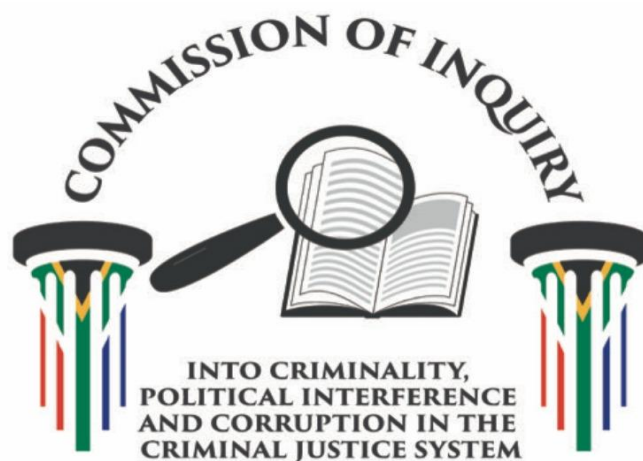


JUDICIAL COMMISSION OF INQUIRY INTO CRIMINALITY,
POLITICAL INTERFERENCE AND CORRUPTION IN THE
CRIMINAL JUSTICE SYSTEM

HELD AT
BRIGITTE MABANDLA JUSTICE COLLEGE

31 AUGUST 2026

DAY 170



PROCEEDINGS HELD ON 31 AUGUST 2026

CHAIRPERSON: Good morning, Mr Mosikili, good morning, Mr Nepaul, and good morning, Colonel Govender.

LT-GEN GOVENDER: Good morning, Commissioner.

CHAIRPERSON: Thank you.

ADV MOSIKILI: Good morning, Chair, and good morning, Commissioners. Chair, you probably need to remind the witness that he is still under oath.

CHAIRPERSON: I am sure the Colonel knows that.

10 **LT-GEN GOVENDER:** Yes, Commissioner.

CHAIRPERSON: Thank you, thank you, Colonel.

ADV MOSIKILI: It is so renewed, Chair.

CHAIRPERSON: Yes. Yes, Mr Mosikili.

ADV MOSIKILI: Thank you, Chair. Chair, the last time we sat, and Colonel was before the Commission, he promised that he will provide – the Chair will remember that what he provided the Commission with was a preliminary statement, and also he gave us a first supplementary statement.

20 What he has done, Chair, is now to consolidate those statements into one consolidated statement. Chair would see that in front of the Commission, then there should be a bundle, a file that will say the Colonel's consolidated statement. Colonel, can you confirm that you have since gone and prepared a consolidated statement, and furnished that to the Commission?

LT-GEN GOVENDER: Yes, that is correct, Commissioner.

ADV MOSIKILI: And then, Colonel, can you get the statement before you? Then, Colonel, when you go to page – do you have that, Colonel?

LT-GEN GOVENDER: Which file is that?

ADV MOSIKILI: So, it is a separate file. It will say your consolidated statement on there.

CHAIRPERSON: And the number 1.1 right at the bottom on the spine, Colonel. 1.1.

10 **LT-GEN GOVENDER**: Commissioner, I am with you, thanks.

CHAIRPERSON: Thank you.

ADV MOSIKILI: Thank you, Colonel. Colonel, if you go to page 33 of that document, you will see that there is a signature there, Colonel. Do you see that? Page 33.

LT-GEN GOVENDER: I am with you.

ADV MOSIKILI: Yes, can you confirm the signature?

LT-GEN GOVENDER: That is correct, Commissioner, that is my signature.

20 **ADV MOSIKILI**: Yes. And do you stand by the contents of the statement?

LT-GEN GOVENDER: Yes.

ADV MOSIKILI: Thank you.

CHAIRPERSON: Mr Mosikili, now that this is consolidated, I am not sure where we start, but I am sure you and the

Colonel know. Because having gone through the initial statement, I am sure we must start somewhere on this one.

ADV MOSIKILI: Yes, Chairperson. What really has happened is that it is exactly that. It is a mere consolidation. There is one or two items that we want to take the Colonel through.

CHAIRPERSON: Okay.

ADV MOSIKILI: But it is a consolidation of what we have gone through in the initial sitting, Chair. So we will spend a
10 very short time.

CHAIRPERSON: Okay.

ADV MOSIKILI: In fact, just to be clear, Chairperson, the only issues of reference are ...[intervenes].

CHAIRPERSON: The 2.4 and 2.5 issues ...[intervenes].

ADV MOSIKILI: Before we get there, Chairperson, we will deal with those precisely, Chairperson.

CHAIRPERSON: Yes.

ADV MOSIKILI: Those form a separate document.

CHAIRPERSON: Okay.

20 **ADV MOSIKILI**: We will deal with those.

CHAIRPERSON: Okay.

ADV MOSIKILI: So the only issues, really, Chair, that we need to take you through are two audios that the Colonel wants to play that we did not play.

CHAIRPERSON: Okay.

ADV MOSIKILI: The first one is about four minutes. The second one is less than two minutes.

CHAIRPERSON: Okay.

ADV MOSIKILI: And then we will move away from the statement and deal with the 2.4, 2.5, and then the financial stuff.

CHAIRPERSON: Let me leave it to you and the Colonel then.

ADV MOSIKILI: Thank you, Chair.

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

ADV MOSIKILI: Colonel, just to refresh, you had testified on your last appearance before this Commission about the meeting you had with one Mr Mavuso and a gentleman that you could not provide his name. Can you remember his name by now? Because you said the person was known to you, but you just could not recall his name. Can you recall the name of the second person?

LT-GEN GOVENDER: I actually do not recall his name.

ADV MOSIKILI: You still cannot recall the name?

20 **LT-GEN GOVENDER:** Yes.

ADV MOSIKILI: Yes. Can you confirm again the date of the meeting, where it took place, and the basis for that meeting, or why they called you for a meeting?

LT-GEN GOVENDER: Is that the main meeting at the hotel?

ADV MOSIKILI: Yes.

LT-GEN GOVENDER: Yes. The date would be the 21st.

ADV MOSIKILI: It will be the 21st. It is your appearance at the Commission ...[intervenes].

LT-GEN GOVENDER: Sorry ...[intervenes].

ADV MOSIKILI: So a day before. Let me assist you, perhaps. Go to page 10 of the consolidated statement and go to paragraph 33.

LT-GEN GOVENDER: That is correct. Commissioner, that
10 would have been the 20th of August.

ADV MOSIKILI: Yes. Can you just refresh the Commission as to the background of that meeting? Who called up the meeting? What was the purpose of that meeting?

LT-GEN GOVENDER: Yes. I think the 20th of August call was the last call. It would appear that on the Friday, and that date would be the – let me just find it now ...[intervenes].

ADV MOSIKILI: It will be the 21st.

LT-GEN GOVENDER: The meeting that was held at the
20 hotel?

ADV MOSIKILI: No, no. The meeting that you had at the hotel, when you testified, it was recorded to have been on the 20th of August.

LT-GEN GOVENDER: Yes.

ADV MOSIKILI: If my recollection serves me well, you said

the meeting was at the Starfish Hotel.

LT-GEN GOVENDER: The meeting was at? Sorry?

ADV MOSIKILI: Starfish Hotel. What was the name of it?

LT-GEN GOVENDER: No, no, no. It was at the Coastlands Hotel in Musgrave.

ADV MOSIKILI: Yes.

LT-GEN GOVENDER: Yes.

ADV MOSIKILI: Yes, that is the meeting we are talking about.

10 **LT-GEN GOVENDER**: Yes.

ADV MOSIKILI: Then I have asked you to answer, just to remind us, what was the purpose of the meeting?

LT-GEN GOVENDER: Yes.

ADV MOSIKILI: And who called for the meeting?

LT-GEN GOVENDER: Yes. Commissioner, that meeting was arranged by Mavuso Ntandani and the contents of that meeting was to further pursue me to implicate General Mkhwanazi, which is the ...[indistinct] Commissioner of KZN in the 172 shootings. The meeting, can I go ahead with the
20 contents of the meeting?

ADV MOSIKILI: Please do, Colonel.

LT-GEN GOVENDER: So, we had arrived at the venue, and at the venue – when I say we, it is myself, Mavuso, and the third person. We had got to a restaurant, and there is a videoclip to it that we will play just now, Commissioner. At

the restaurant, we were seated and Mavuso continued his conversation with myself.

He then indicated to me that he will contact the Minister. So I had asked him which Minister, and he indicated it was Senzo, Minister Senzo. So I had said to him that Minister Senzo is no more here, but I am just on recollection. We will play the recording now.

So he said, no, no, the Minister is still here. He has not gone anywhere. So he contacts Minister Senzo
10 from his phone, and from his phone there is a build-up, Commissioner, of the conversation with Mavuso and the Minister before he hands the phone to me. So the build-up will be played just now, saying that I am scared, I need to be protected, and it goes on what we play just now, Commissioner.

And then he passes the phone to me. So when I take Mavuso's phone and I put it in my ear, on the other side, I recognise the voice, which is Minister Senzo. And I will tell the Commissioner how, because I have met the
20 Minister a few times. I have interacted a few other times when he came to different stations, like in Inanda. So I know the Minister. I know his voice.

And during that call, it was not a short call, it was a long call. When I say long, it was not just like a few words and put the phone down. So the Minister said to me that

how I am. I said I am fine. Do I love this country? I said yes, I do. Do I have two countries? I said no. And he says I must not let anyone ruin this country. And I would respect, said yes, Minister, yes, sir, yes, Minister.

But the whole thing that I will be protected, that I must now implicate General Mkhwanazi to say that he gave me instructions for all the shootings that occurred of 172. Now, Commissioner, if you go back, there is a buildup from the day of this main meeting. The buildup comes from
10 various different phone calls.

Now, on every occasion I had phoned General Mkhwanazi and said to him, General, you know, I have met these guys outside the IPID office. and this is what they said to me, that they are going to poison me, they are going to kill me. I must stand against you. I must implicate you.

So he in turn said, you know what, Colonel, record him. So nearly all of our interactions with Mavuso was recorded, Commissioners. And then from the buildup, I could already see, and some of those recordings are very
20 clear, Commissioner, and some were not clear because we were standing on the roadside.

For example, at the restaurant, we tried our best because the device that was used, it was not the best devices. But in the clip, we managed to narrow it down for the Commissioners to see this. Now, Commissioner, I will

go back and I will say wholeheartedly I know the Minister and this was the Minister on the other side of the phone. And I was comfortable speaking to the Minister because I told him about my kids, the respect that I normally give him when I see him, when I saw him previously.

So the Minister cannot deny that he spoke to me on that call. And I will say this with respect, Commissioner, when I was looking one of the days, his spokesperson said that that is a lie. And I was hurt because I respect this
10 Minister, and I know him, I like him. But as an elder and senior person in government, he cannot lie about such a serious thing, Commissioner.

And no one asked me to come and say this, Commissioner, this is the truth that I am saying. And I have told this to General Mkhwanazi each time whenever we had conversations.

ADV KHUMALO SC: Good morning, Colonel. I was going to ask you about that statement that was issued by the Minister's spokesperson where he denies what you said in
20 this Commission and I would have asked that you comment on it because they are saying you are not telling the truth and you are saying they are the ones who are not telling the truth.

LT-GEN GOVENDER: Commissioner, I will come back to this point, but let me take you further. On the first meeting,

I was preparing for the Commission with my attorneys, and that is when these two guys approached me. I did not call them before that, and my phone logs will show that they approached me first.

Now, coming back to the spokesperson, Commissioner, there is no reason for me absolutely to lie. Now, the buildup of this conversation prior to Mavuso handing me the phone will prove indeed that there was a call and it was from the Minister because certain words are
10 spoken which is very intimate, and that will prove that the Minister, indeed, he was speaking to the Minister because I did indicate that the Minister is no more here. He says no, but Commissioner, I may say something, but if you play the recording, it is more clear.

ADV MOSIKILI: Thank you, Colonel. The actual meeting from the recording you gave us, it lasts for one hour and 28 minutes, and obviously we are not going to play that. We are trying to get the clip that you gave us just to focus on the highlight of the meeting. So apart from that highlight, is
20 there anything else that you want to say to the Commissioner that transpired for the rest of the meeting?

LT-GEN GOVENDER: Yes, Commissioner, I think there is something important, something else important in that conversation. But as we are watching the footage, you can see Mavuso is speaking very soft, so I reach out all the time

to him. That is why the recording is not so clear. And some of the recordings in that one hour and 20 minutes does not really come up on the transcripts of what we transcribed as attorneys.

So something important came up where he indicated that the acting National Commissioner, General Dimpane, was trying to reach out to me for a while, and General Dimpane was scared to reach out to me, and something that he said is that General Dimpane has sent a
10 notice to General Mkhwanazi because he made a press briefing somewhere in Pretoria.

I think at the time of General Khumalo's allegedly going to be arrested by IDAC. So he went to a police station. I am not certain exactly what police station it was. And General Dimpane sent General Mkhwanazi seven days to respond to why you went to the press. So I had called General Mkhwanazi and said, General, did something like this transpire because these guys are talking about it?

He said, no, you are not supposed to know about
20 this. How do you know about it? I said, why, General? He says, no, because that meeting had a code on the email, and only that code is between General Dimpane and myself, which is General Mkhwanazi, and no one else was to know about it. So he says there is something more to look in deeper.

ADV MOSIKILI: Thank you, Chair. Chair, then maybe let us play those short clips. It is about three clips. They should make about four minutes put together. Colonel, just because you gave that to us yesterday, just make sure that it is what you want to present to the Commission as you play it.

LT-GEN GOVENDER: That is correct.

CHAIRPERSON: We do not need those headphones for this?

10 **ADV MOSIKILI:** No, Chair, you do not.

CHAIRPERSON: All right, all right. Thank you.

[AUDIO PLAYED BACK]

“LT-GEN GOVENDER: Yes, Baba.

MR NTANDANI: Are you okay?

LT-GEN GOVENDER: Yes, I am here with the telly.

MR NTANDANI: Okay. Colonel, this big man is going to terminate his contract. They say it is not awarded according to the law.

20

LT-GEN GOVENDER: Yes.

MR NTANDANI: Ja, things are going to be bad, bad, bad, bad, bad, bad.

LT-GEN GOVENDER: Ja. When do you ...[indistinct] when do they terminate it?

MR NTANDANI: I think soon because there is rumours the national team signed it properly.

LT-GEN GOVENDER: Which one, for the KZN one or the national?

MR NTANDANI: Ja, for the KZN one, it is wrong. He did not sign it properly.

LT-GEN GOVENDER: But he got his five years. They gave him five years already.

10 MR NTANDANI: No, it was not supposed to be like that.

LT-GEN GOVENDER: Oh.

MR NTANDANI: People are digging more, more, more, more.

LT-GEN GOVENDER: So that is an unlawful contract, which means you will not have a job then?

MR NTANDANI: Definitely.

20 LT-GEN GOVENDER: And that other Organised Crime that is in charge there, what happened? He got a new contract?

MR NTANDANI: No, that one is not good because the acting Commissioner said there is no budget for this project. Remember, there is other places are

short of resources, so we cannot keep funding this project while other staff are not doing a good job.

LT-GEN GOVENDER: Oh, it is a project. It is not a permanent thing. I thought it was a permanent thing.

MR NTANDANI: No, it is a project. It is a project.

LT-GEN GOVENDER: Ja.

10 MR NTANDANI: Please, we are together.

LT-GEN GOVENDER: Thank you so much, brother.

MR NTANDANI: Be strong. I know you are a man.

LT-GEN GOVENDER: Thank you.

MR NTANDANI: Keep well.

LT-GEN GOVENDER: Thanks, bye.

MR NTANDANI: Okay, bye-bye.”

20 ADV MOSIKILI: In fact, Colonel, that should be the telephone call.

LT-GEN GOVENDER: Yes.

ADV MOSIKILI: It sounds to me like a telephone call, not the meeting.

LT-GEN GOVENDER: No, that is a telephone call.

ADV MOSIKILI: Yes.

LT-GEN GOVENDER: Yes.

ADV MOSIKILI: Because we are playing all the clips you gave us for the 20th. Can you play the next one?

[AUDIO PLAYED BACK]

MR NTANDANI: Good morning.

LT-GEN GOVENDER: Good morning.

MR NTANDANI: How are you?

10 **LT-GEN GOVENDER:** I am so stressed,
Baba. What time are we meeting?

MR NTANDANI: What time are you
going to be free?

LT-GEN GOVENDER: I want to finish
this morning, Baba, because remember I
have to prepare. I will have to go
tomorrow that side, so let us meet in the
morning.

MR NTANDANI: This morning?

LT-GEN GOVENDER: Please, man.

20 **MR NTANDANI:** Okay, okay, okay. No
problem. Let us make it, what about
nine, half past nine?

LT-GEN GOVENDER: Ja, half past nine,
because I have been pushing it away for
the last few days to meet you. Let me

just meet you and get it over and done with. I will see you about half past nine.

Where are we going to meet, Baba?

Durban North?

MR NTANDANI: You tell me.

LT-GEN GOVENDER: Okay, I will phone you and tell you.

MR NTANDANI: Okay, okay.

10 LT-GEN GOVENDER: All right, thank you.

MR NTANDANI: Okay.

LT-GEN GOVENDER: Sharp, sharp. Bye.

MR NTANDANI: Bye. Sharp, sharp.”

ADV MOSIKILI: Colonel, that also, so we are playing the clips that you gave to us for the 20th. That also sounds to me like a call leading up to that meeting.

LT-GEN GOVENDER: Yes.

ADV MOSIKILI: Is that correct?

20 LT-GEN GOVENDER: Yes, there was previous calls from Mavuso.

ADV MOSIKILI: I think we have played the other ones as well.

LT-GEN GOVENDER: Yes.

ADV MOSIKILI: Yes.

[AUDIO PLAYED BACK]

MR NTANDANI: Good morning,
Colonel.

LT-GEN GOVENDER: Hey, Baba. I am
about to go in now.

MR NTANDANI: Are you okay?

LT-GEN GOVENDER: Hey ...[indistinct]
you told me yesterday, you promised me.

10 MR NTANDANI: Yes, yes. You will be
okay. You will be okay. Are you in
Gauteng now?

LT-GEN GOVENDER: I am in Gauteng
now, but maybe in the next, I am here at
the venue.

MR NTANDANI: Okay. Okay.

LT-GEN GOVENDER: Is the Minister
going to help?

20 MR NTANDANI: 100%. Do not tell
anyone. 100% ...[indistinct] is going to
help you. You are not alone. Do not tell
anyone.

LT-GEN GOVENDER: But I am worried,
Baba. Are you sure?

MR NTANDANI: 100%. Trust me. I can
put my life under the bus.

LT-GEN GOVENDER: What did he tell you yesterday after he spoke to you?

MR NTANDANI: He said do not die for other people's matter. You can pull out. And I know inside of your workplaces, they are pushing. They are working, all those ...[indistinct] they are working with John as well. Now John finished 30 dockets against you.

10 LT-GEN GOVENDER: Ja, I mean what dockets?

MR NTANDANI: Even national, ja.

LT-GEN GOVENDER: How many dockets?

MR NTANDANI: National. 30 dockets so far, because all of them are 172.

LT-GEN GOVENDER: Joh, joh.

MR NTANDANI: But do not panic about that.

20 LT-GEN GOVENDER: I am worried about that one now. I am ...[intervenes].

MR NTANDANI: Trust me.

LT-GEN GOVENDER: I am going full on now to go and speak.

MR NTANDANI: Please speak. You are

not alone. Even the President is aware you are going to speak. Do not let anyone down.

LT-GEN GOVENDER: But are you sure Baba got my back? That is the only thing I am worried about.

MR NTANDANI: 100%. Do not tell anyone. You are not alone. You will be out of this. Trust me.

10 LT-GEN GOVENDER: Okay, Baba.

MR NTANDANI: Please.

LT-GEN GOVENDER: All right.

MR NTANDANI: Okay. Be strong. We are together.

LT-GEN GOVENDER: Thank you, bye-bye.

MR NTANDANI: Bye.”

20 ADV MOSIKILI: Colonel, that also sounds like a telephone call. Can you identify the speakers on that call and the date of that specific call?

LT-GEN GOVENDER: Yes. That is Mavuso and that is the Friday 21st that I am here at the Commission.

ADV MOSIKILI: So it is you and Mavuso on the telephone call?

LT-GEN GOVENDER: That is correct.

ADV MOSIKILI: And the date is the 21st of August?

LT-GEN GOVENDER: Yes, indeed.

ADV MOSIKILI: The day that you appeared, just before you appeared before this Commission?

LT-GEN GOVENDER: Yes, Commissioner.

ADV MOSIKILI: Yes, and that you make reference to a paragraph 34?

LT-GEN GOVENDER: Yes.

ADV MOSIKILI: Of your statement. Can you confirm that?

10 **LT-GEN GOVENDER:** That is correct, Commissioner.

ADV MOSIKILI: Yes. Now, those are all the videos, the audios that you gave us. And then the long one that you gave us, the one hour and 20 minutes, because I was looking for the four-minute clip that you wanted. What I am going to do, I am going to start it where I have listened to it, and it speaks to when the phone is, it sounds like the phone is being handed over to you. So just tell me that is where you want to start.

20 **LT-GEN GOVENDER:** I actually want to start, Commissioner, from the build-up before the phone is handed over to me.

ADV MOSIKILI: Okay, I will take it ...[intervenes].

LT-GEN GOVENDER: When Mavuso is ...[intervenes].

ADV MOSIKILI: I will take it a minute back.

CHAIRPERSON: So will you have the timestamp, the

relevant?

ADV MOSIKILI: Yes, Chair, we are starting the audio. The audio itself is one hour and 28 minutes. We are going to start at 20 minutes and 50 seconds into the conversation.

CHAIRPERSON: All right then.

ADV MOSIKILI: Thank you.

[AUDIO PLAYED BACK]

CHAIRPERSON: I can hardly hear what is being said.

ADV MOSIKILI: Chair, what we will do, because I have
10 had to listen to it over and over again, and obviously Colonel was part of that conversation. I think what they – Colonel, I think you have promised us that you have taken four minutes that you have cleaned up and blocked all the noise. Can you make that available to the Commission?

LT-GEN GOVENDER: Yes, Commissioner, it is available right now. My attorneys have it with them. We can make it available now.

ADV MOSIKILI: Chair, perhaps can we take a minute, then we can just load it here? Because a cleaner version blocks
20 out the external noise.

CHAIRPERSON: And what about the sound? Because even the sound is very low.

ADV MOSIKILI: It is much better, Chair.

CHAIRPERSON: All right.

ADV MOSIKILI: It is amplified.

CHAIRPERSON: All right. Let us adjourn. You will indicate when you are ready.

ADV MOSIKILI: Thank you, Chair.

HEARING ADJOURNS

HEARING RESUMES

CHAIRPERSON: Yes, Mr Mosikili?

ADV MOSIKILI: Thank you, Chair. They have, Chair, out of abundance, of course, organised the headphones for the Commissioners and the Chair, but the audio seems to be
10 amplified and a bit cleaner on what we have now. Then we will proceed to play that, Chair.

[AUDIO PLAYED BACK - AUDIO NOT AUDIBLE ENOUGH FOR TRANSCRIPTION]

ADV MOSIKILI: Colonel, we have played the audio that you wanted us to play, and of course, what will be audible, it will be from your end, and perhaps then share to the Commission because you seem to be agreeing with the person on the phone, that possibly a Minister, to say yes Minister, okay, and you keep on talking to that person, but
20 we cannot hear that part. Can you share just the context of that conversation? I think you have dealt with the buildup, unless you want to repeat the buildup, and then until when you say the phone was handed to you, that is where we can only hear the one end of the conversation, so that we have better context of that conversation.

LT-GEN GOVENDER: Yes, Commissioner, maybe I will start with the conversation with the Minister. So the Minister speaks to me and asks me if I am okay, I said yes. He then goes on to say that whether I like this country, I said yes, I like the country. He also goes ahead to say that it is a beautiful country, we must not let anyone spoil this country.

He goes on to say that I must not worry about anything, I will be protected, and he goes on to say about
10 the shootings. I said yes. He says that I must implicate General Mkhwanazi for the shootings, and that is the gist of that conversation that the Minister is speaking to me.

CHAIRPERSON: And you are saying yes, I do not know whether you are saying yes to everything, so you said yes even to implicating General Mkhwanazi.

LT-GEN GOVENDER: Commissioner, I was wanting to hear what the Minister is saying, so I wanted to hear everything that he was wanting to say, what Mavuso was coming through, so yes, I did say yes to that.

20 **CHAIRPERSON**: Okay.

ADV MOSIKILI: And in your understanding, Colonel, what would that mean implicating the National Commissioner?

LT-GEN GOVENDER: First of all, Commissioner, when I say they have the wrong idea, when I say Mavuso, the Minister, IPID, that General Mkhwanazi has given me

instructions for the various incidents that happened during our operations over a period of time, and their intention is to put me in a corner, wanting to lock me up, send me to jail, to forcefully implicate General Mkhwanazi.

They do not realise that my reporting structure is with Brigadier Nyuswa, General Senona. Yes, General Mkhwanazi supports my team with all the resources, and yes, he does come out to the scene. He is passionate about every incident, not just my team. So they have this
 10 idea that – let me just go back a little bit.

So when I spoke to the Commissioner the other day about the Nangy case, and if Commissioners can recall the Nangy case, I was charged. The same thing happened there, Commissioner, where they alleged that General Mkhwanazi was in the farm at Camperdown with me, and he was present, and together we tortured Sergeant Mlotshwa. If the Commissioners can recall the case, where he went to the Ad Hoc Commission. The similar stance is happening now, Commissioner, that I must now implicate General
 20 Mkhwanazi. So they have the wrong idea, Commissioner.

ADV MOSIKILI: Is there anything else you need to add from that conversation before we move on, Colonel?

LT-GEN GOVENDER: No. I can confirm again, Commissioner, that I did speak to the Minister and I know the Minister.

ADV KHUMALO SC: How did they know you were coming to the Commission on the 21st of August 2026?

LT-GEN GOVENDER: Commissioner, on the first meeting that happened on the 13th outside the IPID office, so I had told him. We had a discussion there where they indicated that I am going to die, they are going to poison me, and obviously the same conversation here, that I must implicate General Mkhwanazi for the shootings, I must not go down alone. So from that time, I would have told them,
10 Commissioner, that I am coming here.

ADV KHUMALO SC: What I am trying to understand is this, were they saying you must implicate General Mkhwanazi in your statement to IPID or in your evidence before this Commission?

LT-GEN GOVENDER: In my evidence before this Commission.

ADV KHUMALO SC: Thank you.

ADV MOSIKILI: Thank you. Chair, for the record, the audio that we just played, Chair, will be, is marked DG7,
20 and the transcript to that of that audio, Chair, is DG8, and those are annexures to his statement, Chair. And then, for the record, Colonel, please read into the record ...[intervenes].

ADV BALOYI SC: Sorry, Mr Mosikili. In the bundle at page 34, you have got DG7, which is the transcript. Do you

want us to change that when you say it is DG8?

ADV MOSIKILI: No, Commissioner, the transcript can state DG7 and DG8 will be the blank that is left for the audio. Thank you.

ADV BALOYI SC: Thank you.

ADV MOSIKILI: And then, Colonel, can we then, because we just dealt with paragraph 33, can you just read into the record paragraph 34? So we are still on page 10 of the consolidated statement.

10 **LT-GEN GOVENDER:** Yes, Commissioner. Paragraph 34:

“Another alarming factor is that while I was waiting at the Commission in the morning of the 21st of August 2026, I received a phone call from Mavuso Ntandani. I attach hereto a transcript of that phone call marked DG9, and the sound byte as DG10, which I shall upload.”

ADV MOSIKILI: Also read into the record paragraph 35.

20 **LT-GEN GOVENDER:** Paragraph 35:

“In the phone call of 21 August 2026, the caller asked me if I was in Gauteng, and I continued in his usual vein to persuade me to implicate Lieutenant General Mkhwanazi.”

ADV MOSIKILI: Chair, we had played that audio while we were looking for the 20th audio. I do not deem it necessary for it to be replayed, Chair. And for the record, Chair, then the transcript of that is DG9, and the sound byte is DG10 to the statement. Now, Colonel, I would want you to jump to paragraph 98 on page 29 of your statement. Chair, with reference to the Regulation 10.6 notice. The witness – thank you, Chair. Chair, I just want to deal with one item that the Colonel wanted us to deal with, and then we will go
10 to 2.4 and 2.5. So, Colonel, on page 29, paragraph 98. Are you there?

LT-GEN GOVENDER: Yes, I am, Commissioner.

ADV MOSIKILI: Yes, you are responding to a question which was posed to you in the Regulation 10.6. And the question for the record, I will read it for you. It said:

20 “Whether IPID was immediately informed of the incident, and if not, why did it not notify IPID immediately after the shooting incident, and why you allowed members of the task team involved in the shooting incident to leave the scene before the IPID arrived?”

Then, can you read the contents of paragraph 98 in totality, 98.1 to 98.3, into the record in response to that question?

LT-GEN GOVENDER: Yes, Commissioner:

“98.1. The protocol is for the police officers involved in the shooting to telephone radio control 1011. They would in turn contact IPID. To the best of my knowledge, on the day of the shooting, radio control was in fact contacted. A team of IPID investigators arrived on the scene. I was not in charge of the operation, it being led by
 10 Constable Matthew and Captain Rodriguez, together with other members of NIU and Metro Police. I cannot recall now exactly who telephoned radio control.

98.2. The police officers that approached and entered the flat who fired the shots were not members of the Anti-Gang team. They were accordingly not in my, members of neither Captain
 20 Sivan Naidoo nor being members of the Anti-Gang team played any part in the shootings.”

ADV MOSIKILI: Chair, we will then move to ...[intervenes].

ADV BALOYI SC: Does this not continue to 98.3?

ADV MOSIKILI: Yes. The next page, you will see there,

move to the next page to wrap up the answer to that question.

LT-GEN GOVENDER: 98.3.

ADV MOSIKILI: Yes.

LT-GEN GOVENDER: Can I read it?

ADV MOSIKILI: Yes.

LT-GEN GOVENDER:

10 “Both Captain Sivan Naidoo and I
remained on the scene, even when IPID,
LCRC and the Provincial Commissioner,
the National Commissioner, paramedics,
the local police station duty officer, the
district duty officer, the DPCI Provincial
Commander, Brigadier Nyuswa, Colonel
Jacobs, the Provincial Commissioner,
Lieutenant General Mkhwanazi, the
National Commissioner of the Police,
Lieutenant General Masemola, and the
former Minister of Police, the Honourable
20 Minister Cele, attended the scene. We
were accordingly on the scene for a very
long time.”

ADV MOSIKILI: Thank you. Then, Chair, is there anything
you need to add over and above what you have just read
into the report, Colonel, before we move on?

LT-GEN GOVENDER: No, Commissioner.

ADV MOSIKILI: Thank you. Chair, then we want to move to 2.4 of the Regulation 10.6. This is where ...[intervenes].

ADV BALOYI SC: Maybe before you do that, just so that we do not forget, I may have misheard. I thought you said there will also be a video. I do not know the significance of it, of the meeting on the 20th or something. Have you discounted it?

ADV MOSIKILI: Yes, Commissioner, we have been
10 furnished with the videos. But essentially, what you see is those videos from the restaurant where 30 people are sitting, and there is no audio and there is nothing really of value. Perhaps if Mr Mavuso was to come, he can identify himself. We can clearly see the Colonel from there, from the video, but apart from that, there is nothing of significant value that we can extrapolate from that video, Commissioner. We can play it for the context, but I do not think it serves any purpose.

ADV BALOYI SC: I think the witness, I see him raising his
20 hand. It seems he wants to say something about this.

LT-GEN GOVENDER: The ease of significance, importance, the one part where he hands the phone over to me, Mavuso hands his phone while we are sitting at the table. If we play the video, Commissioners can have a look at it that indeed, he hands his phone over. That footage

can show that.

ADV MOSIKILI: Chair, what we will do is that we will ask the witness maybe after you tell us exactly, because they sit there for eventually more than an hour, at what moment, because it is just a mute video, that we will find that moment where the phone is being handed to you, and then just play it to the Chair if the witness says it will add value to his allegations.

LT-GEN GOVENDER: Commissioner, we have a short clip
10 ...[intervenes].

ADV MOSIKILI: Will that be fine?

LT-GEN GOVENDER: Yes, we have a short clip that I have on hand. Attorneys have as well, just the part where he is handing over the phone to me.

CHAIRPERSON: Perhaps after the tea break?

ADV MOSIKILI: Yes, let us do that.

CHAIRPERSON: Ja.

ADV MOSIKILI: I think we need to turn that way, because we have got about four clips they gave us.

20 **CHAIRPERSON:** Okay.

ADV MOSIKILI: I am not sure which of the four is the one that he refers to. Okay. Colonel, with that, can we move on from this point? We will play the audio, the video when you come back, just to identify that moment, and then can we move on for now?

LT-GEN GOVENDER: Yes, Commissioner.

ADV MOSIKILI: Yes, Chair. Chair, so I want to move to 2.4, where the witness is asked to deal with Mr Clive Naicker. The question to the witness at 2.4.1 is:

“Please provide full details of your relationship with Mr Naicker.”

Then 2.4.2:

10 “Over the period August 2022 to December 2023, how often did you visit Clive Naicker's premises, home or business premises? What was the purpose of those visits?”

Then 2.4.3:

20 “Have you received any payments from Mr Naicker? If so, please provide full details of each payment. If there is any other details of this relationship which cannot be publicly disclosed, please provide those details in a separate sworn statement.”

And Chair, almost the same questions were posed to him in relation to another person at 2.5, and that is a person, Mr Panganathan Timmy Marimuthu. Now, Chair, what the witness had done was to exercise that clause, where he brought an application to have some of the evidence

relating to Mr Naicker and Mr Marimuthu in camera, Chairperson. And that application was opposed by both the media and evidence leaders, and the Chair issued a ruling to that effect, Chairperson.

So to our extent, Chairperson, we will proceed to deal with these two items on a public record, Chairperson. And for the purpose of this, Chairperson, then we have agreed that we will deal with it in relation to his founding affidavit to the application for evidence to be heard in
10 camera, Chairperson.

Now, you will see that, Chair, there is a file which says, it will say File 1, and then it will say condonation and in-camera application.

MR NEPAUL: Mr Chairman, please bear with us. We are trying to locate that file. If you will bear with us, thank you.

ADV KHUMALO SC: Maybe as you do that, please also locate the correspondence bundle and pull out page 4 and 5 of the correspondence bundle, because that is where you will find questions 2.4 and 2.5. Colonel Govender, you do
20 the same also.

LT-GEN GOVENDER: Yes, sir.

ADV KHUMALO SC: Because the questions are specific, and I am afraid looking at your affidavit, you do not give answers to the specific questions. Maybe if you have the questions in front of you, then you will be able to provide

answers to the questions.

LT-GEN GOVENDER: Yes.

CHAIRPERSON: It is written File 1 at the bottom. Of course, I think that there are more than one File 1s, but that may help guide you.

MR NEPAUL: Mr Chairperson ...[intervenes].

CHAIRPERSON: And it is on the smallish side.

MR NEPAUL: Yes. The small bundle that we have is File 1.1. I requested for this file from the Commission, and I
10 have not received it. In particular, I asked for the redacted version of that file to be made available to me so I could check it before the evidence is led, and it has not been shared. I do not have it. Neither do I have the document numbered File 1 that you are referring to in terms of the in-camera set of papers.

CHAIRPERSON: Is there not a copy to spare, please?

ADV MOSIKILI: Yes, Chair. There is a copy for the witness. We are trying to – I am getting thumbs up, Chairperson. It seems as if it was emailed to them.
20 Perhaps, Chairperson, let us take a moment to...

CHAIRPERSON: Yes, Mr Nepaul?

MR NEPAUL: Mr Chairperson and members of the Commission, we have our original set of those in-camera papers. I am not sure exactly which aspects my colleague is going to deal with. It has actually become a challenge in

terms of marrying and managing the content with Mr Chairperson's ruling, together with the public aspects of the 10.6 notice. And I want to show the Commission that I reached out to the Evidence Leaders yesterday to say that I'd like to meet them this morning to discuss that so we do not inconvenience you, and I was told no.

So I apologise for this interruption, but I foresaw this happening, and I have asked for the redacted bundle to be given to us so we check it before it is flighted. And it is
10 obvious the reason for that, because it contains information that was sealed in terms of your earlier ruling on the 21st of August. So, Mr Chairperson, I do not have that redacted bundle and I would submit with respect that it would be a little bit irresponsible on my part to deal with it in the absence of having a look at that. I am not sure, as I have said, exactly which aspects my colleague wants to deal with ...[intervenes].

CHAIRPERSON: May I make this suggestion? The statement must not be flighted. It can always be shared
20 and uploaded once the necessary redactions have been made. It should just not be flighted in the interest of time, because it will take up a lot of time if we have to adjourn now, have the redactions done, and only come back thereafter.

MR NEPAUL: Thank you, Mr Chairman. I am indebted to

you. We will use our original documents that we shared with the Chairperson in terms of the in-camera application to follow the questioning. Thank you, sir.

CHAIRPERSON: Thank you, Mr Nepaul.

ADV MOSIKILI: Thank you, Chair. Chair, perhaps for the record, would it be necessary to read into the record your ruling to that application, Chair? Or it is not necessary?

CHAIRPERSON: No, no.

ADV MOSIKILI: Thank you, Chair. Then let us move on to
10 the affidavit, Chair.

CHAIRPERSON: Thank you.

ADV MOSIKILI: Colonel, do you have the file in front of you?

LT-GEN GOVENDER: Yes, I do have this file.

ADV MOSIKILI: And then you will see that when you go to page 18 of that file, it will say on the face of it affidavit in support of in-camera application, and there is your name there. Do you see that, Colonel, on page 18?

LT-GEN GOVENDER: I am looking at the wrong file, sorry,
20 Commissioner. I am at page 18, Commissioner.

ADV MOSIKILI: Thank you, and then just keep your hand there and go to page 36.

LT-GEN GOVENDER: I am at 36.

ADV MOSIKILI: There is a signature there. Can you confirm that to be your signature, Colonel?

LT-GEN GOVENDER: That is correct, Commissioner.

ADV MOSIKILI: And do you confirm and stand by the contents of this affidavit, Colonel?

LT-GEN GOVENDER: Commissioner, I am so sorry. I am not sure if I am still at the right file.

ADV MOSIKILI: Yes, go back to page 18 again. So what I took is the end of your affidavit with your signature, and now we are going again back to the face of the ...[intervenes].

10 **LT-GEN GOVENDER**: The paragraph would be 63.

CHAIRPERSON: Colonel, can we please do this? If you go to the spine of the file, below your name you should see condonation and in-camera application. Is that what you have?

LT-GEN GOVENDER: No, Commissioner, I am so sorry. That is not the one.

CHAIRPERSON: Mr Mosikili, is it not better perhaps, rather than taking the Colonel through the affidavit, is it not better just to take him through the questions one by one?
20 2.4 and the subs, and 2.5 and the subs, one by one, and then if there is a need for any substantiation contained elsewhere, whether in this affidavit or elsewhere, that may then be done once the direct questioning has been done.

ADV MOSIKILI: Perhaps not, Chairperson, because some of these questions do not appear as laid out in the affidavit.

Chair would see that when dealing with the issue of Port Shepstone and the drugs, those questions are not laid out as he deals with them in the statement, Chairperson. So I would prefer that he just reads them through as he answers, because we have identified the paragraphs, and then we move on, Chair. But that would be much quicker, Chairperson.

ADV KHUMALO SC: I will tell you what my difficulty is, Mr Mosikili. I have read this affidavit a couple of times, but it
 10 is not clear in the affidavit what question he is answering because the questions are in the 10.6 notice, and they are specific. Do you know Sandile Khumalo? What is your relationship with him? Reading the affidavit, I cannot tell where that question is being answered. Did you see Sandile Khumalo on the 21st of August 2026? That is a specific question with a specific date and limited period. Reading the affidavit, I cannot tell which portion of the affidavit answers that specific question, and that is my difficulty. So, going through the affidavit is great. You can
 20 assume that all the Commissioners have seen it. We have read it over and over again, Thursday, Friday, and again on Saturday, but it does not assist as far as answering the specific questions posed in the 10.6.

ADV MOSIKILI: Yes, Commissioner.

ADV KHUMALO SC: I will give you an example. 2.4.1

says, provide full details of your relationship with Mr Clive Naicker. Now, that is a specific question. He is either your friend, or he is an acquaintance, or he is a suspect in a case.

ADV MOSIKILI: Yes.

ADV KHUMALO SC: So, are you able to answer specific questions and say what is your relationship with Mr Naicker? What are the full details of that relationship?

LT-GEN GOVENDER: Yes, I am ...[intervenes].

10 **ADV KHUMALO SC:** Without going into, oh, there was a case in 2011, there was a case in 2015, or there is a current case now. Because if you do that, then you will end up dealing with the details of the case that is under investigation and you will create the very risk you wanted to avoid in the in-camera hearing of identifying sources and even witnesses in an ongoing investigation.

LT-GEN GOVENDER: Noted, Commissioner.

ADV KHUMALO SC: So, that is the difficulty the Commissioners have. That is why we would appreciate
20 specific answers to specific questions. That way, you do not run the risk of doing what you avoided doing if your entire affidavit was read in a public hearing.

LT-GEN GOVENDER: I am with you, Commissioner.

ADV KHUMALO SC: Mr Mosikili, with that in mind, would you be able to?

ADV MOSIKILI: I am persuaded, Commissioner Khumalo. but with your suggestion, let us deal with the questions ...[intervenes].

CHAIRPERSON: It seems I was not forceful enough because I was making exactly the same point, Mr Mosikili.

ADV MOSIKILI: Yes, Chair, let us deal with that, Chair. And then any other issues you can clarify in his own statement that does not appear from the question. Colonel, let us start. We are at 2.4, and 2.4.1 is a question. Do you

10 have the questions next to you?

LT-GEN GOVENDER: I am opening this file,
Commissioner.

ADV MOSIKILI: It will be in...

ADV KHUMALO SC: Please pull out pages 4 and 5 from the correspondence bundle and keep them next to you because that is where the questions are.

ADV MOSIKILI: Okay. Colonel, we will also flag the questions for you, just in case. Question 2.4.1, it says:

20 “Can you please provide full details of
your relationship with Mr Clive Naicker?”

LT-GEN GOVENDER: Commissioner, 2.4.1, my relationship with Clive Naicker is work-related. He assists with the investigations. I do not have a personal relationship with him, Commissioner.

ADV KHUMALO SC: What is he? What is Mr Naicker? Is

he a member of the public? Is he a business person? What is he? And how do you relate with him as somebody who assists in the investigations?

LT-GEN GOVENDER: Yes, Commissioner, he is a business person. He owns a panel shop and tow trucks and various other businesses, taxis as well, Commissioner. And so, during the course of the investigation, I do not know if I can say it, he assists, he works closely with the police. Not only me, but all other different units. And that enhances our
10 investigation.

ADV KHUMALO SC: And how did you get to know him?

LT-GEN GOVENDER: Commissioner, I met him around, I got to know him around 2015. He was ...[intervenes].

ADV KHUMALO SC: Was it as part of an investigation, or you met at a bar, or at a club, or at a supermarket?

LT-GEN GOVENDER: It was an ongoing tow truck warfare that was going on between Johannesburg and KZN and there were a number of tow truck owners that came to a meeting at the City Hall. It was the Gauteng guys wanted to
20 take over KZN. And at the time, my commanders appointed me to deal with the tow truck warfare. That is when I first met him, Commissioner.

ADV KHUMALO SC: And the ongoing relationship? So you have described how you first met him. The ongoing relationship leading to the period that we will deal with in

2.4.2?

LT-GEN GOVENDER: Yes. That relationship in terms of a working relationship continued, Commissioner, to date. He continued to assist the police and myself. That is the way it is, Commissioner. I do not socialise with him, sorry.

ADV MOSIKILI: And then, in relation to 2.4.2, the question is:

10 “Over the period of August, between
August 2022 and December 2023, how
often did you visit Mr Naicker, whether
being at his home or his premises at
where he conducts business, and
mention the purpose of those visits or
meetings?”

LT-GEN GOVENDER: Yes. Commissioner, I will visit him from time to time between those periods pertaining to my work that I do and in terms of assisting with investigations. I know I am keeping it broad, but Commissioner, I do not know if Commissioner read it. I cannot go deeper into it,
20 but as the Commissioner just alerted me that I should not go too deep. So he assisted in the investigation, Commissioner.

ADV KHUMALO SC: How often? The question is during the period. It is a year and four months. During that period, how often did you visit his home or his business

period? Sorry, his business premises. During that 14, 15-month period.

LT-GEN GOVENDER: Commissioner, at his premises at home, I would meet him outside his house, maybe not many times, Commissioner. I would say about a few times.

CHAIRPERSON: Were you alone or were there other policemen?

LT-GEN GOVENDER: Sometimes we were with other police officers. Sometimes I was alone, Commissioner.

10 **ADV KHUMALO SC**: You would go to his house alone and meet him there?

LT-GEN GOVENDER: Yes, yes, that is correct, Commissioner.

ADV MOSIKILI: And would you also visit his business premises?

LT-GEN GOVENDER: Yes, that is correct, Commissioner.

ADV MOSIKILI: We know that he has a number of them. Which one in particular that you remember visiting during that time?

20 **LT-GEN GOVENDER**: The business premises.

ADV MOSIKILI: Which ones?

LT-GEN GOVENDER: The one at Ivy Road. That is the one in Morningside.

ADV MOSIKILI: Is that the way he conducts the Roadstar tow truck business as well?

LT-GEN GOVENDER: That is correct, Commissioner. He has got his panel shop there and his officers are there as well.

ADV MOSIKILI: All right, and then the next question is 2.4.3 and it relates to, have you ever:

“Have you received any payments from
Mr Naicker? If so, please provide full
details of each payment.”

LT-GEN GOVENDER: No, Commissioners, I have never
10 received payment from Clive Naicker.

ADV KHUMALO SC: Have you ever received any gifts or gratification?

LT-GEN GOVENDER: No, Commissioner.

ADV KHUMALO SC: Has he ever sent you a birthday present? Has he ever gifted you something, whether it is a car or a watch or?

LT-GEN GOVENDER: No, Commissioner.

ADV KHUMALO SC: Now, I am not sure if you remember the specific allegation that relates to the killing of the, is it
20 five gentlemen, remember, in the flat. And Mr Loftus, one of the fathers, suggested that you may have been paid by Mr Naicker to kill his son, and I think it was in this context that these questions were asked. So do you want to deal with that allegation now?

LT-GEN GOVENDER: Yes, Commissioner. Commissioner,

first of all, that is not true. The allegations made by Gregory Loftus, it is definitely not true. Commissioner, if I can take you back. So, Gregory Loftus, when we were doing this gang warfare, we were looking for Bevan Loftus, and I had several meetings with Gregory in person, beside the two arrests that we had.

And I virtually begged him at the time, with a lot of members present, to hand himself, or we want to question him, or to arrest him. Now, the father used to work for
10 SANAB. SANAB was part of the DPCI. We are still part of the DPCI. And he very well knew the law in terms of him bringing his son forth. And all he would do, Commissioner, is say, yes, I will do, I promise you.

So every time we went to the premises, there were other houses close, approximately to the back of his house. The father would come to the gate, and he would distract us by talking to us and ask us a lot of questions, and in an attempt for his son to escape to the back. And we were not successful. But Commissioner, due to ...[intervenes].

20 **CHAIRPERSON**: Are you saying that because you actually saw the son escape, or?

LT-GEN GOVENDER: Later we will find out, Commissioner, later we will find out.

CHAIRPERSON: Okay.

LT-GEN GOVENDER: And I think in one of the interviews

the father said that his son was so scared that he ran through the neighbour's yard in the back, upon one of the interviews.

CHAIRPERSON: Okay. Is that how you got to know, or did you find out independently as well?

LT-GEN GOVENDER: I found out independently as well, later.

CHAIRPERSON: Okay, all right, all right.

LT-GEN GOVENDER: So, Commissioner, the father being
10 an ex-policeman, as I indicated, where his son will not come to our offices, but then he would go to Brighton Beach and threaten other commanders at Brighton Beach. During this time, we are looking for him.

Now, he very well know his son is part of a gang, which was the Hollywood Gang, and we have the photos here. So, there is so many cases, his name comes up all the time that Bevan was here, Bevan shot here. So all we want is to question him, or arrest him on the two matters in question, but his father refused to bring him.

20 So, I leave my details all the time when I go there. I am Captain Govender, this is my team. I would speak to his mother, I would speak to his wife, I would speak to his sister-in-law. We leave our details, but to no avail, Commissioner. And so, by leaving my details, the father makes up a story or the son makes up a story that I

received money to kill his son, which is not true at all, Commissioner.

I do not work on my own. I work under strict protocol in terms of there were Lieutenant Colonels, Colonels, there was a Brigadier in charge of me, the Provincial Head. And coupled with that, Commissioner, is here we have General Mkhwanazi, who is a very strict person. So, the father portrayed this to be that I am working on my own.

10 I do not think so any Commander would ever allow, or any Provincial Commissioner or Provincial Head to allow this person like myself to go what he perceived to be a rogue unit, to go around intimidating or threatening people. Because the father could have walked into the provincial building and spoken to General Mkhwanazi. And if I was wrong, I would be put in my place at the same time. Or walked into General Senona's office.

He has not done any of those things. Yet, and I want to touch on something, Commissioner, that he has an
20 informer in the office. That is the same informer, Warrant Officer Karl Sander came here and put a complaint against, which he stole the exhibits, and she was fired from the police. It is a female.

The second one is so important, what I am going to say is, there is a previous guy that always gave out the

information, and his name is Sergeant Thomas. Now, Commissioner, he features all over here, Commissioner. I just want to get to you right now. This is Robert McBride's nephew.

So, Commissioner, he was a former Anti-Gang Unit member, and a very close friend to Gregory Loftus. So, around about in April, around about in April this year, Commissioner, he comes to my office and meets Colonel Jacobs, Sergeant Thomas.

10 While exiting, he says to me, watch what is going to happen in three weeks' time to General Masemola. So I said, what is going to happen? He said, just wait and see. Now, that is a Sergeant, Commissioner, who is friends with Gregory Loftus. I phoned General Mkhwanazi, I said, General, this is what this guy is saying to me, Robert McBride's nephew. He says, ja, I know he came into the building and he opened up a case of false kidnapping.

 And the very same person, ...[indistinct] team is investigating that matter against General Mkhwanazi. So,
20 General Masemola get arrested by IDAC. Now, for a Sergeant to know that information. Then, Fadiel Adams, who takes Mlotshwa to open up a case against General Mkhwanazi and myself, he gets preferential transport arranged by Sergeant Thomas with Metro Police, Colonel Naicker who arranges this transport to pick up Fadiel from

the airport, taken to the prison, but he does not really stop there. He take my member that is under my command, which I do not know about, he is a detective, to go with Fadiel to the prison to obtain such information and affidavit ...[intervenes].

CHAIRPERSON: Are you, sorry, sorry, are you still answering the question whether you have received any payments from Mr Naicker, or did I get lost?

LT-GEN GOVENDER: I just wanted to give you a way,
10 sorry.

CHAIRPERSON: Okay.

LT-GEN GOVENDER: I was trying to put the puzzle together, but ...[intervenes].

CHAIRPERSON: All right, okay. All right, no, no, ja.

ADV KHUMALO SC: Please finish that answer, and then let us come back to the notice.

LT-GEN GOVENDER: Ja, come back to it.

ADV KHUMALO SC: But try to be brief, otherwise you are opening.

20 **LT-GEN GOVENDER**: Okay, no problem. So, Commissioner, I will get back to it. But, no, I did not receive no payment from Clive Naicker, Commissioner.

ADV KHUMALO SC: And I think the other allegation made against you is that your task team went around collecting dockets from various police stations to try to build a case

against Gregory Loftus. This was not really your mandate. This was the mandate of the stations of origin, but your team went around collecting dockets to find if there were outstanding cases against Mr Loftus, and then you went about harassing him and you were doing all that at the instance of Mr Naicker, or to assist Mr Naicker in his rivalry with Mr Loftus. Again, briefly, can you please deal with that?

LT-GEN GOVENDER: Commissioner, that is not true. In
10 my affidavit I made mention that it was a team where we were conducting analysis of all cases. It was 150 dockets, where we called it a war room. We were analysing, so we were collecting those dockets, various different dockets of gang dockets, Commissioner. This was part of the Anti-Gang task team that was set up, an integrated team between the DPCI and the police ...[intervenes].

ADV KHUMALO SC: Let me interrupt you. It was within your mandate to collect these dockets from all over KZN police stations because they were gang-related?

20 **LT-GEN GOVENDER:** That is correct, Commissioner.

ADV KHUMALO SC: Okay. With your answer, you are saying you collected the dockets for that purpose.

LT-GEN GOVENDER: Yes.

ADV KHUMALO SC: What were you going to do with them ...[intervenes].

LT-GEN GOVENDER: So we ...[intervenes].

ADV KHUMALO SC: And did you do that with the purpose of harassing Mr Loftus to benefit Mr Naicker? That is really the crux of the question.

LT-GEN GOVENDER: No, that is not true, Commissioner. Certainly not true. As I indicated, it cannot be myself because I am supervised at a high level. That definitely did not happen.

ADV KHUMALO SC: In relation to Mr Naicker, you
10 collected the dockets. You noticed that there were cases against him, and then what did you do with that?

LT-GEN GOVENDER: In relation to, Commissioner? I missed you.

ADV KHUMALO SC: In relation to Mr Loftus.

LT-GEN GOVENDER: Yes. Sorry. Ja. So it was not only Loftus, but other dockets. But in relation to Loftus, yes, we had two matters, which he was positively identified by shooting another tow truck company, which was called Durban South Towing. I think that CAS number is 75 and 25
20 on two different incidents. So we were looking for Devon Loftus on those matters several times that we went to the house.

ADV MOSIKILI: And then lastly, on the example you gave on your previous occasion, where you used his vehicle in one of the operations, how would you explain that, Colonel?

LT-GEN GOVENDER: Yes. So, Commissioner, it was a planned operation headed by Lieutenant Colonel Karl van der Vyver from Crime Intelligence. So a day before we met for the briefing of the robbery that was going to take place, so we used the vehicle as spotters.

ADV MOSIKILI: Yes. No, we are talking specifically about the, is it not a benefit you using his armoured vehicle?

LT-GEN GOVENDER: No, Commissioner.

ADV MOSIKILI: That is the question, really.

10 **LT-GEN GOVENDER**: No, that was used for the purposes of the police operation. It was used as being a spotter vehicle. Definitely not as a benefit. It was part and parcel of the operation. That is why I said from the day before of the planning of the operation.

ADV MOSIKILI: Yes, no, the point is that you benefited, let us say you and probably you as a SAPS in general, benefited from having that car.

ADV BALOYI SC: Commissioner Khumalo's question was about personal benefit. So maybe you need to tease it out
20 if now you are saying that the SAPS did benefit. I think formulate the question accordingly.

ADV MOSIKILI: Yes, perhaps let us move from that to say, to formulate the question as a SAPS member, at least as the head of the Anti-Gang Unit, you would have benefited from the usage of this vehicle on this specific operation.

LT-GEN GOVENDER: For the said operation.

ADV BALOYI SC: Again, you mean the SAPS benefited. I think let us not – let us be clear so that we are not confused later. What question or what you are asking him to comment on is are you saying as head of Anti-Gang Unit, you personally as head benefited, or are you saying the SAPS/the Anti-Gang Unit derived benefit?

ADV MOSIKILI: For now, I will leave it at the level of SAPS and then we can go into details later on. What would
10 be your comment to that?

LT-GEN GOVENDER: So I disagree with saying, Commissioner, it is a benefit of assistance for a successful operation, Commissioner.

ADV BALOYI SC: We should also put this to you. Mr Loftus Senior testified that on one of the times that you went to the property looking for Bevan, you in particular said that when you find him, as you were searching for him, you said when we find him, we will shoot him, we will kill him, we will not arrest him. Do you want to – and he said
20 that, as far as I remember, is the background why he went to court for an order that you should be interdicted from killing his son. Do you want to comment?

LT-GEN GOVENDER: Sorry, ja. Certainly, that is absolutely not true, Commissioner. I would not go – remember, whenever we went to the house, Commissioner,

he was not alone, he was with a number of people. So definitely that did not happen. He is lying, Commissioner.

ADV BALOYI SC: Thank you.

ADV KHUMALO SC: Why would he go so far as to seek an interdict to prevent the police from killing his son if no such threat was made in the first place? Because that seems bizarre to me, that somebody would go to court and seek an interdict.

LT-GEN GOVENDER: Commissioner, I am not sure why he
10 did that, because we gave him so many opportunities in terms of his attorney as well, Burt Laing. We said that, please, bring your son in. We at no stage threatened, I myself, I speak for myself, threatened his son or himself. If not, it was a cordial conversation between myself and him. He is lying. I do not know why he did that, Commissioner.

ADV KHUMALO SC: And then lastly, on 2.4 from me, you must understand that these are allegations, of course, and the allegation is that Mr Naicker is an alleged, and I emphasise alleged, drug dealer, and that your team or your
20 task team works closely with him and assists him in all matters relating to this alleged business and also in dealing with his rivals in this alleged business, whether it is the drug one or the tow truck one. So can you just comment on that allegation, please?

LT-GEN GOVENDER: Commissioner, I hear what

Commissioner is saying. That is not true, Commissioner. We do not work for Mr Naicker or if he is doing anything wrong. As Commissioner said, alleged drug dealer. He could very well be dealing in drugs, Commissioner, which I do not know.

ADV KHUMALO SC: But you are aware of that allegation?

LT-GEN GOVENDER: It is out on the open, Commissioner.

ADV KHUMALO SC: Yes, and you have heard it many times.

10 **LT-GEN GOVENDER:** Yes, that is correct. So, Commissioner, there is several drug components that would deal with that in terms of his alleged drug dealing, so to put it. But definitely not, I have heard this before the team was set up to fight his battles. It came out in the open, Commissioner. That is not true, Commissioner. Definitely not.

ADV MOSIKILI: And just on that score just to be sure, it is your evidence that the primary suspect when you visited the Loftus house in December ...[indistinct], you were looking
20 for Bevan himself?

LT-GEN GOVENDER: That is correct, Commissioner.

ADV MOSIKILI: And if any information suggested otherwise that you had targeted Mr Loftus, that would be incorrect.

LT-GEN GOVENDER: I was not targeting him,

Commissioner.

ADV BALOYI SC: By targeting Mr Loftus, you mean Senior or Bevan himself?

ADV MOSIKILI: Senior, Mr Gregory Loftus.

LT-GEN GOVENDER: No, Commissioner, we were not targeting him. There is instances where we found him with police radios or police frequencies, and we could not ignore it. He could not give an explanation, so he was subsequently arrested for those matters, Commissioner.

10 **ADV MOSIKILI:** The point I am asking is that you were not investigating Mr Gregory Loftus?

LT-GEN GOVENDER: No, Commissioner.

ADV MOSIKILI: And have you heard of him, or have you ever referred to him, yourself, as the Godfather? Mr Gregory Loftus, that is.

LT-GEN GOVENDER: Godfather?

ADV MOSIKILI: Yes.

LT-GEN GOVENDER: People say he is a kingpin, but not Godfather.

20 **ADV MOSIKILI:** I beg yours?

ADV MOSIKILI: People say he is a kingpin and mastermind.

ADV MOSIKILI: No, no, I am asking you, have you ever used the name Godfather and him on the same sentence? Whether it be in writing, whether in speech, can you relate

the name Godfather specifically, not Kingpin, Godfather specifically, to Mr Gregory Loftus being a senior?

LT-GEN GOVENDER: I cannot recall that, Commissioner, if I did.

ADV MOSIKILI: And lastly, just on that point, have you heard of Operation Ghost?

LT-GEN GOVENDER: Yes, Commissioner.

ADV MOSIKILI: Can you just explain quickly, just in a few sentences?

10 **MR NEPAUL**: Yes, Mr Chairperson, sorry, may I address you, intervene with your leave? I am not sure what this refers to, this operation, whether it is classified information or it is public information. It is not an aspect that has been canvassed with us by the Evidence Leaders. It is the first time I hear this being mentioned and I would be cautious in terms of exactly what it is. I do not even know what it concerns. Perhaps my colleague and I should deal with that during the stand-down at tea time to determine what this is before we go into disclosure. Thank you, Chair.

20 **CHAIRPERSON**: Thank you, Mr Nepaul. Mr Mosikili, please have a discussion with Mr Nepaul over the tea break ...[intervenes].

ADV MOSIKILI: Yes ...[intervenes].

CHAIRPERSON: Let us adjourn and ...[intervenes].

ADV MOSIKILI: Chair, can I just say something before we

adjourn?

CHAIRPERSON: Yes.

ADV MOSIKILI: I was asked to only assist with the first portion of this morning's testimony. Then Mr Chaskalson will deal with the rest, but I will inform him to engage with Mr Nepaul.

CHAIRPERSON: All right. Let us adjourn and resume at 11:45.

HEARING ADJOURNS

10 **HEARING RESUMES**

CHAIRPERSON: Yes, Mr Mosikili.

ADV MOSIKILI: Thank you, Chair. Chair, we had promised to play you a video clip of the Colonel in a meeting with Mr Mavuso and one other, and they will point out the significance of that video.

CHAIRPERSON: It is Mr Ntandani.

ADV MOSIKILI: Mavuso Ntandani, indeed, Chair.

CHAIRPERSON: Yes.

ADV MOSIKILI: Thank you, Chair.

20 **[VIDEO PLAYED BACK]**

ADV MOSIKILI: Chair, I think that is all that we wanted to see. Colonel, can you identify the individuals on the video clip?

LT-COL GOVENDER: Yes, Commissioner. Directly opposite me is Mavuso Ntandani, but his face is slightly

blocked out. You only can see him as we are entering the venue. The other guy that I do not know his name but referred to is on my left, with the white shirt. He has got this hairstyle.

ADV MOSIKILI: And for the transcript, you are the one wearing a brown jacket with a hoodie.

LT-COL GOVENDER: Yes, Commissioner, that is correct.

ADV MOSIKILI: Would that be an adequate description?

LT-COL GOVENDER: That is correct, with a bald head.

10 **ADV MOSIKILI:** Yes. And just to, again, inform the Commission as to what exactly you wanted to show to the Commission.

LT-COL GOVENDER: Commissioners, while I am, we are seated here, at the same venue at Musgraves Coastlands, so we have this conversation. There is a build-up. From the build-up, Mavuso is talking to Minister Senzo Mchunu, then he passes the phone on to me and as the Commissioners viewed it, I take the phone from Mavuso and I speak to the Minister. When I am done, I give the phone
20 back to him.

ADV MOSIKILI: And as the clip goes on, you are seen to be on the phone for quite some time, but obviously we cannot hear on the video.

LT-COL GOVENDER: Yes.

ADV MOSIKILI: Is that correct?

LT-COL GOVENDER: That is correct.

ADV MOSIKILI: Thank you, then. Before we went for tea break, I had asked you about Operation Ghost. Are you able to share some information, not in detail, with the Commission in relation to that?

LT-COL GOVENDER: Yes, Commissioners. So, as I indicated earlier, there were sporadic shootings between Sydenham, Newlands and Wentworth. So, people were getting shot. Youngsters were getting shot. On one night,
10 left, right and centre. So, we could not identify the shooters. For example, the Newlands Colonel Mbela informed me and cried, come here, you know, there is so many shootings, cannot we find the suspects. If we go to Wentworth, Colonel Duke informed me, the branch commander, listen, man, we had shootings here. How much more shootings must we attend to? Can you find the suspects? So, we could not identify the suspects. So, we kept it Operation Ghost, but as a reference as well, in any correspondence, as Ghost.

20 **ADV MOSIKILI:** All right, thank you. I want us to move ...[intervenes]

ADV BALOYI SC: Sorry, was this Operation Ghost about investigating the shootings?

LT-COL GOVENDER: That is correct, Commissioner.

ADV BALOYI SC: Okay, thank you.

ADV MOSIKILI: Perhaps to round up that point. At any given time, was Mr Gregory Loftus, being the senior, ever be part of that investigation?

CHAIRPERSON: Part in what sense?

ADV MOSIKILI: Chair?

CHAIRPERSON: Part of it in what sense?

ADV MOSIKILI: Part of being investigated. Either as the word Godfather or Kingpin.

COUNSEL: Mr Chairperson, sorry, with your leave. I am
10 instructed that many of the dockets forming part of this investigation are still under investigation. Suspects are large. I am just afraid in terms of the amount of detail that is being sought, whether it may compromise those investigations.

ADV MOSIKILI: I am happy to leave it, Chair, for now.

CHAIRPERSON: Thank you.

ADV MOSIKILI: Now, Colonel, I wanted us to, we just wrapped up talking about dealing with 2.4 and I want to deal with 2.5, being your relationship with Mr Panganathan
20 Timmy Marimuthu. In relation to your relationship with Mr Naicker, is there anything else that you need to add? In relation to the question that we posed to you, over and above what we have discussed, so that we do not come back to that.

LT-COL GOVENDER: No.

ADV MOSIKILI: Thank you. Then let us go to, you will see that the questions, they start at page 5 and the first question being 2.5.1, is to say:

“Please provide full details of your relationship with Mr Marimuthu.”

LT-COL GOVENDER: 2.5.1, Commissioners. My relationship with Timmy Marimuthu, commonly known as Timmy, from time to time, Commissioner, I would be instructed to take senior officers to Mr Marimuthu's house,
10 pertaining to certain information and I can give those names as well if the Commissioners want me to do so.

CHAIRPERSON: You would be instructed by whom?

LT-COL GOVENDER: By Brigadier Nyuswa, who is my Provincial Commander.

ADV MOSIKILI: You may give the names.

LT-COL GOVENDER: Yes.

ADV BALOYI SC: Maybe before you do that, do you assume we know, the rest of us know, who Mr Marimuthu is? Can you just explain, is he a police officer, is he a
20 businessman, is he whatever he is?

LT-COL GOVENDER: Ja, Commissioner is a businessman, but has strong ties with the police. He also has political, what order you call... is it political relationships, or is into politics or...?

ADV KHUMALO SC: He is politically connected.

LT-COL GOVENDER: Connected, sorry. That is the word.

ADV BALOYI SC: Was he ever a member of the SAPS?

LT-COL GOVENDER: No, Commissioner, not that I know of.

ADV BALOYI SC: Okay.

LT-COL GOVENDER: I know his kids, his children were though.

ADV KHUMALO SC: I understand that his wife at some point was with Crime Intelligence. I think we have heard
10 that kind of evidence before.

LT-COL GOVENDER: Yes, indeed, Commissioner. His wife was a full Colonel at Crime Intelligence, and his daughter was a Lieutenant Colonel at Crime Intelligence. His son-in-law was a Lieutenant Colonel at Crime Intelligence as well.

ADV KHUMALO SC: And before you get to the part of you being instructed by senior officers to take them to his house, answer the specific question, your relationship with him.

20 **LT-COL GOVENDER:** Yes, Commissioner, it is whenever there is like Naicker information that I require, or vice versa, I will engage with him.

ADV KHUMALO SC: You go to each other's parties, has invited you to his kids' parties, have you invited him?

LT-COL GOVENDER: Yes.

ADV KHUMALO SC: That is the kind of detail we expect from you, without prompting.

LT-COL GOVENDER: Yes, Commissioner, so my kids and his grandkids are very close. From school, same school, and parties and things like that, yes.

ADV KHUMALO SC: You move in the same circles?

LT-COL GOVENDER: In terms of the kids, yes, Commissioner.

ADV BALOYI SC: Is it someone you socialise with?

10 **LT-COL GOVENDER:** I do not socialise with Timmy, per se, Commissioner. If there is any information, but my kids socialise with his grandkids.

ADV KHUMALO SC: So you do not see him at PTA events, parent-teacher events at school, and hang out after if there is kids sports? You do not sit together in the stands?

LT-COL GOVENDER: That is with his kids, with the two Lieutenant Colonels.

ADV KHUMALO SC: I am asking about you and Mr Marimuthu. As the kids are playing, the parents are usually
20 sitting in the stands.

LT-COL GOVENDER: Yes.

ADV KHUMALO SC: You do not have that relationship with him?

LT-COL GOVENDER: No, he does not come to those type of functions. He mainly sits at home most of the time. His

children, if you may put it, the two Lieutenant Colonels, their kids, yes, indeed, if they go to a party, then I will meet with them, Commissioner.

ADV KHUMALO SC: You were answering a question and you talked about senior officers.

LT-COL GOVENDER: Yes.

ADV KHUMALO SC: So continue from there.

LT-COL GOVENDER: So, in one occasion, I had taken Major General Khana to Mr Marimuthu's house. They had a
10 meeting, concluded a meeting. Major General Khana was the previous acting Provincial Head at the DPCI in KZN. That is when General Booysen was suspended. The second occasion, I have taken Major General Gopz Govender, who is currently the Head of the Hawks in Limpopo. That was pertaining to some information that Marimuthu has shared as well. But instructions coming from General Lebeya, the National Head.

ADV BALOYI SC: And were you part of their meetings, ever?

20 **LT-COL GOVENDER:** Commissioner, they would have their meetings and I would not be a party to it. But on one occasion with General Gopz Govender, we were discussing a kidnapping matter of a prominent businesswoman that got kidnapped.

ADV MOSIKILI: Perhaps, because you are still dealing

with question 5.1, maybe look into page 32, that would be paragraph 67 of your affidavit.

CHAIRPERSON: The *in camera* application?

ADV MOSIKILI: *In camera* application, Chair, yes.

CHAIRPERSON: Thank you.

LT-COL GOVENDER: Thank you, Commissioner.

ADV MOSIKILI: Are you there? Yes, page 32?

LT-COL GOVENDER: Yes.

ADV MOSIKILI: You see that is a direct response to
10 paragraph 2.5.1 of the notice.

LT-COL GOVENDER: Yes.

ADV MOSIKILI: Perhaps read that particular paragraph
into the record, please.

LT-COL GOVENDER: Yes.

20 “I have no personal relationship with the
subject. I grew up in Newlands, Durban
where he lived. He is fairly well known in
the greater Durban area. I have seen him
publicly at various events and places. I am
also aware that his grandchildren attend
the same school, my children, they are
friends, and that my son accompanied one
of his granddaughters to a school dance. I
saw him with his family at the MSC Cruise
to the Portuguese Island during 2024

where my family and I were present. I also saw him and his family in Drakensberg and Sun City at some point when my family and I were visiting those places.”

ADV MOSIKILI: And, Colonel, should we accept that the meeting of both families in the MSC Cruise and the one at Drakensberg and Sun City, all those were sheer coincidence or was it planned that both families would travel together?

LT-COL GOVENDER: So the MSC Cruise was a
10 coincidence. The Drakensberg, the kids were forcing me to take them to Drakensberg. So I met them at Drakensberg.

ADV MOSIKILI: And Sun City?

LT-COL GOVENDER: Sun City is coincidence.

ADV MOSIKILI: So when you say, with the Drakensberg, when you say the kids forced you to take them, do you take both your kids and his kids? Or how did that happen?

LT-COL GOVENDER: No, Commissioner. The kids are close, so my kids would say, please Dad, can we go to Drakensberg? Because their friends are there, which is
20 Timmy's grandchildren.

ADV MOSIKILI: And you guys spent time together in those instances?

LT-COL GOVENDER: Yes, we did.

ADV MOSIKILI: Okay. And then there is a question 2.5.2. It says:

“Since 2018, how often have you visited Mr Marimuthu's premises, either being home or business premises and the purpose of those visits?”

LT-COL GOVENDER: Yes, Commissioner, I visited him around about 20, maybe 2019. I do not know if it is 2018. 2019, it was not often. But it started, I started to go to his place more often around about 2022, 2023, onwards. I also want to say to the Commissioners that when I went to his
10 house, it would be for some other information as well provided.

ADV MOSIKILI: If you were on page 33, at the bottom there, paragraph 72, can you read that specific paragraph into the record?

LT-COL GOVENDER: 72.

ADV MOSIKILI: 72, yes.

LT-COL GOVENDER:

“I also on diverse occasions met or received telephonic communications from
20 the subject, who wanted to give me information about various criminal activities.”

ADV MOSIKILI: Are you able to give better details on that one?

LT-COL GOVENDER: He would provide information on

certain investigations to assist us.

ADV KHUMALO SC: Have you ever paid a social visit to his house?

LT-COL GOVENDER: Commissioner, I did.

ADV KHUMALO SC: Just you?

LT-COL GOVENDER: It was myself, my wife.

ADV KHUMALO SC: And was it a party or were you just visiting him? Just a casual visit?

LT-COL GOVENDER: Commissioner, it was a visit. I
10 cannot recall what it would be, but it was a visit to him.

ADV KHUMALO SC: So it is safe to assume that the families visited each other?

LT-COL GOVENDER: Yes.

ADV KHUMALO SC: So he would have also with his wife come to your house?

LT-COL GOVENDER: He did come at once.

CHAIRPERSON: Yes.

LT-COL GOVENDER: Yes.

ADV MOSIKILI: Thank you, Colonel. And then 2.5.3:
20 “Have you received any payments from Mr
Marimuthu, and if so, please provide full
details of each of the payments.”

LT-COL GOVENDER: I did not receive no payments from Mr Marimuthu. Nothing, Commissioner.

ADV MOSIKILI: Any gifts?

LT-COL GOVENDER: No, Commissioner.

ADV MOSIKILI: Thank you. And then, if you go back to the notice, the next category is 2.6. That deals with the financial information. And...

CHAIRPERSON: I am sorry, which number are you taking the Colonel to?

ADV MOSIKILI: 2.6, Chair.

CHAIRPERSON: 2.6, oh.

ADV MOSIKILI: On page 5. Colonel, can I proceed?

10 **LT-COL GOVENDER:** Yes, please proceed.

ADV MOSIKILI: Yes, and the question there relates to financial information and I think this will also be dealt with later on by the chief evidence leader with you. But we need to read the questions into the record and your response. At 2.6.1, it says:

“Please provide details of the source of funds for your purchase of a property for 2.35 million in Sibaya in 2023.”

20 And, Chair, perhaps it will be more meaningful to read all these questions because he provides a spreadsheet in response to some of these questions. So I am just going to read those into the record, Chairperson, and then put the spreadsheet into the record that he provided.

ADV BALOYI SC: What do you mean by that? You are going to read the question and have him answer, or you are

proposing to read from 2.6.1 to the end and then put the spreadsheet on record?

ADV MOSIKILI: Yes, and then he can deal with that later. Lest we leave it here, Chairperson, and then it can be dealt with later.

CHAIRPERSON: Maybe let us just leave it here.

ADV MOSIKILI: Yes, Chair.

CHAIRPERSON: And then let Mr Chaskalson deal with it or not.

10 **ADV MOSIKILI:** Yes, Chair, that will be fine. Then, Chair, that brings at least an end to my contribution for today.

CHAIRPERSON: Thank you very much.

ADV MOSIKILI: Thank you very much, Chair.

CHAIRPERSON: Thank you, Mr Mosikili, thank you. Mr Chaskalson?

ADV CHASKALSON SC: Chair, I will – hello, Lieutenant-Colonel. I will lead, Lieutenant-Colonel Govender, on these questions. My understanding of my role or of the division of labour between the two of us, was that Mr Mosikili would
20 finish the leading of Lieutenant-Colonel Govender, on his statement I would then come in and just interrogate the statement, essentially. But I am happy to do the leading in relation to the cash issues. I will come back to the cash issues, possibly a little bit later, because there are certain other issues I would like to canvas with the Lieutenant-

Colonel beforehand.

But, Lieutenant-Colonel, maybe the best way of dealing with paragraph 2.6 is for me to read the questions. They are in bundle 2 at page 5. And then for me to direct you to how you answer them, and for you to read your answers. So the first question under paragraph 2.6 is – and all of these are page 5 of the second bundle – the first question, paragraph 2.6.1:

10 “Please detail the source of funds for your
 purchase of a property for 2.35 million in
 Sibaya in 2023.”

And your answer is at... in file 1, in your consolidated statement, which is the third section of file 1 and it starts at page 108. So maybe if you can just read paragraph 108 into the record.

COUNSEL: Mr Chairperson, may I correct that? I think the reference is to paragraph 108, not page 108.

ADV CHASKALSON SC: Correct. I apologise.

COUNSEL: It is paragraph 108 at page 32.

20 **CHAIRPERSON**: Is the file written consolidated statement
 at the bottom, 1.1?

LT-COL GOVENDER: I am with you, Commissioner.

ADV KHUMALO SC: Colonel, do you have it?

LT-COL GOVENDER: Yes, I have it.

ADV KHUMALO SC: So you can read from ...[intervenes]

LT-COL GOVENDER: Page 32.

ADV KHUMALO SC: Yes, from paragraph 108.

LT-COL GOVENDER: Paragraph 108.1. 230, 2 point
...[intervenes]

ADV KHUMALO SC: Start with the purchase price, please.

LT-COL GOVENDER: Yes.

“108. The purchase price is 2.35 million.

10 It was financed by a loan of 1.4
million from FNB Bank, which
registered a first mortgage bond
over the immovable property. The
balance of the purchase price
being 950 was paid as follows:

108.1 ...”

CHAIRPERSON: Skip the address, though.

LT-COL GOVENDER:

20 “108.1 235,000 drawn from the home
loan. Mortgage bond registered
over the immovable property
situated... The bond account ends
up with numbers 136 with FNB.

108.2 165,000 was transferred from the
savings account of my son.

108.3 78,250 transferred from the credit
card of my wife.

108.4 337,962 transferred from the
account of Y Nagan.

108.5 179,800 being cash received from
the late...”

Can I mention the name?

ADV CHASKALSON SC: Chair, I will want to refer to this
person. So if Lieutenant Colonel Govender does not
mention the name, then we are going to have to give some
sort of name to this person.

10 **CHAIRPERSON:** Unless there is a cogent reason for not
giving the name, I would say please give the name.

LT-COL GOVENDER: I will give you the name, sir.

CHAIRPERSON: Thank you.

LT-COL GOVENDER: So 179,800 being cash received
from the late Mr Josh Chellin. R200,000 received in cash
from Mr Josh Chellin.

ADV CHASKALSON SC: Then if we go back to the
questions, the next one in bundle 2, page 5 and it says:

20 “Please provide details of the source of the
R200,000 that you paid in cash to Anthony
Whatmore Attorneys on or about 19 May
2023 and the purpose for which the
payment was made.”

LT-COL GOVENDER: That is correct, Commissioner.

ADV CHASKALSON SC: And your answer is at 108.6. I

presume your answer is at 108.6. I presume that this is the same amount that you referred to at 108.6.

LT-COL GOVENDER: That is correct, Commissioner.

ADV CHASKALSON SC: So can you just, I think, clarify publicly that we are talking about the R200,000 received in cash from the late Mr Josh Chellin.

LT-COL GOVENDER: That is correct, Commissioner.

ADV CHASKALSON SC: Then the next question at 2.6.3 was:

10 “Please provide details of the source of the payment of the amount of R298,462 that was paid into your home loan account on or about 26 April 2023 and the reason for which this payment was made.”

Now, that is not a question that you answer specifically, but I think you actually address it in paragraph 106 on page 32. Can you confirm that this is what you are addressing in page, at page 32, paragraph 106?

LT-COL GOVENDER: Paragraph 106.

20 **ADV CHASKALSON SC**: Paragraph 106. Maybe if I can help you. Paragraph 106 refers to item 69.

LT-COL GOVENDER: Yes.

ADV CHASKALSON SC: You will find item 69 at page 79 of file 1.1 and it refers to that same amount, 298,462.

ADV BALOYI SC: You said page?

ADV CHASKALSON SC: 79. Do your bundles end at 76?

I think there was an updated bundle that was sent through.

CHAIRPERSON: Yes, there are additional pages with the page numbers written in manuscript. So we do have 79, the very last page.

ADV CHASKALSON SC: Great.

ADV NEPAUL: Mr Chairman, Chairperson, can I respectfully point out that the indexing seemed to have gone a little bit wrong. On that schedule, it commences in
10 my bundle at page 77, then over to page 78, and then there would appear to be a page 79 missing, but it is not missing. The page number 80 should, in fact, be 79, because if one has reference to the item numbers on the left-hand column, one see them sequentially arranged and flowing at the bottom of page 78, at item number 61, over the page to the incorrectly numbered page 80, begins with item number 62. So I think that there is no page 79 missing as such. I think 80 should just be re-numbered 79.

ADV KHUMALO SC: No, it may be that your bundle is the
20 one that is incorrect. On my page 79, that item 69 is there and it reflects a transaction of 26 April 2023 and the amount of 298,462.

ADV NEPAUL: Yes, I have that. If I may just go back with respect. The schedule commences in my bundle at page 77 and it commences with item number 1 on the left-hand side

and continues to the bottom of that page to item number 30. The next page is indexed and marked page 78. It commences with line item number 31 and proceeds down to item number 61, and then the next page appears to be in manuscript page 80.

ADV KHUMALO SC: No, that is where I am saying your numbering went wrong, because the next page is page 69 and it continues from item 62.

ADV NEPAUL: Yes, this is the bundle that has been
10 furnished to me by the Commission. It would appear there is a manuscript number on the right-hand side, top, and then an automated numbering on the left with 79.

CHAIRPERSON: Just for, I was going to say for comparison, please have mine for a few seconds.

ADV KHUMALO SC: Colonel, your page 79, does it look like ours? Does it start from item 62?

LT-COL GOVENDER: That is correct, Commissioner.

ADV KHUMALO SC: So yours is fine. The item you are
20 being referred to is that item 69, which shows an amount of 298,000. So the question related to that.

ADV NEPAUL: Thank you, Mr Chairperson. I confirm the error appears to be in the manuscript numbering of 80, which should not be there, but I am on the same pages with you.

CHAIRPERSON: Thank you, Mr Nepaul. Mr Chaskalson, if

you could please repeat your question.

ADV CHASKALSON SC: The original question, 2.6.3, at page 5 of bundle 2.

“Please provide details of the source of the payment of the amount of 298,462 that was paid into your home loan account on or about 26 April 2023 and the reason for which this payment was made.”

Now that is not a question that is specifically answered as
10 at paragraph 2.6.3, but in fairness to the Lieutenant Colonel, I would suggest that it is what he is referring to when he says in paragraph 106 at page 32 of file 1.1 what he says with reference to item 69 of the schedule, because if we go to item 69 of the schedule on page 79, as we now have established, we see that the payment reflected there is the payment to which that question speaks. So, Lieutenant Colonel, can you read your response in paragraph 106?

LT-COL GOVENDER:

20 “I am unable at this stage to deal with 69 of the schedule, as the document given to me by the Commission does not indicate the details of the account from which such transfer was made. I have requested my bank to give me particulars of the

transaction and have been advised that it may take up to 21 days to obtain such detail. I cannot now independently recollect the source of that transfer. I undertake to provide the information as soon as I receive it from my bank or the Commission.”

ADV CHASKALSON SC: I will come back to that answer later, but let us first go through all of your statement on
10 these issues. The next question you were asked at paragraph 2.6.4 of the notice, that is again page 5 of bundle 2, is:

“Please provide details of the source of the payment of the amount of 299,800 that was paid into your home loan account on or about 25 October 2023 and the reason for which this payment was made.”

Again, this is not a question that you answer directly, but it seems to me that you have answered part of it indirectly
20 when we go to the schedule, because if you go back to page 79, you will see that item 64 is this payment and again item 64 is reflected on the schedule as a payment made by the late Mr Chellin. You confirm that?

LT-COL GOVENDER: Yes, I confirm that.

ADV CHASKALSON SC: If we then go back to the notice,

we see in 2.6.5 at page 5 is a reference to the schedule of cash deposits and the notice was issued before the schedule had grown a little bit, but we provided you with an updated schedule and you were asked in respect of all of the cash deposits three questions. 1 was:

“Please provide details of the source of these cash deposits.”

2 was:

10 “In respect of each cash deposit in an amount larger than R50,000, please provide details not only of the source of the deposit, but also the underlying transaction that resulted in your being in possession of the amount in question.”

And in relation to 3:

20 “Please also explain why in the following days multiple different cash deposits were made into your bank accounts in amounts of R10,000 or less as opposed to a single consolidated cash deposit.”

And an explanation of that was sought. Now, maybe we can start with the general question in 1, what is the source of all of the cash payments? And that I understand to be answered by you in paragraph 105, read with your schedule. So can you read paragraph 105, well first can you confirm

that my understanding is correct and if so, then read paragraph 105 together with the schedule.

LT-COL GOVENDER: Yes, Commissioner. Paragraph 105:

10 “In the spreadsheet I have dealt with each
of the transactions referred to in the
notice. The spreadsheet contains a
reference to the relevant items number on
the schedule, presented by the
Commission, referenced in the notice, the
date of each transaction, the number of my
banking account in which such transaction
occurred, the amount of such transaction,
the page number of the relevant document,
and the evidence bundle presented by the
Items Commission and the source of such
funds. In addition to the transaction
specified items numbered in schedule
furnished by the Commission, I have dealt
with the other specific enquiries made in
20 paragraph 2.6.1, 2.6.4 of the notice.”

ADV CHASKALSON SC: Then maybe also paragraph 107
which is relevant in this regard.

LT-COL GOVENDER: Paragraph 107:

“I confirm the correctness of the
spreadsheet and respectfully request that

the content thereof be incorporated in the affidavit. I have prepared the spreadsheet as a matter of convenience and to avoid unnecessary repetition of detail in this affidavit.”

ADV CHASKALSON SC: And the spreadsheet we are talking about is the spreadsheet at pages 77 to 79.

LT-COL GOVENDER: That is correct, Commissioner.

ADV CHASKALSON SC: Now, you were also asked a
10 question about deposits, multiple deposits of R10,000 or less, and that you answer in paragraph 109 and maybe you could read that into the record.

ADV CHASKALSON SC: Paragraph 109:

“All of those deposits were made in attempts. I understood at the time that the maximum number of notes that could be deposited in an ATM was limited to 100 notes. Therefore, for example, a R10,000
20 rand deposit would have consisted of hundred rand notes.”

ADV CHASKALSON SC: Now, there are several questions that you did not answer and maybe we should give you the opportunity to answer them now. If you go to question 2.5, 2.6.5, sorry, 2.6.4. 2.6.4 said:

“Please provide details of the source of the

payment of 299,800 that was paid into your home loan account on or about 25 October 2023 and the reason for which this payment was made.”

Now, you have given us the source, apparently the late Mr Josh Chellin. You have not given us the reason. Why did Mr Josh Chellin pay that amount into your account?

LT-COL GOVENDER: Commissioner, Mr Josh Chellin was like my dad, he passed on in December, my dad passed on
10 a long time ago. So he was a prominent businessman. The company is still existing. It is a shipping and logistic company, which is run by his children and I am close to the family. His wish was that I move out the area where I was previously living and find a new place and he would assist me. And when I get the funds, I would somehow pay him back, which my mother-in-law sold most of the property right now. She is living with me and then we will start to pay back.

ADV CHASKALSON SC: So was this a donation or was it a
20 loan?

LT-COL GOVENDER: No, it was a loan, Commissioner.

ADV CHASKALSON SC: It was a loan. Was there any documentation in relation to the loan?

LT-COL GOVENDER: Well, he made notes. He had a book which he kept a reference to it.

ADV CHASKALSON SC: Was anybody else aware of the loan?

LT-COL GOVENDER: Yes.

ADV CHASKALSON SC: Who?

LT-COL GOVENDER: That would be his accountant or CEO for the company.

ADV CHASKALSON SC: And who are they?

LT-COL GOVENDER: So he is also, we will put it like a brother to me and not Josh's biological son, but Josh took
10 him as a son as well. He is currently running the company. His biological son is also now part of the company. He is a medical doctor.

ADV CHASKALSON SC: Does this accountant who is not his biological son have a name?

LT-COL GOVENDER: Yes.

ADV CHASKALSON SC: Can you give it to us?

LT-COL GOVENDER: Mr Jay Subbia.

ADV CHASKALSON SC: Can you spell that?

LT-COL GOVENDER: J-A-Y, S-U-B-B-I-A.

20 **ADV CHASKALSON SC:** And was the loan from Mr Chellin personally or was it from his company?

LT-COL GOVENDER: It was from his company and some of the times it was from his personal money.

ADV CHASKALSON SC: Which ones came from him and which ones came from the company?

LT-COL GOVENDER: [No answer]

ADV CHASKALSON SC: Maybe we can go to page 78 and take them one by one. So the first one for R350,000.

LT-COL GOVENDER: 78.

ADV CHASKALSON SC: It is item 60 at the foot of page 78.

LT-COL GOVENDER: I am with you, Commissioner.

ADV CHASKALSON SC: So was that payment of 350,000, was it from Mr Chellin personally or from his company?

10 **LT-COL GOVENDER:** Commissioner, I have to verify this here, because I recall the payments, when I was procuring the property, was from his personal. There was four payments that came from the company itself.

ADV BALOYI SC: Maybe I should ask my question then. How would you know what payment was from the company and another was from his personal account? How would you know that at the time that the payment is made?

LT-COL GOVENDER: Yes, Commissioner, I can recall the time that when I was purchasing the property, he had met
20 me and given me the money in cash for the property, for those payments. But I am not too sure which, I will have to verify this here, Commissioner.

ADV CHASKALSON SC: Well, we can possibly do the recon.

LT-COL GOVENDER: Yes.

ADV CHASKALSON SC: The amounts that were paid into the conveyancer's account, 67 and 68, you have listed them on the schedule as K Govender. In your statement you say these were cash payments made by Mr Chellin. Can you explain that discrepancy?

LT-COL GOVENDER: 67 is the conveyancer, K Govender would be my brother.

ADV CHASKALSON SC: Yes.

LT-COL GOVENDER: Yes.

10 **ADV CHASKALSON SC:** But when you talk about the payment of the bond, in your statement you say that these were payments made by Mr Chellin. So maybe if I can take you to that part of your statement.

LT-COL GOVENDER: Please do.

ADV CHASKALSON SC: If we go to page 33 of your statement, 108.5, there you say:

“179,800 being cash received from the late
Mr Josh Chellin.”

But on your schedule you have attributed that payment to
20 your brother. Which one is right?

LT-COL GOVENDER: 179,800. Is that the EFT?

ADV CHASKALSON SC: No, it is cash received.

LT-COL GOVENDER: Cash received. That would be for my brother.

ADV CHASKALSON SC: I see. And the 200,000

underneath that you say received in cash from Mr Josh Chellin in your statement, but on the schedule you say it was paid by your brother.

LT-COL GOVENDER: That is correct, Commissioner.

ADV CHASKALSON SC: Well, which is correct? They cannot both be correct.

LT-COL GOVENDER: Commissioner, we were sitting together with the forensic guy, and I think I could have made a mistake here.

10 **ADV CHASKALSON SC:** No, you definitely made a mistake somewhere, either in the schedule or on the statement. We are trying to work out which one's right and which one's wrong.

LT-COL GOVENDER: I think this amount where Josh Chellin is in the statement, I think that is for my brother.

ADV CHASKALSON SC: So you are saying 108.5 and 108.6 are really payments from your brother?

LT-COL GOVENDER: [No answer]

20 **ADV CHASKALSON SC:** The two payments to the conveyancer.

LT-COL GOVENDER: To the conveyancer, no, that was not for my brother, sorry, I am a little confused here. That would be definitely from Josh, Uncle Josh.

ADV CHASKALSON SC: So it is the statement that is wrong. When the statement says it is from your brother, it

should say – sorry, when the schedule, the spreadsheet says it is from your brother, it should say it is from Josh.

LT-COL GOVENDER: Yes.

ADV CHASKALSON SC: Yes. But if that is correct, then your brother gave you no cash payments.

LT-COL GOVENDER: No, he did give me cash that was for the property.

ADV CHASKALSON SC: And where do we see that in the statement or indeed in the spreadsheet?

10 **LT-COL GOVENDER:** Commissioner, I was putting this together and because I had to go so far back, I made a mistake somewhere along the line here, Commissioner.

ADV CHASKALSON SC: No, I appreciate you have made a mistake, it is quite clear, but I am still now trying to get to the truth. What did your brother pay you?

LT-COL GOVENDER: So there was a property that we all lived at, my mum's place. So he had paid me off for my share of the property.

ADV CHASKALSON SC: Yes, but I am talking about
20 substantial cash payments that are reflected in your accounts and in respect to which we gave you a schedule. Which of those should have been attributed to your brother?

LT-COL GOVENDER: [No answer]

ADV CHASKALSON SC: Let us start on page 77.

LT-COL GOVENDER: Ja.

ADV CHASKALSON SC: Do you remember the amount that your brother gave you?

LT-COL GOVENDER: Yes, Commissioner, it was around about 300, just over 300.

ADV CHASKALSON SC: Just over 300 in one payment?

LT-COL GOVENDER: No, it was broken up.

ADV CHASKALSON SC: I see. And are you able to link it to any of these payments that we see on paragraph, sorry, page 77 to begin with? Or 78?

10 **LT-COL GOVENDER:** [Pause] Sorry, Commissioner, there is a lot of transactions here, so I definitely made a mistake somewhere along the line.

ADV CHASKALSON SC: No, but I need to do this reconciliation for our purposes, to establish whether these are legitimate cash payments to you. So I need to know which payments came from your brother. Because we have now established that the ones that the schedule says came from your brother actually came from Mr Chellin.

LT-COL GOVENDER: It is hard to subject myself down to
20 this here because I was rushing and compiling this here. But this is definitely from the persons here that is on the schedule that I borrowed the money from. Or that was given to me by my brother.

ADV CHASKALSON SC: So the money was given to you by your brother?

LT-COL GOVENDER: Yes, for the property.

ADV CHASKALSON SC: Sorry, I am not with you. To assist you to buy your property?

LT-COL GOVENDER: Yes.

ADV CHASKALSON SC: And your brother made a gift to you?

LT-COL GOVENDER: It was my share of it, Commissioner.

ADV CHASKALSON SC: So your share of the family home?

10 **LT-COL GOVENDER:** Yes.

ADV CHASKALSON SC: So your brother essentially paid you out your share of the family home?

LT-COL GOVENDER: Yes.

ADV CHASKALSON SC: I see. And what was your share of the family home?

LT-COL GOVENDER: Sorry, what was my share?

ADV CHASKALSON SC: Yes, what was the family home valued at? What was your share worth?

LT-COL GOVENDER: 1.4, about 1.4 million.

20 **ADV CHASKALSON SC:** And how many of you had shares?

LT-COL GOVENDER: Four of us.

LT-COL GOVENDER: So you would have had a quarter of 1.4 million?

LT-COL GOVENDER: That is correct.

ADV CHASKALSON SC: So that would have been R350,000?

LT-COL GOVENDER: Yes.

ADV CHASKALSON SC: And that would have been what your brother paid you?

LT-COL GOVENDER: Yes, around that.

ADV CHASKALSON SC: Well, if he was paying you out your share, a quarter of 1.4 million is R350,000. We do not see payments in... Oh, we see one payment of R350,000,
10 but you have attributed it to Mr Chellin. If you go up to item 60, 19 August 2023.

LT-COL GOVENDER: [No answer]

ADV CHASKALSON SC: Are you suggesting that this – well, you need to tell me. Should that be attributed to your brother, or was it correctly attributed to Mr Chellin?

LT-COL GOVENDER: Commissioner, I have really messed up the schedules here, but it could not be from my brother.

ADV CHASKALSON SC: Could not be from your brother?

LT-COL GOVENDER: Yes.

20 **ADV CHASKALSON SC:** Okay.

LT-COL GOVENDER: So the smaller amounts I could recall that he has given me.

ADV CHASKALSON SC: Okay, but if we look at the schedule, all of the smaller amounts without exception come from someone called S Pardhoothman. Who is that?

LT-COL GOVENDER: My mother-in-law.

ADV CHASKALSON SC: Your mother-in-law?

LT-COL GOVENDER: Yes.

ADV CHASKALSON SC: I see. And why was she giving you this money?

LT-COL GOVENDER: She moved in with us, and she sold her properties.

ADV CHASKALSON SC: What property did she sell?

LT-COL GOVENDER: Where she lived previously. So her
10 intention was always to move in with us.

ADV CHASKALSON SC: Yes and are these payments that she gave to you from the proceeds of the sale of her previous property?

LT-COL GOVENDER: No, she always had money with her. So she is quite often at the casino, and we can check on that as well.

ADV CHASKALSON SC: My experience with people who are quite often at the casino is that most of their money ends up at the casino.

20 **LT-COL GOVENDER:** No.

ADV CHASKALSON SC: No, your mother-in-law is one of those rare lucky winners.

LT-COL GOVENDER: She had a lot of money.

ADV CHASKALSON SC: I see. Now why would she pay you all of this money in cash as opposed to just transferring

it into your bank accounts?

LT-COL GOVENDER: So she would give to my wife or sometimes to my son or myself, and then, you know, we would put it into the accounts.

ADV CHASKALSON SC: No, I understand that, but why is she sitting with hundreds of thousands of rands in cash as opposed to money in her bank account?

LT-COL GOVENDER: Commissioner, she always kept cash with her from the time of my father-in-law passing on. She
10 had cash with her. Even up until now, she has cash.

ADV CHASKALSON SC: What sort of amounts?

LT-COL GOVENDER: I do not know.

ADV CHASKALSON SC: Hundreds of thousands of cash lying around her house?

LT-COL GOVENDER: Ja, she has money with her, Commissioner.

ADV CHASKALSON SC: I mean, if we look, for instance, on the 30th of August, I have not totted up all of these payments, but there is 30 on the first page, most of them
20 are 10,000, that is over R300,000. There are another 8 on the second page. I mean, that is more than R300,000 that she deposited in cash in your accounts on the 30th of August.

LT-COL GOVENDER: Remember, Commissioner, she was assisting us with the property as well. And so for us to get

on a better footing, she would move in.

ADV CHASKALSON SC: My question is slightly different. Why would she have R300,000 in cash lying around on the 30th of August?

LT-COL GOVENDER: She keeps money, Commissioner.

ADV CHASKALSON SC: Mr Chellin, I understand he ran a shipping company.

LT-COL GOVENDER: Correct.

ADV CHASKALSON SC: And yet he chose to transfer, if
10 this schedule is to be accepted, over 1.5 million to you in cash.

LT-COL GOVENDER: That is correct, Commissioner.

ADV CHASKALSON SC: Any reason why he, as a businessman running a shipping company, would not want to do that bank account to bank account?

LT-COL GOVENDER: Commissioner, if you look at these schedules, he deals in labour, and there is a lot of cash always coming in. That is from the business point of view. In terms of the private money, that was quite often, and that
20 can be checked quite, he is quite often as well in the casino, Suncoast.

ADV CHASKALSON SC: So you have a series of surrogate relatives who tend to strike it lucky at the casino and then fund your bond. Is that what you are saying?

LT-COL GOVENDER: No, not really, Commissioner.

ADV CHASKALSON SC: Well, it sounds like it.

LT-COL GOVENDER: No.

ADV CHASKALSON SC: Let us ask another question. Let us go to timing. Before we go to timing, there is a question that you did not answer, and we have discussed it already.

2.6.4:

10 “Please provide details of the source of the payment of the amount of 299,800 that was paid into your home loan accounts on or about 25 October 2023.”

Now, you said that the reason you are not answering that is the bank cannot tell you who the counterparty is yet. You have asked for the details of the account from which it came. The bank has not given you those details.

LT-COL GOVENDER: Yes. So generally, the reason why I said that, Commissioner, is that I do not want to put the wrong reference. Now, sometimes I would get the cash, and if I saw an accountant, I would leave the cash. So I do not want to put the wrong details in there.

20 **ADV CHASKALSON SC:** No, I understand you do not want to put the wrong details in, but are you telling me under oath that you cannot remember who paid you 298,462 on 26 April?

LT-COL GOVENDER: No, I do. That comes from Dad.

ADV CHASKALSON SC: Sorry, that comes from?

LT-COL GOVENDER: Dad.

ADV CHASKALSON SC: Dad?

LT-COL GOVENDER: Yes.

ADV CHASKALSON SC: Meaning Mr Chellin again?

LT-COL GOVENDER: Yes.

ADV CHASKALSON SC: Okay. So that is an amount that is paid into your bank that is not cash.

ADV BALOYI SC: Is it the same amount ...[intervenes]

LT-COL GOVENDER: It is an EFT.

10 **ADV BALOYI SC:** ...in item 64, the schedule?

ADV CHASKALSON SC: It is the amount that we just addressed in the schedule. It is the last, it is the last, it is not the same amount, it is a separate amount, it is 69 on the schedule. So it is an EFT into the bond account, which does not have a reference identifying the transferor. So you are saying it is from Mr Chellin?

LT-COL GOVENDER: Ja, so what happens normally, if I get the cash, sometimes I will give it to the accountant and then he would make the EFT. Ja.

20 **ADV CHASKALSON SC:** Sorry, which accountant are we talking about here?

LT-COL GOVENDER: No, that is my family.

ADV CHASKALSON SC: That is your family accountant, and what is the name of your family accountant?

LT-COL GOVENDER: Do I have to mention it?

ADV CHASKALSON SC: Oh, absolutely.

LT-COL GOVENDER: Shamal.

ADV CHASKALSON SC: Sorry?

LT-COL GOVENDER: Shamal.

ADV CHASKALSON SC: Shamal?

LT-COL GOVENDER: Kassie.

ADV CHASKALSON SC: Kassie Shamal. And Kassie Shamal, C-H or S-H-A-M-A-L?

LT-COL GOVENDER: S-H.

10 **ADV CHASKALSON SC:** S-H-A. And does Kassie Shamal practice in a firm or as an individual?

LT-COL GOVENDER: As an individual, he has got his firm, his own firm.

ADV CHASKALSON SC: His own firm, and is it called Kassie Shamal?

LT-COL GOVENDER: Yes.

ADV CHASKALSON SC: So you were saying, sometimes when you get cash, you give it to Kassie Shamal and Kassie Shamal does a transfer.

20 **LT-COL GOVENDER:** He would arrange for whoever needs the cash and they would in turn EFT it. That is why I could not give the correct reference number. It is not that I did not know where it came from.

ADV CHASKALSON SC: Sorry, sir, let us just clarify things here. Are you saying that the counterparty, the

banking counterparty to this transaction was Kassie Shamal? So the account from which it would have been transferred into your bond was Kassie Shamal's account?

LT-COL GOVENDER: No.

ADV CHASKALSON SC: Okay. Then what is the relevance of the story you have just told me about him taking your cash and making payments?

LT-COL GOVENDER: Yes, if I had cash, I would give it to him and then he has many clients, his client would assist
10 and do an EFT direct.

ADV CHASKALSON SC: Sorry, so you give cash to Mr Shamal?

LT-COL GOVENDER: Yes.

ADV CHASKALSON SC: And then one of Mr Shamal's clients pays you EFT?

LT-COL GOVENDER: Into the account.

ADV CHASKALSON SC: Into the account.

LT-COL GOVENDER: Mmm.

ADV CHASKALSON SC: And this is a practice you conduct
20 with Mr Shamal?

LT-COL GOVENDER: It is not all the time.

ADV CHASKALSON SC: No, no, some of the time. So this particular, this particular transaction you are saying to us is going to be from one of a random number of Mr Shamal's clients.

LT-COL GOVENDER: Ja.

ADV CHASKALSON SC: Now why would you do this process with Mr Shamal of taking 298,462 in cash to him and asking him to get one of his clients to pay you?

LT-COL GOVENDER: So one of his clients is known to me as well. So it was not often. It was only two transactions. That is it.

ADV CHASKALSON SC: Okay, let us stay with this specific transaction because this is the one we know about.

10 **ADV CHASKALSON SC:** Why would you – are you saying to me and to the Commission that you took R298,462 in cash to Mr Shamal and asked him to arrange for a third party client of his to transfer that amount to you?

STENOGRAPHER: I would have done that. That is why I am trying to see the reference. So with bank charges, that is why it is coming to that figure.

ADV CHASKALSON SC: Are you thinking maybe it was 300,000?

LT-COL GOVENDER: Maybe.

20 **ADV CHASKALSON SC:** I see. But the question remains, why would you take R300,000 in cash to your accountant, deposit it at your accountant, and ask your accountant to find some third party who could do a bank transfer into your account?

LT-COL GOVENDER: So he is not my accountant. He

assisted me.

ADV CHASKALSON SC: Okay, so he is no longer your accountant, Kassie Shamal. He is a family friend.

LT-COL GOVENDER: I did not say he was my accountant. I said he is an accountant by profession.

ADV CHASKALSON SC: Well, the record will speak for itself. I was certainly working under the assumption that we were talking about your accountant, except I may have misheard you. So he is not your accountant. He is an
10 accountant.

LT-COL GOVENDER: Yes.

ADV CHASKALSON SC: Who offers services of this nature to you as a favour?

LT-COL GOVENDER: Yes, he assisted me for the property. I told him about the property.

ADV CHASKALSON SC: You told him about the property.

LT-COL GOVENDER: Ja.

ADV CHASKALSON SC: But the question still remains, why would you take R300,000 in cash to your family friend,
20 Mr Kassie Shamal, who is an accountant but is not your accountant, and ask him to keep the cash and arrange a bank transfer into your account? Why would you not just go to your bank and give them R300,000? You would have saved, what, one and a half thousand rands that way.

LT-COL GOVENDER: It was much more easier for me to

do that there, going into the property where I was procuring it from.

ADV CHASKALSON SC: You see, Lieutenant Colonel Govender, what it looks like to me, is this is a transaction that has all the hallmarks of a money laundering transaction.

LT-COL GOVENDER: Not really, Commissioner.

ADV CHASKALSON SC: You say, what you are telling us is your now dead surrogate father gives you R300,000 in
10 cash.

LT-COL GOVENDER: Yes.

ADV CHASKALSON SC: You want to deposit it into your account, but you choose instead to give it to someone who is not your accountant but is a friend who is an accountant and who has access to clients who are willing to make transfers into unknown third parties' accounts.

LT-COL GOVENDER: I know the third party.

ADV CHASKALSON SC: You know the third party?

LT-COL GOVENDER: Yes.

20 **ADV CHASKALSON SC:** Okay, so it gets even more complicated. Who is the third party?

LT-COL GOVENDER: It is Nagan.

ADV CHASKALSON SC: Nagan?

LT-COL GOVENDER: Nagan, ja.

ADV CHASKALSON SC: Okay, can we have Nagan's

details?

LT-COL GOVENDER: It is somewhere in the schedule here as well.

ADV CHASKALSON SC: Is Nagan a nickname?

LT-COL GOVENDER: Surname.

ADV CHASKALSON SC: Surname?

LT-COL GOVENDER: Ja.

ADV CHASKALSON SC: No, Nagan does not appear on the schedule.

10 **LT-COL GOVENDER:** I think somewhere here, let me see...

ADV CHASKALSON SC: Oh, in the statement.

LT-COL GOVENDER: Statement, sorry.

ADV CHASKALSON SC: It is in the statement, yes, yes.

In the statement there is a reference and let us...

ADV KHUMALO SC: 108.4.

ADV CHASKALSON SC: So we have a reference, but it is in respect of a different transaction.

LT-COL GOVENDER: Yes.

20 **ADV CHASKALSON SC:** 337,962 transferred from the account of Nagan.

LT-COL GOVENDER: Yes.

ADV CHASKALSON SC: So this was another ...[intervenes]

LT-COL GOVENDER: Yes, that is correct.

ADV CHASKALSON SC: ...roundabout, so this time you took – and did this one also go through Kassie Shamal?

LT-COL GOVENDER: That is correct.

ADV CHASKALSON SC: I see. Now, why, can I ask you why you would do these transactions through Kassie Shamal? And I have to be frank with you, because from where I am sitting, it looks very much like a money laundering exercise. So you are going to need to persuade me that I have misunderstood it.

10 **LT-COL GOVENDER:** Yes. Commissioner, I was not hiding anything, you know. I have access to friends and family. So basically I wanted the money to go straight into the account of where – the attorney's account and that is the reason when Dad gave me the cash, I would give him. It was not often. It was just for the purposes of that time and that duration that I needed to procure that property.

ADV CHASKALSON SC: Yes, but Mr Chellin ostensibly also gave you R200,000 in cash which you were happy to deposit at the bank. 179,800 which you were happy to
20 deposit at the bank. He also made numerous payments of more than R100,000 to you, which he made apparently in cash, deposited into your accounts.

LT-COL GOVENDER: Yes.

ADV CHASKALSON SC: What was so special about these two, 337,000 and 298,462, that you had to use this

roundabout route through Kassie Shamal and Mr Nagan?

LT-COL GOVENDER: Nothing special at all, Commissioner.

ADV CHASKALSON SC: And when you say 337,962 transferred from the account of Mr Nagan, that is not really a payment from Mr Nagan, it is a payment from Mr Chellin. Go back to page 33, paragraph 108.4.

LT-COL GOVENDER: Page 33?

ADV CHASKALSON SC: Ja, the one place you do mention
10 Mr Nagan.

LT-COL GOVENDER: 10 point, 108.4?

ADV CHASKALSON SC: Yes. Was that a real payment from Mr Nagan or was it a roundabout payment from Mr Chellin via Kassie Shamal and the account of Mr Nagan?

LT-COL GOVENDER: No, that would have come from, I think, the roundabout payment from... Kassie Shamal.

ADV CHASKALSON SC: Well, from Kassie Shamal himself. Who would have paid Kassie Shamal?

LT-COL GOVENDER: I would have paid.

20 **ADV CHASKALSON SC:** From where?

LT-COL GOVENDER: It is here... It definitely came from Dad.

ADV CHASKALSON SC: So that is another payment from the late Mr Chellin. So the late Mr Chellin has actually paid more than an additional, gosh, R600,000 to you. The

337,962.

LT-COL GOVENDER: Correct.

ADV CHASKALSON SC: Transferred from the account of, well, on the Kassie Shamal/Nagan route and then also the 299, sorry, not 299, it is 298,462 that went through the same route.

CHAIRPERSON: Colonel, there is a question that Mr Chaskalson asked no less than three times. I am not sure that I heard what your answer to it is. Why this roundabout
10 manner of payment to the bank? Just why?

LT-COL GOVENDER: Commissioner, I thought it would be easier because Shamal is ...[intervenes]

CHAIRPERSON: It is more complicated. It is not easier. Please, Colonel, it is more complicated.

LT-COL GOVENDER: Yes.

CHAIRPERSON: The more direct and easier way would have been for Mr Chellin to pay directly to the bank, failing that, for you to pay directly to the bank. So what happened here is actually more complicated. So please do not even
20 begin to say it was easier. Can you please now answer Mr Chaskalson's question directly?

LT-COL GOVENDER: Commissioner, sometimes he gave me from his personal money, which is the cash.

CHAIRPERSON: I am sorry?

LT-COL GOVENDER: Sometimes he gave me from his

personal money, which was the cash.

CHAIRPERSON: Yes?

LT-COL GOVENDER: Mr Chellin, Josh Chellin, and then the other times it would come from the company.

CHAIRPERSON: Yes?

LT-COL GOVENDER: [No answer]

CHAIRPERSON: Still, that does not answer why he did not pay directly to the bank. Or if not him, why you did not pay directly to the bank? Why to mister... who is the accountant
10 now? Kassie... I have forgotten the surname now. And then from Kassie to Mr Y Nagan. Why that roundabout manner?

LT-COL GOVENDER: It is a long route, Commissioner, but...

CHAIRPERSON: Exactly, exactly Mr Chaskalson's point. Why that long route? Either Mr Chellin pays the bank directly or you pay the bank directly. Why must there be these two people? Why must you interpose these two people? Please, please give us an answer that makes
20 sense.

LT-COL GOVENDER: Yes, and honest answer, Commissioner, is that..

CHAIRPERSON: Unless you tell us something cogent, the answer does not sound honest at all, Colonel, please.

LT-COL GOVENDER: Yes, Commissioner, that is exactly

what transpired.

CHAIRPERSON: Why? Why? Why? You are not answering why, please.

LT-COL GOVENDER: I wanted EFT going directly into the account of the...

CHAIRPERSON: Sorry?

LT-COL GOVENDER: I wanted an EFT going directly into the account of the attorneys.

CHAIRPERSON: But why must it come from Mr Nagan?

10 **LT-COL GOVENDER**: So...

CHAIRPERSON: Why can it not be direct from you?

LT-COL GOVENDER: I guess it will be more bank charges, I do not know.

CHAIRPERSON: No, no, no, no.

LT-COL GOVENDER: So...

CHAIRPERSON: As you are saying it, I am sure you can tell that what you are saying is nonsensical. Absolutely nonsensical.

20 **LT-COL GOVENDER**: Commissioner, but indeed I did it that way, Commissioner.

CHAIRPERSON: Why? Why? Why? Please, why?

LT-COL GOVENDER: I thought it would be easier, Commissioner.

CHAIRPERSON: Okay, you have no explanation that makes sense. Please continue, Mr Chaskalson.

ADV CHASKALSON SC: Chair, I have quite some time to spend on this topic and we have reached 1 o'clock. It may make sense to take the adjournment.

CHAIRPERSON: Let us adjourn and resume at 2 p.m.

INQUIRY ADJOURNS

INQUIRY RESUMES

CHAIRPERSON: Before we start, Mr Chaskalson, may I just ask questions about your mother-in-law, the payments, the payments by her. Can you explain why there had to be
10 that many payments on one day?

LT-COL GOVENDER: Yes, Commissioner, when you go to the ATM, it takes 10,000 at a time. So on one day, you deposit the money that she gave. So it is like one after the other.

CHAIRPERSON: Can you go to that statement and count how many on the 30th of, is it August?

LT-COL GOVENDER: Yes, Commissioner.

CHAIRPERSON: Count all those transactions on the 30th, three zero. It should be 37.

20 **LT-COL GOVENDER:** Yes, Commissioner.

CHAIRPERSON: Is it 37?

LT-COL GOVENDER: Yes, that is correct.

CHAIRPERSON: So are you saying your mother-in-law stood at the ATM and did 37 transactions?

LT-COL GOVENDER: No, the money was given to us,

Commissioner.

CHAIRPERSON: Sorry?

LT-COL GOVENDER: The money was given to us, my wife and my kid.

CHAIRPERSON: She gave the money to you?

LT-COL GOVENDER: Yes.

CHAIRPERSON: Please explain that.

LT-COL GOVENDER: She gave us the cash and I, we deposited the money.

10 **CHAIRPERSON**: Oh, you deposit ...[intervenes].

LT-COL GOVENDER: Yes.

CHAIRPERSON: Why would you, so you are saying, my question still applies, so you, you stood in front of the ATM and did 37 transactions, standing there, one after the other, a total of 37, you are standing there.

LT-COL GOVENDER: Yes, Commissioner.

CHAIRPERSON: On one day.

LT-COL GOVENDER: That is correct, Commissioner.

CHAIRPERSON: One transaction after the other.

20 **LT-COL GOVENDER**: That is correct, Commissioner.

CHAIRPERSON: How long did that take?

LT-COL GOVENDER: Commissioner, it depends. It could take about an hour or maybe ...[intervenes].

CHAIRPERSON: What time was this, time of the day?

LT-COL GOVENDER: It can be after hours, Commissioner.

CHAIRPERSON: And when had your mother-in-law given the money to you and your wife, what time of day? Are you able to tell?

LT-COL GOVENDER: No, not offhand, Commissioner.

CHAIRPERSON: And it should be relatively easy for us to establish what weekday it was, but off the top of your head, do you remember?

LT-COL GOVENDER: Not offhand, Commissioner.

CHAIRPERSON: Was it weekday?

10 **LT-COL GOVENDER:** It is a while ago, Commissioner.

CHAIRPERSON: Was it weekday or was it weekend?

LT-COL GOVENDER: I cannot recall, Commissioner.

CHAIRPERSON: And why did you choose to do it at the ATM? Why could you not have just walked into a bank and deposited all the money all at one go?

LT-COL GOVENDER: I could have done that, Commissioner.

CHAIRPERSON: Why did ...[intervenes].

LT-COL GOVENDER: It was after hours.

20 **CHAIRPERSON:** Sorry?

LT-COL GOVENDER: It was after hours.

CHAIRPERSON: Why could you not wait and do it all at one go inside a bank? What was the rush? What was the rush? I tell you now, I would not do this.

LT-COL GOVENDER: Yes, Commissioner.

CHAIRPERSON: I would not stand at an ATM and do 37 transactions at an ATM.

LT-COL GOVENDER: Yes.

CHAIRPERSON: Why did you, why could you not wait until you could do a transaction, one transaction inside a bank? Why did you not do that?

LT-COL GOVENDER: Commissioner, I thought it would have been easier at the ATM, but the charges are obviously much more.

10 **CHAIRPERSON:** Again, your easy. This is definitely not easy at all, Colonel.

LT-COL GOVENDER: Yes.

CHAIRPERSON: It is not.

LT-COL GOVENDER: Yes.

CHAIRPERSON: It is actually painful.

LT-COL GOVENDER: Yes.

CHAIRPERSON: So make me understand.

LT-COL GOVENDER: So, Commissioner, I decided to put it in the ATM. We needed the money, so I went to the ATM.

20 **CHAIRPERSON:** Again, again, as you did with the other transaction ...[intervenes].

LT-COL GOVENDER: Yes.

CHAIRPERSON: You are not answering the why. I am asking why. Do not say it was easier, please.

LT-COL GOVENDER: Ja.

CHAIRPERSON: Do not, because it was not.

LT-COL GOVENDER: Yes. Commissioner, I cannot really give you an answer. It is just that we needed the money and we had to put the money into the account as soon as she gave it.

ADV KHUMALO SC: More than 300,000 in cash.

LT-COL GOVENDER: Yes.

ADV KHUMALO SC: It is also unsafe. Apart from being inconvenient, it is unsafe ...[intervenes].

10 **LT-COL GOVENDER:** Yes.

ADV KHUMALO SC: To have R300,000.00 in cash and to keep depositing R10,000.00 at a time.

LT-COL GOVENDER: Yes.

ADV KHUMALO SC: Over a period of more than an hour, according to you.

LT-COL GOVENDER: Commissioner, as soon as she gave it, we put it in the ATM, Commissioner.

ADV KHUMALO SC: No, but you could have gone to a branch ...[intervenes].

20 **LT-COL GOVENDER:** Yes.

ADV KHUMALO SC: And deposited the entire money in a single transaction.

LT-COL GOVENDER: I could have. I could have, Commissioner.

ADV KHUMALO SC: It just does not make sense. So the

explanation you have given to the Chair and the Commission just does not make sense and it raises questions which are the questions Advocate Chaskalson raised with you, that, you know, it smells of a money laundering exercise.

LT-COL GOVENDER: Commissioner, you know, we are trying to procure this property in advance. I mean, if I made a mistake, I do not know. It is, I am being honest and saying exactly what I did. You know, that is why I put the
10 money into the account. It was not any money laundering exercise or ...[incomplete].

CHAIRPERSON: There is more than meets the eye, Colonel. Yes, Mr Chaskalson.

ADV CHASKALSON SC: Colonel, we obviously, I mean, you have heard the Commissioners expressing some concern about this version. We are going to need to have some serious corroboration.

CHAIRPERSON: May I interrupt you. I am very sorry, Mr Chaskalson. Commissioner Khumalo tells me that
20 August 2022 was a Tuesday.

LT-COL GOVENDER: Possibly, Commissioner.

CHAIRPERSON: And so even assuming that your mother-in-law had given you this money in the evening, you could have gone to the bank the following day on the Wednesday.

LT-COL GOVENDER: I could have gone, Commissioner.

CHAIRPERSON: And there is simply no explanation for not doing so, Colonel. There is not.

LT-COL GOVENDER: Commissioner, I chose to put it in the ATM, Commissioner.

CHAIRPERSON: It is the choosing that does not make sense, which you cannot explain. Yes, Mr Chaskalson.

ADV CHASKALSON SC: We have a range of concerns about your explanation. We are going to have to speak to the people on whose corroboration your explanation, well,
10 whose corroboration would be an absolute prerequisite for beginning to accept your version. So, the four people who I can think of at the moment are Mr Chelin's son, Mr Chelin's accountant, Mr J Subia, Kassie Shamal, your friend who is an accountant, and Mr Nagan. I am going to ask you to give contact details for those four people to your attorney and to, and for us to get those contact details so that we can see if they corroborate the versions of your statement, their individual versions of your statement.

LT-COL GOVENDER: Yes.

20 **ADV CHASKALSON SC:** We will have to speak to them. But I do want to put to you that there are, apart from what has already been put to you, I have these further difficulties with your version. If we add up all of the cash that went into your accounts between August 2022 and December 2023, either directly as cash or through the Kassie

Shamal/Nagan route, we get to R3,050,574.00 and how that number is calculated is if you look at the totals at the bottom of page 79, you see roughly 2,7 million. But that was before you disclosed to us that there was the additional R337,962.00 that went the Kassie Shamal, Nagan, the Chelin/Kassie Shamal/Nagan route. You add that and you get to over the 3 million mark, R3,050,574.00. I want to put that into perspective. In the period in question, that amount, R3,050,574.00, is more than 100 times your
 10 monthly take-home salary. So, in cash, over a period of just over a year, August 2022 to December 2023, you want us to believe that from legitimate sources, you received in cash more than 100 times your monthly salary.

LT-COL GOVENDER: Commissioner ...[intervenes].

ADV CHASKALSON SC: Your monthly take-home salary, sorry.

LT-COL GOVENDER: Commissioner, these are loans which is repayable back. As I indicated, my mother-in-law sold a property. There is evidence for that as well. And
 20 there is a property that I am selling right now, which I will pay back.

ADV CHASKALSON SC: But for a loan to be repayable, there has to be a source of income that can support repayment and ...[intervenes].

LT-COL GOVENDER: Yes.

ADV CHASKALSON SC: The numbers just do not add up.

I mean, if you went to a bank and asked on the basis of your salary for a loan of over 3 million, you would not get it.

LT-COL GOVENDER: So, further to that there, my son lives with me, and he has got three businesses, Commissioner, and that can be investigated as well. So there is a payment plan to pay back the monies. I did not get the monies from untoward people. That is why I gave the names here. If it is verified, you can go to them, they
10 will verify. It is just that I am finding difficulty, you know, I am not the best in heading up all these things, Commissioner. I think that is why I am probably not giving the right, correct explanation. But I did not get the money from illegitimate sources. And I indicated, that is why I put the names there, if one had to go to each of them, they would not give a different explanation or tell a lie.

ADV CHASKALSON SC: I have some other concerns. The first one relates to the frankly evasive manner in which you responded to these questions. You were asked, if you go to
20 page 1 of bundle 2, you were asked these questions on Friday, the 7th of August. That is the covering note for the notice in terms of Regulation 10.6 and the questions are in that notice at page 5 of the bundle. That was the 7th of August. You filed a preliminary statement on the 18th of August. You did not address them. You did not touch

paragraph 2.6 in your preliminary statement. You filed a supplementary statement on the 20th of August. You did not deal with paragraph 2.6.

You came and testified on the 21st of August and you were not in a position to deal with paragraph 2.6 and we agreed with you that we would defer it to now. You first addressed paragraph 2.6 in a statement which you filed on Friday and that statement was filed late last Friday afternoon, the 28th of August, and when the statement was
 10 filed, it did not have a spreadsheet attached to it. We had to ask for the spreadsheet and eventually it was given to us after hours on Friday. Why did it take you so long to give us this information?

LT-COL GOVENDER: Commissioner, there is various transactions and I was working through it with the forensic guy to, because there is many, there was many affidavits to respond to, or, ja, requests. So I was busy with the forensic guy, trying my best to get it as speedily as possible.

20 **ADV CHASKALSON SC:** Who was the forensic guy?

LT-COL GOVENDER: Julian.

ADV CHASKALSON SC: And who is Julian?

LT-COL GOVENDER: He is a security expert, forensic expert.

ADV CHASKALSON SC: But why would Julian be

necessary for this exercise? The exercise does not involve the analysis of bank accounts or money flows. It involves information which only you know, which is who paid cash into your account.

LT-COL GOVENDER: Yes. Commissioner, these are transactions dating from 2022 and it would be difficult for myself to produce such a document. I had to get assistance, which I did, Commissioner.

ADV CHASKALSON SC: But I still do not understand why
10 a forensic advisor is necessary for this. We are not talking about money flows that you can follow using bank statements, and we are not talking about complicated money flows. We are talking about simple questions. There are 65 or 69 cash payments into your account. How could the forensic consultant help you identifying who made those payments, or who was the underlying payer for those payments?

LT-COL GOVENDER: Yes, my response to that, Commissioner, is that yes, it was indeed 65, but it is dating
20 back to 2022, 2023. It is quite some time, so I needed some assistance.

ADV KHUMALO SC: But Colonel, there is this one day when you are making half of those transactions and you have just told us that it was you who was making those deposits, all 38 of them.

LT-COL GOVENDER: Yes, Commissioner.

ADV KHUMALO SC: Why do you need a forensic person to remind you that on the 30th of August 2022, I was standing outside a bank next to an ATM making 38 or 37 deposits in excess of R300,000.00.

LT-COL GOVENDER: Yes.

ADV KHUMALO SC: Why do you need a forensic person to help you with that?

LT-COL GOVENDER: Commissioner ...[intervenes].

10 **ADV KHUMALO SC:** You were there, surely you remember.

LT-COL GOVENDER: Yes. No, I do, some of the transactions. So I had to ask for assistance to collate something like this here, Commissioner, and this spreadsheet ...[indistinct] to simplify it for the Commission and for myself, Commissioner.

ADV CHASKALSON SC: You see, if you go to page, we will start on page 28 of the, of bundle 2, the correspondence bundle. And you recall the context, it is an
20 email from your attorneys and the context for this email was that your attorneys were not wanting to file the statement until we had disclosed the bundle. And we said, no, no, it works the other way around. You give us a statement and then we prepare a bundle. But what your attorneys say in this email is they are complaining about not getting the

bundle. And then the last paragraph:

“We will therefore do our best to submit a preliminary affidavit to you with the request that the Evidence Leaders and yourselves kindly liaise with us and agree reasonable timelines for our clients to deliver further affidavits and to appear. Our client is experiencing great difficulty ...”

10 This is over the page on 29.

“... in obtaining various documents which he intends submitting to you due to the lapse in time. He presently does not have all of his bank statements, court papers in respect to the Loftus matter, to mention a few.”

This list is, and it says exhaustive. I imagine it was intended as not exhaustive. But the suggestion there is that you were not in a position to furnish an answer to 2.6
20 because you did not have access to your bank statements. Now why would access to your bank statements assist you in any respect to answer paragraph 2.6 which was essentially saying here are a series of cash payments into your accounts, where does the cash come from? How would the bank statements help?

LT-COL GOVENDER: Commissioner, with regards to all the cash payments, we were trying to ascertain the correct dates and times and the monies so we could come up with a comprehensive and to the best of our ability ...[indistinct] explain this Excel document here.

ADV CHASKALSON SC: But why did you, why was the absence of bank statements an issue?

LT-COL GOVENDER: We want to verify to see exactly the transaction dates, references.

10 **ADV CHASKALSON SC:** We have given you the transaction dates and the amounts and we have said that the bank statements reflect cash payments on them. What were the bank statements going to do to help you to identify who paid in that cash?

LT-COL GOVENDER: As indicated, Commissioner, we were trying to collate this document.

ADV CHASKALSON SC: I cannot say I find that answer convincing but I will leave it there. I have two further concerns which I have already, well one of which I have
20 already put to you. The movement of money along the Chelin/Kassie Shamal/Nagan route has all the hallmarks of money laundering. If indeed it came from the late Mr Chelin, or whether or not it came from the late Mr Chelin, that looks like a money laundering arrangement. We have had that exchange, I will not take it further. But then there

is a, there are two further issues that give me cause for concern. The first is that when we look at this amount of just over 3 million in cash, 2.26 million of it comes from someone, allegedly comes from someone who is no longer alive to contradict you, and I must indicate to you that this is a problem that we tend to encounter in this Commission, that when there are quite awkward questions to answer, it quite often is suggested to us that the only person who can corroborate the version put forward is someone who
10 unfortunately is no longer alive. Do you have a comment on that?

LT-COL GOVENDER: Yes, I would like to respond to that. Commissioner, that company has a lot of staff and they would say, I am there ...[indistinct] most of the time whilst he was alive. As indicated earlier on, apart from this, for my kids, he paid the education and that without being said, that is the truth. If you go to the company, he took a great liking to me and there is nothing else I can say. If you go to the company, they will tell you that I am there, that is my
20 dad, I take him as my own dad. You know, it is, he has passed on. It is not because he passed on. I would never do that for everyone who is watching and use his name in vain. I am always there at the company. I am part of the family and I am sure further investigations will reveal that.

ADV CHASKALSON SC: You see, I do not doubt for a

minute that you are very close to the late Mr Chelin. My concern is that it would be nice to know someone other than the late Mr Chelan, who can confirm not only that you are very close to him, but that these amounts were loaned to you.

MR NEPAUL: Sorry, Mr Chairperson, my recall of the evidence of the witness was that he mentioned two names. I will not repeat that because he is giving evidence. But he alerted you to two persons who could corroborate earlier in
10 his evidence. So it would be incorrect and misleading to put to him that you giving the name or suggesting the name of a deceased person because he cannot come along and corroborate.

ADV CHASKALSON SC: We will follow it up. I mean, one of the questions we have for you, Colonel, is that it would have been much easier for us if you, who have the relationship with these people, had put up a confirmatory affidavit with some documentation from them, but we will do that and we will investigate.

20 **ADV KHUMALO SC:** To avoid any misunderstanding, can you please repeat that name for the record. Who is the other person that can corroborate?

LT-COL GOVENDER: It is J Subia, Commissioner. And I have photographs here on my phone right now ...[intervenes].

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

LT-COL GOVENDER: No, I just want to say, Commissioner, that this is a long-term relationship that our kids going to different events and our kids, even Jay was at the cruise with me. Besides the kids growing up, they are in karate together, so it shows you that I did not come because the Commission asked me to account for this. I have photographs coming over years with the family. And I have it right here on my phone if Commissioners want to
10 see it.

ADV KHUMALO SC: No, I just wanted to clarify so that we move on from this issue. So you have given the name and I am happy with it. Thank you.

ADV CHASKALSON SC: Well, we will conduct our own investigations. I want to move to some different questions now and the first relates to your meetings with the two people who allegedly tried to persuade you to give false evidence here.

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

20 **ADV CHASKALSON SC:** Who allegedly tried to persuade Lieutenant Colonel Govender to give false evidence here to implicate Lieutenant General Mkhwanazi. I just wanted to clarify a couple of things. The first is, if I understand the chronology correctly, that whole exchange starts on the 13th of August.

LT-COL GOVENDER: That is correct, Commissioner.

ADV CHASKALSON SC: And you say you were approached by, your words in the consolidated statement at page 8, paragraph 26:

“I was approached by certain known persons to have an informal meeting outside the building in which IPID has offices in Durban.”

Now, was it the same two people all the way
10 through, or were there any different players on 13 August?

LT-COL GOVENDER: It was always the same two people, Commissioner.

ADV CHASKALSON SC: And how were you approached? Were you called? Were you met in person? What, how was the approach made?

LT-COL GOVENDER: Yes, Commissioner, I was at the attorney's office, my attorney's office, Masani Nepaul, and I was called. So I initially said that I am very busy, but they said it is life or death and then it worried me. I told the
20 attorneys, and they decided, okay, he wanted the location where I was. Now, Commissioner, the IPID building and the attorney's office are next to each other, so I had given him the address. When I got downstairs, he was not there, but he was on the IPID side, in front of the IPID building.

ADV CHASKALSON SC: Now, were you called from the

same number that later called you? Was it the same, was it ...[intervenes].

LT-COL GOVENDER: It was always the same number.

ADV CHASKALSON SC: Always the same number.

LT-COL GOVENDER: Always, always.

ADV CHASKALSON SC: And we had that number.

LT-COL GOVENDER: Yes, you have the number. Now, when you say you were approached to have an informal meeting outside the building in which IPID has offices, you
10 were called in a building opposite that building, as I understand it.

LT-COL GOVENDER: In front of IPID office.

LT-COL GOVENDER: Ja, so when you got the call, you were in front of IPID offices. And how was it arranged that you would meet in front of the IPID offices? Was it a case of saying, I am here, I can, you know, if you meet me downstairs, I will see you, or was, I am just trying to understand how IPID features here.

LT-COL GOVENDER: Yes. So there is two buildings.

20 **ADV CHASKALSON SC**: Yes.

LT-COL GOVENDER: One is the attorney's building. The next building is the IPID building. There is a small road in between. So what I told to Mabeso that I will meet him downstairs at the attorney's building, number 30 ...[intervenes].

ADV CHASKALSON SC: Yes.

LT-COL GOVENDER: When I got down, I phoned him. He said, come across, I am there by IPID side. So that is where we met, in front of IPID.

ADV CHASKALSON SC: Okay. So ...[intervenes].

LT-COL GOVENDER: Same for the footage, I should get the footage soon.

ADV CHASKALSON SC: Okay. But the IPID connection is as much geographical as anything else. You said I will
10 meet you outside, and outside happened to be opposite the IPID building. They then said, come across the road, we are on the IPID side.

LT-COL GOVENDER: Ja, that is correct.

ADV CHASKALSON SC: And you will, if you can obtain the footage, you will provide it for us.

LT-COL GOVENDER: I did ask the technicians to download it.

ADV CHASKALSON SC: If anything comes from that, we will come back to you. I then want to move to your
20 relationships with Mr Marimuthu and Mr Naicker. I want to start with Mr Marimuthu. You mentioned in your statement that he is currently standing trial for human trafficking.

LT-COL GOVENDER: That is correct.

ADV CHASKALSON SC: Are you aware that he was previously convicted for dealing in Mandrax?

LT-COL GOVENDER: Yes.

ADV CHASKALSON SC: And are you aware of allegations that aside from the Mandrax conviction and the pending human trafficking charges, that he has been alleged to be a prominent figure in organized crime in KwaZulu-Natal?

LT-COL GOVENDER: I would not say that, Commissioner.

ADV CHASKALSON SC: How would you describe it?

LT-COL GOVENDER: You know, my interactions with Marimuthu was with someone. He did not portray that to
10 me.

ADV CHASKALSON SC: But you move in police circles. You are head of an anti-gang unit. What have you been told about Mr Marimuthu?

LT-COL GOVENDER: Look, Commissioner, there is several things told about Marimuthu on a daily basis of his political connections, his relationships with senior officers, Generals in the police, Ministers. That we know, and obviously there is a recording floating as well, where he talks to the Minister, the previous Minister, complaining
20 about General Khan. Now that is public knowledge. It is everywhere. And I will not deny, in our meetings with Mr Marimuthu, you know, he had a far reach in terms of speaking to senior officers in the police. That is including National Commissioners.

ADV BALOYI SC: The specific question is, what do you

know or have you heard about allegations of him being involved with criminal activity, as described by Mr Chaskalson?

LT-COL GOVENDER: Yes. Commissioner, you know, I know the past that he was convicted for drugs, but in terms of criminal, I cannot say much until the last case, which he is appearing for now. It is a human trafficking case. That is, General Mkhwanazi arrested him for that.

ADV BALOYI SC: Until his arrest, you did not know, you
10 never heard, that there are allegations that he is involved with human trafficking?

LT-COL GOVENDER: No, Commissioner.

ADV BALOYI SC: And you have never heard until now, as Mr Chaskalson speaks, you have never heard that there are allegations that he is involved with organized crime?

LT-COL GOVENDER: No, Commissioner.

ADV BALOYI SC: Thank you.

ADV CHASKALSON SC: You have never heard? I accept that there is a difference between seeing real evidence and
20 hearing. You have never heard that he is involved in organized crime in KwaZulu-Natal?

LT-COL GOVENDER: No, Commissioner. As indicated of the political connections that he has, that I know.

ADV CHASKALSON SC: What about his relationship with Mr Naicker, are you aware of that?

LT-COL GOVENDER: I believe they were friends, or close friends, a long time ago, but I am not sure what is their standing right now.

ADV CHASKALSON SC: And by, when you say a long time ago, what period are you referring to?

LT-COL GOVENDER: I think they were quite close a long time ago.

ADV CHASKALSON SC: No, no, you said that, but they were close when?

10 **LT-COL GOVENDER:** I cannot actually give you a time ...[intervenes].

ADV CHASKALSON SC: Are we talking about ...[intervenes].

LT-COL GOVENDER: A few years back.

ADV CHASKALSON SC: 2020?

LT-COL GOVENDER: Maybe earlier than this.

ADV CHASKALSON SC: 20 – what are we talking about?

LT-COL GOVENDER: I cannot give you an exact ...[intervenes].

20 **ADV KHUMALO SC:** Colonel, you can say before 2015, after 2010.

LT-COL GOVENDER: Maybe Commissioner ...[intervenes].

ADV KHUMALO SC: Just give us something to work ...[intervenes].

LT-COL GOVENDER: Yes, maybe around 2015, 2014,

around there.

ADV CHASKALSON SC: And was it a shock to you when he was arrested for human trafficking?

LT-COL GOVENDER: Yes, it was.

ADV CHASKALSON SC: Your wife is a member of the SAPS as well?

LT-COL GOVENDER: That is correct.

ADV CHASKALSON SC: Which department or branch of the SAPS is she?

10 **LT-COL GOVENDER:** Currently at the Provincial Organized Crime.

ADV CHASKALSON SC: Okay. Has she previously worked in matters relating to human trafficking?

LT-COL GOVENDER: That is correct.

ADV CHASKALSON SC: And was it a shock to her when he was arrested for human trafficking?

LT-COL GOVENDER: That is correct.

ADV CHASKALSON SC: Now, you have discussed your various holidays where you have bumped into him. There
20 was the MSC cruise to Portuguese Island. If I heard your evidence correctly, they were generally coincidental, but there was one where the kids drove the process in the Drakensberg and ...[intervenes].

LT-COL GOVENDER: That is correct.

ADV CHASKALSON SC: Now, the MSC cruise, you have

said Mr Chelin took you on that cruise?

LT-COL GOVENDER: Mr J Subia. He did ...[intervenes].

ADV CHASKALSON SC: Oh, Mr J. Subia.

LT-COL GOVENDER: He did not take me on the cruise. I paid my own ...[intervenes].

ADV CHASKALSON SC: But you went with him?

LT-COL GOVENDER: Went with him, ja.

ADV CHASKALSON SC: Yes. And does he have a relationship with Mr Marimuthu?

10 **LT-COL GOVENDER:** No.

ADV CHASKALSON SC: No. So it was just pure accident that you and Mr Marimuthu bumped into each other on that cruise?

LT-COL GOVENDER: In fact, in fact on that day, because I was at J, I introduced Timmy and J. That is the first time they met.

ADV CHASKALSON SC: Now, you talk about your encounters in a professional capacity with Mr Marimuthu, and you talk in particular about being sent to see him at his
20 house where he told you about where you could find five stolen containers.

LT-COL GOVENDER: Yes, that is correct, Commissioner.

ADV CHASKALSON SC: And how did he claim to have this knowledge?

LT-COL GOVENDER: So, myself and Warrant Officer

Sanders were sent by Brigadier Nyuswa to see Timmy at his house and that is when he provides such information. But I am told by Karl Sanders that he already had similar information.

ADV CHASKALSON SC: So Warrant Officer Sanders had independently heard that these stolen containers were at that location.

LT-COL GOVENDER: That is correct.

ADV CHASKALSON SC: But you were then sent by
10 Brigadier Nyuswa to Mr Marimuthu's house where he told you that, he corroborated the information that Warrant Officer Sanders ...[intervenes].

LT-COL GOVENDER: Yes.

ADV CHASKALSON SC: Did he explain how he got that information?

LT-COL GOVENDER: Not really.

ADV CHASKALSON SC: You see, the location of stolen containers is, I mean, who are the sorts of people who know where stolen containers are? Which sources tell you about
20 stolen containers?

LT-COL GOVENDER: Which sources?

ADV CHASKALSON SC: Yes, and we will, have you had other cases involving stolen containers?

LT-COL GOVENDER: Quite often.

ADV CHASKALSON SC: And where do you get the

information from?

LT-COL GOVENDER: I get it from various different people, people that are working in the port. Some are sources, some over here, whilst people are talking. Some would be from people that are in the underworld.

ADV CHASKALSON SC: Now I can understand that people in the underworld and people working at the port would be primary sources. Now does Mr Marimuthu work at the port?

LT-COL GOVENDER: No, he did not work at the port.

10 **ADV CHASKALSON SC:** And we now know that he is alleged to have been involved in human trafficking and he has a previous conviction for dealing in Mandrax, but you at the time did not know that he had underworld connections, or did you?

LT-COL GOVENDER: Well, Marimuthu is heavily connected, so he would have, whether it is underworld or political connections, that is a given.

ADV CHASKALSON SC: So he had underworld connections as well as political connections?

20 **LT-COL GOVENDER:** He would. Meaning underworld, I am not trying to say that, I am not insinuating underworld as he is involved in underworld, but he know people. And neither am I saying that I am trying to cover up for Marimuthu, do not get me, I do not want the Commission to have a wrong perception.

ADV CHASKALSON SC: Now, you talk also about General Khana and a Major General Govender meeting Mr Marimuthu at their home and you driving them there.

LT-COL GOVENDER: Yes, indeed.

ADV CHASKALSON SC: And why would they meet Mr Marimuthu?

LT-COL GOVENDER: The first meeting with General Khana, they had a private meeting, which the General will explain if the Commission call him. I was not privy to that
10 meeting.

ADV CHASKALSON SC: Sorry, the General explained that?

LT-COL GOVENDER: No, I am saying I was not privy to the meeting with General Khana.

ADV CHASKALSON SC: Yes. No, no, but did they explain to you why they are going to this man's home?

LT-COL GOVENDER: It was for information. They was directed by General Lebeya, the National Head of the Hawks then.

20 **ADV CHASKALSON SC:** And did you understand it as that they were, General Lebeya directed them to go and see Mr Marimuthu because he might have information that was useful for them?

LT-COL GOVENDER: That is correct.

ADV CHASKALSON SC: Now, have you had other

encounters where Generals go off to visit people at their homes to get information that they may have? It does not usually work the other way, that the Generals, they suspect someone has information, ask the people with information to come to them.

LT-COL GOVENDER: You are quite correct, but Marimuthu never leaves his house, most of the time, and that you can ask anyone.

ADV KHUMALO SC: Just give us that date again so that
10 we can ask General Lebeya about it.

LT-COL GOVENDER: Commissioner, I do not have the date on hand, but General Khana will ...[intervenes].

ADV KHUMALO SC: It does not have to be the exact date. Was it 2022?

LT-COL GOVENDER: I think 2023.

ADV KHUMALO SC: Okay.

ADV CHASKALSON SC: And in your statement, you talk about taking Major General Govender to Mr Marimuthu's house on at least three times, or about three times you
20 say.

LT-COL GOVENDER: Maybe more.

ADV CHASKALSON SC: Maybe more. And over what period?

LT-COL GOVENDER: I think the first would be around about the kidnapping when I did earlier indicate this

prominent business person, a female that was kidnapped.
And then ...[intervenes].

ADV BALOYI SC: Remember when about that was?

LT-COL GOVENDER: Ja, it was Commissioner, about 2019.

ADV BALOYI SC: Okay.

LT-COL GOVENDER: 2019. So this person was kidnapped, and I can recall that Marimuthu together with a lot of other businessmen were at this house when the
10 female was taken, was kidnapped. For a long period of time she was away, Commissioner. And then he would provide, or wanted to provide information on the same case. Now, General Govender eventually recovered the female after 6 months and the matter is in court and still testifying in Durban court.

ADV CHASKALSON SC: And were all of the meetings that you talk about in relation to that case?

LT-COL GOVENDER: No, no, it was, there was other meetings as well that the General, there is something about
20 Northern, is it Northern Cape where we understand that Marimuthu had information on diamonds, something in the mine, Northern Cape.

ADV CHASKALSON SC: And what was General Govender's role over the time? Was he in the same post?

LT-COL GOVENDER: No, he was a Brigadier at Eastern

Cape. I think he was a Provincial Commander of Serious Organized Crime in Eastern Cape at the time.

ADV CHASKALSON SC: So he was an Eastern Cape Brigadier in charge of serious and violent crime?

LT-COL GOVENDER: Yes, that is correct.

ADV CHASKALSON SC: And these, but these cases seem, I mean, the one is involving the Northern Cape and the other is, I may be wrong in my assumption, but I assumed it was a KZN case, the kidnapping of the woman. Or was it an

10 Eastern Cape case?

LT-COL GOVENDER: Most definitely.

ADV CHASKALSON SC: An Eastern Cape case?

LT-COL GOVENDER: No, sorry, the KZN kidnap.

ADV CHASKALSON SC: The kidnapping of the woman who was later ...[intervenes].

LT-COL GOVENDER: Was in KZN.

ADV CHASKALSON SC: KZN.

LT-COL GOVENDER: Yes, Durban.

ADV CHASKALSON SC: And so how did then Brigadier
20 Govender come to be involved in these matters that required meetings with Mr Marimuthu?

LT-COL GOVENDER: Ja, so General Governor has a lot of technology. So if I could just give you an example. At the time, he was at Germany ...[intervenes].

MR NEPAUL: Sorry, Mr Chairperson.

CHAIRPERSON: Yes, Mr Nepaul.

MR NEPAUL: I am a bit concerned about the line of questions and answers touching on techniques and police action. The witness said that matter is still in court regarding the kidnapping. And it goes to, and I will not want to repeat it, but if one looks at the ruling by the Chairperson, it is specifically with, if I can say, that category of evidence. I am just concerned, subject to Mr Chairperson's ruling on that, as regards whether this
10 evidence that is being sought now is really relevant to the issues for public consumption at this stage.

CHAIRPERSON: Thank you, Mr Nepaul. Mr Chaskalson?

ADV CHASKALSON SC: Chair, I am just trying to understand how a Brigadier from the Eastern Cape comes to be driven to see Mr Marimuthu in relation to cases which, on their face, do not deal with the Eastern Cape. I mean, the fact that Major General Govender may, if the answer is Major General Govender, because of his particular expertise, was asked to assist on those cases, that answers
20 my question. It does not disclose any top secret police information.

CHAIRPERSON: I see your hand is up, Colonel.

LT-COL GOVENDER: Commissioner, Mr Chaskalson already mentioned he is a specialist around the country in terms of kidnappings. He dealt with several kidnappings in

and around South Africa and abroad as well.

CHAIRPERSON: Thank you.

LT-COL GOVENDER: He has a lot of technology.

ADV CHASKALSON SC: And were there any other matters in respect of which those meetings took place that you know of, or was it just the kidnapping case and the diamonds case?

LT-COL GOVENDER: No, that was it, I think. Also, Brigadier Nyuswa also went to Timmy's house, Marimuthu's
10 house as well, pertaining to information, but I did not take him there.

ADV CHASKALSON SC: If we move now to Mr Naicker, I understood your evidence this morning to be that you first met Mr Naicker in the context of tow truck wars, and there was a meeting at which tow truck owners came to speak to the police at City Hall, and that is when you first met him. Have you since become aware of allegations that he is involved in the illicit drug trade?

LT-COL GOVENDER: Sorry, your question?

20 **ADV CHASKALSON SC:** Have you since become aware of allegations that he is involved in the illicit drug trade?

LT-COL GOVENDER: There are several allegations, that is correct.

ADV CHASKALSON SC: And allegations that he bribes police officers to turn a blind eye to the movement of his

drugs?

LT-COL GOVENDER: No, not that I know of.

ADV CHASKALSON SC: Not that you know of. What was his relationship with Puff Kalicharan, that you know of?

LT-COL GOVENDER: Look, they had a relationship, they were friends.

ADV CHASKALSON SC: And was Puff Kalicharan alleged to be involved in the illicit drug trade?

LT-COL GOVENDER: Yes, Commissioner.

10 **ADV CHASKALSON SC:** Now, Chair, I think I need some guidance in relation to the ruling at this point. I can proceed down a line that does not require me to refer to Witness P's evidence explicitly. It will expose aspects of the relationship between, well, certain people with Mr Naicker, without referring to any of the *in-camera* evidence, but I do not know if that is better done *in-camera*. Our problem with the *in-camera* evidence is that much of what is in there has been, was classified, was reclassified to allow us to look at it, but has not yet been reclassified to allow
20 Lieutenant-Colonel Govender to look at it and may or may not. I mean we, I cannot confront Lieutenant-Colonel Govender with that evidence yet, because we are not allowed to show it to him yet. I am hoping that we will be able to.

CHAIRPERSON: At this point, are you not in a position to

continue with matters or issues that do not raise these sort of questions?

ADV CHASKALSON SC: Yes, I certainly can. There are a range of other issues that I can touch on.

CHAIRPERSON: Yes.

ADV CHASKALSON SC: There are also a range of issues that I can touch on that are linked to it, but it will not touch on that evidence.

CHAIRPERSON: Ja, perhaps let us continue with those
10 then.

ADV CHASKALSON SC: Now, you have described your relationship with Mr Naicker and certain aspects of it. You have visited him at his house.

LT-COL GOVENDER: That is correct.

ADV CHASKALSON SC: He has helped you with a range of police investigations.

LT-COL GOVENDER: Yes.

ADV CHASKALSON SC: He was involved, if I understood the evidence that you gave when you first testified, in the
20 planning of that anti-CIT raid where his car was used by you.

LT-COL GOVENDER: He was not involved in the planning of that operation. That operation was planned by Colonel Carel Van der Vyfer ...[intervenes].

ADV CHASKALSON SC: But his tow trucks had to keep a

lookout, as you said.

LT-COL GOVENDER: Yes.

ADV CHASKALSON SC: So he had to be brought into, I mean, he may not have constructed the plan, but he was certainly told about the plan and what was wanted from him.

LT-COL GOVENDER: Yes. Commissioner, we used him as an investigative aid.

ADV CHASKALSON SC: Yes. And then you ended up using his car in that operation for the safety of yourself and
10 the officers involved.

LT-COL GOVENDER: So, Commissioner, it was not for the safety. That was not the purpose. So we were spotting, prior to that, if I mentioned, we were in Neil Thomlinson's vehicle, a Mercedes, and the suspect spotters spotted us, so we had to change vehicle and because he was part of the operation with his tow trucks, it was not only myself, but Tomlinson and Panday that jumped in his vehicle to continue keeping surveillance.

ADV CHASKALSON SC: And was he in the vehicle at the
20 same time?

LT-COL GOVENDER: Mr Naicker?

ADV CHASKALSON SC: Yes.

LT-COL GOVENDER: He was driving the vehicle.

ADV CHASKALSON SC: So he was driving the vehicle?

LT-COL GOVENDER: Yes.

ADV CHASKALSON SC: And when you gave chase, was he driving the vehicle?

LT-COL GOVENDER: That is correct.

ADV CHASKALSON SC: So he was, as it were, a kind of *ad hoc* police driver for the day.

LT-COL GOVENDER: So, Commissioner, let me explain. It was a necessity. And when I say necessity, it was life and death. If you see what transpired afterwards in relation to the shooting and how the NIU vehicle was shot up, in
10 terms of the suspect, so brazen that coming to the mall, that fire shots at the cash and transit van, that steal the money in the presence of, I do not know how many policemen, Commissioner, 35, 40 policemen, and then still drive out and leave the one guy that is shot and lying on the floor and continue to shoot at the police. So that was purely necessity that we were not going to allow them to get away by any cost because shooting at the police vehicles and try our best to apprehend them, Commissioner.

ADV CHASKALSON SC: No, I am not questioning the logic
20 of doing it, but I mean would you accept that after that episode, most of the criminal underworld in Durban must have known that he has a pretty close relationship with you?

LT-COL GOVENDER: It was out in the media, that is correct.

ADV CHASKALSON SC: And so no one who is worried about information getting to the SAPS is going to share anything secret with him because they must be worried that he has a relationship with you.

LT-COL GOVENDER: Maybe so.

ADV CHASKALSON SC: Now, in that situation, if you are going to use him to assist your investigations, there is surely a real risk that the information that you get from him is information that will essentially be targeted at his rivals,
10 be they in the tow truck trade or the drug trade.

LT-COL GOVENDER: No, I beg to differ with you, Commissioner, respectfully, that I deal with police murders, cash in transit robberies, and, Commissioner, the truth be told, my team, including myself, is the most successful team in this country. We have proven it. Come to Johannesburg, the Nangy case, and various other aspects of other cases of police murder and cash in transit, that from time to time, he will provide information. If he cannot, he will try his best. Sorry, I have to say this in open because it is only one-
20 sided right now. If I do not say it, I am not saying it is, I have to get this out in order to protect my image. I think my image is tainted for the wrong reasons, and I highlighted that earlier on. So I am sorry if he is hearing it right now. Yes, Commissioner, he plays an important role and more of an important role within the police. Not only him,

Commissioner. I have hundreds of different other informers, but now I am subjected to this because of him. But I will answer whatever question needs to be asked.

ADV CHASKALSON SC: Well, let us, you talk about a particular case where he is been of huge assistance, and I do not want you to give details of that case, but I am going to, and certainly not names, but I am going to sketch certain information that comes from you. The story starts involving two people who SAPS believe to be drug gang leaders
10 involved in a drug war.

LT-COL GOVENDER: Correct.

ADV CHASKALSON SC: And SAPS wants to prevent that war from spilling over and costing lives.

LT-COL GOVENDER: So we will be more specific. It is DPCI.

ADV CHASKALSON SC: DPCI.

LT-COL GOVENDER: Yes.

ADV CHASKALSON SC: Okay. Sorry, like many of us, we tend to just roll all law enforcement arms into one. DPCI.

20 And coming out of that meeting, one of these alleged drug gang leaders essentially confesses to Mr Naicker that he has been involved in a major Cocaine deal and he tells Mr Naicker the role that he played in relation to this Cocaine story.

MR NEPAUL: Mr Chairperson, sorry, interjection. I

thought the agreement was that names would not be mentioned.

CHAIRPERSON: Yes, Mr Nepaul.

MR NEPAUL: Now we are touching into details of this big case with specific reference to a name, to the name of Mr Naicker and his role in it. That matter is still under investigation. There is one person arrested and charged. Other suspects at large.

CHAIRPERSON: Mr Chaskalson?

10 **CHAIRPERSON**: Well, I have always understood that the ruling does not prevent us from naming Mr Naicker, and, in fact, this whole questioning is about Mr Naicker. Everyone knows we are talking about Mr Naicker. I am framing these questions without any specificity. My learned friend has leapt in and given much more specificity than I was ever going to give and has potentially created a problem. The proposition I want to put does not depend on any specifics about what the case is and at what stage of investigation it is at. It can be advanced without giving those details. If it
20 has to be advanced *in-camera*, I can advance it *in-camera*. But until the interruption, I was very confident of being able to do it without in any way compromising the investigation.

MR NEPAUL: Sorry, Mr Chairperson, just in reply. I intervened at the stage where the Evidence Leader referred to a confession. I think it is dangerous going down that

territory, more particularly in view of your ruling which ...[indistinct].

CHAIRPERSON: Can we see Counsel outside, please?

INQUIRY ADJOURNS

INQUIRY RESUMES

CHAIRPERSON: [Indistinct]... [microphone off].

ADV CHASKALSON SC: Thanks, Chair. Chair, it may be much simpler if we are going to try to get documents reclassified which will then facilitate an *in-camera* hearing
10 and maybe we can just avoid this risk by canvassing the material in the *in-camera* hearing where it can then be canvassed properly without dancing around it. So I am withdrawing the questions but reserving the right to pose them later at an *in-camera* hearing.

CHAIRPERSON: Thank you. So is that the end of the open session?

ADV CHASKALSON SC: No, there are some questions, there are some minor, well not minor questions, there are still some questions that can be addressed.

20 **CHAIRPERSON:** [Indistinct]... okay, the issue around classification, okay.

ADV CHASKALSON SC: Lieutenant Colonel, I want to ask a few questions in relation to Bevan Loftus. The first question is did you ever obtain a search warrant for the premises of Bevan Loftus or his father's premises?

LT-COL GOVENDER: No, Commissioner.

ADV CHASKALSON SC: The second question is when did you first obtain an arrest warrant for Bevan Loftus?

LT-COL GOVENDER: I think that would have been around about 2023, February.

ADV CHASKALSON SC: I wanted to confirm that, that was my understanding, 27th of February is the date that I see.

LT-COL GOVENDER: I said 2023, February. I am not sure of the date.

10 **ADV CHASKALSON SC:** Ja, no, I will take you to the date if you want me to, the date that I see. If you go to file 3, page 306.

ADV KHUMALO SC: You said 306?

ADV CHASKALSON SC: 306.

ADV KHUMALO SC: Our file 3 starts on page 857, so is it one of those part 1, part 2?

ADV CHASKALSON SC: No, it is bundle 3, not ...[incomplete].

ADV BALOYI SC: 3A.

20 **ADV CHASKALSON SC:** 3A, ja. Now, do you have page 306?

LT-COL GOVENDER: Yes, I am with you.

ADV CHASKALSON SC: And this is a warrant that was issued for the arrest of Bevan Loftus on the 27th of February 2023.

LT-COL GOVENDER: That is correct, Commissioner.

ADV CHASKALSON SC: Now I have looked through all of the other dockets, I cannot find an earlier warrant. Will you accept that this was the first warrant that you got for the arrest of Bevan Loftus?

LT-COL GOVENDER: I accept that, Commissioner.

ADV BALOYI SC: Where do we see 27th?

ADV CHASKALSON SC: 23.

ADV BALOYI SC: Where do we see that? I was
10 ...[intervenes].

ADV CHASKALSON SC: At the foot of the page. The offence, the alleged murder took place in 2022, that is the date that we see at the top.

ADV BALOYI SC: Ja, our copy is not legible. Ja, I am told there is a stamp, I cannot see a thing, so ...[intervenes].

ADV CHASKALSON SC: It is not even the stamp, it is the handwritten date above the stamp ...[intervenes].

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

ADV CHASKALSON SC: There is a handwritten date
20 above the stamp, which is basically legible. That brings me to the question of what happened first on the 13th of December 2022 and then on the 3rd of February 2022. On the 13th of December 2022, I think it is common cause that members of the SAPS, including yourself, went to the address of Bevan Loftus and forcibly entered the premises.

Why did you do that? What were you doing there and what authority did you have to do it?

LT-COL GOVENDER: Sorry, Commissioner, I just need some clarity. Was that the day Senior was arrested as well, the 13th?

ADV CHASKALSON SC: I think that was the first day, the first arrest of Senior.

LT-COL GOVENDER: Senior, yes. So, we were looking for Bevan Loftus, for the Belair matter, and in doing so, we did
10 not, we found him to be in possession of, I think if that is the case, if I could be mistaken, there is two arrests, it would be the radios, where he had the police frequency.

ADV CHASKALSON SC: No, no, but the anterior question is how did you get into the premises? How did you break open the premises? What legal authority did you have to do that?

LT-COL GOVENDER: Sir, Gregory Loftus was there on that day.

ADV CHASKALSON SC: Yes.

20 **LT-COL GOVENDER:** He was present.

ADV CHASKALSON SC: Ja, he was present, but I mean, unless he lets you in voluntarily and opens the gate of his son's home for you voluntarily, without a warrant, you cannot do that.

LT-COL GOVENDER: But he was on the premises himself.

ADV CHASKALSON SC: No, no, I do understand that, but what gave you legal authority to enter, forcibly to enter premises?

LT-COL GOVENDER: We had reasonable suspicion that Bevan was hiding in the premises and his dad was concealing him.

ADV CHASKALSON SC: But did you have a warrant for his arrest?

LT-COL GOVENDER: At that point in time, we did not.

10 **ADV CHASKALSON SC:** So, on what basis were you entitled to enter the premises forcibly?

LT-COL GOVENDER: So, Commissioner, I will answer that again. When we got to the premises, as I explained earlier, Bevan was always escaping, running through the back. So we had a reasonable suspicion to believe that he would be in the premises or possibly armed as well.

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

ADV BALOYI SC: I think the question that is been asked of you, Colonel, is why did you go there without a warrant
20 for his arrest and you entered the premises, you broke, in the way that you have described it?

LT-COL GOVENDER: No, Commissioner, we were going there to arrest him. We did not have a warrant. We did not have a search warrant, Commissioner.

ADV BALOYI SC: You were going to arrest him?

LT-COL GOVENDER: Yes.

ADV BALOYI SC: Without a warrant?

LT-COL GOVENDER: Well, for the Belair case, Commissioner.

ADV BALOYI SC: So you had a warrant?

LT-COL GOVENDER: No, no, no, we did not have a, at that stage, we did not have a warrant. It was only in February we applied for one.

ADV BALOYI SC: Yes.

10 **LT-COL GOVENDER:** But naturally, we were going there to arrest him and question him for the Belair shooting.

ADV BALOYI SC: Yes, what Mr Chaskalson is asking you is, you do not have a warrant. On what authority then do you go to arrest him?

LT-COL GOVENDER: Commissioner, not always do you need a warrant to arrest someone. The reason why we applied for the warrant, Commissioner, and I will explain, because the several times that we have been to the house, we cannot locate him for the very same case of Belair case.

20 So in doing so, we put up an effort to say that we cannot find Bevan anymore, we now need to apply for a warrant of arrest before the magistrate.

ADV CHASKALSON SC: Are you operating under the assumption that you do not need a warrant to arrest someone and you only get a warrant when you cannot find

the person?

LT-COL GOVENDER: That is what happens in normal practice. Not everyone that is arrested, you need to apply for a warrant.

ADV CHASKALSON SC: That is quite a staggering proposition to hear from someone in charge of a track and trace team.

LT-COL GOVENDER: So, Commissioner, I will respond to that. One, you need to question the person as well, to see
10 in terms of the crime that he committed, what was his role. Two, there is multiple arrests on a daily basis that happens without a warrant. I do not see anything wrong with that, Commissioner, maybe ...[intervenes].

ADV CHASKALSON SC: Do you understand the law of when you need a warrant and when you may arrest without a warrant?

LT-COL GOVENDER: Commissioner ...[intervenes].

ADV CHASKALSON SC: What do you understand the law to be in that regard?

20 **LT-COL GOVENDER:** Commissioner, in respect of the warrant, why do we apply for a warrant of arrest in most cases.

ADV CHASKALSON SC: That is not my question. My question is, do you understand the law in relation to when you need a warrant to arrest someone and when you may

arrest without a warrant?

LT-COL GOVENDER: Yes, I do.

ADV CHASKALSON SC: How do you understand it?

LT-COL GOVENDER: So, arresting a person without a warrant is simply that you have a *prima facie* case or you have evidence in the matter. Arresting a person without a warrant, if it is necessary, the time delay in obtaining such a warrant will defeat the object of the purpose.

ADV CHASKALSON SC: Yes, so it is an issue of a time
10 delay in applying for a warrant.

LT-COL GOVENDER: Yes.

ADV CHASKALSON SC: When did you first, when were you first put onto this track and trace team with the intent of arresting Bevan?

LT-COL GOVENDER: That would have been with the intent, this team was not set up to arrest Bevan only.

ADV CHASKALSON SC: No, no, to arrest, when did Bevan cross your radar as someone who you wanted to arrest?

LT-COL GOVENDER: Yes, it is after we were conducting
20 multiple operations and after we collected the dockets, that is being the Belair case CAS numbers, where he was involved. And yes, that is when he came on our radar.

ADV CHASKALSON SC: I am looking for a date.

LT-COL GOVENDER: I cannot tell you offhand, Commissioner.

ADV CHASKALSON SC: Well, let me give you a date which is, at the very least, the latest date. Can you go to page 298.

LT-COL GOVENDER: I am here, Commissioner.

ADV CHASKALSON SC: Do you have an unredacted copy? Does your copy, I mean, if you look there, you will see that certain things are stamped out, but is yours clean?

LT-COL GOVENDER: Not really, I ...[intervenes].

ADV CHASKALSON SC: Okay, but maybe you will
10 recognize it. Do you see the date of that stamp? It is the 22nd of November 2022.

LT-COL GOVENDER: That is correct.

ADV CHASKALSON SC: Do you recognize the handwriting that says:

“Sergeant Bengu, take over, trace and
arrest suspect.”

LT-COL GOVENDER: Yes.

ADV CHASKALSON SC: Who wrote that note?

LT-COL GOVENDER: That is my writing, Commissioner.

20 **ADV CHASKALSON SC:** Right. So on the 22nd of November, you had already taken a decision that Bevan should be arrested?

LT-COL GOVENDER: Yes, Commissioner.

ADV CHASKALSON SC: Now, if you wanted to apply for a warrant, you could have done so, or indeed you ought to

have done so, by the 22nd of November.

LT-COL GOVENDER: Yes.

ADV CHASKALSON SC: Now, that was two weeks before the events of 3 December.

LT-COL GOVENDER: Yes.

ADV CHASKALSON SC: Could it ever be said that the delay in applying for a warrant rendered the warrant requirement unnecessary on the 3rd of December?

LT-COL GOVENDER: Commissioner, with respect, are we
10 not entitled to question the suspect itself before even effecting arrest?

ADV CHASKALSON SC: But that is not what you went there for, is it? You went there and forcibly entered the property, broke down a door, with the intention of arresting him.

LT-COL GOVENDER: Commissioner, so if Bevan is hiding and he is evading the police, and we suspect him to be armed, how do you get a warrant?

ADV CHASKALSON SC: Well, very easily. You apply for a
20 warrant when you have decided on the 22nd of November that there is a *prima facie* case against him in the Belair matter. You set out what the facts are that justify his arrest. You go to a magistrate. You then have a warrant in your hand from the 23rd or the 24th of November. And then when you find out through an informant that Bevan is at his

father's house, you can go in and break down doors if you want. But until you have done that, you have no legal right to do that. Do you accept that?

LT-COL GOVENDER: But on that particular day, and my response to that, Commissioner, is that Bevan was at the premises and he is evading the police, so the circumstances changed there.

ADV CHASKALSON SC: You are saying that you deliberately delayed the process of judicial oversight for a
10 warrant of arrest for two weeks. And then, having delayed for two weeks, you said, well, if we do not move now that we have ...[indistinct] that Bevan is at the property, we are going to miss him again. Is that what you are saying?

LT-COL GOVENDER: That is not what I am saying, Commissioner.

ADV CHASKALSON SC: Well, what are you saying?

LT-COL GOVENDER: So, if the subject, say, Bevan, is armed, do we walk away, or do we go get a warrant and come back? On each operation, the circumstances or the
20 events, it will change.

ADV CHASKALSON SC: How do you explain that there was not a warrant of arrest in your hand by the 3rd of December, when on the 22nd of November, you apparently had issued an instruction for his arrest?

LT-COL GOVENDER: Yes, Commissioner, on all the failed

attempts looking for Bevan, that drove us to apply for the warrant on February, 23rd.

ADV CHASKALSON SC: You see, Lieutenant Colonel, I am very, very alarmed at what I am hearing from you, because you seem not to understand the requirement of judicial oversight before you can arrest a person. And you seem not to understand that you cannot create your own urgency to effect a warrant by simply declining to apply to a court or a magistrate for a warrant. Am I missing
10 something?

LT-COL GOVENDER: No. My evidence earlier to the Commission, I did say that there were sporadic shootings, and Bevan's name was also coming up all the time. So, are we not allowed, as the police, to pursue Bevan, to question him and find out who is the rest of the gangs, or what is his involvement between Sydenham, Newlands, and Wentworth? That is our job as the SAPS, to prevent crime as well, apart from arresting.

ADV CHASKALSON SC: I understand all of that, but the
20 purpose of judicial oversight is to exercise some sort of control on what a track and trace team like yours does. It is to make sure that you do not go and break down doors, smash security gates, enter private premises, unless there are objectively reasonable grounds for doing so.

LT-COL GOVENDER: Commissioner, respectfully, we are

not dealing with a person with a white collar crime. We are dealing with a violent criminal here that we are looking for. People are getting shot, illegal firearms, and there is videos that need to be flighted. Maybe the Commissioner can see how they are firing the AK47 between Bevan's gang. Maybe the Commissioner will have a different opinion of what Counsel is telling me. These are violent criminals. We have it here, Commissioner, to flight it. So that is what we are encountering, or who we are looking for.

10 **ADV CHASKALSON SC:** I understand what you are saying, but it still alarms me.

LT-COL GOVENDER: I want to give an example to the Commissioner, that there were small kids standing around here. Ryan Santos takes his AK47, and we will flight it to the Commissioner of the, the Commissioners. He is firing his AK47 automatic. These are the suspects that we were looking for.

ADV CHASKALSON SC: Which would make it extremely easy to get a warrant immediately if you want to arrest
20 them. You had decided on the 11th that you needed to arrest Bevan. You did nothing to put evidence before an objective independent third party to authorize the arrest and then two weeks later, you go and break down doors, smash security gates, apparently interfere with the operations of a creche. I want to put to you that you do not seem to

understand what your legal powers are and what they are not and you do not seem to understand the requirements of judicial oversight for breaking into premises, arresting, and arresting people. And you do not seem to treat applications for warrants with the extraordinary urgency that they should be treated. Why, for two weeks, did nobody bother to get a warrant for Bevan's arrest if it was so critical as you suggest?

LT-COL GOVENDER: Yes. Commissioner, as I indicated
10 earlier on, we are not dealing with a white collar crime. We are dealing with a serious, a gang called the Hollywood Gang and there were multiple times apart from the dates Counsel is mentioning that we went to the area looking for Bevan. He constantly evaded the police, constantly. As I indicated, we left our details with his wife, with the lady in the creche, with his mum, and various, his dad, several times.

What was so hard for him to go to the police station, knowing he is part of this Hollywood Gang? It does
20 not make sense, Commissioner. He could have, I mean, the police station is probably about a few kilometres from his house, to go there and say, why is this captain looking for me? What is the reason this team is looking for me? He does not go anywhere. He does not go to the provincial police. His friend is Sergeant Thomas. He does not report

to Thomas. There is so many other reporting. He could have reported me if I broke down the door, if he felt threatened. Bevan knows a lot of policemen around there as well. Or come to my office.

CHAIRPERSON: Just to make sure that I understand you, Colonel, are you suggesting that where the crime involved is not a white-collar crime, but involves allegedly violent criminals, or alleged criminals, that there is a relaxation on the legal requirements for applying for warrants? What
10 exactly are you saying, because I honestly do not understand you, because by the time the issue of Mr Bevan Loftus evades you, you would already be having a warrant of arrest in your hand.

Whether or not he evades you, that should make no difference with regard to whether you did, at the right time, apply for a warrant of arrest. Please make me understand, is there relaxation on the law? If not, why did you not already have a warrant of arrest by the time you realized that, oh, he is giving us the runaround.

20 **LT-COL GOVENDER:** Respectfully, Commissioner, there is no relaxation on the law in respect of that. I was just trying to make the Commissioner understand who Bevan Loftus and the gang really are. But apart from that, Commissioner, we are wanting to question him as well, on various matters, apart from the Belair matter.

CHAIRPERSON: But you also wanted to arrest him. It is clear there, there is your own handwriting in red there.

LT-COL GOVENDER: Yes.

CHAIRPERSON: November of 2022, a decision has been taken to arrest him. So even if you would also question him, but you would arrest him, not so?

LT-COL GOVENDER: That is correct, Commissioner.

CHAIRPERSON: And it is at that point, that is November, that you should have applied for a warrant, not so?

10 **LT-COL GOVENDER:** Commissioner, I could have. I could have applied for a warrant.

CHAIRPERSON: You should have, not so. You should have, correct?

LT-COL GOVENDER: Commissioner ...[intervenes].

CHAIRPERSON: There is a big, big difference between could have and should have.

LT-COL GOVENDER: Yes.

CHAIRPERSON: You ought to have applied for it or not?

20 **LT-COL GOVENDER:** I did not have the opportunity to interview Bevan, Commissioner.

CHAIRPERSON: Did you have to apply for a warrant or not, Colonel? Can you please answer my question directly.

LT-COL GOVENDER: Sorry, Commissioner, I did not get you?

CHAIRPERSON: Is it not so that you ought to have applied

for a warrant as early as November of 2022? Is that not so?

LT-COL GOVENDER: Commissioner, we do not normally apply for a warrant in every case, Commissioner. You know, Commissioner can do his research. If the person is wanted in the case, as I indicated, Commissioner, we would interview him.

CHAIRPERSON: Let me tell you my understanding of the law, and you will tell me if I am wrong. My understanding is
10 that you may arrest without a warrant where you do have the reasonable suspicion, which is what grounds, of the commission of an offence, which grounds your arrest. But at the same time, you fear that if you, in quotation marks, waste time and go seek a warrant, that may defeat the purpose, which is to arrest the person.

LT-COL GOVENDER: Yes.

CHAIRPERSON: There you may arrest without a warrant.

LT-COL GOVENDER: Yes.

CHAIRPERSON: So, in short, that is in circumstances
20 where there is urgency for you to act there and then.

LT-COL GOVENDER: That is correct, Commissioner.

CHAIRPERSON: In any other circumstance, you must get a warrant. Do I summarize the law correctly? Tell me if I am wrong.

LT-COL GOVENDER: Yes. No, yes you do,

Commissioner.

CHAIRPERSON: Now, November 2022, you decide you want to arrest Mr Bevan Loftus.

LT-COL GOVENDER: Yes.

CHAIRPERSON: And it was not as if you wanted to arrest him there in November of 2022, because if you wanted to, then you should have already made your attempt there, you should have gone to his home and kicked down doors on that day and then you would have been able to say, we
10 believe that he was there, and we thought if we wasted time, the purpose would be defeated. That is why we rushed there, there and then. That is not what happened. Days went by.

LT-COL GOVENDER: Yes, Commissioner.

CHAIRPERSON: Correct?

LT-COL GOVENDER: That is correct, Commissioner.

CHAIRPERSON: It is on that basis that I say, is it not so that you ought to have applied for a warrant? Remember, we are now on the terrain of the second ...[intervenes].

20 **LT-COL GOVENDER**: Yes, Commissioner.

CHAIRPERSON: The second circumstance ...[intervenes].

LT-COL GOVENDER: Yes, correct.

CHAIRPERSON: Ja, that I engaged you on. So you ought to have applied for a warrant, correct?

LT-COL GOVENDER: Correct. In hindsight, yes,

Commissioner.

CHAIRPERSON: Yes. Yes, Mr Chaskalson.

ADV CHASKALSON SC: Chair, there is then a second episode that takes place on the 3rd of February. You have now had two and a half months to apply for a warrant but have chosen not to, and again, you forcibly enter premises, break down doors. Is this how your unit operates generally, that you treat a warrant as something that is not ordinarily pursued with urgency?

10 **LT-COL GOVENDER:** On the time that we receive the information, we act on it, Commissioner.

ADV CHASKALSON SC: Well, you have received information by November. If your note on the docket in Belair was correct, you had received information on November that there was an offence committed by Bevan that warranted his arrest and that would have justified the application for a warrant on 22 November.

LT-COL GOVENDER: That is correct, Commissioner.

ADV CHASKALSON SC: But you chose not to.

20 **LT-COL GOVENDER:** We did not apply for a warrant.

ADV CHASKALSON SC: Yes.

LT-COL GOVENDER: We did only in February.

ADV CHASKALSON SC: You ultimately applied for a warrant and got it on the 27th of February. But if you had grounds for a warrant, you could have had a warrant in the

last week of November.

LT-COL GOVENDER: That is correct.

ADV CHASKALSON SC: But because of the way that you chose not to apply for a warrant, you ended up not having one until after you had broken down doors twice.

LT-COL GOVENDER: Commissioner, it is not that I chose. It is that we were looking for Bevan to question him.

ADV CHASKALSON SC: No, Lieutenant Colonel, who was in charge of this operation?

10 **LT-COL GOVENDER:** That is me.

ADV CHASKALSON SC: Yes.

LT-COL GOVENDER: Yes.

ADV CHASKALSON SC: And if you understood that you wanted to arrest Bevan, what was the first thing you should have done? Apply for a warrant, presumably.

LT-COL GOVENDER: Commissioner, I saw it the other way, that we question him and then arrest him after that.

ADV CHASKALSON SC: But that is not what your note of 22 November says. It does not say, question him, see if
20 there are grounds to arrest. If so, then arrest. It says trace him and arrest him.

LT-COL GOVENDER: That is correct.

ADV CHASKALSON SC: So you decided already on the 22nd of November you wanted him arrested.

LT-COL GOVENDER: Most definitely.

ADV CHASKALSON SC: But you did not apply for a warrant.

LT-COL GOVENDER: No, we did not.

ADV CHASKALSON SC: You see, the problem with a unit that is doing things that your unit does, thinking that warrants are sort of optional, is it means that there is never judicial oversight over whether you can go into these situations, kicking down doors, breaking open houses, and violent situations where people very frequently get killed.

10 So I want to put it to you that you do not actually understand the legal obligations that govern your unit, which is a very worrying thing.

LT-COL GOVENDER: I disagree with that, Commissioner.

CHAIRPERSON: You either do not understand or you deliberately choose not to work in accordance with them, or you choose to disregard them. Do you want to comment?

LT-COL GOVENDER: No, Commissioner.

ADV CHASKALSON SC: There is one last issue I want to raise in relation to the Bevan Loftus murder, and I do not
20 want to be understood to be suggesting Bevan was an angel. I do not believe for a minute he was. But I want to understand the composition of this task team, because the task team that went into the operation to apprehend Bevan, ostensibly, had one member of the dog squad, in fact it was led by a member of the dog squad, and it had brought in a

municipal police dog officer. You are aware of that. Why do you have dog squad members in a task team?

LT-COL GOVENDER: Yes, it is a good question, Commissioner. So in the team you would have people doing analysis, you will have the dog squad to track and trace suspects, apprehend suspects if they are getting away in pursuit, for tactical operations.

ADV CHASKALSON SC: So the dogs are there either to sniff out the suspects or to essentially chase the suspects.

10 **LT-COL GOVENDER:** Ja, also for tactical operations as well.

ADV CHASKALSON SC: Now Captain Houston tells us that although there were two dog squad members on the scene, there were no dogs on the scene.

LT-COL GOVENDER: That could be correct, Commissioner.

ADV CHASKALSON SC: Well, why would you have a dog squad member in a task team like this if he did not bring his dogs?

20 **LT-COL GOVENDER:** Ja, these are, we use them for tactical operations, Commissioner. We are detectives.

ADV CHASKALSON SC: So you have, do members of the dog squad get the same sort of training as TRT and NIU?

LT-COL GOVENDER: Yes, they go on advanced tactical courses in terms of house penetration, various other courses, they undergo intensive courses.

ADV CHASKALSON SC: But I would have assumed that if you put a dog squad member in your team it is because you want the dog as, you want him as the handler of a dog and not for many other reasons, not primarily for any other reasons. There are people who are far better trained for tactical operation than dog squad members. There are TRT members, there are NIU members, SDF members. What are you doing with dog squad members in your team who do not bring their dogs to the operation?

10 **LT-COL GOVENDER:** So in this case here, Commissioner, the dog squad member you speak about he has also got the operator's badge. He is a NIU, ex-NIU member, so he has been trained by NIU and also undergone the dog course as well. The municipal, sorry, Commissioner, the municipal member that you speak about, he underwent training with the task force. He is one of 20 people that went and undergone a small, short course at the task force. Not everyone gets the opportunity to do that.

ADV BALOYI SC: You probably dealt, I think you dealt
20 with this previously, but I am confused about, between the questions and the answers. What task team carried out this Bevan Loftus operation?

LT-COL GOVENDER: It was not a task team, Commissioner. So I was going to correct you just now.

ADV BALOYI SC: Maybe do.

LT-COL GOVENDER: Yes, it was *ad hoc* squad that came together. For example, if I can go back to Constable Matthew, where the enquiry started from Maritzburg, the information, he engaged Captain Rodriguez, who then engaged the other members. I did send Warrant Officer Moonsamy, who got Shabalala on board, to meet them at M13. So that was not part of the task team that I commanded. That was an *ad hoc* squad together for the said operation of the day.

10 **ADV BALOYI SC:** Is that ...[intervenes].

LT-COL GOVENDER: That is why, respectfully, sorry, Commissioner, I said, maybe I said it the wrong way, but none of the, those individuals were part of the anti-gang team on paper for the one-year operation that is signed off by the different Generals.

ADV BALOYI SC: An operational team, is that an *ad hoc* arrangement?

LT-COL GOVENDER: It is an *ad hoc* professional team.

ADV BALOYI SC: And who would have put it together for
20 this operation on the day?

LT-COL GOVENDER: So in this operation, it was Constable Matthew, Matt, Constable Matt from Maritzburg, together with Crime Intelligence, who engaged Captain Rodriguez. Not personally, myself.

ADV BALOYI SC: Thank you.

ADV KHUMALO SC: In what capacity were you there?

LT-COL GOVENDER: Commissioner, I was the Captain of the anti-gang, and they called me because they had information on the docket that they were working on, on the triple murder, so capacity of the anti-gang.

ADV KHUMALO SC: So you were there as the Head of the anti-gang unit.

LT-COL GOVENDER: That is correct, the task team, the anti-gang task team, not these members.

10 **ADV KHUMALO SC:** Ja. So the task team was there through you.

LT-COL GOVENDER: Commissioner, so the anti-gang task team is, there is a list here I can explain better. So these members do not fall under the anti-gang task team. It is detectives.

ADV KHUMALO SC: I understand that the other members who were there are not part of the task team.

LT-COL GOVENDER: Yes.

ADV KHUMALO SC: But you were there.

20 **LT-COL GOVENDER:** I was there, correct.

ADV KHUMALO SC: And you are the Head of the task team.

LT-COL GOVENDER: One hundred percent, Commissioner.

ADV KHUMALO SC: And you were there in your capacity as the Head of the task team.

LT-COL GOVENDER: Yes, indeed.

ADV KHUMALO SC: So the task team was there through you.

LT-COL GOVENDER: Okay, if you say it in that way, yes, that is correct.

ADV BALOYI SC: The task team was part, through you, I think you said Naidoo as well? I forget his title.

LT-COL GOVENDER: Yes, Warrant Officer, Captain Naidoo now.

10 **ADV BALOYI SC:** So that task team, the two task team members, and therefore the task team was part of the operational team.

LT-COL GOVENDER: Yes, they were part of the operational team, that is correct, yes.

ADV BALOYI SC: Thank you.

ADV CHASKALSON SC: Did you phone Mr Naicker from the scene where Bevan Loftus was killed?

LT-COL GOVENDER: Mr Naicker?

ADV CHASKALSON SC: Mr Naicker, Mr Clive Naicker.

20 **LT-COL GOVENDER:** I cannot recall calling him, Commissioner.

ADV CHASKALSON SC: You cannot recall?

LT-COL GOVENDER: Hm.

ADV CHASKALSON SC: You cannot deny that you called him, or you can deny? You either cannot recall or you

deny?

LT-COL GOVENDER: No, I cannot recall if I spoke to him on the day. It could be possible, it could be not at all.

ADV CHASKALSON SC: I see. So it is possible that you called Mr Naicker from the scene where Bevan Loftus was killed?

LT-COL GOVENDER: It is possible or not possible at all, Commissioner.

ADV CHASKALSON SC: We will have to see what we can
10 find in phone records.

LT-COL GOVENDER: Yes.

ADV CHASKALSON SC: Chair, I have exhausted the questions I can ask in open session.

CHAIRPERSON: And what do we do when, then, Mr Chaskalson?

ADV CHASKALSON SC: It is out of our control at the moment, Chair ...[intervenes].

CHAIRPERSON: Yes.

ADV CHASKALSON SC: So I think that if we do get
20 material declassified, then we will have to subpoena Colonel Govender again.

CHAIRPERSON: All right. Colonel, the hearing of your testimony is postponed to a date to be determined.

MR NEPAUL: Thank you, Mr Chair. There is one aspect that I wish to raise and it emanates from questions raised

by the panel on certain documents, National Instructions and the like. We have put together a bundle of documents which we shared with the Evidence Leaders. That, none of those have been presented to you in evidence. I am not sure whether the bundle has been made available to the panel or not. But if it has not, then I would ask your leave, after the questions have been done, to re-examine the witness on aspects relevant to issues raised by members of the panel. It will be very restricted. There is a huge
10 bundle, but I will seek your guidance at that time. I could deal with it by address. And in regard to certain aspects that may need explanation from the witness, that we, in respect of those, ask the explanation, so we expedite the process.

I am just concerned that at this stage, that bundle of documents has not been presented as evidence before you and many of the issues which you raised are dealt with in that bundle. But I will be guided by Mr Chairperson in regard to at which stage we deal with that.

20 **CHAIRPERSON:** I would imagine that probably concerns the questions around who was in charge of the operation on the day, and in particular, us engaging the Colonel on whether a Constable, for example, would be in charge and give him, the Colonel, instructions or order him around.

MR NEPAUL: Yes, it deals with ...[intervenes].

CHAIRPERSON: I am not necessarily saying that is all of it.

MR NEPAUL: Yes, it is one of those issues.

CHAIRPERSON: Yes, yes.

MR NEPAUL: But Commissioner Khumalo asked if there existed an instruction, a Standing Order, a National Instruction dealing with this authority, et cetera, and we have put into the bundle those documents. And there are other issues as well which are relevant, I think, that are in
10 the bundle.

CHAIRPERSON: Rather than upright re-examination, may I make the suggestion, let the Colonel prepare a supplementary affidavit in which he fully addresses all those issues, referring us to the document.

MR NEPAUL: Thank you, Mr Chairperson. The only request I ask is that you please grant me a reasonable time to attend to that.

CHAIRPERSON: Yes.

MR NEPAUL: Perhaps by the end of this week. When I
20 get back to Durban tomorrow, I can start dealing with it and deliver by the end of the week.

CHAIRPERSON: Will that be in order, Mr Chaskalson?

ADV CHASKALSON SC: Absolutely, Chair. My request, the bundle of documents is the fifth bundle, and it would help immensely if that supplementary affidavit uses the

pagination in this bundle.

CHAIRPERSON: Yes, yes, yes. So the paragraph numbers and also the pagination on the document.

MR NEPAUL: Thank you, Mr Chairperson. That is what I intended doing so that we can go through it quickly and cross-reference it.

CHAIRPERSON: Yes. Thank you. Thank you, Mr Nepaul. Yes, Colonel?

LT-COL GOVENDER: Can you give me one minute of your
10 time, Commissioner, before I leave this room?

CHAIRPERSON: Yes.

LT-COL GOVENDER: Commissioner, as I said, I am 30 years in the police. It is the first time I am going through something like this. Commissioner, these are all matters that IPID is dealing with. I just, I am saying, please, Commissioner, you can see they are trying to link me to Marimuthu, link me to Clive Naicker. Where is this all coming from? I am saying IPID has these matters for years, Commissioner, that I am dealing with. I did not steal the
20 money from anywhere.

Commissioner, there is no link to anything. Now when I leave from here, how do I go face the public, Commissioner? I never stole the money. I honestly said where I got it from and I will not lie, even if you go back and investigate. Well, the investigation will take place. I have

not taken the money from anyone. But my name is so tainted for whatever reason.

I am just saying, Commissioner, I am going to leave this place here now, going with a mind like this, my family is watching. I did not steal the money. And to Mr Naicker, I got many sources, but it is, as I indicated to the Commissioner earlier on, it is Sergeant Thomas who is doing this, because he is close friends to Gregory Loftus, and creating all these things, Commissioner. It is a bigger
10 picture. That is all I am saying to you. And his uncle is Robert McBride that is fighting a war that is right on top, Commissioner. That is all.

CHAIRPERSON: Thank you. Thank you, thank you, Colonel. Let us adjourn and resume at 9:30 tomorrow.

INQUIRY POSTPONED TO 1 SEPTEMBER 2026

INQUIRY ADJOURNS
