEELS-NCUBE: He has read it into the record, but it is not part of his statement. It was initially in his statement, it was taken out. He asked for it to be reintroduced, but by the time it was, his statement had already been signed by him. He only noticed after signing that it was not in his statement. So we will just prepare a short supplementary to include that portion.

CHAIRPERSON: That is in order. Thank you.

ADV SEGEELS-NCUBE: Thank you, Chair. Brigadier, I
20 just want to find out from you what happened on the 22nd of June 2021. We know now that when Warrant Officer Mpangase contacts you that morning, you are not his immediate superior, he has bypassed his superior to inform you of the operation that he is going to attend. And in that conversation, he tells you that he is going with Lieutenant

Colonel Jacob, is that correct?

BRIGADIER NYUSWA: That is correct, Commissioners.

ADV SEGEELS-NCUBE: Okay. At that stage, do you give any instructions to them, are you asked to authorise Lieutenant Colonel Jacob's attendance at the scene? What is the conversation between you and Warrant Officer Mpangase?

BRIGADIER NYUSWA: If my recollection serves me correctly, I did not give any instructions. I accepted what
10 they were telling me and I was waiting for the outcome of the investigation.

ADV SEGEELS-NCUBE: I am asking because you will recall that as part of the theft investigation, you had submitted witness statements to the investigating officers at the time. Do you recall that?

BRIGADIER NYUSWA: I do recall, Commissioners.

ADV SEGEELS-NCUBE: If I could ask you to go to, there is an exhibit bundle file in front of you, if you can go to EXHIBIT CJC197.4 and I think it is, in fact, if you can rather
20 go to 597, that is page 597 of the exhibit bundle.

CHAIRPERSON: What is written on the spine?

ADV SEGEELS-NCUBE: It is, it says Port Shepstone exhibit bundle, Chair, it should be the first bundle. I am working from the electronic version so I am not sure in hard copy if it is the first or the second exhibit bundle. CJC243.

It is file 2, Exhibit Bundle file 2.

BRIGADIER NYUSWA: File 2?

ADV SEGEELS-NCUBE: Yes. Do you have it? It is page 597 of that bundle.

BRIGADIER NYUSWA: Yes, Commissioners.

ADV SEGEELS-NCUBE: It is a statement by you.

BRIGADIER NYUSWA: Yes, it was a further statement.

ADV SEGEELS-NCUBE: Yes. And if we go to 598, we will see that it was deposited to on the 10th of May 2022.

10 **BRIGADIER NYUSWA**: Yes, Commissioners.

ADV SEGEELS-NCUBE: Okay. Now, you say at 597:

“On the 11th of April 2022, I had a meeting with Colonel Mojela, my initial statement that I submitted on the house breaking matter at Port Shepstone Serious Organised Crime offices. Colonel Mojela requested that I give a further statement clarifying the following: Communication between myself, Colonel Jacob and Warrant Officer Mpangase on the day of the seizure.”

20

I want you to skip the one, two, three bullet points. The sentence immediately after the third bullet, which says:

“Who was the Unit Commander in...”

Do you see that bullet?

“Who was the Unit Commander in Durban
Serious Organised Crime?”

BRIGADIER NYUSWA: Okay.

ADV SEGEELS-NCUBE: Then it says:

“Colonel Mhlongo was the acting Unit
Commander.”

The next bullet says:

“Colonel Jacob was called back from
leave...”

10 Do you see that topic?

BRIGADIER NYUSWA: Yes.

ADV SEGEELS-NCUBE:

“When Warrant Officer Mpangase called me
in the morning about the information, he
told me that Crime Intelligence wanted
Colonel Jacob to handle the matter
because of trust issues. I then authorised
Colonel Jacob to resume his duties,
especially for the said operation as he was
20 on leave.”

Do you recall making that statement?

BRIGADIER NYUSWA: I recall making the statement now.

ADV SEGEELS-NCUBE: Now, in your statement and
before the commission, you do not give that much detail.
You just say on page nine of your statement, in fact, you

deal with the call with Warrant Officer Mpangase at paragraph 26 on page 8, and you just say:

“I was on duty when I received a call from Warrant Officer Mpangase. He reported to Colonel Jacob, who was the SANAB team leader at the time. Warrant Officer Mpangase informed me that he was contacted by Crime Intelligence regarding suspected drugs in a container at Isipingo.

10 He told me that he was attending the operation with Colonel Jacob and Warrant Officer Sibiya, who was at EPR.”

Now, you do not say here that you authorised Colonel Jacob to come from leave in order to attend to this.

BRIGADIER NYUSWA: Yes.

ADV SEGEELS-NCUBE: So can you just clarify what happened, in fact?

BRIGADIER NYUSWA: Thank you. I, this was a further statement because they wanted further clarity as to why

20 Colonel Jacob. And then, I remember that he was on leave. Because when I submitted my initial statement, that was not in my mind. And then when they asked me questions, it is then that I remembered that he was on leave, not that I wanted to hide anything and I think in his statement, too, he has put that he was on leave and he came back.

ADV SEGEELS-NCUBE: Yes, but your statement to the Commission, that is what I am trying to establish.

BRIGADIER NYUSWA: Okay.

ADV SEGEELS-NCUBE: In that statement, you do not say that. So I just want to understand whether you were in fact told by Warrant Officer Mpangase that Crime Intelligence Officer that contacted specifically wanted Colonel Jacob on this operation.

BRIGADIER NYUSWA: No, they did. Mpangase did tell me
10 that.

ADV SEGEELS-NCUBE: Okay, he did tell you that, that is what Crime Intelligence had requested specifically?

BRIGADIER NYUSWA: Yes.

ADV SEGEELS-NCUBE: Okay.

BRIGADIER NYUSWA: Because I can also add to that, you know, these operational officers, they tend to have certain people they want to work with, the Crime Intelligence handlers, as well as the investigators. You will see that in most cases, there is a Colonel Beukes from Crime
20 Intelligence. He will always ask for Carl. And the others, I think it is a trust issue.

ADV SEGEELS-NCUBE: Okay, so there was nothing untoward about that request when Warrant Officer Mpangase told you about it?

BRIGADIER NYUSWA: No, I did not see anything

untoward.

ADV SEGEELS-NCUBE: And you were not aware that Colonel Jacob was on leave at the time until Warrant Officer Mpangase told you?

BRIGADIER NYUSWA: No, I were not because I did not sign his leave form, the SAP26. The leave form is normally signed by the immediate commander. At my level, I only sign for the Unit Commanders.

ADV SEGEELS-NCUBE: Okay, so insofar as then
10 approving for him to go on to the operation, to come back from leave, would his Unit Commander not also have to be involved in that decision-making?

BRIGADIER NYUSWA: I have explained the difficulties we had with the current commander, hence it looked like we were not regarding her, because she was not ofay of the operational issues.

ADV SEGEELS-NCUBE: Okay, but when it is told to you that somebody specific is asking for Lieutenant Colonel Jacob to be taken from leave, put on this operation
20 specifically, you did not see the need at that stage to just inform the Unit Commander that I have authorised this, that he may go on to the operation?

BRIGADIER NYUSWA: Commissioners, I did not do it. I think it is an oversight on my side, and I agree I should have informed the Colonel.

ADV SEGEELS-NCUBE: Because it is the same complaint that you have about General Senona going over your head directly to your members without informing you, is it not?

BRIGADIER NYUSWA: Yes.

ADV SEGEELS-NCUBE: Okay. Now, did you ask anything insofar or make any enquiries as to why they were sending Sibiya with him? I think it was the Captain at that stage, or Warrant Officer.

BRIGADIER NYUSWA: It was Warrant Officer.

10 **ADV SEGEELS-NCUBE:** Yes, Warrant Officer.

BRIGADIER NYUSWA: No, I did not probe it because normally when we attend crime scene, we include many people. Also, people from different sections, also different departments as well.

ADV SEGEELS-NCUBE: Okay.

BRIGADIER NYUSWA: That would be your Custom, that would be your Harbour Policing, Crime Intelligence.

ADV SEGEELS-NCUBE: Okay. What I am trying to establish is that you get told that it is Warrant Officer
20 Mpangase going with Lieutenant Colonel Jacob. He is not the most senior person that is contacting you. One would assume that Colonel Jacob would contact you and say to you, ask to be put back on, to be taken off leave and be authorised to go on to the project, but that does not happen. Then you have somebody like Warrant Officer

Sibiya who does not have any experience, I am assuming at that stage, in drug busts because he is in EPR, correct? It is at the human trafficking section.

BRIGADIER NYUSWA: The Economic Protected Resources.

ADV SEGEELS-NCUBE: Yes, so he is on that. So that does not have anything to do with SANAB or is there a, do they overlap in certain instances?

BRIGADIER NYUSWA: I did not see that as a concern to
10 me because he had to learn because now he is with SANAB anyway.

ADV BALOYI SC: Our understanding of the evidence is he, what do you mean he was with SANAB? EPR is in SANAB.

BRIGADIER NYUSWA: No, no, ma'am. Remember I have testified to say serious organised crime has got three sections. There is NPVC which deals with serious and violent crime cases. There is SANAB which deals with drugs and there is also EPR. Now for them to attend the
20 crime scene and see how the other sections are working, it helps them because when there are promotional posts, a person does not apply within his line of work. They will apply on all these three sections.

ADV BALOYI SC: Yes, I was just clarifying when you say he is with SANAB, as if suggesting that at the time that he

was asked to join this or when he was called in to join this operation, he was a member of SANAB at that point. I just wanted to clarify that he was not SANAB at the time.

BRIGADIER NYUSWA: , he was with EPR.

ADV BALOYI SC: Yes, thank you.

BRIGADIER NYUSWA: Thanks, Commissioners.

ADV SEGEELS-NCUBE: Okay and you then say that you received a call later on from Lieutenant Colonel Jacob. When he called you, was he at the scene, at the crime scene, so at the CHC depot or was he already at Isipingo police station?

BRIGADIER NYUSWA: The first call I received from Colonel Jacob to me, because I was not there, he was at the crime scene reporting the discovery.

ADV SEGEELS-NCUBE: Okay, and you then say you are going to keep, he must keep you updated and then you receive another call from him. The first call that you received, do you recall more or less what time you had received it?

20 **BRIGADIER NYUSWA:** It was early in the morning. I cannot be specific with time.

ADV SEGEELS-NCUBE: Okay. And at that stage, did he mention anything about having contacted FSL to come to the crime scene to assist them with anything?

BRIGADIER NYUSWA: No.

ADV SEGEELS-NCUBE: Okay. When you speak to him again, that is now when he is at the police station. Is that the next time when you speak to him, when he is at the Isipingo police station?

BRIGADIER NYUSWA: Yes.

ADV SEGEELS-NCUBE: When he is at the Isipingo police station, he then tells you that they are there and they are encountering problems with getting the exhibits. I suppose it was that they are struggling to get it to be stored there, or
10 what was his complaint?

BRIGADIER NYUSWA: That they were not allowing him to hand in the exhibit, because there was safety concern.

ADV SEGEELS-NCUBE: Okay. When you say safety concern, what do you mean?

BRIGADIER NYUSWA: That is what he told me. And that also they did not have storage for the amount of exhibit that they were having.

ADV SEGEELS-NCUBE: And he said that is what he gets told when he is at Isipingo?

20 **BRIGADIER NYUSWA:** Yes.

ADV SEGEELS-NCUBE: Okay. And but you say in your statement, he tells you that he has exhausted all avenues.

BRIGADIER NYUSWA: Yes.

ADV SEGEELS-NCUBE: Is that in the same conversation?

BRIGADIER NYUSWA: In the same conversation. Then I

assume that he would have spoken to all the nearest police stations.

ADV SEGEELS-NCUBE: That was an assumption that you made, but you did not actually ask him what he meant by that.

BRIGADIER NYUSWA: No, I did not.

ADV SEGEELS-NCUBE: Okay. So what then makes ...[intervenes]

BRIGADIER NYUSWA: Remember, sorry, evidence leader
10 and Commissioners. I regard Colonel Jacob as a very experienced person and his section has discovered this type of drugs. So when he brings this to me, I assume that he has done all the necessary steps to ensure that he contacted me, because from my experience, it was the first time I am being told that there was no space in the police station. I knew that some police stations will not have space, and then you will go to the next police station and ask if they can accommodate the exhibit. So when he said he has exhausted all the avenues, to me, it told me that he
20 has done everything.

ADV SEGEELS-NCUBE: You say it is the first time that you have heard that there is no space at all the police stations. Did I hear you correctly?

BRIGADIER NYUSWA: It is not the first time. Maybe it is me putting it. It was the first time I was approached as the

Provincial Commander. Because members will, on their own, try and get spaces, and report back to us, to me, or to the management and say, we could not get the space here, but we put the exhibit here.

ADV SEGEELS-NCUBE: Okay, so why do you, at that stage, then contact FSL after you have spoken to him?

BRIGADIER NYUSWA: Because I wanted them to rescue us, to take the exhibits.

ADV SEGEELS-NCUBE: Okay, would you not have thought
10 that when he said he is exhausted all avenues, that that would have included FSL, that he contacted FSL, and FSL also said that they cannot assist?

BRIGADIER NYUSWA: It never came into my mind, hence I called them.

ADV SEGEELS-NCUBE: Okay, and did he tell you that he had also called FSL?

BRIGADIER NYUSWA: No.

ADV SEGEELS-NCUBE: He did not?

BRIGADIER NYUSWA: No.

20 **ADV SEGEELS-NCUBE:** So when you call FSL, you had no knowledge that he had previously called, or earlier that day called FSL?

BRIGADIER NYUSWA: No, if my recollection serves me correct, no.

ADV SEGEELS-NCUBE: Okay. Now, I wanted to just take

you to clarify the time issue, because it is important. If you go to the consolidated statement file, there should be a file that says consolidated statement. It is section 2, and it is the statement of Lieutenant Colonel Prinsloo. Somebody will assist you.

ADV BALOYI SC: Page?

ADV SEGEELS-NCUBE: It is page 14, 14, 1-4, of section 2. Do you have it?

BRIGADIER NYUSWA: Yes.

10 **ADV SEGEELS-NCUBE:** It is paragraph 14, page 14, paragraph E, arrival of the exhibits at the DPCI office on 22 June 2021. Do you have it?

BRIGADIER NYUSWA: Yes.

ADV SEGEELS-NCUBE: Okay. At paragraph 44, this is what Lieutenant Colonel Prinsloo said.

20 “On 22 June 2021, at between 10.00 and 11.00 in the morning, I received a telephone call from Brigadier Nyuswa. He informed me that the provincial tracing team had seized a large quantity of drugs, Cocaine, from a container. He instructed me to make storage available at our offices.”

Now, if Colonel Prinsloo's time is correct, that you told him at 10 or 11 o'clock, then it means that if you instructed him

at 10 and 11 o'clock to already get the premises ready, then Colonel Jacob would have told you earlier that he had exhausted all avenues, and you would have then come up with this plan to go to Port Shepstone.

BRIGADIER NYUSWA: I disagree, Commissioners. I think the timing of, the timeline of Colonel Prinsloo here is wrong. Also, what is also incorrect here, I never communicated that the tracking team, because Jacob is not from the tracking team, tracing team.

10 **ADV SEGEELS-NCUBE:** Okay. And you will recall that when I consulted with you, I did highlight this to you, because it would mean that there was never a conversation with Colonel Jacob about Isipingo not wanting to assist them. It was always the intention that the exhibits were going to go to Port Shepstone, because if at 10 o'clock that arrangement is already made, then everything that follows after that is just staged to explain why it eventually goes to Port Shepstone.

BRIGADIER NYUSWA: Commissioners, Jacob called me
20 from Isipingo. It was after noon, maybe from 12 onwards. Hence I am saying this timeline of Colonel Prinsloo is wrong.

ADV SEGEELS-NCUBE: Okay. I accept that he can be wrong. I just, of course, do need to put it to you. What we do know is that Colonel Jacob called you twice, though. It

is not just the one time when he is at Isipingo. He does call you the morning of the 22nd of June when he is at the scene, as you earlier said.

BRIGADIER NYUSWA: Yes.

ADV SEGEELS-NCUBE: Okay. But you are saying that you could not have called Prinsloo at 10 or 11 o'clock to arrange the premises.

BRIGADIER NYUSWA: No, it is impossible, Commissioners.

10 **ADV SEGEELS-NCUBE:** You would have only called him after you called FSL?

BRIGADIER NYUSWA: Yes.

ADV SEGEELS-NCUBE: Okay. And we know that, according to you, you called FSL in the afternoon.

BRIGADIER NYUSWA: Yes.

ADV SEGEELS-NCUBE: And Colonel Khuzwayo also confirms from FSL that she received a call in the afternoon.

BRIGADIER NYUSWA: Yes.

20 **ADV SEGEELS-NCUBE:** She does recall that it was from you, but her reason for the call is quite different to yours, and we will get to that. Now, when you make the call to FSL, you say that you only asked about whether they have storage.

BRIGADIER NYUSWA: That is correct.

ADV SEGEELS-NCUBE: Okay. Were you aware of any

request that was made to FSL for your members to be assisted by the FSL members to guide them on how to do sampling, for your members to be guided on how to do sampling by the FSL members?

BRIGADIER NYUSWA: No, Commissioners. I cannot recall that.

ADV SEGEELS-NCUBE: You never had a conversation with anyone at FSL about them sending your members, about sending their members to assist your members with
10 sampling?

BRIGADIER NYUSWA: It would not have been about sampling. You cannot do sampling before you enter the exhibit into the 13, because that means you will be destroying the evidence. It has first to go to the 13, and then you take those samples from the 13 to the FSL, not from the crime scene.

ADV SEGEELS-NCUBE: Now, it is a bit curious as to why when the FSL members testify, what they say is they received a request to go and assist Brigadier Nyuswa's
20 members. They do not say to go and assist SANAB. They say to go and assist Brigadier Nyuswa's members, suggesting that you either called and asked about the sampling, or that somebody used your name and said that they are Brigadier Nyuswa's team, and they needed assistance with sampling.

BRIGADIER NYUSWA: I have heard that testimony, but I do not know how my name come. But my name has been mentioned so many times on this investigation.

ADV SEGEELS-NCUBE: Okay. And when did you then first become aware that there had been sampling done on the exhibits by your team, by your members?

BRIGADIER NYUSWA: The sampling, I think it was done after the storage of the exhibit at Port Shepstone.

ADV SEGEELS-NCUBE: No, my question is, when did you
10 become aware that that sampling was done by your members?

BRIGADIER NYUSWA: It is quite old, but the incident is too long, but it was after the storage.

ADV SEGEELS-NCUBE: Okay.

ADV BALOYI SC: So in paragraph 37, you say on the 23rd of June, you were told by General Senona to inform Colonel Prinsloo that Mpangase would be going to the Strong Room to take samples of the exhibits. So according to your statement, you became aware on the 23rd.

20 **BRIGADIER NYUSWA:** On the 23rd.

ADV BALOYI SC: Yes, the very next day.

BRIGADIER NYUSWA: I am sorry about that, Commissioners, I do not try to distort it.

ADV BALOYI SC: That is all right. It is in your statement.

ADV SEGEELS-NCUBE: So if it was on the 23rd, do you

know if, at that stage, they had registered the exhibits into the SAP13? Because according to you, they cannot do the sampling without first registering into the SAP13.

BRIGADIER NYUSWA: Remember, Commissioners, the exhibits were entered in Isipingo on the 22nd, because the National Instruction also says that they need to be entered into the nearest police station.

ADV SEGEELS-NCUBE: But Brigadier, you are an experienced investigator. You know that that was not the
10 correct procedure that they undertook on that day when they registered it into the SAP13. The exhibits were not in evidence bags, in exhibit bags.

BRIGADIER NYUSWA: Okay. That alone is another issue on its own. But to enter them into the SAP13, to say 541 bricks of suspected Cocaine in 27 bags, that, I was not at Isipingo, but it was done. I was told it was done.

ADV BALOYI SC: But they were also booked out on the same day.

BRIGADIER NYUSWA: And also booked out on the same
20 day.

ADV BALOYI SC: And so on the 23rd of June, they were unaccounted for in any record of the SAPS, because they were booked in Isipingo and then booked out the same day. And on the 23rd, they had not yet been booked into the Port Shepstone SAP13. So at that point, there is no record,

written record, of the SAPS where these exhibits are, as you phone Colonel Prinsloo, that your people are coming to take samples.

BRIGADIER NYUSWA: Ja.

ADV BALOYI SC: Yes.

BRIGADIER NYUSWA: I was following the instruction from my superior to phone Colonel Prinsloo and tell him to expect Mpangase, because he was coming there.

ADV BALOYI SC: Yes. I understand that part, but I think
10 the question that you are being asked is, at that point, they are not in any, their presence in Port Shepstone DPCI are not recorded in any SAP13 or any other document. And you, as an experienced officer, police officer, would, I think the suggestion is, but you would know that taking samples at that point, when these exhibits are not in any record of the SAPS, is irregular or is not proper conduct. Procedure?

BRIGADIER NYUSWA: I, I concede.

ADV BALOYI SC: You concede that?

BRIGADIER NYUSWA: I concede.

20 **ADV BALOYI SC:** That was not proper procedure, what happened here.

BRIGADIER NYUSWA: It was not.

ADV KHUMALO SC: Can I put it differently? Is the correct procedure not that before they were taken to the DPCI offices in Port Shepstone, they should have been booked

into the, excuse me, SAP13 at the Port Shepstone police station, before you even stored them in the safe at the DPCI offices?

BRIGADIER NYUSWA: Correct, Commissioner.

ADV KHUMALO SC: That would have been the correct procedure.

BRIGADIER NYUSWA: That would be the correct procedure.

ADV KHUMALO SC: Because then you could account for
10 their leaving Isipingo and being in Port Shepstone.

BRIGADIER NYUSWA: To Port Shepstone and then to, yes.

ADV KHUMALO SC: So you are reasoning that although the proper chain of custody was not preserved, because Mpangase was in control throughout, you were happy that at least he knew where they were. Because that seems to be your suggestion, or your line of reasoning, that because he knows where they are, then they were not compromised.

BRIGADIER NYUSWA: That is correct, Commissioner.

20 **ADV KHUMALO SC:** But he could compromise them. Why do you think he could not compromise?

BRIGADIER NYUSWA: Commissioners, we work on the trust basis.

ADV SEGEELS-NCUBE: You made a distinction between, I think it was chain of custody and then the chain of

evidence. You say that the custody is that Mpangase's, Warrant Officer Mpangase's, always with the exhibits from the time that they seize it at the scene and so that maintains the chain of custody, correct?

BRIGADIER NYUSWA: Yes, correct.

ADV SEGEELS-NCUBE: But the chain of evidence is a different issue. That is, the evidence is already compromised when they leave there. Because if they do not put it in bags when they leave at the crime scene, you do
10 not know what is happening from the crime scene to the police station where they are going to enter the exhibits, correct?

BRIGADIER NYUSWA: Sometimes it is practically not possible, but I concede.

ADV SEGEELS-NCUBE: In what instances would it be practically not...?

BRIGADIER NYUSWA: When you discover the drugs at the crime scene and you do not have evidence back and then when you get to the police station, that is when you get the
20 bags and pack them. But most cases, when these incidents are occurring, there is multiple people. So the chances of anyone doing something wrong are very minimal.

ADV SEGEELS-NCUBE: Unless they are all acting in concert, they are all in on it.

BRIGADIER NYUSWA: But can people from different

departments work in concert? Someone out there would say, hey, something went wrong.

ADV SEGEELS-NCUBE: But except here, we know that we had Colonel Jacob, Mpangase, who we know was specifically requested by the Crime Intelligence Officer, and they rope in Warrant Officer Sibiya. So it is the three of them, all from the same unit, who leave with the exhibits.

BRIGADIER NYUSWA: I hear you, Commissioners.

ADV SEGEELS-NCUBE: Okay.

10 **ADV KHUMALO SC:** I think the concern, Brigadier, is here you have a team of specifically selected people. You do not have multiple teams that just happen to be on the scene and they are not necessarily friends or in any way associated with each other, other than that they all fall under the umbrella of the SAPS. This is completely different. You have got people who were specifically selected. Two of them say they were selected by the Crime Intelligence Officer, who gave them information, and then Colonel Jacob selected Sibiya. So you have got three
20 people who are involved in this operation. So your reasoning that it is unlikely that anyone would do anything inappropriate when there are multiple players, does not apply in this case.

BRIGADIER NYUSWA: I concede, Commissioners.

ADV BALOYI SC: Yes.

ADV SEGEELS-NCUBE: Thank you, Commissioner.

BRIGADIER NYUSWA: But I was not aware that the other stakeholders were not involved.

ADV BALOYI SC: Yes, can I just raise something that you say in your statement, and it is about this discussion with the evidence leader about the chain of evidence being compromised. In your statement, you say, I accept now. So remember you started off by saying you were satisfied that the chain of custody was preserved because Mpangase
10 was going to remain with the exhibits throughout. And in the next sentence, you say, I accept now that once they left the crime scene without exhibits being placed in exhibit bags, the evidence was already compromised. Surely, as an experienced officer, you would have realised this back then, not now, not later. You would have realised once you became aware...

[Mechanical error – 0:36:32 to 0:37:27]

ADV KHUMALO SC: Advocate Ncube, just to help us with space, because can we please deal with paragraph 44 and
20 45 and 46 of Prinsloo's statement, so that we can put the file away? Because I know you were in 44, but we may need to come back to these two paragraphs.

ADV SEGEELS-NCUBE: Do you want to deal with them, Commissioner?

ADV KHUMALO SC: Maybe he can just comment on the

allegations made there.

ADV SEGEELS-NCUBE: Okay. Brigadier, you still have Colonel Prinsloo's law statement open on page 14?

BRIGADIER NYUSWA: That is correct.

ADV SEGEELS-NCUBE: Yes. At paragraph 44, which is what I had read, he also said:

10 “He instructed me to make storage
 available at our offices. He said he would
 take both sets of the safe keys with him
 once the exhibits were stored in the safe.
 He said the exhibits could not be stored at
 the Amanzimtoti Forensic Science
 Laboratory as it did not have a secure
 storage capacity. I knew that the
 laboratory had been flooded and was
 dysfunctional.”

And then, do you recall that that is the conversation you had with him?

BRIGADIER NYUSWA: [indistinct]...

20 **ADV SEGEELS-NCUBE:** Can you switch on your microphones, please?

BRIGADIER NYUSWA: I apologise.

ADV SEGEELS-NCUBE: And keep them on.

BRIGADIER NYUSWA: Yes, it was about the space, that they did not have the space. I think he just added

something that I did not say there.

ADV SEGEELS-NCUBE: The secure part, secure storage capacity, you say you did not have.

BRIGADIER NYUSWA: Huh-uh, how would I know about the security of the FSL? I am not from there.

ADV SEGEELS-NCUBE: Okay. And then at 45:

10 “During the call, Brigadier Nyuswa did not discuss any other alternatives. He made no mention of any other storage. I know there were Durban police station, Maiden Wharf, or Isipingo police stations, which operated 24 hours. These would have been more secure. Brigadier Nyuswa never mentioned anything about taking the exhibits to Isipingo or booking them at the Isipingo police station.”

Did you have a conversation with him to tell him what Lieutenant Colonel Jacob had told you, that they had gone to Isipingo, they booked it in?

20 **BRIGADIER NYUSWA:** I did, it worries me, why is he putting this here? But anyway, he has said many things that are not correct to the Commission.

ADV SEGEELS-NCUBE: Okay. Yes, it is your opportunity now to correct him.

BRIGADIER NYUSWA: First, about the timeline. Second,

about the human chain, that I was there on the human chain, drinking coffee, that he gave me the keys. Those are all unfounded things. Basically, I was not there when they formed that human chain, because if you know Isipingo, it is a one, that town has got one main road. So when you are in, for you to come out is a mission, because there is a traffic flow. That is what caused us to come very late at Port Shepstone.

ADV SEGEELS-NCUBE: This is you and General Senona?

10 **BRIGADIER NYUSWA:** Yes.

ADV SEGEELS-NCUBE: I do have an issue with that. When General Senona says to you that you must go to oversee the operation, you are on your way to Isipingo police station?

BRIGADIER NYUSWA: That is correct, ja, Commissioners.

ADV SEGEELS-NCUBE: But at that stage, you have already told the members that it must go to Port Shepstone, the exhibits must go to Port Shepstone, and you have already activated the tracking team to assist, correct?

20 **BRIGADIER NYUSWA:** Yes, on instruction of my boss.

ADV SEGEELS-NCUBE: Yes. So when you leave with General Senona to go to Isipingo, why do you not call the members then to find out where they are? Why do you go all the way to Isipingo on the assumption that they are still there? What gave you that impression that they would still

be there, if you had already told them where to go to, that they must go to Port Shepstone, and that a team had been activated to escort them?

BRIGADIER NYUSWA: Commissioners, I would not have an answer because when we were about to enter Isipingo police, that is when we phoned and they told us, no, we have left, we are on our way. And I do not know, I did not know whether he did communicate with them when he came to me to say let us go. We were just driving, and then we
10 phoned and said, where are you guys? They said, no, we are already on our way to Port Shepstone.

ADV SEGEELS-NCUBE: But what were you going to do at Isipingo? Assuming you find them there, they would have been getting ready to leave in any event to go to Port Shepstone, so why would you have gone to Isipingo in the first place?

BRIGADIER NYUSWA: It was instruction from my superior, and I was following that instruction.

ADV SEGEELS-NCUBE: So it is General Senona that says
20 let us go to Isipingo?

BRIGADIER NYUSWA: Yes.

ADV SEGEELS-NCUBE: Had you told him ...[intervenes]

BRIGADIER NYUSWA: He said let us go, but then we went to Isipingo. And then when we were about to enter the police station, we made the call and the members are

saying, no, we already left Isipingo.

ADV SEGEELS-NCUBE: Okay, so you do not know why he wanted you to go to Isipingo, you just went with him?

BRIGADIER NYUSWA: Yes.

ADV SEGEELS-NCUBE: Okay. Did it make sense to you why he would want to go to Isipingo if the members have already been instructed to go to Port Shepstone?

BRIGADIER NYUSWA: I cannot say, but also I did not question.

- 10 **ADV SEGEELS-NCUBE**: I understand and we will deal with the dynamic of the relationship, but it just seems to me that there was no need to go there in the first place. You had already told them to go to Port Shepstone. I cannot think of a reason why the two of the most senior members of the DPCI in that province would go all the way to Isipingo police station, because what do you do when you get there and the members are still there. There is nothing to do. They are getting ready to go to Port Shepstone.

- 20 So the reason why it is important is because the timeline, according to Prinsloo, you were there when the human chain happens, and that means you would have been there earlier, which means that if you left your office to go straight to Port Shepstone, then Prinsloo's timeline matches. But if you say we still detoured to go to Isipingo, then he is out in his timeline. And I am saying it just

sounds implausible that the two of you would go to Isipingo for no particular reason.

BRIGADIER NYUSWA: But we went to Isipingo, Commissioners. That is why we were delayed to get to Port Shepstone.

ADV SEGEELS-NCUBE: Now, I understand that that is what you say, but of course Prinsloo has a different timeline, which puts you at Port Shepstone premises much earlier than what you say. And you say the reason why I
10 could not have been there earlier, was because we first went to Isipingo, and then we had to detour, we had to turn around and go to Port Shepstone.

BRIGADIER NYUSWA: Yes. Commissioners, I think I made a diary entry on that day, and if my memory serves me correctly, I even said there that we first went to Isipingo, and then from Isipingo to Port Shepstone. And that diary entry has the calculations of my kilometres, which I submitted at the end of the month of June to claim my fuel that I used on that day. So...

20 **ADV SEGEELS-NCUBE:** Are you saying that the claim that you made for the fuel would support, the kilometres that you travelled would support your version that you first went to Isipingo, and then detoured?

BRIGADIER NYUSWA: I am sure.

ADV SEGEELS-NCUBE: Okay.

BRIGADIER NYUSWA: It cannot be... I know I have got an entry in the pocketbook, but then when you submit, you also make a copy of that, of the diary, and submit to the police, and they will keep it in the system.

ADV SEGEELS-NCUBE: Okay. Now, when you then eventually get to Port Shepstone, you say you were not part of the human chain.

BRIGADIER NYUSWA: No.

ADV SEGEELS-NCUBE: What do you observe when you
10 arrive at the scene? What are the members doing?

BRIGADIER NYUSWA: The exhibits, being 27 black bags of suspected Cocaine, were already in the safe.

ADV SEGEELS-NCUBE: In the bags, in the black bags?

BRIGADIER NYUSWA: In the black bags.

ADV SEGEELS-NCUBE: Okay.

BRIGADIER NYUSWA: And Lieutenant-Colonel Prinsloo and Mpangase and the members were counting these bags, not counting the bricks, counting the bags.

ADV SEGEELS-NCUBE: They were counting the bags?

20 **BRIGADIER NYUSWA:** Yes.

ADV SEGEELS-NCUBE: Did you know whether they had counted the bricks themselves?

BRIGADIER NYUSWA: No. I think that counting must have been done at Isipingo.

ADV SEGEELS-NCUBE: Okay, so they would have taken

the bricks out of the bags at Isipingo and then put them back in the bags to go to Port Shepstone.

BRIGADIER NYUSWA: Yes.

ADV SEGEELS-NCUBE: And when they get to Port Shepstone, they do not take it out of the bags, they just put the bags like that into the strong room.

BRIGADIER NYUSWA: When I got there, I did not witness that.

ADV SEGEELS-NCUBE: But they told you when you got
10 there that it is 541 bricks.

BRIGADIER NYUSWA: Yes.

ADV SEGEELS-NCUBE: So they would have counted it already?

BRIGADIER NYUSWA: Yes.

ADV SEGEELS-NCUBE: Okay. And that, you say, would have happened at Isipingo?

BRIGADIER NYUSWA: That is correct.

ADV SEGEELS-NCUBE: Had you received any photographs from any team members at that stage of
20 photographs taken at Isipingo police station of the bricks unpacked out of the bags?

BRIGADIER NYUSWA: Normally, when they submit a report, they will attach photos.

ADV SEGEELS-NCUBE: No, I am talking about on that day before you arrived at Port Shepstone. Had you received

any photographs from them, from the members?

BRIGADIER NYUSWA: I cannot recall. But the report, there is a WhatsApp report that the members compile for the success. They will attach photos. And that WhatsApp report, I will send it to the general, and the General will send it to national office.

ADV SEGEELS-NCUBE: What do you mean WhatsApp report? So do they send it on WhatsApp? Do they compile it on WhatsApp?

10 **BRIGADIER NYUSWA:** There is a... the procedure is when there is successes or incidences, you compile a report. And the Unit Commander will send it to me. I will send it to the management group of the DPCI. And then the General will read it. If he is happy with it, he will then send it to the DPCI management group.

ADV SEGEELS-NCUBE: But that did not happen on that day. That happened afterwards. The next day, later that day?

BRIGADIER NYUSWA: Commissioners, I am under oath. I
20 will not lie. I cannot remember.

ADV SEGEELS-NCUBE: I am just trying to establish whether when you got to Port Shepstone, you had seen photographs of the exhibits unpacked, of the bricks unpacked out of the bags. Were there any photographs circulating at that stage?

BRIGADIER NYUSWA: Not on the official WhatsApp group. I do not recall that.

ADV SEGEELS-NCUBE: Okay. Because when it is then, according to you, it is in the bags, you say to Mpangase, he must make sure that he puts them, or it is in the black bags. At the scene at Port Shepstone, you say to Mpangase, he must make sure that the exhibits are put in exhibit bags and registered into the SAP13. Do you recall you saying that?

BRIGADIER NYUSWA: Yes.

10 **ADV SEGEELS-NCUBE:** Okay. Now, at that stage, you did not know that they had already unpacked the drugs. They had piled it up at the Isipingo police station. Fingerprints were on the bricks. None of that you were aware of.

BRIGADIER NYUSWA: No, I knew that they would have unpacked the bags for them to know that there were 541 because you cannot, from the bag, say, because these are 27 bags, it is 541kg.

ADV SEGEELS-NCUBE: And what reason did they give you as to why it was not in exhibit bags?

20 **BRIGADIER NYUSWA:** The reason was that Isipingo did not have sufficient or exhibit bags.

ADV SEGEELS-NCUBE: Only Isipingo, not any other place?

BRIGADIER NYUSWA: No, they only mentioned Isipingo because I also came to know when they were at Port

Shepstone that the exhibits were not sealed in the exhibit bag.

ADV SEGEELS-NCUBE: Okay, so you only get to know when you are there that they did not put it in the sealed bags.

BRIGADIER NYUSWA: That is correct, Commissioners.

ADV SEGEELS-NCUBE: And that is why you then give Mpangase that instruction to do it.

BRIGADIER NYUSWA: Yes, Commissioners.

10 **ADV SEGEELS-NCUBE:** And if you had been aware, what steps would you have taken?

BRIGADIER NYUSWA: I would have asked them to go source the exhibit bags from the nearest police station.

ADV SEGEELS-NCUBE: Okay, even if that police station cannot store the drugs, the exhibits, you would have at least expected them to go and get exhibit bags from those police stations.

BRIGADIER NYUSWA: That is correct.

ADV SEGEELS-NCUBE: Okay. Now, your proposal to
20 General Senona that you must use the Port Shepstone DPCI offices, that occurs after you call FSL and they tell you that they do not have space. And when you give him that suggestion, you say that he agreed with the suggestion and instructs you to then tell Prinsloo to get the premises ready. Do you recall?

BRIGADIER NYUSWA: Yes.

ADV SEGEELS-NCUBE: At that stage, did you inform General Senona of the security lapses at the Port Shepstone premises, or do you know whether he was aware of security issues at those premises?

BRIGADIER NYUSWA: General Senona arrived in KZN in 20 August, and he was fully aware. We even visited all the offices in the province with him.

ADV SEGEELS-NCUBE: Well, there is visiting the offices
10 and then him actually being aware of the state of those offices. I am assuming if he visits the office, unless somebody says to him, this Port Shepstone office does not have working CCTV cameras, the alarm does not work properly after load shedding, he would not know about that unless he is being told. Even if he visits the premises and observes the premises, he is not going to know unless somebody informs him of that.

BRIGADIER NYUSWA: He knew because we were busy
20 with the Supply Chain to get the proper security for the same office.

ADV SEGEELS-NCUBE: When you say we were busy, who are you referring to?

BRIGADIER NYUSWA: It was the Supply Chain management at provincial office and myself, and I was reporting to him.

ADV SEGEELS-NCUBE: And Supply Chain management also reports directly to him?

BRIGADIER NYUSWA: That time we did not have a Brigadier, so they were reporting directly.

ADV SEGEELS-NCUBE: They were reporting directly to?

BRIGADIER NYUSWA: To General Senona.

ADV SEGEELS-NCUBE: Okay, so Supply Chain management is reporting directly to General Senona and you were reporting directly to him about procuring enhanced
10 security measures at Port Shepstone.

BRIGADIER NYUSWA: At Port Shepstone.

ADV SEGEELS-NCUBE: And when was this?

BRIGADIER NYUSWA: During that period, because this date back from 2018, even before I assumed the position in 2020, there were problems with the security at Port Shepstone.

ADV SEGEELS-NCUBE: Yes, I understand that. I want to know specifically when were you reporting this to General Senona, that you are in the process of procuring enhanced
20 safety measures at Port Shepstone? When would this have been? Bearing in mind that he joins in August 2020.

BRIGADIER NYUSWA: Remember the first three months when he came and we were briefing him of everything that was taking place? It was during that period, because it was not about the three operational space. It was all the

environments within the DPCI KZN.

ADV SEGEELS-NCUBE: And were these reports in writing, verbally? How were you reporting to him?

BRIGADIER NYUSWA: I cannot confirm now, Commissioners, unfortunately. But for him to say that he was not aware, I would not understand why.

ADV SEGEELS-NCUBE: Who besides you would have been reporting to him about the efforts to get enhanced security at Port Shepstone?

10 **BRIGADIER NYUSWA:** Nobody.

ADV SEGEELS-NCUBE: So it would have only been you. I thought you said Supply Chain management was also involved.

BRIGADIER NYUSWA: Oh, ja, yes, yes, yes.

ADV SEGEELS-NCUBE: And who was at Supply Chain management at that time?

BRIGADIER NYUSWA: It was Captain van Niekerk.

ADV SEGEELS-NCUBE: So Captain van Niekerk would have also reported to General Senona that there is security
20 issues at Port Shepstone and we are in the process of procuring enhanced security there?

BRIGADIER NYUSWA: Yes.

ADV SEGEELS-NCUBE: Okay. And I know you say you cannot recall whether it was in writing or verbally. What was his reaction to those reports from you? Were you just

reporting to him as a matter of course or did he have to take certain action as part of the procurement process?

BRIGADIER NYUSWA: The application was in process and they were... If I remember, the file was going to Port Shepstone and back, queried by the Supply Chain, because at that point Captain van Niekerk was not appointed as a procurement officer, so we relied on the motherboard, the SAPS, which was Colonel Nxumalo. So they would poke holes on the file that this and that must be rectified and it
10 would be sent back. And at some point I remember Captain van Niekerk even volunteered and said the clerk at Port Shepstone must come to the office so they can go to the Supply Chain and find out exactly what do they want.

ADV SEGEELS-NCUBE: Would General Senona have to sign off on the application? What was the purpose of involving him, of reporting to him?

BRIGADIER NYUSWA: The 585 form need to be signed.

ADV SEGEELS-NCUBE: By him?

BRIGADIER NYUSWA: The committee would sit and then
20 we all signed.

ADV SEGEELS-NCUBE: Including General Senona?

BRIGADIER NYUSWA: Yes, he would have signed, but I cannot recall if that happened.

ADV SEGEELS-NCUBE: You cannot recall if he signed or you cannot recall if that process happened?

BRIGADIER NYUSWA: The process happened.

ADV SEGEELS-NCUBE: Okay, so according to you, how far did that process go of securing the enhanced security at the premises?

BRIGADIER NYUSWA: Commissioners, I must say even now we are still in limbo on that. Because when finally Captain van Niekerk got the authorisation to be a procurement office, last year we did the application and when everything was done, it was finalised, I think it was
10 February and we submitted the application, but it was not financed because the head office of DPCI Finance said there was no money, and that application is going to be redone this year.

And but what has happened, the acting National Head advertised the post for security guards for the same office, and interviews have been conducted. Those people might be appointed in July or August this year. So at least there will be some people in that office, while we are also doing the CCTV and biometric entrance to the office, which
20 might take some time.

ADV SEGEELS-NCUBE: Okay, now, you say that you based your decision to recommend the Port Shepstone premises on the fact that you were the Unit Commander and you were based at that premises, correct? That was part of it.

BRIGADIER NYUSWA: The suggestion.

ADV SEGEELS-NCUBE: Yes.

BRIGADIER NYUSWA: Yes, which could have been approved or not approved.

ADV SEGEELS-NCUBE: Yes, of course. But, I mean, if you are giving a suggestion to General Senona, who would presumably trust your judgement being that you were the Unit Commander and stationed at that premises, what other suggestion, why would not he accept your suggestion?

10 **ADV KHUMALO SC:** Especially because you did not provide any other alternative. This was your only suggestion.

BRIGADIER NYUSWA: That is correct, Commissioners.

ADV SEGEELS-NCUBE: Yes, so you have not answered our question because you say it could have been accepted or rejected. But why would he reject it?

BRIGADIER NYUSWA: If he had other alternatives, so we both did not have.

ADV SEGEELS-NCUBE: But what, I do not think I fully
20 understand what you are saying.

ADV KHUMALO SC: Because you did not provide him other alternatives, you only provided Port Shepstone DPCI offices as the proposal or as the suggestion. What reason would he have for rejecting your proposal or your suggestion, if there were no other alternatives presented to

him?

BRIGADIER NYUSWA: No, I hear that. It was because previously you have stored drugs there with no problems.

ADV SEGEELS-NCUBE: And you told him that when you made the suggestion?

BRIGADIER NYUSWA: Yes, I did.

ADV SEGEELS-NCUBE: Okay. And you told him about the safes, the two strong rooms?

BRIGADIER NYUSWA: Yes.

10 **ADV SEGEELS-NCUBE**: Okay. Did you tell him about your knowledge that you had, based on your conversations, as you say, with the landlord, that those safes could not be breached and could only be accessed with the keys?

BRIGADIER NYUSWA: No, I did not tell him that.

ADV SEGEELS-NCUBE: Okay.

ADV KHUMALO SC: I wanted him to respond to Paragraph 46 more directly. Advocate Ncube, if you were coming to that, I would rather wait for you.

ADV SEGEELS-NCUBE: We can do Paragraph 46. Of
20 Prinsloo's statement on page 14, are you there? Do you still have it open, Brigadier?

BRIGADIER NYUSWA: That is correct, Commissioners.

ADV SEGEELS-NCUBE: It says:

“Brigadier Nyuswa was obviously aware of
the storage capacity of the safes. Equally,

he was aware of the vulnerability of the DPCI office and the fact that there was no active security. He would have been aware of the security applications I referred to above, the latest one being in January 2021.”

And then on the next page:

10 “He would have also been aware of the factual report I gave to him and also the number of burglaries which had been at the office. It was not my place to second-guess Brigadier Nyuswa's decision and commands. Put differently, I could not question his decision or second-guess him or his commands, I have to respect and follow them, which I did.”

Do you want to comment on that? Especially his comments about there being no active security, your knowledge of that, and the application in January 2021.

20 **BRIGADIER NYUSWA:** I knew about the application and the security, but I trusted that the drugs would be safe there. And it was not the intention that the drugs would stay long.

ADV SEGEELS-NCUBE: Why do you say it was not the intention for it to stay long?

BRIGADIER NYUSWA: Normally, you do not keep drugs for a long time in a place, because then when the investigation is complete, they need to be moved to the lab for destruction.

ADV SEGEELS-NCUBE: I know that is certainly the intention, but the evidence that we have heard is that drugs can be stored at a police station storage for more than a year before it gets moved to FSL. And even when it is moved to FSL, it also stays there for quite a long time
10 before it is destructed. You must have been aware of that.

BRIGADIER NYUSWA: I was aware. But I trusted the security of the safes, that the drugs would be safe at Port Shepstone.

ADV KHUMALO SC: Can I ask you this? You and General Senona, you were travelling from Durban to Isipingo. Where were you travelling from when you first went to Isipingo and later Port Shepstone?

BRIGADIER NYUSWA: May you please repeat that?

ADV KHUMALO SC: You and General Senona were
20 travelling together that day.

BRIGADIER NYUSWA: That is correct.

ADV KHUMALO SC: Did you travel from Durban?

BRIGADIER NYUSWA: From our provincial office.

ADV KHUMALO SC: Which is in Durban?

BRIGADIER NYUSWA: Which is in Durban.

ADV KHUMALO SC: Yes, so why do you have difficulty with me asking if you are travelling from Durban? Did you enquire from other police stations in Durban whether they have capacity to store 540 kilograms of prohibited substances?

BRIGADIER NYUSWA: I did not, Commissioners, because already Jacob, Colonel Jacob told me he exhausted all the avenues.

ADV KHUMALO SC: But did he tell you that he called
10 stations in Durban and they confirmed that they do not have storage?

BRIGADIER NYUSWA: I took it when he said he has exhausted all avenues, as an experienced drug investigator, he would have done that.

ADV KHUMALO SC: But did he tell you that?

BRIGADIER NYUSWA: No.

ADV KHUMALO SC: Or did you assume that he did?

BRIGADIER NYUSWA: I assumed that he did.

ADV KHUMALO SC: And you never bothered to ask him?

20 **BRIGADIER NYUSWA:** No, I did not ask him.

ADV KHUMALO SC: The reason I am asking you is what paragraph 46 says is that you were aware of storage capacity of the safes, meaning all the safes, because if you read the paragraph that precedes that, 45, line 2, it says:

“I know there were Durban police station,

Maiden Wharf or Isipingo, which operated 24 hours. They would have been more secure. Brigadier Nyuswa never mentioned anything about taking exhibits...”

So we have read this one. But reading 45 and 46 together, Prinsloo seems to be suggesting that you were aware of the storage capacity and the security in all the stations that he is referring to here. Now, when Jacob says to you they do not have storage in Isipingo, you do not bother to say, have
10 you checked Durban? Because I know that Durban does have storage capacity, and it is also secure.

BRIGADIER NYUSWA: Commissioner, I will say it is an oversight on my side. I trusted the Colonel, and I did not follow that.

ADV KHUMALO SC: So you will accept that as an oversight?

BRIGADIER NYUSWA: It is an oversight.

ADV KHUMALO SC: Thank you.

ADV BALOYI SC: Brigadier, why did you not phone
20 Pretoria FSL? You say you phoned Amanzimtoti. Why did you not phone Pretoria?

BRIGADIER NYUSWA: It never came into my mind, because we wanted a place where we can store them now.

ADV BALOYI SC: Yes, I do, even if one accepts and allows for, you had to make a recommendation at the time,

because you are told that they have to be moved from Isipingo, or they can be stored in Isipingo. I understand that. You needed to move them at that time, and Amanzimtoti would have been the nearest for you, FSL. But you have made a recommendation for them to be stored at a place which is ordinarily not a place that you would store exhibits. It is not a police station. So you had time, after you had made the suggestion for them to be placed at Port Shepstone DPCI, beyond that, you still had the opportunity
10 to contact Pretoria.

BRIGADIER NYUSWA: Commissioners, as I stated in my affidavit, in July, my whole focus was taken off the normal investigation. Now I had to focus on the civil unrest matters, which kept me busy. And I thought the IO and the provincial head would do the necessary, because they can see how busy I was.

ADV BALOYI SC: So what you are saying, read with your statement, paragraph 37, should we understand it to mean beyond the 23rd of June you did not have any further
20 involvement until in October when you were told about the suspected?

BRIGADIER NYUSWA: That is correct.

ADV BALOYI SC: Is that what happened?

BRIGADIER NYUSWA: Yes.

ADV BALOYI SC: Thank you.

ADV SEGEELS-NCUBE: Thank you. I think you can put the consolidated statement file away for now. Now, insofar as the information from the landlord is concerned, that what he told you is that the safe cannot be breached, was there anyone else that he had given that information to, or was it just you that he told that at the time? The landlord, which is the father that you are referring to.

BRIGADIER NYUSWA: Ja. You know, me and the landlord, we used to talk a lot. I am not too sure.

10 **ADV SEGEELS-NCUBE:** You are not sure if he would have told anybody else, you do not know.

BRIGADIER NYUSWA: Yes. Hence I am saying, it would be good if there was an expert called, so that what the landlord told me can be disapproved.

ADV SEGEELS-NCUBE: Do you know if, did you tell anyone else prior to the theft, did you tell anyone else that the landlord had told you that the safe cannot be breached except with the keys?

BRIGADIER NYUSWA: No, I never told anyone this thing.

20 **ADV SEGEELS-NCUBE:** You did not tell anyone?

BRIGADIER NYUSWA: No.

ADV SEGEELS-NCUBE: Okay, so it is really only you, it is your word that we have to take that the landlord told you that because the landlord, the person that told you, passed away.

BRIGADIER NYUSWA: Yes. I do not know about the other Captains that were there before, who retired.

ADV SEGEELS-NCUBE: Which Captains are you referring to?

BRIGADIER NYUSWA: There was once a Captain Myburgh there and the other one, sadly, she just passed on now, Colonel Nzinga. Because it was three of us when we walk into that place.

ADV SEGEELS-NCUBE: At the time when you walked into
10 the place, when you were the Unit Commander?

BRIGADIER NYUSWA: Yes.

ADV SEGEELS-NCUBE: Okay, where was Lieutenant Colonel Prinsloo at that time?

BRIGADIER NYUSWA: He was a Warrant Officer.

ADV SEGEELS-NCUBE: Also at that premises?

BRIGADIER NYUSWA: Yes.

ADV SEGEELS-NCUBE: Okay, and you are not aware if he knows about this information of the landlord?

BRIGADIER NYUSWA: I am not too sure, I am not too
20 sure. But he was junior, and also Prinsloo, he was once a SAP13 clerk for us in the same office.

ADV SEGEELS-NCUBE: Yes, what is the significance of that?

BRIGADIER NYUSWA: I am just mentioning it.

ADV SEGEELS-NCUBE: Okay, so he was in charge of the

safe at some point?

BRIGADIER NYUSWA: At some point.

ADV SEGEELS-NCUBE: Okay, but you do not know if he also knows if the land ...[intervenes]

BRIGADIER NYUSWA: Yes.

ADV SEGEELS-NCUBE: Okay. Now that formed a big part of your reasoning for why you suggested Port Shepstone, is the safe and the information that you were given by the landlord.

10 **BRIGADIER NYUSWA**: Landlord. And I thought the drugs would be safe there.

ADV SEGEELS-NCUBE: And at that stage, the intention was not necessarily for General Senona to take both sets of keys. It would have stayed with the SAP13 clerk, had he not requested the keys.

BRIGADIER NYUSWA: No, he requested the keys, and I was happy with it, because remember, beside the drugs being 27 black bags, there were pieces of bricks. So if anyone had access, would come in and take one, no one
20 would know.

ADV SEGEELS-NCUBE: I am not sure I understand what you are saying, if anyone?

BRIGADIER NYUSWA: If anyone had access to the safe.

ADV SEGEELS-NCUBE: They could have taken it, yes.

BRIGADIER NYUSWA: And no one would know, because it

is 541.

ADV SEGEELS-NCUBE: Okay. And he, does General Senona make the suggestion that he takes the keys before you go to Port Shepstone? Or when does he first bring up the proposal that he take the keys?

BRIGADIER NYUSWA: We were discussing before even phoning Prinsloo, because when he agreed, I also told Prinsloo that we would be taking the keys, and the spare key.

10 **ADV SEGEELS-NCUBE:** Okay. And at that stage, so when you are at the premises now, and the exhibits have been stored, and it gets locked up, General Senona takes the spare key and the original key?

BRIGADIER NYUSWA: That is correct.

ADV SEGEELS-NCUBE: Okay. That seems to be a common cause, that he is in possession of the keys. You then say that he called you the next day, to inform you to inform Prinsloo that Mpangase is coming to, needs access to the safe, to take samples.

20 **BRIGADIER NYUSWA:** That is correct, Commissioners.

ADV SEGEELS-NCUBE: Okay. And how did that process work? Did you, were you involved in that process at all, other than just calling Prinsloo? Or did you just call Prinsloo and that was the end of it?

BRIGADIER NYUSWA: Excuse me. I was not involved, I

was in my office, he called me, and I called Prinsloo. I did not see the keys being given to Warrant Officer Mpangase.

ADV SEGEELS-NCUBE: I think you say that the last that you saw the exhibits was on that day, the 22nd of June.

BRIGADIER NYUSWA: That is correct.

ADV SEGEELS-NCUBE: Okay. And ordinarily, how would it work with these keys, if you wanted to gain access to the safe? So if you required the keys, is there a form that you need to complete, a register, if you want to access the
10 safe?

BRIGADIER NYUSWA: If you take hold of the keys?

ADV SEGEELS-NCUBE: Yes.

BRIGADIER NYUSWA: Normally there is a handing over, which I have seen in the documents here. But that is also completed by the person who is handing over the keys.

ADV SEGEELS-NCUBE: And are you certain that there were only the two sets of keys, so there was not the possibility that someone had made another set of the keys? You are certain that it was only the two?

20 **BRIGADIER NYUSWA:** No, I do not think so.

ADV SEGEELS-NCUBE: It is only the two that you are aware of?

BRIGADIER NYUSWA: I only know about the two.

ADV SEGEELS-NCUBE: Okay. And what is the purpose of the spare key? So I just want you to understand, because

he asks for both sets, so he is asking for the spare and the original. The SAP13 clerk would ordinarily keep the original. What happens with the spare key?

BRIGADIER NYUSWA: I think it was for safety precaution that he does not have a key in Durban and someone also on the other side has got a key.

ADV SEGEELS-NCUBE: No, I am asking ordinarily how would it work. Where's the spare key kept? If it is just with, so the SAP13 clerk has the original, where does the
10 spare...

BRIGADIER NYUSWA: Supply Chain keeps it and it is locked away.

ADV SEGEELS-NCUBE: And that is at the provincial office?

BRIGADIER NYUSWA: No, it is at the accounting station, which is Port Shepstone.

ADV SEGEELS-NCUBE: Okay. Now can we deal with when you next hear about the Port Shepstone premises? That is in October 2021.

20 **ADV KHUMALO SC:** Can I just finish the June before you go to October? And I think Commissioner Baloyi also has a question on June. Brigadier, I want to focus on when you and General Senona now leave Port Shepstone, that afternoon or that evening. I mean, you have already conceded an oversight on your part in not trying to find

alternative space to store these exhibits. The other issue I have with your conduct is what we dealt with earlier this morning, that you are the Provincial Commander. You are at Port Shepstone. You can see that no SAP13 entry is done. You can see that the exhibits are not put in proper exhibit bags and accounted for.

And you are just comfortable leaving things as they are and saying, I have no further part to play in this. Are you not supposed to be responsible for ensuring that your
10 members comply with the prescripts, especially the National Instruction of 2017, and that before you leave Port Shepstone, the exhibits are properly accounted for, they are properly put in proper bags, and they are properly stored? Because according to your evidence, as you left that day, you knew that the prescripts were not being complied with.

BRIGADIER NYUSWA: It is. Hence they were told to come back. Remember we took, the keys were taken. And then the next day they were told to go back and bag the exhibits.

20 **ADV KHUMALO SC:** I did not want to interrupt you. I am talking about the day in question. You are there. You know that the exhibits are there. You know that nobody has gone to Port Shepstone police station. You know that nobody has sourced the exhibit bags to properly store these exhibits. And you leave the Port Shepstone office with that

knowledge, aware that your members have not complied with the prescripts. To say on a later occasion they were told to do it, to me it is not acceptable.

Because if they were supposed to do that, they should have done it on the day. Nothing stopped you from giving an instruction on that day to say go to the Port Shepstone police station, make sure that there is a proper entry at that station. While I am here and I can see that there are no exhibit bags, let me make phone calls to make
 10 sure that proper bags are obtained, these exhibits are properly bagged, and they are done in accordance with the prescripts. At some point, people at your level will have to take responsibility for these things.

BRIGADIER NYUSWA: I hear, Commissioner.

ADV KHUMALO SC: And you accept that you did not ensure that that was done?

BRIGADIER NYUSWA: It was not done, Commissioner.

ADV KHUMALO SC: And is that another oversight on your part?

20 **BRIGADIER NYUSWA:** It will be, Commissioner. But I had my superior with me as well, but I guess it is also another oversight on me.

ADV KHUMALO SC: And what bothers me with DPCI, this happened in 2021, and only now in June 2026 we get told that you have been suspended for your part in all of this. It

seems like DPCI does not take action when prescripts are disregarded and people do not do what they are supposed to do. And that is a general comment to you, you do not need to comment to that, but I thought it is something I should say because I know they are watching and they might, going forward, attend to what I am raising with you. It bothers me that it is five years later and only now they appear to be taking action. Commissioner Baloyi.

ADV BALOYI SC: Brigadier, the keys to the safe, we have
10 heard evidence that there is someone called an exhibits clerk or something.

BRIGADIER NYUSWA: That is correct, Commissioner.

ADV BALOYI SC: Is that correct? So does it mean in this case, and that would be someone at Port Shepstone police station, if things were done properly, that person should have held these keys?

BRIGADIER NYUSWA: No, the keys for Port Shepstone DPCI would be held at Port Shepstone.

ADV BALOYI SC: So they should not be at head office?

20 **BRIGADIER NYUSWA:** No.

ADV BALOYI SC: Okay. And so by taking the keys, General Senona effectively became the exhibits clerk, took the place of the exhibits clerk?

BRIGADIER NYUSWA: Yes.

ADV BALOYI SC: That is what it means?

BRIGADIER NYUSWA: Yes.

ADV BALOYI SC: So this is another area of noncompliance with how things should have been done, that the keys did not remain with the exhibits clerk at Port Shepstone DPCI. You accept that?

BRIGADIER NYUSWA: I accept.

ADV BALOYI SC: Okay. Now these exhibits are in the safe and you all pack up to leave. What instructions were given, if any, about security?

10 **BRIGADIER NYUSWA:** General Senona told Lieutenant Colonel Prinsloo that they must increase patrol and visit the office regularly.

ADV BALOYI SC: Is that all he said? In those general terms, increase patrol, visit the office regularly?

BRIGADIER NYUSWA: Yes.

CHAIRPERSON: As far as ...[intervenes]

BRIGADIER NYUSWA: If I remember correctly.

ADV BALOYI SC: Well, his testimony, I think, is that he said that someone should drive by every two hours. Do you
20 remember anything that is specific? Not that it helps, but do you remember anything that is specific?

BRIGADIER NYUSWA: Commissioners...

ADV BALOYI SC: You do not remember anything that is specific?

BRIGADIER NYUSWA: No.

ADV BALOYI SC: But you say they said they must visit the office and do patrols.

BRIGADIER NYUSWA: Yes. Anyway, the office need to be visited because it was not about, like I said earlier on.

ADV BALOYI SC: Sorry, say that again?

BRIGADIER NYUSWA: The office need to be visited regularly because of other documents that are there and state equipments.

ADV BALOYI SC: But what does it mean, the office must
10 be visited? People go to the office to work. Are you saying...

BRIGADIER NYUSWA: No, even after hours, Commissioner, and they will make entries to say, office check, all in order.

ADV BALOYI SC: So they would do that?

BRIGADIER NYUSWA: Yes.

ADV BALOYI SC: Just go in randomly and say, I came in to check, all in order?

BRIGADIER NYUSWA: Yes, especially in the DPCI or in
20 the detectives environment, there is always people on standby to attend to cases.

ADV BALOYI SC: I am trying to distinguish police officers going in to see if there is anything that needs attention and them going in as if they are security people, they have come to check the security setup. Are you saying in the

normal course, police officers are required to go in and check for security breaches, whether everything security-wise is still in order? You say there is such a requirement?

BRIGADIER NYUSWA: It is a requirement, because when you come to the office, you have got to check the perimeters, check the building, if everything is okay, you will make an OB entry, and then you leave.

ADV BALOYI SC: Is that prescribed anywhere? Or it depends on how officers feel on any one day?

10 **BRIGADIER NYUSWA:** There is a National, not a National, it is a Standing Order, but offhand, I cannot tell you now.

ADV BALOYI SC: And who is responsible for that? So if there is no visit like that, or there is no entry, OB entry that someone did come, checked the perimeter, checked the windows, and checked the doors. If there is no entry that speaks to that, is there any consequence at all? And who does the consequence attach to, if it is a requirement?

BRIGADIER NYUSWA: The Unit Commander, because his function is command and control of the unit. He needs to
20 take actions.

ADV BALOYI SC: And in this case, it would be who? Colonel Prinsloo?

BRIGADIER NYUSWA: Colonel Prinsloo. Because also, when you discipline people, it is a line function. I, at the provincial office, cannot go to the unit and discipline

people.

ADV BALOYI SC: Yes. But you, as a line officer, can discipline Warrant Officer Mpangase for not ensuring that the exhibits were in exhibit bags. It is a question that I was going to ask you much later, but you raise it now.

BRIGADIER NYUSWA: No, it has to be done by the Unit Commander.

ADV BALOYI SC: And you say in this case, who should have done it with respect to Mpangase?

10 **BRIGADIER NYUSWA:** Mmm.

ADV BALOYI SC: Who would have been the Unit Commander?

BRIGADIER NYUSWA: The acting.

CHAIRPERSON: Dlomo?

BRIGADIER NYUSWA: Yes.

ADV BALOYI SC: But Dlomo did not know anything about this operation. You knew about this operation.

BRIGADIER NYUSWA: Yes.

20 **ADV BALOYI SC:** So it would have been you, because on the evidence so far, I think it is Colonel, Dlomo had absolutely no involvement in this operation and knew nothing about it.

BRIGADIER NYUSWA: Yes.

ADV BALOYI SC: So the buck would stop ...[intervenes]

BRIGADIER NYUSWA: It would have been me.

ADV BALOYI SC: The buck would stop with you.

BRIGADIER NYUSWA: Yes.

ADV BALOYI SC: So you were responsible to take action once you saw that Mpangase did not ensure that the exhibits are in exhibit bags when they were left at Port Shepstone.

BRIGADIER NYUSWA: Yes.

ADV BALOYI SC: Okay. And the same, maybe let me ask a different question about Colonel Jacob. We know that
10 from his evidence, and I think you have confirmed it, that he was effectively signed onto duty by Warrant Officer Mpangase because you did not speak to him to get him signed onto duty from his vacation. He is on leave. You and him say Mpangase called you, Warrant Officer Mpangase called you or came to you and told you that the Crime Intelligence contact wanted Jacob onto the job and you approved it. So you signed him onto duty. You approved his coming on duty.

BRIGADIER NYUSWA: I agreed for him to come on duty.

20 **ADV BALOYI SC:** Okay. And you would have been the one that made the entries. So you signed him up. If we look at SAPS documents for the 22nd of June that year, we will find that you record it because we know he never went to the office. We must ...[intervenes]

BRIGADIER NYUSWA: It was the verbal authority,

Commissioners.

ADV BALOYI SC: So there is no record in SAPS that he came on duty that day other than you.

BRIGADIER NYUSWA: Yes, unless himself, he should have booked himself on, on the diary.

ADV BALOYI SC: And when did he book off duty, do you know? And how did he book off duty?

BRIGADIER NYUSWA: When we got to Port Shepstone, he was not there. I was told that he did not go to Port
10 Shepstone.

ADV BALOYI SC: So he did not work the whole day. Can you just explain what that means? Because we have also had evidence, I think it is Colonel Flynn, if I am not mistaken about his title, who said, yes, members can come in, can be called to come on duty. I am told it is General Flynn, I do apologise to him. We have heard that members can be called in to come on duty, even though they are on leave.

But once they have signed in, they are in for the
20 whole day. They have reported for duty that day. That does not seem to have happened here. Can you just explain how it is you considered it appropriate that Colonel Jacob would come on in the way that he did? He does not speak to you, he speaks to Mpangase. Through Mpangase, you say he can come on duty, but he does not stay. He

stays on for a few hours up to Isipingo, and then he leaves, and there is no record that he came on duty and that he knocked off before the end of the day. To me, it seems like an irregularity, another irregularity about what happened on that day.

BRIGADIER NYUSWA: He should have signed his diary, and also, when he was leaving, he was supposed to have told me. But I only found out when I was at Port Shepstone that he was not there.

- 10 **ADV BALOYI SC**: And as the one that authorised him to be on duty and not Dlomo, why did you not ensure that that paperwork was done? And I ask you this because there is a certain disquiet about how he comes on duty and then disappears without there being any record, and it is compounded by how this whole incident plays out eventually. So there is some concern. Speaking for myself, there is some concern and suspicion, as you probably have heard from all the evidence and how we have engaged with witnesses about, in fact, what was going on here. Was this
- 20 a legitimate operation?

And you inadvertently or knowingly would appear to have contributed to the anomalies in how this whole operation played out. And one of the issues is how does he sign up on duty through Mpangase? You do not speak to him. So Mpangase could easily have said to you, have lied

to you, I am going with Jacobs, you would not have known. There is the skipping of General, I think it is General, or Lieutenant Colonel Dlomo. Nobody speaks to her. We have not had any satisfactory explanation for that. Jacobs comes in for a few hours, Jacob, rather, he comes in for a few hours and then he leaves.

So far we have not seen any record that is evidence that he was properly on duty, authorised by his superior. And then things play out the way they did.

10 **BRIGADIER NYUSWA**: Like I said, Commissioner, he should have booked himself on the diary because should anything have happened to him, like if the member meets an accident when he is on duty, the state remains liable to cover the cost and stuff. But then if he did not book himself on duty, the state would not have covered him.

ADV BALOYI SC: Perhaps more importantly, the state would not know what exactly his role was, what did he do in this operation, because there is absolutely no record of it. And my discussion with it is about your role in all of that,
20 that as a superior you do not seek to ensure that he has complied, he does comply with at the very least the recording part of his being on duty and what it is that he has done.

BRIGADIER NYUSWA: Ja, Commissioner, we are not talking about a Constable here. He is a Lieutenant-Colonel,

a very senior person. He knows himself what to do. But I take note of what you are saying to me. But he should also be a responsible senior officer, knowing that when he comes on duty, books himself on duty, there is also an OB entry that is made in the office.

ADV BALOYI SC: I do not doubt that, and he is not the emphasis. His conduct is not so much the emphasis of my discussion with you. It is your conduct as a superior who approved him coming on duty, the failings on your part, that
10 there is no record, there is no consequence of there being no record, him not entering into the book, because you have not done anything about it. It is really that. And if it is a criticism, it is really at this point, a criticism that is directed at you, not him. We have had that conversation with him.

BRIGADIER NYUSWA: Okay.

ADV BALOYI SC: Thank you.

CHAIRPERSON: Do you want to comment on that last part, Brigadier?

BRIGADIER NYUSWA: I accept.

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

CHAIRPERSON: Let us adjourn and resume at ten past two.

INQUIRY ADJOURNS

INQUIRY RESUMES

CHAIRPERSON: Yes, Ms Segeels-Ncube.

ADV SEGEELS-NCUBE: Thank you, Chair. Chair, just before the adjournment, I was going to move on to October 2021. I am not sure if the Commissioners still want to deal with June. Brigadier, you indicated that after June 2021, you then next heard about the Port Shepstone premises, where the exhibits were being kept in October 2021, when Lieutenant Colonel Prinsloo calls you about an attempted break-in at the premises. Is that correct?

10 **BRIGADIER NYUSWA:** It was in October.

ADV SEGEELS-NCUBE: Yes, in October 2021.

BRIGADIER NYUSWA: That is correct.

ADV SEGEELS-NCUBE: And what does he tell you during that conversation about the attempted break-in?

BRIGADIER NYUSWA: I cannot state the exact word, but he said to me there has been an attempted break-in into the office, and he started to have concern about the exhibits.

ADV SEGEELS-NCUBE: Can you just tell us, in relation to where the exhibits were being kept in the strongroom,
20 where was this attempted break-in?

BRIGADIER NYUSWA: No, it was directed at the offices, not at the place where the storerooms were.

ADV SEGEELS-NCUBE: Okay, and was anything taken?

BRIGADIER NYUSWA: No, it was an attempted.

ADV SEGEELS-NCUBE: Okay. And were they able to

enter into the premises, or their attempts did not succeed?

BRIGADIER NYUSWA: As far as I know, they did not enter the premises.

ADV SEGEELS-NCUBE: And how were they attempting to enter the premises?

BRIGADIER NYUSWA: If I am not mistaken, I think the window was broken.

ADV SEGEELS-NCUBE: Do you recall at whose office it was?

10 **BRIGADIER NYUSWA**: No, I cannot, no.

ADV SEGEELS-NCUBE: And you did not go out there to go and look at the premises after that attempted break-in?

BRIGADIER NYUSWA: I was on leave when the call was made to me.

ADV SEGEELS-NCUBE: Okay. We know that when the theft occurred in November, access was gained through Warrant Officer Pienaar's office, correct?

BRIGADIER NYUSWA: That is correct.

ADV SEGEELS-NCUBE: Is this office, or is his office at
20 the same section as where the attempted break-in was attempted?

BRIGADIER NYUSWA: Commissioners, I cannot recall now. I cannot be specific.

ADV SEGEELS-NCUBE: Okay. So when he reports the attempted break-in to you, what he says to you, you say, he

says for the first time at that stage that he has got concerns about the safety of the exhibits, specifically the suspected drugs?

BRIGADIER NYUSWA: Yes.

ADV SEGEELS-NCUBE: And does he make a suggestion as to what should happen now that there has been the attempted break-in?

BRIGADIER NYUSWA: I do not recall, but I called the IO ...[intervenes].

10 **ADV SEGEELS-NCUBE:** No, I am just still on the conversation between you and Colonel Prinsloo.

BRIGADIER NYUSWA: I think he wanted us to move the exhibits.

ADV SEGEELS-NCUBE: You think, or did he say it?

BRIGADIER NYUSWA: I think he said that.

ADV SEGEELS-NCUBE: You think he told you in that conversation that the exhibits must be moved?

BRIGADIER NYUSWA: Yes.

20 **ADV SEGEELS-NCUBE:** Okay. And what was your proposal to him?

BRIGADIER NYUSWA: Hence, I called Jacob. I relayed the message. I told Jacob there has been an attempted break-in, that he must speed up the investigation, meaning that he must finalise and get the exhibit out of Port Shepstone for destruction.

ADV SEGEELS-NCUBE: Okay. I did not understand your evidence to be that the reason why you called Colonel Jacob and made the suggestion about speeding up the investigation so the exhibits can be moved was because it was suggested by Colonel Prinsloo that the exhibits must be moved.

BRIGADIER NYUSWA: Is what?

ADV SEGEELS-NCUBE: I never understood your evidence to be that your discussion with Colonel Jacob, that he must
10 speed up the ...[intervenes].

ADV BALOYI SC: To me, on the basis of your evidence, that things turned in such a way that General Senona became the last person with a say-so over all of this transaction of the drugs, the investigation, what gets to be done. Is that a fair reflection, that he became the in-charge of it?

BRIGADIER NYUSWA: Yes, Commissioner, because he had the keys. And I was busy with – he knew, because I was reporting to him every day of what was going on in the
20 Civil Land Rights matters, and the country was waiting for us to bring results, which we did at the end of the day.

ADV BALOYI SC: Yes. I say so not only because he had the key, but you tell us that on the 23rd, for example, he instructed you to call Colonel Prinsloo and tell him that Mpangase was going to go there to take samples. You

remember that?

BRIGADIER NYUSWA: Yes.

ADV BALOYI SC: So from that, it means Mpangase did not come to you to say I need to go and take samples ...[intervenes].

BRIGADIER NYUSWA: No, he did not ...[intervenes].

ADV BALOYI SC: Please arrange for Prinsloo to open for me. In fact, he dealt directly with General Senona.

BRIGADIER NYUSWA: That is true, Commissioners.

10 **ADV BALOYI SC**: And you had no role to play there. If that is so, at which point or did you at any point remain to have a say over what happens with these exhibits?

BRIGADIER NYUSWA: Honestly, I cannot recall, Commissioners. Besides that, the only person that was communicating with me was Lieutenant Colonel Prinsloo.

ADV BALOYI SC: Sorry, Lieutenant Colonel?

BRIGADIER NYUSWA: Prinsloo.

ADV BALOYI SC: Yes.

20 **BRIGADIER NYUSWA**: Yes. On October and on the 8th, he was talking to me.

ADV BALOYI SC: Yes. I guess what I am checking with you is what in fact continued to be your role and authority, maybe specifically, what authority did you still have in respect of these exhibits and the investigation and everything else that was happening with it?

BRIGADIER NYUSWA: Absolutely none, Commissioners.

ADV BALOYI SC: Thank you.

ADV SEGEELS-NCUBE: Brigadier, you said that you informed General Senona of the attempted break-in, correct?

BRIGADIER NYUSWA: Yes, I did report to him.

ADV SEGEELS-NCUBE: Why did you inform him of that, of the attempted break-in?

BRIGADIER NYUSWA: He is a Provincial Head and he
10 needs to know of the security breaches in the DPCI offices.

ADV SEGEELS-NCUBE: And in General Senona's statement that he made in the theft investigation, he does not mention that you had informed him about the attempted break-in in October 2021. He just deals with your conversation on the 8th of November 2021, on the day that the theft was discovered. Are you sure that you did inform him of it? And if you did, what was his reaction to you informing him of the attempted break-in?

BRIGADIER NYUSWA: I informed him and I told him what I
20 told Jacob.

ADV SEGEELS-NCUBE: And what did he say?

BRIGADIER NYUSWA: He accepted that.

ADV SEGEELS-NCUBE: He accepted what? Your plan ...[intervenes].

BRIGADIER NYUSWA: My explanation that I told Jacob to

speed up the investigation.

ADV SEGEELS-NCUBE: So you informed him about the attempted break-in. He says, you say, but we have a plan or how does the conversation go? I am trying to understand whether it is just you reporting as a matter of course, or are you looking for direction as to what are we going to do with this, with what has just occurred? What is it that you are looking for from him by informing him of the break-in?

BRIGADIER NYUSWA: In my mind, I thought maybe he will
10 maybe make some attempts to also assist.

ADV SEGEELS-NCUBE: By doing what?

BRIGADIER NYUSWA: To get the exhibit out of Port Shepstone.

ADV SEGEELS-NCUBE: But you do not ask him?

BRIGADIER NYUSWA: No, I did not ask him.

ADV SEGEELS-NCUBE: So he would not know that that is something that you would want him to do, to use his seniority to perhaps get an expedited move to FSL. You do not have the discussion with him, though?

20 **BRIGADIER NYUSWA:** But, Commissioners, he is the Provincial Head, the problem has been tabled before him.

ADV SEGEELS-NCUBE: Yes, I understand that, Brigadier, but it is the same criticism could then be levelled at you as well, when your juniors report something to you, and you make the proposal that you made that, oh, just speed up the

investigation so that the exhibits can be moved. It is also inadequate. So I am just trying to understand why when it is you are being told by your juniors about a problem, and you give either no direction or inadequate direction, you are able to excuse that, but when it comes to General Senona, it seems that you are saying, well, he is the ultimate core, he should have known to make the suggestion. Is that not unfair to say that he should have known at that stage? You are not telling him anything. You are saying to him, effectively, you have got it under control. You are not asking for intervention from him.

BRIGADIER NYUSWA: I do understand your questioning, but I do not want to go back to say that he himself knew what I was busy with. Although I was on leave because of me being tired of what I was doing, just taking a break, I think he should have assisted me.

ADV SEGEELS-NCUBE: Okay. Did you have the kind of working relationship with him where you felt that you could be open with him to make those kind of requests, or was it a situation where you knew that even if you had asked for it, he would not have acceded to your request? I am just trying to understand, because there is now this issue where he is not acknowledging that you reported the attempted break-in to him. You say that you did, but you say you were merely informing him, but then you say you also thought

that he would give direction, but you never really asked him for direction or intervention.

BRIGADIER NYUSWA: Yes, I did not ask for direction.

ADV SEGEELS-NCUBE: So the reporting was just to let him know that it happened?

BRIGADIER NYUSWA: Yes.

ADV SEGEELS-NCUBE: Okay, and there was nothing further that he needed to do from your side, other than if he had proactively suggested something?

10 **BRIGADIER NYUSWA**: But as my superior, I would think that when something like this is reported to him, he should assist.

ADV SEGEELS-NCUBE: Okay, and also in your mind, that assistance would not have been enhanced security, it would have been for him to use his seniority to move the exhibits to FSL?

BRIGADIER NYUSWA: Yes.

ADV SEGEELS-NCUBE: So, when Jacob then tells you that he did speak to FSL and they do not have capacity, did
20 you think of going back then to General Senona and say, my plan is actually not going to work because FSL says that they still do not have capacity?

BRIGADIER NYUSWA: Commissioners, I will not lie there. I cannot remember.

ADV SEGEELS-NCUBE: You cannot remember?

BRIGADIER NYUSWA: Yes.

ADV SEGEELS-NCUBE: Let me just understand, you cannot remember going back to General Senona?

BRIGADIER NYUSWA: Yes.

ADV SEGEELS-NCUBE: Okay. Now, after that, Jacob does not report back to you about whether – so he says to you that they do not have space, they still do not have space, and he mentions this thing about taking additional bricks for sampling.

10 **BRIGADIER NYUSWA:** Yes.

ADV SEGEELS-NCUBE: What did you understand him to mean by that, about the additional bricks? And can you recall what exactly, or more or less what he said to you in that conversation?

BRIGADIER NYUSWA: For taking additional samples?

ADV SEGEELS-NCUBE: Yes. Did he say why he needed to do it?

BRIGADIER NYUSWA: Apparently, the samples that were forwarded earlier on, I think they were flooded, but I also
20 think the FSL should have told us in good time, so that that exercise can be done speedily.

ADV SEGEELS-NCUBE: It was not – so we do not know when it was flooded, but at that stage he did not know anything about it being flooded, even if it was. His reasoning at that stage was that FSL had told him that they

would need additional bricks in order to do the analysis, so the weight of the bricks, and to do the additional sampling. Did he mention any of that to you?

BRIGADIER NYUSWA: I remember, but it was not in detail like you are putting it, Advocate, but he told me that they needed additional samples.

ADV SEGEELS-NCUBE: Okay, and did he tell you whether there was a plan in place to obtain that additional samples and who would be taking those additional samples?

10 **BRIGADIER NYUSWA**: No.

ADV SEGEELS-NCUBE: You just assumed because he is experienced, it would be dealt with in the correct manner?

BRIGADIER NYUSWA: Yes, speedily.

ADV SEGEELS-NCUBE: Notwithstanding that up until that point, they had not really been doing anything by the book, in any event?

BRIGADIER NYUSWA: Yes.

ADV SEGEELS-NCUBE: Okay. So, after that, you are back on your regular duties dealing with the civil unrest?

20 **BRIGADIER NYUSWA**: That is correct.

ADV SEGEELS-NCUBE: And you next get involved when you get a report from Colonel Prinsloo that the exhibits have been stolen, there has been a break-in?

BRIGADIER NYUSWA: Remember there were elections, we were all posted to work on election duties ...[intervenes].

ADV SEGEELS-NCUBE: Yes, but ...[intervenes].

BRIGADIER NYUSWA: When I came back, then I continued with the civil unrest matters, and on the 8th in the morning, Lieutenant Colonel Prinsloo called me and told me that there has been a break-in.

ADV SEGEELS-NCUBE: Okay, and then you say that you speak to Colonel Jacob, tell him that he must go, because he is the Investigating officer related to the exhibits themselves, right? The seizure of the exhibits.

10 **BRIGADIER NYUSWA**: Yes, correct.

ADV SEGEELS-NCUBE: So, he needs to go there, and then there are other people that you also contact, but ultimately you and General Senona go to the scene at Port Shepstone?

BRIGADIER NYUSWA: Yes, correct.

ADV SEGEELS-NCUBE: Okay. And when you arrived at the scene, there were already investigators present from General Detectives. You said that you called Brigadier Sibiya?

20 **BRIGADIER NYUSWA**: Yes, I called Brigadier Sibiya, and General Nxamangele, the District Commissioner.

ADV SEGEELS-NCUBE: Okay. So, as you say in your statement, it was a shock to you that the safe had been breached, and when you looked at it and you saw the cutouts, that was a shock to you that it seemed that the

safe had been breached by grinding it?

BRIGADIER NYUSWA: Yes.

ADV SEGEELS-NCUBE: Okay. I do not see anywhere in any of your statements as part of the theft investigation, where you mention that you had been told by the landlord that the safe cannot be breached in that manner, and can only be accessed with the keys. Did you ever disclose that information during the theft investigation?

BRIGADIER NYUSWA: I never disclosed that, and you
10 know, I was also shocked whether the information I had was correct or not. But now that I was preparing for my notices, I said let me just say it, but I do not know whether it worked or not.

ADV SEGEELS-NCUBE: But it would seem to me to be a very important aspect of an investigation, because if indeed that is what you had been told, then there could be a possibility that the scene had been staged, and that is something that the investigators should know, and for them to investigate that angle as well, the possibility that the
20 scene had been staged and that the safe had actually been accessed with the key. Do you not think that would have been important for the investigators to know?

BRIGADIER NYUSWA: I think so, but you know, honestly, those investigators never sat with us, me. The only time they would come, like, I gave the statement, and then they

came with a set of questions. It was not like getting to understand, because I am the previous Unit Commander there. Did I know anything, you know? No, there was nothing.

ADV SEGEELS-NCUBE: And by investigators, are you speaking about the DPCI investigators?

BRIGADIER NYUSWA: Yes, the DPCI investigators.

ADV SEGEELS-NCUBE: Had you ever spoken to the General Detective investigators?

10 **ADV SEGEELS-NCUBE**: Remember, the General Detective, I do not know. The period was very short for them to have the docket.

ADV SEGEELS-NCUBE: Yes, but my question is, did you ever speak to them as part of the investigation? Did they ever interview you as part of the investigation before it was taken away from them?

BRIGADIER NYUSWA: No, no. Maybe they were still coming, but the docket was taken away from them.

ADV SEGEELS-NCUBE: Okay, so you only ever spoke to
20 the DPCI investigators? They were the only ones that interviewed you?

BRIGADIER NYUSWA: Yes, correct.

ADV SEGEELS-NCUBE: Okay. And you say that there was not real engagement on the issues. It was more just a question and answer session?

BRIGADIER NYUSWA: Yes.

ADV SEGEELS-NCUBE: Okay, but you are saying that you would have volunteered the information at that stage had you been engaged at that level? Or what is the significance?

BRIGADIER NYUSWA: Yes, I would if people sat with me and asked me about the security features in that office, but that never happened.

ADV SEGEELS-NCUBE: And other than what the landlord
10 told you, were there any observations that you made on the scene, being an investigator yourself, that maybe made you suspicious that it could be a stage scene other than what you knew about what the landlord told you?

BRIGADIER NYUSWA: Commissioners, I have said that I am not an expert, but I was surprised to see what I saw.

ADV SEGEELS-NCUBE: Yes, but your surprise, as I understand from your evidence earlier, was because of what the landlord told you. I am asking about from your observations as an investigator. Is there anything that you
20 observed on the scene that maybe gave you some kind of suspicion that maybe it was staged?

BRIGADIER NYUSWA: At that point, I cannot tell you because I was shocked. I was really shocked.

ADV SEGEELS-NCUBE: Okay. And then those investigators that were at the – so the investigators, the

DPCI investigators were not on the scene on the day that you discovered the theft when you were at the scene, right?

BRIGADIER NYUSWA: No, no, they were not.

ADV SEGEELS-NCUBE: Were any of the General Detectives besides Brigadier Sibiya there? So was Jones there?

BRIGADIER NYUSWA: The District Commissioner was there.

ADV SEGEELS-NCUBE: So it was only Sibiya. None of
10 the investigators who actually investigated the matter were there on the scene on the day that the theft was discovered?

BRIGADIER NYUSWA: I cannot remember. Remember also me and General Senona, we left early because we had scheduled interviews. So they might have come after I have left.

ADV SEGEELS-NCUBE: Okay. You said you had a conversation with General Mosikili, who at the time was the Deputy National Head.

20 **BRIGADIER NYUSWA:** Yes.

ADV SEGEELS-NCUBE: That conversation, during that conversation, she indicated to you that the DPCI Head Office would be investigating the theft.

BRIGADIER NYUSWA: Yes. I think it is also noted in my statement.

ADV SEGEELS-NCUBE: Yes, but you said that General Senona also told you that the General Detective, before that, the General Detectives will investigate until senior management decides, makes a final decision.

BRIGADIER NYUSWA: That was at the crime scene.

ADV SEGEELS-NCUBE: Yes. And then you get told by General Mosikili that it is now going to be investigated by DPCI.

BRIGADIER NYUSWA: Yes.

10 **ADV SEGEELS-NCUBE:** And do you know who from senior management made that decision that it be moved from General Detectives to DPCI?

BRIGADIER NYUSWA: No, I cannot. Maybe General Senona would be able to give light to that.

ADV SEGEELS-NCUBE: You do mention it in your statement, but you do not tell – and you say it is effectively the DPCI is investigating itself. Correct?

BRIGADIER NYUSWA: Yes.

ADV SEGEELS-NCUBE: That is a yes. The DPCI is
20 investigating itself. The Head Office is investigating DPCI.

BRIGADIER NYUSWA: It was the Head Office was investigating the break-in at the DPCI. Yes, I agree with you.

ADV SEGEELS-NCUBE: Okay. And in your opinion, while you were in agreement with that, I know it was not asked of

you, given your seniority, I assume, but were you in agreement with that decision that DPCI should investigate itself?

BRIGADIER NYUSWA: Commissioners, I cannot oppose the decisions of my superiors.

ADV SEGEELS-NCUBE: Yes, I am asking your personal opinion, not voicing it. I am not suggesting that you should have or had the space to voice it, but sitting now and at the time ...[intervenes].

10 **BRIGADIER NYUSWA**: Maybe they should have mixed people or give it to independent people. Ja.

ADV SEGEELS-NCUBE: So it is not really a concern for you that DPCI was investigating itself, or was it a concern, but you just could not voice it because there was not space for you to do so?

BRIGADIER NYUSWA: That is a tough question.

ADV BALOYI SC: Can I just ask a different question ...[intervenes].

BRIGADIER NYUSWA: It is a really tough one.

20 **ADV BALOYI SC**: Brigadier ...[intervenes].

BRIGADIER NYUSWA: Sorry, ma'am.

ADV BALOYI SC: Carry on. Finish what you are saying.

BRIGADIER NYUSWA: Because now I would be looking at opposing the decision by my senior. So I will go with the decision by them.

ADV BALOYI SC: If you wanted to continue this, I will let you. All right. Brigadier, it is about the – now you are at the crime scene. This is on the 8th of November.

BRIGADIER NYUSWA: On the 8th, yes.

ADV BALOYI SC: You say in paragraph 45:

10 “I must state that when I observed the
 scene, I was shocked that the safe had
 been breached. But more than that, I
 was sceptical that the safe had been
 breached by grinding the door.”

What was your – there and then on the scene, as you looked at it and you are sceptical about what you are seeing, what did you think would have happened here?

BRIGADIER NYUSWA: It was unbelievable if you look at the thickness of the door.

ADV BALOYI SC: Yes.

20 **BRIGADIER NYUSWA:** And although I am not an expert, the mechanism of the safe itself after you know that it cannot be, how did it happen? Maybe it was someone who was working with the safes. I do not know, but I was really shocked.

ADV BALOYI SC: Okay. Did you, and I accept that you are not an expert, and hopefully we will get an expert who can comment on it, but you had been told previously that the door cannot be breached and it necessarily would have

to be opened with a key, right?

BRIGADIER NYUSWA: Yes.

ADV BALOYI SC: Did it cross your mind that a key would have been used to open the door when you were there and then on the scene? Did it cross your mind without suggesting who, as you stood there, without thinking so and so must have opened, looks like may have opened the door because it cannot be breached.

BRIGADIER NYUSWA: It was hard for me to think in that
10 line, Commissioner, because I knew the safe key was in Durban, far away from Port Shepstone.

ADV BALOYI SC: So are you saying you discounted that the key could have been used?

BRIGADIER NYUSWA: Hence I am saying the only people that can tell us are the experts.

ADV BALOYI SC: Well, we know this key was going in and out of General Senona's office. We know that fact. The first time is the 23rd of June. We have heard from other evidence that Mpangase kept taking it in and out. So we
20 know that it did not sit tight in Durban with General Senona. And so I am asking you the question with that context, that we know the 23rd it left Durban and went to Port Shepstone, was used in Port Shepstone.

So it could not be that if you are told, if you had been told by the landlord that this door can only be opened

with a key, it is not capable of being breached, that as you stood there you did not entertain that possibility that someone of our officers may well have opened it if your view or what you had accepted that it was not breachable [sic].

BRIGADIER NYUSWA: Come again, Commissioner?

ADV BALOYI SC: I ask you this question because I want to suggest for your comment that you may not have mentioned to the investigators in your statement, or even
10 there at the scene, you may not have mentioned this conversation with the landlord about the door being unbreachable because you were uncomfortable about the consequences of mentioning it, consequences as in the implication of it.

Because if there and then on the spot, and I think you would have been aware of that, that if there and then on the spot you said but the landlord said this door is not breachable and can only be opened by a key, you were aware of the implications of what you are saying, that you
20 are saying one of your colleagues, including General Senona, must have had something to do with the opening. Do you understand what I am saying?

BRIGADIER NYUSWA: Ja, but I cannot say that, Commissioner.

ADV BALOYI SC: Yes.

BRIGADIER NYUSWA: I cannot.

ADV BALOYI SC: What do you mean you cannot say that?
You ...[intervenes].

BRIGADIER NYUSWA: I cannot say. Yes, the location of the safe and the way things happened, I do suspect that someone within us leaked information.

ADV BALOYI SC: Leaked information about the drugs being there?

BRIGADIER NYUSWA: Yes, I say this because, as I said
10 earlier on, there are two safes. How this suspect will know this is the one.

ADV BALOYI SC: Well, you are not the first one to say it. I think even General Senona, when he testified, he did say that someone, because it was widely known, according to him, members knew that there was this suspected Cocaine in the safe there because it did not become a secret. People knew about it.

So I think that there is no surprise about someone knew and someone shared the information. The question
20 really is, did any of your members have anything to do with the breach itself? Especially considering you are saying that it could only be opened with a key.

BRIGADIER NYUSWA: That is information ...[intervenes].

ADV BALOYI SC: And the suggestion there, maybe let me complete my thought, is it may well be that the door was, in

fact, open. You are talking about it being staged. And my reading of that statement of yours is that the door was open and then the grinding is the staged part because your landlord had told you this can only be opened with a key. So where in your statement you say you thought this must be, this looks like it may well have been staged, the implication of that statement is someone used a key to open it.

BRIGADIER NYUSWA: es. At least if I have the report by
10 the expert, then I can confirm and say yes.

ADV BALOYI SC: Yes.

BRIGADIER NYUSWA: But with me not having it, I am unable.

ADV BALOYI SC: Yes. I know you cannot confirm it as a fact, but what I am trying to get from you is, do you appreciate and understand that when you say it looked like it was staged, remember we know it was, there was – ja, I have to be careful of my English. Is it ground or grinded? Yes, one of those.

20 So when you say you thought it looks like it may have been staged, I am trying to remember there. I do not want to put words in your mouth, Brigadier, because this is quite a serious thing. So I would not want it to be attributed to you unfairly if that is not what you were saying. You say, I would have expected the DPCI investigators to have

investigated the possibility that the scene was staged and obtain an expert opinion on whether the cuts we observed could have indeed resulted in the safe being breached.

So with that statement, it seems, my understanding of your saying that is you do not discount, you did not discount and you do not discount that what it looked like is not in fact what happened, may not be what happened. Someone may well have opened the safe. Is that a fair representation?

10 **BRIGADIER NYUSWA**: Yes.

ADV BALOYI SC: Okay, all right. Thank you.

ADV SEGEELS-NCUBE: Thank you.

ADV KHUMALO SC: Can you just confirm this? I do not want you to speculate. I want you to just say what I observed, this is what it looked like to me. So, and because that is your observation, it may well be wrong. It may well be inconsistent with what actually happened. But from your observation, did it look like the door was opened because there was grinding that resulted in the door being
20 opened? Just your observation, because you are an investigator of many years, 38 years as a policeman, just looking at it, what did it look like to you?

BRIGADIER NYUSWA: Commissioner, I could not believe what I saw there.

ADV KHUMALO SC: Can you answer it in the positive, not

in the negative, please?

BRIGADIER NYUSWA: No, what I saw, I could not believe it. But hence, I do not have anything to back me up. I am unable to confirm with you, Commissioner.

ADV KHUMALO SC: Yes, but you are saying you cannot back it up because you do not have an expert report.

BRIGADIER NYUSWA: Yes.

ADV KHUMALO SC: I am not asking you ...[intervenes].

BRIGADIER NYUSWA: I do not know. Maybe the
10 investigators do have it because in the DPCI also, we work on the need-to-know basis ...[intervenes].

ADV KHUMALO SC: Brigadier, in the interest of time, just focus only on what you observed.

BRIGADIER NYUSWA: Okay.

ADV KHUMALO SC: Not what the experts would say if they had the opportunity to give evidence. I mean, we have heard stories of people coming in here and say, I mean, looking at that chair, it looks to me like somebody used a knife to cut it. That is not normal wear and tear. Now, you
20 are making an observation as a human being.

BRIGADIER NYUSWA: Yes.

ADV KHUMALO SC: That is the sort of information I am expecting from you to say, when I got there and I saw this door, this was my observation.

ADV BALOYI SC: Also, Brigadier, you do not comment as

a normal human being that I am. You are an experienced Detective whose job is to interrogate things that I see at face value when I arrive and I see things. You have better insight from your training and experience. So you are being asked to comment with that in mind, that you are an experienced and quite seriously experienced Detective. And when you see that scene, what do you think? I know you say you are sceptical, but Commissioner Khumalo is asking you to speak more positively. What do you think
10 when you get there when you look at that scene?

BRIGADIER NYUSWA: Maybe a bit of both.

ADV BALOYI SC: Explain.

BRIGADIER NYUSWA: The staging might have been there. Also, if the mechanical, if they had the expert to breach the locking mechanical, could have also be positive that they were able to open. But to me, I still do not believe. I am unable to answer this question. Commissioners, if you may pardon me on this.

ADV BALOYI SC: Okay.

20 **ADV KHUMALO SC**: I notice that you are reluctant to deal with the issue of the key because you are scared that if you respond to Commissioner Baloyi's question, it will create the impression that General Senona either opened the safe or gave somebody the key to open the safe. But there is another possibility here.

With that key going up and down from Durban to Port Shepstone, it is possible that a junior officer could have created another duplicate and that other duplicate could have been used. So do not discount the possibility that somebody actually did open the safe and the grinding happened, as you suspect, simply to stage the scene. Because you seem to be reluctant to associate General Senona ...[intervenes].

BRIGADIER NYUSWA: No, I am not. I am not reluctant. It
 10 is just that if I do not have evidence, I cannot say something and say, I do not want to say it is him. I am saying, but what I saw and what I know from the landlord, I was a bit hesitant as to what exactly transpired.

ADV KHUMALO SC: Thank you.

ADV SEGEELS-NCUBE: Thank you. Brigadier, just to say that you must have entertained the possibility that the scene was staged then and there when you were at the scene because you cannot have it both ways.

You could not have relied on the safe being
 20 impenetrable in order to suggest it as the place where the drug should be kept because you considered it to be that safe. But then when it is breached and you see it being breached without the key, not for a second think that this scene is staged. You must have. It must have crossed your mind. Correct?

BRIGADIER NYUSWA: I hear, Commissioners.

ADV SEGEELS-NCUBE: There is hearing and then there is saying if I am correct or not.

BRIGADIER NYUSWA: Commissioners, please pardon me on this one.

ADV SEGEELS-NCUBE: Okay.

ADV BALOYI SC: Do you have an idea where the door is today?

BRIGADIER NYUSWA: Sorry, Commissioner?

10 **ADV BALOYI SC:** The door, the safe door, do you have an idea whether it has been kept because the investigation is still ongoing or it has been disposed of?

BRIGADIER NYUSWA: You know, I do not know exactly. I was so distanced from this investigation. I really do not know what happened to the door.

ADV BALOYI SC: Can I say that I have the discomfort that on something so serious, where you must appreciate because of the way in which it played and your role in the way it played out, that you appreciate, you must appreciate
20 that you would be one of the people that may be considered suspects as in what was his role, questions being asked about your own involvement in this.

BRIGADIER NYUSWA: Yes.

ADV BALOYI SC: And the concern is notwithstanding that you seem to have played an arm's-length role or assumed

an arm's-length role to how things played out, even after the theft, that you do not know what happened. And there is a lot of, I do not know, I do not know.

BRIGADIER NYUSWA: Yes.

ADV BALOYI SC: And when you ask the question about why did you not mention your suspicion or your scepticism in the investigation, you did not mention it. It creates a disquiet about it, that on something so serious, someone so senior is content, is testifying to say, you know, once this
10 stuff was stolen, I left it to others and nothing more to do with it.

BRIGADIER NYUSWA: Yes, I do understand, Commissioners.

ADV BALOYI SC: You understand that concern?

BRIGADIER NYUSWA: Yes, I do understand.

ADV BALOYI SC: Thank you.

BRIGADIER NYUSWA: But I was not involved.

CHAIRPERSON: My co-Commissioners, and indeed Ms Segeels-Ncube, have touched on this issue. You were of
20 the view that, or rather, you were sceptical, I think that is the word you used, and thought that this was staged, the break, part of the break-in was staged because the lessor, I prefer lessor to landlord, because the lessor had said the safe could not be breached without a key.

Now you have that scepticism, if not suspicion.

Were you afraid of General Senona that you were not direct and voiced your suspicion? And scared of him because you knew that the keys, except for the times that someone else would take them for a while, the keys were otherwise always with him. Were you scared of him, to voice your suspicion? Or for not voicing your suspicion?

BRIGADIER NYUSWA: Commissioners, it was very difficult for me.

CHAIRPERSON: Were you scared of him?

10 **BRIGADIER NYUSWA**: If I say this, then people will say I am suspecting someone, then my life is in danger. Where do I put myself?

CHAIRPERSON: So your mind, I am not sure what to make of that. So, did the thought ever cross your mind, or the thought never cross your mind? I am not saying you suspected him. There is a difference between suspecting him and merely saying but the owner, or rather the owner said this cannot be breached without a key.

BRIGADIER NYUSWA: Ja.

20 **CHAIRPERSON**: I mean, also bear in mind that it is not as if 100% of the time the key was always with General Senona. It would be with other people and apparently for fairly long periods of time. For example, if you go there to properly bag exhibits, that is place them in bags, you are going to be there for a while.

And if you go there to take samples, maybe it will not be as long as when you go there to bag the exhibits. But still, there were times when other people would have the keys for some time. So it would not necessarily be that you are suspecting General Senona. Do you get what I mean?

BRIGADIER NYUSWA: I do understand you, Commissioner.

CHAIRPERSON: So your point about, you know, if you
10 were to raise the suspicion, you would automatically be making General Senona a suspect is not necessarily true. So that takes me back again to my question. Was your failure to mention your suspicion or scepticism because of your fear of General Senona purely because he also handled the key? That does not automatically translate to him being the suspect, no. But was it because you feared him, because of your knowledge of the fact that he kept the key?

BRIGADIER NYUSWA: I think, Commissioners, I should
20 have mentioned this.

CHAIRPERSON: We know that. We know you did not.

BRIGADIER NYUSWA: Yes, I do.

CHAIRPERSON: And perhaps you should have. But I am interested to know what it is that made you not to mention it.

BRIGADIER NYUSWA: I said to the Commissioners that when I got there, from what I have been told and what now I see, I did not know whether I had the right information or not.

CHAIRPERSON: What did you not know exactly? That is, what information might possibly not have been right information? Is it the lessor's information?

BRIGADIER NYUSWA: Information that the safe could not be accessed without ...[intervenes].

10 **CHAIRPERSON**: So you started doubting that?

BRIGADIER NYUSWA: Doubting. Doubting.

CHAIRPERSON: Why are you mentioning that so late in the day?

BRIGADIER NYUSWA: No, but I think I said that earlier on. That even, I think it is Commissioner Khumalo, he asked me where I was. I did mention that.

CHAIRPERSON: Okay, okay. All right, all right. Are you still on this?

ADV SEGEELS-NCUBE: I am going to move to the next
20 topic, Chair. So if you want to continue, you may.

CHAIRPERSON: Okay. Will you be touching on the question of whose instruction it was for the exhibits to be taken to Port Shepstone? Because if you are not, I will ask questions.

ADV SEGEELS-NCUBE: You may ask, Chair.

CHAIRPERSON: Yes. I do not quite see what I am going to engage you on in your latest consolidated statement that you led. But in your 20 page statement, 24, I am sorry, in your 24 page statement you seem to lay some emphasis on this point. I will take you to paragraphs 3.1 and 3.2 of that statement.

There you deny what Colonel Prinsloo says, which is that you instructed him regarding getting the storage facility in Port Shepstone ready for the exhibits. You say
10 that it was not your instruction and that it was General Senona's instruction.

And you make the point in those two paragraphs that all that you did was to make a suggestion to General Senona that the exhibits be taken to Port Shepstone and that it was then General Senona's instruction that the exhibits indeed be taken there. Do you remember saying so in the 24 page statement?

BRIGADIER NYUSWA: Yes.

CHAIRPERSON: Yes.

20 **BRIGADIER NYUSWA:** I am on it.

CHAIRPERSON: Yes. Why is it that you make that sort of emphasis? If you made the suggestion and then the instruction, even if it came from General Senona, it was based on your suggestion, why do you emphasise the distinction between your mere suggestion and then the

instruction coming from General Senona?

BRIGADIER NYUSWA: I said it because when I suggested, he agreed and then it became instruction. Then I was ...[intervenes].

CHAIRPERSON: You are merely the purveyor of an instruction from General Senona?

BRIGADIER NYUSWA: That is what I meant to say.

CHAIRPERSON: Yes, but what is the big difference between the two? You made the suggestion, but for your
10 suggestion there would have not been an instruction from General Senona. So what is the big distinction or difference that you are seeking to draw there?

BRIGADIER NYUSWA: I say this because if he had an alternative, I would have not continued to ask Prinsloo to ...[intervenes].

CHAIRPERSON: If who? If who had an alternative?

BRIGADIER NYUSWA: I mean, my General, if he had an alternative place.

CHAIRPERSON: But now we know that he either did not
20 have or he did not give or he did not suggest any. So it went by your suggestion. Everything went by or in accordance with your suggestion. So what I am trying to establish is why I emphasise the distinction between you merely suggesting and then the instruction coming from the General. What was the big difference there?

BRIGADIER NYUSWA: You know, Commissioners, when I wrote this, I was writing on my own. When I consulted with the Evidence Leaders, they also picked up that. Then that is why they advised me to write this statement.

CHAIRPERSON: Let me just look at paragraph 32 because in the consolidated statement you deal with it at paragraph 32. I just want to see the difference in substance. I am not suggesting that there is not. I see there that you say you made the suggestion and then General Senona agreed and
10 instructed you to instruct Lieutenant Colonel Prinsloo to prepare the safe for the exhibits.

This actually captures what I had in mind, which was the big difference because you made the suggestion, there was an instruction, and you also instructed. So in a sense, it actually captures the point I was making as to where exactly the big difference is and from paragraph 32 of the new statement, it seems there is not really. Do you agree?

BRIGADIER NYUSWA: I agree, Commissioners.

20 **CHAIRPERSON:** Ja.

BRIGADIER NYUSWA: Maybe my use of English, not that I was pushing things away.

CHAIRPERSON: I do not think it is merely the use of English. In so many words, you say I deny Colonel Prinsloo's allegation that I instructed. You even put

instructing, which is the participle, you even put it in inverted commas. So it is a conscious, conscious use of language. I do not think it is a...

BRIGADIER NYUSWA: I am not my mistake, Commissioner.

CHAIRPERSON: All right, all right. Thank you. Yes, Ms Segeels-Ncube.

ADV SEGEELS-NCUBE: Thank you, Chair. Brigadier, do you know, I know Commissioner Baloyi asked you, but do
10 you know where the door is now, if the door is still at the DPCI offices?

BRIGADIER NYUSWA: No, I have been there. I have never seen the door. But maybe I can ask. It is just that now I am put on precautionary suspicion.

ADV SEGEELS-NCUBE: Okay, thank you. If I can just – we have just received some photographs. I just want to discuss with Advocate Sello what she just said.

ADV BALOYI SC: Maybe before the Evidence Leader asks the question, let me ask this last question. When you
20 suggested to General Senona that the exhibits could be placed, can be placed at Port Shepstone DPCI, did you mention to him that that safe was unbreachable and could only be opened with a key?

BRIGADIER NYUSWA: No, Commissioner. I think I was also asked that question, and I never.

ADV BALOYI SC: You never told him that?

BRIGADIER NYUSWA: Yes.

ADV BALOYI SC: Okay, thank you.

ADV SEGEELS-NCUBE: Thank you, Commissioners. We have received some photographs, but we just want to establish if that means the door is still there now, because we have received photographs of the door in place repaired, and we just want to know if it is at the DPCI premises or whether it was done at the time of the theft. We are not
10 sure, but there has been somebody that sent us information to show us what the door looks like now repaired. There is a video as well, but I just need to confirm with the – I think it was the Colonel that sent it to us, whether it is something that he took this morning or not, because we had requested that. So may I just continue with the Brigadier, and then once we have received that confirmation, we can show the recording?

CHAIRPERSON: Please continue, thank you.

ADV SEGEELS-NCUBE: Thank you. Brigadier, we will
20 probably come back to this topic at the end. I just wanted to deal with the other matters that you have in your statement, particularly the issue about Warrant Officer Sander. And you are correct that he has corrected his evidence to the Evidence Leaders that you were not in the meeting in February 2024 when he was placed, when he

was moved, temporarily moved by General Senona to Support Services. He has corrected that and provided us his diary entry, which shows that you were not one of the attendees. What I wanted to find out from you was who was acting in your position as the Provincial Commander when you were on leave at that time?

BRIGADIER NYUSWA: It can only be two. Either Colonel Vilakazi or Colonel Jacob.

ADV SEGEELS-NCUBE: And we know that Colonel Jacob, 10 according to Warrant Officer Sander, was in that meeting. But would you be able to just have a look at it when we adjourn and make sure as to who it was that was acting in your position when you were on leave? Because the letter is addressed to the acting Provincial Commander, so that is why we wanted to know who that would have been at the time. That is the temporary placement letter of Colonel Sander.

BRIGADIER NYUSWA: That means I can maybe make a call to the office and find out.

20 **ADV SEGEELS-NCUBE**: That is fine. You can do that later. So ...[intervenes].

ADV KHUMALO SC: Can he do this? Because I was on that page. Just look at that letter and tell us if you have seen it before or if you have ever handled it. It is in Exhibit File 2 on page 475.

BRIGADIER NYUSWA: File 2.

ADV KHUMALO SC: Port Shepstone Exhibit Bundle, File 2. 475. Did you see that letter, Brigadier?

BRIGADIER NYUSWA: No, I did not, Commissioners.

ADV KHUMALO SC: No, no, but I am saying do you see the letter?

BRIGADIER NYUSWA: I see it now.

ADV KHUMALO SC: Yes. And it was addressed to the Acting Provincial Commander. Do you see that?

10 **BRIGADIER NYUSWA:** Yes.

ADV KHUMALO SC: You say that was not you. You have never seen it before and you never handled this letter.

BRIGADIER NYUSWA: And I was not the Acting Provincial Commander. It should have said the Provincial Commander.

ADV KHUMALO SC: Yes.

BRIGADIER NYUSWA: Yes.

ADV KHUMALO SC: All right, thanks.

ADV SEGEELS-NCUBE: Thank you. So you will enquire as to who was acting in your position at that time?

20 **BRIGADIER NYUSWA:** I would have to.

ADV BALOYI SC: Maybe if you look at the bottom right hand, someone has signed for acknowledgement. I cannot read that name. Does that not assist?

ADV SEGEELS-NCUBE: That would have been Warrant Officer Sander ...[intervenes].

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

ADV SEGEELS-NCUBE: Acknowledging receipt.

ADV BALOYI SC: I see that is the recipient.

ADV SEGEELS-NCUBE: Yes.

ADV BALOYI SC: Thank you.

ADV SEGEELS-NCUBE: Okay. Now, I want us to just deal, I know that you were not present at that meeting, but you say when you came back you found out and you were just notified that Warrant Officer Sander had been moved to
10 Supply Chain Management. Correct?

BRIGADIER NYUSWA: Yes.

ADV SEGEELS-NCUBE: Okay. But you were involved in the investigation of the serious allegations of corruption against him. That flowed from, so there was this letter that placed him on temporary placement at Support Services pending the outcome of an investigation. You did have a role to play in that process. Correct?

BRIGADIER NYUSWA: Yes.

ADV SEGEELS-NCUBE: Okay. And what was your role?

20 **BRIGADIER NYUSWA:** Well, I will receive the progress report from Colonel Mjali and prepare the same for the Provincial Head who will then send it to National Office.

ADV SEGEELS-NCUBE: Okay. Now, I want you to bear in mind that the date of that letter is the 13th of February 2024. And then I want you to go to page 1004 of the Exhibit

Bundle. It should be either in the second or third file.
1004. It is one of the new exhibits.

CHAIRPERSON: You do not know what is on the spine?

BRIGADIER NYUSWA: I think it would say Exhibit Bundle
3, Chair.

CHAIRPERSON: Thank you.

ADV SEGEELS-NCUBE: Or Gavin, I think Gavin Jacob. It
was marked incorrectly, but it is number 3.

CHAIRPERSON: And you said page?

10 **ADV SEGEELS-NCUBE**: 1004.

CHAIRPERSON: Thank you.

ADV SEGEELS-NCUBE: It is EXHIBIT CJC282. Do you
have it, Brigadier?

BRIGADIER NYUSWA: That is correct, Commissioners.

ADV SEGEELS-NCUBE: Okay. We have redacted the
email, but this is the email correspondence, and you will
see at the foot of 1003 there is an email from General
Lebeya on the 5th of February 2024 at 18:26 to General
Senona. Do you see that?

20 **BRIGADIER NYUSWA**: Yes, I see that, Commissioners.

ADV SEGEELS-NCUBE: And it is subject forward
corruption within the police, and it says:

“Good afternoon, General.”

And then on page 1004:

“By direction of the National Head, kindly

find attached matter for your attention and feedback. Your office is kindly requested to further engage the complainant. Kindly provide feedback by the 23rd of February 2024, respectfully.”

And then it is signed, but it comes from the office of the National Head, General Lebeya. And if you look at the bottom of page 1004, so what he forwards to General Senona is the complaint that had been received regarding
10 Warrant Officer Sander. And it says, I will not mention the name of where it came from, it says to General Lebeya, and it says corruption within the SAPS:

“I write this email to inform the police of what corruption their police members are in, and then follows the allegations against Warrant Officer Karl Sanders from the Durban Serious Crime Unit. He is highly connected with the criminal underworld during dealing in Cocaine.”

20 Now, what follows this is then General Lebeya saying to General Senona he must please give him a report by the 23rd of February 2024. And then if we go back to 1003, just above the email that I had just read of 5 February, you will see General Senona responds on the 6th of February to General Lebeya saying:

“Good afternoon, General Lebeya. Your email is hereby acknowledged.”

And then if you scroll up to the first email, General Senona to General Lebeya on the 29th of February 2024, he says:

“Good day, General. Please find the attached progress for your attention.

This office apologises for the delay.”

So he appears to be sending a progress report on the 29th of February 2024. In your statement you say you do not
10 know what that report or progress report would have been, but you do know that at this stage they were not able to find the complainant in order to interview the complainant.

BRIGADIER NYUSWA: I do not know whether there is a letter from NPA.

ADV SEGEELS-NCUBE: Yes, I am going to get to that letter. I am just asking about the progress report here. Do you know what General Senona would have reported back to General Lebeya on the 29th of February 2024 regarding progress?

20 **BRIGADIER NYUSWA**: No, I do not know.

ADV SEGEELS-NCUBE: Okay. Now if we can go to the NPA letter, that is at 1001 of the same bundle. And that you will see is dated the 13th of February 2024. But on the second page, 1002, it has another date, 21 February 2024. So we do not know when it was actually sent. But it is from

the NPA, and it appears to be to the complainant and the subject line says complaint in respect of Detective Warrant Officer Sander, and then it gives an inquiry number. It says Investigating Officer Lieutenant Colonel Mtshali, DPCI Port Shepstone, as you indicated. And then it says:

10 “We refer to the above complaint, which you addressed to the Directorate of Priority Crime Investigations Head Office via email dated 5 February 2024. The matter was assigned to Lieutenant Colonel Mtshali, the DPCI Port Shepstone...”

And then it gives his number. And then it says:

20 “During a meeting held at our office on 13 February 2024, Lieutenant Colonel Mtshali briefed Advocate Harrison of this office about the allegations, and the content of your email was discussed. The email seems to suggest that you might have more information about the other parties mentioned and the finer details regarding corruption involved. It was suggested that a meeting be arranged with you to obtain the details of your complaints so that each allegation

may be investigated thoroughly. Kindly
contact Lieutenant Colonel Mtshali
telephonically so that he can facilitate
the meeting.”

Then we got the email from General Senona on the 29th of
February. We do not see any letter or report suggesting
that there was an investigation and that by the 13th of
February 2024 General Senona was in a position to place
Warrant Officer Sander on temporary placement to Supply
10 Chain Management. You have not seen anything that would
have, other than what you see now, that would have been a
motivation for him to move Warrant Officer Sander at that
stage?

BRIGADIER NYUSWA: Commissioner, it is hard for me
because I was not around at work, and if I perhaps see the
inquiry where the investigator was writing in his diary as to
what the steps were followed to secure the complainant,
whether he responded and what report was forwarded to
him, I will be able to answer this.

20 **ADV SEGEELS-NCUBE:** No, but what I am saying is that
on the 13th of February, they are still trying to get hold of
the complainant. There had not yet been a meeting with the
complainant according to the NPA.

BRIGADIER NYUSWA: Yes.

ADV SEGEELS-NCUBE: So the report, so by when

General Senona meets with Warrant Officer Sander on the 13th of February and places him on temporary placement to Supply Chain Management, there is no indication that the complainant had yet been consulted, that they had interviewed the complainant?

BRIGADIER NYUSWA: It will appear so, but I was not there.

ADV SEGEELS-NCUBE: Well, you were involved in verifying progress reports that were submitted to General
10 Senona.

BRIGADIER NYUSWA: Yes.

ADV SEGEELS-NCUBE: In any of your reports, did you record any interaction with the complainant and whether the complainant verified this information?

BRIGADIER NYUSWA: I do not recall.

ADV SEGEELS-NCUBE: Well, did you ever speak to the complainant?

BRIGADIER NYUSWA: No.

ADV SEGEELS-NCUBE: Did you ever speak to anyone
20 who had spoken to the complainant?

BRIGADIER NYUSWA: I do not think the complainant was ever found.

ADV SEGEELS-NCUBE: Yes, that is what I am asking you. So on the 13th of February, when General Senona places Warrant Officer Sander on temporary placement at Supply

Chain Management, there is no interview that had been had with the complainant. All that he had was that complaint that General Lebeya had sent to him on the 5th of February saying, here is the complaint, please engage with the complainant. I took you to that email.

BRIGADIER NYUSWA: I agree with you.

ADV SEGEELS-NCUBE: And then when you get involved, so you come back and you get told that Warrant Officer Sander had been moved.

10 **BRIGADIER NYUSWA**: Yes.

ADV SEGEELS-NCUBE: What was your attitude towards his movement, given that he was a member of your team?

BRIGADIER NYUSWA: I was shown this letter, and I looked at the letter and there were serious allegations. So I did not object to the decision taken to remove him.

ADV SEGEELS-NCUBE: Okay. And at what point does the investigation get finalised into the serious allegations of serious corruption?

20 **BRIGADIER NYUSWA**: I think the last letter was in 25 March.

ADV SEGEELS-NCUBE: That is March 2025. So if we can go to that information note on page 993 of the bundle, and you will tell me where there is a finding made or an outcome insofar as that investigation is concerned, the investigation that emanated from that email of 5 February 2024. So do

you have the information note?

BRIGADIER NYUSWA: Yes, I do.

ADV SEGEELS-NCUBE: And if we go to page 998, you will see that the information note was verified by you. It was prepared by – what is AC-ND ...[intervenes].

BRIGADIER NYUSWA: Ntshangase.

ADV SEGEELS-NCUBE: Ntshangase. What does the AC stand for?

BRIGADIER NYUSWA: Admin Clerk.

10 **ADV SEGEELS-NCUBE**: Okay, so the Admin Clerk Ntshangase, and you verified it. So you satisfied yourself with the information that was contained in this information note.

BRIGADIER NYUSWA: Yes.

ADV SEGEELS-NCUBE: Correct? On page 998, because that is your name on there.

BRIGADIER NYUSWA: Yes.

ADV SEGEELS-NCUBE: And you confirmed that you verified the note.

20 **BRIGADIER NYUSWA**: Yes, I confirmed.

ADV SEGEELS-NCUBE: Okay. We are on page 993 now, which is – do you have it?

BRIGADIER NYUSWA: Yes, I do.

ADV SEGEELS-NCUBE: So that is the information note addressed to the National Head, and it is about, it is a

progress report, and you say:

“The purpose of the information note is to give feedback to the National Head of DPCI on the inquiry.”

And in background you say the inquiry was registered and assigned to Mtshali, and then for further investigation. Then you talk about the email being received at paragraph 2.2 and 2.3, the target, person of interest, Warrant Officer Sander’s profiling, revealed that he has 12 different calibre
10 of firearms registered on his name, licence holder. Then it says he serves in a position of director, at least one entity and a request for information on his entity was forwarded to Financial Intelligence Centre.

2.5:

“A meeting was held with Advocate Harrison from Director of Public Prosecution in Durban on the 13th of February 2024. The matter was discussed in length and Advocate
20 Harrison indicated that she would address, discuss the matter further with her superiors. On the 20th of February 2024, a telephonic conversation was conducted with Advocate Vani Govender, Head of Organised Crime at Durban DPP

Office, and she suggested that the matter should be referred to Pietermaritzburg DPP's office because Durban office has other matters involving the target.”

So the target being Warrant Officer Sander. And that other matter would be the one that you had referred to, which was the DPCI ...[indistinct] complaint from 2023, where he is not mentioned.

BRIGADIER NYUSWA: Yes.

10 **ADV SEGEELS-NCUBE**: That is correct, so it is that one that has been referred to.

BRIGADIER NYUSWA: Yes, Commissioners.

ADV SEGEELS-NCUBE: Okay, then if we can go to 2.8:

“On the 21st of February 2024, Advocate Harrison contacted the Investigating officer telephonically and informed him that the matter has been registered at her office.”

Then we get to evidence obtained. 3.1P:

20 “Investigation revealed thus far that Warrant Officer Karl Sanders linked to an entity named where he holds position as a director...”

And gives the registration number and the other members and then it says on the next page, 995, it mentions, again,

things related to the shooting club. And 4:

“Final analysis by FIC. Based on the financial intelligence gathered, it was deduced that the subject request had financial footprints with various banking institutions in South Africa, as noted in Annexure A.”

Then it says:

10 “Open Source searches reveals that the subject could be linked to one business entity and could also be linked to three individuals. Intelligence also revealed that the subject could be linked to one vehicle and one immovable property.”

Then 5:

20 “Recommendation by FIC. In line with the findings and analysis of the FIC report, following recommendations are to be considered. That this request be scrutinised for further investigation on possible criminal and/or illegal activities perpetrated by the subject based on the information outlined in this report and to identify additional suspects that may be involved in such activity. The results in

respect of the confirmation of a business relationship obtained in terms of section 27 of FIC was incorporated into the report. The subjects have been flagged on FIC database in order to advise the police immediately should they receive any other relevant reports in the future.”

Then the findings by the FIC:

10 “The FIC received no suspicious and unusual transaction or activity reports with reference to section 29 of the FIC Act related to the subject, Karl Sander. FIC received no cash threshold reports with reference to section 28 of the FIC Act.

20 6.3 CTRs refer to reports on transaction, i.e., cash received or paid by the institution in excess of the threshold amount of R49 999, where the transaction exceeding the threshold amount, the institution must file a CTR with the FIC. No unusual or suspicious transactions found on the suspect's bank account records obtained through section 205.

Outcome of the investigation. The information received from DPCI Risk and Integrity Management at the Head Office as per request through a subpoena in terms of section 205 of the Criminal Procedure Act revealed that Warrant Officer Karl Sander did not apply for remunerative work. Investigation revealed that Warrant Officer Sander holds a portion of directorship at the shooting club and was incorporated on the 16th of April 2019.

Current status. 8.1. Disciplinary case. DPCI KZN DR04/2024 was registered and investigated. The employee was found guilty of not disclosing that he was a director of a shooting club. Sanction was verbal warning, dated 10 March 2025.”

And it is signed by Major General Provincial Head, Director for Priority Crime Investigation, LS Senona. Now, in all of that, where ...[intervenes].

BRIGADIER NYUSWA: May I clarify this?

ADV SEGEELS-NCUBE: Yes, please do.

BRIGADIER NYUSWA: I signed this letter on behalf of General Senona.

ADV SEGEELS-NCUBE: Yes, okay. Now, in all of that, where is the outcome of the investigation emanating from the 5 February 2024 email by a whistleblower to General Lebeya?

BRIGADIER NYUSWA: Remember, they were talking about him living life at large. And the investigation, the IO applied to the FIC to check if FIC can pick up anything, and these are the findings of the FIC. So, it is incorporated in this report.

10 **ADV SEGEELS-NCUBE**: Brigadier, the information note starts out by referring to the email that was sent at 2.2, the email that was sent by the complainant.

BRIGADIER NYUSWA: Yes.

ADV SEGEELS-NCUBE: And then the outcome relates to him being a member of a shooting club, not having declared that, and then there was disciplinary proceedings and he was given a verbal warning. What I am asking you is, where do you in this information note deal with the allegations contained in the whistleblower's email of 5
20 February 2024 and give an outcome of those allegations?

And it is not enough to say there were allegations that he was living large. The allegations were more serious than that. It was that he was colluding with the drug syndicate. That was the allegations. That is what resulted in him being moved, according to you. And you had no

issue with that because the allegations were serious.

BRIGADIER NYUSWA: I think we should look into all the emails, the info note, because this is the last one. Maybe if we do that, maybe we can find it. There is something ...[intervenes].

ADV SEGEELS-NCUBE: Were you the author of the other information notes? Because these are the only ones that have been provided to us insofar as the 5 February 2024 complaint is concerned. So if you were the author of those,
10 then you can tell us what those contain. But I would suggest to you that given that this is the one that contains the outcome, that the others probably did not have any more information that this one would have had.

Because this one does not say that the allegations were ever tested. As far as we can see, the complainant was never located. And for all you know, that email, the complainant may not even exist. It could have just been an attempt to move him, get him to be moved from SANEB because he was doing a good job, which is what he was
20 saying, that he was stepping on toes and that is why he was being moved.

BRIGADIER NYUSWA: I cannot answer.

ADV SEGEELS-NCUBE: Well, you must answer it because you are the author of this document. This document comes a year after he has been moved from SANEB. So for a year

you do not have one of your most effective investigators on drug busts. And you are okay with that and you prepare a note, which ultimately the outcome is that a disciplinary hearing has already been had. He has been found guilty of not disclosing that he is a member of a shooting club and that he gets a verbal warning.

BRIGADIER NYUSWA: I just want to check if there were other things that were not given to the Commission.

ADV SEGEELS-NCUBE: Okay. Whilst you are doing that,
10 can I ask you, were you ever able to verify the allegations contained in the 5 February 2024 email by the whistleblower to General Lebeya? Were you ever able to verify those allegations that Warrant Officer Sander was colluding with a drug syndicate?

BRIGADIER NYUSWA: According to my information, we could not.

ADV SEGEELS-NCUBE: Why did you not put that in the report, in the information note?

BRIGADIER NYUSWA: I was just looking.

20 **ADV KHUMALO SC**: Maybe just give him a chance to look at the notes he is looking at, then he can answer the question after.

BRIGADIER NYUSWA: Of course, I see another info note here, dated 2024-07-15, which was signed by my Provincial Head, but I do not think the Commission ...[intervenes].

ADV SEGEELS-NCUBE: I do not think you have not given that to us. You have not given that one to us.

BRIGADIER NYUSWA: Does it answer the question that was asked by Advocate Ncube?

BRIGADIER NYUSWA: It really does ...[intervenes].

ADV KHUMALO SC: Because if it does not, then it is of no use.

BRIGADIER NYUSWA: Yes. This would have helped me if I had the inquiry itself. But unfortunately, when I called, the
10 IO told me that the inquiry was filed and he does not know about it.

ADV SEGEELS-NCUBE: The IO would be Warrant Officer Mtshali?

BRIGADIER NYUSWA: Colonel Mtshali.

ADV SEGEELS-NCUBE: He is a Colonel.

ADV KHUMALO SC: The question was, sitting here today, are you aware whether the inquiry was closed? Do you know what the outcome is? Because the complaint from the complainant was specific and the document on 993, other
20 than what is stated in 2.2, does not say what became of that complaint.

BRIGADIER NYUSWA: There is another one too. There is nothing. Nothing has been said about the complaint.

ADV SEGEELS-NCUBE: And so, in March 2025, you submitted that report to the information note to General

Senona?

BRIGADIER NYUSWA: Yes, but there are other reports that I am seeing here that were signed by Colonel Mtshali and General Senona himself.

ADV SEGEELS-NCUBE: Okay. You can give that to us later. But for now, I just want to find out, because you say in your statement that the investigation was finalised in March 2025. By investigation, you mean the investigation emanating from the 5 February 2024 email. Is that the
10 investigation you are referring to?

BRIGADIER NYUSWA: Yes. I am referring to the whole investigation regarding the email that was received.

ADV SEGEELS-NCUBE: Yes. So, if I understand what you are saying, is that email is received and investigation is conducted, you cannot get hold of the complainant. But in the course of the investigation, you uncover that whoever is investigating uncovers that there is this noncompliance where he has not declared his directorship in the shooting club, a disciplinary hearing is held, he is found guilty, and
20 his sanction is a verbal warning. That is the sum total of it?

BRIGADIER NYUSWA: Yes.

ADV SEGEELS-NCUBE: Okay. And then, why does he not get moved back to SANEB at the end of this investigation?

BRIGADIER NYUSWA: After this last letter, it is then that we moved him.

ADV SEGEELS-NCUBE: Sorry, Brigadier, we cannot hear.
You just moved closer to the mic.

BRIGADIER NYUSWA: I said after this letter that the Commission has, it is then that we move him to EPR on instruction by General Senona.

ADV SEGEELS-NCUBE: Yes, but my question is, why is he not moved back to SANEB?

BRIGADIER NYUSWA: It was a decision by the Provincial Head that he does not go to SANEB, he must go to EPR,
10 and I complied.

CHAIRPERSON: Do you know why?

BRIGADIER NYUSWA: I think his reasoning were based on this, but on this email, plus the other one that came on the 2022, that is all I can think of. Because I went to him and I said, let us take this member back and he said to me, it is fine, but he must go to SANEB.

ADV SEGEELS-NCUBE: Did you

BRIGADIER NYUSWA: Excuse me.

BRIGADIER NYUSWA: Economic ...[intervenes].

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

BRIGADIER NYUSWA: Yes, EPR, Protected Resources.

ADV SEGEELS-NCUBE: Did you ask him for Warrant Officer Senona to go back to SANEB? Did you ask General Senona for Warrant Officer Sander to go back to SANEB? It is very specific.

BRIGADIER NYUSWA: No. I said, when I say the member must go back, because he was from SANEB, so I meant that he must go back to SANEB. And then he said to me, no, he must go to EPR. Then I communicated that with SANEB.

ADV SEGEELS-NCUBE: Did General Senona give you a reason as to why he can go to EPR but not to SANEB?

BRIGADIER NYUSWA: No. I did not ask him to. I complied.

ADV SEGEELS-NCUBE: Okay. Now, you know that
10 Warrant Officer Sander says it is because he was stepping on toes because he was making all those drug busts. Do you have a comment on that?

BRIGADIER NYUSWA: I heard him saying that. I have no comment on that.

ADV BALOYI SC: You must also have heard him say that he laid complaints against certain officers about loss of exhibits and he placed a document before us and he said you were aware, those were addressed to you.

BRIGADIER NYUSWA: Yes.

20 **ADV BALOYI SC:** And as far as he is away, action was taken against only the one person and nothing was done about the other officers, who included Colonel Jacob and other names that I do not remember. And he gave that as part of the reasons why he had been treated the way that he was following this complaint that did not go anywhere. Do

you care to comment about that? You received the complaint. What did you do about it? Why did you not do anything about it if you did not?

BRIGADIER NYUSWA: Maybe if I look at the complaint, because I know there were a lot of DRs that were opened in that office.

ADV BALOYI SC: DR is what?

BRIGADIER NYUSWA: It is a disciplinary regulation. We call it, when you discipline a member, it is called a DR.

10 **ADV BALOYI SC**: Yes.

BRIGADIER NYUSWA: Yes.

ADV BALOYI SC: And you are saying based on his reports or his complaint, because I am asking specific to his complaint in the context of this discussion you are having with the Evidence Leader that he says he stepped on people's toes with the – but he thinks it is because he was making this bus and therefore stepping on people's toes. And then I am adding that in addition to that he laid complaints against certain officers and those were delivered
20 to you.

BRIGADIER NYUSWA: To me?

ADV BALOYI SC: Yes. I think he was asked a specific question, did you, was Brigadier Nyuswa aware of this? And he said, yes, he would have been aware of these complaints. And if you say you never became aware

...[intervenes].

BRIGADIER NYUSWA: No, I am sorry to come interject. There were complaints that were brought to my office and there were investigations that were done and there were people that were charged. Remember the investigation, it would be assigned to the disciplinary investigator and he would say this so-and-so and so-and-so must be charged. And I remember that the Warrant Officer, the female Warrant Officer, there was also Warrant Officer, I mean he
10 is now a Captain who retired, I think Fries [?] was also charged to those complaints.

ADV BALOYI SC: So are you saying the complaints that Warrant Officer Sander testified to as having been filed, that you acted on all of those? Is it your evidence?

BRIGADIER NYUSWA: Yes. Did he send them to me or it came through the channels? Because I would receive something from Colonel Jacob and then also report to the Provincial Head and then the functionaries would be appointed to investigate.

20 **ADV BALOYI SC**: Yes, I think he was asked a specific question, did Brigadier Nyuswa become aware of these complaints and his answer was yes, he did become aware.

BRIGADIER NYUSWA: I do not remember receiving anything direct from him.

ADV BALOYI SC: Okay, thank you.

ADV SEGEELS-NCUBE: It would have been he submitted it to Sibiya, I think he was a Captain at the time, Sibiya, and then from there he said that you became aware of the complaints.

BRIGADIER NYUSWA: Yes, but there is no complaint that came to my office and we did not act on it.

ADV SEGEELS-NCUBE: Okay. Now you say you joined as the Acting Provincial Commander in April 2020.

BRIGADIER NYUSWA: That is correct.

10 **ADV SEGEELS-NCUBE:** When you joined, were you aware of the allegations against Lieutenant Colonel Jacob that were similar to the allegations that were later made against Warrant Officer Sander that he was colluding with a drug cartel? Were you aware of that? And that there was an IPID investigation against Lieutenant Colonel Jacob?

BRIGADIER NYUSWA: No.

ADV SEGEELS-NCUBE: Okay. Were you aware that he had been moved from SANEB during that investigation until the investigation was finalised?

20 **BRIGADIER NYUSWA:** I know that he was once placed at Serious Commercial Crime.

ADV SEGEELS-NCUBE: Yes, and it was pending the outcome of that investigation and when that investigation was finalised he was moved back to SANEB. Were you aware of that?

BRIGADIER NYUSWA: Hey.

ADV SEGEELS-NCUBE: It is fine if you were not aware of it. You just came into the position in April 2020. This would have occurred in 2019.

BRIGADIER NYUSWA: Okay. All right. No, I do not ...[intervenes].

ADV SEGEELS-NCUBE: That is why I said when you joined, were you aware of these allegations?

BRIGADIER NYUSWA: No.

10 **ADV SEGEELS-NCUBE:** Okay. So was there any reason why Warrant Officer Sander should not have gone back to SANEB at the conclusion of the investigation? I would suggest even earlier than March 2025, most probably in July of 2024 based on that information note that you have there that we have not seen, but that he should have gone back to SANEB at the conclusion of the investigation.

BRIGADIER NYUSWA: It was a decision of my superior ...[intervenes].

20 **ADV SEGEELS-NCUBE:** Brigadier, my apologies. I am not asking you about the decision of your superior. I am asking for your opinion. Do you agree that there was no reason why he should not have gone back to SANEB in March 2025 based on what you knew? Because you were involved in that process.

BRIGADIER NYUSWA: No, I do not see a reason.

ADV SEGEELS-NCUBE: Sorry?

BRIGADIER NYUSWA: I said I do not see a reason why he should have not been placed back to SANEB.

ADV SEGEELS-NCUBE: But you did nothing to ensure that he goes back.

BRIGADIER NYUSWA: Because I was following orders.

ADV SEGEELS-NCUBE: Okay. And this was somebody – whilst he was in your team, he was a good investigator. He was one of the best investigators you had at the time.

10 Correct? Insofar as drug busts are concerned.

BRIGADIER NYUSWA: Yes.

ADV SEGEELS-NCUBE: Okay. And when General Senona says he is not going back to SANEB, you know that there is no justifiable reason why he should not go back to SANEB. You just agree with the decision to send him to EPR.

BRIGADIER NYUSWA: I sent him to EPR, but again, equally so, I asked him to do a very sensitive investigation for me there because other investigators were not taking it anywhere and he is still doing it. And he has progressed a
20 lot on that investigation.

ADV BALOYI SC: Can I just say, Brigadier that you are the head and Sander falls under you. A complaint or an allegation was made against him. It went nowhere. You are confident enough to recommend that he should be reinstated to SANEB. I struggle with your presenting the

position as if you do not have the ability to advocate for your members. You know your members, the members in your team. You know their strengths.

BRIGADIER NYUSWA: Yes.

ADV BALOYI SC: You know where you are short of resources. And this idea that you are presenting that you have absolutely no say, General Senona runs the show however he wishes, to a point where he can move people around without you having a word at all even making a
10 suggestion or advocating, it is difficult considering the seniority of your position. I mean, he is the overall head, General Senona. There is no question about that. But he has different, I think you have said Commanders ...[intervenes].

BRIGADIER NYUSWA: Provincial Commanders.

ADV BALOYI SC: Yes, who report to him. So he is not the be all and end all of everything. He relies on you. You are presenting inconsistently about this operation. First the operation in Port Shepstone, but now in this conversation.
20 You are presenting the impression that you have absolutely no say.

It is one thing to say I did motivate and I did have the discussion that I think he should return to SANEB for reason A, B, C, D, and General Senona, he makes the final decision and is finally accountable, overruled my

recommendation.

That is a different scenario than having someone of your seniority says, well, I was following instructions, I said the man should be returned and I do not know for what reasons General Senona decided he must go to EPR. But, hey, it was an instruction and there was nothing more I could say. Never mind do. I am not even saying do. I am saying say about it.

Then it raises questions about the effectiveness of
10 these positions of leadership. If after all, someone in General Senona's position, and that is not just him, I am not being personal to him. But if someone who holds that position after all makes all the decisions and does not get any input and assistance from his middle management or executive management, because that is what you are, then it raises questions about the effectiveness of that structure. If not the structure, then of the people that get appointed to those positions.

Do you want to comment about it? Is this
20 something that we should be worried about? Or we just do not understand how things work in the SAPS or how they are designed to work in fact?

BRIGADIER NYUSWA: I think in my first statement that I read this morning, paragraph 13, the Commissioners will find the answer there.

ADV BALOYI SC: So you say General Senona ...[intervenes].

BRIGADIER NYUSWA: Page 4 ...[intervenes].

ADV BALOYI SC: He does as he wishes? You said paragraph?

BRIGADIER NYUSWA: 13.

ADV BALOYI SC: Okay. He was not someone who consulted when he made decisions. Is that what you are referring to?

10 **BRIGADIER NYUSWA:** Yes.

ADV BALOYI SC: So it is really the person, not necessarily the organisation and the structure that is problematic. It is that you have that kind of person in the position.

BRIGADIER NYUSWA: Yes, and I think other colleagues from my province in the DPCI can concur with me.

ADV BALOYI SC: Thank you.

ADV KHUMALO SC: Brigadier, my concern is about you. You did not even ask for a reason. I understand that
20 General Senona makes his own decisions, he does not consult. But Sander comes to you and says I want to go back. You communicate his request to General Senona. General Senona says no, he must go to the Economic Crime Section.

You do not ask, why, because he is more effective

at SANEB. So this is on you because you were asked do you know why, and sitting here today you do not know, you do not have a reason. Which means you did not even enquire for yourself so that you are informed and you are aware what the reasons are. You just accepted that a decision was made and you left it there.

BRIGADIER NYUSWA: Commissioner, as I have stated in paragraph 13 of page 4 of my statement, it is very difficult to engage with someone whom you know you are not going
10 to win.

ADV KHUMALO SC: No, but you did not even try. You see, that is my concern. A request was made to you.

BRIGADIER NYUSWA: Yes.

ADV KHUMALO SC: You passed it on to General Senona. He makes a decision which is contrary to the request. Now, if you had to give feedback to Sander and he asked you what is the reason, you would have nothing to say to him because you did not make the enquiry, and that is really my concern.

20 **BRIGADIER NYUSWA**: I hear you.

ADV KHUMALO SC: And Commissioner Baloyi's point, people in your leadership, without being insubordinate, just to understand the reason for the decision, making those enquiries is important. And even motivating for members of your team. I had understood, and I could be wrong, I had

understood from Sander's evidence that in some instances when he applied for a promotion, you actually supported it. And ultimately he was unsuccessful, but you did motivate that he should be promoted to a particular role.

So even here it makes me wonder whether you simply made a request to General Senona or you actually motivated for his return to SANEB, because those are two different things. Simply making a request and strongly supporting and motivating something are two completely
10 different things.

BRIGADIER NYUSWA: I hear you, Commissioners.

ADV KHUMALO SC: You take the point or do you want to disagree with me? Nothing I say is gospel, so if you disagree, you can say I do not agree with you.

BRIGADIER NYUSWA: Commissioner Khumalo, I hear you.

ADV SEGEELS-NCUBE: And, Brigadier, just to say that if we go to page 668 of the Exhibit Bundle, that is not Warrant Officer Sander's version as to why he actually did eventually return to your section. According to him, it was
20 because he challenged the cancellation of his scarce skills allowance. Page 668 of the Exhibit Bundle, and it is CJC249. Do you have CJC249? It is a letter on the SAPS letterhead to the Acting Provincial Commander Corporate Support Services.

BRIGADIER NYUSWA: Yes.

ADV SEGEELS-NCUBE: It is CJC249. It is page 667.

BRIGADIER NYUSWA: 649?

ADV SEGEELS-NCUBE: CJC249, and the page number is 667.

BRIGADIER NYUSWA: Okay.

ADV SEGEELS-NCUBE: Do you see the letter?

BRIGADIER NYUSWA: I see this letter.

ADV SEGEELS-NCUBE: Yes. It is to the Acting Provincial Commander Corporate Support Services. Do you see it?

10 **BRIGADIER NYUSWA:** Yes.

ADV SEGEELS-NCUBE: If you go to the last page of that letter, it is signed by Warrant Officer Sander on the 15th of July 2025. Do you have it?

BRIGADIER NYUSWA: Yes.

ADV SEGEELS-NCUBE: Okay. Now go back to the letter, to the first page. Cancellation of scarce skills allowance and service allowance. That was his complaint. He says:

20 “On 14 July I received a written notice of
cancellation of my scarce skills
allowance and service allowance with
immediate effect. The reason given
being that I am currently placed at
Supply Chain Management in the
Provincial Office and not performing any
operational duties. A copy of the notice

is attached.”

And then on the last paragraph, the last page, paragraph 10, he says:

“I believe that I should be placed back in my position at Durban Serious Organised Crime to perform my usual operational duties as soon as possible with the immediate reinstatement of my scarce skills allowance and service allowance.”

10 And he says that is why he was placed in EPR because he was complaining about his scarce skills allowance and his service allowance, not that they were going to terminate it. There was a notice of intention to terminate it because he was now no longer in operational position, and it was on the basis of that that he was ultimately moved, not to SANEB, but to EPR, notwithstanding his request to be moved back to his usual operational duties.

And that was in July of 2025. So I do not know when you had the discussion with General Senona after the
20 conclusion of the investigation in March 2025, but by July 2025, Warrant Officer Sander is still in Support Services and fighting to go back because there is an imminent cancellation of his scarce skills allowance.

BRIGADIER NYUSWA: My discussion with General Senona was not in March.

ADV SEGEELS-NCUBE: When was it?

BRIGADIER NYUSWA: I think it was around this time in July because Sander started working back in EPR on the 1st of August, if I am not mistaken, 2025.

ADV SEGEELS-NCUBE: So then it could be that, as he says, it is because he was complaining about this, that it was a compromise that he was moved to EPR, not necessarily your request to General Senona that he be moved back to your unit.

10 **BRIGADIER NYUSWA:** But I went to General Senona because these letters are written to support.

ADV SEGEELS-NCUBE: Yes. You are no longer his Provincial Commander here.

BRIGADIER NYUSWA: Yes.

ADV SEGEELS-NCUBE: He is now under somebody else because he is in Support Services.

BRIGADIER NYUSWA: But him too, he must be fair that we did, me and him, have a discussion about these things.

ADV SEGEELS-NCUBE: Okay. He did not give that
20 evidence but he was never probed about it. His evidence was that he got the notice of an intention to suspend his scarce skills allowance. He kicked up a fuss about it and he saw this as a compromise to send him back to EPR not to SANEB so that he would not lose his allowance. Do you want to comment on that?

BRIGADIER NYUSWA: Like I said, I did have a conversation with Sander.

ADV SEGEELS-NCUBE: Thank you. Chair, those are the questions from the Evidence Leaders for the witness.

CHAIRPERSON: Meaning you are done?

ADV SEGEELS-NCUBE: We are done with him.

ADV KHUMALO SC: Brigadier, can we just clarify two things? You may already have given evidence on this and maybe I did he not hear you properly. Let us start with
10 Colonel Jacob when you are told that he wants to be part of the operation or a CI member has requested that he becomes part of this operation. Did it not concern you that he was on leave and why did you not say, seeing that he is on leave, why can you not get somebody else?

BRIGADIER NYUSWA: Commissioners, I will not lie. He is an experienced drug investigator. I was happy with him because he was going with Warrant Officers.

ADV KHUMALO SC: But does that mean there were no experienced drug investigators who were on duty on the
20 day?

BRIGADIER NYUSWA: There should have been, but I was not informed.

ADV KHUMALO SC: As it turns out, he was not very experienced because he said this was the first time he had been to this depot and he had performed this type of

operation at that depot.

BRIGADIER NYUSWA: I think I did explain earlier on that when he came over from DSO, he was working at the drug section, and he was working with a very experienced Colonel who is late now, Colonel Hussein.

ADV KHUMALO SC: Okay ...[intervenes].

BRIGADIER NYUSWA: And ...[intervenes].

ADV KHUMALO SC: And then – sorry, not finished? Please continue.

10 **BRIGADIER NYUSWA**: I would have not known that this was his first. Should I have known, I would have probed to say, but why, where is Colonel Gopalsamy? Well, I am saying he was a Captain there. Where is Captain Gopalsamy?

ADV KHUMALO SC: Because you seem to have readily accepted that because this CI member wants him, it does not matter that he is on leave, he can go and be part of this operation. You seem to have easily accepted that and you did not even question the motives of those who wanted him
20 specifically.

BRIGADIER NYUSWA: Yes, Commissioners. As I said, because you find that members are comfortable to work with certain people. I even made an example that Karl will work with Kenneth Beukes. And him being asked by this member which I do not know, I did not see anything wrong.

ADV KHUMALO SC: Can we go to the October incident after Colonel Prinsloo told you specifically that he was concerned about the safety of the exhibits?

BRIGADIER NYUSWA: Yes.

ADV KHUMALO SC: So you were not just reporting to General Senona that there has been a break-in. Colonel Prinsloo was specific when he spoke to you. He said he is concerned about the exhibits being there. Did you communicate the second part of that message to General
10 Senona?

BRIGADIER NYUSWA: Yes.

ADV KHUMALO SC: Did you tell him that Prinsloo says he is concerned about the exhibits and where they are?

BRIGADIER NYUSWA: Yes. And then I went further to say I have informed Jacob.

ADV KHUMALO SC: Yes. And then the two of you, you and General Senona, all you do is to say to Jacob expedite the investigation. You take no steps to improve the security even after Prinsloo has said to you I am concerned that
20 these things are no longer safe where they are. So it is a specific concern about the safety of the exhibits.

BRIGADIER NYUSWA: Yes.

ADV KHUMALO SC: And you do not address the issue of the safety of the exhibits. Instead you say to Jacob expedite the investigation, which means you do not address

the issue of the safety of the exhibits at all.

BRIGADIER NYUSWA: I think in my evidence earlier on I did explain that I was also hands full of the civil unrest matters. And when I reported to General Senona and General Jacob, I thought they would come to my rescue because they knew what I was busy with. Because other people were continuing with their normal duties, and me, I was busy with this.

ADV KHUMALO SC: And it worries me that you did not
10 write any letters either to National Office or to FSL. You seem to have only made phone calls and you were content with that.

BRIGADIER NYUSWA: I concede, Commissioners.

ADV KHUMALO SC: Ja. And this may be your last chance, at least with this Commission, to deal with this. Looking back now, do you think there is anything you could have done better?

BRIGADIER NYUSWA: Of course, yes.

ADV KHUMALO SC: And what is that?

20 **BRIGADIER NYUSWA**: To be very cautious and take a precautionary step. Firstly, I should not have recommended drugs to go to Port Shepstone. Secondly, when I was informed of the attempt, I should have at least left the civil unrest matters and focus to say that these drugs must be moved.

ADV BALOYI SC: But from your earlier answers it sounds like you could not even do that because you keep saying the boss is the one that made these. You only recommended it and General Senona is the one that gave the instruction, creating, and I think I tried to sound this out with you, that you have created the impression that this became General Senona's matter basically. He is the one that was giving instructions. He held the key. And effectively liaising with Mpangase. So you gave that
10 impression. And from that impression what comes across is you had no further say in the conduct of this investigation and dealing with these exhibits.

BRIGADIER NYUSWA: Commissioner, I will agree with you because of the other part of the investigation that I was busy with knowing that General Senona has the key and the investigators are there, and they were not even assisting in what I was doing. They were just continuing with their normal duties.

ADV KHUMALO SC: And then lastly, Brigadier, at the end
20 of this process we must make findings and recommendations. And I raised two issues with you earlier and you conceded that there was an oversight on your part. The first one was your failure to enquire with the other police stations, especially in Durban, whether they had storage capacity on the 22nd of June.

And then the more serious one which is you and General Senona arrived at Port Shepstone and you can clearly see that the prescripts are being violated. The way the exhibits are being handled, the way they are being stored. And your failure to take action against members who reported to you on the day.

So you allow this culture where people do not comply with the prescripts and for five years you do nothing about it and people continue doing the same thing over and over again. And it creates this culture where prescripts are just there on paper. Nobody complies with them and people do as they please.

And seniors at your level do not do anything about it. They do not take action against those officers. I consider those two to be quite serious and I want to hear from you in conclusion what your position is on what I have just said. Because at the end of the day, we must make recommendations, and we need to deal with these issues in the recommendations. So very briefly, is there anything you want to say on the two issues I have raised with you where you consider that there was oversight on your part?

BRIGADIER NYUSWA: Commissioners, I cannot change what has happened. The only thing I can say, I am sorry to you and the nation.

ADV KHUMALO SC: Not to me, to the nation.

BRIGADIER NYUSWA: To the nation.

ADV KHUMALO SC: Because these drugs end up in our communities, unfortunately.

BRIGADIER NYUSWA: Yes.

ADV SEGEELS-NCUBE: Thank you, Chair. Just one last thing is the photographs and the video that we had indicated. We have received communication from the DPCI that the door is being used at a different location, it has been repaired. They have sent us a video as well as
10 pictures, clearer pictures of photographs that were taken of the damage and the cutout. If we could just display it?

CHAIRPERSON: Are you going to be raising anything with the Brigadier about that?

ADV SEGEELS-NCUBE: It was just from Commissioner Baloyi to ask where the door is now, so it is being used at a different location and it has been repaired. The cutouts have been repaired, as you can see from the photograph there. And then you can show the cutout.

CHAIRPERSON: Thank you.

20 **ADV BALOYI SC:** Do they say whether it is being used where they are storing drugs again?

ADV SEGEELS-NCUBE: No, they say that the lock does not work now, so it is not locked. It is used in a situation where it does not require ...[intervenes].

CHAIRPERSON: The repair work does not look all that

impressive.

ADV SEGEELS-NCUBE: It does not.

ADV BALOYI SC: Maybe just to avoid any confusion, it is not suggested this was the mechanism. We do not know that yet. The inside locking mechanism.

ADV SEGEELS-NCUBE: No.

CHAIRPERSON: I just want to see the outside again, please.

ADV SEGEELS-NCUBE: The first one.

10 **CHAIRPERSON**: All right, thank you, thank you very much.

ADV SEGEELS-NCUBE: And then the pictures of the cutouts. And then we will just show the photographs, Chair, of the cutouts and the scaling that was done with reference to a pencil and a cell phone, I think it was. To show the thickness of what was cut.

CHAIRPERSON: I think General Senona even mentioned the actual thickness, ja. He said what, was it what?

ADV SEGEELS-NCUBE: The next one.

CHAIRPERSON: Thank you. Thank you very much.

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

CHAIRPERSON: Brigadier, thank you very much. You are excused.

BRIGADIER NYUSWA: Thank you, Commissioners.

NO FURTHER QUESTIONS

CHAIRPERSON: And now?

ADV SEGEELS-NCUBE: Tomorrow, I think it is Aeroton,
Chair. The Aeroton stream.

CHAIRPERSON: All right. Let us adjourn and resume at
09:30 tomorrow morning.

INQUIRY POSTPONED TO 18 JUNE 2026

INQUIRY ADJOURNS

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