

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

**HELD AT**

**BRIGITTE MABANDLA JUSTICE COLLEGE**

**13 FEBRUARY 2026**

**DAY 60**



**PROCEEDINGS ON 13 FEBRUARY 2026**

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

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

**CHAIRPERSON:** Good morning, Mr Magagula.

**MR MAGAGULA:** Morning, Commissioner.

**CHAIRPERSON:** Thank you.

**ADV SELLO SC:** Thank you, Chair. Morning, Mr Magagula.

10 **MR MAGAGULA:** Morning.

**ADV SELLO SC:** Please find your statement file again.

**MR MAGAGULA:** I have it.

**ADV SELLO SC:** When we parted yesterday, we had gone as far as your page 8 and at page 8, you had dealt with the case of Boksburg CAS 262/03/2023, the blue lights matter.

**MR MAGAGULA:** Yes.

**ADV SELLO SC:** And that is where we stopped yesterday. So, we are going to pick it up from there. Thereafter, you deal with the next case, correct?

20 **MR MAGAGULA:** Yes.

**ADV SELLO SC:** You call that the Putfontein CAS 86 ...[intervenes].

**ADV BALOYI SC:** Sorry, Ms Sello, maybe before you do that, can I just ask a question relating to the first one?

**ADV SELLO SC:** Absolutely.

**ADV BALOYI SC:** That was dealt with, and this is just a general question. In this blue lights case, I know you did not deal with it, but, we got the, we got the report, we have seen the report of the IPID to the City, and one of the areas of concern with previous witnesses for us, the Commissioners, was that the IPID seems to have been concerned just about the amount that was spent to register the City's money, R2 000 odd, that seemed to have been the IPID's focus and that suggested, as if that suggested  
10 that that is what you thought is disciplinable and nothing more. And I say this mindful that it is Mr Xulu who worked on this matter, not you.

My question is, when you make recommendations, negative recommendations, do you not specify what charges they should put, you leave it to the client, be it the SAPS or the EMPD in this case, or for that matter any other MPS, to decide from your facts that you have analysed, because you do set out what the allegations are and you give out your analysis in your report. Do you just leave it to them to  
20 decide what charges they are going to formulate from your report, and is that the general standard and is there a reason for that?

**MR MAGAGULA:** I would answer this question like this. We analyse it and give them full details and according to my understanding on the matter of blight, because I know that

docket also in and out. For instance, the charges that you can draw in that matter, the fraud will be there, misrepresentation. And then there is corruption, that is there. And also, immediately when the vehicle became the asset of the City of Ekurhuleni, if it is taken out of the City of Ekurhuleni, it must be procedural, which means now, those assets which were in the register of Ekurhuleni now, it is taken in a bogus way. It also amounts to theft. How did it went back to whatever company, CAT Security? So, 10 my take is there are multiple charges there, not only confined to the fraud and ...[intervenes].

**ADV BALOYI SC:** Ja, let me, maybe let me explain, try and explain better what I am trying to get from you. So, your report sets out all of those things. It is clear from your report that there is misrepresentation, there is corruption, unauthorised receipt of donations and all of that.

**MR MAGAGULA:** Ja.

**ADV BALOYI SC:** It is clear from the facts that you set out and from your analysis. But in your, then you make a 20 recommendation. You say disciplinary proceedings should be instituted. That is what you say.

**MR MAGAGULA:** Yes.

**ADV BALOYI SC:** My question is, the City can choose, the municipality ...[intervenes].

**MR MAGAGULA:** Yes.

**ADV BALOYI SC:** Could choose to charge him with unauthorised use of municipal monies, being that R2 000 owed, and that becomes the only charge, because you do not prescribe to them, right? Nowhere, in my recollection of that report, nowhere do you prescribe to the City what charges they should bring. You just say you should institute disciplinary proceedings. Now, if the City charges him with only one charge, which is he used, he caused the funds of the City, R2 000, to be used to register these  
10 monies, if that is all they do, they would have complied with your instruction to institute disciplinary proceedings. How do you safeguard against that? I do not know if you understand my question.

**MR MAGAGULA:** Ja, I understand your question now. With municipality, there is a little bit difficult. In the SAPS, there is no difficulty, because when we charge a member, for instance, a member committed a murder, when we recommend, we will recommend through criminal charges, plus regulation of the SAPS, plus standing orders, one of  
20 this can carry multiple charges according to the disciplinary of SAPS, even if the member has committed a certain - so they will look at all their standing orders. Did he contravene the standing order? Did he contravene this regulation? He committed a crime in terms of common law.

So in terms of municipality, it is very, very difficult with their local bargaining council. It does not seem to work the same way with the SAPS. I do not know if I have answered you sufficiently.

**ADV BALOYI SC:** Okay, maybe let us leave it for now. Let us leave it for now. I am not sure that you, maybe you cannot give a better answer than that. It is what it is, as matter stand.

**MR MAGAGULA:** Okay.

10 **ADV SELLO SC:** Thank you, Commissioner Baloyi. I will try, perhaps, and engage the witness during break and see if perhaps he could get a better understanding of the question posed to him and after tea, he can then once again attempt to respond if he can.

**ADV BALOYI SC:** Right, thank you, Ms Sello.

**ADV SELLO SC:** Thank you, Commissioner. Mr Magagula, I have referred you to your statement at page 8 and we are moving on to the next case. This case you identify as Putfontein CAS 86/02/2023. Do you see that?

20 **MR MAGAGULA:** Yes.

**ADV SELLO SC:** Can you, you deal with this over the next few pages and at the conclusion of that at page 11, you then provide the status of the case as we speak.

**MR MAGAGULA:** Yes.

**ADV SELLO SC:** Is that correct. Can you highlight then

the details regarding this case before you advise the Commissioners as to the status of this case?

**MR MAGAGULA**: Okay. Before I read my statement here regarding Putfontein, I will just state that this case was opened because the complainant went to the municipality to complain, so, members of EMPD assisted him by taking down his statement. The same statement that was taken by members of EMPD was used to open this case. So from the word go, EMPD was aware of this matter because they are  
10 the one who assisted the complainant to open the case.

Even though the EMPD statement was not in full details, you will not get the whole story what was happening there. It must be unpacked so in order for the NPA to prefer the correct charges on this matter. So I will start by reading, what I will be reading it will be the second statement that was obtained after I have taken over the matter.

“On 8 January 2023, between 22h00  
...” [intervenes].

20 **CHAIRPERSON**: If you have February here, you just said January.

**MR MAGAGULA**: My apology.

“On 8 February 2023, between 22h00  
and 15h00, the following day, two  
EMPD members and a white male in

civilian clothing reportedly raided a plot at Marigold, Putfontein.”

This, I did not write here, the two members we are referring to, are Adrian Norman Mckenzie and Kershia Leigh Stols. And the civilian person we are referring to Etienne van der Walt.

“They seized stock valued at over R1 million along with the truck and trailer it was loaded with on. The suspect  
10 allegedly fled on arrival of the police.”

This is the summary of the suspects, which is the three members I am talking about. This was their own allegation, this small paragraph.

**CHAIRPERSON:** Mr Magagula, this white male civilian, was he a reservist or a police informant or was he just an ordinary citizen?

**MR MAGAGULA:** This civilian ...[intervenes].

**CHAIRPERSON:** Etienne Van der Walt.

**MR MAGAGULA:** Ja, is not a reservist. He owns a  
20 security company, registered security company, Titen Security, if I am not mistaken.

**ADV SELLO SC:** Please continue.

**MR MAGAGULA:** I was the investigator in the case. I attached the docket of this matter marked TLM1. The EMPD stated that:

“The goods were intended for transport to Kinshasa, DRC, where a case was reportedly registered. The seized items were handed to a Congolese national claimed to be the lawful owner as per the Putfontein CAS 269/2/2023. Through the statement from the complainant, a Malawian national and transport businessman revealed that he was hired by a Zimbabwean national to load and transport a consignment by a truck and trailer to Mpumalanga. The consignment was stored on a plot owned by another Zimbabwean national. An argument occurred between the truck owner and the plot owner prior to the arrival of the EMPD members. The complainant, on request, filed an additional statement. He stated that upon arrival, EMPD handcuffed the owner, contradicting their version that suspect had fled. The complainant later arrived and observed his truck being driven away. He contacted a female EMPD officer

escorting the truck, during which an argument occurred telephonically. The complainant followed the truck until he was blocked by an accident on Kraft Road, Germiston. The complainant checked the Benoni and Evaton SAP pounds and confirmed that the truck was not booked in. He requested tracking of the vehicle, however, the tracker was no longer functional. The invoice of the consignment was obtained and filed in the case docket, together with photographs of the truck after it was booked into the EMPD pound. A SAP 299 form for the disposal of seized stolen property to the lawful owner and the passport of the alleged owner of the consignment as per EMPD records. The statement of the owner of the plot, a Zimbabwean national has not been obtained. The said owner has declined to make a statement, citing fear for his personal safety. His evidence is material and essential to the substantiation of the

case against the EMPD members implicated in this matter. I further state that the statement of the owner of the goods has not been obtained, as his whereabouts are presently unknown. Despite reasonable efforts, he has not been located. I further state that, as previously indicated, the EMPD engaged the service of a truck driver to remove the truck from the plot and transport it to the municipal pound. The said truck driver cannot be traced and his statement has not been secured. As a result, his role and level of involvement in the matter cannot be determined at this stage. There is a *prima facie* case against EMPD members and the civilians involved. This is evident from the fact that the exhibits contained in the truck were not recorded in the SAP13 property register. Furthermore, no case was opened by the EMPD members in relation to the impounding of the truck and its trailers.”

**ADV SELLO SC:** May I stop you there for the moment, Mr Magagula. Firstly, I think, please pull out your annexure file, the first file. So I think it should read Magagula annexures, 2 of 3, the big file. And I note at your paragraph ...[intervenes].

**MR MAGAGULA:** The file is ...[intervenes].

**ADV SELLO SC:** The spine should read your name, Thulani Magagula, annexures, file 2 of 3.

**MR MAGAGULA:** 2 of 3, yes.

10 **ADV SELLO SC:** Yes, please.

**MR MAGAGULA:** I got it.

**ADV SELLO SC:** If you could open, if you could have that file and locate TLM1, and Annexure TLM1 will start at page 1. Now before we deal with that paragraph you were at where I stopped you, I think we need to rearrange the file ever so slightly. At paragraph 28 you say this incident occurred on the 8<sup>th</sup> of February 2023, correct?

**MR MAGAGULA:** Yes.

20 **ADV SELLO SC:** You have annexed so far four case dockets.

**MR MAGAGULA:** Yes.

**ADV SELLO SC:** In these proceedings.

**MR MAGAGULA:** Yes.

**ADV SELLO SC:** And only this one concerns an event of the 8<sup>th</sup> of January 2023. The others are on different dates,



case, occurs on a very, on a different date. So I believe this statement is misfiled under TLM2 and I was suggesting that we take it out and take it to TLM1, because it is in respect of the Putfontein case, at least if the date that Brigadier Mkhwanazi referenced is anything to go by. Would I be correct?

**ADV BALOYI SC:** Ms Sello, if you look at the top of that same page, it has a Hillbrow and different CAS number. Can you take that into account?

10 **ADV SELLO SC:** 2023 ...[intervenes].

**ADV BALOYI SC:** Yes, 7, it says Hillbrow 797, I think, 03/23.

**ADV SELLO SC:** Yes. And if you go to TLM2, Commissioner, starting as at page 92, 93, which is where it starts, as I understand it, that case is 215/03/2022. In his statement, it reads 215/07/2022. So in any event, this document does not correlate to the CAS numbers allocated to TLM2. We could flag it. We could keep it, but judging by the date, it would have appeared to be misfiled.

20 **CHAIRPERSON:** Whose handwriting is at the top, the Hillbrow CAS 797/03/2023? Whose handwriting is that, if you know it?

**MR MAGAGULA:** The handwriting at the top is my handwriting.

**CHAIRPERSON:** Your handwriting.

**MR MAGAGULA:** Yes.

**CHAIRPERSON:** Perhaps, Ms Sello, you should confer with him.

**ADV SELLO SC:** I think we will confer ...[intervenes].

**CHAIRPERSON:** Yes, yes.

**ADV SELLO SC:** Because the CAS number written there, Hillbrow, is yet a third case, which he is going to deal with. So we will flag it for the moment, and we will come back and deal with the statement and see what is the correct  
10 docket it belongs to, okay.

**MR MAGAGULA:** Yes.

**ADV BALOYI SC:** Maybe also when you confer to note in that page 272, the very last line in brackets, it says stones.

**ADV SELLO SC:** Yes, that is Hillbrow. Thank you. Getting back to your statement then, but do not, please do not close that file. You were at your paragraph 38, where you say there is a *prima facie* case against EMPD members. You had indicated at the start of your testimony that the original complaint against these members was laid by the  
20 complainants with the EMPD.

**MR MAGAGULA:** Yes.

**ADV SELLO SC:** Please turn to page 64 of TLM1.

**MR MAGAGULA:** Yes.

**ADV SELLO SC:** And I see that that is on Ekurhuleni Metropolitan Police Integrity and Standards form and the

heading of that document is “statement of complainant/accused/witness”. Do you see that?

**MR MAGAGULA**: Yes.

**ADV SELLO SC**: Then it starts and say, I, and states a name. Who is that person who has completed this form, the name written there?

**MR MAGAGULA**: It is the complainant, Yusif Thomas Milos. The statement was taken by Metropolitan Police Officer Owen Mark Prinsloo.

10 **ADV SELLO SC**: And if you go to page 66, that is the end of that document. I see this was actually deposed to and commissioned on the 11<sup>th</sup> of February 2023. Is that correct?

**MR MAGAGULA**: Yes.

**ADV SELLO SC**: Now, would you like to deal very briefly then with what the complainant at the time disclosed to EMPD regarding this incident?

**MR MAGAGULA**: I will read the statement.

**ADV SELLO SC**: Okay.

20 **MR MAGAGULA**: -:

“That on Wednesday, 8<sup>th</sup> of February 2023, my truck was loading goods in Putfontein area around 20h00. I was called that there are police officers there who claims the goods we were

loading were stolen. I told my drivers not to move the truck unless to the police station. Brian, who hired the truck, insisted we go to offload the load, but I refused and further use of the truck.”

**ADV SELLO SC:** If I may say, it would appear that the photocopy cuts off perhaps the last word on a sentence to the right. So that would read:

10 “I refused any further use of the truck.”

**MR MAGAGULA:** Yes.

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

**MR MAGAGULA:** -:

“In the morning of Thursday, 9 February 2023, around 6 a.m., I received a WhatsApp call from an officer of EMPD asking why I am not allowing her to deliver the goods with my truck. She used cellphone number  
20 082 597 ...” [intervenues]

**ADV SELLO SC:** Do not read it out, please.

**MR MAGAGULA:** Oh, okay.

“I told her to find another truck and not to use mine. She got angry and threatened to pound my truck and link

me to the crime. On Thursday afternoon around 3 p.m., the officer chased away my driver from my truck. When my driver reached my office without the truck and informed me that the officer chased him away and she put her own driver in the truck, I drove there in Putfontein where the truck was loaded and found the truck being driven out and there were three Metro police vehicles in front and behind it. I followed them to the N12 freeway where I even took pictures and video. I called the officer asking her where she was taking my truck to but she did not answer. Instead she blocked my number. I followed them until the interchange of N12, R21 and N3 where I was blocked by accident and they proceeded. I lost them there and could not see them again. I then went to Putfontein police to report theft of truck where I was told they cannot open the case as they saw the truck moving with police escort as they did not think it is

stolen. On Friday morning I was informed by Brian that officer took my truck to Boksburg EMPD pound. I went there to see my truck and found it with stolen parts and diesel, 920 litre, drained, auto shift and ECU also stolen.”

**ADV SELLO SC:** And this you say is the statement of complainant?

10 **MR MAGAGULA:** Yes.

**ADV SELLO SC:** If you go further on ...[indistinct] [microphone off] another statement.

**CHAIRPERSON:** Your mic ...[intervenes].

**ADV SELLO SC:** My apologies.

**CHAIRPERSON:** Please repeat everything you said.

**ADV SELLO SC:** I was going to say, so you say that was the statement of the complainant as it was given to EMPD.

**MR MAGAGULA:** Yes.

**ADV SELLO SC:** On 11 February 2023.

20 **MR MAGAGULA:** Yes.

**ADV SELLO SC:** If you go further on then at 67 is another statement, you do not have to call out the name, just the person listed there is identified as a truck driver.

**MR MAGAGULA:** Yes.

**ADV SELLO SC:** And then you can deal with the contents

of that statement. Thank you.

**MR MAGAGULA**: Okay. This is the truck driver hired by the complainant. This is the lawful driver. I will read his statement.

**ADV SELLO SC**: Thank you.

**MR MAGAGULA**: -:

10 "I was at work on Thursday early morning when a police officer and my witness came to my truck and informed me that I need to off hook my trailer and go help one that was stuck. I off hooked my trailer and went to help to off hook truck. I then hook the trailer that were loaded there in Putfontein. The officers instructed me to drive the truck and follow them to an unknown location but my boss, owner of the truck told me not to drive anywhere but to police only. We stood there a whole  
20 day until around 3 p.m. when the officer chased me out of the truck. I then went to our company and reported to my boss that the police chased me out of the truck. That is all I can say."

**ADV SELLO SC**: And if we go further then at page 69, I

see that, well, the deponent signs. It appears to also be dated 11 February 2023 and it is commissioned at the bottom on the 11<sup>th</sup> February 2023. You see that?

**MR MAGAGULA**: Yes.

**ADV SELLO SC**: Now if, to go back to page 57, in fact we start at 55, are these the documents pertaining to the truck in question?

**MR MAGAGULA**: Yes.

**ADV SELLO SC**: Now I would like to move forward to page  
10 59. Page 59 to page 62, 63 are pictures in your docket.

**MR MAGAGULA**: Yes.

**ADV SELLO SC**: Are these the pictures, what pictures are these? There are five.

**MR MAGAGULA**: In page 59 is the picture of the load that was loaded in the truck in the form of boxes.

**ADV SELLO SC**: And the next page?

**MR MAGAGULA**: And 60 is a picture of the truck and its trailer with registration shown.

**ADV SELLO SC**: And now at page 61?

20 **MR MAGAGULA**: It shows the trailer.

**ADV SELLO SC**: And also at 62?

**MR MAGAGULA**: Is the trailer.

**ADV SELLO SC**: And 63?

**MR MAGAGULA**: A trailer and a little bit of the horse.

**ADV SELLO SC**: Okay, now where do these pictures come

from?

**MR MAGAGULA:** These pictures were taken whilst the truck was at the pound of EMPD by the victim, the complainant.

**ADV SELLO SC:** Did they form part of the docket at the time the complaint was laid?

**MR MAGAGULA:** No, it did not form the part.

**ADV SELLO SC:** They were provided to you?

**MR MAGAGULA:** Yes.

10 **ADV SELLO SC:** With the document then I originally referred you to, the complaint to EMPD at page 64 and the second report at page 67, what do you suggest that EMPD could have done about this matter? What is contained in those documents and what would it have enabled EMPD to do?

**MR MAGAGULA:** The EMPD should have opened a disciplinary hearing against the members because they had the information at that time. Furthermore, to get more evidence, the important part, it is the pound itself. The  
20 pound plays an important role because it is where we found who booked the truck in, what was the reason for booking the truck in the pound? Is there any case number for the truck to be booked in?

And EMPD is in a better position, they know when a car must be pounded. One or two mistakes in a vehicle

does not warrant the car to be pounded. For instance, the car, when you look at the inner ...[indistinct] it says this car is white and here they are seeing a black car. Maybe during the registration, because the car now has been owned by many people, there might be somewhere where something went wrong. So it does not warrant for the car to be taken out of the road. So you need to follow up and do further and give a traffic fine if it warrants a traffic fine.

10 So the EMPD was in better position to go to that pound to see what was the reason for this truck to be pounded here. So, and when you look here, the procedure, those EMPD members did not follow the procedure because they did not book the truck in the pound. They dumped the truck in the pound. Somebody has to note the truck, that okay, this truck entered the pound on this time and the people were in hurry, they ran away.

20 So that would have given EMPD something to work on. And it is not a criminal offense for them dumping the truck there, but the misconduct is there, they know the procedure, how to do things according to their standing orders and rules.

**ADV SELLO SC:** And when you took over, when you started investigating the matter as IPID, were you able to obtain statements from the implicated officers, EMPD officers?

**MR MAGAGULA:** Yes.

**ADV SELLO SC:** I have in Annexure TLM1, from page 9, statements obtained during the interview of what are called suspects.

**MR MAGAGULA:** Yes.

**ADV SELLO SC:** And the first one starts at page 13 and that would appear to be a statement, according to page 13, line 1, of Kershia Leigh Stols, a white female employed by EMPD as a constable. And the second paragraph then  
10 states on 8 February 2023, at that time, at 23h00, she was contacted by a confidential informant regarding a suspected stolen load in Putfontein on a plot. Then she sets out her version of what transpired.

**MR MAGAGULA:** Yes.

**ADV SELLO SC:** The next statement is at page 24 and that now is the statement of Adrian Norman Mckenzie and he states:

20 “I, Adrian Norman Mackenzie, employed by Ekurhuleni as a Metro Police officer, gave statement.”

At paragraph 2, he then states:

“On 8 February 2023, at around, at about 23h00, I was contacted by K Stolls, who informed me that she had received information about a suspected

stolen load that was in Putfontein and that she had informed our supervisor. Also that we must proceed to Putfontein.”

You see that?

**MR MAGAGULA:** Yes.

**ADV SELLO SC:** So, these you obtained on the 2<sup>nd</sup> of May of 2023, as reflected at page 18.

**MR MAGAGULA:** Yes.

10 **ADV SELLO SC:** Is it your case that the EMPD had the requisite, the necessary information to start investigations, internal investigations, and they would have obtained the very statements that you subsequent, three months later, obtained from Mr Mckenzie and Ms Stols, who confirmed that they are the police officers involved and then, based on the facts of the case, EMPD would take a decision whether or not to institute disciplinary proceedings. Is that your case?

**MR MAGAGULA:** Yes, it is my case. And to add more  
20 there, we have a good relationship with the EMPD. When a case is opened against any member of EMPD, they knock at our door to ask for more information and we gladly give them those copies, even if it is in an initial stage. And when the case progresses, they need more information, they come to us. The person who usually communicates

with us, who is sent, is Binel Motsepe, who comes to the office most of the time. So, our communication line is open to them at any given time.

**ADV KHUMALO SC:** Just so that we are clear, the complainant made a statement to EMPD.

**MR MAGAGULA:** Yes.

**ADV KHUMALO SC:** So, how did this case end up with IPID?

**MR MAGAGULA:** Because it was now a case at Putfontein  
10 Police Station.

**ADV KHUMALO SC:** And then EMPD referred it to IPID?

**MR MAGAGULA:** The police, the Putfontein referred it to us.

**ADV KHUMALO SC:** Oh, okay.

**ADV BALOYI SC:** And who reported it to Putfontein SAPS, is it EMPD or is it the complainant?

**MR MAGAGULA:** It will be EMPD because the SAPS in the first place refused to open the case for the complainant for the fact that they saw the truck being escorted by members  
20 of EMPD. So, they did not believe that the truck has been stolen, because they said they saw the truck being escorted by Metro Police.

**ADV BALOYI SC:** Yes.

**MR MAGAGULA:** So now, EMPD is coming back with a statement now to say, can you assist in opening the case.

Now, because it is law enforcement now the case has to be CAS'd now.

**ADV BALOYI SC:** Maybe then explain how it works, because what we have seen with the blue lights case ...[intervenes].

**MR MAGAGULA:** Yes.

**ADV BALOYI SC:** Is that EMPD laid a complaint with the SAPS. And as I have understood the evidence, then from the SAPS it came to IPID, this case. From the SAPS they  
10 informed, IPID became involved. You did, and an investigation was done into that matter which resulted in a report and a negative recommendation to institute disciplinary proceedings. Why is this Putfontein case treated differently by IPID, because a complaint, as you tell us, a complaint was laid with Putfontein, SAPS, by EMPD. Why does IPID not then do the same as you did with the blue lights where you do your investigation and then you provide a report to EMPD on the basis of which they then institute disciplinary proceedings?

20 **MR MAGAGULA:** Let me clarify there. The blue lights, the complainant which was EMPD, came to IPID and they did not went to the police straight to complain. It is EMPD came to IPID to complain about the issue of blue lights and we informed them that what, that we need a statement, we cannot open a case without a statement and then they

provided such a statement.

And then the complainant himself, Commissioner Spies, signed the statement, and 3MA and 3MB, and then I took those documentation to the police station to open the case myself on behalf of him because every document was there. So in the matter of Putfontein, the complainant himself was not assisted by the SAPS. He did go as usual, as a normal complainant, to go and open a case at a police station but for reasons known by the police that we saw the  
10 truck moving with EMPD we do not think the truck was stolen, so we are refusing.

So the complainant was not satisfied with that, because he want this issue to be registered. He went to EMPD, so EMPD took down his statement. With their powers they went back to the police station to clarify that this statement, this docket must be opened as previously not accepted by the police.

**ADV BALOYI SC:** Ja, what I am trying to understand is at which point, so because you say that EMPD had sufficient  
20 information, they could have instituted disciplinary proceedings.

**MR MAGAGULA:** Yes.

**ADV BALOYI SC:** I am not quarrelling with that. What I am trying to understand is does this mean therefore because the case was reported to EMPD and EMPD has the

necessary information, does it mean IPID itself, when it becomes aware of this case, however you became aware of it, you do not do the investigation which ends up in recommendations to the City. That is what I am trying to understand, how the process works.

**MR MAGAGULA:** Ja, now I understand the question clearly. It will go the same way as blue light. After the completion of the investigation, we will do a recommendation to EMPD because the case cannot be  
10 finalized without the recommendation both to the department and the DPP. So it will go the same way. So currently the investigation is not yet finalized, that is why the report is not yet out.

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

**ADV SELLO SC:** Thank you, Commissioner Baloyi. Mr Magagula, that then takes us to paragraph 39 of your statement at page 10. Are you there?

**MR MAGAGULA:** Yes, I am there.

**ADV SELLO SC:** Please deal with paragraph 39.

20 **MR MAGAGULA:** -:

“In addition, the property was released to an individual who claimed to be the lawful owner by means of the SAPS 299 official register, which is not an authorized document for use by EMPD

members.”

**ADV SELLO SC:** Can I ask you to stop there and go back to your annexure bundle, page 13, and I am looking at the statement of Ms Kershia Leigh Stols, page 13, one three.

**MR MAGAGULA:** Yes, I am there.

**ADV SELLO SC:** I see at the bottom of page 13, Ms Stols notes the following, and I quote:

10                    “The stolen load with Kinshasa case  
                         was returned to the owner on a SAP  
                         299.”

I will stop there. Do you see that?

**MR MAGAGULA:** Yes.

**ADV SELLO SC:** And that is what you are referring to at your paragraph 39.

**MR MAGAGULA:** Yes.

**ADV SELLO SC:** Can you talk us through what an SAPS 299 is, this official register, and whether anyone investigating the whereabouts of the goods would have, I take it would have regard to that document at the pound,  
20 and whether that would inform them as to who booked the load in and who checked it out to hand over to the supposed owner. Can you, are you able to explain to us what one learns from SAPS 299 document?

**MR MAGAGULA:** SAPS 299 is a South African Police register, which is the return of suspected stolen property to

the owner. It is used by SAPS. It is not used by EMPD. And to release property to a lawful owner also, the property cannot be released by any member. It must be an officer. So what does SAPS 299 tell us is that, for instance, something is stolen at Edgars, shoplifted at Edgars, and Edgars needs that property immediately. Then a police officer, after Edgars must satisfy the police officer that this is my property, producing proof that this belongs to me, and then SAPS will make a copy of the lawful owner from  
10 Edgars, ID and the receipt of that item, because when you say that belong to me, here is the receipt of my property, and then SAPS will make all those documentation and attach and you sign that register and release that property.

So here what I see, Kershia Leigh Stols, was, make copies of this documentation and keep it to herself in the car and release, when they found something in the street or they want to take one property to another to legalize the property and then they sign that SAPS register and give it to someone. Here in this matter, it is fine, there is  
20 ...[intervenes].

**CHAIRPERSON:** Are you assuming that this is so, or do you have facts to back up what you say? That is, that officer Stols, made copies and then use those copies whenever she saw it necessary?

**MR MAGAGULA:** Ja, there is, in the docket there is a copy

of SAPS 299, which she signed.

**CHAIRPERSON**: Oh, all right.

**ADV SELLO SC**: We will try and locate it for you.

**CHAIRPERSON**: Can you take us – oh, thank you.

**ADV SELLO SC**: Yes, as you explained, we will try and locate that.

**CHAIRPERSON**: Please continue with your explanation.

**MR MAGAGULA**: Even SAPS members, in terms of this SAP 299, in the patrol vans, they do not keep those forms to themselves, as SAPS members. So in this matter of Kershia Leigh Stols it can be seen that they are keeping these copies for their own reason, which is not lawful. It is unlawful to have that form. Because even in the SAPS, when the officer releases it, it must still be noted in the occurrence book. It does not result in filling up the 299 and it ends up there. It must be in the occurrence book, so that after two months or one year, a person comes and complains, we still have the register to say OB entry of that, release of property is here.

20 **CHAIRPERSON**: To your knowledge, does the EMPD have an equivalent of the OB, the occurrence book?

**MR MAGAGULA**: Some of the units have, but it is not up to the standard of SAPS. The standard of SAPS, the occurrence book, when it finishes, they archive it, another new book. So from previous year, if you want a certain

month, they will just go to the year and month and pick up that book and look for that specific entry. So for EMPD, some of the units they have it. It is not, I cannot call it officially, because if I can go to them, that I need an OB of your success or your duty on, duty off, for year 2025, I might not get it.

**ADV SELLO SC:** Thank you, Mr Magagula. I was quickly flipping through Annexure TLM1. My challenge is I do not know what an SAP 299 looks like and for the moment, I  
10 cannot find a document that, but as I understand, this is the complete docket. During tea, we will try and locate SAP 299. We were still at your paragraph 39, when I stopped you, line 3, where the second sentence starts now. Are you with me? Your statement, page 10.

**MR MAGAGULA:** Yes, I am ...[intervenes].

**ADV SELLO SC:** Paragraph 39.

**MR MAGAGULA:** Yes.

**ADV SELLO SC:** You had read the first sentence when I stopped you and I asked you to deal with SAP 299 official  
20 register, you remember?

**MR MAGAGULA:** Yes.

**ADV SELLO SC:** So we are now at your second sentence at line 3, if you can take it from there.

“The investigation has not been finalized.”

**CHAIRPERSON:** It is, do you not start at “there was also no specified” ...[intervenes].

**ADV SELLO SC:** No, there was also, yes.

**MR MAGAGULA:** -:

10 “There was also no specified location at which the alleged lawful owner received the consignment (goods). The investigation has not been finalized and accordingly, recommendation to the EMPD and referral of the matter to the DPP have not been compiled. Such recommendation and referrals remain pending the obtaining of statement from key witnesses identified above.”

20 **CHAIRPERSON:** Would you say the investigation has stagnated at this stage? That is my sense when I go through what you narrate about this specific case. Would you say the investigation has stagnated or would you say you still have leads? I do not want you to tell us what those leads are if you do have them. But it seems to me the investigation has stagnated. Some people have disappeared, people that you would have loved to take statements from, and one that is available and whose statement you would like to obtain is refusing to give you

that statement. So it is on that basis that I am asking you would you say the investigation has stagnated?

**MR MAGAGULA:** I will agree with you but I hope to persuade this witness, which I believe at a later stage he will comply. Currently he is afraid. I do not want to lie. To communicate with him, I communicate with him, he says he is afraid of the police. The question will be, Magagula, you know the police, they will kill me. Then I do not want to be in that position. So I am trying to show him that there is  
10 witness protection and all those types of resources that the state have to, that they can provide him with to be safe. So currently it is stagnated. It is not moving.

**CHAIRPERSON:** Besides offering witness protection are there any other means of obtaining a statement from a recalcitrant would be witness?

**MR MAGAGULA:** I do have a plan which, if I can reveal it, everyone is listening. The police officers will be knowing how Magagula is going to handle this matter and then ...[intervenes].

20 **CHAIRPERSON:** My focus, and I am by no means imputing impropriety on you, but my question was about lawful means. So are you saying you do have lawful means?

**MR MAGAGULA:** Ja, it is a lawful ...[intervenes].

**CHAIRPERSON:** All right.

**MR MAGAGULA:** It is a lawful one, 100%.

**CHAIRPERSON:** Okay.

**MR MAGAGULA:** Where the witness will be comfortable and he will not be forced, it will be voluntary.

**CHAIRPERSON:** Okay. Thank you. Thank you, Mr Magagula.

**ADV SELLO SC:** Thank you, Chair. Commissioner ...[intervenues].

**ADV KHUMALO SC:** Mr Magagula, my concern is this case is from February 2023 and it is now February 2026. I do not  
10 know, maybe I see it differently. The statements you have from the owner and the truck driver and the two statements from the EMPD officers and the failure to use proper documents to release the property and you say the manner in which it was impounded was also improper, how it was not recorded in the SAPS13. Are those facts not sufficient to make recommendations of a disciplinary nature, because I am concerned that if you do manage to persuade this other witness to give you a statement and it is now 2018,  
20 five years after the event happened, it will be difficult to, you know, prosecute people because memory fades, documents go missing, people pass on in the process, the police officers retire in the process. In fact, in the case of Stols, we are told that at the end of January 2025, she retired from EMPD. So do you not take those things into consideration and do you not say, I know my investigation is

not 100% complete but I am satisfied that with the 75% that I have, disciplinary proceedings can be instituted. Do you not look at it that way?

**MR MAGAGULA:** In terms of the - let me start with the DPP. The best way, as things stand, we have a *prima facie* case where I can start with the Director of Public Prosecution, making an inroad in the Director of Public Prosecution to find which charges I can prefer, because these members here, if you look at them, they want to run  
10 away. The manner, their *modus operandi*, because the case was registered as theft of the truck. Now, the truck, when you look at the transaction, it is not stolen, because at the end of the day, they have returned the truck to EMPD, so they wanted to kill that charge of the truck. They were very, very clever on that, but it is not cleverness.

Now, they have a second problem. The truck was moving in good condition, and it was intended to go to Mpumalanga ...[indistinct], which is about 500 kilometres from Putfontein, so it shows that the truck was in working  
20 condition. Three days after the owner received the message that the truck is in EMPD pound, there is another charge now, which is the theft out of motor vehicle.

Some parts of the truck, the truck on its own, some parts were stolen. The owner has to go and buy parts of the truck to remove, to put it in order for the truck to be

able to be drivable again.

**CHAIRPERSON:** Even diesel, as I read this.

**MR MAGAGULA:** There is ...[intervenes].

**CHAIRPERSON:** 900 Litres.

**MR MAGAGULA:** Diesel also, but there are parts of the truck, there are parts of the truck that were stolen. So it is theft out of motor vehicle, not theft of the truck, because that one, they tried to make a U-turn, because theft, it will be to deprive the lawful owner of his property permanently.

10 So here, they can come and say, we did not want to deprive him permanently, we booked the truck in the pound.

So in terms of that I will look at the area of that charge of theft out of motor vehicle. We have another challenge, I have another challenge in terms of the charges. Their aim, the intention of the officers was not about the truck. It was about the property that was inside the truck, the property worth more than R1 million. That property that was stolen there, it was not recovered. They alleged that they gave the lawful owner somewhere.

20 The importance of the witness which hired the truck owner to transport his goods, that statement is very, very important in that aspect.

**CHAIRPERSON:** I will take you back to your answer, I think, to my last question. How soon do you intend to use the means that you referred to? You said you do have other

lawful means to obtain the outstanding statement. By when will you do that?

**MR MAGAGULA**: In the next four weeks.

**CHAIRPERSON**: Why that long?

**MR MAGAGULA**: I will be revealing that strategy.

**CHAIRPERSON**: Oh, okay.

**ADV BALOYI SC**: Mr Magagula, this is a follow-up on Commissioner Khumalo, but slightly different. You have listed certain shortcomings, for example, the use of the SAP  
10 299 document. You say they should not have, it is a wrong document to have used, but also it should not be in their possession because it is not an EMPD document.

**MR MAGAGULA**: Yes.

**ADV BALOYI SC**: That is one. Just keep note of this list. You have got that. And then you, there is the release of the goods. According to Stols, the goods were released to an owner, but there is no record of who that person is.

**MR MAGAGULA**: Yes.

**ADV BALOYI SC**: It just says the owner. You say that  
20 there was no case opened for impounding the truck and trailer. You also say there was no location, no specified location where the goods were released. And then I want to add to that list that there is no record of the goods being released. We have got a statement saying the goods, of the goods being impounded and then released, which I expect

would happen if the police come into possession of any matter. They would record it properly, this is what they received and then this is what they released and who they released it to. But those, that list of things that were not done, and which you record in your statement, seemed to me not to, for them to be provable or to constitute charges for disciplinary purposes and to be proved as misconduct does not depend on a complainant's statement. It is a matter that you have on record.

10 **MR MAGAGULA**: Ja.

**ADV BALOYI SC**: And employees could be charged on that without even having a complainant present.

**MR MAGAGULA**: Yes.

**ADV BALOYI SC**: A complainant as in the owner of the truck and the owner of the goods. Having said that, it seems to me then that the IPID should be able, or should have been able and should still be able to make a recommendation to the EMPD to discipline on just these issue, this. Why has that not happened? Why have you not  
20 drawn conclusions on these lines that there is been an infraction of this and that and that shortcomings.

On Stols' own statement here are the shortcomings or matters that are disciplinable and we make a negative recommendation that she and Mckenzie be disciplined. Why has that not happened, and why can that not happen?

**MR MAGAGULA**: This question, the SC has canvassed it, we spoke about it a lot of times. The standard operating procedure of IPID does not allow us to make a recommendation without the completion of the case. So when we make a recommendation, it is when the investigating officer says that everything is here in the docket and you compile your report to DPP and the stakeholder which will be EMPD or SAPS. So we do these reports when we have finalized the matter, because the  
10 system, you must feed this recommendation to IPID system, electronical system and it is signed by the Provincial Head that you have finalized the matter.

So even when the auditors comes, they will say in this matter everything was done and it was done on this date. So when you see our PDM's, after we have done our memorandum to DPP and SAPS, DPP might not be satisfied. We have, the office was convinced that the matter is completed, but DPP can say, no, Magagula, you have not yet finalized the matter, go and do 1, 2, 3, 4.

20 But already on our system, it will be finalized because we are convinced that everything was done. So I do not know if I answer your question. The predicament, even now when I leave here, it is because I can do the recommendation, but will my boss sign it because the standard operating procedure says that you must do

recommendation when the matter is finalized.

**CHAIRPERSON:** Ja, I have not seen the prescripts that you are referring to, but depending on the language, as presently advised, I feel that IPID is unduly constraining itself in this sense. If this is about the completion of investigations, I do not understand why you should tie EMPD investigations to investigations intended for the criminal process.

If on what you have done, you are of the view that  
10 enough is now in existence for purposes of pursuing a disciplinary process, why can you not say investigations are now complete insofar as the disciplinary process is concerned? And then you are able to fill in that electronic document and you are able to convince your superior to sign off on that. Are you perhaps not unduly constraining yourselves? Are you perhaps not interpreting the prescript you are referring to wrongly?

**MR MAGAGULA:** I agree with you, Commissioner, that as soon as we establish that there is a *prima facie* case, we  
20 should make recommendations.

**CHAIRPERSON:** That is exactly my point.

**MR MAGAGULA:** Yes.

**CHAIRPERSON:** Practically, you may easily establish that there is a *prima facie* case for purposes of the disciplinary process.

**MR MAGAGULA:** Yes.

**CHAIRPERSON:** Which means that with regard to that process, the investigation is complete. So why can you not close that off, seek your superior's signature and fill in that form? And where it says, is the investigation complete, you say yes. Why can you not do that? Sitting here now, I do not understand why not, unless you explain it.

**ADV BALOYI SC:** And maybe to add to that, that if, it is quite conceivable that you may, I know you have just said to  
10 us that you have means of getting these witnesses, additional witnesses that have disappeared, but it is conceivable that you never ever find them. And the way you describe your standard operating procedure and your reasons for not having recommended yet disciplinary action to the EMPD, that could be the end of this case, because you never get those witnesses.

And so you have officers where there is a *prima facie* case against them, which gets proven on a balance of probabilities, and in respect of whom your witness  
20 statements are irrelevant, right, for reasons that I have earlier discussed with you, but they actually walk scot-free, because your standard operating procedure says, until you have bedded everything together, and you have a docket that goes to the, that is approved by the DPP, you may not recommend to the EMPD to institute disciplinary

proceedings. Something is seriously wrong if that is what your standard operating procedure says, or requires of you.

**CHAIRPERSON**: But bear in mind that I say you may well be misreading that standard operating procedure. So do you want to comment on all this? I am sure you still remember everything I said, and you remember what my co-Commissioner, Commissioner Baloyi, has just said. Do you wish to comment on all that, please?

**MR MAGAGULA**: In terms of me maybe not understanding  
10 the standard operating procedure, I will be saying it means that most of the caseworkers of IPID, if the point is that we are not understanding that standard operating procedure, including our boss who must sign the said recommendation, because it will be returned, definitely so.

**CHAIRPERSON**: You see, the simple point, the simple point is this. What may have to be proved for purposes of the criminal case may not necessarily be the same as what needs to be proved in respect of the disciplinary process.

**MR MAGAGULA**: Yes.

20 **CHAIRPERSON**: So it just does not make sense that the two should be bound up together, such that you cannot move on this one, even though everything that needs to be satisfied, has been satisfied. It just does not make sense to bind them together like that. Do you get what I mean?

**MR MAGAGULA**: I get it.

**CHAIRPERSON**: Do you agree that you may possibly be misreading the standard operating procedure? I am suggesting this to you not having read the procedure, but do you accept that you may well, because otherwise ...[intervenes].

**MR MAGAGULA**: I accept.

**CHAIRPERSON**: Otherwise whoever framed it would have framed it very stupidly.

**MR MAGAGULA**: Ja, I accept.

10 **CHAIRPERSON**: Thank you.

**ADV BALOYI SC**: And do you accept, sorry, Ms Sello.

**ADV SELLO SC**: Yes, ma'am.

**ADV BALOYI SC**: Do you accept that if you have read it correctly, if what you are telling us is in fact what it is, then it is a major flaw in that standard operating procedure and it has to be reconsidered.

**MR MAGAGULA**: Yes.

**ADV BALOYI SC**: So that it permits you to do what the Chair is suggesting should be, the way things are done.

20 **MR MAGAGULA**: Yes, I agree.

**CHAIRPERSON**: And it will be fruitful. And we are not blaming you. As we understand it, you are suggesting that this is how all of you operate, you know. Ja, Ms Sello, perhaps we should throw this one back at you for you to please follow up on the actual content and the true reading

of this procedure.

**ADV SELLO SC:** Yes. In fact, we have made a note. These are some of the documents when Mr Keefelakae returns for the IPID stream. This would form part of his bundle.

**CHAIRPERSON:** Yes, yes.

**ADV SELLO SC:** To talk generally about IPID and the SOP's and any other regulatory instruments they have. However, although I am hesitant to tell the Commissioners  
10 this, we have tracked it down as an SOP dated 25<sup>th</sup> March 2019, but I will not put it to the witness. The witness has not been confronted with this document. It would be grossly unfair. But we will pick up the issue.

And I suggest so confident that it did not detain us regard being had to the peculiarities of this particular case. Yes, it is still a live issue that must be answered in regard to the others. So if I may just deal with the witness, confining ourselves to this case, to address the very concern that the Commissioners raise that why could  
20 disciplinary processes not be initiated within EMPD regarding this Putfontein matter and to determine whether failure to do so was caused by the delays on the part of IPID.

My reading, the reading of the statement does not fully answer that question, but the reading of the docket, I

think, to a large extent, does. So perhaps if I take the witness through those documents.

**CHAIRPERSON**: Yes, Ms Sello.

**ADV SELLO SC**: Thank you. Before we do so, Chair, my very able attorney has assisted with SAP 299. I do not know whether it is experience in being arrested or in arresting or solving criminal cases, but that is to be found in TLM1 at page 33. Mr Magagula, if you go back to your annexures file. Remember the annexure file we were  
10 working through looking at your docket in this Putfontein matter? Please go to page 33. Are you there?

**MR MAGAGULA**: Ja.

**ADV SELLO SC**: I am advised, and I see at the top right corner, unfortunately, the page number is imprinted over, that it reads SAPS 299. Is that the SAP register we spoke about earlier?

**MR MAGAGULA**: Yes, it is the register that I spoke about earlier.

**ADV SELLO SC**: Okay, the Chair had asked us to locate it,  
20 so it is located. So I do not know if the Chair would like to consider some questions on this SAP 299 that Ms Kershia Stols references in her statement to say the goods were returned to the lawful owner.

**CHAIRPERSON**: Not at this stage.

**ADV SELLO SC**: Not at this stage.

**CHAIRPERSON:** I will see if I can ...[incomplete].

**ADV SELLO SC:** Then just to note it for the record.

**CHAIRPERSON:** Thank you.

**ADV SELLO SC:** Then, Mr Magagula, in order then to deal with the issue that the Commissioners engaged you on, regarding delays in institution of disciplinary processes within EMPD, we need to run forward into your statement and I would like to, I would like you to turn to page 19 of your statement. At page 19, paragraph 85, you deal at  
10 paragraph 85 with ongoing, you say, communications with the institutions whose members we investigate. Do you see that?

**MR MAGAGULA:** Yes.

**ADV SELLO SC:** On page 19, the last, you see the last line of page 19 at 85?

**MR MAGAGULA:** Yes, I see.

**ADV SELLO SC:** Please read that last sentence, starting with all these institutions and then continuing overleaf.

**MR MAGAGULA:** -:  
20 “All these institutions do not require a directive from IPID to initiate their own disciplinary investigation. Where the institution become aware of the relevant facts, they act on them through their own internal processes.”

**ADV SELLO SC:** And then, bearing that in mind, please turn to page 42 of the annexure bundle. At page 42, I find a statement, again on the Ekurhuleni Metropolitan Police Integrity and Standards, what do you call it, form. This F1 goes forward to page 45. It is signed on the 19<sup>th</sup> of February 2023. Now, we must remember that the incident occurred on the 8<sup>th</sup> of February, 2023 and it would appear that EMPD was able to obtain a statement from Ms Stols, who is one of their members involved in this incident, on the  
10 19<sup>th</sup> of February, 2023. She relates the incident, as she remembers it or knows it, and just to highlight a few aspects. At page 42, line 3, the second sentence starts “regarding this load”.

“Allegedly, the load was meant to be in Congo, but had been stolen and was currently on a plot in Putfontein.”

If I go further, at page 43, for instance, about midway, or just slightly below midway of that page, there is a sentence, she is talking about the shop owner, and we  
20 know now it is Yusuf. She says:

“I know who the person was referring to.”

This is, I guess, the informant she is talking to, allegedly.

“And was aware that Yusuf had been

arrested in 2022 for possession of stolen goods and possession of stolen trailers.”

Then, at 43, she goes into detail about this vehicle, this truck, and her own visit to the pound. Midway, page 44, she states:

10 “I went to Boksburg pound and explained to the officer that the owner of the truck was a person by the name of Yusuf and to please call me if Yusuf arrived so that I could arrest him. During the week, I was informed by the EMPD pound office that someone had come to the pound to collect the horse and trailers, but it was not Yusuf, but the officer refused them to collect.”

Three lines down:

20 “I refused. And I have also been contacted by persons not known to me on behalf of Yusuf to release the horse and trailer for 20 000 bribe. I refused. Yusuf is wanted by a colonel from Crime Intelligence Germiston for questioning regarding the theft of goods as well as truck hijacking. I am

to contact the colonel as soon as I  
have Yusuf in custody.”

And then it goes on at page 45, where she alleges  
that Yusuf wants to bribe her and has threatened her and  
her career. Now, this statement she makes on the 19<sup>th</sup> of  
February 2023, do you confirm that?

**MR MAGAGULA**: I confirm.

**ADV SELLO SC**: If you go further at page 46, it is a  
similar statement, again on an EMPD Integrity and  
10 Standards letterhead. This is by Adrian McKenzie, the  
other officer we know was involved.

**MR MAGAGULA**: Yes.

**ADV SELLO SC**: On this, in this document at page 46, Mr  
McKenzie notes:

20 “On 8 February 2003, at about 23h00, I  
was contacted by Constable Stols, who  
informed me that she had received  
information about a suspected stolen  
load that was in Putfontein and that  
she had informed our supervisor and  
that we must proceed to Putfontein.  
When we arrived at the plot we saw a  
horse and two trailers.”

Do you see what I am reading?

**MR MAGAGULA**: Yes.

**ADV SELLO SC:** Incidentally, before I continue, do you know who their supervisor is?

**MR MAGAGULA:** Their supervisor, I know him as Julius Mkhwanazi, after the arrest in Benoni case.

**ADV SELLO SC:** Okay. Then if we go to page 48, then he gives his version of the incident. At page 48, importantly, the top, the start of the page, reads:

10                    “We reached Boksburg where the  
                         owner of the load who gave proof of  
                         ownership and relevant documents took  
                         possession of his stock.”

                         And similarly, like with Ms Stols, no, not similarly,  
Ms Stols deposed to this on the 19<sup>th</sup> of February to EMPD  
and Mr McKenzie on the 24<sup>th</sup> of February 2025. Now, in  
your view, considering that by that time, EMPD was armed  
with the complaint’s statement made to EMPD, less than  
two weeks later, EMPD had obtained the statements of the  
implicated officers and also regard being had to the content  
of their respective statements, was that not sufficient for  
20    EMPD to trigger its own internal processes and start a  
disciplinary investigation, as you say at paragraph 85 at the  
bottom, that:

                         “All these institutions do not require a  
                         directive from IPID to institute their  
                         own disciplinary investigations. Where

the institution becomes aware of the relevant facts, they act on them through their own internal processes.”

**MR MAGAGULA**: Yes, they have enough evidence to start their own disciplinary action. Even before I took over the investigation, they have all the facts, because this person who obtained the statement works in that unit, which takes disciplinary action against members because it says, if you look at the top, integrity and standard. So this person is  
10 from that unit. So here they were supposed to have taken their - way even before IP knew about this matter.

**ADV SELLO SC**: And if I can take you then further to page 90 of the same file. We are still in TLM1.

**MR MAGAGULA**: Page 9?

**ADV SELLO SC**: Nine zero, 90.

**MR MAGAGULA**: Okay.

**ADV SELLO SC**: And this document is on the EMPD and City of Ekurhuleni letterhead. It is directed to the Head of Detective Services, South African Police Service. It states  
20 that it is from Owen Prinsloo, Investigator. It is dated the 13<sup>th</sup> of February 2023. And my understanding of this document is, I read:

“The Ekurhuleni Metropolitan Police Department hereby requests a copy of the following docket.”

Gives its details.

“Police Station, Putfontein SAPS.”

It continues:

“The COE Investigation Unit request the information to assist in completing the internal investigation.”

EMPD reference number is as given. And then:

“Thank you in advance.”

It is signed by Owen Prinsloo, COE. I take it that  
10 the City of Ekurhuleni, Investigation Unit, EMPD. Do you see that?

**MR MAGAGULA**: Yes, I see that.

**ADV SELLO SC**: I read that to be conclusive proof that EMPD was fully aware of the facts and that in fact EMPD had initiated some form of investigation and had appointed an investigating officer for this purpose. Would that be your understanding as well?

**MR MAGAGULA**: Yes, I agree.

**ADV SELLO SC**: To your knowledge, do you know whether  
20 or not EMPD ever initiated or firstly concluded this investigation and or initiated any disciplinary proceedings against the implicated officers?

**MR MAGAGULA**: I will say I do not know currently what is happening. What I know is that warrant officer Kirsten recently asked copies of this docket again from me, from

Integrity and Standard, and I provided her with the copies of this docket. So since from that time, this was in the initial stage of the investigation and she recently asked me now. So I do not know at which time, and when I asked her through WhatsApp what was the purpose for now, she said it was because of civil claim.

So according to my experience with EMPD, now I am talking my experience with EMPD, the cases that we have done, when we give them copies, they open their DR,  
10 they put them there and we run with our investigation criminally until the member is found guilty. Those are the successes that they will have departmentally, not because of their investigation.

Even if we have provided them with the copies, remember criminally runs for a long time. There is a serial rapist in EMPD which Nomsa Masuku was doing. That case ran for many years and that serial rapist was found guilty, so he was given multiple life sentence. That member was still working. For those years, the member was a white  
20 officer by the name of Cummings. He was raping minor children. It is on record this one. But his dismissal was not because of the departmental, it was because of the criminal conviction.

There was another case that I have done of a white male officer who was working at K9, also raping a child of

his friend. He was also found guilty. Binel was, every time she was with me giving her the copies, but today she will say I did not give her. She was following me even in Alberton. That member was found guilty at Palm Ridge court. It was the time that member was dismissed, not by their internal processes. They will have our copies, but nothing will happen. They will park it there.

So they are depending on the outcome of IPID, ID criminal investigation. So some of the copies that we give  
10 them, those copies when we give them, they use them to wage a war against each other, because when we give them copies, it is allegation against a certain member, so those copies, when it is kept there, they know you have a case of assault or whatsoever. If he does something they will say, we will expose you, remember.

So it is not for a good purpose. And that you need, those people that were working there, they were working there for the longest time. So each and everything that is happening there, it is because of them. So when there are  
20 failures that must be pointed, they will be pointing, Magagula and IPID, they do not give us this. We can go as far as 2020, and looking at their departmental hearing, the members that were dismissed, and we look why they were dismissed. They were dismissed because of their departmental hearing or because of criminal conviction.

**CHAIRPERSON:** So the two examples that you give, the rape convictions, had IPID furnished EMPD with negative reports?

**MR MAGAGULA:** Yes.

**CHAIRPERSON:** I would imagine that it had.

**MR MAGAGULA:** Ja, this one.

**CHAIRPERSON:** And who do you, or who would those negative reports have been addressed to?

**MR MAGAGULA:** Mr Erasmus and Binel Motshepi. They  
10 are the longest-serving members in that unit. So also we can verify through our ...[intervenes].

**CHAIRPERSON:** And you would have chosen them because?

**MR MAGAGULA:** I have chosen ...[incomplete].

**CHAIRPERSON:** That is, you would have sent to them because?

**MR MAGAGULA:** The investigation was finalized.

**CHAIRPERSON:** No, no, I am asking there is a hierarchy within the EMPD. There is the chief, there are deputies,  
20 and all the way down. So I am asking who you addressed the negative reports to, and you mentioned the two officers. So I am asking why did you choose those two officers when you otherwise have this hierarchy within the EMPD?

**MR MAGAGULA:** A recommendation to EMPD goes to that office. So the chief has mandated that office of Colonel

Erasmus to deal with our recommendation.

**CHAIRPERSON:** So you always address to that office?

**MR MAGAGULA:** To that office.

**CHAIRPERSON:** All right, thank you.

**ADV SELLO SC:** And perhaps, just to close that, if you look at page 20 of your statement, paragraph 88, you state that you have, and this is in a different, or slightly different context, but just to understand who Mr Erasmus is, you state that you also have ongoing engagements with Mr  
10 Hennie Erasmus from the EMPD, Integrity and Standards unit regarding matters under investigation now. Following up on the Chairperson's question, who, within the Integrity and Standards unit is, what role does Mr Hennie Erasmus play?

**MR MAGAGULA:** He is the Commander of the Integrity and Standards.

**ADV SELLO SC:** Is he the head of that unit ...[indistinct] [intervenes].

**MR MAGAGULA:** Ja, he is the head of that unit.

20 **ADV SELLO SC:** And as I saw from the documents that we were looking at and the statements given to the EMPD, like at page 64, it reads:

“Ekurhuleni Metropolitan Police  
Integrity and Standards.”

So that would be his office taking these statements

and the complaints?

**MR MAGAGULA:** Yes.

**ADV SELLO SC:** Thank you. Commissioners, I have eaten into your tea time.

**CHAIRPERSON:** How long do you think we are going to be today, or how much longer?

**ADV SELLO SC:** With him?

**CHAIRPERSON:** I am not saying, I am not suggesting we should not take the tea break, no.

10 **ADV SELLO SC:** No, no, I think we just, in fact, if it is okay, we can just wrap up then on the status of this case.

**CHAIRPERSON:** No, I was not suggesting that.

**ADV SELLO SC:** I was hoping to finish by 4.

**CHAIRPERSON:** By 4, all right.

**ADV SELLO SC:** But regarding the level of engagement, maybe that is too hopeful on my part. And I am not saying that there should not be engagement.

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

**ADV SELLO SC:** 11:30, thank you, Chair.

20 **INQUIRY ADJOURNS**

**INQUIRY RESUMES**

**CHAIRPERSON:** Yes, Ms Sello.

**ADV SELLO SC:** Thank you Chair. Perhaps before we conclude on this matter, just to report back to Commissioner Baloyi, I have had a discussion with a

witness regarding the question posed by Commissioner Baloyi. As I understand it, the witness can only inform the Commissioners how they do it, as to whether or not that is a function of misinterpretation of the SOP.

It is a matter that requires analysis of the SOP, but just generally that they await the conclusion of all investigations and then simultaneously issue the negative report or positive report as the case may be, and the memorandum to the DPP. As the witness testified earlier, 10 he appreciates the difficulties even we had and the logic behind that, but it is stated that that is how it is done.

I propose therefore that we stand down the issue, we have noted it, and Mr Keefelakai, and upon his return, with reference to the SOP and any other regulatory mechanisms, will direct us as to whether that is how it is intended to be done, then we can engage with the question of whether changes must be effected to the SOP, or whether it is not required by the SOP, it is just a misinterpretation by the investigators as they undertake 20 these investigations. If that would be acceptable to Commissioner Baloyi.

**ADV BALOYI SC:** If it is acceptable to the Chair.

**ADV SELLO SC:** Well, the question was yours, Ma'am, so, and the Chair, of course.

**ADV BALOYI SC:** I am happy with that. Are you stepping

off this?

**ADV SELLO SC:** No, I just needed to report back on the question that we had said we will come back to after tea. You remember, Mr Magagula, that before we broke for tea, we had run ahead in your statement to page 85, where you make the point that, in truth, the institutions do not have to await ...[intervenes]

**CHAIRPERSON:** Paragraph ...[intervenes]

**ADV SELLO SC:** Page 19 where you make the point that  
10 the institutions do not have to await a decision by IPID to determine for themselves whether to invoke their internal mechanisms to start disciplinary investigations. You remember that?

**MR MAGAGULA:** Yes, I remember.

**ADV SELLO SC:** Okay, we had just run ahead. Now, we need to go back to where we were and find our place and take up your testimony from there. And for that purpose, I would like us to go back to page 11, and at page 11 from  
20 paragraph 43, you deal with the status of the case. I know that the Commissioners asked you some issues regarding that status of the case, but I do not think it has been formally put on record. So, if you could just read into the record the status of this case, and then we will move on to the next case. Thank you.

**MR MAGAGULA:** Current status of the case:

“The case is still under investigation. I am trying to obtain the statement of the owner of the goods and owner of the plot. I am struggling to locate the owner of the goods as we have so far not been able to trace him. Although the owner of the plot is available, he is reluctant to provide a statement citing that he is scared of the police as they were the perpetrators of the crime.”

10

**ADV SELLO SC:** Thank you. Now we are ready to move off this case. Commissioner Baloyi.

**ADV BALOYI SC:** Let me ask it. It may be, again, Ms Sello, that this is something that will be conversed with Mr Keefelakae.

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

**ADV BALOYI SC:** But I would like to hear the witness's view of it. Now, in Stols's statement, she explains how she gets involved with this. She says she got information from an informant that there was stolen property at a certain place or plot. Now, that seems to me to be a matter that ordinarily would be handled by the SAPS and not municipal police. I do not recall what the evidence was on this kind of issue about the powers of MPS. What is, in fact, the powers of the MPS when it comes to matters which are not

20

strictly municipal matters but criminal conduct that ordinarily belong to the SAPS? Are you able to comment on that?

**MR MAGAGULA**: To comment on this, if I understand the question correctly, members of EMPD, they have the same powers as SAPS, but they do not have investigative powers. They cannot tell us that we are investigating this and this. If they receive such information that there are stolen goods at a certain place, they have the right to go there and seize  
10 the property and arrest the suspect. And they must register the case at that specific place where they found those things. You cannot find things in Putfontein and decide to open a case in Germiston. It does not work. So, everything, where you found the properties in, the relevant police station must be used.

**ADV BALOYI SC**: So, is your answer that there is nothing wrong with that Stols receives information from an informant, as she says, an informant called her, and then she proceeded to the place? Assume everything was  
20 legitimate. Let us assume everything was done legitimately and was done according to procedure. There would be nothing wrong with an informant telling Stols there is stolen goods at this property and then Stols proceeding to that property, arresting, taking possession of the property, and then going to record it and impounding in accordance with

procedures. You are saying there would be nothing wrong with that? That it falls within their mandate?

**MR MAGAGULA**: Yes, there is nothing wrong with it.

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

**ADV SELLO SC**: Thank you, Commissioner Baloyi. Mr Magagula, I think then we are ready to move to our next case, which starts at your page 12. And this is Benoni CAS215-07-2022. And it starts at your paragraph 46. Is that correct?

10 **MR MAGAGULA**: Yes, it is correct.

**ADV SELLO SC**: If you can then talk to this case, starting at paragraph 42.

**MR MAGAGULA**: Benoni CAS215 ...[intervenes]

**ADV SELLO SC**: Apologies, 46, paragraph 46. Please continue.

**MR MAGAGULA**: Benoni CAS215-07-2022. This is a kidnapping and corruption case. The docket is attached as Annexure TLM2:

20 “The complainant alleged that on 6 July 2022 at approximately 11:45 he was at his workplace with a friend of his employer. His employer was not present as he had gone to Ficksburg to purchase stock. Two male EMPD officers and one female EMPD officer arrived at the shop.

The officers asked the complainant about his employer's whereabouts, and he informed them that his employer was not around. The police then began searching the shop and allegedly stole a large quantity of cigarettes placing them on the ground. They enquired about the invoice for the cigarettes and the complainant explained that the invoice was with his employer. The EMPD officers reportedly packed the cigarettes into four large boxes and one large China bag.”

This China bag is usually referred to Mashangana bag:

“The employer's friend was instructed to leave and immediately complied. During the incident, one of the officers took a cell phone belonging to the complainant's employer. The EMPD officers also disconnected the CCTV camera and instructed the complainant to close the shop. They ordered the complainant to board a police vehicle driven by a male African officer. The cigarettes were loaded into another vehicle driven by the female white EMPD officer. The

information of evidential value has been obtained such as witness statement, exhibit register SAP13, photo album as well as the suspect warning statement. The matter was discussed with the public prosecutor based on the evidence collected and the prosecutor directed that the alleged suspect should be arrested. The arrest was effected on 10 March 2023, and the accused appeared before court for their first appearance on 13 March 2023. The matter was remanded on various court dates until the case reached trial stage and was set for 18 February 2025. Subsequently, on 18 March 2025, the matter was provisionally withdrawn on the day due to the complainant's not showing interest on the matter. All court appearances are recorded on Annexure TLM2.”

**ADV SELLO SC:** If you could stop there and let us perhaps have regard to our Annexure TLM2. Now we go to the big file. The annexure file that we are looking at prior to tea break, and it is TLM2 page 93. Page 93, it should have a flag marked TLM2.

**MR MAGAGULA**: Yes, I see TLM3.

**CHAIRPERSON**: Just look at the top right.

**MR MAGAGULA**: Yes, the top one.

**CHAIRPERSON**: The red page numbering. Top right corner. You will see 93. Look for 93.

**MR MAGAGULA**: Okay, I got it, 93. Yes.

**ADV SELLO SC**: Page 93. And you will see that just before page 93 there is a page that is, and onto that page a flag is attached. Do you see that?

10 **MR MAGAGULA**: A flag.

**ADV SELLO SC**: A flag. Just before page 93. The page before 93 has got a flag.

**MR MAGAGULA**: Yes.

**ADV SELLO SC**: Now if you look at that flag you will see it is got a number, TML2.

**MR MAGAGULA**: Yes.

**ADV SELLO SC**: So that is how we read the annexures.

**MR MAGAGULA**: Okay.

20 **ADV SELLO SC**: Okay, so, this is what you suggest is TLM2 and that is the case docket in the case that we are discussing currently.

**MR MAGAGULA**: Yes.

**ADV SELLO SC**: Once again, before we deal with the detail of this matter, I think Commissioners, we need to rearrange the pages. If you go to page 231, that should be

the Forensic Science Laboratory report. And the Commissioners will see that it is then followed by page 232. It is some pictures extracted by the laboratory. However, if you go back to page 165 to page 211, you come across other pictures but not attached to this particular document.

These documents belong to the report from page 232. So, the Commissioners would have to remove them from their current place and to bring them here. The numbering will be a bit out because when the copies were  
10 run from the docket, that is where the pictures were positioned.

When one considers the actual report starting at page 226, the laboratory report, and in particular from page 227 at the bottom, there is a long list of these photographs that are listed there. But the photographs that immediately follow are fewer and the other photographs seem to be misfiled at page 165 to page 211. So, the Commissioners would make – we will come back, we will come and readjust your ...[intervenes]

20 **CHAIRPERSON:** Rather take us to whichever you want to take us to. Sorting out that – we will leave that to you.

**ADV SELLO SC:** We then -Mr Magagula, do you confirm that my interpretation of the docket is correct?

**MR MAGAGULA:** Yes.

**ADV SELLO SC:** We will make the necessary changes to

the Commissioners' files. You indicate that in this matter I think best if we go to page – the second set of pictures because I think it speaks more to what you have just said. And this – for this I will refer you to page 232. Page 232 and following. And you stated that from these pictures the specific members of EMPD can be seen in the shop of the complainant.

**MR MAGAGULA**: Yes.

**ADV SELLO SC**: So, they are currently being projected,  
10 and we will just scroll through them. Are these – do you confirm that these are the members of EMPD who undertook this quote-unquote operation?

**MR MAGAGULA**: Yes.

**ADV SELLO SC**: I note from your statement you say that the investigation was completed and that the matter is currently in court. What I could not locate is your IPID report to EMPD to initiate the internal investigations for disciplinary purposes. It is not in the docket. Do you confirm it is not?

20 **MR MAGAGULA**: I confirm.

**ADV SELLO SC**: Was it ever filed with EMPD?

**MR MAGAGULA**: It was not filed.

**ADV SELLO SC**: And the reason for that being?

**MR MAGAGULA**: The reason for this matter not being it was not completed through decision. It was completed as

an arrest. So, when we arrest from the word go, when we arrest, we are not making any recommendation to the DPP and the EMPD. As a result, you will find out those reports are not there. So in this one, when I make a straight arrest, the person who will be responsible for making the recommendation, it will be the senior public prosecutor to the director of public prosecution because each and every case where a member of South African Police or EMPD is arrested, the docket has to go to the DPP. So, at that  
10 stage, the person who does that recommendation, it will be the senior public prosecutor.

**ADV SELLO SC:** So how do you suggest that EMPD gets to learn that it should initiate internal investigations against these members?

**MR MAGAGULA:** As I said, in this matter we communicate with EMPD. EMPD, on this matter, they were aware of it when I effected an arrest. I effected an arrest in the boardroom of Mr Revo Spies. He was present. Even when I was at court during bail application, there was a  
20 communication between him and me because it was the same day when Jaco Hanekom was killed because it is when I received a call that Jaco has been killed and I was at court. He even sent me a video of court gathering, some of the people who were in court, sent by Mr Revo Spies to me. He was not there. So, someone took pictures, video

footage in court and sent it to Mr Revo Spies and Mr Revo Spies sent it to me. So, he was aware of this incident, what was happening in this incident.

**ADV KHUMALO SC:** I want to ask, you say when you effect an arrest and the senior prosecutor makes a recommendation to prosecute, you do not do your normal IPID investigation and recommendation. Is that because of the standard operating procedure or is that a decision that you make on your own?

10 **MR MAGAGULA:** It is the standard operating procedure. If we effect an arrest, when I come back with the docket, that system that I was talking about, we must ask you, it was an arrest or immediately when I click arrest, it will say this matter is completed on the system. That system is called flow centric.

**ADV KHUMALO SC:** Thank you.

**ADV SELLO SC:** Thank you, Commissioner Khumalo. Now, did you share with the EMPD any parts of this docket which would provide the facts necessary for them to initiate  
20 the investigation? And if so, when did you share that information and how? Besides you arresting them, in the presence of Commissioner Spies and other senior personnel.

**MR MAGAGULA:** I sent the copies through that mutual understanding because they asked for it and we gave them.

I want to be clear I did not make them to sign for it in any documentation that they received this. I did not do that. But I gave it to them Ms Motsepe.

**ADV SELLO SC:** So, when you say you gave it to them, is it the contents of the docket in its entirety or some documents from the docket?

**MR MAGAGULA:** The contents of the docket.

**ADV SELLO SC:** And you gave that to Ms Motsepe?

**MR MAGAGULA:** Yes.

10 **ADV SELLO SC:** Now, this matter, as I understand it, arose in July 2022 and I think the arrests were on the 10<sup>th</sup> of March 2023. We are now in 2026. Can you recall when you gave Ms Motsepe this docket?

**MR MAGAGULA:** In 2023.

**ADV SELLO SC:** In 2023?

**MR MAGAGULA:** Yes, immediately when the incident happened is when they come knocking to our doors and provide. When there is new development, whether it is a video footage or she will ask to provide them with that video  
20 footage. If it is in forensic, I will inform her that the video footage is still in forensic. I can provide. If I have a working copy, I will provide a working copy.

**ADV SELLO SC:** And just perhaps lastly for the record, are you aware of a complaint from EMPD or any of its senior managers that the EMPD does not have information

regarding this matter and therefore are not in a position to take steps against their members. Are you aware of such complaints to IPID?

**MR MAGAGULA:** I am aware because I heard, but when you look at it, when I effected arrest, they were present. So, I do not know if they say that they are not aware whilst I effected that arrest in their own offices. I wonder what they are meaning.

**ADV SELLO SC:** And I think Commissioner Spies testified  
10 to the fact that they were arrested in the boardroom in his personal presence at least. He was there. So, are you suggesting that that was at least sufficient for EMPD to take an initiative to establish why it is they are being arrested and to seek such information as they require to take disciplinary action?

**MR MAGAGULA:** Yes.

**ADV SELLO SC:** You had dealt with your paragraph 51, and you had informed us that this matter now is provisionally withdrawn from the court roll.

20 **ADV BALOYI SC:** Sorry, Ms Sello.

**ADV SELLO SC:** Yes.

**ADV BALOYI SC:** These pictures, I mean there are names of people that are in the statement of the implicated person. You projected photographs. Is Mr Magagula able to say to us who are those people in those pictures? You can project

any of them, but I think of interest is the three people that are implicated.

**MR MAGAGULA**: The first picture there ...[intervenes]

**CHAIRPERSON**: There is a screen closer to you.

**MR MAGAGULA**: I see Kecia Lee Stols.

**ADV SELLO SC**: Okay, we will try to move on to the next.

**CHAIRPERSON**: Just before that, are you referring there is somebody in a T-shirt with a star on the chest and then there is somebody in uniform?

10 **MR MAGAGULA**: The one in uniform, I am not clear who he is. I can see him, but with Kecia Lee Stols, I can see it is her.

**ADV SELLO SC**: Mr Magagula, I do not understand. There are two people on the picture. There is a male in what appears to be a grey T-shirt and to his right is a person who appears to be female and that person seems to be wearing a uniform. Am I seeing properly? Is that what you also see?

**MR MAGAGULA**: Yes, I can see two.

20 **ADV SELLO SC**: Okay, now of the two, please identify the one that you say is Ms Stols.

**MR MAGAGULA**: It is the white female wearing uniform.

**ADV SELLO SC**: Okay.

**ADV BALOYI SC**: If I may be of assistance, maybe if you go to page 233, if you could project that, I think it might be

a clearer picture if it is the same person.

**MR MAGAGULA:** Yes, this is Kecia Lee Stols in this picture.

**ADV BALOYI SC:** Okay, thank you.

**ADV SELLO SC:** And I think we will have to go to, I suggest, page 165 and following. I do not know if you can recognise the gentleman there.

**MR MAGAGULA:** This gentleman, I recognise him as Adrian Norman Mackenzie, and I see he is receiving a  
10 packet.

**ADV SELLO SC:** We can go forward. The next picture is also ...[intervenes]

**ADV BALOYI SC:** Sorry, to try and help again, if you go to page 36, there seems to be a clearer picture. 236. Is Mr Mackenzie in that picture?

**MR MAGAGULA:** Behind Kecia Lee Stols is Adrian Norman Mackenzie.

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

**ADV SELLO SC:** Thank you, Ma'am. To go back then to  
20 165. Mr Magagula, we are at 165. Page 165. We will move on to page 167. I see there the person you identified as Mr Mackenzie. Am I correct?

**MR MAGAGULA:** Yes.

**ADV SELLO SC:** And the person with his back to the camera wearing what looks like a black jacket. I see what

appears to be EMPD on his back, his or her back. And please hold that thought if I move to page 169, there are two pictures there and it would appear to be the same person this time leaning over and I think the letters EMPD are clearly visible. Do you see those?

**MR MAGAGULA**: Yes, I saw those three individuals.

**ADV SELLO SC**: Do you know the person wearing this outfit marked EMPD?

**MR MAGAGULA**: Yes, this is Bafana Twala. This is the  
10 person who recorded, exhibited Benoni Police Station.

**CHAIRPERSON**: Ms Sello, are you not able to find a picture that shows the person's face? Should we? Yes, let us adjourn. Let us adjourn, Ms Sello.

**INQUIRY ADJOURNS**

**INQUIRY RESUMES**

**ADV SELLO SC**: Thank you Commissioners, I have recovered. The Chair had enquired whether or not there is a better picture of the person in this clothing marked EMPD. When I looked through the pictures, and we can scroll  
20 through, consistently he seems to have his back.

**ADV BALOYI SC**: If I may, maybe look at 239?

**ADV SELLO SC**: 239.

**ADV BALOYI SC**: Yes, and see if it is the same person.

**ADV SELLO SC**: Mr Magagula, you are at 239?

**MR MAGAGULA**: Yes.

**ADV SELLO SC:** At 239 at the top, there are three people, one with their back to us, but there are two gentlemen who now appear to be wearing blue. Are you able to identify any one of them?

**MR MAGAGULA:** Yes, I can see Bafana.

**ADV SELLO SC:** Which one is Bafana of the two? Bafana Twala is the one who is facing towards us.

**ADV SELLO SC:** Is it?

**MR MAGAGULA:** Yes, the one with the little bit there, he  
10 has made his mouth, like there is a moustache there.

**ADV SELLO SC:** So, I see one seems to be looking at something in his hand, and the second one seems to be interacting directly with this third person and reaching out or handing them over something. Of the two, which is Bafana? The one looking at whatever it is?

**MR MAGAGULA:** The one stretching his hand with a gun holster in his leg.

**ADV SELLO SC:** That is Bafana?

**MR MAGAGULA:** Yes, that is Bafana.

20 **ADV SELLO SC:** And Bafana's full name is?

**MR MAGAGULA:** It is Bafana Twala.

**ADV SELLO SC:** Bafana Twala. If then I can go further at 240 still, there is somebody either placing into a box or taking out of a box something. Who is that, and can you tell what they are doing?

**MR MAGAGULA**: This looks like Mackenzie, and then the items that he is putting inside the box, I see them as cigarettes.

**ADV SELLO SC**: And lastly then, if we go to page, we will scroll quickly back to page 180, in fact from page 179, there is a bag you described, and I understood you to say that they put the cigarettes in a particular bag.

**MR MAGAGULA**: Yes, this is the bag that I called it, in English, China bag, in our African language, Machangana  
10 bag.

**ADV SELLO SC**: Okay, if we go to page 180, I think we have a better picture. Is that the bag?

**MR MAGAGULA**: Yes, that is the bag.

**ADV SELLO SC**: Now, if we go further on, there are statements, I am aware, in the docket that we do not necessarily have to go to, but some of those statements, and the complainant's statement says that they arrived, the EMPD members arrived and left in vehicles, and I think they described them as golf vehicles, VW golf.

20 **MR MAGAGULA**: Yes, they were driving on two vehicles.

**ADV SELLO SC**: And if we go to page 189 to your recollection, and following, are these the vehicles that you say you understand them to have been driving?

**MR MAGAGULA**: Yes.

**ADV SELLO SC**: And I think perhaps, lastly, it would be to

page 193, and at 193, at the top picture, I see two people leaning against a white vehicle with a third next to an open back passenger door. Do you see that?

**MR MAGAGULA**: Yes, I see that.

**ADV SELLO SC**: Are you able to recognise the people in the picture?

**MR MAGAGULA**: Yes, the people in the picture, because I arrested them, I will say those three members that were searching the shop.

10 **ADV SELLO SC**: Please say that again.

**MR MAGAGULA**: I will say the three members that I see here, it is consistent with the other evidence, that they are the ones who were responsible of searching and taking cigarettes into the boxes.

**ADV SELLO SC**: And this would be? There are three of them now.

**MR MAGAGULA**: Bafana Twala, Adrian Norman Mackenzie, and Kecia Lee Stols.

20 **ADV SELLO SC**: Okay. Well, the following pictures, I think, are more of the same with the vehicles at different points. At page 211.

**ADV KHUMALO SC**: Are these still shots taken from the CCTV footage?

**MR MAGAGULA**: Yes.

**ADV SELLO SC**: And at page 211, we see what appears to

be the vehicles driving. Am I correct?

**MR MAGAGULA**: Yes.

**ADV SELLO SC**: And perhaps to Commissioner Khumalo's question, Commissioner Khumalo, at page 226 is the report of a captain with the SAPS attached to the scientific analysis section of the forensic science laboratory. As a forensic analyst. And if you go to page 227, it lists items 3.1 and 3.2, what was received by the laboratory. That is one SanDisk memory stick with a serial number and one  
10 DVD with a serial number. And then further down, under paragraph 6, he or she then lists the photographs extracted from those clips there. Thank you. Mr Magagula, then we go back to page 13. And you had indicated that the matter has been provisionally withdrawn. Can you take your statement from paragraph 52?

**CHAIRPERSON**: Just before going to paragraph 52, there are the powers of subpoena. So, I do not understand that a case that appears to be quite serious would be withdrawn because witnesses are not showing interest. Why cannot  
20 the witnesses be subpoenaed?

**MR MAGAGULA**: I will answer this question like this. This matter was not before court only for that day which it was withdrawn. It was previously at court for trial before the provision withdrawn. Because these witnesses, when I was given instruction to subpoena, I went to the witness to

subpoena. He told me that he is not interested. At some stage, this case was prosecuted.

The prosecutor that I was given, it was not the prosecutor from the Regional Court in Benoni. This matter was appearing in Benoni. This case was allocated an advocate from the Office of the Director of Public Prosecution in the North Gauteng. So, each and every time this case was appearing in Benoni, he was the one who was coming to come and prosecute it.

10           So, at some stage, because I failed to subpoena, because he does not want to sign my subpoena, and then I informed the court, and then they said that they are giving me an opportunity to re-subpoena him, to give him an ample time. On that day when we came out, I pleaded with my advocate because they told us that he went to Boksburg to stock something.

          We went together with the advocate to look for him, and while phoning the victim, we looked for him. We did not find him there. We left. He said, Magagula, I am giving you  
20 another opportunity for the 18<sup>th</sup>. If he is not interested, you will depose to a statement regarding your predicament. And then I was given time. If there is an attachment of my subpoena, I went there.

          The complainant was very, very disrespectful. I found him. I spoke to him about the subpoena that is

needed at court. He said that Magagula, you promised me that you are going to give me the remaining cigarettes that is in the SAP13. You did not give me. And now I am no longer interested in the matter. So, the complainant was interested in what was remaining in the SAP13.

So based on that, he was no longer interested. I wrote the statement as per instruction of the advocate that if he is not interested, you must dispose the statement. The complainant until today, I am sure, even though it has been  
10 a long time I have not gone to the shop, I believe he is still there.

**CHAIRPERSON:** So, the long and short of what we are saying is that you did not serve the subpoena.

**MR MAGAGULA:** Yes, I did not serve him because he did not want to. So, in terms of forcing him through the court processes, that would be the duty of the advocate to instruct me that let us serve him with warrant or whatsoever.

**CHAIRPERSON:** See, if there is criminality, as it is  
20 suggested there is, it appears to be serious criminality.

**MR MAGAGULA:** Yes.

**CHAIRPERSON:** It involves police officers. I do not think that a matter should end just like that, just because a witness is refusing to accept a subpoena. I do not believe that IPID officers like you should leave matters at that just

because a witness is refusing to accept a subpoena. Yes, complainants are crucial to criminal prosecution, but it is a criminal case which is at the hands of the state, which is why it will be state versus whoever, you know, with criminal matters. So, it is a public interest issue. It is not just about the complainant, and that is more so if it is a serious matter. It cannot just end just because a witness, because that is what a complainant is. Bottom line is they are a witness. So, it cannot end just because a witness is not  
10 willing to accept a subpoena. Your comment?

**MR MAGAGULA**: I agree with you, Commissioner.

**CHAIRPERSON**: And again, I emphasise the fact that this involves police officers charged with criminality. It cannot end like that. Otherwise, our criminal justice system is imperilled. You wish to comment?

**MR MAGAGULA**: I agree with you. The only thing is to await the directives, because my powers end when I am given a task to subpoena, and I go and subpoena and bring the results. So, if the NPA gives me directive, what is the  
20 way forward I will embark on what they have told me. But currently, I cannot say I will go and arrest the person because it is not complying with what the court wanted it to be.

**CHAIRPERSON**: You would not arrest at that stage. You would have had to save the subpoena and report to court on

the next date of appearance that I have saved the subpoena, and it would then be the court that directs what should happen. And of course, failure to comply with the subpoena may result in another criminal process. Comment?

**MR MAGAGULA**: My comment is that the Commissioner says that my duty was to serve. I did that. I cannot.

**CHAIRPERSON**: You said you did not, remember? You said you did not. I asked you, did you? Did you serve the  
10 subpoena you said you did not.

**MR MAGAGULA**: When I said not it is because the complainant did not sign. When I say I did not serve, it is that the complainant did not sign. He refused. It was my meaning that I did not serve. If he signed, I have served it. If he refused, even though I was with him, I did not serve. There is no signature of him because he is refusing to sign the subpoena. It is what I was saying.

**ADV SELLO SC**: Mr Magagula, can you turn to page 242 of the still unaccepted TLM?

20 **CHAIRPERSON**: To what?

**ADV SELLO SC**: 242.

**CHAIRPERSON**: Thank you.

**ADV SELLO SC**: I find at page 242 an affidavit you deposed to. It would appear that you did so on the 18<sup>th</sup> of February 2025. And on a reading of that document, it would

seem to suggest that it is talking to the issues that the Chair is engaging you on. Perhaps if you look at that document and you remind yourself of the steps you have taken and what transpired on the dates that you referenced, particularly at paragraph 3 of that document. Might that help you? At paragraph 3, you say:

10                   “On previous trial date to subpoena the victim, I found him in another shop, and I explained the purpose of my visit. The victim was disrespectful to me and said he is not interested. The present visit, which was on 2025-02-04, the victim was cooperative and he informed me in a human manner that he is not interested anymore in the case.”

Do you see that?

**MR MAGAGULA**: Yes.

**ADV SELLO SC**: So, do you confirm that is your affidavit?

I think it says, I, Thulani Magagula, state under oath.

20 **MR MAGAGULA**: Yes.

**ADV SELLO SC**: So, does this reflect the steps you have taken thus far, at least until, is it February 4<sup>th</sup>, 2025, to secure the complainant's attendance?

**MR MAGAGULA**: Yes. I confirm and it shows that the attempt was not only made once, but it was made several

times.

**ADV SELLO SC:** Thank you.

**ADV BALOYI SC:** It is a follow-up on the discussion with the Chairperson, but from a slightly different perspective. As I have understood it, the Section 29 of the IPID Act, and I think it was sub (1)(g) if I am not mistaken, which speaks to corruption. Firstly, there is the obligation, I think in Section 29, in 29 rather actually, I am getting my sections wrong. Section 29 creates an obligation and makes it an  
10 offence not to report something, right? It is 28 that sets out the different misconduct or offences that IPID has jurisdiction over. And I think (1)(g), 28(1)(g), is the corruption cases, offences. Now, it seems to me that the effect of this case is police corruption. I see you nod, you agree with me.

**MR MAGAGULA:** Yes.

**ADV BALOYI SC:** Which is different from a complainant who is complaining that they took his cigarettes. So, we have got two different things. A complainant says they  
20 came and stole my cigarettes. EMPD and IPID say that act of stealing, as we deal with it, it constitutes an act of corruption. You have got the photographs. You have got the statement of now a reluctant witness who tells you what happened. And then you have got evidence that we have gone through now, which places the three officers on the

scene. You see them packing things into boxes. And I think you tell us in the statement, in your statement at paragraph 52, that 52.1:

“The EMPD members made an entry in the exhibit register, citing that the exhibit was found as abandoned. However, the investigation reveals that the exhibits were seized from the store, and the owner is known to them.”

10 So, you, IPID, know they are lying when they say that, when they say it was abandoned material or abandoned goods, because the investigation has revealed that. And then in 52.3, you say:

“The photo album shows that they seized more than two boxes of cigarettes while they only booked two.”

So, there you do have evidence of criminal conduct, of corruption, if you like, because of the entries that they have made. I do not understand how the prosecution of these  
20 people on the charge of corruption cannot proceed, even with a reluctant witness. Because the complainant, as I understand it, on such a corruption case would be the EMPD or would be IPID.

And why that objective evidence is not sufficient, at least to create a case that the three accused should be

called upon to answer in a criminal matter. Why is that so? I understand the bit about a witness not being there and the prosecutor saying, without the witness we are in trouble. But these, for me, appear to be instances where a case of corruption can be prosecuted if IPID pushes it, that they should be prosecuted for corruption. And your witnesses are EMPD and his records, or Mr Magagula and his records. Why is that not done or not doable?

**MR MAGAGULA:** Such decision lies with the prosecuting  
10 authority, because they have all these facts. Because IPID is not the one that decides that this matter must continue, even if we wish to do so. But the prosecuting authority is the one to formulate the charges. This is one of many dockets where criminal charges are being withdrawn, even if we are not happy.

So that decision of prosecuting without the witness lies with them. There was another case, a simple case, because it was shown in media also. It was corruption. The police were seen loading copper. We arrested those  
20 police officers, and then there were two of them. We investigated, finalised, and then it reached that stage of trial. And then came the time for subpoena.

We tried to locate the address of the witness. Now the witness was running away from us. At some stage he was picking his phone until he did not pick his phone. And

the DPP did not immediately, like in this case also, did not immediately withdraw the case. They said, make effort. At the end of the day, we did not find the complainant, and then it was withdrawn. So, without the victim, the power lies with the prosecuting authority. So, we as IPID, we cannot say.

**ADV BALOYI SC:** Does the IPID engage, not on a case-by-case basis, but as a going activity, engage with the NDPP, if not NDPP, whatever appropriate structure that  
10 deals with prosecutions, to deal with these kinds of cases? Because to me, a civilian, it does not make sense that just because the complainant to a case of theft has disappeared, police cannot be, I mean, EMPD members are not charged for corruption when there is objective evidence that constitutes a criminal offence, right. Is there a process where you engage?

And I want to give you context of it, that we have had evidence, for example, about KZN Political Killings, that there were complaints about matters being withdrawn, and  
20 the police were complaining that the prosecution withdraws cases on the basis that there is not enough evidence to proceed with prosecution. And the police believe we have given you sufficient, and as a result, a forum was set up where now they engage with each other, and they go to a point where now there is a proper understanding of what is

possible, what is doable, why certain things are not happening.

I mean, it seems to me that it should be the kind of things that are addressed, not on a case-by-case basis, but as, if you like, standing operating procedures or memoranda, that there are cases that are complainant-dependent, but there are cases that are not complainant. From the same facts, some charges are not complainant-dependent, and surely, they should be prosecuted. And  
10 there could not be an excuse why Stols has ended up resigning without being charged for something like this, for corruption, in fact. Is there a forum where the prosecution and the IPID engage with each other about matters and problems and how to improve prosecution rates, and, and, and?

**MR MAGAGULA:** Yes, there is such meetings where IPID engage with NPA.

**ADV BALOYI SC:** What is that engagement? I mean, maybe you are not the one to speak to it. If you say to us,  
20 Mr Keefelakae, is better placed, or even the executive director of IPID, if you say to us, that is the person that is better placed to speak to this, I am happy to leave it.

**MR MAGAGULA:** Yes, in our province, I would say Mr Ndlovu is better placed to speak to this because he is the one who is attending such meetings with NPA.

**ADV BALOYI SC:** And what is Mr Ndlovu's position?

**MR MAGAGULA:** Deputy Director.

**ADV BALOYI SC:** For Gauteng?

**MR MAGAGULA:** Yes, his full name is Sandile Ndlovu.

**ADV BALOYI SC:** All right.

**MR MAGAGULA:** He attends the meeting, I am sure it is monthly, if I am not mistaken.

**ADV BALOYI SC:** Okay, all right, so he would be able to say what those engagements are about and whether, and  
10 from him we will know whether these kinds of matters that we are raising get addressed.

**MR MAGAGULA:** Yes.

**ADV BALOYI SC:** Thank you.

**CHAIRPERSON:** Ms Sello, our list is growing. Remember? I think we started with Mr Keefelakae, and then Ms Masuku, and now ...[intervenes]

**ADV SELLO SC:** Yes, Ms Masuku was the witness yesterday.

**CHAIRPERSON:** Yes, and today I do not think this is the  
20 first subject. Can you please ...[intervenes]

**ADV SELLO SC:** Yes, we are keeping a running list.

**CHAIRPERSON:** Keep a running list of all these.

**ADV SELLO SC:** Matters to be referred to their seniors for engagement with the Commissioner.

**CHAIRPERSON:** Yes.

**ADV SELLO SC:** Indeed.

**CHAIRPERSON:** Thank you.

**ADV SELLO SC:** We shall. Thank you. Thank you, Commissioner Baloyi. Staying then with this matter, I just want to deal with two things before we finish here. Please go to page 220 of Annexure TLM2, the same file. 220, it is top right corner in red. That is a document bearing Benoni CAS number 215-07-2022, and it just had a memorandum. What is this document? Who is the author of this document?

10

**MR MAGAGULA:** This ...[intervenes]

**ADV SELLO SC:** It provides a summary of the case. I just wanted perhaps to know ...[intervenes]

**MR MAGAGULA:** Yes, it is the summary ...[intervenes]

**ADV SELLO SC:** Who compiled it.

**MR MAGAGULA:** Yes, of the case, and it was compiled by ...[intervenes]

20

**ADV SELLO SC:** Because just to assess that, page 222 at the end, the last entry is comments SPP for your recommendation, please. Are you able to help us identify what the document is and who authored it?

**MR MAGAGULA:** It is Warrant Officer Ben.

**ADV SELLO SC:** Warrant Officer Ben.

**MR MAGAGULA:** Yes.

**ADV SELLO SC:** Was that the investigating officer?

**MR MAGAGULA:** Yes.

**ADV SELLO SC:** Okay, now I - and thank you for that. I see from this document - in particular, I would like to refer you to page 221, item 9. And item 9 is a summary of what would appear to be Constable Mackenzie's statement, as was obtained in this matter.

**MR MAGAGULA:** Yes.

**ADV SELLO SC:** I am going to read a few lines to you, and I am going to pose a question, and I do not know if you  
10 have the answer, because I do not know these matters:

“Constable Mackenzie [A9], will state that he was on duty when he, Constable Stols, and Constable Twala visited the supermarket. Inside, they found one Indian and one African male. They requested documentation authorising the trade of cigarettes but was told that the manager was not there and available to come to the shop either.”

20 Now, this is from a police officer. Can you tell us more about the documentation authorising the trade of cigarettes? I personally am not aware of it. What documentation could they potentially have been looking for? Do you know?

**MR MAGAGULA:** They would be looking for the invoice of

cigarettes inside the shop. Where did they buy the cigarettes.

**ADV SELLO SC:** Why does that become a police matter, and how? If you know.

**MR MAGAGULA:** This one, I do not know, but what I can say, the cigarettes that were inside the shop, it was lawfully inside the shop because the owner bought the cigarettes.

**ADV SELLO SC:** In your experience, would this conduct where EMPD officials take the initiative to go into a random  
10 shop and ask for proof of ownership of the cigarettes or any other stock in the shop? Is that lawful in your view?

**MR MAGAGULA:** It is not lawful. In municipality, I do not know that you need. There are those people dedicated to go and check the shops if they are compliant. For instance, it is a shop where they sell food. There are certificates that are being given by the municipality, and there will be a tax certificate from SARS. It is not the duties of the EMPD to do such things.

**ADV SELLO SC:** Thank you. On that statement, I see you  
20 advise that it was authored by Warrant Officer Ben at page 222 at item 18 ...[intervenes]

**CHAIRPERSON:** Just to close off the point you just made, in essence, this was a search and seizure. The default position with regards to searches and seizures is to have a warrant, a search warrant, a search and seizure warrant.

The exception is if you reasonably believe that by first going to obtain a search and seizure warrant, the purpose of the search and seizure warrant may well be defeated.

So, you search and seize immediately. But now you have cigarettes, they are the stock in the shop, and what reasonable belief could there have been that these cigarettes would suddenly disappear and that you cannot first obtain a search and seizure warrant before you search for and you then seize them. I guess the point I am making  
10 ties in with what Ms Sello has just made, and indeed with a point that Commissioner Baloyi made much earlier.

Commissioner Baloyi's point being, oh gosh, I forget what it was now. But the point is – yes, yes, yes, it was, why did the NPA not prosecute? There was objective material for it to prosecute. For example, why I say what I have just said ties in with that point by Commissioner Baloyi is, here you have police officers, they just pop in, they search and seize, no warrant of arrest, or no search and seizure warrant, in circumstances where there was no  
20 reason for them not to first go and get a search and seizure warrant. So, there are, as Commissioner Baloyi said, objective facts that appear to be sufficient to ground a prosecution. Again, I guess it is not criticising you, it is more the issue of the NPA.

**ADV SELLO SC:** Thank you, Chair. Oh, I referred us to

page 222, and because you had informed us that the author of the document is Warrant Officer Ben. At item 18, there is just an entry, I/O is that investigating officer's statement by DWO Ben A18. So that is the Ben you say is the author of this document.

**MR MAGAGULA:** Yes.

**ADV SELLO SC:** Thank you. And I guess on this file, lastly, if you turn to page 249, this is a handwritten document. At the bottom, I think it is dated 2023-05, but it  
10 does not give me an actual date. It appears on its face to be by Brigadier Julius Doctor Mkhwanazi, who sets out his ID number, employed by the city of Ekurhuleni as a Metropolitan Police Director at EMPD. Can you explain what this document is? It does not have a covering page.

**MR MAGAGULA:** This document is called the Commander Statement. Commander Statement, duty on, duty of statement to confirm that these members that are subject of investigation are working in his unit, and they were on duty on the day of the incident.

20 **ADV SELLO SC:** Now, I will come back to this question. Just to place on record what Brigadier Mkhwanazi tells us. He says, and I quote:

“One would like to confirm that Officer Bafana Twala, Officer Adrian Mackenzie, were on duty with Officer Kecia Stols,

doing crime prevention in Ekurhuleni on the 6<sup>th</sup> of July 2022, working at Benoni area.”

That is the second paragraph I am reading. And the final paragraph states:

“I was informed as the supervisor about crime prevention duties of the day.”

And then it is signed and has got a number, I guess it is his service number. So, you say this is the Commander  
10 Statement?

**MR MAGAGULA**: Yes.

**ADV SELLO SC**: He confirms that they were on duty?

**MR MAGAGULA**: Yes, he confirms.

**ADV SELLO SC**: But it does not tell you whether or not they were engaged in a lawful operation that is registered within the EMPD?

**MR MAGAGULA**: Yes, it does not.

**ADV SELLO SC**: How do you establish that that was the fact, that they were actually undertaking a lawful operation  
20 as instructed by the Commander or in terms of EMPD legislation, related legislation?

**MR MAGAGULA**: In the statement, he never told us anything about the operation, if it is lawful or it was unlawful. But the purpose of the duty on duty off statement is to also touch on that.

**ADV SELLO SC:** Now, I think this is the second statement we see from Brigadier Mkhwanazi. And I think his Commander Statements are famous for brevity. We dealt with a document called SAP299. You recall, it was an official form.

**MR MAGAGULA:** Yes.

**ADV SELLO SC:** That then has to be completed. We have in the files an SAP13 that you have referred to. And once again, that is an official document that poses certain  
10 questions that must be responded to. Is there a document that prescribes how a duty-on-duty off report by a commander should be and what information it shall provide? Or is it up to every commander to decide what information to provide?

**MR MAGAGULA:** There is no such document to state what the commander must state in his statement.

**ADV SELLO SC:** Now, you as an investigating officer for IPID, when you receive a document such as this, which simply tells you that they were on duty on a specific date,  
20 and then the commander says, I was informed as the supervisor about crime prevention duties of the day. And that is it. What value is this document to you, to your investigations?

**MR MAGAGULA:** This document, the value of it, it will show me that okay, this member has to confirm that indeed

they are EMPD members and then they were on duty or off duty. On duty and off duty, it will show me if they acted on their own initiative whilst not on duty. So, in this scenario, Julius Mkhwanazi is telling me that these people were on duty, so he is telling himself that they were on duty.

So, the predicament with EMPD is that they have no official register to check that indeed this person on this day was on official duty. In SAPS, we found those registers. SAPS15 is an official register. You cannot throw  
10 it away. When you fill it, it will be filed that this member on this day was on duty. Even if you come after three years, that is normal.

You committed a crime somewhere in Nelspruit you want to check that you were on duty on that day. So, this one of EMPD, you will get that statement on that specific day when you approach them. I want to see if this member was on duty and threw the car. Did he book the car, the official car on that day? So, you will get those answers from those registers.

20 But they do not care. There is no logic. Like Stols. Stols, can simply wake up at 12 o'clock midnight and go and do her duties. Tomorrow, when something has happened, we come to Julius to say, can you tell us, do you know this member? Is it your member? He will say, it is my member. Was she on duty? 12 o'clock midnight, Julius will write

three sentences and say, she is my member.

She was on duty, I am aware. She was working in the area of Kempton Park. So, the EMP, how they work, most specially in specialised units. It seems as if you just do the job willy-nilly. You can wake up at 2 o'clock, 3 o'clock. I do not know how they work. There is no order. Basically, what I am meaning, there is no order.

**ADV SELLO SC:** If I can follow up on that. What power do you have to compel somebody like Brigadier Mkhwanazi as  
10 commander to provide more detail than I was informed as the supervisor about crime prevention duties of the day? I was informed by whom? Do you have any powers?

**MR MAGAGULA:** To provide more details, yes.

**ADV SELLO SC:** To compel him to provide more details? Or are you forced to accept the report as he chooses to write it with this bare minimum?

**MR MAGAGULA:** No, we do have power to ask him to answer whatever we want. Unless if he himself is a suspect because we must respect his constitutional right. But in  
20 terms of him not being a suspect, he must answer to what we are looking for.

**ADV SELLO SC:** Then, if we go back to the questions posed to you by Commissioner Baloyi and the Chair. This is a clear case of corruption. You as the investigator are provided with this word salad that Brigadier Mkhwanazi puts

forward as a commander statement. What steps did you take to ensure that he provides you with appropriate details to be able to either support the criminal charges to be levelled against these members or the ongoing criminal case? A reading of that document just tells you it is absolutely useless. You say you have the power to compel him to provide more. Did you in this case? If not, why not?

**MR MAGAGULA:** I did not compel him to give more details. At that time when I took it, what I am looking for, 10 maybe I overlooked more details. But at that time, my question to him was to state that these members are EMPD members and then they were on duty on the day of the incident. Now you have clarified me with more details that you were supposed to look at this. At that stage, I was not clued up to look for more regarding his own statement. So, I accepted this.

**ADV SELLO SC:** Thank you for that. Yes, Commissioner Baloyi.

**ADV BALOYI SC:** Is this not some of the areas of 20 improvement that you should be, especially because you have got the experience with the SAPS. You know how the SAPS do things. You have told us there is a record. You can go back five years, and you will find the full record of a member's deployment or operation. Assuming they did not lose their pocketbook, but SAPS has got its own records.

Surely from experience, you should be making, to make your job easy, but for accountability too, for individual officers' accountability.

These are areas where you should be proposing improvements because it affects how you do your work. It affects the kind of information, the quality of information that you get. So, you should be, without even prompting by the Commission, I am surprised that up to now IPID has not said to MPS that you need to introduce these kinds of records because for purposes of our investigations and whatever recommendations we make, it is necessary for us to get that kind of information and it must be in a formal form. Maybe it is because you guys are overloaded with work. We are asking you because we have the benefit of sitting outside, but perhaps there should be reflections on what should you be requiring in order to improve the quality of your work. Do you accept that would be of assistance?

**MR MAGAGULA:** Yes, I agree with you, Commissioner. Those are areas of improvement, more especially with these units because members working at the units, they do as they wish because maybe their commanders have given them that leverage. But those that work certain hours, that you work your office, you report on duty two days, two days night shift, those ones we can follow up the record because we know that Monday, Tuesday, this member is working day

shift. Wednesday, Thursday, he is working night shift and then he is off. So, this specialised unit will never know somebody decide to work 1 o'clock and raid a Pakistani shop. There is no logic there and then the commander will always support that I am aware of that member. So, it is what must be when we engage with EMPD and then they must improve on those areas.

**ADV BALOYI SC:** I think because it has to be the scariest and most concerning thing to know that I could encounter, I  
10 could meet up with an EMPD officer and I have a bad experience with them with serious consequences and there is no record, a record cannot be found of that person having been on duty. I would say that is something that IPID should be concerned about.

**MR MAGAGULA:** Okay.

**ADV BALOYI SC:** Thank you.

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

**CHAIRPERSON:** Ms Sello, we derailed you a long time ago. You were taking the witness to paragraph 52.

20 **ADV SELLO SC:** Yes, I was and it was which is where I wanted him to, what I wanted him to deal with. However, the issues I have since addressed are issues I would have addressed after 52. So, I have taken care of that part of things to follow up on the questions that the Commissioners had posed. So now we are back at paragraph 52, page 13.

And if you could just finalise on this particular case, what you say starting at paragraph 52.

**MR MAGAGULA:**

10                    “This provincial withdrawal happened despite of the state able to prove the following. The EMPD members made an entry in the exhibit registrar citing that the exhibit was found as abandoned. However, the investigation revealed that

10                    the exhibit was seized from the store, and the owner is known to them. According to EMPD members, the suspect escaped from their custody and yet they failed to open a case of escaping from lawful custody. The photo album shows that they seized more than two boxes of cigarettes while they only booked two. These are matters that can still be pursued against these members

20                    departmentally. Current status of the case, the matter remains provisionally withdrawn. The complainant was not willing to be a witness against the police officer. Two other witnesses, both of whom are foreigners, Malawian and

Bangladeshi citizens, have already left the country. These are the victims of - these are the victims of kidnapping and another person who witnessed the action of the police on the day respectively after providing us with a statement.”

**ADV SELLO SC:** And you have a last point in paragraph 55?

**MR MAGAGULA:**

10 “It can only be re-enrolled if the complainant is willing to testify. I continue to make efforts to persuade him.”

**ADV SELLO SC:** Thank you. Commissioners, unless there are further questions on this particular case, that would then conclude. The Benoni case.

**ADV BALOYI SC:** I think Ms Sello earlier on with the witness you asked him a question about whether the EMPD, in fact I think you said the EMPD have said they do not  
20 have information about this case, am I?

**ADV SELLO SC:** No, I had enquired whether or not IPID had filed a report, like a negative report to EMPD to enable them to initiate disciplinary processes.

**ADV BALOYI SC:** Okay, maybe let me ask my question. I think you said in response to that line of discussion about

whether a report was filed and EMPD knowing about this case that you have provided them with documents. Are you able, as you sit there, to say what kind of documents you provided them? And I ask because you say here that departmental action, notwithstanding the problem with the criminal prosecution, the department, and when you say department, I take it you mean EMPD can act on this matter. When you say department, who are you referring to here?

10 **MR MAGAGULA**: Yes, departmentally it can be pursued successfully because we have, without even using the witnesses, based on the facts of the registers and the escape of, it is them who is telling us in their statement that this suspect of them, of cigarettes, escaped from them. So, if a suspect escapes, you have a duty to open a case of escaping from lawful custody. So, their employer can ask why you did not open a case of escaping. The victim in his statement has stated that at some stage when they were travelling to Benoni, he was told to give them something so  
20 that they can leave him and he gave them an amount of R200 and they said you must go. But when they wrote their statement, they changed the scenario as if he escaped.

**ADV BALOYI SC**: I guess what I am asking is what you have in 52.1, 52.2, 52.3, which is what I referred to earlier, that all of that seems prosecutable criminally and is not

reliant on the complainant. What you have listed there, 52.1, 52.2, 52.3, is that material that you have given to the EMPD or that you have a way of knowing that they are in possession of, including the photographs that we looked at?

**MR MAGAGULA**: Yes, they have.

**ADV BALOYI SC**: They have what we have here?

**MR MAGAGULA**: Yes.

**ADV BALOYI SC**: Okay, all right. Thank you I am answered.

10 **ADV SELLO SC**: And just perhaps to follow up on that earlier, I understood you to say that you had given the entire docket to Ms Benel. You said? Within the integrity and standards unit.

**MR MAGAGULA**: Yes.

**ADV SELLO SC**: Was that your testimony?

**MR MAGAGULA**: Yes.

**ADV SELLO SC**: So, for the Commission to establish the extent to which the EMPD was aware of what transpired in this matter, Ms Benel, or at least Mr Erasmus, should be  
20 able to advise the Commissioners accordingly?

**MR MAGAGULA**: Yes.

**ADV SELLO SC**: Is that your testimony?

**MR MAGAGULA**: Yes.

**ADV SELLO SC**: You are saying we should turn to Mr Erasmus, and we will get our answer?

**MR MAGAGULA:** Yes, and through annexures which I have. I am sure we are still going to go through.

**ADV SELLO SC:** Yes.

**MR MAGAGULA:** To prove that I have given them the copies.

**ADV SELLO SC:** Okay.

**ADV KHUMALO SC:** I had made a note to Ms Sello that she gave the docket to EMPD. She gave it to Ms Motsepe in 2023.

10 **ADV SELLO SC:** Yes, that is in TLM11 and 12, I think, yes.

**CHAIRPERSON:** Let us adjourn and resume at 2 pm. Let us adjourn.

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

**INQUIRY ADJOURNS**

**INQUIRY RESUMES**

20 **ADV SELLO SC:** Thank you, Chair. Mr Magagula, if you could switch on your microphones. And if you could open your witness statement again. We now are at page 14, and we are dealing with the third case. That third case at page 14, starting from paragraph 56, you say it is the Hillbrow CAS797-03-2023.

**MR MAGAGULA:** Yes.

**ADV SELLO SC:** I think you set out the facts regarding this case, so if you could just briefly summarise what they

are and what happened, starting from paragraph 56.

**MR MAGAGULA:**

“This is a case of corruption and impersonating of a police officer and involves the theft of precious stone from a citizen. I attach the docket of the case marked TLM3.”

**ADV SELLO SC:** Apologies, Mr Magagula, the docket that you say is marked TLM3, we might as well have it open.

10 Please open your second file. It is marked 2 of 3. That file we are working with before lunch. And your TLM3 starts at page 249. At 250, my apologies.

**MR MAGAGULA:** It is TLM?

**ADV SELLO SC:** It is TLM3. Top right corner, marked in red, 250, the page number. Have you located it?

**MR MAGAGULA:** Yes.

**ADV SELLO SC:** Please keep it open. We will be referring to some parts of that docket. You may then proceed from your paragraph 57.

20 **MR MAGAGULA:**

“This is a case of corruption and impersonating of a police officer and involves the theft of precious stone from a citizen. I attach the docket of this case marked TLM3. The complainant alleges

that on 11 February 2023 at approximately 8 o'clock, two male and one female individual arrived at his residential premises and identified themselves as officers of the EMPD. Of these three individuals, two were attired in official uniform, while the third was in civilian clothing. At that time, the complainant was in the company of his partner, who was able to photograph the officers without their knowledge. The female officer, who has been identified as Constable Stols of the EMPD, informed the complainant that he was under investigation for the alleged smuggling of lithium and expressed their intention to conduct a search of the premises. The complainant requested to be shown a valid search warrant. The officers, the second has been identified as Constable A Mackenzie, who also is an EMPD member. However, advised that they were entitled to conduct the search without a warrant and that force could be employed if..."

**CHAIRPERSON:** If necessary.

**MR MAGAGULA:** If necessary:

10 “During the search, the officers discovered low-grade Sigilite ate and manganese. Six boxes of Sigilite were seized with an estimated value of R14 926 412. The members reported at Rosebank that they were tracing a suspect of business robbery, whilst in their own statement they say that they are investigating a suspect dealing in lithium. From the evidence obtained of this operation [the photographs and CCTV footage], the only people identified are the EMPD officers. No one is identified as being from the Johannesburg Metropolitan Police Department, JMPD. Neither Brigadier Mkhwanzi who is their supervisor, nor the

20 police officers involved have submitted evidence of a joint operation, as these officers claim it was. The onus lies on them to produce evidence of a joint operation if there is any. The members stated that they seized the articles and

handed them to JMPD officers. Once again, there is no proof that they booked any articles from the operation on the SAP13 register. Indeed, they could not as there is no case, as they claim, by them registered by SAPS of such an investigation. It is proven that they abused their powers by operating outside their jurisdiction, i.e., Ekurhuleni, and misled the Rosbank SAPS about the basis of conducting operations within Johannesburg. This amounts to misconduct by these EMPD members based on the fact that they were operating outside their jurisdiction without proof of the necessary authority.”

10  
20  
**ADV SELLO SC:** Thank you. You have provided in the docket the photographs that you referred to paragraph 61. You state there that from the evidence obtained of this operation, the photographs and CCTV footage, the only people identified are EMPD officers. Do you see that?

**MR MAGAGULA:** Yes.

**ADV SELLO SC:** Commissioners, for the record, we are going to put up the pictures. If the Commissioners could make a note, you will recall when Chief Mapiyeye was

testifying, he testified to a letter of demand received in respect of semi-precious stones by EMPD. I think that it is demanding a recovery of about 16 million, if memory serves me well.

Attached to that letter of demand is a series of photographs, which unfortunately were in black and white. What we are about to put up, which comes from the docket, are the same photographs, except this time in colour. So, we would have to attend to your files. We had undertaken  
10 to provide better photos and substitute what you currently have at Annexure JM24 of Mapiyeye with the colour photographs. I should just make that note.

So, you have in your docket, Mr Magagula, from page 344, a series of photographs. Annexure TLM3 at page 344. You have a series of photographs and there are, I think on my count, three photographs from 344. So, it would be 344, 345 and 346. That is the first photograph. I would like us to move to the second and the last photograph. On these photographs, you say the only  
20 people identified are the EMPD officers. You say that paragraph 61. Do you confirm?

**MR MAGAGULA:** Yes.

**ADV SELLO SC:** From these photographs that are in the docket, are you able to say where those photographs were taken? Is it at the complainant's residence where the crime

took place? Or the seizure of the semi-precious stones took place? Is that the complainant's residence?

**MR MAGAGULA**: Yes, this is the complainant's residence.

**ADV SELLO SC**: There are three photos. Are you able to identify any of the people appearing in these three photographs?

**MR MAGAGULA**: Yes.

**ADV SELLO SC**: Please do. Let us go back to the first one at 344.

10 **MR MAGAGULA**: The one with the red t-shirt is the victim.

**ADV SELLO SC**: Yes.

**MR MAGAGULA**: The one with the brown shirt with a gun in his waist is facing the other direction. It is Etienne Van Der Walt.

**ADV SELLO SC**: Yes, for the record, Etienne Van Der Walt is not an EMPD member.

**MR MAGAGULA**: Etienne Van Der Walt is not an EMPD member. He is not a police officer. When we say there was someone who was impersonating a police officer, it is  
20 Etienne Van Der Walt.

**ADV SELLO SC**: Okay.

**MR MAGAGULA**: And Etienne Van Der Walt, we also found him in the Putfontein case. We also found Etienne Van Der Walt in the Brakpan murder case.

**ADV SELLO SC**: Yes, then the other two people?

**MR MAGAGULA**: The lady seated down is Kecia Lee Stols.

**ADV SELLO SC**: Yes.

**MR MAGAGULA**: The man standing there is Adrian Norman Mackenzie.

**ADV SELLO SC**: We will just quickly go to 345 and see if there are still the same people you identified except for the victim.

**MR MAGAGULA**: Yes.

**ADV SELLO SC**: And the last photograph at 346, it would  
10 appear like the victim is at the bottom left corner of the photograph and the three other people, Van Der Walt, Stols and Mackenzie, still around the table. Is that correct?

**MR MAGAGULA**: Yes.

**ADV SELLO SC**: Thank you. You then say you obtained evidence of CCTV footage. You say so at paragraph 61?

**MR MAGAGULA**: Yes.

**ADV SELLO SC**: Can you inform the Commissioners what you did with that footage?

**MR MAGAGULA**: I obtained the CCTV footage, and I sent  
20 the footage to a forensic science laboratory in Pretoria to compile a photo album.

**ADV SELLO SC**: Before you proceed, Commissioners, I note that that referral and other documents are missing from our files from the docket. If I may update your files with the missing four pages that were supposed to be in the

docket, Mr Magagula's file will be equally updated and then we can deal with these matters. As these are distributed, Mr Magagula, do you have the extra pages you provided during lunch? Numbered from 248.1.

We propose to, they will not exactly be in order, Commissioners, but so not to disrupt the numbering. We have decided that perhaps they best belong after 248. Which is, I am trying to find the logic of why 248. 248 is the copy of the occurrence book. And before we get into,  
10 so they would start TLM3. So, if we could just put them there. But as he continues, we will realise that they are not in the right place. For the moment, we will do so, so that they stay together because they are updating the docket as we currently have it.

**CHAIRPERSON**: Because if they are 248.1, then they should be just before 249.

**ADV SELLO SC**: And it is because 249 was misfiled, if the Chair remembers. That is the commander's statement from Mr Mkwanzazi.

20 **CHAIRPERSON**: The short, short ...[intervenes]

**ADV SELLO SC**: Yes, for the previous case.

**CHAIRPERSON**: All right, thank you. This is exactly the reason I always say I will rely on you to stay busy.

**ADV SELLO SC**: Just for the record, for the readers of the transcript to know what happened and how other documents

made their way into the files.

**ADV KHUMALO SC:** Just in case I missed it, were the pressure stones ever found? Because I saw in your statement that the officers say they handed them over to JMPD. Were they ever found, the pressure stones?

**MR MAGAGULA:** The part of it, a small part of it, as we progress, we found them. And it will unfold when the SC is asking me some questions, the bigger portion.

**ADV KHUMALO SC:** Thank you.

10 **ADV SELLO SC:** Thank you. Have you found your, Mr Magagula does have the new pages 248.1, the loose pages that you provided during lunch. Yes, you had indicated that you then, still at 61, you sent the CCTV footage to the forensic laboratory.

**MR MAGAGULA:** Yes.

**ADV SELLO SC:** Please have regards to page 248.1, the loose pages you just received, to 248.2, and tell the Commissioners what that document is.

20 **MR MAGAGULA:** This document is covering minutes about the summary of the incident, which I summarised and took the video footage to forensic to compile a forensic album.

**ADV SELLO SC:** And I see ...[intervenes]

**ADV KHUMALO SC:** Sorry, is there not a discrepancy here? I thought the number was R14 million.

**ADV SELLO SC:** The witness has it as R14.9 million, yes.

**ADV KHUMALO SC:** No, no, it says on page 248.1, R14 000.

**ADV SELLO SC:** Oh, on this, the document referring the ...[intervenes]

**ADV KHUMALO SC:** The one you just gave us now, 248.1, at paragraph 1.

**ADV SELLO SC:** Yes, the Commissioner is correct. It estimates the value at R14 000 in this document. Mr Magagula, you understand? Look at this document. You  
10 see the first, second paragraph. The first is just a one-liner. See the paragraph that starts with the words, it is alleged by the complainant.

**MR MAGAGULA:** Yes.

**ADV SELLO SC:** On the third line, and this document seems to have been generated by you, if you look at page 248.2, you state that the complainant says they seized his legal precious stones at the estimated value of R14 000. You see that?

**MR MAGAGULA:** R14 000.

20 **ADV SELLO SC:** You see what you have here?

**MR MAGAGULA:** Yes, I see it.

**ADV SELLO SC:** Now, if you go to your statement at paragraph 59, you provide an estimated value of R14 926 412. Do you see that?

**MR MAGAGULA:** Yes.

**ADV SELLO SC:** The Commissioner, Khumalo, would like to understand, can you explain the discrepancy between the two figures?

**MR MAGAGULA:** Yes, I see this discrepancy. This is a summary to the forensic, for them to be able to know what was happening here. It is not the exact amount, it was estimation.

**ADV SELLO SC:** But do you acknowledge that there must be an error between the two figures, the one in the letter  
10 and the one in your statement? Which is the wrong figure?

**CHAIRPERSON:** R14 million and R14 000.

**MR MAGAGULA:** It was an error.

**ADV SELLO SC:** Which one is that?

**MR MAGAGULA:** The error is in the letter.

**ADV SELLO SC:** In the letter?

**MR MAGAGULA:** In the letter.

**ADV SELLO SC:** And perhaps it might assist if we go to  
page 311 of the same file. 311. That is the statement of  
the complainant. And if one has regard to paragraph 4 of  
20 that statement by the complainant, it states, I quote:

“I previously stated that the value of the semi-precious Sugilite stone stolen from me are in the amount of approximately R14 million. I enclose herewith an invoice indicating the value of same

marked PP1.”

Do you see that?

**MR MAGAGULA**: Yes.

**ADV SELLO SC**: So, we accept from the complainant's version that the value is 14 million, 14.9 million. Is that so?

**MR MAGAGULA**: Yes.

**ADV SELLO SC**: And that is, it is from the complainant's version that you obtained the value of the stones. You did not undertake an exercise to evaluate them, did you?

10 **MR MAGAGULA**: He provided with invoice.

**ADV SELLO SC**: So, it is from the version of the victim.

**MR MAGAGULA**: Of the victim.

**ADV SELLO SC**: That is the only basis that you say it is 14 million, so you accept it.

**MR MAGAGULA**: Yes.

**ADV SELLO SC**: Thank you. So then if we go back to page 248.1, the loose pages, you say there that you were forwarding to the laboratory at paragraph 3:

20 “Kindly received the following for analysis, two by two memory stick containing video footage of the incident, and then you provide the cell number.”

Then it states the video footage shows the incident that we are discussing, correct?

**MR MAGAGULA**: Yes.

**ADV SELLO SC:** Where did you obtain this video footage from?

**MR MAGAGULA:** The video footage, if I may go to ...[incomplete].

**ADV SELLO SC:** This is not IPID footage, is it? At least let us look at that.

**MR MAGAGULA:** Yes, the footage, I obtained it from CAP Security.

**ADV SELLO SC:** And who is CAP Security?

10 **MR MAGAGULA:** It is a security company based in Johannesburg, managing the area where the complainant resides. It is their video footage, not the complainant video footage.

**ADV SELLO SC:** Yes, and you request, I see that the laboratory provided you with a photo album of the video footage saved on the memory stick. And the video footage will be filed in the case docket so that the senior public prosecutor can make an informed decision regarding this incident. Overleaf, if you then give details of this case:

20 [1] The photographs of the VW Golf and its occupants in and out of the house.

[2] The police officer talking to somebody in a car on the street.

[3] Photos of the victim and precious stones.

And the numbered points you say are very important to the

case. So that was your instruction?

**MR MAGAGULA**: Yes.

**ADV SELLO SC**: Did the laboratory provide you with such photographs?

**MR MAGAGULA**: Yes, they did provide me with such photograph.

**ADV SELLO SC**: I am going to refer us to page 254 of that same annexure in the file. And at 255 and following are pictures showing part of the streets and the parking area.

10 Can you confirm what place this is? What are we looking at on the screen?

**MR MAGAGULA**: This is the place of residence of the victim and the street thereof.

**ADV SELLO SC**: And if you go to your paragraph 65, you state that Constable Mackenzie, one of the implicated police, filed a further statement on 15 January 2026 confirming the presence of Brigadier Mkhwanazi at the scene. The statement is part of the docket. Were you able to determine where in these pictures you say Brigadier  
20 Mkhwanazi was, whose presence was confirmed by Constable Mackenzie?

**MR MAGAGULA**: In this picture, I cannot see. There was an interesting car which upon receiving the photo album, I was interested in. It is not this picture.

**ADV SELLO SC**: Okay, we will scroll. This appears to be

the gate to what looks like a complex. We will scroll to the next and the next. Then a series of photographs depicting the street.

**MR MAGAGULA**: Yes, these two vehicles are very important that are shown. The one that is pointed with red is a Metro Police vehicle.

**ADV SELLO SC**: By Metro Police you mean EMPD?

**MR MAGAGULA**: EMPD.

**ADV SELLO SC**: Please continue.

10 **MR MAGAGULA**: The first one there is the one which I am interested in for a certain reason.

**ADV SELLO SC**: Okay, let us go to the next picture. There are two pictures here.

**MR MAGAGULA**: It is Adrian Norman Mackenzie there.

**ADV SELLO SC**: And he seems to be standing next to the car you said was the second car in the previous picture.

**MR MAGAGULA**: Yes.

**ADV SELLO SC**: We will scroll forward.

20 **MR MAGAGULA**: Now this is the first car that I was interested in when I received the photo album because that is not the vehicle that Mackenzie is using. And Mackenzie in this photo album is seen standing next to the driver's door of that vehicle. So, my suspicion on that it was that this precious stone that we are talking about Mackenzie would have been giving that man the stones.

**ADV SELLO SC:** And if we scroll further on, I think it is a close-up picture of what we have seen Mackenzie next to that car you say you are interested in.

**MR MAGAGULA:** Yes, so now you can see there was an individual inside because he is leaning towards that vehicle.

**ADV SELLO SC:** Yes, and if we continue.

**MR MAGAGULA:** So, this photo album is the one that I am interested in to confront Mackenzie again to tell me exactly who is that person was inside the vehicle. So upon  
10 interviewing him, giving him an opportunity because my narrative it was that even if I am giving him an opportunity, even if he does not give me the statement, I am going to file a negative report against him that the stone was taken by this person who is you are seeing standing next to this car. So, he provided me a statement and informed me who was driving this car. So, it was on the 15<sup>th</sup> when he told me that no, this car does not belong to a criminal, it belongs to Julius Mkhwanazi and the person who was inside the vehicle is Julius Mkhwanazi.

20 **ADV SELLO SC:** And then if we can go back to the loose pages that we handed in after lunch, you remember we looked at your request to the forensic laboratory and we have marked 248.1. Then we have another document at 248.3. You see that? Do you see the document I am referring to?

**MR MAGAGULA:** 2.4.

**ADV SELLO SC:** 248.3 at the top there it is handwritten.

**MR MAGAGULA:** Yes.

**ADV SELLO SC:** What is that document? It is dated the 27<sup>th</sup> of August 2025.

**MR MAGAGULA:** This was the results from forensic laboratory. This is the covering minutes giving me the results accompanying the photo album that they have compiled.

10 **ADV SELLO SC:** I note at item 2 of that page it states a 212 statement and a photo album are attached as requested.

**MR MAGAGULA:** Yes.

**ADV SELLO SC:** What we have on the screen is that part of the photo album you received from the forensic laboratory.

**MR MAGAGULA:** Yes.

**ADV SELLO SC:** And if we stay on that and you go to the next page of the papers you were holding right now, it  
20 should be paginated 248.4 at the top right corner.

**MR MAGAGULA:** Yes, I have it.

**ADV SELLO SC:** I see it is dated 15 July 2026.

**MR MAGAGULA:** It is January.

**ADV SELLO SC:** 15 January 2026. I am five months ahead. Do you confirm?

**MR MAGAGULA:** Yes, I confirm.

**ADV SELLO SC:** As a brief one, are you able to read into the record?

**MR MAGAGULA:** Yes.

**ADV SELLO SC:** Firstly, let us identify what this document is and then you can read it into the record.

**MR MAGAGULA:** This is the additional statement of Norman Adrian Mackenzie regarding the photo album shown to him by me.

10 **ADV SELLO SC:** Now, can you read? It is got four paragraphs. Are you able to read them into the record?

**MR MAGAGULA:** Yes:

20 “On the 13<sup>th</sup> of January 2026, Assistant Director Thulani Magagula from IPID presented me with a photo album of the case in Hillbrow for me to give a small description of what was going on. I went to a white motor vehicle that was occupied by two black males that came to the scene to check on us on the day in question. The driver was director Julius Mkhwanazi who is in the Ekurhuleni Metro Department and was also with a black male dressed in traffic uniform with a lot of ranks on his shoulders.”

**ADV SELLO SC:** Have you been able to identify who this quote unquote black male dressed in traffic uniform with a lot of ranks on his shoulders? Have you been able to identify him yet?

**MR MAGAGULA:** No.

**ADV SELLO SC:** Okay.

**ADV KHUMALO SC:** Sorry, Ms Sello. After this statement, did you go back to Julius Mkhwanazi and obtain his statement to confirm his presence?

10 **MR MAGAGULA:** Yes, I did call him informing him that now I need a warning statement from him because the table has changed. It is no longer the three sentences of duty on duty off. Now, it is part of the suspect. So, I must get a warning statement on him in terms of section 35 of the constitution. At the time when I called him, he informed me it was towards the weekend that he needs to consult his legal practitioner. He will come back to me.

Indeed, at a later stage, he came back to me because I keep on calling him that it is important. I need  
20 this statement. It is crucial. At any given time, he can call me if he is available. I can drive wherever he is to go and obtain that statement. Unfortunately, he did not tell me when he is free, but he wrote a statement. A small statement, as usual, but the statement contained grammar errors.

So, on its way, it lost its meaning. Basically, that statement, I was not going to accept it because I must see him personally in order for him to sign my warning statement in terms of section 35 of the constitution. So, it is not a question even if you wrote a book and then you send it. The requirement is that he must sign. I must see him personally and I must inform him about his constitutional rights.

**ADV SELLO SC:** Thank you, Commissioner Khumalo.

10 Please have regard to your paragraph 66 in your statement now. Your statement, page 16, paragraph 66.

**MR MAGAGULA:** Page?

**ADV BALOYI SC:** Maybe before you do that, Ms Sello, there is a reference to Rosebank SAPS at paragraph 63.

**ADV SELLO SC:** I was turning to that point.

**ADV BALOYI SC:** Is that right?

**ADV SELLO SC:** Yes, we will get back. We will come back where Commissioner Baloyi was asking about reference to Rosebank. We will get to that in a moment. I was referring  
20 you to your paragraph 66 and to ask you to confirm that the response you just gave to Commissioner Khumalo regarding what steps you have taken against Brigadier Mkhwanazi since obtaining the second statement from Mackenzie, the one who was just writing to the record, that you have set out your explanation at paragraph 66. Please look at it. Do

you confirm?

**MR MAGAGULA**: Yes, I confirm.

**ADV SELLO SC**: I see there is an error in the date there. It has to be because at line three it says you contacted Brigadier Mkhwanazi who said he wants to confer with his lawyer. This after Brigadier Mkhwanazi had submitted a statement on 5 February 2025, which I rejected. The year is wrong.

**MR MAGAGULA**: Yes, the year is wrong.

10 **ADV KHUMALO SC**: That was really my question.

**MR MAGAGULA**: 2026.

**ADV SELLO SC**: So, we should correct that to 2026.

**MR MAGAGULA**: Yes.

**ADV SELLO SC**: Thank you.

**ADV KHUMALO SC**: Because I had assumed that in 2025 a statement was obtained and then Mackenzie gives his statement in 2026 and then ...[intervenes]

**ADV SELLO SC**: Ended. And I will just confirm that this is the statement that you say you received and rejected from  
20 Brigadier Mkhwanazi. That was the first statement from him, was it? Or was it a second statement?

**MR MAGAGULA**: This one that I am looking for, it is the second statement, the first one that I obtained from Brigadier Mkhwanazi. It was the duty on duty off statement of those members because his involvement was unknown at

that stage.

**ADV SELLO SC:** Okay, I was going to then ask us to turn to the various statements that you have on file and in the course of doing so we will answer Commissioner Baloyi's question. At paragraph 63 of your statement, page 15, you note it is proven that they, being the EMPD officers, abuse their powers by operating outside their jurisdiction, i.e., Ekurhuleni, and misled the Rosebank SAPS about the basis of conducting operations within Johannesburg. You see

10 that?

**MR MAGAGULA:** Yes.

**ADV SELLO SC:** You have a series of statements. In particular, I would like us to start in an extra TLM3 from page 273. Now, at 273, if you can confirm, this is the warning statement of Adrian Norman Mackenzie. The actual statement starts at 277.

**MR MAGAGULA:** Yes, I see it.

**ADV SELLO SC:** You confirm? And you obtained, according to this document, this statement, if it is dated.

20 Do you have a date for when you obtained the statement?

**MR MAGAGULA:** For Mackenzie, yes. 2 May 2023.

**ADV SELLO SC:** And that is at page 280?

**MR MAGAGULA:** Yes, 280.

**ADV SELLO SC:** I see it is certified on the 2<sup>nd</sup> of May by you, 2023.

**MR MAGAGULA**: Yes.

**ADV SELLO SC**: Before we get to the statement of Mackenzie, I would like us to go to the other statement, the next statement, at 281, and that is the statement of Kecia Lee Stols.

**MR MAGAGULA**: Yes.

**ADV SELLO SC**: I would like us to start with the statement of Ms Stols because it sounds like, as we shall see from the statement, that she is the initiator of this operation insofar  
10 as Mr Mackenzie is concerned.

**MR MAGAGULA**: Yes.

**ADV SELLO SC**: That you are understanding as well. And Ms Stols's statement is at page 296.

**MR MAGAGULA**: Yes.

**ADV SELLO SC**: And I will just quickly note, she introduces her name and confirms that she is a white female employed by EMPD as a constable, and then states that she wishes to state as follows in English:

20 “In February 2023, I was on duty and in full uniform when I received a call from Mozo, a JMPD member who requested assistance in the recovery of lithium rocks that were suspected to being sold illegally by a suspect in Rosebank area.”

So, next paragraph:

“We went to Rosebank SAPS and informed them that we would be working in the area. We then went to the address of the person who was illegally dealing in lithium.”

Let me just go back to the first paragraph I read. When Ms Stols says she received a call from Mozo, a JMPD member who requested assistance, have you been able to locate this JMPD member called Mozo?

10 **MR MAGAGULA**: In terms of the police, we have rank, we have surnames. So, Stols is giving me Mozo. I do not know their rank. I do not know how many Mozo's are there. So, I believe she was sending me from pillar to post. She is the one who was working with that person. So, she has to have full details of such person. So, I do not know if this person exists or not there in Johannesburg.

**ADV SELLO SC**: And you stated in your statement that insofar as Mackenzie and Stols were operating in Rosebank, it was outside their jurisdiction?

20 **MR MAGAGULA**: Yes.

**ADV SELLO SC**: Under what circumstances could they operate in Rosebank, to your knowledge?

**MR MAGAGULA**: To my knowledge, they can operate in Johannesburg if they are invited officially in Johannesburg with accountability. For instance, if they are invited by

Johannesburg, they will be led by the people of Johannesburg, not them leading themselves.

**ADV SELLO SC:** So, then, at paragraph 3 of that statement, when he says ‘we’, it is not clear who the ‘we’ is, went to Rosebank SAPS and informed them that would be working in the area. From what you are saying, JMPD would not have to do that because Rosebank is within JMPD jurisdiction, am I correct?

**MR MAGAGULA:** Yes, you are correct. If it was an official  
10 duty, indeed, they would have reported to JMPD. They do not need to report there at Rosebank and then they are working under the leadership of Johannesburg. Accountability will go to Johannesburg that were with the members of JMPD.

**ADV SELLO SC:** And if we go then back, you remember we started with the second statement. The first statement starting at 273 is said to be the statement of Norman Mackenzie, the actual warning statement starts at 277. And are you at 277?

20 **MR MAGAGULA:** Yes, I am there now.

**ADV SELLO SC:** That is the statement of Adrian Mackenzie, he says, I, Adrian Norman Mackenzie, employed at Ekurhuleni as a Metro police officer, state the following, and at paragraph 2:

“On the day question, I guess in

question, I was on duty in full uniform and equipment when Constable Stols told me she got a call from a JMPD member who needed assistance with recovery of stones in Rosebank.”

3:

“We went to subs in Rosebank to make a OB entry that we were working the area and we went to the suspect area in  
10 Rosebank.”

You confirm that?

**MR MAGAGULA**: Yes, I confirm that.

**ADV SELLO SC**: And lastly, then, if we go to page 299, and at 299 is a statement as well, dated the 25<sup>th</sup> of May 2023, by a Mr Moalusi, who states:

20 “I am an adult male and provide the service number, holding the rank of warrant officer, working at number 15 Study Avenue, Rosebank SAPS. On Saturday, 2023-02-11, at about 05:45 am, I reported on duty at CSC as a relief commander. Around 08:50 am the same day, members of EMPD came to CSC and report on duty. They were wearing full uniform. It was a female and a male

member. Their names are Constables Stols and Constable Mackenzie.”

Then he indicates who they spoke to directly, Sergeant Mohale. At paragraph 3, he continues:

“They said they are reporting on duty for tracing suspect of business robbery that took place in Nigel. And they will be doing investigations around Rosebank area.”

10 You see that?

**MR MAGAGULA**: Yes, I see that.

**ADV SELLO SC**: According then to Warrant Officer Moalusi of Rosebank, when the two, as Mackenzie states, went to complete, to make the OB entry, they indicated that they were reporting for duty tracing suspects in connection with a robbery that took place in Nigel. But on Ms Stols' version, they were invited by the JMPD regarding illegal lithium trading in Rosebank. Is that how you understand the documents as well?

20 **MR MAGAGULA**: Yes, it is where they have problems.

**ADV SELLO SC**: What problems? Are you able to say more about the problems?

**MR MAGAGULA**: Kecia and company.

**ADV SELLO SC**: Yes. What problems do you suggest they have?

**MR MAGAGULA**: They misled Warrant Officer Moalusi that they are there to trace a suspect of business robbery in Nigel, and they are doing investigation. To start with, they have no function of investigation. And there is no case to prove that they were doing legal duties of a case of Nigel. They have not told him about the case. That case is non-existent.

**ADV SELLO SC**: And then lastly, at page 292, it is an undated statement signed at the bottom against the name  
10 Etienne Van Der Walt.

**MR MAGAGULA**: It is 2?

**ADV SELLO SC**: It is 298.

**MR MAGAGULA**: Yes, I got it.

**ADV SELLO SC**: And on this document, this statement, it does not have a warning statement formal sheet in the docket. Did you obtain this statement from Mr Van Der Walt yourself?

**MR MAGAGULA**: Yes, I obtained the statement of Van Der Walt.

20 **ADV SELLO SC**: I see it is undated. Do you have a recollection of when you would have obtained it? Is it around the same time you obtained from Ms Stols and Mr Mackenzie or later?

**MR MAGAGULA**: It was after Mackenzie and Stols. And the reason for not obtaining the warning statement is

required. It is because Mr Etienne Van Der Walt refused and said, I am not a suspect. I said, no, as per requirement, I tried to explain his right. He refused. So, as a suspect, I have given him the opportunity to write whatever I want to write. In that statement, he wrote what is contained in this.

**ADV SELLO SC:** Okay, Mr Van Der Walt states:

10                    “I, Etienne Van Der Walt, a white male, hereby wish to provide the following statement. On the date in question, February 2023, I, as with Constable Stols and Constable Mackenzie, or I think I was with Constable Stols and Constable Mackenzie, as we were going to go do patrols for truck that had been stolen or used in theft trailers.”

Do you see what I am reading? Second paragraph. He continues:

20                    “We were on route to our first truck stop when Constable Stols received a call. Constable Stols informed me that a JMPD officer had requested assistance in Rosebank, and I asked if I could accompany them quickly, and then we would continue to do the patrols of the

truck stops when we were done. We met, next paragraph, we met with a JMPD officer who informed Constable Stols and Constable Mackenzie of the help she needed.”

So, was it your understanding that this JMPD member was a female? Because that is what this would suggest.

**MR MAGAGULA**: Yes.

**ADV SELLO SC**: Okay:

10                    “We then proceeded to Rosebank SAPS  
                              where I stayed in the vehicle.”

I take it that is when they went to register their presence in the OB register, perhaps?

**MR MAGAGULA**: Yes.

**ADV SELLO SC**: If you can skip the next paragraph, the one after states:

20                    “I stayed in the lounge area, this is after  
                              entering the victim's premises, talking to  
                              the girlfriend of the white male. By then  
                              they had entered the flat.”

And if we skip that to the next paragraph, he states:

“Constable Stols and Constable Mackenzie came into the lounge after putting brown boxes on the floor in the entrance hall.”

And if we then go to the next, second line:

“We met with the JMPD after, and Constable Stols and Constable Mackenzie handed the JMPD officer the SAPS seizure form and rocks. We then left to follow up on the information in Bredel.”

You see that?

**MR MAGAGULA**: Yes, I see.

10 **ADV SELLO SC**: So, from Mr Van Der Walt's statement, it would appear that Constable Mackenzie handed their rocks over to a JMPD officer, wherever that person was.

**MR MAGAGULA**: Yes.

**ADV SELLO SC**: And your testimony is that those rocks, as Mackenzie has confirmed, were handed over to the person in the white vehicle on the street.

**MR MAGAGULA**: He never confirmed that. He confirmed that in the later statement, the additional statement, he identified a person, those people were inside the white  
20 vehicle. He never spoke about their rocks.

**ADV SELLO SC**: So, he still maintains that the rocks were given to the JMPD officer?

**MR MAGAGULA**: No, I do not believe their version.

**ADV SELLO SC**: No, no, on his version, I am happy to go with his version. What is his version? What became of the

rocks, according to Constable Mackenzie?

**MR MAGAGULA:** According to Constable Mackenzie's statement, it is that they give the JMPD.

**ADV SELLO SC:** This is still the unidentified JMPD member?

**MR MAGAGULA:** Yes, unidentified.

**ADV SELLO SC:** To check with Commissioner Baloyi, I do not know if that answers your Rosebank question.

**ADV BALOYI SC:** Yes, it does, Ms Sello. Thank you.

10 **ADV KHUMALO SC:** In the CCTV footage that you have viewed, do you see any JMPD vehicles or any JMPD officers?

**MR MAGAGULA:** No.

**ADV SELLO SC:** And I see that we did discuss this, that now you are waiting to obtain a warning statement from Brigadier Mkhwanazi. What is the next step thereafter?

**MR MAGAGULA:** After obtaining a Brigadier Julius Mkhwanazi's statement, depending on what he is going to say, if indeed, I do not believe that there was a Gauteng  
20 traffic with a lot of ranks, but if indeed he write that he was with his friend, I would ask the rank he would know better, because Mackenzie does not know those ranks. He is the one who knows it is his counterpart.

He will tell me that I was with this person, so it means that the same person I must obtain his warning

statement is also part of that illegal operation. And then after that, I take the docket to the Director of Public Prosecution for decision. And then if they say, and then I go and arrest them. It will depend on the decision of the Public Prosecutor.

If they see that there is some work that I must do, I have to comply with what I have not yet. I did not see they are looking at that Magagula, we you have not yet finalised the matter. Please go and do 1, 2, 3, 4. But if the Director  
10 of Public Prosecution is satisfied, they will issue a directive. These people must be charged with these following counts. I will not predict, but it will be them who will decide.

**ADV SELLO SC:** And we, the Commissioners are aware, and this they learned from Chief Mapiyeye when he testified, that on the 15<sup>th</sup> of August 2023, the complainant submitted a notice to the city of Ekurhuleni municipality of his intention to institute action against the municipality to recover the value of the stolen property. Not what he terms to be stolen property.

20 So, that evidence is already before the Commissioners, and the Commissioners will recall, that is when Chief Mapiyeye submitted JM24. So, is it fair to conclude that on the basis of that letter of demand, which is very detailed, that the EMPD has been appraised of this incident by its members?

**MR MAGAGULA:** Yes, EMPD was aware of this incident even before the civil litigation. Why am I saying so? Commissioner Khumalo asked, was the stone recovered? And then I said part of it. EMPD was aware a long time ago about this incident because after the arrest of these people on Benoni CAS215, I went together with my members to search the vehicle of Adrian Norman Mackenzie.

Upon searching that vehicle of Adrian Norman Mackenzie, we recovered some stones there inside. When  
10 we searched, I booked him out and came with him to the car so that I can search the vehicle in his presence. So, when we found the stones, he was there standing and I had to ask him, does this belong to you? He agreed that this belongs to me. He even added that during the night this stone is just for decoration whatsoever.

Each and every item that we found there, I made him to account for it, and he signed the acknowledgement that this belongs to me, this belongs to me, this belongs to the municipality. Everything that belonged to the  
20 municipality, it was given to the municipality. So, EMPD, from that point, it was on March, I am sure it was on the 10<sup>th</sup> or 11<sup>th</sup> or 13<sup>th</sup> of March when they became aware of this incident. So, there is no way that they only knew when the civil litigation came.

**ADV BALOYI SC:** So, I hear you say that you found the

stones in his vehicles, but how does the EMPD become aware about these stones and therefore the incident itself? You are not, in your explanation, in your answer you did not explain how they became aware.

**MR MAGAGULA:** I made them aware on the same day because the vehicle belongs to EMPD and there were other properties that was inside the vehicle which belongs to EMPD.

**ADV BALOYI SC:** Who in particular and what form did the  
10 making aware take? Is there a record where the stones, where you inform EMPD in writing, whether it is a form or whatever form it takes, about these stones, that they are related to the incident in Rosebank? Is there that kind of detail when you inform them?

**MR MAGAGULA:** Okay, there is, between my communication with Commissioner Spies, I informed him and he also exchanged the same photos with me. I remember in our WhatsApp message, which would be before the Commission, there is the photo of the stones. He  
20 himself sent me also the stone that I recovered. I do not remember at which stage I sent it to him and then he sent it back to me during that period, but it was after the search.

**ADV BALOYI SC:** When you say you informed EMPD, you mean Commissioner Spies? Who in EMPD did you inform about? And remember it is about the case itself, the

Rosebank case. If you say we informed, because the question is understood it was, did they become aware of it? And then you say yes, even before they got the letter of demand, they became aware of it.

So, I just want to clarify, did they become aware of this Rosebank theft case as you have described it as contained in the docket? Did they become aware of it? And I am not saying did they become aware of the docket itself, but did EMPD become aware that its officers were involved  
10 in a bogus operation in Rosebank and that they took these jewels or these stones from there and did that happen before they got the letter of demand and were they informed by you?

**MR MAGAGULA:** Yes, Commissioner, I will try to answer like this. EMPD was aware from the word go, even before the case was opened. The complainant himself went to complain to EMPD. EMPD threw an email to them. They communicated with him. And if my memory serves me right, that email that they received from the complainant, even  
20 before the case was opened, it was sent to us. It is how we assisted the complainant to open the case. So, they are the first people to know about their officers.

**ADV BALOYI SC:** Thank you.

**ADV KHUMALO SC:** The rocks found in Mackenzie's vehicle did they match the description of the rocks that

were taken from the complainant?

**MR MAGAGULA**: Yes, they match. Even the section 212 statement, the report that is in the case, they match.

**ADV KHUMALO SC**: So, you could establish from that that at least if they did hand some of the rocks to an JMPD officer, they did not hand all of them to an JMPD officer.

**MR MAGAGULA**: Can you repeat the question.

**ADV KHUMALO SC**: So, you say some of the rocks were found with Mackenzie, right?

10 **MR MAGAGULA**: Yes.

**ADV KHUMALO SC**: And so, we can assume from that that if they did hand the rocks to an JMPD officer, they did not hand all of them, because some of them were still with Mackenzie.

**MR MAGAGULA**: Yes.

**ADV SELLO SC**: Thank you, Commissioners. Mr Magagula, you referenced communication you say you had in particular with Commissioner Spies around this issue. In response I think it was to Commissioner Baloyi's question  
20 about on what basis you say EMPD had learned of the incident before the civil claim, the intention to institute civil claim was expressed. Do you remember?

**MR MAGAGULA**: Yes.

**ADV SELLO SC**: At your paragraph 86, you do not have to go there, you introduce two annexures, Annexure TLM7 and

Annexure TLM8, and you say these are screenshots of your communication with Chief Mapiyeye and Commissioner Spies respectively.

**MR MAGAGULA**: Yes.

**ADV SELLO SC**: Now, if you can pull out the second file, the second big file, it is marked 3 of 3 on the spine, and I want to take you to Annexure TLM8, which you say are screen grabs of your communication over an extended period, not on this matter, with Commissioner Spies,  
10 starting at page 581.

**MR MAGAGULA**: 581.

**ADV SELLO SC**: Yes, if I then ask you to turn to page 588, no 586, let us start there, there seems to be perhaps a video clip, but then because this is a screen grab, we do not see that. Then there is a message there talking about, I think it is a number for Warrant Officer Ben of SAPS, if you go overleaf, and that also, there are two pictures there, judging by the fact that it is got a timestamp of 12:08, that might be a video, but if we skip that part and go to page  
20 590, the same two are found at 590. Now, I look at the communication below, it would appear a message forwarded, I am not sure whether it is to you or to Commissioner Spies:

“Good morning, Commissioner.”

And below that is another forwarded message, the staff

from Mackenzie car. And then a last one says:

“Must we bring to your office or Mr  
Erasmus.”

This seems to be shared with you with what appears to be  
an evidence bag or a plastic bag containing some stones,  
do you see that?

**MR MAGAGULA**: Yes.

**ADV SELLO SC**: And then it continues and says:

10 “No bring to anyone, start with car and  
protect it as is, IPID will contact you and  
bring their forensics with.”

The next message there at the bottom reads:

“Mackenzie's patrol vehicle was booked  
in for repairs and maintenance. He  
stated on Friday that he left his official  
Tetra radio in the car's cubby hole.”

I instructed, I think 589 and 590 are in the wrong order. I  
instructed, go back to 589:

20 “His supervisor to fetch the radio. They  
just sent me the above, which are all  
inside his vehicle. Can you please  
arrange forensics to urgently attend to it  
as lots of this is similar as what was  
found in Kecia's car and could be part of  
the evidence of their crimes.”

So, my question is, is that the communication you were referencing in response to the question by Commissioner Baloyi when you say senior personnel at EMPD were aware of this incident before the complaint was lodged by, the claim, the civil claim was lodged by the complainant. In particular, you rely on your communication with Commissioner Spies in this regard. Is this part of there?

**MR MAGAGULA**: Yes.

**ADV SELLO SC**: And I see that communication according  
10 to TLM8 is from the period of 13 March 2023 at page 588 up  
to page 595 if I am correct or if not beyond of the 14<sup>th</sup> of  
March 2023. Some of these messages appear to be  
repeats. I guess it is a question of a choice of at what point  
to take the screen grab.

**MR MAGAGULA**: Yes.

**ADV SELLO SC**: Is that correct?

**MR MAGAGULA**: Yes.

**ADV SELLO SC**: So, you are in summary then you say to  
the Commission that the senior police officers at EMPD  
20 became aware as early as March 2023 of this incident.

**MR MAGAGULA**: Yes.

**ADV SELLO SC**: Of precious stones.

**MR MAGAGULA**: Yes.

**ADV SELLO SC**: And they knew that it involved Kecia Lee  
Stols and Mackenzie.

**MR MAGAGULA:** Yes.

**ADV SELLO SC:** And if we, you do not have it before you, at least we know in terms of JM34 from Chief Mapiyeye's evidence that at least EMPD was informed in August of 2023 of this incident and Commissioners just to note specifically at page 114 of Mapiyeye Annexure JM34. The letter from the complainant's attorneys reads as follows. Item three at page 114:

10                   “Our client instructs us as follows. On or  
                          about 11 February 2023, three  
                          individuals, two of them in Ekurhuleni  
                          Metropolitan Police Department EMPD  
                          uniform arrived at the residence of our  
                          client in Johannesburg. Our client later  
                          learned that the two EMPD members are  
                          Constable Kecia Lee Stols and Constable  
                          Mackenzie. We are close here with  
                          pictures of the aforementioned EMPD  
                          members at our client's residence, which  
20                   pictures were taken by our client's  
                          flatmate on 11 February 2023 and same  
                          is marked and attached hereto as  
                          Annexure LOD1.”

Those were the black and white pictures we could not make sense of until we looked at the pictures provided by

investigator Magagula today. So best case scenario EMPD was fully informed by March 23. Worst case scenario by August 2023 they were away. Is that your case?

**MR MAGAGULA:** Yes.

**ADV SELLO SC:** Do you still intend then to file a negative report in respect of these two officers, one of whom of course we now learn is no longer an officer because she has resigned or retired?

**MR MAGAGULA:** Yes, we are still going to file the report.  
10 Immediately after obtaining the warning statement regarding Julius Mkhwanazi, I filed both report DPP and EMPD because my investigation will be finalised.

**ADV SELLO SC:** And what would be your response if you were to learn that the EMPD has taken no steps against any of the implicated officers on the basis that they are awaiting an IPID report?

**MR MAGAGULA:** I will not be surprised even if we have filed the report in time, the file will gather dust in their office until we win our case criminally and then they will  
20 take glory that they have successfully completed while it is because of IPID criminal investigation. As I said earlier, most majority of those departmental that were successful, it was not due to their departmental step that they have taken. They are dependent on the criminal outcome.

**ADV SELLO SC:** Thank you. Commissioners, unless there

are further questions, I think this is as far as we take this particular case.

**ADV BALOYI SC:** Can I? Yes. Ms Sello, the references that you have made to these screen grabs or these WhatsApp messages.

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

**ADV BALOYI SC:** Yes, that you say are evidence of EMPD, at least Spies, being informed about this Rosebank incident. I am not sure it does that, Mr Magagula  
10 ...[intervenes]

**ADV SELLO SC:** Commissioner, if I may, perhaps I misspoke. It was not so much that it is evidence of EMPD having full knowledge. Mr Magagula had referenced telephonic communication and WhatsApp messages with senior members of EMPD regarding the searching of Mackenzie's vehicle where he says he recovered some of the stones. It is in that context I then referred him to TLM12. So, I do not want, I would not want him to think that I said he claimed that is conclusive evidence.

20 **ADV BALOYI SC:** Yes, okay, so you were not saying that this is evidence that EMPD became aware of the Rosebank incident.

**ADV SELLO SC:** Indeed yes, I referred him to that based on his allegation that he was in contact and in particular in regard to the search of Mackenzie's vehicle from which they

recovered these items.

**ADV BALOYI SC:** I understand that. Okay, I will leave it. I just had wanted, if you were saying that I had wanted to say actually it seems that you do have other better pages that may well have been an indicator of this communication. If you look at 616, for example, there are references to Killarney, and Killarney is a suburb, not a police station area, so it sort of suggests that some communication, but I think this is in July, if I am not mistaken. No, it is in April,  
10 but I am not taking it any further.

**ADV SELLO SC:** I would think that perhaps it might be appropriate to do so because I think it buttresses what Mr Magagula says. When one looks at these messages as Mr Magagula provided them after taking screen grabs, they are not necessarily in the right order. You can tell from the date or the start or end of one message. So, if 616 I think supports his version, it would only be fair to draw that to his attention and place it on record.

**ADV BALOYI SC:** Yes.

20 **ADV SELLO SC:** Mr Magagula, Commissioner Baloyi is talking about other messages that perhaps speak to the fact that EMPD members, and in particular in this instance Commissioner Spies, because this is your communication with Commissioner Spies, became aware of this matter as early as perhaps July or so, 2023, and in this regard she

would like to refer you to page 616 of that file we are looking at, which are the screen grabs of your communication with Commissioner Spies. Do you see that?

**MR MAGAGULA:** Yes.

**ADV SELLO SC:** And so, if you are at 616, then please listen to Commissioner Baloyi.

**ADV BALOYI SC:** No, all I was saying, Mr Magagula, is that my initial concern to your discussion with Ms Sello was that you were referring to those stones, to those WhatsApp  
10 messages which show stones as part of evidence that Ekurhuleni became aware, EMPD became aware of the Rosebank incident itself, and I thought if you actually look at other pages there seems to have been better evidence that you were speaking to Commissioner Spies about this Killarney incident.

**MR MAGAGULA:** Yes.

**ADV BALOYI SC:** That is all I wanted to point out.

**MR MAGAGULA:** Yes, Killarney is the resident of the victim.

20 **ADV BALOYI SC:** Yes, all right. I have a different question, though. You say you are still going to be filing a recommendation. You say you are still going to submit a report and recommendation. This incident is in 2023.

**MR MAGAGULA:** Yes.

**ADV BALOYI SC:** You become aware of it in 2023, I think

about March or thereabouts.

**MR MAGAGULA:** Yes.

**ADV BALOYI SC:** You have statements from the complainant, and I think a statement from Stols early on. We are in 2026. What is the explanation? I know that you got another statement from Stols, not Stols, Mackenzie, in January 2026. You are still going to be getting a statement from Brigadier Mkhwanazi, but with what you have got in a complainant's statement, what is the explanation that it has  
10 taken so long to get you to the point where you are able to, or you should be able to make a recommendation to the municipality?

**MR MAGAGULA:** The recommendation is made after the completion of the case itself. Both DPP and EMPD. I acknowledge the delay on the investigation part, but the report to EMPD, as I stated previously, it goes together.

**ADV BALOYI SC:** And has this been to the prosecutor? To the DPP?

**MR MAGAGULA:** Not yet.

20 **ADV BALOYI SC:** It has not?

**MR MAGAGULA:** Yes.

**ADV BALOYI SC:** How do you explain the delay? You say, I acknowledge the delay in the investigation. What are the reasons that there has been a delay in the investigation?

**MR MAGAGULA:** The delay on the investigation is based

on the fact of the 727 cases and all other activities that I was doing.

**ADV BALOYI SC:** So, it is the workload that you are carrying?

**MR MAGAGULA:** Yes.

**ADV BALOYI SC:** Thank you.

**ADV SELLO SC:** Thank you, Commissioner Baloyi. Mr Magagula, that concludes your testimony on the precious stones matter. If you could turn to page 16 of your  
10 statement. At page 16 from paragraph 68, you deal with what you term Boksburg North CAS241-03-2024. Do you see that?

**MR MAGAGULA:** Yes.

**ADV SELLO SC:** Could you please take the Commissioners through the detail of that case? And then we will talk about the status of that particular case. Thank you.

**MR MAGAGULA:** Boksburg North CAS241-03-2024:

20 “This case involves alleged extortion by members of the EMPD of an amount of 120 000 from a foreigner who at the time was visiting South Africa. A copy of this docket is attached as Annexure TLM4.”

**ADV SELLO SC:** Mr Magagula, apologies. Let us locate TLM4 because you will be making reference to it. That is

now in the second file, big file, marked three of three. The first document should be your annexed TLM4. Have you located it?

**MR MAGAGULA:** Yes.

**ADV SELLO SC:** Okay, give Commissioner Khumalo a sec. Okay, we have all found our TLM4. Then you can take it from paragraph 69.

**MR MAGAGULA:**

10                   “On 5 March 2024 at approximately  
11:55, the complainant was stopped by  
members of the EMPD driving an  
unmarked BMW in Springfield Road,  
Boksburg, after he had exited a housing  
estate. The officer demanded that the  
complainant produce identification. The  
complainant provided his Congolese  
passport. The officers informed him that  
they intended to verify his passport at  
Boksburg Home Affairs. The officers  
20                   accompanied the complainant to Home  
Affairs where they presented his passport  
to an official while speaking amongst  
themselves in their native language.  
Upon returning, the officers informed the  
complainant that Home Affairs was

closed. They then demanded to accompany the complainant to his residence. The complainant refused, but the officers forced him to his home and conducted a search of his residence without a warrant. The complainant alleged that these actions were unlawful, including the detention force - let me read it again. The complainant alleged that these actions were unlawful, including the detention force, accompaniment to his residence, and their warrantless search of his property.”

**ADV SELLO SC:** Let me assist you. Your paragraph 71 reads:

“The complainant alleges that these actions were unlawful, including the detention, forced accompaniment to his residence, and their warrantless search of his property.”

**MR MAGAGULA:** Yes.

**ADV SELLO SC:** Did I read it correctly?

**MR MAGAGULA:** Yes:

“On 23 October 2024, I received directives from the DPP concerning this

matter, which I addressed and submitted  
a report to the DPP.”

**ADV SELLO SC:** Okay, now you had referred us to TLM4,  
and I said it starts at page 361 of the second bundle of your  
annextures. Can you identify for the record the document  
that starts at 361? I apologise it does not start at 361 it  
starts at 351. That is where it starts.

**MR MAGAGULA:** Sorry?

**ADV SELLO SC:** It starts at 351 and I wanted to refer you  
10 to page 361 and ask you to identify what that document is.  
361?

**MR MAGAGULA:** Yes, page 361, I have a photo album.

**ADV SELLO SC:** And if we then go back, again it appears  
like it is the problem of the order in which these are filed in  
the docket. That document, page 361 appears like it ought  
to be followed by 357 to 360. That would appear to be the  
actual report from the forensic laboratory. At page 358, the  
captain who undertook this analysis, the analysis of the  
evidence, Captain Ndoi[?], at 358 he confirms that he  
20 received at item 3.1 an evidence bag with that serial  
number marked Boksburg North and it contained one 4GB  
USB not marked with a serial number. And that he was  
requested to enhance the images on that USB and to create  
a photo album. At page 358 still, paragraph 7, he then lists  
the pictures that he extracted from that USB and enhanced.

It is about 14 pictures, and he concludes by saying:

“These images are contained in the photo album accompanying this affirmation.”

Do you see where I am reading, Mr Magagula?

**MR MAGAGULA:** Yes.

**ADV SELLO SC:** So, the actual pictures then, because I, in fact it would appear 361 is the page that is misfiled because it is the start of that report. It starts at 362. Now these are the pictures that Captain Ndoi returned to you in  
10 this matter after he had done his analysis. We are going to put up these pictures, and you help us identify what is in them. This is the first picture. What are we looking at?

**MR MAGAGULA:** This is the vehicle of Metro Police identified by the victim in the statement that he was stopped by a BMW.

**ADV SELLO SC:** It is a BMW that you state at paragraph 69 stopped the victim.

**MR MAGAGULA:** Yes.

**ADV SELLO SC:** Now you say at approximately 11:55, that  
20 is during the day, just before midday.

**MR MAGAGULA:** Yes.

**ADV SELLO SC:** In Springfield Road in Boksburg.

**MR MAGAGULA:** Yes.

**ADV SELLO SC:** We will move to the next set of pictures.

**MR MAGAGULA:** I want to clarify something.

**ADV SELLO SC:** Yes, please do, by all means.

**MR MAGAGULA:** These pictures now are in the residence of the complainant. It is the estate now, not in the street. This video footage is in the estate.

**ADV SELLO SC:** Okay. The next page has got four pictures. It would appear it is still the same vehicle that is there.

**MR MAGAGULA:** This is the second vehicle of Metro Police.

10 **ADV SELLO SC:** Okay. The first vehicle, if we go a page back.

**MR MAGAGULA:** It is a BMW.

**ADV SELLO SC:** The registration is BMW, FT, whatever, from the first picture.

**MR MAGAGULA:** Yes.

**ADV SELLO SC:** From the top picture.

**MR MAGAGULA:** Yes, from the top picture.

**ADV SELLO SC:** Then the next set of vehicles is a different picture. It looks like a VW with DX and the rest.

20 **MR MAGAGULA:** Yes.

**ADV SELLO SC:** Then we go to the next set of vehicles - pictures. They appear at 364. What are we looking at here? There are two pictures on this page.

**MR MAGAGULA:** They are entering now. It is inside the estate now.

**ADV SELLO SC:** They are now inside the estate.

**MR MAGAGULA:** Yes.

**ADV SELLO SC:** Then it is still part of the estate in the first picture.

**MR MAGAGULA:** Yes.

**ADV SELLO SC:** And this middle picture, which appears to be an enhancement of a part of the bottom picture. That red arrow indicates.

**MR MAGAGULA:** Yes.

10 **ADV SELLO SC:** What are we looking at there in the middle picture?

**MR MAGAGULA:** They are parking the vehicle now. The police vehicle.

**ADV SELLO SC:** They are parking?

**MR MAGAGULA:** Their vehicles they are on their way to park there.

**ADV SELLO SC:** Is this at the complainant's residence?

**MR MAGAGULA:** Yes, it is at the complainant's estate.

20 **ADV SELLO SC:** Okay, the next page has got four pictures, and it would appear it is the same people, same pictures, but perhaps from slightly different angles. Is that correct?

**MR MAGAGULA:** Yes, these are the Metro Police officers who were inside those vehicles. They are out now.

**ADV SELLO SC:** And so is this next set of pictures. There

seems to be a group of people in the top picture there as enhanced from the second picture. Are you able to make out who those people are?

**MR MAGAGULA**: These are Metro Police officers. There are six of them. They were using the two vehicles, BMW and the VW.

**ADV SELLO SC**: Okay.

**MR MAGAGULA**: So, in total there are six.

**ADV SELLO SC**: And then the next, the last page has got  
10 two photographs. Can you talk us through these two photographs?

**MR MAGAGULA**: These photographs now, they are finished with what they were doing. They are going out with the victim inside their vehicle.

**ADV SELLO SC**: Okay, thank you. You then, at page 17, explain the current status of this matter from paragraph 73. From paragraph 73, your page 17.

**MR MAGAGULA**: Yes:

20 “The case was completed on the 26<sup>th</sup> of September 2024 and recommendations to EMPD were sent and received on the 3<sup>rd</sup> of October 2024. I attach marked TLM5, a copy of this report. Furthermore, the case was referred to the DPP on the 3<sup>rd</sup> of October 2024 to decide on

prosecution. The DPP issued directives on the 23<sup>rd</sup> of October 2024, which I addressed and returned the docket to the DPP. These are attached as Annexure TLM5.1.”

**ADV SELLO SC:** Okay, now before we go to the report that you referenced at 73, at paragraph 68 of your statement, page 16, you state that this matter involves extortion by EMPD members of an amount of 120 000 from a foreigner at  
10 the time visiting South Africa.

**MR MAGAGULA:** Yes.

**ADV SELLO SC:** If you go to page 384, I am sorry, I am reading the wrong number, 355, the red one, 355 and 356 of the big file, the file that we have just been looking at the photographs of the EMPD officers entering the estate where this foreigner was staying. If you go to 355 and 356, you have got two pictures there in the docket. There is this picture and then overleaf at 356 there is this other picture, 356. What are these pictures? What can you tell the  
20 Commissioners about and why are they relevant for the docket?

**MR MAGAGULA:** This picture was taken by the victim before the arrival of the police. It is inside the bag. It is the money that was taken from him. So, if you can start on the first photo.

**ADV SELLO SC:** Sorry, please say that again.

**MR MAGAGULA:** The first photo. This is the bag and where there is money is the inside of the bag.

**ADV SELLO SC:** Okay, so, this is the 120 000 you say was extorted from him.

**MR MAGAGULA:** Yes.

**ADV SELLO SC:** As you stated, your paragraph 68.

**MR MAGAGULA:** Yes.

**ADV SELLO SC:** Am I correct?

10 **MR MAGAGULA:** Yes.

**ADV SELLO SC:** So now we know from your paragraph 73 you say you attach TLM5, a copy of the recommendations to EMPD after you had completed the case on the 26<sup>th</sup> of September 2024. But I am looking at your file. Your TLM5 has got something else.

**ADV KHUMALO SC:** 512.

**ADV SELLO SC:** 512, not 511. 511 is not part of TLM5. So that big file we are just looking at now with the money picture.

20 **MR MAGAGULA:** Yes.

**ADV SELLO SC:** If you go to page 512. This in my file reads as EMPD memorandum addressed to the chief of Metropolis, Ekurhuleni Metropolitan Police.

**MR MAGAGULA:** It is 512.

**ADV SELLO SC:** 512, the top right red number.

**MR MAGAGULA**: Yes, yes, yes, I got it.

**ADV SELLO SC**: So, I say this is the EMPD memorandum addressed to the chief of Metropolis, Ekurhuleni Metropolitan Police Department, and it is from IPID. And if you, the last page of that document is 516. Commissioner, if you could move that annexure number, the page that marks 5.1. It is supposed to come after 516. The EMPD report runs up to 516, and then Annexure 5.1 starts thereafter. Please go to page 516.

10 **MR MAGAGULA**: Yes.

**ADV SELLO SC**: And I see that it is got a conclusion, and it is signed by you and dated 26 September 2024.

**MR MAGAGULA**: Yes.

**ADV SELLO SC**: And once again, it is supported by the provincial head of Gauteng, IPID. This, as Ms Masuku explained to us yesterday, the top right corner at page, that stamp at page 512, that is confirmation of receipt of this report.

**MR MAGAGULA**: Yes.

20 **ADV SELLO SC**: By the intended addressee. And I see the service was affected on the 3<sup>rd</sup> of October 2024. Can you just, the document itself, it invokes section 21(1)(g) of IPID Act. That is what you say is the classification of this matter?

**MR MAGAGULA**: Yes.

**ADV SELLO SC:** And you give the reference number, the Boksburg number, and you say it is a corruption case.

**MR MAGAGULA:** Yes.

**ADV SELLO SC:** Next to reference. And you state the offence is one of corruption. Then you list the members against whom you say is a charge of corruption is preferable. Can you read those and inform the Commissioners as to who those members are?

**MR MAGAGULA:** These members are members of EMPD  
10 who are suspect on this matter. MPO FI Shirinda. MPO JL Thaba. MPO JJ Jijiga[?]. MPO CT Ngubeni. This is a female.

**ADV SELLO SC:** Okay.

**MR MAGAGULA:** Ngubeni. MPO K Seiza[?]. MPO JR Neloheng[?]. So, the total is 6 members.

**ADV SELLO SC:** And these are all EMPD members?

**MR MAGAGULA:** These are all 6 EMPD members. At the time, they were working under special services. That unit that falls under Brigadier General Mkhwanazi.

20 **ADV SELLO SC:** And if you go to page 513 of the same document, overleaf, the same names are repeated in the table under item 2.3. You see that?

**MR MAGAGULA:** Yes.

**ADV SELLO SC:** Now you list them at 2.3, and then there is a ref. Can you read the statement below that table where

you say all these members are?

**MR MAGAGULA**: Analysis on 513 ...[intervenes]

**ADV SELLO SC**: No, 2.3 at page 513.

**MR MAGAGULA**:

“Please find attached the original contents of the case docket CCN2024 containing the following information.”

**ADV SELLO SC**: And then you list all the very members whose details you just read out.

10 **MR MAGAGULA**: Yes.

**ADV SELLO SC**: Together with their personal numbers.

**MR MAGAGULA**: Yes.

**ADV SELLO SC**: And then below that, there is an entry. Please read that into the record.

**MR MAGAGULA**:

“Please find attached copies of the contents of IPID case docket...”

**ADV SELLO SC**: No, before that. Just immediately under the table. You are talking about these members.

20 **MR MAGAGULA**: Okay, I see, I jumped. Let me start there:

“Please find attached the original contents of IPID case docket CCN2024 containing the following information. Members mentioned attached to the drug

unit, Ekurhuleni Metropolitan Police  
Department.”

This drug unit falls under that specialised unit.

**ADV SELLO SC:** The specialised unit that you say is  
overseen by Brigadier Mkhwanazi?

**MR MAGAGULA:** Yes.

**ADV SELLO SC:** Okay, so, then we have taken care of  
referral to EMPD.

**MR MAGAGULA:** Yes.

10 **ADV SELLO SC:** In this matter.

**MR MAGAGULA:** Yes.

**ADV SELLO SC:** Do you know what became of this, if  
anything?

**MR MAGAGULA:** Departmental?

**ADV SELLO SC:** Yes.

**MR MAGAGULA:** Departmentally, I can say they have  
opened the DR.

**ADV SELLO SC:** No, we do not know what a DR is.

**MR MAGAGULA:** Disciplinary hearing.

20 **ADV SELLO SC:** Okay.

**MR MAGAGULA:** They have opened it. And I can say  
nothing has been done, even though they have received it.  
The only thing that they are crying for now, which when Mrs  
Motsepe comes here, she will still deny. I have  
communication. They are not proceeding because they do

not have video footage. They are looking for video footage. So, they brought the video footage.

They brought a stick to me. So, I told them that, okay, I am waiting for my IT. Our lady who is assisting us in Gauteng. She stays in Pretoria National Office. So, sometimes she comes to Johannesburg. So, I told Brigadier Motsepe that as soon as she comes to Johannesburg, I will ask her to download that video footage for you. But I further advise her that now I have the photo album.

10 I can provide you with this photo album. But you must know the purpose of the video footage. The video footage is not to see someone stealing. The video footage was for the purpose of seeing these people in the residence of the victim. Not to see the people stealing 120 000. So, when you ask something, you must know the objective of it. What do you want for that? So, if you do not know what we are looking for, which means you do not know what we are doing.

**ADV SELLO SC:** Thank you. Staying then with your paragraph 73, we have dealt with Annexure TLM5, which is your EMPD referral report. Correct?

**MR MAGAGULA:** Yes.

**ADV SELLO SC:** You introduced another document there. You marked TLM5.1. And you say the DPP issued directives on 23<sup>rd</sup> October 2024, which I addressed and

returned the docket to the DPP. These are attached as Annexure TLM5.1. Annexure TLM5.1 starts at page 517 of the big file. Are those the directives you say you received from the DPP regarding this matter?

**MR MAGAGULA**: Yes, I see.

**ADV SELLO SC**: And this is dated 23<sup>rd</sup> October 2024 at page 518. And if you go back to 517, it lists about 10 things that must be done in this matter. And the DPP says:

10                   “The following outstanding investigations must be completed. Namely, obtain the AVL records of the state vehicles involved and give the numbers.”

These are the vehicles we – I think the numbers correspond with what we saw in the photo album:

20                   “And A1 must explain where he kept the money in his house. Obtain a statement from his domestic worker. Does A1 have CCTV cameras? And if so, obtain the footage of the incident. A1 must explain whether all the members searched his house, that is occupants of BMW and VW Golf or only some of them. Which members took the money and placed it inside a bag and in which vehicle did they leave the scene? Which members

told him they need to share the money and took it? An identity parade must be held in order for A1 to point out the members involved. A2 must be accompanied by an affidavit from car track [person who gave A2]. And lastly, A17 must be accompanied by opening and closing bank statements from FNB. A section 205 subpoena must be issued in this regard”

Then it continues at item 2:

“The police docket Boksburg North CAS241-03-2024 are hereby retained and must be resubmitted on or before the 25<sup>th</sup> of November 2025 with finalised investigations.”

And it is signed by the DPP. Do you see that?

**MR MAGAGULA**: Yes.

**ADV SELLO SC**: And these directives are directed to the Deputy Provincial Head Gauteng IPID for the attention of Mr Budhu[?] and yourself.

**MR MAGAGULA**: Yes.

**ADV SELLO SC**: You received these directives and with the 10 items that you must attend to as instructed by the DPP. Were you able to address all these concerns by the

DPP?

**MR MAGAGULA**: Yes, this was an early directive from the DPP. I already dealt with all of this. So, it is finalised and the advocates has issued the final directives that these members must be prosecuted for robbery with aggravating circumstances. And J50 must be applied. I already applied for J50. I already arrested them. So currently the status of this case is trial.

**ADV SELLO SC**: And you deal with that at paragraph 74 of  
10 your statement perhaps. And if you could just read that and that completes your work on this matter. At page 17 of your statement, paragraph 74, you have a little paragraph there headed criminal referral.

**MR MAGAGULA**: Yes.

**ADV SELLO SC**: Please read that.

**MR MAGAGULA**:

20 “The DPP took a decision that the members must be arrested and charged for robbery with aggravating circumstances. All of these members have been arrested and charged, and the criminal case is with the Boksburg Magistrate Court. And the matter is currently on the court roll, remanded to the 23 February 2026.”

Must I continue?

**ADV SELLO SC:** Please continue. Conclude that.

**MR MAGAGULA:**

“Departmental recommendation. The outcome of the disciplinary recommendation is still awaited.”

**ADV SELLO SC:** So, you will recall you were invited to comment on these cases specifically because Chief Mapiyeye and Commissioner Spies had been concerned that  
10 IPID is either deliberately not investigating these matters or dragging its feet. Do you have a comment now that you have accounted for this matter? And it would appear that, at least from my perspective, you have done everything that is required by law for you to do.

**MR MAGAGULA:** Yes, it cannot be true that I deliberately frustrated this matter because you can see from my evidence that my goal was to get justice by obtaining each and every exhibit which will assist this investigation so that our victims can get justice. So, it was not a rush job in  
20 order to impress someone to arrest people willy-nilly without doing a proper job.

So, the aim of the department is not to please the media, it is to seek for justice. Even if it takes long, the aim is to get justice. So, I have no, with all these members that we dealt with, I have no relationship with them. And

some of them, they hate me. If you can put me with the devil here, they would rather choose the devil than me.

**ADV SELLO SC:** Okay, thank you. You did indicate at the start of your – yes.

**ADV BALOYI SC:** Before that, Ms Sello, I did not realise that you have moved from this document. You say that when Ms Motsepe comes here, you expect that she will say that she is still waiting for the audio-visuals.

**MR MAGAGULA:** For this matter which I?

10 **ADV BALOYI SC:** Yes.

**MR MAGAGULA:** She will say that she is waiting for the video footage from me.

**ADV BALOYI SC:** Yes. It can be, though, that she is waiting for that because when you look at the statements, and here I am looking at a statement that starts at page 475, and I guess this is something - firstly, let me ask this, that this docket was given to EMPD, the statements that are in this docket.

**MR MAGAGULA:** Yes.

20 **ADV BALOYI SC:** And who in particular do you address these things to?

**MR MAGAGULA:** This was given ...[intervenes]

**ADV BALOYI SC:** When you do the report and you give them to EMPD, who do you address it to?

**MR MAGAGULA:** This was, I would say, the person who

received it because there is a signature of her. This document was received by Motsepe.

**ADV BALOYI SC:** Okay.

**MR MAGAGULA:** But it is addressed to that department which is headed by Hennie Erasmus.

**ADV BALOYI SC:** I mean, I think what I want to point out, and I guess if she comes here, she will have to explain. Randomly, at 475, you have a statement that starts there of Ngubeni, Constable Ngubeni. And at page - from page 6 –  
10 no, in fact, from paragraph rather, not page 6. At paragraph 5 on page 477, she does speak to they arrived at that security complex, at that complex, residential complex, with a complainant. She does describe that. And then when you – so, on her version, on one of the suspect's versions at least, there is a concession that they did go to the complex with the suspect.

**MR MAGAGULA:** Yes.

**ADV BALOYI SC:** And when you go to the next page, at paragraph 6, and I am doing this just not to waste time, I  
20 am skipping around. Ngubeni speaks about the African male then opened the door and welcomed us inside. Now they are in the residence, the house itself. So, there is evidence in your docket that you gave to EMPD that these people did drive to the residential property. And, in fact, they got inside the property. So, it can be that the lack of

video evidence from you is the reason that they have not instituted any disciplinary – they are not running the disciplinary hearing. It can be. She has to come and give us a different answer.

**MR MAGAGULA:** She is listening, but I place it on record. Since January, she was insisting following me for the video footage. And this incident also. EMPD was aware from the onset, even the time this docket was with the SAPS in the initial stage. This docket was investigated by Tshabalala.

10 It is a female officer. Tshabalala stated to me that I gave them the statement of the complainant. I made them to watch the video footage. It was Ayanda and Benel. This is not me. It is the police officer from Boksburg. But when they come here, they will deny all that they knew.

**ADV BALOYI SC:** Thank you.

**ADV SELLO SC:** Thank you, Commissioner Baloyi. Mr Magagula, we are now at your paragraph 76. We are at page 18 of your statement. Just perhaps before you deal with that, Commissioners, from page 18, paragraphs 76 to  
20 78, speak to those problematic cases that Mr Keefelakae testified about. The Meyerton case of 72-8-2022, which was said that is not registered in the manner that Commissioner Spies has described it.

At 79, it deals with the Springs, cobalt and Brakpan copper matters. Without necessarily reading these,

because into the record, what you have here. As regards the Meyerton case, Mr Keefelakae has informed the Commissioners that they are trying to investigate the circumstances around this case and that they will revert. Is there anything you are able to add to that regarding this Meyerton case? What have you been able to establish about it in the interim?

**MR MAGAGULA:** In Meyerton case, so far, now, currently, we have the telephone number of the alleged victim Oom  
10 Willem. We will pursue, we will phone him, we will visit him in his address and ask if he knows anything about this. If he is willing to open a case, we will assist him in opening a case and establish if there is police involvement. But according to the video, there is police involvement, which means it will be our case.

And if it is our case, again, even though it is Meyerton, it will be fruitful for the team of Ekurhuleni, because it is ours. We make case intake in the office with other supervisors. So, if we see this suspect overlapping in  
20 one area, it will be prudent, for instance, to give the matter to Nomsa Masuku who has engaged with this suspect and knows the modus operandi. I was just giving an example that you will be flexible on how to deal with this matter if it is open.

**ADV KHUMALO SC:** Mr Magagula, my criticism of your

statement, paragraph 77, is that you note from your cell phone that Spies sent you the clip on 6 March 2023, and we are now in 2026, and only now is IPID telling us that they will open a case because it falls within their jurisdiction and they will take it forward. And the reason why I am criticising you is we know that the witness who provided this clip has since been killed. And I was a bit unhappy about somebody saying the video clip could not be opened, because if you know who it comes from, then surely you  
10 must go back to the person who gave you the clip and say, I cannot open it for whatever reason. But it does not explain why it took three years for IPID to say we will contact the victim because he is not a complainant at this stage, the victim of the crime.

**MR MAGAGULA:** The time Commissioner Spies sent me the video footage I asked him about – Commissioner Spies is a police officer. I asked him about the phone number and the case number. He could not provide such. Commissioner Spies was in a better position than me  
20 because the information is given to him by someone who trusts him and not me.

And if he got that information from Jaco Hanekom, Jaco Hanekom was not going to trust me or talk to me because he was our suspect in the Brakpan murder case. So, Commissioner Spies was better placed to source that

information, to assist me. Even civilians in South Africa, when they report, because our phones are known to them, when they report, they give us a lead.

Four weeks back, a South African white male sent me a complaint. It was about an African male whom police took 50 000. So, it is a civilian. When he sent me that complaint, he sent me the victim's name and cell phone number. So, it was easy for me. He did not want me to ask him, hey, how did it happen? He said, telephone number, 10 victim.

I managed to speak to the victim, and he told me more information about that robbery which occurred in his house. So, Commissioner Spies, I do not want to criticise him. He passed the buck with little information, and we are suffering with 727 cases. So, he expects IPID to do everything for EMPD. So, there is unfairness in that part of them.

**ADV BALOYI SC:** Mr Magagula, I suspect it is very cold comfort for a member of the public who has been robbed by 20 police officers to hear an explanation like this, that Spies expected me to do all the work. I think what is not understandable is that you got a clip, and you do say in your statement that the clip was without any details of the incident. But we have seen that clip.

So, we see Metro Police, we see people scaling

over the fence, looking over the fence, wearing uniform and we see them getting inside and we see a vehicle going in. So, we saw that this is supposed to be a police operation, an EMPD operation and I would have expected that you would have called Commissioner Spies and said get me more information on this.

Because what you are recording in your statement suggests you, and that is what Mr Keefelakae said yesterday, you got the clip, it had no context, you could not  
10 actually open all of it and that was the end of it. And your statement in paragraph 77 conveys pretty much the same thing. You say it was without any details and then you say I took it that there would be a case docket opened in one or other police station and then such matter would be referred to IPID in writing. This has never happened.

So, you got the video and you did nothing. And I do accept criticism of Commissioner Spies that he did not give you any useful information but for the clip. But you see this from Spies with whom you are in touch about  
20 criminal conduct of EMPD officers. I do not understand or it is difficult to understand that you would not have called him and said give me more information. Where do I find – what is this about? Where do I find this Oom Willem? Now you know it is Oom Willem so at some point you asked. It is that which is difficult to understand how it came about.

**MR MAGAGULA:** I admit that I did not put more information in my statement. With Commissioner Spies, I was communicating with him frequently. I did ask for that information because we were speaking. If you can see our communication, it goes a long way.

**ADV BALOYI SC:** About this case?

**MR MAGAGULA:** Not about this case only. It goes a long way with other cases. So, during this communication, to myself when I asked him for more details and he did not  
10 provide, I took it as if he does not have. And he did not make follow-up to me regardless of our communication after sending this video footage because we had a lot of communication between me and him. If he had anything, he would have. Maybe if I am wrong, he would have asked Magagula how far about the incident because we kept on communicating for a longer period after the video clip.

**ADV BALOYI SC:** Thank you.

**ADV SELLO SC:** Thank you, Commissioner Baloyi. Before  
20 we leave this topic, I think it is necessary that we deal with your Annexure TLM6 which you referenced at paragraph 76. At paragraph 76, in regard to this Meyerton case, you recall that when Commissioner Spies testified, he said it was a Meyerton case CAS72-08-2022. At paragraph 76, you state:

“As far as I am aware, this case does not  
involve the video recordings shared by

Commissioner Spies with the Commission. I have been able to obtain records of copper-related matters reported to and registered at Meyerton SAPS during the month of August 2022. I was able to locate three in total. I attach marked TLM6, the three crime summaries of these cases as recorded in the SAPS crime administration system.”

10 Now, can we just quickly go to TLM6 to confirm your three cases that you say you were able to locate in Meyerton for crimes committed in the period of August 2022. And the August is because, if I understand, the middle number in that caste number indicates the month of the year.

**MR MAGAGULA:** Yes.

**ADV SELLO SC:** So, your TLM6 starts at page 520.

**ADV KHUMALO SC:** At 519.

**ADV SELLO SC:** At 519. Thank you, Commissioners. At 519. And they go to 521. And already just casting our eyes  
20 on those three, each one in the red section starts with a CAS number. We have 88-08-2022. The next one at 520 is 95-08-2022. And the last is 129-08-2022. So, we do not have the CAS number as provided - you say the caste number as provided by Commissioner Spies you could not locate in Meyerton.

**MR MAGAGULA:** Yes.

**ADV SELLO SC:** Then if we look quickly at page 519, the first case, the charge is tampering with infrastructure. The summary states that:

10                   “The complainant stated that on that date, at that time, she went to sleep, everything was in order, all the windows and doors were locked and closed. At about 05:30, the next morning when she woke up, she noticed that the power light was off. Then she went outside to recharge the electricity, and it is when she noticed that the copper cable was cut.”

Now, the facts of that case do not correlate with what Commissioner Spies testified to confirm.

**MR MAGAGULA:** Yes.

20                   **ADV SELLO SC:** The next at 520, that second case, once again is tampering with infrastructure, and this one, scene of crime, says railway station Meyerton, Transnet. We do not have to look at the facts of that case because of the scene of the crime. And the last at 521 is CAS129-08-2022. It is theft general, and then in the summary, it states:

                  “The complainant was at his new house and find two unknown white males busy

looting. He left them there and went to the scrapyard and find his properties to the amount of R35 000.”

So once again, the facts do not correspond with what Commissioner Spies understood the Meyerton case to involve. Nonetheless, Mr Keefelakae has undertaken to the Commissioners to come back on this matter formally and will file a supplementary. I just wanted to place your TLM6 formally on record. Okay, the next, you are then next, from  
10 79, you deal with the Springs, cobalt, and Brakpan copper matters. I think emphasis there is at your paragraph 80. If you could just give a quick summary of what you were able to establish about these cases. Are you able to?

**MR MAGAGULA:** This one also, I believe it was answered. Even if I did not read, it was the issue.

**ADV SELLO SC:** Yes, I know what the issue is. It is the update because at paragraph 80, it appears that there has been communication with a specific warrant officer now.

**MR MAGAGULA:** Yes, okay:

20 “However, a telephonic enquiry was made with Warrant Officer Sakkie[?] of Springs Police Station on 6 February 2026. He confirmed that there was a case similar to what is described under the cobalt case. According to Warrant Officer Sakkie, this was a case of stolen goods which were recovered.

**ADV SELLO SC:** Yes.

**MR MAGAGULA:**

“According to Warrant Officer Zakhe, there was no police involvement in this matter that you could have reported. And therefore, it does not - it does...”

**ADV SELLO SC:** You are quite right. It should read not.

**MR MAGAGULA:** Yes, it should read it does not fall in the IPID mandate.

10 **ADV SELLO SC:** Now, unlike the matter of Meyerton, here just a narrative. Are you able, perhaps in time, to provide either a statement from Warrant Officer Sakkie explaining, you call it, the cobalt springs and I think - actually, it is a matter of two cases. Are you able to obtain a statement, a full statement from Warrant Officer Sakkie around this issue?

**MR MAGAGULA:** I am not yet ...[intervenes]

**CHAIRPERSON:** Please think about the answer whilst we take a five-minute adjournment.

20 **ADV SELLO SC:** Absolutely, Chair. Thanks.

**INQUIRY ADJOURNS**

**INQUIRY RESUMES**

**CHAIRPERSON:** Now you may respond, Mr Magagula.

**ADV SELLO SC:** Mr Magagula, in case you do not remember the question, mine was to point out that at your

paragraph 80 to 81, you just relate contact that was had with Warrant Officer Sakkie. You have got nothing official as regards to what Warrant Officer Sakkie says about this matter or these matters, as if it is one or two. My question to you was, will you endeavour to obtain a statement from Warrant Officer Sakkie about these matters for completeness's sake and to file with the Commission?

**MR MAGAGULA:** Yes.

**ADV SELLO SC:** So, I should pursue you for that statement and with a supplementary statement I will file it on your behalf?

**MR MAGAGULA:** Yes.

**ADV SELLO SC:** Now, then we can quickly move then to your next heading, starting at page 19. This chapter is called Lack of Feedback to EMPD. Basically, I think it is important to read paragraphs 83 and 84, then we will take it from there.

**MR MAGAGULA:**

20 “Chief Mapiyeye and Commissioner Spies complain of lack of feedback with regard to EMPD investigation. I accept this may have been the case. It is important to point out that IPID does not give feedback or updates on ongoing investigation. This is mainly for

10 purposes of preserving the integrity of investigation. We do communicate feedback to the complainants as required by the IPID, SOP, Standard Operating Procedure, to inform them of progress without providing details of the investigation. IPID is, however, not obliged to give feedback to the institution whose members are under investigation as such disclosure may compromise witnesses and undermine the integrity of the investigation.”

**ADV SELLO SC:** Thank you. And then if you go to page 20 at paragraph 86, you state that:

20 “However - I, however, maintain constant communication with both Chief Mapiyeye and Commissioner Spies over an extended period. We will share information and discuss issues that affect Ekurhuleni. I attach as Annexures TLM7 and 8, respectively, screenshots of my communication with both.”

For the record, Annexure TLM7 starts in your second file, the big file, file 303. It starts at page 522 and that are your screenshots of your communication with Chief Mapiyeye. If

you confirm for me, they range in date from the 1<sup>st</sup> of August 2022 and the last page of that at page 580 is 29 September 2025. Do you confirm?

**MR MAGAGULA**: The last page, it would be page?

**ADV SELLO SC**: Is page 580.

**MR MAGAGULA**: Yes.

**ADV SELLO SC**: The date is 29, so they are from 1<sup>st</sup> of August 2022 to 29 September 2025. There are quite a few, about 50 pages. They span from page 522 to page 580. Do

10 you confirm that?

**MR MAGAGULA**: It ends up at 581.

**ADV SELLO SC**: Is that problem of misplacing the numbering? You are correct. At 581, it is actually the 6<sup>th</sup> of November 2025.

**MR MAGAGULA**: Yes, where it says Avuxeni, so far so good, brilliant testimony. It was me greeting him in our language, in Tsonga. Avuxeni, means good morning. So far so good, brilliant testimony. It was the testimony that he testified in the Commission, not knowing that the

20 following day, he would put me under the bus.

**ADV SELLO SC**: Was it then not appropriate for you to send another message on the 7<sup>th</sup> of November? What is the opposite of Avuxeni?

**MR MAGAGULA**: Because he did not respond to that one, the last one that I sent. I stopped communicating with him

at that time.

**ADV SELLO SC:** Okay, and again ...[intervenes]

**CHAIRPERSON:** I see that you referred to him as Shanks.

I see that you referred to him as Shanks.

**MR MAGAGULA:** Shanks?

**ADV KHUMALO SC:** 580.

**CHAIRPERSON:** Oh, it is a forwarded message. It is a forwarded message, sorry. Yes, yes, Ms Sello.

**ADV SELLO SC:** No, the Chair was referring to the  
10 message at the bottom of 580. It is a forwarded message,  
and it starts, good day, Shanks. That is not you talking.

**MR MAGAGULA:** No, that one, it was not me.

**CHAIRPERSON:** No, let us leave it, let us leave it, let us  
leave it.

**ADV SELLO SC:** Okay, then the next set, the next  
annexure is TML8. You referred to that at 86. And this,  
you say, are similar screenshots, but this time of your  
communication with Commissioner Spies.

**MR MAGAGULA:** Yes.

20 **ADV SELLO SC:** And these range from page 582 to page  
630. And once again, it is not necessary at this juncture to  
go through them. In terms of date range, what I could make  
up, I could make out is they seem to span from 8<sup>th</sup> of March  
2023, as appears at page 583, to I think 29<sup>th</sup> of September  
2025, as appears on page 626. That is the last date that I

am able to locate in this.

**MR MAGAGULA:** Yes, yes.

**ADV SELLO SC:** Okay, I think Commissioner Khumalo ...[intervenes]

**ADV KHUMALO SC:** Mr Magagula, there is the Meyerton video on page 582.

**MR MAGAGULA:** Commissioner, I have agreed that he sent me, and I needed more details.

**ADV SELLO SC:** Thank you, Commissioner. Now, if I  
10 understand your paragraph 86, you have attached these screen grabs for the sole purpose of showing that you have had fairly extensive, if I may call them that, communication with both Commissioner Spies and Chief Mapiyeye over an extended period. Is that correct?

**MR MAGAGULA:** Yes.

**ADV SELLO SC:** But then, I know we said we are not unpacking them. Before we leave these screen grabs, I would like to draw your attention to page 540. At 540, are you there?

20 **MR MAGAGULA:** Yes, I am there now.

**ADV SELLO SC:** I see a date at the top of the 14<sup>th</sup> of February 2023:

“Good morning, Chief. Today, my schedule is not hectic. I will come and see you.”

This is now in TLM7, your communication with Chief Mapiyeye. And then, he seems to respond:

“All right, please call me around 13H00.”

Correct?

**MR MAGAGULA**: Yes.

**ADV SELLO SC**: Now, I am interested on the 15<sup>th</sup> of February message. At the bottom, there appear to be two voice clips. Is that what they are? We do not have them because these are screen grabs. Are those voice clips at  
10 the bottom there on that page?

**MR MAGAGULA**: Yes, in the picture, it shows a voice note, yes.

**ADV SELLO SC**: Okay, now the message above reads:

“Good morning, Chief. Some of your officers are just pure criminals. Can you recognise this voice?”

I am interested in your description by calling some of EMPD officers pure criminals.

**MR MAGAGULA**: The voice notes here, because I am  
20 unable, which means it was, I assume it has been a long time. But I do not remember the contents of that voice because I might have found it somewhere. Someone did something. So, I am alerting the Chief about that incident that, can you recognise this? Because it has been a long time and I cannot just remember what the voice message

was all about.

**ADV SELLO SC:** It must have been a rough message for you to determine some of the members to be pure criminals. That is rather strong language.

**MR MAGAGULA:** I accept I used a strong language.

**ADV SELLO SC:** And you believe you were justified at the time to use that strong language?

**MR MAGAGULA:** I am sure by hearing to that voice note that I can remember what was all about.

10 **ADV BALOYI SC:** I must say, though, that given the different cases that we have looked at, it is different.

**MR MAGAGULA:** Yes.

**ADV BALOYI SC:** The ones that we have been discussing that you are investigating, that it seems you do have criminals. It is criminals. Officers in the EMPD, some are serious criminals.

**MR MAGAGULA:** Yes.

**ADV BALOYI SC:** Thank you.

20 **ADV SELLO SC:** Thank you, Commissioner. Mr Magagula, continuing your statement, we are now at your paragraph 88. No, 87, I apologise. You say:

“I maintained less contact with Brigadier Mkhwanazi [as compared with Chief Mapiyeye and Commissioner Spies]. I attach as Annexure TLM9 screenshots of

my communication with him on a number he had provided in 2023. From around October 2024, Brigadier Mkhwanazi was utilising a different number attached as an extra TLM10 screenshots of our communication on this phone number.”

Do you confirm that?

**MR MAGAGULA**: Yes, I confirm.

**ADV SELLO SC**: And your TLM9 starts at page 631. You  
10 say that is on the one phone, and it did appear that the first message is from 22 May 2023. And your TLM10, again, screen grabs of communication with Brigadier Mkhwanazi. The 2023 screenshots are TLM9, and TLM10 starts at page 635. Do you confirm?

**MR MAGAGULA**: Yes, I confirm.

**ADV SELLO SC**: And in comparison, I mean, what you  
have given in terms of volume on the first number of 2023, it is from 631 to 634. That is four pages. And the second telephone number is 635 to 646. And I think it does support  
20 your contention that although you had contact with him, it was far less than you maintained with Chief Mapiyeye and Commissioner Spies. If your annexes are anything to go by, the screen grabs.

**MR MAGAGULA**: Yes.

**ADV SELLO SC**: There is nothing in particular I would like

to refer you to in the two annexures, your communications with Mr Mkhwanazi. They are on record to the extent that anything may appear from them that is of interest, the Commission will always have regard to what you have placed before the Commission.

**MR MAGAGULA:** Okay.

**ADV SELLO SC:** And at TLM9, you conclude then that TLM7 to TLM 12 demonstrate that:

10                    “I had constant communication with the relevant officials of Ekurhuleni regarding their matters, and they had opportunity to raise any concerns they may have had with my investigations.”

This then I think would lead us to ...[intervenes]

**ADV KHUMALO SC:** Can we maybe put the criticism to him and he responds? As I understood the criticism, it was that he would often visit either Ekurhuleni or EMPD offices and have meetings with Julius Mkhwanazi. And Mkhwanazi's superiors would not know what those meetings  
20 were about. And the suggestion was that he was cozying up to Mkhwanazi and the reason why no action was being taken was because he was friendly with him.

**ADV SELLO SC:** Indeed, Commissioner Khumalo, that was the next chapter we are dealing with. Just to check, it is headed allegations of improper relations with Brigadier

Mkhwanazi and City Manager. So, I do not know if the issue you raised fits in with this. We move then, Mr Magagula, to page 21 of your statement. We are at paragraph 90, nine zero. Now this particular heading reads allegations of improper relations with Brigadier Mkhwanazi and the City Manager. The City Manager, of course, being of Ekurhuleni. Now can you deal with the contents of this chapter as it starts from paragraph 90? Thank you.

**MR MAGAGULA:**

10                    “As I indicated, the senior EMPD officers believe that under a wrong impression that I have a relationship with Brigadier Mkhwanazi. And an improper one at that. Further that I have ongoing contact with Brigadier Mkhwanazi outside the official channels. This is incorrect. All my dealings with Brigadier Mkhwanazi have been in an official capacity as the Head of Specialised Operations where

20                    members of his unit are the subject of IPID investigation and then only to the extent necessary. Chief Mapiyeye submitted a letter to this Commission that he had addressed to the Executive Director of IPID dated 24, January 2024

in which he complained of what he considered an inappropriate relationship between Brigadier Mkhwanazi and myself and referred to a meeting I had with Brigadier Mkhwanazi. I will address the contents of this letter to the best of my recollection.”

**ADV SELLO SC:** Apologies, Mr Magagula. Just a second. Commissioners, for the record. In fact, a correction has to  
10 be made. The letter was dated 26, January 2024, not 24. And that is an extra JM27 to Chief Mapiyeye's statement. And this letter, Chief Mapiyeye had addressed to the Executive Director of IPID. And it read:

“I need to bring the following matters under your attention. During 2023, I personally reported to you that one of your investigators, Mr Magagula, reported in person to the city manager of COE, Dr Mashazi that myself and Deputy  
20 Commissioner Spies are people who are pushing, quote-unquote, the IPID investigation into JM Mkhwanazi EMPD while nothing could be further from the truth.

[2] It is a known fact that IPID have

various investigations and cases still pending against JM Mkhwanazi which some are not concluded yet.

[3] It has come to my attention that Mr Magagula have, I guess, has had numerous meetings with JM Mkhwanazi on the sideline at the Boksburg EMPD precinct. Last meeting between them was Friday, 19<sup>th</sup> January 2024.

10

[4] I as the Chief of Police and Head of the Metro Police have not been informed or have knowledge of these meetings. And I also do not receive any progress feedback on existing matters.

[5] The engagement of Mr Magagula and Mr JM Mkhwanazi has got the potential of jeopardising the cases against Mr Mkhwanazi. I therefore request a meeting with you whereby we can discuss these matters further and a way

20

forward on how to handle this.

Your considered noting is appreciated.”

And it is signed by Chief Mapiyeye. That is the letter that Mr Magagula references at paragraph 91. Is that correct, Mr Magagula?

**MR MAGAGULA:** Yes.

**ADV SELLO SC:** Then you say you will try and address the contents of this letter to the best of your recollection. And  
10 you start doing so from paragraph 92. Thank you.

**MR MAGAGULA:**

“During January 2024, Brigadier Julius Mkhwanazi had contacted me to express concern of the increasing number of deaths linked to illegal mining activities and seizure of police firearms following the shootings. The seizure is by IPID following such incident and it became necessary to explain the basis for the  
20 seizure. I confirm that both investigator Nomsa Masuku and I attended to Brigadier Mkhwanazi's office on 19 January 2024 for a meeting with Brigadier Julius Mkhwanazi following this telephone call. I attached marked TLM13

10 a copy of Investigator Masuku's trip log  
official via gif over the period. This log  
sheet together with mine which I attached  
TLM13.2 reflect the trip to Boksburg.  
The meeting was held with two other  
EMPD employees. It was decided to  
conduct training for EMPD officers as  
regards how to conduct themselves  
during engagement with illegal miners  
and for them to understand purpose for  
seizure of firearms of the officers. This  
training was conducted on 15 November  
2024. I attached marked Annexure  
TLM14."

**ADV SELLO SC:** Before you proceed, at 93 you say you  
have got two annexures marked TLM13I which is a copy of  
Investigator Masuku's trip log for her official vehicle over  
the period. That document is attached and marked TLM13I.  
And please go to that page, the big file. Two of three, the  
20 big file.

**MR MAGAGULA:** The big file, not the big five Mr  
Magagula.

**MR MAGAGULA:** Okay.

**ADV KHUMALO SC:** You said 203 it is 703.

**ADV SELLO SC:** I said two of three, big file. Big file.

Yes, in file two of three, the big file.

**MR MAGAGULA**: Yes, I mean big file, I want to know the ...[intervenes]

**ADV SELLO SC**: Okay, the page is 703, top right corner.

**MR MAGAGULA**: Yes.

**ADV SELLO SC**: And it starts at 203 and it does indicate the name and NP Masuku PERSAL number and it gives the details of the vehicle. And in this regard, if one refers to, it is a log, trip log over an extended period. It starts here on  
10 the 19<sup>th</sup> of January 2024 and the last page is 31<sup>st</sup> January 2024. Is that correct?

**MR MAGAGULA**: Yes.

**ADV SELLO SC**: Now which entry do you say is relevant to that visit to Ekurhuleni on the 19<sup>th</sup> of April - on the 19<sup>th</sup> of January 2024?

**MR MAGAGULA**: It is the first one, which date 19<sup>th</sup> of January 2024. Stand by duties and it goes long to say Mofolo North and then it states the time Boksburg, and it state the time kilos and kilos and kilos.

20 **ADV SELLO SC**: And you say that is the day you attended to the Ekurhuleni offices for a meeting with Mr Brigadier Mkhwanazi and two other employees, right?

**MR MAGAGULA**: Yes.

**ADV SELLO SC**: Now you continue on that paragraph, and you say:

“This log sheet together with mine, which I attach as TLM13II reflect the trip to Boksburg.”

However, we do not have TLM13II. Would you like to talk to that please?

**MR MAGAGULA**: I corrected that with you that at that time I was driving with Dlamini. Dlamini was the one who, the other to learn when I say Dlamini, is Thulani Dlamini, who was the one who took me there and he left me the trip log  
10 for Dlamini because it was Dlamini who was driving. It was taken to national office due to certain investigation in the department that was happening for, which I cannot mention, yes.

**ADV SELLO SC**: So, are you suggesting to the Commissioners that you did not use your vehicle so therefore you do not have a log sheet for that particular day? You drove with Thulani Dlamini ...[intervenes]

**MR MAGAGULA**: Yes.

**ADV SELLO SC**: The other investigator ...[intervenes]

20 **MR MAGAGULA**: Yes.

**ADV SELLO SC**: But his trip log is currently not available for the reasons that you state.

**MR MAGAGULA**: Yes.

**ADV SELLO SC**: Do you undertake to make that particular trip log available as soon as you – it is at hand?

**MR MAGAGULA:** I cannot confirm that because there was an investigation which ...[intervenes]

**ADV SELLO SC:** No, I do not need the details of that particular investigation. When it becomes available, will you be in a position ...[intervenes]

**MR MAGAGULA:** Yes.

**ADV SELLO SC:** Okay, but the purpose of attaching these logs is to confirm that indeed a meeting was held with Brigadier Mkhwanazi on the 19<sup>th</sup> of January 2024, as Chief  
10 Mapiyeye suggests.

**MR MAGAGULA:** I confirm that.

**ADV SELLO SC:** And you maintain that it was an official meeting.

**MR MAGAGULA:** I was there also.

**ADV SELLO SC:** With EMPD officials as headed by Brigadier Mkhwanazi following the telephonic conversation you had with him about concerns regarding Zama Zama's and seizure of firearms of EMPD officers.

**MR MAGAGULA:** Yes, I confirm that.

20 **ADV SELLO SC:** And on the other hand, the meeting was attended by at least three IPID officials, yourself, Investigator Masuku and Investigator Dlamini.

**MR MAGAGULA:** Dlamini did not attend it. It was myself and Nomsa and then with the other two females.

**ADV SELLO SC:** And you maintain there was nothing

untoward about that meeting?

**MR MAGAGULA**: Yes, I maintain it was untoward. There was two ladies and those ladies, I believe, they are the ones who provided Chief Mapiyeye their position. Because there was nothing that was wrong with advice on what he asked us for. And with the meetings, I do not know if I have addressed it in some other places. He was not talking about this only meeting when he addressed to the Executive Director.

10           He stated that there were several meetings that I had with Mr JD Mkhwanazi. So, I want to address also the other one because this is not isolated. This one, I believe, those two ladies that were there, they are the ones who told Chief Mapiyeye. And they should have even told him what the contents of that meeting was because it was not secret. That is why they were part of the meeting.

          The other meetings that he is referring to, I never had a meeting with Julius Mkhwanazi except this one. During my performance of my duties, there is no where I  
20 met Mr JD Mkhwanazi alone. There is no instance. Those statements, those three paragraphs, statements that I took from Putfontein, Benoni, Hillbrow, and the warning statement of him in terms of Brakpan, I took this statement on different occasions.

          On all occasions, I was not alone. So, if Chief

Mapiyeye referred to that as meeting, it was not meeting, it was my official duties. And if I had to take a statement of Julius Mkhwanazi, whether it is warning statement or duty on duty off statement, I do not need to inform Chief Mapiyeye today that I am going to take a warning statement of Julius Mkhwanazi.

I am going to take a duty of statement of Julius Mkhwanazi regarding this case. So, I have no obligation to tell him each and every day when I go and obtain certain  
10 things in EMPD to say today, I am going to take a warning statement of this member or this member. So, what I want to clearly state is that in all these occasions, when I met Julius Mkhwanazi, I met him with my team.

There is no day where I met Julius Mkhwanazi alone. So, even in this day of the 19<sup>th</sup>, that is why I confirm, I was not alone, I was with Nomsa Masuku, with the two ladies. So, the contents, those ladies that were there, they know exactly what we were talking about. And that takes us to that training that we had on the 15<sup>th</sup> of  
20 November.

And even before that, there was a time, even in the screenshot you will see, there was a time when he also asked us to do station lectures. We did a station lecture in their headquarters in Kempton Park. That station lecture was initiated by him. And then, when we do station lecture,

the department also wants to see photos of that station lecture with a register, who were the people that were there, we have a register.

So, we did that, and the photos that we took also, because it was headquarters. Mr Spies was part of those photos. Nomsa has even those photos in her office. And then we did another station lecture in Boksburg Council, Municipal Council. It was a different unit. So, we were trying to teach them, it does not mean IPID, it is to promote  
10 proper police conduct.

So, some of the police officers take us as their enemy, whilst we are there to assist them to improve service delivery, and how to conduct themselves on the street. And it does not mean when I arrested you, you become my enemy, I cannot talk to you. So, you are not my enemy. And if in my performance of my duties, I need to take a statement, I will still come. Regardless that you hate me, or what, if it is work, I will still come to you to say at this stage, I need this because of 123.

20 **ADV SELLO SC:** Thank you. Now, I want to turn to your alleged meetings or relationship with City Manager of Ekurhuleni, but before I do so, Commissioner Khumalo, as he covered the concerns you had, the issues that he was called upon to answer.

**ADV KHUMALO SC:** Yes.

**ADV SELLO SC:** Thank you. You deal with that from paragraph 96, Mr Magagula. If you could take it from paragraph 96.

**MR MAGAGULA:** 96.

**ADV SELLO SC:** Yes.

**MR MAGAGULA:**

10 “As Chief Mapiyeye further allege that I had been seen with the City Manager of Ekurhuleni, I categorically deny the allegation that I have any personal knowledge of or have ever met the City Manager of Ekurhuleni municipality. I refute any claims suggesting that I was at any time in the company of the City Manager. To the best of my knowledge, there has never been any occasion on which I have personally met, communicated with, or interacted with him in any capacity. In the performance

20 of my official duties, I utilise a state vehicle. Any assertion of a meeting with the City Manager can be objectively verified through the state vehicle tracking record, which provides an accurate account of my location on the days in

question. The information is provided to assist the Commission in addressing any potential misinformation or misrepresentation that may be presented by Mr Mapiyeye concerning alleged interaction between myself and Brigadier Mkhwanazi and the City Manager of Ekurhuleni municipality.”

So, yes, I heard that Mr Mapiyeye, I do not know the City  
10 Manager. Till today, I do not know him. To see her face, I  
only saw her in the Commission. And the certain video, I do  
not know if it was before or after the Commission, where  
Julius was seen to say, I will die, I will take a bullet for you,  
mamma. I did not know even her face. I only know her face  
in those occasions. The video and the Commission. So,  
personally, till today, I never met her or communicated with  
her.

**ADV SELLO SC:** Thank you.

**ADV BALOYI SC:** Maybe before you get to the conclusion,  
20 you have explained in this last discussion the training that  
you were asked to give by Brigadier Mkhwanazi.

**MR MAGAGULA:** Yes.

**ADV BALOYI SC:** And where you had to explain the  
mandate of the IPID and why the IPID takes firearms when  
there have been incidents. Have you had, or do you have

that kind of discussion or education, if you like, with officials? So, for example, we had these complaints about, you are not investigating these matters, including the Mbense matter that we heard about. Now we have an explanation why the EMPD, the people that are complaining, would not have known that Mbense is about to go to court. Because it is explained that it is matters that you keep and you do not communicate with your stakeholder.

And you have said the same thing as well. And so,  
10 it seems part of these complaints are based on not knowing or understanding the processes, at least from where I am sitting, not understanding the processes of IPID, that there should never be an expectation that they will be getting feedback while they are running matters. It comes from ignorance of not knowing that you would need to speak to a commander to get a commander's statement, where their members are involved. Is there that kind of education or information to your stakeholders about your processes?

**MR MAGAGULA:** Yes, there is no such, but Ntate  
20 Mapiyeye and Revo Spies if you look at our communication, Ntate Mapiyeye and Commissioner Spies, they have my contact. I am open to them. And even my other team members, they had access to not only me, my other team members, they engage us. So, if they were having concern or delays, I mean, they would have engaged us to see how

far this matter is.

Even if this one is confidential, we will say, with this one, we will not give you an update. More specially, the case that we did not want to give them update, even if they asked, but we would have told them the reason why. It was the Mbense case, because they did request copies of that docket. And we informed them that we cannot give you this one.

In most of the cases, we give them those copies.  
10 So, we will never refuse without giving them an answer that we do not give you this one because of 1, 2, 3. So, Ntate Mapiyeye and Revo Spies, they have that opportunity to ask us any case, Magagula, what is happening? If they do not want to ask me, they have access to the other team members.

**ADV BALOYI SC:** I am asking the question the way that I did, because I wanted an answer that applies generally, not just to them. I assume that you have a good working relationship with Spies and Mapiyeye, for example. And  
20 they are not bad people when they come here and express suspicion about lack of information. I have made that assumption.

So, I am asking a general question about, do your stakeholders understand your processes? Such as this, that when you are conducting an investigation, this is how it

plays out. As in, they will not get information unless it becomes necessary for you to speak to them. And so, when you are quiet, it does not mean an investigation is not happening. Do they understand all of those things?

**MR MAGAGULA:** Yes, they do. SAPS do understand. With the EMPD, I will not know if they understand.

**ADV BALOYI SC:** Perhaps you should consider giving them a lecture as well, in the way that you have done with the mandate. You have done with Brigadier Mkhwanazi's  
10 people about the mandate of the IPID. Perhaps you should consider to give them lectures about your processes.

**MR MAGAGULA:** We will do so.

**ADV BALOYI SC:** Thank you.

**ADV SELLO SC:** Thank you, Commissioner Baloyi. Mr Magagula, this then leads us to your concluding remarks at page 23. Just to point out, in this part of your statement, you referenced the Boksburg North CAS case. And you deal with a different case. The Boksburg North is the 241-03-2024. That is the matter involving the Congolese  
20 national, is that not so?

**MR MAGAGULA:** Yes, that one.

**ADV SELLO SC:** Then you say, you compare that with another case, also from Boksburg CAS281-05-2023. And you say this case was not referred to in the Commission.

**MR MAGAGULA:** Yes.

**ADV SELLO SC:** You have attached STLM15, a report you had filed following an investigation at page 725. 725 of bundle 3 of 3.

**MR MAGAGULA:** Yes, I got it.

**ADV SELLO SC:** And this, once again, is a memorandum to the Chief of Police, EMPD. And the subject is initiation of disciplinary recommendations in terms of section 30. And this involved a different matter that neither Chief Mapiyeye nor Commissioner Spies raised in the  
10 Commission. But I do note that the members implicated in this matter, at least one of them, is part of the extortion matter involving the Congolese national.

**MR MAGAGULA:** Yes.

**ADV SELLO SC:** And you provide the summary of allegations there. And you conclude by requesting that EMPD take action against these members.

**MR MAGAGULA:** Yes.

**ADV SELLO SC:** You then attach a further document, your number TLM16. And that is communication from the DPP  
20 addressed to you and to your supervisor, Mr Budhu. It is dated 10 March 2023 at page 730. This is still the same matter as with Annexure TLM15 regarding those members including Shirinda, who is also involved in the Congolese national matter.

**MR MAGAGULA:** Yes.

**ADV SELLO SC:** Under CAS281-05-2023. And you say, unfortunately, the DPP declined to prosecute in this matter.

**MR MAGAGULA:** Yes.

**ADV SELLO SC:** So, you never pursued it criminally because the DPP declined to prosecute.

**MR MAGAGULA:** Yes.

**ADV SELLO SC:** But you had filed your report with the DPP as you filed with EMPD.

**MR MAGAGULA:** Yes.

10 **ADV SELLO SC:** Do you know what became of the EMPD processes following receipt of your recommendation? Do you know if anything happened there?

**MR MAGAGULA:** I do not know anything about EMPD's progress on this matter.

**ADV SELLO SC:** Okay, and lastly, then, you reference another matter we do not know. You say Edenvale Theft, CAS number 267-07-2025, State v Fortune Dladla and nine others:

20 “Six members of the EMPD and four members of Tsakane SAPS were arrested for theft. The investigation is proceeding according to the Director of Public Prosecution's instructions. EMPD was aware of this case. However, no action was taken against these members

departmentally.”

That is a different example you give of what you say is a case you are actively involved in and you are pursuing vigorously involving EMPD members, including SAPS members.

**MR MAGAGULA:** Yes.

**ADV SELLO SC:** And then if you could then read 103 and 104 at page 24 of your statement.

**MR MAGAGULA:** Yes.

10 **ADV SELLO SC:** Paragraph 103 at page 24. If you could read that.

**MR MAGAGULA:** Okay:

20 “I reference these matters to demonstrate that I do not protect members of EMPD from prosecution, whether criminally or disciplinary. Threats in the Ekurhuleni area remain reality and the IPID management continues to mitigate them, despite limited budgetary resources. The Ekurhuleni team currently consists of six investigators. Six investigators are up from five previously. The high workload is further compounded by the departure of caseworkers from the department, whose cases we have had to assume

responsibility for.”

**ADV SELLO SC:** Thank you. And that is the last paragraph of your statement.

**MR MAGAGULA:** Yes.

**ADV SELLO SC:** Commissioners, unless there are further questions, that is the testimony of Mr Thulani Magagula. Thank you.

**CHAIRPERSON:** Mr Magagula, thank you very much. You are excused.

10 **MR MAGAGULA:** Thank you, Commissioners. I have learned a lot during this session. I hope to take what I have learned here to the streets and to my other team members, so that we can add value to the inhabitants of Gauteng province. I thank you.

**NO FURTHER QUESTIONS**

**CHAIRPERSON:** Thank you for that undertaking.

**ADV SELLO SC:** Thank you.

**CHAIRPERSON:** Let us adjourn until 09:30 on Monday.

**ADV SELLO SC:** 09:30 Monday. Thank you, Chair.

20 **INQUIRY ADJOURNS TO 16 FEBRUARY 2026**

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