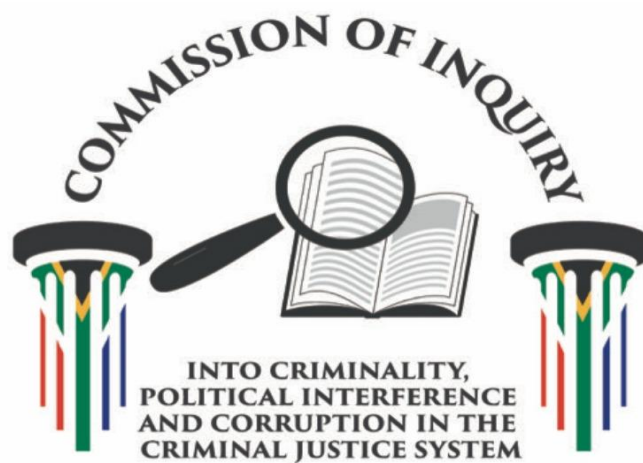


JUDICIAL COMMISSION OF ENQUIRY INTO CRIMINALITY,
POLITICAL INTERFERENCE AND CORRUPTION IN THE
CRIMINAL JUSTICE SYSTEM

HELD AT
BRIGITTE MABANDLA JUSTICE COLLEGE

7 JULY 2026

DAY 134



PROCEEDINGS ON 7 JULY 2026

CHAIRPERSON: Good morning, Ms Sello.

ADV SELLO SC: Your microphone, Chair.

ADV VAN DEN HEEVER: Good morning, Chairperson, good morning, Commissioners, good morning, Ms Sello, and good morning to my client. I would be remiss not to say good morning to him since he is sitting that far away.

CHAIRPERSON: Yes, yes. I noticed that my, in fact, my attention was drawn to it by Commissioner Baloyi, that my
10 microphone was off. I just greeted Counsel for those who did not hear me. And now, good morning, Mr Matlala.

MR MATLALA: Good morning, Commissioner.

CHAIRPERSON: Thank you. Ms Sello.

ADV SELLO SC: Thank you, Chair. Good morning and good morning, Commissioners. Good morning, Ms Van den Heever, and of course, good morning, Mr Matlala. Chair, Mr Matlala was served with a subpoena to appear to give his testimony today on the 7th.

Over a period of time, the Evidence Leaders have
20 been in engagement with his legal advisors. The position we find ourselves in is that his statement in response to the notice, the regulation 10.6 notice that was due is not ready and an extension was requested, which was granted due to other difficulties. It could not be completed in time.

Where we are now is we still do not have the

statement, and we are still in the process of compiling the exhibit bundle. In light of where we are and the rollovers that happened from last week impacting this week, we appear before you today to request a postponement and an extension of that subpoena to a new date on which he then will appear to testify. The date we have in mind is the 15th of July, which is about a week hence. Thank you, Chair.

CHAIRPERSON: Thank you very much, Ms Sello. I do not know whether the techies or technical people want to raise
10 an issue. I see a hand that is up on our screens. I do not know what that is about.

ADV SELLO SC: I see it too. I do not know if it is an error or ...[incomplete].

CHAIRPERSON: But let us continue so long. Ms Van den Heever.

ADV VAN DEN HEEVER: Chairperson, yes, it is correct, there has been some issues, no fault, either on the side, I will respectfully submit of my client, nor of the Evidence Leaders, and I am not going to go into all of that. It is not
20 necessary to do that.

CHAIRPERSON: Yes, yes.

ADV VAN DEN HEEVER: But we agreed that the new date that is been arranged is the 15th. We are indebted to my learned friend and her colleagues for arranging this with us. There is one small issue that we are going to sort out *inter*

partes now.

CHAIRPERSON: Yes.

MR VALLY: And I have got no objection to the subpoena being extended to the 15th. Thank you very much.

CHAIRPERSON: Thank you very much.

ADV SELLO SC: And before you do so, Chair, if then I may just add another issue that would have to be part of your order. The parties are now agreed that Mr Matlala's statement will be submitted tomorrow, the 8th of July.

10 Thank you.

ADV VAN DEN HEEVER: That is indeed what we have agreed on, of course, with the reservation of the client's rights pertaining to certain documents that we are still awaiting, if I can put it like that. But I do not think that would stand in the way of us submitting a statement and potentially supplementing it in due course.

CHAIRPERSON: Yes.

ADV VAN DEN HEEVER: But I think between my learned friend and myself, we will work out the logistics and
20 hopefully you will get everything together.

CHAIRPERSON: And those conditions, what do they do to the proposed order?

ADV VAN DEN HEEVER: You can do that as part of the order.

CHAIRPERSON: Yes, yes.

ADV VAN DEN HEEVER: I just, I would be remiss, of course, if I do not say to you that we are trying to work out, because there has a very important component of, there is something important that we need in order to properly deal with some of the issues, but we are busy sorting that out.

CHAIRPERSON: All right. So ...[intervenes].

ADV VAN DEN HEEVER: That is why I say with a reservation of the rights ...[intervenes].

CHAIRPERSON: Yes.

10 **ADV VAN DEN HEEVER:** If necessary, but not going to stand in the way of us submitting.

CHAIRPERSON: Yes.

ADV VAN DEN HEEVER: We might then supplement if it is not timeously done.

CHAIRPERSON: All right, all right.

ADV VAN DEN HEEVER: May it please you.

CHAIRPERSON: Thank you. Thank you very much. Mr Matlala, the hearing of your testimony is postponed to 15 July 2026.

20 **MR MATLALA:** Correct.

That is one. Two, your statement must be filed by tomorrow.

ADV SELLO SC: The 8th of July.

CHAIRPERSON: 7, oh, 8 July 2026.

MR MATLALA: Correct.

CHAIRPERSON: Thank you, Mr Matlala.

MR MATLALA: Thank you so much.

CHAIRPERSON: Thank you.

ADV SELLO SC: He has confirmed to have heard. Thank you, Chair. I think that then brings to the close this part of the hearing.

CHAIRPERSON: Yes, you are both excused. And you too, Mr Matlala. Thank you.

ADV VAN DEN HEEVER: Thank you, Chairperson.

10 **CHAIRPERSON:** I think we must adjourn for ...[intervenes].

ADV BALOYI SC: Ms Sello wanted to say something.

CHAIRPERSON: Oh.

ADV SELLO SC: I was saying, by way of housekeeping, Mr Chaskalson has requested me to remind you that as soon as we are done, they are ready to proceed with the public aspects of General Khan's WhatsApp messages, and perhaps a 5 minute stand down to allow them to set up would be helpful.

20 **CHAIRPERSON:** Yes, yes. Thank you very much, Ms Sello.

ADV SELLO SC: Thank you, Chair.

CHAIRPERSON: I will not state the time. Let us just adjourn. We will be told when Counsel, or Mr Chaskalson is ready. Let us adjourn.

INQUIRY ADJOURNS

INQUIRY RESUMES

CHAIRPERSON: Good morning, Mr Chaskalson. Good morning, Mr Vally.

MR VALLY: Good morning, Chair.

ADV CHASKALSON SC: Morning, Chair.

MR VALLY: Morning, Commissioners.

ADV CHASKALSON SC: Morning, Chair. We have a number of issues that we can still ventilate in open session
10 relating to WhatsApp chats of General Khan. The first topic I would like to address is the leaking or abuse of confidential SAPS information. It spans quite a wide range from the relatively innocuous to the less innocuous and if we can start with the innocuous. It seems that General Khan has a tendency to show off to friends by sharing Crime Intelligence documents that sort of reflect on his importance.

So if I can start, for instance, with a document at page 5659.

20 **ADV BALOYI SC:** Mr Chaskalson, can we just rely, maybe guide us, do we rely on what you project here? Do we need to go into our computers? Yesterday I tried to find pages and I landed where I should not have landed, which was quite distressing. So I will be more comfortable if I do not have to go to my computer.

ADV CHASKALSON SC: I do not think that there is much that we, I suppose, criticising General Khan for sharing confidential Crime Intelligence information. I should not really broadcast it to the nation. I ...[intervenes].

ADV BALOYI SC: I just want to know if I can shut down my computer, because ...[intervenes].

ADV CHASKALSON SC: Your computer. Our problem is that, I mean for instance, this category, which is really about leaking documents that should not really have been
10 leaked, I do not know how appropriate it is to broadcast the documents themselves. So I am afraid I am going to have to ask you to keep your computer open, at least for a while. Once we leave this topic, which will not take long, in fact, in truth, when I look at this topic, it relates to historical material that I do not think is relevant any longer, so I think we can actually broadcast it.

ADV BALOYI SC: Ja, as long as you get me an experienced therapist when we are done.

ADV CHASKALSON SC: Should I be issuing any
20 indemnities here? Well, the first document, and I want to go quickly through this category because it is not that significant, is at, it spans pages 5659 and it is a document in which Major General Khan was, going back to December 2020, when he was delegated increased powers within Crime Intelligence. He shared that document first with Mr

Sayed, which we see at 5659. And Mr Sayed responded:

“Well done, my bru.”

At the foot of 5660. And he also shared it with Mr Vally, which we see at 5021. And Mr Vally said:

“This is great news.”

It is really, as I emphasize it, it is not sinister, but it is probably not appropriate. I do not think that internal delegation documents within Crime Intelligence ought to be shared with friends. There has a similar pattern that one
10 sees, and I will run quickly through these, 6466, an appointment to a role within the Anti-Kidnapping Task Force and what his responsibilities will be there. He shares with Mr Sayed, who responds:

“My man ...”

With some exclamation marks. And likewise, when he is invited as part of a police delegation to address the Joint Standing Commission on Intelligence flying down on the police jet, he forwards that email to his friends. One sees it at 6693, to Mr Sayed. One sees it at 4129, to
20 another friend, Brad K9, who says:

“You are a jet setter.”

These are not particularly egregious, they are possibly just not appropriate. But then there is a separate pattern, which starts becoming more problematic, and that is a pattern where friends of General Khan will send him

case numbers and ask him for some assistance in relation to those case numbers. So we see that across a number of chats, some without explanation, some with explanation.

So at page 2740, Mr Sanjay Adjodia, who is saved as SanjayChe357, and 357 is the name of the vehicle, sort of high-end vehicle workshop that Mr Adjodia and Mr Vally are partners in, sends him a case number on the 12th of March 2021 with no explanation. At page 5990, we see a case number being sent by Mr Sayed, ostensibly on behalf
10 of Mr Malema. We will get back to this one in more detail later. We see that at 15th of June 2021. Mr Sayed says:

“Need to know the complainant in case
number ...”

And gives the case number and says:

“Juju bru.”

Then we get even more sinister exchanges of this nature. So for instance, if we go to page 5370, or even 5369, we see an exchange between Mr Vally, and I emphasize it is not this Mr Vally or any relation, it is Mr
20 Ismail Vally. On the 28th of September 2021, at the foot of 5369, Mr Vally greets General Khan. Then over the page he says:

“Can you see what a case is about if I get
you a case number. Commercial crimes.
Hawks.”

General Khan says:

“Yes, bro.”

And Ismail Vally says:

“Hawks called me now.”

He gives the name of the Hawks officer, gives the case officer. General Khan says:

“Which police station?”

Then a bit later, not so much later, an hour later, Mr Vally says:

10 “I went in bro. I will tell bro when I see
 you.”

General Khan says:

“Okay, thanks.”

And Mr Vally responds with an abusive comment about the Hawks. General Khan says:

“Do you need me to do anything?”

Mr Vally says:

“No Jazakallah blood. I will save you for
a day when I really need you.”

20 Although there are laughing emojis after that, which
may signify a joke, but General Khan says:

“I am here for you, bro.”

And it may have been intended as a joke, but later in the chats between Mr Vally and General Khan, we see that it may be a bit more serious than that. This relates to

a different case altogether and we see this at 5487. And at the foot of 5487, Mr Vally gives the name of a person. And then underneath, at the top of 5488, this is on the 15th of April 2022, says:

“Because in position of fraud PRP they are saying.”

And General Khan says:

“Salams bro. Did that person come home today?”

10 Mr Vally says:

“Gee, yes. Is your contact sorted?”

He asks. General Khan says:

“Okay.”

Mr Vally thanks him, says the:

“The wit lawyer.”

And then General Khan says:

“We just have to make it disappear now.”

That is at the top of 5489. And Mr Vally says:

20 “Gee, can you, bro? I will get the toppy to sort.”

And General Khan says:

“Tomorrow 14h00 we can see him at the hotel.”

So there is a suggestion that General Khan can make a criminal complaint or a criminal charge disappear in

this exchange at the request of Mr Vally. There is a later exchange of a similar nature, which we see at 5605 and at the foot of 5605, it is now the 27th of May 2023, Mr Vally send some case numbers. He says:

“Morning bru. Mom.”

And he sends what looks like a case number for Pretoria and another case number for East London. The case number for Pretoria had the prefix SH and General Khan says:

10 “What is SH?”

And Mr Vally responds:

“She lives in Chatsworth Durban.”

But says underneath:

“How is it bru? All is well. My mom's case number from the lawyers is ...”

And gives the case number. General Khan gives the thumbs up. He says:

20 “Waiting to see the boss to discuss Jazakallah. Salams big bro. The case in Pretoria Central to be heard in August. Old lady's case.”

And General Khan says:

“Okay.”

And again, the suggestion in this exchange is that General Khan is going to do something to sort out Mr Vally's

mother's problems with this case that is in Pretoria. That is what I wanted to draw attention to under this topic.

I now want to turn to the relationship between General Khan, Mr Sayed, and Mr Malema and there are various themes that run through the chats in this regard. The first one that I want to start with begins, and it is probably, well, it begins with xenophobic protests in 2021, which is a reminder that we have not moved on so far in the last five years.

10 If we go to the, and also a reminder of Mr Malema's principled stand in relation to xenophobia. If we go to 5963, we see at the 10th of June 2021, Mr Sayed forwards to General Khan six messages which he says come from Mr Malema, and we will take the messages and then explain why I say they come from Mr Malema.

 The first one was a photograph of a person that has been deleted and that is no longer legible. The second was a picture of an Operation Dudula poster, in which Operation Dudula was threatening to remove all illegal foreign
20 nationals by force and was calling for a meeting on June 16 2021 and had the threat underneath:

 “If you are operating illegally, you better
 pack and leave before 16 June.”

CHAIRPERSON: Sorry, Mr Chaskalson, I do not know whether you answered the question as to why these are not

being flighted when you were engaging – oh, they
...[incomplete].

ADV CHASKALSON SC: They are being flighted. These
are being flighted.

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

ADV CHASKALSON SC: Oh, sorry.

ADV BALOYI SC: I was checking whether it was a
principle ...[intervenes].

ADV CHASKALSON SC: No, no, no, there is no
10 ...[intervenes].

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

ADV CHASKALSON SC: Maybe I am going too quickly
here and I should slow down ...[intervenes].

ADV BALOYI SC: Ja, I think so.

ADV CHASKALSON SC: Everything should be fine. Sorry.

ADV BALOYI SC: [Indistinct]...

CHAIRPERSON: You can tell who the source was when I
spoke.

CHAIRPERSON: Solidarity on the Commission is breaking
20 down, Chair.

CHAIRPERSON: Please continue, Mr Chaskalson. Thank
you.

ADV CHASKALSON SC: Well, maybe if we can start at the
top. The top is the message that straddles 5963 and 5964,
which was forwarded from Mr Sayed at message time

1:01:31 on the 10th of June 2021. What this is, is a deleted photograph of someone. Underneath it, at the same time, there is a picture of an Operation Dudula banner or poster, which says we will be removing all illegal foreign nationals by force, calls for a meeting in Diepkloof Hall on the 16th of June, and has the threat:

“If you are operating illegally, you better
pack and leave before 16 June.”

If we go over to the next page, still at the same
10 time, and one sees that the first four messages all have the
same time, because they are in fact forwarded messages to
General Khan from Mr Sayed. He forwards:

“Must I tell the General? Must be
arrested tonight? Yes.”

So those are five messages that are forwarded
messages with the same timestamp, and then Mr Sayed
explains:

“From Juju.”

That is a message from Mr Sayed to General Khan.
20 And then what comes afterwards is another forwarded
message which says:

“Okay, done.”

So essentially what Mr Sayed is communicating is
that he has been asked by Mr Malema to forward the first
five messages to General Khan. He has been asked by Mr

Malema to forward those messages to General Khan. He has, in the second last message with the timestamp 1:01:33, he explains to General Khan that it is from Mr Malema, and then he forwards his response to Mr Malema which is:

“Okay, done, I have forwarded these to the General.”

Now that takes place on the 10th of June. The very next day, if we go down to 5971, General Khan sends to Mr
10 Said draft questions for the Inspector General of Intelligence and that is at 11th of June at message time 1:51:47. And again we have a problem that we frequently had with these message times, that they are two hours out, because they are UTC, not South African standard time.

So the questions that General Khan has drafted are:

“Convicted drug dealer and member in the agent program ...”

And the name has been redacted.

20 “... claims to be close friends with you.
Is this true?

2. Do you take instructions from this person as he alleges he has a close relationship with you?

3. What gratification does the Inspector

General of Intelligence enjoy from this person?

4. How long has the Inspector General been a captured public service servant of ...”

And then that person. So these are draft questions that General Khan has prepared, which he is going to essentially ask Mr Malema to arrange to be put to the Inspector General in Parliament through the EFF.

10 If we go down to page 5975, and sorry I just want to emphasize at that stage, General Khan is not dealing directly with Mr Malema, he is sending messages to Mr Sayed. But the channel is to Mr Malema, whether Mr Malema is aware of General Khan's motives or not. We see that because at 5975, Mr Sayed sends back to General Khan, questions that have now been formulated to the Minister of Police, and to the Inspector General of Intelligence and these questions, and in fact the name is not going to be redacted in these questions, I am told the
20 name has been mentioned publicly already, these questions that Mr Sayed sends back read as follows. First:

“Questions to Minister of Police (written reply)

1. Do you have any relationship with convicted drag lord ...”

There is a misspelling of drug lord.

“... drag lord Timmy Marimuthu. If so what is its nature and does it include discussing Crime Intelligence matters?

2. Have you been in contact with Timmy Marimuthu and discussed Crime Intelligence matters related to the Inspector General of Intelligence and the removal of General Jacobs as Head of Crime Intelligence?

3. Have you had any discussions with convicted drug lord Timmy Marimuthu regarding the supposed deal made by former President Jacob Zuma and Major General Feroz Khan that he will use state intelligence resources to ensure the election of Nkosazana Dlamini-Zuma as President of the ANC? If so, what security clearance did Timmy Marimuthu attain to discuss Crime Intelligence matters with you as a Minister?”

Those were the proposed questions to the Minister of Police and the proposed questions to the Inspector General follow.

“1. Do you have any relationship with

convicted drug lord Timmy Marimuthu? If so, what is its nature and does it include discussing matters relating to Crime Intelligence?

10 2. Have you had any discussions with Timmy Marimuthu regarding the removal of General Peter Jacobs as Head of Crime Intelligence? If so, what security clearance gives Timmy Marimuthu access to you as the Inspector General of Intelligence, particularly as it relates to discussions of Crime Intelligence matters?”

Mr Sayed explains below:

“Juju sent me now.”

General Khan's response is:

“Excellent bro, let us go to war. When are they sending it to him?”

20 And what one sees in the exchanges that follow is what one often sees in WhatsApp exchanges where people respond to a message while the writer of that message is writing another message and so you get responses that do not respond to the immediately preceding message. You have to work out what they respond to. So Mr Sayed says:

“You happy with the questions?”

In other words, are you satisfied with these questions that Mr Malema has sent me to be put to the Minister of Police and the Inspector General of Intelligence? But then in response to General Khan's question:

“When are they sending it to him?”

Mr Sayed says:

“Let me ask.”

Now answering whether he is happy with the questions, General Khan says:

10 “Yes bro.”

And then he says:

“This should get him to lie and in return we can ask for his removal because he lied.”

So what General Khan is disclosing here is that the purpose of these questions is not to establish whether the Inspector General has a relationship of any nature with Timmy Marimuthu, rather it is to trap the Inspector General into lying in an answer to Parliament and then to use the
20 fact that he will have lied to orchestrate his removal.

Mr Sayed is still responding to the previous enquiry of General Khan, which is:

“When are they sending the questions.”

And he says at 5977 at 12 June 2021, 8:49:

“But I think it is been sent already.”

He then responds to General Khan's message saying, you know, this will get him to lie and then we can get him removed. And he says:

“Absolutely. He is going to deny it and then he is effed. Bye bye P...”

And General Khan agrees with the abusive description of the Inspector General and says:

“Big P.”

Mr Sayed then says:

10 “When is it going to be fired off to them?”

And what we see later is that this is in fact a message that he has sent to Mr Malema, which he is now forwarding to General Khan. The response is:

“Tomorrow.”

General Khan says:

“They must fix up the spelling of drug in paragraph 1.”

In other words, Mr Marimuthu is a drug lord, not a drag lord. And he then, responding to when it is going to be
20 fired off and tomorrow, he says:

“Thanks bro, much appreciated.”

And Mr Sayed then sends a screenshot of his exchanges with Mr Malema, which show that the formulation of the question to the Inspector General of Intelligence came from Mr Malema. That is the top of the screenshot.

“2. Have you had any discussions with Timmy Marimuthu regarding the removal of General Peter Jacobs as Head of Crime Intelligence? If so, what security clearance gives Timmy Marimuthu access to you as the Inspector General of Intelligence, particularly as it relates to discussions of Crime Intelligence matters?”

10 In fact, Mr Sayed, even before General Khan had picked up the drag lord, drug lord problem, has already responded to Mr Malema and said drug lord, not drag. And then Mr Malema says:

“The whole DR.”

I am not sure what that relates to, but we then see a 2249 on the screenshot, if we go back up, 22:49 is, what we see at 22:49 is when is it going to be fired off and the answer comes:

“Tomorrow.”

20 At 22:58.

If we go back up to 5977 and we add the two hours to the UTC times, we see that when is it going to be fired off to them, it is recorded as 8:58 p.m., you add the two hours, it is 10:58 and tomorrow 10:58 as well. So he has forwarded that exchange with Mr Malema immediately that it

happens and has then, for good measure, added the screenshot.

The next episode in this process takes place on the 13th of June and it takes place, it is on page 5980, and there Mr Sayed forwards to General Khan a message about the progress of the questions. He says:

10 “Parliament will probably only process
 them on Monday, but they process them
 and then send to respective ministers
 and institutions.”

A week later, at 6002, we are now on the 20th of June, Mr Sayed forwards to General Khan a screenshot from Mr Malema and what the screenshot shows is that Mr Sayed asks Mr Malema:

 “Brother, when are you back?”

Mr Malema says:

 “Tomorrow.”

Mr Sayed says:

20 “Okay, let us meet tomorrow evening
 please with our General.”

Mr Malema says:

 “Sharp.”

And there is an XAP response from Mr Sayed. General Khan thanks Mr Malema for setting up the meeting, sorry, thanks Mr Sayed for setting up the meeting with Mr

Malema and Mr Sayed says:

“You are my bru, no need to thank me.”

That is the 20th of June. Now, I want to clarify what our issue with that, sorry, there is actually a further step before I clarify my concerns about this process. If we go down to 6005, we see at 21 June 2021, which is the day after that screenshot was sent to General Khan, the day on which the meeting was going to happen, Mr Sayed sends to General Khan a letter to the Minister of Police. That letter
10 is in the exhibit bundle at page 298 and it is on the EFF letterhead.

It is addressed to Mr Bheki Cele, Minister of Police, and it asks the questions about the Minister's relationship with Mr Timmy Marimuthu, who is described as drug lord Timmy Marimuthu and Crime Intelligence matters. It asks those questions in the same terms verbatim as were forwarded to General Khan by Mr Sayed on the 11th of June.

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

20 **ADV CHASKALSON SC:** It is the extract bundle, I think it is called. Is it? Annexures bundle.

ADV KHUMALO SC: Got it. The exhibits, it is fine. There are two sets of exhibit bundles, that is why we were confused, by the way.

ADV CHASKALSON SC: And if we look at that question

that was posed to the Minister of Police, it is, apart from cleaning up the spelling errors, so a drag lord becomes drug lord and intelligence is spelled correctly, it is verbatim the same as the question that was forwarded to General Khan by Mr Sayed on the 11th of June.

ADV KHUMALO SC: Does the letter precede or come after the chats? I am just looking at the dates.

ADV CHASKALSON SC: So, the letter in draft form that was forwarded from Mr Sayed to General Khan was
 10 forwarded on the 11th of June. The letter itself that was sent to Minister Cele was sent, is dated 17 June and it is provided to General Khan by Mr Sayed on 21 June, which is the date on which, according to the screenshot, General Khan, Mr Sayed and Mr Malema were going to meet.

I want to clarify an issue here. The issue that we as Evidence Leaders raise with this process is not that General Khan raised questions about the relationship between the Inspector General and an alleged drug dealer. What the issue is, is that the chats suggest that the primary
 20 purpose of General Khan in raising the issues in the way that he did was to trick the then Inspector General of Intelligence, Dr Dintwe, into lying so that if he did lie, he could be removed from his position, a position in which he was exercising oversight over General Khan. And if General Khan had been genuinely concerned about the

relationship between Dr Dintwe and Mr Marimuthu, we would have expected him to take the issue up through the appropriate channels.

Instead, what he did was he used his relationship with an alleged tobacco smuggler to plant questions to the Inspector General through the EFF in the hope of trapping the Inspector General in a lie to Parliament. That was what his purpose was.

There is a secondary concern and the secondary
10 concern is that this process suggests that something of a *quid pro quo* was taking place if we look at the chronology. We have already seen that immediately preceding the exchanges relating to the Inspector General a day before, literally a day before General Khan formulated his draft question, a message had been communicated by Mr Sayed to General Khan, ostensibly on behalf of Mr Malema and apparently asking for the arrest of persons making threats to foreign nationals on behalf of Operation Dudula. That took place on the 10th of June, that message, that series of
20 messages.

General Khan on the 11th sends his message saying, suggesting a question to the Inspector General. And while I commend Mr Malema for his stance against xenophobic lawlessness, the chats suggest that General Khan saw this as an opportunity to use Mr Malema's

position within the EFF to attempt to trick the Inspector General into a lie that may provide a basis for having him removed. So Mr Malema sends essentially a complaint about a threat of lawless action by Operation Dudula on the 10th and calls for action to be taken.

The next day, General Khan writes back with a question for the Inspector General. It has the appearance of a *quid pro quo*. There is a ...[intervenes].

ADV KHUMALO SC: Sorry, what are we to make of the use
10 of a conduit or a third party in these exchanges?

ADV CHASKALSON SC: The use of the conduit is problematic in its own right and if we go further, because there are further concerns about quid pro quo, where the use of the conduit becomes particularly problematic. But it seems to me that if General Khan is genuinely wanting questions raised in Parliament, he has appropriate means of doing that without using conduits. And certainly if he wants Mr Malema to pose questions, he should be asking Mr Malema directly.

20 It may be that at this stage he did not have a line of direct communication to Mr Malema. That looks to be the case, because as we will see later, a few months after this, Mr Sayed gives him contact details for Mr Malema.

But Mr Sayed's role in all of this is very problematic. Mr Sayed belongs to a company which on its

own admission has been engaged in fraudulent and corrupt activity historically which is alleged to, and tax evasion, and which is alleged to be continuing to do that at the time that this is happening and he is not an appropriate person for General Khan to be engaging with in relation to matters of this nature, whatever their personal relationship.

But I do want to turn to the other issues in relation to *quid pro quo*, because we have looked at one part of the chronology.

10 **ADV BALOYI SC:** Sorry, Mr Chaskalson, before you do that. It seems to me that a further issue of concern may be, at least on the face of it, that General Khan may well have obtained the information behind these questions by virtue of his position, and then he is using information that he would have, if there has any truth to what is posed, and which the Inspector General is expected to lie about, there has that possibility that he would have obtained this information by virtue of his position as an intelligence police officer, and then he is using that information inappropriately.

20 **ADV CHASKALSON SC:** Inspector Baloyi – Inspector Baloyi. Commissioner Baloyi, we have been trying to locate former Inspector General Dintwe to get a statement to explain this. We have not yet been able to get a statement from him. But what we have seen is a press report purporting to quote him on this issue, and what he says is

that he and General Khan together had a meeting with Mr Marimuthu, in which event what this process would have been about is not about General Khan using his Crime Intelligence surveillance capacities to find something out about the Inspector General, but actually having had a meeting with the Inspector General and Mr Marimuthu, and hoping that because he was not present at the Joint Standing Committee on Intelligence when pushed in relation to an issue regarding Mr Marimuthu, the Inspector General
 10 would lie. So I am not sure that your concern is present, but again we have to get the full story from the former Inspector General, and in due course we hope to do so.

ADV KHUMALO SC: Mr Chaskalson, it would still be improper. Leave aside the EFF and leave aside what Mr Sayed does for a living. If General Khan was in this meeting with the Inspector General and Mr Marimuthu, those are Crime Intelligence issues that are sensitive. They are not to be shared with just anybody, whether they are your friends or acquaintances, leave aside what they do for
 20 a living, leave aside the political party, just that aspect.

ADV CHASKALSON SC: No, I take that absolutely, Commissioner Khumalo. But there is another serious concern about *quid pro quo* if we look back at the chronology. We have looked at a process that runs from 10 June when the Operation Dudula messages are sent through

to 21 June when the letter to the Minister of Police is sent. In the middle of that process, on the 15th of June, if we go to page 5990, we come to the Sandton case number that I have mentioned previously, and there we see that after, it is now four days after General Khan has sent his draft question to the Inspector General, to Mr Malema through Mr Sayed.

Mr Sayed forwards to General Khan a request from Mr Malema, and that is at the message on page 5990
10 at message time 12:07 on the 15th of June, where Mr Sayed forwards the message:

“Need to know the complaint in case
number Sandton case 79/07/2019.”

And says:

“Juju bru.”

And General Khan says:

“Okay, thanks.”

Now, if we go to the next page, General Khan responds very promptly. What he has done is he has got
20 onto the SAPS computerized database of cases, and he sends what looks like a photograph or a screenshot from that database, which identifies who the complainant is in that case and we see that at the top of 5991. Now, and that screen that we see, which he sends to Mr Sayed, identifies the complainant as Mr Rooplal. And Mr Sayed thanks him

for it, and then for good measure, General Khan sends through not only Mr Rooplal's name, which appears from the screen, but also his address, which was not even asked for.

Now, Mr Rooplal was the curator of the VBS Bank and that case, Sandton case 76/07/2019, was a case that he had instituted in relation to frauds concerning the VBS Bank. Now, Mr Malema has been implicated in the VBS Bank scandal. He is implicated in the plea explanation affidavit of the former VBS Chair, Mr Matodzi, who pleaded
10 guilty and was sentenced to an effective 15 years of imprisonment for his role in the scandal.

He stated in his plea explanation affidavit that in an attempt to buy protection, political protection, from the EFF for VBS, when enquiries were starting to be made in relation to VBS, in an attempt to buy political protection from the EFF, he had paid bribes of millions of rands to Mr Malema and to Mr Floyd Shivambu in the guise of making donations to the EFF. The relevant extract from the affidavit of Mr Matodzi is at the exhibit bundle, page 300 to
20 301.

I do not propose to read it because that has been the subject of separate investigations, but what it shows is that Mr Malema's concern about this case number was because it related to an issue whether rightly or wrongly someone was implicating him and getting the name of the

complainant in that case was not something to which Mr Malema was entitled and was not something which General Khan was entitled to provide. Still less, the address of the complainant.

And happening when it did, in the midst of this exchange in relation to questions to the Inspector General, which General Khan wanted Mr Malema to organise, it has very much the appearance of a favour in return for a favour, an illegal favour in return for a favour.

10 There is a second strand of the exchanges between Mr Sayed and General Khan, which involves Mr Malema and it starts on the 30th of June at page 6227 and there General Khan forwards to Mr Sayed a disciplinary notice that has been addressed to him by the then Divisional Commissioner of Crime Intelligence and the complaint essentially says that when General Khan was appointed, in terms of the delegation that he shared with his friends to show off, he actually exceeded his authority and performed acts that he was not entitled to do purportedly under that delegation.

20 He sends this and the notice calls for representations from General Khan in relation to the possibility of disciplinary proceedings. It finishes:

“Your response to this letter must reach my office by close of business today, Friday the 30th of July.”

He sends it to Mr Sayed. Mr Sayed's response is at 6228 and he says:

“Did you manage to sort it bru? Can I send to Juju?”

And General Khan says:

“Please hold on.”

In other words, I do not need Mr Malema, I do not want Mr Malema to get involved at this stage. That is where matters sit on the 30th of June. The next stage of
10 this process is ...[intervenes].

ADV BALOYI SC: Sorry, you said 30th June. It looks like July.

ADV CHASKALSON SC: Sorry, 30th of July, 30th of July. The next stage of this process is on the 2nd of August, at, straddling pages 6241 and 6242 and there General Khan sends to Mr Sayed a message which reproduces an article in Afrikaans which shows that the story of disciplinary proceedings or disciplinary action, potential disciplinary action against him has now been leaked. It has been
20 reported in the Afrikaans press. That is on 2 August.

The next day, on 3 August, at the foot of 6243 going on to 6244, General Khan sends to Mr Sayed a photograph and it is a photograph of Mr Malema and Mr Sayed around a dinner table with two other people. So if we can go back to the process. 30th of July, there is the

disciplinary letter. Mr Sayed says:

“Should I get Mr Malema involved?”

General Khan says:

“No.”

2 August, two days later, the story has leaked to the press and the next day, General Khan sends a photograph of Mr Malema and Mr Sayed to Mr Sayed. On the 26th of August, at 6356, Mr Sayed sends General Khan a contact card for Mr Malema. So General Khan, one would
10 imagine, one can infer, up to this point was not able to contact Mr Malema directly, but now General Khan has received Mr Malema's contact details from Mr Sayed.

On the 5th of December, Mr Sayed sends General Khan a voice note. That voice note appears at page 6385 and if we can play it.

VOICE NOTE PLAYED BACK

“Salam bro. Juju called me now. He says that your things are coming along very, very nicely. It is moving along very
20 rapidly. I will just give it some time, but it is going to happen for sure.”

So, Mr Sayed says to General Khan, Juju called. Your things are coming along. It is moving along very nicely. It is going to happen for sure. General Khan thanks him, says:

“Much appreciated.”

And then on the 22nd of September, at 6417, Mr Sayed sends another message from Mr Malema to General Khan and this clearly relates to the disciplinary issue and it is at the foot of 6417. And he says:

“Bro, I forgot to tell you that Juju called me. Said that you will not ever resign, no matter what. This is a fight, and we will emerge victorious.”

10 So, if we reflect on that timeline, what we see is that General Khan is in disciplinary trouble at Crime Intelligence. He tells Mr Sayed. Mr Sayed says, should I get Mr Malema involved? General Khan says initially no. A few days later, the story of his disciplinary difficulties is leaked to the press and sometime thereafter, Mr Malema gets involved and by 22 September, Mr Malema is saying, you will not ever resign, no matter what. This is a fight, and we will emerge victorious.

20 Now, if we go back to the chats again, and look at this timeline, which runs from 30 July to 22 September, we see another suggestion of a *quid pro quo* with Mr Malema in relation to this episode. And if we just go back to that timeline, it starts 30 July. General Khan asks Mr Sayed to hold off informing Mr Malema on the 30th of July. That seems to have changed after the disciplinary problems

leaked to the media on the 2nd of August and then he WhatsApp the picture of Mr Malema and Mr Sayed to Mr Sayed.

If we go to page 6240, and look at the sequence, 6240 is the story leaking on the 2nd of August. 6244 is General Khan forwarding the picture of Mr Malema and Mr Sayed to Mr Sayed on the 3rd of August. And if we go down to 6245, on the same day that General Khan forwards the picture of Mr Malema and Mr Sayed to Mr Sayed, Mr Sayed
 10 returns a message which relates to a tender for fleet management services submitted by a company called Bertobrite, B-E-R-T-O-B-R-I-T-E, to the state information technology agency SITA. And underneath that, he says, Juju sent me. General Khan says what he needs here, what does he need. And Mr Sayed says, I think he wants us to do it. In other words, we infer, I think he wants us to do this tender for him. So we have ...[intervenes].

ADV KHUMALO SC: But where is the for him part Mr Chaskalson? I mean, I think he wants us to do it, I get that
 20 part ...[intervenes].

ADV CHASKALSON SC: For Bertobrite, for Bertobrite, because it is Bertobrite's tender, It is not a tender that is put in by a company of Mr Sayed or Mr, or General Khan. It is for Bertobrite. And, of course, the question is, what is the relationship between Bertobrite and Mr Malema?

ADV KHUMALO SC: That part I get. The part I do not get is for you to say he wants us to do it for him. That is the part ...[intervenes].

ADV CHASKALSON SC: Well, for Bertobrite. The issue in relation to Bertobrite is that by this stage, August 2021, Bertobrite has already appeared in the press in relation to an allegedly corrupt tender that it procured in Tshwane on the basis of paying amounts to the EFF. I will find my reference, I do not have it to hand here, but it is in the
10 exhibit bundle. Let me just quickly look. Ja, it is page 303 of the exhibits bundle where there is an article titled:

“Businessman who captured Tshwane
fleet department had a man on the
inside.”

It is dated 26 February 2020. It relates to Bertobrite, it relates to a tender in Tshwane by Mr Kganyago who is linked to Bertobrite and who is alleged to have paid 15 million to three companies linked to EFF leader, Mr Malema.

20 **ADV BALOYI SC:** The article seems to mention a different company of Mr Kganyago, Mr Chaskalson. Reading very quickly, sorry I might be missing it.

ADV CHASKALSON SC: No, no, you are right. It refers to Balimi Barui Trading, BBT. I will get the connection to Mr Kganyago and Bertobrite. We do not have it in this bundle.

But if we go back to the sequence, we see again a situation where General Khan appears to be looking for the support of Mr Malema in his disciplinary matters through Mr Sayed. And through Mr Sayed, Mr Malema is communicating a wish that General Khan and Mr Sayed will assist with the Bertobrite tender.

Now, in advance of this evidence, notices were issued to, among others, Mr Sayed, General Fani and Mr Malema indicating that they may be implicated in relation to
 10 some of the evidence concerning General Khan. Mr Malema did respond to that notice, unlike Mr Sayed and General Fani. The notice that was served on Mr Malema is to be found at page 283 and as Mr Malema did respond to that notice, I think, in fairness, we should read out his response into this record so that his response is there for the public to see. It may, because the response is a response to the notice, it probably makes sense to start with the notice at 283. And the notice says, it is headed in terms of Rule 3 of the Rules of the Judicial Commission of Inquiry.

20 “You are hereby given notice that on 6 June 2026, the Commission's investigator, Mr Tshepo Nyatho, submitted an affidavit in the Gauteng High Court under case number ...”

And the case number is given.

“... in response to an urgent application brought by Major General Feroz Khan. This affidavit referenced certain WhatsApp chats between Mr Mohammed Sayed and General Khan in the years 2020 to 2023 that were extracted from General Khan's cellular mobile device. The affidavit will be canvassed when General Khan testifies at the Commission from 1 July and refers to chats that implicate you in matters under investigation by the Commission in particular as follows.”

10

And then six potential implications are listed. The first is:

“That in June 2021, you, General Khan and Mr Sayed seemingly conspired to orchestrate the removal of the then Inspector General of Intelligence, Dr Dintwe.

20

1.2 That through Mr Sayed you sought and obtained confidential information from General Khan in relation to a criminal case that had been opened against you in Sandton ...”

And the case number is given.

“Specifically, you were provided with the name and physical address of the complainant in the matter, the case concerned the VBS bank scandal in which you are alleged to have received bribes from the Chair of the bank.

10 1.3. On 30 July 2021, Mr Sayed asked General Khan if he could forward to you a disciplinary notice that General Khan had received. The appearance was that you would be of assistance.

20 1.4 On 3 August 2021, Mr Sayed forwarded to General Khan details of the company Bertobrite that had bid for a tender for fleet management for SAPS. He stated that it came from Juju and said, I think he wants us to do it. In July 2021, there were allegations in the media that Bertobrite secured a fuel tender in the City of Tshwane by paying bribes to the EFF.

1.5 On 5 September 2021, Mr Sayed sent General Khan a voice note in which he stated the following. ‘Juju called me

now. He said that your things are coming along very, very nicely. It is moving along very rapidly, but just give him some time, but it is going to happen for sure.'

1.6 On 22 September 2021, Mr Sayed sent General Khan a message of support from Mr Malema in relation to his disciplinary proceedings. 'I forgot to tell you that Juju called me, said you will not ever resign no matter what. This is a fight and we will emerge victorious.'

10

The details of the allegations in the chats themselves are set out in Mr Nyatho's affidavit and annexures to the affidavit, the relevant extracts of which are attached hereto as Annexure A."

20

And then paragraph 4 was giving 10 days to file the statement. I will not read the rest of the statement. The affidavit starts at page 287 and because Mr Malema's response is addressed to the affidavit, it may make sense to briefly canvass what is in the affidavit. Paragraphs 55 and 56 address the Carnilinx relationship with EFF. And paragraph 57 addresses the apparent conspiracy to remove Dr Dintwe. Paragraph 58 deals with Mr Malema soliciting details of the complainant in the VBS case. Paragraph 59

deals with Mr Sayed asking General Khan if he could send details of the disciplinary process against General Khan to Mr Malema.

Paragraph 60 and 61 deal with the fleet management tender and the allegation that Bertobrite was alleged to have bribed the EFF and the inference from the chats that Mr Malema wanted General Khan and Mr Sayed to do it, to do the fleet management tender. And paragraph 63 to 65 relate to the alleged messages of support from Mr
10 Malema to General Khan in relation to his disciplinary problems.

Mr Malema's answer is at page 316 and I should read it out in full. It says:

“My name is Julius Sello Malema, MP.
This serves to respond to the Rule 3
notice of the Judicial Commission of
Inquiry into Criminality, Political
Interference and Corruption in the
Criminal Justice System (Commission
20 Rules) Notice in terms of which you
provided me with an opportunity to
respond thereto if I so elect. Save where
otherwise stated the facts set out herein
are within my personal knowledge and
are to the best of my belief both true and

correct. Where I make submissions of a legal nature I do so on the advice of my legal representatives. I have been invited to respond to averments contained in an extract of Mr Tshepo Nyatho's affidavit which supposedly implicate me. As a starting point, the evidence and material alleged to implicate me in Mr Nyatho's affidavit are

10 largely purported extracts of communications between Major General Feroz Khan (General Khan) and Mr Mohammed Sayed (Mr Sayed). I evidently cannot confirm whether these extracts are a true recordal of their engagements or the authenticity of those extracts. Only they can. I do not understand the Commission to require me to so confirm. I simply record this point

20 to note that my response will be curtailed to claims that are in my personal knowledge and relate to me.

Ad seriatim response to Mr Nyatho's affidavit.

Ad paragraph 55.”

And the Commission will recall that paragraph 55 concerned the Carnilinx relationship with EFF. It was not an issue specifically identified in paragraphs 1.1 to 1.6 of the notice. Mr Malema's response is the following:

10 "I do not see how the contents of this paragraph implicate me. It is also not apparent in the notice and Mr Nyatho's affidavit extract. This matters, because I was required to respond to material that implicates me. This is a proper qualification by the Commission lest I am asked to deal with personal material that falls outside the terms of reference of the Commission's work and having no bearing on its fact-finding mission. Absent clarity on how I am implicated by this paragraph, I am in no position to meaningfully respond in my defence. I am uncertain whether the very claimed facts in this paragraph implicate me *per se* or that the

20 Commission will draw inferences therefrom. This applies with equal force in respect of the other aspects of Mr Nyatho's affidavit, save where the context or language itself clearly implicates in relation to the terms of reference of this Commission. The contents of these

paragraphs are nonetheless factual claims, save with inaccuracies I will correct momentarily, that I have voluntarily stated in the public domain since the inception of the EFF. As an example, I voluntarily stated at the EFF 10th year celebration event, which was perhaps the most widely publicised EFF event, that Mr Mazzotti, who is the CEO of Carnilinx, donated funds that helped register the EFF. It is also a matter of public record that my wife used to reside at a property that is in the same complex precinct at Mr Mazzotti, under a lease agreement. I place underlining emphasis under lease agreement, as correctly recorded in Mr Nyatho's affidavit, in contrast to other media reports and claims that I stayed there gratuitously.

Ad paragraphs 57 to 65:

9. I deny that I conspired to orchestrate the removal of Dr Dintwe.

10. In any event, I regularly receive information from various sources, some covert, some public, that relates to my work as a Member of Parliament. Such this paragraph is not an invitation to me. Some come from

private citizens and some from public officials like the police. As a case in point, I have met with General Mkhwanazi who shared with me the investigations about the murder of a popular artist known as AKA. It is my concern, and indeed my interest, to receive information about the working of our public service officials, who I have a task of holding to account. Nothing is or could be implicating, and nothing more than receiving assistance, of how to hold a public official accountable is profit. Be that as it may, I do not have knowledge of the exchanges between Mr Sayed and General Khan. I deny any inference of the contents of these paragraphs to the extent that they infer any unlawful conduct on my part. To the best of my knowledge, I deny any Bertobrite bribery of the EFF.”

That is Mr Malema's affidavit. It speaks for ...[intervenes].

ADV KHUMALO SC: I take it there is no response to 1.2 of the notice?

ADV CHASKALSON SC: To 1.2 of the notice?

ADV KHUMALO SC: On 284. I mean, 1.1, that is the

response you have just read.

ADV CHASKALSON SC: If we were, I mean if we were to go through the notice, Mr Malema has answered 1.1, and he denies a conspiracy. He says he is not aware of the chats between General Khan and Mr Sayed, and he explains the role that he plays in holding public officials to account. When it comes to 1.2, he does engage with 1.2.

ADV KHUMALO SC: That is my point.

ADV CHASKALSON SC: But if we continue further, he
10 also does not engage with 1.3. But again, that is about the conversation between Mr Sayed and General Khan about forwarding the disciplinary notice. He would not have had personal knowledge of that. 1.4, he denies bribery by Bertobrite, but does not engage with 1.4 any further. And he does not respond to 1.5 and 1.6, which deal with the voice note and message allegedly reproduced from him by Mr Sayed to General Khan.

Commissioners, we have reached 11 o'clock, and I in fact have reached the end of the open session process
20 that I can, that we can deal with publicly. So if I can ask that we adjourn until after the tea adjournment, there will be some logistical issues to setting up the *in-camera* session and can I ask if we can have at least 30 minutes for that purpose to set up? Given that the public is not going to be here, might I ask that either myself or Advocate Hassim SC

contact you 5 minutes before we are ready, just so that we can reconvene that way.

CHAIRPERSON: Thank you, Mr Chaskalson. Ms Poee, what is happening or at what time is the *in-camera* application that is outstanding to be moved?

ADV POOE: Chair, we request to move it after the lunch adjournment.

CHAIRPERSON: All right. Let us adjourn. We will hear from you then, Mr Chaskalson.

10 **INQUIRY ADJOURNS**
