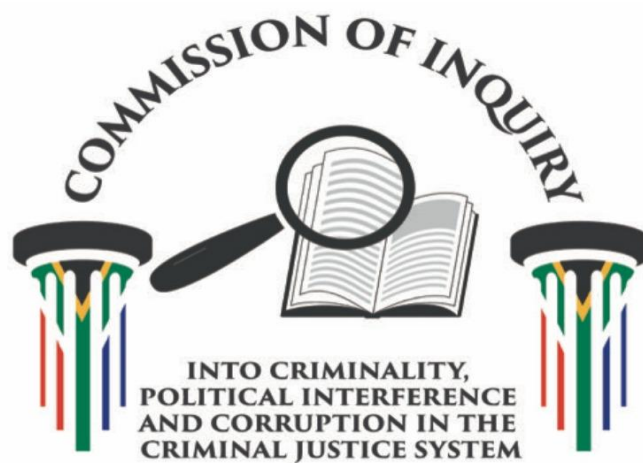


JUDICIAL COMMISSION OF INQUIRY INTO CRIMINALITY,
POLITICAL INTERFERENCE AND CORRUPTION IN THE
CRIMINAL JUSTICE SYSTEM

HELD AT
BRIGITTE MABANDLA JUSTICE COLLEGE

27 JULY 2026

DAY 148



PROCEEDINGS ON 27 JULY 2026

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

ADV JOHNSON: Morning, Chair.

ADV SELLO SC: Good morning, Chair, and good morning, Mr Bodlani and his team, and good morning, Advocate Johnson. Chair, I guess before we proceed with Advocate Johnson's testimony, it is necessary to take stock of where we were on Thursday when we parted. During the course of
10 Advocate Johnson's testimony, certain documentation was requested and we followed this up with a formal letter, just so we are all on the same page. I just want to confirm what we have received and have not received, because that becomes relevant to how we conduct the leading of her testimony this morning.

Commissioners, you are being provided with a copy of the letter that was written by the Commission on Thursday at the close of the hearing. Advocate Johnson, you do have a copy of the letter you have been furnished
20 with now. Over the course of the weekend, including this morning, we have been receiving documents. I just want to check what is still outstanding, what has been provided.

So if we could have regard to page 2, item 2.1. Item 2.1 requested all documents related to and constituting the investigation record as per investigation reference

number provided. Can you confirm if we have received that document? It would appear, or that file, it would appear that it is outstanding, do you confirm?

ADV JOHNSON: I confirm that file is outstanding, yes.

ADV SELLO SC: Then 2.2, we requested relevant documentation for purposes of section 28, specifically that enabled IDAC to initiate investigations into the alleged misappropriation of the Crime Intelligence Slush Fund. On our record, that document has not, or that documentation
10 has not been provided, am I correct?

ADV JOHNSON: We have provided, Advocate Mhaga, I believe we have provided the section 28(1).

ADV SELLO SC: For?

ADV JOHNSON: And that is the section 28(1) that we have.

ADV SELLO SC: Okay, let us just, and that is why this exercise is necessary. You recall, if we take a step back, your testimony is that Mr Adams filed a section 27 in November 24, and that was followed up by engagements in January 25 to seek further clarification and you indicated
20 that the clarification sought and obtained in January 25, by then the investigation had broken into different legs.

ADV JOHNSON: Correct.

ADV SELLO SC: What we have been dealing with is the Mokwele leg, and I had understood you to say there are about, in total, six investigations flowing from the section

27 and one of the allegations advanced or suspicions expressed was that certain Generals, mainly the three Generals, General Khumalo, Lekalakala, the third one escapes me now, were misappropriating Crime Intelligence Slush Funds. That was a specific investigation as I understood it.

So, 2.2 requests documentation regarding that particular leg, and now I want to establish whether or not we have been provided. We have been provided with
10 dockets from Cape Town and Pretoria, but I did not understand the dockets to speak specifically to this, unless perhaps we did not express ourselves in the clearest of terms.

ADV JOHNSON: Chair, the Evidence Leader did express herself clearly, that the letter is clear. Perhaps to clarify, we have a section 28(1). With regards to the Slush Fund, Counsel, that still is in the section 28(13), which had been provided.

ADV SELLO SC: Okay.

20 **ADV JOHNSON:** It is still in its investigation phase and had not moved into the section 28(1) phase.

ADV SELLO SC: Okay.

ADV JOHNSON: If I could clarify.

ADV SELLO SC: I confirm that what we have since

received on that score then is the section 28(13) application.

ADV JOHNSON: That is correct.

ADV SELLO SC: And you say that this issue was reflected in 2.2 as part of that.

ADV JOHNSON: It is reflected in the 28(13) from my recollection, yes.

ADV SELLO SC: Then we get to 2.3, all relevant documentation ...[intervenes].

10 **ADV BALOYI SC**: Sorry, Ms Sello.

ADV SELLO SC: Yes.

ADV BALOYI SC: Sorry, 2.2 also refers to a section 27 affidavit.

ADV JOHNSON: Yes.

ADV SELLO SC: Yes, thank you for pointing that out to me. Advocate Johnson, you hear Commissioner Baloyi's clarification. There are actually two requests in that 2.2.

20 **ADV JOHNSON**: The only 27 we have is the section 27, Commissioner Baloyi, that was referred by Adams on the 21st of November 2024.

ADV SELLO SC: Thank you, Commissioner Baloyi.

ADV JOHNSON: I do not know if he uses the direct words, but we would see it in the 27. There is not an additional one.

ADV SELLO SC: Thank you. Turning then to 2.3, this was

documentation providing authorization for the investigation to the manipulation of security vetting process. We know that it is in the 27.

ADV JOHNSON: Correct.

ADV SELLO SC: But this specifically relates to unlawful issuing of security clearances in favour of certain persons within Crime Intelligence. So, you recall in the Mokwele matter, there is a complaint about manipulation of security vetting processes, but then it goes further to talk about
10 recruitment and employment and manipulation in respect of other people besides Brigadier Mokwele, and that is what 2.3 sought to obtain.

ADV JOHNSON: That, Counsel, should be in the docket that was provided, Brooklyn CAS 543/6/2025.

ADV SELLO SC: And for the record, file 543/06/2025, that is the fourth docket, Chair, that we referenced when we started Advocate Johnson's testimony on which we said a warrant of arrest had been issued but suspended in June.

ADV JOHNSON: That would be correct.

20 **ADV SELLO SC**: Okay. 2.4, the inquiry file containing all relevant information pertaining to the alleged manipulation of appointment processes with a view to appointing individuals other than Brigadier Mokwele. Is there such?

ADV JOHNSON: So, the inquiry file, those matters, from what I understand, fall within the, I had to make notes, if

you will just pardon me. That would, that matter is a matter that has not been, there is no CAS registered for it yet, Chair. It still operates under the CIN reference number. I think those are the documents, Counsel, that Advocate Magha would have sent through last night where there were different volumes containing evidence and affidavits, which is a matter still under investigation. It is not a CAS.

ADV SELLO SC: Okay, just scroll back to 2.1, your 2.1. Are you saying that what is requested at 2.4 is part of that
10 investigation, that big CIN number?

ADV JOHNSON: Yes, all of the matters, that was the only inquiry number that was opened.

ADV SELLO SC: Yes. And that record is still outstanding?

ADV JOHNSON: Yes.

ADV SELLO SC: So we cannot gain any insight into what is requested at 2.4 until we get the inquiry file?

ADV JOHNSON: The inquiry file in 2.4 has been made available.

ADV SELLO SC: Okay.

20 **ADV JOHNSON:** So when I call it an inquiry, it contains evidence, Chair. It contains documentation. Because the investigation has not yet been finalized, it has not been registered as a docket. That is why it still operates under the CIN number, which in itself is an inquiry.

CHAIRPERSON: Also, but all information relating to the

subject identified here is there.

ADV JOHNSON: Correct.

CHAIRPERSON: And has been furnished, you say?

ADV JOHNSON: Correct, Chair.

CHAIRPERSON: Thank you.

ADV SELLO SC: I will make a note of that. I will come back to the issue shortly, Commissioners. Then lastly, we requested all A1 statements provided by Honourable Adams MP as at January 2025, and those A1's have been provided.

10 **ADV JOHNSON:** That is correct, Counsel. I obtained them from the investigating team on Friday. They gave me copies thereof. The copies have been handed as they were furnished.

ADV SELLO SC: Thank you.

ADV JOHNSON: I believe, unfortunately, an apology, somewhat late yesterday evening.

CHAIRPERSON: Ms Sello ...[intervenes].

ADV SELLO SC: Yes, Chair.

20 **CHAIRPERSON:** Did you not perhaps because of the reference to other than Brigadier Mokwele, did you, which appears in 2.4, did you not, as a result, skip 2.5, which also has the other than Brigadier Mokwele?

ADV SELLO SC: Oh, yes, I apologize. I skipped that. I realize I skipped 2.5.

CHAIRPERSON: Ja.

ADV SELLO SC: Thank you for pointing it out, Chair.

CHAIRPERSON: Yes.

ADV JOHNSON: Yes, and, Chair, that then would also relate to that inquiry file of 2.4. All of those other appointments would form part of that file, hence, it was that many volumes that were supplied.

ADV SELLO SC: Most obliged. So then we have dealt with 2.4, 2.5. We are at 2.6 and it is all A1 statements provided by Mr Adams as at January 25, however many there may be.

10 **ADV JOHNSON:** Correct. As I indicated, they said there were four. There was one per docket. And, in fact, I was given four, which I then furnished.

ADV SELLO SC: Thank you. I think those were the documents we had requested as at close off business on Thursday. Commissioners, you have, unfortunately, a new file added. It is file 9. It currently, the index is being updated. These were documents that came in last night and this morning. And that file 9 should then contain the documents referenced at paragraph 2.6 of the letter. You
20 do have file 9 with you, Advocate Johnson?

ADV JOHNSON: That is correct.

ADV SELLO SC: Yes, these are the documents as received from yourself from yesterday. And, in fact, even file 8 has been updated, so file 8 has got additions. And all these are the documents that have been flowing over the course of

the weekend in response to this letter. We, as Evidence Leaders, need to apply our minds to file 9 to see the extent to which it answers the requests set out in the letter under reference and that, of course, will impact our approach to her testimony. So we may have to stand down some issues until after tea, while we wrap our minds around the new documents. Thank you. With that, I think we are ready then to pick up where we left off on Thursday.

For that purpose, I would like you to have before
10 you file 3, and at file 3, I would like us to go to page 936. This is a section 28 summons issued and signed by you on the 6th of February 2025. The questions I will be posing on this document could potentially be part answered by the A1 statements you received, that you have provided in terms of the letter, all A1 statements issued by Mr Adams.

ADV JOHNSON: Okay.

ADV SELLO SC: Could potentially be, but like I say, you still have to consider the content. You, I assume, would have cast your eye on the A1 statements and are able to
20 confirm whether or not the A1 statements provided ...[indistinct] to where this section 28 summons is. Are you with me?

ADV JOHNSON: I am with you.

ADV SELLO SC: My view is that summons will only make sense if buttressed by a compliant section 27,

supplementary statements, and any other information available to the investigators as at the 6th of February to issue that summons. Would that be a logical ...[intervenes].

ADV JOHNSON: It follows.

ADV SELLO SC: Thank you. Now, this document, summons, if you go overleaf at 937, just above a signature there, above your name, which I think is your signature, you do confirm?

ADV JOHNSON: Yes.

10 **ADV SELLO SC:** The details of the matter are said to be as follows. I quote:

“This investigation pertains to manipulation of security vetting processes, which resulted in the unlawful issuing of security clearances in favour of personnel within the division Crime Intelligence of the South African Service.”

ADV JOHNSON: I see that.

20 **ADV SELLO SC:** At the time you signed these summons, what evidence did you have? By you of course I mean collectively the institution IDAC. What evidence did IDAC have to even conclude that there had been manipulation of security vetting processes and unlawful issuing of security clearances in favour of anyone within Crime Intelligence?

ADV JOHNSON: According to me, it would have had to have been the section 27 referral and it would have had to have been the supplementary affidavits that had been taken in January of 2025.

ADV SELLO SC: And as we established last week, we know that our section 27 only expresses a suspicion ...[intervenes].

ADV JOHNSON: Correct.

ADV SELLO SC: Of the commission of this crime without
10 any underlying facts to support such a suspicion. So the answer then must lie in the subsequent supplementaries that were received.

ADV JOHNSON: Correct.

ADV SELLO SC: My question then is, what must the Commission do if it lands at a position where the supplementary statements do not support a claim such as reflected here, that on reading both the section 27 and the relevant supplementary statement, one cannot reasonably conclude that a crime such as reflected here has even been
20 committed or contemplated.

ADV JOHNSON: So if it is not made out in the supplementary, because that is what the supplementary sought to do, then these become problematic.

ADV SELLO SC: Yes.

ADV JOHNSON: Because one would have to go back to

those A1's ...[intervenes].

ADV SELLO SC: Yes.

ADV JOHNSON: And see what was said for them to have compiled, to ask for this information.

ADV SELLO SC: And then if we go overleaf at 938 and your summons does say the detail is contained in your Annexure B, and that is at 938, there is that list of seven. And this summons effectively asks for complete applications for security clearances and vetting files for the officers
10 listed therein, starting with General Khumalo, in respect of all the ranks he has held, starting with the Brigadier, Major General and Lieutenant General, and the pattern repeats itself.

Now, as we had this discussion last week, one can understand perhaps how General Khumalo is identified. I think he is mentioned by name in the section 27 referral. So is General Lushaba and General Madondo. At this juncture in February, again we have that problem of names that do not appear from documentation that IDAC has at the
20 moment it takes this drastic step, appearing in, you know, in such documents as these summonses.

I know you have signed and I take it you have signed because you are the Head of the institution, but the document, the summons would have been drafted for you.

ADV JOHNSON: Correct.

ADV SELLO SC: Who would have drafted these summons?

ADV JOHNSON: These would have been drafted by an investigator. It could have been Mr Perumal or Mr Padayachee.

ADV SELLO SC: Okay.

ADV JOHNSON: And or perhaps Mr Mantsha.

ADV SELLO SC: Mr?

ADV JOHNSON: Mantsha, M-A-N-T-S-H-A.

ADV SELLO SC: Oh, Mantsha.

10 **ADV JOHNSON:** As being those, as being some of the investigators at the time.

ADV SELLO SC: Now ...[intervenes].

ADV JOHNSON: Sorry.

ADV SELLO SC: Yes.

ADV JOHNSON: At the bottom, sorry, Chair, at the bottom of 936, it does say at the bottom there was also one of the investigators assigned was Investigator Mlambo. So the inquiries to seeing Investigator Mlambo at the bottom of 936.

20 **ADV SELLO SC:** Oh, I see what you mean. Yes, where it indicates to whom inquiries must be addressed.

ADV JOHNSON: Yes.

ADV SELLO SC: Okay. So he also could potentially be one. Now, we have since come to learn that Brigadier Ncube at item 1.4 was involved in the panel that

recommended the appointment – Chair?

CHAIRPERSON: Oh, ja, may I just refer to the part just above your signature at 937. That is the part headed “details of the matter or other information”. Was that meant to capture what was to be investigated, or why is that included there?

ADV JOHNSON: Chair, they include it in there so as not to have a generalized subpoena, because if you issue it only with the introduction and the background and then you on
10 938 just have a list of requests, it must relate to something. So when it is put in there, that is what the investigators reflect.

CHAIRPERSON: That is, so am I correct to say it was meant to set out what is intended to be investigated?

ADV JOHNSON: That is correct.

CHAIRPERSON: Oh, okay. For the future, perhaps, for those who will be at IDAC, because the way it is captured, it says:

20 “This investigation pertains to
manipulation of security vetting
processes, which resulted in the unlawful
issuing of security clearances.”

It appears to be stating a fact instead of saying
...[intervenes].

ADV JOHNSON: An allegation of sorts.

CHAIRPERSON: Yes, yes, yes. It is stating a fact as it is currently stated or set out there.

ADV JOHNSON: The point is noted.

CHAIRPERSON: Thank you, thank you.

ADV SELLO SC: Thank you, Chair. Staying then with this list, as I said, we have come to learn that Brigadier Ncube was part of the panel that interviewed and recommended Brigadier Mokwele for appointment. I think I have been making a mistake, which I would like to take the opportunity
10 to correct. 1.5, the Van Vuuren referred to here is a Crime Intelligence officer already within Crime Intelligence. It is not the Van Vuuren that applied for the job with Mrs Mokwele. So to the, at some point I thought it, I concluded that it was one of the applicants, but judging by information on some other documents here, I think I am wrong in that regard, and I would like to take this opportunity to correct my error.

You then have Brigadier Mokwele. The one name I have not come across in this investigation is Brigadier D
20 Bobie. Do you know who that is and how she gets to be included in this list?

ADV JOHNSON: It could be that it is not a person who is being investigated, but a person to provide the documents, having the – no, I have not come across Bobie, because they read exactly the same as the other. Sorry, yes, it

reads the same.

ADV SELLO SC: Now, as I had suggested to you, it is likely, as you say, either Mr Perumal, Mr Padayachee, Mr Mantha, or Mr Mlambo prepared this. What do you as the ID normally have before you to ensure that the summons that you authorize is supported by some level of evidence that entitled you as IDAC to investigate, in this case, these Crime Intelligence officers to this extent? Do you just take their word for it? Do they prepare a document for you? Do
10 you have an opportunity to glance the inquiry file to account for each name that is listed here?

ADV JOHNSON: What ordinarily happens, Chair, is that the person who issues or drafts the summons would come and brief the ID on, we need to issue a summons to this person, part of the investigation relates to the manipulation of the security vetting, and in our investigation we have identified what is required and from whom.

ADV SELLO SC: So, if I understand you correctly, when we do get that investigation file, we will have a clear
20 understanding of the basis on which these officers were selected to be included in the summons, each one of them in turn.

ADV JOHNSON: It should.

ADV SELLO SC: Okay, because you say it should, you force me to run ahead, and if it does not? When we do

receive the file, we find that there is no basis for what is contained in Annexure B against these officers, what does that mean for IDAC and the Commission and the law?

ADV JOHNSON: Well, first of all, IDAC would have to, the person who compiled the summons would have to indicate where they have got this from if it is not in the file, and what was the base document upon which these names were extracted and or identified and the basis ...[intervenes].

CHAIRPERSON: It cannot – oh, continue, continue.

10 **ADV JOHNSON**: Sorry, the basis on which the names were identified and the purpose for which they were identified.

CHAIRPERSON: It cannot be that person only. It would have to be you as well. Ultimately, you are the person that authorised. Only your signature appears here, not this other person that you are referring to. So we, as we sit here, look to you to furnish the information that you say someone else would have to furnish.

ADV JOHNSON: I agree, once the information is furnished, that we have to go through that information.

20 **CHAIRPERSON**: No, I think the question also is also as at the time you signed, what was your understanding with regard to what Advocate Sello is asking you about, because as at the time you signed, your mind should have focused on the issue Advocate Sello is raising, or not?

ADV JOHNSON: The issue I focused on, Chair, was the

briefing by the investigator ...[intervenes].

CHAIRPERSON: Yes, yes.

ADV JOHNSON: Indicating what was required and why and from whom. It was a briefing, and then I signed the subpoena.

CHAIRPERSON: Yes, but you accept that as you sign, you accept that you are satisfied with everything that is on here, including the annexures, that everything is what it should be, which is why you signed.

10 **ADV JOHNSON:** Correct.

CHAIRPERSON: All right, thank you.

ADV SELLO SC: So you did satisfy yourself that these names are correctly included in the summons?

ADV JOHNSON: I had no doubt to - sorry, my English escapes me. I had no doubt, I had no reason to doubt the briefing that was given to me by the investigator.

ADV SELLO SC: So ...[intervenes].

ADV JOHNSON: So I did not ...[intervenes].

ADV SELLO SC: Sorry.

20 **ADV JOHNSON:** Ask for a – sorry, Counsel. I did not ask for a document. I was satisfied with the briefing that I was given, that as an investigation team, they identified that this is the investigation that is outstanding, this is what they require for the investigation, and this is what it is that must be subpoenaed.

ADV SELLO SC: It sounds slightly different to what you have just said to the Chair. I had understood you to mean you satisfied yourself that there is not a name in Annexure B that ought not to be there because either there is no evidence supporting. So I thought you satisfied yourself, but it sounds like I misunderstood you. What you mean is that you satisfied yourself that the investigator who put these names before you had done their work. You took their word for it, and that is how you satisfied yourself.

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

ADV SELLO SC: So you open yourself up, because it is your signature that gives authority.

ADV JOHNSON: Correct.

ADV SELLO SC: You open yourself up for potential manipulation by some of your investigators because you trust them implicitly.

ADV JOHNSON: I take note.

ADV SELLO SC: Now, what do you suggest the Commission must recommend?

20 **ADV BALOYI SC:** Ms Sello ...[intervenes].

ADV SELLO SC: Apologies.

ADV BALOYI SC: Before you get to the suggestion question, can I just understand this you satisfied yourself, and I want to look at specifically this list. So let us look at 1.1, and I just want to understand what it means that you

satisfied yourself. The request is based on that there was manipulation, if you go back the previous page, which resulted in unlawful issuing of security clearances. That is what you are investigating.

Are you saying you were satisfied from the briefing you got that there was a basis to investigate whether General Khumalo, an allegation that General Khumalo's security clearance given when he was a Brigadier was a result of manipulation of your vetting process, of their
10 vetting processes. When he became Major General, the security clearance that he got was a result of the manipulation of vetting processes and then when he ultimately becomes, well, I think he is a Brigadier, Major General and then Lieutenant General.

Are you saying that with the briefing you were satisfied that there is a basis to investigate those clearances that he got starting with Brigadier? Is that what you satisfied yourself about that there was a basis for that?

ADV JOHNSON: There was a basis.

20 **ADV BALOYI SC:** For that. For that.

ADV JOHNSON: To request those documents to determine whether or not in fact there was a manipulation of the security vetting processes.

ADV BALOYI SC: So you were satisfied that there is, from your briefing you were satisfied that there is sufficient

information that casts doubt on his security vetting for all those three positions?

ADV JOHNSON: That is correct, Chair.

ADV BALOYI SC: Okay, thank you. Thanks, Ms Sello.

ADV SELLO SC: Thank you, Commissioner Baloyi. And perhaps just to clarify, when Colonel Padayachee appeared before the Commission and was engaged on this document he testified that his investigation was confined to the recommendation and appointment of Brigadier Mokwele. So
10 that is the person appearing at 1.6. And he explained that this summons was intended to cover all other investigations, so he could not account for how the names of 1.1 to 1.5 and 1.7 found its way into this summons. His interest lies only in 1.6.

You suggested that we should turn perhaps to Colonel Padayachee, Mr Perumal, Mr Mantsha and Mr Mlambo. On that basis, on the basis of what I have just highlighted it would sound that Colonel Padayachee has given an account of this section 28 and we cannot turn to
20 him. Would there be a reason for you to question that he is correct, that he can only account for Brigadier Mokwele because that was the leg of the investigation he was involved in?

ADV JOHNSON: Chair, because they work as a team you would find that they sit, they compile these subpoenas and

they, when they compile the subpoenas they identify as a team what is required. As indicated initially, when the legs are broken up into different legs of investigation they also would then, in the manner in which they subpoena documents, do not subpoena per individual, especially when you subpoena as an example from the National Commissioner. They would want to subpoena as many of the similar types of documents.

So he would have had to have been part of that
10 conversation and would have had to know that all of these people are also being considered. It is a bit difficult to divorce yourself when you are part of a team because on the basis of what would you say to Mr Mlambo whose name is on the, Mr Mlambo, while you are doing this, just add my one. They would have to agree as a team. Vetting processes, this is what we are looking at. Who are we looking at? What are we requesting? Whom do we request it from? That makes sense in terms of their investigative methodology.

20 **ADV SELLO SC:** Okay, so then, if I understand you correctly, they bear collective responsibility for that list. It is not enough for Colonel Padayachee to say I was only investigating the appointment of the person listed in item 1.6.

ADV JOHNSON: That is correct.

ADV SELLO SC: That is, okay.

ADV BALOYI SC: Sorry ...[intervenes].

ADV SELLO SC: Yes, Commissioner.

ADV BALOYI SC: Just before you do your question again, just to make sure that we are not missing each other or you understand the fullness of what I was trying to do, I used 1.1, General Khumalo as just an example.

ADV JOHNSON: Yes.

ADV BALOYI SC: But in fact what I was raising applies to
10 all of the people on the list. Can we confirm that your response applies to all of them as well?

ADV JOHNSON: That is correct.

ADV BALOYI SC: Okay, thank you.

ADV SELLO SC: Commissioner Baloyi.

ADV KHUMALO SC: [Indistinct]...

ADV SELLO SC: Yes, Commissioner.

ADV KHUMALO SC: Good morning, Advocate Johnson.

ADV JOHNSON: Good morning, Commissioner.

ADV KHUMALO SC: If you look at 937 and the offences
20 listed there, it is fraud and corruption in the bullet points. You see that?

ADV JOHNSON: I see that, Commissioner.

ADV KHUMALO SC: Yes, and then you go to Annexure B. Let us just focus on Major General Lushaba, for example. For the rank of Colonel, Brigadier and Major General, was

there a section 27 referral to IDAC suggesting that their vetting and clearances were tainted with fraud and corruption? Just focusing only on Major General Lushaba, was there such a 27 referral suggesting that their vetting and clearances were tainted with fraud and corruption?

ADV JOHNSON: It was the generalised section 27, Commissioner Khumalo, of Adams of November, and we just need to check in the additional A1's that were taken if they were expanded on in those A1's. But there was a
10 generalised section 27 referral.

ADV KHUMALO SC: Because my recollection of the section 27 is that he was saying all the Colonels in Crime Intelligence are not suitable. I do not remember seeing anywhere in that section 27 where he says their security clearances and their vetting were tainted with fraud and corruption.

ADV JOHNSON: I would just have to ...[intervenes].

ADV SELLO SC: If you go to file 2, page 512, CJC373, that is the section 27 affidavit by Mr Adams.

20 **ADV JOHNSON:** Sorry, Counsel, the page reference?

ADV SELLO SC: 512.

ADV KHUMALO SC: It starts on 512. If you look at paragraph 4 on 513, that is the general statement that is made and it starts with the manipulation of procurement processes and it lists the civilian who worked for BMW.

And then the paragraph after that says:

“It is concerning that out of all the Colonels employed in Crime Intelligence, none of them were suitable to be appointed to this post.”

But I do not recall seeing in the referral anywhere where it says Major General Lushaba's vetting and clearance is tainted with fraud and corruption.

ADV JOHNSON: Sorry, Chair, if you just grant me a
10 moment. Yes, correct. Commissioner Khumalo, he just refers to the processes to appoint and promote certain members.

ADV KHUMALO SC: So it is the Mokwele issue where the vetting is a problem. And then reference to Lushaba is in paragraph 6 on 514 is the issue of the housebreaking and the laptop.

ADV JOHNSON: That is correct.

ADV KHUMALO SC: But there is no referral relating to their vetting or their security clearance being tainted with
20 fraud and corruption. So if that is so, would there be a legal basis for them investigating their vetting and security clearances at all four levels or at three, at the level of a Colonel, Brigadier and Major General?

ADV JOHNSON: Chair, it would depend on what else they did have access to at the time because they would have had

to have access to the additional A1 statements that were taken and not just this. So I would be remiss if I say no, because this is done, Chair, in February of 2025. By that stage, they would have had the engagements with Adams and in terms of those additional statements, I am not sure that additional documents were provided but they would have had a two-fold basis upon which ...[incomplete].

CHAIRPERSON: But as I understand it, the substance of what Commissioner Khumalo is raising with you is this. If
 10 this was never referred in terms of the affidavit, how do we suddenly have it here? The fact that the investigators may have come across some information at a later stage cannot cure the lack of a referral in the first instance. I thought that is the substance of the question.

ADV JOHNSON: Correct.

CHAIRPERSON: Yes.

ADV JOHNSON: Yes, and so we will just have to look at the additional A1 and if, because the additional A1 is supposed to talk to the section 27. If it is not there, then it
 20 does not talk to ...[incomplete].

CHAIRPERSON: So even if the information is subsequently obtained and is contained somewhere, it means nothing if there was no referral in the first place, or not?

ADV JOHNSON: Unless there was other evidence before

the issue of the summons.

CHAIRPERSON: Yes. All right, okay.

ADV SELLO SC: Thank you, Commissioners. So, when we do look at file 9, which is where the additional statements are by Mr Adams, what do you suggest that, what conclusions do you suggest the Commission must draw if this section 28 is not supported, in its terms, is not supported by the A1s? Oh, please, apologies. Sorry, you were looking for your files. I will start again.

10 **ADV JOHNSON:** I have them.

ADV SELLO SC: I was saying, having had the benefit of this engagement and we know that we have those A1 statements, supplementary statements by Mr Adams in file 9, which we are still going to look through so that we can zero in on the relevant documents, what do you suggest, what conclusions do you suggest the Commission must draw if a reading of those A1 statements together with a section 27 referral affidavit do not support the summons in the terms as reflected?

20 **ADV JOHNSON:** And in the absence of anything else before the date of the issue of the summons?

ADV SELLO SC: Just pause there. What else would there have been, because so far we have understood that the summons arise from the section 27 read with the dockets in Orlando and Cape Town, the A1's, and read with the

supplementary affidavits by Mr Adams. That is all we have.
Is there anything we have missed?

ADV JOHNSON: No, I think the point I was trying to make, Counsel, is we just need to check that there is not anything else before the 6th of February other than the 27 and the additional statements.

ADV SELLO SC: Okay.

ADV JOHNSON: What I am trying to get to, sorry, is, I do not know whether he attached anything else, was it just the
10 A1, but that is all.

ADV SELLO SC: Ja, I expect would have been there. On that point, what could potentially be there? What should we be looking out for?

ADV JOHNSON: The only thing that could potentially be there is if he, over and beyond the additional A1 attached documents ...[intervenes].

ADV SELLO SC: Okay.

ADV JOHNSON: In support of, that could be the only thing which might then talk to, but that would be the only other
20 thing.

ADV SELLO SC: Now we have settled the documents that we should look to, to try and understand the basis, the legal basis for the section 28 summons. My question to you was what would your advice to the Commissioners be as regards how they view this section 28 summons in circumstances

where all the documents that you have listed, we have just discussed, do not factually or legally support this section 28, what would your advice to them be?

ADV JOHNSON: Then the investigation is problematic. Whatever follows is problematic.

ADV SELLO SC: And what do you say about its legal validity and everything that arises there from?

ADV JOHNSON: Short of a proper detailed explanation from the investigators and if an explanation is given and
10 one that is not accepted by the Commission, then that investigation falls away. It has to be a legitimate investigation. It has to be supported by documentation. That is the basis, Chair and Commissioners, on which IDAC has worked on all its other matters. This matter cannot be an exception and so what I am saying is if we find that there is in fact an exception which ought not to be there, then it must be explained by those who did it but then it goes back to so what do you do with it now?

ADV SELLO SC: Now that is relevant, I think earlier you
20 indicated that is relevant to docket number 453/06/2025, the docket you said is still under investigation, the docket in which a J50 was issued for the arrest of General Khumalo, I think, and General Madondo, but which arrest warrant was then suspended. This is where this, that investigation, that is the matter that this investigation results in that is about

manipulation of their own security clearances, am I correct?

ADV JOHNSON: That is what I understand, yes.

ADV SELLO SC: So, where then we are as you have testified ...[intervenes].

ADV BALOYI SC: Sorry, Ms Sello.

ADV SELLO SC: Yes.

ADV BALOYI SC: Can I just understand. The manipulation of their own security clearances, is the allegation, and I am just trying to understand your answer,
10 is the allegation that they manipulated their own security status or which is the one possibility. The other is they are charged and accused of manipulating other people's security vetting, because the, ja, maybe let me leave it at that, which of the two, because they are not the same.

ADV JOHNSON: Yes, as I understand, for example in one matter, without going into the detail of the person's name, the person put in false affidavits about material requirements towards vetting.

ADV BALOYI SC: Their own vetting?

20 **ADV JOHNSON:** Their own vetting.

ADV BALOYI SC: Okay.

ADV JOHNSON: And then that was accepted as is by persons who ought to have interrogated and or engaged the process and to have picked up during this process that the person had manipulated and or lied and so the question was

did the second person knowingly overlook that there was an untruth, a manipulation in the process, but it ordinarily starts with a person whose application is defective for lack of a better word, Commissioner Baloyi.

ADV BALOYI SC: So what it is with that CAS is that one of them misrepresented certain information to the other and the other did whatever they did to approve the vetting, if approve is the correct word, and your question in respect of that second person is whether they did so knowingly or not.

10 Is that ...[indistinct].

ADV JOHNSON: Correct.

ADV BALOYI SC: Thank you.

ADV SELLO SC: Thank you, Commissioner. I need to move to a different document but before I do so how many section 27 affidavits are you aware of that Mr Adams filed with IDAC?

ADV JOHNSON: The one that we referred to earlier.

ADV SELLO SC: Are you aware of any other that either preceded or post-dated that one?

20 **ADV JOHNSON:** I am aware of the, is it 24? 27, sorry 21 November ...[intervenes].

ADV SELLO SC: Of November.

ADV JOHNSON: Correct.

ADV SELLO SC: That is the only one.

ADV JOHNSON: Yes.

ADV SELLO SC: I ask because in the course of our investigations it would appear that there were actually two section 27's with some differences between them.

ADV JOHNSON: Okay.

ADV SELLO SC: I just wanted to establish whether you were aware of both of them.

ADV JOHNSON: I am aware of the one that we have been going through the past few days.

ADV SELLO SC: And if I recall, this one that we have been
10 dealing with you say was delivered to, was solicited by Chief Perumal and then eventually landed on your desk and that is the only one you have worked with.

ADV JOHNSON: Correct.

ADV SELLO SC: Okay. I need to then refer you to a different document to understand how the system works and I am looking for the section 28(1) authorization. I have it at page 3288 - apologies, apologies, not that one. I am looking for the 28(13), 3307 that I think we are still, we are still in file 8, file 8 still.

20 **CHAIRPERSON:** Do we put away 3?

ADV SELLO SC: No, not too far, Chair. We will be coming back to it.

ADV KHUMALO SC: Please look at the one on 3282, is it that one or are we looking for a different one?

ADV SELLO SC: 3282, that is a 28(13).

ADV KHUMALO SC: It is also a 28(13)?

ADV SELLO SC: Yes, there are a few of those and ...[incomplete].

ADV KHUMALO SC: This was the 6th December. I remember there was a later one ...[intervenes].

ADV SELLO SC: Yes.

ADV KHUMALO SC: That you showed.

ADV SELLO SC: The later one, Commissioner, is the 28(1) of 30th May.

10 **ADV KHUMALO SC:** Which one are we looking at?

ADV SELLO SC: For the 6th of December.

ADV KHUMALO SC: Okay.

ADV BALOYI SC: [Indistinct]... 30.

ADV SELLO SC: They are actually, there is 13285, but that 3285 is the designation. What I am looking for is the actual application and that is how I land at 3307. Thank you. Are you at file 83307?

ADV JOHNSON: Correct, Counsel.

ADV SELLO SC: Now I understood your testimony on
20 Thursday in summary to be Advocate Ramsami, you handed that section 27 to Advocate Ramsami, she considers the affidavit together with the legal provisions, she then arrives at certain conclusions and she drafts a section 28(13) application and submits to you for consideration and approval. Am I on the right track there?

ADV JOHNSON: That is correct.

ADV SELLO SC: So I see at 3307 is one such. It is addressed to you and it says Advocate Santos Manilal and Advocate Ramsami. It is dated the 5th of December 2024. This is in relation to the list of 12 and that is at 3309 and while we are here, Advocate, I have resisted the temptation but I think I succumb, the person at 3.12, Automotive Engineer, who is that? It is an automotive name. Do you have any idea?

10 **ADV JOHNSON**: No, Chair, these were the names that when I checked with Advocate Ramsami she said they were on that, they were on a paper that were furnished after Mr Perumal had spoken to Mr Adams.

ADV SELLO SC: Yes.

ADV JOHNSON: Yes.

ADV SELLO SC: So at the risk of asking a stupid question, Automotive Engineer has got an ID number. Is that somebody we can search for at Home Affairs?

ADV JOHNSON: It should be an entity that could be found.

20 **ADV SELLO SC**: An entity?

ADV JOHNSON: Yes, ma'am.

ADV SELLO SC: But it says engineer, suggesting a person.

ADV JOHNSON: No, it is an entity from how I understand it.

ADV SELLO SC: Oh, all right. I am interested in 3.13

though. It says:

“Any and all individuals or entities whose identities are currently unknown but which may become known during the investigation.”

You recall, we started with section 27 affidavit which identified the first three names. We established that Mr Perumal, through you, you suggested Mr Perumal added the rest of the names having consulted with Mr Adams but
10 then it goes, so that is broadening it. But 3.13 goes even broader, considering the purpose for which you are issuing, you will be issuing a section 28 investigation. That, there should be a limit to powers that are granted. 3.13 could very well discover my name in there and I become subjected to this investigation Is that proper though, because it is a limitless power and authorization here.

ADV JOHNSON: Counsel, it is not limitless because it relates to any and all individuals or entities whose identities are currently unknown but are limited in, which may become
20 known during the course of this investigation.

ADV SELLO SC: Yes.

ADV JOHNSON: Yes.

ADV SELLO SC: But it does not go further to say that they are implicated in whatever crime is being investigated.

ADV JOHNSON: No.

ADV SELLO SC: It is just that their names being known and suddenly there is authorization to go investigate them as well.

ADV JOHNSON: It does not of necessity mean that they are investigated. Any and all individuals or entities whose identities are currently unknown but which may become known during the course of the investigation, once those details come through, investigators are able to determine whether those are persons of interest to be investigated or
10 those are persons whose names have come up and are potential witnesses.

ADV SELLO SC: So technically it is left to then the investigators. If they like me, they come across my name, they do not have to investigate. But if they do not like me, then they investigate. Do you understand my challenge, because I think too much power resides, and discretion resides with them and that somehow has the potential to undermine the system, does it not?

ADV JOHNSON: I take your point, but that should not be
20 done.

ADV SELLO SC: Okay.

ADV JOHNSON: That is not what the purpose of this insertion is and it was also for practical reasons. You have got the authorization, you are conducting investigations, names come up and the names can be either or. So if it is

persons who would fall into the category of suspects or persons of interest, then you would have to come back for an amendment.

ADV SELLO SC: Oh.

ADV JOHNSON: Yes, and so you are able to then deal with the investigation without the to and fro of the - I do take the point.

ADV SELLO SC: Okay.

ADV JOHNSON: And perhaps it could be couched
10 somewhat differently, but this is what we have used over the time.

ADV BALOYI SC: But is it not a necessary control mechanism that what has been justified to you are the specific names. So you were given these names, there must have been justification to you. We had the earlier discussion about you satisfying yourself that there is a basis to include these specific names. And if that is your system, then paragraph 3.13 should not be there because it means people will be included without it being justified to
20 you who gave the authority. You understand the point I am making?

ADV JOHNSON: I understand.

ADV BALOYI SC: Yes, so 3.13 is very much open to abuse if you are not controlling it, if they do not come back to you to justify. And what you are saying to us now is you gave

them that latitude to justify just from 3.1 up to 3.12, but then beyond that, you gave them latitude to justify that and you were satisfied that there is merit in having 3.1 up to 3.12 to be investigated. But then what you go on to do then in 3.13 and you say to us that is how IDAC has always operated is you then leave it to them to then determine as they go along to investigate without having to justify to you, which defeats the very purpose of justification to you in the first place.

10 So my suggestion would be if that is how you were operating, then you may as well just have had 3.13. They come and they tell you we are going to investigate anyone that may be implicated because that is the effect of 3.13. It allows anyone that Colonel Padayachee gets their name, you know, if Mr Adams had said Mr Bodlani, that is all that would have happened, he would have gone and investigated him under 3.13 without coming to you as the repository of the authority to authorize investigations into individuals without coming to you to say here is my justification for
20 investigating him.

ADV JOHNSON: It was not the intention.

ADV BALOYI SC: Ja.

ADV JOHNSON: But I do take note ...[intervenues].

ADV BALOYI SC: But it is the effect.

ADV JOHNSON: It in all likelihood is the effect and I take

the point and just for reassurance, Mr Bodlani is not in 3.13.

ADV BALOYI SC: Ja, we do not know who else Colonel Padayachee included in there, but he may well, and you have no control over that, you have no way of knowing. And I say Colonel Padayachee not to target him specifically, all your investigators. They may well be conducting investigations of individuals that are not authorized by you and that may possibly not be related to a subject matter
10 with that kind of provision.

ADV JOHNSON: The point is taken, Chair.

ADV BALOYI SC: Thank you.

ADV SELLO SC: Thank you, Commissioner. We were still with that application. I see if we go to page 3311.

ADV BALOYI SC: Sorry, Ms Sello, maybe before you go, let me ask my question before I forget.

ADV SELLO SC: Yes.

ADV BALOYI SC: You say at 3310 under 4, participation of other disciplines and you have the Asset Forfeiture Unit,
20 was the Asset Forfeiture Unit ever involved with this investigation at this point, and what was their involvement?

ADV JOHNSON: So what we ordinarily do is once an investigation is commenced with, we will send or we will invite Asset Forfeiture in to know that there is a new investigation. But the investigation progresses for quite

some time before they are brought back in because it depends on the stage of the investigation and their purpose is then to determine as the Commissioners know whether or not the offences as they are, deal with the proceeds of crime and whether or not that must be taken forward.

ADV BALOYI SC: So you, IDAC, as a matter of course, every investigation you alert the AFU that you are conducting that investigation.

ADV JOHNSON: Yes, correct.

10 **ADV BALOYI SC:** Even though on the face of it, let us take a section 27 referral and you are, even if on the face of it your section 27 does not raise issues that may implicate any forfeiture issues, you as a matter of course just inform them of that.

ADV JOHNSON: That is correct and they will make an assessment at the end. There are many matters where at the end of the assessment there is not a recovery to be made either in terms of the civil and or the criminal recovery. But it is a matter of practice in the entire NPA
20 that we do refer matters to Asset Forfeiture, be they to determine proceeds of crime or instruments of criminality.

ADV BALOYI SC: So there would be a letter in this docket or this file, the CIN file, there would be a letter that is a directive to the Asset Forfeiture Unit that we must have or we must find ...[intervenes].

ADV JOHNSON: What we ordinarily do when the team has its first meeting, they invite a colleague from the Asset Forfeiture Unit and as the matters progress within those meetings, there are engagements and it is usually emails that are shared between the colleagues setting out what they require, if they found anything. And because we are part of the NPA it is not a invite *per se*, they are drawn into the matter.

ADV BALOYI SC: So if we were minded to get more detail
10 about what happened in the first meeting, we would expect on your explanation that because you seem to now say there is nothing in writing, that is fine, I do not quarrel if that is how you were doing things, but if we were to look into that first meeting we would and we should find that there was a representative of the Asset Forfeiture Unit and therefore such a person would be able to tell us in fact what happened in that meeting.

ADV JOHNSON: Correct.

ADV BALOYI SC: Okay, thank you. Thanks, Ms Sello.

20 **ADV SELLO SC:** Thank you, Commissioner Baloyi. And perhaps just to close up that angle, please go to 3308, same file, same document, and I am looking at paragraphs 1.3 to paragraph 1.7 where the document provides the nature of crimes that are being investigated. On my reading of them, I do not see how, no, no, let me, perhaps let me

ask you a question. In which one in particular would SIU find a role?

ADV JOHNSON: So we also invite SIU where there are issues of procurement and/or contracts.

ADV SELLO SC: Okay.

ADV JOHNSON: And they do assist us with the investigation to determine legitimacy of those contracts.

ADV SELLO SC: Yes.

ADV JOHNSON: It may turn out that there should not be a
10 further criminal investigation in that matter and the SIU is able to deal with that contract, setting it aside and recouping the money for that department, because that is generally part of that mandate.

ADV SELLO SC: So that is what would be, what is set out in paragraph 1.7?

ADV JOHNSON: That would be correct.

ADV SELLO SC: Then my reading of this, and bearing in mind your explanation, this application for an investigation in terms of 28(13) is broader than the section 27 as we
20 have it, because my reading of section 27 does not include any allegations of fraud and corruption pertaining to awarding of tenders and contracts. Remember that is file 2, page 512. The closest I get to is a general statement at paragraph 4 where Mr Adam says he suspects that General Khumalo, Generals Khumalo, Madondo and Lushaba were

manipulating procurement processes. That is as far as he takes it.

ADV JOHNSON: That is where you find it.

ADV SELLO SC: So, and we land with fraud and corruption pertaining to awarding of tenders and/or contracts involving SAPS and/or circumventing of procurement processes at 1.7.

ADV JOHNSON: And that also goes back, Counsel, to paragraph 4.

10 **ADV SELLO SC:** Ja, I say at paragraph 4 of the section 27 affidavit speaks to manipulation of procurement processes and processes to appoint. The rest of the affidavit concentrates on processes to appoint, but it is just that one throwaway line where Mr Adam says he suspects manipulation of procurement processes and says nothing more beyond that, remembering that beyond that he speaks of abuse of the funds, the secret service funds themselves, but that is not procurement.

ADV JOHNSON: No.

20 **ADV SELLO SC:** So, I am just interested in just reading that one liner how we end up with a potential ...[intervenes].

ADV JOHNSON: Sorry, the, I just want to read that abuse of funds ...[intervenes].

ADV SELLO SC: Okay.

ADV JOHNSON: Because I seem to think they have a

correlation that the funds are ...[incomplete].

ADV SELLO SC: And then I say this on the assumption that abuse of the secret service funds effectively means utilising the funds not for the purpose they were intended for, which suggests an illegality and that can never be termed procurement.

ADV JOHNSON: No. When he refers in paragraph 5, he talks to the unlawful use of the, unlawful access and use of the secret funds and the purpose for which those funds are
10 accessed and he does not talk to procurement. He talks to they are accessed in order to give to someone.

ADV SELLO SC: Yes. And at paragraph 5, all he says is his suspicion that the funds, as he says, “became taken unlawfully from the secret funds account to be given to the former Police Minister, Minister Bheki Cele”.

ADV JOHNSON: That is correct.

ADV SELLO SC: That is not procurement.

ADV BODLANI SC: No, that is not procurement.

ADV SELLO SC: Okay.

20 **ADV BALOYI SC:** Let me ask a more direct question on the back of that. What award or what tenders and contracts that were awarded, did you investigate or your investigation involved arising from this referral? What tenders have you investigated and what contracts?

ADV JOHNSON: They are in the file that must be made

available by midday today. That is a file that is still under inquiry, but that is where it relates to, Commissioner Baloyi. It is not in the dockets that were handed over.

ADV BALOYI SC: So in that file, we will find tenders or contracts that you investigate or you are investigating as a result of this section 27 referral.

ADV JOHNSON: That is what I understand, yes. I just want to go back into my ...[intervenes].

ADV BALOYI SC: Sorry, what does it mean? Sorry, you
10 started off by saying it will be in the file. Now you say that is what you understand. What does that answer mean?

ADV JOHNSON: Because I had to ask what was in each file so that we could make the files available. Part of the file that must be made available is a complaint that was lodged by Mr Adams. Commissioners would recall he talked of three dockets, then he talked of and a Langlaagte docket. From what I understand, that is where the investigations lie in terms of the procurement of contracts as well as ...[incomplete].

20 **ADV BALOYI SC:** Well, you may not be able to remember offhand, but my interest is in getting a clear answer from you that you, arising from the section 27, you have investigated or you are investigating matters relating to specific tenders because we are not speaking generally. There are tenders and contracts that you are investigating

arising from the section 27 referral and we will find that in a file.

ADV JOHNSON: As soon as we get the file, I will be able to confirm that.

ADV BALOYI SC: You are unable to confirm now? Then you are going to make me ask ...[intervenes].

ADV JOHNSON: I accept ...[intervenes].

ADV BALOYI SC: You are going to make me ask the question that Ms Sello asked you earlier, which is, well, if
10 we do not find it, what are you saying we pronounce about it or we comment about it?

ADV JOHNSON: If it is not in the file that I was told is the file dealing with Langlaagte and with contracts and procurement, then the same answer applies. Then there is a challenge with why it is not there.

ADV BALOYI SC: Thank you.

ADV SELLO SC: And perhaps to take advantage and be more direct, 1.7, does it by any chance refer to the 360 million SAPS contract awarded to Medicare24? Does it
20 have anything to do with that?

ADV JOHNSON: Not at all.

ADV SELLO SC: It is a different contract.

ADV JOHNSON: Medicare was a separate section 27 referral all on its own and unrelated.

ADV SELLO SC: Okay, thank you. While we are on this,

do you know how, do we have a Langlaagte-related inquiry and investigation into specifically those contracts here?

ADV JOHNSON: That is the file we are waiting for.

ADV SELLO SC: Oh, there is an inquiry into the Langlaagte complaint?

ADV JOHNSON: That is correct.

ADV SELLO SC: Noted. If we go to 3311 on the same file, we are still at file 8, I see there it is dated at the top, it should just show dated the 6th of December 2024. It is
10 signed by you as the ID. Is that correct? How does it work, because if we look at 3307, it is supposed to be directed to you from Advocate Santos Manilal and Advocate D Ramsami. How do you get to sign it? I do not see anywhere where either one of them signed. I would have expected for them to sign, to make application as the heading in the timeline suggests, and then you consider, and then you approve or not approve or you amend.

So, all I see is in this document, in this document, we are looking at a document addressed to you, and at
20 3311, it is signed by you, suggesting to a reader that you made this application to yourself, and I do not think that is how it is intended to read. How do I reconcile that with how it is supposed to read?

ADV JOHNSON: So how it is supposed to read is under 8, sorry, on 3310, Commissioners, under 8, there is 8.1.

ADV SELLO SC: Yes.

ADV JOHNSON: It is recommended that, there was supposed to be a signature either from Advocate Manilal or Ramsami, and then for me to be able to agree and sign off the ...[incomplete].

ADV SELLO SC: Are you saying that is how it is supposed to have read because that is how normally they read ...[intervenes].

ADV JOHNSON: That is correct.

10 **ADV SELLO SC:** Or do they all read as reflected here, that it is recommended that an investigation in terms of 28(13) be undertaken and then you immediately sign as if you are the one recommending?

ADV JOHNSON: No, there should be space for me to comment.

ADV SELLO SC: Ja.

ADV JOHNSON: Their signature, space for me to comment, and then the signature that followed on 3311.

ADV SELLO SC: And that is how normally they would be
20 within IDAC?

ADV JOHNSON: That is correct.

ADV SELLO SC: Why is this one different?

ADV JOHNSON: I honestly cannot tell you why, but it is different.

ADV SELLO SC: You signed it. I think there is more you

can say about this, why it is different. I take it that when you read it ...[intervenes].

ADV JOHNSON: Yes.

ADV SELLO SC: You saw that it does not have signature for either Advocate Ramsami or Advocate Manilal, you saw that it does not have space or provision for you to make comment, and you saw that it requires you to sign it and date it, so you did not sign blindly, you applied your mind to this document.

10 **ADV JOHNSON**: No, I did apply my mind to the recommendation, the signature notwithstanding.

ADV SELLO SC: Yes, so but then who is recommending to you?

CHAIRPERSON: The lack of signature ...[intervenes].

ADV SELLO SC: The lack of signature.

CHAIRPERSON: Ja.

ADV SELLO SC: And with full application of mind, you thought it appropriate to sign.

ADV JOHNSON: Advocate Ramsami ...[incomplete].

20 **ADV SELLO SC**: Yes.

ADV JOHNSON: She brought this application to me on the 5th. We went through the application, and I then signed the application.

ADV SELLO SC: Do you know what the risk is, and I do not know if you appreciate it, it is that, or maybe I will put it

differently. What would you say to perhaps an unfair claim that you and you alone drafted this document, and you drafted it for yourself, and you signed it, and nobody else took part in the creation of that document? Would it be an unfair accusation, and what would your response thereto be if you were confronted with such?

ADV JOHNSON: It would be an unfair accusation because there is a process that follows. The application is drafted by somebody, and it is brought by them. This portion is
 10 missing in this matter. I would, when you read it, it does make a recommendation from the author, which is from Manilal and Ramsami, they make a recommendation. I agree with the recommendation, and I have signed it. I accept that as we always do, there should have been the signature and the space that we always have for comment, and the comment would have had to have been your, the recommendation as per 8.1 is either it is approved or not approved.

ADV KHUMALO SC: Did you not notice that, before you
 20 signed it, did you not notice that the people who are supposedly the authors of this document do not append their signatures or a date, because a date is important. It is not just the signature. The same way you do with that 6 December date, the date when they give it to you, whether it is on the 5th or the 4th, is equally important. Did it not

strike you as odd that at the end of the document, their names do not appear, nor does the date when they gave you this document?

ADV JOHNSON: So, Commissioner Khumalo, I took the date as is, which is on the front of the document, which is the 5th of December 2024, as being the date of the document.

ADV KHUMALO SC: But normally the same way you do, if you look at dated and signed at, on 3311, and then your
10 signature afterwards, the two usually go together, because, for example, if now they distance themselves from this document and they say, well, we did not make the recommendation, how do we establish that they did in the absence of their signature or the date when they appended a signature to the document?

ADV JOHNSON: I hear you, but the document does come from them, with the date. It just did not have the signature. But I take your point. It is done, in IDAC they do put it in as a memorandum request, and it is usually signed, there is
20 space for comment, and then for me to indicate whether approved or not approved, and then the application is also attached.

ADV KHUMALO SC: Why did you not pick it up or raise it at the time, because the way you are responding now, it looks like you are seeing this for the first time.

ADV JOHNSON: No, I am not sure why I did not raise it.

ADV BALOYI SC: I think, Ms Johnson, unless there is a page missing, or pages missing before page 3311, if that is all of it, if what we are looking at now is all of what was presented to you, then the other incomprehensible issue about this letter is that whoever drafted it, whether Mr Manilal or Ms Ramsami, would in fact have put you down at 3311 as the signatory of this letter, because that is what it means. You are a signatory of this letter, and on the face
10 of it, until there is an explanation, which is that the page is missing, then what Ms Sello is proposing to you, you know, it leads only to that conclusion, which is that you either drafted this letter yourself, or a letter was presented, and this is my edition, was presented to you, you made your own changes to it, and then you signed it off.

It does not contain exactly what would have been presented to you. That is what it looks like on the face of it. And I allow for the fact that a page may be missing, and maybe you can pull out a page that shows who made, that
20 these people made the recommendation, and it provided for you to indicate your approval, but as it stands now, on the face of it, it suggests this is your production.

ADV JOHNSON: I can confirm it is not, but I take the point that you are making about how it comes across.

ADV BALOYI SC: What it looks like.

ADV JOHNSON: It was not my document.

ADV BALOYI SC: Yes.

ADV JOHNSON: I did not compile the document.

ADV BALOYI SC: Yes.

ADV JOHNSON: The document was presented.

ADV BALOYI SC: And you understand my point about if it is not a case of a page missing, then it would be strange that Mr Manilal or Ms Ramsami would have signed off at the bottom, as if you are the writer of this letter.

10 **ADV JOHNSON**: Correct.

ADV BALOYI SC: Okay, thank you.

ADV SELLO SC: Thank you, Commissioner. And we know that from your previous testimony, that following this authorization that we are dealing with at CJC3905, page 3307, on that particular day, as well, there was a hive of activity. Two letters written to, I think it is Lieutenant General Mbuso Khumalo, requesting the dockets. A letter to General Senthumule. Your authorization of the panel, the designated members to look into this, and the
20 presentation of himself by Mr Rapetsu and the Inspectorate to go obtain the dockets. The 6th of December was a busy day.

ADV JOHNSON: Yes, ma'am.

ADV SELLO SC: Very. Is that like standard busy days for IDAC?

ADV JOHNSON: It is standard when they are starting with an investigation, and they are looking for, it depends on what they are looking for.

ADV SELLO SC: Yes.

ADV JOHNSON: And in this instance, because they were looking for the dockets, allegations being that the dockets had been lost, it created its own sense of urgency, is to locate the dockets, nothing else beyond that.

ADV SELLO SC: So you consider the investigation urgent?

10 **ADV JOHNSON**: The tracing of the dockets urgent, yes.

ADV SELLO SC: Why?

ADV JOHNSON: The dockets, the allegation by Adams is the dockets are already missing. We are given a referral. We need to register an investigation. The investigation is now registered in terms of 28(13), and the first exercise out of that in order to go forward is to trace the dockets.

ADV SELLO SC: I do not understand why. The referral is not referring a complaint of interception. We settled that one.

20 **ADV JOHNSON**: Yes.

ADV SELLO SC: It is referring a complaint about conduct, specific conduct as articulated in the section 27. My suggestion is the dockets become completely irrelevant. This is a new complaint that must be substantiated on its own terms. And if I am anywhere close to being correct, I

would like to understand what was the urgency about this particular investigation, just the allegation that dockets are missing and it is enough to set fire to IDAC and everybody runs in all directions.

ADV JOHNSON: That is not what happened, Counsel.

ADV SELLO SC: Okay.

ADV JOHNSON: We found out on that day that the dockets must be in Gauteng. I know it sounds like a lot of, it happened in a phased approach. The investigators try to
10 determine where the dockets are. We then write to Major General Khumalo. He gives an indication of where the dockets are. We have to then follow that up. There is still time in that day to follow that up. And when we finally do follow where it is, we have to stand down because they can only then be made available on the Monday.

ADV SELLO SC: On the 9th, ja.

ADV JOHNSON: So it was not, we have to get it today. It was, where are they? As you get the information, you follow that information. And when the destination of those
20 dockets was determined, and it was determined that they were in a safe and that they were with a specific general, we went back on Monday.

ADV SELLO SC: We did not touch on it, although we dealt with it with Brigadier, with Colonel Padayachee about the urgency of obtaining these dockets and perhaps we will turn

to that next.

ADV JOHNSON: Okay.

ADV SELLO SC: And my idea is to make the point that IDAC dealt with this investigation as of the 6th of December as a matter of extreme urgency, and I just want to understand why. But I see it is 11:04, the Commissioners need to break for tea.

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

ADV SELLO SC: Thank you, Chair.

10 **CHAIRPERSON:** Let us adjourn.

INQUIRY ADJOURNS

INQUIRY RESUMES

ADV SELLO SC: Chair, Commissioners, I was not moving off topic, but just slightly off topic, and we have had opportunity to consider the documents filed last night and this morning by Advocate Johnson. And on a consideration of those documents, it has become necessary for the Commission to update the exhibit files, because we have what could potentially be documents contradicting the very
20 documents she has filed and I was moving on to that topic now. A request has been extended that Advocate Johnson have an opportunity to confer with her legal team regarding these seemingly contradictory statements, before we traverse those issues during testimony. I do not know if Mr Bodlani would like to add anything.

MR BODLANI: I may just confirm, Commissioners, that it is so. I had a conversation with Ms Sello last night about what was still outstanding from what had been requested of us. And then I made a request to those instructing me, that every document that had been sought must be made available immediately.

Even I had not had an opportunity to look at those documents. During the adjournment, Ms Sello confirmed to me that she is going to deal with some of those documents.

10 I conferred with the witness. The witness herself was shocked to learn that they are contradictory documents. We request at least about 15 or 20 minutes of a stand down, so that we may consider those documents, confer with her, render advice if and when called upon to do so.

CHAIRPERSON: We will come back when it is indicated to us, then let us adjourn.

MR BODLANI: Thank you.

ADV SELLO SC: Thank you.

INQUIRY ADJOURNS

20 **INQUIRY RESUMES**

CHAIRPERSON: Yes, Ms Sello?

ADV SELLO SC: Thank you, Commissioners. I think we have used the time for the purposes requested. Your file 9 has been updated. I do trust so has your index, because mine has been. And it has been updated by the addition of

four documents under CJC394. So there will be 4.1, 4.2, 4.3 and 4.4. The documents provided by the witness pursuant to the request and the various subpoenas, are attached as CJC392 and there are subs and CJC393. So those are the documents provided by the witness. The documents we have just added that required Mr Bodlani to consult with the witness are then CJC394, that is just to locate us. Advocate Johnson, you confirm what I just informed the Commissioners. I am not misleading them, am

10 I?

ADV JOHNSON: Correct.

ADV SELLO SC: Thank you. Let us go then to file 9, the very file we are talking about and let us deal with 393, CJC393, which should start at your page 3466. Commissioners, we ran copies of CJC393 as received. But on a proper consideration thereof, it would appear that they were not filed in order. So I have tried to make some sense of them and I suggest the pages be moved around. Advocate Johnson will confirm if I am correct.

20 **ADV JOHNSON:** Yes.

ADV SELLO SC: And in that regard, if I say CJC starts at 3466, it is followed by 3467. It would appear that your current 3468 is what should be 3467. So if we could start by swapping those pages around. Do you agree with me, Advocate Johnson?

ADV JOHNSON: Correct.

ADV SELLO SC: Thank you. So the current 68 should be 67.

CHAIRPERSON: But what about the fact that 3467, as is, says one of one?

ADV SELLO SC: Because it will go with 3469. What is currently 3467 and I suggest be 8 is the document that we have in our file already. You will recall, Chair, our A1 statement at file 2, page 681, it accords with 3467 and
10 3469. So that page seems to have been mislaid.

CHAIRPERSON: I know for the most part this is illegible, but below the rectangle of the current 3468 there is something that appears to be a page number there. I cannot read it.

ADV SELLO SC: It might appear as a 3.

CHAIRPERSON: As a 3, I thought so.

ADV SELLO SC: Yes.

CHAIRPERSON: Now, if we take 3468 to come under the current 3466, are those supposed to follow each other
20 consecutively?

ADV SELLO SC: They would seem to, because if one has regard to 3466, that is the start of the case docket. And then when I get to the current 3468, which we suggest be amended to 67, that seems to be the CAS checklist. And the date appearing at 3468 in the second block is the 29th

of October 2024. So it does not tally with the statement of January 2025.

CHAIRPERSON: So I change the 3467 to 3468?

ADV SELLO SC: That is what we propose.

CHAIRPERSON: Okay.

ADV SELLO SC: Then that will read and be followed logically by 3469.

ADV JOHNSON: Sorry, Counsel, may I?

ADV SELLO SC: Yes, ma'am.

10 **ADV JOHNSON**: Through you, Chair, may I just interject? So the 3466, if you look at the top, it has got an A1 and a little one in brackets. Then it follows on 3468, it has got an A1 and a little two in brackets. But please look at 3470, there seems to be an A1 with a little three in brackets. And then it seems 3471 has an A1 with a little four in brackets. And I am not sure if those are the ones that are supposed to go consecutively.

ADV SELLO SC: No, I am going to come to that.

ADV JOHNSON: Thank you.

20 **ADV SELLO SC**: Because beyond the four pages I have dealt with, if you look at what was 3467 that I suggest be 68, that is the preamble to the statement and it bears CAS number 542/06/2025. That at the bottom, it is dated the 6th of January, 2025. We have dealt with this preamble together with its statement and that is our current A1

statement at file 2, page 681. And you are quite correct, Advocate Johnson, it gets messier going forward, but we will try.

For the record, Chair, you will recall that we have the report by General Jacobs, who has, General Jacobs is annexed to MK15, page 275. There is a table there that correlates the Orlando and Cape Town dockets, MK15. And that is General Mkhwanazi's annexed bundle, MK15 and in particular, this is the report by Lieutenant General Jacobs.

10 And at page 275, it sets out a useful table. And that correlates the Cape Town dockets with the Orlando dockets.

If one has regard to that table, I would say that three Cape Town dockets, 1650, referred to in block 2 and 3, 1651, referred to in block 1, and 1653, referred to in the final block on the table.

ADV JOHNSON: Sorry, Counsel, you are on page?

ADV SELLO SC: I am page 275, ma'am. 275, yes.

ADV JOHNSON: Thank you.

ADV SELLO SC: So if we accept, if we use that as a

20 guide, and now going to our file 9, the current file, at page 3470, that is the CAS number 1650. So page 3470 and 3471, they are the same CAS number, 1650/10/2024 and it is followed by a handwritten statement. And at 3474 is an entry in the investigation diary. I cannot make out whose, but once again, it bears the same CAS number, 1650.

Then you get to page 3475. It is a typed affidavit, but it is followed, once again, by wrong documents. And on my reading, subject of course to correction, 3475 should be followed by 3478, which means 76 and 77 are in the wrong place. Then if, I think that is to correct, so that when we reference the pages. So our current 3478 should be 3476, and the current 76 and 78 should, and 77 should be 77 and 78, respectively.

And that takes us to 3479, which is once again a
 10 typed affidavit that seems complete, and the subsequent documents seem to be in their correct order. Are you with me thus far, Advocate Johnson?

ADV JOHNSON: Yes, I am.

ADV SELLO SC: So what you then provided are the dockets of cases opened, the three dockets opened in Cape Town. We have the cover sheet of that case docket at 3466 ...[intervenes]

ADV BALOYI SC: Sorry, Ms Sello, before you go too far, the current 3478, which is also marked A1(4), you said it
 20 belongs where?

ADV SELLO SC: It seems to go with the old 347, you said?

ADV BALOYI SC: The current 3478.

ADV SELLO SC: The current 3478, I think goes with, follows up on 3475, and I suggest it be numbered 76. It

looks like the ending, the end of that affidavit starting at 3475. And yes, Commissioner Baloyi, I agree with you that the current 3478 reads exactly as 3480. Yes. I take it, it is the second page of either, of both affidavits. So you do not get rid of any one of them, you need both pages to make sense of the affidavits, yes.

And let us, for a moment, let us stay with 3475. As currently filed, the affidavit starting at 3475 does not have an ending. That is why I propose to bring 3478 forward to
 10 make it an ending to 3475. But if then we go to 3780, that appears to be the ending, much as it is worded in exactly the same terms, seems to be the ending to the affidavit starting at 3479. Well, Commissioner Khumalo nods, he seems to agree with me.

ADV KHUMALO SC: There was a slightly different problem.

ADV SELLO SC: Yes.

ADV KHUMALO SC: In the photocopies, one page was copied twice, in one of the photocopies. It will not be in
 20 yours, so you will not notice.

ADV SELLO SC: I will not understand it, okay.

ADV JOHNSON: Sorry, Counsel.

ADV SELLO SC: Yes, ma'am.

ADV JOHNSON: Through you, Chair, to which page did you direct us now?

ADV SELLO SC: No, no, no, we are still trying to sort out which page follows which, then we are going to start. Thank you, thank you, Commissioner. So, then we start at the beginning of CJC393, that is at your page 3466. And these are the documents you provided us. Unfortunately, that page, the case docket, it is barely legible, but at least in the top centre block, you can make out the CAS number, and I read it as 1650/10/2024.

That is then followed by the reposition 3467, and
10 you will note in the second block, it has got the date of 29/10/2024, signed by Captain, I cannot make out the name, but the Captain. Then, it jumps to 3468, our new 3468, and it has got CAS number 542/06/2025, that is a Brooklyn case, and that is what we call the Mokwele case. For your notes, that is the front page of the A1 statement, as we already have it at file 2, page 681, together with the following page at 3469.

Then, once again, at 3470, it is a Cape Town 1650/10 statement, so that is when the case was opened in
20 Cape Town, and 3471, bearing the same CAS number, we know the offence there is defeating the ends of justice. And 3472 is Mr Adams' handwritten statement. I assume that it is in respect of case number 1650, there is nothing that tells me, unless perhaps the content just might do, so we retained it there.

And at 3473, you will note, Commissioners, that it was commissioned on the 29th of October 2024 at 15h00, and that is then followed by 3474, which is a copy of the investigation diary, signed by Captain somebody there, and references the statement taken from Mr Adams. We should consider that as the peg for case number 1650. Now you recall, Advocate Johnson, we are going through this exercise because we established that IDAC received a section 27 affidavit on the 27th ...[intervenes]

10 **ADV JOHNSON:** 21st.

ADV SELLO SC: 21st of November 2024, and the idea, I think we established that it was fairly deficient for compliance with section 27 itself, and you indicated that the relevant dockets, the A1 statements in there, plus the supplementary statement would cure whatever legal deficiency there was in the original affidavit, and collectively that is what informs the section 28 summons, that is the purpose of this entire exercise.

20 So let us look at 1650, this one that we have been discussing, we should start at page 3466 to 3474. If you go to page 3472, that is Mr Adams' statement. Another time he open this case in Cape Town, I am at 3472, in the second paragraph, it reads:

“A cover-up of Major General Lushaba's
Sunnyside case of robbery, whereby

official state firearm, laptop and cell phone was stolen, after acquiring the services of a prostitute on 5 August 2022, Lieutenant General Khumalo instructed Major Lekalakala and Brigadier...”

It looks like either Monyani or Monyana, it fell off in the copying;

10 “...to ensure that there would be no investigation into the conduct of General Lushaba, as per Villieria case 38/8/22. The prostitute was paid for her silence using money from the secret Service account, new equipment was bought for Major General Lushaba, by again abusing the secret Service account. Evidence to this effect is available.”

You see where I am reading?

ADV JOHNSON: Yes.

20 **ADV SELLO SC:** So, this particular case relates to the so-called cover-up of General Lushaba's, I do not know if it is a crime, misconduct, but concerns with how Major General Lushaba ended up losing his equipment. I then look at the statements that you have provided, A1 statements that you have provided, these start from page 3479. There are three statements, and none of them speak to this particular issue

raised in docket number 1650 in Cape Town.

The statements ...[intervenes]

ADV JOHNSON: On 3485.

ADV SELLO SC: They go to 3484, that is how far they go, they go to 3484.

ADV JOHNSON: Yes, what I am saying is that ...[intervenes]

ADV SELLO SC: Oh, sorry, 3486.

ADV JOHNSON: Yes. Is counsel saying that other than
10 that handwritten statement, there is not another statement referring to the issue of the Lushaba house breaking?

ADV SELLO SC: No, no, relating to the cover-up by Major, by General Khumalo, who instructed Major General Lekalakala and Brigadier Monyani or Monyana to ensure that there is no investigation. The statement we are looking at, at 3485, on my reading, speaks to the house breaking, and overleaf at 3486 it says:

“After making this report, I make enquiries...”

20 And Mr Adams says that he could not get a case number;

“...I was concerned that my report was being swept under the carpet.”

I do not see, in this January 2025 statement, any allegation pertaining to the conduct of General Khumalo, General Lekalakala, and General Monyana, do you?

ADV JOHNSON: I see that.

ADV SELLO SC: You confirm that. And then staying at 3472, it concludes with the words:

“Evidence to this effect is available.”

Did IDAC ever obtain that evidence?

ADV JOHNSON: I am unable to respond to that. I do not know that we did get ...[intervenes]

ADV SELLO SC: Sorry, I missed it.

ADV JOHNSON: Sorry, I am unable to respond to that. I
10 am unaware of what follow-up they would have made.

ADV SELLO SC: Now, do you know who within IDAC became the investigator in this particular complaint?

ADV JOHNSON: The one with Lushaba.

ADV SELLO SC: Yes.

ADV JOHNSON: That is Mr Padayachee.

ADV SELLO SC: Mr Padayachee.

ADV JOHNSON: Yes.

ADV SELLO SC: So if anyone should have called for that evidence, it would be Mr Padayachee.

20 **ADV JOHNSON:** Correct.

ADV SELLO SC: If you go to 3474, that is the investigation diary of, I think, the officer who took the complaint. I am looking at line eight, where it describes the modus operandi.

“It appears that suspect, Lieutenant

General Khumalo from SAPS secret Services, neglected protocol and instructed Major General Lekalakala and Brigadier Monyane to not conduct investigations against General Lushaba.”

So that is the officer's interpretation of what is contained, the summary of the A1.

ADV JOHNSON: Correct.

ADV SELLO SC: Okay, then if we move forward then to
10 3475, we are just following the sequence of the page numbers. What we have here at 3476 now, is the statement by Mr Adams, commissioned by Mr Perumal. At paragraph 2, you will recognise that that statement is our A1 statement in the docket at file 2, page 3478. We have a, no, no, it is not this one. My apologies, I take it back.

This is a different, a second issue now, the allegations related, I am reading at paragraph 2, fourth line:

20 “The allegations related to the highly questionable appointment of General Khumalo as the Head of Crime Intelligence nationally. The former Minister of Police, Bheki Cele, was also involved in this, while several high-skilled generals within CI were overlooked.”

At paragraph 3:

“Khumalo's vetting processes were allegedly fast-tracked by Masemola, who knew that Khumalo did not have a top secret clearance for many years.”

And then the last line at paragraph 3:

“I suspect that the vetting processes were manipulated in favour of Khumalo as well.”

My interpretation of what is contained in paragraphs 2 and 3 is that the former Minister Bheki Cele was involved in the
10 questionable appointment of General Khumalo and overlooking other highly skilled Generals.

And secondly, at three, Khumalo's process was allegedly fast-tracked by Masemola, who knew that Khumalo did not have a top clearance certificate. I do not know, I take it fast-tracking in and of itself is not a crime. But what is sought to be expressed here, is the unlawful conduct by Minister Cele had the support and participation of General Masemola. Do you get to the same conclusion as well?

ADV JOHNSON: Yes.

20 **ADV SELLO SC:** Now, you remember section 28 that has got a list of people. This is the only statement I found where current Generals or high/ranking members of Crime Intelligence, where their security clearances are questioned. And I see only General Khumalo. I cannot find any other basis for General Madondo, Lekalakala, and that

entire list and I do not have any other A1 statement that introduces them, by Mr Adams, being the complainant.

ADV JOHNSON: If you look at, through your, Chair, if you look at 3479, paragraph 2:

10 “On about early October 2024, I received information anonymously surrounding alleged fraud and corruption being perpetrated within the Division Crime Intelligence of the SAPS, the allegations related to the questionable lateral transfer of Major General Madondo from KZN to CI Head Office by Lieutenant General Khumalo, who was assisted by other senior Generals to do so, knowing that she failed a top-secret clearance for many years.”

That is where I see it.

ADV SELLO SC: Okay. So that statement then introduced General Madondo?

ADV JOHNSON: That statement introduces her.

20 **ADV SELLO SC:** You remember we have Brigadier van Vuuren, we have, I think, Brigadier Bobby, we have Ncube, we have all of them. There are about eight in our section 28. We account for only two, if these statements get us there, but just for the moment, accept that they do, we have only two, whose vetting clearances are questioned. Do you

read the documents as I do?

ADV JOHNSON: Yes. In these, the vetting that has been questioned is that of General Khumalo and General Madondo.

ADV SELLO SC: Yes. So, our section 28, in part, remains unanswered. We do not know why you are enquiring into the vetting of the remainder of the people listed there, except, of course, for Brigadier Mokwele, because her statement is different. My second question is, if page 3475
10 suggests that former Minister of Police Bheki Cele was involved in this, I take that this to be the crime. Am I reading it correctly? Duly assisted by General Masemola, who fast-tracked the clearance of General Khumalo, knowing that Khumalo did not have a top-secret clearance for many years. My first question, what crime is being complained of here?

ADV JOHNSON: I am aware that, from a certain rank, they are all supposed to have security clearances as per their own internal requirements, and that not having security
20 clearance at a specific rank does not allow you to occupy that rank.

ADV SELLO SC: Yes.

ADV JOHNSON: Yes. And so, for me, it would be, it is more, again, a contravention of either the Intelligence Services Act and/or the contravention of a standing order of

the South African Police Services.

ADV SELLO SC: And what crime is that?

ADV JOHNSON: So, in this paragraph ...[intervenes]

ADV SELLO SC: If I may just add, remember we should keep at the back of our minds section 7(A). What crime is that to bring whatever was happening here, assuming it is correct, within the mandate of IDAC?

ADV JOHNSON: So we are reading one statement.

ADV SELLO SC: Yes.

10 **ADV JOHNSON:** And we, and the question you asked then, Counsel, is based just only on this paragraph and what crime it commits.

ADV SELLO SC: On the vetting issue.

ADV JOHNSON: On the vetting issue.

ADV SELLO SC: Yes, on the vetting issue.

ADV KHUMALO SC: So if a vetting is fast-tracked, what crime is committed? So if a National Commissioner fast-tracks the vetting of one of his Generals, what crime is committed there?

20 **ADV JOHNSON:** The likelihood, Commissioner Khumalo, is that in the manner in which it is done, that there could be fraud having been committed, because there are certain processes that happen and there is, it cannot happen in three days. There is checks, there is, you have got to go and do background checks, financial checks, there is quite

a few things that must happen.

So it would mean that either something fraudulent happened, which could be the only case, but the bypassing of the vetting would be a contravention then in terms of the intelligence services. So other than the fraud, if it took place, there is not anything else there that would bring it into the mandate.

ADV BALOYI SC: The question, Ms Sello's question is, what places that within the mandate of IDAC? Even if what
10 you are suggesting were to be shown to have happened, they fast-tracked it and they committed some fraud in the process, why would that be something that falls within your mandate in 7(1)(a)?

ADV JOHNSON: Just merely in terms of the fraud, nothing else.

ADV BALOYI SC: But you do remember that when you appeared last time, you accepted that the fraud, theft in that list, forgery and uttering, they have to be related to the main...

20 **ADV JOHNSON:** Yes. A financial crime or commercial crime.

ADV BALOYI SC: A serious, serious corruption. So why do you say that would be so in this case? Why would the fast-tracking of a security clearance or vetting constitute a serious crime of corruption that falls within 7(1)(a)?

ADV JOHNSON: I hear you, Commissioner Baloyi, I cannot take it further than the point that you have made.

ADV BALOYI SC: Is another way to your answer a clearer way that you do not see why it would be a crime?

ADV JOHNSON: As it stands here, I cannot see.

ADV BALOYI SC: That comes within your mandate.

ADV JOHNSON: Yes.

ADV BALOYI SC: All right, thank you.

ADV SELLO SC: And we know that General Khumalo is
10 facing charges and potential arrest under case 453/06/2025
and that is pertaining to the vetting issue. Is that correct?
The warrant of arrest that was suspended, it relates to the
vetting issues, does not it?

ADV JOHNSON: I speak under correction, it relates to the
vetting issue of General Madondo.

ADV SELLO SC: Of General Madondo?

ADV JOHNSON: Yes.

ADV SELLO SC: And...

ADV JOHNSON: And the fraud related to that vetting.

20 **ADV SELLO SC:** Not General Khumalo's own vetting?

ADV JOHNSON: Not General Khumalo's vetting. It relates
to a role he played allegedly in that contravention.

ADV SELLO SC: Thanks for that. Thank you for that
clarification. When you ...[intervenes]

ADV BALOYI SC: So he potentially faces an arrest for

something that may not fall within the mandate of IDAC, given this last discussion that you and I had?

ADV JOHNSON: I cannot say that, not having full sight of all the evidence, given that the allegations against General Madondo in that matter relate pertinently, from my recollection, to her having committed fraud, having misrepresented her position, and that he then knowingly accepted that fraud and then perpetuated the process further, not the vetting.

10 **ADV BALOYI SC:** Ja, that is why I limited my question to our vetting discussion, that insofar as that a charge that he is facing may relate to vetting, one of the charges, if there is more than one, may relate to vetting, that potentially may be a charge which does not fall within the mandate of IDAC, given what we have discussed.

ADV JOHNSON: Yes. It would only be the fraud relating to the alleged fraudulent documents, remarks, et cetera that would have been made by General Madondo.

ADV BALOYI SC: Thank you.

20 **ADV KHUMALO SC:** Advocate Johnson, do you not sign off on the processes that lead to the warrant being issued? Does that happen behind your back? I was under the impression all along that before your investigators can seek warrants, they have to come to you for sign-off.

ADV JOHNSON: No, Commissioner. What they do is

before they... they sit with the prosecutors and they then compile those applications for the warrants. They are checked by the prosecutors and by the deputy in that team.

ADV KHUMALO SC: So you play no part in that process?

ADV JOHNSON: Not in the warrant process. We are then briefed afterwards that, or before the warrant is executed, sorry, Chair, before it is executed, we are then briefed that there is an impending arrest.

ADV SELLO SC: Thank you, Commissioners. Then on the
10 logic of CAS Number 453/06/2025 against General Khumalo regarding General Madondo's vetting, or the lack thereof, I take it IDAC is preparing to charge and arrest former Minister Bheki Cele and General Masemola for General Khumalo's own vetting shortcomings. Logic dictates that that should follow?

ADV JOHNSON: As I indicated, I am not vested with the cases at the moment, but that logic does follow.

ADV SELLO SC: That logic does?

ADV JOHNSON: Yes. I cannot argue the logic away.

20 **ADV SELLO SC:** It is on the logic of your answer, would it be appropriate, though, to be investigating such and threatening to arrest Minister Bheki Cele, former Minister Bheki Cele and General Masemola for the fact that General Khumalo was hired into Crime Intelligence without vetting clearance, in the absence of any fact that he, in fact, did

not have clearance, which was an absolute prerequisite for his appointment? Is it appropriate to follow that line of investigation, culminating in potential charges and arrest, based on what you have at 3475?

ADV JOHNSON: No, unless they fall within other offences that are not here.

ADV SELLO SC: It does not have other offences thus far.

ADV JOHNSON: Yes.

ADV SELLO SC: And this is a statement that was
10 commissioned by Mr Perumal on the 6th of January 2025, as you see from page 3746. And just like the previous ...[intervenes]

ADV JOHNSON: Sorry?

ADV SELLO SC: 3476.

ADV JOHNSON: 3487, yes.

ADV SELLO SC: You remember we changed numbers, numbering.

ADV JOHNSON: Yes.

ADV SELLO SC: Just like the previous one, they seem to
20 have this perennial problem of being signed both at Pretoria and Cape Town. It is consistent, that error, through all of them. Are you able to shed some light as to how this comes about?

ADV JOHNSON: So when the Commissioner of Oaths, Chair, fills in, the Commissioner of Oaths fills in, as you

see, they sign their full names, their office, the address of where they are stationed and the agency for which they work. It is for that reason, on the right under Mr Perumal, you will have the full names, Ex Officio is a Chief Investigator, the Investigating Directorate, Corruption IDAC, Brooklyn, Pretoria, National Prosecuting Authority of South Africa, Pretoria.

The part immediately under Mr Adams' signature that says where they were when they took it, which was
 10 they took it on the 6th day of January, 2025, and it was done in Cape Town with Adams having signed in Cape Town. Mr Perumal signs as the Commissioner of Oaths, but that address that he appends is the address for where he is stationed as the Commissioner of Oaths ...[intervenes]

ADV SELLO SC: No, if I may interject, I apologise. My challenge lies in the wording above Mr Perumal's signature. You see it reads:

“Thus, done and signed to at Pretoria on
 the 6th day of February...”

20 That is typed, and at the conclusion of that paragraph it says:

“...in my presence at Cape Town.”

ADV JOHNSON: No, they have to explain that. I hope that it is just an honest error.

ADV SELLO SC: But it happens across all of them.

ADV JOHNSON: Ja, because if we work on the logic of how it is, everything else is logical, including the date stamp, because IDAC only has a national office which is Pretoria, but they, Counsel, I cannot argue that away.

ADV SELLO SC: I am not attributing it to you in any way. I thought perhaps you might be able to shed some light.

ADV JOHNSON: No, I absolutely cannot.

ADV SELLO SC: If we then go to 3477, it is a preamble to a statement. But this one, if you note the top right corner, it
10 does not have a CAS number. And at 3478, it lists fraud and corruption as the offences. And as you correctly pointed out earlier, the statement, it does not have a handwritten statement from the docket by Mr Adams, it is not available. What we have instead is a statement, once again, of the 6th of January, signed by Mr Adams and commissioned by Mr Perumal. This is the affidavit you referred to a short while ago regarding the case, the transfer of Major General Madondo.

ADV JOHNSON: Correct.

20 **ADV SELLO SC:** And now this is the case you suggest both General Madondo and General Khumalo were due to be arrested for in June 2026. I understood you correctly?

ADV JOHNSON: This would be Brooklyn 543.

ADV SELLO SC: Yes, that is what you had indicated earlier. We know 453 is in respect of the top secret

clearances. Do you recall when we were looking at...

ADV JOHNSON: Yes, that would be... Yes, if you look at, I think, the... Sorry, Chair, I do not mean to waste time.

ADV SELLO SC: No, no, not at all. With the Chair's permission, of course.

ADV JOHNSON: If you look at 3481 and 3482, if the numbers have remained, that is Brooklyn CAS 543/6/2025, and that is the CAS that then refers, yes, correct, to Madondo and Khumalo.

10 **ADV SELLO SC:** Now staying at 3479 then, we say:

“The allegations relate to the questionable lateral transfer of Major General Madondo from KZN to CI Head office by Lieutenant General Khumalo, who was assisted by other senior generals to do so, knowing that she had failed to secure a top clearance for many years.”

First leg of that, why is IDAC charging General Madondo for that? Based on what Mr Adams alleges, what wrong did she
20 commit by being laterally transferred? There is no suggestion that she committed fraud by misrepresenting or otherwise her clearance position or status.

ADV JOHNSON: It is not in this paragraph, but I do understand that that is what is being investigated in 543/6/2025, is fraud committed in getting, she committed

fraud in order to have herself laterally transferred.

ADV SELLO SC: How do you land there? This is all you have regarding hair transfer.

ADV JOHNSON: Yes.

ADV SELLO SC: How do you land at a place where you say she committed fraud?

ADV JOHNSON: No, I am saying it is not in here.

ADV SELLO SC: Where is it?

ADV JOHNSON: It is in the rest of the docket, where they
10 have other statements, they are not Adams' statements. So I take your point again, as we did about the vetting, but just to indicate that there was in fact a fraud investigation that was undertaken, given her own fraudulent, allegedly fraudulent conduct.

ADV SELLO SC: I take it...

ADV JOHNSON: It is not in this paragraph, I accept that.

ADV SELLO SC: I take it that by the time we apply for an arrest warrant, the charges are finalised, and I know that is the docket we had agreed we will tread carefully around.

20 **ADV JOHNSON:** Yes.

ADV SELLO SC: But on the basis that you have an arrest warrant, that suggests you have an application for a J15, which suggests you have finalised the charges. So those are more or less cast in stone. From your recollection, what is the fraud she is said to have committed, without

undermining whatever ongoing investigations there are?

ADV JOHNSON: [No answer]

ADV SELLO SC: If you can.

ADV JOHNSON: I have the answer, but I am unable to answer it without casting aspersions on General Madondo on a matter that is still pending review.

ADV SELLO SC: You are about her, Advocate Johnson.

ADV JOHNSON: Yes.

ADV SELLO SC: On the strength of a charge sheet that
10 criminalises some or other of her conduct.

ADV JOHNSON: Yes.

ADV SELLO SC: I think you may disclose. You cannot take that back. The only way you can take it back is for that warrant of arrest to be withdrawn and the charges dropped. So if the nature of the fraud that underpins that charge and justifies the J15 remains, whether you say it here or you do not say it, it is there on record, it can be changed.

ADV JOHNSON: I understand that, but if Chair, you will
20 allow me, this matter is under review. I am cautious, having removed myself from the matter, that I should not be saying anything that has the potential to prejudice that outcome. The review relates to representations she may have made, and it goes to an independent panel, and I am merely saying that any utterances I make might have a negative

influence, and I should not do that, because that matter should be adjudicated on the strength of what is there before an independent panel. I am not sure if the Chair would allow me that, but that is the basis on which, Chair, I am not trying to be obstinate. It is the basis on which I would prefer not to answer.

ADV SELLO SC: I will support you in your request to the Chair. I will leave it there, I will not pursue it any further.

CHAIRPERSON: Can you please articulate what you said
10 again, Ms Sello?

ADV SELLO SC: Chair, Advocate Johnson made a heartfelt plea to the Commissioners.

CHAIRPERSON: Yes, yes, I heard that. I am not quite sure I followed what you said.

ADV SELLO SC: What I said was, I shall not pursue the matter further.

CHAIRPERSON: Oh. Thank you.

ADV BALOYI SC: Yes. Well, I hear Ms Sello is not going to pursue the matter further, but I want to ask a different
20 question. You are related to this. Your Code of Conduct says something about you examining or satisfying yourself about whether evidence was lawfully obtained or material, that is potentially going to be used as evidence is going to be, was obtained lawfully or not. It says that. Now, we know in this affidavit, and your Code says that, I think you

must be familiar with it. If you want to check, you can look at D2G, and then, I think, rather H, in fact. And then if you want, you can look at I, but you are familiar with this.

Now, in this affidavit, Mr Adams says that this information about General Madondo, he knows it from the documents that were pushed under his door in Parliament. And you remember we had this conversation last week about Crime Intelligence information having clearly been obtained, not lawfully given. Did you, when you see an
 10 affidavit that says this, or when you get a briefing, because you must have been given a briefing, I expect you would have asked the question, how do we know this? Where did we get this information about the vetting of General Madondo?

And you would have been told, what were you told about it, how this information was obtained?

ADV JOHNSON: According to the feedback, the information was obtained, Commissioner Baloyi, through the section 28 subpoena processes that followed after the 6th
 20 January engagements with Mr Adams.

ADV BALOYI SC: Okay.

ADV JOHNSON: So documents were subpoenaed, and they would have been provided.

ADV BALOYI SC: Well, in his affidavit, he tells you, or he tells Mr Perumal, how he received this information, the very

affidavit you are looking at, and he says:

“I attach hereto documents which were
pushed under my office door at Parliament,
and which relate to Madondo's application.”

It does not call it General, so I am reading, it is not me
being disrespectful to General Madondo;

“...which relate to Madondo's application
for security clearance marked FA.”

So Mr Perumal, or Chief Perumal, knows from this that he is
10 now receiving and looking at information that was not
lawfully obtained, and that Mr Adams is not entitled to have
access to and to have sight of.

And yet, and so my question to you is, was that
inquiry that your code of conduct says you must satisfy
yourself, whether that evidence was lawfully obtained, was
that done in this case, or you were all just happy to get the
information and then carry on because it takes you down a
particular path of inquiry?

ADV JOHNSON: No, no, Commissioner Baloyi. I had not
20 gone through the details of all his A1s, but I do see here
where reference is marked to FA1. I have not seen FA1. In
fact, when we were conferring, I was saying, I am missing
something, where is the FA1 that ought to have been here?
If, in fact, FA1 was provided to Mr Perumal, then we have to
determine what that FA1 was. And if it is a classified

document, then that is a problem that should be dealt with.
I did not see, I have not seen FA1 at all.

ADV BALOYI SC: Let us assume that FA1 is exactly what Mr Adams says it is. He says it is information or a document that relates to Madondo's application for security clearance. Let us assume that for purposes, because that is what he tells us. Let us assume it is that and it was attached. You say it is a problem, it should be dealt with. What is a problem about it? What is a problem that you say
10 it is a problem, and when you say it should be dealt with, what does that mean?

ADV JOHNSON: So, if the document is, in fact, a classified document, there are two things. One, Mr Adams should not have been in possession of the classified document. If it is not a classified document, we all agree that that is not a challenge. If it is ...[intervenes]

ADV BALOYI SC: Even if, is not a challenge, though, even if it is not a classified document, it is Crime Intelligence information, he did not get it lawfully, it contains the
20 personal information of a person, and he is telling your investigator, your chief investigator, that this was not given to me by General Madondo.

ADV JOHNSON: It was under my door.

ADV BALOYI SC: It was put under my door, so we know he did not get it properly.

ADV JOHNSON: Yes.

ADV BALOYI SC: It seems to me it really does not matter. It may have different consequences in terms of the extremity of the consequences of it, but it remains a problem, even if it is not classified, no?

ADV JOHNSON: Correct.

ADV BALOYI SC: Yes.

ADV JOHNSON: And so steps should be taken for the handling of a document ...[intervenes]

10 **ADV BALOYI SC:** And those steps would be, sorry, those steps would be against Mr Adams for being in possession of Crime Intelligence documents that are not ...[intervenes]

ADV JOHNSON: Classified or unclassified.

ADV BALOYI SC: That are not in the public domain.

ADV JOHNSON: That is correct.

ADV BALOYI SC: Okay. Thank you.

ADV SELLO SC: Thank you.

ADV JOHNSON: I would like to ask you, sorry, Advocate Sello. Advocate Johnson, this affidavit, how does IDAC
20 ensure that the affidavits are independent of IDAC's investigators? It bothers me that it is IDAC that goes to the complainant purportedly to obtain a statement, and then the same IDAC investigator commissions that statement. How does IDAC ensure that that is in fact the witness's statement and it is not the work of the investigator?

In other words, the investigator does not draft a statement for a complainant because we know the starting point is your 27 is deficient. It does not have enough information to enable IDAC to commence an investigation. Or it does not even bring what you are saying within IDAC's jurisdiction. Now IDAC says this is not enough, I want something more. And the very investigator that goes back to the complainant now commissions the same affidavit. How does IDAC ensure that the investigator does not push
10 that agenda to ensure that the follow-up affidavits now contain the information that will clothe IDAC with jurisdiction it did not have when the complaint first came in?

I mean, is it not more appropriate to say your statement is not enough, go make a statement that deals with these issues, have it commissioned, and then give it to IDAC instead of IDAC being the one that solicits the affidavit and commissions the very affidavit it has solicited?

ADV JOHNSON: If I can start one step back, ordinarily Commissioner Khumalo and I, I know that this is within your
20 knowledge. When investigators, and it is not just IDAC, whether it is the detectives including DPCI, they go and take statements of the witness and they commission the statement. The check and balance that we have sought within all of the law enforcement fields over the years is to ensure that it is not one investigator going down to take a

statement.

In this instance, it was the prosecutor, Advocate Ramsamy, who was supposed to have been present together with Mr Mansa and Mr Perumal. So much so that it must be an engagement with the witness, and as the witness talks to the issues, they are noted. And then the statement is drafted, it has to be read back to the witness, and when the witness agrees, the statement is signed and commissioned.

ADV KHUMALO SC: That is what happened in this case?

10 **ADV JOHNSON:** In this case, that is why there were the three of them. And that is the practice. I am unfortunately not ...[intervenes]

ADV KHUMALO SC: Is it to avoid the very issue that I am raising, that it cannot be the same investigator going to a witness and saying, do a statement for me and I will commission it for you.

ADV JOHNSON: Correct.

20 **ADV KHUMALO SC:** Especially in circumstances where even the original section 27 was solicited by the same investigator. It is different from a police case where a complainant would come to a police station and would lay a complaint or make a statement. Then the investigating officer would do follow-ups. Here the original statement is solicited by the same person who commissions the follow-up statements.

ADV JOHNSON: I hear you Commissioner. I cannot take it further than the point I made about why there is more than one person who goes. But I think in terms of perhaps advice and recommendation, it should be stipulated that it is preferable that that kind of engagement not happen and it be an independent investigator.

ADV KHUMALO SC: And I am not suggesting that this is what happened here.

ADV JOHNSON: I understand.

10 **ADV KHUMALO SC:** But you can see the danger of an investigator who does not like a Sandile Khumalo finding a complainant and say, you know, we are going after Khumalo, so make a statement along the lines of section 27. I will commission it for you and on the basis of the very statement I will then commence an investigation against the person that I do not like.

ADV JOHNSON: I take Commissioner's point.

ADV SELLO SC: Thank you, Commissioners.

ADV BALOYI SC: Just to...

20 **ADV SELLO SC:** Yes, Commissioner Baloyi.

ADV KHUMALO SC: You have more than once referred to Mr Mansa. Is that the same person as Mr Rapetsu?

ADV JOHNSON: Rapetsu.

ADV BALOYI SC: It is the same person. Thank you.

ADV SELLO SC: Oh, thank you, Commissioner. So it was

yet another person. I had him down as Mr Mansa. Oh, okay, clarified. Stay with 3479.

ADV JOHNSON: Sorry, 3-4?

ADV SELLO SC: Stay with page 3479. This is regarding General Madondo and following on your engagement with Commissioner Baloyi, I am at paragraph 3. We know the complaint is that she got this lateral transfer without a top clearance, top secret clearance certificate. At paragraph 3 it states:

10 “Madondo poses a risk to CI, the SAPS and
 the country.”

I will skip the next sentence. The last one:

 “I do not understand how a senior officer
 who cannot be trusted is able to access
 and be in possession of intelligence reports
 and documents.”

Now on the basis of these allegations and subsequent investigations then IDAC charged General Madondo in terms of CAS 453/06/2025, correct?

20 **ADV JOHNSON:** Correct.

ADV SELLO SC: Why, I take it Mr Adams is also being charged. What is good for the goose must be good for the gander. If General Madondo not having that clearance certificate poses a risk to CI, the SAPS and the country, I dare say so too is Mr Adams. You agreed that he does not

have a top secret clearance certificate, and yet he is handling documents seemingly that come from Crime Intelligence and for which he does not have lawful access or authorised access. Once again we are in that logical terrain where I say if we accept that General Madondo has committed a crime and poses the risk that is articulated at paragraph three, so equally too must Mr Adams. Logic would dictate for me unless I am persuaded otherwise.

ADV JOHNSON: No, logic dictates correctly.

10 **ADV SELLO SC:** So we can expect IDAC to act at least on their very whistle-blower on this part, on this point.

ADV JOHNSON: I speak under correction.

ADV SELLO SC: Absolutely.

ADV JOHNSON: But he is arrested I think amongst others for this contravention.

ADV SELLO SC: By IDAC?

ADV JOHNSON: Not by IDAC.

ADV SELLO SC: It is IDAC, remember, it is IDAC who sought to arrest General Madondo.

20 **ADV JOHNSON:** Yes.

ADV SELLO SC: And this is part of the same investigations facts coming from the same investigation.

ADV JOHNSON: So ...[intervenes]

ADV SELLO SC: So arresting General Madondo equally I say, unless there is a reason why IDAC then decides not to

take action against Mr Adams. Would there be a legitimate explanation for that?

ADV JOHNSON: No.

ADV SELLO SC: All right. What we will see, lastly, when we started last week we have been asking about the documents that Mr Adams says, he does say so in his section 27, that were shoved under his door at Parliament. Now he says specifically those which relate to Madondo's application for security clearance marked FA1. That tells
10 me that IDAC has those documents. They are within IDAC.

ADV JOHNSON: And that is where we need to look at is the document that we said would come just before lunch, the other file. And I did send you that file, Advocate Maga.

ADV SELLO SC: We will check that but at least for the moment we know that IDAC has them.

ADV JOHNSON: It should be in that file, yes?

ADV SELLO SC: No, you are answering the way I am saying for a fact IDAC has FA1. The documents that were part of the documents shoved under Mr Adams' door.

20 **ADV JOHNSON:** I cannot answer till I see the file
...[intervenes]

ADV SELLO SC: No, no, no.

ADV JOHNSON: ...because I did not see FA1.

ADV SELLO SC: The affidavit is telling you. The affidavit itself says they are attached, marked FA1.

ADV JOHNSON: Yes, if he has given them as FA1 then they must be there.

ADV SELLO SC: FA1 is not in the file that I got. The sheath of papers you gave me does not have FA1. But I argue to you that on the basis of what he says it to, Mr Adams, I have no reason to doubt that Mr Adams gave the investigators those documents which he marked FA1 to this particular statement. So IDAC has them. It cannot be a quibble.

10 **ADV JOHNSON:** No.

ADV SELLO SC: Otherwise you are going, you are forced to then say Mr Adams is misleading in that affidavit at paragraph 2 and you have got no basis as far as I am aware to say so.

ADV JOHNSON: Correct.

ADV SELLO SC: So I know this, this affidavit was commissioned by Mr Perumal on the 6th of January 2025. You said to Commissioner Baloyi you have not seen FA1. To your knowledge, is Mr Perumal available to assist us if
20 we are to make an immediate enquiry regarding FA1, this annexure, and would he be able to, even if on an emergency basis, just to present himself before the Commission tomorrow morning to speak to these matters?

ADV JOHNSON: He is unable to.

ADV SELLO SC: Why not?

ADV JOHNSON: I am not sure if counsel did speak...

MR BODLANI: If I may assist?

ADV SELLO SC: Yes.

MR BODLANI: When we sought some of the judgments that the evidence leaders wanted, I think the docket concerning Langlaagte, we received an instruction to the effect that the person in possession of that docket is Mr Perumal and we sought instructions as to whether we can have a conversation with him. We were informed that he is not
10 well. He was hospitalised during the course of the past weekend, so that we also did not have access to him.

The information I received last night was to the effect that he was discharged during the course of yesterday, and that attempts would be made to get that docket from his office, but we have not had access to him at all. Fortunately for me, I have not had a medical certificate of any kind, so I do not know what is the actual problem with him.

Hopefully during the course of lunch, one will get
20 an idea, because part of the promise that was given to us was that that docket would probably be available around about lunchtime, because somebody was going to be dispatched to his office during the morning session today to try and locate it. So we will get some information during the course of lunch, and hopefully we will have something

to say to you after the lunch adjournment.

CHAIRPERSON: Thank you, Mr Bodlani.

ADV SELLO SC: Thank you, Chair. Thank you, Mr Bodlani. Then if I may, as has become standard request, that as you communicate with Mr Perumal, I do not know how, this is one of the documents that we are looking for. We are looking for the FA1 to the affidavit that he commissioned on the 6th of January.

ADV JOHNSON: Commissioner, through you, I will take a
10 chance at lunchtime, because it is important to do so, and see if we can get him on the telephone. If not, if there is a family member that does answer, and he is able to answer their question, it is just to ask if he can just give us an indication. That much I will try, but for the docket, I am aware that someone would bring it to us, not later than lunch.

CHAIRPERSON: Thank you.

ADV SELLO SC: Thank you, Chair. Thank you so much, Advocate Johnson. I am indebted. The next statement we
20 have is at 3483, and once again you will see at 3484, it is commissioned on the 6th of January 25. It has got that Pretoria/Cape Town problem as well, and by Mr Perumal. This is the one that I say, we have seen this statement before, it is the Mokwele A1, and I think we have dealt with it sufficiently extensively.

My last statement that we have provided to the Commission is at 3485, and this one, you referred us to it earlier, this is regarding the break-in at General Lushaba's house. But this particular statement I see is commissioned by Mansa Robert Rapetsu in Cape Town on the 6th of January, 2025, as you see from page 3486. This one, at least as to where it was commissioned, is not a schizophrenic, it says Cape Town.

ADV JOHNSON: Ja, so they did not move Pretoria to Cape
10 Town for this one.

ADV SELLO SC: For this one, yes, but it is still on the 6th of January.

ADV JOHNSON: Yes, correct.

ADV SELLO SC: Now, from CJC394, those are the documents that the Commission added, those are the ones we received, and there are four of them. If you flip through them, they are all commissioned by Mr Mansa Rapetsu on the 6th of January 2025, in Cape Town. The testimony that we will hear is, and you indicated this earlier, that the three
20 investigators, no, the two investigators and prosecutor, is it Advocate Ramsamy?

ADV JOHNSON: Correct, ma'am.

ADV SELLO SC: Advocate Ramsamy, Investigator Rapetsu, Investigator Perumal, went to Cape Town on the 6th of January, they went to Cape Town, and on the 6th of

January, obtained statements from Mr Adams. I think five in total, and that all those statements were commissioned by Mr Rapetsu in the presence of the other two, the other two being Investigator Perumal himself and Advocate Ramsamy.

ADV JOHNSON: Correct.

ADV SELLO SC: And that what we have at CJC394 are the actual statements taken on the day, and that the statements we have spent the last time working through, commissioned by Mr Perumal, are a post-fact fabrication. Both witnesses
10 disavow the validity of all these statements, that on the 6th of January, Mr Perumal did not commission any statement, that is evidence that we shall hear, and that they were all commissioned by Mr Rapetsu.

ADV JOHNSON: Okay.

ADV SELLO SC: To that end, because we are armed now with two sets of statements, much like Cape Town/Orlando situation dockets, but that do not speak to each other, the witnesses say they do not know the statements purported to be commissioned by Mr Perumal.

20 **ADV JOHNSON:** Okay.

ADV SELLO SC: They attest to the documents that the Commissioners submitted this morning at CJC394. It was a bit of a mental exercise to try and marry them, and both have provided short voice notes to explain why it is they challenge the validity of these documents commissioned by

Mr Perumal, and Chair, Commissioners, through you, I beg leave to play, they are very short notes.

ADV KHUMALO SC: Before you do that, does that include 3485? Because 3485 was commissioned by Rapetsu, so should it not be part of CJC394, if what you are referring to applies to statements in CJC393?

ADV SELLO SC: It would be, except that 3485 was provided by the witness.

ADV KHUMALO SC: Okay. But you are not suggesting
10 that 3485 is also a post facto?

ADV SELLO SC: No.

ADV KHUMALO SC: Okay.

ADV SELLO SC: It is only those commissioned by Mr Perumal.

CHAIRPERSON: The Pretoria/Cape Town.

ADV SELLO SC: The Pretoria, the schizophrenic ones.

ADV KHUMALO SC: Then we are clear.

ADV SELLO SC: So before I play these clips, because I think they explain the basis for why they are so contend, I
20 must place on record that both witnesses will be appearing before the Commission this week. They will testify to what they state in those voice notes, and their statements should be coming through any moment soon. So it is necessary that I, through them, I explain the challenges to Advocate Johnson, and then after lunch we can then compare the two

sets of statements to determine why their advice is important for our purposes. Very short statements. Thank you, Chair. We play the first, the first one will be a female voice, the other will be a male voice. When you hear a female voice, that is the voice of Advocate Ramsamy. When it is a male voice, that is the voice of Investigator Rapetsu. Thank you.

[VOICE NOTE PLAYED BACK]

10 “**Advocate Ramsamy**: A1 taken by Dylan
on the 6th of January 2026, and then a
supplementary taken on the same day by
Rapetsu, 6th of January 2025, so why would
two investigating officers sitting in the
same boardroom have taken two different
statements on the same day? And I can
confirm that in my presence, there was only
four statements taken. They were the four
supplementary affidavits, which I have
provided to you. The A1 was not taken in
20 my presence, and it could not have been
taken on the 6th of January. One, we did
not have the Pretoria stamp with us, as is
clear from the supplementary statement.
Two, Dylan did not take or commission any
statements in my presence. Three, we had

one vehicle, we all travelled together, and all meals were done together. We even sat at the pool for a long time and chatted and whatever. So when exactly would Perumal have taken the statements on the 6th, if we were together?”

ADV SELLO SC: Thank you. That was the voice of Advocate Ramsamy. And we will play the second clip. That should be Investigator Rapetsu.

10 [VOICE NOTE PLAYED BACK]

“**Investigator Rapetsu:** This A1, I do not know how to put it, but it could not have been possible because on that day, we only obtained the supplementaries. So there was no way Dylan could have obtained that affidavit on that day. And maybe my thinking is that maybe it was signed on a different date, which I do not know. Also, remember, I was questioning

20 that the signature of Fadiel. It looks like someone was trying to jigga it. But I am not an expert. I do not know, but it looks like it. So I think that affidavit is obtained after, it was not on the 6th. So, ja.”

ADV SELLO SC: I think both were fairly audible, there is

no need to replay and I think that the import of their respective messages is duly delivered. So as I indicated, Advocate Johnson, these are the two witnesses who support EXHIBIT CJC394, which are the statements that the Commission has added to the exhibit file. And they deny any knowledge of those statements as commissioned by Mr Perumal.

And that testimony will be that whenever it is, Mr Perumal took those statements from Mr Adams and
 10 commissioned them, it definitely is not on the 6th of January, 2025, because they were together at all times. And Mr Perumal himself was present when Mr Rapetsu commissioned the statements.

ADV JOHNSON: And he said the signatures were jigga'd, means they were tampered with or they are not a true reflection of Mr Adams' signature in terms of the statements allegedly taken and commissioned by Mr Perumal.

ADV SELLO SC: Yes.

ADV JOHNSON: Did I get that right?

20 **ADV SELLO SC:** Yes.

ADV JOHNSON: Okay.

ADV SELLO SC: And he does say, though, he is not a handwriting expert, at least he says that much.

ADV JOHNSON: I did hear that, it is just jigga'd, but he does not more.

ADV SELLO SC: He said it looked jigga'd to him. Now, you must recall that when we were dealing with our A1 statement in the Mokwele matter, our A1 statement in that docket is the quote unquote Perumal statement. So, Chair, I...

ADV BALOYI SC: Before you say, Chair, let us break, can I just check, check something? Ms Johnson, considering the dates in the Perumal, I am going to call it the Chief Perumal statements, which is the 6th of January, and then
10 on the same day, Rapetsu also, it is the 6th of January, would it be normal, I cannot think of the correct word, but that you would have an A1 statement on the 6th of January taken by a member of this three-member team, and on the same day, you have the same team, you have a supplementary statement? It seems to me intuitively that you would just have one A1 statement if they were all travelling together and they were interviewing the complainant together. Am I right that you would have one comprehensive statement?

20 **ADV JOHNSON:** Correct. Proceeds, really, it does not make sense.

ADV BALOYI SC: Yes.

ADV JOHNSON: What might have made sense is there were four statements to be taken. If perhaps Mr Perumal took two, and Rapetsu took two, but on those same matters,

and then they end up with a total of four, that is logical, but you cannot have one team together, same day, same place ...[intervenes]

ADV BALOYI SC: Taking a main statement and a supplementary statement.

ADV JOHNSON: And bearing in mind, Chair, that the purpose was for a supplementary statement to bolster the dockets that were purported to be somewhat lacking.

ADV BALOYI SC: Thank you.

10 **ADV KHUMALO SC:** I think it highlights the danger I mentioned 15 minutes ago.

ADV JOHNSON: Absolutely.

ADV KHUMALO SC: Where only one person is engaging or not engaging with the witness. But Advocacy Sello, something even more important, and in the docket and in the various documents that were given to the Court, what was disclosed? Is what was disclosed what we now know as the doctored A1, or is it the correct supplementary?

ADV SELLO SC: So far, we have the Mokwele docket that
20 we have worked through. It is what the Commissioner calls the doctored A1. That is the A1 in the Mokwele docket.

ADV KHUMALO SC: I mean, that is serious misconduct. It is serious misconduct.

ADV SELLO SC: It is, indeed.

ADV KHUMALO SC: Because it means that is what is

disclosed to the Court and to the accused.

ADV SELLO SC: Indeed.

CHAIRPERSON: Let us adjourn at this point and resume at 14.40.

ADV SELLO SC: Thank you, Chair.

INQUIRY ADJOURNS

INQUIRY RESUMES

CHAIRPERSON: Before you start, Ms Sello.

ADV SELLO SC: Yes, Chair.

- 10 **CHAIRPERSON:** There is an announcement that I must make. There is someone who disclosed the identity of a witness that testified anonymously. On the face of it, it appears that this was done deliberately. In terms of the Act and this Commission's Regulations, it is a criminal offence to act in a manner, I am paraphrasing, that prejudices the business of the Commission.

Consequently, the Commission is going to institute criminal proceedings against that person. This is a matter that the Commission takes very seriously and it simply must
20 act in these circumstances. Thank you.

ADV SELLO SC: Thank you, Chair. Chair, before we proceed with Advocate Johnson's report back, you will note in your files that there is an update. A further CJC has been added and that is CJC395, starting from page 3495. That is the Langlaagte docket. 3495, that is an addition

that was File 9. You will note at the top of that, it has got Langlaagte and the CAS number of November 2024.

Now, I am yet to apply my mind to this particular docket, but I think we can touch on it in passing. The second issue was, I think Advocate Johnson had indicated that she would make a call either to Mr Perumal or his office to obtain Annexure FA1 that is referenced in one of the statements commissioned by Mr Perumal. I think, I do not know if Advocate Bodlani is ready with that report back.

10 Thank you, Chair.

ADV BODLANI SC: Thank you, Chair. Firstly, I confirm that the Langlaagte docket has been made available. We delayed making it available. We apologise. The request was made last week. We should have made it available during the course of the week. We did not. An apology is merited. It has resulted in what Ms Sello is mentioning, that she has not applied her mind to it. That delay is definitely attributable to us.

20 The statement, the attachment that is referred to Mr Perumal's affidavit, we are told it is part of the Langlaagte docket. But because we have yet to apply our mind to it as well, I am not in a position to point out as to where exactly is it, nor am I able to say, well, there is a deficiency here and there because I have not seen it at all. But I guess during the course of the afternoon, even if after this

session, the two teams will put their heads together. If there is still anything outstanding, it will be brought to our attention and we will make means to see to it that it comes forth. Thank you, Chair.

CHAIRPERSON: Thank you, Ms Bodlani.

ADV SELLO SC: Thank you, Chair.

ADV KHUMALO SC: Before you continue, Ms Sello.

ADV SELLO SC: Yes, Commissioner.

ADV KHUMALO SC: There was a request, I think last
10 week Thursday, that more effort be made to obtain the response to the Minister's letter, the letter from the Minister's Office. What is the update on that request?

ADV SELLO SC: I must say, I do not know if Mr Bodlani will be in a position to comment. And I confirm that that is the case, and I think it flowed from questions by Commissioner Baloyi and yourself. I must state that in our communication to Advocate Johnson, enlisting the documents agreed to be provided, somehow that one fell through the cracks. So we did not bring it to your attention
20 in our communication.

Perhaps I should address myself to both Advocate Johnson and Mr Bodlani. I do not know if they recall. When we were considering an annexure from General Mkhwanazi's annexures, we referred to it as MK16. The letter written by the Minister's Office purporting to be a

quote-unquote section 27 referral. You recall that that was followed by an engagement on whether you had responded, you, Advocate Johnson, had responded to that letter, and what the terms of the response were and whether that document could be availed.

You had undertaken to check in your computer and provide us with a copy. When we wrote the letter to you on Thursday last week, reminding you of the documents to be provided, that particular document was inadvertently
10 excluded by us. Apologies for it. I do not know if you are in a position to shed light on where your search landed you. I would like to believe you remember to conduct the search, it is just that we forgot to include the document in our list. Thanks.

ADV JOHNSON: Thank you, Chair. We did conduct a search. I just want to preface it by saying sometimes I type the letter and send it to the PA, or I type it, print it, sign it, give it to her. From my recollection, I would have typed the response. So I sit in the unfortunate position that my
20 laptop, on which that would have been, was stolen at an airport in Windhoek in January of 2025.

Commissioners, I lost everything. I had stuff from 2007, everything. And because it was typed and it would have been on the laptop itself, it could not be retrieved. So we did that exercise on the cloud, thinking that perhaps

through a backup it might have gone there. It is not there either. And my apologies, it is an unfortunate situation. It would have helped if I was able to shed light.

And then through you, Chair, I did also undertake at lunch to try to speak to Mr Perumal to find out about his ability and/or when to come back. He indicated that he will engage with his medical practitioner and then he will give proper feedback. I did indicate they would have to give detailed feedback about why he may or may not be able to
10 attend and when he would be able to attend. I will follow up with him again tomorrow morning, giving him some time to do that.

And then lastly, with regards to FA1, I then understand, whilst we will all have to go through it still, in the new documents, Counsel, that you have attached for us, the 3497, which is the statement of Mr Adams, attaches FA1.

And when I just glanced at it, I am sure we will all have a detailed look, when you look from 3499,
20 Commissioners, up until 3512, just from a reading of these documents, they purport to be Crime Intelligence documents. They purport to be internal documents. And I make the assumption, and colleagues will correct me once you have gone through it, but Chief Perumal said that that FA1 would have been in the Langlaagte. I do hope that

assists.

ADV SELLO SC: So, if I understand correctly, you are suggesting that from page 3499, that is the FA1?

ADV JOHNSON: FA1.

ADV SELLO SC: Subject, of course, to confirmation.

ADV JOHNSON: Subject to confirmation.

ADV SELLO SC: Okay.

ADV JOHNSON: They all talk to the same subject matter, Counsel.

10 **ADV SELLO SC:** Yes.

ADV JOHNSON: So, I think you may have called them FA1 and that is the bundle that you would have referred to. But, of course, you are all going to still apply your minds.

ADV SELLO SC: Well, we will see, because just casting my eye on this particular docket from 3499, that speaks to procurement of forklifts.

ADV JOHNSON: Correct.

ADV SELLO SC: But you recall the FA1 we wanted was in relation to General Madondo's vetting. So, there seems to
20 be a different FA1. Each statement will have, naturally, its own annexure. So, that request stands.

ADV JOHNSON: Noted.

ADV SELLO SC: You note, thank you. Before we broke for lunch, we had dealt with the dockets and the A1 statements as provided by yourself, yourself being IDAC, in this case.

And then I suggested that, as a Commission, we have received other statements also commissioned on the 6th of January, but commissioned by Investigator Rapetsu. And then we listened to the two recordings where both would-be witnesses to this Commission would testify that they have no knowledge of the A1 statements as commissioned by Chief Perumal.

I understand that there are four statements in all. I think, Commissioners, we need to note that the statement at
10 3485, these are the documents provided by IDAC, it is the one statement commissioned by Investigator Rapetsu. On my reading of the statements that we have received as a Commission, that statement is a part mirror of the statement at 3491, except for the ending.

The one at 3487, this concerns the issue of the theft of equipment from Major General Lushaba. At 3485, that one ends at 3486 with two other paragraphs. It is commissioned by Inspector Rapetsu. And if you look at 3491, the same statement, but it is ending at 3492, is
20 different in that it does not have those two paragraphs, but the content of the first page in each case is the same. I take it that is a matter that Investigator Rapetsu would shed better light on. But as I understand it, it is four statements, actually.

So then, I trust you, Advocate Johnson, you

followed my attempt at reconciling these statements by Investigator Rapetsu himself. There are five copies in the file, but as I understand it, there are actually four that were taken that day. There is this one that you have provided, that mirrors another one to some extent, but not wholly, but that is a matter for Investigator Rapetsu to clarify.

ADV JOHNSON: Correct.

ADV SELLO SC: Then let us turn to the documents that the Commission provided, and that will be your CJC394,
 10 starting at page 3487. And if you can keep your finger at 393 from page 3466, because that is the pack with what I will call Chief Perumal's statements. The statement at 3487, CJC393 starts at page 3466, and the actual statements commissioned by Mr Perumal start at 3479.

Now, the statement at 3479, which is the first in the pack, commissioned by Chief Perumal, on my reading, appears to mirror...

ADV KHUMALO SC: There is five as well. 3475.

ADV SELLO SC: Please say that again.

20 **ADV KHUMALO SC:** 3475.

ADV SELLO SC: 3475, yes.

ADV KHUMALO SC: You referred us to 79.

ADV SELLO SC: Yes, that is correct.

ADV KHUMALO SC: The first one is the one on ...[intervenes].

ADV SELLO SC: 3475. Let us start with the first. You are quite correct, Commissioner, 3475. And I would like to invite you to accept that Investigator Rapetsu and Advocate Ramsamy are correct. For the moment, let us accept that, and I am not necessarily saying they are.

But for purposes of our engagement, the actual statements which Mr Adams, supplementary statements that Mr Adams deposed to on the 6th of January, are what is contained as Annexure 394, CJC394. Now, the first of
10 those, of Mr Perumal's, speaks to, if we look at paragraph 2, the issue of the questionable appointment of General Khumalo as the Head of Intelligence. That is at 3475.

It does not appear that when the three of them took statements from Mr Adams that they had such a complaint. The closest I get to is the statement at 3489. I am comparing Mr Perumal's statements with Investigator Rapetsu's statements. But Investigator Rapetsu's statement at paragraph 3 just simply says high-ranking police officials' security clearances and promotions were
20 awarded as a result of alleged corrupt practices. It then suggests that it has got annexes FA1 to FA3, but we do not have those.

But the point I seek to make is if the document at 3489 is to be accepted, then there was no reference, at least at the time, in the body of the statement to General

Khumalo and does not contain any allegation of wrongdoing by the Minister of Police, Mr Bheki Cele, being involved in this questionable appointment As suggested in paragraph 2 of Mr Perumal's statement.

ADV JOHNSON: That is correct.

ADV KHUMALO SC: I also make this point. Remember in your second day here, I had asked who made a complaint of fraud and corruption. So if you look at the Perumal commissioned statement, paragraph 2 specifically mentions
10 fraud and corruption. But if you go to 3489, it simply says alleged crimes and it does not mention fraud and corruption.

ADV JOHNSON: Correct.

ADV SELLO SC: So, and perhaps if we go forward, we would have to jump to 3479. That is now the second statement, but this time concerning General Madondo. And when I look at CJC394, Investigator Rapetsu does not seem to have obtained any statement regarding General Madondo.

20 It is still the general statement of 3489. That just speaks of high-ranking police officials' security clearances and promotions awarded as a result of alleged corrupt practices, but the statement by Mr Perumal specifically now mentions General Madondo. And just to remind you, we know in our section 27, such detail is not to be found in

section 27 affidavit. So it could only have come from supplementary statement.

But then I suggested that let us depart from the premise that the supplementary statement is the one commissioned by Investigator Rapetsu. It begs the question then, assuming we are right of course, where and how does General Madondo's name come into play if not introduced by Mr Perumal? And if so, on what basis? Would you have any sense of how that came to be?

10 **ADV JOHNSON:** Not at all, Chair.

ADV SELLO SC: Then if we move on then to the next statement, that will be at 3483, and that is the statement that we have worked with for the past couple of days and this relates to the appointment of Brigadier Mokwele. And if you look at 3484, it is the one commissioned by Mr Perumal and it is the exact same A1 in our docket. If we go to Annexure CJC394, Investigator Rapetsu – Commissioner?

ADV BALOYI SC: [Indistinct].

ADV SELLO SC: No, the entire 394. There does not seem
20 to be a statement commissioned by Investigator Rapetsu relating to the appointment of Brigadier Mokwele. So it would appear that all that was there as of January 6th regarding the appointment of Brigadier Mokwele is what is contained in the section 27 itself.

And once again, on the face of it, it would appear

that Mr Perumal then went and solicited this extra statement in the absence of Investigator Rapetsu and Advocate Ramsamy. And of course, you cannot answer to these things. You were not present when they were sourced.

ADV JOHNSON: Correct.

ADV SELLO SC: But we are headed to, of course, your responsibility as the head, and I am going to invite your comment and hopefully have a discussion about the legality of what appears to be happening here. The last statement
10 commissioned by Chief Perumal is at 3485. It is not by Chief Perumal.

3485, it is that duplicate statement commissioned by Investigator Rapetsu, but this is concerning the General Lushaba matter. What we have, according to the versions of Investigator Rapetsu and Advocate Ramsamy, is a new allegation that does not appear in the section 27. It is not foreshadowed at all in the section 27 as we have it, and the first one you find at page 3487. It is signed by Mr Adams, commissioned by Mr Rapetsu. And at paragraph 2, he
20 states that:

“On or about early October 24, we received information anonymously surrounding alleged crimes emanating from the Division Crime Intelligence of the South African Police Service.”

At 3, he points out:

“Amongst the information, it was alleged that a forklift was procured by the Division Crime Intelligence without proper procurement processes being followed. Documentation in this regard is attached hereto as Annexure FA1.”

You see that?

ADV JOHNSON: I see that.

10 **ADV SELLO SC:** And earlier, just after lunch, you pointed out that that Annexure FA1 is the Langlaagte docket ...[intervenes].

ADV JOHNSON: It is in the Langlaagte docket.

ADV SELLO SC: Which is now in the file, but it is CJC359.

ADV JOHNSON: Correct.

ADV SELLO SC: My concern is annexure, no, is section 27 affidavit, as we have it, is absolutely silent on any purchases of a forklift. Where would that detail have come from in the supplementary when the purpose of the
20 supplementary was to address shortcomings in the original section 27?

ADV JOHNSON: I venture a guess that it in all likelihood related to the procurement of goods, as was alluded to under paragraph 2 of the section 27, but that is the only place where you find an item dealing with procurement.

And this talks about without procurement processes. So I am not sure if that is what it relates to. I am just saying that is the only paragraph in the section 27, Chair, where I saw something of procurement.

ADV SELLO SC: Yes.

ADV JOHNSON: So that is where it might arise from, but beyond that, I cannot take it any further than that.

ADV SELLO SC: Even just casting an eye on the docket, if you go to 3496, that docket was opened in Langlaagte on
10 the 7th of November 2024. And Mr Adams' section 27 affidavit is dated the 21st of November 2024.

ADV JOHNSON: Correct.

ADV SELLO SC: So he was fully aware of the detail as contained in this Langlaagte docket, but omits to provide even slightest reference thereto or detail arising therefrom in his section 27.

ADV JOHNSON: He does refer to the docket in his section 27. He refers to Langlaagte.

ADV SELLO SC: Yes?

20 **ADV JOHNSON:** From what I recall. Sorry, Commissioners, I am merely speculating that perhaps it is in that vein that he did not expand because the expansion would have been found in the Langlaagte docket.

ADV SELLO SC: And if we go to the referral, that is File 2 ...[intervenes].

ADV BALOYI SC: Maybe before you leave this page, and this recurs in other pages in these dockets, why would it be written Silverton if it is a Langlaagte Police Station case with a case number?

ADV JOHNSON: When the docket must have come from Cape Town, they would have had to give it a different CAS number because the docket is now in Gauteng. What they do is they have cross-references. It would be a Silverton matter to be investigated in Gauteng, but it would still have
10 as a cross-reference the Langlaagte. That is the only explanation I have.

I do know that they do that. It is not an IDAC thing. The police tend to have those cross-references. So if you are investigating matters in one province, Commissioner Baloyi, and they have to come over, you CAS them, but you must keep the original cross-reference so when these matters are resolved, one is able to properly account for them on the CAS system to say Langlaagte/Silverton, this is how it was resolved, and they get closed off. Or else you
20 will sit with an open Langlaagte and perhaps a closed Silverton when they were one and the same.

ADV BALOYI SC: Okay. So this Silverton here is a Silverton in Cape Town. It is not in Pretoria.

ADV JOHNSON: It is the Silverton that is in Pretoria.

ADV BALOYI SC: It is Pretoria?

ADV JOHNSON: It is Pretoria.

ADV BALOYI SC: So why would it be there? I mean, you do have something that looks like Langlaagte at the bottom. It is this Silverton that is confusing me. If at the bottom you have got Langlaagte, then we do have the name of the station. My question is, why would you have a representation that this has anything to do with Silverton? If he did go to Langlaagte to reopen or to transfer, whatever language you choose, a case that he first opened in Cape
10 Town, Silverton should not be there because this has nothing to do with Silverton.

ADV JOHNSON: And that is why I indicate, Commissioner, that is how I understand the system works ...[intervenes].

ADV BALOYI SC: No, I understand ...[intervenes].

ADV JOHNSON: But I would rather get a better explanation for you.

ADV BALOYI SC: Ja, I understand.

ADV BALOYI SC: Sorry, let me interrupt you. I do understand your explanation of how it works if a case is
20 being moved from Cape Town. I was just asking about that Silverton. I accept you might not be able to explain it, but the way your explanation of the system does not explain this Silverton indication in this docket, then maybe it is for ...[intervenes].

ADV JOHNSON: For an investigator to ...[intervenes].

ADV BALOYI SC: Ja, for the investigator and Mr Adams to explain why. All right, thank you.

ADV JOHNSON: That is preferable.

ADV BALOYI SC: Thank you.

ADV SELLO SC: I do not know if you have your MK16 close by. You will recall that when Mr Nkabinde from the Minister's Office addressed a letter to your office, he referenced four cases, three Orlando cases and Langlaagte. And we know that the three Orlando cases mirror the Cape
10 Town cases. So Langlaagte is a stand-alone.

ADV JOHNSON: I see that.

ADV SELLO SC: You see that. So it cannot be that this Langlaagte docket has anything to do with the open dockets in Cape Town. And it is quite correct the point Commissioner Baloyi says that then it must have been opened in Silverton because it bears reference to Silverton on the face of the documents.

ADV JOHNSON: The only point of reference I have, Chair, is the section 27, where he does talk of the Langlaagte. He
20 says I opened three cases in Orlando and the Langlaagte matter ...[intervenes].

ADV SELLO SC: It will help you. It is File 2, page 512.

ADV KHUMALO SC: Advocate Sello, are we talking about 3495?

ADV SELLO SC: Yes.

ADV KHUMALO SC: But I see that 87/11/2024 in the Minister's letter as the first case there.

ADV SELLO SC: And that is the point I make, that in the Minister's letter there are four dockets.

ADV KHUMALO SC: Yes.

ADV SELLO SC: One Langlaagte and three Orlando.

ADV KHUMALO SC: Ja.

ADV SELLO SC: If we recall the table that is about to be flighted, the duplicates are Orlando and Cape Town.

10 **ADV KHUMALO SC:** Yes.

ADV SELLO SC: So Langlaagte has always been like a stand-alone docket.

ADV JOHNSON: Yes.

ADV SELLO SC: That is the point I sought to make.

ADV KHUMALO SC: Okay.

ADV JOHNSON: It is referenced, Commissioners, in paragraph 8 of the section 27 by Adams, that he does also refer to, I opened three cases based on the:

20 “I came to Gauteng, went to Orlando, I opened three cases based on the three cases I opened in Cape Town, and I also opened a separate case at Langlaagte Police Station.”

But that is the only reference I also have, as well as the Minister's letter.

ADV SELLO SC: But that Langlaagte case and its detail is not part of the section 27.

ADV JOHNSON: No ...[intervenes].

ADV SELLO SC: The paragraph 8 is just informing you what he did.

ADV JOHNSON: No ...[intervenes].

ADV SELLO SC: Because we know the Langlaagte case is about the acquisition of a forklift.

ADV JOHNSON: Correct.

10 **ADV SELLO SC:** Okay. Now, while we are there, before we go to the next issue, just casting my eye on this docket, it has got its own statement at 3497. It is also dated the 6th of January 25 and commissioned by Mr Rapetsu at 3497. And at paragraph 3 he states:

“Amongst the information, it was alleged that a forklift was procured by Division Crime Intelligence without proper procurement processes being followed.”

Then he says:

20 “Documentation in this regard as Annexure FA1.”

You suggest the FA1 is the docket. And just flipping through it, it is all about procuring this forklift. My challenge is how – my challenge is to bring it within the ambit of section 7(1)(A). This is a forklift. On the face of

it, that cost Forklifts, and it seems to relate to an acquisition of forklifts. I do not know how many, but for R708 000. Why would IDAC take the investigation into procurement of such? Is that not a matter best left to SAPS? And to the extent that that procurement is flawed, that a process be followed to overturn it?

ADV JOHNSON: This arises...

ADV SELLO SC: Yes, you are saying? Thank you.

ADV JOHNSON: I think this arises from him saying, Mr
10 Adams, the syphoning of money from the secret fund account. If you look at the ...[intervenes].

ADV SELLO SC: Where does it state that? Like I said, I have not had the opportunity to work through it.

ADV SELLO SC: Paragraph 7 of Adams' section 27 referral talks to the syphoning of funds from the secret service account. A secret fund account.

ADV SELLO SC: Of the referral, okay.

ADV JOHNSON: Of the referral.

ADV SELLO SC: Yes.

20 **ADV JOHNSON:** And when you look at page 3504, Commissioners.

ADV SELLO SC: Yes?

ADV JOHNSON: Paragraph 5:

“The supplier unknown to me was paid a deposit securing the delivery of a new

forklift. On numerous enquiries, promises were made that the delivery of the procured forklift would be delivered to fleet. Till date, no forklift was received by vehicle management which was paid for by the use of the secret funds and further investigation into the matter in order to recover the monies paid.”

- 10 So that is the only place I can find reference to what is said in paragraph 3 on 3497.

ADV SELLO SC: Yes.

ADV JOHNSON: Read with paragraph 7 of the section 27 referral and then that paragraph I read on 3504 and that it was looked at because of the use or alleged syphoning of money from the secret funds of Crime Intelligence.

ADV SELLO SC: Okay.

- ADV JOHNSON:** But beyond that, there is not anything else. That is how I can tie those as having looked at it and
20 again bearing in mind that this is an investigation on which no decision has been made yet to prosecute. So it does not mean that anyone, when they are done, will be prosecuted for this because also from just a reading of it, it is somewhat of a challenge to determine who in fact ought to be held accountable, if at all, for the use of the funds.

ADV SELLO SC: Okay ...[intervenes].

ADV BALOYI SC: I am not sure that we can confidently say or accept what you are saying. I mean, we have seen what happened with the Mokwele matter, which you have conceded the facts are very poor for the issuing of a warrant, for an investigation, let alone for a prosecution, an ongoing prosecution.

So that should be our point of reference, that the Mokwele matter, this seems, from what you are saying, may
10 well be one of those cases where charges were going to be preferred. An investigation certainly is happening. Charges were going to be preferred. It would end up in court when in fact on the face of it, it should not have happened. And it happens because of other reasons that have nothing to do with the merits or the strength of the case.

It is an observation that I want to make in the light of you saying, well, maybe nothing would have come of it. And I am saying, well, the Mokwele matter teaches us that something can be made out of nothing by IDAC, as it
20 happened in Mokwele.

ADV JOHNSON: I hear you.

ADV BALOYI SC: Thank you.

ADV SELLO SC: And then to consider paragraph 4 in the referral, you recall Mr Adam's suspicion:

“I suspect that General Khumalo and

some other officers in Crime Intelligence, including Madondo and Lushaba, were manipulating procurement processes and processes to a point.”

I want us to stop at procurement processes because this would be one such. When I look at the docket, starting at page 3505, that is the information note. For an application for approval, procurement of vehicles, secret service account, division Crime Intelligence. 3505.

10 If we go to 3510, this would seem to have been signed in February 2023. So that is the information note. Just flipping through it even before I apply my mind to its content, if this is the basis for the fraud charge, I see at page 3509 it is signed by a Colonel in the procurement management. It is then signed by finance and administration. At 3510, it is who recommends. At 3510, it is then signed by supply chain management, approved.

20 Then at the bottom of 3510, it is signed by Major General CFO. There is NP Lushaba. After all those approvals and recommendations, he signs, and that is the end. I do not see how General Khumalo and General Madondo are pulled into this forklift acquisition issue, and yet that is precisely the suspicion at paragraph 4 of the section 27 statement. You would not know how. We see General Lushaba's signature as CFO.

ADV JOHNSON: And that is to be expected.

ADV SELLO SC: Yes, but I do not see anywhere where General Khumalo and General Madondo are pulled into this acquisition.

ADV JOHNSON: Correct.

ADV SELLO SC: As he said, he originally suspected and you say investigations are underway around them as well.

ADV JOHNSON: This matter is under investigation. I am not – I will go through it like all of you to indicate just from
10 my reading who is the subject of the investigation.

ADV SELLO SC: Yes.

ADV JOHNSON: Yes. I am unable to at this glance to say who is, but what is clear is that both the Generals that were mentioned are not on the reading. But then to also bear in mind, Counsel, that we need to get from IDAC the FA2 and FA3 because there was a referral made to FA2 and FA3 in one of the statements. And I do not know what role, if any, they play with this matter or is each thing a separate attachment.

20 **ADV SELLO SC:** You see, my challenge is you suggest we should get it from IDAC and we have IDAC before us now.

ADV JOHNSON: Yes.

ADV SELLO SC: Thanks.

ADV JOHNSON: What I mean is we have got to get it because we will be shocked then, Commissioner Khumalo,

in properly applying our mind because would FA1 just be this and what is FA2 and FA3? So I will make sure we try and get those as well before the morning.

ADV KHUMALO SC: Advocate Johnson, my reading of these documents, and I must admit I read them very quickly so I could be wrong, is that there was a proper requisition and it was approved at all levels. The issue is the failure to deliver by the supplier and the money must be recovered from that supplier because they failed to deliver but they
10 have been paid.

So what is manipulation there? If I order goods because they are required by Crime Intelligence and then the supplier gets paid but does not deliver, how does that rise to manipulation and fraud and corruption?

ADV JOHNSON: It does not, Commissioner.

ADV KHUMALO SC: Just on those facts, I mean, we looked at 3504 where the person says, it is the Colonel, says there was a requisition:

20 “I was the applicant on behalf of Fleet Management. I requested a forklift for the unit. An application was completed and submitted to procurement. The forklift was required to move and store accident damaged vehicles. After the processes were complete at procurement,

a supplier was awarded a tender. The supplier...”

That is the next paragraph:

“...was paid a deposit for securing delivery of the forklift. The proof of payment is attached. The supplier did not deliver. And further investigation into the matter must be conducted in order to recover the monies paid to that supplier.”

- 10 So if those are the facts, what is the manipulation of procurement processes and what is the fraud and corruption?

CHAIRPERSON: It appears to be simple breach of contract.

ADV JOHNSON: It does, Chair.

CHAIRPERSON: A civil, not criminal matter.

ADV JOHNSON: I take note, Chair.

ADV KHUMALO SC: You agree with Chair or you take note? Which is which?

- 20 **ADV JOHNSON**: At this part of the afternoon, I agree, Chair.

CHAIRPERSON: Thank you.

ADV SELLO SC: And then to take it further, just based on the documents as we have them on this purchase of the forklift, that is something that falls within section 7(1)(A) of

the Act. Why is IDAC investigating whether or not suppliers delivered in terms of an award of a tender? You did indicate that it is currently under investigation. My question is, ought that investigation even to have started?

ADV JOHNSON: If FA1 is the only document that has relevance to the supplementary affidavit of Adams, on a quick reading, no.

ADV SELLO SC: And then, of course, we reach this conclusion subject to what FA2 will tell us. Correct? There
10 may be something in FA2 that then brings this, as the Chair says, failure to comply with the terms of contract within the mandate of IDAC. And once again, I will run ahead. And if there is nothing in FA2, what should be the right advice to IDAC as regards this investigation today? And, of course, you are working with wisdom of hindsight, I take that.

ADV JOHNSON: Sorry, I just see that there is – Chair, if you grant me a moment, I see that 3515 seems to be a statement by Fadiel Adams under a Silverton CAS.

ADV SELLO SC: Yes.

20 **ADV JOHNSON:** If I would just be granted just a quick moment?

ADV SELLO SC: And you want to look at 2 and 3?

ADV JOHNSON: Correct.

ADV SELLO SC: But then the allegations are directed to General Lushaba and his failure to take action against the

contract.

ADV JOHNSON: That is correct. I just wanted to read it.

Thank you.

ADV SELLO SC: But that statement still does not bring us within section 7?

ADV JOHNSON: No.

ADV SELLO SC: Ja.

ADV JOHNSON: As this investigation stands, no.

ADV SELLO SC: So then my question was, let us assume
10 Annexure FA2 will do no better. With wisdom of hindsight, should IDAC today be pursuing this investigation? Is it authorised?

ADV JOHNSON: This matter should be closed.

ADV SELLO SC: But you did indicate that you referred to your sister agencies.

ADV JOHNSON: Yes. What I am saying is it gets closed in IDAC.

ADV SELLO SC: Yes.

ADV JOHNSON: But what should happen is it should go
20 back to Crime Intelligence. It is their contract. It is non-compliance with something they wanted. It is like if I buy a fridge and it is not a fridge I like, I most certainly cannot tell Counsel, can you please just go get it changed for me or sorted out? It should go back there.

ADV SELLO SC: Yes.

ADV JOHNSON: But what does happen is it should go back there and also to copy the CFO to indicate that there was non-compliance and monies need to be recovered. That is the dual referral that will happen. But it will be for Crime Intelligence to take action and to ensure the money is recovered.

ADV KHUMALO SC: But why would you even refer if there is no crime? If there is a case of malperformance by a service provider and that is all there is here, Crime
10 Intelligence lost money because a service provider did not perform, what is there to refer by IDAC? It is like if SAPS ordered uniforms and there was positive malperformance by the supplier of the uniforms. That is an issue between SAPS and the uniform supplier. What is there for IDAC to refer? IDAC should simply say we have no jurisdiction to deal with this issue. It has nothing to do with our mandate.

ADV JOHNSON: Correct.

ADV BALOYI SC: I think because the docket is sitting with IDAC, it seems to me the docket should return to its station.
20 I mean, IDAC collected it somewhere. I do not know whether this was – is this one of those that you got through General Senthumule? If it is, I would say ...[intervenes].

ADV JOHNSON: I speak under correction. I will just have to check if this was one of them ...[intervenes].

ADV BALOYI SC: I would say it must return where it was

taken and they get to do with it what they want to do with it.

ADV JOHNSON: Correct.

ADV BALOYI SC: Thank you.

ADV JOHNSON: And to indicate to Crime Intelligence that we had had this and the docket has been returned and for them to take whatever steps they deem necessary.

ADV BALOYI SC: Thank you.

ADV SELLO SC: Thank you, Commissioners. The last statement taken by Investigator Rapetsu, on my record, is
10 at 3493.

ADV JOHNSON: 34?

ADV SELLO SC: 93. That statement, if we start at paragraph 2, reads thus, and I quote:

“On or about early October 2024, I received information anonymously surrounding alleged crimes emanating from the Division Crime Intelligence of the South African Police Service.”

Paragraph 3:

20 “Amongst the information, it was alleged that secret service funds were used to purchase resources for the Political Killings Task Team based in KwaZulu-Natal Province. This task team was previously led by the current Divisional

Commission of Crime Intelligence
Lieutenant Khumalo, who has close ties
with the former Minister of Police, Mr BH
Cele.”

Paragraph 4:

“It is alleged that the resources procured
under the banner of the task team were
for the benefit of Mr BH Cele and others.”

We know that our section 27 does not even reference the
10 PKTT at all.

ADV JOHNSON: I think you are right.

ADV SELLO SC: Remember, it is File 2, page 512.

ADV JOHNSON: His only reference is in paragraph 5, but
it is a ...[intervenes].

ADV SELLO SC: No, that is a reference to Minister Bheki
Cele.

ADV JOHNSON: Yes.

ADV SELLO SC: And that is regarding his appointment of
General Khumalo.

20 **ADV JOHNSON:** Yes, yes.

ADV SELLO SC: I am particularly interested in reference
to PKTT because he takes two paragraphs to deal with
PKTT, draws in Mr Cele and General Khumalo, and even
points out that the General Khumalo he is referencing
previously led the PKTT. So, these are specifically PKTT-

related allegations.

Now, if one reads section 27 affidavit as it stands, then short of lunacy for Investigator Rapetsu, Advocate Ramsamy, and Chief Perumal collectively to take a statement regarding PKTT to call it a supplementary affidavit, if not that, then I do not know. Can you help?

ADV JOHNSON: Makes no sense.

ADV SELLO SC: Absolutely. You recall in the morning I asked how many section 27 affidavits there were.

10 **ADV JOHNSON:** Correct.

ADV SELLO SC: And the witnesses that will testify who took these statements are going to testify that the original section 27 affidavit had allegations, contained allegations against the PKTT, much, perhaps, which then makes sense why they take a specific A1 statement regarding PKTT. But we know that our section 27 does not have any reference to PKTT at all. So, I go back to my question, how many section 27 affidavits are there?

ADV JOHNSON: The one I have is the 21st of November
20 2024.

ADV SELLO SC: I invite us to rush ahead. Let us assume they come in the course of the week to say, no, that is not their section 27. The real one had the PKTT reference. And if they are steadfast and they are able to persuade the Commissioners in that regard, where do we all land? I

appreciate you say you are only aware of one. Where do we all land?

ADV JOHNSON: That puts us in the same conundrum, Commissioners, as where do we land with three people saying they were together. Then you have supplementaries [sic] to be taken. You have four supplementaries by one person, four by another allegedly on the same day. And so if you land with a similar situation ...[intervenes].

ADV SELLO SC: May I correct you? I appreciate the
10 exercise you are undertaking. You have got four by one person and you have got four by a team of three. Because Rapetsu and Ramsamy are going to say the three of us were together when Rapetsu commissioned those statements. So on one hand, the three agree these are the statements we took. There is a lot about PKTT. The one lot taken by the one solitary member of that team ...[intervenes].

ADV JOHNSON: Was not taken. Is the allegation that it was not taken on that day?

20 **ADV SELLO SC**: Indeed. That is the allegation.

ADV JOHNSON: Sorry, I misunderstood. All happened on the same day. And I perhaps misunderstood because they were all dated the same day.

ADV SELLO SC: Yes.

ADV JOHNSON: Okay.

ADV SELLO SC: So the suggestion is ...[intervenes].

ADV JOHNSON: Then that is something that has to be dealt with because what we cannot have is, it seems almost parallel processes of investigation, and we cannot have parallel processes of investigation. We are supposed to have one section 27.

If it is inadequate, as I have indicated, Mr Adams ought to have been engaged, which I believe he was on the 6th of January 2025. If he was engaged as he was by all
10 three, then we are supposed to have the four that Rapetsu took, together with the FA1, which is attached in the Silverton docket. So if they say there is an additional 27, then it talks to how did these other supplementaries come about still with the same date, and when did that 27 come about.

ADV SELLO SC: Let me correct you, to the extent that you may have understood me to suggest that, I am not suggesting there was an additional section 27. Their testimony, as they have indicated they will testify, is that
20 the section 27 affidavit we have been sitting with here and working on is not their section 27 affidavit.

The section 27 affidavit, and we agree it has to be one, had references to the forklift purchase and had direct reference to the PKTT, both of which are missing in our version. So I am saying there appears to be two when there

should be only one, but it is not suggesting parallel processes. You can only have one process. These are members of IDAC, all of them, following the same section 27.

Now where that potentially lands me is, are we confronted with a fraudulent section 27? I am thinking, and I pose that question, if not, how do we potentially explain this, these discrepancies?

ADV JOHNSON: Am I able to ask who took that 27?

10 **ADV SELLO SC:** I do not know. I promise you I was not there.

ADV JOHNSON: No, no, I am saying in terms of what the witnesses might have provided, because this one that we have, of Commissioners, is the one that has come from, that was done in Cape Town and commissioned by a Ms Solomons. I am not sure who would have taken that one. It is important for me to have sight of it, if Counsel allows, but I have also only this one.

ADV SELLO SC: But who commissioned it surely is not an
20 irrelevant issue. The concern would be if there are two, regardless of who commissioned either. That is my concern.

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

ADV SELLO SC: The potentiality that we may be actually dealing with two, the second of which has not been

disclosed to the Commission.

ADV JOHNSON: Okay.

ADV SELLO SC: That is a concern.

ADV JOHNSON: The point I might have clumsily been making was it would help to know if, much like these other supplementary statements, the same person who took them, other than Rapetsu and the team, is the one who took that section 27, if there is in fact a 27 ...[intervenes].

ADV KHUMALO SC: But ...[intervenes].

10 **ADV JOHNSON:** And that would be the Chief.

ADV KHUMALO SC: Do you understand the difficulty? If you look at the supplementary affidavit on 3493, it is dated 6 December 2025. These three people were together in Cape Town on that date. And the simple point Advocate Sello is making is that on that date, as they were taking this supplementary affidavit, there was only one section 27 affidavit, and it is not the one that is in our files. It is the one that made reference to PKTT and forklifts and other things.

20 **ADV JOHNSON:** Okay. So now I understand.

ADV KHUMALO SC: The one that we have in our files is not the one they were working on, on the 6th of January 2025.

ADV JOHNSON: Now I understand.

ADV KHUMALO SC: Now, if that is correct, then it means

this section 27 we are looking at was produced at a much later date and then backdated to 21 November 2024.

ADV JOHNSON: I understand, Commissioner.

ADV KHUMALO SC: Because if it existed on the 6th of December, then all three of them would have been looking at this one and not the one that they referred to in the clips.

ADV JOHNSON: Understood.

ADV KHUMALO SC: And that is a serious problem because it affects you as well. It raises this question. The
10 section 27 you looked at in November or December 2024, which one was it? Was it this one that we are looking at or another one which has not been provided to us?

ADV JOHNSON: This is the one that comes to mind.

ADV KHUMALO SC: Are you sure that it is – you said to Ad Hoc that the first time you saw a section 27 affidavit was sometime in December. You said middle December, then you corrected yourself and said before 6 December. Which affidavit did you look at in early December or mid-December? Was it this one or was there another affidavit
20 that you looked at that made reference to PKTT? Are you now no longer sure which one it is?

ADV JOHNSON: No, I saw one. I ...[intervenes].

ADV KHUMALO SC: We are now focussing on content.

ADV JOHNSON: Yes.

ADV KHUMALO SC: Because an affidavit is an affidavit.

ADV JOHNSON: Correct.

ADV KHUMALO SC: The one that you looked at in December, did it make reference to PKTT and forklifts and other things?

ADV JOHNSON: I honestly ...[intervenes].

ADV KHUMALO SC: Are you no longer sure which affidavit you looked at?

ADV JOHNSON: I cannot remember that I saw that, the forklift and the PKTT.

10 **ADV KHUMALO SC:** Say that again?

ADV JOHNSON: I cannot recall seeing forklift and PKTT.

ADV KHUMALO SC: But do you remember which affidavit you looked at in December 2024? Are you now no longer certain?

ADV JOHNSON: Now that you are putting it to me, I cannot give you a definitive answer. I do not know which one I saw. This one is the most familiar, let me put it that way, from having worked with the statement. This has always been the one that has been most familiar, and this is
20 the date I recall.

ADV KHUMALO SC: Because it could be that even the one Mr Rapetsu is referring to also had the same date. So do not focus on the date, let us talk about the content. What was in that affidavit? Did it make reference to PKTT and forklifts and other things?

ADV JOHNSON: Apologies, Commissioner, I cannot recall all that detail.

ADV KHUMALO SC: Thank you.

ADV JOHNSON: I do apologise, I cannot recall all the detail.

ADV KHUMALO SC: No, no, you can only give an honest answer, if that is the honest answer ...[intervenes].

ADV JOHNSON: I cannot recall.

ADV SELLO SC: Perhaps – Commissioner?

10 **ADV BALOYI SC:** Ms Johnson, does it mean your answer now, and you are not recalling, does it mean no one in your team ever said to you, but this is the wrong section 27? Back then, and when you went to Ad Hoc and came back, and as you are before us, and as Mr Padayachee was testifying, does it mean of your entire team there is not a single person that said, hang on, we actually have a different, we had a different section 27, what happened to that?

ADV JOHNSON: No, Commissioner.

20 **ADV BALOYI SC:** No one has ever said that?

ADV JOHNSON: No.

ADV BALOYI SC: Thank you.

ADV JOHNSON: I do recall what Mr Padayachee said about when he had access, but I have no recollection of anyone telling me that I am looking at the wrong document.

ADV BALOYI SC: Okay.

ADV SELLO SC: Thank you, Commissioners. I recall, and I speak under correction, you did not have the section 27 affidavit when you appeared before Ad Hoc, and I think members of Parliament engaged you on the section 27 affidavit, and if memory serves me well, you parted company on the basis that you would be providing the Ad Hoc Committee with a copy after you had concluded your testimony. Do I remember well?

10 **ADV JOHNSON:** I must just go back into the record. I do recall saying I will apply my mind on whether or not we can give them the section 27. I must just go back. If I said we were going to give it to them, or did I say that we ...[intervenes].

ADV BALOYI SC: They asked you if it is a public document, and you said it is not a public document, and then they asked, can we have it? You said I do not have it, I will revert.

ADV JOHNSON: Okay. Thank you, Commissioner Baloyi.
20 But I know that we did not make it available. From what I recall, I know that we did not make it available, Commissioner.

ADV SELLO SC: Why not?

ADV JOHNSON: Because it formed ...[intervenes].

ADV SELLO SC: Sorry, it was central to the Ad Hoc

Inquiry, and why did you not avail it?

ADV JOHNSON: Because it formed part of our criminal investigations.

ADV SELLO SC: But you availed it to this Commission. It still forms part of the very investigations. On what basis do you draw a distinction?

ADV JOHNSON: I understand. I see the work of this Commission and its terms of reference somewhat different from the Ad Hoc Committee. And here, the rules are
10 somewhat different. And not disclosing is not an option, but you are able to disclose, and perhaps, as we have been allowed in some instances, Commissioners, to indicate that the disclosure is also made on the basis of confidentiality for certain reasons. This Commission allows us that. And it is on the basis of it having been part of a criminal investigation, and not wanting to give it to them.

ADV SELLO SC: Okay, we will look through the transcript to remind ourselves where you landed. I have not marked it because my understanding was that you had undertaken to
20 provide a copy to Ad Hoc, but you say you had only undertaken to apply your mind to whether or not you can make same available. I will have to check on that. I do not have a direct reference at the moment.

So, once again, I invite us to accept as correct the facts as we understand them, and of course, subject to

other facts coming to light to contradict what we know ...[intervenes].

ADV BALOYI SC: Ms Sello, can I just ask you a question?
Sorry.

ADV SELLO SC: Yes.

ADV BALOYI SC: You have explained the process, how it works. You say there will be, in this case, there would have been Ms Ramsamy, Mr Perumal, and Mr Rapetsu as a team, because no one consults alone with a witness your methods
10 of working. So they would have been together, and they would have produced a single statement.

Now, if what they say is true, that the only statements that were taken in the presence of all three and the witness are those commissioned ...[intervenes].

ADV JOHNSON: By Rapetsu.

ADV BALOYI SC: By Rapetsu, what does it mean about the standing of the statements that were taken by Mr Perumal outside of your way of doing things, but also without the others? What would be their standing?

20 **ADV JOHNSON:** And it also raises a bigger conundrum because they dated for the same date when he is supposed to have taken them with that team. So it raises its own legal and ethical challenges about why a separate set of statements needed to be taken.

They went together for the purpose of taking the

statements, and what did in fact happen is Advocate Ramsamy had made extensive notes out of the section 27 and having read the inadequate lack of A1s. So she had categorised the questions around groupings of matters to be looked at, aspects to be canvassed with Mr Adams, so that when they went there, it was a structured approach.

So the team should have followed that approach. And if either Mr Rapetsu or Chief Perumal felt that, wait, there is something else still to be dealt with on an aspect, it
10 should have been dealt with all at the same time. If there was a need to, it should have been captured in one document and then commissioned, and then we move on to the next and so on and so on.

ADV BALOYI SC: Okay. Let me put it this way to you, what I am trying to get your comment on, is if the three of them together produced the supplementary statements, what has been labelled supplementary statements, the three of them, and then Mr Perumal, Chief Perumal, behind their backs, because there is no better way of saying this, behind
20 their backs he goes and he decides to write his own statement that he commissions without the other two knowing, and he gets Mr Adams to depose.

Let us assume for now that it is in fact Mr Adams who deposes, who becomes a deponent, because on these facts and the mess that has happened here, it seems to me

it is not inconceivable that Mr Adams could turn around and say, but I do not know anything about that, which you say Perumal signed, commissioned.

If it turns out that Chief Perumal went and did his own thing, wherever and however, surely the official statement of IDAC would be that which was done by the three of them together and deposed to by Rapetsu. Is that a fair ...[intervenes].

ADV JOHNSON: It is a fair assessment.

10 **ADV BALOYI SC:** It is a fair assessment and proposition to make, right?

ADV JOHNSON: Correct.

ADV BALOYI SC: Okay. Now on that, if in fact, as we know it has happened in the Mokwele matter, if the docket that is before the Court and that is disclosed to the accused and that is the basis for the warrants that were obtained for instituting for the charges, it is in fact Perumal's questionable statements, not the ones that were properly taken.

20 That would amount to, it seems to me, that that would have amounted to defeating the ends of justice, lying to the Court, lying to you, misleading everyone that is involved with this and failure to disclose the true contents of the docket. Am I correct in all of that? I am assuming Perumal's are in fact a manufactured statement that is

being used.

ADV JOHNSON: Correct.

ADV BALOYI SC: That would be correct?

ADV JOHNSON: Yes.

ADV BALOYI SC: Okay, And that would undermine the prosecution itself, right? The entire prosecution because it is based on A1 statements that are questionable as in they have been made up by Chief Perumal, whether with or without Mr Adams, but they are not an official record of the
10 IDAC.

ADV JOHNSON: Correct.

ADV BALOYI SC: Okay, thank you.

ADV SELLO SC: And before we look at what you stated to Parliament regarding providing this affidavit, let us look at how matters were dealt with concerning the contents of the affidavit. I will invite you to page 554 of File 3. That is your transcript before Ad Hoc. And if we can take it – yes, Chair?

CHAIRPERSON: Including the file with the Acts, which
20 files must I put away ...[intervenes].

ADV SELLO SC: Put away ...[intervenes].

CHAIRPERSON: Too many now in front of me.

ADV SELLO SC: Put everything away.

CHAIRPERSON: A total of six.

ADV SELLO SC: Out of nine. It is nine files by now.

Please put everything away except File 3, Chair.

CHAIRPERSON: Thank you.

ADV SELLO SC: Except File 3.

ADV KHUMALO SC: We will not need File 2?

ADV SELLO SC: I am scared to commit. No, chances are we will not. If anything, but we do not have to go to it. I will flight it. It is that supplementary affidavit regarding PKTT. Remember, Commissioners, we are having this engagement about where the three investigators would have
10 gotten any idea about PKTT enough to justify them obtaining a supplementary affidavit.

So now we are at File 3. That is a transcript before the Ad Hoc. It is for the record CJC375. And in particular, I would like us to go to page 555. And what appears at the top of 555, perhaps 554 is the right place to start, midway, where it says Advocate Johnson. You suggest there that you will deal with the arrest of General Khumalo, and then you indicate from line 2:

20 “And I would just, for purposes of completeness, indicate that IDAC is not aware of these cases that were made, be they by Mr Matlala about theft, by Katiso Molefe, the ballistic case, or any other case that has been made against any of the PKTT members. They are not

allegations that IDAC is looking at.”

That was your testimony. But from the supplementary statement by the three, that can be entirely correct, because that statement we just looked at, at page 3493, File 9, is specific about PKTT.

ADV JOHNSON: I see that, yes.

ADV SELLO SC: Yes. So...

ADV JOHNSON: I would not have seen the supplementary.

ADV SELLO SC: I can accept that, but then it suggests
10 that your investigators withheld from you some detail on some of these investigations. From the reading of your transcript at Ad Hoc, it would appear that you are not even aware that PKTT was being investigated, or considered for investigation. I put it no higher than that.

ADV JOHNSON: Correct, and that is why when there were the utterances that IDAC was involved in PKTT's business, I was taken aback because, according to me, there is nothing for us to look at in PKTT, regardless of what allegations may have come to the fore.

20 **ADV SELLO SC**: And if those were the allegations that you are hearing of, now that we have seen the supplementary affidavit at 3493, those claims were not entirely baseless, now, were they? That IDAC is, what did you say you had understood, is interfering in PKTT? They do not appear to have been entirely baseless.

ADV JOHNSON: Yes, when you look at 3493?

ADV SELLO SC: Yes.

ADV JOHNSON: Correct.

ADV SELLO SC: Okay. Then if we go forward, still staying with File 9, to 656, page 656, same file, File 3.

ADV JOHNSON: Counsel, make sure you get us to read the documents that are four pages from top to bottom at this part of the afternoon, Chair. Sorry. 656?

ADV SELLO SC: It is the best part of the day. 656, and I
10 pick it up from the top. This is an engagement you are having with Mr Nomvalo, and you had just referenced the affidavit at 655, 22 November 2024. Then you are asked:

“Do you have it in your possession?”

You say:

“No, I do not. Do you not think it was going to be important for you?”

Then he states:

“Another problem which I have with your statement is that documents which are
20 relevant have not been attached.”

He expresses his concern. Your response is no. Mr Nomvalo asks:

“Would you agree with me if I say to you the affidavit of Honourable Adams is dated the 6th of January 2025?”

You point out that that would be a supplementary affidavit because follow-up engagements were had by the investigating team with Mr Adams. And we know that 6th of January correlates with the date on which the investigating team obtained supplementary statements from Mr Adams. Then Mr Nomvalo asks you, requests at 656:

“Can you be able to furnish us with the original affidavit?”

To which you state:

10 “Unfortunately, that is not a document that I can disclose. This document has not even been disclosed to the Defence, and it is one of those documents where even the Defence would have to apply for the document to be made available to them. The section 27 referral cannot be made available, but other documents that Honourable Nomvalo or any other member says should have been here,

20 what I would ask is to kindly provide the Chair with a list, and those documents that can be made available should be made available to this House in the course of next week as part of a bundle, which would then be referenced

according to the affidavit and then sent,
and then be sent to the Evidence Leader
for distribution.”

Mr Nomvalo enquires:

“So is it a classified document?”

You say:

10 “It is not a classified document, it is a
document that seeks to initiate the intake
of a matter. It is a document that should
it be disclosed, it will first have to be
disclosed to an accused. That document
has not been made available to any of
the accused.”

Mr Nomvalo asks:

“Which law are you relying on to make
that proposition?”

You respond:

20 “I am saying that in terms of process, we
have not disclosed the section 27
referral. It is a confidential document
similar to how we have memos in the NPA
and not just IDAC. There are certain
documents that are not made available
for public consideration.”

You have further engagement midway that page of 657. Mr

Nomvalo states:

“Well, if that is the case, then I am helpless. I will put this proposition to you. The affidavit that I have been exposed to is not a supplementary affidavit. A supplementary affidavit is an affidavit that makes notes of the content of the original affidavit and continues with the supplementary content that is contained in the supplementary affidavit. So, the affidavit of the 6th of January 2025 is an original affidavit. It was signed by Mr Adams on 6 January 2025.”

Now, Mr Nomvalo seems to have had sight of what is a different section 27 affidavit. He suggests it was an original affidavit signed 6 January 2025. And for the record, I have not seen it. I am just following what is here. In response, you do insist that on 22 November we had a referral affidavit. That refers the matter to IDAC and sets out in broad strokes the allegations. Then you have a discussion about supplementation, but it would appear that your position before Ad Hoc was that you cannot disclose that affidavit to them.

ADV JOHNSON: That is correct.

ADV SELLO SC: And you invoked privilege as a basis for

refusing, which takes me on to understand how this privilege works. You have a specific committee of Parliament established to investigate allegations by General Mkhwanazi of the 6th of July 2025. And your entire mandate is triggered by a section 27 affidavit. When you go account to that committee, why is the trigger affidavit privileged for their purposes and cannot be disclosed to them? Which law were you invoking for that claim?

ADV JOHNSON: I worked, Counsel, on the basis that this
 10 document forms part of a docket. It has yet to be disclosed to anyone, including the accused ...[intervenes].

ADV SELLO SC: Sorry, I need to interject desperately because I want to make sure that it is not an error. You say section 27 forms part of the docket. That is not how we got it. Colonel Padayachee says it definitely does not form part of the docket. So, does it form part of the docket or does not it?

ADV JOHNSON: The section 27 is the intake document. According to me, the section 27 referrals are not disclosed
 20 unless they are requested by the accused. Now, when I went to Parliament, we had not disclosed this document at all to the accused. We have not disclosed section 27s, the referrals, to the Defence because it is the basis on which we initiate our investigations.

If we follow the logic that we have been following in

the past few days, one has to re-look that position because they should be given the full ambit of the investigation and the prosecution. Out of practice, we have not given them that at all ...[intervenes].

ADV BALOYI SC: Well, it is not just a question of practice. It is what you say. You have a position about it, for example, where Ms Sello has read. You say to the Ad Hoc Committee it is a confidential document similar to how we have memos in the NPA and not just IDAC. So, you are
10 describing an internal ...[intervenes].

ADV JOHNSON: As an internal confidential document ...[intervenes].

ADV BALOYI SC: But it is not internal. It is not an internal document. It is a document that comes from a complainant. And so, to categorise it as an internal document, as if it is an internal document, is misleading. And it is a document that seems, if you are going to disclose a supplementary affidavit, then it does not make sense that the founding affidavit would not be disclosed. It
20 would be a matter that you ever considered.

And when I say you, I mean all of you in IDAC have ever considered that to be confidential and internal, but that which it supplements can be disclosed, or you are obliged to disclose it with a document. It just does not make sense that especially the lawyers in the NPA and in IDAC would

have thought that is okay. You nod. Do you agree with me?

Does it mean that you agree with me?

ADV JOHNSON: Sorry, I am tired. I agree.

ADV BALOYI SC: Thank you.

ADV SELLO SC: Thank you, Commissioner. I want to move to a slightly different topic. And I, in the way Advocate Johnson looks at me, I heard her comment that I am tired.

ADV JOHNSON: No, sorry ...[intervenes].

10 **ADV SELLO SC:** I am with you.

ADV JOHNSON: With my medication, I have been trying to hold out for as long as I can. I do not want to waste the time of the Commission, so I do hold out as long as I can. I am just feeling a bit fatigued.

ADV SELLO SC: No, I was going to request – I do have some other topics to touch on with you. I see it is 16:10, and it is the normal end time for the Commission, and then to ask whether it might be an appropriate time perhaps to take the adjournment for the day. Thank you, Chair.

20 **CHAIRPERSON:** Let us do so and resume at 09:30 tomorrow morning.

ADV SELLO SC: Thank you, Chair.

CHAIRPERSON: Let us adjourn.

INQUIRY POSTPONED TO 28 JULY 2026

INQUIRY ADJOURNS
