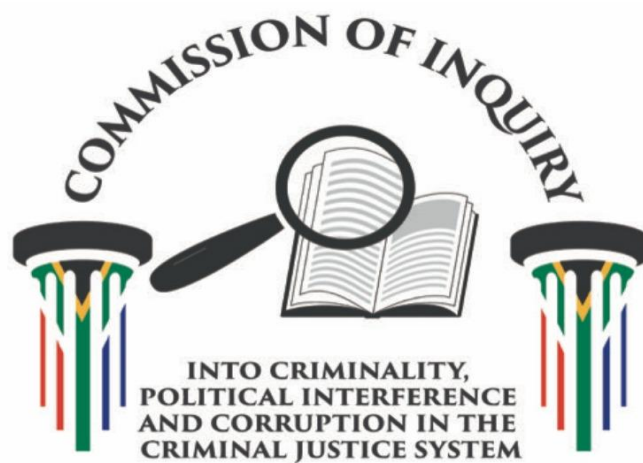


JUDICIAL COMMISSION OF INQUIRY INTO CRIMINALITY,
POLITICAL INTERFERENCE AND CORRUPTION IN THE
CRIMINAL JUSTICE SYSTEM

HELD AT
BRIGITTE MABANDLA JUSTICE COLLEGE

21 JULY 2026

DAY 144



PROCEEDINGS ON 21 JULY 2026

CHAIRPERSON: Good morning, Ms Sello. Good morning, Mr Bodlani.

ADV BODLANI SC: Good morning, Chair. Good morning, Commissioners.

ADV SELLO SC: Morning, Chair.

CHAIRPERSON: Yes.

ADV SELLO SC: And Commissioners. Chair and Commissioners, today we continue with the testimony in the
10 IDAC stream, and we present today Advocate Andrea Johnson, the Head of IDAC.

CHAIRPERSON: Thank you. Good morning, Advocate Johnson.

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

CHAIRPERSON: Please place your full names on record.

ADV JOHNSON: I am Andrea Johnson.

CHAIRPERSON: Am I going to swear or affirm?

ADV JOHNSON: I will swear.

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

ADV JOHNSON: So help me God.

ANDREA JOHNSON (duly sworn states)

CHAIRPERSON: Thank you.

ADV SELLO SC: Thank you, Chair. Before we deal with the testimony of Advocate Johnson, just a few admin issues. Advocate Johnson has provided us this morning with a full, or fuller medical certificate following her treatment last week when she was due to appear. So if I could just hand up copies to the Commissioners for the record. We do not intend to take any issue with what is contained in the certificate, nor do we intend to engage
10 Advocate Johnson on same. It is just for record purposes, Chair.

CHAIRPERSON: Thank you.

ADV SELLO SC: Thank you, Chair.

CHAIRPERSON: And thank you to you too, Advocate Johnson. Thank you.

ADV SELLO SC: Thank you, Chair. The second issue is last week during the testimony of Colonel Padayachee certain documents became relevant to the Commission and following his testimony, the Commission, no, during the
20 course of his testimony, the Commission issued a subpoena calling upon him or upon IDAC to disclose three documents based on the testimony of Colonel Padayachee. A further subpoena was issued yesterday calling for further documentation. All that document is relevant to the testimony of Advocate Johnson. I have had a brief chat

with my learned friend for IDAC regarding these subpoenas. So if perhaps I may invite him to go on record to indicate the status of the subpoenas and when the documents requested may be availed. Thank you.

CHAIRPERSON: Mr Bodlani.

ADV BODLANI SC: Thank you, Chair. The, I acknowledge the three subpoenas mentioned by Ms Sello. The two were received last week and the other one came in yesterday late. My instructions are the documents concerning the
10 arrest and prosecutions relating to General Khumalo and others are no longer in the possession of Ms Johnson, nor is she responsible for them. The instructions are ...[intervenes].

CHAIRPERSON: And does that mean IDAC as a whole, no longer in the possession of IDAC?

ADV BODLANI SC: What I understand, Chair, is that since the 18th of June, or thereabout, Ms Johnson asked that she be relieved of the responsibility to deal with those matters, given what was said at some point, even about her
20 personally. She felt that she is conflicted and therefore should not be the one leading those processes. The instruction I have is that one advocate, Nicolette Bell, who is the Deputy National Director of Public Prosecutions and Head of General Prosecutions, is the one who is now charged with the responsibility to oversee all the matters

emanating out of the referral that was made by Mr Adams, MP so that the Head of IDAC is no longer responsible for that process.

But I did not relate this to my colleague because it came to my attention only yesterday when we received the last of the three subpoenas, when I was asking what happened to the initial two subpoenas, whether we had complied or not. But the position is, as I have just stated it. What I am told is that the Prosecutors from IDAC remain in
10 charge of those cases, but they do not report to the Head of IDAC.

Also, the instruction is that those Prosecutors would be in possession of the relevant documents, but the witness before you today is not the one from whom they take instruction, nor does she issue instructions to them. I wish the subpoena that came yesterday had come earlier, because then perhaps I would have relayed this to the Evidence Leader, and then the relevant person would have been the one to whom a subpoena is issued.

20 But I do think that to the extent that we were told off record that some of those documents would relate to Ms Johnson's testimony tomorrow, then perhaps a subpoena can issue still today to the relevant person.

CHAIRPERSON: Would IDAC be taking the formalistic position of insisting that a subpoena be issued in the name

of the, name or names of the person or people who are in possession of the relevant material? Are they not willing to just cooperate and furnish the material to the Commission?

ADV BODLANI SC: I would not have ...[intervenes].

CHAIRPERSON: Or you have no instructions on that?

ADV BODLANI SC: I do not have any instruction in that regard ...[intervenes].

CHAIRPERSON: I see, I see.

ADV BODLANI SC: Chair, but I can tell you my experience
10 ...[intervenes].

CHAIRPERSON: I see a number of people around here who I assume have something to do either with Ms Johnson or the NPA or not. Are you not in a position to take instructions?

ADV BODLANI SC: The only person I know is Mr Mthumzi Mhaga who is seated somewhere behind me. The rest I do not know, but certainly during an adjournment I can take an instruction.

CHAIRPERSON: Ja, I am making the assumption purely on
20 the basis that I hardly ever see people sitting in front of Ms Ziyanda ...[indistinct] there ...[intervenes].

ADV BODLANI SC: Oh, no ...[intervenes].

CHAIRPERSON: And it is purely on that basis that I am making the assumption that they might well be connected to Advocate Johnson.

ADV BODLANI SC: No, Chair, I have an explanation for that.

CHAIRPERSON: Yes.

ADV BODLANI SC: It has just come to my attention because I had to turn back and look at them, I understand who they are. They do not have any authority in regard to the issues that we are debating.

CHAIRPERSON: Yes.

ADV BODLANI SC: They are Ms Johnson's protectors.

10 **CHAIRPERSON:** Oh.

ADV BODLANI SC: They would be useful to you and they have to protect her bringing those documents to you. Insofar as you asked me, Chair, whether we adopt a formalistic approach, I do not have instructions, but in the short time that I have been involved with IDAC, my experience has been that there is a lot of authorizations and red tape, the typical thing that you would find in government institutions.

20 So in as much as I would make a few calls and nudge and ask that the documents be made available, I would still request that a formal subpoena be issued so that when it is later asked on what basis were specific documents made available, then there is something to rely on. That does not, of course, mean before that process is undertaken, I would not make the requisite number of calls

that must be made.

CHAIRPERSON: I was about to say exactly that. I will come back to you just now, Ms Sello. I was about to say perhaps the two processes should ...[intervenes].

ADV BODLANI SC: Run parallel.

CHAIRPERSON: Run parallel to each other. And I hope sense will prevail and that there will not be an insistence on a subpoena, especially on material that they do not own personally.

10 **ADV BODLANI SC:** Indeed.

CHAIRPERSON: This is public information, as it were. Public not in the sense of it being in the public domain, but public in the sense that it actually belongs to us as the populace, as South Africans, in that sense. Yes?

ADV BODLANI SC: May I just close off by saying In relation to the two earlier subpoenas, at the time when they were out, I did not have time with Advocate Johnson because of what had happened ...[intervenes].

CHAIRPERSON: Yes.

20 **ADV BODLANI SC:** When she was supposed to appear before you, he was indisposed, and then I could not have access to her. But I only then was able to have a consultation with her yesterday. This is when I got the instruction as to what is happening with specific documents that relate to General Khumalo and others. Thank you,

Chair.

CHAIRPERSON: Thank you. Ms Sello.

ADV SELLO SC: Thank you, Chair. I think I am at a bit of a loss. We address subpoenas to the institution and it is not required of the Commission and its members to go locate this ...[intervenes].

CHAIRPERSON: Do you actually have a copy readily at hand now just to read what it says. As Mr Bodlani was addressing us I did wonder in my mind to whom this
10 subpoena or these subpoenas ...[intervenes].

ADV SELLO SC: We are trying to call it up.

CHAIRPERSON: Were addressed.

ADV SELLO SC: Yes.

CHAIRPERSON: And based on his submissions, I then assume that probably they specifically refer to Advocate Johnson.

ADV SELLO SC: They would not. The subpoenas issued last week would not specifically refer to Advocate Johnson. They would refer to IDAC.

20 **CHAIRPERSON:** Yes.

ADV SELLO SC: Or as Mr Padayachee, Colonel Padayachee was given to saying to management of IDAC.

CHAIRPERSON: Yes, yes.

ADV SELLO SC: And we have now the very Head of that management sitting before you today. Whoever they are

addressed to, in so far as they concern the affairs of IDAC, they do not belong to that particular individual. They are neither the prosecutor's documents, nor the investigator's documents. They remain IDAC's documents. That person is deployed to execute certain functions, and if he or she were hit by the proverbial bars, the process would follow by a successor.

I am, one is showed up to me now by way of example, Chair, in response to your question, the
10 subpoena. This would be the subpoena dated the 20th of July 2026. This is addressed to advocate Andrea Johnson in her capacity of Investigating Director of the Investigating Directorate Against Corruption, IDAC. So I would argue this is addressed to IDAC through its Head, the Investigating Director, Advocate Johnson sitting before us here today. In my view, it is the appropriate way to address such subpoenas and such requests. It is to the institution.

Upon receipt, the institution will determine who is the best placed person within that institution to deal with
20 that subpoena to enable the institution to respond thereto. So to the extent that it is suggested that it depends on who it was addressed to, we do not address subpoenas and requests to various members of an institution. It is to the institution and the Head or the right person in the institution will make a determination as to whom to direct that to

enable the institution to act accordingly.

The second issue is I understood my learned friend to reference what he called the Khumalo matter that is currently in court and the arrest of Khumalo. And I think if I understood him well, I speak subject to correction, of course, advised that Advocate Johnson has since been relieved of her duties, has been relieved of her responsibility in respect of that matter, something to that effect.

10 To the extent that I understood him correctly, I just want to place on record that we know we have before us the Investigating Director of IDAC. We do not have, or neither have we been served, with any document that informs the Commission that there are certain aspects of IDAC that Advocate Johnson is not responsible for, as at the 18th of June.

 So as far as we are concerned, we are speaking to the right person who is responsible for all matters within IDAC. I do not know who has relieved her of certain duties
20 in so far as that arrest is concerned, but I just want to place on record that we have nothing so advising us. We go by the provisions of the Act to determine who is responsible for IDAC and that person we submit is the appropriate person to engage on all matters pertaining to IDAC.

 Lastly, this, although we will traverse the issues

regarding the arrest of General Khumalo and others, the subpoena specifically issued yesterday related to a slightly different topic, though relevant. Commissioners, you will recall that when Colonel Padayachee was testifying, we referred to the section 28 summons that were issued and in this regard, I would like to, if you could make this note, it is the section 28 summons dated the 6th of February 2025.

It is to be found in file 3 of the IDAC exhibits and this particular subpoena, when we engaged Colonel
10 Padayachee on in at, in its Annexure B, which specifies what documents are required, this subpoena provided that IDAC required original complete applications for security clearances and vetting files for the following senior officers of the South African Police Service, and it listed Lieutenant General Khumalo, Lushaba, Madondo, Ncube, Janse van Vuuren, who we indicated was a contender for the post that Mrs Mokwele was subsequently appointed to, Brigadier Mokwele herself, and Brigadier Bobby.

A question arose during engagement with Colonel
20 Padayachee as to the relevance of security clearances and vetting files for Generals Khumalo, Lushaba, Madondo, Ncube, and Bobby. As the document indicates, it required their security clearances for all the ranks they have held within SAPS. His response was that when IDAC issues a section 28 summons, it does not confine itself to a specific

investigation.

This was a broader investigation. This was a broader summons to cover other ongoing investigations within IDAC. To a question whether is IDAC seized with an investigation into the security clearances and vettings of those personnel, Colonel Padayachee explained as part of investigation into the use or abuse of the Secret Service Fund.

A further question was posed to him whether that
10 particular investigation authorized in terms of a section 27 affidavit/affidavits or section 28(1) of the Act, which empowers the ID to initiate an investigation. His response, not surprisingly, was he is not in a position to, I think he, either he is not in a position to so state or management would be able to speak specifically to that issue.

We then issued a subpoena regarding that particular bigger investigation that then entitles IDAC to request the documents as listed here in the section 28, which go beyond the scope of what Colonel Padayachee
20 was investigating. It is important to draw that distinction because to the extent that Advocate Johnson may have been or is excused from dealing with the arrests, the issues arising from the arrests of Generals Khumalo and others, that does not address the bigger investigation which looks into the security clearances and the like of these generals

and it is the latter that we wanted documentation to, not the arrest. So I draw that distinction and I say then the subpoena must be responded to and responded to positively because it does not deal with the arrest of General Khumalo and the others. Thank you.

CHAIRPERSON: Thank you, Ms Sello. Mr, oh, I see your mic already on, even though you would not ordinarily have a right to respond, but I wanted to ask you a question anyway. Maybe before you say what you want to say, let
 10 me just raise the issue I wanted to raise with you. Did Advocate Johnson of her own accord decide no longer to be involved in matters involving General Khumalo and the others with whom he is charged, or did somebody divest her off the power to be so involved? And if someone, or rather if the position is the latter, who divested her off the power?

ADV BODLANI SC: The position, Chair, is she made a request to be divested and it was granted. It was granted by the National Director of Public Prosecutions, as I understand it.

20 **CHAIRPERSON:** Is that something that is done statutorily?

ADV BODLANI SC: I am not, I am not aware. That kind of detail sort of is anterior the confines of my instructions and my brief.

CHAIRPERSON: Yes. I will tell you why I am asking. I am asking because if, for example, one is not able to point to a

specific statutory power that, one, informs the request and, two, informs the granting of the request, I would suggest that there is no way that she can walk away from powers that resort with her, which would include doing whatever is necessary, but which happens to relate to the, let me loosely say, Khumalo cases. Therefore, she cannot if there is no statutory basis, not respond to the subpoena.

What would your response be? But of course, but of course I am making this suggestion purely on the
 10 assumption, or rather, let me not even say it is an assumption, I am making this suggestion in the event that there is no statutory basis for the request and the granting of the request.

ADV BODLANI SC: Chair, I would agree with you. And again, the answer is on the basis of if, because as I have said earlier, that matter falls anterior to the confines of my brief. So it is not an issue that I considered, investigated and adopted a particular view in relation thereto. I did not at all.

20 **CHAIRPERSON:** Okay. May I quickly ...[intervenes].

ADV BODLANI SC: But it is something that I must now that it has arisen, quickly consider.

CHAIRPERSON: Yes. May I just make what I think is a sensible and practical approach. May I suggest that during the tea break, as you take whatever instructions you will be

taking, but that there be an engagement between you and Ms Sello on how best to resolve this practically. And of course, from where I am sitting, a practical resolution would be a response to the subpoenas and if there is no legal impediment on IDAC's side for the material required by the subpoenas to be provided. That is what I consider to be a sensible and practical resolution to all of this. We just cut across any formalities.

ADV BODLANI SC: Chair, if I may make this indication.

10 **CHAIRPERSON:** Yes, yes.

ADV BODLANI SC: I have just received an instruction that the NDPP has issued an instruction that these documents be made available, hopefully during the course of the day today. So I would imagine that as we are here debating, there are people who are tasked with this responsibility, so that at some point during the course of the day today, I will give an indication as to how far that process is.

CHAIRPERSON: That practical resolution is most appreciated. Thank you very much.

20 **ADV BODLANI SC:** Thank you, Chair.

CHAIRPERSON: Thank you.

ADV SELLO SC: Thank you, Chair. That then addresses the issue of the subpoenas and documents requested. We will restructure our approach to Advocate Johnson's testimony to accommodate the receipt of those documents.

CHAIRPERSON: How do you propose dealing with this? I hope I did not miss anything. I saw three statements by Advocate Johnson. There is what I should call the main statement, and then right at the end of my thinner file, I have a supplementary statement, and then I have one that I was given yesterday, which raises Advocate Johnson's protection against self-incrimination.

ADV SELLO SC: Yes.

CHAIRPERSON: Do I have all three?

10 **ADV SELLO SC:** You have all three.

CHAIRPERSON: How do you propose doing the part of the evidence where we are not probing except for clarity-seeking questions? You start with the main statement, then the supplementary, and then lastly, the one I, and hopefully my colleagues as well, got only yesterday in that order.

ADV SELLO SC: Yes, that is correct, Chair. The third one came in yesterday.

CHAIRPERSON: Yes.

20 **ADV SELLO SC:** That was the next issue I was going to address, to indicate that there are now three statements by Advocate Johnson, the one, the first from October 2025, the second from July 2026, and the last one coming in yesterday. I have had a brief conversation with Advocate Bodlani regarding the third statement, and we have agreed that we will use the tea adjournment to have discussions,

because the main question that arose was whether or not before that statement is engaged with, it is necessary to have a full-blown legal argument before you for the Commissioners to determine whether the issues that the defence has raised therein are appropriately raised, whether they are valid and whether they are upheld by the Commission.

So it is a question of process rather than content at this moment. We believe that during the course of the tea
10 adjournment, during our engagements, we will be able to find each other about how we treat that, the idea being it would not be appropriate, much as Advocate Johnson is an Advocate, IDAC is fully represented before you.

So it is not a debate by right I should have with the witness. It is a debate I should have with her legal representatives. So for purposes of the record, as we start, we are going to place the three statements on record where we will not have reached the third statement before tea and hopefully after tea, we then will be able to indicate to you
20 how we approach the third statement. Thank you, Chair.

CHAIRPERSON: Thank you, Ms Sello.

EXAMINATION-IN-CHIEF BY ADV SELLO SC: Thank you. Against that background then, Ms Johnson, so much has been said about you, I do not even think I greeted you this morning. Good morning.

ADV JOHNSON: Morning, ma'am.

ADV SELLO SC: Thank you. You should have before you a single file, on the spine, I do not know if it has been updated, it should read Andrea Johnson statement and supplementary statement. But as of yesterday, now a third statement has been added in, is that correct? Is that what you have?

ADV JOHNSON: That is correct.

ADV SELLO SC: Thank you. So then that confirms that
10 you have supplied statements to the Commission and those are contained in the file that I have referenced. There are other numerous files around you that for the moment you do not concern yourself with. To the extent that it is necessary, I will specifically, or the Commissioners will specifically refer you to a file and to locate a particular document upon which we will then have an engagement. You will have assistance in finding your way around the file, so do not worry about that.

Let us turn then to what you call your first
20 statement under tab one. This on my record is an undated statement running into 12 pages. Do you have that at page 12 at the bottom is a signature. Is that your signature above your name?

ADV JOHNSON: That is my signature.

ADV SELLO SC: I note that it is undated. Do you have a

recollection as to when the statement was ...[intervenes].

ADV JOHNSON: And I am not sure why that page is not here.

ADV SELLO SC: Okay.

ADV JOHNSON: It was submitted to the Commission, I believe, on the 25th, it is either the 15th or the 25th of October 2025. That is when the statement would have been submitted and dated.

ADV SELLO SC: Noted. It may very well be that the last
10 page fell out.

ADV KHUMALO SC: Good morning, Advocate Johnson. Was it commissioned?

ADV JOHNSON: That is correct.

ADV KHUMALO SC: So there is a page missing with a stamp of the Commissioner.

ADV JOHNSON: It would seem that there is a page that is missing and we would have to locate that page because it is commissioned and it is dated, and it is in October of 2025.

CHAIRPERSON: Thank you very much. That explains the
20 question I had because I was looking at all the pages, they have two initials and I was wondering whose, or rather, ja, who the second initial belongs to. Thank you, that clarifies it.

ADV SELLO SC: Thank you, Commissioners. And this statement, this is an affidavit. It does indicate so at page 1

in the tramlines that you deposed to. Do you confirm this is your statement and do you confirm the accuracy of its contents?

ADV JOHNSON: I do.

ADV SELLO SC: Do you stand by the contents of this statement as you sit here before the Commission today?

ADV JOHNSON: With one correction. There is in the third statement I did allude to the fact that I would need to amend certain paragraphs in this statement so that just for
10 purposes of the record, this statement is correct insofar as it relates to everything except for the three portions I asked in my last statement must be corrected or else this statement then in those paragraphs, Chair, would be factually incorrect.

ADV SELLO SC: That is fine. I propose that perhaps we first enter them into record, all three of them, then as we deal with each statement in turn, you then can highlight the parts within the statement that you suggest require correction.

20 **ADV JOHNSON:** We will do that.

ADV SELLO SC: Thank you.

CHAIRPERSON: So but for those corrections you confirm the correctness of the one we are dealing with now?

ADV JOHNSON: That is so, Chair.

CHAIRPERSON: All right.

ADV SELLO SC: Thank you, Chair. Let us turn then to the next statement under tab 2 and that statement is a 9 page document. It is dated the 10th of July 2026 and that appears at page 9 of that statement and you filed it as a supplementary statement of Advocate Andrea Johnson. If you go to page 8 above your name, it bears a signature. Do you confirm that is your signature?

ADV JOHNSON: That is my signature.

ADV SELLO SC: And do you confirm the correctness of
10 the contents of the statement, and do you stand by them?

ADV JOHNSON: I do.

ADV SELLO SC: Thank you. Your third and last statement is over tab 3. It is a five page document and at page four of that affidavit, once again, is a signature above your name, and it was commissioned on the 20th day of July 2026. Is that correct?

ADV JOHNSON: Correct.

ADV SELLO SC: Do you confirm that is your signature above your name?

20 **ADV JOHNSON:** Correct.

ADV SELLO SC: And you stand by this statement, by this affidavit, and you confirm the correctness thereof.

ADV JOHNSON: I do.

ADV SELLO SC: Thank you. Let us then consider your statements in the order that we have just placed them on

record. We will start with your first statement. Perhaps just to, I am trying to think how best to deal with your three corrections, whether we deal with them now or as we encounter them.

CHAIRPERSON: What about when we get to that paragraph ...[intervenes].

ADV SELLO SC: Yes.

CHAIRPERSON: Advocate Johnson then takes us to the correction in the later statement and reads the correction
10 instead of the wrong ...[intervenes].

ADV SELLO SC: Indeed.

CHAIRPERSON: Yes, yes.

ADV SELLO SC: Yes, we shall do so. Thank you, Chair. So, the responsibility then is upon you to remind us about the corrections that need to be affected when we get to any part of the statement. Just by way of process at the Commission, when we start with a witness, the Commission allows the witness to place their version of whatever issue they are testifying to with as minimal interruption as
20 possible, except for clarity seeking questions, mostly from Commissioners and at the conclusion of which then an engagement on the contents of the statement and other testimony you would have provided orally then begins. Because you've got three statements in order to get a full picture of your narrative, it is best that we go through each

statement in turn before the engagement on the contents of any of the statements is undertaken. Will that work with you?

ADV JOHNSON: That is fine, thank you.

ADV SELLO SC: Okay. Then if we are now on our first statement. I note in this statement you deal with, in dealing with the issues, you do not have an introductory chapter that tells the reader about yourself, your professional history, your educational background and the like and I
10 would like to invite you to do so before you deal with the contents of the document.

Secondly, it is your choice whether you prefer to read the statement into the record. Some witnesses do so, but I would like to believe that as an Advocate of long-standing It would be easy for you to summarize succinctly the key issues arising from the statement, but like I say, the choice is yours. You make the call how to go about this. You may, on the other hand, choose to do a hybrid, a bit of both. Sometimes you read and sometimes you summarize,
20 whatever works best for you.

ADV JOHNSON: Noted.

ADV SELLO SC: Against that background then I will invite you perhaps to start by placing on record your “CV”, a brief CV and then we will get into the contents of your statement. Thank you.

ADV JOHNSON: Thank you, Ms Sello and Commissioners. I attended school in KwaZulu Natal at the primary school, a high school there as well, but in terms of my tertiary education I attended at the University of Durban Westville. I matriculated in 1988, commenced university in 1989. I completed both a B.luris and an LLB degree.

During the course of 2007, whilst I was at the Directorate: Special Operations, colloquially the Scorpions, in the year 2007, I completed part-time at the University of
 10 Johannesburg a diploma in criminal justice and forensic auditing. It was just a one-year diploma. I do have short courses that one would have attended, both in terms of management, project management, and those things that relate to your work in terms of being a Prosecutor.

I also did attend this, well, not as it currently stands, the Justice College Prosecutor course in February and March of 1997. This building most certainly did not look like this back then. But I was then appointed as a Prosecutor, Commissioners, on the 1st of June 1996. I
 20 commenced prosecuting at the Alberton Magistrates Court. I was there till April of 1997. I went to the Regional Court in Germiston, and on the 1st of June 1998, I commenced duties at the office of the then Director of Public Prosecutions in Johannesburg under Attorney General De Vries, and shortly before then it had become the National

Prosecuting Authority.

I was a State Advocate and on 1 December 1999, I became a Senior State Advocate at the colloquially called Scorpions in Pretoria. I was there and became a Deputy Director of Public Prosecutions in April of 2004, which position I then held up until the 1st of March 2022. However, when the Scorpions disbanded in July of 2009, we were allowed to choose a Director of Public Prosecution's office. I was at the office of the Director of Public
10 Prosecutions here in Pretoria in Church Square, and I remained in that establishment up until February of 2019.

And in February of 2019, I moved to the NPA's head office in Silverton, where I oversaw as the national coordinator the organized crime portfolio up until I became the ID on the 1st of March 2022, which position I hold to date. I am sure that suffices, unless ...[intervenes].

CHAIRPERSON: And before this appointment, throughout you held the substantive position of Deputy Director of Public Prosecutions.

20 **ADV JOHNSON:** That is correct. I think it is about 16 or 17 years.

CHAIRPERSON: All right. Thank you.

ADV SELLO SC: Thank you so much, Advocate. We can now turn to the actual statement and you take us through it at your pace. Thank you.

ADV JOHNSON: So the statement before you, Commissioners, I did confirm the truthfulness of the statement. I am an admitted Advocate of the High Court of South Africa, that admission having been done on the 5th of November 1998 at the High Court before a panel of judges in Johannesburg. At the time when this was done, I was a State Advocate and so we had to then have that admission and which position as Advocate I have held then since then.

I have been in the employ of the National
10 Prosecuting Authority, having reached 30 years of service on the 1st of June 2026 and currently I hold a rank of Investigating Director at IDAC, the Investigating Directorate Against Corruption.

CHAIRPERSON: Is that equivalent to a DPP's position or not?

ADV JOHNSON: That is correct, Chair. It is the DPP and then the NPA also have Special Directors of Public Prosecutions. Those three are an equivalent in terms of rank.

20 **CHAIRPERSON:** All right, thank you.

ADV JOHNSON: I was appointed to the position of the ID by the President on the 1st of March 2022, and as Me Mahlape indicated, I might summarize, but if I need to make reference to the specific provisions, I am sure the Commissioners will ask.

CHAIRPERSON: I suggest that we should be formal here and ...[intervenes].

ADV JOHNSON: Ja, Advocate Mahlape that we ...[intervenes].

CHAIRPERSON: Sello.

ADV JOHNSON: Sello, yes.

ADV SELLO SC: Thank you.

CHAIRPERSON: Yes. Yes, please continue.

ADV JOHNSON: I just wanted clarity, Advocate Sello. Is
10 the summation fine? I do not want to be seen to be cutting corners if there are portions that might be relevant.

ADV SELLO SC: No, no, I would prefer you do it at your pace and you adopt an approach that you think best communicates the content and the substance of the statement. As you go along, like I indicated, questions of clarity may arise, particularly from the Commissioners, and the question would be posed to you and you respond. So it is not my place to dictate to you how you do it. Just make sure that the salient issues that you raise in the statement
20 are at least placed on record. And to the extent that you need to expound on any particular issue, this is your opportunity to do so.

ADV JOHNSON: Thank you.

CHAIRPERSON: But I think With what you have said thus far, I think you can now start at paragraph 4, unless you

think otherwise.

ADV JOHNSON: Thank you, Commissioner.

CHAIRPERSON: Yes.

ADV JOHNSON: Chair, I will then.

10 “I depose to this affidavit in response to
a notice in terms of Rule 3 of the Rules
of the Judicial Commission of Inquiry into
criminality, political interference and
corruption in the criminal justice system
arising from the allegations made by
Lieutenant General Nhlanhla Mkhwanazi,
KwaZulu Natal Provincial Commissioner
of the South African Police Services, on
the 6th of July 2025.”

CHAIRPERSON: The “Service” appearing there, the
singular, is actually correct, Advocate Johnson.

ADV JOHNSON: Police Services.

CHAIRPERSON: No, the Service, singular, is correct.

ADV JOHNSON: Thank you.

20 **CHAIRPERSON:** Thank you.

ADV JOHNSON: Paragraph 5:

“The notice requires me to deal with the
following issues on which Lieutenant
General Nhlanhla Mkhwanazi testified.

5.1 That IDAC allegedly and unlawfully

operates outside of its mandate in terms of section 7(1A) of the NPA Act, as amended; and

5.2 That IDAC has allegedly pursued a criminal case against Lieutenant General Khumalo and other officials at Crime Intelligence in the furtherance of ongoing political interference in SAPS.”

6:

10 “I deal with the issues identified above later in this affidavit. Before I do so, there are various issues I need to first to deal with, if my answers to the issues above are to be sensible. Thus, I have structured the affidavit as follows.

6.1 First, I deal with the mandate of IDAC.

20 6.2 Second, I introduce the charges against Lieutenant General Samuel Dumisani Khumalo (Lieutenant General Khumalo) and others.

6.3 Third, I deal with the arrest of Lieutenant General Khumalo.

6.4 Fourth, I establish the relationship between the charges faced by Lieutenant

General Khumalo and the mandate of IDAC, and then answer the questions that have been referred to me.

6.5 I conclude.”

We turn to A, the mandate of IDAC. Paragraph 7:

“IDAC is a creature of statute. It is founded in terms of section 7(1A) of the NPA Act, as amended.”

8:

10 “It is mandated to investigate, carry out any functions incidental to investigations. These are set out in 7(1A) of the NPA Act, as amended. They are investigations (a) relating to serious, high-profile or complex corruption, commercial or financial crime cases;

(1) Arising from the recommendations of Commissions of Inquiry;

(2) Referred to the Investigating Director by the National Director in terms of section 28(1)(e); or

20 (3) Referred to the Investigating Director in terms of section 27, subject to section 26(2).”

Paragraph B:

“Relating to additional related offences or categories of offences, including common law offences of 1, fraud, 2, forgery, 3, uttering, 4, theft, and 5, any offence involving dishonesty.”

Paragraph C:

“Relating to additional related statutory offences or categories of statutory offences, including contraventions of

10 (1) the Prevention and Combating of Corrupt Activities Act, 2004 (Act number 12 of 2004);

(2) the Prevention of the Organized Crime Act, 1998 (Act number 121 of 1998);

(3) The Protection of Constitutional Democracy against Terrorist and Related Activities of 2004 (Act number 33 of 2004);

20 (4) The Public Finance Management Act of 1999 (Act number 1 of 1999);

(5) The Local Government Municipal Financial Management Act 2003 (Act number 56 of 2003);

(6) The Financial Intelligence Centre Act

2001 (Act number 38 of 2001).

(7) Any other statutory offence involving dishonesty.”

D:

“Where appropriate, institute criminal proceedings and carry out any necessary functions incidental to instituting criminal proceedings relating to any offence contemplated in paragraphs A to C.”

10 **CHAIRPERSON**: This may not necessarily be of relevance to what we are inquiring into, but I am interested to know how you read the “or” between high profile and complex corruption in paragraph A of the section. How do you read that “or”? Do you read it literally as “or”, which would be problematic, or do you read it as “and”, which would also still be problematic? If it is the former, it would be problematic to investigate cases purely because they are high-profile, even if they are not serious, but at the same time, if you read it as “and”, the problem there would be a
20 case can be high-profile, but not necessarily serious. I do not know whether it is an interpretative exercise that you ever bothered to look into.

ADV JOHNSON: Chair, if I am in the right place, we are referring to paragraph A?

CHAIRPERSON: Yes, A.

ADV JOHNSON: Yes, relating to serious, high profile or complex corruption, commercial or financial crime cases.

CHAIRPERSON: Oh, so, oh, the “high profile” goes with the “serious” that comes before.

ADV JOHNSON: It goes with the “serious” that comes before ...[intervenes].

CHAIRPERSON: But what if it is not high profile?

ADV JOHNSON: Then ...[intervenes].

CHAIRPERSON: It may be serious, but not high profile.

10 **ADV JOHNSON:** Then it remains a serious or complex corruption, commercial ...[intervenes].

CHAIRPERSON: Anyway, let us not bother. It is something that has exercised my mind and ...[intervenes].

ADV JOHNSON: I appreciate that.

CHAIRPERSON: Ja, all right. Thank you.

ADV BALOYI SC: Advocate Johnson, good morning.

ADV JOHNSON: Morning.

ADV BALOYI SC: In similar vein, can I just ask, how do you read B and C, which this part, relating to additional
20 related offences and the similar wording in C? Do you read them to have any relationship with A, with what is specified in A, or you read and operate on the basis that they are self-standing different kinds of offences?

ADV JOHNSON: We have read them to be self-standing offences in addition to.

ADV BALOYI SC: So, just to make sure I understand, so you can investigate or you do investigate a case of fraud, even if it is not a serious, high-profile, complex corruption, commercial or financial matter.

ADV JOHNSON: That is correct.

ADV BALOYI SC: Thank you.

CHAIRPERSON: Another problem that was raised by my colleague, Commissioner Baloyi, with Colonel Padayachee relates to the concept of specified offence, which appears a
10 number of times in the Act and it is supposed to be a defined term in accordance with section 1. But what would have assisted with a definition, which is what was a subsection (1) in whatever the relevant section is, 7(1), it would have been a 7(1), that has been repealed, it is deleted, and you see dot, dot, dot there, which effectively means that there is no definition of what a specified offence is, and yet the Act is replete with references to specified offence, which suggests that there may be a problem there as well. I do not know whether this is something that the
20 NPA has ever applied its mind to, or are we perhaps misreading the Act?

ADV JOHNSON: The 7(1) in terms of the specified offences was deleted and we have the 7(1A). And we did raise that that seems to have been an error in deletion. It was an error by the Legislature and the specified offences

should not have been deleted ...[intervenes].

CHAIRPERSON: Yes, but ...[intervenes].

ADV JOHNSON: But we are working on what we have.

CHAIRPERSON: Ja, for completeness on what I said, here is the definition in section 1, the definition of specified offence.

10 “Specified offence means any matter
which, in the opinion of the Head of the
Investigating Directorate, falls within the
range of matters as contemplated in
section 7(1) ...”

And then it goes on. Then you go to 7(1),
expecting what is ...[intervenes].

ADV JOHNSON: Specified.

CHAIRPERSON: Ja, that cross-referencing to have a
meaning or to complete the definition, when you go to 7 and
then there is indeed the 1, the bracketed 1, but then the
dot, dot, dot I referred to, the effect of which is that the
definition is incomplete, ja.

20 **ADV JOHNSON**: It is.

CHAIRPERSON: So I think that is something that the NPA
needs to address and have, or rather attend to or initiate an
amendment to the Act. Anyway ...[intervenes].

ADV JOHNSON: I take note, Chair.

ADV BALOYI SC: Can I just follow up on this. The

deletion is in August 2024. Since then, and you say there has been a recognition that it was a mistake, has there been any, any moves afoot to legislate it back into the Act, the deleted part, in whatever form. Is there anything happening there?

ADV JOHNSON: Commissioner Baloyi, may I come back with that response because it is dealt with by a separate legislative section in the NPA. And when we do find shortcomings, we do escalate to them for their engagements
10 with the Department of Justice.

ADV BALOYI SC: All right, you can come back ...[intervenes].

ADV JOHNSON: And I will give you a correct answer.

ADV BALOYI SC: All right, thank you.

CHAIRPERSON: Ms Sello.

ADV SELLO SC: Thank you, Commissioners. You may proceed with your statement, Advocate.

ADV JOHNSON: Paragraph 9:

20 “Having identified the mandate of IDAC, I
now turn to the charges against
Lieutenant General Khumalo and co-
accused.

B: The charges against Lieutenant
General SD Khumalo.”

Paragraph 10:

“A charge sheet is a public document. Thus, as opposed to regurgitating its content, I should do no less or more than to refer the Commission to the charge sheet. A true copy of his charge sheet is attached hereto and marked AJ1.”

Paragraph 11:

10 “The charge sheet concerns not only Lieutenant General Khumalo, but his co-accused as well. In the charge sheet I emphasize and draw the attention of the Commission to the charges which each of the accused persons, Lieutenant General Khumalo in particular, is facing. The Commission will note that they are facing, among others:

20 11.1 Contraventions of the provisions of section 4(a) of the Prevention and Combating of Corrupt Activities Act, 12 of 2004;

11.2 Contraventions of the provisions of section 4(b) of the Prevention and Combating of Corrupt Activities Act, again 12 of 2004; and

11.3 Fraud and other related offences.

C: The arrest of Lieutenant General Khumalo. The evidence before this Commission is that Lieutenant General Khumalo was arrested in a dramatic fashion. Nothing can be further from the truth. It is important that I address this aspect as well.”

Paragraph 13:

10 “Lieutenant General Khumalo was arrested on 26 June 2025 at Oliver Reginald Tambo International Airport, ORTIA. Only two senior criminal investigators within IDAC were tasked with the exercise and affected his arrest. It was Mr Suneel Bellochun and Ayan Dambalo (the investigators).”

If I may then pause here, Commissioners and Advocate Sello, to go to the last statement, statement number 3.

20 **ADV SELLO SC:** You deal with that correction at your paragraph 10.1.

ADV JOHNSON: That is correct. So, paragraph 14, as it reads ...[intervenes].

ADV SELLO SC: Before we do so, what do you suggest? Are you going to amend some parts of that paragraph of the

current paragraph 14 of the main statement, or are you proposing an entire deletion of that paragraph and substitution?

ADV JOHNSON: An entire deletion of that paragraph as well as paragraph 15.

ADV SELLO SC: Thank you.

ADV JOHNSON: Because they should read correctly and as they currently stand in the original affidavit, they do not read correctly.

10 **ADV SELLO SC:** Okay, then let us deal with the first.

ADV JOHNSON: Paragraph 14 of the original affidavit to be deleted and to read as it does in paragraph 10.1 of the third statement. I say in 10.1:

20 “Paragraph 14 must be replaced and should read as follows. Lieutenant General Khumalo was arrested after he had landed at the Oliver Reginald Tambo International Airport, ORTIA. I do not recall where he was travelling from. I was informed that, at the time, his co-accused had already been invited to report to the Brooklyn Police Station.”

That is the correction.

ADV SELLO SC: Noted.

ADV JOHNSON: I therefore ask as well that paragraph 15

of the original affidavit, Commissioners, be deleted and to read as it does in paragraph 10.2 of the last affidavit, wherein I state:

“Paragraph 15 must be replaced and should read as follows. The investigators went to ORTIA to inform General Khumalo that there was a warrant for his arrest and for him to hand himself over. They had a warrant of arrest for him. Warrants of arrest had also been sought and obtained for his co-accused before they were requested to hand themselves over at the Brooklyn SAPS.”

Those are the corrections, Commissioners, to paragraphs 14 and 15 of the original affidavit.

ADV SELLO SC: Noted. Thank you. We may proceed with your statement.

ADV JOHNSON: If I could just have some water. Thank you. Paragraph 16:

“Upon finding him at ORTIA, the two investigators explained who they were, why they were there, why he was sought, and what his rights were. They then asked Lieutenant General SD Khumalo to accompany them to Brooklyn Police

Station in Pretoria. He cooperated and was taken there. There was nothing dramatic about it.”

17:

10 “At all times during his arrest, Lieutenant General Khumalo's security detail was with him. He was not threatened and was accorded all the respect that could be accorded a person of his profile. On the way from ORTIA to Brooklyn Police Station, the investigators had occasion to stop and get something to drink from a filling station at the request of Lieutenant General Khumalo for himself.”

Paragraph 18:

20 “Once Lieutenant General Khumalo had been processed at Brooklyn Police Station, he personally thanked Chief Investigator Perumal for treating him and the other co-accused in a respectful and dignified manner. This talks to anything but the conduct of a unit that is motivated by ulterior motives other than to address alleged criminality.”

Paragraph 19:

“I would be remiss if I do not dismiss the suggestion that Lieutenant General Khumalo was arrested because he was the coordinator of the Political Killings Task Team (PKTT). This suggestion is anything but true. It is false as it is unfortunate. The truth is that IDAC was investigating Lieutenant General Khumalo in his capacity as the Divisional Commissioner of Crime Intelligence for alleged unlawful conduct that manifested itself in the execution of his duties in that capacity.”

Paragraph 20:

“The fact that Lieutenant General Khumalo also held another portfolio in relation to the PKTT was not within our knowledge. At no stage was I, as the Head of IDAC, aware that Lieutenant General Khumalo had anything to do with the PKTT, let alone being its convener. In any event, even had I been aware of same, such would have been irrelevant because of the reasons for his arrest. I have attached it to this affidavit and

therefore placed his charge sheet at the disposal of this Commission.”

Paragraph 21:

“The charges fall within the mandate of the IDAC. The allegations concerning Lieutenant General Khumalo and co-accused came to the attention of IDAC by way of a referral that was made in terms of section 27 of the NPA Act.”

10

22:

“Section 27 of the NPA Act provides that:
‘If any person has reasonable grounds to suspect that a specified offence has been or is being committed, or that an attempt has been made or is being made to commit such an offence, he or she may report the matter in question to the Head of an Investigating Directorate by means of an affidavit or affirmed declaration specifying:

20

- (a) The nature of the suspicion;
- (b) The grounds on which the suspicion is based; and
- (c) All other relevant information known to the declarant’.”

Paragraph 23:

“The referral was made by Mr Fadiel Adams (Mr Adams). It was not treated any differently. It was supervised and overseen like any other.”

CHAIRPERSON: What do you mean by supervised and overseen?

ADV JOHNSON: When a section 27 matter comes in, they sometimes come directly to the office of the Investigating
 10 Director or the Investigating Directorate has a Head of Operations, which is Mr Matthew Sesoko, and section 27’s may go there. The matters are considered either first by the ID, but given that these matters may be voluminous, my office almost invariably refers them to Mr Sesoko for his perusal of the matter and for a summation on whether or not it falls within the IDAC mandate. He will then bring the entire matter to myself for me to then peruse the matter, consider his recommendation. If the matter falls within the mandate of IDAC, that matter is then, Commissioners,
 20 allocated to a team. And when I say team, there are various teams in IDAC, led by Deputy Directors of Public Prosecutions and then comprising advocates and prosecutors of different ranks, criminal and financial investigators and project managers and they then will take this matter, consider it and then bring an application where

they agree that it falls within the mandate of IDAC as per what we have suggested, an application for an authorization for an investigation. That comes out of the team to whom the matter is referred.

CHAIRPERSON: Oh, so there are what, is Mr Sesoko also an advocate?

ADV JOHNSON: Mr Sesoko is an investigator.

CHAIRPERSON: Investigator.

ADV JOHNSON: Yes.

10 **CHAIRPERSON:** All right.

ADV JOHNSON: So what it does do is I have an investigator who looks at it and then me as the Investigating Director and being the advocate, we have a more holistic view having two sides to it. So whilst that final decision may rest with my office, it has been more practical to have his view and his insight and then the final decisions that do come out of the office of the ID.

CHAIRPERSON: So your decision that there should be an investigation always comes after a recommendation has
20 been made by the level of ...[intervenes].

ADV JOHNSON: Mr Sesoko.

CHAIRPERSON: No, I thought you said it is Mr Sesoko, Mr Sesoko comes to you. From you, it goes to, I thought, maybe more than one person who then come back to you.

ADV JOHNSON: No, sir.

CHAIRPERSON: All right.

ADV JOHNSON: It would come to me.

CHAIRPERSON: Yes.

ADV JOHNSON: Go to Mr Sesoko. Once it comes back and he, it is part of his recommendations that yes, it falls within the mandate, I myself go through the matter to either endorse that decision or where I disagree, we engage. After that, the 27 goes to a team.

CHAIRPERSON: For what purpose? It goes to, that is the
10 team I was referring to just now.

ADV JOHNSON: That is ...[intervenes].

CHAIRPERSON: What does that team do? What does that team do?

ADV JOHNSON: That is the team that must now consider whether or not they can put together an application in terms of section 28 for an authorization of an investigation into certain allegations that they would identify, offences that they would identify and persons of interest and or entities of interest that become known through the 27.

20 **CHAIRPERSON:** Lastly, hopefully, what is the nature of your decision when you refer to the team? What decision would you have taken at that stage?

ADV JOHNSON: At that stage ...[intervenes].

CHAIRPERSON: Yes.

ADV JOHNSON: I would only refer it to a team where I do

agree that this matter falls within the mandate of IDAC.

CHAIRPERSON: So you – okay.

ADV JOHNSON: I do not give the, I just make a decision, it falls within the mandate. The matter then goes to them to dissect, to consider allegations, persons to be investigated, et cetera, for an authorization for the investigation.

CHAIRPERSON: I hope I am not sounding like I am probing at this stage. I just want to be clear in my mind as to what is going on at that stage. Can you refer us to the
10 Act, perhaps. When you refer to the team, are you able to refer in terms of what section in the Act you would be acting in referring to the team? And then also the team's involvement, in terms of what section in the Act would the team be acting for it to do whatever it is they would then do or they would be doing?

ADV JOHNSON: Chair, this is a, it has been more of a practical consideration so that it is not the Investigating Director who makes decisions around who must be investigated, what must be investigated. They bring the
20 application. The Investigating Director would then have to apply her mind to the application on what offences, persons, et cetera, must then be investigated. That then becomes my decision, or the Investigating Director's decision in terms of section 28 of the Act. It is a practical step.

CHAIRPERSON: So that you are not able to slot that practical step into a juristic act authorized by the Act itself, I am not saying it is unlawful just because you are not able to slot it into a particular section within the Act. I am not suggesting that at all. I just wanted to understand its juristic nature.

ADV JOHNSON: It is a practical consideration.

CHAIRPERSON: All right, okay.

ADV BALOYI SC: Can I just follow up on this. The, so
10 when Colonel Padayachee speaks of a committee, he spoke of a committee, an intake committee. I think that is a word, and he said that committee is the committee that makes the decision whether you would take on that matter. From how, what your description, that committee or that function that he was saying is of an intake committee, it is exactly what you say you and Mr Sesoko get to do.

ADV JOHNSON: He is incorrect about a committee. These are Chair, when you put to me about the juristic nature of things, after IDAC became permanent in August of 2024, we
20 realized that there are certain processes that one would have to put in place. We have been, we have come up with a draft operations manual, very much like where the police have standard operating procedures and it is in that draft operations manual, which is soon to be finalized, that you would find the suggestion of a committee. But there is not,

Commissioner Baloyi, a committee. I also do not consider myself or Mr Sesoko a committee of any sort. It is in terms of the functions that we have and for practical reasons that we were able to do it that way.

ADV BALOYI SC: Thank you.

ADV KHUMALO SC: Advocate Johnson, please just clarify paragraph 23 in terms of the timeline. We had a witness here two weeks ago, Mr O'Sullivan. In paragraph 1.8.3 of his witness statement, he takes credit for having referred
 10 this very case to IDAC, and he says it was in November. We also know from documents that we have that the Minister's office also in November, referred this very same case to IDAC. So for now, maybe we will come back to those later, for now, which one came first? Which of the three came first, was it Mr O'Sullivan or was it the Minister or was it Mr Adams? So when it first came to you, which one did you look at first and then gave to the people below you who were supposed to look at it?

ADV JOHNSON: The one I looked at first was the one by
 20 Mr Adams dated 21 November because it was the affidavit. I am unaware of any referral with regards this matter from Mr O'Sullivan. I do confirm that the Minister's office did write a letter to us, but I cannot recall Mr O'Sullivan being involved in this specific matter. I would, when we do go to his document, because I do not have, I know that we did

look at the letter from Minister, I think it is dated the 11th or so of November. And then there is the referral by Mr Adams dated the 21st of November, which is the 27th. I am unaware, Commissioners, in fairness, of any referral made by Mr O'Sullivan. None was made to my office. I do not know if he had conversations with somebody in IDAC, but in terms of actual referrals, those are the two documents.

ADV KHUMALO SC: So the Minister's letter came first?

ADV JOHNSON: The Minister's letter came first, yes.

10 **ADV KHUMALO SC:** And then Mr Adams' affidavit came after.

ADV JOHNSON: His affidavit came after.

ADV KHUMALO SC: And you say you are not aware of Mr O'Sullivan's referral.

ADV JOHNSON: That is correct, Chair.

ADV KHUMALO SC: All right. Thank you.

ADV BALOYI SC: And with the Minister's letter have come in November as well.

ADV JOHNSON: That is correct.

20 **ADV SELLO SC:** Thank you.

CHAIRPERSON: Lastly on those initial steps, I just want to understand if you treat the question of the mandate, that is whether what is complained about falls within your mandate, whether you treat that differently from, if it is a referral that is coming to you, whether you treat it

differently from whether the section 27(1) jurisdictional facts have been satisfied. Do you treat the two as one and the same, or do you look at whether those jurisdictional facts have been satisfied as a different or additional step at all? I am asking this because what you have told us thus far is that between you and Mr Sesoko, what you look at is whether the mandate has been satisfied and I would have thought that the mandate relates to whether the offences fall within IDAC's mandate.

10 **ADV JOHNSON:** Correct, Chair.

CHAIRPERSON: And even though related, the jurisdictional facts would not, would be separate. How do you treat the two?

ADV JOHNSON: If we look at whether or not the section 27 makes out a reasonable suspicion of an offence, can we see on which or on what this is based and other additional information. It relates to, does the statement make out offences and therefore do those offences fall within the mandate.

20 **CHAIRPERSON:** I am asking because, again, I hope I am not sounding like I am probing at this stage, I am asking because you did not touch on that at all in the exercise, what you refer to as a practical exercise between you and Mr Sesoko.

ADV JOHNSON: Understood.

CHAIRPERSON: All right.

ADV SELLO SC: Thank you, Commissioners. You may
you may continue, Advocate.

ADV JOHNSON: I think I was at paragraph 23.

ADV SELLO SC: Yes ...[indistinct].

ADV JOHNSON: -:

10 “The referral was made by Mr Fadiel
 Adams (Mr Adams). It was not treated
 any differently. It was supervised and
 overseen like any other. There were four
 dockets that were relevant to the referral.
 Following the common established
 process, I sent a letter to the SAPS
 Divisional Commissioner of Detectives,
 Lieutenant General Senthumule,
 requesting the dockets.”

Paragraph 24:

20 “Following upon receipt of the dockets,
 the information contained therein was
 analysed. Thereafter, an investigation
 was undertaken. The investigation
 unearthed sufficient evidence to:

1. Conclude that there was reasonable
and probable cause for the prosecution;
and

2. Formulation of the charges against Lieutenant General Khumalo and his co-accused. The charges are contained in the charge sheet to which I have already referred above.”

25:

“I cannot not discuss the evidence.”

I think that is - I cannot discuss the evidence.

Apologies, the not is ...[intervenes].

10 **CHAIRPERSON**: So we delete the “not”.

ADV JOHNSON: Delete the “not”, yes.

CHAIRPERSON: I cannot.

ADV JOHNSON: I cannot not, it is either I cannot or it is not. Thank you, Commissioner.

20 “I cannot discuss the evidence that will be led when the trial of Lieutenant General Khumalo and his co-accused gets underway or the merits of the criminal case against them. The *sub judice* rule precludes me from doing so. Be that as it may, I may indicate that there was a series of matters referred to IDAC in terms of the section 27 by one Mr Adams. When the whole picture is presented, they include the following:

25.1 The manipulation of recruitment processes and appointment of persons without suitable qualifications into senior strategic posts in the Criminal Intelligence Unit.

10 25.2 The bypassing of vetting processes, which, among others, manifested itself in the failure to apply for and get top-secret clearances where required, a standard requirement for Crime Intelligence Unit personnel, especially senior appointments; and

25.3 The appointments of persons not suitably qualified and or experienced as a form of gratification for their collusion later in the looting of state funds, for example, the purchase of properties.”

26:

20 “As I indicate somewhere towards the end of this affidavit, I intend to apply for leave to testify before this Commission. If leave to do so is granted, I will get an opportunity to expand on the issues to which reference is made above. State capture is a type of systemic political

corruption in which private interests significantly influence a state's decision-making processes to advantage and or benefit of certain individuals.”

27:

10 “When one looks at all the cases referred to IDAC by Mr Adams, they depict the capture of systems and processes for private interests by the Head of CI and other senior managers. This too is an issue I intend to testify about should I be granted leave to.”

28:

20 “The picture that has emerged is that the appointment and installation of certain persons in certain positions within the Crime Intelligence Unit, CIU, by Lieutenant General Khumalo and his co-accused persons helped them strategically to access funding without following proper processes. This is because the token appointments would not stop them from their unlawful acts.”

CHAIRPERSON: Sorry, you refer to persons in the plural. The picture that has emerged is that the appointment and

installation of certain persons in certain positions and it goes on, the only complaint I am aware of, I may be mistaken, is the complaint about the appointment of Brigadier Mokwele. Are there any other appointments in respect of which there are complaints?

ADV JOHNSON: So the appointments are in terms of other persons that are not in that specific leg of investigation.

CHAIRPERSON: So there are other names besides Brigadier Mokwele?

10 **ADV JOHNSON:** Yes, but not in that specific leg, but arising out of the complaint by Mr Adams.

ADV KHUMALO SC: Sorry, maybe you are missing the Chair's question. Was there a referral to IDAC in respect of other people or other positions?

ADV JOHNSON: When we got the referral from Mr Adams and it was given to the prosecutors together with those dockets, they were able to identify that there are issues relating to vetting and appointments. The appointment of Brigadier Mokwele was one of them, but the other, there
20 are, I think there is one other matter where the issue of an appointment is also part of the complaint, a part of the investigation that was dealt with.

ADV KHUMALO SC: You are still not answering, Advocate Johnson. Was there a referral to IDAC in respect of other positions other than Ms Mokwele or Brigadier Mokwele?

ADV JOHNSON: Not out of this, no.

ADV KHUMALO SC: So to the extent that IDAC went and looked at other people who were “strategically placed”, it is IDAC that decided to do that. There was no referral saying there are people who are strategically placed within Crime Intelligence, investigate how they were placed there.

ADV JOHNSON: Commissioner Khumalo, to explain perhaps as follows. I do not know whether I am using that, it is not a complaint about an appointment, as in a new
10 appointment. Perhaps it is a complaint about the placement of a person in a position that arose out of the non-compliance with the vetting positions. So it is not, the only complaint about an actual appointment was the Mokwele, that were, the allegation is she should not have been appointed.

ADV KHUMALO SC: So then there is no complaint to IDAC about appointment and installation of certain persons, plural.

ADV JOHNSON: No, it is a person.

20 **ADV KHUMALO SC:** Person.

ADV JOHNSON: I correct myself. Thank you.

ADV BALOYI SC: And that person is Brigadier Mokwele?

ADV JOHNSON: That was the only one that I am aware of that was referred to as an appointment. Thank you.

ADV SELLO SC: Thank you. Please proceed.

ADV JOHNSON: I am at paragraph 29.

ADV SELLO SC: Yes, according to me, that is where you are too.

ADV JOHNSON: Thanks. Paragraph 29:

10 “This is what IDAC, upon looking at all
the matters holistically, established.
However, if one looks at an individual
case, this bigger and clearer picture does
not emerge. When looked at holistically,
the cases depict state capture, fraud,
corruption, and defeating the ends of
justice.”

ADV SELLO SC: Advocate, before you go to paragraph 30,
perhaps in line with the correction you just made at
paragraph 28, we need to revisit the conclusion of that
paragraph. You state that this is because their token, their
token appointments would not stop them from their unlawful
acts.

20 **ADV JOHNSON:** This is because their token
...[intervenes].

ADV SELLO SC: Yes.

ADV JOHNSON: Appointment would not stop.

ADV BALOYI SC: So the token appointment is Ms,
Brigadier Mokwele's appointment.

ADV JOHNSON: Yes, it would not stop her unlawful acts,

her from unlawful ...[indistinct]. I will, am I then reading correctly?

ADV SELLO SC: Yes, no, no, I thought that amendment is necessary in light of the change you had made from, to the start of that paragraph that you are not talking about ...[intervenes].

ADV JOHNSON: [Indistinct]... [cross-talking].

ADV SELLO SC: ... persons, is only one person.

ADV JOHNSON: So then that last line, Commissioners, of
10 paragraph 28 would read:

“This is because the token appointment
would not stop her from unlawful acts.”

ADV SELLO SC: Thank you. Then on paragraph 29, the one you just read, this is what IDAC, upon looking at all the matters holistically, established. Just for clarification, I do not know if 29 flows from 28 because you were speaking about persons in the plural, whether the matters referred to in 29 are matters in respect of the plural in 28, or whether these are matters arising from your investigations following
20 the receipt of the section 27 affidavit from Mr Adams. Where do we land? And it becomes particularly relevant after we have effected changes to 28.

ADV JOHNSON: Yes, the paragraph 28 is in the singular.

ADV SELLO SC: Yes.

ADV JOHNSON: IDAC then looked at all the matters

arising out of that referral.

ADV SELLO SC: Okay.

ADV JOHNSON: And holistically established as one indicates then in paragraph 29.

ADV SELLO SC: So it is all matters arising out of the referral.

ADV JOHNSON: Correct.

ADV SELLO SC: I am with you. Thank you. Oh ja, it is pointed out to me, and I did caution this would happen, you
10 have a correction at paragraph 27, which we forgot about now.

ADV KHUMALO SC: It corrects 30. It corrects a different paragraph, maybe that is why it was skipped.

ADV SELLO SC: Oh, that is why she ...[incomplete].

ADV KHUMALO SC: She is actually correcting paragraph 30. So there are two errors that need to be corrected.

ADV SELLO SC: Yes. So you, okay, the first error is that your correction itself is erroneous in a sense that you say at paragraph 11 you wanted to correct paragraph 27 of the
20 original statement, whereas in effect it is paragraph 30 of the original statement.

ADV JOHNSON: It is paragraph 30.

ADV SELLO SC: So the error had an error.

ADV JOHNSON: And my apologies about the error having had an error. Okay, okay, so we will ...[intervenes].

ADV SELLO SC: Which is then the next paragraph.

ADV JOHNSON: Yes, yes, correct. So I will read, Commissioners, with your permission, I will read paragraph 30 as is, because the correction is a numerical correction.

ADV SELLO SC: Thank you.

ADV JOHNSON: Paragraph 30 in the original affidavit:

10 “Once the investigation was concluded, I
 was briefed by the team that had
 conducted the investigation on behalf of
 IDAC. IDAC then applied for warrants of
 arrest against all the accused. I then
 prepared a prosecution memorandum and
 submitted same to the Director of Public
 Prosecutions responsible for the North
 Gauteng Division of the High Court, that
 is the office of the DPP, together with a
 draft charge sheet and a request for the
 enrolment of the matter.”

20 The correction comes in, wherein this accords with
 section, not 24(3), Commissioners, it is 24(2) of the NPA
 Act and that is the correction we sought in the latter
 affidavit, paragraph 11.

ADV SELLO SC: Correction effected, duly effected. I say
the correction duly effected.

ADV JOHNSON: Thank you. Thank you.

ADV SELLO SC: You say this accords now with section 24(2) of the NPA Act. It also serves two purposes, if you could just speak to the purposes that you address in subs (1) and (2) of paragraph 30.

ADV JOHNSON: Paragraph 30.1:

“The first is that the DPP is a measure for checks and balances.”

And 30.2:

10 “The second is so that the relevant Director of Public Prosecutions may grant permission for and or agree to the enrolment of the matter. Unless satisfied on the information given to him or her that there is a reasonable and probable cause for the prosecution, the DPP will not place a matter on the role of criminal cases.”

ADV SELLO SC: Thank you. Before you go to 31 ...[intervenes].

20 **CHAIRPERSON:** Which Advocate Johnson will go to after the tea adjournment.

ADV SELLO SC: Okay.

CHAIRPERSON: Let us adjourn and resume at 11:35.

ADV SELLO SC: Thank you.

INQUIRY ADJOURNS

INQUIRY RESUMES

ADV SELLO SC: Thank you, Chair. Before we continue with Advocate Johnson's statement, I will report back on some housekeeping and administrative issues that I raised in the morning. Insofar as the subpoenas are concerned, Chair, I can report back that the measures have been put in place to ensure that the Commission receives the documents requested in terms of all these subpoenas.

As to exactly when they shall be available, I am not
10 in a position to say we are hoping before the close of business or before we have to deal with those aspects in Advocate Johnson's testimony that triggered the need to issue the subpoena or the need for the documents. That is the first. The second issue relates to Advocate Johnson's third statement.

We, by we, I mean Advocate Bodlani and I have discussed the matter, and the issue is the witness, after the witness has finished dealing with that statement, we will briefly address you as to the position we assume as
20 evidence leaders in regard to the issues that she wants to invoke the right not to self-incriminate and how she approaches it, and Advocate Bodlani will have a say on the matter.

So it is really more about how the issue is dealt with during the course of her evidence than a refusal to

testify at all. But it makes sense, I think it only makes sense if we address it after she has spoken to her third statement, otherwise things become a bit confusing. What we propose to do is to complete her first statement, deal with the second, then the third, and then we address the self-incrimination issue. Thank you, Chair.

CHAIRPERSON: Thank you, Ms Sello.

ADV SELLO SC: Thank you, Chair. Advocate Johnson, I trust you followed my engagement with the Commissioners
10 regarding the treatment of your third statement.

ADV JOHNSON: I have, thank you.

ADV SELLO SC: So what I propose we do, we continue with your first statement, we take it to the end, and then quickly deal with your second statement and the third statement, and thereafter then we will discuss the matter of self-incrimination. Just before we broke for tea, you had just completed your paragraph 30, having dealt with the SAPS 30.1 and 30.2. Before we go to your paragraph 30.1, at paragraph 30 you say, once the investigation was
20 concluded you were briefed, you were briefed and you applied, IDAC applied for the warrant of arrest against all the accused. You say:

“I then prepared a prosecution memorandum and submitted same to the Director of Public Prosecutions.”

Now, at the time, a request was not made of you to provide such a memorandum because the assumption was that it would be found in the relevant docket. Having received the docket and engaged the investigator, Colonel Padayachee, on the contents thereof, that is one document that is not in the docket. My request to you, are you able to provide the Commission with that prosecution memorandum you referenced at paragraph 30, or, and I doubt, do you require the Commission to issue a subpoena to obtain same?

10 Thank you.

ADV JOHNSON: Commissioners, I will ask Advocate Mahga, as he is dealing with the other aspects of, these documents, are with the prosecutors in the matter and to kindly ask for the prosecution memo that is submitted to the office of the DPP prior to enrolment, which is what is referred to in terms of section 24, subsection 2 of the NPA Act.

ADV SELLO SC: Thank you so much. And I do know that it was prepared by you. You say, I then prepared. So it
20 should be difficult to locate, I believe. Thank you so much.

ADV KHUMALO SC: Advocate Sello, it may be that it is two documents. Maybe that letter on 2438 may help us, because then she should provide that entire bundle.

ADV SELLO SC: I agree, Commissioner Khumalo. Advocate Johnson, did you, did you hear the point that

Commissioner Khumalo makes? There is a letter in the files regarding proceeding with the prosecution. And it is a letter from the prosecutor confirming what was submitted to the prosecutor and the position assumed by IDAC in respect of this intended prosecution.

Commissioner Khumalo suggests that much as you reference a specific document in paragraph 30, it could potentially be a series of documents that speak to the issue. And to the extent that that is the case, to please
 10 provide all the documents and not only confine yourself to the specific document referenced in paragraph 30. So it may be one, two, or five documents, and basically the request is to provide all.

ADV KHUMALO SC: Advocate Johnson, it is correspondence dated 25 June 2025, and the Acting Director of Public Prosecutions references your correspondence dated 24 June 2025. And then annexed to that was the consultation note, and I guess the memorandum, or maybe it is the same thing, consultation
 20 note and the memorandum. And then he says:

“Having considered the contents of all this documentation...”

So I am assuming it is not just one document, then says:

“I am satisfied that a *prima facie* case has been made out, and then I concur with

your decision...”

And I am assuming there would be a decision of yours recorded in some document. So it would be those documents, because that would complete that paragraph 30 of your statement. Can you just make a note in your file, it will be in file 6, on page 2438.

ADV SELLO SC: Thank you, Commissioner Khumalo. Advocate Johnson has duly made a note of that.

ADV JOHNSON: I have made a note, and there is no
10 objection to them being provided. They actually do just form, they are not a different set, they form a set. It is writing a letter to the DPP, saying this is what I attach, this is the purpose, and then you send that through, and then you get this response, Commissioner Khumalo, that you referred to.

ADV SELLO SC: Thank you. We may then, I think now go on to your paragraph 31 at page 10, and you can take your statement from there.

ADV JOHNSON: Thank you, Commissioners. Paragraph
20 31:

“31. When I joined the Investigating Directorate (ID), predecessor to the IDAC, there were already several complex fraud and corruption matters in place. These matters

implicated very senior member of SAPS in alleged criminality. This was especially so in the supply chain management unit of the SAPS. Some of these matters were enrolled in various Courts.

10 32. The accused in those matters included, amongst others, then Acting National Police Commissioner General Phahlane, General Ngwenya, who was our first black female Deputy National Police Commissioner in the SAPS, and also at the time, the wife of Lieutenant-General Shadrack Sibiya, General Nematunzela, who was the Head of Analysis at Crime Intelligence, and various other very senior SAPS officials.”

20 **ADV SELLO SC:** Before you proceed, I think for my understanding, when you submitted this statement, you were responding to specific Rule 3 issued by the Commission. Of what relevance is the contents of paragraph 32 to that Rule 3? You do not say anything about that beyond this point. So, just to check, at what

point you were seeking to put across?

ADV JOHNSON: So, it is to indicate that IDAC had other matters, that it was investigating against senior members of the South African Police, which matters I found were already within that space when I arrived, and that those matters related to the supply chain management issues, and that the officials mentioned in 32 are of the officials that were charged in the various Courts on these matters.

ADV SELLO SC: And just to be clear, are the facts arising
10 from any of those matters or investigations conducted in those matters, do they have any impact on what you have been dealing with, which is the arrest of General Khumalo in the current matter?

ADV JOHNSON: No, it was just merely to indicate that there were other matters of also senior police officials within the SAPS environment.

ADV SELLO SC: Understood. Thank you. We may then go to your paragraph E.

ADV JOHNSON: Paragraph E.

20 "Other issues raised by Mkhwanazi.

33. Mkhwanazi also testified, that is General Mkhwanazi, also testified IDAC sought to get involved in matters involving syndicates in Gauteng. He is incorrect on the

submission.

34. He alleges that he does not understand why IDAC was getting involved in the matters of Molefe and Matlala, as this was dealt with by the PKTT and Gauteng Organised Crime.

35 IDAC is not involved in any investigation relating to Molefe. With regards to Vusimusi “Cat” Matlala (Matlala) IDAC's only interest arose out of a section 27 referral from SAPS with regards to the unlawful awarding of a tender to his company, Medicare 24, and allegations of collusion and corruption with Matlala and some SAPS officials.

IDAC did get cyber search warrants for the cell phones and electronic devices of Matlala. These were presented to IDAC by a Lieutenant Colonel Khumalo. The data was downloaded in his presence and he left with the devices. The information is sought in relation to

the tender matter.”

ADV SELLO SC: Before we leave paragraph 35, insofar as Mr Matlala's case is concerned, do I understand you correctly that that was triggered by a different section 27 referral received from SAPS? It is not the section 27 referral that we have been discussing received from Mr Adams.

ADV JOHNSON: That is correct.

ADV SELLO SC: This is a different one.

10 **ADV JOHNSON:** It is a section 27 referral entirely based only on allegations against Matlala, irregular awarding of a contract, Medicare 24, and it is from someone completely different and does not relate to the one we have been discussing or the one we have been discussing about Mr Adams.

ADV SELLO SC: On the basis of what we discussed regarding paragraph 32, where you introduce other cases, General Phahlane and them, for the sake of completeness, are you able to provide the Commission with that particular
20 section 27 referral? So we too can have the benefit of a full picture of the matters that IDAC is dealing with insofar as SAPS is concerned. May I add that section 27 affidavit to the list of documents that IDAC will be providing to the Commission, hopefully by tomorrow morning?

ADV JOHNSON: Not for not wanting to help the

Commission. I would just ask for a quick engagement once we are done with these affidavits, just with my counsel, in terms of this matter, which is in Court at the moment and for which... I think, though, if you deal with it, Advocate Sello, on the basis of how you have dealt with the other 27 and the status of where that case is vis-à-vis where the Khumalo matter is, then we would have to disclose the section 27. I think the logic follows. I just hope I am making logical sense that on the basis of the one, I am
10 trying to find where the preclusion would be given the status of where these two matters currently lie.

ADV SELLO SC: May I suggest this? That there are two issues you are raising. One is availing a document to the Commission, and the second is the treatment of that document by the Commission in open hearing. Those are two distinct issues. I am still on the first. So I am not sure I understand why you would want to confer with your counsel about providing the section 27 referral you reference here. Would that potentially be a challenge?

20 **ADV JOHNSON:** It is not.

ADV SELLO SC: And if so, what would be the challenge?

ADV JOHNSON: It is not the providing.

ADV SELLO SC: And I distinguish that from how then, after receipt, the Commission engages with that particular document.

ADV JOHNSON: Correct. Yes. It is just to engage on how the Commission would deal with the document. But a document shall be provided. It is that way we will end.

ADV SELLO SC: Yes. Okay. Thank you. I think your second request is reasonable. We can confer with your counsel, and to the extent that it is necessary, he and I will engage on such matters. By the time we appear before the Commissioners on that particular document, we will have hopefully a common position.

10 **ADV JOHNSON:** Noted.

ADV SELLO SC: Thank you. You may proceed.

ADV JOHNSON: Paragraph 36.

“26. The point to all of this is that there is nothing new with sound allegations of malfeasance, fraud, and corruption, implicating the top brass in the SAPS. Not only has it happened in the past, when some of those cases were presented to the
20 Courts, we secured convictions.”

The conclusion ...[intervenes]

ADV SELLO SC: Before you reach your conclusion, you say we secured convictions. I read that to be we IDAC.

ADV SELLO SC: IDAC, and then also in terms of myself at the time when I was still prosecuting, if we took the Selebi

matter, we also had another matter where the CFO of Crime Intelligence, Major General Solly Lazarus, had been charged and prosecuted. I was one of the prosecutors on that matter, but halfway through, I was gone to a different office, but he was also convicted. And then there are IDAC matters I would have to refer to.

ADV SELLO SC: I understand the distinction you draw. Which are the IDAC matters where you have secured convictions? Specifically IDAC. Are you able to recall them
10 off the top of your head?

ADV JOHNSON: No, when I talk about we secured convictions, I am not talking about the IDAC per se. It is the matters in which I myself was involved as part of a team. Relating to the top brass. The ones in IDAC currently are matters that are either part heard or matters set down for trial. They are not finalised yet.

ADV SELLO SC: So we should not read the we in paragraph 36 as inclusive of IDAC.

ADV JOHNSON: It is exclusive of IDAC.

20 **ADV SELLO SC:** Thank you. You may then go to your paragraph 37.

ADV JOHNSON: Paragraph 37.

“37. I cannot end this affidavit, without
pointing out the adverse effects that
I personally have had to endure

since immediately just before the
arrest of Lieutenant-General
Khumalo and co-accused was
effected before 26 June 2025.”

ADV SELLO SC: May I suggest, I think we have a
correction.

ADV JOHNSON: Yes, there is a typo. Have to endure...

ADV SELLO SC: Since before.

ADV JOHNSON: Have had to endure since the arrest of.

10 **ADV SELLO SC:** Since the arrest or immediately just
before the arrest?

ADV JOHNSON: Yes.

ADV SELLO SC: So I, it makes sense to me when I
replace the ‘of’ with ‘or’.

ADV JOHNSON: Yes.

ADV SELLO SC: I think that was what was intended.

ADV JOHNSON: Correct.

ADV SELLO SC: Thank you.

ADV JOHNSON: Was effected before 26 June.

20 “I received a death threat directly on
my cell phone. It read:
“Mrs IDAC, you and your guy
Chabalala, Perumal, Padayachee, and
Belochan have went too far. You are
going to wish you did not...””

I think everyone that has a document can read that word.

ADV SELLO SC: Yes.

ADV JOHNSON:

“...with us, get body bags ready.”

38. In my long career as a prosecutor,
this is the first time that I received a
death threat. The NPA has put
several measures in place to secure
myself and other colleagues.”

10 **ADV SELLO SC:** Before you move from that topic, this
sounds like a serious threat. Did you, by you I mean IDAC,
did you cause for the matter to be investigated to get to the
bottom of this threat. I do appreciate that measures have
been put in place to secure your safety and the safety of
your colleagues, but I am more interested in investigating
the matter and finding the source of the threat. Were such
steps taken, are you aware?

ADV SELLO SC: The matter was escalated to the Risk and
security Division of the NPA. They did follow up on that
20 message. It was one of those phones that did not have a
registered SIM card, so it sent a message and you could not
then go ahead and trace the user of the telephone.

CHAIRPERSON: The so-called burner phones?

ADV JOHNSON: That is correct, Commissioner. I am
aware, however, Commissioners, that later on they were

able to determine where a group from whom it might have come. And I am prepared to rather write that down because it might be a person who is also a subject at the Commission. And also what I did not put in the affidavit is, at the time it did not seem related, but what had happened is someone accosted my daughter and I at our gate. And we had lived there for almost 20 years and this had happened for the first time four days before.

And I think the only reason it alarmed me was when
10 the person walked up to the gate, he spoke to me immediately in Zulu. I mean, I am not sure on the basis of what, except for you would have had to know who I am and the words that followed sort of just gave it away. And when I got this message later in the week, it did make sense because when the person approached the gate, I asked my daughter to stand back. And from where I was, I said in English, can I help? And the person replied in Zulu [indigenous language] and I replied in English, I am so sorry, I do not know what you are saying. And then he said
20 in English, I want a lawyer.

And it is a fully residential area, but the way he was dressed, he walked off and he went down the road, stood on the corner of the road, and then you could see him making a call. And so we decided to just wait to be safe till he left. So, and then this came after, but that was the sequence of

those events, yes.

ADV SELLO SC: So where we land is the matter, at least, is still under investigation, simply because you have not given up on the threat somehow?

ADV JOHNSON: We have not, but the measures had been put in place to take care of me and my family, my colleagues, that were mentioned in this. One is a your guy, Chabalala is a prosecutor, Perumal Padayachee and Belochan are investigators.

10 **ADV SELLO SC:** Okay. Thank you. That then leads us to your paragraphs 39 to 42.

ADV JOHNSON:

“39. To date, there have been other incidents that have affirmed the validity of these threats, more especially to me.

40. It has affected my entire household.

41. I am hoping that this affidavit and the attachments to it, which I give to the Commission, will provide better insight into the workings of IDAC, the commitment of its people, and the fact that we are process-driven and consistent in our approach on all matters.

20

42. Should I be required to answer questions flowing from this affidavit and other matters in respect of which it has been determined that I would be of assistance to the Commission, subject to timeous notice and the right to legal representation, I would be willing to make myself available for such.”

10 **ADV SELLO SC:** Before we leave this statement, two things, starting with that very paragraph you have just read into the record, where you state, should you:

“...be required to answer questions flowing from this affidavit and other matters in respect of which it has been determined that I would be of assistance to the Commission, subject to timeous notice and the right of legal representation, I would be willing to make
20 myself available for such.”

My first question, you appear here today with legal representation, do you not?

ADV JOHNSON: Correct.

ADV SELLO SC: You have been provided with notice, it might be debatable whether timeously not, but notice has

been provided to you, different notices have been provided to you regarding matters flowing from your statement.

ADV JOHNSON: That is correct.

ADV SELLO SC: Are you then willing, as of today, to provide answers to these questions? Are we at the point where you are now willing to provide answers? You are not going to require of us to expect you to come back at a later date to deal with other questions?

ADV JOHNSON: Commissioners, I would like to deal with
10 whatever I can whilst I am here.

ADV SELLO SC: Okay. Similarly, at your paragraph 26, page 9, there you state:

“As I indicated somewhere towards the end of this affidavit, I intend to apply for leave to testify before this Commission. If leave is so granted, I will get an opportunity to expand on the issues to which reference is made above.”

Now, I am not aware of your application for leave to testify,
20 but you were served with a subpoena and you have responded to the subpoena and presented yourself.

ADV JOHNSON: Correct.

ADV SELLO SC: Do you consider yourself having been granted the opportunity to expand on the issues that you articulate in this statement and that you shall proceed to do

so?

ADV JOHNSON: Correct.

ADV SELLO SC: Thank you. Is there anything else you would like to draw the Commissioners' attention to so far as this first statement is concerned that perhaps is not directly reflected therein or requires some elucidation?

ADV JOHNSON: Perhaps I should just bring to the attention of the Commissioners that when this statement was done, Commissioners, it was in October of 2025, so the
10 charge sheet that was attached was the charge sheet as it was at the time. The charge sheet might have been amended, but these are not documents that I engage with because they are part of the prosecution process, but I did not want that there be any confusion. If this Commission is sitting perhaps with a different charge sheet, why do I have this? This is given as it was at the time in October when the statement was deposed to, so there might be a difference in the charge sheets the Commission might have as opposed to what is currently attached to this affidavit.

20 **ADV SELLO SC:** I must say we, as evidence leaders, did not conduct that exercise. We departed from the premise that is the same charge sheet and the reason being, as you may very well be aware, during our engagement with investigator Colonel Padayachee, we dealt with his affidavit to the application for the issue of arrest warrants and

attached to that affidavit is a charge sheet and that was prior to the arrest of the 26th off June. Yours coming as it does in October 2025, after the arrest in June 25, we assumed it is the same version of the charge sheet. Are you suggesting that there have been amendments to the charge sheet since?

ADV JOHNSON: No, I am not suggesting there may be amendments. I just want to clarify that this is what I have.

ADV SELLO SC: Okay.

10 **ADV JOHNSON:** And I am hoping that there is not something different before the Commission, to clarify this is what I had and what I attach.

ADV SELLO SC: I will have to come back on you, I will have to come back to you on that one. We have not made that analysis because we never assumed that we may be dealing with different versions of the charge sheet. So...

ADV JOHNSON: Okay.

ADV SELLO SC: Noted. Anything else? Are you ready to move to your second statement?

20 **ADV BALOYI SC:** Maybe before you move on to the second statement, just so that I understand where we land, Ms Sello has pointed out to you that paragraph 26, where you say if you are given leave to testify, you repeat it in paragraph 27, where you speak about the cases referred by Mr Adams, depict the capture of systems and process for

private interest, and this again you say, if you are given leave, you would testify more about it. So, in respect of both paragraphs, have you said everything that you, now that you have the, you are sitting there now, giving oral evidence, have you said everything that there is that you wanted to say about it, or you will still speak to what you say in those paragraphs?

ADV JOHNSON: I have said what I needed to say, but what I think I wanted to expand is I do appreciate that there
10 might be questions from the Commission, and where I am able to assist, I am happy to assist with responses to questions over and beyond what I thought I am supposed to allude to.

ADV BALOYI SC: Thank you.

ADV SELLO SC: Thank you, Commissioner Baloyi. If you have highlighted everything in regard to the first statement, perhaps then let us turn our attention to the second statement. It would be under your tab two, and it is the statement we confirmed is dated the 10th of July, 2026, and
20 it is a nine-page statement. This statement, Commissioners, will require us to go to the original Rule 3 or subpoena, because once again, as with Colonel Padayachee, the response to that subpoena cross-references the subpoena's paragraphs and approaches an ad paragraph, on the basis of an ad paragraph response, so

I will have to each time then read the specific paragraph that the witness responds to, and then we will deal with what you state in the statement in regard to that particular paragraph. That way, the future readers will know what it is you are responding to. Thank you.

ADV JOHNSON: Thank you.

ADV SELLO SC: Perhaps we will do it at this juncture. Copies of that subpoena have been prepared. If you could give the witness the subpoena, just put it to the side. It
10 becomes relevant when we get to paragraph 7 or paragraph 6, and then the Commissioners as well.

CHAIRPERSON: It will also be flighted.

ADV SELLO SC: It would be flighted, yes. So we will distribute that subpoena to the witness and the Commissioners, and we will prepare for its flighting. Thank you. I suggest we start with your second statement. We will sort out the logistics here of the subpoena in the meantime. Thank you.

ADV JOHNSON: Thank you.

20 “This is the supplementary statement of
 Advocate Andrea Johnson.”

Which we have referred to Commissioners as statement number 2.

 “I, the undersigned Andrea Johnson,
 hereby depose under oath as follows:

1. I am an adult female South African.
I am currently employed as the Investigating Director and Head of the Investigating Directorate Against Corruption, IDAC, a unit within the National Prosecuting Authority, NPA, established in terms of section 7(1)(A) of the National Prosecuting Authority Act 32 of 1998, (the NPA Act). I was appointed to this position by President Cyril Matamela Ramaphosa with effect from 1 March 2022 in terms of section 13(1)(b) of the NPA Act.
10
2. I have personal knowledge of the facts to which I depose in this supplementary affidavit. I file it in response to the subpoena served on me on 4 July 2026.
- 20 3. To the extent appropriate, I deal with matters arising from the evidence before the Commission. Where a matter is before Court under consideration by the prosecution team or outside my personal

knowledge, I state that limitation expressly.

4. In October 2025, I deposed to a statement submitted to the Commission in response to a Rule 3 notice. That notice required me to deal with the following issues on which Lieutenant-General Nhlanhla Mkhwanazi had testified.

10 4.1 That IDAC allegedly and unlawfully operates outside its mandate in terms of section 71A of the NPA Act as amended.

- 4.2 That IDAC allegedly pursued a criminal case against Lieutenant-General Khumalo and other officials at Crime Intelligence in the furtherance of ongoing political interference in SAPS.

20 5. On 4 July 2026, I was served with a subpoena in terms of section 32 of the Commission's Act 8 of 1947, requiring me to appear personally before the Commission on Monday 13 July 2026 to give evidence and to

be questioned about the following.

5.1 Matters arising from the evidence of Lieutenant-General Nhlanhla Mkhwanazi before the Commission on 17, 18, and 19 September 2025.

5.2 Whether criminal syndicates, organised criminal groups, politically connected persons, or other unlawful actors have infiltrated, captured, exerted undue influence over, or otherwise compromised the South African Police Services, SAPS, the NPA, the Directorate for Priority Crime Investigation, Crime Intelligence, IPID, or any other component of the criminal justice system.

5.3 The nature, extent, and consequence of such alleged infiltration, capture, corruption, or undue influence.

5.4 The identity of the individuals, officials, office bearers, intermediaries, entities, and organisations alleged to have been involved in, facilitated, benefited

from, concealed, or enabled such conduct.

5.5 The factual and evidentiary basis for any allegations attributed to me in relation to the alleged capture, corruption, and criminalisation of the components of the criminal justice system.

10 6. The subpoena further requires me to give evidence on the following matters under investigation.

6.1 Allegations that IDAC operates outside of its mandate in terms of the prescribed legal prescripts, namely section 7(1)(A) of the NPA Act as amended.

20 6.2 That IDAC has allegedly pursued a criminal case against Lieutenant-General Dumisani Khumalo and other officials at Crime Intelligence in the furtherance of ongoing political interference in SAPS.

6.3 Allegations concerning my role in interference in criminal investigations and prosecutions.

6.4 The effect of such conduct on the functioning, integrity, and independence of the criminal justice system.

6.5 Allegations concerning the existence of a Khan-IDAC cabal in SAPS and your role pursuing thereto, as made by Mr Thulani Shongwe during his evidence at the Commission on the 30th of June 2026.

10

6.6 My relationship with Major General Khan and allegations that you disclosed to General Khan a SAPS docket relating to an ongoing criminal investigation against him.

6.7 Any matter falling within the terms of reference of the Commission.”

ADV SELLO SC: You respond to all these issues listed above from paragraphs, your paragraph 6.1 to 6.7. You start at paragraph 8. Chair, if I might just confirm whether it is ready to be flighted. Ah. I do not know if the witness was provided with a copy. She was supposed to have one.

20

CHAIRPERSON: Nor were we.

ADV SELLO SC: Nor were you, Chair.

CHAIRPERSON: Are there not hard copies to be shared,

instead of the attorneys directly?

ADV SELLO SC: It transpires that, I understand it should be coming soon on the screen.

CHAIRPERSON: Let us continue.

ADV SELLO SC: I do apologise.

ADV JOHNSON: I am able to look at the screen for now.

ADV SELLO SC: And I will read out each before we deal with your response thereto, just to make sure that you have seen everything. What we have on the screen for the
10 record is a subpoena addressed to you at page 2. And you will see that, unlike with the one we referenced before, this is addressed specifically to you, and hence you deal with the issues raised therein in your statement. At the first issue you were invited to speak to ...[intervenes]

CHAIRPERSON: This has disappeared now.

ADV SELLO SC: I note, Chair.

CHAIRPERSON: Is it quick to resolve? I know you are not a technical person.

ADV SELLO SC: It should be, Chair. I am not sure I
20 understand what the challenge is. And when it comes up on the screen, I suggest going forward, we do not switch off the feed. We will scroll through the feed and deal with all these questions. Oh, just when I find a solution. Chair, the copies of the, please give to the Commissioners and to the witness. We will retain what we have on the screen for the

purpose of the public. Thank you, Chair. Apologies for that.

Ms Johnson, Advocate Johnson, to confirm this is the subpoena you referenced at your paragraph 6, it is dated, if you go to page four, or that is the four-page document, it is dated the 3rd of July, 2026, and you said it was served on you on the 4th of July, 2026.

ADV JOHNSON: Correct.

ADV SELLO SC: You confirmed that is the correct
10 subpoena.

ADV JOHNSON: Yes.

ADV SELLO SC: The first, under paragraph 2, you requested at paragraph 2.1:

“To give evidence as regards
allegations...”

And I read from the subpoena, quote:

“...allegations that IDAC operates outside
of its mandate in terms of the prescribed
legal prescripts, namely section 7(1)(A) of
20 the NPA Act as amended.”

Your response is at page, at paragraph 8 of your statement, starting at page 4. I think it will take you to paragraphs 8 to 10, if you could then give your response to that issue.

ADV JOHNSON: Paragraph 8, with a response to paragraph 2.1, states as follows:

“8. The IDAC operates strictly within its mandate. That mandate is set out in section 7(1)(A) of the NPA Act as amended.

9. It also considers matters referred to it and arising from the state capture, the Commissions that were colloquially known as the Justice Mpati and Justice Nugent Commissions, and any other matter referred to it by the National Director of Public Prosecutions.

10. IDAC has not dealt with matters outside its mandate.”

That is in relation, Commissioners, to 2.1.

ADV SELLO SC: Thank you. If then we could turn to paragraph 2.2 of the subpoena, which states that, and I quote:

“IDAC has allegedly pursued a criminal case against Lieutenant-General Dumisani Khumalo and other officials at Crime Intelligence in the furtherance of ongoing political interference at SAPS.”

End of quote. Your response to that starts at paragraph 11 to, it is paragraph 11 and it is subparagraphs. If you could

deal then with what you state at your paragraph 11. Thank you.

ADV JOHNSON: The response then at paragraph 2.2, ad paragraph 11:

“11. I deny these allegations. I expand on this denial as follows here under

11.1 IDAC has a *prima facie* criminal case against Lieutenant-General Dumisani Khumalo and other officials at Crime Intelligence. That matter was not pursued for any political purpose at the instance of any political actor or to advance any form of political interference within SAPS.

11.2 The investigation and prosecution have at all material times been dealt with through the ordinary prosecutorial processes applicable within IDAC and the NPA. The matter is presently before a court of law. In those circumstances, and because representations submitted by the accused are under consideration by the prosecution

team, it would be inappropriate for me in this affidavit to address the merits of the prosecution, the strength or content of the evidence, the contents of any docket or any matter that may properly fall for determination by the Court or the prosecution team.

11.3 ...[intervenes]”

10 **ADV BALOYI SC:** Before you move on, just to clarify, where you refer to consideration by the prosecution team, who is, what is the prosecution team? Maybe because I do not work in this space, my impression was representations are made to the National Director of Public Prosecutions.

ADV JOHNSON: If I could take Commissioner Baloyi a step back. So when the prosecutions are instituted, one of the legal remedies is once certain documents have been disclosed, accused persons can make representations based on what is disclosed to them in terms of the docket
20 plus the charge sheet. Step one is that those representations are first made through the prosecutors for the consideration either by DPP, in our instance by the ID.

If their representations are unsuccessful, they then have the further recourse to make representations to the Office of the National Director.

ADV BALOYI SC: So here you are still at that first step.

ADV JOHNSON: We are still at the first step with their representations having been received.

ADV BALOYI SC: Thank you.

ADV SELLO SC: Thank you, Commissioner Baloyi. You may proceed.

ADV JOHNSON:

10 “11.3 I say what is stated in the
preceding subparagraph, not so as
to avoid assisting the Commission,
but to protect the integrity of
pending proceedings, the
independence of the prosecution
function and the rights of the
accused persons. I emphasise,
however, that I have not been
directed, encouraged, permitted or
participated in any politically
motivated prosecution or
20 investigation against Lieutenant-
Colonel Khumalo or any crime
intelligence official.

11.4 Prosecutors independently evaluate
the evidence and make prosecution
decisions. I perform an oversight

function and am not involved in adjudicating the evidence in this and other matters. I have no insight into the dockets or the evidence contained therein.”

ADV SELLO SC: Before we leave the question and the response, just to clarify two issues for me. In paragraph 11.2, I am trying to appreciate what you are communicating there. In line 3, you say the matter is presently before a
10 court of law. That is a criminal trial. Then you say:

“In those circumstances and because representations submitted by the accused are under consideration by the prosecution team, it would be inappropriate for me in this affidavit to address the merits.”

My question is, it should have been at your instruction. Are we back to the invocation of the *sub judice* principle here, which is an application that had been made at the start of
20 this stream, but which has been determined by agreement between the evidence leaders and your legal representatives and communicated to the Commission, the Commissioners, the effect of which is that IDAC will not be invoking the *sub judice* rule. So I am trying to place your response here in its proper context because it would sound

like it purports to revive the invocation of that rule. Am I misreading? And if I am misreading it, please set me straight. Thanks.

ADV JOHNSON: Because there are already representations and they are made to the prosecution team, the prosecution team is adjudicating those representations based on the docket and the charge sheet. I do not know what the representations purport to allege. This process is still ongoing. And what had happened in the interim, and I
10 would have to make, Chair, you did ask earlier about this issue of the ID being removed from matters. What governed that or where is that?

I will send the email from the National Director to myself ...[intervenes]

CHAIRPERSON: Removed, not from office.

ADV JOHNSON: Not from office, but from the matter.

CHAIRPERSON: Removed in relation to or in respect of specific matters.

ADV JOHNSON: Yes. So I did find that email. I just have
20 to make it available to Advocate Sello where the NDPP then adds bits to that email. And it is on that basis. There is the representations that have been dealt with by someone. The National Director in the email also says, Advocate Sello, that there is a review to be held. And so my having asked to be removed and being released, when I do not want to

talk about it, it is not about just the *sub judice* per se, but I do not want to have anything that might unduly influence those matters, given I asked to be removed because of the controversies around myself in dealing with these matters. I am not sure if I make sense, except for that is how I...

CHAIRPERSON: But Ms Sello's question relates to your testimony here.

ADV JOHNSON: Yes.

CHAIRPERSON: And not to your quote-unquote removal in
 10 respect of the matters you refer to. So the issue is more about your attitude with regard to testifying insofar as those matters are concerned. And the direct question is, in respect of those matters, are you raising the *sub judice* rule, the effect of which would be that you will not be testifying in respect of those matters? That is the question. I am not sure that you have answered it.

ADV JOHNSON: I think it is not the not wanting to testify, if I could please be clear about that. It is I do not want that it is later on that what I have said has adversely influenced
 20 those matters given their current status. I would have to wait for the questions, I assume, which might be a more logical stance to take. Because these are out of my hands. I say something, they might... Maybe it is to put it simply, I do not want that later on there is an allegation that that which I said at the Commission either influenced the

outcome of the representations and/or the review process. That was the only thing. It is I do not want to be seen to influence. Not that I do not want to answer your questions.

CHAIRPERSON: I would assume that, yes, we will ask you questions that relate to current issues. For example, what your attitude is with regards to statutory prescripts, so that is current. I am not saying our questions with regard to the present will be limited to that. I am just making the point that, yes, there will be questions that relate to the present.

10 But I would imagine that most of the questions will be historical in nature. Why did you take that decision? Just by way of one example. So I do not see how questions like those are affected by the fact that now those cases are handled by other people without your involvement. So I do not see how any of that is relevant to you testifying with regard to those aspects. It should not matter that you have, pursuant to your request, been divested of the power to deal with those matters. I do not see how. Am I making sense?

20 **ADV JOHNSON:** Chair, in the manner that you have broken it down, yes, you do make sense.

CHAIRPERSON: Thank you.

ADV SELLO SC: Thank you, Chair.

ADV KHUMALO SC: Advocate Sello, there is just one issue I need to clarify. Advocate Johnson, in relation to the

same paragraph, 11.2, my understanding is that you testified in the Ad Hoc Committee sometime late last year?

ADV JOHNSON: That is correct, sir.

ADV KHUMALO SC: And you testified in relation to the same issues?

ADV JOHNSON: Yes.

ADV KHUMALO SC: What was IDAC's attitude to the *sub judice* rule in the Ad Hoc Committee? Did you adopt the same attitude or were you comfortable to testify about the
10 same issues?

ADV JOHNSON: I must go back into my record, but I would think... I seem to think I did raise it but had to still answer it. I just speak under correction. I do not have that exact... Did we raise the *sub judice* and it was overruled or I answered the question.

ADV KHUMALO SC: Because I would find it unusual that before that committee you would be comfortable to answer the same questions. But when you come to this Commission, which is established in terms of, obviously, the
20 President's powers under the Constitution followed by the terms of reference and the regulations, then the attitude to the same questions would change. I would find that strange, because the same risk that would arise if you answered these questions would have arisen if you answered them before the Ad Hoc Committee.

ADV JOHNSON: That is correct, and that is, as I say, I think in the manner in which the Chair explained made more sense. And I am alive to that which I must answer, which might invariably be more of the historical than what happens now that there is a representation or that there is a review.

ADV KHUMALO SC: Because facts are facts. Facts do not change because they are representations. If we are looking at what happened in 2024, those are facts.

10 **ADV JOHNSON:** Correct.

ADV KHUMALO SC: If somebody speaks to the facts and says, on the 15th of July 2024, this is what happened, this is what did not happen, that does not change depending on whether they are representations or there is a matter in Court, because those facts remain, unless somebody changes them as they go along. But if they are what they are, and they have always been what they are, that should not be an issue.

ADV JOHNSON: Correct.

20 **ADV SELLO SC:** Thank you.

ADV BALOYI SC: Sorry, Ms Sello. Just to clarify that I understand your position correctly, you are not invoking the *sub judice* shield. You are not saying you will not answer because of that.

ADV JOHNSON: No.

ADV BALOYI SC: You are expressing a difficulty that now that you are no longer seized with these matters, you should not speak in a way that may appear to influence a decision that will eventually be made either by the Court or whoever makes decisions on these representations.

ADV JOHNSON: Correct, Commissioner Baloyi.

ADV BALOYI SC: Okay. Thank you.

ADV SELLO SC: And then, if I understand your response correctly, your response to Commissioner Baloyi, that
10 paragraph 11.2 deals with two issues. The first, at line three, is the matter being presently before court of law. The second is regards to representations. You testified that those representations submitted by the accused are under consideration by the prosecution team and that they are based on disclosed documents. So the representations are done and they are under consideration.

How exactly do you anticipate your testimony before the Commission may potentially influence the outcome of those representations? Are you suggesting that
20 the decision maker will take on board what you state in this Commission and go beyond the bounds of what is contained in that file pertaining to the representations? If my assumption is correct, representations are made by the accused and the prosecution team has an opportunity to respond there to and the decision maker makes his or her

decision.

Where exactly do you see the testimony you provide here today fitting into that process and do you fear the decision maker will take that into consideration? Because the response, as I take it, is formal. It is by the prosecuting team and it will not be influenced by the views of anyone else. Is that is your understanding as well? If you agree with me, how would your testimony here impact that process regarding the representations made by the
10 accused? Thank you.

ADV JOHNSON: The representations are still under consideration. The reason for what I said is, on Friday, the Friday that passed, the accused, Brigadier Mokwele, did submit in writing, for the attention of the National Director, as well as Advocate Bell, who now oversees these matters, an additional document wherein her legal team alludes to the evidence of Mr Padayachee, especially in relation to aspects elicited during the examination at the Commission on the section 27, and makes it clear that these cannot be
20 ignored for purposes of completing the representations.

I was copied in, I think they forgot that I am not involved, and that is the basis on which I saw it. So the fact that there was a referral to what was said, and the intimation that what was said is critical, NPA, you cannot ignore what was said as you continue to adjudicate over my

representations. That was the basis of my contention.

ADV SELLO SC: Okay, as I understand it, and this is what we engage Colonel Padayachee on, the section 27 referral was not part of the docket. The entire docket has been disclosed to the accused, but the section 27 referral is not a part of that docket. It only became, it was only dealt with here, and was submitted to this Commission.

So it is not particularly surprising that if a new document that is relevant to representations, the accused
 10 would make, surfaces, that they supplement their representations. So it is not so much as I am, from what he is saying, what Colonel Padayachee testified to, but it is the section 27 docket, the affidavit itself. So even there, I do not see, I just want us to perhaps be clear so that we are not confronted with whatever you are putting forward at 11.2 each time we have to deal with issues.

ADV JOHNSON: Understood.

ADV SELLO SC: My last one then is that your paragraph 11.14, you suggest there ...[intervenes]

20 **CHAIRPERSON:** 11.4 you mean?

ADV SELLO SC: 11.4. Thank you Chair, 11.4. Paragraph 11.4 at your page 5. Your last statement there, well you talk about prosecutors independently evaluating their evidence and making prosecutorial decisions. You say:

“I have no insight into the dockets or the

evidence contained in them.”

Do you see that?

ADV JOHNSON: Yes.

ADV SELLO SC: Just help me, how does that tally with what you state at your paragraph 24, your first statement? Your first statement, you say:

10 “Following upon receipts of the dockets, the information contained therein was analysed. Thereafter, an investigation was undertaken. The investigation unearthed sufficient evidence to conclude:

1. That, that there was reasonable and probable cause for the prosecution; and
2. Formulation of the charges against Lieutenant Khumalo and his co-accused.”

20 Then you say the charges were contained. So that is you speaking. You seem to be satisfied insofar as the evidence is concerned and following investigations. And that would seem to be inconsistent with what you are now suggesting at the end of your paragraph 11.4, that you have had no insight into the dockets or the evidence contained in them. Read that again with paragraph 13 of your statement, which, first statement, which reads, I quote:

“Once the investigation was concluded, I was briefed by the team that had conducted the investigation on behalf of IDAC. IDAC then applied for warrants of arrest against all the accused. I then prepared a prosecution memorandum...”

And you submitted it. Now, in light of your 24 and 30, I do not know if your statement at paragraph 11.4 is entirely correct, that you cannot speak to any evidence or issues in
10 that docket. And unless I misunderstood either the two paragraphs or this one. And I am happy to take a correction. Thank you.

ADV JOHNSON: The paragraph 24, the following upon receipt of the dockets, the information contained therein was analysed. That is all the activities by the investigators and prosecutors. It is not me who does receipt of the dockets and the information contained therein. Thereafter, an investigation was undertaken. It is me giving you the feedback of what happened in that process.

20 **ADV SELLO SC:** Yes. And then you continue to say:

“The investigation has sufficient evidence to establish the two factors.”

So, my reading of your affidavit then is by the time you get to paragraph 30, and then you prepare a prosecution memorandum and a draft charge sheet and the request for

the enrolment of the matter, there is a – you are at level where you are satisfied that the investigations have sufficient evidence to sustain that charge sheet.

ADV JOHNSON: Correct.

ADV SELLO SC: I expect to find that in your prosecution memorandum. Otherwise, it suggests that you wrote this prosecution memorandum completely oblivious to the investigations and the evidence unearthed by the investigations. And that cannot be, it must be a very
10 informed memorandum.

ADV JOHNSON: Yes. And it is informed through the team to myself here in 24 that there is sufficient information, sufficient evidence. Then there is, it is an engagement. And then that takes me into the compilation of the prosecution memorandum.

ADV SELLO SC: Which then would give you some level of insight into the dockets and the evidence?

ADV JOHNSON: Level of insight, yes.

ADV SELLO SC: So, it is not so rigid.

20 **ADV JOHNSON:** No, I am not saying I am oblivious.

ADV SELLO SC: Yes.

ADV JOHNSON: But there may be details I miss, but a lot of it is it is in dockets, it is in documents, I get briefings, we have an engagement, and from there I am able to take it forward.

CHAIRPERSON: What is the best thing to do in the circumstances? Is it to delete the last sentence altogether? Because with the insight that you accept you actually get to have, then that sentence does not make sense whatsoever. Do we not just delete that sentence?

ADV JOHNSON: On paragraph 11.4?

CHAIRPERSON: 11.4, yes. The briefings, the sessions that you have with the investigators, that leads to you having an insight as you have just accepted, as Ms Sello is
10 engaging you.

ADV JOHNSON: Yes.

CHAIRPERSON: The effect of that is that the last sentence must go.

ADV JOHNSON: Yes, because the insight does not per se mean I was reading through the dockets. In the way that I am informed or briefed, I therefore have insight into the evidence.

CHAIRPERSON: Yes.

ADV JOHNSON: That is correct, Chair.

20 **CHAIRPERSON:** All right.

ADV JOHNSON: Thank you, Chair.

ADV KHUMALO SC: Sorry, Advocate Johnson, it goes further than that. Remember that letter I referred you to from the DPP, where they say they concur with your decision to prosecute? What they seem to be saying is that

you made the decision to prosecute, they agree with you. So, this paragraph, you can read it with that letter and they mean the same thing. So, when you say they make prosecution decisions, that is not what that letter says. That letter said you made a decision, they concur with your decision. So, which is which?

ADV JOHNSON: I think it is in the nature of how that communication is. As the ID, I sent the memorandum. We captured the essence of the charges, who is to be charged, 10 where the matter is to be enrolled, and what it is. The document comes from me. So, when they respond, Chair, they respond to me and my decision, because as the Head of Office, I communicate the decision. And to communicate the decision, Commissioner Khumalo, I must have reconciled myself with that decision.

ADV KHUMALO SC: But you must also, because you see, there are two ways of looking at it. One is to say, we have investigated this case. These are all the facts. Please look at all the facts and decide whether this person should be 20 prosecuted or not. That is one way of looking at it. The other way of looking at it is that you say, we have conducted an investigation. We have prepared a charge sheet. I am satisfied that there is a *prima facie* case. I have made a decision to prosecute. And all they have to do is to say, I agree or I do not agree. So, is it the first one or

the second one?

ADV JOHNSON: The second one being from the DPP office.

ADV BALOYI SC: From you, do you convey to the DPP that you have made a decision to prosecute, that this case should be prosecuted?

ADV JOHNSON: Yes.

ADV BALOYI SC: Is that the decision you make?

ADV JOHNSON: Yes.

10 **ADV BALOYI SC:** And that is what you communicate?

ADV JOHNSON: That is what is communicated. I would just need to check that the wording is, do I say, I made the decision to prosecute or there is a decision to prosecute by the team. I would just need to check those words. Not to abdicate any responsibilities, but I should be clear about how I wrote it in there.

ADV KHUMALO SC: Let us look at the letter. It will help you.

20 **CHAIRPERSON:** Whilst we look, I was about to say, surely the decision must be yours. When you communicate with the DPP, it is your decision. Yes, what you may have been told is relevant to you, then deciding.

ADV KHUMALO SC: File 6, Advocate Johnson, file 6, 2438.

ADV JOHNSON: Commissioner Khumalo, 24?

ADV KHUMALO SC: 38.

ADV JOHNSON: Yes, I see that.

ADV KHUMALO SC: Yes, look at the last part of paragraph 3.

ADV JOHNSON:

“And I concur with your decision to charge them on the offences set out in the charge sheet.”

ADV KHUMALO SC: Yes, so what the DPP is concurring
10 with is your decision to charge them.

ADV JOHNSON: As communicated in the prosecution memo.

ADV KHUMALO SC: So that presupposes that you had made a decision to charge.

ADV JOHNSON: That is correct, sir.

ADV KHUMALO SC: Yes, so what is stated in 11.4 of your statement is not correct then, or at least needs to be qualified.

ADV JOHNSON: Let us go to 11.4.

20 “Prosecutors independently evaluate the evidence and make prosecution decisions...”

ADV KHUMALO SC: So, Advocate Johnson, so as not to put words in your mouth, what we are trying to fix for now is paragraph 11.4 of your statement to make sure that it is as

accurate as possible. So, in your own words, how do you want 11.4 to be recorded? Now that you have seen this letter, hopefully it has jogged your memory.

ADV JOHNSON: So, prosecutors independently evaluate the evidence and make prosecution decisions.

ADV KHUMALO SC: At least internal IDAC prosecutors.

ADV JOHNSON: Internal IDAC prosecutors. In terms of that oversight function, they then present the evidence to me.

10 **ADV BALOYI SC:** To you, I am sorry. I am thinking aloud, sorry.

ADV JOHNSON: As long as it makes sense. They then present the evidence to me. Once they have presented the evidence, Commissioners, more often than not, it is an oral briefing. They will then put together a draft prosecution memo. I then have to go through that memo, see if I agree with what is in there, and therefore endorse the prosecution decision, which then becomes my decision, which is conveyed.

20 It is therefore where I say I compile the prosecution memo. Because in order for me to do that, I need a lot of the information and the evidence put together in a specific way so that I am able to apply my mind to that prosecution decision and the conveyance thereof to the office of the DPP.

ADV KHUMALO SC: So, your decision is then conveyed to the office of the DPP?

ADV JOHNSON: That is correct.

ADV KHUMALO SC: And then paragraph 3 of that letter is correct?

ADV JOHNSON: It is correct.

ADV KHUMALO SC: Thank you.

ADV JOHNSON: Because the DPP, Commissioner, receives the prosecution memo from myself, and therefore
10 responds to myself.

ADV SELLO SC: Thank you, Commissioners. Before we leave your response to paragraph 2.2, an issue arose, I think, in the engagement Commissioner Baloyi had with you regarding what you specifically – whether or not you invoked the *sub judice* rule before Ad Hoc. When we break for tea, you might want to consider for the record CJC375, EXHIBIT CJC375, that is the transcript of your testimony before the Ad Hoc Committee. Just make a note of the exhibit number, we will assist you to locate it.

20 **ADV JOHNSON:** And the file?

ADV SELLO SC: It is CJC375. CJC375.

ADV JOHNSON: Yes, ma'am.

ADV SELLO SC: Ja, CJC375, please take note. File 3, I am told. The most important thing is the exhibit number, that is your transcript, the transcript of your testimony

before Ad Hoc. So, I suggest over the course of lunch, you cast your eye there to see whether or not to the question posed, whether you did raise the *sub judice* rule before Ad Hoc.

ADV JOHNSON: I will do that.

ADV SELLO SC: Thank you. You, if we go overleaf then on your statement, we are at page 6 of your statement, you deal with questions or issues raised in paragraphs 2.3 and 2.4 of the subpoena. You give a singular response, I think,
10 to that. So, I will read both 2.3 and 2.4. 2.3 reads thus, quote:

“Allegations concerning your role in interference in criminal investigations and prosecutions.”

Close quote. Sub 2.4:

“The effect of such conduct on the functioning, integrity and independence of the criminal justice system.”

Close quote. You respond to both of those from your
20 paragraph 12 at page 6 of your supplementary statement. If you could then turn to deal with that. Thank you.

ADV JOHNSON: Ad paragraph 12, ad paragraph 12, Commissioners, at paragraphs 2.3 and 2.4:

“I deny any allegation that I interfered in criminal investigations or prosecutions.

This allegation is in any event vague and unsupported by particulars. I expand on this denial as follows here under. I say that the allegations is vague because it does not identify the investigation or prosecution allegedly interfered with, the date or period of the alleged interference, the person allegedly influenced, the decision allegedly affected or the manner
10 in which the alleged interference occurred.”

In paragraph 13:

“IDAC operates on a prosecution-led investigative methodology that I head. Investigators conduct investigations and present evidence to prosecutors in their teams. Prosecutors then evaluate the facts and evidence and decide whether to prosecute.”

20 That decision is confirmed by the DDPP is the Deputy Director of Public Prosecutions, Commissioners, in the group. Matters, paragraph 14:

“Matters are presented to the Investigating Director and senior managers before arrest as part of the

oversight function. I have not instructed, pressured, induced, prevented, delayed or otherwise influenced any investigator or prosecutor to act other than in accordance with the evidence, the law and the applicable prosecutorial policy.”

ADV SELLO SC: Thank you. I take it reference at paragraph 14 to the Investigating Director is reference to yourself, am I correct?

10 **ADV JOHNSON:** That is correct.

ADV SELLO SC: And you say matters are presented to you then and senior managers before arrest as part of the oversight function. Can you briefly tell the Commissioners what your oversight function entails?

ADV JOHNSON: When teams are ready to execute arrests, it becomes important to determine that they have done, they have all the necessary documents, that they have fulfilled the evidential burden and what operational and/or resource support they might require. So when they make this
20 presentation to the ID and senior managers, senior managers there, Commissioners could include senior investigators, other senior prosecutors, et cetera. And what happens is the team that is preparing to conduct an operation must prepare to people that are not in, sorry, present to people that are not in their team.

So it would invariably be other managers of equal ranks of other persons also from that team. And when they present, they would make a PowerPoint presentation, sometimes some of them, them being the lawyers there, they would want to speak off the cuff, but they would give you a briefing of the evidence, how persons are linked to the allegations, which persons are linked to the allegations, a brief summary of what evidence they rely on, and then to indicate who it is they intend to arrest.

10 Do they intend to search? Do they have arrest warrants? Do they have search warrants? Are they going to be just, and forgive my language, ordinary searchers, or are they going to be cyber searchers? Where these are going to take place? And that is the general gist of that kind of briefing. And once myself and the other senior managers have left, that team gets together with other officials to plan the logistics of who goes where, what resources are required and so on. But it is just in order to understand that their matter is ready.

20 **ADV SELLO SC:** Thank you. Then just to clarify, lastly, on that particular paragraph, on paragraph 14, you say you have not instructed or otherwise influenced any investigator or prosecutor to act other than in accordance with the evidence, the law, the applicable prosecutorial policy. I appreciate what you are communicating here, to be that

there was no undue influence from you. My question is, did you, in the course of being briefed and having the presentations made to you, and in the exercise of your oversight function, do you have scope to instruct, advise, influence investigations?

And I say so, you are doing so in accordance with the law. I am not imputing any undue, unlawful influence. But are you, as the Investigating Director, able to influence the direction, outcome, disagree with what is presented to
10 you, and therefore influence the eventual outcome of the investigation? Or you have no scope at all in that regard?

ADV JOHNSON: It is not to seek to influence. In those presentations, myself and whomever the other managers are that are present, are allowed to engage with the presentation. Sometimes it may not be as clear how a person is linked. There might be questions around a witness. Why do you have a 204 witness? What do you have that corroborates? It is almost like a moot Court without the presiding officers, but it is an engagement of the
20 matter. So everyone can ask questions, make suggestions.

There has been over the years a time or two where the teams have had to go back because they thought they were ready, and other team, other managers in the office took issue with perhaps how things were incomplete. Or what more you needed. So that allows for them to come

back again. They would have to deal with that before they then – and there have been matters, just one last thing.

Even if the Investigating Director is not in the office, it does not mean these operations do not happen. There are other senior persons. The Head of Operations, Mr Sesoko, is there together with other senior managers, and they would convene in a similar fashion.

ADV SELLO SC: So if there are glaring anomalies in the investigation or conclusions reached pursuant to
10 investigation, there is scope in the exercise of your oversight function to draw attention to that and it gets redressed.

ADV JOHNSON: And to send the matter back for those to be addressed.

ADV SELLO SC: Indeed.

ADV JOHNSON: And if they are not addressed, then that is a different discussion because not having addressed does not take the matter forward.

ADV SELLO SC: Absolutely. I am clarified. Thank you so
20 much. We then... Yes, ma'am?

ADV BALOYI SC: In that exchange where you say there is consultation and discussions and debate, do you have the – are you able to say, I disagree and so it will not happen? And I want to give you a moderate example on a topic that will come up for discussion later. That if your team puts

forward to this discussion that we intend to go and arrest Commissioner Khumalo because that is who we are investigating.

ADV JOHNSON: He is saying he does not want to be arrested. [Laughter]

ADV BALOYI SC: And are you able, do you have the standing? And this is a question really that takes us to standard operating procedures, protocols, or is this one of those where we work it out as we go along? You know, in
10 practice, this is how we do it. Are you in a position to say, no, we are not arresting, we are summoning?

Because we know, for example, that you have summoned some of the people that you had charged, yet others have been placed under arrest, either at a police station or at an airport or something. Is it your final decision to say, we are not arresting, we are summoning? Or that decision rests with somebody else irrespective of what you think about it?

ADV JOHNSON: I am able to make my feelings known.
20 And there is an engagement on why. There are certain things investigators take into account in how best to secure a person. But there is room for engagement. But apart from that, there have been times when I have disagreed, simply because I think the purpose of the exercise must be what is the best way to secure the attendance of a person

in court. That has always been the legal principle.

And so there have been instances where we have subpoenaed, and there are instances where you have the warrant, but instead of going and executing the warrant, as an example, at a person's home or place of business, you call them and ask them to hand themselves over, and then you do that processing.

Those are the ones that are preferred, so as not to be invasive in terms of their space. Sometimes
10 investigators think a bit differently, Commissioner Baloyi, but I am able to – and there is a lot of other considerations, especially where people have families.

ADV BALOYI SC: Yes. I guess my question more directly is, out of the process that you have described of a team presenting to other managers who are not involved in the matter, and you also participate in that, where does the final decision lie out of that process? Who makes the final decision? I appreciate it is a team discussion, and it involves back and forth, but ultimately, somebody makes a
20 decision, and you are Head of Institution. I do not want to assume that because you are head, you are the one that makes the decision, so it is your opportunity to say that, well, finally, the decision rests with you. You let it be a team decision, but in fact, the decision rests with you finally. That is what I am trying to determine with my

question.

ADV JOHNSON: I am able to make input. A lot of the times, the input is taken on board. When myself and those managers who have been briefed leave the room, you have a lead prosecutor and lead investigator, and they also have the benefit of the two chief criminal investigators, as well as Mr Sesoko, who is the head of operations, and they will deliberate on what we have suggested, and they take it on board and make the final decision because the execution is
10 theirs, not the ID.

ADV BALOYI SC: So out of that process, the final decision is not yours.

ADV JOHNSON: It is not mine.

ADV BALOYI SC: It is made by other people. Yes. Thank you.

ADV SELLO SC: And we will come back to this just so I understand. Specifically, the aspect Commissioner Baloyi just engaged you on, whether or not an accused person is arrested or someone took what you say, it is not your final
20 decision. It is not yours.

ADV JOHNSON: It is not mine.

ADV SELLO SC: It lies somewhere else within IDAC.

ADV JOHNSON: It lies with that team.

ADV SELLO SC: So where that team has made that decision, you have no power to overturn it as the ID. Is

that, I just need to understand what your power is relative to that decision taken by investigators. Do you have any powers at all?

ADV JOHNSON: We have not exercised powers to overturn. We have made suggestions, and almost invariably, many of those suggestions have been taken on board. So as an example, Advocate Sello, the team might feel strongly about an arrest. And in that engagement, the ID says, the reasons you provide just do not make sense for
10 why a warrant of arrest, a subpoena should be issued. They then take that on board, and I found that they do exercise it. So they do listen when it makes sense that the proposed way they wanted was not going to work.

ADV SELLO SC: You talk about you have not exercised the power. I am still trying to locate the power. Do you have that power as a matter of fact and law, or you do not? Whether you have exercised it or not is neither here nor there for the moment. Do you understand yourself to have such a power?

20 **ADV JOHNSON:** No, it is a power of engagement. What I am saying is I engage them, and I make suggestions. I cannot take the decision for them. I can make a suggestion, not a warrant, a subpoena.

ADV SELLO SC: No, no, no, I get confused now just when I thought I got it. You do not take a decision for them.

They have taken a decision. My question is, do you have the power to override that decision? It is either you have it, you do not, and I will move on.

ADV JOHNSON: I have not exercised such a power to override.

[Parties speaking simultaneously]

ADV SELLO SC: Advocate Johnson, I am hungry too, it is lunch. You can only exercise it if you have it.

ADV JOHNSON: Yes.

10 **ADV SELLO SC:** But you are not answering the first question. Do you understand yourself to have it or not to have it at all, that power?

ADV JOHNSON: I do not have a power to override them from what I understand.

ADV SELLO SC: All right. Okay. Then I think that takes care of paragraphs 2 and 3. We deal with paragraph 2.5 in the subpoena, which reads thus, required you to address, quote:

20 “Allegations concerning the existence of a
 “Khan-IDAC cabal in SAPS”, and your role
 pursuant thereto as made by Mr Thulani
 Shongwe during his evidence at the
 Commission on the 30th of June 2026.”

Close quote. You deal with that from your paragraph 15 at page 6 of your supplementary statement.

ADV JOHNSON: Ad paragraph 2.5:

“I have no knowledge of the existence of a Khan-IDAC cabal in SAPS. I also have no knowledge of a Khan-IDAC cabal within the IDAC. It follows that if such a cabal exists, I am not party to it. I have not authorised, encouraged, or facilitated its existence, nor have I benefited from any unlawful association involving General Khan, IDAC, SAPS officials, or any other person. To the extent that Mr Thulani Shongwe's evidence suggests otherwise, I deny that suggestion.”

ADV SELLO SC: And thank you. That will then take us to, I think your answer is straightforward and clear. Paragraph 2.6 of the subpoena, which reads thus, I quote:

“Your relationship with Major General Khan and allegations that you disclosed to General Khan and SAPS docket relating to an ongoing criminal investigation against him.”

Close quote. You deal with that paragraph 2.6 starting from your paragraph 16 at page seven. If you could turn to that, please.

ADV JOHNSON: Ad paragraph 2.6:

“I know Major General Khan, as a General based at Crime Intelligence Head Office. Before I became the Investigating Director in March, 2022, I engaged with him in meetings with other stakeholders, attended NAC joints or other SAPS meetings at which he was present and to which I had been invited by relevant Component Heads, Deputy National Commissioners or Divisional Commissioners.

10

In late 2024, media reports emerged concerning General Khan's alleged involvement with persons allegedly linked to the Murray murders. Those reports concerned me because I had previously met with one of the Murray sons who wanted to know whether IDAC could assist with the investigation. I informed him that IDAC could not assist but explained how he could escalate his concerns about the investigation to SAPS management.

20

At that stage, the concerns of the Murray son referred to above related to how

SAPS Organised Crime Gauteng was dealing with the matter.”

18.

“I later encountered General Khan at a public service Commission or Department of Public Service and Administration Workshop. I asked to speak to him and told him that the media reports about his alleged involvement with persons linked to the Murray murders were concerning. I further stated that if evidence of criminality by him were brought to IDAC, it would be dealt with in accordance with the law.”

19:

“After the engagement referred to above, I had very limited contact with General Khan and I have had no contact with him for approximately the past year and a half. The allegation referred to above is also vague and unsupported by particulars. No particulars have been provided as to who made the allegations, which docket is implicated, when or where the alleged disclosure occurred, how the

docket was allegedly disclosed, or what information was allegedly conveyed.

This is a serious allegation to make against a person holding as high a position of responsibility as I do, so that I would justifiably have expected particularity to accompany the allegations for any meaningful engagement with them. Should I be required to answer questions arising from this affidavit or any other matters in respect of which it is determined that I may assist the Commission, I am willing to make myself available, subject to reasonable notice, access to sufficient evidential material to which I am required to respond and my rights to legal representation.”

10

That ends the affidavit.

ADV SELLO SC: Thank you. Just two questions for

20 clarity. At paragraph 16, you do state that you:

“...know Major General Khan as a General based crime intelligence head office. Before I became the Investigating Director in March, I engaged with him in meetings with other stakeholders.”

So we are now, before you joined IDAC, did you have any other relationship besides that you described at paragraph 16 with General Khan, personal or otherwise?

ADV JOHNSON: I had known, I had gotten to know him quite well. At a stage, we engaged often on all kinds of issues that did not necessarily relate to work. He was very affable and I got along with him. So I would talk to him as well outside of meetings. It was not confined to meetings.

ADV SELLO SC: And that is an important distinction to
10 draw because your paragraph 16 seems to suggest that your engagements with him prior to 2022 were in meetings and with other stakeholders only. It is too restrictive what is said in 16 regarding your response now.

ADV JOHNSON: And we can add it.

ADV SELLO SC: No, no, it is there on record. So I say, are we clarified that you had this professional relationship as you described in 16, but you also had a personal relationship with him.

ADV JOHNSON: Yes, I did.

20 **ADV SELLO SC:** You say, you then deal, you have a specific timeline to it. You say:

“Before I became Investigating Director in
March 2022...”

Let us get past March 2022. The relationship, as you have now clarified, with General Khan, did it change? What is

the relevance of using that marker, March 22, when you became ID to speaking to the relationship when you have with General Khan? It suggests, as I read it, that it drastically changed from March 2022. I am reading it, am I reading it correctly? And yet I take into consideration what you say at your paragraph 19. You say you have had limited contact with him and have had no contact with him approximately the past year and a half. It is now 2026, but your cut-off date there is March 22. I do not know. Where
 10 were you on April 2022 until a year and a half before 2026? So far as your relationship is concerned. Thanks.

ADV JOHNSON: So if we are taking it from March 2022, I continue to talk to General Khan.

ADV SELLO SC: Yes.

ADV JOHNSON: It is only late in 2024 when this issue of Mr Murray arose, because Mr Murray came to see me personally. It had been a very painful engagement and it was then that I raised the issue with him and I slowly started to withdraw. I did not stop talking to him
 20 completely, but if I have to cast my mind back, that is why I say past year and a half, which would have been from very early 2025.

ADV SELLO SC: Okay OK. And you say that in 2024, after you met Mr Murray, you started to withdraw. I take it from a closer relationship with General Khan.

ADV JOHNSON: Yes.

ADV SELLO SC: If I may, why? What is the relevance of that matter to the change in your relationship with General Khan?

ADV JOHNSON: Here I get to engage a victim who has lost his father and his brother in a very violent way.

ADV SELLO SC: Yes.

ADV JOHNSON: It is very difficult, Commissioners, when you are sitting with a child who is now parentless and
10 brotherless. He is raw of emotion sitting in front of you. But it is not just the emotion. It is the complaint about the police not doing their work. And he sat there hoping that we were able to help him and it was unfortunate, it is not in our mandate, but it touched me in a different way, in a very humane way. And it made what he was saying more real.

I was not reading this in papers. I was not hearing stories. I was hearing from a child. Well, he is a young man, but I was hearing this from a child. And there is no way when you have that engagement that you are able to
20 just shut it down and, okay, this is what you go and do and then you just carry on. It had an impact. And I think it was for those reasons, it really had a humane impact that I was unable to assist him.

And the allegation he made was very serious. And so he was accompanied by a friend. And I told him and the

friend they would definitely have to take this up with the Head of Detectives at the time.

ADV SELLO SC: So then I understand just to wrap up that your relationship with General Khan was adversely influenced by the allegations made to you as regards his alleged involvement by Mr Murray. That is what altered the course of your relationship.

ADV JOHNSON: Yes. Because he was explicit about where he felt Mr Khan was involved and persons he was
10 involved with. It is names I am prepared to write, but it is he made very pertinent referrals.

ADV SELLO SC: Yes. And do you know whether he took up your advice just as a matter of interest? I think you said you suggested that he engaged SAPS Organised Crime Gauteng.

ADV JOHNSON: Yes, there was a time when he did make contact with me again to indicate that the detectives had allocated a new team. I am not sure if it ended up being to his satisfaction, as I am aware that there have not been
20 arrests made on the matter. But I am aware, Commissioner Khumalo, that he did follow up that. And I am aware that they actually had a proper engagement with him. I am not sure where that engagement is now, given there is no arrests in the matter.

ADV SELLO SC: Understood. And lastly, at your

paragraph 20, this in response to ...[intervenes]

ADV BALOYI SC: Maybe before you go to 20, just so I make sure I understand that paragraph 16 and following, where you say you continue to speak to General Khan after March 2022. Does that mean you socialised with him? What does it mean? Because you could be talking about work. You could be talking about family, friends. You could be meeting for lunch. What exactly do you mean when you say you continue to talk to him outside of meetings?

10 **ADV JOHNSON:** So we would chat on WhatsApp or we would talk to one another if we saw one another, but we did not socialise in the word socialise. So we did not go to lunch, visit one another, et cetera.

ADV BALOYI SC: But you had non-work related interactions.

ADV JOHNSON: Non-work related interactions.

ADV BALOYI SC: Thank you.

ADV KHUMALO SC: I might be mistaken, but I think at some point we had evidence that you attended his 50th or
20 55th birthday party. Was it after this date?

ADV JOHNSON: No, sir.

ADV KHUMALO SC: When was that?

ADV JOHNSON: Oh, I speak under correction. I do not know when he turned 50. It might have been in 2020 or 2019. But it was he invited my husband who worked at

Crime Intelligence. And when we got there, most people who had been invited with their partners or spouses and we attended the birthday, attended the dinner. We probably were the most ungracious guests because it was very busy. And as soon as we had had dinner, I said to my husband, can we leave? And we did not even greet the host. We had left, but we did attend it. My husband having been invited and I attended.

ADV SELLO SC: And I take it you were invited to that
10 birthday party because you already had a personal relationship with him?

ADV JOHNSON: Yes. He knew both my husband and I. Yes, he knew me as well.

ADV SELLO SC: Okay. Lastly, I wanted to deal with paragraph 20. You recall that paragraph 2.6 of the subpoena required you to speak to your relationship with Major General Khan generally and specifically address the allegations that you disclosed to him an SAPS docket relating to an ongoing criminal investigation against him.
20 Now it says an ongoing criminal investigation. I read one investigation. Your response is at paragraph 20:

“The allegation referred to above is also vague and unsupported by particulars. No particulars have been provided as to who made the allegation, which docket is

implicated when or where the alleged disclosures took place, how the docket was allegedly disclosed...”

And so on. So this is a serious allegation against you. Neither by the date of this statement you could not respond particularly to the allegation that you had disclosed the docket to him. The subpoena speaks of a docket. Your answer seems to suggest that you are not able to respond to paragraph 2.6 because you have not been given the
 10 details of the docket, which would suggest that you are not in a position to do so, because there may very well be more than one docket. Is that where we land?

ADV JOHNSON: No.

ADV SELLO SC: Okay.

ADV JOHNSON: For me, you are talking about relationship and allegations that you disclosed to General Khan a SAPS docket relating to an ongoing criminal investigation. I was seeking the details of this docket and who made the allegation, because on the 10th ...[intervenes]

20 **ADV SELLO SC:** My apologies. Against General Khan himself. That is the important rider. So the allegation is about you disclosing a docket to General Khan regarding an investigation into General Khan's conduct. That is how precise it is. So your answer, when you say no particulars have been provided, I am not clear what particulars, you

say which docket is implicated. Then it leaves with me the impression that there may be more than one docket implicated. You just want clarity as to which docket is implicated where you disclosed to General Khan a docket relating to ongoing investigations against him. I am struggling with your response at 20 and I would like you to clarify perhaps. Because the subpoena seems to suggest one docket.

ADV JOHNSON: Yes.

10 **ADV SELLO SC:** Your answer seems to suggest I cannot pinpoint the docket because you do not give me the details of which docket is implicated, implying there may potentially be more than one.

ADV JOHNSON: On a point of correction, there is not more than one.

ADV SELLO SC: Okay.

ADV JOHNSON: And it became – at the time, I did not recall disclosing a docket.

ADV SELLO SC: Yes.

20 **ADV JOHNSON:** When the evidence is then presented and witnesses testify – I am replying to this affidavit on the 10th and then people are testifying on the 10th and it is only then I realise what is being referred to. And hence the third affidavit that was then made. Because I now have more details about the docket that has been alleged to have been

disclosed.

ADV SELLO SC: So the effect, some effect of that is had the witness not testified, you would still have not responded to the allegation that you handed a docket over. You would not recall. I am trying to understand how does the testimony of the witnesses who appeared here on that Friday trigger your memory regarding a disclosure of a docket? You either know you did or you have never in your entire life. Where exactly were you on the 10th when you
10 prepared the statement?

ADV JOHNSON: We were in consultations with
[Parties speaking simultaneously]

ADV SELLO SC: Sorry. Had you ever disclosed a docket such as described at 2.6 or never at all?

ADV JOHNSON: That is where I needed my memory to be jogged. And then it will take us into those aspects that we want to touch on in 3. And not because I do not want to ...[intervenes]

CHAIRPERSON: In statement 3?

20 **ADV JOHNSON:** Statement 3.

CHAIRPERSON: Statement 3.

ADV SELLO SC: Okay. I think you have taken us up to your paragraph 21. I am clarified. Thanks for that clarification. Chair, that would bring us to the end of the second statement. And as usual, we have encroached on

your lunch hour, Chair. Might this be an opportune time to take the lunch adjournment?

CHAIRPERSON: I am instructed that we should come back at half past two. Let us adjourn.

INQUIRY ADJOURNS

INQUIRY RESUMES

CHAIRPERSON: Yes, Ms Sello.

ADV SELLO SC: Thank you, Chair. Advocate Johnson, before we adjourned for lunch, we have just completed your
10 second statement.

ADV JOHNSON: Correct.

ADV SELLO SC: Before we turn to your third and last, just to check, is there anything else you would like to add or perhaps clarify, highlight, as regards to second statement, or you are okay?

ADV JOHNSON: If I would be allowed?

ADV SELLO SC: Yes.

ADV JOHNSON: On the example that was put by one of the Commissioners on what role oversight in the briefing,
20 and so, you know, are you just there? Do you have the powers? And so I just wanted to highlight that the ID, similar to DPPs, has powers in terms of section 20 of the NPA Act.

And if I am just allowed, Commissioners? So the first part of the powers are powers accorded to all

prosecutors and heads of the prosecuting agencies, which is the power to institute and conduct criminal proceedings, and that in terms of section 20, 21, the power is contemplated in section 179(2) and other relevant sections of the Constitution to:

- “(a) Institute and conduct criminal proceedings on behalf of the state,
- (b) Carry out any necessary functions incidental to instituting and conducting
- 10 such criminal proceedings, and
- (c) Discontinue criminal proceedings vests in the Prosecuting Authority and shall, for all purposes, be exercised on behalf of the Republic.”

Those powers are also applicable, Commissioners, to the Investigating Directorate. When we were talking about briefings on matters, matters, there can be briefings on matters, and in section 29(a) of the NPA Amendment Act 10 of 2024, if I could just relate to those powers:

- 20 “Powers and functions of investigators.
- An investigator...” ...[intervenes].

CHAIRPERSON: Sorry, sorry, sorry, Advocate Johnson. So has that amending Act not been inserted into the main Act? Is it a stand-alone Act?

ADV JOHNSON: It is a stand-alone section, as I find it,

Chair.

CHAIRPERSON: Okay. I am asking because there will be A, B, C, D, Amendment Act to blah, blah, but when you go through it you find that it inserts sections, new sections, or adds to existing sections into the main Act or the Act that it is amending. So are you saying that is not what has happened here?

ADV JOHNSON: No.

CHAIRPERSON: All right.

10 **ADV JOHNSON**: This relates to a different power, Chair.

CHAIRPERSON: Yes, yes.

ADV SELLO SC: If I may? A version of the NPA Act has inserted 29(a) that the witness references, and it was inserted by Act 10 of 2024.

ADV JOHNSON: Yes.

ADV SELLO SC: So she may very well be reading the Amendment Act, but it has since been inserted into the main Act, and it is to be found there. Thank you.

CHAIRPERSON: Okay. All right, please go ahead,
20 Advocate Johnson.

ADV JOHNSON: It is just to indicate, Commissioners, powers and functions of the investigators. 29(a)(1):

“An investigator may, subject to the control and direction of a head of an Investigating Directorate, exercise such

powers and must perform such duties as are conferred or imposed upon him or her by or under this Act and any other law and must obey all lawful directions which he or she may receive from a person having the authority to give such directions.”

And then it goes into the powers that the investigators may have, which is search, seizure, arrest, execution of
10 warrants, securing the attendance of persons in court, the service or execution of subpoenas, and the investigation of offences.

It is in the briefings that we receive that it is usually these operational matters that are discussed, and so investigators may be subject to the control and direction of the head of the Investigating Directorate, but when we read back with section 20, these matters are still incidental to prosecutions, and so if the investigating director disagrees with anything, I have the authority to then say
20 this cannot proceed, this must not happen, and/or as I indicated earlier, you have to correct this. If we do not have it corrected, there is insufficiency of evidence, it cannot proceed.

ADV SELLO SC: Okay. So you add this in response to a question as to what the function or oversight function entail

and the powers you have over decision made by investigators. So, and if I understand you correctly, where we land is that, do we land at a place where now we understand each other that you have the power to override their decisions?

ADV JOHNSON: That is correct.

ADV SELLO SC: Okay, thank you. Duly noted and added. Was that the one issue you wanted to highlight in regard to the second statement?

10 **ADV JOHNSON:** That is the issue.

ADV SELLO SC: Then that takes us to the third statement. You will recall when we referenced this statement in the morning, I did indicate that there are certain issues arising therefrom and these involve the question of you as a witness responding to questions the answer to which you believe would incriminate you.

ADV JOHNSON: Correct.

ADV SELLO SC: So I had suggested that we work through the statement first in its entirety before we address the
20 Commissioners about what my engagements with Mr Bodlani, where they landed us and to hear your attitude towards that.

So for the moment, let us deal with the contents of the statement then we will deal with the principle whether or not certain questions can be put to you. And my

understanding, this statement is dated the 20th of July, which is yesterday, and it was filed in response to a Rule 3 issued following the testimonies of three witnesses that appeared before the Commission last week Friday.

ADV JOHNSON: That is correct.

ADV SELLO SC: Yes. Now, not last week Friday, the Friday before. For ease of reference, I am going to give you a copy of the Rule 3. Mr Bodlani?

ADV BODLANI SC: Chair, before the adjournment
10 Advocate Johnson was asked to look at the transcript of her testimony before the Ad Hoc Committee and to check whether she raised the *sub judice* issue there, the suggestion being that it would be quite odd if she did not raise it there and then she would come here and seek to raise it.

I think my colleague has forgotten about that issue because she is now gone to the third statement and it is an issue that arose when Advocate Johnson was dealing with the second statement. If I may just place that reminder
20 before you?

ADV SELLO SC: Thank you so much. That is quite correct, Chair. I had even referred Advocate Johnson to where the transcript is in the Exhibit File.

CHAIRPERSON: Thank you, Mr Bodlani.

ADV SELLO SC: Thank you. Advocate Johnson, you

heard Advocate Bodlani. I take it that in the course of the lunch adjournment you had opportunity to have regard to the transcript and then you can refer us to that part of the transcript where you are dealing with the issue of *sub judice*, if at all, before the Ad Hoc Committee. Thanks.

ADV JOHNSON: Commissioners, as I indicated, that is File 3.

ADV SELLO SC: Yes, File 3.

ADV JOHNSON: And I am at page 621.

10 **ADV SELLO SC:** That is correct. CJC375. Thank you. You may start.

ADV JOHNSON: So on the question of the *sub judice*, it does start at the top of page 621. That is the number I have:

“MR MNCWANGO: When you speak of...”

And I quote:

20 “...capture for private interest, are you referring to financial gain, manipulation of investigations, or influence over personnel and procurement decisions within CI?”

ADVOCATE JOHNSON: It is the third one.

MR MNCWANGO: You also indicated that you can expand more on this matter

before the Committee. Could you provide specific examples or case references that illustrate how these systems were captured or manipulated?

10 ADVOCATE JOHNSON: When I said I would expand more, it was in reference to the charge sheet that was attached and those parts that I referred to that I can talk about. The rest of it I am unable to expand on. Those matters are in court and *sub judice*.”

And that is where I found, I think for the time, that is where it was in fact raised.

ADV KHUMALO SC: Let us just be clear, Advocate Johnson. Did you say in the Ad Hoc Committee that you will not respond to these issues because they are *sub judice*? Or you simply said in response to that one question you cannot expand?

20 ADV JOHNSON: I read it as to that question I would not respond.

ADV KHUMALO SC: So are you saying in the Ad Hoc Committee you never responded to issues relating to Brigadier Mokwele's appointment and the subsequent charging of the five or six people involved in that? I am sure you remember, even without going through that

...[intervenes].

ADV JOHNSON: I am sure that I did answer questions.

ADV KHUMALO SC: You did?

ADV JOHNSON: Yes.

ADV KHUMALO SC: So you had no difficulty answering those questions?

ADV JOHNSON: No, it was in the manner in which the Honourable Mncwango had posed the question and I raised that issue.

10 **ADV KHUMALO SC:** Yes. So to be fair to you, can we leave it here that you will respond to questions but where you feel that you cannot respond to a specific question, you will invoke your right as you wish on a question-by-question basis so that there is no blanket refusal to respond to these questions?

ADV JOHNSON: That is correct.

ADV KHUMALO SC: Are you comfortable with that?

ADV JOHNSON: I am comfortable.

ADV KHUMALO SC: Thank you.

20 **ADV SELLO SC:** Thank you.

ADV SELLO SC: Commissioner Khumalo, just a point of clarification. It takes us back to the application where *sub judice* is involved and I had understood when we started the stream that that issue has been disposed of. So before this Commission, that rule is not available to her.

Whether or not she can answer to a question as and when it is posed to her is in the context now of the third statement, which relates to the question of self-incrimination. Those are two distinct issues. Just so that the witness does not – I do not confuse the witness and suggest to the witness that she may invoke the *sub judice* rule in relation to any issue put before her because that has been disposed of by the Commission, but that is distinct and different from the issue of self-incrimination. I just
 10 wanted to make sure the witness and I do not talk past one another on this point because it is quite important.

ADV KHUMALO SC: Ja. No, I think because the witness was responding to me, you can address her separately. I just needed to understand what her current position is.

ADV SELLO SC: Yes.

ADV KHUMALO SC: And that was not a ruling by myself or by the Chair. It was simply me seeking clarity from her. My understanding of what she said is that she invoked the privilege in relation to MP Mncwango's question.

20 **ADV SELLO SC:** Yes.

ADV KHUMALO SC: But then she continued answering questions, so she did not have difficulty answering questions. She may or may not, depending on what question is asked, then raise the issue. So I left it there on the understanding that we can ask her these questions and

she will respond to them and where she does raise an issue, then it will be dealt with there, but that was in response to me. So do not understand it to mean that that is how the matter ends as between you and her, no.

ADV SELLO SC: I understand that, except that, Commissioner Khumalo, then he takes me to the ruling by the Chair when we started regarding the issue of *sub judice*. To remind us all, we indicated that we have been furnished with four dockets and the agreement between IDAC's legal
10 team and ourselves was that the three dockets we will refer to extensively and with a no-holds-barred approach.

There is only the fourth docket, the one that, on the basis of which, we now learn that General Khumalo was due to be arrested on the 16th of June 2026, thereabouts. We will exercise restraint only insofar as that particular docket is concerned.

And that would not be on the basis of a *sub judice* rule, but more on the basis that that docket still involves extensive investigations and we are quite sensitive that we
20 do not undermine ongoing investigations. Where that lands me is that my understanding, at least, insofar as IDAC is concerned, is on the matters that will be traversing with any witness from IDAC, the *sub judice* rule does not even find application.

And I just want the witness to understand that that

is where we landed. So I do not expect a response, or I do not think the Commissioners would expect a response from the witness that she cannot answer because the matter is in court. That issue has been settled.

The only issue that is outstanding is a self-incrimination issue, but that is the subject of the third statement that we are going into. Do you understand my position, Advocate Johnson?

ADV JOHNSON: I do, Counsel.

10 **ADV SELLO SC:** I think I am clarified. So when you referred us to the transcript, is that the only place you found where reference to *sub judices* was made?

ADV JOHNSON: Yes, in the time that I had, that was the one that I could recall.

ADV SELLO SC: And then, as Commissioner Khumalo points out, notwithstanding what you state at page 61, that you are unable to expand on that as those matters are in court and *sub judice*, you proceeded to answer questions relating to those matters ...[intervenes].

20 **ADV JOHNSON:** Correct.

ADV SELLO SC: Before Ad Hoc. So, in fact, much as you raised it, you did not seek to assert it fully and insist that the rule be respected throughout.

ADV JOHNSON: Correct.

ADV SELLO SC: Okay. I am indebted to my learned friend

for reminding us of that after a heavy lunch, I think. Are there any other issues that perhaps you were to consider during lunch, Advocate Johnson, that you would like to bring to the attention of the Commissioners before we go to your third statement?

ADV JOHNSON: Commissioner Khumalo had asked that I look at the statement of O'Sullivan at paragraph 1.8.3, which I did, and I do see what he says, but I can only recall a complaint that came from the Office of the Minister, as
 10 well as Adams' section 27. I cannot take that paragraph further than what it states in 1.8.3. Just to indicate, Commissioner, I did read it. Thank you.

ADV SELLO SC: Thank you. Then I think we are ready to turn to our third and final statement. That appears under tab 3. As I indicated, it is dated the 20th of July 2026, and it is a five-page statement. The crux of the issues are from your paragraph 5, and to this end you reference the Rule 3 Notice that you received following testimony by Colonel Roelofse, Captain McClean at Witness O.

20 You do not adopt the ad-paragraph approach in that statement, but we have availed a copy of the Rule 3 and the issues you were called upon to respond to, which you seek to do in this particular statement. So when you are ready, I think you can skip, can safely say you can skip paragraphs 1 to 4 as they reiterate what you already have stated in

your first statement and repeated in your second. So if you could take it from paragraph 5? Thank you.

ADV JOHNSON: Paragraph 5, statement 3:

“[5] The notice requires me to deal with allegations against me testified to by Colonel Kobus Roelofse, Captain McClean, and Witness O. The allegations, as summarised, implicate me in alleged criminal conduct.

10 [6] The allegations are contained in a docket which is now with the NPA for a decision on whether I should or not be prosecuted and further handling. That this is so was confirmed by the NPA on 10 July 2026 as well as by the witness McClean when he testified.

20 [7] Now that the matter is before the NPA on the basis set out above for a decision on whether I should or not be prosecuted, various consequences emerge. One of those consequences of that of the need for me to have my rights protected.

[8] Thus, when I testify on those matters, should I be called upon to, I will

exercise my right not to incriminate myself under section 35(3)(j) of the Constitution of the Republic of South Africa read with section 34 of the Commission's Act of 1947. These instruments guarantee my right against self-incrimination.

10 [9] I hold the view that the Commission's fact-finding mandate does not override my constitutional protection against self-incrimination under any circumstances. For these reasons, this affidavit is submitted to place my position in regard to the testimony of the witnesses identified above formally before the Commission. Also, I take this opportunity to correct certain assertions and those were then dealt with already.”

Advocate Sello, that is 10.1, 10.2, as well as paragraph 11.

20 **ADV SELLO SC:** I confirm, thank you.

ADV JOHNSON:

“In summary, apart from correcting the errors identified above, this affidavit records my response to the Commission's latest notice, confirms that the

allegations against me are already before the NPA for a prosecutorial decision, asserts my constitutional and statutory right against self-incrimination. Accordingly, I place this affidavit before the Commission to preserve my constitutional rights to avoid any unfair prejudice arising from parallel prosecutorial processes.

10 Conclusion. Lastly, I see the need to state:

[14] That prior to my then-scheduled appearance on 13 July 2026, I took ill and did not appear before the Commission. I placed before the Commission a medical certificate on which a dim view was taken. I have since approached my doctor for the preparation of what I believe is a medical
20 certificate that would be acceptable to the Commission for its details of what led to me being indisposed. It will, together with this affidavit, be delivered to the lawyers of the Commission. I request that the medical condition I suffered from

not be made public. Should I be required to answer questions flowing from this affidavit and other matters in respect of which it has been determined that I would be of assistance to the Commission, the same of, subject to timeous notice and the right to legal representation, I would be willing to make myself available for such.”

10 **ADV SELLO SC**: Thank you. Thank you, Advocate Johnson. Is there anything else you would like to add to this statement?

ADV JOHNSON: Chair, there was a bundle that came last night and what I saw in the bundle was there was WhatsApps of Barry Bateman. And there was, I think, an affidavit of Brigadier Phetlhe. I know my counsel struggled to open it, so we were not able to consult on those matters and I do not want to be seen to be leaving them out because they do relate to the same matter.

20 So if where I am talking only about three people, I open myself up to questions from others who all relate to the same matter. And if I could just take a minute to – if I could confer with my counsel through you, Commissioner, just to see if they were able to get to that bundle because the first part, Advocate Sello says bundle, and then it has

those names. I do not want to miss a name that might be there.

ADV SELLO SC: May I suggest this perhaps? It might assist you. You recall during the course of consultation, File 1 of the exhibit bundle was shared with us.

CHAIRPERSON: The mic, the mic, please.

ADV SELLO SC: File 1 of the exhibit bundle was shared with you. This is about 10 days ago to two weeks ago. Do you recall that? And in that bundle one, it is Annexure 368,
10 CJC368. So those documents in their entirety were shared with you. I guess I am trying to understand which bundle you received last night regarding the sharing of the docket with General Khan.

ADV JOHNSON: This is a very similar – we also got one last night at 19:12.

ADV SELLO SC: It could very well be updated documents or additional documents to the exhibit, the main exhibit bundle, which by now runs into seven files.

ADV JOHNSON: Yes.

20 **ADV SELLO SC:** But I am interested in this particular Bundle 1 and saying you received that Bundle 1 in its entirety about 10 days ago. If you look at exhibit bundles from page 1 ...[intervenes].

CHAIRPERSON: Sorry, sorry. Is this something you will be dealing with? By the way, you still want to get an idea of

what it is, so you may not be able to answer my question. But perhaps in fairness to Advocate Johnson, she has to confer with her counsel. Mr Bodlani, do you want us to stand down for maybe five minutes, give or take, or do you want to walk across and?

ADV BODLANI SC: Thanks, Chair. It might not be necessary. As I understand it, Ms Johnson's issue is that documents that were received yesterday evening.

CHAIRPERSON: Yes.

- 10 **ADV BODLANI SC**: In respect of which we did not have an opportunity to consult with her. I do not know if my colleagues for the Commission intended to ask her questions on those documents, but this morning we were subsequently given those documents physically. We could not access them in electronic format. I am able to point out now that we have got the physical bundle, from what page to what page have we not been able to talk to Ms Johnson about.

CHAIRPERSON: Yes, yes.

- 20 **ADV BODLANI SC**: Now, if I point those documents to my colleagues, they might be able to tell you that they do not intend to traverse them this afternoon at least, then that way the issue is resolved.

CHAIRPERSON: Perhaps let us just go out and we will come back when it is indicated to us that we should.

ADV SELLO SC: If I may, before we do so, that is the clarification I, to some extent, was seeking and was highlighting to Advocate Johnson. The bundle grows literally on a daily basis, so that there were documents provided to the team and to the witness yesterday is possible, but that those would be in File 8. The issues that Advocate Johnson addresses in her third statement are the start of the exhibit file, which is from page 1, and that was provided to her 10 days ago. I just mentioned that in the
10 context of the request she has made to confer with her counsel, just to make sure which documents we are talking about.

CHAIRPERSON: Can we just have that quick stand down?

ADV SELLO SC: Yes.

CHAIRPERSON: You will indicate when you are ready, Mr Bodlani.

ADV BODLANI SC: Certainly, Chair. Thank you.

CHAIRPERSON: Yes.

ADV SELLO SC: Thank you.

20 **CHAIRPERSON:** Let us adjourn.

INQUIRY ADJOURNS

INQUIRY RESUMES

CHAIRPERSON: Yes, Mr Bodlani.

ADV BODLANI SC: Thank you, Chair. Thank you, Commissioners. We appreciate the time that was given to

us. It is really much appreciated. We have had a conversation with Ms Johnson. She has pointed to us some of the documents that she did not have, we did not have. She has also pointed to us documents that she had, but had forgotten to bring them to our attention when we prepared the statement that was filed yesterday.

But she, being under oath, she will be able to take the Commission through what those documents are because there is a particular paragraph where they should have been
10 inserted or added together with others that are already referred to there. That is the paragraph that has the statements of Ofentse and other people in the statement that came in yesterday.

CHAIRPERSON: Thank you. Thank you then, Mr Bodlani.

ADV SELLO SC: Thank you, Chair, and thank you to Mr Bodlani. We were about to deal with the witness's third statement, and it is in that context that this issue arose. So perhaps if the witness can clarify whether the concern she expressed before dealing with her third statement has been
20 addressed, if not, where the shortcoming is? I do not think I am clear where this lands us. I would appreciate a clarification on that. Thank you.

ADV JOHNSON: Sorry, Counsel. I hope I understood. We are dealing with statement 3?

ADV SELLO SC: Yes, ma'am.

ADV JOHNSON: Okay.

ADV SELLO SC: And the issue of document arose in the context of dealing with statement 3, and you were then given an opportunity to confer with your counsel as you had requested ...[intervenes].

CHAIRPERSON: May I suggest, because I did not understand Mr Bodlani to say that anything is still outstanding in the sense that we cannot go ahead and start with the third statement.

10 **ADV BODLANI SC**: Nothing is outstanding, Chair.

CHAIRPERSON: Yes.

ADV BODLANI SC: The only issue I was placing on record is that there are documents ...[intervenes].

CHAIRPERSON: No, I followed that. I got that.

ADV BODLANI SC: Okay.

CHAIRPERSON: I think let us just go through ...[intervenes].

ADV SELLO SC: Then we are ready to deal with your third statement.

20 **CHAIRPERSON**: Please, thank you.

ADV SELLO SC: Okay. If then you had started on your third statement at paragraph 5.

ADV JOHNSON: That is correct.

ADV SELLO SC: And you may take it from there. It should be at your paragraph 6 now.

ADV JOHNSON: Yes. So, I wanted to then indicate, Chair, that having consulted then with counsel, I wanted to make an addition under paragraph 5.

CHAIRPERSON: Please.

ADV JOHNSON: Just for me to mention what it is, and then Commissioner will indicate if that is in order.

CHAIRPERSON: All right. Please, go ahead.

ADV JOHNSON: Paragraph 5 reads as it does. It says:

10 “The notice requires me to deal with the
 allegations against me testified to by
 Colonel Kobus Roelofse, Captain
 McClean, and Witness O. The
 allegations, as summarised, implicate me
 in alleged criminal conduct.”

What I wanted to add, Commissioners, is I omitted in this paragraph to deal with CJC368 from pages 1 to 133, all included.

CHAIRPERSON: Page?

ADV JOHNSON: 1.

20 **CHAIRPERSON:** Yes.

ADV JOHNSON: Up to and including 133.

CHAIRPERSON: Okay.

ADV JOHNSON: That is the insertion I wish to make.

CHAIRPERSON: All right. Are you able, off the top of your head, I know we can find it, but off the top of your head,

can you just tell us what CJC368 is?

ADV JOHNSON: In Witness Bundle 1, CJC, we have 3681 ...[intervenes].

CHAIRPERSON: Just a description of the nature of the document.

ADV JOHNSON: 3681 ...[intervenes].

CHAIRPERSON: Okay ...[intervenes].

ADV JOHNSON: Statement and annexure – sorry.

ADV SELLO SC: Apologies. This is the index to the
10 exhibit bundle, and it is from item 1. That is your CJC368
to item 5.

ADV JOHNSON: That is correct.

ADV SELLO SC: Those are the documents you referenced.

CHAIRPERSON: Let us leave it. Let us continue.

ADV SELLO SC: Yes. She was still making an
...[intervenes].

CHAIRPERSON: Are you continuing with the correction?

ADV JOHNSON: That was the correction. That is the
addition I wanted to make ...[intervenes].

20 **CHAIRPERSON:** It ends ...[intervenes].

ADV JOHNSON: Commissioners, to paragraph 5.

CHAIRPERSON: Okay. All right.

ADV SELLO SC: That will then take us to your paragraph
6, and you can take it from there. Thank you.

ADV JOHNSON: Thank you:

“The allegations are contained in a docket, which is now with the NPA for a decision on whether I should or not be prosecuted and further handling. This was so confirmed by the NPA on the 10th of July 2026, as well as by the witness McClean when he testified. Now that the matter is before the NPA...”
...[intervenes].

10 **ADV BALOYI SC:** Advocate Johnson?

ADV JOHNSON: Sorry?

ADV BALOYI SC: This NPA confirmation, is it in writing, and to whom was that confirmed?

ADV JOHNSON: Mr Mhaga.

ADV BALOYI SC: You can always come back to it. Let us just not forget it.

ADV JOHNSON: Yes, we will not forget it ...[intervenes].

ADV BALOYI SC: Ja, we ...[intervenes].

ADV JOHNSON: We were supposed to get that
20 confirmation for you from Advocate Bell. Thank you. Thank you, Commissioner Baloyi:

“Now that the matter is before the NPA on the basis set out above for a decision on whether I should or not be prosecuted, various consequences emerge. One of

those consequences of that, of the need for me to have my rights protected. Thus, when I testify on those matters, should I be called upon to I will exercise my right not to incriminate myself under section 35(3)(j) of the Constitution of the Republic of South Africa read with section 3(4) of the Commission's Act of 1947. These instruments guarantee my

10 [9] I hold the view that the Commission's fact-finding mandate does not override my constitutional protection against self-incrimination under any circumstances. For these reasons, this affidavit is submitted to place my position in regard to the testimony of the witnesses identified above formally before the Commission."

Then we skip paragraphs 10, 10.1, 10.2 and 11, and we go

20 to paragraph 12, Commissioners:

"In summary, apart from correcting the errors identified above, this affidavit records my response to the Commission's latest notice, confirms that the allegations against me are already before

the NPA for a prosecutorial decision, asserts my constitutional and statutory right against self-incrimination.

[13] I accordingly place this affidavit before the Commission to preserve my constitutional rights, to avoid any further prejudice arising from parallel prosecutorial processes.”

In conclusion:

10 “[14] Lastly, I see the need to state that
prior to my then-scheduled appearance
on 13 July 2026, I took ill and did not
appear before the Commission. I placed
before the Commission a medical
certificate on which a dim view was
taken. I have since approached my
doctor for the preparation of what I
believe is a medical certificate that would
be acceptable to the Commission for its
20 details of what led to me being
indisposed. It will, together with this
affidavit, be delivered to the lawyers of
the Commission. I request that the
medical condition I suffered from not be
made public.

And lastly, should I be required to answer questions flowing from this affidavit and other matters in respect of which it has been determined that I would be of assistance to the Commission, the usual, subject to timeous notice and the right to legal representation, I would be willing to make myself available for such."

ADV SELLO SC: Thank you. That brings us to the
10 conclusion of your third statement. And once again, to check if there are any additions you would like to make to that statement.

ADV JOHNSON: It was the addition that I made under paragraph 5.

ADV SELLO SC: Okay. You say you omitted, in paragraph 5, you add that you omitted to deal with EXHIBIT CJC368. That is the first document in the exhibit file or pack of documents from pages 1 to 133.

ADV JOHNSON: That is correct.

20 **ADV SELLO SC:** Now, I had indicated that after you have addressed your third statement, I will indicate to the Commission where my understanding is your legal representatives, Mr Bodlani and his team, and I landed on the question of self-incrimination.

And I want to test whether the rights you assert at

paragraphs 8 and 9 accord with our understanding and our decision. Firstly, our understanding is you are not invoking a blanket ban on dealing with the issues that are reflected in CJC368, the documents that you say you omitted to deal with.

And that you invoke your right against self-incrimination in response to specific questions, not that questions can be put to you. That is what Advocate Bodlani and I understood to be the correct legal position. I want to
10 understand whether that is your understanding as well. That questions may be put to you, and in response to each question, you then get to decide whether you invoke your right against self-incrimination.

ADV JOHNSON: That is correct, because I understood that is the rules under which the Commission does operate, and so there is no blanket, but it is on a question by question.

ADV SELLO SC: Okay. Now, because it is you sitting here, you do invoke section 3(4) of the Commission's Act. You reference it there at paragraph 8. And that is, I think,
20 in our Act what secures your right against self-incrimination. I find it interesting that you have a similar provision in the Act, in the NPA Act, and I want to see whether you draw a distinction between your testifying before the Commission and what those whom you engage during the course of investigation are expected to do.

In this regard, I would like to refer you to section 28(8)(a) and (b), and it will be projected soon if you do not have it immediately in front of you.

ADV JOHNSON: Of the NPA Act?

ADV SELLO SC: Of the NPA Act.

ADV JOHNSON: Section 28?

ADV SELLO SC: 28(8)(a) and (b), and section 8A reads, I quote:

10 “The law regarding privilege as applicable to a witness summoned to give evidence in a criminal case in a Magistrate's Court shall apply in relation to the questioning of a person in terms of subsection (6), provided that such a person shall not be entitled to refuse any answer, to answer any question upon the ground that the answer would tend to expose him or her to a criminal charge.

20 (b) No evidence regarding any questions and answers contemplated in paragraph (a) shall be admissible in any criminal proceedings, except in criminal proceedings where the person concerned stands trial on a charge contemplated in subsections 10(b) or (c), or in section

3(19)(3) of the Criminal Procedure Act.”

So, considering the position you assume in regard to EXHIBIT 368, do we land at a place where those that IDAC interviews and questions are in a different position to witnesses, including yourself, appearing here today? Because if I understand (8), as the persons that you question during the course of investigation may not refuse to answer a question upon the ground that the answer would tend to expose him or her to a criminal charge. Do you
10 have a different standard than the one you are seeking to invoke in your protection today?

CHAIRPERSON: Sorry, Ms Sello.

ADV SELLO SC: Yes, Chair.

CHAIRPERSON: Can you please explain to me the comparison, if it is a comparison, that you are making with this section?

ADV SELLO SC: The comparison I seek to make is if I understand the witness ...[intervenes].

CHAIRPERSON: Let me perhaps explain.

20 **ADV SELLO SC:** Yes.

CHAIRPERSON: And I am asking the question because this specifically relates to a witness called before a Magistrate's Court.

ADV SELLO SC: Yes.

CHAIRPERSON: Yes.

ADV SELLO SC: Chair, if one has regard to 8(b), it says:

“No evidence regarding any questions and answers contemplated in paragraph (a) shall be admissible in any criminal proceedings except in criminal proceedings where the person concerned stands trial on a charge contemplated in 10(b) and (c). 10(b) and (c) below provide any person who has been summoned to
10 appear before the ID.”

and then (a) is without sufficient cause, fails to appear, fails:

“(b) At his appearance, fails to produce a document requested, having been sworn or having made an affirmation, fails to answer fully and to the best of his ability any question lawfully put to him or her.”

That is the comparison I seek to make, which is what the
20 Commission's Act also provides in respect of witnesses. And my reading of (8) together with (10) would suggest that the witnesses that are interviewed, and I am not saying interrogated, interviewed by the Investigating Directorate cannot refuse to answer questions on the basis that they would tend to expose themselves to a criminal charge

subsequently. They may not fail to answer any question put to them to the best of their ability.

So, I read 28(8) to be equivalent to the Commission's Act section 3(4), which means that the rights are the same, but it would appear that those being interviewed by the ID do not have the basis or the scope to refuse to answer questions notwithstanding the fact that they may incriminate themselves. I just wanted to understand from the ID whether is it the same right, or does
 10 the Commission's Act afford greater rights than the NPA Act does to those who are summoned by the Investigating Directorate to answer questions? Yes.

ADV KHUMALO SC: Is it 3(4) that applies, or is it section 6? Because my 3(4) deals with witness fees and privilege and other things, but the equivalent of this, I see it in section 6 of the Commission's Act.

ADV SELLO SC: And it is because section 6 will cross-refer you to this section 3(4) referencing the privilege applicable to anyone, I think, in a Mag Court, if memory
 20 serves me well. So they should be read conjunctively to get to a position where a witness may invoke a right against self-incrimination.

And we say that that right is protected in terms of section 3(4) read with section 6. We can get to the regulations as well. I think Regulation 8 expands further on

that, but we cannot rely on the regulation to interpret the Act.

ADV BALOYI SC: Can I add something to this, which is turning out to be a complicated issue, and without being technical about it? The provisions speak of a privilege.

ADV SELLO SC: Yes.

ADV BALOYI SC: And privilege is different from the shield of self-incrimination. It is two different concepts. Privilege, as I understand it, is about your discussion with your attorney, with your lawyer. So I am under no obligation. 10 Our 3(4) when I say our, I mean Commission's Act, gives a witness protection not to reveal matters that are the subject of discussion with their legal representative.

I did not understand that we are in that territory with a third statement. I thought the third statement speaks to self-incrimination, which is, as we know, a completely different concept.

ADV SELLO SC: Yes, Commissioner. At first blush, we get where we are. Thanks to the Constitutional Court matter, 20 *Secretary Judicial Commission of Inquiry into Allegations of State Capture v Zuma* 2021(5) SA 1 (CC). That is the case that determined that the rights in section 3(4) and 6 include the right not to self-incriminate.

The Constitutional Court considered, and it was argued before it by some or other *amicus curiae*, that it

does not include the right against self-incrimination, but the Constitutional Court determined that it does. They have a right not to self-incriminate.

ADV BALOYI SC: Thank you.

ADV SELLO SC: And part of the basis for that is that the Constitutional Court held in the same matter, I submit correctly so, that the rights afforded in terms of section 35(3) of the Constitution do not apply to a person who is not an accused person. So she can invoke section 35 of the
10 Constitution, but she may invoke 3(4). This is what lands us here.

We may not get a resolution. I just raise it to make the point that the rights the witness seems to assert would appear on my reading to be greater than the rights afforded persons that are interviewed by the Investigating Directorate and wonder whether my interpretation is correct, and should that be the case, is it not the same right? And why it is the NPA Act seems to be so stringent when it comes to the invocation of that right?

20 I pose this question specifically to this particular witness because she happens to be a lawyer and advocate over 30 years and they handle these matters, I take it, on the regular. I thought she might be able to shed some light, but if she cannot, then it would be a matter for consideration by the Commission as we go forward. If she

cannot give a response now, I am happy to leave it there.

CHAIRPERSON: Please restate your question perhaps for the benefit of Advocate Johnson.

ADV SELLO SC: Advocate Johnson raises in the third statement the right not to self-incriminate and we have, I think, gotten to a point where at least she and I agree that she can invoke that right in response to specific questions as we go along.

Now, I consider section 28(8)(a) and (b) read with
10 (10) that the right she seeks to assert is not the right afforded any person interrogated by the Investigating Director or the Directorate. And I wanted to understand if my understanding is correct or whether it is the same right.

My reading of section 28(8) read with (5) would seem to suggest that it is not, which would mean the witnesses that they – no, not witnesses, the persons that they question cannot refuse to answer on the grounds that they would expose themselves to a criminal charge. And it is precisely that ground she seeks to invoke going forward
20 in refusing to respond to questions.

It did not detain us. It might be a matter that Advocate Johnson may consider overnight. I just want to know where we land on this right against self-incrimination.

ADV BALOYI SC: Ms Sello, may I suggest that if we leave it at Advocate Johnson to consider this overnight, you may

also want to have regard to Regulation 8(2), which speaks to the treatment of self-incriminating answers before the Commission. This is the regulations of the Commission. So consider that as well.

ADV JOHNSON: Of this Commission?

ADV BALOYI SC: Yes.

ADV SELLO SC: Thank you, Commissioner.

ADV BODLANI SC: Sorry, now it works.

CHAIRPERSON: Yes, yes.

10 **ADV BODLANI SC:** I was thinking that maybe it is not working because we are now where we are. No, that is fine. I think the issue I wanted to raise has since been taken care of. Now this matter, it being one that is going to be considered by Ms Johnson overnight. Our concern was of what consequence really is it.

Ms Johnson is before the Commission. The rules of the Commission apply. She is not before IDAC. She is not before the ID. It may very well be that the Act accords her more rights than she otherwise would have, or vice versa,
20 but the rules of the Commission are the rules of the Commission, and that is what applies.

To the extent that the ID is before you today, what operates here and what regulates the Commission trumps over whatever else she might be entitled to elsewhere. She is not elsewhere now. She is before you, but we will

consider the matter overnight.

ADV SELLO SC: I have ...[intervenes].

CHAIRPERSON: And as Ms Sello indicated, there is agreement that Ms, or rather Advocate Johnson's responses will be on a question-by-question basis and that it is not a blanket.

ADV SELLO SC: Indeed.

CHAIRPERSON: Ja.

ADV SELLO SC: Indeed, and ...[intervenes].

10 **ADV BODLANI SC:** Indeed, that is the agreement, Chair.

CHAIRPERSON: Yes, thank you.

ADV SELLO SC: My apologies. I confirm that, Chair. I opened that. I had assumed, and I hope rightly so, although I think I did not give warning, that the engagement, the probing of Advocate Johnson's testimony that she spent the greater part of the day putting before the Commissioners has ended and the probing had started.

CHAIRPERSON: Yes, yes.

20 **ADV SELLO SC:** So I started at section 28 to see if we can have an engagement that could better inform the Commissioners about how these matters are dealt with. I do not, for a second, confused about where Advocate Johnson is today. She is before the Commission at section 3(4).

She has a directorate that seemed to have a similar

provision in the Act, applicable Act, and I just wanted to understand how it applies to others and whether there is a difference. It is the sole purpose for which I referenced 28(8). Thank you, Chair. But as we have agreed, she will consider it overnight and we will see where we land tomorrow when we resume.

CHAIRPERSON: Yes. May I just start with this question? I hope it will not disrupt your probing.

ADV SELLO SC: Indeed, Chair. Indeed.

10 **CHAIRPERSON**: Advocate Johnson, Colonel Padayachee said that he has never been furnished with copies of affidavits that support section 27 referrals. He testified that all that he has ever been given, as I understood it, throughout his stay at IDAC, are oral briefings given to him by senior investigators or prosecutors.

I am not sure which one it is now. Let me outright say that that does not make sense at all to me. I say so because what needs to be investigated would be contained in the section 27 referral affidavit. Why a senior prosecutor
20 or investigator would hold back that referral affidavit simply escapes me. Did he tell us the truth with regard to this or not? Is that the practice followed at IDAC? If it is, which I would find very strange, why would there be such a practice?

ADV JOHNSON: As I indicated, Chair, once I have a

section 27 or it has come from Mr Sesoko, the necessary deliberations have been made, they go to a team. So the team would have access to the section 27 because the prosecutors ...[intervenes].

CHAIRPERSON: Would investigators at the level of Colonel Padayachee be part of that team or not?

ADV JOHNSON: The team has different levels of investigators and prosecutors. They have to sit and deliberate on this document and to work out what
10 investigation would have to be instituted, what the allegations would be.

CHAIRPERSON: I want to understand when you are talking about a team, who are you talking about? Would this, for example, include Colonel Padayachee?

ADV JOHNSON: That is correct.

CHAIRPERSON: The team?

ADV JOHNSON: The team. The team will have investigators. So if I take this team, it is investigators and prosecutors, both criminal and financial investigators, and
20 he is one of the criminal investigators in that team and ...[intervenes].

CHAIRPERSON: And obviously it makes practical sense as they debate issues around what needs to be investigated. It makes practical sense that the source document, which is the section 27 referral affidavit, should be there in front of

them.

ADV JOHNSON: In order for them to deliberate what are the allegations.

CHAIRPERSON: Yes.

ADV JOHNSON: Can we make out offences?

CHAIRPERSON: Yes.

ADV JOHNSON: Is there sufficient to bring an application to the Investigating Directorate for the institution of an investigation? So I do not know why he would not have
10 seen this one. I also heard when he testified that he said he had not had access to it. It is something I can find out, but it is not ordinary practice that no one has sight of every document.

Of course, it depends on how they are working. Someone might see something, someone not, but I do not believe that there is a deliberate withholding of the documents within a team, from a team ...[intervenes].

CHAIRPERSON: Would there be any reason – Colonel Padayachee mentioned the name several times of this
20 person above him, this senior ...[intervenes].

ADV JOHNSON: Chief Perumal?

CHAIRPERSON: Yes, yes. He mentioned that name a good few times. Would there be a reason why Mr Perumal would hold back that document?

ADV JOHNSON: Not at all. From what I do recall, when

the document was handed over to one of the prosecutors so that they can go to the team, the prosecutors are the ones who usually will do the legal drafting, but that document does get shared. I did ask Chief Perumal after this testimony.

CHAIRPERSON: Yes.

ADV JOHNSON: And ...[intervenes].

CHAIRPERSON: And hearsay evidence is admissible here. What did he say?

10 **ADV JOHNSON:** He did say that he did not withhold any document. That section ...[intervenes].

CHAIRPERSON: Meaning? Let us be specific. Meaning that ...[intervenes].

ADV JOHNSON: He did not withhold the section 27 because after the deliberations happened, the 27 was kept by the prosecutor or the project manager, but there was a 27 that was in the team.

CHAIRPERSON: Team including, as you said ...[intervenes].

20 **ADV JOHNSON:** So what I did do, Chair, because I did become confused about the issue, I then asked what other matters is Mr Padayachee vested in. So other than these Crime Intelligence matters, he is invested in a different investigation. That matter does not have a section 27 because it is a matter that emanates from the State Capture

Commission recommendations. So that one will not have a
27.

CHAIRPERSON: Yes, that is understandable.

ADV JOHNSON: This is the one that had a 27.

CHAIRPERSON: Yes, yes, yes. All right, that makes
perfect sense. I said so to him. If you say you were
listening, you must have heard me. I said to him I find it
hard to believe that he would not have been furnished with
a source document for it all. It just did not make sense to
10 me.

ADV JOHNSON: I understand.

CHAIRPERSON: Thank you.

ADV BALOYI SC: Can I just understand this explanation?
There is a difference, and that was the basis of engagement
with Colonel Padayachee was him being provided as the
lead investigator, him being provided with a copy of the
section 27 referral, vis-à-vis how he explains, he says we
were briefed, we were told that there is this. Are you
saying that Chief Investigator Perumal said to you that
20 Colonel Padayachee was provided with a copy of the
section 27 referral? Is it as clear as that?

ADV JOHNSON: No, he said, Chief Perumal said I did not
have the section 27. It was ...[intervenes].

ADV BALOYI SC: He said, I have never seen it. It is
never provided.

ADV JOHNSON: It was with the prosecutor and with the project manager because that is how they coordinate their meetings. I cannot explain why it would not have been shared in that space because that is where they have to sit, Commissioners, and deliberate. All documents do get shared with the team members because how do you do your taskings and activities when people do not have sight of documents?

ADV BALOYI SC: I am not sure what you are saying Chief
10 Investigator Perumal said to you. Did he say to you that the lead investigator was provided with a copy of the section 27 referral?

ADV JOHNSON: He said to me he did not have the section 27 referral because that is what was testified to, that Chief Perumal had it and it was not given to me.

ADV BALOYI SC: Okay.

ADV JOHNSON: Chief Perumal says I did not have that document. That document was with the prosecutor.

ADV BALOYI SC: Okay.

20 **ADV JOHNSON:** And we do not know if the prosecutor in turn shared it with Mr Padayachee.

ADV BALOYI SC: That clarifies it. Thank you.

CHAIRPERSON: So what does this mean exactly? *Ek is nou klaar deurmekaar.* Does this mean even Mr Perumal never had sight of that document? What exactly does this

mean?

ADV JOHNSON: I would have to clarify. I asked if he had the document. He did not have the document. I am sure he should have had sight of the document ...[intervenes].

CHAIRPERSON: Ja, you see, the difficulty ...[intervenes].

ADV JOHNSON: I am giving a report ...[intervenes].

CHAIRPERSON: The difficulty ...[intervenes].

ADV JOHNSON: I am giving a report ...[intervenes].

CHAIRPERSON: Ja, the difficulty with that is that he might
10 have been referring to a specific point in time and that he did not have the document at that point. I am not sure that that answers the question. Had he ever had it in his possession at any point whatsoever? Did you get to that point or not in your discussion?

ADV JOHNSON: Not in my discussion, but I will revert to that answer because I do believe it is important.

CHAIRPERSON: Ja. Let me tell you what my difficulty is with it. The prosecutor has it. He, that is Mr Perumal, does not have it and has never had it and then he, according to
20 Mr Padayachee, gives an oral briefing to Mr Padayachee. So Mr Padayachee then goes ahead and investigates. He has not seen the source document.

Mr Perumal gives this oral briefing. He has not seen the source document. That is just very, very strange to me. And yet something very serious, which is an

investigation, is going to commence. And yet the two people involved right at the tail end, before the investigation actually starts, have not seen the source document. I find it very difficult to comprehend any of this. Do you wish to comment on that?

ADV JOHNSON: I would rather give you a clear answer after engagement. I do not want to give you an answer because I was not in that space at the time of their deliberations.

10 **CHAIRPERSON**: But that was the substance of my engagement with Mr Padayachee and seeing that you asked some questions, well, maybe I should not blame you, but your engagement does not seem to have covered the essence or the substance of the issues I was covering with Colonel Padayachee.

ADV KHUMALO SC: Advocate Johnson, from a different angle, I understood from Colonel Padayachee that it is you who designates an investigator to handle a particular case. Is that correct?

20 **ADV JOHNSON**: That is correct.

ADV KHUMALO SC: So the starting point is the section 27 affidavit, the referral. At that stage, the investigator does not have anything else because the investigation has not commenced. So when you designate him to start the investigation, what then do you give him?

ADV JOHNSON: Chair, at the time the designation happens, the team would have gone through the section 27 document and they would have come up with an application setting out what they see as suspected offences, who might be implicated, and what kind of investigation, if they are able to at that stage, identify must be conducted.

It is an application and sets out a summary of the facts as well that would then support the application. They, in turn, as part of the designation, they put down the names
10 of the persons who will form part of that team to conduct the investigation and the prosecution. That is the designation I signed, together with the section 28 authorisation.

So what they then have, Commissioner Khumalo, is an authorisation setting out offences and allegations, persons to be investigated, perhaps resources required, a summary of facts, and this is what they need to go and do. They then take that and they are able to then sit amongst themselves and operationalise this document in terms of
20 what is the work that needs to be done. They get the authority to investigate based on what they have identified arising from the section 27.

ADV KHUMALO SC: And then let me ask you this. From that stage, when you accept the application or you approve it, until the 25th of June in 2025, when you write to the DPP

saying you want people to be charged, at no stage during that process do you satisfy yourself that your investigator has seen the section 27 referral.

So you now, as head of IDAC, at no stage do you satisfy yourself that the person on whose affidavit you are relying to bring these charges, on whose affidavit you are relying to ask for a warrant of arrest, you now as Advocate Johnson, at no stage do you satisfy yourself that he has seen the section 27 referral.

10 **ADV JOHNSON:** I do not ask that question because it is given to the team. And I work, and Commissioner Khumalo might say to me but incorrectly so, I work on the assumption that once all documents, approvals and authorities are given to the team, the team accesses it all. They share it because they have to sit, they have to do the planning, they have to work out what needs to be done.

So short of someone raising a complaint or escalating to my office that in this team I am not getting access to documents, I will not be aware that these
20 documents that are given are not shared.

ADV KHUMALO SC: [Indistinct]... a red flag that it is not part of the docket or it is not part of the documents that are given to you for the purposes of finalising the note to the DPP. I know they would not have brought it to your attention, but you are now the final decision maker at IDAC.

It does not raise a red flag that this document is not referred to, my investigator does not say anywhere in his affidavit that he has studied the referral or he has had sight of the referral? Is it not something that you consider at all?

ADV JOHNSON: What is considered for that prosecution memo is the evidence that was collected as a result of the section 28. I have to concentrate on the evidence, the law, and I put together a prosecution memo that deals with evidence and the law and therefore the charges and what
10 must be enrolled.

CHAIRPERSON: Will you be asking questions around the Intake Committee at some point? I do not want to get there if you will be, but in any event, I am not getting there now.

ADV SELLO SC: I was headed there.

CHAIRPERSON: Yes.

ADV SELLO SC: And in light of what the witness said this morning when she was informed of what was Colonel Padayachee's testimony before the Commission.

CHAIRPERSON: Okay, okay.

20 **ADV SELLO SC:** Before I do so, however, for two minutes, I hope, just to clarify two issues with the witness. The first is you keep referencing the team and that the team would have considered the section 27. Can you perhaps assist us? How does the team come into being? It is not a permanent team, I take it. It is a team that is constituted

for purposes of investigation and maybe subsequent prosecution.

Perhaps if you just clarify who constitutes the team, under what circumstances does that happen and whether it is following a consideration of the section 27 affidavit and authorisation by the ID in terms of section 28. I want to understand when does the team get born, so to speak.

ADV JOHNSON: Thank you. As the structure of the office stands, there are pre-existing teams. It is just for purposes
10 of being able to logistically run the office. There are standing teams that fall under the leadership of a Deputy Director of Public Prosecutions and that team will have a chief financial investigator, financial investigators, criminal investigators, commissioners, each team has a project manager and then they also have data analysts allocated as and when.

Now, they are standing teams because we have so many DDPPs. What has happened over time is you find that certain teams work well on certain matters and you build
20 that expertise. As an example, we would have a matter where the Transnet matters are dealt with. Almost all Transnet matters get dealt with within that team. It therefore makes it easier to allocate matters of a similar nature to that specific team when they come in.

However, it may be that that team is up to taking

the Adams 27, if we can call it that, but they are already overstretched with court matters and their investigations. We then look to the office to see where can we best allocate this matter. Mr Sesoko and I will have a conversation. It also talks to the allocation of work, which team might have a little less than another team, but there is also expertise.

So you look at the seniority of especially the criminal and the financial investigators and the advocates and then you assign the matter there and then this process
10 is run.

ADV SELLO SC: Okay.

CHAIRPERSON: Ms Sello, I am made to understand that at some point you indicated that we should adjourn at 16:00. I do not know whether the information I am getting is correct.

ADV SELLO SC: The information you are getting, Chair, it is correct. I do note it is 16:07 and I stand by what I indicated.

CHAIRPERSON: Yes, yes.

20 **ADV SELLO SC:** But before I do so, may I just place two matters on record? This morning we started with subpoenas issued by the Commission to IDAC and Mr Bodlani, addressed you, Commissioners, about the status of the documents requested. Just to confirm that these have started trickling in and we will update the exhibit files by

tomorrow overnight.

In the meantime, just to confirm, we too in the interim have added two other exhibits, CJC387 and 388, and have provided Ms Johnson and her team with those exhibits. And once again, your exhibit files will be updated. Thank you, Chair.

CHAIRPERSON: Thank you. We will adjourn and resume at 09:30 tomorrow morning. Let us adjourn.

ADV SELLO SC: Thank you.

10 **INQUIRY POSTPONED TO 22 JULY 2026**

INQUIRY ADJOURNS

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