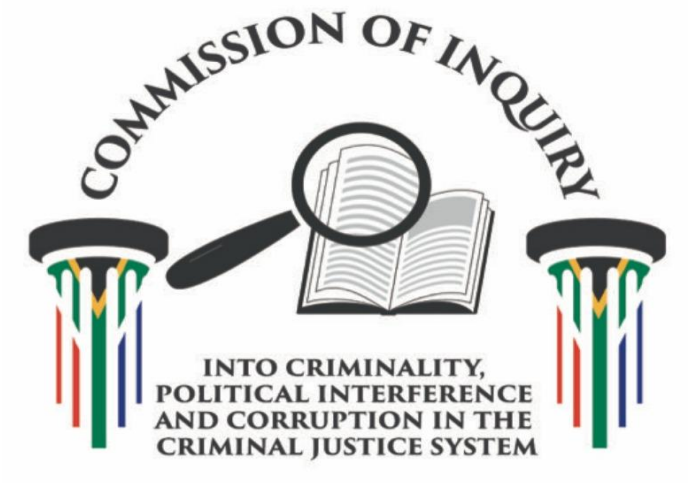
JUDICIAL COMMISSION OF INQUIRY INTO CRIMINALITY, POLITICAL INTERFERENCE AND CORRUPTION IN THE CRIMINAL JUSTICE SYSTEM

HELD AT

BRIGITTE MABANDLA JUSTICE COLLEGE

15 SEPTEMBER 2026

DAY 173



PROCEEDINGS HELD ON 15 SEPTEMBER 2026

CHAIRPERSON: Good morning, Ms Pooe. Good morning, Mr Sedumedi.

ADV POOE: Good morning, Chair.

CHAIRPERSON: Good morning to you too, Superintendent.

SUPERINTENDENT DE BEER: Thank you, Chair.

CHAIRPERSON: Yes, yes, yes. I do not think there is a need for me to declare the fact that my daughter used to work for your firm, but not anymore.

MR SEDUMEDI: That is correct, Chair.

CHAIRPERSON: Thank you, thank you. Yes, Ms Pooe.

ADV POOE: Good morning, Chair. Good morning, Commissioners. The witness for this morning is Ms Elmarie De Beer, a Superintendent in JMPD, and she has confirmed that she will take the oath.

CHAIRPERSON: Please state your full names for the record, Superintendent.

SUPERINTENDENT DE BEER: Good morning, all. I am Elmarie De Beer, and I am at Johannesburg Metro Police as a Superintendent.

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

SUPERINTENDENT DE BEER: So help me God.

CHAIRPERSON: Thank you very much.

ELMARIE DE BEER: **(duly sworn states)**

ADV POOE: And then, Chair, just to complete the process of the attorneys putting themselves on record, Mr Sedumedi is from MNS Attorneys, and they are on a watching brief for the City of Johannesburg.

CHAIRPERSON: Thank you, thank you.

ADV POOE: Chair, Commissioners, Superintendent, you should have one file in front of you. The file is labelled Superintendent Elmarie De Beer Statement and Annexures. Superintendent, in that file, you will find your statement, and I just want us to just confirm that that is your statement. If you can go to page 1, can you confirm that that is the statement that you have prepared for purposes of giving your testimony before the Commission this morning?

SUPERINTENDENT DE BEER: I confirm.

ADV POOE: And if you can then proceed to page 14, can you confirm that that is your signature?

SUPERINTENDENT DE BEER: That is correct.

ADV POOE: And then can you confirm that the contents of the statement are, to your knowledge, both true and correct?

SUPERINTENDENT DE BEER: I confirm.

ADV POOE: Commissioners, there are some minor amendments that we will make as and when we get to the

relevant paragraphs. And then, Chair, just to place it on record that Ms De Beer is the first of the JMPD witnesses, and thereafter she is here to give a broad overview of some of the challenges that the JMPD is facing, in particular as regards to infiltration. Thereafter, there will be witnesses that give the proper content of those allegations.

Superintendent, if we can then go into your statement. There is no need to deal with the first two paragraphs of your statement, but you have set out in your statement your background and experience in law enforcement. Can you give a summary of that?

CHAIRPERSON: Has JMPD been mentioned in full? Johannesburg Metropolitan Police Department, maybe it was. Maybe I had switched off for a second.

ADV POOE: Chair, you are correct. I had not mentioned it in full.

CHAIRPERSON: Yes.

ADV POOE: Superintendent, if we can then proceed with your career, background in law enforcement, and in particular, when you started, and then your trajectory through the various law enforcement agencies you worked for.

SUPERINTENDENT DE BEER: Okay. I started my journey in the South African Police Service during July 1991, when I was appointed as a Constable. And between 1991 and

2003, I progressed to the rank of a Warrant Officer, ending up in the Fraud Unit. Then during 2003, I left the SAPS, or the South African Police Services, in June. And in June 2004, I started my career within the Johannesburg Metropolitan Police Department.

I joined the JMPD in 2005, as I was appointed as a Metro Police officer. And in May 2005, I progressed to the rank of a Sergeant within the Internal Affairs Department. I stayed a Sergeant until August 2015, where I was appointed then as a Superintendent and head of investigations at the Internal Affairs Department, where I am currently at, at present.

CHAIRPERSON: I am very sorry. Do the JMPD positions have equivalents in SAPS positions, or not? I just want to have an idea where exactly Superintendent is.

SUPERINTENDENT DE BEER: Okay. Chair, the constables in the SAPS is equal to our Metro Police officers, or the normal officer on the ground level. Then we are having the Sergeant's rank, the same as with the SAPS. And then from there, we will have the inspector's rank, the same as the Warrant Officers in the SAPS. And then in our ranking system, we will then go to Superintendents, which would be then equal to your either Major or then Lieutenant Colonel.

CHAIRPERSON: All right, all right.

SUPERINTENDENT DE BEER: Ja.

CHAIRPERSON: Thank you, thank you.

ADV POOE: Thank you, Superintendent. Can you then deal with your core functions as a Superintendent and head of investigations within Internal Affairs? And that is at paragraph 8 of your statement.

SUPERINTENDENT DE BEER: I will do so. The core function for me as a head of investigations, I normally conduct investigations. I deal with prosecution cases, and I oversee the management on reporting of accidents involving departmental vehicles. We also conduct proactive interventions, and I am also dealing with the case management system, managing all the cases that come in and where it goes to, in order to understand the time frames that we have got, so that we can align to that.

ADV BALOYI SC: What is proactive interventions?

SUPERINTENDENT DE BEER: Proactive intervention, Commissioner, will be when we go out to schools, to events, to the community itself, churches, and explain what is the standard of JMPD, as well as what we want to let the members of the public understand what is required from them, as and when they are in a situation where JMPD officers will want money from them, or try to bribe them, or any misconduct related to a JMPD officer, and where they need to report it. So that they have got an avenue for them

to report.

ADV POOE: Thank you, Superintendent. At paragraph 9, you have set out your academic qualifications and training. I do not propose that we go through that, just for the Commissioners to note that. If we could then go to the next topic in your statement, which deals with an overview of the JMPD, and if you could then start at paragraph 10, where you describe what the JMPD is?

SUPERINTENDENT DE BEER: JMPD is a Metro Police Department within the City of Johannesburg, and it contains around 3 000 to 4 000 members. It is a local law enforcement agency responsible for the traffic policing, municipal bylaws, enforcement, as well as crime prevention.

ADV BALOYI SC: Can you just explain crime prevention, how far that goes and what it encompasses?

SUPERINTENDENT DE BEER: Crime prevention in general would be drug-related complaints where members of the public inform us, where members of the community will sell drugs, will sell illegal stuff, especially when it comes to gold, diamonds, and all that type of things, which are not legal, as well as counterfeit goods, and that type of thing is what they deal with.

They will go in and they will do an undercover investigation or a sort of understanding as to what is happening, and they will then go in with the relevant

entities, assisting them to arrest the suspects or the members that are involved there.

ADV POOE: Superintendent, at paragraph 11, at 11.3, you do set out what crime prevention is, but in your response to Commissioner Baloyi, you mentioned that it includes things like undercover operations. So where you say active patrolling high-risk areas to deter criminal activity before it escalates, that is not the sum total of the crime prevention that JMPD does?

SUPERINTENDENT DE BEER: No, that is just part of it.

ADV POOE: And when they run interventions like undercover operations, are they mandated to run it with other law enforcement like the South African Police Service?

SUPERINTENDENT DE BEER: They will definitely work with the SAPS members, especially with other law enforcement officers, like for instance Gauteng Traffic, depending on what type of information is coming through, they will then definitely work with the DPCI, the Hawks, the SAPS, depending on what level and what type of information comes up. Some of them will also involve your illegal immigrants and the Zama-Zamas, that will also be addressed, but then they will also work with relevant departments that can verify whether they are legal or not.

ADV POOE: And in those operations, what exactly is

JMPD's role? I suppose my interest in particular is whether they play an investigative role, or is it a role of making sure that things do not go wrong? To what extent do they get involved in investigative work?

SUPERINTENDENT DE BEER: I think mostly in situations like that, especially when they work with the SAPS, it would be a supportive role to the SAPS in order to give the necessary backup for the SAPS regarding to hostile criminals that are starting shooting and that type of thing. So obviously it is a supporting role that both are giving to each other in order to curb that type of corruption or that type of crime.

ADV POOE: All right. Thank you, Superintendent. Just to go back a little ...[intervenes].

ADV BALOYI SC: Can I just ask? Is there anything in place that regulates between the SAPS and the JMPD these jurisdictions? Because in some parts there is overlaps, it looks like. So do you have an instrument, a protocol in place that tells you these are the bounds of what JMPD gets to do alone, and when you get into this kind of territory or offences, you must now involve the SAPS. Is there anything in place?

SUPERINTENDENT DE BEER: I would say it depends on the information that comes up. Where the SAPS has got a main role to play, the SAPS will take over. But if it is, for

instance, situations whereby they will go in and search premises for illegal substances or for illegal cell phones, stolen cell phones, that type of things, within the City they are permitted to work in that area, in the City of Johannesburg. But as soon as they go out of the City of Johannesburg, it must be a situation that they report to their substantive heads in order to get permission before they can go out and do whatever they want to do.

ADV BALOYI SC: Thank you.

ADV POOE: Superintendent, if we can then just take a few steps back. You were dealing with paragraph 11, where you talk about the establishment of the JMPD and you give an explanation of the three mandate legs of the JMPD.

SUPERINTENDENT DE BEER: Okay. JMPD was established on the 31st of March 2001. It operates under the South African Police Services Amendment Act of 1983 of 1998. There are three assigned core functions that they need to deal with. That would be traffic policing, your crime prevention and then bylaw enforcement. That is the main three core functions that JMPD has got that they need to deal with.

ADV POOE: Thank you, Superintendent. Can you just read into the record the explanation that accompanies traffic management and bylaw enforcement?

SUPERINTENDENT DE BEER:

> "Traffic management in general is the enforcement of the rule of the road, managing traffic flows, as well as the investigation on road incidents, such as accidents and that type of things that they will deal with. Bylaw enforcement, that is more towards the insurance for businesses and residents to comply with municipal regulations, such as those concerning illegal parking, illegal street trading and that type of things. So they will deal with that function."

ADV POOE: Thank you. And then at paragraph 12, you deal with the composition of the JMPD, if you can just explain that?

SUPERINTENDENT DE BEER: Okay. In addition, the General Uniformed Officers' Corps, JMPD, comprises of a number of specialised units or divisions, including and amongst others, the Licencing Department. But JMPD is not, we do not oversee the function of the Licencing Department itself. We do, as Internal Affairs, we will then do the investigations, but that is how far it goes there. The Security Department, as well as the TRU, the Tactical Response Unit, that we also call it the JMPD Undercover Unit.

We have got the Specialised Patrol Unit, also commonly known as the SPUs. We have got Public Order Policing, that is called POPS in short. Then we have got the K9s, the dog units, and then Bylaw Management, as we know commonly as BMU. That is just a few of them. But all of these units or divisions, as overall falls under the JMPD Chief of Police, Commissioner Patrick Jaca. He is the sole person in charge of JMPD at this point in time.

ADV POOE: Thank you, Superintendent. At 12.2, when you say the Security Department, what does that mean?

SUPERINTENDENT DE BEER: That would be all the security officers, meaning all of the council buildings, the council premises, the swimming pools, and all of them. We do the investigations on the AWOLs and that type of thing, but in general, the Security Department is also falling under us.

ADV POOE: Thank you. If we can then move on to the next section of your statement, which deals with Internal Affairs within JMPD? You can then proceed from paragraph 14.

SUPERINTENDENT DE BEER: Okay. The Chief has mandated Internal Affairs to investigate corruption and other misconduct done by JMPD officers. Internal affairs exist because the Chief cannot personally oversee all of the disciplinary matters that come up. And because of the size

of JMPD, it is very difficult for him to control all of them. So he mandated us as Internal Affairs to take that role over and to assist him with the investigation and the prosecution and the control over discipline within the department. There is also a copy of the Standard Operating Procedures of Internal Affairs that is attached.

ADV KHUMALO SC: Good morning, Superintendent. Do you not have deputy chiefs within the JMPD?

SUPERINTENDENT DE BEER: Not yet, sir.

ADV KHUMALO SC: I see, because you mentioned the Commissioner. Please, can we switch off the cell phones or put them on silent? So you have mentioned here seven units. So they do not have a deputy Chief looking after each of them. You do not have that in the JMPD?

SUPERINTENDENT DE BEER: Commissioner, not at this current moment, no.

ADV KHUMALO SC: Okay. So that is an anomaly, because we know Tshwane and Ekurhuleni, they have deputy chiefs.

SUPERINTENDENT DE BEER: They do have, but we do not have yet.

CHAIRPERSON: I guess that is a good thing because it saves us a lot of money.

ADV KHUMALO SC: But as you say, the Chief cannot handle everything. And you have got what, you said 4 000?

SUPERINTENDENT DE BEER: 3 000 to 4 000 members, yes.

ADV KHUMALO SC: All right. Just before you deal with 14, just maybe tell us what is Internal Affairs and how it was constituted and when, and what precisely is its mandate?

SUPERINTENDENT DE BEER: Internal affairs scope of work is broad. It deals with any misconduct on the part of JMPD officers and staff members. We were established in 1978 or 79, if I am not mistaken, whereby there was a problem with, at then, in that era, it was a situation that breakdown vehicles were used, unauthorised. So for that, it was a mandate that they had to put in place at that point in time in order to control and to take control over the disciplinary aspect of the department, but then it was still under the traffic department.

But when the JMPD was established, that function was given to the Chief, and the Chief then escalated it down to us as a function to help him in order to deal with the investigation factors as well as then the prosecution and then the general discipline within the department, so that we can have a control over that aspect.

ADV KHUMALO SC: Internal affairs reports directly to the Chief?

SUPERINTENDENT DE BEER: We are part and parcel of the office of the Chief, yes.

ADV KHUMALO SC: Thank you.

ADV POOE: Thank you, Superintendent. That should also cover part of paragraph 15 where you deal with the scope and mandate, and there you also give a sense of the types of misconduct that the unit generally deals with. Can you explain some of that?

SUPERINTENDENT DE BEER: There is a lot of different types of misconduct that JMPD is dealing with, especially within the Internal Affairs Department. We are dealing with all sorts of corruption, extortion, theft, assaults, anything that would bring a JMPD officer in disrepute against the department, whereby we will then take the necessary action, do the investigation.

At first we receive the complaints from the members of the public, and then we will investigate. And if and when there is a *prima facie* case found, then the matter will then go over to prosecution, but there is a lot of different types of misconduct that we are dealing with. We also deal with the Licencing Department, especially when there is misconduct within the Licencing Department. They will normally refer that matter to us.

We will investigate, and we will then, if there is a case, a *prima facie* case, we will mandate the Licencing Department to deal with that matter further in the process of a DC hearing. Security is the same. A lot of the security

aspects would be abandonment or then abscondment. It will also be AWOLs, a lot of AWOLs, and that type of misconduct is what we also investigate. And then based on a *prima facie* case, we will then liaise with their management in order to deal with the prosecution aspect of the case.

ADV POOE: Thank you, Superintendent. Then ...[intervenes].

ADV BALOYI SC: In that function of disciplinary processes, what is the relationship, if at all, with the City's human resources function? Because we have heard, for example, with Ekurhuleni, that while the EMPD does their own investigations, ultimately processes of discipline must escalate and get the approval of the human resources executive. What is the nature of your relationship there?

SUPERINTENDENT DE BEER: In this case with us, Licencing Department will be, as soon as there is a *prima facie* evidence in a matter that we have investigated, we will then send it to the head of the Licencing Department that will sign, and then it will ultimately be signed off by the head of the department itself. So that the Director for the Licencing Department overseeing the first part of the signing phase will deal with it and it will be escalated to the HOD. The HOD will then sign it off and it will be prosecuted by the Licencing Department.

ADV BALOYI SC: About an EMPD officer, let us say, I do not remember his title, Mr Mokgatle, whose name has come up in our Commission, and there is disciplinary processes that you investigate because of something that he did, and you get to a point where you determine, as Internal Affairs, that a disciplinary process, prosecution, must follow. Who gets to approve that final decision and who is responsible to institute?

SUPERINTENDENT DE BEER: The ultimate decision will be lying with the Chief as a JMPD officer, because that mandate falls under the Chief. So the Chief will then sign it off as a finalisation, but Internal Affairs will recommend, based on the strengths of each and every presiding prosecutor, we will then make recommendations to the Chief as to who would be a suitable candidate in order to preside over the matter and also to prosecute on the matter.

The same happens with the Licencing Department as well as the Security Department, but the Chief will sign off hours for JMPD, HOD will then sign over the licencing, and then the security will also be signed off by the Chief.

ADV BALOYI SC: Does the Chief play any role in you referring certain matters to the SAPS, or is it purely an Internal Affairs? Because you do speak to that, that if there are matters that you then refer either to the SAPS because of their nature, but further on in your statement you also

speak about IPID, that you do refer matters. Does the Chief have a role in that?

SUPERINTENDENT DE BEER: We inform the Chief about the circumstances of the misconduct, but when we do find a misconduct whereby a JMPD officer is involved, we are obligated to inform the IPID hotline, get a reference number from them, and inform them that a case of such a nature was opened at a police station of which IPID will then go and retrieve that docket from the SAPS, as the SAPS does not investigate JMPD officers on their level.

So obviously Internal Affairs will go and open up the docket at the SAPS, we will inform the Chief and we will also inform IPID, get a reference number and they will then go and fetch the case from the SAPS or the relevant area where the case was opened.

ADV BALOYI SC: Thank you.

ADV KHUMALO SC: I think, Superintendent, Commissioner Baloyi's first question, if you go to page 27 of the bundle, so the SALGA, or South African Local Government Bargaining Council Collective Agreement on Disciplinary Procedure, starts on page 22, and when the Ekurhuleni people were here, they referred us to Clause 7 and they said that clause is a problem because the Chief or his deputies cannot just discipline officers within EMPD.

They have to follow the collective agreement, and

what the collective agreement requires, if you look at 7.1, is that an allegation of misconduct must be referred to the Municipal Manager, and the MM's office then is the one that basically runs the process. How does that differ from what you have explained where it is Internal Affairs, that is recommending presiding officers, recommending prosecutors, and running with the disciplinary process?

SUPERINTENDENT DE BEER: Commissioner, ultimately the Municipal Manager is in control of the Chief. He gave the Chief the mandate of discipline in such a way that he, as the Chief, has got the mandate and then the authorisation through the Municipal Manager to sign off on behalf of the Municipal Manager in order to approve or not approve an investigation.

ADV KHUMALO SC: So in JMPD there is a standing mandate, there is no need to go back to the MM every single time?

SUPERINTENDENT DE BEER: No, unfortunately, yes.

ADV KHUMALO SC: That is the difference.

SUPERINTENDENT DE BEER: Because he is going to be very busy.

ADV KHUMALO SC: All right.

ADV POOE: Perhaps ...[intervenes].

ADV BALOYI SC: Fortunately.

SUPERINTENDENT DE BEER: Ja, fortunately, ja.

ADV POOE: Perhaps a reference to the Standard Operating Procedure may be helpful in this regard. If we go to Annexure A, which starts at page 15, at page 19 it highlights how JMPD goes through this complaint process. Can you confirm that? From the receipt of the complaint to the acknowledgement, the preliminary assessment, investigations, findings and recommendations, resolutions, and communication of the outcome.

SUPERINTENDENT DE BEER: That is correct, yes.

ADV POOE: And by and large it seems that that falls within the mandate of the Internal Affairs throughout.

SUPERINTENDENT DE BEER: It does, ma'am.

ADV POOE: And it is the head of Internal Affairs who reviews the reports and determines the final resolution.

SUPERINTENDENT DE BEER: He will sign the first phase of the signatures that needs to be signed on a document.

ADV POOE: All right.

ADV BALOYI SC: From this, if you know the answer, in that 8.1 at page 19, the first bullet point, it speaks of complaints received from, among others, oversight bodies. And then if you go further down at 8.3, the second bullet, it says if the complaint is outside jurisdiction, it may be referred to the appropriate oversight agency. Who has oversight over JMPD in this context?

SUPERINTENDENT DE BEER: In this regard, it would be,

say for instance, if there is a case of a very serious nature that is coming from either the Licencing Department or it will be a very highlighted situation whereby the media would be involved. We normally would send that type of cases to GFIS.

ADV BALOYI SC: Which is what?

SUPERINTENDENT DE BEER: GFIS is the, I am not sure exactly, but it is one of the departments within the City that does investigations.

SUPERINTENDENT DE BEER: I think Ms Sedumedi wants to help us.

MR SEDUMEDI: Yes, it is called a Group Forensic Investigation.

SUPERINTENDENT DE BEER: Forensic Investigation.

MR SEDUMEDI: GFIS.

ADV BALOYI SC: And it is of the City?

MR SEDUMEDI: It is within the City of Johannesburg, Commissioner.

ADV BALOYI SC: Thank you.

SUPERINTENDENT DE BEER: They will normally receive that type of cases and they will do the investigation and give us, or give the Chief then feedback on that. So I think that is what they refer to.

ADV BALOYI SC: Thank you.

ADV POOE: Superintendent, if we can then go back to

your statement? We were at page 4. The questions would cover paragraphs 15 and 16. If I can then ask you to go to paragraph 17 where you deal with the composition of Internal Affairs Unit? And maybe just before you deal with the composition, who is the head of Internal Affairs?

SUPERINTENDENT DE BEER: The head currently is Director Joseph Mokala.

ADV POOE: Thank you. Yes, if we can then deal with the composition of Internal Affairs, which is at paragraph 17 of your statement?

SUPERINTENDENT DE BEER: I will do so. Internal Affairs is currently having 38 personnel. That is including your administrative staff. The unit is divided into at least two investigation groups that falls under me, and then some of the investigators within that group will also be allocated prosecution cases, whereby they will assist with the less serious matters within the Internal Affairs Department disciplinary process to assist in presenting that case to the presiders. The disciplinary hearings ...[intervenes].

ADV BALOYI SC: 38 against 3 000, 4 000 employees seems like a very low number. What is your turnaround rate? And it depends on how much complaints, investigations you conduct. What is your turnaround rate generally? You seem to be terribly understaffed ...[intervenes].

SUPERINTENDENT DE BEER: Commissioner, with investigating cases, we have got a 90 days turnaround.

ADV BALOYI SC: You achieve that? You do?

SUPERINTENDENT DE BEER: Yes, we do. We do.

ADV BALOYI SC: Okay.

SUPERINTENDENT DE BEER: And then with the prosecution, it would be a little bit longer. The general smaller cases can be and should be dealt with within 120 days, but there are cases that are taking longer due to various reasons for that. But at this point in time, 120 days more or less would be sufficing for your smaller cases.

ADV BALOYI SC: Thank you.

CHAIRPERSON: Is that finalising or is that commencing the prosecution?

SUPERINTENDENT DE BEER: The prosecution commences within five days of signing of the presiding prosecutor's appointment letters. Then the charge sheet will be served to the member involved. And thereafter, within 15 days or 17 days after that, the first sitting must happen. So on the end of the day, it will be – when you look at your medium to your smaller cases, it can be 120 days finalised.

CHAIRPERSON: Thank you.

ADV KHUMALO SC: Superintendent, I do not mean to put you on the spot, but is there somebody in the office who

can give us stats that will answer Commissioner Baloyi's question? So if, for example, you say, in the last three years these are the cases reported to Internal Affairs, this is the number of cases investigated, this is the number finalised, this is the number pending prosecution, or this is the number pending outcome that has already been prosecuted. So if we can have that table with those stats, it will give us a better picture of whether you are understaffed or not.

SUPERINTENDENT DE BEER: Commissioner, I believe that I would be able to give you that, if you can just give me a little bit of time to get that for you. But I must be honest with you, 38 people are understaffed. We are understaffed tremendously due to the fact that we are dealing with a lot of cases, especially when it comes to your security division, especially with the AWOL cases. There are a few that are coming in.

Then also with your Licencing Department. The severity of the investigations is also taking a little bit longer than normal. So yes, but we are in the process of securing 20 more members that would be assisting us with the investigation and prosecution part of that.

ADV KHUMALO SC: And then I had a follow-up question. When you were telling us about the group forensic investigations, the body I had in mind was IPID. I just want

to understand what is the working relationship between Internal Affairs and IPID. Do you have instances where Internal Affairs refers cases to IPID, or IPID itself has concluded its investigation and recommends that JMPD should charge somebody with misconduct internally, and they refer those back to JMPD and they come to Internal Affairs, and Internal Affairs runs with the prosecution?

SUPERINTENDENT DE BEER: Definitely so, Commissioner. There are instances, as I have explained previously, where we will inform IPID that, say for instance we have made arrests on certain misconduct cases, we have the mandate or the obligation to inform IPID about them, so that the case can be fetched at the police station and be investigated through IPID.

Then we have got complaints from the members of the public that goes directly to IPID. IPID will then investigate, and they will give us a negative or positive recommendation, whereby we receive the complaint, or then the fully investigated docket. We will register a docket on our side, and then as soon as the case is 100% complete, we give them over to prosecution, and we proceed with the case at the prosecution level.

It depends on whether it is a negative. Now at IPID, their negative is a positive for us to prosecute. Their positive on their side would be then there is no *prima facie*

case. So yes, we do definitely have a weekly meeting with them based on the cases that is been referred and what is the process and progress on them.

ADV BALOYI SC: When you give the statistics that Commissioner Khumalo is asking for, can you, and maybe here Ms Pooe, if you are going to be leading a witness to deal with that, please do intervene. Can you give us a breakdown of the kind of matters that speak to criminal conduct which falls within our terms of reference? It may be the officers themselves, employees themselves, or also including external parties. Something that speaks to why you are here, in those statistics.

SUPERINTENDENT DE BEER: We can do that, Commissioner.

ADV BALOYI SC: Thank you. Thank you, Ms Pooe.

ADV POOE: Thank you, Commissioners. And Superintendent, if we could also just get a breakdown of the 38 personnel, because there you said it includes administrative staff, so just to get a sense of how many are investigators, those who just preside, and the various functions within that 38.

Then, Superintendent, you were then dealing with disciplinary hearings and assigning presiding officers, and that process. So we were at paragraph 18 of your statement. If you could then deal with disciplinary hearings

and who appoints the presiding officer in that process?

SUPERINTENDENT DE BEER: Okay. The disciplinary hearings are presided over the presiding officers, who are normally your Superintendents, your Chief Superintendents, your Deputy Directors, and the Directors, appointed by the Chief for that purpose. So he will, after we make a recommendation for a, whether it is a Superintendent, Chief Superintendent, or whoever, to preside over that matter, the Chief will sign off on that appointment letters.

It is the same with your prosecutors as well, which will then fall in the scope of, if it is an MPO, a Sergeant will be appointed. If it is a Sergeant, an inspector will be appointed. If it is an inspector, a Superintendent will be appointed. So it is always a rank above the person that has got the lowest rank.

Where a matter involves conduct extending to a criminal offence, we endeavoured, where possible, to allocate it to a presiding officer with experience and seniority appropriate to its nature and complexity. For example, a complex fraud and corruption matter would not ordinarily be allocated to a presiding officer who has only dealt with the routine disciplinary matters, like the AWOLs and that type of thing.

Importantly, Internal Affairs conduct departmental investigations, not criminal investigations. So it is on the

balance of probability and not beyond any reasonable doubt. So a presiding officer's ruling determines the outcome, or he rules over it and he determines, and the outcome and sanction will be imposed by him or her. And that can range, depending on the merits and the severity of the case, for a final written warning.

It is from a final written warning for a minor case, such as just disrespect towards each other or an argument that got out of hand, that type of thing. Then from an aspect where there is a little bit more, we call it the medium range matters or your medium type of cases, whereby there would be a suspended sentence for a certain period of time. Say, for instance, the maximum is 10 days that we can give to that type of medium complaints.

Failing to report a departmental accident. Using a vehicle without the consent of the supervisor or failing to report. Up to the dismissals ...[intervenes].

ADV POOE: One minute, Superintendent. Just when you are dealing with the terms of suspension, when you say suspended sentence, you just mean that the term of the suspension that an officer or a person who is going through disciplinary process can be given?

SUPERINTENDENT DE BEER: Yes.

ADV POOE: Okay, and then you were explaining that the ruling is not merely a recommendation. Can you just

explain how that works, given that the final authority is of course vested with the Chief?

SUPERINTENDENT DE BEER: That is correct, yes. Then with the serious matters, especially when it is bringing the council in disrepute, that type of matters where it is a serious misconduct, it can go up as being dismissed.

ADV POOE: Then you can deal with how at the end of the process, once a presiding officer has made a ruling, you explain in that paragraph that that ruling is not a mere recommendation to the Chief. Essentially that the Chief is bound. Is that right?

SUPERINTENDENT DE BEER: That is correct, yes.

ADV POOE: And in what instances can the Chief refuse to implement?

SUPERINTENDENT DE BEER: Before signature, if he does not agree with the outcome, before signature of him, it can be referred to your labour relations or then the legal department for scrutiny by them. But as soon as the Chief has signed, that ruling stands.

ADV POOE: And when you say refer to labour relations for scrutiny, so they would make a further recommendation or how does that work?

SUPERINTENDENT DE BEER: They will recommend to the Chief as to what should be a better alternative outcome on a case based on the merits or the seriousness of the matter

and then the Chief will then make a decision whether he is going to sign or he is not going to sign.

ADV POOE: All right, thank you. Then we can complete that paragraph where you say in your experience the sanction imposed does not always appear proportionate to the severity of the misconduct.

SUPERINTENDENT DE BEER: In that instance, some of the prosecutors, some of the presiders would give, for instance, an outcome and a sanction on a not too serious but serious matter, which is not proportionate to say for instance with your suspended sentence, the amount of days.

What we normally have, we want to create or we do create and want to create and want to uphold that there must be a standard for a certain misconduct such as failing to report a departmental accident. In instances where the matter was serious and the vehicle, there were certain other aspects surrounding that failure of reporting a departmental accident, it is recommended or the normal standard would be that there must be 10-days suspended sentence given for that specific misconduct.

But then because of the inexperience of the presiding officer or then other factors, he would instead of giving 10 days, he will give a one day sanction, which is totally, it is not creating a standard for the specific conduct.

So our aim as Internal Affairs is still to uphold the standard for a certain misconduct and create that understanding that the misconducts are going to be treated the same and the outcomes must speak to that same type of misconduct.

ADV POOE: Superintendent, you say in your statement and I think you also repeated it now that sometimes it is as a result of inexperience. Is it only inexperience or could it be for nefarious reasons that a presiding officer does that?

SUPERINTENDENT DE BEER: There could be other reasons for that, but in general I think it would be more a situation of inexperience or otherwise then there is not a standard written down, except for the disciplinary code because the disciplinary code gives you a mandate as to what is the recommended sanction for that type of misconduct. But seemingly, he does not understand the process that much.

We do have a lot of presiders that within the department would make rulings based on emotions sometimes. They would also make rulings based on who is involved, and that is a problem. That is what we want to try and curb.

ADV BALOYI SC: Does this mean there is nothing in writing that would authorise, let us say, the Chief to overturn a sanction of one-day suspension if your disciplinary code says the appropriate sanction for failure to

report is 10 days? Does it mean there is nothing that gives him that power?

SUPERINTENDENT DE BEER: Commissioner, in general we did not have a lot of that type of cases, but when and as it happens, there will be a discussion with the Chief before he signs it off. But in instances where the Chief already signed it off and the sanction was given already, at that point in time there is nothing that we can do. Then it stays like that, but we try our utmost best in order to not let that happen.

ADV POOE: Superintendent, just to understand. So when do you pick this up ...[intervenes].

CHAIRPERSON: Sorry, sorry, Ms Pooe. What quality assurance measures, if any, are in place to make sure that suitable people are appointed to be presiders, prosecutors, investigators?

SUPERINTENDENT DE BEER: Chair, at this point in time we have got two lists, presiders as well as then prosecutors. And based on their strength and the knowledge that we have got as Internal Affairs working with these presiders and prosecutors, we know which ones are equipped, and their strengths are of such a nature that we can give a certain case to a specific person to deal with.

CHAIRPERSON: But what you are saying now addresses what selections you make based on what you have already.

I think I am addressing an antecedent issue, which is before you have those officers from whom you choose, what quality assurance do you have to make sure that the people that you have and from whom you then choose are suitable to be in those positions?

SUPERINTENDENT DE BEER: Chair, we look at the years' experience that they have got within the department and we also look at – they do get training for that specific roles that they are being given. So we also look at the type of people, the functions that they basically cover within their departments, to say this is the type of person that they are, this is the people that we can entrust a serious case to. Whereas a person that deals with normal, able cases would normally not be a suitable person for a serious corruption case because we know that he will not be able to deal with that matter.

So as far as it is written, there is a space for improvement, can I say. In the past we also had dedicated prosecutors that was working with the department, with the Internal Affairs department, that was specifically just dealing with departmental cases. But in recent years, that members went on pension, and that is a problem area that we do have in that respect.

CHAIRPERSON: For obvious reasons, I am sure you realise why I ask the question. I ask the question because

earlier you said that some decisions are taken in accordance with emotions, if I understood you correctly and at times according to who the accused, let me loosely use that word, who the accused person is. Both those show me that there are serious problems if decisions can depend on emotions and also who the person that is been charged happens to be.

Those are serious problems I think. And then the question is, how is that addressed? Has it been brought to the attention of the authorities? If it has, what is being done? I am sure you have not just thrown up your hands in a palliation manner. That is my creation of an adjective from Pontius Pilate. So you do not throw up your hands in a palliation manner and do nothing about it.

SUPERINTENDENT DE BEER: No. Definitely, the Chief will then step in and he will guide that specific presider. I will not say prosecutor, but the presiders who makes their decisions. And he will reprimand them or call them to order in order to understand that emotions is not working in a departmental case, as well as then the person that is being charged does not constitute that you must overlook the process of prosecution.

So no, definitely, and I must also add it to the fact that it does not happen a lot. You will get the one or the two that comes through the process, but it is very minimal.

And in that instance, the Chief will then step in and he will definitely take action.

CHAIRPERSON: Thank you, thank you. Yes, Ms Pooe?

ADV BALOYI SC: Before that. Superintendent, just so that when you leave here you do not walk into a storm of controversy relating to the question that I asked you. And if the answer, in fact, to my question whether there is nothing in writing or no power for the Chief to correct, outcomes that are incorrect. If you look at page 34, which is the collective agreement, at 8.5. Page 34, it is Annexure B. You will see there that it says that:

> "The decision of the presiding officer shall be final and binding, subject to remedies permitted in law in this procedure."

So it sounds like the Chief does not have a licence to fix that which he does not like.

SUPERINTENDENT DE BEER: Not really, no.

ADV BALOYI SC: All right, thank you. Thank you Ms Pooe.

ADV POOE: And, Superintendent, just to clarify, between the presiding officer when they finish the process and submission to the Chief, there is no role that the head of Internal Affairs plays in that process?

SUPERINTENDENT DE BEER: No, at this point in time,

the case will then be submitted to the Chief and the documents will then be signed by the Chief to basically, but he will then present it to the Chief to say this is the outcome based on these reasons and he will take it, he will sign it off as well as a supporting mechanism.

ADV POOE: Thank you.

ADV BALOYI SC: Before you go to paragraph 21, let me just find out, how do you handle where the same misconduct also constitutes a criminal offence? I know you will refer the criminal offence to the appropriate authority, but do you proceed to discipline or do you take the view that we will wait for that criminal case to play out or for IPID to conduct its investigation before we institute our own disciplinary processes?

SUPERINTENDENT DE BEER: Commissioner, in certain aspects where a matter has got very serious consequences, as well as the influence of our investigation to the SAPS's investigation or then the IPID or Hawks, depending on who is dealing with the matter, we will not necessarily stand down, but we will work hand-in-hand with the authorities in order to complete our investigation and they will then complete their investigation, but we cannot specifically wait for the SAPS or then the DPCI or then the IPID to finalise their case because then we are going to be running out of time.

So obviously it is a situation that we at one point need to look at what points are we going to continue on, which is not touching on the aspect of the SAPS, because there is two different, there is two sides of the story.

ADV BALOYI SC: Okay, thank you.

ADV POOE: Superintendent, then we can deal with how Internal Affairs deals with or cooperates with other law agencies, and that is at paragraph 21 of your statement.

SUPERINTENDENT DE BEER: Okay. Whether conduct in question is more serious or it falls outside Internal Affairs, our own investigation capacity, matters will then be referred out of JMPD as follows. The matters such as domestic violence, assault, attempted murder committed by JMPD officers are generally referred to the SAPS for criminal investigation.

Where appropriate, the Independent Police Investigation Directorate is also notified of matters falling within their jurisdiction. Corruption matters are referred to the SAPS Provincial Anti-Corruption Unit, which we also work hand-in-hand with, which deal with the more serious corruption and fraud matters. Less serious theft and robbery type of matters are generally dealt with by the Directorate of Priority Crime Investigation, or so-called the DPCI, and they are also known as the Hawks.

The licencing matters are dealt with in conjunction

with the relevant licencing managers, with the head of department signing off on their outcomes, and more serious operational matters, for example, corruption, assault and theft, are allocated to Directors or Chief Superintendents, Superintendents and Deputy Directors, according to the relevant experience and expertise to conduct a departmental process.

There are some instances where we will also, if it is in-house complaints that we cannot specifically deal with in as far as Internal Affairs, we will then refer that investigation matters to labour relations, or then to legal, or some of the outside managers within the City of Johannesburg to investigate and then give us feedback on their outcome of the investigation.

ADV POOE: And, Superintendent, just to be clear, the Internal Affairs investigation would run parallel to the other law enforcement process?

SUPERINTENDENT DE BEER: Yes.

ADV POOE: Then we can move to paragraph 22, where you deal with other types of operations that Internal Affairs makes use of.

SUPERINTENDENT DE BEER: Okay. In some instances we will receive complaints via the members of the public, and where appropriate, the necessary authority, Internal Affairs makes use of covert investigation techniques,

including sting operations, authorised in terms of the section 252A of the Criminal Procedure Act 51 of 1977, through obtaining a section 252A from the SAPS.

We will also, on occasions, receive assistance from members of the public who comes forward with information that would also give us a hand in getting to the point where we can start the investigation and do the pre-investigation, or the preliminary investigation, as you can call it that way.

And then, obviously, we will then do the arrest afterwards. But in most cases, when it is a section 252A, the SAPS will step up and they will do the entrapment, as we call it, because it is a lawful entrapment through their authority, and they will do the arrests, and we will continue with the departmental investigation.

ADV POOE: Thank you, Superintendent. Then, if we can move to your next topic where you deal with infiltration and criminal elements within JMPD? That is at paragraph 23 of your statement.

SUPERINTENDENT DE BEER: So, over time, Internal Affairs has identified a pattern of collusion between certain JMPD officers and criminal elements outside. The units most frequently implicated, or the units that is most frequently implicated in these cases has come to our attention, and they are normally the Tactical Response Unit, the TRU, the SPUs, Special Patrol Units, and or, in a lesser

extent, the K9, but not that much.

There are also instances where general JMPD officers cultivate information, or informal informers, they call it in inverted commas an informer, that will act as a spotter for them and give them the necessary information. These informers are not informers in the conventional sense ...[intervenes].

ADV BALOYI SC: Before you do that, Superintendent, because I see you are in paragraph 24 now. If you could just say more about these Tactical Response Units and the SPU, what are their mandates?

SUPERINTENDENT DE BEER: Tactical Response Unit is the JMPD Undercover Unit. They will go in and source information of corruption, as well as the criminal type of syndicates, or then criminal activity. They will get information from members of the public, whereby say for instance, this person is selling cell phones and this cell phone is suspected to be part of a bunch of cell phones that were hijacked or robbed.

They will go in, source the preliminary information, and based on that, they will then go in and see who is the suspect, where are they coming from, what is their modus operandi, how they do their day-to-day tasks. And based then on that information, they will give it over to the relevant SAPS units, such as the Hawks or then the drug

squads, or that type of things, to work hand-in-hand and plan an operation and a takedown in order to arrest these guys. That is the function of the TRU, especially when it comes to drugs and to illegal cigarettes and that type of things as well.

ADV BALOYI SC: Ja. Maybe you are in a way answering the next question I was going to ask, that how does that not intrude on the mandate of the SAPS? What defines what the TRU can do, which on your explanation, from what you have explained, it sounds typically like work that I would expect detectives of the SAPS to do, so what defines what they can do and not do?

SUPERINTENDENT DE BEER: I think in this instance, Commissioner, it would be a supportive role, both on the sourcing of the information and the day-to-day operational factors of the criminal syndicates, infiltrating them. Because we all know that most of the detectives in the SAPS are overwhelmed with cases, they do not have the time and the resources sometimes to do that type of investigations.

So the TRU, per se, will go and do the groundwork. They will do the infiltration, they will get the information, they will source where the stuff are taken to and all of that type of things, give that information over, and hand-in-hand an operation will be planned for that takedown to be

conducted.

ADV BALOYI SC: And is there a record of what the TRU does? So if they have decided they are going to be gathering information maybe because they got a tip-off, how does the JMPD have oversight as in knowing what their people are doing on any day, what the TRU is doing?

SUPERINTENDENT DE BEER: Commissioner, on a day-to-day basis, they report whatever successes they have got, what information they are working on, as well as then on a monthly basis there is records being given through as stats to what type of cases were reported, how far are the investigations regarding to the criminal cases in that specific matters, as well as then how many successes they have gotten within a month. And that will be given to the Chief, because it obviously speaks to his scorecard.

ADV BALOYI SC: Yes. I guess I am asking, are they required to keep pocketbooks, diaries? Are they required to open an inquiry if they are following a particular line of gathering information? What mechanism is in place that is auditable that officer so-and-so who is a member of the TRU in a week, this is what he did on Monday and he went undercover on this operation. Day two, this is what he did with that same operation. Is there anything like that?

SUPERINTENDENT DE BEER: Commissioner, speaking under correction, I am not 100% sure as to individually what

they report on, but I can get back to you regarding to that, because at this point in time I cannot give an account on that.

ADV BALOYI SC: Can you please do that for us?

SUPERINTENDENT DE BEER: I will do so.

ADV BALOYI SC: Give us an account of how, what auditable documents ...[intervenes].

SUPERINTENDENT DE BEER: Proof.

ADV BALOYI SC: Proof is there of the role and activities of the TRU?

SUPERINTENDENT DE BEER: Ja.

ADV BALOYI SC: Can you also explain the mandate of the SPU? What do they do?

SUPERINTENDENT DE BEER: The SPUs currently, I must be honest with you, I do not have an explanation regarding to what they do.

ADV BALOYI SC: That is all right. Ms Pooe will get us the information ...[intervenes].

SUPERINTENDENT DE BEER: We will also get information that ...[intervenes].

ADV BALOYI SC: Or the witnesses to speak to that. Thank you.

SUPERINTENDENT DE BEER: Ja.

ADV KHUMALO SC: Maybe if there is a manual or a Standard Operating Procedure that explains what each of

the seven units within the TMPD does ...[intervenes].

SUPERINTENDENT DE BEER: I believe ...[intervenes].

ADV KHUMALO SC: There is a written document that tells us ...[intervenes].

SUPERINTENDENT DE BEER: I believe we will be able to ...[intervenes].

ADV KHUMALO SC: JMPD, sorry. I said TMPD. JMPD.

SUPERINTENDENT DE BEER: I believe we will be able to get it, Commissioner, and forward it to you.

ADV KHUMALO SC: Thank you.

ADV POOE: Thank you, Commissioners. Superintendent, you were explaining how these informers work with the various units that you touched on. If we can then go back to paragraph 24, where you are dealing with the informers?

SUPERINTENDENT DE BEER: Okay. As I have said previously, the informers that, if we talk about infiltration of criminal activity within the department, in relation to this, inverted commas, informers that we are talking about, that is a big problem in this regard. It is not the conventional informers as we know them, that gives accurate information or then information and used it for the purpose of getting members of the criminal syndicates arrested.

These informers are informers that are civilians who are typically either employed with a targeted businessman. If we look at the amount of complaints that

comes in of kidnapping, as well as then for, I would say, theft of money, that type of cases that we have encountered.

It would be a situation that they utilise these informers, if you want to call it that way, that is either working for the businessman or otherwise stationed outside the business premises to observe the patterns of activities and are willing participants in criminal activity for a reward. These businessmen and commodities most frequently targeted are cash intensive businesses, in particular hardware and similar businesses known to purchase stock for cash, including from Chinese suppliers who themselves generally deal with cash related, cash rather than to go into a bank account, as well as then gold and diamonds and precious stones and metals and copper.

Now these informers will then be placed out there in order to get the information as to when and where money has been transported for the purpose of the JMPD officers stopping these members. So the conduct is not confined to JMPD based on the cases that have come to Internal Affairs' attention. It is typically involved collaboration between JMPD officers, SAPS members, Hawks members and the ultimate buyer and the sellers of goods or stolen goods.

Internal affairs is aware of cases involving JMPD

officers and human trafficking or drugs, however there is no any formal report that came forth because we struggled to get that information. There are unconfirmed reports supported by some witness accounts that TRU members are instructed by a supervisor to disengage from matters involving drugs.

We had instances where JMPD officers willing to do the job, pursuing a suspected vehicle that they suspect has got drugs in it based on their information, and then it will happen that the Superintendent within that unit will give an instruction to say stand down. Now this is the type of ...[intervenes].

ADV POOE: Sorry about that, because you are going to deal with this example in detail.

SUPERINTENDENT DE BEER: Ja.

ADV POOE: Maybe let us go into some of those examples so that you can give particularity to it.

SUPERINTENDENT DE BEER: Okay.

ADV POOE: But before you do so, just to clarify, so these informer networks that exist are specifically used by JMPD officers and other law enforcement agencies to perpetrate offences, is that correct?

SUPERINTENDENT DE BEER: That is correct.

ADV POOE: And then typically how you get a hold of these cases is those people who have been robbed coming to

Internal Affairs to report.

SUPERINTENDENT DE BEER: That is correct, yes.

ADV POOE: And in those instances, do you then run joint operations with other law enforcement given that these are criminal offences?

SUPERINTENDENT DE BEER: It is a very difficult situation in order to get that 100% correct based on the fact that some of the members of the public are very scared. They are scared of coming forth. They want to report. They do have the intention of reporting, but they also in the same very sense, they are scared of these officers because they are armed, they know that they are capable of a lot of things.

So on the end of the day, it is a 50/50 situation. You get a very a very small group of complainants that are willing to push through with this case or with cases like that. They would rather prefer losing that money or going through that process and just get it behind them than to come and report it and they being targeted. So it is a very, very touch-and-go situation at the moment that we are dealing with, and this is one of the big concerns that we have got as Internal Affairs.

ADV POOE: Thank you, Sup ...[intervenes].

ADV BALOYI SC: Can I just follow up on that informer in quotes, the position that you speak to? I do understand

what you are saying that in fact the people that JMPD officers are informers are in fact accomplices to criminal conduct, but does the JMPD formally at least permit the use of informers or accommodate the use of informers, proper legitimate informers?

And I ask the question because we with a previous witness, not JMPD, but I think Gauteng Traffic, the idea of an informer being used came up and we did not understand why a traffic function would be using an informer. So I ask the question, do you have a policy or protocol or something that authorises the proper use of informers?

SUPERINTENDENT DE BEER: Commissioner, unlike the SAPS that has got a database of all the informers or should have a list of all the informers that they are, that is accredited as an informer, an official lawful informer, JMPD does not have that. We do not have a list of known reported informers or informers under the name of whoever in order, that is registered on our books. We do not have that.

So at this point in time, the TRU as well as then certain of the departments, like for instance, your SPUs also sometimes, will utilise informers that they accredited themselves, that is rightfully credible informers. But in general, you are not going to get any information without an informer if you really look at the seriousness of drug

trafficking, of human trafficking, of all of that type of stuff. So you will have to have an insider to give you that information, but whether that is documented, no.

ADV BALOYI SC: Then that not be a protocol precisely because JMPD recognises that you do need the use of informers as part of your crime prevention. Should there not be a protocol in place then that regulates that because otherwise it is free hand to your officers?

SUPERINTENDENT DE BEER: In general, I would support something like that.

ADV BALOYI SC: Yes.

SUPERINTENDENT DE BEER: Based on the fact that in the past, when it was only traffic, it was not a situation that they needed to have that because they were only basically functioning as traffic officers.

ADV BALOYI SC: Yes.

SUPERINTENDENT DE BEER: Concentrating on your traffic laws. But now that we have got a version of the TRU same as the TRT in the SAPS, where crime prevention is also part and parcel of our mandate, that is one thing definitely that we need to look at.

ADV BALOYI SC: There has to be.

SUPERINTENDENT DE BEER: Right.

ADV BALOYI SC: Thank you. And then lastly, in that paragraph 25 where you speak about JMPD officers'

involvement or being linked to human trafficking and drugs and of course other possible crimes, and I accept that you do not have formal reports.

SUPERINTENDENT DE BEER: No, I do not.

ADV BALOYI SC: So it is nothing that you as JMPD can act on, but do you have at least a practice where you would alert the appropriate authority who have the capacity to look further into this when you become aware that even if it is corridor talk? I mean, we have had serious allegations of named people in the SAPS, for example, in respect of whom it is said it is corridor talk that this kind of thing, this person is involved in this.

Now with serious stuff like human trafficking and drugs, we know the DPCI for example has got units, do you escalate this kind of, I want to call them corridor talk because you say we do not have formal reports, so that they do not lie around and nobody is looking at them when in fact there is possibly merit or something to look at? Is there a mechanism?

SUPERINTENDENT DE BEER: Commissioner, normally in circumstances like that, when there is such talks or when there are talks like that, we will then escalate it to the SAPS, to the relevant units that would be able to assist us in looking into such allegations. In some instances, I personally found that – or let me put it to you this way. I

also had a situation previously whereby I had information, I had evidence, I had the video footage, I have escalated to several of the police departments and nothing came of it, to such an extent that I eventually decided to call this person in and say to him, now you sit down and you listen. Because nothing gets done about the seriousness of this misconduct. So yes, you get cases that really, really, really urgently need to have intervention from the SAPS, but it also depends on who you give it to.

ADV BALOYI SC: Which then brings me to this question, do you have, is there in place anything where that you, JMPD, sit down on a regular basis with other law enforcement agencies, so SAPS within your area, DPCI, IPID even, where you sit and you speak about what is happening in your jurisdiction, who is working on what? Is there anything like that?

SUPERINTENDENT DE BEER: I know in the regions we have got meetings with the neighbourhood watches, with your normal groups on the ground, basically, your planning regarding to what is happening in the areas. But when it comes to ...[intervenes].

ADV BALOYI SC: Is this with neighbourhood ...[intervenes].

SUPERINTENDENT DE BEER: Ja, it is like on the ground-level type of level.

ADV BALOYI SC: Yes.

SUPERINTENDENT DE BEER: And in certain instances, councillors are also sitting in on that meetings and whatever the case may be. But when it comes to cases like serious matters where you need to report that matter to a unit that would actually go and take action in order to arrest and effect an arrest, that is where the problem lies, because you do not know, you do not have, I will not say not the courage sometimes, but you do not have the trust in some of the departments, or you find that whatever information you gave out would just end in the wrong hands. It will end up in the wrong hands. So it is very difficult to know that there is a dedicated unit or instance, a group that would be able to deal with this.

ADV BALOYI SC: Am I correct to understand your answer to mean that you do not have a forum, there is not in place a forum ...[intervenes].

SUPERINTENDENT DE BEER: No, not that I know of ...[intervenes].

ADV BALOYI SC: Where the law enforcement agencies that operate within an area, including JMPD, that operate within an area get together on a regular basis to look at the crime situation in particular areas. You do not have that kind of forum?

SUPERINTENDENT DE BEER: There might be forums, of

which I do not have any insight on. So I cannot say yay or nay at this point in time.

ADV BALOYI SC: Okay, I understand.

SUPERINTENDENT DE BEER: I will have to come back to you on that.

ADV BALOYI SC: Thank you. Well, maybe if you would, please find out and then you can feed the information through.

SUPERINTENDENT DE BEER: I will do so, Commissioner.

ADV BALOYI SC: Thank you.

ADV POOE: Chair, we are about to move to the next topic, but I see that it is teatime.

CHAIRPERSON: Let us adjourn and resume at 11:30.

HEARING ADJOURNS

HEARING RESUMES

CHAIRPERSON: Yes, Ms Pooe.

ADV POOE: Commissioners, over the tea adjournment, we had a short discussion with the legal representatives from the City of Jo'burg. And based on the questions and homework that was given to the witness, we will send a notice and an appropriate person within the city will give a comprehensive response on those aspects.

CHAIRPERSON: Thank you.

ADV POOE: Superintendent, if we can then go to the next section. We were at page 7 of your statement. And you

were about to deal with several examples of criminal conduct as well as infiltration. And the first examples you want to deal with relate to the former Superintendent Manyama and the Tactical Response Unit. We are at paragraph 27 of your statement.

SUPERINTENDENT DE BEER: Okay.

> "The former Superintendent Manyama of the Tactical Response Unit, for a number of years a Superintendent..."

We now know as Superintendent Manyama;

> "...then in charge of the TRU, effectively controlled the unit is members. He decided which officers could operate in which areas and designated certain areas as no-go areas for ordinary public policing purposes, apparently, to protect syndicate activity taking place there. Examples of the former Superintendent's conduct have come to Internal Affairs' attention, including the following ...[intervenes]".

CHAIRPERSON: Sorry, sorry, sorry. If he was in charge of the TRU, how could he designate certain areas, no-go areas, in respect of the entire ordinary policing? I am asking this because not all policing functions fall under the

TRU of which he was in charge. So how could he designate everything a no-go area in respect of all manner of policing?

SUPERINTENDENT DE BEER: Chair, at this point in time, I am going to explain it this way. There are certain areas where TRU members, as soon as they go into that areas, especially where the crime hotspots or the syndicates operate, say, for instance, areas like Cyrildene, where the Chinese people are at, certain areas within the south, certain areas within the CBD, as soon as JMPD TRU members enter the perimeters of that specific area, they are being phoned and said, what are you doing there? Get out. They were specifically ordered to leave that area and not to patrol in those areas by the Superintendent, based on what he decided was the areas that should not be operated in.

Specifically, due to the fact that that areas were areas where they would, for example, certain individuals within one of the cases that I have dealt with, that I have mentioned previously, this members, the two of them would work together, stop a member of the public, the male will get out and search the vehicle in order to make sure that the cash are inside the vehicle. They check the businesses, as per the so-called informers that I have spoken to a little bit earlier on. He will then instruct these members of the public, by means of him getting into that

vehicle, drive to a certain parking lot within Eastgate Shopping Centre.

The female counterpart or the female officer would then get into the patrol vehicle, follow that vehicle into the parking area, but go and stop a distance away from the designated vehicle. The members of the public will be told to stop and stay in the vehicle with the cash inside. This gentleman or this JMPD officer will get out of the vehicle, walk back to his patrol vehicle, he will get into the patrol vehicle and he will drive off. In the process, behind the patrol vehicle, you will see a syndicate vehicle coming in.

He will make a turn in the parking area, come to the place where, as soon as he sees that the JMPD officer is no longer a member of the public's vehicle, they will apprehend the members of the public, randomly shooting, scaring off any other public in the area, grab the money and they will run. This is a modus operandi that currently, or that was at that point in time, one of the incidents that I have reported which was nothing done about. That was one of them.

Now, this is the type of reactions that I am talking about. Only certain TRU members can enter that area, if they have got authority or then permission from the Superintendent. If not, you stay out of that area.

CHAIRPERSON: Here is the issue that I have in my mind, when you say you just declare a particular area a no-go

area for ordinary policing, I would imagine that not all units were under him. Now, do not shake your head, please. Vocalise your response.

SUPERINTENDENT DE BEER: No, definitely, Chair. Not all of the units were under his command.

CHAIRPERSON: Yes, now, now...

SUPERINTENDENT DE BEER: I am talking about TRU.

CHAIRPERSON: All right. You see, you are saying ordinary policing. By ordinary policing, are you referring to TRU only?

SUPERINTENDENT DE BEER: TRU only.

CHAIRPERSON: Only, all right. Now that answers me. Thank you very much. Thank you.

SUPERINTENDENT DE BEER: Because of the fact that he is in charge of TRU. He will control his members.

CHAIRPERSON: You see, I thought when you say ordinary policing, I thought you mean policing across the board.

SUPERINTENDENT DE BEER: No, not all of them.

CHAIRPERSON: That is what gave me some difficulty. Thank you.

ADV POOE: Thank you, Chair. Superintendent, we can then move on to the first example of this conduct, and you deal with that at 28.1.

SUPERINTENDENT DE BEER: Okay.

SUPERINTENDENT DE BEER:

> "He will arrange TRU members to escort trucks transporting stolen copper, or then trucks that were stopped that has got copper on it, to the criminal syndicates that had arranged the theft in turn for a share of the profit. Another example ...[intervenes]"

ADV POOE: Before you move to the next example, just for clarity, and I think you fixed it in testimony, are you saying that there would be an ordinary truck transporting copper and the JMPD officers would be directed to stop the truck and redirect it to a criminal syndicate to facilitate a theft?

SUPERINTENDENT DE BEER: That is correct, Chair. They will escort that truck to the syndicate and then get rid of the driver, get rid of the horse, and the copper will be stolen. And we would also know about that, is because a lot of the complaints came from the area of Grasmere, the entrance port of that copper coming in, or otherwise any other trucks that they are focussing on. That is the modus operandi that was used. In an occasion ...[intervenes]

ADV POOE: On my apologies, Superintendent, before you move to the second one, and this process would be then facilitated by Superintendent Manyama, who would instruct the members to do so.

SUPERINTENDENT DE BEER: He will do that, yes.

ADV POOE: And would he be physically involved in this or just instructing the members?

SUPERINTENDENT DE BEER: He is never involved in it physically.

ADV POOE: Thank you. Then the second example.

SUPERINTENDENT DE BEER:

> "On an occasion involving a suspected drug transaction, TRU members identified and began to pursue a vehicle, a black Ford Ranger bakkie, and called the SAPS for backup. The former Superintendent then contacted the officers directly, reportedly after being shown a photograph taken by the occupants of the pursuit vehicle, of the JMPD vehicle in pursuit, and instructing them as the TRU members to abandon the pursuit, leaving the SAPS backup that had already been summonsed without explanation."

ADV POOE: And then, Superintendent, just to clarify that for the Commissioners, you have explained this to us in a little bit of detail. So the black Ford Ranger was being pursued by JMPD officers.

STENOGRAPHER: That is correct, yes.

ADV POOE: And at some point they stopped, and JMPD officers tried to walk towards the truck and then it left. Can you just explain how that scene happened?

SUPERINTENDENT DE BEER: Okay. In this instance, the TRU members followed this bakkie, suspected of having drugs within the vehicle. As soon as these members picked up that they were followed by the TRU members, they started running away from them, and they basically pursued the black Ford Ranger. At one stage, we have got a photo where the vehicle stopped, the JMPD member got out of the vehicle, and as soon as he was walking in the direction of the black bakkie, the bakkie pulled away and he basically drove off.

Now in that process, during the pursuit, backup was called via radio for SAPS members to come and assist in order to stop this vehicle. The air wing was also involved, and at a certain stage, the Supervisor as well as the officers were then called to say, back off, there is no need for you to follow that vehicle. They had to stop the pursuit, leaving the SAPS members in the dark as to what is happening. Everyone wanted to know what was going on, but nothing was said.

They were called back to meet up with the Superintendent, whereupon he showed them a video of them pursuing this bakkie, which means that the bakkie, the

occupants of the bakkie, recorded the JMPD bakkie pursuing them. They were insulted, they were screamed at, and they were instructed that they must bring back his cars and his firearms, as if he is in control of the unit. This is the type of operational methods he used, especially when it comes to people that he protected.

CHAIRPERSON: I want to use 28.1 and 28.2 with regard to how it got known that Superintendent Manyama was involved in these sorts of activities. With regard to 28.2, it is obvious how. The officers involved who were told to stand down or to abandon the pursuit would have told the story.

SUPERINTENDENT DE BEER: That is correct.

CHAIRPERSON: But with regard to 28.1, everybody there appears to have been in on it, to speak colloquially. How would anybody within JMPD get to know about something like that?

SUPERINTENDENT DE BEER: Chair, it would not be everybody within the TRU that was involved in that first incident. One of the members, again the same person of the Eastgate incident, was involved in that, but subsequently he resigned from JMPD. So he is no longer with JMPD. But he was seen on a camera footage taken by SANRAL that his patrol vehicle, JMPD patrol vehicle, was following that truck with a stolen copper on it. Now this is a

murderous operandi that did not happen only once. There were several that were reported. But the fact is that because of the lack of evidence and information on that, we could not prove as such.

CHAIRPERSON: All right. Why I thought everybody would have been in on it, is because you say Superintendent Manyama would arrange TRU members to escort trucks.

SUPERINTENDENT DE BEER: Certainly.

CHAIRPERSON: So people that would have been there would have been people arranged by him. So it is on that basis that I thought it would be only people that were in on it.

SUPERINTENDENT DE BEER: It would be people, ja, it would be selected people by him because, as we know, he had a certain group within TRU that he only worked with. There is a certain group within TRU that was his group of trustees that he trusted that would function and do whatever he instructed them to do. Not all of the TRU members.

CHAIRPERSON: Thank you.

ADV POOE: Perhaps, Superintendent, I know that you do not deal with this in your statement, but it is something that you have explained to us in relation to how Superintendent Manyama selected the people who formed part of his unit. Do you recall that?

SUPERINTENDENT DE BEER: In general, when the TRU

was established, they would have had interviews in order to establish whether the people that were doing an application to be in that unit was capable of undercover operational type of situations and scenarios, that had the skills and the know-how of undercover operations. But at one stage, there was randomly officers brought to the TRU, and this is a situation where just random members were selected to come over to that unit, which created a little bit of a problem because not all of the members had the capacity or the understanding and that was the core and the problem where it started.

ADV POOE: Thank you, Superintendent. We can then move to your next example at 28.3.

SUPERINTENDENT DE BEER:

> "On another occasion, Superintendent Manyama sought to interfere with an ongoing operation by instructing members of the TRU..."

There were three people in this instance;

> "...to also stand down after they found five bricks of suspected Cocaine within a vehicle that they stopped, that they suspected. Superintendent Manyama told the members that they had no business there.

> The members defied his instruction. They decided that they are not going to listen to him and they continued with the investigation and discovered another 12 bricks of suspected Cocaine at the suspect's home. The suspects were arrested by the members and a case was opened at Booysens police station and the Cocaine was handed in.
>
> Again, it was a situation that Superintendent Manyama would then interfere in an operation which he had no idea was happening at that point in time, but he found out about it."

ADV KHUMALO SC: Did he take action against any of these members?

SUPERINTENDENT DE BEER: He did not take action against them. The normal operandi or modus operandi would be that they would be targeted. Their lives would be made totally difficult. He would instruct them to give back the vehicles. They will not have transport. He will use other ways of eliminating them or then basically work them out of the unit if they do not fall within his criteria of accepting what he tells them to do.

ADV KHUMALO SC: It is interesting that this is the case,

but it is possible that he instructed them to back down because search and seizures do not fall within the mandate of the JMPD and for that reason he thought they should not be doing that. I am not saying that is the case, but it is one of the possible explanations that he could give.

SUPERINTENDENT DE BEER: Commissioner, it is a possibility, but as I say, the mandate of every JMPD officer is crime prevention, it is traffic law enforcement and it is by-law enforcement. There is no criteria to say you cannot stop a vehicle if you suspect that there is a substance in that vehicle. There is nowhere it says that you cannot function your job or do your function as a Metro Police officer in stopping a vehicle whereas you understand that he was coming from a certain area where it is a renowned place for drug trafficking or for whatever the case may be.

ADV KHUMALO SC: Thank you.

ADV POOE: And then, Superintendent, did you deal with the fourth example at 28.4?

SUPERINTENDENT DE BEER:

> "In this instance, we do have the photos as well as a complaint that came through one of the investigations whereby Superintendent Manyama would instruct some of his vehicles, JMPD marked patrol vehicles, to stand down for an

hour or two at a premises which is a liquor outlet where he normally buys his liquor from, as he has got a tavern or an eatery at his house and they will rotate from one will go and stand there for two hours, the next one will come and stand for two hours, the next one will come and stand for two hours. Just as a mere protective measure of protecting this friend of his place as well as then for the JMPD vehicles to be used for personal gain."

ADV POOE: So in sum, Superintendent, Manyama was using the resources as personal protection for this business operation?

SUPERINTENDENT DE BEER: That is correct, yes.

ADV POOE: And the examples that you have given here are not the sum total of the allegations against Superintendent Manyama, is that right?

SUPERINTENDENT DE BEER: No, it is only a few of them, ja.

ADV POOE: Thank you. And then you can just proceed to what Internal Affairs was doing about these charges?

SUPERINTENDENT DE BEER:

"Internal Affairs sought to institute

> disciplinary charges against the former Superintendent in relation to this misconduct, but before the process could be concluded, he took retirement, it was around the 31st of April 2026 and the case had to then be closed as a result. No criminal investigation was pursued in relation to this misconduct or this conduct as Internal Affairs did not at the time have direct physical evidence connecting him to it, only witness accounts."

So I was the investigating officer in that matter whereby there were charges brought against him for sexual harassment and for basically using the Council's resources for unlawful instructions and unfortunately because of the fact that he went on pension as well as the fact that we could not obtain any further evidence in proving these cases, the other cases, the sexual harassment, the unlawful instructions and that we had evidence for that, but not all of the stuff could have been completed based on the fact that we only had the witness accounts on that.

CHAIRPERSON: I have a few questions on this but let me take you back to 28.4 on officers standing guard at the premises of the Superintendent's friend. I just want to

understand the purpose for standing guard. Would this be to prevent any possible criminality against the friend or would it be to avert any possible policing action by other police officers whether JMPD or even SAPS or what exactly was the purpose?

SUPERINTENDENT DE BEER: Chair, at that point in time when I did the investigation on that point I went on Google Maps in order to establish where exactly this premises would be that these members had to guard. And I must be honest with you, it is in a very secluded area towards Region G's side, there next to Lenasia area. It is on the outskirts basically. So the possibility of break-ins or robberies or that type of thing of the liquor is a big problem or a big possibility. And I presume that that would be the reason that his friend would have asked him to just, you know, have a friendly request in safeguarding his premises in order for him to gain out of that. So that would be the possibility for that. It would not be for the fact that there was rivalry or anything like that. I think it would be more a situation of him wanting to secure the premises based on the fact that it was so secluded.

CHAIRPERSON: All right, thank you, thank you. And then, you may have addressed this already but I will still ask. You say Internal Affairs, "sought to institute" disciplinary charges. When you say sought to institute, at what stage

exactly was the process when he retired?

SUPERINTENDENT DE BEER: Well, the case came to us in October last year, in 2005, where the investigation started. And because of the complexity of the case of many complaints within one case, we had to take it step by step and investigate the cases concurrently. So during this process is when he basically completed his years and he was mandated to go on pension on the 31st of April. So based on the disciplinary code, we cannot institute any claims or cases against him. So obviously the case had to be closed.

CHAIRPERSON: My next question was actually going to touch on whether at the time he retired, he had reached the mandatory retirement age. You seem to suggest that he had.

SUPERINTENDENT DE BEER: Yes.

CHAIRPERSON: Why I would have asked that question is because later, a few paragraphs down, you say that he attempted to come back to JMPD. If he had already reached the mandatory retirement age, it is a bit confusing to me why and how he would have wanted to come back to JMPD.

SUPERINTENDENT DE BEER: Chair, the old pension fund of the city gave the members, if you were still belonging to them, up to 65 to be in the department. But the E-Jo'burg

pension fund only gives you or allows you to be there until 63. So he reached that age level already.

CHAIRPERSON: 63.

SUPERINTENDENT DE BEER: 63. And because he is on E-Jo'burg, he was mandated to go on pension. But then afterwards, there were an outcome by the bargaining council to allow certain members that applied to be extended to go on until 65.

CHAIRPERSON: And I would imagine that is usually applicable to people who are still within the system.

SUPERINTENDENT DE BEER: Within the old pension fund.

CHAIRPERSON: And they apply for an extension whilst they are within the system.

SUPERINTENDENT DE BEER: Within the old pension fund.

CHAIRPERSON: Ja. Okay. All right. All right. Lastly, towards the end of paragraph 29, you say after his retirement, basically nothing could be done because there was no direct physical evidence connecting the Superintendent to the crimes. There were only witness accounts. I am aware, of course, that in 30.1 onwards, you do say that there are certain possible bases upon which he may still be pursued. But I still want to just understand why you would have thought there was not enough purely

because there were only witness accounts.

Why would witness accounts not be sufficient in and of themselves for purposes of pursuing criminal proceedings? Because you say after his retirement, nothing could be done with regard to instituting criminal proceedings because there were only witness accounts. So why would witness accounts not have been sufficient for purposes of instituting criminal proceedings?

SUPERINTENDENT DE BEER: Technically, because of the fact that the unlawful instructions were given within the mandate of JMPD. The vehicles were used within the mandate of JMPD in the sense of him misusing a council vehicle within the time that he was still there. Then also the sexual harassment was in the scope of our policies as sexual harassment.

At that point in time, we only investigated the matters that were pertaining to the Internal Affairs complaints received. So we did not have any other outside information such as the friend that requested for the vehicles to be parked there. We did not have any other extended evidence in order to prove that in actual fact there was a benefit for him.

CHAIRPERSON: But just to make sure I understand you, you introduce this, I am referring to the very last sentence of paragraph 29, you introduce what you say there by

saying:

> "No criminal investigation was pursued because all that was available was only witness accounts."

So you are saying this in a context that basically means you were concerned about possibly instituting criminal proceedings. This was no longer about internal disciplinary proceedings within the JMPD. But you say you could not pursue those criminal proceedings because all that you had were only witness accounts. So you seem to refer to DC processes and that all that you had been doing related to DC processes.

But I am saying you introduce that last sentence by saying nothing could be done criminally because all that you had were witness accounts. So that no longer had anything to do with the DC process. Your focus now was on possible criminal proceedings, but which you, according to you, could not be instituted because all that was available was witness accounts. So that is the context within which I am asking my question. I hope I am making sense.

SUPERINTENDENT DE BEER: A hundred percent. Chair, I think if it was possible that we could get more evidence that could have pushed us in the direction of a criminal case, we would have gone that route. But because of the lack of evidence, physical evidence, and as you know, the

SAPS wants physical evidence. They want to know there is evidence beyond any reasonable doubt. So because of that lack of evidence and physical video footage and whatever the case may be, it was difficult for us to go the route of go and open up a case against him criminally, because we know criminally he could have been still answering for that.

CHAIRPERSON: And also just to make sure that I understood part of what you said, you seemed to emphasise the fact that his instructions related to the use of JMPD resources, sort of suggesting that it had nothing to do with criminality. Did I understand you correctly? Or did I misunderstand you?

SUPERINTENDENT DE BEER: No, you understand me correctly.

CHAIRPERSON: Yes. Now, in that regard, I wanted to say if the allegations are correct, there definitely was criminality in certain instances. Take the instance where, for example, TRU members found bricks of Cocaine and he said, stand down, what on earth are you doing there? But the officers did not stand down and found more bricks instead. Surely there, the allegation is basically that he was assisting whoever the criminals involved in the suspected Cocaine were. So that is clear criminality if the allegations are correct.

So subject to what comment you may make, I would

want to disagree that this concerned only JMPD and not criminality and just the instructions relating to just the use of JMPD resources. That is one example. Maybe if I looked at all of those subparagraphs, there could easily be criminality there as well.

SUPERINTENDENT DE BEER: I agree with you, Chair. I think at this point in time, the criminal case is still going on, the case regarding to the bricks. So I think and I would suspect that should he have been linked via the suspects with anything in that respect, they would still arrest him. So it is not off the cards as yet.

CHAIRPERSON: Yes, yes, yes.

SUPERINTENDENT DE BEER: You understand? So at this point in time, unfortunately, at this point in time, I would say there is always a possibility to be charged.

CHAIRPERSON: All right. Thank you.

ADV BALOYI SC: Can I just follow up on the discussion with the Chairperson? And it takes me to an earlier discussion I had with you about when you pick up even corridor talk where people are identified and alleged to be involved with activities, with unlawful activities, you do not seem to have a mechanism where you accept as JMPD or Internal Affairs that you do not have the capacity to investigate beyond a certain point, to do proper investigation because you are not the SAPS, you are not

detectives, that you do not refer those kind of issues to the SAPS as a complainant even for them to investigate.

So these examples that you are discussing with the Chairperson, my view is 28.1 would involve a case of corruption at least. There would be theft if that ends up being proven. The same 28.2 would involve defeating the ends of justice. If it is involved, maybe as Chair says also, theft. 28.3, potentially corruption, complicity in the crime. Even the use of motor vehicles of the SAPS to guard the premises of a friend. It is not just abuse of property for discipline. It is actually a charge of corruption potentially.

So you have these and accepting that JMPD or Internal Affairs did not have proof or evidence that elevates it to evidence, clear evidence of a crime, surely this is matter that should have in place mechanisms that says we have this, let us give it to the SAPS for them to investigate further. It is a concern that you do not have that kind of mechanism. Do you want to comment about it?

SUPERINTENDENT DE BEER: Commissioner, I think at this point in time it also goes about the fact that, as I have alluded previously to you, is the fact that if you have got members that are very well connected, not only in the SAPS but in the Hawks, within all sorts of units within the SAPS, we also struggle sometimes to get these cases to be proven. I do agree with you, if there is any possibility that

we can obtain further evidence and we can proceed with a case, we definitely will do that. Because I do understand where you say that there is a criminality aspect, but we will have to look into that further and make sure that there is a possibility that we can obtain more.

ADV BALOYI SC: It is less about you obtaining more, because I accept, and maybe I am wrong, I accept that Internal Affairs, for a start there is only 38 of you, for a start, but I also accept that it is not your job, you are not detectives, it is not your job to investigate a docket for criminal prosecution.

SUPERINTENDENT DE BEER: Exactly.

ADV BALOYI SC: I accept that, and that is why I say I am concerned that you do not have a default mechanism where you say we have this, here is where we deliver it to the SAPS and let them deal with it. I do not want to, I hear you when you say you do not know who to trust because some people are powerfully connected, but I do not want to understand you to be saying we therefore do nothing. I would rather you said to us, we do have a system in place. When we have these kinds of things, we deliver them to the SAPS in terms of our protocols, we do.

Then the question will be asked of the SAPS, what did you do about it? Did you open an enquiry? Did you open a docket? And so it is off your hands, but the idea

that it dies at the JMPD and nobody ever comes to know about it, and when I say nobody, I mean the DPCI and the SAPS, they never even become aware that there is something to investigate, it is not comforting at all, especially on your examples, your examples suggest serious criminal conduct, and that it dies because you say we did not have evidence of criminal conduct is a great discomfort, I must say.

SUPERINTENDENT DE BEER: Noted, ma'am.

ADV BALOYI SC: Okay, thank you.

CHAIRPERSON: Ja, for the future, I think you need to have a broader mind-set with regard to these. Your approach appears to have been quite narrow and focussing only on JMPD internal processes. You need to be more broad-minded on those issues and see, I mean, ja, as I said, and as Commissioner Barlow is saying, criminality is staring you in the face here.

SUPERINTENDENT DE BEER: Noted, Chair.

CHAIRPERSON: Thank you.

ADV POOE: Superintendent, in your exchanges with the Commissioners, one of the things that you said was that SAPS always wants proof beyond reasonable doubt before they take action. Now, just in light of your discussion with the Commissioners, is that what then informs the approach? Not commenting on whether that is correct or sufficient or

not, just that maybe because SAPS wants so much, expects so much from you when interacting with you, that it dissuades you from approaching SAPS if you do not have enough. Is that a fair characterisation of perhaps the approach?

SUPERINTENDENT DE BEER: I would say yes, ja.

CHAIRPERSON: Which would actually be wrong as a matter of law, because when someone goes and lays a charge with the police, it is on the basis of a belief that a crime has been committed. It is for the police to then conduct investigations. And as a result of those investigations, a prosecutable case may then be established and it is only at that later level that ideas about is there a case here, is it worth taking this forward for prosecution. And it is the Court that will then ultimately decide whether or not there is proof beyond a reasonable doubt. For SAPS at the point of entry to say you cannot prove this beyond a reasonable doubt is a totally wrong approach.

SUPERINTENDENT DE BEER: Noted, sir.

CHAIRPERSON: So for the future, please do not buy that.

SUPERINTENDENT DE BEER: We will do so.

ADV KHUMALO SC: It seems to me, Superintendent, that clause 8.3 of the Standard Operating Procedure may have to be amended to add exactly that, that if Internal Affairs assesses that there is possibility of a crime having been

committed, they must refer that part, the criminal part, to SAPS or IPID for further investigation, so that you can focus on the misconduct and you do not concern yourself with the criminal conduct. But you should not say, because I as Internal Affairs do not have evidence of criminality or I cannot prove it beyond a reasonable doubt, I am going to leave it there.

SUPERINTENDENT DE BEER: Noted, Commissioner.

ADV KHUMALO SC: Because it looks like it is the SOP itself that maybe limits you in terms of what you are supposed to do with that sort of information.

ADV POOE: Thank you. And then, Superintendent, you do then go on at paragraph 30 to deal with further information that has been uncovered that could support a criminal referral. Can you then deal with those aspects?

SUPERINTENDENT DE BEER: Okay.

> "Internal affairs is, however, aware of further potential evidence that could support a criminal referral in relation to the incident above, including WhatsApp messages exchanged among officers on the day of the aborted pursuit, in which they discussed the whereabouts and direction of the travel of this pursued vehicle, camera footage from a nearby

location showing the JMPD vehicle and the pursued vehicle, the account of an officer involving the pursuit, and further conduct said to be attributable to the former Superintendent, namely protecting individuals implicated in the killing of an illegal miner, a Zama-Zama, a matter I am told is currently under investigation by IPID, and further matter referred to as a gold nugget or gold button case. I am advised that the former Superintendent applied after his retirement to return to JMPD, but his application was refused."

ADV POOE: Thank you, Superintendent. And did the refusal have anything to do with all of these charges that were pending against him internally?

SUPERINTENDENT DE BEER: I cannot answer on the basis of the refusal at this current moment.

ADV POOE: Then we can move to the next example, which relates to the abduction of a complainant to secure the withdrawal of a criminal case. We can go to paragraph 32 of your statement.

SUPERINTENDENT DE BEER: Okay.

"The abduction of a complainant to secure the withdrawal of a criminal case.

> Internal Affairs investigated a matter in which three TRU members are alleged to have stolen cash from a civilian. The complainant, a Zimbabwe National, had collected money from family members in the region of R85,000, to pay for the funeral in Zimbabwe and was carrying it in cash in several places on her person and with her brother, who was with her. Acting, it appears, on information obtained from a former so-called spotter, three TRU members approached the complainant and her brother outside the shop, searched them and took the cash. The complainant and her brother were then taken against their will to…"

This is the area where we need to make the correction, it is not Johannesburg Central, it is Jeppe police station;

> "…where they were held in the basement area for approximately 15 minutes and threatened with a fabricated charge of money laundering. The complainant managed to photograph the purported docket. They were then driven to and dropped near a hotel or shopping mall,

that is Carlton Centre, and the officers concerned left with the money. The complainant reported the matter first to the police, where she initially met with resistance to open a docket, and then to Internal Affairs. I personally consulted with the complainant and she positively identified the three TRU officers in my presence. An official from the Hawks, DPCI, assisted us with the investigation and the TRU members were arrested and taken to be charged. Thereafter, the complainant could not be reached from the Monday morning of that week onwards. The matter was postponed for several days to allow for a formal bail application. Internal affairs subsequently established that once the accused officers were released on bail, an attorney engaged and paid for or on behalf of the accused TRU members, appeared in Court on the complainant's behalf to withdraw the case without Internal Affairs or the investigating team have been able to make contact with her

at any stage. The complainant was abducted and held until she withdrew the charges. Internal Affair also ...[intervenes]"

ADV POOE: Superintendent, just before you move on, just to paint a clear picture in relation in particular to what happens after the case was laid. You say there that once the three officers were granted bail, Internal Affairs suspects that they then sought to interfere with the process. Is that correct?

SUPERINTENDENT DE BEER: In actual fact, it is a situation that started from the time that they were arrested that the interference started not only with the complainant but also with the investigation docket. Working hand-in-hand with one of the members of the charge office at the Johannesburg Central police station. Thereafter, this was on the Saturday, on the Sunday, sorry, and on the Monday morning I communicated with the complainant via WhatsApp up till about, it was around 9 o'clock. Then there is nothing. She did not answer back, she did not answer calls, we could not get hold of her, to such an extent that we really wondered what happened to her.

In this period of time, these officers were remanded after they had their first appearance in Court. They were remanded to wait for a bail application. In this process, we

could not get hold of the complainant. Then after that, we discovered or we suspected, based on this so-called lawyer that pitched up at the Court in order to withdraw the matter on her behalf, we suspected that the officers paid the money back to the complainant, half on the first appearance and then after she withdrew or the case was withdrawn in Court, the other half of the money.

This is the modus operandi of most of the incidents where kidnappings happen. Money were taken from members of the public. It always or it would be a situation that also occur especially when informants and in this instance the informer was clearly visible on the video that we obtained from the complainant itself, where it shows where she went into a shop, the informer comes, the members of TRU comes, they are pointed out who the complainant is and who is the brother.

The two of them are being taken to a vehicle, a JMPD patrol vehicle where the brother and the sister the complainant were pushed inside the vehicle after they were searched and the money was taken from them and then you see the vehicle leave with them inside the vehicle. You can see clearly on the video footage that the so called informer comes towards the back side of the BMW talking to the members and then leave.

Upon pulling the OBC, the on-board computer trip

log, we established that the vehicle went through to Jeppe police station, it shows clearly that they were parked underneath the building where the vehicle stood for 15 minutes, and thereafter they left and they stopped next to Carlton Centre Hotel or the shopping mall where they were let off and then they left. Now in this instance there was evidence to that effect that the actual complainants version can be substantiated with the trip log as well as then the pointing out of the three officers, which had the same clothes on as what they had on the Sunday.

The exact same clothes that they had on the Sunday when they committed this offence, they had on, on the Monday and I might be incorrect if I say it was a Sunday it might have been the Friday, because I know the Friday she said that she went to the Johannesburg Central police station she wanted to open up a docket. They again interfered there already. The SAPS interfered there already by not wanting to open up a docket.

She sat until 12 o'clock that night at the police station, then she went home just to come back on the Saturday or Sunday. I cannot remember the date the days offhand now but that is when she came and reported the matter to us. That is when we called the officers inside and that is where the identification happened when they happened to pass the where the officers were sitting.

And again, it is clearly visible that some of the TRU members within the unit had a hand in procuring the money in order to pay it back to the complainant, working behind the scene in order to secure that these guys are not being charged. This is the type of infiltration that I am talking about when it comes to SAPS members involved in the charge office, going through the dockets, obtaining all the information giving it through to the suspects and the suspects get somebody inside the JMPD in order to interact or act on their behalf to secure that the case goes through the carpet.

CHAIRPERSON: I want to understand the involvement of the attorney who, as you say, appeared in Court on the complainant's behalf and withdrew the charges. You say that, "an attorney engaged and paid for by or on behalf of the accused TRU members" is the attorney who appeared in Court on behalf of the complainant and withdrew the charges. What do you mean when you say an attorney engaged and paid for by or on behalf of the accused TRU members?

SUPERINTENDENT DE BEER: The possibility, and we suspect that this was the situation, that they obtained a friend or a lawyer, of which I do not have the name, but I presume we will be able to get it, seemingly as he was the one that appeared in Court on behalf of the complainant,

because the complainant was not at Court. She never came to Court. So it was suspected that at that point in time they arranged for this lawyer to come on behalf of the complainant, which was kept safe, not to interfere or not to get in contact with me.

CHAIRPERSON: May we add to that list of requests, please? We would like to get the name of this attorney who appeared.

SUPERINTENDENT DE BEER: We will definitely do so.

CHAIRPERSON: And were the accused here, you members, legally represented when they appeared in Court and applied for bail? If so, was that a different lawyer who represented?

SUPERINTENDENT DE BEER: I presume that that would be a different lawyer, Chair.

CHAIRPERSON: All right, thank you.

ADV KHUMALO SC: So after this episode, did you manage to get hold of the complainant and the brother to find out what happened?

SUPERINTENDENT DE BEER: Not at all. Commissioner, we did not get hold of her at all. We went to her house, the addresses that she gave us. We phoned the contact number, although we can see that the contact number is still active. She claimed, or the information that we got was that she went back to Zimbabwe. But you can see that the

cell phone is still active within South Africa. So I do not think that she disappeared and she went back to Zimbabwe. She is still active here in South Africa.

ADV POOE: Thank you, Commissioner. Superintendent, then if we can move on to, I think we are now at paragraph 36. Although, just one second. I think you have explained that in the course of the exchanges about the withdrawal of the money and your inability to locate the complainant thereafter and your suspicions and that it forms part of a broader pattern. So that would conclude that example. We can then move on to the next example that you wanted to talk about, which relates to the 1.5 million.

CHAIRPERSON: Perhaps just to say, eventually that case against the TRU, the accused TRU members, was struck off the roll.

SUPERINTENDENT DE BEER: Ja, that was struck off the roll, Chair.

ADV BALOYI SC: Before you move to the next example, because it is a different unit, let me ask this. You did explain, I think at the beginning, you tried to explain how members of the TRU are selected. Are these members selected from the pool of JMPD officers already or are they coming from outside?

SUPERINTENDENT DE BEER: No, they are from the pool, Commissioner.

ADV BALOYI SC: So they are internal appointees to the TRU.

SUPERINTENDENT DE BEER: Ja.

ADV BALOYI SC: And what is the process of selecting them? Do you know, is it up to the Superintendent who goes around picking his people? Are there adverts for people to come and join the TRU? Is there selection, objective selection method?

SUPERINTENDENT DE BEER: I am not hundred percent sure as to what is the criteria that they selected to choose whoever went over to the TRU. But at this point in time, I know previously they had a process where they would have an interview with them, finding out what is their capabilities, what is their background regarding to undercover operations and that type of things.

Whether that was done with a new group or the group that was later incorporated in the TRU, I am not sure. But I know that there was a request for certain members within the JMPD pool, whoever wants to come over to the TRU, that they needed to apply for that. But what the process was and how they chose these members, I cannot answer on that.

ADV BALOYI SC: And therefore, you do not know whether they undergo security vetting, for example, to be a member of the TRU? You do not know if any of those checks are

done?

SUPERINTENDENT DE BEER: I doubt that there is any security checks.

ADV BALOYI SC: Okay. Can we add to your list and ask you to find out what you can, and then Mr Sedumedi will assist.

SUPERINTENDENT DE BEER: I will do so.

ADV BALOYI SC: Thank you.

SUPERINTENDENT DE BEER: Thank you, Commissioner.

ADV BALOYI SC: Please proceed.

ADV POOE: Commissioner Baloyi, the witness that will follow, fortunately, over the tea adjournment was talking to us about the selection process. So although it is not in his statement, he is experienced in this regard. I would ask that you just reserve it for him.

ADV BALOYI SC: Thank you.

ADV POOE: Superintendent, if we could then move on to the next examples related to the 1.5 million matter, paragraph 38.

ADV POOE: Thank you. The 1.5 million matter. In a separate matter, the case started in this fashion where an inspector, Emma Pakwani, that is based or that is affiliated or working at the SPU unit, the Special Patrol Unit, had a vehicle of hers that were in an accident in 2022. This vehicle was parked at the Fennell Road Fleet Yard and was

standing there awaiting authorisation for repairs. At that point in time, we had a little bit of a delay with all of the repairs on the vehicles. So the vehicle did stand there for quite some time. I would say it is around a month or two at that specific time.

Now, she arranged for this, she went to the Fennell Road Fleet Yard and she fetched this vehicle without authority or permission from the Fleet Department. She quickly, together with the members that were working there, did a quick fix on the vehicle, on the bumper and the area. It was not big damage. She fixed this vehicle by means of securing the bumper and stuff with screws and with tape. She took the vehicle, she removed the vehicle from there, to our Loveday Street complex, Wemmer Complex.

The vehicle was there, she utilised the vehicle to go home that same night and she brought it back. The next day, she handed it over to an officer by the name of MPO Mphahlele, that is based at the POPS unit. Now, it is two different units and in general, we will not, in general, utilise another unit is vehicles if it is not belonging to you. Together with, okay, them this MPO Mphahlele removed the vehicle from 10-41, from Wemmer Complex and he went to his house with the vehicle. He drove around with this vehicle, unknowingly to the Fleet Department that this vehicle is operating on the road, on and off duty, utilising

this vehicle, performing his duties as a Metro Police officer.

Whether it is on duty or off duty, it is different times and it was laid out in the docket. Then from there, he went to, he was seen then, well let me explain it to you this way. The complainant came to us, to me and one of my colleagues at Internal Affairs, from the complainant, to say that he was robbed or his money was stolen to the value of 1.5 million. We followed up the investigation from that Saturday morning when I was on duty together with a colleague of mine. We started the investigation, we tracked the vehicle, we found out who was the driver of the vehicle and we started looking for this officer, together with two of the Hawks members that we called in that same morning in order to assist us.

So what happened was, is that after the robbery the same day, this businessman reported the matter to both Internal Affairs and the Hawks. Through us, the Hawks members were called by us and we met up at Booysens police station and he elaborated on the matter, we opened up a docket for him. And the MPO was subsequently then traced at his home address after he allegedly went to Secunda and he came back. But in the meantime, while we were looking for the car, we found the car, but not at his home address. It is two houses down the road, in the same block, but just two houses down the lane, standing

underneath a tree.

So he parked it after the robbery. So basically what happened was, he had an informer. The informer gave him the information of the businessman having R1.5 million in cash in a black bag and he is on his way to go and buy the stock from the Chinese people. He came from the northern side of Johannesburg. Drove all the way towards the China city, which was based around Crownwood Road, in the south. The JMPD officer, Mphahlele, followed him, and he eventually pulled him over. When he stopped, first thing he wanted to know was that this guy had a firearm. He explained to him he does not have a firearm, and he started searching the car. He first opened the boot, he did not find the money.

He opened the door behind the driver's side, which he knew was the place where the money was placed. He found the money. Immediately, he informed the driver and his wife, that was with him at that point in time, that the money was part and parcel of money laundering and he is now being placed under arrest. As much as the complainant wanted to explain to him that it is not money laundering, he kept on. He removed the money from the vehicle of the complainant and placed it inside the patrol vehicle. The complainant then noticed this informer in the patrol vehicle.

The officer came back, in full uniform, to the complainant's vehicle. He searched the vehicle and finished up. He instructed the complainant's wife to drive the vehicle. The complainant explained to him, but no, he cannot, because the wife does not know how to drive and she is also not feeling well. So he had no other choice as to put the complainant back. But before he removed the money bag, or the bag with the money, out of the vehicle, he phoned a lady by the name of Emma – Emma is known as Inspector Emma Pakwani that is in charge of the SPUs – informing her that he has got the money launderers, where must he take them to?

She explained to him, go to Booysens, and then changed it later and said, no, go to Johannesburg Central. So he knew what the route was that he had to follow, as a key. He instructed the complainant to get into his vehicle with his wife, and he instructed him to drive in front. They passed Booysens police station, they got onto the freeway, and they drove basically in the direction of the M2 West off-ramp, as you go to Langlaagte's side. On the median of the freeway, there is a gap. He pulled in, in the gap, blocking the traffic that is coming from the interchange that is going onto the freeway. He allowed the driver or the complainant to pass into the escape, a gap, and instructed him to drive to Johannesburg Central police station.

That is the time that he reversed, and he drove off with the R1.5 million in cash. We looked for the officer, and we eventually got a hold of him on the phone. The Hawks members called him and agreed with him to meet up with him at the garage next to Protea Glen extension. They met him, and they brought him back to the house. We searched the house. We could not find any of the money inside the house. He was calm. He was collective. A cousin, in inverted commas, was with him in the vehicle.

As we searched the vehicle, agh the house, sorry, we found in the house, the cap that was specifically pointed out as not the normal JMPD baseball cap, but as the white rim floppy hat that the POPS members are using. They found that in the washing machine together with his uniform. They also found or we also found, as we went through all of it, the call that his phone made to Emma. Subsequently, the officer was arrested. He was taken to the Court on the Monday. He subsequently appeared in Court, and he was postponed to Booysens police station for an ID parade.

As the ID parade was arranged, Emma Pakwani, Sergeant Rikhotso, that is now Chief Superintendent Rikhotso, went to the prison, or the cells, had a discussion with Mphahlele. They agreed that they are going to go through to fetch R500,000 or R550,000 out of that money in

order to pay the officer, or the investigating officer, off.

ADV POOE: Superintendent, just so that we do not miss all of the people that participated in this, if we go to paragraph 40, maybe read that into the record, because there is one more crucial player in that list of people.

SUPERINTENDENT DE BEER:

> "Within days, Inspector Pakwani, who supplied the vehicle, together with another inspector, now Chief Superintendent Tinswalo Rikhotso, and Hawks captain, she was then a sergeant, Mabunda Matimu, attempted to bribe the investigating officer from the Hawks with R550,000 to secure the release of the MPO who had committed the robbery. Approximately four months later, Inspector Pakwani, together with a male, MPO Zwane, targeted the same businessman in the incident.
>
> Inspector Pakwani allegedly assaulted the businessman's wife with the patrol vehicle's door when the wife recognised and attempted to take a photo of the same informer involved in the first incident. The businessman's vehicle was

searched and cash was discovered..."

Obviously I have explained that;

"...in the vehicle. Thereafter, the businessman insisted that they go to the nearest police station."

This is now the second attempt on the same businessman.

"...to go to the police station. Inspector Pakwani telephonically phoned members of the Germiston Hawks for backup in the furtherance of her objective to get hold of the money or to steal the money."

ADV BALOYI SC: So, in this operation, or in this second incident, she was present?

SUPERINTENDENT DE BEER: She was present there.

ADV BALOYI SC: Okay, she was not on the phone. Thank you.

SUPERINTENDENT DE BEER:

"Eventually, the matter was resolved by the charge office commander of the Booysens police station, who directed that the money be handed back to the businessman, despite the resistance of Inspector Pakwani, then assisted by the members of the Germiston Hawks.

This matter illustrates, in Internal Affairs'

assessment, an example of two different law enforcement agencies becoming compromised in relation to the same underlying wrongdoing. The matter began with JMPD, and once reported to the Hawks, then the Hawks investigation itself becomes compromised. Unlike most complainants in similar matters, who tend to withdraw their complainants or their cooperation, the complainant in this matter did not withdraw his complaints."

ADV KHUMALO SC: I think to be more accurate, in 1944, we should say members of two different law enforcement units, because it is not fair to paint the entire Hawks or the entire JMPD with that bribe.

SUPERINTENDENT DE BEER: That is correct, yes.

ADV POOE: Superintendent, just to go back to that incident of bribing, or the attempt to bribe the investigating officer, you have knowledge about how far this attempt went, is that correct?

SUPERINTENDENT DE BEER: Yes, I do have.

ADV POOE: And it did not succeed?

SUPERINTENDENT DE BEER: Unfortunately, the investigating officer did not want to have anything to do

with the bribe. So, in that instance, the money ended up with the Hawks Captain Matimu.

ADV POOE: And just for clarity, the Inspector Pakwani and Chief Superintendent Rikhotso managed to obtain the money and gave it to the Hawks member, the Captain Matimu, is that correct?

SUPERINTENDENT DE BEER: Yes, that is correct.

ADV POOE: And then Captain Matimu could not convince the investigating officers to take the money?

SUPERINTENDENT DE BEER: That is correct, and he also disappeared for a while from the investigation, as he did not want to have anything to do with it.

ADV POOE: When you say he, you mean one of the investigators?

SUPERINTENDENT DE BEER: Yes, that was Captain Mashala, agh Warrant Officer Mashala, that was also willing to come and give his side of the story.

ADV POOE: Thank you. That then deals with this ...[intervenes]

ADV BALOYI SC: Sorry, just one question. So, the big question of interest is, what has happened to these members of JMPD today, as you sit there?

SUPERINTENDENT DE BEER: As we are sitting here, Commissioner, Warrant agh, MPO...

ADV BALOYI SC: Mphahlele.

SUPERINTENDENT DE BEER: Mphahlele was found guilty in Court and is in the process of getting sentenced through the hard work of the Hawks.

ADV BALOYI SC: Is he out of the JMPD now, as we speak?

SUPERINTENDENT DE BEER: His prosecution or his departmental case is still proceeding within the, inside jail.

ADV BALOYI SC: Okay and then Pakwani?

SUPERINTENDENT DE BEER: Emma Pakwani and Rikhotso are still working within JMPD. The matter was or it is known to the Hawks members, so I cannot explain as to what is the progress on that case, as they will come and testify to that.

ADV BALOYI SC: Any disciplinary processes against them?

SUPERINTENDENT DE BEER: At this point in time, not yet, due to the fact that we are waiting and we are working together with the SAPS on the matter. So, in due time we will start the process.

ADV BALOYI SC: When was this incident?

SUPERINTENDENT DE BEER: This incident happened in 2023.

ADV BALOYI SC: So, you are outside of your 90-day investigation period.

SUPERINTENDENT DE BEER: But that was only later

discovered.

ADV BALOYI SC: Later, well, later when? My interest is to find out whether there is any consequence to these members or they are amongst those groups that have got serious allegations against them and they continue to stop people on the road and do their thing, because there is no personal consequence from within the employer.

SUPERINTENDENT DE BEER: I do agree with you, Commissioner.

ADV BALOYI SC: Yes.

SUPERINTENDENT DE BEER: Unfortunately, we had to wait for the SAPS. In this instance, we had to wait for the SAPS. Because of the seriousness of the allegations, as well as the sensitivity of the case, as well as the case with Mphahlele was running concurrently with that. So, we had to give them the opportunity of finishing their investigation first.

ADV BALOYI SC: Well, that was not my understanding of your processes.

SUPERINTENDENT DE BEER: No, I do agree.

ADV BALOYI SC: In your previous discussion, where you said that you do run your processes, yes, you are careful to ensure that you do not intrude or compromise the criminal prosecutions. But you have members here. And I did not have a problem with that, I was happy to hear that process.

But when you now say that on a 2023 matter, yes, you found out later, but it sounds like you are well out of your 90-day period for investigation, you say, we are waiting for the SAPS to complete their process. Soon he will have retired. And I say it with seriousness.

It is not just unique to your organisation. But this seems like one of those cases where people go off into the night and there is never been any consequence whatsoever. They get their pension. They leave on pensionable circumstances and not a disciplinary record. That is not good.

SUPERINTENDENT DE BEER: Noted, Commissioner. Within the Internal Affairs, we also make a provision for your more complicated cases. We do have the general scope of 90 days for your complicated cases. But we do have more serious complaints or more serious complicated cases of which their cases are being extended.

ADV BALOYI SC: Well, I mean, I do not know what is complicated for disciplinary processes if you have evidence that Pakwani and the Rikhotso attempted to bribe an investigating officer. And unless you say, well, the investigating officer was not prepared to tell us this, you know it somehow. So there you do have that. Why you do not discipline, in fact, why you keep that person in the employ of law enforcement is deeply problematic to me.

SUPERINTENDENT DE BEER: I take note of that. But this one was one of the serious matters that we had to wait for the SAPS.

ADV BALOYI SC: All right, thank you.

ADV KHUMALO SC: And the genesis of that case has nothing to do with the criminal investigation by SAPS. Because the way you started, you said they improperly took a vehicle from the fleet. And Pakwani was responsible for that. So there is no reason why she should not have been charged internally for that conduct and for action to be taken against her.

SUPERINTENDENT DE BEER: Commissioner, that case was addressed, the one of her removing the vehicle, and it is still going on at the moment.

ADV KHUMALO SC: So she has been charged for that?

SUPERINTENDENT DE BEER: Ja, she has been charged for that.

ADV KHUMALO SC: Okay.

SUPERINTENDENT DE BEER: Ja, that one has been dealt with.

ADV KHUMALO SC: It is the robbery.

SUPERINTENDENT DE BEER: That is the bribery aspect. The sensitivity of that. As well as the fact that there was other law enforcement entities involved. That we could not just take action in a jiffy, because there is other law

enforcement entities involved in this.

ADV BALOYI SC: Potentially, and it is not unfair to put a proposition like this. That for all we care, she and the others could well resign tomorrow from the JMPD. They will leave without a disciplinary record and just carry on with their lives and wait for the criminal trial if it ever happens. Because there is no disciplinary process internally. It is fair to say?

SUPERINTENDENT DE BEER: It is fair, Commissioner. But I think at this point in time, due to the fact that there is already a criminal investigation going on, it is either way, the departmental case or the criminal case, we are going to be able to wrap it up.

ADV BALOYI SC: Thank you. Yes, Ms Pooe?

ADV POOE: Thank you, Commissioner. Commissioner, there is just a short section that deals with other implicated individuals that I would ask that we get through before we take the lunch adjournment. That way we can return to deal with the challenges facing the unit and conclude the statement. My colleague, Ms Segeels-Ncube, is asking that I finish the whole thing.

CHAIRPERSON: Let us try.

ADV POOE: We will try. Superintendent, let us then move to the other implicated individuals. If you could go to paragraph 46 of your statement. If you can just read that

into the record, where we need some clarity, we will stop you and ask.

SUPERINTENDENT DE BEER: Number 46?

ADV POOE: Yes, please. Thank you. On page 11.

SUPERINTENDENT DE BEER: Okay.

> "Other individuals implicated. Internal affairs case records also implicates the following individuals, amongst others, in the conduct described above. An individual known as Mosquito, who is alleged to have solicited money from and passed information to persons under investigation, forewarning at least one individual that Internal Affairs was investigating and to have induced complaints and witnesses not to testify against him. Internal affairs hold a number of case dockets concerning this individual."

ADV POOE: Superintendent, just before we move on. I thought we had fixed this. The person known as Mosquito is a JMPD officer.

SUPERINTENDENT DE BEER: Yes, he is a JMPD officer within the POPS group.

ADV POOE: And do you have any difficulties providing us

his full name?

SUPERINTENDENT DE BEER: Ja, at this moment I do not have his full name with me, but I can provide it.

ADV POOE: But you can provide it over the lunch admit, ma'am thank you. And then when you say – so basically he has solicited money from civilians.

SUPERINTENDENT DE BEER: Yes.

ADV POOE: And also alerted other members of ongoing investigations by Internal Affairs. And how would he have known of the ongoing Internal Affairs investigations?

SUPERINTENDENT DE BEER: This was when, in the instance where Mphahlele was arrested or before he was arrested, when we searched the house, I received a message or that we discovered a message that was sent on Mphahlele's phone during the time that we investigated, we were searching his premises, to say that I know about what he had done, is he okay? What is going on? He also spoken to the fact that Emma was also aware of what was happening.

ADV POOE: Thank you Superintendent. And where you say that Internal affairs holds a number of case dockets concerning this individual, is it cases only related to money and passing information or other offences?

SUPERINTENDENT DE BEER: There is one other offence also that he was mentioned in that we currently have got a

case on.

ADV POOE: Okay, thank you.

ADV BALOYI SC: Does it mean you hold dockets that you are investigating or you are disciplining already?

SUPERINTENDENT DE BEER: It is dockets that is under discipline already. That has been investigated and it is at prosecution, yes.

ADV BALOYI SC: Thank you.

ADV POOE: And then you can move to 46.2.

SUPERINTENDENT DE BEER:

> "A superintendent, whose daughter is also alleged to be involved in the matter concerning the theft of 1.5 million and was alleged to receive and hold proceeds of the criminal activity on the syndicate's behalf."

This was the so-called niece or the lady that was with Mphahlele in the vehicle. That person is related to a superintendent within the department, it is her daughter and at that given time, we suspected that she was the one that was in possession or knew where the money was taken to.

ADV POOE: My apologies, do you have any difficulties giving us the name of the superintendent?

SUPERINTENDENT DE BEER: I just have to get it. I will come back to that.

ADV POOE: Thank you. Then ...[intervenes]

ADV BALOYI SC: And the superintendent is a subject to a disciplinary process? Your disciplinary processes or have you?

SUPERINTENDENT DE BEER: Not the superintendent, no. But we know of the daughter. She is not in the department.

ADV BALOYI SC: And the police investigate, the Hawks, is she part of what the Hawks is doing?

SUPERINTENDENT DE BEER: She is part of that investigation, ja.

ADV BALOYI SC: Thank you.

ADV POOE: Superintendent, you can then move on to the challenges faced by the unit.

SUPERINTENDENT DE BEER: Okay.

> "Challenges faced by the Internal Affairs Unit. Although Internal Affairs is required to investigate JMPD officers, it remains organisationally and physically part of the JMPD. This has practical consequences. Officers under investigation and their associates are colleagues of Internal Affairs who are part and parcel of Internal Affairs' own investigators, working in the same buildings and have the access to the

> same internal grievances and complaint mechanisms as other JMPD employees."

It basically comes down to the fact that the same very officers that we investigate and we charge, would be the same very officers that will turn around and open up grievances in order to get away from whatever subject they are being investigated against. Because they know that we are the ones that is going to be removed for that period of time. That is their modus operandi. In certain incidences where certain of us, certain of our investigating officers were targeted, threatened and being told false complaints were laid against us in order to deter them or then basically divert their complaints.

ADV POOE: Superintendent, just to assist you, you do deal with that at paragraph 48, where you deal with the retaliatory steps that officers take. Maybe let us, if you can read that into the report.

SUPERINTENDENT DE BEER:

> "Internal Affairs investigators and in at least one incident or instance, their family have been the target of direct threats and intimidation."

ADV POOE: My apologies, you skipped the paragraph, or maybe I named the wrong paragraph, 48. My apologies, 48, where it deals with 'this case rise in practice to retaliatory

conduct'.

SUPERINTENDENT DE BEER: Yes.

"Officers implicated in wrongdoing or their associates have opened unsubstantiated internal disciplinary cases against Internal Affairs investigators, including in one instance, a case alleging that an investigator had improperly colluded with the complainant in the R1.5 million case or matter described above, apparently in the attempt to have the investigator concerned, removed or discredited.

Then Internal Affairs investigators and in at least one instance, their families have been the target of direct threats and intimidation. Examples that have come to my attention, including an investigator being confronted and told in front of his supervisors that a suspect was coming for him. An investigator's family being sufficiently alarmed by threats that his spouse wished to relocate.

A SAPS member, colluding with implicated JMPD officers to covertly

obtain and disclose to them the investigator's personal information, including his residential address and banking details. And a vehicle being observed loitering, apparently conducting surveillance near an investigator's residence complex on more than one occasion.

As Internal Affairs officers, we regard ourselves and are regarded by those who we investigate as obstacles to continue corrupt activities. There is a genuine concern amongst Internal Affairs personnel of being targeted, included through internal disciplinary processes, for removal precisely because of the work that the unit does.

Internal Affairs' capacity is also limited, relating to the scale of its mandate. Approximately 38 personnel are responsible for investigation or investigating misconduct across the department of some 3,000 to 4,000 members, spanning general policing, licencing and security functions. A

further structural challenge is the apparent absence of effective oversight of certain specialised units. I am advised that SPUs, in particular, lost clear lines of supervision and mandate, following changes in JMPD's senior leadership, such that they now, in practice, operate with limited effective control, notwithstanding that they are equipped with marked and unmarked vehicles and operate widely across the city. This lack of oversight in Internal Affairs' assessment, creates conditions in which the kind of infiltration and misconduct described above can occur unchecked. Finally, Internal Affairs' ability to see matters through to a conclusion is frequently undermined by factors outside its control. The complainants become untraceable or are intimidated into withdrawing, implicating officers terminated their employment before disciplinary or criminal processes can be concluded. And in one instance, the official retired before the process

could be finalised, placing them beyond the reach of the department's disciplinary code. And on occasion, officials of other law enforcement agencies become compromised in the same matters. Internal Affairs is investigating further complicates any prospect of a successful outcome."

ADV POOE: You can then finish with the conclusion.

SUPERINTENDENT DE BEER:

"Despite the challenges highlighted above, the Internal Affairs unit is still committed to fulfilling its mandate as the unit tasked with rooting out corruption and improper and undue external influences. I make the statement in order to place my accounts of these matters before the Commission."

ADV POOE: Thank you, Superintendent. Commissioners, if there are any further questions?

ADV BALOYI SC: Superintendent, you may not be able to answer the question now and if so, I would be happy for you to later make a statement or if Ms Pooe has another witness that can deal with it. What you set out in the challenges from paragraph 47, and as I have marked my statement up

to 50, you set out the difficulties that come with the positions that Internal Affairs holds and the work that they do.

If you were to introduce anything, any measures to protect, to insulate, to enable you to do the work, so for example, in 47 you speak about the impact of being in the same building as the people that you are investigating. And my question is, well, what would you suggest should be done, could be done to mitigate this consequence that comes with being in the same environment as the people that you are required to investigate? So that is one.

The next is these threats that people in doing your work get exposed to. Is there anything that the JMPD or even the city, the municipality has in place to provide support and protection? If not, what would you suggest that they should consider to the extent that we may be making recommendations or even discussing it in our report? So there are these inadequacies you speak to or insufficiencies that you speak to, but what can be done or thought should be given to deal with those. So that is paragraph 47 up to 50.

51 is about staffing. You are 38, looking at 4,000 people. I suspect that every employee who is in your position has strong suggestions about how the numbers can be increased, subject to budget issues. But I think I would

like to hear you, if not now, then later on, what you say should be considered to improve the things that you have highlighted as matters of concern.

SUPERINTENDENT DE BEER: Commissioner, I think to start off on the first point that you have made, us as Internal Affairs are sitting in the Wemmer complex at corner Loveday and Village. Point number one, we have got only one entrance to the building. Point number two, whenever members of the public come and complain, the chances of them meeting the very same officers that harmed them within the complex is going to be very high, and it did happen before, where they were personally either redirected out of the building or out of the premises, or otherwise redirected in such a way that they were sent from pillar to post, avoiding them to come through to our officers.

ADV BALOYI SC: Directed by the perpetrator.

SUPERINTENDENT DE BEER: By the perpetrators or individuals within the complex. And then thirdly, they are being threatened for wanting to open up a complaint. So the main resolution for that point would be for us to be relocated to an area where it is not only safe for us, but where we have got controls in place, like for instance your gate controls, cameras, and we do have that, but it is very limited, and it is also not very adequately placed and manned. Then the fourth thing would be for us to be able to

function as a unit without or on the outside of the JMPD building or premises.

For us to be able to accept members of the public, and to have them to come with an open heart, not fearing that they are going to be intimidated by the same very uniform members that they are being targeted by. And then the other thing is also that we need to have a backup plan in place where we would be protected when it comes to retaliation.

ADV BALOYI SC: Anything offered in that regard, that you have protection if you are concerned about your safety? Is it easy to get protection assigned to you?

SUPERINTENDENT DE BEER: Technically, we only have got each other in the unit. So if you need to go out and you need to go and take statements, or you need to go and obtain evidence or information, or whatever the case may be, you are operating, you need to be more than one or two. You need to be at least two or three. Now, in the instance of us investigators, we normally try and send them out in a group of two or three, so that they do have backup.

ADV BALOYI SC: If there are threats on you, as you speak here about an investigator's family being alarmed, so they receive threats, does the JMPD or the city respond to provide protection? In other environments, I think we have had witnesses here who have said that because there were

threats, their employer then arranged for security for them. I am asking that kind of question.

SUPERINTENDENT DE BEER: In this instance, not with us. I must be honest, Commissioner.

ADV BALOYI SC: All right. Thank you. Anything else?

SUPERINTENDENT DE BEER: I think if there is anything else, I would bring it forth to you.

ADV BALOYI SC: Thank you.

SUPERINTENDENT DE BEER: Thank you, ma'am.

ADV POOE: Chair, there are no further questions for this witness, but we do undertake to issue a notice to the city to deal with all of the outstanding issues.

CHAIRPERSON: Thank you, Ms Pooe. Superintendent, thank you very much, you are excused. Let us adjourn and resume at 14.20.

SUPERINTENDENT DE BEER: Thank you, Commissioner.

INQUIRY ADJOURNS

INQUIRY RESUMES

CHAIRPERSON: Yes, Ms Pooe.

ADV POOE: Good afternoon, Commissioners. The second witness for this afternoon is Sergeant Rico Van Wyk, and, Chair, he is ready to be sworn in.

CHAIRPERSON: Good afternoon, Sergeant.

SERGEANT VAN WYK: Thank you.

CHAIRPERSON: Please state your full names for the

record.

SERGEANT VAN WYK: My name is Sergeant Rico, R-I-C-O, Eddie, E-D-D-I-E, Van Wyk.

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

SERGEANT VAN WYK: So help me God.

RICO EDDIE VAN WYK (duly sworn states)

CHAIRPERSON: Thank you.

EXAMINATION-IN-CHIEF BY ADV POOE: Thank you. Sergeant, Commissioners, you should have one file in front of you. The file on the sleeve says, "Sergeant Rico Van Wyk Statement and Annexures, File 1". Do you have that file?

SERGEANT VAN WYK: Yes, I do, ja.

ADV POOE: And, Sergeant, if you can then proceed to confirm your statement. If you go into the file and you go to page 1, can you confirm that that is a statement that you have prepared for purposes of giving your evidence before this Commission?

SERGEANT VAN WYK: Yes, I confirm. My details is on the first page.

ADV POOE: And if we can go to page 11 of the statement, can you confirm that that is your signature?

SERGEANT VAN WYK: That is correct.

ADV POOE: Commissioners, when we received the statement, just to account for how the signature looks, it just looks like the signature was taken from one document to another, but this was done by the Sergeant. Can you confirm that?

SERGEANT VAN WYK: I confirm it is me, ja.

ADV POOE: Thank you. And can you confirm that the contents of the statement are true and correct to the best of your knowledge?

SERGEANT VAN WYK: It is true.

ADV POOE: Thank you. Sergeant, if we could then start, we do not need to deal with the first two paragraphs, but if we can deal with your service history, and if you can summarize for the Commission your background in law enforcement.

SERGEANT VAN WYK: Thank you. Thank you, Commissioner. Okay, Commissioner, I joined the Midrand City Council in 1996, where I was stationed at the Licensing Department until 2001, the Midrand Licensing Department. Midrand City Council incorporated into the City of Johannesburg, Johannesburg, and is established, Johannesburg Metropolitan Police Department, JMPD, in 2001. So I applied to join the Department, and my application was successful. After completing my training in

November 2001, I was stationed in Region F1, which is covered by the Johannesburg inner city, or Central Business District.

At the time, my duties included crime prevention, bylaws enforcement, and traffic enforcement, okay. And sometimes in 2002, I requested a transfer from the Region, F1 Regional Director. Back then, I can see, Commissioner, his name is not in here, it was back then Director Gerneke. So I have requested from Director Gerneke for a transfer to Region Alpha. That includes the following areas like your Fourways and Diepsloot and Lanseria area. Following my transfer I continued performing the same functions that I had performed in Region F1. That is now crime prevention, bylaws and road traffic.

In 2004, I applied to join the K9 Unit, and my application was successful. I underwent training in patrol dog handling course, explosive detection, and narcotic detection. The training includes an identification course, and the training of a dog for the purpose of obtaining a work permit. My duties in the K9 Unit focussed mainly on crime prevention, narcotics, and other substance-related complaints, as well as searches conducted at schools. In 2010, I was appointed to the rank of a sergeant, having acted in that position for approximately three years before my appointment in 2010.

As a sergeant, I was responsible for supervising the officers that report under me as on duty, allocating duties to them, signing them on or off duty. I was also responsible for collecting and accounting for operational information. In the event of a shooting, I was required to attend the scene, notify the control room. I was further responsible for vehicles, animals allocated to the shift.

The JMPD followed a prescribed procedure when allocating vehicles to officers. An officer to whom a vehicle was allocated was responsible for safeguarding it and reporting any defects or damage by completing the prescribed forms and I would ordinarily have allocated the patrol vehicle to Officer Johnny Mokgatle.

ADV POOE: Sergeant, if you can just take a moment, pause there for a moment. Commissioners, I failed to mention this at the beginning to contextualize this witness. The evidence of this witness is narrow and deals with one Officer Mokgatle and this is why you will see the statement focuses on him. You will recall that Officer Mokgatle is one of the JMPD officers that was named in the 6 December stream who went to Mr Molefe's house the day of his arrest and used JMPD resources to identify the vehicles that were surveilling Mr Molefe's house prior to his arrest. And then during the course of that investigation, we have been trying to understand the officer and Sergeant here is one of the

officers that was the supervisor to Mr Mokgatle and is able to give an account of some of the incidences. And in particular here, he is here to give testimony related to a kidnapping and extortion that happened at the time Officer Mokgatle was under his command.

CHAIRPERSON: Thank you, Ms Pooe. One thing I noticed is that at page 2, top of the page, there is the heading "Service History", and I would have expected that there would be some other heading somewhere before the discussion of Officer Mokgatle, because now it looks like everything is about the service history.

ADV POOE: Chair, apologies for that. During the process of statements, there are times where there are some assistance and then other times we call for statements and it is how we receive them.

CHAIRPERSON: Yes, yes. All right.

ADV POOE: Apologies about that.

CHAIRPERSON: We will just focus on the content.

ADV POOE: Yes, Chair.

CHAIRPERSON: Thank you.

ADV POOE: And then just to note then for purposes of the record that the service history as well as the Sergeant's roles and responsibilities, including vehicle allocation, end at paragraph 9. Thereafter, we start to deal with the kidnapping and extortion incident.

CHAIRPERSON: Thank you.

ADV KHUMALO SC: Maybe while we are at paragraph 8. Good afternoon, Sergeant.

SERGEANT VAN WYK: Good afternoon.

ADV KHUMALO SC: Just tell us who Johnny Mokgatle, Officer Johnny Mokgatle is and what was his role or position within JMPD.

SERGEANT VAN WYK: Officer Johnny Mokgatle was one of our officers that was in the K9 Unit under my command because we have six shifts in a K9 Unit and my shift is with Victor Echo 2, so he was reporting under me and I was his immediate supervisor.

ADV BALOYI SC: This is for what period? Until when?

SERGEANT VAN WYK: Just after this incident of the video, so that was 2021 until maybe early 2022. Then after that, Officer Johnny Mokgatle reported to a different shift where the second incident happened, ja.

ADV KHUMALO SC: So in December 2024, he was not reporting to you?

SERGEANT VAN WYK: December?

ADV KHUMALO SC: 2024.

SERGEANT VAN WYK: 2024, no.

ADV POOE: Commissioner Khumalo, at that time he was reporting to a Sergeant Zwane. Sergeant, you can then return to your statement and we were dealing with

paragraph 9, which starts with when a patrol vehicle was allocated.

SERGEANT VAN WYK: Okay.

> "When a patrol vehicle was allocated, it had to be inspected to confirm its condition to ensure that all the required equipment was present and to establish whether the equipment was functional properly. The inspection was conducted in the presence of the officer to whom the vehicle was allocated and a representative of fleet management. Once the inspection form had been completed and signed, it was submitted to fleet management for safekeeping. This is sufficient in light of the incident that took place on 29 September 2021."

CHAIRPERSON: I think you said sufficient. Significant.

SERGEANT VAN WYK: Oh, significant, sorry, sorry, sorry, Commissioner. Sorry.

ADV BALOYI SC: When you say equipment, all the equipment, what is equipment here other than the boot that I am used to? In the boot you have a spare wheel and a spanner. Other than that stuff, what is it?

SERGEANT VAN WYK: Okay, so when they allocate you

with a vehicle, it means that vehicle is fitted with blue lights. So you have to check if the blue lights is working, the siren is working. In the car is a base radio, it means a two-way radio. You check if the base radio is working. If there is a medical bag, you have to tick down. If there is a triangle or a fire extinguisher, you need to tick down. So it is all the extras. And maybe the license disc is still valid, any cracks in the windscreen, any damages, small scratches, you have to report, make note on that allocation form. That is the extras when it comes to patrol vehicles.

ADV BALOYI SC: That include, I do not know what you call it, a tracking device for lack of ...[incomplete].

SERGEANT VAN WYK: That includes, ja, every vehicle comes with a tracking device.

ADV BALOYI SC: Okay.

SERGEANT VAN WYK: Sorry, there is another thing. Then, I did not think about it, that every officer is issued with a driver tag. So that means you cannot start the car without a driver tag. So that driver tag say I am Van Wyk that is starting this car, ja.

ADV KHUMALO SC: Meant to identify who is driving the vehicle.

SERGEANT VAN WYK: The vehicle, ja, that is correct, Commissioner.

ADV POOE: Sergeant, if we could then move to the

kidnapping and extortion incident. Just to forewarn you and the Commissioners that in order for this to make sense chronologically, I am going to ask the Sergeant to read only half of paragraph 10. And then, because that is when he refers to the video, and then I am going to move him to paragraphs 12 to 14 where he describes what is happening in the video and then we can move to the identification of the people involved. Sergeant, if you can read paragraph 10 until "I was a member", so just before, "upon viewing the video". Can you see that?

SERGEANT VAN WYK: Okay, must I read from relating the video until?

ADV POOE: Until I was a member, where, just before you say upon viewing ...[intervenes].

SERGEANT VAN WYK: Okay, I was a member, okay.

ADV POOE: Yes.

SERGEANT VAN WYK: Okay.

> "A video relating to the alleged kidnapping and extortion on 29 September 2021. On 29 September 2021, in my capacity as the Shift Commander of Victor Echo 2, I attended an off-duty parade with the officers assigned to the K9 unit or to my shift under my command. During the parade,

a video was circulated on a crime prevention WhatsApp group of which I was a member."

ADV POOE: Thank you, Sergeant. Commissioners, we are now going to play the video and thereafter I will ask the sergeant to describe what we are seeing in that video.

CHAIRPERSON: No need for a warning?

ADV POOE: Chair, we do not believe so.

CHAIRPERSON: All right, thank you. Thank you.

VIDEO PLAYED BACK - INDISTINCT

ADV POOE: Sergeant, if you can then go to paragraph 12, because that is where you actually explain what is depicted in the video. Commissioners, what we are going to do is we are going to play the video on mute while the Sergeant explains what is happening in the video.

SERGEANT VAN WYK: Okay.

"The video that was circulating is attached as Annexure RW1. The video depicts CCTV footage of a public street on which two vehicles are stationary. A white BMW 3 series is positioned behind a BMW 4 series. The driver of the BMW 3 series appears to be speaking to the driver of the BMW 4 series. The passenger of the BMW 3 series then exit

the vehicle, walks towards the front left side of the BMW 4 series, and appears to inspect the license disc."

ADV POOE: If we can just pause there, just to go back to the video. And then, can you confirm this is what you are describing, the two vehicles, the front one being the BMW 4 series, the back one being the 3 series?

SERGEANT VAN WYK: That is right, Commissioner. That is what I described in my statement at number 12.

ADV POOE: And the passenger of the 3 series walks towards the left side of the BMW 4 series and appears to inspect the license disc.

SERGEANT VAN WYK: That is correct, Commissioner.

ADV POOE: And that is what is showing at the moment.

SERGEANT VAN WYK: That is correct, ja.

ADV POOE: Okay, then we can proceed to paragraph 13.

SERGEANT VAN WYK: 30?

ADV POOE: One three.

SERGEANT VAN WYK: Oh, one three, 13. Sorry. Okay.

"It further appears that the driver of the BMW 4 series was instructed to exit his vehicle while the two drivers were speaking. Three additional men entered the camera's view from behind the BMW 3 series and joined them. The men then

appeared to search the driver of the BMW 4 series. Another person approached from a vehicle parked in front of the BMW 4 series."

ADV POOE: And then, can we go back to the screen and just confirm that. So, that is when the passenger is being asked to exit and the conversation begins. And then, can you confirm this is when the additional men joined?

SERGEANT VAN WYK: That is correct, Commissioner.

ADV POOE: And another one appears from the back.

SERGEANT VAN WYK: That is correct, Commissioner.

ADV POOE: Thank you. If we can then go to the next page, that is paragraph 14.

SERGEANT VAN WYK: Paragraph one four?

ADV POOE: One four.

SERGEANT VAN WYK: One four, okay.

"The driver of the BMW 3 series subsequently removed the child from the BMW 4 series and took her to the vehicle parked in front of it. The driver of the BMW 4 series was then placed in the rear seat of his vehicle. Thereafter, all vehicles together with the occupants appeared to leave the scene."

ADV KHUMALO SC: Before that, there seems to be an

attempt by one of the people to open the boot of the 4 series and he struggles to do that. What then happens is what you have just described. Do you see now where we are? There is a gentleman who is dressed in navy or black who is trying to open the boot of the 4 series.

SERGEANT VAN WYK: According to the video that is correct, Commissioner.

ADV POOE: And then, Sergeant, can you confirm then this is where the driver of the 3 series removes the child?

SERGEANT VAN WYK: Ja, that is correct, ja. You can see, it is clear in the video. You can see he is holding the child, I do not know, on the school bag or on the child's shoulder. Then he is walking with the child to the front white vehicle. It looks like a VW Tiguan.

ADV POOE: All right. And then in your statement, you say thereafter all four vehicles together with the occupants appeared to leave the scene.

SERGEANT VAN WYK: That is correct, Commissioner.

ADV POOE: So we see the BMW 4 series leave the scene first. Then the car where the child was put in leaves second. Then comes the 3 series. I think I missed one more car.

SERGEANT VAN WYK: It went past, then the Audi Q2 ...[intervenes].

ADV POOE: The Audi ...[intervenes].

ADV KHUMALO SC: Is that the one in the Audi?

SERGEANT VAN WYK: The Audi Q2.

ADV KHUMALO SC: The grey Audi.

SERGEANT VAN WYK: Q2.

ADV KHUMALO SC: Ja.

SERGEANT VAN WYK: Ja.

ADV POOE: So those were the four. Thank you.

ADV BALOYI SC: Sorry, and is the Q, the darker colour vehicle, is that part of your fleet?

SERGEANT VAN WYK: No, no, no, it is not part ...[intervenes].

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

SERGEANT VAN WYK: No, no. We do not have, we do not have, but that we only had the BMW's and bakkies.

ADV BALOYI SC: Thank you.

ADV POOE: And then ...[intervenes].

CHAIRPERSON: Sorry, sorry. That grey Audi is not showing on any of the frames. How are you able to tell that it was part of this for you to count it?

SERGEANT VAN WYK: Commissioner, if you can see, when the two occupants of the white 3 series were standing by the 4 series, people were coming from the back. That means there was another car.

CHAIRPERSON: Okay.

SERGEANT VAN WYK: But you asked me how do I know.

After I follow up, after they turn, it is then you will see as we will still continue, you will see that that Audi Q2 is actually part of the group.

CHAIRPERSON: Okay.

SERGEANT VAN WYK: Ja.

CHAIRPERSON: All right.

ADV POOE: Thank you, Sergeant. Now I am going to ask us to go back to paragraph 10, where you talk about what happens upon viewing the video. Can we take it from there.

SERGEANT VAN WYK: Okay. Okay.

> "Upon viewing the video, I identified two of the individuals depicted therein as Officer Johnny Mokgatle and ..."

I do not know. I mean, Commissioners, I do not know how to pronounce the name, but Officer Banzi. I mean, the surname.

ADV POOE: Zwelibanzi.

SERGEANT VAN WYK: Okay. Thank you.

> "Both of whom were assigned to my shift."

CHAIRPERSON: Did you say the surname?

SERGEANT VAN WYK: Where is it now again? Okay ...[intervenes].

ADV POOE: Zwelibanzi Mgujulwa.

SERGEANT VAN WYK: Zwelibanzi, okay, Mgujulwa. Okay, thank you.

> "Both of whom were assigned to my shift. I immediately questioned them about the video, sought to establish whether they had been involved in a police operation. Neither officer denied being depicted in the video. However, they remained silent and did not provide any explanation regarding their presence of involvement in the incident depicted in the video."

ADV POOE: Sergeant, if you can just stop there so that we can identify the two JMPD officers in question. If you can go to page 2 of your annexures, which is RW2.1.

SERGEANT VAN WYK: Is it now the pictures?

ADV POOE: Yes, it is the pictures just after the tab.

SERGEANT VAN WYK: RW2.1. One second.

ADV POOE: Yes. And can you ...[intervenes].

SERGEANT VAN WYK: RW2.1.

ADV POOE: Yes. Can you then identify the first officer?

SERGEANT VAN WYK: The first officer on the right-hand side is Officer Johnny Mokgatle.

CHAIRPERSON: How are you able to tell?

SERGEANT VAN WYK: When you have worked with the officer more than 18 years, or more than that, then you can see, look how many are there, so, any one of them can be Johnny Mokgatle, so, if you have worked more than 18

years, then you will know your officer, you will know your members in terms of body build, and wearing the same clothes from the scene to the boardroom. That is how I can tell that that is my members.

ADV BALOYI SC: So, he was wearing, at the parade, he was wearing the same clothes?

SERGEANT VAN WYK: Same clothes.

ADV POOE: Thank you. If we can then go to the next picture at page 3 of the annexures. Can you identify the second officer?

SERGEANT VAN WYK: Okay, the second officer, right at the rear right of the 4 series BMW, that is Officer Banzi.

ADV POOE: So, just on our screen, just to confirm, do you see where the little cursor is?

SERGEANT VAN WYK: Okay.

ADV POOE: Is that ...[intervenes].

SERGEANT VAN WYK: That is Officer Banzi, ja.

ADV POOE: All right, thank you. And then again, just to confirm, was he also wearing the same clothes at the parade that he was wearing during the incident?

SERGEANT VAN WYK: Same clothes.

ADV POOE: Thank you. Then, if we can return to your statement, no, just one more identification before we move back to your statement, and that is at RW 2.3 at page 4.

SERGEANT VAN WYK: 2.3?

ADV POOE: Yes.

SERGEANT VAN WYK: Okay.

ADV POOE: And then, there it depicts the person who takes the child. Can you confirm that that is Officer Johnny Mokgatle?

SERGEANT VAN WYK: That is Officer Johnny Mokgatle.

ADV POOE: Thank you. Then we can return to your statement.

ADV BALOYI SC: Did you, were you able to identify the balance of the people, whether they are JMPD officers or you do not know them?

SERGEANT VAN WYK: No, Commissioner.

ADV BALOYI SC: You did not know them?

SERGEANT VAN WYK: No, I do not know them.

ADV BALOYI SC: Thank you.

ADV POOE: Now, you had dealt with having identified the two and questioned them about the video.

SERGEANT VAN WYK: Okay.

ADV POOE: And you then go on to say that neither of them denied being depicted in the video.

SERGEANT VAN WYK: That is correct, Commissioner.

ADV POOE: But they remained silent and did not provide an explanation regarding their presence or involvement.

SERGEANT VAN WYK: That is correct.

ADV POOE: Now, at this stage, did you believe it to be a

police or a law enforcement operation at that time?

SERGEANT VAN WYK: Okay, at that time, on the WhatsApp group, only this very footage was posted. There was no any other follow-up videos. So, when I look at the video, for me, because I know it is my officers, that is why I asked if they were part of an operation, right. But when they said no, they were not part of it, so it did not sit right with me because now I know it is them, I can see they are part of an operation and they denied that they were part of an operation. So, I have waited for a follow-up from whoever posted the video onto the WhatsApp group.

ADV KHUMALO SC: Can I just, so, you say the off-duty parade was on the same day, on the 29th of September.

SERGEANT VAN WYK: 29 September.

ADV KHUMALO SC: Was it in the afternoon?

SERGEANT VAN WYK: It must have been in the afternoon, ja.

ADV KHUMALO SC: And then the video, do you know when the video was taken?

SERGEANT VAN WYK: No. Honest, I mean, Commissioner, 2021, I cannot remember because it is what, almost 5 years back.

ADV KHUMALO SC: Ja.

SERGEANT VAN WYK: So, when it comes to date and time ...[incomplete].

ADV KHUMALO SC: But it would not necessarily have been the same day. It could have been a few days earlier.

SERGEANT VAN WYK: What, the video?

ADV KHUMALO SC: Ja.

SERGEANT VAN WYK: And the parade?

ADV KHUMALO SC: Ja. No, no, I am talking about the incident that you described as kidnapping and extortion, did the incident happen on the same day ...[intervenes].

SERGEANT VAN WYK: The same day when the video was posted.

ADV KHUMALO SC: As the parade.

SERGEANT VAN WYK: Ja, the same day when the video was posted, ja.

ADV KHUMALO SC: Okay. And you were asking them if they were part of an operation.

SERGEANT VAN WYK: Ja.

ADV KHUMALO SC: So, at that stage, there was no report of a kidnapping.

SERGEANT VAN WYK: At that stage, there was no, it is only the video.

ADV KHUMALO SC: Ja.

SERGEANT VAN WYK: So, there was no, say, lookout vehicles involved in the kidnapping.

ADV KHUMALO SC: So, looking at the video, you assumed that this was a police operation.

SERGEANT VAN WYK: A police operation.

ADV KHUMALO SC: That is why you were asking them if they were involved in an operation.

SERGEANT VAN WYK: That is correct, Commissioner.

ADV KHUMALO SC: And then you subsequently learned that it was something else.

SERGEANT VAN WYK: Only when the follow-up WhatsApp from the same group give a lookout to say that this following vehicles was involved in the kidnapping.

ADV KHUMALO SC: Okay.

ADV POOE: Thank you, Sergeant. If we can then go to paragraph 11 of your statement.

SERGEANT VAN WYK: Okay, 11.

> "When I engaged the officers about the operation depicted in the video, my intention was to obtain the feedback ordinarily required from officers that participate in an operation. They are expected to provide a report afterwards, setting out the nature of the operation, whether it was successful, whether any arrest was made, whether any crime intelligence information was obtained or acted upon. Such information must be followed up, and the outcome must be

> reported as either positive or negative. The feedback is only communicated through our crime prevention WhatsApp group and recorded for statistical purposes."

ADV POOE: And so, just to confirm, in this instance, they were not able to provide you a report and had not shared any type of report on your WhatsApp groups?

SERGEANT VAN WYK: That is correct, nothing, ja.

ADV POOE: Right.

ADV BALOYI SC: And is the WhatsApp group the only way that there is a record of what your officers got involved with on the day?

SERGEANT VAN WYK: Commissioner, it is that, we use WhatsApp because it makes our work a little bit easy. So, for example, if I have 8 officers and 4 cars, we have a 4 days on and off, 4 days on, 4 days off, so it means 12 hours per shift. So the officer, at the end of the shift, must give me whatever that officer has done for the day, if it is now arrest, a recovery, how many complaints attended, or maybe any special event involved in an operation. So that officer will type everything out, in terms of, say, in this region, Alpha, this ward, I have attended this complaint. So at the end of the day, I will take all that information from the 4 cars, from the 8 officers, and record them on a daily

basis, and a daily becomes a weekly, a weekly becomes a monthly, and a monthly becomes a quarterly. So that is how we record our successes.

ADV BALOYI SC: They are not, your officers are not required to keep, let us say, pocketbooks or diaries of, their personal documents that they record, and that you would be able to audit, as the supervisor, to go and look and see what they have been up to?

SERGEANT VAN WYK: Officers are required, Commissioner, to have pocketbooks. Officers must make, at least within every hour, make a pocketbook entry what the officer have done, what complaint that you have attended, if it is now a shooting scene, or if it is a drug-related complaint, officers must make pocketbook entries, so that at the end of the day, he must prove to me that at least he have done something for the day.

Ja, and then, if the officer is making an arrest or a recovery, we normally have forms where the officer will fill the details of the suspect, the station, and the arresting officer and at the bottom, I have my space where I fill in. Same with the items, we have a recovery form, and then the officer will give me the hard copies. I will do my paperwork, then I will give it to an inspector. Then the inspector will capture it at the end of the day.

ADV BALOYI SC: So if this were an official operation, you

would have expected in their pocketbooks to get a detail of the street where they went, what time, what vehicle they stopped, what they found in the vehicle, accounting for this child who was taken out of the car. You would expect that kind of detail in the pocketbook.

SERGEANT VAN WYK: That is correct, Commissioner. For example, when I was only looking at the video, it does not matter if the operation was negative or positive. But now, for example, now you can see they are standing with a driver. So at that moment, a lot of things were going through my mind. Was this person wanted? Was there a warrant for arrest out for him? What was the reason for stopping this person? And when they leave there, because I think that area falls under Johannesburg Central Police Station, so for me it is that when they leave there, are they going to the station to be detained? So that means at the end of the day, they were supposed to record it into their pocketbooks and then give me any paperwork in terms of successes, one suspect was arrested, one vehicle recovered. If there is no firearms or drugs, they will just submit all the forms and I will capture the forms from on there.

ADV BALOYI SC: Thank you for that. And you have a child involved here who gets taken into a police vehicle basically, a JMPD vehicle. What is the protocol about that

kind of thing, parents traveling with children, they get stopped and there are kids in the car.

SERGEANT VAN WYK: Commissioner, as you know that we are all fathers. We all have kids. And when it comes to kids is that your approach towards the father cannot be aggressive, because remember, now you have a child. The child is also protected under child protection ...[indistinct]. So that means your approach must be decent, talk nicely. You do not want to stress the child out. Or you will separate the child from the father and then talk to the father. It depend from one officer to another officer how that officer will handle that scene, but in terms of, in our SOP's where it involves a child and that, it is not really there, but it depends from that officer how I am going to handle that scene.

For example, let me say the father is violent, and what is going to happen now? So that means I am not the one that is causing the stress on the child, it is the father. So, but if the father is cooperative and is not fighting, then why must I be violent towards the father, because, as I said, I am a father myself, I have kids. So it really depends from one officer to another officer.

ADV BALOYI SC: Thank you.

ADV POOE: And then just on that point, Sergeant, just to confirm and to clarify, the car that the child was taken into,

that was not a JMPD vehicle?

SERGEANT VAN WYK: Ja, no, we do not have an Audi A4's in our department. That is not a JMPD vehicle.

ADV POOE: And you do not know if that vehicle is a law enforcement vehicle?

SERGEANT VAN WYK: No, I do not know.

ADV POOE: So for all intents and purposes, they took the child to a ...[incomplete].

SERGEANT VAN WYK: They took the child to the VW Tiguan and I also do not know if that is a JMPD, but we do not have VW Tiguan's in JMPD.

ADV POOE: All right, thank you. We can then move back into your statement. You were at paragraph 15 now. I know we have gone to the pictures to identify the two police officers, but if you can just read into the record the description of what the two officers were wearing. At paragraph 12.1, you describe what Officer Mokgatle was wearing.

SERGEANT VAN WYK: Okay, you said 15, né?

ADV POOE: Yes, one five.

SERGEANT VAN WYK: One five, okay.

> "The pictures captured from the video of the alleged kidnapping and extortion on 29 September 2021 was attached as Annexure RW2.1 to 2.3, identifying

Officer Mokgatle and Officer Banzi. 12.1 In the picture marked RW2.1, Officer Mokgatle is wearing blue pants and a jacket with a black hat talking to the 4 series BMW driver, the victim. In the picture marked RW2.2, Officer Banzi is wearing blue pants, black top, white bucket hat, walking in between the 4 series and the 3 series BMW."

ADV POOE: Thank you, Sergeant. And, Commissioners, just to ...[intervenes].

CHAIRPERSON: Sorry, is this not Mgujulwa?

SERGEANT VAN WYK: Mgujulwa, ja.

ADV POOE: Yes, that is a typo.

SERGEANT VAN WYK: This is Mgujulwa. It is Mgujulwa.

CHAIRPERSON: Change the A to U. Thank you.

ADV POOE: Commissioners, if I can just place on record two additional statements that we received from two unit members within the Sergeant's unit. That is a Constable Ntunzi Dana, which is behind the second last tab in your file and you will see there at page 4, at paragraph 10, Constable Thana also identifies Officers Mokgatle and Mgujulwa, and that is further confirmed by the annexures where he notes the same identification, and that is at page 7 of Constable Dana's statement. Then we also have a

statement from Constable Nata[?]. He too provides a positive confirmation at page 2, paragraph 5, and similarly confirms it in the pictures that are attached to his statement at page 5.

ADV BALOYI SC: [Indistinct]... [microphone off] both of them are not saying they were part of this group of people.

ADV POOE: Commissioners, just to clarify, they were not part of those people, but were part of the parade later that day. They saw the video, and from the video footage, as well as that meeting, were able to confirm the identities of Officers Mokgatle and Mgujulwa.

ADV BALOYI SC: Thank you. So, are you going to paragraph 16? I just want to ask a question about what you have been covering. The, so this is in 2021, and Mr Mokgatle and his friend are in K9 at the time.

SERGEANT VAN WYK: That is correct, Commissioner.

ADV BALOYI SC: Can you just explain what is the mandate of K9, because here we see police officers who do not have dogs, whose faces are covered, stopping a motorist on the road and doing what looks like an arrest. Maybe explain what the K9's mandate is.

SERGEANT VAN WYK: Okay, as I explained to the Commissioners that our mandate is crime prevention, traffic, and bylaws, but we focus more on crime prevention in K9. In K9, we are currently using two types of dogs,

explosive dog and narcotic dog. Now, in the video, when it comes to the mask, I do not know what was the reason behind it, why they have used masks. So, I can only talk on behalf of the two members. The other members, I cannot say if they are JMPD officers, are they civilians, are they SAPS, I do not know. But ...[intervenes].

ADV BALOYI SC: If you say you do not know why they are wearing masks, does it mean that ordinarily your K9 members, at least at the time, should not, were not ordinarily dressed up, including masks? That is not how they presented ...[intervenes].

SERGEANT VAN WYK: No, the mask is not part of our uniform.

ADV BALOYI SC: Yes.

SERGEANT VAN WYK: Ja.

ADV BALOYI SC: Okay. All right, and you say there are two types of dogs, drugs and explosives.

SERGEANT VAN WYK: That we currently use, ja.

ADV BALOYI SC: Ja, and would they always be accompanying your members? I am just trying to understand how do we land in this situation where a motor vehicle is stopped by the road and you have got these people who approach it and none of them have a dog. I am just trying to understand how the K9 operated. That would have explained, possibly, why Mr Mokgatle and his friend

are stopping this vehicle.

SERGEANT VAN WYK: If you look at the video, Commissioner, you will see the windows are closed, that means there is no dogs in the car. So for 2021, I cannot say to the Commission if Johnny had a dog back then. So let me explain this for the Commission to understand is that you have members in K9 that are active dog handlers. That means you have a dog, a physical dog. And you have members that have joined the K9 unit, they are part of the K9 unit, but they have not done the course yet. So that means he is a K9 member, but he is not an active dog handler. That has happened now with Officer Banzi. But Johnny, I know he is an active dog handler. But if you see the window is closed, it means there was no dog inside the vehicle, because, as I said, I do not have any paper with me to say that on 29 September, if Johnny still had an active dog, and what type of dog, is it explosive or narcotic.

ADV BALOYI SC: So maybe lastly, just to be sure, the covering of his face and Mr Mgujulwa, that they are covered, their faces, that is not part of your dress as a K9 member when you are on duty?

SERGEANT VAN WYK: No, I do not know, maybe they had their reasons, but I do not know why they have covered, but normally, we will not cover our faces.

ADV BALOYI SC: It is not part of the uniform?

SERGEANT VAN WYK: No, it is not part of our uniform, and according to our SOP's.

ADV BALOYI SC: Okay, thank you.

ADV KHUMALO SC: [Indistinct]... Covid [microphone off]

SERGEANT VAN WYK: I do not know, it can be possible. That is why, it can be possible if it is the time of Covid. It is possible.

ADV BALOYI SC: No, it was not Covid.

SERGEANT VAN WYK: Okay, thank you.

ADV POOE: Commissioners, we did do a quick check. At the time, we were on level 2. I am not quite sure what that meant. I cannot remember.

ADV BALOYI SC: Now Mr Mokgatle will come and tell us.

ADV POOE: Certainly. Sergeant, if we can then go to paragraph 16.

SERGEANT VAN WYK: 16, okay.

> "Following the reports that the incident involved an alleged kidnapping and extortion, I decided to conduct my own enquiry into the matter. Sometime the following day, I contacted the person who had posted the video onto the WhatsApp group. Although I cannot recall his name, he provided me with the victim's details. I thereafter visited the victim at

his residence, introduced myself, and explained the purpose of my visit."

ADV POOE: Just before you move on to the next paragraph, the person who had posted the video on the WhatsApp group, was that another law enforcement officer?

SERGEANT VAN WYK: If I can remember right, remember on these WhatsApp groups, you have different members on. You have Police, you have Traffic, you have Metro, you have Tshwane, you have Ekurhuleni, you have Security, so, but if I can remember right, the person that posted that video was a security officer.

ADV POOE: Okay, so this WhatsApp group is multidisciplinary and includes private security.

SERGEANT VAN WYK: Ja, different units, ja, on our WhatsApp group, ja.

ADV POOE: Okay. Then we can go to paragraph 17.

SERGEANT VAN WYK: Okay.

"The victim informed me that he had been stopped by an unmarked white BMW 3 series, fitted with blue lights, while collecting his child from school. After he stopped, a man dressed in civilian clothing approached and spoke to him. While they were speaking, several other men arrived and held him and his child

hostage. The victim stated that the man took approximately 5 million in cash from his residence, which was handed to them in a black bag. He complied with their demands because his child was involved and he feared for his safety. While at the residence, I noticed surveillance cameras installed in the yard. The victim invited me into the house and showed me the recorded footage, from which I obtained photographs. The photographs obtained are attached in Annexure RW3.1."

ADV POOE: And if we can pause there and go to page 6 of the annexures. No, my apologies, page 5 of the annexures, where RW3.1 is. Are those the pictures that you are referring to?

SERGEANT VAN WYK: That is correct.

ADV POOE: And in this picture, were any of the JMPD officers involved?

SERGEANT VAN WYK: No.

ADV POOE: So the three people accompanying the complainant or the victim are unknown to you, or have you been able to identify them?

SERGEANT VAN WYK: That is correct, ja, they are unknown to me, ja.

ADV POOE: And in the next page, on page 6, RW3.2, it is just a closer picture of those individuals.

SERGEANT VAN WYK: That is correct, Commissioner.

ADV POOE: Now, when the victim was showing you the surveillance, did he show you their exit?

SERGEANT VAN WYK: If I can remember the house right, I think that the house had three entrances, the small gate where I entered on the, I think the front side of the house. And if you turn, I think it is Clifton Road, if I remember right, then you have another small gate and then you have a garage. So if you look at this picture, with the three suspects and the victim, they have entered through that small gate on Clifton Road. I think it is Clifton and 14. So I have used 14. They have used Clifton.

ADV POOE: On page 5. You do not have to mention the address.

ADV POOE: Oh, okay.

ADV POOE: So that is on page 5.

SERGEANT VAN WYK: Okay.

ADV POOE: So they would have entered through that small gate.

SERGEANT VAN WYK: That is correct, ja.

ADV POOE: Maybe I was not clear. What I am trying to establish is, did he show you the footage of the suspects leaving his house?

SERGEANT VAN WYK: Remember, because remember I have looked at the video.

ADV POOE: Yes.

SERGEANT VAN WYK: Now see here where the suspects are walking inside the house, on their right-hand side there is another door into the garage, right. So they entered with one vehicle inside the garage, right, and then the other ones entered through the small gate. And then when they come out of the house with the bag, it is when they give the child to the complainant.

ADV POOE: Okay, so the suspects made entry in two ways. The one set went through the garage into the premises.

SERGEANT VAN WYK: Through the garage, ja.

ADV POOE: And then the others entered by foot through the small gate.

SERGEANT VAN WYK: Small gate, that is correct, Commissioner.

ADV POOE: And so from the surveillance footage, you were not able to see them exiting with the black bag?

SERGEANT VAN WYK: As I said, there was another video. You can see them walking out with the bag.

ADV POOE: Okay.

SERGEANT VAN WYK: Out of the house, through the gate, into the cars, and then ...[incomplete].

ADV POOE: And in any of the surveillance footage you saw at the victim's house, did you see the two officers?

SERGEANT VAN WYK: No, no.

ADV POOE: Thank you. If we can then return back to your statement.

ADV BALOYI SC: Maybe before you continue with the statement, let me ask you, it is a uniform question that I should have asked previously. The K9, when on duty, they do not dress up in uniform, as a matter of course?

SERGEANT VAN WYK: Commissioner, in K9, we have six shifts, Victor Alpha, Victor Bravo, Victor Charlie, Victor Delta, Victor Echo One, and Victor Echo Two. So the four shifts is uniform, and the two flexi's is civvies, right. So the four shifts, their shift system is 6 to 18, and 18 to 6, two day, two night. And then the two Echo's, that means the reason for the two Echo's is to focus more on drug-related complaints. So that means it is a flexible shift and it is a standby shift, right. So this is the only two shifts that will wear civvies, but it does not mean the other shift cannot wear civvies, unless they have information in terms of where there is a need for civvies. So now, the flexi-shifts, the shift system is from 12 to 12, or it depends if Crime Intelligence can come to answer, listen, we have info, there is going to be a cash-in-transit, then we are flexible. We can adjust our shift from 12 to 12. We can say 4 to 4, or 8

to 8. Even, that is why I said flexi and standby, for example, maybe we are off, and it is a cash-in-transit, and they will say, listen, I know you guys are off, but we need assistance, because it all comes down to trust again. And then we will book on, inform the Unit Commander, Unit Commander will inform the Director, we will book on duty with the control room, they will give us an on-duty OB number, and then we will do, attend to that complaint.

ADV BALOYI SC: Okay, so you ...[intervenes].

SERGEANT VAN WYK: [Indistinct]... [cross-talking].

ADV BALOYI SC: You proceed from where you were, wherever you were.

SERGEANT VAN WYK: Sorry, Commissioner?

ADV BALOYI SC: You proceed from wherever you were. So if you were home, you just proceed. You do not have to dress up.

SERGEANT VAN WYK: Ja, because my patrol car is with me, with all my members. So before I leave my yard, I will, via base radio or hand radio, or through WhatsApp, go and book on duty or communicate with the Commander.

ADV BALOYI SC: Thank you. Thank you, Ms Pooe.

ADV POOE: Thank you, Commissioner Baloyi. If we can then return to your statement, Sergeant, if we can go to paragraph 18.

SERGEANT VAN WYK: Okay.

"After the incident had been reported on the relevant WhatsApp groups, I became aware of its details and requested photographs extracted from the Vuma Cam footage relating to the report kidnapping and extortion. I made the request through the Vuma Cam WhatsApp group and subsequently obtained the photographs from that group. I cannot recall the exact date on which I requested or received them, but it was after the incident that had been reported. The pictures provided are attached as Annexure RW4.1."

ADV POOE: Just before we go to the pictures, Sergeant, the Vuma Cam that you referenced there, what is that?

SERGEANT VAN WYK: Okay, Vuma Cam, it is a private company that works hand-in-hand with the police to help fighting crime. It is actually called LPR, License Plate Recognition. It is the camera that you see in the intersections. Mostly the colour will be pink and white, Vuma. So now the reason for that cameras is to help the police to trace suspects or to load the vehicle onto the system that is wanted, maybe on a case number that would involve a robbery, a hijacking, kidnapping, or whatever the

reason. So Vuma will load that number plate onto the vehicle. If the vehicle passes the intersection, the camera will pick that number plate up. It will be sent to the control room and to the officers. Now that camera will give us the location of the vehicle, the movement of the vehicle, and which direction, so that we as officers in law enforcement will know where to start to look for the vehicle.

ADV POOE: Thank you. So, Commissioners, I propose in order to deal with the pictures effectively is we will reference each one as the Sergeant deals with what he was seeing in each of the pictures. So, Sergeant, can we please proceed to paragraph 19.

SERGEANT VAN WYK: 19? Okay.

ADV POOE: Yes, one nine.

SERGEANT VAN WYK: Okay.

ADV POOE: If you can just read the first sentence where you start with "on examining the photographs".

SERGEANT VAN WYK: Page 19 is it not a tracker report?

ADV KHUMALO SC: Page 7.

SERGEANT VAN WYK: Oh, page 7.

ADV POOE: Page 7 ...[intervenes].

ADV KHUMALO SC: Paragraph 19.

SERGEANT VAN WYK: Oh, okay.

ADV POOE: And you do not have to read the number

plate.

SERGEANT VAN WYK: Okay. I must read the number plate?

ADV POOE: No, no ...[intervenes].

SERGEANT VAN WYK: Oh, okay, sorry, sorry.

ADV POOE: Yes, you can proceed with "on examining the photographs".

SERGEANT VAN WYK: Okay. Commissioner, if you look at the vehicle that was on the video ...[intervenes].

ADV POOE: If we can go to page 7 of the annexures. That is RW4.1. Yes, you can proceed.

SERGEANT VAN WYK: Okay, if you look, actually, I wanted you to go to the BMW on the side, right inside from the video.

ADV POOE: Oh, from the video.

SERGEANT VAN WYK: Because everything starts from that picture.

ADV POOE: Page 11 is ...[incomplete].

CHAIRPERSON: I think, ja, the Sergeant said video, né, or ...[incomplete].

ADV POOE: Yes, we have the video and then we also have stills of the video.

CHAIRPERSON: Okay, okay.

ADV POOE: So I wondered if page 11 would be of assistance.

CHAIRPERSON: Okay.

ADV POOE: If not, we will go to the video.

SERGEANT VAN WYK: Okay, now if you look at that picture, Officer Johnny Mokgatle and Officer Banzi was in that vehicle. Okay, Officer Johnny was allocated with the BMW 3 series. It is also white in colour, right. So now we can see that the number plate is not clear.

ADV POOE: Yes.

SERGEANT VAN WYK: Right. Now, but now if you can look at the rear right door with that small window is that tag there and that is from BWM, "do not tow". So now, that is one of the things I have looked at to say, is this Johnny's vehicle, or is this a state vehicle?

ADV POOE: Okay.

SERGEANT VAN WYK: So, then, now then we can go to this picture now on page 7, because now, after I have asked Vuma Cam to assist me with pictures, now I am looking at the front before I am going to go to the side. If you look at the front left bumper, if you look where the fog light is, you will see there is a small strobe light. That is the emergency light, right, that is fitted into the 3 series BMW's. And just under that, you will see there, it look like a scratch, a black mark there, right. That is now the vehicle that was used. And then the rear left door on that bodyline, there is another scratch there, right. That is how I have identified

that this vehicle is Officer Johnny Mokgatle's vehicle.

ADV POOE: If you can just pause there for a moment. Commissioners, if you could go to page 9, I think there is where the Sergeant had paused the video, the Vuma Cam video, and there you will see, I do not know if it is a better picture, but a close-up of the scratch under the strobe light. Is that so?

SERGEANT VAN WYK: That is correct, ja.

ADV POOE: And then you are saying that the other marker that you looked at, is that the one that you circled just above that?

SERGEANT VAN WYK: Ja, you see the one with the fenders, but just, you know BMW have that emblem, that blue-red colour on the side that shows it is a BMW. But the one where I was more focused on is the two on the front left bumper and then the one on the rear left door.

CHAIRPERSON: Page 7.

ADV POOE: Yes, that is at page 7. Can you confirm that that is the other thing you were concerned about?

SERGEANT VAN WYK: Ja, any other thing I was concerned about, Your Honour, the number plate. The number plate, Johnny's number plate is Julia Delta 7 1 Yankee Mike, and this one is Julia Delta 7 1 Hotel Mike. So it gives me a totally different vehicle. So when I test it on the E-Natis, it gives me an Iveco. It is a totally different

vehicle from this BMW 3 series.

ADV BALOYI SC: And does JMPD have Iveco buses as part of your fleet? Maybe somewhere there was a confusion.

SERGEANT VAN WYK: Not that I know of, Commissioner. Not that I know of.

ADV BALOYI SC: Thank you.

ADV KHUMALO SC: But your point is that you should not have an Iveco number plate on a 3 series BMW.

SERGEANT VAN WYK: That is correct, Commissioner.

ADV POOE: And we have just prepared a side-by-side of the two number plates. I am just going to show that just to confirm the two differences in the two number plates. And so the difference was in the, the number plate with the HM is the one that was registered to the Iveco.

SERGEANT VAN WYK: Ja, Juliet Delta 7 1 Hotel Mike GP is registered to the Iveco. And then JD 7 1 Yankee Mike Golf Papa is registered to the BMW.

ADV POOE: All right, thank you. That deals with the remainder of paragraph 19. And we can then go to page 8, paragraph 20. Oh, my apologies. That is also where we have dealt with those differences, but I want to show you another side-by-side comparison of another aspect that you wanted to note and that is that sticker at the back ...[intervenes].

SERGEANT VAN WYK: Rear, rear ...[intervenes].

ADV POOE: Rear ...[intervenes].

SERGEANT VAN WYK: Right ...[intervenes].

ADV POOE: Window.

SERGEANT VAN WYK: Back door, ja.

ADV POOE: Yes. So, if you look at the screen, is that what you were also trying to look for?

SERGEANT VAN WYK: That is correct.

ADV POOE: And just, Commissioners, to be clear, the first image is a still from the video, and the second image is part of the images that were taken by the Sergeant of Officer Mokgatle's car when it was at JMPD premises. Is that correct?

SERGEANT VAN WYK: That is correct, Commissioner.

ADV BALOYI SC: They are supposed to be the same.

ADV POOE: Yes.

ADV BALOYI SC: Thank you.

ADV POOE: And then, maybe then we can deal with paragraph 21, because that deals with what you then did to confirm what you were seeing on the Vuma Cam footage with what the vehicle that was in the JMPD's possession.

SERGEANT VAN WYK: Okay.

> "To confirm that the vehicle in the Vuma Cam pictures depicted Officer Molgatle's patrol vehicle, I went to the vehicle to

verify the markings seen on the Vuma Cam and are the same as the vehicle in our fleet. I took pictures of the vehicle as it was parked at our offices. The pictures are attached as Annexure RW5.1 to 5.6, and you can see in the pictures the markings mentioned above."

ADV POOE: Commissioners, those pictures are at page, they start at page 12 of the annexures and run to page 17, but we have just seen them in the side-by-side. Perhaps the only one side-by-side picture we did not do is the one that is on the screen now. That one is a side-by-side of the dent or the scratches under the strobe light. So the first picture is from the Vuma Cam footage, and the second picture is one of the pictures that the Sergeant took when he inspected Officer Mokgatle's car.

SERGEANT VAN WYK: That is correct, Commissioner.

ADV POOE: Then we can proceed to paragraph 22 of your statement.

SERGEANT VAN WYK: Okay.

"In addition to examining the photographs I referred to above, I requested the late Mrs Mohamba in the Afrirent fleet a few days after the incident to provide me with tracking data for Officer Mokgatle's

vehicle. Mrs Mohamba informed me that she was unable to provide the data because the vehicle's tracking system was not operational at the relevant time."

ADV POOE: And you can proceed to paragraph 23.

SERGEANT VAN WYK: Okay, 23. Okay.

"The Commission's investigators have managed to source the relevant tracking information and have provided the information to me. After studying the tracking report, I can confirm that the BMW 3 series with registration number Juliet Delta 7 1 Yankee Mike Golf Papa, allocated to Officer Mokgatle on 29 September 2021, between the time period of 14:09 and 14:45, a duration of 36 minutes, registered movements from Malan Street, Newtown, to Nedcare Garden City Hospital, and Bartlett Road, Langlaagte North. The recorded coordinates placed the vehicle within one kilometre radius of the scene of crime, the school in Mayfair, Johannesburg, where the victim's child was collected, and the victim's residence. The

information is attached in Annexure RW6."

ADV POOE: Sergeant, if we can then go to page 21 of the annexures. You will see, are you at page 21?

SERGEANT VAN WYK: I am on page 21. That is a tracker report.

ADV POOE: Yes, so just to begin with, I just want us to identify the object that this report deals with. Can you see that it says the object and it gives the number plate?

SERGEANT VAN WYK: That is correct, Your Honour, top left-hand corner.

ADV POOE: Thank you. And then the time period we are concerned with is on page 22, and there to look at, just after parking number 11, where it says "movement".

SERGEANT VAN WYK: The time?

ADV POOE: 14:09:40, which is what you noted in your statement.

SERGEANT VAN WYK: 14:09:40, okay.

ADV POOE: Just to confirm that that is the entry that you are talking about in your statement.

SERGEANT VAN WYK: That is correct, ja, 14:09 until 14:45, ja, Malan Street.

ADV POOE: And then it confirms the movement of the car and also confirms the coordinates.

SERGEANT VAN WYK: Movement of the vehicle,

coordinates, street name, and the parking of the vehicle.

ADV POOE: Thank you. Sergeant, if we can then return back to your statement. Now, just before we move past paragraph 23, I just wanted to ask in relation to Ms Mohamba, what did she mean when she says she is unable to provide the data because the vehicle's tracking system was not operational at the relevant time? And I ask this because our investigators were then able to get the tracking information, which would mean that it must have been operational at the time.

SERGEANT VAN WYK: I do not really have an answer for it. I do not know. Maybe the unit was not active. It can be that the unit was jammed, or, because her explanation to me is that there is no data, there is no nothing on the unit. The unit is not responding. So, ja, that was the explanation to me.

ADV POOE: And would it be possible that there would be no data on her side, but the data would be available elsewhere?

SERGEANT VAN WYK: Look, they make use of the same system, because only the fleet, not fleet, what do you call it, I am just looking for the right name now, the service provider ...[intervenes].

ADV POOE: Yes.

SERGEANT VAN WYK: The vehicles, it is leased vehicles

from this company, so the unit was installed by them, right, so we have to request via them. Especially if you are going to the SOP's as a first-line supervisor, I can request a tracker report from them. But now when it comes to the tracker report, I do not know what happened, because remember, the desktop was in front of her. I have given the reg, I have explained to her the vehicle belongs to Johnny Mokgatle, this is the reason why I request a tracker report, and her feedback was the unit is not responding. There is no data on the vehicle, the movement of the vehicle.

ADV POOE: So just to be clear, she would have had to request this data from the service provider and ...[intervenes].

SERGEANT VAN WYK: No, she is employed by the service provider, not by JMPD, by the service provider, ja.

ADV POOE: Okay. And then just to note that it is the same service provider that provided us with the information, so it could not have been true that there was no, the tracking system was not operational at the time. Then we can proceed.

CHAIRPERSON: I actually wanted to state that there is another possibility. You stated a couple of possibilities. I wanted to say another possibility is that she did not tell you the truth.

SERGEANT VAN WYK: The possibility is there,

Commissioner, ja.

ADV POOE: Sergeant, we can then go to paragraph 24.

SERGEANT VAN WYK: Okay.

"Sometime in October 2021, once I had secured some evidence that demonstrated that the two officers were involved in the kidnapping and extortion, I informed Inspector Swartz and Superintendent Mohamed-Hoosen. I informed Superintendent Mohamed-Hoosen that my team was reluctant to work with the two officers, that is Officer Johnny Mokgatle and Officer Banzi, operations because they did not trust and feel safe with the two officers. I further provided the evidence at my disposal so that the Superintendent could inform Internal Affairs. The Superintendent later gave me feedback that he informed Internal Affairs. I requested the Superintendent Mohamed-Hoosen to move the two officers from my shift."

ADV POOE: Just to pause there, what was Inspector Swartz's role?

SERGEANT VAN WYK: Inspector Swartz's role, as I said, remember we are in the police, the first line supervisor is a Sergeant, then you have an Inspector, then you have the Unit Commander, that is the Superintendent Mohamed-Hoosen. So his role is basically, if you look at the SOP's, the same as mine, right, but me as a Sergeant report to him, so that is why it is an Inspector or a Warrant Officer.

So I report to him, so it is a higher ranking than me. So if I have any challenges, like now in this case, it is for me to report to him to say that this is a problem I am sitting with, I need your assistance in this matter.

ADV POOE: Now you say in your statement that you provided the evidence at your disposal to Superintendent Mohamed-Hoosen to, so that he could inform Internal Affairs. Is there a protocol about who can inform Internal Affairs?

SERGEANT VAN WYK: Okay, let me explain why. Look, there is a chain of command. If I have challenges in my shift, I will always start with the Inspector and then the Sup. But as an Officer, as I have taken it upon myself to follow up this information, there is nothing to stop me to go to the station and find out who is the investigating officer of this specific case and share this information with him, right. I can even go myself straight to Internal Affairs and inform them about this matter. So, but I still, at the end of the day, even if I go to SAPS or I go to Internal Affairs, I still need to inform my Inspector and my Unit Commander, because we all report to a Unit Commander or to an Inspector.

ADV POOE: And so in this instance, you informed the Superintendent and he then took up the task of informing Internal Affairs?

SERGEANT VAN WYK: That is correct, and he later came

back to me and informed me that he did inform Internal Affairs about this matter.

ADV KHUMALO SC: What about SAPS, did you inform SAPS? Did you assist SAPS with the investigation?

SERGEANT VAN WYK: Commissioner, I am going to have to take you now back to 2021. I was really in a difficult situation and I have past experience based where you are dealing with officers. My problem was, if you look at the video, if it was only Johnny and Banzi, it is a different story. I have extra members that is involved in this kidnapping, so because they were wearing masks, they were unknown to me. So at that moment, it was very difficult for me to make the next step, because I do not know who I am dealing with. Is this all Metro officers? Are they mixed? How many civilians in this video? And who are they and what units are they stationed?

There is a possibility that these members can also be in Internal Affairs, because remember, I know everybody, and so does Johnny Mokgatle, and so does Banzi, know members in Internal Affairs, he knows members in the different units, in K9, including SAPS. So at that moment, remember, I also have to look after my own safety, right, and I was also concerned about the safety of the victim, because they know where his house is. I do not think at that moment this guys was aware that there was CCTV

cameras, of the video or the pictures.

So my thing is now, I was also informed that Johnny Mokgatle's uncle is an investigating officer at Johannesburg Central. So now what I was scared of that, if I go to Johannesburg Central, not knowing who is the people wearing the masks, there is a possibility that that member can be the investigating officer. So a lot of things was running through my mind is that, who can I trust with this information?

ADV KHUMALO SC: What about IPID? I mean, at some point you became aware that there was a kidnapping, possibly of a child, and that the alleged kidnappers are members of your unit. You were able to positively identify them and you have information that they stole 5 million from somebody who is allegedly a business person. Now, that is at least three criminal offenses that IPID can investigate. So, assuming you were not sure who you can trust at SAPS, why was IPID not notified?

SERGEANT VAN WYK: Commissioner, maybe today in 2026, maybe I could have said now I have a lot of options to inform, but back then in 2021, it was a different story, is I wanted to go straight to Internal Affairs. But as I said to the Commissioner is that, because the people are wearing masks, I do not know who was that officers. Can I trust the people in Internal Affairs, because I have friends in Internal

Affairs, so does Johnny, so does Banzi. So, and that was my biggest problem.

So the end of the day is that my only way out is to take this information, to follow the chain of command, to approach my Inspector, to approach my Sup and say, listen, this is the situation I find myself in. I have two of my members, right, this is a video, this is the evidence I have collected, I put it in front of you, so I ask for your assistance, and one of that is to remove the officers from my scene and to report this matter to Internal Affairs. That is what I did.

You will see on the next page, Commissioner, is that I have also shared this information, if you go to the next page, with another unit that has nothing to do with the Johannesburg Central Area. So I have also shared, I have given them information. I hope that they will follow up, and our Internal Affairs will follow up, and look, if the complainant have opened a docket, once the docket is registered, that docket will be allocated to a detective. That means there is also an investigating officer that will also follow up. So now I have three people, Internal Affairs, investigating officer, and this third team. So that is why I said, okay, now I have shared, I have done all the work, I have shared with these people, and then from that, they will take it from there.

ADV POOE: Sergeant, just two questions based on your responses. You indicated that you also knew that Officer Mokgatle had an uncle at Johannesburg Central. Do you know if this uncle is Michael Pule Tau?

SERGEANT VAN WYK: That is correct, ja. That is the name they said is Officer Pule, and he is an investigating officer at Johannesburg Central.

ADV POOE: Commissioner, you will recall that Michael Pule Tau is one of the people currently charged with the murder of Mr Swartz. And just to understand, at the time, you did not know whether or not the victim had opened a case?

SERGEANT VAN WYK: If I can remember right, I think the victim, a case was opened, but the victim was still waiting for the SMS. Normally when a docket is registered, they will send a case number via the SMS, because when I asked him for a case number at that time, he cannot provide me a case number.

ADV POOE: All right, so your intention was once it had been allocated, you would have informed the investigating officer?

SERGEANT VAN WYK: Not really. As I explained to the Commission, is that, I think I have already explained that part why I have not approached the investigator of Johannesburg Central Police Station ...[intervenes].

ADV POOE: All right.

SERGEANT VAN WYK: Because of the reasons I have already explained.

ADV POOE: Oh, so the complainant, the victim had opened the case at Johannesburg Central?

SERGEANT VAN WYK: Johannesburg Central, ja.

ADV POOE: All right. And do you know what happened to the money?

SERGEANT VAN WYK: As I said, according to the victim, and according to the video footage, the money was in a black bag, and that three gentlemen on the pictures, that appear in the pictures, they left with the bag, and according to the victim, the money was in the bag.

ADV POOE: Thank you. Then, if we can proceed to the last paragraph where you deal with the other agency that you informed about this case.

SERGEANT VAN WYK: Okay, 25.

> "At some point, possibly a few weeks after the incident, I received a telephone call from Captain Hicks, who requested I meet with him and his team at the Chamdor Vehicle Investigation Section, VIS. I cannot recall the exact date, but during this meeting, I provided Captain Hicks with the evidence that was in my

> possession. However, I do not know whether he subsequently obtained the docket relating to the alleged kidnapping and extortion case."

ADV KHUMALO SC: Sergeant, what you do not say after page 24, so you made a request that the two officers be moved from your shift. What became of that request, were they moved? Were they subsequently suspended? Do you know what happened to them after you made this request, after you reported the incident?

SERGEANT VAN WYK: After I have requested with my Inspector and with my Sup, they moved Officer Banzi to the Charlie shift and then they moved Officer Johnny Mokgatle to Victor Echo 1 shift.

ADV KHUMALO SC: And as far as you know, no action was taken against them in relation to this ...[intervenes].

SERGEANT VAN WYK: To this case, nothing.

ADV POOE: And just to understand just two aspects, on the report to Internal Affairs, we have checked with Internal Affairs and have confirmed that no report related to this incident was ever filed.

SERGEANT VAN WYK: That I cannot answer. As I said, I have asked my Commander. My Commander informed me later that he did inform Internal Affairs about the matter. What happened after that, I cannot answer.

ADV POOE: Thank you. Commissioners, that explains why there was no, after the movement to shifts, there was no suspension or investigation. Internal Affairs says they have not received a report.

ADV KHUMALO SC: But my difficulty is it was reported to somebody who is senior enough to move them from this shift to another shift.

ADV POOE: Yes.

ADV KHUMALO SC: So that person must have been aware what the allegations are and why there was a request to shift them.

ADV POOE: Certainly.

ADV KHUMALO SC: So I am concerned that after that, nothing became of the report that was made.

ADV POOE: Yes, Commissioner Khumalo, you are correct. And that person is Superintendent Mohamed-Hoosen, who will have to give an explanation for that.

CHAIRPERSON: In fact, two senior people, the second one being Inspector Swartz.

ADV POOE: Yes.

CHAIRPERSON: Let me just ask a process-related question. If you did not have the personal safety concerns that you say you had, what would you have had to do under the circumstances? Would you have had to go lay criminal charges or would – yes?

SERGEANT VAN WYK: Okay, what would have happened, Commissioner, remember, the docket is already open, so there is a standing case number already related to this incident. So what normally happens is that I will go to the station, ask at CSC to check for me with that case number who is the investigating officer. And then sometimes they will give me the room number, floor of Johannesburg Central, I will go straight to the investigating officer. If they give me a cell number, I will phone him. So I will introduce myself to him and say, I am Sergeant this, and I believe that you are in charge of this docket with this case number, is it possible I can see you? And then if he agrees, then I will see him. I will say, okay, this is the information, this is my members, this is what they have done. And if he will request a statement from me to say that, is this your officers, I will have make the statement, give it to him, and give all the evidence. And then, sorry, but at the end of the day, I still need to inform my Inspector and my Unit Commander, and then my Unit Commander will then update Internal Affairs.

CHAIRPERSON: All right, thank you.

ADV POOE: And then, Sergeant, just to confirm, to your knowledge to date, you do not know of any JMPD process that was undertaken to discipline these two officers?

SERGEANT VAN WYK: Nothing. Nothing.

ADV POOE: Thank you. And just one related question to the Vehicle Investigation Section. That section, would it have been able to do a complete investigation into everything or, maybe I want to understand what its role is *viz-a-viz* the role of Internal Affairs.

SERGEANT VAN WYK: Okay, are you asking me the role of Internal Affairs in this matter?

ADV POOE: No. You know how at paragraph 25 you indicated that you reported ...[intervenes].

SERGEANT VAN WYK: Okay.

ADV POOE: The incident to Vehicle Investigation Section, VIS.

SERGEANT VAN WYK: Oh, okay. Captain Hicks was, also had a team where they are also investigating like your active crimes. So when they invited me to come and see them, because remember now this video was all over social media, so what I have picked up when they invited me to come and see them was related to this and what I have picked up also is that they knew exactly that these two members was on my shift, right. That is why I explained to them also in terms of my safety and things like that. So that is why I was comfortable with them because I know they are a separate unit that is not stationed at Johannesburg Central, and they are not part of that, and then that is why I was comfortable to give them all the

information, hope that they will use that information because remember the case is already open, there is already a case number.

I give them all information. So, according to me, the only thing they were supposed to do is just take the case number. Now they know the officers, they know the victim, do a pointing out, right. Once they have done the pointing out, then they can take the phone, see if that phone was in that vicinity, and ask for a tracker report and there was your case. But as I said, from that day, I have given them all information, and from there, I have not heard from them and it just stopped there, hoping that they will continue with that investigation, but nothing.

ADV POOE: And which law enforcement agency is this unit stationed in, this Vehicle Investigation Section, is it within JMPD or a different ...[intervenes].

SERGEANT VAN WYK: No, no, that is SAPS.

ADV POOE: It is SAPS.

SERGEANT VAN WYK: Look, I am not saying they are from VIS, but on that day, they have asked me to meet them at Chamdor.

ADV POOE: Oh ...[indistinct].

SERGEANT VAN WYK: Ja, so I am not sure where is their offices and that and that, but they are SAPS, SAPS members.

ADV BALOYI SC: Do you know in SAPS attached to a station or a unit, or do you know anything about him when you met him?

SERGEANT VAN WYK: Commissioner, I cannot really say that this man is from this station or from head office of that, but I will always hear about him, Captain Hicks, Hicks, Hicks. When he phoned me, he said, no, I am Hicks. Okay, okay, I know people talk about Hicks. They have this operational team and things like that. He said, no, agreed. I said, okay, let me go and meet him. And then when he start with this thing of the video, I say, okay, that is fine, this is what I have, then you can just continue with it, yes, ja. Yes.

ADV BALOYI SC: Thank you.

ADV POOE: Thank you, Sergeant. Commissioners, on my end, those are my questions for this witness.

CHAIRPERSON: Thank you very much, Sergeant. You are excused. We resume at 9:30 tomorrow?

ADV POOE: Yes, Chair.

CHAIRPERSON: Let us adjourn and resume at 9:30 tomorrow morning.

ADV POOE: Chair, I think you excused the witness.

CHAIRPERSON: Commissioner Baloyi wants to continue.

ADV POOE: No, the witness has left the room. Thank you, Chair.

CHAIRPERSON: Let us adjourn.

INQUIRY POSTPONED TO 16 SEPTEMBER 2026

INQUIRY ADJOURNS
