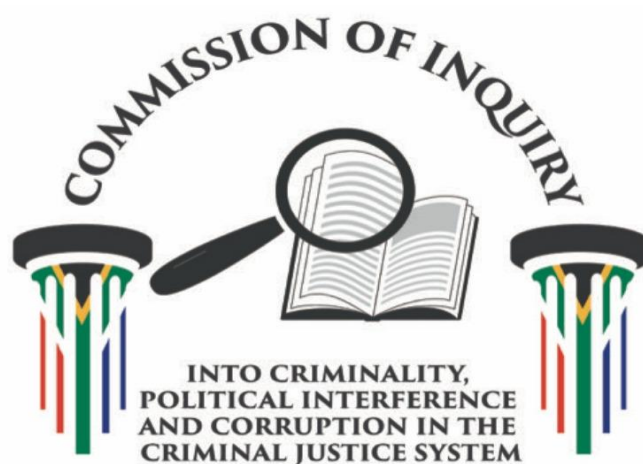


JUDICIAL COMMISSION OF ENQUIRY INTO CRIMINALITY,
POLITICAL INTERFERENCE AND CORRUPTION IN THE
CRIMINAL JUSTICE SYSTEM

HELD AT
BRIGITTE MABANDLA JUSTICE COLLEGE

29 JUNE 2026

DAY 128



PROCEEDINGS ON 29 JUNE 2026

CHAIRPERSON: Do not do that to us, Mr Mosikili. Good morning.

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

CHAIRPERSON: Yes.

ADV MOSIKILI: Yes.

CHAIRPERSON: Good morning, Mr Nku.

MR NKU: Good morning, Chair.

10 **CHAIRPERSON:** Thank you. Yes, Mr Mosikili.

ADV MOSIKILI: Yes, Chair, just to give an update. Chair will remember that the last evidence that was presented by Mr Nku was on Thursday and on Friday there was a request to have a meeting with Mr Nku and the byproduct of that consultation with him is that he has produced a further statement which he will read into the record, Chairperson, and he will explain, Chairperson, the circumstances that made him decide that he wants to do a further statement and why he wanted to come forth on the issues that we
20 were raising with him on Thursday.

Chairperson, because I have spent the bulk of Friday consulting with him and at least in terms of this statement and assisting him, we deem it appropriate that perhaps Ms Lee Seegels-Ncube is the one who takes him through the statement so that Mr Nku does not feel

somehow undone by the questions that I might have on that statement. And then the proposal is that once the statement is done then we can go and deal with other things, including the chats that we still have to go through that relates to Mr Nku, Chairperson.

CHAIRPERSON: Thank you, Mr Mosikili. I noticed that Mr Nku's attorney, Mr Du Plessis, is not here. Has there been a formal withdrawal or what is happening?

ADV MOSIKILI: Chair, Mr Du Plessis was present on
10 Friday but decided not to be part of the meeting or the consultation, so he stayed outside. And Mr Nku can confirm that the agreement between him and Mr Nku was that he will not be needed today but he has not formally withdrawn, but that is the agreement between Mr Nku and Mr Du Plessis that he can confirm. He said over the weekend they will decide if he needs him here or not, Chair.

CHAIRPERSON: Mr Nku, do you want to say anything about the absence of your attorney, Mr Du Plessis?

MR NKU: Thank you very much, Chair. There was a
20 mutual agreement that he will not be needed today.

CHAIRPERSON: Thank you. Thank you. I cannot but say this, with the exception of the introductory part that explains why the supplementary statement is being made and a little bit with regards to context and the background, largely the narrative by Mr Nku remains the same and I

must say that comes as a surprise to me because we wasted a whole day on Friday. The idea, at least in so far as I understood, it maybe is the same with my co-Commissioners, the idea being that Mr Nku was to come clean as it were. Speaking for myself, I do not quite see that, but we will see as matters unfold.

It is just a little bit about the background, how this started in so far as Aeroton and Aeroton only is concerned, you know, what the background is in that regard and a little
 10 bit about how the interception was supposed to happen, but the rest of the narrative is the same. For a whole wasted day, I cannot but say it is absolutely a damp squib or a lead balloon as some would say.

Anyway, let us get on with it. Do we have a hard copy? I think we got something from Mr Vumja, was it? Yes. Which is electronic. And of course, before that I had received, I do not know whether you sent it to my ...[intervenes].

ADV MOSIKILI: Chair, I am informed that it is inserted at
 20 the back of your file.

CHAIRPERSON: Oh. These have item numbers. What item number would it be?

ADV MOSIKILI: So the statement would be 1 to 8 and then there will be three annexures, TN1, TN2, TN3 that would be 9, 10, 11.

CHAIRPERSON: Item 6 is it? Thank you.

ADV MOSIKILI: Do you have it?

CHAIRPERSON: Yes, yes, yes. Perhaps they should have inserted a flag or a tag, ja.

ADV MOSIKILI: Thank you, Chair.

CHAIRPERSON: Thank you. Ms Segeels-Ncube.

ADV SEGEELS-NCUBE: Thank you, Chair.

CHAIRPERSON: Thank you.

ADV SEGEELS-NCUBE: Chair, just to add to your
10 displeasure, the statement that you have before you will be
amended by Mr Nku as he goes along. There are certain
aspects of his statement that he wants either excluded or
rephrased, but given the late hour within which the
statement was received and his indication that he wants
those amendments to be made this morning, there was not
enough time to deal with it and we did not want to waste
any further time.

It is also for that reason that the statement will not
be flighted because it has not been redacted, but also there
20 are aspects of it that he no longer wants to disclose. And
there is some which I have indicated to him as a hard no,
that if there is no reason why certain things should not be
excluded, so I will be keeping a careful watch in case he
tries to exclude something that we have not agreed on
excluding. Thank you, Chair.

CHAIRPERSON: Thank you. Thank you, Ms Segeels-Ncube.

ADV SEGEELS-NCUBE: Mr Nku, can you please keep your microphones on at all times. Yes, and usually the Chair says this, but you are reminded that you are still under oath. May I ask you to just, Mr Mosikili had given some indication as to why you decided to prepare the statement, but can you give us full disclosure as to why you had taken the decision to give the statement and in so doing also to
10 explain why certain aspects of the statement you now no longer want to deal with.

MR NKU: Chair, thank you very much, Commissioners. Thank you very much, Advocate Mosikili. In relation to the draft of the statement, upon my testimony on Thursday, I have had a long and hard chat with my spiritual leader. The dismay was indicated. It was, it became clear that regardless of what I fear, I must come to the Commission and lay it bare and then the Lord will take care of the rest.

There had been reservations in what I have
20 inserted in my previous statements and it was mainly out of fear. So after that chat, I saw it fit and correct that I need to come to the Commission and set the record as straight as I can and it was a conscious decision that one took. That is when on Friday morning we had a consultation with Advocate Mosikili relating to the fact. Thank you very

much.

ADV SEGEELS-NCUBE: Okay. And then, insofar as the statement is concerned, if I can ask you to go to page 7 of the statement and confirm that that is your signature.

MR NKU: Indeed, this is my signature, Chair.

ADV SEGEELS-NCUBE: Could you just raise your voice, please.

MR NKU: Oh. Indeed, this is my signature.

ADV SEGEELS-NCUBE: Thank you. And can you, do you,
10 apart from the corrections which you will make now, in your evidence, do you confirm the correctness of the statement?

MR NKU: Yes, with the corrections inclusive, I do confirm.

ADV SEGEELS-NCUBE: Yes. So I think we can skip the first four paragraphs of your statement because you have told us what the purpose is. Maybe you can start with the heading that says, "How I came to know of the information", and if I am correct, the information relates to the truck, insofar as the Aeroton drug bust is concerned. Is that the information you are referring to in your heading?

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

CHAIRPERSON: Is that the closest the mics can get to you?

ADV SEGEELS-NCUBE: Just move it.

CHAIRPERSON: Maybe that is not really, oh no, switch them on. Switch them on.

MR NKU: Oh, sorry, Chair. Chair ...[intervenes].

CHAIRPERSON: Maybe it is not even necessary to bring them closer, but just speak up, please.

MR NKU: If it is at all possible, may I exchange the chair because this, I am not comfortable. I usually sit on that chair.

CHAIRPERSON: Oh, okay, okay. Please do what you are comfortable with, yes.

MR NKU: Thank you very much.

10 **CHAIRPERSON**: Oh, you want to be shorter.

MR NKU: I wanted to be shorter.

CHAIRPERSON: All right, thank you, thank you.

ADV SEGEELS-NCUBE: Okay, you may proceed then from how I came to know of the information.

MR NKU: Okay, how I came to know of the information.

“I was introduced to a person known to me as lby by my distant relative.”

CHAIRPERSON: Sorry, this – oh, sorry. Perhaps let us do both spellings. It is “I-B-Y” or E-B-Y”.

20 **MR NKU**: -:

“Known to me as “I-B-Y” or “E-B-Y”, by my distant relative Mr Kebby Maphatsoe. Mr Maphatsoe was known to me not only as a relative but also as a person who had occupied a public office including

serving as a member of Parliament and as Deputy Minister in Military Veterans between 2014 and 2019. The introduction was therefore one that I regarded significant and credible at the time.”

CHAIRPERSON: One that you regarded as significant and credible at the time. Sorry, no, I am repeating that because I spoke at the same time as you were finishing the
10 sentence. I am sorry about that. Is there agreement to skip the full name between the two of you?

ADV SEGEELS-NCUBE: Yes, yes.

CHAIRPERSON: All right, okay.

ADV SEGEELS-NCUBE: So, can you just clarify when the introduction was made in paragraph 5?

MR NKU: The introduction was made earlier on in 2021.

ADV SEGEELS-NCUBE: In 2021?

MR NKU: In 2021. I only got to know the gentleman in 2021.

20 **ADV SEGEELS-NCUBE:** You are saying that Mr Maphatsoe introduced you to Iby in 2021?

MR NKU: In 2021, yes.

ADV SEGEELS-NCUBE: Okay, please proceed.

MR NKU: -:

“At this time of the introduction I understood Iby, I-

B-Y, to be a businessman involved in coal mining industry. I was further informed or otherwise understood that he had access to, or operated a refinery situated in the North West province. Mr Maphatsoe ..." [intervenes].

CHAIRPERSON: Sorry, sorry, I did not mean that you should each time spell the name, no. It was just at the beginning when you were mentioning it for the first time, and especially because there are two spellings. Otherwise just pronounce it the way you pronounce it, ja.

10 **MR NKU:** Okay, thank you, Chair.

CHAIRPERSON: Thank you.

MR NKU: -:

20 "Mr Maphatsoe was aware of my skill set and background, particularly my ability to follow, trace and obtain information as well as the fact that I had an extensive network within Transnet and broader logistics sector. On or about May 2021, Mr Maphatsoe informed me that Iby allegedly required assistance in relation to the movement of a consignment. I was informed by Mr Maphatsoe that Iby required assistance with tracking a shipment which was said to involve drugs and which was allegedly connected to

Iby's competitor. As it was explained to me the intended objective was to use information relating to the shipment so that lawful enforcement could intercept the consignment."

ADV SEGEELS-NCUBE: Can you just tell us what you mean by that? Everything after the consignment, intercept the consignment, Chair, must be deleted and Mr Nku will explain what he means by the information relating to the
10 shipment so that law enforcement could intercept the consignment. And here specifically, Mr Nku, I want you to deal with whether this interception would be a lawful seizure or whether it was always known that it would be an unlawful seizure and that the drugs would be susceptible to theft by drug cartels.

MR NKU: Okay.

CHAIRPERSON: Sorry, sorry, can you please read right up to where this is supposed to end?

ADV SEGEELS-NCUBE: Paragraph 10:
20 "As it was explained to me the intended objective was to use information relating to the shipment so that law enforcement could intercept the consignment."

And that is where it ends.

CHAIRPERSON: So it was, we cross that out?

ADV SEGEELS-NCUBE: Correct, Chair, yes.

CHAIRPERSON: Okay.

ADV SEGEELS-NCUBE: The agreement is then that Mr Nku will then explain to us what he means by that law enforcement could intercept the consignment with specific reference to whether the interception was intended to be a lawful bust or whether it was always the intention that it would be an unlawful bust or that it would be compromised in such a way that it would affect or undermine the integrity
10 of the bust.

MR NKU: Thank you very much Commissioners. The main objective was that the consignment must not reach its intended recipient and a bust is significant in that that would be the only indicator to lby that that was successful to do. Say for instance if the consignment was stolen without a recording of a bust there would not have been proof that the intended objective was met and over and above that an occurrence of a bust becomes recorded.

It becomes a matter of public information, so from a
20 credibility point of view it would affect the reputation of the other party. The objective was not particularly relating to the consignment itself, but there are broader based schemes in terms of having access. So, the bust being lawful or unlawful, the most important thing was the bust occurring and a bust recorded, an objective would have

been met.

ADV SEGEELS-NCUBE: Okay, so let us just take it step by step. Iby Boss is a drug trafficker, correct?

MR NKU: That is what I have come to understand.

ADV SEGEELS-NCUBE: Okay. And when you say the intended recipient, the intended recipient is also a drug trafficker.

MR NKU: That would be the case.

ADV SEGEELS-NCUBE: And the intended recipient is a
10 competitor of Iby Boss.

MR NKU: Correct.

ADV SEGEELS-NCUBE: Okay. And Iby Boss would have to know that the consignment is intended for the, for his competitor.

MR NKU: He would have to know.

ADV SEGEELS-NCUBE: Okay. And the competitor also knows that the drugs is on its way.

MR NKU: Correct.

ADV SEGEELS-NCUBE: And you are then there to make
20 sure, or you are tasked or brought into this operation by Mr, who does the introduction, by Mr Maphatsoe and tasked by Iby Boss to make sure that his rival does not get the intended shipment, the drugs.

MR NKU: It is correct.

ADV SEGEELS-NCUBE: And it does not matter to him if

he does not get the drugs himself.

MR NKU: If he would have gotten them, there would have been a turf war, because it would seem, because looking at these things pertaining to drugs and what not, there are markers, I think they use markers of sorts, so it would have been known that maybe through his channel these things were disbursed.

ADV KHUMALO SC: You mean that bricks are branded, they have a particular brand reflecting that they belong to a
10 certain camp?

MR NKU: Correct, Commissioner.

ADV SEGEELS-NCUBE: And then in that scenario what is the benefit to lby if the drugs gets confiscated, so if there is a bust, whether lawful or unlawful?

MR NKU: In a scenario like that he would have cut or short circuited his competitor.

ADV BALOYI SC: Sorry, by that what do you mean, is it purely a money factor or a continuing supply issue? Earlier when you testified, and I may have misunderstood, I thought
20 what you are saying is it would disrupt the competitor's relationship with the suppliers.

MR NKU: Correct. Correct, Commissioner.

ADV BALOYI SC: Did I understand you correctly?

MR NKU: Correct, Commissioner.

ADV BALOYI SC: Thank you.

ADV SEGEELS-NCUBE: And what, are you saying that when you received the information from Iby it was always the intention to involve the police to do this interception or was there a point in time where you intended to do it on your own and when you could not, you had to get assistance from the police to do a seizure?

MR NKU: No, at no point were there any intentions to do it alone. The intended outcome was for there to be a bust, hence earlier on I have alluded to the fact that if there is no
10 such, then how else would he have known that the competitor is disadvantaged? He would not have found out, so the whole point was for there to be a discovery that the competitor is most, let me put it maybe in this manner that the competitor is unreliable to the people they are dealing with.

ADV SEGEELS-NCUBE: Okay, whilst we are on that topic, can we maybe then just deal with the WhatsApp exchanges relevant to this aspect of your evidence so that we can just short circuit it and understand your evidence in relation to
20 what was communicated contemporaneously in the chats and to confirm here that when we look at the Threema chats, that Alpha is Iby, correct?

MR NKU: [Indistinct]...

ADV SEGEELS-NCUBE: And in the Threema chats the person Alpha is Iby.

MR NKU: Correct.

ADV SEGEELS-NCUBE: Okay. It is CJC274, Commissioners. It is the WhatsApp's and screenshots exhibit. Can somebody please assist the witness. So, if I could ask you to go to page 49 just so that we can get the date of this WhatsApp chat, of the Threema chat, 274.1, Commissioners.

ADV BALOYI SC: Maybe, Ms Ncube, perhaps before you get into the chats, if you would for the record at least have
10 the witness say he did speak to lby, because the way that the statement reads, it reads that Mr Maphatsoe gave him all this information and the operation, then was triggered.

ADV SEGEELS-NCUBE: Mr Nku, at some point you did then speak to lby about this planned operation? You had direct communication with him?

MR NKU: Indeed, Chair, at some point ja, because we had WhatsApp calls.

ADV SEGEELS-NCUBE: Okay, and so it was WhatsApp calls and then we also know that there was exchanges of
20 text between the two of you.

MR NKU: So I, that is the other part. I, they are WhatsApp texts but the text that, maybe I will address in relation to that, I have got forwarded text, yes.

ADV SEGEELS-NCUBE: Okay, that is fine. You can then just identify to us what your version is about any particular

text that we take you to. So are you on page 49?

MR NKU: 249.

ADV SEGEELS-NCUBE: Are you there?

MR NKU: I am there.

ADV SEGEELS-NCUBE: Okay, now this just shows us, I want to use this to identify the date and time. It is on the 1st of July 2021, 19:24:18 and it is a screenshot of a chat between Alpha and yourself.

MR NKU: No.

10 **ADV SEGEELS-NCUBE:** You dispute that?

MR NKU: Yes, I ...[intervenes].

ADV SEGEELS-NCUBE: Okay, tell us what you say it is. Can you switch on the other microphone, please.

MR NKU: Oh, apologies, Chair. So this would be in another statement that I have clarified on the questions relating to some of the screenshots sent. So, I have never had to have direct chats with this Alpha person in Threema, so I was, mainly if you go to my, the device there is another character called John Wick, so most of the screenshots I
20 would have been forwarded from there and then dumped on my device immediately. So, I do not want to say this publicly. I would keep tabs basically, myself, ja but ...[incomplete].

ADV SEGEELS-NCUBE: Okay, so you are saying that that chat is not between you and Alpha ...[intervenes].

MR NKU: No, no, it is not.

ADV SEGEELS-NCUBE: And you know who it is between.

MR NKU: Yes.

ADV SEGEELS-NCUBE: Okay.

MR NKU: Yes.

ADV SEGEELS-NCUBE: And it was forwarded to you.

MR NKU: It was forwarded to me.

ADV SEGEELS-NCUBE: And it is on your device on 1 July 2021 as an image, as a screenshot, if you look at page 49.

10 **MR NKU:** Yes.

ADV SEGEELS-NCUBE: 1 July 2021, 19:24:18 and it says that it is an image.

MR NKU: Hm.

ADV SEGEELS-NCUBE: And who sent it to you?

MR NKU: It is another user on the app.

ADV SEGEELS-NCUBE: Okay, so somebody else sent it to you and the purpose of sending it to you was what?

20 **MR NKU:** So, I, hence I said I kept tabs basically on, so, to put things this way, realizing that the people being dealt with here, they are seasoned in what they are doing, they have their own people that they deal through or deal with and to just encroach on their network is extremely difficult. So, my reasons for keeping tabs, I would request not to place them on a public forum because there is highly sensitive information relating to this.

ADV SEGEELS-NCUBE: I will accept that for ...[incomplete].

ADV KHUMALO SC: Ms Ncube. Mr Nku, it is up to you how you answer this question and how you want to answer and what you say. I just need clarity. Mr Maphatsoe introduces you to this lby person. Do you get to meet this lby person? Did you meet him?

MR NKU: Indeed. Indeed, Chair. Indeed.

ADV KHUMALO SC: And then you exchanged telephone
10 numbers with this person.

MR NKU: Indeed.

ADV KHUMALO SC: And arising from that exchange of telephone numbers you could then communicate with him through WhatsApp or any other platform.

MR NKU: We could.

ADV KHUMALO SC: Yes.

MR NKU: Yes, we could.

ADV KHUMALO SC: Thank you.

MR NKU: Yes.

20 **ADV SEGEELS-NCUBE:** Okay, so the person that is sending this information to you, you say that for now you are not going to disclose who that person is, but can I just understand, you are being given this information on the 1st of July by way of a screenshot. Do you see that? It is a screenshot that is on your phone, that you have saved as

...[intervenes].

CHAIRPERSON: Just, just before we go on. I sense that you wanted to counter what Ms Segeels-Ncube said. There was the proposition or assertion you made just before you moved on to the second point.

ADV SEGEELS-NCUBE: About the person who had sent him ...[intervenes].

CHAIRPERSON: Yes, can you please repeat that. I thought he wanted to counter that, yes.

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

CHAIRPERSON: Please repeat that.

ADV SEGEELS-NCUBE: The person who had sent this screenshot to you, are you willing to disclose that person's name?

MR NKU: Yes, on the person termed as John Wick on the app, that is the person.

CHAIRPERSON: John Wick?

MR NKU: On the app, yes.

CHAIRPERSON: Okay.

20 **MR NKU**: That is the person who forwarded messages, most messages.

CHAIRPERSON: And you say that people communicating are who and who?

MR NKU: So there are, most of the instances there is another person called VJ on ...[intervenes].

CHAIRPERSON: Let us just look at page 49. Let us just stick to page 49. Who are communicating there?

MR NKU: So the communication would be between the person called VJ. It happened there at that three way chat.

CHAIRPERSON: Sorry?

MR NKU: They had a three way chat I think.

ADV BALOYI SC: [Indistinct]... [microphone off].

CHAIRPERSON: Ja, let us have it. Ja, what we have here is, ja, very fine print. Can we have it up on the screen?

10 **ADV SEGEELS-NCUBE:** Can you just flight page 49.

CHAIRPERSON: Yes, please. You say it is three way?

MR NKU: Ja, I think they had a three way chat. It was, because the person who sent me, said the, VJ was aware of the communication.

CHAIRPERSON: No, no, no, I am not asking you about awareness, Mr Nku.

MR NKU: So I am ...[intervenes].

CHAIRPERSON: Sorry, sorry, sorry. Page 49, somebody is communicating with Alpha and I am saying so because I
20 see Alpha at the top.

MR NKU: Yes.

CHAIRPERSON: So who, and let us look at the first chat right at the top.

“I only got to know now.”

I assume that is Alpha and I am basing that on the

format in which social media chats like this usually appear. Do you agree that it should be Alpha who is saying I only got to know now? Do you agree with that?

MR NKU: I would ...[indistinct].

CHAIRPERSON: Yes. And then the person Alpha is communicating with, then responds on the right and says:

“But what is that container carrying?”

Do you see that?

MR NKU: Indeed, Chair.

10 **CHAIRPERSON**: And that would be the person from whose device these communications were taken, do you agree?

MR NKU: No, Chair.

CHAIRPERSON: Sorry?

MR NKU: No, Chair. These are, this, oh, the screenshots themselves, because the person sent the screenshot.

CHAIRPERSON: I am talking about the original, original chats ...[intervenes].

MR NKU: Oh.

CHAIRPERSON: When they were being made.

20 **MR NKU**: Yes.

CHAIRPERSON: When the people were communicating.

MR NKU: Yes, Chair.

CHAIRPERSON: I am not talking about who after a screenshot had been taken, sent the screenshot to whoever. That is not what I am talking about.

MR NKU: Indeed, Chair.

CHAIRPERSON: So do you agree that the person responding on the right in lime colour ...[intervenes].

MR NKU: Yes, Chair.

CHAIRPERSON: Or colour background, is the one on whose device these chats were, as we see ...[intervenes].

MR NKU: [Indistinct]... [cross-talking].

CHAIRPERSON: They would obviously have been on Alpha's device as well, but as we see them here they are on
10 this, on the person who is responding, the device of the person who is responding, correct?

MR NKU: Yes, on the person who is responding.

CHAIRPERSON: Yes, correct?

MR NKU: Yes, Chair.

CHAIRPERSON: That much I know.

MR NKU: Okay.

CHAIRPERSON: I do not need to be an expert to know that.

MR NKU: Yes.

20 **CHAIRPERSON:** Now you are talking about a three way communication. As I see it here it is two people communicating. It is Alpha and this person who is responding. That is how I see it, it is two people communicating. Do you disagree with that?

MR NKU: No, I agree, Chair.

CHAIRPERSON: Now where does the three way communication come in?

MR NKU: Oh, so the person who sent me was ...[indistinct] they were having a three way chat.

CHAIRPERSON: But not on this. Definitely not on what we are seeing here.

MR NKU: It might not be on this specific but basically on the topic itself they were having a three way chat, on this screenshot, Chair.

10 **CHAIRPERSON:** I think thus far the engagement is about what we see here, Mr Nku.

MR NKU: Yes, Chair.

CHAIRPERSON: So there is nothing about three way here. It is two people, it is Alpha and whoever it is that is responding to Alpha, correct?

MR NKU: Correct, Chair.

CHAIRPERSON: Just two people.

MR NKU: Correct, Chair.

20 **CHAIRPERSON:** All right. But do you know who this second person is, the person chatting to Alpha? Do you know ...[intervenes].

MR NKU: The person who sent me the screenshot, Chair.

CHAIRPERSON: Sorry?

MR NKU: The person who sent me the screenshot.

CHAIRPERSON: Any problem telling us who that is?

MR NKU: As I have alluded, Chair, to ...[intervenes].

CHAIRPERSON: Is it the John Wick you referred to, John Wick?

MR NKU: Yes, Chair.

CHAIRPERSON: All right. Now you may go back to your point, unless you have a follow up.

ADV SEGEELS-NCUBE: Yes. Thank you, Chair. So, on the 1st of July 2021 you have been given this screenshot. It has been, it was sent to you by John Wick.

10 **MR NKU:** Yes.

ADV SEGEELS-NCUBE: Okay. And the screenshot, I am specifically interested in the communication that starts with:

20 “Please ask them, because if they loaded it on a car or anything that can be mobile from the container, it will be a bust. Boss, please tell the people that avoid any containers with metal or anything automobile, only load goods or sugar. Anything that goes to Pier 1 or 2 is workable. Remember, there was a bust a week ago, now we need to go offloading from trucks again.”

Why was this screenshot being sent to you, which was suggesting that what was going to happen with the drugs that eventually ended up in Aeroton was if they are

not going to be successful at the harbour by getting it out of the container there, they will have to go back to offloading from trucks again.

MR NKU: So, I would not want to go into details, Ms Segeels, because it will then affect what I would not want to be made public, but the reason why I was saying this was relative to a plan by lby to, so they were planning a shipment basically and there was, I would say he was being advised, the, of the strategy in terms of the plannery,
10 because in, as I have said, each of these networks they have had their own people and how they conduct their dealings.

ADV SEGEELS-NCUBE: Okay, you will remember why I asked this, why we are here now. I had asked you the question about whether it was always the intention for there to be an interception or were you going to try and get the drugs yourself and then when that failed, to get the police involved so that there is a bust and that is why I took you to page 49 on the assumption that this was communication
20 between you and lby. You now say it was someone else who sent it to you, which is communication between lby and that person. But it relates to the same drugs that eventually ends up in Aeroton.

MR NKU: No, no.

ADV SEGEELS-NCUBE: You say it is not?

MR NKU: No, no, it does not relate to this. This is planning basically. They were planning their own, I would say shipment. This does not relate to the ...[indistinct]. I would have had further communications regarding that.

ADV SEGEELS-NCUBE: But you had no involvement in that planning.

MR NKU: No, so this is, that is why I am saying, Advocate Segeels, that to just come and encroach in a network, it is, it is not easy. These are people who are seasoned in what
10 they have been doing, so for me to get to that stage where I become part of their plannery in the network, it is, it is extremely difficult, unless when they would reach a difficulty and request intervention that would be a last draw thing on their end, but to become part of playing, it is difficult.

ADV SEGEELS-NCUBE: But it seems from this text that you succeeded, because why would they send you a screenshot of a conversation between John Wick and Iby if you had not been successful in becoming part of their
20 network, because on your version this has got nothing to do with the bust that you eventually get involved in.

MR NKU: So, Advocate Segeels, succeeding in terms of getting an inside man is not similar to succeeding being inside yourself. So, that is why I say that I would not want to publicly divulge the reasons why one had an inside man,

but this relates to, this relates to obviously a person that we, we had a common agreement as to being fed information.

CHAIRPERSON: If this was not, I am sorry to interrupt, Ms Segeels-Ncube, if this was not about the consignment that eventually landed at Aeroton, how had you, you have explained how you got involved in that, Mr Maphatsoe and so on and so on, how had you gotten involved in this? How did you get involved in this if this had nothing to do with the
10 Aeroton consignment?

MR NKU: Sorry Chair, I do not understand the question, how ...[intervenes].

ADV MOSIKILI: Ms Segeels-Ncube asked you if this consignment about which there was planning, you have said there were planning about the shipment of a consignment, Ms Segeels-Ncube asked you if this was the consignment that eventually landed at Aeroton, and you said not, am I correct?

MR NKU: Yes.

20 **CHAIRPERSON**: Yes. Now if this was a different consignment, how did you get involved with that? You have told us how you got involved with the Aeroton consignment, the introduction or introductions that were made by Mr Maphatsoe, and so on and so on. Now this one, how did you get involved?

MR NKU: So, Chair, this, this is still, this is planning phase, so ...[intervenes].

CHAIRPERSON: For? For which consignment?

MR NKU: So, it would seem that they were planning a shipment.

CHAIRPERSON: For which consignment?

MR NKU: Still, consignment still to come, because remember ...[intervenes].

CHAIRPERSON: A different one or the Aeroton
10 consignment?

MR NKU: No, a different one ...[intervenes].

CHAIRPERSON: Different one.

MR NKU: That was still to come.

CHAIRPERSON: Then you are not answering my question. My question is a simple one, yes, and I have also touched on the planning and so on, so please do not repeat that, my question is that consignment that they were planning, it appears that you were somehow involved, because there is Mr John Wick sharing information relating to that
20 consignment with you.

So, my question is how did you get involved in that, because this is not Aeroton. You have told us about Aeroton. You have told us how you got involved, the introductions and so on that were made. That you have told us about. And now this is a different one, how did you get

involved?

MR NKU: I was getting information fed, but maybe let me clarify, Chair. Remember I said to get into the network, into plannery phase, it is ...[intervenes].

CHAIRPERSON: Does this word that you, I think you have used it twice, what are you saying, plannery or what are you saying?

MR NKU: Yes, in the plannery ...[intervenes].

CHAIRPERSON: Plan ...[intervenes].

10 **MR NKU**: [Indistinct]... [cross-talking].

CHAIRPERSON: Are you saying planning?

MR NKU: Planning.

CHAIRPERSON: Planning.

MR NKU: Planning.

CHAIRPERSON: Oh, you are rolling it as if you were, I did not quite hear you.

MR NKU: Apologies, Chair. So, for one to partake in planning, it, networks build years to, people do not just accept new people and as it can be proved that I only knew
20 the gentleman that year in 2021, so, but the John Wick character is not someone that I knew just that yet. It is someone that, it is just that, it happened that one became aware, oh, you are in the same room with certain individuals, so that is why for me it was easy to get information from him, albeit I am not part of the planning

but to keep tabs as to their activities. It was good for me.

CHAIRPERSON: Let me take you back to Aeroton and Mr Maphatsoe and the introduction he made. You said the purpose there was for Iby's competitors to be messed up as it were, take the consignment away from them. Now, so that explains Aeroton. That explains your involvement. Now you are talking about keeping tabs on the lot about this consignment that was being planned which you say was not Aeroton.

10 You keep tabs for what purpose? In a sense that that question still relates to my earlier question as to why you got involved and how you got involved. You are talking about keeping tabs. Keeping tabs for what purpose and how did you get into that environment in the first place because sitting wherever it is you normally are, you would not just know about this. How did you get to know about this and why would you have wanted to keep tabs on these people?

20 I repeat again, this is not Aeroton and based on what you say, we have heard you. I am not necessarily saying we accept. We will decide that at a later stage, but you have explained how you got to be involved with Aeroton and then this, how did you get to be, I am using involved loosely. I am not saying you were part of them, no. How did you get to know, how did you get involved, why do you

want to keep tabs on them? Do you understand me?

MR NKU: I do understand. Chair, my reasons for keeping tabs and wanting to, or rather being involved in a sense of getting the information pertaining to their plannery, it directly relates to the type of organisation that the gentleman is from, which divulging that publicly would put my life even in more danger than it already is. But for me to keep tabs was directly in relation to the organisation that the gentleman is involved with. So that is the reason why I
10 have encouraged this ...[indistinct] character to say that whenever there is something significant, keep it coming.

CHAIRPERSON: My sense is that what happened first was you keeping tabs on, let me just loosely say, these people. That happened before the introduction by Mr Maphatsoe or am I wrong?

MR NKU: No ...[intervenes].

CHAIRPERSON: Which happened first?

MR NKU: No, keeping tabs it was after, because before I did not know ...[intervenes].

20 **CHAIRPERSON**: So keeping tabs happened after the introduction by Mr Maphatsoe with regards to the consignment that ended up in Aeroton happened first. Is that what you are saying?

MR NKU: So, Chair, the introduction ...[intervenes].

CHAIRPERSON: Yes.

MR NKU: Was vague, you know. It was not, that is why the details pertaining to this one gotten it after.

CHAIRPERSON: Do you mean the introduction was not consignment specific? Is that what you mean, because my sense reading your statement was that it was consignment specific, so are you now suggesting the introduction by Mr Maphatsoe was not consignment specific?

MR NKU: Yes, it was not conclusive. It was not consignment specific, I would say that, but it was because
10 they also had an inside man on the other side.

CHAIRPERSON: Can you explain it fully, fully in non-written words, not what we have in your statement then? Can you just explain exactly what Mr Maphatsoe said, here is the introduction, for what purpose, to make me understand that it was indeed not consignment specific.

MR NKU: So ...[intervenes].

CHAIRPERSON: And I want to see how that links up with this consignment referred to at page 49, which you say had nothing to do with Aeroton, but just explain that
20 introduction. I want to see how it fits in within the bigger scheme of things.

MR NKU: I will explain but maybe as a highlight, Chair, that this does not, so this is not a competitor's operation ...[intervenes].

CHAIRPERSON: Okay.

MR NKU: Maybe to clarify.

CHAIRPERSON: Yes, yes.

MR NKU: Ja, so this is their internal planning.

CHAIRPERSON: Yes.

MR NKU: Yes. It was not planning for disrupting other people's operations.

CHAIRPERSON: Yes, continue.

MR NKU: Yes. So, then in relation to the non-consignment specific, the mandate was rather there is so-
10 and-so who is in the same business as Mr so-and-so, or rather Mr lby.

CHAIRPERSON: If you have already said the competitor of lby ...[intervenes].

MR NKU: Yes.

CHAIRPERSON: So there is someone ...[intervenes].

MR NKU: Yes, yes.

CHAIRPERSON: Who is a competitor of lby in selling drugs, receiving and selling ...[indistinct] dealing in ...[intervenes].

20 **MR NKU:** Not, not necessarily. In consignment business ...[intervenes].

CHAIRPERSON: Okay.

MR NKU: So it was not an issue of having a discussion ...[indistinct]. They were in the consignment business.

CHAIRPERSON: Okay. All right.

MR NKU: So, this gentleman would like their operations disrupted. So at first it was the introduction was not specific.

CHAIRPERSON: Okay. So the idea is sort of ...[intervenes].

MR NKU: As and when.

CHAIRPERSON: It could have, ja, on an ongoing basis to disrupt consignments coming to this, to the competitor, to lby's competitor.

10 **MR NKU:** 100%.

CHAIRPERSON: All right, okay.

ADV KHUMALO SC: Can you then just complete the answer. You now meet with lby. What does he say he wants you to do for him, because in your paragraph 9 you say what Mr Maphatsoe told you and then you move on to the operation itself, but in my engagement with you earlier you agreed that you actually met with lby and you exchanged telephone numbers with him. Now when you meet with him or when you communicate with him over the
20 phone, what does he say he wants you to do for him?

MR NKU: So, the, I would not say the instruction. The mandate was look, there are people that are our network's competitor, I would love you to organize a bust, just make sure that it, because this is likely going to be huge, make sure that it is out there and that network is discredited

basically.

ADV KHUMALO SC: And then how do you get introduced to this John Wick person?

MR NKU: No, it is ...[incomplete].

ADV KHUMALO SC: Let me take it a step back.

MR NKU: Okay.

ADV KHUMALO SC: Did Iby introduce you to John Wick or did you know John Wick before you met Iby?

MR NKU: I knew John Wick before I knew Iby.

10 **ADV KHUMALO SC:** Yes, because I am asking you this in your engagement with Chair, and I am quoting you, you said networks take years, people just do not accept new people into the network. Those were your words.

MR NKU: Yes.

ADV KHUMALO SC: So what I am not understanding is how they can meet you in May, I am talking about Iby, you get introduced to him in May. Literally a month later, beginning of July, he is already trusting you to run an operation, or you will answer me and say it is not May of
20 that year, so let me leave it to you to answer it.

MR NKU: Oh, apologies. I had already said to Chair that I met Iby earlier on that year, not in May.

ADV KHUMALO SC: It was not in May?

MR NKU: No, the introduction relating to this matter was in May. That is the difference.

ADV KHUMALO SC: But you were introduced to Iby much earlier.

MR NKU: Much earlier, in January.

ADV KHUMALO SC: In January.

MR NKU: So, when I got introduced to him it was relating to, I needed, my associates and I needed financial aid but it was mostly a political matter in Western Africa. So there was a legal matter pertaining to a high-ranking official there which I needed financial aid on. That is how we actually
10 got introduced and he then aided me in that regard, or aided my associates.

ADV KHUMALO SC: Okay. And then during the period before July, did you do any work for Mr Iby? I am talking about the period before July. So in May or April or March, did you do any work for him that related to containers?

MR NKU: I have assisted him once prior, but at, because at the time he had indicated, I think it was around about April, by the time I did not really know much about him. I just knew that he is a businessman, refinery and mining.
20 So at the time he made a request that he had a friend whose company was struggling.

So they were saying they are a shipment, because they were shipping parts of sorts. Their shipment had been delayed, it took way longer than expected. And then I made my contact, then my contact came back to me saying that,

look, that container is flagged. So, but I think it had been, it is just that I no longer have those details, but it had been there for some time. So in, at the time, in my experience, there was nothing untoward because usually from what I have learned from my trusted contacts was that when a ship, when a container is flagged, it undergoes rigorous inspection.

It is not just, they do not just flag it, particularly when then it stays in a depot for long. So the time that that
 10 container stayed there, I assumed that ag, maybe it is a paperwork issue. Then when they came back to me, it seemed to be a paperwork issue because I said, I think he had a clearing agent in Sandton, so I said to him, let your clearing agent send all the relevant paperwork to Transnet. And eventually I think that was cleared, but it was handled between the clearing agent and the Transnet people.

ADV KHUMALO SC: Mr Nku, is the short answer then, yes, I did do some work for him, but it did not relate to narcotics?

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

ADV KHUMALO SC: So that is how you answer simple questions.

MR NKU: Oh, apologies.

ADV KHUMALO SC: Thank you.

MR NKU: Yes, Commissioner.

ADV SEGEELS-NCUBE: Mr Nku, who is VJ? You mentioned Vejay earlier.

MR NKU: So he would be another, no, I should say ...[indistinct] of Mr Iby.

ADV SEGEELS-NCUBE: Of?

MR NKU: Of Iby.

ADV SEGEELS-NCUBE: Okay, so VJ is not the same person as John Wick?

MR NKU: No, they are not the same person.

10 **ADV SEGEELS-NCUBE:** Okay. And my understanding is that you never, just explain to us again the communication between, the modes of communication between you and Iby. It was WhatsApp, correct?

MR NKU: 99% of the time.

ADV SEGEELS-NCUBE: Okay. So the screenshots that we have and that we see where Alpha is mentioned, that you, it is not you?

MR NKU: I think I, if I can view, I will tell, there is probably one screenshot that would relate to me, because I
20 never had to take screenshots communicating with him.

ADV SEGEELS-NCUBE: Okay.

MR NKU: There was no reason.

ADV SEGEELS-NCUBE: And did VJ or John Wick also know Chief Mashaba?

MR NKU: VJ, not John Wick. I would say VJ. VJ, not

John Wick.

ADV SEGEELS-NCUBE: Okay. So VJ knew Chief Mashaba and worked for Iby?

MR NKU: I look at ...[indistinct] I do not know whether to say worked or was an associate.

ADV SEGEELS-NCUBE: Okay, but VJ and Iby have some sort of an association, which you have knowledge of?

MR NKU: Indeed.

ADV SEGEELS-NCUBE: And VJ knows Chief Mashaba?

10 **MR NKU:** VJ.

ADV SEGEELS-NCUBE: Okay.

MR NKU: VJ knows Chief Mashaba.

ADV SEGEELS-NCUBE: Can I ask you to go to page 47. We will come back to that previous, to the other document at 49, but if you go to 47 of that same bundle. Are you on page 47? Do you have it? So as we understand, so this is the 29th of June 2021. And now from what you are saying, this would have been a screenshot of a conversation between Iby and John Wick, which John Wick would have
20 sent to you. Now this says, do you see the message there?
The top one says:

“Salaam, Boss. We will talk properly
when we meet. Did VJ collect the keys?”

And then the response is:

“Yes, I will see you tomorrow. I should

be ready. VJ phoned today. His phone was off. Will try tomorrow morning.”

And then:

“No problem. Please do check with him.”

Then the next message:

“Mate, he won’t give me the keys or the phone. He says legally he can’t. He put up a big stink about General Mashaba.”

And then at the last paragraph, there is mention of
10 an X5. And then the last, the second last message:

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

And then it says:

“Boss, this IO does not want to play game.”

So whoever is speaking here, there is reference to,
I am assuming General Mashaba is Chief Mashaba?

MR NKU: He would be, yes.

20 **ADV SEGEELS-NCUBE:** Correct?

MR NKU: Correct.

ADV SEGEELS-NCUBE: Okay. And we know that you have an association with Chief Mashaba and you are now saying that VJ also had an association with Chief Mashaba. And you have a conversation with Chief Mashaba about

keys as well, do you recall that conversation?

MR NKU: Yes, and I also have that conversation with Iby also on WhatsApp.

ADV SEGEELS-NCUBE: Okay. Where Chief Mashaba was supposed to go and collect keys, and he then says:

“I only found one key.”

That is on page 122 of that same bundle, which is a conversation between you and Chief Mashaba and that conversation is the 25th of June 2021 and the screenshot on
10 your phone is 29 June 2021, so a few days later. Now, explain to us what is happening there, because if that is not a conversation between you and Alpha, you and Iby, then Chief Mashaba is involved in something else regarding the keys with you and VJ, correct, because you are not part of the conversation, the Threema conversation. So what was that matter about?

MR NKU: Please repeat the question, Advocate Segeels.

ADV SEGEELS-NCUBE: If we go back to page 47.

MR NKU: Yes.

20 **ADV SEGEELS-NCUBE**: On your version, anything that has the screenshot with Alpha is not a conversation between you and Alpha. It is a conversation between Alpha and John Wick, correct?

MR NKU: Hm.

ADV SEGEELS-NCUBE: Do not say mm-hmm.

MR NKU: Oh, sorry. Apologies.

ADV SEGEELS-NCUBE: Yes. Yes, okay.

MR NKU: Apologies.

ADV SEGEELS-NCUBE: Now, here there is a conversation where they say, did VJ collect the keys? So we know VJ is not in this conversation.

MR NKU: Correct.

ADV SEGEELS-NCUBE: It is between Alpha and John Wick and they are asking whether VJ collected the keys.

10 **MR NKU:** Correct.

ADV SEGEELS-NCUBE: Right. And then he says, not a problem, he had difficulty. And then they say, he put up a big stink about General Mashaba, Chief Mashaba, suggesting that VJ also knows Chief Mashaba.

MR NKU: Correct.

ADV SEGEELS-NCUBE: And we assume here VJ is not you.

MR NKU: Yes. No, VJ is not me.

ADV SEGEELS-NCUBE: And we are taking your word that
20 VJ is not you.

MR NKU: Correct. VJ is not me, correct.

ADV SEGEELS-NCUBE: Now, then there is a conversation. So look at that screenshot. It is 29 June 2021, the image. We do not know when the conversation took place, but it is 29 June, the image. If you then go to

page 122 of that same bundle, which is a conversation between you and Chief Mashaba, where he is looking for some keys, and this is 25 June 2021. He says:

“That is the only key I find.”

So just let me know when you are there.

MR NKU: What page?

ADV SEGEELS-NCUBE: Page 122 of that same bundle.

MR NKU: Correct.

ADV SEGEELS-NCUBE: There is also a conversation
10 between the two of you about keys.

MR NKU: Correct.

ADV SEGEELS-NCUBE: And around the same time. So my question to you is, what was happening regarding these keys, because you have a conversation with Chief Mashaba about the keys. And according to you, there is a conversation between Alpha and John Wick about keys around the same time, but we do not know the date of the conversation because you have the screenshot. So there must be another operation that you are involved in there,
20 which you have roped Chief Mashaba in or VJ has roped him into.

MR NKU: Chair, I would request not to go into the specifics, but in relation to the key, indeed there was a request, and I think it was there on my WhatsApp's directly from Iby to request that Chief Mashaba get him the keys. I

think they were relating to a car which had office keys. So the person whom these keys belonged to at the time was in hospital and there was, the reason why there was that request, I think the keys were with an investigating officer. So – apologies.

ADV SEGEELS-NCUBE: Okay. The point being that, so we know now that VJ is also involved with Chief Mashaba and doing operations with Chief Mashaba, associated with Iby.

10 **MR NKU**: He was associated.

ADV SEGEELS-NCUBE: With Iby.

MR NKU: Associated.

ADV SEGEELS-NCUBE: Okay. I am going to take you to another document just so that we can get to the bottom of the chats, the so-called Threema, which are screenshots, and then we can get back into your statement on page 32. But I hope that before they flight it, that they have redacted all the names and perhaps not flight it for the moment.

MR NKU: Page?

20 **ADV SEGEELS-NCUBE**: Page 32 of the bundle. You will see it is also a chat which is an image, a screenshot that is on your phone and it is 21 May 2021. Somebody will assist you.

CHAIRPERSON: Please project this one as well.

ADV SEGEELS-NCUBE: Chair, I have asked for it not to

be projected until we have established that the name has been properly redacted.

CHAIRPERSON: Oh, I am sorry.

ADV SEGEELS-NCUBE: [Indistinct]... it may not have been. Do you see that? Do you have it?

MR NKU: [Indistinct]...

ADV SEGEELS-NCUBE: Okay, let me see if I can get the bigger one. I am not sure on what page the bigger text is, but there is a name that appears, one, two, three, the third
10 grey block and it starts with a P and the surname is also with a P. Do you see that, the third block where there is a response that says:

“So it is not going to happen today”.

So we are going to then ...[intervenes].

MR NKU: May I, let me do this.

ADV SEGEELS-NCUBE: Can you tell us who that person is? I can bring you the big, I just do not want to flight the name in case it is somebody other than you.

MR NKU: Okay, let me - apologies, you were saying which
20 block?

ADV SEGEELS-NCUBE: You see the third block? It says:

“Can you get the pics of the container
and seal.”

The next message:

“The longer you take with this, the more

nervous they get.”

Then the next message:

“Boss, the driver details still have not been loaded yet. The guys are monitoring the app and the forklift guy is our guy.”

That message, do you see the name of the person there?

ADV BALOYI SC: Ms Ncube, I think we have heard this
10 name mentioned publicly and it is associated. The witness should be able to ...[intervenes].

ADV SEGEELS-NCUBE: Yes. So can you say who that is?
We will flight it.

MR NKU: Okay.

CHAIRPERSON: Do you see it?

MR NKU: No, I do not see it.

CHAIRPERSON: That is, you see the, one, two, three, as
Ms Segeels-Ncube says, the “So it is not going to happen
today” is responding to a message which is shown just
20 above that text. Do you see that? And that is where the
person who had written the text responded to. That is
where their name appears.

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

CHAIRPERSON: It appears ...[intervenes].

ADV SEGEELS-NCUBE: [Indistinct]... [cross-talking].

CHAIRPERSON: It appears just above the text that Alpha is responding to. Do you see that?

MR NKU: Oh, yes, I see it. I see it.

CHAIRPERSON: You see it?

MR NKU: Yes, I see it, okay.

ADV SEGEELS-NCUBE: And that is you, right? Philipp Plein is you.

MR NKU: No, that is not ...[incomplete].

ADV SEGEELS-NCUBE: Is Philipp Plein not you?

10 **MR NKU:** No, my, that is, I can write ...[indistinct] my handle name.

ADV SEGEELS-NCUBE: Okay.

CHAIRPERSON: Sorry, I missed the answer. Did you ...[intervenes].

MR NKU: [Indistinct]... [cross-talking].

CHAIRPERSON: Sorry, sorry, let us not speak together, please. So, I am asking, I did not hear your response. Did you say that is you or not?

MR NKU: No, that is not. That was in my handle name on
20 there.

CHAIRPERSON: Okay.

ADV SEGEELS-NCUBE: Okay, I was suggesting to you that Philipp Plein is you. You are saying it is not you.

MR NKU: Okay.

ADV SEGEELS-NCUBE: Mr Nku, you either know if it is

you or it is not you. I am suggesting to you that Philipp Plein is you.

MR NKU: That was in my handle name on the app.

ADV SEGEELS-NCUBE: Have you ever been referred to as Philipp Plein?

MR NKU: Personally, I have just heard ever since this Commission started that I was referred to as Philipp Plein. I, if you look at my, particularly my Telegram account, Advocate Segeels, that is what I was referred, I have
10 always been referred to.

ADV BALOYI SC: Ms Ncube, do you have bundle Witness J and can we just go to page 12.

ADV SEGEELS-NCUBE: We do have it.

ADV BALOYI SC: Do you want to deal with this?

ADV SEGEELS-NCUBE: Yes.

ADV BALOYI SC: Okay, page 12.

ADV SEGEELS-NCUBE: Can you flight the page number, page 15. Should we start at 12, Commissioner?

ADV BALOYI SC: Start at 12. I think you may find it is
20 much more, it shortcuts this discussion. Witness J.

ADV SEGEELS-NCUBE: Witness J.

ADV BALOYI SC: If it is projected, can we just ...[intervenes].

ADV SEGEELS-NCUBE: It is redacted.

ADV BALOYI SC: Are we able to just show the images in

paragraph 29 and 30, because I am not sure about the reduction, how it was done.

ADV SEGEELS-NCUBE: Yes, I just want to make sure ...[intervenes].

ADV BALOYI SC: Commissioner Khumalo wants to make an alternative suggestion.

ADV KHUMALO SC: Maybe to avoid that because the statement is not redacted, the Exhibit CJC273 ...[intervenes].

10 **ADV SEGEELS-NCUBE:** That is the one we are on, yes.

ADV KHUMALO SC: Ja, on page 15.

ADV SEGEELS-NCUBE: 15 is the one I said, yes.

ADV KHUMALO SC: Ja.

ADV SEGEELS-NCUBE: CJC273, page 15. 273. Do you have it, Mr Nku? CJC273, page 15.

ADV KHUMALO SC: I take it, it will also be flighted.

ADV SEGEELS-NCUBE: That is what I am waiting for, yes. Mr Nku, you do have it now, right?

MR NKU: I do.

20 **ADV SEGEELS-NCUBE:** Yes. Okay, and do you see that it says who is Philipp Plein?

MR NKU: I do see it, Chair.

ADV BALOYI SC: Can you just check, is that your telephone number? There is a number there on the first image.

MR NKU: Indeed, this was my telephone number, but I never saved it as this, Chair. I think on Truecaller, one can check as to when a number was added on Truecaller under that, a particular alias. That can be verified. So that number did not always have that as an alias in Truecaller.

CHAIRPERSON: As a what?

MR NKU: As an, because a name added is an alias on Truecaller, yes. That number had never had that name. So it can be verified as to when was it added. That can be
10 verified ...[indistinct] verified.

CHAIRPERSON: But does this not mean that it is the person, it is Alpha on that page that would have saved you as Philipp Plein. Even if you yourself did not use that as your alias or name or whatever, it would be Alpha that would have saved you on his device as Philipp Plein.

MR NKU: It would be possible, ja.

CHAIRPERSON: Which is why when he is responding to that particular chat on the third grey text, page, was it 47?

ADV SEGEELS-NCUBE: Page 32, Chair.

20 **CHAIRPERSON:** At page 32, the third one of the grey, of the text with a grey background, he has indicated what text he is responding to and that is the one that shows Philipp Plein as the person that wrote the text to which Alpha is responding. Do you still follow me?

MR NKU: I still follow you.

CHAIRPERSON: That means Alpha saved you as Philipp Plein. Do you get it?

MR NKU: I do get it, Chair.

CHAIRPERSON: Now what you have in front of you, no, no, let us, please, what we have in front of you says the number on there, the number communicated with was the number that Commissioner Baloyi has just drawn to your attention that is there, that we see there. And he says on Truecaller, that number was your number. Do you get it?

10 **MR NKU:** I do get that, Chair. However, the Threema app does not use numbers.

CHAIRPERSON: Meaning?

MR NKU: So even if he had saved my name under Philipp Plein on the app, it should not affect the phone number itself. I do not know if I make sense, Chair.

CHAIRPERSON: Please explain again. But my understanding was that you could use anything, but you could also use your number when you, when we, not so much use in the sense that without a number, you cannot
20 communicate on Threema. But my understanding was that in setting it up somewhere, there could, if you wanted to, there could be a number. That was my understanding of the testimony.

MR NKU: No, no, Chair.

CHAIRPERSON: Depending on how you chose to set it up.

MR NKU: Yes, it does not require a number.

CHAIRPERSON: There can never, ever, ever be a number.

MR NKU: One may add it, but generally ...[intervenes].

CHAIRPERSON: Sorry, one what?

MR NKU: I am saying, I think there is an allowance for setting up with a number, but generally it is ...[intervenes].

CHAIRPERSON: That is exactly my point. That is exactly my point.

MR NKU: Okay.

10 **CHAIRPERSON:** We heard testimony that there could be a number and you have just accepted that now.

MR NKU: If I can, Chair.

CHAIRPERSON: Yes.

MR NKU: So there could be a number yet not attached to the main profile. So the number would be, if you go into details, it is not attached. So on the app preface, when you go into the profile or the alias, the number would not display.

CHAIRPERSON: But if someone is expert enough, and I
20 believe that the person who was doing this is expert enough, would it not be possible for them, if there has been a number in setting up all of this, would it not be possible for an expert to get to the number?

MR NKU: Unless they go into the servers, no.

CHAIRPERSON: So if they do get to that, they could.

MR NKU: If they go into the servers, yes, but not through a device.

CHAIRPERSON: Looking at this, looking at this, how would this person have gotten the number that Commissioner Baloyi referred to? Look at the writing at the top before you see the images. How would that person have laid their hands on the number?

MR NKU: So this is, this, Chair, this is not the app. This is Truecaller. So they got, so basically ...[intervenes].

10 **CHAIRPERSON:** I get that. I get that. I thought the point you are making is you are querying the very idea that they could have taken your number from Truecaller because your number is nowhere when Threema is set up. That I get. So what you are saying, they got the number from Truecaller. Before they could get the number from Truecaller, they would have had to lay their hands on the number. Do you get what I mean? That is what I am asking you about. You have the number, then you take the number, you plonk it on Truecaller, then Truecaller will tell you whose number it is.

20 That I get. My question is, where would the person have gotten the number in the first place before they take it and plonk it onto Truecaller?

MR NKU: No, no, generally, the number would have been attached to the device itself. My dispute with the Truecaller is when, because you see, it is one thing to say that his

name appears as Philipp Plein in Truecaller. It is a completely different aspect to say that this name was added or attached to this number at this specific time in Truecaller, say that, have I always been known as this in Truecaller. That is a different aspect from saying, when I go into Truecaller now ...[intervenes].

CHAIRPERSON: No, no, no. No, no, no, Mr Nku. He is not saying on Truecaller you were Philipp Plein. He is saying this number, when he went to Truecaller, he
10 established that it is Mr Nku's number, not Philipp Plein's number. It is Mr Nku's number. That is what he is saying. Now, I want to understand what it is exactly you are disputing, and that is why I do not understand. I do not follow what you are disputing.

MR NKU: Chair, the question to which I was asked was, have I always been known as Philipp Plein. Or maybe I missed the question.

CHAIRPERSON: No, no, no. You said you are, did he not say he is not Philipp Nku? I thought you said you are not
20 Philipp Plein. Now, what Ms Segeels-Ncube is seeking to establish is that you are in fact Philipp Plein, and you have now been taken to this page, which uses the number referred to on Truecaller, and this person is trying to establish who Philipp Plein is and takes this number and plonks it onto Truecaller. On Truecaller, it appears as Mr

Nku's number, which then takes us back to Philipp Plein, so Mr Nku is Philipp Plein. Do you get the reasoning?

MR NKU: Yes, Chair, however ...[intervenes].

CHAIRPERSON: But, but of course, but of course, I said earlier that it is from these chats, it is Alpha who had saved you as Philipp Plein. Whether or not you ever called yourself Philipp Plein is neither here, nor there. On these chats, it is Alpha who had saved you as Philipp Plein. Now, the person who has prepared this presentation is trying to
10 get to who Philipp Plein is, and he takes this number and uses Truecaller to establish who Philipp Plein is using the number, and he establishes that it is your number. It is Mr Nku's number. Do you get it? And this has nothing to do with what you call yourself. It does not matter that you do not call yourself or ever called yourself Philipp Plein. That does not matter. That is neither here nor there. Do you get the point now?

MR NKU: May I, Chair?

CHAIRPERSON: Yes, please.

20 **MR NKU:** Okay, I get the point partially, Chair. The reason why I say this is, it is one thing to say that Mr Nku is known as Philipp Plein or has always been known as Philipp Plein.

CHAIRPERSON: Let us leave that, let us leave that aside. Let us leave that aside. What is your comment on the

debate that I am engaging you on now? What is your comment, just on that. Let us leave aside the fact that, you know, how this may have been introduced, which is that Mr Nku has always been known as Philipp. Let us forget about that. Let us talk about this number. Let us talk about the fact that you appear, or rather, Philipp Plein appears on this chats and Alpha is responding to a person that he has saved as Philipp Plein.

The number of that Philipp Plein gets taken onto
 10 Truecaller and it appears as Mr Nku's number. What do you say about that? Let us forget about whether Mr Nku has always been known as Philipp Plein or whatever else. What do you say about that?

MR NKU: So that is, I was trying to get to that, Chair.

CHAIRPERSON: Please, please, just respond to my question. Let us not take it back and ...[intervenes].

MR NKU: No, I am not trying to, Chair.

CHAIRPERSON: Yes.

MR NKU: The reason why I am trying to explain is that at
 20 what point was, because for one to punch a number in Truecaller and it appears as a certain name, my concern has been at what point was that done for this number to be attached ...[intervenes].

CHAIRPERSON: Does it matter because you have accepted that this is your number? Does that matter?

MR NKU: It does, Chair.

CHAIRPERSON: Why?

MR NKU: Because if, say, for instance, the alias or the number when punched on Truecaller, say, in 2021 appeared as something else, but yet in 2025 appeared as Philipp Plein ...[intervenes].

CHAIRPERSON: Have you, we are not talking about this number being saved under Philipp Plein. I have tried to explain that ad nauseam. That is not what we are talking
10 about. And in that regard, I have said it is the person with whom, or rather, it is Mr, it is Alpha, not Mr, it is Alpha, who saved whoever it was he was chatting with as Philipp Plein. So that is where Philipp Plein features. It has nothing to do, that has nothing to do with what name was in Truecaller or on Truecaller.

So I do not understand your emphasis on what was on Truecaller at what stage or during what period. That is irrelevant. because Philipp Plein, for purposes of this debate, is how the communicator with Alpha was saved.
20 That is where it is. That has nothing to do with whether Philipp Plein was also on Truecaller. Do you get me?

MR NKU: I do understand.

CHAIRPERSON: So I do not understand what you are debating with me then. Now, can you respond to what I said to you earlier, which I have repeated a thousand times

and I am not going to repeat.

MR NKU: Apologies, Chair. So is Chair saying what do I say in relation to my number being attached to Philipp Plein? Please ...[indistinct].

CHAIRPERSON: I said to you, the person that Alpha was chatting with is saved by Alpha as Philipp Plein. Do you get me this far?

MR NKU: I do understand, Chair.

CHAIRPERSON: The person who made this presentation
10 that you have in front of you at page 15 of the document in front of you, that person says they then wanted to get to the bottom of who Philipp Plein is. They then took the number which you accept is your number on your engagement with Commissioner Baloyi, they took that number, plonked it onto Truecaller. On Truecaller, that number appeared as Mr Nku's number. That is what I want to understand, whether or not you accept.

MR NKU: I concede, Chair.

CHAIRPERSON: You accept.

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

CHAIRPERSON: I just do not understand why it had to take forever and ever. Thank you.

ADV SEGEELS-NCUBE: Thank you, Chair.

ADV KHUMALO SC: Mr Nku, help us ...[intervenes].

ADV SEGEELS-NCUBE: Might this be an opportunity to

take the tea adjournment?

ADV KHUMALO SC: Just very quickly, yes or no, please. Have you ever at any stage been known as Philipp Plein, whether it was for one day or three days or ten days?

MR NKU: No, no, I have not.

ADV KHUMALO SC: You have never?

MR NKU: Yes. I have not been known as Philipp Plein. Usually they would say ...[indistinct].

ADV KHUMALO SC: And nobody has ever called you
10 Philipp Plein?

MR NKU: No.

ADV KHUMALO SC: And looking at those photos, am I correct that that clothing brand that you are wearing with the letters PP, that is you in those photos?

MR NKU: That is me, Commissioner.

ADV KHUMALO SC: Yes, and the name of the brand is Philipp Plein.

MR NKU: Indeed.

ADV KHUMALO SC: So do you remember your reference
20 to Doggy Hawks, that you were introduced to General Mashaba as Doggy? He is from the Hawks and that is how you saved him on your phone.

MR NKU: [Indistinct]... [intervenes].

ADV KHUMALO SC: And in the chats, he then appears as Doggy Hawks.

MR NKU: Indeed, Chair.

ADV KHUMALO SC: And the point Chair was making to you is the same point that maybe when you met these people the first time you met them, you were wearing Philipp Plein branding and they decided, let me save him as Philipp Plein. I mean, that is plausible.

MR NKU: It is plausible. However, Commissioner Khumalo, I do not always, granted, they found these two pictures. I do not always wear ...[indistinct].

10 **ADV KHUMALO SC:** I am sure nobody always wears the same brand every single day. But at some point, you would have worn, you know, what seems to be a very nice clothing with the brand Philipp Plein and if somebody, their first encounter with you was when you were wearing that, it would be easy to save you as that for many reasons, to avoid having you identified as Mr Nku. Or maybe it is just easier to save you as PP, Philipp Plein.

MR NKU: It is plausible, Commissioner Khumalo. I will not say that it is not plausible.

20 **ADV KHUMALO SC:** But before we leave, do you deny that the person who is communicating here, or at least is one of the three parties communicating on page 32, that that chat, which you still have in the chats, and we see the name Philipp Plein before the chat itself, do you deny that that is you?

MR NKU: That conversation, I am ...[intervenes].

ADV KHUMALO SC: No, no, sorry, I cannot hear.

MR NKU: Apologies. Apologies, Commissioner Khumalo. I am saying that conversation, if I could go back to that conversation, because I am trying ...[intervenes].

ADV KHUMALO SC: Yes, it is on page 32 where Ms Ncube started with you.

CHAIRPERSON: The thick file.

MR NKU: The thick file. Ja ...[indistinct] [intervenes].

10 **ADV KHUMALO SC:** Either you deny or you do not deny.

It is not difficult.

MR NKU: Okay, no, this conversation ...[intervenes].

ADV KHUMALO SC: You deny that it is you in the conversation?

MR NKU: In this conversation, yes.

ADV KHUMALO SC: Then I am going to suggest to you that the reason you are denying is because if you accept that this is you, then it must follow that everywhere in the
20 chats where we see Philipp Plein, that is you who is a participant in that conversation. So you will have to deny this because if you were to accept that this is you, then the rest of the chats where we see the name Philipp Plein, we will have to accept that it is you in those chats and that is the only reason you are denying it.

MR NKU: Not really, Chair. My concern is this app. Usually ...[intervenes].

ADV KHUMALO SC: Mr Nku, let us do this. I want you to think carefully about your answer, remembering that you are under oath.

MR NKU: Yes.

ADV KHUMALO SC: And Ms Ncube has warned us that she wants to have her tea. So think carefully about your answer and when you come back, respond truthfully,
10 please.

MR NKU: [Indistinct]...

CHAIRPERSON: Ms Ncube, how are we going to structure today, seeing that we have another witness and, ja.

ADV SEGEELS-NCUBE: Chair, I do not know. I do not think we are going to, they were optimistic to think that we would finish at tea. So we would have to, and I know the other witness cannot be postponed to another day. I am not sure, but ...[intervenes].

CHAIRPERSON: Is it, I do not know, I am thinking off the
20 cuff, but we can have further engagements over tea, but ...[intervenes].

ADV SEGEELS-NCUBE: Yes, Chair.

CHAIRPERSON: I was just, ja, maybe, ja, let us just do the whole thing over tea, ja.

ADV SEGEELS-NCUBE: Thank you, Chair.

CHAIRPERSON: All right, let us adjourn. I think more than Ms Segeels-Ncube, I think it is Commissioner Khumalo who wants his tea now. Let us come back at 11:45. Let us adjourn.

INQUIRY ADJOURNS

INQUIRY RESUMES

ADV KHUMALO SC: Good morning, Mr Nku.

MR NKU: Good morning, Commissioner.

ADV KHUMALO SC: Yes. Do you remember in relation to
10 the chat on page 32 of the chats, I suggested to you that the reason why you will not admit that it is you is because if you accept that in this chat, then the Commission must accept that everywhere in the chats where we see the name Philip Lane, that is also you. And that is the suggestion that I am putting to you and I want you to comment and either say you agree with me or you disagree with me.

MR NKU: I would say I disagree just on the sense that it is not for the tune that I dispute. That is why I was trying to wrap around my mind, wrap my mind around the text
20 because I usually would, I usually spoke on the phone, we hardly chatted. Even before we went to this app, if one checks throughout all our engagements, it is usually on call. However, I do accept Commissioner Khumalo that it does seem that one would appear as if he is disputing, would be disputing this because every other instance, the chats

where the name appears. I am trying to wrap my mind around... Ja, I do not know whether it is after the fact or when, but I think this chat, I concede to this Commissioner Khumalo.

ADV KHUMALO SC: What are you conceding, just so that we are clear, because the transcript must reflect exactly what you are conceding. Just in your own words, what are you conceding?

MR NKU: I concede to what Commissioner Khumalo is
10 saying, that every other place where the name would appear, it would have to be my phone number attached to it.

ADV KHUMALO SC: But now, let us go back to 32. Is that you in that chat? If you look at chat 3, just below the name Philip Lane and that person communicating there, was that you?

MR NKU: Eish, Chair.

CHAIRPERSON: Bear in mind that just above the text by Alpha, the third one, Alpha is responding to Philip Lane, and you have now conceded that that is you. So
20 Commissioner Khumalo's question then is, do you accept that it is you chatting with Alpha at page 32, based on the concession that, just a minute, based on the concession that you have just made?

MR NKU: It would have to be me here.

CHAIRPERSON: It is you.

MR NKU: Yes, it would have to be me.

ADV KHUMALO SC: And Mr Nku, to be fair to you, later on when we engage you, we will engage you in relation to other chats where Philip Lane is communicating with the people who are reflected in the chats on page 32. So just bear that in mind and for now, we will leave it here.

CHAIRPERSON: Yes, Mr Mosikili.

ADV MOSIKILI: Thank you, Chair. Mr Nku, before we went to deal with the chats, you were summarising
10 paragraph 10 of your statement on page 2. Perhaps just so that we understand exactly what the objective was. Can you just summarise in your own words just that paragraph so that we do not misunderstand you on what the objective was?

MR NKU: So the main objective was for there to be a past. The dynamics or semantics of it were not crucial, so the interception should have had to happen, as long as it would have disrupted that consignment reaching its intended recipient.

20 **MR MOSIKILI:** And what would happen to the consignment itself?

MR NKU: Sorry, I do not get you, Mr Mosikili.

ADV MOSIKILI: Did you, what was the, if there was any plan as to what happens to the consignment? Once there is a past.

MR NKU: Maybe that is dealt with on the statement itself, I think.

CHAIRPERSON: Is that under the plan? Under the plan, which is the next heading?

MR NKU: Indeed, Chair.

CHAIRPERSON: All right. You are so hesitant today.

MR NKU: Oh, apologies, Chair.

CHAIRPERSON: I do not think you were like this on...

MR NKU: Apologies, Chair.

10 **CHAIRPERSON:** ...Thursday, was it? Yes, Mr Mosikili.

ADV MOSIKILI: Let us move on then. Please tell us what the plan was then in relation to that objective. That would be on paragraph 11 of the statement.

MR NKU: Okay. On the plan.

“I understand and formulated it...”

Oh, sorry.

20 “As I understood and formulated it at the time was to use my contacts within Transnet and the broader logistics environment to identify, trace and monitor the movement of the shipment. Once the relevant information had been obtained, my intention was to involve Chief Mashaba to coordinate or facilitate the operational aspects of the retrieval or interception

before dealing with the steps that were taken. It is necessary to explain my relationship with Chief Mashaba.

I was introduced to Chief Mashaba in about 2019 and I understood him to be a general within DPCI or Directorate for Priority Crimes Investigation, commonly known as DPCI. Prior to this incident, I had interacted with Chief Mashaba in relation to the matters where I had access to information concerning suspected and lawful activities. In those instances, I would provide him with intelligence or information that I regarded as credible and he would then arrange for the involvement of law enforcement officials to effect arrest, seizures or the operational steps by way of example.

I had previously provided him with information relating to matters involving fake, dissident's illicit cigarettes."

14.

"It is important for me to record that based on my experience in those previous matters, the intervention by law

enforcement did not always result in what I understood to be a complete or proper seizure of all goods discovered. In certain instances, only a portion of the goods appeared to be formally recorded or booked into official custody.

I understood that Chief Mashaba on occasions when he required money would interact. He would contact me to enquire whether I had access to information concerning illegal activities from which he might benefit either through a portion of what was recovered or through exerting pressure on the persons involved.”

15?

ADV KHUMALO SC: I think, Advocate Mosikili, the question that you ask is covered by 14.

MR MOSIKILI: All right, yes, let us continue. Safe to say, Chair, we will deal with some of the instances where he had been involved with Chief Mashaba and we will explore the chats as to those activities at the later stage. But for now, we will let him go through the statement. Mr Nku, you can continue on paragraph 15, thank you.

MR NKU: 15:

“In the present matter, I enlisted Chief

Mashaba to assist with the request that had been communicated to me by Mr Mphatswe Ngibi. Before any operational steps could be taken, it was necessary for me to confirm the existence of the shipment and establish its movement once it arrived in South Africa. For that purpose, I travelled to Durban. My intention in travelling to Durban was to approach an acquaintance of mine, mister...”

Can I name the name, Chair?

CHAIRPERSON: Sorry?

MR NKU: Can I name these names?

CHAIRPERSON: Please.

MR NKU: Okay.

MR NKU: Within Transnet, Mr Zama Khuzwayo.

ADV MOSIKILI: Sorry, Mr Nku, read the sentence again because once you cut it and ask the question it does not make sense anymore. So, my intention...?

MR NKU:

“My intention in travelling to Durban was to approach an acquaintance of mine within Transnet, Mr Zama Khuzwayo, so that he could assist in retrieving the relevant

tracking information relating to the shipment.”

16.

“I departed to Durban on the 7th. Upon my arrival, I engaged...[intervenes]”

CHAIRPERSON: Please mention the full date.

MR NKU: Okay.

“I departed for Durban on 7 July 2021. Upon my arrival, I engaged Mr Khuzwayo and requested his assistance in obtaining the tracking information. Mr Khuzwayo informed me that ...[intervenes]”

10

MR MOSIKILI: Mr Nku, sorry. I think when you see a full stop, stop and then start a new sentence. I think the way we are reading now for the transcript, it will not come out well and it might lose the message. So, when you see a full stop, start a new sentence and then we go on. Thank you.

MR NKU: Must I start from the...

MR MOSIKILI: You can say, ‘upon my arrival, I engaged...’

20 **MR NKU:** Okay.

“Upon my arrival, I engaged Mr Khuzwayo and requested his assistance in obtaining the tracking information. Mr Khuzwayo informed me that, unfortunately, he was blocked internally from accessing the

same. The suspicion is that someone higher could have blocked that access for other reasons, to limit the number of Transnet employees from this particular container.

From my knowledge and understanding of the Transnet system, it appeared to me that the persons associated with the shipment may have had contacts in Transnet who were monitoring the consignment and activated this limited access within Transnet. The effect of this was that other persons attempting to access the relevant information would be blocked or prevented from doing so.”

10 **MR MOSIKILI:** Mr Nku, just there, can you just, in your own words, try to explain what you mean, then, what you expected from Mr Khuzwayo? Just, in your own words, summarise what you wanted him to do within the Transnet
20 system.

MR NKU: What I would have wanted, or what would have been simpler for me, would be a live tracking of the truck. So, to know that the truck's whereabouts because there are allowables within the system to be able to achieve that. So, what I had expected is to be given the exact whereabouts,

live tracking of the truck.

MR MOSIKILI: And is it correct to understand you, then, that you would have ultimately wanted to follow that live tracking of the truck to Gauteng?

MR NKU: It would have been simpler to operationalize. I think I deal with that aspect in my statement, to say that, for instance, it would have been simpler to do a tip-off relating to a weigh bridge or have an operation planned, even if it is in Gauteng, but at least you would have
10 knowledge of exactly where the truck is prior.

ADV MOSIKILI: In those paragraphs ...[intervenes]

CHAIRPERSON: Sorry, sorry. You say the system makes it possible to track the trucks' travel. Is that what you are saying?

MR NKU: Indeed, Chair.

CHAIRPERSON: What system is it? It cannot be the Transnet system, or is it?

MR NKU: Because remember, they use handheld devices also. The truckers that go here and that handheld device is
20 attached to their system.

CHAIRPERSON: I am just thinking if I... Instead of hiring Yellow Jersey, if I had my own huge articulated truck and I fetched my stuff there personally, my own consignment, why would Transnet still be interested? Why would Transnet still want to track the container once I, the owner of the

consignment, have taken my consignment?

MR NKU: Mmm... Chair, usually when collections are made, they are made by, I would say, affiliated logistics companies, companies which are – they form part of the service provider model within Transnet. So they are in the database. They then become part of their active directory. So even if you were an individual trucker, you would have to be registered ...[intervenes]

CHAIRPERSON: No, no, I am not just a trucker. I happen
10 to own trucks for whatever reason, or I own this one truck, and then I decide to fetch my own consignment from Transnet, or are you saying they would not give it to me? They would only give it to the contractors that you are referring to?

MR NKU: Registered contractors, because not everyone can do collections.

CHAIRPERSON: Oh, they must be.

MR NKU: Yes.

CHAIRPERSON: So I cannot say that is mine, and here's
20 proof that I am the consignee.

MR NKU: No, Chair.

CHAIRPERSON: They would not give it to me?

MR NKU: No, Chair.

CHAIRPERSON: All right, okay, okay, it is unnecessary detail anyway, but I just wanted to know why Transnet's

system would be able to track that truck. All right, let us leave it.

MR MOSIKILI: Thank you. I wanted to ask you, just to summarise the kind of difficulty you say Mr Khuzwayo encountered in trying to assist you in giving you access to this life-tracking system.

MR NKU: So usually employees who have got access to various IT systems within Transnet, they would then have access to other various platforms, including the ability to
10 track and whatnot. And someone who has access would generally be able to access any container information as and when they would need. But in instances where there would be interests around specific containers, high-ranking officials within the company would block access or would have IT administrators, people they work close with, to limit or block access.

So it would be as if it is a dedicated case. So I would say a soft block of some sort, as if that container is flagged, the file only to be opened by a case manager in
20 that regard. So the difficulty that he incurred was gaining access to the file itself pertaining to the container in question.

MR MOSIKILI: All right, let us continue to paragraph 18.

MR NKU: paragraph 18.

“Despite the initial difficulty, Mr Khuzwayo

continued his attempts to retrieve the tracking information. He eventually succeeded later on the 8th. After obtaining the information, he sent me two screenshots containing the tracking details. Those screenshots are attached to this statement as marked TN1.”

MR MOSIKILI: Can we stop there? Let us look at TN1. That would be on page 9 of what you have in front of you.

10 **MR NKU:** Page 9?

ADV MOSIKILI: Page 9, yes.

CHAIRPERSON: The statement you are reading from, is that the same file? The same file we are reading from. You will see the TNs. There is TN1, TN2, TN3.

MR NKU: Okay, thank you.

MR MOSIKILI: Are you there, Mr Nku?

MR NKU: I am there.

ADV MOSIKILI: Can you see the picture on page 9?

MR NKU: Indeed, I see, Chair.

20 **ADV MOSIKILI:** Yes, what is that?

MR NKU: That would be a screenshot of a system.

ADV BALOYI SC: Is this what Mr Khuzwayo sent you?

MR NKU: Yes, I believe this was the SAP tracking details.

ADV BALOYI SC: Thank you.

CHAIRPERSON: Is this a screenshot of a computer slash

laptop, or not?

MR MOSIKILI: I would say a laptop.

CHAIRPERSON: Laptop, all right.

ADV MOSIKILI: And you will see there at the bottom left, it would have a logo that says Transnet, so we can then safely assume that it is a screenshot of a Transnet system with that logo. Is that correct?

MR NKU: Indeed.

ADV MOSIKILI: Yes.

10 **ADV BALOYI SC**: For Mr Khuzwayo to be able to give you this screenshot and what is on page 10, what information would you have given him? What did you say to him so that he knows what you are looking for?

MR NKU: So for... initially, I said that we are looking for a specific container. So relative to this, because I think there were 11 containers that were supposed to be received by this company. So I think, if I am not mistaken, it should be on the Telegram, I had the last three numbers or four numbers. I stand to be correct, Chair, it is just that I do not
20 remember correctly, of the container in question. For him to just go through, it is easy to go through the 11 and then just pull the details of the specific one with the last digits pertaining to that.

ADV BALOYI SC: So you would have had to tell him where it originates from, the vessel, the ship, where it comes from,

I am just checking. Where the ship comes from, what the ship is. That is what I am asking. What information, because this is very specific. It gives you a unit number, information that has a unit number, the pier number, and then that it is outbound per truck, and then a position as well, and time in, time out. So I just want to find out, how do you prompt him to know what he is looking for?

MR NKU: So it is simple in this manner, Commissioner Baloyi. First, the usage of the vendor itself, like the
10 company, because remember, generally a company would not be receiving 10 different containers from different locations. So within that company, there would be a specific amount of containers expected, and then the numbers identifying the specific containers. Then he would then pull all the other information. Not necessarily with a vessel, but it is vendor-specific.

ADV BALOYI SC: So in this case, the vendor is who? Is it Scania or Yellow Jersey?

MR NKU: The vendor is Scania.

20 **ADV BALOYI SC:** So you would have said Scania on this day, they are expecting containers.

MR NKU: Indeed, Chair.

ADV BALOYI SC: Okay. So at that point, you know that it is Scania, the intended recipient of those containers is Scania.

MR NKU: Indeed.

ADV BALOYI SC: You have a date.

MR NKU: Indeed.

ADV BALOYI SC: And then what? Do you give him all 11 numbers, all numbers of the 11 containers, or do you give one specific? It may not be complete. From what I am understanding, you think it was the last three or four numbers. Did you give him the specific – you must have given him a specific container number, was it just the one
10 container that you gave him?

MR NKU: Yes, I gave him a specific number of the container.

ADV BALOYI SC: Okay. And you say it was the last three or four numbers that you had at that point.

MR NKU: I stand to be corrected.

ADV BALOYI SC: Okay, thank you.

MR MOSIKILI: Thank you. Mr Nku, on page 10, you also confirm that that is also part of the message that you received from Mr Khuzwayo.

20 **MR NKU:** Indeed.

ADV MOSIKILI: And you will see that at the top, it says Track and Trace, and it gives a unit number, and that is the number of the container and then you will see that it says facility, you will mention Pier 1, and mention inbound mode declared, it is a vessel and then the outbound mode

declared, it is a track and then later on, it sees that the position of the track, given the registration, do you see that?

MR NKU: Indeed.

MR MOSIKILI: And then you will see that it will give time in, time out, and all the stops of the vessels. And Mr Nku, you agree that this is the same truck that eventually was, at least arrived at Yellow Jersey.

MR NKU: Indeed it is.

10 **MR MOSIKILI:** Yes. Chair, we can just confirm that if we can go to page 21 of C, so it is EXHIBIT 273, Chair. It is what we call the presentation, Chair. So it is the presentation.

ADV BALOYI SC: Page?

ADV MOSIKILI: Page 21, 2-1.

ADV KHUMALO SC: I think you have to flight it, because Mr Nku does not have this file.

MR MOSIKILI: Can you please flight the page 21 of CJC273?

20 **ADV KHUMALO SC:** Mr Nku.

MR NKU: Okay.

MR MOSIKILI: Can you see that, Mr Nku?

MR NKU: I can see it, Chair.

ADV MOSIKILI: Yes. Can you go to the next page, that is page 21? That is the one. You will see there when you

look at, on the container, on the top right of the container, you will see there, there is what we call the unit number, and you will see the alphabets there to confirm that it is the same truck. If you look at the information on page 10 of your statement to confirm that it is the same truck, the BEAU4715442, you can confirm that corresponds with what is written on the container there. Can you try and zoom in to confirm the number, that it relates to the same container that is mentioned in your statement? Can you confirm that?

10 **MR NKU**: Yes, I can confirm, Chair.

ADV MOSIKILI: Thank you. All right, let us go back to your statement, Mr Nku.

MR NKU: Okay.

ADV MOSIKILI: So you just, we just dealt with, perhaps the last question would be then, Mr Khuzwayo would have done all of this for you, and then in exchange, what did you do for him? Or what was the plan in exchange for that information?

MR NKU: Okay, that was dealt with, so I think I deal with it
20 in the statement, Chair.

MR MOSIKILI: Tell us now so that we can follow. We will revisit it later, but if you have an answer now, say it without reading it. Then when we read to it, we will say we have dealt with it.

MR NKU: Part of the money that I was carrying was meant

to reimburse Mr Khuzwayo for giving access to the tracking information.

MR MOSIKILI: At least we know that you had at least the following day 60,000 on you.

MR NKU: Indeed.

ADV MOSIKILI: Of that amount, how much was meant to be paid to Mr Khuzwayo?

MR NKU: I think that ...[intervenes]

CHAIRPERSON: Sorry, sorry. At which paragraph are we
10 now?

ADV MOSIKILI: We are wrapping up. We are still on paragraph 18 on page 4, Chair, of his statement.

CHAIRPERSON: Just a minute. I closed when I went to TN1. All right, all right.

ADV MOSIKILI: Yes, so the question that was put to Mr Nku, Chair, was that Mr Khuzwayo would have done all of this for you, and in exchange, what is it that you are going to do for him because he provided this information for you?

CHAIRPERSON: Do you not want to deal with it when we
20 get to it on the statement? Because I think it is somewhere here. Yes.

MR MOSIKILI: The 60,000?

CHAIRPERSON: At the very last paragraph.

ADV MOSIKILI: At the very last end?

CHAIRPERSON: The very last paragraph, yes.

ADV MOSIKILI: Yes. Let us go to paragraph 19, Mr Nku.

MR NKU:

“I was thereafter provided with a contact person who could assist in confirming the movement of the truck. The contact person was Ms Sandra Hedendracht of Yellow Jersey. Ms Hedendracht confirmed that the truck was in fact on the move and provided information regarding the truck’s whereabouts after departure from Durban port. My call records with Ms Hedendracht are attached as TN2.”

10

MR MOSIKILI: Mr Nku, before we go to TN2, when you say, I was thereafter provided with a contact person, you should say person. Is it correct to say persons?

MR NKU: No, it is contact person.

MR MOSIKILI: Person.

MR NKU: Contact person.

ADV MOSIKILI: Can you correct that then as well? And then, who provided you with the details of that contact person?

20

MR NKU: I was provided by Mr Khuzwayo, I think.

MR MOSIKILI: All right. Thank you, Chair, we will come back to TN2, which are the other call records to Ms Hedendracht. Then let us go to paragraph 20.

MR NKU: Okay. paragraph 20.

“At around 19.30, I received confirmation of the whereabouts of the shipment and I made my way back to Johannesburg to locate the truck. At 8 p.m., Ms Sandra sent me the coordinates of the truck, the Yellow Jersey Depot. I sent this information to Mr Mashaba at around 23.00 to 12.00 on 8th July 2021 and told him we should meet there at 6.30. Telegram messages attached as TN3.”

10

MR MOSIKILI: All right. I had said to you, let us deal with, because you referred to TN3, let us go to TN2 first, which is the telephone records. Okay. Those appear at page 11 of your statement. That will be the annexures to your statement. Do you see that?

MR NKU: Indeed, I see that, Commissioners.

ADV MOSIKILI: Yes. Now, there is a number there. I will not mention the number. The 06 number. Can you confirm that is your number? Or whose number is that?

20

MR NKU: The 066?

ADV MOSIKILI: Yes, on the very far left.

MR NKU: I do confirm, Chair, I do confirm.

ADV MOSIKILI: Sorry?

MR NKU: I do confirm.

ADV MOSIKILI: That that is your number?

MR NKU: Yes. The 066?

ADV MOSIKILI: Yes, so do not read out the whole number.

MR NKU: Okay. I do confirm.

MR MOSIKILI: And then if you go on, you will see that on the other party. So if you go on towards the right, you will see there is another block that says other party. There is a 082 number. Do you see that?

MR NKU: Indeed, I see, Chair.

10 **ADV MOSIKILI:** And is that Sandra's number?

MR NKU: I do not know it by head, but I would assume it is.

MR MOSIKILI: Yes. Can you also confirm on the same row, you see there is a date there, it says 8 July 2021. Do you see that?

MR NKU: Indeed, I see, Chair.

ADV MOSIKILI: Yes, it says start time.

MR NKU: Indeed, I see.

20 **ADV MOSIKILI:** Yes. And then the time is 17.16 and then it says, you will see that where it says call type MOC. That will be an outgoing call. Do you see that?

MR NKU: Indeed, I see, Chair.

ADV MOSIKILI: Yes. Then it will seem that at least at 17.16.54, you made a call to Sandra and the call was for or the duration of the call was for 58 seconds, if I can read

correctly. Do you see that?

MR NKU: Indeed, I see, Chair.

ADV MOSIKILI: Yes. Can you recall what information you were discussing?

MR NKU: In all honesty, Chair, I cannot recall by head, but the gist of it was expectation to say that, because I think roundabout that time, the truck had not arrived, but yet it was not far off. It was already in the Gauteng area. And amongst other things that was discussed was the fact
10 that when – I think that is why I stated on my previous statement that the truck travelled in record time.

So usually when a truck would leave the port site to this site without even considering a truck stop, then guaranteed there would be expected people within the depot to collect. So the reason why I maintained to Chief Mashaba that we need to be there by 6.30, was a high possibility of obviously the owners coming through.

MR MOSIKILI: So would it be a fair summary to say that at least on page 11 we have a recording of three calls that you
20 made to Sandra? You will see that the last one you called a landline.

MR NKU: Indeed.

MR MOSIKILI: And the nub of it was that she was sharing information about the location of the truck as it was coming towards Yellow Jersey. Is that a fair summary of that?

MR NKU: Indeed, it is a fair summary.

ADV MOSIKILI: Okay, thank you. And then if we go to the very next page, that is where we refer to what you call the Telegram messages between you and Chief Mashaba. Do you see the number there on top? Can you identify that? Let us not even look at the number there, the handle, Illusion, can you identify that?

MR NKU: Indeed, ja, that is me.

ADV MOSIKILI: That is you. Then can you tell us what is
10 happening on that page?

MR NKU: So I shared the coordinates to Yellow Jersey Logistics with Chief Mashaba and at this time it was, I think it was around about 12 a.m., as I was still on my way back.

MR MOSIKILI: Yes, my understanding is that at least the Commission has also come to accept that at least on Telegram you need to add two hours to the time reflected there. So the timestamp would say 2021-07-08, 22.25. So we should add two hours to that time.

MR NKU: Around about half 12.

20 **ADV MOSIKILI:** That would accord to that, yes.

MR NKU: Indeed, Chair.

ADV MOSIKILI: And the crux of it is that you share the coordinates ...[intervenes]

CHAIRPERSON: Sorry, sorry, Mr Mosikili. Is it about what was being used like Telegram or is it more about the

bracketed time? Is it not more about the bracketed time, which is what determines whether we add or subtract or keep the time as is?

ADV MOSIKILI: [No answer]

CHAIRPERSON: Do you get what I mean?

ADV MOSIKILI: Yes, Chair. The way I understand it is the bracketed time because it says TC.

CHAIRPERSON: Yes.

ADV MOSIKILI: Yes, Chair.

10 **CHAIRPERSON**: Yes, all right, thank you.

ADV MOSIKILI: And Mr Nku seems to be okay with the time adjustment.

CHAIRPERSON: And if it is UTC then we add two hours.

ADV MOSIKILI: Yes.

CHAIRPERSON: Thank you.

ADV MOSIKILI: Mr Nku, you follow that?

MR NKU: Indeed, Chair, because I see it is using the universal time zone. However, you add two hours, it should...

20 **MR MOSIKILI**: So it is correct to say that at least what is happening on that page is that you text or you forward a message to Chief Mashaba, sending him at least what appears to be the location or the coordinates to the Yellow Jersey in Roodepoort, and then you send a message that follows to say we need to go there, and lastly you mention

the time where it says before 6.30.

MR NKU: Indeed.

ADV MOSIKILI: Is that correct?

MR NKU: Indeed, Chair.

MR MOSIKILI: Yes. Is there a reason why it had to be done so early in the morning to be there the following day?

MR NKU: Well, hence I think I heard already stated, Advocate Mosikili, that this would be, it was upon the advice that I got on the call that I made that it might be that
10 when you do the bust after 6.30, the owners would have been there before you. So try to be there earlier, before 6.30.

ADV MOSIKILI: All right. Thank you, Mr Nku. Can we then go to ...[intervenes]

ADV BALOYI SC: Before you do that, who would have said that to you? Is it Sandra?

MR NKU: Indeed, Chair.

ADV BALOYI SC: Thank you.

MR MOSIKILI: All right. Let us move then to paragraph 21
20 because you have dealt with 20 in terms of TN3, where is starts 'at that stage'.

MR NKU: At that stage – apologies.

“At that stage I expected Chief Mashaba, given the position within the DPCI, to arrange for the involvement of the

appropriate law enforcement agencies and personnel to deal with the matter in a lawful and operationally proper manner. My initial expectation was once the movement of the truck has been confirmed, the truck could be tracked and intercepted at an appropriate location, including possibly at one of the weigh bridges along its route.

10 However, because the tracking information was not obtained in sufficient time to permit an interception while the truck was still en route, I formed the view that the operation would instead have to be planned and carried out at the Yellow Jersey depot, where the truck was understood to be located.”

MR MOSIKILI: So, Mr Nku, just to understand you, you are saying that had you received the information regarding the
20 live tracking of the truck, then the initial plan was to engage Chief Mashaba to at least intercept the truck before it reaches Yellow Jersey?

MR NKU: At the weigh bridge.

MR MOSIKILI: Yes, at one of the weigh bridges.

MR NKU: Yes, at one of the weigh bridges. And he would

obviously by that time have his team ready.

MR MOSIKILI: All right. Please proceed then to paragraph 22 on page 5.

MR NKU:

10 “On the morning of the 9th 2021, I met with Chief Mashaba, we proceeded to Yellow Jersey. I was surprised to observe that Chief Mashaba had arrived alone and was not accompanied by any visible team of law enforcement officials or operational support. I raised this concern as I had expected that he should have engaged for the necessary law enforcement presence before any steps were taken at the depot. Chief Mashaba informed me that I should not be concerned and assured me that support was on its way. He then made a number of telephone calls and thereafter repeated his assurance to me that the

20 required support was coming. At around 7 a.m., a gentleman in a black NP300 Nissan, which I learned later on to be Warrant Officer Mogana, arrived in the scene. I briefed him about the truck and any information I had.”

24.

“Chief Mashaba and Warrant Officer Mogana went inside the premises of Yellow Jersey to follow up on the information I provided. Within a few minutes, the two came back and Mashaba told me to follow them. I assumed that the destination included that of the truck was Alberton police station, as agreed. However, I was surprised when Chief Mashaba and the truck took a route towards the south of Johannesburg.

10

I then called Chief Mashaba to enquire about the direction and the destination as we were now going the opposite of Alberton. However, he responded by saying I should not worry and just follow.”

25.

“Upon arrival at Aeroton Scania, I parked next to Chief Mashaba's car and Mashaba told me to stay in the vehicle. I waited inside my vehicle as instructed, I observed Chief Mashaba and Warrant Officer Mogana leave their cars to speak to the people responsible at Scania truck,

20

including a lady later know...”

Let me just...

ADV MOSIKILI: It should be known.

ADV MOSIKILI: Yes, known.

ADV MOSIKILI: Yes.

MR NKU:

“...later known to me as Jolene. I later on
witnessed Mashaba...”

I think it should be Mashaba, not Mashana.

10 “...Mashaba and Warrant Officer Mogana,
Jolene walk from the offices and to the
truck, which I had identified. A few
minutes later, they seemed to have agreed
to open the container. As soon as they
opened the container, I witnessed black
duffel bags falling off the container. These
bags matched the pictures of the black
duffel bags that were sent to me previously
containing alleged drugs by Iby.

20 My information was that such bags would
contain 805 blocks of drugs.”

MR MOSIKILI: Before you go to the next page, I just want
to speak of those duffel bags. Can we go to CJC274, that
is the bundle with chats and screenshots, and go to page 50
of that, Chair. Mr Nku, can you see the picture there?

CHAIRPERSON: I think it is another picture of the bags. They were showing at the bottom. Is that what you are looking for?

ADV MOSIKILI: Thank you, Chair.

CHAIRPERSON: Yes.

ADV MOSIKILI: Mr Nku, can you see those bags?

MR NKU: I can see, Chair.

ADV MOSIKILI: And then inside of there, what seems to be a container, when you look on top there, there seems to
10 be a fibre-looking, some roofing or something, or some sort.

MR NKU: I can see, Chair.

ADV MOSIKILI: Yes. Is this the picture that you received from lby of what you should expect?

MR NKU: Yes, that these bags would be looking like that.

ADV MOSIKILI: Okay. No, I am saying, not looking, but I am saying this is the picture, except that that is the picture of what you would have received, to say this is what the bags would look like.

MR NKU: Yes, I was saying, Advocate Mosikili, that this is
20 a picture demonstrating what the bags would look like.

ADV MOSIKILI: Yes.

MR NKU: I do not know if that makes sense.

MR MOSIKILI: Yes, it makes sense.

CHAIRPERSON: Sorry, it is a picture you received from lby.

MR NKU: Indeed, Chair.

CHAIRPERSON: All right.

MR MOSIKILI: Thank you. Let us move on then.

ADV KHUMALO SC: Before you do that, while you are on that page, just have a look at the graphics above the photograph, just to confirm that on the 6th of July 2021, you received this text with these photos from Iby. That is what that graphic seems to reflect.

MR NKU: I see, Commissioner.

10 **ADV KHUMALO SC:** Yes, thank you.

MR MOSIKILI: And perhaps maybe to round off that paragraph, you indicate that you were informed that the bricks would be, or the blocks would be 805. Do you still confirm that number?

MR NKU: Yes, I confirm that.

ADV MOSIKILI: Okay. All right, let us move to the next page, Mr Nku. That is page 6, paragraph 26.

MR NKU: Paragraph 26.

20 “I was then satisfied that the job was being well executed. At this point, I expected Chief Mashaba and his colleague to take the black bags to the Alberton police station. However, soon thereafter, a marked police van arrived on the scene. I witnessed Chief Mashaba and Warrant

Officer Mogana engaged with the two police when he had just arrived. My initial assumption was that the marked police van was there to escort Chief Mashaba and the consignment to Alberton police station, as initially agreed.

However, more policemen arrived, including the Flying Squad. But even then, according to me, the plan was still intact. I say so because my expectation was that the drugs were going to be lawfully busted and confiscated by the police. Even if exhibits were not all booked, my ultimate aim was to sabotage and ensure that the drugs do not reach the rightful owner. The logic behind this was that if the consignment was sabotaged, it would benefit as he was the competitor to that consignment. “

10
20 **ADV MOSIKILI:** Chair, you would have noticed that the witness edited some of the, at least sentences, you will see that Mr Nku, do you see that we scratched the words, Chair, I do not want to read them into the record, but you will know when you look at the transcript, that certain words, he had indicated that he wants to remove.

CHAIRPERSON: Please read, there is no problem with the first sentence up to 'by the police'.

ADV MOSIKILI: Yes.

CHAIRPERSON: I say so because right up to 'by the police', no issue there.

MR MOSIKILI: I suppose the original word was either. And then we should have known then what is the or that would follow that.

CHAIRPERSON: Yes, okay. So it is deliberate no longer
10 to have the either. Was that deliberate? That is, you are not reading the either there?

MR NKU: Apologies, Chair?

CHAIRPERSON: You did not read the either or either?

MR NKU: No, it was deliberate, Chair. I did not read the either as I had already marked this along with Advocate Ncube.

CHAIRPERSON: Okay. Anything else, sir, Mr Mosikili?

ADV MOSIKILI: No, that is all, Chair. Perhaps Mr Nku, just in a few words, just then summarise the essence of that
20 paragraph with this edit. What are you trying to say there?

MR NKU: Commissioners, my mandate was that this consignment does not reach its rightful owner. That is what Chief Mashaba would have done as long as he makes the bust. I would have remained neutral.

ADV MOSIKILI: All right, let us continue at paragraph 28.

MR NKU: Okay. Paragraph?

ADV MOSIKILI: 28.

MR NKU: 28.

“As more police arrived, in particular
Warrant Officer Rikhotso, I noticed there
was tension between ...[intervenes]”

ADV BALOYI SC: Sorry, Mr Nku, can I disturb you?

MR NKU: Apologies.

ADV BALOYI SC: Mr Mosikili, can we just be clear? What
10 is it in paragraph 27 that we should read out? Is it just the
word either?

ADV MOSIKILI: Either would have then been followed by
another option that he ought to have provided. So ‘either’
would be removed, and then there is no expectation of or,
which would have then had to give what that or would have
been in this instance.

ADV BALOYI SC: And the rest of the paragraph remains
the same?

ADV MOSIKILI: The rest of the paragraphs remain the
20 same.

ADV BALOYI SC: Okay. Mr Nku, you confirm? Ja, Mr Nku
has got his hand up, Chair. You want to clarify?

MR NKU: Chair, I think maybe on the version that you
have, say, ‘after and confiscated by the police’. So we then
replaced from even up until difficulty, any difficulty, down

there, those were jotted out. And then we replaced after confiscated by police, 'even if some exhibits were not booked'.

CHAIRPERSON: Sorry, just read it the way it should be then. Ja.

MR NKU: Chair, so maybe from the beginning.

CHAIRPERSON: Yes.

MR NKU:

10 "I say so because my expectation was that
the drugs were going to be lawfully busted
and confiscated by the police, even if some
exhibits were not booked."

That is the end of the sentence there and then I continue from 'my ultimate aim'.

CHAIRPERSON: And after even if some exhibits were not booked, you continue from?

MR NKU: 'My ultimate'.

CHAIRPERSON: And that is all one sentence?

MR NKU: No, it is full stop after 'are not booked'.

20 **CHAIRPERSON:** Okay.

MR NKU: Then we start a sentence from 'my ultimate'.

CHAIRPERSON: All right.

MR NKU: So we just remove the sentences in between.

CHAIRPERSON: Okay.

ADV MOSIKILI: Up until where it says 'I did not have any

difficulty', do we delete that?

MR NKU: No, that we delete.

ADV MOSIKILI: Okay.

MR NKU: We delete.

CHAIRPERSON: Okay.

MR NKU: Oh sorry, Advocate Mosikili, I think we made a mistake.

ADV BALOYI SC: Not read even, I say this because that would make sense.

10 **MR NKU**: Indeed.

ADV BALOYI SC:

“Even if some exhibits were not booked, I
did not have any difficulty...”

MR NKU: Indeed.

ADV BALOYI SC: And then you carry on from there.

MR NKU: And then carry on.

ADV BALOYI SC: From ‘my ultimate’.

ADV MOSIKILI: Are you happy with that reformulation?

20 **ADV BALOYI SC**: I am asking if that is the intent of the sentence.

MR NKU: I am happy with it, Commissioner Baloyi.

ADV BALOYI SC: Thank you.

CHAIRPERSON: So you no longer want this to refer to police taking some of the contraband for their own benefit? You no longer want that?

MR NKU: So I think the phrasing of the sentence is...
Apologies, Chair. I am saying at that time the phrasing of
the sentence is, because we had limited time to do the
statement, so...

CHAIRPERSON: That was not intended?

MR NKU: No, that was not intended. The phrasing of the
sentence more not having difficulty.

CHAIRPERSON: But if they chose not to book some of the
exhibits, would that not be because they would have taken
10 them?

MR NKU: No, it would have been, Chair.

CHAIRPERSON: And for whose benefit? Would they have
taken them, for whose benefit would they have taken them?

MR NKU: Hence I maintained that I would remain neutral,
Chair. I was...

CHAIRPERSON: Okay. I am just trying to understand why
you would not want that to be there. All right, anyway, let
us continue.

MR NKU: Thank you, Chair.

20 **ADV MOSIKILI:** All right. Let us continue to paragraph 28,
Mr Nku.

MR NKU:

“As more police arrived, in particular
Warrant Officer Rikhotso, I noticed that
there was tension between different SAPS

members. I was then later approached by Warrant Officer Mogoboya, who asked me what was my involvement, to which I told him that I was the source and then told me that General Khan was on his way.”

Paragraph 29.

“I became apprehensive on the situation. I then called Dr Precious Mabuza, who is the daughter of the late Deputy President Mabuza. I told her that ...[intervenes]”

CHAIRPERSON: Your voice is fading.

MR NKU: Apologies, Chair. Okay.

“...who is the daughter of Deputy President Mabuza. I told her that I gave information to SAPS about a drug bust, but the situation was making me feel uncomfortable. She promised me that she will inform Lieutenant General Mbotho from Provincial Head of Hawks, DPCI North West. However, my phone was shortly taken away and I did not receive that call. I was later informed by Dr Mabuza that General Mbotho tried to call me multiple times on the day, by the time my phone had been seized.”

ADV BALOYI SC: Can I just check? Only because we have this discussion with Chief Mashaba. The DD Mabuza that you refer to here, is the now deceased Deputy President?

MR NKU: Indeed, Chair.

ADV BALOYI SC: Okay, thank you.

MR NKU: Indeed, Commissioner.

ADV BALOYI SC: Thank you.

MR NKU: Okay. This paragraph 30, so the title, the title
10 should be:

“My view with Chief Mashaba”

Instead of ...[intervenes]

CHAIRPERSON: No, sorry, instead of my ‘understanding with Chief Mashaba’, it should be what?

MR NKU: My View.

CHAIRPERSON: My view.

MR NKU: View.

CHAIRPERSON: With Chief Mashaba.

MR NKU: Indeed, Chair.

20 **CHAIRPERSON:** What does that mean?

MR NKU: Apologies, Chair?

CHAIRPERSON: What does that mean, ‘my view with Chief Mashaba’?

MR NKU: So it... my opinion, as opposed to having an arrangement.

CHAIRPERSON: Your view of him?

MR NKU: Yes.

CHAIRPERSON: Or your view with him? Your view of him?

MR NKU: My view of him. Apologies, Chair.

CHAIRPERSON: Okay.

MR NKU: My view of him.

ADV MOSIKILI: And then, when you started paragraph 30, it says ‘my understanding’. Should we keep that or should
10 we also change it?

MR NKU: It is my view.

ADV MOSIKILI: It is still your view?

MR NKU: My view.

ADV MOSIKILI: Okay. Of.

MR NKU: My view of.

ADV MOSIKILI: All right, continue.

MR NKU: Okay, I will read and skip a certain part there which we jotted out with Advocate Segeel [?].

20 “My view of Chief Mashaba was that he could take a portion of consignment and simultaneously claim victory for the bust. Whichever way, I was neutral, my mission would have been achieved, preventing the consignment from reaching its competitor. This view is informed by previous incidents

and experiences I have observed regarding
Chief Mashaba.”

CHAIRPERSON: Do you have something amended there
now? Because it does not accord with what we have here.

MR NKU: Indeed, Chair. Apologies for that.

CHAIRPERSON: Please articulate it the way you have.
Start from the beginning of the sentence.

MR NKU: So, I would start there by saying:

10 “I was neutral as my mission would have
been achieved, preventing the consignment
from reaching its competitor.”

So, there it is replaced by:

“This view is informed by previous
incidents and experiences I have observed
regarding Chief Mashaba.”

So, and then this would explain, then we start from there as
a new sentence.

20 “This would explain why he initially did not
bring his own law enforcement team to do a
full blown drug bust from the beginning.”

CHAIRPERSON: Sorry, Mr Mosikili, was there any
indication that we would be getting an amended statement
or not?

ADV MOSIKILI: Chair, we did this amendments in the
morning. We will have to do a proper one, Chair, and

resubmit it.

CHAIRPERSON: Yes.

ADV MOSIKILI: Because there is too many of them now coming through.

CHAIRPERSON: Yes, all right, all right.

ADV MOSIKILI: Yes.

CHAIRPERSON: Please continue. Thank you, Mr Mosikili. Please continue the heading, the BMW, paragraph 31.

MR NKU: Okay. I further, paragraph 31:

10 “I further confirm that the silver grey BMW
7 series which I was driving at the scene,
which did not have registration plate, only
had a permit, was not registered in my
name. The vehicle was registered under
the name of one Mohammed Baba. My
agreement was that Iby would purchase the
vehicle on my behalf and I would pay in
instalments until final payment. Iby
purchased the vehicle on my behalf
20 through the involvement of Baba.”

CHAIRPERSON: Can you please explain that? What does that mean? Through the involvement of Baba. What exactly was Mohammed Baba's involvement?

MR NKU: No, so, in fact, I think maybe I did not clarify on the sentence, on the paragraph. The arrangement was with

Baba, initially he was to purchase the car for me. But then because he did not, he is a dealer-stalker, so he did not have the funds, we then agreed that we would approach lby to make the purchase and then I would either pay Baba, because Baba said if he is okay with funds, he would then pay lby, but I would pay him. But if he has not come, okay with funds, I would then pay lby in instalments for the purchase of that car.

ADV BALOYI SC: I do not understand, maybe repeat it.

10 **MR NKU:** Okay, so the arrangement was initially that Baba buys the car.

ADV BALOYI SC: So Baba buys it from somebody else.

MR NKU: Buys it, because he is a dealer-stalker, the cars are cheaper for them, if you buy from an ...[intervenes]

ADV BALOYI SC: But what does it mean he is a dealer-stalker, sorry?

MR NKU: So, let us say he is a dealership.

ADV BALOYI SC: Okay.

20 **MR NKU:** He is a dealership. So, if he buys a car at, say, BMW, he would buy it at a much cheaper price than an ordinary person would buy it. That is why, if one looks at the book value of the car at the time, the book value was way higher than the purchase price. The purchase price became much, much cheaper than the actual book value of the car. So, in that manner, you reserve the value of the

car.

And he was to buy, and obviously through the fact that he needs to make profit from that, I still needed to pay him for his part of the profit. But over and above that, pay the instalments. But at the time, because he did not have the funds, we then approached Iby to make the payment for the car and then would reinvest him on instalment basis. But my agreement with Baba was that if he comes okay, he would pay Iby, and then I will continue, because I often
 10 refer other clients to him for vehicle purchases.

ADV KHUMALO SC: So, someone you knew for five months, six months, I am talking about Mr Iby, was willing to buy a million-rand car for you, just like that?

MR NKU: Indeed, I can show you the reason, Commissioner Khumalo.

ADV KHUMALO SC: Do not give me the reason. You can just say yes. If that is what he was willing to do, then the answer is yes.

MR NKU: It is not that simple. That is why I am trying to...
 20 If I may, I am pleading to qualify it.

ADV KHUMALO SC: I will give you the chance to give the explanation some other time. Because if you are going to give the explanation, I am happy to withdraw my question and keep it for later.

MR NKU: Okay, I understand, Commissioner Khumalo. At

the time, yes.

ADV BALOYI SC: When this vehicle is bought by Baba, is it a brand-new vehicle at that point? From, is it BMW, or wherever he sourced it from? Is it a brand-new vehicle?

MR NKU: It is a brand-new vehicle from what I understood, Commissioner Baloyi.

ADV BALOYI SC: Okay and from your, and I just want you to make sure that I understand this transaction. From your explanation, it sounds like, in fact, it is Baba who is buying
10 the vehicle on your behalf, not lby.

MR NKU: Not really, because from what I understood, the engagements ultimately then ended up being between the two of them. But because I would have been the person who is supposed to reimburse one of them, I was a benefactor of the transaction in a sense that the car ended up with me.

CHAIRPERSON: Not benefactor, beneficiary.

MR NKU: Sorry, the beneficiary, apologies.

CHAIRPERSON: Huge difference.

20 **MR NKU:** Apologies, Chair, beneficiary. I was the ultimate beneficiary. However, the dynamics of the payments were discussed between the two of them.

ADV BALOYI SC: So the payment arrangement was between the two of them, was discussed between the two of them.

MR NKU: Indeed, Chair, Commissioner.

ADV BALOYI SC: So the commitment was between Baba and Iby, not you and Baba or you and Iby.

MR NKU: Hence, I try to explain it in this way, Commissioner Baloyi, that the arrangement was initially between myself and Baba that, okay, purchase this and then I will sort you out and because ultimately, at times, I do refer clients to him and whatever I have to gain, you will just take it as part of your profit. So at the time, he was
10 overexposed with capital. So then we concluded to approach Iby to make the purchase on my behalf.

But then I still maintained with Baba that if you come okay, pay this man and then me and you will sort it out, because we have much longer history. I have known Baba for much longer than I have known him. But ultimately, but they obviously had a stronger relationship than I do.

ADV BALOYI SC: I guess what I am asking with my question is, the sale agreement for this motor vehicle was
20 between Baba and Iby.

MR NKU: Indeed.

ADV BALOYI SC: Not you and Baba and not you and Iby.

MR NKU: Not me and Iby, indeed.

ADV BALOYI SC: Thank you.

CHAIRPERSON: I have whispered to Commissioner

Khumalo and he is happy if I give you an opportunity to explain what he raised with you, which was you had known lby for a very short period and yet he was willing to purchase on your behalf a 7 Series BMW. Your answer to that was yes, but that is not that simple, you have an explanation. Did I understand you correctly?

MR NKU: Indeed, Chair.

CHAIRPERSON: Yes. Now give us the explanation, but please do not be long.

10 **MR NKU**: Apologies, Chair?

CHAIRPERSON: I am saying please give us the explanation, but please do not be long.

MR NKU: Okay. Thank you, Chair. So maybe my explanation will be encoupled with what I have just told Commissioner Baloyi, relating to how the ...[intervenes]

CHAIRPERSON: That is the how. That is the how. The issue here is more you have known this person for only this much. Why does he, why is he willing to purchase a 7 Series BMW on your behalf? That has nothing to do with Mr
20 Bana not having the cash himself and so on. No, Baba, I am very sorry, Mr Baba not having the cash himself and so on and so on. And the fact that should Mr Baba suddenly have the cash, he could or would possibly pay lby. That is besides the point. Point is, right at the beginning, why would lby be willing to do this when the two of you had

known each other for a very short time?

MR NKU: Chair, one of the reasons would have been as half, that is why I, the how parts were actually directed to the why part and that is because Mr Baba and Mr Iby had a much longer relationship than I do a I and Mr Baba had a much longer relationship as opposed to myself and Iby. So in that aspect... Mr Baba becomes a common trusted source or trusted party between the two of us in terms of vouching that okay, even if this man does not come good on his
10 promise, I will sort it out, because we have got a much longer history in terms of car sales between myself and Mr Baba.

CHAIRPERSON: Thank you. Then are we going to the last heading? The 60,000 rand, paragraph 32.

MR NKU:

“I further confirm that the R60,000 cash that I had with me was intended to pay people in Durban, in particular, Mr Zamu Khuzwayo, to provide me with Transnet
20 tracking information of the truck. However, as explained earlier on, Mr Khuzwayo could not get me the access to the tracking system. As a result, I did not pay him and the only information provided was still picture...”

I will say still pictures, apologies, Chair.

“...was still pictures of the Transnet screenshot with the truck details. The R60,000 was mine, but the understanding was that Iby will reinvest me in the part of that arrangement who were facilitated by Mr Mphastwe [?].”

CHAIRPERSON: You refer to people plural, who are the other people and what would you have paid them for?

10 **MR NKU:** I think also here, the people part, because the intended person was this specific person.

CHAIRPERSON: You have said it was intended to pay people in Durban, in particular Mr Zamu Khuzwayo. So it was not just him, it was people plural, but in particular him. So I am asking who the others were.

MR NKU: In terms of the tracking aspect of it, I would not have known if there would be a need for someone else's intervention. So he would be the main person and he would then guide me as to if there is a need for further facilitation,
20 because my objective was to gain access to the tracking details.

CHAIRPERSON: Thank you.

ADV KHUMALO SC: Just one more question from me. If based on your original understanding, Chief Mashaba was supposed to organise law enforcement and they were to

arrive at Yellow Jersey at 6.30 in the morning and law enforcement confiscated all these drugs, what was going to be the benefit for him to wake up at 5.00 in the morning to be there at 6.30 for something that SAPS or DPCI was going to take and claim credit?

MR NKU: If I may, Commissioner Khumalo, I think the Commissioners would have seen, literally in all my statements, and even in my call records, I have always maintained Chief Mashaba is DPCI. So that would be his
10 credit, according to where I was sitting, because he would have been part of the people to claim credit.

ADV KHUMALO SC: Was your plan to pay him cash?

MR NKU: No.

ADV KHUMALO SC: For assisting you with the bust?

MR NKU: Not at all. There would not have been any reason, because, hence I say, in my experience, in my past experiences, there have been instances I have given information and then things come short. So I would not have had any need to pay him. I stayed there, hence I
20 maintained that I was neutral. My number one objective was to make sure that there is a bust, it is a recorded bust. Hence, even in my previous statement, I maintained that I did not have any need to go to Yellow Jersey Logistics. As long as there is a bust, I was comfortable. Leaving Yellow Jersey Logistics, I was of the sense that we are going to

Albertyn, I would have been comfortable.

What they do in terms of... in terms of how they deal with exhibits, I would have not featured. The most, my objective would have been met. But there would not have been a need to pay Chief Mashaba. Hence I say because for me, him and his Hawks team, or his DPCI team, along with the Provincial Commissioner at the time, would have been the ones to conduct this operation, as he had assured me.

10 **ADV KHUMALO SC:** So what I am really getting at is this 60,000, part of it was not for him?

MR NKU: The 60,000 part, actually, I would have come back from Durban without it. I should have come back from Durban without it, under normal circumstances, because it was supposed to be spent there, not for me to come back with it.

ADV KHUMALO SC: All of it?

MR NKU: Sorry?

ADV KHUMALO SC: You were supposed to spend all of it?

20 **MR NKU:** I was supposed to spend all of it.

ADV MOSIKILI: Chair, that would be the end of, I suppose we will call it, a further supplementary statement by Mr Nku, Chair.

CHAIRPERSON: Thank you, Mr Mosikili. As I understand the position, Mr Nku, we are not done with your testimony.

Is it correct that there are still going to be further consultations and preparation of a statement that deals with other aspects, that is, the other material that we have not touched on as yet?

ADV MOSIKILI: Certainly, Chair, there is materials that we still need to put to Mr Nku, especially the WhatsApp chats that deals with his interactions with Mr Mashaba and their activities.

CHAIRPERSON: And whatever else.

10 **ADV MOSIKILI**: And whatever else that is left, Chair, that still needs to be conversed with Mr Nku, Chair.

CHAIRPERSON: Yes, yes. We assume that you are going to start working on that as from this afternoon, possibly the whole of tomorrow?

ADV MOSIKILI: Yes, Chair, we will use that time to finalise what we started on Friday, yes.

CHAIRPERSON: Then the idea should be to resume, depending on where you are with those preparations, resume on Wednesday?

20 **ADV MOSIKILI**: Yes, Chair, we will be indebted to that, Chair.

CHAIRPERSON: And then depending on how much ground is covered, we could be with Mr Nku Wednesday and Thursday?

ADV MOSIKILI: Yes, Chair, we will keep him informed,

Chair, but I think he must stand.

CHAIRPERSON: But whether or not we start on Wednesday will depend on the preparations or finalisation of the preparations.

ADV MOSIKILI: Yes, Chair.

CHAIRPERSON: If you are done, we will start on Wednesday. If you are not, we will start on Thursday.

ADV MOSIKILI: On Thursday, yes, Chair.

CHAIRPERSON: But, all right, all right. Mr Nku, the
10 hearing of your testimony will resume on Wednesday, this coming Wednesday, or on Thursday, but you must be here on Wednesday at 9.30. Understood?

MR NKU: Understood, Chair.

CHAIRPERSON: Yes. You are excused. Let us adjourn and resume at 2 p.m. Yes, let us adjourn.

INQUIRY ADJOURNS

INQUIRY RESUMES

CHAIRPERSON: Good afternoon, Ms Sello.

ADV SELLO SC: Good afternoon, Chair.

20 **CHAIRPERSON:** Good afternoon, Mr O'Sullivan.

ADV SELLO SC: Chair, we are ready to lead the testimony of Mr Paul O'Sullivan. Mr O'Sullivan would like to take the oath.

CHAIRPERSON: Mr O'Sullivan, please state your full name for the record. Please state your full name for the

record.

MR O'SULLIVAN: Paul O'Sullivan.

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

MR O'SULLIVAN: So help me God.

CHAIRPERSON: Thank you.

PAUL O'SULLIVAN: (duly sworn states)

EXAMINATION BY ADV SELLO SC: Thank you, Chair. Mr
10 O'Sullivan, you should have before you two files, a small file and a fairly biggish file. The first small file should read on the spine statement.

MR O'SULLIVAN: Correct.

ADV SELLO SC: So that is the one file containing a statement. And the second file contains the various annexures that you referenced in your statement.

MR O'SULLIVAN: That is correct.

ADV SELLO SC: If then we could turn our attention to the small file. The small file indicates that it contains the
20 statement of Mr Paul O'Sullivan. It is a 29-page document. If you could turn to page 1 up to 29, and it is signed and dated the 17th of June 2026. Do you confirm that is the statement you prepared for purposes of your testimony to the Commission today?

MR O'SULLIVAN: 100%.

ADV SELLO SC: And do you stand by the contents of this statement?

MR O'SULLIVAN: Absolutely.

ADV SELLO SC: Before we start, I think I should point out to you probably a process that you know we adopt at the Commission, which is for some time we allow the witness to speak freely to the contents of their statement before there is any meaningful engagement. And when the witness gets to the conclusion of that exercise, then we sort of go over
10 the statement again and reengage.

You and I this afternoon are under significant time pressures, and I would like you to confirm that we have agreed on a slightly different approach, which you believe does not prejudice you or in any manner would undermine your testimony, And which is instead of you speaking uninterrupted through your statement, that we shall do so per topic, because the topics that you traverse in the statement are independent and standalone topics.

And in the course of engaging on any single topic,
20 the Commissioners are welcome to engage with you, and you will take questions. But before that happens, you will be provided with an opportunity to summarise that particular topic and highlight those aspects that you believe are important, and thereafter then the engagement will begin. Does that accord with our discussion and agreement?

MR O'SULLIVAN: Yes, Commissioners, it was agreed that in order to try and truncate the evidence that I give, we should try and rattle through it as quickly as we can, topic by topic.

ADV SELLO SC: Thank you, Mr O'Sullivan. Commissioners, I trust that that would also find favour with the Commissioners, that approach.

CHAIRPERSON: Yes, yes.

ADV SELLO SC: Thank you, Chair. Turning then, Mr
10 O'Sullivan, to your statement, you open your statement by giving an introduction and your profile, which you have annexed as Annexure A. This speaks to your background, your qualifications and professional trajectory. Would you like to turn to that document, Annexure A, your profile?

MR O'SULLIVAN: It is the annexure?

ADV SELLO SC: Yes, it is your Annexure A, and highlight from that document such aspects that you think are particularly relevant to bring to the attention of the Commissioners. If I may, that would be at your page 1 of
20 the big file.

MR O'SULLIVAN: That is correct. Commissioners, I can just say briefly that if you have a look at page 2 thereof, you will see that my crime-fighting efforts go back some 40 or 50 years, in fact. In 1978, I received an award from Scotland Yard for preventing a crime in place and arresting

a suspect. Then there is a whole lot of other annexures. We do not need to go through them, which will demonstrate that for the last 36 years in South Africa, I have been involved as a good citizen, attempting to play my part.

My late father used to say, if a country is good enough to live in, it is good enough to fight for. I took that quite literally when I joined the police back in 1990, which is now 36 years ago. I gave of my time freely on a regular basis.

10 Most reservist police officials would put in between eight and 15 or eight and 20 hours a month. You are required to do eight. I regularly did 60 to 80 hours a month, not because I was bored, but because I had business activities which compensated me very well, and I just wanted to give something back to the community.

 During that first, shall we say, 10 or 12 or 14 years, I made a number of arrests as a police official. In fact, I was shot on duty three times. I went through the rigmarole of doing what I did, and then I started focussing on drug
20 cartels. I also started focussing on Organised Crime insofar as corruption is concerned.

My career in the police came to a rapid end when I was dismissed by then-Commissioner of Police Jackie Selebi. The rest of it, after that, is history. I decided to open an investigation into Commissioner Selebi. As is

known, he was found guilty of corruption and sent to jail for 15 years.

After that, Commissioners, I got involved in further crime-fighting activities, not as a police official but as a volunteer. I formed a charity called Forensics for Justice, which I financed myself. Forensics for Justice focused on dealing with corruption within the criminal justice system.

We are not talking here about a traffic cop asking for a bribe to avoid charging you for speeding. We are
10 talking about serious corruption at General level within the police and at high level within the Prosecution Service. Those activities have been going on for another 15 years after the Jackie Selebi matter was finalised.

While all that was going on, Commissioners, it should be pointed out that I am actually an engineer by profession, and I have been running my own property business both here and overseas, which has been my main form of income, property development and property speculation.

20 But the reality is I have been able to sustain my activities and sustain the activities of Forensics for Justice. I think unless you have got any questions, I would like to leave it at that.

ADV SELLO SC: Thank you, Mr O'Sullivan

ADV BALOYI SC: Mr O'Sullivan, your involvement in the

SAPS, I see at page 4 of that bundle there is a letter from the SAPS which speaks to your position that you hold a – and this an SAPS letter. It says you currently, as of date of that letter, at least, which is '97 June 26th, that you hold the position of lecturer. You see what I am reading?

MR O'SULLIVAN: That is correct, Commissioner.

ADV BALOYI SC: Is this what you were employed? Were you ever operational at any point?

MR O'SULLIVAN: In fact, at the time that I was a lecturer
 10 at the Police Training Centre, I was also carrying out policing at the airport in the Border Police. So there was a reservist unit at the airport which I helped form, which comprised of about 35 volunteer members, and I selected people that spoke different languages so that we could have some impact on the crimes that were taking place at the airport.

But during the period in question here, I was the head lecturer at the Police Training Centre, and in fact, one of the other pages you will see that one of my students, in
 20 fact on the next page, page 5, one of my students was the now President of South Africa, Cyril Ramaphosa. So it gives you an idea of the sort of activity we were involved in.

ADV BALOYI SC: Thank you. Thank you, Mr O'Sullivan.

ADV SELLO SC: Thanks, Commissioner Baloyi. And before we leave your CV, at page 1, just to clarify, you

indicate that having previously worked as an engineer, you are also, or was a police officer for many years. Was that in South Africa or in the UK or both?

MR O'SULLIVAN: It was overseas, so I was in the United Nations Police. First of all, I was working for the British Government, I was seconded to the United Nations Police, and ultimately I ended up being seconded for a period to the BSAP, which was the police in what was then called Rhodesia, is now called Zimbabwe.

10 **ADV SELLO SC:** But you were never a police officer in the SAP or SAPS?

MR O'SULLIVAN: Correct.

ADV SELLO SC: Thank you. We then invite us to turn to the content of your statement. At page 1, you have listed under eight topics the areas you would like to testify to.

MR O'SULLIVAN: Ja.

ADV SELLO SC: You start, on my understanding, with paragraph 1.1, which are general comments to the nature of the testimony you will be giving.

20 **MR O'SULLIVAN:** Ja.

ADV SELLO SC: I invite you then to speak to the contents of paragraph 1.1, or to read them into the record if it suits you better.

MR O'SULLIVAN: Thank you, Commissioners. What I have done to speed this process up is I have gone through

my statement and highlighted what I consider to be the relevant vital components. So 1.1, I have used the headline, Penetration of the Criminal Justice System by Organised Crime is Not New. And then I have said:

10 “Despite General Mkhwanazi's dramatic press conference where he purported to blow the whistle on infiltration of the criminal justice system by Organised Crime, criminals have been able to successfully penetrate the criminal justice system long before 6 July 2025. There are many instances of such and I will deal with some very well-known matters below.”

And then I have said:

20 “The point needs to be clear. This is not a new phenomenon. It has been going on for very many years. Not only is it not new, but it will also be my evidence that General Mkhwanazi has known about the links between Organised Crime and the police for many years. It is not something he suddenly became aware of last year. I will also testify that one of the cornerstones of General Mkhwanazi's

complaint, interference by the Minister of Police, is something that happened way back in 2011, at which time General Mkhwanazi elected to unlawfully comply with said Ministerial interference.”

And I will come back to that later, Commissioners.

ADV SELLO SC: Thank you. Just two questions for me before we move to the next topic. You suggest that, as you call it, the penetration of criminal justice system by
10 Organised Crime is not new. Would it be a fair comment to say, at least on this score, you agree with General Mkhwanazi? His testimony was that over a period of time, the criminal justice system appears to have been infiltrated by Organised Crime. And he testified to the extent he went to try and shine light on the problem. So, because you say it is not a new phenomenon, just on that aspect, I just want to find out if, technically, then you agree with General Mkhwanazi in that regard.

MR O’SULLIVAN: My area of divergence is that it is not
20 new. Of course, General Mkhwanazi brought it up on 6th of July last year, but it is nothing new. In fact, I have given an example of the 1990s, when the Head of Organised Crime in KZN, Superintendent Piet Meyer was sent to prison for 10 years for colluding with drug traffickers. So it is not new. It has been going on for a long, long time.

CHAIRPERSON: What is the point of diverging? What are you seeking to establish, or what are you seeking to convey to us by diverging on this?

MR O'SULLIVAN: Commissioner, if one looks at, and later we will come to it because I have had the media conference of General Mkhwanazi transcribed, if one looks at the transcript, it looks like, wow, this is something that is going on, it is just happening. But actually, it has been going on for donkey's years. And to have it suddenly thrust into the
10 public eye on the 6th of July last year, I will be later explaining that, in my opinion, that actually there is another motive for what happened last year, and we will come to that later, Commissioner.

ADV SELLO SC: Thank you, Chair. And in fact, the point about Senior Superintendent Piet Meyer you make at your page 3, at the top of page 3, that first paragraph, what you just alluded to.

MR O'SULLIVAN: Yes, I mentioned – sorry, ma'am, I did not catch it.

20 **ADV SELLO SC:** No, I was saying the point about the arrest of Senior Superintendent Piet Meyer you make at the top of page 3.

MR O'SULLIVAN: I have covered that as an example. So I have gone way back, in the 90s, and then I have come forward with a couple of examples in the last 20 years,

serious examples, which are common cause.

ADV SELLO SC: And my second question is in relation to the statement you make about General Mkhwanazi, and you say at the bottom of your page 1, General Mkhwanazi has known about the links between Organised Crime and SAPS for many years.

My reading of your statement, unless I missed it, does not seem to cover the knowledge that you attribute to General Mkhwanazi in this regard. Do you deal with this
10 aspect in your statement, his knowledge of links between Organised Crime and SAPS?

MR O'SULLIVAN: Yes. I think what we will come to later is not only his knowledge, but the steps he took, in my opinion unlawful steps, to deal with one of the senior police officials that was involved in the penetration of Organised Crime into the criminal justice system. But I think I will come back to that later.

ADV SELLO SC: All right. Thank you for that. That then would bring us to your paragraph 1.2. Having then said
20 something about Senior Superintendent Piet Meyer and the events of 1990 to make the point that the problem is historical, you then at page 31.2 deal with Mr Glenn Agliotti and Commissioner Jackie Selebi. As you are aware, I think that relationship and its outcome has been ventilated for a long time and quite in-depth in the public domain. So, with

that in mind, would you like to deal with your contents of paragraph 1.2?

MR O'SULLIVAN: Yes.

ADV SELLO SC: Perhaps by way of summary.

MR O'SULLIVAN: Thank you. Commissioners, I am not going to read the whole of 1.2 out because it is just, you know, it is common cause, but I have underlined a couple of important portions. 1.2.3, I have said:

10 “Mr Agliotti made his immoral living out of
importing and exporting narcotics and
counterfeit cigarettes. He often moved
drugs and/or counterfeit cigarettes with a
police escort arranged by a certain
Captain Paul Stemmet. Captain Stemmet
was not even a real police officer. He
had been appointed by Commissioner
Selebi at Mr Agliotti's request. He was
not even on the police's payroll system
and had never undergone any police
20 training or fitting out of uniform. But the
sad part about it is he had a police
identity badge that was issued by
Commissioner Selebi.”

And then I have said:

“Mr Agliotti's other accomplices...”

And this is common cause, it is in the judgments which we will refer to:

10 “...include a security company owner, Mr Clinton Nassif. Mr Nassif also bribed Commissioner Selebi so that he could expedite the issue of firearm licenses for a security company. Mr Nassif later supplied the same firearm that was used to murder Mr Brett Kebble in September 2005. Commissioner Selebi interfered in the investigation by allowing Mr Kebble's Mercedes, in which he was murdered, to be removed from Norwood Police Station by a brother-in-law of one of the murderers to a car body workshop where it was cleaned of all forensic trace evidence.”

And then I have attached, I refer on page 5 of my statement, I have referred to documents which are attached,
20 which make sober reading. Annexure B1 is the first draft confession made by Mr Agliotti to the Scorpions in his attempt to obtain indemnity in return for implicating Commissioner Selebi. Annexure B2 was the judgment of the High Court on sentencing Commissioner Selebi. And Annexure B3 is the judgment of the Supreme Court of

Appeal dismissing the appeal of Commissioner Selebi against his sentence.

And I think it is common cause, Commissioners, that the level of penetration was such. And it is made clear in Annexure B, which is referenced on page 4 at 1.2.7, it is made clear that the value of the drugs that were seized were R200 000 000. And those were seized by what was then called the Scorpions or the DSO, the Directorate for Special Operations, and that was based on information
 10 which I supplied to them at the time when I had infiltrated that drug cartel for the purpose of having those drugs seized. And it is documented on the Annexure B. Thank you, Commissioner.

ADV SELLO SC: And so if one has regard to your paragraph 1.2.3 and 1.2.4 where you make the conclusions that Mr Selebi or Commissioner Selebi maintained relations with persons such as Mr Agliotti and Captain Paul Stemmet who made an immoral living out of importing and exporting narcotics and counterfeit cigarettes, that is number one.
 20 And Mr Selebi, Commissioner Selebi rather, being bribed by one Mr Clinton Nassif. Those facts, you do not have personal knowledge of, you derive from the documents that you list at your paragraph 1.2.10. A reading of those documents will lead to the same conclusion.

MR O'SULLIVAN: In fact, I do have personal knowledge,

but I have used the documents to prove that personal knowledge. In fact, the morning after Brett Kebble was murdered, which is still very distinct in my head, he was murdered on the 15th of September 2005. And on the morning of the 16th of September 2005, I met with a source at the McDonald's at Bruma who gave me the information about the gun that was used to kill Mr Kebble. So all that information is not hearsay, but it happens to be contained in the court judgments, so it actually confirms my personal
10 knowledge.

ADV SELLO SC: But for purposes of your testimony to the Commission today, you rely on these documents specifically?

MR O'SULLIVAN: That is correct.

ADV SELLO SC: Thank you. Is there any other comment you'd like to make regarding the relationship between Commissioner Selebi and Mr Agliotti before we turn to your paragraph 1.3 where you deal with another relationship?

MR O'SULLIVAN: I am really happy for the Commissioners
20 to, in their own time, to read the evidence and draw their own conclusions because I believe it is quite compelling.

ADV SELLO SC: Yes. Then if we stay with your paragraph 5, your page 5 rather, at paragraph 1.3 you have a subtopic, Radovan Krejčer, General Mabasa, and Colonel Steyn. Now, at page 6 you give quite an extensive background to

this particular topic. At page 7, you then deal directly with the relationship between Mr Krejčer and General Mabasa, on the one hand, and further on at page 9, you deal with Mr Krejčer and Colonel Steyn. So let us take it ...[intervenes].

CHAIRPERSON: Let me just place on record that I was involved in a totally different capacity on issues relating to Mr Agliotti, the murder of Mr Brett Kebble, issues that related to Mr Stemmet and even Mr Nassif, but the context related to the decision that had been taken by Mr Vusi
10 Pikoli to prosecute General Selebi.

And then Mr Mpshe, or Advocate Mpshe, came in to replace Mr Pikoli, but he was an acting NDPP. And this is how I then got involved. Advocate Mpshe wanted to know whether or not he should reverse the decision of Advocate Pikoli.

A four-person panel was appointed to look at that decision by Mr Pikoli and to pronounce on whether the four people were of the view that Mr Pikoli was correct in taking the decision. I Chaired that four-person panel and our
20 decision was that Mr Pikoli's decision was correct. I thought I should just place it on record that I had that involvement on some of the issues or some of the facts that you are touching on.

ADV SELLO SC: Thank you, Chair, understood.

MR O'SULLIVAN: In fact, thank you, Commissioner, for

that. I was fully aware of all that, so I am grateful that you still have that memory at the time. In some ways, it is rather unfortunate or coincidental that we are sitting here today in the college named after the then-Justice Minister who took, in my opinion, an unlawful step, together with the then-President, in suspending Vusi Pikoli because I understood that that suspension, in fact, was aimed at preventing the arrest and charging of Commissioner Selebi. However, that is my opinion. But, obviously, I was very
 10 happy when, in January of 2008, that four-man committee issued the ...[intervenes].

CHAIRPERSON: It was a four-person. We actually had a woman. There you go.

MR O'SULLIVAN: I used the word man as in human. So I was very happy with the outcome of it because I had actually left the country because there was a threat against my life for raising all those issues. So I had temporarily exited myself from the country for my own safety. So that was how tight things were in those days. Thank you.

20 **ADV SELLO SC:** Thank you, Chair. Thank you, Mr O'Sullivan. But, as I understand, your testimony today does not relate to that part of things that the Chair highlights. You are just placing it on record. You are dealing with the criminal charges and trials that subsequently took place.

MR O'SULLIVAN: And I think if you want to get the crux of

what I am saying, it is that the Agliotti syndicate, which was a drug cartel and counterfeit cigarette cartel, they had well and truly infiltrated the criminal justice system and were utilising, at the highest level in the criminal justice system, their contacts to enable them to continue with their criminal activities undetected.

ADV SELLO SC: Thank you. If you are ready, then we are ready to turn to the next set of relationships, and this time it is between Radovan Krejčer and General Mabasa on the
10 one hand and Colonel Steyn on the other.

MR O'SULLIVAN: Yes.

ADV SELLO SC: I would perhaps suggest that you consider reading paragraph 1.3 and overleaf under the heading ...[intervenes].

MR O'SULLIVAN: One point?

ADV SELLO SC: 1.3 at page 5.

MR O'SULLIVAN: Yes.

ADV SELLO SC: That would give us an introduction into the topic. And then you could highlight what you consider
20 particularly important under background at page 6. You do not have to deal with that page extensively.

MR O'SULLIVAN: For that purpose, I will just read out 1.3, and I say that:

“In this section I will first give
background information on Mr Krejčer,

then I will deal with senior police officials who I identified were on Radovan Krejčer's payroll. I refer to the case of Krejčer for three reasons. First, it is another obvious example showing that the issue of criminals infiltrating the police, ostensibly prompting the press conference of General Mkhwanazi is nothing new. Second, it involved multiple attempts on my life. Third, it involved a corrupt police officer who resurfaced as a witness at this Commission."

Now, when I refer to him as a corrupt police officer, that is my opinion, because he has not been convicted of that, but I will explain why I refer to him as a corrupt police officer. And then, if I may move forward, I have given some background information on page 6. It is not my intention to read through that. It is there, it is on the record.

ADV SELLO SC: Yes.

20 **MR O'SULLIVAN:** In respect of page 7, I talk about Mr Krejčer and General Mabasa.

ADV SELLO SC: So that is the first relationship with Mr Krejčer.

MR O'SULLIVAN: Exactly. And what I talk about the – and what I have written there, that is my sworn statement. I can

say it much quicker than what is written there.

ADV SELLO SC: Yes, please.

MR O'SULLIVAN: What happened was, I was investigating Radovan Krejčer for a myriad of crimes, lots of crimes. And by the way, I was doing this as a public interest matter. You will notice from my CV that I received awards in 2000 and 2001 from the Canadian government and the Australian government for activities that I used to expose and deal with human trafficking in South Africa, not in other parts of
10 the world.

But I got those award commendations from the Australian and Canadian governments because they recognised the work that I was doing. And I had identified Radovan Krejčer as being heavily involved with a gentleman from a chain of strip clubs known as Teazers. And I had identified that he was involved with importing, for want of a better expression, ladies to work in these type of clubs. And I was trying to get the police to take action against him. And in every turn I was failing.

20 I could not get the police to pay any attention to it. And I had written to Anwar Dramat, who at the time was the head of DPCI, and I sent him a very detailed breakdown of what I believed Radovan Krejčer was up to. And then all of a sudden I got a call out of the blue one day from the Crime Intelligence head in Gauteng, which was Major General

Mabasa.

And he phoned me out of the blue. I had not been in communication with him ever before that, and he invited me to his office. I went there, and he told me, no, he heard I have got information about Radovan Krejčer and he wants to take down Radovan Krejčer. I thought, wow, this is great. So I gave him a file on Radovan Krejčer.

An hour later I get a phone call from a source who is present in a meeting with Radovan Krejčer and tells me,
10 Paul, that guy you just met with, you do not know what you are doing. I said, what do you mean? He said that guy is on his way to see Radovan Krejčer with the file that you have given him.

So I thought, wow. This Major General in the police is now going to see this criminal that I am investigating. So let me see what is going on here. So I carried out my own investigation into General Mabasa. And what do I find? I find that his wife is a director of a company with Radovan Krejčer's wife. I was shocked. So of course I exposed all
20 this.

And what I find to be ironical, and it is covered at the bottom of page 7 and page 8, is that the wife of General Mabasa became a director of that company on the 10th of October 2009 and she resigned as a director of that company on the 30th of June 2010. And it is no coincidence

that the date of her resignation is two weeks after I had exposed the fact that General Mabasa's wife was in business with Radovan Krejčer's wife. And it was all over the media. And then she promptly resigned.

Needless to say, my complaint, which is a very serious complaint, which I sent to General Dramat and General Sibiya at the time was the head of DPCI in Gauteng. And I sent them a very serious complaint. And within a week or two, General Mabasa was suspended and
10 then he was later given a golden handshake.

But what was interesting to me is that the registered address of that company was 64 1st Avenue in Edenvale. And it came out during the trial of the murder of Uwe Gamballa, a German who had been kidnapped from the airport and murdered. It came out during the trial that he was actually murdered at 64 1st Avenue in Edenvale.

So when you start putting all the pieces of the jigsaw together, it meant that General Mabasa was now heavily involved with Radovan Krejčer. And I think if you
20 have a look at the annexures which I have referred to on page 8 of 1.3.7, there is an Annexure E, which deals with the actual murder of Lolly Jackson, this owner of the strip clubs. That is worth reading.

It explains exactly what happened and how he was murdered by Radovan Krejčer and how, after the murder,

this fellow Smith, whose real name was Luca, met with General Mabasa and General Mabasa told him he better pack his bags and get out of the country quick.

And then Annexure F deals with the – it is a newspaper cutting that deals with the fact that General Mabasa left the police unceremoniously and was paid out a R3 500 000 golden handshake when in fact he should have been arrested and prosecuted for corruption. But nothing of that happened.

10 And the point, and I am going to make it again later on, that whenever you get these senior Generals in the cases that I am referring to, who should have been arrested and charged with corruption, they are in fact getting golden handshakes and let off the hook, and they go. So what you do not have is you do not have what I call the head on the pike that you need to have in the police service, so that if a person steps out of line, there needs to be some demonstration that if you step out of line, you are going to be in trouble.

20 But actually in the police, if you step out of line, you either get moved to another department within the police, and I am going to come to examples of that later, or you get a golden handshake and you are released from the police.

ADV SELLO SC: Before we deal with that detail then, that

would take us to your Annexure G and H, which are affidavits you obtained at page 9.

MR O'SULLIVAN: Yes.

ADV SELLO SC: But before we turn to that detail, if I could just clarify a few things with you. At your paragraph 1.3.5, you indicate that you received an unsolicited telephone call from Major-General Mabasa, who then was the Gauteng Provincial Head of Crime Intelligence.

You had a meeting with him, and then you testified
10 that you, after he had engaged you on the investigations you were doing on Mr Krejčer, you gave him your file on your investigations.

MR O'SULLIVAN: Correct.

ADV SELLO SC: My question is, did you give him the original file? Did you retain a copy for yourself? Are you able to share with the Commission the contents of that file as you gave it to General Mabasa?

MR O'SULLIVAN: Obviously, I can share it with the Commission. I do not have it with me right now, but it was
20 effectively – in fact, I did not give him the whole file because some aspects of the work I was doing I had not completed.

So what I gave him was what I had completed at that stage, and that was the file that dealt with the money laundering that was going on with a gentleman by the name

of Alekos Panayi, who was the bank manager for Cypress Bank in South Africa, who was doing money laundering between Radovan Krejčer and Lolly Jackson.

And that is what led to the murder of Lolly Jackson, because Radovan Krejčer would pay an amount of money into a bank in Cypress, and then Lolly Jackson would give him a bag, a duffel bag or whatever, with the equivalent amount of rand. So he would get a bag with R2- or R3 000 000, and he would do a transfer.

10 And what happened is what led to the murder, and if you look at this Annexure E, you will see it. It details the fact that actually the final transfer they did, Radovan Krejčer presented a fake document indicating that he had transferred money into the Bank of Cypress, when in fact he had not transferred any money at all. And Lolly Jackson then handed over a duffel bag full of rands and cash, and there was no concomitant transfer into his bank in Cypress. So that caused the animosity between them, which ultimately led to the murder of Lolly Jackson.

20 **ADV SELLO SC:** Now, that is what you were investigating at the time?

MR O'SULLIVAN: That is exactly, and that is what I handed over to General Mabasa, because I had interviewed this bank manager and I had taken a very detailed sworn statement from him, and I supplied that to General Mabasa.

As a result of what I found out, I then phoned that witness and told him to go into hiding because I believed that they would have tried to murder him.

ADV SELLO SC: Now, at your paragraph 1.3.6 ...[intervenes].

ADV BALOYI SC: Maybe before you do 1.3.6.

ADV SELLO SC: Yes.

ADV BALOYI SC: Mr O'Sullivan, in 1.3.5 you said that you received this call from Mr Mabasa unsolicited after you had
10 given, I think you said, General Dramat. In your statement, you say General Shadrack Sibiya.

MR O'SULLIVAN: Yes.

ADV BALOYI SC: Is that a correction? Is it Sibiya or Dramat?

MR O'SULLIVAN: I think it was both of them.

ADV BALOYI SC: Well, later on, you do speak of giving them both a report.

MR O'SULLIVAN: Yes.

ADV BALOYI SC: But here at the beginning, where you
20 speak about what results in the unsolicited telephone call from General Mabasa, you say you had shared information of your investigation with Sibiya. I just want to correct the fact. Is it General Sibiya? Is it Dramat?

MR O'SULLIVAN: It was General Sibiya and General Dramat.

ADV BALOYI SC: At this point.

MR O'SULLIVAN: Yes.

ADV BALOYI SC: Okay. Thank you.

MR O'SULLIVAN: Whatever I supplied to General Sibiya at that moment in time, I used to also supply to General Dramat because I did not want a single point of entry. I wanted there to be knowledge at different levels within the police about what was going on. In fact, I even went to the office of General Dramat and had a meeting with him about

10 Radovan Krejčer.

ADV BALOYI SC: Thank you. Thank you.

ADV SELLO SC: Thank you, Commissioner Baloyi. At your paragraph 1.3.6, you say about an hour after you left General Mabasa's office, you got a call from a source advising you that he has been informed by Mr Krejčer that General Mabasa was on his way to see him with a file he had obtained from you. Now, I am not going to ask you who your source is, but we have your say-so that this engagement took place. That is all we have.

20 **MR O'SULLIVAN:** Ja.

ADV SELLO SC: Okay.

MR O'SULLIVAN: Absolutely, but that is my say-so, and it is more than my say-so because as a result of that phone call, it caused me to investigate General Mabasa, and I got that information on General Mabasa, which I then shared

with General Sibiya and General Dramat.

ADV SELLO SC: Now, having shared that file with General Sibiya, who you say was DPCI Gauteng Provincial Head, and General Dramat, what position did he hold at the time?

MR O'SULLIVAN: He was National Head of DPCI.

ADV SELLO SC: National. What were you hoping to gain by sharing it further with Major General, no, with General Mabasa, who, as you say, called you without any solicitation? Did you have a relationship with General
10 Mabasa that allowed for a sharing of the results of your investigations? On what basis do you give him this?

MR O'SULLIVAN: It is a very valid point. I wrongly came to the conclusion, and I should have checked. I wrongly came to the conclusion that General Dramat and General Sibiya had instructed Crime Intelligence to get to the bottom of this matter, and I assumed, therefore, that General Mabasa was reaching out to me because he had knowledge. So if you have got this knowledge, then you must be involved in it. So I readily gave him this file.

20 **ADV SELLO SC:** And did you ever engage Generals Dramat and Sibiya about this matter and whether or not they had had an engagement with ...[intervenes].

MR O'SULLIVAN: Immediately after this. So, Commissioners, if you have a look on the same day that I met with you ...[intervenes].

CHAIRPERSON: Mr Osullivan, you should wait until ...[intervenes].

MR O'SULLIVAN: Sorry.

CHAIRPERSON: Ja. If you speak at the same time, there will be problems with the transcription.

MR O'SULLIVAN: Sorry, I thought you had finished.

ADV SELLO SC: No, my question was, after then your source called you to inform you that Mr Krejčer has just had a telephonic discussion with General Mabasa about a file
10 you had given to General Mabasa, when you learned that, did you ever have a conversation with Generals Sibiya and Dramat about the turn of events, who are the people you say you had initially engaged around this matter?

MR O'SULLIVAN: Yes, but I did not do it the same day. So what happened was, I got this phone call. Then I thought, wow, if this is true, because you do not take everything you are told as being the gospel truth. You have to look into it. But what it prompted me to do was to look into General Mabasa. And coincidentally, when I went to
20 meet him at the Diagonal Street building, being the type of person I am, he had arranged parking there for me. And when I went to park there, I saw a parking bay.

And it is not in my statement, but I am just recollecting this. I saw a parking bay marked up for General Mabasa, and I made a note of the registration

number of the vehicle that was parked there just for my own interest, because it looked like a very fancy double cab. So I made a note of the registration number of that vehicle.

And then what happened, when I get this phone call, I then start to carry out investigations. And I immediately found out that General Mabasa's wife was in business with Radovan Krejčer's wife. They were directors of the same company. And I could not think of any logical reason other than it was to conceal some form of
10 corruption.

And then when I ran the checks on the motor vehicle, I found that the vehicle – well, I phoned the dealer. I found that the vehicle had been purchased by Radovan Krejčer for General Mabasa. So you put the pieces of the jigsaw together, which I did, and I then went and met with General Dramat.

I phoned General Sibiya and told him what I had found, and I went and met General Dramat because I was so keen to make sure that they did something urgent about
20 it. And I think a week later, General Mabasa was suspended.

CHAIRPERSON: Did you do an in-NATIS check on the vehicle, the registration of the vehicle?

MR O'SULLIVAN: Correct. Yes, correct.

CHAIRPERSON: Is it not so that all that this would have

shown you is in whose name the vehicle was registered?
Why I am asking that is how did you then establish who had purchased it?

MR O'SULLIVAN: So we are able to, Commissioner, we are able to do various checks. The one check you can do is just to get the ownership of the vehicle. Another check you can do is get the history of the vehicle. It was not a brand-new vehicle. It was a used vehicle. And the previous owner of it was Groep Twee Beleggings, which was
10 Radovan Krejčer's company. So you put two and two together.

CHAIRPERSON: Thank you.

ADV SELLO SC: My question was going to try and understand the checks that you say you conduct. Are these the checks that normally are reserved for law enforcement to undertake, or do you have access to the system?

MR O'SULLIVAN: Yes.

ADV SELLO SC: And if so, in what capacity?

MR O'SULLIVAN: Let me explain to you. We do not have
20 access to the NATIS system. We have access to what we call closed-source databanks. So we have to sign a code of conduct. So they are accessible by certified fraud examiners, forensic investigators. It is not the same system that the police use. It is a private system that is used. For example, TransUnion, I do not actually do the checks

myself.

I have staff that do it, but I do not know the systems we use, but they are all above board and all lawful. We have to sign a code of conduct so that we are not, shall we say, becoming information peddlers, where people cannot come and pay us for information. And we have to stipulate that the investigation is being done for a particular purpose. So it is fraud. So if you are investigating fraud or corruption, you have access to these databases and it is all
10 above board.

ADV SELLO SC: And you say this, you have access to these systems as a certified fraud examiner. Who certifies and registers examiners for that purpose? And what is the name of your entity that is so registered?

MR O'SULLIVAN: The Association of Certified Fraud Examiners. There is a South African chapter. There is a chapter in most countries in the world. And it is a very rigorous process to go through. You have to have a first degree. You have to do two years of work in the fraud field
20 and then you have to sit exams. I think the exams are rated as NQF 8.

So it is quite a process. You cannot just wake up one morning and decide, oh, I am going to be a certified fraud examiner. It is quite a rigorous process to get through. And by the way, when you enter into these code of

conduct contracts with the information bureau, they carry out checks on you to make sure that you do not have criminal record and stuff like that.

So it is quite a tight system. It is used by lawyers. It is used by certified fraud examiners, and it is used by chartered accountants that are working in the forensic accounting field. And it is necessary, by the way, because unfortunately, the level of fraud and white-collar crime in South Africa, the police just do not have the ability to cope
10 with the level of investigations required.

ADV SELLO SC: And perhaps just to conclude on that point, is there a particular regulator that regulates the activities of these fraud examiners?

MR O'SULLIVAN: Yes.

ADV SELLO SC: What is that?

MR O'SULLIVAN: It is the Association of Certified Fraud Examiners.

ADV SELLO SC: It is not a state regulator? That is ...[intervenes].

20 **MR O'SULLIVAN:** Not a state regulator, no.

ADV SELLO SC: I was asking from the perspective of state and law enforcement ...[intervenes].

MR O'SULLIVAN: It is the same with chartered accountants. There is no state regulator. It is the same like Well, I suppose with attorneys you have got the LPC.

ADV SELLO SC: Yes.

MR O'SULLIVAN: But it is very well regulated, trust me. And they have If you look into it, for example, the Association of Certified Fraud Examiners, they have different committees. They have a disciplinary committee. So if a certified fraud examiner has been misbehaving, he can be struck off. So it is fairly well regulated.

ADV SELLO SC: Okay. At the conclusion of 1.3.6, you deal with Annexure C, which is what you say it is a company
10 search you conducted where you established that General Mabasa's wife and Mr Krejčer's wife were shareholders in the company.

MR O'SULLIVAN: So we did not get the share register ...[intervenes].

ADV SELLO SC: Directors.

MR O'SULLIVAN: They were both directors.

ADV SELLO SC: Directors.

MR O'SULLIVAN: Share register is harder to get. One has to do what we call a section 26 application. Section 26 of
20 the Companies Act where you write to the company and you give them notice and they have to give you details of the share register within 14 days. We did not go to that length, but I was satisfied that the two of them were directors of a company and that was more than just a coincidence.

ADV SELLO SC: At page 8 then, at paragraph 1.3.7, you

deal with the murder of Mr Lolly Jackson. You see where I pick it up, at your page 8.

MR O'SULLIVAN: Yes. So, Commissioners, it is set out in some detail in Annexure E, and I commend you to read that. It is quite clear in Annexure E. It is quite clear what happened there.

ADV SELLO SC: That Annexure E is at page 174 of the big file.

MR O'SULLIVAN: 174, yes. If you skip the first two pages
10 of 174 and just go straight to page 176.

ADV SELLO SC: Yes.

MR O'SULLIVAN: Because the first couple of pages is more of an introduction. 176 explains exactly the relationship between this fellow Smith, whose real name was Luca. He was an illegal immigrant, by the way. He was in the country unlawfully. He was a Cypriot. By the way, he was wanted in Cyprus as well. And he talks about the relationship between Jackson, Radovan Krejčer, and this fellow Panayi.

20 And Panayi was the gentleman I interviewed over a period of two or three days and taken a very detailed statement from in connection with the money laundering that was going on. That is the statement which I, apart from supplying to the DPCI, had given to General Mabasa. And then, if you go then to page...

ADV SELLO SC: 186?

MR O'SULLIVAN: 180. And you look at paragraph 45, 44,
or 43:

10 “Krejčer arrived after some five or six
minutes later and was also offered a
drink. Within moments, Jackson had
begun to shout at Krejčer and to wave
the copy of the Swift transfer. This was a
forged Swift transfer. And Jackson swore
at Radovan Krejčer.”

I am not going to swear here, but it shows what he said:

20 “Krejčer lunged forward to grab the Swift
transfer from Jackson, who held it out of
reach. At this point, Krejčer pulled out a
firearm and shot Jackson once. Jackson
fell into the back of the sofa, positioned
directly behind him. Jackson looked
shocked and began to plead and beg for
his life. Krejčer crossed the floor
towards him, standing over him and
kicked him in the side of his chest and
said the following words to him: “You
want to know who I am? I will show you
who I am, you effing cockroach.” Krejčer
then proceeded to fire many shots into

Jackson. I do not remember how many, but there were several shots. Jackson appeared to be dead and lay in a pool of blood. I was horrified and frightened.”

And then he carries on a bit more and a bit more. And then he talks about at paragraph 59 on page 182:

10 “I got back into the car and drove away, exiting through the booms at the entrance to our suburb and then called General Mabasa from my phone, telling him what I had just witnessed, Krejčer killing Jackson, and to ask for his help. He asked me who was present at the time of Jackson's murder and I told him that Krejčer and Cyril were there.”

The Cyril referred to Commissioners as Cyril Beeka. He also passed away a couple of weeks after this, so he was shot and killed a couple of weeks after this:

20 “He asked me where I was. I told him I was driving Jackson's Jeep. He suggested I meet him at Bedford Centre and I should speak to Krejčer as soon as possible. Mabasa knew of the problems between Krejčer and Jackson having already been approached by Jackson to

intervene and assist in facilitating a meeting with Krejčer.”

So here you have General Mabasa getting involved in a dispute between two shady characters, the one being Radovan Krejčer and the other being Lolly Jackson:

“I too had spoken with Mabasa about the need for a meeting to be arranged. I did not drive immediately to...”

This is page 183:

10 “I did not drive immediately to Bedford
Centre, but drove around for a while. Radovan was calling me on the phone. I did not take his calls at first. Later I called him as advised by Mabasa. He asked me to meet him at Jannie Luca's Engen garage near to Linksfield. We met there. He got there before me and I met him behind the garage. He wanted me to calm down, but I was extremely angry
20 with him for what he had just done and did not want to listen to his stories. He asked me why I had driven off and left the house. He said that I was supposed to have helped him put the body in the car and then dump it. I drove off and

headed for the Harbour Café in order to meet with Mabasa. Upon my arrival I saw several people, including Cyril Beeka, who was sitting with Hein Metrovich in the smoking area. I asked him whether Mabasa was there.”

And it goes on. And then eventually, if you go on to page 184:

10 “Krejčer arrived at 10pm. This was at the Nickel Hotel in Bedfordview. He told me I had no choice but to leave the country. As he put it, Lolly was murdered in your house. You were there when it happened. You are up and there is nothing you can do about it. He reminded me that I was due to appear in court the following day.”

20 So, to cut a long story short, this guy packed his bags, he got taken over the border into Mozambique and indirectly flights ended up in Cyprus.

ADV SELLO SC: Yes. If we could just stay with that affidavit, and you have covered it quite extensively. If we go back to your paragraph 1.3.7, where you introduce the murder of Mr Jackson.

MR O'SULLIVAN: Yes.

ADV SELLO SC: You continue.

MR O'SULLIVAN: Yes.

ADV SELLO SC:

“General Mabasa was later at that crime scene as part of a conspiracy to cover the fact that Mr Krejčer himself had murdered Jackson in the presence of Mr George Luca aka George Smith.”

You see where I am reading?

10 **MR O'SULLIVAN:** Yes.

ADV SELLO SC: And you then reference Annexure E, which is this affidavit we are looking at.

MR O'SULLIVAN: Correct.

ADV SELLO SC: My reading of Annexure E is slightly different. If we started paragraph 42, which is the arrival of Mr Smith.

MR O'SULLIVAN: Yes.

ADV SELLO SC: And then inviting Mr Jackson into a living room.

20 **MR O'SULLIVAN:** Yes, if I can explain that.

ADV SELLO SC: Yes.

MR O'SULLIVAN: It is very easy to explain. When I say General Mabasa later dishonestly claimed that Mr Smith had called him to confess ...[intervenes].

ADV SELLO SC: No, no, no, you are ahead of me. I

meant the statement prior to that.

MR O'SULLIVAN: Yes, but it was not pertaining to that statement. It was pertaining to the media. It is what General Mabasa said to the media. So it was published in the media that General Mabasa had said that George Smith had phoned him to confess to murdering Lolly Jackson.

So it was not in the statement of Smith, and Smith would probably on his way out of the country would not have known of that. The very next day it was in the media,
10 and that can be found. If it is requested, I can find those media links.

ADV SELLO SC: Just to make sure we are not talking at cross purposes, I was more interested in the statement you make that General Mabasa later arrived at the crime scene as part of the conspiracy to cover the fact that Mr Krejčer himself had murdered Jackson.

MR O'SULLIVAN: Yes.

ADV SELLO SC: And that fact is not in here because the narrative by Mr Smith places Mr Mabasa nowhere near the
20 house where Mr Jackson was supposedly murdered.

MR O'SULLIVAN: Correct. There are other statements from other people that place General Mabasa outside the crime scene while the crime scene was being investigated by the police, and I have not attached those statements. But if I am requested to do so, I will obtain those

statements and supply them.

ADV SELLO SC: I just wanted to be clear that it is not Annexure E ...[intervenes].

MR O'SULLIVAN: No ...[intervenes].

ADV SELLO SC: Because my reading of Annexure E does not lead me to that conclusion.

MR O'SULLIVAN: Smith would not have been aware of that.

ADV SELLO SC: Yes, you continue at paragraph 138
10 where you say you later established evidence of a corrupt relationship between General Mabasa and Mr Krejčer and you referenced this Toyota Hilux, that double cab. Is that the vehicle you say you found parked in General Mabasa's bay when you went to meet him in Centre Johannesburg or is that a different vehicle now?

MR O'SULLIVAN: It is the same vehicle that was parked in his parking bay at Diagonal House or Diagonal Street. It was the old Stock Exchange building.

ADV SELLO SC: Okay, and then I think you did touch on
20 your Annexure F which is the article, but ...[intervenes].

MR O'SULLIVAN: It is a media article.

ADV SELLO SC: The media article from page 186 that speaks to the settlement.

MR O'SULLIVAN: It refers to ...[intervenes].

ADV SELLO SC: General Mabasa. You have made the

point ...[intervenes].

MR O'SULLIVAN: The headline there is 3.5 million for dodgy cop.

ADV SELLO SC: And then at 139 then it is basically ...[intervenes].

MR O'SULLIVAN: If I can?

ADV SELLO SC: Absolutely.

MR O'SULLIVAN: And it is not mentioned in my statement, but it is just reading this again reminded me of something.

10 It is quite important. The 3.5 million for the dodgy cop, that payment was authorised by General Mdluli. So that is quite important to remember because we will be coming to General Mdluli later.

ADV SELLO SC: And ...[intervenes].

ADV BALOYI SC: What was his position at the time? General Mdluli, what was his position at the time?

MR O'SULLIVAN: Pardon me?

ADV BALOYI SC: What was General Mdluli's position at the time?

20 **MR O'SULLIVAN**: He was the Divisional Commissioner of Crime Intelligence. So what happened was during the Selebi investigation, General Mdluli was the Provincial Commissioner of Crime Intelligence and the Divisional Commissioner was Lieutenant General Mulangi Mphego.

And Mulangi Mphego was arrested by the Scorpions

for interfering in the Jackie Selebi investigation. And while he was on suspension, he resigned and left. And then General Mdluli was promoted to Lieutenant General and became the Divisional Commissioner and General Mabasa became the Provincial Commissioner.

ADV BALOYI SC: Thank you. A different question. This Smith affidavit, it was prepared for what purpose? Is it for the police or for you?

MR O'SULLIVAN: If you look at the Smith affidavit,
 10 Commissioners, you will see it is a standard patent section 204 affidavit. So it is not the only affidavit that was made by Smith. There were other affidavits.

ADV BALOYI SC: So it was for the prosecution, or ...[intervenes].

MR O'SULLIVAN: So if you have a look at the affidavit itself, it says Affidavit of George Smith number 5. There were a total of five affidavits. Now, at the time these affidavits were made, because of the level of organised crime that Smith knew about, which did not just deal with
 20 General Mabasa, it was decided by the DPCI to compartmentalise his affidavits, not have it all in one big affidavit. So this was the affidavit that relates particularly to the murder of Lolly Jackson. So there are other affidavits which I have not put here because they do not really take the matter any further.

ADV BALOYI SC: Thank you.

MR O'SULLIVAN: But if the Commissioners wish to see them, I do. I have them all.

ADV BALOYI SC: Thank you, Mr O'Sullivan.

ADV SELLO SC: Thank you, Commissioner. And we are still at Annexure F, unless it is a case of perhaps this being in another document. Annexure F does not indicate that that 3.5 million golden handshake for General Mabasa was approved by General Mdluli. That is not in that particular
10 annexure.

MR O'SULLIVAN: No, I did not put it in my statement and it is not mentioned in here, but at the time I remember that ...[intervenes].

ADV SELLO SC: You ...[indistinct] ...[intervenes].

MR O'SULLIVAN: The payment was authorised by General Mdluli.

ADV SELLO SC: Yes. Then at page 9 you introduced two affidavits, Annexure G and H.

MR O'SULLIVAN: Yes, let me – sorry.

20 **ADV SELLO SC:** Annexure G and H, your two annexures. If I understood you correctly, these two documents now deal with attempts to murder you. So we have sort of moved away from what you call a corrupt relationship between General Mabasa and Krejčer. Now, these two ...[intervenes].

MR O'SULLIVAN: In fact, they are mixed because what I am going to say here, Commissioners, if you look at page 8 at the bottom, 1.3.9, I say there:

10 “In summary, I find it apposite to state that Mr Krejčer, because of his corrupt friends in the police, considered himself above the law and therefore free to engage in any criminal activity he chose, including not limited to murder. I should record that Krejčer has now been sent to prison for 35 years and is still to be tried in respect of multiple attempts to murder me. He has been arrested and charged for, even though he is in prison, he has been arrested and charged for conspiracy to murder me, along with seven others.”

20 Which includes police officials, by the way. And the statements of this fellow, Patiska [?], who is residing in the Czech Republic, the one statement deals with a conspiracy to murder me, which is Annexure G.

 And again, these statements are compartmentalised so that you do not have everything all in one document. But if you look at Annexure H, Annexure H deals only with the relationship between Radovan Krejčer and General Mabasa. The Annexure G deals only with Radovan Krejčer's

conspiracy to murder me.

ADV SELLO SC: Yes. So then let us turn to Annexure H, which would appear, or at least sound to be more relevant to this relationship you are dealing with.

MR O'SULLIVAN: Page 193.

ADV SELLO SC: Page 193. And I would like to refer you to paragraph, from paragraph 5.

MR O'SULLIVAN: Yes.

ADV SELLO SC: My ...[intervenes].

10 **MR O'SULLIVAN:** Sorry, I thought you wanted me to read.

ADV SELLO SC: No, no. My understanding, again, my reading of this, it is Mr Patiska commenting about the relationship between General Mabasa and Mr Krejčer. It must be over a two-year period, because at paragraph 2, he says:

“I was during the period of September
2010 until 2012-02-03 living in South
Africa.”

20 So it can only be specifically for that period. And from paragraph 5, he then details the nature of this relationship. And as I understand it, it is about picking up General Mabasa from a small Shell garage near Eastgate, delivering him to where Mr Krejčer was, and basically where General Mabasa would collect R5 000 to R10 000.

And further down at 7, he speaks about his own

personal experience where he had to hand over some money to Mr Mabasa.

MR O'SULLIVAN: Yes.

ADV SELLO SC: At 8, he then introduces a different concept, and he says|:

10 “These guys from the police started helping Krejčer smuggle cigarettes from Zimbabwe to South Africa. Thereafter, Krejčer used them for drug trafficking too, but there is no substantiation for that allegation.”

Now, this affidavit would seem in large part to be about payment of some monies, R5 000 to R10 000, by Mr Krejčer to General Mabasa. Would I be correct to say that is about the sum total of it?

20 **MR O'SULLIVAN**: That is correct, Commissioner. I want to mention, if I can briefly, that there is two statements here from this fellow, Putiska. Both statements, up until paragraph 4, are identical. Believe it or not, there were five such statements, again, dealing with different issues.

ADV SELLO SC: Yes.

MR O'SULLIVAN: So these are the two statements which were considered relevant for this Commission, but if they require to see the other statements, they are available. But the reality is that this person was interviewed. I was

present when he was interviewed. Also present was Brigadier Gininda and Deputy Director of Prosecutions, Lawrence Gcaba.

The interview took place in Prague. I arranged the interviews because they could not get access to this person. He did not want to talk to the police or the Prosecution Authority without somebody being present that he trusted. I had reached out to this person and convinced him to give evidence.

10 So those statements were taken. I was present, but they interviewed him, and the statements were taken in their presence. And this woman, Eva, whatever her name was, I cannot say it, Matiašková, she commissioned the statements because she is a sworn translator, because the individual in question does not speak English very well.

ADV SELLO SC: So these statements, you are saying they were actually taken by, I missed the rank, of Gininda?

MR O'SULLIVAN: Brigadier Gininda.

ADV SELLO SC: Brigadier Gininda. Was he the
20 investigating officer in this?

MR O'SULLIVAN: Yes, he was the lead investigator of the Radovan Krejčer matters.

ADV SELLO SC: So they would be found in the docket?

MR O'SULLIVAN: Absolutely.

ADV SELLO SC: All right. Noted to the extent that it is

necessary, we may seek to obtain the remainder of the statements. You then at page 9, introduce a slightly different topic. At paragraph 1.3.10, you are now dealing with the relationship of Mr Krejčer and Colonel Steyn. At page 9?

MR O'SULLIVAN: Yes, I am there.

ADV SELLO SC: Mr Krejčer and Colonel Steyn. You can deal with the contents of that subtopic.

MR O'SULLIVAN: Can I talk to it?

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

MR O'SULLIVAN: Okay, thank you. I did not want to interrupt.

ADV SELLO SC: So, Commissioners, it is very simple. Of course, the script there that is in italics, generally speaking, would be classed as hearsay because it is what somebody found and told me. And then having received that hearsay, I became acutely aware of the fact that Radovan Krejčer was now in possession of my cellular phone records to the extent that he was looking at the people I was talking to on
20 the phone.

And remember, in those days, we did not have all these smartphones that we have today. They were just starting to come out. So WhatsApp, I do not think it even existed then. So whatever phone calls you made, it was on your phone records.

And what had happened was this person was called in to a meeting at a restaurant in Bedfordview, just across the road from the police station. At the time, it is no longer there. It was called News 24 Café or News Café or something like this. News Café, I think it was called.

And this fellow phoned me and he explained to me exactly what went on. He said that he was called in. He sat there. There is Radovan Krejčer and all these – wherever Radovan Krejčer went, he had these heavy
10 persons, stocky fellows.

And sitting next to Radovan Krejčer, according to him, was Colonel Sambo, who was the station commander at Bedfordview Police Station, in uniform. And Radovan Krejčer is alleged to have said to him, listen, on such and such a date, you phoned O'Sullivan 25 times. What is going on? And he was very quick on his feet and he explained that he was trying to sell me a car.

Of course, nothing of the kind was going on. He was actually helping me out with inside information about
20 the movement of Radovan Krejčer because he was going to be arrested at that time. In fact, he was arrested. So, Radovan Krejčer leaned across the table and said to him, if I find out you are lying, he put his finger on his forehead. If I find out you are lying, I can put a bullet hole there. So, kind of scaring the guy.

And he made the comment to me that Colonel Sambo just sat there quietly while all this was going on. And this person asked, well, how do you know that I made all these phone calls? He said, well, I have got your cell phone records.

So, at the time, I planned to launch an application. It was going to be an urgent application against Vodacom. And I drafted, and it is Annexure J. I drafted a sworn statement for it, but I never actually launched. And the
10 reason I never launched was because when I got Senior Counsel's opinion, he said that I might fail with that application. So, I decided to keep my powder dry.

But then what happened, about two years later, I got a tip-off from a person who was working at the Organised Crime Office at Germiston, which is the same office which Colonel Steyn was the commander of. He was in charge of that Organised Crime Office. And he told me that he needed an urgent meeting with him. I went and met with him.

20 And he told me, in no uncertain terms, that Colonel Steyn was arranging to have my telephone number dropped in to 205-applications that were being drawn up as part of the normal work in progress that the Organised Crime Unit in Germiston was doing. And that prompted me to write.

By the way, before that, I had written to Vodacom.

If I can refer the Commissioners to Annexure F, page 206. Page 206. Now, you have to look at page 207 and 208, because what we have here is a trail of emails and they go in sequential order, with the most recent being the top page.

But if you go back to page 209, it is an email that I have received from Vodacom. And if I can read it into the record, Commissioners? It is dated 13th of June 2011, and this is after I found out about my cellular phone records
10 being in the possession of Radovan Krejčer. I have contacted a chap by the name of Bradley Smith at Vodacom, and he has written to me. He said:

“Good afternoon, Paul. Thank you for your mail. As discussed, we have received section 205s for information relating to your call data-related information.”

I am just reading what, you know, there is some typos here, but I am just reading it the way it is, Commissioners:

20 “And Vodacom is obligated to disclose this information if we receive a section 205 to do so. Unfortunately, as mentioned, this is a matter that you will need to take up with the police and the Justice Department collectively. As to

the authentication of the 205 and the content thereof, in doing so, I can advise you that there were three applications made.”

And then he gives the case numbers. Primrose Case 709/03/2011, kidnapping, assault and theft. Then there is Tokoza case 268/04/2011, armed robbery. And the third one is Tokoza case 31/06/2011, murder. So the inference is that my cellular phone records were needed because of these
10 investigations into a murder and an armed robbery in Tokoza and a kidnapping, assault and theft that took place in Primrose.

So what I did when I got this information was I sent an email to General Sibiya, who at the time was the head of the DPCI in...

ADV SELLO SC: Was it the DPCI in Gauteng?

MR O'SULLIVAN: Ja, I am trying to look for that email.

ADV SELLO SC: Which email?

MR O'SULLIVAN: I only wrote to him later. I supplied it
20 probably by hand to him in a meeting. But later on, in November 2021, sorry, 21 November 2013, I wrote ...[intervenes].

ADV KHUMALO SC: Just a moment, is it not 210?

ADV SELLO SC: I was going to suggest 210, Annexure K. That is ...[intervenes].

MR O'SULLIVAN: Page 210?

ADV SELLO SC: The email, yes. From you to General Sibiya dated 21 November 2013.

MR O'SULLIVAN: And I explained there that, and I say – this is dated 21 November. And I say, as you will see, in my email, I say, as you will see, but I was referring to what I knew would happen the next day when I said that, and I will explain why in a moment. I said:

10 “As you will see, Colonel Francois Steyn
admitted to a Mail and Guardian
journalist today, in the presence of my
attorney Gary Mazaham, that he had
been made a significant loan by Radovan
Krejčer's company Groep Twee
Beleggings. The money was used to pay
off a registered bond on his property.
Now just why would a senior cop borrow
money from an unregistered loan shark to
pay instalments on his bond account. As
20 part of an attempt to cover his tracks, he
said that Cyril Beeka made the loan via
this company and he did not know that it
was a Krejčer company. Anyway, with the
death of Cyril Beeka and the fact that
Krejčer is a suspect therein, because

Radovan Krejčer was a suspect in the murder of Cyril Beeka, it is simply inconceivable that Steyn thought he could get away with this. I believe that having now admitted to receiving a very substantial loan, he has committed a very serious offence in terms of Act 12 of 2004 and I request a very urgent investigation with a suspension from
10 duties in the meantime. I hope you can deal with this matter quickly thereby placating the public, who are starting to feel Krejčer can get away with anything he likes.”

And I finish off by saying:

“The fact that yet another senior cop has put my life at risk by supplying my private information to gangsters is something that also needs to be addressed and I
20 reserve my rights in that regard.”

And copied to that email is an email that I had sent to the lawyers of Radovan Krejčer.

ADV SELLO SC: At page 211.

MR O'SULLIVAN: That is page 211. I do not propose to read the whole thing out, but I do say halfway down the

page:

“I can now prove that Steyn supplied Krejčer with my cellular phone records thereby further putting my life at risk. Back in 2012...”

And that is a typo, it should have been 2011:

“I just thought it was Steyn. Now I know it was Steyn. I have written to the Hawks requesting that Steyn be suspended and stand trial along with Krejčer for their disgusting conduct.”

And if we now refer to Annexure L, which is page 213, this is a Mail and Guardian article which came out the day after I sent this email. And the reason it came out the day after I sent the email was because I had spoken to the journalists. When you get into a position where you believe these criminals are working with dirty cops to have you murdered, your best line of defence is to involve the media. And I had spoken to the journalists and they ran this story.

And the headline, as you can say, is Krejčer's R400 000 loan to top cop. And it explains in some detail about the loan and the excuse which Steyn had given to the journalists, but the reality is he admitted that there was a loan. Now, only when I saw Colonel Steyn giving evidence at this Commission, I nearly fell off my Chair because I

thought he had been suspended and dismissed back in 2013. And now I suddenly saw him sitting at this Commission, I thought, wow.

And now he is talking about drug trafficking. He was working, he was on the payroll of a drug trafficker, in my opinion, back in 2011 because he received this money from Radovan Krejčer. So now suddenly a complete turnaround. So I thought it was necessary to include mention of this, Commissioners. Now, that is really all I
10 have to say about that.

ADV SELLO SC: Let us just quickly deal with paragraphs 1.3.12 and following. There are two issues here.

MR O'SULLIVAN: So just give me the paragraph number again.

ADV SELLO SC: 1.3.12 at your page 10.

MR O'SULLIVAN: 1.3.12?

ADV SELLO SC: Yes.

MR O'SULLIVAN: Yes.

ADV SELLO SC: Now, right through to 1.3.15. As I
20 understand, there are two distinct issues here. The first is your complaint regarding intrusion into your privacy by obtaining or seeking to obtain your records. And if we go to page 209, which is that email you wrote to Vodacom.

MR O'SULLIVAN: Correct.

ADV SELLO SC: No, which is what the email Vodacom

wrote to you. Vodacom lists the three cases on the basis of which the section 205 was obtained.

MR O'SULLIVAN: Correct.

ADV SELLO SC: I suppose, *inter alia*, in respect of your records.

MR O'SULLIVAN: Correct.

ADV SELLO SC: Why do you then say – no, let me ask differently. Have you ever seen the application for that 205 and supporting documentation to know the relevance of your
10 number to any of the three cases?

MR O'SULLIVAN: So this is the difficulty. I had prepared the application against Vodacom, Commissioners. And when I consulted with Senior Counsel, they said that bringing an application to force the state to show the content of a section 205 application to obtain your cell phone records would be almost impossible to get such an order and the Court would err on the side of safety and not grant.

And the reason given was supposing I was a
20 suspect in these cases and now I am bringing an application to find out what statements lie, because when you bring a 205 application, you have to state this person is suspected of murder or armed robbery or whatever the case may be. So without having seen those 205s, it is just guesswork.

But the reality is, I was not kidnapping people in

Tokoza or murdering people or robbing people in Tokoza in that period. And if you look at the period in question, it is one month, one month, one month. So for three months, they were able to get my cellular phone records. And it fits straight in with the period that Radovan Krejčer was arrested and there were raids on his house in Bedfordview and he was arrested. And during that whole period now, he has got my cellular phone records. So you can just put two and two together.

10 **ADV SELLO SC:** I appreciate your challenges, but I am sure you will also appreciate my challenges this end. That it has to also, in the absence of the 205 applications, it also has to be guesswork that Colonel Steyn unlawfully dropped your number in these 205 applications. Because we do not know how your telephone number is said to be associated with any of the three cases.

MR O'SULLIVAN: Yes. If I did not receive this phone call from Warrant Officer Steenkamp, he unfortunately passed away during Covid. But if I had not have received that
20 phone call, and by the way, I do not name him in my email, but the fact that I sent the email to Radovan Krejčer's lawyers and the fact that I forwarded that email to General Sibiya and General Dramat to say, listen guys, look what is going on here, does not prove, but it makes it clear that watch the media, by the way, you will see.

And it was out in the media the next day that he admitted having a R408 000 loan from Radovan Krejčer's company. So if you put all the pieces of the jigsaw together, it is circumstantial evidence, but when you put it all together, it is a very interesting picture and somebody would have to explain what happened there. And I do not know if the Commission has the ability to get the police to hand over those section 205 applications, but I am pretty sure they would make very interesting reading.

10 **ADV SELLO SC:** Yes. Now, that was the first point. The second thing you make is about this loan that you say was for Mr Steyn's mortgage bond account. You say that at your paragraph 1.3.12 of your statement.

MR O'SULLIVAN: 1.3 point?

ADV SELLO SC: 12. The conclusion of that paragraph. Then you introduce Annexure K, which is your email chain to General Sibiya.

MR O'SULLIVAN: Correct.

ADV SELLO SC: At paragraph 1.3.14, that Annexure L,
20 which is the actual Mail and Guardian article you reference, you say:

“Colonel Steyn admitted to receiving the loan in question, but claimed not to have been aware that the company providing it was linked to Mr Krejčer.”

Then you conclude:

“His story was not only feeble, but it
could also not be reasonably true.”

I am reading at your paragraph 1.3.14.

MR O'SULLIVAN: Correct.

ADV SELLO SC: If one has regard to the article that you
reference and rely on from page 2.1.3, you have referenced
this company, Groep Twee Beleggings, which is a company
you say the article says it is controlled by Mr Krejčer. If
10 you go to the bottom of that article, there is an explanation
ostensibly by Colonel Steyn of how the loan came to be.
But the long and short of it is Colonel Steyn says Mr Beeka
had undertaken to arrange a loan for him through this
company.

Now, at the next page, at 2.14, under the heading
Professional Relationship, Colonel Steyn argues that he has
a professional relationship with Mr Beeka, whatever that
means, who was the National Risk Manager for RAM, hand-
to-hand couriers. And then at page 215, those paragraphs,
20 he deals with the repayment of this loan. Why do you then
conclude, based on the explanation he gave, that his
explanation is not only feeble, but it could also not be
reasonably possibly true?

MR O'SULLIVAN: Thank you.

ADV SELLO SC: What could be ...[intervenes].

MR O'SULLIVAN: My take on this, Commissioners, is we have to understand that he is giving this explanation to the media in 2013, and he is passing everything off on this person called Cyril Beeka, who had been murdered in May 2010.

So, it is very convenient now, because dead men, as we know, cannot speak. So he blames everything on Cyril Beeka. But let us say his story was true. It was common cause in the country at the time that Cyril Beeka
10 was murdered, that Cyril Beeka himself was part of the Cape Town underworld and was running protection rackets in Cape Town.

So, why on earth would you want to get involved in getting a loan from a person that was involved in protection rackets in Cape Town? And why on earth would you go to a company, the lawyer of a company called Groep Twee Beleggings, without finding out who is this company?

Now, you are a commander of an Organised Crime unit in Germiston, and if this had not have come out in the
20 media, which it did, and it only came out in the media because I found out about it, then he would have concocted another story, I suppose.

But the story is absolutely feeble. And if it was true, what was he doing, doing business with a member of the Cape Town underworld, borrowing R408 000? So

whether he borrowed the money from Radovan Krejčer or borrowed it from Cyril Beeka, it is the same difference.

ADV KHUMALO SC: Can I ask you a question? You sent an email to General Sibiya and, I assume, to General Dramat. Is it not fair to assume that since you reported the matter to them, in fact, you asked for then-Colonel Steyn to be suspended? Is it not fair to assume that they looked into the matter and their view was that there was no wrongdoing?

10 **MR O'SULLIVAN:** So, thank you, Commissioner. In fact, what happened was Colonel Steyn was suspended as a result of this, and this was now in November 2013. And if one looks at what happened after that, unfortunately, my time was taken up with bigger issues.

Because on January 9, 2014, which was six weeks later or seven weeks later, first of all, Radovan Krejčer was arrested at the same time. So we had Radovan Krejčer arrested. We had Colonel Steyn suspended. And then on the 9th of January in 2014, seven people were arrested just
20 down the road from my house, planning to murder me. So they were planning to take me out.

Now, that took my eye off this ball completely. I was more interested in focussing on other issues than an allegedly corrupt police official at Germiston Organised Crime. However, a few months after this, I was informed

that he had actually left the police. And I therefore decided not to take the matter any further.

Because, you know, where do you stop? I am a one-man band. I have got one or two staff working for me. But all this type of work, I am doing on my own and I had much bigger fish to fry. So I wish I had pursued it further, but I did not. So it is what it is.

ADV SELLO SC: Thank you, Commissioner Khumalo. Then my question, I think it is close to what Commissioner
10 Khumalo has placed before you. At 1.3.15 at page 10, you then, having expressed yourself in the terms that you have, you say:

“Colonel Steyn inexplicably managed to avoid being charged criminally or even disciplined by SAPS in relation to this misconduct.”

My question is, what is the misconduct that you complain of, specifically here? Is it receiving that loan? Is that what you consider to be the misconduct?

20 **MR O'SULLIVAN**: If one looks at section 3 of Act 12 of 2004, it describes in some detail what gratification is. And gratification is also classed as a quote-unquote loan. So I was satisfied that this was a breach of Act 12 of 2004.

However, given the serious volume of work on my plate at the time, I neglected to pursue it any further. But

the reality is, if I had not have seen him testify – and somebody sent me a picture, by the way. They said, look, the guy that you thought had been dismissed, he is not dismissed. He is still working in the police. He has just moved to the West Rand from the East Rand. I was shocked.

The first thing I did was pick up the phone and phone Advocate Chaskalson. And I said, listen, that witness you just had on your stand, you need to know about
10 him. And I sent him the necessary documentation, and that is why I thought it would be best to include this in my evidence, Commissioners.

I am sorry, but I just felt, wow. In that moment in time in my life, he presented me with a lot of problems. When a friend finds me and tells me that they want to shoot him because he has got my cell phone records, of course, Radovan Krejčer was in prison. So I just kind of lost interest in the matter. I should have pushed it further forward. Thank you.

20 **ADV SELLO SC:** My question was trying to understand what is the misconduct you complain of? You say, you call it potential gratification. It is just that your statement does not highlight gratification for what? And neither does your Annexure M, being the email you address to Sergeant Sitole and ...[intervenes].

MR O'SULLIVAN: So, if you look at the emails that I sent, I make it clear that it is gratification. I do not necessarily reference section 3 and ...[intervenes].

ADV SELLO SC: No, I am happy with that. But then if they just perhaps shared some light, gratification in exchange of? It was being paid gratification in exchange for what?

MR O'SULLIVAN: So ...[intervenes].

ADV SELLO SC: You do not set it out in your statement, it
10 is not in your letter of complaint ...[intervenes].

MR O'SULLIVAN: The Commissioners would bear with me on this one, because I lecture on the subject.

ADV SELLO SC: Okay, please do not ...[intervenes].

MR O'SULLIVAN: But there does not have to be a quid pro quo.

ADV SELLO SC: Okay.

MR O'SULLIVAN: There can be what is described as a generally corrupt relationship. And if one looks at an example, the *State v J Selebi*, that is exactly what the trial
20 judge found. That there was not a quid pro quo, but there was a generally corrupt relationship. So I am not in a position to say what the quid pro quo was, but I am satisfied that there was a generally corrupt relationship.

I do not believe that he was paid R400 000 for my cell phone records. I think that was just part of the

generally corrupt relationship. That is just ...[intervenes].

CHAIRPERSON: Would it not be a generally corrupt relationship in the sense that what you get now is not necessarily for something specific? You may get something here, something there, something there. All of those being a gratification. You, from your side, may also do something there, something there, something there, which is not necessarily related to something that you specifically received for what you are doing. So it is generally in that
10 sense, when the corruptor thinks of giving you something, they give it to you.

MR O'SULLIVAN: Correct.

CHAIRPERSON: But they expect that at one point or another, you will also do something. So there is not any correlation between what you get and what you do.

MR O'SULLIVAN: Yes.

CHAIRPERSON: You do as and when you feel, uh-uh, let me do something here. And you are given something, not necessarily in relation to something that you are doing now
20 or are to do now or shortly thereafter, but you get it on the understanding that at some point you may have to do something. So it is generally ...[intervenes].

MR O'SULLIVAN: I 100% agree with you, Commissioner.

CHAIRPERSON: Yes. But I thought you were saying that does not necessarily have to be gratification.

MR O'SULLIVAN: So, Commissioner, what I am saying is, if there is a generally corrupt relationship, you cannot pinpoint directly exactly what was done for the R400 000. I remember a few years ago doing an investigation in respect of wildlife permits that were being issued to people that were buying and selling registered game.

And the person, I am not going to mention his name, the person that was issuing the wildlife permits would drag his feet in issuing the permits. It would take a long
 10 time to issue the permits. And then one day the game farmer would phone him and say, listen, I have rounded up these wildebeests, I need to move them, I need the permit urgently. And he said, no, man, I cannot come because I am at the bank, I am trying to get a loan. Well, listen, we will give you a loan, but we need you here now to issue the permit. That is how it starts. And it starts like that.

So I do not know what took place between Colonel Steyn and Radovan Krejčer or Cyril Beeka that resulted in the R408 000 loan, if it was a loan. I believe it was just a
 20 payment that was used to pay off his bond. And as a result of that payment, he would have provided who knows what services.

ADV SELLO SC: Thank you, Chair.

ADV BALOYI SC: Can I just check this? Mr O'Sullivan, about this topic, you have at page 210 that letter that you

sent.

MR O'SULLIVAN: Sorry, which page?

ADV BALOYI SC: Page 210. 210, and that is your Annexure K.

MR O'SULLIVAN: Yes.

ADV BALOYI SC: That letter there, it speaks to the loan or the alleged loan. Is there anything else that you communicated with whether General Sibiya or Dramat ...[intervenes].

10 **MR O'SULLIVAN**: So what I have done ...[intervenes].

ADV BALOYI SC: Other than this letter ...[intervenes].

MR O'SULLIVAN: Yes, Commissioner. When I have sent this email, it is an email. If you have a look at the top of the email, underneath who it is sent to, it says subject FW, your client Radovan Krejčer. FW means it is forwarded. So then you look over the next page, which is 211, and that deals with my allegations against Radovan Krejčer and Colonel Steyn. So I am actually forwarding those allegations that I have made.

20 **ADV BALOYI SC**: Okay. My more direct question is did you communicate to General Sibiya or General Dramat the complaint about access to your call information?

MR O'SULLIVAN: Can I just refer you to page 211?

ADV BALOYI SC: Yes. This is the letter ...[intervenes].

MR O'SULLIVAN: The fourth paragraph ...[intervenes].

ADV BALOYI SC: This is the letter ...[intervenes].

MR O'SULLIVAN:

“I can now prove that Steyn supplied
Krejčer with my cellular phone records,
thereby further putting my life at risk.”

So that is the message I am trying to get through. And that
is what I am trying to share with General Sibiya and
General Dramat.

CHAIRPERSON: Can you please read that from the
10 beginning? At the tail end, you spoke at the same time with
Commissioner Baloyi. Can you read that?

MR O'SULLIVAN: Sorry, Commissioner. So in the email
which I have sent to Radovan Krejčer's lawyers, and it is a
very tongue-in-cheek, I am demanding R5 000 000 rand,
you know, the purpose of that email is to let Radovan
Krejčer know, by the way, at this stage he has been
arrested. He was arrested, I think, the day before this
email was sent. It was all happening around the same time.
And I thought he would get out of jail on bail, but he never
20 got bail.

So I have sent this, and I said, I am giving notice of
my intention to sue your client. Of course, I did not sue
him. But I explain in detail I can now prove that Steyn
supplied Krejčer with my cellular phone records, and I talk
about Radovan Krejčer having corrupted Steyn. So I have

now forwarded this email. If you look at the heading of the email, it says, your client, Radovan Krejčer. If you look at the heading of the mail, the subject line to General Sibiya and General Dramat, it is forwarded, your client, Radovan Krejčer. So it is including that.

The two are meant to be read together, and that is the point I am trying to make. That here you have a policeman who is a Colonel in the police, and look at what he is up to. That was the point I am trying to make. Thank
10 you, Commissioners.

ADV SELLO SC: Thank you. And before we, if I may, before we leave that particular letter that you wrote to the attorneys, that paragraph, was it paragraph 4? You read into the record:

“I can now prove that Steyn supplied
Krejčer with my cellular phone records,
thereby further putting my life at risk.”

Did you ever provide General Sibiya and/or Dramat with the evidence that you say you have, that can prove that Steyn
20 supplied Krejčer with your cellular phone records?

MR O'SULLIVAN: No, Commissioner, I did not. So what I am doing here is I am bluffing Radovan Krejčer's lawyers. I am making them think I can prove it because I want them to think I have got the evidence, but the reality is I did not have the evidence. All I had was a phone call and the

emails that I had from Vodacom saying these were the three case numbers.

ADV SELLO SC: Yes.

MR O'SULLIVAN: So I wanted, it was a case of joining the dots. The evidence would have only been obtained if I could get those section 205 applications.

ADV SELLO SC: Understood. I am with you. Thank you. If we then turn to page 11, you start a new topic.

CHAIRPERSON: Please continue.

10 **ADV SELLO SC:** Thank you, Chair. I see it is quarter to four. There are only, besides the topic, we are about to open two other topics for Mr O'Sullivan to deal with, and I think it is possible to complete today. If that is the decision that we sit beyond four to complete his testimony, may I then call for a comfort break, perhaps now, but whatever time the Chair decides? Then when we resume, we take a statement to the end.

CHAIRPERSON: Let us adjourn and resume at 4 p.m.

INQUIRY ADJOURNS

20 **INQUIRY RESUMES**

ADV SELLO SC: Thank you, Chair. Mr O'Sullivan, if we could now turn to your page 11? Please switch on your mics, both of them, the microphones. Thank you. We are now at your part, page 11, at item 1.4 and you have headed this Major General Feroz Khan.

MR O'SULLIVAN: Yes.

ADV SELLO SC: You deal with that over the next two pages, so if you could highlight for the Commissioners the key aspects of this subtopic?

MR O'SULLIVAN: Ja, if I can suggest that we start with Annexure M.

ADV SELLO SC: That will be page 216.

MR O'SULLIVAN: It is 216,

ADV SELLO SC: Yes.

10 **MR O'SULLIVAN:** Annexure M, Commissioners, is an email that I sent to the then Commissioner of Police, Lieutenant, sorry, Commissioner Sitole. Khehla Sitole was the Commissioner of Police in May 2021. And I copied Lieutenant General Lebeya, who at that stage was the head of DPCI.

And my email references a tip-off that we had received at Forensics for Justice. So just to be clear, Forensics for Justice has an online tip-off portal and also has a telephonic tip-off portal. So people can phone
20 anonymously, and the number is 0800 118 118. And we occasionally get these messages through.

And a message came through and it was a demand to speak to me. And I phoned the person back and he insisted on providing this information. So what we do, we often get tip-offs and the information does not check out. It

does not look like something that is genuine. Or sometimes what happens is you will get a Captain who is in dispute with a General or a Colonel who is in dispute with a General and they will make spurious complaints.

And when we get these tip-offs, before we do anything, we look at the background of it to see if there is anything there. Otherwise what might be happening is we might be aiding and abetting malicious tip-offs against senior officers.

10 But when we received this tip-off, I met with the person concerned. And the information that was given on the tip-off is listed there, and I will just read it out quickly on page 216:

“1. He is involved in facilitating drug trafficking with Nafiz Modack of the Western Cape.”

Well, we know that Nafiz Modack of the Western Cape is now in prison:

20 “2. He is involved in chop shops and the selling of the products thereof.”

And now chop shop is a colloquial term, meaning places where you dismantle stolen cars into component parts and sell the component parts:

“3. He is involved in money laundering for criminals in the underworld.

4. He protects certain criminals, notably Mr Peggie Padayachee, who is a close friend of ex-Deputy National Commissioner Vineshkumar Moonoo, who is currently alleged to be involved in illicit tobacco trade.

5. He has no security clearance and would not get security clearance because of his covert criminal activities and questionable business activities.”

10

Now, these are allegations. They are not factually sound, but they are allegations. Now when we got the allegations, we carry out some background checks, as I have mentioned.

And in this case what we did was we decided to have a look at General Khan. So attached to the email that we sent was the document which is now pages 218, 219, 220, 221, 220, right up until, well, it is all these pages, right up until page 237. Because pages 218 to 224 is our research, it is the research we have done. But when the

20

person gave me the tip-off, the person supplied me with the pages 225 to 237 as what that person considered to be substantiating the allegations.

And it is not our position in life to make any findings about these sort of things. So when we get these type of allegations, what we do is we raise it. And the only

place to raise such an important matter as this is with the National Commissioner.

So we attach all these documents. As I have mentioned, Commissioners, pages 218 to 224 is our own research. And from our own research, we were able to see that at that moment in time, remember we are going back to 2021, General Khan was an active director of one, two, three, four, five, six, seven, eight, nine, 10 companies.

Now, when we look at some of those companies, 10 which we obviously did some background checks on, we were able to establish that some of the companies were involved in the spare parts business of motor vehicles, and you can see a couple of them there. One is called Spares Oasis. We were able to trace the premises where spare parts from other cars are being sold from. Another one is called Magic Motor Spares.

So when you look at all this, and by the way, there is a (Pty) Core Spares Oasis, there is also a CC called Spares Oasis. So we take all this information and then we 20 look at the lifestyle of the individual concerned. And the lifestyle audit that we did gave the indication that this was not a person living on a Major General salary. It was a lifestyle of a person in a much more affluent position.

So all we did was simply supply the information and then say, there you are. That is it. We leave you to get on

with it. And it is not our job then to go knocking on the door and say, hey, what have you done about this? What have you done about that? Because our function is just to supply the information. And that is what we did.

And that is made clear in my statement on page 11. And in my email, I think I have said, we find it should be impossible for a full-time Major General in the police to be moonlighting as a director of 10 businesses, and at least two of those businesses indicate a trade in spare car parts, an
10 activity diametrically opposed to the work of Crime Intelligence, given the high levels of vehicle crime in Gauteng. So we are just making the point. That is it.

And we left it at that.

ADV SELLO SC: Okay. Firstly, did you ever receive a response to your complaint?

MR O'SULLIVAN: No.

ADV SELLO SC: You deal with another annexure at paragraph 1.4.2 ...[intervenes].

ADV BALOYI SC: Before you do that. Mr O'Sullivan, I am
20 looking at your page 218 in that big bundle.

MR O'SULLIVAN: Page 218, yes.

ADV BALOYI SC: Yes. We have got that list of properties there. I just want to understand, well, it starts at 218 and it goes to 219. So you have got a list of properties, and then you have got dates. So if we start at 218, the first property

has got a purchase date, right?

MR O'SULLIVAN: Yes.

ADV BALOYI SC: And then you go to 219.

MR O'SULLIVAN: So what 218 shows two properties, and on 219, so when you are doing the search, if you click with your mouse where it says title deed number, it generates the pattern that you see.

ADV BALOYI SC: The report at 219.

MR O'SULLIVAN: So it is giving you an explanation of
10 where that property is, and what the purchase price was, and whether there is a bond, and the transfer document number, and so on. So that is the information that you would gain from that.

ADV BALOYI SC: Yes.

MR O'SULLIVAN: And then, of course, you are able to get the address. And as you see, the one is based in Houghton Estate ...[intervenes].

ADV BALOYI SC: Yes. Let me ask you my question. It is about the dates that I wanted to ask. What is the
20 relationship between the dates in the first box with the heading properties, and then the dates in the box with the heading addresses? There is a different ...[intervenes].

MR O'SULLIVAN: Yes. So what happens is every time any individual applies for credit, or opens an account, or anything of that nature, where somebody does a credit

check, when a person does a credit check on an individual, they list the data that that person supplies when he does a credit check.

So you would quite often end up with a situation where here, for example, where it says addresses. That date would relate to when that person supplied that address to either a credit provider or an account provider.

ADV BALOYI SC: Okay, thank you.

ADV SELLO SC: Thank you, Commissioner Baloyi. At
10 paragraph 1.4.2, still at your page 11, you introduce an Annexure N. Can you deal with the contents of your paragraph 1.4.2, and perhaps in so doing, place into context how you obtain that Annexure N and under what circumstances?

MR O'SULLIVAN: Yes. Thank you, Commissioners. So when I was preparing my evidence for the Commission, during that process, I had to engage in, I suppose, a to-ing and fro-ing process with Advocate Chaskalson, where I would be drafting certain things. And I said to him, oh, by
20 the way, you know, this is what happened insofar as Major General Khan is concerned. And he said, did you ever see a letter from Ian Levitt Attornies, complaining about you? And I said, no, I have never seen such a letter.

He said, well, would you be interested to know there is such a letter? And Advocate Chaskalson forwarded

this letter to me, and I was quite gobsmacked to see it. Because here I am making a complaint by way of a tip-off, and the information that we have supplied with that tip-off. And I supply that complaint in, let me have a look at the date.

ADV SELLO SC: 24th of May 2021.

MR O'SULLIVAN: 24th of May. So I supply that tip-off on the 24th of May, and here we are 30 days later, or 31 days later, a month later, on the 24th of June, with this complaint
10 coming through from Ian Levitt addressed to General Sitole. And it is coincidental that my email is addressed to General Sitole. Now, General Sitole never came back to me about my complaint.

ADV SELLO SC: And your next annexure starts at 238. That is then the letter that you say was addressed to the National Commissioner by General Khan's attorneys.

MR O'SULLIVAN: Yes, and I have analysed this letter and my problem with it, apart from complaining about me highlighting alleged unethical conduct on his part, the
20 lawyer does not address any of the allegations whatsoever. No once does he say my client has done nothing wrong. The whole thing is about complaining about Paul O'Sullivan.

ADV SELLO SC: Yes, and at page 239, the same document overleaf, this letter advises the National Commissioner that a meeting subsequently took place

between their client, I take it Mr Khan, and yourself.

MR O'SULLIVAN: Yes.

ADV SELLO SC: Can you deal with the contents of that first paragraph?

MR O'SULLIVAN: Yes.

ADV SELLO SC: That suggests that a solution was reached.

MR O'SULLIVAN: Thank you. Commissioners, you have to read paragraphs 4 and 5 together, because they belong
10 together.

ADV SELLO SC: Yes.

MR O'SULLIVAN: In paragraph 4, he makes the statement that he came to see me on the 15th of June 2021. It could be correct, I cannot remember, because I cannot remember back that far. But I do remember him coming to see me. And I was quite flabbergasted when he came to see me, because when he sat in my boardroom, he said, you have made a complaint against me. I said, no, I have not. I am hardly going to admit that I have laid a complaint against
20 him because if I say to him, yes, I have made a complaint, here is a copy of it, I may be guilty of the offence of defeating the ends of justice. So I decide, no, I am just going to deny it.

And then he says in this paragraph that at this meeting, I offered to confirm under oath that I had not made

a complaint against him. Well, I just want to place on record that I never made such an offer. However, if we go on to paragraph 5 of the same letter, the lawyer says:

“Pursuant to the meeting, our client made further enquiries and reliably ascertained that Sullivan...”

They obviously mean O'Sullivan:

10 “...was not being truthful. And in fact, not only had Sullivan laid criminal charges with the DPCI, but that Sullivan had accessed our client's personal information. In doing so, and in contravention of the Protection of Personal Information Act, POPI.”

And as I pointed out earlier, we can access personal information, but not on an arbitrary basis. You can only do it if you are investigating a potential fraud, or for fraud prevention, or for corruption prevention, that sort of thing. So you do not just pick a person at random and say, oh, let
20 us dig into this person. There has to be some probable cause, shall we say.

So the tip-off was what made us do the look at this situation, and then we supply the information. So quite clearly, since I'd sent that email to General Sitole with a copy to General Lebeya, I have not shared it with anybody

else. So either somebody at their office, or they themselves, have shared that information with General Khan.

So I have now got him coming to my office, demanding to know why I have laid a complaint against him. So I have had to deal with that issue, but I just denied it. I said, no, I did not lay a complaint against you.

ADV SELLO SC: Did you ever pursue either General Lebeya or General Sitole regarding your complaints to
10 establish what had become of it?

MR O'SULLIVAN: So as I mentioned earlier to the Commissioners, if I had to pursue every single tip-off that comes through our office to the nth degree, in other words, to keep knocking on the door, what are we eventually going to become a nuisance to somebody?

We receive the information, we validate it, and we pass it on. We package it, and we pass it on. That is all we do. It is not our job to investigate it. So we just look at it, pass it on, and then we believe it is up to the police. In
20 this case, it was up to either General Sitole or General Lebeya to look into it. But as I have said in my statement, I did not hear from them again. So I am assuming they did not look into it.

ADV SELLO SC: In your statement, page 12, paragraph 1.4.4, you then introduce Annexure P, which would be your

correspondence with General Masemola of 31 July 2023.

MR O'SULLIVAN: Yes.

ADV SELLO SC: And I understand from that communication that you shared the same Annexure M that you had originally written to General Sitole with General Masemola. You deal with those issues at your paragraph 1.4.4.

MR O'SULLIVAN: Yes. So what happened there, Commissioners, on the 30th of July 2023, which is now two
10 years after I have laid this formal complaint with General Sitole, by this stage the Commissioner of Police is now General Masemola. So on the 30th of July, I look at News24 and there is this scandalous article which is attached as Annexure O.

ADV SELLO SC: That is at page 241.

MR O'SULLIVAN: 241, where it refers to top cop attending EFF Gala, a shameful offensive slap in the face of South Africans, and it talks about General Khan and it talks about the fact that his ticket for General Khan at this EFF Gala
20 dinner had been paid for by, shall we say, associates of General Khan who were allegedly involved in the illicit tobacco trade.

So I see this and I think, wow, this is not good. It is two years since I have sent a formal complaint through to General Sitole and General Lebeya. Now I decide I am not

going to engage with General Lebeya again because I have already engaged with him and he has done nothing.

So I write to the new, or then relatively new, Commissioner of Police, which is General Masemola, on the 31st of July, which is the day after I have read this article. And I say:

10 “Dear General Masemola. It is most disheartening to read in the media about how rotten Crime Intelligence is. Police management know about this man Feroz Khan, but what is going to be done about it?”

And by the way, when I send this email, I attach to it. So I am forwarding the original email that I have sent two years earlier. And I said:

 “It will take someone explaining to understand how this man can jet around the country in a jet owned by a tobacco smuggling kingpin, Sayed.”

20 Of course, I could have used the word alleged, but I did not:

 “And also drive around in Lamborghinis.”

I said:

 “Does it need for him to be caught with a smoking gun for the management to get rid of him?”

And when I talk about management, Commissioners, I am talking about management of the police. And then I say:

“I am copying the editor of News24, as I believe the people of South Africa have a right to know what has been going on.”

And then I say, I finished the email up with:

“Although General Sitole did not bother to respond to my mail in May 2021, perhaps you will be able to do so.”

10 **ADV SELLO SC**: Did you receive a response to this communication? And if so, what was in summary the response?

MR O'SULLIVAN: No, Commissioners, no response whatsoever. And by that stage, I think it become the order of the day that any such communications were just ignored. So that did not stop me from making the communications because later on, when we have a commission of inquiry like this, I can show, but hang on a minute, this is not the first time these things have copped out of the woodwork.

20 Here we have got the evidence that I have been continually supplying information and evidence and nothing has been done about it. And that is why you are going to find later in my affidavit, I make it clear that actually police management does not take action against senior police officials, unless they have an agenda or motive for doing

so. And that is part of the problem that we have with the police service today.

ADV SELLO SC: You do not say in your statement, but besides the newspaper articles and the reports you filed following whatever investigations you did around General Khan's companies, was there any evidence that you provided to either General Masemola, General Lebeya, or General Sitole that constitutes evidence to support the allegations you make in your previous communication to
10 them of May 2021? Or is it what you have shared with the Commission now that you made available to these Generals?

MR O'SULLIVAN: I was not able to supply any *prima facie* evidence. If I had *prima facie* evidence, Commissioners, apart from notifying the management of the police, I would have opened the criminal docket. But you cannot open a criminal docket based on a hypothesis. So what we would have expected to do as Forensics for Justice, we expected the management of the police to take this and look at it.

20 **ADV SELLO SC:** Yes.

MR O'SULLIVAN: But unfortunately nothing was done.

ADV SELLO SC: Noted. Is there anything else on that sub-topic you would like to highlight? Because you start a new one at your page 13.

MR O'SULLIVAN: No, I think we have covered that in

sufficient detail.

ADV SELLO SC: Okay. Then if we turn to page 13 at paragraph 1.5, you now introduce a different topic. You head it the erstwhile Acting Commissioner, Lieutenant General Phahlane. You deal quite extensively with this matter. If you could briefly then address yourself to it.

MR O'SULLIVAN: Yes.

ADV SELLO SC: And as you do so, because at your paragraph 1.5.3 you introduced the DPCI charge report,
10 which is your Annexure Q. If you could just highlight the relevance of those findings in that report to the terms of reference of the Commission? Thank you.

MR O'SULLIVAN: So what I am trying to get across here, Commissioners, is that if you have an entity such as Forensics for Justice, which at the end of the day, it is a not-for-profit organisation or charity, whatever you want to call it, the reality is that we are not out there to conduct ourselves in a malicious manner. We are out there to help bring accountability specifically in the criminal justice
20 system.

So the purpose of this section of my evidence is to show that if you step out and expose corruption within the criminal justice system, you actually become a target yourself. And that is exactly what happened here. And if I can place on record that in respect of General Phahlane,

that between 2015 and 2017, I carried out extensive investigations and lodged various criminal complaints against General Phahlane with IPID.

I supplied copies of my criminal complaint to then-Deputy President of South Africa, now-President Cyril Ramaphosa. As a result of the complaints I made against General Phahlane, I was singled out for unlawful action by corrupt police officials at the instance of both General Phahlane and other senior officers.

10 The crimes against me included multiple arrests, multiple raids on my home and offices, kidnapping, torture, unlawful imprisonment, and multiple attempts at murder by proxy. And I can go into a lot of detail on that, but to save time, I am not going to.

 But we had a situation where the attempts to murder me were being instigated by senior police officials. I was unlawfully arrested and detained over two years later for using my Irish passport. The reason I used my Irish passport was because at the time Radovan Krejčer was not
20 in jail, but he had cops on his payroll and they were waiting for me to come back into South Africa so they could arrange for me to be murdered.

 So what I did was I slipped in on my Irish passport instead of my South African passport and two years later I get arrested for that because that is all they could find to

arrest me on and they detained me for four days. We talk about General Phahlane, the evidence will show that he is currently on trial, on various trials, and the sum total of the corrupt contracts exceeds R500 000 000.

Now, those trials are ongoing. So in 2016, as a result of all this unlawful conduct against myself, which was coming from DPCI, and by that stage I am saying DPCI was captured and the National Prosecuting Authority was captured. As a result of this unlawful conduct, I laid a
10 formal complaint with the judge for the, they call him the DPCI judge, he was a retired judge, and I laid a formal complaint comprising three lever arch files and that complaint was laid in 2016, towards the end of 2016. On the 6th of October 2022, the judge released ...[intervenes].

CHAIRPERSON: Sorry, sorry. I think paragraph 1.5.3, the last line, an amendment should be made there, it says you laid your complaint in July 2026.

MR O'SULLIVAN: Thank you, it should be 2016.

CHAIRPERSON: Thank you.

20 **MR O'SULLIVAN:** That is a typo for which I apologise. So in fact, I laid the complaint in July 2016 and it comprised of three lever arch files with all the evidence, and then I left the DPCI judge to get on with it. And the DPCI judge issued a report which is contained as Annexure Q at 246.

Now, that is a very lengthy report, Commissioners.

So what I have done on page 14, I have extracted the relevant sections of the report and I would like to read it into the record halfway down page 14, and it continues on page 15 and it finishes at the top of page 16. So it is only about two or three minutes of reading:

“And the DPCI judge made the following findings against Major General Mokotedi. In respect of Mr O'Sullivan's arrest and the manner in which it was carried out at
10 OR Tambo International Airport on 01 April 2016 in the presence of his children, needlessly detained for several days for what is a minor infraction of having allegedly contravened section 26(b) of the South African Citizens Act and his dubious prosecution in *State v O'Sullivan*, case number B803/2016, Kempton Park, for which he was acquitted in terms of section 174 of the
20 Criminal Procedures Act. Major General Mokotedi is found guilty of having seriously and unlawfully infringed the rights of Mr O'Sullivan as contemplated in section 17(l) of the SAPS Act. As far as the cold cases against...”

...[intervenes].

ADV BALOYI SC: Mr O'Sullivan, why Mr General Mokotedi? Is it because he is the one that effected the arrest? What happened?

MR O'SULLIVAN: No, Commissioner. General Mokotedi had been, and I will be able to prove this, it is not just an allegation. General Mokotedi had been unlawfully appointed as the head of DPCI in Gauteng during the State Capture process. So you had General Ntlemeza. I had
10 opened a case against General Ntlemeza before this by the way. I had opened a case against General Ntlemeza. I had opened a case against Lieutenant General Phahlane, who was the Acting Commissioner of Police, and I had opened a case against General Mokotedi.

So Mokotedi was the senior person who led the group of about 30 police officials who targeted me and Forensics for Justice and the staff that worked for me. So as you will see, there was a campaign over several years against us.

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

MR O'SULLIVAN: Shall I carry on:

“As far as the cold cases against Mr O'Sullivan that Major General Mokotedi ...[indistinct] and reinvestigated are concerned, it is certainly permissible for

Major General to have done so. What he has made himself guilty of is falsely claim under oath, as the DPCI judge observes in paragraph 26 above this report...”

Paragraph 61:

10 “One has to be extremely gullible to accord any credence to Mokotedi's averment that pursuant to O'Sullivan's arrest on 01 April 2016 at OR Tambo International Airport, all the complainants in the cold cases magically came out of the woodwork and urged that charges they laid against O'Sullivan years before be resuscitated or reopened. Such coincidence defies credulity and I reject this explanation as a figment of his fertile imagination. A conspectus of the facts circumstances strongly mitigate against
20 it. All nine reinvestigated cases proved to have been moribund and none of them survived as far as could be determined.”

Now, Commissioners, if I can just stop there and explain to you what those cases related to, those nine moribund cases. Apart from running Forensics for Justice, I have

other business activities. I run a property company and I run a forensic practice and the forensic practice, we carry out forensic investigations for corporations.

So if fraud has been committed or corruption has been committed within a corporation, they will engage our services to carry out an investigation. And quite often it would entail us then assisting that client to open a criminal docket for fraud or theft or corruption or whatever the case may be.

10 And in the criminal justice system today, we have a situation where quite often to distract the attention away from their own criminal activity, you get the suspects in these cases opening cases against the people who are investigating them. It goes on all the time. And I would say probably over 200, 300 investigations that we have carried out, there has probably been 10 or 12 where the people, the suspects have opened cases against us. And those cases have got no legs at all. It is just a distraction. So I just wanted to explain that. Then the DPCI judge goes on to
20 say:

“It is common cause that the relationship between O'Sullivan and Mokotedi was and remains strained, if not acrimonious. I am acutely alive to the fact that Mokotedi may have harboured an ulterior

motive for reopening the aforesaid cold cases.”

Then he goes on a bit further:

“However, I am satisfied that the reinvestigation of the cases was meant to and did harass O'Sullivan. It was designed to have a chilling effect on his forensic investigations and to fight corruption. Sometimes it appears he acted unconventionally.”

That is me they are talking about:

“But so far as the DPCI judge could discern, not unlawfully.”

Well, of course we act unconventionally, and that is why we have the success ratio that we have, because we step above and beyond what normal people would do. Then he goes on to say at paragraph 63, which is on page 15:

“To put Mr O'Sullivan to such unwarranted great expense to defend the unmeritorious cases was prejudicial to him and seriously and wrongfully infringed his constitutional rights as contemplated in section 17(l) of the SAPS Act.”

Then he says at 64:

“The failure by Mr Mokotedi to obtain a security clearance.”

Now this is the crux of the issue, Commissioners. This is the most important part of this whole story:

10 “The failure by Mokotedi to obtain a security clearance for almost three years is unlawful and a transgression of section 17(e) of the South African Police Service Act and section 2(a) of the National Strategic Intelligence Act. Mokotedi disgracefully tried to shield behind his employer. However, he had a concomitant duty and responsibility to obtain the clearance. In addition, his appointment set out in paragraph 44(2) above was subject to a security clearance of top secret.”

20 And I need to pause there to mention, Commissioners, the law is crystal clear. You cannot be appointed as a Provincial Commissioner of DPCI if you do not have top secret security clearance. He never had it. Then he says:

 “Nevertheless, no direct connection can be made or line drawn between the Mokotedi's spurious appointment as provincial head of the Hawks and the

woeful treatment meted out to O'Sullivan.

Be that as it may, he should never have

been appointed to such a lofty position.

Least of all, he should not have been

given a permanent contract of

appointment under the sketch prevailing

circumstances.”

Now, Commissioners, at the end of the report he makes a conclusion and he recommends to the Commissioner of
10 Police, General Masemola, that Major General Mokotedi should be dealt with.

And what is interesting here, Commissioners, is that Major General Mokotedi was the Provincial Head of DPCI. Now, DPCI, in terms of the Glenister judgment, is handled in terms of section 17 of the Police Service Act. So it is a separate section of the Police Service. It is supposed to be separate.

And if you are appointed as Provincial Head of DPCI and then you are found wanting and you do not have
20 security clearance, what happened in this case, instead of him being dismissed, he was just moved sideways into the Police Service from DPCI. And I was not happy about that. In fact, I was quite livid and I continuously wrote to General Masemola and I requested him, why has this person not been dismissed?

To cut a long story short, he was eventually dismissed. But not to do with the DPCI judge's report, to do with another matter completely. So I just wanted to record those facts. That General Masemola did not lift a finger to deal with the DPCI judge's report, which report was issued in 2022. And General Mokotedi only finally left the service towards the end of 2024, which means he sat on the payroll, the taxpayers' payroll, for a further two years, twiddling his thumbs. He was not working.

10 **ADV KHUMALO SC:** Mr Sullivan, just a small issue. Your paragraph numbers, where you quote the DPCI judge's report ...[intervenes].

MR O'SULLIVAN: 64 did you say?

ADV KHUMALO SC: Yes. They are incorrect. Sorry. On page 15 of your statement, at least in two respects, you seem to have quoted the unnumbered quotations, but you have given them paragraph numbers. So your paragraph 61 on page 15 in the judge's report is just an unnumbered quotation.

20 **MR O'SULLIVAN:** Let me just have a look. Sorry.

ADV KHUMALO SC: If you go to page 319 of the annexures, it is just two paragraphs that we need to correct.

MR O'SULLIVAN: I am just going to have a quick look here. 64. Ja, so it would appear to me, if I can beg for your forgiveness. So what has happened is I have created

this on Word and I have typed it in, and sometimes Word changes the paragraph numbers without your permission. And I think that is what has happened here. So for the purpose of correctness, we probably need to ...[intervenes].

ADV KHUMALO SC: So this is what we will do. Let me assist you. What you have numbered paragraph 61 on page 15 is an unnumbered paragraph in the judge's report. It is just a quotation of the earlier evidence on paragraph 26. So that 61 must go out, which means what you have as 62
10 will then be 61 ...[intervenes].

MR O'SULLIVAN: 61 and becomes 62.

ADV KHUMALO SC: And then what you have as 63, that is another quotation. So we will have to correct that. And then what you have as 64, which says the failure will be 63 according to the report. You see on page 320?

MR O'SULLIVAN: Ja.

ADV KHUMALO SC: Yes. And then what you have as 65 will then be 64, the paragraph that starts with nevertheless.

MR O'SULLIVAN: I have it.

20 **ADV KHUMALO SC:** Yes.

MR O'SULLIVAN: Thank you.

ADV KHUMALO SC: Thank you.

ADV SELLO SC: Thank you, Commissioner Khumalo. My sense is that you have covered everything you have set out in your statement regarding General Phahlane, your

complaint regarding General Phahlane and the DPCI judge report.

MR O'SULLIVAN: Yes.

ADV SELLO SC: Is there anything else that you conclude by saying:

“Notwithstanding the referral of that report to General Masemola, General Masemola failed to take action.”

MR O'SULLIVAN: Yes.

10 **ADV SELLO SC**: If I understood the report correctly, the action General Masemola was invited to take was against Major General Prince Mokotedi and not against General Phahlane, was it? If you look at your summary at page 16 ...[intervenes].

MR O'SULLIVAN: Page number, sorry?

ADV SELLO SC: Your summary at page 16, paragraph 1.5.6, you quote the conclusion reached by the judge.

MR O'SULLIVAN: Fannie Masemola.

ADV SELLO SC: You say this, and it quotes under capital
20 A in parenthesis:

“This is an appropriate DPCI judge's report deserving attention of the National Commissioner of Police...” ...[intervenes].

MR O'SULLIVAN: Correct. This is the conclusion of the DPCI judge's report.

ADV SELLO SC: Yes.

MR O'SULLIVAN: If you look towards the end, I should give you the page number there.

ADV SELLO SC: I will locate quickly the page number for you. The point I am making is that was a conclusion for the purposes of taking action against Major General Mokotedi and not General Phahlane. Am I reading it correct?

MR O'SULLIVAN: I do not mention General Phahlane.

ADV SELLO SC: Yes, I am saying the topic deals with
10 General Phahlane. The DPCI judge's report makes findings, is in large part concerning the conduct of Major General Mokotedi and makes findings as you have tabulated them at page 14.

MR O'SULLIVAN: That is to be seen on page 326 of the evidence. It refers to deserving the attention of National Commissioner General Masemola.

ADV SELLO SC: Yes, and I am saying that what deserves General Masemola's attention is what you have set out at page 14 in the boxes. The following findings against Major
20 General Mokotedi are made.

MR O'SULLIVAN: Correct.

ADV SELLO SC: It is those findings that are brought to the attention of General Masemola and General Masemola is called upon to take appropriate steps.

MR O'SULLIVAN: Which is what should have happened.

ADV SELLO SC: Yes, and the only point I sought to make was that this is not about General Phahlane.

MR O'SULLIVAN: No, it has nothing to do with General Phahlane.

ADV SELLO SC: I ...[indistinct] clarity ...[intervenes].

MR O'SULLIVAN: The only thing it is to do about General Phahlane is that all of this conduct happened against me.

ADV SELLO SC: Yes.

MR O'SULLIVAN: Because I opened a criminal complaint
10 against General Phahlane. So everything that is listed here happened against me and others that were connected to me. But the driving force, according to the DPCI judge's report, was General Mokotedi who was acting on the instructions of both General Ntlemeza, it does not say that in the report but we know for a fact General Ntlemeza and General Phahlane.

ADV SELLO SC: Okay, understood. Ja, I just wanted to make that clarity.

MR O'SULLIVAN: Ja.

20 **ADV SELLO SC:** And do you know, are you aware of any steps then that General Masemola took against General Mokotedi?

MR O'SULLIVAN: None at all.

ADV SELLO SC: And at your paragraph 1.5.8 you confirm that General Masemola, as you say, quote-unquote, did not

lift a finger to implement the recommendations of the DPCI judge.

MR O'SULLIVAN: So, sorry ...[indistinct]. At 1.5.7 I have said:

10 “The relevance of the conclusion in the DPCI judge's report mentioned above is not lost on me and should not be lost on the Commission. General Mokotedi was never, from the date of his unlawful appointment, lawfully in his post because he never had top secret clearance or secret clearance. Instead of dismissing him, General Lebeya unlawfully agreed with General Masemola that he could simply be moved from DPCI to SAPS.”

So, that is moving the problem instead of removing the problem:

20 “He was moved to the division known as Inspectorate which functions or is supposed to function as the internal standards monitoring the police. It can be likened to hiring mice to guard the cheese.”

Because here you have a situation where General Mokotedi has now been moved out of DPCI where he cannot be

because he does not have top secret clearance, plus the DPCI judge has said he must be dealt with, and he is moved into the police. They have nowhere else to put him, so they have put him in the Inspectorate. Now, the Inspectorate is quite commonly known as the departure lounge in the police.

If they have not got work for a senior person, they stick them in the Inspectorate and that is often where these Generals end up before they find another job somewhere.
10 So, that is why it is colloquially referred to as the departure lounge.

ADV SELLO SC: Thank you. That would then lead us to your paragraph 1.5.9 at page 17, but you introduced a new topic there.

MR O'SULLIVAN: Yes.

ADV SELLO SC: And you head that General Mkhwanazi's unlawful assistance to General Phahlane.

MR O'SULLIVAN: Yes.

ADV SELLO SC: Before you deal with the contents of that
20 paragraph, you reference an affidavit by a Mr Humbulani Khuba, which you invite to be tested. Presumably, the invitation is sent to the Commission.

MR O'SULLIVAN: Yes.

ADV SELLO SC: Commissioners, that affidavit is not part of your bundle. Mr O'Sullivan has made a copy available

and we have got copies for you. Because of where it is referred to, we have Annexure Q, which is the DPCI judge report. We propose this be the next document based on the structure of the statement and we propose that it be marked Q1 so that we can associate it with paragraph 1.5.9 easily.

Now, Mr O'Sullivan will talk to this affidavit, but the Commissioners will notice that the first document is a two-page affidavit dated the 16th of January 2026 and that affidavit seeks to introduce an earlier affidavit dated
10 October 2020, according to the narrative, but the copies you have are undated.

And it is stated that this particular October 2020 affidavit was prepared for the purposes of the Zondo Commission, but it would appear to have not been either finalised and filed or the challenges that Mr O'Sullivan has had is to locate a signed and filed copy of the annexure to this affidavit. So that is the context of these documents.

Technically there are two affidavits, the latest one now of 2026 and the two that are attached. The difference
20 between the two, as I understand it, is that the one has got track changes, the second does not. It is a clean copy, but it is one in the same document. I hope that will assist in navigating this new annexure.

MR O'SULLIVAN: Yes.

ADV SELLO SC: Then, Mr O'Sullivan, you start at – you

may deal with your 1.5.9. You state that you are informed, I do not know by whom:

“...that you do not need to go into the details of the unlawful prosecutable conduct of General Mkhwanazi pertaining to General Phahlane relating to the offences I believe were committed in 2017 and 2018.”

It is in our engagement regarding the allegations you make
10 there that you introduce Mr Khuba's affidavit, which we now have marked Q1.

MR O'SULLIVAN: Yes.

ADV SELLO SC: So you may deal with the issues that you highlight there.

MR O'SULLIVAN: Thank you. So, Commissioners, to get the drift on this, to get an understanding of what took place here, we have to remember that I opened the case against General Phahlane, a criminal complaint. I opened that complaint in February 2016. And in that complaint, I
20 alleged very serious corruption on the part of General Phahlane, and my docket set out chapter and verse.

Remember what I said earlier, if I get a tip-off and there is no evidence, we just supply the information. In this case it was more than a tip-off. I had evidence. And I took all that evidence and I packaged it, and I opened a formal

docket with IPID. But unfortunately, by that stage, IPID was captured. It was during that State Capture period, and IPID was captured by virtue of the fact that two Crime Intelligence officials have been appointed to work in IPID and they were allegedly controlling all of the investigations that IPID did.

And then you had a situation where I opened my case with IPID in February 2016, and the complaint I laid was, a copy of it was supplied to General Phahlane instead
10 of the matter being investigated, and that led to the attacks against myself and my staff.

So, but what happened while all that was going on was there was a matter in the Supreme Court of Appeal. In fact, no, sorry it was the Constitutional Court, and that was the matter of *Robert McBride v The Minister of Police*. And the Constitutional Court ruled that the suspension of Robert McBride was unlawful and it was an overreaching by the Minister of Police, and Robert McBride was given his job back. Which meant that in November 2016, 10 months after
20 I had opened this case against General Phahlane, the case suddenly came alive again.

So I sat down with the people from IPID and I explained to them exactly what had gone on and the fact that for 10 months there had been no investigation whatsoever, other than supplying General Phahlane with a

copy of the docket.

So then what happened was IPID formed a small task team, and my understanding is that the task team was headed up by this gentleman Humbulani Innocent Khuba. And he is currently the Limpopo Director of IPID. At the time, I believe, he was also the Limpopo Director of IPID, but he was brought to Pretoria because they wanted somebody from outside the province to case manage my complaint against General Phahlane. And that is what
10 Humbulani Khuba did, and he reported directly to Matthew Sesoko, who was the Head of Investigations at IPID.

So what happened was there were a number of legs where General Phahlane attempted to derail the investigations into him, and those legs took various forms. One of the forms, and I will say briefly, was the appointment of the so-called North West Team, which was General Mabula and a whole lot of Brigadiers and Colonels. And their job was to try and find dirt on the IPID investigators and myself.

20 And they were quite busy with that. In fact, I was unlawfully arrested and charged, which is part of those other cases that eventually blew away. But what happened as well during that period was we had, according to Humbulani Khuba, we had the unlawful conduct of General Mkhwanazi.

And I would like to just explain these pages that have been given to you now, I have got page numbers 333.1, 333.2 and so on. Now 333.1 and 333.2 is a sworn affidavit saying that, look here, I cannot find the original affidavit that I submitted in 2020 to the Zondo Commission. However, what I have been able to locate are the emails from the Zondo Commission giving me my draft affidavit.

And I want to say that when I attach this affidavit, everything in there is true and therefore, as you would
10 know, making affidavits for a commission, it is an iterative process. It is not something that you just do and you are finished. You draft and then you add a bit and, you know, it is an iterative process.

And this is the evidence. If you look at page 333.8, it is an email from Garth Hulley who was one of the Evidence Leaders at the State Capture Commission, and he is saying:

“Hi, Innocent. Please consider the
attached statement that I drafted based
20 on our consultation. We need to get as
much corroboration as possible. I have
raised a few issues on the papers.
Please get back to me.”

This is what Mr Khuba has been able to find. We have been in touch with Garth Hulley and, unfortunately, the State

Capture Commission, as you know, is wound down, and it is not possible to find the original statement that Humbulani Khuba made.

And that is why I have suggested that I believe this person could be and possibly should be briefly, because it is not a long story he has here, it is a very short story. And if you capture his story quickly, it is basically saying that in February 2018 he got a phone call from Major General Nemutanzhela of Crime Intelligence.

10 Either way, when you see all these issues, I just want to reiterate, most of these issues emanate from Crime Intelligence. It is always, always, always, there is something to do with Crime Intelligence. He stated that he blah, blah, blah, he wanted to meet with me.

It provided me on page 33.4, if we look at paragraph 10:

“I remained in the lobby.”

So he is now at a hotel somewhere in Pretoria:

20 “I remained in the lobby while we waited for the anonymous witness.”

So Mr Khuba thought he was going to be meeting a witness:

“He was in telephonic discussion with the witness. In one of his discussions with this person, I recall him explaining that we are already seated here waiting for

you. Nemutanzhela and I had drinks, juice, while we waited for the anonymous witness. After one of his calls...”

This is now paragraph 11 on page 33.5:

10 “After one of his calls, Nemutanzhela said to me that we could go now. We took the lift and went up to one of the floors. I do not recall which floor it was. When we got out of the lift, I saw Lieutenant General Mkhwanazi. I immediately recognised him. I had interviewed him in the ...[indistinct] matter. Mkhwanazi asked us to switch off our cell phones and hand them to him. He took the phones and placed them in an adjacent room. Present in the meeting was General Mkhwanazi, Nemutanzhela and me.”

So there is three of them in the room:

20 “I do not recall precisely how long the meeting lasted. I imagine that it took approximately one to one and a half hours. I was present in the meeting with Mkhwanazi and Nemutanzhela. Mkhwanazi started the meeting by talking

about politics. He later explained that there were two IPID officials who had given section 204 statements. Nkabinde and Mahlangu.”

Now we all know who Nkabinde is. It is the same Cedric Nkabinde who was subsequently dismissed or resigned from IPID and subsequently surfaced as the Chief of Staff for the Minister of Police. And he talks about Mahlangu. Mahlangu was one of the IPID investigators.

10 His name was Mandla Mahlangu. It does not say that here, but I know who it is because I knew the person. He was approached also to give a witness statement. Unfortunately, he cannot testify today because after he refused to sign the witness statement, he was subsequently murdered. And then it goes on at paragraph 15:

“Mkhwanazi asked me for information that could implicate McBride in criminal wrongdoing involving Mr Paul O'Sullivan.”

20 So the narrative, I should mention at this stage, that was being driven by General Phahlane was that I had captured IPID, that I had taken over IPID. And General Phahlane would even go on TV and refer to it as OPED [sic]. He went into Parliament on the 17th of May in 2017 and referred to IPID as being OPED. Very sarcastic:

“He wanted to know what they were

involved in and how they were involved.”

He is talking about General Mkhwanazi asking him about myself and McBride:

10 “I explained to him that I did not spend time with McBride socially and was accordingly not in a position to provide him with details of McBride's relationships with O'Sullivan. I should emphasise that at that point, at no point did he suggest that I should lie.”

I pause at this stage, Commissioners, to mention the only relationship I ever had with Robert McBride was the fact that he was the head of IPID. And after he was reinstated by the Constitutional Court, I went and met with him and told him about this case against Phahlane that was gathering dust for the previous 10 months. And that is as far as it went. He goes on at paragraph 16:

20 “Mkhwanazi said that I would be taken care of, that I, who held the post of Chief Director, which would be at the rank of Major General in the SAPS, would be promoted to rank of Lieutenant General, which was on the same rank as him. Mkhwanazi indicated that both Nkabinde and Mahlangu would also be promoted

into higher ranks within the SAPS because of their cooperation. He explained that one of them had not yet signed.”

That was, I can tell you, was Mahlangu, because we know Nkabinde had signed:

10 “When I was leaving, he said that I should think about it. He said that he was meeting with Nkabinde and Mahlangu that evening.”

And then he talks about going back to the office and explaining all this to Matthew Sesoko, who was his direct boss, who was waiting for me:

20 “We discussed a lot about whether it was true that these two IPID officials had turned section 204. We got the sense that Mkhwanazi was trying to fish to get me to tell him what I knew. My sense was that he wanted to give me the impression that he already knew and that I should tell him, since the information would already be shared by my officials. I returned to my hotel at approximately 21:30. I went to check at the hotel room of Nkabinde. They were in the same

hotel. I knocked on his door and he did not answer. I phoned Sesoko and said this might be true because Nkabinde was not there. We were staying in the same hotel called Absolute Farenden in Hatfield. At about 24:00 or 00:00, I heard Nkabinde returning to his room. I told myself I was not going to sleep until he returned. We had adjacent rooms. I sent Sesoko a message via WhatsApp saying he had just come back. Mahlangu later told Sesoko that he had been approached. I think Sesoko told McBride who called a meeting to find out if anyone was approached. Mahlangu confirmed that he had been approached. He said that he had been approached by Khomo.”

Now, Khomo was the Crime Intelligence official working in IPID. The two Crime Intelligence officials had been placed by the Minister of Police into IPID to manage investigations. In fact, how can you have Crime Intelligence officials working for a so-called independent body like IPID?

But what in fact happened, and I can just mention this on the record, that when Mr McBride was reinstated to

his position by the Constitutional Court, these two officials absconded from IPID and never came back. They went back to Crime Intelligence. And then he says:

“I was expecting him to include Mkhwanazi, but he did not mention Mkhwanazi. On the one occasion, he got angry with me for mentioning Mkhwanazi because he made it clear that he was a family friend. He did not want me to
10 mention the name of Mkhwanazi.”

So the point I am making, Commissioners, is that some sort of credence has to be given to this. Because here you have a situation where on the 6th of July last year, General Mkhwanazi calls a media briefing, a very dramatic, fantastic media briefing, where he talks about interference in investigations.

In fact, according to this statement, that is exactly what he was doing in the Phahlane investigation. He was interfering with IPID and trying to get IPID members to
20 leave IPID and give them some dirt on Robert McBride and allegedly against me as well.

ADV BALOYI SC: Mr Sullivan, where do we see in this affidavit that the overture or the approach by General Mkhwanazi related to the Phahlane case? Where do we see that in this affidavit?

MR O'SULLIVAN: So you cannot see that in that statement. You would have to be involved on the ground at the time, as I was, to know what was going on. And all of this was going on at the same time as the Phahlane investigation. And in my opinion, my humble opinion, the only way you are going to get to the bottom of this is either to get a detailed sworn statement from Mr Khuba or get him to come and testify. I cannot believe it can take long for him to cover these aspects.

10 **ADV BALOYI SC**: It may be so. It may be so that it will not take long. But one note, I am noting, for example, that Mr Khuba did this two-page affidavit, the first two pages, on the 16th of January 2026. The Commission was sitting. I do not know for what purpose he prepared this affidavit ...[intervenes].

MR O'SULLIVAN: My understanding, Commissioner, is that it was for the Ad Hoc Committee of Parliament.

ADV BALOYI SC: Yes. The point I am making is that as recent as January 2026, where he prepares an affidavit, he
20 does not say anything about General Mkhwanazi approaching him to interfere, as a measure to interfere in the Phahlane investigation. In fact, at paragraph 18, he says:

“Our sense was that he was trying to fish
to get me to tell him what I knew.”

He does not say about what, but he has opportunity in January to say more on this earlier affidavits, and in particular, that he felt, even if it is just I felt he was speaking to me or he wanted me to interfere, or he was interfering in the Phahlane investigation, he does not say that.

My question really is, if we rely on these two affidavits, including the recent ones, so all three, two drafts and this latest affidavit, there is not anything in it that
10 speaks to the very specific topic you are speaking to, which you say, this is evidence of interference ...[intervenes].

MR O'SULLIVAN: So ...[intervenes].

ADV BALOYI SC: Unless I misunderstand your evidence ...[intervenes].

MR O'SULLIVAN: So ...[intervenes].

ADV BALOYI SC: I thought what you are saying is this is evidence of interference.

MR O'SULLIVAN: These documents themselves would not amount to evidence on their own of the interference. They
20 would have to be read together with the High Court cases that took place at the time, where IPID launched urgent application to stop police interference in their investigation into Phahlane, and they were successful in that, that they got an order that the police must not do a counter-investigation.

Now, I was on the ground at this moment in time, so I knew what was going on. So I knew that this related to Mandla Mahlangu, by the way, Cedric Nkabinde. If you look at this Commissioner, you will see that he does mention that Mkhwanazi was fishing to see what he could find out about Robert McBride and Paul O'Sullivan, and my only involvement with Robert McBride at that moment in time was the Phahlane investigation. I had no other involvement. That was it. Short and sweet.

10 So it is hard to draw that conclusion. I agree with you, but I do believe it is warranted, if possible, to either get the gentleman in or have one of the investigators take a more detailed statement from him.

ADV BALOYI SC: The problem with that proposal, that I can – let me start, I can understand when you say you were on the ground, and because you were on the ground, you are able to draw connections between this approach to IPID and what you knew was happening on the ground, including that the Phahlane, General Phahlane matter was taking life.

20 So I can see, I am prepared to accommodate that in your connection of the dots, that is the picture it creates.

The difficulty, at least for me, is we have a statement here, or we have that unsigned affidavit where Mr Khuba makes no reference to the Phahlane matter, and that is compounded by that as recently as January 2026, he gets

to prepare another affidavit that attaches the unsigned one, and he does not speak to ...[intervenes].

MR O'SULLIVAN: No, exactly ...[intervenes].

ADV BALOYI SC: He does not make that allegation ...[intervenes].

MR O'SULLIVAN: I fully agree with you. If I was involved in the preparation of this statement in January 2026, I would have crossed the T's and dotted the I's and made it crystal clear what I was involved in.

10 **ADV BALOYI SC**: Yes.

MR O'SULLIVAN: We know for a fact that Cedric Nkabinde left IPID, tried to join the police as a Brigadier, and I wrote to General Sitole at the time, and I said I would bring a court application if he is appointed in the police. So we know that was the status with Cedric Nkabinde.

At the end of the day, this is crying out for further, shall we say, investigation. I understand that on its own, it is not a smoking gun, but I do believe there is a smoking gun to be had here.

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

ADV SELLO SC: Thank you, Commissioner. I have a similar question. Looking at the same affidavit, starting from paragraph 10, what you have basically read into the record.

MR O'SULLIVAN: So what page are we on?

ADV SELLO SC: I am in Annexure Q1, Khuba's affidavit that we have just tendered. I am at page 333.4, and I say it is only at paragraph 10 that Mr Khuba deals with the engagement with General Mkhwanazi and following.

MR O'SULLIVAN: Ja.

ADV SELLO SC: Now, my reading of that is that what Mr Mkhwanazi wanted is what is reflected in paragraph 15:

10 “Mkhwanazi asked me for information
that could implicate McBride in criminal
wrongdoing involving Mr Paul O'Sullivan.”

MR O'SULLIVAN: Ja.

ADV SELLO SC: And if I read the document correctly, that is what seems to be the gist of the engagement between the two.

MR O'SULLIVAN: Correct.

ADV SELLO SC: Now, if we look at your statement at page 17, at paragraph 1.5.9, you say you speak of:

20 “Unlawful prosecutable conduct of
General Mkhwanazi pertaining to General
Phahlane relating to offences, I believe,
were committed in 2017 and 2018, when
General Mkhwanazi was involved in
unlawful attempts to prevent
investigations and prosecution of General
Phahlane.”

And then you quote this affidavit. Similarly, this affidavit does not help us understand the unlawful prosecutable conduct you reference unless you suggest that General Mkhwanazi, enquiring from the wit Mr Khuba whether he has information that could implicate McBride in criminal wrongdoing involving Mr Paul O'Sullivan, is the unlawful prosecutable conduct.

MR O'SULLIVAN: No. So that is why I have suggested, Commissioner, in my paragraph 1.5.9, I said:

10 “I will not therefore canvass the matter,
 save to say that I feel very strongly that
 the evidence of Mr Humbulani Khuba in
 this regard should be tested.”

In other words, it needs to be tested because that is the only way you are really going to get to the bottom of the matter. I know what it is, but my knowledge is not evidence. It is just what I know. And I accept that it is not evidence.

ADV SELLO SC: I understand what you say. So you are
 20 inviting the Commission to test and, to the extent
 necessary, perhaps engage with Mr Khuba so that we can
 determine the unlawful prosecutable conduct of General
 Mkhwanazi and his involvement in unlawful attempts to
 prevent investigations and prosecution of General
 Phahlane.

MR O'SULLIVAN: That is correct.

ADV SELLO SC: Okay, I fully understand. Okay. That then brings us to the end of that particular subtopic. And if we could then go to paragraph 1.6 at page 17?

CHAIRPERSON: Sorry. You have said you know this or you know about this, but your knowledge all on its own or by itself will not assist. What exactly do you mean when you say you know?

MR O'SULLIVAN: Because, Commissioner, at the time,
10 way back then, when all this was going on, the multiple attempts at trying to derail the investigation by IPID against Phahlane, Phahlane was going into the public domain and making these comments that Paul O'Sullivan was taking over IPID, which of course were false comments, absolutely false.

Now you have this situation going on and you have this parallel conduct in relation to Cedric Nkabinde. Let us just park Cedric Nkabinde to one side because at the time this took place, Cedric Nkabinde, he went across to the
20 other side. He left IPID and he went into the Phahlane camp and he was recruited into the Phahlane camp by General Mkhwanazi, and he provided a sworn statement in a High Court case where General Phahlane launched an application to try and have the charges against him thrown out of court, and he failed. The court ruled against him.

Now that was Cedric Nkabinde that was making that sworn statement for General Phahlane, but he did not say, by the way, I was recruited by General Mkhwanazi. But if you read this, Humbulani Khuba says that General Mkhwanazi tells him, listen, we have already got Cedric Nkabinde on board and we have already got Mandla Mahlangu on board, but he said one of them has not signed. Well, at the time, we found out that it was Mandla Mahlangu who had not signed and he refused to sign. Unfortunately, 10 he was murdered because of it.

CHAIRPERSON: Do you have any idea, Mr O'Sullivan, for what purpose this statement was made for the Ad Hoc Committee, the short affidavit to which are attached the draft statements?

MR O'SULLIVAN: Yes, Commissioner, because I obtained this affidavit from Robert McBride. because when this Ad Hoc Committee was going on, you had certain parties going to the Ad Hoc Committee, and for want of a better expression, blowing smoke up their backsides with all these 20 false claims. And you had this situation where they called as witnesses people like Robert McBride and they tried to impugn his character, and they did the same to me, they tried to impugn my character.

But unbeknown to me, and I only found out afterwards, Robert McBride obtained this statement and

tried to persuade the Ad Hoc Committee to call Mr Khuba as a witness, but they did not. So that is my understanding as to how the statement was obtained.

CHAIRPERSON: So it was filed with the Ad Hoc Committee at the instance of Mr McBride?

MR O'SULLIVAN: That is my understanding.

CHAIRPERSON: Okay, But was the context there to say that General Mkhwanazi had allegedly committed unlawful prosecutable conduct? Was that the purpose for filing this
10 statement or was the purpose something else? Do you know?

MR O'SULLIVAN: My understanding, Commissioner, is that the Ad Hoc Committee did not obtain the statement. My understanding is that Robert McBride obtained the statement and that when he obtained it, with all due respect, he did not spend long enough cobbling it together. It could have contained a lot more detail. and this was a quick rush job that was done before his appearance at the Ad Hoc Committee.

20 If I was involved in doing it, it would have contained all the relevant data, but I was not involved and I only found out about it later.

CHAIRPERSON: But what I am saying is I did not suggest that it was filed at the instance of the Ad Hoc Committee, no. I am saying was it filed for the purpose of showing that

General Mkhwanazi was allegedly guilty of unlawful prosecutable conduct?

MR O'SULLIVAN: That is correct.

CHAIRPERSON: Even if it was at the instance of Mr McBride, was that the purpose?

MR O'SULLIVAN: My understanding, Commissioner, and I do not have the minutes of when Mr McBride testified at the Ad Hoc Commission, but his actual words were this is evidence of unlawful prosecutable conduct on the part of
10 General Mkhwanazi. And perhaps one of the researchers can find the PMG minutes of the meeting where he states that, because that in fact is what he stated here.

When I heard it – I did not listen to him giving his evidence. I heard it later and somebody pointed it out to me and I said can I get a copy of that statement, and that is what I got.

CHAIRPERSON: And would this have been prosecutable conduct relating to General Phahlane or ...[intervenes].

MR O'SULLIVAN: That is what Robert McBride insinuated.

20 **CHAIRPERSON**: Wanted to, okay. All right, which I think, or rather in respect of which the statement does not seem to assist, and that is the point Commissioner Baloyi already took you through.

MR O'SULLIVAN: I agree with the Commissioner.

CHAIRPERSON: Yes, okay. Thank you.

ADV SELLO SC: Thank you, Chair. As I indicated, Mr O'Sullivan, we are now at page 17 and we start with the next subtopic 1.6, General Mkhwanazi, Mr Kistiah, and the Louis Vuitton bags. You reference in this part of your statement Annexure R, which is to be found at page 334. That is the article, that is the newspaper article.

MR O'SULLIVAN: Yes.

ADV SELLO SC: And just to confirm on this topic, this is all you rely on, this is all the evidence you have about these
10 supposed gifts by Mr Kistiah.

MR O'SULLIVAN: Yes, so ...[intervenes].

ADV SELLO SC: So then if you may just quickly deal with ...[intervenes].

MR O'SULLIVAN: I am mindful of the time we are spending, so I will try and be as prompt as I can and succinct as I can.

ADV SELLO SC: Yes.

MR O'SULLIVAN: I had knowledge of this allegation from whenever it was, 2022, and I did not do anything about it
20 because it is just a media article. But what happened was after the July 2025 media conference of General Mkhwanazi, I started putting bits and pieces together. And one of the things I did was I instructed my attorneys in November 2026 to issue a subpoena to IDAC, and I have evidenced the subpoena as S1 and S2. S1 being the

subpoena and S2 being the reply from IDAC.

But the important thing for me is if you look at page 18, the reply to the subpoena, the subpoena sought to obtain evidence of these so-called Louis Vuitton bags and the reply I got from IDAC to my lawyers was, quote unquote, these are criminal matters that remain active and IDAC cannot share any of the information and or documentation requested in paragraphs 1 to 4 of the subpoena. That is all the evidence I have.

10 So it is not a smoking gun. You have got a newspaper article, an attempt by me to validate the newspaper article by issuing a subpoena, and IDAC's response saying this is a live investigation, I am not giving you an answer to your subpoena.

And, Commissioners, I am saying surely that gives the impression that there is something here, there is something going on with these Louis Vuitton bags ...[intervenes].

ADV KHUMALO SC: Mr O'Sullivan, can I ask you this
20 question? In paragraph 1.6.2, you say this gentleman is alleged to have gifted. Do you know who makes these allegations? Do you know who ...[intervenes].

MR O'SULLIVAN: Which, say again, I did not catch you.

ADV KHUMALO SC: Paragraph 1.6.2 on page 18, 17 of your statement.

MR O'SULLIVAN: Ja.

ADV KHUMALO SC: The name of the gentleman is mentioned there.

MR O'SULLIVAN: Mr Kistiah.

ADV KHUMALO SC: Yes. He is alleged to have gifted expensive bags ...[intervenes].

MR O'SULLIVAN: It is what is in the article.

ADV KHUMALO SC: So you are relying on the article.

MR O'SULLIVAN: I am relying on the article and that is
10 why I am saying this is from the article. Mr Kistiah is alleged to have gifted these Louis Vuitton bags.

ADV KHUMALO SC: But you do not know who makes the allegations. You do not know who the source is.

MR O'SULLIVAN: Commissioner, if you look at the article, it does not give a name ...[intervenes].

ADV KHUMALO SC: No, no, I am asking you. Mr Sullivan, forget about the article. I am asking you sitting here today. Do you know who makes the allegations or who is the source that makes the allegations?

20 **MR O'SULLIVAN:** My understanding, and I have put it here in my statement, is that it was Brigadier Russ, a female Brigadier who went on the journey with them, and that is on page 18.

ADV SELLO SC: Where he references Annexure's S1 and S2, Commissioner.

MR O'SULLIVAN: Ja. So my understanding is that Brigadier Russ was also given a Louis Vuitton bag. But when she returned to South Africa, she handed it in because she said she did not want it because she knew that Inbanathan Kistiah either was going to be charged, or she knew that there was a corrupted relationship. Inbanathan Kistiah is currently on trial with General Phahlane for corruption, involving vast sums of money, millions and millions.

10 **ADV KHUMALO SC**: I just wanted to make sure that you are not attributing to her things she did not say.

MR O'SULLIVAN: Ja. Sorry?

ADV KHUMALO SC: Did she say that, or is that what you assume she said?

MR O'SULLIVAN: I was received information. I received information that she was on that trip, and she handed the bag in. I have never spoken to her.

ADV KHUMALO SC: Okay.

MR O'SULLIVAN: Okay.

20 **CHAIRPERSON**: Sorry. Sorry, Mr O'Sullivan. I am looking at what Commissioner Khumalo just referred you to in paragraph 1.6.2.

MR O'SULLIVAN: One point?

CHAIRPERSON: Where Commissioner Khumalo just referred you to 1.6.2, the part that says:

“However, I was able to later confirm the allegations from a source. It seems a female Brigadier...”

That is the Brigadier you referred to. I think you gave a name just now, or not?

MR O'SULLIVAN: Correct.

CHAIRPERSON: Yes ...[intervenes].

MR O'SULLIVAN: It is on the next page.

CHAIRPERSON: Yes. The Brigadier was on the trip to
10 Europe and also received a bag, which she then handed to IDAC. I am comparing that with what appears in the article that you say is your basis for ...[intervenes].

MR O'SULLIVAN: That does not appear here.

CHAIRPERSON: Ja, because at page 335, here is what the article says. The third paragraph at 335. I am reading the last sentence:

“The two, that is General Masemola and General Mkhwanazi...” ...[intervenes].

MR O'SULLIVAN: Sorry, which paragraph?

20 **CHAIRPERSON**: The third paragraph. The third paragraph at page 335.

MR O'SULLIVAN: Yes, yes, yes.

CHAIRPERSON: I am reading the second sentence, which is the last sentence of that paragraph. It says:

“The two returned home with luxurious

bags while their colleague...”

I assume the colleague is the Brigadier, or not?

MR O'SULLIVAN: So, Commissioner, in my opinion, this story is possibly slightly wrong because my understanding is that the person that was snubbed was not snubbed, but also got a Louis Vuitton bag and brought it back to South Africa and handed it in with a sworn statement.

CHAIRPERSON: So that part of the article is wrong?

MR O'SULLIVAN: Pardon?

10 **CHAIRPERSON**: So that part of the article is wrong?

MR O'SULLIVAN: Yes.

CHAIRPERSON: All right. I just wanted to check that because you basically ...[intervenes].

MR O'SULLIVAN: That is my understanding, Commissioner.

CHAIRPERSON: Yes.

MR O'SULLIVAN: Ja.

20 **ADV BALOYI SC**: Can I just clarify, from your response, the question and response by Commissioner Khumalo and your reference to that Brigadier Russ, your statement, as it reads, does not say she reported General Masemola and Mkhwanazi. Is that ...[intervenes].

MR O'SULLIVAN: It says in paragraph 1.6.2, Commissioner, it says:

“However, I was able to later confirm the

allegations from a source. It seems a female Brigadier was on the trip to Europe and also received a bag, which she then handed to IDAC.”

ADV BALOYI SC: Yes, but that does not say she reported the two Generals that they received a bag.

MR O'SULLIVAN: Ja, I could have said together with a sworn statement, but my understanding is there was also a sworn statement.

10 **ADV BALOYI SC:** Is your evidence that the Brigadier submitted a sworn statement in which she states ...[intervenes].

MR O'SULLIVAN: My understanding ...[intervenes].

ADV BALOYI SC: Ja, let me finish for the record. I do need to finish. My question is, and I just seek to clarify what you are saying, is your evidence that Brigadier Russ, who you say also received a Louis Vuitton bag, she declared it to IDAC, or she reported it to IDAC, and she submitted a sworn statement. Are you saying in that sworn
20 statement she also states that the two Generals, Masemola and Mkhwanazi, also received Louis Vuitton bags? Is that what you are saying?

MR O'SULLIVAN: I wish I knew, Commissioner, but when I served the subpoena, this is what I sought clarity on.

ADV BALOYI SC: Okay, so you have not seen her

statement?

MR O'SULLIVAN: No, I have not seen it. If I had seen it, you'd be seeing it now too because I would not keep information from you.

ADV BALOYI SC: Okay.

MR O'SULLIVAN: So to be crystal clear, this you could say is just pure hearsay. However, it would be hearsay if I had have got a feedback from my subpoena that said, listen, I do not know what you are talking about, get lost. That is
10 not what I got.

ADV BALOYI SC: Yes.

MR O'SULLIVAN: What I got back was, these are criminal matters that remain active, and IDAC cannot share any of the information or documentation requested in paragraphs 1 to 4 of the subpoena, and that tells me there is something going on here.

What I also noticed, and I mentioned it in my statement, is that nowhere in the evidence that he gave, either at the Ad Hoc Committee or at this Committee, did
20 General Mkhwanazi specifically state, by the way, for the record, I have never received a Louis Vuitton bag. Instead, he makes throwaway comments, such as, at least my wife now knows what a Louis Vuitton bag is valued at ...[intervenes].

ADV BALOYI SC: Okay, I have not seen his evidence in

the Ad Hoc Committee. He will come back to us. I just needed to clarify what I thought I had understood your evidence to be. Thank you.

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

CHAIRPERSON: And your source about the Brigadier, was that a SAPS source or not? I am not asking for a name.

MR O'SULLIVAN: Yes, it was a SAPS source.

CHAIRPERSON: Thank you.

ADV SELLO SC: Thank you, Commissioners. Mr
10 O'Sullivan, if we go to – you make the point at paragraph 1.6.3 regarding IDAC's response to your subpoena.

MR O'SULLIVAN: Correct.

ADV SELLO SC: And you suggest that their response and the manner in which it is couched, as you quote there, is what gives credence to an allegation that there is something, what did you say, they smoke?

MR O'SULLIVAN: Yes.

ADV SELLO SC: But I accept that. I would like us to look at your Annexure R, and that is the article at page 334.

20 **MR O'SULLIVAN:** Yes.

ADV SELLO SC: At page 334, the last paragraph on that page, the article reads, and I quote:

“In a case that resembles that of former
top cop Jackie Selebi over a decade ago,
and another former National

Commissioner Mkhwanazi were last week slapped with subpoenas by the Investigating Directorate, ID, to explain why they failed to declare Louis Vuitton handbags they received from controversial businessmen and ASPS supplier, Inbanathan Kistiah”

So that is what the article claims, that they were served with subpoenas. So would you accept if the article is
 10 correct in that regard, IDAC's response would also be correct in saying that these are criminal matters that remain active in IDAC, if IDAC had issued a subpoena and conducting an investigation?

MR O'SULLIVAN: Thank you. If you look at page 338.

ADV SELLO SC: Yes.

MR O'SULLIVAN: Of my evidence bundle.

ADV SELLO SC: Yes.

MR O'SULLIVAN: It is that page of the subpoena. It is listing four items:

20 “1. All ID/IDAC communications and/or subpoenas sent or served on Lieutenant General Mkhwanazi and/or General Fannie Masemola, asking them to...”

So this subpoena is based on that article. It is asking for this clarity. It is asking for any response received from

IDAC. It is asking for:

“A photograph certified as a photo of the Louis Vuitton bag currently in the evidence locker or evidence room of ID/IDAC.”

And finally:

“A certified copy of the sworn statement provided to ID/IDAC by the Brigadier that attended on the overseas trip with General Mkhwanazi and General Fannie Masemola, in which she explains the receipt of the Louis Vuitton bag mentioned in 3 above.”

So the response tends to confirm inadvertently those issues.

ADV SELLO SC: But I am not taking issue with that. I accept. And I say if we accept the correctness of the article that IDAC issued subpoenas in respect of these bags ...[intervenes].

20 **MR O'SULLIVAN:** It would appear to be the case.

ADV SELLO SC: Yes. And if we accept that that is potentially the case, then the response by IDAC has got to be appropriate that these are part of ongoing investigations and they are not in a position to share the requested information with you.

MR O'SULLIVAN: Correct, which is why I decided to raise it at the Commission.

ADV SELLO SC: And IDAC's response does not imply that the investigations have established as a fact. It simply mentions that the investigations are ongoing.

MR O'SULLIVAN: Correct.

ADV SELLO SC: Thank you. And you have testified to the fact that General Mkhwanazi's response is what you believe further lends credence to the claim where you quote him as
10 saying, at least my wife now knows what a Louis Vuitton bag is valued at.

MR O'SULLIVAN: Yes.

ADV SELLO SC: And that is the sum total on which, that is all you can put forward ...[intervenes].

MR O'SULLIVAN: The point I was making, Commissioners, is that nowhere could I see him saying, by the way, for the record, I never received any Louis Vuitton bag. Instead he gives this throwaway comment, at least my wife now knows what a Louis Vuitton bag is worth.

20 **ADV SELLO SC**: Is there anything else on that subtopic that you would like us to ...[intervenes].

MR O'SULLIVAN: Nothing at all.

ADV SELLO SC: Okay. Then staying still at page 18, that leads us to the next subtopic at 1.7, General Mkhwanazi, political pressure and Lieutenant General Mdluli. Now, this

is quite an involved subtopic. You start at paragraph 1.7.2 by summarising Annexure T, which is the affidavit at page 336, which is the, I think my numbering is – no not 336, I will find the correct page for you.

MR O'SULLIVAN: 345.

ADV SELLO SC: 345, page 345, thank you. Now, you summarise this affidavit in detail over the next couple of pages.

MR O'SULLIVAN: Over the next four pages.

10 **ADV SELLO SC**: Over the next four pages, and you contrast that with the papers from the Freedom Under Law application that was launched to review and overturn General Mdluli's reinstatement following his suspension. Correct?

MR O'SULLIVAN: Yes.

MR DU PLESSIS: Can we try and summarise what the key issues arising from these two substantive documents are ...[intervenes].

MR O'SULLIVAN: Yes, in fact, my summary ...[intervenes].

20 **ADV KHUMALO SC**: Just a moment, can I ask that because you are going to summarise, that we amend paragraph 1.7.2.11? So on page 21, that 15 May should be 2012 and not 2021. 1.7.2.11 on page 21. Are you there?

MR O'SULLIVAN: Yes, I am there.

ADV KHUMALO SC: That 15 May date should be 2012, not

2021.

MR O'SULLIVAN: Yes, correct. Well spotted, Commissioner. Thank you.

ADV SELLO SC: Thank you. You may proceed, Mr O'Sullivan.

MR O'SULLIVAN: Okay, thank you. First, I should thank the Commissioner. You know, this was typed very late at night. The essence of this can be found at paragraph 1.7.1.

ADV SELLO SC: If I may, I do beg your pardon.

10 **MR O'SULLIVAN**: Pardon?

ADV SELLO SC: I do beg your pardon for interrupting. Just to point out that your Annexure T, that affidavit, General Mkhwanazi has already submitted before the Commission when he testified in September. Then, Commissioners, for the record is MK22. So we have dealt with that affidavit before and maybe in a slightly more cursory fashion. So it is not new to the Commissioners, this affidavit.

MR O'SULLIVAN: Okay.

20 **ADV SELLO SC**: They have seen it before. Thanks.

MR O'SULLIVAN: So if I can take the Commissioners to page 18 of my statement, in particular paragraph 1.7.1. So in order to go forward, we have to go back a little bit. And what I am saying here, if we go back to the media conference of the 6th of July 2025, there were two central

themes of General Mkhwanazi's press conference.

The one was Organised Crimes infiltration of the criminal justice system and the other was political interference in the police by the Minister of Police. Those were the two central themes, and I think that is common cause.

I have dealt with in some detail the examples of infiltration of the underworld into the police and the effect that has had on the police. And I have said it was not new.

10 And I am making the point here by saying nor was political interference in the SAPS new:

“The irony of the latter fact is that during his period as Acting National Commissioner in 2012, General Mkhwanazi himself turned a blind eye to unlawful political interference relating to the then Divisional Commissioner of Crime Intelligence, Lieutenant General Richard Mdluli. In fact, General
20 Mkhwanazi not only turned a blind eye, but he also acquiesced to patently unlawful instructions, then later helped to cover it up.”

And that may be considered a very serious allegation, but the evidence I will present will actually bear out this

allegation, Commissioners. And first of all, we start with this paragraph 1.7.2, which rambles on. And what it is, it is an analysis of Annexure T. And Annexure T is the self-same affidavit presented by General Mkhwanazi to the State Capture Commission, and it is dated 29th of September 2020.

Now in that affidavit, he makes certain averments under oath. And what I have tried to do here is to capture those averments. In other words, to coin a phrase, explain
 10 what it is he was saying under oath. And I want, rather than read out every single one of those sub-paragraphs, I want to jump forward to page 20 of my affidavit and go to sub-paragraph 1.7.2.8. And the last four lines of that sub-sub-paragraph states, quote:

“Finally, under pressure from the Minister of Police, at a meeting to which he called the Inspector General and General Mkhwanazi, the Inspector General...”

This would be the Inspector General of the Intelligence,
 20 Commissioners:

“The Inspector General reinstated the opinion and recommendation. I cannot think of a more blatant demonstration of unlawful executive overreach.”

It is me saying that. And then I go on to 1.7.2.9:

“At the meeting with Minister Mthethwa...”

And this is based on his affidavit:

10 “At the meeting with Minister Mthethwa and the Inspector General of Intelligence, the Minister instructed General Mkhwanazi to uplift the suspension of General Mdluli. General Mkhwanazi later claims to have informed Minister Mthethwa at the meeting that his instruction was illegal. Nevertheless, he acquiesced. General Mkhwanazi has always been deliberately vague about the dates and times of these meetings. Given the importance of same, there can be no legitimate reason for this vagueness.”

And then we continue on page 21. 1.7.2.10:

20 “Following the meeting with the Minister of Police and the unlawful reinstatement of the Inspector General's opinion, bearing in mind, according to his version of events, the Inspector General of Intelligence was like a straw in the wind, flip-flopping, one minute saying this and

the next minute saying that and then going back to the original.”

It says here:

“General Mkhwanazi uplifted the suspension of General Mdluli on the 27th of March 2012 and he returned to work, where he was also handed the additional responsibility of protecting the President and Ministers.”

10 So this whole division in the police, called the Security Division of the police, which is the VIP Protection units, was now suddenly handed over to the head, the Divisional Head of Crime Intelligence, which is Richard Mdluli. And then, on the 15th of May 2012, thank you Commissioner for pointing out the one and two being the wrong way around:

20 “after the Freedom Under Law application was launched, new disciplinary proceedings were instituted against General Mdluli and on the 25th of May 2012, General Mkhwanazi recanted his earlier decision and suspended General Mdluli again. Public pressure was building. At the start of June, General Mkhwanazi met with President Zuma and appears to have been pressurised to

withdraw the new disciplinary proceedings against General Mdluli and his suspension.”

This is based on his version of events:

“At the meeting it was agreed that General Mkhwanazi would not continue as Acting National Commissioner beyond the few remaining weeks that were required to appoint a new National Commissioner, General Phiyega. With zero policing experience...”

That is just my throwaway:

“...was duly appointed on the 12th of June.”

So now suddenly, General Mkhwanazi, who has been the Acting Commissioner of Police since the prior year in September, is now suddenly no longer the Acting Commissioner of Police. And then I go on to page 22 at 1.7.3. I say:

“On its own terms, the narrative of General Mkhwanazi shows that he readily succumbed to political pressure and implemented the illegal instruction of the Minister to uplift the suspension of General Mdluli whilst all material times knowing that this instruction was illegal.”

How do we know, Commissioners, that at all material times he knew the instruction was illegal? Because he says so under oath in 2020. But here is the best part. When he enacted this unlawful instruction in 2012, he was invited to Parliament and on the 19th of April, he was asked at Parliament why he had uplifted the suspension of General Mdluli and put him back to work. And his answer was short and sweet. He said I acted according to higher authority. And when he was asked what the higher authority was, he

10 declined to say:

“On the 15th of May, when the Freedom Under Law application was launched, there were two sections to it. A Part A for Urgent Relief and a Part B, which was a confirmatory of the Urgent Relief. And the Urgent Relief that Freedom Under Law requested...”

And I have got all the pleadings:

20 “The Urgent Relief that Freedom Under Law requested was that the decision of General Mkhwanazi was to be declared unlawful and invalid and that General Mdluli was to be put back on suspension and removed from doing his police work.”

Now, that Part A application was launched on the 15th of

June. It was an urgent application. General Mkhwanazi supplied the answering affidavit. And in the answering affidavit, he does not deny that he was acting on a higher authority. In fact, he keeps quiet about it. He keeps quiet about it for eight years and only comes out with it in 2020.

So from 2012 to 2020, nobody in the country knew that he had acted on the unlawful instruction of the then Minister of Police, Nathi Mthethwa. And that is the point I am making here. So then I say at 1.7.4 on page 22:

10 “When regard is had to the facts of the Freedom Under Law application, General Mkhwanazi's collusion with the illegal interference of the Minister and the President is even more stark. The chronology of the Freedom Under Law matter is the following.”

And I set out the chronology. And at 1.7.5, I say the following:

20 “There are two noticeable aspects of General Mkhwanazi's conduct in relation to the Freedom Under Law litigation that show he assisted to cover up the executive interference in the SAPS, which he knew to be unlawful.

1.7.5.2:

“First, in the face of the founding affidavit from Freedom Under Law that specifically alleged executive interference in an attempt to pressurise him to withdraw the disciplinary action against General Mdluli and his suspension, General Mkhwanazi did not admit the relevant facts. Instead, he deposed to an affidavit which did not
 10 respond to the allegations but nevertheless opposed on spurious grounds the urgent interdict sought to prevent General Mdluli from executing police functions.”

And this is found at page – the evidence here, Commissioners, I refer to paragraph 49 of the Supreme Court of Appeal judgment and paragraph 211 of the High Court judgment.

Now, if you go to page 437 of the evidence bundle,
 20 you will see that I have highlighted a number of paragraphs because it is quite a lengthy judgment. But if you look at page 437 at paragraph 211, this is now the full application. So what you had was a Part A and a Part B, and the Part A was heard by Justice Makgoba J. It says here:

“In paragraph 14 of the judgment in the

Part A proceedings, Makgoba J expressed concern about the allegations of political interference in the disciplinary process and noted that Mkhwanazi had not disputed them in his answering affidavit.”

Now, if you go back to page, or go forward to page 469, which is in the Supreme Court of Appeal, page 469 of paragraph 49. This is now the Supreme Court of Appeal
 10 judgment. At paragraph 49, Commissioners, it states:

“As a factual basis for the challenge of these decisions Freedom Under Law relied in its founding affidavit on a statement by the then acting Commissioner, Lieutenant General Mkhwanazi, in Parliament that he was instructed by authorities beyond him to withdraw disciplinary charges and reinstate Mdluli in his office. Freedom
 20 Under Law added that in doing so Mkhwanazi had failed to make an independent decision, which rendered his actions reviewable. Though Mkhwanazi filed an answering affidavit in the interdict proceedings in Part A of the

Notice of Motion, he did not deal with these allegations.”

So, you have a situation where General Mkhwanazi is facing litigation based on his conduct to unlawfully act on the instructions of the Minister of Police. And what is the relevance of all this you might ask? Well, his complaint on the 6th of July last year had two legs to it.

One was criminal interference or penetration of the police, and the second leg was the executive overreach, the
10 Ministerial interference in the management of the police, which is exactly what happened in 2012. And he was a party to it, and not only was he a party to it, he helped cover it up for the better part of eight years. And only in 2020 does he come out with it.

ADV BALOYI SC: Yes. Mr O'Sullivan, I am just trying to understand the import of your evidence. Are you saying, because of what you describe as his past conduct, are you saying he should not have spoken up in July, he should not have complained about political interference?

20 **MR O'SULLIVAN:** Commissioner, what I am saying is, you cannot change history. He did what he did.

ADV BALOYI SC: Yes.

MR O'SULLIVAN: But what he did not do when it came to this Commission, he did not take the Commission into his confidence and say, by the way, although I am speaking out

about it now, I just want to inform you that 14 years ago, I was engaged in just the same activity.

ADV BALOYI SC: So is the criticism, I am trying to understand, as I say, the import, what are we to do with this evidence that you obviously consider to be important to mention? Are you saying he, because according to you, he was complicit, and at this point, I am not dealing with whether or not what you are saying he did previously is correct.

10 I am asking if you are criticising, as I understand, and please correct me, if I understand you to be criticising him for on the 6th of July mentioning or complaining about overreach, political overreach or political interference, I understand you to be criticising him for that, and I am trying to understand, are you saying, with that criticism, are you saying he should not have spoken as he did about this aspect of things, this second – you say there are two legs to it?

MR O'SULLIVAN: Well, it is hard to come to an informed
20 answer there, other than to say that was I not to produce this evidence here now, this Commission would be completely unaware of the fact that the conduct he is now complaining of was exactly the conduct that he was involved in some years back. And if you are going to be a whistleblower, as he claims to be, you should be a

whistleblower with clean hands.

ADV BALOYI SC: Ja, exactly my confusion, that is why I am asking you this question, exactly my confusion. Are you saying he is not a clean whistleblower, according to you, because he previously colluded in similar conduct, therefore he should not have spoken up? Is that the heart of what you are saying?

And maybe let me suggest to you that I ask the question because it is quite conceivable that someone
10 thinks about it this way, the man had a Damascus moment, he previously colluded according to you, and then come July 2025 he decides not anymore, and he changes his mind. I am asking from that perspective, are you saying he should have kept quiet forever ...[intervenes].

MR O'SULLIVAN: Ja ...[intervenes].

ADV BALOYI SC: Or the other possibilities you are saying, well because he has got this past conduct, we should disregard his complaint of 2025 as, and disregard it to the end that he is talking, sorry, I cannot think of a better
20 word, is talking nonsense. There was no political interference in 2025. Is that the point you are making?

MR O'SULLIVAN: So my understanding, Commissioner, you might have to interrogate me a bit further, but my understanding is quite simply this, if you are going to have a Damascus moment, put that down in writing. Say look

here, by the way, I am speaking out now because I saw what happened all these years ago and I was involved. But he did not do that, he has kept quiet.

ADV BALOYI SC: Ja, but ...[intervenes].

MR O'SULLIVAN: And therefore I think it would have been better, rather than speak out at a media conference, to take action without drawing down the public confidence in the criminal justice system, because it has been shattering what has happened in the criminal justice system.

10 **ADV BALOYI SC:** Okay, I guess I have asked my question and you have answered the way you did. I will accept that is your best answer. The second issue about it, you have referred us to these judgments, and let us start with, at 437, page 437, which is Makgoba, J's judgment. Are you saying by not, because remember you have highlighted the part and you have read out where the Judge says in his answering affidavit ...[intervenes].

MR O'SULLIVAN: Sorry, sorry ma'am, if I can just ask the paragraph number?

20 **ADV BALOYI SC:** I am looking at page 437.

MR O'SULLIVAN: Ja, 437.

ADV BALOYI SC: And then I am looking, you referred to paragraph 211 and you read there where the Judge says Mkhwanazi had not disputed - maybe let me start at the beginning. It says in paragraph 14 of his judgment:

“Makgoba, J ...”

Well I think this is the SCA judgment in fact you are referring to.

“Makgoba, J expressed concern about the allegations of political interference in the disciplinary process and noted that Mkhwanazi had not disputed them in his answering affidavit.”

What are you saying there about the conduct of
10 General Mkhwanazi?

MR O'SULLIVAN: What I am saying here, Commissioner, is it is not me saying it, it is the High Court and it is a scathing judgment against, this is what is referred to as the Murphy judgment, and it is a scathing judgment against the police.

ADV BALOYI SC: Yes.

MR O'SULLIVAN: And against, in particular, General Phiyega and General Mkhwanazi, against both of them. And this judgment has not seen the light of day for probably 10
20 years or more.

ADV BALOYI SC: Yes. I am asking the simple question, because, you know, another construction, and I think in our practice that is accepted, is if you do not answer to a specific allegation, you have admitted it. So, when I read 211, I would have concluded, until you spoke, I would have

concluded, well, it means he did not dispute it. He did not dispute that there was political interference.

But you seem to be reading that paragraph, or to be attaching a meaning to it, that he basically was part of the cover-up, unless I, by not responding or not denying the allegation of ministerial interference, he therefore covered up, unless I misunderstand you, Mr O’Sullivan.

MR O’SULLIVAN: Commissioner, you have to look at all the bits that I have highlighted and take them together. But
10 if I go to page 438.

ADV BALOYI SC: Yes.

MR O’SULLIVAN: At paragraph 215, 216, and 217, and 218.

ADV BALOYI SC: Yes.

MR O’SULLIVAN: This is scathing. It says:

20 “Mkhwanazi dropped the disciplinary charges on orders from above, is furthermore borne out by the Rule 53 record filed on his behalf. The record he supplied comprises nothing more than two letters addressed to Mdluli, one notifying him of the withdrawal of the disciplinary charges against him, and the other advising him of his reinstatement to work.”

It does not say to work.

“There is no charge sheet or
correspondence dealing with ...”

Blah, blah, blah, and it goes on. And then 216 it
says:

10 “The inescapable finding is that the
decision of the acting Commissioner to
withdraw the disciplinary charges and to
reinstate Mdluli as Head of Crime
Intelligence were taken in an attitude of
subservience pursuant to an unlawful
dictation from a person unknown who was
beyond the Acting Commissioner.”

ADV BALOYI SC: Yes.

MR O'SULLIVAN: By the way, at this stage, nobody would
admit who it was that gave him the instruction. That only
came 8 years later.

ADV BALOYI SC: Yes.

20 **MR O'SULLIVAN:** He says, an abdication of power violates
the principle that the responsibility for discretionary power
rests with the authorized body and no one else.

ADV BALOYI SC: Yes.

MR O'SULLIVAN: And it goes on to say at 218:

“To ensure the proper function of the
SAPS, the Commissioner in discharging

his obligations under section 11 of the
SAPS Act must protect and give effect to
SAPS discipline regulations.”

It is a scathing judgment and the failure, in my
opinion, it is not the judgment that is more important,
Commissioners. What is more important to the people of
this country is that this has been kept hidden. It is been
kept under wraps. It should have been part of the evidence.
He said, by the way, the reason I did what I did on the 6th of
10 July is because 14 years ago, I was involved in exactly the
same state of affairs and I went along with it and covered it
up for 8 years.

ADV BALOYI SC: I guess, Mr O'Sullivan, my question is,
what difference does it make? Remember, we consider our
terms of reference and I do not know that we can take it any
further, but really, my question is, even if you are correct in
your position that when he testified here, he should have
confessed his previous sin of covering up, as you say
...[intervenes].

20 **MR O'SULLIVAN:** Yes.

ADV BALOYI SC: I am still left with the question, okay,
what difference does it make to, he has spoken up. We are
investigating exactly that as a Commission, whether,
indeed, there has been political interference, does it really
make a difference that, and if so, what difference does it

make to how we deal with that allegation of his that when he sat there and testified, he did not testify to his previous crime of colluding in the similar decision making that he is now complaining about?

MR O'SULLIVAN: Well, except, Commissioner, it is my evidence that not only was he previously involved in that conduct, but for 8 years he covered it up, for 8 whole years. And it only came out when he made his statement at the Zondo Commission and when he made his statement at the
10 Zondo Commission, he did not go into the nitty gritty of what actually took place.

He gave a version of events and my, I obviously have no firsthand knowledge as to whether or not the then Minister of Police in 2024 or 2025 did engage in executive overreach. I have no knowledge of that. It is not something I have been involved in. But if a person is going to become a whistleblower, surely that whistleblower is going to say, by the way, the reason I am whistleblowing is because I was involved in this conduct 14 years ago and I saw the effect of
20 it.

ADV BALOYI SC: Thank you.

MR O'SULLIVAN: Thank you.

ADV SELLO SC: Thank you, Commissioner Baloyi. If I understand your summaries of both General Mkhwanazi's affidavit before the Zondo Commission and the Freedom

Under Law application, that application was brought in two parts, the interim relief in Part A ...[intervenes].

MR O'SULLIVAN: Ja.

ADV SELLO SC: And the main relief, the review in Part B.

MR O'SULLIVAN: Ja.

ADV SELLO SC: General Mkhwanazi deposed to the affidavit in Part A, and I think you make the point in your statement that by the time Part B came around, General Phiyega was deposing to that affidavit.

10 **MR O'SULLIVAN:** Correct.

ADV SELLO SC: So when you charge General Mkhwanazi of failure to disclose, that he could, he would be required to do in Part B when, by then he had already been transferred or to another department and General Phiyega had taken his position. Do I understand you correctly?

MR O'SULLIVAN: So, then I would point the Commissioners at page 25, paragraph 1.7.9.

ADV SELLO SC: Yes.

20 **MR O'SULLIVAN:** And 1.7.10, which I would like to read out.

ADV SELLO SC: Okay.

MR O'SULLIVAN: This is my testimony.

“Accordingly, even after he was fully aware of the contents of General Phiyega's affidavits in the Freedom

Under Law proceedings, General Mkhwanazi continued to cover up the illegal instruction he'd been given by Minister Mthethwa and the political interference of both Minister Mthethwa and President Zuma in decisions that he ought to have been able to take, free of any political interference. He could have at that time, and indeed should have, approached the court with the truth. He failed to do so. He only finally came partly clean when he was interviewed by the investigators at the State Capture Commission, led by Justice Zondo. Even then, his version was a cover-up of the truth, and he fobbed them off by blaming others. Given General Mkhwanazi's own collusion in an illegal process of political interference designed to keep General Mdluli in charge of the Division of Crime Intelligence and its regularly stolen secret funds, it is difficult to take seriously his complaints of political interference that he made in his infamous speech on 6 July 2025. In fact, General

Mkhwanazi's own unlawful conduct in 2011-12 make the current complaint he has made pale into insignificance while still sharing commonalities. For example, in 2011-12 General Mkhwanazi's conduct was intended to unlawfully protect the Crime Intelligence Divisional Head, much the same as his conduct in 2025 is intended to protect the Crime Intelligence

10 Divisional Head and those under him.”

ADV SELLO SC: If I just take a step back, your paragraph 1.7.9, just to clarify something.

MR O'SULLIVAN: Sorry, just that paragraph?

ADV SELLO SC: Page 25, paragraph 1.7.9, you state that, and this is in response to the point I had raised with you that the answering affidavit in the review application was deposed to by General Phiyega who had assumed that position by then.

MR O'SULLIVAN: Correct.

20 **ADV SELLO SC:** You state that even after he, General Mkhwanazi, was fully aware of the contents of General Phiyega's affidavits and the full proceedings, General Mkhwanazi continued to cover up the illegal instruction he had been given by Minister Mthethwa.

MR O'SULLIVAN: Correct.

ADV SELLO SC: Now, what form did this cover-up take? On what basis do you say he continued? Firstly, he covered up, and secondly, he continued to cover up.

MR O'SULLIVAN: Maintaining silence, because what happened, Commissioners, while that period between Richard Ndluli being suspended, and then having a suspension uplifted, and then having a suspension reinstated, and the court cases going on, during that period the whole thing was argued out in court and when it was
10 argued out in court, it was all over the media.

And the Supreme Court of Appeal go into some detail about how General Phiyega misled the High Court, and General Mkhwanazi kept quiet. He had a duty. He could not ignore that duty, and that duty was to step forward and say, well, hang on a minute, let us actually General Phiyega's version of events is not true.

ADV BALOYI SC: But was he a party to this application?

MR O'SULLIVAN: I am saying he was and the reason I say he was, it is contained within Annexure WWW.

20 **ADV BALOYI SC:** And Annexure WWW ...[intervenes].

MR O'SULLIVAN: Annexure "W" ...[intervenes].

ADV SELLO SC: At page 475, that is where it starts.

MR O'SULLIVAN: Yes. If you have a look at page 14 of Annexure W, which is page, just bear with me a second, I will have to count the pages.

ADV SELLO SC: If you perhaps give a sense of what you are looking for, we might try and assist.

MR O'SULLIVAN: There we go. It is page 488 of the evidence bundle.

ADV SELLO SC: 488?

MR O'SULLIVAN: 488 of the evidence bundle.

ADV SELLO SC: Thank you.

MR O'SULLIVAN: So this is a presentation that was made on the 13th of November 2015 by the Minister of Police.

10 **ADV SELLO SC:** Yes.

MR O'SULLIVAN: It was in fact Mr Mhleko was the Minister of Police then. This is just a presentation by the Minister of Police to Parliament and it has been uplifted from the Parliamentary monitoring group. And so this was made on the 15th of November, sorry, 13th of November.

ADV BALOYI SC: It speaks of a grievance. It does not speak anything about, it is not answering the question.

MR O'SULLIVAN: No, but what it is showing, Commissioner, is that Lieutenant General Mkhwanazi
20 lodged a grievance against the National Commissioner for lodging false affidavits in court regarding Lieutenant General Mdluli's case and the point I am trying to make is this corroborates the fact that other than lodging a grievance he did nothing about it. He allowed her to lie to the court.

ADV SELLO SC: But that grievance has a finding as well further on in the, on the same page. The first point speaks to the grievance lodged by General Mkhwanazi, then there is a finding.

MR O'SULLIVAN: Ja.

ADV SELLO SC: And the finding says the National ...[intervenes].

MR O'SULLIVAN: The finding says the National Commissioner informed the court wrongly with regard to
10 Lieutenant General Mkhwanazi's actions on the Mdluli matter. So what she actually did, General Phiyega did was she informed the court, and that is borne out in the judgment, she wrongly informed the court that General Mkhwanazi had not received instructions from a higher authority.

She said that was a misunderstanding and I am going to supply a confirmatory affidavit from General Mkhwanazi. It was never supplied. There was no, and even when it went to the Supreme Court of Appeal they still could
20 not supply a confirmatory affidavit. So the whole thing was hushed up and what I am saying, Commissioners, is if there was going to be any transparency here, it should have been a sworn affidavit by General Mkhwanazi informing the court and opening a docket against General Phiyega for lying to the court, which in effect, apart from being perjury, is the

offence of defeating the ends of justice, and no such event ever took place.

ADV BALOYI SC: Yes, I think my point, my point is he is not, he was not a party to these proceedings, so he did not have standing to file any affidavit. That is my point.

MR O'SULLIVAN: But he was not a party, but he knew what was going on.

ADV BALOYI SC: Ja, but he was not a party. My question was, was he a party and you said yes, and you referred us
10 to this document.

MR O'SULLIVAN: He was a party to the original proceedings.

ADV BALOYI SC: Yes.

MR O'SULLIVAN: The Part A.

ADV BALOYI SC: Where you are asking, where you are saying he should have filed an affidavit, I am saying he was not a party to those proceedings where now General Phiyega is the party that is being sued.

MR O'SULLIVAN: I understand.

20 **ADV BALOYI SC:** So he was not a party. You understand what I am saying?

MR O'SULLIVAN: I understand.

ADV BALOYI SC: Yes. I think that is the first point. The second point, in the judgment, in the Murphy judgment, and this I think we accept it was in 2012, I think it was in 2013.

MR O'SULLIVAN: Say again?

ADV BALOYI SC: In 2013, that is the Murphy judgment, right?

MR O'SULLIVAN: Yes, yes.

ADV BALOYI SC: And it states at, I will read it for you. It is ...[intervenes].

MR O'SULLIVAN: Ja, what has the page number?

ADV BALOYI SC: Page 436. And this is about the point of you saying he did not speak up for the whole 8 years, I
10 think you say, and spoke up for the first time in 2020 before the so-called Zondo Commission. And I am reading this just to say it seems to suggest differently from what you are saying. At page 436, paragraph 207, it says:

“In paragraph 45 of the founding affidavit, FUL alleged that the Acting Commissioner publicly stated in Parliament that he took the decision to withdraw the disciplinary charges on instructions from authorities beyond him.”

20 And then:

“FUL added that by acting on the instructions of authorities beyond him, the Acting Commissioner failed to act independently.”

So it seems that at least FUL was aware when they

filed their papers that he had spoken publicly, that ...[intervenes].

MR O'SULLIVAN: In fact ...[intervenes].

ADV BALOYI SC: The decision – let me finish.

MR O'SULLIVAN: Ja, sorry.

ADV BALOYI SC: That the decision that he took was imposed on him from higher authority. So why do you say that he kept this quiet until only in 2020?

MR O'SULLIVAN: Because at the Parliamentary
10 Committee, it was asked what higher authority? He could not answer. He should have said the Minister of Police instructed me. Instead, he covered the thing up.

ADV BALOYI SC: So the criticism is he did not state it is the Minister ...[intervenes].

MR O'SULLIVAN: In fact, what happened, if you look at General Phiyega's conduct in the FUL response, she said that actually he was not, what he said at Parliament was not correct.

ADV BALOYI SC: Yes.

20 **MR O'SULLIVAN**: He made a mistake. What he actually meant was the NPA had decided to withdraw the charges and that is why he followed suit. The whole thing was a complete lie.

ADV BALOYI SC: Okay, so that is Phiyega. For now, I am ...[intervenes].

MR O'SULLIVAN: Phiyega and ...[intervenes].

ADV BALOYI SC: I was just clarifying ...[intervenes].

MR O'SULLIVAN: Yes.

ADV BALOYI SC: I was clarifying that when the FUL prepared its answering affidavit ...[intervenes].

MR O'SULLIVAN: Yes.

ADV BALOYI SC: General Mkhwanazi had already said in Parliament that he made the decision on higher authority or it was dictated by higher authority. And your criticism, and

10 I hear you ...[intervenes].

MR O'SULLIVAN: They could not get it out of him.

ADV BALOYI SC: You say your criticism is ...[intervenes].

MR O'SULLIVAN: Out of ...[intervenes].

ADV BALOYI SC: He did not say the higher authority is the Minister. That is your criticism ...[intervenes].

MR O'SULLIVAN: That is what he should have said.

ADV BALOYI SC: Okay, thank you. Thanks, Ms Sello.

ADV SELLO SC: Thank you.

ADV KHUMALO SC: One issue with you, Mr O'Sullivan.

20 Going back to page 488.

MR O'SULLIVAN: Page?

ADV KHUMALO SC: 488. Remember throughout this section of your affidavit, the point you sought to make was that General Mkhwanazi has kept quiet for 8 years about the political interference that took place when he was

Acting National Commissioner. Does that paragraph in 1, the bullet point that sets out the grievance that he lodged in 2015, not undermine that argument, because it shows that as far back as 2015, he spoke about the fact that General Phiyega misled the court in relation to the Mdluli matter.

And then it ties up with what Commissioner Baloyi says that even prior to that, he had said in Parliament that there was interference, although he did not say who interfered, but at the very least, he did say there was
10 interference.

MR O'SULLIVAN: I hear you, Commissioner.

ADV KHUMALO SC: So you cannot then in those circumstances say for 8 years, he did not say anything because what this presentation at least shows is that when he became aware that General Phiyega may have misled the court, he lodged a grievance against her on the very Mdluli matter, so on the subject of the very issue that we are discussing.

The detail may not have been there and because
20 you were not part of the presentation, maybe you would have expected more detail, but it is not correct to say there was complete silence for 8 years. That is the point I am trying to make with you, that at the very least, there was something, not the detail that you expected.

MR O'SULLIVAN: There was something, Commissioner,

but there was not transparency. What there was, was a complaint against Phiyega for not telling the truth, but there was not, by the way, she was not truthful. What she should have said was bang, bang, bang. He did not do that. He kept it covered up.

ADV KHUMALO SC: But he goes a step further and he says he was not even consulted when the affidavits were prepared, the point being that if he was consulted, he would have stated the true facts.

10 **MR O'SULLIVAN:** Well, except for the fact that when he made the first affidavit in the Part A, he kept quiet about the matter. That the, if you look at the pleadings on the FUL matter, on the Freedom Under Law matter, they make it crystal clear that their pleadings, their application is based on the statement he made in Parliament on the 19th of April, where he stated to Parliament, when they said to him, why have you put this man back to job, why have you lifted the charges against him, he said, I have acted on the basis of a higher authority.

20 And they asked who? He refused to tell them. He could not tell them. So I am saying he covered it up all the way along. And what that cover up comprised of, yes, you can say that this complaint, which was a grievance, there should have been a sworn affidavit stating the chapter and verse. It only came out in 2020.

And please listen to this very carefully, what he stated to the Zondo Commission in 2020 was not chapter and verse. What he should have done was given a blow by blow, where the meetings took place, when they took place, the dates and times and everything. He did not. The thing was kept vague and I am saying it was deliberately kept vague.

ADV KHUMALO SC: But in the affidavit before the Zondo Commission, he does mention the dates of the meetings. If
10 you go to 376 ...[intervenes].

MR O'SULLIVAN: 376?

ADV KHUMALO SC: 376.

MR O'SULLIVAN: Ja.

ADV KHUMALO SC: Of the, and that is the affidavit before the Zondo Commission.

MR O'SULLIVAN: Correct.

ADV KHUMALO SC: You will see that he mentions the meetings. He mentions the date ...[intervenes].

MR O'SULLIVAN: In paragraph number, sorry?

20 **ADV KHUMALO SC:** The dates of the letters.

MR O'SULLIVAN: Yes, that is referring to dates of letters.

ADV KHUMALO SC: Yes.

MR O'SULLIVAN: But the information that is missing, Commissioner, is the dates of the meeting in respect of the Police Minister. That meeting date has been kept vague.

There is no date there.

ADV KHUMALO SC: But we know that it is March because the letters are the March letters. So when he refers to the IG opinion that was first issued and then was later withdrawn, so he is referring to the March date. And that much is clear from paragraph 48 on page 356 that we are in the March period, because we know that the meeting with President Zuma happens in June. So although it does not specify the date of the meeting, but it is quite clear that the
10 date is between the two ...[intervenes].

MR O'SULLIVAN: Somewhere around then.

ADV KHUMALO SC: It is between the two opinions by the Inspector General.

MR O'SULLIVAN: Ja.

ADV KHUMALO SC: So it would have been between the 6th of March and the 19th of March. That is at least how I read paragraph 48, that the meeting would have happened between those two dates.

ADV SELLO SC: Commissioner Khumalo, perhaps what
20 might assist is reference to page 363.

ADV KHUMALO SC: Yes.

ADV SELLO SC: At the bottom of 363 is paragraph 39. That gives a date on 23rd April 2012, Lieutenant Dramat authored a further letter. This is in the sequence, when he is narrating sequence of events.

ADV KHUMALO SC: Sorry, page?

ADV SELLO SC: It is paragraph 39.

MR O'SULLIVAN: Sorry, what page number?

ADV SELLO SC: I am sorry, I was looking at the wrong version of the document, but it is paragraph 39.

ADV KHUMALO SC: 372.

ADV SELLO SC: If you go then from 372, paragraph 39, that is when he introduces the date, the letter by Lieutenant General Dramat of 23rd April 2012. And then at 40, he
10 quotes that letter. And then at paragraph 42 under heading H, "Interference by the Minister of Police", he says:

"A few days after my conversation with Advocate Hadebe, I chaired this meeting at the police headquarters."

And he continues. So if one were to follow his timeline, it would give you a good sense of when the meeting, although admittedly it is not dated, took place. Would you have a difficulty with that?

MR O'SULLIVAN: Commissioners, the only difficulty I have
20 with that is that if it is such an important meeting, why do not we have a date for the meeting and a time for the meeting that says on this day at this time the following meeting took place. I am just saying that is the way I see it.

ADV SELLO SC: Okay.

MR O'SULLIVAN: It could well be that he is happy with keeping it vague. I am not happy with keeping it vague.

ADV KHUMALO SC: That is why I was saying your issue is not so much that he did not disclose what happened. Your issue is that he did not give the full detail, including the date.

MR O'SULLIVAN: Ja, when he disclosed it on the 2020 affidavit. In the 8 years preceding that, he had an opportunity to come out and say, by the way, on this date,
10 at this time, I had a meeting with the Minister of Police who unlawfully instructed me. The only time this comes out is here, 8 years later. It never came out before then, never. Thank you.

ADV SELLO SC: On that score then, may I invite us to go to your page 23 of your statement.

MR O'SULLIVAN: Page?

ADV SELLO SC: Page two, three, 23.

MR O'SULLIVAN: 22?

ADV SELLO SC: 23. And paragraph 1.7.5.3, you actually
20 make a much stronger allegation against General Mkhwanazi. You say:

“Second, he appears to have colluded in allowing SAPS to put a dishonest version in their answering affidavit to Part B to the court.”

MR O'SULLIVAN: Ja.

ADV SELLO SC: -:

“When then Commissioner Phiyega
falsely stated that there had been no
instruction to General Mkhwanazi from
above.”

MR O'SULLIVAN: Ja, and the reason I am saying that
...[intervenes].

ADV SELLO SC: No, my question is, what must the
10 Commissioners look to, to see the collusion that you
reference?

MR O'SULLIVAN: Because at that time, we have to cast
our minds back to 2012, so during that whole period, there
was a lot of media coverage. Major General Richard Mdluli,
or Lieutenant General, sorry, Richard Mdluli, was in the
media every single week, two or three times a week. This
whole thing as it was being played out in court was all over
the media.

Now, by his own account, he spent 2 years sitting
20 at home twiddling his thumbs during that period, while
General Phiyega went out and gave a complete pack of lies
to the court, which was published. It was all over the
media. I am saying, if I know about something that is wrong
and I keep quiet, I am assisting in the cover up, and that is
the point I am trying to make.

And if you go through the documentation, if you go through the judgments, and you look at the timeline, there is absolutely nothing between his first statement in May 2012 and the Murphy judgment, still nothing. He only comes out with it for the first time 8 years later. Why keep quiet? Keeping quiet for 8 years, I am saying, is acquiescing to crime.

ADV BALOYI SC: I think, Mr O'Sullivan, it is one thing to say, by keeping quiet, he acquiesced in a lie that he knew
10 about. So firstly, you have to establish he knew that General Phiyega, in her affidavit, has said this, and he chose to keep quiet. So you have to establish that first, and I do not know that you have said enough in your testimony that indicates he knew as a matter of fact, not what you say, he was at home for 2 years, it was playing out in the media, he should have been aware of it. It seems to me that you would first have to establish that he knew as a matter of fact, indisputable fact, that this was said in the affidavit, and knowing that he made the decision to keep
20 quiet.

That is one thing. But if, to say that he colluded, and perhaps, in fact, he does collude if he does that on those facts, if he knew and he chose to keep quiet, he colludes by omission. That is the one form in which he could have colluded. The alternative formulation is he was

deliberate, he was part of the cover-up. It is not a case of omission, but it was deliberate.

So in a way, it was by Commission, right. He knew this is happening, and he chose to be part of that lie. I do not know that beyond your, whether you can put it as high as that, and yet your statement here, where you say it appears he have colluded in allowing the SAPS, I am not sure that it is backed up by anything that you have said.

We have gone through a number of instances where
 10 he has said and spoken, including up to the grievance that he laid against General Phiyega, and in all of that, I have not seen, I must say speaking for myself, that I do not see the positive and intentional act that you are seeking to convey in 1753, that he intentionally participated in a General Phiyega cover-up.

MR O'SULLIVAN: Okay, I hear what you are saying Commissioner, and I would like to draw your attention to what I say in paragraph 1.7.6, because I am saying there:

20 “In contrast, General Mkhwanazi claims in his affidavit to the State Capture Commission that he was completely unaware of the contents of General Phiyega's affidavit.”

I am saying I find that claim in that affidavit unconvincing, and the reason I find it unconvincing is

because he had made a grievance against her for being untruthful in her answering affidavit to the High Court, and I go on to say:

“General Mkhwanazi therefore knew that the allegation of an unlawful obstruction to him was at the centre of the application, and the reply from General Phiyega would have to admit that central allegation if she was not going to perjure herself.”

ADV SELLO SC: Thank you.

CHAIRPERSON: Sorry, Mr O'Sullivan, you give two reasons for what you have just said now. You say:

“In contrast, General Mkhwanazi claims in his affidavit to the State Capture Commission that he was completely unaware of the contents of General Phiyega's affidavit because he was in his period of rest at home in KwaZulu-Natal at the time. I find this claim unconvincing because ...”

And then comes the two reasons.

MR O'SULLIVAN: Yes.

CHAIRPERSON: Or then come, not comes, the two reasons that you ...[intervenes].

MR O'SULLIVAN: Yes.

CHAIRPERSON: Even if I take a bit of time, I will read both. The first one is this.

10 “General Mkhwanazi was aware of the
allegations in the FUL application
because the founding affidavit in the
urgent application had been served on
SAPS whilst he was Acting National
Commissioner and he had deposed to the
initial answer in that application but
chose to sidestep the unlawful
obstruction allegation and simply not
comment. General Mkhwanazi therefore
knew that the allegation of an unlawful
obstruction to him was at the centre of
the application and the reply from
General Phiyega would have to admit to
that central allegation if she was not
going to perjure herself.”

20 Let us focus on that reason and not overlap onto
the second ...[intervenes].

MR O'SULLIVAN: [Indistinct]... [cross-talking].

CHAIRPERSON: Yes.

MR O'SULLIVAN: Of course you can read different things
into it, the way I phrased it.

CHAIRPERSON: Ja. On what basis would you want to suggest that General Mkhwanazi would have known what General Phiyega would say or not say in her answering affidavit on the Part B of the application, going so far as to talk about perjury and so on?

MR O'SULLIVAN: My argument, Commissioner, is very simple. I go to Minister Nhleko's presentation in 2015 to the Parliamentary Portfolio Committee on Police, where he talks about the grievance, and he did not make the
10 grievance in 2015, he made it earlier than that. So here he was making a grievance about the alleged perjury of General Phiyega, but what he was not doing was saying it is perjury because this is what happened. He just said she perjured herself.

CHAIRPERSON: But here you are talking about what General Mkhwanazi ought to have known what General Phiyega would say, not what she had in fact said, what she would say in deposing to the Part B answering affidavit ...[intervenes].

20 **MR O'SULLIVAN:** No, he would have ...[intervenes].

CHAIRPERSON: So ...[intervenes].

MR O'SULLIVAN: [Indistinct]... [cross-talking].

CHAIRPERSON: Just, just, so those are two different things. What may have happened a couple of years later does not answer what General Mkhwanazi should have

known with regard to what General Phiyega would say in her Part B answering affidavit. That is where I am.

MR O'SULLIVAN: Yes, Commissioner, but the point I am making is he knew what the central allegation of the Freedom Under Law application was. He knew. The whole application was found on this allegation that he had received unlawful instructions.

CHAIRPERSON: But what has going to be deposed to is not his affidavit, and if nobody invites him to come depose
10 to the affidavit as the person who actually knew what had happened, then on what basis can you fault him with regard to what the content of General Phiyega's affidavit was going to be?

MR O'SULLIVAN: Let me give you an analogy, Commissioner.

CHAIRPERSON: Yes.

MR O'SULLIVAN: If you look at Section 34 of PRECA, the Prevention and Combating of Corrupt Activities Act, it makes it an offence for a person not to report a particular
20 category of crime. We are talking here about the previous Acting Commissioner of Police who is now sitting at home twiddling his thumbs watching all the media coverage. I cannot believe he was not able to see what was going on in the media, and instead of stepping up and saying, well, hang on a minute, this is not true, he kept quiet. And the

point I am making is he had ample opportunity to not keep quiet, and he did not do so, and he was a policeman.

CHAIRPERSON: I know right at the beginning of this engagement I said that we should not conflate the two reasons that you give, and I am going to breach exactly what I had said to you. You see, the difficulty I have with what you have just said about not believing that he would not have become aware of what the media was saying, in your second reason, you actually accept the possibility that
10 he might not have become aware of what was out there in the media.

You go so far as to say that but if he had himself not become aware, people close to him would surely have told him. So in answering my question with regard to the first reason, I do not think you can peg your answer on him having heard or seen or read what was out there in the media.

MR O'SULLIVAN: Well of course.

CHAIRPERSON: Well, then you are contradicting yourself.

20 **MR O'SULLIVAN:** No, of course. If the Commission gives him the benefit of the doubt ...[intervenes].

CHAIRPERSON: You first gave him the benefit of the doubt.

MR O'SULLIVAN: I do not necessarily, I am saying I was not convinced by his argument.

CHAIRPERSON: Yes.

MR O'SULLIVAN: Okay, and the reason I was not convinced of his 2020 affidavit was because in 2015 he was moaning and grievance about Commissioner Phiyega lying under oath against him, about him that he did not say this and therefore, you know this, he was never offered a confirmatory statement.

CHAIRPERSON: Yes.

MR O'SULLIVAN: At the end of the day, Commissioner,
10 what it boils down to from me as an evidence giver is that it is, I suppose, 80% gut feeling. But if you look at the reality of it, there is no evidence between 2012 when he had an opportunity to come clean when he made the first answering affidavit to the Part A.

He had an opportunity to come clean and tell the truth. He kept quiet. And the first time we hear about it was at the State Capture Commission, and that comes out in his affidavit. And it really then is utilized at this Commission, but what he does not do at this Commission is
20 say, by the way, I kept quiet about it for 8 years. I told the State Capture Commission.

I just think it should have been a lot more transparent. If we are talking about a junior policeman, I can understand, but we are talking about the person who was the Acting Commissioner of Police. He was in charge

of running the police service and he was the man, nobody else, him, he was the one that unlawfully put Richard Mdluli back to work, forcing civil society to bring urgent applications to get Richard Mdluli back out from his office.

And I am going to paint in my closing argument, or whatever you want to call it, the reality between that and what went on at the 6th of July media conference, because there are similarities here.

CHAIRPERSON: Those are related issues I will
 10 immediately accept. But you are dealing with something specific here, which is about why, and you keep repeating the words, he was sitting at home twiddling his fingers. I will not go so far as to say he was twiddling his fingers, but you repeatedly referred to the fact that he was sitting at home.

And your point is more that he had all the time to basically anticipate whatever it is General Phiyega would say about this, lest she perjure herself. That is the substance of the question, not - I accept the other issues
 20 that you have just referred to in response to my question are related, but they are not really what you are addressing in 1.7.6.2.

So my point is, this is somebody who is sitting at home under the circumstances that we all know, based on the testimony or the material before us. Now, on what basis

must he insert himself and say, I am lifting my hand, here I am, just in case the current incumbent, General Phiyega might perjure herself, I am offering myself. Why should he have done that?

Should those who were preparing the answer, the Part B answering affidavit not have been the ones who approach him specifically and say, you are the person best placed to answer this, therefore, please tell us what you know so that we file your affidavit as a confirmatory
10 affidavit to what General Phiyega is going to be saying.

MR O'SULLIVAN: Well, it is a tricky one, Commissioner. The reality of the situation is that during that period of time, President Zuma was running the country, or running Government, and we had all these things going on. And I cannot say beyond reasonable doubt that he colluded, but what I can say is he would have known that in order for our answering affidavit to be truthful, she would have had to say that which he refused to say, which is that he got an instruction according to his version of events later from the
20 Commissioner, from the Minister of Police to reappoint General Mdluli.

And let us give him the benefit of the doubt and say he was not listening to what has going on in the media, let us just say that he was blind to all these things that were going on, but somehow he was able to make a complaint, a

grievance. If I was in his shoes, I would have been beating a path to the door to say, hang on a minute, let us tell the truth here.

But he could not. And the reason he could not was because it was still too short a period after the event where he had acted unlawfully by carrying out the instructions of the Minister of Police. But 8 years later, you know, time has passed, water has gone under the bridge, now we can put it out there. I believe he should have put it out there a
10 lot sooner.

CHAIRPERSON: Let us move on to the second reason, 1.7.6.3. I do not think we have much to say there because I already touched on it when we were dealing with the first one. But the point I will make in this regard is that does your second reason not become attenuated in the sense that you yourself already accept the possibility that he might not have seen, that is General Mkhwanazi, he might not have seen what was out there in the media.

MR O'SULLIVAN: Well, that possibility, you can say,
20 exists there. But then I counter it by saying even if he was not aware of the news coverage, it is inconceivable that none of his close colleagues in the police would have drawn General Phiyega's attention, denial to his attention. And the reality is he became aware of it somehow because he laid a grievance.

CHAIRPERSON: That is speculation of the highest order.
We are talking as at the time.

MR O'SULLIVAN: Ja.

CHAIRPERSON: I am engaging you as at the time. That is speculation of the highest order.

MR O'SULLIVAN: It is hard to say.

CHAIRPERSON: Yes.

MR O'SULLIVAN: The time machine, I guess, would be needed.

10 **CHAIRPERSON**: Yes. Thank you, thank you.

ADV SELLO SC: Thank you, Chair. Maybe for my understanding, can we go to page 384.

MR O'SULLIVAN: 3?

ADV SELLO SC: 384 of the bundle, and that we are still in General Mkhwanazi's affidavit to the Commission, to the State Capture Commission.

MR O'SULLIVAN: 384?

ADV SELLO SC: 384.

MR O'SULLIVAN: Yep.

20 **ADV SELLO SC**: And he start at paragraph 67 that on those dates, 17, 18, 19 of April 2012, they appeared before the Portfolio Committee. I am interested in what is set out in paragraph 69 where he says:

“Having presented ...”

He concluded with the remarks:

“.. other powers decided on convictions,
not just the SAPS. Here I was referring
to where matters were taken out of
control of the police.”

Is it that quotation that you say means, where he is
supposed to have said to Parliament that he acted on, at
the behest of other powers?

MR O'SULLIVAN: Ja.

ADV SELLO SC: Or is it a completely different
10 engagement on that score?

MR O'SULLIVAN: My understanding, Commissioners, is
that there he is talking about the criminal charges, not the
disciplinary charges. So the criminal charges were not in
his domain. They are in the domain of the NPA. And as we
know, that was being mismanaged by Advocates Mrwebi and
Jiba. So I opened, by the way, a criminal complaint against
them for the mismanagement of that whole mess.

So you had this situation where the National
Prosecuting Authority under Advocates, by the way, at that
20 stage, Advocate Jiba was the Acting NDPP, and then
Advocate Mrwebi, Lawrence Mrwebi, was the Head, the
National Head of commercial crime at the NPA.

ADV SELLO SC: Yes.

MR O'SULLIVAN: And they took an unlawful decision to
withdraw the criminal charges, not only the charges

pertaining to the kidnap and murder of his wife's ex-boyfriend or whatever the case may be, but also the alleged fraud and corruption charges. They took those decisions unlawfully, and I believe that is what he is talking about here.

ADV SELLO SC: And that is the clarity I was seeking, whether what he states at paragraph 69. So you are saying when he says, he stated to Parliament that other powers decided on convictions, not just the SAPS ...[intervenes].

10 **MR O'SULLIVAN:** Ja.

ADV SELLO SC: He was referring to the criminal case. It has nothing to do ...[intervenes].

MR O'SULLIVAN: The criminal case, but what he does not say, Commissioners, is he does not say what he said about the disciplinary charges, because that is what he was questioned on in Parliament, and he said, a higher authority, that is his words. And when they tried to drill down into that, he said he could not go into it.

ADV SELLO SC: I accept that. I just need your clarity on
20 this, that that quotation I read there, I should not misunderstand as his response to the issue of withdrawal of the disciplinary charges, I should not misunderstand that quotation to relate to that.

MR O'SULLIVAN: I believe this is not to do with the disciplinary charges. I believe this is to do with the criminal

charges. He uses the word other powers decided on convictions, not just the police.

ADV SELLO SC: Can I then invite us to page 25, paragraph 1.7.10. You conclude at this paragraph thus, and I quote:

10 “Given General Mkhwanazi's own
 collusion in an illegal process of political
 interference, designed to keep Mdluli in
 charge of the division of Crime
 Intelligence and its regularly stolen
 secret funds, it is difficult to take
 seriously his complaints of political
 interference.”

MR O'SULLIVAN: Ja.

20 **ADV SELLO SC:** Okay, and you go on. Do I understand
 you correctly that you suggest General Mkhwanazi colluded
 in retaining General Mdluli in the division of Crime
 Intelligence to facilitate the stealing of secret funds? Is
 that, am I understanding you correctly or am I
 misunderstanding you wholly?

MR O'SULLIVAN: Sorry, I am not quite ...[intervenes].

ADV SELLO SC: I was saying my interpretation of what
 you say there, I wanted to test whether I am correct or
 whether I am misunderstanding you.

MR O'SULLIVAN: So what I am saying is there is

similarities.

ADV SELLO SC: Yes.

MR O'SULLIVAN: The similarities in 2012 are the same as the similarities in 2025 in July. In 2012, it was to protect the Head of Crime Intelligence, which was Lieutenant General Mdluli. In 2025 in July, it is to protect, I am saying, it is, and that will be the next bit that I come on to, that it was to protect Crime Intelligence.

ADV SELLO SC: Oh.

10 **MR O'SULLIVAN:** So those are the similarities.

ADV SELLO SC: So a protection of General Mkhwanazi, General Mdluli ...[intervenes].

MR O'SULLIVAN: Mdluli. I am saying ...[intervenes].

ADV SELLO SC: In 2012 you say was by General Mkhwanazi himself or ...[intervenes].

MR O'SULLIVAN: Yes, I am saying that in 2011/12 he was protecting one General in Crime Intelligence and in 2025 he is protecting five Generals in Crime Intelligence.

MR O'SULLIVAN: Okay, now you have tendered this
20 affidavit, so I am sure you are familiar to some extent with it. From paragraph 9 of that affidavit, General Mkhwanazi makes the distinction or seeks to ...[intervenes].

MR O'SULLIVAN: So what page?

ADV SELLO SC: Paragraph 9. I will tell you the exact page now, 349 under the heading "The Mdluli matter".

MR O'SULLIVAN: But this is one of the annexures.

ADV SELLO SC: Ja, your annexures, yes. We are still
...[intervenes].

MR O'SULLIVAN: At page?

ADV SELLO SC: 349.

MR O'SULLIVAN: Page 349.

ADV SELLO SC: 349, yes.

MR O'SULLIVAN: Ja, I have got it.

ADV SELLO SC: And at paragraph 8, he makes the point
10 that when he was appointed, General Mdluli was the
Divisional Commissioner of Crime Intelligence.

MR O'SULLIVAN: Ja.

ADV SELLO SC: At 9, he points out that by then he had,
as he joined as an Acting National Commissioner, General
Mdluli had already been on suspension, having been
suspended on 29th April 2021.

MR O'SULLIVAN: Correct.

ADV SELLO SC: And that suspension related to the
alleged murder case.

20 **MR O'SULLIVAN:** Hm.

ADV SELLO SC: And at 315 you continue, he continues
that at paragraph 10, on establishing that Lieutenant
General Mdluli had not been suspended on the fraud and
corruption charges which he introduces in the paragraph
above, he instructed Lieutenant General Stander, the

Deputy National Commissioner of Human Resources, to initiate steps to implement disciplinary charges against Lieutenant Mdluli in this regard.

MR O'SULLIVAN: Hm.

ADV SELLO SC: Then at paragraph 11, he speaks about General ...[indistinct] which we can skip. And then at paragraph 12, he says:

10 “As part of my briefing on this matter, I was advised that Major General Solly Lazarus, the Chief Financial Officer of the Secret Service account of CI had already been suspended and charged criminally for fraud and corruption.”

He continues at 13:

20 “I then decided to instruct Lieutenant General Stander to appoint an outside person to assess the available evidence to determine whether it implicated General Mdluli and then to advise me on the way forward. These events took place roughly towards the end of 2011. I attach marked NM1, a copy of the report obtained by Lieutenant General Stander, pursuant to my instructions.”

He then says at paragraph 15:

“Pursuant to this report, disciplinary charges were brought against Lieutenant General Mdluli.”

This is now for the fraud. Do you accept the facts as set out by General Mkwana in this affidavit or do you have reason to doubt the veracity?

MR O'SULLIVAN: I cannot contradict them.

ADV SELLO SC: Okay, now in light of that, if you then are forced to accept, is it fair to suggest that he took steps and
10 colluded in a process that will protect General Mdluli and enable the further looting of secret funds? Is that a fair conclusion, if you accept the facts as stated here.

MR O'SULLIVAN: If what he says here is true, then it means he is doing his job. But then along came the Minister who said, cut all this up, drop the charges, put him back to work, and he did that. So he may have started off on that course. I guess the best person to ask is him.

ADV KHUMALO SC: Can I ask a question because you introduced the involvement of the Minister.

20 **MR O'SULLIVAN:** Sorry?

ADV KHUMALO SC: You introduced the involvement of the Minister.

MR O'SULLIVAN: Yes.

ADV KHUMALO SC: Two months after the suspension was lifted, so on the same day that FUL launched the urgent

application, you are aware that General Mkhwanazi did suspend General Mdluli again?

MR O'SULLIVAN: Ten days later. The Freedom Under Law case was launched on the 15th of May.

ADV KHUMALO SC: Yes.

MR O'SULLIVAN: General Mkhwanazi re-suspended General Mdluli on the 25th of May.

ADV KHUMALO SC: Ja, do not confuse the date when he was charged with the date when he was suspended. I had
10 understood having read the judgment, both the High Court judgment and the Supreme Court of Appeal judgment ...[intervenes].

MR O'SULLIVAN: No, he was re-suspended on the 25th of May.

ADV KHUMALO SC: I am looking at paragraph 95 of the judgment. You may be right because it says the application was launched on the 15th of May 2013. I think that is a typo in the judgment. It is 2012, right? I am on page 409.

MR O'SULLIVAN: 409?

20 **ADV KHUMALO SC:** Ja.

MR O'SULLIVAN: Let me just go to it.

ADV KHUMALO SC: 409.

MR O'SULLIVAN: Ja.

ADV KHUMALO SC: I think this may be a typo in the judgment. That should be 2012, right?

ADV SELLO SC: The wording of the paragraph would suggest so.

ADV KHUMALO SC: Ja.

MR O'SULLIVAN: Which paragraph, sorry?

ADV KHUMALO SC: Paragraph 95.

MR O'SULLIVAN: 95.

ADV KHUMALO SC: Yes.

MR O'SULLIVAN: Hm.

ADV KHUMALO SC: You may be correct, so I think there
10 is a typo there with the date. But your point is that he only
re-suspended him after the urgent application was
launched.

MR O'SULLIVAN: After the Freedom Under Law
application was launched, he realized, uh-oh, there is
trouble coming. But contemporaneous with the launching of
the Freedom Under Law application, Advocate Chauke was
the Director of Public Prosecutions in Johannesburg and he
had given instructions for an inquest into the murder or the
death of Oupa Ramogibe.

20 So what happened was, during that inquest, in the
week after the Freedom Under Law application was
launched, and while General Mkhwanazi was having to deal
with his answering affidavit, revelations were coming out at
the inquest about the conduct and the kidnapping and the
beating up of Oupa Ramogibe, allegedly by, in fact, he was

convicted by it later.

ADV KHUMALO SC: Mr O'Sullivan, I want to stick to the theme of the question by Advocate Sello. So my question, in essence, is what do you make then of the fact that during the May period, he did suspend General Mdluli again, and in fact, he was charged?

MR O'SULLIVAN: Well, he did not really have much of a choice, because he got, this application landed on his desk on the 15th of May.

10 **ADV KHUMALO SC:** Yes.

MR O'SULLIVAN: So ten days later, while he is doing his affidavit to respond to this application, this urgent application, he re-suspends him, and I am saying he was in a corner. He had no choice. He had to do it.

ADV BALOYI SC: But, Mr O'Sullivan, I think the, you are aware in this affidavit here, you have got where he describes ...[intervenes].

MR O'SULLIVAN: Where what?

ADV BALOYI SC: Where he describes the steps that he
20 took, and that includes engagement with the Inspector General, and the Inspector General at some point, say, instructing that he should lift the suspension and have Mr Mdluli come back to work, and he did not agree with that. So you are aware of the steps that he took.

MR O'SULLIVAN: Ja.

ADV BALOYI SC: But for that he acted on the, ultimately, he acts because the Minister is now involved in the matter, you surely could not fairly say, disregard everything else that he has done and say, because he followed the Minister's instruction and put it as high as that was action, he acted to protect Mdluli who, for purposes of plundering the secret fund, you cannot.

I mean there is a logic in it. There is a disconnect in that you seem to, in fact, not you seem to, you do as a
 10 matter, as you testify, that you disregard all the efforts that he took to discipline General Mdluli. You disregard that, and then you say, well, he followed the Minister's instruction, ultimately. The Minister instructed him, and by following the Minister's instruction, he therefore was, in fact, protecting Mdluli to enable him to continue to plunder the secret fund. I do not understand that logic or that reasoning, because it seems to be quite selective.

From where I am sitting, you seem to be selective in refusing to acknowledge the steps that he took, but also
 20 to acknowledge that, in fact, when he did withdraw the, uplift, rather, the suspension, it was at the instruction of the Minister. You can criticise him for following the Minister, just like the court did, right, that he has got the discretion, he has got the power, he should have insisted to exercise his power.

Well, he did not. He followed the Minister's instruction. How that translate so easily, in your view, to it being a deliberate decision on his part to protect Crime Intelligence General for purposes of plundering the secret fund and then you say, in exactly the same way that has done in 2025. I am battling to see the connect that you seek to make in what seems to be disconnected.

MR O'SULLIVAN: I do not consider that I have disconnected. If I look at it, what happened at the time, he
10 has only given his version of events 8 years later. Nowhere at the time does he explain all these events. He waits 8 years. He could have said, in his answering affidavit to the court, he could have outlined these things then. He did not. He kept quiet about it. He only comes out with it 8 years later.

Now, if one has to give some real thought to this and think out of the box, one has to consider the following. He was a junior senior police official. He was a Major General in the police, and he was aged 38. There were
20 probably at least 40 Generals in the police.

ADV BALOYI SC: So, Mr O'Sullivan, we are not discussing that now, sir.

MR O'SULLIVAN: Okay.

ADV BALOYI SC: It is late in the day. We are discussing what you have addressed in your statement. Our question

is really, the theme now is a very, it is a direct theme. It does not require you to speak about his promotion that you obviously were not happy about. It is simply this, that you, unless you say everything that he says I did, or the steps that he took to discipline, to suspend, unless you say all of that is a lie, right, and I did not understand you to be saying all of that which he says he did is a lie, unless you are saying that it is a lie, I do not see how you can fairly say today, knowing what you know, remember when you draft
 10 this affidavit for the Commission, you know this history, what he alleges he has done, knowing all of that, and then you in June, as we sit here, you say, well, that he did not say it is the Minister that instructed him, that he did not contradict General Phiyega in, General Phiyega in an affidavit in court, those two things are evidence that he in fact was colluding.

He made the decision to collude, to keep General Mdluli in place, so that he can plunder, continue to plunder the secret fund in the same way that he is doing in 2025. I
 20 do not see how you get there. It seems forced to say, well, that is what he was doing in 2015 or whatever year it is.

MR O'SULLIVAN: Ja.

ADV BALOYI SC: And then you say, well, it repeats in fact in 2025. It seems to be forced.

MR O'SULLIVAN: I hear what you are saying,

Commissioner, and my point is quite simple.

ADV BALOYI SC: Yes.

MR O'SULLIVAN: That if the content of his affidavit in 2020 had been included in the content of his affidavit in 2012, I would absolutely agree with you, but it was not. The whole thing was kept quiet for 8 years, and I believe it could have been put out into the open 8 years earlier, and who knows what effect it would have had on the police. It might have changed the future.

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

ADV SELLO SC: I think we have traversed this already, but we did clarify that the Freedom Under Law application was brought in two parts. The Part A was an urgent interdict. Is my recollection correct?

MR O'SULLIVAN: Correct.

ADV SELLO SC: That was the Part A.

MR O'SULLIVAN: Not A. The order was granted ...[intervenes].

ADV SELLO SC: Yes, I am aware.

20 **MR O'SULLIVAN:** Ja.

ADV SELLO SC: My issue is General Mkhwanazi deposed to an affidavit in regard to the relief sought in Part A, so it is not the main application. The main application is in Part B, the review application, right?

MR O'SULLIVAN: Ja, I agree 100%. The main application

was Part B.

ADV SELLO SC: Yes, so if we agree on that score, are you suggesting that all these facts that he has set out in the affidavit deposed to before the State Capture Commission, he should have set them out in his answering affidavit to the Part A relief, that ...[intervenes].

MR O'SULLIVAN: Because the central theme of Freedom Under Law's application was his alleged receipt of instructions from a higher authority, and on that he kept
10 quiet. So I am saying that would have been the, and by the way, he did not have to go into all the detail he has gone into with the Zondo Commission, but what he could have done was take those crisp elements and say, listen here, this is what happened, it was not just me, it was the OIG, and it was the Minister, and then put it on the table. But no, the whole thing was hushed up for 8 years.

ADV SELLO SC: Just then, I guess as a final point on this, page 367, we are still in the affidavit, paragraph 24. He states in that paragraph that during this period, of course
20 this is after a whole long narrative about what was happening and the IGI's report and what steps he took.

MR O'SULLIVAN: Ja.

ADV SELLO SC: So then he says:

“During this period I met with Lieutenant General Mdluli. I informed him that I had

written to the IGI and had received a response from her regarding the disciplinary matter against him, but was awaiting her response regarding the criminal case against him. I gave the same advice to Minister Mthethwa.”

At paragraph 25, he notes:

10 “I disagreed with the IGI's view that Lieutenant General Mdluli should return to work. She had not yet read the criminal case docket or expressed an opinion thereon, and I felt that she ought first to do so before he could be reinstated. I telephoned Advocate Hadebe to inform her that I would not be lifting General Mdluli's suspension until she has perused the criminal case docket, as this might influence her initial decision regarding the disciplinary matter against him. I was also aware that 20 Advocate J Govender from IGI was an experienced advocate and a former prosecutor, so I had faith that she would assist the IGI in making an informed decision on the status of the criminal

case.”

Now, I am just concluding this conversation we are having, that these are some of the steps he states he took to resist the upliftment of General Mdluli's suspension. Now, my question is, do you take issue with the veracity of what he claims here?

MR O'SULLIVAN: The only issue I take with this is what I said earlier. This belonged in his answering affidavit.

ADV SELLO SC: Okay, okay. Not so much ...[intervenes].

10 **MR O'SULLIVAN:** He should have taken the court into his confidence and explained to the court exactly what went on, and then it would have resolved not only Part A, but there would have been no need for Part B, because actually Part B was fought hammer, tooth and nail by the police, and it was fought out in the Supreme Court of Appeal. So there would have been no need for all of that if he had have taken the court into his confidence in May 2012.

ADV SELLO SC: Noted, thank you.

ADV KHUMALO SC: Advocate Sello, I – Mr O’Sullivan, I
20 understand your criticism, and if one reads the SCA judgment, it appears to be the same criticism that one finds at page 470.

MR O'SULLIVAN: 4?

ADV KHUMALO SC: 470 of the annexures or exhibits. So if you start at 469, paragraph 49, the court says:

“The factual basis for the challenge by
 FUL is that it relied on statements made
 by then Acting Commissioner General
 Mkhwanazi in Parliament, that he was
 instructed by authorities beyond him to
 withdraw the disciplinary charges and
 reinstate Mdluli in his office. And then
 FUL added that in doing so, Mkhwanazi
 had failed to make an independent
 10 decision which rendered his actions
 reviewable.”

So that was the point about the review.

MR O'SULLIVAN: Ja.

ADV KHUMALO SC: And then the court says, this is now
 SCA:

“Though Mkhwanazi filed an answering affidavit in
 the interim interdict proceedings in Part A of the Notice of
 Motion, he did not deal with these allegations.”

MR O'SULLIVAN: [Indistinct]... [cross-talking].

20 **ADV KHUMALO SC:** So this is your point.

MR O'SULLIVAN: Ja ...[indistinct] [intervenes].

ADV KHUMALO SC: And then what the court then
 concludes, we can ignore the rest of that because it relates
 to General Phiyega. In paragraph 50, the second last
 sentence, the court says, no, no, sorry, let us start at the

fifth line where the court says:

“I do not believe this finding can be faulted. Moreover, after all is said and done, neither Mkhwanazi nor Phiyega gave any reasons for the impugned decision.”

And then the inevitable conclusion is that the decisions were either dictated to by Mkhwanazi or were taken for no reason at all.

10 **MR O'SULLIVAN**: Ja.

ADV KHUMALO SC: And so the court has made a decision that in the absence of an explanation, we can conclude that they were dictated to by somebody else.

MR O'SULLIVAN: Yes, and Commissioner, if I can say, what they have done in the Supreme Court of Appeal is they have struck the evidence of Phiyega because she stated on the oath that this is actually what really happened and to prove it, I am going to come with a confirmatory affidavit from General Mkhwanazi. And since there was no
20 confirmatory affidavits, they struck that evidence. They said that is immaterial. Therefore, they go back to game 1, which was the answering affidavit submitted by General Mkhwanazi where he just did not deal with the issue.

ADV KHUMALO SC: So the point I am making is because we were not getting anywhere and I had understood that

your criticism, you were taking it from the judgment, although you added your own flavour to it. I must point that out, that you added your own flavour to it.

MR O'SULLIVAN: Yes.

ADV KHUMALO SC: But the substance of what the SCA found is that because he did not answer the specific allegations made by FUL ...[intervenes].

MR O'SULLIVAN: Ja.

ADV KHUMALO SC: The inevitable conclusion is that he
10 was dictated to by those above him.

MR O'SULLIVAN: Correct, ja.

ADV KHUMALO SC: And we leave it there. And I think when General Mkhwanazi comes here the second time, we may then give him the opportunity to respond to your criticism of his conduct and that is the best way of dealing with it.

MR O'SULLIVAN: I agree.

ADV SELLO SC: Thank you, Commissioner Khumalo. You conclude then at paragraph 1.7.10 at page 25 by stating:

20 “For example, in 2011/2012, General Mkhwanazi's conduct was intended to unlawfully protect Crime Intelligence Divisional Head, much the same as his conduct in 2025 is intended to protect the Criminal Intelligence Divisional Head and

those under him.”

That then leads you to your next topic at page 26 at paragraph 1.8, and I think we should make a correction there. It reads “July 2026 Media Conference”. It should be 2025.

MR O'SULLIVAN: Yes, 1.8.2.

ADV SELLO SC: At 1.8, the main heading, it reads “July 2026 Media Conference”. That should read July 2025.

MR O'SULLIVAN: Yes, yes, thank you.

10 **ADV SELLO SC:** Then you say in this part of your statement, you are more or less posing a question to the Commissioners.

MR O'SULLIVAN: Correct.

ADV SELLO SC: And you are not testifying or advancing any factual basis ...[intervenes].

MR O'SULLIVAN: Ja.

ADV SELLO SC: Or suggesting that the media conference was intended to protect criminals. That is not your suggestion.

20 **MR O'SULLIVAN:** I am not ...[intervenes].

ADV SELLO SC: You are posing a question.

MR O'SULLIVAN: It is not a statement, it is a question.

ADV SELLO SC: Okay.

MR O'SULLIVAN: And what I am asking the Commissioners to do is to have an open mind and ask

yourselves the question, was that media conference a smokescreen? That is what I am asking you to do. And in order to guide your thinking on that, I have given my own ideas here and my ideas are quite simple.

I have made it clear that for years and years and years, the epicentre of crime in the police service is the Crime Intelligence division. It is the epicentre. Everything that goes wrong in the police, it is the Crime Intelligence division. And why? Because we have a so-called secret
10 services account, which is so secret, nobody can know how the money is spent, which is great, because if you want some money to do other things with, you can do it and nobody can ask you any questions. No Auditor General has ever given a clean report on the Crime Intelligence secret services account.

And if one looks at the growth of that fund, by the way, you can pick up from the police budgets, the fund itself, but you cannot see how it is spent. And in 2012, when General Mkhwanazi was the Acting Commissioner of
20 Police, the budget for the secret services account was R98 million per annum. In 2024, it stood at R600 million per annum, which is an increase of 512%, which is five times the rate of inflation over that same period.

But what we do not have, is we do not have a concomitant decrease in crime. What we do have, if you

look at the last 14 years, is we have successive heads of Crime Intelligence being arrested and sent to jail for stealing from the secret services account. It is just a manna from heaven. It is a gift and there needs to be a lot of control, much better control over that.

And I talk about here, when I ask the question, was it a smokescreen, I asked the question, I named five Generals and two Brigadiers who were arrested in June 2025. They were arrested on the 26th of June. It is no
10 coincidence. In my annexures, I have taken that media briefing of General Mkhwanazi, and I have had it transcribed. The transcription is there. And if you look at the theme of the transcription, and start looking at the mentioning of Crime Intelligence, it starts to conjure in your mind, was this a whole smokescreen to protect all of these people in Crime Intelligence?

And when you think about it, and I ask you to keep an open mind, if you look at it, there has to be an answer there somewhere. It cannot be right that this is all linked.
20 By the way, on the 1st of July, I had my attorneys, the attorneys of Forensics for Justice, I had them send a very strong letter to Commissioner Masemola and the letter is very strongly worded, and it talks about the accused persons, which I refer to in my affidavit as the Crime Intelligence seven. And in that letter, we are demanding

that these people are urgently suspended, because they have all been charged with corruption.

And according to General Mkhwanazi it is not corruption, it is an HR matter. I do not agree with that. It is corruption. So we have this situation where they are charged with corruption. We send a letter through, demanding that they be suspended. An hour later, or two hours later, we get a short reply back from General Masemola, which is on page 505 of my evidence bundle,
10 which effectively says, I will do what has to be done. You know, I will comply with the law. Not one of them has been suspended. Not one.

To this very day, not one of them has been suspended. And by the way, some of them have been charged more than once, because General Lushaba, who is the CFO, he is in charge of the secret service account, he was also charged with losing his laptop computer, and a firearm and hiring, not hiring, but instructing members under his command to go out and get his laptop and firearm
20 back and then to doctor the docket, the docket that he opened.

And when he opened the docket, he said that somebody came in through his window and stole his firearm, his state-issued firearm, and they stole his laptop. But it actually turned out that he had invited a lady into his

premises and they had a few drinks, and he fell asleep and she made off with his money, his firearm, and his laptop. He got other police officials at the rank of Colonel to go and get his laptop and firearm back, which they did. He is charged for that. He was arrested for it and charged.

And what they did, they went and got his laptop and firearm back. But now he had a problem, because he had opened the docket at the police station where he said the lady, somebody had climbed in through his open window.
10 So he got those two Colonels to go to the police station and get hold of the investigating officer on the case that he had opened and removed the papers from that docket and replaced them with fake papers.

So that is the sort of thing that is going on in crime. That is the Chief Finance Officer of Crime Intelligence. And when you look at all these things going on, and then you analyse, Commissioners, the transcription, because nobody has produced a transcription before now. I have produced it. I had it produced within days of his media conference
20 and it is there at pages 510 to 536.

And what has interesting is on page 533, on page 533, he does not mention my name. General Mkhwanazi says the following.

“That is why there is a call in public from
a person that I will not necessarily

mention his name, that the National Commissioner must bypass the disciplinary regulations of the service, must simply suspend these people because they are ...”

It is inaudible.

“Why is that call? It is a call that is putting more pressure to make sure the country hence the handing over to the criminal syndicate.”

10

So because I have called for the suspension of these five Generals and two Brigadiers, General Mkhwanazi is accusing me of handing the country over to a crime syndicate. In fact, I am trying to stop this crime syndicate that is active in Crime Intelligence from carrying on with their crimes.

ADV KHUMALO SC: Mr O’Sullivan, can I ask you one question. You say the press conference of 6 July 2025 was a smokescreen.

20 **MR O’SULLIVAN:** Was it? It is a question.

ADV KHUMALO SC: Ja, so, let us assume that it was.

MR O’SULLIVAN: Pardon me?

ADV KHUMALO SC: I am saying let us assume for the purposes of my engagement with you that it was a smokescreen.

MR O'SULLIVAN: Ja.

ADV KHUMALO SC: Does it mean that the allegations made that day are not true and should not be investigated, because that is what this Commission has been established to do.

MR O'SULLIVAN: Absolutely.

ADV KHUMALO SC: It is to investigate amongst others the allegations that were made by General Mkhwanazi on that day. Now, say his motive, for argument's sake, say his
10 motive was to protect the Crime Intelligence service ...[intervenes].

MR O'SULLIVAN: Ja.

ADV KHUMALO SC: And that was his reason for this press conference, does that mean the allegations he made are not true and should not be investigated?

MR O'SULLIVAN: Absolutely not. In fact, if you look at me having gone on record, on the 6th of July in the evening, I did a media call. The media contacted me about this whole media conference of his and the first thing I said was
20 there needs to be a judicial commission of inquiry. I made the point, and I have repeatedly made the point, that the lack of attention by the State Capture Commission to the criminal justice system has resulted in where we are today, and I have absolutely no doubt that a lot of good will come out of the allegations he has made. But, were they made

for the right reason?

That is the question I am asking. And I do not believe they were. And if you look at the transcript, it starts to come out what actually the purpose of that media conference was, and I do not believe it was just about Minister Mchunu and these various parties, what has his name, Cat Matlala and all these other people.

I do not believe it was about that. And the reason I have given in my briefing here today is that I start off by
 10 saying this is not the first time that we have had criminals penetrating the criminal justice system. It has been going on for years and years. Even during apartheid it was still going on. So, this is not new. But, if any good comes out of it, fabulous. But, what I am saying is we need to keep an open mind as to the motive, and that is all I am requesting.

CHAIRPERSON: Is the motive a question that is within our remit though?

MR O'SULLIVAN: Is the motive, sorry?

CHAIRPERSON: Is it a question that is within our remit?
 20 Must we answer that question?

MR O'SULLIVAN: If one look at your ...[intervenes].

CHAIRPERSON: It does ...[intervenes].

MR O'SULLIVAN: If you look at your ...[intervenes].

CHAIRPERSON: So, does that question fall within our terms of reference?

MR O'SULLIVAN: Yes, if you look at your terms of reference ...[intervenes].

CHAIRPERSON: Yes.

MR O'SULLIVAN: It does not go there. However, if you apply, as your colleague did earlier, this *novus actus interveniens*, what if he did not call that media conference, would we be sitting here today? The answer is no. So, a sequence of events has taken place and all I am saying is not everything is what it has been painted out to be. And I
10 have requested the Commissioners to keep an open mind. I keep an open mind on these issues. Of course, I would like to persuade you this way or that way, but the reality is I would never like to persuade you of something that is not right.

CHAIRPERSON: We should keep an open mind on matters that fall within our terms of reference.

MR O'SULLIVAN: Exactly.

CHAIRPERSON: So, that is why I am engaging you on whether this is something that falls within the terms of
20 reference ...[intervenes].

MR O'SULLIVAN: Well, then you are left with the question ...[intervenes].

CHAIRPERSON: Especially, bear in mind that you have said a lot of good has come out of this process and probably most of it does indeed fall within our terms of

reference, so the issue, and all of that, or all of those issues, because we are yet to submit a final report, all of the issues that have arisen are issues that we must keep an open mind on, except those perhaps that are clear and on which everybody has already said something, that is, even those that are implicated.

MR O'SULLIVAN: No, of course.

CHAIRPERSON: Perhaps on those we may make, or rather have sort of final views on such matters, but otherwise we
 10 keep an open mind. But that relates to matters that fall within our terms of reference. So, you keep saying you are asking us to keep an open mind. If what you are raising, insofar as the motive is concerned, does not fall within the terms of reference, the issue of us keeping an open mind does not arise at all.

MR O'SULLIVAN: Oh.

CHAIRPERSON: If you accept that the question of the motive does not fall within our terms of reference, but I am engaging you on whether it does, and I think you have
 20 accepted that it does not.

MR O'SULLIVAN: It is chicken and egg, is it not, because if the motive was to create the smoke screen, then it possibly does fall within your terms of reference, because you need to know what was that smoke screen all about and then you start asking other questions. So, I prefer myself

to be the bringer of information, not the decider of facts.

But I brought the information to this Commission because I have spent the last 36 years of my life trying to make this a better country to live in for all people in South Africa and that is why, when I saw what was going on, I thought, uh-uh, I need to throw my 10 cents into the mixture as well, especially since I have been named by the protagonist.

When General Mkhwanazi got up and blamed me, I
 10 had nothing to do with this Cat Matlala and these drug cartels and all the rest of it. I had no knowledge of what was going on until I heard about it in the media. But for him to name me, why was he naming me? And I can tell you the reason why, because I wrote, or I did not write, I got my attorneys to write a letter to General Masemola and demand that these five Generals and two Brigadiers be suspended. That is why I was named.

CHAIRPERSON: I would understand the smoke screen point better if it does not go beyond saying this was a
 20 smoke screen that was calculated to shield these Generals from criminality that they are otherwise involved in. So we do not really get into, was it indeed a smoke screen? That is not before us.

MR O'SULLIVAN: I understand.

CHAIRPERSON: That is not before us.

MR O'SULLIVAN: I agree with you. I agree with you that your terms of reference do not ask you to consider whether it was a smoke screen.

CHAIRPERSON: Yes, yes, ja. So the criminality itself would then have to be something that does indeed fall within our terms of reference, the criminality shielded by the smoke screen. Your comment?

MR O'SULLIVAN: Ja, I suppose the acid test will come in time when we see what happens, because we do know.

10 **CHAIRPERSON:** Yes, alleged criminality, of course. It is ...[intervenes].

MR O'SULLIVAN: Yes, alleged criminality. We do know, for example, that last week or the week before there were allegedly other warrants of arrest for two of the same Generals of the, two of the same five Generals apparently are going to be arrested again. I have no knowledge of that, only what I have seen in the media.

20 Hopefully tomorrow will be a peaceful day and then whatever has to happen will happen. But I do believe that it will all unravel. It normally does. You know, if one looks at the late Commissioner Jackie Selebi, people do not believe me when I tell them actually I spent 8 years investigating that matter. And they say, 8 years? How can you spend 8 years? Well, you want to get to the truth, so that is what you do.

And in this matter, there is a lot of things coming out of this Commission, which is really, really good, because we are seeing Generals in the police being exposed for criminality and that is fantastic. But it does not mean the person that is exposing them has not been involved in any hanky-panky either.

CHAIRPERSON: Thank you, thank you.

ADV SELLO SC: Thank you, Chair. Just to clarify two things. From your paragraph 1.8.2, you deal with this
10 ...[intervenes].

MR O'SULLIVAN: Sorry, page number?

MR O'SULLIVAN: 26, 26 of your statement. The second paragraph, that is where you introduce the charges brought against Lieutenant General Khumalo and the six other members of the service, whom you term the Crime Intelligence seven.

The next paragraph, you state that their charges relate to the irregular employment of Ms Mokwele in a senior ranking position of Brigadier in the Technical Support
20 Services of Crime Intelligence. And then beyond that, you talk about what transpires after they were arrested. The point I want to clarify is the budget and the looting of the Crime Intelligence fund alleged, this case has got nothing to do with that. It has no bearing or in any manner are there allegations that these seven ...[intervenes].

MR O'SULLIVAN: This Commission?

ADV SELLO SC: No, the charges brought against the people you term the Crime Intelligence seven.

MR O'SULLIVAN: Ja.

ADV SELLO SC: It has got nothing to do with the looting of the ...[intervenes].

MR O'SULLIVAN: For what they were arrested on that day, I agree.

ADV SELLO SC: Yes, that is the clarification I seek.

10 **MR O'SULLIVAN:** General Philani Lushaba was arrested three weeks before that.

ADV SELLO SC: Yes.

MR O'SULLIVAN: And that was pertaining to the Crime Intelligence funds and I am just saying ...[intervenes].

ADV SELLO SC: Let us take it a step at a time, right?

MR O'SULLIVAN: Ja.

ADV SELLO SC: We are dealing with these charges here.

MR O'SULLIVAN: Ja.

20 **ADV SELLO SC:** I ask this because you start that subject by introducing this 512% increase in the budget and you pose questions as if there is no legitimate basis for that growth in budget and therefore insinuating that something untoward is going on. You state that in your 181 and then you follow it up with the charges. So I am saying in truth there is no link between the charges of 26 June 2025 and

the so-called looting of the Crime Intelligence funds. There is not.

MR O'SULLIVAN: The only link would be that the people in charge of the Crime Intelligence fund are the same people that are being charged here.

ADV SELLO SC: But these people, you say at 1.8.3 that their charges relate to the irregular appointment of Ms Mokwele, and that is as narrow as it gets.

MR O'SULLIVAN: Absolutely.

10 **ADV SELLO SC**: Yes.

MR O'SULLIVAN: But as a separate issue, if they can be charged with these acts of corruption, why would you leave them in charge of a R600 million budget?

ADV SELLO SC: Okay, we will pose that question to SAPS, but in the meantime ...[intervenes].

MR O'SULLIVAN: Of course, I understand.

ADV SELLO SC: Then you introduce the second issue of General Lushaba, the second charge where you talk about the computer disappearing under ...[intervenes].

20 **CHAIRPERSON**: May I just very quickly ask a question around the appointment of General Mokwele - Brigadier, Brigadier, I am very sorry, Dineo Mokwele. Setswana people must please forgive me, I am not at all sure of the pronunciation of this name. The evidence that was given by General Khumalo is that the position required someone with

expert skills. I forget the term he used for this, but he had a special term for the expertise they required for this position, and if I am not mistaken, I think he said largely that expertise is to be found within motor vehicle manufacturers.

MR O'SULLIVAN: BMW.

CHAIRPERSON: Sorry?

MR O'SULLIVAN: So what, when I found out about this ...[intervenes].

10 **CHAIRPERSON:** Not, I did not get the impression that it was BMW only. Ja, the skill is within motor manufacturers.

MR O'SULLIVAN: No, she was working at BMW head office.

CHAIRPERSON: That may be so, that may be so, but what I am saying is what General Khumalo said was that for this position, they required a certain expertise and that this expertise is to be found within the motor manufacturing industry. It does not have to be BMW. It may be BMW, it may be Toyota, it may be Mercedes-Benz or whatever other
20 company that manufactures motor vehicles. You are with me thus far?

MR O'SULLIVAN: I understand what you are saying.

CHAIRPERSON: Yes. And so he said it is not unheard of within SAPS to appoint someone who has no experience at all in policing. If that person is being appointed for the

expertise they possess, and this applies over several types of industries or environments, so it is not just the motor manufacturing industry, and he gave a few examples.

And I am sure that you too with the experience that you have, you must be aware that there are other people with other forms of expertise who have been appointed by SAPS, and not given the rank of Constable, but given higher up ranks within SAPS with no policing experience at all. Do you accept that this does happen within SAPS?

10 **MR O'SULLIVAN:** I accept that in the police service ...[intervenes].

CHAIRPERSON: Yes.

MR O'SULLIVAN: From time to time ...[intervenes].

CHAIRPERSON: Yes.

MR O'SULLIVAN: People are appointed that have no policing experience.

CHAIRPERSON: Yes.

MR O'SULLIVAN: However, they go through a procedure to motivate why that person should be appointed and there
20 is normally a panel where people are interviewed. It is not my function other than to suggest to the Commissioners that the best people to answer these questions would be IDAC, because they are the ones that charged them, and I have seen the charge sheet because it is a matter of public record, and the charge sheet makes it clear that they

interfered with the recruitment process to unlawfully appoint this particular woman when in fact they could have, if she was that important to be appointed, they could have motivated it properly and done it transparently, but it was done without transparency and it was done behind closed doors and there was no proper recruitment procedure followed, which is why General Mkhwanazi said, oh, it is an HR matter. It is not an HR matter.

They committed, they are alleged to have
 10 committed fraud when they hired this lady and I think IDAC would be best placed to explain why they were arrested and charged rather than myself.

CHAIRPERSON: On this having been done behind closed doors, do you mean that there was no advertisement for the position?

MR O'SULLIVAN: That is not what I believe. I do not know. I do not know enough detail about it, Commissioner. All I know is what I saw, I phoned the lady, this Brigadier Mokwele, and I explained to her that I am from Forensics
 20 for Justice, I am speaking to you now because these allegations have been made, I would like to get your version of events, which is before I made a formal complaint.

CHAIRPERSON: But you are basically saying you cannot say that there was no advertisement.

MR O'SULLIVAN: That is what my understanding is, that

they did not follow the correct procedures.

CHAIRPERSON: Do you know for a fact whether or not there was an advertisement?

MR O'SULLIVAN: Whether there was what?

CHAIRPERSON: Whether there was or there was not an advertisement for the position, do you know?

MR O'SULLIVAN: I do not know. I could not find the advertisement.

CHAIRPERSON: Do you know or do you not know – oh,
10 you say you did not find the advertisement. My next question was going to be, do you know or do you not know what the requirements were for the position.

MR O'SULLIVAN: Absolutely not. I laid the complaint based on the information I had. And what I asked, by the way I do not believe I was the only person that laid a complaint. I believe a member of Parliament also laid a complaint. The reality of the situation is that the best place to get the answers to these questions, Commissioner, would be IDAC, not me.

20 **CHAIRPERSON:** You see, what we got, I am not even sure from what sources, appeared to be the unsubstantiated complaint that someone with no policing experience had been appointed as a Brigadier. That does not say much. If we know, as you accept, that within SAPS they can appoint someone with no policing experience to a high-ranking

position, so that means nothing on its own.

MR O'SULLIVAN: So, Commissioner, I did not base my complaint on the fact that this person had no policing experience. My complaint was based on the information that I received and when I checked it out, the ...[intervenes].

CHAIRPERSON: Which was what? What was this information?

MR O'SULLIVAN: The information I received was that she
10 was parachuted in, which is an expression meaning bypass all the procedures, appoint her at any cost. That is the information that I received and that is the report I made.

CHAIRPERSON: Do you have any difficulties telling us who or how you received this information?

MR O'SULLIVAN: Pardon me?

CHAIRPERSON: Do you have any problems telling us how and from whom you received this information?

MR O'SULLIVAN: So, as I mentioned earlier, Forensics for Justice had a hotline and we have a web report where you
20 can make a report on the internet without leaving your name and who you are, and you can phone and leave a message on the toll-free number.

CHAIRPERSON: Yes.

MR O'SULLIVAN: In this particular matter, it came through on the toll-free number by a person in Crime Intelligence.

So, you know, I just packaged, I looked into it. I phoned the lady in question to see if she would give me a reasonable explanation. I do believe I may even have the messages that I sent to her.

CHAIRPERSON: No, no, no, just give us the substance of ...[intervenes].

MR O'SULLIVAN: Okay. So, my phone call was, we have received this complaint, I would like to hear your version of events. She said, no, I cannot talk to you, you must speak
10 to head office. I said, who at head office, and she put the phone down. That is not the conduct of a person that has got nothing to hide.

So, then I obviously ran background checks on this person. I spoke to BMW Motors and I was able to establish what she was doing there and that comprised the report which I gave to the OIGI, the Office for Inspector General of Intelligence. So, when you make these type of complaints, because it is Crime Intelligence, the place you make the complaint is the OIG, and if they do not do anything about
20 it, you might take it further.

But I subsequently heard from the OIG, because I had meetings with them, and they told me that they had referred the matter to IDAC.

CHAIRPERSON: Thank you, thank you.

ADV SELLO SC: And if I may just follow up on this

question the Chair asked. In response to a question the Chair posed to you, you stated that you enquired from BMW what position she held at BMW.

MR O'SULLIVAN: It is an admin clerk.

ADV SELLO SC: So, BMW advised you that she is an admin clerk?

MR O'SULLIVAN: Correct.

ADV SELLO SC: And not that she held the qualification that the Chair earlier referenced. They never told you
10 about that.

MR O'SULLIVAN: And when I asked her about her qualification, she did not want to discuss it with me, so, I could not really go any further.

ADV SELLO SC: Well, I am sure it is not very surprising, because you are a third party wanting to know about her personal affairs. So, she is not duty-bound exactly to account to you, is she?

MR O'SULLIVAN: But when I explained it to her, Commissioners, I did not say, by the way, I want to know
20 about your personal affairs. I explained that we had received a tip-off, and the tip-off implicated her, and I would like her to clear the air by explaining what happened, how she was recruited, and she just told me you had to speak to head office. I said, who at head office? She said, no, that is your business, you must find out and then she put the

phone down.

ADV SELLO SC: Okay. Have you ever ...[intervenes].

CHAIRPERSON: Sorry, sorry, just for the record, the expertise that was required here is mechatronics, mechatronics.

MR O'SULLIVAN: Say again?

CHAIRPERSON: I am saying the expertise that was required for this position is something called mechatronics, mechatronics, just for the record. I am not asking for a
10 response.

MR O'SULLIVAN: It may be the case. And I do believe that the best place to get the answer here would be the prosecutor that charged them.

ADV SELLO SC: Yes. And lastly, you are not on record as having suggested that she was a tea lady at BMW. That has been bandied about in public. You are not the source of that claim?

MR O'SULLIVAN: Absolutely not.

ADV SELLO SC: Okay.

20 **MR O'SULLIVAN:** I was able to ascertain that you, at that time, I am going back now over a year, year and a half, at that stage she was 29 years old.

ADV SELLO SC: Yes.

MR O'SULLIVAN: So definitely not a teenager.

ADV SELLO SC: No, no, tea lady.

MR O'SULLIVAN: Oh, I thought you said teenager.

ADV SELLO SC: No, no, I said ...[intervenes].

MR O'SULLIVAN: [Indistinct]...

ADV SELLO SC: Then I will repose my question there ...[intervenes].

MR O'SULLIVAN: No, no.

ADV SELLO SC: Because I say it is bandied about ...[intervenes].

MR O'SULLIVAN: [Indistinct]... [cross-talking].

10 **ADV SELLO SC:** Let me explain myself.

MR O'SULLIVAN: I definitely made no mention of her being a tea lady. What you have in this country, what you have in every country, is you have this thing called social media, which I do not engage in.

ADV SELLO SC: Yes.

MR O'SULLIVAN: But you get somebody on social media who says, oh, they appointed a tea lady as a Brigadier. But, you know, definitely I am not the source of such activities.

20 **ADV SELLO SC:** And that is what I sought to establish. Commissioner, yes.

ADV BALOYI SC: Mr O'Sullivan, I ask only because you say you are one of the people, one of two people, I think, who laid a complaint. Now, in respect of Brigadier Mokwele, what was your complaint about her in particular?

I am not asking about the other.

MR O'SULLIVAN: My complaint was that she had been recruited without going through proper recruitment procedures. The informant that came to us told us that this person had been recruited to a position which other people had applied for and were competent to do, but that they had bypassed the procedures.

ADV BALOYI SC: And, I mean, it being a criminal complaint, you consider that ...[intervenes].

10 **MR O'SULLIVAN:** It was not a criminal, my complaint was not a criminal complaint.

ADV BALOYI SC: Oh, I see.

MR O'SULLIVAN: It was a complaint to the OIGI that, and, by the way, it sat with other aspects of a broader complaint involving properties that were being purchased and other issues.

ADV BALOYI SC: Yes.

MR O'SULLIVAN: Which I have not brought to this Commission because, you know, it was not part of your
20 terms of reference.

ADV BALOYI SC: You have answered me. I was interested in understanding what your, firstly, I thought your complaint against her in particular was that she committed a criminal offence and I wanted to know if that is so.

MR O'SULLIVAN: No, I never said she committed a

criminal offence.

ADV BALOYI SC: That is fine. Thank you. Thank you.

ADV KHUMALO SC: Can you just clear up - sorry, Advocate Sello. Maybe you may resolve a mystery. Was it you, by any chance, who slipped the dossier, the investigation dossier, under a certain member of Parliament's door?

MR O'SULLIVAN: Which dossier?

ADV KHUMALO SC: You said you conducted the
10 investigation and then you sent a complaint to
...[intervenes].

MR O'SULLIVAN: Let me be truthful. Yes, I am not in the business of jumping on a plane and flying to Cape Town to slide a dossier under anybody's door. The information, I have still got the emails on my email system where I report to the OIGI. I do not send any dossiers to, and I know who you are talking about. I do not do that.

ADV KHUMALO SC: He did not get it from you?

MR O'SULLIVAN: Absolutely did not get any dossier from
20 me.

ADV KHUMALO SC: Thank you.

ADV SELLO SC: Thank you, Chair, Commissioner Khumalo. If I may move then to page 28 of your statement.

MR O'SULLIVAN: Ja.

ADV SELLO SC: And maybe some clarification here. At

paragraph 1.8.9 ...[intervenes].

ADV BALOYI SC: Sorry, Ms Sello, maybe before you do that.

ADV SELLO SC: Absolutely.

ADV BALOYI SC: Mr O'Sullivan, in your paragraph 1.8.5, you refer us to the two letters. That is your attorney's letter to General Masemola ...[intervenes].

MR O'SULLIVAN: Correct.

ADV BALOYI SC: And his response. And your further
10 response to him is quite scathing.

MR O'SULLIVAN: Ja.

ADV BALOYI SC: And I think you have spoken to that. Looking at his response to your attorneys ...[intervenes].

MR O'SULLIVAN: No.

ADV BALOYI SC: No, I am saying, I am looking at ...[intervenes].

MR O'SULLIVAN: Say again?

ADV BALOYI SC: I am looking at his response to your attorneys.

20 **MR O'SULLIVAN:** Yes.

ADV BALOYI SC: Which you find at page 505.

MR O'SULLIVAN: Correct.

ADV BALOYI SC: And which obviously displeased you, and in page 506 you speak quite very strongly against that letter.

MR O'SULLIVAN: Yes.

ADV BALOYI SC: Now, the last paragraph would have been, in his response at 505, would be what offended you, and I just want to ask what is wrong, what do you consider to be wrong with this response?

MR O'SULLIVAN: Which paragraph?

ADV BALOYI SC: The last paragraph in 505.

MR O'SULLIVAN: 505.

ADV BALOYI SC: General Masemola's response to you, to
10 your attorneys.

MR O'SULLIVAN: What was the purpose of the trip?
What?

ADV BALOYI SC: Page 505, are you there with me?

MR O'SULLIVAN: Oh, 505.

ADV BALOYI SC: Yes.

MR O'SULLIVAN: Sorry. Paragraph 5, yes.

ADV BALOYI SC: Yes, that is General Masemola responding to your attorneys.

MR O'SULLIVAN: Correct.

20 **ADV BALOYI SC:** Yes. And my question is, what do you fault with this kind of response? I mean, I look at the last paragraph of that letter, and it is standard ...[intervenes].

MR O'SULLIVAN: Yes.

ADV BALOYI SC: Letter of – no, let me finish. It is a standard response about respect for the Labour Relations

Act and all the applicable relevant prescripts, and my reading of this is he says, we will act and comply with the Labour Relations Act and the labour law prescripts that deal with matters like this. You take offence to that kind of response, and my question to you is, why do you find this an unsatisfactory response?

MR O'SULLIVAN: Because that response, Commissioner, was not a stand-alone document. I had already been engaging with him. There is multiple emails. So, 10 unfortunately, you cannot just look at the letter that my attorney sent and his response. You have to look at all the prior emails and the information that I had received, and I had requested action by Commissioner Masemola. And if we go back a little bit and we talk about the evidence I gave you in respect of General Khan, that is just one example of where I had laid a complaint and he just ignores me. But on this matter, he sent this letter.

ADV BALOYI SC: Yes.

MR O'SULLIVAN: And you are looking at a situation where 20 five Generals and two Brigadiers, there is going to be no suspension. By the way, they were never suspended.

ADV BALOYI SC: No. Ja, sorry, maybe let me clarify what I am asking. Your attorneys write a letter, right? That is the letter at page 502, in which they demand the suspension of these people.

MR O'SULLIVAN: Ja.

ADV BALOYI SC: There is no reference to anyone else, any other case.

MR O'SULLIVAN: No.

ADV BALOYI SC: There is no Khan, there is nothing to it.

MR O'SULLIVAN: Ja.

ADV BALOYI SC: There is just these people, the Generals and the two Brigadiers. And then they demand in the letter that these people must be suspended, otherwise you will
10 bring an urgent application to court.

MR O'SULLIVAN: Yes.

ADV BALOYI SC: He responds to you and he says:

“The National Commissioner is aware of his constitutional duties in terms of the SAPS Act as well as the SA disciplinary regulations. It must be emphasised that this matter is receiving the necessary attention it deserves and it is a matter that involves a relationship between
20 employer and employee in line with the Labour Relations Act as well as all the other relevant prescripts.”

That is what he says. You respond and you are displeased by it and you call it a response which you say, you describe as:

“An arrogant middle finger response to
my attorney's letter of demand.”

So at this stage we are speaking about your
attorney's letter and his response.

MR O'SULLIVAN: Ja.

ADV BALOYI SC: That is all we are discussing, and my
question is, what do you find wrong and offensive in the
manner in which he has responded, which I have just read
to you now?

10 **MR O'SULLIVAN:** Well, if I put myself in the shoes of
Commissioner of Police and I have got five Generals and
two Brigadiers that have just been arrested and charged
with serious crimes including corruption, I would
immediately suspend them. Immediately. What is, it is
good for some. Some police officers get immediate
suspension when they do wrong, but these five Generals
and these two Brigadiers, we get this response saying, I will
do what has to be done, I will comply with the legislation,
but actually nothing was done. They have never been
20 suspended.

ADV BALOYI SC: The nothing was done, they have never
been suspended is post.

MR O'SULLIVAN: [Indistinct]...

ADV BALOYI SC: That the nothing was done, you say
nothing was done.

MR O'SULLIVAN: Ja.

ADV BALOYI SC: They were never suspended.

MR O'SULLIVAN: Ja.

ADV BALOYI SC: That is what you say.

MR O'SULLIVAN: Correct.

ADV BALOYI SC: And I, and but that is after he has written this letter.

MR O'SULLIVAN: Yes.

ADV BALOYI SC: So he writes to you on the 1st of July
10 and says that is the position of the law, I am aware of it and
you, on the 5th of July, you say this response is effectively
a middle finger, is to raise a middle finger to your attorney's
letter.

MR O'SULLIVAN: Ja.

ADV BALOYI SC: What I am what I am asking is well,
maybe let me speak for myself that I see nothing wrong in
his response. It is standard response that says I will abide
with the prescripts. That he later on does not suspend them
is a different conversation and I would probably have the
20 same problem as you that he did not suspend them after he
said I am looking at it, but I am, at this point I am speaking
to the response and especially because your response to
him is quite flowery language.

MR O'SULLIVAN: Ja.

ADV BALOYI SC: And it is, ja, it is a terribly uncharitable

response to him and I am asking on that basis that but what causes you so much offense in this letter that he writes to you.

MR O'SULLIVAN: My response to him was meant to be antagonistic. It was meant to put him under pressure. I realized, because I took legal advice based on the letter that he had given, we were ready to bring an urgent application, but based on that letter, damn, we cannot bring the urgent application. Now that letter may look all good
10 and legal above board, but the reality of the situation, given the seriousness of the crimes for which these people have been arrested, they should have all been suspended. There can be no doubt in my mind. If I was Commissioner of Police I would have said, sorry guys, you are suspended immediately.

ADV BALOYI SC: Ja, except you are not allowed to do that you see. We have labour laws in this country and ...[intervenes].

MR O'SULLIVAN: But then ...[intervenes].

20 **ADV BALOYI SC:** No, let me say ...[intervenes].

MR O'SULLIVAN: Ja.

ADV BALOYI SC: We have labour laws. We have a disciplinary code ...[intervenes].

MR O'SULLIVAN: Ja.

ADV BALOYI SC: That regulates processes that lead up to

a suspension, so, you, what you say that you would have done, it would not be in accordance with the prescript. Maybe he should not have followed the prescript if that is what you are saying, but what you are saying he should have done is not how it works.

MR O'SULLIVAN: So ...[incomplete].

ADV BALOYI SC: How it works is you give the employee an opportunity to make submissions about why they should not be suspended if you are considering to suspend them
10 and depending on what they say, it depends what they say because you have to take into account what they say in their submissions and then you make a decision. Anything other than that is in fact an unfair labour practice, which our law punishes.

MR O'SULLIVAN: Can I respond?

ADV BALOYI SC: Yes, you may.

MR O'SULLIVAN: So, if we are talking about a work environment like a company or corporation or even a government department, I agree with you, but we are talking
20 about people that are supposed to be upholding the law and there have been multiple occasions where senior police officials have been suspended instantly and that, what is good for the goose is good for the gander.

ADV BALOYI SC: And they have been returned. They have been returned to work. If a procedure that was

followed is not in compliance with that disciplinary code and the law ...[intervenes].

MR O'SULLIVAN: [Indistinct]... [cross-talking].

ADV BALOYI SC: They have been returned.

MR O'SULLIVAN: Ja.

ADV BALOYI SC: All right, the point I am making, the simple point I am making is that he says to you I will follow due process. Maybe he meant to defeat your urgent application, I do not know about that. I am looking at the
10 letter and especially your response to it and then I do not understand what would have angered you that much that you speak the way you do in your response to him, including telling him that you will take him down. You have taken two Commissioners previously down and you will get him removed. I am trying to make sense of that kind of response to this letter.

MR O'SULLIVAN: Ja.

ADV BALOYI SC: But I have heard you. I have heard you, thank you.

20 **ADV SELLO SC**: Thank you, Chair. Just a quick one Mr O'Sullivan. You do not have to go there. I can read it for you. I take it that you are aware that during his testimony on the 17th of September, General Mkhwanazi, and it is in his statement, paragraphs 8 and 9, indicated as follows.

“I must emphasize that this briefing was

a product of a collective and collaborative efforts of various units within SAPS and the majority of men and women in the service. It is a reflection of the common concerns shared among members of all ranks and a common desire for their resolution to enable these members to serve with honour.”

At paragraph 9 he says:

10 “In presenting the information I shared with the public, I acted both as a member of this collective and the person that is designated to deliver this collective message.”

You recall that now you hear that?

MR O'SULLIVAN: I cannot remember.

ADV SELLO SC: Okay, but you have heard what I have just read out to you?

MR O'SULLIVAN: I heard what you just said, yes.

20 **ADV SELLO SC:** Yes. Now I turn then to page 28, paragraph 1.8.9. My question really, I am trying to understand what your challenge is at 1.8.9 in the context of what I have just read. You state that in your submission to the ad hoc committee, which was ignored by them, you pointed out that:

“The PowerPoint presentation used by Mkhwanazi had metadata which showed it had been created on a SAPS computer, which is, emphasis, not Mkhwanazi's computer. It would be wise for the Commission to establish the use of the said computer and who typed and where they typed the presentation to the media. Why must we concern ourselves with that exercise?

10

MR O'SULLIVAN: Well, I am not saying you have to concern yourselves.

ADV SELLO SC: Okay, the basis for the suggestion ...[intervenes].

MR O'SULLIVAN: I suggested you would wise, because it may well be that the person that prepared this presentation is not from Mkhwanazi's office at all.

ADV SELLO SC: But if you look at the picture you have ...[intervenes].

20 **MR O'SULLIVAN:** That is the metadata.

ADV SELLO SC: The metadata you have reflected it here, it says:

“The creator is SAPS.”

Then a number there. It gives, it is a SAPS computer, so in the context of General Mkhwanazi saying

that he acted as a member of a collective within SAPS ...[intervenes].

MR O'SULLIVAN: Ja.

ADV SELLO SC: And somebody to deliver it, does it become an issue that this was, the presentation was not created on his own computer, but on another SAPS computer?

MR O'SULLIVAN: It may it may not be an issue.

ADV SELLO SC: Okay.

10 **MR O'SULLIVAN:** But until we know who actually prepared that presentation, why not be transparent about it and say by the way, on such and such a date I sat down with this person, this person, that person and we prepared this presentation. All I am saying is there is an opportunity to have transparency and it would be wise to do that.

ADV SELLO SC: Ja ...[intervenes].

MR O'SULLIVAN: I cannot dictate to the Commission what to do. I am just making a suggestion.

ADV SELLO SC: I guess, so we do not over promise and
20 under deliver, I am trying to appreciate the value of that exercise worth, because at 1.8.10 you say:

“I believe it is in the public interest for the computer’s user’s details to be obtained and the person interviewed to establish who instructed him/her, what

he/she was instructed and where and when he/she typed out the presentation. The metadata reflects that this is a SAPS computer. General Mkhwanazi says it is a whole lot of us. I was just there and in a representative capacity.”

Why must the Commission go down that rabbit hole to establish what ...[intervenes].

MR O'SULLIVAN: I am not saying the Commission must go
10 down that road.

ADV SELLO SC: Okay.

MR O'SULLIVAN: I am saying there is an opportunity there to have some transparency and find out who actually put this together.

ADV SELLO SC: It is a member of SAPS.

MR O'SULLIVAN: Ja, but who?

ADV SELLO SC: The collective that General Mkhwanazi references in his statement.

MR O'SULLIVAN: One person typed this, not a collective.

20 **ADV SELLO SC**: Okay.

MR O'SULLIVAN: It would be useful to know who that was I think.

ADV SELLO SC: Okay.

CHAIRPERSON: Surely, Mr O'Sullivan, you have something that you would like to establish. What is it that

you would like to establish for us to even consider that?

MR O'SULLIVAN: Commissioner If one looks at the media briefing and if one looks at this presentation, I am saying the missing Information is how that presentation came into being. And if we are talking about a collective, who is that collective? How did we form? How did we come together to make this presentation? That Information is not in the public domain and since this whole ...[intervenes].

CHAIRPERSON: Surely, surely you have your own
10 theories.

MR O'SULLIVAN: I have ...[indistinct] [intervenes].

CHAIRPERSON: You would not otherwise be going down that route if you ...[intervenes].

MR O'SULLIVAN: I have my own theory, Commissioner.

CHAIRPERSON: That is why I am asking you what exactly do you want us to establish?

MR O'SULLIVAN: You see, there is the problem. I have my theory but I would prefer if that Information was provided without my theory being applied, because it may or
20 may not reveal something interesting. That is all I wanted to say.

CHAIRPERSON: It is very uninteresting for us to go that route if we have no idea what we want to establish.

MR O'SULLIVAN: So, my theory may not be factual, so, if I have a hypothesis which has not been proven and I

publish it, what am I actually doing? It is like Leonardo da Vinci inventing the airplane. Actually, he did it 400 years before the plane was invented. Now the reality is, I have a theory, but I am not in the business of publishing an untested theory.

CHAIRPERSON: I was not even pushing you down that route not at all. I just wanted to get an idea.

MR O'SULLIVAN: I just believe ...[intervenes].

CHAIRPERSON: Yes.

10 **MR O'SULLIVAN:** That there is a lack of transparency around how that presentation came to be.

ADV BALOYI SC: Just to try the same, on the same thing. If your theory, and I am not saying it is your theory, if your theory is It is General Mkhwanazi and Masemola and let us say Dimphe, I am just giving you names randomly, what difference does it make to this which you say we should find out? So you can pick any names and say to us that because what it will reveal is A, B, C, D. It is again trying to understand what really is your issue about this.

20 **MR O'SULLIVAN:** Let us say that when I ask this question, it links to a previous question I made about keeping an open mind, about the motive to this media conference, because we have to believe that the motive according to General Mkhwanazi was that ja, these are the issues and we want to get it out there and I am going to become a

whistleblower and I am going to fight for my country and I will die if I have to and what, what, what, very emotional and I am surrounded by people with machine guns and balaclavas and whatnot and I just believe that there could have been other ways of getting the same amount of attention on this matter without necessarily having this whole media briefing and having all the staff by the way from the provincial office there. All those people were sitting there on a Sunday afternoon.

10 And by the way, who would have ever thought that I would receive a copy of that PowerPoint presentation. I did not even know the media briefing was going on until a journalist phoned me and said this guy, this guy is talking about you after the media. I said what, which guy and he told me and I said well, what media briefing, do you have a copy of it, and he sent it to me, so not realizing I could now check, which I do with a forensic tool, I am able to pull the metadata from that and I thought oh, that is interesting.

20 Now I am just saying there is a lack of transparency here and that transparency may help show the motive behind this whole process that took place, because it was not just a media briefing. It was a lot more than a media briefing and I just think that whole thing needs to be opened up a little bit and it is not part of your terms of reference, but I do believe that somewhere along the way it may come

out, okay, this is what happened, that this, this is what caused it and these are the people that were involved.

What if the theory shows that there was a little third force running around and that is really what is going on here?

ADV BALOYI SC: Thank you.

ADV SELLO SC: Thank you, Commissioner Baloyi. Mr O'Sullivan, I think If you turn over to page 29, we have covered the issues that are set out at your page 29, so
10 effectively that would bring us to the conclusion of your testimony and the end of your statement and to say to Commissioners that barring any questions there may be for Mr O'Sullivan, that would be the testimony of Mr O'Sullivan.

CHAIRPERSON: Mr O'Sullivan, thank you very much for your testimony and thank you for enduring the very long day.

MR O'SULLIVAN: It is a pleasure.

CHAIRPERSON: You are excused.

MR O'SULLIVAN: Thank you.

20 **CHAIRPERSON:** Thank you. 9:30 tomorrow?

ADV SELLO SC: 9:30 tomorrow, Chair.

CHAIRPERSON: Let us adjourn and resume at 9:30 tomorrow.

INQUIRY POSTPONED TO 30 JUNE 2026

INQUIRY ADJOURNS
