

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

**HELD AT**

**BRIGITTE MABANDLA JUSTICE COLLEGE**

**26 FEBRUARY 2026**

**DAY 68**



**PROCEEDINGS HELD ON 26 FEBRUARY 2026**

**CHAIRPERSON:** Good morning, Mr Chaskalson. Good morning, Mr Matlala.

**ADV CHASKALSON SC:** Morning, Chair. We have an updated postponement application that has cured some of the defects in the preceding one. We would like the appearance of this witness, again, I am not going to refer to his name, to be postponed to a specific date. We will serve a new subpoena, but we are looking at the 11<sup>th</sup> of March. I  
10 have discussed with Mr Matlala a date for the submission of the statement of the witness and he has agreed that the witness statement will be furnished by 3 March. So, unless the Commission has any concerns, we would ask that the witness's appearance be postponed to 11 March and that he be directed to furnish his statement to the Commission by 3 March.

**CHAIRPERSON:** Thank you, Mr Chaskalson. You confirm the ...[intervenes].

**MR MATLALA:** I absolutely confirm, Chair.

20 **CHAIRPERSON:** Yes, yes, yes. But I just want to raise an issue or two. Doctors are well known for their handwritings, but I think I am the last person to comment on anybody's handwriting. My colleague, Commissioner Baloyi, and the Commission Secretary have told me to my face that my handwriting is worse than that of doctors.

When I look at the first medical certificate, I see what I think are only two words. And when I look at the one that we insisted should be filed, that is a legible one, I see four words. And the second one, which is legible, starts with acute, first letter A. And the first one that is illegible, as it is, nothing looks like an A in the first word. If anything, it looks like an M.

So, one, why do we have only two words in the first one? And two, why do we have four in the second one?  
10 Does it mean different medical conditions were reflected or does it mean that the same medical condition was reflected, but perhaps in the first medical certificate expressed in two words and in the second medical certificate expressed in four words?

Secondly, that is the first point I want to raise. Secondly, why is the name of the doctor not mentioned? In paragraph 5 it simply says I was observed by 'a medical practitioner', unnamed. And I looked at the signature. I am not sure I looked at the second one. First one, or at least –  
20 no, no, no, the name at least does show on the stamp. So, I will leave that one. I will leave the second point. I will leave the second point.

**MR MATLALA**: Thank you, Chair.

**CHAIRPERSON**: Perhaps comment on the first point?

**MR MATLALA**: Yes, thank you, Chair. As you would be

very well aware, there is doctor-patient confidentiality and privilege. So, the first medical certificate, it reflected medical condition without disclosing the nature of the condition ...[intervenes].

**CHAIRPERSON**: Also, that is medical condition.

**MR MATLALA**: Yes, that is what it said, but then upon further deliberations with the Evidence Leader, he proposed that, look, let us disclose the medical condition, but it would not be publicly mentioned during the proceeding. So, that  
10 is why there is a discrepancy between yesterday's medical certificate and today's one.

**CHAIRPERSON**: I am happy because I was not aware of the agreement on non-disclosure. I am happy that all I disclosed was just acute and not the rest of it. All right. Thank you very much, Mr Matlala. The hearing of the witness's testimony is postponed to 11 March 2026, and the statement of the witness must be filed by 3 March 2026. That is the order.

**MR MATLALA**: Thank you, Chair.

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

**CHAIRPERSON**: Thank you. Is it practical for the next witness to come in with us sitting here, or do you want us to step out for a minute?

**ADV CHASKALSON SC**: Chair, we have not been in communication with the next witness yet. I do not imagine

there will be difficulties, but it may be more convenient just for you to step out for five minutes.

**CHAIRPERSON**: Perhaps we will just step outside, and you will indicate when you are ready.

**ADV CHASKALSON SC**: Thank you.

**CHAIRPERSON**: Let us adjourn.

### **INQUIRY ADJOURNS**

### **INQUIRY RESUMES**

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

10 **MS MAGULA**: Good morning, Mr Commissioner.

**CHAIRPERSON**: Am I pronouncing it correctly?

**MS MAGULA**: Perfect.

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

**MS MAGULA**: Thank you so much.

**CHAIRPERSON**: Yes, Mr Chaskalson.

**ADV CHASKALSON SC**: Thank you, Chair. Today's witness is Ms Gxasheka And I am not sure if the witness has been sworn in yet.

**CHAIRPERSON**: Not yet, no.

20 **ADV CHASKALSON SC**: We are certainly ready to begin.

**CHAIRPERSON**: Thank you, thank you. Good morning, Ms Gxasheka.

**MS GXASHEKA**: Good morning, Chairperson. Good morning, Commissioners.

**CHAIRPERSON**: Will you swear or will you affirm?

**MS GXASHEKA**: I will affirm, Chairperson.

**CHAIRPERSON**: Do you affirm that the evidence you are going to give is the truth, the whole truth, nothing but the truth?

**MS GXASHEKA**: I will give evidence, truth, nothing else but the truth.

**CHAIRPERSON**: Just say, I affirm.

**MS GXASHEKA**: Thank you, Chairperson.

**CHAIRPERSON**: Please say, I affirm.

10 **MS GXASHEKA**: I affirm. Thank you, Chairperson.

**LINDA LOUISA GXASHEKA**: (affirmed)

**ADV CHASKALSON SC**: Chair, before we begin, I should just place on record one fact, which is that in the supplementary bundle, I will take Ms Gxasheka through all of the documents in due course, but the Commissioner should have two files of supplementary bundle, supplementary bundle 1 and 2. The bulk of the second volume of the supplementary, or the whole of the second volume of the supplementary bundle, in fact, all of the  
20 supplementary bundle from page 123 on, was only made available to Ms Gxasheka's attorneys late yesterday.

That was the commission's fault and we apologise for that. As a result, it would not be fair for me to question the witness on any of these documents today, but I have spoken to her legal team and we have agreed that I will not

traverse any of those documents today, that I will only get to them tomorrow and that they will prepare overnight on those documents and that if there is, if they want, as it were, Ms Gxasheka to be led in relation to those documents first thing tomorrow morning, we will arrange to do that.

There may be a supplementary statement overnight, but they have not yet decided whether that will be necessary or not. So, for now, I would ask the Commission also not to ask questions in relation to anything that  
10 appears from page 123 onwards of the supplementary bundle.

**CHAIRPERSON**: Thank you, Mr Chaskalson. Ms Magula?

**MS MAGULA**: Thank you, Mr Chairperson. Indeed, I do confirm what the Evidence Leader has said. We received documents early hours of this morning to be precisely at 01.03 AM. So, we discussed before we got into this hearing. Everything is so arranged as he has said. I confirm such. Thank you, Mr Chairperson.

**CHAIRPERSON**: Thank you, Ms Magula. Yes, Mr  
20 Chaskalson?

**ADV CHASKALSON SC**: Thank you, Chair. Ms Gxasheka, before we start, I just want to clarify that you have all of the documents that I am going to be referring you to. The first file, and the file that will be certainly the most important for the start, it says statement on its spine and it is a file that

contains your two witness statements. It says File 1 of 6.

**MS GXASHEKA:** Yes.

**CHAIRPERSON:** I will be leading you from that file this morning. Then there are five additional files, Files 2 to 6 of 6, which are the annexures to your statements. I understand that one of those files, which is, I think, the regulations, which is a file of legislation you do not have with you, or have you been able to source copy? I do not propose to ask you questions around it, but if you get to a  
10 point where you need to consult any of the legislation in your answers, please say so, and we will make arrangements for a duplicate copy of that file to be made available to you. But, from my side, I do not intend to ask questions to you about the legislation.

Then there is the supplementary bundle file, two files, and the only questions that you will be asked today, to the extent that you are asked any questions, will relate to the first file of that supplementary bundle file. The way that we structure these questioning sessions is, the first stage  
20 of the questioning is really to take you through your statement so that you can tell your statement without intrusive questioning.

So, you do not need to be on your guard until I say, okay, we have reached the end of your statement, now you are going to be subjected to intrusive questioning. So I will

be taking you through your statement, and at the end of the statement we will then get to certain topics where I just want to interrogate your statement more rigorously.

There are two statements that you have filed, and the second one is called supplementary statement, but as I read it, it is more a consolidated version of the first statement, which also responds to certain allegations that only came to light in the evidence of Ms Mashazi after you had furnished the first statement.

10           So unless you have any objection, I propose to lead you only off the supplementary sworn statement because as I read it, it traverses everything in the first statement. So there is no need to duplicate. I see your legal team is nodding in assent.

          So that is how I propose to proceed, and with that introduction can we then turn to your supplementary sworn statement. And maybe start at the end, and can you just confirm that the signature that we see on page 43 is your signature and that the contents of the statement are, to the  
20 best of your knowledge, true and correct?

**MS GXASHEKA**: I confirm it is my signature. Thank you so much.

**ADV CHASKALSON SC**: And can you confirm also that the contents of the statement are, to the best of your knowledge, true and correct?

**MS GXASHEKA**: Indeed, the content of the statement, to my knowledge, is my statement. Thank you so much.

**ADV CHASKALSON SC**: Thank you. Then if we go back to the beginning of the statement, you point out in paragraph 1 that you are employed at the Ekurhuleni Metro as head of Department Human Resources. Paragraph 5, you discuss your history and qualifications. Can you first of all tell the Commission when you were first appointed at the City? How long have you worked at the City?

10 **MS GXASHEKA**: Thank you so much, Chairperson, the Commissioners, and the Evidence Leader. Through you, Chairperson, I think before I speak to my qualifications, I would like to address some irregularities that I have seen on different statements, transcripts, in relation to my surname.

Thank you, the last time you did raise it, but as I was going through the statements, I have realised that I have been addressed in different ways. I would like to correct that, that Ms Linda Louisa Gxasheka, I am not a Mr I  
20 have called Gxasheka, Gxasheka, Gxasheka, and I am thinking these are legal documents that I have gone through. So I would like that to be corrected, that I am Ms Linda Louisa Gxasheka. Thank you so much.

To come to my career at Ekurhuleni that has led us to be here today. Indeed, I arrived at Ekurhuleni in 2015,

May, 1<sup>st</sup> of May 2015, coming from the City of Joburg. I joined local government in 2008. I worked for the City of Joburg for those years. I did a lot of great work for the City of Joburg. I am hoping that at some point I will be able to talk to that, about my career.

When I left the City of Joburg, they called me three times when I was at Ekurhuleni. Linda, come back, the City is not functioning without you. I am not there. Maybe I will be able to address that, but I felt it is something that needs  
10 to be discussed in terms of my career trajectory in local government space.

When I was appointed as divisional head for field services, the reason I think they chose me to be appointed in that position, because the City of Joburg as well is the position that I held. I had about three to four promotions when I was working for the City of Joburg. To some extent, I think when the City of Joburg was going through the issues of the billing system, the ICT system, at some point in one council I was appraised for making a change in  
20 contribution to the change in the City of Joburg.

Hence when I left, I was called to go back, but I felt that I have done my journey and I have a role to play at the City of Ekurhuleni. Hence, I stayed. I was in that position of a divisional head field services, and my role was to implement the HR business partnering model. That is what

I implemented successfully in the City of Johannesburg.

I started, I put systems in place, I developed the business partnering model, operating model for the City of Ekurhuleni. I developed service level agreements without using any service provider. I saved money. When I arrived in Joburg, they spent millions in developing that plan. When I came in, I went and implemented. I had so many highlights, but we are not here for the City of Joburg, and I do not want them to be brought into issues of Ekurhuleni.

10 I implemented a lot of policies in that role at the City of Joburg, including a sexual harassment policy that will be discussed today, and service level agreements. I have also implemented that. Those were the successes. I came with the surveys to speak to issues of how our clients at the time, which was about 25 departments, were perceiving HR services. From the findings of that survey, that is when we developed all the other operational parameters and strategies for the City of Ekurhuleni.

20 Subsequent to that, there was a first institutional review we embarked upon at the City of Ekurhuleni. My position as a divisional head for services was then matched with a divisional head talent acquisition recruitment and selection. I was responsible for those two functions without any additional salary. I do not think that was a main issue to me. The aim was to see that we can change Ekurhuleni

...[indistinct], Chairperson.

Subsequent to that, I think in February 2023, on this day, it was on a Thursday, council adopted my appointment as the HOD human resources. It is such an irony, but a beautiful one, I hope, that today I am here testifying for being in this role. I have been in this role ever since then, and to date.

I think I have dwelt too much on this issue. You will tell me, Evidence Leader, if we are going to go  
10 paragraph by paragraph, or what is going to happen so that I do not spend too much on one paragraph. Thank you so much, Chairperson and the Commissioners.

**ADV CHASKALSON SC**: Thank you, Ms Gxasheka. You refer in paragraph 5 to your CV in Annexure LLG1. That is on page 1 of the annexure bundle, File 2. Can you just confirm that that is the correct document and that the CVs and the contents of the CV are correct? I do not need you to amplify them, but just confirm the correctness of the CV.

**MS GXASHEKA**: Yes, you can confirm it is just the years  
20 that may need to be corrected. As I say, I have been in local government more than 10 years. I think it is about 16 years. Thank you so much.

**ADV CHASKALSON SC**: Thank you. And then you discuss the work that you have done in the HR department in Ekurhuleni through the paragraphs 6 to 13. Can I ask you

just to amplify a couple of these paragraphs? You say you have implemented the Human Resources Business Partnering Model. It just was not clear to me. Can you just explain what it is?

**MS GXASHEKA**: The Human Resources Business Partnering Model is basically about enhancing the service that HR provides to the line departments, whereby you show that you ensure operational efficiencies are improved, you understand the business itself so that you can be able to  
10 provide the correct and fit-for-purpose advisors to the departments, being part of the line in all their decision-making.

And hence it was important to look at this. I said earlier on one of the issues I embarked upon was the customer satisfaction survey. That was also to be able to implement what the client is expecting from HR, but most importantly is to ensure that HR is operating effectively and efficiently in providing services to their department.

And the main thing I felt this must be spoken to  
20 here is it was very key to also make the Commission understand that the City of Joburg, in terms of capacity, I am not a person who comes with excuses of capacity. You do more with less. But the City of Joburg, when I implemented the model, I ensured that every department has an HR structure so that they can be able to understand

the issues of the department and be able to advise correctly the department on its issues.

And secondly, Ekurhuleni is still at an implementation phase due to lack of capacity. But as I said, the approach was do more with less. Most critical is to explain that my understanding of the SAPS and how it works. You would probably have an HR practitioner in every station, in every province, in every national department.

10 Ekurhuleni, as I explained, the model is still under implementation. I am the only HOD responsible for, at that time, of these matters that we have a discussion for 25 departments with the political offices that has its own challenges and I had about five HR business partners that must man and provide support to all these departments.

Hence, majority of the work and the decisions that had to be made at the centre. So we have not defined that in the HR business partnering model, the centres of excellence where policing and everything is done, the  
20 shared services where day-to-day work is done, then there is HR business partners that has not been fully realised.

But the most important is the model of SAPS and Ekurhuleni is very different, and I am going to talk to that as we go down the statement. Thank you, Evidence Leader. And on the other issues, you said I must go up to page two.

I have also spoken to the functions. I think from page 210, the implementation of the recruitment is one of my highlights at Ekurhuleni.

When I arrived there, recruitment services to fill positions, it will take more than 365 days. I just could not understand that. We have got service delivery issues. Customers, residents of Ekurhuleni are not happy, but we cannot have positions filled. Hence, I came with the service level agreements that were signed between myself, my  
10 team, and the line departments.

And by the time I became an HOD, recruitment processes to date are between 90 days. That is our turnaround time. And now, before I was shown the dates, the date, sorry, we were having a target that at least let us get to 60 days. We can do that. I worked for private sector. It can take a month to fill a position, with a fit-for-purpose talent and I feel that I am aspiring that we should get to that.

On the labour relations matters on page 3, I think  
20 that is the reason we are here today. I must emphasise that when we started with the issues that are bringing us today that I will speak to, I get to encounter and be able to form part of the relations management deeply when I was acting HOD Human Resources. Because before I was appointed, I acted when my predecessor left. And obviously, it means I

had one division ...[intervenes].

**ADV CHASKALSON SC**: Sorry to interrupt, but can you just give us a date for that? When did you start acting?

**MS GXASHEKA**: I have acted, in fact, we are acting, I think it was two, three of us interchangeably. I think it was from August 2022. And as I said earlier on, my appointment was, council adopted the appointment of HOD HR in February 2023. So, the acting would have been August to February.

10           And I was in contact with challenges from the time I was acting in the labour relations space. And one of the matters, there is about four, I will not mention a lot, there is a lot. It was the Germiston Pension Fund. Commissioners, you might know about this. We had lockdown issues, Commissioner Khumalo.

          And at that time, Ekurhuleni was expected to pay more than 100 million for the pension not performing. And the changes to that pension fund were done prior to 1994 and it was locked. They performed. I think it performed  
20   and performed. Then around 2020, I think it could have been during the COVID time, they said, Ekurhuleni, surprise for you, come and assist. But it came to my attention when I was acting.

          Another matter that also came to be a challenge in the labour relations space, it was the implementation of the

remuneration model. I had no interest to start mentioning this name now, but I am forced to. Mr Nciza ran with the remuneration model. The intention at the time was the remuneration model, it will cost the City around 100 million. By the time the process was concluded, it cost the City more than 410 something million, almost half a billion.

The current City Manager, Mr Kagiso Lerutla, reported this to Doctor Mashazi. The challenges of this, it meant that the City now must embark on a moratorium. It  
10 means we are reducing filling of positions. We know, Chairperson and Commissioners, what that translates into. Limited capacity. We do not fill positions. Ultimately, what does that mean? Service delivery is impacted. And we expect that citizens of Ekurhuleni must be happy. These are some of the challenges I had to deal with.

I also encountered the Kalmashi [?] and Others matter, Kojani [?] and Others matter. One of those matters cost the City 500 million, half a billion. I had to sit and negotiate with the unions. Another one, by the time it came  
20 to the City, to the legal department, it was left with six days. It was a judgement, not even a contempt of court, a judgment against the City Manager.

I am not going to mention names. It could have been the current City Manager, it could have been the previous one. Six days that are left. I am the HOD HR.

What is the council going to say to me when she is arrested? What is her family going to say to me when she is arrested? These are some of the challenges that we have been encountered with from HR. That is when I started partnering with the legal department.

We know some of the matters they had to deal with.

The ...[indistinct] matters and all of that, but I am focussing on the LR issues that they had to assist me with. I am new in this position. I have got judgments. I have got contempt  
10 of courts. That, on matters that Mr Nciza and the ER division could have negotiated years ago and settled. The fights you fight, once you get to labour, LAC, at least, you should know that you are winning or not.

On the matter of half a million, it was 1 000 employees that were impacted that were going to benefit from that. Some of them, they are union leaders. I will not mention the unions. Come to me and say, HOD, I have already made a calculation. If you settle this for us and pay us this half a billion, I retire.

20 I ask them, what does it mean for the citizens of Ekurhuleni? What does it mean for employees? Because it means we might probably have to retrench, something that was never done in local government. It might mean we do not fill positions once more. What does it mean for your own children, for the generations that are to come?

These are matters I had to settle to an extent that we reduced from that half a billion to a lesser amount. I think we signed with the current City Manager only last year, but it was ongoing challenges that one had to take up the seat and own the space. If I did not, Ekurhuleni might have closed by now. I think I will move on that.

Issues of performance management, I will not focus on that. I think training and development, Evidence Leader, we will discuss that tomorrow. Another most important  
10 thing that I need to discuss with Commissioners in terms of my achievement is the advocacy programme. I think Doctor Mashazi did not do justice here. She came with her own programmes. I developed programmes when I came to Ekurhuleni.

I resuscitated the Men's Forum because there were conversations that men must have in Ekurhuleni. I probably will not even be here or be implicated in other matters if those conversations took long before I arrived there. I have resuscitated that forum. I have developed a disability  
20 management forum.

I have also developed a women empowerment forum because I felt that we need an inclusive and diverse workforce. Those are some of the issues that I felt must be shared. I do not want to be controversial, but there is one structure that was not yet done. Maybe I should not talk to

it just because I do not want to be misquoted. For now, I will stop there, Evidence Leader. Thank you, Chairperson.

**ADV CHASKALSON SC:** In paragraph 15 you point out that the statement is really furnished in response to a Rule 3 Notice that was dated 26 November and sent to you by the Commission. That Rule 3 Notice is at page 40 of the annexure bundle. I think it may make sense as we go through the statement, as you lead into each topic, to highlight the question that was being asked of you by the  
10 Commission.

And sorry, I think it is also important to emphasise why this supplementary consolidated statement is furnished. When you got the Rule 3 Notice, it was before the testimony of Doctor Mashazi. You were subsequently given a supplemented bundle that had Doctor Mashazi's testimony. You then wanted to amplify your original answers having regard to what was said about the relevant topics by Doctor Mashazi. Can we start at paragraph 3.1 of the notice? That is at page 41 of the annexure bundle.

20 **ADV BALOYI SC:** Which bundle is this?

**ADV CHASKALSON SC:** It is File 2.

**ADV BALOYI SC:** Of 2?

**ADV CHASKALSON SC:** No, 2 of 6. It may be convenient if we just keep open or accessible pages 41 to 43 of that file because we will be coming back to them as we go

through Ms Gxasheka's statement. In paragraph 3.1, the notice says that the testimony of these three witnesses, and at that stage it was Mr Nciza, Ms Thepa – sorry, no, it was five witnesses. It was Mr Mapiyeye, Mr Spies, Mr Nciza, Ms Thepa, and Witness D, implicated you in alleging that you unlawfully supported and participated in the usurpation of the powers of the Chief of Police as contained in section 64(c) of the SAPS Act. Then it is particularised under 3.1.1 onwards, but you respond to 3.1 generally from paragraph 10 18. Can you just briefly deal with your general response to paragraph 3.1.1? Sorry, 3.1 from paragraphs 18 and 19 of your statement? The allegation of usurping powers of the Chief of Police.

**MS GXASHEKA:** Thank you, Chair. Firstly, I would like to, as stated in my statement, I refute the allegations that I have supported and participated in the usurpation of the powers of the Chief Executive Officer and I think the Executive Head as well, in terms of the section 64(c) of the SAPS Act.

20 And the reason is that, Chair, maybe I must explain that. Firstly, a premise in my submission is of the fact that the City Manager, Municipal Manager, the CEO, is the ultimate authority on all matters relating to municipality. And specifically, in this instance, the Municipal Police Service as per section 64(b). I think for us to focus on

section 64(c), it will not be proper. It must be read in its entirety, but with also section 64(b), because the ultimate powers start there.

I have extracted section 64(b), where it says the Chief Executive Officer of the municipality shall be responsible to the Municipal Council for the functioning of the Municipal Police Services. And in terms of the allegations, I do not know, Evidence Leader, through you, Chair, I must get to the allegation itself now. I can  
10 proceed?

**ADV CHASKALSON SC:** I think I would rather you said more about the specific allegations under 3.1 and so on.

**MS GXASHEKA:** Thank you.

**ADV CHASKALSON SC:** Really, we have your statement in relation to the general allegation of 18 and 19. Unless there is something you want to emphasise or amplify, I am happy to proceed to the allegation in 3.1.1, which relates to the appointment.

**MS GXASHEKA:** All right.

20 **ADV CHASKALSON SC:** So if we go back to File 2 of 6 in paragraph 3.1.1 on page 41, the allegation is that you supported the promotion of Ms Stella Jokazi by Brigadier Mkhwanazi despite the protestations of Chief Mapiyeye, in whom these powers vested.

**MS GXASHEKA:** Okay, thank you, Chair.

**ADV CHASKALSON SC:** And if you can respond to that, and maybe with reference to what you say in paragraph 20 onwards.

**MS GXASHEKA:** All right, ja ...[intervenes].

**ADV CHASKALSON SC:** Or even 19.2, I suppose we start there.

**MS GXASHEKA:** Okay.

**ADV KHUMALO SC:** Can I just ask that we correct the typo in 18? I think it is the usurpation of the power by the  
10 CEO, it is not of the CEO. Because the powers you are said to have usurped are those of the Chief of Police.

**ADV CHASKALSON SC:** Indeed, the notice refers to the usurpation of the powers of the Chief of Police. So it would either be by the CEO or of the Chief of Police.

**CHAIRPERSON:** Do you follow that, Ms Gxasheka?

**ADV KHUMALO SC:** Let me assist you. If you look at 3.1 on page 41, you see that the allegation is that you unlawfully supported and participated in the usurpation of powers of the Chief of Police. But in your statement at 18,  
20 it says powers of the Chief Executive Officer.

**MS GXASHEKA:** I had a reason for that.

**ADV KHUMALO SC:** Okay.

**MS GXASHEKA:** I had a reason for that. In fact, my style of writing, I know you are probably going to have to be hard on me on that, is I always refer to the laws, to the policies.

Hence, I had to start it from section 64(b). But I went further on paragraph 19 and said ...[intervenes].

**CHAIRPERSON**: Sorry, Ms Gxasheka. But is there an allegation that you usurped the power of the Chief Executive Officer? Is there such an allegation in 3.1?

**MS GXASHEKA**: Yes. The reason I have added that is that the City of Ekurhuleni is managed by that section, section 64, but it is also regulated by the Municipal Systems Act, the systems of delegations and so forth. Hence, I am  
10 saying, Chair, if you can indulge, you will be able to understand why it is critical, or the relevance of section 64(b). At some point, you are going to see that.

**CHAIRPERSON**: I do not think I am taking issue with that. If you look at 3.1, the reference is to usurpation of the powers of the Chief of Police. That is what the allegation referred to in 3.1 is, usurpation of the powers of the Chief of Police. And in 3.18 you refute the allegation that you supported and participated in the usurpation of the powers of the Chief Executive Officer. As if somebody has  
20 suggested that that is what you allegedly usurped. Do you see what I mean?

**MS GXASHEKA**: Thank you for that correction. Thank you, Commissioners. I understand.

**CHAIRPERSON**: Yes.

**MS GXASHEKA**: Yes, okay. Let me start responding then

in terms of paragraph 19.1. As I said, I unequivocally dispute this allegation in that in provision 64(c), it must be read in conjunction with other applicable legislation, laws and COE policies, which dictate and provide guidance on the framework and processing of the recruitment, appointment, promotion and transfer of members of the Municipal Police Services.

I further want to submit that on the 10<sup>th</sup> day of April 2024, I received from Chief Isaac Mapiyeye a proposed  
10 selection panel that had his name as the Chairperson. It had my name as the HOD HR. It further had the name of, at the time, I think I can recall, he was already the Deputy Chief of Police, Mr Julius Mkhwanazi ...[intervenes].

**ADV CHASKALSON SC:** Sorry to interrupt. It might help if we go to page 47 of File 2 because I think that is the document you are referring to and then the Commissioners can see it.

**MS GXASHEKA:** Page?

**ADV CHASKALSON SC:** 47.

20 **MS GXASHEKA:** Thank you. Yes. Ja, I can take the Commission to that page. This is solicited services of HR. Myself specifically by the Chief of Police. His memo is dated 10 April 2024, directed to Linda Gxasheka, HOD Human Resources from IJ Mapiyeye, Municipal Police Commissioner, Chief of Police EMPD. The heading or the

subject:

“EMPD panel members for the director and deputy director post. The above matter refers. Proposed panel members for director and deputy director, operations and specialised services.”

And then there is two tables. There is the first table with the heading, director post. Chairperson, IJ Mapiyeye, Chief of Police. Panel member, L Gxasheka, HOD Human  
10 Resources. Panel member, J Mkhwanazi, Deputy Chief of Police. He invited me into his process. And as I said, there is nothing wrong in terms of our current model at the City of Ekurhuleni.

**ADV CHASKALSON SC:** Can I just ask here, is the system of interview panels for appointments one that is consistently applied through the EMM and the EMPD?

**MS GXASHEKA:** Through you, Chair, can you please repeat the question?

**ADV CHASKALSON SC:** Is a system of interview panels  
20 for appointments one that is consistently applied across the municipality and the Municipal Police Department?

**MS GXASHEKA:** Thank you, Chair. Yes, indeed. It is done in two ways. For levels below a divisional head, where departments are proactive, they will then write to me and provide the panel. Some instances, they will copy even

their City Manager. And then for the divisional heads, that particular level, I think executive managers, senior executive managers, because they are fixed-term contracted employees, that most of the time, 99% of the time, I take initiative and request, for instance, from filling off positions. Because it is a five-year contract, so they tend to expire. So I will initiate that and write to the City Manager.

The departments, they would normally call me the  
10 line HODs and say this position you sent to us, you notified us it is about to expire. Please assist with the process. So below that level, they would write to us and request with the panel. In some instances, I am not included. In some, I am included. Preferably, I should not be included, but sometimes they do want me there. Thank you. Apologies for taking long there.

**ADV CHASKALSON SC:** And can I just clarify how the panel system works? Does the panel actually take a decision, or does it make a recommendation to the decision-  
20 maker?

**MS GXASHEKA:** In terms of our policies and systems of delegations, panels do make a recommendation. But a very peculiar area, and obviously, policies are there for continuous improvement approach. And I think ever since I started developing policies for Ekurhuleni, you will see most

of the policies I say every five years revise them. But as and when we get amendments on the Acts, we can always do that.

So you will find a government risk of some sort, where in some instances the same panel, like I was saying, I was invited here, must also appoint, approve. You make a recommendation as a panel, like in this particular one, but you recommend and also approve. And that is based on the, what you call this, the systems of delegations.

10 **ADV CHASKALSON SC**: So in the case of these appointments that we are looking at, who would have the power of appointment under the system of delegation? It would be the Chief of Police, in conjunction with myself. Our systems of delegations are very clear about my powers as the HOD HR and the line departments. It does talk about shared powers, shared resources.

Even from you commencing with the process, without articulating verbatim, it says that in conjunction with HOD HR, do recruitment, appointments, transfers, and  
20 everything else in conjunction. And as I say, then it goes with levels, that there is certain levels that HODs are expected to approve, and then there is levels that the City Manager must approve, and there is levels that divisional heads, in the instance of EMPD, it would be Deputy Chief of Police must approve. It is in the systems of delegations.

So you do cascade down the powers through sub-delegations. Thank you.

**ADV CHASKALSON SC**: Sorry, I interrupted. You can ...[intervenes].

**CHAIRPERSON**: Just before Ms Gxasheka moves on, I think I got a bit confused. Right at the beginning of dealing with the recommendation and approval, you said the panel recommends and the panel approves. Did you say that? So if this panel recommends and this panel approves, who  
10 does this panel recommend to if it is the same panel that is going to approve? I find that confusing. I just need clarity.

**MS GXASHEKA**: Chair, that is why I said that there is one area of governance risk.

**CHAIRPERSON**: One area of governance what?

**MS GXASHEKA**: Risk.

**CHAIRPERSON**: Governance risk?

**MS GXASHEKA**: Yes. In that you do find peculiar in certain levels, in terms of systems of delegations, for instance, that for a director, a DCOP must approve. Now  
20 you have that ...[intervenes].

**CHAIRPERSON**: Let me ask the question again. Do you mean the interviewing panel recommends to itself? Is that what you mean? Why does it recommend and not simply appoint?

**MS GXASHEKA**: The good part on that is as much as it is

a risk that is identified, but the good part is the panel, as much as it recommends, it does not do due diligence. It does not write the report. In this instance, for instance, after the interviews were done, the report was then written by the secretariat, the recruiting secretariat. It will write the report. It will tell you if there is anomalies.

Maybe let me jump the gun and get you where we should be going here. In this instance, for instance, Chair, when there was a challenge on the qualification of Ms Stella  
10 Jokazi. It is a pity that we have their names here. The main thing that was a challenge, in terms of my statement, the Chief says after we shortlisted, I think we shortlisted about a very strange thing that does not normally happen. We shortlisted about seven to eight incumbents. Sorry, candidates.

And then, the Chief then calls me and says, look, we need to have a discussion on this. And I made it very clear that we do not do that outside the panel. Let us go and discuss on the panel. But to cut this story short, his  
20 main concern was that he was targeting Ivan Du Plessis for the position.

After I stopped him having a telephone conversation, on the day of the interviews, he arrives in my office early. The Chief does not make an appointment. The Chief gets to your office, even hardly sends emails. He

writes all these memos. He does the writing, but you send them to your office. He arrives there.

He is highly respected. When he enters, people stand up. And to me, even if you are a general employee, you are a high person, I have got an open-door policy. So he usually comes in. HOD, I am targeting Ivan Du Plessis. And I said, Chief, you know, we cannot deal with things that way. Why? He meets all the requirements. And I said, all these people who shortlisted, we cannot shortlist you if you  
10 do not meet the requirements. And it is a collective decision. Two of us must account if there is a panel member that is, I mean, a candidate that is shortlisted, we should not.

And number two, I explain that, Chief, you allow the process to run its course, let alone that we have got employment equity ...[intervenes].

**CHAIRPERSON**: I think you answered my question, which was, does the panel recommend to itself, and you basically said yes. Thank you. Thank you, Ms Gxasheka.

20 **MS GXASHEKA**: Thank you.

**CHAIRPERSON**: Yes, Mr Chaskalson.

**ADV CHASKALSON SC**: Maybe to jump ahead, if we can go to page 72, which I understand to be the recommendation coming out of the panel. Is that correct? Do you have page 72?

**MS GXASHEKA:** Yes.

**ADV CHASKALSON SC:** Maybe if you can just explain this document to the Commission.

**MS GXASHEKA:** Thank you. It is an interview summary and recommendation template.

**ADV CHASKALSON SC:** And this is in response to, this was the template filled out following the interview for this post that we are talking about. And if we go to the bottom, just correct me if I am wrong, I am explaining how I see this  
10 document. You see the scores that the three panellists gave to the six shortlisted candidates.

The first panellist was the Chief, the second panellist was yourself, the third panellist was Chief Mkhwanazi. Then higher up, name and surname is everyone who was present, the three panellists, an HR person, I think I cannot read it, is it Kelly Mahlangu?

**MS GXASHEKA:** Willie Mahlangu.

**ADV CHASKALSON SC:** Willie Mahlangu. Okay. Underneath there were some union representatives as  
20 observers. And as I read this document, there is a scoring by the panellists and the highest scorer is Ms Jokazi, the second highest scorer is Mr Du Plessis. Is that a fair summary of it?

**MS GXASHEKA:** That is correct.

**ADV CHASKALSON SC:** And presumably this form reflects

what actually happened in the interview.

**MS GXASHEKA**: That is correct.

**ADV CHASKALSON SC**: Can we then, I mean, I do not propose to deal further with paragraph 3.1.1. Unless there is anything that you want to say, I would like to move to paragraph 29 of your statement, which responds to paragraph 3.1.2. And there if we go back to page 41 of that File 2, the allegation in 3.1.2 is that you supported the exercise of powers by the erstwhile City Manager, Doctor  
10 Mashazi, notwithstanding that the relevant powers were being vested in the Chief of Police. And you respond to that from paragraph 29. Can I ask you to explain your response to the Commission?

**MS GXASHEKA**: Thank you, Chair and Commissioners. Again, my intention here is to submit in front of the Commission that whereas Isaac Mapiyeye, the Chief of Police, refers to SAPS Act section 64(c) as the ultimate law that governs EMPD, the City is regulated by other laws. I could have articulated this previously.

20 We have the Municipal Systems Act, specifically I think section 55, but I am not going to dwell on that. Municipal Structures Act, Municipal Finance Management Act, Municipal Staff Regulation as amended in September 2021, Labour Relations Act that you must prescribe to or subscribe to, the Disciplinary Procedure Collective

Agreement, amongst other few legal prescripts that can be mentioned that governs the City of Ekurhuleni.

I further submit that the City Manager is the ultimate authority in all matters and functionalities relating to operations of the municipality, specifically in this instance Municipal Police Services, as per section 64(b) of the SAPS Act that has been amended, which reads as follows, that:

10                   “The Municipal Manager of a municipality shall be responsible to the Municipal Council for the functioning of the Municipal Police Services, taking into consideration national policy priorities and efforts.”

This change aligns municipal policy oversight, Chair, in line with local government administrative structures. Section 64(b) is part of Chapter 12 of the SAPS Act. I am not going to dwell on that, but basically what is important is that it is operating under broader legislative framework. It cannot be read in its own.

20                   I can make an example that we have Department of Energy. It is managed by its own Acts. They have stakeholders like NAFSA and so forth. You have got waste environment that are managed by NEMWA. You have got finance that is managed by DORA and so forth, you know? But what is most important here, where this SAPS Act

aligns with Ekurhuleni, section 64(b)? You know, it says that even section 54(c)(2)(b) that when you apply that section, it is subject to other legislations. I think that is what I wanted to emphasise here.

**ADV KHUMALO SC:** Mr Chaskalson, just a moment. I am a bit worried and I am hoping maybe we can do this during tea. Ms Gxasheka, in responding to 3.1, 3.1.1, 3.1.2, and 3.1.3, as you correctly said, there were letters that Mr Mapiyeye actually addressed to you where he set out what  
10 the issue is with Julius Mkhwanazi promoting people in circumstances where he does not have the power to do so. And also in Doctor Mashazi usurping his powers under section 64(c).

And so I do not want you to just gloss over those and go through them and then when we probe you, we say but you did not respond specifically to this. So maybe during tea, in Mapiyeye's file, page 49, 51, and 52, it is those three letters where the specific allegations are set out.

20 Because I thought when we deal with 3.1.1, I heard you just mention the statute and what it says, but you do not seem to dispute that Julius Mkhwanazi did in fact promote people and whether or not he has that power. So I think to be fair to you, maybe just when you complete the response to those subparagraphs, you have regard to these

three letters.

**ADV CHASKALSON SC**: Thank you, Commissioner. That makes a lot of sense so that we deal with matters sequentially. I will try to do the same in relation to other issues where there are possibly relevant documents which your response does not address directly. It is an awkward situation because I do not want to – I will probe you in due course later in relation to the documents, but I think it is fair that you get an opportunity to deal with them up front.

10 **MS GXASHEKA**: Can I respond on that, Chair? Because I think we might be missing each other. What I have explained earlier on is that – and you made me go and read a document on the recommendation. What I am trying to explain here is that there is a panel that was set and the panel has its own duties. That Chief himself, he has invited that panel to come and sit on the interviews.

And the Chairperson asked me about the issues of recommendation versus appointments and I responded on that. That three of us, we sat in this particular process.

20 You confirmed, Evidence Leader, and the scoring and so forth. So decisions were made by the panel that Chief Mapiyeye solicited, you know, and the panel has decisions to make, and the panel made the decisions through a recommendation that you have spoken to. But I thought we would be engaging on this matter where I can then say,

where did it end? So I thought, Evidence Leader, you would be leading me on that because there is an end, an appointment has been made. Thank you.

**ADV CHASKALSON SC:** I think we are possibly at cross purposes because I think what the Commission, the Commission is not specifically asking about the Jokazi appointment. The Commission is asking about the general allegation of usurpation of the powers of Chief of Police, with reference to some specific letters which refer to those  
10 powers being usurped by Julius Mkhwanazi, and complaints from Mr Mapiyeye to you about that. And I think in fairness, we need to show you those letters in the tea break and then if you want to respond to them in this context before we get to intrusive questioning, you should have that opportunity.

On the Jokazi appointment, the appointment has been made, and I understand that the two candidates who Chief Mapiyeye was supporting have lodged Bargaining Council proceedings and those proceedings are still pending. Is that correct?

20 **MS GXASHEKA:** That is correct, thank you.

**CHAIRPERSON:** At this point, Mr Chaskalson, let us take the adjournment and come back at 11:15. Let us adjourn.

**INQUIRY ADJOURNS**

**INQUIRY RESUMES**

**CHAIRPERSON:** We apologise for not coming in at the

time I indicated. We were requested after we had adjourned for a little bit more time. Yes, Mr Chaskalson.

**EXAMINATION BY ADV CHASKALSON SC**

**(CONTINUES)**: Thank you, Chair. Mrs Gxasheka, you have been shown the letters sent by Mr Mapiyeye. I think the first one on which your comment would be helpful is that my pagination says 47. It is a letter addressed to you on the 13<sup>th</sup> of April 2024 from Mr Mapiyeye, and it is about EMPD promotional posts and vacancies. I think  
10 Commissioner Khumalo was asking for you to address that general comment about colluding with the usurpation of the powers of Mr Mapiyeye as Chief of Police in the light of this letter and I think a subsequent letter from Dr Mashazi. Do you want to comment on this letter?

**MS GXASHEKA**: Thank you, Chair. Thank you, evidence leader. Evidence leader, you spoke about page 47, but then you subsequently spoke to the letter dated 13 April 2024. Can I just get clarity which one? Are we talking about the correspondence of the 8<sup>th</sup> of November 2023 or  
20 the 13<sup>th</sup> of April 2024, or must I address all of them?

**ADV CHASKALSON SC**: We will get to the correspondence of 8<sup>th</sup> of November 2023 when we deal with the extension of Mr Mzolo's contract.

**MS GXASHEKA**: Okay.

**ADV CHASKALSON SC**: For now, let us look at the letter

of 13<sup>th</sup> of April 2024. It may be that my pagination is out. What page number do you have for 13<sup>th</sup> of April?

**MS GXASHEKA**: 48.

**CHAIRPERSON**: Please refer to the bundle as well, Mr Chaskalson.

**ADV CHASKALSON SC**: This is the Mapiyeye bundle. I am afraid my electronic pagination seems to be incorrect because what I have as page 47 is what you, I think in the hard copies, have as page 48. I will sort out my electronic  
10 pagination later, but for now, your page 48, which is the letter from Mr Mapiyeye to the witness on 13 April 2024.

**CHAIRPERSON**: Yes, did you say you have that file, Mrs Gxasheka?

**MS GXASHEKA**: Yes, Chair. Thank you so much.

**CHAIRPERSON**: Thank you.

**MS GXASHEKA**: Indeed, I can confirm that the letter was shared by a Chief of Police with myself. He shared it with myself and I think Dr Mashazi. Indeed, that is where the elaboration was made in regard to the sections that were  
20 mentioned of the SAPS Act, basically. And I have already responded on this, how it links with other legislations, but there is something I want to bring to the fore.

The genuineness of Mapiyeye being genuine about writing this letter. With due respect, Chair, I have to deal with this. This letter is emanating indeed from, I think,

about 55 positions that he requested that they must be filled. Earlier on, evidence leader, you spoke about the selection panel. We also have forms where you initiate the recruitment altogether.

It will be signed by Chief of Police and then it will go to relevant stakeholders or my HR team. Ultimately, I am the last signature in that form. Maybe we will make it available tomorrow. That form, again, Chair, it talks to the talent acquisition policy. We can make that policy  
10 available. Section 5.6 where it talks about partnership between line departments and corporate HR.

So, we have always been in partnership. The issue here, Chair, in one of the areas where I am implicated, is in regard to the Chief of Police being suspended. There is a lady here who was promoted. And when we get to that implication and my narrative, you will understand from that lady's statement what actually transpired between herself and ...[intervenes]

**CHAIRPERSON:** Is this Ms Jokazi or another?

20 **MS GXASHEKA:** No, it is another lady who has declared a sexual harassment dispute against the Chief.

**CHAIRPERSON:** Yes, yes.

**MS GXASHEKA:** When you read her statement, you get to realise of discussions that has been transpiring, building up to this appointment. And the Chief, I think he was more

panicking when he said he was not involved in these processes. This got to Dr Mashazi, and I think ultimately, he did write to Dr Mashazi. I do not know if we can show it. I was not directed to the response of Dr Mashazi.

One thing I can confirm is that the former city manager did call myself and Deputy Chief of Police Mkhwanazi. And these issues were raised. The partnership, the reporting lines, and so forth. In their discussion when they were responding to Dr Mashazi, where  
10 she explained, I think she explained here that despite your SAPS Act our delegations and other policies and legislations, I have spoken to it, that there are different sub-delegations that are taking place.

The Chief is expected to sit in the divisional heads, positions, and up to deputy directors. But if you recall, on the letter we spoke to his memo earlier on the deputy directors, he did not include me and himself. And that already is an indication that as you go down, you do sub-delegate. I saw his statement. He said, never in the  
20 history of EMPD will you have a Deputy Chief of Police appointing.

And that is not true. From his own letter, he said in the request for panels, for the lower level, this. So, these are the issues we are discussing with Dr Mashazi. An undertaking was made that the Deputy Chief of Police

Mkhwanazi must keep the Chief of Police abreast of the processes. He then said in that meeting, we have weekly meetings. You know, the escort of EMPD.

I am updating. We left Dr Mashazi's office, went to my office. We emphasised that this updating must take place. So, this letter is talking to that. It was addressed. Remember, I have said my role is to provide a transversal support. And when Chief raises these issues, I do listen to it. And where I feel I must withdraw, I withdraw. And allow  
10 them to continue with their work. What is important, I did do my job. I advised. So, that is the context I wanted to put in this report. That this correspondence was not written with a *bona fide* mind.

**ADV BALOYI SC:** Can I just ask for clarification? Did you respond to this letter? Because it is addressed to you. And the city manager has copied. As we have understood it. And I am asking clarification. I am not engaging with what in fact happened. And whether it is right or not. You are the addressee. The city manager is copied. You are telling  
20 us the city manager called you. Even though she is copied. My question is, did you respond to a letter addressed to you? And if you did, do we have that response in front of us?

**MS GXASHEKA:** Thank you, Chair and Commissioners. I did respond, Chair. We had numerous meetings with the

Chief of Police.

**ADV BALOYI SC:** You did not respond in writing. Maybe I should have been clearer. Did you respond in writing? Your answer is no.

**MS GXASHEKA:** No. But there is something I need to quickly say. I will not waste your time, Commissioner. On a weekly basis, one of the issues, the systems or interventions I have put. My team gives a weekly report on recruitment. And emanating from that, then I will have  
10 discussions with the departments telephonically or via a meeting. So, indeed, I did address. But subsequently to that, Dr Mashazi was assisted, and she wrote to Dr Mashazi, if I am not mistaken. We then had a formal meeting.

**ADV BALOYI SC:** Thank you.

**ADV KHUMALO SC:** Can I maybe assist Mr Chaskalson? The witness has already answered. But maybe if you go to the letter on page 52, that is the one you were referring to, where you say Dr Mashazi did respond and address the  
20 issue. And then you do not have to read all of it. Or maybe you can take time if you want. But as I understand it, it was addressed in terms of the last paragraph on page 53. And that is where it ended. And that is how it was resolved.

**MS GXASHEKA:** Thank you, Chair. Indeed, thank you, Commissioner, for assisting there. I think from you reading

our different statements, you could see there were challenges. And I think ultimately what Dr Mashazi raised and said the Chief must do to assist the institution is to develop, is to draft a policy that talks to all this integration of all these legislations that we cannot ignore. They are all important. They are all absolute. So, indeed, and that policy, Chair, to date, I am here. The Chief is also not there. I have not seen it. But the aim was let us stop the confusion. And if it was drafted, we would have all  
10 contributed and would have clarified so many issues that made us to be here. Thank you.

**ADV BALOYI SC:** Can I just, in the light of Commissioner Khumalo's intervention, I am confused now. The letter that I was asking you about and that we were looking at is dated the 13<sup>th</sup> of April 2024. Commissioner Khumalo has referred you to a letter of the 6<sup>th</sup> of June, and it starts, your letter dated 5 June 2024. So, this cannot be a response.

**ADV CHASKALSON SC:** Can I maybe assist here? It seems to be a response to the letter on the preceding page  
20 of the bundle, which is a separate letter dealing about the appointment of, the conferment of rank and insignia. So, 6 June at page 52 responds to 5 June on page 51.

**ADV BALOYI SC:** Yes, and 5 June is Chief Mapiyeye to Dr Mashazi.

**ADV CHASKALSON SC:** Indeed.

**ADV BALOYI SC:** Yes.

**ADV CHASKALSON SC:** On a slightly different subject, which is, I think, the conferment of rank and insignia.

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

**MS GXASHEKA:** Commissioner, I do not know if it was taken, my response, when I said I had a meeting with the Chief.

**ADV BALOYI SC:** You answered me. You said your response was a meeting.

10 **MS GXASHEKA:** Thank you.

**ADV BALOYI SC:** It was not in writing.

**MS GXASHEKA:** Okay.

**ADV BALOYI SC:** I thought that is what you said, and I heard you.

**ADV CHASKALSON SC:** If we then move to paragraph 3.1.2, which is on page 41, where the allegation is that you supported the exercise of these powers by the erstwhile city manager, notwithstanding the powers being vested in the Chief of Police, I understand that you have already  
20 essentially responded to that with your discussion of the legislative framework. From my side, I would like to proceed to paragraph 3.1.3, which deals with the extension of Mr Mzolo's contract, which we touched on earlier. Unless there is anything that you want to amplify in paragraphs 29 to 40.

**MS GXASHEKA:** No, I have covered it.

**ADV CHASKALSON SC:** If we then go to 3.1.3, the complaint is that you attempted to extend Commissioner Mzolo's contract that was due for expiry at the end of November 2023 for six months, and you respond to that in paragraph 41. Can you just explain your response to the Commissioners?

**MS GXASHEKA:** Okay, maybe I can go straight to the annexure of Chief Mapiyeye on page 45, Chair. That is the  
10 letter from myself to Dr Mashazi. I have explained earlier on quickly that for divisional heads ...[intervenes]

**ADV CHASKALSON SC:** Sorry, Mrs Gxasheka, can you just wait for the Commissioners to get to the document? Otherwise, they will not follow what you are saying. Are you talking about your letter to Dr Mashazi of 19 October 2023?

**MS GXASHEKA:** Perfect.

**CHAIRPERSON:** We are there.

**MS GXASHEKA:** Okay, thank you.

20 **CHAIRPERSON:** Thank you.

**MS GXASHEKA:** I explained earlier on that for divisional head and Deputy Chief of Police there are only a five-year contract. That is also wrong, by the way, in terms of the latest legislations, but we are not there to discuss that today. Because it is a five-year contract, they tend to

expire every five years proactively. I will write to the institution, to Dr Mashazi, after engaging the line departments or after they have engaged me and request for an extension, where I feel, we are not going to conclude the recruitment process and timeously. And here, my intention was to request. If you read paragraph 1 of that letter on the papers, it stipulates that:

10                   “The purpose of this submission is to request the approval of the city manager for the extension of the employment contract of Goodman Mzolo.”

I would like to take you to page 46. It is clear here there is no intention to use up anybody's power. If there was that intention, I would have excluded Chief Mapiyeye. I think in my own file, you will see how sometimes these extensions are written. In my draft, Chief Mapiyeye is the first signature. First, that already is giving the vested powers. I am offering those vested powers in him.

20                   Agree or do not agree, that was the aim, Chairperson. The second one is myself and the final approval is Dr Mashazi. There is nobody that is excluded here in terms of the key stakeholders that needed to take accountability on the appointment process. When the Chief of Police responded, I think on page 47, I do not know if I can go there.

**ADV CHASKALSON SC:** Please do.

**MS GXASHEKA:** Thank you. He was very clear that he is not supporting this process. I have not asked that question. I will not respond. I will not dwell on it. If again, maybe, my extension was supported, again, it will not be here. In the recruitment of this process, we ended up with two recommended shortlisted candidates.

**ADV BALOYI SC:** Ms Gxasheka, before you and forgive me if I am not pronouncing your name properly.

10 **MS GXASHEKA:** No, it is fine.

**ADV BALOYI SC:** I heard you when you started. I just want to understand page 46 and to understand your evidence about it. You are the one that wrote this letter to the city manager. You are nodding. The record does not pick that up.

**MS GXASHEKA:** Apologies, I could not hear that.

**ADV BALOYI SC:** I am asking, you wrote this letter to the city manager, or is it Chief Mapiyeye who wrote the letter?

20 **MS GXASHEKA:** If you see the standard of how we communicate in the city, there will be enquiries. The acting DHTA and HRBP drafted the letter. And true, I am supporting it because it is our process in HR that we took proactive measures when there is a position to be filled.

**ADV BALOYI SC:** I am not asking who drafted the letter. I am really trying to understand what I am seeing here. I am

not probing yet. I am not asking who drafted the letter. I am asking this letter to Dr Mashazi who is it from? It is not from your ...[intervenes]

**MS GXASHEKA**: It is from myself, Mrs Linda Gxasheka.

**ADV BALOYI SC**: Which is what it says in page 1, right?

**MS GXASHEKA**: Yes.

**ADV BALOYI SC**: But in page 2, the first signatory is going to be Chief Mapiyeye, and then you are the one that recommends, even though you are the one that is writing  
10 the letter. I am just trying to understand how it works, what one makes of it.

**MS GXASHEKA**: As I said, in my own statement, normally, the way we write these letters are written by my office to Dr Mashazi, where I would recommend to Dr Mashazi that let us extend because the recruitment process is not yet concluded. And then she will say I agree or not. I think when we get to my annexures, you will see there is one example I have put, one or two if I am not mistaken, where in other instances you will tick. This one you can extend,  
20 this one you cannot. So, this is how we are doing it. But here I am emphasising, Commissioner, on the issue of section 64 ...[intervenes]

**ADV BALOYI SC**: No, no, no, please do not go there.

**MS GXASHEKA**: So hence both of them are here.

**ADV BALOYI SC**: No, please do not go there. That is not

my question. My question is and maybe let me tell you where my confusion comes from, is on page 1, the letter is from you. It says so. And then on page 2, you are recommending and Chief appears to be the author of the letter, just the order of things. I am asking you to speak to the order.

My experience and what we have seen so far here in other matters is the writer of the letter would be the first person to sign. So, I would, because of that experience and  
10 that kind of evidence, I would have expected you as the author, you are the first name that appears, not Chief Mapiyeye. You would not be the one that is recommending because you are the one that is the author of the letter. That is my experience of it and from the evidence. So, I am just asking you to explain just that part.

**MS GXASHEKA:** Thank you, Chair and Commissioners. Chair, as I say that the intention here, under normal circumstances, hence maybe it would have drafted a bit peculiar. We could have done it better. I normally address  
20 these letters straight to Dr Mashazi and not include the line departments because we would have had a discussion about it. But because EMPD tends to, we have these challenges of the SAPS Act, so hence then I would have included Chief. But I take note of that it could have been done differently. But what I want to emphasise on, in terms of

usurping of powers, I have three signatures here. So, there was never an intention to usurp anybody's power.

**ADV BALOYI SC:** Ms Gxasheka, that is a conversation further down the line about usurping of powers. You do not speak to that now.

**MS GXASHEKA:** Thank you.

**ADV BALOYI SC:** You have answered my question to the best of your ability, I suppose. Thanks, Mr Chaskalson. Thank you.

10 **ADV CHASKALSON SC:** And maybe if you can then just emphasise paragraph 43, which is, well, if you can do it rather than me.

**MS GXASHEKA:** 43, from my statement?

**ADV CHASKALSON SC:** From your statement, indeed.

**MS GXASHEKA:** Thank you. Okay, it reads that:

“Notwithstanding the above, this request was not implemented. And subsequently, the position of Deputy Chief of Police Specialised Operations was advertised.”

20 In fact, if I am not mistaken, we already, I would like to correct that, we already advertised by that time:

“And EMPD, in conjunction with the HR Department, embarked on a recruitment, selection and appointment process for the position of the Director. The mere

fact that there were three signatures, that on its own should be clear, is an indication that there was never a malicious intention to overlook the Chief of Police, but one aim was to provide proactive HR services and required guidance to the EMPD at all times. This further indicates that my intention and aim was to ensure that all relevant parties are engaged in this regard.”

I think we have spoken to this. Thank you.

**ADV CHASKALSON SC:** And maybe, there is a document that is attached as LLG13 to your statement, it is at page 84 of File 2. And that looks to me like a motivation for the extension of two other divisional heads whose terms were expiring around about the same time.

**MS GXASHEKA:** Can you repeat that?

**ADV CHASKALSON SC:** If you go to page 84 of File 2, there is a document that has the label LLG13, which is not actually the LLG13 that is referred to in your statement. That LLG13 is the document in Mr Mapiyeye’s bundle that we just looked at. But this LLG13 seems to me to be a similar letter in which you request an extension of two other divisional heads’ contracts which were expiring around about the same time. Am I understanding this letter

correctly?

**MS GXASHEKA:** Thank you, Chair. I think that is what I was trying to explain even to Commissioner Baloyi. That normally, I would write straight to Dr Mashazi, the city manager, where there is extensions to be done. And this one confirms that when Chief decided to decline the extension at EMPD, we further pursued only those two other divisional heads. And we excluded the one of the Deputy Chief of Police. And if you can see there on page 85, there  
10 is only two signatures. But in this instance, those other HODs would have been, as I say, engaged myself, and they would want us to run with these processes. Thank you so much.

**ADV CHASKALSON SC:** If we can then go to the allegation in paragraph 3.2. The allegation is that:

20 “You unlawfully interfered with the disciplinary processes which were instituted against Brigadier Julius Mkhwanazi concerning his involvement in the fraudulent registration of seven vehicles, which were owned-related, to CAT VIP, to the municipality's official vehicle fleet in your capacity's HOD, in that.”

And 3.2.1, you uplifted the suspension of Brigadier

Mkhwanazi under the direction of Dr Mashazi. 3.2.2, you directed Brigadier Mkhwanazi not to accept receipt of the charge sheet when arrangements were being made to serve it on him by Mr Sidzamba. 3.2.3, you challenged and overruled the decision by Chief Mapiyeye to deploy Brigadier Julius Mkhwanazi to the EMPD operations by law enforcement unit, but pending finalisation of the disciplinary process. Your response starts at paragraph 44. And maybe you can take the Commission through paragraph 44 on.

10 **MS GXASHEKA**: Thank you, Chair. I think paragraph 44, it repeats what you just articulated, EL. I would like to refer, rather, to paragraph 45. I submit that to the best of my recollection of those events, the issue of blue lights came to my attention - came to the attention of the municipal officials based on the social media clips, video clips, that had been circulating at the time.

I think it was around February 2023. I hope I am correct with the dates. I emphasise that at this point, I was the acting HOD HR, and I did not know Julius Mkhwanazi, since he was middle management in terms of occupational levels. And I would not necessarily know all the employees. I have already spoken to the head count of staff of Ekurhuleni of about 15 000 permanent employees and 8 000 terms and EPWPs.

On the 2<sup>nd</sup> of February 2023, the acting Chief of

Police, Revo Spies initiated the investigation. I think that is what I am trying to explain in terms of what transpired. And the allegations that were levelled against the erstwhile Brigadier Julius Mkhwanazi, pertaining to the document issued by Commissioner Julius Mkhwanazi to receive and appoint vehicles and CAT Services, respectively. A copy of the investigation letter, I think we have dealt with it. Even the other witnesses who came here, they have dealt with it. The issue was brought to my attention.

10 **ADV CHASKALSON SC**: Can I ask you just to confirm that we are talking about the same document? It is at page 86 of File 2.

**MS GXASHEKA**: Yes, yes.

**ADV CHASKALSON SC**: Thank you.

**MS GXASHEKA**: The issue came to my attention through Mr Nciza. I think it was around 15 February 2023. That is why I am in this journey. Via WhatsApp, where he shared the video clips regarding the blue lights that were installed in some cars. Although he did not show, by the way, who  
20 was in the car, nor the registration. But what I saw in the TikTok video clip, it was just written, typed by somebody, the registration.

Xolani Nciza then requested a meeting to discuss the suspension of Julius Mkhwanazi. It is imperative that one outlines the city's designation, by the way,

Commissioner Mkhwanazi, in terms of how he is appointed. I think I have already alluded to that. He is the deputy Chief of Police. A few days later, the meeting was held in the boardroom of the city manager.

Xolani and Chief Mapiyeye engaged me in the boardroom of the city manager. And this will be subsequent to the meeting. It is on their statement where the Chief of Police and Xolani Nciza went to meet with Dr Mashazi. I think in that ...[indistinct] dealership, something like that.

10 There is a meeting that took place there. In some offices, strange enough.

And in their discussion, from what I read here, in their statements, then Dr Mashazi said, engage the acting HOD as well so that she is kept abreast. Again, Commissioners and Chairperson, I want to bring it to you that we were brought into this matter by the Chief of Police. It takes a junior employee, instead of disciplining the junior employee, he feels he must engage Dr Mashazi, and subsequently, I must be engaged.

20 It is correct, I am the acting HOD. Xolani Nciza reports to me, by the way. He is the divisional head. And he always continues to report to me. We met in the boardroom. And I was interested on the videos, in terms of what is actually happening there. What is that evidence? You know, before I can even agree that we embark on a

disciplinary hearing.

As I said earlier, when I could not understand those video clips, all I knew is that Mr Xolani Nciza, in his WhatsApp, he did say we are in a war. Obviously, I needed to understand what war this is. The conversation changed very quickly, Chairperson, and it focused on how dangerous Mr Mkhwanazi is. And how the Chief of Police is scared of him.

He told us that he has increased up his VIP  
10 protectors. He is about to instal cameras and beef up security in his house. I then asked, if we can correct that, what about Xolani Nciza and myself? We are divisional heads I was just acting. We do not have money to beef up our securities in our homes, and so forth. And the Chief, in his response, he then says, look, I am arranging VIP protection for Xolani.

Already, I think he got himself two cars. And I said in that meeting, Chief, I am a woman. You are arranging protection for yourselves. You do not arrange you do not  
20 care about my safety. I think Mr Nciza attested to that. I then said, if you do not care about my safety, but can you take care of my - I have got a baby. I just had a small baby. That I must raise up.

And the Chief was just cold. He did not see how important it is to take care of my protection. It was just

shocking. And I then left the boardroom, Chief. I will say that. I left the boardroom. I did not sign any suspension letter. And I did not confirm that I am going to participate in the process. A day or two days later, Chief kept on calling me and says, acting HOD, you have to sign the suspension.

I have got a professional duty to sign despite I am safe or I am not safe. And I want it to be recorded here. I think it is on the document that, ultimately, I did sign the intention to suspend, despite the own Chief of Police who  
10 has guns, firearms we do not have, told us how scared of this person. But because of judicial duty, I did sign that suspension letter as well. I then asked the Chief ...[intervenes]

**ADV KHUMALO SC:** Just confirm it is on 88. 88.

**MS GXASHEKA:** It is in page 88, where I have signed. And Xolani Nciza, who was reporting to me until he left the City of Ekurhuleni, and he was reporting to me, he also signed. And then JD Mkhwanazi acknowledged the receipt. Thank you, Chair. I then said to Chief, after a few days,  
20 Chief, at least, can you conduct a security risk and threat analysis into our lives? And I did.

I think Mr Nciza spoke to it. I said, I do not necessarily have an interest to have VIP protectors. I think they should be focussing on doing other things in the city. But at least I need to know how I should take care of myself

and my family. Chief, he sort of agreed that he would speak to Provincial or National Commissioner and see if this can be conducted.

I followed up with him. And at some point, he told me he has not spoken to them, but he is going to the policy cluster meeting. And when he goes there, he will speak to the issue. I must emphasise, Commissioners, that the City of Ekurhuleni does not only deal with the disciplinary procedures of EMPD, but it provides labour relations  
10 management functions to all the departments.

I have spoken to this earlier on. As we are embarking and Chief not conducting this risk threat analysis, one of the things we are discussing with Mr Xolani Nciza is the issue that perhaps, that is what he kept on saying to me, there might be syndicate, even at roads and transport. I mean, at waste. Last year, again, we had a matter at roads and transport.

And the MMC apologises. The late MMC. He was pressurising me that Linda this matter must be dealt with  
20 and be concluded. And when I am asking that we have compliance matters to deal with, we have got procedures to follow. He then says, there is a TLB syndicate at roads. They steal TLB, those trucks with those notes, and take them to the Eastern Cape.

We allocated one of our legal advisors to deal with

the matter. Subsequently, she went to Adv Kemi Behari and myself and request protection. I asked her, do you really want to have protection? People follow you. Why do not you leave this thing? Let us get external lawyers to deal with this matter. We have so many cases where employees will start with those matters, investigate, even at EMPD.

And then, as the time goes on, they will stop investigating those matters, Chair. I also had an incident in another matter where there is a company, maybe I should  
10 not mention the name, that was paid money from the city's bank accounts to this company that has never done business with the city. It is not in our supplier database, but money went to that.

And there was an employee who was conducting a disciplinary process in regard to that, because he was one of the key signatures. That matter is still ongoing. I was approached by the union who was representing that employee. He then says to me, HOD, I want to protect your life. I would like you to settle this matter and let this  
20 employee go.

And the reason being that if you do not secret what they did to one of the councillor's house there was a councillor who was, his house was shot at. It was like a movie, those movies we used to watch when we were young. I have never seen something like that. He then

referred and said, they will do the same to your house. I called I think Chief was already on suspension that time.

I called the Deputy Chief of Police Mkhwanazi the following day. I said, come and listen to this, the kind of things we are dealing with. When the employee came, he explained. But we said, can you reduce it in writing? He did not. I do not want to dwell on that. But I am just dealing with the challenges that we are having at Ekurhuleni. Building to my suspension ...[intervenes]

10 **ADV KHUMALO SC:** Just remind us of where you are, because you have moved on.

**MS GXASHEKA:** I am on page 15 of my statement, paragraph 46.7.

**ADV KHUMALO SC:** Thank you.

**MS GXASHEKA:** On this building to my suspension, I pleaded with the oversight committee on the office of the Executive Mayor and the legislature. It is called the OCMOL meeting that the city embarks on its own task team. Chairperson, with due respect, your task team has got  
20 limited scope. And Ekurhuleni, we have got, what we are dealing with here is the small part of the tip of the iceberg.

And we have discussed that issue. And I am hoping maybe with the new team that is established by President, they will also look at other issues as well. I can confirm here that HR management function nowadays is

embedded with such risk. On the issue of the security risk and threat analysis, I would like to thank the Commission. After two, three years, at least it was done here. And I am very happy about that. Ekurhuleni has not done risk and threat analysis on us. They have been providing us with protectors. But is that enough? I do not know.

**CHAIRPERSON**: Please just explain a little bit more on what you said about the tip of the iceberg.

**MS GXASHEKA**: Maybe let me go to another issue,  
10 Chairperson. I am the secretary for the Financial Misconduct Disciplinary Board in the City of Ekurhuleni. I think we are four members that were appointed. It is one of the National Treasury requirements that it must happen. The investors, they want to know about these issues. And when we are having discussion, after we drafted the terms of reference, then it came from the CEA, the current Chief Auditor, Mr Phillip Rakgwale.

That is currently sitting with 20 to 40 forensic cases that have been concluded. And these are one of the issues  
20 we discussed with OCMOL and the MMC, I think Pretorius used to be the former MMC for corporate. He also knows about this and others. That bring these cases to the fore. Let us find a way of dealing with them and know what we are dealing with. If possible, we close them.

And the forensic report to Mkhwanazi that I will

10 speak to, I think it was one part of those. And the intention, my understanding of his operating model is that once he has concluded investigations, those investigations must then be taken to council for implementation, whatever the recommendations are. So, I think that is what I was trying to explain, that your scope, your respect, I respect, and we are learning from South Africa, from this Commission.

We might have missed others, but this one, we are learning. Hence, I propose that the OCMOL look, speak to  
10 all the HODs. Let them ventilate. Let us deal with the issues. But I would like to keep it at that for now. Based on the allegations, I am on paragraph 47, page 15. Based on these allegations, a suspension was signed. We already spoken to that. I do not know if I can move on, EL, to the uplifting of the suspension.

**ADV CHASKALSON SC:** Please do.

**MS GXASHEKA:** Thank you. In terms of the collective agreement on disciplinary procedure, a suspension, it is  
20 three months. However, it can be extended. I think it reads that:

“Suspension or utilisation of an employee in another capacity shall be for a fixed predetermined period and shall not exceed three months from date that the municipal manager or his representative

is satisfied that there is a *prima facie* case and that an act of misconduct has been committed. However, where circumstances prohibit the conclusion of the disciplinary proceedings within the aforementioned timeframe, suspension or utilisation in another capacity can be extended for another three months.”

10 And that is the reason, then, Chair, on paragraph 48 on page 16, I had to put that paragraph that talks to the accounting officer and her instructions. That, by the way, I also on section 60 of the MFMA and also section 64(b) of the SAPS Act. Dr Mashazi has called us. I am on page 50. I mean, sorry, paragraph 50. Around the month of May 2023, the accounting officer called the Chief of Police Xolani, and HOD Kemi Behari and myself into a meeting.

20 She wanted answers as to why the disciplinary hearing process of the erstwhile Brigadier Mkhwanzi has not commenced. Remember, the first three months has passed now, but it is about to pass. Mr Nciza provided an explanation, including that the process has advanced. If you recall, Commissioners, in his statement, he explained that.

At some point, they were engaging IPID, and he took a discretion without talking to me, because remember,

at that time, I am appointed. I am no longer an acting HOD. I am his absolute line manager, his absolute boss. But he took a decision that he loses discretion subsequent to the meeting they had with IPID. I have never met anybody from IPID to date, because I do not deal with SAPS matters – with crime investigation matters.

I deal with HR matters. But in our discussion with IPID, from what he explained, even on his statement, is that arrest is imminent. They are going to arrest. And  
10 therefore, he took a discretion that perhaps he should not discipline. He must wait for the arrest. Three months is going. He does not discuss that with me or Dr Mashazi. And so, he decided at that point in time he is not going to proceed with the disciplinary, waiting for that arrest.

And I got to know about this, as I say, in this statement. But Dr Mashazi wanted answers at that time. And Dr Mashazi decided then there is no point for us to extend the suspension any further. They have spoken to that. We are all called in a meeting. What I have realised  
20 with the city manager, the former city manager, is that every time she engages you, she is well-vested with knowledge legally.

At that time, I did not know where she would be briefed. But you could hear that she is briefed in our debate. That is why at some point, we have told me and

Adv Kemi, we are always together on things. Because I felt the only strategy to deal with things, I must bring legal as well when I go to engage with her. Is this a lawful instruction or not ...[intervenes]

**ADV CHASKALSON SC:** Sorry, can I just clarify? You are talking about a meeting in May. Do you have an exact date? Were there minutes from this meeting? Is there any record of the meeting that we could have access to?

**MS GXASHEKA:** Okay, the management style of Dr Mashazi's I think earlier on, I spoke that when this started, if you recall, the meeting took place in some car dealership.

**ADV CHASKALSON SC:** Yes.

**MS GXASHEKA:** So, the way she will engage you, she will call you to a meeting. There is no prior agenda or arrangement of the meeting. You are just called to be there. Or she will call you and give instruction telephonically. That is how things were done. But as I said, if you go to Chief Mapiyeye's statement and Mr Nciza, I think they said, if I can recall, we were called telephonically. The instruction was given telephonically. I think that is where we differ. On my side, I am saying I think we had a meeting on that particular day.

**ADV KHUMALO SC:** In your original statement, the earlier one, not the supplement, in 27.3 on page 9, that is where you deal with that meeting.

**MS GXASHEKA:** Okay, on the first statement, not the supplementary.

**ADV KHUMALO SC:** Yes.

**MS GXASHEKA:** Okay, thank you. Thank you, Commissioner. Yes, but I think what I want to emphasise on is that we were all called and instruction was given.

**ADV CHASKALSON SC:** But I understand that there was no formal agenda, kind of formal notice of the meeting. Was there any record of the meeting kept? Was either in  
10 the form of a minute or was there anything confirming what was decided at the meeting? Is there any written record of what seems to me to be quite an important decision that was taken at this meeting and taken at the instance of the accounting officer?

**MS GXASHEKA:** No, there is no record of the meeting. I have said it earlier on that the management style was that you would be instructed telephonically even if there is a meeting. It is an informal meeting. The only formal meetings we will have is the SMT, the strategic  
20 management team meetings. There they record they have minutes.

And other formal, formal meetings. But where there are instructions to be given, majority of time you are just called. And then I think if I recall, I went home. I had load shedding. I only, I got missed calls from Xolani Nciza that

night. And then I responded when I woke up midnight. And at some point, I did say in his WhatsApp as well, he confirmed that can start drafting the letter.

We drafted the letter. The following day the letter was made available. I signed it. And Mr Mkhwanazi, I said, can you also engage Chief and make sure that he calls Mr Mkhwanazi to come and fetch his letter. One important thing, Chair, that I need to talk to, I might get to it at some point. But if I am allowed, I want to raise it now. Or maybe  
10 let me wait for paragraph 53.

I want to say here, what I want to emphasise on is the DPCA clause 16.4. Three months, you can extend, but an instruction was given by the accounting officer, and therefore there was no extension of the three months. To be honest, even bargaining council, they have no appetite of us extending suspensions. If they allow you, that six months will be the last, but they will be very hard on you.

They expect that you should have started with the process. And my understanding, in terms of law, you will  
20 correct me, suspension is not punitive. It talks to, are you going to interfere with the witnesses, are you going to jeopardise the process, and so forth. So, the debate, as I say, you find the city manager well-vested with knowledge legally. The debates become minimal, especially when there is also legal, that is they, then I can only do so much

as an HR practitioner.

**ADV BALOYI SC:** Just so that I understand your evidence on this, you are not saying all of that about the bargaining council's appetite and, and, and the city manager's being vested. You are not saying those are the reasons that there was no extension. You say there was no extension because the city manager instructed. It is that simple and plain. At least that is what you say in your statement.

**MS GXASHEKA:** For now, and as I said, I will elaborate  
10 when I get to paragraph ...[intervenes]

**ADV BALOYI SC:** I was just clarifying. Thank you. Thank you.

**MS GXASHEKA:** Thank you.

**ADV CHASKALSON SC:** Can I – I am also trying to get the sequence right. The meeting had to be before the 24<sup>th</sup> of May, because you say around the 24<sup>th</sup> of May you reminded Mr Nciza to draft a letter of upliftment. Can you place approximately how long before the 24<sup>th</sup> of May? Would it have been a couple of days, a week? What are we talking  
20 about?

**MS GXASHEKA:** Thank you, Chair. I think it was around the 23<sup>rd</sup>, because if I recall, there was a draft of the extension. We intended to extend. In fact, if we extend it again, I will keep on saying all these small errors or big errors we did would not be here. So, it was drafted. I had

an appetite to extend. But like I said, there is discussions that are taking place between Chief Xolani and Dr Mashazi. And if I can get to 53, I will tell you what probably made Dr Mashazi not to agree on the extension. So, it would have been around the 23<sup>rd</sup>. And I am reiterating, I wanted to sign the extension.

**CHAIRPERSON:** Do we have a copy of that draft, the draft to extend?

**MS GXASHEKA:** I am not sure if it will be in my file, but it  
10 will be in the file of, I think, Mr Nciza or Chief Mapiyeye. And one of them also attested to that. I think Xolani Nciza did mention that he did submit to me. We had a discussion. I was ready to sign. Thank you, Chair.

**ADV CHASKALSON SC:** I think it is addressed in the statement of Mr Nciza, page 17 of that statement, paragraphs 43 to 45. But there is not a copy of the document, the draft attached.

**MS GXASHEKA:** Chair, we will make it available. We will  
20 make it available this afternoon, tomorrow, just for ease of reference.

**ADV CHASKALSON SC:** Thank you. And maybe if you can - have you said what you want to say in respect of 50.3?

**MS GXASHEKA:** Yes, I think it will overlap to the issue of the charge sheet and certain emails that transpired. And

that probably also caused Dr Mashazi not to want to extend.  
I will speak to that.

**ADV CHASKALSON SC:** Then the allegation in relation to the non-acceptance of the charge sheet, that is an allegation that we see at 3.2.2 at paragraph – sorry, at page 42 of the annexure bundle. The allegation is that you directed Brigadier Mkhwanazi not to accept receipt of the charge sheet when arrangements were being made to serve it on him by Mr Sidzamba. And you respond to that from  
10 paragraph 53. Can you just address your response now?

**MS GXASHEKA:** To address this issue, Chair, I am disputing this allegation that is levelled against me, that I instructed Mr Mkhwanazi, along with the accounting officer, not to accept the charge sheet. The first irregularity in terms of my Annexure LLG18 ...[intervenes]

**ADV CHASKALSON SC:** Sorry, just for the Commissioners, that is page 90 of file 2. 90.

**MS GXASHEKA:** The charge sheet, Chair, a normal standard legally, although I do not want to get to the legal  
20 space, I am not a legal practitioner. But a normal practise is that the charge sheet somebody must make a comment when it is not served. So, if you go to page 91 – no, annexure – is it a page? Page 91.

**ADV CHASKALSON SC:** Page 94 is the end of the charge sheet where there is space for acknowledging receipt.

**MS GXASHEKA**: Oh yes, page 94, apologies on that. It is very clear, it is – there is just a signature of Majang Inc Athens by Mohale Mogoshi. There is no comment from the divisional head, erstwhile divisional head. There is no comment by Xolani Nciza. There is no comment by Thami Sidzamba. Chair, I would like to take you to the emails, I think on page 95.

**ADV CHASKALSON SC**: Sorry, before we get there, can I just get this clear? You deny that you instructed Julius  
10 Mkhwanazi not to accept the charge sheet.

**MS GXASHEKA**: I fully agree, I deny that.

**ADV CHASKALSON SC**: I just wanted that on record. Now I think you were going to take us to the email trail, which is from page 95, and maybe it may make sense to take it back to front, because chronologically it starts on page 98 and then works backwards in time, or forwards in time.

**MS GXASHEKA**: I want us to go to page 98.

**ADV CHASKALSON SC**: Sure.

**MS GXASHEKA**: That is a very important correspondence.  
20 In the middle it says:

“Dear Mr Nciza. The above matter refers, please find attached the charge sheet to be served on Brigadier Julius Mkhwanazi. His contact details are as follows. The cell phone number is there.

Please note that the employee must be served by no later than today, 15 June 2023. For the economy of time, the employee may be served with the charge sheet today via email, and then in person. For the economy of time, I will repeat that. The employee must be served with the charge sheet today, underlined via email.”

10 I have not seen that email, Chair, and if you recall on the statement of Brigadier Mkhwanazi, he then said he has never seen the charge sheet, it has never been delivered to him. Remember now, we have a challenge that brought us here where we have uplifted a suspension, the employee is easily accessible it is not the City of Ekurhuleni. He is fully functioning. He is got an email address. But directed to Mr Nciza does not serve the charge sheet.

**ADV CHASKALSON SC:** Can I just take you back up the correspondence, because obviously I do not know the true  
20 state. I can only infer what I see in the documents. But it seems to me that the charge sheet attached on the 15<sup>th</sup> of June would not have been served. Because if you go up, you see there is an email from Hennie Erasmus to Majang Attorneys, saying:

“Dear Godfrey, after consultation with the

Chief of Police, we added a fifth and sixth charge based on the evidence discovered during the investigation. We will elaborate on these during our consultation process.”

So, there are now additional charges. And then if we go up further, so that was at 08:44 in the morning on the 19<sup>th</sup>. If we go up to the foot of page 96, we see Majang Attorneys respond to Mr Nciza again:

10                   “Dear Mr Nciza, as discussed earlier today, please find the attached charge sheet and assist with service on the above-named employee, Brigadier Julius Mkhwanazi. It must be served today. His contact number is 073 *et cetera*. Please provide us proof of service.”

Then there is a similar letter at 11:09. So, to Mr Nciza was 11:02. To 11:09 it was to Mr Sidzamba, also from Majang Attorneys. That we see at the top of page 96:

20                   “Dear Thami, as discussed, please find the attached charge sheet and assist with service on the above-named employee, Brigadier Julius Mkhwanazi. It must be served today.”

Then on the 20<sup>th</sup>:

“Dear Thami, further to our telephone conversation earlier today, please find the attached amended charge sheet for service on Brigadier Julius Mkhwanazi. It must be served today. The DC is scheduled for 3 July. The party shall discuss and agree on further dates of hearing before the Chairperson on 3 July. Please forward us proof of service as soon as you have served the charge sheet.”

Then Mr Sidzamba, after receipt of the 20 June email, forwards to Mr Nciza that email and says:

“Good day Nkokeni, attached, please find the Julius Mkhwanazi charge sheet as provided by Majang Attorneys. Kind regards, Thami Sidzamba.”

So, this charge sheet clearly went through several iterations between 15 and 20 June and it seems as though it certainly had not been served before 20 June.

**MS GXASHEKA:** Thank you, Chair. One of the charges, the city, through the city manager, Mr Kagiso Lerutla, has served me with the charges regarding my disciplinary hearing as I am suspended. In one of those charges, it says I misled council when I instituted the forensic report

into what transpired here. We are going to get to that. But if somebody analyses this, there is games that are being played here.

In your last two communications between Xolani and Thami, Xolani sends the charge sheet to Thami, Thami sends the charge sheet to Xolani. Nobody is sending the charge sheet to Julius Mkhwanazi. They have been advised, and they know it, serve the charge sheet via email. Thereafter, find Julius Mkhwanazi. If we did not uplift the  
10 suspension, I will understand if they say they cannot find Julius Mkhwanazi anywhere.

Julius Mkhwanazi was in the employ of the city. There is no way you cannot find Julius Mkhwanazi. Now what happens? Because the blame is given to me and Dr Mashazi that we refused for Julius to accept the charge sheet. Another procedure and process you follow when you serve the charge sheet, Chair, if you are going to have amendments to the charge sheet, we all know you can have them done even when the DC has started.

20 It will not stop you, not at any given point in time. The bottom line is from the 15<sup>th</sup> this charge sheet was never served. And then we have Dr Mashazi who keeps on saying, HR, you are playing games here with your work. When she instructs us to uplift the suspension, there is big issues. But we have two employees who are playing games

with one another, a divisional head who reports to me and his subordinates.

They do not serve the charge sheet. I do not know what happens when I am not there, Chair. Things they know that I would not have known at that time. But I wanted to reiterate and I want to still say that I am refusing where I am told Mr Mkhwanazi must not serve the charge sheet.

**ADV BALOYI SC:** Ms Gxasheka, can I just again, to  
10 clarify, we have had evidence, including from Mr Behari, that at some point there was a change in how things are done, where you and Mr Behari were now to approve decisions about disciplinary action. At page 95, when was that decision in terms of date?

**MS GXASHEKA:** If you see, Chair, through you, Chair, if you see, Commissioner, 22<sup>nd</sup> of August 2023.

**ADV BALOYI SC:** Okay.

**MS GXASHEKA:** Right, that is after even the intended date of the DC must take place.

20 **ADV BALOYI SC:** No, no, no. Please try and answer my question, then we will run, we will go quicker. My question is really the date. When did that new regime of doing things come into effect?

**MS GXASHEKA:** Around August.

**ADV BALOYI SC:** Around August.

**MS GXASHEKA:** Around August.

**ADV BALOYI SC:** So, around this date when this is sent to you.

**MS GXASHEKA:** Yes.

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

**MS GXASHEKA:** Thank you.

**ADV CHASKALSON SC:** You have addressed the email correspondence. You then speak from paragraph 56 about a forensic audit. Can you explain what your - sorry,  
10 forensic report. Can you explain what that forensic report was?

**MS GXASHEKA:** Thank you, Chair and EL. The forensic report, it emanated from an anonymous email Bhixi-Bhixi something like that, where it was - there were allegations of favouritism against Mr Mkhwanazi in that his disciplinary hearing was never concluded. We then subsequently were all called by Dr Mashazi, I think they have also tested - spoke to that, into an urgent meeting to come and explain what actually transpired here.

20 And subsequent to that meeting, one of the key issues that we discussed in that meeting and is in that, the scope of that forensic was who leaked the information of the city, who is dealing with, I am sorry, who is denting Dr Mashazi's name and the CFO. I could not understand the part of the CFO, but now that I started following things

here, I think it was talking maybe to the CFO of the Tembisa Hospital. I was not sure if it was our own CFO of that, but it was more about favouritism towards Mr Mkhwanazi. So, in the meeting, then, Dr Mashazi wanted answers. And she also complained ...[intervenes]

**ADV CHASKALSON SC**: Sorry, I just need to clarify. The answer she wanted was, why has it leaked that this DC has not happened, or what were the answers, what was the leak she was concerned about?

10 **MS GXASHEKA**: Okay, I was about to address that, EL. The first complaint is the leaking of the information. Number 2 is the issues of labour costs that were escalating. Number 3 is the absenteeism of the HOD HR, and HOD legal on labour-related matters. In my scope and the request, I made to internal audit, I further added the issue of how the ER division, it is one of the divisions that I am responsible for, it is called Employee Relations, how they have been handling matters of EMPD in terms of grievances, labour disputes in general. But in my scope, I  
20 further became specific and said, in the Julius Mkhwanazi's matter, that is a very key part of the agreed engagement letter with internal audit, that actually, what happened to Mr Mkhwanazi's matter? How was it handled? Obviously, when you read these emails, we spoke to earlier on, you can see that we had to do the investigation. The ball post

and non-accountability and non-conclusion of this. So, that report ...[intervenes]

**ADV BALOYI SC:** Sorry, sorry, what was the investigation that you had to do?

**MS GXASHEKA:** It was looking at, first, who leaked the charge sheet and who leaked the whole process of Mkhwanazi's matter to Bhixi-Bhixi. The anonymous email, because I think he wrote to Jeff Wiggs and then he copied Dr Mashazi, myself, legal, and others. Number 2, it was the  
10 management of labour relations matters by the employee relations and EMPD.

I further said, specifically, the matter of Julius, the deputy Chief of Police, Julius Mkhwanazi. Another point on the scope, it was the escalating labour-related cost. That, by the way, ended up with issues where even Majang, who was responsible for this case of Julius Mkhwanazi, and the three others, I think, Stols, Mackenzie and Twala. Majang Incorporated Attorneys was responsible for that case as well. That started with the DC. I will talk to it, but it was  
20 never concluded because we are not paying attorneys Ekurhuleni. It is still a challenge to date. So, that was my scope, Chair.

**ADV CHASKALSON SC:** Just in paragraph 6, you say:

“The report came with findings including seeking a legal opinion as to whether we

continue with the disciplinary process.”

Is that the report that came from Mr Rakgwale? You said you need to now get an opinion as to whether you should continue.

**MS GXASHEKA:** Yes, in fact, I was going to talk to that EL.

**ADV CHASKALSON SC:** Okay, please do.

**MS GXASHEKA:** Indeed, in the recommendations despite that report, they did speak to the limitations, and the  
10 limitations they had, it included the non-availability of the file as Majang Attorneys could not give us that file because they said we never paid them. That was one of the limitations on the scope, but one of the recommendations was, on top of all those other recommendations, a legal opinion must be sought.

I think we know that it was discussed here by Adv Kemi. I am not a legal practitioner. I do want to challenge legal opinion sometimes. I will keep my own mind into it, but ultimately, we are all key stakeholders in making certain  
20 decisions. I think every institution, if you would not normally, under normal circumstances, if you would not heed to the direction provided by legal, you would be in trouble. I will leave it at that for now.

**ADV BALOYI SC:** Maybe before you leave it, just so we understand your evidence, what was the legal opinion on

continuing with the disciplinary hearing?

**MS GXASHEKA:** Okay, I know, through you, Commissioner, you want direct answers, but I want to give you a context. I really appeal for the context.

**ADV BALOYI SC:** No, I will tell you what. It is always helpful that you give the answer, and then you can explain as necessary because we end up getting lost. That is why in the last round, Mr Chaskalson had to ask you, what is your answer? Because you started by explaining, and you  
10 forgot to say what, in fact, is your answer to a direct question. So, my direct question is, what did the legal opinion say? And you should answer that, and then you can explain whatever you want to explain after that.

**MS GXASHEKA:** Thank you. The only legal opinion I saw in this matter was we are not going to discipline Mkhwanazi despite what IPID has said, we are not going to discipline, for whatever reasons. And as I said, I only want to do it respectfully, so can I be allowed not to enter into your space?

20 **ADV BALOYI SC:** You have answered my question.

**MS GXASHEKA:** Thank you.

**CHAIRPERSON:** Are you referring to the document that was signed by two people, or are you referring to something else?

**MS GXASHEKA:** That one. The one that was signed by

Adv Zulu, and I do not know if he is also an advocate, but Mr Thabo Makhwiting.

**CHAIRPERSON:** Yes.

**MS GXASHEKA:** I would like to assume that is the final legal opinion the City of Ekurhuleni had on the matter of Mkhwanazi. One thing I would want to add, Chair, because I am being persecuted, Ekurhuleni, through my evidence here, is that the report, the report I initiated, it never reached the council. It never reached the council. And the  
10 reason I am raising that, if that report went to council earlier on, again, I am going to repeat, it might not be here.

Council would have probably override certain of those recommendations. When I am told I am misleading council, I am saying when council asks questions, and say to council, because the report only came in 2024 June, the final report, when it was sent to me by Mr Phillip Rakgwale, he said, for your interest, just in case you might be interested, it is not my report, it is his report that must go to council with the other ones I spoke to.

20 But I kept on saying to council before the report was available that we are still investigating this matter. I think when we get to other levels in terms of how Chief the events went from asking, when are we finalising this matter, to a day he decided on the 24<sup>th</sup>, if I am not mistaken, of June, that he is terminating this disciplinary process. I

want to reiterate here.

I would not have supported that. And my evidence, the forensic report, and the letters I continuously wrote to Majang Attorneys bring back the facts. My last meeting with Majang Attorneys, it was in October, November last year, where I have said to Mr Majang, I think we are in that meeting, if we can go to page 21, paragraph 62, I was in that meeting with Phillip Rakgwale, where we had an online meeting with Mr Majang. I indicated to Mr Majang that the  
10 executive mayor and the city manager, the acting city manager at the time, they are looking at this matter now. It is no longer about us paying invoices.

**ADV CHASKALSON SC:** Sorry, I think we may have lost each other with references. I have you at paragraph 58. Is that correct?

**MS GXASHEKA:** I have moved a long time ago. Paragraph?

**ADV CHASKALSON SC:** 58.

**MS GXASHEKA:** Oh, apologies. Thank you. Apologies for  
20 that. Yes, in the last meeting, it took place in October, November 2025. The meeting was held on Teams, and it was attended by myself and Mr Rakgwale. I can make a copy available of the request and the agenda of that particular meeting.

**ADV CHASKALSON SC:** Sorry, sorry, just before we get to

this meeting, again, I want to just clarify the chronology. The July anonymous email was July 2023 that triggered the forensic report.

**MS GXASHEKA:** If I am not mistaken, it was August, the one I was copied on.

**ADV CHASKALSON SC:** If you go back to paragraph 56:

10 “All I can say is I am the one person who followed the disciplinary matter, Mr Mkhwanazi. I initiated the forensic report after the July anonymous email.”

**MS GXASHEKA:** Okay, as I say, it is between July and August. Apologies about that.

**ADV CHASKALSON SC:** And you initiated the forensic report when?

**MS GXASHEKA:** Immediately after we got that email.

**ADV CHASKALSON SC:** Immediately after that email.

**MS GXASHEKA:** Yes.

**ADV CHASKALSON SC:** So, it is plus minus July, August 2023.

20 **MS GXASHEKA:** Yes.

**ADV CHASKALSON SC:** 2023.

**MS GXASHEKA:** Yes.

**ADV CHASKALSON SC:** But although the report was Commissioned in July, August 2023, it was only concluded, you say, in June 2024.

**MS GXASHEKA:** Yes, in paragraph 56, yes, that is what I said.

**ADV CHASKALSON SC:** And then nobody acted on it, or Mr Rakgwale only acted on it in July 2025.

**MS GXASHEKA:** Yes.

**ADV CHASKALSON SC:** Okay, thank you. Sorry to take you out of your sequence. You were then now back at the last meeting in October, November 2025.

**MS GXASHEKA:** Yes, the last meeting took place around  
10 October, November 2025. That meeting was held on Teams, and it was attended by Mr Rakgwale and myself. The issue of handing over of the ER files was top of the agenda. In the last meeting, despite the fact that I sensitised to Mr Majang that the files were no longer required by council, but rather we need to prepare for the Majang Commission of Enquiry, as the Executive Mayor informed us to start with the preparation.

I further reminded him that HR invoices, according to his latest emails, were paid. While we had problems with  
20 our investigation, EL, on my side, I pushed that let us pay Mr Majang so that Mr Majang can bring the files of the city, so that we can conclude this matter, despite it took two years or three. We are here now. We could have done it internally.

In his response, he then said, he made it very clear

in the meeting that HR department is not an entity, a separate entity, but forms part of COE as the organisation, and therefore, while other invoices remain unpaid, he will not release the HR files. But he further - I sensitised him I do not want to repeat myself, in his response, he further said that if the Majang Commission Enquiry subpoena the file, he will bring it here, but not a complaint, as long as we have not paid his invoices.

**CHAIRPERSON:** Sorry, is there a Majang Commission of  
10 Enquiry?

**MS GXASHEKA:** Oh, no, apologies. Apologies, joh, apologies, Chairperson. Madlanga. He said he will bring the files to Madlanga Commission Enquiry if there is a subpoena. Rather than that, because we are not paying the invoices, he will not give me the files. Apologies once more about that.

**CHAIRPERSON:** No, no, no, not at all.

**MS GXASHEKA:** Another strange incident, I think I am on  
page, I am still on page 20, paragraph 60. Another strange  
20 incident that I feel it must bring to the attention of the Commission is that while I could not win with Mr Majang, and I fully comprehend his demise, we do not pay invoices. They need to feed their families and their staff. I asked the coordinator in my office to call Mr Thami Sidzamba and to check once more if indeed there is not even a thin file we

have from the ER division.

And the way they have been doing things in the ER division under Mr Nciza, who was the divisional head reporting to me, they will leave everything to the law firms. Everything. You ask them, they are going to bargaining council, they go without a file. But in this particular instance, Mr Sidzamba, he says something that is very strange to me and the lady in my office, that at some point Mr Nciza said he must delete every document relating to Mr  
10 Mkhwanazi, disciplinary matter.

I called myself, Thami, and he confirmed that. I found that very shocking and it was difficult to comprehend on my side. But as I said, Mr Majang is willing to bring the file here if you can save the city. All the issues I have mentioned above, including the matter, I would not want to mention the name of the company where we had to pay a company that does not exist, form part of the outstanding investigation report, and the matter of Julius Mkhwanazi is one of them.

20 And also, how these have been handled by the city. And it is one of the things that we have to get them right. One of the proposals I have made, because when I looked how much we budget for labour-related costs, and the stuff we have internally, I proposed that some of the positions based on the budget maybe less filled positions. Because if

a person is appointed, you are going to be forced to pay that person.

Nonetheless, there are complex matters. There will always be complex matters that need an external law firm. So, it is one of the things that we have started filling positions at legal. We are in the process of filling similar positions of legal advisors in HR to try and keep things in the city. But I will keep on saying, unfortunately, we find ourselves in this space. I have already spoken to the issue  
10 of the financial misconduct board. I would like to skip those paragraphs, Chair.

**ADV CHASKALSON SC**: Certainly do.

**ADV BALOYI SC**: Maybe before you do, you proceed, just so that I understand what it is you are saying in that paragraph 61. You have the name, which you skipped. I assume it is the name of a company. You say that name, META, which forms part of the other outstanding investigation reports, the matter of Julius Mkhwanazi and how they are or have been handled by all involved in the  
20 city remains important. And then you go on to speak to the financial misconduct disciplinary role. Are you saying to us that the matter of that company or the reports and/or the reports that are before the financial misconduct disciplinary board include matters relating to Commissioner Mkhwanazi? Is that what you are conveying in that paragraph?

**MS GXASHEKA:** Thank you, Commissioner. Indeed, Commissioner, I think what I was trying to say earlier on, if you recall, that the 20 to 40 forensics between these numbers, I know it is a big difference. I should not be not knowing the number. If they came to the board, the disciplinary board, and we dealt with, including the report of Mkhwanazi, that will then subsequently go to council, we might not be here.

**ADV BALOYI SC:** So, you are not saying the forensic reports, the 20 to whatever number forensic report in that company named META, you are not saying they relate to Commissioner Mkhwanazi? That is what I am trying to understand, what your evidence is.

**MS GXASHEKA:** The META, the forensic report of Commissioner Mkhwanazi forms part of all these forensic reports that are sitting with the Internal Audit Office and that are not being discussed and concluded and go to council.

**ADV BALOYI SC:** Thank you.

20 **ADV CHASKALSON SC:** But you do not have any knowledge that that company has any link to Julius Mkhwanazi?

**MS GXASHEKA:** No, they do not.

**ADV KHUMALO SC:** Mr Chaskalson, before we move to the next topic, this is maybe for lunch, and it can be dealt

with after lunch. Mrs Gxasheka mentioned something in passing and it relates to one of the allegations against her, which was her involvement in the withdrawal of charges around 20 to 21 June 2023, where her intervention was sought by Mapiyeye and she and Behari got involved.

So, she only dealt with the last part where she says, I did not agree with the withdrawal, but she did not give the full context and how it came about. Maybe during lunch she can have regard to, I think it is JM31 and 32 of  
10 Mapiyeye. It is those three up to JM33, which would be the last one, and then she can just deal with that before she is asked questions about it.

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

**CHAIRPERSON:** Mr Chaskalson, do you want to start something new?

**ADV CHASKALSON SC:** I am happy for us to take the lunch break now.

**CHAIRPERSON:** Yes.

**ADV CHASKALSON SC:** I think we should - I am quite  
20 anxious to get through the whole statement before we leave today, and we may need to do some of the topics going forward at a higher level. But let us break for lunch now.

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

**INQUIRY ADJOURNS**

**INQUIRY RESUMES**

**CHAIRPERSON:** Yes, Mr Chaskalson.

**ADV CHASKALSON SC:** Thank you, Chair. Before we broke, Commissioner Khumalo had referred you to three letters sent by Chief Mapiyeye and was interested in your response in relation to these three letters. Maybe if we can take them sequentially. The first one is at, was the letter of 20 June 2023 and is headed “upliftment of suspension” and it is addressed to you by Chief Mapiyeye. Do you have any comment on this letter?

10 **ADV BALOYI SC:** Mr Chaskalson, what page are we looking at?

**ADV CHASKALSON SC:** It is 179 of the Mapiyeye annexure bundle. This is the letter in which the Chief redeployed ...[intervenes].

**CHAIRPERSON:** Maybe it is shown on screen if there is no, I do not think there is any issue with that.

**ADV CHASKALSON SC:** It is the letter where the Chief indicates that he is now going to redeploy Brigadier Mkhwanazi as he then was to the by-laws department when  
20 his suspension is uplifted.

**MS GXASHEKA:** Thank you, Chair, Commissioners, and EL. This letter is emanating from the previous letter where I have advised the Chief of Police in terms of the upliftment of suspension. It came with no conditions to either utilise the employee in another capacity. If you recall, when we

went to discuss the disciplinary procedure on collective agreement, 16.4, it is very clear you suspend or you utilise the employee in a different capacity. My advice, Chair, it sought to guide the Chief that we need to adhere to the instruction of the accounting officer and the discussions that have, this was decided.

And number two, there is a transfer process in the City, that if you are going to transfer an employee to a different capacity, there must be a written motivation and  
10 there must be a consent from the employee if that transfer is going to happen. I am emphasising it is an advice. The Chief is dealing with operational issues at EMPD. He is dealing with disciplinary issues at EMPD.

But the minute the issues go to bargaining council, HR is left alone. In fact, I have been saying to the ER team that let us get to a situation that departments, if there is a matter that goes to the bargaining council, they lead it. We just advise even at that level. The concern I had there,  
Chair, it was that we are not talking to the talent acquisition  
20 policy. There is a paragraph there that talks to transfer, how transfer must be done.

Number two, if I can read maybe the last paragraph on this letter, where it says:

“Due to generic scope of Brigadiers /  
Director EMPD job description, it does

not have any impact on the work or performance that is required from any senior manager.”

If Brigadier Mkhwanazi could, the erstwhile Brigadier Mkhwanazi could have decided at that point in time to take, to declare a dispute against the City, it would have probably said you did not follow the talent acquisition policy on transfers and he could easily declare a constructive dismissal, that you are allowing me to go and  
10 do a work of law enforcement, by law enforcement, whereas you appointed me as Deputy Chief of Police on specialised services.

If he fails there, again, probably he was going to go through another disciplinary process. We could have been found wanting. So I was just advising Chief of Police that guide against. And he made it clear that he is comfortable with how he has handled his matter. I did not take it any further. It ended there.

**CHAIRPERSON:** But do I understand you correctly that  
20 you appear to be addressing transfers in general. You do not appear to be addressing transfers in the context of a disciplinary process. Am I understanding you correctly? I just, I am just seeking clarity.

**MS GXASHEKA:** Thank you, Chair. Chair, I have explained that in 16.4 of the DPCA, it says, when I read it

earlier on, it is either you suspend or you utilise a person to another capacity. My interpretation of that is you might not suspend from the beginning, but you can utilise another, and it comes under one paragraph.

My understanding as an HR practitioner was you either, you do one of the two. When you uplift that, then you go back to a substantive position. It is either you are sitting at home, or you are referred to another department. So I am clubbing that as part of the suspension, that we can  
10 suspend you and go and sit at home, and you earn a salary for free at home, or we utilise in another capacity.

I am addressing that, Chair. Number two, I am adding to that.

**CHAIRPERSON**: And you are not using transfer for that? The use in another capacity, you are not using transfer for that, or would you still use transfer as well?

**MS GXASHEKA**: Chair, you can use transfer if you want to, but all I am saying, remember, even if it is a suspension, we give you ...[intervenes].

20 **CHAIRPERSON**: Let us forget ...[intervenes].

**MS GXASHEKA**: To apply ...[intervenes].

**CHAIRPERSON**: Let us forget about the suspension ...[intervenes].

**MS GXASHEKA**: Oh, I was going somewhere.

**CHAIRPERSON**: And just focus on use in another

capacity, or transfer to some other position.

**MS GXASHEKA:** In those incidents as well, Chair, you must get a return motivation, and there must be consent. And in this instance, I did not see that.

**CHAIRPERSON:** Maybe I will sound like I am already beginning with an intrusive questioning, but I find it strange that you would have to first get the consent of the employee, where you are transferring because there is a disciplinary process afoot. That is where I have a difficulty.

10 Anyway, please proceed, Mr Chaskalson.

**ADV CHASKALSON SC:** Can I just clarify that the letter that you are referring to, your 15 June letter, is the letter at page 178 of the Mapiyeye annexure bundle. It is JM30. Is that the letter you were referring to?

**MS GXASHEKA:** That is correct.

**ADV CHASKALSON SC:** So you have now, contextually, responded to your letter and, or you have explained your letter, and responded to Mr Mapiyeye's response. The next letter from Mr Mapiyeye was the following day, which was  
20 the 21<sup>st</sup> of June, and in this letter he was indicating that because of the collective agreement provisions, if the charges against then Brigadier Mkhwanazi were to proceed, the charge sheet would have to be served the following day, 22 June. And he was motivating strongly for those charges to be served, and he addresses a letter to Advocate Behari

and to yourself. What was your response to this letter?

**MS GXASHEKA:** Before I could respond to this letter, Chair, there is other events that happened. But before I talk to those events, I would like to, Chair, to refer the Commission to the statement of Chief of Police on paragraph 102. I would like to read that.

**ADV CHASKALSON SC:** Sorry, paragraph?

**MS GXASHEKA:** 102. After I have read the statement of Chief of Police, I would like to refer through you, Chair, and  
10 read the paragraphs 69 and 70 of Mr Xolani Nciza's statement.

**ADV CHASKALSON SC:** Paragraph 102 is at page 28 of the bundle.

**MS GXASHEKA:** Page 28, yes. Thank you.

“On the 21<sup>st</sup> June 2023, following discussions initiated by Ms Gxasheka and Advocate Behari, HOD: Legal, I was pressurised to hand over the docket relating to Brigadier Mkhwanazi  
20 to Advocate Behari. This I did as per memorandum of Advocate Behari, dated 21<sup>st</sup> June 2023.”

Thank you. I am going to read Xolani Nciza's statement, page 23, paragraph 69 and 70.

**CHAIRPERSON:** Sorry, page 33?

**MS GXASHEKA:** 23.

**CHAIRPERSON:** Oh, 23.

**MS GXASHEKA:** -:

10 “On the 21<sup>st</sup> June 2023, Chief Mapiyeye updated me about his interaction with Dr Mashazi and Advocate Behari, who has advised that there was no case against Brigadier Mkhwanazi. Chief Mapiyeye subsequently instructed to withdraw the internal investigation into Brigadier Mkhwanazi's matter. I was informed on the 22<sup>nd</sup> June 2023, Chief Mapiyeye withdrew the internal investigation. I was of the view that this letter has no force of law. Chief Mapiyeye could not withdraw an internal investigation that was already completed and had been the basis for disciplinary proceedings. The ship had sailed. The internal

20 investigation was at this stage already completed and ...[indistinct] Attorneys have already been briefed and I was of the view the disciplinary proceedings must continue and the Chief of Police was *functus officio*.”

If I can go back now to the letter of the Chief of Police.

**ADV KHUMALO SC:** Before you go, sorry to do this to you. I had hoped that you would read 103 of Mapiyeye, unless you are still coming back to it, because that is where he says the pressure happened.

**MS GXASHEKA:** I will gladly do that.

**ADV KHUMALO SC:** 103?

**MS GXASHEKA:** Yes.

10 **ADV KHUMALO SC:** Yes.

**MS GXASHEKA:** -:

20 “I was also instructed to withdraw charges against Brigadier Mkhwanazi. I addressed a letter Brigadier Mkhwanazi advising that I had taken a decision to withdraw the internal investigation processes and redeploy him to substantive position. The effect of this letter was not to withdraw the disciplinary process. In fact, it was deliberately meaningless as it purported to withdraw an internal investigation which at the time had been completed and the basis which charges had been formulated. This I

did in a bid to stop the consistent harassment I was facing from the City Manager and the two HOD's. In fact, therefore, the disciplinary procedure has been withdrawn and the attached."

I think then we are talking to JM33. I was going to come to this, Commissioner. I was going to come to it. In the statement of the Chief of Police and Xolani Nciza, they are contradicting itself when it comes to this matter.

10 Chief he says he had an engagement with HOD: HR and Legal. I refute here that I was part of that engagement. I do not think I would have agreed to such. Hence, later on, I requested that let us have a forensic investigation done into this whole mess.

Xolani Nciza, Chair, says the discussion took place, according to the Chief, the discussion took place between Dr Mashazi and Advocate Kim. I am not going to exonerate myself in this mess, hence, I continuously, the latest before my suspension last year, and said let us get to the bottom  
20 of this.

But, if somebody is listening carefully, there has been continuously discussions that are taking place outside myself, let alone that when I engage the City Manager, sometimes I find that legally, she is been well briefed, but we have our discussions and debates on the issues. It is a

very confusing situation between these two statements, but I am reiterating, I do not think I would have agreed to this if we engaged on it.

There were discussions that were taking place between Chief of Police and Legal, without me taking place. The file, I have kept on asking for a file desperately, as late as 2025. If we had the file, I mean, they are talking about a copy, where he says, by the way, in that discussion, if you read paragraph 2 of his letter, he says as discussed earlier  
10 today, I was not part of that discussion, but he says I was. Or I am just copied, I do not know.

**ADV BALOYI SC:** You are not copied, you are an addressee together with ...[intervenues].

**MS GXASHEKA:** I am an addressee.

**ADV BALOYI SC:** Advocate Behari and Mr Erasmus.

**MS GXASHEKA:** Thank you, Chair. He says, as discussed earlier on and agreed upon, there is agreements that took place, and I want to reiterate here, I would not agree to such.

20 **ADV KHUMALO SC:** Did you respond to this letter?

**MS GXASHEKA:** I have never received the letter. I do not know the letter.

**ADV KHUMALO SC:** You do not remember receiving it?

**MS GXASHEKA:** No.

**ADV KHUMALO SC:** And just to be fair to you, Advocate

Behari, when he gave evidence, he said he cannot recollect whether you were present at the meeting. I just thought I should be fair to you and give you that.

**MS GXASHEKA:** I was never. To my surprise, then the Chief writes the letter of the - can I move on? The letter dated 22<sup>nd</sup> June 2023. It is on page 180 of Chief's annexures. That is where Chief, we are here now because of this letter, where he withdrew this process.

Again, Chair, Linda Gxasheka is not mentioned  
10 here. Hence, I am saying maybe I should give a statement, what is good for the geese is good for the gander. When it suits them, they include me on matters. When it suits them, they want to exclude me.

Maybe there is a reason they excluded me here, because I would have challenged this. I think I will stop there for now. I have not read the letter of the 22<sup>nd</sup> June 2023, but maybe I should read it to the Commission. The heading, it is addressed to Julius Mkhwanazi, Director, Specialised Services, cc'd Mr G Mzolo, Deputy Chief of  
20 Police, and Dr Mashazi, City Manager, from IJ Mapiyeye, Chief of Police. 22<sup>nd</sup> June 2023 it is dated. Disciplinary matter is the subject, J Mkhwanazi.

“On the 2<sup>nd</sup> February, 2023, allegations of a very serious misconduct were received from the media query from

News24 journalist, Mr Jeff Wicks, which implicated yourself and which subsequently investigated by Internal Affairs section, EMPD. To date, the matter has not been concluded. I, as the Municipal Police Commissioner ...”

He makes a demand there.

10 “Take this decision to withdraw this internal investigation process under the case number 03/02/2023, and herewith redeploy you back to a substantive position, Director, Specialised Services, as from 26 June 2023. Hope you find this in order.”

He is demanding there, Chair, it is a very clear command, I, Chief Mapiyeye, with his power, without anybody usurping, he makes this decision on his own. I will end there for now. Thank you.

20 **ADV CHASKALSON SC:** You have addressed most of the issues in relation to the disciplinary proceedings against Brigadier Mkhwanazi. I just wanted clarity on one issue, which is at the top of page 22 of your statement, paragraph 65. You write:

“Based on the instructions of the accounting officer, my letter sought to

advise and guide, and based on that, if the charge sheet is ready to be served and the investigation is concluded, there is no reason for deployment of the employee to another position unless it is dealing with financial related matters.”

Now, that seems to be a reference to your letter of 15 June. Is that correct? Now, you say based on the  
10 instructions of the accounting officer, what instructions are you referring to?

**MS GXASHEKA:** If you read my letter, I think the first paragraph, it says it came to my attention, the first paragraph, but second sentence, that it came to my attention that Mr Mkhwanazi has been deployed somewhere else.

So I was referring to the discussion I had with the accounting officer, and as I said, that we normally have the legal debates with her, and in this instance, obviously the  
20 issue of the transfer we discussed with the Commission were raised versus the utilization of capacity. Thank you.

**ADV CHASKALSON SC:** So it is still not entirely clear to me, what were the instructions that Dr Mashazi gave you? What are you referring to?

**MS GXASHEKA:** The debate that was continuing

throughout when we deal with LR matters, but even in recruitment and so forth, but specifically in LR matters, is you have to take ownership of LR matters. You must have answers all the time. And when things are happening outside my space, I will be reprimanded.

So again, the moving of Deputy Chief of Police, Brigadier Mkhwanazi to another division, it was done by Chief. So the debate and the engagement we have is why did I allow that to happen.

10 **ADV CHASKALSON SC:** So were you given an instruction?

**MS GXASHEKA:** I must attend to it.

**ADV CHASKALSON SC:** You must attend to it.

**MS GXASHEKA:** Yes.

**ADV CHASKALSON SC:** You must put this right.

**MS GXASHEKA:** Yes.

**ADV BALOYI SC:** Sorry, just clarify. So the instruction from Dr Mashazi was stop this, stop this redeployment. Is that what you are saying?

20 **MS GXASHEKA:** Yes, address it.

**ADV CHASKALSON SC:** There is, the next topic is cross-referring back to, sorry, I am in the wrong, I am in the wrong file at the moment. It is cross-referring to paragraph 3.3 of the notice where there was an allegation that you failed to act to resolve an ongoing disciplinary issue where

six officers from the Drug Enforcement Unit who report to Brigadier Mkhwanazi were arrested by IPID for allegedly extorting R80,000.00 from a member of the public, purportedly evaded disciplinary action, were subsequently incorporated into the City of Ekurhuleni VIP protection detail. You addressed this from paragraph 67. Do you want to give the Commission your response?

**MS GXASHEKA:** This matter, it came to my attention during the proceedings of the Madlanga Commission inquiry  
10 and if I could recall, I am not sure if it formed part of my charges, and when I followed up with EMPD, I think I must explain another issue that is very critical and imperative to be comprehended here.

EMPD, it has got its own internal unit, internal affairs unit that deals with investigations. Not only for EMPD, by the way, even for the rest of the city, we utilise their capacity. I go to them to assist us. So there are matters specifically, when they come for investigation, it is done by them. In this instance, when I followed up in  
20 December, the department told me that they have not yet commenced with the internal investigation into this matter.

Prior to my suspension, I think the day before I was going to be suspended, the Executive Mayor and the City Manager called me to sensitise that they are intending to suspend me. In the discussions we were having at that

time, but I do not think it is for, with due respect, for today, then they mentioned an issue that the VIP protectors that are allocated to myself, Advocate Kemi Behari, the Acting CIO, some of these guys that are being investigated by IPID.

Hence I said, the minute I was suspended, I requested that can I go home and I told them that they, like go to the Eastern Cape. By the way, they say I am from Limpopo, I am not from Limpopo.

10 I said to the Executive Mayor, you give me other reasons to run away. Other issues, I think Commissioner Khumalo, you are aware, they were part of the assessments. I did give all the incidents that I have gone through in my house, in myself, where I had to have break-ins in my house, men with five rifles in my house, followed by cars that are branded by EMPD. They have an EMPD branding. When they are searched, they do not belong to EMPD.

20 After being suspended, I ran to the Eastern Cape. I am followed in a hotel where I was sleeping. Two men entered my room. And others and others that are in that report. So, because I have shared at a high level with the Executive Mayor what I have been going through, then I said can, now that you are telling me, there are VIP's that are allocated to us that are being investigated by IPID. I

must be permitted, you can be permitted to go as long, wherever.

So, to come back to the issue of the day, this is the letter where they told me that after I engaged them, that they have withdrawn these colleagues of theirs from providing VIP for us. I have got WhatsApp from the director of that unit where he has confirmed, after I was suspended, that they have not yet commenced with the disciplinary process, they are waiting IPID.

10 I am not going to discuss IPID issues here. I think I listened briefly on the IPID colleagues that were here and how they have explained to the Commission how EMPD manages their investigations. In some instances, they start with the investigation and suspend employees. In others, they wait until you go to court and you are convicted, only they deal with you on that.

In summary, EL, this was never brought to my attention, the 80,000 bribery matter. It is still sitting with EMPD. I do not know now from December, January, 20 February, if they have acted on it. Thank you.

**ADV CHASKALSON SC:** So, just to clarify, your evidence is that you played no role in this matter whatsoever, that the investigation never left EMPD.

**MS GXASHEKA:** Correct.

**ADV CHASKALSON SC:** And the first you heard about it

was in November last year.

**MS GXASHEKA**: It was after my – yes, it was prior to my suspension when the Executive Mayor and the City Manager sort of highlighted ...[intervenes].

**ADV CHASKALSON SC**: Where you were told that ...[intervenes].

**MS GXASHEKA**: Yes.

**ADV CHASKALSON SC**: That these municipal police officers who had been on VIP were now being charged in  
10 relation to this extortion and were being redeployed back to the Drug Enforcement Unit.

**MS GXASHEKA**: Yes.

**ADV CHASKALSON SC**: Thank you.

**CHAIRPERSON**: Sorry, Mr Chaskalson, just a matter of clarity. Third line of paragraph 67, you say:

“I am still awaiting finalisation of the investigation in this matter since there are no names provided.”

Are you referring to the names of the alleged  
20 extortionists or whose names are you referring to?

**MS GXASHEKA**: Yes, yes.

**CHAIRPERSON**: Okay. And what is the import of the part that says since there are no names provided? What are you seeking to convey there?

**MS GXASHEKA**: At the time, I was referring to the

implications from here. It was, it just talked to the 80,000, but then from the memo of EMPD, and I would not know, Chair, if it is only those three that are mentioned on the memo. It could be more or less. I think that is what I wanted to emphasise on.

**CHAIRPERSON:** All right, thank you. Thank you, Mr Chaskalson.

**ADV CHASKALSON SC:** Thank you, Chair. We are now going to go to a number of topics where I, for one, do not  
10 need any amplification of your statement because I think the statement explains certainly satisfactorily to me, but if there is something that you nonetheless want to say, you must do so.

The first topic is the topic that you address from paragraph 70 to 81 about restructuring of the City's disciplinary and grievance procedure. Again, there is nothing that I propose to canvas with you tomorrow in this regard. I am happy, unless there is something in particular that you want to raise there, I am just happy to move on  
20 from that part of your statement.

**MS GXASHEKA:** Okay, thank you.

**CHAIRPERSON:** You do not want to say anything on it? Can we move on ...[intervenes].

**MS GXASHEKA:** There is one thing I can highlight, Chair, through you. There is one thing I can highlight that I think

it has been, there is a misperception that has been created to you and the public that the changing of disciplinary procedure has been an ongoing matter. In 20 - the reason I mentioned my predecessor, I will not mention her name here, in 2017/18, when she arrived, the issue of legal costs started there.

The panel that used to be solely for HR, it was stopped. The whole procurement process and panel management of Legal, external lawyers, it was then done through a Legal department. Even the budget, it was moved from HR to Legal. So what I wanted to emphasise there, we have been in the City continuously changing delegations and disciplinary procedures as we feel it fit and deem to do so. Thank you.

**CHAIRPERSON:** Thank you. Yes, Mr Chaskalson.

**ADV KHUMALO SC:** Mr Chaskalson, I think the only issue we needed to clarify and Chair raised it with Advocate Behari was who is the drafter of LLG22, because it appears to be a legal document or something close to being a legal document, and it was not clear who the drafter was because we were in agreement that it was not Dr Mashazi and Advocate Behari said it was not him. So can you just clarify who drafted this document? It is 102 ...[intervenes].

**MS GXASHEKA:** The drafting of that particular annexure, it was myself, Chair. But if we were to check on page 100,

the one that was drafted by my predecessor as well, so there is a standard way of doing it. Thank you so much.

**CHAIRPERSON:** Why I raise the issue I raised with Advocate Behari was because there was what appears to some, to be rather, legalese in certain parts of the document.

**MS GXASHEKA:** Thank you, Chair. Thank you.

**CHAIRPERSON:** But who says HR specialists cannot draft legalese.

10 **MS GXASHEKA:** Thank you. We try.

**ADV CHASKALSON SC:** The next topic is the labour relations processes regarding the dismissal of Mr Nciza and that is addressed from paragraph 82 all the way through to 92.15. And then the issue of service of notices at Mr Nciza's home is addressed from paragraphs 93 to 97.

And then there is a further paragraph on the broad topic relating to Mr Nciza's qualifications at paragraph 98. Again, I do not propose to ask you any questions about this tomorrow. I do not need you to amplify anything in there.

20 I am not saying that Mr Nciza was definitely guilty, but I am saying that I certainly cannot criticise the institution of disciplinary proceedings in the light of the facts that are, appear to be common cause in that regard. I do not know if there is anything that you would want to amplify in that regard or whether we can move forward.

**MS GXASHEKA:** I am not sure if the issues of the cars that went to his house is part of this, but the first thing that I want to focus on, Chair, when you go to an annexures of Mr Nciza, his CV that he brought here, he changed it when it comes to advanced labour law from NQF Level 7 to NQF Level 8.

**ADV CHASKALSON SC:** I know that that is in your statement. I do not want us to get into that detail unless you have a reason to, in part, because the dates of the  
10 qualifications are different, and it is at least possible, I do not know that it is correct, that Mr Nciza will have, might have had the NQF 7 qualification at the time that he first applied for employment at the City and at a later stage may have upgraded it to an NQF 8 qualification.

But I do not want us to spend time on what is essentially a labour dispute between the City and Mr Nciza and that will be ventilated, or is capable of being ventilated fully in the labour courts if that is where it is going.

**MS GXASHEKA:** I have said earlier on through you, Chair,  
20 as I am testifying here, I am being persecuted by the City of Ekurhuleni, and Mr Nciza spent a lot of time on this matter. I am perceived as a very cruel person. I will not speak too much on it. The matter of Nciza, from what I heard now, is in an arbitration *de novo* process, because the Commissioner who was dealing with the matter passed on in

December.

I also heard that the City might intend to reinstate or settling Mr Nciza. And majority of the changes that the City has done on the matters that I am implicated here are based on the testimonies that were made here. The challenge of how Mr Nciza's matter is managed is going to change the culture of Ekurhuleni forever.

If we are saying employees misrepresent qualifications, and it is okay to do that, and then you come  
 10 with a debate that, boom, all of a sudden, in 2025 my qualification has changed. When I went to testify there, he mentioned here, I think I testified 23, if it is not 13 days, I kept on saying to the Commissioner and Mr Nciza and his representative that if Mr Nciza give us a transcript as it was required and a confirmation affidavit from SAPS, I will be the first one who goes back to the employer and say reinstate Mr Nciza. He has never done that. His matter started in 2017 ...[intervenes].

**ADV CHASKALSON SC:** No, I know this is something that  
 20 you make clear in your statement ...[intervenes].

**MS GXASHEKA:** 2017 he started with this. The matter has started in 2017. When my predecessor arrived there at Ekurhuleni, we were about to declare, a dispute was declared. We were about to defend it. They have decided with Mr Nciza to settle. The employee that was

...[indistinct] he was an internal employee who declared the dispute. The second time when he asked for a salary review, I know we are going to come to my salary review, I asked him, Mr ...[indistinct] why are you doing this? He says, I must compete with Xolani and be paid the same. Why? I am more qualified than him.

I asked him when I went to testify, and said, you both of you, you went to Vista, B.luris, please confirm to me what happened. He said he have never seen Mr Nciza  
10 graduating. Now we are talking ...[indistinct] we are not there.

The UNISA issue, everybody has got an NQF level 7, those who went to that course in Ekurhuleni, credits 24. But Nciza's one, conveniently, after he has been dismissed, they are changing from NQF level 7 to NQF level 8 with credits 48. All I needed to be known is that we are standing by the DC and the outcomes thereof until Mr Nciza brings the transcript. But it is not my role anymore, because I am outside. But I am standing with that. If I was in the City, I  
20 was still going to say that, can he provide a transcript.

I said that when I was testifying, I went to UNISA to look for my transcript one day. I arrived at 8 o'clock from Germiston to Pretoria. I was having a meeting at 10 o'clock. I was back in Germiston at 10 o'clock. Mr Nciza could have gone and got his transcript. I will not dwell.

With due respect, I know you are guiding me, evidence leader, but I think I needed to just share a little bit of Mr Nciza's issue and I will talk to issues of political issue. I will not mention names at a later stage. Thank you.

**ADV CHASKALSON SC:** Thank you. The next topic is the disciplinary action against Mr Spies. Again, I have just one question here. I understand what the allegations against Mr Spies are, that there was a contract that had been extended for a period of three months, and that the allegation is that  
10 he was aware that the extension terminated after three months, and yet he allowed the contract to remain in place beyond the three months.

You say in your statement on two separate occasions that the act of Mr Spies amounts to fraud and corruption. That is 34, top of page 34, and then at a later stage, I have lost my reference, but it is stated again, and it is just not clear to me. I mean, I can understand why this may be misconduct, the allegations, if they are true, but I do not see fraud and corruption, and I am not sure if there  
20 is anything that you want to say in that regard.

**MS GXASHEKA:** Thank you, Chair. I will be very quick, just to, I just need to offer a clarity. I think paragraph 99 to 104, it is talking to two issues. It is talking to them. I will call it an evergreen, but it is not necessarily an evergreen contract because it is a contract that started around 2014,

and it kept going on and going on and going on. I will not dwell on that. I am sure you do not want me to dwell on that because we need to save time. I get that.

Paragraph 100, Chair, it talks to issues of his resignation, where he claimed that he has retired, whereas we all know he came and sat here. I think he might have worn a uniform that he went and worked for Tshwane. And the issue that I was raising there is when you are retiring in the seat of Ekurhuleni, take early retirement, there is  
10 benefits you receive. He is receiving about 5,000 every month, 5.7, from Ekurhuleni, but he is also receiving the same benefits at Tshwane. And in his letter of resignation, he said, in his letter, he said he is taking early retirement, he wants to go and spend time with his children.

But then in his statement, he goes further and creates a misperception here that he was ill-treated. He left because Ekurhuleni did not treat him very nicely, but voluntarily, in his letter of early retirement, he says he wants to go and spend time with his family. But, Chair, as I  
20 say, I think that is all I wanted to clarify, really. I do not think I want to dwell on this thing.

**CHAIRPERSON:** Is there any prescript, because your complaint seems to be the fact that he is now working for Tshwane Metro, is there any prescript that says he cannot? Is there an Ekurhuleni prescript that says so?

**MS GXASHEKA:** Chair, my focus ...[intervenes].

**CHAIRPERSON:** That is retire, retire and go work elsewhere.

**MS GXASHEKA:** Yes. If he resigned and said, I am resigning to go and work in another company, we would not be paying that 5.7 every month. In fact, for one medical aid, I think Bonitas where he is, we are paying about a million. So it is a new thing where now it is him and another employee who went to Prasa, where employees are  
10 starting to say, I look like I am taking early retirement so that I benefit in this employer, medical aid employer contribution. And it is something I was discussing with Finance before I got to stay at home, that we need to revise that policy because it is becoming a problem.

Now, can you imagine if we are going to have 100 people who leave Ekurhuleni and go to a sister municipality, we bear the cost, and yet that he is still benefiting that municipality, benefiting twice.

**CHAIRPERSON:** You are talking revision, and I asked you  
20 about an existing prescript. Does the fact that you are talking revision mean that there is no existing prescript that proscribes what he has done or that says what he has done cannot be done?

**MS GXASHEKA:** To me, it is a misrepresentation when you say, Chair, I am taking early retirement, knowing very

well it is end of February. It is your last day, the 28<sup>th</sup> of February. 1<sup>st</sup> March, you are going to another municipality. And the reason I am talking issues of fraud, because there is a money, a cost involved. That 5,700, Chair, we could be employing a general worker and improve on service delivery.

And the City of Tshwane is benefiting, yes, for having that capacity, but highly possible they are also benefiting in the sense that it is either they do not give him  
10 that money or if they do give him the money, he is having a contribution twice. It is a double benefit and it cannot be clear.

To me, it was intentional when he decided, I am not going to say I am leaving to Tshwane, because in his resignation, he says, I want to go and spend time with my family. But I will leave it at that, Chair. I hear your point as well.

**CHAIRPERSON:** I am just thinking if we do not have the full picture as to what is happening in Tshwane, I wonder if  
20 we are able to reach a categorical conclusion about fraud/misrepresentation if you do not know what the picture is at Tshwane.

**MS GXASHEKA:** I do not know the picture. All I am saying, Chair, is he could have said, I am resigning, I am going to Tshwane. We will have a different discussion. So

I feel there is a misrepresentation.

**CHAIRPERSON**: But if he is entitled to retire, I am sorry, Mr Chaskalson, to sound intrusive already, but if the prescripts allow him, both in terms of age and whatever else, to retire, why should he not retire?

**MS GXASHEKA**: Chair ...[intervenes].

**CHAIRPERSON**: Because even someone who has reached the mandatory retirement age may retire, but still go work elsewhere.

10 **MS GXASHEKA**: Chair, in most organizations, you are not going to get a benefit that says you retire, and therefore we are going to carry you until retirement as 65 and beyond. When you retire, they pay you your money, and that is it. So I feel where there is a misrepresentation, because there is this special benefit you get when you have early retirement. That is all I was raising.

**CHAIRPERSON**: Thank you. Thank you, Mr Chaskalson.

**ADV BALOYI SC**: Sorry, can I just clarify your, the way you are responding to the Chair. You have not said to the  
20 Chair in answer, you have not said, there is a prescript that prevents him from doing this. Remember, the Chair asked you that question, and you did not say, yes, there is a prescript that prevents what he has done. So that must mean from your answer that there is nothing that prevents him. Prescript, as in prescript. You may feel it is wrong

what he has done, it should not happen, but there is nothing in writing, which is law, policy, regulation, that says he cannot do this.

**MS GXASHEKA**: Thank you, Chair. I have responded to that, Commissioner. I did say ...[intervenes].

**ADV BALOYI SC**: Your response ...[intervenes].

**MS GXASHEKA**: Futuristic ...[intervenes].

**ADV BALOYI SC**: I am asking – ja, no, maybe I am slow this afternoon. Bear with me.

10 **CHAIRPERSON**: No, you did not. I think I asked you that question more than once. You did not respond to it.

**ADV KHUMALO SC**: Can I ask it this way. The conditions of employment at Ekurhuleni Municipality allow a 55-year-old to opt, so you have a choice, you can either resign or retire. And when you choose to retire, because it is an option, you are entitled to post-medical aid subsidy by the municipality. So he has exploited that rule to his benefit, and that is your grievance. So it is allowed, but you are saying in future you want to change it so that people do not  
20 exploit it to the disadvantage of the municipality.

**MS GXASHEKA**: Yes.

**ADV BALOYI SC**: So where you say it is fraud and corruption, it is not because he is breaking any rule, any policy, any law, because it is quite, it is quite a serious allegation to make. And the question about, is there a

prescript that says he cannot do what he did is to try and get to where do you get that it is fraud and corruption.

Now, am I correct that if there is no prescript that precludes him to have left when he did and to get the benefit from Ekurhuleni that he continues to enjoy, and to be employed elsewhere having left you the way that he did, if all of that is not precluded by any prescript, then it cannot be fraud and corruption, if there is no law or rule or policy that says he cannot do it.

10 **MS GXASHEKA:** Thank you, Chair. I am not sure if he shared with you in his statement that he even amended the form. The form talks to retirement, resignations, determination form, and others. He added with a red pen, early retirement. He himself. And I am going to reiterate ...[intervenes].

**ADV BALOYI SC:** Ms Gxasheka, can I just stop you, because you are repeating yourself and you are not answering a direct question. If your answer is there is no prescript that says he cannot do this, and I think that you  
20 have conceded, if that is your answer, maybe let us leave it at that because that is all I wanted to clarify. Thank you.

**MS GXASHEKA:** Chair, I am told here that I am talking about hard words when I am saying there is corruption and I am trying to define how I got to those deductions. I get where you are going, that it might not translate to that, but I

think it is very imperative that I explain my imperatives, and that is what I just sought to do. Thank you, Chair.

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

**ADV CHASKALSON SC:** Similarly, sorry, paragraph 107, you deal with the redeployment of Ms Thepa and you say it was handled by Mr Behari. I, for one, do not propose to take this further. There is a very substantial part of your statement which understandably, from paragraph 108 through to 116, deals with the disciplinary action against  
10 Chief Mapiyeye.

And again, from my side, I do not need you to amplify anything there. I am not suggesting that Mr Mapiyeye is necessarily guilty, but I certainly am, it is quite clear to me that an employer has a responsibility to institute disciplinary proceedings in the face of these allegations, and I certainly would have no criticism of you for being involved in that.

Then at paragraph, sorry, at paragraph 117 on page 40, you deal with the ...[intervenes].

20 **CHAIRPERSON:** Just before you continue, Mr Chaskalson. Mrs Gxasheka, I, and I am sure my co-commissioners share this, do not want you to leave this Commission with the impression that the evidence leader made light of the very serious allegations that are made here. One, we recognize the seriousness of the allegations, and two, we also

recognize the need, as the chief evidence leader just said, for disciplinary proceedings to be instituted if it is found, in terms of the allegations, the available evidence, etcetera, that such proceedings should be instituted. So I thought I should just clarify that.

**MS GXASHEKA:** Thank you, Chair. I am comfortable, Chair.

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

**ADV BALOYI SC:** Mr Chaskalson, maybe before you do  
10 that. Still under this topic, Ms Gxasheka, and I ask you this because it is an, or maybe let me, it is not because, but it is an issue that was raised with Dr Mashazi as well, and at least speaking for myself, I think it is important. In paragraph 108.7, you refer to and attach a medical report of the psychologist of what you describe as a victim. I think this is the complainant in this case that you are discussing, right?

**MS GXASHEKA:** Yes.

**ADV BALOYI SC:** Okay. Now, when Dr Mashazi was  
20 testifying, the question was asked whether the complainant or the patient in that, she had attached a similar report, if not the same report, and the question was asked how she got the report, whether the owner of the report, that is the complainant, had given permission for this document to be shared, and that is an important question because the

records of the Commission are public documents.

They become public documents, and if, and this kind of information is regulated by POPIA. You would know that as an HR person, and if there is no permission from the owner of the document to disclose it, we should not be party to further disseminating it by putting it out in the public domain.

So I would like to ask you the same question because your, depending on your answer, the Commission then treats the document in a certain way. So I would like to ask you the same, let me ask you the same question. This report, which is LLG43, how did it become, how did it come into your possession?

**MS GXASHEKA:** Okay, it is quite a sensitive issue. I think I am appreciating that we put it at a high level, both for the complainant and the Chief of Police.

**ADV BALOYI SC:** Okay, maybe let me just reformulate my question, let me, just to guide you. What I am asking is, was this given to you in the course of your employment when this complaint is laid, that is how you came into possession of this, as part of the records of the complaint, okay? You are nodding.

**MS GXASHEKA:** Yes. Yes, it was emailed to me.

**ADV BALOYI SC:** Yes.

**MS GXASHEKA:** If I recall, by her psychologist.

**ADV BALOYI SC:** Okay.

**MS GXASHEKA:** If it was not the psychologist, it was her lawyer.

**ADV BALOYI SC:** Okay.

**MS GXASHEKA:** And I can confirm as well that I think we all agree let us protect her. She would have even willing to come here, but it is really not worth it for her and for the Chief of Police.

**ADV BALOYI SC:** Ja, no, I ...[intervenes].

10 **MS GXASHEKA:** In my statement it is clear.

**ADV BALOYI SC:** My questions are different. It is so that we know how to treat this document in the Commission. So you have said you got it in the course of your employment, right. That is fine. Not for purposes of the Commission, right? You agree? You nod your head. The record needs to reflect what your answer is.

**MS GXASHEKA:** I have to substantiate my answer because it can be problematic if I do not.

**ADV BALOYI SC:** Okay.

20 **MS GXASHEKA:** I am going to reiterate. She was willing to come here and I think we are all agreeing, let us protect her. When I went to present her item to mayoral, I nearly shed a tear. And she needs to be protected. One thing I can assure you, every document that is here, she knows that it is here. We have been communicating. She

encouraged it. But I really want to applaud the Commission for saying let us protect both of them.

**ADV BALOYI SC:** So you are saying you have permission from the owner of the report to share it with us here?

**MS GXASHEKA:** Yes. Yes, Commissioner.

**ADV BALOYI SC:** She knows you are coming to the Commission?

**MS GXASHEKA:** She knows.

**ADV BALOYI SC:** And that you are going to disclose it to  
10 the Commission?

**MS GXASHEKA:** She knows.

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

**MS GXASHEKA:** Thank you so much.

**ADV KHUMALO SC:** But just to complete that. I had understood you to be saying you would like the Commission not to make it public. It must not be in their websites or be shared with other people.

**MS GXASHEKA:** Yes, I thought that is what the Commission intends to do and I said I am applauding the  
20 Commission for that.

**ADV KHUMALO SC:** Yes.

**MS GXASHEKA:** I highly appreciate that.

**ADV KHUMALO SC:** Thank you.

**MS GXASHEKA:** Thank you.

**ADV BALOYI SC:** Okay, Mr Chaskalson.

**ADV CHASKALSON SC:** Then there is an issue in relation to the three suspended employees, Constable Twala, and I am not sure what the rank of Officers McKenzie and Stoltz are. You addressed that at page 40, paragraph 117 to 122. Is there anything you would want to add to that? From my side, it is not clear to me that I need to canvass anything with you.

**MS GXASHEKA:** I am comfortable, Chair. If my statement is suffice, I am happy. Thank you so much.

10 **ADV CHASKALSON SC:** The next topic relates to your remuneration package. And again, this is not a topic that I need to canvass beyond what is in your statement. I know that there have been allegations that an increase to your salary was granted as a form of reward. I certainly do not intend to pursue that. I see what you say in relation to your remuneration package and from my side, that is satisfactory for my purposes. I do not know if there is anything that you want to say in that regard.

20 **MS GXASHEKA:** I am praying for wisdom on this one, because the latest as today I am here it is still on the public space, being persecuted for it. But because I think our document will be published, I am praying at some point that the public can understand there was no fraud that was done here. There was no favour that was done for me and Advocate Kim. In fact, when the matter went to mayoral for

endorsement, it went to, the item went to remuneration committee and then it went to mayoral.

Dr Mashazi called me after mayoral and asked, how did all those MMC agree that this money be given to you? It is a salary review. I came to the City of Ekurhuleni quite senior, coming from the City of Johannesburg. I have implemented so many achievements that I have not put here, hence the promotion that I got.

I said earlier when I was in Johannesburg, I had  
10 three to four promotions. That is how hard I work. The legislation is very clear how you determine remuneration. Between COGTA and SALGA there is debates that are going on and this money was duly approved by mayoral to us.

I am grateful, evidence leader, that you are providing guidance in terms of how we manage these things, because I was going to discuss the matter of Xolani Nciza where when we looked at his document, he got a million rand that we do not know how he got it.

But I am not a controversial witness here. All I  
20 want is it must be understood a due process was followed. This process was approved by the, what do you call, by the mayoral committee. Thank you so much.

**ADV BALOYI SC:** Can I just clarify ...[incomplete].

**ADV KHUMALO SC:** I think, Ms Gxasheka, just to understand the allegation here, the mayoral committee had

a motivation and support from the City Manager and they see nothing wrong with it because on its face it looks fine. It is within the bounds that are set by the law. But the allegation was when you and Advocate Behari applied for these positions because you got them in 2023, the salary was advertised, so you knew what the salary was. And a few months later, you then make a motivation that you should be topped up by some R600,000.00.

And the allegation is that the City Manager supported that because that was a way of rewarding you for protecting her favourites. So I just wanted to give you that background and allow you to then respond freely to it. So it came in that context that yes, the prescripts allow that you can get to that point, but it would not otherwise have happened but for you and Behari supporting what the City Manager was doing and then she in return supported your motivation and when it got to Council, because they did not see anything wrong with it, it was not illegal, they then endorsed it. Do you get the picture?

20 **MS GXASHEKA**: I do get the picture. I want to add, Chair, through you, that Mr Nciza, who I was his senior from the beginning, by the time I was appointed to the HOD: HR, and he reported to me, if I can recall events, I think he was already on 2.2 million. And if you recall, when you go to the upper limits, minimum is 2,900. I am no longer

responsible for one division. I am responsible for five divisions with all the hurdles and challenges I have articulated here today. Yet, there is a junior employee that must be, what do you call, earn more than me. But it was never about Mr Nciza. It was about the upper limits and that needs to be clarified.

And the motivation, it came from me, and Advocate Kemi and it was approved by the remuneration committee and the mayoral committee. And as I say, I do not think Dr  
10 Mashazi was too keen on it. It is just that because it is within the law, he allowed it to go.

So there is no loyalty related here. It is based on our hard work, and it is based on the upper limits of total remuneration package, payable to the Municipal Manager, and the managers directly reporting to the municipal leadership, as you said, Chair. Thank you so much.

**ADV CHASKALSON SC:** Thank you. The last topic is the topic that you addressed from paragraph 42, sorry, page 42 to the end of the statement, which is the issue of the vetting  
20 of the members of the EMPD. And there, the original allegation is at page 43, paragraph 3.10, and the allegation is that:

“You unlawfully intervened in the criminal record vetting process of the EMPD as administered by

Commissioner Spies.”

That is the allegation. You respond to it from paragraph 42 and maybe you could take the Commission through your response. But before you do that, there is an error in the cross-reference in your statement. So where you, in paragraph 131, you refer to annexure LLG51. That is annexure LL, it should be annexure LLG50. And the page reference is, I think it will be file 6 of 6, page 2042. If you can just check that. Can you just check for me that I am  
10 right on that, that the document that you are referring to is the document at page 2042 in the last file, file 6 of 6.

**MS GXASHEKA:** Can you repeat your question?

**ADV CHASKALSON SC:** If you look at the statement, paragraph 131 says, the emails and legal opinion pertaining to the legal vetting process is attached under evidence C Annexure LLG51. And I understood that the opinion is LLG50.

**MS GXASHEKA:** Yes, the opinion is LLG50, correct.

**ADV CHASKALSON SC:** At page 2042.

20 **MS GXASHEKA:** Yes.

**ADV CHASKALSON SC:** So just after clarifying that, can you maybe take the Commission through your response to the broader allegation that you deal with from page 42 of your statement.

**MS GXASHEKA:** Thank you, Chair. Firstly, that particular

annexure is supposed to come with the emails. I will try and make the emails available tomorrow. I am sure maybe when we are transmitting, it could have notified this expression into these files. The reason I felt it is important that we talk to the emails, the emails sought to refute the statement by Chief that says we just said he must bring the files to HR of what they have done.

And number two, it wanted to demonstrate the conversations that went from us having a meeting to us  
10 agreeing that let us have a legal opinion. After a legal opinion, what transpired after that? And the most important email, we must get that email, is my last conversation on this issue. I think it could have been when Mr Mkhwanazi was acting, where I still wrote and said finalise this process.

Legal opinion was clear what needs to be transpired, HR assist, and we had conversations between the Chief of Police, Revo Spies, and Deputy Chief of Police, Mkhwanazi, whereby we are not agreeing firstly about the  
20 capacity, how do we deal with this.

In their deliberations themselves, the other one, Revo Spies, he says, I have done my own vetting, myself as independently. Here, get the proof. Nonetheless, it has expired. I need to go and do another one. I am busy doing it. Him alone.

The rest must be subjected to a collective process. It started there when they were starting to fight. Then they come and say, this one is updated, it is outdated, we must start a new process, and so forth, and so forth. Again, what is good for the geese it must good for the gander. In one instance, I am usurping powers. I am interfering. When it suits EMPD, they come and say, hey, this is problematic for us, HR run with it.

said to them, I do not have facilities. I do conduct  
10 vetting processes when an employee is being appointed. I advised them and said, before you can even vet people after they have been vetted, because when we do our initial vetting, you get a consent. There must be a consent from an employee. Have you done that? That is my advice in debating the meeting. Those that have reached a threshold in terms of years of criminal records, have you done expungement?

They developed a letter. The capacity to vet  
20 employees is done by EMPD. Go and use your own facilities. But what you do, this is the process you follow. Drafted the letter, okayed the letter, and I said, go and do this. The emails that I will demonstrate here tomorrow, I will submit tomorrow, they demonstrate that as late as last year, if it is not the other year, I followed it up that when are you doing this process?

This is the same EMPD, by the way, who cannot even do risk and security assessment to me. They are carrying firearms. I do not have a firearm. Not that I cannot do it. I can suspend. I can do anything in terms of my job. But all I am saying, let us be clear about roles. We share responsibilities and when it suits you, you want HR to do your work.

I guided them and said, I see the legal opinion, but I am encouraging you, go and do this process. And the best  
10 way of doing it is this way. Lastly, we even discussed how Tshwane has done it. Tshwane followed exactly, they confirmed, Revo Spies confirmed in the meeting that HOD, you are correct, Tshwane engaged the employees. There was a consent, and this process was done. Expungement was done where it was important.

I am glad that now the leaders ...[indistinct] leaders who are running the City, I can do it even myself, I am not scared of anything. I know that the process is underway. But tomorrow I must demonstrate that I did  
20 follow up and said, do this. Once you have done, concluded it, keep me and the City Manager posted. Have they ever done it? No. Did I not follow? I did. I will produce that evidence tomorrow. Thank you so much.

**ADV CHASKALSON SC:** Can I ask that through your attorneys, you email us that email overnight, or that email

changes so that we can work on it and we do not waste time tomorrow morning. Chair, that reaches the end of my process of taking Ms Gxasheka through her statement. There are a range of documents that we gave her legal team very late last night, in fact, after midnight, so early this morning.

Can I ask that we stand down now so that this time can be used for her and her legal team to look at the documents they received at short notice, and that we will  
10 pick up tomorrow morning then and start the intrusive questioning tomorrow morning.

**CHAIRPERSON:** Thank you, Mr Chaskalson. I see that my colleague, Commissioner Kumalo, wants to raise an issue, but perhaps before that, shall we resume at, and I am addressing this to you as well, Ms Magula, shall we resume at the usual time, 9.30 tomorrow? I think we should, because there is sure to be a lot of questions from all around.

**MS MAGULA:** No, it is fine. We can resume at the normal  
20 time.

**CHAIRPERSON:** At least, especially because we are breaking early today, so that should give you enough time to go through what Mr Chaskalson has just referred to.

**MS MAGULA:** Yes, Commissioner, I confirm that we will do our level best.

**CHAIRPERSON:** Thank you very much.

**ADV KHUMALO SC:** Thank you. Mr Chaskalson, there is just one issue. I think it is only fair that the witness be led in chief on it before they are probed, and it relates to Julius Mkhwanazi's promotion from Director of Special Services to Deputy Chief of Police and the role Mrs Gxasheka played in that and also in the top-up of his salary by some R200,000.00, because Dr Mashazi, when she gave evidence, said, well, that came from Mrs Gxasheka, so you  
10 must ask Mrs Gxasheka about that.

So I am not sure whether that should be dealt by way of this supplementary statement or if it is something she can address now and then she gets probed on it tomorrow.

**ADV CHASKALSON SC:** I think, in fairness, that is a choice for her legal representatives rather than for me. If it is something that would be more convenient to address in a statement, in a supplementary statement overnight and then we lead on it tomorrow morning, we can do that, but it is  
20 really, I think, their choice, not mine.

**MS MAGULA:** It will be addressed in our supplementary statement. Thank you, Commissioner.

**ADV CHASKALSON SC:** Thank you.

**CHAIRPERSON:** May I perhaps request the evidence leaders to assist in identifying the places where this is to be

found in the record?

**ADV CHASKALSON SC:** We will do that.

**CHAIRPERSON:** Thank you.

**ADV CHASKALSON SC:** We will do that.

**CHAIRPERSON:** [Indistinct]... [cross-talking].

**ADV CHASKALSON SC:** I see that you are looking firmly at Ms Pooe, for which I am grateful.

**CHAIRPERSON:** I see Ms Pooe does not even want to look at me. She is looking down. Thank you very much. Let us

10 adjourn and resume at 9:30 tomorrow morning.

**INQUIRY ADJOURNS TO 27 FEBRUARY 2026**

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