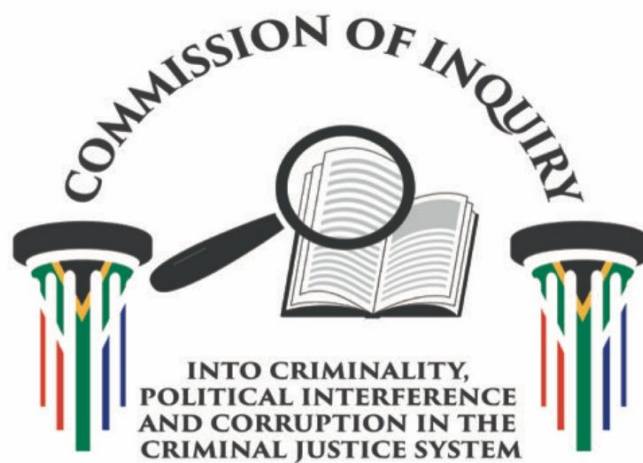


JUDICIAL COMMISSION OF ENQUIRY INTO CRIMINALITY,
POLITICAL INTERFERENCE AND CORRUPTION IN THE
CRIMINAL JUSTICE SYSTEM

HELD AT
BRIGITTE MABANDLA JUSTICE COLLEGE

25 JUNE 2026

DAY 126



PROCEEDINGS ON 25 JUNE 2026

CHAIRPERSON: Good morning everybody. I will not say that the green attire that all three of us have on is because of the wonderful win by Bafana. Mr Chaskalson.

ADV CHASKALSON SC: Yes, Chair, Mr Carrim was supposed to testify today, but he has been ...[intervenes].

CHAIRPERSON: Good morning to you too, Mr Premhid.

ADV PREMHID: Ja, good morning, Chair and Commissioners. And it is not a green blazer, but I do not
10 know if you can see, it is a green tie, so.

CHAIRPERSON: I see that, I see that.

CHAIRPERSON: No DNA, just RSA, Chair.

CHAIRPERSON: Thank you, thank you. Yes, Mr Chaskalson.

ADV CHASKALSON SC: Chair, Mr Carrim has been hospitalized, so he cannot be here today, but we do want to place on record certain issues relating not just to his non-appearance, but to what has happened before, and essentially, Chair, you will recall that when Mr Carrim
20 testified back in April, there were a number of documents and details that he undertook in testimony to make available to the Commission.

Those details were thereafter, well, incorporated into a Regulation 10.6 notice that was dated 8th May 2026, and that was served on Mr Carrim by the Sheriff on 12th of

May and they related to the payments of 1 million and 1.12 million, which Mr Carrim said he was unaware of, payments that were made to Medicare24 Tshwane District by Tasmica Construction and certain information relating to those payments was sought from Mr Carrim.

It was sought first in a notice on, a notice dated 8th May served on 12th May, and then a supplementary notice dated 20th May was sent to Mr Carrim and his attorneys when there was no response to the earlier notice, which
 10 repeated that request, and then essentially tabled all of the details that Mr Carrim had undertaken to provide to the Commission, but had not yet done so.

Some of these are fairly routine details. So for instance, details of the accountants, auditors, and accounting officers of various of his companies. The dates of appointment and removal of Mr Khair and Mr Mohammed, who he testified he had, who had been appointed with certain rights in relation to Medicare24 at the instance of Mr Carrim.

20 Audited financial statements for his companies, or if audited financial statements did not exist, we asked for unaudited financial statements, and an explanation of why there were no audited financial statements, and there was an undertaking that he would provide us with a copy of an agreement or a draft agreement between himself and

companies of Mr Maumela, and also communications between himself and Mr Carrim.

So that was all tabled in a supplementary Rule 10.6 notice dated 20 May, and thus far, we have received no response to that either. There is a further issue, which is after Mr Carrim was not available to testify at his last appearance, and is now, well, after he was not available to testify at his last appearance, we asked that Mr Carrim make himself available for examination by a specialist
10 appointed by the Commission to confirm that he was indeed not medically fit to comply, and he has not yet responded, or has not yet complied with that request.

So we sit in a situation today where this is the second appearance for which Mr Carrim has been medically unfit to appear. We are running out of time. There are a whole succession of details and documents which he undertook in evidence to make available, which were then demanded of him in terms of notices in which have not yet been forthcoming.

20 So we accept that he is not available to testify today, and that he has been admitted to hospital, so we cannot have him here today, but what we would ask of the Commission is to postpone his appearance to the 15th of July, and our request, or our intention in relation to what will happen on 15 July is obviously if Mr Carrim is here, he

will be questioned, it will be the end of his testimony.

If he is not here and is still, on his version, medically unfit, we will no longer seek his appearance on the 15th of July, but if he has subjected himself to independent examination by a specialist appointed by the Commission, and that independent specialist confirms his incapacity to testify, we will not ask for him to be called again.

We will not have time to hear his evidence, but we
10 will ask the Commission to make its findings in relation to all matters, relevant to the evidence of Mr Carrim on the basis of the evidence that he has already given, and on the basis of the evidence that he has thus far not answered, and his failure, if the failure still persists, to furnish audited financial statements, details of auditors, and the like.

If Mr Carrim does not agree to be examined by an independent specialist, then we will ask the Commission to recommend that he be prosecuted under Section 5 and 6 of the Commission's Act and Regulation 12.2 for hindering the
20 proceedings of the Commission. And we will also ask for the Commission to make its findings on the basis of the evidence that we have heard thus far from Mr Carrim, but no further evidence.

CHAIRPERSON: Regarding that proposed criminal process, I would imagine that the mental element would

consist of intent, and are you basically saying that is something that would then have to be investigated down the line?

ADV CHASKALSON SC: It would have to be investigated. I do not want to address argument on that ...[intervenes].

CHAIRPERSON: Yes.

ADV CHASKALSON SC: Because I am still hoping that one of two things will happen, either Mr Carrim will have recovered and will be here in three weeks' time, or his
10 medical state will have been confirmed.

CHAIRPERSON: So that is an issue ...[intervenes].

ADV CHASKALSON SC: So it may never arise, but I want to give notice now ...[intervenes].

CHAIRPERSON: Yes, yes.

ADV CHASKALSON SC: That the Commission, or the Evidence Leaders, at any rate, I cannot speak for the Commission ...[intervenes].

CHAIRPERSON: Yes.

ADV CHASKALSON SC: And the Evidence Leaders are
20 taking this very seriously, because we regrettably are of the view that thus far we have not received the necessary cooperation.

CHAIRPERSON: Ja, I guess at this stage I am going no further than just raising this so as to start thinking about it.

ADV CHASKALSON SC: Indeed, I am not asking the

Commission to make any decisions at this stage, but I do need to place it on record so that Mr Carrim and his legal team know where we will be going.

CHAIRPERSON: Yes. Okay, all right. Please continue.

ADV CHASKALSON SC: So for present purposes, all that we would ask from the Commission is a postponement to 15 July. That is all I have to say at this stage.

CHAIRPERSON: Thank you, thank you, Mr Chaskalson. Yes, Mr Premhid.

10 **ADV PREMHD:** Thank you, Chair. Good morning. Three very brief submissions in response to what my learned friend has said. The first one on the documents and the alleged non-compliance, my learned friend made reference to three dates, 8th May, 12th May, and 20th May, when the relevant instruments requiring those documents were delivered to Mr Carrim. I would just point out that as far back as the 14th of April 2026, in response to the Commission's letter on the 14th of April 2026, at page 3, paragraph 11 of that letter, Mr Carrim's legal representative
20 said the following after Mr Carrim's initial hospitalization.

“We further advise that we as the legal team are dependent on Mr Carrim's family to receive updates regarding Mr Carrim's condition, which depends on the medical treatment and advice he is

presently receiving. We will update you,
as appropriate, when we receive the
information from Mr Carrim's family."

Now, I highlight that only to point out one thing,
and that is when Mr Carrim was initially hospitalized, it was
explicitly stated to the Commission that the legal team, as
creatures of instruction, cannot act without instructions from
their client, and if their client is medically indisposed,
particularly in circumstances where his medical
10 indisposition started ahead of May, it started in April, it
stands to reason that this allegation of not complying must
be put in its proper context, that it is not wilful, and it is
because the ability to deliver those documents is directly
hamstrung as a result of Mr Carrim's medical condition and
all the subsequent correspondence and all the subsequent
medical reports of which there have been four reports which
make it abundantly clear that Mr Carrim is not only able to
attend the Commission, he is also not fully able to engage
with his own legal team regarding his ability to give
20 instructions. So that is the first point I want to make, Chair.

The second point I want to make, Chair, is in
respect of this independent medical examination request
that has been now raised on the record by my learned
friend. My learned friend ...[intervenes].

CHAIRPERSON: But which I understand was raised

previously.

ADV PREMHID: Yes.

CHAIRPERSON: But of course I do hear you say on record.

ADV PREMHID: Yes.

CHAIRPERSON: But as a matter of fact, it was raised through correspondence.

ADV PREMHID: Yes, yes. I do not take any issue that this is my first occasion of having notice of that.

10 **CHAIRPERSON:** Yes, yes. Yes, all right.

ADV PREMHID: I just want to address the reference, excuse me, I just want to address what my learned friend said, Chair, in the context of raising it today. I will, the Commission sent our client and his legal team a letter yesterday on the 24th of June where this was raised, and I am not sure if my learned friend or the Commission itself have seen our response to that letter also dated the 24th of June. The only thing I want to emphasize from that 24th of June letter, Chair, is what is ...[intervenes].

20 **CHAIRPERSON:** Sorry, before you go on, are you saying that the possibility of subjecting Mr Carrim to an examination by a specialist of the Commission's choice was raised for the first time in yesterday's communication?

ADV PREMHID: No, no, no, I am not saying that.

CHAIRPERSON: Ja, I am asking that so that it does not

appear ...[intervenes].

ADV PREMHID: No, no.

CHAIRPERSON: To all concerned, that that is what you are saying.

ADV PREMHID: Ja, no, I am only addressing the content then of the letter of yesterday as it responds to the letter of yesterday from the Commission ...[intervenes].

CHAIRPERSON: Yes.

ADV PREMHID: Which I understand my learned friend to
10 be foreshadowing with you today.

CHAIRPERSON: I understand you ...[intervenes].

ADV PREMHID: Yes.

CHAIRPERSON: But I just want the fuller picture to be out there.

ADV PREMHID: Yes, yes.

CHAIRPERSON: Ja.

ADV PREMHID: No, no, this ...[intervenes].

CHAIRPERSON: That it was not the first time yesterday.

ADV PREMHID: Yes, yes, unequivocally ...[intervenes].

20 **CHAIRPERSON:** All right.

ADV PREMHID: I say on the record, it was not raised yesterday for the first time in the correspondence. It had been raised prior, and that the parties have been engaging on that. I am just limiting it to the exchange yesterday and as it comes in front of you today.

CHAIRPERSON: Yes.

ADV PREMHID: All I want to say, Chair, is that in respect of that contention or submission, that that is an available avenue to the Commission. In our letter of yesterday, particularly paragraph 10, you would see that certain issues were raised, and those issues were raised with the purpose of saying, and I place this on the record as well, is that once that is clarified, our client can then be informed of what the position of the Commission is, and he can exercise
10 his rights to the extent that he can and give us instructions to the extent that he can. So ...[intervenes].

CHAIRPERSON: May I just raise this. In the context of claims arising from, for example, bodily injury, medical malpractice, such examination happened as a matter of course. One of the issues raised in the letter we received, I think, at night, I might be mistaken, is the question whether there is a suspicion that, I am paraphrasing. I may be wrong ...[intervenes].

ADV PREMHID: Yes, yes, I accept.

20 **CHAIRPERSON:** That Mr Carrim is not, in fact, suffering from what is stated by the doctor.

ADV PREMHID: Yes.

CHAIRPERSON: Bearing in mind what I have just said about this happening as a matter of course ...[intervenes].

ADV PREMHID: Yes.

CHAIRPERSON: Would you say in those cases it happens because there are suspicions?

ADV PREMHID: No, but may I qualify my answer on the following two propositions.

CHAIRPERSON: Yes.

ADV PREMHID: The first one is the regime that the Chair is putting to me is firstly in the context of medical negligence claims or damage from medical negligence, which we know arises under a prescribed procedure under
10 Uniform Rule 36 and related proceedings under Uniform Rule 36 where there is the contestation between parties and the need for independent medical examination to determine the extent of damages claimed and verify all of those.

Without going into the merits of that, all I am gently going to say at this point is that firstly we are not in that terrain and secondly there is no equivalent procedure in the Regulations, the Act, the Rules, or the Commission's own Rules that remotely cater for an equivalent procedure.

CHAIRPERSON: I saw that your letter actually raises that
20 and it is asking for the legal prescripts ...[intervenes].

ADV PREMHID: Yes.

CHAIRPERSON: That make it possible for the Commission to insist on something like this.

ADV PREMHID: Yes.

CHAIRPERSON: The prescripts governing the

Commission's process provide, for example, that the Chairperson may regulate the Commission's process. Based on your point that nothing comes anywhere near entitling the Commission to order something like this, would you say that that power, for example, the regulation power, would not be sufficient for the exercise of such a power by the, or to make such a direction by the Commission? If so, why not?

ADV PREMHID: May I qualify my answer first by saying I
 10 am addressing the Chair's questions to me in general and in a hypothetical discussion, so nothing that I say must be construed as committing my client to a position one way or another. I understand the Chair and I are having a debate about remit and powers, so I just want to make that clarification.

CHAIRPERSON: It is just a vires issue.

ADV PREMHID: Yes, yes.

CHAIRPERSON: You are raising a vires issue and I am engaging you at that level.

20 **ADV PREMHID:** And because we do not know what the Commission's view, and when I say the Commission's view, I mean the Evidence Leaders' view of the medical evidence is and its deficiencies or otherwise, I need to make that clarification that I am not committing my client to a version pre-emptively without knowing what the Commission's

stance is. That is my clarification.

But Chair, and this is still the first issue I want to address, you know that previously when we have appeared in front of the Commission, we raised an objection to example for a certain line of questioning that our learned friend was putting to the witness. My learned friend, Mr Bhana, was appearing on that occasion. Chair is nodding his head. He remembers that very well.

And one of the preliminary objections raised to the
 10 line of questioning with the reservation of rights was that the line of questioning fell outside the mandate of the Commission and that we reserved our client's rights to place that an issue at the appropriate time.

Now Chair, that answer is background context in response to your question on vires because in as much as obviously you have an on the desktop version, you have an unfettered power to create the appropriate ...[intervenes].

CHAIRPERSON: It can never be unfettered.

ADV PREMHID: Well, that is the point. Well, Chair
 20 helpfully pre-empts me to where I was going to go is the question of the degree of the fettering of your power is tied directly into the issue of the mandate. So without going into a full debate as to whether or not that falls into or outside of your mandate, I am just flagging at a broad level of proposition that that is one concern we have.

But also there are other concerns that we have that there are potentially less intrusive means that the Commission has available to it other than to subject our client to medical examination by a medical expert that he does not necessarily consent to. It is a compelled examination. That is how we understand the proposal being put, and that which potentially breaches his medical rights whilst under treatment by a treating doctor in a manner that potentially breaches Sections 14 and 15 of the National
 10 Health Act, and that creates a question of vires and competency insofar as the exercise of your discretion is concerned if you are invited to do that. So that is my first bundle of concerns, if I may, in response to you, Chair. The second ...[intervenes].

CHAIRPERSON: And if ...[intervenes].

ADV PREMID: Oh, sorry, Chair.

CHAIRPERSON: If a ruling or directive from the Commission were to direct that Mr Carrim avail himself for such an examination, but be couched in a manner that does
 20 not make it obligatory that he do so, but of course, bearing in mind the fallback position that Mr Chaskalson has placed before us, in the event that Mr Carrim does not do so, would that take care of your concerns about the statutory prescripts that you are referring to, because then he can just opt out and say, I am not going to do it. At this stage,

this is just engaging you ...[intervenes].

ADV PREMHID: No, no, sure.

CHAIRPERSON: At a legal level.

ADV PREMHID: Yes, yes, yes.

CHAIRPERSON: I am not saying that is the way I am going to go, ja.

ADV PREMHID: It unfold.

CHAIRPERSON: Ja.

ADV PREMHID: Yes. No, Chair, can I say, firstly, I am
10 indebted for this exploratory discussion in the way that it is
occurring because it is helping clarify for me and also I
would hope for the Commission's Evidence Leaders about
these concerns, which are legitimate concerns. And so
again, the first point is I am not committing my client to
aversion in response to what Chair has put to me, but can I
say that I have two responses to this hypothetical directive.

The first one, of course, is it depends on the nature
of the request once specified by the Commission for such a
ruling and directive, which my client must then be given a
20 full opportunity to respond to. So I cannot in abstract just
say, well, if you try to design an equivalent confidentiality
regime like Chair will know from the HSF judgment in our
circumstances, attenuated for consent, that I can agree to
it. I first have to see what the Commission's position is.

In theory, that might not be objectionable, but it

might still be objectionable if there is a vires challenge. So the creation of the regime does not answer the fundamental question if it is still ultra vires. So that is as far as I can probably take it.

The second thing I would say is that if it is attenuated to being voluntary, that might not be objectionable in and of itself, but then it depends on what weight will be placed on the election that is otherwise voluntary to ask the Commission to draw adverse inferences
10 against my client for not participating in a voluntary request, because remember, in the recent exchange of correspondence between my client and the Commission, the Commission's position is that we have asked you, it is reasonable, you are choosing not to do it, and if you do not do it, we are going to ask the Commission to make inferences against you.

CHAIRPERSON: Let us say you were the decision-maker, and the upshot of all of this was that Mr Carrim ends up not testifying at all, as a decision maker, and faced with the
20 evidence that you have, how would you handle that evidence? I think it would be quite odd if, for example, we were suddenly to say, ja, a lot of evidence was heard before the Commission, but because Mr Carrim could not have his last word on it, therefore, everything that relates to that bit in respect of which he did not have his last word will just be

ignored altogether. So how, if you were the decision maker, how would you handle the situation? I am raising this in the light of your point about adverse inferences being drawn.

ADV PREMHID: Yes, yes. No, Chair, I think we must disaggregate the adverse inference point. I am talking about the adverse inference in the specific instance of not participating in a voluntary medical examination. That is what I was addressing. What Chair is putting to me, I think, is something slightly different, which is like, and I have not
10 been an Acting Judge yet, but when that happens, should it happen, obviously, Chair, what you are putting to me is the ordinary, ordinary decision-making process that a judicial officer goes to in circumstances where you will weigh probability, credibility, admissibility, and so on.

And if you draw an adverse inference at the end stage of your report writing in analysing the evidence, that cannot be objectionable. That is the ordinary rules of evidence as we understand it. So if at that stage you draw an adverse inference, for whatever reason you draw an
20 adverse inference, I do not think in principle that there can be an objection to that exercise of inference drawing. I was addressing the adverse inference point about the prior step regarding the voluntary election.

So in direct answer to you, Chair, if I was the decision-maker, and it was argued in front of me that an

adverse inference must be drawn that Mr Carrim is a naughty person, so to speak, because he did not participate in the voluntary disclosure ...[intervenes].

CHAIRPERSON: You see, that is what I am trying to get out of the equation. There is an inference is being drawn and becomes adverse because of one say, because of his failure to testify, we are drawing an adverse inference. That is what I am trying to say, let us get that out of the equation and just look at the evidence that is before the

10 Commission ...[intervenes].

ADV PREMID: Yes.

CHAIRPERSON: And then decide what to make of it, just as evidence that is before the Commission.

ADV PREMID: Yes.

CHAIRPERSON: Of course, it will be a fact that certain allegations have not been answered ...[intervenes].

ADV PREMID: Yes.

CHAIRPERSON: And one takes it no higher than that.

ADV PREMID: Yes.

20 **CHAIRPERSON:** It is on that level that I am engaging you.

ADV PREMID: Then we are *ad idem*.

CHAIRPERSON: Not an adverse inference based on the failure to testify in the sense that maybe he was being naughty, why would he not testify.

ADV PREMID: Yes, yes.

CHAIRPERSON: So I am engaging you at the level of the realities that here is evidence to which there is no answer, period.

ADV PREMHID: But then we are *ad idem*, because that is what I was trying to draw the distinction on. If Chair puts it to me in that way, and that is the double, that is the disaggregation that I was, with respect motivating, you are not elevating the non-participation in the voluntary examination process to say, ah, that is the evidence that
10 you are naughty, I am drawing the adverse inference, I can accept that.

But if it is the second one, which is that it is unanswered allegations and therefore I am drawing inferences because of the failure to answer, that is the ordinary laws of evidence.

CHAIRPERSON: To get to that, what you call an adverse inference, to get to that, I think we would have to first make findings as to Mr Carrim's condition.

ADV PREMHID: Yes.

20 **CHAIRPERSON:** Otherwise, it is just difficult, I think. I do not know what, ja, Mr Chaskalson ...[intervenes].

ADV PREMHID: Agreed, agreed.

CHAIRPERSON: All right.

ADV PREMHID: And because you would have to consider potentially credibility or the, as I was saying, credibility,

probability, veracity of the version. You would have to engage with all of that. All I was simply saying about, it depends on where that comes in. If it is the first step, medical examination, that is where I may have a problem. But if it is the second step, which is what Chair is putting to me, unanswered allegations and what flows from unanswered allegations, to me, that is the ordinary principles of evidence that cannot be objected to, unless, of course, there is a question of audi or whatever the, you
10 know.

CHAIRPERSON: All right, you may continue, please.

ADV PREMHID: Thank you, thank you, Chair. But the second point I was going to make in respect of the medical examination and less intrusive means is that, and I say this with due respect, because we are not in Uniform Rule 36 territory, there is no comparable direct access to a witness as far as I understand it.

My understanding, and you will know, for example, in the litigation involving President Zuma and the
20 competency of his medical certificate that he used to excuse himself from another Commission, if I am not mistaken, which went originally in front of Judge Pillay, who might have acted with Judge in the ConCourt but is from the KZN division, there the contention was not when the Commission, that Commission, I do not want to call it the

Zondo Commission, but you know which Commission I am referring to, when that Commission had issues with the medical certificate and the medical fitness of the witness or otherwise, they had to impugn the medical certificate as the first step and potentially the person who authored the medical certificate, because that is the evidence upon which the witness relies to say, I should be excused from giving the evidence.

So why I mention that is because what our learned
10 friend say is that because they have come up against this medical certificate as they have, they must go directly to the witness and subject him to a medical exam from someone other than the doctor of his choosing, whereas what they could do is they could engage the medical practitioner themselves. If they wanted to, they could have, we could have, I say we in the sense of if Chair gives directives to that effect, and again, I am not committing myself to this version, I am just theoretically testing the proposal put in front of you, is that we could have an in-
20 camera hearing, because obviously we would need to test the fullness of that confidential medical evidence, so it cannot be for open public consumption.

But then that is what we do, and the Commission might choose to cross-examine the particular medical professionals, they might wish to lead the evidence of their

own medical examiner, who, you know, might give an expert view of the expert view that we have tended, we might want to cross-examine their own expert, so that what I am saying is that I am not immune to the Commission's concerns about concluding the evidence of Mr Carrim, but we have played open cards with the Commission to the extent that we can, by providing all the correspondence, by providing four medical reports, giving all the details of all the treating doctors, and before we must leapfrog to subjecting a person

10 to a compelled medical examination, or potentially a voluntary one, like Chair says, we must think about the balancing exercise of constitutional rights, and if there is less intrusive means that can nonetheless enable the Commission to do its job, then we would argue from the perspective of proportionality and reasonableness and balance, then that is an available mechanism.

May I just make my last main submission, but before I do that, Chair, I do not know if you want to ...[incomplete].

20 **CHAIRPERSON:** Just to say what Chair posits ...[intervenes].

ADV PREMHID: Yes.

CHAIRPERSON: I think to say “says” sounds stronger to me. I think there is a nuance there.

ADV PREMHID: Yes, no, then I withdraw every use of the

word says, and I rather use the word posits. If the transcriber can edit the transcription, that is perfectly fine.

CHAIRPERSON: No, no, no, they do not need to, it is part of the engagement.

ADV PREMHID: Yes, yes, no, no, I accept that, and I am grateful for the clarification, Chair, because also what I am doing is I am trying to be helpful to you, Chair, and the Commissioners by engaging the debate and giving as cogent an answer as I can, hamstrung by the fact that I
10 cannot commit my client to a version in the absence of knowing the Commission's position and without instructions, so that is the rock and the hard place, the rock on my right and the hard place on my left, perhaps, that I am stuck between in trying to engage you, Chair. So that is as far as I am trying to take it.

My third and last main submission, if I may, Chair, is that I have heard what my learned friend said about the recommendation for prosecution. Chair already identified *mens rea* as the requisite element and how that would need
20 to be investigated and then the prosecution would flow. All we point out is we have also addressed this in our letter of yesterday, which I take you got probably very late last night, if not early this morning, and we did say that if that is going to be the case, that the Commission, for whatever reason, chooses to make a motivation to the Commission

that a recommendation be made that our client is prosecuted, that we get an opportunity to address the Commission before an adverse decision is potentially made against him, because that is audi rights 101.

So, Chair, that is to respond to what my learned friend said regarding everything else other than the 15th of July date. On the 15th of July date, we are in your hands and we will do as directed. Thank you, Chair. I am indebted and I know I have taken a long time, but thank
10 you.

CHAIRPERSON: Thank you, Mr Premhid. Mr Chaskalson.

ADV CHASKALSON SC: Chair, I do not want to respond now, because this is a debate, if it is ever going to arise, for another day, but I do want to place on record that we do not accept many of these submissions and in particular, the one worrying thing that we see is what the medical reports disclose is that Mr Carrim has not been hospitalized continuously since April. He tends to get hospitalized just as his appearances before this Commission are scheduled,
20 and that is worrying.

And it is particularly worrying in the context of a situation where very basic, quite aside from his appearances, there are very basic requests for some documents to be furnished, like financial statements. It does not take much to issue an instruction for financial

statements of a company to be made available to this Commission if you are not in hospital. And what we see is a simple refusal to comply with these notices, coupled with a pattern of, as an appearance date appears, suddenly, Mr Carrim needs hospitalization.

Now, it may be perfectly true. It may be that by coincidence, or possibly not by coincidence, his medical condition compounded by the stress of an imminent appearance requires his hospitalization. It is, I am not
 10 saying it is not true, but it is worrying. And what is particularly worrying is that very, very basic requests for information have been outstanding since Mr Carrim last testified, at a time when he was certainly fit enough to testify, fit enough to travel outside of the country, and we still wait for the documents that he promised us when he gave evidence. I do not want to say any more now. I am hoping this never becomes an issue that we need to take further.

CHAIRPERSON: Now, for purpose, thank you, Mr
 20 Chaskalson. For purposes of now, what sort of ...[intervenes].

ADV CHASKALSON SC: All we want is a postponement ...[intervenes].

CHAIRPERSON: Just a postponement ...[intervenes].

ADV CHASKALSON SC: Until 15th of June, nothing more.

CHAIRPERSON: Period. Nothing more.

ADV CHASKALSON SC: We put stuff on record now so that ...[intervenes].

CHAIRPERSON: Thank you, thank you.

ADV CHASKALSON SC: Mr Carrim and his legal team know what our concerns are, but all we want is a postponement until 15 June.

CHAIRPERSON: Thank you, thank you. The hearing of Mr Carrim's testimony is postponed to 15 July 2026. You are
10 both excused.

ADV CHASKALSON SC: Thank you, Chair.

CHAIRPERSON: Thank you. Let us adjourn whilst you set up. You indicate to us when you are ready. Let us adjourn.

INQUIRY ADJOURNS

INQUIRY RESUMES

CHAIRPERSON: Good morning, Mr Mosikili.

ADV MOSIKILI: Good morning, Chair. Good morning, Commissioners.

CHAIRPERSON: Good morning, Mr Nku.

20 **MR NKU:** Morning, Chair.

CHAIRPERSON: Yes.

ADV MOSIKILI: Thank you, Chair. Today we have Mr Nku. His testimony was postponed a week before last, Chair. Oh, Chair, Mr Du Plessis.

CHAIRPERSON: Sorry, and good morning, Mr Du Plessis.

My apologies.

MR DU PLESSIS: Morning, Chair. May I just say that I represent Mr Nku here today.

CHAIRPERSON: Yes.

MR DU PLESSIS: My colleague, Mr Eksteen, I am standing in for him, he is unfortunately with a health issue, hospitalized.

CHAIRPERSON: Yes.

MR DU PLESSIS: But we are ready to proceed.

10 **CHAIRPERSON**: Thank you, thank you. Thank you, Mr Du Plessis. Yes, Mr Mosikili.

ADV MOSIKILI: Thank you, Chair. Chair, the witness is here. He can be sworn in.

CHAIRPERSON: Mr Nku, please place your full names on record.

MR NKU: Thank you, Chair. My name is Tumelo, surname is Nku.

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

MR NKU: So help me God.

TUMELO NKU (duly sworn states)

CHAIRPERSON: Thank you.

EXAMINATION IN CHIEF BY ADV MOSIKILI: Thank you,

Chair. Chair, you should have about 8 files behind you. But for this morning, we will be focusing on the statement files containing Mr Nku's statement, or statements, rather. And then there is a file also containing WhatsApp chats and screenshots, which I will draw the Commission's attention when we get to that. Thank you. Mr Nku, you should have by you a file which contains your statement. You will see that there is an index which describes your statement from page 1 to 6. Do you have, can you confirm that?

10 **MR NKU**: I do confirm, Commissioner.

ADV MOSIKILI: Yes, let us go to that statement. It is titled, on page 1, it is titled "Sworn Affidavit". Do you see that?

MR NKU: Yes, I do.

ADV MOSIKILI: If you go to page 6 of that document, you see there on, at deponent there is a signature there and a date. Can you confirm that to be a signature?

MR NKU: I do confirm, Chair.

ADV MOSIKILI: And can you confirm that this is the
20 statement you submitted to the Commission?

MR NKU: I do confirm, Chair.

ADV MOSIKILI: Yes. And then, Mr Nku, you also submitted another statement, what we refer to as a supplementary statement. It should follow down immediately after item 2 to the first annexure. Do you see

the index?

MR NKU: I do see the index, Chair.

ADV MOSIKILI: Yes, and then if you page over, it will say supplementary statement and similarly, on page 4 of that document, there is a signature under the deponent. Do you confirm that to be a signature, Mr Nku?

MR NKU: I do confirm, Commissioner.

ADV MOSIKILI: And you confirm that this is your supplementary statement that you submitted to the
10 Commission?

MR NKU: I do confirm that this is my supplementary statement.

ADV MOSIKILI: And you stand by the contents of both statements?

MR NKU: I do, to the best of my abilities, ja.

ADV MOSIKILI: Thank you. Then, Mr Nku, I want us to go back to your statement. I will be asking you to ...[intervenes].

MR DU PLESSIS: Chair, perhaps just before we proceed,
20 may I just place on record the following, that this matter mainly concerns a docket, a police docket, relating to a Booyens CAS 98/07/2021, in terms of which Mr Nku was arrested and prosecution was in fact instituted, but at a later stage withdrawn. The situation is that, obviously, Mr Nku will still be exposed to prosecution in that matter, so, I

wish to record formally then that Mr Nku will assert his rights in terms of Section 3.4 of the Commission's Act, 8 of 1947, in terms of his right of privilege against self-incrimination, and furthermore, relating to Rule 8 of this Commission's Regulations, relating to the use of any evidence he gives here in any criminal prosecution which may follow, although I hasten to say that Mr Nku will deny having made himself guilty of any criminal actions or offences, but I just wish to formally place on record then
10 that he will assert his rights as I set out.

CHAIRPERSON: I assume this relates to responses to individual questions and not a blanket claim of the right against self-incrimination.

MR DU PLESSIS: Yes, indeed so, Chair, but the situation is that he is here under subpoena and obviously compelled to give evidence. We are not going to, from question to question, assert that right. So it ...[intervenes].

CHAIRPERSON: No, by question to question, I mean where that does arise.

20 **MR DU PLESSIS:** Where it applies, yes.

CHAIRPERSON: Yes, yes.

MR DU PLESSIS: Without then specifically every time pointing it out to the Commission.

CHAIRPERSON: If it does not point it out where it is meant to apply, then we will expect responses of substance

to the questions.

MR DU PLESSIS: Thank you, Chair.

CHAIRPERSON: Thank you.

ADV MOSIKILI: Thank you, Chair. Mr Nku, are you then on your sworn affidavit, which is what we call your first statement?

MR NKU: Yes, indeed I am a Commissioners.

ADV MOSIKILI: And then, can you then continue reading that into record, starting with where you say, I, Tumelo Nku,
10 and then you continue.

MR NKU: -:

“I, Tumelo Nku, hereby make oath and
state as follows. I am an adult male.”

Must, oh, sorry, must I skip the ID number?

ADV MOSIKILI: No, you can skip the ID number,
definitely.

MR NKU: Okay, thank you.

20 “I am an entrepreneur in businesses with
proficiency in data analysis, ethical
hacking, consignment and inventory
management, conducting cyber
penetration, testing and research for
various organizations.”

CHAIRPERSON: I am happy to learn that there is
something called ethical hacking. Please continue, Mr Nku.

MR NKU: Okay, thank you very much, Chair.

“Consignment and inventory management, conducting cyber penetration, testing and research for various organizations. The facts contained herein are within my personal knowledge, unless otherwise stated, and are, to the best of my knowledge, both true and correct. The affidavit is submitted in response to the questions posed by the Commission regarding the events of the 9th of July 2021, at Aeroton, Johannesburg.”

ADV MOSIKILI: Mr Nku, just one question before you go to paragraph 2. As part of your entrepreneurship, are you also involved in tendering or offering tenders to various arms of government, including municipalities as well?

MR NKU: Offering tenders? Please, please ...[intervenes].

ADV MOSIKILI: No, no, do you tender for, to offer services to different arms of the government, including municipalities? I usually would say, are you also a tenderpreneur?

MR NKU: No, I am not a tenderpreneur. I am a business consultant who have clients which are tenderpreneurs, but I do not run a business which is tendering for municipalities

and government.

ADV MOSIKILI: Thank you. You can proceed. You can start at 2.1, sources of information.

MR NKU: Okay.

10 “Sources of information. I became aware of the potential shipment date in the last week of April 2021, through confidential sources. At that stage, the information was preliminary and indicated a possible shipment involving arms, contraband, including drugs.”

CHAIRPERSON: Sorry, what do you mean it was preliminary?

MR NKU: Preliminary would mean hearsay, Chair, something that is not definitive, to narrow it down to specifics as to whether, whether, it is vague, it might be this, might be that.

CHAIRPERSON: Oh, please continue then, I shared.

MR NKU: -:

20 “Preliminary and indicated a possible shipment of arms and contraband, including drugs. I shared the information with Lieutenant General Sindile Mfazi, whom I was initially introduced by former Minister, Deputy Minister of Defence

...[indistinct] Maphatsoe as he expressed that General Mfazi was his compatriot in exile. Further details were received and shared in late June. All the information was relayed to the General accordingly. By approximately the 7th, 2021, certain containers were identified as being prioritised for transportation. One of them was conclusively the positive based
 10 one.”

CHAIRPERSON: Sorry. Oh, sorry, Mr Nku. You say that the information about arms, contraband and drugs, or rather the information concerned the shipment of all the things I have just itemised, was there mention of the type of drugs perhaps? Was it Cocaine?

MR NKU: There was no mention of the type of drugs.

CHAIRPERSON: They just said drugs, alright.

MR NKU: Yes.

CHAIRPERSON: When you advised General Mfazi of this
 20 information, was it the first time you ever advised police about information possibly involving criminality?

MR NKU: No, Chair.

CHAIRPERSON: It was the first time?

MR NKU: No, it was not, Chair.

CHAIRPERSON: It was not?

MR NKU: It was not the first time.

CHAIRPERSON: Okay, who had you done this with within the law enforcement service or services?

MR NKU: So, I have mainly done or sent information or exchanged information with Chief Mashaba, or let me say Mr Mashaba, and in expression, I want to move from this premise when I refer to Mr Mashaba. Maybe I will get to it in terms of the relationship.

CHAIRPERSON: No, I have read, yes, I have read your
10 statement, I have seen your introduction on how you got to know each other. At this stage, I just wanted to know when you gave information to General Mfazi ...[intervenes].

MR NKU: Yes.

CHAIRPERSON: Was it the first time you ever gave information ...[intervenes].

MR NKU: To law enforcement?

CHAIRPERSON: Ja, possibly involving criminality to law enforcement ...[intervenes].

MR NKU: No, it ...[indistinct].

20 **CHAIRPERSON:** Ja, you have said, you have said no. You said no.

MR NKU: Okay, yes.

CHAIRPERSON: So ...[intervenes].

MR NKU: Okay.

CHAIRPERSON: Now, but what about General Mfazi, was

this the first occasion with him?

MR NKU: I would say this was not the first engagement ...[intervenes].

CHAIRPERSON: With General Mfazi.

MR NKU: So maybe let me clarify the introduction with General Mfazi.

CHAIRPERSON: Yes.

MR NKU: When he was introduced, initially it was mainly based on my skill set to aid in looking up information,
10 because he was introduced to me, and the referral was in our colloquial language ...[vernacular].

CHAIRPERSON: Meaning your skill set.

MR NKU: Yes, yes.

CHAIRPERSON: Yes.

MR NKU: So when he was referred to me, it was mainly based on that. But looking at the, obviously the seniority, I felt the ...[intervenes].

CHAIRPERSON: Seniority, sorry, sorry, seniority in the sense of the rank he held, or seniority in terms of age?
20 Seniority in what?

MR NKU: Yes, seniority in terms of the rank that he held.

CHAIRPERSON: All right, all right.

MR NKU: So then it would be easier to pass information directly to him, as opposed to, and I was just testing waters. That is why I will get to maybe Mr Mashaba later.

CHAIRPERSON: Okay. All right, all right.

MR NKU: Yes.

CHAIRPERSON: All right, I am not probing at this stage.

MR NKU: No ...[intervenes].

CHAIRPERSON: This is merely seeking clarity, and that is what we usually do. You first run through your statement, but along the way we may ask clarity-seeking questions. So if I understand you correctly, you are saying this was not the first occasion you gave information to General Mfazi.

10 Now, on how many occasions before this occasion had you given information to him, and what suspected criminality was involved during those previous occasions or instances?

MR NKU: Chair, maybe let me clarify. This was the first occasion where I have given information, because the introduction was not based on me giving information, but rather the introduction was me aiding in my skill set, clarifying information.

CHAIRPERSON: Okay. Maybe we misunderstood each other then, because maybe three or so questions back my
20 question was whether this was the first occasion you had ever given information of this nature to General Mfazi. So you are saying this was the first occasion?

MR NKU: This was the first occasion. It was because we were recently introduced.

CHAIRPERSON: All right, okay.

MR NKU: It had not been long.

CHAIRPERSON: Okay. All right. Now, besides General Mfazi, I want to know if before this occasion, the occasion that involved General Mfazi, you had ever given information about suspected criminality to any other law enforcement officer.

MR NKU: It had been Mr Mashaba.

CHAIRPERSON: Mr Mashaba.

MR NKU: Yes, a couple of times.

10 **CHAIRPERSON:** How many times? How many times? A couple may sometimes be vague. Some people use couple literally to mean two.

MR NKU: No, it is more than twice. There have been a lot of incidents, instances rather, where I have given information and that is why I say maybe in terms of clarity, I do not know if Chair wants me to get to that now or ...[intervenes].

CHAIRPERSON: Maybe let us leave it at several instances, then maybe we will get to the detail at the
20 probing stage.

MR NKU: Okay, Chair. Thanks, Chair.

CHAIRPERSON: Now, just another question. I hope it will also not sound probing at this stage. So were you a paid informer/informant or were you doing this altruistically or out of the goodness of your heart?

MR NKU: Chair, I was not a paid informer in a sense of giving information to law enforcement, yet ...[intervenes].

CHAIRPERSON: I do not understand that. You are not an informer and giving information to law enforcement ...[intervenes].

MR NKU: So ...[indistinct] [cross-talking].

CHAIRPERSON: Oh, you used paid. All right.

MR NKU: Yes, I was not a paid informant. I was more of a confidential source. However, I have instances where I
10 have consulted with, I would say, foreign intelligence entities on the basis of my skill set. That is not merely being an informant, but as a consultant who would expect remuneration for their services. So in terms of giving information now ...[intervenes].

CHAIRPERSON: Sorry, just to make sure I understand. The last thing you are referring to, would it be similar to, for example, being contacted by a corporate entity for you to assist it in terms of your skill, what you refer to as your skill set? Would that be the same thing, basically? You are an
20 expert in this and this and you are a player in this environment, can you please, using that skill, assist me? So is that what you are referring to when you are referring to the criminal justice system or rather law enforcement officers? Would you be assisting them in that sense or what?

MR NKU: So I think maybe, Chair, if you can phrase it differently, because ...[intervenes].

CHAIRPERSON: Yes.

MR NKU: Or maybe I do not understand the question, Chair.

CHAIRPERSON: I asked you a question whether you were doing this altruistically or out of the goodness of your heart.

MR NKU: Precisely, Chair.

CHAIRPERSON: Were you paid or were you doing it
10 altruistically?

MR NKU: No, for providing information to law enforcement, I have not been paid.

CHAIRPERSON: That was the simple answer. You then confused me by referring to something else.

MR NKU: Oh, sorry.

CHAIRPERSON: That is what got me lost, which is why, to understand, I then made a comparator with the corporate world and said, would you be doing something similar as, for example, if you were engaged by an entity within the
20 corporate world. But you have answered me, you have said you were not paid.

MR NKU: Pardon me, Chair.

CHAIRPERSON: You would give information to law enforcement officers for free. You have answered me, so let us forget about the other issue you are trying to explain.

Thank you.

MR NKU: Thank you, Chair.

ADV BALOYI SC: Maybe before you proceed, Mr Mosikili, you say that you had that information first in April 2021 and you say it was preliminary information at that stage, but you shared with General Mfazi. What at that point do you share? What exactly do you say to him?

MR NKU: The information that I shared was, or rather that I shared was there might be something of this sort that, 10 maybe to use a slang for it, that has been cooked up or that is still in the making. If it is at all possible, as I keep acquiring more details, I will then feed the information, but be on the lookout. That was more of it, be, rather be on the lookout, there might be something of this sort in the making.

ADV BALOYI SC: Okay. So when you say be on the lookout, as in what, as he should start preparing to do something about that information, was that the idea?

MR NKU: There will come a time, there will come a time where the information is positive.

20 **ADV BALOYI SC**: Okay. And then you say then there were further details received and shared in late June. You relayed this to General Mfazi, you say. What exactly then at that point is different that you are conveying to him?

MR NKU: At that time, I had acquired information relating to a granted ship that was coming. So basically, when one

refers to preliminary information, there had not been a plan set in motion for any of either the arms or the contrabands, but at a much later stage, because the information is much more narrowed at that point to say that now there is a talk of a vessel. I would then deem it to be much more close to being positive at that point in time.

ADV BALOYI SC: I guess what I am trying to understand is with these further details that you say you share with General Mfazi, do you at that point say, there is this ship, it
10 is coming from this destination and it will be containing arms, drugs or whatever? Is it that kind of detail, because you say there is further details. You are now ...[intervenes].

MR NKU: Yes ...[intervenes].

ADV BALOYI SC: [Indistinct]... [cross-talking].

MR NKU: So now the further detail would be the vessel itself, because ...[intervenes].

ADV BALOYI SC: You say there is a vessel.

MR NKU: Because now, when I say preliminary the
20 information was vague, there was nothing to narrow it down to.

ADV BALOYI SC: Yes.

MR NKU: But now when there is a vessel in play, it is much more narrowed. Then you start having, so you have, for lack of a better word, you have narrowed it down. The

only thing now is to get precise container numbers, things of that sort.

ADV BALOYI SC: Okay, all right, we will come back to it. Thank you.

MR NKU: Okay.

ADV MOSIKILI: Perhaps while we are there, Mr Nku, can you just explain when you say you shared the information with Lieutenant General Mfazi, how did you share the information?

10 **MR NKU:** So, I shared the information through, there was an app which I usually chatted to with ...[indistinct] Maphatsoe. It is called Silentel. So, we would either use that app or there is another app called Troop Messenger, but we would, we hardly use that, because Silentel is the most secure application in terms of moving confidential information.

ADV MOSIKILI: And did he respond to you on that message?

MR NKU: Yes.

20 **ADV MOSIKILI:** And what did he say?

MR NKU: His response was, okay, keep it coming.

ADV MOSIKILI: Keep the information coming?

MR NKU: Yes. It was more, I need clarity, I need, I need something tangible, initially, when I said I need something tangible, because I just sent a vague message to say that

there is something of this sort that is in the pipeline that needs to be on the lookout for.

ADV MOSIKILI: And out of interest, the apps that you have mentioned, and one of them being the most secured, not any ordinary person has those apps. When did you get to know, or how did you get to know that the General might have such an app?

MR NKU: I would guess that one being in the space that one is in, in terms of having access to tech, and one
10 constantly researching on the, how do I put it, the most secure technology.

ADV MOSIKILI: All right, let us continue. I will come back.

MR NKU: I think, are we at 2.2? Are we at 2.2? I have lost track now.

CHAIRPERSON: Ja, I think, yes.

ADV MOSIKILI: Yes, you can start, ja.

CHAIRPERSON: At 2.2, yes.

ADV MOSIKILI: With the relationship with Samuel
20 Mashaba.

MR NKU: Okay.

“Prior to 9 July 2021, my relation ...”

[intervenes].

ADV BALOYI SC: Sorry, Mr Nku, before you go to there, can you just explain what you mean in that 2.1, the very last

sentence, where you say, by approximately 7 July, and this is the part that I am interested to understand, certain containers were identified as being prioritized for transformation. Can you just, for transportation. Can you just explain what it is, your meaning there? What does that mean, in fact?

MR NKU: Okay ...[indistinct] through my sources shipments or delivery of goods in consignment management are labelled according to priority. There are entities whose
10 goods generally jump the queue and within the very entities, then they would have their own sub-category of, I would say, if it is goods or containers, that are prioritized for collection ahead of others.

ADV BALOYI SC: You say for collection from where, from the departure port or from where they arrive here, let us say in Durban?

MR NKU: So from the port where they are already delivered. So say, for instance, if in this matter we are dealing with the Durban port, so the collection from the
20 Durban port would be set to being prioritized in accordance to, so if a company is, for instance, receiving 20 containers, and then you may find that three of those are loaded or five of those are loaded for quick delivery, those are prioritization ahead of others.

ADV BALOYI SC: And is there anything unusual or

suspicious in itself that certain containers are being prioritized, or that is something that happens in the normal course?

MR NKU: In my limited experience, it is something unusual, because if an entity is receiving, say for instance, 10 containers, the best would be prioritizing all of them. Why then prioritize one or two of those if they would be transporting the same thing.

ADV BALOYI SC: Yes, that is exactly what I wanted to
10 understand with my question that are you saying, where you say certain containers were identified as being prioritized for transportation, are you saying of a total number of containers that are going to the same receiver, for lack of a better word, I do not know the language in that industry, that are destined to the same receiver, a certain number of those are being prioritized? So out of 10, only 3 is prioritized, and therefore that is what creates a suspicion. Is that what you are saying?

MR NKU: Precisely, Commissioner Baloyi.

20 **ADV BALOYI SC:** Okay. And then the last thing, in that same paragraph you seem to have an incomplete sentence, the very last sentence.

MR NKU: Yes, yes.

ADV BALOYI SC: Do you want to ...[intervenes].

MR NKU: Yes, yes, yes.

ADV BALOYI SC: Do you want to complete it?

MR NKU: Okay. So it was, apologies, the suffix there would be based on the intel.

ADV BALOYI SC: Thank you.

MR NKU: Based on the intel, ja.

ADV BALOYI SC: Thank you, Mr Mosikili.

ADV MOSIKILI: Mr Nku, before we proceed, so that I am clear, two things. For you to know that ...[intervenes].

CHAIRPERSON: Should we not take the break now and
10 please hold your thought and resume at 11:30. Let us adjourn.

INQUIRY ADJOURNS

INQUIRY RESUMES

CHAIRPERSON: Just a minute, Commissioner Khumalo indicated that he wants to ask a few questions.

ADV KHUMALO SC: Mr Nku, good morning.

MR NKU: Good morning, Commissioner.

ADV KHUMALO SC: How are you?

MR NKU: Good and yourself, Commissioner?

20 **ADV KHUMALO SC:** I am good. paragraphs 1 and 2.1, you deal with your background and your expertise in IT and cyber-related issues, but in your response to Commissioner Baloyi, it seems to suggest that you know quite a lot about port activities and what happens at ports and important export and containers and stuff like that. So, what is your

background in that area of commerce? Have you ever worked for a port authority or an institution related to port activities, import, arrival of containers? Can you just give us a full background of what you know and whether you have ever been involved in those industries or those activities?

MR NKU: Commissioner Khumalo, from an entrepreneur's point of view, not professional, albeit it extends to professional in a sense that one had impact on studying
10 consignment management. Thus ...[intervenes]

ADV KHUMALO SC: Sorry, please speak up.

MR NKU: Oh, sorry.

ADV KHUMALO SC: Remember, the mics cannot [indistinct] you, but just so I do not repeat myself. Sorry, I made the same mistake, so that I do not repeat myself because I did not hear your answer. Try to speak up if you can.

MR NKU: Oh, apologies. Please, please bear with me.

ADV KHUMALO SC: You stopped at consignment
20 management, so deal with that and then continue the rest of your answer.

MR NKU: Please do bear with me, Commissioner Khumalo. The reason why I am hesitant of speaking up is because I have got a hoarse voice, so I am afraid of coughing constantly. So, do bear with me, Commissioner. From a

consignment management point of view, it is not necessarily about having knowledge relating to shipment of containers, but the whole value chain of supply chain management involves the manufacturing, movement of goods up until the end user, it is a route to market strategy.

And in various sectors of supply chain, the question that Commissioner Baloyi asked does relate to supply chain broadly. It is not just specific to containers. In various industries, shipments can be prioritised ahead of others.

10 So, it is not necessarily me having knowledge with shipment, inbound and outbound of goods. But from a point of view of someone who has impact on supply chain management and as an entrepreneur, I have had a company that has worked in consignment management extensively across various industries like beverage and supplying other goods.

ADV KHUMALO SC: So, you have never worked for Transnet?

MR NKU: So, my relationship with Transnet was limited to
20 consulting. So, I have worked for a company that has consulted with Transnet before.

ADV KHUMALO SC: And you do not know who else is in the port space. You have never worked for any of the entities that have activities in the ports?

MR NKU: It was limited to the company that I worked that

was consulting with Transnet because I have been at port side, years ago.

ADV KHUMALO SC: So, the one that comes to mind, I do not want to mention the specific name of the company because it is not implicated in the Commission, but it is a logistics company that is responsible for transporting containers from the coast.

MR NKU: Point B to point B.

ADV KHUMALO SC: You have never worked for any of
10 those logistics companies?

MR NKU: My relationship with logistics companies is limited to consultation.

ADV KHUMALO SC: So, it would be strictly consultation?

MR NKU: Strictly consultation.

ADV BALOYI SC: Maybe just as a follow-up on this discussion, you say as a consultant, your company or the company that you worked for consulted for Transnet, and I think I heard you say that in that capacity you have been to port. Did I hear you correctly?

20 **MR NKU:** Yes, Commissioner Baloyi.

ADV BALOYI SC: Maybe then, sorry, let me let you finish.

MR NKU: Maybe if I clarify, not specifically to port, but to the office that port reports to. So, being exposed to the systems. Consultation is mostly in the ICT space.

ADV BALOYI SC: When you say being exposed to the

system, maybe say more about that. What do you mean, what kind of exposure, what system are you talking about?

MR NKU: So, the ICT systems which Transnet would be using, because one is consulting in a space that is limited to the ICTs, one would be exposed to the, not extensive, but the inner workings or mechanisms of the system.

ADV BALOYI SC: Would that, did that include or would it have included exposure to the handling and movement of containers and goods by Transnet at the port? That is what
10 I am trying to understand.

MR NKU: No, no, no, no. It is mostly around your active direct, it is mostly rooted in the ICT space. Remember, when you are talking about the handling of containers, shipment of goods, the type of system used therein, I believe it is SEP, it is more end user orientated as opposed to more dedicated ICT orientated platforms, like managing your active directories. I do not know if the Commissioners are familiar with the terms, like managing of their SQL or networking and so forth. And not necessarily relating to the
20 shipment of goods.

ADV BALOYI SC: Okay. Hopefully I will understand by the end of your testimony what it is that you are explaining. But lastly, the way you say you then noted and notified that certain containers were prioritised for transportation, how would you have noted that? Is it because you are at the

port, you see that? Let me not try and give you an answer, I am just trying to explain the kind of question that I am asking you. How do you become aware of that?

MR NKU: Maybe that will partly be clarified in my supplementary statement, Commissioner Baloyi.

ADV BALOYI SC: I am happy to leave it if it will be clarified in the sequence of your testimony.

MR NKU: I will go at it at length.

ADV BALOYI SC: Okay.

10 **MR NKU:** That is precisely what I meant.

ADV BALOYI SC: Okay, sure. That is fine.

CHAIRPERSON: What I remember from that statement is how exactly you would get that information. And that is not necessarily the same as what Commissioner Baloyi is asking you. But I may have missed that. But let us leave it nonetheless. Let us leave it.

MR NKU: Oh, sorry, Chair.

CHAIRPERSON: No, let us leave it.

MR NKU: I did not mean to...

20 **CHAIRPERSON:** Let us leave it, let us leave it. Commissioner Baloyi will probably raise it again or even Mr Mosikili.

MR NKU: No, I was going to say that I will substantiate further.

CHAIRPERSON: Oh, when we get to that stage. No, that

is fine. Can I take you back to paragraph 1?

MR NKU: Paragraph 1.

CHAIRPERSON: Ja, where you talk about ethical hacking. You will correct me if I am wrong, but I think I do have an idea of what that is. When institutions, whether private or government or governmental, either set up their ICT systems, just check them routinely or even upgrade them, they will get an ICT expert. Maybe not necessarily the one that set it up, but one who will either hack into it or attempt
10 to hack into it to establish if it is secure enough. So it is ethical in the sense that it is authorised by the person to whom the system belongs. Is that what you are talking about or are you talking about something else altogether?

MR NKU: That is precisely what I was referring to.

CHAIRPERSON: So basically, basically you can hack into people's ICT systems. You have the skill. You have the skill to hack into people's ICT systems.

MR NKU: I cannot just, Chair ...[intervenes]

CHAIRPERSON: Maybe let me add this and say whether or
20 not you succeed depends on how secure the system is. But otherwise it is a skill that you do possess. Let me talk about it. Let me not be general and talk about it perhaps in the context of you doing this ethically. So in the ethical context you could actually hack into somebody's ICT system.

MR NKU: Not just limited to an IT system, any system, Chair.

CHAIRPERSON: Any system.

MR NKU: Yes.

CHAIRPERSON: Tell me about the others. Tell me about the others.

MR NKU: It might be the Chair's handheld device.

CHAIRPERSON: Jôh. [Laughter] Okay, all right. Anything else, anything else other than the ICT?

10 **MR NKU:** Across different networks, Chair. Generally hacking in its nature, it is not a silo operation. So there is always, when we talk recon, there is always an exchange of ideas with maybe like-minded individuals. So when one tries to penetrate, it is trial and error. It is testing, consistent testing of a particular system. And sometimes one might not necessarily need others. But just for one aspect, because in the space, the technocrat space, there is a type of attack that is called a DDoS attack. It is a denial of service.

20 So you might need other systems encroaching on a network just to have an opening. Once they do a consistent probing of a system, you have an opening and you are as good as through that system. So to maybe relate to the Chair's previous assertion of an entity bringing in an expert to test their system. That is not how the real world works.

Yes, I know entities do that, but generally...

CHAIRPERSON: How does the real world work?

MR NKU: That is a simulation. Granted, companies do that. But how an actual infiltration works does not happen in that manner, where you have someone just going into the system or just testing it. That is why I am saying, more than not, it becomes a coordinated attack. It comes from various angles. That is why ...[intervenes]

CHAIRPERSON: No, I just wanted to understand the
10 ethical, the ethical, that is...

MR NKU: I was getting to that, Chair.

CHAIRPERSON: Okay, all right.

MR NKU: Even on the ethical part, I would say well-experienced administrators do a simulation or a sandbox of a system and maybe hire a group of ethical hackers or even grey heads. Because in hacking, you have your whitehead, grey head and blackheads, those who hack with impunity. So they would hire a group and have it become a coordinated attack.

20 **CHAIRPERSON**: Okay, all right. That answers me. Thank you very much, Mr Nku, thank you. I think now, finally, you are at 2.2.

ADV MOSIKILI: Not quite, Chair.

CHAIRPERSON: Oh, you had a, sorry, I am very sorry, Mr Mosikili.

ADV MOSIKILI: It is fine, Chair. Mr Nku, just to make me understand, when you shared this information with General Mfazi, you indicated that you used a secured network or a secured app. I take it there is no recording or any evidence of that communication between the two of you?

MR NKU: There should have been. There was.

ADV MOSIKILI: Do you still have it?

MR NKU: Maybe that will be addressed in 2 point... sorry about that. In 2.7.

10 **ADV MOSIKILI:** Okay.

MR NKU: It will be addressed in 2.7 as to what happened after.

ADV MOSIKILI: I wanted to ask you if, for example, did you share that information with anyone else apart from General Mfazi?

MR NKU: So, we had... because I was introduced to him by *Komisa* Maphatsoe.

ADV MOSIKILI: Yes.

MR NKU: He, in turn, had a group within that app and I
20 believe if his devices are still available, the app should be.

ADV MOSIKILI: So, you are saying if, so you were introduced through an app?

MR NKU: No, no. I am saying because... Remember I said, because I was introduced to General Mfazi, maybe through a conduit, being *Komisa* Maphatsoe. My

communication with him could not be more direct.

ADV MOSIKILI: Yes?

MR NKU: Because I know him through a conduit. So, I needed to make the information or avail the information to a platform where both of them are aware when I give information.

ADV MOSIKILI: So, in fact, you shared with both?

MR NKU: I shared with both.

ADV MOSIKILI: Okay. And are there any family
10 relationships or ties between you and *Komisa* Maphatsoe?
Are you anyhow related?

MR NKU: I would say we are not blood related. We, one... we are distant relatives. There is some form of relation, but we are not close, because it is a bit far.

ADV MOSIKILI: So, it would be...

MR NKU: I know him from elsewhere, from political affiliations.

MR MOSIKILI: So, it would be inaccurate to say that he is your uncle, as we have been told.

20 **MR NKU:** It would be inaccurate unless it means something otherwise. But it would be inaccurate. He is not my blood uncle.

MR MOSIKILI: Yes, no, Chief Mashaba testified that, in fact, he is your uncle in no uncertain terms. And you are saying that he was mistaken to say so?

MR NKU: I would say he was mistaken. Indeed, he was someone that I was close to, but he was not my uncle.

ADV MOSIKILI: Okay.

CHAIRPERSON: You refer to him as *Komisa* Maphatsoe. That sounds more like a comrade than a relative.

MR NKU: Yes. Indeed, indeed, Commissioner.

ADV BALOYI SC: Thank you.

MR MOSIKILI: And then, you say that certain containers – that is the second last sentence, you say that:

10 “Certain containers were identified as
being prioritised for transportation.”

Who would have informed you of this prioritisation of these containers?

MR NKU: Chair, I think that would be that question that relates to me invoking my right not to self-incriminate. Because how some of the information was acquired was not acquired in an orthodox manner.

ADV MOSIKILI: Would it be fair... Sorry?

MR NKU: So, it then relates to my supplementary affidavit.

20 **MR MOSIKILI:** Okay. At this stage, would it be fair that some of this information would have been from someone from Customs or...?

MR NKU: No.

ADV MOSIKILI: Not quite.

MR NKU: It would not be someone from Customs.

ADV MOSIKILI: All right. And then when, lastly, before we go to 2.2, when you shared this information with both Maphatsoe and General Mfazi, did you disclose to them your source?

MR NKU: No, I had not. At no material times have I disclosed any of my source. Any information that I provide, I have not disclosed any of my sources.

MR MOSIKILI: So, they simply acted on your, I suppose, second-hand information as it were.

10 **MR NKU:** I would say that.

ADV MOSIKILI: Okay.

MR NKU: But maybe to them it was coming from me.

MR MOSIKILI: Yes, but it is not your direct, because you have your source.

MR NKU: Hundred percent, but we never traverse the terrain as to whether I have a source or not. Generally, when one gives information, the person receiving information cares about the information, nothing else. Because more often than not, there would be a fear that if
20 you start asking, where are you getting the information, the person providing information will just run away from you.

CHAIRPERSON: Sorry, sorry, sorry, Mr Mosikili. You are referring to both General Mfazi and Mr Kebby Maphatsoe as being the recipients of the information. My understanding was that the information was given to General Mfazi, but the

role that Mr Maphatsoe played was to introduce Mr Nku to General Mfazi.

MR MOSIKILI: That was my understanding as well, Chair.

CHAIRPERSON: Oh. I shared, ja. Can you please clarify this? Because I am just looking at one, two, three, third line.

10 “I shared this information with Lieutenant General Sindile Mfazi, whom I was initially introduced to by former Deputy Minister of Defence, *Komisa* Kebby Maphatsoe.”

ADV MOSIKILI: Yes. Did you share the information with both of them?

MR NKU: So, maybe let me clarify this, Chair. Initially, because, hence I say, because I was introduced, there would be a conduit. So, whatever I say, the conduit would then need to be aware, because the introduction extended to that. Initially, when I shared information, it was more because we had created a mini-group within the Silent Hill space. So, whatever I shared, he would then be aware.
20 But the information was not intended for him. Information was intended to General Mfazi.

CHAIRPERSON: Thank you.

MR MOSIKILI: On that score, lastly, we know that General Mfazi is late.

MR NKU: Indeed.

ADV MOSIKILI: That is correct?

MR NKU: Yes, indeed.

MR MOSIKILI: Yes. All right.

MR NKU: Indeed, Commissioner.

MR MOSIKILI: Thank you. You can proceed.

MR NKU: Am I in 2.2?

ADV MOSIKILI: Yes.

MR NKU: Okay. Prior, so, the relationship with Mashaba.

10 “Prior to 9 July 2021, my relationship with
Chief Samuel Mashaba was that of a
professional acquaintance. I had been
introduced to him in 2019 through a mutual
contact, with the understanding that he
could assist in ensuring the information
related to suspected criminal activity was
referred to appropriate law enforcement
structures. Post 9 July 2021, we have built
a more personal friendship, particularly
given the fact that we have endured similar
20 persecutions and vilifications subsequent
to our arrest.”

Chair, maybe I or maybe I will clarify at a later stage.
There is something that I did not include in my statement,
but I thought it would be substantiated as I tender my
evidence.

When I was introduced to Chief Mashaba, the person who introduced me to him, he is someone whom I had known personally. One, because he is a businessman who is in the mining space. And two, because of the relationship from our political affiliations. So, our relationship stems from that point. But then, when I was introduced, sometimes words get lost in translation. So, I was introduced in isiZulu. So in a colloquial way, when I was introduced, he had said [indigenous language –

10 0:27:13], so that is how the relationship started.

I do not know whether Chief Mashaba might have been cognisant of that from the word go, but when I was introduced, that is why even in all my devices, I had always saved, because the initial term for it, because he said [indigenous language], I actually learned Chief Mashaba's name much later on. It was not at the initial stages of me being introduced to him. So, I thought maybe let me clarify and substantiate that as to how we got acquainted.

CHAIRPERSON: You referred to the person that

20 introduced you as a mutual contact. What do you mean by that?

MR NKU: So, why do I say mutual contact? Because it would be apparent that the person knows me and him. Because at the time, I did not know Chief Mashaba. That is why I say a mutual contact in a sense that the person knows

Chief Mashaba, and me and him had a prior relationship.

CHAIRPERSON: I hear you, but it is an unusual way of referring to that sort of situation. But no, no, no, I hear you. You have explained it. That is enough for me.

ADV BALOYI SC: This would have been, given what you say in your statement, you say:

10 “I had been introduced with the understanding that he could assist in ensuring that information relating to suspected criminal activity was referred to appropriate law enforcement.”

So that would mean that that mutual contact, that person that you referred to as a mutual contact who does the introduction, must have known something about your activities of providing information about criminal activity for them to consider that this is a useful connection to make.

MR NKU: So, Commissioner Baloyi, I go back to the acknowledgement of one’s skill set, not just law enforcement, in terms of being able to track information and
20 ultimately provide information.

ADV BALOYI SC: So that person knew that part of your life, that you do that?

MR NKU: Yes, from that point of view, the person knew my skill set in terms of tracking information.

ADV BALOYI SC: Okay. Thank you. Thank you.

MR MOSIKILI: Just to understand you, when you say prior to the 9th of July 2021, you and Chief Mashaba, your relationship was that of a professional acquaintance. Acquaintance would really mean that someone that you are not close to, it is merely exactly that, an acquaintance. You do not necessarily share social spaces or any significant relationship.

MR NKU: Yes, we would not ordinarily share social spaces. Albeit it may be as a consequence of him knowing
10 someone that I know, but generally we would not be in the same social spaces. See, for instance, in this instance, I believe when I was introduced to him, it might have been a funeral or something of that sort. That is why I said because it seems like he, because I knew the person who introduced us personally. Him, I had never encountered in my life before. And even subsequent to that, we would not be in the same social spaces.

MR MOSIKILI: And he was introduced to you as someone from the Hawks, is that what you are saying?

20 **MR NKU:** That is subject to interpretation, Commissioners. That is why I say, I would maybe leave it to the Commissioners, because it was put in a colloquial tongue. So it was said that [indigenous language – 9:32:19], so it might mean an array of things. But remember, my mind-set is that the closest person to the Hawks, if one has

something, would be this person. That is the first person that I would think of. That is how I introduced. So I would leave it to the Commissioners for interpretation.

MR MOSIKILI: And then what appropriate law enforcement structures you expected him to refer you to, or to refer these activities to?

MR NKU: Precisely, the fact that subsequent to that there is a lot in terms of information that one provided. The Hawks would be amongst them, the DPCI.

10 **MR MOSIKILI**: And at least you know by now, as we said today, that Chief Mashaba was never into the Hawks, or worked for the Hawks. Do you accept that?

MR NKU: No, I do accept that.

ADV MOSIKILI: Yes.

MR NKU: I do accept that, Chair.

MR MOSIKILI: And what is it that you needed to be referred to – and I am not probing, I am just trying to get your understanding – as you start this relationship, that you could not yourself refer this information that you have, that
20 you needed to be introduced to someone else, to refer this information that you have.

MR NKU: So, there is somewhat an extent of delicacy in information. One just passing information overtly, without vetting or rather without having rapport with individuals with whom information is shared, may be to one's detriment. It

is easy for whistle-blowers, for confidential sources to die, just passing information vaguely. So, in this instance, because it is done through a well-known party, someone that one had already built rapport with, it instils confidence. Because to just go and provide or give information, that may lead to your death.

MR MOSIKILI: I understand that. I am just trying to understand, and without again probing you, as to why would you need such introductions where you had already
10 someone as high up, even probably closer to the Hawks as General Mfazi, why would you need someone else?

MR NKU: No, no, no. Maybe let me clarify that. Commissioners, earlier on I said that I had gained the acquaintance of General Mfazi in 2022. In 2021, rather, apologies. But with Chief Mashaba, it might be in 2019. I stand to be corrected. It might even be maybe late 2018. But I believe it is early, early 2019. So, ja, that was two years back, way before I knew General Mfazi.

20 **MR MOSIKILI:** Okay, I understand that. And lastly on the score, what I seek to understand is that what it comes across is that because someone knows the kind of work you are into, that you want to be linked up with people who might be amenable to working with you in that space, as Mashaba eventually did.

MR NKU: I would not see it from that perspective. How I would view it is, as any confidential source, your duty is limited to providing information. What, who you provide information to does with it, that is incumbent upon them. But it then becomes much, much easier when there is an established relationship. That is why people who do it formally, where you have formal informants, you have formal sources, there is somewhat an ongoing relationship between the officer or the handler and the person providing
10 information.

So it is not really about other people being amenable to the space that I am in. It is not necessarily about that. But one having someone with whom you can have confidence to provide any form of information. Because you... it is difficult to go out and give just about anyone information. Like I said, people end up dying if that is done.

CHAIRPERSON: Mr Mosikili's second last question could be flipped. If you already had Chief Mashaba, why did you
20 need General Mfazi?

MR NKU: Because of the unreliability of Chief Mashaba, Chair.

CHAIRPERSON: All right, thank you. Yes, Mr Mosikili?

MR MOSIKILI: Thank you, Chair. Mr Nku, what I am trying to wrap my head around is exactly what you are saying

about your line of work. Well, I do not know if to call it work, because when we asked earlier on to say, is that how you earn your living, you said, I think you are doing this out of the goodness of your heart. And I am trying to understand why you put yourself and your life in harm's way by taking this information, where else you could have even possibly give anonymous tip-offs.

Why do you have to go to an extent of having to find, or at least having to be introduced to the likes of
10 Mashaba, who would ultimately, which is the part I will have difficulties with, to say ultimately you wanted them to refer the matter to appropriate law enforcement structures. That is my difficulty. Why are you getting yourself involved in such situations that puts your life in danger? Especially if you are not getting paid for it.

MR NKU: Advocate Mosikili, Chair, when one provides information initially, it is in that sense of an anonymous tip-off. Even when one provides information to say your Chief Mashaba, remember I am nowhere near the information.
20 One provides it. But there is a sense of accountability at least to say that this information was provided to so-and-so. In terms of actioning it, there would be blame appropriated to that individual. But over and above that, long-term, there would have been aspirations of earning from information that one provides when it is seen that the information is

constantly solid.

But relating to that which one knows now pertaining to how affairs were conducted maybe or where Chief Mashaba was stationed at the time, one was oblivious, obviously. So in terms of proximity, one gave information with the sense that there is proximity to closer law enforcement like your DPCI or even Organised Crime.

CHAIRPERSON: Mr Mosikili, perhaps let us try as far as
10 possible to finish the statement. We are still at page 1. I will immediately admit that we too are to blame. We asked a good few questions. But we hope they were seeking clarity. If we could try to just maybe move faster, be done with the statement and then begin with the probing, it does not of course mean that we should not ask clarity-seeking questions.

MR MOSIKILI: Thank you, Chair.

CHAIRPERSON: Where was the witness?

MR MOSIKILI: Yes, we are at 2.3. That will be the topic.
20 And then you have to go to page 2 where it starts with ‘I informed Chief Mashaba of the information’.

MR NKU: 2.3.

“I informed Chief Mashaba of the information on or about the 8th of July 2021 around about 7.30 after I became

satisfied that the information was sufficiently specific to warrant operational follow-ups as the Yellow Jersey truck which was carrying the container in question had been travelling in record time towards Johannesburg. In relation to Chief Mashaba, it was a last-minute request as the high-ranking official, who was supposed to have assembled a team to run the operation, was not available at the time.”

MR MOSIKILI: Mr Nku, before you go, the high-ranking official, who is that? Is that General Mfazi?

MR NKU: Precisely, Chair.

MR MOSIKILI: Okay. And then, just to understand you, when you say that this Yellow Jersey truck which was carrying the container in question had been travelling in record time, what do you mean by that, towards Jo'burg? How did you come to that conclusion? What do you mean by that statement?

MR NKU: The information that I had acquired was that the truck was not... Let me say at a later stage, the truck did not stop at the weigh bridges in its path to Radiokop. So I would deem that as record time because it is mandatory for a truck to stop. As someone who has owned trucks before,

I know that it is mandatory to stop at a weigh bridge.

MR MOSIKILI: And when you informed Chief Mashaba of this development at 7.30pm, where were you?

MR NKU: Around about this time, I was in Durban.

MR MOSIKILI: You were still in Durban?

MR NKU: Yes, I was still in Durban.

MR MOSIKILI: I suppose the follow-up question then is that because an impression could have been created that you were tailoring or you were following this truck. But you
10 say you were in Durban. I suppose the follow-up question would be how did you know that this truck did not stop at weigh bridges and as a result travelled in record time?

MR NKU: So I had my sources relaying the information.

MR MOSIKILI: Is that the driver?

MR NKU: No, the driver, I never had any contact with the driver.

MR MOSIKILI: The source would be where the destination where it arrived.

MR NKU: So the sources would be at the destination and
20 information relayed while I was still in Durban, is that usually when a truck does not stop in any of the weigh bridges, generally the drivers would know or would have gotten a heads up that okay, do not stop. Just push it. I do not know if I am making sense, Chair.

MR MOSIKILI: Let us continue. We might have to come

back but let us continue for now.

MR NKU: Okay.

ADV MOSIKILI: Go to 2.4.

MR NKU: 2.4.

10 “My presence at the scene was limited to that of a source of information/informant. I remained in my vehicle at all material times except when instructed by police officials to step out namely General Feroz Khan. I did not participate in any operational decisions, searches or handling of any items.”

CHAIRPERSON: And by scene I assume you are referring to the Aero-ton scene?

MR NKU: Apologies, Chair. Yes, the scene because the question which was asked was limited to that.

CHAIRPERSON: No, I just want this to be on record, ja, because the question is here now.

MR NKU: Yes, Chair.

20 **CHAIRPERSON**: All right.

MR NKU: 2.5.

“Events on the 9th of July 2021. On the 8th I travelled from Devon to Johannesburg at around 8 p.m. after communicating with Chief Mashaba regarding the information.

On the morning of the 9th July 2021 I met with him and provided a briefing. He indicated that he was calling a Warrant Officer Phokungwana from Alberton police station as the area where Yellow Jersey depot fell under their jurisdiction. He then informed me that Warrant Officer Phokungwana was not available, yet he referred him to another Warrant Officer who was the duty officer and had also sent him his numbers. He called the duty officer and indicated that...”

Oh, sorry.

MR MOSIKILI: Mr Nku, I think, can you just try and raise the volume just a bit.

MR NKU: Oh, apologies, ja, of course.

ADV MOSIKILI: Yes.

MR NKU: I fear coughing because of the hoarse voice so if I speak up my throat will get dry. Okay, so I will speak up.

20 Apologies, Chair.

“He called the Warrant Officer and indicated that I must lead him to where the Yellow Jersey depot was. After a while a black Nissan NP300 arrived and Chief Mashaba instructed me to get out of the

vehicle. He introduced the gentleman who was driving alone as Warrant Officer Mogana. I also briefed him on the information and they proceeded to drive towards the depot which was about 500 metres from where he had parked in Chief Mashaba's state Golf 7. Thereafter they returned and indicated that they will inspect the truck in Aeroton and that I must follow them.

10

I followed the convoy to the Aeroton premise where I remained in my vehicle observing events from a distance. I parked next to Chief Mashaba's car on the left and initially Warrant Officer Marumo had parked on the right hand side of Chief Mashaba's car. This was about 100 metres to 200 metres, I stand to be corrected, from where the truck was. They both got out of their respective cars and walked towards the truck.

20

I observed the container being opened and black bags falling near the wheels of the trailer from which they fell. Then Chief Mashaba came to his car and went down

holding cable ties, a moment later Warrant Officer Mogana fetched his car and parked alongside the truck. Then I saw the bags being loaded onto the NP300 vehicle. A moment later I saw a Booysens marked bakkie next to the truck and the officers from the bakkie seemed to be speaking to both Chief Mashaba and Warrant Officer Mogana.

10 Then after a while, a red Kia drove towards the Booysens bakkie. Another gentleman who was driving alone stepped out and first greeted Warrant Officer Mogana and then Chief Mashaba then he seemed to be also speaking to the Booysens officers. After a moment, Warrant Officer Mogana went to the Booysens bakkie with one of the officers who came with the bakkie and he seemed to be holding a cordoning tape.

20 Warrant officer Mogana along with one of the Booysens officers cordoned from one end of the trailer which was carrying a container then to the other where the truck was parked. Then within 30 minutes of the arrival of the red Kia, a Flying Squad car

came followed by another gentleman whom I later learned to be Warrant Officer Rikhotso, yet he seemed to have parked elsewhere as he walked down towards the scene.

10 Then another bakkie marked DIA Tactical Response drove in. They seemed to be engaging with Chief Mashaba then. At some point of the gentleman from the DIA security car had an object handed over to Chief Mashaba. Then immediately Warrant Officer Rikhotso intervened and handed back the object to the security guy. A moment later another Flying Squad car drove in followed by a marked Dog Unit Polo. From then a plethora of cars started driving in. I also observed that upon the arrival of multiple police units, tension started increasing at the scene.

20 One of the Flying Squad members, Sergeant Magagula, came to the vehicle and asked if I was there with Chief Mashaba and I indicated that I was and the one who provided the information he told me that General Khan was on his way and

left. A moment later, another entourage of cars drove in. They seemed to be accompanying...”

This meant one. They seemed to be accompanying one, not on.

10 “They seemed to be accompanying one person. As soon as the gentleman stepped out of his car, Sergeant Magagula rushed to him alongside with Warrant Officer Rikhotso, then they took the gentleman to an older gentleman whom I later learned to be Mr Riekert[?].

After they spoke, the gentleman who came with the entourage of cars went straight towards the scene and I saw him opening Warrant Officer Mogana's door. Then Warrant Officer Mogana went to sit inside his car. Then he seemed to proceed to speak with the officer who came on the red
20 Kia and he left him. As that officer seemed to be taking a statement from the lady whom Chief Mashaba and Warrant Officer Mogana found at the Scania warehouse, the gentleman who came with the entourage spoke to Chief Traffic Officer

Mashaba, then walked Chief Mashaba towards his car.

Then after Sergeant Magagula pointed at me in the car, he brought the gentleman towards the car. The gentleman introduced himself as General Feroz Khan, asked who I was and what was my business there. At that time I was holding my phone taking videos for record keeping. I told him that I was the source and that I was the one who gave Chief Mashaba the information. He immediately instructed for Captain Cronje to be called and that I must be arrested.

He told me I must give my phones and step out of the car. When Captain Cronje came, General Feroz Khan left. I asked Captain Cronje the reason for my arrest and he told me that he is simply following and instruction. My phones were placed in an exhibit bag, though Captain Cronje instructed me to go back and sit in ...[intervenes]

CHAIRPERSON: Sorry, sorry, there may be problems with transcription there.

MR NKU: Apologies.

CHAIRPERSON: With your paper rattling against your mic, maybe start from I asked Captain Cronje the reason for my arrest. And please make sure that your paper does not hit the mic.

MR NKU: Apologies, Chair.

CHAIRPERSON: The second last sentence, 'I asked Captain Cronje to...' or rather, page 3, the previous page.

MR NKU: Oh.

10 "I asked Captain Cronje the reason for my
arrest and he told me that he is simply
following and instruction. My phones were
placed in an exhibit bag, though Captain
Cronje instructed me to go back and sit in
the car. He had instructed for me to give
my keys to one of the Flying Squad officers
who came before Sergeant Magugula [?].
Much later, around 1.30, another officer
came to me and told me that he is Captain
Sebola from DPCI Saneb and that he is
20 going to book me at Booyens police
station. I also asked him the reasons for
my arrest. I told him that I was the source
and had provided the information. He told
me that we will talk properly at Booyens.
He called LCRC along with Sergeant Pume

[?] to search and take photos of the vehicle. Sergeant Pume asked me if I had any goods in the car.

I told him that I only had about 16,000 in cash, which formed part of my travelling expenses which was stored in the vehicle's centre console. I opened it and handed it over to him. This was when I became aware that three other people, including myself, were arrested. After Captain Sebola walked me towards the Booysens bakkie, I was introduced to Warrant Officer Steve Phakula, who was also placed under arrest.

Warrant Officer Mogana indicated that he is the one who called Phakula and that the arrest is shocking because Warrant Officer Phakula is the one who called other role players such as Dog Unit and DPCI Saneb national office members, and that he, Warrant Officer Mogana, was the one...”

Apologies there, there is a typo error, I meant was the one, not the ones;

“...one who called LCRC to the scene using the Booysens state phone and that a

Colonel Maluleka from DPCI National confirmed to General Khan that he was in charge as Warrant Officer Phakula was in the process of handling the scene over to him, yet that was disregarded.

ADV MOSIKILI: Mr Nku, just an explanation, when you say that the money that you had with you was part of your travelling expenses, was it for the Durban/Johannesburg assignment that you were doing?

10 **MR NKU:** So, basically, Chair, I. whenever I would travel, mmm... in a trip to acquire information or source information, I would travel discreetly. So, the money was not necessarily for the operation, but I happen to have had cash with me, albeit that cash belonged to the businesses, it was not my money.

ADV MOSIKILI: All right, no, thank you. You can start where you say you were placed behind the Booysens bakkie?

MR NKU:

20 "We were placed behind the Booysens bakkie and much later on we were taken out and some of the bags which were loaded on the Nissan bakkie had already been opened. The DPCI officers opened about 10 bags while counting each duffel

bag had about 35 bricks each. The total count of those bags amounted to 350 and all the bags seemed to be packaged in a similar manner. After the counting of those 10 bags we were then placed back in the Booyensens bakkie. We subsequently left the scene around about 7 p.m. We were then taken to Booyensens police station.”

2.7:

10 “The arrest ...[intervenes]”

ADV MOSIKILI: Before you go, those bags, when you saw them, the duffel bags, have you seen something similar before?

MR NKU: It is obvious in my recent investigations and research, I had seen something similar before.

ADV MOSIKILI: All right, thank you. You can go to 2.6.

MR NKU: 2.6.

20 “The instruction for my arrest was conveyed in my presence by General Feroz Khan. No reason for my arrest was provided to me at the scene despite my enquiries. By the time I came into contact with Captain Sebola, my phones and car keys were long taken and besides, Captain Sebola arrived much later at the scene. I

only encountered him around 1.15 to 1.30.

There was no way he could have seen the whole day I had been in the car without any movement. I was later formally charged upon arrival at Booyens police station. On Sunday, just before one of the DPCI arresting team members took my warning statement, Captain Sebola requested to have a chat with me and asked what really happened at the scene.

10

I explained, as I have explained above in 2.5. Then he said that Warrant Officer Mogana and Chief Mashaba had no business loading those bags behind the NP300 bakkie and they should have protected my identity as the informant. I told him that as soon as they get hold of the CCTV footage, it should clarify everything that happened at the scene.

20

He also asked me about the 16, I told him this was my travelling expenses and that acquiring technical intel almost always comes at a cost. Further, when I travelled following up on information, I do it discreetly with minimal footprints.”

2.7:

“Upon getting bail, our phones were returned back around September. DPCI indicated that they were done with downloads and were content with the progress of the case. Upon receiving my phones, I started getting very odd calls from DPCI members requesting to meet and that whenever I have information, I must consider them first.

10

On 22nd July 2022, I had agreed to meet with Captain Dale Nortje [?] from DPCI Saneb at Moraka police station. I kept a record of my whereabouts when I agreed to meet and had decided to record, as I had an intuition that the case may form part of the conversation and it was an opportunity to get to the truth regarding the games being played by the DPCI arresting team having no regards for justice.

20

While this was happening, I would have strange cars tailing me. Approximately on the 4th of July 2023, while busy with church-related engagements in the Meyerton area and Vereeniging area, I was

stopped by individuals who identified themselves as members of Crime Intelligence. They were driving three unmarked vehicles fitted with blue lights, namely a BMW 3 Series, a Golf 7 and a Toyota GD6.

10 Two of the men drove in the Isuzu KB300 bakkie which I was driving in and instructed me to sit at the back of the floor in between the seats. I was transported to an unknown residential property and questioned. I was instructed to hand over my mobile devices without being provided with any documentation or warrant. The individual who demanded my mobile device took instruction from a person on the call he made. As he demanded me to open my phone gallery and he made a remark on the call, saying I found them.

20 I was then asked if I had made any backups of the contents of my phone or of my mobile devices. I answered in the negative. One of the individuals made a remark that, do I think that I can send IPID to the Generals and get away with it. They

also warned that they were watching my every move and after several hours I was then released. They dropped me off near the area where they found me.

ADV MOSIKILI: I understand, just before you go further, just on that paragraph, it sounds as if you were kidnapped here. Is that a fair understanding?

MR NKU: That is a fair understanding of what had transpired.

10 **ADV MOSIKILI:** Did you manage to open a case against some of these guys?

MR NKU: Chair, I did not open a case and I have my reasons because when this incident happened, it was masqueraded as an investigation or a further investigation, because mostly I was questioned on the details pertaining to the scene and the acquisition of information. But ultimately these individuals wanted my devices. And given the fact that I was threatened, particularly in relation to the
20 knowledge of where my mother's house is, and being directed to the point that they are watching my every move, I was spooked to an extent, because I was not clear what was transpiring because it did not just seem like an ordinary thing.

And I took the fact seriously that these people are

dangerous. And that is why at the time the only person I notified was my attorney, picking his brains regarding seeking legal advice, what would be a recourse for something like this. Because I do not know whether it is a proper investigation or it is outright thuggery. But these people did seem serious. They were threatening.

ADV MOSIKILI: So apart from informing your attorney, that was the end of it?

MR NKU: Yes, I did not open the case at the time and I
10 regret that.

ADV MOSIKILI: All right, thank you. You can proceed to, I think we are going to page 6 at 2.8, nè?

MR NKU: 2.8, yes.

“I attach a separate analysis report of
former NDPP Advocate Rodney de Kock in
a report identifying material contradictions
between the visions of SAPS officials
involved in the general disciplinary
hearing, which I respectfully submit
20 undermine the credibility of their vision of
events. This underlines how they may
have deliberately misled the Chairperson of
the hearing.”

ADV MOSIKILI: Okay, and then Mr Nku, you have made reference to two items to your statement. I think they are

both self-explanatory. Unless there is something else you want to, that you wish to point out from those items, I would suggest that we move to your second statement, but obviously feel free to highlight if you wish to highlight anything from those two documents.

MR NKU: Okay.

ADV MOSIKILI: What do you want to do?

MR NKU: Sorry, Chair?

ADV MOSIKILI: What do you want to do? Do you want to,
10 can you proceed to the second statement?

MR NKU: Yes, yes, let us proceed because these ones are self-explanatory.

ADV MOSIKILI: Thank you. Then let us continue with the same exercise where you start reading.

CHAIRPERSON: Have you found it, Mr Nku, your second?

MR NKU: Yes, Chair, thank you.

CHAIRPERSON: Thank you, thank you.

ADV MOSIKILI: Yes, let us continue with the same exercise where you start reading into the record your
20 supplementary statement.

MR NKU: Okay.

ADV MOSIKILI: So you can read into the record, yes, ja.

MR NKU: Okay, this is my supplementary statement addressing questions raised during consultation with the evidence leaders.

“In relation to what is it that I do, I am an entrepreneur involved in various entities, with diverse business interests across multiple sectors, including cyber solutions, sales, consignment management, business consulting, mining, and sourcing funding for infrastructural development throughout Africa. Company names will be added as an annexure, fearing reputational damage due to the controversy surrounding my name at this juncture.

10

I have done work for other intelligence agencies. I am prepared to testify and divulge all information relating to the type of work performed, only if that bit of testimony is done *in camera*. My primary areas of proficiency are software development, coding and cyber offensive.

20

As a software developer and cyber security practitioner, I have frequently undertaken cyber intelligence consultations and provided both offensive and defensive cyber security solutions to various entities. My work also included the real-time tracking of information in support of law

enforcement investigations.

Number 3, how do I receive information?

10 "I receive information through a variety of sources. At times, information is obtained through an informal network that my cyber team and I have cultivated over several years. SO1 is a member of an ONION based cyber forum, called Corehat, which consists of a handful of technocrats who often pursue and exchange information with intelligence institutions.

 In other instances, private investigators and business people may approach me seeking assistance in following up on specific intelligence, and the subsequent data analysis may lead to the discovery of additional information. Occasionally, information albeit often vague in nature is identified through reconnaissance
20 conducted on the dark web, which then necessitates further investigation."

Number 3, how did I obtain the information that led to the drug bust?

 "This information requires protection against self-incrimination and my right in

terms of the Commission's Act 8 of 1947,
section 3, subsection 4.”

Chair, before I continue with number 3, I seek the Commission's indulgence. There is a part that I requested for redaction, fearing scrutiny. Not just scrutiny, fearing for my life, you see?

CHAIRPERSON: Fearing for your life?

MR NKU: Yes, Chair.

CHAIRPERSON: And so basically you are saying that part
10 was not redacted, it is here?

MR NKU: Yes.

CHAIRPERSON: And you are seeking not to read that part?

ADV MOSIKILI: Chair, I am not sure, but is it there, the name?

MR NKU: Yes. Is it redacted?

ADV MOSIKILI: It is, it must... It is redacted. So what we see is us, you and the Commission, but not the public.

MR NKU: Thank you very much.

20 **ADV MOSIKILI**: Let me just confirm again?

CHAIRPERSON: For now, for purposes of progress, maybe you could just say you received the information from a certain gentleman without mentioning the name. We will see what we need to do about this at a later stage.

MR NKU: Okay, thank you very much. I do not know if you

heard what I directed, Mr Mosikili?

ADV MOSIKILI: No, Chair, I missed that, apologies.

CHAIRPERSON: I said Mr Nku should not mention the name, and he may simply say he received the information from a certain gentleman.

ADV MOSIKILI: That sounds practical, Chair, yes.

CHAIRPERSON: Yes, as to what we do later, we will decide then, because having read everything and having heard other testimony, there are lots and lots of dots that
10 are being connected that come to this name.

ADV MOSIKILI: Indeed, Chair.

CHAIRPERSON: And the narrative would be incomplete without connecting all of those dots and possibly coming to this name. But as I say, we will see what we do with that at a later stage.

ADV MOSIKILI: Thank you, Chair. Mr Nku, are you okay for now? You do not pronounce the name as you read over it.

MR NKU: Okay.

20 **ADV MOSIKILI:** Yes.

MR NKU:

“In or about April 2021, I received
information from a gentleman whom I knew.
He was someone who was...”

Oh, sorry, I made a mistake here. There is a typo error. So

I meant he was someone whom I drew information from.

10 “He provided me with information relating to a particular individual who was allegedly a key figure in kidnapping activities around the country. He enquired whether it would be possible to track the communications of this individual, as such information could potentially assist law enforcement in an ongoing kidnapping investigation in Pretoria.

20 However, he did not furnish me with the specific details concerning the investigation in question. Upon receiving the individual's details, I immediately forwarded the information to Chief Mashaba and requested that he assist in investigating the matter. Simultaneously, I commenced my own reconnaissance and intelligence-gathering efforts regarding the individual concerned. Through my recon, I eventually gained...”

Through my recon, and, Chair, I would like to invoke my right against self-incrimination on this part, but though I do not expose the details of the methodology, but I would say:

“Through my recon, I eventually gained

access to the individual's device by means of a sophisticated zero-day, zero-click exploit that, at the time, I still had access to highly sophisticated military-grade offensive cyber-exploitation tools. While probing information relating to the suspected kidnapping activities, I uncovered deeply concerning intelligence pertaining to illicit arms trafficking and narcotics distribution.

I immediately alerted the individual who had initially provided me with the intelligence and advised him that though no information relating to kidnapping had been identified on the specific device, I had discovered evidence suggestive of other serious criminal activities. It was at this juncture that I began engaging General Mfazi, as the individual appeared to be a significant underworld figure with connections to..."

May I please not state that also?

CHAIRPERSON: What exactly?

MR NKU: Because giving the position would...

CHAIRPERSON: What do you want not to state? As the

individual appeared to be a significant underworld figure?

MR NKU: The former, if I give the position, it would be general knowledge, Chair.

CHAIRPERSON: Okay.

MR NKU: May I please not state it.

CHAIRPERSON: What reason do you give for not saying this?

MR NKU: So, Chair, it is easy to attach the name based on the position, because the individual was a close associate
10 of the person who held that position, with the name underneath. I do not know if Chair understands me.

CHAIRPERSON: Can you maybe write down or give you time to write... No, no, no, not to give us anything, but to write down and then articulate a sentence that makes sense then, if you are skipping certain things, but just to be able to articulate a sentence that makes sense. Without mentioning what you are not willing to mention at this stage.

Am I making sense? Do you understand me? What I am saying, what I am suggesting is, with the redactions
20 that you want to make, the sentence that remains here may not be intelligible, may not make sense when you read it. So what I am saying is, can you just rephrase the entire sentence so that it makes sense with you having redacted whatever it is you want to redact. Do you understand me?

MR NKU: Okay, Chair. I can, however...

MR DU PLESSIS: Chair, may I approach the witness?

MR NKU: Chair, maybe to read it into the record.

“This individual appeared to be a significant figure and a close associate of a high-ranking official in the company in question.”

CHAIRPERSON: Are you not willing to mention the company as well?

MR NKU: Yes, the company Scania.

10 **CHAIRPERSON**: Oh, thank you.

MR NKU: The company is Scania.

CHAIRPERSON: All right, please continue then.

MR NKU: Okay.

“The only linkage to this individual with kidnapping was through a crypto wallet which had been allegedly used in the past when there has been major kidnappings in the country.”

Okay. I do not know if I... I need to read that note,
20 Advocate Mosikili?

CHAIRPERSON: Are you talking about what you have just gone through? I assume so, because this appears at the end of paragraph 3. So are you talking about the content of paragraph 3?

MR NKU: Yes, must I read it?

CHAIRPERSON: But you are right at the end now, so you are moving on to paragraph 4. Are you not?

MR NKU: Oh, okay. No, I was saying must I read that into record, Chair? I do not think so.

ADV MOSIKILI: No, you do not have to. You can just go straight to paragraph 4.

MR NKU: Okay. Have there been other instances where I assisted law enforcement with information?

10 “There have been numerous occasions on
which I have provided intelligence and
information to law enforcement. In my
assessment, much of the intelligence
applied yielded positive results. However,
law enforcement officials would often
provide explanations after the fact as to
why actions had not been taken.”

A typical example, Chair, I beg your indulgence also on this, given the date will give out the information.

20 **CHAIRPERSON:** I do not know whether you are referring
to...

MR NKU: Under number 4.

CHAIRPERSON: To what starts at after the brackets,
bracket, full stop, and then...

MR NKU: Yes, the date.

CHAIRPERSON: Are you talking about that, or are you

talking about what is at the beginning, which is not even a sentence, which is totally unintelligible.

MR NKU: No, Chair, I was just referring to ...[intervenes]

CHAIRPERSON: A typical example occurred in and then brackets, please redact date for fear of exposure, close brackets, full stop. That is not even a sentence. And then there is what follows. Are you talking about what follows?

MR NKU: What follows, Chair.

CHAIRPERSON: Okay, how do you want to read it?

10 **MR NKU**: Okay, to skip that and say when I provided, we can say the year in 2020.

CHAIRPERSON: Okay.

MR NKU: When I provided Chief Mashaba with information concerning, I do not know, must I read the details of the vehicle?

CHAIRPERSON: Please, please.

MR NKU: Okay.

20 "When I provided concerning a Toyota Hilux bakkie that was allegedly being used to transport illicit cigarettes through the Beitbridge border post, I also supplied the probable dates on which the vehicle would cross the border. My information was effectively dismissed on the basis that his team did not operate in that geographical

area. However, on or about...”

May I please not read that date also?

CHAIRPERSON: Okay. So again, we mention the what?

The year.

MR NKU: Yes, the year, Chair.

CHAIRPERSON: Okay.

MR NKU: On or about ...[intervenes]

CHAIRPERSON: Start from however.

MR NKU:

10 “However, on or about 2020, I observed
reports in the media indicating that a
successful interception and seizure had
been conducted, which appeared to
correspond with the intelligence I had
provided. There have also been several
instances where I furnished intelligence to
law enforcement agencies, subsequently
received no feedback whatsoever regarding
the outcomes of the information supplies,
20 e.g. ...[intervenes]”

CHAIRPERSON: Sorry, sorry. Something concrete that
you have told us thus far, unless I have forgotten, is
providing information to Chief Mashaba and General Mfazi.
You are referring to agencies in plural here now. What are
you talking about?

MR NKU: Apologies, Chair. In that plural, I might have stated it as a blanket approach, but most of the information that I have provided was provided to Chief Mashaba. So not the law enforcement agencies in plural.

MR MOSIKILI: So only Chief Mashaba and General Mfazi, but you say most of it to Chief Mashaba.

MR NKU: Most of it to Chief Mashaba, yes.

CHAIRPERSON: Thank you.

MR NKU:

10 “There have also been several instances
 where I furnished...”

So I have passed there...

CHAIRPERSON: I think you were to go to ‘e.g. a warehouse’.

MR NKU: Okay.

 “...e.g. a warehouse in Pomona suspected
 of housing a large volume of illicit
 cigarettes. Unfortunately, much of the
 documentary evidence relating to previous
20 intelligence sharing engagements was lost
 when my mobile devices were forcefully
 taken from me by individuals alleged to be
 members of Crime Intelligence.
 I have, however, provided screenshots,
 demonstrating that even after the events of

2021, I continue to furnish law enforcement authorities with intelligence concerning suspected criminal operations and activities.”

CHAIRPERSON: And you are still referring to the two that we know of in particular, Chief Mashaba?

MR NKU: No, no, no, no, Chair. Subsequent to the arrest, in terms of providing information, I had gained acquaintance, as detailed in my testimony-in-chief. I had
10 gained the acquaintance of a DPCI member, and now I started providing the information directly, because now I know there is a DPCI member. So I would forward...

CHAIRPERSON: One of those you had been arrested with?

MR NKU: No, no, no. It was Captain Dale Nortje.

CHAIRPERSON: Oh, thank you, thank you.

MR NKU: He was in the arresting team. But as I detailed in my evidence-in-chief, that a couple of these DPCI people started getting hold of me, wanting information.

CHAIRPERSON: Oh, all right.

20 **MR NKU**: If I can provide information, I must give them.

CHAIRPERSON: All right, all right.

MR NKU: So I started then forwarding any intel that I have acquired.

CHAIRPERSON: Okay. You were to... There is the brackets. Okay, you ended at criminal operations and

activities, full stop, you say that just before the brackets.

MR NKU:

“...law enforcement is concerning
suspected criminal activities. Other
examples bearing sensitive intelligence will
be added stand-alone as annexures.”

ADV MOSIKILI: Chair, just for the record, Mr Nku, you
have not provided us with the screenshots that you
mentioned there in that paragraph. And also, you have not
10 provided us with what you call a stand-alone annexures. Do
you still intend on sharing those with us?

MR NKU: Indeed, apologies. Maybe I might have shared
that with the investigators as opposed to the evidence
leaders. So I will share that with the evidence leaders
through Mr du Plessis.

ADV MOSIKILI: Thank you.

CHAIRPERSON: Yes, Mr Mosikili.

ADV MOSIKILI: Yes, Chair, I was just addressing the
issue regarding the screenshots that he indicated that he
20 will provide together with the stand-alone annexures. Mr
Nku indicated that he shared that with our investigator, but
we will make arrangements with Mr du Plessis to share the
same. Probably sometime before we come back tomorrow.
Thank you. Mr Nku, we can proceed then to paragraph 5.

MR NKU: Paragraph 5.

CHAIRPERSON: Please read the heading as well.

MR NKU: Oh, apologies. How did Lieutenant Colonel Joseph Sebola mislead the Commission?

“During his evidence-in-chief, Lieutenant Joseph Sebola testified that downloads were conducted on my devices and that the allegedly suspicious content recovered from those devices was incorporated into the investigation docket. In 2022, the state made disclosure of the docket and indicated that it was trial-ready. However, upon examination of the disclosed docket, the evidence to which Lieutenant Colonel Sebola referred was conspicuously absent. More importantly, the digital forensic report was never disclosed. The forensic software and extraction tools utilised by law enforcement agencies automatically generate a cryptographic validation report as an integral component of the digital extraction and forensic acquisition process. Such reports are immediately available to the forensic analyst upon completion of the extraction process.

Despite the existence of the standard

forensic output, the state failed to disclose the digital forensic report and accompanying validation documentation in the docket. The absence of these materials is significant as they constitute the primary evidentiary mechanism through which the authenticity, integrity, and provenance of the extracted digital evidence can be independently verified.

10 This means that any forensic system architecture expert can analyse the same cryptographic image and achieve identical scientific reproducibility.”

What was my interest in following up the information on the 9th?

20 “As in numerous occasions on which I had voluntarily furnished intelligence to law enforcement agencies in the hope that it would contribute to successful operational outcomes, my interest in following up the information that ultimately led to the Aeroton drug bust was no different.

The principal distinction in this instance was the sheer magnitude of the narcotics ultimately recovered, notwithstanding the

fact that we unfortunately lost visibility of the arms trafficking component of the intelligence.

Beyond that, my motivations remained consistent with a confidential source who expected to be rewarded for giving executable information which led to a successful discovery, as I have in the past been compensated for providing information.”

10

Chair, maybe let me qualify that by saying by other, not law enforcement, this was intelligence agencies.

ADV BALOYI SC: Where are you reading, Mr Nku?

MR NKU: So the last sentence, ‘as I have in the past been compensated for providing crucial information to intelligence agencies’, not law enforcement, to intelligence agencies.

[Indistinct – 0:41:05]

MR NKU: It is two intelligence agencies. And my oath:

20

“The facts set out in this affidavit are within my personal knowledge and, unless otherwise stated or converse appears from the context, within my personal knowledge and to the best of my knowledge and belief a true and accurate representation of facts.

I have no objection in taking the prescribed
oath and consider the prescribed oath to
be binding on my conscience.”

CHAIRPERSON: That last, again, it is not a sentence.
There is the sentence, full sentence that says ‘beyond that
my motivations remained consistent with a confidential
source who expected to be rewarded for giving executable
information which led to a successful discovery’, full stop.
And then you say, ‘as I have in the past been compensated
10 for providing crucial information to intelligence agencies’.
That is what I am saying is not a sentence.

MR NKU: Sorry, Chair.

CHAIRPERSON: If you say, as I have in the past, and you
start with uppercase A, as if it is the beginning of a
sentence, and in the end it is not a sentence, do you follow
me? Do you understand why I say it is not a sentence?

MR NKU: Absolutely, Chair. Apologies. So it was meant
to be a comma and a lowercase A.

CHAIRPERSON: Okay, okay.

20 **MR NKU**: I was trying to clarify that.

CHAIRPERSON: But still there is a bit of incongruence
here because you say in the preceding part of this
sentence, you say it was the source who expected to be
rewarded for giving executable information which led to a
successful discovery. And then you say, as I have in the

past been compensated. The as does not flow from the preceding part of the sentence. The two do not go together, do you get me? So what exactly are you trying to say in this sentence?

MR NKU: Chair, I proposed the 'as', we removed the 'as'.

CHAIRPERSON: And then does it, do we still have the, we remove the 'as' and then there is a stand-alone sentence.

MR NKU: There is a stand-alone sentence.

CHAIRPERSON: So instead of the comma, we have the
10 full stop.

MR NKU: A new sentence.

CHAIRPERSON: We bring back the full stop.

MR NKU: Yes, Chair.

CHAIRPERSON: So kill the comma, we delete the 'as', then we have, 'I have in the past been compensated'. Now that is a sentence.

MR NKU: Okay. Thank you very much.

ADV BALOYI SC: Just to be sure, in the preceding sentence, in the immediately preceding sentence where you
20 say confidential source, that confidential source you are referring to is you.

MR NKU: Yes, Chair.

ADV BALOYI SC: Okay. Yes, thank you.

MR DU PLESSIS: Chair, with your, with your permission, the witness drew up his own statement. I think just for

clarity, the previous page, second last sentence, for it to be sensible, there is a reference to a forensic systems architecture and then it says 'expect'. I suspect that it should be expert.

CHAIRPERSON: And expert, yes.

MR DU PLESSIS: If we could just clear it up from the witness.

CHAIRPERSON: Mr Mosikili, do we adjourn for lunch?

ADV MOSIKILI: Yes, Chair, we can do that.

10 **CHAIRPERSON:** Yes.. Let us adjourn and resume at 14.15.

MR NKU: Thank you, Chair.

INQUIRY ADJOURNS

INQUIRY RESUMES

CHAIRPERSON: Mr Mosikili?

ADV MOSIKILI: Yes, thank you, Chair. Mr Nku, before we went for lunch, you just reached the end to your second statement, being your supplementary statement. And then, in addition to that bundle, there is what we call additional
20 documents. Those include your CV, your companies, and some of the passport entries. Can we agree that we will make reference to those documents if and when it becomes necessary and we do not go through those immediately?

MR NKU: Yes, Chair, I do agree.

ADV MOSIKILI: Yes, okay, thank you. Then, Mr Nku, you

submitted the first statement to this Commission, and it is dated the 7th of May 2026. And when you submitted that statement, I accept that you did that knowing that that statement had to contain a complete and truthful account of the events. Is that correct?

MR NKU: Please repeat that. I did not catch it.

ADV MOSIKILI: I am saying your signed statement, the first statement, dated the 7th of May 2026, you submitted it knowing that it had to contain a complete and truthful
10 account of events. Do you accept that?

MR NKU: Absolutely.

ADV MOSIKILI: Yes. Now, we have noticed that your supplementary statement seems to contain more information compared to your initial statement. I just want to ask you a few questions on that, and maybe then we can move on to the nitty-gritties of your statement. So in your first statement, there is no mention that you work for the intelligence agencies. Is that correct? Your first statement does not mention that you work for the intelligence
20 agencies.

MR NKU: In my first statement, I was addressing questions asked.

ADV MOSIKILI: No, no, the question is that you do not mention that you work for intelligence agencies. Is that correct?

MR NKU: In my first statement?

ADV MOSIKILI: Yes.

MR NKU: Absolutely.

ADV MOSIKILI: And then in your second statement, being your supplementary statement, that is when you describe yourself as having worked with intelligence agencies and provided cyber intelligence support to law enforcement. And the question then is, why did you omit that?

MR NKU: In my supplementary statement, my
10 supplementary statement is as a result of the engagement that I had with Evidence Leaders, where clarity was sought into the type of operations that I do. So, that emanates from that. Initially, I was addressing the questions posed by the Commission.

ADV MOSIKILI: Yes, but in doing that, you mentioned where you work in the first statement and you were not confined not to mention your other work in intelligence agencies. Nothing stopped you from mentioning that. Is that correct?

20 **MR NKU:** Chair, that is not work that I do formally. It is on a consultative basis and ...[intervenes].

CHAIRPERSON: Is that work in the sense of providing them with information, Mr Mosikili?

ADV MOSIKILI: Yes, Chair. He puts it in those terms.

CHAIRPERSON: All right.

ADV MOSIKILI: He also provides support to law enforcement.

CHAIRPERSON: All right, thank you, thank you.

ADV MOSIKILI: And none of that appears in his first statement, Chair. You accept that it is not mentioned?

MR NKU: It is not mentioned.

ADV MOSIKILI: Nothing stopped you from mentioning it, ultimately.

MR NKU: I do concede that nothing stopped me. The only
10 reason I elaborated further was on the basis of the engagement I had with Evidence Leaders.

ADV MOSIKILI: Chair, before we went for a break, while going through the statement of Mr Nku, there was a mention of a name. And Mr Nku sought to ask the Commission to redact that name. However, Chair, my submission would be that that name, first of all, is quite relevant and connects the dots. And without any reasons being given why that name should not be mentioned, we should not protect the name without any basis.

20 And in any event, the name we give it is a shortened name. It is not a full name of the person. But further to that, Chairperson, that name has been prominent in this Commission. Chief Mashaba came here. He mentioned the name. Colonel Sebola came here and also mentioned the name, Chairperson. So that horse, in any

event, has bolted.

We dealt with that name extensively between the chats of Mr Nku and Mr Mashaba, Chair. So I will be seeking, Chairperson, a permission to mention the name. And unless we are told the real reasons why the fear that Mr Nku sought to express, we will submit that that fear is unwarranted and has no basis, Chair.

CHAIRPERSON: Before I talk to my colleagues about this, may I just find out if the name was redacted from Witness
10 J's testimony, transcript of his testimony, that went out to the media Monday morning?

ADV MOSIKILI: So, Chair, the nickname was not redacted. The full name was redacted. And we also only seek to mention the nickname or the shortened name, not the full name and surname, Chair. But that is the answer. It is out there in the public anyway, the nickname that I seek to refer to. It will give context to what we are dealing with.

CHAIRPERSON: Thank you, thank you. Do you wish to respond to what Mr Mosikili said, Mr Du Plessis?

20 **MR DU PLESSIS:** Thank you, Chair. Well, with respect, the motivation by the Witness as to why this evidence should not be openly given ...[intervenes].

CHAIRPERSON: The name, just the name.

MR DU PLESSIS: Yes, just the name.

CHAIRPERSON: Yes, yes.

MR DU PLESSIS: The motivation is clearly personal safety. And unless it is highly relevant why the name should be canvassed, why should the witness's safety be compromised? So, even if it was in another context or even the same context mentioned by other witnesses, it is not to say that this witness should be required to openly state the name and interaction herein.

CHAIRPERSON: Thank you, Mr Du Plessis.

ADV BALOYI SC: Mr Du Plessis, even if this name as
10 contained in the statement is not mentioned, there will be exchanges in the evidence that the Evidence Leader is going to be taking the witness through, which are exchanges between the witness and the owner of this name. And for those exchanges to make sense, at the very least, it does need to say who the conversation was with. So, you may avoid it here like we did when he was reading the statement, but if there is going to be qualitative discussion of the exchanges on WhatsApp on which the witness will be required to comment, it seems it may be unavoidable.

20 **MR DU PLESSIS:** Yes, Madam Commissioner, I then suggest that at that stage, if it does come up, we deal with it then. But at this stage, I cannot see that it now has to be put on record. Let us see how the questioning develops.

ADV BALOYI SC: Thank you.

CHAIRPERSON: Yes, the practical difficulty, as

Commissioner Baloyi says, is that at a certain stage the texts do refer to this name in so many ways. So, I do not quite get why the witness would – and this is in communications that involve this witness. So, basically, what the text will be showing is that Mr Nku was communicating with this witness.

MR DU PLESSIS: Thank you, Chair. I cannot take it further. Then we await your ruling in this regard.

CHAIRPERSON: Yes. Anything else, Mr Mosikili?

10 **ADV MOSIKILI**: Chair, those are our submissions. Safe to add that we did have a discussion with Mr Nku's legal representatives about a week ago to say that if there is any threat or any evidence that needs to be protected out of fear of protection of his life, then they must bring an application and we will consider it on its merits, Chair. And none of that happened, Chairperson. So, we took it that they are able to proceed as things stand, Chair. So, those are our last submissions, Chair.

CHAIRPERSON: Thank you. Mr Nku, it does not seem to
20 make much practical sense for the name not to be mentioned because it is mentioned several times in the texts that appear to be texts between you and this person. So, if there are going to be issues, there will be issues even at that stage because it will not make sense for us to, or rather for, ja, for the Commission to say there were

communications between Mr Nku and an unnamed person?
Yes.

MR NKU: Well, thank you very much, Chair. Chair, I do, I have concerns. My biggest concerns were the name being mentioned relative to the other names. I do not know if that makes sense.

CHAIRPERSON: Okay, let us go, please take us to the relevant paragraph again where this was first raised.

ADV BALOYI SC: It is paragraph 3 in the supplementary.

10 **CHAIRPERSON**: 3, supplementary.

MR NKU: Sorry?

ADV BALOYI SC: Paragraph 3 in the supplementary statement.

MR NKU: Paragraph 3 in the supplementary statement.

ADV MOSIKILI: On page 1.

MR NKU: Sorry, Commissioner. It is under 3, I think it is the last paragraph.

ADV BALOYI SC: Well, remember when you were reading this paragraph, on the first page, page 1, there is that April
20 2021, and then you skipped that name.

MR NKU: Yes.

ADV BALOYI SC: You do not have a difficulty with mentioning that name?

MR NKU: No, I have a difficulty mentioning that name relative to the others. So I was going to furnish the

evidence, hence I said that if it is permissible, there is evidence or information that one might be inclined to provide on camera, not in a public setting. So there is another name, there is another person mentioned there, but the name is not mentioned in what I write in paragraph 3.

CHAIRPERSON: Where you talk about a particular individual ...[intervenes].

MR NKU: A particular individual. Precisely, Chair.

CHAIRPERSON: Mr Mosikili, did you raise this issue in
10 relation to these paragraphs, or were you concerned more about what is contained in the texts?

ADV MOSIKILI: Chair, it was not even related to this paragraph. It was completely to the information that he specifically, because remember he had provided these names already. It was really in relation to anything else he felt that would compromise his safety.

CHAIRPERSON: But I understand, I understand Mr Nku now to say he has no problem with the name being mentioned in the context of the several chats where this
20 name may be appearing. Would that be fine for now? At least for us to proceed and we can ...[intervenes].

MR NKU: [Indistinct].

CHAIRPERSON: Ja.

MR NKU: You can accept that ...[indistinct].

CHAIRPERSON: Ja.

ADV MOSIKILI: You can avoid it. You can avoid it, Chair, indefinitely. I am happy to take that for now and ...[intervenes].

CHAIRPERSON: All right, all right. Let us proceed on that basis then.

ADV MOSIKILI: Thank you, Chair. Then, Mr Nku, the question really would have been that in your first statement you state that you came across information from a confidential source. And then in your supplementary
10 statement you now introduced this person by name as an original source of information. And the real question was that why was his name not mentioned in your first statement?

MR NKU: Chair, the reasons are precisely what I just stated.

ADV MOSIKILI: Yes, but the same fact that you say existed when you first drafted your original statement still exists or existed when you submitted your second statement. Nothing has changed.

20 **MR NKU:** But the difference is in elaborating further, one further states and makes a note not for the names to be spoken publicly or to be placed on record publicly. Even on that statement, this was more of providing clarity to the Commission.

In my initial statement, I was never given guidance

as to how to draft a statement, as I had done it alone. However, in the supplementary statement, to a greater extent, there was guidance provided because I had engaged with the Evidence Leaders along with the legal team. So I did not know how detailed must the statement be. I thought I was answering questions because there were questions posed on the initial statement.

MR DU PLESSIS: Chair, with all respect to the Evidence Leader, I think it is important to have context as much as it
10 may be important as to why it was not mentioned. As I understand it, the first statement was made available to the Commission, to the Evidence Leaders. Then there was a consultation with the witness.

I am not sure who was present, whether the current Evidence Leader was the person who attended. It was, as I understand it correctly, a virtual consultation. Then certain aspects were raised where further information was sought by the Evidence Leaders. So that is the context. And to now ask why certain of the further evidence or information
20 required was not mentioned in the first affidavit, I can really not see where it takes us and what the importance of that would be.

ADV KHUMALO SC: But surely now you are dealing with a different issue because the issue you are raising, the witness can answer that. The witness can say the reason

why that is not in the first statement is because of this and this and that. I thought the issue we were debating was whether the names should be mentioned or disclosed. The issue you are covering, the witness has already dealt with that.

MR DU PLESSIS: Thank you.

CHAIRPERSON: Mr Mosikili, under what question would this have fallen in the first statement?

ADV MOSIKILI: [Indistinct].

10 **CHAIRPERSON**: Yes, yes, yes.

ADV MOSIKILI: So, Chair, we are dealing with the question of, so it is 2.1 and that will relate to, so it is on page 1 of his first statement. It is really a question of source of information.

ADV BALOYI SC: Mr Mosikili, is it not better perhaps or more efficient if there is a particular proposition or suggestion that you want to make with this question that you do that the witness answer, if there is a suggestion that you are seeking to make?

20 **CHAIRPERSON**: And also, I read the paragraph you referred to, 2.1, to be specific as to certain information that was obtained, what was the sort of that specific information. And I understand him under paragraph 1 to be dealing generally with how he would source information:

“My work has also included the real-time

tracking of information in support of law
enforcement investigations.”

So, in that sense, I am not sure that the question is a fair
one.

ADV MOSIKILI: No, Chair, 2.1, it deals with a specific
incident. It says that:

“I first became aware of the potential
shipment during the last week of April
2021 through confidential source.”

10 So, it is specific to this particular shipment.

CHAIRPERSON: And how is that last sentence that you
have been engaging in relevant to that?

ADV MOSIKILI: Chair, then in supplementary affidavit,
then that is when this name is now mentioned for the first
time, Chair, in his supplementary statement.

CHAIRPERSON: I thought we had resolved the issue of
the name.

ADV MOSIKILI: Yes, Chair, not the name, but the context
of the source of information ...[intervenes].

20 **CHAIRPERSON:** You just referred to the name now
...[intervenes].

ADV MOSIKILI: The name, yes, not the ...[intervenes].

CHAIRPERSON: You just referred to the name.

ADV MOSIKILI: Yes, Chair.

CHAIRPERSON: Yes.

ADV MOSIKILI: Yes, we are dealing with, not as to why the name was withheld. Remember, we are dealing with the issue of ...[intervenes].

CHAIRPERSON: Perhaps may we come back to this much, much later. Can you deal with other points you want to ...[intervenes].

ADV MOSIKILI: Yes, Chair, we can move on to the next point.

CHAIRPERSON: Yes, yes, yes.

10 **ADV MOSIKILI**: And then maybe I can deal with the issue of the propositions that we need to put to the witness. So, Mr Nku, the proposition that we would put to you and solicit your comment is that when one considers your supplementary statement, it contains several important facts that were not included in your original statement. And those facts would include your alleged intelligence background, the source that the name will not mention. You also, for the first time, mentioned a zero-day exploit method.

20 And also, you mentioned your previous intelligence operations and forensic allegations. And we will be submitting that those are not minor details, but quite significant to your evidence. And we are saying, apart from the questions that we have put to you, is there any reason why this material information was not included when you

were first contacted by the Commission?

MR NKU: Commissioners, as I have already alluded, upon our consultation with the Evidence Leaders, there was a point raised that my statement is short and not detailed, and guidance was given. I remember my counsel, who was with us on the virtual meeting, asked clarity-seeking questions as to exactly what points need to be addressed so that when one makes or drafts the supplementary statement, all those issues are traversed and they are
10 cleared.

As I said, Advocate Mosikili, that when the Commission served me with the questions initially, I had not been given guidance as to how to provide answers. So I did not detail as much as I should have had. It was only upon when there was clarity from the Evidence Leaders as to the fact that I should give as much detail as possible pertaining to my recollection of the event.

ADV MOSIKILI: All right, we will make our closing remarks when we finish your testimony, and then maybe you can
20 have a better answer. Now, there has been information and testimony to this Commission to the effect that there has been a suggestion that you are a confidential informant, and we want to test that theory. Chairperson, we have made available to the Chair a copy, and Mr Nku should have one as well. It looks like this.

CHAIRPERSON: CJC337.

ADV MOSIKILI: It is CJC337, and it says secret on top, and it has got a SAPS logo. And it is called, so this is the cover page of the Operational Management Process for Crime Intelligence Collection Environment, and says Division Crime Intelligence. Chairperson, we do not intend on going through the entire prescripts, but we want to highlight and then put those to the witness to try and deal with the notion that he is somehow a confidential informant.

10 And Chair will see that we have only extracted the relevant pages, Chairperson, that we want to make reference to. Mr Nku, do you have the document in front of you?

MR NKU: Yes, I do, Chair.

ADV MOSIKILI: Yes, so what we want to point your attention to is on page 51, and this deals with the process of recruiting informants. And the first one is the, what do we say, it is a profiling. So a talent is spotted first, and then a profile is created on that specific individual, or a group of people that might be obtained to identify it as
20 being of potential assistance to the service.

And then you will see right at the bottom there it says recruitment approach strategies. And then if you go to page 52 again, so there they mention the different approaches, how to approach a potential informant. And then you will see that at the bottom we have what you call

planning of recruitment.

And then on page 53, you will see there on top we have what you call the actual recruitment, and they say this is the most sensitive stage of recruitment process, where the potential human source is met face-to-face in order to convince him or her to provide information voluntarily regarding the identified threat or target.

And then you will see right at the bottom there is what you say is the role of the handler. And on page 54,
10 you will see that it says that:

“The handler is responsible for the achievement of set objectives in establishing, managing, and maintenance of intelligence network.”

And of acute importance is bullet point 1, where it says, so it deals with the responsibilities of a handler in respect of human source include the following:

20 “Ensuring professional conduct at all times. Unacceptable conduct between the handler and the human source includes socialising, romantic involvement, purchasing from or selling to, borrowing money, accepting gifts, paying monies to human source without a witness.”

And then what is also important for this matter, at the bottom again you will see that it deals with the registration, where it says:

“After the profile for potential human source has been evaluated, the human source is recruited and registered according to the prescribed procedures.”

And then it then makes reference to the prescribed registration form. And on page 55, you will see the form of
10 an informant registration, where one is allocated an informant number. And often they will be given, there will be an official name and sometimes also there will be an allies name.

And then if you go to page 60, you will see that there is also an undertaking rendering the services, of services. So what I have given you, or at least what I am pointing out to you, is an overview of what at least it requires to be an agent.

And, Chair, perhaps can you go to page 63 of that
20 document? And then it deals there with agent provocator [sic], or called a provocation line, and it says:

“The following constitute a transgression of the provocation line. An unauthorised involvement of the registered human source in acts of violence or any other

criminal acts. For example, procurement,
transporting, storing, or dealing in
weapons or drugs.”

And this action would, or these activities would necessitate
a course of action to be taken against such informant. Now
the question I am putting to you, and, Chair, if you go on
and read the prescripts, it also deals with the circumstances
where an informant will be rewarded and under what those
circumstances are, Chairperson. Mr Nku, my question to
10 you is this, have you ever been registered as an official
SAPS informant?

MR NKU: No, Chair.

ADV MOSIKILI: And that means you have never been
issued with an informant number?

MR NKU: I was never issued with an informant number.

ADV MOSIKILI: Yes. And you were never then, as a
result, never assigned a handler to deal with you?

MR NKU: Officially, I was never assigned a handler.

ADV MOSIKILI: No, what do you mean officially? If you
20 agree with me that you were never registered as an
informant, you were never given an informant number,
maybe I should ask you a further question. Have you ever
signed a source handler agreement with SAPS?

MR NKU: No, I have never, Chair.

ADV MOSIKILI: So my next question then is that you have

never assigned, could never have been assigned a handler in those circumstances. Do you agree?

MR NKU: I agree.

ADV MOSIKILI: Thank you. And in those circumstances then you will agree with me that Lieutenant General Mfazi could not have been mistaken at any stage to be your handler?

MR NKU: No, I have never stated that he is my handler.

ADV MOSIKILI: And similarly, any suggestion that General
10 Mashaba or Chief Mashaba could have at any point been considered or at least referred to as your handler, that also would be completely incorrect.

MR NKU: Knowing that he is not a SAPS member, in the context of SAPS, I do not think that that would be the case. As far as my recollection serves me well, I regarded myself as his confidential source, not the handler-informer relationship.

ADV MOSIKILI: Yes.

MR NKU: Yes. I was a source of information.

20 **ADV MOSIKILI:** Now, you mentioned earlier on that you have previously been compensated for providing intelligence. You remember that?

ADV BALOYI SC: Before you ask that, let me, along the lines of what you were discussing. You, in the supplementary affidavit, you say:

“My work has also included the real-time tracking of information in support of law enforcement investigations.”

Now, the impression that this created to me, and I think that it does create, is you have a formal working relationship with law enforcement investigations. Do you care to explain more what you mean in support of law enforcement investigations?

MR NKU: Commissioner Baloyi, when one states that, one
10 is not insinuating that one has a formal relationship with any law enforcement agency within our jurisdiction. However, as I have already alluded earlier on that post the July 9 drug bust, one has continued in the efforts of providing information to certain law enforcement members. So, maybe when one forwards the documents requested by Advocate Mosikili, that matter will be clarified.

ADV BALOYI SC: Well, hopefully it will be clarified, but when you say my work has also included, my work here suggests a formal arrangement. It is not your casual, you
20 happen to come upon, that is not what you are conveying here, or at least that is never my understanding of it. It is not you casually, you get information and you casually pass it on.

This is, it is part of the work you do, and you do it in support of law enforcement investigations. Then the

question that necessarily comes up is, well, who are the law enforcement people, or even agencies if you like, that you are supporting? You have testified, you have said it is Mashaba, and if you say it is post the incident, we know it is not General Mfazi because he had passed by the time, around that time of the incident. So we know you are not talking about General Mfazi, you are speaking just about Chief Mashaba, right?

MR NKU: If I may, Commissioner?

10 **ADV BALOYI SC:** Yes, you may.

MR NKU: As I have already alluded to, post July 9, when one was now fully cognisant of the duties of Chief Mashaba, I have provided information elsewhere, and an example would be the DPCI member that I spoke of ...[intervenes].

ADV BALOYI SC: I think you said Captain Nortje.

MR NKU: Yes, Commissioner.

ADV BALOYI SC: Is he the only one that you have provided information to post the July 9 incident?

MR NKU: I would not say Captain Nortje is the only one. I
20 have continued to provide information to other members.

ADV BALOYI SC: Let me say this to you, or put this out so that you have the chance to deal with it, as long as you are still on the witness stand, not necessarily now. We have heard evidence that suggests your involvement in other activities with Chief Mashaba, right?

And so when you say you support law enforcement investigations, it is important, at least to me, to know what are you speaking about. What law enforcement people are you talking about, or agencies? What other investigations are you talking about? When are these?

Because maybe they explain the other evidence that we have received about your involvement in other activities. Maybe they do not, but they help us understand your involvement with, if not Chief Mashaba, any other law
10 enforcement officer. I am sure you have been following the events in this Commission, so you know the evidence of Chief Mashaba, which places you in a certain position.

So consider my question in that context, that it is to understand the fullness of your involvement with what you say is support of law enforcement investigations. And it is a particularly important question to me because you are not a registered, maybe not even registered, you are not an informer, as in formally.

You are not an informant, a registered informant, so
20 it is important to understand your exact role in what you describe as support of law enforcement investigations. That is the context of my question.

MR NKU: Commissioner Baloyi, maybe one must start by qualifying the activities or efforts towards becoming a formal informant. From what I understood, one needed to

prove themselves at first, that is what I was told. To provide solid information to prove your credibility.

But that got lost along the way, because the person that I was supposed to be providing information to, then there ended up being favour sought between us. So the project of one building up to become an informant got lost along the way.

And when one encountered General Mfazi, there was still to build rapport, because we were still at that
10 phase where one builds rapport with the eventuality. Because I know my access to information, in terms of the access that I bring to crucial information, it would have been fruitful long term.

So what I mean to say is, the activities prior to or post July 9 are still towards those efforts. Albeit, I do not get myself involved in anything. If there is information sought about following up leads, then I may provide that. I can do recognisance and provide that information.

Hence, I have said I will make those examples
20 available, practical examples available to the Evidence Leaders for a deduction to be made as to whether or not the information that I provide is, as I say it is. I do not know if I make sense there, Commissioner Baloyi.

ADV BALOYI SC: Well, I think for present purposes we can move, but I just want to commit you in your offer to

provide us with information that you are scheduled for today and tomorrow. I want to put you under the pressure that you provide us with the details of who are the officers that you have provided information to and what investigations were these. And we should have that before you testify tomorrow morning, with the Chair's permission. I see he nods.

CHAIRPERSON: Ja.

ADV BALOYI SC: Okay.

10 **CHAIRPERSON:** In fact, during the time when we are asking only questions seeking clarity, I actually engaged you on this and you gave me just one name, Officer Nortje. I do not remember you giving me any other. So I agree. Please be ready with that.

MR NKU: Okay, thank you. Thank you very much.

ADV KHUMALO SC: Can I do this ...[intervenes].

ADV BALOYI SC: Sorry, sorry. Include the dates, even if it is not an exact date. If you say this was in May 2022, that is sufficient.

20 **MR NKU:** Okay, thank you very much.

ADV KHUMALO SC: Mr Nku, good afternoon. I want us to clear up this issue of what you were doing before 9 July 2021. I think you have accepted that you have never been recruited as an informant and you have never been registered as an informant.

MR NKU: I agree, Commissioner Khumalo.

ADV KHUMALO SC: Yes. So you could never have been a SAPS informant. Now we go to Chief Mashaba and paragraph 2.2 of your original statement helps because you say prior to 9 July 2021, which is the period that is of particular use to us, your relationship with him was that of a professional acquaintance. That is what you say.

MR NKU: Yes.

ADV KHUMALO SC: So I take it from that that he never
10 recruited you as an informant.

MR NKU: No, he ...[intervenes].

ADV KHUMALO SC: He never recruited you?

MR NKU: No, he never recruited me. It was – I exchanged information with him. There was never a formal engagement.

ADV KHUMALO SC: And he never paid you either for the information you gave him?

MR NKU: No. No, he has never.

ADV KHUMALO SC: And it was up to you if you had
20 information, whether you want to give it to him or not.

MR NKU: Precisely.

ADV KHUMALO SC: So you never had an obligation to give him information, even if you were aware of criminality. There was nothing that bound you to give information to him. Correct?

MR NKU: I would say that.

ADV KHUMALO SC: Yes. And he could not say to you, you have breached our agreement if you did not give him information relating to criminality.

MR NKU: Correct.

ADV KHUMALO SC: Because there was no such obligation.

MR NKU: Precisely.

ADV KHUMALO SC: Yes, and I need your assistance here.

10 I am speaking for my co-Commissioners and Mr Mosikili. There seems to be an issue with the transcription. So please wait for the question to be completed and then you will see a nod from us. That is usually a cue to you to then start your answer, because it appears that we keep interrupting each other and the transcription reflects that. And it is not your fault. So I am just saying from now on going forward, you will see the nod, then that means you can answer the question. And I think that is the best way of maybe dealing with it going forward. So wait for the
20 question to be completed. Then you will see the nod and then you can answer, and we will all try to remember that.

MR NKU: Thanks for the nod. Thank you.

ADV MOSIKILI: Thank you, Chair. Mr Nku, you stated that previously you have been compensated for providing intelligence. Do you recall that?

MR NKU: I do recall that.

ADV MOSIKILI: Yes. Who paid you? Can you share that information?

MR NKU: That information may be shared confidentially because it involves consultation with foreign intelligence agencies. The details to that I am willing to provide to the Commission ...[intervenes].

CHAIRPERSON: So ...[intervenes].

MR NKU: Not on a public setting.

10 **CHAIRPERSON:** I am sorry. Please finish the sentence.

MR NKU: Sorry. I was saying the details pertaining to such, because of the nature of the information provided or sought, it is not for public consumption. And there are NDAs to the tune.

CHAIRPERSON: I am interested in the foreign intelligence agency part. What are you saying about that exactly in the context of you receiving payment?

MR NKU: Information, basic consultation provided to foreign intelligence agencies have resulted in remuneration.

20 **CHAIRPERSON:** You were paid abroad?

MR NKU: For consultations done with foreign entities.

CHAIRPERSON: And in South Africa?

MR NKU: In South Africa I have not been formally ...[intervenes].

CHAIRPERSON: In South Africa you were not paid?

MR NKU: I have not been paid in South Africa.

CHAIRPERSON: Okay.

ADV BALOYI SC: But you see, where in your supplementary statement you make that statement about being paid, you were answering a question, what was your interest in following up on the information on the 9th? That is what you were being asked.

MR NKU: Yes.

ADV BALOYI SC: That is on page 4 of your supplementary
10 statement. And then you say in paragraph 2, and I am reading from the third line, you say:

“Beyond that, my motivations remained consistent with a confidential source who expected to be rewarded for giving executable information, which led to a successful discovery, as I have in the past been compensated for providing crucial information.”

So, the sentence that reads:

20 “My motivation remained consistent with a confidential source who expected to be rewarded for giving executable information, which led to a successful recovery.”

Is you expected, this is where you are explaining why you

were this interested in this bust, following up on it, and you say I had the expectation to be paid as a confidential source. That is how you are answering that question. You are not distinguishing domestic and foreign intelligence agencies.

MR NKU: So, maybe I need to clarify that, Commissioner Baloyi. That is why at the end, I qualify with engagement with foreign entities. I do not make any claim that I have been paid previously by our local law enforcement for following up on information. For me, that was something that is, I am still building rapport.

ADV BALOYI SC: So, with that answer then, we must then delete. For that answer to stand, and I want to see whether you have actually answered the question after the deletion, that answer must mean you delete everything in that paragraph, second paragraph, that is that:

“Beyond that, my motivation remained consistent with a confidential source who expected to be rewarded.”

20 If you were not expecting to be paid, then that part up to the end of that paragraph should not be there because it has nothing to do with why were you interested to follow up on this information on the 9th. You can, ja, just delete it in your mind and then see, and then try and see what I am saying.

MR NKU: Please direct me to that paragraph, Commissioner Baloyi.

ADV BALOYI SC: Paragraph 6, it is your supplementary statement. Paragraph 6 at page 4, you were asked the question:

“What was my interest in following up on the information on the 9th?”

So, the 9th is the day of the operation, and the evidence is you were there throughout, including at the scene itself.

10 Then you start off by saying:

“As with numerous previous occasions on which I had voluntarily furnished intelligence to law enforcement agencies in the hope that it would contribute to successful operational outcomes, my interest in following up on the information that ultimately led to the Aero-ton bust, drug bust, was no different.”

That is paragraph 1.

20 **MR NKU**: Yes.

ADV BALOYI SC: The second paragraph you said:

“The principal distinction in this instance was the sheer magnitude of the narcotics ultimately recovered, notwithstanding the fact that we unfortunately lost visibility of

the arms trafficking component of the intelligence.”

And then you say:

“Beyond that, my motivation remained consistent with a confidential source who expected to be rewarded for giving executable information which led to a successful discovery.”

So, up to that point, a reasonable reading is that is your
10 answer to, that is part of your answer to why were you following up on this information on the 9th. I see you want to say something. Yes.

MR NKU: Commissioner Baloyi, I believe when we went through the statement earlier on, through Chair, there was additional context added after crucial information, following up crucial information for other intelligence agencies. Yes.

ADV BALOYI SC:

“As I have in the past been compensated
for providing crucial information for
20 other...” ...[intervenes].

MR NKU: Other intelligence agencies.

ADV BALOYI SC: Ja, but that does not change what I am raising with you.

MR NKU: Okay.

ADV BALOYI SC: It does not. The point I am making to

you is you now say, where you talk about compensation, you are speaking about work that you do for other agencies, foreign agencies. Am I understanding you correctly, that to now be your evidence?

MR NKU: Yes, Commissioner.

ADV BALOYI SC: Okay. So, I am prepared for purposes of my engagement with you to delete the part of that paragraph which talks about compensation to you, because now you tell us you did not expect compensation for this
10 drug bust.

MR NKU: Yes, Commissioner.

ADV BALOYI SC: Am I correct?

MR NKU: Yes, Commissioner.

ADV BALOYI SC: You did not expect compensation. So, what then is your answer to the question that was asked of you, why were you following up on the information on the 9th itself when you followed up, when you became part of the entourage that ends up at Scania? What is your answer for doing that, for your being there? Not just at Scania, but
20 following up all the way up to where you land, ending up parked at the Scania property.

MR NKU: So, my reason for following up on information still remains the same, that with information provided, seen as positive and a successful operation, the information leads to a successful operation. The promises that were

made for me in the past will come to fruition, in a sense that, hence I said promises made that I would eventually become a paid confidential source, so.

ADV BALOYI SC: Okay, that is your explanation now, but how does that explain, how is that an answer that on the 9th you followed up, you were present, you have provided the information. Chief Mashaba knows that you have provided the information to him, if he is the correct person that you are seeking to impress.

10 The question still remains, why are you there? Why are you there? When they go to Yellow Jersey, you wait for them. When they move from Yellow Jersey, you are escorting them, you are going with them. When they get to Scania, you drive in with them, you park. We know later on that you actually take pictures or a video because you tell us that.

 And the question remains, you have given the information, so Chief Mashaba knows that you are a good person. You give information and it turns out to be good,
20 and the drugs are discovered based on your information. It still does not explain why are you there on the day. And the question was for you to explain why you were following up on this on the 9th.

MR NKU: To clarify that, Commissioner Baloyi, initially on the 9th, maybe let us start at Yellow Jersey. My presence at

Yellow Jersey was for me to point out or give the location, point out. And in my understanding, my presence should have been limited to that and left it at that. Because the scene that I provided was Yellow Jersey. That is the information that I provided. It ought to have limited itself to Yellow Jersey and I was of the impression that an operation was going to be conducted at Yellow Jersey.

However, a decision was taken and I would deem myself a bystander to that decision because upon Chief
10 Mashaba's return with Warrant Officer Magane, I was instructed to follow by Chief Mashaba. I did enquire that, okay, but why? I have provided you information, and you said members are coming. Because basically he had expressed that they will go and check and then more members will come in, but to my surprise, they went out. Upon enquiring, he just told me to follow him. They are going to inspect the truck in Aeroton.

ADV BALOYI SC: The question remains, why do you follow? You have identified the truck. You have given them
20 the full details. Now it is in the hands of the police. And for the purpose of my engagement with you, I am going to assume these are legitimate police officers. You have given them information. You do not doubt that they are legitimate police officers.

The question remains, why are you following them?

And you cannot say he has instructed you because I am going to counter and say, but he is not your boss. You could have driven off if you wanted to. He would not arrest you. He would not beat you up. So that is not a good enough answer if your answer is he instructed me. So the question remains.

And this is the question that was asked for you to address in the statement. It is not a new question. And you had given an answer, which on the face of it looked like a
 10 good enough answer. I expect it to be rewarded. I do not think one could quarrel with that as a source of information, but as you being the source. But now you have told us that is not why you were there. You were not expecting to be paid.

You have given the information. Why are you going with them to Scania? Why are you getting to the property? Why do you park? Why are you taking pictures? What is your interest?

MR NKU: Thank you very much, Commissioner Baloyi.
 20 Commissioner Baloyi, maybe one needs to go back and clarify the issue of me not seeking payment. Not at that juncture. I am still building myself towards that. It is not that one does not want compensation at all if one provides crucial information, but I understand it is a process.

The issue of me being present, I do not limit it to an

instruction. However, as I have already alluded earlier on that I have provided information before and was told that that never happened. And alas, I see in the media that that information became successful. So my notion was to be there in the vicinity.

Basically, I was very far from Yellow Jersey. I was not even within the Yellow Jersey vicinity. I had parked 500 metres and more away from Yellow Jersey. Had I seen more police officers coming in, I would have definitely have
10 vacated. Then my information is positive.

My expectation was, as Chief Mashaba had already alluded to the fact that if the information checks out, more members will start coming in. That was my expectation. I never expected myself to end up in Scania. And for me to follow up into Scania itself, I would guess it extends to curiosity whether my information checks out.

Because for me to be left behind also, I would have actually expected from Yellow Jersey maybe to go to Alberton Police Station. I would not be in the vicinity, but at
20 least I would know whether or not there was a success with more members coming in.

ADV BALOYI SC: So, are you saying you became part of that entourage that ends up at Scania out of curiosity to make sure or to see that these drugs are properly handled? Sorry, I am confused about your answer.

MR NKU: Okay. Commissioner Baloyi, I become part of the entourage. Not being curious to see any contents being handled, but curious to see that the information checks out. Because I would not have, in the past, it had happened that, as I said with Chief Mashaba, I give information, I know that information turns out, turns out, and then he says nothing happened.

ADV BALOYI SC: So, even if Chief Mashaba had not, you say he instructed you to come, even if he had not instructed
10 you to go with, you would still have gone? Because you are curious and you want to see that this ends up in the right hands, the right hands being the police. You say had you seen that there are more police officers arriving, you would have left. Is that what you are saying?

MR NKU: If Chief Mashaba had not instructed me to tag along, I do not think I would have tagged along because I do not know the protocols of law enforcement, what is required. So, him giving that instruction, in my mind, extending to the curiosity, in my mind it was okay, it is okay,
20 you can tag along. Because he expressed that come with and then stay in your car.

ADV BALOYI SC: You see, Chief Mashaba was asked this question, because it is an important question, why if Mr Nku is an informer, why is he part of this? And his answer was that you asked to join. It was that simple, an answer that

he gave. He said, he was there because he asked to join us. What do you say to that?

MR NKU: Commissioner Baloyi, Chief Mashaba might have mistaken. Because if I asked, I would have went with them into Yellow Jersey. Because if the vested interest was seeing, that means from the initial point, I would have driven with them into Yellow Jersey. Hence I say, my cue was seeing other police cars coming in, that was my cue to say that the operation is a success.

10 **ADV BALOYI SC**: So he was not on your account, Chief Mashaba was not truthful when he said you asked.

MR NKU: He might have mistaken ...[intervenes].

ADV BALOYI SC: He is not mistaken, he was being untruthful.

MR NKU: He was being untruthful. I did not ask to tag along.

ADV BALOYI SC: Thank you.

ADV MOSIKILI: Thank you, Chair. Just to complete that last exchange, just for your benefit to read what Chief
20 Mashaba said. He says, well, so this is from the transcript.
He says:

“Well, Mr Nku asked me that it would be a problem for me to accompany you guys because other information I have given other people, I get to be told that they

were unsuccessful or I get to be told stories or excuses. Can I come with you guys? I said I do not see a problem because I know I have worked with you a lot before and I know I worked with a lot of police that comes with their informers. The only thing I said to him, please make sure you sit in your car and you do not participate.”

10 **CHAIRPERSON**: Is your mic on?

ADV MOSIKILI: It is on, Chair. I was reading far from the left, apologies.

CHAIRPERSON: Ja, please.

ADV MOSIKILI: But I was putting on records that the nub of it really is that ...[intervenes].

CHAIRPERSON: Is it not practical to flight this?

ADV MOSIKILI: Chair, we will try and get it up.

CHAIRPERSON: Thank you.

ADV MOSIKILI: The essence of it really is that Mr
20 Mashaba is quite clear that you requested to come. And we will try and find evidence of Warrant Officer Magane as well who, if I remember very well, said the same thing. And I will be saying to you that it is improbable that they could both say the same thing about you and you could be the only one who is correct when they say you insisted on

coming and you gave reasons as to why you wanted to come. So you did not just want to come out of curiosity, you gave reasons why you needed to come. What is your comment?

MR NKU: Chair, as I have said before, if I wanted to be part of an operation, I would have driven in with them into the Yellow Jersey company. However, my role was limited to pointing and providing to the information. Hence, I stayed behind and awaited an instruction. So, as far as it
10 relates to me being the one to be up front and say that I want to tag along, I put it to you, Advocate Mosikili, that it is improbable ...[intervenes].

ADV MOSIKILI: No, no, you cannot put it to me. I am asking the question. So please resist from that and focus on the question.

MR NKU: Apologies, apologies.

ADV MOSIKILI: And I will say that coupled with your curiosity that you yourself confessed, this answer by Chief Mashaba is more probable than your answer to say that he
20 instructed you. The only instructions he gave you is that you must sit in the car and not join them as they go inside to search the truck.

But that is my proposition to you, that you had a reason, you provided a reason. You also said now when you testified that you had a curiosity, hence you were there.

So coupled with that, the only instructions was for you to stay in the car. But anything else, you insisted on coming. And we will get to the question as to why you insisted on coming, to seeing through this operation. Do you want to comment?

MR NKU: I will repeat this, Commissioners. If I wanted to be part of the operation, why not do it at the point of origin, at Yellow Jersey? Because that would imply I knew that they were going to release the truck to go out. That is a
10 decision they took, void of my presence.

So if they had taken the intel, called all the relevant people there at Yellow Jersey, there would not have had to be a need for me to tag along because there was never prior communication or any communication while they were at Yellow Jersey. From what I gathered after the fact was there was an agreement reached with the management of Yellow Jersey, but the decision not to conduct the operation in Yellow Jersey was taken void of my presence.

So the scene, I still maintain this, Advocate
20 Mosikili, that the sin that I provided was Yellow Jersey Logistics. That is the sin that I provided to Chief Mashaba. That is why all the relevant information was given to the two. It relates to Yellow Jersey Logistics.

To move the sin elsewhere, it is a decision taken in my absence. And for me to suddenly want to tag along

when I was not even part in the first place, for me it would not make sense.

ADV MOSIKILI: No, no, no. I am going to give you my last comment on this one and then we move on. And I have said to you, you gave reasons to Mashaba as to why you want to follow through and follow them to the second scene. And you also testified here now that you also held a particular curiosity to see this process to the end. And I will be making submissions at the end to say there are other more
10 sinister reasons as to why you had to see this thing to the end.

And I would ask you, could there be any possible reason why Chief Mashaba would instruct you, in fact, to follow them? What would your role be there if he was to ask you to come? Because you served no purpose. You have provided all the information. It is positive. He had no reason whatsoever. Can you come up with one reason why he would want you to be there?

MR NKU: So, I draw the reason from what transpired at
20 the scene itself in Aeroton. Because when we were at Aeroton, I think that there is an instant when it had just been before the arrival of Warrant Officer Phakula. I requested to leave. I requested Chief Mashaba to leave. And the reason provided was wait for the Crime Scene Manager, he might have questions for you.

ADV MOSIKILI: You see, that is my difficulty with your testimony all along, is that you tailor evidence as you go by. None of the witnesses who came to testify, not Chief Mashaba, said anything about you leaving. You have provided three statements. None of those statements mentioned you ever wanting to leave.

It is now that you are cornered as to why you insisted on being there. You are being faced with black and white evidence as to why you insisted on being there. Now
 10 you are giving us completely new evidence that, in fact, at some stage, you wanted to be relinquished. And I put it to you, that is a typical case of tailoring evidence as you go and that is highly unsustainable because it is not supported by the true facts.

MR NKU: Commissioners, as far as my recollection serves me well, and I do not know why Chief Mashaba has not stated this, I made a call to him while we were at the scene. While I was sitting in my car, if my memory serves me well, I did make a call to Chief Mashaba to make such a request.

20 **ADV BALOYI SC:** You may have made that kind of call, but I think the point is, it does not make sense that Chief Mashaba would invite you to go to the scene or to use your language, instruct you, because you serve no purpose. On your own account, you say, and his account, forget who asked or who invited, but both of you have one thing

consistent, which is you will sit in your car.

MR NKU: Yes.

ADV BALOYI SC: Now, that is common cause between the two of you, you will sit in your car. Then why would he instruct you to come with? You have given them the details of the vehicle, you can see it, there is the truck with the container. You can see, there is the truck, you have all the details, so you have nothing more to add to this story.

So it does not make sense that he would instruct
10 you to come with. But even on his version, it does not make sense. If everything is innocent, even on his version, it does not make sense that you would ask to go with. On both your versions, it does not make sense. The truth lies somewhere else, why, how you end up there, not on these two versions.

Because you have done your job, you have given them the information, you are an informer, you get told, sit in the car. There is no explanation at this point from you and Chief Mashaba, what purpose would you serve? You
20 give us at least an idea. You say I wanted to see that the drugs that I have identified, and I was curious. You attempt to give us an explanation as you are sitting there. And I suspect that is closer to the truth than anything.

The question would be, what is the reason for that? But I think it is closer to the truth, you saying, I wanted to

see that the drugs that I have identified are in fact taken and they are taken by the correct people. That is closer to the truth than your curiosity story and him saying you asked, and he said, well, I see nothing wrong with it. You want to say something?

MR NKU: Thank you, Commissioner Baloyi. Commissioners, my issue, hence, albeit Advocate Mosikili has an apprehension that I am making evidence. But my issue to raise this point was, from the initial point of leaving
10 Yellow Jersey Logistics, I assume after the fact that maybe the reason why Chief Mashaba might have wanted me was for this crime scene manager, because that is what stopped me from leaving.

ADV BALOYI SC: No, the assumption is wrong because one, that is not his evidence. But also, his evidence is that he and Warrant Officer Magane were sufficient. They were going to take those drugs, and their plan, I think he said one of them said we will take them to Zonkizizwe, another one said would have taken them to Alberton. That was his
20 original plan.

But also, he said he did not want anyone else to know about these drugs, and we had a lengthy debate with him about this bust. He did not tell his superiors, he did not tell anybody because he does not trust people. You warned him that these drugs belong or involve some senior people

in the SAPS, so he was quite careful who to involve.

Your assumption, therefore, does not hold that he wanted to spread the word and involve other people. It was his, Magane's operation, and yours. You were the only three people, until the party was broken up by police officers and others arriving.

MR NKU: Commissioners, the reason why I called Chief Mashaba, amongst other things, at the last moment, hence I said because someone else was supposed to assemble a
10 team to run the operation. Chief Mashaba had in the past alluded to the fact that he also works closely with the then-Provincial Commissioner, and there are joint operations done and whatnot.

Why would I say then do not tell anyone, knowing that there is someone that he obviously works closely with, who would be the Provincial Commissioner? And when other role players are called, for me it gives me confidence that maybe it might have went through the channels that he had already reiterated in the past. Because I have given
20 information to him, and it was said that no execution was done through the Provincial Commissioner.

ADV BALOYI SC: So you deny that you told him that these drugs that you were informing about, that these drugs belong to or involve senior members of law enforcement, and he should not share this information, or he should be

careful who he shares it with? You deny that you said that to him?

MR NKU: So, I do not deny that. What I deny is instructing, or I would say giving him an instruction of not involving high-ranking officials while at the back of my mind, I knew that there had been an operation that was conducted through a high-ranking official, which he seems to be conducting joint operations with.

10 So the warning was limited to be careful who you disseminate the information to because I knew in my mind that there is already rapport with him and the Provincial Commissioner at the time. So ideally, the first point of contact, the Provincial Commissioner would have been there also.

ADV BALOYI SC: So if he said to us that you warned or cautioned him not to share the information with senior officials because they have an interest in these drugs, that would be incorrect? You did not say that to him?

MR NKU: He would have misunderstood me.

20 **ADV BALOYI SC:** Or he would have been dishonest with us. Either he misunderstood you in what you conveyed, or he in fact understood you and lied to us to say that is what you said. Either or. It could be any one of the two.

MR NKU: I am limited to saying he might have misunderstood me. Because in my mind, I knew that he was

already working with the Provincial Commissioner.

ADV BALOYI SC: Okay, thank you.

ADV KHUMALO SC: Mr Nku, to be fair to you, when this line of questioning started, you were referred to the transcript. I appreciate that you do not have it in front of you. So there is a screen to your left where you will see that Ms Ncube, the Evidence Leader, specifically asked Mr Mashaba, why was Mr Nku going with you from Yellow Jersey to Aeroton? And then Mr Mashaba's answer follows
10 from line 9. You will see the 10 just on the left of the screen. So the line before that is line 9 of that page of the transcript. And the answer he gives is:

“Well, Mr Nku asked me that will it be a problem for me to accompany you guys because other information that I gave to other people, I get to be told they were unsuccessful, or I get to be told stories or excuses.”

Do you see that?

20 **MR NKU:** Yes, indeed.

ADV KHUMALO SC: So the question that was asked was, that is not what happened. So he is either mistaken or being untruthful when he says that.

MR NKU: I would say he would be mistaken.

CHAIRPERSON: Please speak up ...[intervenes].

MR NKU: I ...[intervenes].

CHAIRPERSON: No, no, no, let us not speak at the same time. You sort of whispered when you were looking at the screen. What were you saying?

MR NKU: Apologies, Chair. I wanted to say I would say he would be mistaken.

ADV KHUMALO SC: Mistaken or untruthful?

MR NKU: Commissioner Khumalo, I would say he is mistaken. I would say he is mistaken.

10 **ADV KHUMALO SC:** But you never asked. That is the point.

MR NKU: No, I did not. I still maintain this, Commissioners. If I really wanted to be part, then why not do it at the first instance? Why not be part where – because where I provided information, I am certain that everything is there inside, in Yellow Jersey. I should have been part from the onset. I should have went in with them. That is where I feel that if I needed or wanted to be part, I should have rather been part at Yellow Jersey, not after the
20 fact at Scania. Because I never had any prior discussions regarding Scania. I was just told after the fact when moving out that we are going to Aeroton.

ADV KHUMALO SC: That answer does not help you because there was no operation at Yellow Jersey. They went and they asked management to open the container.

Management refused. So we do not know what would have happened if management had agreed that they should open the container. For all we know, they could have called you to come in.

So it does not help you to say, well, the operation, had it happened there, this is what would have happened. We know it did not happen there. And the reasons given were that management at Yellow Jersey refused to allow them to open the container. But the point is you were at
10 Yellow Jersey. You briefed them. You are the one who told them to come there. They found you there. So there was no reason for them to drive with you to Yellow Jersey. You were already there waiting for them. Yes?

MR NKU: Apologies, Commissioners. No, they did not find me there. They drove with me there. So I met with Chief Mashaba elsewhere. I believe it was at the filling station. So him and I drove towards Yellow Jersey. I had sent him the location, but I guess he maybe did not pay attention to the location because he wanted me to point him to Yellow
20 Jersey.

So we actually, him and I drove, and I parked at a distant company. And then from there, that is when Warrant Officer Magane came after some time. But they did not find me at Yellow Jersey, Commissioner.

ADV KHUMALO SC: You may be correct. To be fair to

you, I am reading Warrant Officer Magane's statement, and he says he found you there. So it may well be that you and Mashaba drove from somewhere else to there. So for now, maybe I limit myself to what Warrant Officer Magane says, because he does say he found you there.

MR NKU: Okay.

ADV KHUMALO SC: Thank you.

MR NKU: Thank you, Commissioners.

ADV BALOYI SC: We have not asked you the question,
10 and we should ask so that you tell us. Why did you not go with them to Yellow Jersey?

MR NKU: Because for me, I provided information, and my role ought to have been limited to that, providing information and being out of sight. Because being where I parked, I believe I was completely out of sight because it is a distant entity. No one from Yellow Jersey could have said that they spotted me. So I was confident that when they conduct the operations, they would be done void of my presence. And over and above that, I was of the sense that
20 these are seasoned officials. They know what needs to fall and what not.

ADV BALOYI SC: You did not leave. You did not leave. You gave them information, and you parked. You are remaining wherever you were. Clearly, you were not going to leave until they were done and finished, as you say. You

thought it is with seasoned police officers who know what to do, but you did not leave.

You stayed on, and the question remains that why are you there? Why are you anywhere near this? It is only fair that I say this to you. I place this to you so that you can comment about it. You see, in this explanation now, you say I parked where Yellow Jersey people would not see me, and I am paraphrasing.

They did not see me. None of them could say I was
10 there. That has a certain significance, that it sounds like what informed your not-going-in and the choice of place where you parked your vehicle was so that you are not seen by the people at Yellow Jersey where an operation, as far as you know, was supposed to be conducted, which raises the question, why did you not want to be seen? Why are you hiding? Because that is how you explain it.

But together with that question, why are you hiding, it is why, in fact, are you there in the first place, wherever you parked, which takes me back to the direct question that
20 was asked of you. What was your interest in following up on this? And that question remains unanswered. If it was not so that you make sure that you get paid, because this is your discovery, the question, as you have answered here and the way that you have dealt with it still remains unanswered.

But coming back to this, that you did not leave. You did not say, here is the information, I have shown you the place, you are seasoned police officers, you do your thing, I am satisfied that I have given you the information. You park where you are not seen. Why? Why are you there?

MR NKU: Thank you very much, Commissioner Baloyi. Commissioners, I stayed out of the line of sight solely to maintain my anonymity. So, as to say, no one would know
10 who was the source of information. It was not due to the fact that I did not want to be spotted by Yellow Jersey employees.

But, in any case, my presence at a scene of crime would be unwarranted. I still, by myself, still maintain I should not have been in Aeroton. My presence at Yellow Jersey, I was confident that I do not disturb any of the affairs of the operation that they are conducting inside. So, the reason why I do not leave at that point in time – amongst other things, when Chief Mashaba left to Yellow
20 Jersey, along with the Warrant Officer Magane, I would say that the assertion was to verify the information.

Why do I say this? Because Warrant Officer Magane left his car. They jumped into Chief Mashaba's car and then went inside. So, for me, it did not click to my mind to leave while there is a police car next to me. The only

thing that I was waiting for would have been more police cars arriving. Then it is a success, but it was at the stage where there is still verification taking place. That is how I took it.

For me to leave without verifying, I would not have known whether or not – maybe Chief Mashaba would have pulled one of the previous stunts where no information was not followed or I ...[intervenes].

ADV BALOYI SC: So, you did not trust him?

10 **MR NKU:** To an extent. Not that I did not trust him fully, but I wanted to verify. It would have been good to verify. It would have been good.

ADV BALOYI SC: Thank you, Mr Nku.

ADV MOSIKILI: Thank you. Then it must hold that you are the one who is mistaken to say you were instructed. You have given all the reasons why you stayed, and you forgot to mention that you were instructed, like you were saying. In fact, you said to the Chairperson earlier on this morning that you have lost trust, or Mr Mashaba is unreliable, this
20 morning when the Chair asked you a question as to why did you go to Mfazi instead of Mashaba.

So, it ties up that you would have stayed for those reasons. In fact, what we have done, and I know you do not have the document, but we have pulled up the testimony of Warrant Officer Magane there. And the upshot of it is that

he also confirms what Chief Mashaba is saying. And I will try to read from this distance. When you look at under Warrant Officer Magane at paragraph 10, I will go to the middle of that paragraph where he says:

10 “I questioned this. I asked Mr Mashaba, because Mr Nku was now part in the premises. He argued to me that Mr Nku had a previous experience whereby he gave information to the police and I cannot say the information was positive, but they said it was negative.”

So that accords with what Mr Mashaba says and what Warrant Officer Magane says, and together with your own reasons of your own misapprehension in the past and what you told the Chair in the morning that Mr Mashaba is unreliable, you had all the reasons to stay compared to what you are telling us, that in fact you were forced to stay. Do you want to comment?

20 **MR NKU**: Thank you very much, Advocate Mosikili. Chair, Chair, I do not want to mistake my answer. [Vernacular]... apologies, Advocate Mosikili. Commissioner Baloyi asked me about my reasons for leaving, and then after the fact, why did I stay behind?

So my reasons for staying was not as a result of an instruction, if I can clarify that. But my reasons for leaving

was as a result of that instruction. Advocate Mosikili, what Chief Mashaba tells Warrant Officer Magane at the scene, I will concede to the aspect of previous disgruntlement, because between him and I would be common cause. But it is not as a result of me expressing that while we were at Yellow Jersey to say that no, I need to go because you did this and that.

Remember when Chair asked me earlier on to say how many law enforcement officers had you been giving
10 information to. See, that assertion would have been correct if I had been giving information to many law enforcement officers, but my information dispersal had been limited to mostly Chief Mashaba.

So if there is a talk of law enforcement who have not been reliable in terms of upholding information given, it would be limited to him. So to say that I have been given information elsewhere and people have been unreliable, that means the person is talking about himself. And for me it would not make sense.

20 **ADV MOSIKILI:** I think the more you answer, the more you confuse yourself and confuse us. Just going back to that paragraph that we are dealing with, I just need clarity on two issues. During your exchange with Commissioner Baloyi, you then conceded that you were not expecting to get paid, at least on this operation, or be rewarded. Do you

remember that?

MR NKU: I do remember, Chair.

ADV MOSIKILI: And that is still your vision? That you do not expect to be rewarded on this particular operation?

MR NKU: Precisely on that operation. Sorry, Advocate Mosikili, I am ...[intervenes].

ADV MOSIKILI: I am saying it is still your vision that you did not expect to get rewarded at this Aeroton operation.

MR NKU: Yes, at that time, Chair, I was not expecting an
10 immediate reward.

ADV MOSIKILI: And in fact, you said when you were engaging with Advocate Baloyi that you were still trying to establish yourself to get to some point maybe in the future that you might get rewarded. Do you remember that?

MR NKU: Precisely.

ADV MOSIKILI: Yes. Now what I do not understand is that while you are there trying to make your way to maybe to build some profile to be paid, as you would expect to get paid at some point, it does not make sense that what the
20 facts point to us is that you have R60 000 with you. You first say that it was for travelling costs, but for now, what worries me is when you say, and that acquiring – so when you were asked about why do you have this money, and you said part of the reason why you have it is that acquiring technical intel almost comes at a cost.

Now, it does not make sense to me, and it is hopelessly contradictory for you to say you expected to build a profile to get paid, whereas at the same time you seem to be mentioning that that part of the money you had, or that money you had part of it, you were willing to spend it as part of collecting intel. Do you wish to comment?

MR NKU: Indeed, Advocate Mosikili. The money was not solely or was not for the operation. It was money at my disposal. And relative to that, I am not an ordinary would-
10 be informant, someone who is trying hard to fight his way into SAPS.

So for me, one is always willing to leverage resources to meet a certain objective, albeit it may be long-term. But at that point in time, these are resources at one's disposal at that point in time. So because I have spent money risking marketing and whatnot, so I guess because it was not a substantial fee that I would think of in terms of acquiring information, I did not deem it significant.

ADV KHUMALO SC: Just a moment, Mr Mosikili. Mr Nku,
20 please in your answers try to be clear, because you have given an answer and I have no idea what you have just said.

MR NKU: Okay.

ADV KHUMALO SC: You are saying too many things that are unrelated to what we are talking about. So this R60 000

that you had on the day, when you withdrew it from wherever you withdrew it, what was it for?

MR NKU: So the money was petty cash which I used for my travelling activities.

ADV KHUMALO SC: On the day in question, you did not have any travelling activities. You were going to Yellow Jersey and then Aeroton. So I want you to be specific. You withdrew R60 000 or you took it from somewhere. As you were taking it and putting it in your car, what were you
10 going to use it for?

MR NKU: Commissioner Khumalo, the R60 000 that I had, I did not take it consciously and put it in the car to just travel. It is money that I had with. I do not know if I make sense.

CHAIRPERSON: I want to understand something. You referred to petty cash. Is the petty cash the R60 000 or is the petty cash something else?

MR NKU: The R60 000.

CHAIRPERSON: Petty cash R60 000 rand for an
20 individual?

MR NKU: No, not for an individual. That ...[intervenes].

CHAIRPERSON: No, no, I say individual as in Mr Nku. Mr Nku who is an individual, he calls R60 000 petty cash.

MR NKU: No, Chair. It was petty cash for the company. It was not my money. I was trying to say that.

CHAIRPERSON: Petty cash for the company?

MR NKU: For the company, yes. So, I would say I used company funds.

CHAIRPERSON: Then you must have a huge company. Please finish your answer. Yes, yes, yes.

MR NKU: Yes, Chair. So, when one says petty cash, the company extended to multiple trucks. We had a whole supply chain operation. So, keeping cash, not all filling stations and whatnot where one uses cars. Some, you
10 would use cash once all the trucks have passed. So, I would say one took advantage of that.

CHAIRPERSON: I was interested in your use of petty cash. I intervened whilst Commissioner Khumalo was asking you questions. And, of course, some of the questions I had prepared it seems you are anticipating already because I seriously want to engage you on this thing about carrying cash at this day and age.

ADV KHUMALO SC: Mr Nku, for now, because we will get to that later. Are you saying this R60 000 is always in the
20 car?

MR NKU: It is not always in the car, Commissioner Khumalo. However, given the purchases or payments that one needed to make, at that point in time, I took advantage of the money being at my disposal.

ADV KHUMALO SC: You are still not getting to what I am

asking you. Because that money, R60 000, is not always in the car, at some point that day or the day before, you must have taken it somewhere in the safe at the company or you withdrew it from the bank and you took it with you and you put it in the car. I am asking you specifically about during that period, what was your plan with it?

Because you cannot say in general terms, filling stations, some of them do not take cash, therefore this and that, you run a truck business, therefore this and this.

10 Unless you say to me you were following a truck that day and you knew that that truck would require money to be used either for diesel or something else and you took that money for that purpose.

So I am trying to understand, when you withdrew that money or you took it from a safe, what was your plan with it? What were you going to do with it? And I am only limiting myself to that because your heard Chair, he still has other questions about that money.

MR NKU: Okay. Commissioner Baloyi, as ...[intervenes].

20 **ADV BALOYI SC:** Khumalo.

MR NKU: Sorry. Apologies, Commissioner Baloyi. Commissioner Khumalo, when I took possession of the R60 000 or the money, hence I said that I took advantage of the fact that it was at one's disposal. However, I utilised the funds for travelling because, one, I did not know how long

one would stay in the vicinity of Durban, and going there is not limited to following up on information relating to that truck.

One obviously had other business interests in infrastructural development and so forth, but it was solely on the basis that I was not sure how long the trip would take. But I thought it would be best to travel discreetly.

ADV KHUMALO SC: I must say, you still have not enlightened me. But for now I will leave it there and accept
10 that it is pocket money that you took with you for your trip to Durban and back and you did not know how much you would need for your trip. Have I summarised it correctly?

MR NKU: It was cost for the trip.

ADV KHUMALO SC: For you specifically. You were not going to pay suppliers for the company or anything like that. It was money that you specifically were going to use for your trip to Durban.

MR NKU: Not necessarily, Commissioner Khumalo. It is money that, hence I say, I took advantage of. But when I
20 need to make payments to suppliers and whatnot, it would be easy for me to do it wherever I am.

ADV KHUMALO SC: To pay them in cash, in R200 notes?

MR NKU: No, to make deposits. Not to pay in cash, to make deposits.

CHAIRPERSON: So you take cash to then make deposits.

It does not make sense to me. Not at this day and age.
Why not make an EFT?

MR NKU: Thank you very much, Chair. Chair, the business that one was running, we had a lot of clients paying in cash. That is why there would be cash.

CHAIRPERSON: Paying you in cash?

MR NKU: They would be paying the company in cash.

CHAIRPERSON: But that still does not answer the question. What you do once you get lots and lots of cash is
10 to deposit the money and then to make electronic fund transfers. That is what makes practical sense, Mr Nku. I may not have a business, but at least that I understand.

MR NKU: I fully concur, Chair. Hence, I have been expressing that one took advantage of the cash at one's disposal.

CHAIRPERSON: That still, that still does not make sense. It still does not make sense. I mean, why not deposit the money? You left for Durban on the 7th. Is that correct? Is that correct?

20 **MR NKU**: I am trying to ...[intervenes].

CHAIRPERSON: We have texts here and I think the texts, the chats support what I am saying. You left for Durban on the 7th. Is that correct?

MR NKU: I think that would be a fair assertion.

CHAIRPERSON: And you were in Durban on the 8th.

Correct?

MR NKU: Yes, Chair.

CHAIRPERSON: And you came back from Durban, I think after roughly having been there for the day, then you came back on the 8th. Correct?

MR NKU: I came back on the 8th.

CHAIRPERSON: And you were here by early morning, which is the time you met Chief Mashaba and Warrant Officer Magane. Correct?

10 **MR NKU**: Correct, Chair.

CHAIRPERSON: So are you saying you carried cash from Johannesburg to Durban and then back to Johannesburg with it, is that what you are saying?

MR NKU: True that, Chair.

CHAIRPERSON: Sorry?

MR NKU: That is true, Chair.

CHAIRPERSON: That is true?

MR NKU: Yes.

20 **CHAIRPERSON**: And was it R60 000 when you took it or was it more with you having used part of it, perhaps along the way to Durban, in Durban and back from Durban?

MR NKU: Yes, it was like ...[intervenes].

CHAIRPERSON: Sorry, sorry, sorry, sorry. Had you taken R60 000 when you initially took it from wherever in Johannesburg? Did you take R60 000?

MR NKU: No, it was not R60 000.

CHAIRPERSON: You took more?

MR NKU: Yes, it was more, Chair.

CHAIRPERSON: How much was it?

MR NKU: I think it would have been about R64 000, R65 000.

CHAIRPERSON: And the four or five, what did you use it for?

MR NKU: So I booked in, I slept overnight on the 7th.

10 **CHAIRPERSON:** And ...[intervenes].

MR NKU: No.

CHAIRPERSON: Yes.

MR NKU: Ja, but I had booked, I booked and slept overnight.

CHAIRPERSON: You used it to pay at a hotel or whatever ...[intervenes].

MR NKU: Yes, Chair.

20 **CHAIRPERSON:** Sorry, sorry, let us not forget. Or whatever accommodation facility, so you used the money for that.

MR NKU: Yes, Chair.

CHAIRPERSON: Anything else?

MR NKU: No, on the way I paid for the tolls and petrol.

CHAIRPERSON: When you left Johannesburg, taking the R64 000 or R65 000, what transactions did you expect to

make along the way or in Durban, other than accommodation and tolls? What transactions were you expecting to make?

MR NKU: I would have expected to make transactions, but other than have a safety path of having money.

CHAIRPERSON: So without expecting to make any transactions whatsoever, you take a whole R64 000 or R65 000 cash with you in your car. Is that what you are telling us?

10 **MR NKU**: Chair, as ...[intervenes].

CHAIRPERSON: You are not expecting any transaction whatsoever, leaving aside now the hotel and tolls. You are expecting no other transaction whatsoever. You take a whole R64 000 or R65 000 cash, underlying cash. Yes?

MR NKU: Chair, I did not know how long I will stay.

CHAIRPERSON: Yes.

MR NKU: Yes. So it is not an issue of transactions, but I did not know how long I would have stayed in Durban.

CHAIRPERSON: So what did you expect might happen,
20 which necessitated that you should carry R64 000 or R65 000 in cash?

MR NKU: Maybe my stay would have been longer.

CHAIRPERSON: I am talking about what transactions would have been necessary or made necessary by a longer stay.

MR NKU: Chair, to consider that ...[intervenes].

CHAIRPERSON: Maybe an additional day at a hotel, perhaps that?

MR NKU: Maybe three, four days. Apologies, Chair.

CHAIRPERSON: So an additional two or three days at a hotel, perhaps?

MR NKU: Ja, that would have been possible, Chair.

CHAIRPERSON: And why could you not have paid for that using your bank cards? Why must you carry R64 000 or
10 R65 000 for that? Why could you not have paid or used your cards to pay for that?

MR NKU: Chair, as I have already stated, that one, I took money that ought to have been deposited.

CHAIRPERSON: Yes.

MR NKU: When I took the money, it is not some of the money, it is the sum total of what was to be deposited ...[intervenes].

CHAIRPERSON: Sorry, sorry, sorry, that is not answering my question. My question is, you say what could possibly
20 have happened is that your stay could have been more than just one day. It could have been two or three days. My question is, why could you not have used your cards for that? So how you source the money and it being the sum total and so on is not answering my question. Why could you not have used your card for that? Your cards, actually,

because I have seen several cards in the testimony or the documentation that we have here. You have several cards, bank cards. Please answer my question, not anything else.

MR NKU: Chair, I was coming to that question.

CHAIRPERSON: Yes, yes.

MR NKU: That is why I was trying to build a premise.

CHAIRPERSON: Yes.

MR NKU: That with the sum total that I had, it is money that I still needed to deposit. Hence, I am saying I took
10 advantage of that. Because when I did ...[intervenes].

CHAIRPERSON: Sorry, sorry, so we do not speak at the same time. I am sorry for interrupting you. What advantage exactly? What advantage were you taking? You say you took advantage of something. What advantage were you taking?

MR NKU: The advantage is that I took money from customers which I ought to have deposited.

CHAIRPERSON: Yes.

MR NKU: So I cannot leave some and take some. That
20 money needs to be deposited. So I travelled with the whole sum total of it and took advantage of it. Hence, I am saying, Chair, I should have left the money behind or deposited it ...[intervenes].

CHAIRPERSON: I am sorry, please repeat. We spoke at the same time.

MR NKU: I am saying I should have left the money behind or deposited it. It needed to be deposited. So I just took advantage of it so that whenever, say on that money, I would have spent R20 000 or R15 000. Then I would at a later stage have to replace it, but then I need to deposit it.

CHAIRPERSON: And do you have people working under you or did you at the time have people that you could have sent to go deposit the money? I am sure you had.

MR NKU: I did, Chair.

10 **CHAIRPERSON:** I do not get this advantage that you are talking about. You could and should have sent people to deposit the money. And then as for yourself with your Durban trip, you could then have used your cards. This still does not make sense to me. I am yet to come to – okay, let me not anticipate that question because you will start thinking about it. So that does not make sense to me. Why not send people to deposit their money and then you go to Durban and use your cards to pay?

MR NKU: Not everyone had access to my safe.

20 **CHAIRPERSON:** Sorry?

MR NKU: Not everyone had access to the safe.

CHAIRPERSON: I asked you whether you did not have someone you could have sent to go deposit the money and I thought you said you could, or not?

MR NKU: But I would have had to take the money and give

them before I leave.

CHAIRPERSON: But what stopped you from doing that?

MR NKU: Hence I said, Chair, I took advantage.

CHAIRPERSON: No, no, no, no, no, no. That is not my question. What stopped you from taking the money out of the safe, giving it to somebody to go and deposit it? What stopped you from doing that?

MR NKU: Nothing, nothing stopped me, Chair.

CHAIRPERSON: Do you accept that it is very risky to
10 travel with lots and lots of cash?

MR NKU: I accept, I accept.

CHAIRPERSON: Anybody would accept that.

MR NKU: I accept.

CHAIRPERSON: You accept it?

MR NKU: I accept it, Chair.

CHAIRPERSON: So make me understand this advantage in the face of the risks attendant to carrying that much cash with you. Make me understand this advantage that you took. It simply does not make sense to me, Mr Nku.

20 **MR NKU**: Chair, the advantage relates to me travelling discreetly.

CHAIRPERSON: Travelling?

MR NKU: Discreetly.

CHAIRPERSON: What on earth does that mean?

MR NKU: Chair, if I, because part of my trip was to

acquire information. Travelling discreetly means that along the route, I would not be using my bank cards.

CHAIRPERSON: But who had any idea about you going to source the information who would have cared about your use of your bank cards anywhere in the country? Who would have cared about that?

MR NKU: Chair, I would not know because ...[intervenes].

CHAIRPERSON: No, no, no, no. No, no, no, no, no. Your fears, beliefs, et cetera, must be based on fact. Who would
10 have known about you going to Durban, you going to source whatever information in Durban, and therefore have been concerned about your use of your cards, or been interested in the use of your cards in Durban? Tell me something that is based on fact.

MR NKU: Chair, the people whose information I am following up on have got relationships with high-ranking officials. Anyone snooping around, it definitely does, there is exposure.

CHAIRPERSON: But how many people go to Durban and
20 use their bank cards? How many people?

MR NKU: Granted, Chair, a lot of people do go to Durban and use their bank cards.

CHAIRPERSON: Then answer my previous question, because that is why your responses do not make sense.

MR NKU: Chair, I still maintain that when following up on

information, my mindset is that be as discreet as possible.

CHAIRPERSON: It does not make sense to me. I will leave it at that for now.

ADV KHUMALO SC: Can I just make a point? This is important, Mr Nku, because at a scene of a major drug bust of drugs worth hundreds of millions of rands, when unexplained amounts of cash are found there, questions have to be asked, and certain inferences have to be drawn. And you must give us an innocent explanation that explains
10 the presence of that cash there.

And the explanation you have given me so far, I speak for myself, not for the Chair, does not make sense. And I will leave it there for now, but you understand why these questions are being asked. I know you are legally represented and to be fair to you, your lawyers would probably have advised you, but this question is being asked in that context. So that you understand.

CHAIRPERSON: You see, in fairness to you, I am not saying this is an inference that we as a Commission will
20 draw. I am not. We are far from that at this stage. I do not know what in the end we will decide and what inferences we will draw.

But at the lowest level of possibilities, some may think you had that much cash to pay out those who had assisted in getting these drugs out of the system and taking

them to whatever destination. I am saying at the lowest, lowest. I am not at all talking probabilities, nor am I even saying that that is an inference that we will draw in the end.

So I am just saying, that is why we are questioning you as much as we are doing around carrying this much cash. Something that simply does not make sense and on which you have not given a cogent explanation. That is all. Thank you.

ADV MOSIKILI: Thank you, Chair.

10 **ADV MOSIKILI**: Thank you very much, Commissioners. I do gather that it is extremely difficult to understand as to why would one travel with such an exuberant amount of cash. Hence, I have been trying to explain that it was as a result of me taking advantage of the cash at the disposal of the company.

It might have been that one needed not to travel to KZN. It might have been utilising cash for any other obligation or need that one had, but one took money that they were not supposed to take. That is what I am trying to
20 express.

Granted, I had people, or I should have had people to go make the deposits, but because I did not know the need of my travel costs, it might have as well been that I go to Durban and immediately deposit the money, or I go to Durban and deplete all of it, which is, hence I say, which is

funds that I should not have taken or I should not have utilised.

To that truth, I do concede that was not my money to take. I am not saying, when I say petty cash, it was not my money, Chair. It was money belonging to the company, which I took advantage of because my thought process was I do not know how much I will need.

Maybe I might need to stay for a week. I am not going to utilise my bank cards. I might as well utilise this
10 and then deposit the rest because initially, in any case, the people who I ended up calling or the person who I ended up calling on the 8th was not the one who was supposed to have conducted that operation.

In fact, it might have been there that I did not need to go to Durban if the person that I had expected to conduct it had answered me at the time. I solely went there because of not getting any response. I thought we are this far with information, so let me just go and follow it up, but I discovered later on what was the reason.

20 **CHAIRPERSON**: Perhaps lastly on this, I think I asked you more than once as to what you were going to use the money for and you said accommodation and tolls. It could have been more if you stayed longer, maybe two or three nights. It would have been more.

But the items themselves were just accommodation

and tolls and I would be surprised if you were to want to add to that. In fact, I would probably not believe it because I asked you more than once and you said just accommodation, initially just the one day, and you said possibly I might have stayed longer, therefore two or three additional nights, and then tolls.

So that is the sum total of what you would have used the money for. Now, how much could you possibly ever have had to pay for those items? I do not know, 10 maybe you stay at the most exclusive hotels in South Africa. But how much could you possibly ever have had to spend? But at least we do have an idea that you spent around R4 000 and R5 000, so that is sort of a ballpark figure.

MR NKU: For one night, Chair, it was around about less than R5 000, unless I would have stayed at these hotels that would ...[intervenes].

CHAIRPERSON: Yes, as I say ...[intervenes].

MR NKU: Have taken all that money in one night.

CHAIRPERSON: As I say, we already know that it was 20 around that amount because you said you took about 64 to R65 000. So all in all, because you are found with R60 000, you had spent R4 000 or R5 000. So we know that. That is what, ja. So what would have been additional would have been another four plus another four if it went up to three nights, or five plus another five if it went up to three nights.

So why carry R64 000 or R65 000 for those three nights at the most in total?

MR NKU: Chair, I still reiterate and concede to this fact that ...[intervenes].

CHAIRPERSON: You see, I am not repeating the questions I asked you. Earlier, I was just querying you on the very idea of carrying R64 000 or R65 000 in general terms. Now I am being specific as to the expected expenses. So if that was all that was to be spent, why take R64 000 or R65 000?

10 Yes?

MR NKU: Okay, thank you very much. Chair, we are talking about the R5 000 after the fact. Going there, at the time I did not know the type of hotel that I would be accommodated in. There are much more expensive hotels in the area and ...[intervenes].

CHAIRPERSON: That is exactly why I said I do not know the types of hotels you stay in. Please continue.

MR NKU: There are much more expensive hotels in the area. So I would not have limited myself, but it was not
20 pre-planned. It was a spur of a moment because cash was at one's disposal. I did not take a subconscious decision of taking the total sum, but just taking some, I needed to take all of it so that I eventually needed to make a deposit.

CHAIRPERSON: So you leave Johannesburg not having made a booking or a reservation. You drive all the way to

Durban, and even along the way you do not make a reservation. So you will basically see how much you spend when you arrive in Durban.

MR NKU: Chair, sometimes it is cheaper to do things that way. It gets to be cheaper.

CHAIRPERSON: All right, I will, I will... Yes, yes.

ADV BALOYI SC: Mr Nku, a different aspect, or another aspect of this discussion is you had very specific information about these drugs or this consignment. You
10 knew the container number. You knew exactly what you are looking for or what Mashaba and whoever else you, even this senior official, but you knew what the consignment is supposed to be.

So you would have known when that ship left, that vessel left Brazil. I think it is Brazil. I think we have been told that. So you had all of that detail. It is difficult to see a situation where you did not know how long you would be in Durban because you had all the information. You know how the harbour system works. That is why you were able
20 to talk about certain containers being prioritised, a topic that we said we would come back to.

But clearly, you know something about the workings at port, but you also have this full detail about this. There is – I cannot see how you would not have had an idea how long you are going to be there. In your explanation of why

you had that much money, surely, you did have an idea how long you could be there. You are going to be there because you have all of this information.

MR NKU: Commissioner Baloyi, I did not have the – specifically when one refers to the container number in question – I did not have that up until the very end, if I am not mistaken. If it is not the 8th, it would be the 7th. It was up until the very end. I knew that there would be, my intel was that there would be 11 containers, but obviously,
10 because there are some that would need following up on. Hence, I say one checks which ones are prioritised.

ADV BALOYI SC: Yes.

MR NKU: At that point.

ADV BALOYI SC: Yes, forget the container number. You knew the vessel has left Brazil. You knew it is docking. Otherwise, you are going there on the 7th and not on the 2nd or on the 20th of July. It does not make sense. So you had enough information to know that it has, and it must be so, that you knew it has left Brazil. You knew it is expected to
20 dock on a certain date.

So you have that kind of information. But your information, in fact, was as specific, ultimately, information is as specific as there are drugs and it is so much of it. And I am saying on a composite of all of that evidence, that which is known, it is difficult to see a situation where you

leave Johannesburg on the 7th, or wherever you are leaving from on the 7th, and you did not leave five days earlier, you do not leave five days later, that you did not know how long you would spend in Durban.

It just defies how things work, the logic of it. Otherwise, you should have left on the 1st of July or you should have left on the 20th of July. So you did have an idea how long you are going to be there because you had sufficient information.

10 **MR NKU**: May?

ADV BALOYI SC: You may, sorry.

MR NKU: Thank you very much, Commissioner Baloyi. I did have information. However, it was not sufficiently narrowed down enough. So, I would not have known, say for instance, there are 5 000 or 2 000 containers that the vessel would be docking with, but how long or which ones are prioritised, particularly in the company in question.

20 So my stay there would either be shortened or extended on the basis of the information that I keep receiving, but I did not have conclusive information to warrant me to stay for a day or two or three or four. The information that I had did not enable me to take that decision.

ADV BALOYI SC: All right. Let me raise a second issue about this money issue and payments. I understood you

earlier in your evidence to say that part of what you have to do when you gather information is you pay for it. Sometimes you have to pay for it. Did I hear you correctly? And I am not saying from the R60 000 necessarily. The concept itself that you have to pay sometimes to get information.

MR NKU: It does happen.

ADV BALOYI SC: It does, it does happen, yes.

MR NKU: Yes.

10 **ADV BALOYI SC**: Then my question is, you are not a registered informant. What is your interest to spend your money to pay people to give you information that you then say you give to law enforcement? What is your interest in that? What do you stand to gain to the point that you are prepared to spend your own money to get information?

MR NKU: I thought, I clarified that earlier on Commissioner Baloyi. I said that me being a source of information, I am not restricted to the information that I would be providing. Obviously over and above that, I am
20 someone who is in business and one understands leveraging resources for future returns.

Of course, I was still on this journey of getting remunerated at some point. And the type of information or intel that I am able to provide, whatever costs in resources that I am incur, I will make up in many folds in the future on

the basis of the information that I am able to provide.

ADV BALOYI SC: I am speaking specifically about you spending on intelligence that is about crime fighting or helping law enforcement. So I am speaking to that specifically. What do you stand to gain that you spend your money to assist law enforcement? What do you stand to gain there?

Do not tell me about your businesses and information that you get that you will leverage for your
10 businesses. I am not asking that kind of question. I am asking specifically, you spend money to get information according to you such as, let us say, this kind of information with drugs. You get to know there are drugs that are coming in and you tell Chief Mashaba, let us say. I am not saying that is what happened here, you spent money that way.

But I am talking about those kind of facts that what is in it for you, that you, an ordinary member of the public, a successful businessman by account of what we have here,
20 what do you stand to gain? You can answer.

MR NKU: So maybe one did not clarify that point. Commissioner Baloyi, when I am saying one leverages one's resources, I mean that, remember, I am still someone who is in the process of, at the later stage, getting remunerated or being uptaken [sic] as a source within SAPS

or law enforcement agency who would be a paid source.

So the costs that one incurs along the way would be remunerated or would be equalised at a much later stage. It is leveraging one's current resources for future gains.

ADV BALOYI SC: Why do you want to be part of this? Remember I said to you, you are a very successful businessman by all accounts, and we will still get to that. Why do you want to be an informant? And I do not mean
10 any disrespect to anyone who has been registered as an informant. That should never be misunderstood. I have absolutely no idea what people get paid for this kind of thing.

But it does not make sense to me that someone with a kind of profile, business-wise, that the impression is created by the evidence that we will still go through that you would want to be an informant, a registered informant, and that gets paid. What is your interest in that? Why do you not just carry on giving them information as it comes to
20 you?

But you are so invested in it that you travel all the way to Durban on this one occasion. You are prepared to stay however number of days. You do not know how long it is going to be. You are prepared to do that. You tell us you are even prepared to pay for that information. There is

something that does not fit in with that kind of effort and what you will get paid, wanting to be registered as an informant and get paid for someone who does not seem to need it.

Something does not square up. If your interest is to assist law enforcement, you do not need to be registered. You do not need to be paying. When it comes to you, you just pass it on. But you want to be registered as an informant and then eventually you will be paid for it. Make
10 it make sense to me. You may answer.

MR NKU: Okay. Thank you very much, Commissioner Baloyi. I would like to place this. The type of information that one is able to get access to, I would say it is high-stakes information. Some to an extent of information relating to information of national importance. So for me, it is not about simply being an informant, but putting the information that I am able to acquire to good use. Obviously, with protection Because when one gives information as a businessman or as an ordinary citizen, one
20 is not protected. That information may come back and haunt you.

But if one is an official informant, any information that one has access to, one is at the very least protected in terms of how information is acquired or to what reason that information is acquired for. So the interest is not limited to

financial gains.

For me, I view it as there had been a plethora of opportunities that would even extend to, when proper rapport built, selling tech to our law enforcement. Tech that one knows would be able to help long-term.

ADV BALOYI SC: Right. I will leave it here. Thank you.

ADV KHUMALO SC: Mr Nku, I want you to complete this picture and it is really more for your benefit than for our benefit. The money issue. When you left Johannesburg for
10 Durban on the 7th of July 2021, what was the reason for you going there and for coming back? I am still trying to make sense of how much money you had, how much money you needed, and all of that. So when you left Johannesburg for Durban, what was the reason for that? And also, when you left Durban to come back to Johannesburg, what was the reason for that?

MR NKU: Okay. Thank you, Commissioner Baloyi. So, I apologise. Thank you, Commissioner Khumalo. Apologies, Commissioner Baloyi. Thank you very much, Commissioner
20 Khumalo.

ADV KHUMALO SC: She is the closest to the witnesses.

ADV BALOYI SC: He has the explanation for everything.

MR NKU: No, as a mother, she is here. So, thank you, Commissioner Khumalo. So, when I left from Joburg to Durban, I would not say it was for one reason, but one of

the main reasons was one of my sources, or my source that side did not want to exchange information on any telephonic platform.

So, and the secondary reason was the person that I'd been calling throughout was no longer picking up my calls. So, I was left to follow up on the information on my own.

ADV KHUMALO SC: So, your reason for leaving Johannesburg to go to Durban was related to this very
10 container that we were discussing. The source was the source that related to this container.

MR NKU: Not specifically this container. It was containers.

ADV KHUMALO SC: Yes, containers, including this one.

MR NKU: Including that one.

ADV KHUMALO SC: So, your reason for leaving Johannesburg and going to Durban was because you wanted to go see your source, or contact your source, or communicate with your source in relation to containers,
20 including this one?

MR NKU: Precisely, Chair.

ADV KHUMALO SC: And then your reason for coming back from Durban ...[indistinct].

MR NKU: So, my reason for coming back was upon identifying this specific container because it was identified

on the 8th.

ADV KHUMALO SC: So, you were now interested in this container and because it was leaving Durban and coming to Johannesburg, that was your reason for leaving Durban?

MR NKU: Not necessarily interested. That is one that I had conclusive details on, information on, that I can pass something that I would deem as actionable intel.

ADV KHUMALO SC: So, you were no longer interested in the other containers because you had intel, verified intel, in
10 relation to this one container. Your job in Durban was done. You could come back to Johannesburg.

MR NKU: I would say that to an extent.

ADV KHUMALO SC: Now, Commissioner Baloyis' question, which you may have missed, what benefit is there for you? I mean, all you are going to do with this information is to give it to the police. They will do whatever they want with it. For you to risk R60 000 of your company's own money, travelling on our roads is risky. You risk travelling. You risk people you say are dangerous. That is why you did not
20 want to use your card.

You risk all of that. You risk going to Durban and you risk coming back because the information relating to this one container has now been verified, and you can pass on the information to the police. There was nothing in it for you, except maybe future benefits at a later stage once you

are registered as a source. But for the purposes of you travelling to Durban, identifying the container and coming back, the only benefit to you was that the information will be verified and you will pass it on to the police.

MR NKU: I did not need to travel to Durban initially, Commissioner Khumalo.

ADV KHUMALO SC: Let us assume you did. I know you may not have needed to initially, but you did and you came back. And the only benefit for you would have been that the
10 information is positive, you can pass it on to the police, and that is it.

MR NKU: I would say that long-term, there would be benefit.

ADV KHUMALO SC: But you did not know that for sure.

MR NKU: Yes, it was not definitive. However, considering the pedigree of the person who was supposed to have conducted the operation, I was certain that you would have instantly built rapport. Then I was now left with having to give the information to Chief Mashaba. But initially, given
20 the pedigree, I was certain that you would have certainly built and come with information of this magnitude, then you would have placed me somewhere.

ADV KHUMALO SC: Thank you. Sorry. Okay. All three mics went on at the same time. I am wrapping up. So my interest in asking these questions was really to try to

understand your interest in this container and also the money issue.

CHAIRPERSON: Mr Nku, at the time, did you even know how much informers or informants were paid by the police?

MR NKU: Okay.

CHAIRPERSON: I heard, do not go to the high stakes information and so on that you dealt with when Commissioner Baloyi engaged you. Do not go there. I have heard that. I just want to know, did you know at the time
10 how much informers or informants were paid?

MR NKU: Relatively to successes, the type of success, I think the Chief Mashaba had told me that informants would get 1.5% of a major success if it is in the form of offer. But that is why usually I would give him information relating to illicit cigarettes.

CHAIRPERSON: And you say 1% or whatever the percentage is?

MR NKU: 1.5% of the total failure.

CHAIRPERSON: You said in relation to major successes,
20 did you say?

MR NKU: Yes.

CHAIRPERSON: And in relation to other successes?

MR NKU: For me, major success would be anything in the form of a pass. That is why, generally, I would give him information relating to illicit cigarettes.

CHAIRPERSON: What I want to understand is when you seem to put an emphasis on major successes, does it mean for something else the rate was different?

MR NKU: We never had that discussion. The discussion was if there is a success, there is a major success ...[intervenes].

CHAIRPERSON: So you were not interested in anything else. You were interested in major successes. That was your focus.

10 **MR NKU**: I had no way of quantifying it, Chair. I would not say my only interest was major success. For me, it would be relative. Because, for instance, if I give information pertaining to a truck. Okay, let us give the other instance where I give information pertaining to large consignment of ...[indistinct]. I would not deem it major success, but it is a significant success.

CHAIRPERSON: All right, all right.

MR NKU: Because of the chain that it might lead to.

CHAIRPERSON: Thank you. Correct me if I am wrong.

20 Did you say you got to know Chief Mashaba in 2019, or not?

MR NKU: It is from about 2019.

CHAIRPERSON: 2019, thank you. And did you start giving him information from 2019?

MR NKU: Indeed, Chair.

CHAIRPERSON: Sorry?

MR NKU: Indeed, Chair.

CHAIRPERSON: And you say your aim was eventually to be accepted as an informer who would be registered, or informant who would be registered by SAPS. Now, it is two years from 2019 to 2021. What sort of time frame were you looking at to finally be registered as this informant?

MR NKU: I initially thought it was an easy thing. You provide information, once you have proven that you are providing reliable information, then one would be uptaken
10 [sic] or ...[indistinct]. But it took way longer, and I started having doubts. That is why I see that there was a point where I started having doubts.

CHAIRPERSON: That is not answering my question. You are telling me about how long it took, and apparently never eventuated. What I want to know is what did you expect it, how long did you expect it to take for you to eventually be accepted as an informant? Surely, I mean, Commissioner, was it Commissioner Khumalo or Baloyi now? I am not sure who said that, you know, we have seen what type of person
20 you are, and you sound to me as a very intelligent person. So surely you would have had some outer limits in your mind as to what you were looking at. What sort of time limit were you looking at for you to be accepted eventually as an informant?

MR NKU: So, Chair, I personally did not have a time frame

in mind, but rather, what was more important was building rapport.

CHAIRPERSON: Yes.

MR NKU: What was more critical for me was building rapport, because the more reliable the information you provide, the more rapport you build. Even if it takes two years, by the time, eventually, in those two years, one gets uptaken, then one is actually able to strike many birds with one stone.

10 Because as I have been alluding to the fact that there is the tech side of possibilities, there are system mock-ups that one and his team had been working on building. So with proper rapport, one is able to say that, look, you have seen my intel works, my systems, the way I acquire intelligence works. So let me give you a glimpse of how I acquire that information, and it is through certain technologies.

 And then, eventually, one is able to make a pitch. Long term, there would be much more beneficial
20 relationships in terms of being that informant and also providing the technology to it.

CHAIRPERSON: You say that it proved to take quite a long time before there could be an uptake. Correct?

MR NKU: True that.

CHAIRPERSON: Did you yourself take any positive steps

for you to be taken or accepted as an informant? If so, what positive steps did you take?

MR NKU: I admit ...[intervenes].

CHAIRPERSON: Sorry, sorry, because I doubt that it would just happen. Maybe it could have, but maybe not. Did you yourself take any positive steps?

MR NKU: Indeed, Chair, I have ...[intervenes].

CHAIRPERSON: I am not talking about providing information. So you are providing information with a view to
10 ultimately being taken. So what I am asking you now, there you are giving information. Did you then, at some point, take positive steps? Now you see how, or the extent to which I am performing. Will you now formally accept me as an informant? Did you take any such formal steps, positive steps?

MR NKU: We have had those engagements, Chair. We have had those engagements. Though I feel that it was always a come-back-tomorrow story.

CHAIRPERSON: Who did you ...[intervenes].

20 **MR NKU**: I engaged with Chief Mashaba regarding that.

CHAIRPERSON: Does Chief Mashaba, or did he take informants in a formal, formal sense? Did he? Was he a person placed, ja, to take people as informants?

MR NKU: But, Chair, remember when I started reading my statement, I had stated that when we please consider when

we move as a premise, my introduction to Chief Mashaba, at the back of my mind, he was always someone who would be capable because of proximities. Because if he is in close cycles of DPCI, that means he could easily facilitate that. I could not go to people that I do not know.

CHAIRPERSON: I am asking about him. So basically, does that response mean that you knew that he could not himself accept you as an informant?

MR NKU: No, I did not know.

10 **CHAIRPERSON**: You did not know?

MR NKU: Ja, I did not know.

CHAIRPERSON: If you did not know, what is this you are saying about proximity, DPCI, and so on then? What do you mean by that? Because if you did not know, I assume that you would have believed that he could take you, he himself. And if you so believed, then it makes no sense to you to refer to his proximity to DPCI and whoever else.

MR NKU: No, I see this in the light of what I know now, Chair.

20 **CHAIRPERSON**: But it would have been no relevance to you because I am engaging you about what you knew at the time.

MR NKU: Yes.

CHAIRPERSON: So what you know now does not make sense to what I am engaging you about. Do you accept

that?

MR NKU: I do accept, Chair. Back then, because of the introduction, I would have thought or believed for that to be a fact, that ...[indistinct] taken in.

CHAIRPERSON: And you knew that he was a traffic officer?

MR NKU: He was never introduced as a traffic officer.

CHAIRPERSON: And I was saying that at no stage did you ever get to know that he was a traffic officer.

10 **MR NKU**: I knew him ...[intervenes].

CHAIRPERSON: Back then, not now, back then.

MR NKU: No.

CHAIRPERSON: You never got to know that he was a traffic officer?

MR NKU: No, Chair.

CHAIRPERSON: Do you know now?

MR NKU: Yes, I know now.

CHAIRPERSON: Since when have you known?

MR NKU: I knew when we got arrested.

20 **CHAIRPERSON**: All right, thank you.

ADV BALOYI SC: Mr Nku, we know from your evidence, we now know that there was no money issue about you staying another night in Durban. You went to Durban, you were there for one night. You had enough money, it is not the reason you came back.

But we also know from your evidence earlier that you became aware that this truck was not stopping on the way. You explained, he never stopped at weigh bridges. You own trucks, so you know that is what happens with trucks and this man was not stopping. Am I right in that recapturing of your evidence?

MR NKU: Yes, Commissioner.

ADV BALOYI SC: Right, I am correct, yes, yes. Now, can you explain, and your interest, maybe before I ask you to
10 explain, your intel had told you there were trucks, there were containers, not just one container. There were containers of interest to you, not just the one.

You verify at some point, at least the one, and I think you had that conversation with Commissioner Khumalo that, well, you forgot about the other ones, so you decided you are no longer interested and you focused on this one container.

Can you just explain why did you drive up to Gauteng with that truck? Why did you not relay this
20 information? Because now you know the truck that is carrying this and we have seen from pictures it has the name of the company by the door. We know the details, so you have that information.

Why did you not convey that information instead of driving and basically trailing this truck? Because that is the

only way you could have known that he did not stop at weigh bridges is because you were keeping an eye on this truck? Why did you do that? Yes, you may answer.

MR NKU: Okay. Thank you very much, Commissioner Baloyi. I think for me, it would have been easier if I had known the details of the truck while it was still in KZN. The reason why I say that it had crossed through these weigh bridges is because the truck details themselves, I got them later on the day. It had departed.

10 I knew that there was prioritisation, but when it departed, I did not know. I had not gotten the details at that point. So that is the reason why eventually I made confirmations this side and I called Chief Mashaba.

ADV BALOYI SC: Sorry, explain that again. You were at the harbour, no?

MR NKU: No, I was ...[intervenes].

ADV BALOYI SC: How did you know there was prioritisation of containers? And that then maybe takes me to that question that I had said I would like to hear you
20 explain. How did you become aware that there are certain containers that are being prioritised?

MR NKU: It was through my sources, Chair.

ADV BALOYI SC: Your sources? Sorry, say that again.

MR NKU: It was through my sources who have access to the data.

ADV BALOYI SC: So is that the people who work there with the stuff, with containers and the movement of containers? It has to be somebody, at least that is how I think about it, that kind of information has to come from somebody who has insight into what is happening in the moment.

Trucks are being prioritised either because they can see it on the system or they can see it physically with their naked eye, for them to be able to tell you that kind of
10 information. Which one is it?

MR NKU: Commissioner, while we are out, please limit it to say I had sources for fear of self-incrimination in relating to access to information.

ADV BALOYI SC: No, I am not asking you to give us a name.

MR NKU: Okay.

ADV BALOYI SC: If you said to me Themba Khoza, it would not matter to me. I do not know Themba Khoza. I am asking how the system worked.

20 **MR NKU:** Okay, okay.

ADV BALOYI SC: You say by approximately so much certain containers were identified as being prioritised for transportation. You either saw that, that was my assumption when I asked you the question much earlier in the day. I thought you would have said I happen to be there

because I have been given this intel. So I happen to be there because I was watching to see what is happening, but now that does not seem to be the answer, or if it is the answer you can say that.

So it is either you were there, you observed it, or somebody else observed it and gave you that information, or they work off the system, whether it is Transnet or whoever is responsible at that point to be able to say these are being prioritised. So I am asking who gives you that
10 kind of information? Is it someone who is seeing it, someone who is working with it, or is it you who is seeing it?

MR NKU: Someone who has access to the system.

ADV BALOYI SC: Someone who works with the system?

MR NKU: Ja.

ADV BALOYI SC: Okay, it is the person that gives you that information. And at that point, where are you?

MR NKU: At that point, I am in the Durban area.

ADV BALOYI SC: You are in Durban?

20 **MR NKU:** Yes, Commissioner.

ADV BALOYI SC: And someone else tells you the truck on which this container has been put. At which point do they tell you? It has to be a point before you leave Durban that you get told, because otherwise, where are you going if you do not know?

MR NKU: It was, I believe it was much later on that day.

ADV BALOYI SC: So you stayed stationary in Durban until you were told that the truck on which this container is, is truck so and so?

MR NKU: Yes, Commissioner.

ADV BALOYI SC: Okay, so you get the details there. At that point, then my question still arises, why do you not then at that point give the information to Chief Mashaba? Because you are in Durban, he is going to meet the truck.

10 **ADV BALOYI SC:** Why do you consider it, did you consider it necessary to track and follow this truck?

MR NKU: I ...[intervenes].

ADV BALOYI SC: Because there will be evidence that shows, let me say to you, there will be evidence that shows that on the 8th, you travelled all the way from Durban to Johannesburg, to Alberton. So I ask the question with that kind of information.

MR NKU: So, Commissioner, I gave the preliminary information, albeit not the truck details, but I gave Chief
20 Mashaba the information, and his remark was, make sure that it is correct ...[intervenes].

ADV BALOYI SC: Yes, but when he says make sure it is correct, he cannot be saying to you, open the container, because he knows you are not going to do that. So whatever he meant does not explain why you follow the

truck. You have the details of the truck, is the point I am making.

But now you have been told, and you have just said, you remain stationary in Durban, and then you got this information, and you say you relayed it. It was preliminary. But what I am putting to you is, but at that point you know the detail. You know it is truck so-and-so New Jersey, Yellow Jersey rather, truck so-and-so Yellow Jersey. It is headed for Johannesburg. Because otherwise it does not
10 make sense why you go to Johannesburg. So you would have been told it is headed for Johannesburg. Why are you following the truck?

Why is it not enough? In accordance with our earlier conversation where you have given the information, somebody else, law enforcement, Chief Mashaba, will execute it in Johannesburg. And by the way, you have other trucks, other containers, you tell us, that have been flagged as potentially containing illicit stuff. So it seems to me that if your sensible decisions were being made, it would have
20 been to stay to see what happens with the other containers and then relay the information to somebody else to execute. But instead you trailed this truck all the way to Johannesburg. Explain that, which does not make sense.

MR NKU: Commissioner Baloyi, I left Durban, I think it was around about the time when the truck reached its

destination. So I would not consider trailing the truck. However, one considers this aspect that all the containers were going to one destination. So it is either disregard this one and say that Chief Mashaba will follow it, I am going to give information on others.

Remember at the time the only law enforcement officer that I know, it is him and the General. I needed to also ask him then to say that, Chief, what do we do with this other information?

- 10 **ADV BALOYI SC:** Yes, and why did you not? Why did you not give him this information about the Yellow Jersey truck and then say to him there are other trucks, give me other people that I can speak to because you will be occupied with that one consignment? He would be occupied with that one operation. Why did you not, if indeed there were other trucks?

MR NKU: Commissioner ...[intervenes].

ADV BALOYI SC: If there were other containers, sorry, not trucks.

- 20 **MR NKU:** Commissioners, relating to the other containers, I did not know at what point their pickups would have been.

ADV BALOYI SC: You had enough money to stay in Durban.

MR NKU: In terms of following information, I had confidence definitively based on the travel patterns of that

truck that had already left. It is somewhat a truck that one was much more confident, as opposed to taking a chance because remember there were 11 containers. So either one of those, even on the other two because they had not been collected yet, this one had been collected.

ADV BALOYI SC: Okay. When did you find out about the travel pattern of this truck? Because you say you left Durban after it had arrived in Johannesburg. When did you find out how it travelled and that it is now in Johannesburg?

10 **MR NKU:** It could have been, I think, round about just before I called Chief Mashaba. Around about later on, around half seven.

ADV BALOYI SC: Ja. So you had someone else who gave you this information, because you are in Durban, remember?

MR NKU: Yes.

ADV BALOYI SC: You are in Durban, you are not trailing the truck.

MR NKU: Yes.

20 **ADV BALOYI SC:** It arrives in Johannesburg.

MR NKU: Yes.

ADV BALOYI SC: So you had somebody else who tells you this is how that truck has travelled. By the way, when Chief Mashaba testified, he said he did not have full information when he had the first conversation with you. And it is the

following morning, I think, when you met, that you gave him the full details of what it is. So it could not have been your source on the 8th that the truck has arrived in Johannesburg. So you had somebody else who was looking at this truck.

MR NKU: I had another source of information relating to the destination.

ADV BALOYI SC: As in what? As in a source telling you the truck will be going to Johannesburg? Is that what you
10 mean? I am trying to understand what you mean.

MR NKU: Not necessarily the truck would be going to Johannesburg. The truck would be coming to Yellow Jersey.

ADV BALOYI SC: Yes, but you report to the suspicion. You confirm this must be the right container and right truck because of how it travelled, its travel pattern. And I want to understand that someone must be telling you that. Must be telling you this truck did not stop at weigh bridges. This truck is now in Johannesburg. So when I say someone was watching this truck and giving you this information, it is
20 because Mashaba cannot tell you that. Chief Mashaba could not tell you that it did not stop at weigh bridges. He knows nothing about it.

And as I recall his evidence and the Evidence Leaders and my fellow Commissioners will correct me if I am wrong, that on the 8th Chief Mashaba did not have this

detail. Where is the truck? Where has it landed? That is why you needed to meet. You sent him a place, what you call a pin, and you had to meet with him and show him where the truck is. So he could not have been your source.

Someone else told you this truck did not stop at weigh bridges. And I am saying it seems to me it has at that point to be somebody who is following this truck to know that it did not stop at weigh bridges at all, at any weigh bridge.

10 And then someone must be able to tell you that Yellow Jersey truck with registration so-and-so arrived at Yellow Jersey depot, I think that is what it is, and it arrived at this time or on this date. You have to have eyes that are telling you that. And my question, that is what I am asking you. So you obviously had somebody else. If it is not you, somebody else told you this information.

MR NKU: Chair, let me just say I had sources through my sourcing, I had sources in the Yellow Jersey company. And that is how it got reiterated, that when a truck travels in this
20 manner, usually there is definitely something.

ADV BALOYI SC: So it is Yellow Jersey, it is your source in Yellow Jersey that tells you the truck arrived at this time, but they also tell you it means it did not stop at weigh bridges.

MR NKU: Precisely, Chair.

ADV BALOYI SC: Okay. Thank you, thank you, Chair.

CHAIRPERSON: Can we after a five-minute break continue until 6 p.m.?

ADV MOSIKILI: Yes, Chair, that would be appropriate.

CHAIRPERSON: I was including you in the question, Mr Du Plessis. Just for five minutes and then be back and continue until 6 p.m.?

MR DU PLESSIS: Yes.

CHAIRPERSON: Let us adjourn and come back at 25 to.

10 **INQUIRY ADJOURNS**

INQUIRY RESUMES

CHAIRPERSON: Yes, Mr Mosikili.

ADV MOSIKILI: Thank you, Chair. Mr Nku, perhaps we can wrap up the topic on the reasons why you had the R60 000 cash on you. And I still persist that you keep on giving contradictory reasons for various questions that I put to you. And I have noted now on the reasons through your engagement with the Commissioners as to why you would have that amount with you. On your statement, at least,
20 you had mentioned it was part of the travel costs, and part of it could have been used for paying for intel. Do you remember that?

MR NKU: Yes, yes, yes, Commissioner.

ADV MOSIKILI: Yes. And then later on, now, you added a new one. You said, no, this was a petty cash. Do you

remember that as well? Remember mentioning that the money could have been a – it was a petty cash?

MR NKU: No. That is not an addition, Advocate Mosikili. It is where the money is coming from.

ADV MOSIKILI: Yes. Then if it comes from a petty cash, it is a petty cash.

MR NKU: Yes.

ADV MOSIKILI: Yes. And then later on, again, when you engaged further, you said, no, no, no, that amount actually
10 is the entire amount that you received through your clients who were paying you in cash. Do you remember that as well?

MR NKU: It is one of the same things as I believe, ja.

ADV MOSIKILI: It is not. Completely different. When you receive petty cash, you account differently for it from taking money for travel costs. They are completely different amounts. But you remember now saying that actually it was an entire amount that was supposed to be put in a safe, and in fact you said, well, you acknowledge that you should
20 have or could have banked it or saved it.

MR NKU: Maybe I need to clarify or qualify it, Advocate Mosikili, that monies received through clients in a form of cash payment can be registered as petty cash.

ADV MOSIKILI: Yes.

MR NKU: Because it is monies that are hard cash as

opposed to funds which are transmitted through transfers.

ADV MOSIKILI: Yes. I am saying to you, you added to say later on it was an entire payment that you should have banked. You said that. Remember?

MR NKU: Please repeat yourself.

ADV MOSIKILI: You said that amount was actually the entire amount that you have received as payment.

MR NKU: Yes, yes, yes.

ADV MOSIKILI: And then I think last you also asked and
10 you said, well, the reason why I had that money, I think you said you wanted to be discreet so that you do not use your bank card and you pay by cash so that you keep, I think you already said no footprints when you do this kind of work just to remain discreet. Remember you said that?

MR NKU: Yes.

ADV MOSIKILI: Yes. Now, if we were to look at your bank account and find that you have actually not telling the truth because you have been swiping that card going to Durban, that means it is not true that amount was, you had that
20 amount because you wanted to remain discreet. What would you say?

MR NKU: I would be surprised. On the days in question?

ADV MOSIKILI: On the days in question, yes.

MR NKU: Ja, I would be surprised.

ADV MOSIKILI: You would be surprised?

MR NKU: Ja, I would be surprised.

ADV KHUMALO SC: No, can you please repeat the answer? Do not whisper.

MR NKU: Okay, I would be surprised.

ADV KHUMALO SC: Because the transcription must capture what you are saying.

MR NKU: Okay, I would be surprised, granted.

ADV MOSIKILI: Okay, let us get surprised, then it is fine. Okay, let us go to CJC330.1. It is 330.1. CJC330.1, yes.

10 **ADV MOSIKILI:** And we go to page, do you have the file, Mr Nku?

MR NKU: Yes.

ADV MOSIKILI: Yes, let us go to page 323. Are you there?

MR NKU: Yes, Chair.

ADV MOSIKILI: Yes. You see on top left, please do not flag this. On top left, it is your name, Mr Nku. Will you confirm that and your address? Can you confirm that?

MR NKU: Where is it?

ADV MOSIKILI: On your top right.

20 **MR NKU:** Yes, sir.

ADV MOSIKILI: You confirm that it is a bank statement, what you are looking at. FNB bank statement.

MR NKU: Yes, sir.

ADV MOSIKILI: Yes, and then if you go further down, it says FNB Fusion Private Wealth Account, and it gives an

account number starting with a six and ending with a one.

Do you see that?

MR NKU: It should be page 24.

ADV MOSIKILI: We are still on 323.

MR NKU: 323?

ADV MOSIKILI: Yes.

MR NKU: Yes, yes, sir.

ADV MOSIKILI: Do you confirm that at least that seems to be your bank statement?

10 **MR NKU**: Yes, yes, I confirm.

ADV MOSIKILI: Yes, and then you will see that from the account number when you go one, two, three lines down, and the third and the fourth line, it says statement period 21st of June 2021 to 21st of July 2021. Do you see that?

MR NKU: I see that.

ADV MOSIKILI: Yes. Now, if you flip over at page 324, you will see the transactions there on the left. You will see there is dates there, and I am not pitching this any higher to say if this bank statement is correct, you will see that from
20 the 6th, from the 7th, on the 7th of July you will see that there is different toll gates there. Do you see those toll gates?

MR NKU: From the 7th?

ADV MOSIKILI: Yes, where the card was used. And if you go further down, you will see that on the further right, that

will be the amounts that were used on that account.

CHAIRPERSON: Do you not want to refer to amounts on such and such a date? There is a debit for a toll gate in X amount, and toll gates have names. Maybe if the name of it – ja, I do see De Hoek, for example, De Hoek Toll Plaza.

ADV MOSIKILI: Yes, Chair. Let me get the ruler.

CHAIRPERSON: Ja, I think you will deal with it better that way.

MR NKU: So, Mr Nku, you will see that there is De Hoek
10 Plaza, where there is a payment of R53. And De Hoek Toll Plaza, it is in the region of KZN.

CHAIRPERSON: Is that on the 7th of July?

MR NKU: On the 7th of July. And there is a Mooi Toll Plaza. I think it usually records Mooi River.

CHAIRPERSON: I doubt that De Hoek is in – did you say De Hoek is in KZN?

ADV MOSIKILI: Let us go down, Chair. De Hoek is here, close by. I think it is Mooi Toll Plaza. That goes further down.

20 **CHAIRPERSON:** Ja, that is in KZN.

ADV BALOYI SC: Maybe you can explain.

MR NKU: And then there is Wilge here, Wilge Toll, and then there is Tugela Toll Plaza, on the same date, where there is an amount of R78 that was paid.

CHAIRPERSON: Advocate Mosikili ...[intervenes].

ADV MOSIKILI: And remember, Mr Nku, I say, if these statements are anything to go by, because we still have to verify them, but that is what we received from your bank. Yes.

CHAIRPERSON: Do you see De Hoek on the 7th of July?

MR NKU: I am seeing, Chair, and ...[intervenes].

CHAIRPERSON: Sorry, sorry, sorry.

MR NKU: I am seeing, Chair. I do not know whether the 7th is the reconciliation date because the other, please look
10 at on the far right.

ADV MOSIKILI: Yes, I am getting there. I am coming there to say that Chair would have noticed that sometimes with the e-tolls, they do not reflect immediately as you pass by. Hence, I am saying this needs to be verified. But what you can see when you go down, and then to confirm that point, you will see that on the 8th, at the very least, I think this is the most accurate you can get, on the 8th of July, there is an entry on the 7th. Sorry, Chair, it is the 9th of July, on the 7th. There is an entry of Marianhill Mainline
20 that will be in ...[intervenes].

CHAIRPERSON: That is in KZ10, the Pine Town area.

ADV MOSIKILI: Pine Town area, and that at the very least, we know that it reflects on the 7th of July. Even if you look in the middle date, to say that if on the left is the date that was later reflected, but the actual date of the reflection, of

the transaction, if Mr Nku would suggest the one in the middle, at least that still puts him in the KZN region in any event. Mr Nku, do you follow?

MR NKU: Yes, I do follow, Chair. I ...[intervenes].

ADV MOSIKILI: Yes, I understand this can be confusing because you get the message two, three days later sometimes that you pass an e-toll gate and then you get surprised.

MR NKU: Yes, okay.

10 **ADV KHUMALO SC**: Just before you, there was an issue that – you see, Mr Nku keeps whispering. Mr Nku, I thought there was an issue you wanted to address before you answer the question, which is that the two columns, one could be the date when a transaction reflects in a bank statement, and then another could be the date when the transaction actually happened.

MR NKU: When it was initiated.

ADV KHUMALO SC: When it was initiated. So that is why you have two columns and ...[intervenes].

20 **MR NKU**: The other one is the reconciliation date.

ADV KHUMALO SC: Please do not interrupt me because I saw you wanted to deal with that before you answer the question. So I was just giving context so that you do that and then you respond to the question because otherwise we will keep interrupting each other because he is asking a

question and you want to clarify as he is speaking. So deal with that and then answer his question. Then it will make more sense that way.

MR NKU: Okay. Thank you very much, Commissioner Baloyi, but I think he was already on the verge of clarifying. In fact, I think you had clarified it, Advocate Mosikili.

ADV MOSIKILI: I have. And really, Mr Nku, the point I wanted to deal with, at least at this juncture, is the fact that your reason that you wanted to remain discreet does not
10 hold water. And we will make submissions at least at the end to say that R60 000 had a particular purpose it had to serve. It was not merely there to be spent, as you put it. Do you follow that?

MR NKU: Advocate Mosikili, I would like to direct you to the statement again.

ADV MOSIKILI: Yes.

MR NKU: Maybe on the statement, there is nowhere where accommodation is shown to be paid for, I think on the statement.

20 **ADV MOSIKILI**: No, no, I accept that ...[intervenes].

CHAIRPERSON: Ja, sorry, sorry, sorry to both of you. I think perhaps the page that Mr Nku should be referred to is 325.

ADV MOSIKILI: 325?

CHAIRPERSON: Yes, because there you actually see De

Hoek, 7 July. We should suggest that you were travelling south on the day and then it reflects on your account on the 14th of July, but you yourself used your card on the 7th at De Hoek Toll Plaza in Heidelberg.

ADV BALOYI SC: In fact, what you see there, Mr Nku, is you have got, with each toll plaza, you have travelled on the 7th and on the 8th.

CHAIRPERSON: Yes.

ADV BALOYI SC: So that is how they have been arranged.

10 So you have got travel on the 7th and you have got travel on the 8th at the same toll plaza, which shows you are going the one direction and then the opposite direction on the next day. And the same with De Hoek and Mooi and Wilge.

CHAIRPERSON: Do you see that?

MR NKU: Yes, I see that, Commissioners.

CHAIRPERSON: Mr Mosikili, do you want to engage Mr Nku on that basis?

ADV MOSIKILI: Yes. Mr Nku, then you must accept based on that your assertion that the reason why you had R50 000
20 cash on you was for you to avoid having to use your card so that you remain discreet. That does not hold, at least on this narrow point that your card does place you and dislodges your discreteness.

MR NKU: Advocate Mosikili, I do not see anywhere where I have paid for accommodation here.

ADV MOSIKILI: You do not see what?

MR NKU: On the statement, where I have paid for accommodation.

ADV MOSIKILI: But that was not my question.

MR NKU: Okay.

ADV MOSIKILI: That was not my question about accommodation. You said the reason why and you mentioned toll gates, if I remember very well in your testimony.

10 **MR NKU:** I said toll gates and accommodation.

ADV MOSIKILI: Yes, so we are dealing with toll gates. That is my question. It might well be that you paid cash for accommodation. I am not taking issue with that, and that is not the point I am getting to.

MR NKU: Yes, I ...[intervenes].

ADV MOSIKILI: But you accept that.

MR NKU: I concede, Chair.

ADV MOSIKILI: And really the point is this, Mr Nku. You have made payments to Mr Mashaba before, or Chief
20 Mashaba before.

MR NKU: I made payments twice.

ADV MOSIKILI: You have made payments to Mr Mashaba prior to the 9th of July 2021. You concede that.

MR NKU: I do concede ...[intervenes].

ADV MOSIKILI: You have paid him some money.

MR NKU: I have not paid him. I would say I have lended [sic] money. I have not paid him.

ADV MOSIKILI: We will deal with that. Let us find a ...[indistinct] you have transferred funds.

MR NKU: I have transferred funds ...[intervenes].

ADV MOSIKILI: We will come to the reasons as to why at an opportune time. And really that is the point I am trying to make that you have transferred funds to Chief Mashaba previously, and on the 9th of July 2021, you had the means
10 to make further payment to him. So paying him would not have been an issue at the very least as a proposition. Because you had cash with you and you have exchanged monies before. At least you have directed money towards his direction before. You will have to accept that.

MR NKU: I do not accept that, Commissioners ...[intervenes].

ADV MOSIKILI: Which part are you having difficulties with?

MR NKU: So ...[intervenes].

20 **ADV MOSIKILI:** You had to Let me break it down.

ADV BALOYI SC: So maybe put the proposition to him again.

ADV MOSIKILI: Let us try again. We have already agreed that you have transferred money to Mr Mashaba and we have also conceded it is common cause now that you did

have that R60 000 on you on that day. And what I am saying to you is that then you were in a position to make payment to him on that day if there was a reason to do so. You had the means and you have done it before anyway.

MR NKU: Commissioners, I would say that I had the means either way, whether I had cash with me at that point in time.

ADV MOSIKILI: Yes.

MR NKU: So, regardless of whether I was present, I then
10 would have had means.

ADV MOSIKILI: Yes, that is the concern. Remember, Mr Nku, is that you have previously paid Mr Mashaba for whatever reasons that we will deal with in due course, but also we tried to find the reason. Remember, we spent the whole hour trying to find the real reason or reasons why you kept this money, and you gave us a couple of reasons, and we are still trying to.

We have not come to a conclusion as to why you had that money, but I am putting to you that, at that stage,
20 because of what we have discussed and what we have tried at least to exclude, to say this money was kept there, but not for the things that you have mentioned. But also, what I am putting to you now is that that same money could have, there was an opportunity for you, if there was a reason to do so, to pay him, or at least to make some transfer to him.

MR NKU: I would not see the reason why to do that ...[intervenes].

ADV MOSIKILI: Because you have done it before for. Hence, I am saying we'll get to the reasons, and he will tell. He told us why, and that is why I am saying, on the scene on that day, you being found with that kind of amount and having dealt with, or at least having in this Commission been informed of your previous dealings with Mr Mashaba, the idea that, for now at least, that that money could have
10 been used for those who assisted you, including Mr Mashaba, is not farfetched. But you can deny it if you want. Those are the facts.

MR NKU: For me, it would be farfetched, Commissioners, because I do not see the reason why to pay him for doing his job.

ADV MOSIKILI: Now we are still on page 5. Go to page 5 of your statement, the original statement, the first one.

CHAIRPERSON: So, have you already asked your question, or are you still directing?

20 **ADV MOSIKILI:** [Indistinct].

CHAIRPERSON: Let us wait.

ADV MOSIKILI: [Indistinct].. in that paragraph where it mentions, the very top paragraph on top. Remember, we are trying. Do you see it there where it mentions that R60 000?

MR NKU: Yes, Commissioners.

ADV MOSIKILI: Yes, but what I want to deal with is a different aspect, which is the point I was trying to wrap up with you regarding you being, at least, creating an impression that you are informant. I want to draw your attention to your conversation with ...[intervenes].

CHAIRPERSON: Sorry, sorry. May I ask questions that are related to your last questions, please?

ADV MOSIKILI: Yes.

10 **CHAIRPERSON:** You said, Mr Nku, this is page 4 of your statement, not the supplementary ...[intervenes].

MR NKU: The main statement?

CHAIRPERSON: Yes. You say the R60 000 was for, you say it was for part of your travelling expenses. You remember that?

MR NKU: Yes, Chair.

CHAIRPERSON: In your statement.

MR NKU: Yes, Chair.

20 **CHAIRPERSON:** Yes. Now, with that much money, would there have been any reason for you not to use the cash? And if so, what would that reason have been? You have, in fact, we know it was not even R60 000. It was R64 000 or R65 000. With that much cash, would there have been any reason not to use that money, but instead to use your cards?

MR NKU: The problem would have, the possibility would have been using – I just do not recall using the card, but I would guess what comes to mind is that generally cards are quicker.

CHAIRPERSON: Yes.

MR NKU: You just tap and you go, as opposed to cash being ...[intervenes].

CHAIRPERSON: But you see the difficulty with that answer, you are quite right. You are quite correct.

10 **MR NKU**: Yes.

CHAIRPERSON: It is very quick, or if you do not have a tag, when you use your card it is much quicker. You are quite correct. But your difficulty or your problem is that you said, as Mr Mosikili engaged you just now, and in fact even in response to questions by me, you said you are going to use the cash for toll gates. That is your difficulty.

But that is not my question. My question is, would there have been a reason for you not to use that cash, but instead to use your card for whatever travel-related
20 expense? Would there have been ...[intervenes].

MR NKU: At that point in time?

CHAIRPERSON: On that, I am talking about the when you were, the days, the 7th and the 8th, when you had R64 000 or R65 000 on you, would there have been a reason not to use that cash? If there would have been, what would that

reason have been?

MR NKU: The only thing that comes to mind, as I say, Chair, it would have been convenience.

CHAIRPERSON: So, no other reason?

MR NKU: It is ...[intervenes].

CHAIRPERSON: You have this cash. You have specifically taken it from your office for using it for travel-related expenses, but you then end up not using it. Is that what you are suggesting? So, all of a sudden now, you see the
10 convenience that I was talking about when I engaged you much, much earlier, the convenience of using your card. Now you are falling back to that when you just rejected that and said you wanted to use the cash. How can that suddenly be a fallback position? Yes, yes.

MR NKU: Thank you, Chair. Chair, travelling expenses include, what is more costly would be then accommodation. However, on the tolls, I maybe need to peruse to check whether I used the card on all the tolls, because generally I would have had to use the cash.

20 **CHAIRPERSON**: We have seen quite a few here. We have seen De Hoek, we have seen Mooi Plaza, we have seen Marianhill, we have seen Tugela. That is very close to being all of them. That is very close to being all of them.

MR NKU: Yes, I ...[intervenes].

CHAIRPERSON: But so if, or rather that being the case, it

gives a lie to what you said. I will not engage you further on that because Mr Mosikili has done so, but what I want to – so effectively, you are not, except for the convenience of using your card, you are not able to tell me what reason you would have had not to use the cash that you had specifically taken from Johannesburg to use on this trip. So, you have no other reason except for the convenience of your card, or rather the convenience of using your card. No other reason?

10 **MR NKU**: If I may, Chair?

CHAIRPERSON: Yes.

MR NKU: The convenience of using the card on tolls, but as I said, I believe cash was used for accommodation.

CHAIRPERSON: So, you are taking the tolls that you had included, you are now suddenly taking them out.

MR NKU: No, I am not. Chair ...[intervenes].

CHAIRPERSON: You are, you are.

MR NKU: Chair ...[intervenes].

CHAIRPERSON: Sorry, sorry, you are. You just did now.

20 **MR NKU**: If I may, Chair? So, I need to peruse to check whether all tolls back ...[indistinct] I used my card on all tolls.

CHAIRPERSON: It does not matter if there might be the odd one where you did not. I mean, if you look at 325, there is a good few there. If you want to have a quick look,

you may do so. But as for a reason as to why you would not have used the cash, look at page 324, the third last item on that page. Do you see that item, third last at 324? Do you see it? For an amount of R1 129.50.

MR NKU: Yes, Chair.

CHAIRPERSON: That is a fuel purchase at Shell Midway Motors. I have no idea where that is, but it was one of the days on which you were travelling. Where did you pay? Was it in Durban? Where was it? The 8th was one of the –
10 you do see the transaction was finalised on the 10th of July, but you yourself used your card on the 8th of July. That is a fuel purchase. You see that?

MR NKU: Yes, Chair. Yes, Chair.

CHAIRPERSON: You have this huge stash of cash. You have not used it for the tolls, and now you have not used it for a fuel purchase. I must say, with all these – sorry, sorry, sorry, let me speak. I must say, with all these transactions where you did not pay cash during your travels, it makes it very difficult to believe this story that you carried R64 000
20 or R65 000 to use it for your travels. What is your comment, Mr Nku?

MR NKU: I have used part of the money for my travels, Chair.

CHAIRPERSON: No, I am saying, I am making a slightly different point. I am saying the transactions that we

actually see that show that you did not use the cash, suggest to me that this question about you having carried cash to use it for your travels may well not be true. That is the point I am making to you. What comment do you want to make in that regard? I am not asking you about what you may have partly used the money for. What is your response to what I am suggesting to you?

MR NKU: Chair, I would say that I have used part of the money ...[intervenes].

10 **CHAIRPERSON:** And ...[intervenes].

MR NKU: What cost more would be accommodation.

CHAIRPERSON: Accommodation which was R4 000 or R5 000, and yet you carried R64 000 or R65 000. That just does not make sense at all, Mr Nku.

ADV BALOYI SC: Can I also just add to the Chair that your reason that you gave why you have cash, you say it is because you wanted to travel discreetly. It is completely undermined by the fact that you are driving, for one. Two, you are using your credit card at toll gates. So, if you were
20 really concerned about not leaving a footprint there, you have been leaving it all over the place, which is another reason that puts doubt on your explanation why you had the money at the crime scene on the day. You may comment to the Chair and to me. I was just adding another factor that I say undermines your explanation for having cash on you on

the 9th.

MR NKU: I do understand, Commissioner Baloyi. However, I am of the view that the tolls that I paid cash in, or rather I paid via card, it was not necessarily all the tolls. It would seem there are tolls that I paid cash, but going forward, going to, it would seem I used ...[intervenes].

CHAIRPERSON: But is it not most? Is it not most of them?

MR NKU: It is most.

10 **CHAIRPERSON**: It is most of them. So, if you gave us as a reason paying tolls, and if you also gave us as another reason not wanting to, or rather wanting to be discreet and not to leave a footprint all over, so basically we must discount part of the reasons you gave us for carrying R64 000 or R65 000. So, we must discount some of those, and we are left only with hotel. Correct? Correct?

MR NKU: And fuel going to.

CHAIRPERSON: Sorry?

MR NKU: I think fuel going to also.

20 **CHAIRPERSON**: It does not matter whether you were going. You were definitely not going to, because you went down on the 7th. This is the 8th.

MR NKU: Chair ...[intervenes].

CHAIRPERSON: But that is not what I am asking you now. I am saying you gave us reasons that this was – two

reasons. One, you wanted to be discreet, meaning you did not want to leave a footprint, you know, going down and then up to and from Durban. Secondly, you wanted to use the money for tolls and your hotel accommodation.

Now we see that for most of the toll gates, you actually used your card. So, what I am saying is, with the exception of one or two tolls, effectively we must discount the reasons that you gave us for carrying the huge amount of cash, two of those reasons being the tolls and wanting to
10 travel discreetly.

I do, I do, I am not forgetting the fact that you are saying maybe one or two you paid cash, but significantly, substantially, you used your cards for tolls. That is the main point. And add to that the fuel, the fuel. So, effectively, we must discount at least two of the reasons you gave us.

MR NKU: If I may, Chair?

CHAIRPERSON: Yes.

MR NKU: Thank you. Maybe fuel going, because fuel
20 going to, I certainly used cash.

CHAIRPERSON: But just respond to my question with regard to the two reasons you gave us, paying tolls and wanting to travel discreetly. That is my question. So, I am saying, must we now forget about those as the main reasons? I am quite mindful of the fact that you say you

may have paid for one or two tolls, but substantially we must forget about that reason, and we must also forget about the reason that you wanted to travel discreetly. Do you agree? Do you agree?

MR NKU: I think ...[intervenes].

CHAIRPERSON: I guess you must. You simply must. Do you agree?

MR NKU: Please allow me, Chair. I will concede, Chair.

CHAIRPERSON: Sorry?

10 **MR NKU**: I will concede.

CHAIRPERSON: You concede. Thank you. Now, this takes us back. You know, that concession takes us back to the point made by Commissioner Baloyi, which is, once you have all these difficulties, that tends to suggest that you having that much money in your car at Aeroton on the 9th may well be that you had that cash for some other reason, not the reason that you have given us. Do you want to comment on that?

MR NKU: Chair, I was not planning to be in Aeroton. So I
20 might as well have had that money in Yellow Jersey. The decision for me to find myself in Aeroton was made by other people, not myself, or was made for me and ...[intervenes].

CHAIRPERSON: No, no, no. Maybe let me forget about Aeroton. Let me talk about you having that amount of cash in your car that was for a reason other than the reason that

you have given us. Your comment?

MR NKU: I disagree, Chair.

CHAIRPERSON: All right. Now, which hotel did you stay at in Durban? A hotel where you paid cash. How many times do you pay cash at hotels? A hotel where you paid cash, what hotel was that?

MR NKU: We do pay cash when we do immediate booking via bookings.com. We do pay cash. I am thinking, where did I stay?

10 **CHAIRPERSON:** Please, please speak up. I hear that ...[intervenes].

MR NKU: Apologies, Chair. I am thinking, where did I stay?

CHAIRPERSON: Please think about it overnight. Please, please. We want to get that hotel. Mr Mosikili, should we not? It is quarter past 6, and I had said 6 p.m. Let us adjourn and resume at 09:30 tomorrow. Please be here before that, Mr Nku. Thank you to both of you. Let us adjourn.

20 **INQUIRY POSTPONED TO 26 JUNE 2026**

INQUIRY ADJOURNS

- - - - -

