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

HELD AT

BRIGITTE MABANDLA JUSTICE COLLEGE

17 SEPTEMBER 2026

DAY 175

PROCEEDINGS HELD ON 17 SEPTEMBER 2026

CHAIRPERSON: Good morning, Mr Sikhakhane.

ADV SIKHAKHANE: Good morning, Chairperson and the Commissioners.

CHAIRPERSON: Please place yourselves on record.

ADV MPAHLWA: Good morning, Commissioners. This is Doctor Matthew Mpathwa, appearing for the National Commissioner on the instruction of Lebayi [?] Baloyi Attorneys.

CHAIRPERSON: An attorney or advocate? Not that it matters.

ADV MPAHLWA: I am an Advocate.

CHAIRPERSON: An advocate. I hope you do know the very funny story about an advocate who was introduced as Doctor. I will tell that story to you. That was a PhD as well, or LLD. I will tell you that story. Good morning, good morning to both of you too. Thank you very much. Good morning to you too, Commissioner Thobakgale.

COMMISSIONER THOBAKGALE: Good morning, good morning, Commissioner.

CHAIRPERSON: Thank you.

ADV SIKHAKHANE: Chairperson, today we have ...[intervenes].

CHAIRPERSON: Just a minute, Mr Sikhakhane. This morning, we will depart from our routine, albeit momentarily,

to mark a milestone in the Commission's life. It was on this day, 17 September, exactly one year ago, that Lieutenant General Nhlanhla Mkhwanazi appeared as the Commission's first witness to place before the Commission, under oath, the extremely serious allegations which he made public at a media briefing three months previously.

When he made the allegations on 6 July 2025, their truth and implications were too ghastly to contemplate. That, because they were just too grave. The allegations were so grave that, in a brief statement I made before the hearing of evidence commenced, I said that if the allegations proved to be true, that would spell doom for South Africa's criminal justice system because a healthy criminal justice system is key to the rule of law, and thus to a functioning constitutional democracy.

The allegations were at odds with what is expected of a proper functioning criminal justice system. Among others, General Mkhwanazi's allegations painted a grim picture of the infiltration of and exertion of undue influence on the criminal justice system by certain elements of criminality. If true, the allegations meant that we have a pliable, compliant criminal justice system. Put bluntly, that would be a corrupt criminal justice system.

I said at the time that pliability, corruption, and dysfunctionality in the criminal justice system were at odds

with what we South Africans expect of and are entitled to from a criminal justice system.

Where has the evidence that has been led before the Commission taken us a year after we heard General Mkhwanazi, the Commission's first witness? Have his allegations been proven to have been false, or are they proving to be true?

I am well aware that the Commission is yet to assess all the evidence it will be having before it at the conclusion of evidence and make definitive determinations in its final report. That notwithstanding, I cannot but say a few words on the trends that are emerging.

Unfortunately, what is emerging from the evidence is that there are indications of serious criminality within the criminal justice system and that this is the result of the infiltration of and undue influence on the criminal justice system by elements of criminality. The fact that a number of players within the criminal justice system have been charged criminally, with some dismissed from their employment and others facing disciplinary charges, lends credence to these indications.

It is commendable that what appears to be criminality within the criminal justice system is coming out. This is commendable because, hopefully, that will help towards stemming the tide. What is painful, though, is that

this apparent criminality suggests that for some time now, our criminal justice system has been populated by malleable, corrupt state functionaries. With such a criminal justice system, those criminals who exert undue improper influence on state functionaries will rarely, if ever, answer for their criminal deeds.

To ask rhetorically, over the years, how many such criminals have escaped facing criminal charges and sanctions? With the revelations that are coming out, we trust that justice will be served. Better still, we trust that in the end, this process will yield results that will play a meaningful role towards putting in place mechanisms that will help significantly towards curbing a recurrence of apparent criminality of the nature that is emerging before the Commission.

Thus far, a number of people and institutions have supported the Commission process. I will thank them all when this process concludes. Suffice it to say, we are grateful to them all. The overwhelming public support for the Commission process is not going unnoticed. For that too, we are truly grateful. Thank you all. Yes, Mr Sikhakhane?

ADV SIKHAKHANE: Thank you, Chair and the Commissioners. Today we have got the National Commissioner for the Department of Correctional Services,

Commissioner Makgothi Samuel Thobakgale. He is going to talk the infiltration of gangs within part of the criminal justice system, being the ultimate, which is Correctional Services, which ideally should not have any gaps as it could undermine the work of the entire criminal justice system. So he is going to take us through his statement, which is prepared. Can he be then sworn in?

CHAIRPERSON: Thank you. Thank you. Commissioner, will you be swearing or affirming?

COMMISSIONER THOBAKGALE: Swearing. Swearing, Commissioner.

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.

COMMISSIONER THOBAKGALE: May so help me God, I swear.

CHAIRPERSON: Thank you. And for the record, please state your full names.

COMMISSIONER THOBAKGALE: My name is Makgothi Samuel Thobakgale.

CHAIRPERSON: Thank you.

MAKGOTHI SAMUEL THOBAKGALE: (duly sworn states)

EXAMINATION BY ADV SIKHAKHANE: Thank you, Chair. Perhaps, Commissioner, would you just speak to the mics

just for the audio?

CHAIRPERSON: If they can come closer to you, just pull them, please.

COMMISSIONER THOBAKGALE: Ja.

CHAIRPERSON: Thank you.

ADV SIKHAKHANE: Thank you. Commissioners, you would have two files before you. The file containing the statement of the National Commissioner, and you will have another File 2 which is the file containing annextures prepared by him and his office. Commissioner, you have those as well?

COMMISSIONER THOBAKGALE: Yes, I confirm, Commissioner.

ADV SIKHAKHANE: Thank you. Could we have them handy, both of them? We will go through them just in the interest of time, because we have to just refer to them. Just keep them close by, both of them. We then can start with the statement, which is File 1. At page 1 is the beginning of the statement of the National Commissioner. Do you confirm that?

COMMISSIONER THOBAKGALE: I confirm, Commissioner.

ADV SIKHAKHANE: Could you then go to the end of that statement, which is page 28?

COMMISSIONER THOBAKGALE: Page 28?

ADV SIKHAKHANE: Yes, of that file. Is that your

signature?

COMMISSIONER THOBAKGALE: Yes, it is my signature, Commissioner.

ADV SIKHAKHANE: Thank you. May I just request confirmation that we can rely on the statement, if you stand by it, as it is in its current form?

COMMISSIONER THOBAKGALE: Thank you, Commissioner. I stand by the statement in its current form, but I have a request to review one of the paragraphs on the statement, which is under Part C, Evidence of Political Interference or Undue Influence.

ADV SIKHAKHANE: That is page 20.

COMMISSIONER THOBAKGALE: That is page 20, Commissioner. May I proceed, Commissioner?

ADV SIKHAKHANE: Yes, please.

COMMISSIONER THOBAKGALE: Paragraph 69 refers to a matter of public interest then, which was widely reported also in the media, where a certain Minister sought to visit an offender, a sentenced offender in a correctional facility. I did not approve the visit because it was not arranged according to procedures, and it was also outside the times or the allocated period for visits.

Sentenced offenders are visited over the weekends and/or during family days, which would be holidays. The then Minister wanted to visit during the week, and as I have

indicated, prior arrangements were not made ...[intervenes].

CHAIRPERSON: Sorry, Commissioner. I thought maybe you were going to say in paragraph 69 there is a mistake. I want to correct it this way ...[intervenes].

COMMISSIONER THOBAKGALE: Yes, yes. Apologies, Commissioner. That is exactly what I am doing. It is on paragraph 69.

CHAIRPERSON: Yes.

COMMISSIONER THOBAKGALE: Ja.

CHAIRPERSON: Okay. What is wrong there?

COMMISSIONER THOBAKGALE: It gives a – what is reported there comes out as if there was a political influence or an undue influence, but what is the fact is that the then Minister was denied access based on departmental procedures. It came out in the media, and it was reported widely as if there was an issue of political interference there. So that is what I wanted to correct.

CHAIRPERSON: And you are doing that because this appears under a heading that refers to political interference or undue influence.

COMMISSIONER THOBAKGALE: Yes, Commissioner.

CHAIRPERSON: So you want to make it clear that you did not authorise ...[intervenes].

COMMISSIONER THOBAKGALE: I did not authorise it, but I also want to make it clear, Commissioner, that my

understanding is that it was not necessarily political interference.

CHAIRPERSON: All right, all right, all right. Okay. All right. Are you done then with that ...[intervenes].

COMMISSIONER THOBAKGALE: Yes, Commissioner. clarification?

CHAIRPERSON: All right. Thank you.

ADV SIKHAKHANE: Thank you. Is that all you wanted to correct?

COMMISSIONER THOBAKGALE: Yes, that is all.

ADV SIKHAKHANE: Thank you.

COMMISSIONER THOBAKGALE: Later on, Commissioner, if I am allowed, which information is not on the statement ...[intervenes].

ADV SIKHAKHANE: We will come to that, Commissioner. Thank you.

COMMISSIONER THOBAKGALE: Thank you.

CHAIRPERSON: When you get to any paragraph and you want to substantiate on whatever you say in the statement, feel free to do so.

COMMISSIONER THOBAKGALE: Thank you, Commissioner.

CHAIRPERSON: Yes, at any point as when you get to a particular paragraph.

COMMISSIONER THOBAKGALE: Thank you,

Commissioner.

CHAIRPERSON: Thank you.

ADV SIKHAKHANE: Thank you, Commissioner, for the guidance. May we then start at paragraph 1 of the statement? Just in terms of procedure, Chairperson, as I said, I would engage the statement together with the annextures, just not in the interest of time, but also it would make better sense to go to the annexures and the statement rather than wait for the process. Thank you. Can we then start reading from paragraph 1 of the statement?

COMMISSIONER THOBAKGALE: Thank you, Commissioner:

> "I am the National Commissioner of the Department of Correctional Services, herein referred to as the Department, appointed in terms of section 3 of the Correctional Services Act 111 of 1998, herein referred to as the Act, read together with the Public Service Act 103 of 1994. I commenced office on the 1st of October 2022, and my tenure is to end on the 30th of September 2027. The offices of the Department of Correctional Services are situated at Poyntons Building, Corner WF Nkomo and Sophie

> De Bruyn Streets, West Block in Pretoria.
> I am the Accounting Officer and Executive Head responsible for administration, security and management of correctional centres, remand detention facilities, community corrections throughout the Republic of South Africa."

Commissioner, this is at the point where I was requesting that I provide what we normally in our system call reporting the post, which would give the statistics with regards to the population, as at the latest beginning of this week.

ADV SIKHAKHANE: Thank you. Please proceed.

COMMISSIONER THOBAKGALE: The approved accommodation, meaning the number of beds in correctional facilities is 107 and 67.

ADV SIKHAKHANE: So, Commissioner, where are you reading from?

COMMISSIONER THOBAKGALE: [Indistinct] ...[intervenes].

ADV SIKHAKHANE: [Indistinct] ...[intervenes].

CHAIRPERSON: Please give that number again.

COMMISSIONER THOBAKGALE: It is 107, and 107 000 and 67. Those are the number of beds. If you are to go and count the beds in the 239 active correctional facilities out of 243.

ADV BALOYI SC: What does it mean, 239 active out of 243?

COMMISSIONER THOBAKGALE: 239 active are those that we are currently utilising. The other number are the ones that are under repairs and maintenance. So, if we get those to be active, the number of beds will then increase. Thank you, Commissioner. The inmate population is standing at 169 180.

Commissioners, I should also qualify this by indicating that on a daily basis, we have movements to courts and we have movements back from courts. So, that is why we have daily unlock and daily lock up numbers. Meaning that on a daily basis, we count in the morning and we count in the afternoon when we lock up correctional facilities.

Out of the 169 118, we have 106 91 that are sentenced. Those will be the ones that have already started serving their sentences and they are accommodated separately from those that are still going through the courts. The number of those that are still going through the courts is 62 614. Those are remand detainees.

We also have 413 state patients. I wish to also explain here, Commissioners, that we have state patients in correctional facilities because the health system does not have the number of beds to accommodate these state

patients who would have been going through the courts or those who would have been going through the courts, Commissioners. This on its own is a challenge for us because it means that correctional officials or correctional officers and other officials in the health sections, our psychologists, our social workers, also have to give attention to these inmates.

What is also more taxing is that these are inmates that are susceptible to suicide, meaning that on the hour, we always make it a point that we keep contact. These are the statistics that I wanted to provide to the Commission before we get into other matters. They present an overcrowding percentage of 63%, straddled differently according to provinces or what we call regions in terms of the Correctional Services landscape.

We have six regions. Limpopo, Mpumalanga and North West is consolidated into one region and that is because of the statistics. Free State, Northern Cape is also consolidated into one region and that is also because of the statistics. The other four stand alone.

In terms of overcrowding, we also have information on the percentages per region. I would request, Commissioners, that I also submit this information for ease of reference.

CHAIRPERSON: Please, Commissioner, thank you.

ADV SIKHAKHANE: Thank you, Commissioner. Just while we are at this point, let me just take the opportunity. Maybe you can assist us. In terms of the officials, do you have that handy, the number of officials within the department?

COMMISSIONER THOBAKGALE: Yes, we do, Commissioners. In terms of the numbers, we have around 39 000 officials in the department and that is a total number, meaning that there is a total number of personnel. We have our personnel divided into two categories. There is non-centre-based, meaning that those are the ones that work in the offices. They do not work inside correctional facilities. And then we have the centre-based. Those are the ones that work inside facilities.

The centre-based are around 27 000 and within the centre-based, you then have around 18 000 that are now security officers. Now, these are the ones that are tasked with the responsibility to ensure that there is stability and there is safety. These are the ones that are also managing the movements of inmates inside the correctional facility and outside.

Inside, meaning that when they go to the clinic inside or they go to attend rehabilitation programmes, they go to school, and also when they have to take sessions with the social workers. Outside, meaning when they now go and work in what we call the span. We have 21 correctional

facilities in South Africa that are farm facilities.

In our system, we also have steel workshops, we have wood workshops, we have textile workshops. That is where inmates get to be taken through programmes that would enhance their possibilities of being reintegrated successfully into the society after they would have been granted parole.

There are also security officers that would then escort inmates to court and also escort inmates to external hospitals when those inmates are referred by our doctors inside the correctional facilities. Thank you, Commissioner.

ADV SIKHAKHANE: Thank you. Then in terms of ...[intervenes].

CHAIRPERSON: Sorry, sorry. Regarding the Commissioner's offer to avail the information he just shared, may I ask you, Mr Sikhakhane, to liaise with the Commissioner's counsel and get a document to us, a document containing this information, please?

ADV SIKHAKHANE: Thank you, Chair. We will do so. Obviously, at the end, there is that undertaking, but we will definitely liaise with my learned friend. Thank you. Just on that point, in terms of categories of seniorities, which is an important point around vulnerability of officials, just generally, and obviously you will supplement in the statement, which are junior officials in terms of just average

numbers, and which are seniors, and perhaps how they are graded.

COMMISSIONER THOBAKGALE: Well, in the system, we have the National Commissioner, that would be myself. We have Chief Deputy Commissioners, that would be those that are responsible for specific branches at head office. And then we have Regional Commissioners, those would be responsible for a specific region. There would then be Deputy Regional Commissioners.

And our correctional facilities are clustered in terms of management areas. So we will then have Area Commissioners. Under the Area Commissioners, you will have Heads of Centres. Under the Heads of Centres, you will have Unit Managers. For instance, if I may give an example, if we are to take Kgosi Mampuru as an example, you have local.

Local is a medium-rated facility. In that facility, you have remand detainees. Those would be those that are going to court. On the other side, you will have those that are serving short sentences. That would be sentences that are below five years. Then you have maximum. Those would be inmates that are classified of medium to serious risk. And then you will have maximum. Those are inmates that would be classified as serious risk and high-profile.

Now, all those centres have Heads of Centres and

Unit Managers. Unit Managers, they will be managing what we normally call streets. So it will be a number of, in simple language, corridors within a centre. So those are the levels. Below that, you have Security officers. Obviously, there would be the entry-level ones and there would be those that are more experienced who would be doing supervisory duties.

Now, in terms of influence and infiltration, we experience it, I would say, at all levels. And when I say at all levels, I am indicating that when an inmate wakes up in the morning, the first person that they get in contact with is an officer. They interact with that officer. And also, as I indicated earlier, at the time of lock-up, they also interact with that officer.

So the influence starts at the low level to the head, given the opportunities of engagement with the inmates or opportunities of engagement with those that would be representing the inmate, including their legal representatives and also with those that they are related with or they are friends with. Thank you, Commissioner.

ADV SIKHAKHANE: Thank you. Perhaps there is a guidance around that we will get when we deal with the statistics of disciplinary measures. What I am trying to get at, there are salary levels that would then be indicated as a salary level. Let us say we will get to a salary level seven.

That would be your senior managers or senior persons, senior officials, rather.

COMMISSIONER THOBAKGALE: It will be ...[intervenes].

ADV SIKHAKHANE: How does that system work?

COMMISSIONER THOBAKGALE: Well, salary level seven, level eight would be your junior officials. The highest salary level is level 16. The Chief Deputy Commissioners would be 15. You have your Deputy Commissioners, 14, and then you have your Directors, and it goes down like that.

What I was explaining earlier on was to give the Commission a picture of the interaction levels because the more intensive interactions you have with an inmate, the more opportunities for that inmate are available to influence. Let me give an example.

If an inmate would want to have access to a cell phone, they stand a better chance to influence a security officer than the National Commissioner who is not there every day. So the interaction that they would have with the National Commissioner is when the National Commissioner is leading a raid and takes away the cell phone.

But for it to come in through the channels that I am going to explain in my statement later would show that these opportunities of influence and infiltration are pervasive because of the levels of interaction and also the

opportunities that are available.

If we look at the numbers, 167 000, you look at the officials that we have or even security officers, around 18 000, it becomes a very difficult task to police and monitor those interactions, and that is what inmates are taking advantage of.

ADV SIKHAKHANE: Thank you. I think we will come to that in more detail later on when ...[intervenes].

CHAIRPERSON: Of course, I would imagine that inmates that wield a lot of influence, have lots of money, could target even the National Commissioner. What the outcome, of course, or the result would be is something else, but they could. Because I would imagine there the idea would be if I influence the National Commissioner, maybe there is a way in which they, that is the National Commissioner, could influence some at the level of correctional centres not to do what they should do. That is a possibility. I am just positing it as a possibility.

COMMISSIONER THOBAKGALE: It is a possibility, Commissioner.

CHAIRPERSON: Yes.

COMMISSIONER THOBAKGALE: There have been what one would say attempts, but they start with a normal process where an inmate would want an audience, specific audience, and they would base that on the fact that they

have complained in the system and their complaints were not satisfactorily dealt with. I can give an example of an inmate, Thabo Bester, who has tried a number of times to get my attention alone, and I have always referred him to the complaints and request processes and always insisted that it is better if a representation is put in writing and it is then referred to accordingly.

For a National Commissioner to put himself in a space of interacting with a specific inmate, it will be in instances where one is wanting to get specific information that might implicate officials and ensuring that that inmate is not intimidated, and I always do that with my Head of Security.

It is not a one-on-one. I can give an example of the inmate that we just re-arrested last week. I had to interview that inmate with my Head of Security because of the information that he wanted to provide to me, information on how he was assisted by our officers to escape. Not only this escape of 2026, but actually the escape of four inmates, including him, in 2022, which led to the escape of 2026.

Because he was going through court processes for the escape of 2022, he was starting to move towards mentioning names of officers, and that is when they then approached him to say either you leave or we are going to

kill you, and that is how then he is saying they assisted him to escape so that they break that line of him mentioning their names during court proceedings. So those would be instances where one would interact with inmates, but one has always avoided that, and that is what I have encouraged officials, including senior officials, to do.

In my statement, I refer to an instance where a friendship of a Regional Commissioner compromised security in the Durban management area, and that we uncovered out of an investigation that we did because the Acting Area Commissioner was put under pressure to allow a particular inmate certain privileges, preferential treatment that was not supposed to be allowed.

CHAIRPERSON: Thank you. Thank you, Commissioner. Should we not start going through the statement?

ADV SIKHAKHANE: Thank you, Chair.

CHAIRPERSON: Or continuing with it.

ADV SIKHAKHANE: Thank you, Chair.

CHAIRPERSON: Thank you.

ADV SIKHAKHANE: I think we have addressed 2 and I think 3. There is no need to, but I think let us just read it for compliance. Paragraph 3 of your statement.

COMMISSIONER THOBAKGALE: So, Commissioner, I should proceed to paragraph 3?

ADV SIKHAKHANE: Yes. Thank you. Thank you,

Commissioner.

COMMISSIONER THOBAKGALE:

"The facts set out in this statement are, save where otherwise indicated, within my own knowledge by virtue of my office, alternatively derived from officials departmentally, and also through the records, reports, and investigations to which I have access in my capacity as the National Commissioner and which were compiled by officials under my authority."

ADV SIKHAKHANE: Please turn to ...[intervenes].

CHAIRPERSON: You should just continue unless you are stopped, Commissioner.

COMMISSIONER THOBAKGALE: Thank you. Thank you, Commissioner.

CHAIRPERSON: Is that fine, Mr Sikhakhane?

ADV SIKHAKHANE: Thank you. Thank you, Chair.

CHAIRPERSON: Thank you.

COMMISSIONER THOBAKGALE:

"Where I rely on official departmental information obtained and compiled by officials within the department, I record that such information is provided subject

> to the express reservation that it may, in certain instances, contain inaccuracies or errors. I make this reservation notwithstanding that I have, in good faith, accepted and relied upon the information as being true and correct at the time it was provided to me. This qualification is recorded because there have been isolated instances in the past in which information furnished to me by departmental officials and represented as accurate was subsequently found to be incorrect or incomplete."

ADV SIKHAKHANE: Thank you, Commissioner. May I just interrupt you at this point because that is an important statement because you would have relied on reports since you started office. In the reports that you have obtained from your officials, how do you verify them?

COMMISSIONER THOBAKGALE: Thank you, Commissioner. The reports that I receive from officials are reports that are verified through statements of those who would have given evidence in an investigation and then also through the records that we have in the departments.

ADV SIKHAKHANE: Thank you. And then you cite at paragraph 5 instances or isolated instances where

information has been furnished to you that was inaccurate. Can you provide examples of those?

COMMISSIONER THOBAKGALE: Thank you, Commissioner. It will be in instances where the matter is still under investigation or the matter is going through the courts. There are reports which contain information that would then be utilised to open criminal cases. And later on, as the motions are being dealt with, we discover that some of the information might be inaccurate or incomplete.

ADV SIKHAKHANE: So it has never been an instance where you discover that there was an element of dishonesty or intention to mislead you or senior officials?

COMMISSIONER THOBAKGALE: There has been those instances. Let me give an example, Commissioner. We get our incidents or incidents that take place in correctional facilities reported to a system we have established. It is a system of the National Operations Committee. So on a time factor of 15 minutes within which an incident would have occurred, officials are required to record an alert with the NOC.

After that, we then require them within 24 hours to submit an executive report. That would be a summary now of what we would have obtained. And if that report does not point to more work being done, we close the incident at that point because it would then be part of normal management

processes. But in instances where now we realise that we need to get into an in-depth investigation, the matter is referred to an investigation.

So between the alert and the executive report and the investigation, there will be instances where we gather that the information that has been provided to me or to my office or to the NOC is information that is incorrect because of, in some instances, of dishonesty or wanting to hide some information.

Again, on the escape in Rooigrond North West, the executive report was saying something else, but when I went on the ground and subsequent to also interviewing the inmate, the pictures were totally different. So there are those instances. Thank you, Commissioner.

ADV SIKHAKHANE: So that was the investigation or the example that you provided earlier to the Chairperson. Now, in terms of consequences for such conduct or misconduct by the officials, those that you found to be responsible, what has happened in terms of discipline, if there has been?

COMMISSIONER THOBAKGALE: Well, Commissioner, thank you. We have taken those officials through disciplinary processes, and if I may use the same example, the officials that are responsible for the executive report that I received last week will be taken through disciplinary

processes because what is obtained on the ground and what the investigators that are appointed from my office are uncovering shows that they were trying to mislead the department.

ADV SIKHAKHANE: Okay, thanks. And so let us not take that further because that process is still ongoing, and I do not want to draw you to speculate what could have been the motivation for such misleading at this point. I will leave it at that at some point. Can we then go to page 4 of your statement?

I think, Chairperson, the remainder of page 2 and 3 is just administrative issues about correspondence and notices. If I may, can I request that you then pick up the File 2, which is the statement file? Sorry, the annexure file. Can we then open both of them at the annexure file at page 144? Are you there, Commissioner? The File 2, the bigger file of your annexures?

COMMISSIONER THOBAKGALE: 144?

ADV SIKHAKHANE: Page 144.

COMMISSIONER THOBAKGALE: Apologies, Commissioner.

ADV SIKHAKHANE: It is the Gang Combating Strategy, but we are just in the middle of it.

COMMISSIONER THOBAKGALE: Thank you, Commissioner. I am there.

ADV SIKHAKHANE: Chairperson, are you there as well? Thank you.

CHAIRPERSON: Yes, thank you.

ADV SIKHAKHANE: What I would like to invite you to do before we get to details is for you to explain, because one can, or I understand at least, that the infiltration that would happen within Correctional Services may not be as general. It may be a unique infiltration that also has to deal with the officials enabling syndicates to have influence within the system and vice versa to outside. Can you just explain with reference to the strategy your understanding of the infiltration in the Correctional Services?

COMMISSIONER THOBAKGALE: Thank you, Commissioner. The strategy was developed to address the infiltration at different levels, as I have alluded to before. Maybe the best way to explain is to take the Commission through the process of admission because that is where it starts.

We classify the inmates. We rely on the information that we have received from the J7, from the courts. We also rely on information that we have received from the investigation officer. We also check the history of the inmate with regards to previous sentencing or convictions.

We have particular questions that we would put to

an inmate through the questionnaire, because we do inspections. We do body inspections to check if this inmate is not harmed in any way. But then we put questions to the inmate, and one of those questions is actually pointed. We ask an inmate if he or she belongs to a gang.

We ask that question because in terms of how gangs operate in the court, if you belong to a gang, you cannot deny that. Unless you are given a specific instruction to deny that, because you will be given a particular task to perform within a correctional setting. So most of them would openly come out and indicate that they are gang members.

Once they do that, we then take a different route in terms of where do you accommodate them, and that is guided by the Gang Combating Strategy. What facility do you put them in? Which officials would have access to that inmate? Now, for us to uncover those that do not indicate openly, we look at the signs. And most of the gang members actually have tattoos even declaring their gang membership.

Sometimes we get criticised for making inmates take off their clothes because it has elements of being interpreted to be dehumanising. But the best way to actually have a complete view of what might be hidden on the body is to, of course with privacy provided, is to get

exposure to that. In some instances we actually encounter inmates that would have hidden inside their bodies contrabands.

Now, I am raising this in line with the Gang Combating Strategy because if you are a courier for contrabands, because contrabands are linked to a particular logistical structure from wherever that contraband will be coming from outside, either the courts or the hospital, or you are a first entry into the system, or you are from the farm, from the span, the couriers would actually also use their bodies to do that.

So the strategy guides as to how do you handle an individual inmate, and then how do you handle that inmate as part of a gang. And we are able to pick up from that assessment that this one belongs to the 26, which I will explain later in my statement, and different types of gangs that prevail.

ADV SIKHAKHANE: Thank you. If you go to the big file, File 2, if you go specifically to the page 144, can you just read paragraph 7.2 into the record about the understanding of prison gangs?

COMMISSIONER THOBAKGALE:

> "Operational definition of South African prison gangs. A group of inmates within South African correctional facilities that

> belong to an organised antisocial and/or criminal subgroup in correctional facilities. Members of this subgroup are subjected to an adjacent subculture that are regulated and ruled by a specific code of conduct, referred to as laws, customs, activities that promote coercion and solidarity in order to achieve the goals of the group within the correctional environment or prison environment."

ADV SIKHAKHANE: Thank you. My understanding is that we are talking at this point about gangs that sort of form within the correctional facility. They are not necessarily coming from the outside in this definition.

COMMISSIONER THOBAKGALE: Yes, in this definition we are talking about gangs that are formed within the facility. But to qualify that, I must also indicate that we have what I would call an influx of gang members that come from the street gangs that would get into a correctional facility. Once that happens, the lines become blurred because when you come in from outside as a gang member, you affiliate to a particular gang and you also maintain your gang position.

If you were a leader outside, when you come in, the assimilation is seamless. And I will explain that later because it has to do with a different motive in these years

as compared to the motives of the past. The motives of the past to belong to a gang were more influenced by a particular subgroup, as it is explained in the strategy, wanting to contest power and authority in a correctional facility to dictate the conditions of incarceration.

That was largely what was influencing the origins of gangs and that is why even the trade during those previous years was more of a barter trade than a trade that is driven by the illicit economy where cash and money dictates the most.

One of the telling examples of the contemporary developments is that even the gang codes get to be revised to accommodate particular gang leaders that would have come from the street gangs. In the culture of gangs, you do not gain authority. You do not get a rank if you do not perform specific tasks. And in most instances, those tasks will have to do with taking blood.

What we have experienced in these years, the recent years, is that there are gang leaders that actually have bought the rank because of the fact that they have access to money and access to the illicit economy that they have been driving outside the correctional facility. Thank you, Commissioner.

ADV SIKHAKHANE: Thank you, and we will get to that later on. If you go to, now that you have referred to the

street gangs, at page 146 of this file, you can just read that definition into the record.

COMMISSIONER THOBAKGALE: Thank you, Commissioner. It reads as follows:

> "Street gangs or gangs outside correctional facilities can be defined as a group of people in communities engaged in criminal behaviour. They tend to be highly territorial, operating for economic reasons, and are primarily involved in drug trafficking and commit high levels of violence. Street gangs have some form of identifying structure featuring a hierarchy which is usually based on age, physical strength, propensity to violence, or older sibling rank."

If I may explain a little bit, Commissioner, especially the part that talks to older sibling rank. In most instances, especially in the Western Cape, the juveniles that we receive, I may refer to Pollsmoor management area, when you check their history, you would discover that either the father or the uncle, someone in the family, older, has been a member of the gang and actually held a rank.

So when they come into correctional facilities, already they are members of gangs as juveniles. And we

also have statistics of juveniles and youth that are going through the courts, accused of murder, or some of them are sentenced, having committed those crimes as part of gangs.

Because as what the gangs would practise as a strategy, they would push those murders to juveniles and the youth, understanding that the criminal justice system would treat juveniles differently from an adult who can make decisions in terms of how the law would approach it. So that is why most of the murders that we see in the Western Cape come from the category of juveniles. They get recruited in that manner.

ADV SIKHAKHANE: Thank you. We will go on to just demonstrate how the infiltration works within the Department of Correctional Services. If you turn just a page back of that file, page 145, if you can just read paragraph 9 and explain the interaction or how the community gang and the prison gang align?

COMMISSIONER THOBAKGALE: Thank you, Commissioner:

> "There is a growing evidence that the prison gangs and community gangs are inextricably linked to each other. Crime studies indicate that there is a growing tendency of criminal organisations or criminal syndicates to infiltrate prison

gangs for furthering criminal activities."

ADV SIKHAKHANE: Thank you. Can you just elaborate on that and how it happens and how it affects or gets to be done within the Correctional Services?

COMMISSIONER THOBAKGALE: Well, a live example is the numbers that we have at the Johannesburg management area. We have two street gangs that operate in the area of Eldorado Park that find themselves in the, members find themselves in correctional facilities. We have the Varados and the Fastguns.

Now, there is a raging battle between these two gangs in the streets outside. And what we have also discovered, of course, also out of information that we would get from Crime Intelligence, is that when one of these, some of these gang members are exposed to serious fire outside, they actually commit crimes that would get them arrested and they come into a correctional facility.

And because we have security protocols and arrangements to make it a point that each and every inmate is safe, they then are in a better place as compared to being in the streets and facing fire. Now, what that does, okay, let me just backtrack a bit.

For that to happen, they have to have a relationship with the gangs inside. As I indicated earlier on, that their rank is recognised, their membership is recognised and they

operate from inside. But what we have done is to identify these gang members, and the point that I wanted to go to before I backtracked is that now in terms of how you accommodate them, it has to be in a manner that ensures that even inside the correctional facility, they do not get to meet anyway, whether they are going to get food or any other service.

Even when they are going to court, we make it a point that we separate them because if you do not do that, the battle continues within the correctional facility. So that is what we are containing. So the Varados will be housed separately and the Fastguns will be housed separately. In between, you will find correctional officers. Thank you, Commissioner.

ADV SIKHAKHANE: Thank you. And then in terms of operations, when they come inside, do they continue to operate outside?

COMMISSIONER THOBAKGALE: Thank you, Commissioner. I have indicated that the motive is the illicit economy. So these gang members and gang leaders would have come out of a territory fight for drugs, for human trafficking, for extortions. Now that or those criminal activities are then extended to a correctional setting and that is to the extent of course of smuggling and selling drugs within a correctional setting, but also it involves to

some extent services that gangs are now providing, especially outside, of interfering with witnesses in some criminal cases, to the extent of even taking lives of witnesses.

I explain, Commissioner, in the statement later on of different sections of the gangs. For instance, if I am to just touch a little bit again on the Western Cape, we have a member layer that we call the Hammermen. Now, the Hammermen are those that are responsible for eliminating witnesses or anybody that the gang will gain, will have a financial gain from eliminating.

The same will happen with other gangs. So these are the services that they would extend even when they are still inside a correctional setting, of course, through a communication mechanisms that they also smuggle into correctional facilities. Thank you, Commissioner.

ADV SIKHAKHANE: Thank you. Just while we are there, if you go up at paragraph 8, it deals with the causes of gang formations in correctional facilities. Can you just read into the record that paragraph and then I will take you to the points that I want you to focus on?

COMMISSIONER THOBAKGALE: Thank you, Commissioner:

> "In high-risk environments like correctional facilities, gang formations

> are a form of resilience. They build friendships and seek refuge and protection. The following can increase the reason for a gang formation. High levels of inequality and unemployment, socio-economic challenges, family dysfunctionalism [sic], lack of support system or lack of support system, sense of belonging and safety, frustration of rehabilitation efforts, crime syndicates infiltrate traditional gangs and use them as vehicles to further criminal agenda within correctional settings, power struggle between traditional gang leaders and leaders of the street gangs, violence…" ...[intervenes].

ADV SIKHAKHANE: Sorry, Commissioner. Can you just then elaborate on the crime syndicates infiltration?

COMMISSIONER THOBAKGALE: Thank you, Commissioner. I did indicate just earlier on that for instance, if we are to take the 26, that is a gang inside a correctional facility that focusses more on the economy. Their ways are ways of making money through any commodity that they can get their hands on within a correctional facility. But they will then have a relationship

with street gangs that are focussing more on the drug trade, and one of the new developments is that because we always make it a point that we search and we do not allow inmates to have cash at hand, any money that the inmate would have should be submitted to a central system and they only have a card, which is a cashless card, that they utilise to buy anything that they need from the from the tuckshops in the facility.

You have what is used now as a new method of trade, which is the money market. So the drug trade that takes place within a correctional facility, the financial proceeds express themselves outside through money market. So that is basically the link.

So with the numbers going up in correctional facilities, it means the market also grows, and that is a live wire that keeps consolidating the relationship between street gangs and the gangs that you find in correctional facilities. Thank you, Commissioner.

ADV SIKHAKHANE: And that obviously would happen being enabled by the officials within the department.

COMMISSIONER THOBAKGALE: Yes, Commissioner. Let me just give an example. When we were going through the difficult time of Covid, there were periods where our correctional facilities were under lockdown, meaning that there would not be movements to the courts, there would

not be visits. The only movement that would take place would be a movement where there is a critical case that is referred to an external hospital.

During that period we still found the number of contrabands in correctional facilities high, and that pointed to only one source, because the movement that was happening at that time, the only movement that was intensive was of our members knocking off going home, coming back to start the shift. That is the only movement.

So it was easy for us then to conclude that the pervasive smuggling of contrabands in correctional facilities is aided and abated and, in some instances, is an active, ongoing, everyday activity of our members. And because of the design and the structure of correctional facilities, and as I have indicated because of the movements, our members take advantage of that.

In recent cases that have gone through the courts, there were examples of inmates that were found with having access to cell phones, not necessarily in possession of a cell phone, but having access to a cell phone. Now, what would happen is that a particular official would come in with a cell phone and give access to inmates.

Now, when you come to search, you do not find the cell phone on an inmate, but the cell phone that an official has is the one that is utilised to commit crime. That is why

we are restricting officials from bringing cell phones into the facility, and those that are found with cell phones, we take them through disciplinary processes, but it is something that is happening on a daily basis.

Because at that point, an official would have been compromised already, and for them to make a U-turn is difficult. So they continue to take the risk, of course, with the financial benefits that comes with that. There are very few officials who will come out and say I have been pressurised, please help me. Those, we will transfer them from that correctional facility to another one and we also make it a point that we limit access to inmates with regards to how they and where they are deployed to do their work.

But this is a problem that in my view needs a multiplicity of interventions, not only where we do what I would call policing and we discipline. Thank you, Commissioner.

ADV SIKHAKHANE: Thank you. Can we then just, Chairperson, if I may request that you put away the File 2 for now? We go back to File 1 of the statement.

CHAIRPERSON: Thank you.

ADV SIKHAKHANE: The same, Commissioner ...[intervenes].

COMMISSIONER THOBAKGALE: [Indistinct – cross talking]. Commissioner, if I am allowed, there is just one

matter that I would talk to later on with regards to the same paragraph that we were, especially the one that talks to the issue of lack of family support or dysfunctional families, how I would link that to gang activity within a correctional facility.

CHAIRPERSON: As you seem to intimate, let us do that at a later stage. I think, let us try to go through the statement as quickly as possible. Thank you.

ADV SIKHAKHANE: Thank you, Chairperson. If ...[intervenes].

CHAIRPERSON: And if also, when you deal with the other annexures that we are still to come to, if you could just raise or deal with what you consider to be the salient features of those annexures, instead of doing so at great length. Please.

COMMISSIONER THOBAKGALE: Thank you, Commissioner.

CHAIRPERSON: Thank you, thank you.

COMMISSIONER THOBAKGALE: I will do so, Commissioner.

ADV SIKHAKHANE: Let us then go to Part A of your statement, then reading from paragraph 11.

COMMISSIONER THOBAKGALE:

> "The department, by virtue of its constitutional and legislative mandate..."

...[intervenes].

ADV KHUMALO SC: Please read the heading first. Good morning, Commissioner. Please read the heading.

COMMISSIONER THOBAKGALE: Okay. Part A, the heading reads:

> "Non-criminal syndicates operating in correctional facilities and their infiltration of or undue influence over correctional officials."

Paragraph 11:

> "The department, by virtue of its constitutional and legislative mandate, accommodates persons who have come into conflict with the law. These offenders are often persons that have committed a wide spectrum of offences, ranging from petty crimes, violent crimes to highly organised criminal activities. While incarceration removes offenders from society and seeks to protect the public, it does not automatically extinguish criminal intent or criminal associations, or criminal activity for that matter. Consequently, some offenders continue to pursue criminal objectives

even while in remand detention or serving their sentences. The rehabilitation mandate of the department exists precisely to interrupt criminal behaviour, address offending patterns and facilitate the integration of offenders into public society as law-abiding citizens. Rehabilitation programmes are therefore designed to influence behaviour, promote accountability and reduce recidivism. However, not all offenders willingly participate in rehabilitation processes. Some remain committed to criminal lifestyles and actively seek opportunities to continue unlawful activities from within correctional centres. Some offenders, particularly those affiliated to organised gangs, continue to pursue criminal objectives while in remand detention or serving sentences. This is the central security risk that the department manages on a daily basis."

Sub-topic, gangsterism:

"Gangsterism within South African

> correctional centres has a long historical presence. Traditional number gangs, commonly known as the 26s, 27s and 28s, have existed for over a century, tracing their origins to the mines of South Africa in the 1800s and to the two founding figures, namely Nongoloza and uNgelekejane. Each gang operates according to established codes of conduct, rituals, hierarchical leadership structures and internal disciplinary systems, with loyalty enforced through intimidation, coercion and violence. These gangs have infiltrated and continue to infiltrate correctional centres."

Sub-topic, the number of gangs and their characteristics ...[intervenes].

CHAIRPERSON: Without the of, you said number of gangs. I understand it to be the number gangs. The number gangs.

COMMISSIONER THOBAKGALE: Yes, thank you, thank you, Commissioner. The number gangs and their characteristics:

> "The following paragraphs set out the gangs known to operate within

correctional centres, together with their respective characteristics and relevant features. I will address separately and later in this statement, the manner, methods and modus operandi employed by such gangs to infiltrate correctional centres or in infiltrating correctional centres. The 28 Gang consists of two divisions, the Gold Line and the Silver Line. The Gold Line is described as the more violent and aggressive group. Its members are fighters who are responsible for confrontational and physical aggressive activities, whilst the Silver Line is described as less aggressive and more focused on support duties, such as cleaning, providing care and attending to members of the Gold Line."

At this point, Commissioners, I would like to also point out that the Silver Lines would be the ones that, in some instances, provide sexually related services to members of the gang or are prone to being sexually abused within correctional systems under the gang's operations:

"The groups are also described as being

> involved in smuggling. The 28 Gang traditionally avoided contact with officials, worked in kitchens through its members and are now found across all work teams."

At this point, again, Commissioners, I would like to point out that the workstations that are mentioned here are the ones that are used as conduits for smuggling. So for a gang member or anybody who is involved in smuggling to be effective, they have to find themselves in that value chain in terms of movement:

> "The 27 Gang believes in spilling of blood through assaults, encourages the stabbing of officials and other offenders and positions itself as a mediator between the 26s and the 28s as an enforcer of the gang code."

Again, at this stage, Commissioners, I would like to point out that this is the gang that would be utilised to intimidate, coerce and even violently attack other inmates and, but in most instances, our own officers:

> "The 26 Gang focusses on money making through smuggling, drug sales and gambling and specialises in acquiring comfort and luxury items, commonly

> referred to as ...[indistinct], through corrupt access to front offices and cleaning positions."

So, these are gang members that would be the most cleanest and these are gang members that would be even more than literate. They would have qualifications and they would be able to interact at a higher level, and that is why they find themselves as part of their rehabilitation processes, working in the areas of offices, cleaning and such related tasks ...[intervenes].

ADV SIKHAKHANE: Commissioner, if I may, and you will address it later if need be, but in terms of the working allocations, what is the involvement of officials in enabling the activities of the gangs? So, for example, the allocation, who is working where, who is working at the kitchen, who is doing the cleaning, which seems to enable these gangs to function. Do they have an influence on the officials?

COMMISSIONER THOBAKGALE: Yes, I would confirm, Commissioner, that they have influence on officials. Each and every inmate, especially the sentenced ones, have what we call a sentence plan. So, when you are admitted from court after sentencing, we develop a sentence plan for you. The sentence plan will also consist of rehabilitation programmes that would go through, correctional programmes that would go through.

So, it is actually what we call an offender rehabilitation path. So, there are committees within a correctional facility. One of those is called the Case Management Committee. Now, that will be the committee that will monitor and receive reports from the case officers of the activities and how a particular inmate is behaving, their participation in rehabilitation programmes and correctional programmes.

Now, that is a committee that will then recommend whether a particular inmate is fit to work, for instance, in the kitchen, is fit to work in the farm. Let me give an example. If an inmate has got a history of escape, there is no way that inmate can be allowed to work anywhere outside the walls, if that inmate makes it to a particular work space.

So, the Case Management Committee would then make those recommendations to the head of centre. And that is the point at which some of our officials get infiltrated. That is the point at which they get influenced, because there are a number of instances where, as a National Commissioner, in doing my operations, I have encountered inmates that are not supposed to be in a particular span.

The recent example is Kuruman Correctional Facility. I found an inmate there who was a gang member,

transferred from the Western Cape. He is Tjoppies. There is an annexure here that talks to the story of Tjoppies. Tjoppies, I found him working in the kitchen. The majority of the inmates at Kuruman are juvenile and youth, and he is a leader of the gang.

He has tattoos, even on the face. It is obvious. But when you want accountability, the report then says Tjoppies is a self-confessed member of the gang and a leader, but he has also indicated that he has retired. Now, you do not retire from the gang. You get reassigned. And he is assigned to work in the kitchen because of the age, but the kitchen is very strategic because each and every inmate must get his meal.

So, they pass through Tjoppies. And when I interacted with the youth and the juveniles that are there in the correctional facility, I discovered that some of them already belong to some groupings outside. Meaning that the presence of Tjoppies there for more than 12 months in Kuruman was now transforming the crime profile of Kuruman.

He was not supposed to be there. He was supposed to be in a maximum security facility until he finishes his sentence. The other thing that is interesting about Tjoppies is that he is a habitual criminal. So, his retirement is not explained properly. He is serving 15

years, and when he finishes, Tjoppies will come back again. So, how do we explain the retirement of Tjoppies? Because at least, if he retires from criminal activity, we can to some extent give him a benefit of a doubt.

So, I instructed that he be removed from Kuruman. And he is now at the maximum in Bloemfontein, where he will be closely monitored. So, that is an example of that happening. Thank you, Commissioner.

ADV SIKHAKHANE: Thank you, and then the ...[intervenes].

ADV BALOYI SC: Let us find out on this. The decisions about where certain categories, it may be everybody, about where they get incarcerated, these are sentenced prisoners, where does the decision lie ultimately?

COMMISSIONER THOBAKGALE: Thank you, Commissioner. The decision lies with the head of centre. But, in instances where we have identified the risk, for instance, one of the instructions that I have introduced into the is that upon assessment of an inmate when they go in, even before, because now a particular person would be arrested and because of the crime or who the person is or association, that person automatically will fit within the category of high risk, high profile.

Now, the decisions in terms of where will the person be incarcerated have to be communicated to me as

the National Commissioner to ensure that that inmate is incarcerated at the highest level of classification of security. But in the ordinary, the head of centre would be the one who takes such a decision, informed by the Case Management Committee.

ADV BALOYI SC: Thank you.

ADV SIKHAKHANE: We will go back to the Tjoppies example later on, maybe after tea, but can you then go back to your statement and continue from paragraph 21?

COMMISSIONER THOBAKGALE:

> "Beyond the three number gangs, the department has identified a range of further formations operating within correctional centres, which *inter alia* includes the Big Five, which is a gang that cooperates directly with officials in exchange for privileges. This gang does not affiliate with any other gang. Instead, they are involved primarily in food-related activities, smuggling. They typically work in offices, kitchens and gardens, where they may also act as informants of officials."

I must also indicate at this point, Commissioners, that this is the gang that is normally used then to turn officials into

smugglers or, to some extent, to even be involved in gang activities, because this is the gang that positions itself as a gang that provides information and works with officials, but at the end is to gain their trust and turn them.

This is the gang that also provides false information. If there is an instance where the 27s would want to pursue a stabbing, the Big Five will give information that something that is going to compromise security will happen at a particular section of the facility. So, you focus there on the other side. They are able then to do what they want to do. The 27s can then stab a member.

So, how you manage the interaction with these gangs and also being able to dissent when you are given information and identify how they work together is important. And maybe I must also indicate, Commissioners, that the gangs in a correctional setting have what I would call an integrating structure where the 27, the 26 and the 28 would have a meeting to discuss their activities so that they do not find each other colliding.

They can also, in those meetings, they also discuss how they are going to execute particular operations. Even with the drugs, you would find when you do your searches, particular drugs packaged in a particular manner, and you can link that product to a particular gang. And even where you find a particular drug, you would not find it in another

cell because that integrating structure assists them to deploy themselves, but also assists to ensure that there is no traffic jam in terms of the trafficking of drugs and any other illicit substance.

I also, Commissioners, want to indicate that the value chain is as follows. The 26 would run the market, basically, they are the ones that are doing the selling, as I have explained. The 28 will handle your logistics and mobility, whilst the 27s are then enforcers.

So, at all given times, this integrating structure ensures that if there is a problem, if there is to be a difference between a 28 and a 27, they will meet and resolve it there so that they can continue with their work without necessarily having conflicts. Later on, I also, Commissioners, refer to the relationship between a street gang called the Fam in the Western Cape and the 28s inside a correctional facility, where a leader of the Fam outside comes into a correctional facility and automatically takes the rank of a general, and then controls the gang inside the correctional facility.

But the relationship has always been there, and that is why the Fam was able to traffic drugs in a correctional facility. Now, in this instance, the leader of the Fam finds himself in a correctional facility, and it continues like that as a normal operation. Thank you, Commissioner.

ADV KHUMALO SC: Before we go to tea, that designation in 21.1, or the name, the Big Five, just so that we do not confuse it with what we have heard in this Commission, where does that come from, and do they operate in all facilities, or are they unique to a particular facility?

COMMISSIONER THOBAKGALE: Thank you, Commissioner. I would like to confirm that this is not the Big Five that has been reported and also being a subject of the probing of the Commission. This is the Big Five in a correctional setting. This is a number gang within the correctional facility, and it exists in different facilities. Later on, on page 8, under paragraph 22, I then provide a map of this more affluent gangs in correctional facilities and where they operate. For instance, the Big Five is found in Limpopo, Mpumalanga, North West.

CHAIRPERSON: Do you want to quickly deal with the Air Force, or have you?

COMMISSIONER THOBAKGALE: Thank you, Commissioner.

CHAIRPERSON: This is 21.2, page 6.

COMMISSIONER THOBAKGALE: Thank you, Commissioner. The Air Force is a gang that seeks to infiltrate sports, recreation, arts and culture. These are programmes that inmates get involved in as part of their rehabilitation.

The Air Force infiltrates such structures and participative management committees to facilitate escape planning and gathering of information. The participative management committees would be committees where we have our officials and inmates working together to plan a sports day, to plan a family day, where families are allowed to visit.

The Air Force specialises in escapes. The weakness of the system, and for instance, the Rooigrond escapee is an Air Force. We also identify them in terms of their physique. The Air Force, you would not find them coming through as big, because they have to be slim, and they are very fast.

So, the weakness of the system is that we focus on recapturing them. We do not focus on the reason for the escape, and it is one of the things that we still have to deal with, because the Air Force escapes for a particular reason. They either interfere with witnesses, or they actually end up killing witnesses, and those witnesses might not be related with their case. They might be related with another case of an inmate within the facility.

So, they escape to go and do that. And then, also, in some instances, they actually provide you with clues to get them back because they would have been done with what they want to do. So, that is from an intelligence point

of view and also policing. That is what we need to focus on. They are very hard to crack, even when they are being questioned. Thank you, Commissioner.

CHAIRPERSON: I think we should continue to the end of this section. That is just to 25. Ja, just before the end. It is the economy and contraband mechanism. Thank you.

ADV SIKHAKHANE: Thank you, Chair.

CHAIRPERSON: And perhaps, what should be done, instead of the Commissioner running through what appears schematically at page 7, is for this to be flighted for a while, so that those watching remotely and even those present may see what is on here, whilst the Commissioner continues at page 23.

ADV SIKHAKHANE: Part of 23.

CHAIRPERSON: I am saying, after this.

ADV SIKHAKHANE: Okay.

CHAIRPERSON: I am not saying the Commissioner should skip 22 now.

ADV SIKHAKHANE: Yes.

CHAIRPERSON: But I am saying that when we get to where the Commissioner would ordinarily have to deal with this, we do see that this is about where which gang operates and is located, and so on. So, I am saying that should just be flighted, and we go on to paragraph 23. If that works for you.

ADV SIKHAKHANE: That works much better, Chair.

CHAIRPERSON: Yes.

ADV SIKHAKHANE: Thank you. Can we then continue to read paragraph 22?

COMMISSIONER THOBAKGALE: Thank you, Commissioner:

> "Regional gang formations additionally include, among others, the Varados, the Fastguns, Mafligos, Corner Kids, Terrible Josters, Atchas, Americans, Hard Livings, Fancy Boys, Born to Kill, Romans, and the Makaota and Terence formations linked to Lesotho."

And what follows there, it is a table below that maps the prevalence of gangs in the regions within correctional facilities. Earlier on, Commissioners, I indicated that we have the Varados and the Fastguns ...[intervenes].

CHAIRPERSON: Ja, just show the – ja, ja, ja. I wanted the top to appear as well, Gauteng and so on.

COMMISSIONER THOBAKGALE: Thank you, Commissioner. Earlier on, I indicated that we have the Varados and the Fastguns in the Johannesburg management area. We have 115 members of the Varados. We have 48 members of the Fastguns. Now, the numbers continue to fluctuate, but they are increasing. We started with a low

base of less than 10, and they continue to increase.

And also, it is because between, just as an example of the increase in the numbers in correctional settings, between April and June 2026, we had an increase of 3%. That is why our numbers, we are now sending an alert even to the cluster of Ministers and Cabinet that the numbers in correctional facilities continue to increase. It cost us 480 on average for the upkeep of an inmate on a daily basis. The 3% increase between June and between April and June 2026 set us to an increase in our expenditure of around R700 000 000.

CHAIRPERSON: I assume this has something to do with the Strait of Hormuz.

COMMISSIONER THOBAKGALE: Commissioner, thank you. Thank you, Commissioner:

> "Many offenders enter correctional centres already affiliated with street gangs, such as the Americans, Hard Livings, Young Dixie Boys, Clever Kids, and Naughty Boys. They retain significant community influence, these gangs, through drug trafficking, extortion, and violence. On incarceration, these offenders frequently forge relationships with the traditional number gangs while

retaining their external allegiance, creating a continuum of criminal command and communication between offenders inside correctional centres and gang leadership operating externally. Correctional centres thereby become strategic nodes within broader organised crime networks rather than isolated institutions. There is a further growing trend of established gangs cultivating youth or juvenile proxy formations to circumvent the Prevention of Organised Crime Act 121 of 1998 and to serve as a recruitment pipeline. Gang wars, alliances, and new markets in certain regions, notably the Western Cape, have also driven relocation of gang members to other provinces, including Gauteng, resulting in new factional formations."

ADV SIKHAKHANE: Thank you, Chair. Can I just have one question?

CHAIRPERSON: Should we take the adjournment? Maybe, let us do so.

ADV SIKHAKHANE: Thank you, Chair.

CHAIRPERSON: If that is fine, if that works for you.

ADV SIKHAKHANE: It is just one question, Chair.

CHAIRPERSON: Purely because you insist. All right.

ADV SIKHAKHANE: Thank you, Chair. On paragraph 24, my question is, what would be the benefit of external networks in capturing the correctional facilities?

COMMISSIONER THOBAKGALE: Thank you, Commissioner. I will answer through one example. In one of the raids that we did at Pollsmoor, we encountered a leader of a gang who was in the remand section, accused of killing another leader of the gang, murder, outside. This leader of the gang later on got bail, went out, and then came back again into the correctional facility for another crime that is lesser as compared to the murder charge.

Now, upon checking the surrounding around his activities, we actually realised that he came back in so that he can be safe in a correctional facility than the outside, because those that wanted to avenge the murder of the other leader who was killed were out for him.

So, for him to be safe and later on takeover when the fires have quietened down, he then gets planted into a correctional facility. So, that in itself is how correctional facilities are used to sustain gangs.

The other point is I gave an example of juveniles. Now, gangs work on a very, very, very, very successful cultivation of leadership and membership for the future. So,

if they capture a juvenile with a murder case, and that juvenile is a member of the gang, already they have secured the membership of that young person for the coming 20, 30 years. So, that is the critical mass that they build.

So, rather a juvenile gets into a correctional facility, becomes a youth, gets sentenced, serves 20 years, continue with gang activities within a correctional setting. When the time comes for them to go out on parole, they would have been schooled better on gangs and gang leadership. But this would be a youth and juveniles that would have come into a correctional facility, already gang members.

ADV SIKHAKHANE: Thank you, Commissioner, Chairperson. I am indebted to your indulgence, for your indulgence.

CHAIRPERSON: Thank you, Mr Sikhakhane. Let us adjourn and resume at 11:45. I will tell you the story outside.

HEARING ADJOURNS

HEARING RESUMES

CHAIRPERSON: Yes, Mr Sikhakhane.

ADV SIKHAKHANE: Thank you, Chair. Commissioner, we are at page 8 of your statement. Page 8, paragraph, we are to start with paragraph 26. Are you there?

COMMISSIONER THOBAKGALE: [No answer]

ADV SIKHAKHANE: Are you there?

COMMISSIONER THOBAKGALE: Yes.

ADV SIKHAKHANE: Okay. So we will just continue with reading the statement and try to move through it as we go. Can you just read the paragraph, the heading, and then continue to paragraph 26 of your statement.

COMMISSIONER THOBAKGALE: Thank you, Commissioner. The subtopic reads:

> "The illicit economy and contraband as the mechanism of infiltration.
>
> The principal enabler of continued criminal activity within correctional centres is the illicit economy that has developed around contraband, namely mobile phones, money markets, cash, narcotics, weapons, and alcohol.
>
> This economy operates on two interlinked layers:
>
> - An informal barter system between offenders, and
> - An organised smuggling network with its own value chain of procurement, payment, transport to the correctional centre, and delivery inside the centre,

increasingly supported by cash send and money market payment mechanism.

Cellular phones are of particular concern. Although prohibited, large numbers of cellular phones are confiscated annually. They are used by incarcerated offenders to direct criminal operations, coordinate drug distribution, orchestrate the intimidation or assassination of witnesses and officials, and facilitate fraud against members of the public.

The volumes of contraband confiscated over the past three financial years are set out below on the table."

Commissioner, may I proceed to paragraph 30?

CHAIRPERSON: Please.

ADV SIKHAKHANE: Please.

COMMISSIONER THOBAKGALE:

"It has been established that certain officials of the Department contribute to smuggling of contraband reflected above.

Smuggling of this nature bears the hallmarks of organised crime. It is conducted through a defined chain of

command, generates significant proceeds, sustains and advances syndicates, solidifies ties between gangs outside and inside correctional facilities, and it is associated with escapes, violence, and the destruction of correctional centre infrastructure.

The type and availability of contraband tracks the illicit economies of the surrounding communities. Cannabis is widely available near cannabis-producing areas while Methamphetamine, Methaqualone, Heroin-based compounds and Crack Cocaine circulate according to local market demand, and harder narcotics such as Heroin, Cocaine and MDMA are more closely tied to established syndicate structures in South Africa's economic hubs.

A notable syndicate in this regard is the Makaota Gang, established in the 1940s and predominantly comprised of the Basotho Nationals. The Makaota Gang is associated with extortion, contract killings and long-standing links to the mining

industry, including cross-border ties to Lesotho and Botswana and more recently to Zama-Zama illegal mining networks and violence in Gauteng and the Free State. A similar capacity for contract killing exists elsewhere in South Africa, particularly among the "Hammermen" associated with gangs in the Western Cape and the *izinkabi* operating from KwaZulu-Natal."

The next sub-title is:

"Method of Infiltration and Compromise of Officials.

Gangs and syndicates infiltrate the correctional environment primarily by breaking down professional boundaries between officials and inmates. The process typically begins with minor requests and favours, for example sharing a cigarette, and escalates to personal conversations designed to establish familiarity and identify an official's vulnerabilities, most commonly financial hardship.

Once familiarity is established, the official is drawn into looking the other way in

respect of parcels, visits or searches in exchange for payment and is progressively groomed into a role that facilitates smuggling.

Where financial inducement does not succeed, officials or their families are subjected to intimidation, extortion or direct threats of violence. Examples of such incidents together with the relevant circumstances and particulars thereof are set out later in the statement.

Newly recruited officials are a particular target given their relative inexperience and in many cases the absence of Departmental accommodation."

CHAIRPERSON: Can you please explain this absence of Departmental accommodation?

COMMISSIONER THOBAKGALE: Thank you, Commissioner. The way we are structured as a system, we provide accommodation within the territory. Now, we are not able to build more accommodation. For instance, out of the 15 new generation facilities that we built over the past 15 years, I can give an example of one Tzaneen correctional facility. There is no accommodation at all for officials, so they have to get accommodation outside, they

rent and the officials that are at a lower level also use public transport.

So, in a rural area like that one or in facilities that are far flung, they do not have a transport system that exists. So, they have to request lifts and all that, and that is how they then get to be vulnerable. Those that are inside the territory are mostly safe. That is why when an official is attacked outside, as it will be presented later on, the first step that we take is to make sure that at least we get that official and the family accommodation inside a correctional facility for them to be safe. Thank you, Commissioner.

CHAIRPERSON: Thank you.

ADV SIKHAKHANE: 38.

COMMISSIONER THOBAKGALE:

> "During the 2025-2026 financial year, 137 correctional officials were implicated in aiding the smuggling of contraband and were subjected to disciplinary processes as a result. A list of officials subjected to disciplinary processes is annexed as Annexure MST2."

That would be in the second file. It is a report on consequence management in the Department, and it then specifically presents information on the 137 officials. Page 7 of MST2.

ADV SIKHAKHANE: Commissioner, yes, that is an annexure to the report.

ADV KHUMALO SC: Is it the list that starts on page 14? Remember, we consent with the list, not the full report. You said the list of officials subjected to disciplinary processes annexed as MST2. So the list that I see starts on page 14-20. Is that the list?

COMMISSIONER THOBAKGALE: Yes, Commissioner, that is the list. But it is preceded by a summary report.

ADV KHUMALO SC: Yes, there is a report, but you were referring to a list in your statement. That is why I went directly to the list. But the report tells us what happened and what the report is about.

COMMISSIONER THOBAKGALE: Yes, Commissioner.

CHAIRPERSON: Were there convictions? Just for purposes of the record.

ADV SIKHAKHANE: Chair, can I just assist? I try not to get into those questions. Page 6.

CHAIRPERSON: All I want is yes, that is all. Were there convictions? It must be on the record, because not everybody will go to this annexure. Were there convictions, Commissioner?

COMMISSIONER THOBAKGALE: The report, Commissioner, does not reflect on convictions on the criminal side ...[intervenes]

CHAIRPERSON: No, no, I am talking about the disciplinary process.

COMMISSIONER THOBAKGALE: The disciplinary process, there were. We...

CHAIRPERSON: I think I will be happy with a yes.

COMMISSIONER THOBAKGALE: Yes, yes, Commissioner.

CHAIRPERSON: Thank you.

COMMISSIONER THOBAKGALE: Thank you, Commissioner.

ADV SIKHAKHANE: Thank you. Let us go back to your statement from paragraph 39.

COMMISSIONER THOBAKGALE:

> "Once an official is compromised, the resulting vulnerability is not contained. Instead, it exposes federal officials to recruitment, coercion, intimidation, and enables gang leadership to project greater influence over the offender population and, through sustained communication with the outside, to coordinate witness intimidation, interfere with active investigations, orchestrate community violence, facilitate escapes, and launder the proceeds of crime.
>
> I confirm that gangsterism, in this sense,

> functions as an alternative authority structure within correctional centres, seeking to displace the lawful authority of officials through recruitment, intimidation, violence, and corruption, and that the security risks this poses to officials, offenders, and broader criminal justice system is one the Department treats with utmost seriousness."

CHAIRPERSON: Is there any end in sight? I am asking because this has been happening through successive junior officials, senior officials, National Commissioners, and even political heads. It has been happening forever. That is a known fact. Is there an end in sight?

COMMISSIONER THOBAKGALE: Commissioner, we are working towards an end in sight, in the sense that we have formed an interdepartmental task team that focusses on combating criminal activities in Correctional Services. In the past, it used to be the Department on its own, or SAPS coming in, and other law enforcement agencies. Now we are having an interdepartmental task team that focusses on that specifically.

CHAIRPERSON: All right, thank you.

ADV BALOYI SC: Commissioner, in that paragraph 34, where you start, you speak about, give an example of how

the first contact that ends up corrupting officials gets made. You say, for example, sharing a cigarette. Now, on the face of it, for me, a lay person, that kind of proximity already between an inmate and an officer, that they get to a point where an inmate asks for a cigarette, to share a cigarette, on the face of it, it looks inappropriate. Are there protocols that regulate contact between inmates and relationships between inmates and officials?

COMMISSIONER THOBAKGALE: Yes, there are protocols, Commissioner. And I put this example in the statement to show the lowest level of compromise, where the lines are bled. And that is why the different authority levels in the organisation are supposed to enforce that protocol. It is also enforced through the design of correctional facilities. For instance, if you are a unit manager or you work in the unit, there would be a demarcated area that you confine yourself to as you supervise the movements within the unit. Offenders are not allowed to cross that line.

And you are also not allowed to cross the line without having the necessary support or without a good reason for crossing the line. The problem presents itself in instances where we do not have integrated security systems. Because with that type of a design, you also need to back it up with an electronic security system where you will have cameras, a control room, and when that type of an

activity takes place, someone in the control room can then be able to report it and that official gets disciplined or the inmate gets cautioned.

So those are the lapses that we have. It starts at a low, low, low base and gets to be at the level of sophistication.

ADV BALOYI SC: Thank you.

COMMISSIONER THOBAKGALE: Thank you, Commissioner.

COMMISSIONER THOBAKGALE:

> "Part B: Allegations reported supporting evidence-related investigation reports and corrective action.
>
> I set out below specific matters and cases that illustrates the infiltration and compromise described earlier in this statement together with the investigative and disciplinary or corrective action taken by the Department in response. Supporting evidence for each matter is annexed, as indicated.
>
> Certain high-risk offenders, including gang members, have persistently sought to use legal and administrative processes to influence their placement within

correctional systems in order to establish or maintain illicit networks and continue criminal activity.

The Department's placement and transfer decisions are and remain based exclusively on security and intelligence assessments, operational requirements, rehabilitation considerations, and the provisions of the Act, and not on the personal preference of offenders.

The matters of inmate Rodavan Krejcir and inmate Jamaine Prim, both of whom repeatedly challenged their placement through the Courts, illustrates this point.

In Mr Prim's case, an unauthorised media interview conducted by eNCA on the 28th of March 2026, after his transfer to Johannesburg Correctional Centre, led the Department to strengthen its controls on the offender's communication with the media.

Furthermore, prior to Mr Prim's sentencing, Advocate Tilas Richard Chabalala, a senior state prosecutor and a member of the Investigating Directorate

Against Corruption, IDAC, raised concerns regarding an official from the Boksburg Management Area who was stationed at Heidelberg Community Corrections. Advocate Chabalala suspected that the official might be operating a business involving the compilation of suitability reports for the conversion of sentences of high-profile inmates allegedly in collusion with Dale de Beer Attorneys.

Following an investigation, it became apparent to the Department that the suitability report in question was based solely on information relating to Mr Prim and his co-accused, Mr Clayton Bouwers. Other persons affected by the crime, including the victim, were not interviewed or otherwise consulted in the preparation of the report. Furthermore, the suitability reports were allegedly provided to Mr Prim's defence attorneys, Dale de Beer attorneys, being submitted directly to the Palm Ridge Court as required by the applicable Departmental policies and procedures.

> These circumstances raised serious concerns regarding the independence, integrity and procedural compliance of the suitability assessment process, particularly given the allegations that the official may have been acting in concert with the accused legal representatives.
>
> Following the concerns identified in respect of the previous Correctional Supervision Suitability Report, another suitability report was ordered to be compiled in respect of Mr Prim. The report is annexed as MST3."

ADV SIKHAKHANE: Sorry, Commissioner, you do not have to go there in the report, but what was the conclusion, the outcome of that report, the second report?

COMMISSIONER THOBAKGALE: Thank you, Commissioner. The suitability reports would present a recommendation to the Courts of an inmate being sentenced to serve outside, under correctional supervision. That is why it is compiled by community corrections officials. In this instance, what was sought, as what we found out in the investigation, is that that suitability report was going to be utilised to influence the Court to sentence Mr Prim to serve under correctional supervision instead of serving a

sentence inside a correctional facility.

So the other report we commissioned, with three officials now, came up with a recommendation that Mr Jamaine Prim does not qualify as a suitable candidate for correctional supervision and therefore he was sentenced to serve inside a correctional facility. That is page 31 of the annexure. Paragraph 4.1. Thank you.

ADV BALOYI SC: Commissioner, assuming that this official would have been subjected to disciplinary processes, and it must be that is the case, what do you do, if anything at all, about criminal prosecution for matters like this? And has anything been done about this official?

COMMISSIONER THOBAKGALE: Yes, Commissioner, we refer to the case to criminal prosecution. The investigation is still continuing.

ADV BALOYI SC: Thank you.

ADV KHUMALO SC: The same question applies in relation to the 118 officials that were dismissed in the past financial year. So did you refer them to criminal prosecution? Or did you just leave it at dismissal?

COMMISSIONER THOBAKGALE: We refer them to criminal prosecution even before we finalised ...[intervenes]

ADV KHUMALO SC: Even before the disciplinary process.

COMMISSIONER THOBAKGALE: Yes, because at the point of suspecting that a crime had been committed, we do

that, we report to the police immediately. Most of them, actually, when we find them, like, when we find them with a contraband, at that point, immediately, we call in the police and we open the case.

ADV KHUMALO SC: That is reassuring, Commissioner.

COMMISSIONER THOBAKGALE: Thank you, Commissioner.

> "The new Correctional Supervision Suitability Assessment..."

That is paragraph 50;

> "...was to be conducted by three officials, namely Mr Padi, a Court Official, Ms Ronel Pillay, a Senior Correctional Officer, and Ms Masonono, the Chief Social Worker of the relevant management area.
>
> The new Correctional Supervision Suitability Report was finalised following the completion of the prescribed quality assurance process on the 1st of July 2026.
>
> Upon finalisation and quality assurance, the report was submitted to the Palm Ridge Commercial Crimes Court Division for consideration.
>
> Mr Prim was subsequently sentenced on the 15th of July to 10 years imprisonment

for masterminding a fraudulent scheme."

ADV SIKHAKHANE: Thank you. Chair, what follows from the statement, are examples of cases of examples, and the annexures, there are reports in the annexures, but I will let the witness just go through the cases because it summarises everything. Then afterwards, we will then, I will concentrate on some of the examples that I want to take up with him in terms of questions. Please start with your case 1 in your examples.

COMMISSIONER THOBAKGALE: Thank you, Commissioner.

"Case 1: Mr Bonke Makalala.

Mr Makalala, a convicted taxi operator serving sentence at Brandvlei Maximum Correctional Centre in the Western Cape for murder and attempted murder, was found through Court records to have remained actively involved in managing his taxi business from within the correctional centre, including instituting legal proceedings to recover impounded vehicles."

CHAIRPERSON: Sorry, the way you articulate this, suggests that there is something unlawful with him continuing to run his business. Is there a law against that?

Let me tell you why I am asking. I do know, for example, that inmates are entitled to phone calls. I do not know at what intervals. Am I correct?

COMMISSIONER THOBAKGALE: Yes, Commissioner.

CHAIRPERSON: I also do know that they are entitled to visits.

COMMISSIONER THOBAKGALE: Yes, Commissioner.

CHAIRPERSON: Now, what is legally wrong if, during his phone calls, which are lawful, he gives instructions as to what should happen to his business or he does the same face-to-face when visited during lawful visits from the outside? What is wrong in law with him doing that? I am not suggesting that he did not do something wrong, but the way you articulate it here, you just say he continued running his business whilst he was an inmate, and that is what I have a difficulty with. In terms of section 22 of the Constitution, he is entitled to...

COMMISSIONER THOBAKGALE: Yes, I agree, Commissioner. In this instance, Mr Makalala was contesting through the Courts the matter of some of his vehicles having been impounded by the police.

CHAIRPERSON: No, no, I was going to come to that, because that is a second aspect. Let us just focus on him running his businesses. I am not saying there was not something wrong in what he did. There may well have been

something wrong in the detail. For example, if he had cell phones that were unlawfully in his possession inside the correctional facility, and then he was making calls to run his business, that may be something else altogether which you have not articulated, at least not in this paragraph. How you have articulated it suggests that he is in law, not entitled to continue running his business whilst he is an inmate, and I have difficulties with that. Do you get me now?

COMMISSIONER THOBAKGALE: No, I do get the Commissioner, and I think that is how we articulated it, that gives that incorrect impression. This is a practice that inmates and businesses would actually continue to run them using contraband, like cell phones, and in some instances, utilise the proceeds from the business or the business activities to further their criminal activities. So there is no law that prevents them, but in terms of our protocols within the correctional facility, we would encourage offenders not to do that, to rather hand over the running of their businesses to family members and anybody other who can do that, and when they are in a correctional facility, we would rather have them focussing on their rehabilitation.

CHAIRPERSON: There is a problem that within, it is not in all families that there are people who have business acumen, that is the problem, and you may yourself want,

when you have, when you are entitled to make a phone call, just to make sure that things are still running as they should, and to even make new suggestions on how the business should run, surely there cannot be anything wrong with it, or is there? I think you already agree that there is not.

COMMISSIONER THOBAKGALE: I agree, Commissioner.

CHAIRPERSON: Yes, yes, yes.

COMMISSIONER THOBAKGALE: That is why we encourage the legal representatives of inmates to also assist in terms of how their estates should be managed when they are in a correctional facility.

CHAIRPERSON: But lawyers do not come cheap, you and I know that. And then about the second point, I think there as well may be the problem or difficulties in how you articulate it, and that is the part that says he instituted civil proceedings to recover impounded vehicles. There as well, he has a constitutional right to institute civil proceedings Section 34 of the Constitution says where there are legal disputes, you have an entitlement to have those resolved by an independent Tribunal, Court and so on, in a fair process, or in accordance with a fair process. So maybe again, it is how he did it, but the fact of instituting legal proceedings does not, to my mind, suggest that there is any illegality.

COMMISSIONER THOBAKGALE: I agree, Commissioner.

It does not suggest that there is any illegality.

CHAIRPERSON: Because otherwise, if you cannot do it yourself, it means the more expensive process of getting maybe a curator *ad litem* to institute the proceedings on your behalf, which would be totally unnecessary in the circumstances.

COMMISSIONER THOBAKGALE: Yes, Commissioner.

CHAIRPERSON: So what was wrong in this instance? If you agree with me that as a matter of law, it is not necessarily in this instance what was wrong, what is it that you are complaining about?

COMMISSIONER THOBAKGALE: In this instance, what was wrong, what we are complaining about is how he did it. Because we discovered this on the Court records. Normally this type of proceedings, an inmate would request for time to prepare and we would know that there is this activity taking place. So we discovered in the Court records that there is this. So what it suggested is that he did not follow the provisions that are there in our protocols and procedures. And it suggested that he was doing that outside authority through influencing officials of the Department.

CHAIRPERSON: All right, thank you.

ADV SIKHAKHANE: Thank you. First, there is a report that was done on this activity, I do not know whether you

want to rely on it in answering the Chair, in the annexure bundle page 43. Have you answered? If you can just have a look at it.

COMMISSIONER THOBAKGALE: I have answered, Commissioner.

ADV SIKHAKHANE: That way, you are happy with it. All right, let us then go back to your statement, your example 2.

COMMISSIONER THOBAKGALE:

"The orchestrated faked death and escape of inmate Thabo Bester.

The 2022 orchestrated faked death of offender Thabo Bester and his escape from the Mangaung Correctional Centre in the Free State province, involved a clear evidence of alleged collusion between officials at the centre, members of the Magudumane family, his partner and the inmate Bester himself. It demonstrated how organised networks can exploit compromised officials to facilitate escape and continue criminal enterprise from within a correctional facility. Bester is serving a life sentence for rape and murder. A report relating to the

orchestrated faked death of Thabo Bester and his escape is annexed as Annexure MST5.

Case number 3: Murder of Mr Kunene, Barberton Management Area.

Mr Kunene, an official stationed in the single cells section of Barberton Maximum Correctional Centre in Mpumalanga and known for enforcing the discipline through regular searches, was ambushed and fatally shot on 21s of October 2023. Investigations linked the murder to gang leader Skhumbuzo Mpangane who was detained in the same facility and section and had previously complained that Mr Kunene was interfering with criminal activity operating inside the correctional facility.

A list of officials identified for elimination was recovered and several officials involved in searching and escorting the group were subsequently relocated for their safety while SAPS investigations continued. Mr Mpangane and his co-accused were sentenced to life

imprisonment. A report relating to the death of Mr Kunene is annexed as Annexure MST6.

This case constitutes a classic example of influence and infiltration of criminal networks within correctional centres, the links maintained between such networks and the outside world and the manner in which those links facilitate the continuation and perpetuation of criminal enterprise."

ADV SIKHAKHANE: Sorry, Commissioner, I just want to, just one question, they apply to all these examples. Would it be fair to say cell phones then become a problem of, because they facilitate the communication between the inside and the outside world?

COMMISSIONER THOBAKGALE: Thank you, Commissioner. The cell phones, yes, become a problem because the visits are conducted in a manner that would not allow this type of communication to take place. Now with cell phones, they utilise them mostly after lock-up. That would be between, in most instances the traffic is between 7 and 9 o'clock at night. In that instance, the inmates are locked up. The numbers that are there of officials in the correctional facility would be numbers that would deal with

an emergency or, you know, a peculiar incident. And that is the time that they then utilise cell phones. That is why we conduct raids and searches.

ADV SIKHAKHANE: Thank you.

ADV BALOYI SC: Commissioner, you say that the visits are conducted in such a way that they would not allow this. Are you saying that the exchange of cell phones or handing over of cell phones to inmates would not be something that happens during visits? Is that what you are saying?

COMMISSIONER THOBAKGALE: Thank you, Commissioner. We mitigate that by ensuring that those who visit are thoroughly searched. In some instances, we have actually caught members of the public trying to smuggle cell phones through food parcels, through clothes like sneakers. They would cut the sole and put a cell phone in there and present it as a normal shoe. So through our searches and also through the utilisation of electronic systems, we are able to pick up those.

But there are instances where they do succeed. And in instances where they do succeed, we also pick up that our own officials would have looked the other way or even assisted for those cell phones to make it into the hands of an inmate. We get that information when we are now questioning the inmate after we would have discovered the cell phone on the inmate. Thank you, Commissioner.

ADV BALOYI SC: And has an assessment been done of what percentage of those contraventions is attributable to the role of officials? Is there that kind of statistic and investigation?

COMMISSIONER THOBAKGALE: We have the statistics. What we have not done, Commissioner, I want to admit, is a thorough assessment in the form of a research as to the extent and how we can attend to this matter so that on a sustained basis, we are able to cut it out.

ADV BALOYI SC: When you find out, you do your investigation or you discover, however, the involvement of officials in something like this about cell phones but other things or other contraventions, do you, other than discipline and in appropriate cases, criminal prosecution, what do you do with those officials? Do they remain or do you routinely then remove them from the facility or unit or section? Is there a way that you deal with that to cut off that familiarity and that dealings that has since developed clearly between officers and inmates?

COMMISSIONER THOBAKGALE: Thank you, Commissioner. We do do that but the conundrum that we face is that almost every spot in a correctional facility is at risk of smuggling. Let me give an example. We do our own refuse removal, meaning that we have offenders that work at the dumping sites and we will remove an official from

inside the facility or from the gates, which is one of the barriers to smuggling, and deploy that official in the gardens where they work on refuse. But that is where contrabands are actually hidden, those that would have been brought in from the outside.

I indicated that we have facilities that are farms. With our fences being compromised and the vegetation, members of the public do try, and the fact that we do not have cameras that would cover the radius, we try with the towers but there are always those risks where members of the public would want to come in and drop something. They get picked up at those points. The official who is providing guarding services and also ensuring that these inmates do their work is supposed to make the point that on the hour the inmates are searched.

So in most instances we find that the inmates are searched when they leave the facility and when they come back, but in between the searches are not done on the hour because that is a manner of ensuring that we intercept. And when they are not searched on the hour, they get these contrabands and sometimes an inmate asks to go relieve himself, they are taken into the facility. That is when now they drop and they come back. Later on when they are going in for lockup, they get searched. The system is already compromised.

So it is a, the trafficking is, the volumes are high. So it is a matter that needs monitoring and alertness. It needs the system to be agile on a minute basis. And if we have officials that are compromised with the small numbers as compared to the population, it becomes difficult. Hence, we have now to come in and intercept them from inside.

ADV KHUMALO SC: Commissioner, who guards the guards? Who ensures that the officials who are supposed to search members of the public that are visiting incarcerated offenders, are searched to ensure that they do not become the conduit through which contraband gets in? So say I am the correctional officer, I search the members of the public and I search the incarcerated prisoner. Who searches me to ensure that I did not pick up something from a member of the public to give it to a prisoner?

COMMISSIONER THOBAKGALE: Thank you, Commissioner.

ADV KHUMALO SC: So you have that system?

COMMISSIONER THOBAKGALE: We have that system, Commissioner. We, okay, we call it a buddy-buddy system, meaning that there would not be an officer who attends to a particular deployment alone. There will always have to be two. And then secondly, we have a supervision process, including support checks. I was talking earlier on about an on-the-hour search. If you are doing an on-the-hour search

on inmates that are working in the farm, there would be a register where you would search and also sign.

So we call them a visit supervisor, so they would visit on doing support checks, and that is where we are able to catch officials that are not doing what they are supposed to be doing. This is rudimentary work that is taken for granted by some officials, but it is very important because what it does, it shows the inmate that the system is working. We are alert at all times. If they try something, they will be caught.

But once it is compromised at that low level, the inmates then take advantage. Thank you, Commissioner.

ADV KHUMALO SC: Thank you. You see, the Chair has distracted me. [Laughter]

CHAIRPERSON: I am sorry, I am sorry. No, this relates to the work, please.

ADV KHUMALO SC: I wanted to say, if the buddies are colluding, there will be a risk that they will not do what they are supposed to be doing.

COMMISSIONER THOBAKGALE: Yes, Commissioner.

ADV KHUMALO SC: No, the Chair was just showing me where this thing of who guards the guards comes from, so it was related to the question.

COMMISSIONER THOBAKGALE: Yes, Commissioner. Where they are compromised as buddies, the risk obviously

escalates, and that is why we need to rotate them on intervals so that they do not get used to working in a particular security space.

ADV BALOYI SC: I mean, the Chair asked you much earlier whether there is any light or prospect of stemming the tide. Are you able to say that over a period of time – I mean, you have the statistics, you have the reports – are you able to say over a period, a certain period of time, you are seeing improvements in your systems that is stemming this kind of infiltration of officers – officials, rather – by inmates, or it is worsening? And how do we compare with other jurisdictions?

COMMISSIONER THOBAKGALE: Thank you, Commissioner. There are two aspects to that. The first aspect is the infrastructure we have, the security infrastructure or apparatus we have in correctional facilities. I gave an example of Tzaneen correctional facility. It is a new generation facility with the integrated security system. The prevalence of contraband there is close to zero, because you have cameras – I mean, there is a big brother, if I may use that term – apologies, Commissioners – that is watching every move.

And where you find a cell phone, you can link it directly to a particular official, and that official gets disciplined. So the deterrence is at a high level. Now, we

have 15 of those. And then the other facilities do not have the integrated security system. To maintain an ISS system, you need on average around 65 million per annum. The old ones ...[intervenes]

ADV BALOYI SC: Per facility?

COMMISSIONER THOBAKGALE: Per facility. The old ones, with the systems that were installed during the period of a company called Busasa and so on, these are apparatus that are more than 15 years old. To repair them up to the level of basic operations, you need almost like 250 million per facility. Now, our infrastructure budget has been cut over time. The overall budget of the department for the past five years, if we just look back from the financial year 2024-2025, our budget was cut with 11 billion.

So we have to do with the little that we have to identify maximum or high-risk facilities. That is where we maintain the ISS working. Where we cannot, we rely on the human factor. And as I have indicated, Commissioners, this is the human factor that is also dwindling because the Department of Public Service and Administration and Treasury are joining us as government to implement what we call the Human Resource Budget Planning Tool.

The effect is that you reduce the numbers because you want to reduce personnel expenditure and invest more money in the provision of services to the people of South

Africa. But to us, the reduction of the numbers affects the provision of services. But we are expected to reduce numbers. That is why we have been pressing even on Cabinet that our classification in terms of the Constitution as a department that is not a security department is actually disadvantaging the Department of Correctional Services.

Because when now we are discussing capacitation of the criminal justice departments or the justice crime prevention and security cluster, we look at policing, we look at prosecution, we look at the judiciary. And now of late, we look at the border management agents that is now given more resources because of the pressures of the porous borders we have. Then we forget about the Correctional Services.

But whatever crime that is committed in the country ends up there with us, and actually for more years because of the sentencing regime we have in South Africa. So that is the part that we are impressing on the cluster and Treasury to look at how do we ensure that, especially from security equipment and infrastructure, we are able to create an environment which is not conducive for syndicates, gangs to continue operating within correctional facilities because there would not be a space that is not watched. Thank you, Commissioner.

CHAIRPERSON: Purely out of interest, are you a career

Correctional Services officer or are you a manager?

COMMISSIONER THOBAKGALE: Commissioner, I am a manager. I started working for the Department of Correctional Services in the year 2020 as a Chief Deputy Commissioner responsible for incarceration and corrections. That is more than 75 percent of the mandate of the Department.

CHAIRPERSON: So at that level, at the level of a deputy, were you coming in from the outside?

COMMISSIONER THOBAKGALE: Yes, Commissioner. I was coming in from the outside. I was coming in from a deployment in the North West of administrators.

CHAIRPERSON: All right, thank you.

ADV BALOYI SC: Commissioner, there was a second part to my question, I do not know if you are able to answer it, which is how do we compare with comparable jurisdictions, other jurisdictions, in terms of, and when I say comparable, taking into account the population size, prison population size, taking into account your infrastructure. These concerns or these complaints about the corruptibility of officials, how do we compare?

COMMISSIONER THOBAKGALE: Commissioner, I would say that it is a worrying factor. The numbers are quite high, but what worries me more is what we do not uncover. Because, for instance, with contraband, to link a contraband

and to discipline or open a criminal case, there has to be evidence that this inmate or this official handled the contraband or has the contraband and in most instances, we find it difficult to prove that.

Then, and also because of the intimidation and the coercion that happens, that is why in one of the paragraphs I am indicating that once an official is compromised, it affects other officials. So if you interact with management in correctional facilities or management areas, you will be told that that official is a known smuggler. The next question would be, but why are we not doing something about it?

Now, for us to do that, now we have to run an operation so we can be able to get there. You have to run an operation, or operations, but at the same time you have to make it a point that the normal work of Correctional Services happens. So in most instances, the system tends to focus on the normal operations of the centre, and these ones where you would want to get or to catch the smuggler in hand or when they are doing the criminal act, we do not spend more time and resources doing that.

That is why we work with other departments of the criminal justice system. Like Crime Intelligence, we get information and we act on it immediately. That is why when Lieutenant General Mkhwanazi was addressing on that day

of July, just out of what he was saying, I was able to issue an instruction that the security officers, there is a group that is trusted that does this work. I was able to deploy them immediately to go to that inmate and they did find the cell phone, which later that afternoon, I then indicated to him that we did find the cell phone. So also how we process information is very important.

ADV BALOYI SC: In fact, that would have brought me to – I was about to ask you about the cooperation or role of other agencies when you want to run an operation, for example, on an official because everyone is talking about them being a smuggler. What is the role of the other agencies in assisting you to run that operation against that official?

COMMISSIONER THOBAKGALE: Yes, Commissioner, we do work with other law enforcement agencies, but what we do is to lead those operations because we understand our system and our environment better. Sometimes that causes tensions, but we do not compromise on that because, as I have indicated, we are better placed to even point where these contrabands can be found. The last operation that we did in Kgosi Mampuru, the information was that a particular inmate had contraband.

So we went in with the police to do the operation. The cell phone was not found on the inmate, but because

the team that comes from DCS understands this better, they went on to search the office of the unit manager and they found the contraband in the office of the unit manager, who could not explain why the contraband was there because he was not allowed to have a cell phone, it was not his cell phone. And now that matter is a matter of investigation by the police and we are also disciplining that unit manager.

So that collaboration and working together, of course, also dealing with the tensions, assists. Thank you, Commissioner.

CHAIRPERSON: Just so you are not left wondering as to why I asked my last question about your previous experience, you might think that there was something negative underlying the question. Quite the contrary, you come across as quite knowledgeable, if I may say that.

COMMISSIONER THOBAKGALE: Thank you, Commissioner.

CHAIRPERSON: Thank you.

ADV KHUMALO SC: Mr Sikhakhane, you can blame us for diverting slightly. So I think we are in paragraph 58.

ADV SIKHAKHANE: Sure, can I just ask one question that sort of gets to the... that follows from the questions of the Commissioners. If I may ask you to turn to page 6 of the big file. You talk about the – because we are touching on the discipline of your officials. And there is a report that is

there. I thought I should just exploit this time. It then deals with the officials subjected to disciplinary action. Page 6, apologies. It talks about officials that have been subjected to disciplinary action and the number there is 2,388. And then the next step is officials suspended and that is 289. And then following suspension, it is officials actually dismissed. Now, there is a gap of about 1,900. What happens to those cases?

COMMISSIONER THOBAKGALE: Thank you, Commissioner. The category of officials dismissed obviously indicates that the case would have come to a conclusion. Those that are suspended, there are two categories. It is those where the investigation is still on. So the disciplinary process would not have started. And then there would be those where the disciplinary processes would be ongoing.

And then there would be those that would be acquitted because out of the disciplinary processes, it was not proven that they are guilty. There would be those that would resign. And if we are to look at page 8, especially for those that are allegedly involved in contraband smuggling, we sort of give the different categories of the outcomes of the disciplinary processes and where the processes are.

ADV SIKHAKHANE: And this is just for 1 April 2025 to 31 March 2026?

COMMISSIONER THOBAKGALE: Yes, Commissioner.

ADV SIKHAKHANE: But what I am saying is that you have got around 2,000 members. In those cases, is it a case of there is no evidence and therefore there is no disciplinary, there is no conviction or acquittal? Because then it does not tally with the acquittal number as well.

COMMISSIONER THOBAKGALE: Because we are presenting more information on the 137 that are going through disciplinary processes for transgressions relating to contraband. Now the 2,000, the total number is for a number of officials that are going through disciplinary processes. So that information is not here.

CHAIRPERSON: Does the 2,388 include matters that are still outstanding?

COMMISSIONER THOBAKGALE: It includes matters that are still outstanding, Commissioner, but as I was explaining, out of that, only 137 is for contraband smuggling.

CHAIRPERSON: All right.

COMMISSIONER THOBAKGALE: The rest will be for other transgressions.

CHAIRPERSON: Okay.

COMMISSIONER THOBAKGALE: It might be a transgression on corruption or a transgression on not complying with procedures.

ADV SIKHAKHANE: But equally, those are transgressions which then enable the infiltration somehow within the prison. So in saying they are as serious.

COMMISSIONER THOBAKGALE: They are as serious, but as I am indicating, Commissioner, we did not provide that information on this one. We focused more on the contraband. We can provide that information.

ADV SIKHAKHANE: Okay.

ADV BALOYI SC: Just to clear my confusion, when you say other transgressions which are not about contraband, for example, Mr Sikhakhane says those other transgressions would be about aiding corruption. And you agreed. Is that correct, though? I had assumed when I read this, that you may well have a contravention of the do not have a cell phone when you are in this area and somebody has a cell phone. It does not follow that it is to facilitate corruption. I have assumed some of it may be uniform issues. So it is not correct to say the balance of that number, all of it is about aiding corruption. Am I correct in that?

COMMISSIONER THOBAKGALE: It would not be correct of me to say that, Commissioner.

ADV BALOYI SC: Yes.

COMMISSIONER THOBAKGALE: These are, as I have indicated, other transgressions that might include any

transgressing against the Code of Conduct of the Department and the laws.

ADV BALOYI SC: Thank you.

ADV SIKHAKHANE: And those numbers, that report would be available for the Commission?

COMMISSIONER THOBAKGALE: Yes. I want to confirm, Commissioner, that we will be able to avail that.

ADV SIKHAKHANE: Thank you. We will request that together with the supplementary statement.

COMMISSIONER THOBAKGALE: Thank you, Commissioner.

ADV SIKHAKHANE: Can I then put that file aside and go back to the statement and we will be going to case 4?

COMMISSIONER THOBAKGALE: The subtitle is:

> "Attempted Murder of Head of Waterval Maximum Correctional Centre.
>
> Ms Devasagayum, was shot at by unknown assailants while travelling from work to her home. This incident happened after she transferred two inmates from Waterval Maximum Centre to Ncome Correctional Centre. It is alleged that one of the transferred inmates was operating a "mashonisa" or informal money lending business to the public officials in the

> Department and also inmates, and that he was still continuing to do whilst in the correctional centre. It is therefore reasonable to infer that the attack may have been carried out as an act of retaliation arising from the disruption of or interference with the inmate's illicit or unauthorised business operation. This information is reflected on annexed MST17."

ADV KHUMALO SC: Just correct that, it is 7, not 17.

COMMISSIONER THOBAKGALE: Oh, 7, ja. Thank you, Commissioner, my apologies.

> "She was then transferred to head office for her safety while SAPS investigated. A report relating to the attempted murder of Ms Devasagauym is annexed as Annexure MST7.
>
> This case is another example of a syndicate operating inside and outside the correctional centre."

In the annexure, in her statement, she also indicates that she had an altercation with one of the officials because the other inmate that has been transferred, not the one that is referred to here, there were two that were transferred, not

the money lender one. The other one was actually flagged as being active in smuggling.

And when one of these inmates was out on bail, he attended a funeral of the mother of one of the officials in the facility, and that official was also providing, when he was not on duty, was also providing some security service, was seen with this offender in the community whilst this offender does this *mashonisa* business.

ADV KHUMALO SC: So he was moonlighting?

COMMISSIONER THOBAKGALE: Yes.

ADV KHUMALO SC: As a security guard.

COMMISSIONER THOBAKGALE: Yes, he was moonlighting as a security guard for this offender, whilst this offender was on bail and this is part of the investigations of the police. So transferring these inmates from Waterval removed them from the market and the influence. They found themselves displaced in Ncome and they then orchestrated this attack. When they were about to be transferred, they actually would resist differently.

One of them actually even assaulted officials and claimed later that he was assaulted. They do that to push that they go to the clinic, because once they claim that they are attacked, they must now go to the clinic. You cannot transfer an inmate that is injured and all that. And when we looked around the circumstances, we actually also linked

the discussion on the assassination plot to have taken place in the hospital, because in the hospital security is not that tight and they are in one wing where they can be able to converse.

But that is out of the information we were gathered to assist the police investigation.

ADV SIKHAKHANE: And case 5?

COMMISSIONER THOBAKGALE: Case 5, the subtitle is:

> "Incarceration of an ISIS Affiliated Group at Johannesburg Medium A Correctional Centre.
>
> On the 5th of May 2026, the Directorate for Priority Crime Investigations, the Hawks, requested that a group of detainees allegedly affiliated with Islamic State, a violent extremist group networks operating across Central, Eastern and Southern Africa, known as ISIS, be separated from the general population on a national security grounds. The detainees were found in possession of a cell phone, providing clear evidence that they had maintained and authorised communication with individuals outside the correctional centre. This communication created the

> potential for the group to continue coordinating activities and issuing instructions from within the correctional centre. Such conduct constitutes a serious breach of custodial security and presents a significant threat to security of the centre. The matter is registered under Norwood police station as a criminal case."

The case number is provided there.

> "A report relating to the ISIS affiliated detainee group is annexed as Annexure MST8.
>
> This case highlights a potential form of infiltration through affiliation, whereby associations between individuals are utilised to facilitate, support or advance criminal objectives, both within the correctional centre and beyond the confines."

If I may just give one example quickly with regards to this one. It also applies to how we are guided by the Gang Combating Strategy to manage gangs. In some instances the head of centres would take a decision to house gangs in one unit, a particular gang in one unit together. In other

instances to neutralise the gang would accommodate members of the gang outside so that they do not have an association.

They get into cells where there are no affiliated gang members and they are overwhelmed by the numbers in the cell and then we slow down their activities or we manage to stop them. In this instance these ones of ISIS were separated within the facility but then the information we received was that one of them had a cell phone and they were now starting to communicate even if we had scattered them.

So now we had to dedicate a wing and put them in one wing so that we have a specific line of sight on them and we reduce the risk of getting in contact with other inmates but also the risk of getting contraband. Thank you Commissioner.

ADV BALOYI SC: Is there, and maybe this goes back to the theme of cooperation with other agencies, is there a specific strategy or even programme that is implemented, whose purpose is to disrupt the continued or the continuation in particular of organised crime activities, that is the inmates who come in having connections on the outside, they continue to conduct themselves or to engage with those activities because they have connections on the outside.

So an easy example would be a gang, for example, once their leader is inside they continue to have links with the outside and I think you say are able to continue directing activities or getting involved. Is there anything in place that seeks to disrupt that? Not just, and I am not asking a question that is not just limited to Correctional Services, but that involves other agencies.

COMMISSIONER THOBAKGALE: Thank you Commissioner. I will be able to submit that information to the Commission. I have it here, there is a task team that I referred to which was formed in the year 2024, it is a task team that meets on a bi-weekly basis to go through the information of high risk and high profile inmates. What we do on a weekly basis, we update what we call a national operations report that I can also provide to the Commission.

It tracks activities of all the correctional facilities. On a Monday we sit in an operations meeting and go through that. That is the information that we share with other law enforcement agencies, but the task team focusses solely on combating of criminal activities within correctional settings. Thank you Commissioner.

ADV BALOYI SC: I know you share that information with other agencies, but does your answer mean that there is nothing specific that derives from your report, you have got your task team, that derives from your reports that informs

the other agencies how to deal with the outside, what is happening in the outside which involves these people that are inside?

COMMISSIONER THOBAKGALE: Commissioner, the task team includes SAPS, it includes prosecution and other law enforcement agencies. For instance, where we are focussing on the use of cell phones, we also called in ICASA because there were regulatory and legal issues that had to do with the cell phone jamming system that we wanted to introduce and how that would affect communities outside and how that should be brought in line with the regulations. So that is the type of work that the task team does.

The task team is linked to the National Joints Forum, which is an operational structure within the Justice, Crime Prevention and Security cluster. That is a structure that is now chaired and coordinated by SAPS at a high level, at the level of a Lieutenant General, where now specific operations would then be planned and executed, but the information base will come from the work that would have been coordinated by the task team. Thank you Commissioner.

ADV BALOYI SC: You say this task team was set up in 2024. Is it too early to say whether there has been any wins arising from this kind of initiative or you are able to

point out to successes as a result of this way of doing things?

COMMISSIONER THOBAKGALE: In my observation, the task team has assisted in ensuring that the information that we generate or information that we receive from Crime Intelligence is shared and is attended to in a coordinated manner, other than in the past where we would treat a case when it lands in our hands as Correctional Services. So there is more coordination, but I should indicate, Commissioners, that we have not made that assessment yet.

ADV BALOYI SC: Whether it has been operationalized with successes?

COMMISSIONER THOBAKGALE: With successes. We have not made that assessment yet, Commissioners.

CHAIRPERSON: Thank you.

ADV SIKHAKHANE: Thank you Commissioner. Please go to case 6.

COMMISSIONER THOBAKGALE:

> "Transfer of three high-risk offenders from Ebongweni Super-Max Correctional Centre."

That is a subtitle.

> "The transfer of George "Geweld" Thomas, the number one gang leader in South

> Africa, popularly known as the Lord, Giovanni Kannemeyer and Gregory Meyer from Ebongweni Super-Max Correctional Centre to correctional centres in the Western Cape, was found to be inconsistent with the standard operating procedure for Ebongweni Super-Max Correctional Centre and the Circular governing the transfer of high-risk and high-profile offenders. The circular, dated 23 May 2024, is annexed as Annexure MST9. Officials who failed to comply with the prescribed procedure, including at the level of the Regional Commissioner, were subjected to disciplinary action under the Department's consequence-management framework. A report relating to the transfer from Ebongweni Super-Max Correctional Centre is annexed as Annexure MS10."

ADV SIKHAKHANE: Are you freely able to just share with us what was the outcome of that disciplinary action?

COMMISSIONER THOBAKGALE: Thank you Commissioner. Those that were found to have transgressed the circular were taken through the action. They were given

different sanctions depending on their role in the process, because to transfer an inmate there has to be a requisition and the process moves up like that up to approval. The official that is still going through consequence management is the Regional Commissioner. That is the one that we are still taking through disciplinary processes.

ADV SIKHAKHANE: I am saying in relation to case 6, you are talking of those officials. So you are saying there has been an outcome of those disciplinary actions. Am I understanding you correctly? So my question was what has been that outcome? Have they been dismissed, suspended? If you are not at liberty to say, you can say so.

COMMISSIONER THOBAKGALE: Apologies Commissioner, not to say that I am not at liberty. I might not have at my disposal the specific sanctions. But the point I was making is that the only one that is still going through the processes is the Regional Commissioner.

ADV SIKHAKHANE: Thank you, that is fine.

ADV BALOYI SC: Relating to this, in these investigations and whatever you have been able to gather, is this just a failure as in someone who should not be giving instructions gives the wrong instructions for that matter? Because this seems like a terribly mishandled, having read the report, terribly mishandled transfer. Is this innocent, according to your investigations, or there was something more sinister in

transferring these inmates and therefore it being done in this way? Have you been able to establish that?

COMMISSIONER THOBAKGALE: Thank you Commissioner. This is the point that I referred to earlier, to say that one of our failures in the system is that we focus on correcting the security lapse other than now investigating what would have been the cause. Commissioner, the transfer of Geweld and the core inmates, unsettled the gang environment in the Western Cape. Thomas Geweld is referred to as the Lord because he is the number one gangster in this country in the sense that all the gangs respect his rank.

So he is the highest ranking in South Africa. And that is why I put in place this procedure that any high-risk, any high-profile offender that gets transferred as the National Commissioner, I need to be informed before the transfer takes place. I learned about the transfer of Geweld and the group when already a non-governmental organisation in Cape Town had complained to the Minister, they had also written to me.

That was when he was in transit because it takes time to move from KZN to get to the Western Cape. And for offenders to get there safe, we also ensure that any stop that is made is made to a correctional facility. So as he was moving like that with the group, information started

getting out that he is returning back to the Western Cape. And that instilled fear in the communities but it also unsettled the gangs in the Western Cape because him being there is a statement on his own before anything else happens.

So as a result, we had just to allow him to rest and take him out again of the Western Cape to contribute to stabilisation. So he was not supposed to have been transferred without my knowledge and my approval as the National Commissioner. I was not going to allow that. But it happened and that is why we then had to ensure that we discipline these officials. In their statements, they then indicated that the Regional Commissioner was also involved.

This report on these types of transfers is supposed to come from the Regional Commissioner. And as I have indicated, we run an instant system. Even a WhatsApp is supposed to be used to relate such information. I can give an example. We have an inmate, Cat Matala. In all the instances when he was leaving Kgosi Mampuru, regardless of the fact that my office is less than 10 kilometres or 5 kilometres from Kgosi Mampuru, I receive a WhatsApp when he is supposed to move, because I need to make sure that nothing goes wrong in the movement in and out.

So that is how we are able to ensure that we

reduce or we minimise security incidents. So this was a serious risk for the security of the country, having such type of a gang leader, the Lord, to be transferred in the manner that he was transferred. Anything could have happened. Thank you, Commissioners.

ADV BALOYI SC: The Regional Commissioner, you say, is being dealt with to get to the bottom of why it happened?

COMMISSIONER THOBAKGALE: Yes, Commissioner.

ADV BALOYI SC: And that position where you say you have to be informed when such a transfer happens, it is widely known. Regional Commissioners and other officials know that in those instances a transfer cannot happen without you being informed about it and approving of it. Is that a widely known position?

COMMISSIONER THOBAKGALE: Yes, Commissioner. The circulars that are issued get cascaded throughout the organisation. Also in the weekly meetings that we have, we have an agenda item of new circulars, so ignorance cannot be a plea in this instance. And the managers in the Department, from Regional Commissioners going down, Head of Centres, they have a responsibility of ensuring that this information is cascaded.

That is why in taking over in 2022, I brought back some of the security arrangements that were done away with in the past. Like for instance, there was no, the

handover process of shifts did not include a parade because we, as Correctional Services, were now transformed from prisons to Correctional Services. But what I observed is that that transformation itself compromised basic security structural arrangements and even procedures.

So I brought back that mechanism so that information can be shared, number one. Number two, we can inspect the officials because some of them come to work compromised, others intoxicated. One of the reasons for the escape in Rooigrond is that the unit manager allowed one of the officers, that was managing that section where the escape took place, to work, even if he was observed that he is under the influence of alcohol.

So these are some of the things that compromises our environment. But as I have indicated, we make it a point that information cascades through even when we are doing handovers during shifts. Thank you, Commissioner.

ADV SIKHAKHANE: Commissioner, you are saying that the Regional Commissioner, that is in KZN, is undergoing a disciplinary process for this or am I understanding you correctly?

COMMISSIONER THOBAKGALE: Yes, Commissioner, it is one of those charges that he is undergoing through disciplinary processes on.

ADV SIKHAKHANE: Is it the same one with the case 7?

COMMISSIONER THOBAKGALE: Yes, Commissioner, it is the same one.

ADV SIKHAKHANE: Okay. So his disciplinary is still going. What is the cause for the delay? Because I note that this is in 2024, the report. I would presume he would have made a decision and then the process started. How long does it take to have this finalised?

COMMISSIONER THOBAKGALE: The Regional Commissioner is charged with a number of charges. It includes these others, have to do with investigations that were done by the SIU on corruption in the past and recently. We have delays because where he gets an opportunity, he presents himself as a whistle-blower and then applies to convert the disciplinary hearing or processes from a normal disciplinary hearing to a hearing that would take place in the conciliation processes.

We had that first hurdle where he reported himself as a whistle-blower to the Public Service Commission. He was granted that, but that is before I took over as a National Commissioner. So the charges come from even before I became National Commissioner, coming up to this point. There are charges then that were preferred against him now when I am a National Commissioner after takeover. So he did the same.

The latest report is a report that was released by

the Public Protector where he presented himself as a whistle-blower and indicating that it would be unfair for him to go through a normal disciplinary process. The Public Protector found that he was not a whistle-blower and that the issues that he was presenting, his issues that he blew the whistle on, were actually matters that the Department reported to the Minister and the Portfolio Committee in Parliament so there is no new information that he came up with. Apart from that, the Regional Commissioner finds ways of avoiding or frustrating processes.

If you are to serve him, for instance, he will refuse to be served by an investigator from the Department citing that he is a senior official, he can only be served by a particular rank. In some instances, we even tried to use the services of the sheriff to serve him. That also proved to be difficult. So even when we get to secure a city, there will always be points *in limine* and issues that he would raise that drags these disciplinary processes.

And in that continuity of dragging, there will be another transgression that comes up. For instance, with the inefficiencies we faced with the Office of the State Attorney, because also the Regional Commissioner is highly litigious, there will be instances where he will take us to Court and the state would not file on time because of the inefficiencies from the State Attorney. As a Department, we then

appointed the firm of attorneys, of course through the permission of the State Attorney, to just focus on this matter.

Because we are worried that his matters are dragging and an attorney from that law firm made contact with him on the phone and he actually intimidated that attorney, a lady. And now that is one of the charges that we are preferring against him based on the evidence of the interaction between him and this attorney. The last one that I will give an example of is even when he was on suspension, the latest is that he then gave instructions to an employee, a personal assistant.

Obviously, he exerted his pressure on this personal assistant that the personal assistant should draft his Court papers. And from the statement of the personal assistant, he was indicating to her that he will come back. He is still the Regional Commissioner. So that is another translation that comes in. So it becomes difficult because it then slows other matters. We have tried to consolidate these matters, but for us to get to sit in a disciplinary hearing with all these litigations that he takes out of the normal processes to the Labour Court and other labour relations forums, it becomes difficult.

As I indicated, I took over as an acting National Commissioner in 2021. The Regional Commissioner, Mr

Nxele, has been through two National Commissioners on disciplinary matters. I am actually on record as a National Commissioner that took a decision to bring him back to work and sat down with him to discuss that we should cut this experience and we focus on work.

But unfortunately, another matter will come up. And those matters will be dressed up with this whistle-blower applications so that he does not face a normal disciplinary process in a government department. Apologies for taking too long, Commissioner.

ADV SIKHAKHANE: When was he first suspended?

COMMISSIONER THOBAKGALE: It will be multiple suspensions. He was suspended under my tenure in 2022.

ADV SIKHAKHANE: And he continues to receive a salary?

COMMISSIONER THOBAKGALE: He continues to receive a salary, because his is in suspension with pay.

ADV SIKHAKHANE: Thank you.

ADV KHUMALO SC: Let us finish case 7, then we break for lunch.

ADV SIKHAKHANE: Thank you, because it still relates to the same individual. Please go to case 7.

COMMISSIONER THOBAKGALE: The subtitle is:

> "Offenders Thoshan Panday and Mr Shoni– Durban Westville, KwaZulu-Natal.
>
> Following allegations published in the Mail

& Guardian regarding the alleged acceptance of bribes by officials and medical practitioners to facilitate extended unlawful private hospital stays for offenders, the Department initiated an investigation into the circumstances surrounding such hospitalisation arrangements.

An investigation found that Mr Thoshan Panday alleged a longstanding family relationship with the Regional Commissioner who had visited him at both the correctional centre and the hospital several times. The Regional Commissioner sought to influence Panday's continued hospitalisation and unrestricted family visits. Mr Panday was reportedly found in possession of a cellular telephone. Notwithstanding the seriousness of the alleged contravention, it is alleged that no disciplinary action was instituted against him at that stage. Correctional centre management opposed these actions and insisted on compliance with Departmental policy. This matter

remains subject to ongoing Departmental disciplinary processes. A report relating to offenders Panday and Shoni is annexed as Annexure MST11."

CHAIRPERSON: Let us adjourn and resume at 14.15. Let us adjourn.

INQUIRY ADJOURNS

INQUIRY RESUMES

CHAIRPERSON: Yes, Mr Sikhakhane.

ADV SIKHAKHANE: Thank you, Chairperson. Good afternoon, Commissioner.

COMMISSIONER THOBAKGALE: Afternoon, Commissioners.

ADV SIKHAKHANE: Yes, we are still with your statement. When we adjourned for lunch, we were at page 19. We are going to resume from paragraph 66 of your statement. Can you then read the subheading and then read onward? If there is anything, we will stop you to seek clarity, but read continuously otherwise.

COMMISSIONER THOBAKGALE: Thank you, Commissioners. The subheading reads:

"Prosecutorial and Case Attrition Challenges. A recurring challenge in holding compromised officials to account is that criminal cases arising from

contraband seizures are in some instances not enrolled by SAPS or do not proceed either because the quantities involved are regarded as too small, relying on the Constitutional Court Judgment Case CCT 108/17. Prosecutors have taken the view that items intercepted just outside the perimeter of a facility do not constitute contraband within the facility. This is illustrated by the incident at Ermelo Correctional Facility on the 24th of July 2024, in which two officials were apprehended in a surprise search at approximately 5 minutes to 7 in the morning in possession of Dagga and a cellphone. The criminal case was subsequently withdrawn and the officials returned to work. A report on the incident is annexed as MST12."

ADV SIKHAKHANE: In this case, I am not sure, the Chairperson seems to have been part of the bench at the time.

CHAIRPERSON: Unfortunately, I cannot identify CCT numbers.

ADV SIKHAKHANE: Is it ...[intervenes].

ADV KHUMALO SC: [Indistinct]... to challenge Chair if you think he was wrong in that judgment it is your opportunity to tell him?

ADV SIKHAKHANE: The case in full citation is Minister of Justice and Constitutional Development v Prince, is that the one, 2018 ZACC 30.

CHAIRPERSON: I did not write that one, even if I concurred.

ADV SIKHAKHANE: Okay.

CHAIRPERSON: Justice Zondo wrote that one before he was Chief Justice, I think.

ADV SIKHAKHANE: Yes, yes. No, no, no, we will leave that to Justice Zondo. Can you then turn over.

ADV BALOYI SC: Before you do that, Commissioner, do you not have a, I will call it a catch-all because I cannot think of the correct word, misconduct which deals with misconduct outside of the facility? I mean, other institutions, for example, would have conduct that you engage in, which is not in the execution of your duties, but it brings, in itself it constitutes an offense or it brings the organization into disrepute. I am asking that kind of question. You do not have any such kind of misconduct?

COMMISSIONER THOBAKGALE: We have, Commissioner. That is why these offenders were actually taken through

disciplinary processes. What we are indicating here is that we reported them to the police, but in terms of criminal prosecution, we could not succeed. But we did take them through disciplinary processes, Commissioner.

ADV SIKHAKHANE: Can I just ask to follow up on that before it slips my mind. You said earlier in response to Commissioner Baloyi's question about reporting criminally and with disciplinary, and you referred to the officials. What is the success rate of prosecution, if you know?

COMMISSIONER THOBAKGALE: Well, I would not offhand at the moment be able to provide the statistics. What I can say is that we have in our correctional facilities former correctional services officers that are serving sentences for crimes that are associated with smuggling of contraband.

ADV SIKHAKHANE: Okay.

ADV KHUMALO SC: Does page 8 not answer that question, because the stat on page 8 deals with sanction imposed in contraband-related cases, although it is one financial year. If you go to page 8, it gives you a total of 137 and then it tells you that out of that total, they had 26 dismissals, 10 acquittals, and then other stats that follow from there.

COMMISSIONER THOBAKGALE: Commissioner, it talks about outcomes of the disciplinary processes. My understanding of the question was on criminal prosecution.

ADV KHUMALO SC: Criminal prosecutions, okay.

ADV SIKHAKHANE: I will note it as well, add that to the supplementary statement.

COMMISSIONER THOBAKGALE: Thank you, Commissioner.

ADV SIKHAKHANE: All right, please proceed to the next page, page 20, paragraph, part C.

COMMISSIONER THOBAKGALE: Page 23?

ADV SIKHAKHANE: No, 20, part C. Read the heading as well.

COMMISSIONER THOBAKGALE: Part C, the title:

> "Evidence of Political Interference or Undue Influence. I deal in this part with matters bearing on political interference or undue influence associated with the syndicate activity and allegations described in parts A and part B. The clearest example of undue influence identified in departmental records is the conduct described in case 7, above, in which a regional Commissioner is alleged to have used a personal relationship with an incarcerated offender to seek influence that the offender's hospitalization and visitation

arrangements, contrary to departmental policy, and in which correctional centre management resisted that influence and insisted on compliance with the standard procedures. That matter remains subject to ongoing disciplinary processes."

ADV SIKHAKHANE: Thank you. You will recall earlier when you started, we dealt with paragraph 69. Would you still want to deal with it, address it or contextualize it?

COMMISSIONER THOBAKGALE: Commissioner, my understanding is that we dealt with it thoroughly because I did review it and provide the context that it is not a case of political interference or undue influence. It is actually a case that had to do with ensuring that the procedures of the department are not compromised. I also indicated that it is addressed because of it being a matter of public interest while being reported in the media during that period. Thank you, Commissioner.

ADV SIKHAKHANE: Thank you. In terms of how it reads, I think it is addressed, I do not know, Chairperson, whether we should still read it because the witness has clarified it.

CHAIRPERSON: I think, yes, even in the morning.

ADV SIKHAKHANE: Yes.

CHAIRPERSON: In the morning already ...[intervenes].

ADV SIKHAKHANE: I do not want us to ...[indistinct]

[cross-talking] can we skip that paragraph.

CHAIRPERSON: I think we should.

ADV SIKHAKHANE: Thank you.

CHAIRPERSON: Not so, Commissioner? I think you have clarified everything you wanted to say there.

COMMISSIONER THOBAKGALE: Yes, Commissioner, I have.

CHAIRPERSON: Yes. May I just quickly ask a question that relates to this heading, evidence of political interference or undue influence. Does undue influence relate to undue influence generally or is it about undue influence by political actors?

COMMISSIONER THOBAKGALE: Undue influence would refer to undue influence generally, Commissioner.

CHAIRPERSON: Generally. All right, all right. No, no, I was asking in the light of paragraph 68, which does not involve a politician but rather a correctional services officer, a Regional Commissioner. No, thank you, you have answered me. Thank you.

COMMISSIONER THOBAKGALE: Yes, Commissioner.

ADV SIKHAKHANE: Thank you, Commissioner.

ADV KHUMALO SC: I have a question, Commissioner, still on this topic of political interference and undue influence and maybe infiltration. In your statement, you deal with matters affecting prisoners and correctional officers at a

junior level, those that interact directly with incarcerated prisoners. I want to ask you about Provincial Commissioners and you personally, have you ever experienced political interference or attempt at infiltration by criminal syndicates or people who are criminals on matters such as, for example, procurement relating to security features, whether there are CCTV or broader security around correctional facilities? So you have told us what prisoners do and what correctional officers at a lower level do, but because we are dealing with correctional services in general, I want to ask you the same questions, but in relation to you as National Commissioner and also the Provincial Commissioners that are responsible for the various regions. I do not know whether you call them Provincial Commissioners or Regional Commissioners.

COMMISSIONER THOBAKGALE: Thank you, Commissioner. With regards to myself, I have not been influenced or experienced attempts of being influenced. And with regards to Regional Commissioners, the case in point is the report from the SIU that has led to charges being proffered against the Regional Commissioner of KZN with regards to procurement matters that has to do with the Bosasa contract then.

In his attempt, the Regional Commissioner, to present himself as a whistleblower, he makes unsupported

allegations against me in the media and also, ja, mostly in the media, and to that extent, he also makes the same in the case he presented to the Public Protector, and I am on record earlier on indicating that there was no finding that he was a whistleblower and there was no finding that the National Commissioner was involved in those type of activities.

ADV KHUMALO SC: And I assume that on an annual basis you submit an annual report of the department to your Minister, is that correct?

COMMISSIONER THOBAKGALE: Yes, Commissioner.

ADV KHUMALO SC: And there is an audit of your department by the Auditor General?

COMMISSIONER THOBAKGALE: Yes, Commissioner.

ADV KHUMALO SC: Can we maybe be provided with those two documents so that we get a fuller picture of what is happening at departmental level as opposed to at correctional facility level?

COMMISSIONER THOBAKGALE: Yes, Commissioner, we will provide it.

ADV KHUMALO SC: So when you do your supplementary statement, you will make that available.

COMMISSIONER THOBAKGALE: We will submit it, Commissioner.

ADV BALOYI SC: Commissioner, still under the same

heading but not quite. It does not quite neatly fall under the heading. We, and it is again a theme about me trying to understand the cooperation and liaison with the other agencies. We have had evidence of, I think it is Brigadier Nkhwashu going to a correctional service centre, I think Kgosi Mampuru, wanting to see someone who was recently arrested, Mr Molefe.

ADV KHUMALO SC: It was Groenpunt, not Mampuru.

ADV BALOYI SC: I am told it is Groenpunt. Yes, where he went to see him and to deliver food and clothes, and the allegations or the report from your people at that centre were, he arrived with, in a vehicle that did not have a registration number and some detail, which seemed to have caused concern. Something like that, does it get shared? On the face of it, now knowing who Mr Molefe is and why he was arrested, in fact, at that time, on the face of it, it seems it would raise concern, you know, about his association. He is a SAPS member coming and effectively hoping to get a favour because he arrives outside of hours.

But more importantly for my question, that association, does correctional services share with, say, the SAPS, for example, that we have had your member, this General, his car, to visit this person who has been arrested on this very serious charge. Do your systems work in a way that that kind of information gets fed to the SAPS, because

he is a subject of interest, obviously, to the SAPS, that is Mr Molefe.

But now you have got a senior police officer who is clearly associated with him. Does that get shared or there is nothing that happens? Your members keep it as a record because they must record it and that is the end of it.

COMMISSIONER THOBAKGALE: They are required to share that information, Commissioner. We have provincial joints. That is where we manage operations with the SAPS. That is where we manage the flow of information. We also have the JOC's at the management area level. We allow police officers or any other officer of the law to interact with an inmate on the basis of an ongoing legal matter and it is recorded.

So the reason for the visit would have been provided and if it is a police official, that would be recorded and reported to the police because we work through investigating officers, not through any other. Yes, that is what I would say, Commissioner.

ADV BALOYI SC: My question on these facts, he got there and said, I am visiting my brother-in-law, but he is a senior General, and maybe they are related at that time, nobody knows whether or not they are related. So my question is, here is a senior General arrives and has come to see this person who is in custody on a serious charge, is it, does the

system work in such a way that, well, that in itself would raise suspicion even if later on it is found indeed they are related, there was nothing about it. But does it trigger a report to the SAPS by the DCS, even if it is just to say, look at this relationship if there is anything to it. That is the kind of question I am asking.

COMMISSIONER THOBAKGALE: Yes, Commissioner, if it is picked up, if the officer or official who attended to it picked it up. If they just looked at him presenting himself as a brother-in-law and the offender confirming that it would be a different case.

ADV BALOYI SC: This specific case, do you know if that was reported? From the evidence we have, including an affidavit from the official, the person in charge at the facility, on the day itself, the evidence we have is that, in fact, Mr Molefe said, I do not know this person, he is not my brother-in-law, you know, so there, I would think, a suspicion is immediately created and so I would have expected that it would have been cascaded up. I do not know what your structures work like, but with the intention that ultimately it ends up with the SAPS, at least the investigating officer, to say this person came. Do you know if anything of it came?

COMMISSIONER THOBAKGALE: I do not have information at my disposal at the moment, Commissioner.

ADV BALOYI SC: Okay. Is it ordinarily something that you would be told on these facts? I am talking about facts that involve a very senior member of the SAPS.

COMMISSIONER THOBAKGALE: It is ordinarily information that I would be told, Commissioner.

ADV BALOYI SC: Yes.

COMMISSIONER THOBAKGALE: And I would have dealt with it, followed up and made sure that we attend to it.

ADV BALOYI SC: Okay, thank you.

ADV SIKHAKHANE: Thank you. Just to follow up on the, you would have a conflict of interest policy within your department?

COMMISSIONER THOBAKGALE: Yes, we have, Commissioner.

ADV SIKHAKHANE: Okay. Will you also provide it as well?

COMMISSIONER THOBAKGALE: Yes, Commissioner.

ADV SIKHAKHANE: Thank you. Then go to your statement at paragraph 70.

COMMISSIONER THOBAKGALE: -:

> "I record that the department's placement, transfer and visitation decisions in respect of high-profile and high-risk offenders, including the matters of Mr Krejcir and Mr Prim, referred to in

Part B, are, to my knowledge, made exclusively on the basis of security, intelligence and operational considerations, and I am not aware of any instance in which such a decision was made or altered as a result of political instruction or interference."

ADV SIKHAKHANE: Continue.

COMMISSIONER THOBAKGALE: Part D:

"Legislation, policy and institutional arrangements for identifying and preventing infiltration or undue influence."

Subtitle:

"Legislative framework. Section 95A of the Act establishes the Departmental Investigation Unit, which is mandated to investigate theft, fraud, corruption and maladministration committed by department's officials. The provision, therefore, vests the unit with a clear investigative mandate to identify, expose and address misconduct and criminality within the department, thereby safeguarding the integrity, accountability

and proper administration of the institution. During the 2025/2026 financial year, the unit investigated a total of 72 cases which were referred to Code Enforcement for further processing. However, the DIU's effectiveness is constrained by limited investigative, intelligence and digital forensic capacity, insufficient formal cooperation with key law enforcement and NPA and legislative restrictions under Section 95A of the Correctional Services Act. It limits the DIU's investigative mandate to offences committed by DCS officials, preventing it from investigating members of the public, even where such individuals form part of a criminal syndicate involved in committing offences within correctional facilities."

ADV SIKHAKHANE: Sorry, Commissioner, I just want to take you back to, which is a bit of interest for me, which is paragraph 71. You are saying that the cases that were investigated were 72 and they were referred to Code Enforcement. Can you just elaborate more on that?

COMMISSIONER THOBAKGALE: Thank you,

Commissioner. The Departmental Investigation Unit would do investigations and Code Enforcement would play a role of prosecuting. So they would be the ones that then initiate disciplinary processes and also initiate referrals to law enforcement agencies outside the department.

ADV SIKHAKHANE: Okay, thank you. Please proceed to 73.

COMMISSIONER THOBAKGALE: -:

> "Section 95B of the Correctional Services Act empowers the National Commissioner to establish the Directorate Code Enforcement, which institutes and prosecutes disciplinary proceedings arising from investigations conducted by the Departmental Investigation Unit. During the 2025/2026 financial year, the unit instituted a total of 64 disciplinary cases. Section 95C of the Act empowers the National Commissioner to establish the Directorate: Inspectorate, which is responsible for compliance monitoring across the department."

If I may, Commissioners, just indicate there that when one took over in 2021, as the Acting National Commissioner, I reviewed the role of the Inspectorate. It

was more utilised in the department as a unit that was following up findings from the Auditor General's report. So it was doing more of implementation of the audit action plan to address the findings from the Auditor General's reports.

But the intention of having the Inspectorate is actually to ensure that it follows up on standard operating procedures that has more to do with incarceration security measures, to check, for instance, what I indicated earlier, that if you have, if an officer has inmates in the farm working, those inmates have to be searched on the hour. So the Inspectorate will come in and check such registers to ensure that the standard operating procedures are implemented and followed. So one has since then reviewed the action plan and the strategy of the Inspectorate to ensure that it does exactly what it was meant for.

ADV SIKHAKHANE: And in your view you would think, would the Inspectorate be successful in its operations or enforcement?

COMMISSIONER THOBAKGALE: Yes, Commissioner.

ADV KHUMALO SC: Maybe before you move to the other things, something has just come to my mind now. Other than the Minister, is there another body or institution that is responsible for oversight of correctional services? Like IPID, for example, there is an IPID judge. Do we have an equivalent that is responsible for looking after what

happens at correctional services?

COMMISSIONER THOBAKGALE: Thank you, Commissioner. We have the Judicial Inspectorate on Corrections that is presided over by a retired judge.

ADV KHUMALO SC: Yes.

COMMISSIONER THOBAKGALE: Its work is precisely to do oversight on correctional services with a more focus on the treatment of inmates. We are now taking the objects of JICS through Parliament. We are amending the Correctional Services Act and also bringing in the new JICS bill that gives JICS more independence for it to be able to do its work, ja, more appropriately.

ADV KHUMALO SC: Can you make that report available to us also, the latest one?

COMMISSIONER THOBAKGALE: Yes, Commissioner.

ADV KHUMALO SC: And also the steps Correctional Services has taken to implement.

COMMISSIONER THOBAKGALE: Yes, Commissioner.

ADV KHUMALO SC: Thank you.

ADV BALOYI SC: The improvements that you want to make, in the way that I understand you, you say that presently the Inspectorate looks at the, its focus is conditions of inmates, of incarceration. Are you seeking also to expand the powers of the Inspectorate to do more than just looking after the interests of inmates, as in

overseeing the work of officials, the conduct of officials? Is that what you are looking at?

COMMISSIONER THOBAKGALE: Yes, Commissioner. One of the new matters that we are looking at empowering JICS on, is on monitoring rehabilitation programmes, their efficacy and the outcomes of such programmes. The other one is that JICS would make recommendations and the National Commissioner would implement or not implement, but there was no provision in the law that the National Commissioner should explain why particular recommendations would not be implemented.

ADV BALOYI SC: Ja, it is still recommendations about the conditions of incarceration. My question is to try and see whether the improvements that you are proposing in the amended legislation, are they comparable, for example, to the powers of the IDAC judge to whom complaints about the conduct of the investigative directorate's officials can be escalated. It is nothing like, is it anything like that, or does it include anything like that?

COMMISSIONER THOBAKGALE: It does include receiving reports, investigating and acting on the conduct of officials.

ADV BALOYI SC: Thank you.

COMMISSIONER THOBAKGALE: Thank you, Commissioner.

ADV SIKHAKHANE: Thank you. And then you can

continue to paragraph 74, if I am not mistaken.

COMMISSIONER THOBAKGALE: It is 75.

ADV SIKHAKHANE: 75, okay.

COMMISSIONER THOBAKGALE: -:

> "The National Commissioner submits an annual report to Parliament on the activities and outcomes of these directorates in accordance with the department's statutory reporting obligations."

The next segment is the "Gang Combating Strategy".

> "The department's Gang Combating Strategy was approved in the year 2021. It is the principal policy instrument for addressing gangsterism within correctional centres. Its objectives are as follows, to maintain a secure and safe environment conducive to rehabilitation and to the attendance of remand detainees at court, to prevent and reduce the impact of disruptive groups, including gangs, on the management of correctional centres, to enable inter-sectoral cooperation between government

and civil society in promoting a correctional centre and community safety, to build knowledge of gangs and of effective combating responses so as to inform, review and improve the strategy, to develop programmes aimed at preventing and combating gangsterism and to combat gang activity among parolees and probationers under the Community Corrections. Operational measures implemented under this strategy include the separation of gang leaders by cell to disrupt continuous communication, the transfer or dispersal of high-risk gang leaders across correctional centres, consistent application of the disciplinary system under Section 23 of the Act, standardised gang profiling, tattoo documentation and maintenance of a gang register across all management areas, enhanced main gate management, regular searches and monitoring through security systems, family support structures delivered through social work services, structured

attention to offender complaints and requests under Section 21 of the Act. The department is continuously reviewing and updating the Gang Combating Strategy to ensure that it remains responsive to evolving criminal threats and changes in the crime profile within correctional centres. The strategy is annexed as Annexure MST14."

ADV SIKHAKHANE: Commissioner, I just want to interrupt quickly. You say that the department is continuously reviewing. What are the intervals? As I understand, is it every 5 years in terms of the Act or how regular is it?

COMMISSIONER THOBAKGALE: It is every 5 years. We are actually currently in the process of reviewing the strategy. It is an intense process that takes us between 6 to 12 months because we have to work on the information and update as per the paragraphs that I have read out. Thank you, Commissioner.

ADV SIKHAKHANE: At this point, it is not anywhere near being able to be in a draft that we can see?

COMMISSIONER THOBAKGALE: I will just have to check with the process.

ADV SIKHAKHANE: Thank you.

COMMISSIONER THOBAKGALE: Thank you,

Commissioner.

ADV SIKHAKHANE: Please proceed to the next sub-topic.

COMMISSIONER THOBAKGALE: -:

"Fraud and anti-corruption framework. The prevention of fraud and corruption within the department is anchored in the Constitution of the Republic of South Africa, the Public Administration Management Act, 11 of 2014, and the Public Finance Management Act, 1 of 1999, and the National Anti-Corruption Strategy of the department and Government. The department has adopted internal anti-corruption and fraud prevention policies articulating a zero-tolerance stance and defining reporting mechanisms and lines of responsibility. During the 2024/2025 financial year, the department conducted 51 anti-corruption awareness sessions reaching 1,179 officials; in the 2025/2026 financial year, 50 sessions reaching 3,355 officials."

"Disclosure of interest", the next subtopic.

"Members of the department's senior management service are subject to

financial disclosure framework applicable across the public service under the Public Administration Management Act and the public service regulations which require the annual disclosure of financial interest to the relevant executive authority. For the 2025/2026 and 2026/2027 financial years, all senior managers disclose their financial interest with the exception of one who has been on suspension. A lifestyle audit has been directed and it will be conducted in this regard as being on suspension cannot be utilised as an excuse for not disclosing. Only senior management services, assistant directors and equivalents, middle management services and equivalents including equivalent occupational specific dispensation roles are required to disclose annually. This limitation is of particular concern in the context of correctional services where officials may be exposed to risks of undue influence, conflicts of interest, corruption and improper financial

relationships."

ADV KHUMALO SC: Commissioner, before you go to the next topic, I am going to ask you a difficult question because I think South Africans deserve to know if this is true or not, and this is an allegation, it could be true or false, it could be made up. But there are allegations, one reads them in the media or hears them in the corridors or as you are talking to members of the public that prisoners are smuggled out of prison to commit crime and then are sent back to prison to continue with their daily life. Have you ever come across a case like that in any of the reports that have come to you?

COMMISSIONER THOBAKGALE: Commissioner, I have not come across an example or that type of an instance. I did indicate earlier on in giving my testimony that an escapee like the one of Rooigrond that I have characterized as an air force, I indicated that the witnesses that we do not investigate what happens during the time that an escapee is out, what we have established, even through his own statement, is that in 2022, the four of them were assisted to escape.

So, putting it bluntly, in his statement he is indicating that they walked out. Again, now in 2026, he gives a statement to say he walked out. So, what we are now looking into is why would, apart from the fact that he

was threatened, is that the real reason and what else would he have involved himself in? So, the smuggling out, I have not experienced such. Thank you, Commissioner.

ADV KHUMALO SC: And you are not aware of such reports other than the two that you have mentioned?

COMMISSIONER THOBAKGALE: I am not aware of such reports, except that I have also heard that there is something of that nature being talked about. I have not yet confronted that.

ADV KHUMALO SC: In a country like ours where crime is such a serious issue, it would be a big problem if that was true, where prison officials allow convicted criminals to go out to commit crimes and to come back and continue with their sentences. I am sure you will agree with that.

COMMISSIONER THOBAKGALE: I will agree with that, Commissioner. That is why in instances where there is what we call an erroneous release, that is where an inmate will have further charges, goes to court, attends a particular case, and then get acquitted, but through administration, it is not brought back into the correctional facility. What we do, we also investigate that instance with the NPA, with the police, because we do not want to leave those types of cases without understanding what exactly happened. And in instances where we find officials having done wrong, we attend to them.

ADV KHUMALO SC: And because we were dealing with the plan that you have in place and the framework, does it make provision for monitoring of, so say, for example, somebody is in custody, how do you monitor on a daily basis that they remain in the correctional facility where they have been sent, and there are no instances where they are unaccounted for, for a number of days or even a single day? How do you monitor on a daily basis that if somebody is in Kgosi Mampuru prison, for every single day of the month they remain there? Do you have a system that ensures that?

COMMISSIONER THOBAKGALE: Yes, Commissioner, we have a biometric system. We also have the information on file, like the profiles. Most importantly, every day during lockup, we tally the numbers against the heads that we would have counted and seen. If we miss one head, we do not close the report for that afternoon. We have to count, recount, and even match the information throughout the whole facility. There is no instance where we lock up with even one head missing.

ADV KHUMALO SC: Thank you.

COMMISSIONER THOBAKGALE: Thank you, Commissioner.

ADV BALOYI SC: The system, even as you describe it, is not insulated from people going around it. I mean, we have

the, granted, it is what is in the media, but you have the infamous story of Mr Thabo Bester, that he was taken out, spent afternoons at a hotel with his partner. You have those kind of things. Other than, is it a system problem that permits something like that to happen, in that people can, you do not have the means, maybe electronic, if you like, integrated security may well prevent that. I do not know whether it means where he was held there was no integrated security. But it sounds like your system is not completely insulated from people possibly doing, officials possibly doing what Commissioner Khumalo is speaking about. We have the Thabo Bester story to go with that. It does happen.

COMMISSIONER THOBAKGALE: Yes, I admit, Commissioner, it does happen.

ADV BALOYI SC: Yes.

COMMISSIONER THOBAKGALE: In the case of Thabo Bester, he was removed from a section that allowed the security systems to have surveillance on him. He was put in a section where if he walks out of that cell, there is a door that he accesses to go out. And when we did the investigation, we actually uncovered that it was a blind spot. So this is a case where officials plan and execute this type of security compromises and lapses.

ADV BALOYI SC: A different question. You tell us in

paragraph 81 about this senior manager who has refused to disclose his financial interests, and as a result, a lifestyle audit will be conducted in this regard. Is there not a generally applicable requirement that certain levels of employees, and I think it is senior managers, should undergo a lifestyle audit every so often? Is that not, I may have misunderstood. I mean, there is a case that is playing out in the media, and my understanding of that was that there is an instruction or a decision that certain levels of management in government and its agencies must undergo lifestyle audits, and I may have misunderstood it. Is there nothing like that that would apply to your people?

COMMISSIONER THOBAKGALE: It is there, Commissioner. To get to a point of conducting a lifestyle audit, it will be on the basis of information. The disclosure, non-disclosure, the vetting status also, because officials are vetted, and when they are vetted, it is an involved process with regards to their accounts, their accounts of the families and so we order lifestyle audits on the basis of the analysis of the information, and then that is why this one is an isolated case, because the official concerned did not submit information on disclosure and then there will be also, out of the disclosure of information submitted to the Public Service Commission, exceptions that would come back to the department, and on the basis of those

exceptions, we follow up the official's explanations.

For instance, where an official, it is picked up that he owns a vehicle that is not disclosed, but when we follow up with that official, the vehicle was sold three or four or five years ago. So it is part of what I would call an involved process of information management, and then we then do a lifestyle audit when the need arises. Ideally, we should be doing lifestyle audits, regardless of the information that we are managing, and that is one of the things that we are looking into, especially because it needs capacity, it also needs resources, as it is an involved process, but it is a weakness. We are entering into discussions with the SIU to see how the SIU can help us. We intend to sign an MOU with the SIU. Thank you, Commissioner.

ADV BALOYI SC: And the vetting is done how often, at which point? Is it when you take up a position, you get employed, you do vetting, does it ever happen again? How does it work?

COMMISSIONER THOBAKGALE: Everything is done on a 5-year basis, because ...[intervenes].

ADV BALOYI SC: It is valid for a period, right?

COMMISSIONER THOBAKGALE: For a period, yes, Commissioner.

ADV BALOYI SC: So it is valid for what, for 5 years?

COMMISSIONER THOBAKGALE: For 5 years,

Commissioner.

ADV BALOYI SC: And then at the end of 5 years, if you are still in the position, you get done again?

COMMISSIONER THOBAKGALE: We do it again, Commissioner.

ADV BALOYI SC: And with promotions?

COMMISSIONER THOBAKGALE: With promotions, I must indicate that it does not, it still holds. It only gets to be done if you move to a higher classification of security clearance. You could be cleared confidential, and then you move into a position, for instance, of a National Commissioner, we now have to redo it again with the State Security Agency because now you need a clearance of top secret. Thank you, Commissioner.

ADV BALOYI SC: And the financial disclosures that you say get, are done to the DPSA, I think you said, how often are you required to make those financial disclosures? Is it annual? Is it in that 5-year period, you do it once and that is that?

COMMISSIONER THOBAKGALE: They are done annually.

ADV BALOYI SC: They are done annually.

COMMISSIONER THOBAKGALE: And they are reported annually.

ADV BALOYI SC: And is there a system or mechanism to verify what is disclosed, whether, verification either by the

DPSA or anybody? Or is it completely reliant on what the employee chooses to disclose, and that is the end of it?

COMMISSIONER THOBAKGALE: The verification system, Commissioner, is done by, is under the Public Service Commission.

ADV BALOYI SC: Okay, yes, thanks for the correction. Ja ...[intervenes].

COMMISSIONER THOBAKGALE: Thank you, Commissioner.

ADV BALOYI SC: And is it, so let me understand, is it, I disclose my information, I am the one that makes the disclosure as an employee?

COMMISSIONER THOBAKGALE: Yes, Commissioner.

ADV BALOYI SC: Then my question is, does its integrity and reliability depend entirely on what I disclose? There is no verification mechanism that checks whether my disclosure is complete, whether I have accounted for everything?

COMMISSIONER THOBAKGALE: Commissioner, I would say partly, because there is a form that requires the incumbent to disclose information, and then the form is taken with the supporting documents to the Public Service Commission. Then the Public Service Commission does the verification and gives the results back to the department with sanctions, if there are any, recommended.

ADV BALOYI SC: Then lastly, in paragraph 82, you say that it is a limitation that the financial disclosure requirements are limited to those people, I think you say it is senior management, assistant directors, equivalents, and middle management, which are required to make the annual disclosure, and you describe that as a limitation. In your view, how far should it go and is that something that you are advocating for within the department to extend it to other categories? You refer to it as a limitation, hence my question.

COMMISSIONER THOBAKGALE: Yes, Commissioner, I advocate for the disclosures or the vetting to happen to the lowest level that gets exposed to inmates in a correctional setting and at the moment, it is not happening. What we are doing in the department is what we call suitability checks, and those would be random based on the information that we receive about alleged activities of an official or instances where an official gets promoted. We then do the suitability check.

ADV BALOYI SC: What is a suitability check, what do you look for?

COMMISSIONER THOBAKGALE: We look for criminal records. We look for disciplinary, pending disciplinary processes. Those would be, that would be a cursory kind of a check. We also look for associations if that official would

have been associated with criminals or any syndicate. We also do that when we administer the recruitment of new members, those that we take to college and I am identifying it as a limitation because in some instances, we discover that a particular recruit would have links with the gangs already when that recruit is at the college. That is why I am advocating for this to be intense.

ADV BALOYI SC: And when you say advocating, is it a project that has been, you are actively undertaking to get that change, or is it still at an idea level?

COMMISSIONER THOBAKGALE: It is a project that we would undertake, Commissioner, if we have the resources to. The limitation is we tend to attend to live wires than the prevention and we invest our resources in dealing with the current security lapses or environment.

ADV BALOYI SC: Yes.

COMMISSIONER THOBAKGALE: The prevention is not given that attention because of resources.

ADV BALOYI SC: Thank you. Thanks, Mr Sikhakhane.

ADV SIKHAKHANE: Thank you, Commissioner. I think some of the questions are covered. Just one on that paragraph 1801. Just out of curiosity with this individual, is it the same, the Regional Commissioner from KZN or someone else?

COMMISSIONER THOBAKGALE: Yes, Commissioner, it is

still the same official.

ADV SIKHAKHANE: It is the same official.

COMMISSIONER THOBAKGALE: The Regional Commissioner of KZN.

ADV SIKHAKHANE: And what steps are being taken for this, because I think Commissioner Baloyi was pointing to the fact that that would be mandatory. So on your side, as the one in charge and in control, I am sure you cannot just leave it at that he is evading it. What steps are you taking to make sure that he complies?

COMMISSIONER THOBAKGALE: The step that one has taken is to sanction the audit, the lifestyle audit, because it is now a confirmed process that is in our control of getting the information that we would have received under financial disclosure.

ADV SIKHAKHANE: So you are saying you have ordered a lifestyle audit on this individual?

COMMISSIONER THOBAKGALE: Yes, Commissioner.

ADV SIKHAKHANE: And then in terms of consequence management for failing to do so, is he charged for it or not?

COMMISSIONER THOBAKGALE: Commissioner, it would be one of the charges that are proffered as part of the disciplinary process.

ADV SIKHAKHANE: Okay. Then please go to your next subheading. We are going to come back to it. Subtopic

"Institutional and Systemic Constraints".

COMMISSIONER THOBAKGALE: -:

"I confirm that the department does not have a dedicated criminal intelligence capability comparable to that of the State Security Agency or SAPS Crime Intelligence and that intelligence on organized crime and syndicates operating in correctional centres is obtained through intergovernmental cooperation and information sharing arrangements with those and other law enforcement partners. Of the department's 243 correctional centres, 228 remain of the older linear fortress-style design reliant on manual labour-intensive security systems that are more susceptible to manipulation by officials. Only 15 are new generation facilities equipped with integrated security systems from the design stage. The department has been investing progressively in retrofitting integrated security systems to older facilities albeit the constraint of the available budget. Further systemic

constraints identified by the department, *inter alia*, include inadequate availability of integrated security systems and related security technology, slow progress in vetting of officials occupying sensitive positions, namely Deputy Commissioners, the directors, Area Commissioners, head of centres and unit managers. Chief Deputy Commissioners have already been subjected to vetting. Budgetary constraints affecting security infrastructure and investigative capacity, insufficient investigative personnel, tools and experience to conduct complex investigations, the need to review and strengthen the Gang Combating Strategy as an input to the strategy to deal with organized crime, persistent shortages of security personnel strength as compared to dealing with gangs, syndicates and basic security requirements, severe overcrowding, challenges in placement and transfer of foreign national offenders, and the need for regulatory reform to address repeated court

postponements involving remanded detainees and low value bail thresholds, both of which contribute to overcrowding. Part E, reports directed to oversight bodies. As indicated earlier, the National Commissioner reports annually to Parliament on the activities and outcomes of the Departmental Investigation Unit. The Directorate: Code Enforcement and the Directorate: Inspectorate established under Sections 95A to 95C of the Correctional Services Act. Individual high-profile incidents, including several of the matters described in Part B, have also been subject of public media statements by the department. Reports submitted by the departmental oversight bodies include the Judicial Inspectorate for Correctional Services, the Parliament Portfolio Committee on Correctional Services, and the Auditor General dealing specifically with gang infiltration, official compromise, or matters set out in Parts A to C of this statement."

And this could be made available if required. I regard this as a further gap that the department should address. I undertake to cause the relevant business units to compile such a schedule to depose to a supplementary statement, alternatively, to make the underlying reports available to the Commission on request. Here I refer to the reports that we periodically submit to Parliament and other oversight bodies, Commissioners. Thank you.

ADV KHUMALO SC: Just to be clear, the gap you are referring to is the reports in paragraph 87?

COMMISSIONER THOBAKGALE: Yes, Commissioner.

ADV SIKHAKHANE: Thank you.

ADV BALOYI SC: Commissioner, we do not have the benefit of those reports. What is the gap that you are speaking of? Why is there a gap in respect of these reports?

COMMISSIONER THOBAKGALE: Yes, Commissioner, the gap that I am talking to is the fact that we did not submit a schedule of the reports.

ADV BALOYI SC: Thank you. Thank you.

ADV SIKHAKHANE: Thank you. I do not intend to be long there, just a few questions that I would like to have with you, with the permission of the Commissioners. I think some of them we have covered, and I do not want to belabour or repeat some of the questions, and some will be

addressed by the National Commissioner. There is a point that was raised by Commissioner Khumalo about allegations of inmates being accused to have been escorted out or let out to commit crimes and then enrolled back to the system. Now in paragraph 84 of your statement, you talk about 228 centres being of the old order, meaning their technology is not up to scratch, which is probably over 80% of the facilities. Would you agree with me that what would that mean is that the manipulation, so you cannot clearly say that officials or dispel that allegation positively, that such manipulation does happen?

COMMISSIONER THOBAKGALE: Yes, Commissioner, I cannot dispel that allegation 100%. And again, I will go back to the Rooigrond escape. The integrated security system in that facility needs repairs, so there are some sections where it does not operate, and the inmate has made a statement to say he walked out. So in those instances, if you look at the 228, we run a huge risk of such happening.

ADV SIKHAKHANE: And you would have reported this to the Parliamentary Committees?

COMMISSIONER THOBAKGALE: In instances, yes, where we find out ...[intervenes].

ADV SIKHAKHANE: [Indistinct]... [cross-talking] incidents.

COMMISSIONER THOBAKGALE: Yes, or in instances

where we confirm such incidents through investigations, we do report to the Portfolio Committee and Parliament.

ADV SIKHAKHANE: Thank you, and that is why also I would understand that that is why you are saying there may be constraints about budgets.

COMMISSIONER THOBAKGALE: Yes, Commissioner.

ADV SIKHAKHANE: Okay.

COMMISSIONER THOBAKGALE: The integrated security system is a force multiplier. It reduces reliance on, as I indicated in the statement, on manual processes. For instance, in cases where you do not have the integrated security system, you have to rely on towers. Now, it means you have to deploy members to man the towers. At the same time, you also have to rely on patrols.

Now, it depends on the number of vehicles you have and the number of officials that can operate such vehicles. In some instances, inmates and members of the public know, because our correctional facilities cover quite an involved radius, they know that if a patrol van goes that direction, it will take about 30 minutes to come back to this direction and those gaps are gaps that provide opportunities for such security incidents to be.

ADV BALOYI SC: Commissioner, allowing for availability of budget is a constraint, there surely must be a plan today, as we sit, of, you have 228 facilities. There must be a plan

somewhere where you are looking at, next year this is where we will be, and it is a 5-year plan or 10-year plan, whatever. Can you talk to us about that, if there is such a plan?

COMMISSIONER THOBAKGALE: Yes, Commissioner, there is such a plan and it involves three aspects. The first aspect is to ensure that we do not have integrated security systems where they are in facilities and they are not manned, because they are manned by private security service providers, so when, if contracts lapses, we make the point that before the lapse, there is a contract in place because there needs to be continuous maintenance and operation. Of course, operation is done by our officials.

The second aspect is those that do not have, we try to implement a process of fitting. So, for instance, we are talking here about 15 new generation facilities. They are running those ones. Since 2021, gradually, we have implemented the fitting process to 35 out of the 228. So every year we add, given what we have from the budget allocation that we would have received from Treasury.

ADV BALOYI SC: And in this plan, if you anticipate that you would have rolled out what percentage over what period? I am assuming the plan goes that far.

COMMISSIONER THOBAKGALE: Yes, Commissioner, it is an infrastructure implementation plan that is 5-year based,

every 5 years. It links to the strategic plan term of a government department. Our aim was that at least in 10 years from 2022 we would have rolled out the integrated security system to at least 50% of the 228.

ADV BALOYI SC: And are you on track to meet that 50%?

COMMISSIONER THOBAKGALE: We are not on track because as I have indicated it is a function of the available budget.

ADV BALOYI SC: Thank you.

COMMISSIONER THOBAKGALE: We have also prioritised given the type of correctional facilities. For instance, in the Western Cape, Brandvlei, we have prioritised it because that is where when we have an overflow of gang members in Pollsmoor, and, ja, we take some of the gang members to Brandvlei, we also take the leaders to Brandvlei because that is where you have a secured section of single cells where we can monitor them properly. So those types of institutions like Ebongweni, the super maximum, we make it a point that we prioritise those and Kgosi Mampuru super maximum also. Those ones should continue to work regardless of what constraints we might have.

ADV SIKHAKHANE: Thank you. This plan, I think what Commissioner Baloyi was getting at was it is a routine plan that you can submit to us.

COMMISSIONER THOBAKGALE: Yes, Commissioner, it is

an infrastructure plan.

ADV SIKHAKHANE: Okay, will you also submit it?

COMMISSIONER THOBAKGALE: Yes.

ADV SIKHAKHANE: The point that I was getting to was that if over 80%, so to speak, if we use the percentage loosely, is susceptible to manipulation by officials, we will get to that, coupled with the issues that arise, what is the likelihood of, let us call it infiltration? What are the risks that are there with these numbers in relation to the centres?

COMMISSIONER THOBAKGALE: Commissioner, the likelihood is high, as I have indicated, because you rely on the human factor.

ADV SIKHAKHANE: Then let us go to your page, of that same statement, page 9. Now, you will recall earlier we dealt with the issue of officials and their involvement in smuggling cellphones and contraband. You recall when we spoke about that?

COMMISSIONER THOBAKGALE: Yes, Commissioner.

ADV SIKHAKHANE: Yes. And I think when one looks at the cases, and I think I pointed out to you earlier, is that some of these cases that you have cited as examples would have required communication, which is cellphones that would be used between someone inside and someone outside for nefarious purposes. You will recall that discussion. Now, and I said it is very important that

cellphones need to be controlled, or communication, as it were. Now, at paragraph 29, we have got a table of contraband. Now, I want us to just have a few issues about that. Now, you are appointed in 2022. You were acting from 2021.

COMMISSIONER THOBAKGALE: Yes, Commissioner.

ADV SIKHAKHANE: Now, we see the contraband in terms of volumes or values goes higher, and I will start with cellphones. In 2023/2024, just a year after, you are sitting at 30,251 instances of contraband, of cellphones.

COMMISSIONER THOBAKGALE: Yes, Commissioner.

ADV SIKHAKHANE: This year, you are sitting at 39,000. Can you then explain to the Commissioners why is this such an increase? Is that, one would hope that you, as the person in charge, will try and lower those statistics.

COMMISSIONER THOBAKGALE: Commissioner, there is an increase because of the surge, the raised operations, and the cell inspections that we insist on. These are the recorded contrabands that we would have captured in the system. Now, we are coming out reporting these figures every week because we want to also demonstrate that we go out there to get them. Yes, the proliferation is not stopping and it is also worsened by the overcrowding that we are experiencing that I talked to earlier, and also our capacity to manage the movements from outside, inside,

and also within the correctional facility. But this is a reflection of the work that we do in going out to search, raid, identify the information that we get, we act on it. The numbers continue to be worrying, but this is a reflection of what we have in the system.

ADV KHUMALO SC: I know there are other variables at play, but just looking at that number, let us say 40,000, and you have 160,000 inmates, that is like one in four. I mean, I know the other variables that you can throw in ...[indistinct], maybe Khumalo, you found him with five cellphones in one year. So there could be those variables at play, but just looking at the raw numbers, 160,000 inmates in one year, 40,000 cellphones, that suggests that one in four inmates are in possession of a cellphone while in prison and they cannot be doing it for lawful purposes because having it in the first place is unlawful.

COMMISSIONER THOBAKGALE: Yes, Commissioner. The other variable that is at play is that upon confiscating such contraband, the SOP's require our officials to take them out of the unit, report them to management, and they get disposed of through our partnership with law enforcement. In some instances, we find our own officials recycling the same.

So I agree with the Commissioner that it might not be a new gadget. There is one official that we are pursuing

at Kgosi Mampuru that we found with contrabands that were confiscated from the raid in his office, and he could not give an explanation why he did not follow the standard operating procedures to dispose of. That is a risk that we are exposed to. Thank you, Commissioner.

ADV KHUMALO SC: Lastly from me, when you started, you gave us the stats of the number of beds, the number of correctional facilities, the number of inmates. What you did not give us is the number of escaped, convicted prisoners. In other words, those that were convicted were sent to a correctional facility but are still out at large because they escaped. Can you, I mean I do not want to put you on the spot, but maybe in your supplementary statement, just provide that detail.

COMMISSIONER THOBAKGALE: We will provide the detail, Commissioner.

ADV KHUMALO SC: Thank you.

COMMISSIONER THOBAKGALE: Thank you, Commissioner.

ADV SIKHAKHANE: Just on the issue of the cellphones, two more questions and I am off it. And what Commissioner Khumalo is rationing is indeed worrying, which is one in every four prisoners. What I want to understand is this. Were you saying that the figure of 39,000 is as a result maybe of improved searches as compared to 30,000? Or

did I understand you well at some point about that?

COMMISSIONER THOBAKGALE: Yes, Commissioner, I am indicating that partly it is as a result of the searches. I have also conceded that the other attribute is the fact that the cellphones get to be brought in and the rate of bringing those cellphones into correctional facilities, we at the moment cannot control to a minimum. We try to do that through the operations that we mount. Thank you, Commissioner.

ADV SIKHAKHANE: And then in terms of planning, what steps do you take? I mean, I think if you get to office, let us just use the first year of 2023/2024, and you are confronted with 30,000 cellphones or a report, surely that being a worry, is there a plan, a progressive plan to address these contraband issues, because as you see, the reason I am concentrating on it is that it allows the cases that we see, which in some instances have led to the loss of life.

COMMISSIONER THOBAKGALE: Thank you, Commissioner. We, on a weekly basis, as I have indicated, receive an operational report. The operational report would identify facilities that would be the top 10 in a region, where these numbers would be coming from. What we then do, we do what we call a threat and risk, security threat and risk assessment. So we send a team from head office, from our

advanced security officials, the EST, to go in and do a threat and risk assessment, and then we develop a security plan that we hold the management area in the region to implement. Part of the plan would be to intensify the searches and the raids, and also to ensure that areas we have identified of security risks, whether it is infrastructure or in terms of the deployments of the officials, are addressed.

ADV SIKHAKHANE: Then, can you make us understand what is, if someone or if an official is found to have either assisted or is in possession of a cellphone, or at least it is found that he smuggled for a prisoner a cellphone, what, in terms of the disciplinary sanctions, what is the sanction for that?

COMMISSIONER THOBAKGALE: Commissioner, that is one of the weaknesses we have in the system. We do not have a specific pre, let me put it this way, a specific determined sanction. The disciplinary processes are administered on the basis of us having to prove our case before a Chairperson, independent, and the outcome is an outcome that is given by the Chairperson of a disciplinary hearing.

So, in some instances you would find that the conclusions and the sanctions from the Chairpersons are not the ones that satisfy us as the department, so we review

those cases, take them to other labour relations forum. In some instances, given the circumstances of the case and the evidence, we accept as an outcome of a disciplinary process.

ADV SIKHAKHANE: So, there is no, at least a guideline as to what the Chairperson of a hearing would recommend as a sanction, is that what you are saying?

COMMISSIONER THOBAKGALE: There are guidelines.

ADV SIKHAKHANE: There are guidelines.

COMMISSIONER THOBAKGALE: The point that I am making, Commissioner, is that it is an independent process that we influence through prosecution input and the outcome then is an outcome determined by the Chairperson.

ADV SIKHAKHANE: And then let me ask differently, if in the past, and if you cannot answer that is fine, you can address it later in your supplementary statement, in the previous cases where officials have been found to have had cellphones, as you say, with that official in Kgosi Mampuru, and other officials elsewhere, either they were in possession of a cellphone or there is evidence that they assisted an inmate smuggle a cellphone. Just out of those records, what have been the sanctions?

COMMISSIONER THOBAKGALE: They differ between dismissal, in some instances suspension without pay, final written warnings and written warnings. And as I have

indicated, these are the outcomes of disciplinary processes. Thank you, Commissioner.

ADV SIKHAKHANE: Thank you. So, it could well be that one of the problems that, and it is not on you *per se*, is that one of the reasons you have got these escalating numbers is that officials may not be scared or fearful of the sanctions. So, he is not going to lose a job or she is not going to lose a job. It could end up with a suspension or just final written warning, depending on the Chair.

COMMISSIONER THOBAKGALE: Yes, Commissioner, that is, in some instances, that is the case. As I have indicated earlier, when you interact with management or officials, when you are in a correctional facility, there will be those that will indicate that this one is a known smuggler. So, this type of officials actually celebrate coming back to work and that is why we continue to follow them to ensure that we mount operations. And if we can, when we catch them, we make it a point that they do not have that opportunity to celebrate coming back again.

ADV SIKHAKHANE: And obviously, with that risk, just the last point on that, with that risk, then it may be difficult for other officials to give evidence if they know that the consequences are not serious. So, someone may come back and actually victimise them as a gap.

COMMISSIONER THOBAKGALE: Ja, there is that risk,

Commissioner. Our investigations are not conducted by officials that would be working in a particular management area. We ensure that we bring in officials from other management areas or from other provinces. We also provide training to our initiators. At least that helps us to mount a prosecution that is stronger during these disciplinary processes.

ADV SIKHAKHANE: Sure. Well, I think you said you addressed the cases of the 1,000, because for me that is where it takes me to at the later stage. Now, coupled with that, what then follows is that, as some of your cases, is that you have got instances where gang leaders from outside, I think you had a debate with the Chair, but that is not that case, where someone is legitimately conducting a business, but where there is instances of a gang leader being imprisoned, but it could be discovered, or at least you could have some suspicion that they still influence other activities outside, what measures do you take in order to ensure that those leaders who are inside do not have control or continue with their criminal activities, influencing the outside world, if any?

COMMISSIONER THOBAKGALE: Commissioner, I did indicate that on a weekly basis we update the high risk and the high profile list of offenders region. The first step that we take is to make it a point that that type of an inmate or

offender is housed in a maximum security facility, isolated, single cell, and the officials that interact with that inmate would be selected officials that are rotated over a period of time.

Now, those sections of the correctional facilities would be sections where, as I indicated also earlier, the integrated security system would work. So we will monitor interactions between this officer and that inmate. In instances where we start to see a flowing conversation, we identify that as a risk and as part of the lower level risk mitigation measures with regards to ensuring that the relationship does not compromise the crossing of the boundary between an inmate and an official. So we manage those type of inmates, the gang leaders, on a focused individual basis to make it a point that they do not influence what is happening in a correctional facility.

In some instances we actually remove them from a particular region or province, as it is in the case of those that we have accommodated in Kokstad, the super maximum in KZN. Thank you, Commissioner.

ADV SIKHAKHANE: Sure. One of the examples that I just wanted to highlight, if you go to your annexure file, file 2, there is a report, page 51, that is MST6.

CHAIRPERSON: You said which page?

ADV SIKHAKHANE: Page 51.

CHAIRPERSON: File 1, thank you.

ADV SIKHAKHANE: Now, I think this is one of the examples where someone who was inside continued to be active and even, I think in terms of this report, if you turn over the cases that were there, cases at 3.2, murder, possession of, well, I think they are defeating ends of justice that are related to him, but more particularly if you go down at 3.3.1, these are cases of this offender who is inside but then gets to be charged with these cases. This is in 2023. What measures have you taken to prevent these instances from happening?

COMMISSIONER THOBAKGALE: Thank you, Commissioner. As one has indicated, an offender in this instance, offender Mpangani, would be transferred to a maximum facility and we will ensure that the interactions and his mobility is closely monitored.

ADV SIKHAKHANE: So are you saying that that is where he is now, he is been isolated?

COMMISSIONER THOBAKGALE: Yes, Commissioner.

ADV SIKHAKHANE: Okay. And these cases are still ongoing, he is attending them?

COMMISSIONER THOBAKGALE: Yes, Commissioner. The police are still investigating, and the investigations include the identification and also the, ja, the identification of officials that would have assisted him ...[indistinct]

[intervenes].

ADV SIKHAKHANE: [Indistinct]... [cross-talking] investigation.

COMMISSIONER THOBAKGALE: Yes, the SAPS is still busy with that investigation.

ADV SIKHAKHANE: Okay, then I will not press more on that. The other issue that I wanted to take, or the second last issue *per se*, is the issue of the reports that you are given. I think earlier on you said there are instances, or isolated instances, where the reports given to you may be incorrect or misleading.

COMMISSIONER THOBAKGALE: Yes, Commissioner.

ADV SIKHAKHANE: And I was not able to get to a particular point whether that was at the start of your joining or it is still something that happens now, But irrespective, if you could just assist us, what steps do you take or have you taken to avoid this from happening?

COMMISSIONER THOBAKGALE: Thank you, Commissioner. The first step is to ensure that officials do sign the reports and then in as much as, especially with senior managers, they are not, some of them are not happy with that. I insist on an original signature, not an electronic one, because one is eliminating the possibility of an official alleging something else with regards to an electronic signature.

The second step is, upon considering the reports in the office, where we pick up that we need to verify the facts, we do so and we also investigate such reports. And where we confirm that the facts are a misrepresentation, we take those officials through disciplinary processes.

ADV KHUMALO SC: While we are on the issue of reports, can you go to page 116, please? Are you there, Commissioner?

COMMISSIONER THOBAKGALE: Yes, yes, Commissioner.

ADV KHUMALO SC: Just flip to 77 quickly so that you will see what the report is about. It starts on page 77. And this is an issue we have had with General Lebeya when he was here. So it is a report on the transfer of high-risk offenders from the prison in KZN to the Western Cape. Now, if you go to 117, you sign that report at the end of 117. But the report itself has 10 recommendations and they are separate recommendations because you have to approve or disapprove or amend each of them. But you do not seem to have done that.

So it is not clear to me, looking at page 116, which of the 13 recommendations you accepted or did not accept or amended. And we had an issue with General Lebeya because he received a similar report and for five years or so he did nothing because he said the General that prepared the report must come and discuss one

recommendation with him and because of that, the other recommendations were never implemented. So I think as a matter of policy going forward, the officials must be clear which recommendations they accept, which ones they do not accept, which ones are to be implemented.

COMMISSIONER THOBAKGALE: I agree, Commissioner. This report is of an investigation that was done in 2024. So what we included here is what was generated in the system, not the actual investigation report itself. So the actual investigation report that is in the hands of Code Enforcement will have page 45 having decisions that I have taken as a National Commissioner.

ADV KHUMALO SC: So there is a hard copy where you have dealt with this?

COMMISSIONER THOBAKGALE: Yes, Commissioner.

ADV KHUMALO SC: So this one was just a system copy?

COMMISSIONER THOBAKGALE: This is a system copy, and I want to apologize for that ...[intervenes].

ADV KHUMALO SC: [Indistinct]... [cross-talking] give Commission and when I read this I was worried that it is not clear which recommendations you accepted or did not accept. And this is, as you said, a serious issue. It also involved departmental vehicles being damaged. Somebody you described as one of the most dangerous incarcerated offenders being moved from one province to another in

circumstances where you had not approved that transfer.

COMMISSIONER THOBAKGALE: Yes, Commissioner.

ADV KHUMALO SC: But I will accept your answer that there is a hard copy report where you have accepted the recommendations and you have implemented them.

COMMISSIONER THOBAKGALE: Yes, Commissioner, I request to also be allowed to submit that.

ADV KHUMALO SC: Thank you.

ADV SIKHAKHANE: Thank you. I think if you go to, just while we are here, go to page 126. Some of these reports, I think all of them, there is some ambiguity with them that I, or not ambiguity as such, but things that need to be clarified for me by yourself. One is, if you look at page 126, it does not, the report does not come out and say this is the recommendation or the action that has to be taken. You will see in paragraph 7, it reads:

> "It is recommended that the National Commissioner note the findings of the investigations conducted on the above matter."

Now, the question I would have from there is, well, what does noting mean? Do you take any step following from this report, and if you do, where is the report that talks to the steps that have been taken around any particular incident?

COMMISSIONER THOBAKGALE: Thank you, Commissioner. Noting in this instance would mean, ja, it would mean noting the outcomes of the investigation. Now, there would be a decision that one would take, which would not necessarily be in a report, but it would be in a course of action. For instance, with regards to this one, I referred it to Code Enforcement and I also referred it to the DIU and the firm of attorneys that is assisting us with the disciplinary processes in the case of Mr Nxele. And this report is the basis of one of the charges proffered to him.

ADV SIKHAKHANE: [Indistinct]... [microphone off]

COMMISSIONER THOBAKGALE: Yes. Yes, Commissioner.

ADV SIKHAKHANE: [Indistinct]... [microphone off]. Sorry, thanks. That is the Regional Commissioner in KZN, Mr Nxele.

COMMISSIONER THOBAKGALE: Yes, yes, Commissioner.

ADV SIKHAKHANE: What I would request perhaps to assist us, we do not have much time for us to go through some of the questions, is because it is a similar pattern that I have with these reports, is that it does not assist in saying this is the outcome, this is what the Commissioner, or what is recommended that the Commissioner does or actions, these are the parties that are involved, and then you come up with that report, then we can then be able to question

and say, did you take the action that was recommended.

In the case you deviate or disagree with the recommended action, what was the reason? And did you either commission a second report or did you find some inaccuracies? You will recall that one of the issues we are talking about was the inaccuracies of reports. So two possibilities, as you said, it could be that there are reports that are action reports, let me call them action reports. Obviously we are not going to request everything, but insofar as these cases, can you provide those action reports and update us to what action was taken by yourself?

COMMISSIONER THOBAKGALE: I will do so, Commissioner.

ADV BALOYI SC: Mr Sikhakhane, which reports, the one that, everything that we have here?

ADV SIKHAKHANE: The ones that we have here in terms of the actions that he has taken as the Commissioner to address them, and otherwise it would not be easy to just call for everything else. It is something that he can relate to.

CHAIRPERSON: Sorry, just to understand, Commissioner, is there a document that is in existence that captures the action or actions that were taken pursuant to this report, or will you be preparing something that will detail what action was taken?

COMMISSIONER THOBAKGALE: Commissioner, there would be a document and that would be the charges that we are proffering against the official.

CHAIRPERSON: Oh, okay. All right, thank you. Thank you, Commissioner.

ADV SIKHAKHANE: Then Commissioner, just lastly, on what we see, there is a lot of activities, occurring activities that are there within the department and you said you have a task team that, is it the one that investigates those issues and reports to you, and you would action on that, on those recommendations from the task team?

COMMISSIONER THOBAKGALE: Yes, Commissioner. I also referred to a task team that we have formed with other law enforcement agencies to focus on the crime committed within correctional centres or in the correctional system.

ADV SIKHAKHANE: And it would just be general crime or crime that could, is there a focus on what could be the work of gangs or syndicates?

COMMISSIONER THOBAKGALE: Commissioner, the focus is on organised crime.

ADV SIKHAKHANE: Organised crime.

COMMISSIONER THOBAKGALE: Yes, Commissioner.

ADV SIKHAKHANE: Thank you. Chairperson, I did promise that it was my last question. [Indistinct]...

CHAIRPERSON: All right, thank you very much. Thank

you. Commissioner, thank you very much, most appreciated. We adjourn and resume at 9:30 tomorrow.

ADV SIKHAKHANE: Indeed, Chairperson.

CHAIRPERSON: Let us adjourn.

ADV SIKHAKHANE: Thank you.

HEARING POSTPONED TO 18 SEPTEMBER 2026

HEARING ADJOURNS

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