

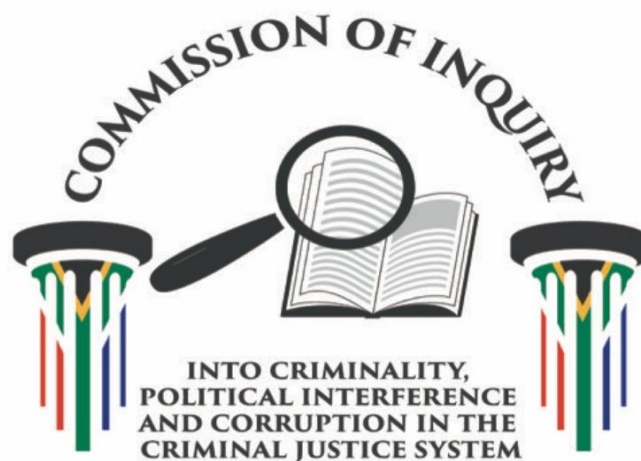
**JUDICIAL COMMISSION OF INQUIRY INTO CRIMINALITY,**  
**POLITICAL INTERFERENCE AND CORRUPTION IN THE**  
**CRIMINAL JUSTICE SYSTEM**

**HELD AT**

**BRIGITTE MABANDLA JUSTICE COLLEGE**

**12 FEBRUARY 2026**

**DAY 59**



**PROCEEDINGS HELD ON 12 FEBRUARY 2026**

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

**ADV SELLO SC:** Good morning, Chair. Good morning, Commissioners.

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

**MS MASUKU:** Good morning, Commissioners.

**ADV SELLO SC:** Thank you, Chair. Good morning, Ms Masuku.

**MS MASUKU:** Good morning.

10 **ADV SELLO SC:** Can I ask you to pull out your statement file again? When we parted yesterday, we had gone as far as your paragraph 28 at page 8, and we said we will be starting a new topic this morning, which starts at your page 9, from paragraph 29. And that you heard as my investigation into Brakpan CAS number 429/04/2022 murder. Do you see that?

**MS MASUKU:** Yes, Commissioners.

**ADV SELLO SC:** Can you take the Commissioners then through what you state from paragraph 29 regarding the  
20 investigations you undertook? Thank you.

**MS MASUKU:**

“My investigation into Brakpan CAS 429/04/2022, which is murder. The investigation revealed that the deceased had been found by a fisherman and his

family on the 15<sup>th</sup> of April 2022 at about 13:00 during the day. Upon discovery, he drove to Nigel Police Station to report the incident, but he did not receive help. And instead, he was referred to Duduza Police Station. He then proceeded to Duduza Police Station to report the same matter. I established that the police officers from Duduza Police Station attended the scene and found the deceased. Upon searching the body, they found a driver's licence on him, and he was identified through it. Upon profiling him, they managed to find his residential address...”

10

As the one mentioned here.

**CHAIRPERSON**: Can you please explain the reference to the family in the first sentence of paragraph 29? Because there it says he was found by a fisherman. Or this is the fisherman's family?

20

**MS MASUKU**: Commissioner, yes. My statement is referring to say there is this person who was fishing at the dam. He was with his family.

**CHAIRPERSON**: The fisherman?

**MS MASUKU**: So, yes. So they are the ones who

discovered the body there.

**CHAIRPERSON**: Okay.

**MS MASUKU**: Yes.

**CHAIRPERSON**: All right.

**MS MASUKU**: Okay, but the rest of these two paragraphs, I am just explaining as to how was the deceased found and how were they alerted as to this body that was found at the dam. And then, indeed, the Duduza Police Station officers, they did attend to that scene and they managed to track  
10 back as to where this body belongs to, and the address of that person who was found in the dam:

“Due to what the deceased’s brother related to me about the police presence at the deceased's house on the day he went missing, I visited the crime scene in order to establish the coordinates that will determine if there were, indeed, police officers at the deceased's home on the 14<sup>th</sup> to the 15<sup>th</sup> of April 2022.”

20 Commissioners, on this investigation, yes, there was a witness, but the witness that I have never met before, because it is just a statement that is there. But that person, I have never met him and no one knows where he is now.

But I must now have my own investigation to get

evidence that will pin these police officers to this crime scene. That is when now I started doing my own. I got the coordinates because I had to ask the family to show me to say exactly where were these cars parked. Then they showed me.

I had to get the coordinates of that area and send them. There is a specialist that deals with other SAPS cars to get their trackers, but they do not call them trackers. It is called Automatic Vehicle Location. We call it AVL in  
10 abbreviation. It is very accurate. That is what helped me to track a few cars that were around the vicinity, but I had to eliminate because now I must be careful.

I cannot take any other car that comes there and say these people were here. I must go back to the statements and listen to the allegations of the witness that was there, even though I have not personally interviewed, to check as to, okay, they arrived at this address at this period. Around about this time, they were gone. So that means they spent plus minus so many hours.

20 Then on my AVL, the tracker reports that I am having now, because I have got a lot of cars, I must check the cars that managed to stand still in that place. Even if the car was idling, but as long as it was standing there, it is okay. I managed to find only one car that was standing still. The other cars were just passing. None of the cars

were standing there.

Only one car that I managed to pick up, but I was not disappointed. I was happy to say at least I can manage to pick one car that was there. I know the officers do not drive alone. You must have somebody, a crew that you drive with. It is their operation procedures to say they are never allowed to drive alone. So I know that if I get one car, at least I will be having two officers, if not four.

Then I had to check as to where this car belongs  
10 to. The same system of AVL, they will manage to give you information to say this car belongs to this station. Even though they cannot be accurate, because it can be given on the system to this station, but only to find that it has been moved to another station. But luckily this car was still at the same station, which is Brakpan SAPS.

**ADV SELLO SC:** You are now at your paragraph 33, still at page 9.

**MS MASUKU:** Can you repeat for me again?

**ADV SELLO SC:** Paragraph 33.

20 **MS MASUKU:** Okay, yes:

“I managed to identify one police vehicle at the deceased's home on the 14<sup>th</sup> to the 15<sup>th</sup> of April 2022. It had the following particulars...”

That are written and mentioned here, which was a BMW 3

Series.

**CHAIRPERSON**: By 14 and 15, are you referring to the late night of the 14<sup>th</sup> and early morning of the 15<sup>th</sup>?

**MS MASUKU**: Morning of the 15th, yes. Yes, Commissioners:

10                   “The police car I traced to be at the deceased's house on the day in question was from Brakpan Police Station and had been parked at the deceased's address for more than two hours. This confirmed the suspicion by the family that the police officers were at the deceased's home when he was reported missing. Unfortunately, the Metropolitan Police vehicles are not fitted with the AVL system and I was unable to track the presence of the EMPD vehicles on the deceased's home.”

20                   **CHAIRPERSON**: Did you take any steps to establish who the driver of this BMW 3 Series was?

**MS MASUKU**: Yes, Commissioner. I did. Yes, I did, but I will get there.

**CHAIRPERSON**: All right.

**MS MASUKU**: Yes, I did.

**CHAIRPERSON**: Maybe I have forgotten, and I do not

remember seeing that in your statement, but I will leave it if you say you did.

**MS MASUKU**: Yes.

**CHAIRPERSON**: Thank you.

**MS MASUKU**: Okay, Commissioners. All right, let me respond to that.

**CHAIRPERSON**: No, no. Deal with it when you get there.

**MS MASUKU**: Okay. All right, Commissioners.

**ADV SELLO SC**: If I may, perhaps best she does, because  
10 the Chair is correct, she does not specifically in the  
statement then tie a specific policeman to this vehicle.  
Maybe she should. She does so based on a warning  
statement from the suspect himself. So perhaps for record  
purposes it is appropriate that she does so at this juncture.  
You may identify the police person or the policeman  
associated with this vehicle. Thanks.

**MS MASUKU**: Okay, Commissioners. The driver of the  
vehicle, it was driven by Alexander Fritz, The one yesterday  
I said had visited the mom's, the deceased's place later  
20 after the deceased's body was recovered. So I managed to  
find that no, this car was driven by him as a reservist, but  
he was driving alone. He did not have a crew with him.  
Yes.

**ADV BALOYI SC**: Ms Masuku, where you say the  
Municipal Police vehicles are not fitted with AVL system, is

it you checked and that is what you were told, that their fleet does not have AVL systems or specific vehicles that, I mean they do not have tracking system, whatever it is called, a tracking system, or you are referring to the specific vehicles that would have been on the scene, you could not pick them up?

**MS MASUKU**: Okay. Commissioners, in general, South African Police Services cars, they have got that system, they are fitted with that system. But you will find that other  
10 cars within the SAPS, maybe the system got broken, then they do not fix it. Even we know that the other cars, the members, they will fiddle with the system. But for those that the system is still working, we do manage to track those cars.

But for the Metropolitan Services' cars, we have a problem because they are not contracted to that system. They use their own tracker, I do not know what tracker is it. So, whenever you go there to their officers personally, they will tell you that no, our cars does not have trackers. So,  
20 there is nothing we can do about that.

Hence, it becomes very difficult for us if an incident has been reported and then this person is saying I was attacked by these police officers in uniform driving a police car. I do not know them, I did not manage to take registration, I do not have anything.

So, for us it becomes very difficult to say who are we going to say it is these officers because we cannot be able to track this car. Not unless if there are cameras within the area, then we make use of that. So, Commissioner, I am not sure if I am answering you because of the SAPS cars, yes, it is easy to track. That is why we managed to track this one on the scene, even though I do not believe there was only one car at that scene, but we managed to track one. At least we had a starting point.

10 And then for the EMPD, we could not track anything from their side.

**ADV BALOYI SC:** Thank you.

**ADV SELLO SC:** And if I may perhaps follow up on that to clarify? You state in your statement that unfortunately you could not establish the presence of EMPD vehicles on the day because they do not have this system. Is this an issue that applies to all Metropolitan Police Services across the country? Or is it only limited to EMPD, to your knowledge?

**MS MASUKU:** SC, I will not respond on behalf of other  
20 metropolitan areas like Tshwane and Johannesburg because I do not deal with them that much.

**ADV SELLO SC:** Yes.

**MS MASUKU:** I do not know in my office as to they do encounter such problems, but for Ekurhuleni, that is what is happening.

**ADV SELLO SC:** We can always confirm through other means. Thank you.

**MS MASUKU:** Yes, yes.

**ADV SELLO SC:** We will establish that, ja.

**MS MASUKU:** Yes, Commissioner.

**ADV KHUMALO SC:** Ms Masuku, do they have a system? I am talking about Ekurhuleni now, not SAPS. Do they have a system that you can tap into to find out which EMPD police vehicles were at the scene? A system other than  
10 what SAPS uses? Or do the metro police not have a system at all to track their vehicles?

**MS MASUKU:** No, they do not have that kind of a system, Commissioner. What they have is just a normal tracker like my own private car. Yes, so now if I need help from them, that means I must provide them with a registration number to say I am looking for this car, give me the records of this car. But I cannot go to them and say, this is what happened here, tell me which cars were here. They cannot do that.

**ADV SELLO SC:** Thank you. You may proceed. We are  
20 now at your page 10 from paragraph 34.

**MS MASUKU:**

“Between July and August 2022, my colleague informed me that he received a call from the captain who is a member of DPCI, commonly known as the Hawks,

who had informed him that there was a man who witnessed an individual being killed by Brakpan police and wanted to come forward to give me the information. I then communicated with the captain as well and informed him that I am investigating a case which has similar facts, and I requested that he assist in arranging the meeting with that individual. We arranged a date for meeting to meet at the Glen Shopping Mall in Alberton. It was a team of four members from IPID during that meeting. On the day of the meeting, the unknown witness arrived with the members from DPCI. One DPCI member was later known to us as Constable Kalinski.”

Commissioners, I am mentioning him because Witness D did mention his name:

“And we did not see other colleagues that he was with because we were communicating with him only. The witness identified himself as Marius Van Der Merwe. Shortly after his arrival, we were alerted by Constable Kalinski that it

was not safe to proceed with the interview as there was an activity that made them feel that they were followed. We concluded the interview and immediately left that place for our own safety.”

Commissioner, that means on that day, when we were leaving the office, I am using my private car for work that is registered on my name and my own address. So for me,  
10 whenever working, it is risky because if they got the registration number of my car, they have got my home address.

On the day before we left the office, we were alerted because we were communicating with this member Kalinski. I was communicating with him and then he alerted me to say it will be safe for me not to use my car, maybe jump onto the other car, but it was too late for that because the policy does not allow me to jump into the government car. I must have approval for that. I had to use my own  
20 car.

We drove there with my colleagues who were driving in the other car. We got there. We seated and then they arrived. Okay. Marius introduced himself. They handed us, Kalinski handed me a handwritten statement of Marius, signed but not commissioned. I could not go

through it at that period because Marius was here. I was waiting to say we will be interviewing him as a team.

As we were just introducing ourselves, Kalinski came back to warn us to say we must not continue because there was some activity. We must leave immediately. So we had to leave. Then on that day, the meeting did not succeed. But I was already having this handwritten statement that I later went through it.

**ADV SELLO SC:** Please continue.

10 **MS MASUKU:**

“We tried to arrange more meetings with Marius but this proved to be difficult as he constantly felt unsafe and was worried about being followed. We ended up agreeing to meet at Pretoria IPID head offices as it was far from Brakpan and would limit the risk of being traced around Johannesburg. Marius travelled with one of my team members. On the 20 30<sup>th</sup> of September 2022, which was the date of the meeting, we informed our national executive director's office to say we will be utilising their boardroom for the meeting because we will be interviewing a witness that was involved

in the crime that was committed by the police officers. The relevant arrangements were made and the meeting carried out at one of the boardrooms in head office. At the meeting, it was myself and the team. Before the meeting could start, I informed Marius of his constitutional rights according to section 35. I further explained to him that by relating his version of events in a commission of a crime, he is doing it out of his own free will. I further explained to him that for him coming out with information that he alleges he witnessed the commission of the crime in his presence will not immune him from being a suspect that can be later arrested and charged for the same crime. He admitted that he understands and he wishes to proceed with the statement and he wants to give a statement under oath and the interview continued.”

Commissioners, to not to compromise this case, I will not divulge the full details of the incident because it is not yet

in court. This case is still under investigation with no formal charges against any of the suspects:

“During the meeting, he told us about an incident which occurred on 14 April 2022 at around 09:00, wherein an unknown African male was murdered by police officers and another male known to him. He later dumped his body at Spaarwater Dam.”

10 On this paragraph, Marius explained as to how this crime was committed as he was explaining to the Commission. But some few facts that he never mentioned to us that came out here. He related the series of events as to how it came that this deceased was tortured there until he lost his life. But when he was relating to me, he was relating as if he was trying to talk to these officers including this one male because according to him, it was two police officers and one white male that were busy with the deceased torturing him.

20 Himself, he was there to talk to this suspect. Busy asking him, begging him to say, please tell us where did you take the goods to. Every now and then he will talk to this white male who was suffocating the deceased, saying please do not forget that we are here looking for goods. He must tell us where are the goods. So he was coming out to

us as if he did not play part in the torturing of the deceased, but he witnessed it.

**ADV SELLO SC:** We are now at paragraph 44.

**MS MASUKU:**

“Marius provided the details of the incident in his statement that he later went through it in the presence of the team. He confirmed that the statement was true reflection of what he has related and he placed his signature in our presence and dated the 30<sup>th</sup> of September 2022 where it was  
10 obtained.”

**ADV KHUMALO SC:** Can I just ask a question? Was this statement now consistent with the earlier handwritten statement? Remember around April you had met him somewhere where because it was not safe you could not interview him, but on that date you took possession of a handwritten statement that was not commissioned. Now the later statement, was it consistent with the earlier one?

**MS MASUKU:** Yes Commissioner, it was. Even though the wording, it is a few things that differs but it was still  
20 consistent with what he was relating to us.

**ADV KHUMALO SC:** The substance was the same.

**MS MASUKU:** Yes, it was, Commissioner.

**ADV SELLO SC:** Before you proceed, Ms Masuku, Commissioner Khumalo, I think just to correct something. Her testimony is that the handwritten statement I think was

obtained between July and August as she states at paragraph 34. You said April, just to correct that. Thank you.

**ADV KHUMALO SC**: Thank you.

**ADV SELLO SC**: And, Ms Masuku, on that paragraph you then introduce an annexure. You mark NPM13 and you say it is a copy of Mr Van Der Merwe's statement. Please pull out your annexure bundle, Masuku's annexures. And that particular document you have marked NPM3 starts at, your  
10 NPM3 let me say, starts at page 7 of that bundle.

**MS MASUKU**: Okay, I am there, Commissioners.

**ADV SELLO SC**: Now I see it starts off with the statement Marius Van Der Merwe states under oath in English and then it proceeds. I want to refer you to the last page at page 10. You had indicated that the earlier handwritten statement was not commissioned. And looking at this statement and what you state at paragraph 44, is this the commissioned statement that then Mr Van Der Merwe officially gave to you?

20 **MS MASUKU**: That is correct, Commissioners.

**ADV SELLO SC**: Thank you. Is there anything in particular in this statement without of course divulging all its full details that you would like to highlight? You may do so later if you so choose.

**MS MASUKU**: Okay, Commissioners. Even though I will

highlight that later, but what I can say now is maybe the question might come, because this case has been out ever since this commission of inquiry started. A lot of enquiries were received to my office and mostly they will be relating to say, if Marius came out that early, which is 2022, that is long ago, why were these other suspects not arrested? Because Marius did mention them in the commission of that crime.

I will get to that because Marius gave statement  
10 under oath. And when he was giving the statement, as I explained to say, I read him his rights so that he understands as to where is he putting himself to. There is no promise that as an investigating officer I can make to say that later you will be a state witness under section 204 as it has been mentioned.

On the day when I took down his statement, I never mentioned that. Hence, I explained to him to say, whatever that you are saying now, you may later be charged together with these other people. You are not immune to the  
20 commission of that crime:

“On the 22<sup>nd</sup> of November 2022, the crime scene was reconstructed. Mr Marius Van Der Merwe was guiding and pointing out the crime scene to the investigator. The crime scene

reconstruction photos were taken by a  
photographer from the Springs Local  
Criminal Records Centre, who later  
compiled the photo album regarding that.  
The photo album is attached on the case  
docket.”

Now, the reason for reconstruction of the scene, we had  
now to do the whole investigation, even though sometimes  
we will be reversing back. That is why yesterday I was  
10 saying, if this matter had been reported on time to IPID, it  
was going to save time to finalise our investigation. But  
now, because we have to do things later, I had to make sure  
to say I must close the gaps ...[intervenes].

**CHAIRPERSON:** Sorry, can you please explain that? You  
said it yesterday as well. The reality is that you got to  
know of this the very, I should not even say the very  
following day, because this was 14 and 15. So you got to  
know of it during the day on the 15<sup>th</sup>. So yes, the police  
attended to the crime scene and you were not involved, but  
20 still it is the very same day as it were, or part of the day or  
days on which this occurred. It is the 15<sup>th</sup>, the very  
following day or the same day, because as I say, part of it  
is the 15<sup>th</sup>. Can you explain this loss of time? Because you  
say, had you been notified earlier, the investigation would  
have been finalised much, much earlier. Loss of time is

quite minimal. Can you explain this?

**MS MASUKU**: Commissioner, I think maybe if I did mention it like that, but I do not remember because that is not the sequence of events. I got to know about the case after the deceased was buried. It was weeks later after the incident, not on the 15<sup>th</sup>. It is the police who got to know on the 15<sup>th</sup> of April, not my office.

**ADV SELLO SC**: And if perhaps I may assist the Commissioners, she started paragraph 16, which is how she  
10 became aware of the incident. There is no specific date granted given there, but it is the month. Then she just explained the circumstances.

**CHAIRPERSON**: All right, all right. I guess I got confused. My apologies, my apologies.

**MS MASUKU**: No problem, no problem.

**CHAIRPERSON**: I thought you also got to hear about it on the 15<sup>th</sup>.

**MS MASUKU**: Yes, it is the SAPS ...[intervenes].

**CHAIRPERSON**: The day, the fishermen's day, as it were.

20 **MS MASUKU**: Yes, Commissioner. It was the fishermen and the SAPS because they uncovered the body. So they knew it. That is why I am saying they knew earlier. It was just hours after it happened.

**CHAIRPERSON**: Are you able to tell them after how long it was when you got to know from the 15<sup>th</sup>?

**MS MASUKU**: Commissioner, I can estimate, because it was after the funeral, I will say two weeks later, it was after he was buried. Because when I was talking to them, they were saying, no, we buried him. So then me visiting them, maybe it was towards the end of April, beginning of May. But unfortunately, I do not have the exact date. Yes.

**CHAIRPERSON**: Okay, fine. Now I have the correct facts. But can you still explain, would it have been a matter of weeks? Was it more than a month? Are you not able to  
10 tell? But if you are able to tell and say it was a matter of weeks, I will still go back to my question. And I just want to understand the loss of time that resulted in the investigation taking as much as it did.

**MS MASUKU**: Okay.

**CHAIRPERSON**: Taking as long as it did.

**MS MASUKU**: Commissioner, let me estimate it is plus minus three weeks after the death. Yes. So going back to the Commissioner's question to say, was it time lost if I got it after two or three weeks? Yes. Even if I got it after two  
20 days, there was already time lost. Because for me, I need to be at that scene before the body can be collected. I need to be able to investigate whatever that might help me on that scene before the scene is being contaminated. So for me, if I get it after two days, it is too late for me. The investigation will go like this case now.

But for the case that I was there when the body was still there, I find it cordoned off. I took over the crime scene. The investigation, the time becomes lesser, because I know from onset as to this is what transpired at the scene. These are the exhibits I got from the scene. But now here, I had to recreate the evidence on this matter. That is the reason I am saying it was too late. Even if it was a day or two, as long as the scene was no longer there, it was too late.

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

**ADV SELLO SC**: If perhaps then, Chair, I may follow up on that and retrace very briefly your steps from yesterday's testimony? You testified yesterday about the matter initially being registered as an inquest at the Duduza Police Station. My question, as an inquest, would you have authority to investigate it as IPID?

**MS MASUKU**: Commissioners, yes. We do have cases at IPID that come registered as inquests.

**ADV SELLO SC**: Yes.

20 **MS MASUKU**: Like, for an example, most of the cases when there was a shootout between the suspects and the police, and then there is evidence that really this deceased person was shooting at the police, the SAPS does not register murder against the police. They will register an inquest case.

Even though we are investigating it, but it will be registered on CAS as inquest. But we will take over the investigation to take it to the decision. Then if it goes to NPA, then they have attorneys to say, no, somebody must be charged. We go back to the station to say we are changing this case from inquest to murder because we are charging criminally.

Yes, we do investigate inquest. If there was still involvement of the police in this but the death was not  
10 determined, maybe the doctor is saying because there are no injuries. For an example, let us say he was tortured. Okay. I think for the Commissioners it is very important to explain this.

As if we go back to Marius Van Der Merwe's version. He was not assaulted, he was tortured. So possibly he was not sustained injury that we can see the visible injury, and died through suffocation. The police found him, he does not have injuries. He goes to the mortuary, post-mortem is done. The doctors say I cannot  
20 determine anything here. Then the doctor says natural causes.

But still, because there is a witness that is saying there were police officers when he went missing here, I was going to still investigate it so that we can exonerate the police officers to the family to say, yes, they were there, but

they did not kill him. This is the proof as to how did it come about that he was found dead here. Then after that investigation has been done, then we take the docket back to the SAPS.

**ADV SELLO SC**: Okay. Thank you for that question because that I think goes in large part to the question the Chair posed to you. If you refer to your paragraph 20 at page 6, that is when you traced the case to Duduza Police Station and you marked, you attached a document there  
10 marked NPM1, and then it was an inquest. Do you recall that? You testified to that. At your page 6, paragraph 20.

**MS MASUKU**: Okay.

**ADV SELLO SC**: Now, overleaf at page 7 at paragraph 23, you then introduce the post-mortem report which you have marked NPM1(i). We looked at that post-mortem report yesterday and it is dated the 9th of May 2022. It is only later at paragraph 25 where you succeed in converting the inquest enquiry into a murder charge registered at Brakpan.

**MS MASUKU**: That is correct.

20 **ADV SELLO SC**: Based on the answer that you just gave, why is it then you did not start with your investigations either when you became aware of the inquest itself, registered inquest, alternatively as at the 9<sup>th</sup> of May 2022 or shortly thereafter, after you received the post-mortem report? On the statement, you make it sound like you could

only begin after the conversion to a murder case. Perhaps we misunderstood you and you might want to correct us. Thank you.

**MS MASUKU**: Okay. The reason I could not take over the investigation immediately to say it is IPID is investigation, I had to prove the involvement of the police officers. I have to be sure that indeed the police officers were there. Let us say if I had personally interviewed the witness and confirmed to me to say there were police officers here, I  
10 was going to immediately take over the investigation of that matter.

But because I have not found this witness, then I must check the death as to how did he die, then. Because if he died of unnatural cause, still the police must answer to that. So, after the conversion of the charge from inquest to murder, then that is when I fully took over the investigation. I am not sure if I am responding correctly to you.

**ADV SELLO SC**: Well, the Commissioners are nodding, most importantly.

20 **MS MASUKU**: I am not sure, Commissioners, if it is cleared. I am trying to clear it. I am not sure if it makes sense.

**ADV KHUMALO SC**: Ms Sello, just for our records, I think from second sentence of paragraph 20, it is a lot clearer there because she says:

“I could not transfer the case docket to IPID because I was still conducting the preliminary investigation to ascertain if there were indeed involvement of police officers. An inquest docket traditionally contains a statement.”

**ADV SELLO SC:** Yes, and that is what she testified to yesterday. So, the Commissioners are clarified. Thanks. Thank you, Ms Masuku.

10 **MS MASUKU:** Thanks, Commissioners.

**ADV SELLO SC:** Then we try and find our place again. We are now at page 12. We were dealing with Mr Van Der Merwe's statement, which is your NPM3, which was commissioned on the 30<sup>th</sup> of September 2022. You recall that is where we were at.

**MS MASUKU:** Yes.

**ADV SELLO SC:** And you had said that you wanted to highlight some aspects from that statement at this moment, although you will return to it, had you completed that  
20 exercise. I think you were interrupted by the Chair's question, which now we have answered. You can pick it up from there. Thank you.

**MS MASUKU:** Okay. Thank you, Commissioners. I will reread this paragraph:

“On the 22<sup>nd</sup> of November 2022, the

crime scene was reconstructed. Mr Marius Van Der Merwe was guiding and pointing out the crime scene to the investigator. Crime scene reconstruction photos were taken by a photographer from Springs Local Criminal Records Centre, who compiled an album regarding that. This album is part of the case docket.”

10 It was important for me to reconstruct the crime scene because we have primary scene and the secondary scene of the deceased. So, for somebody, like in terms of prosecution, they will be having questions as to where is this and where is that.

So, I wanted to put a picture to them to say, you see, this is the house. From the house, they drove so many kilometres to the dam. From the dam, they drove so many kilometres to the area where they had the debriefing after the commission of the crime. Even for myself, it was going  
20 to make sense because I would not be able to say based on what Marius is alleging to have happened on the day, then it was enough that now we can effect arrest.

Yes, after we had now done the reconstruction of the crime scene, then I realised that at least now I can understand Marius' statement. He explains exactly what

happened to the scene and I have the primary photos of the crime scene that was attended by SAPS. Then I am comparing these photos to Marius' statement, then now it makes sense to me.

It will also make sense to the prosecutor for them to make a decision. But still, at that point, I did not continue with the arrest of the members that were mentioned by Marius because Marius was the witness that was incriminating himself as well. So, I must have other  
10 proof to pin these people to the commission of this crime:

“I had to trace the mentioned suspects in order to obtain their warning statements. The warning statement, which is a document used by the investigator when questioning the suspect to ensure that their constitutional rights are protected. It advises the suspect of the charges, their rights to remain silent, their rights to legal representatives. The purpose is  
20 to formally record suspects' version of events while understanding that they are not obligated to incriminate themselves. It prevents any unlawful interrogation.”

After the statement was obtained from Marius, the scene is reconstructed now. Marius mentioned a number of people

that he knew. I must trace these people and get their statements. The problem now that I am having, I am working for IPID. We investigate police officers, but Marius is mentioning private people now on the commission of this crime. And now I cannot separate and say for SAPS members, because they were on duty, I must get warning statements for private people, I must arrest them straight. I cannot do that.

I must all interview them to obtain their warning  
10 statements to get the version of their side of what transpired on that day together with the traffic officers as well as SAPS members so that I can be able to take the docket for the decision.

But I sat with my team to discuss this matter after we had reconstructed, going through Marius' statements and the witness statement, even though the witness could not trace as to where he was during that period. But I had hoped that I would be able to find him later. Then ...[intervenes].

20 **CHAIRPERSON**: By the reference to the witness you just mentioned, is that the tenant?

**MS MASUKU**: A tenant.

**CHAIRPERSON**: All right.

**MS MASUKU**: Yes, Commissioner, a tenant. His statement, that is our – even though he did not witness the

commission of a crime, but that is the sole witness with how we saw the police officers on that day, he saw the owner of the house on that day. After that, the police officers left. The owner was nowhere to be found.

So it is now up to the police to answer to say where did he went to. Then I said to the team let us rather arrest Fritz. You remember that Alexander Fritz visited his mother after the funeral. Fritz's car was pinned by the AVL to the scene. Marius is mentioning him in his statement. At least  
10 for Fritz, I have got evidence tangible against him.

Then I said let us rather arrest Fritz. We can arrest the rest of them as they are mentioned by Marius, but if maybe the NPA doubt in placing the docket on the court roll, but we will fight to place Fritz at least. We were happy.

Then together with my team, we went to Nigel Court. Because when it was registered as inquest, it was started at Duduza, and then it falls under Nigel Court. We went there to discuss with the senior public prosecutor, but  
20 our discussion there was just to say we are intending to effect an arrest, can you go through this to check if we have enough? Then he disagreed and said, no, you cannot. It is too early.

We did not agree with him. We left. We were not happy. He referred us to the chief prosecutor. I spoke

telephonically to the chief prosecutor and explained the details of the matter. He also agreed with the SPP to say, no, it is too early. Do not do that. Then I went back to the office and said, okay, it is better, let me refer this case docket to the NPA so that they can give me guidance on the steps now to be taken so that I can be able to have my investigation done so that I can be able to later effect an arrest.

**ADV KHUMALO SC:** Have you now skipped, or are you  
10 done with paragraph 47 of your statement?

**MS MASUKU:** I am there, Commissioner. I am there,  
Commissioner.

**ADV KHUMALO SC:** Okay.

**MS MASUKU:** I will read it:

20 “After the statement was obtained from Marius and reconstruction of the scene done, I then, together with the team members, approached senior public prosecutor from Nigel Court with intention to discuss possible arrest. The SPP did not agree with us, as he referred us to the chief prosecutor. We contacted the chief prosecutor telephonically and he did not agree with the team as well. Thereafter, I drafted the recommendation

report to the North Gauteng Division of National Prosecuting Authority, which is NPA, Director of Public Prosecution, for further directives. That case docket was referred to the DPP on the 7<sup>th</sup> of December 2022. I attach Annexure NPM4, a copy of this referral.”

**ADV SELLO SC:** At that juncture, please open your annexure file.

10 **ADV KHUMALO SC:** Ms Sello, especially paragraph 4 and 5, I think it should be read into the record.

**ADV SELLO SC:** That is fine. I just wanted the witness to locate the document. Your NPM4 is at page 11 of your annexure file. And then you can take questions from Commissioner Khumalo or advice. Thank you, Commissioner.

**ADV KHUMALO SC:** Are you there, Ms Masuku?

**MS MASUKU:** I am there, Commissioner.

20 **ADV KHUMALO SC:** Yes. That is the memorandum you are referring to on page 11?

**MS MASUKU:** On the 7<sup>th</sup>, yes, Commissioner.

**ADV KHUMALO SC:** It is dated the 6<sup>th</sup>. I am not sure why, but it does not matter. And then on page 13, please read paragraph 4 and 5 into the record.

**MS MASUKU:** Commissioner, can I get some clarity? I

heard the Commissioner saying this memorandum is dated the 6<sup>th</sup>.

**ADV KHUMALO SC:** Yes, I am looking at page 13, bottom of the page next to your signature and Ms Ntshangase's signature. It says 6 December 2022.

**ADV SELLO SC:** And perhaps to assess, where is the 7 comes from, first page, it says the receipt stamped by the NPA, dated the 7<sup>th</sup> of December 2022.

**ADV KHUMALO SC:** Yes.

10 **MS MASUKU:** Okay. Commissioner, I compiled it on the 6<sup>th</sup>, and then it was signed off in my office on the 6<sup>th</sup>. But I delivered the docket on the 7<sup>th</sup> at NPA. On the memorandum, it is dated the 6<sup>th</sup>, but the date in front page is the 7<sup>th</sup>.

**ADV KHUMALO SC:** Yes.

**MS MASUKU:** That is the reason it has got two different dates.

**ADV KHUMALO SC:** Yes. Yes, Ms Masuku. And the reason why I need you to read paragraph 4 and 5 into the  
20 record is because you will remember the allegation made against IPID is that they frustrated the investigation into the murder, and they never took steps to take the matter forward. So I think this memorandum is important because it partly, not fully, partly answers the allegation.

**MS MASUKU:** Okay. Okay, Commissioner. The

Commissioner said I must read?

**ADV KHUMALO SC:** Only 4 and 5 on page 13.

**MS MASUKU:** On page 13 of my statement?

**ADV KHUMALO SC:** Yes. No, no, not the statement. The document where we were, the memorandum.

**MS MASUKU:** Of the memorandum?

**CHAIRPERSON:** Your memorandum to the DPP.

**MS MASUKU:** On page 13 of my memorandum?

**ADV KHUMALO SC:** Yes. The heading in paragraph 4  
10 says IPID request. From there.

**MS MASUKU:**

“Based on the...”

Yes, it is point number 4, IPID request:

20 “Based on the information contained in the case docket above, it is the request of the IPID that the NPA issued in terms of section 179(2) of the Constitution of the Republic of South Africa make a decision whether or not to institute criminal proceedings against the abovementioned suspects and to carry out any necessary functions incidental to instituting criminal proceedings.”

Paragraph 5:

“Conclusion. In terms of section 75 of

the IPID Act, the IPID awaits your decision in accordance with your constitutional mandate as per section 179(2) of Constitution referred to above to enable the institution, IPID, to comply with its obligation as provided for section 75 of IPID Act.”

**ADV KHUMALO SC:** And just for the record, in paragraph 2.2 on page 12, your memorandum – maybe you should  
10 read it for yourself. Let me not read it for you. Page 12, paragraph 2.2.

**MS MASUKU:** Paragraph 2.2 states:

“The investigation is complete and all necessary statements, technical reports and expert reports are attached in the dockets for your attention in accordance with the Regulation 5(3)(i) of the IPID regulation issued on the 10<sup>th</sup> of February 2012 under Government Notice Number  
20 3518.”

**ADV KHUMALO SC:** Yes, thank you. I do not know if my co-Commissioners have a question on this document. You were dealing with the NPA's response to your memorandum.

**ADV BALOYI SC:** Before she gets to the actual response, this Annexure. As Commissioner Khumalo requested you to

read the item 4 IPID request, you say there at page 13:

“Based on the information contained in  
the docket above.”

Do you see that line?

**MS MASUKU**: Yes, I do, Commissioner.

**ADV BALOYI SC**: And if we go back to page 12, you have a table there headed case docket content. So these are the documents, if I understand, that you included in the docket handed to the DPP. Is that correct?

10 **MS MASUKU**: That is correct, Commissioners.

**ADV BALOYI SC**: It is 23 documents from what I can see. Do you want to highlight some of the documents that were in the docket at the time?

**MS MASUKU**: Yes, Commissioners. This is what I can highlight here. When the case docket was submitted to the DPP in Pretoria, it contained the post-mortem, which described how he died and the injuries sustained. It had the AVL, which is the document I was talking about, of Alexander Fritz, the vehicle that belonged to SAPS he was  
20 driving on that day.

It had already Marius Van Der Merwe’s statement. It had the witness statement, which was of the tenant. It had as well the registers of SAPS register, official registers, whereby it proves that Fritz on the day he was on duty, which car did he use. I have the document called SAP132B,

which is the logbook of SAPS car. And then I had a document of SAP15 of the driver of the BMW, which was Alexander.

I also had SAP15 of other members who were working on the day, which is a list of other members that were working at Brakpan on the day. And the reason I had to have that, it is because of Marius was saying there were police officers from Brakpan but they were not identified. And it was not easy to identify them on the list because it is  
10 just names. You do not know that in between them, who was they.

Then when I referred to this docket, I had already communicated with the SPP and the chief prosecutor. These are my documents. I was saying I am having enough that I can effect arrest on my own. Hence, when I am referring it to the DPP, I am saying still to them to say I have enough, but I know that because they are disagreeing with me, they must give me further directions from what I am having.

20 **ADV SELLO SC:** Thank you for that. So then this is submitted to the DPP on the 7<sup>th</sup> of December 2022?

**MS MASUKU:** That is correct.

**ADV SELLO SC:** And then you can take it from there. Thank you.

**ADV BALOYI SC:** Ms Masuku, before you do that, at page

11, which is the first page to your memorandum, and maybe for completeness you should place on record the classification. You have there the IPID classification and then you also have the alleged offence that you were seeking these people to be charged with. And then if you do not have any difficulty about compromising your case, you could also place on record the list of suspects that you have on that page. If that is a problem, I am happy for you not to list the suspects.

10 **MS MASUKU**: Commissioner ...[intervenes].

**ADV BALOYI SC**: You have IPID classification?

**MS MASUKU**: Yes. IPID classification, it is section 28(1)(b) of IPID Act, which is death as a result of police action. And then the alleged offence is murder.

**ADV BALOYI SC**: And then you have a list of suspects there. If you have any difficulty in mentioning them, I think you should anyway mention the ones that we know are deceased now as part of the suspects.

20 **ADV SELLO SC**: If I may, the witness deals with the same suspects in the body of her statement as with yesterday regarding Mr Fritz.

**ADV BALOYI SC**: Okay.

**ADV SELLO SC**: She had indicated she does not have a difficulty.

**ADV BALOYI SC**: Okay.

**ADV SELLO SC:** Just to cross check, Ms Masuku, do you have a difficulty in reading out the witness, these were suspects as I listed at page 11? If you do not, Commissioner Baloyi is inviting you to please do so.

**MS MASUKU:** I will read the suspects list, Commissioners.

**ADV BALOYI SC:** Thank you.

**MS MASUKU:** During the time when we first take it for the NPA decision, the following suspects were mentioned as part of the suspects that must be prosecuted. It was  
10 Reservist Constable Z Fritz, Mr W Pretorius, Mr E Van Der Walt, Mr M Van Der Merwe, which is Marius, Mr J Mkhwanazi, Mr J Hanekom, who is now deceased, Mr Kobus, Ms K Stolls, who is a Metro officer, Ms J Marie Eksteen, who is an SAPS member, and Mr A McKenzi, who is an EMPD member as well. Mr J Mkhwanazi as well is an EMPD member. The rest of other mentioned names, it is private people.

**ADV BALOYI SC:** Thank you.

**ADV SELLO SC:** Thank you, Commissioner Baloyi. Ms  
20 Masuku, we are now at a point where you have submitted this memorandum to the DPP. If you can pick up your testimony from there, what transpired thereafter?

**MS MASUKU:**

“The DPP advised, amongst the others, that we could not be able to obtain a

conviction in circumstances where we are relying solely on the testimony of a single witness whom himself was a suspect in the murder. The DPP therefore returned the file to us for further investigation.”

**ADV KHUMALO SC:** Do you have it in writing, the DPP's response to your memo?

**MS MASUKU:** Commissioners, I was addressing the SC for that, to say before I came for the consultation, I had it.  
10 Unfortunately, I asked assistance in the office to make copies for me because I had left that bundle of documents on my desk. So, when they were making copies, that particular document is no longer there. That means it has been misplaced, but it does not mean that I will not be able to find it. It is just that now, I do not have it in my possession.

**ADV SELLO SC:** And if I may, as discussed with Ms Masuku, after this, she will try and locate precisely that document and she will file it with a supplementary  
20 statement. It is just that she could not obtain it at the time the statement was due. Thank you.

**CHAIRPERSON:** It may even be sought from the DPP if you cannot locate your copy.

**ADV SELLO SC:** Indeed, Chair.

**MS MASUKU:** Thank you, Commissioner. I will do that

during break. If she is in the office, she will be able to send me this.

**CHAIRPERSON:** Thank you.

**ADV SELLO SC:** Please proceed.

**MS MASUKU:**

10 “As the lead investigator on this matter, we had agreed as a team that warning statements from the suspects would be obtained by the rest of the team members, excluding myself. This was because I dealt with Marius Van Der Merwe’s statements. Therefore, I needed someone who would approach the rest of the suspects without the full knowledge of Marius Van Der Merwe’s version. My other role is to exercise overall control, the coordination and accountability for the investigation, rather than personally perform every investigation task myself.”

20 After the document was taken for decision for the first time, the DPP offered further directives of a list of instructions that must be carried over before we return the docket back. Some of them was to obtain the warning statements from the rest of these mentioned suspects. So, I had to start locating these suspects:

10 “As I acknowledge, the investigation was dependent on teamwork. Given the security threats and operational risk prevalent in the area, it was both prudent and necessary for investigators to work collaboratively and to allocate tasks amongst team members. Mr Magagula's involvement thereof reflects the local delegation of functions within the team-based investigation conducted under the authority and direction of the lead investigator.”

**ADV SELLO SC:** And in that sense, the lead investigator was yourself?

**MS MASUKU:** It was myself, Commissioner.

**ADV SELLO SC:** Please continue.

**MS MASUKU:**

20 “Following the incident and during our investigation, we managed to obtain statements from the following suspects that were mentioned by Marius Van Der Merwe.”

Commissioners, I will mention the name because their names are known already:

“We obtained the warning statements

from Brigadier Julius Mkhwanazi, Alexander Fritz, who was an SAPS reservist at Brakpan but later resigned, Bhekokwakhe Sibanda, who is a police agent at Brakpan Police Station, Juan-Mare Eksteen based at Flying Squad, Kecia-Lee Stolls who is an EMPD constable, Adrian McKenzi, who is also an EMPD constable, and Willem Pretorius, who is a security officer from an unknown company to myself. Etienne Van Der Walt, who is a security officer, and Kobus Van Rensburg from Ghost Guard Security. These statements were obtained in order to get their version of events on the day of incident. All the above warning statements were obtained from different dates, ranging from 2023-02-24 to 2026-01-28. I attach copies of these statements marked NPM5(i) to 5(ix) and a copy of a death certificate of Constable Khoza marked NPM5(x).”

**ADV SELLO SC:** If I may then direct you to annexure file for these Annexures NPM5(i) to NPM(v). They start at page 14 of your annexure bundle.

**MS MASUKU**: Yes, Commissioner, I am there.

**ADV SELLO SC**: You state that these were obtained over a period starting the 24<sup>th</sup> of February 2023 to the 28<sup>th</sup> of January 2026. You state that at your paragraph 51.

**MS MASUKU**: That is correct, Commissioners.

**ADV SELLO SC**: Have you located the annexures in your exhibit bundle, in your annexure bundle? Have you located them?

**MS MASUKU**: Yes, yes, Commissioners.

10 **ADV SELLO SC**: Before we go into these to the extent that is necessary, is there any particular order in which you have filed them in the file?

**MS MASUKU**: Yes, Commissioners, they are filed according to the sequence of the dates they were obtained.

**ADV SELLO SC**: With the first being?

**MS MASUKU**: With the first being Alexander Fritz until the last being Constable Eksteen.

**ADV SELLO SC**: Okay. So, you note at your paragraph 51 that they range from the 24<sup>th</sup> of February 2023. Are you  
20 correct? If you say Alexander Fritz was the first statement, and we go to NPM5(i), there is a signature there. It is in two parts, really. It is the standard form called Statement Regarding Interview with Suspect. And that is dated the 17<sup>th</sup> of February 2023, that you will find at page 19 and page 20. And attached to that is the actual statement which

is dated the 24<sup>th</sup> of February 2023 at page 27. So, you are relying on the date of the actual statement, not the warning form or whatever it is called that appears at the beginning of that annexure.

**MS MASUKU**: Commissioners, on that, I think it should be rectified. I am relying on the warning statement, the form.

**ADV SELLO SC**: Yes.

**MS MASUKU**: Because even if it does not come back with the exact statement, as long as I have this, I will take it  
10 back for decision.

**ADV SELLO SC**: Okay.

**MS MASUKU**: So, I think the date should be amended to the one for the form which is the 17<sup>th</sup> of February, not the one where I got his statement.

**ADV SELLO SC**: We shall make that amendment accordingly. Thank you. So, we are now then at page 14. You say Mr Alexander Fritz was the first suspect you obtained a statement from, and that actual statement starts at page 22. Now, are you able to highlight for the  
20 Commissioners what further information you were able to obtain from Alexander Fritz at this juncture on the 24<sup>th</sup> of February 2023?

**MS MASUKU**: The information that I managed to get from the statement of Alexander Fritz, it was the confirmation to say, yes, he was there in the premises on the day, as well

as there was members from Brakpan Police Station, whereby he is mentioning one by the surname, the other one he does not mention by the surname.

So, now it is helping me to say at least I have got another suspect that was not mentioned by Marius that is now being mentioned by Fritz that I must trace. Even though he does not mention to say who was the other police officer, but I knew that if I get this one, then he will be able to tell me as to who was he driving with.

10 I will not be able to divulge more, but what I just wanted to highlight to the Commissioners is to say even though he was there, but he is distancing himself from seeing the deceased on the day in question. He arrived, yes, in the premises, but according to him, he did not see anyone there.

He saw the police officers who were there busy working as the house was ransacked, according to his statement. The members that he knows is these ones that are working with him at his station, and then there were  
20 other EMPD members. He is also mentioning that there was another African male that he just gave description as to how did he look like.

What I can say to the Commissioners, that even though we have a list of 12 suspects, I am including the deceased suspects in this matter, but it can happen that

after arrest we can be able to arrest more people that were involved because I do believe that it was not only these ones. They were more.

And after these suspects can be arrested, that is when I will be able to interrogate them based on the information I am having. But for now, I cannot interrogate them because they are not yet charged.

**ADV SELLO SC**: Thank you. I see, I would like to refer you to a part of that statement with reference to what you  
10 read out from the memorandum you sent to the DPP in December 2022, and just to check that it will not compromise your case. So I would like you to consider it and confirm if you can. We can read it out, or you can just confirm by reading it. In this regard, please refer to page 23 of, we are still in Fritz's statement.

**MS MASUKU**: Yes, I am there.

**ADV SELLO SC**: And in particular at paragraph 7, and in paragraph 7 he speaks to the detail of the vehicle he was driving on the day. This is after he confirms having been on  
20 duty on the 14<sup>th</sup> of April, in the evening. Do you see that?

**MS MASUKU**: Yes, I see that.

**ADV SELLO SC**: My question is, are you able then to speak to that aspect with reference to what you have stated and you have set out at NPM4, which is your report to the DPP regarding the vehicle you are able to track through the

AVL system?

**MS MASUKU**: Yes, Commissioner, that is correct. But, Commissioners, if you can excuse me on this paragraph because I realise there is something that I do not want to read out.

**ADV SELLO SC**: Okay, no, that is fine. I am happy with that.

**MS MASUKU**: Yes.

**ADV SELLO SC**: I will leave that question. I was quite  
10 hesitant, too. I do not want to compromise your case, but at least, because the Commissioners can see what is at paragraph 7, they have the DPP report. Can you confirm that the information that is at paragraph 7 is the information you had already communicated to the DPP?

**MS MASUKU**: That is correct, Commissioners.

**ADV SELLO SC**: Thank you. So, you recall yesterday you testified about your meeting with, I think it is the mother of the deceased,

**MS MASUKU**: That is correct.

20 **ADV SELLO SC**: Who related a visit by a certain Zander Fritz, who represented himself as a Hawk's person or officer. Please have regard, we are still in Fritz's statement, page 26. I think yesterday we made a fleeting reference to it.

**MS MASUKU**: I am there, Commissioners.

**ADV SELLO SC:** And I am interested in particular at paragraph 16. You may, you will decide whether to read it into the record, to read it to yourself and comment to the Commissioners insofar as it is relevant to what the deceased's mother told you about that particular visit.

**MS MASUKU:** Yes, Commissioners. I can read this on record, but I will not mention one name that is mentioned there. I can read the paragraph on record.

**ADV SELLO SC:** Please do then skip those parts that you  
10 think is not appropriate to read out.

**MS MASUKU:**

“I got work from this individual mentioned here that Kobus had organised for me shortly after the 14<sup>th</sup> of April 2022. They gave me a few cases that they wanted me to investigate and one of the cases were the one that Constable Sibande and myself assisted in Crocodile Street inside his village. I went to the address where I  
20 met a lady and told her that I am from Hawk Risk Protection and asked her about the truck that was standing on her premises. She then told me that her husband was found dead in the lake. I left my number with her and said that if

she had any information regarding the truck, that she must contact me. I told the company where I had got the work from that I was at the above address with Kobus to see if we could recover anything that was stolen from his client. I also told the person that he got a job from that the lady living there said her husband passed away and that the truck  
10 was no longer standing at the premises.”

**ADV SELLO SC**: Thank you. Now, this is the 24<sup>th</sup> of February 2023. There is more in this warning statement that we did not highlight here at the Commission. I want to establish from you the DPP having returned the docket to you after December 2022, you obtained the statement in February 2023, was this not sufficient to return the docket to the DPP and say you now have more information for a decision, or was it necessary to still do further investigations and why?

20 **MS MASUKU**: Commissioners, yes. The docket was sent in December and then it was returned I think early January 2023 with further instructions. Then I started to follow on those instructions. As this statement, it is one of me noting the instructions from the DPP, but it was not enough of me to say because now I am having these statements now from

Alexandra, I must take the docket back again to say they can prosecute because already I had enough evidence against Mr Fritz.

This is additional to show that evidence that I am having, it proves he was there. But for me, because now I am having these statements, to take the docket back again, the docket was going to come back again to me to say but there are further instructions that you have not complied to. They are important as well. So for me, it was important to  
10 get the rest of other statements from the rest of other suspects that are mentioned here.

**ADV SELLO SC**: Okay. In your statement, before I say that, we have now looked at Alexander Fritz's statement, which is NPM5(i). There are a total of nine statements in the file.

**MS MASUKU**: That is correct.

**ADV SELLO SC**: Beyond here, would you like to make any comments regarding the content of the other statements from the suspects? You had mentioned who these suspects  
20 were at your paragraph 51 that you obtained warning statements from.

**MS MASUKU**: Okay. What I can mention regarding all the suspects because at the end, for this duration of the dates I have mentioned to say, it was from the 17<sup>th</sup> of February 2023, the first statement until the last statement on the 28<sup>th</sup>

of January 2026.

All these statements, yes, they were at the premises, but none of them saw the deceased. They all arrived at the premises but according to them, the deceased, they did not have any interaction with the deceased. They did not see him. That means he was not there when they arrived. Some of them, they did not even go inside the house. They just ended on the premises. But for me, it is enough as long as they did arrive because what  
10 they want to prove is they were on that premises on the day of incident.

**ADV SELLO SC:** Okay. Thank you for that. Looking at your date range then over which you obtained these statements, I realise that, and with reference to the work of the Commission, I realise that the last statement you obtained in 2025 is dated the 27<sup>th</sup> of October 2025 and that is NPM5(viii). And that is the statement of Etienne Van Der Walt starting at page 107. Do you confirm that?

**MS MASUKU:** Okay, I am getting there. Yes, yes, I  
20 confirm that, Commissioners.

**ADV SELLO SC:** And that date is of interest to me because 27<sup>th</sup> of October 2025, the Commission had not heard from Witness D, Mr Marius Van Der Merwe.

**MS MASUKU:** That is correct, Commissioners.

**ADV SELLO SC:** In your statement, however you have,

your last statement is 28<sup>th</sup> January 2026. By then, Mr Van Der Merwe had testified on the 5<sup>th</sup> of December. Whose statements did you obtain after the testimony of Marius Van Der Merwe before the Commission?

**MS MASUKU**: It is the last statement of Eksteen as well as the statement of Constable Sibande from, who is a police officer. But you will see that on the warning statement form, there is Sibande's form that was obtained during 2023, whereby he has chosen to remain silent.

10 **ADV SELLO SC**: Yes.

**MS MASUKU**: But after Marius came to the Commission, then Sibande came forward and said I am bringing my statement. Then I took it.

**ADV SELLO SC**: And perhaps for the record, Commissioners, Bhekokwakhe Sibande's statement is NPM5(iv). It starts with the usual warning form, whatever the document is called, at page 59, 58. And that form, I do not know, Officer Sibande signed on the 16<sup>th</sup> of May 2023 in Brakpan at page 65. However, it does not have a  
20 statement. The statement attached from page 73 is now the statement of Officer Sibande. And at page 75, it bears a date stamp of the 1<sup>st</sup> of December 2025. That was before Witness D testified.

**MS MASUKU**: Commissioner, that means I must rectify if I say he gave it after Witness D testified.

**ADV SELLO SC:** Yes.

**MS MASUKU:** But I will say he gave it because the case was already a talk everywhere. Even SAPS was now making enquiries as to where is the case docket? So they confronted their members who they know they were involved. Then Sibande, as he was one of them, that is when, after confronting him, then he came back to me and said I sat with the legal side of SAPS, then I was advised to give statement. Then I am bringing my statement. Then I  
10 agreed to say you can bring your statement.

**ADV SELLO SC:** Okay?

**ADV KHUMALO SC:** Ms Sello, you confused me. I thought you were correct the first time when you said the statement was made after Witness D testified.

**ADV SELLO SC:** Yes.

**ADV KHUMALO SC:** Then you changed to say, no, it could have been earlier.

**ADV SELLO SC:** No, the witness had said she got two statements after Witness D had testified, stating Sibande  
20 and Eksteen. So I point out to the witness that actually Officer Sibande's statement is dated the 1<sup>st</sup> of December 2025, which is prior to. So that is the correction she just effected. His official consultation or interview was in May 2023, when he refused to give an actual statement. He just completed that form, but did not give a statement. He

subsequently gave it on the 1<sup>st</sup> of December 2025.

**ADV KHUMALO SC:** And Witness D testified in November?

**ADV SELLO SC:** On the 5<sup>th</sup> of December 2025.

**ADV KHUMALO SC:** No, it was the Minister on the 5<sup>th</sup> of December. He died on the 5<sup>th</sup> of December.

**ADV SELLO SC:** That is why.

**ADV KHUMALO SC:** Yes.

**ADV SELLO SC:** I am sorry. I confused the witness. I am sorry, I had my dates mixed up. You are quite correct. You are quite correct. So the witness is correct from the original version that she got two after the testimony of Witness D. It is the date of death. I apologise for the confusion. I realise I have eaten into the tea time for Commissioners. I just want to finish off one question, this aspect of her testimony. So it is clarified, and thank you, Commissioner Khumalo, that you obtained two statements after the testimony of Witness D.

**MS MASUKU:** That is correct.

**ADV SELLO SC:** We have clarified that is Officer Sibande.

20 **MS MASUKU:** Yes.

**ADV SELLO SC:** The only other one then after that period is NPM, according to your file, NPM5(viii) at page 124. If you could just very briefly deal with that and the date you obtained that statement?

**MS MASUKU:** Page again?

**ADV SELLO SC:** 124.

**MS MASUKU:** 124. Yes, I am there, Commissioners.

**ADV SELLO SC:** So whose statement is this then? And if you could just deal with the date on that statement?

**MS MASUKU:** It is a statement from Constable Juan-Mare Eksteen, who is a police officer as well, and it was obtained on the...

**ADV SELLO SC:** I am at 137. There is a signature there and a date.

10 **MS MASUKU:** On the 28<sup>th</sup> of January 2026.

**ADV SELLO SC:** 28 January 2026. And that would be the last of your statements because your next annexure that you reference at paragraph 51 is Annexure NPM5(x), which you state as a copy of the death certificate of Constable Khoza, and that is at page 141 for the record. Do you confirm?

**MS MASUKU:** That is correct, Commissioners.

**ADV SELLO SC:** Thank you, Commissioners. We will stop this.

20 **ADV BALOYI SC:** Can I just check this, Ms Masuku? At page 74, this is the statement of Sibande and this is in relation to a question yesterday about a reservist attending to the scene. You see in paragraph 2, he explains that he arrived at the scene or they arrived at the scene and then formed teams under Constable Fritz's guidance. Is that how

it works, that police officers can be under the leadership of a reservist?

**MS MASUKU**: No, that is not correct, Commissioner. It does not work in that way.

**ADV BALOYI SC**: Yes.

**MS MASUKU**: You cannot get instruction from a reservist. He is the one who must guide the reservists.

**ADV BALOYI SC**: Yes.

**MS MASUKU**: Yes.

10 **ADV BALOYI SC**: All right. And then secondly, at page 25, that is the statement of Alexander Fritz that you are looking at earlier, at page 25 in paragraph 12 and line 1, 2, 3, 4, 5, from the bottom.

**MS MASUKU**: Okay, Commissioner, I am still getting there.

**ADV BALOYI SC**: Page 25 at paragraph 12.

**MS MASUKU**: Yes, Commissioner.

**ADV BALOYI SC**: And then that paragraph 12, if you count from the bottom of the paragraph, go to line 5. In fact, you  
20 can go to line 6, which starts, we saw the truck standing. Do you see where I am reading?

**MS MASUKU**: Yes. Yes, Commissioner.

**ADV BALOYI SC**: Okay. Now, in the next line, he says, we saw a black male with a beard and glasses. And then if you read on, he then says in the next sentence, he was

apparently from the EMPD but dressed in civil clothing. Did you establish who the person that he would have been describing here? And I ask because when you look at your list of suspects from the EMPD, the only African name is Mkhwanazi, and he is placed outside. Here he speaks about, he seems to speak about a different person. Have you put a name to this other person that is being described here and apparently from the EMPD?

**MS MASUKU**: Commissioners, sorry. Yes, I did enquire  
10 regarding this, but the only people that can tell me as to  
who is this man, it is them. That is why I said to the  
Commissioners to say if the arrest can be effected, possibly  
there are more suspects that will be arrested because I will  
be able to interrogate them based on what they are telling  
me. So, for now, if he says I do not know him, then I  
cannot do anything for now. I will take that. Then for me to  
go to EMPD to say I am looking for somebody who wears  
glasses with a beard, they will tell me that there are about  
20, so I want to know who am I looking for. But because he  
20 is saying he was from EMPD, I know that I will get him.  
Yes.

**ADV BALOYI SC**: All right. Thank you.

**MS MASUKU**: Thanks, Commissioners.

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

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

**INQUIRY ADJOURNS**

**INQUIRY RESUMES**

**CHAIRPERSON:** Yes, Ms Sello.

**ADV SELLO SC:** Thank you, Chair. Yes, Ms Masuku, we are now at page 14 of your statement, and we had dealt with the warning statements. You have marked NMP5, Roman I to NMP5, Roman IX, together with the death certificate of Constable Khoza, which you have marked NPM5X.

10 **MS MASUKU:** Yes, that is correct, Commissioners.

**ADV SELLO SC:** You then start - you have a sub-chapter there. Before you deal with it, Commissioners, at paragraph 52, this is the statement of Brigadier Mkhwanazi the witness deals with specifically, there is an error at line one, NPM5, not NPM6, if you could justify that correction. Thank you. Ms Masuku, you then specifically deal with the statement of Brigadier Mkhwanazi, starting at paragraph 52, at page 14, if you could then deal with that statement.

20 **MS MASUKU:** Commissioners, I will read, because Brigadier Mkhwanazi was before the Commissioners, he testified on this matter, so I will read the version that he gave to me.

**ADV SELLO SC:** Before you do so, may I invite you to the actual annexure, NPM5VI. You omit to indicate the date on which that statement was taken in your statement, so if you

could just place it on record before you deal with its contents. That would start at your annexure's page 76, NPM5VI.

**MS MASUKU**: Yes, Commissioners, I am there.

**ADV SELLO SC**: The date I have, then there is another correction then to be affected at line one. The correct annexure is NPM5V, not Roman VI. They both say 6, so it is 5, Roman V. That statement starts in your annexure bundle at page 76. You have located it.

10 **MS MASUKU**: Yes, I am there, Commissioners.

**ADV SELLO SC**: And for the purpose of the date on which it was taken, I would like to refer you to page 81. If you could just place that date on record, then you can deal with the contents of the statement as you do from your paragraph 52.

**MS MASUKU**: It was taken on the 24<sup>th</sup> of May 2023, and he stated that he was going to give the statement on the 2<sup>nd</sup> of June.

**ADV SELLO SC**: On the 2<sup>nd</sup> of June.

20 **MS MASUKU**: Yes, Commissioners.

**ADV SELLO SC**: And the actual statements that he provides is a handwritten statement at page 91, starting at 91 to 92. Is that the actual statement?

**MS MASUKU**: That is the statement that he gave. That is correct, Commissioners.

**ADV SELLO SC:** That particular statement at 91 onto 92 is undated. It is signed and seems to bear a number, perhaps his police number. It does not have a name it is just signed.

**MS MASUKU:** Yes, Commissioners, that is his number on the service, his pay number, they call it like that.

**ADV SELLO SC:** Okay, yes, thank you. Then let us go back to your statement from paragraph 52, where you deal with the contents of this particular statement.

10 **MS MASUKU:** The statement of Brigadier JM Mkhwanazi. Brigadier Mkhwanazi, Brigadier Julius Mkhwanazi states in his warning statement, Commissioner, I think it should be corrected as well, because it says an Annexure MP6.

**ADV SELLO SC:** Yes, we have already corrected that. It should read NPM6, no, NPM5V. If you could just make those changes then.

**MS MASUKU:** Brigadier Mkhwanazi states in his warning statement, Annexure NPM5V - Roman figure VI, that he was woken up by Jaco at approximately 2 in the morning, asking  
20 him to come and see the success of the recovery of the truck in the Brakpan area. He stated that he eventually arrived at the scene and saw several vehicles, marked and unmarked, including those of private persons.

Jaco collected him from the vehicle, where after he showed him the white truck and told him that everything was

under control. Brigadier Mkhwanazi stated that he told Jaco that he was frustrated because they were standing next to about 9 white males. Brigadier Mkhwanazi alleged that he then shouted at Jaco as he had woken him up and invited him to a crime scene which was not an EMPD operation.

Julius claims he then stood outside the gate for a few minutes with intention to leave but he suspected that the unknown white males inside the yard wanted to move items outside of the truck. Brigadier Julius Mkhwanazi  
10 further alleges that he then moved towards the next street, where he parked. Jaco followed him and informed him all was in order. He then left as he was working the next day.

**ADV SELLO SC:** I think that is the end of your actual quotations from Brigadier Mkhwanazi's statement.

**MS MASUKU:** That is correct, Commissioners.

**CHAIRPERSON:** Your – sorry.

**ADV SELLO SC:** I was saying that the summary of what you have attached as NPM5V, is that correct?

**MS MASUKU:** That is correct, Commissioners.

20 **CHAIRPERSON:** You said you did not take the other statements, so that would include Brigadier Julius Mkhwanazi's statement. You said you did not take the others because you had taken Mr Van Der Merwe's statement. Did I understand you correctly?

**MS MASUKU:** Can you rephrase, Commissioner? I am not

getting the question.

**CHAIRPERSON:** I thought you said that these other statements that you just referred us to, that even before tea, you said you did not take those, your colleagues or I do not know who took them, but other people took those other statements, not you. Did I understand you correctly?

**MS MASUKU:** That is correct, Commissioner, but in that I was meaning, Commissioner, to say I am not the one who was writing the warning forms, but it does not mean that I  
10 did not interview these suspects. Even on this Julius Mkhwanazi's statement, he wrote it himself and just gave us a handwritten statement to say here is the statement.

**CHAIRPERSON:** Okay, I am asking because there is this sentence that sounds a bit odd. What it says:

“Brigadier Julius Mkhwanazi stated that he told Jaco that he was frustrated because they were standing next to about nine white males.”

I just wanted to understand what was frustrating with that,  
20 but why I prefaced this by saying that you had not taken the statement. I prefaced it that way because I thought you would not be able to explain that rather odd statement.

**MS MASUKU:** Commissioner, I will not be able to explain maybe exactly, maybe what you, maybe the clarity that you need to get, but maybe in this manner, he says he was

frustrated because there was a lot of other officers there or people there. So, according to him, why was he called to come there? So, when he is saying to those plus minus white males, because Jaco was also a white male, so there were a lot of them, they were there, but I understand what the Commissioner is asking because it can mean a lot as to why specifically white males. Commissioner, I think ...[intervenes]

**ADV SELLO SC:** Ms Masuku, perhaps it might assist you if  
10 you go to the actual statement and locate that part in Brigadier Mkhwanazi's statement where he speaks of the nine white males. His statement starts at page 91 of that annexure bundle.

**CHAIRPERSON:** And the part about the plus minus nine white males is the very last paragraph at page 91 of his own statement now.

**MS MASUKU:** Okay.

**ADV SELLO SC:** Have you located the statement?

**MS MASUKU:** Yes, Commissioner, yes.

20 **ADV SELLO SC:** And the Chair assists you by referring you specifically to the last paragraph of page 91. Can you just quickly read that paragraph as you are able to because to the extent that it is legible.

**MS MASUKU:** Okay:

“I got frustrated and called him aside

because we are standing next to plus  
minus nine white males next to the gate.  
I must mention that I shouted at him for  
waking me up for other law enforcement  
operation which was not EMPD.”

**ADV SELLO SC:** Please finish the sentence.

**MS MASUKU:**

“And to tell me everything was sorted.  
We stood outside the gate for minutes.  
10 Then I started to move towards my  
vehicle. But I suspected that they  
wanted to take staff from the truck.”

**ADV SELLO SC:** Well, you are almost at the end of the  
statement. I guess you might as well read the last, the final  
paragraph there.

**MS MASUKU:**

“I drove towards the next street where he  
noticed that I am still there parked. He  
came with his car and informed me that  
20 everything is in order. I then left  
because I was working the same day.”

**ADV SELLO SC:** That is the end of Brigadier Mkhwanazi's  
statement.

**CHAIRPERSON:** Thank you.

**ADV SELLO SC:** Thank you, Chair. Ms Masuku, you have

summarised this statement then from your paragraphs 52 to 54. Paragraph 56 you deal with a slightly different issue, and this relates to the delays in obtaining the witness statements. If you could take your testimony from paragraph 56.

**MS MASUKU:**

10                   “The investigation process of obtaining  
the warning statements experienced a lot  
of delays. This was because Marius kept  
on warning the team that his co-suspects  
are very dangerous people. As an  
investigator, I had to think of Marius'  
safety every time we make a move  
towards other mentioned suspects.  
Threat analysis assessments were  
conducted on the team as well. These  
assessments resulted in protection being  
offered by the department to those team  
members engaged in investigation. The  
20                   members were provided with protection  
services from March 2023 until 11<sup>th</sup> of  
July 2024.”

Commissioners, I think, omitted to mention when it started in my statement. I only wrote when it was terminated. But the protection has started in March 2023.

**ADV SELLO SC:** You actually do in the next sentence after you introduce NPM6. When the service was terminated by Mr Keefelakae, a copy of the termination letter attached as Annexure NPM6.

**ADV SELLO SC:** And for your purposes, NPM6 is at page 142 of your annexure bundle. If you could open that 142.

**MS MASUKU:** Yes, Commissioners, I am there.

**ADV SELLO SC:** Then I suggest you complete the rest of paragraph 56 and then we will deal with the contents of the  
10 annexure itself. Thank you.

**MS MASUKU:**

“We were under protection for a period of  
16 months. From 10 March 2023 to 15  
July 2024. During this period, we could  
not pursue our investigation as  
vigorously as we would have preferred.  
Marius refused to be placed under  
protection, preferring rather to rely on  
the services of his own security  
20 company.”

**ADV SELLO SC:** Going then to page 142, which is actually the termination letter by Mr Keefelakae of the protection services that had been provided to you from the 10<sup>th</sup> of March. Are you able to briefly indicate to the Commissioners the circumstances that pertained at the time

that led to you being placed under protection?

**MS MASUKU**: Yes, Commissioners. When we started the investigation by now, following on these other suspects, our first warning statement was from the 17<sup>th</sup> of February 2023. Immediately after we had approached the first suspects that was on the list after Marius, then there were threats that were coming towards us.

I will not say to point and say they were coming from them, but there were threats. Then I had to inform the  
10 department to say I was not feeling safe, as well as the team. For a number of things that were happening that were unusual. Then the department ran their own investigation that did not include us. We would be called for interviews every now and then.

They would visit our home, investigators from other departments. But it was done very quickly because the threats were escalating. Then we were protected. We felt a bit at ease, but still, it was not easy because the protection, they were not moving around with us. But we  
20 had to continue working. In the meantime, when we were working, I would communicate with Marius because it was not all of us who were communicating with him.

Avoiding what he has warned us that I cannot mention here when he was giving us statements. Then we have our own way of communicating with him that we had

agreed on. He kept on telling us, when we make a move, we will not tell him that now we are making the next move to so and so, we will not notify him. But definitely, he will come back to us and say, slow down.

Your lives are at risk. Then we will listen to him because he has warned us to say, who are we dealing with? Commissioners, it will not be a period that I will say, if you want me this week on Thursday and then on Monday, I must start afresh. I will not do that. I will wait for a bit to cool  
10 down and focus on other matters. Leave this one. So that I can get it off everyone's mind.

Then when it is quiet, then we will go for the next one. That is the reason these warning statements, they took time. And really, our lives, they were at risk. I will not say it was who on these cases, but what I know is, we were having threats towards our lives. Because, when I remember, we are in 2026 now. December of 2024 ...[intervenes]

**CHAIRPERSON**: Please continue.

20 **MS MASUKU**: Thank you, Commissioners. December of 2024, my vehicle was shot at. And I was driving on N17 in Springs area with my family, the kids. I am not saying it is them. But those are the threats that were coming towards us. So, we had to work, take a break, concentrate on something else. The reason I will say, I will not say it is

only them.

I am saying this because, this is not the only sensitive case that I am dealing with. It is a lot of them. And it is rare whereby there will be a sensitive case like murder against law enforcers. There will not be threats coming to your side. Because they will know what is coming when you are busy with your investigation. But we soldier on, we continue. It is just that, South Africa will never understand what you go through.

10 **ADV SELLO SC:** Ms Masuku, if then we could go to Annexure NPM6 at page 142. There is a list of IPID investigators there. Firstly, could you read them out? This is the letter terminating their protection services.

**MS MASUKU:** Okay, the members that were involved in this investigation. And that were put under protection. It was Mr Thulani Magagula. Mr Thulani Dlamini and Ms Nomsa Masuku.

**ADV SELLO SC:** And the last one, of course, is yourself.

**MS MASUKU:** That is myself.

20 **ADV SELLO SC:** Earlier, you testified that they were not moving around with you. The security.

**MS MASUKU:** That is correct, Commissioners.

**ADV SELLO SC:** And I note from this particular document, this letter from Mr Keefelakae, terminating the services. Paragraph 1 reads:

“This letter serves to inform Bidvest Protea Coin of the termination of the guarding services at the places of residence of IPID investigators currently guarded by the company.”

You see that?

**MS MASUKU**: Yes.

**ADV SELLO SC**: So, am I correct to understand that the services were only provided to your respective homes?

10 **MS MASUKU**: Yes, that is correct.

**ADV SELLO SC**: Not as you were carrying out your daily duties?

**MS MASUKU**: Yes, it was carried at our home, and it was worth it. Yes, it was.

**ADV SELLO SC**: Okay. Let us go to your paragraph 57 and we pick it up from there.

**MS MASUKU**: This has been one of the difficult matters to solve for a number of reasons. Firstly, the police involvement had to be proven as unlawful, as there were no  
20 official leads at the accounting police station to prove that the officers carried out their duties on the day, as alleged by Marias Van Der Merwe. Secondly, the investigators were under continuous, serious threats throughout the course of investigation. I personally am a victim of such threats being carried out.

**ADV SELLO SC:** Can I find out from you, you reference an instance, I think it was in December 2024, when your vehicle was fired at on the N17 next to Springs. Are there any other noteworthy incidents that you would like to bring to the Commissioner's attention? If you cannot, please do not.

**CHAIRPERSON:** Ms Sello, let us take a break.

**ADV SELLO SC:** Yes, Chair.

**CHAIRPERSON:** You will indicate to us when we should  
10 come back.

**ADV SELLO SC:** Absolutely. Thank you.

**INQUIRY ADJOURNS**

**INQUIRY RESUMES**

**CHAIRPERSON:** Ms Masuku, are you in a position to continue?

**MS MASUKU:** Yes, Commissioner, I am.

**CHAIRPERSON:** Thank you.

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

**CHAIRPERSON:** Thank you.

20 **ADV SELLO SC:** Ms Masuku, you may, when you are ready.

**MS MASUKU:** Thank you, Commissioners. Apologies once more.

**CHAIRPERSON:** There is no need to apologise at all.

**MS MASUKU:** Commissioners, I just wanted to place on

record that we do go under very serious threats on a daily basis when we are doing our investigations because we are investigating the law enforcement officers that commit crime and they do not want to be arrested. But that does not stop us from doing our duties. We continue to do our duties even though we know that our lives are at risk. As I had indicated to say, my car was once shot at. I was with my kids. It passed. I continued with my duties as normal. But there is a time where my son was also shot. We thank God  
10 he did not pass on, but his life changed from that day. Because he was wheelchair bound. But thank you to the Lord that he can try to walk now.

**CHAIRPERSON**: This was the second incident.

**MS MASUKU**: My son was the first incident and then my car was the second incident.

**CHAIRPERSON**: All right and just give us the dates of both incidents again, please.

**MS MASUKU**: Commissioners, with your permission, maybe if I would be able to give to the SC.

20 **CHAIRPERSON**: All right, all right, no, no, no.

**MS MASUKU**: And not give them.

**CHAIRPERSON**: No, no, no, that is in order.

**ADV SELLO SC**: I confirm. I will receive them and I shall inform the Commissioners accordingly.

**CHAIRPERSON**: Thank you.

**ADV KHUMALO SC:** Are you able to say whether it was after you had taken over the investigation?

**MS MASUKU:** For my car, it was when I was doing this investigation. For my son, it was when I was doing other investigations. Whereby it was involving a lot of officers in one case. Our office was made aware as well of the threats. Because those threats, they had come in a form of something was being prearranged by the members to get a hitman.

10           Then during the arrangements, somebody in the midst of the arrangements, it is somebody who knew me. Then that person got the opportunity to give me a call to say, I am not sure if because I am not mentioning the name, but by the description they are giving, I think in your department, they are talking about you. And when I, the last time I saw the news, I saw that you were the one who had, who was busy with a certain case, which was in the news, whereby a number of officers you had arrested.

20           We notified the department and then the department took action on that because as a result, on the day when the department was notified of that, the department managed to say, all of us in our office, we must carry firearms. Then the threats, remember, Commissioners, that I am receiving threats today, but tomorrow must wake up and go to work.

As the threats, those threats were very serious because I knew what was being planned towards me. It is very difficult also to say to my family, to say, this is what I have received because of now, for them, they will panic. Even if I share it, I find a way of sharing it. I had to do bail application. It was done, it passed until the case was finalised, but in the midst of that, that is when in between my son was shot.

And the reason I am pinning it to this, to that matter  
10 I am talking about, it is because of my son during that period, he was the one that was driving me, trying to protect me. When I leave home, he will drive me to work. When I visit the stations, he will be my driver. So, they realised to say, there was nothing he was going to do, he does not have a gun, but he just said, I will be with you.

So, I think they realised to say, maybe for me to feel the pain, or maybe because they did not know if he is got a gun or what, then it was said, if we eliminate him, then I will be left alone. But it did not stop me from doing  
20 my duties. I continue to do that today. So, I just wanted to relate to the Commissioners and South Africa to know to say, if they see delays like this in the cases that we do, it is not easy. It is not easy at all.

Every case has got an explanation as to what is the reason you took that delay. We at IPID are investigating

law enforcement officers. Commissioner, I had in court, because I was scared of the members, I do not want to lie, but I had to put a brave face and face them and say to them, I heard what you are planning, here is my home address, if you need me, come to my house and find me there. And then I left them, but when I left them, I asked myself, if they come, what am I going to do?

**ADV SELLO SC:** Thank you, Ms Masuku. And thank you for your bravery.

10 **ADV BALOYI SC:** Can I just ask, Ms Masuku, what does the employer, the IPID employer, what does it do when there are situations like these? Firstly, I think we did hear yesterday, and you are repeating that, that it is a job hazard, firstly, that you would be confronted with these kinds of situations. But surely, the IPID should have something in place, whose sole purpose, whether it is a policy, but in addition to policy, resources in place, which are to provide protection to, and different levels of protection, I accept that, to its investigators. Is there  
20 anything, is there nothing? And what there is, and I would like you to comment to the extent that you are comfortable to comment, whether what you know to be in place is adequate, in your opinion.

**MS MASUKU:** Commissioner, what I will comment on is what I was involved in, like the one whereby we were

offered protection, but like I explained to say, it was in our residential places. We must leave and go to work. But at least when you are at work, it is to say my family is protected. But what about myself? Commissioner, I will not respond on behalf of the department as to they take these threats serious up to which level. Because I only tell myself to say maybe it can be taken that serious if it faces somebody that is threats to your family. Yes, I appreciate that we were protected for that period.

10 **ADV BALOYI SC**: I appreciate. As you say, the protection was static, was at your house.

**MS MASUKU**: Yes.

**ADV BALOYI SC**: And as you were conducting investigations, you were doing that without mobile protection, if that is a correct word.

**MS MASUKU**: That is very correct, Commissioners. We do have the security department within the department. Even now, they are in contact with us. I do not know what will come out of it. Because before I came here, I said to them,  
20 I am going there to show my face. And then from Monday next week, I must be on duty. I must work. I must be out working.

Which roads of South Africa will I drive and be safe? Because, Commissioners, I am the one investigating this case. I understand each and every piece of it, inside it.

I understand that some of the suspect has passed on. I have an understanding as to what led or what was happening. The case, Commissioners, it is towards the end of it now. Then it will get to a point whereby suspects must be arrested. I must do bail application in court. But after that, where do I go? That is the thing. With whom? So, Commissioners, I do not have a response on behalf of the department.

**ADV BALOYI SC:** No, thank you. Thank you for your  
10 response.

**ADV SELLO SC:** Thank you, Commissioner Baloyi, and thank you, Ms Masuku. We are now at page 15 of your statement.

**MS MASUKU:** Yes, Commissioners.

**ADV SELLO SC:** And I think we are moving on to paragraph 58.

**MS MASUKU:** Okay.

**ADV BALOYI SC:** Yes, maybe before you do that, Ms Sello, I wanted to ask to understand something. In this  
20 paragraph 57, Ms Masuku, the sentence that is in the first line, which says:

“Firstly, the police involvement had to be proven as unlawful as there were no official leads at the accounting police station to prove that the officers carried

their duties on the day.”

That part. What does it mean? I mean, we do have statements from, I think it is Sibande. You have that statement from Fritz.

**MS MASUKU**: Yes.

**ADV BALOYI SC**: So, we know from their statements that they did attend to the scene.

**MS MASUKU**: Yes.

**ADV BALOYI SC**: And from their statements, they claim to  
10 have been in their official capacities.

**MS MASUKU**: Yes.

**ADV BALOYI SC**: If there is no record at the police station, maybe let me ask the first question. The process when police officers get, call it an invitation to attend to a scene or a job, as in this case, in terms of record keeping, recording, what is the procedure or what is the operating procedure? And if, in the end, you end up without any official leads that tell you that these people were on duty, what, in fact, does it mean happened here?

20 **MS MASUKU**: Okay, Commissioners, I will respond relating to this matter. Yes, I do have records that prove that they were on duty on the day. But now, I needed to follow allegations of Marius during my interview to say there was a robbery that resulted to the truck that they went to search for the stock. I must go to the station to check if

there is a case they were investigating on that day.

Because the scene where the deceased stays fall under Brakpan Police Station, that is where I must start. They did not have anything that relates to the truck. But we managed to get a case whereby we got a case number from Marius to say this is a case number we were investigating. Upon getting the copies of that docket and interviewing the investigating officer of that docket to say, did you know of any investigation on your case that was done on this house  
10 on this day? Were you informed?

Because it is your docket. Then he said no. And that docket was already filed at the storeroom. And when you go through the statement, there is nothing that tells you to say why they landed to that house. That is the reason, Commissioner, I am saying I had to prove to say the officers because wherever they go, they are performing official duties if they are on duty.

Even if somebody loses their life, but it should be in a process of official duties. So, for their involvement  
20 there, it should be said because they drove state cars to that house. That means it was officially. So, they must give something in black and white to say this is what we are doing officially. In a process, this is what happened. So, they do not have that. So, for me, it helps me to prove a point of criminality to say they were doing their own things.

It was not about the duties they are supposed to perform.

**ADV BALOYI SC:** Thank you.

**CHAIRPERSON:** In the olden days, Ms Masuku, police used to carry what was called a pocketbook.

**MS MASUKU:** Yes.

**CHAIRPERSON:** Does that still exist? Do you know?

**MS MASUKU:** It still exists, Commissioners, to some of the members. And then some of the members, they will say no, it was finished, I do not have it. And then you cannot  
10 force him to say give one. And even if he had it, if he knows that something that is written there will put me in trouble, then they would say no, I lost it. Then there is nothing you can do.

But there should be records like an occurrence book, which is a register. You must get something. Like, I was hoping to get something on occurrence book regarding the incident of that house to say we went to this house, we searched, because we were looking for the truck, we found the truck, and then that is it. So that if they were doing  
20 their duties, they were going to make that entry, if they were doing their duties.

They are doing it because they are saying they did not find the owner of the house. All of them. But that means they broke open the house because the house was ransacked, because the owner was not there. So, to cover

themselves, to say we did not steal anything, they must go back to the station. To say we went to this house searching for this, we found one, two, three, four.

Then the owner was not there. Then nothing was taken at the scene. But they failed to do that entry. And secondly, they were looking for the truck that they find there according to them. They find the truck which was parked in the yard. I was expecting them to, if it was not drivable, to pull out the truck, take it to the pound, because  
10 it is involved in a crime. Then they book it there. But they find the truck there, they left the truck there. So, there was no official duties they were performing. They were doing their own thing.

**ADV BALOYI SC:** So, in short, there is no record of this operation on the SAPS records?

**MS MASUKU:** No, Commissioners. According to them, it was initiated by a private person. Then they took instructions from the private person.

**ADV BALOYI SC:** Thank you.

20 **ADV KHUMALO SC:** Even the EMPD officers who say they interviewed the tenant and her children, remember there is one EMPD officer, I will not mention the name, but I saw in the statement, they say while SAPS was busy in the main house, they went in the back rooms or something like that, and there was a tenant with her two children, and they

interviewed the tenant who told them that the owner is not there. Even those EMPD officers do not have a record of when they were there and what they did when they got there?

**MS MASUKU:** No, they do not have any records, Commissioner. What they have is the story they are telling here. But they must give something officially to say when I was there, this is where I was working, this is how I received this complaint, I had to go there. But their  
10 complaint came from a private person. So, they took instruction from a private person to go and do the search, of which it is not allowed.

**ADV SELLO SC:** Thank you, Commissioners. Thank you, Ms Masuku. We were about to turn to your paragraph 58, and if you could pick up your testimony from there. Thank you.

**MS MASUKU:**  
20 “Further, I did not personally attend the primary scene where the deceased was killed. Only SAPS officials had attended the scene. Accordingly, it was necessary to conduct a thorough and methodical investigation prior to effecting any arrest. In addition, we were struggling to locate material witnesses. The original witness

who had been a tenant at the property of Mr Mbense vacated the premises shortly after the murder, fearing for his and his family's safety and could not be traced. We were only able to trace him with the assistance of the family in October 2025. This fact is confirmed by an email received from the family dated the 26<sup>th</sup> of January 2026. I attach an email as  
10 Annexure NPM7.”

**ADV SELLO SC:** Your NPM7 that you reference is in the annexure bundle at page 143, if you could turn to that. 143, Commissioner. Are you there, Ms Masuku?

**MS MASUKU:** Yes, I am there, Commissioners.

**ADV SELLO SC:** Now, at page 143 is an email I see. It is from somebody. It is dated January 26, 2026, at 14:20 pm. It is addressed to you with a copy to the other investigator in your team.

**MS MASUKU:** That is correct, Commissioners.

20 **ADV SELLO SC:** It has as a subject line, ‘murder case, Brakpan, and in [Madlanga Commission]’, and then it is got a number attached to it. Do you see that?

**MS MASUKU:** I see that, Commissioners.

**ADV SELLO SC:** Is this the email you say at your paragraph 58 you received from the family in October 2025?

No, this is the email you say you received on the 26<sup>th</sup> of January 2026.

**MS MASUKU**: That is correct, Commissioners.

**ADV SELLO SC**: Now, it is a very short email. I think it would be helpful if you read it into the record, but please do not read the details of the author of this particular email and their contact details as up here at the bottom of that page. Thank you.

**MS MASUKU**:

10                   “Hi, Ms Nomsa. In light of the media statements released, I would like to clarify the below from the family. One, at no point did we allude nor state that IPID and investigators did not carry out their duties due to fear or any threats while conducting the investigation. I do confirm that we did inform them that IPID has carried out all that is required on their end and decision will be on the NPA

20                   [notes, no timelines were given]. Point 3, IPID has kept us up to date several times with calls and visits to our residents in Soweto and Brakpan. IPID is door was open to us at all times. The only thing we were not aware of was details shed

on the Commission as we assumed these details were confidential to the docket and not public knowledge. Not to public knowledge, even to us as the family. But we are fully aware and understand that delays occur with an investigation of this magnitude. We are also fully aware that having to locate one of the witnesses who was a tenant at our premises who had moved and changed numbers, but by God's grace he visited in 2025 and we could then share the details with the investigators which IPID later informed me that they have communicated with the witness and had obtained a critical statement from him.”

That is the end of the email.

**ADV SELLO SC:** Thank you. Now the statement that is said at item 4 of the email that you obtained after the tenant had contacted, by God's grace, the family. Did you obtain such a statement?

**MS MASUKU:** That is correct, Commissioner.

**ADV SELLO SC:** At paragraph 58 on page 16 at the top of the page, your last sentence reads:

“I obtained this witness's statement on

20<sup>th</sup> October 2025. I attest the statement  
as NMP, supposed to be NPM, apologies,  
7.1.”

Is that the statement you are referring to?

**MS MASUKU**: That is correct, Commissioner.

**ADV SELLO SC**: Your NPM, then 7.1, is in your annexure  
bundle at page 144. Just cast your eye on it to confirm that  
that is the statement you say you obtained in October 25  
from the tenant. It runs to page 147.

10 **MS MASUKU**: That is correct, Commissioner.

**ADV SELLO SC**: So, as we understand it, then that is the  
statement of the tenant who was in the original house  
during the day that Mr Mbense lost his life.

**MS MASUKU**: That is correct, Commissioner.

**ADV SELLO SC**: We will not deal with its contents. That  
is a matter for court.

**MS MASUKU**: That is correct, Commissioner.

**ADV SELLO SC**: But just to confirm, it is now at hand.

**ADV KHUMALO SC**: I wanted to ask something.

20 **ADV SELLO SC**: Yes, Commissioner.

**ADV KHUMALO SC**: If you go back to page 12, Ms  
Masuku.

**MS MASUKU**: Of?

**ADV KHUMALO SC**: Of the annexure bundle, page 12,  
remember that memo to the NPA in 2022 December?

**MS MASUKU**: That is correct.

**ADV KHUMALO SC**: The reason I am taking you back there, if you look at A5 on page 12, so you have got the case docket content, that is your table of contents, and in A5 you have got a person's statement. And I see that it is the same tenant whose statement appears on page 144. And you say you obtained this one on the 20<sup>th</sup> of December 2025.

**MS MASUKU**: That is correct.

10 **ADV KHUMALO SC**: So, I am just wondering, the statement that formed part of your memorandum to the NPA in 2022, which one was it?

**MS MASUKU**: It is the same person, Commissioner.

**ADV KHUMALO SC**: Yes, but which statement is that one? Was it obtained by you also?

**MS MASUKU**: No, it is the one I am saying the police officers on the 15<sup>th</sup>, they find the witness. They got the statement.

20 **ADV KHUMALO SC**: Oh, they already had his statement on the 15<sup>th</sup>.

**MS MASUKU**: Yes, Commissioner, but it is not in detail. It is just a short version. It is creating a lot of questions that needed to be answered, so we had to re-interview him so that he can answer those questions. Hence, we had to trace him so that we can retake his statement.

**ADV KHUMALO SC:** Now it makes sense, thank you.

**ADV SELLO SC:** Thank you, Commissioner Khumalo. Ms Masuku, I think we have decided not to unpack the contents of NPM7.1, the statement itself. We will leave that for the trial court. Then I think we can move to your paragraph 59.

**MS MASUKU:**

10                    “At the relevant time, we had obtained  
DNA samples from the crime scene.  
These were sent to the SAPS forensic  
laboratory, which was able to confirm a  
complete DNA result. The report of the  
forensic laboratory is attached as NPM8.  
Unfortunately, these results could not be  
matched to any data within SAPS  
forensic system. It was retained as a  
controlled sample.”

**ADV SELLO SC:** If I may then interrupt you there. NPM8, yes. Is that your page 148? You say that is the forensic report obtained from the crime scene.

20                    **MS MASUKU:** That is correct, Commissioner.

**ADV SELLO SC:** This document firstly is undated, though signed, it does not bear a date. But I note that page 148, that it has as a reference station, Duduza CAS 91-04-2022. On my understanding of your evidence, that was the inquest number, the Duduza number.

**MS MASUKU**: That is correct, Commissioner.

**ADV SELLO SC**: And at paragraph 3, the author of that report states that:

“On 22-04-2020 and 22:29, I attended an inquest scene at that address for the presence of possible clues and forensic exhibits.”

**MS MASUKU**: That is correct.

**ADV SELLO SC**: My understanding of that document is  
10 that the exhibits were collected on the 20<sup>th</sup> of April 2022, about four or five days after the incident.

**MS MASUKU**: That is correct, Commissioner.

**ADV SELLO SC**: And then here, it lists the exhibits that were obtained at the scene. There are two of them there. Do you confirm?

**MS MASUKU**: I do confirm, Commissioner.

**ADV SELLO SC**: Now, when you say at paragraph 59, you rely on this document, and you say in your last line:

20 “Unfortunately, these results could not be matched to any data within the SAPS forensic systems. It was retained as a control sample.”

Are we to understand that having obtained these swabs, they were tested in the normal course, they were compared against information that is already stored on the SAPS

forensic system but unfortunately did not retain a result to identify any specific person. Am I understanding you correctly?

**MS MASUKU**: That is correct, Commissioner.

**ADV SELLO SC**: And then you say it was retained as a control sample.

**MS MASUKU**: That is correct.

**ADV SELLO SC**: What is a control sample for those of us, perhaps, who do not live in that world?

10 **MS MASUKU**: The control sample, Commissioners, it is a sample whereby we will have to get a secondary sample to compare it to this one, the control one, so that it can help us to say, yes, we found this cigarette, but we will take it as a control sample at a scene of death. Then we retain it at DNA. And then later on, if somebody has been arrested that we think he is the suspect, we take his DNA to test it, comparing it to that part that was found there as a control sample.

20 Then if it matches or it does not match, then that is how we get it. So that one, those were the samples that were found at the deceased home. So, they had to be tested because there was a thought to say somebody should have touched this so we can find DNA on this. Then, yes, there was DNA that was found, but it has to be retained up until we get something to compare it with.

**ADV SELLO SC:** Okay, then you take it up from paragraph 60, if you will.

**CHAIRPERSON:** Must I read the annexure at 148 and 149 to mean that a Red Bull can was - sorry? What? Sorry? I am being advised by my co-Commissioners not to mention all these things.

**ADV SELLO SC:** Yes, I think what the witness wanted to testify to, was that DNA was picked up in 2022.

**CHAIRPERSON:** From a certain object.

10 **ADV SELLO SC:** Yes, and then it was tested and stored, and we leave it there. So, we do not want to go into the detail of the nature or the source of the DNA from the crime scene.

**CHAIRPERSON:** But perhaps I guess we need some guidance before we get there.

**ADV SELLO SC:** No, no, no, we have kept away from those parts that we do not want to talk about successfully thus far, and we are almost at the tail end.

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

20 **ADV SELLO SC:** So, what the witness is then going to talk to next is another forensic report. The witness is going to talk ...[incomplete].

**CHAIRPERSON:** Yes, please continue, please continue.

**ADV SELLO SC:** Then the Chair said I should warn the Commissioners. After this report we are going to talk of

another forensic report, which once again references DNA. We will just talk briefly to results, and again we will not, you know, go into detail. So, thank you, Chair.

**CHAIRPERSON:** Thank you, thank you, Ms Sello.

**ADV SELLO SC:** Ms Masuku, I then had invited you to turn to your paragraph 60, six zero.

**MS MASUKU:** Yes, I am there, Commissioners.

**ADV SELLO SC:** Yes, you may take it from there.

**MS MASUKU:**

10                   “Following Marius Van Der Merwe's  
                          assassination and considering his  
                          testimony before the Commission, the  
                          SAPS requested me to engage with the  
                          persons we had taken warning  
                          statements from to see if they would be  
                          willing to submit their DNA in  
                          investigation of murder of Marius for  
                          purposes of eliminating them as the  
                          suspects. I was able to secure their  
20                   cooperation. I explained the purpose for  
                          which their DNA was sought and they all  
                          attended to the SAPS forensic  
                          laboratory.”

I missed science. I was supposed to say forensic science laboratory for DNA swabs to be obtained.

**ADV SELLO SC:** Yes, you may continue.

**MS MASUKU:**

“Following the submission of their respective DNA, I requested that a comparison of their respective DNA to be compared with a controlled sample from Mr Mbense’s case. A positive result was returned. I attach Annexure NPM9, a copy of this report. I request be kept  
10 confidential so as not to undermine the criminal trial.”

**ADV SELLO SC:** Your Annexure NPM starts at page 150.

**MS MASUKU:** Yes, I am there, Commissioners.

**ADV SELLO SC:** I note from this report, it is filed by, I guess, the scientist who undertook these investigations and she states that she is attached to the SAPS biology section of the forensic science laboratory. That is at paragraph 2. You see that?

**MS MASUKU:** Yes.

20 **ADV SELLO SC:** At page 154, that is the signature page, and it is signed by the person whose name appears at page 150, and it is dated on 14 January 2026.

**MS MASUKU:** That is correct, Commissioners.

**ADV SELLO SC:** This is our second forensic report.

**MS MASUKU:** That is correct, Commissioners.

**ADV SELLO SC:** And in your statement, you say after the DNA of your suspects in Mr Mbense's case was obtained, you requested that all their DNA be run against your controlled samples.

**MS MASUKU:** That is correct, Commissioners.

**ADV SELLO SC:** And you state here that the results obtained were positive.

**MS MASUKU:** That is correct, Commissioners.

**ADV SELLO SC:** And that is contained in Annexure NPM9.

10 **MS MASUKU:** That is correct, Commissioners.

**ADV SELLO SC:** And in particular, I would like to refer you to page 151, which demonstrates the comparison of what you call controlled samples and the investigation that was then conducted on the 14<sup>th</sup> of January 2026, as the report tells us at paragraph 3. And specific individuals are identified or certain identities or specifications are set out therein. We do not have to read its detail. Is that the positive result that you speak of at your paragraph 61?

20 **MS MASUKU:** That is correct, Commissioners. These are the positive results that came out. As you can see, Commissioners, that in that same document, each and every page, it is got lab number, but it entails different lab numbers. And it is got two different case numbers as well. So, it explains to say the case number below, it is Marius' death case number. The case number up, it is Mr Mbense's

case number. So, all those DNA, including Marius' DNA, was also taken from the mortuary. All those DNA were run against the controlled sample whereby we did manage to get the positive results.

**ADV SELLO SC:** And on that score, if I may draw your attention to page 152, same report. And if one has regard to paragraph 5.1 in the second line, that references Duduza CAS 91-04-2022. That is Mr Mbense's murder case, correct?

10 **MS MASUKU:** That is correct.

**ADV SELLO SC:** And thereafter at 5.2, it then references Brakpan CAS 75-12-2025. That is Mr Van de Merwe's assassination.

**MS MASUKU:** That is correct, Commissioners.

**ADV SELLO SC:** And the rest of the document from 5.2 to 5.6 is specifically then regarding Mr Marius' assassination.

**MS MASUKU:** That is correct, Commissioners.

**ADV SELLO SC:** So, it deals with both cases, but it separates them at page 152. And sets out the results  
20 arising from the investigations in respect of both cases. Am I understanding that document correctly?

**MS MASUKU:** That is correct, Commissioners.

**ADV SELLO SC:** Then we are back in your statement from paragraph 62.

**MS MASUKU:**

“Investigations were necessary to be carried over prior to making arrest in order to ensure compliance with the provisions of Criminal Procedure Act 51 of 1977. And to secure prospects of successful prosecution. The independent police investigative directorate's standard operation procedures expressly direct that arrests are not affected for the purposes of conducting the investigation. Arrests are affected once proper and thorough investigation has been concluded. And where sufficient admissible evidence exists to establish a reasonable suspicion based on the objective facts. That suspects have committed offence as contemplated in section 40 of the Criminal Procedure Act. Any arrest effected in compliance with these requirements is neither premature nor unlawful but is procedurally and substantively justified. Arresting suspects prior to the completion of the investigative steps would have been premature resulting in persistent

postponement of the trial pending completion of criminal investigation. And would in any event be inconsistent with the requirements of the Criminal Procedure Act.”

On the above statement, Commissioners, I am trying to express that should we have effected arrests before the investigation was completed. Let us say we arrested them in 2022. Now we are in 2026. Our case, maybe we were  
10 going to be having 30 percent to say 30 percent we do have a strong case but 70 percent we do not have a strong case. So, to avoid that, it is for us to conduct further investigation because we know that all these people, they are here.

Unfortunately, some of them died. Now we had 12. Then four died, including the recent one, Mr Pretorius. So now we are left with eight. And all of them, they died as a result of shooting. So, it was worth it. I know that there will be questions to say, but it was worth it when others have died. Unfortunately, we could not control that, but it  
20 was worth it to investigate it fully because if now we make arrests, our case docket is ready for trial.

So, if they go to court, the trial date will be set very soon. And we are sure that we will be getting conviction on this matter because it has been thoroughly investigated. So, we avoided the premature arrest to be done because it

was putting us in a lot of pressure whereby, we were going to even overlook some of the facts because we are being pushed by the time.

That is what I am trying to explain on this paragraph to the Commissioners. I understand that there was a delay, and I acknowledge that. But that delay, it was not purposely to say, I just closed the file and put it there. I did not do that. The investigation was continuing, even though it had to stop and go, stop and go. But at the end, 10 the investigation has been now finalised. Then any time, there will be the next step that will be done.

**ADV SELLO SC:** Thank you, Ms Masuku, for that clarification. Staying then at your page 17, you have a small heading there, the status of the matter, and you deal with that from paragraph 63. If you could then deal with the contents of 63 and following as regards the status of this matter.

**MS MASUKU:** The status of the matter:

20 “Following the conclusion of the investigations, and on the 4<sup>th</sup> of February 2026, I prepared and forwarded three reports as required by the law, attaching the complete docket each report to the following institutions. A formal IPID report to the DPP, recommending the

institution of criminal proceedings against 12 suspects, identified on page 1 of the report, is attached NPM10, a copy of this report.”

**ADV SELLO SC:** If I, you may then turn to your annexure bundle. Your NPM10 starts at page 155.

**MS MASUKU:** Okay, I am there, Commissioners.

**ADV SELLO SC:** I see it is the DPP memorandum addressed to the director of public prosecutions. And at the  
10 last page of that documented page 159, it is dated by yourself and your provincial head. And both of you signed and dated it the 4<sup>th</sup> of February 2026. Is that correct?

**MS MASUKU:** That is correct, Commissioners.

**ADV SELLO SC:** Going back then to page 155, I see that it bears a acknowledgement of receipt stamp by the office of the director of public prosecutions of the 4<sup>th</sup> of February 2026.

**MS MASUKU:** That is correct, Commissioners.

**ADV SELLO SC:** Now, once again, you recall when we  
20 read the first 2022 referral.

**MS MASUKU:** That is correct, Commissioners.

**ADV SELLO SC:** Commissioner Khumalo requested you to read the subject line. And do you confirm it is still the same, which is IPID investigation case docket for DPP consideration and decision?

**MS MASUKU**: That is correct, Commissioners.

**ADV SELLO SC**: And in terms of the IPID classification, once again, you referenced Section 28(1)(b) of the IPID Act. And it remains death as a result of police action. And the alleged offence you reflect is murder.

**MS MASUKU**: That is correct, Commissioners.

**ADV SELLO SC**: I will come back to that page and going back to page 158. As with the previous 2022 report to the DPP, you have the IPID request and the conclusion at page  
10 158.

**MS MASUKU**: That is correct.

**ADV SELLO SC**: My reading is that once again, under the request, item 4, you note that it is the request of the IPID that the NPA should, in terms of Section 179(2) of the Constitution, make a decision whether or not to institute criminal proceedings against the above-mentioned suspects and to carry out any necessary functions incidental to instituting criminal proceedings.

**MS MASUKU**: That is correct, Commissioners.

20 **ADV SELLO SC**: So once again, now February 2026, you have significantly updated your docket, as we have it. And you submit to the DPP requesting a decision as regards the institution of criminal proceedings against the suspects.

**MS MASUKU**: That is correct, Commissioners.

**ADV SELLO SC**: Now, I compared page 155, the front

page, with the list of suspects you had in 2022. And notably, I see new names on that list. And I think your second suspect, your third, I think my comparison was you have two new suspects on that, if you could read out their names. You recall that your original report to the DPP is at page 11 of 2022. It starts at page 11, the 2022 memorandum. And on my count, you have 10 suspects

**MS MASUKU**: Yes, Commissioners, I had 10.

**ADV SELLO SC**: And then on your 2026 reported page  
10 155, there are now 12 suspects. I see two new additional names at page 155. Who are they and how did they come to be added to the list? Thank you.

**MS MASUKU**: The two added suspects are Sergeant BW Sibande and Constable MR Khoza. Those are the two suspects that when we took it in December 2022 for the decision, they were not yet identified. But now they were identified, even though Khoza is deceased.

**ADV SELLO SC**: And that is the constable Khoza, in  
20 respect of whom you have filed a, what is the document called? Death certificate, annexed as NPM5V.

**MS MASUKU**: That is correct, Commissioners.

**ADV SELLO SC**: Now, I see as well here, you have included, as you say, Constable Khoza, you say since deceased. You have included Mr Van Der Merwe, and that is Marius Van Der Merwe, and Mr J Hanekom. You were

aware as of the date of this report that they are deceased, were you not?

**MS MASUKU**: That is correct, Commissioners.

**ADV SELLO SC**: Why are they still included on the list of suspects?

**MS MASUKU**: Commissioners, it is not for me to say because of now they are deceased, I must exclude their names. Because in the whole case docket, their names are always there. Even though I know that they will never be  
10 charged because they are no more. But I must include their names as part of my suspects, even though they are deceased.

**ADV SELLO SC**: Then that deals with your memorandum then to the DPP. Yes, yes, Commissioner.

**ADV BALOYI SC**: The death certificate of Constable Khoza says he died from unnatural causes. Do you know anything about the circumstances of his death?

**MS MASUKU**: Yes, Commissioners. He was shot at his residential place. Yes, yes, he was shot, Commissioners.  
20 Because it is a SAPS-investigated docket, because it is his murder, even though I do have the details of the docket. But if the Commissioners will allow me not to mention the details as to how was he shot.

**ADV BALOYI SC**: That is fine. Thank you.

**MS MASUKU**: Thank you, Commissioners.

**ADV SELLO SC:** And on that score to confirm, the death certificate is annexed to NPM5V at page 141. And it records the date of death as the 17<sup>th</sup> of October 2025.

**MS MASUKU:** That is correct, Commissioners.

**ADV SELLO SC:** And to confirm, I think you earlier testified that you never had opportunity to obtain a statement from Constable Khoza. It is not part of your warning statements that you have submitted and from part of the docket, is it?

10 **MS MASUKU:** That is correct, Commissioners. We are supposed to get his statement on the, I think on the 21<sup>st</sup> of October. We are supposed to obtain a statement in the non-arrival at the station for him to make a statement. That is when we are informed that he died, I think on a Friday of that following the Monday we are supposed to meet up with him.

**ADV SELLO SC:** Okay. Thank you. Then you may pick it up from your paragraph 63.2 at page 17.

**MS MASUKU:** Okay:

20 "I filed a negative report with the office of Ekurhuleni City Manager against three EMPD members. Brigadier Mkhwanazi, Constables Mackenzie and Stolls. As per item two of the report, and in direction the institution to institute disciplinary

proceedings against them. A copy of this report is attached as Annexure NPM11.”

**ADV SELLO SC:** And that Annexure NPM11 appears, Ms Masuku, in your annexure bundle from page 160?

**MS MASUKU:** Yes, Commissioners.

**ADV SELLO SC:** It is addressed, the heading is EMPD Memorandum. It is addressed to the office of the city manager at Ekurhuleni Metropolitan Department. For the rest of page 1, it looks same as for the memorandum for the  
10 DPP. It lists all the suspects, gives the full details of the case. And if you turn over to page 161 under item 2, you have a heading there, case docket contents. And in paragraph 2 of item 2, it reads:

“In terms of section 30 of the IPID Act, number 1 of 2011, read with the South African Local Government Bargaining Council, secular number 1 of 2018, you are hereby directed to initiate disciplinary hearing against.”

20 And then you list three members there. Brigadier JD Mkhwanazi, you have a number, service number. Constable A Mackenzie, you have a service number. And Constable KL Stolls.

**MS MASUKU:** That is correct, Commissioners.

**ADV SELLO SC:** Now, this report, as with the previous, is

dated the 4<sup>th</sup> of January 2026.

**ADV KHUMALO SC:** February, not January.

**ADV SELLO SC:** I am a month behind, thanks, Commission. 4<sup>th</sup> of February 2026. It bears, at page 160, a situ of Ekurhuleni stamp demonstrating receipt, but unfortunately not the full date is legible. What I can make out is 2026-02, which suggests February.

**MS MASUKU:** Yes, Commissioner, if you can check there, there is a small block on top, handwritten.

10 **ADV SELLO SC:** Yes.

**MS MASUKU:** Yes, it is the details of an acknowledger with a date. It is the 4<sup>th</sup> of February, yes.

**ADV SELLO SC:** Thank you. And this, I see you have titled it page or recommendation type negative. This is the negative report. I think we have spoken about with yourself and Mr Keefelakae that IPID files to the police.

**MS MASUKU:** Yes, that is correct, Commissioners.

**ADV SELLO SC:** Recommending disciplinary action be instituted.

20 **MS MASUKU:** Yes, that is correct, Commissioners.

**ADV SELLO SC:** Okay, that then I think will lead us to paragraph 63.3.

**ADV BALOYI SC:** Can I just check something, Ms Masuku? Starting from page 161, you have got that list of documents that you are providing to Ekurhuleni with this

memorandum. And if you look at the next page, 162, from A39 to A42, it seems to be the same material that we were trying to be careful here not to speak to or not to provide too much detail of. This is that lab, laboratory analysis. Does it mean that Ekurhuleni, EMPD now, or in fact let me say the city itself, the municipality itself, does it mean that they have the documents that we were looking at earlier which provide details of the forensic analysis and the conclusion?

10 **MS MASUKU**: That is correct, Commissioners. Commissioners, if I can just explain the process when we file a negative recommendation. It is when the case docket investigation has been fully investigated. Then I will have to file the recommendation to the DPP to decide whether or not to prosecute. But for the department, I will have to file a negative because after the investigation, I will have a feeling that these members, they must be charged departmentally.

20 And then filing that, I must give them the exact copy of a docket. All the documents that I took to NPA, I must give them all those documents as well. So, everything these reports are talking about, they all have those reports. And what is bad about it is you will provide them with that report. The information, yes, it is for the information to charge the members.

But the members, they must get that relevant information at the right time. But you will find that they will get the information before being formally charged. Then if it is like that, it leads to other consequences that might happen before we continue with our criminal case. Because now they are having all the information before the department has formally charged them.

But that is according to the regulations, if ever we file the recommendations negatively, we must give all the  
10 documents in the case docket. That is why, in other instances, it will happen that you have a case of murder whereby a police officer has been arrested at the scene. You have not filed a negative report as yet because you have not done your investigation.

You have got that prelim to prove that he is the one who killed this person. And it was not in the line of duty, so he must be arrested. Then you will find the department, because after getting that, you will follow up on the witnesses just to strengthen your case. Then you will find  
20 the department coming to you, requesting for the copies of the docket of what you have.

In that point, as an investigator, I must use my own discretion as to, should I give this department my copies or not. Because I must protect my witnesses. If I feel that I cannot give them this information because this is

prematurely, by the time I get to trial, where will be my witnesses? Then I can say, no, I am not giving you my case docket because I am avoiding exposing my witnesses to danger.

But that does not mean that the department cannot constitute the departmental on their own before my negative recommendation. If, like SAPS, if a member has been arrested in the cell, immediately they come to serve him with intention to suspend because already he is in the cells.

10 He will be suspended for that period in the cells, then come back, go to work, then processes will follow, but already it is registered that he is got a file where he is been charged departmentally.

But for EMPD, it is different. There are members, they will open their file. There are members, they will not open their files. Then the member will continue to work as normal and they will not charge them departmentally, citing that they are waiting for IPID to provide them with a recommendation. But we find it not okay because the

20 member was inside the cell and the crime committed is known.

The department is supposed to do their own investigation and do their own processes while we are still with our investigation. But unfortunately, that is not for us to sort that out. We just do the investigation, use our own

discretion to say I am not giving you the case documents, copies, I am not yet done with the investigation. Then up until I am satisfied, then I will provide you. That is how it happens, Commissioners.

**ADV BALOYI SC:** Now, let us come back where we are talking about you. We are talking about municipal police. You have made a negative recommendation, and you say you have to give them everything that you have. Has the IPID, is the IPID not considering seeking a change to  
10 regulations so that you protect some of the information? For example, when I look at your list, you have the name of a witness in that list. I understand your explanation that you have to give them that name and you have to give them the statement of that witness because that is what you have given to the public prosecutor, to the prosecution.

**MS MASUKU:** Yes.

**ADV BALOYI SC:** You have given them that, so you have an obligation to provide. But it seems to me obvious that that witness' name and statement should not be shared. If  
20 you are going to have a trial, it should not be given to the accused until those proper court processes, because there is a process when an accused person gets entitled to request a docket. But here with the EMPD where you are giving them a negative recommendation and you say they should institute disciplinary proceedings it seems to me

obvious that a witness in particular should be protected for the reasons that you have said.

Your lab reports and all of that forensic evidence, it seems it needs to be protected. Has there not been a discussion in the IPID to seek a change in the regulations that compel you to provide this kind of sensitive information, to hold it back until an appropriate time to disclose it? Because it is easy to imagine that unless the municipality officials or management are scrupulous, they  
10 will easily share this information, or they can easily share this information with employees to assist them.

**MS MASUKU**: Commissioners, according to our operating procedures, it is like that. We must give them all the case dockets. Yes, we do have that concern as well, but there is nothing we can do because they will come, the department will come, the EMPD will come with an excuse to say you gave us not all the information, so we cannot institute disciplinary against this person.

But for the Commissioner that the Commissioners  
20 are raising this, I am happy my boss is here to listen so that they can take it further. He was here earlier, maybe he left, but I know that he is watching wherever he is. They can have a look at that because it does compromise our investigation, hence even if my case, if it goes to court, it is fully investigated, it is ready for trial, but it does not mean

that if it goes to court next week, then next month it is trial.

It will depend on the court rule that it can take time to get the specific dates. But now, my witnesses are now exposed. By the time I get to trial, my witnesses are nowhere to be found, and it happens in a lot of cases that we end up losing. You go back to look for your witnesses he is no longer staying there. He is no longer even found. More especially if it happens mostly to foreign nationals.

Whenever they had open cases, very good cases,  
10 that we see that will be having conviction here. It is time for trial you cannot locate them anyway. Even if you locate them wherever you locate them, they are no longer interested because they have been paid. When you talk to them, no, I do not want to, I am no longer interested. We cannot push them. Then we lose cases.

**ADV BALOYI SC:** And in extreme cases, we have had evidence witnesses get killed to prevent them testifying.

**MS MASUKU:** Yes, that is true, Commissioners. In our office, we have a case whereby it was sitting in Randburg  
20 Court, whereby the witnesses have testified. One of the witnesses, if I am not making a mistake, was supposed to go the following day for cross-examination. Then they were assassinated just at the gate of the court in the morning before they get to court. It was a police case. They were testifying against the police officers. Because there will be

a hitman in between, we cannot pin it back to the police officers. That is the sad part of it. But the process itself, it exposed our witnesses to danger.

**ADV BALOYI SC:** Thank you, Ms Masuku.

**ADV KHUMALO SC:** Ms Masuku, my concern on page 163, I do not know if it could have been avoided. And we do not have to read it. If you just look at the last paragraph, just before paragraph 4. So, the last paragraph before paragraph 4, it talks about swabs that were obtained and  
10 their DNA results. So, information like that, IPID must find a way of, when producing this report, maybe not put it in the way that it has been put here. Because you leave it with the legal department, and once you have left this report with the legal department, nobody knows who the legal department shares it with and whether it reaches the suspects before the disciplinary process has even started. And it can have various consequences.

**MS MASUKU:** Yes, I agree to that, Commissioner, as to say things like this, because it is supposed to have a  
20 confidentiality. When it reaches that office, that officer in charge of this document is not supposed to share it, but they do share it. As a result of this, there were rumours and allegations to say one of the suspects died because they had access to what our final investigation is saying.

And I can believe that, because it happened

immediately after we had given the department's copies. But I cannot say myself as an investigator, I cannot say that no, I do not want to talk about this, because even my provincial head will not sign it if it does not have all the information that is necessary. He will return it back to me to say no, but this is not fully – so, but I think they are taking note of that, maybe something will happen in future.

**ADV SELLO SC:** Thank you, Commissioners. And perhaps, and it is not directed to you personally, you said  
10 your boss was still around, but even if he is not, the message gets to him. This might be an opportunity for IPID management to sit around the table with a view to formulate recommendations to the Commission as to what legislative changes must occur to afford the very protections that we are talking of, firstly, but to enable, nonetheless, so to determine the nature of information that is sufficient for the police departments to take disciplinary action. So, we could do that.

**CHAIRPERSON:** I see that Ms Masuku's boss is back in,  
20 so he has heard what you are saying.

**ADV SELLO SC:** He has heard what we are saying. So, then we will come back then to the Commission with IPID recommendations regarding appropriate changes to be made to the law on these issues.

**MS MASUKU:** Thank you very much, Commissioners. I

will relay the message to our department, and I fully agree that it will also help us to have successful convictions because we do prosecute, but some you cannot convict because the witnesses were there in court to come and prove that this really happened. The others will be struck off the roll. It is better if it is struck off the roll. The others will be withdrawn. Then there is nothing we can do if the witness is saying, no, I am not interested anymore.

**ADV SELLO SC:** Yes. Thank you. Commissioners, I know  
10 I have significantly eaten into your lunch hour. We are almost at the tail end of Ms Masuku's testimony.

**CHAIRPERSON:** Let us finish with Ms Masuku, yes.

**ADV BALOYI SC:** Ms Masuku, it is your lunch hour too.

**ADV SELLO SC:** Well, I am sacrificing my own lunch hour, but I should not encroach on yours. Ms Masuku, that then brings us to your paragraph 63.3, if you could deal with that.

**MS MASUKU:**

20 “A final report to the National Commissioner of SAPS against four SAPS members, which is referred to as Constable Fritz, Sergeant Sibande, attached to Brakpan SAPS, Constable Eksteen, who is attached to Benoni Flying Squad, and directing the

institution to institute disciplinary proceedings against them. The fourth member is Constable Khoza, who was included in the list and was investigated as a suspect, is since deceased, having passed away on 17 October 2025. A copy of his – a copy of this report is attached as Annexure NPM12.”

**ADV SELLO SC:** And your NPM12 is in your annexure  
10 bundle from page 165.

**MS MASUKU:** I am there, Commissioner.

**ADV SELLO SC:** And it is headed SAPS Memorandum and addressed to the Office of the SAPS National Commissioner, South African Police Service. And it is, for all intents and purposes, similar to the EMPD Memorandum, Annexure NPM11, except for item 2 of the reported page 166, where you specify the names of the police officers against whom disciplinary action must be taken. Do you confirm that?

20 **MS MASUKU:** I confirm that, Commissioners.

**ADV SELLO SC:** And I see the change there, is this memorandum addressed to SAPS at 166. Then instructs that disciplinary proceedings be taken against our Constable Fritz, with the PERSAL numbers reflected there, Sergeant Sibande, similarly with a PERSAL number. You

have listed Constable MR Khoza, but as you indicated in paragraph 63.3, you are aware that he has since passed on. But I think based on the explanation you gave, you nonetheless retain them on the list when there was one suspect. Is that correct?

**MS MASUKU**: That is correct, Commissioners.

**ADV SELLO SC**: And then lastly, Constable JM Eksteen with a PERSAL number.

**MS MASUKU**: That is correct, Commissioners.

10 **ADV SELLO SC**: But the rest of the document reads the same as with the EMPD report, for all intents and purposes. Similarly signed on the 4<sup>th</sup> of February 2026. And from page 165, at page 165, we note that there is a signature acknowledging receipt on the 4<sup>th</sup> of February 2026.

**MS MASUKU**: That is correct, Commissioners.

**ADV SELLO SC**: Besides that, is there any other comment you would like to make to this report?

**MS MASUKU**: No, Commissioners, except for that  
20 Constable Khoza is still here on the list. It is for SAPS to give us feedback and tell us that he is deceased so that we can just file the documentation, even though we know. But because we have got our own disciplinary processes as well, we must get a certain document from SAPS that will prove that he died. As well as Reservist Constable Fritz. We know that he resigned. He is no longer a reservist, but

we retain him because when he committed crime, he was still a reservist at SAPS.

**ADV SELLO SC:** So, it is for, if I understand you correctly, that it is for the SAPS to inform you that like Constable Fritz is no longer a reservist and to give you proof thereof.

**MS MASUKU:** That is correct, Commissioners.

**ADV SELLO SC:** That then will take us to your paragraph 64.

**MS MASUKU:**

10                    “It is best mentioning that the three reports list all suspects, including those since deceased. The reason is that although we had become aware of their deaths until IPID is formally so advised by SAPS, we must retain their names on the list of suspects. The matter is currently with the Director of Public Prosecutions, North Gauteng. A designated advocate has been allocated

20                    to the matter for which our office is currently awaiting confirmation, authorising us to proceed with the prosecution of the various members of different security clusters, including EMPG and SAPS. The final consultation

with the DPP will be from the dates mentioned in this report.”

**ADV SELLO SC:** Now, you say you currently are awaiting authorisation to proceed with the prosecution. That is the request you have directed to the DPP, correct? In terms of paragraph 4 of your report.

**MS MASUKU:** That is correct, Commissioners.

**ADV SELLO SC:** Now, when the DPP and if the DPP comes back to you and confirms that the DPP is proceeding  
10 with the prosecution, are there any further steps for you to take?

**MS MASUKU:** Yes, Commissioners. When the DPP, when the final decision has been made to say these following suspects must be arrested, then I will have to make an application for J50, which is the warrant of arrest. Then once signed by the relevant magistrate of that court, then I will go out and execute the arrest.

**ADV SELLO SC:** So, your decision to arrest depends on the DPP determining to proceed with the criminal  
20 prosecution and advising you as such.

**MS MASUKU:** That is correct, Commissioners, because remember that even if I can say I want to do it on my own, I am not the one who will be placing the dockets on the court roll. And what is good about this matter is it is got its own advocate at the DPP who is dealing with it ever since, who

has been guiding me to say, you do this, you do that. So, the advocate understands, because I do not want to mention the gender.

**ADV SELLO SC:** No, do not.

**MS MASUKU:** The advocate understands very well as to how far we are. So, we know that once the arrest has been affected, it is either the advocate will come to that specific court to place the dockets on the roll, not to give it to these other prosecutors from that court.

10 **ADV SELLO SC:** Okay. And you have set out a date in paragraph 65 when you will be having a final consultation with the DPP on this matter.

**MS MASUKU:** That is correct, because I am in contact with the advocate dealing with this matter, so these are the dates we agreed on to say we will sit down so that the final decision must be made.

**ADV SELLO SC:** And then thereafter, you will expect a formal decision by the NPA, and you can take your next steps.

20 **MS MASUKU:** That is correct, Commissioners.

**ADV SELLO SC:** Then, if you could deal with paragraph 66 and following.

**MS MASUKU:**

“I wish to further state and record that Marius, at the time of his death, had not

been classified as Section 204 according to Criminal Procedure Act 51 of 1977. He was not classified as Section 204 witness because that can only be determined by the NDPP.”

**ADV SELLO SC:** So, we know Mr Van de Merwe was killed on the 5<sup>th</sup> of December 2025.

**MS MASUKU:** That is correct, Commissioners.

**ADV SELLO SC:** So, you are saying at the date of his  
10 death on the 5<sup>th</sup> of December, he was not what we normally refer to as a Section 204 witness yet did not been so declared.

**MS MASUKU:** No, he was not, Commissioners. He was still a suspect.

**ADV SELLO SC:** He was still a suspect.

**MS MASUKU:** Yes.

**ADV SELLO SC:** And that is because it is a determination that can be only made by the NDPP.

**MS MASUKU:** That is correct, Commissioners.

20 **ADV SELLO SC:** It is not in your space to declare him or anyone such a witness.

**MS MASUKU:** No, we do not have that authority to do that. But even though, Commissioners, if I can just comment a bit on that, a Section 204 witness must tell all the facts of the matter that happened, even if it incriminates him.

**ADV SELLO SC:** Yes.

**MS MASUKU:** But Marius did not tell all the facts. So, for me, he was not going to be declared as a Section 204 witness because he did not tell all the facts. When he came to the Commission, he added more information that he never told us.

**ADV SELLO SC:** Yes.

**MS MASUKU:** And then that information that was on the Commission, going back to my case docket, I realised that,  
10 yes, this is what transpired because I have got some proof to refer to. Then she was not going to be declared as a 204 witness.

**ADV SELLO SC:** Okay.

**MS MASUKU:** He was not honest enough.

**ADV SELLO SC:** Okay. That is clarified, I think. If you then can deal with your paragraph 67 and following.

**MS MASUKU:**

20 “I would further like to add that during the investigations into this matter, three of the suspects were killed, and their murder cases are investigated by SAPS. Killed suspects were Jaco Hanekom, as per mentioned March 2023 Boksburg CAS number. Constable Khoza, as per mentioned docket CAS number from the

Tsakani of October 2025, who was attached to Brakpan Police Station. The above two suspects were killed days before meeting with the IPID personnel for interview in relation to this investigation. Marius Van Der Merwe was later killed as per CAS75-12-2025, as well after giving the evidence at the Madlanga Commission of Enquiry. His murder case is investigated by SAPS as well. The timing and circumstances of these deaths raise serious concerns regarding the safety of the witnesses and the potential obstruction of the ongoing investigation which the Commission should consider. A further suspect, Willem Pretorius, took his own life on the 7<sup>th</sup> of February 2026, as per mentioned CAS number.”

20 **ADV SELLO SC:** And that then leads us to the next chapter. If you could just deal with that, both of those paragraphs.

**MS MASUKU:** Yes, Commissioners. On this paragraph, there is somewhere whereby I have mentioned the case number of Jaco Hanekom.

**ADV SELLO SC:** Yes.

**MS MASUKU:** Even himself, we were about to see him when he died. We remember that on the day of incident, when he died, my colleague was in court for bail application that included Stolls.

**ADV KHUMALO SC:** Yes.

**MS MASUKU:** In Mackenzie. On that day, that is the day because we were communicating with Marius. He was the one who was helping us as to how to get hold of these  
10 people because he knew them better. Even though we were protecting him during that period because we did not want them to know that he gave statement. We will find a way of getting hold of them, but we did not want them to see that there is one of them who came out with the information.

We had tried to make contact so that we can get hold of Hanekom. Then he was aware that he was supposed to meet with us. But before we could meet him, then he was killed. Same applies to Khoza. But I am not saying he was killed because of this matter. But they died  
20 before we can meet up with them.

**ADV SELLO SC:** Yes, noted. We are then on the part of your concluding remarks at page 19. If you could deal with that.

**MS MASUKU:**

“I am aware of allegations that IPID

either deliberately sought to subvert the investigation of Mbense. I am also aware that some EMPD officers shared his unfortunate view as testified before this Commission by Chief of Police Mapiyeye and Commissioner Spies. Nothing could be further from the truth. I accept that these EMPD senior officers were unaware of progress in this matter. I confirm that we did not provide ongoing updates. We could not. This is so because we were investigating, amongst others, members of the very EMPD and updates on investigation had a real risk of undermining our work. It was necessary to keep progress as secretive as possible unless the suspects became aware of the progress made and the risk of arrest faced. In such circumstances, not only would the case be undermined, but our lives would also be in grave jeopardy.”

I am trying to explain to Commissioners that I understood that when the testimony was given by our EMPD senior managers, it is in South Africa as if we were doing this

deliberately so that maybe we are protecting EMPD officers of which we are not. We do not report to the stakeholders. It is either EMPD, any MPS organisation, SAPS organisation, we do not report to them in progress of our matters.

They will only hear from us if our investigation is finalised to say we are charging the following members. But that does not stop us from communicating with these senior managers because if a member falling under them  
10 committed another crime somewhere, I need to contact the senior officer at that precinct. If I will not be communicating with two senior officers that gave evidence, testimony here, Julius Mkhwanazi must be contacted because it was his members.

Whenever we investigate a member, on most of our cases as a team, Julius Mkhwanazi must give the commander's statement. There is no way that we could have avoided to say because we are investigating him in this matter, now we do not want to talk to him. We talk to  
20 them. Not only them, any police officer, even if this police officer, I was charging him this morning for a certain matter. If another matter comes in, I will contact the same officer again because I am doing my job. So, ...[intervenes]

**ADV KHUMALO SC:** Can I ask you a question, Ms Masuku? Why not contact the chief of police in that

department? Why contact a mid-level brigadier who is responsible for a division within EMPD? Why not contact the head of the EMPD if you are investigating members of the EMPD? I will tell you why I am asking.

Suspicion arose and we heard from the EMPD senior people who came here that every time IPID went to EMPD offices, they would have meetings with Julius Mkhwanazi and they, as chief of police and deputy chief of police, would not know what those meetings were about.

10 And that created this suspicion that IPID is cozying up to Julius Mkhwanazi and protecting him. So now that you have the context and the background, why not deal with the chief of police or deputy chief of police? Because the people you are investigating are also their members. They are not Julius Mkhwanazi's members. Do you follow?

**MS MASUKU**: I follow you, Commissioner. Commissioner, I will respond, but I will not respond fully because I think my colleague who is coming will have to respond to that. So, I do not want to take his responses, but in light, it is not that  
20 even them, they were never contacted. There is proof of that. They were contacted. And the level of communication is the same to all of them.

Furthermore, we conduct station lectures to the members to teach them about IPID's mandate. Because members, they tend to be hostile when we arrive at the

crime scenes. More especially to the crime scenes whereby they have fired shots. We have to disarm them for the firearms to be tested. That is when the hostility will start to say, why are we disarming them?

Because we think they have a lack of knowledge of our mandate. They need to understand our mandate first before they can get to these conclusions they are having about the department. It is part of our duties to conduct the station lectures. There are a few station lectures that were  
10 arranged with Julius Mkhwanazi. They were fruitful. We went to their college. We did the station lecture.

It was Mkhwanazi who helped us in that. The reason was because his members are complaining to say, we seized their firearms, they do not get them back. It takes time to be tested at our forensic laboratories. Even at their precinct in Kempton Park where we conducted a few station lectures there with other units. Those senior managers were there.

Because we take photos. When we do that, our  
20 department wants photos to see who was there and all that. We have photos when we are standing with these officers. In my office, I have plugged them on the wall. I personally, even after they gave testimony, I personally spoke to one of them and said I am very disappointed as to you cannot go to the Commission and paint the effect that looks like we

are not doing our duties.

And they had wrong information thinking that this case was investigated by my colleague. Meantime, it was me. I said to them, if you wanted to know the details on the matter, you should have approached me. And the reason I was talking to him, Commissioners, I will be honest, I was not happy when Marius came to give evidence. Because I was protecting him as well.

I remember when I was called, when it started that I  
10 also needed to go for consultation to the investigators of the Commission. When they told me that the following day Marius was going to appear, I told the investigator to say my heart and soul. I wish I knew earlier because I did not want this guy to come and talk publicly about this. If there was another way of giving this information to the Commissioners, that way was going to be used.

Rather than he comes and talk publicly about this. Because my only concern was about his life. And to my concern, my case was towards the end of it. Then I  
20 realised that now he is derailing my whole investigation because now everyone must know. And my worst worry was, even these people, they were confused as to who is the investigating officer because we were trying to confuse them by all means.

Then I became worried to say, because I will be

called here, now they will know that this is the investigating officer. Because to other people, they will say it is me, to others they will say it is my colleague, Thulani Magagula, to others they will say it is Thulani Dlamini. It was okay like that when they are confused. But now, because it came out, I blamed the EMPD to say they should have called us to say we want to know what is happening on this matter.

If they are not happy, we have got managers as well to talk to them, to say we are not happy with their  
10 investigation. But two, it is not for them to tell us about our investigation. We are independent. We do not take any instructions from them. We do our duties. We are impartial. We do not want to be influenced by them. Hence, if ever we do our investigation, we will not go back to them to say, because I said contact Constable so and so, so this is how far I am with my investigation concerning him.

No, you will hear from me the last day when I say I need Constable so and so. So, after that I will not tell you  
20 anything up until I file the negative report. So, Commissioners, I know, even to South Africa, I know it looked like we were protecting officers. None of the officers we are protecting. My team, we are the most arresting team in Gauteng.

Commissioners, at your own time, if you can just go

Google arrest of EMPD members and see what you will find that will follow, you will see my personal car coming because we are the only people that only come there to arrest those same EMPD members in their own offices. We will inform them, the seniors, to say on this day we are coming to arrest so and so, so and so, so and so, so and so, so and so. After that we are gone.

None of them is protected. But I understand it is because of this was involving Julius and it took time for him  
10 to be arrested. But he was never protected. As you can see that his statement was taken long ago, not because of this Commission. If the time comes for him to be arrested, he knows very well that we will arrest him. It is not that we are scared. We do get threats, yes.

But that does not stop us from performing our duties. Hence, even this matter is finalised. If the instruction comes next week to say effect arrest, I will go and arrest them. Then I will see later as to how protected I am. But I will have to continue with my duties. We have  
20 never protected anyone. We are communicating with the seniors, all of them.

But I will park it for my colleague to come because he is got proof as to his – we have been communicating at the same level with all of them. But the picture they painted here, that is not a good one. And Commissioners, I

tell you, honestly so. If you go to an Ekurhuleni, they hate Mr Magagula because he arrests. That is the most arresting member.

We are working together. Even if the threats come, because the officials have got their WhatsApp groups on the teams, it is not all of them that hate us. Something will be posted about us. We can go there to make arrests. Maybe it is about five members from our office we are making arrests to these members. We also invite SAPS to help us  
10 because we do not have vehicles to put these people when they are arrested.

We do not have those kinds of cars. We must use SAPS to transport the suspects. But if something comes out about that arrest, all the groups that they socialise in, they will single out Nomsa Masuku and Thulani Magagula as these people, they hate us. Meantime, we are doing our duties. It is very painful for an officer, a high-ranking officer, to dent our image in a wrong way. Meantime, we do our job the right way. Thank you, Commissioners.

20 **ADV BALOYI SC**: Ms Masuku, it seems, to me at least, that you do provide an explanation at paragraph 69 why the suspicion would have arisen that you seem to be protecting Brigadier Mkhwanazi. And you explain that, well, it is because we could not share information with them. You could not tell people in the EMPD what it is you are doing.

So, I think insofar as it relates to Brigadier Mkhwanazi and maybe this case in particular, perhaps in fairness to them, the explanation you give at paragraph 69 that they would not have had information may well excuse them from the views they held, the wrong view that they held.

And perhaps also, let me speak for myself as well, that looking at the dates, for example, when Mr Mbense was killed, discovered, when IPID became involved, until you explained that, in fact, there has been investigations, it had  
10 raised a question about why it would take so long. Is IPID really doing its work? So I think those questions needed you in the witness box today to clarify and put any concerns, uninformed concerns, it turns out, from your evidence is clear that the concerns were indeed uninformed, that you have clarified them and perhaps take your piece from that, that you have explained to the Commission fully and to the nation that, in fact, the suspicions and concerns were uninformed and had no basis in fact because you have provided us with the facts of these investigations. Thank  
20 you.

**MS MASUKU:** Thank you, Commissioners. Yes, Commissioners, I take that. Even though they have got my cell phone number, they should have called to say, we are intending to go to the Commission regarding this. Then I was going to be forced to, even though I was not going to

go deep on my case, but I was going to be forced to show to them, to say, you know what, the investigation is at this level.

If you do this, you are exposing Marius Van Der Walt because he will go there and talk, of which he gave me this statement in 2022, but I never told anyone, even in my office where I am working in Johannesburg. My colleagues never knew that I was investigating this matter. When it was out on the Commission, everyone was asking as to  
10 what case are they talking about because we know nothing about this matter.

Because this matter, we kept it secret. Then for it to be announced, for me, it was very painful. If I had powers, I was going to come to the Commission and say, please, I am pleading with you. Can I give this information on the side, not on this kind of a platform? Because I was protecting Marius. I did not want him to come. And 2, knowing Marius that he can talk, I was worried for the family to hear the full details of what transpired on the day of  
20 incident, the painful death of Mr Mbense.

I was forced to inform the family prior, to prepare them to say, I have been informed that one of my suspects is going to the Commission. Be prepared to hear more details that I cannot divulge to you because they are too painful. But it is done. I just thank the Commissioners that

I got this opportunity to come and explain because Commissioners, we work for IPID, we have an identity card that we carry with ourselves.

It shows from far that I am from IPID. Even wherever in public areas, when you walk, they see this IPID thing. They say, wow, you are working for IPID? That corrupt department. And we are not. It is just that we are overworked. That is why our cases, they look so – the investigation is going very slow. We are overworked. It is  
10 very difficult for one member to carry more than 400 case dockets.

You will work on this docket. You put it aside. You go with your cycle. By the time you get there, 12 months are gone on this one. You never came back to this one. In between, we have courts. Last year, for three full months, I was in court from the 2<sup>nd</sup> of April up until July. I was testifying at High Court. Not going to the office. Imagine that these three months that I have lost in my investigation of other matters.

20 That one that I am testifying also in, it is very important because somebody was killed. And thanks God, on the 16<sup>th</sup>, they are being sentenced. It is torture as well. That South Africa needs to know that we are working. It is just that they cannot see, but we are overwhelmed by work. We do not have knock-off times. You come to our offices

you will find me in the office 12 o'clock midnight.

I am still sitting in the office. The security guys of the building, they know me. I have got their contacts. When they see my car parked in the parking, they know that I will call them at midnight to say, come and open for me at the exit. I am leaving now. I am going home. The following day, I must be back to the office. That is the kind of work that we are doing.

It is very stressful. It is too much work that we are  
10 doing, but we do not stop. We continue. So, South Africa,  
you must bear with us. It is too much for us, but we will  
continue with the support of the community. If we do not  
get support from them, it is difficult for us. Thank you,  
Commissioners.

**ADV SELLO SC:** Thank you, Ms Masuku. Commissioners,  
unless there are further questions, that is the testimony of  
Ms Masuku. And I think for the record, I should place that I  
have exhausted the Commissioner's lunch hour now. Thank  
you.

20 **CHAIRPERSON:** Thank you, Ms Sello. Thank you very  
much, Ms Masuku. We will adjourn and resume at 3  
o'clock.

**ADV SELLO SC:** Yes, Chair.

**CHAIRPERSON:** We want to see you, Ms Sello, the  
Commission secretary and the Commission spokesperson,

outside now, now, now.

**ADV SELLO SC:** We shall be there, Chair.

**CHAIRPERSON:** Thank you very, very much, Ms Masuku.

**MS MASUKU:** Thank you very much, Commissioners. But Commissioners, before you leave with your Commission, I will request the Commissioners to maybe have some recommendation to our department to say something can be done regarding the security for the members working for the department.

10 **CHAIRPERSON:** May that be included in what Ms Sello suggested earlier, which was that a supplementary statement or affidavit be filed with the Commission suggesting what IPID wants to see done or wants the Commission to recommend. And as I said earlier, Mr Keefelakae is here and he has heard everything. So, I assume that you two, as being somebody who is in the coalface, as it were, will participate in that process and that it will not be left to those in management because people who actually experience it, who feel it, are people like you,  
20 the foot soldiers.

**MS MASUKU:** Thank you, Commissioners.

**CHAIRPERSON:** Thank you very much. Thank you.

**NO FURTHER QUESTIONS**

**INQUIRY ADJOURNS**

**INQUIRY RESUMES**

**CHAIRPERSON**: Yes, Ms Sello.

**ADV SELLO SC**: Thank you, Chair and Commissioners. Chair and Commissioners we are ready to start with our third IPID witness for the week. His name is Mr Thulani Magagula and the witness has indicated that he would like to be sworn in, thank you.

**CHAIRPERSON**: Good afternoon Mr Magagula.

**MR MAGAGULA**: Good afternoon, Commissioner.

**ADV SELLO SC**: Apologies. Mr Magagula please press  
10 both. On each there is a button, no at the bottom.

**CHAIRPERSON**: Down, down, silver in colour.

**ADV SELLO SC**: All the way down. Both of them please.

**CHAIRPERSON**: Yes.

**ADV SELLO SC**: And preferably keep them on throughout.

**CHAIRPERSON**: Ja, leave them on throughout. Do you swear that the evidence you are going to 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”.

**MR MAGAGULA**: So help me God.

20 **THULANI MAGAGULA** (duly sworn states)

**CHAIRPERSON**: Thank you.

**ADV SELLO SC**: Thank you, Chair. Good afternoon, Mr Magagula.

**MR MAGAGULA**: Afternoon, SC.

**ADV SELLO SC**: I apologise. I do the very same thing I

just pointed out to you. Good afternoon and welcome. Mr Magagula, do you confirm that you have provided a statement to the Commission for purposes of your testimony today?

**MR MAGAGULA:** Yes.

**ADV SELLO SC:** You should have next to you three files. One is a smaller white file and the other two are bigger files. Do you confirm?

**MR MAGAGULA:** Yes I confirm.

10 **ADV SELLO SC:** If you look at the spine of the file you will see all of them bear your name and then below your name it will either say statement or it will say annexures.

**MR MAGAGULA:** Yes.

**ADV SELLO SC:** I would like to refer you to the smaller file which is marked Thulani Magagula statement, please, if you could check that file.

**MR MAGAGULA:** I got it.

**ADV SELLO SC:** If you go to page 1 of that file, that document it has in the tramlines the following, “witness  
20 statement of Thulani Magagula”. You see that?

**MR MAGAGULA:** Yes.

**ADV SELLO SC:** I would then like to refer you to page 24 of that same document and it bears your signature. It bears a signature. Please confirm that it is your signature.

**MR MAGAGULA:** Yes, this is my signature.

**ADV SELLO SC:** I see that you did not date it. What date would you, when did you sign this so we can formally date it?

**MR MAGAGULA:** I signed this, today is ...[intervenes].

**ADV SELLO SC:** Thursday. Today is Thursday, the 12<sup>th</sup>.

**MR MAGAGULA:** It was on Tuesday if I am not mistaken.

**ADV SELLO SC:** Okay, so 10/02/2026. Thank you, duly noted. And do you stand still by the contents of this document?

10 **MR MAGAGULA:** Yes.

**ADV SELLO SC:** I would like then to refer you to page 1 of the same document, back to page 1.

**MR MAGAGULA:** Yes, I am with you.

**ADV SELLO SC:** If you are there you at page 1 deal with, you have a heading there “introduction” and you introduce yourself, what you do. If you could deal with paragraphs 1 to 4, but please note, do not read out your personal details such as PERSAL number or your cellphone number.

**MR MAGAGULA:** Yes.

20 **ADV SELLO SC:** Thank you.

**MR MAGAGULA:** -:

“I am an Assistant Director:  
Investigation within the Independent  
Police Investigative Directorate, IPID.  
My work address is number 20 Albert

Street, 8<sup>th</sup> floor, Bram Fischer Towers building, Marshalltown, Johannesburg.”

Paragraph 2:

10 “I submit this statement in response to allegations levelled against IPID in generally and me in particular by EMPD Chief of Police, Mapiyeye, and Commissioner Spies regarding the conduct of investigation involving members of EMPD. The allegation as I understand them are that I as an IPID investigator either deliberately sought to either undermine or delay investigation that had a potential to or did implicate Brigadier Julius Mkhwanazi of EMPD. I deny this allegation and I will demonstrate to the Commission that they are factually incorrect.”

20 **ADV SELLO SC:** Thank you. If we turn then to page 2 of your statement, you provide onto page 3 your background, if you could summarize the background that you set out from paragraph 5 to the Commissioners. You may read or you may summarize as most comfortable for you.

**MR MAGAGULA:** From page?

**ADV SELLO SC:** Page 2 from paragraph 5 you have a new heading there, “my background”.

**MR MAGAGULA:** -:

10 “I was employed by South African Police Service on the 1<sup>st</sup> of October 2001 and completed my basic training at the Tshwane SAPS Training College, which is situated in Pretoria West. I completed tactical policing course, level 1, in Maleoskop SAPS College on 2002-06-21. I successfully completed my basic field training, example practical training, from 2002-04-29 to 2002-09-13 at Johannesburg International Airport, which is now called OR Tambo. I completed my national diploma in Tshwane University of Technology in 2005. I obtained a diploma NQF level 5 in criminal justice and forensic investigation at the University of Johannesburg. Subsequently, I was assigned to work at Johannesburg International Airport, which is called OR Tambo.”

I just want to place on record certain things.

**ADV SELLO SC:** Yes, please.

**MR MAGAGULA:** Yes. In my career both as ...[indistinct] and IPID, I received commendation from the Minister. I won a Minister's award in 2016 and I also got commendation for most conviction in 2016 in the whole IPID department.

**ADV SELLO SC:** Noted, thank you.

**MR MAGAGULA:** I also, I was also invited in Mozambique by the former President of Mozambique, Joaquim Chissano, where I was given an award, not in a form of a monetary value, it was just a cup for doing an excellent work on the matter of Mido Macia who was drugged in the street of Daveyton by police officers. So I successfully investigated that case and the eight policemen were found guilty and given 15 years.

**ADV SELLO SC:** 15 Years you say?

**MR MAGAGULA:** Yes.

**ADV SELLO SC:** Thank you. Yes.

**MR MAGAGULA:** -:

20 "I was placed at Client Service Centre, sometimes posted as a Commander at the Client Centre ahead of my peers, holding the rank of Constable. My primary duty was to ensure that the police station offered efficient, lawful, and professional policing service while

safeguarding personnel, detainees, and the public. Following the introduction of the crime office nationwide by the National Commissioner of the South African Police Service, I was transferred from the Client Service Centre to the crime office. This office is a subcomponent of the detective division within the structure of the South African Police Service. While working at the Crime Office, my duties included receiving newly reported cases dockets from the CSC Shift Commander, investigating cases, gathering evidence, interviewing witnesses, tracing suspects attending to serious crime scenes, and preparing dockets for court. I was later placed at the detective unit to fully investigate dockets from preliminary investigation to court-ready dockets. I was assigned to investigate fraudulent passport and visas as per sections 49 of the Immigration Act. In 2006-09-06, I was placed to work at the task team cases

at Johannesburg International Airport.  
The task team was under the  
leadership of Colonel Mogale, now  
Major General in the national office of  
SAPS. I was subsequently sent to the  
detective learning program in  
Hammanskraal SAPS College. In the  
year 2006, I attended the detective  
learning program DLP at  
10 Hammanskraal Training College from  
2006-09-04 to 2006-12-15. On 2007-  
04-01, I joined IPID. At the same time  
as the independent complaints ...”

**ADV SELLO SC:** Please start that sentence again from  
paragraph 10.

**MR MAGAGULA:** Okay.

20 “On 2007-04-01, I joined IPID, at that  
time called the Independent Complaints  
Directorate, ICD. It was the same year  
in 2007 that I was promoted to the rank  
of Sergeant, and I opted to join  
Independent Complaints Directorate,  
ICD, as a senior investigator. I was  
promoted to the current rank of  
Assistant Director in 2016. I was

appointed Assistant Director in terms of section 22 of the Independent Police Investigative Directorate Act, 1 of 2011, in 2016.”

**ADV SELLO SC:** Thank you. I think that is clear. We can then move on to your next, the next part of your statement. Here you deal with the IPID itself, but as you probably are aware, we have heard the testimony of Mr Keefelakae, who I understand is your senior, is that correct?

10 **MR MAGAGULA:** Yes.

**ADV SELLO SC:** He has testified extensively, I think, insofar as the general powers and duties of IPID are concerned.

**MR MAGAGULA:** Yes.

**ADV SELLO SC:** You confine, as I see in your statement, yourself to IPID Gauteng, and in particular, in the area in which you operate.

**MR MAGAGULA:** Yes.

20 **ADV SELLO SC:** If you turn overleaf from paragraph 15, you then address your responsibilities as a supervisor.

**MR MAGAGULA:** Yes.

**ADV SELLO SC:** With those few comments, can you then start your testimony from paragraph 12?

**MR MAGAGULA:** I start from paragraph?

**ADV SELLO SC:** 12, one two at page 3. We are still at

page 3 under the heading “the Independent Police Investigative Directorate”.

**MR MAGAGULA**: Yes.

“The Independent Police Investigative Directorate. The IPID, Gauteng office is divided into four districts, namely the West Rand Sedibeni district, this is one district; Johannesburg Soweto District, this is the second district; Ekurhuleni Sidibeni district, this is the third district; and Tshwane district. Each district has its own supervisor. I  
10 served as the supervisor for the Ekurhuleni area, overseeing a team of six investigators, which includes three senior investigators and two investigators. Within the Ekurhuleni area, there are 43 police stations, including SAPS, specialized units, the Directorate of Priority Crimes is one of them, Crime Intelligence, National Intervention Unit, K9, Flying Squad, and etcetera, and the Ekurhuleni Metro Police. The stations have been divided among the investigators, including myself. The Ekurhuleni area is  
20 burdened with a high volume of cases. My role is also to provide support to ensure timely case progression as ongoing targeted killings of suspects and threats to the team underscore the critical need for coordinated teamwork and vigilant oversight. The threats in the Ekurhuleni remains a reality which the IPID management continues to mitigate in spite of limited budgetary resources. The

contribution of high volume of workload was also contributed by the attrition rate leaving the current personnel strength having to take over additional burden, and this is compounded by the replacement of investigators taking longer as the filling of position out to go through recruitment and selection processes. The responsibility of a supervisor is to manage and conduct oversight within an investigative component. Their core responsibilities generally include oversight of investigators, managing a

10 team of investigators handling cases involving alleged police misconduct, DG assault, torture, death in custody, corruption, reviewing case files for quality legal compliance and investigative completeness, ensuring investigations follow IPID standard operating procedures and statutory obligations under the IPID Act. Case allocation and workflow management. Assigning cases to investigators based on workload, skill or case complicity. Monitoring progress to ensure timely completion of investigation. Prioritizing high-risk or sensitive cases. Overseeing the

20 preparation of reports to be referred to the National Prosecuting Authority, NPA or SAPS management, depending on outcomes. Engaging with stakeholders such as SAPS, NPA, forensic services and community structures.

Providing briefings and updates to provincial or

national management. As at 31 December 2025, I was responsible for investigation into 727 matters. This is far above the national average of 266 cases per investigator. This figure is ...” [intervenes]

**ADV KHUMALO SC:** Sorry, can you just stop there. The 727, is it just yours or is it split between the six of you?

**MR MAGAGULA:** No, it was mine only.

10 **ADV KHUMALO SC:** Just you?

**MR MAGAGULA:** Yes.

“This figure is made up of backlog of cases, 290 cases and post-decision monitoring cases, 412 cases, creating significant operational burden.”

**ADV SELLO SC:** Thank you. So if we understand your statement, is that you are, as at 31 December 2025, you are responsible for a total of 727 matters?

**MR MAGAGULA:** Yes.

20 **ADV SELLO SC:** And you say that is made up of a backlog of 290 cases, these are ongoing investigations?

**MR MAGAGULA:** Yes.

**ADV SELLO SC:** And 412 cases which you call post-decision monitoring.

**MR MAGAGULA:** Yes.

**ADV SELLO SC:** What kind of cases do you describe as post-decision monitoring cases?

**MR MAGAGULA:** These are cases which has been finalized, like the cases which has been sent to the Director of Public Prosecution, but it came with directives that it must still be investigated. So in our system, when I send the recommendation to the DPP, in our system it would show as completed cases, but the Director of Public Prosecution, so it otherwise to say, Magagula, you have not  
10 yet finalized this matter, it must still continue to be investigated.

And those other cases, it is those cases which are ongoing court cases because it reflects as finalized cases in the IPID system. And other cases also which are awaiting technical reports, like toxicology, can take up to 5 years.

**ADV SELLO SC:** And for those cases that are already in court, do you have, is there any role you play as an investigator in the prosecution of those matters, and if so,  
20 what is that role?

**MR MAGAGULA:** Those that are in court, if the prosecutor who is prosecuting that case might see other things that must be done, even though the Director of Public Prosecution did not see, he will still ask me, Magagula, please go and do 1, 2, 3, 4, and then I have to comply with

this instruction and still do those things, because it is him or her who is going to prosecute that case.

**ADV SELLO SC:** Thank you for that explanation. Staying then on your page 5, you ...[intervenes].

**ADV BALOYI SC:** Sorry, Ms Sello.

**ADV SELLO SC:** Yes, yes.

**ADV BALOYI SC:** Mr Magagula, where you speak in that paragraph 16, right at the end, you say it is this load of work.

10 **MR MAGAGULA:** Yes.

**ADV BALOYI SC:** Creates significant operational burden. If you could just make us understand at a practical level, how does it play out? You have 727 matters that you are investigating. What is the consequence of this burden on the various investigations, on the files that you are dealing with?

**MR MAGAGULA:** This number is very, very high, very, very high, which one cannot even cope. It is normal 209 cases, which is still active only. And in a year we have 365  
20 days and there is holidays, there is weekends, there is leave. Sometime I got sick. So, this demonstrates that I might give some cases a little attention in a year, because during the year, if I effect an arrest, for instance, on a Monday, my 5 days of that week has been spoiled, because when I arrest the, arrest comes with charging, I must go

verify the addresses of the people that have been charged. And then the people will be applying for bail application and I must also prepare for bail. So, you can see that definitely as a person I can even get a breakdown, because the victims of these cases, obviously, all of them, they want feedback.

So, this has been created because of those people who were leaving the department. And if one person is leaving the department, is carrying 300 cases. I have a  
10 team of five members and in most of the years, the team Ekurhuleni were running short of members. We were not six. There was a time where it was five of us. When the team, or when the Executive Director created that team and asked those people from different provinces to help us [cellphone ringing] I am sorry, I thought I have switched off my phone.

**ADV SELLO SC:** Please make sure it is only one phone. You assure the Commissioners that there will not be further disturbance from your phones?

20 **MR MAGAGULA:** Ja, my phone now is switched off.

**ADV SELLO SC:** Okay.

**MR MAGAGULA:** It is not even on silent.

**ADV KHUMALO SC:** Even the beeper is off?

**MR MAGAGULA:** Yes.

**ADV SELLO SC:** Well, your own phone interrupted you.

You were still responding to Commissioner Khumalo's question. Please continue.

**ADV BALOYI SC:** Ms Sello, I am still Baloyi.

**ADV SELLO SC:** I blame it on the late lunch. Commissioner. I do apologize, Commissioner Baloyi.

**ADV BALOYI SC:** Yes, carry on.

**MR MAGAGULA:** So, the Executive Director saw that we need extra hand and within that group, at that time, there was one who suggested that you guys from Ekurhuleni, you  
10 are not supposed to receive any more cases because you are doing this project of Ekurhuleni. But it was us, it was more especially me, who said it is impossible that we do not receive, because if myself, Thulani Ndlamini and Nomsa Masuku are no longer receiving those cases, we will be left with two investigators, and they are not going to cope with their work, because they will be attending crime scene, and then they will be attending post mortems.

So we are not like the police. When we attend those murder scenes, as Nomsa narrated, that we attend  
20 those scenes, you have to go and attend the post mortem. So we go inside and witness when the doctor dissects that body, because it is us, we have the knowledge of that body. So we are telling the pathologist, what are we looking for from this body? So our two members were not going to cope with this. So the capacity of IPID ...[intervenes].

**ADV BALOYI SC:** Are you six, is it six investigators because that is what the structure provides for, the organogram provides for, or are you six because management is simply not responding quick enough to supplement your six? Another possible reason is you are six because there is no recruitment that is happening because of budgetary constraints. What is the reason that you are six?

**MR MAGAGULA:** I will answer this question like this. This  
10 is a full strength of the Ekurhuleni. Currently we are not running short. So the department does not have any extra vacant post to advertise to strengthen us. Even though some of those members, it was not exactly the structure of Gauteng, so they are sourced maybe from Mpumalanga and then they are brought to Gauteng and stay there permanently.

But when you look at the details of the person, he is still getting a salary from Mpumalanga. So basically, according to me, IPID is under strength because  
20 Johannesburg Central Police Station, the whole strength of Johannesburg Central Police Station equals, I might be wrong, equals to the whole strength of IPID nationwide, one police station.

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

**ADV SELLO SC:** Thank you, Commissioner Baloyi. And if

I may just follow up on that, perhaps you would not know, but based on experience, not so much because you are responsible for that side of things, if you say you are the supervisor of five other investigators for Ekurhuleni, you are settled with 727 matters alone.

**MR MAGAGULA:** Yes.

**ADV SELLO SC:** To be as effective perhaps as would be desirable, what in your personal experience, considering the time it takes you and time required for every specific case, what do you think is an appropriate level of  
10 investigator contingent for an area such as Ekurhuleni?

**MR MAGAGULA:** It is to get extra hands so that I can perform my duties as a supervisor because currently I will not say I am a supervisor because what Nomsa is doing is what I am doing. In most cases also, I am failing to inspect their dockets because I am busy on the ground. But the good part of it with Nomsa, most of the cases that she was working with, she is working on, I know her cases.

Even if she is not there, I will be able to respond to  
20 her case. There was a time when she was not there for a longer period and there was high-profile, sorry to use this term, high-profile, there was a serious case that she was doing and she was not there. I had to take over because I worked the case with her and I had to go and take the advocate who needed a consultation with the pathologist,

driving her to Protea, all those type of things. So I did not have time. I am dealing with Nomsa and my own case now.

**ADV SELLO SC:** Yes.

**MR MAGAGULA:** And there is other supervising that I must supervise so they are no longer receiving my attention. And there is more complaint also from individuals that, hey, we have a case, more especially my number is public. Many of the complainant, Mpumalanga, I am called by people of Mpumalanga, I am not working in Mpumalanga,  
10 I am called by people of Limpopo, Free State. It seems as if I am the only employee from IPID because they will say I was referred by this person, and that the person who can assist me is Magagula.

Even those police officers who sometimes tend to hate me, if their family are victimised, they know the person who will be quick to assist in that matter, they will refer it to me. So it is how I am burdened with a lot of complaint.

**ADV SELLO SC:** So I can see and understand from what you are saying that if you personally are responsible for 727  
20 matters and you must still supervise five other investigators, I seriously doubt that you have the time to either properly supervise or dedicate yourself to the 727 cases.

**MR MAGAGULA:** Yes, that is correct.

**ADV SELLO SC:** Noted.

**ADV BALOYI SC:** You say, the question that you were asked is, what would be an ideal number, and maybe let me try and try again. You have, you say in paragraph 16 that the national average is 266 cases per investigator.

**MR MAGAGULA:** Yes.

**ADV BALOYI SC:** Would you consider that to be the ideal number per investigator?

**MR MAGAGULA:** It is the ideal number put by the department, not my view.

10 **ADV BALOYI SC:** Okay, let us hear your view, because you are an investigator. You have experience as to what is involved in investigating.

**MR MAGAGULA:** My view, it will be 100.

**ADV BALOYI SC:** Okay.

**MR MAGAGULA:** Because our cases, IPID, we are not like when they say you are working at Pretoria Central, most of your witnesses reside in Pretoria Central. So we have different police stations. So my witnesses might be somewhere out of that policing precinct, for instance,  
20 Benoni. My witnesses are Benoni, Springs, whatever. So police are privileged, most of them, if it is their policing precinct, their witnesses are around that policing precinct. But if an investigator now has seven stations, the witnesses are scattered everywhere.

So it is not ideal. Like, as we will go through, I am

just demonstrating about the delays of the cases. During this period, I was even going out of the province. I have a suspect who was in prison in Polokwane Correctional Service. That suspect was there because of kidnapping, murder, defeating the ends of justice. He killed a lady in Nebo, in Limpopo, took the body and dumped it in Benoni.

Now I have to transport that suspect. And who is transporting it? It was only me and Thulani, the other Thulani. Someone used to, when he sees us, he was saying  
10 Thulani square, because it is both Thulani's. So it was not conducive, because at one stage, we transported that suspect back to Polokwane Correctional Service. Polokwane Correctional Service did not want to take him. We engaged the Provincial Commissioner.

You cannot believe that the same suspect of murder slept in the office of IPID, not in the police cells of SAPS, not in Correctional Service, because we refused assistance. We brought it to the Commissioners of SAPS and we engaged the Provincial Head of IPID in Polokwane,  
20 but the matter was not resolved. So such suspect slept in the offices of IPID.

Today as we speak, for his case that he was going in Polokwane, he was given life sentence. So we were transporting such a suspect. Me and Thulani we do not even have fire, we were not having firearm at that time,

until we were assisted by TRT. It is Captain Skobela and Colonel P Leif from TRT. And most of the guys that were assisting us, it was from TOMS, Hawks ...[indistinct] which Nomsa mentioned here. There is Sergeant Nkosi who was here at the Commission, not the Sergeant Nkosi of the bag, Sergeant Nkosi who said that [everyone laughing] the other Sergeant who said my Commander does not have balls was the one who was assisting us.

**ADV KHUMALO SC:** Sergeant Nkosi from TOMS?

10 **MR MAGAGULA:** Ja, from TOMS.

**ADV KHUMALO SC:** Yes.

**MR MAGAGULA:** Those are the people who, when we seek assistance, they assist us.

**ADV KHUMALO SC:** You did not have to mention balls, you could have just said Sergeant Nkosi from TOMS.

**MR MAGAGULA:** I wanted to distinguish because there is another one who has a dark cloud, so ...[incomplete].

**ADV BALOYI SC:** Maybe lastly on this topic for me, does the IPID conduct, and when I say conduct, I mean by way of  
20 engagement and discussion internally, a review of your capacity? I mean if, I imagine that your, the cases that you handle, they grow over time. Incrementally you are seeing more and more complaints, matters that you need to deal with. And if that is, and that does not catch up with the component, the staff component that you have, does IPID

engage with those? Do reviews look at where do we need, what do we need to do, what are the cases, we are now getting more and more cases at this rate. We are still the same number of investigators. Here is what we require in terms of resources. Does that happen, and does it happen formally if it happens?

**MR MAGAGULA:** I will say the management is aware because each and every case that comes to the department, when it is registered, it generates a stat. So they are aware  
10 because each and every month there is monthly report, seeing that increase, seeing that threat. Like even ourselves when we are working, we are able to identify what problem are we having now.

There was a time when there was a problem of this cigarette in Ekurhuleni where police officers target foreign nationals which are Bangladesh. It will be EMPD and SAPS, both of them, going to raid the shops of Pakistan, seizing those cigarettes. But to start with, the police officer is not an expert to tell if this is an illegal cigarette or what.  
20 So if they conduct such operation, they need to have people like SARS because it is their expertise.

So police officers were willy nilly going to those Pakistanis, seizing the cigarettes to get, to make as if they are working. They have seized ten large boxes of cigarettes and they only booked two. And these foreign

nationals are vulnerable. They are afraid of the police. Some of them, when we investigate, they end up withdrawing the cases. So some of them, the police, if they are strong, they do not want to withdraw the case. Police can simply go behind and pay back the money because always Bangladesh will have a friend of police. So they will send through the friend to mitigate the issue and then it is how cases are being withdrawn. And we have spent a lot of time investigating such a case now which has been  
10 withdrawn ...[intervenes].

**ADV BALOYI SC:** You started in answering my question. You started by saying management is aware. Does that mean you do not have formal review processes that looks at the increasing loads and the staffing requirements and whether you match that? Does it mean there is no formal process that involves the investigators?

**MR MAGAGULA:** Ja, it happens in three years' time or four years' time. We call it Indaba, where all the investigators of provinces come together and we narrate all  
20 our problems to the management. But not all the problems that we narrate there will be implemented. Some will be implemented, some will not be implemented.

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

**ADV SELLO SC:** Thank you, Commissioner Baloyi. Mr Magagula, we are still at page five of your statement and

we are starting a new topic there at the bottom. It is headed:

“Specific EMPD investigations complained of in the Commission”.

Do you see where I am reading?

**MR MAGAGULA**: Yes.

**ADV SELLO SC**: Can you please take your testimony then from your paragraph 17 at page 5.

**MR MAGAGULA**: Yes, in this part of the statement, I will  
10 address the specific cases referred to by Chief of Police, Mapiyeye, and Commissioner Spies. Commissioner Spies referred to the following cases to support the allegation that I sought to protect Brigadier Mkhwanazi from possible prosecution and/or disciplinary process.

**ADV SELLO SC**: You follow that up in your paragraph 18 with a list of cases. Commissioners, again, for cross-referencing purposes, perhaps I would ask you to go to the Spies, or you can make a note as I read them out, which Spies, I call it Commissioner Spies matter, is listed here.  
20 So, 18.1, that ...[indistinct] case is item 1 on Commissioner Spies' table. Hillbrow CAS 797/03/2023 is item 2. The third, Benoni, CAS 215/07/2022 is item 3. Items 18.4, 18.5, and 18.6, that is the Meyerton case, Brakpan copper plates case, and Springs cobalt case. Those are the three issues, the three matters that Mr Keefelakae spoke of and said they

could not find a record of them within the Ekurhuleni Police Station, so if you could flag those.

The next at 18.7, Mr Magagula has Brakpan murder case. There is a duplication on this list because 18.9, the last one, Boksburg CAS 241/03/2024, is that the, no, that is not the, if I may address Mr Magagula. Mr Magagula, 18.9, Boksburg CAS 241/03/2024, which matter is that? Please tell me the detail, I will tell you.

**MR MAGAGULA:** This one is ...[intervenes].

10 **ADV SELLO SC:** Okay, I am with you.

**MR MAGAGULA:** It is extortion.

**ADV SELLO SC:** It is the extortion. That would be item 2 on table 2 of Commissioner Spies. Then Brakpan, 18.7, Brakpan murder case, it is the case that Investigator Masuku has just dealt with. Item 18.8, Boksburg, CAS 262/02/2023 is the case that we colloquially refer to as the blue lights case. It was just to, Mr Magagula, to marry the list of cases you have here with the cases as referred to by Commissioner Spies. So I have effectively placed on record  
20 for you the cases that you say Commissioner Spies complained of before the Commission insofar as IPID investigators are concerned, okay. Then you can take it up from paragraph 19.

**MR MAGAGULA:** -:

“My colleague, Mrs Masuku, was the

investigator in the Brakpan murder CAS 429/04/2022 and she has filed a statement to the Commission regarding this case and has provided a full account for that investigation. It will not be necessary, therefore, for me to address this case. I will address the remaining cases. Before I do so, it is necessary that I confirm the meeting between IPID and EMPD official referred to by both Chief Mapiyeye and Commissioner Spies of 6 March 2023. I state that the Ekurhuleni investigation team was requested by the Executive Director of the IPID, Ms Dikeledi Jennifer Ntlatseng, to attend a meeting at Roodepoort SAPS. The meeting was attended by the Executive Director of IPID, Ms Dikeledi Ntlatseng, Deputy Director, Mr Juta Baloyi, the Acting National Head of Investigation, Mr Thuso Keefelakae, Senior Investigator, Ms Nomsa Masuku, and myself on behalf of IPID, and the Chief of Metro Police, Mr Mapiyeye, together with his

deputy, Mr Revo Spies, and Colonel Hennie Erasmus of EMPD. I am, however, unable to recall the precise date on which the meeting took place. I am willing to accept the date as stated by Chief Mapiyeye and Commissioner Spies.”

**ADV SELLO SC:** Please proceed, yes.

**MR MAGAGULA:** -:

10 “At this meeting, the Chief of Police, Mr Mapiyeye, and Deputy Chief, Mr Revo Spies, reported that a social media article alleged the use of blue lights on a civilian vehicle, claiming that Brigadier Mkhwanazi of the EMPD authorized the installation. The Executive Director, Ms Ntlatseng, advised that both Chief of Police and Commissioner Spies submit statements

20 in this regard, in this matter regarding allegations made to enable IPID to initiate investigation. The EMPD team raised complaints with other matters involving officers. At this time of this meeting, the Executive Director had

already recognized the resource constraint with IPID. She had decided, amongst others, that a task team comprising investigators from other provinces will be established to support the IPID Ekurhuleni team in matters in the area. Consequently, three investigators from Eastern Cape, Northern Cape, and KwaZulu-Natal were deployed to assist in the investigation. Following the formation of the task team, its members, including myself, met with the Executive Director at IPID head office in Pretoria, along with other senior managers, to coordinate the investigative approach for all identified cases in Ekurhuleni. Before I address the status of the remaining investigations, it is important to point out that not all cases Commissioner Spies referred to are with IPID. Three of them, Meyerton CAS 72/8/2022, the Brakpan copper plates case, and the Springs cobalt case, these are the

three cases that are not with IPID.”

**ADV KHUMALO SC:** Mr Magagula, I did not quite follow what you say in paragraph 23. Does it mean that you got three additional investigators and your number is now nine, or does it mean that three increased your number to six?

**MR MAGAGULA:** The three did not increase the number to nine. The three was meant for the purpose of investigating the cases of EMPD.

**ADV KHUMALO SC:** I am with you.

10 **MR MAGAGULA:** So they were not there to assist us with any other cases if we have a high volume of case intake in Ekurhuleni. The case intake which will involve the EMPD, yes, they will deal with it, but if it is other cases like SAPS, they were not there for that reason.

**ADV SELLO SC:** Thank you. You were at your paragraph 24 before you deal with the first case there. That is, you were at your page 8.

**MR MAGAGULA:** Yes.

20 **ADV SELLO SC:** You had just read your paragraph 24 where you explained that three of the cases, Meyerton, the Brakpan copper plates case, and the Springs cobalt case, are not with IPID. That is what you stated there.

**MR MAGAGULA:** Yes, I confirm.

**ADV SELLO SC:** Then you say, you continue and you say:

“I deal with these cases further in this

statement, however.”

**MR MAGAGULA**: Yes.

**ADV SELLO SC**: Is that correct?

**MR MAGAGULA**: Yes, that is correct.

**ADV SELLO SC**: You then turn your attention to your first case, which you say is Boksburg CAS 262/03/2023. I had already indicated and please confirm for the record, oh, you do say, let me say, deal with that case. You start with it at paragraph 25.

10 **MR MAGAGULA**: -:

“This is the case that is commonly referred to as the blue light case. Following on 6 March 2023, I obtained a prepared statement from Mr Revo Spies and went to Boksburg Police Station to register the case as Boksburg CAS 262/03/2023. The matter was allocated to Mr Kulu as the investigator and he finalized his investigation and filed a negative report with the Ekurhuleni City Manager. I understood this report is already before the Commission.”

20

**ADV SELLO SC**: And for the record, Mr Kulu, who was the investigator there, is one of the people who was brought in

from KZN. He was not part of the six investigators allocated to Ekurhuleni, is that correct?

**MR MAGAGULA**: Yes, that is correct.

**ADV SELLO SC**: Okay. Our next subheading is the next case, which is Padfontein case 86/02/2023. Chair, before we turn to that case, which is going to detain us for some time, I see it is 5 to 4, perhaps this might be an appropriate place to stop for the day.

**CHAIRPERSON**: Let us adjourn and resume at 9:30  
10 tomorrow.

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

**INQUIRY ADJOURNS TO 13 FEBRUARY 2026**

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