

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

HELD AT

BRIGITTE MABANDLA JUSTICE COLLEGE

11 NOVEMBER 2025

DAY 30



PROCEEDINGS ON 11 NOVEMBER 2025

CHAIRPERSON: Good morning, Adv Sello. Good morning, Commissioner Spies.

COMMISSIONER SPIES: Good morning, Commissioner.

ADV SELLO SC: Thank you. Good morning, Chair. Good morning, Commissioners and good morning to you, Commissioner Spies. When we parted yesterday afternoon we had just concluded the sub-chapter in your statement on death threats that you had received. We are now moving on
10 to a new topic and that starts at page 22 of your statement and it is under the heading “criminal record vetting process”. Have you located the place?

COMMISSIONER SPIES: Yes, Commissioner.

ADV SELLO SC: Okay. If you could pull the microphones closer to you. Thank you. You deal with this from your paragraph 47 up to 52. So let us have a conversation about those paragraphs before we deal with your sub-topic regarding systemic concerns with the vetting process, okay. Right, thank you.

20 **COMMISSIONER SPIES:** Commissioners, during 2020 and 2021 we as Municipal Police also attend the Portfolio Committee of Policing in Parliament and there was remarks and questions made by the Portfolio Committee that it looks like Municipal Police members are not vetted and they are not criminal checks done against them.

And in terms of the Municipal Police and interactions with the South African Police Services we have established an Inter-Governmental Framework Forum which was established with the Constitution where the National Police Commissioner and the Municipal Police Chiefs meet on a quarterly basis and we then set standards and uniform standards between us and also align, in terms of the single policing concept that we align our training methods and procedures and everything.

10 So in terms of that at our quarterly meeting in November 2021 there was a discussion at this what we call the Chiefs Forum that how do we enable it that the Municipal Police members also get vetted and criminal records checked, because we as the Municipal Police Services we do not have access to the South African Police Service computer systems and criminal record centres. We are acting like civilians on the side for their systems' purposes.

20 And it was then agreed that we will initiate the process where we will at least take all the members' fingerprints, submit it on a manual process to the South African Police Service and that they will then verify the criminal records at a once off basis to us and then we will ...[intervenes].

CHAIRPERSON: Sorry, sorry, Commissioner, you said this

was at what Chiefs what, Chiefs Forum, Chiefs what?

COMMISSIONER SPIES: We call it the Chiefs Forum. It is, the South African Police Service have established a Metro Police nodal point within the South African Police and the six current Municipal Police Services have then established a nodal point as well where we interact and deal with one another.

And then there is a Constitution for this forum and this forum consist then of two separate sub-committees.

10 The one sub-committee deals with training related matters, training academies and training curriculum and the second committee is the Research, Technology and Uniform Standard sub-committee of which I am the Chairperson and then the Chiefs themselves have a forum as Municipal Police.

And then on the Friday we have a combined South African Police Service and Municipal Police Service meeting where we then try to trash out any challenges or issues that we have between the forces and so that we can standardise

20 everything between us. This has been in place since Commissioner Selebi or General Commissioner Selebi's time when he was the National Police Commissioner had continued on since to date.

CHAIRPERSON: Thank you. Thank you, you may go back to where you were, yes.

COMMISSIONER SPIES: Thank you. So when we returned from the November 2021 meeting at Ekurhuleni, Chief Mapiyeye initiated an immediate inter-department process where he issued what we call a directive, a standard operating procedure, which is in terms of our policies, he issues a directive to all the staff and the Deputy Chiefs, which we must then immediately comply with.

This directive was that everyone's fingerprints must be taken, it must be submitted to the Staff Officer, Colonel
10 Ivan Du Plessis who will then make arrangements and Commissioner Mapiyeye is then also, because the Provincial Police Commissioner was known about this, it was arranged with the Provincial Police Commissioner that the whole of Ekurhuleni's fingerprints will be taken, Ekurhuleni Metro Police, and then this will be analysed by the South African Police Service and feedback will be provided to us.

CHAIRPERSON: Was this to be done for the first time or is it something that have been done within the EMPD before?

20 **COMMISSIONER SPIES**: In EMPD it was done, but very haphazardly and randomly. It was not done on a regular basis at all. It was initially when we became members, when we were established, which is like 22 years ago, it was done initially and, but thereafter it was only done when you recruit people. The recruits' fingerprints will be taken.

But officers in the force would stay without having their fingerprints being taken. It is only when you do promotions, during a promotion process the shortlisted candidates, their fingerprints will then be taken and so that you can look at the promotions, but so it is not a, it was not a regular exercise done.

CHAIRPERSON: I am aware that in your statement you mention that Brigadier Mkhwanazi refused to be subjected to this, but before that, had he ever been subjected to this
10 process?

COMMISSIONER SPIES: Not at all. It would have been only during his original appointment as a recruit. That was the only time that it would have been done. So ...[intervenes].

CHAIRPERSON: Thank you. Thank you, please continue.

COMMISSIONER SPIES: So this ...[intervenes].

ADV SELLO SC: Commissioner, before you move on, may I invite you to your Annexure RS18 and we have this conversation in the context of, or with reference to the
20 actual directive issued by the Chief of Police, Chief Mapiyeye in 2021. And in particular I would like you to concentrate, my reading of the directive, the opening paragraphs, the first three paragraphs in large part deal with the legislative framework, what the law provides insofar as vetting is concerned.

I would like to draw your attention to the second last paragraph, the penultimate paragraph on that page at page 47, the last paragraph and then you can move over then to the process to be followed as prescribed by that directive. So if you could deal with what the directive required of all members and then we will take it from there as to, as regards the issue of compliance or non-compliance. Thank you.

COMMISSIONER SPIES: Must I start at the second last
10 paragraph of the directive?

ADV SELLO SC: Yes, where it says ...[intervenes].

COMMISSIONER SPIES: Okay, it is fine.

ADV SELLO SC: Where it references the National Strategic Intelligence Act.

COMMISSIONER SPIES: Correct. So the directive explain the legislative framework where this into – to prevent any labour issues if officers wants to disagree with it. So it starts off in the second last paragraph to say:

20 “The National Strategic Intelligence Act, Act 39 of 1994, in section 2A(1)(a) and (b) is very specific that employees of an organ of state may be vetted. The City of Ekurhuleni is considered an organ of state as envisaged in this Act and therefore all employees of EMPD

are included to be vetted. South African Police Services Crime Intelligence section has been instructed or appointed to perform the vetting of all Municipal Police Services by the National Police Commissioner and the standard forms as printed and issued by the Government Printer shall be used, e.g. SAP91 enquiry.”

10 And then on page 48:

“The process to be followed. The annual vetting process for EMPD shall start on 1 January 2022 and be concluded by 28 February 2022. Disciplinary action will be instituted against any non-compliance. During this process each Divisional Head shall be responsible to ensure that all employees in their respective divisions’ fingerprints be taken on the prescribed form, SAP91, and submitted to the office of the Chief, Colonel Ivan Du Plessis, the Staff Officer in the Chief’s Office. The forms will then be submitted to the Gauteng Provincial

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Police Commissioner's office for analysis and feedback to the Chief's office."

And then it is signed by Commissioner Mapiyeye as the Chief of Police.

ADV SELLO SC: Thank you. Reading on the process to be followed, item 1 stipulates that the annual vetting process, or states that the annual vetting process shall start on the 1st of January 2022. My question is, was this
10 process intended to be repeated on an annual basis? Was that the intention? Was that your understanding of ...[incomplete].

COMMISSIONER SPIES: Correct, Commissioner, because in Ekurhuleni it was not done, it was only done upon promotions and it was only done when you are initially recruited. All the other Metro Police departments do it on an annual basis and we were the only ones who actually when it came to light and during this discussions at the Portfolio Police committee we did, we noticed that we do not do
20 everyone every year, we only do the promotion part of it and we only do upon recruitment and therefore the decision was made that this annual vetting shall be instituted and it shall start as an annual for everyone.

ADV SELLO SC: And I see that at item 2 it states that during this process each Divisional Head shall be

responsible to ensure that all employees in their respective divisions' fingerprints be taken. This is 2021, December 2021. Please remind us how many Divisional Heads were there within EMPD and specifically who they were?

COMMISSIONER SPIES: The divisions were Division Operations and Specialized Services which have Commissioner Goodman Mzolo as the Head of that division. It was Division Auxiliary and Support Services of which I was the Head as Deputy Commissioner Spies. It was the
10 Division Security of which Commissioner Ndumiso Gcwabe was heading the Security and Loss Control.

There was a Division Licensing which was then headed by Mr Hamilton Ledwaba. Sorry, if I have to let my mind go back to make sure that I have mentioned – and there was a Division Compliance, however, Division Compliance was vacant and there was no appointment in that position at that stage. The functions of that division was divided between the other Deputy Chiefs at that stage.

ADV SELLO SC: Okay, you may proceed with your
20 testimony. Then what did you do, or what happened after this directive was issued by Chief Mapiyeye?

COMMISSIONER SPIES: So from my section, I had a sub-section with we called a warrant of arrest section. That warrant of arrest section was headed by Colonel Vorster and I tasked him and his whole team to immediately start

the process on 1 January, taking my division's fingerprints. That was concluded in January already, the whole Division of Auxiliary and Support Services. I then made him available to the other divisions and say please assist the other divisions, because they take too long to do this process.

And by the end of February, which the Chief's deadline was, a large portion of it was concluded, except the southern region and the specialised services. The specialised services refused to have their fingerprints taken at all. This section is the section that resorts under then Brigadier Mkhwanazi. They refused to have their fingerprints taken.

The southern region, the reason they have not concluded yet is they are the largest region, they have the most officers and they were running late because of the volumes and the officers working different shifts and taking their fingerprints. So there was a verbal extension that we can carry on during the year with it and at the end of February and March Colonel Du Plessis then took all the fingerprints that was already submitted, handed it over to the Provincial Police Commissioner's office and they started to analyse it.

In the South African Police side it took a long time, it was like 4 to 5 months to took it, but it was distributed to

different criminal record centrums like Soweto, Johannesburg, Tshwane and East Rand, because of the huge volume that came in. And then it started to trickle back and eventually once it start coming back, my, one of my sections, Colonel Van Rooyen, which is the Human Resource Liaison person, her section was then tasked to scan and capture the returns, which is the SAP69 forms, which is the criminal records. It would state on the front page either illicit activity recorded or no illicit activity recorded. If it says no illicit activity recorded then there is
10 no record of SAPS looking for you or having any record of you. And if there is illicit activity recorded there will be a SAP69 which is the actual record, will then be attached to the back of that.

So Colonel Van Rooyen and her section started to capture all of these returns as it is. Eventually there was more than 3,700 in total. I do not have the exact figure, but I have got a spreadsheet with the actual names on it that was submitted to HR and in this process when we got to a
20 stage where it is a year later now, we are supposed to start the next session of vetting again, but we have not even concluded the first session again.

And I was then tasked by Chief Mapiyeye to give feedback on this specific status, where in the project are we, because we are capturing, my section is capturing it. I

then prepared a feedback where I presented and I started, we were at a meeting which we called Bexco inside. It is Police Executive Committee, it is the Chief of Police with his Deputy Chiefs and the Head of Internal Affairs that is together and at this meeting where we are present, the Chief was chairing and I was presenting the feedback of this or where we are.

The moment I started to give feedback, Brigadier Mkhwanazi was sitting right opposite me and he started to
10 scream with even spit and froth that comes out of his mouth at me where he was screaming extremely disrespectful towards me, screaming that he does not have a criminal record and I am saying he has got a criminal record. And I said to him but I am not saying you have got a criminal record, I am giving feedback on the status of the fingerprints.

What I do say is that your section did not provide their fingerprints and they refused to provide their fingerprints. I am not saying you have a criminal record.
20 And he just kept on screaming at me in front of all of us in the meeting. He physically took his phone out and he started phoning and he speaks, you can clearly hear he speaks to the City Manager, Imogen Mashazi.

And he puts the phone down and he says the City Manager says this process will stop immediately and he

turned around and he walked out in an extremely disrespectful manner, closed the door. We were all still shocked that a senior officer can actually even act in this manner. And the Chief of Police, Commissioner Mapiyeye then calmed us all down and said stop, do not discuss further anything here, he will go and speak to the City Manager afterwards and he will calm everything down, we must just carry on doing our work.

And from that meeting then the very next day I
10 received an e-mail from Gxasheka who is the HOD of HR, wherein she stated that the process and we must submit everything to them. At that stage I have already prepared what we call a council item. It is a draft item that we can report to Council. Everything is already in the item, the wording, the background, the discussion up to resolutions even, but it is still in a draft form. It states at the top draft as well. Attach this list of officers with a graph of what their crimes are, what the officers are accused of, just redacting their names and the spreadsheet itself has been
20 encrypted with a password that no one can really open it if they do see it.

And we submitted that as a proposal to say we from the Metro Police side thinks that HR must deal with these officers in the following manner, and a proposal that we in the draft made is that the officers must be offered a chance

to provide proof that they have been expunged, because there is in law an expungement process and it is possible that they have been expunged and the certificates has not been submitted, that we make sure that it is a proper process so that every officer be given an opportunity.

So we proposed, because we know how long the process takes in the Justice Department is to give them a period of 6 months, provide proof of expungement and if you do not have proof of expungement that we then start
10 initial proceedings at the end to either dismiss or to take disciplinary actions against the officers who got criminal records.

So that meeting was then set up with HR. However, it was postponed at the last minute to the next day and we then met at Gxasheka's boardroom in Germiston.

CHAIRPERSON: Oh, before you continue, Commissioner, I am sorry to interrupt you, I want to take you back to Brigadier Mkhwanazi. You said his entire section had refused basically to be subjected to this fingerprint process.
20 Do you know how many police officers were in this section?

COMMISSIONER SPIES: Commissioner, it is close to 200.

CHAIRPERSON: Okay. Did you get any information as to how it came about that all of them did not subject themselves to the process?

COMMISSIONER SPIES: When Colonel Vorster and the

group of officers that I have assigned, when they came back to me everyday to give feedback to say they have done so many fingerprints per day and they all came back to me and says they visited Specialised Services officers and the officers were not there and when they spoke to the supervisors, the supervisor said to them they are not going to give their fingerprints because it is an illegal process. So I received every day feedback just to say that the Specialised Services does not want to give their fingerprints
10 and that.

And, because there was also from some of the union members that came to see me that wanted to have clarity because they say their members has approached them to say we are taking the fingerprints and nowhere in the act does it say we can take their fingerprints. And then we had sessions with the organised labourers well to say but here is, here it is, you know it is in numerous different legislation that police officers' fingerprints can be taken.

It even states in the one, the, regulation 11 of the
20 Municipal Police Services it states if you refuse to have your fingerprints taken, you commit an offence. So we explained to the union members there was a proper process to get them as well a favour, this is a legal process, there is nothing illegal or untoward about it.

CHAIRPERSON: And the supervisors that you say you got,

or Vorster was it? Can you, was it Vorster that was doing the ...[intervenes].

COMMISSIONER SPIES: Colonel Vorster is the one ...[intervenes].

CHAIRPERSON: Yes, yes.

COMMISSIONER SPIES: He was in charge of the unit and went to assist to take the fingerprints.

CHAIRPERSON: Yes. The supervisors that you say he got feedback from, would those have been supervisors who fell
10 under the supervision of Brigadier Mkhwanazi.

COMMISSIONER SPIES: Correct. The Specialised Services, there is, there is, one of the supervisors there was a Deon Singh. He was from the K9 equestrian unit and the drug enforcement unit. He is one of them. And then the others, I do not know all of them, but there is specific people that I know that was extremely arrogant and they just blatantly refused to even make themselves available to have their fingerprints taken.

CHAIRPERSON: Thank you.

20 **ADV SELLO SC**: If I may just pick up on that line of questioning, Commissioner Spies, you, we read Chief Mapiyeye's directive of the 21st of September. That is your Annexure RS18 where he sets out the process to be followed.

CHAIRPERSON: Is it not December, Ms Sello?

ADV SELLO SC: December. Did I say a different month?
21st December 2021.

CHAIRPERSON: Correct.

ADV SELLO SC: I apologise. It is with the confusion. And that is your Annexure RS18. You state as you have highlighted to the Chair that the Specialised Services Division under Brigadier Mkhwanazi refused to submit their fingerprints. You now have also made reference to regulation 11 which stipulates that it shall be an offence to
10 refuse to have your fingerprints taken. In his directive at item 1, page 48, Chief Mapiyeye indicated that disciplinary action will be instituted against any non-compliance. Are you aware of steps, if any, taken against Brigadier Mkhwanazi and/or members of his division for the refusal to have their fingerprints taken?

COMMISSIONER SPIES: No further steps were taken against them, because in my testimony as I will get to it, this process has been killed and stopped by Gxasheka from HR.

20 **ADV SELLO SC:** So as of December 20 – well, I will take it, it is February, because this process was supposed to conclude in February 22, there was this absolute refusal to have their fingerprints taken and you had retired in February 2025.

COMMISSIONER SPIES: Correct, Commissioner.

ADV SELLO SC: For completeness, at the time you retired had their fingerprints been taken?

COMMISSIONER SPIES: Not that I know of.

ADV SELLO SC: I am going to be, because of this line of questioning I am going to jump slightly ahead and we do not have to project, you have Annexure RS21 appearing from page 61. This you say are the results of, or the status of all members whose fingerprints, who were vetted ...[intervenes].

10 **COMMISSIONER SPIES:** Correct.

ADV SELLO SC: And have a legend explaining their respective status. My question for the moment is do we read Annexure RS21 to be exclusive of all members falling under the Specialised Services Division, is that a correct interpretation?

COMMISSIONER SPIES: RS21 is the full database of everyone.

ADV SELLO SC: Yes.

COMMISSIONER SPIES: That is the 3,762 members.

20 **ADV SELLO SC:** Yes.

COMMISSIONER SPIES: But of that, and it is colour coded then, the, no illicit activities is marked in green.

ADV SELLO SC: No, I am, you will get to that part. I just want to know, those 3,700 you list ...[intervenes].

COMMISSIONER SPIES: Yes.

ADV SELLO SC: At RS21, you provide the status of each. My question is, is it a correct reading that this list does not include any member of Brigadier Mkhwanazi's Specialised Services Division.

COMMISSIONER SPIES: No, their names will be there under outstanding.

ADV SELLO SC: Okay.

COMMISSIONER SPIES: Marked in yellow, because we, the ones marked in yellow we have not yet taken their
10 fingerprints. Those are the ones who has not their fingerprints taken. There is obviously some that has been off sick or not at work and their fingerprints could not be taken. So there, out of the 211 that is outstanding at that stage, those include, and you will see at this divisions and sections that it is Specialised Services. There is here and there another individual which is from another section but it is because of reason.

ADV SELLO SC: Okay.

COMMISSIONER SPIES: The southern region is for
20 instance the one that they were still busy, their fingerprints being taken and late submitted. We have not got the results back.

ADV SELLO SC: Okay, thanks for that.

CHAIRPERSON: I am sure, Ms Sello, we are not expected to actually see what is on there might be the size of the

letter ...[indistinct].

ADV SELLO SC: It shall be reproduced in what – oh, A3.

CHAIRPERSON: Yes, as you arranged magnifying glasses or what. All right.

ADV SELLO SC: Indeed, Chair. We have thought of how to engage with this for the listeners. It is difficult to work through it. We cannot project it on the screen because it contains personal information of members.

CHAIRPERSON: I doubt that we really have to
10 ...[intervenes].

ADV SELLO SC: Then we do not have to.

CHAIRPERSON: Yes. I think it is enough to just get an idea of the numbers by looking at the colour coding.

ADV SELLO SC: Okay.

CHAIRPERSON: That is enough for our purposes.

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

CHAIRPERSON: Do not worry about ...[intervenes].

ADV SELLO SC: About having to share it.

CHAIRPERSON: [Indistinct]... [cross-talking] or whatever,
20 yes, yes.

ADV SELLO SC: Yes. In future ...[intervenes].

ADV BALOYI SC: Ms Sello, if I may just follow up on the earlier question.

ADV SELLO SC: Yes.

ADV BALOYI SC: Just in case it was not done. You were

asked, Commissioner, whether the 200, the people that belonged under, or that fall under Specialised Services, any of them had been fingerprinted by the time you left and your answer was you are not aware of, you are not aware if that was done and I want to ask a slightly different question. You, the directive you say contemplated that there would be annual vetting process ...[intervenes].

COMMISSIONER SPIES: Correct, Commissioner.

ADV BALOYI SC: Starting from the date from 2022.

10 **COMMISSIONER SPIES**: Correct.

ADV BALOYI SC; As at the time that, and you have told us that that process was stopped, the 2022 process was stopped, so it did not conclude. By the time you left had any vetting at all, the annual vetting that was contemplated had it happened or was it happening at all?

COMMISSIONER SPIES: No, no further, that 376 that we have vetted from inside the department, that was the only vetting that was done and then the process to carry on from that was physically stopped and thereafter no vetting was
20 again done on criminal records. There is a later process where just after Commissioner Mkhwanazi was appointed as a Deputy Chief then, and this vetting process was started, there was an instruction from the Chief of Police to the three Deputy Chiefs that we must be fully vetted.

In that process he again refused to be vetted at all

and Commissioner Gcwabe, the forms were supplied to him and he started the process to be vetted and I answered the Chief back to say I am already vetted to a top secret clearance level, here is my top secret clearance security number. My own security vetting has then at a stage, it is only valid for 5 years, it expired and it was redone and I have received my new one again. So I am fully vetted to top secret, which now expires in 2030 somewhere. I do not know the exact date, but it is somewhere in 2030. I think
10 August 2030.

ADV BALOYI SC: Thank you. Thank you, Commissioner. Thank you, Ms Sello.

ADV SELLO SC: Thank you, Commissioner Baloyi. Staying then with RS21 which we will not project, it is colour coded green, yellow, red and without giving any detail for future reference can you summarize what the colour coding means, what is green, what is highlighted red and yellow ...[indistinct].

COMMISSIONER SPIES: This is an Excell spreadsheet
20 containing all the employees of Ekurhuleni Metro Police in 2022 that was used to capture the results of the criminal record vetting. Everything covered in green is when no illicit activity was recorded and that is a total of 3,174 people. The ones covered in a light beige colour is the southern region who has submitted late because of their

large volumes and they have already submitted 102 to SAPS, but we have not received the results of that 102 yet back. And then there is a group of illicit activity in a dark red, which is 275 officers that have illicit activity recorded and then the 211 is still outstanding, which gives us a total of 3,762 at that stage. Under the dark red ...[intervenes].

CHAIRPERSON: Sorry, Commissioner. In the red that is where illicit activity has been identified, was the total number but then to the far right there is another number.

10 What does that signify?

COMMISSIONER SPIES: So that is a lighter red and it states awaiting trial. So when the illicit activity sometimes come back it means that an officer has for instance been arrested and he has already been charged and he already pleaded and his criminal case is running, so we do not yet have a result of that person, so we just indicate it as awaiting trial, because of the process is still ongoing.

CHAIRPERSON: Oh, thank you very much, because it is just sticking out and hanging as it were, I did not see the
20 heading above. Thank you very much.

COMMISSIONER SPIES: Thank you, Commissioner.

CHAIRPERSON: Do you have in the list officers who have been convicted and what is that number? I cannot quite read it.

COMMISSIONER SPIES: It is 100.

CHAIRPERSON: 100. Thank you.

COMMISSIONER SPIES: Yes.

CHAIRPERSON: Thank you.

ADV KHUMALO SC: In the list do you have officers who have been convicted?

COMMISSIONER SPIES: That is the, out of the 275.

ADV KHUMALO SC: So when you say illicit activity identified, the 275 have been convicted?

COMMISSIONER SPIES: Yes, Commissioner.

10 **ADV KHUMALO SC:** And then the 100 are awaiting trial.

COMMISSIONER SPIES: Yes, Commissioner. I do have, made a graph which I presented at the same meeting on page 60, which is RS20.

ADV SELLO SC: Before we get to RS20, we will get to RS20, can we stay with 21 for the moment. You are still going through the colour coding methodology you applied. So you had said the beige, those highlighted in a beige colour, what – oh, those were the, involved the southern region mainly which has a large number of members.

20 **COMMISSIONER SPIES:** Correct, Commissioner.

ADV SELLO SC: And had not completed the process.

COMMISSIONER SPIES: Correct, Commissioners. Their fingerprints will already taken and submitted, but we still have not received feedback from the South African Police Service and their results.

ADV SELLO SC: Then you have the yellows. What does yellow ...[intervenes].

COMMISSIONER SPIES: The yellow means that the fingerprints has not been taken and the fingerprints has also not be submitted, so they are still outstanding and therefore nothing has happened with them yet.

ADV SELLO SC: And it is in this category that members of the Specialized Services Division would fall.

COMMISSIONER SPIES: Correct, Commissioners.

10 **ADV SELLO SC:** Now if you could go back to page 50, that is Annexure RS19. This appears to be a memorandum from Chief Mapiyeye dated the 6th of February 2024 addressed to L Gxasheka, HOD, Human Resource Department, do you see that, and it is signed at the bottom by him. Is it this document, it says:

20 “Kindly find attached report from the EMPD to Human Resources Department regarding the status quo of EMPD employees with criminal and/or illicit activities recorded against them as requested by the Human Resources Department in a meeting held on the 27th of February 2024 at HR Corporate, Head Office in Germiston.”

Do you see that? At paragraph 52 of your statement

you reference a meeting you had with Ms Gxasheka. That date of the 27th of February 2024 that Chief Mapiyeye refers to at page 50, is it the same meeting or is it a different meeting, because your meeting of the, at paragraph 52 does not appear to have a date.

COMMISSIONER SPIES: The meeting that we held with HR, so in the beginning of February there was a meeting which is the Specs committee.

ADV SELLO SC: Yes.

10 **COMMISSIONER SPIES:** But then it was postponed. The meeting was setup with HR and that meeting took place on 27 February. On the letter of Commissioner Mapiyeye the date that it was issued is actually 6 March, because it is, the letter was not issued before the meeting. It must be a typo, because we actually had, on the 5th of March we had drafted the item already based on what was discussed in that meeting, we must provide all the information to HR so the letter that Commissioner Mapiyeye signed, reference the 27 February meeting which was held with HR. It is that
20 meeting at page 52 where we held the meeting with HR.

ADV SELLO SC: So you are suggesting that the date at page 50 might be wrong, instead of 6 February it must be 6 March 2024.

COMMISSIONER SPIES: Correct.

ADV SELLO SC: And I think that attached to that would

appear to be a report dated the 5th of March 2024. So I think that correction would accord actually with the contents of the document at the report at page 51, which is ...[intervenes].

COMMISSIONER SPIES: Correct, Commissioner.

ADV SELLO SC: At a later date.

CHAIRPERSON: Even paragraph 1, Adv Sello, on page 50 it refers to a meeting of 24 February, so ...[intervenes].

ADV SELLO SC: Indeed, 27 February.

10 **CHAIRPERSON**: Ja, 27.

ADV SELLO SC: Yes. So we do accept that typo. Do you want to deal with this report starting at paragraph 51?

COMMISSIONER SPIES: At this, so at this meeting that we held on the 27th – of meeting, the people present there with, was Ms Gxasheka, who is the Head of Human Resources. She was the Chair. There was a Mr Lefu Makhoba, Colonel Van Rooyen from the Metro Police, Brigadier Julius Mkhwanazi, Colonel Ivan Du Plessis and there was also a Mr Maripe Matjokotja, he is the Divisional
20 Head at Corporate HR.

And then it was discussed there is to say that we as Metro Police cannot do this process, the process must be restarted on suggestion from Brigadier Mkhwanazi from scratch, because the people who took the fingerprints and the people who is involved in this process cannot be

trusted.

And then it was resolved by Gxasheka that we will submit our complete database together with the draft report and the letter to her office and it shall be managed by Lefu Makhoba. So, and we must provide all the information, everything over to them and it will then be dealt with them. So I, obviously we came back and the next day we submitted this draft, what we say is a draft report is normally Corporate Human Resources will do a Council
10 report, because it is Human Resources and HR related, but to expedite the process we drafted the whole item already for them, say this is what we suggest and we submitted that to them.

The Excell spreadsheet itself, I encrypted it with a serious password and I then sent that via e-mail to Lefu Makhoba and I sent the password via WhatsApp to him. We had up and down e-mail correspondence where he stated he cannot open it, because he forwarded it to some other people and I explained to him well, I do not want to release
20 it, or you can forward it to anyone else because it is POPI, POPIA Act is critical and this is containing all the database information of employees plus criminal records and I do not want this to be circulated in the department at all.

When eventually he came back and he cc'd everyone and he says but provide the password to him via e-mail. So

after about a week later he said to me but POPI but does not apply, because it is internal correspondence and I then sent the password via e-mail to him as well, which he then replied back to me to say okay, he can open it now.

It was then forwarded, this item and everything was forwarded to Corporate and Legal and Corporate and Legal made comments to say that our approach as Metro Police is wrong, we cannot do, because our suggestion was that we give the employees a chance to provide their expungement proof and if nothing of that happens, is that they then be either dismissed or that disciplinary steps be taken against them.

So Corporate and Legal came back and says no, you cannot dismiss them, you cannot do this process, we must leave it in the hands of Corporate HR and exactly at that point that is where it stopped. It never went further than that at all again.

ADV SELLO SC: Can I find out from you, you say Ms Gxasheka directed that you submit all the data that you had collected by then, including what is reflected at RS21 and RS20 which we shall deal with shortly, which is a summary of the nature of the crimes that members were found either to have been guilty of or awaiting trial for. Who is Mr Lefu Makhoba? What position did he hold at the time and what particular expertise did he have in regard to matters of

vetting, do you know?

COMMISSIONER SPIES: I do not know his exact position that he held, but he was at Corporate HR and he used to report to the Division Head: Employee Relations, Xolani Nciza who would be in a better position to actually explain Lefu Makhoba's position, but Lefu was always involved in the, where disciplinary matters is operated from in, so he was running in that section. I do not know his exact position, but he was dealing with disciplinary cases at the
10 back end and the HR process.

ADV SELLO SC: You also indicate that in that same meeting where this instruction was given, present was Mr Maripe Matjokotja. Who is that? What position did he hold?

COMMISSIONER SPIES: At that stage I also did not know his position there, but Mr Matjokotja was a normal HR person, most probably a Senior Manager or Divisional Head at HR and he was the one who when my, during my suspension which I will come to much later, he is the one
20 who signed and recommended it. So I know Mr Matjokotja. Also in my earlier testimony I mentioned an incident where Council took a resolution to adopt a new structure, Mr Matjokotja is the one who presented this new structure and he is the one who I discussed with where he stated to me that my position is not in the structure anymore, but they

will keep me till my contract ends and I will be on the side and provide, read newspapers or provide information to them and assist anyone during my period when the contract is still running.

ADV SELLO SC: As a matter of interest, in that period when you were supposed to read newspapers, did the EMPD undertake to provide you with the newspapers or were you expected to buy them for yourself?

COMMISSIONER SPIES: Commissioners, no, it was – I
10 believe it was tongue in cheek from him, just making a stupid remark. It was, because I was cross because of the fact that even in my mind I could not understand how you can change a complete Municipal Police structure organogram without consulting any of the Municipal Police Officers, not management, not me as the Divisional Head.

That whole structure was changed by Corporate HR without any input from us at all. We did not even discuss it and we did not give input into it and then Council make this resolution and we discover it when it is leaked from the
20 Council, because the moment it goes on a Council resolution it becomes a public document and we obviously discovered it then.

And in this arguments when I asked him so where am I, why are my position not here, and that is when the, I want to say tongue in cheek remark is but you know, you have

got a contract, we will pay you your salary, what do you worry about, you can sit and read newspapers every day.

ADV SELLO SC: We dealt with your RS21, which is that big document that provides the results for vetting in respect of all 3,700 members. You have summarised this – no, you have not summarised it. Insofar as crimes committed or convicted for, you have put this in a table format, a graph format rather, to indicate the extent and, the nature of the crimes and the extent to which members are either
10 convicted currently or are facing charges for. Would you like to talk to this graph?

COMMISSIONER SPIES: On page 60 I have created this graph and it is obviously in the spreadsheet just a graph which is sorted from the highest amount of crimes and the crimes as it is captured is obviously as it comes from the 69 it is just like an abbreviation of the crime and it then runs from the top of assault cases where officers were found guilty for assault with a total of 58 as the most and it goes down to uttering which is 1. Must I read every one of them,
20 Commissioners?

ADV SELLO SC: I think you can just highlight the key ones or, I will not say the most concerning because all crimes are concerning.

COMMISSIONER SPIES: So from the top it goes assault was 58; theft cases was 41; driving under the influence is

33; reckless and negligent driving, 28; murder awaiting trial was 15; fraud awaiting trial was 14; robbery awaiting trial was 8 ...[intervenes].

ADV SELLO SC: May I interrupt you there. Okay, we do not have to go through all of them. Just based on what you have just read, murder awaiting trial, 15; fraud awaiting trial, 14; robbery awaiting trial, 8; fraud, 7, so effectively these are members in the system who are awaiting trial or convicted for these crimes.

10 **COMMISSIONER:** With the exception of fraud, Ms Sello.

ADV SELLO SC: Except for the exception of fraud.

CHAIRPERSON: Yes.

ADV SELLO SC: Yes.

COMMISSIONER SPIES: Murder, there is already, a little bit lower down there is 4 officers that has been found guilty for murder as well, so there is 15 awaiting trial, meaning they have not been found guilty, their trial is still ongoing, but further down the list there is 4 for murder, there is 4 for rape, there is 3 for robbery, so even though at the top there
20 is an awaiting trial portion, there is officers who has been found guilty already and that is in the service with criminal records and very serious criminal records.

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

CHAIRPERSON: You say those convictions are in respect of murder, rape and fraud did you say?

COMMISSIONER SPIES: The very ...[intervenes].

CHAIRPERSON: The convictions, the convictions.

COMMISSIONER SPIES: If I categorize from what I consider as serious crime for police officers, there is like negligent loss of firearm is 6, but if we go to things like extortion is 5, housebreaking is 5, kidnapping is 5, murder is 4, rape is 4, robbery is 3, pointing of firearm, so from the highest list which is more related to the schedule 1 type of offences, the murder, the rapes and that, there is. And then
10 there is at the top the awaiting trial portions that is still not concluded.

ADV SELLO SC: Just to make sure we read it correctly, in some instances taking for instance as an example fraud, you have fraud awaiting trial, then you have fraud, you see that at the top?

COMMISSIONER SPIES: Correct.

ADV SELLO SC: Where you have not indicated awaiting trial, does that mean these, the figures you gave are in respect of convictions?

20 **COMMISSIONER SPIES**: Correct, Commissioners.

ADV SELLO SC: So all, anything here that is not highlighted as awaiting trial, these are all members, members have these convictions including rape, murder.

COMMISSIONER SPIES: Correct, Commissioners.

ADV SELLO SC: And they are in the system.

COMMISSIONER SPIES: Correct.

CHAIRPERSON: And robbery.

ADV SELLO SC: Yes, yes, Chair. Okay.

ADV KHUMALO SC: Commissioner, because you said earlier that when you joined the service you get vetted, can we conclude from this document that this offences were committed after the members entered the service, because I am assuming if they were committed before, you would not have become a member of EMPD because you would have
10 failed the vetting.

COMMISSIONER SPIES: No, Commissioner, that is unfortunately an assumption on your side.

ADV KHUMALO SC: Ja.

COMMISSIONER SPIES: Some of these cases stem back from the late 80's, 90's and how the officers passed the initial recruitment process is also unknow to me then, because their fingerprints were taken, but how they get forced into the system I do not know. But these records obviously relate to everything the South African Police
20 Service have as a criminal record based on the fingerprints. And some of the cases if you look at the convictions, the conviction dates were long, long ago as well, prior to their actual appointment date.

There is one which is a very strange matter. It has been reported to us as well. There was an officer, he is out

of the service now because he got caught again and then he was sentenced to imprisonment and he sits in prison, the officer was found guilty of murder, he was never sentenced and this is a very old case which I do not understand as a policeman how that happen, if you can be found guilty of murder and then not sentenced. But it is an old case, it is things that we picked up.

ADV KHUMALO SC: What is the policy, what is the EMPD policy regarding the employment of people who have
10 previous convictions?

COMMISSIONER SPIES: It is legislation that prescribe it. It is in terms of regulation 11 of the Municipal Police Services. One of the requirements of, the minimum requirements to be appointed as a member is that you may not have a previous criminal record, except if it is politically motivated or there is a specific wording related to that, but it is, you may not have a criminal record upon appointment.

It is one of the challenging factors we have, specifically of interpretation in Ekurhuleni, not in the rest of
20 the country, but in Ekurhuleni they interpret the words, because the sub-regulation starts with the exact words “upon appointment you may not have a criminal record”, they take it as upon appointment not your career. So it is as if they as HR think well, you can be appointed and thereafter you can build a career of criminals and that is

maybe something that need to be changed that it makes the word less, interpretation available for people to say but you may never have a criminal – in my mind you may never have a criminal record as a policeman.

There could be, and this is something that I say with respect, there could be matters that is happening in your career which could be waived or there could be a process of expungement that happen. As an example, you could be involved in an incident where there is, let us say serious robbery or a cash in transit and there is a shooting incident and you accidentally you shoot a robber, but you also shoot an innocent citizen and you get found guilty for culpable homicide maybe in that matter, in the execution of your duties and you will not really have intent or anything like that, there could be an expungement process if the law allows it.

But at the moment the law states upon appointment you shall not have a criminal record and this is interpreted by Ekurhuleni HR to mean that that day when I was appointed, 1 April 1991, I did not have a record then, or when we were established as the Metro Police 16 February 2002, I did not have a criminal record at that day. But thereafter it is an open field according to them. There is no policy as well and that is problematic. There is no policy what happens if an officer do get a criminal record during

his service. There should be an incapacity process where you are not fit to be a policeman anymore and you should be worked out of the system.

One of the things that is absolutely critical and, but this is my own opinion, there is a few others that have the same opinion, is that in terms of the singularity of what the Constitution, singularity of policing in the country where all policing service must be the same manner, is that we can have different payrolls, meaning that Local Government, you are employed by Local Government or you are
10 employed by National Police, but at the bottom end the standards of a disciplinary agreement, the way that you are being dealt with as a policeman should be the same.

We have for instance a large challenge, because my officers are locally bound, Ekurhuleni officer is employed in Ekurhuleni. The Ekurhuleni HR systems, computer systems for instance does not have access to home affairs ...[indistinct] or the South African Police. There is no interface between these systems. So my officer can
20 physically go to Durban on holiday and he can commit a rape, he can commit a robbery, he can commit anything wrong there, we will never know it happened.

The officer can come back and every time he has to appear in court he takes a day's leave and he fly out and he – we will only discover it if he does not pitch for work one

day, because he sits in prison. And we have even, there is even a strange anomaly that happened now. One of our officers was found guilty of murder, he actually, at Vosloorus Police Station he shot and killed his wife who is, or was a Captain in the Police, he shot and killed her in the charge office of the Police Station. Our Police Station and their Police Station is very close to one another, they are separated by like a parking space between us.

And he shot and killed his wife. He came out of the
10 Police Station and then obviously everyone it is blue on blue, Police and Metro Police all rush out because of the shock, and then he tried to commit suicide and he shot himself in the head. He was, paramedics on scene, rescued, he, actually he looks like he sustained no damage and he was released from hospital. He was eventually found guilty and he was incarcerated and I believe it was like a period of 15 years. He came out on parole now in this year and he lodged an unfair dismissal case, because he was not processed in the correct manner and Ekurhuleni
20 reinstated him.

So the systems does not speak to one another and that is something that if we for instance want to take, if I want to check if my officer have a criminal record, I do not have any access to it at all. I cannot see it. I can, the only manner I can do it is I take his fingerprints manually, I

submit it to the South African Police Service, I as Municipal Police must pay the South African Police Service either R85.00 or R180.00 as a Government entity, to the South African Police Service to say please check this fingerprints for me. They will take weeks and months to do it and then come back with a result to me.

So I as the Police, Municipal Police do not have access to criminal records of my officers. My officer could be in the, in domestic violence incidents be involved at home against his spouse or wife and the Police could hold an enquiry about his fitness to possess a firearm in terms of the Firearms Control Act, or there could be a domestic violence protection order against the officer and where the court makes a ruling that he is unfit to possess a firearm, that is captured into SAPS systems and ...[indistinct] systems. I do not have access to that.

What we have in the meantime arranged between us and the South African Police Service is that we provide them with a list of our officers' names and then at the end of every month the South African Police Service draw an extract of their firearm unfit list to us to say the following officers have been captured in their system as unfit to possess a firearm.

But that is one of the critical things that is a problem, is that we have even approached SALGA, which is the

Government, the South African Local Government Association which is the employer actually, to state to them can we please, and we already had workshops around this, can we have a separate set of conditions of service for Municipal Police Officers than the rest of Council, so which is aligned to be similar to, it is not the same, because it is two different organisations, but that we have systems and disciplinary agreements that a policeman must not only act in the same manner towards every citizen, but he must also
10 be treated in the same manner at the backend and that unfortunately does not exist.

ADV SELLO SC: Thank you, Commissioner. Now you concluded paragraph 52, basically that all this information was shared with Ms Gxasheka's department as per her instruction. So she became, she and her department became aware of what you have just shared with the Commission, is that correct?

COMMISSIONER SPIES: Correct. Correct.

ADV SELLO SC: You then say this process was
20 subsequently halted and to date no further steps have been taken.

COMMISSIONER SPIES: Correct, Commissioners.

ADV SELLO SC: I take it when you say it was halted, you mean that it just did not proceed any further than the point at which ...[intervenes].

COMMISSIONER SPIES: Correct, nothing further happened. We have not had any meetings further to that effect. Nothing else in the department took place.

ADV SELLO SC: Was there any feedback by Ms Gxasheka as the Head of HR or her office as regards this vetting process? Was there any formal communication to you?

COMMISSIONER SPIES: There was no further feedback from Gxasheka and neither from Lefu, even though on the sidelines I harassed him the whole time and asked him what
10 is happening, what is happening. There was no further feedback.

ADV SELLO SC: And you recall from Chief Mapiyeye's directive of the 21st of December 2022 he had indicated that disciplinary action will be instituted against non-compliance. What did Chief Mapiyeye at this juncture, which we say is around the 6th of March 2024, do when this process was halted with the results that you have highlighted in both Annexure RS20 and RS21 regarding members who have got criminal records in the system and members who refused to
20 be vetted? What did the Chief do about all this?

COMMISSIONER SPIES: Chief Mapiyeye was already under tremendous pressure of being either suspended or placed on special leave and I do not know if there was, there was nothing that I as Deputy Chief ever saw that was ever done against any of these officers who refused to

submit their fingerprints or even the people who were, who had a guilty, that was found guilty. There was no further steps taken against any of these officers.

ADV SELLO SC: So are you suggesting that Chief Mapiyeye could potentially have been under one of his many suspensions at the time?

COMMISSIONER SPIES: Correct.

ADV SELLO SC: Because we know that he was finally suspended. The latest is the 25th of September 2024. And
10 this is happening around March, the 6th of March 2024.

COMMISSIONER SPIES: Commissioner Mapiyeye was already in August 2023 after Brigadier Mkhwanazi's disciplinary case has been pushed aside and trying to be stalled, there was already incidents where the then City Manager, Mashazi actually in front of me she said to him I am suspending you now. So this happened here at 17/18 August 2023 already, so he was already suspended even though the records will indicate at a later stage they altered the documents to actually make that he was placed on
20 special leave of 30 days and Makhwanazi was placed in his position to act.

So it was a constant harassment against him and there was no continuity that anyone do it, but as far as my knowledge is up to the date when I retired on 28 February, nothing was done against these officers at all and the

process was not started or concluded at all.

ADV SELLO SC: And equally so there was no explanation from the upper ...[indistinct] of EMPD as to the status of this process or why it is not proceeding. It was never communicated to the Divisional Heads.

COMMISSIONER SPIES: Correct, Commissioner.

ADV SELLO SC: Was it to your knowledge, was this matter ever reported to Council of Ekurhuleni?

COMMISSIONER SPIES: It was not formally reported to
10 Council and, that I know of. I do know that there were, in Council there were Council questions. The process of Council work where Councillors will during a Council they will submit written questions and then the individual departments must answer. So I know that there have been questions from Councillors that was raised in Council, but because it is a HR related issue it was never answered by our department.

We saw the questions, but it was always answered by HR. I do not know their answers, because I do not see
20 other departments' answers. But from Metro Police it was, because it is HR related it was always pushed back towards HR to say answer this question.

ADV SELLO SC: Is it then fair to assume that equally so you do not know what attitude Council adopted on this matter?

COMMISSIONER SPIES: No, I do not know ...[intervenes].

ADV SELLO SC: Yes, you do not.

COMMISSIONER SPIES: [Indistinct]... [cross-talking]

Council against this matter.

ADV SELLO SC: You conclude then at paragraph 55 to say to your knowledge Brigadier Julius Mkhwanazi is not vetted, neither has his fingerprints be checked. I guess what we do is to qualify that as at the date of your retirement.

10 **COMMISSIONER SPIES**: Correct, at the date of my retirement ...[intervenes].

ADV SELLO SC: Things would have happened ...[intervenes].

COMMISSIONER SPIES: He has not been vetted ...[intervenes].

ADV SELLO SC: [Indistinct]... [cross-talking] your retirement. Okay.

ADV BALOYI SC: Commissioner, that conclusion while it speaks to Brigadier Mkhwanazi, it would be fair from your
20 evidence to say in fact his whole Specialised Services unit that had refused to be vetted as at the time of your departure, to your knowledge none of them had been vetted.

COMMISSIONER SPIES: Correct, Commissioner, for criminal records.

ADV BALOYI SC: For criminal records.

COMMISSIONER SPIES: There is not a single person except Commissioner Mapiyeye, there is not a single person in the Ekurhuleni Metro Police who has been fully vetted with a classification from either Crime Intelligence or from the State Security Agency.

ADV BALOYI SC: Thank you.

ADV SELLO SC: Thank you, Commissioner Baloyi. Commissioner Spies, we, that then takes us to your next heading. You had dealt with the systemic concerns regarding vetting, do you recall that, just to verify your 10 paragraphs 53 and 54. You reference your own ...[intervenes].

COMMISSIONER SPIES: Correct, Commissioners.

ADV SELLO SC: Clearance.

COMMISSIONER SPIES: It is as I stated earlier is that Commissioner Makhwanazi when he was instructed, the three of us were instructed to be fully vetted by, and as I stated earlier, Crime Intelligence as a division of the South African Police Services is the one that must pass to actually 20 vet us all, but Crime Intelligence has huge capacity problems.

So we then together with the Portfolio Committee it was arranged that State Security Agency assist us so that there is two capacities where we can actually do the process and an arrangement was made at national level

through the Chief's forum specifically with State Security Agencies to assist us to vet all the levels from Chief of Police for all the Municipal Police Services, from Chief of Police to at least Brigadier level, that the top management plus their secretaries and people who have access to sensitive information, because we all attend meetings with the National Police Commissioner, with Parliament, with ...[indistinct] with PROVJOINTS, with NATJOINTS and therefore a decision was made that SSA will assist us to get
10 this process rolling.

And that instruction was given by Commissioner Mapiyeye to the three of us that we shall ensure that we submit our fingerprints. A pack of forms to do this vetting, there is a very thick pack of forms and documents that you must add. You must for instance add bank records and information like that. And Commissioner Mkhwanazi at that stage he blatantly refused and says he will not be vetted, he is exempted from being vetted. That is his words that he actually used, he is exempted from being vetted. It is not
20 part of his contract.

CHAIRPERSON: Commissioner, yesterday you made very good progress on pronouncing Mkhwanazi. Let us revert to that, please.

COMMISSIONER SPIES: Thank you, Commissioner.

ADV BALOYI SC: Commissioner, when you say at that

point Brigadier Mkhwanazi blatantly said that he will not be vetted, is this a different discussion in addition to the big meeting that you had where he walked out?

COMMISSIONER SPIES: Correct, Commissioners. The first meeting that we had in February was dealing with the vetting and we use the word vetting actually wrong here, it is about a criminal check. So the first one was dealing with the criminal check of all employees, just fingerprints, a criminal check.

10 The vetting exercise is when you actually do a full vetting of, it is close to a lifestyle audit and it is done by Crime Intelligence or by State Security Agency where they verify your interaction with foreign agents, passports, travelling out of the country. They have referees that you must provide that they go and check. Your bank records, all your assets must be declared and they then verify it. You even go at the end of all the investigations done by them, you will go for a polygraph test and only if, I think it is obviously if you pass everything, then they will issue a
20 certificate or a classification of specific vetting.

And it was also decided at the meeting that we will be vetted up to a top secret level, which is only valid for 5 years where a confidential level is valid for 10 years to make sure that we have the correct vetting.

ADV BALOYI SC: And this vetting do you know if the City

Manager ever became aware that this was required to be done and that Brigadier Mkhwanazi had refused to do it?

COMMISSIONER SPIES: I do not know if there was any communication to the City Manager.

ADV BALOYI SC: Okay. Thank you.

COMMISSIONER SPIES: Sorry, Commissioners, it is, part of vetting is also when you are appointed in the senior manager positions in terms of Local Government structures you must also comply with what we call the COGTA attitude
10 and test and vetting is part of that as well in that process. So she should have known this process, because of, maybe not because of the police angle, but definitely because of the senior management angle.

ADV BALOYI SC: Thank you. Thank you, Commissioner.

CHAIRPERSON: Did you see that call, the call he made at a meeting was to the Head of HR when he, you say he was visibly annoyed, even frothing at the mouth.

COMMISSIONER SPIES: No, no, he made the call directly to the City Manager.

20 **CHAIRPERSON**: To the City Manager.

COMMISSIONER SPIES: He called the City Manager and then ...[intervenes].

CHAIRPERSON: So the City Manager was aware then of the ...[intervenes].

COMMISSIONER SPIES: It was about the fingerprints

checking that his unit and he has not been checked.

CHAIRPERSON: Okay.

COMMISSIONER SPIES: So he made a call about that.

CHAIRPERSON: Okay.

COMMISSIONER SPIES: It is not about the vetting. The vetting came a little bit later when ...[intervenes].

CHAIRPERSON: Okay, all right.

COMMISSIONER SPIES: The letter was sent to us for full vetting.

10 **CHAIRPERSON**: All right, all right. Thank you.

ADV SELLO SC: Thank you, Commissioner Spies. And then you conclude that discussion with your own clearance certificate that you say it is valid until the 31st of August 2030 and that will be your Annexure RS22. You confirm?

COMMISSIONER SPIES: That is correct, Commissioners.

ADV SELLO SC: And this is issued by the, by SSA, State Security.

COMMISSIONER SPIES: Correct, Commissioners.

20 **ADV SELLO SC**: We then move then to the next topic from page 24 and here you deal with the suspension of Chief Mapiyeye and other irregular appointments within EMPD. Let us start with paragraph 56 and then we will take it from there. Thank you.

COMMISSIONER SPIES: On the 17th of August 2023, early in the morning there were WhatsApp's being circulated that

Chief Mapiyeye will be suspended and it is like you know, people made these comments and remarks the whole time. I just ignored all of that going on and my officers is complaining to me what is happening with this. And then the afternoon we received an instruction that all the Brigadiers and the Deputy Chiefs must immediately report to the City Manager's boardroom in Germiston.

Upon arrival as we started to walk in through where her receptionist sit, as we start to walk in, and this is senior
10 people, this is the Deputy, myself, the Deputy Chief, the Chief of Police and the Brigadiers of, there were, I think it is 8 Brigadiers. I will just count them again. All right, listed their names. As we walked in, the VIP Protection officers from the City Manager who is protecting her confiscated all our cellphones, mobile devices, tablets and even our computers and they did not allow us into the boardroom with any electronic devices.

But I walked in with my, I have got a notebook diary. Everything when I attend meetings I make notes of
20 everything as I go along. Normally I would make notes electronically and then later I will, because it is faster for me to type and then write, I write very ugly, but I made, in the meeting itself I actually made notes in my notebook and I recorded the whole meeting from the notes. I tried to write as fast as possible as everyone was individual was

speaking.

And immediately after the meeting concluded, I left for home and when I got home I then typed that whole meeting over from the notebook so that while it is still fresh in my mind, where I can see I used an abbreviation that only I would know, I would actually just expand the abbreviation and type the minutes over. I have attached that photocopies of my notebook as well to say but I took photos of the specific notebook in case the notebook ever
10 goes missing then I have photos of the notebook as well.

ADV SELLO SC: And the photocopies of your notebook are attached as RS23 and the transcribed notes typed are RS23(a). You confirm that?

COMMISSIONER SPIES: That is correct.

ADV SELLO SC: Now, and starting from page 96 with RS23, the actual notebook from which you took the pictures that now you make up Annexure RS23, you still have that notebook?

COMMISSIONER SPIES: Correct.

20 **ADV SELLO SC:** Should the Commissioners need to satisfy themselves that this is not your creation post fact, you have that notebook.

COMMISSIONER SPIES: I still have the notebook and I also, I forwarded this in WhatsApp's as well, so there is even proof to date and time stamp this. There is also, as I

wrote in my notebook it starts at 12 o'clock and when I ended the meeting it ended at 15:45 at the end of my notebook, of this notes.

ADV SELLO SC: Okay. Having then confirmed that, I think we shall not subject the Commission to your handwriting, so perhaps we turn to Annexure RS23(a) to understand what transpired at that meeting.

COMMISSIONER SPIES: The order around the table, and as they are listed the attendees it is the order that they sat.

10 I sat with, around the table in the boardroom, to my left and if you see my name is right at the bottom just before Mrs Gxasheka's name. The City Manager sat at the head of the table and as you go around from her as I am facing the boardroom it was the City Manager, then it was Chief Mapiyeye, then it was at that stage Brigadier Mkhwanazi and then Brigadier Van der Merwe, Deputy Chief Mzolo, Deputy Chief Gcwabe, Brigadier Nkosi, it was then, on this side of the table was Mr Ledwaba, Brigadier Gina, Brigadier Mahlangu and Brigadier Bezuidenhout and then myself and
20 then Mam Gxasheka from this side.

So we sat around the table. The City Manager opened it and she was lambasting the department and stating stuff that our revenue collection has dropped, it is no tools of trade. She stated that the ammunition tender has been refused because Denel, at that stage we had an

ammunition tender where the only manufacturer of large scale ammunition in this country was PMP, which is a subsidiary of Denel, Pretoria Metal Pressing Works that makes 9mm ammunition. So we had a, what we call a section 110, section 32 process buying transversal from another state department process.

And this failed, because she refused to have it done because she state Denel is directly involved in state capture and you must go out and hope and tender again so
10 that we can do it. And she then state that she appointed Spies, who is me, but there is no changes in the department, this is a year after my appointment, and she carried on, lambasting everything, low staff morale.

And what is critical about what she is saying and the way she is saying it, is that everyone else was then given a chance to speak, except I did not get a chance. Just before the meeting Commissioner Mapiyeye spoke to me in the passages as we walked up the stairs and he said to me, Commissioner Spies, please do not say anything today, let
20 us just take whatever is said, punishment, whatever is said and let us go fix it at the backend, because the City Manager is out to get you, do not say anything. So I said to him, Chief, it is fine, I will keep quiet, I do not want to lambaste anything or bring anything out in the open, we will fix the department as we go along.

So everyone got a chance to vent, but, Commissioner, Commissioners, when Mkhwanazi started to speak everything that he said was as if he and the City Manager had colluded and they were speaking the same speech. And he was making comments about these *de facto* Chiefs, that Chief Mapiyeye is running, he is a bad manager and he is not running the department good enough, because there is *de facto* Chiefs, and he mentioned that I am one of the Chiefs that runs the department.

10 **ADV SELLO SC**: Perhaps, apologies, Commissioner Spies, it might be easiest and quickest if we deal with that side of things with reference to the actual transcribed “meeting” and for that purpose I will refer you to page 105 at the, having listed the attendees and you highlight that the meeting was open, you have at the bottom of that page a recordal of what was stated by JM and according to your attendees list you have JM as, is it Director J Mkhwanazi?

COMMISSIONER SPIES: He was at that stage appointed as the Director: Specialised Services with a Brigadier rank.

20 **ADV SELLO SC**: Okay, perhaps then if you just read that paragraph at the bottom of 1, well 105, to about literally the first quarter of 106. Thank you.

COMMISSIONER SPIES: Commissioners, if I can just go two paragraphs back, because it touches on what later actually happens as well.

ADV SELLO SC: Okay, please do.

COMMISSIONER SPIES: It state this where the hole punch is through it is that:

10 “Never before have we opened cases against one another and running to IPID to open cases. She can also play the same game and go to IPID to open cases against us. She can do the very same thing we do. Why are we doing it? It must be stopped. Directors are treated differently. One gets overtime while the others do not, and dealing with investigations criminally. There is way too many labour cases. It is clear that we are leaderless. The department is dysfunctional.”

And then she addressed Chief Mapiyeye:

20 “Mapiyeye, what happened? It is your second term. She addresses the Chief directly and then she asked who wants to say something and a group of the officers put their hands up. JM then started to say CM, he address her, he does not speak to anyone else, he says the department is dysfunctional, we do

not have a Chief of Police. I work for Government, not using my connections. But in this department only people who have connections are promoted or listened to and all the connections are from Benoni, no one else in EMPD and only they are close to the Chief. We have another *de facto* Chief of Police, Du Plessis, that gives instructions as if he is running the department and then seniors must listen to him, a junior. And if you refuse then he threaten you, defying the Chief's instructions. Another Chief Superintendent Thipa also have been arrested and not suspended and no steps taken against. Then another *de facto* Chief, Spies. I am not even respecting or saluting him anymore. Said by him is nothing, but he runs the department, projects, logistics, projects never discussed with him or with Ops, just to whatever he wishes. Supporting but sit in another land. No talking with Ops who took projects or even ...[indistinct]. No

funds but before Covid there was funds. He sits at office, 300 people but no space, no toilet, all a mess. Another *de facto* Chief of Police, Nciza. He will deal with officers. You cannot raise any issues. Cases are opened and they do the planning, exit strategy. Hennie Erasmus are remote controlled by Spies and Mapiyeye. Integrity and standards are hiding in cupboards. Anyone not close will be nailed. I lost respect for them and refuse to salute them. Operations, no one is clean in this department. BRICS is coming, nothing is done, no one is signing off. If his name is on it, then no one will sign. Ubaba ...[indistinct] alive. He went to see Mapiyeye and was forced to sit and wait for 5 hours. As a senior he had to wait while he was in his office. He only saw him after Deputy Chief Mzolo arrived.”

ADV SELLO SC: And that you, those words you attribute to Brigadier Mkhwanazi in the meeting.

COMMISSIONER SPIES: Correct.

ADV SELLO SC: The meeting then continued and I see there are different speakers as your notes reflects. Is there anything in particular you would like to draw the Commission's attention to?

COMMISSIONER SPIES: The other speakers had just very, very little to say. They had like one or two sentences. So Brigadier Van der Merwe for instance that, because she mentioned the ammunition tender, he just submitted to her that they, we have initiated a tender again and we have
10 submitted already the application to supply chain, we are waiting for a contract number and we have specifications ready.

Then she answered him immediately back to say but your specifications must be changed so that there can be successful bidders. And he answers back to say but our specifications are as per legislation and are correct, but it will be submitted as soon as we have a contract number.

The main portion, and that is linked to previous discussions already, we, when we procure ammunition one
20 of the requirements in our tenders is that the supplier who gets the tender must have a dealership licence from the South African Police Service, CFR, because only people who have a dealership license may deal with ammunition and what has happened is that companies have been appointed in the past where they do not have a dealership

license, they become a middleman, so they effectively will buy the ammunition from someone and then sell it to us and that is illegal, because the, you are then in possession, even if it is just on paper maybe, but the ammunition must be delivered by us in terms of the tender at our offices and that transfer of the ammunition and moving of it, the company who provides us must comply and be legal.

So there was an instruction from her that we must remove that requirement that anyone can provide the
10 ammunition to us and the answer was but we cannot, the law says there must be this and that. And that is what Brigadier Van der Merwe then answered her back.

Mr Mzolo just, everyone you will see has a very, very little input into it. It was more, there is problems with our structure, the Council was busy with a reorganization and the structure was not yet implemented and officers were placed. So a lot of officers were making comments about the structure.

Brigadier Nkosi, he is also originating from the so-
20 called Benoni offices and where this remark comes from is that when the Metro Police were established or the City of Ekurhuleni was established, it was the amalgamation of nine existing Councils which is the Benoni, Kempton, Nigel, Boksburg, Brakpan, Springs, Alberton, Germiston, Edenvale, those cities were amalgamated into one.

So then obviously when the Metro Police was started, the Traffic Officers from those departments were, the inauguration members and founding members of the Municipal Police and then there is groupings because officers obviously know one another well, they have been working for years together, so groupings started to happen that there is a group of officers from Benoni, there is a group of officers from Germiston or a group from Kempton Park and the illusion here is that the officers from Benoni
10 are being treated specially.

And Brigadier Nkosi is also an ex Benoni officer, so he started to say CM, the Benoni employees that Brigadier Julius Mkhwanazi, and immediately she cut him off, stop, do not speak about what anyone here has said, if you want to say anything – so everyone was, it is as if the meeting was done so that Julius Mkhwanazi can speak, she can speak, the rest was just there as ...[indistinct] for a short paragraph and that. And ...[intervenes].

ADV SELLO SC: Before you move ahead, I think we have
20 a sense of who the main drivers of the meeting were and for whatever reason others did not or could not speak. I would like to draw your attention at page 107. There is a conversation there, or there is an input being made by OB and going back to the list of attendees, you have OB listed as Director O Bezuidenhout, correct?

COMMISSIONER SPIES: Ockert Bezuidenhout, correct.

ADV SELLO SC: I mean I tried to read what you have recorded here and perhaps you are best placed to explain it to us all. It starts at about midway of page 107 where OB says, mam, just two things, disciplinary matters, hearings, outcomes are dismissed by 90%. That is going to deal with WOA road blocks and the like. Would you like to expand on that.

COMMISSIONER SPIES: The disciplinary hearings that he
10 refers there to is that a lot of our officers, the disciplinary hearings take place, but because we are working under the SALGBC, SAGLA disciplinary hearing process, the Chairpersons are not from the Metro Police, they could be from any department and the officers are treated as if they are normal Council employees.

And then if the officer committed, for instance it could be a matter of bribery where the officer took, stop an offender and he took money from him and then there is a whole disciplinary case that happen is that the officer will, it
20 is possible that he would be dismissed by the Chairperson, but then that officer will run to the Labour Court and he will be reinstated because HR will not contest the matter and the officer will be reinstated.

It also happens when the Chairpersons, when an officer for instance, it is a simple incident that took place

during Covid, there was obviously lockdown level 5 and 4 where no one was allowed to travel or move in the country, except if you have certificates and the police were obviously during, when we are on duty, we used to work. So at one of our roadblocks one of our off duty officers drive into the roadblock and he was then stopped and as he was stopped he jumped out and he ran away and he left the car behind.

And, but because he was stupid, the officers know
10 him, he works with them, they went to his house and that, but in the meantime it was discovered that the vehicle he was travelling in was a stolen vehicle and subsequently he was then charged criminally and he was found guilty for contravening the Covid regulations. The stolen vehicle portion he was not found guilty eventually, because I think there is a challenge with the South African Police Service not cancelling the vehicle when it was recovered or it was his neighbour's vehicle and he just borrowed it, and that he was not found criminally guilty for that.

20 But in his disciplinary hearing he was, the ruling was that he be docked unpaid for 10 days and in that unpaid it included the public holiday as well, so he even got unpaid for the holiday as well. So it is things like that that Brigadier Bezuidenhout is addressing is to say that our officers, the disciplinary process inside is broken when,

because it is not done by us, it is done by HR and HR appoints presiding or presenting officers and those do not understand the policing environment, where we say if a police officer comes on duty drunk, to us it is extremely serious because he drives the vehicle, he is in charge of a firearm, he can kill people while he is drunk, but to HR it is just a normal, another employee who is drunk or must go to EAP and be treated completely different. So that is what Ockert Bezuidenhout is referring there.

10 The low morale that he is referring to is that there was, for a long period of time we were not allowed to appoint anyone, because of the structural changes between 2015, 2019 and those structures had been approved and we are implementing a new structure and the existing people must first be placed in the structure. So it happened that due to natural attrition is that the supervisory level which is the more senior older people would start to actually vacate the premises or vacate the service, is that we have a large amount of officers acting as supervisors and there is no real
20 appointed.

 The WA's, it stands for warrant of arrest, it is, we have a warrant of arrest units and we do warrant of arrest operations with roadblocks where the printed warrant of arrest and digital versions that we would stop public during a normal roadblock and we will verify the existence of

warrant of arrest. That is what he is discussing it.

And then the Dräger, when he speaks about the Dräger must be calibrated or not, we received a donation from the South African Breweries where they donated Drägers to us over and above our Dräger, but there was, because it was their Dräger to be used and our Dräger, there was a discrepancy about who must calibrate them. It is not ours, it is theirs. And then eventually it changed into where a formal donation was made and a formal handover
10 process where Council adopted and then accepted the Drägers and then that is what the Dräger reference is to that.

ADV SELLO SC: Okay, now just to, so I understand this Dräger you reference here is that a breathalyser to measure alcohol content in one's body?

COMMISSIONER SPIES: That is correct, when you do drunken driving, anti-drunken driving operations at roadblocks. It is an evidentiary breathalyser machine.

ADV SELLO SC: So when one of them is supplied, is
20 donated to EMPD by SAB, South African Breweries.

COMMISSIONER SPIES: SA Breweries.

ADV SELLO SC: Okay.

COMMISSIONER SPIES: Yes.

ADV SELLO SC: You indicated earlier, I think when you started this conversation that you did not get an opportunity

to speak in this meeting.

COMMISSIONER SPIES: Correct. It is actually ...[intervenes].

ADV SELLO SC: But if you look at page 107 there after dealing with the Dräger it reads CM. I take it that that is the City Manager.

COMMISSIONER SPIES: Correct.

ADV SELLO SC: -:

10 “Revo, though you do not have your hand up.”

And then you say:

“No, mam, I did not have my hand up.”

And then you speak thereafter.

COMMISSIONER SPIES: Because at that stage she mentioned in the beginning that we have got a loss of revenue, or a lack of revenue, and my division, Auxiliary Services, deal with fine administration and municipal courts. We are the ones that report the revenue, so it is not that we can generate revenue. We are the ones that report that,
20 because the officers on the road is the ones who write the notices and the fines, but we are the ones that capture it and actually deposit the money, so we can report back on the revenue.

So I wanted to address what she said in the beginning about the revenue and I started to speak, but

then she says:

“No, Revo, you did not have your hand up.”

Because initially she only stated who wants to say something and that. And then the Chief interjected to say, because I did have knowledge, I did not have my hand up, but she made a remark after everyone was given the opportunity that I need to address now. And then Chief answered her to say:

10 “CM, I just want Revo to explain more about the fines portion.”

And then she says:

“Chief, no, he did not have his hands up. Revo, do you have anything to say?”

And I said:

“Just two clarifications.”

And then she immediately interjected again to say:

20 “You are not dealing with what I said around the table. Only my issues I said in the beginning.”

And then I said:

“It is the two issues you speak with what you said initially. The one matter where you spoke about the one director

getting overtime and the others not ...”

This is a highly contentious issue in the department, because there are 8 directors of which Brigadier Van der Merwe is one of, he is in Logistics reporting to me and the other directors is in Operations. The Chief of Police issued an instruction linked to, about saving cost earlier in the year where we were supposed to cut 50% of our expenditure budget and overtime was cut and down to a maximum of, for admin staff, 32 hours and for
10 operation officers to 40 hours.

And in that same instruction the overtime for Brigadiers were stopped completely, because they were not supposed to respond. If they are on standby and they are dealing with – so overtime was stopped for them completely. They are also earning way above the threshold, the Labour Relations Act or the Basic Conditions of Employment Act threshold, so they are not really even entitled to overtime.

But we did pay them overtime if they worked operations or anything. And we use an electronic capturing
20 system for some and some use a manual paper feed. The e-leave is the system that is being captured on. And Brigadier Van der Merwe captured time due, meaning that he will, he will not get paid overtime, but he will take time due in lieu of the overtime that he have worked. So he captured on his electronic system he captured it as time

due.

At the end of May the payroll system paid him the overtime and then he went back to the payroll to say you made a mistake, you paid me overtime, I worked and it was stopped the overtime, so the payroll then agreed that the next, following month they will subtract the overtime paid to him again and then reinstate it on his leave side as time due.

In this period this is now happening and Brigadier
10 Mkhwanazi then went to the City Manager and he lodged a grievance about the overtime and Kemi Behari was the Chairperson of this grievance hearing and Kemi Behari then made a ruling, even though he had, Behari had knowledge that the pay office has already agreed that they will reverse the payment to Van der Merwe, Behari still made a ruling to say that based on the fact that one Brigadier is getting overtime, the rest must immediately get overtime.

And then the overtime was reinstated, so this is my explanation to that matter where they addressed the
20 overtime of that and which she mentioned in the beginning. And I stated it exactly as that as well is that the lady in, second in charge of the payroll, Helena Hattingh, they were discussing it on e-mails and there is proof to this effect and Helena answered him back to say it will be recovered, do not go and, it was actually a joke, do not go and spend it, it

will be recovered from you, and it was eventually recovered from him. But then because of this outcome of Behari in his grievance he stated that the Brigadiers at this very high salary can get overtime again and since then they work and get paid overtime again. And ...[intervenes].

ADV SELLO SC: Before you proceed, if you could just put your finger there, Chair, I see it is 11 o'clock. Might this be an appropriate time to take the tea adjournment. And when we come back please remember, Commissioner, that is
10 where we pick up the conversation. Thank you.

CHAIRPERSON: Let us adjourn and resume at 11:20.

ADV SELLO SC: 11:20, thank you, Chair.

INQUIRY ADJOURNS

INQUIRY RESUMES

ADV SELLO SC: Thank you, Chair. Commissioner Spies, when we broke for tea, we were still dealing with your transcribed "minute" at RS23 in parenthesis A. We are now at page 107, and you have highlighted the aspects you sought to address in that meeting with the City Manager. I
20 would like to refer you to the bottom of that page 107. There is a conversation that – or there are some contributions made in this meeting. If you could take it up to first one-third part of 108? Thank you.

COMMISSIONER SPIES: Thank you. Commissioners, it is still dealing with the overtime portion that I discussed, and

the City Manager answered me to say:

“But that is not what the Chief said yesterday.”

I then answered her to say:

“Ma'am, that is what happened. We have all the proof and confirmation from the pay office.”

She then addressed Linda. Linda is Gxasheka:

“That cannot be left, it is on purpose.”

10 And she then answered:

“Yes, ma'am, it is not an error.”

I then answered to say:

“Ma'am, I then support the Chief in his earlier submission that all the issues raised be addressed and submitted to you via a formal memo.”

She immediately answered the Chief:

20 “And then, Chief, see Revo is running the department. He is actually telling you what to do.”

I interjected and I said:

“No, ma'am, I stated I am supporting the Chief and that he will issue a letter to you.”

And then she said:

“You are not telling the Chief what he must do. Deputy Chief Mapiyeye, Gcwabe and Mzolo is quiet. Revo is the only one supporting the Chief. Clearly the department is run by Revo Spies. Proof in him responding and writing. Does not have resources, cut the cross, affect all departments. The City have very little budget. Everyone must prioritise order and place revenue first. Linda, do you have something to say?”

ADV SELLO SC: We can stop there. So I think we have the gist of how the meeting went. I would like to direct you to the bottom of page 108, which are the City Manager's closing remarks of that meeting. Where she starts, the airport is important.

COMMISSIONER SPIES:

“The City Manager stated that the airport is important and we shall partake in the BRICS. With very little budget, you shall give uniform and firearms and give them the tools of trade. Chief, I can see you are overwhelmed and therefore you shall take leave. Get debriefed, rest and come back neutral and objective. Director North...”

That is referring to Brigadier Gina:

10 “... stated she is depressed and this is wrong. I am normally not harsh, but I am *gatvol*. You only have one woman and Hamilton is prioritised. Is he related to the Chief? He gets first choice. And Mzolo, you must act like a real Chief, not like a nurse. This is a military environment. I am stronger than you, always speaking about ulcers and body-ass problems. You must stop being so weak. Stop discriminating against hard workers. Mapiyeye, you shall take special leave and the rest shall report through Mzolo. If you are afraid, fragile or important, go to him for solution. The team must be united like brothers and sisters, very close scrutiny.”

And then a meeting adjourned at 15:45.

20 **CHAIRPERSON**: Perhaps, instead of important, that is probably impotent, in context, in the context of everything else. I-m-p-o-t-e-n-t. Or was it really important?

COMMISSIONER SPIES: Commissioner, I am not at the correct place, because my notes ...[intervenes].

ADV SELLO SC: If you go to your last sentence in that –

no, your second, third actually, second line from the bottom where you say, you quote her as saying:

“If you are afraid/fragile.”

Do you see where I am reading? On page 108, Commissioner.

COMMISSIONER SPIES: I am there. So, Commissioner, it is based from my notes and it is typed as my notes are and my note spelling and this spelling and sometimes when I wrote, so I typed, there was a full stop, important/come to
10 them for solutions. So, it was most probably in the context of at that moment in time, she said, if it is something important, go to them for solution. So, it is going to Mzolo.

CHAIRPERSON: I get it, I get it.

COMMISSIONER SPIES: So, it was, I unfortunately do not have shorthand, but it was from a forcefully rushed writing.

CHAIRPERSON: Thank you.

COMMISSIONER SPIES: And then just typing exactly what I had actually noted.

CHAIRPERSON: Thank you, thank you. I was reading it in
20 combination or conjointly with afraid and fragile. Thank you, I understand, I understand.

COMMISSIONER SPIES: It is on my notes, on page 104, at the fourth last line, report through Mzolo, full stop, then afraid/fragile, full stop, important/come to them for solution, full stop. So, it is in that basis.

CHAIRPERSON: No, no, no.

COMMISSIONER SPIES: It is not at all as I typed.

CHAIRPERSON: That makes perfect sense, thank you.

ADV SELLO SC: Thank you, Chair. And you say that with those remarks and her decision to place Chief Mapiyeye on special leave, the meeting adjourned at 15:45.

COMMISSIONER SPIES: Correct.

ADV SELLO SC: If you turn now to paragraph 58 of your statement at page 25.

10 **ADV BALOYI SC:** Sorry, Ms Sello, before I do that.

ADV SELLO SC: Yes, ma'am.

ADV BALOYI SC: Commissioner, in that same page 108, if you go up, there is just above what you have read, there is another biggish paragraph which says CM, where she speaks, and of particular interest is where she seems to give instructions about reporting lines. Do you want to read that paragraph? It starts:

“Is very clear from all the communication.”

COMMISSIONER SPIES:

20 “The City Manager stated it is very clear from all that communication, and low morale is an issue. It is clear that the department is dysfunctional.”

And the typo, I must go back to my notes to see what exactly this is:

“There a reno communication, and no transparency, and as KM...”

which is Brigadier Kleinman Mahlangu:

10 “...stated lead by fear. No revenue is forthcoming. I therefore have decided, Mapiyeye, you shall take special leave with immediate effect, and Mzolo shall act in your place, so that you can clear your head, rest, and come back neutral and with no biasness. The whole team shall report to me. But I do not deal with juniors, so you shall deal through Mzolo with me. I want the BRICS plans to be submitted to me with immediate effect, so that it can be approved today still.”

And then Mzolo answered:

“Ma'am, it has been signed off.”

20 **ADV BALOYI SC:** Yes, that part that says the whole team shall report to me, what did it mean, and in fact what became the practice after this?

COMMISSIONER SPIES: It was as if she said that everyone sitting around the table will report to her, but then she corrected it to say that because she does not deal with juniors as if we are juniors, and that Mzolo will then act as

the Acting Chief of Police, and we will report through him. And the BRICS, what she was referring to BRICS, is obviously there was a BRICS conference going on at that stage and there was an operational plan that had to be signed off and approved within the department in the normal processes. And then when she mentioned that that plan must be signed off by her, which is not correct, the plan is signed off by the Chief of Police, is when Goodman Mzolo answered it has been signed off, and then Chief Mapiyeye
10 also said it has been signed off and approved already.

ADV BALOYI SC: Thank you. Now, looking at this minute, your note rather, of what transpired at the meeting, it discussed, it seems to have discussed quite a number of important issues. Were you provided with an agenda for this meeting of what was going to be discussed in advance of the meeting?

COMMISSIONER SPIES: No, no, Commissioner. As I stated earlier is that we were telephonically instructed that we shall report to the City Manager's office immediately.
20 And when we arrived, after we have been, all our instruments and everything has been confiscated, we were ushered into the boardroom, and as soon as everyone sat down, she came into the boardroom from her office. There was no agenda, there was nothing said what it was about or anything at all.

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

ADV SELLO SC: And this is the meeting then as indicated of the 17th of August 2023.

COMMISSIONER SPIES: That is correct, Commissioners.

ADV SELLO SC: Was this meeting ever formally recorded? Is there a minute of this meeting?

COMMISSIONER SPIES: No, it is only my notes. Nothing else exists and no one else – I took the notes as we were sitting there, and there is no formal recording of this meeting at all except my notes.

ADV SELLO SC: I turn then to paragraph 58 of your statement. At 58 and 59 you deal with the aftermath of this meeting. Could you take the Commissioners through that?

COMMISSIONER SPIES: The meeting is, as I stated, it ended when Commissioner Mapiyeye made a suggestion that we as a team go back and we draft a strategic plan and a turnaround and we submit it to her in writing, and I then obviously answered and says I support the Chief and that we do it in this manner so that we can submit a formal turnaround strategy to her. And she cut me short and she then immediately instructed Chief Mapiyeye that he is placed – he is suspended, and he is placed on special leave and that Mzolo will act in his stead.

The following day, which is the Friday, we heard through the grapevine and we also saw that on the

WhatsApp groups that the Chief of Police has been formally suspended, and I received on the Friday, just during the weekend, that Saturday morning, I received an email wherein Commissioner Mzolo was appointed as the Acting Chief of Police from the 19th of August till I think the 20th of September, for a whole month that he was appointed as the Acting Chief of Police.

ADV SELLO SC: You have it reflected at paragraph 59, overleaf at 25, 19 August to 2nd October 2023.

- 10 **COMMISSIONER SPIES:** Correct. He was appointed then to act in Chief Mapiyeye's leave. Later during the following week thereafter, there started to be – Colonel Du Plessis, who is the Staff Officer of the Chief, started to try to correct the situation because we have an electronic system of attendance and leave management system called e-Leave, and he attempted to assist to capture the Chief's leave because it was then stated at the back end, no, the Chief took sick leave, and we tried to then say but then we need to have a sick note because if you capture sick leave for a
20 longer period, the system automatically forces you, if it is longer than two and a half days, to have a sick note attached, otherwise it will not allow you to do it.

So in this process when we tried to capture it, Colonel Du Plessis said but he cannot capture it, he cannot get into the e-Leave to capture it. He discussed it with the

City Manager's secretary, Ms Linda Naicker, and she said to him, just leave it alone, it will be sorted at the back end and you do not have to worry further about it. And that is where it stopped, where it is as if it was now suddenly he is on normal leave, and the City will at the back end correct the system.

But according to my knowledge, he was suspended. And at the later stage, we heard through the grapevine and through Council, where Council answers was provided to
10 Council is that it was recorded that the City Manager said he is placed on special leave.

CHAIRPERSON: You say right at the – I am sorry – the very last sentence of paragraph 58, you say that what was on WhatsApp was initiated by Brigadier Julius Mkhwanazi. Did you yourself receive a WhatsApp text from Brigadier Mkhwanazi in this regard?

COMMISSIONER SPIES: No, Commissioner. I am not part of that operational groups, but my staff actually came to me and they showed me this WhatsApp to say, have you seen
20 this rumours going around? And my answer to them was, ignore the rumours and stay off the chats. Do not get involved in these chats.

CHAIRPERSON: Thank you.

ADV SELLO SC: Thank you, Chair. You referenced for record purposes RS24 at page 109 of your annexures file,

and that you say is the letter appointing Commissioner Mzolo to act for the period 19 August 2023 to 2 October 2023 as the Chief of Police of EMPD.

COMMISSIONER SPIES: That is correct, it is on page 109, the acting letter.

ADV SELLO SC: So effectively, based on your testimony and the letter of appointment to Commissioner Mzolo, at this juncture, following this meeting, the Chief was placed on special leave for a period of about six weeks.

10 **COMMISSIONER SPIES**: Correct, Commissioners.

ADV SELLO SC: And the basis is as articulated by the City Manager, based on your note, which is that he has been:

“...placed on special leave with immediate effect and Mzolo shall act in your place so that you can clear your head, rest and come back neutral and with no biasness.”

As reflected in page 108.

20 **COMMISSIONER SPIES**: Correct, Commissioners.

ADV SELLO SC: That is an illness that required him to be on special leave for six weeks?

COMMISSIONER SPIES: According to the City Manager, yes.

ADV SELLO SC: Thank you. From paragraph 60 you move

on to a different issue. Now, before I do so, can I refer us to page 110? This is following the letter of appointment for Commissioner Mzolo to act as Chief of Police. At 110, it is application for leave of absence. Can you talk us through this document that you have attached?

COMMISSIONER SPIES: This is a paper process application for leave of absence. So there is two methods. The one is the electronic method and then if you do not have access to electronic methods, you can also do a paper manual process. This is the normal approved application for leave. On the top left portion is the Chief of Police details, Mapiyeye Isaac Jabulani, and then his employee number and then his signature and his date of application is 18-08-2023. And then it states from and to, and then the dates is 23-08-19 to 23-10-02, which is 30 days. And at the bottom it is under point 5 it is listed as special leave, and it just say other and there is a cross made there. Then at D, the approval at the approve portion is a tick mark, the signature of the City Manager, and then a handwritten date of 18-03-2023.

ADV SELLO SC: So a reading of this document would suggest that, because I see it has got space under A, personal particulars, for signature by the affected employee, right?

COMMISSIONER SPIES: Correct.

ADV SELLO SC: And based on what we have previously seen, that looks like Chief Mapiyeye's signature.

COMMISSIONER SPIES: Correct, Commissioners.

ADV SELLO SC: So this document would suggest that Chief Mapiyeye actually on the 18th of March 2023, a day after the meeting, he personally applied for leave of absence for a period of 30 working days.

COMMISSIONER SPIES: This is what this document indicates. Even though at the leave period there are
10 mistakes there, because we work in terms of work days. The 19th was a Saturday and the 20th was a Saturday, so the leave officially would have actually started on Monday the 21st. And I do not know the exact date of the second, but leave would normally be work days. It will not be weekends because of your employment contract.

ADV SELLO SC: Okay.

CHAIRPERSON: Ms Sello, you said March. It was August.

ADV SELLO SC: August, yes. Thank you, thank you, Chair. It was August 08, that is correct. So the correction
20 that the Chair makes is that the meeting was held on the 17th of August 2023.

COMMISSIONER SPIES: Correct.

ADV SELLO SC: This application for leave of absence is dated, at least it is signed, by the supervisor. And who is the supervisor in this case?

COMMISSIONER SPIES: It is the City Manager, Mashazi.

ADV SELLO SC: So the City Manager signs it on the 18th the next day, on the 8th?

COMMISSIONER SPIES: That is what this letter states, yes.

ADV SELLO SC: And you confirm that a reading of this document would suggest that the Chief of Police, on his own volition, applied for leave of absence?

COMMISSIONER SPIES: That is what this letter would
10 purport, is that the Chief signed the letter to apply for leave.

ADV SELLO SC: If the Chief did not, if you do know, did not need leave, did not want to go on leave, do you have an idea why he signed this document?

COMMISSIONER SPIES: Out of fear and out of retribution. The City Manager directly reports – he directly reports to the City Manager and she is actually chasing him away and forces him to sign this.

ADV SELLO SC: And do you know who determined that 30
20 days is the period for which he shall be on leave? Does the Chief complete this form? Does it come to him completed? How normally does it happen?

COMMISSIONER SPIES: This letter was typed and completed on behalf of him. With all respect to the Chief himself, he does not really use a computer, and he does not

have access to this form. So this form has been completed on behalf of him by someone, I do not know who, and it was then just submitted to him for signature.

ADV SELLO SC: Only ...[indistinct] to do then was append his signature to a document that has already been completed?

COMMISSIONER SPIES: Correct.

ADV SELLO SC: And he did go on this leave for that period from the 18th of August?

10 **COMMISSIONER SPIES:** Correct, he was away from the office for that period, and Commissioner Mzolo was acting as the Chief of Police in that period.

ADV SELLO SC: Okay.

ADV BALOYI SC: And, Commissioner, this would have been paid leave?

COMMISSIONER SPIES: Correct, Commissioners.

ADV BALOYI SC: Where it is given to him by the City Manager who decided he must take leave, and then he sits at home and he gets paid for it even though he did not ask
20 for leave?

COMMISSIONER SPIES: Correct, Commissioner.

ADV BALOYI SC: Thank you.

ADV SELLO SC: Thank you, Commissioner Baloyi. Okay, we then move to the next issue from paragraph 60 of your statement at page 25. And you deal here with

communication from a certain Bikibiki Ncinci [?]. Can you deal with that communication? Thank you.

COMMISSIONER SPIES: I can, Commissioners, but I must apologise up front if I pronounce it in a Mulungu manner.

CHAIRPERSON: Not even I can take chances there because I do not know what language this is.

COMMISSIONER SPIES: This was on a weekend. I did receive on that Sunday evening an email from an email address, which is Bikibiki Ncinci [?] and this email was sent
10 to Jeff Wicks at 24.com, and I was just a cc'd recipient in this, and it was, the CC recipients was Linda Gxasheka, Xolani Nciza, Imogen Mashazi, myself, Chief Mapiyeye, and Kemi Behari as the Head, and then there was a title in this email of favouritism, corruption.

And I ignored that email completely. It came in on a Sunday, I looked at it, and I just ignored it. I did not touch anything or work with it. The same sender sent then on the September of 2nd, 2023 at 15:14 to the same group of people, but this time they added a person with the name
20 of Vukile Mlungwana with a list of attachments ...[intervenes].

ADV SELLO SC: Before we move on to the other annexure where now Vukile Mlungwana is added, can we deal with the actual email that you received, and that is at RS25 appearing at page 111 of the annexure file?

COMMISSIONER SPIES: Correct, Commissioners. It is on page 111. It is an email which is dated 20 August 2023, 20:43, the evening. The list of people that I have already mentioned, and then the email state:

10 “Hi, Jeff. I am reporting on the basis of anonymity. Some time ago you reported a very serious incident to one of our colleagues about one security firm called CAT VIP. The incident took place some time ago earlier on during the year. My understanding is that a certain law firm was appointed to oversee the matter by charging Julius Mkhwanazi. According to a document in my possession, Julius Mkhwanazi was charged and his hearing was supposed to sit sometime in July this year. However, this did not happen, and as such, Julius Mkhwanazi has since not faced a disciplinary hearing. I suspect that the law firm that was appointed could have received something in return. Please report this to the media and shame the municipality for protecting corrupt

20

officials. Please be careful, however, because Julius is highly connected with Matlala, who is also a suspect in the murder of Deokaran Babita, together with the CFO. My case of unfair labour practice has also not been solved by Ekurhuleni. Please follow up on this as we need people like you to climb down on corruption. I am told from reliable sources that Imogen Mashazi, who is the City Manager, is the one who is protecting Julius Mkhwanazi.”

10
20
ADV SELLO SC: And as you correctly point out, it does indicate that you are one of the recipients. As at the 20th of August, you said you ignored this email, but as at the 20th of August and since then, were you able to establish the identity of the sender of this email? Because this person speaks of his own unfair labour practice, which has also not been solved by Ekurhuleni. So, am I reading it correctly to interpret it to mean that this is somebody who was either an employee of, or is at the time of writing this email, an employee of the City, whether EMPD or other departments?

COMMISSIONER SPIES: I do not know the author or the sender of this, and just by referencing the unfair labour practice, there is more than 24 000 employees who could

have unfair labour practice there. It is not known. I must indicate that there is a – Behari appointed a company with a forensic firm ...[intervenes].

ADV SELLO SC: Before we get there, so my question was, you never got to establish the identity of this person.

COMMISSIONER SPIES: To date, it is not known who this is. Even I do not know where it comes from.

ADV SELLO SC: Okay. You had already started dealing with almost like the same email. You said this time it
10 included Vukile Mlungwana. You deal with that at paragraph 61 of your statement, and you attach another email of a later date of the 2nd of September 2023 as RS26 starting at 112, and you wanted to speak to this particular email.

COMMISSIONER SPIES: Correct. This email, it is very similar. I do not know who this Vukile Mlungwana is. Even to date, I do not know who it is, but it was added to the email. It is the only difference between the two, and then there was a much longer explanation of it, and I do not
20 know if I must read it into record as well.

ADV SELLO SC: No, no, it is not necessary. Thank you.

COMMISSIONER SPIES: It is a much longer email which now included names of a law firm Majang. It included Hennie Erasmus, who is the one who compiled the report, Gxasheka that signed and authorised. So explain the

problem, and then it goes further to say Kemi Behari did not call Majang, an advocate.

So he adds a lot of stories and a lot of background about judgments, and at the last paragraph, he ends up to say that the Labour Court in Imogen Mashazi was found guilty of contempt of court for protecting an employee was dismissed. And there is also a case on the next page which deals with Zimasa Maki, who an advocate sexually harassed by a boss, and nothing happened, and a white woman was
10 arrested. So it is a long email again just rambling on about things that is happening on the sideline in the city at that stage.

ADV SELLO SC: Did you know of any of the issues that are addressed here? Did you have any personal knowledge of these issues and what this email was talking about?

COMMISSIONER SPIES: Yes. There is, for instance, the – immediately after these emails, the directive that Linda Gxasheka and Kemi Behari, so there was originally a delegation in terms of the SLGBC disciplinary agreement
20 where the City Manager as the accounting officer is the authorised representative, and she delegated this matter to Xolani Nciza, the divisional head of ER.0

But immediately after these emails, she issued a new instruction where nothing in the City of Ekurhuleni can now be done if there is any misconduct allegations.

Everything must be submitted to Behari as the head of legal so that he can make a determination if there should be investigation or not, and Nciza's powers and everything was immediately revoked as well, so he is not involved in this process at all anymore, even though that has been the standard and how it has been dealt with for history.

The other people that they mention, I know about it in the sense that there is rumours that run in the department. so I had definitely heard that Advocate Maki,
10 there was complaints about sexual harassment, I know about it. I know that there is other officers that have been harassed and that. So I know about the rumours, but I do not have the direct facts about all of them.

ADV SELLO SC: Thank you for that. You move then to paragraph 62, from paragraph 62 and 63, there you deal with the IPID negative recommendation, and I think we have dealt with this recommendation by IPID before when we are dealing with IPID matters. Do you recall that?

COMMISSIONER SPIES: Correct Commissioners. It is
20 where IPID, after their initial investigation into the so-called Blue Light Saga and the registration of the vehicles, they have concluded their initial investigation and they issued what we call a negative recommendation. Every case that IPID investigate, they will issue one either positive recommendation or negative.

A positive recommendation is good for us as Municipal Police, it means the officer has done his work correctly and they do not find any wrongdoing. A negative recommendation is when they found something and we as a city must do something, depending on what they recommended.

So that was then, and it was part of this Bikibiki, it was part of that attached to it, where someone has got access to it, and I stated earlier in my testimony as well
10 that this negative recommendation was actually served on the then Mayor Ngodwana, and nothing has been done with this and this is where the matter is. So I know that this was served and nothing was done with this matter at all and no feedback was given to IPID at all.

ADV SELLO SC: We move then to your paragraph 64, where you deal with the ...[intervenes].

ADV BALOYI SC: Can we?

ADV SELLO SC: Yes, yes.

ADV BALOYI SC: Can we just ask? In your experience
20 and maybe practice, if material is served on the on the Mayor, such as in this case, as you say, ordinarily what then happens with that? What does the Mayor do with that?

COMMISSIONER SPIES: The City of Ekurhuleni has got an Executive Mayor, meaning that he is overall in charge and his direct report to him would be the City Manager, she is

accounted to the Mayor. So if the Mayor is served with anything, he will immediately hand it over to the City Manager's accounting officer to deal with it.

ADV BALOYI SC: In your expectation, this negative outcome or report would have been served on the Mayor, but in your expectation, he would then have handed it over to the City Manager to deal with?

COMMISSIONER SPIES: Correct, the Mayor would hand anything that is in his official capacity given to him, anything related to the City, the Mayor will hand it over because he is the Executive Mayor, but as a political head, and the City Manager is the official appointed to deal with the councillors and the accounting officers. So the Mayor would hand anything over to the accounting officer, which is the City Manager.

ADV BALOYI SC: Is there a scenario, at least that you can envision, where the Mayor may, the Councillor Ngodwana may well, rather the City Manager in fact, may well say I never received this from the Mayor, I do not know anything about this high-pitched negative report or negative outcome?

COMMISSIONER SPIES: Based on what – it is possible that she can try to infer it, but this negative recommendation eventually makes its way into even the Legal Department with Behari, and it makes its way to the

HR HOD. So the Mayor itself would not deal with the lower levels. The only way it could get there is through the City Manager to the Heads of Department of Legal and Human Resources.

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

ADV SELLO SC: Thank you, Commissioner Baloyi. We move on then to your paragraph 64 and 65. You had earlier sought to highlight the fact that Adv Behari had appointed a
10 firm with the name The Forensic Firm. Do you see where I am reading from?

COMMISSIONER SPIES: Correct.

ADV SELLO SC: And then you take your issue with some of the conclusions drawn in that report, and you highlight at least two in paragraph 64 and 65. Can you deal with that aspect of your evidence?

COMMISSIONER SPIES: At that stage, the councillors in Council already had lots of questions about what happens, and have the investigation against Brigadier or
20 Commissioner Mkhwanazi, has it been concluded, and what is the status of it? And the answers from the City Manager and from HR and from Legal was that they have appointed a forensic firm to investigate this matter. That was the answer they gave to Council.

However, when this report surfaced and the firm

was then appointed, and if you look at the report itself, the forensic firm that was appointed has been appointed with a specific mandate, which they even state in their mandate. They have been appointed to find the whistleblowers who released Mkhwanazi's pay number into the public domain. They were not investigating anything about Mkhwanazi. They were investigating the whistleblowers. That is clearly their mandate.

Based on the emails of this Bikibiki emails, they
10 were investigating that. In their report, as you go through it, they even state that they accessed our emails at the back end, which is obviously possible if you have, it is official emails, so they can have access to my history of my emails. And they then came to a conclusion at their recommendations that they cannot find any link between any official or anyone from Ekurhuleni between us and that email, which makes sense to me because none of us, I think, would have done it in any case.

So they make this remark in the recommendation.
20 They cannot find any link to anyone, and therefore they cannot take further steps. And then the last or second last remark that they make is that they suggest that Commissioner Mkhwanazi must lodge a complaint against these seniors and take official steps against these seniors for releasing his pay number in the public domain, which is

absolutely nonsensical.

If you have to find whistleblowers and you then come with a report back and say we have done this investigation into whistleblowers, we cannot find the whistleblower, we cannot link this, and then you make a remark that everyone in this report who is a senior to him must be reported and he must lodge a complaint against us for releasing when it was found that none of us released it. So that to me is absolutely nonsensical and it shows very
10 clearly how deep the protection is going that they even go with a false mandate to appoint a forensic firm to actually investigate a wrong angle and then come back and say no, but he has been cleared. In the meantime they just could not find the whistleblowers.

ADV SELLO SC: Thank you. And that report you have attached to your papers as RS27. I see it is dated June 2024. On the front page of the report bottom left it has got a date 20 June 2024.

COMMISSIONER SPIES: Correct.

20 **ADV SELLO SC:** That is the date of the report.

COMMISSIONER SPIES: That is the date on the report, but I only got hold of this later after it was served at the council.

ADV SELLO SC: And do you know, on this date you were still in the employ of EMPD. Do you know what became of

the recommendations of the report where they acted upon or what steps were taken, particularly insofar as what you highlight at paragraph 64 and 65 are concerned? Do you know if any of those steps were taken?

COMMISSIONER SPIES: I do not know if any of these steps have been taken at all because it is nonsensical. I do not know how you implement nonsensical findings and recommendations. There is, specifically where – if you for instance look at the page 157, which is the page of their
10 recommendations.

ADV SELLO SC: Yes.

COMMISSIONER SPIES: The very first sentence says disciplinary action cannot be recommended against the person using the pseudonym Bikibiki as the investigation team was unable to establish his or her ...[indistinct]. They could not do anything against Nciza because he is no longer an employee. And then they go with Majang and that they think there is wasteful and fruitful expenditure for that.

ADV SELLO SC: Fruitless rather.

20 **COMMISSIONER SPIES**: Fruitless and wasteful expenditure because Majang was paid R45 000 to act as the legal representative, which was subsequently withdrawn by the City, which I do not know that it was withdrawn by the city at all. And then the last sentence, 14.4 at the bottom, is that Mkhwanazi should lodge a formal complaint against

the EMPD senior officials who were responsible for the breaches identified in this report.

We also, on the next page there is these findings that they make that the City must change their method of – because there is no policy or anything related to donations or anything like that, and it is part of my observation is that they clearly does not know the City. The City have got a gift in donations policy. There is legislation in the MFMA Act. There is in all of this matters there is policies. There
10 is an approved DPCA which is a signed disciplinary agreement between us.

And they state that the charges against him was not in line with that because they were looking at registration and they say but false registration or uttering, but that is not the charges that was levied against him. The charges is for dishonesty, for misconduct which is dealt with. The main charges is dishonesty and misconduct and that is what the disciplinary agreement made provision for. The fact that the vehicle is registered falsely and incorrectly or the
20 fact that what Commissioner Mkhwanazi did to that specific stage is the micro detail of the charge.

But the contravention of the disciplinary agreement is at a higher level of misconduct of dishonesty. That is what the charges are and that is contained in there. So this is to me, it is a nonsensical report that was just created to

make it as if there was someone appointed to absolve him from this matter.

ADV SELLO SC: Thank you. We now turn to paragraph 66. We had to go deal with the forensic firm report, much as it is dated June 2024, to complete that conversation around the Bikibiki emails. From your paragraph 66 you go back to the events of November ...[intervenes].

ADV KHUMALO SC: Adv Sello, the date ...[indistinct] June 2024 must be an error because the two emails we are
10 referring to were dated August and September.

ADV SELLO SC: Of 2023.

ADV KHUMALO SC: Yes. So this is 2024?

ADV SELLO SC: Yes, the report comes now in 2024, almost about a year later. But then if we go to paragraph 66, you step back again to November 2023, which is following the order of events. We just had to deal with the report dated much later to complete that whole issue regarding the Bikibiki emails. Do you see where we are, Commissioner Spies?

20 **COMMISSIONER SPIES:** Correct.

ADV SELLO SC: And then ...[intervenes].

ADV BALOYI SC: Adv Sello?

ADV SELLO SC: Yes, Commissioner.

ADV BALOYI SC: Can I just check this with you? Are you saying you are still coming to deal with the report?

ADV SELLO SC: No, no, we had dealt with it. If the Commissioner has got questions.

ADV BALOYI SC: Yes.

ADV SELLO SC: Yes, please.

ADV BALOYI SC: I just want to clarify something. Commissioner, I asked this really because things do seem to have been very dynamic, if you like, that decisions were made on the spot, now we do things differently. And so my question comes against that kind of background. At that
10 page 157 that you were looking at, and this is still the report, under the heading recommendations, 14.2.1, it reads:

“Breaching section 774 of the SAL GBC DPCA by appointing Majang to act as legal representatives for the City in the Mkhwanazi matter without having obtained the prior consent of Mkhwanazi to do so.”

And then something similar in the next paragraph but now
20 with reference to a different statute:

“Breaching section 78(1)(a), (b), (c) and (e) of the MFMA by appointing Majang to act as a legal representative for the City in the Mkhwanazi matter without having obtained the prior

consent of Mkhwanazi to do so.”

Now the first question is, was there such a policy procedure or practice in the City that when employees are subjected to disciplinary action, their consent would be sought before people are appointed to process those disciplinary processes?

COMMISSIONER SPIES: Commissioner, the SAL GBC DPCA is the disciplinary agreement that is applicable to all local government employees and it has a clause 7.74, which
10 states that when you take disciplinary action against an employee, the employee can be represented by a colleague or anyone from his organised labour or a colleague, and the City will then be appointed someone from the human resource department or from the City itself.

And then there is a clause that state that, however, if the City decides to appoint outside lawyers firm, then it shall consult with the employee. It is there as a clause. However, in the history of the City it has in the past always been that when matters are of a forensic nature or a
20 complicated nature that cannot be dealt with by internal employees because of the nature of the case, then outside lawyers firms, which is on a panel and appointed, will be selected and they will then be appointed.

So up to that date, it has always been that if it is a complicated matter, then it will be outside presiding officers

in that. And the word consult does not mean ask permission, it means the word of consult. So consult in this case was most probably, and maybe Mr Nciza can answer that better because he is the one who actually did it. But from my experience, always when there was a complicated matter which involved highly technical or forensic matters, it was presiding and presenting officers only were appointed from outside and not from inside.

ADV BALOYI SC: Thank you, Commissioner. Thank you,
10 Ms Sello.

ADV SELLO SC: Thanks, Commissioner Baloyi. Just for the record, Mr Nciza is the next witness and he will go into deeper, in more detail around these labour and HR-related matters. Thank you. Commissioner Spies, we are now at paragraph 66 and we are back to the date of around November 2023. If you could just briefly deal with the content of 66 and 67?

COMMISSIONER SPIES: In the early May, because I am the Deputy Chief Auxiliary and Support Services and HR
20 falls under me, in the beginning of May I issued a memorandum to the Chief of Police to state that Commissioner Mzolo's fixed term contract will end November 2023 and we must initiate the process to start with HR to fill the position because it takes long to fill positions. And I informed the Chief of Police.

Subsequently, the Chief of Police sent that same through to HR to start the process. In the middle of that period, here by August, September, I do not know the exact date there, there was an attempt from HR to extend Commissioner Mzolo's contract from November, 30 November '23 when it would end, they attempted to extend his contract for a longer period, which the Chief of Police then issued a letter to them saying he object to that and they should proceed with the process to fill it.

10 And then suddenly the first week of December Brigadier Mkhwanazi was appointed as the Deputy Chief of Police, Deputy Commissioner in the place of Mr Mzolo who then retired and went on pension and was not employed anymore.

 This is very strange. And the reason I say it is very strange is that the Chief of Police in terms of section 64 appoint you and confer the rank upon you. In my whole career, and I have been in every single rank from constable right up to where I am now, every time when I have been
20 promoted the Chief of Police together with the deputies would confer the rank. It is a small intimate ceremony where the Chief will actually take off, on the one side the Chief will take off your rank insignia and then place the new rank insignia on top of on, and then on the other side the other deputies would do it and the Chief around there.

So this conferment of rank is a formal ceremony where there is then a picture taken and it is released, a media release and everything is done. This was never done. I as the Deputy Chief, Senior Deputy Chief by then because I am already in that post, we saw and heard Commissioner Mkhwanazi when we see pictures of him and when we see him on roadblocks and that. And it is even, it is something which, and I do not know if I should mention it about the way he wears his ranks, which it is a joke in the
10 fraternity.

ADV SELLO SC: Before you do so, you state at paragraph 67, you have testified to the fact that the Chief of Police, in this instance Chief Mapiyeye did not confer on him as a standard protocol ...[intervenes].

COMMISSIONER SPIES: Correct.

ADV SELLO SC: The ranks.

COMMISSIONER SPIES: Correct.

ADV SELLO SC: Then you say Brigadier Mkhwanazi reportedly went directly to the stores to obtain his new rank
20 insignia himself.

COMMISSIONER SPIES: Correct.

ADV SELLO SC: Can you talk to that?

COMMISSIONER SPIES: The process normally would be, because I am in charge of the stores as well. So if there is any conferment of rank, the Chief of Police will contact me

directly or his staff officer, Colonel Du Plessis will contact me and says we are going to do a ceremony tomorrow morning at 9 o'clock, can you please arrange that the following 15 people were appointed, can you please make sure that the stores make provision of the ranks?

Because it is not only the insignia, it is insignia, georgettes and a cap. Because as you go higher in the rank, your rank is depicted on the peak of your cap as well. So the Chief's Office would then notify me to say there is
10 going to be a conferment ceremony the next morning at 9 o'clock and can you please make sure that the stores pack the ranks and everything together already?

And I would then instruct the stores, bring it to my office and then I would go the next morning to the conferment ceremony and I will bring the actual rank. Sometimes I get surprised where we are already in the meeting and the Chief would say, can we please arrange it immediately because there is not other time? I will then contact the stores and say bring the ranks and everything to
20 me now, and we will then have this conferment ceremony.

However, with him it did not happen that way. He went directly to the stores and he forcefully told the staff, who is clerks, here is my appointment letter, I have been appointed, give me my ranks. He has not gone through the conferment process at all.

ADV SELLO SC: And you did make the point earlier that to date he wears his uniform insignia incorrectly.

COMMISSIONER SPIES: Correct.

ADV SELLO SC: You and us have had that conversation and you have tried to explain, and it has been quite a long process to understand. So perhaps to assist the Commissioners and spare them the torture, we have obtained pictures that are publicly available. We are going to put up the picture of Chief Mapiyeye with his ranks. So if
10 you could talk us through the insignia and the ranks?

COMMISSIONER SPIES: Correct, Commissioners.

ADV SELLO SC: And confirm whether Chief Mapiyeye is wearing his correctly. And if they are correct, what must face where? Thank you.

COMMISSIONER SPIES: The rank insignia on Commissioner Mapiyeye's shoulders is indicating, for instance, two, what we will call castles, but it is to align it with what the South African Police Service and Defence Force use, but it is a laurel leaves and he wears three of
20 those to denote his rank as the Chief of Police. And then he has got two swords and a sheath on the edge of the rank.

So that sword must always point to the front. And the reason for that, there is symbolic behind it. There is even a government gazette that actually explained the

depiction of this rank and what it looks like. That sword must show to the front because you are defending and attacking crime and defending yourself. If it shows to the back it means you are a backstabber. That is what the rank is that what we think immediately.

If I look at General Masemola as the National Police Commissioner and he wears his rank wrong way around, in my mind I will immediately think, but it will never happen. When you are at that rank level from your – in the
10 SAPS it will be Maj-Gen, in the Defence Force it will be Brig-Gen, but Maj-Gen, Lt-Gen and then General, your swords will always show to the front.

So there is a left and a right side if you put uniform on. It is like a left and a right shoe. And when you assemble your uniform, that is the first thing you look at is your swords must go to the front because you are attacking crime and you are defending yourself. And when it goes to the back, you swapped it around and you become a backstabber.

20 **ADV SELLO SC:** Okay, now we understand. And I guess the Commissioners can assume for the moment that you wear yours the same way as Chief Mapiyeye.

COMMISSIONER SPIES: I have a picture of me in uniform, or I can appear in uniform tomorrow morning.

ADV SELLO SC: Okay, we understand how they ought to

be worn. Now we found two random pictures of Brigadier Mkhwanazi with his, and if then you can contrast that with what we have come to understand based on your testimony? We will just put them up quickly.

COMMISSIONER SPIES: Correct, the swords on the left ...[intervenes].

ADV SELLO SC: We are going to try and enlarge that picture.

COMMISSIONER SPIES: Ja, it is correct. It is swapped
10 the wrong way around, and it is actually embarrassment, especially for me. I am a 43-year-career policeman working in this environment at every forum. My current Chief actually refers, every time when she sits next to him at meeting she informs him, swap your rank around, it is wrong. You are wearing it the wrong way. So he has been reprimanded by the other Chiefs to say fix your rank, fix your rank. It is an embarrassment, and it just is wrong the whole time. He does not know which side must go to which side.

20 **ADV BALOYI SC**: Can we firstly maybe, well, not firstly. Can we just confirm that is Brigadier Mkhwanazi? Let us not take it for granted.

ADV SELLO SC: Indeed so.

COMMISSIONER SPIES: It is Deputy Commissioner Mkhwanazi.

ADV BALOYI SC: Deputy Commissioner, I do apologise.

COMMISSIONER SPIES: Yes, a Brigadier rank will have a castle and three stars. That rank is a Deputy Commissioner rank.

ADV BALOYI SC: Thank you, Ms Sello.

ADV SELLO SC: Thank you, Commissioner. So, is it correct to assume that the process of conferring the rank requires the Chief of Police to attach to the uniform the actual insignia and georgette as you call them?

10 **COMMISSIONER SPIES:** Correct, Commissioners.

ADV SELLO SC: And from that you get to learn that this is how they are to be worn?

COMMISSIONER SPIES: Correct.

ADV SELLO SC: And we know the sword is facing backwards, you say, and that is not how it is supposed to be worn from Chief Mapiyeye. They appear to be facing forward.

COMMISSIONER SPIES: Correct. It should be – he is wearing the epaulettes on the wrong shoulders. That is why
20 it turns around because it is a mirror image of one another. If he swaps it around, the swords will show to the front.

ADV SELLO SC: Now, next to the swords, what is it? You call it the insignia, the two.

COMMISSIONER SPIES: It is two castles.

ADV SELLO SC: Yes.

COMMISSIONER SPIES: And the sword. That denotes the level of General. So, if it is a Maj-Gen in the South African Police Service, it is two castles and a sword and a sheath. With us, it is a Deputy Municipal Police Commissioner with two castles and a sword and a sheath. The Chief himself will then have three castles and a sword and a sheath.

ADV SELLO SC: Okay.

COMMISSIONER SPIES: Because in terms of equivalence, in ranking with the South African Police Service, the Chief
10 of Police is equivalent to like a Lt-Gen because he reports operationally to the National Police Commissioner, the similar as provincial police Commissioners and Lt-Gens who are wearing then three castles and a sword and a sheath.

ADV SELLO SC: Okay. We have dealt with the sword and the sheath, is it you call?

COMMISSIONER SPIES: Ja, there is like a little baton.

ADV SELLO SC: Yes. Now, then you reference the castles. Are they facing the right way here in the picture that we see?

20 **COMMISSIONER SPIES**: Castles, the rank in terms of the castles and the open end of the laurel leaves or the olive leaves must show towards his shoulder. But the insignia must swap around. So, the left shoulder must go to the right shoulder and the right shoulder must go to the left shoulder. The moment you swap your insignia around, they

will actually turn around and face to the front again.

ADV SELLO SC: Okay. I think that was an easier explanation through the use of pictures.

ADV KHUMALO SC: I thought there was another picture.

ADV SELLO SC: There is, but upon consideration, I do not think, please swap to that. It is not as visible as the one we projected, but we will, and you will see. Thanks. No, we will very quickly. These were obtained publicly, so it was what was available. It is on, Commissioner Khumalo. I do
10 not know if...

CHAIRPERSON: If anybody raises the copyright issues, you are on your own, Ms Sello.

ADV SELLO SC: Yes, I guess I will have to deal with copyright issues in the fullness of time. They are publicly available, and I think it is quite in order for Brigadier Mkhwanazi to state that he is not the person indicated in these pictures, and I will have to accept it from him because we took them from the public ...[intervenes].

ADV KHUMALO SC: And then the collars?

20 **COMMISSIONER SPIES:** Commissioners, that is called georgettes. It is the same rank. It is just in a miniature version. Because when I am, for instance, a tall person, so if I stand, then people cannot see directly my epaulettes and my rank. So from the front, when you face someone, you can see georgettes. The same with my P-cap. If you

look at the P-cap, there will be three branches of laurel leaves, and when you are a Deputy Commissioner or a Commissioner, the three leaves will have a little flower at the top as well, so that is denoting rank.

When we are walking between one another and I do not know you from anywhere, by looking at that, I can immediately see your rank. The georgette is easier to fit to your collar because the georgette has got a physical shape, and your collar has got a triangle as well. And your swords
10 must show away from your neck, again to attack and defend and not cut your own neck. It is symbolic into that, so you do not become suicidal on your own and cut your own neck with your own rank.

ADV KHUMALO SC: Are you saying in this photo ...[intervenes].

COMMISSIONER SPIES: The georgettes is correct, and his rank on the epaulette is completely wrong.

ADV KHUMALO SC: Okay.

ADV SELLO SC: Thank you, Commissioner Khumalo.
20 Brigadier Spies, that would then lead us to your next topic, which is that you have headed external Community Liaison Units, CLU, and irregular appointments/promotions. You start this at paragraph 68.

COMMISSIONER SPIES: Correct, and to state that at this stage of what we found everything so far, and what I have

then experienced, is that my firm belief was that this is a criminal enterprise within the Municipal Police. It is a core group of officers, specifically within the Specialised Services, that are involved in serious crimes based on the fingerprint records, based on where they are, based on the fact that they do not want to do this.

And then we have a formal structure in a unit called CLU, Community Liaison Unit, but in this unit itself, and this unit was – at that stage, it was a superintendent, Deon
10 Singh. It was in 2015 when this incident took place. We only discovered it in 2024. This is a group of rogue civilians that reported to Singh and Mkhwanazi. They had posted – so initially they approached the Chief's office, which was Chief Mapiyeye, and they asked that they want to come to him. They want jobs because they have been offered jobs, and they want them as wardens.

And then the Chief was not in the office, and he referred them telephonically to go to my staff officer, Colonel Du Plessis, and deal with them. Colonel Du Plessis
20 then said to them, well, I can listen to your story, but bring me evidence. Otherwise, it is just stories that you are telling me. And they went away, and they came back at a later stage presenting evidence to Colonel Du Plessis. I have attached that evidence as well.

These officers, or not officers, these civilians were

working together with Singh and Mkhwanazi, signing on in our occurrence books, coming on duty. They were working. They showed pictures and newspaper clippings where they were in Council as Sergeant of Arms. Sergeant of Arms is not supposed to go into Council. It is like Parliament, firearms or police officers may not enter. There is a group of security which is called Sergeant at Arms, which manages the security within the Council if there is a rupture between politicians or councillors that deal with it.

10 They showed us pictures that they included to say that here they are in uniform, which is a white shirt, black tie, and black pants, in Council as Sergeant of Arms, but they have never been employed by us. They showed us their newspaper clippings where they are on the pictures together with our officers. They are actually part of arresting people. They use words like intelligence gathering, which is illegal. We do not have the power to do intelligence gathering.

20 They even showed us, never mind these photos of the OBs and everything, they even showed operational plans where they are included into operational plans of working with us. And their claim, what they then state with all of this evidence, is that they – some of them have been employed as Wardens, but this group have not been employed and they are upset because they have not been

employed.

So we stated that, well, it is the first time we hear about it. It is the first time we have evidence about it. We will elevate it then to the Chief of Police and that we can deal with it and answer you formally. Colonel Du Plessis then went ahead and he prepared a draft letter to Corporate Legal on behalf of the Chief of Police, because he is still the staff officer even though Chief Mapiyeye is not there, he is still the staff officer to the Chief's Office. He then
10 prepared this and he submitted all this evidence together with this draft letter to Commissioner Mkhwanazi's office, because he is the Acting Chief of Police. And we did not hear anything thereafter again.

The group of officers, or these people, came at a later stage back to us and say, well, we are not helping them, we are not assisting them, they are now going to the Public Protector. They did go to the Public Protector and then we just heard that the Public Protector did not entertain them because the Public Protector gave them a
20 reason that it is out of timeline, because the Public Protector can only deal with up to three years matters and this already took place in 2015. So, it is it is a hundred percent rogue process where the Singh and Mkhwanazi was involved with at that stage where they actually made use of private individuals to assist them in this process.

ADV SELLO SC: Commissioner Spies, at Annexes RS28 and RS28II - RS28I and RS28II, which you refer to at paragraph 70 of your statement, you say these are copies of official Ekurhuleni Metro Police occurrence books that you have attached, showing entries in the occurrence books. I would like to refer us to the first to assist us to read these documents at page 159. It is got a date at the top, Friday 2015-08-07.

And the first entry is duty on the following members
10 report on duty as follows. Then it lists some names and that seems to be the pattern that it follows. And midway that page, against the date 22-08 at 13:12, it is report out. It mentions some people there, three, and it says out to Katlehong and Zonkizizwe. Are you suggesting that this is a record keeping of the reporting quote unquote on duty of these SLU members and their deployment into the community?

COMMISSIONER SPIES: Correct. The 8 o'clock duty on those are members. The MV Kali[?], SW Ngwenya, Tungwa,
20 Maziba and Ngogala is Metro Police members. But the 9 o'clock entry is the following volunteers joined the unit. TM Makhubalo, Stanley, Mtetwa, Somwara, Zuma, Malangu and Silwani. So those are volunteers. The first group of officers is officers, and the second entry is that it is volunteers. And it is dated in the top of the page is an

occurrence book and it is Friday the 7th of August 2015.

ADV SELLO SC: And that pattern appears to repeat throughout the successive pages. At page 60, at 08H00, at 20th of August, it says duty on the following members report on duty as follows. And it lists.

COMMISSIONER SPIES: Correct.

ADV SELLO SC: Then the next entry report entry says the following volunteers joined the unit.

COMMISSIONER SPIES: Correct.

10 **ADV SELLO SC:** Then there is a report out of some of these persons being going to Katlehong and Zonkizizwe. And at 15:50, same page at 160, it says report back. Then duty off, report of duty all in order.

COMMISSIONER SPIES: Correct, Commissioner.

ADV SELLO SC: So, in this paragraph, is this what you are referencing to say these civilians joined EMPD members in the execution of official police duties?

COMMISSIONER SPIES: Correct, Commissioner.

20 **ADV SELLO SC:** Do you know what their role specifically was when they were so quote unquote deployed?

COMMISSIONER SPIES: The only - we obviously never knew about them. We only heard of this in 2004 when they came to complain that we must actually give them jobs as wardens. We do not know what their roles are, but when they discussed it with us and they explained to us in stating

that Deon Singh and Mkhwanazi and them and Kali, they were running them, and they were giving them instructions and they assisted.

They would do intelligence gathering. There are even operational plans that was submitted. I just do not know exactly where the operational plan is, but it was attached as well. There are operational plans where it states intelligence gathering. It is photos where they were working as next to offices where there is arrest in the
10 newspapers. So, if people were arrested for drug dealing, people were arrested for crimes that was committed, and they show us pictures of newspapers where they were in newspapers and that.

So, they had no formal function. There is no way. We do not even have a volunteer policy, which makes it more critical as well. Many, many years ago, we attempted the process of creating a programme where we can appoint volunteer a reservist concept, similar as what this African Police Service Act reservist. And it was made clear by us
20 by this African Legal Services is that this African Police Service Act does not make provision that we can actually start a reservist programme. So, we cannot have at this moment in time a reservist or volunteer municipal police services. We can have reservist traffic officers, or we can have reservist wardens, but we can never have a reservist

municipal police officer because the act does not make provision for it at all.

ADV KHUMALO SC: Is it not unfair, Commissioner, to refer to them as rogue civilians? If everything that they were doing, they were doing because Superintendent Singh or Brigadier Mkhwanazi had invited them and they were gathering intelligence and assisting EMPD because they were either invited or allowed to do this, is it fair to refer to them as rogue?

- 10 **COMMISSIONER SPIES:** Commissioner, if a policeman do a criminal deed, in terms of the National Intelligence Act, there are only three intelligence agencies, which is SSA, Military Defence or Military Intelligence and Crime Intelligence. No one else in this country might gather intelligence. At all. It does not matter who you are. So even I as a police officer cannot gather intelligence. And if I go and I give instruction to a civilian to gather intelligence and I am involved in that trade, I am rogue and everyone with me is also rogue. So maybe they are innocent rogue.
- 20 I do not know if that is a concept.

ADV KHUMALO SC: Are they rogue by association?

COMMISSIONER SPIES: They are definitely rogue by association. I do not think they were - maybe they were most probably extremely positive because they are volunteers and they are doing this to shine, and they are

going to be appointed eventually as officers. So, from their perspective, I would not blame them for what they are doing and thinking. But their actions, and I refer to them as rogue because they are not appointed, they do not have powers, they are being abused by these officers within our environment.

ADV SELLO SC: Commissioner, do you know if or whether these people, these civilians, we received anything from the city, a stipend, some payments?

10 **COMMISSIONER SPIES:** They never received anything formally.

ADV KHUMALO SC: And you said they wore uniforms. You said they wore uniforms. Where did they get those?

COMMISSIONER SPIES: The uniform they wore in some of the newspaper clippings and photos was the Sergeant at Arms uniform, which is a white shirt, a black tie, black pants. Most probably they have it in their cupboards. I do not know where they got it, but it is not that we issued the Sergeant of Arms uniforms. They are not in the Metro
20 Police. They report to the political speakers, the Chief Whippets, in that environment where they are protecting the council chambers.

ADV SELLO SC: Why do you call their uniform Sergeant at Arms uniform? Are you suggesting it looks like that uniform or it is specifically Sergeant at Arms uniform? And also,

where would they have obtained their EMPD Sergeant at Arms uniform, if you know?

COMMISSIONER SPIES: The Sergeant at Arms, the clippings as well, show them in the council chambers during a council meeting and the newspaper articles state that Sergeant at Arms. And the Sergeant at Arms dress code that they use is a white shirt, black tie, black pants when they are working in council itself during the council meetings.

10 **ADV SELLO SC**: Now for those members who are deployed as Sergeant at Arms formally within council area and offices, would they be wearing similar uniforms?

COMMISSIONER SPIES: Correct. The genuine Sergeant at Arms will wear that colour uniform.

ADV SELLO SC: You state at your paragraph 71 that in 2024 they approached Commissioner Mapiyeye's office and Colonel Du Plessis requested they submit their evidence. They complied and Colonel Du Plessis then drafted a letter to the head of legal, Behari, on behalf of the acting Chief, 20 on behalf of acting Chief Julius Mkhwanazi, as Chief Mapiyeye was suspended. The complaint and evidence were sent and received by Julius Mkhwanazi's office, but no action has been taken to date. So, you do not have that evidence that you referenced there was not submitted to you?

COMMISSIONER SPIES: Correct, it was not submitted. When they approached Colonel Du Plessis to provide the evidence to him, Colonel Du Plessis phoned me and said to me, what must he do with this? Because the Chief is suspended, he does not know what to do with this because it is a very serious complaint that yes, offices that were working for us, but they are demanding that we appoint them.

My suggestion to him was draft, as you did, draft a
10 letter on behalf of the Chief to legal so that it can go to Advocate Kemi Behari's office so they can give a legal opinion on what is the process to be followed at the back end. And Colonel Du Plessis then just reported back to me to say it was submitted to Mkhwanazi's office, and he is got proof that it was signed for because he submitted all evidence back plus the draft letter to his office. But I do not know what happened thereafter again with it.

ADV SELLO SC: So, Brigadier Mkhwanazi is most likely the person to turn to, to assist us with what was submitted
20 by these ...[intervenes]

COMMISSIONER SPIES: Commissioner Mkhwanazi. He is now Commissioner Mkhwanazi.

ADV SELLO SC: Now I do apologise he is called Commissioner Mkhwanazi. Okay, we shall do so. Before we leave this topic, I see that the OBs seem to be dated, it

is around 2015 and then 2017, is that correct?

COMMISSIONER SPIES: Correct, Commissioner.

ADV SELLO SC: And according to you, these are irregularities within the EMPD or the way?

COMMISSIONER SPIES: Correct, Commissioner. The occurrence book is an extremely official book. It is the heartbeat of any police station, any unit. Anything that takes place, anything that happens must be recorded in the OB.

10 **ADV SELLO SC**: Okay.

COMMISSIONER SPIES: Irrespective of which police station you are. So, OB reflects the heartbeat, it is what has happened at that specific unit or that, and it is numbered and it is serialised and civilians will not sign on and off in our official books. So, the fact that they sign on there, it makes it as if it is a formal appointed and it is a correct procedure, everything.

ADV SELLO SC: Now if you say this is irregular and it seems to span at least 2015, 2017, that way you have
20 given. And now in terms of paragraph 71, we know that they approached the office of Commissioner Mapiyeye in as late as 2024. And you call this, all this, or their engagement irregular. Are there any other irregularities that you are aware of over your 33-year service at Ekurhuleni? Particularly in your last post as Commissioner,

I think I said Auxiliary Services.

COMMISSIONER SPIES: Commissioner, in this same, and this is now long after, but in the same period, 2015, when this took place, a very strange incident took place where our fleet manager, Chris Steyn, he has been mentioned already, he contacted me one day and he said to me, on the vehicle tracking systems that we have, one of our vehicles is at the Botswana gate at Gaborone. Do I know about it and what must he do about it?

10 And I am like, dude, it is not possible. Our cars cannot clear in Botswana, switch the vehicle off. So, there is a remote capability where you can switch the vehicle off. So, I instructed Chris, I said, Chris, we will get to it, switch the vehicle off and start the recovery process to actually get a breakdown and go fetch our vehicle. It must be a stolen vehicle. We cannot have Ekurhuleni police vehicles at Botswana gate. If it happens, it has happened in the past that we have been to other countries, for instance to Swaziland, but then it is a formal approved by council
20 process where it is a conference or something that we go with vehicles to it.

 And Chris then said, okay, we will switch the vehicle off. He phoned me back about an hour later and he says, he is in big trouble now. I said, why? He said, he was just now phoned by the then chief of police that he

must switch this vehicle on and this vehicle will turn around and come back to us, and we must leave this vehicle alone. He has sent the officer, and the officer is on official business.

So, we never discovered why and what happened, but there were question marks about this whole process of why the car went, one of our vehicles go to Botswana and it came back. We never even know if it went through the border or not. We just know that this incident happened
10 where I was instructed, or I instructed, switch the vehicle off and recover it.

And then I got told an hour later, I was overridden. The then chief of police stated to Chris Steyn, leave the vehicle alone. The vehicle will come back, and you must leave it alone. So it is strange incidents like that that took place that makes it - there is even other incidents where, which when Chief Robert McBride was our chief of police, he phoned me one Friday afternoon and he said to me, I must immediately look at the registration number because
20 he is driving in his private vehicle on the R59 and he just went into the Free State and one of our vehicles is driving in front of him.

He wants to know what the vehicle is doing there. So, what then happened was, is that he was on his way to another thing. So, we looked at the vehicle and also this

vehicle went to Parys in the Free State and the Saturday afternoon, the vehicle was, a breakdown unit was sent from us to the vehicle where he is standing in Parys and we actually fetched the vehicle and collected it and bring it back.

This vehicle was assigned to Vosloorus Police Station. To our precinct. And then on that Sunday, the officer who used the vehicle, he came back and he like discovered the vehicle is now missing from his house and
10 he came back and trying to report the vehicle as stolen at Vosloorus but then his supervisors accosted him and he was disciplined steps taken against him because he abused, he used the vehicle to go home to his, in Parys where he stays on over the weekend and came back.

So, there is strange incidents that do took place. I have, for instance, because I am in charge of the fine administrative courts, all the fines that comes to traffic vehicles of belonging to Ekurhuleni Metro Police would go to the proxy. Does not matter where in the country it takes place
20 and the proxy will then have to deal with it and he will send it to me to say fine administration, yes fines, can you please look at it and deal with it in that manner and that is when I noticed there is a strange, there is, for instance, a Friday evening's vehicles from Ekurhuleni Metro Police that go through the Drakensberg on the N3.

And then they get speed fines because the Drakensberg area as you go through it is notorious for being speed fines. We even had speed fines at the Du Toitskloof Tunnel which is close to Cape Town. So, there was a general misuse and abuse of vehicles when we do not know where vehicles are travelling in the country and that is why tracking systems, and everything was installed into vehicles to make sure that we know where our vehicles are. So, there is strange things that has happened in all the
10 years there.

ADV SELLO SC: Now I am particularly interested in this either attempt or actually an actual crossover into another country, Botswana, the incident that you referenced. Would there be an official record of that incident where the vehicle actually is recorded as having crossed the border into Botswana if that record were to be sought?

COMMISSIONER SPIES: Not with us but it could be that customs or SARS will actually have records of cross-border crossings but this already happened in 2015.

20 **ADV SELLO SC:** I am saying on the system, would the system be able to track that vehicle? You said that you ordered that the tracking system be shut down and therefore it is not able to move.

COMMISSIONER SPIES: I do not think Commissioner it would be possible anymore because the city of Ekurhuleni

changed like every two years their tracking companies and this already happened in 2015. It is too late to track it, but Chris Steyn could be summons that he can speak of his - what I said now about him and what he conferred to me.

ADV SELLO SC: And on what authority did you direct or order that the tracker be initiated so that the vehicle is immobile?

COMMISSIONER SPIES: In 2015 Chief Mapiyeye was appointed as the Chief of Police. He was previously the
10 Director in charge of logistics. At that stage when he was appointed in 2015 May, I was appointed to act in his vacant post because he was appointed as the Chief of Police. So, I was the director in charge of logistics and at that stage when it took place the fleet and the management of the fleet was falling under me as the Metro Police Section.

ADV SELLO SC: And I will say currently I guess up until you retired in February 2024 who was in responsible for logistics and fleet?

COMMISSIONER SPIES: I was still my appointment in 22.
20 I was the director and at that stage when I was promoted there was a Brigadier Van Der Merwe appointed as the Head of Logistics. So, I was promoted in the same leg but as a Divisional Head and then my position that went vacant and the logistics position that went vacant where I was acting in, Brigadier Van Der Merwe was appointed in that

position.

ADV SELLO SC: So, if the Commission would like to pursue this matter it is Brigadier Van Der Merwe and Chris Steyn that perhaps the Commission should consider having a conversation with?

COMMISSIONER SPIES: Correct.

ADV SELLO SC: Thank you.

CHAIRPERSON: You said Commissioner that you do undertake official trips to other countries and you gave the
10 example of Eswatini. In those instances, that is the official instances, what entries if any are made in the EMPD records?

COMMISSIONER SPIES: Commissioner what will happen is when we went to, at that stage it was still Swaziland but Eswatini now, when we went there it was as a group officially invited by the Royal Swazi Police to come and do a presentation to them on municipal policing because they were looking at the same concepts of introducing it as well and we had to obtain council approval. So, there was a
20 council item, council approval because we would be outside our area of jurisdiction, but the decision was made that we would use our, the majority of the senior officers get travel allowance vehicles, so we use private vehicles.

So, the travel to Swaziland or Eswatini at that stage was done with my private vehicle. I travelled with it, I

was a driver, Chief McBride and Deputy Chief Ash Budu was then together with me in my vehicle, and we had one other vehicle as well which was a private vehicle that we used to travel to it. But the council resolved and the council gives you permission to actually go to attend to this formal function and conference in the other country. It is the only time that it happened officially that we went to one of our neighbouring countries. When obviously when we go to any other country, we would use flights to get to those countries
10 to have that and there will not be travel or anything like that or vehicles involved.

CHAIRPERSON: Thank you.

ADV BALOYI SC: Commissioner as at the time before you retired, the was the policy of the city that vehicles must have a tracker. Was that the requirement in respect of all vehicles?

COMMISSIONER SPIES: Correct Commissioner, there is a requirement that all council vehicles must be fitted with a vehicle management system which includes the capability to
20 track the vehicle as well.

ADV BALOYI SC: So, if that is so, the vehicles that we saw yesterday in the Meyerton operation, I know your evidence was there is no entry because it was an unlawful operation. But if the vehicles are fitted with trackers, if all city vehicles are fitted with trackers, it should be possible to

track the movements of those vehicles.

COMMISSIONER SPIES: It is correct Commissioner, but that specific vehicle of Kersher Stols for instance, when she was arrested at the Smoke and Kings, IPID and ourselves then looked at the vehicle as well afterwards and when we looked at the vehicle, the tracker system was cut, and it was disabled in the vehicle. So, there is a huge proportion of their vehicles of specialised service that the tracker system is not working at all.

10 There is every year, there is annual audits done where we actually look at which vehicles we cannot find on the tracking system, and we try to bring them in and have them tracked again. The city itself, in the past they have always used a service provider to provide this system, be it a company like Ctrack or Tracker or whoever it is with that. But if a few years, I do not know the exact date, the city decided to do it in-house. They developed an in-house system, and they buy the instruments that go into the vehicle of the modem, and they would instal it themselves.

20 But there is a large amount of vehicles that either the tracker does not work, or it is non-functional or it has been disabled by the officers.

ADV BALOYI SC: So, it is quite possible for example, on your explanation, that the vehicles that were donated and then given back to CAT VIP, you may not be able to track

them. There may not be a record of their movement at all.

COMMISSIONER SPIES: No, they were definitely not part of the tracking system at all. It takes a very long process, administrative process, to actually enable and instal and get the systems installed into the vehicle system. They were for a very short period on our name. They were registered and then very quickly thereafter, they were deregistered when this matter came to light.

ADV BALOYI SC: Thank you. Thank you, Commissioner.

10 **ADV SELLO SC**: Thank you, Commissioner. We then turn to the next subject, appointments and promotions, Commissioner Spies. And this starts at paragraph 72. If you could summarise what you said out there and the issues you raise or complaints regarding appointments and promotions. Just to let you know that your Annexure RS29, which you referenced at 73, you say it is a picture of the emails and a copy of the interview questions and answers. You see that part at paragraph 73?

COMMISSIONER SPIES: Yes.

20 **ADV SELLO SC**: Okay, you did not provide the actual question and answers that you referenced there as part of that annexure 29. But you can speak to the issues, and we will try and update the files to include that question and answer document.

COMMISSIONER SPIES: Correct. I have the actual

emails.

ADV SELLO SC: Okay, so, it is part of that. It is maybe just not printed because it is thought of with the actual screenshot and then it lists the mails as attachments later on.

ADV SELLO SC: I just thought I should bring it to your attention because we will not be able to turn to it as it is not on record. But otherwise, you can deal with your evidence from paragraph 72 when you raise the issues that you
10 wanted to.

COMMISSIONER SPIES: As stated, part of my function as the Deputy Chief Auxiliary and Support Services was the HR liaison portion that fell under me, which was then managed by Colonel Wanda Van Rooyen. And in 2024, February, they started the process where Colonel Van Rooyen approached me and said she does not know what is going on, but suddenly there is Commissioner Mkhwanazi and Stella Jokazi is running with the appointment process.

There are meetings with HR, and they are busy with
20 appointing a huge amount of people that we do not know anything about the process. So, she actually then started to say, but she declines to be involved in this process because she does not know who is dealing with it and she is not going to assist with anything in that. But the process was run primarily by Stella Jokazi. She was a senior

manager in licencing, which is the civilian side of us, licencing dealing with eNaTIS registration of vehicles and drivers and vehicle licences.

So, she got promoted by Julius Mkhwanazi in this flurry where about 55 plus, initially it was 50, but there are more people that is been appointed in that specific period. And it made highlights of her because she is a civilian that does not have, according to us, the qualifications to be appointed as a municipal police officer. However, she was
10 appointed as a municipal police officer, as a brigadier from a civilian position.

And after the interview, she scored very well in the interviews. So, after the interviews, it was, she was the successful candidate and Chief Mapiyeye was in that period for a short period. He was back at the office and he then stated, because based on her CV, he wrote a letter and he issued it to Gxasheka from HR to say, we cannot appoint the recommended candidate because she does not comply with the minimum qualifications. And he issued that letter
20 to her to state she does not have it. However, when he was suspended ...[intervenes]

ADV SELLO SC: Before you move on, that letter you, are Annexure RS31 to your statement to confirm and it is at page 391, if you could just have regard to that. Is that the letter that you say Chief Mapiyeye wrote to Mr. Gxasheka

regarding the lady's appointment?

COMMISSIONER SPIES: Correct. On the 15th of July is when he sent that based on her CV and based on the fact that we know that she has not got this qualification that is necessary to be appointed. And when we speak about this qualification, in terms of Regulation 11, there is a few requirements that you must have. But if you only speak about the requirements specifically to municipal police officers, that you must have a traffic officer diploma. That
10 is the one qualification.

And you must have a Law Enforcement Skills Programme Certificate, which is the policing portion of it. And the Law Enforcement Skills Programme, that certificate portion originated from the National Standards on Training, which the National Police Commission in 1999 has already published, where you state that when you establish a municipal police, in the first 12 months, which ended in 31 August - 31 October 2023, officers that have already been in the trade, meaning officers like me, that was a traffic
20 officer from a previous traffic department, those officers must complete what we call a bridging course, which was a 14-day course to do the policing subjects.

And this was prior to SAQA or the Qualifications Authority or QCTO or anything like that. This was in the 1999s already, where this was published. That bridging

course has eventually become a formal course registered as under the SAQA and the QCTO as a qualification. And it is now called the LESP, the Law Enforcement Skills Programme. So initial officers in 2002, when we were converted into municipal police, that already appointed officers did the bridging course.

All officers thereafter did the full LESP course. And we keep record of this because we have two assessment authorities over us. The RTMC, Road Traffic
10 Management Corporation, they are the assessment body for the traffic diploma, because our academy is accredited to give it, or train officers, and they assess us then to make sure that we comply with their requirements to issue a traffic diploma.

And the South African Police Service is the assessment body for the LESP because it is their course and they assess us on that. We therefore keep very strict control over which officers and people we train on these courses because we are going to issue the certificates at
20 the end of the day and we have to then account for who was trained. So, Mrs Jokazi has never done this course. She is in licencing, she is got nothing to do with Metro Police, she has never been in the Metro Police environment.

According to her own CV and career, she started off as a traffic officer in the provincial fraternity based at

Heidelberg. After her stint as a traffic officer, provincial inspector at Gauteng Community Safety, she then got employed by the City of Ekurhuleni in licencing. And she was a licencing officer dealing with, eventually senior manager, dealing with registration of vehicles and driver's licence. She has never been in a police environment at all. So, all of us know it, and everyone complained about it. And that is why Chief Mapiyeye then issued the instruction that to Gxasheka to say this post must be re-advertised and
10 restart because it is an irregular appointment.

CHAIRPERSON: Commissioner, just explain again her involvement with the provincial what?

COMMISSIONER SPIES: She was, from her career, she had - do have a traffic officer diploma because she did it at Boekenhoutskloof, that was a traffic college. And she was appointed by the then Gauteng Community Safety Traffic Department, which is the provincial traffic department, and she was based in Heidelberg.

CHAIRPERSON: As what?

20 **COMMISSIONER SPIES:** As a traffic officer, but it is with the province they would call them provincial inspectors.

CHAIRPERSON: And why is that not relevant experience for this purpose?

COMMISSIONER SPIES: So, she complies with half. She has the traffic officer diploma, and she is a registered traffic

officer. So, she complies with half of the qualifications. The requirements are that you must have both qualifications to be municipal police. You cannot just have half you must have both. Over and above that, the requirement also goes further to say that you must have at least 4 years senior management experience.

So, she was a junior traffic officer. There is no experience there in the 2000s, 2002, and then her whole career thereafter was in licencing. So, she does not have
10 any experience in any municipal police department, in law enforcement, at a management level at all. But it goes about the qualifications. She is unqualified. There is a strange possibility that you can be appointed without complying with qualifications with a writing clause to say that within 6 months or a 12-month period you must obtain those qualifications. People can *jippo* the system in that method, but this did not even happen in that manner.

ADV BALOYI SC: The experience requirement, was that in the advert?

20 **COMMISSIONER SPIES:** That was in the advert. So then Chief Mapiyeye gets suspended, and immediately thereafter, in the very first week when Commissioner Mkhwanazi is now acting as the acting chief of police, he issued a letter to Gxasheka as well, to say no, proceed with this appointment, because she has been vetted

qualifications and it is confirmed hereby that she complies with all the qualifications.

And he then issues a letter to state this to this effect. This is on page, it is Annexure RS32, page 392, where Commissioner Mkhwanazi then is the acting chief of police on the 6th of August 2024. He writes this letter to say, with the heading of, report on the qualifications of the recommended candidate for the director fines administration position of EMPD. And this position, fines administration
10 director, this is my previous position before I was, from 2015 I was appointed in this, from 2011, December, I was appointed in this position until 1 August 2022. This is my vacant post when I was promoted. She actually got appointed in my vacant post. And then it states on the memo, it says:

“This memo serves to confirm the qualifications and experience of Ms SFV Jokazi.”

With a pain number, who possesses the following as
20 submitted, and verified by Banqobi Consulting, who are the service provider appointed by the city for vetting of qualifications and human resources. And then he lists 8 qualifications, which is matric, the national diploma in municipal administration, a BTEC degree in public management, the traffic officer diploma, that is the one that

counts, infrastructure number, then does not matter about the rest, it is examiner for motor vehicle and examiner for driver's licence, and a traffic man overload control, and quality and customer licence management. And then he says:

10 “Attach, find the documents, and he state, Mrs Jokazi's records were verified on the following requirements, crucial for the job post, direct to fine admin, driver's licence is valid, no criminal or illicit activity recorded, and then he says, a vast number of years in experience in law enforcement, senior management, and working in logistics section.”

20 So, this is fine administration, it is got nothing to do with logistics. And this confirmation serves as a record of the department's endorsement of these qualifications, which meet the requirements for appointment. And please note that this confirmation is consistent with the department's previous recommendations and appointment of candidates with similar qualifications. And if required, further information or clarification, please do not hesitate to contact my office.

ADV BALOYI SC: So, Commissioner, in summary, this

lady applied for a specific job, direct to fine administration.

COMMISSIONER SPIES: Correct.

ADV BALOYI SC: Following some process, she then was a recommended candidate.

COMMISSIONER SPIES: Correct.

ADV BALOYI SC: And you refer us to Annexure RS32. On the 15th of July 2024, Chief Mapiyeye writes a letter to L Gxasheka, head of human resources, and states:

10 “Following the interviews that took
place on the 8th of July 24, take note
that I have perused the advert and the
CV of the recommended candidate. I
found out that the recommended
candidate does not have a Metro Police
diploma, which is a key requirement. I
propose that this position be re-
advertised. Attached, please find the
advert.”

You see that?

20 **COMMISSIONER SPIES**: Correct.

ADV BALOYI SC: That is on the 15th of July. Now, the letter you just read is dated the 5th of August. You annex it as RS32, and this is under the hand of JD Mkhwanazi, acting chief of police. Two weeks later, they are about acting chief of police, JD Mkhwanzi looking at the same

documents, holds a different view, and then says she qualifies.

COMMISSIONER SPIES: Correct, Commissioner.

ADV BALOYI SC: Was she then appointed after this letter of Commissioner Mkhwanazi, or what happened? Do you know?

COMMISSIONER SPIES: She was appointed as the director of fine administration at brigadier, even though she reports directly to me in that position as a deputy chief. I
10 have not seen her at all. She has not been introduced to me. I have not seen her. I saw her approximately a month later when she was already in uniform, wearing field dress uniform, and everything about the appointment and everything that happens thereafter.

Because it then came to light, people started sending us information to me, where they, for instance, sent email correspondence the week before the actual interviews where Mrs Jokazi was. This email correspondence was between Mrs Jokazi and Thembi Hadebe from HR. HR
20 corporate, they are dealing with the admin process around the advertisements and the interviews. So, this Stella Jokazi sent to Thembi Hadebe a document which lists questions and answers for the proposed position to be done.

And then a few days later, she sent another

document with corrections to say this is the final document, a week before the interview. So, Stella Jokazi actually prepared her own questions, her own answers. She sent it to Thembi Hadebe, and those questions and answers is then asked in the interview. That is over and above the qualifications, non-compliance with it.

ADV SELLO SC: Now on the qualifications, the Chief of Police, Chief Mapiyeye, had taken issue with the fact that she did not appear to have a Metro Police diploma and said
10 it is a key requirement. Acting Chief of Police Mkhwanazi does not address that specific qualification in his letter of the 5th of August addressed to Ms Linda Gxasheka at HOD of HR, is that correct?

COMMISSIONER SPIES: Correct, he does not mention that qualification at all there because he knows she does not have it.

ADV SELLO SC: Yes, and then at your paragraph 74 of the statement, you say:

20 “The same candidate is currently not in possession of the required law enforcement skills programme in parenthesis LESP qualification. She has applied to the Ekurhuleni Metro Police Academy to be enrolled in the next training cycle January to March

2026.”

Do you see that?

COMMISSIONER SPIES: That is correct.

ADV SELLO SC: Now you reference here the law enforcement skills programme qualification, is it the same as what Chief Mapiyeye in his letter your Annexure RS32 refers to as the Metro Police diploma, is it the same thing?

COMMISSIONER SPIES: Correct, the LESP is considered, when we speak about it, we speak about the Metro Police
10 diploma, but it is a law enforcement skills programme certificate, the registered course.

ADV SELLO SC: So, her own registration for that training cycle for January to March 2026 does confirm the position that Chief Mapiyeye assumed then in July 2024 that in fact she does not have it, she only has to do it twice.

COMMISSIONER SPIES: Correct, she does not have the qualification and this course itself, because SAPS is an assessment body, they set cycles because it is a national curriculum for all Metro Police officers to do it, so SAPS
20 sets cycles where it will start. So, the next cycle that starts is January, the current cycle is September to November, the next cycle is January to March is the next cycle.

ADV SELLO SC: To your knowledge is she in this position that Chief Mapiyeye concluded she was not qualified for as we speak?

COMMISSIONER SPIES: Correct, she is still not qualified.

ADV SELLO SC: Chair, ...[intervenes]

CHAIRPERSON: Are we not almost there, should we not finish?

ADV SELLO SC: Okay, I was going to propose that we push to finish. Thank you. I am happy to.

CHAIRPERSON: Commissioner, can you please make me understand the RS29, because reading your affidavit in paragraph 73, I get the impression that you say that RS29
10 shows us that Ms Jokazi crafted her own interview questions, sent and in fact emails, I think, to Ms Thembi Hadebe. I have looked at RS29, I cannot quite follow what is on there.

ADV SELLO SC: Chair, may I step in? When we got to this portion of the evidence, I indicated the shortcoming in RS29 to the Commissioner, and I stated that the actual question and answer document that he referenced, and he suggested that paragraph was exchanged between Ms Jokazi and Ms Hadebe is actually not part of this annexure
20 that he gave. He only provided, he only provided as an annexure the emails and not the document attached. So that is the flaw in Annexure RS29.

COMMISSIONER SPIES: Commissioner, I have, so in this, the printout that goes, on page 337 is actually the one email we have just put on top of one another to show that there

were two dates, the one is 26 June, and the other is 6 July. But I have in my own annexures, I have the documents which we can print and provide. If we have a break for a few minutes, I can provide it immediately after. It is the actual, it is the attachments also printed out because it is DOC1 and DOCGRP1 and GRP2.DOCX.

ADV SELLO SC: And I would agree it is an important document to have to appreciate Annexure RS29.

CHAIRPERSON: I would suggest that we should not take a
10 break but that rather the Commissioner should furnish the documents to you, and you should then furnish them to us. It is only if when we go through those documents there are issues that we may perhaps require the Commissioner to come back, which I think is unlikely. Perhaps what we could do as an alternative is that after we have taken the lunch adjournment, the Commissioner can then avail the documents and then come back in for just one minute or less to just confirm that those are indeed the documents.

ADV SELLO SC: And then perhaps if we are going to do it
20 that way, Chair, he has the document before him right now. He could perhaps just give an example of the question-and-answer session, question and answer that the lady prepared for herself and then after lunch she steps in just to confirm that this is the document, and we update the files. So, we do not have to deal with the content of that document after

lunch.

CHAIRPERSON: Let us just get the documents when we come back and then we are by no means suggesting that we should then go through the documents.

ADV SELLO SC: It is because you two have got ...[intervenes]

CHAIRPERSON: They should just be given to us, and we are then directed to where they are in the exhibit bundle and then you take the Commissioner there and he just
10 identifies the documents. As I said, that will take a minute or two.

ADV SELLO SC: That is fine. May I enquire from Commissioner Spies. He is got some time challenges. Would you be able to come back at 2 o'clock just to confirm to the Commission that the document that you would have provided us with and would have updated the files is indeed the RS29 you intended to include in the file? Would you be able to?

COMMISSIONER SPIES: Sorry Commissioner, I did not
20 inform Adv Sello that because of today I was supposed to be in another arbitration as a witness and during last night it was postponed. So even though I said 2 o'clock this afternoon, they said no, let us rather postpone. So, I am available, but it will impact on the flow of the rest of the afternoon and the other witnesses. But I am available for

the whole day.

ADV SELLO SC: No, that is fine. That takes care of the challenge. I am good. Thank you, Chair.

CHAIRPERSON: Thank you.

ADV SELLO SC: Then we will pack RS29 and you will come and confirm after lunch after the files are updated. That would then take us to our paragraph 77. At page 70, that is where you deal with Brigadier Mkhwanazi's own appointment in the role of acting head of department HOD
10 community safety on the 1st of December.

ADV BALOYI SC: Maybe before you do that, can we just confirm at that page 391, that letter from Chief Mapiyeye, do you know if he ever received a response from Ms Gxasheka?

COMMISSIONER SPIES: No, I do not know if he received any response from her.

ADV BALOYI SC: Okay, thank you.

ADV SELLO SC: Thank you, Commissioner. I referred you to your paragraph 77. You deal with Brigadier Mkhwanazi's
20 new appointment and the fact that the result is that he holds two separate and distinct statutory positions. Just very quickly, what do you reference there?

COMMISSIONER SPIES: The city created a new structure called community safety of which Metro Police has now been subverted to a division within the community safety

and obviously not reporting directly to the city manager and accountable to her anymore. However, this was approved in November. What then happened in December is that Commissioner Mkhwanazi was always appointed while Chief Mapiyeye was on suspension.

He was appointed every month on a month-to-month basis as the chief of police, complying with the law. However, on the 1st of December, he was appointed as the acting head of community safety and there was no
10 appointment made of any chief of the police. He was the head of community safety, and he received an appointment letter from then to even today. Well, I do not know what is happening exactly now, but until February when I left, he was appointed as the head of community safety, and no one was appointed as the acting chief of police.

So, he effectively occupied two different distinct statutory levels and there is no chief of police. Now, if there is no chief of police appointed, because you cannot be appointed to act in two different positions yourself and
20 you cannot appoint yourself to act as something like that, but he kept on signing and he kept on saying he is the chief of police and this is, to me, it is vicarious liability effects when the SAPS Act section 13(8) for instance, when you have a roadblock, it must be approved by the chief of police to help the roadblock.

Now, there is a difference between a roadblock and a layaway when you stop and do law enforcement in the Road Traffic Act, stopping vehicles for speeding or stopping vehicles for checking for defects. A roadblock is fully fledged where you stop vehicles, you search vehicles because you are looking for a specific crime or something. So, all the section 13(8) is signed off, must be signed in terms of the law by the chief of police and Commissioner Mkhwanazi was appointed by the then city manager to the
10 position of HOD, community safety, and there was no subsequent chief of police.

To date, there can be no record found of any acting chief of police where he was appointed. It was only lately when, because of the national meetings, there were other officers like Brigadier Ockert Bezuidenhout arrived with an appointment letter as the acting chief of police at the last chief's forum meeting. So, that is just what I am mentioning in this, is that there is no formal chief of police appointed, but there is an acting head of community safety appointed.

20 **ADV BALOYI SC**: Okay, let me ask, Commissioner, what do you attribute that to? Is it just incompetence, lack of understanding of the significance of the different roles and why they should be enacting police chief, or there are other motives?

COMMISSIONER SPIES: Commissioner, I think it is

incompetence and it is a fact of do not understand the legislation around it at all. Do not understand section 64, do not understand the role of municipal police service in terms of the constitution and in terms of the SAPS Act, that the Act gives definitive powers to a chief of police and the Act expects that those processes must be followed hundred percent correctly.

ADV KHUMALO SC: Is it possible that the official appointment exists, but you just have not seen it? I mean, 10 why else would he sign, give instructions and directives and say he is chief of police, acting chief of police, if there is no official appointment?

COMMISSIONER SPIES: Commissioner, in everything in the department, if you are appointed as an acting, your acting letter is immediately distributed to all sections. The reason for that is that anything, if you make an order out, if you procure something, the delegations and the MFMA Act states that whoever signs for goods delivered or goods that must be paid, your appointment letter must be attached and 20 there is certain levels of authority of monetary value where there is a signature delegation who can sign for what.

So, when the chief of police, his signature and his acting letter will be attached to that. So, to every procurement, to everything that he does, the acting letter is the HOD community safety attached. There is nowhere in

existence, we have tried to find it when I was still there, we tried to find it, but we could never find that he is an acting chief of police.

ADV KHUMALO SC: If that is correct, how come nobody has objected to his directives and instructions to say you can issue this directive?

COMMISSIONER SPIES: Because the majority of the department lives in fear and they are afraid of him and his criminal group of officers around them. They will not
10 object.

ADV KHUMALO SC: So, you are saying he has appointed himself as acting chief of police?

COMMISSIONER SPIES: Correct, because he is the HOD, he made himself out, I do not think there is an appointment letter, but he made himself out as the acting chief because he signed directives and he signed letters, but there is no formal letter where he is appointed as the acting chief of police. He is appointed on an acting letter as the acting HOD of community safety.

20 **ADV KHUMALO SC:** Yes, but you see Commissioner, I can understand you saying people within EMPD are fearful or are scared of him, but surely you cannot say the council and the Mayor are scared of him, and if they are told that he is acting as chief of police without authorisation, they will not do anything.

COMMISSIONER SPIES: The council and at the higher levels do not get involved in this Commissioner. It is an administrative practise. It is from my opinion that this is an illegal process that is being followed. There are more illegalities. I went on leave for instance in 2024. My position in November has been abolished. It does not exist on the structure anymore. I am now contractual to incumbent sitting on the sideline from December 24.

10 However, when I went on leave, Stella Jokazi was appointed to act, and she got even an acting allowance claim against my position, which does not exist. When I resigned in February and I went retired, that post does not exist at all now anymore in council. Stella Jokazi was acting in that position. She got paid acting allowances. So, there is things that the upper level does not know what is happening, but it is happening on the ground level.

ADV SELLO SC: Thank you, Commissioner. Just to understand then, who must the commission turn to, to determine whether or not Commissioner Mkhwanazi was
20 duly appointed to this contentious post? Is it the city manager's office? Is it the HOD department through Ms Gxasheka? Where do you suggest we turn to answer that question or the questions Commissioner Khumalo had definitively?

COMMISSIONER SPIES: The city manager's office is the

accounting officer.

ADV SELLO SC: That is the accounting officer. And who would effect the acting appointment? Would it be the city manager?

COMMISSIONER SPIES: No, the city manager would only appoint the acting head of departments. The then head of departments would appoint the subsequent actings in their own departments. So effectively, if Julius Mkhwanazi was appointed as the acting head of community safety, he would
10 then have the power to appoint someone as the acting chief of police for that same period.

ADV SELLO SC: And I am saying it is the city manager who would have appointed him in turn as an acting head of department.

COMMISSIONER SPIES: Of community safety. Yes, she did.

ADV SELLO SC: Okay.

ADV BALOYI SC: Commissioner, just so that we understand, you said something that now confuses me. In
20 terms of structure, where does an acting head of department community safety sit in relation to the chief of police position?

COMMISSIONER SPIES: From the 1st of December, the Metro Police department ceased to exist. The fire department, disaster emergency service department ceased

to exist. And a new department with the name of community service was established. This community safety department was established. In this department, there is a division municipal police, where the chief of police will be. And there is a division emergency services or fire where the head of, say, emergency services would be. And there are other divisions as well that is been created. So, a whole new structure has been created. And the Metro Police that was actually a department accountable to the city manager, 10 initially, was now removed and became a division under the head of community safety.

ADV BALOYI SC: So, in this new structure, if Chief Mapiyeye were to return to work tomorrow as chief of police, he would now report to ...[intervenens]

COMMISSIONER SPIES: He is now demoted to a divisional head.

ADV BALOYI SC: And he now reports to Commissioner Mkhwanzi as acting head of community safety. I am just trying to understand the structure.

20 **COMMISSIONER SPIES:** That is what would happen, but Commissioner Mkhwanazi would not be – well, he should not be appointed then as the acting head of community safety. It should be between Chief Mapiyeye or Mr Makhubela, who is from the fire services that will rotate between the two of them, because they are the highest

senior positions. That is what should happen.

ADV BALOYI SC: Yes. So, what I am proposing to you is, as things are happening now, let us say, that Commissioner Mkhwanazi, now acting in that position, if he is made permanent at the end of today so at the end of today, he is head of department community safety. And then tomorrow, Commissioner Chief of Police Mapiyeye goes back to work.

COMMISSIONER SPIES: He will have to report to Commissioner Mkhwanazi as a civilian head of department.

10 **ADV BALOYI SC:** Yes, I understand. Thank you.

ADV SELLO SC: Thank you, Commissioner. So effectively, the post of chief of police still exists, you say?

COMMISSIONER SPIES: Correct.

ADV SELLO SC: Even under the new structure.

COMMISSIONER SPIES: Correct.

ADV SELLO SC: Except now that chief of police now reports to the head of community safety.

COMMISSIONER SPIES: Correct.

20 **ADV SELLO SC:** And not to the city manager as contemplated in Section 64(C).

COMMISSIONER SPIES: Correct, Commissioner.

ADV SELLO SC: Okay, then we quickly deal with your own retirement, which you start with from paragraph 79, and your suspension from the department.

COMMISSIONER SPIES: Correct. Obviously, I turned 60

in November 2024. And our official retirement age could be, for age-wise, is 65. But I was appointed as a Section 56 employee, which in terms of the Act means that I am a fixed term, 5-year performance-based contract employee. And I was appointed on 1 August 2022, which will then run until 2027. However, because of all this victimisation and ostracization that happened in the department, when I turned 60, myself and my family had a serious discussion about it to state that I would rather take early retirement,
10 look if you can afford it, let me take early retirement, and I am going to have mental health issues and heart attack if I carry on in this manner.

Because all of this criminality around me is directly against my DNA of being a policeman, and I cannot cope with nothing being done in the city. And it is clear the city is on a path of destruction, and I do not want to be part of this at all anymore. So, I then, to make sure that I do not lose anything, I aligned my retirement with SARS tax year, personal tax year, which is 28 February, so that I do not
20 pay extra taxes or anything. And my broker also advised me that the best date is 28 February that I must retire with. My contract that I have with the city states that I must give 2 months' notice as well.

It is not the normal, because I am a Section 56 employee. So, in December, I then took annual leave to

make sure that my leave is also depleted, so that I do not have extra tax implications at the end of that period. I returned to the office on the 6th of January, and the moment I walked into the office, I immediately started the process of retirement. I concluded, so we have a complete process of exit clearance forms, handing back equipment, firearms, uniform, laptops, anything that I must do. So, I started that process on the 6th of January already.

Fully handed everything back and then submitted
10 my application. I could not get hold of the acting, who I then believed was the acting Chief of Police in Mkhwanazi, but on the 7th , we had a meeting where he called us to a meeting in Alberton, and when we sat at that meeting, I gave him my application to say, I hereby resign, I am taking early retirement. And he then looked at it, and he signed off on everything on the 7th of January. The 8th of January, I submitted it to the corporate HR offices, and they processed it, and the same afternoon, they sent it back to me to say, everything is captured, your retirement is
20 concluded, you can actually deal now with the medical aid and with your new employer, which is Sanlam, or Santam in my case, is that there is contracts and everything that must be signed with them, and I must provide proof to the pay office for conclusion of my retirement. That was all completed in that first two weeks of January.

ADV SELLO SC: Before you move off that point, you have Annexure 33 about the approval for your retirement, Annexure RS33 starting at page 393. You have a document there, termination of service, and the next overleaf at 394 is employee exit clearance certificate. The first document at 393 provides your particulars and requires an indication of the reason for termination of service, and you confirm that you have, it is ticked retirement and above retirement, a manuscript written early in red. Do you see that?

10 **COMMISSIONER SPIES:** Correct. That is the formal termination contract, and this is what I received back from HR.

ADV SELLO SC: Okay. If you go further down, it is got under the heading future contact information signatories. It is got the employee's signature, provision for the employee's signature. Is that your signature appearing there?

COMMISSIONER SPIES: Correct, Commissioner.

20 **ADV SELLO SC:** Do you know who has signed as supervisor and head of department, respectively?

COMMISSIONER SPIES: It is Commissioner Mkhwanazi right in front of me. He signed it when I gave the form to him.

ADV SELLO SC: And if we go over leaf at 394, that is the employee exit clearance certificate. It deals with a number

of issues, but I am interested in after item 10. Below item 10, the left part requires a signature by the employee to confirm that they consent to monies due from them to the municipality, I think, to be deducted. Do you see that?

COMMISSIONER SPIES: Correct.

ADV SELLO SC: It appears that you signed. I am more interested in the right-hand side one, where it says:

10 “It is hereby confirmed that all
 signatures above have been obtained,
 officials last working day, and it is
 denoted as 28 February, 25.”

And there is a signature there, a name, JD Mkhwanazi. Is that what is written there?

COMMISSIONER SPIES: Correct, Commissioner.

ADV SELLO SC: And signed, provides an employee number and dates it the 8th of January 2025.

COMMISSIONER SPIES: That is the date he signed, that is correct.

20 **ADV SELLO SC**: And you say this is when your early
retirement was approved by Commissioner Mkhwanazi?

COMMISSIONER SPIES: Correct.

ADV SELLO SC: Okay, and thereafter, it was just an issue of dealing with various admin issues.

COMMISSIONER SPIES: Yes, and if we go back to page 393, you will see at the top portions where it starts with

tables, full name, surname, ID number, department, post designation, and then next to post designation, pay offers. It says section 56, 57, and then the stamp in the middle of the page, it says to be processed on the section 57 payroll, and where the reason for termination, it says 60 years with a tick mark, and early retirement. So it was as per my retirement that it is an early retirement, and I am a section 57, 56 employees, and I have to give 2 months' notice in terms of my contract.

10 **ADV SELLO SC:** So then, after Commissioner Mkhwanazi approved your retirement from the 8th of January 2025, you have another date in your document, in your statement, at paragraph 81, the 5th of February 2025, and now this relates to a suspension notice. Can you reconcile the two for us quickly, please?

COMMISSIONER SPIES: Correct. It is not mentioned here, but on the 27th of January, there was an incident that took place at work where Commissioner Mapiyeye is being, there was discipline steps taken against Commissioner
20 Mapiyeye, and he is being suspended for those disciplinary steps. On the 27th of January, I was contacted by Commissioner Mapiyeye's legal representative, Mrs Erika Bester, and in this process, she asked me if I can confirm a specific vehicle registration number, if it belongs to the city, and that is part of my job.

Everyone asks me that, and so I confirmed to her, yes, I can confirm, let me just find out everything about the vehicle, and then I will come back to you about it as well. I sent an email to Colonel Bloemhof, which she then forwarded to the fleet section, and she posted it on WhatsApp to everyone, and in the middle of the day, Sarah Chitja sent an email to say that I victimised her, and she sent it to the city manager and to Mkhwanazi, and I am victimising her because I am looking at her car, I did not
10 even know whose vehicle it was, and then I was in a meeting during that morning, I did not see this email flurry.

In the middle of the afternoon, I answered it back to everyone, and I said, I am not busy with the investigation, I was requested by a lawyer to confirm if a vehicle belonged to the city, and this is what I am doing, I am checking if this vehicle is our vehicle of the city at all. And then I got contacted by Adv Buirski, he sent me an email, and he introduced himself to say he is the evidence leader in the Chief's case, and he wants to speak to me, he wants to
20 have a meeting.

I then referred him and said to him, I am busy at the moment, but we can meet after hours in the evening via Teams, and he can set up a Teams meeting. That evening at 7 o'clock, we had a Teams meeting regarding it. The date is important here because it is the 27th of February

where it is. I had then an hour long, or 54 minutes, conversation with Adv Buirski, which he was extremely rude towards me, and I informed him numerous times that I have been approached to testify as a witness on behalf of the Chief. He was extremely unprofessional.

I have that recording, we can play that recording, but he was explaining very, very personal information about Chief Mapiyeye and what is happening in his case, and he explained the whole case to me, and he put scenarios to
10 me, what will I do, and what am I going to do here. And I said, I do not want to speak to you, I told you that I am a witness for Chief Mapiyeye, and eventually I stopped the conversation. I said, I am not listening further to you at all. And then, that is a weekend happened, and then on the 5th of February, I was at corporate HR in Benoni because I was approached to testify as the employer in another arbitration case that I must represent the employer.

And at that meeting where I was, I was then phoned by Deon Singh, who is this brigadier that is been promoted,
20 part of this promotion group last year, I was phoned by him, and he stated, where am I? And I said, well, I am at HR, here at this office. He then came there, and in front of Tommy Zidzambe[?], he said to me, here is a letter for you. I looked at the letter, and this letter is a pre-suspension letter, to say we are hereby going to pre-suspend you, give

reasons why you should not be suspended, and carry on with things like that, with a trumped-up charge of that I have appointed a service provider for a back-office system. And then, at the bottom, it ends with a paragraph, so this is a pre-suspension, I must now give reasons, and then at the bottom it ends, and due to the reasons listed, we hereby suspend you with immediate effect.

And I accepted the letter, and then he said to me, where is your laptop, where is your office keys? I am in
10 silly suit at that moment in time, and I said to him, well, as you know, I am going on pension on this 8th of January, everything was already handed in, I do not have anything, it is with the office, it is at stores. And I gave him my office keys, I took it off my normal keys, and I gave him my office keys, and he says I am not allowed to be on the council premises anymore.

So I left the HR office, where I was busy in prep for the arbitration case, I left the office then, and I went home, contacted my advocate to assist me, to say that I was just
20 prepared, because they are doing the wrong things, it is irregular, the manner that they are dealing with this now, and I do not know where this comes from suddenly, because it is an absolute fabricated lie.

ADV SELLO SC: Commissioner, apologies, before you move. You deal with the suspension at paragraph 81, just

to get things clear in my head. By the 8th of January, your early retirement, effective from the 28th of February 2025 had been approved by Commissioner Mkhwanazi, correct? That is what Annexure 33 tells us.

COMMISSIONER SPIES: Correct.

ADV SELLO SC: Now, in this paragraph, you say you were formally suspended from 10 February to 9th of May 2025. 9th of May is way beyond your retirement date how do we understand that?

- 10 **COMMISSIONER SPIES**: Commissioner, so after I have submitted my reply to them, to say, but here is my contract, here is the clauses, here is the process that must be followed according to the Government Gazette, you followed the incorrect process, retract my suspension, then the 9th of May - the 9th of February, they actually served me then with a formal suspension letter, exactly the same as the previous one, as if it is a template, just now the clauses, it had clauses in which, if it was not, it is so funny when you read this, how the incompetence run in this department,
- 20 that now it states that I may not leave the city or the province unless I ask Commissioner Mkhwanazi for permission, and it states the dates, from 10 February, with my last working date, 28 February, officially, already approved more than a month ago already, it states I may not leave the province, I may not leave the city until the

10th of May, and so now as a pensioner, I must also ask my ex-criminal for permission to actually leave the province, and if I am not at home, I must have permission from him for that.

So, I immediately declared a dispute. This dispute was set down for the 28th of February. My last working date was in it in a dispute resolution. So, as we walked into the dispute, with the presiding officer in that, the council centre representative, Mr Gili Gidi[?], and I explained my position
10 and submitted the evidence here, and as he turned to Mr Gili Gidi, it was said, his words were, can we please go off record, and the Commissioner presiding on it says, why off record, what is your answer? He said no, I was instructed to have no mandate to speak on this matter. So, the conciliation certificate was immediately issued. That matter is still in conciliation, or not conciliation, in arbitration, it actually. It has been postponed numerous times, because of the council, and that does not arrive, or there are always reasons why they do not arrive or submit documents very
20 late. It is now set obviously for this week, Wednesday and Thursday, when we will go back into the arbitration process.

ADV SELLO SC: At paragraph 82, you list, I think I can just highlight, that subsequent to your retirement or suspension, or even before that, a number of people have been suspended within the EMPD, and these include

Commissioner Mapiyeye, Mr Kelebogile Thepa, Ms Liesel Tyers, and then yourself, so technically, there just seems to be a lot of suspensions within the EMPD.

COMMISSIONER SPIES: There is a pattern of anyone that, anyone that was involved with Mkhwanazi or Singh, they, all of them have been either dismissed or suspended, or victimised very seriously.

ADV SELLO SC: Now you end this with paragraphs 83 to 85, to 86, where you specifically reference what your own
10 partner, who is in the department, has been subjected to, considering that we are seriously eating into the Commissioner's lunch, can you just succinctly summarise the challenges you see that your partner is confronted with currently?

COMMISSIONER SPIES: So obviously I left him on the 28th of February, and I am now a retired Ekurhuleni Metro Police officer, but my wife stayed behind, my life partner, she is in the logistics section where she is there. So after my retirement and cessation, this Julius Mkhwanazi, Deon
20 Singh, and Anir Parsa[?], they started to do irregular, illegal investigations as if they are policemen, and they do illegal stuff and they threaten people, and it starts to target my wife as well, because what they do is, they have moved people with no qualifications, no finance whatsoever, Ezekiel Naicker, they moved her as the superintendent

there.

A Sarah Chitja who is involved with the chief they moved her as the inspector. She was also irregularly appointed in 2024 as part of a bunch of - the post where she was appointed as inspector is Inspector Internal Affairs. It was not even advertised, Mkhwanazi just appointed her into that position, it is as if it was a reward because she would testify against Commissioner Mapiyeye. So, they were all, together with Antoinette Messina, they placed in
10 charge of where my wife is actually working.

This Naicker would then go, he would actually start targeting her to say to her, she must explain to him what she is doing in that section. So, she would send him an email to say, I do vehicle inspections, it has been assigned, my job in this section is to do the vehicle inspections, or do the firearm inspections, I work at the asset store where I hand out the assets, so she explains everything to him. After she explains everything to him, he starts with a process where he removes that access to say, no you are
20 not doing the vehicle inspections anymore, and Ane[?] or Piri[?] would do the vehicle inspections, or no you are not doing these inspections anymore, someone else would do these inspections.

So, within a week's period, they took everything that she was doing, they took it away from her via emails.

And then the next week, Monday, they had asked her again, so what are you doing now? And she explained in a history, to say well, this is my task I have always been appointed to do, but now you have obviously changed everything that I have been doing. Within seconds after she sent this reply, this Naicker sent an email to say, please hand in your laptop, your biometric access cards, everything, and report to uniform stores.

10 So, she is now a police constable that is in charge of assets and managing the assets section. She has been moved to the uniform store to report to a civilian clerk, where she is now a packer, she packs the uniform. As soon as this happened, Brigadier Van Der Merwe gets falsely arrested, and that case is still running in court. And the rumour with all of these people around them is stating that, and even from this African Police Service, that they are going to arrest my wife on trumped up charges as well.

20 So, she goes to the office in uniform when this is spread, to say now she is going to be arrested. She informed her supervisor to say, I would prefer that you do not arrest me in uniform, I am going home to get dressed in civilian clothes, and then you can proceed with whatever falseness that you want to do. I obtained, in the meantime, counsel to say, I need to urgently make provision that if my wife is arrested, that we can immediately deal with it. And

then she went to the doctor, and she saw a psychiatrist, and she was booked off sick for a period of 5 months now.

She is dealing with it through a professional psychiatrist, but also with EAP, at the work itself, where she sees EAP. She ran out of sick leave, and she then starts a process where she applies for extra sick leave that the council can give her, and there is a process where the supervisors must sign. She is lodged a grievance against them as well for this. Needless it starts to happen again.

10 We sign on duty for instance, or they sign on duty in the OB as normal at the precinct where you sign on.

And she signed on and she arrives at work, her office hours are from 7 to 3, so she arrived at 20 to 7 because she was early. She wrote the entry into the OB, and OB is written in time order, you cannot change orders. So, at 06:20 she writes on the time and says 06:40, reporting on duty for 7 o'clock and she signed it. Her supervisor, this Naicker, came and he scratched out with a red pen her time and he fraudulently changed the OB,
20 writes 7 o'clock there, and you then make an entry to say Constable Jacobs must correct the correct time, she signs on at 7, not before that time.

And even though our standing orders in Ekurhuleni state that you come on duty before the time, you do not arrive with it. If your time is 7 o'clock, that means you must

be 15 minutes before the time already on parade, and you cannot just arrive and start on that. So, her vehicle, for instance, she was issued with a patrol vehicle. Two, three years ago the patrol vehicle was taken away from her. To date, she does not have a patrol vehicle. She used my private vehicle to travel and do all her official patrol vehicles if she has to go to Germiston or anywhere to deliver documents. And so, it is an absolute nightmare how they victimise her and then anyone else who supported
10 Chief Mapiyeye. The group of people that is left there is acting, and the word is rogue, it is a criminal enterprise what is running in that specific department.

ADV SELLO SC: Thank you. I think the Commissioner have a good sense of what you say is victimisation that your life partner has had to endure within the EMPD environment, flowing from the discharge of your own duties while you are still with the EMPD. Are there any concluding remarks you would like to make to the Commission as we have come to the end of your testimony now?

20 **COMMISSIONER SPIES:** There is, because I stated earlier as well, very few of the civilian people know that I have retired, because I obviously did not announce it or anything. There was no farewell party or anything like that, so a lot of the people that used to deal with me still think I work for Ekurhuleni Metro Police and they still contact me, and they

still inform me of, or they have a problem with their payment of invoices or things like that.

And so, a lot of the matters still come to my attention, even though I do not work for them anymore. For instance, this Ezekiel Naicker, he originally negligently lost a firearm, and it was then decided that there will not be a firearm issued to him. However, after I have resigned, Commissioner Mkhwanazi forced them to issue a firearm to him as well. He has lost that firearm negligently as well.

10 There is a CAS number at Bedfordview 267-05-2025 of negligent loss of firearm.

No disciplinary steps have been taken against this officer. The rumours that I hear from everyone else is he is protected, you cannot touch him, because he is there, but he is directly in charge of my, placed in charge of my wife. The people have sent me invoices where the uniform tender, for instance, was awarded by Sarah Chitja was adjudicating it. This uniform tender, historically there is manufacturers who is situated in the Cape and here in
20 Gauteng who manufacture our uniforms.

For instance, FG or RADS, it is large companies who is manufacturers. The latest uniform tender which was adjudicated by Sarah Chitja has been awarded to electrical contractors who does not have any experience. Which is so funny is that they actually buy it from the manufacturers at

inflated prices. Our radio accessories have been batteries for our radios and other accessories has been bought from a third party to the original company that provided to us originally at four times the price that it actually is being sold to us.

The same goes for our breathalysers, handheld breathalysers, the calibration of it. The calibration must be done by the OEM, the supplier. However, it went to a third party who took it to the supplier to say, can you please
10 calibrate this? And the supplier phoned me to say, Commissioner Spies, your breathalysers came from, how did your breathalysers end up with this person? It came from that.

And I am like, no, I am not working there anymore. But send me, I will send it on so that people can do enquiries. So, there is genuinely a move to weaponize the Metro Police against anyone who wants to be honest, who wants to make this work. And there is a criminal enterprise that has been operating for the last three to four years in
20 the department.

ADV SELLO SC: Thank you. Commissioner, that is the testimony of Commissioner Spies. Unless there are questions to the Commissioner.

CHAIRPERSON: I will thank you when we come back after the lunch adjournment, Commissioner. Let us adjourn and

come back at 14:45. Okay, thank you.

ADV SELLO SC: Thank you, Chair.

COMMISSIONER SPIES: Thank you, Commissioner.

INQUIRY ADJOURNS

INQUIRY RESUMES

CHAIRPERSON: Ms Sello, we now have those emails that show that Ms Jokazi is it?

ADV SELLO SC: Yes, indeed.

CHAIRPERSON: Had her own interview questions.

10 **ADV SELLO SC:** You will recall, Chair, that we dealt with RS29, which are the email correspondence between Ms Jokazi and the other person responsible for the interviews.

CHAIRPERSON: Yes.

ADV SELLO SC: Then there was an attachment, which is a list of questions to be posed to Ms Jokazi, together with suggested responses for when she comes to the interview. And that is the document that was ...[intervenes]

CHAIRPERSON: Sent to Ms Thembi Hadebe, I think.

20 **ADV SELLO SC:** Yes, so it was between her and Ms Hadebe, sorting out her answers in preparation for her interview. These were part of this Annexure 29, RS29, and you have them loose on the table. It should be about an 11-page document. It is a series of questions and suggested answers in preparation for that. And the Commissioner Spies is back.

CHAIRPERSON: The Commissioner has a set with him there.

EXAMINATION BY ADV SELLO SC (CONTINUES): He is got a set with him. They have been now obtained from him. And, Chair, I understand yours has been inserted into the file. Commissioner Spies is back to confirm the accuracy of this document that we have just added then to RS29 as the actual questions that he testified to. They will run from pages 337.1 to 337.11. Commissioner Spies, during your
10 testimony you referenced a set of questions and answers exchanged between Ms Jokazi and Ms Thembi in preparation for Ms Jokazi's interview for that post, which, based on your evidence, Chief Mapiyeye concluded that she did not qualify for, but which she was awarded. Do you recall?

COMMISSIONER SPIES: Correct, Commissioner.

ADV SELLO SC: And you had as Annexure RS29 a set of emails, exchanges between Ms Jokazi and Ms Thembi, and you indicated that that email correspondence was
20 exchanged in the question and proposed answers between the two of them, but unfortunately those were not in the file.

COMMISSIONER SPIES: Correct, Commissioner. The RS29 references, actually, the first three pages is the actual emails that were sent, and then attached to that is document, each of them had its own set of documents. And

the first email then is from 337.1 to 337.6. That first set of documents was then the one that was sent in June. And then the 337.7 page 1 to page 5 is the finalised version, which was sent in the second email.

And the one that specifically pertains to this position of the EMPD Director Post, the final one that is actually also the questions that was asked in the interview itself, is on page 337.9. Questions, EMPD Director Post, EMPD 19522, and then a deal with questions 1, 2, 3, 4, how
10 the traffic fine system works in South Africa, extra options. So, in case someone during the interview's procession wants to say, let us cut the question and then there is extra options that you can go to as well that deals with the five sources of revenue for the EMPD Department.

ADV SELLO SC: And you say, staying with page 337.9, the questions EMPD Director Post, EMPD 19522. The questions are listed, enumerated 1 to 4. Now there is a question in bold, and then below that there are bullet points. I take it that is the suggested answer to that
20 specific question? Is that correct?

COMMISSIONER SPIES: Correct. It will be question 1 would be one brackets, why are law – that is the question that will be posed to the candidates.

ADV SELLO SC: Yes.

COMMISSIONER SPIES: Why are law enforcement

policies and procedures important in your line of work or department? And then there will be five or six bullets that outline the candidate, what should be a suggested answer to that candidate. If he speaks about this, this is what he will answer.

ADV SELLO SC: My question to you is, the suggested answers to your understanding of this document, are they put forward by Ms Thembi or were they inserted into the document by Ms Jokazi herself? Who do you know?

10 **COMMISSIONER SPIES:** That is Ms Jokazi. Ms Jokazi created the email, she sent it from her email address to Thembi Hadebe, and then there was a reply back from Thembi Hadebe again, and then Ms Jokazi edited the answers and questions a little bit, and she sent it then back to Thembi Hadebe to say this is the final questions and answers. And then if you speak to the candidates that were there, this is the exact questions that were asked during the interview.

ADV SELLO SC: Okay, now was Ms Thembi part of the
20 interview panel for this position?

COMMISSIONER SPIES: That I do not know.

ADV SELLO SC: That you do not know. Thank you, Chair, that was our update of RS29. Yes, Commissioner?

ADV BALOYI SC: Can I just check something? Commissioner, if this happened, this seems to me to be

unlawful and a fraud.

COMMISSIONER SPIES: I agree, Commissioner.

ADV BALOYI SC: And who knows, maybe the IDAC will be interested to prosecute somebody, but was this ever reported to your knowledge, brought to the attention of somebody to do something about it?

COMMISSIONER SPIES: Commissioner, it has been reported. There is actually the candidates who is involved, all the candidates that was interviewed, they lodged a
10 dispute against the appointment of Mrs Jokazi. That dispute is still running in arbitration, whereas the candidates who objected is Colonel Du Plessis. He is the second highest scorer, because he obviously did not have the answers yet to it.

But he was the second highest scorer. Then there is Colonel Pieter Pretorius and Colonel Kelebogile Thepa. They initiated the dispute process. That process is still running. It is not concluded yet. Over and above the IDAC report, the South African Police Services Act Section 68
20 specifically has been also delegated in terms of the Minister's powers to form part of the municipal police powers and functions.

Section 68 states specifically that if a false representation gets appointed into a position, that shall constitute an offence, and that the monies and everything

shall be recovered. So, SAPS Section 68 is, in my mind, is critical that it is a criminal offence that should be prosecuted. But it has only been dealt with in an arbitration matter and a dispute against the appointment of Mrs Jokazi. But that is not the only one.

There is a group of officers that have been pushed through falsely, have not been adverts. There are numerous complaints where even, for instance, the superintendent that is been placed at the pounds section, 10 the officers at the pounds themselves complained to me to say, but we have not had a chance to apply. The positions were not advertised. And suddenly a lot of people from specialised services were appointed in my position and just placed here, and I did not have the opportunity. So, there was this whole group of incorrect, flurry of, to me, illegal appointments.

ADV BALOYI SC: Thank you. Thank you, Commissioner.

CHAIRPERSON: You have referred to the fact that to be appointed in this manner or through misrepresentations, 20 that is a criminal offence. Do you know why, or rather, yes, do you know why criminal charges were not laid?

COMMISSIONER SPIES: Commissioner, I really do not know. If it is detected, then it is the manner how there should be a complainant in a criminal matter for the South African Police to investigate it. And in this matter, there is

no real complainant yet. Because it was dealt with as an arbitration matter in a dispute resolution, the officers who did the dispute does not want to upset the management and make them that they do not stand a chance to be appointed because they still have a career in this trade.

I know that the officers compiled a report, which they have forwarded to the audit department of Ekurhuleni, audit and risk. So hopefully from the audit side, there will be a formal investigation done as well from a forensic and a
10 criminal perspective. But the officers themselves involved is applying for a higher position, and that is always the threat that you have hanging over your head. When you apply for positions, you cannot upset the system, because if you upset the system and you start this, you kill your own career immediately.

CHAIRPERSON: Thank you. Thank you, Commissioner.

ADV SELLO SC: Thank you, Commissioner. That definitively concludes Commissioner Spies's evidence.

CHAIRPERSON: Thank you, Ms Sello. Thank you very
20 much, Commissioner.

COMMISSIONER SPIES: Thank you very much.

ADV SELLO SC: Thank you. Thank you, Commissioner Spies. Chair, may we request a 2-minute stand-down just to bring the next witness. We are ready to proceed.

CHAIRPERSON: We will hear from you.

NO FURTHER QUESTIONS

ADV SELLO SC: Thank you.

INQUIRY ADJOURNS

INQUIRY RESUMES

ADV MOHLASEDI: Thank you, Chair, we are ready to proceed.

CHAIRPERSON: Good afternoon, I do not want to take a chance and pronounce your surname because I have no idea where the accent if there is and so on. Let me just ask
10 you to please state your name, your full names for the record please.

WITNESS: Thank you, Mr Commissioner, my name is Xolani Prince Nciza. It is pronounced with a silent K. The K is not written, it is phonetic. In that case it the silent K. The K is not written.

CHAIRPERSON: In that case it is Nciza. Thank you.

ADV MOHLASEDI: Thank you Chair, the witness has indicated that he will take the oath.

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

WITNESS: So, help me God.

XOLANI PRINCE NCIZA: (duly sworn states)

CHAIRPERSON: Thank you, Mr Nciza.

EXAMINATION BY ADV MOHLASEDI: Good afternoon, Mr

Nciza. If we can start off with some housekeeping. In front of you, you should have two files in your possession. Can you confirm that is the case?

MR NCIZA: Yes.

ADV MOHLASEDI: Thank you. You should have a smaller file containing a witness statement, your witness statement and you should then have a larger file labelled as an annexure bundle.

MR NCIZA: The ones that are in front of me are written
10 Revo Spies, but I have got the ones that I came with. Do not know whether I should use those or the ones that I came with.

ADV MOHLASEDI: No, please utilise the ones with your name on the binder.

MR NCIZA: So let me remove this.

ADV MOHLASEDI: The attorneys will collect.

MR NCIZA: Yes counsel, I have got the right files.

ADV MOHLASEDI: Thank you. So, you have a narrow file with your witness statement and a chunkier file with the
20 annexure bundle. Thank you.

MR NCIZA: Yes, Ma'am.

ADV MOHLASEDI: Mr Nciza, if you would then turn to your file containing your witness statement, please.

MR NCIZA: I am on it.

ADV MOHLASEDI: Thank you. Please confirm that the

statement contained in that file is yours, prepared for purposes of the evidence you are giving before the Commission.

MR NCIZA: I do confirm that the statement is mine.

ADV MOHLASEDI: Thank you. Could I ask you to turn to page 39 of the same document, page 39?

MR NCIZA: I am on page 39.

ADV MOHLASEDI: Thank you. And please confirm that the signature appearing at the foot of that page is yours.

10 **MR NCIZA**: Yes, it is.

ADV MOHLASEDI: Thank you. And finally, do you confirm the correctness of the statement and confirm that you stand by its contents?

MR NCIZA: Yes, I do.

ADV MOHLASEDI: Thank you. Mr Nciza, could I ask you to turn to page 3 of your witness statement, please?

MR NCIZA: I am on it, counsel.

20 **ADV MOHLASEDI**: Thank you. At paragraph 4, under the heading service history, you detail your professional background. Can I ask that you very briefly take the Commission through, in your own words, the content of paragraph 4?

MR NCIZA: Commissioner, I was appointed in the erstwhile Boksburg Transitional Local Council, which of course amalgamated with other transitional local councils to

form the city of Ekurhuleni. I was appointed in December 1997 as an intern student in the legal department of the Transitional Local Council of Boksburg. And then on the 1st of September 1998, I was appointed on a permanent position as an admin officer.

It was a development trainee type of arrangement that was on an accelerated development programme. I was appointed as an admin officer conveyancing and land provisioning, dealing with your matters concerning town
10 planning and the likes. Whilst I was functioning in that particular role, I became a leader in the trade union movement, a leader in a union called SAMWU, South African Municipal Workers Union, leading up to the position of regional secretary during that particular process and as a full-time sub-steward of that union and its leader in terms of negotiations with the employer and the formation of the municipality in 2000.

I then went on to occupy a position of a manager, collective bargaining in the city of Ekurhuleni, which
20 position I held from the 1st of August 2003 up until the 31st of May 2017. Whereas I was then appointed in the position of divisional head, employee relations from the 1st of June 2017 until the 31st of May 2022. That was on a five-year fixed-term contract and then I was reappointed into that particular position of divisional head, employee relations

from the 1st of July 2022 until I was summarily terminated on the 22nd of March 2024.

ADV MOHLASEDI: Thank you. And can you confirm that at paragraph 6 on page 3, that is an annexure of your full curriculum vitae?

MR NCIZA: The annexure of P1 on the big bundle from pages 1 to 7, indeed Commissioner, that is my curriculum vitae.

ADV MOHLASEDI: Thank you. If we could then turn over
10 to page 4 under the heading main matters to be addressed in this statement, Chairperson just to contextualise the evidence that Mr Nciza will present, it will be set out under four themes as broken down in paragraph 7, is that correct Mr Nciza?

MR NCIZA: Yes, Ma'am, it is correct.

ADV MOHLASEDI: Thank you. Our next heading then Mr Nciza is the overview of your role as the divisional head employee relations, and we are then at paragraph 8 on page 4. Under this heading you detail with some specificity the
20 role and responsibilities that you occupied in your position as divisional head. I will not ask you to read everything in detail, but can I please ask you to turn to paragraph 8.3, which is on page 5?

MR NCIZA: Yes Ma'am.

ADV MOHLASEDI: Yes, and in your own words please just

briefly explain to the Commission what that would entail at a high level.

MR NCIZA: Thank you, Commissioner, the function of a divisional head employee relations as much as indeed I commenced the function on the 1st of June 2017, I intermittently acted in the position over the years from 2003 and I was quite averse with the processes that are involved. Discipline management in the municipality covers prescripts of a collective agreement a highly regulated sector.

10 We had a collective agreement that would then detail how even allegations of misconduct are to be handled when there is an allegation of misconduct, how it is submitted, after being submitted, how it is investigated and then after being investigated how then the processes of establishing disciplinary tribunals are handled. And my role was firstly on an advisory capacity when a department has got allegations, a head of department or even whoever the head of department delegates would come to me and then would be able to unpack what are the allegations and also
20 what process, what best process should be implemented to investigate those allegations.

The municipality had various investigative units within the EMPD, we had three units that conducted investigations on specific issues and areas that required investigations but then you also had internal audits and

then we had other investigators that were trained by the municipality. So, it then became my role to advise heads of departments in terms of what is the best process to investigate allegations of misconduct informed by the department where they are coming from but also the nature of the allegations.

So then after the allegations have been investigated my role was also then to make a determination on whether indeed the investigations that have been
10 conducted would, do they suffice for the purpose of establishing a disciplinary tribunal or would they require a determination that says they must go back and be dealt with internally in the department and if indeed I make the determination that they suffice for the purpose of a disciplinary tribunal I would then of course appoint the disciplinary tribunal and then I would get members of my team in my unit to then do the facilitation of the hearing in terms of ensuring that venues are secured, recordings, tape recordings are actually made available and the likes and to
20 ensure that every logistical arrangement is put in place in order for us to conduct the process itself.

That would also include ensuring that the accused person or personnel are duly served with the charge sheet as part of the role that our unit played. And then once the disciplinary hearing is concluded whatever is the outcome

of the disciplinary hearing has to be processed. You know if indeed a determination is made that an employee is guilty and a sanction is meted out it then becomes my role, the role of my unit to issue the letter that would actually implement the sanction.

We have a sanction from a presiding officer articulating exactly the outcome then I would then append my signature to a letter that would be prepared. If it is a dismissal that letter, then would become the dismissal letter
10 of the employee. You know and then of course also take the process forward should there be disputes that arise out of that particular outcome.

ADV KHUMALO SC: Yes, thank you. If you can bear with me, good afternoon sir.

MR NCIZA: Afternoon Commissioner.

ADV KHUMALO SC: The role of divisional head, employee relations and the role of head of department human resources, if you can just explain the difference between the two and the hierarchy. I mean you have explained your
20 role I am trying to understand if the head of department human resources can overrule everything you have just explained in terms of the discipline. So, in other words can she say no you cannot discipline this person, no you cannot charge this person, no you cannot implement whatever sanction has been proposed by a chairperson of a

disciplinary enquiry for example.

MR NCIZA: Thank you, Commissioner. The collective agreement that operates in the local government sector is very clear and fortunately for me I was part of the people that negotiated that collective agreement. The collective agreement moved from the premise that discipline management it is actually two principles that are applicable. The first principle is that discipline is a line management function, and it resides in every supervisory position as a
10 starting point.

So, every HOD has got a role to play in managing discipline and also every supervisor accordingly in terms of the ranks. Then the collective agreement noting that section 55 of the Municipal Systems Act provides that the municipal manager is the chief accounting officer or in a city like Ekurhuleni we would call it a city manager. The city manager is the chief accounting officer, is responsible for discipline in the institution.

She is the administrative head, so she is
20 responsible. Now the collective agreement then says, I think it is clause 7, clause 7 of the collective agreement provides that the municipal manager or his or her authorised representative. That is where now the power or the delegation's matrix comes from. The municipal manager then would then delegate various functions in terms of that

collective agreement.

The municipal manager in the city of Ekurhuleni specifically has delegated investigative functions to various units within the municipality. Like I was saying that we will have internal audit, we will have internal affairs from EMPD, we will have loss control, we will have monitoring and evaluation, there is a lot of investigative units within the municipality.

So, the municipal manager specifically indicates
10 that when there are issues, these issues will be investigated by these specific persons. Then the municipal manager would also, using clause 7, say if indeed there is a determination of a *prima facie* cause for discipline to be instituted, who would then be given the authority to make that determination that indeed there is a *prima facie* case that has been determined out of the investigation report. Then the municipal manager did that, says HODs, heads of departments, in your department as people that are responsible for the maintenance of discipline, you shall then
20 be having this authority.

Then the municipal manager says okay fine, having done that, who then must now constitute the disciplinary tribunal? And that becomes the divisional head employee relations. Then there is another area of the collective agreement that also talks to municipal manager or

authorised representative. When we deal with abscondments, you know, who shall then be in a position to deal with abscondments? It will be the municipal manager and the specific authorised representative.

And in the city of Ekurhuleni, that specific authorised representative that will deal with the determination that an employee has deserted or absconded would be the divisional head employee relations. Then when it came to suspensions, and we have had a number of
10 collective agreements of course in the sector since 2002. We had a collective agreement in 2010. That collective agreement said the people that have authority to suspend in any municipality in the country would be the municipal manager as a first point of call or employees that are not lower than two levels below the municipal manager.

In that instance, in Ekurhuleni, what we then did was to say employees that are not lower than two levels would be heads of departments. So, all heads of departments have that authority to suspend. But then we
20 changed that when we had a collective agreement in 2018 which removed the two levels below dispensation. And then in that new collective agreement, we then made a determination that the authorised representative in respect of suspensions shall be the head of department HR.

So that is where the head of department HR then

gets involved as a starting point in the arrangements of the collective agreement. So, the head of department HR would not have authority, even though she is my supervisor or the supervisor of the DH employee relations, but she would not have authority in respect of making a determination that is envisaged in clause 7 of the collective agreement. The person who is the authorised representative of the municipal manager effectively steps into the shoes of the municipal manager and then becomes the person that
10 makes the determination as if it is made by the municipal manager. So, in that particular respect, she did not have authority.

ADV KHUMALO SC: Thank you.

ADV MOHLASEDI: Thank you. Thank you, Commissioner. If I can assist, Mr Nciza has in fact prepared a pack for the Commissioner where he will set out in detail the contents of that collective agreement and will detail for the Commission the powers and responsibilities he bears *vis-a-vis* Ms Linda as the HOD HR. We will get to that stage when we get to
20 the appropriate part of his evidence.

But thank you, Mr Nciza, for that overview. You were then at paragraph 9 of your witness statement on page 5. There you set out the documents that regulate your role and those just relate to, you know, the prescripts, the relevant labour law prescripts, municipal legislation,

collective agreements, *et cetera*. Can you confirm that is the contents of paragraph nine?

MR NCIZA: Yes, I confirm.

ADV MOHLASEDI: Thank you. Mr Nciza, if ...[intervenes]

ADV BALOYI SC: If I may ask, do you... Good afternoon. Do you have powers directly delegated to you by council?

MR NCIZA: There is a – in respect of discipline, specifically.

ADV BALOYI SC: Yes.

10 **MR NCIZA**: The municipality in 2010 developed and approved a disciplinary policy. That disciplinary policy outlines the powers in terms of discipline management, and in that disciplinary policy, of course, the powers of the Divisional Employee Relations are also articulated.

ADV BALOYI SC: Thank you.

ADV MOHLASEDI: Thank you, Commissioner. Mr Nciza, in paragraph 10 of your witness statement at the bottom of page 5, you set out in some detail there your specific functions as they relate to discipline management. I ask at
20 this stage that we note them because we will come back to them when you discuss your experience in facilitating the disciplinary proceedings concerning the then Brigadier Mkhwanazi. So, at this stage then, we will turn back to the contents of paragraph 10 at an appropriate juncture. I will ask you to go to page 7 of your witness statement. We

have a heading there titled, Blue Lights Scandal.

MR NCIZA: Yes.

ADV MOHLASEDI: Over the course of the past few days, the commission has heard evidence on these blue lights issue from Chief Mapiyeye as well as Commissioner Spies. Can I invite you to describe to the Commission the controversy known as the blue lights scandal? And please do so with reference to paragraph 11, 12, and 13.

MR NCIZA: Yes, Commissioner, this matter was brought to
10 my attention by Deputy Chief of Police Revo Spies together with Chief Superintendent Hennie Erasmus. At that time, Chief Mapiyeye was on compassionate leave or family responsibility leave. I recall because he had just lost his granddaughter. So, when they brought the matter to me, they indicated that there was this media query from Jeff Wiggs of News24.

And they had intentions, of course, of investigating the matter. And they wanted to alert me and sensitise me that there is this particular matter. And this, of course, was
20 a norm. You know, like I indicated, that departments would come and have discussions with me and I would advise them as well in terms of processes, but also to prepare my office for if there are any consequent actions that must be taken, that my office is already clued up.

So, they came. They indicated to me. They even

showed me some footage that was on social media that was speaking to this. And they also had the correspondence from Jeff Wiggs indicated that they had had a discussion with the then Brigadier Mkhwanazi. I do not know whether I should call him Commissioner Mkhwanazi or Brigadier Mkhwanazi or what.

Okay, they had a discussion with Julius Mkhwanazi, and then having had that discussion, they had provided them with an operational plan that they also had problems
10 with. So, from their preliminary or desktop analysis of what was happening, they sensed that there is a need to investigate possible allegations of misconduct. And of course, we agreed that such an investigation must be undertaken. And they proceeded to do the investigation. They also indicated, if I may add, that there is a view that it might have to be suspended precisely because of the nature of the allegations as well as the fact that there might be interference if he is around during the investigations.

ADV MOHLASEDI: Thank you, Mr Nciza. According to
20 paragraph 11 of your statement, the media enquiry from Jeff Wiggs of News24 came to the attention of EMPD on the 2nd of February, 2023. Is that correct?

MR NCIZA: Yes.

ADV MOHLASEDI: All right, now if you turn over, please, to paragraph 14 on page 8, there you indicate that in the

week beginning the 6th of February, you were seized with the matter when Deputy Chief Spies, Colonel Erasmus, came to your office to discuss this matter. Is that correct?

MR NCIZA: Yes, Ma'am.

ADV MOHLASEDI: Okay, in paragraph 14, when describing Colonel Erasmus, you have in brackets from EMPD, integrity and standards. Could you please tell the Commission what that is?

MR NCIZA: Integrity and standards, it is the equivalent of
10 an internal affairs department. This is the unit within EMPD that would investigate misconduct allegations against Metro Police officers. It is specifically set up to investigate misconduct that is committed by Metro Police officers.

ADV BALOYI SC: We have heard, I think in evidence, mention of internal affairs. Is it another name?

MR NCIZA: It is, yes. It is just that on the structure, on the human resources organogram, it was called integrity and standards.

ADV BALOYI SC: All right, thank you.

20 **ADV MOHLASEDI**: Mr Nciza, in paragraph 16 of your witness statement, you say in the course of that meeting with Deputy Chief Spies and Colonel Erasmus, they advise you at that stage that they have conducted a preliminary investigation. Picking up from there, could you please detail for the Commission what they said that preliminary

investigation had come to show or had come to reveal?

MR NCIZA: Yes, thank you. Commissioner, the indication was that indeed the media query, you know, also had some allegations that were made regarding the registration of vehicles. It seems the journalist that was actually conducting, who had submitted the media query, had checked and verified that the vehicles that were having blue lights, that were shown on social media, were registered under the municipality.

10 So indeed, when they came to me, they said they verified that indeed, it seems these vehicles are registered under the municipality, but they have not actually gotten information in terms of how the actual registration had occurred. And therefore, they need to investigate how these vehicles that are seen in the social media videos, transporting civilians, and they are seemingly registered under the municipality and are having blue lights. So, they needed to then go into a deeper analysis of the situation and by trying to get information about how this entire
20 process had come about. I mean, it was an unusual situation. In the course, please continue.

ADV MOHLASEDI: In the – please continue.

MR NCIZA: Yes, so also, they also indicated that because there is this memo that Jeff Wiggs had also given them that they were not aware of, and therefore they checked with

Brigadier Mkhwanazi and he had provided them with an operational plan on about the 8th of February 2023, and that raised alarms. That plan that was provided by Brigadier Mkhwanazi in respect of its authenticity, they checked and they said that they need to actually also verify whether this operational plan that he had provided them is the operational plan that was approved for the state of the city address in 2022.

ADV MOHLASEDI: Please proceed then to discuss the
10 contents of paragraph 17 on page 9.

MR NCIZA: So in outlining all this preliminary information that they had, they took a view that indeed there is a basis for them to conduct an investigation and, you know, it is not like they were asking for my permission to conduct the investigation, but just to sensitise me that such an investigation needs to be conducted and the fact that indeed there is mention of the Mama Cat and Mama Cat is associated with a certain individual by the name of Vusimuzi Matlala, all those issues were then raised with me
20 to say, you know what, we need to get to the bottom of this. And I agreed, you know, I agreed that they should conduct the investigation and also get a sense from Brigadier Mkhwanazi of what is going on. So indeed, they proceeded and they were to conduct that investigation.

ADV BALOYI SC: Mr Nciza, you say that they did not, it is

not as if they needed your permission to conduct the investigation. Now in the evidence of Chief Mapiyeye, there is a form where he requests a tribunal, a disciplinary tribunal, and one of the options there is investigation, so in this particular form. So, the requester would tick whatever it is that they are asking for, and one of them is an investigation.

Now further on in the evidence, we also hear that Adv Behari was now tasked to look – you will still get to that
10 evidence, but that is what Chief Mapiyeye testified to at some point. The whole matter of the disciplinary action, or proposed disciplinary action, was then ordered to be given over to Adv Behari to look at, and then I think he concludes that, if I am not wrong, he concludes that there is no case for a disciplinary hearing. That investigation part, can, if a manager, as you say, considers that they want to investigate conduct, does anyone have the authority, whether you, head of department, to say no, you cannot do that, I have reviewed this, and I do not think there is
20 anything for you to investigate, and I instruct you not to.

MR NCIZA: As I had indicated, thank you Madam Commissioner for that question. As I had indicated, in terms of how the collective agreement is structured, and the fact that the municipal manager had actually provided various units that will conduct investigations and indicated

that of course departments must conduct investigations. So, I do not have authority to stop a department from investigating conduct of their employees.

I do not have that authority. Hence, I am saying they were not asking for my permission. They were sensitising me because the product of the investigation, that is where my role becomes critical. My role is in the product of the investigation. If and the form that you are referring to, Madam Commissioner, comes at that point, and
10 investigation has been conducted in the department.

Then when that investigation is concluded, the department must come, present it to me as the authorised representative, who must now establish or constitute the discipline tribunal. It is at that point that I have then options I have got three options. I can say there must be a further investigation. Ordinarily when I do say that I require a further investigation.

There might be areas in the investigation report that are not covered. In most instances when I have done
20 this, it would be informed by the fact that the investigator has not looked into the council policy that regulates that specific area, and therefore I would require that indeed, kindly check your investigation process against this particular policy regime, or it might be that since I deal with the totality of the municipality, and this person comes from

a department, it might be that indeed, there might have been an investigation, but that investigation was not conducted, or rather the investigator was not aware of maybe certain processes that are covered by either arrangements with unions that fall within my control.

So, I would request that kindly check these areas, hence there is that option of a further investigation, you know, before I can institute disciplinary proceedings, because I must also think, if I am going to say I am
10 instituting disciplinary proceedings whereas I know that the rule that the investigator thinks might have been broken, actually has been changed.

You know, there are such things that would crop up. So, that is for me to make that determination that the investigation report, does it suffice for the purpose of establishing a disciplinary tribunal or not, and then I have to apply my mind, make that determination on the basis of what is contained in the disciplinary report. You know or the investigation report, not disciplinary report.

20 **ADV MOHLASEDI**: Thank you.

ADV BALOYI SC: I read investigation reports.

MR NCIZA: Thank you, thank you, Ma'am.

ADV MOHLASEDI: Mr Nciza, turning then back to paragraph 18, your testimony has thus been that in the context of that meeting, Deputy Chief Spies relays to you

that he intends to scale up the investigation from a preliminary desktop analysis to something more, what is described here as a full internal investigation, is that correct?

MR NCIZA: Yes.

ADV MOHLASEDI: And that of course then the outcome of that process would be an investigation report, which is the nub of your exchange with Commissioner Baloyi.

MR NCIZA: Yes.

10 **ADV MOHLASEDI**: He then also says to you, following the production of that investigation report, he has a desire to institute disciplinary proceedings into Brigadier Mkhwanazi, is that right?

MR NCIZA: Yes.

ADV MOHLASEDI: Please then inform the Commission what the resolution or way forward was at the conclusion of that meeting. You can pick up from paragraph 19, please.

MR NCIZA: Well, like I indicated, Commissioner, these
20 discussions that I would have with departments are discussions amongst colleagues to get a sense of the situation and indeed in most instances, I would say 99.9 percent of the situation, I would always encourage and support a department in conducting a full investigation so that we get the information about exactly what has happened. So, the conclusion of that indeed, the

investigation must be conducted, and the department must then at the end of the investigation provide the necessary information for my office to take the process forward.

ADV MOHLASEDI: And in paragraph 21, you indicate there that due to the sensitivity of the matter, Commissioner Spies also expressed an intention to suspend Brigadier Mkhwanazi. Do you confirm that?

MR NCIZA: Yes.

ADV MOHLASEDI: Please then explain the balance of the
10 paragraph, essentially the exchange you had with Commissioner Spies around getting an order of suspension in this context.

MR NCIZA: Thank you. Commissioners, of course, departments would also as part of the process of investigation, it is an election that a department would do whether indeed to request for the suspension of the employee given the fact that the suspension process has now moved from the department to HR. So, it is an election that the department would consider the relevant factors that
20 would be involved with regards to the initiation of the investigation and how, what type of role the employee consent might play in terms of the actual investigation.

So, the department in this particular regard had a view that if the employee remains in active service, there might be a potential for interference. And given the fact

that the issue had also reached a public space, it might also be detrimental to the interests of the municipality that the employee remains in active service. So those considerations were raised with me by Commissioner Spies. And I was like, no, it is fine. You can make that motivation to the HOD HR. And of course, that motivation that goes to the HOD HR would come via my office so that I am able to apply my mind and also advise the HOD HR on the process to be taken.

10 **ADV MOHLASEDI:** And at paragraph 22 of your statement on page 10, you state there that at the close of the meeting, it was agreed that they would proceed with the internal investigation and brief Chief Mapiyeye upon his return. The reference to they in that sentence is to who?

MR NCIZA: Commissioner Spies and Erasmus, Lt-Col Erasmus.

ADV MOHLASEDI: Okay, thank you Mr Nniza. You then detail in paragraph 23 that Chief Mapiyeye was on leave at various periods from January 2023 to the first week of
20 March 2023. Is that correct?

MR NCIZA: Yes.

ADV MOHLASEDI: Thank you. I then invite you to please turn to paragraph 24, where you detail the events of the 16th of February, on or about the 16th of February.

MR NCIZA: Thank you. Commissioner, when Chief

Mapiyeye had come back, you know, of course, he conducted me to say that there is this issue that has been briefed by Commissioner Spies and Lt-Col Erasmus, and he wanted us to brief the city manager. Again, this is not an ordinary cause. I need to state that. It is not an ordinary cause that we then seek to brief the city manager about an investigation that the department is conducting, especially at that level.

There is a specific delegation or directive that the
10 city manager issued in 2017 that no investigations against divisional heads would be conducted without her knowledge. Now, Brigadier Mkhwanazi was below a divisional head position, so there was no legal obligation, if I may put it that way, for us to then have this briefing. However, Chief Mapiyeye was concerned that there is a particular proximity that he had noticed, and everybody knew between Mkhwanazi and Mashazi, and he did not want to have a situation wherein there would be a backlash from Doctor Mashazi if he just went ahead and investigated Mkhwanazi
20 and even suspended him. So, we said, no problem ...[intervenes]

ADV KHUMALO SC: Is it knowledge or approval? Can you just clarify that part? You said no investigation can continue without her knowledge. What is she to do with that knowledge? Is it so that she can approve or disapprove of

the investigation?

MR NCIZA: No investigation could be initiated against a divisional head.

ADV KHUMALO SC: Yes, and then you said without her knowledge. Without her knowledge. So, I am focussing on that part.

MR NCIZA: For approval.

ADV KHUMALO SC: Is it so that she can approve?

MR NCIZA: She should approve.

10 **ADV KHUMALO SC**: So, it is not just for her knowledge.

MR NCIZA: And there is a context, Commissioner, why that happened. Something happened in 2017, and she issued that directive that no investigations against divisional heads shall be conducted without her approval.

ADV MOHLASEDI: Still on - please proceed.

MR NCIZA: So, we then sought to have this conversation with, or rather this briefing with Doctor Mashazi.

ADV BALOYI SC: Sorry, before you get to discuss this briefing, you say that the explanation or the reason that
20 Chief Mapiyeye I suggested that you should speak to the city manager, he said because of the proximity of Mr Mkhwanazi and the city manager. And unless I misheard you, I think you said there was a general view that there was a proximity. Did I hear you properly?

MR NCIZA: Yes.

ADV BALOYI SC: Okay, and what was the understanding of that proximity, at least by you, what it was founded on? Was it just close working colleagues? Are they family? What in fact was the understanding of that proximity and what informed the view that there is proximity, close proximity between them?

MR NCIZA: I do not have information about relations, Commissioner. The only thing that I was made aware of is the fact that Doctor Mashazi had some form of liking, I do
10 not know, because it is not working, proximity, in terms of the structural arrangements of the municipality, you know, the city manager is there. You know, between the city manager and Mkhwanazi, there is the chief of police, deputy chief of police, then Mkhwanazi, you know.

So, you would not have a direct link, functional link between Mashazi and Mkhwanazi. However, there was this informal, I will call it an informal link, you know, that people knew, and some of these things would know in the workplace, when there are programmes, when there are
20 things that are happening, and then the boss would have this liking to this particular individual. The boss would mention this individual, the boss would be, you know, showing some form of affinity towards this individual. So, that is the type of proximity that we are talking about.

ADV BALOYI SC: So, it was not a proximity that arose

from the working relationship, that they work closely with each other, he reports to her, it was not that kind of proximity you are referring to?

MR NCIZA: Functionally, you know, it should not be, it could not have been. Like I say, I mean, he was a director, a brigadier in the Metro Police Department. Brigadiers are directors, they are called directors, you know, and the line of accountability is such that even if indeed there would be functions, there would be things that happen. She knew
10 people, you know, she is the city manager and she has been in the institution for more than 20 years, so she knew people, she knew other colleagues. I had known her since 1999, you know, so, but it was never, could not have been a functional relationship, could never be a functional relationship.

ADV BALOYI SC: Thank you.

ADV MOHLASEDI: Thank you, Commissioner. Mr Nciza, if I may just intervene slightly, in addition to the issue of proximity between Doctor Mashazi and Brigadier
20 Mkhwanazi, you set out in paragraph 24 other potential motivations for providing that briefing. Could you elaborate on those, please?

MR NCIZA: Yes, remember, we were seized with a, how do I put it, I mean, this was an unusual situation, you know, and I had been involved in a number of disciplines matters

in the municipality. I had never come across such a matter, but also there was a sensitivity about it because it was in the news, and as it was in the news, it involved a character that was in the news for other reasons.

You know, it involved a Mr Vusimuzi Matlala, who was in the news for other reasons that now, and the linkage that the journalist was making to say that you have got a situation where municipal, and I would say municipal in quotes, municipal vehicles are being used by this character, 10 you know. So, there was a sensitivity about this matter, and indeed I had agreed that let us brief Doctor Mashazi, given the fact that it can have a spillover effect in the sense, it can blow over, you know, you can have more coverage on it, and then all of a sudden the boss calls you in and asks you, but why did not you tell me that you are seized with such a matter? So, we had those considerations as well.

ADV KHUMALO SC: So, you were concerned about the reputation of the municipality?

20 **MR NCIZA:** The reputation, yes. Yes, sir.

ADV MOHLASEDI: And how then would you describe that meeting?

ADV BALOYI SC: Maybe before that, it is important to, before you describe the meeting, maybe it is also important to speak to the concerns about personal safety that you

reference in that paragraph 24, if you would just explain a bit.

MR NCIZA: Yes, as I indicated that we are aware, we are acutely aware of issues that surround Mr Matlala, you know. Now, if indeed we are going to take action in a matter that his name is involved, you know, we discuss these issues to say, hey, chief, you know, we must be careful here. You know, as much as we must do our work, but we must also be careful here, you know, we have got families, we have
10 got all sorts of things.

We do not want to also find ourselves exposed to potential danger, you know. So those issues, and if indeed we inform our boss, maybe indeed there might be an arrangement that can be reached to ensure that as we deal with this issue, we get some form of protection or something. So those issues indeed become part of our engagements and they were essential. We will hear as we went on with trying to deal with this matter, the issue of safety became a critical issue at some point.

20 **ADV MOHLASEDI**: Thank you, Commissioner. Mr Nciza, you were taking us through the developments at that meeting. You were at paragraph 25.

MR NCIZA: Yes, so we then wanted to go to see Doctor Mashazi at her office. You know, my office is in Benoni. Chief Mapiyeye's office is in Bedfordview. Doctor

Mashazi's office is in Germiston. You know, I think Ekurhuleni is one of the few municipalities that is very polycentric. You know, you have got all sorts of towns. So, we then wanted to have a situation where we go to see her. Chief Mapiyeye made the arrangements, called her office, and then we were told that no, she is actually on her way to Benoni. So, he drove from Bedfordview, and at Doctor Mashazi's request, we met with her at a shop near Dadas Motor World in Benoni.

10 **ADV BALOYI SC**: Is that a property of the municipality?

MR NCIZA: No, it is not a property of the municipality. It is a dealership. It is a dealership of luxury exclusive vehicles. So, we went there, and of course we were, I do not know, awestruck by what we found. It was a very lavish setup that we got there. So, we met with Doctor Mashazi at the CEO's office, and we briefed her about the Jeff Wiggs media query, the analysis that had been conducted on the issue of the registration of the vehicles, and the need for us to conduct a more fuller investigation to ascertain exactly
20 what has happened here.

She was very receptive of our briefing. She was very receptive and very supportive. She was like, you know what, deal with it, and please ensure that all your processes are aligned, ensure that indeed you get to the bottom of this. And she also advised that we must brief the HOD HR,

especially since we want to also do a suspension process, and we agreed that the process would have to involve the HOD HR for the suspension purposes.

ADV MOHLASEDI: Please proceed then to discuss paragraph 26.

MR NCIZA: So, we then met with HODHR, Ms Gxasheka. We gave her the same briefing that we had given Doctor Mashazi. She did not oppose the investigation, nor the suspension. However, she did express some discomfort,
10 given the fact that there is a linkage to Mr Matlala, expressed the view that, given the media coverage that Mr Matlala's name had, that he was a dangerous man. She took that view, and indeed, we then agreed that we would do the process of suspension. The department was to submit its request for suspension, which they did, and we then processed the suspension. I do not know whether I should go into paragraph 27 of the process.

ADV MOHLASEDI: Perhaps before you go to the process, Mr Nciza, in the second sentence of paragraph 26, you say
20 Ms Gxasheka did not oppose the investigation and the intended suspension, and then of course you record her safety concerns. In your exchange earlier with Commissioner Baloyi, you indicated that the power to institute an internal investigation lies within the realm of an employer. So, is that correct?

MR NCIZA: Land management.

ADV MOHLASEDI: Correct. So essentially, a manager within a department has the ability to institute an internal investigation and then approach you if they want to take the step further. Is that correct?

MR NCIZA: As the head of department would have that particular authority.

ADV MOHLASEDI: But is that necessarily the case when it comes to the process of suspending an employee?

10 **MR NCIZA:** No.

ADV MOHLASEDI: And so, please then just describe to the commission why then it was important for you to brief the HOD HR and why her approval in respect of the intended suspension was necessary.

MR NCIZA: Like I indicated, Commissioner, the collective agreement has got various clauses and how we have structured it in the municipality, we have not centralised, you know, to say that the municipal manager's authorised representative is this one person, that person is therefore
20 responsible for the implementation of the various clauses. We have broken it down.

So, it was essential that you get the buy-in of the HOD HR on the suspension, you know, on the suspension. But we briefed both regarding, and remember the suspension is linked to the investigation. In terms of the

collective agreement, you suspend as a precautionary suspension for the purpose of investigating.

So, when now you brief the HOD HR, we have to talk about the investigation. You cannot just simply say, I want to suspend this employee and I would like to get your buy-in in the suspension. We have to talk to her about what is it that must be investigated. So, she honestly did not have a problem. The only problem that she expressed was the issue of safety. But, on the content of our briefing, she
10 did not have a problem.

ADV MOHLASEDI: You were then going to discuss the process with respect to paragraph 27?

MR NCIZA: Yes, on the 20th, and I think I have got some WhatsApp's that also talk to that. On the 20th, Commissioner, we had engagements with Ms Gxasheka regarding the issue of the suspension because the department had submitted a formal request to suspend Brigadier Mkhwanazi. We had that discussion. She still expressed that perhaps I will use Xhosa and then I will
20 translate it ...[speaking in vernacular] meaning Xolani, I do not want this because I have got a small child.

Kindly ensure that you fix this thing because I have a small child and do not want anything. That was the discussion. She had also indicated this, of course, in our discussion with the chief. And then, we even exchanged

WhatsApp's where she makes it a point that indeed, you know, there must be consideration. You know, she puts it. I do not know whether I should go to the WhatsApp.

ADV MOHLASEDI: Yes. Mr Nciza, the WhatsApp's are Annexure PN2. They start on page 8 of the annexure bundle. Let me know when you are there.

MR NCIZA: Yes, I am there.

ADV MOHLASEDI: Page 8.

MR NCIZA: Yes, I am there.

10 **ADV MOHLASEDI**: So, can you confirm that this is a screenshot of WhatsApp communication between you and Ms Gxasheka?

MR NCIZA: Yes, Commissioner, this is indeed screenshots of the communications that I had with Ms Gxasheka on the 20th of February 2023.

ADV MOHLASEDI: And so, Mr Nciza, the communication on the right hand of the page in green would be communication coming from?

MR NCIZA: From me.

20 **ADV MOHLASEDI**: Thank you. And the communication in white on the left hand of the document would be communication from Ms Gxasheka?

MR NCIZA: Yes, this is from Ms Gxasheka.

ADV MOHLASEDI: Thank you. So, you start the communication on the 20th of February at 08:53 by sending

a video. Is that right?

MR NCIZA: Yes, Ma'am. I started the conversation with her. Remember, we had briefed her, but we did not provide her with this, the clip itself. So, I provided her with the clip that was showing the blue lights and the lights. That was from News24. And then I indicated that we need to talk about this. Should I read everything?

ADV MOHLASEDI: Let me assist you. So, at 08:54, you then say:

10 “Hi, Ma'am, I need to talk to you about
 this, referencing the blue lights video.”

Is that correct?

MR NCIZA: Yes.

ADV MOHLASEDI: She then responds:

 “What is your take when on this one
 listened to the clip.”

Is that right?

MR NCIZA: Yes, and the emojis that she also sent.

ADV MOHLASEDI: Let us note for the record the three
20 short emojis. Mr Nniza, you then say something to her
there at one minute past 11 and 2 minutes past 11. Please,
please read that.

MR NCIZA: I indicated that we need bodyguards. That
was my first message. My second message was:

 “I am sorry, but we are going into war

here.”

ADV MOHLASEDI: Thank you. Can I ask you to turn over to the next page? And when you say at 2 minutes past 11:

“I am sorry, but we are going into war here.”

Please explain what you meant by that.

MR NCIZA: I meant it is a dangerous situation.

ADV MOHLASEDI: She then responds to you at 2 minutes past 11 saying:

10 “LOL, the Tembisa case ended up in a murder.”

Is that right?

MR NCIZA: Yes.

ADV MOHLASEDI: Can I then ask you to read the contents of your message at 3 minutes past 11?

MR NCIZA: I think it is important, counsel, that perhaps I start with her response to my - I am sorry, we are going into war here. She responded to say:

“It looks like and sounds like that.”

20 **ADV MOHLASEDI:** Okay, so she agrees with you about the risk that is attendant here, the risk that is present here?

MR NCIZA: Yes.

ADV MOHLASEDI: Thank you. Could you then read the message at 3 minutes past 11?

MR NCIZA: I responded to her message and said:

“It is really disturbing. I am going to send you the pre-suspension letter within the next 15 minutes.”

ADV MOHLASEDI: And what was her response immediately after that?

MR NCIZA: Her response was:

“COP is chief of police. What did he say yesterday? Is he up to it? When will the risk assessment be conducted?”

10

ADV MOHLASEDI: Conducted. And Mr Nciza, just for completion, at 3 minutes past 11, you make reference to a pre-suspension letter that ostensibly needs her signature. And please confirm that indeed she did sign that document.

MR NCIZA: Yes, she did.

ADV MOHLASEDI: Chair, I realise that it is 4 o'clock on the dot. It might be an opportune place to stop for the day.

CHAIRPERSON: Let us adjourn and resume at 09:30 tomorrow.

20 **INQUIRY ADJOURNS TO 12 NOVEMBER 2025**
