

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

**HELD AT**

**BRIGITTE MABANDLA JUSTICE COLLEGE**

**28 OCTOBER 2025**

**DAY 21**



**PROCEEDINGS ON 28 OCTOBER 2025**

**CHAIRPERSON:** Good morning, Ms Pooe.

**ADV POOE:** Good morning, Commissioners. Chair, the witness that we will commence with this morning is Captain Modisane. He is joining us from a training centre.

**CHAIRPERSON:** From a what?

**ADV POOE:** A training centre.

**CHAIRPERSON:** Training centre.

**ADV POOE:** Yes. And so he is unable to be with us  
10 physically. So in order for us to be able to lead him, because we could not give him a timeframe for a later start, we will start with him.

**CHAIRPERSON:** Okay.

**ADV POOE:** And he will be followed by Captain Mkhathshwa.

**CHAIRPERSON:** Mkhathshwa, yes.

**ADV POOE:** Yes.

**CHAIRPERSON:** Okay.

**ADV POOE:** He is online. Captain, good morning, and can  
20 you please switch on your camera for the Commissioners to see you.

**CAPTAIN MODISANE:** Morning, morning. Can you hear me?

**CHAIRPERSON:** Yes, yes, we can hear you. Is it Captain?  
Is it Captain ...[intervenes].

**CAPTAIN MODISANE:** Captain Modisane.

**CHAIRPERSON**: Captain Modisane.

**CAPTAIN MODISANE**: I do not know, somebody is appearing on my, the video does not want me to switch it on. Okay, it says you cannot start your video, because the host has disabled it. So it has been disabled, my video.

**ADV POOE**: Chair ...[intervenes].

**CAPTAIN MODISANE**: Can you hear me?

**CHAIRPERSON**: Yes, yes, we can hear you loud and clear, Captain.

10 **CAPTAIN MODISANE**: Start my video. Okay.

**CHAIRPERSON**: Oh, now we see you.

**CAPTAIN MODISANE**: Ja, it was disabled. Sorry for that.

**CHAIRPERSON**: No problem at all, Captain.

**CAPTAIN MODISANE**: Yes.

**CHAIRPERSON**: Swear or affirm?

**ADV POOE**: Chair ...[intervenes].

**CAPTAIN MODISANE**: I will swear, Commissioners.

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

**CAPTAIN MODISANE**: So help me God.

**SOLOMON MODISANE** (d.s.s.)

**CHAIRPERSON**: Thank you, Captain. Yes, Ms Pooe.

**QUESTIONS BY MS POOE**: Thank you, Commissioners.

Captain, can we start with just confirming the documents that are in front of you. Can I confirm that you have before you your statement?

**CAPTAIN MODISANE**: I do have my statement before me.

**ADV POOE**: And the second document is the annexures to your statement, which is Annexure A. It is a 212 affidavit.

**CAPTAIN MODISANE**: That is correct, I do have, Commissioners.

**ADV POOE**: And if we go back to your statement, do you  
10 confirm that this is a statement that you have prepared for purposes of giving your testimony before the Commission?

**CAPTAIN MODISANE**: That is correct, that is the statement that I have prepared, Commissioners.

**ADV POOE**: And if you go to page 9 of the statement, there is a signature there. Can you confirm that that is indeed your signature?

**CAPTAIN MODISANE**: That is correct, Commissioners, that is my signature.

**ADV POOE**: Thank you, Captain. If we can then start at  
20 the beginning of your statement. At paragraph 2, you describe your current role. Can you tell the Commissioners about this?

**CAPTAIN MODISANE**: Okay, thank you. Thank you, Commissioners. In paragraph 2, it is basically my training and my qualifications. I do not know if I must read it all for

the record or how must I go about it.

**ADV POOE**: Captain, in paragraph 2, you deal specifically that you are an analyst and your deployment to the PKTT. Can you start there.

**CAPTAIN MODISANE**: Paragraph 2 of my statement, not the 212?

**ADV POOE**: Yes, we will return to your 212 later.

**CAPTAIN MODISANE**: Okay, thank you, Commissioners. As I say on paragraph 2, Commissioners, on the 2<sup>nd</sup> of  
10 September, 2018, I was deployed in KwaZulu Natal, Forensic Science Laboratory section in Amanzimtoti to provide analysis service to the Political Killings Task Team. It was under the command of Lieutenant General Dumisani Khumalo. So I was assigned to assist with the forensic ballistics examination to link politically related killings.

And I further later assisted the Taxi Violence Task Team, the Organized Crime in KwaZulu Natal, and I also assisted any other investigating officer who came to the lab to assist with agent cases, so I would assist such  
20 people to expedite the investigation with regard to ballistics.

**ADV POOE**: And, Captain, you explain in paragraph 3 that as part of your work, you were requested to perform a comparative forensic ballistic examination. Can you explain what this request was about?

**CAPTAIN MODISANE**: Thank you, Commissioners. The request was all about, there was three cases in KZN which are related to political killings. So these three cases were still unresolved and the investigation was kind of stalled, because there was no evidence coming forward. So I was requested to do a comparison - okay, paragraph 3. I am on the wrong paragraph, sorry, Commissioners.

So I was requested to do a comparative ballistics examination by comparing the ballistics results on  
10 Bramley CAS 149/4/2024, which is the murder of Mr Swart of Q-Tech Engineering. So this case of Bramley, Commissioners, I was requested to compare it with the three cases which are Sandton CAS 398/11/2022, where DJ Sumbody was murdered together with his bodyguards. The other case was Orlando CAS 93/2/2023, where Mr Don Tindleni was killed. And the third case was Orlando CAS 220/3/2022, where DJ Vintos was killed. That is the initial request.

**ADV POOE**: Thank you, Captain.

20 **CAPTAIN MODISANE**: That is one of the requests that I received from the Organized Crime Unit.

**ADV POOE**: Thank you, Captain. And before we deal with the specifics of that examination, you detail your education and work experience at paragraph 4. Can you take the Commission through that, but with reference to Annexure A.

Commissioners, in Annexure A, the witness has given a comprehensive description of his qualifications, so he will make mention of paragraph 2 in particular. Captain, can you take the Commissioners through your education and experience.

**CAPTAIN MODISANE**: Okay, thank you, Commissioners. I commenced my tenure at the Forensic Science Laboratory in Silverton in the year 2008 as an examiner of forensic ballistics and my academic background qualifications are, 10 include, amongst others, the National Diploma in Policing, which I obtained from the Tshwane University of Technology.

And I also obtained a Diploma in Digital and Analogue Electronics from the NECSA College in 2001. So, to date, Commissioners, I examined ballistic-related cases of an excess of 3,770 cases. So, I received an in-service training in the ballistics section from 2008, which ended up to 2011.

The ballistic training, Commissioners, takes 20 ...[indistinct] [audio dip] years if there are no any other interruptions in between. So, the training consists of 12 levels, Commissioners. So, I completed all the 12 levels in ballistics-related investigations. So that is basically my qualifications and the trainings that I received. I also received external trainings from different training providers

related to ballistics analysis.

**ADV POOE**: Thank you, Captain. Now, let us deal with the request that you received. Before dealing with the one that you outlined at the beginning of your testimony, let us deal with a comparative ballistics examination of the three KZN cases against 27 case files from the Pretoria lab. Can you tell the Commission about this request?

**CAPTAIN MODISANE**: Okay, around November 2024, I received a request from the PKTT to conduct a comparative  
10 ballistics examination comparing three political killings cases which occurred in KZN. These cases, Commissioners, were unresolved and there were no suspects arrested in these cases. So, they wanted to resuscitate these cases.

So, they requested me to compare these three cases which are Estcourt CAS 92/8/2019, Newcastle CAS 208/5/2019, and Estcourt 100/9/2018. I was requested to compare these cases with the number of cases that were given to me by the investigators of the PKTT. These cases  
20 were 27 in total from Pretoria. So, I have mentioned all these 27 cases in my report. I do not know if I must read all of them, but they appear on my statement.

**ADV POOE**: Captain, you do not need to read all of them. They are before the Commissioners. But can you explain them ...[intervenes].

**CHAIRPERSON**: Appearing under paragraph 5 of your statement, Captain.

**CAPTAIN MODISANE**: That is correct, Commissioners.

**CHAIRPERSON**: I notice ...[intervenes].

**CAPTAIN MODISANE**: Can I continue?

**CHAIRPERSON**: We notice that the sub-numbering is incorrect. It should be 5.1 to 5 point whatever the last sub-number is. Ja ...[intervenes].

**CAPTAIN MODISANE**: Oh, yes.

10 **CHAIRPERSON**: 5.27. Will you attend to that, Ms Pooe?

**ADV POOE**: Chair, I will attend to it.

**CHAIRPERSON**: Thank you.

**ADV POOE**: Thank you, Chair. Captain, you describe to, in your statement, the process that you then follow once this request was given to you and you start describing this process from paragraph 7. Can you explain the process to the Commission?

**CAPTAIN MODISANE**: Okay, thank you, Commissioners. So, the request was from paragraph 7?

20 **ADV POOE**: Yes, Captain, and that is just after you received the request to then collect the case files in Pretoria.

**CAPTAIN MODISANE**: Okay. Okay, following the above request, Commissioners, I arranged with Lieutenant Colonel Lesu in Ballistics, Pretoria to collect the 27 cases, case

files, because you have to request the case files so that, because they, you have to request the case files so that they can make them ready and available to you. So, I arranged with Lieutenant Colonel Lesu, and each case contained relevant reports, the covering letters, the exhibits and worksheets, and associated correspondence and notes. So, after Colonel Lesu confirmed that the cases were ready, I made a trip to Pretoria, where I am originally based. And on 12 December 2024, the 27 case files were handed to me  
10 by Lieutenant Colonel Lesu, and I then returned to KZN with this case files to conduct the requested comparison from the PKTT.

**ADV POOE:** And, Captain, can you describe how this comparison occurs, how do you undertake this process?

**CAPTAIN MODISANE:** Okay, the process will start with the case files in front of you, and you open each case individually and comparing with another case from the opposite. In this case, I was comparing the three KZN case files with all these 27 case files from Pretoria.

20 So, firstly, I will open the case files, which are of KZN, three of them. I will open them, and one by one, I will be comparing this specimen from the KZN cases, comparing them one by one with the Pretoria case files, or with the Pretoria exhibits that are on the case files. So, I will take specimen one by one into the microscope, under the

microscope, comparing the similarities on each specimen, on each case file.

**ADV POOE**: And in this process, are you looking for the markings that would have been made?

**CAPTAIN MODISANE**: In this process, Commissioners, I will be looking for individual markings that the firearms imparts on the cartridge cases, or the fired cartridge cases, and or the bullets. So, the process requires you to, or the analyst, to look under the microscope for these specific  
10 marks to be able to determine if the certain specimen were fired or were not fired from the specific firearm.

**ADV POOE**: And Captain, at paragraph 10, you deal with your findings. Can you explain your findings to the Commission?

**CAPTAIN MODISANE**: Okay, in paragraph 10, my findings were that there was no any linkage that was, or that I identified between the three KZN political killings cases and the 27 cases that I collected from Pretoria, meaning there was no common firearm that was used in these cases,  
20 specifically, between the 27 cases that I collected from Pretoria, and the three political killings cases in KZN. So, there was no link.

So, as the results were negative, Commissioners, the outcome was recorded on the examination worksheets and the proformas as required by our standard operating

procedures. And I did not, in this case, compile the separate case linkage report, because the investigators, after informing them of these findings, preliminary so, they did not see it necessary for me to provide the report in this regard. So, I did not compile any report because it would not have any impact on their investigation.

**CHAIRPERSON:** Do you know, Captain, why you were required to do this particular comparison?

**CAPTAIN MODISANE:** Commissioners, I was requested,  
10 because the cases in KZN were dead like as in there were, there was no movement on these three political killings cases. So, I was requested to do the comparison in order to resuscitate the investigation on these three political killings in KZN.

And, again, if I can add on that, the cases that were politically related, the three politically related cases that I needed to compare with the 27, there was a common firearm or the type of firearm were similar, like it was an AK-47 that was used on these three KZN cases. Also, on  
20 the 27 cases, all 27 cases that are collected in Pretoria, the AK-47 was used on those cases.

**CHAIRPERSON:** But it turned out these were different AK-47 rifles based on the fact that you could not establish any linkages.

**CAPTAIN MODISANE:** That is correct, Commissioner, they

were different AK-47s.

**ADV POOE:** Captain, you then deal with the next comparative ballistics examination request. And this, in particular, are the three cases you outlined at the beginning. Can you take the Commissioners through the request made.

**CAPTAIN MODISANE:** Okay, before I could return the 27 case files to FSL in Silverton in Pretoria, I received a request letter on the 30<sup>th</sup> of December, 2024 from the PKTT  
10 to conduct a comparative examination to compare Bramley CAS 149/4/2024 with Bramley CAS, ja, 149/4/2024 and Sandton CAS 398/11/2022 together with two Orlando cases, which are Orlando CAS 220/3/2022 and Orlando CAS 93/2/2023.

in Bramley CAS 149, Commissioners, it is the firearms that were confiscated from the suspects, in possession of the suspects, and in Sandton 398/11/2022, it was a murder of DJ Sumbody together with his two bodyguards. And Orlando CAS 220, it was a matter of DJ  
20 Vintos. And Orlando CAS 93 was the murder of Mr Don Tindleni.

**ADV POOE:** Captain, in terms of your procedures, you then accessed the files on your FSL system. What did you then discover there?

**CAPTAIN MODISANE:** Okay, what I did, because I had to

locate the, especially the Bramley case, I had to locate it, because already Sandton case and two Orlando cases were in my possession. I know that I have them. So I had to locate Bramley CAS 149/4/2024. I then went into the system on the same date, the 30<sup>th</sup> of December. I checked on the FSL system. The FSL system, Commissioners, is a centralized national system. So I used this system to locate this case file from Bramley.

Upon accessing the system, Commissioners, I  
10 noted that Bramley CAS 149/4 was reflected twice on the system. There was a Bramley CAS 149/4/2024 that was examined in Pretoria, in Ballistics, Silverton, and there was another entry that was made in KZN where the same entry reflected in KZN, Amanzimtoti Ballistics. So I established that the same firearms initially examined in Silverton Ballistics were the same firearms that were examined in KZN according to the system.

**ADV POOE**: Thank you, Captain. Commissioners, you will recall this is also the testimony of Witness B that initially  
20 they were taken for examination in Pretoria and in September they were taken for re-examination in Amanzimtoti. This was also the evidence of Brigadier Mkhabela yesterday who confirmed the two entries. Captain, once you realized that there are two entries, what did you then do?

**CAPTAIN MODISANE**: Okay, upon realizing that there was two entries with, of Bramley CAS 149, I requested the case file and spoke to Warrant Officer Kader who was the Ballistics analyst that analysed the Bramley case in KZN. I went to him to inquire about this case and in paragraph 16, I spoke to Warrant Officer Kader about this case because for me it was like bizarre why this case was examined in Pretoria and examined again in KZN.

Warrant Officer Kader advised me that the IO's or  
10 the Investigating Officers of Bramley matter presented a letter signed by Major General Mbuso Khumalo requesting that the firearms in the team's possession be re-examined in Amanzimtoti FSL Ballistics by an independent analyst. So he said that the IO's were citing some irregularities in the initial tests conducted by FSL Pretoria. So the request was discussed apparently with the management of the lab in Pretoria and following the approval the examination was conducted in KZN.

**ADV POOE**: Thank you Captain. At paragraph 17 you deal  
20 with then requesting the file from Warrant Officer Kader. Can you take the Commissioners through that and then what you then did with the file once you have obtained it?

**CAPTAIN MODISANE**: I then requested, Commissioners, the case from Warrant Officer Kader on the same day and he gave it to me. And why I did not request the Bramley

case from Pretoria is because I saw that the same exhibits that were examined in KZN, were the same ones that were examined in Pretoria. So I opened these three cases together with the Bramley case and started to do my comparison, Commissioners. And, Commissioners, as Ballistics we do not do anything outside the request as per the request letter, Commissioners, because if we do anything out of the request letter we may be seen as biased and having some interest in the case. So we do as the  
10 request is saying.

So paragraph 18 I deal with, and then I requested, I requested and received the Bramley case from Warrant Officer Kader on the 30<sup>th</sup> of December 2024. And I then opened these three Pretoria matters together with the Bramley case and started to do my examination to compare if there is any possible link between these cases.

Commissioners, importantly, analysts work strictly within the scope of the written request as I said and we undertake tests beyond that mandate may compromise  
20 impartiality and create perception of bias. So if we do something that is not on the request letter, we might be seen as biased or having an interest in the case.

So paragraph 19 I deal, I do not know if I must continue, Commissioners.

**ADV POOE**: Yes Captain. Before you continue, you are

about to go into what you then found. For ease I am going to ask that the Commissioners also open the 212 affidavit so that you can then explain to them the process that you undertook in the examination.

**CAPTAIN MODISANE**: Okay. If I continue on my Annexure A from paragraph 4, paragraph 4 it says:

10                   “On the 30<sup>th</sup> of December 2024 during the performance of my official duties I found in the case file marked with that lab number 598202/2022 which is Sandton 398, I received two intact sealed evidence bags marked inter alia Sandton CAS 398/11/2022, B3 and B5 and I opened the bags and found the following.”

20                   Basically here what happens, Commissioners, each and every evidence, each and every case file contains evidence bags with exhibits inside. So I would open the sealed bag to retrieve the exhibits inside that sealed bag and this is what happened here in this Sandton CAS where DJ Sumbody was killed.

                  So paragraph 4.1.1 shows the cartridge cases which were 18, 18 7,62 by 39 caliber cartridge cases, fired cartridge cases which were marked with those numbers, Commissioners. And 4.1.2 it was, the sealed bag was also

containing 29 7,62 by 39 fired cartridge cases which I marked with those numbers. And further down, 4.1.3, I received two 9mm Parabellum fired cartridge cases, which I marked, which were marked 056TC2 and 285TC2.

And 4.1.1 it was 4 9mm test fired cartridge - test fired bullets marked with those numbers. 4.1.5, there was 9 undetermined caliber fired bullet jackets which were marked with those numbers. And 4.1.6, it was 6 undetermined fired bullets cores which were marked with those numbers. And 10 4.1.7, it was 1 undetermined caliber fired bullets marked C1.

And the next sealed bag with that serial number contained, 4.2.1, 2 7,62mm, 7,62 by 39mm caliber fired cartridge cases; and 4.2.2, 2 9mm Parabellum caliber test fired cartridge cases. That is the exhibits, those exhibits, all of those exhibits were in the case of Sandton 398 where DJ Sumbody and the two bodyguards were killed.

So paragraph 5, Commissioners, it deals with Orlando CAS 93/2 where, 93/2 it is where Mr Don Tindleni 20 was murdered. So paragraph 5.1 it contained, it says 21 7,62 by 39 caliber fired cartridge cases which were also marked individually; 5.2, 1 possibly 7,62 fired bullet jacketed; 5.3.1, 1 undetermined caliber fired bullet jacket; 5.4, 2 7,62 Tungsten cores; 5.5, 1 undetermined fragment; and 5.6, 1 9mm Parabellum test fired cartridge case; and

5.7, 2 9mm test fired bullets.

And paragraph 6, Commissioners, deals with Orlando 220/3/2022 where DJ Vintos was murdered. In that bag, Commissioners, 6.1, it was 1 7,62 by 39mm caliber fired cartridge case; 1 9mm Parabellum caliber fired cartridge case; and 6.3, 2 undetermined caliber fired bullet jacket.

And paragraph 7 now deals with the test exhibits that were fired by Warrant Officer Kader from the firearms  
10 that were confiscated from the suspects on Bramley CAS 149. So the tests ...[intervenes].

**ADV POOE**; Captain ...[intervenes].

**CAPTAIN MODISANE**: Are reflected on paragraphs ...[incomplete].

**ADV POOE**: There you ...[intervenes].

**CAPTAIN MODISANE**: Commissioners.

**ADV POOE**: You need not go into all of the different exhibits. Can you explain why it is important for an analyst to go through all of these and list them in the affidavit as  
20 you have?

**CAPTAIN MODISANE**: Okay, the analyst, because now we will be opening the bags with different specimens inside, the analyst needs to identify each and every exhibit that is contained in that specific bag together with its markings because the markings are individually explaining this type

of exhibit. So each and every exhibit has to be noted because the comparison does not say compare only the bullets or compare only the cartridge cases. So all the exhibits in each and every bag that an analyst is going to open, it has to be analysed under the microscope, because the request says compare the cases, the case, meaning you will compare all the exhibits that are inside these bags. So it is important to note all of these exhibits one by one in the report.

10 **ADV KHUMALO SC:** Good morning, Captain, it is Commissioner Khumalo here. In paragraph 7 ...[intervenes].

**CAPTAIN MODISANE:** Morning, Commissioner.

**ADV KHUMALO SC:** In paragraph 7, in particular 7.1.1 and 7.2.1 can you just confirm that those test cartridges are AK-47 cartridges?

**CAPTAIN MODISANE:** Okay, Commissioners, Commissioners, 7.1.1 it is a test fired cartridge case of an AK-47.

20 **ADV KHUMALO SC:** Yes. And 7.2.1 ...[intervenes].

**CAPTAIN MODISANE:** Rifle. Then 7.1.2 it is a test cartridge case, test fired cartridge case of a 9mm Parabellum caliber or firearm.

**ADV KHUMALO SC:** No, no, Captain, I asked about 7.2.1, not 7.1.2.

**CAPTAIN MODISANE:** Oh. Oh, that is correct, Commissioner, yes. They are both cartridge cases of an AK-47 rifle, Commissioners.

**ADV KHUMALO SC:** Yes, and the reason I am asking you that is because the evidence we have heard in this Commission is that 15 test cartridges were recovered at Bramley in respect of the AK-47 that was found there. So I just wanted to know why you only got hold of 2 of them and not 15. Am I misunderstanding something?

10 **CAPTAIN MODISANE:** Yes, Commissioner, if I may just explain there. Because the 15 cartridge cases of an AK-47 were firstly analysed in Silverton, Pretoria. After the analyst have concluded this analysis, the only thing, or the only exhibits that he will dispose of to the station will be the rifles or the exhibit firearms. So the 15 cartridge cases, I did not receive them, because I did not deal with the Bramley case in Pretoria.

I dealt with the Bramley case in KZN. So when the exhibits, the firearms were delivered to KZN, they were not  
20 delivered together with the 15 cartridge cases of an AK-47. So they were, these 15 cartridge cases were filed in the case file that was analysed by an analyst in Pretoria, not KZN. So here, I was just dealing with the test fired cartridge cases, Commissioner.

**ADV KHUMALO SC:** Thank you.

**ADV POOE**: Thank you, Commissioner Khumalo. You will recall also that Witness B explained that after they get the report, they only get the weapons. So it is the weapons that were then taken to KZN for further re-examination. And then just for identification of the types of cartridges that are examined, you will see if it has a TC in it, that then is a test cartridge, not the ones that are recovered on the scene. Captain Modisane, can you confirm the correctness of, at the very least, the identification of cartridges?

10 **CAPTAIN MODISANE**: I do confirm the correctness of these exhibits, Commissioners, and what I have outlined.

**ADV POOE**: Captain, you then, at paragraph 8, explain that you conduct a microscopic individualisation of fired cartridges cases and fired bullets. Can you explain that in layman's terms, what you mean in that statement?

**CAPTAIN MODISANE**: Is it not paragraph 9? I think it is paragraph 9.

**ADV POOE**: It would be paragraph 8 at the very bottom of your statement.

20 **CAPTAIN MODISANE**: Okay, here it is just the intention and the scope, what I was required to do, paragraph 8. So I was required to microscopically individualise the fired cartridge cases and the fired bullets, meaning I was going to compare the fired cartridge cases and the fired bullets. That is according to the request that I have received, to say

compare. I was not doing a full examination from the scratch.

**ADV POOE**: Thank you, Captain. And then you deal with the results or your findings. Can you explain this to the Commission.

**CAPTAIN MODISANE**: Okay, the findings on paragraph 9, Commissioners, as ballistics experts, when we are doing comparison, we compare the individual and class characteristics. It is the markings of, it is the markings, the  
10 class and individual characteristics, is the markings that were transferred by the firearm components onto the cartridge cases and onto the bullets during the firing process. So there will be those characteristics that we are looking for on each and every specimen under the microscope to determine the common origin of these specimens.

So the microscope assists us to view those tiny marks which a naked eye cannot be able to see. And we use this instrument to come to a conclusion whether a  
20 specific cartridge case or a specific bullet was fired or was not fired from a specific firearm, Commissioners. So in paragraph 9, it is my first findings, which says the cartridge cases mentioned in 4.1.1, 4.2.1, this 4.1.1 and 4.2.1 are the exhibits that I retrieved or that I found in the Sandton CAS 398/11/2022, a matter of DJ Sumbody, 4.1.1 and 4.2.1.

5.1 is the exhibits that I found in Orlando CAS 93/2/2023, where Mr Don Tindleni was murdered. And 6.1 were the exhibits that I retrieved or I found in the case file in the sealed bag under Orlando 220/3/2022, where Mr Vintos, DJ Vintos was murdered. And 7.1.1 and 7.2.1, those are the test cartridge cases that I found inside a sealed bag in the case of Bramley 149/4/2024.

So all these exhibits that I have mentioned, the ones in 4.1.1, 4.2.1, 5.1, 6.1, 7.1.1, and 7.2.1, I found that  
10 these cartridge cases were fired in the same firearm, so they bear common origin. This specific firearm that I am referring to it is a 7,62 x 39mm caliber Russian Kalashnikov model AK-47, full automatic assault rifle with a serial number 575363. That AK-47, Commissioners, is the same AK-47 that was found in the suspects that were arrested in Bramley CAS 149/4/2024. This is the same firearm, Commissioners, that murdered DJ Sumbody and DJ Vintos and Mr Don Tindleni. I may continue.

**ADV POOE:** Yes. Yes, Captain, can you then deal with  
20 your findings at 9.2.

**CAPTAIN MODISANE:** Okay, in paragraph 9.2, Commissioners, I further analysed the 9mm Parabellum cartridge cases that were found in the crime scene of DJ Vintos. This is paragraph 6.2. It is the exhibits that were found in the crime scene of DJ Vintos and I was comparing

them with the test cartridge cases in 7.1.1, 7.1.2 rather, and 7.2.2 and I found that these cartridge cases were fired from a common firearm. This firearm, Commissioners, is a 9mm Parabellum caliber Taurus, model PT92FS. It is a semi-automatic pistol with a serial number which was obliterated and this firearm was marked 193045/24 and which later the serial number of this specific firearm was retrieved and it reads as follows, TKS21211, if I repeat it, TKS21211, which was retrieved during the etching process. And this serial  
10 number ...[intervenes].

**CHAIRPERSON**: Is that the one ...[intervenes].

**CAPTAIN MODISANE**: Serial number ...[intervenes].

**CHAIRPERSON**: Oh sorry, sorry. Is that the one that was received by, I forget his rank now, Kader.

**ADV BALOYI SC**: Warrant Officer.

**CHAIRPERSON**: Warrant Officer.

**CAPTAIN MODISANE**: That is the same firearm that was accompanying the AK-47, which was, which were received by Warrant Officer Kader in Ballistics, Amanzimtoti.

20 **CHAIRPERSON**: Yes. I am referring to the, what, what is the verb you use, is it retrieval of the serial number. I forget the verb you use now.

**ADV POOE**: Etching.

**CHAIRPERSON**: Is the etching to find the serial number that has been obliterated. That is the verb ...[intervenes].

**CAPTAIN MODISANE**: That is correct, Commissioner.

**CHAIRPERSON**: Yes. So is it the one that through etching was found by, or established by Warrant Officer Kader?

**CAPTAIN MODISANE**: That is correct, Commissioners. This is the same number that was retrieved by Warrant Officer Kader during etching process.

**CHAIRPERSON**: Retrieved is the verb I was looking for.

**CAPTAIN MODISANE**: That is correct.

**ADV BALOYI**: Is this firearm that you are describing now,  
10 is it the same one that the analyst in Pretoria had recorded that he could not restore the serial number?

**CAPTAIN MODISANE**: That is correct, Commissioners, it is the same firearm, Commissioners.

**ADV BALOYI SC**: Thank you.

**ADV POOE**: Thank you, Captain. Just to note that in paragraph 9.3, you note the bullets or bullet jackets that where you could not make a positive determination.

**CAPTAIN MODISANE**: That is correct, Commissioners, because they were damaged. We could not, I could not  
20 make any link to see if whether they were fired from the specific AK-47.

**ADV BALOYI SC**: What does it mean that they are damaged? Is it they are damaged at the point of being fired or at the point of being tested?

**CAPTAIN MODISANE**: At the point when they were fired,

Commissioners, because this firearm is a high-caliber firearm. When the bullet meets the target, it disintegrates or it fragments into smaller pieces whereby the marks of those exhibits, on those exhibits are compromised.

**ADV BALOYI SC**: Thank you.

**ADV POOE**: Thank you, Captain. You then explain what happens after the examination at paragraph 11. Can you briefly tell the Commissioners about this process.

**CAPTAIN MODISANE**: Okay, paragraph 11,  
10 Commissioners, it deals with the disposals of these exhibits, because now the examination or the linkage have been completed, the examination have been completed. Now I have to dispose all the exhibits into different, into their different case files. This process entails putting each and every exhibits inside the new seal bag and I seal the seal bag and I will complete an integrity form to show that this exhibit or this, the previous exhibit bag was opened by me and I then close it on the new seal bag.

So paragraph 11, it is all the exhibits – okay, I did,  
20 there was an exhibit that required me to take it to the IB section of the Ballistics. So I sealed that specific exhibit, which was marked 1A32. It was somehow missed to be taken to IBIS. And I then sealed this exhibit. It is an AK-47 cartridge case, which was in Sandton CAS 398. It was missed to be loaded into the system and I sealed it in the

new bag and I marked it for IBIS.

And paragraph 11.2 deals with all other exhibits of Sandton CAS, which I sealed them in that seal bag number that reads PA6500555464 and file these exhibits in the Sandton case file. And paragraph 11.3 deals with the exhibits that I opened from Orlando CAS 93/2/2023. I sealed all those exhibits in a new seal bag, which reads PA6500555465. And paragraph 11 deals with the exhibits that I opened on Orlando 220/3/2022. All those exhibits, I  
10 sealed them in the seal bag with number PA6500555469.

So each and every seal bag that I closed, I attached to each specific case file. And paragraph 11.4 deals with the tests that were fired by Warrant Office Kader under Bramley CAS 149/4/2024 and I sealed them in the seal bag with PA6500555484 and I also, like others, I attached this seal bag in a Bramley case file.

**ADV POOE:** Thank you, Captain. Commissioners, this would deal with paragraphs 21 to 24 of the statement.

**ADV KHUMALO SC:** Captain, can we just clarify paragraph  
20 20 of your statement. The firearms referred to in paragraph 20 of your statement, are they the Kalashnikov in your affidavits in paragraph 9.1 and the 9mm Parabellum in paragraph 9.2? Are those the firearms you are referring to in paragraph 20 of your statement?

**CAPTAIN MODISANE:** That is correct, Commissioners.

**ADV KHUMALO SC**: Thank you.

**ADV POOE**: Thank you. If we can then turn to paragraph 25 of your statement. There, Captain, you deal with the process of restoring the serial number that Warrant Office Kader undertook. Can you explain this process in simple terms to the Commissioners.

**CAPTAIN MODISANE**: Okay, thank you, Commissioners. In simple terms, Commissioners, because I do not want to go into what I have outlined in my statement, because I  
10 might expose our doings or our processes to the public out there. In simple terms, Commissioners, one would receive, or an analyst will receive a firearm with the serial number obliterated. So now to retrieve the serial number, there is a process. We have got two processes that we undertake on that specific firearm to try and get the serial number.

We have got magnetic etching process. We call it electromagnetic etching process. And we have got an acid etching process. Those are two processes that we utilize in Ballistics to retrieve the serial number. So the serial  
20 number during attempt to retrieve it, we have got a process. We need to undertake a process of preparing the surface where the serial number has been obliterated or the area where the serial number was originally stamped on.

We prepare the surface and apply certain chemicals on that surface to let the serial number to be visible. And

during that process of applying the chemicals, when the number comes up, we note it. We note it on a piece of paper to say this is the type of a serial, or this is the number that is appearing on that area where the serial number is. It could be numeric digits or alphabets, because some firearms contain alphabets and some firearms serial number contains numbers. So some firearms is a combination of both.

10 So after retrieving the serial number, after application of such chemicals, the serial number comes up, then the analyst will call a more qualified person to, or who did the etching or who is competent on etching to confirm what he is seeing on this process. Then when they agree on this what they are seeing, then it is confirmed by the person, the next person to say we saw the same number. Then that number is recorded onto the proforma and then eventually recorded on the 212 report. That is basically what etching is all about. It is a process that we apply on the firearm or that we conduct on the firearm to retrieve the  
20 number.

**ADV POOE:** Captain, at paragraph 25.4 you deal with Captain Makgotloe's findings in relation to this. Can you elaborate more on this point?

**CAPTAIN MODISANE:** Okay, during our conversation with Warrant Officer Kader he explained to me that there was,

there is a firearm which the serial number was obliterated and that firearm according to him it was also, an attempt was made to retrieve the serial number by Captain Makgotloe in Pretoria. That firearm was a 9mm that I spoke about on my Annexure A. So this firearm when he etched it, when he applied the etching process, Warrant Officer Kader retrieved the serial number successfully and recovered the serial number, which is TKS21211.

**ADV POOE:** And, Captain, based on your experience did  
10 Warrant Officer Kader do anything that was particularly difficult or elaborate in order to establish this?

**CAPTAIN MODISANE:** Commissioners, there are a couple of factors that can influence a person not to be able to retrieve the serial number. They include the training that a member receive, specifically on the etching process. They include a person who is not willing to go extra mile or who does not do more, who could not do more to try and retrieve the serial number.

The other factors could be the chemicals that we  
20 are using, maybe somehow if the chemicals also are expired or the, there can be a difficulty on getting the serial number. The other factor could be, or maybe the person deliberately omitting to do his job. Those are factors, one of those factors could have influenced the person not to retrieve the serial number.

**ADV BALOYI SC**; Captain, the, when you do the restoration, the serial number restoration, what are the protocols that apply, especially if you return a negative result such as Captain Makgotloe did? What do the protocols prescribe must happen?

**CAPTAIN MODISANE**: Okay, Commissioners, the protocols that we apply in the lab or that we have in the lab is that after applying this etching processes, whether you have found the number, retrieved the number or not, there must  
10 be another person who comes and confirm your results. So that is the only process that we undertake. So there is no any other process that we apply if the person did not find the serial number.

**ADV BALOYI SC**: Thank you.

**ADV POOE**: And, Captain, given that Warrant Officer Kader would be doing this process on the same firearm that Captain Makgotloe would have worked on, does that raise additional difficulties?

**CAPTAIN MODISANE**: That is correct, Commissioners, it  
20 will, because now this firearm has been attempted to be, to the serial number of this firearm has been attempted to be retrieved, the person, the first ...[indistinct] analyst who worked on the firearm basically tampered with the surface, because I will, maybe I will use another words, not tampered, he was attempting to retrieve the serial number.

That means he has done some sanding off, of the surface, meaning he prepared the surface and then he could not retrieve the serial number. Now it will be difficult for the next person, I would expect the next person to have a tough time or a difficulty to be able to find a serial number, because him or herself needs also to prepare the surface again, to clean it and to prepare it for him to now apply those chemicals.

So it is advantageous for the first person to, or the  
10 first person is on advantageous position than the next person, because the next person will be working on the surface that has been already worked on. So Warrant Officer Kader was, apart from what all this happening, Warrant Officer was able to retrieve the serial number on that firearm, that specific firearm. But it, especially if somebody have worked on the firearm with regard to the etching process and the next person has to work on it again, it might pose serious problems. But Warrant Officer Kader was able to retrieve the serial number.

20 **ADV BALOYI SC:** Captain, what is the importance of the serial number? If you are unable to retrieve it, what is the consequence on the case, if any at all?

**CAPTAIN MODISANE:** The importance of the serial number, Commissioners, it is, it shows the identity of the firearm. The same applies to the engine number of a

vehicle, it shows the identity of the firearm. It shows the history of the firearm, where, who is the original owner of the firearm. It will show that. It will also show that when, if the firearm was robbed from the owner, the owner would have opened a case.

If the owner was murdered, the case could have been opened, so that serial number if we retrieve it and we give it to the investigating officers to check on the system, it will show the history who does the firearm originally  
10 belong to and how was it taken from the lawful owner, whether the lawful owner was killed, whether the lawful owner was robbed or there was a housebreaking and the firearm was taken. So the serial number is very much important, it shows the identity of firearm. If we do not have the serial number on the firearm, that firearm does not have identity.

**ADV BALOYI SC**: Thank you.

**ADV POOE**: And, Captain, on this score, if the firearm was ever seized at any point by the Police and somehow ended  
20 up in the street, this process would also be able to discover that.

**CAPTAIN MODISANE**: That is correct, Commissioners. If it was recovered by the police with the serial number, when the police recover it firstly with the serial number and it happens that it goes out to the street and the serial number

is then obliterated, when we retrieve the serial number it will show that this weapon was first, or was once in the police's hands or it was retrieved by the police. Even if it does not have the serial number, the police find it in the streets in possession of the suspect, that firearm would have been send to Ballistics and a ballistics expert will engrave it with the lab number. We engrave the serial number, or the lab number on the firearms where the serial number was obliterated. So that engraving will act as a  
10 serial number on that firearm. So if it goes to, from the station to the street and it gets found on the suspect, then we can identify it with an engraving on the, on it.

**ADV KHUMALO SC:** Thank you, Captain. The comparative ballistic examination that you performed and you deal with it in paragraphs 21 to 20 of your statement, do you know if it was also performed in Silverton, so that is before you came in and you were asked to do it? Do you know if ...[indistinct] head quarters performed the same exercise before you were brought in to do it?

20 **CAPTAIN MODISANE:** Commissioners, which comparative examination is it?

**ADV KHUMALO SC:** The one in paragraph 11 of your statement, the one where you compare the Bramley case with three other cases and you reach your conclusion in paragraph 20 of your statement and you say during the

examination you performed, you determined the link between the firearm used in Bramley and the firearm used in the murders of DJ Sumbody, Don Tindleni and Buthelezi. So do you know if that examination was performed in Silverton before you were brought in to perform it?

**CAPTAIN MODISANE**: No, Commissioners, it was not done in Silverton. I am the first person to do this comparative examination on the firearms against the murder of DJ Sumbody, the murder of DJ Vintos and Mr Don Tindleni. So  
10 the examination that I did was not done in Pretoria, because there was no request that was forwarded. This was the first request that was forwarded and I came to attend to this request.

**ADV KHUMALO SC**: Does that not bother you, Captain, because these are all Gauteng cases. The fact that you have to be brought in from KZN or from the PKTT to come and perform examinations in relation to murders that took place in Gauteng, what are the people in Gauteng doing then?

20 **CAPTAIN MODISANE**: In this regard, Commissioners, there was a direct request that was forwarded to me. I would assume that if the same request maybe was forwarded to Gauteng, they would have done it, Commissioners, because it was not a ballistic IBIS link, it was a request. Maybe it was, if it was captured or if it was noticed during, in the

IBIS as a link, they would have done it. So it was a direct request from the investigating officers based on their investigation. I think they had a suspicion that these cases are possibly linking, that is why maybe they forwarded the request to me to do the comparison examination, Commissioners.

**ADV KHUMALO SC:** But it bothers me that the same request was not given to Silverton. I mean if you are aware that an AK-47 has been recovered in Bramley and you are  
10 aware that you are dealing with other murders that involve an AK-47, why would you not perform the exercise?

**CAPTAIN MODISANE:** Yes, Commissioners, because they were already suspicious that, of the examination by the investigating officers. There were suspicions of, how can I put it, of not, of the Pretoria, of the integrity of the Pretoria lab. Maybe that is why they sent it to us and not to them to do the comparison, because they also took the firearms to KZN after being analysed in Pretoria. So there was, they had those suspicions according to the request letter that  
20 Warrant Officer Kader received. I think it is based on that, that is why they wanted a person who is not in Gauteng to do this comparative examination.

**CHAIRPERSON:** Captain, I find it strange that you say no request was made to establish if there were any linkages. I say it is strange, because the investigating officers have

told us that they were told, I am not sure now whether verbally, by Captain Makgotloe that there were linkages, but that when they received the report it did not have, or reflect any linkages. So what I find strange is that Captain Makgotloe would have spoken to them about linkages when no request for linkages had been made. Do you want to comment on that?

**CAPTAIN MODISANE:** If I may comment on that, Commissioners. If indeed they received that information  
10 from Captain Makgotloe, to me it suggests that somehow Captain Makgotloe maybe might have had something from someone that this firearms are linked to other cases. And indeed if that is the case, I really do not know, it is very hard for me to digest it but that means all along maybe I would say Captain Makgotloe knew that this firearms from Bramley they are possibly linking, linked to other cases, which other cases I would not know which other cases. But if indeed he told the investigating officers so I would expect him to have been able to link those firearms or those  
20 exhibits and supply the correct report. But anyway, like I said, Commissioners, one would not go and do something out of his own will as a ballistics expert. We have to be directed, because we might be seen as biased, so, but the information that he gave to the investigating officers was crucial, was very crucial and that means there was some

communication between him and them. I would expect them to continue and ask questions with regard to what Captain Makgotloe is saying.

**CHAIRPERSON:** I must say I like your repeated use of “if”, because indeed we are yet to hear from Captain Makgotloe if he will be called. Thank you, Captain.

**ADV KHUMALO SC:** Just one more thing, Captain. How long did it take you to perform this exercise, because it looks from paragraph 11 like you received the request on  
10 the 30<sup>th</sup> of December 2024 and then in paragraph 24 of your statement you say your report of 30 December 2024 is attached as Annexure A. Does that mean the whole exercise took only a day to perform and to ...[intervenes].

**CAPTAIN MODISANE:** Only a day. It took only a day, Commissioners.

**ADV KHUMALO SC:** Ja. You know why there is ...[intervenes].

**CAPTAIN MODISANE:** In PKTT we had a motivating factor. I do not know where we were taking it. We worked on the  
20 case until we finish it. If there is a positive feedback that we are seeing on the examination, we will work until it is late. So, and looking at the number of the exhibits that are received on the four cases, it is not lots of exhibits. We are dealing with lots of exhibits on other cases which can take you more than one day. But this ones did not warrant me to

take more than one, two days or more. So I finished this examination in one day, Commissioners.

**ADV KHUMALO SC:** And is that unique to the PKTT? You have just said something important that in the PKTT you do not stop until you are finished. Is that unique to the PKTT or is it something that is ingrained within the SAPS, especially the Ballistics division as a whole?

**CAPTAIN MODISANE:** This was unique to the PKTT, Commissioners. It was unique. Our turnaround time, our  
10 normal turnaround time in ballistics analysis, our normal working turnaround time it is 30 days if I am not mistaken, to finish the case. Our turnaround time, we made our own turnaround time in the PKTT as ballistics to 3 days, Commissioners, maximum 3 days. So this case it is based on my experience also, Commissioners ...[intervenes].

**CHAIRPERSON:** Just to ...[intervenes].

**CAPTAIN MODISANE:** It is a small case. It is a small case to me ...[intervenes].

**CHAIRPERSON:** Just to ...[intervenes].

20 **CAPTAIN MODISANE:** To finish in a day.

**CHAIRPERSON:** Alright. Sorry, sorry, sorry, Captain. Just to make sure there is no confusion, you said our normal turnaround time is 30 days. And who is the “our” in relation to the 30 days?

**CAPTAIN MODISANE:** Ballistics turnaround time,

Commissioner, as soon as the case arrive at the lab ...[intervenes].

**CHAIRPERSON**: I just want to know, Captain, I just want to know who you are referring to when you say “our”. Are you referring to Silverton, Amanzimtoti, Gqeberha and the Western Cape, I do not know whether it is Cape Town? Is that the “our” that you are referring to? Who is “our”?

**CAPTAIN MODISANE**: It is the whole lab in general, whether KZN, whether Eastern Cape, Western Cape,  
10 Pretoria. Ballistics’ turnaround time case, as soon as it arrives at the lab ...[intervenes].

**CHAIRPERSON**: All right.

**CAPTAIN MODISANE**: It needed to be finalized in 30 days.

**CHAIRPERSON**: Okay. Okay, and then ...[intervenes].

**CAPTAIN MODISANE**: But due to backlog that does not happen.

**CHAIRPERSON**: Okay. And then you are comparing that to an average of 3 days within the PKTT. So it is 30 against 3.

20 **CAPTAIN MODISANE**: That is correct.

**CHAIRPERSON**: 30 against 3.

**CAPTAIN MODISANE**: That is correct, Commissioners.

**CHAIRPERSON**: Thank you.

**CAPTAIN MODISANE**: That is the turnaround time that we set for ourselves in the PKTT.

**CHAIRPERSON**: Thank you. In fact, I should not even say average, maybe I should say what 3 days would be the outer limit and you say there are some that you could complete within a much, much shorter time like this one which was within a day.

**CAPTAIN MODISANE**: That is correct, Commissioners.

**ADV BALOYI SC**: Captain, just to go back to the protocols and the restoration process that you have described, now in Captain Makgotloe's section 212 affidavit he does state that  
10 he was unable to restore the serial number. Now you have told us and we have also heard from the Brigadier yesterday that a second person would do, would have another look whether it is a positive or negative response and you have just confirmed that. Would the conclusion of the second person who looks at the initial outcome, would that be contained in the section 212 affidavit of the original analyst?

**CAPTAIN MODISANE**: No, Commissioners, it would not reflect on the section 212 report, but it will reflect on the  
20 worksheet that the number has completed after ...[intervenes].

**ADV BALOYI SC**: Yes.

**CAPTAIN MODISANE**: After examination. So the confirmer will sign on the worksheet. That will be attached on the case file to say I, Captain Modisane, confirm that Warrant

Officer, or Warrant Officer so-so, or Captain so-so, retrieved or did not retrieve the serial number, then I sign on that specific proforma.

**ADV BALOYI SC**: Yes. And ...[intervenes].

**CAPTAIN MODISANE**: So the confirmer will sign the, on the proforma.

**ADV BALOYI SC**: Yes. And if there is no confirmer or verifier, am I correct to say then it means that protocol, the prescribed protocol was not followed if there was no  
10 verifier?

**CAPTAIN MODISANE**: That is correct, Commissioners.

**ADV BALOYI SC**: Thank you.

**CAPTAIN MODISANE**: It is a protocol, it is a protocol that needs to be abide by, to be applied or to be followed when doing this examination. Anyway, the reviewer of the case ...[intervenes].

**ADV BALOYI SC**: Yes.

**CAPTAIN MODISANE**: After the examination of the, or the analysis have been completed, the reviewer of the case will  
20 have, will pick it up that this case was not confirmed or there is no signature of the confirmer of the etching process and the case file will be returned for, to be corrected.

**ADV BALOYI SC**: Alright, that is if the reviewer does their job properly, then they would also have picked up and they would return the docket or the case file.

**CAPTAIN MODISANE**: That is correct, Commissioner. That is correct.

**ADV BALOYI SC**: Thank you.

**ADV POOE**: Commissioners, just to note on the etching process, we have followed up with the witnesses A, B and C to provide us with a supplementary dealing with their findings when they took the serial number discovered by Warrant Officer Kader. They noted that the weapons were previously recovered by police, but were not entered into  
10 SAP13, which is the administrative process. We have asked for an affidavit in that regard. Captain, just for completeness, your 212 affidavit was that then reviewed accordingly before you shared it with the investigating officers that made the request?

**CAPTAIN MODISANE**: That is correct, Commissioners. Each and every report has to be reviewed before it gets out of the lab. So the reviewer would have done the review to check the correctness of the report. The reviewer, Commissioners, if I may also state does not change  
20 anything on the report, on the results that the analyst has done or has noted on the report.

All what the reviewer checks is the mistakes, the errors, the spelling, if all the protocols were observed, if all the proformas were filled according to the protocols. So before that, the report can go out, the review processes has

to be undertaken to check the correctness of the report, whether the spellings are okay, whether the grammar is okay, whether the report was signed. Then it is then then it will be dispatched to the investigators.

**ADV POOE**: And Captain, after you gave it to the investigators it is also loaded onto one of your systems?

**CAPTAIN MODISANE**: That is correct, Commissioners. We have got an ICDMS system that we, after completion of the report it gets to be loaded onto the ICDMS system. This  
10 ICDMS system assist the investigators to retrieve the report from the system while they are at their respective working areas in the station. The investigators will go into the system and punch in the case number and the system will allow him to print this report. It is only the investigating officer who can access a specific report for a specific case, because you will be assigned to that specific case. So any other person who does not, who is not the investigator of the case will have a challenge in retrieving the report from the ICDMS system.

20 **ADV POOE**: Thank you, Captain. So this report was loaded onto the ICDMS system on the 30<sup>th</sup>.

**CAPTAIN MODISANE**: Even if it is, it could be after the 30<sup>th</sup>. It could be after the 30<sup>th</sup>.

**ADV POOE**: Thank you, Captain. Captain, unless there is, there are questions from the Commissioners, that concludes

the testimony of Captain Modisane.

**CHAIRPERSON**: Thank you very much, Captain. Let us adjourn and resume at 11:15.

**CAPTAIN MODISANE**: Thank you, Commissioners.

**INQUIRY ADJOURNS**

**INQUIRY RESUMES**

**CHAIRPERSON**: Are we ready now, Mr Chaskalson?

**ADV CHASKALSON SC**: We are, Chair. Apologies for the delay.

10 **CHAIRPERSON**: No, no problem at all. Will your witness be affirming or swearing?

**ADV CHASKALSON SC**: I must ask the captain. It is Captain Mkhathshwa.

**CHAIRPERSON**: Captain Mkhathshwa. Captain Mkhathshwa, good afternoon. Yes, will you be swearing or affirming?

**WITNESS**: I will take the oath.

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

**WITNESS**: So, help me God.

**MELDON MKHATSHWA**: (duly sworn states)

**CHAIRPERSON**: Thank you. Thank you, Captain.

**ADV CHASKALSON SC**: Chair, just some housekeeping. Captain Mkhathshwa today is here with the ballistics files for

both the Vereeniging and the Bramley cases. And in order to prevent having to pass folders around, we thought what we would do is we would print out extracts. And there should be, before each of the Commissioners, a bundle with additional documents which are extracted from those ballistics files. They run from MQM4 to MQM11, I think. MQM11. And they are handwritten, paginated pages 29 to 53, and they follow on the pagination in the annexure file for Captain Mkhathshwa.

10 **CHAIRPERSON:** I do have a folder with that. I do see that my co-Commissioners also have folders. I trust that the content is the same.

**ADV CHASKALSON SC:** Thank you, Chair. Thank you, captain. And, Captain, you should have in front of you an annexure file and also your witness statement. Do you have both?

**CAPTAIN MKHATSHWA:** Yes, I do have.

**EXAMINATION BY ADV CHASKALSON SC:** Thank you. Captain, can you tell the Commission what your rank and  
20 position is inside the SAPS?

**CAPTAIN MKHATSHWA:** I am a captain, and I am a senior forensic analyst at Forensic Science Laboratory in Silverton.

**ADV CHASKALSON SC:** And can you explain to the Chair your relationship to the Political Killings Task Team?

**CAPTAIN MKHATSHWA:** I was deployed in KZN to work with the Political Killings Task Team in 2019 February. I work under the commandership of General Khumalo. And I was working with Mitsu as a TJOC.

**ADV CHASKALSON SC:** And what work did you perform in that capacity?

**CAPTAIN MKHATSHWA:** Commissioners, what we were doing there, we were attending crime scenes and crime vehicle identification. And we were also doing linking of  
10 cases. And again, we were doing, let me put it like this, we were also examining homemade devices, and we were also doing etching for the firearms that had the serial numbers removed. So those are some of the duties that I was doing there.

**ADV CHASKALSON SC:** And if we go to paragraph 4 of your statement, can you explain to the Commissioner or describe to the Commission your broader history inside the SAPS and your career progression?

**CAPTAIN MKHATSHWA:** In 2002 I was employed as a  
20 data type working at Midrand Police Station. And in 2004 I was employed in Correctional Service as Correctional Official Grade 2. Then in 2008 I was appointed as an assistant forensic analyst at the rank of sergeant in Silverton. In 2010 I was promoted to become a warrant officer as a forensic analyst. And in 2013 I was promoted

to the rank of captain as a senior forensic analyst. And that is the position that I am holding up until today.

**ADV CHASKALSON SC:** Thank you, Captain. We have in the annexure file a report that you have prepared. It is Annexure MQM3 at page 18. We will discuss the conclusions that you reached at a later stage. But for present purposes, can I ask you to go to paragraph 2 of that report, page 18, and just tell the Commission about your academic qualifications?

10 **CAPTAIN MKHATSHWA:** I am having a BA Honours Degree in Criminology from the University of South Africa that I obtained in 2018. I also have a BA degree in Criminology from the University of the North, now University of Limpopo, in 1996. And I obtained a Higher Education Diploma from the University of the North in 1997. I also obtained a Certificate in Security Practise from the University of South Africa in 2013. I obtained a Certificate in Corporate Forensic Investigation from Damelin in 2012. Those are my academic qualifications.

20 **ADV CHASKALSON SC:** And how many cases have you examined? How many forensic investigations and cases have you undertaken?

**CAPTAIN MKHATSHWA:** Up to so far, I have examined more than 4 500 cases.

**ADV CHASKALSON SC:** Now, in paragraph 2.3 of that

report, you list a long list of courses in the in-service training of the SAPS and related policing agencies. I do not want you to go through all of them. We will be here until after lunch. But can you just confirm that you have completed all of those courses that you list in paragraph 2.3?

**CAPTAIN MKHATSHWA:** That is correct, Commissioners. Those are the in-service trainings that I received at Forensic Science Laboratory.

10 **ADV CHASKALSON SC:** And can you confirm that you have been declared competent and proficient in forensics ballistics examination?

**CAPTAIN MKHATSHWA:** I confirm, Commissioners.

**ADV CHASKALSON SC:** Thank you, Captain Mkhathswa. If you can then go back to your main statement in paragraph 5. And can you briefly explain what the role of forensic analysts is to the Commission?

**CAPTAIN MKHATSHWA:** Forensic analysts, ballistics specifically, our duties, Commissioners, is to identify  
20 ammunitions, firearms, and fire cartridge cases. We also identify firearms. We examine firearm mechanisms. And we examine homemade, as I have already stated. We recover and restore alphanumeric figures on metals, on firearms, or tools where the serial number has been obliterated. We also determine the distance at which in a

crime scene where the shooter was. And we also do crime scene investigation. And we also document the results. These are the roles of the ballistics analysts, Commissioners.

**ADV CHASKALSON SC:** Thank you, captain. Captain, you have brought with you today the Bramley and Vereeniging ballistics files.

**CAPTAIN MKHATSHWA:** That is correct, Commissioners.

**ADV CHASKALSON SC:** Can you just identify which is the  
10 Bramley file? Do you have them in front of you?

**CAPTAIN MKHATSHWA:** This one is the Bramley file, Commissioners.

**ADV CHASKALSON SC:** And the Vereeniging file?

**CAPTAIN MKHATSHWA:** And this one is the Vereeniging file.

**ADV CHASKALSON SC:** Now, we have extracted certain, well not extracted, we have copied certain documents from that file. And I am going to ask you now just to identify them from the annexure. So, if we go to the annexure file,  
20 page 29, can you confirm that this is a report in the name of Warrant Officer Makgotloe dated 14 October 2024 and that it is to be found in the Bramley forensics file?

**CAPTAIN MKHATSHWA:** I confirm, Commissioners.

**ADV CHASKALSON SC:** And can you confirm that this is the report that links the bullets extracted from the body of

Mr Swart to the AK-47 seized at Vereeniging?

**CAPTAIN MKHATSHWA**: I confirm, Commissioners.

**ADV CHASKALSON SC**: Then if we go to page 34 and Annexure MQM5, can you confirm that this is the evidence bag, now unsealed, that is still stapled into the Bramley file with the number P4B000208366?

**CAPTAIN MKHATSHWA**: I confirm, Commissioners.

**ADV CHASKALSON SC**: Then if we go to page 36, Annexure MQM6, can you confirm that this document is the  
10 version of the report of Warrant Officer Makgotloe dated 24 May 2024 that one currently finds in the Bramley forensics file?

**CAPTAIN MKHATSHWA**: I confirm, Commissioners.

**ADV CHASKALSON SC**: Then if we go to page 44, Annexure MQM7, can you confirm that this is the review report, well, sorry, that on page 48 we see the review report of the reviewer who reviewed Captain Makgotloe's report on the 24<sup>th</sup> of June, sorry, on the 6<sup>th</sup> of June, 2024, in the Bramley file?

20 **CAPTAIN MKHATSHWA**: I confirm, Commissioners.

**ADV CHASKALSON SC**: And if we go to page 49 ...[intervenes]

**ADV KHUMALO SC**: Sorry, Adv Chaskalson, because as I understand there were three such reports, so this review relates to the first.

**ADV CHASKALSON SC:** It would be the first report. And if we get MQM8 on page 49 running over to page 50, can you confirm that what we see at page 50 is the same reviewer's report, not the same report, but the report of the same reviewer, of Captain Makgotloe's first report, but this time it is in the Vereeniging case file?

**CAPTAIN MKHATSHWA:** That is correct, I confirm, Commissioners.

**ADV CHASKALSON SC:** And the date is similarly 6 June  
10 2024?

**CAPTAIN MKHATSHWA:** That is correct.

**ADV BALOYI SC:** You say MQM8 is the same reviewer as MQM7?

**ADV CHASKALSON SC:** Indeed, it is Lt-Col Monakali who did both reports, and as we will explain later, if one looks at page 48, the lieutenant colonel did not certify, did not accept the report of Captain Makgotloe, but did not put her comments in on this form because she cross-referred to her comments on the Vereeniging form.

20 **ADV BALOYI SC:** Okay, yes.

**ADV CHASKALSON SC:** Then on page 51, MQM9, can you confirm that this is the now unsealed evidence bag PA6004509202 that is now to be found in the Bramley file?

**CAPTAIN MKHATSHWA:** Yes, I confirm, Commissioners.

**ADV CHASKALSON SC:** It is an evidence bag that

originated from the Vereeniging investigation, but as we stand today, it is to be found in the Bramley file.

**CAPTAIN MKHATSHWA**: That is correct, Commissioner.

**ADV CHASKALSON SC**: And of course it has been opened, it is no longer sealed. Then MQM10 on page 52, can you confirm that this is an opened evidence bag, a now opened evidence bag, number PA5500103539 that is to be found today in the Vereeniging file?

**CAPTAIN MKHATSHWA**: I confirm, Commissioners.

10 **ADV CHASKALSON SC**: And finally, MQM11 on page 53, can you confirm that these are Captain Makgotloe's working notes dated 9 May 2024 that are to be found in the Bramley file?

**CAPTAIN MKHATSHWA**: That is correct, I confirm.

**ADV CHASKALSON SC**: Thank you, captain. If we can go back to your statement now, you say in paragraph 6 that you received a written request on 3 June to conduct a comparative ballistic examination in the Bramley matter against certain case dockets.

20 **CAPTAIN MKHATSHWA**: That is correct, ...[intervenes]

**ADV CHASKALSON SC**: Now before we get to what they, any further, I must place on record as you see on the version of the statement that is being displayed on both screens. Some of these cases have to be redacted. So, we will refer to the case in - Bramley would be the first case,

we will refer to the case under 6.1 as Case 2. The Littleton and Pretoria West cases are cases in which have already gone to court. So, we can refer to them by name. We will refer to the case in paragraph 6.4 as Case 5 and the case in paragraph 6.5 as Case 6 and I would ask you not to mention cases 2, 5 and 6. So we will just refer to them as cases 2, 5 and 6.

**CAPTAIN MKHATSHWA:** Counsel, can you maybe repeat that one?

10 **ADV CHASKALSON SC:** So, the ones that we can mention, 6.1 will be Case 2, we cannot mention it.

**CAPTAIN MKHATSHWA:** Okay.

**ADV CHASKALSON SC:** 6.2, the Littleton case, we can mention. 6.3, the Pretoria West case, which I think was another DJ, DJ Vintos, if I am correct, we can mention. 6.4 will be Case 5, we cannot mention it. And 6.6 will be Case 6, we also cannot mention that one. To begin with, can you confirm that you received this instruction to compare the ballistics exhibits from Bramley against those five cases?

20 **CAPTAIN MKHATSHWA:** That is correct, Commissioner.

**ADV CHASKALSON SC:** And when did you receive that request?

**CAPTAIN MKHATSHWA:** I received it on the 3<sup>rd</sup> of June 2025.

**ADV CHASKALSON SC:** If we go to paragraph 9, we will

see that you record that by the time you were asked to do these case comparisons. Captain Makgotloe had already conducted the functional testing and test firing of the firearms and had produced a report in May with certain errors which were then corrected in October. Can you refer to those two reports as Annexures MQM1 and MQM2?

I would like us to look at those two reports and if we can – sorry, before we look at those two reports, can we look at the third report that Captain Makgotloe produced,  
10 which was the report about the bullet that was extracted from the body of the deceased in the Vereeniging case and that is MQM4 on paragraph 29. Sorry, page 29 of the annexure bundle. Do you have it?

**CAPTAIN MKHATSHWA**: Yes, I have got it.

**ADV CHASKALSON SC**: And if we can start at the foot of page 30, paragraph 3, where Captain Makgotloe says:

20 “On 14 October 2024, during the performance of my official duties, I received an intact sealed evidence bag, gives the number, from case administration of ballistics. I opened the bag and found the following exhibits, 3.1 and 3.2.”

What would 3.1 and 3.2 have been?

**CAPTAIN MKHATSHWA**: 3.1, it is a 7.62 fired bullet that

was marked by B1. And the 3.2, it is a 7.62 calibre bullet core. Bullet core is, in a bullet, there is a lead inside the bullet or there is steel that is covered by copper. We call it a core.

**ADV CHASKALSON SC:** And from the exhibit numbers of that fired bullet and the fired bullet core, can you tell whether this was a test bullet or a bullet retrieved from a crime scene?

**CAPTAIN MKHATSHWA:** These are bullets that were  
10 retrieved from the crime scene, either from the post-mortem or from the crime scene.

**ADV CHASKALSON SC:** In fact, the evidence in this case will be that it was from the post-mortem. So, this was a bullet recovered from the body of the deceased. Then if we look at paragraph 4.12, what does Captain Makgotloe refer to there?

**CAPTAIN MKHATSHWA:** These are the tests that Captain Makgotloe made when the test fired the AK-47 that he received.

20 **ADV CHASKALSON SC:** And the test bullets, 363 TB1 and 363 TB2, are those test bullets that you have previously examined?

**CAPTAIN MKHATSHWA:** Yes, these are test bullets that I also used to check as to whether it is positive with one of the cases that I have done.

**ADV CHASKALSON SC:** And from which firearm do those tests bullets come?

**CAPTAIN MKHATSHWA:** They come from a Russian-made AK-47.

**ADV CHASKALSON SC:** And in which case was that AK-47 seized?

**CAPTAIN MKHATSHWA:** It is a Bramley CAS149.

**ADV CHASKALSON SC:** And then can you explain to the Commission what the conclusion reached by Captain  
10 Makgotloe in paragraph 6.1 is?

**CAPTAIN MKHATSHWA:** Captain Makgotloe is saying that the bullet mentioned in 3.1 ...[intervenes]

**ADV CHASKALSON SC:** And which was that bullet?

**CAPTAIN MKHATSHWA:** The bullet mentioned in 3.1 is a 762 bullet. That is from – it is an AK bullet. But it is the one that was recovered from the scene or from the post-mortem. It is positive with the firearm that he has examined. And this is because he has compared that bullet with the test that he has discharged from that firearm.

20 **ADV CHASKALSON SC:** So, the AK-47 seized in Bramley has been linked to the bullet extracted from the body of the victim in Vereeniging?

**CAPTAIN MKHATSHWA:** That is correct, Commissioners.

**ADV CHASKALSON SC:** If we can then go back to Captain Makgotloe's previous or first report, which is MQM1, which

we see from page 1 of the annexure file. And I want to take you to a series of what I am going to put to your errors in that report. If you can go to page 4, paragraph 4.

**CAPTAIN MKHATSHWA**: It is page 3, paragraph 4.

**ADV CHASKALSON SC**: Page 3 of the report, but I am looking at the pagination in the file. So, the number in the top right-hand corner.

**CAPTAIN MKHATSHWA**: Okay.

**ADV CHASKALSON SC**: You have got the same  
10 pagination as me. So, page 4, top right-hand corner, page 3 of the report.

**CAPTAIN MKHATSHWA**: I see.

**ADV CHASKALSON SC**: Paragraph 4, the captain says:

“On 24 May 2024 during the performance of my official duties I received an intact sealed evidence bag with number, and he gives the number P4B000208366 marked *inter alia* CAS140/04/2024.”

20 Can we go to MQM5 on page 34.

**CAPTAIN MKHATSHWA**: Page 30.

**ADV CHASKALSON SC**: 34, top right-hand corner, 34.

**CAPTAIN MKHATSHWA**: Okay, I am there.

**ADV CHASKALSON SC**: At the bottom left of the – one sees the evidence bag number P4B00028366 on the left-

hand bottom left. What is the Bramley case number that is marked on this bag?

**CAPTAIN MKHATSHWA**: It is 149/04/2024.

**ADV CHASKALSON SC**: And if you turn over the page, what are we looking at on page 35?

**CAPTAIN MKHATSHWA**: It is the same bag.

**ADV CHASKALSON SC**: It is the same bag, and what is the case number marked there?

**CAPTAIN MKHATSHWA**: It is 149/04/2024.

10 **ADV CHASKALSON SC**: So, the reference to 140/04/2024 in paragraph 4 is an error.

**CAPTAIN MKHATSHWA**: Yes, the reference I think is incorrect there.

**ADV CHASKALSON SC**: What should it have been?

**CAPTAIN MKHATSHWA**: It was supposed to be 149/04/2024.

**ADV CHASKALSON SC**: And this bag that we see is the bag that is in MQM5. That is the bag that is in that Bramley forensics file.

20 **CAPTAIN MKHATSHWA**: That is correct, Commissioners.

**ADV BALOYI SC**: Mr Chaskalson, how do we know that?

**ADV CHASKALSON SC**: We can show you the forensics file, if you would like.

**ADV BALOYI SC**: Yes.

**ADV CHASKALSON SC**: Can you take the forensics file to

the Commissioners and just show them that bag? Sorry, Commissioner, I am not sure if you saw both sides of the bag, because ...[intervenes]

**ADV BALOYI SC:** He showed us both sides, yes.

**ADV CHASKALSON SC:** And maybe, to avoid this happening a dozen times, maybe we should go through each of those exhibits now. Would that make sense? Sorry, captain, can you bring both files back with you to the commissioners? And let us go to – can you show the  
10 Commissioners in the Bramley file first, which is going to be MQM6, the copy of the 24 May report that is in the file now? Captain Makgotloe's first report, ostensibly first report.

**CHAIRPERSON:** MQM6 is at what page of what we got from the folder? 36, I am sorry. 36, thank you.

**ADV CHASKALSON SC:** And the first report. And for present purposes, I think the only important page of that first report to show to the commissioners is page 3 of that report, which corresponds to page 38 of the – no, it will not be written MQM, because that is your file. It is 3 of 8,  
20 indeed. And paragraph 4 of that report should have the case number 149, not 140. Paragraph 4, above 4.1, the top part of paragraph 4. Then, captain, can you show the Commissioners the review report of the very first review report in the Bramley file?

**ADV BALOYI SC:** It is our page 44.

**ADV CHASKALSON SC:** Correct, Commissioner.

**ADV BALOYI SC:** Thank you.

**ADV CHASKALSON SC:** Then, captain, still in the Bramley file, can you show the Commissioners the bag, the evidence bag PA6004509202? I think it is 6004509202. And that is MQM9, page 51. And lastly, in the Bramley file, can you show the Commissioners Captain Makgotloe's working notes? And those will be MQM11, page 53. Then, if you can go to the Vereeniging file and first show the  
10 Commissioners the review report in the Vereeniging file. First review report. And that would be MQM8 at page 48.

**CAPTAIN MKHATSHWA:** First page is ...[intervenes]

**ADV CHASKALSON SC:** The first page of the notes, not the notes, the first page of the log and then the review report behind it, I think. And then, lastly in that file, the evidence bag 5500103539. Ending, the evidence bag ending 3539. And that would be MQM10 at page 52. Thanks, Captain. I think we have been through all of them.

**ADV BALOYI SC:** Thank you, Mr Chaskalson.

20 **ADV CHASKALSON SC:** So, to get back to the errors, the first is the incorrect reference to the case number in paragraph 4. Then, if you turn the page, so it is page 5, and one looks at paragraph 4.30, the captain refers to one 7.62 times 39 calibre cartridge case. But in paragraph 6 on the same page, he said, I examined the cartridges, not

cartridge cases, mentioned in 4.12 and 4.13 and found that they consist of a primer cartridge case bullet propellant that were designed and manufactured to be fired by a centrefire firearm. What should paragraph 4.13 have referred to?

**CAPTAIN MKHATSHWA:** 4.13, it was supposed to refer to a cartridge, not a cartridge case, because paragraph 6 is talking about examining the cartridges.

**ADV CHASKALSON SC:** If we can then go to page 7 in  
10 paragraph 10.2, and there the report says the cartridge cases mentioned in 3.4 were fired in the firearm mentioned in 4.1. If we go to 3.4, which is on page 4, what is he describing?

**CAPTAIN MKHATSHWA:** Can you repeat counsel?

**ADV CHASKALSON SC:** What was the captain describing in paragraph 3.4 on page 4?

**CAPTAIN MKHATSHWA:** He is describing the bullet cores, as I have explained in the first what is a core. But these cores are of 7.62, which means it is of AK-47 type.

20 **ADV CHASKALSON SC:** And so, when he refers to cartridge cases in 10.2, that is an error?

**CAPTAIN MKHATSHWA:** That is an error.

**ADV CHASKALSON SC:** And he refers to the bullet cores again in paragraph 10.6. He says:

“The bullet cores mentioned in 3.4 are

not suitable for microscopic comparison due to damage.”

So on the basis of that conclusion, it would not be possible to reach the conclusion in 10.2 that the cartridge cases mentioned in 3.4 were fired in the firearm mentioned in 4.1.

**CAPTAIN MKHATSHWA:** Yes, that one is a correct one, Commissioners, that this cores, because they are damaged, they do not have grooves or lens that we can use to do a comparison.

10 **ADV CHASKALSON SC:** So, 10.2 is a mistake?

**CAPTAIN MKHATSHWA:** Yes, 10.2 is a mistake.

**ADV CHASKALSON SC:** If we go to the case notes of Captain Makgotloe, which is MQM11 on page 53, and you see – can you read for the Commissioners the conclusion in relation to the cartridges AA-3A to AA-3O? It is essentially the second paragraph of those notes.

**CAPTAIN MKHATSHWA:** Captain Makgotloe said C-C, which means it is cartridge cases, it refers to cartridge cases, that were marked 193045/24, AA-3A. Two, that he  
20 put a dash there, AA-3O. So, if you count from A to O, it is 15 cartridge cases are positive to the test. That is 363TC1 and 363TC2. And he has made it positive because he looked at the ejector and the firing pin.

**ADV CHASKALSON SC:** If we go back to the report on page 5, and we go to paragraph 4.9, those cartridge cases

marked AA-3A to AA-3O are the 15 cartridge cases referred to in paragraph 4.9.

**CAPTAIN MKHATSHWA**: That is correct, Commissioner.

**ADV CHASKALSON SC**: So, when we look at the report at 10.2, the reference to 3.4 should have been a reference to 4.9.

**CAPTAIN MKHATSHWA**: That is correct, Commissioner.

**ADV CHASKALSON SC**: If I can take you further down the report to paragraph 13, still on that same page of page 7, 10 starting at 13.2, there are a reference to a series of dates 24 March. 24 March in 13.2, 13.3, then over the page 13.4, 13.5, 13.6. Those references to March must also be in error because the captain only received this evidence bag on the 24<sup>th</sup> of May, so it should be May, not March.

**CAPTAIN MKHATSHWA**: That is correct, Commissioner.

**ADV CHASKALSON SC**: Can we then go to page 6, paragraph 7.2, and there the captain says:

20                   “Ammunition used for test purposes  
                      was marked as 363-TC1 and 363-TC2  
                      on the cartridge cases and 363-TB1  
                      and 363-TB2 on the bullets and was  
                      fired in the pistol mentioned in 4.1.

If we go back to 4.1, what firearm is he referring to in 4.1?

**CAPTAIN MKHATSHWA**: It is a rifle. It is a 7.62 by 39 Russian AK-47.

**ADV CHASKALSON SC:** And is that a pistol?

**CAPTAIN MKHATSHWA:** It is a rifle.

**ADV CHASKALSON SC:** So, 7.2 is also an error. It should say rifle.

**CAPTAIN MKHATSHWA:** I think it is an error.

**ADV CHASKALSON SC:** Can I take you then to another problem with 7.2? If we look at your report, MQM3, and we go to page 22 and we go first to paragraph 4.6, you record, well let us start at 4.1. 4.1, this is when you were asked to  
10 do comparisons involving the same AK-47.

**CAPTAIN MKHATSHWA:** Yes, that is correct but using the tests.

**ADV CHASKALSON SC:** But using the tests that had been created by Captain Makgotloe.

**CAPTAIN MKHATSHWA:** That is correct.

**ADV CHASKALSON SC:** So, in 4.1, in one of the evidence bags, there was a test-fired cartridge case marked 363TC1. And in 4.6, in another evidence bag, there were two more test-fired cartridge cases marked 363TC2 and 363TC3.

20 **CAPTAIN MKHATSHWA:** That is correct, Commissioner.

**ADV CHASKALSON SC:** So, there were three test cartridges that Captain Makgotloe must have fired.

**CAPTAIN MKHATSHWA:** Yes, it looks like he has made three tests. Because that is what I got from the still bag.

**ADV CHASKALSON SC:** Look at 4.12 as well over the

page on 23. It says three 7.62 calibre test-fired bullets marked 363TB1, 363TB2, and 363TB3.

**CAPTAIN MKHATSHWA**: That is correct.

**ADV CHASKALSON SC**: And that is consistent with what you have just said that there would have been three test firings that he made.

**CAPTAIN MKHATSHWA**: Yes, because there is three tests for cartridge cases and three tests for bullets.

**ADV CHASKALSON SC**: If we then go to the review  
10 report, which is MQM7, we see that when Captain Makgotloe first produced his report, the reviewer will not sign off on it. She said no at page 48.

**CAPTAIN MKHATSHWA**: Yes, the reviewer said no, see lab number.

**ADV CHASKALSON SC**: See lab number, and that is a reference to the Vereeniging case file. And if we go two pages down to MQM8, page 50, the reviewer says, bag in paragraph 4.2, incorrect, and paragraph 3. So, if we go to first paragraph 3, the bag referred to there in the report that  
20 we have at page 3 is PA5500103539, but we know that that number is actually the correct number because we have checked it, and that is MQM7 at page 45. So, he did correct that error in his original report before he signed the one that we see at MQM1.

**CAPTAIN MKHATSHWA**: That is correct.

**ADV CHASKALSON SC:** And, sorry, it is not page 45 at MQM7. It is page 51 at page – so page 51, MQM9 is the bag that matches that number. And, likewise, at page 52, MQM10, we have the bag PA5500103539, which is the correct bag that is mentioned in paragraph – sorry, I have got the numbers wrong. The bag in MQM9 is the right bag for paragraph 4.2. The bag at MQM10 is the right bag for paragraph 3. So those two errors were corrected in his report.

10 **CAPTAIN MKHATSHWA:** That is correct.

**ADV CHASKALSON SC:** Can I ask, in terms of protocols, when the reviewer says no, should there not be evidence of a follow-up review to check that the errors identified have been corrected?

**CAPTAIN MKHATSHWA:** When the reviewer says no, see paragraph so-and-so, it means that you have to go and rectify the mistake on that paragraph. And when you are done, you have to take the case file back to the reviewer so that the reviewer can check as to whether what she  
20 requested that you must do, you have done it. And that is why there it looks like there is a second reviewer.

**ADV CHASKALSON SC:** Sorry, I think you may be referring to page 48. If we have page 48 up.

**CAPTAIN MKHATSHWA:** Yes.

**ADV CHASKALSON SC:** At the foot of the page, the form

has Section E, second round of case review, case file past second review. And in this case, those blocks are all left blank.

**CAPTAIN MKHATSHWA**: Yes, it is blank.

**ADV CHASKALSON SC**: So, if you fail first review, in the ordinary course of events, are you expected to bring it back for the reviewer to confirm that you have now passed second review?

10 **CAPTAIN MKHATSHWA**: Yes, that the case is now cleared.

**ADV CHASKALSON SC**: And in this case, it seems that the report was released without the reviewer certifying that it had passed second review.

**CAPTAIN MKHATSHWA**: That is correct.

**ADV CHASKALSON SC**: But in actual fact, she probably would have certified that it had passed second review because the mistakes that she identified were corrected.

20 **CAPTAIN MKHATSHWA**: Yes, another thing, I really do not know. Maybe he might have corrected the mistake and sent it back to the reviewer, but the reviewer did not complete this part.

**ADV CHASKALSON SC**: Can I ask, in terms of review, if one looks at the form on page 50, the functions that the reviewer is supposed to perform are set out Section A, Section B, Section C. So, the reviewer is supposed to

check, do the case details on A, B, C, D, and front page of the case file correspond?

**CAPTAIN MKHATSHWA**: Yes.

**ADV CHASKALSON SC**: What is A, B, C, D?

**CAPTAIN MKHATSHWA**: A, B, C, D, this file has four sides. This one is A, and this one is B, this one is C, and this one is D.

**ADV CHASKALSON SC**: And where does the report of Captain Makgotloe sit in terms of A, B, C, D?

10 **CAPTAIN MKHATSHWA**: In terms of the reviewer here, I see it has ticked yes.

**ADV CHASKALSON SC**: That is a different question. Sorry, Captain. Where would one find the ballistics reports in a case file? Would it be Section A, Section B?

**CAPTAIN MKHATSHWA**: It would be Section A.

**ADV CHASKALSON SC**: Section A.

**CAPTAIN MKHATSHWA**: Yes.

**ADV CHASKALSON SC**: So, the case details that are mentioned in the report would be case details in Section A.

20 **CAPTAIN MKHATSHWA**: That is correct.

**ADV CHASKALSON SC**: And the reviewer is supposed to check, do they correspond to the case details in Section B, C, and D?

**CAPTAIN MKHATSHWA**: That is correct, Commissioner.

**ADV CHASKALSON SC**: She says yes in this case, but, in

fact, in one important respect, they do not.

**CAPTAIN MKHATSHWA**: Yes, actually, it was not supposed to be yes there.

**ADV CHASKALSON SC**: It should have been a no there.

**CAPTAIN MKHATSHWA**: Yes.

**ADV CHASKALSON SC**: Then on the third line, do the dates on A and C correspond? What is C?

**CAPTAIN MKHATSHWA**: C is the chain.

**ADV CHASKALSON SC**: Is the chain of custody.

10 **CAPTAIN MKHATSHWA**: Yes, that you will receive this at this bag, you have sent it to IBIS, and then you close it on the sealed bag. But that part, it is also having a part for the review at the bag.

**ADV CHASKALSON SC**: Right.

**CAPTAIN MKHATSHWA**: Yes.

**ADV CHASKALSON SC**: But there is a problem with the dates in A. The dates in A do not correspond in all respects with C, because there are all of those references to March, which were before the chain of custody even started.

20 **CAPTAIN MKHATSHWA**: Yes, that is correct.

**ADV CHASKALSON SC**: So, this should also have been ticked no.

**CAPTAIN MKHATSHWA**: Yes.

**ADV CHASKALSON SC**: Then if we go to Section C of this report, of this sheet, do the findings on the worksheet

correspond with those on the case file report?

**CAPTAIN MKHATSHWA**: No.

**ADV CHASKALSON SC**: They do not, because as you have pointed out, the worksheet linked the 15 AK-47 cartridges to the AK-47, but because of that error in 10.2.

**CAPTAIN MKHATSHWA**: That is correct.

**ADV CHASKALSON SC**: It was not there. So that should also have been marked no. So, the reviewer, in fact, marked three yeses where she should have marked no.

10 **CAPTAIN MKHATSHWA**: Yes, that is correct.

**ADV CHASKALSON SC**: If we then go to the second report, which starts at page 10 of your case file - sorry, your annexure file.

**CAPTAIN MKHATSHWA**: Page?

**ADV CHASKALSON SC**: Page 10 of your annexure file, MQM2.

**CAPTAIN MKHATSHWA**: Yes.

20 **ADV CHASKALSON SC**: So that is the second report. If we go to page 4, we see that that first error of the day of the case number, Bramley case 140/04.

**CAPTAIN MKHATSHWA**: I think counsel it is page 12.

**ADV CHASKALSON SC**: Page 12, page 12. I apologise, yes. That second error has not been corrected in the second report.

**CAPTAIN MKHATSHWA**: That is correct.

**ADV CHASKALSON SC:** If we go to page 13, paragraph 4.13, we see that the error in relation to the description of a cartridge as a cartridge case was not corrected in the report, but we have seen from the supplementary report that we addressed with Brigadier Mkhathwa yesterday, that there was a supplementary that identified this error, said it was an error, and corrected it.

**CAPTAIN MKHATSHWA:** That is correct, but I have not seen the supplementary.

10 **ADV CHASKALSON SC:** You have not seen the supplementary?

**CAPTAIN MKHATSHWA:** No, I have never seen it, but I think it is in this case file.

**ADV CHASKALSON SC:** It is in?

**CAPTAIN MKHATSHWA:** I think it is in one of these case files.

**ADV CHASKALSON SC:** It would be in the Bramley case file. But in any event, we saw it from Brigadier Mkhathwa yesterday in the non-conformance report.

20 **CAPTAIN MKHATSHWA:** Brigadier Mkabela.

**ADV CHASKALSON SC:** Sorry, Brigadier Mkabela, sorry. So that was corrected. If we go to 10.2 on page 15, the reference to 4.9 was put in. So, the original mistaken reference to 3.4, or erroneous reference to 3.4, was replaced with the correct reference to 4.9. So that was

corrected.

**CAPTAIN MKHATSHWA**: Yes, corrected.

**ADV CHASKALSON SC**: If we look at the dates in paragraph 13.2 onwards, we see there still are these references to March, so that has not been corrected.

**CAPTAIN MKHATSHWA**: Not corrected, yes.

**ADV CHASKALSON SC**: And if we go back to page 14 and 7.2, we see that instead of referring to a rifle in 7.2, it still refers to a pistol, and the test ammunition still only refers to  
10 two test cartridges and two test bullets, not three.

**CAPTAIN MKHATSHWA**: That is correct.

**ADV CHASKALSON SC**: If we go to page 16 and we look at the date of the second report, we see a new problem, which is the second report is dated 22 May 2024, but the affidavit had to have been signed at a later date than 24 May 2024, because, well, for one thing, the review of the very first version of the document only took place on the 6<sup>th</sup> of June. We saw from that review report.

**CAPTAIN MKHATSHWA**: Yes, correct. The date was  
20 supposed to be different.

**ADV CHASKALSON SC**: Can I ask you, is it common practise, if one looks at the change that was made in 10.2, to make a change in, as it were, to put in a replacement page as opposed to just filing a supplementary that identifies the error and corrects it?

**CAPTAIN MKHATSHWA:** Commissioners, I think the procedure is that you have to make a supplemental report. And in a supplemental report, you are going to point the mistakes that you are correcting from the original report.

**ADV CHASKALSON SC:** So, it is not consistent with procedure just to correct the report in the document and put in a replacement page?

**CAPTAIN MKHATSHWA:** No, it is not.

**ADV CHASKALSON SC:** And apart from anything else,  
10 doing that, it incorrectly backdates your replacement to 24 May 2024 because it does not flag the fact that your replacement page is put in at a date after 24 May 2024.

**CAPTAIN MKHATSHWA:** Yes.

**ADV KHUMALO SC:** Mr Chaskalson, it does not appear to me that this is a replacement page. It seems to me that it was signed much later, so they did not swap page 9 for page 17. If you look at the last signature and where it is, it does not seem like it is the same page to me.

**ADV CHASKALSON SC:** Commissioner, the last signature  
20 ...[intervenes]

**ADV KHUMALO SC:** So, if you compare page 9 with page 17.

**ADV CHASKALSON SC:** It is a different – it is the same Commissioner, but a different ...[intervenes]

**ADV KHUMALO SC:** If you look at where the signature

appears, it is not the same page. So, one cannot say you have simply inserted the old page. What they did is, when they did the second report, they backdated it.

**ADV CHASKALSON SC:** They backdated the second. I understand your point, and I fully accept it, Commissioner. Captain, just to put the Commissioner's observation to you, if one compares page 9 with page 17.

**CAPTAIN MKHATSHWA:** Page?

**ADV CHASKALSON SC:** Page 9, which is the signature –  
10 the Commissioner's signature on the first report.

**CAPTAIN MKHATSHWA:** Okay, page 9, yes.

**ADV CHASKALSON SC:** Page 16, one sees that the - firstly, the signatures are slightly different. So, in the signature at page 9, it says, Masha and I cannot read the second word the third one seems to be Samuel.

**CAPTAIN MKHATSHWA:** Kwena Samuel. I think it is Kwena.

**ADV CHASKALSON SC:** Kwena Samuel.

**CAPTAIN MKHATSHWA:** Yes.

20 **ADV CHASKALSON SC:** Masha Kwena Samuel. If we look at the signature on page 17, it is Masha KWS.

**CAPTAIN MKHATSHWA:** That is correct, I see.

**ADV CHASKALSON SC:** So, these are two different affidavits, and the one in the second report appears to have been backdated to 24 May 2024.

**CAPTAIN MKHATSHWA:** Yes, I think this is a good observation. We did not see it.

**ADV BALOYI SC:** Mr Chaskalson, perhaps it is also fair to put to you, captain, that having noted that the signatures are different, it is also possible, until Captain Makgotloe explains, that he just reprinted the last page and went to a commissioner. So, instead of backdating, he may well have reprinted from his old report and then went and got the commissioner to commission.

10 **CAPTAIN MKHATSHWA:** Yes, no.

**ADV BALOYI SC:** That is a possibility.

**CAPTAIN MKHATSHWA:** That is a possibility, Commissioner.

**ADV BALOYI SC:** Thank you.

**ADV CHASKALSON SC:** Chair, I see we have reached 1 o'clock. It may be a convenient time to break now.

**CHAIRPERSON:** Seeing that we started late, how much longer do you think the witness is going to be? If not too long, we could sit until the witness is done.

20 **ADV CHASKALSON SC:** I do not think we are going to be more than another hour, but we will not be – it is not 5 or 10 minutes. It is ...[incomplete].

**CHAIRPERSON:** Let us adjourn and resume at 2 o'clock.

**ADV CHASKALSON SC:** Thank you, Chair.

**INQUIRY ADJOURNS**

**INQUIRY RESUMES**

**CHAIRPERSON:** Yes, Mr Srasvacin.

**ADV CHASKALSON SC:** Thank you, Chair. Captain, we had finished dealing with the second report of Captain Makgotloe, MQM2. Can we now go to the third report, MQM6, which starts at page 36? And you have earlier confirmed that this is the copy of the report that one finds in the Bramley Ballistics file today.

**CAPTAIN MKHATSHWA:** That is correct, Commissioner.

10 **ADV CHASKALSON SC:** Now, we have been through that report, and it seems to us that there are only two differences between that report and the second report. The first appears on page 38. Go to page 38.

**CAPTAIN MKHATSHWA:** I am there.

**ADV CHASKALSON SC:** And there you will see that the Captain has now corrected the error in relation to the evidence bag label. It now refers to Bramley CAS 149/04/2024.

**CAPTAIN MKHATSHWA:** Correct, Commissioner.

20 **ADV CHASKALSON SC:** So paragraph 4 now refers to the correct case number, the case number that has been on the evidence bag since day one.

**CAPTAIN MKHATSHWA:** That is correct.

**ADV CHASKALSON SC:** The only other difference between this report and the second report that we can

identify is that the signatures, again, are different. So if one goes to page 42 and looks at the signature of Warrant Officer Makgotloe on page 42, that is not the same signature. It is a new signature when one compares that with page 16. And if one goes to the Commissioner's signature on page 43, that also is a different signature to the one that we see at page 17. Will you confirm that?

**CAPTAIN MKHATSHWA**: I confirm, Commissioner.

**ADV CHASKALSON SC**: And yet, the third affidavit, again,  
10 is backdated to 24 May 2024.

**CAPTAIN MKHATSHWA**: That is correct, Commissioner.

**ADV CHASKALSON SC**: Now, you have earlier testified that the correct procedure, if Captain Makgotloe wanted to remedy the error in his first two affidavits in the reference to the case file in paragraph 4, was to prepare a supplementary affidavit.

**CAPTAIN MKHATSHWA**: That is correct.

**ADV CHASKALSON SC**: I want to put to you that the  
20 problem about not doing a supplementary affidavit is twofold. The first is it looks like there never was an error because one has backdated the third affidavit to 24 May. So it looks like this has been what he has said all along. What is your comment on that? And do you have a comment on that?

**CHAIRPERSON**: Would it not be accurate that if the

reader has only the latest version of the affidavit?

**ADV CHASKALSON SC:** That is correct.

**CHAIRPERSON:** Yes.

**ADV CHASKALSON SC:** That is correct. Obviously, if the reader has all three versions, the reader would see that this is a work in progress. But the second error is that the whole point about a supplementary is to highlight that there was a mistake and that you have corrected it.

**CAPTAIN MKHATSHWA:** That is correct.

10 **ADV CHASKALSON SC:** If you do this version of rewriting your affidavit and backdating it to the date of the original affidavit, you are concealing the fact that you made a mistake and have now corrected it to the reader who only has this document.

**CAPTAIN MKHATSHWA:** Yes, Commissioners, because at the end of the day, that report that you have rectified needs to go to the IO. So if you rectify it using the backdated one and you do not give it to the IO, it is going to expose you because the IO will be having an affidavit or a report that  
20 will have mistakes that you have corrected on the affidavit that you are having on your file.

**ADV CHASKALSON SC:** And which affidavit is the affidavit likely to go to court?

**CAPTAIN MKHATSHWA:** The affidavit that is going to court is the affidavit that has been collected already by the

IO. So that affidavit is going to court with its mistakes, but then the mistakes that you have corrected are in the file. The right report is in the file.

**ADV CHASKALSON SC:** There is one last issue I want to deal with in relation to these successive reports, which is that if one goes back to the review reports, paragraphs MQM7 and MQM8, pages 48 and 50, if one does not submit your corrected report to the reviewer for recertification – no, sorry, if you submit a report to the reviewer, the reviewer  
10 says correct these errors, and you then take it away and hand over the report to the investigating officer without sending it back to the reviewer.

**CAPTAIN MKHATSHWA:** Ja ...[intervenes].

**ADV CHASKALSON SC:** Sorry, assume that scenario, which is what appears to have happened here. If you wanted to sabotage the report, you could make all sorts of changes from the copy that you gave to the reviewer in the first instance and hand an amended report to the IO.

**CAPTAIN MKHATSHWA:** Ja, that is possible,  
20 Commissioners, because when the reviewer gave you the case file and said go and rectify one, two, you have to go and rectify. After rectifying, you must take it back to that reviewer. That reviewer is responsible to take the case file to IBIS or to the archives and to take that report to case admin for disposal purposes. So if it goes back to the

examiner and the examiner rectify and then take it to the IO, then the reviewer now do not know as to whether the report was rectified or not. Even if you have made some changes, the reviewer will not know because the affidavit or the report was not brought back to him or her.

**ADV CHASKALSON SC:** In other words, what has happened here is that a document has gone out to the investigating officer without apparently passing through the hands of the reviewer in its final form before it went to the  
10 investigating officer.

**CAPTAIN MKHATSHWA:** Ja, it looks like that because when I listened, I hear that no, the IO got the report from the examiner. So it is possible.

**ADV CHASKALSON SC:** Can we then go back to your statement?

**ADV BALOYI SC:** Mr Chaskalson, before you do that, you have cross-referenced signatures and I think it is important that we get to the heart of what it is you are suggesting. You have cross-referenced Captain Makgotloe's signature  
20 at page 42 and the one at page 16, which are different reports, and you have said in one of them that is a new signature. Ja, I think you said the one at page 16 is a different signature. What is the big point that you are making? Are you suggesting it is not him that signed? Are you suggesting he sought to mislead with that signature? I

think it does need to be clarified.

**ADV CHASKALSON SC:** No, Chair, I think it is the point that – I am not suggesting that this is not the signature of Warrant Officer Makgotloe.

**ADV BALOYI SC:** Yes.

**ADV CHASKALSON SC:** It is the point that Commissioner Khumalo made earlier, which is this is not that a replacement page was printed out. It is that a full copy of the amended document appears to have been printed out  
10 with the same backdated date of 24 May and then signed afresh at a third occasion.

**ADV BALOYI SC:** I understand. I understand. I just thought it needed to be clarified. I think that is sufficiently clear. Thank you.

**ADV CHASKALSON SC:** Captain, we have taken a long detour before getting to your report, but we are getting there now. So if you can go back to page 3 of your statement, and you will recall earlier that you testified that you got this request on 3 June to compare the Bramley  
20 Ballistics specimens with five other cases that we have called Case 2, Case 3, the Pretoria West Case, Case 5, sorry, Case 2, the Littleton Case, the Pretoria West Case, Case 5, and Case 6. Can you pick up from paragraph 10 of your report where you describe what you did? Sorry, not of your report, of your statement, paragraph 10 of your

statement.

**CAPTAIN MKHATSHWA**: Commissioners, I have performed, or I can say that I have compared the cases that are stated in my MQM3. I have compared those cases with the Bramley case. And maybe do I have to go through what I have done?

**ADV CHASKALSON SC**: I will take you to your report in a minute, but just to give a broad outline of what you did, where you did it, and what you found.

10 **CAPTAIN MKHATSHWA**: I have been asked by one of the Sergeants through a request letter to compare the five cases stated on my statement.

**ADV CHASKALSON SC**: And where were you stationed at the time?

**CAPTAIN MKHATSHWA**: I was back in Silverton from KZN.

**ADV CHASKALSON SC**: And what test exhibits did you use for your analysis?

20 **CAPTAIN MKHATSHWA**: The test exhibits are the tests that were performed by Captain Makgotloe from the Bramley case.

**ADV CHASKALSON SC**: And if you go to paragraph 12, can you give the Commissioner a summary of what you concluded with your analysis?

**CAPTAIN MKHATSHWA**: I found that Bramley 149, that

was the possession of firearms, is linking with the case dockets.

**ADV CHASKALSON SC:** And remember that it referred to Case 2, Case 5, Case 6.

**CAPTAIN MKHATSHWA:** Ja. It is linked with five case dockets. It is linking firstly with Case 2. And it is linking with Littleton, CAS 157/8/2022. And it is linking with Pretoria West, CAS 447/7/21. And it is linking with Case 5. And also it is linking with Case 6.

10 **ADV CHASKALSON SC:** And in paragraphs 12.1 and 12.2, you identify the specific links that you found. Can you tell the Commission what they were?

**CAPTAIN MKHATSHWA:** Paragraph 12.1:

20 “An AK-47 with serial number 575363, it is a Russian made, used in a Bramley, was linked with Case 2 and Littleton case. My comparative analysis established that this same rifle previously identified in the Bramley was also used at the Case 2 and Littleton crime scenes.”

So what it means is that the AK-47 that was tested by Captain Makgotloe is linking with the crime scene of Littleton and Case 2.

**ADV CHASKALSON SC:** And in relation to the 9mm

conclusion at paragraph 12.2?

**CAPTAIN MKHATSHWA**: There is a pistol with an obliterated serial number. The make is Taurus. That pistol is the pistol that was tested at the Bramley case by Captain Makgotloe and that pistol is linking also with the Pretoria West Case and is linking also with – let me get my notes aside – ja, that pistol is linking with Case 2 and is linking also with Pretoria West and is linking with Case 5 and is linking with Case 6.

10 **ADV CHASKALSON SC**: And if we go to your report, which is MQM3 from page 18, can I ask you to explain the detailed conclusions that you reach, that sets out, I mean you have just given the summary conclusions, and they are set out in your report from the foot of page 25, paragraph 11, page 8 of 11 of your report. Can you – maybe what would help the Commissioners in this regard is if at the top of the page where all of the cases are mentioned, you can explain to the Commissioners against each case which cartridges are linked to which case, where that list of six cases at the top  
20 is, and then you can do your conclusions with reference to that. So which are the cartridges linked to the Bramley case?

**CAPTAIN MKHATSHWA**: I can say, I think maybe, is it not proper for me maybe to first explain what is comparison microscope?

**ADV CHASKALSON SC:** Sure.

**CAPTAIN MKHATSHWA:** Ja, so that ...[intervenes].

**ADV CHASKALSON SC:** Please do, yes.

**CAPTAIN MKHATSHWA:** So that the Commissioners can follow. We have got an equipment in the laboratory called a comparison microscope. Comparison microscope consists of two microscopes that are connected together by a prism bridge, where a binocular eye is fitted, and through that binocular eye you can be able to view both specimen  
10 simultaneously. And underneath the microscope there are platforms where we place these specimens. These platforms are adjustable, and there is a light that we use for illumination purposes.

So we place the exhibits in both platforms, and then you look on the binocular eye, and then if it is positive, what you see on the left must be able to see on the right. If it is negative, what you see on the left, you will see something different on the left. So that is how the microscope operates. So just to explain the findings that  
20 Senior Counsel said I must.

In 11.1, but Senior Counsel, I said if maybe the Commissioners next to Bramley, they were supposed, maybe they can put, because the exhibits there is 4.1 to 4.12 on Bramley alone. And then on Case 2, it is 5.1 to 5.2. On Littleton, it is 6.1. On Pretoria West, it is 7.1. On Case

5, it is 8.1 to 8.2. On Case 6, it is 9.1 to 9.2. That is important for the understanding of these results.

So 11.1 says the cartridge cases mentioned in 4.1, 4.5, 4.6, those exhibits on 4.1, 4.5, and 4.6, they are from Bramley case. And then 5.2, that exhibit is from Case 2. And 6.1, that exhibit is from Littleton. So what it means is that that AK-47 was used. The AK-47 that was tested by Captain Makgotloe was used in Case 2 and Littleton. That is the first finding.

10 And when we go to 11.2, here we are dealing with the pistol. So the cartridge cases mentioned in 4.2, 4.7, those ones are from Bramley. 5.1 are from Case 2. 7.1 are from Pretoria West. 8.1 are from Case 5. 9.1 are from Case 6. So what it means that Taurus with an obliterated number was used in Case 2 and it was used in Pretoria West. It was used in Case 5 and Case 6. So that is what it means. These are the two firearms that were tested by Captain Makgotloe that are linking with the cases mentioned in the report.

20 **ADV CHASKALSON SC**: And your conclusion in 11.3?

**CAPTAIN MKHATSHWA**: 11.3, the cartridge cases mentioned in 6.1, that is Littleton and Case 2 were fired in the third firearm. There, Commissioners, Littleton, the only firearm that was used, the firearms that were used there are rifles only. So I am just showing there that there is a link

between Littleton and Case 5. But the firearm is not recovered.

**ADV CHASKALSON SC:** So in addition to the AK-47 that was seized at Bramley, there was another rifle that was used at Littleton and is it Case 5?

**CAPTAIN MKHATSHWA:** Yes. That was not recovered.

**ADV CHASKALSON SC:** And was that also an AK-47?

**CAPTAIN MKHATSHWA:** It is a 762 by 39. I cannot say it is an AK-47, but the ammunitions that were used are used  
10 by the AK-47.

**ADV CHASKALSON SC:** It is a rifle that uses the same ammunition as an AK-47?

**CAPTAIN MKHATSHWA:** That is correct.

**ADV CHASKALSON SC:** It may be an AK-47, it may be another rifle?

**CAPTAIN MKHATSHWA:** That is correct. So 11.4 there is a bullet, the bullet mentioned in 9.2. 9.2 is Case 6. Was not fired from the same firearm with bullets mentioned in 4. There I was checking the bullet that I have received at Case  
20 6 with the test bullet that were made by Captain Makgotloe for Bramley 149, and it is negative. It happens to be like the bullets were not fired in the same firearm.

**ADV CHASKALSON SC:** Thank you very much, Captain. From my side, I do not have further questions for you.

**CHAIRPERSON:** Just one question based on what was

said by Brigadier Mkhabela yesterday. I hope my recollection is correct. In your testimony today, you say that you used the same test, I do not know whether cases or projectiles, but those that were fired by Captain Makgotloe, you used them to do your own tests.

**CAPTAIN MKHATSHWA**: Yes, Commissioner. I have used the tests that were made by Captain Makgotloe, tests of bullets and tests of cartridge cases.

**CHAIRPERSON**: All right.

10 **CAPTAIN MKHATSHWA**: Yes.

**CHAIRPERSON**: Thank you. If I understood Captain Mkhabela correctly, he said that to do a proper test, you must fire yourself, that is, fire into the tank, and use what you have fired. And he said something like to use someone else's test bullets and test cartridges would not be proper because you are not quite sure of the circumstances relating to how that other person did the shooting or firing. I hope, again, that my recollection is correct.

20 **CAPTAIN MKHATSHWA**: Commissioners, what is happening is that when a firearm is brought to the laboratory, the person that is going to be assigned to examine that firearm will test that firearm, and the tests are going to be put on that case file. One of the tests will be sent to IBIS just to be put on the database. But the test data on the case file, any comparison with other cases,

because the firearm now will be sent back to the station, and then from the station will be sent for destruction. So if an IO said please compare this case with this firearm, he is not necessarily saying that you must go back and look for that firearm. He is saying that you must compare it with the tests that has been made when the firearm was initially brought to the laboratory. So it is incorrect. It is incorrect what he said if he did say that.

**CHAIRPERSON:** Also, to be sure that you are comparing  
10 apples with apples, you must use the very same bullets and cartridges that were ejected when the tester or the analyst did the original test.

**CAPTAIN MKHATSHWA:** That is correct.

**CHAIRPERSON:** Okay, thank you.

**CAPTAIN MKHATSHWA:** And those tests, after they put them on the seal bag, so their integrity is unquestionable.

**ADV CHASKALSON SC:** Can I ask, Captain, would those test cartridges and test bullets still be sitting inside the Bramley forensics file?

20 **CAPTAIN MKHATSHWA:** That is correct.

**ADV CHASKALSON SC:** And could you find them, without opening that bag, could you find them and possibly show them to the Commissioners?

**CAPTAIN MKHATSHWA:** Yes, I can, but now they are mixed with the 15 cartridge cases that were picked on the

crime scene.

**CHAIRPERSON**: But just to be clear, my question, though, related to what the analyst or tester fires into a tank, as I understood Brigadier Mkhabela's case. My question did not relate to what would be picked up, whether at the scene or in this case, where the suspects were arrested. So my question related to what is fired for purposes of conducting the test, what is fired into the tank. I am just clarifying that that is what my question related to. Thank you. Thank you,

10 Captain.

**ADV BALOYI SC**: Captain, early on in your evidence and in your statement you describe your role, and this you find in paragraph 3 of your statement. Firstly, what I want to clarify is that description of your role. Is it your role as a senior forensic analyst, or is your role in the PKTT, as a senior forensic analyst in the PKTT?

**CAPTAIN MKHATSHWA**: No. Senior forensic analyst is my job title, but I was deployed to go and work in KZN and do the linkages of cases, do crime scenes, do vehicle  
20 examination. So those are the role of a senior forensic – actually an analyst.

**ADV BALOYI SC**: Okay.

**CAPTAIN MKHATSHWA**: Yes.

**ADV BALOYI SC**: So the description you give in paragraph 3, that is a description of the role of an analyst?

**CAPTAIN MKHATSHWA**: Yes, yes.

**ADV BALOYI SC**: All right. Does then that include even the last part in that statement, in that paragraph where you say, I think from the fourth line right, the extreme right, you say the sentence that starts there, it says:

10                   “Given the technical complexities of ballistics, I also present my reports to investigating officers to explain the findings and guide their enquiries, including the identification of specific firearms that should be sought.”

And my specific question really is to the part where you say you guide their enquiries. Is that what a forensic analyst does in the normal course, or this is something that you do now that you are within the PKTT because you are part of that team?

**CAPTAIN MKHATSHWA**: Actually there, I think it is just guiding investigations.

20                   **ADV BALOYI SC**: Okay. Just unravel that. What does that mean?

**CAPTAIN MKHATSHWA**: It means, say for instance, a crime has been committed and then a person was shot with a 9mm shot. It is our duty to explain to the IO that what you are looking for is a 9mm shot, not a 9mm pistol, not a rifle, because the police will come and bring all these

firearms. They say compare. But if you said for this case the person was killed with a 9mm shot, then the person knows exactly what kind of a firearm he is looking for.

**ADV BALOYI SC:** And that is a function you perform in the normal course?

**CAPTAIN MKHATSHWA:** Yes.

**ADV BALOYI SC:** Okay. And then lastly from me, you said further on that the analysis that you did, the final one in April 2025, you did that in Pretoria. You are now back at  
10 your station in Pretoria.

**CAPTAIN MKHATSHWA:** That is correct.

**ADV BALOYI SC:** Does that mean you are now back in Pretoria, or this was just for this specific assignment?

**CAPTAIN MKHATSHWA:** No.

**ADV BALOYI SC:** And I ask the question because of the directive that the PKTT should be dissolved, the Minister's directive, and I want to understand whether is that why you are back in the laboratory or this is just for this assignment?

20 **CAPTAIN MKHATSHWA:** Okay. Let me put it this way, Commissioners. The PKTT is not dissolved, but some members of the PKTT were sent home, like the Ballistics, the Crime Intelligence, the LCRC. The members who are left at PKTT as we speak is the detectives and the combat, because the combat is there to protect the detectives when

they go to court. Although even ourself, from time to time, I fly to Durban to attend cases, but I am back for now.

**ADV BALOYI SC:** Now, given the function or the role that you were playing in the PKTT when you were assigned to the PKTT, now that you are out of that, you have been sent home, what do you say or what would you say is the consequence of it on the work of the PKTT? What do they now lack which they had while you were there on a full-time basis?

10 **CAPTAIN MKHATSHWA:** PKTT lack now, I think, the turnaround time of investigating the case. They were having everything in the palm of their hands. When they arrest a person with a firearm, they send it to Ballistics, we are going to produce a report within a day or two. They need LCRC to go and collect the specimens. Same day, the case in Ballistics.

They needed Crime Intelligence to get evidence or information. And they needed, I think there is cell phone analysts also to do – if the cell is – they confiscate the cell  
20 phone, download the cell phone. And they need also the analysts. So now, they are no longer going to process things very fast to be effective as they used to be effective because part of the disciplines are no longer part of them.

**ADV BALOYI SC:** Thank you, Captain.

**ADV CHASKALSON SC:** Just to pick up on the

Commissioner's question, assume the PKTT now sees a firearm, what is going to happen in terms of the Ballistics examination process? They want to know, is this firearm linked to any of our matters? How will they proceed now?

**CAPTAIN MKHATSHWA:** Well, they now, meaning that they will just have to take the firearm and send it to Amanzimtoti and wait for the report. And that can take time, but they can ask that please prioritise this firearm. But then they will be asking, because there will be no  
10 people who are designated to do that firearm and give them a report at the same time.

**ADV CHASKALSON SC:** Thank you.

**ADV KHUMALO SC:** Thank you. I just have one question. I am looking at Brigadier Mkhabela's statement. You may not have it with you, so I am going to read a section where he deals with how a Ballistic analysis is conducted, just so that I understand what your role was in this process. In 24.5, he says:

20 “The assigned analyst will complete and sign the comparison microscope results form to document the findings/results from the comparison microscope.”

And then in 24.6, so I am trying to understand if what you do is what is set out in 26.5, 24.5 or 24.6. This is what he

says in 24.6:

“An independent analyst will also conduct an independent microscopic verification on the same samples and exhibits. The independent analyst will then complete and sign a comparison microscope verification results form.”

Is that more or less what you did, or is it something different?

10 **CAPTAIN MKHATSHWA**: Ja, it is more or less what I did in this case.

**ADV KHUMALO SC**: Yes, because I did not want to confuse that with what the earlier analyst does. So I just needed to be clear that what you do is more or less the independent microscopic verification.

**CAPTAIN MKHATSHWA**: Yes. Commissioners, because I was the one who was analysing or was doing a microscopic comparison, I have compared. After comparing, then I have signed the form that the Brigadier is saying must be signed.  
20 But then after that, there must be an independent person whom I am going to give the very same file and say no, go and do verification examination on this. So that person, if what I have done, say, for instance, I said I got positive, he must come with positive.

So if I said, okay, what I have done, maybe it is

negative, he must come to that very same conclusion. And our results or our findings, even an independent expert from outside Ballistics must come to the very same conclusion. And it happens time and again, especially in KZN they used to challenge us and say, no, we need the case file. We have our own ballistics expert.

We are going to give it to them, but we are not just going to give the file to them. We will be with them. Then to go, they will have their own mic, and then they are going  
10 to do a microscopic examination. They must come to the very same conclusion.

**ADV KHUMALO SC:** They being the accused persons?

**CAPTAIN MKHATSHWA:** No.

**ADV KHUMALO SC:** Who are the they that are asking for their own ...[intervenues].

**CAPTAIN MKHATSHWA:** The defence usually have their own ballistics expert. Yes. So that person, when he is given the very same file, that person must come to the same conclusion that we came to. Yes.

20 **CHAIRPERSON:** Thank you. Thank you very much, Captain.

**ADV CHASKALSON SC:** Thank you, Chair. We do not have a further witness today. This is the end of this little ballistics chapter. Tomorrow's witnesses will deal with the arrest of Mr Molefe.

**CHAIRPERSON**: Thank you. Let us adjourn until 09:30 tomorrow.

**INQUIRY ADJOURNS TO 29 OCTOBER 2025**

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