

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

HELD AT

BRIGITTE MABANDLA JUSTICE COLLEGE

15 APRIL 2026

DAY 90



PROCEEDINGS HELD ON 15 APRIL 2026

CHAIRPERSON: Good morning, Ms Sello.

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

CHAIRPERSON: Good morning, Commissioner Mkhwanazi.

ADV SELLO SC: Your mics.

COMMISSIONER MKHWANAZI: Good morning, Chair. Good morning, Commissioners.

CHAIRPERSON: Thank you.

10 **ADV SELLO SC:** Thank you, Chair. Before we start ...[intervenes].

CHAIRPERSON: Your earpieces today?

COMMISSIONER MKHWANAZI: Chair, they have put the speaker. They think it is going to assist me.

CHAIRPERSON: Closer, all right. Thank you.

COMMISSIONER MKHWANAZI: Thank you, Chair.

ADV SELLO SC: Thank you, Chair.

CHAIRPERSON: Yes. And is the speaker system working? Do you hear me better?

20 **COMMISSIONER MKHWANAZI:** Yes, for now it is ...[intervenes].

ADV SELLO SC: You are fine.

COMMISSIONER MKHWANAZI: Yes.

ADV SELLO SC: Okay, as you recall yesterday when we parted, we had just completed your supplementary

statement. Commissioners, as we had undertaken, we sought to address the challenge of the amended statement.

CHAIRPERSON: The cross-referencing in particular.

ADV SELLO SC: The cross-referencing in particular. And to that end, we provided you with an electronic copy of the amended statement, cross-referencing to the original annexures. I trust that will help. And to the extent that it creates other challenges, please bear with us. We will try and address them as we go along.

10 For the day, I do not anticipate that we will be ploughing into the amended statement. So the challenges should not arise. Unless, in response to a particular question, Mr Mkhwanazi requires us to have consideration to that amended statement, then we will. And I will try and do the cross-referencing as he testifies.

CHAIRPERSON: Thank you.

ADV SELLO SC: Thank you. Thank you, Chair. I saw Commissioner Khumalo's mic is on.

20 **CHAIRPERSON**: And what files should we have in front of us for now?

ADV SELLO SC: For now?

CHAIRPERSON: For now.

ADV SELLO SC: If you could have the exhibit file. That is the first. And the second ...[intervenes].

CHAIRPERSON: Besides referring to it as an exhibit file,

any other descriptor, perhaps?

ADV SELLO SC: For the file? It is the evidence leader's exhibit file.

CHAIRPERSON: Okay, okay.

ADV SELLO SC: It is titled Exhibit Bundle.

CHAIRPERSON: Yes.

ADV SELLO SC: Then if we could have close by, I guess for the morning, Magagula Annexures. So you can have the first bundle of the Magagula Annexures, which would be File
10 2 of 3. Later in the day, we will get to File 3 of 3. And just perhaps to your elbow, not too far, if we can have the Masuku Bundle? Those are the three that will take us to lunchtime.

CHAIRPERSON: All right. Maybe let me hold on to the first two.

ADV SELLO SC: For the first two, okay.

CHAIRPERSON: I will see about the other one later. Thank you.

ADV SELLO SC: Thank you. Commissioner Mkhwanazi,
20 they have assisted to locate the files that I was referencing, right?

COMMISSIONER MKHWANAZI: Okay.

ADV SELLO SC: Okay. And you recall that we look at the spine of the file to remind you which file we are talking about. Okay?

COMMISSIONER MKHWANAZI: Yes, yes, yes.

ADV SELLO SC: All right. You can pull the mics closer to you if it is more comfortable so that you do not have to lean forward each time you speak. Now, I would like to – let me remind you, you recall the last time you appeared before the Commission, you were led on one aspect by Advocate Motlhasedi and then you were dealing with the allegations by a witness who appeared before the commission who was given the number D, Witness D. Do you recall that
10 engagement?

COMMISSIONER MKHWANAZI: Yes, yes, Commissioner.

ADV SELLO SC: And due to time pressures, that discussion did not conclude and there have been other witnesses who have testified on the matter since, and this would be the IPID investigators. Ms Masuku testified particularly on this matter. I am just telling you.

COMMISSIONER MKHWANAZI: Yes.

ADV SELLO SC: So I would like us to pick up the conversation from that point. Okay?

20 **COMMISSIONER MKHWANAZI:** Okay.

ADV SELLO SC: So we will be dealing with the allegations made by Witness D concerning the eventual death of Mr Mbense and we try and determine your role in it, if any.

COMMISSIONER MKHWANAZI: Okay, yes, Chair.

ADV SELLO SC: Okay. Now, in trying to understand

police procedures, can we go to TLM1? That would be the Magagula Bundle 2 of 3. And I would like us to turn our attention to page 248 of that bundle. My mistake. That should read TLM2, not 1.

CHAIRPERSON: Page 2?

ADV SELLO SC: 248, Chair.

CHAIRPERSON: Thank you.

ADV SELLO SC: If you have located it, that, I understand, is an occurrence book entry.

10 **COMMISSIONER MKHWANAZI:** No, no.

ADV SELLO SC: 248.

COMMISSIONER MKHWANAZI: 248.

ADV SELLO SC: Not 248.1. 248. The document you have before you, Commissioner Mkhwanazi, does it look like what is currently on the screen?

COMMISSIONER MKHWANAZI: It is writing Wednesday, 2022-07-06.

20 **ADV SELLO SC:** Yes. That is correct. Now, I am saying we understood that this is a copy of the OB book, so it reflects the entries made in the OB on that specific date.

COMMISSIONER MKHWANAZI: Which OB?

ADV SELLO SC: Just an OB. This is the formal occurrence book issued by SAPS, that SAPS10.

COMMISSIONER MKHWANAZI: I get you. I get you.

ADV SELLO SC: Am I correct in my understanding?

COMMISSIONER MKHWANAZI: Yes, yes.

ADV SELLO SC: If you keep your finger there, I would ask you to go back to page 160. So I am going to deal with both documents.

COMMISSIONER MKHWANAZI: 160?

ADV SELLO SC: 160. Have you located it?

COMMISSIONER MKHWANAZI: Yes, yes.

ADV SELLO SC: I understand that is what the average SAP13 looks like. So this is the document that is completed
10 when goods or evidence is handed into the SAPS. Am I correct?

CHAIRPERSON: I think they call it the exhibit register or something like that.

COMMISSIONER MKHWANAZI: It is SAP14. Yes.

ADV SELLO SC: SAP14?

COMMISSIONER MKHWANAZI: Yes.

ADV SELLO SC: Oh, thanks for the correction. Now, if you look at 160, the first entry, it refers to ...[intervenes].

CHAIRPERSON: I seem to recall that the exhibit register
20 is SAP13, 1-3.

COMMISSIONER MKHWANAZI: No, you are correct. It is SAP13 and 14.

CHAIRPERSON: Okay.

COMMISSIONER MKHWANAZI: Yes.

CHAIRPERSON: Okay.

COMMISSIONER MKHWANAZI: The other one is where you book a person inside. The other one, that is where you keep evidence and whatever.

CHAIRPERSON: Okay, all right, all right, all right. Thank you, Commissioner.

ADV SELLO SC: Thank you. So if we start at 160, I see that it references case number 692, Benoni. And I think you are aware of this case. I think it is referred to as the smoking. It is a case where members of the EMPD
10 confiscated cigarettes from a shop owner, and this was on the 6th of July 2022 and those officers were Kecia Lee Stolls, Adrian McKenzie, and I think, is it Constable Twala? You are aware of that case?

COMMISSIONER MKHWANAZI: Yes, I became aware when there was a complaint. I think it was after six months or nine months when IPID came to me that there was this case that happened as a complaint that came to us.

ADV SELLO SC: Yes. So I just wanted to understand that you recall the case and then we confirm that what we have
20 at 160 is the SAP13 completed in respect of the cigarettes that were confiscated. You see in the description there, or the second, third column, it reads for 3.1, in respect of item 3.1. And 3.1 requires a detailed description of exhibits property. And what is listed there is box with mix of Sharp 777 Mega, another entry F1, and Malimbo. You see where,

what it reads? It is about the cigarettes being registered.

COMMISSIONER MKHWANAZI: Yes, this F1 and Malimbo, it is cigarettes.

ADV SELLO SC: I beg yours?

COMMISSIONER MKHWANAZI: This F, I know Sharp, but I do not know Mega and F1. But you say it is cigarettes according to IPID.

ADV SELLO SC: Yes. So this SAP13 tells us that those cigarettes that were confiscated at that store are then
10 entered into the SAP13. And if you go to the next column, it lists there 4.1 Constable Bafana, EMPD TMU.

COMMISSIONER MKHWANAZI: It is page 161?

ADV SELLO SC: 160. We are still on the same page.

COMMISSIONER MKHWANAZI: The next column?

ADV SELLO SC: The next column, yes.

COMMISSIONER MKHWANAZI: Yes, yes, yes.

ADV SELLO SC: You see there written by hand, Bafana Constable EMPD TMU, and the item 4.1. And that is described as a name and address of finder. Do you see
20 that?

COMMISSIONER MKHWANAZI: It is...

ADV SELLO SC: If you look before the name Bafana Constable there is a number 4.1. And below that, there will be 4.2, 4.3.

CHAIRPERSON: Which column?

ADV SELLO SC: The fourth column. Remember, the first column is the date and the case number.

COMMISSIONER MKHWANAZI: Case 1907. Yes, I see that. Then captured by – it is OB number 46.

ADV SELLO SC: Which page are you at?

COMMISSIONER MKHWANAZI: 160. The fourth column. Yes, I can see.

ADV SELLO SC: Okay. So then in the fourth column, you see the first entry reads 4.1. So item 4.1, Bafana
10 Constable EMPD TMU. And if you look above that, the typed description that says 4.1 must indicate the name, address, and address of finder. You see that?

COMMISSIONER MKHWANAZI: Yes.

ADV SELLO SC: So this is as we understand how an SAP13 is completed. So the finder being the police person who, in this case, confiscated the cigarettes, would take them to the police station and complete or have completed this entry, identifying the goods that were seized and indicating who booked them in. Is that your understanding
20 of how it works?

COMMISSIONER MKHWANAZI: It is an SAPS14. That is what I see. It is an SAPS document. It is not our document. But it is mentioned. When you read 4.1, it says how it must be filled. I will follow that.

ADV SELLO SC: And in this instance, 4.1 is the name and

person of finder. It reflects Constable Bafana EMPD TMU.
Right?

COMMISSIONER MKHWANAZI: Yes. You are correct.

ADV SELLO SC: So yes, the document is a SAPS document, but it must be completed when the goods are handed in at the police station.

COMMISSIONER MKHWANAZI: Ja.

ADV SELLO SC: And in this instance, they were handed in by Constable Bafana.

10 **COMMISSIONER MKHWANAZI:** You are correct.

ADV SELLO SC: And he completed this, right? Now, if you then go to 248 ...[intervenes].

CHAIRPERSON: Sorry, Ms Sello. And Bafana is the first name, right? The surname is Twala. Is that not so?

COMMISSIONER MKHWANAZI: Yes. It is the officer that I forgot his name yesterday. You are correct.

CHAIRPERSON: All right, thank you.

ADV SELLO SC: Thank you, Chair. Also, he called himself Bafana Constable. It ought to have read Twala Constable,
20 but it does indicate that he is from the EMPD. And you confirmed that is the same person. So then if you go to page 248, which is where we started...

COMMISSIONER MKHWANAZI: But when you complete this document, you complete it with an SAPS member with you.

ADV SELLO SC: Yes.

COMMISSIONER MKHWANAZI: Okay.

ADV SELLO SC: Sorry, before you turn to 248. Sorry, before you turn to 248, please complete that sort. You are saying before – you say you complete this document?

COMMISSIONER MKHWANAZI: Usually, when EMPD members or other security companies are completing, they are completing it assisted by SAPS.

ADV SELLO SC: Yes.

10 **COMMISSIONER MKHWANAZI:** Because remember, in our college, we are not trained to. It is an SAPS documents. But as an arresting officer, you must book whatever evidence that you are giving too, but when you are giving that same – sorry, when you are bringing in the evidence, the person who is with you, because they receive SAPS, they must also count with you whatever they are putting so that they can sign.

ADV SELLO SC: I agree with that. That is how we understood the process to work as well.

20 **COMMISSIONER MKHWANAZI:** Okay.

ADV SELLO SC: And I do confirm that that is an SAPS document. So then we go to 248. You remember the OB entry? And the second entry there, number 460. The first is 459. I think I just scribbled, reported. The next entry, 460 at 1410.

COMMISSIONER MKHWANAZI: Sorry, Commissioner.

ADV SELLO SC: Yes?

COMMISSIONER MKHWANAZI: That is why I was asking, whose OB is this? Because I see it is having SAPS members here.

ADV SELLO SC: It is not the EMPD OB.

COMMISSIONER MKHWANAZI: Okay. No, no, I get you.

ADV SELLO SC: You remember ...[intervenes].

COMMISSIONER MKHWANAZI: I was confused.

10 **ADV SELLO SC:** Okay, let me start. We said this case, you said you are aware of the case where EMPD members confiscated cigarettes from a store. You are aware of that case?

COMMISSIONER MKHWANAZI: Yes, SAPS confronted me with this.

ADV SELLO SC: Yes. So the two documents we are looking at are SAPS documents where when the evidence, the confiscated goods were submitted to SAPS as evidence.

COMMISSIONER MKHWANAZI: Okay.

20 **ADV SELLO SC:** That is all that these documents reflect.

CHAIRPERSON: And if you look just above the 248, the red 248, you will see it says SAPS10. So it is indeed a SAPS document. Far right hand.

ADV SELLO SC: Top.

CHAIRPERSON: SAPS10.

COMMISSIONER MKHWANAZI: No, no, I saw it. In fact, we are using the same documents. As I have said, we do not have SAP14. We go to SAPS and ask because we do not have the system. We are using the same. That is why I was asking because the names that I see, and I see it is for the names of people that are in SAPS. That is why I wanted to be sure that is it an EMPD, and if it is an EMPD, why it is in SAPS. But thank you. Thank you, Commissioners.

ADV SELLO SC: Thank you. Thank you, Chair. Thank
10 you, Commissioner Mkhwanazi. So then at item 460, which is the second entry at that 248, it reads found property.

COMMISSIONER MKHWANAZI: 4?

ADV SELLO SC: 248.

COMMISSIONER MKHWANAZI: 248, yes.

ADV SELLO SC: First column, you see, it lists the serial number 459, 460, and it goes on. Do you see that?

COMMISSIONER MKHWANAZI: Yes, Constable Bafana, by Constable Bafana, EMPD handed in. Yes, I cannot read.

ADV SELLO SC: Boxes.

20 **COMMISSIONER MKHWANAZI**: Boxes or cigarette mix. Okay. It is SAP13/692. Yes, yes, yes.

ADV SELLO SC: All right. So now these two documents we know that, or from these two documents, we know that they confiscated these cigarettes. They handed them into the police station. The OB entry is there, and in fact, that

OB entry confirms that it is a mix of cigarettes, and it references the SAP13 number.

COMMISSIONER MKHWANAZI: Okay.

ADV SELLO SC: Okay. So now with that understanding, you know Jaco Hanekom?

COMMISSIONER MKHWANAZI: Yes, yes, yes.

ADV SELLO SC: He is late. We understand that. But can you explain to the Commissioners who Jaco Hanekom was and what relationship, if any, you had with him?

10 **COMMISSIONER MKHWANAZI**: Jaco was introduced to me by our officers. He is an informer. He works with different police and security agencies. But my relationship with him became closer, closer, closer, closer, closer, because of the information and working with different. He will be able to introduce you to some of the units in the province that are skilled in terms of different, that are specialising in different fields.

When we worked, there is a time where we even tried to do business with him because he was not employed.

20 He depended on us donating monies or, I do not know, maybe he was getting paid. Those informers, SAPS is paying informers. With us, it is just we are volunteering, you see. Where we were selling, we wanted to sell cars, me and him.

In fact, he was selling cars, you see, but his

business was very slow on the sidelines. He approached me and said, no, no, no, I was selling clothes, but due to COVID. What is that? I call it COVID, yes. I am no longer going outside the country because China and other areas, you see.

Then we agreed that I am going to give him money, then at least we will try to – he was buying cars through Facebook. He was very good at cars. Then we repainted, put fresh rims, packed tyres, and they were selling very
10 fast. Then I invested something like R100 000 to him. I gave the money that I had from selling clothes. I waited for COVID to end so that I go back when I was still this junior officer to sustain myself and my family.

But along those lines, he disappeared immediately after giving me money for a week or two. But now I was very close to his family. He had two kids and a wife. He used to come to my family. Then I approached the wife. The wife said to me, you know, *Unduna*, I forgot to tell you
20 a business, you want to create, you want to pay, that is what he was doing, very slow. But because of addiction, he could not push. I said, no, no, no, no, no. What is going on?

CHAIRPERSON: No, I am just thinking, perhaps you do not need to give us that much detail. It is more about did

you know him? How did you know him?

COMMISSIONER MKHWANAZI: Yes, I knew him.

CHAIRPERSON: We became business associates. I think that is enough.

COMMISSIONER MKHWANAZI: Yes, Chair. But he continued to give all the units and work with other people in terms of information.

CHAIRPERSON: And also that he was an informer or informant.

10 **ADV SELLO SC:** An informer.

CHAIRPERSON: That should be enough, ja.

COMMISSIONER MKHWANAZI: I did not hear the last word, Chair.

CHAIRPERSON: I was saying that he was an informer or informant.

COMMISSIONER MKHWANAZI: Yes.

CHAIRPERSON: I think that sums it up.

COMMISSIONER MKHWANAZI: Yes.

ADV SELLO SC: Indeed.

20 **CHAIRPERSON:** Yes, Ms Sello.

ADV SELLO SC: Thank you. So you referred to him as an informer and I take it that he provided information relevant to the EMPD and so far as crime prevention is concerned. Would I be correct?

COMMISSIONER MKHWANAZI: Yes, Commissioner.

ADV SELLO SC: Was he involved in, or did he own a private security firm or was he in any way associated with such a firm? And if so, what company was that?

COMMISSIONER MKHWANAZI: I will not know, but he was working with different companies. Every time when we meet him, he will come with companies or different people who are in security. I am not sure what type of company or which company did he work with.

ADV SELLO SC: Okay.

10 **COMMISSIONER MKHWANAZI:** But I know that he was very busy in the security industry. Very, very busy in the security industry.

ADV SELLO SC: So as you knew him, did he have powers of arrest? Could he arrest people? Could he confiscate any illicit goods found and cause them to be entered into the SAP13 or the OB as we have just gone through it?

COMMISSIONER MKHWANAZI: Yes, I cannot answer that.

ADV SELLO SC: As you know, knowing his role, would you consider him to have been legally authorised to do so?

20 **COMMISSIONER MKHWANAZI:** I know ...[intervenes].

ADV SELLO SC: You are a Commissioner. You are a senior member of the EMPD. And what I am trying to do is try to understand whether Mr Hanekom was like me. I think you will accept that I possibly do not have powers of arrest and I cannot go be confiscating goods on behalf of any unit

within the police. So I want to know whether you understood him to be in the same position as I or any ...[indistinct], a civilian, or did he occupy any preferential position that gave him powers that the rest of us did not have?

COMMISSIONER MKHWANAZI: No, he worked with officers, SAPS and EMPD. When they confiscate or comes with information, he will work with them. But I have never been in the place where he writes an OP because I am not
10 part of those operations where I write an OP. I was never in that space with him.

ADV SELLO SC: Okay. I accept you worked with him, but then I will be correct to conclude that you did not understand that he had certain powers and authority to confiscate illegal goods if located.

COMMISSIONER MKHWANAZI: Yes, let me say so.

ADV SELLO SC: Okay. Now, insofar as the unfortunate death of Mr Mbense which you dealt with, with Advocate Motlhasedi last year, you filed a statement. You were
20 requested and you did file a witness statement.

COMMISSIONER MKHWANAZI: Yes, yes.

ADV SELLO SC: Okay. Now, I would like us to look at that witness statement then so I can obtain clarity. For that purpose, I would like us to go to the Exhibit Bundle. And your statement in the Exhibit Bundle is Annexure CJC151,

and that should start at page – 151 should start at page 77. Commissioners, this was just for convenience we extracted. You may scribble on that that this is Masuku Annexure NMP5(v). We just extracted it from Ms Masuku's file for convenience. Are we at page ...[intervenes].

ADV BALOYI SC: NMP?

ADV SELLO SC: NMP5, in parenthesis (v).

ADV BALOYI SC: Thank you.

ADV SELLO SC: It starts at page 77 and it is preceded by
10 the usual, I think, warning statement and a form setting out
procedural aspects. But your actual statement is to be
found at page 92.

COMMISSIONER MKHWANAZI: Yes.

ADV SELLO SC: And at page 93, there is a signature at
the bottom there. You confirm that is your signature.

COMMISSIONER MKHWANAZI: Yes, yes, yes, yes. In
fact, that is my statement.

ADV SELLO SC: And you confirm that this is your
statement.

20 **COMMISSIONER MKHWANAZI:** This is my handwriting,
yes.

ADV SELLO SC: It is not a long statement. And I propose
that perhaps I read the aspects that are relevant for my
purposes. I will skip the first paragraph because that is the
paragraph that deals with your position, your name, and

your other personal details. I then move to the second paragraph, starting with the words, early last year, right? You see where I am reading?

COMMISSIONER MKHWANAZI: Yes, yes.

ADV SELLO SC: Okay. Then it reads:

10 “Early last year, I was woken up by Mr
 Jaco around 2AM in the morning telling
 me to come and see the success of the
 truck that was recovered in Brakpan or
 Springs area. I woke up and drove to the
 area next to informal settlement. He was
 directing me because I was getting lost,
 but I arrived.”

Just a few questions for clarification. The Mr Jaco you referred to there is Jaco Hanekom?

COMMISSIONER MKHWANAZI: Hanekom, yes. Yes, Chair.

ADV SELLO SC: Then you continue on your next paragraph:

20 “On my arrival, I found many vehicles
 marked and unmarked, including those of
 private individuals like his, which was
 red, parked next to the house. He
 collected me from the vehicle to the
 house yard next to the gate where he

showed me the white truck with canopy, which was opened in one side but dark inside. One could not see what was inside the truck as he was pointing at it. He told me everything was sorted and managed.”

The next paragraph:

10 “I got frustrated and called him aside because we were standing next to plus minus nine white males next to the gate. I must mention I shouted at him for waking me up for other law enforcement operation which was not EMPD, and to tell me everything was sorted. We stood outside the gate for minutes, then I started to move towards my vehicle, but I suspected that they wanted to take stuff from the truck. I drove towards the next street where he noticed that I am still
20 there parked. He came with his...”

I think it is big car:

“...and informed me that everything is in order. I then left because I was working the same day.”

And then it is signed. Now, as you have testified, you were

called by Mr Hanekom around 2AM in the morning, telling you to come see the success of the truck that was recovered in Brakpan. Recovered by who?

COMMISSIONER MKHWANAZI: Sorry?

ADV SELLO SC: Who had recovered the truck?

COMMISSIONER MKHWANAZI: I was not there. The only time I became aware, it was the early hours when I was there. What happened before that, I was not there.

ADV SELLO SC: No, you say here he called you to come
10 and see the success of the truck that was recovered, and my question is, the truck referenced here was recovered by who?

COMMISSIONER MKHWANAZI: He told me, but I do not know who recovered the truck.

ADV SELLO SC: Okay.

COMMISSIONER MKHWANAZI: Yes, Commissioner.

ADV SELLO SC: You then said you went to the place you met up with him, and overleaf you say:

20 "I shouted at him for waking me up for other law enforcement operation which was not EMPD."

COMMISSIONER MKHWANAZI: Yes, yes.

ADV SELLO SC: That is what you write.

COMMISSIONER MKHWANAZI: Yes, yes.

ADV SELLO SC: Which law enforcement entity dealt with

this?

COMMISSIONER MKHWANAZI: Yes, when I was there, there was SAPS, there was security company, SAPS EMPD security companies.

ADV SELLO SC: SAPS?

COMMISSIONER MKHWANAZI: Yes, SAPS, let me say so. Law enforcement agencies, it is SAPS.

ADV SELLO SC: Okay.

COMMISSIONER MKHWANAZI: Yes.

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

CHAIRPERSON: I think you counted EMPD as well?

COMMISSIONER MKHWANAZI: Yes, yes, I counted, and security companies because there were many marked vehicles of different security companies.

CHAIRPERSON: Why do you not say it was not an EMPD operation if EMPD were there?

COMMISSIONER MKHWANAZI: Commissioner, every time when there is SAPS, SAPS supersedes our – it is like that, when they are there, they supersedes ours. We become,
20 even if I can be a senior, but when SAPS, for example, when they are doing crowd management, they may have a junior officer, but that officer will be a commander, I must liaise with him.

CHAIRPERSON: But surely that cannot suggest that EMPD is not part of the operation just because SAPS will be

running the operation. It does not mean that EMPD is not part of the operation.

COMMISSIONER MKHWANAZI: You are correct, that is why I mentioned it.

CHAIRPERSON: So why would you say that it is not an EMPD operation?

COMMISSIONER MKHWANAZI: No, there is no member of EMPD call me or inform me that there is going to be such an operation.

10 **CHAIRPERSON**: Must you be told of all operations?

COMMISSIONER MKHWANAZI: Sorry?

CHAIRPERSON: You get told of all operations?

COMMISSIONER MKHWANAZI: Not all, but sometimes they inform me, most of the times.

CHAIRPERSON: So that cannot be an answer then, if they do not tell you about all, it cannot be an answer to say that you have not been told about this one.

COMMISSIONER MKHWANAZI: I take it, Commissioner.

CHAIRPERSON: Thank you.

20 **ADV SELLO SC**: Thank you, Chair. So, and I guess my question, my next question you have answered based on the Chair's question, you were not aware of the EMPD involvement in this particular operation?

COMMISSIONER MKHWANAZI: Yes, yes.

ADV SELLO SC: So you responded at 2AM to a call by an

informer regarding a truck that he had recovered?

COMMISSIONER MKHWANAZI: Yes, yes.

ADV SELLO SC: Why?

COMMISSIONER MKHWANAZI: Jaco will call you at any time, you see, with the positive information. Jaco used to have – when I say used to, but I will say that, used to have information that are correct, good, exactly, and you will get success out of those operations, of those information that was given.

10 That is why most of police officers or police agencies wanted to work with him, you see. I do not know which skill he, or what skill he was having to get this information, but most of the successes, when you work with him, you will get successes, you see. And that is how I could not, but it was after many calls, because I was fast asleep, you see.

 But when he said, no, not a success, I did know that. When you go to Jaco, you will get something, you see. Then even if you arrive there, you see, you will be
20 able to wake up, and wake up, maybe I wake up or what-what because there is a success, you see.

 And he mentioned that, no, no, it is our success. It is not what-what success, like the one that we got now, it was our success. I was happy that I am going to wake up. I think it was a Monday or a Tuesday, you know, let me not

mistake, but I will wake up on that day with a good success.

ADV SELLO SC: And what were you to do with that success at 2AM in the morning? Were you going to collect the goods?

COMMISSIONER MKHWANAZI: No, the goods were not collected. They were ...[intervenes].

ADV SELLO SC: What were you intending to do by waking up to go there?

COMMISSIONER MKHWANAZI: No, you wake up, our team
10 of ...[indistinct] wake up our teams to come, and this is a success. And I am a person who send information to my seniors at 1 AM, 2AM, that we have got this good success, good success. You know, that time we met a director, we had about either six, seven directors. We always compete, one, two, outsmart each other, you see. But I know that every time when I give, I was the one that was leading in terms of this information.

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

COMMISSIONER MKHWANAZI: Because I would sleep,
20 even if it is not – it is about success, Commissioner. I like to put crowd management. They know that when the politician will call, or any member of public, if I can wake up, I will wake up, members will find me there. You know, there is this situation.

Sometimes they will find me engaging the

protesters, if it is a spontaneous gathering or protest that, no, spontaneous, most of the protests, they do not apply. They wake up raising their grievances. I will jump and, you see. Then it will be me informing the City or informing EMPD managers, informing the local precinct, informing, as the first responder came, I am trained in crowd management, you see. Informing other security agencies that there is this, we need to assist them there and there. Thank you.

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

ADV BALOYI SC: Can I just?

ADV SELLO SC: Yes, please.

ADV BALOYI SC: When Jaco says to you, our success, the our in that statement, who did you understand him to be referring to when he says our?

COMMISSIONER MKHWANAZI: You know, to be honest, Commissioner, I did not even analyse. I just jumped and say I am going to see that success.

ADV BALOYI SC: So you did not know whether this has
20 anything to do with EMPD?

COMMISSIONER MKHWANAZI: No, no.

ADV BALOYI SC: Because he is not a member of the EMPD.

COMMISSIONER MKHWANAZI: Yes.

ADV BALOYI SC: So when he says our, who do you think

he is talking about at that time?

COMMISSIONER MKHWANAZI: [Indistinct] ...[intervenes].

ADV BALOYI SC: You must have thought something.

COMMISSIONER MKHWANAZI: Maybe his team or us, me and the people that he is working with. But to be honest, I did not think about that.

ADV BALOYI SC: So you went even though you did not think that the EMPD is involved with this?

COMMISSIONER MKHWANAZI: When I started, I did not
10 think about that. I just woke up and said, let me rush.

ADV BALOYI SC: Thank you.

ADV SELLO SC: Thank you, Commissioner. Now, at the moment, you woke up and rushed to go see this, quote unquote, our success, did you expect that that success will find its way into some OB and a record or an SAP13? You must have expected that it will be handed over.

COMMISSIONER MKHWANAZI: Yes, that is what I said when I arrived, the first thing I thought of was waking up members. Waking up members.

20 **ADV SELLO SC**: So if you had expected the evidence to be tendered to some police station, I guess, in the area, why did you not wait for that process to complete and you will see the success at the police station?

COMMISSIONER MKHWANAZI: I am lost. Wait for it whilst I am sleeping or wait for it when I am there? Please

clarify.

ADV SELLO SC: I guess wait for it. I am trying to understand what drove you to wake up at 2 in the morning. What value did you intend to add to what was happening at 2 in the morning on that site based on Jaco's phone call? If it was a successful mission and they had recovered some stolen property, that property, based on my understanding from my engagement with you earlier, would find its way into the SAP13 record and would be recorded in the OB
10 book of the relevant police station.

COMMISSIONER MKHWANAZI: Yes.

ADV SELLO SC: So I am saying if that evidence, the success, will find its way, you know for a fact, into an SAP13 record, why was it necessary for you to wake up at 2 o'clock in the morning? And you do say at the end of your statement you were going – you were working the same day. Why wake up at 2 in the morning to go ...[intervenes].

CHAIRPERSON: Crucially, crucially to add to the question, you have just said in response to Commissioner Baloyi you
20 did not even know whose operation this was. So why wake up at 2AM?

ADV SELLO SC: Yes.

CHAIRPERSON: As Ms Sello is asking.

COMMISSIONER MKHWANAZI: Thank you, Commissioners. As I have said that Jaco will give you a

success. Immediately when I was there or when I arrived, I will call the EMPD members. I will determine which unit that I can get that will take over from Jaco. Because you can take over, it is a process. You take over an operation or you take over a scene or you take over that exhibit or that success and you book it. In your statement, you mentioned that I got this from this member at this time. As an EMPD, it is success, not to book it. It is allowed ...[intervenes].

10 **ADV SELLO SC:** Okay, but we know ...[intervenes].

COMMISSIONER MKHWANAZI: In the court of law, they put it in the court roll.

ADV SELLO SC: But we know ...[intervenes].

COMMISSIONER MKHWANAZI: It has happened many times.

ADV SELLO SC: Yes. We know in this instance that did not happen, at least as far as your statement is concerned.

COMMISSIONER MKHWANAZI: Yes, you are correct.

ADV SELLO SC: The EMPD did not take it over.

20 **COMMISSIONER MKHWANAZI:** Yes, you are correct.

ADV SELLO SC: So it gets back to the question, why did you go?

COMMISSIONER MKHWANAZI: No, I did not know that there were SAPS members. As I have said that I wanted it to be a success, that is why I woke up. And it is not for the

first time, as I have said that, to wake up when I am called by Jaco. I woke up, I cannot count, you see. Not even Jaco, informants. We have got different informants that will call you. You woke up during the day or at night.

ADV SELLO SC: Okay.

COMMISSIONER MKHWANAZI: Sometimes we are called by members who are with the informant too.

ADV SELLO SC: No, I am more interested in those who are not EMPD members, those who are not police officers.

10 **COMMISSIONER MKHWANAZI:** Yes, yes, yes.

ADV SELLO SC: That they have the power to wake you up to come see a success.

COMMISSIONER MKHWANAZI: Yes.

ADV SELLO SC: That does not find its way into any police record. The success is not recorded in any police record thereafter. And you find that normal? You do it often, as you say. You go just to see.

COMMISSIONER MKHWANAZI: I am lost.

ADV SELLO SC: Let us, we can leave that.

20 **CHAIRPERSON:** You are called, you are told about success. You do not ask whose success. You do not ask whose operation. You do not ask who is there. You just up and go. Do you want us to believe that?

COMMISSIONER MKHWANAZI: I did that many times, Commissioner. I will not lie to you.

CHAIRPERSON: You just up and go?

COMMISSIONER MKHWANAZI: Yes, yes. Different
...[intervenes].

CHAIRPERSON: No facts. It could have turned out to be nothing. It could have turned out to be a damp squib. You just up and go at 2AM. And you want us to believe that.

COMMISSIONER MKHWANAZI: And you are correct, and it has happened. When you go there, find out it is not information. It is the thing that does not even need you to
10 ...[intervenes].

CHAIRPERSON: It turns out that it has happened that it would turn out to be nothing at all.

COMMISSIONER MKHWANAZI: You are correct.

CHAIRPERSON: But you continue doing this. And to the extent of even doing it at 2AM, you just do it.

COMMISSIONER MKHWANAZI: As I have said
...[intervenes].

CHAIRPERSON: As I have said And you want us to believe that that is how you operate.

20 **COMMISSIONER MKHWANAZI**: As I have said, that with Jaco most of the time, you will get success, Commissioner. With Jaco most of the time, I repeat, you will get success.

CHAIRPERSON: The operative word being most of the time, meaning even with him, there could be nothing.

COMMISSIONER MKHWANAZI: It depends.

CHAIRPERSON: But still, 2AM, none of the questions that I raised when I started engaging you now, none of those questions are answered. And at 2AM, you just up and go.

COMMISSIONER MKHWANAZI: And it is not for the first time. I agree with you. I woke up.

CHAIRPERSON: And you want us to believe that?

COMMISSIONER MKHWANAZI: I did, Commissioner.

CHAIRPERSON: Thank you.

ADV SELLO SC: Thank you, Chair.

10 **ADV BALOYI SC**: Can I just?

ADV SELLO SC: Yes, Commissioner.

ADV BALOYI SC: Before you go to another question. So you arrived at this scene. You see a truck, you say, open on the one side. The canopy open on one side. And then you say, you then drove out. You moved towards my vehicle. He moved towards your vehicle, but I suspect that they wanted to take stuff from the truck. You remember that is what you were saying?

COMMISSIONER MKHWANAZI: Yes, yes, yes.

20 **ADV BALOYI SC**: So on your own account, you get called to a scene by a civilian where there is an incident. You attend. You arrive at the scene. You say you suspect. Then you move off to the one side because you suspect that they wanted to take stuff from the truck, and you do not record. You do not prepare a record whatsoever of your

having attended a scene, what you have seen, and whatever suspicion you may have had. How does it happen?

COMMISSIONER MKHWANAZI: Commissioners, I have said that I woke up and rushed there. When I was there, I found different law enforcement agencies.

ADV BALOYI SC: But you did attend a scene. You went there not in your private capacity, Commissioner Mkhwanazi. You went there as a director in the EMPD. That is the capacity in which you attended a scene. You
10 make certain observations there.

You say there are other law enforcement people. You see a vehicle. It is in somebody's property. You suspect that the people that are there want to take stuff from the vehicle. And the following morning, when you get to the office, you do not record any of that stuff at all. It is never known that Brigadier Mkhwanazi or Director Mkhwanazi was at that scene because you do not prepare any document whatsoever about your attendance.

COMMISSIONER MKHWANAZI: Chair, as I have said,
20 there were SAPS. I cannot take over a scene from SAPS. I decided to leave everything to them.

ADV BALOYI SC: I am not saying you should have taken over the scene. I am saying you are at a place where you have been called. It is our success. So your informant tells you this is our operation. And in fact, I think you said to the

Chair earlier the EMPD was also there when you got there. So your people are there as well. However they got there, which is a conversation that will still be had. But your people are there. You got there. You leave the scene having observed what you observed, where your informant told you this is our operation, it is our success.

You leave the scene. The following day you file no document whatsoever. There is no record from Brigadier Mkhwanazi who woke up at 2 in the morning to attend to a
10 scene. That cannot be normal. Something is wrong with those facts. Something is seriously wrong with those facts.

COMMISSIONER MKHWANAZI: Chair, I think last time I mentioned that what got me angry is that when I communicated a few minutes. Who is this operation? Who is it for? And when did it start? Immediately he said yesterday at 8 or 9. It made me worse. I said no, do not call me for such things. In fact, I spoke many things. I was very angry. When you are done doing your things, that is when you start calling me. I was so disappointed at him.

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

ADV SELLO SC: Thank you ...[intervenes].

CHAIRPERSON: I am very sorry, I am very sorry. Who is the they that you are referring to? You suspected that they wanted to take staff out of the truck. Who are they?

COMMISSIONER MKHWANAZI: There were a lot of people

there and he could not give me clarity.

CHAIRPERSON: So according to you, it could have been the SABS members, it could have been the EMPD members, it could have been the private individuals like Jaco who were there?

COMMISSIONER MKHWANAZI: Yes, yes, Chair. But in fact, it is him again who did not give me a tangible thing, you see.

CHAIRPERSON: No, no, this has nothing to do with the
10 tangible thing that you were given or not given now. It is about the people you suspected might take goods out of the truck.

COMMISSIONER MKHWANAZI: You are correct, Chair.

CHAIRPERSON: So it could have been anyone of the many people gathered there.

COMMISSIONER MKHWANAZI: Yes, Chair. Yes, Chair.

CHAIRPERSON: And you just left the scene?

COMMISSIONER MKHWANAZI: Yes, Chair.

ADV SELLO SC: Thank you, Chair. It is constable, right,
20 Kecia Lee Stolls. What is her proper title?

COMMISSIONER MKHWANAZI: You called her correctly.

ADV SELLO SC: Constable?

COMMISSIONER MKHWANAZI: Yes, yes.

ADV SELLO SC: Okay. Now, constable Stolls was part of the Specialised Services Unit that you commandeered,

correct?

COMMISSIONER MKHWANAZI: Yes, yes, yes.

ADV SELLO SC: So would she be correct or would it be correct to refer to you as her commander? Or is there somebody else who would be her commander?

COMMISSIONER MKHWANAZI: It is just that I am missing the correct date where their commander resigned. You see, as I have said, they were having a commander, he resigned. You see, I do not have a specific date.

10 **ADV SELLO SC:** That is fine.

COMMISSIONER MKHWANAZI: Yes.

ADV SELLO SC: So that commander reported to you?

COMMISSIONER MKHWANAZI: Yes, yes.

ADV SELLO SC: Okay.

COMMISSIONER MKHWANAZI: I was their director. I was their director.

ADV SELLO SC: So she did not report directly to you?

20 **COMMISSIONER MKHWANAZI:** They reported after the commander resigned. In that time we did not replace because ...[intervenes].

ADV SELLO SC: Who was that commander?

COMMISSIONER MKHWANAZI: It is – I will tell you now. The name is Robert Schultz. Robert Schultz. It is S-c-h-u-l-t-z, the surname.

ADV SELLO SC: So then, you said that no EMPD member

had told you about this operation?

COMMISSIONER MKHWANAZI: No, no, no.

ADV SELLO SC: Okay. If we could turn then to Masuku Bundle. Masuku Annexure Bundle.

COMMISSIONER MKHWANAZI: Is it the same bundle?

CHAIRPERSON: Are you going to deal with someone else now?

ADV SELLO SC: Chair?

CHAIRPERSON: Are you going to deal with someone else
10 now?

ADV SELLO SC: No, no. Still on this issue.

CHAIRPERSON: All right.

ADV SELLO SC: Just that the documents unfortunately are
in different places.

CHAIRPERSON: Okay. May I just ask this? I hope you
are not going to go to it. I hope I will not be disrupting you.

ADV SELLO SC: Which is?

CHAIRPERSON: It is about what happened between early
2022 because in the second paragraph of Commissioner
20 Mkhwanazi's statements, he says early last year and he
makes his statement in 2023. So I just want to have an
...[intervenes].

ADV SELLO SC: And we deal with that ...[intervenes].

CHAIRPERSON: An idea of what happened between early
2022 and him ...[intervenes].

ADV SELLO SC: I suggest ...[intervenes].

CHAIRPERSON: Maybe let me leave ...[intervenes].

ADV SELLO SC: Ja, we deal with it first because the issue I want to raise and this other annexure can be slotted in anyway.

CHAIRPERSON: Thank you.

ADV SELLO SC: So please go ahead, Chair.

CHAIRPERSON: Thank you, thank you. Commissioner, after you left the scene in early 2022. It was 2022, right?

10 **CHAIRPERSON:** Because you made your statement in 2023 and you say early last year.

COMMISSIONER MKHWANAZI: Yes.

CHAIRPERSON: You made your statement in 2023 and you say early last year, which is early 2022.

COMMISSIONER MKHWANAZI: You are correct.

CHAIRPERSON: Now, what I want to find out is what happened between the time that you left the scene in 2022 all the way to when you made the statement. What, if anything, did you ever do about this incident?

20 **COMMISSIONER MKHWANAZI:** Yes. Remember, Chair, I mentioned last time that I called Jaco and said, Jaco, you do not call me ...[intervenes].

CHAIRPERSON: Let us leave that. Let us leave that. You have seen the truck kind of open. You have your suspicion and then you leave the scene.

COMMISSIONER MKHWANAZI: Yes.

CHAIRPERSON: What did you ever do, if anything, between then and the time that you made the statement?

COMMISSIONER MKHWANAZI: Yes. I called Jaco, Chair. I mentioned last time. Immediately I called him. It was on Tuesday, but it was not Monday because Monday I am making meetings the whole day. Then I called him and said, Jaco, you are having an operation there. And that operation, it was not reported. And I saw some EMPD
10 police vehicles and everything.

He said, no, sir, I was with Kecia. I called people, you see, and some I do not know, SAPS. I said, call them. I called them and told them that. In fact, I did not even give them an opportunity. I was still angry. I said, you do not run operation without us knowing or without me knowing. And you call me where you know that it is not even an EMPD success. And I was so emotional, Chair.

In fact, in that moment, I was not supposed even to address them. And I even chased them away. Then it was
20 quiet, quiet. Then I was called then by IPID when I am there from suspension. They said, we need a statement now. There was a person who died there and the person who died, we were told that you gave an instruction when you were there that that person must be moved.

CHAIRPERSON: When was it when IPID called you?

COMMISSIONER MKHWANAZI: It was 2023. That is why I said they even reminded me about the date, because I did not take it. I took it as one of the operations, but it became serious ...[intervenes].

CHAIRPERSON: And you are saying until the time that IPID called you, you had not heard anything about the person that had died?

COMMISSIONER MKHWANAZI: No, no, no. There was no information. But even IPID said that they kept it so that
10 they can get the whole information and what-what and what-what and what-what. They were so open and honest to me. It was five or six of them, but it was in different issues. But they clarified everything to me, you see, but not in detail because some of the information, they were keeping it. Then they wanted a statement immediately. Then that is what I wrote.

That is what I said ...[indistinct] because they even reminded me. I said, which incident is that? Or which incident is that? Or which operation was that? and
20 ...[intervenes].

CHAIRPERSON: All right. No, no, no. Thank you. Thank you. All I wanted to see is what you knew or did not know between early 2022 and the time that you made your statement.

COMMISSIONER MKHWANAZI: Yes, Chair.

CHAIRPERSON: You have clarified. I will leave it to you, Ms Sello, as to what happened between early 2022 and the time that the Commissioner made his statement. Thank you.

ADV SELLO SC: Yes. To the extent that I may have knowledge of that, Chair, I will happily share it with the Commission.

CHAIRPERSON: Thank you.

ADV SELLO SC: Do you now have the Masuku bundle
10 before you? I would like to refer you to Annexure NPM5(iii).

COMMISSIONER MKHWANAZI: May I close this one?

ADV SELLO SC: Just put it to the side. We will come back to it. Sorry, NPM5(iii). I think I said NPM5. And NPM5(iii) starts at page 41. This is the statement, warning statement of Constable Kecia Lee Stolls. Her actual statement starts at 56, page 56. Do you have that?

COMMISSIONER MKHWANAZI: 56?

ADV SELLO SC: 56, yes. You have located page 56?

COMMISSIONER MKHWANAZI: Yes, yes.

20 **ADV SELLO SC:** Now I see a second paragraph of that statement, Ms Stolls's notes, and I read:

“On the date in question, I was at home when I received a call from Jaco, who said they needed urgent backup and that he had already informed my commander.”

Are you the commander that was said to have been informed at the time? Because this would have been in April 2022, or are you suggesting that the commander that is referenced here is Robert Schultz? What was his title?

COMMISSIONER MKHWANAZI: Inspector.

ADV SELLO SC: Inspector Robert Schultz.

COMMISSIONER MKHWANAZI: Yes.

ADV SELLO SC: So which commander is this? Is this you or Inspector Robert Schultz that Ms Stolls would be referring to here?

COMMISSIONER MKHWANAZI: It is not me because I was not informed.

ADV SELLO SC: So then we should turn to Inspector Robert Schultz for that?

COMMISSIONER MKHWANAZI: Yes.

ADV SELLO SC: And to inform Inspector Robert Schultz that Ms Kecia Lee Stolls states that in April 2024, on this particular date, Jaco informed her that they needed help and that he, Jaco, had already informed Inspector Robert Schultz about this operation. Do you suggest that is what we do, perhaps, to get to the bottom of this?

COMMISSIONER MKHWANAZI: Ja, up until maybe we get the exact date of the resignation, but I ...[intervenes].

ADV SELLO SC: No, it cannot be up until. Either you are the commander on this particular date or it is Inspector

Schultz. That is what you told us.

COMMISSIONER MKHWANAZI: No, let me be clear. I was not informed by Jaco. It may be Inspector Schultz.

ADV SELLO SC: So then the commander at this time on this date being referenced here can only be Inspector Schultz.

COMMISSIONER MKHWANAZI: Ja, but I have said to you, Commissioner, I am not sure about the exact date of resignation. You know, it is not good to throw a thing to a
10 person whilst you are not even ...[intervenes].

ADV SELLO SC: It is a choice of two, not many.

COMMISSIONER MKHWANAZI: Yes, yes.

ADV SELLO SC: So there can only be two commanders. And you explained that until his retirement or resignation, Inspector Schultz was Ms Stolls's direct commander.

COMMISSIONER MKHWANAZI: You are correct there.

ADV SELLO SC: When he retired or resigned, you then became the commander.

COMMISSIONER MKHWANAZI: You are correct there, yes.

20 **ADV SELLO SC:** So the date is irrelevant.

COMMISSIONER MKHWANAZI: Okay.

ADV SELLO SC: So I am saying what she says here, Ms Stolls, that Jaco informed her that her commander had been informed, that commander is either yourself or it is Inspector Schultz. It cannot be anybody else.

COMMISSIONER MKHWANAZI: You are correct there.

ADV SELLO SC: Okay. So now I am asking, are you the commander that was informed by Jaco?

COMMISSIONER MKHWANAZI: I was not informed by Jaco.

ADV SELLO SC: So is it Inspector Schultz? The other option is that Ms Stolls is not telling the truth at all.

COMMISSIONER MKHWANAZI: I am not sure, but I was not informed by Jaco.

10 **ADV SELLO SC:** Okay. Now, if we stay on that statement, at paragraph 3, I see that she says:

“On arrival at the place Jaco told us to meet, I saw Marius and Kobus, Juan-Marie and Viandre also arrived.”

Do you know any of those people?

COMMISSIONER MKHWANAZI: I know Jaco. Yes, I know Jaco. I do not know Marius. I am not sure about Kobus. Jaco introduced me to this man, but I am definitely sure about Jaco. Marius, I did not know him. Let me say for
20 now, I know Jaco. No, I know Jaco because we met with this guy, Kobus, last year when we were called by IPID, Magagula introduced me and said, who are these guys? He said, no, you do not know them, you see. Then he mentioned their names, but I could not take name because it is Afrikaner surnames, some ...[indistinct].

ADV SELLO SC: Yes.

COMMISSIONER MKHWANAZI: I know Jaco.

ADV SELLO SC: Okay. And then same paragraph, last sentence of that:

“Etienne then arrived and joined the briefing.”

So, there is a fifth person. Do you know Etienne?

COMMISSIONER MKHWANAZI: Yes, yes, yes.

ADV SELLO SC: Who is that?

10 **COMMISSIONER MKHWANAZI:** Sorry, you were – no, no, I was on another paragraph.

ADV SELLO SC: Oh.

COMMISSIONER MKHWANAZI: I know Viandre.

ADV SELLO SC: Okay.

COMMISSIONER MKHWANAZI: I thought it is the one that followed Jaco, Marius, and Kobus. No, no, no. Let me copy that one.

ADV SELLO SC: Oh, you are still at paragraph 3?

COMMISSIONER MKHWANAZI: Ja, it is paragraph 3, yes.

20 **ADV SELLO SC:** So, you know Viandre?

COMMISSIONER MKHWANAZI: Yes, yes, yes, yes. And I see in that same paragraph, the last sentence of that paragraph, it is:

“Etienne then arrived and joined the briefing.”

COMMISSIONER MKHWANAZI: And I know Etienne.

ADV SELLO SC: You know Etienne?

COMMISSIONER MKHWANAZI: Yes, yes.

ADV SELLO SC: And what is Etienne's full name?

COMMISSIONER MKHWANAZI: I do not know his full name.

ADV SELLO SC: You just know his ...[intervenes].

COMMISSIONER MKHWANAZI: I called him, yes, they called him by his name, Etienne.

10 **ADV SELLO SC:** Would it by any chance be Etienne Van Der Walt?

COMMISSIONER MKHWANAZI: I do not know the ...[intervenes].

ADV SELLO SC: You do not recall?

COMMISSIONER MKHWANAZI: Yes, no, I do not know the surname of Etienne.

ADV KHUMALO SC: You skipped McKenzie.

ADV SELLO SC: Oh, yes. Thank you, Commissioner. Same paragraph. He says:

20 “When McKenzie arrived, Jaco told us that they had found the truck used in the armed business, armed business robbery, and that the suspects were armed.”

So, there is McKenzie as well.

COMMISSIONER MKHWANAZI: McKenzie works for

EMPD. I know him.

ADV SELLO SC: Yes, and he is there. Then there is Van Der Walt, Etienne, as we say. Okay. So, of the people listed here, you know Kobus? You did not know Kobus, you said?

COMMISSIONER MKHWANAZI: No, no.

ADV SELLO SC: You did not know Marius?

COMMISSIONER MKHWANAZI: No, no, I do not know Marius.

10 **ADV SELLO SC:** You did not know Juan-Marie?

COMMISSIONER MKHWANAZI: Juan-Marie, I started to know her later, but at that time I did not know her.

ADV SELLO SC: You knew Viandre?

COMMISSIONER MKHWANAZI: Yes, yes, yes.

ADV SELLO SC: You knew Stolls?

COMMISSIONER MKHWANAZI: Yes.

ADV SELLO SC: And you knew McKenzie?

COMMISSIONER MKHWANAZI: Yes, she is working with us.

20 **ADV SELLO SC:** Now, if we go to your statement, you say at your – do not close that for the moment. At page 92, you say at the bottom of page 92:

“I got frustrated with him, him being Jaco, and called him aside because we standing next to plus minus nine white

males next to the gate.”

You did not recognise any of those nine white males? You did not know those people? That is my understanding of that statement.

COMMISSIONER MKHWANAZI: As I have said that I know Jaco, I know, who is this guy, sorry, I think I know two, two of them.

ADV SELLO SC: Who are the two?

COMMISSIONER MKHWANAZI: It is Jaco and, who is this
10 guy, Pretorius, Pretorius.

ADV SELLO SC: But you say you called Jaco to the side.

COMMISSIONER MKHWANAZI: Yes.

ADV SELLO SC: So you are telling Jaco that you are upset with him and frustrated, and there are another nine white males next to the gate.

COMMISSIONER MKHWANAZI: Yes, you are correct.

ADV SELLO SC: Should we assume that you do not know those nine white males?

COMMISSIONER MKHWANAZI: No, I have said I know
20 one, Pretorius. I did know Pretorius.

ADV SELLO SC: You saw him there?

COMMISSIONER MKHWANAZI: Yes, they were standing there, but Jaco is the one, remember I came with Jaco.

ADV SELLO SC: Okay.

COMMISSIONER MKHWANAZI: Then Jaco related to

whatever is related and I communicated with him, not with them.

COMMISSIONER MKHWANAZI: Okay, so and we know Jaco was there. You did not see McKenzie, you did not see Stolls?

COMMISSIONER MKHWANAZI: No, no, no, no, I did not. Even SAPS members, they were there, I did not even see them. I think maybe if they were there, they ran away from me.

10 **ADV SELLO SC:** They were there, but you did not see them?

COMMISSIONER MKHWANAZI: No, I did not see them. He was upset I did not see them.

ADV BALOYI SC: The question, Commissioner, is you say you were standing next to nine white males.

COMMISSIONER MKHWANAZI: Yes.

ADV BALOYI SC: And you are being asked to identify among those nine white males who you know by name, because you have just identified, you have indicated or
20 confirmed from the statement of Stolls that certain people, you know them, who they are.

COMMISSIONER MKHWANAZI: Yes, yes.

ADV BALOYI SC: For example, Etienne Van Der Walt, Stolls says Etienne Van Der Walt was there.

COMMISSIONER MKHWANAZI: Yes.

ADV BALOYI SC: You say you know Etienne Van Der Walt.

COMMISSIONER MKHWANAZI: Yes.

ADV SELLO SC: The question is, as I understand it, is in your own statement at some point you were standing next to nine white males, and the question is, was Etienne Van Der Walt not one of the people in that group?

COMMISSIONER MKHWANAZI: No, Commissioner, I cannot recall because I concentrated on Jaco.

ADV BALOYI SC: Well, Commissioner, this was a very
10 important night.

COMMISSIONER MKHWANAZI: Yes.

ADV BALOYI SC: You were woken up at 2.

COMMISSIONER MKHWANAZI: Yes.

ADV BALOYI SC: Someone died. At some point you are standing. That night you say you did not know that someone died, but we now know that. You are implicated in that. You heard had the evidence. It was a very important night. You made the statement about a year later, this particular statement.

20 You must at that time have been able to remember whether Etienne Van Der Walt is one of the nine men that were there, whether the other white males that you have identified or confirmed that you knew, McKenzie, was he one of the nine white males? That is really the question you are being asked.

COMMISSIONER MKHWANAZI: Okay.

ADV BALOYI SC: Of these nine white males, who did you know?

COMMISSIONER MKHWANAZI: McKenzie is a coloured, not a white.

ADV BALOYI SC: I apologise to McKenzie.

COMMISSIONER MKHWANAZI: Yes, yes, yes.

ADV BALOYI SC: Viandre, was he one of the nine white males?

10 **COMMISSIONER MKHWANAZI:** Yes, I know Viandre.

ADV BALOYI SC: It is that kind of question you are being asked.

COMMISSIONER MKHWANAZI: Yes, yes, yes.

ADV BALOYI SC: Etienne Van Der Walt, was he one of the nine white males?

COMMISSIONER MKHWANAZI: He may be one of them.

ADV BALOYI SC: Yes.

COMMISSIONER MKHWANAZI: Yes, he may be one of them.

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

ADV KHUMALO SC: Just ask one question here. Good morning, Commissioner.

COMMISSIONER MKHWANAZI: Morning, Commissioner.

ADV KHUMALO SC: When Chair asked you earlier between May 2022 and May 2023, what did you do about

this? You said on a Tuesday you called Jaco and you told them how upset you were, but then you went further and said you also called Stolls and McKenzie and you shouted at them because you were angry and you did not let them speak.

COMMISSIONER MKHWANAZI: No, it is not okay. It is not only Stolls and McKenzie.

ADV KHUMALO SC: Who else?

COMMISSIONER MKHWANAZI: Jaco called those that he
10 was with, those that I knew.

ADV KHUMALO SC: Yes.

COMMISSIONER MKHWANAZI: There it was the two EMPD officers. It was Etienne, it was Jaco, they were four.

ADV KHUMALO SC: So my question is, how did you know that they were at this scene if you did not see them on the night of the incident?

COMMISSIONER MKHWANAZI: When Jaco confirmed to me on Tuesday.

ADV KHUMALO SC: So Jaco told you on Tuesday that
20 they were there?

COMMISSIONER MKHWANAZI: Yes, he mentioned many, some of them I do not know and I cannot recall, but these ...[intervenes].

ADV KHUMALO SC: But do you not know EMPD vehicles that are used by special services people? Because surely if

you go to the scene and you see that there are EMPD vehicles there, you must know that these ones belong to my division.

COMMISSIONER MKHWANAZI: I do not know by registration plates because maybe plus minus 200, 200 and something vehicles. It was a stretch of a street.

ADV KHUMALO SC: Were you not interested to find out who are these EMPD people who are here? Because you say when you arrived there, you saw that SAPS was there,
10 you saw that EMPD was there. So at that time, were you not interested to find out who are the EMPD people who are there and whether they belong to your team or not?

COMMISSIONER MKHWANAZI: At that time I did not, but on Tuesday I was interested. That is why I called him and he confirmed to me.

ADV KHUMALO SC: But why? Jaco you said is an informant or he is a lay citizen. You get to a scene, you are told there is a success and you can see that there are EMPD people there. Why do you not go to them and ask
20 them what is this operation about? Is it our operation?

COMMISSIONER MKHWANAZI: To be honest, Commissioner, out of what I heard from Jaco, I did not want to associate with that operation ...[intervenes].

ADV KHUMALO SC: Why would you not want to associate with EMPD people who have just achieved success in an

operation?

COMMISSIONER MKHWANAZI: It was not an EMPD success.

ADV KHUMALO SC: No, but you did not know that because you are only speaking to an informant and that is Jaco and you see that there is SAPS there and there is EMPD there and they are not leaving. According to you, EMPD, they are there. Were you not interested to know what EMPD people are doing there? Because Jaco cannot
10 tell you that. Jaco is not EMPD.

COMMISSIONER MKHWANAZI: Even if I was interested, Commissioner, but out of the communication and engagement with Jaco, I decided no, you know what, let me leave this thing.

ADV KHUMALO SC: I find that ...[intervenes].

COMMISSIONER MKHWANAZI: But I did know that I am going to find out.

ADV KHUMALO SC: I find that difficult to believe and it goes back to Chair's point. You are woken up at 2AM, you
20 consider this important enough for you to go to the scene of a success. When you get there, you see SAPS there, you see EMPD there and you do not engage with either SAPS or EMPD.

You engage with an informant and you are upset with him because he is not telling you what you want to

hear and you just go home. You do not engage with your own officers who are on the scene. I find that difficult to believe.

COMMISSIONER MKHWANAZI: Okay, Chair. What do you want me to respond, Chair? Sorry, sorry, sorry, Commissioner.

ADV KHUMALO SC: I find it difficult to believe that you did not engage with your officers who were on the scene, especially because we now know that at least two of them
10 fell under your command.

COMMISSIONER MKHWANAZI: Yes, and I did know after the operation on Tuesday, Commissioner, after engaging Jaco and the team, because I called them.

ADV KHUMALO SC: Commissioner, I want you to know that I find that difficult to believe.

COMMISSIONER MKHWANAZI: Yes, no.

ADV KHUMALO SC: I am not persuaded that what you are telling me is the truth and I will leave it at that.

COMMISSIONER MKHWANAZI: I take note of that,
20 Commissioner.

ADV SELLO SC: Thank you, Commissioner Khumalo. So, staying with the Masuku Annexure Bundle, let us just trace our steps back to page 14. Page 14 of the Masuku Bundle.

COMMISSIONER MKHWANAZI: It is this one?

ADV SELLO SC: That is NPM5(i), and that is the warning

statement of Alexander Fritz. I do not know what title he uses. Do you see that? The actual statement starts at page 22.

COMMISSIONER MKHWANAZI: The actual statement, you said page 14?

ADV SELLO SC: The statement is from page 14. You remember, it has got that cover of that form that is completed by the interviewer and signed by the person being interviewed.

10 **COMMISSIONER MKHWANAZI:** Yes.

ADV SELLO SC: The actual statement of the person now starts at page 22.

COMMISSIONER MKHWANAZI: Yes, it is written Alexander Fritz.

ADV SELLO SC: Alexander Fritz.

COMMISSIONER MKHWANAZI: Yes, yes, yes.

ADV SELLO SC: Now, if you go to page 23, paragraph 6, about his background, he says:

20 “I have been self-employed and worked
 as a reservist for numerous police
 stations at the Brakpan Police Station.”

So, this is Mr Alexander Fritz as a reservist at the Brakpan Police Station. Do you know Mr Fritz?

COMMISSIONER MKHWANAZI: No, no, no.

ADV SELLO SC: Okay. So, Mr Fritz has submitted a

statement in the same case. As you see from paragraph 7, he mentions that on the 14th of April, at that time, he signed in and he was allocated a vehicle, police vehicle with, I think, call sign BP32.

At paragraph 8, just in summary, he then speaks to being stopped by Jaco Hanekom in his red Renault Kwid. And at page 24, paragraph 9, a fourth line of paragraph 9, he states:

10 “He then told me that a business in Boksburg was robbed. There were allegedly between 10 and 15 suspects with firearms.”

The last three lines:

 “He then told me that the EMPD was at the abovementioned address waiting for him. I asked him if they needed backup assistance. He said that they would appreciate it.”

You see what I am reading?

20 **COMMISSIONER MKHWANAZI**: Yes, yes.

ADV SELLO SC: So, that is from Mr Fritz's perspective.

At 10, he says:

 “Upon arriving at the address, the EMPD was already there.”

COMMISSIONER MKHWANAZI: Are you still in paragraph

ADV SELLO SC: Five lines below, it states:

“We climbed over the steel fence to approach the house.”

This is when they had arrived at the address. So there are these EMPD officers that he met. He understood them to be together with Jaco Hanekom to be part of the hijackings unit of the EMPD. So they drive, they get to the house. Now this is the part I would like you to comment on. He says:

10 “We saw the truck standing next to the house. As we moved along the truck, we saw a black male with a beard and glasses who asked us who we were. We told him that we are from the SAPS Trio Task Team and that Jaco asked for assistance. He was apparently from the EMPD but dressed in civilian clothes.”

Are you aware which black men from EMPD he possibly could be referencing here?

COMMISSIONER MKHWANAZI: I do not know.

20 **ADV SELLO SC:** You did not see any black men from EMPD?

COMMISSIONER MKHWANAZI: No, no, no. This is Boksburg. Is it still the same incident?

ADV SELLO SC: Same incident, yes.

COMMISSIONER MKHWANAZI: No, no, I am not aware. I

am not aware of that black man. I do not know.

ADV SELLO SC: Did you see such a black man?

COMMISSIONER MKHWANAZI: No, no, no.

ADV SELLO SC: At 14, same page, last sentence says:

“There was a white lady from EMPD with
tattoo markings on her arms walking
outside with the men from earlier. They
were asking me what I was doing.”

We understand that Constable Stolls has got tattoos such
10 as described here. Could that have been Constable Stolls?

COMMISSIONER MKHWANAZI: She is having a tattoo.

ADV SELLO SC: Do you know that she has tattoos on her
arms?

COMMISSIONER MKHWANAZI: Ja, but she is having
tattoos.

COMMISSIONER MKHWANAZI: So you are confirming?

COMMISSIONER MKHWANAZI: I am not sure which arm,
yes.

ADV SELLO SC: No, no, that is fine. Okay. Now, second
20 paragraph of that second subparagraph of paragraph 14, it
says the people engaged with the – line 3, they replied that
this was an EMPD operation ...[intervenes].

COMMISSIONER MKHWANAZI: It is paragraph 14. I took
photos.

ADV SELLO SC: No, there are subparagraphs. I took

photos. Then the next paragraph, I told them, but still 14.

COMMISSIONER MKHWANAZI: Sorry, we are too fast, Commissioner.

ADV SELLO SC: We are at 14.

COMMISSIONER MKHWANAZI: Yes. I took photos of the truck.

ADV SELLO SC: Two subparagraphs. The first one starts with, I took photos.

COMMISSIONER MKHWANAZI: Yes, the second one.

10 **ADV SELLO SC:** The second subparagraph starts with, I told them.

COMMISSIONER MKHWANAZI: Yes, yes.

ADV SELLO SC: So I am at the second, right?

COMMISSIONER MKHWANAZI: Thank you, thank you.

ADV SELLO SC: And I am midway, that is about the fifth line, where he says:

20 “They replied, I asked them, these people, that is including the lady from EMPD with tattoo markings, and they replied that this was an EMPD operation and that all relevant members were contacted and on their way.”

You see that?

COMMISSIONER MKHWANAZI: I see that.

ADV SELLO SC: Now, that is from constable Fritz's

perspective about EMPD's involvement. And we have gone through Ms Stolls, we have gone through Fritz, and you appear to be the only one who is not aware of the identities of the EMPD members who were on the scene, yet you attended on the scene. How is that possible?

COMMISSIONER MKHWANAZI: He said they met on this day, and he is the one who is saying it was an EMPD operation. And I am saying, as I am saying to the Commissioners as a director, it was not an EMPD operation.

10 **ADV SELLO SC**: But you do not know because you are not informed. Remember, it might be because you suggested Inspector Schultz was the commander for Constable Stolls and maybe had authorised it. Is it possible? Why are you discounting it as an EMPD operation unless you know definitely whether it was or was not?

COMMISSIONER MKHWANAZI: No, it was not.

ADV BALOYI SC: Why do you say that? Why do you say it was not an EMPD operation?

20 **COMMISSIONER MKHWANAZI**: When I called them, they said Jaco has already organised all other law enforcement agencies and SAPS.

ADV BALOYI SC: When you called who?

COMMISSIONER MKHWANAZI: Them, on Tuesday. Jaco and EMPD officers. They confirmed that it was not their operation.

ADV BALOYI SC: You say they were called by Jaco?

COMMISSIONER MKHWANAZI: Yes. Everyone here says Jaco, Jaco, Jaco, Jaco.

ADV SELLO SC: And based on that, I am going to make the following propositions to you. From your statement, when you say Jaco woke you up at 2AM and you went to the scene just to look at the successes, that is highly improbable. You cannot have woken up for something that mundane. What were you going to do with the successes?

10 Nothing you could do. So it is not true that that is why you went there. What is your comment?

COMMISSIONER MKHWANAZI: What did I say?

ADV SELLO SC: You say he woke you up at two to come to the scene and see the success of the truck. And I am saying you could not conceivably have woken up at 2AM in the morning when you are due for work the following day just to go see alleged success. You are not being truthful in that regard as to the reason why you went there. What is your response?

20 **COMMISSIONER MKHWANAZI:** For the mere fact that I have said it is success, that means if it was an operation of EMPD, we were going to celebrate it as a success. But as I have said before to the Commissioners that it was not an EMPD success, that is why it is not even booked in our successes.

CHAIRPERSON: But you have already accepted when I engaged you earlier that EMPD was part of the operation. So it was their operation.

COMMISSIONER MKHWANAZI: Commissioner?

CHAIRPERSON: They may, on what you say, not have been leading the operation, but you have accepted that they were part of the operation.

COMMISSIONER MKHWANAZI: There I accept.

CHAIRPERSON: Now can you respond to the question with
10 that in your mind?

ADV SELLO SC: Thank you, Chair.

COMMISSIONER MKHWANAZI: They may be part of the operation, but it was not an EMPD operation.

CHAIRPERSON: Thank you.

ADV BALOYI SC: Stolls says in her statement that Jaco told him that he had already called their commander, Stolls's commander, and that he has already called McKenzie, who is EMPD as well. So the commander is
EMPD.

20 So we know that Stolls and McKenzie are on the scene. We know that according to Stolls, the commander has been called, whether it is Schultz or you, but the commander has been called. You also get called, right, by Jaco, you say. You get called to the scene. And when Jaco calls you to the scene, he says, come see our success.

Surely that is an EMPD operation. It is an EMPD operation.

COMMISSIONER MKHWANAZI: I ...[intervenes].

ADV BALOYI SC: And Fritz also tells us that they were called to come and provide backup to EMPD. And when he proposed to call the LCRC, he was told that this was an EMPD operation.

COMMISSIONER MKHWANAZI: Commissioner ...[intervenes].

ADV BALOYI SC: It is an EMPD operation.

10 **COMMISSIONER MKHWANAZI**: I do not want to agree, Commissioner. I do not want to agree.

ADV BALOYI SC: [Indistinct] ...[intervenes].

COMMISSIONER MKHWANAZI: I am not protecting anyone, but because everyone says, everyone in his statement says all of us were called by Jaco. Everyone.

ADV BALOYI SC: Yes, and Jaco said ...[intervenes].

COMMISSIONER MKHWANAZI: SAPS, EMPD ...[intervenes].

ADV BALOYI SC: Jaco said come and see our success.
20 And Jaco is your informant and he has called you to many incidents where, or many scenes where it became, or gave you information where it became an EMPD operation. And here he says, come see our success. It is an EMPD operation. Look at the people who are there.

COMMISSIONER MKHWANAZI: And when I started,

Commissioner, when I was asked about Jaco, I have mentioned that Jaco works with everyone.

ADV BALOYI SC: Yes, even with that ...[intervenes].

COMMISSIONER MKHWANAZI: Local, national, provincial, he works with everyone and he will call everyone.

ADV BALOYI SC: Now, even with that, I have pointed to you, look who is at the scene of this operation. That you know. EMPD people that are at the scene. You got there, you found EMPD vehicles. You have got people there.

10 Stolls tells IPID that Jaco told him I have already phoned your commander. That must tell you, just the fact of calling the commander in itself, must tell you that according to Jaco, this was an EMPD operation.

COMMISSIONER MKHWANAZI: According to me, Commissioner, with due respect, it was not an EMPD operation.

ADV BALOYI SC: Why? Because Stolls told you. Is that why you say it was not an EMPD operation? Is it because Stolls said to you on Tuesday that, oh, that was not an
20 operation?

COMMISSIONER MKHWANAZI: No, Jaco told me that he called everyone when I called him on Tuesday ...[intervenes].

ADV BALOYI SC: He may have called everyone ...[intervenes].

COMMISSIONER MKHWANAZI: And on that – sorry, Commissioner.

ADV BALOYI SC: Sorry, finish. I am sorry. You can finish what you were saying.

COMMISSIONER MKHWANAZI: And you see, on that night when I arrived, there was everyone. Said I called everyone. Jaco confirmed that he called everyone. You see, I am not sure why he is reducing it to EMPD, you see. Extending themselves, because everyone was there. And I am not
10 sure why we are reducing it to EMPD. I am not convinced, Commissioners.

ADV BALOYI SC: Well, I am saying it is an EMPD operation because Jaco called the commander, the boss of the people who end up at the scene, of your EMPD people that end up on the scene, whoever it is, whether it is Mkhwanazi or it is Schultz. Jaco called that commander. We know Jaco called you.

So even if it was Schultz, Jaco called Schultz, called you, called Stolls, called McKenzie. So there is four
20 people or five people from your EMPD. And in your call, he says to you, come see our success.

COMMISSIONER MKHWANAZI: No, Commissioner, I think you are not fair. You are not being fair.

ADV BALOYI SC: It is not about being fair. It is about what do the facts tell you. Let us look at who is there and

let us look at his statements, who is saying what. Fritz says he tried, he said, should I call LCRC? And EMPD said no.

COMMISSIONER MKHWANAZI: Fritz from where?

ADV BALOYI SC: Well, you have just read Fritz's statement.

COMMISSIONER MKHWANAZI: SAPS.

ADV BALOYI SC: Yes.

COMMISSIONER MKHWANAZI: Yes.

10 **ADV BALOYI SC:** Yes.

COMMISSIONER MKHWANAZI: I think that is why everyone, I think he was aware about what was happening. That is why everyone is reducing it to EMPD. There, I will not accept it because I was not called when the operation started, during the operation. I was called in the early hours of the next day.

ADV BALOYI SC: Yes. Whatever time he called you, there is no significance to me at least about the time, Commissioner. You wake up at 2AM in the morning to go to
20 an operation. That is what you did. You woke up at 2AM in the morning. So you understood that you are being called because of your EMPD position. Not come just see what is happening.

You get called, you jump out of bed because Jaco says it is an operation. How can you argue with Jaco when

Jaco says come see our success? And then you have got all these members of the EMPD who are on the scene.

COMMISSIONER MKHWANAZI: May I respond, Commissioner?

ADV BALOYI SC: Yes, you may.

COMMISSIONER MKHWANAZI: Jaco called me 2AM in the morning, but Jaco called Kecia and tells Kecia the day before that he has called. As I am saying, I was not called before that. You see? That is why we cannot take
10 ownership of that.

ADV BALOYI SC: All right, thank you.

ADV BALOYI SC: Thank you.

CHAIRPERSON: Commissioner, let us say there is an EMPD operation, out and out EMPD. Does it not happen that EMPD may call for backup from SAPS?

COMMISSIONER MKHWANAZI: It does.

CHAIRPERSON: So the fact that SAPS has been called to give backup does not change the operation from being an EMPD operation to a SAPS operation?

20 **COMMISSIONER MKHWANAZI**: You are correct, Commissioner.

CHAIRPERSON: Yes. Now, here is my difficulty. You are so adamant that this was not an EMPD operation. And yet, you were not there when the operation started and you also give us to understand that you were there for a very short

time once you saw that there was nothing Jaco had called you for and you left immediately.

Now, I just do not understand how you can be this adamant if you were not there when the operation began and if even after your arrival there, you left immediately, basically, as soon as you had arrived. Because as you suggest, you saw nothing there.

COMMISSIONER MKHWANAZI: Yes, Chair.

CHAIRPERSON: Now, how can you know whose operation
10 this was?

COMMISSIONER MKHWANAZI: Because Jaco, as I have said, Commissioner, Jaco told me that he called everyone. And other people said this is ...[intervenes].

CHAIRPERSON: No, no, no, no, no. This cannot be about calling. This cannot be about calling. Of the various people who were there, surely, surely it must have become somebody's operation.

COMMISSIONER MKHWANAZI: You are correct.

CHAIRPERSON: Yes, yes, yes.

20 **COMMISSIONER MKHWANAZI:** You are correct, Commissioner.

CHAIRPERSON: So this emphasis on who called whom cannot be the answer.

COMMISSIONER MKHWANAZI: And may I ask something? Why the Commissioners are saying it must belong to

EMPD? Because I am not convinced by the statement ...[intervenes].

CHAIRPERSON: I am not. Sitting here, I am just trying to establish facts. So I am not necessarily saying whose it was. And you are the one who must answer questions, not me. All I am asking, all I am asking is why you are this adamant. I am not saying it was EMPD. I am not saying it was SAPS.

10 But I do not understand why you should be this adamant when you were there, and even when you got there, you were there for a very short time because you are not interested in what Jaco had called you there for. So I just do not understand. I would understand if you were to say, honestly, Ms Sello, I do not know whose operation this was because I was not there when it began. And even when I got there, I did not stay long enough to establish the true facts. I left before I had done that. So I do not know whose operation it was. But you are very adamant about it. That is my difficulty.

20 **COMMISSIONER MKHWANAZI:** Chair, you have covered me now.

CHAIRPERSON: So I have given you an out, which is that you do not know.

COMMISSIONER MKHWANAZI: No. I am still responding. What I do not want to accept is to take and lie to

Commissioner that, yes, I did know it was an EMPD operation. I think you and what Jaco have told me is one and the same thing. It was multidisciplinary forces, or multidisciplinary law enforcement agents that were there, you know.

CHAIRPERSON: So it could have been an EMPD operation.

COMMISSIONER MKHWANAZI: You are taking it back, Chair.

10 **CHAIRPERSON**: No, no, no. I am just saying, I am talking about possibilities now. So it could have been an EMPD operation.

COMMISSIONER MKHWANAZI: Let us say so, maybe. But I was not informed about that, Chair.

CHAIRPERSON: All right, thank you.

ADV SELLO SC: Thank you, Chair. And my... Yes, please, Chair.

CHAIRPERSON: We will adjourn at quarter past.

ADV SELLO SC: At quarter past.

20 **CHAIRPERSON**: Please continue.

ADV SELLO SC: Thank you, Chair. That was my first proposal. The second is this. You appear at the scene to be the only one who did not see anyone except Jaco. The only person you saw there was Jaco. The others were either nine white males. You did not see Stolls. You did

not see McKenzie. But everyone seems to have seen each other. How is that possible?

COMMISSIONER MKHWANAZI: I have said, Commissioner, I saw Viandre. Yes, because I knew him. The others, even if I saw them, I do not know them. So I cannot come and confirm that this is who, this is who, this is who. And ...[indistinct] even confirmed this one. He knows all of us. I said I do not know. I know that, you know, you do not know these others, you see. The one that
10 I can recognise, as I have said that, even with this, they said it many times that I saw him. He does not know me. I do not know him.

ADV SELLO SC: That is fine.

COMMISSIONER MKHWANAZI: I cannot come and say there was this and this person. I will be lying and putting other people's life or implicating other people to something that they do not know.

ADV SELLO SC: The point I am making is Stolls, Stolls and Fritz and others seem to have seen each other. They
20 state so in their statements. Everybody has seen somebody like Stolls, McKenzie, Jaco. You saw only Jaco. So I am saying it is not possible. You are not telling the truth about who you saw and it is not true that you did not see McKenzie and Stolls at least.

COMMISSIONER MKHWANAZI: I am saying, oh, sorry.

Are you done?

ADV SELLO SC: Yes, yes, I am done.

COMMISSIONER MKHWANAZI: I am saying it is true.

ADV SELLO SC: Okay.

COMMISSIONER MKHWANAZI: These people started the day before at 20:00 hours or 19 or 21:00 hours. They saw each other the whole night. I was only there for minutes, you see. And that means that they saw each other. As per their statement or as per this statement, as per other
10 people's statement, you could see there was up and down there. They were making all this up and down. I was not part of that up and down.

ADV SELLO SC: Okay.

COMMISSIONER MKHWANAZI: And they were there the whole night. They were there the whole night, let me say so. Because I arrived in the early hours.

ADV SELLO SC: How do you know? You got there. You are woken up at 2AM to go see successes. You got there. You were less than impressed. You scolded Jaco and you
20 left. How do you know that they were there the whole night?

COMMISSIONER MKHWANAZI: No, when we engaged, they said the operation started. Even who is this guy now? He has mentioned times here, you see. All of them, they said they started the night before.

ADV SELLO SC: So, when did you obtain that piece of information?

COMMISSIONER MKHWANAZI: No, I even spoke to IPID. That is what they told me. And Ms Nomsa, she even mentioned that they started in the early hours. They started the day before. It was an all-night operation.

ADV SELLO SC: So you learned this in 2023 when you engaged with IPID?

COMMISSIONER MKHWANAZI: Sorry?

10 **ADV SELLO SC:** You learned about this in 2023 when you engaged with IPID?

COMMISSIONER MKHWANAZI: Yes.

ADV SELLO SC: You learned for the first time that it had started the night before and it ran throughout the night. Do I understand you correctly?

COMMISSIONER MKHWANAZI: I have said even IPID has also mentioned that.

ADV SELLO SC: Okay. So when did you learn of that fact?

20 **COMMISSIONER MKHWANAZI:** When I communicated with them on Tuesday.

ADV SELLO SC: Oh, so ...[intervenes].

ADV BALOYI SC: Can I just ...[intervenes].

COMMISSIONER MKHWANAZI: It was on Tuesday. Yes, let me say for now it was on Tuesday.

ADV BALOYI SC: When you arrive at the scene and you see the EMPD vehicles, you are the director, so you are the head of Specialised Services and Operations. You are the most senior EMPD person on the scene, therefore. Right? You are the most senior person from EMPD because you are the director of that unit.

COMMISSIONER MKHWANAZI: Yes.

ADV BALOYI SC: You get there, you find EMPD vehicles. How do you not – how possible is it that you do not ask who
10 is here from the EMPD when you see your vehicle on the spot? How do you not, before you leave, if we accept what you have said as truth that you spoke to Jaco, you went and parked on the side because you suspected they want to steal and then you left, how probable is it actually that you do not ask who from EMPD is here because I see one of my vehicles?

COMMISSIONER MKHWANAZI: Commissioner, I have accepted when I was asked by the Chairperson that I did not even give Jaco a chance to respond to me. I wanted to
20 deal with him.

ADV BALOYI SC: I am asking you a different question. You are the most senior EMPD person on that spot. You see a vehicle of EMPD. How do you not ask who is here from EMPD because I see an EMPD vehicle?

COMMISSIONER MKHWANAZI: No, to be honest,

Commissioner, I did not ask. I did not want just to be part of this because I was not ...[intervenues].

ADV BALOYI SC: Why did you not want to be part of this when your car is there? There is an EMPD vehicle. You are there, you were called because you are head of special operations or special services, Specialised Services and Operations. That is why Jaco called you. He did not call you because you are his friend or you are trying to make business with him.

10 **COMMISSIONER MKHWANAZI:** You are correct.

ADV BALOYI SC: He called you because of the position you hold at EMPD. You arrive at the scene, you find a lot of people, including nine white men that you are standing next to. How do you not say, I see my vehicle, tell me people who are here, all of you who are here, tell me who from EMPD is here?

COMMISSIONER MKHWANAZI: I did not ask that, Commissioner.

20 **ADV BALOYI SC:** No, I want to put to you that you are being untruthful. You knew from EMPD who is there. If you did not ask, it is because you saw them. You knew who it was that is there and you are being untruthful about it. And in fact, I want to go on to say that is why in your statement you do not mention any name whatsoever other than Jaco.

You say I was standing next to nine white men and

that is all you say. You do not mention anybody. It is because you do not, even at the point of this statement, you did not want to be truthful about who from your people was on the scene.

COMMISSIONER MKHWANAZI: Chair, through you, I cannot implicate people that they did not see. And when I met them after that, they were honest, they did not hide. They told me, yes, we were there, those that were there. And they even said, others, we do not know them. Some we
10 were in uniform, but we do not know, because EMPD is too big. But when I met them, they did not even hide. They said, they were honest to me. They said, yes, we are there, you see.

ADV BALOYI SC: So when you wrote this statement to IPID, why did you not mention them in the statement? Now, because you called them as their boss on the Tuesday, not because they are your friends. You call them as your boss, as their boss. They tell you, according to you for the first time, that we were at that scene, right, on the Tuesday.

20 IPID tells you somebody died that night, where your people, you tell us, have told you on a Tuesday that they were there. The Tuesday immediately after the incident. Why do you not tell IPID who was on the scene on the day from your people, now that you know?

COMMISSIONER MKHWANAZI: Okay, Commissioner.

When IPID interviewed me, they said we have already interviewed your people. Tell us what happened on that night when you arrived and I ...[intervenes].

ADV BALOYI SC: Yes, I am asking my question, why do you not mention in your statement that on Tuesday, after that night, on Tuesday, I called my team in, and Stolls, McKenzie, and whoever else, tell me they were there and they say this is what happened that night. You are the boss. You are their boss.

10 **COMMISSIONER MKHWANAZI:** IPID was specific, Chair. They were very specific about that night. Tell us what happened that night. And I know the person who asked that question about that night, it was, I think, Mr Magagula, not Sis Nomsa.

ADV BALOYI SC: Okay. All right, maybe let me conclude this by saying that, Commissioner, if it is not been clear so far, I do not accept that you are telling us the truth about your involvement that night and your knowledge of who was there and what happened that night. I do not accept that
20 what you are telling us is truth.

ADV SELLO SC: Thank you, Chair. I had hoped to, because I am about to wrap up this issue, but not possible. I see it is 11:15. Thanks for the indulgence.

CHAIRPERSON: Please wrap it up when we come back. Let us adjourn and come back at 11:40. Thank you.

INQUIRY ADJOURNS

INQUIRY RESUMES

CHAIRPERSON: Ms Sello.

ADV SELLO SC: Thank you, Chair. Commissioner Mkhwanazi, please switch on your mics.

COMMISSIONER MKHWANAZI: Apologies, Commissioner.

ADV SELLO SC: We just want to conclude on this matter. And we had just dealt with the various statements, and I was putting my propositions to you. And the second was, it
10 is improbable that you were at the scene and failed to see your EMPD members and those, as you say, ‘white men that you have admitted to knowing’. You must have seen them that evening at the scene. So, I am saying I am rejecting your version, and I would like to invite your comment.

COMMISSIONER MKHWANAZI: Thank you, Commissioner. Remember, I have said that the other ones I do not know. Those ones that I know, I have mentioned that the two of them, I know them and I have mentioned them.

ADV SELLO SC: So those two at least you saw?

20 **COMMISSIONER MKHWANAZI:** Yes, I have mentioned them.

ADV SELLO SC: You just omitted to point that out in the IPID statement?

COMMISSIONER MKHWANAZI: No, the IPID statement was specific.

ADV SELLO SC: No, it is whether you mentioned them or you did not mention them.

COMMISSIONER MKHWANAZI: Let me say, yes.

ADV SELLO SC: And did you see, what was your position on seeing Constable Stolls and Mackenzie?

COMMISSIONER MKHWANAZI: No, I did not see them.

ADV SELLO SC: Now, I am saying, as Commissioner Baloyi engaged you, that is highly improbable, particularly because you admit to having seen the EMPD vehicles. So,
10 it is impossible that you did not see any of the EMPD members.

COMMISSIONER MKHWANAZI: Commissioner, they may have ran away or disappeared because they did know that. I know nothing about the operation.

ADV SELLO SC: You met with them on the Tuesday following the incident, correct?

COMMISSIONER MKHWANAZI: Yes, it was Tuesday.

ADV SELLO SC: Why?

COMMISSIONER MKHWANAZI: But I met with them after.

20 **ADV SELLO SC:** Yes, that is right. So, the Tuesday, you say it was a Tuesday.

COMMISSIONER MKHWANAZI: Yes, I think it was Tuesday.

ADV SELLO SC: Following the incident.

COMMISSIONER MKHWANAZI: Yes, yes, yes.

ADV SELLO SC: Why did you meet with them?

COMMISSIONER MKHWANAZI: I called Jaco.

ADV SELLO SC: Why?

COMMISSIONER MKHWANAZI: You see, because I was very angry. You see that you are calling me in an operation. As I have said earlier on, you are calling me in an operation that is not clear, that I do not know. You see, and who are the people that you were with? And you specifically mentioned. And when they arrived, they did not
10 deny that on me.

ADV SELLO SC: Why did you ask Jaco after the incident the people he was with? Because you saw who you saw.

COMMISSIONER MKHWANAZI: But I did not see, I did not see warm bodies. And they did not give me a specific or a clear answer, Chair.

ADV SELLO SC: I am trying to understand why after you have gone back home to sleep, what gave you the thought to call Jaco to ask who was there?

COMMISSIONER MKHWANAZI: Remember, when I left, I
20 left after shouting at him, as I have said before.

ADV SELLO SC: Yes, yes.

COMMISSIONER MKHWANAZI: Then I needed to have conclusion, I needed to understand why did you not, why were you not honest to me about the operation?

ADV SELLO SC: So why do you ask him?

COMMISSIONER MKHWANAZI: Sorry?

ADV SELLO SC: You said there were nine white men, that is what you saw. So why do you still ask him who was there?

COMMISSIONER MKHWANAZI: No, no, I am asking in terms of EMPD, because he is the one who coordinated everyone.

ADV SELLO SC: Oh, so you then had this sudden urge to ask about the EMPD that you failed to ask about on the
10 night when you saw their vehicles. This came to mind only after.

COMMISSIONER MKHWANAZI: That is what I admitted to Commissioner Baloyi.

ADV SELLO SC: So, he is the one who informed you of Stolls and Mackenzie?

COMMISSIONER MKHWANAZI: He is the one who informed me about the operation. He is the one who was giving information.

ADV SELLO SC: Yes, I want to know about Stolls. For the
20 first time you learned from him that Stolls and Mackenzie were present?

COMMISSIONER MKHWANAZI: Yes, yes.

ADV SELLO SC: And you called Stolls and Mackenzie in on the Tuesday?

COMMISSIONER MKHWANAZI: Yes, yes.

ADV SELLO SC: Why?

COMMISSIONER MKHWANAZI: No, I called them after I communicated with Jaco. Jaco confirmed that these are the people, then he called them.

ADV SELLO SC: Why did you meet with them?

COMMISSIONER MKHWANAZI: Because I wanted clarity.

ADV SELLO SC: On what?

COMMISSIONER MKHWANAZI: On the operation.

ADV BALOYI SC: It was not your operation. It is not your
10 operation, so what clarity do you want?

COMMISSIONER MKHWANAZI: My members are there. He said my members were there. Then I wanted them to clarify on that.

ADV BALOYI SC: And they gave you, sorry ...[intervenes]

CHAIRPERSON: You could have gotten the clarity on the
night, Commissioner. This does not make sense. You
could have gotten clarity there. You have driven from your
home 2 am with no detail whatsoever. You get there and
you still leave without any detail whatsoever. Now you only
20 call on Tuesday to get information on the operation. You
could have, after having gotten into the trouble of driving at
2 am to get to the scene, you could have gotten the
information or the clarity there instead of within a very short
time turning and going back home. You could have gotten.
Why did you not do that then?

COMMISSIONER MKHWANAZI: You are correct, Chair. I think it was a shortfall on my side. And I lacked emotions.

CHAIRPERSON: That is not explaining. I am asking for an explanation. Why did you not do it then?

COMMISSIONER MKHWANAZI: I did not think about that. I wanted to put all the ...[intervenes]

CHAIRPERSON: And you only think of it, what, was it 5 days later?

COMMISSIONER MKHWANAZI: I only put it all down.

10 That is what I wanted.

ADV SELLO SC: Thank you, Chair.

CHAIRPERSON: Maybe let me just put what I want to. I want to suggest to you, Commissioner, that your evidence is as sparse as it is on this subject because you do not want to tell us what you actually know and what actually happened. That is why your evidence is as sparse as it is and is as senseless as it is and, as Commissioner Baloyi said, is as improbable as it is. I suggest to you that that is because you do not want to tell us what actually happened
20 at that scene. Comment?

COMMISSIONER MKHWANAZI: Commissioner, Chair, that is what I meant to say.

CHAIRPERSON: No, I am a commissioner, there is no problem.

COMMISSIONER MKHWANAZI: No, Commissioner.

Commissioner, as I have said that I joined or they called me in the early hours. I do not know what happened before.

CHAIRPERSON: Exactly my point. I am saying you do not know and, as a result, your evidence is as sparse as it is because you do not want to tell us what actually happened and what you actually saw. Comment?

COMMISSIONER MKHWANAZI: I did not see anything except what I have mentioned, Commissioner.

ADV SELLO SC: Thank you, Chair. So, then, I would like
10 to suggest that the only probable version in light of the fact that the Commissioners have rejected your version of the da ...[intervenes]

CHAIRPERSON: Not at this stage. We are testing the version.

ADV SELLO SC: Testing the version, and I am proposing to the Commissioners to reject it because it is improbable, it is untruthful, and you are deliberately being evasive. So, I suggest that the only probable explanation for your presence that night is actually what is captured by Marius
20 Van Der Merwe in his statement. And, for that purpose, I would like to refer you to the exhibit file, page 73. Now, Marius Van Der Merwe is the witness who appeared before this Commission as Witness D. Now, if you look at - iff you look at page ...[intervenes]

COMMISSIONER MKHWANAZI: Sorry, you said this is an

exhibition that he presented here or he presented at IPID because IPID said he gave different versions.

ADV SELLO SC: No, I am saying ...[intervenes]

COMMISSIONER MKHWANAZI: He gave different statements.

ADV SELLO SC: The point I was making, I referred to this statement as one of Marius Van Der Merwe.

COMMISSIONER MKHWANAZI: Oh.

ADV SELLO SC: And I said Marius Van Der Merwe is the
10 person who appeared before this Commission as Witness D.

COMMISSIONER MKHWANAZI: Oh, yes.

ADV SELLO SC: Okay, now staying with this document, please refer to page 76. And you will note at the bottom of that page a stamp. This was Commissioned by Nomsa Purity Masuku and that is Ms Masuku from IPID, and it is dated the 30th of September 2022 in Pretoria. Do you see bottom right corner?

COMMISSIONER MKHWANAZI: I see, I see, yes.

ADV SELLO SC: Yes, so, if we go back to 73. At
20 paragraph - at paragraph 1, numbered 1, Mr Van Der Merwe said he was contacted by Kobus about a robbery that took place in Boksburg area. You see that?

COMMISSIONER MKHWANAZI: It is paragraph 2.

ADV SELLO SC: One.

COMMISSIONER MKHWANAZI: Page 73.

ADV SELLO SC: Yes, at paragraph 1, line 1, on Thursday 14th April 2022 at about 21H00, I was contacted by Kobus.

COMMISSIONER MKHWANAZI: I am with you.

ADV SELLO SC: Okay, at paragraph 2 then, second line he said:

“I found the Jaco Hanekom and Kobus at the location.”

So, that is the second person. Paragraph 3, he introduces, he says:

10 “Three unmarked EMPD vehicles arrived and there were Golf 7 GTIs. Inside two of the EMPD vehicles, they were driven by Kecia Lee Stolls and the other was by Adrian MacKenzie. The third vehicle was driven by a coloured male.”

Do you see what I am reading?

COMMISSIONER MKHWANAZI: I read it, yes.

ADV SELLO SC: Continues that:

20 “Kecia and MacKenzie are both employed by EMPD as police officers.”

Then, same line, he introduces Zander Fritz. He says:

“Also arrived with two African males that were in full uniform in a marked SAPS BMW, marked Brakpan with callsign BP32.”

You see what I am reading? Are you still following what I am reading?

COMMISSIONER MKHWANAZI: Yes, I am following you.

ADV SELLO SC: We know from Fritz's statement that he does say that that day the vehicle he used, used that callsign BP32. At 5, he then introduces from line 2:

10 “Etienne Van Der Walt from a certain private security firm with a white female unknown to me and they were driving a Kia Sportage.”

That seems to be the people that congregated at the scene. Now, if we go to page 75, we will skip what he says transpired. And we will go to paragraph 13 at page 75. And now he is talking about Viandre. You said you know Viandre.

COMMISSIONER MKHWANAZI: Yes.

ADV SELLO SC: Correct. And if you look at line 3, it reads:

20 “A few minutes later Viandre came out and told us that the suspect was not going to talk anymore. And Viandre further said how we were going, I guess, to contain all that.”

Further down, he says:

“They were driving in that marked BMW,

that is Fritz's vehicle. After that, Kobus left and other members also left. I was only left with Kecia, MacKenzie, Viandre, Jaco, Etienne, and one EMPD member. As we were standing there, Viandre told us that if we talk, he was going to kill that person himself. Viandre suggested that he was going to call General Khan to assist with the deceased. He then

10 changed and said he was going to call Colonel Dawood, and he was asking me if he should call him.”

Now, at paragraph 14, he explains what eventually happened. And he states:

“Jaco suggested that they should call their chief, whom they called Julius, and he turned around and said he was going to call Mkhwanazi, whom he said he was his chief. He then used his phone to call

20 him. Julius Mkhwanazi arrived a few minutes later and he introduced himself as Superintendent Julius Mkhwanazi to myself and Etienne. Viandre then spoke to Mkhwanazi and said, ‘Chief, it is that time again’. They then discussed the

manner in which the body can be disposed of, and it was decided that I should follow them. I walked to my bakkie and the EMPD member was following me. Viandre instructed me that my bakkie will be loaded with the body of the deceased. Thereafter, I should not worry because I will be covered.”

If we go over leaf again, at page 76, paragraph 16, he speaks of other matters, but at the last line of paragraph 16, he notes:

“Julius was still in the yard supervising the whole issue of disposing the body.”

At 17, paragraph 17, he states:

“They closed the doors, Jaco and Etienne. I was instructed to follow them. They pulled out of the yard and I did as well. I also left and drove off.”

So, the other version of events we have is as narrated by Witness D in this statement which he deposed to about five months after the incident, 30th of September 2022. And I suggest to you that that is the correct factual position of what happened.

COMMISSIONER MKHWANAZI: May I comment?

ADV SELLO SC: Yes, please, I invite you to.

COMMISSIONER MKHWANAZI: If the investigating officer who interviewed him, she is the one who was sitting here, and telling the entire country, and telling the Commission that Witness D lied in his statements. He gave many different versions. You see, why I am saying that? I read the statement that he submitted. I also read this I also listened to these many times. I am not sure you want us to discuss the whole statement, or you want me to stick to this?

10 **ADV SELLO SC:** No, for the moment let us confine ourselves.

COMMISSIONER MKHWANAZI: The investigating officer is the one that she was sitting and said that this man spoke, he gave people different versions, you see. And why I am saying that I will not touch on many other issues, you see. I was not there and he confirmed that I was not there. Secondly, in the other statement he talks about officers who were carrying firearms, you see, waiting for him.

20 But in the other statement there is no person who was carrying a firearm and who wants to kill himself, or who wants to kill him. I apologise for saying that. Who wants to kill him, you see. But in the other version he does not say so. And again, he is saying, I am coming back to you, he is saying, I spoke to, it is what I have said, I spoke to Jaco. And we were discussing how did he hear that we were

discussing about that.

Because the few minutes or the few times that I have said, or for the few minutes that I have said I have spoken to Jaco, you see, I was not even close to them. And he is confirming that I was not even close. But he is concluding that we are discussing about what he claims or what he alleged, because I did not do that, I must mention, you see, that I was discussing about the dumping out, I know that was, because we did not even discuss about any
10 dead person.

ADV BALOYI SC: Commissioner, perhaps it will be helpful if you, well not perhaps, for sure it will be helpful if you told us what it is that you are disputing that Mr Van Der Merwe said in the statement and in his evidence which you say are contradictions that relate to you. Because he makes specific allegations and for purposes of this conversation at paragraph 14 of his statement, he says Jaco suggested that they call you. Now on your own version Jaco did call you. So, we know Mr Van Der Merwe is not lying.

20 **COMMISSIONER MKHWANAZI**: Yes.

ADV BALOYI SC: Right, when he says he was going to call you, he used his phone to call you so there is no dispute there. He says:

“You arrived a few minutes later and introduced yourself as Superintendent

Julius Mkhwanazi to himself and Etienne.”

Now you must tell us what contradiction in his evidence he made to this part of his statement because he says you introduced yourself to himself and Etienne. Now if you say he told different versions you must tell us this is the other version about this that he said. And then in that same paragraph he says:

10 “Viandre then spoke to Mkhwanazi and said, Chief, it is that time again.”

You must tell us where and how he contradicted himself on this allegation that is in the statement. And then he says:

“You then discussed the manner in which the body can be disposed of.”

And you must tell us if you say he contradicted himself here. Did he contradict himself on this aspect? And where did he contradict himself? Is it in the witness box? What did he say about it? And then he says:

20 “It was decided that I should follow them. I walked to the bakkie and the MPD member was following me. Viandre instructed me that the bakkie will be loaded with the body of the deceased therefore I should not worry because I will be covered.”

I am more interested in you being specific about the contradictions that relate to you. That what do you say he said in contradiction and where is that contradiction contained? Is it in a later statement? Is it in his evidence? I think it will help our discussion instead of going wild and discussing everything about his evidence.

COMMISSIONER MKHWANAZI: Chair, I will just limit to two things but before I finish, I will touch on many issues that I have identified. Like, sorry, like the one that I
10 touched on firearms. Number 1, I spoke to Jaco, not Viandre, not Etienne. You see, I spoke to Jaco.

ADV BALOYI SC: About that, you say he contradicted himself. There is a difference between what you are denying. If you say it is untruthful, it is not correct that I spoke to Viandre. Right, that is one thing, and you can say that if that is what you want to say. But you have said he contradicted himself and I am more interested in those contradictions.

20 But you can deny also what he said but if you are going to insist that he contradicted himself where it relates to you, it is helpful that you point us to those contradictions that relate to you and where he contradicted himself. After giving the statement, where did he speak again? Is it in another statement? Is it in the evidence before the Commission that he contradicted himself about your

involvement or what he alleges about you?

COMMISSIONER MKHWANAZI: For now, let me use that I deny. I thought you were talking about the whole but now it is limited to this paragraph. Thank you.

ADV BALOYI SC: For my question, that is what it is.

COMMISSIONER MKHWANAZI: Yes.

ADV BALOYI SC: Thank you. Maybe let me complete this in fairness to you. So, in that paragraph 14, I am seeing that paragraph 14, right. We have agreed from your own
10 account that where he says Jaco called you and you arrived, that is correct, right? Jaco did call you.

COMMISSIONER MKHWANAZI: Yes, that is correct.

ADV BALOYI SC: And you did arrive because of that call from Jaco.

COMMISSIONER MKHWANAZI: Yes.

ADV BALOYI SC: He then says you introduced yourself to himself, this is Mr Van Der Merwe, and Etienne. Do you admit that?

COMMISSIONER MKHWANAZI: No, I did not introduce
20 myself to and I cannot introduce myself to Etienne. Etienne knows me.

ADV BALOYI SC: Yes.

COMMISSIONER MKHWANAZI: You see and I cannot introduce to him because he does not know me. I do not know. I did not even speak to him. I did not even come

close to him.

ADV BALOYI SC: So, you did not meet him and Etienne?

COMMISSIONER MKHWANAZI: No.

ADV BALOYI SC: Okay, and then he says then Viandre then spoke to Mkhwanazi and said, Chief, it is that time again. Do you admit that?

COMMISSIONER MKHWANAZI: No, I deny that.

ADV BALOYI SC: You deny that?

COMMISSIONER MKHWANAZI: Yes.

10 **ADV BALOYI SC:** Okay, and then he says they then discussed the manner in which the body can be disposed of and it was decided that I should follow them. Do you accept that? Do you deny that?

COMMISSIONER MKHWANAZI: I have been denying that, Commissioner.

ADV BALOYI SC: All right, thank you.

COMMISSIONER MKHWANAZI: Yes, another thing that I want to add and you will correct me. He says that I introduced myself as Chief Superintendent.

20 **ADV BALOYI SC:** As Superintendent?

COMMISSIONER MKHWANAZI: No, no, no. In the other statement, he says ...[intervenes]

ADV BALOYI SC: He says as Superintendent here.

COMMISSIONER MKHWANAZI: Yes, he says as Superintendent. In the other statement, he says I

introduced myself as Chief Superintendent. I happened to read part of them last night.

ADV BALOYI SC: Yes.

COMMISSIONER MKHWANAZI: You see.

ADV BALOYI SC: Okay, yes. So that is one contradiction.

COMMISSIONER MKHWANAZI: Yes, and again, in that other one, he said I left then but here he says that I waited for the body to be dumped. I think now we are touching the whole statement. And whilst I was waiting, there were
10 people were carrying, I do not know, officers. I do not remember the exact word that he used. But were carrying side firearms with their hands. You see.

But somewhere in the other statement, it does not mention that because a person who is carrying a firearm, it is a very – and you are looking at him. You see, that means if he did anything wrong or he did not comply, he did not do - they were going to shoot at him right on. That is what I think.

ADV BALOYI SC: Okay.

20 **COMMISSIONER MKHWANAZI:** I am not saying he is saying that, you see. But in the other statement, it does not mention that.

ADV BALOYI SC: It does not mention it.

COMMISSIONER MKHWANAZI: Yes.

ADV BALOYI SC: Okay, all right, thank you,

Commissioner.

COMMISSIONER MKHWANAZI: Yes, but other - no, no, let me say for now.

ADV BALOYI SC: All right, thank you.

ADV KHUMALO SC: Before Advocate Sello asks you her questions, just clarify this. Did they call you chief at the time, so we are in 2022? Did Stolls and – who is the other one? MacKenzie, did they call you chief?

COMMISSIONER MKHWANAZI: No, no, Brigadier.

10 **ADV KHUMALO SC:** They called me Brigadier. And then because it was at 2 am in the morning, for you to count nine white males, I am assuming you must have been very close to them to see that there are white males, and it is nine of them. How close were you to the people who were there?

COMMISSIONER MKHWANAZI: I have said plus, minus.

ADV KHUMALO SC: Yes, yes.

COMMISSIONER MKHWANAZI: In the statement I was not sure.

20 **ADV KHUMALO SC:** Just give me - estimate the distance for me. For you to be able to see that this is a white male and it is nine of them at 2 am in the morning, you must have been pretty close.

COMMISSIONER MKHWANAZI: No, in terms of the colour, but in terms of the exact numbers, that is why I say I was not exact. If I was exact, I was going to say three or four.

But because the wing group I could not count them exact numbers.

ADV KHUMALO SC: I accept that it was more or less nine. I am more concerned about the distance from where you were to where they are or where they were.

COMMISSIONER MKHWANAZI: There, it is a plot.

ADV KHUMALO SC: Was it like if you look at where I am sitting now and where you are sitting?

COMMISSIONER MKHWANAZI: No, let us put where the
10 leading evidence leader or where ...[intervenes]

ADV KHUMALO SC: Where the evidence leaders are sitting to where you are sitting.

COMMISSIONER MKHWANAZI: Yes, yes, yes. Let me say so.

ADV KHUMALO SC: Because you are a police officer and you have conducted investigations before, give it to me in metres.

COMMISSIONER MKHWANAZI: No, I am not trained in investigations.

20 **ADV KHUMALO SC:** Twenty metres? Ten metres?

COMMISSIONER MKHWANAZI: No, I am not trained in investigations. I do not do investigations. That is why I came over to SAPS.

ADV KHUMALO SC: Okay.

COMMISSIONER MKHWANAZI: But let me see the

distance. I can stand up.

ADV KHUMALO SC: No, it is fine. I think we can determine it.

COMMISSIONER MKHWANAZI: Yes.

ADV KHUMALO SC: Now, are you telling me that from where you are sitting to where evidence leader Advocate Sello is sitting, if that was Stolls and MacKenzie, you would not be able to recognise them.

COMMISSIONER MKHWANAZI: No, I do not know them. I
10 will not recognise them because I do not know them. Those that I know, that is what I have said, I am able to recognise. I am repeating it, Commissioner.

ADV KHUMALO SC: But they were all together.

COMMISSIONER MKHWANAZI: Yes, they were standing.

ADV KHUMALO SC: And you could recognise people who are not EMPD, but also EMPD, you could not recognise them.

COMMISSIONER MKHWANAZI: Not people, those that I know.

20 **ADV KHUMALO SC:** Yes, those that you say you know.

COMMISSIONER MKHWANAZI: In that group, there is no white male officer. Or in the team that work with Stolls, there is no white male officer.

ADV KHUMALO SC: Work with me here, Commissioner Mkhwanazi.

COMMISSIONER MKHWANAZI: Yes, Commissioner.

ADV KHUMALO SC: You said you recognised two people and you gave us their name. And none of the two are EMPD officers. Am I correct? You said Viandre and who else?

COMMISSIONER MKHWANAZI: I said Etienne from EMPD.

ADV KHUMALO SC: Etienne and Viandre.

COMMISSIONER MKHWANAZI: Yes.

ADV KHUMALO SC: Now, Etienne and Viandre are not
10 EMPD officers, right?

COMMISSIONER MKHWANAZI: Yes.

ADV KHUMALO SC: And we know from the statements of Stolls and MacKenzie that they were there.

COMMISSIONER MKHWANAZI: Yes, you are correct.

ADV KHUMALO SC: And my question is how is it possible that from 10, 20 metres you are able to recognise Viandre and the other person, but you cannot recognise Stolls and MacKenzie?

COMMISSIONER MKHWANAZI: Commissioner, I have said
20 that is a plot. There were many movements. I am only talking about those that were standing there. I do not talk about everyone was moving around. There is a house. There is a room, if I am not mistaken. That area, it is a plot. It is not like where we grew up, a four-room house. It is a plot. Everyone was moving around. I can only

recognise I am talking about those that were standing there. I am not talking about everyone was moving around. I only talk about this.

ADV KHUMALO SC: And you say you did not greet Viandre.

COMMISSIONER MKHWANAZI: I did not?

ADV KHUMALO SC: Greet him.

COMMISSIONER MKHWANAZI: No, no, I spoke to - greetings, I did not speak to him. I did not speak to him. I
10 only spoke to who is this? To Jaco.

ADV KHUMALO SC: That is my question. You did not greet Viandre despite the fact that you know him?

COMMISSIONER MKHWANAZI: I do not remember the greetings I will be lying.

ADV KHUMALO SC: But it is possible that you did.

COMMISSIONER MKHWANAZI: It may be possible. It may be possible.

ADV KHUMALO SC: And the other one you said, who was the other one?

20 **COMMISSIONER MKHWANAZI:** I am having Ubuntu. I will greet if I see you.

ADV KHUMALO SC: I would find it very strange that you know me, you come to a scene at 2 am and you do not greet me, you do not say anything. I would find that very strange.

COMMISSIONER MKHWANAZI: That is why I am saying I

am having Ubuntu. I may greet it but focus on
...[intervenes]

ADV KHUMALO SC: It is more probable than not that you spoke to the people that you knew when you arrived at the scene.

COMMISSIONER MKHWANAZI: No, I did not. I spoke to Jaco. I spoke to Jaco, Chair.

ADV KHUMALO SC: Please can we switch off the cell phones or put them on silent? Thank you. Thank you,
10 Advocate Sello.

ADV SELLO SC: Okay, so ...[intervenes]

COMMISSIONER MKHWANAZI: Sorry, Chair. I am starting to be problematic now. It is nature. I will run. I tried to behave yesterday.

CHAIRPERSON: Let us adjourn.

INQUIRY ADJOURNS

INQUIRY RESUMES

CHAIRPERSON: Yes, Ms Sello.

ADV SELLO SC: Thank you, Chair. Commissioner
20 Mkhwanazi, this statement is deposed to in September of 2022, about five months after the incident. Do you confirm? Rough calculation.

COMMISSIONER MKHWANAZI: As I see it, I confirm.

ADV SELLO SC: And you testify that you do not know Marius Van Der Merwe? You did not know Marius Van Der

Merwe?

COMMISSIONER MKHWANAZI: No, I have never met Marius.

ADV SELLO SC: I am not taking issue with that.

COMMISSIONER MKHWANAZI: Yes.

ADV SELLO SC: Now, in this particular statement, Marius Van Der Merwe lists a number of people, from Jaco, Fritz, Etienne, Kecia Lee-Stolls, Mackenzie, so many of them. Do you have - are you able to think of a plausible reason why
10 he would claim that you are the person who suggested that the body be dumped in the dam? He does not know you. You do not know him. You have never met.

COMMISSIONER MKHWANAZI: Let us, may you please read his statement where he says, they told him.

ADV SELLO SC: This same statement?

COMMISSIONER MKHWANAZI: Where he says they told him, and that is where he even says that we are discussing about that.

ADV SELLO SC: So, in this statement, should I know
20 which statement?

COMMISSIONER MKHWANAZI: I am not sure which one is that, no, but between the two.

ADV SELLO SC: Okay. The two being this particular statement before us, and his statement to the Commission, or which second statement?

COMMISSIONER MKHWANAZI: Yes, to the Commission.

ADV SELLO SC: To the Commission.

COMMISSIONER MKHWANAZI: Yes, now he mentioned again on the television. He reminded me that they said I have said and even said that I did not tell him. I told the other person that he must do that. I do not know why he may suggest that it is him, or maybe it was going to be him who can explain that. I do not know.

ADV KHUMALO SC: Sorry, to do this Advocate Sello. You
10 have read the various statements by Witness D.

COMMISSIONER MKHWANAZI: And I have listened, yes.

ADV KHUMALO SC: Now, let me ask you this. Have you seen any statement where he does not mention you, where he does not say you were present at the scene on the day?

COMMISSIONER MKHWANAZI: No, no, no.

ADV KHUMALO SC: So, there is no contradiction on that aspect?

COMMISSIONER MKHWANAZI: On that one, yes.

ADV KHUMALO SC: In all the statements he says you
20 were there, and he identifies you.

COMMISSIONER MKHWANAZI: And again, when he says that I did not speak to him, he is correct.

ADV KHUMALO SC: No, no, I am only focussing on your presence at the scene.

COMMISSIONER MKHWANAZI: Yes.

ADV KHUMALO SC: So, there is no contradiction there?

COMMISSIONER MKHWANAZI: Yes, yes, yes. And I think I even mentioned, oh, no, no, it was in Ad hoc, where I mentioned that. In most of the things that he mentioned, he was not lying. I cannot say because it is there, I can say 100 percent he is, I will be dishonest to you.

ADV KHUMALO SC: So, you are saying the contradictions are the minor details in between the fact that you were there.

10 **COMMISSIONER MKHWANAZI:** Yes, there are contradictions. There are contradictions.

ADV KHUMALO SC: Thank you.

ADV SELLO SC: And we have just pulled up the statement to this Commission.

COMMISSIONER MKHWANAZI: Yes.

ADV SELLO SC: Before we get to that, I just want to understand, insofar as paragraph 14 is concerned, where he states that you were part of a discussion, and that concluded that the body must be disposed of, how the body
20 must be disposed of, and then which body was then subsequently loaded in Marius's vehicle. What do you say is the contradiction between the contents of paragraph 14 and the statement before the Commission? What do you recall, specifically around what is in paragraph 14?

COMMISSIONER MKHWANAZI: May I read it?

ADV SELLO SC: Yes, please.

COMMISSIONER MKHWANAZI: Yes, I will only say, between, I introduce myself as a chief superintendent. On the other hand, he said I introduce myself as a superintendent. Here he is saying he is a superintendent. The other statement says chief superintendent.

ADV SELLO SC: Okay.

COMMISSIONER MKHWANAZI: Yes.

ADV SELLO SC: So that is the only contradiction.

10 **COMMISSIONER MKHWANAZI:** Yes.

ADV SELLO SC: In this paragraph.

COMMISSIONER MKHWANAZI: Yes.

ADV SELLO SC: So, you recall we looked at Fritz's, I do not know if he is co-captain or colonel, or Fritz who arrived from Brakpan. You remember we discussed that sometime.

COMMISSIONER MKHWANAZI: He is not in office. He is something like reservist.

ADV SELLO SC: The reservist, yes. And you recall that you indicated that you did not see the black male with a
20 beard and glasses who asked us - who asked them, Fritz and company, who they were. And he says they advised that they were from SAPS trio task team there to assist Jaco. And then he says:

“This particular person was apparently from EMPD but dressed in civil clothing.”

You testified that you did not see this person.

COMMISSIONER MKHWANAZI: I did not see. And I do not know him. I did not see it. I did not see him.

ADV SELLO SC: And I suggest to you that you did not see him because that person was you.

COMMISSIONER MKHWANAZI: Was me.

ADV SELLO SC: Yes.

ADV KHUMALO SC: Do you want to take him back to be fair to him?

10 **ADV SELLO SC:** Absolutely.

ADV KHUMALO SC: It is 25.

ADV SELLO SC: Fritz. Let us go to Fritz's statement.

COMMISSIONER MKHWANAZI: The one that I do not know.

ADV KHUMALO SC: No, no, go to page 25 there.

COMMISSIONER MKHWANAZI: The same statement?

ADV SELLO SC: No, it is Masuku ...[intervenes]

ADV KHUMALO SC: The annexures, yes.

COMMISSIONER MKHWANAZI: Page 25, yes.

20 **ADV KHUMALO SC:** Yes.

ADV SELLO SC: You remember that is Fritz's statement.

COMMISSIONER MKHWANAZI: Yes.

ADV SELLO SC: Just to confirm, it starts at page 22. Alexander Fritz.

COMMISSIONER MKHWANAZI: I must go to page 22.

ADV SELLO SC: No, no, I am saying it starts from page 22. We are referring you specifically to 25. I just wanted you to satisfy yourself that that is indeed Fritz's statement.

COMMISSIONER MKHWANAZI: Okay.

ADV SELLO SC: So, at 25, paragraph 12.

COMMISSIONER MKHWANAZI: Yes.

ADV SELLO SC: Speaks about, remember that he has spoken about, I think, about arriving there and speaking to Kobus and at least we all agree that Kobus was there, what
10 Jaco did, and being informed. And at 10, he says:

“EMPD was already there. I believe that there was a special task team working on...”

COMMISSIONER MKHWANAZI: Can you repeat the whole paragraph? You are confusing me when you touch and leave, touch and leave.

ADV SELLO SC: No, I was giving context and saying who dealt with this, that he had already said who he met there. So, he concludes at 12, then he deals with a slightly
20 different issue because he then talks at 12 about arriving at the property. We climbed over the steel fence to approach the house. I am reading about fifth line. Do you see where I am?

COMMISSIONER MKHWANAZI: Yes.

ADV SELLO SC: Then he said:

“We saw the truck standing next to the house and we moved along the truck. We saw a black male with a beard and glasses who asked us who we were. We told him that we are from SAPS Trio Task Team. Jaco asked for assistance. He was apparently from EMPD but dressed in civil clothing.”

Earlier I had asked you whether you saw the person who fit
10 that description. You said no, you did not. You did not see such a person. Correct?

COMMISSIONER MKHWANAZI: You are correct.

ADV SELLO SC: Yes, so, I am suggesting now, after everything, that you did not see that person because that person was you.

COMMISSIONER MKHWANAZI: May I respond?

ADV SELLO SC: Yes, please.

COMMISSIONER MKHWANAZI: One of the things that I like about this career is the shaving. I do not make a
20 mistake. I do not leave beard. No sources of beard, you see. And I wear glasses because I am starting to have this. Before, I never just wore glasses, you see. And they will tell you when I am at work, I do not even wear glasses. I consider it.

I have never in my life lived, because I happen to

be an instructor and, you see, then I have maintained that in my life, you see. I have never, Madam. I think even if I die, I will die like this, you see. Because that is what I enjoy in this career. This moustache is still, I am still, I am not married. You still see people and say, you look so smart, beautiful, handsome, you see. That is what will make me to remain like this. I have never, in this Commission, let me put it in record that it was not me, it will never be me. Because I am always like this. I do not make
10 mistake. I shave each and every day.

ADV SELLO SC: Okay, so, if I understand you correctly, you disagree with what I am proposing because the person described here is said to be a black male with a beard and wore muscles. And you point to those two aspects, and you say, you never keep a beard. And I say, by beard, you mean a full facial beard, right?

COMMISSIONER MKHWANAZI: Yes.

ADV SELLO SC: And that you did not wear glasses at the time.

20 **COMMISSIONER MKHWANAZI:** Yes, you can even go to all the commanders from all the, they know that I am the only man who tell all men who are not shaved. I am very strict when it comes to that, you see. I know that many officers, they like to leave it, you see. But in this career, you are not allowed as a man. You must shave, you see.

And I am remaining without standing order. They know before we start everything in a parade, I do parade inspection around, you see. And I have charged many officers than any other Chief of Police within a short space of time at the EMPD.

ADV SELLO SC: You have charged them?

COMMISSIONER MKHWANAZI: Charged, yes. Discipline charged.

ADV SELLO SC: Okay.

10 **COMMISSIONER MKHWANAZI:** Yes.

ADV SELLO SC: For keeping a beard.

COMMISSIONER MKHWANAZI: And I am turning them back. I am saying come after parade. If you do not come, you are not at work. For simple shaving. Because hygiene starts there. That is what I always maintain.

ADV KHUMALO SC: So, can I ask you this then? Why did you not charge Stolls and MacKenzie for being in an operation that you knew nothing about? Because you say that Tuesday following the incident, you shouted at them.

20 Why did you not charge them for them being in an operation which is not an EMPD operation, which nobody told you about? Because surely you must have thought what they did was wrong.

COMMISSIONER MKHWANAZI: You are correct. There are corrective measures. And a corrective measure is part

of a disciplinary process. You see, by calling them and shouting at them is part of the corrective measures. I always start by doing that.

ADV KHUMALO SC: So, all you did was shout at them?

COMMISSIONER MKHWANAZI: It is a corrective measure, yes.

ADV KHUMALO SC: For driving EMPD vehicles to an operation which is not EMPDs at 2 am in the morning.

COMMISSIONER MKHWANAZI: It is a multidisciplinary
10 operation. But I called them. And I shouted and I made sure that my line of command or my line of instruction is very clear on them.

ADV KHUMALO SC: And where have you recorded that disciplinary step that you took? Where is it recorded?

COMMISSIONER MKHWANAZI: I did not record it anywhere. I did not record it. And most of the time when it is corrective measures, I do not record it. Like in a parade, when I am turning them away, I do not record it.

ADV BALOYI SC: Why would you shout at them if this was
20 a multidisciplinary operation? It was not your operation, you say. But you have also told us that EMPD conducts multidisciplinary operations. So, what was there to shout at them about?

COMMISSIONER MKHWANAZI: Why do you hide yourself if you did know that I was there?

ADV BALOYI SC: Why would you say they hide themselves?

COMMISSIONER MKHWANAZI: Obviously I got ...[intervenes]

ADV BALOYI SC: You did not ask for them. You did not ask, according to you, you did not ask who is here from EMPD. So, if you did not ask, no one showed themselves up to you because you never asked who from EMPD is here, why would you have said they were hiding themselves from
10 you?

COMMISSIONER MKHWANAZI: In one of the statements, Commissioner, there is where somebody said, he told them that Commissioner Mkhwanazi is coming. By that time, I was not there. It is just that I do not know the specifics for now.

ADV BALOYI SC: Forget the statement because you did not have a statement when you were speaking to them. You say you spoke to them on Tuesday. So, you did not have a statement at that time. Your version is that up to that time,
20 the only person you had spoken to is Jaco.

COMMISSIONER MKHWANAZI: Yes.

ADV BALOYI SC: When he called you that night and when you called him the following day or on Tuesday when you called him. So, we know you never spoke to anybody else. You did not have a statement. That is your version. From

anybody.

COMMISSIONER MKHWANAZI: Yes.

ADV BALOYI SC: But you have also told us that you did not ask for EMPD people. You did not ask anybody who is here from EMPD. So why would you say they were hiding from you if you never looked for them?

COMMISSIONER MKHWANAZI: No one came to me.

ADV BALOYI SC: Yes.

COMMISSIONER MKHWANAZI: And even after a distance
10 of saying, *Meneer*, there was this operation.

ADV BALOYI SC: So, you were shouting at them for hiding from you?

COMMISSIONER MKHWANAZI: No.

ADV BALOYI SC: Is that what you were shouting at them for on Tuesday?

COMMISSIONER MKHWANAZI: For being in an operation was, I do not know, or a distance of informing me that there was this type of an operation.

ADV BALOYI SC: But you say it was not the EMPD
20 operation. So why would they tell you?

COMMISSIONER MKHWANAZI: But they were there. I know that is why it was a corrective measure. But just to know that there was this, because I can only be informed by Jaco.

ADV BALOYI SC: You see, if it is a corrective measure, it

must be because you say they did something wrong that night. That is why there is corrective measures. Otherwise, it does not make sense. There is nothing to correct if they did not do anything wrong. So, the starting point has to be you say they did something wrong that night and on Tuesday you confronted them with the wrong that they did.

So far, all you have said is because they were hiding from me. But they cannot hide from you. They could
10 not have been hiding from you because you never asked for them. You never looked for them. You got there, you said to Jaco, why do you call me if this is not my operation and you say everything is fine. I am leaving. There is no, they hid from you.

So, if you did, what I am proposing to you is if you did shout at them on Tuesday, it is not because they hid from you. It is because at that time you believed there is wrong that happened. If you did shout at them at all, it is because you believed there is wrong that happened and you
20 were calling them to order when you shouted at them. That is the only way you could be exercising corrective steps.

It is because something wrong happened that night and your first answer is well, because they were hiding from me. That does not make sense at all with respect, that you would have done that and therefore it cannot be true that

what you are describing happened the way that you described it. You can comment if you wish.

COMMISSIONER MKHWANAZI: No, I do not have a comment.

ADV BALOYI SC: Thank you.

ADV SELLO SC: You will not comment, you say?

COMMISSIONER MKHWANAZI: No, no, to Commissioner I will not comment but to yours I deny it was not me. I am always shaved.

10 **ADV SELLO SC:** What are you denying?

COMMISSIONER MKHWANAZI: That it was me.

ADV SELLO SC: Oh, when?

COMMISSIONER MKHWANAZI: It was, that the ...[intervenes]

ADV SELLO SC: The person described by Fritz?

COMMISSIONER MKHWANAZI: Yes, yes.

ADV SELLO SC: Okay, no I have noted that.

COMMISSIONER MKHWANAZI: Yes, yes.

20 **ADV SELLO SC:** So, then you met with them on Tuesday you shouted at them for hiding from you. Did they say why they hid from you?

COMMISSIONER MKHWANAZI: Why they?

ADV SELLO SC: Why were they hiding from you?

COMMISSIONER MKHWANAZI: No, I have said it and I did not even give them time to explain.

ADV SELLO SC: Why not?

COMMISSIONER MKHWANAZI: No as I have said that the way I was angry that day, I wanted to raise it on them, you see.

ADV SELLO SC: I thought you wanted to get to the bottom of their role in their operation.

COMMISSIONER MKHWANAZI: No, no, I was not interested in that.

ADV SELLO SC: Your interest was just to shout at them?

10 **COMMISSIONER MKHWANAZI:** Yes, yes, yes.

ADV SELLO SC: For hiding from you?

COMMISSIONER MKHWANAZI: The Commissioner has said it is wrong.

ADV SELLO SC: No, this is now my really ...[intervenes]

COMMISSIONER MKHWANAZI: She has corrected me that you cannot be doing that.

ADV SELLO SC: No, I do not think she has corrected you, she was taking issue with your version, so she is not suggesting that you change your statement.

20 **COMMISSIONER MKHWANAZI:** No, I took it. I accept it, I accept what she is saying.

ADV SELLO SC: So, then you did not pursue the issue of them hiding from you with them, that is what you are saying?

COMMISSIONER MKHWANAZI: No, I did, but the

Commissioner said it was wrong for me to do that because ...[intervenes]

ADV BALOYI SC: No ...[intervenes]

COMMISSIONER MKHWANAZI: You said so Commissioner.

ADV BALOYI SC: I am not saying what you are saying is wrong, that is why you shouted at them, I am saying it is improbable, it does not make sense that you would shout at them for hiding from you if they were not hiding from you.

10 **ADV SELLO SC:** And I am saying to you, they were not hiding from you because you did not look for them.

COMMISSIONER MKHWANAZI: I took it from that, Commissioner.

ADV BALOYI SC: So, it is not true what you are saying, you accept that as well?

COMMISSIONER MKHWANAZI: I did it, Commissioner, in my mind I did, but now we are putting another perspective on that approach.

ADV BALOYI SC: Thank you.

20 **ADV SELLO SC:** And just to be clear, you did not shout at them because you are saying it was not an EMPD operation, you did not shout at them for taking part in that operation?

COMMISSIONER MKHWANAZI: I was shouting at them for those reasons.

ADV SELLO SC: Which reasons?

COMMISSIONER MKHWANAZI: You are part of the operation, I am not informed, part of the operation, I am called back, we do not confirm, and you were with Jaco in that operation. Jaco confirmed that he was with them, I was shouting at them on that.

ADV SELLO SC: So, did you take up that issue with Inspector Schultz, who you indicated was Stolls's commander?

COMMISSIONER MKHWANAZI: No, no, no.

10 **ADV SELLO SC:** Would that not have been your starting point to find out from Inspector Schultz whether that operation was authorised by him at least?

COMMISSIONER MKHWANAZI: No, remember, Commissioner, I have said, I must confirm that Schultz was part or he was already resigned. Remember, it is you who said it is either you or Schultz, and I have said he did not call me, and I am not sure that Schultz was there, Schultz has already resigned or not. I do not want to put Schultz in the steps where he was not. And you even corrected that I
20 am not saying he was, but it may either you or him.

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

COMMISSIONER MKHWANAZI: But I am saying with me, I was not informed.

ADV SELLO SC: Yes, I get that. Can I just list this?

COMMISSIONER MKHWANAZI: But in many instances

when he was there, when I called people, he is always there, raises his frustration, he knows how I work. I do not jump Commanders I work with them.

ADV SELLO SC: Okay, during the tea break, I had opportunity to establish exactly when Inspector Schultz retired. His full name is Robert Schultz, it is spelled I think S-C-H-U-L-T-S and according to records, he retired at, he took early retirement at the age of 55 on the 31st of May 2023. That is when he retired.

10 **COMMISSIONER MKHWANAZI:** Yes.

ADV SELLO SC: So, this event is April 2022.

COMMISSIONER MKHWANAZI: I think he may be there, because I do not jump him. I do not jump any commander. I call, just that I do not recall. But I do not jump anyone when I put order.

ADV SELLO SC: He may be there while you are shouting at them or he may be there. Please be precise.

COMMISSIONER MKHWANAZI: I think he may be there. I do not remember him being there. Unless maybe he went
20 somewhere. But he may be there. But on that day, I do not remember talking to him.

ADV SELLO SC: Did you call him in for that meeting?

COMMISSIONER MKHWANAZI: I do not remember that. But most of the time, I will call him if there are challenges. I will not jump him. In fact, with all the commanders, they

know that I called him.

ADV SELLO SC: Before you shouted at them from hiding from you, was your logical starting point not to be to engage with their commander to understand what the members were doing on the scene on that day? Would that not be a logical starting point?

COMMISSIONER MKHWANAZI: Yes, but my approach is always wanting to deal with the members in front of their commander. Even if I do not discuss, I say, no, no, no.

10 You are not part of this. Let me deal with these people. Because of doing this and this and this. Then we will start commenting and what not. Because there are many instances where members are doing things, and we think commanders are part of that. But when you establish from that, no, no, no. He knows nothing. Members on the ground were doing their own thing.

ADV SELLO SC: Did you establish with Inspector Schultz where he was?

COMMISSIONER MKHWANAZI: No, I did not.

20 **ADV SELLO SC:** Why not? You accepted that he was?

COMMISSIONER MKHWANAZI: No, I did not.

ADV SELLO SC: You did not accept?

COMMISSIONER MKHWANAZI: Yes.

ADV SELLO SC: Did you invite him to this meeting to come deal with his members?

COMMISSIONER MKHWANAZI: I do not remember that you know. That is why I did not even ...[intervenes]

ADV SELLO SC: I need to ask this so that I know what to engage Inspector Schultz on. If he was present in that meeting to get his perspective on that meeting.

COMMISSIONER MKHWANAZI: I do not remember.

ADV SELLO SC: You do not remember?

COMMISSIONER MKHWANAZI: Yes.

ADV SELLO SC: He may have been present he may have
10 not.

COMMISSIONER MKHWANAZI: I do not remember.

ADV SELLO SC: I am saying the fact of you not remembering, you are not denying he was there, you are not confirming he was there. He may have been there for all you remember, or he may have not. You just do not remember?

COMMISSIONER MKHWANAZI: No, I do not remember. I will not lie, I do not remember.

ADV SELLO SC: After this engagement, did you talk to
20 Inspector Schultz to express the very frustrations you did to the two members?

COMMISSIONER MKHWANAZI: We had many meetings.

ADV SELLO SC: This particular one?

COMMISSIONER MKHWANAZI: We had many meetings with different incidents. I do not remember that particular

one, but there were many incidents that were taking place in different units. I engaged commanders. With this particular one, I may be lying, I do not remember. I do not remember. He may be a better person to assist because he is still alive.

ADV SELLO SC: Did you inform him of the corrective steps you took against his members?

COMMISSIONER MKHWANAZI: That is why I am saying I do not remember. Engaging after means that you are
10 informing him.

ADV SELLO SC: So, you have no recollection whether you engaged with Inspector Schultz about this matter, whether before the Tuesday meeting, during the Tuesday meeting, after the Tuesday meeting, you have zero recollection?

COMMISSIONER MKHWANAZI: No, it is zero.

ADV SELLO SC: Zero, okay.

COMMISSIONER MKHWANAZI: I am trying to think. But I know that with commanders I meet because it is different units. I meet and there is a team meeting or there are
20 commanders meeting where I address all the challenges of different members. They address the first three, they address the challenges and with me another thing, you will shout at me, or you will call me to order Commissioner Baloyi again, you see. It may be, you may see it like this. You find that I am having a problem with this team because

it is 475.

When I was a director, members that were reporting on them, it is 475 members, then with different commanders. If I am having a problem with madam that side, I will address the whole house. In my mind I am saying, if I address and sort out this problem, I have already addressed all of them so that when they go back, they will say no, no, but the director called these people into order about these issues. He does not want to see
10 these issues. Then we will extend orders into all those things. But I do not specifically address, it is the approach that I have been using.

ADV SELLO SC: Did you request Constable Stolls and/or MacKenzie to give a written report about that operation and their conduct that night? Did you ask for such a report?

COMMISSIONER MKHWANAZI: No, no, I did not.

ADV SELLO SC: Why not?

COMMISSIONER MKHWANAZI: I have said I took a corrective measure.

20 **ADV SELLO SC:** Yes, but to place on record what happened so that the corrective measure taken ensures that the very issue that is on record does not arise again.

COMMISSIONER MKHWANAZI: No, no, I did not do that. That is what the Commissioner was asking. I have said no, I did not do that.

ADV SELLO SC: Now, I am interested in your relationship with Jaco Hanekom again. You said he is an informer. Now, I do not know if it is different for EMPD or for you. This is somebody who provides EMPD, and I use that in a general sense, with relevant information to assist in the fight against crime. Am I correct in my understanding?

COMMISSIONER MKHWANAZI: You are correct.

ADV SELLO SC: And he does that out of the goodness of his heart or is he paid for the effort by EMPD?

10 **COMMISSIONER MKHWANAZI:** I have said to you some of the informants, EMPD does not pay people. Let me correct that. Some of the informants are informants that are paid by SAPS through their own thing, but they do not expose them. But they also assist in EMPD. And we know some, he is not the only informant that assists us who is in the payroll of - but most of them, they do not want to disclose that I am an informant, I am paid by SAPS.

ADV SELLO SC: But you say EMPD does not pay informants?

20 **COMMISSIONER MKHWANAZI:** No, it does not. That is why I have said when I was starting, I even said, you are starting this thing, you are doing a good thing, I think you can invest and take this forward. Because it was also good indeed. Not thinking about the vehicles repairing and selling.

ADV SELLO SC: And I want to suggest something to you. Your meeting of Tuesday with Stolls and MacKenzie was not to berate them, as you suggest, for hiding from you on the day of this incident. The three of you were trying to align your versions to make sure that your stories do not conflict. That is my comment to you.

COMMISSIONER MKHWANAZI: But I did not meet with the two of them. I met with them, including Jaco.

ADV SELLO SC: Yes, I will get to Jaco. Jaco was in on
10 the meeting.

COMMISSIONER MKHWANAZI: He is the one that confirmed and said, let us call them. I called them. It was not the meeting of the three of us.

ADV SELLO SC: Okay, so, you are holding a formal EMPD meeting with members of EMPD, you are taking corrective measures against them, and a civilian is a part of that meeting.

COMMISSIONER MKHWANAZI: He was part.

ADV SELLO SC: Is that appropriate?

20 **COMMISSIONER MKHWANAZI:** They were part of the operation.

ADV SELLO SC: Were they part of the EMPD operation?

COMMISSIONER MKHWANAZI: No, I did not say EMPD.

ADV SELLO SC: So which operation?

COMMISSIONER MKHWANAZI: The one that we are

talking about.

ADV SELLO SC: I am trying to understand how EMPD functions.

COMMISSIONER MKHWANAZI: No, this ...[intervenes]

ADV SELLO SC: Let me finish. You have reporting lines between you and your members. You take steps against them when they make mistakes. I understood that to be an internal EMPD process, but from what you are saying, my understanding is wrong because you invite informers into
10 that process. Should I understand that?

COMMISSIONER MKHWANAZI: Yes, but they are always informing me. They must know when I do not like this thing about these members, and it must be clear to them. Then when it is formal, you take different steps and processes and disciplinary processes that we are taking. But that is what I did.

ADV SELLO SC: I suggested to you that the meeting was to ensure that the three stories of your story and the two EMPD members aligned. You say Jaco was there. I go
20 further to say the four of you were ensuring that all your stories aligned, including the informer.

COMMISSIONER MKHWANAZI: May I – sorry, sorry, Chairperson. You read all our statements. Some I did not have the privilege to read. You could see that they are not aligned. Why are you suggesting that? Because the

statements are not even aligned.

ADV SELLO SC: There is one thing they are aligned on. It is the death of Mr Mbense.

COMMISSIONER MKHWANAZI: Sorry?

ADV SELLO SC: One thing they are all aligned on is the death of Mr Mbense.

COMMISSIONER MKHWANAZI: I do not know about that.

ADV SELLO SC: Yes, I am saying the statements are all aligned in that. None of them references the death that
10 occurred on the day. That is the alignment that I am speaking of.

COMMISSIONER MKHWANAZI: But I do not know about that.

CHAIRPERSON: And they are also aligned on the fact that you arrived at the scene at some point.

ADV SELLO SC: Indeed.

COMMISSIONER MKHWANAZI: Sorry, Commissioner?

CHAIRPERSON: They are also aligned on the fact that you arrived at the scene that night/early morning.

20 **COMMISSIONER MKHWANAZI:** That means, Commissioner, it is also aligned to Marius's to Witness D. Because I also confirmed that what the witness is saying is true. I came in. That means it is also aligned to everyone who said, I came in. You see, that is not only the two or the three, you see. And I am making another understanding

that the Commissioner sees me as if this person is protecting Kecia and Mackenzie. From yesterday I can see that you are going towards that.

CHAIRPERSON: No, no, no.

COMMISSIONER MKHWANAZI: And I feel that ...[intervenes]

CHAIRPERSON: I am sorry for – Advocate Sello.

ADV SELLO SC: Absolutely.

CHAIRPERSON: No, no, no. It is not about protecting
10 them at all. If you remember this line of questioning by Ms Sello, which started a while back. It is more about whether you indeed were part of the decision/plan to dispose of Mr Mbense's body. That is the focus of the questioning.

ADV SELLO SC: Yes.

CHAIRPERSON: Please continue, Ms Sello.

ADV SELLO SC: So, I am suggesting to you that that
Tuesday meeting you referenced, the purpose was to make sure that you do not contradict each other in your stories. And you said your response was Jaco Hanekom was part of
20 that meeting. Then I am expanding my suggestion to you to say the four of you wanted to make sure that you do not contradict one another.

COMMISSIONER MKHWANAZI: It is not true. Let me say I cannot say it is not true. I am denying that.

ADV SELLO SC: And that was the sole purpose of the

meeting. Otherwise, you did not need Jaco Hanekom to be present in the meeting to discipline your own members.

COMMISSIONER MKHWANAZI: I deny that.

ADV SELLO SC: What do you deny?

COMMISSIONER MKHWANAZI: What you are saying that we were there to align our stories with Jaco or align whatever version with Jaco or Mackenzie and Kecia, you see, I deny.

ADV SELLO SC: My next suggestion to you that is
10 because the four of you amongst others were involved in this hijacking racket in the Ekurhuleni area in the East Rand, if I may.

COMMISSIONER MKHWANAZI: Are you saying I am part of the hijackings?

ADV SELLO SC: I say you are part of that racket, yes.

COMMISSIONER MKHWANAZI: No, I do not participate in those things. And I deny what Commissioner Revo Spies was saying about that. It is not true.

ADV SELLO SC: And you derive a direct financial benefit
20 from that activity.

COMMISSIONER MKHWANAZI: No. From who?

ADV SELLO SC: From Jaco Hanekom.

COMMISSIONER MKHWANAZI: I have explained the financial matters about Jaco before you even asked me, I am the one who explained about that.

ADV SELLO SC: Please explain. I must have missed him.
The financial matters about Jaco.

COMMISSIONER MKHWANAZI: When I was starting, I said Jaco was running a business separate of repairing, buying cars, repairing, buying cars. Then I invested my 100 000 there to make sure that at least we, after discussion, that we at least repair five cars instead of one car.

ADV SELLO SC: Is that car repair?

COMMISSIONER MKHWANAZI: Sorry?

10 **ADV SELLO SC:** What is the name of the entity?

COMMISSIONER MKHWANAZI: No, we did not have any entity. We were still starting it. But along the way I got disappointed. We were still starting that process because he was doing it, then I wanted to invest because what I was doing, it was not assisting me financially anymore. You see, when I started it, you see, I was when seeing my statements, I was in China, I would travel outside to buy and sell or else I would be here buying clothes from there, collecting it at the airport or collecting customs and selling.

20 That is what I was doing. But when COVID-19 came in, that died, you see, and happened to be affected again, you see, then I decided, no, no, no, I am no longer going for it.

ADV SELLO SC: What year was this you started this business with Jaco?

COMMISSIONER MKHWANAZI: I started early that

business, 2018, 2019.

ADV SELLO SC: 2018, 2019?

COMMISSIONER MKHWANAZI: I pushed it, I think, for three, four years.

ADV SELLO SC: And you say you invested 100 000 in it?

COMMISSIONER MKHWANAZI: No, no, no. 100 000 with Jaco. With that one, it started very small, but as I was selling it, it grew, grew, grew.

ADV SELLO SC: Where did you invest your 100 000?

10 **COMMISSIONER MKHWANAZI:** I gave it to Jaco.

ADV SELLO SC: For what purpose?

COMMISSIONER MKHWANAZI: As part of the renovation, no, repairing of vehicles and selling them. He was buying cars. He was doing that business, buying cars from social, getting them from Facebook, or he would travel between Free State and Northwest and Gauteng and get those cars, he would repair and sell, repair and sell. But it was not doing well. But it was not because he did not invest it. Let us invest on that.

20 **ADV SELLO SC:** So, this is around 2018?

COMMISSIONER MKHWANAZI: No, 2018 it was closed. It was closed, Madam. It is after the time of COVID. It is either 2020 or 2021. I do not remember the dates. Yes, when everything was closed. It was after everything, when everything was closed. Because of the COVID. Because of

coronavirus.

ADV SELLO SC: Yes.

COMMISSIONER MKHWANAZI: Because of coronavirus.

Then I started, because he was doing that and he was working on it. I said, no, no, let us do that.

ADV SELLO SC: So, this activity with Jaco, you are referencing, started after COVID, let us put it that way.

COMMISSIONER MKHWANAZI: COVID, it was three years. It was during that time.

10 **ADV SELLO SC:** COVID from 2020?

COMMISSIONER MKHWANAZI: I think it will be 2021. I do not have the exact date.

ADV SELLO SC: That is when it started.

COMMISSIONER MKHWANAZI: Yes, but 2021. Because 2020 COVID was starting.

ADV SELLO SC: And you say you did not register a company for that purpose you gave Jaco the 100 000 directly.

20 **COMMISSIONER MKHWANAZI:** No, no, we were starting it. But as I have said that it disappeared once we were busy. You see, when we got this mating excitement then a week or two, then I went to the wife. The wife started to tell me the story. Then I started to demand my money back. The wife told me that his commissioner said I cannot be discussing that. It is where I have said he was involved in

substances.

CHAIRPERSON: That was the context. I was not saying when this does become relevant, you should not discuss it.

COMMISSIONER MKHWANAZI: Oh, thanks. Thank you, Chair. I was reminded that he was involved in substances.

ADV KHUMALO SC: Let me just get the timeline right, Commissioner Mkhwanazi. When you invested the 100 000 with Jaco, was it before or after this Benoni incident?

COMMISSIONER MKHWANAZI: I must check my financial
10 statements. No, no, I must check when did they return the money. But it was before this.

ADV KHUMALO SC: It was before this. So, we know that it is before April.

COMMISSIONER MKHWANAZI: I know when these things were taking place, we were no longer in that, because I was demanding my money, we were no longer in good mood. There were some tensions.

ADV SELLO SC: So how did you give this 100 000? I
20 assume it was cash. Was it cash or was it EFT? Did you deposit it in his bank?

COMMISSIONER MKHWANAZI: No, no, I gave him. When people buy, they buy cash. When people buy, they deposit. That one, it was cash. I know that I had 150 nett if not 120 000 that I kept. When they open, either you buy or you go to Standard Bank, you change it to the currency of the

country where you go. But it is dollars. You do it in dollars, then you go in. But there, I gave it is either 50 or 40. It is either 50 or 40. No, no, let me say 60 or 40. Because I know that it was two payments. The other one was 40 000 and the other one was 60. But I gave him in cash.

ADV SELLO SC: Yes.

COMMISSIONER MKHWANAZI: Because when he goes and buys again, those people, they give them cash, they
10 give the vehicle. It does not stay along with his vehicle. A week after they finish or three weeks, it depends on the damages. No, we did not buy that damaged car. It depends on the fixing of the vehicle, the touches and everything.

ADV SELLO SC: Yes.

COMMISSIONER MKHWANAZI: Then if he did that, it was going to excel. Because I know he was very good in that.

CHAIRPERSON: Payment for the cars is irrelevant to this question. It is more about where you got the cash. It is not about what cash he got at what interval. What you are
20 saying now is irrelevant to the question. Am I mistaken, Ms Sello?

ADV SELLO SC: No, indeed.

COMMISSIONER MKHWANAZI: The Commissioner did not say where did I get the money. Sorry, Commissioner.

CHAIRPERSON: Now you are talking about how Jaco

would then get money and selling cars and he would do this and he would do – that is what I am saying is irrelevant. Because what you are saying now is about Jaco getting money. That has nothing to do with how you got the cash that you paid with. Do you get me?

COMMISSIONER MKHWANAZI: Yes, 100 percent I get you. I went too deep. Humble apologies, Chair.

ADV SELLO SC: It is the 100 000. We are talking about the 100 000 that you invested.

10 **COMMISSIONER MKHWANAZI:** Yes, it was.

ADV SELLO SC: So, we know that you did not establish a company. So, you gave it to Jaco directly, this amount.

COMMISSIONER MKHWANAZI: No, no, that time I did not.

ADV SELLO SC: Did you conclude a written agreement about this money and how you will be paid back?

COMMISSIONER MKHWANAZI: No, no, no. It was not a loan.

ADV SELLO SC: You were not expecting repayment?

COMMISSIONER MKHWANAZI: No, I am part of it.

20 **ADV SELLO SC:** You were investing?

COMMISSIONER MKHWANAZI: Yes.

ADV SELLO SC: How much did Jaco invest?

COMMISSIONER MKHWANAZI: No, no, he was having a business, but he is the one that would be running around because he was running around. But I know that the profit

that I was going to get was going to be far more than what I invested.

ADV SELLO SC: And you say it was not successful and you talk about him abusing substances. Am I correct?

COMMISSIONER MKHWANAZI: Yes, yes.

ADV SELLO SC: So, if it was not successful ...[intervenes]

COMMISSIONER MKHWANAZI: In fact, let me put it like this. After his disappearance there was no trust from me.

ADV SELLO SC: Say it sorry.

10 **COMMISSIONER MKHWANAZI:** Let me say, after that one disappearance and when the wife confirmed that hey, Jaco is in these things, in illegal substances. From that day the trust was not there at all. I am going to lose here.

ADV SELLO SC: And that was immediately after you had handed over the 100 ...[intervenes]

COMMISSIONER MKHWANAZI: Yes, yes.

ADV SELLO SC: And the whole thing fell apart.

COMMISSIONER MKHWANAZI: Yes, yes. It did not become successful.

20 **ADV SELLO SC:** Now, why if you go to exhibit bundle page - exhibit bundle EXHIBIT CJC164. So, ...[intervenes]

COMMISSIONER MKHWANAZI: Sorry, sorry, sorry.

ADV SELLO SC: We know from your version that you invested R100 000 with Mr Hanekom. You subsequently learned from Mr Hanekom's wife that Mr Hanekom

unfortunately partook in substances which led if I understood you correctly to technically him not investing the money but burning the money.

COMMISSIONER MKHWANAZI: Sorry?

ADV SELLO SC: I say effectively Mr Hanekom, because of the habits that you say he had ended up using or diverting your investment towards that habit and not investing in the business.

COMMISSIONER MKHWANAZI: No, I did not say he used
10 that money.

ADV SELLO SC: Okay.

COMMISSIONER MKHWANAZI: I said I became - I had the fear now that this is not going to happen. Because I know how people are addicted. You see, end up saying no, no, no. I did not want to waste. I kept that thing and even hoped that one day I will use it for something else. Then this I did so fast, and now businesses are so slow, and this one can be effective, you see.

ADV SELLO SC: So, then the business did not take off.
20 You were not worried once you learnt that he was using substances. The business did not take off. Now at page 207 It is not numbered. If we could go to the date of 8-12-2021.

COMMISSIONER MKHWANAZI: Page number?

ADV SELLO SC: 207.

COMMISSIONER MKHWANAZI: 207.

ADV SELLO SC: Are you at 207?

COMMISSIONER MKHWANAZI: Yes, yes, yes.

ADV SELLO SC: You are at 207, correct?

COMMISSIONER MKHWANAZI: Yes, yes, yes.

ADV SELLO SC: Now, line 10 or thereabouts is the date of 8th of December 2011.

COMMISSIONER MKHWANAZI: 8th of December.

ADV SELLO SC: 2021 my apologies, not 2011. 2021.

10 **COMMISSIONER MKHWANAZI:** Yes, yes, yes.

ADV SELLO SC: It reflects the payment received J Hanekom, other income 16 000. Why are you receiving money from Mr Hanekom?

COMMISSIONER MKHWANAZI: It is that amount. He was starting to give me my money back. He gave me less than 100 000 instead of 100 000, but he paid in different months, but he paid. He was starting to pay my money back.

ADV SELLO SC: And if you go further down, let us look at the money in the column. It is easier to track it. There is a
20 15 000 payment. Do you see it there?

COMMISSIONER MKHWANAZI: Yes.

ADV SELLO SC: If we move to the left that is on the 14th of December 2021, once again from Hanekom, it is 15 000.

COMMISSIONER MKHWANAZI: You are correct, yes.

ADV SELLO SC: If we go overleaf to 208, again if we look

at the money in it is 65 000. You see that amount?

COMMISSIONER MKHWANAZI: 30-01-2021, yes, yes, yes.

ADV SELLO SC: Mr Hanekom paid you 25 000 no, 65 000.

COMMISSIONER MKHWANAZI: Yes.

ADV SELLO SC: And you are suggesting that Mr Hanekom was repaying you the original R100 000 loan.

COMMISSIONER MKHWANAZI: Yes.

ADV SELLO SC: That you have no proof of.

COMMISSIONER MKHWANAZI: It is not loan

10 ...[intervenes]

ADV SELLO SC: Investment.

COMMISSIONER MKHWANAZI: I know you changed these terms and I am very careful but do it.

ADV SELLO SC: I meant investment I appreciate that. So, he was reimbursing you the 100 000 you had invested.

COMMISSIONER MKHWANAZI: Yes, Chair.

ADV SELLO SC: The 100 000 for which you have no proof that it was ever affected. There is no proof that you ever gave Hanekom 100 000.

20 **COMMISSIONER MKHWANAZI:** If you can - I gave it to him.

ADV SELLO SC: I am saying there is no proof. It is your word that the Commissioners must accept.

COMMISSIONER MKHWANAZI: But he paid it to show that it is true.

ADV SELLO SC: We will get to the payment. I am still back to you. I am still at the starting point where you chose to invest. You have not established a company. You have not formalised the investment. You do not have an agreement in respect of that significant investment. I do not know. In my world 100 000 is a lot of money. Perhaps in yours it does not require any written confirmation that it was ever handed over.

COMMISSIONER MKHWANAZI: Can I check something?

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

COMMISSIONER MKHWANAZI: If you check my other bank account, Standard Bank you will see that I have been travelling I have been selling clothes. You can see the country and the province that I have been in and after that the payments that were coming some are paying in cash, some are paying in Standard Bank. Before the - I always remember COVID but before the coronavirus there is a proof you can see in different months in different years you can see that I have been doing that.

20 **ADV SELLO SC:** And that is money coming to you.

COMMISSIONER MKHWANAZI: Yes.

ADV SELLO SC: So even if I go into the records of that bank account, it is not going to tell me, it is not going to give me the proof I require that you ever paid Hanekom 100 000.

COMMISSIONER MKHWANAZI: Oh, no, no, no, it does not say so.

ADV SELLO SC: It does not say so.

COMMISSIONER MKHWANAZI: You are correct there, you are correct.

ADV SELLO SC: So now we find ourselves in 2021 in a space where there is no proof you ever invested that amount where Jaco Hanekom is paying, who is your informer, is paying you 16 000, 15 000 and 65 000 in a span
10 of two months.

COMMISSIONER MKHWANAZI: Yes.

ADV SELLO SC: And I am suggesting that that is the financial benefit you derived from what I call this hijack racket that at least the four of you ran, yourself, Constable Stolls, Mr MacKenzie and Mr Hanekom.

COMMISSIONER MKHWANAZI: If I can tell you that MacKenzie and Kecia and Hanekom, they were not in good terms, you see. There is nothing that they will do together, you see. They were, it was me saying there is information
20 there. Utilise this person, you see. Get things from this person. There is nothing that the three of them will – and Mr Robert Schultz can confirm that to you, that every time these two were in conflict or else when he is coming with information this one did not want him to consider. No, no, it is fine. We are going to do it. They did not want him next

to them and there is nothing that will make them be friends and to be honest to you, I do not do such things, and I will never ...[intervenes]

CHAIRPERSON: Of the three people, who do you say were not in good terms?

COMMISSIONER MKHWANAZI: Jaco, MacKenzie and Kecia.

CHAIRPERSON: Each one of them was not in good terms with the other two?

10 **COMMISSIONER MKHWANAZI**: No, no, no, the two were not in good terms with Jaco. I do not know what the conflict was about. I could not detect but they were not.

CHAIRPERSON: So, Adriaan MacKenzie and Kecia Stolls were in good terms. But the two of them were not in good terms with Jaco.

COMMISSIONER MKHWANAZI: Yes, yes.

CHAIRPERSON: Okay.

ADV BALOYI SC: I think, Commissioner, they may not, whatever you mean, they were not in good terms. Whatever
20 you mean with that. But what we know from at least the Mbense murder is that they were all participants and they cooperated in activities where someone ended up dead, which are unaccounted for. So even if you say they were not in good terms, even if you are correct, they certainly had no problem cooperating with each other and being

accomplices in criminal activity.

We know from Stolls's statement that she was called by Jaco. That is what she says. She got a call from Jaco. So even if they were not in good terms, Jaco knew to call her to an incident which is not in the books because there is no record for it. But someone died in there. MacKenzie ends up in that same incident which they are rallied.

The EMPD appears to have been rallied by Jaco, including you. So that they did not get along if they did not is neither here nor there for this conversation. What is important or what is of relevance is that they cooperated. They were in good terms enough to cooperate in what turns out to be criminal activity and serious criminal activity that results in the death of a person. Do you accept that?

COMMISSIONER MKHWANAZI: Yes, no, no.

ADV BALOYI SC: Thank you.

COMMISSIONER MKHWANAZI: Well, yes, I have said no. Yes.

20 **CHAIRPERSON**: May we take the adjournment at this point? Does that work for you?

ADV SELLO SC: Thank you, Chair, it will work.

CHAIRPERSON: All right, thank you. Let us adjourn and return at quarter past 2.

ADV SELLO SC: Okay.

INQUIRY ADJOURNS

INQUIRY RESUMES

CHAIRPERSON: Yes, Ms Sello.

ADV SELLO SC: Thank you, Chair. Mr Mkhwanazi, I think I would like to move off, settle down. Take your time.

COMMISSIONER MKHWANAZI: Thank you, Commissioner.

ADV SELLO SC: Thank you. I would like to move off the topic we are dealing with, unless there are any further questions from the Commissioners or any comment, further
10 comments you would like to make on the matter that we are discussing.

ADV KHUMALO SC: Can I make a comment?

ADV SELLO SC: Yes.

ADV KHUMALO SC: I was not planning to, but it is my conscience that is eating me, not the legalities. Commissioner Mkhwanazi, did you agree with me that Mr Mbense's family deserve justice?

COMMISSIONER MKHWANAZI: Commissioners, 100%.

ADV KHUMALO SC: And that they deserve to know what
20 happened to their loved one?

COMMISSIONER MKHWANAZI: I fully, fully agree with you. I fully support that.

ADV KHUMALO SC: And that people who know what happened, have a duty to come forward and tell the authorities what happened?

COMMISSIONER MKHWANAZI: Yes.

ADV KHUMALO SC: And it will be bad if you know what happened and you choose to cover up for your colleagues?

COMMISSIONER MKHWANAZI: That is true, that is true.

ADV KHUMALO SC: Now, why would Witness D wish to implicate you in something so serious, if you were not involved at all, and he did not see you, he did not speak to you? Why would he come public and want to implicate you in something so serious?

10 **COMMISSIONER MKHWANAZI:** Remember Commissioners, they have said to them, it is either they call General Khan or they call General, Chief Mkhwanazi. I think by mentioning these two names to him, and whilst they have said that, then there is this person who is appearing, you see. You may conclude, oh, that is why they have said. Maybe it was, if it was not me, another person. They were going to implicate him too.

ADV KHUMALO SC: But he says ...[intervenes].

COMMISSIONER MKHWANAZI: Before that ...[intervenes].

20 **ADV KHUMALO SC:** Just pause there. He says you introduced yourself, so he knows that it is you, and it was you who said that he must dump the body in the Nigel River ...[intervenes].

COMMISSIONER MKHWANAZI: No ...[intervenes].

ADV KHUMALO SC: So he is not guessing, he says it was

you. My question is, why would he implicate you in something that serious, if he does not know you and you were not there?

COMMISSIONER MKHWANAZI: Commissioner Khumalo, let me correct you. He is saying, it is either, it is Wiandre who told him that I have said, he does not say I have said, you see. He said they have said. But out of what they told him before, and it is me who is appearing, he may conclude that that means this is what they were saying.

10 **ADV KHUMALO SC:** So are you saying he is guessing, he does not know that it was you who said the body must be dumped ...[intervenes].

COMMISSIONER MKHWANAZI: I did not, yes, yes.

ADV KHUMALO SC: But he mentions you. Why does he not say General Khan, or the other General? Why does he say Julius Mkhwanazi is the one who directed that the body be dumped in the dam?

COMMISSIONER MKHWANAZI: That is why I am saying that, that is what I am saying that they have said to them, according to statement, or to him, according to statement, 20 let us call General Khan, or let us call Chief Mkhwanazi, then Chief Mkhwanazi appears.

ADV KHUMALO SC: No, they say, they then concluded that they should call the Chief Mkhwanazi.

COMMISSIONER MKHWANAZI: That is what I am saying.

ADV KHUMALO SC: And he arrived, and he introduced himself ...[intervenes].

COMMISSIONER MKHWANAZI: Yes.

ADV KHUMALO SC: And he directed that the body be dumped in the dam. My simple question is, if you were never there, and you never saw him, why would he implicate you in something so serious? I mean, this is serious. You know, dumping a human being's body ...[intervenes].

COMMISSIONER MKHWANAZI: Yes.

10 **ADV KHUMALO SC:** In a dam ...[intervenes].

COMMISSIONER MKHWANAZI: Yes.

ADV KHUMALO SC: It is not like stealing money, or stealing stones. It is a human being.

COMMISSIONER MKHWANAZI: Yes, and I do not want to bring another elements. I am denying it, I am totally denying it, Commissioner Khumalo.

ADV KHUMALO SC: What does he have against you that he would single you out, out of everybody who was there, and say it is you who said the body must be dumped?

20 **COMMISSIONER MKHWANAZI:** It is because they told him so.

ADV KHUMALO SC: They told him to implicate you?

COMMISSIONER MKHWANAZI: No, no, they told him that Chief Mkhwanazi will come to sort this thing out, according to the statement, his statement. Then I am coming in, they

called me after, then I am coming in, in his mind, I think in his mind, you see, he concluded that, ah, that means this is what they were saying.

ADV KHUMALO SC: Okay.

COMMISSIONER MKHWANAZI: I have never been part of such things in my life. I have never, never. I do not believe in violence. I believe in another form of engagement in solving things. I have been like that. From the youth stage, from teenage stage, from my activities, it
10 was ...[incomplete].

CHAIRPERSON: And put that, put that in juxtaposition with your sparse explanation as to why you went to the scene.

COMMISSIONER MKHWANAZI: Yes.

CHAIRPERSON: You say, you just, I engaged you on this, I will not repeat myself, but I am just saying, put what Commissioner Khumalo is putting to you in juxtaposition with your very sparse explanation as to why you went there, waking up at 2 a.m. only to make a U-turn within a very
20 short space of time.

COMMISSIONER MKHWANAZI: Yes.

CHAIRPERSON: If you recall, I suggested to you that your evidence, your evidence is sparse in this regard, exactly because you are hiding something. So what I suggested to you then actually ties in with what Commissioner Khumalo

is putting to you.

COMMISSIONER MKHWANAZI: No.

CHAIRPERSON: Do you want to comment?

COMMISSIONER MKHWANAZI: No, not on what you have said. You have repeated it many times, but I just want to say ...[intervenes].

CHAIRPERSON: All right ...[intervenes].

COMMISSIONER MKHWANAZI: This has changed my life. It has made me to be under house arrest, my kids, and it
10 has destroyed. No, I wish, that is what I have said even in
the, at *Ad Hoc*, and it was before the death of Pretorius,
that I wish, I do not know why it is delaying, because people
must be arrested so that the family can approach, because
when you read newspapers, you go, you see the faces, you
see all these things, not even him only, all these people
that are busy dying, you see. It is the fathers, like me, they
love their kids, they are wanted, no. And in the career that
I have joined, I made an oath that I will fight against that,
and I cannot be the one that does that. I do not sleep at
20 night, Commissioner, so let me tell you. Since this has
started, I am saying, where did I, how did I end up on this,
you see.

CHAIRPERSON: Thank you. Thank you.

COMMISSIONER MKHWANAZI: And if I could, but it is just that now I cannot interfere, I would have assisted in making

sure that we trace, you see. But now I am limited, I must follow, because I am perceived to be one of them, you see. And I wish every day, but I can make ...[indistinct] through, but you know, I cannot.

CHAIRPERSON: Thank you, thank you, Commissioner.

ADV SELLO SC: Thank you, Commissioners.

ADV BALOYI SC: Can I just also make this observation on the back of what Commissioner Khumalo raises with you, that if it went for Mr Van der Merwe, Marius, if it went for
10 him, we would not know, would not have known that you were at that scene, because he is really the only one that placed you on the scene. The, quite noticeably, the statements from McKenzie and Stols, they do not mention you at all.

All of them, in fact, the common thing among your EMPD people and yours in the statements is you arrived, you saw nothing, and you left. That is what you all say, which is, which supports what Ms Sello was putting to you, that you got together in order to make up, to agree what it
20 is you are going to say. So that is a common thread. I arrived, I was called by Jaco, I got there, I saw there was nothing to do, and I got into my car and I left. That is what they say. That is one.

Two, there is no record anywhere of this operation, the involvement of the EMPD people with this operation,

including you. There is no record whatsoever. And had Mr Van der Merwe not mentioned you arriving, being called and arriving at the scene, no one would have known that you were at that operation. Even on the facts, on the facts that you allege, where you say, I arrived and I left, no one would have known. And yet, something so serious as someone dying in the scene happened, we would not have known that you were there. Do you want to comment to that?

COMMISSIONER MKHWANAZI: Yes, thank you, Commissioner. Remember, Commissioner Revo Spies said
10 Jaco Hanekom came to him and also spoke about this, you see. That means it is him and Jaco Hanekom, you see.

ADV BALOYI SC: No, I am referring specifically to an official record, that there is absolutely no official record. None of you EMPD people who were on the scene have provided a record or recorded what happened that night until IPID confronted you, all of you. And so, and Marius is the one that spoke to IPID and gave that detailed statement, and we know from that detailed statement that
20 you were at the scene.

COMMISSIONER MKHWANAZI: Okay.

ADV BALOYI SC: Otherwise, we would not know. No one would know. And that speaks to these off-book operations that were a feature in the EMPD, that there are serious operations that happened, and then there is no record of it.

You blame lack of pocketbooks. You blame lack of OB's. That is your explanation. But I am sure you could have recorded these things if you wanted to, if you considered it necessary to have it on the books. It is just an observation, Commissioner.

COMMISSIONER MKHWANAZI: Yes.

ADV BALOYI SC: You can comment if you want to.

COMMISSIONER MKHWANAZI: No, I have learned, Commissioners.

10 **ADV BALOYI SC:** Thank you.

COMMISSIONER MKHWANAZI: No, I have learned.

ADV BALOYI SC: Thank you. Ms Sello.

COMMISSIONER MKHWANAZI: And it is a lifetime thing.

ADV SELLO SC: Thank you, Commissioners. I think in response to a question posed by Commissioner Khumalo, you stated that one of, in one of the statements provided by Marius Van der Merwe, he, Marius, states that he was informed by Wiandre that you were coming or you would be present. Did I understand you correctly, at the scene?

20 **COMMISSIONER MKHWANAZI:** Yes, he said he was informed between Jaco and Wiandre that Commissioner Mkhwanazi is coming, he is going to solve this. It is either General Khan or Commissioner Mkhwanazi. He mentioned two names. They are mentioning two names.

ADV SELLO SC: I ask because I have got both statements

here. We agreed that there are two statements, the one that we worked through, which is the statement made to IPID in September of 2022. And the second statement is the one he made to this Commission. So in which statement do you say that he stated he was informed by Wiandre?

COMMISSIONER MKHWANAZI: No, I am saying between Wiandre and Jaco.

ADV SELLO SC: Ja, in which statement ...[intervenes].

10 **COMMISSIONER MKHWANAZI:** One of them ...[intervenes].

ADV SELLO SC: In which statement is that? Because if we look at the one we were dealing with this morning before lunch, that is the exhibit bundle, Exhibit CJC150, page 75. His statement start at 73, we are now at 75. And at page 75, at paragraph 14, the one we dealt with, he notes, and I read:

“Jaco suggested that they should call their Chief, whom they call Julius.”

20 Prior to that, at paragraph 13, the end of 13, he said, the last sentence, no, penultimate sentence:

“As we were standing there, Wiandre told us that if we talk, he was going to kill that person himself. Wiandre suggested that he was going to call

General Kahn to assist with the deceased. He then changed and said he was going to call Colonel Dawood, and he was asking me if he should call him.”

Then at 14, that is when he says Jaco suggested that they should call their Chief, whom they called Julius. So that is in this statement. From what he is saying, this is what he heard directly from the speakers.

10 **COMMISSIONER MKHWANAZI**: Yes, that is what I was saying. This is what I am mentioning. Maybe in terms of ...[indistinct] I did not put it like this, but this is the paragraph that I am talking about.

ADV SELLO SC: Yes. No, I just wanted to correct that, the fact that you had to be called and indeed called and you uttered the words that you did, that he claims you did. At paragraph 14, you are not suggesting that he was informed of all this by Wiandre.

COMMISSIONER MKHWANAZI: No, no, no.

20 **ADV SELLO SC**: Okay.

COMMISSIONER MKHWANAZI: I was just mentioning this, yes.

ADV SELLO SC: Okay.

ADV KHUMALO SC: And this was my point in 14, the third sentence. He says:

“Julius Mkhwanazi arrived a few minutes later and he introduced himself as Superintendent Julius Mkhwanazi to myself and Etienne.”

So he puts you at the scene. It is not somebody else telling him this.

COMMISSIONER MKHWANAZI: Yes, that is what I was trying to say, but maybe I did not put it the way, because they started by mentioning other two, then Jaco mentioned
10 me and it is me who arrived. Maybe the type of words that I used they are not correct, Commissioner. Humble apologies.

ADV SELLO SC: Thank you, Commissioners. As I had indicated, I want to move off this topic unless there is any other comment you would like to make.

COMMISSIONER MKHWANAZI: No, there is no comment.

ADV SELLO SC: Okay. I want us then to move to, please locate your supplementary statement. Commissioners, for this section of the testimony, we just need the exhibit file
20 and Magagula file 2.

CHAIRPERSON: And by supplementary, that is the seven-pager.

ADV SELLO SC: The seven-pager that we dealt with yesterday, yes.

CHAIRPERSON: Thank you.

ADV BALOYI SC: You said we need which files?

ADV SELLO SC: The exhibit file.

ADV BALOYI SC: Ja.

ADV SELLO SC: And Magagula, file 2 of 3.

ADV BALOYI SC: And the statement.

ADV SELLO SC: And Mr Mkhwanazi's supplementary statement. You have located your supplementary statement, Mr Mkhwanazi?

COMMISSIONER MKHWANAZI: Yes, Commissioner.

10 **ADV SELLO SC:** The topic I would like us to then turn to, you start at page 5 of that statement. And you heard that team deployed to the suspects who were defrauding members of the public with fake stones.

COMMISSIONER MKHWANAZI: Okay.

ADV SELLO SC: Now, you indicated that this was a joint operation with the Province and JMPD, and that you tasked the truck hijacking task team to join other members as per the request of Deputy Chief Inspector General Maseko. That is what you have written there, correct?

20 **COMMISSIONER MKHWANAZI:** Yes, yes, yes.

ADV SELLO SC: And during your oral testimony on this matter, you confirmed that General, Chief Inspector General Maseko is the person you were with.

COMMISSIONER MKHWANAZI: Sorry.

ADV SELLO SC: Okay, no, no, find what you need to find.

COMMISSIONER MKHWANAZI: Thank you.

ADV SELLO SC: Okay, you confirmed that at your page 6, when you say during the day we visited members to check on their progress as their seniors, the “we” there referred to yourself and Chief Inspector Maseko.

COMMISSIONER MKHWANAZI: Yes, yes, yes.

ADV SELLO SC: And you indicated that Chief Inspector Maseko is from the Gauteng Traffic Department.

COMMISSIONER MKHWANAZI: Yes.

10 **ADV SELLO SC:** And you did point out that he is, since he is passed on.

COMMISSIONER MKHWANAZI: Yes, yes, Commissioner.

ADV SELLO SC: Do you know when he passed on? My little research seems to suggest November 2025. Is that your understanding?

COMMISSIONER MKHWANAZI: I am not sure, but it was towards December if I am not mistaken.

ADV SELLO SC: But the year is 2025?

COMMISSIONER MKHWANAZI: Yes, yes, yes.

20 **ADV SELLO SC:** Okay. So, you have made a statement to IPID regarding this operation and the complaints emanating therefrom, correct?

COMMISSIONER MKHWANAZI: Yes, yes.

ADV SELLO SC: And that statement appears, I think the best one to look at closest would be Exhibit CJC158.

COMMISSIONER MKHWANAZI: May I correct, I made two ...[intervenes].

ADV SELLO SC: Yes.

COMMISSIONER MKHWANAZI: I made two statements, né.

ADV SELLO SC: Okay, let us deal with both if we can. This one at CJC, which is CJC158 at page 132, this one bears a date stamp of the 2nd of May 2023 at the left, at the bottom left.

10 **COMMISSIONER MKHWANAZI:** Yes.

ADV SELLO SC: Okay, now you say you made two. Is this the first or the second?

COMMISSIONER MKHWANAZI: This is the first.

ADV SELLO SC: This is the first.

COMMISSIONER MKHWANAZI: When they first called me to confirm about members.

ADV SELLO SC: Yes, so when and the second, when did you make the second?

20 **COMMISSIONER MKHWANAZI:** I do not have a specific date, but ...[indistinct] called some times this year when the Commission has started.

ADV SELLO SC: Okay.

COMMISSIONER MKHWANAZI: Yes.

ADV SELLO SC: So, the second statement you would say in the first quarter of 2026?

COMMISSIONER MKHWANAZI: Yes, yes, yes.

ADV SELLO SC: Okay.

COMMISSIONER MKHWANAZI: The first quarter as the first quarter.

ADV SELLO SC: Yes, okay. Now, let us deal with the first statement. We do not have your second statement.

COMMISSIONER MKHWANAZI: Okay, it is fine.

ADV SELLO SC: At the time Mr Magagula appeared before the Commission, that statement was not available. You had
10 not made that statement.

COMMISSIONER MKHWANAZI: No, I have made it.

ADV SELLO SC: Not at the time he appeared.

COMMISSIONER MKHWANAZI: No, before. I have made it before he appeared.

ADV SELLO SC: Okay.

COMMISSIONER MKHWANAZI: Yes.

ADV SELLO SC: So, you are saying he did not avail it to us?

COMMISSIONER MKHWANAZI: I am not sure. I do not
20 know.

ADV SELLO SC: It is not on our records. We will take it up with Mr Magagula to at least update our files.

COMMISSIONER MKHWANAZI: Okay.

ADV KHUMALO SC: Advocate Sello, was the issue not that the statement was made, but it was not legible?

ADV SELLO SC: It could very well be. I guess the most important point I am making is that it is not part of our files.

ADV KHUMALO SC: Oh, okay.

ADV SELLO SC: And I will accept that at the time Mr Magagula testified that Commissioner Mkhwanazi had already deposed to that statement and possibly it was beset by the challenges that you highlight and that the responsibility is ours to go locate the second statement. Now, we will come to the, this is the only statement you
10 made to IPID before 2026, correct? I am not dealing with the contents, I am still dealing with the statement itself.

COMMISSIONER MKHWANAZI: Oh, yes, no, no, I am not dealing with the contents too.

ADV SELLO SC: Okay. And I am saying, if this is the only statement, at no point during the investigation of the “theft” of these precious stones did you inform IPID that your members were involved in a joint operation.

COMMISSIONER MKHWANAZI: Are you saying at no, at no stage I informed IPID?

20 **ADV SELLO SC:** Because you are trying to read the statement and see what you have said there in anticipation ...[intervenes].

COMMISSIONER MKHWANAZI: No, I am not ...[intervenes].

ADV SELLO SC: Of what I will ask you.

COMMISSIONER MKHWANAZI: No, I was reading.

ADV SELLO SC: That is why you miss what I asked.

COMMISSIONER MKHWANAZI: No, I was reading the case number ...[indistinct].

ADV SELLO SC: So I was saying to you, at no point, at least before 2026, did you inform IPID that the case of precious stones and the theft, the allegation of theft by EMPD members arose from a joint operation.

COMMISSIONER MKHWANAZI: Now remember, we do not report operations to IPID. We do not report any operations
10 to IPID. And again, the allegations came from IPID when they were informing me that there are these allegations.

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

COMMISSIONER MKHWANAZI: And as I answered yesterday, according to me, they handed over everything and there are documents, as I have said to when Commissioner Khumalo was asking that, all the documents they told me that when I was suspended, they were taken by Commissioner Revo Spies.

ADV SELLO SC: We will get to the documents. Right now
20 all I want to know is whether you informed IPID at any point ...[intervenes].

COMMISSIONER MKHWANAZI: No.

ADV SELLO SC: Prior to 2026 that this was a joint operation.

COMMISSIONER MKHWANAZI: No, no, we have never in

our life reported to operations.

ADV SELLO SC: So you did not inform them of that theft?

COMMISSIONER MKHWANAZI: Yes, yes.

ADV SELLO SC: Now, in your 2026 statement that you referenced, did you inform them of the fact that this had been a joint operation with Gauteng Traffic Department and JMPD?

COMMISSIONER MKHWANAZI: Yes, yes.

ADV SELLO SC: You wrote that?

10 **COMMISSIONER MKHWANAZI:** Yes.

ADV SELLO SC: So why ...[intervenes].

COMMISSIONER MKHWANAZI: The first ...[indistinct].

ADV SELLO SC: Huh?

COMMISSIONER MKHWANAZI: The first ...[indistinct].

ADV SELLO SC: The second ...[indistinct] is the second statement.

COMMISSIONER MKHWANAZI: Yes, yes.

ADV SELLO SC: You informed them of that.

COMMISSIONER MKHWANAZI: Yes.

20 **ADV SELLO SC:** Now, do you have any document to, as evidence of this joint operation?

COMMISSIONER MKHWANAZI: I have said yesterday that I did not record, but I hope that at our offices they may have, because they consolidate all the stats, they had all the operations. With me, I do not have, and, but I have

made a commitment that I will check with my diaries, because sometimes I write, but in record, I do not remember writing it. In fact, when I am in this operation, I just pay the visit and go, pay the visit and go.

ADV SELLO SC: Okay. So now, looking at this statement at page 132, once again, it is very brief. We will skip the first paragraph, because that provides your personal details and introduces you. And second paragraph, it says:

“I would like to confirm that Officer Kersha Lee
10 Stols and Officer Adrian McKenzie were on duty on the 8th
of February 2023.”

You say, next paragraph:

“They informed me as the supervisor
when they received information of a
person who is dealing with illegal
goods ‘stones’.”

That is what you informed IPID.

COMMISSIONER MKHWANAZI: Yes, that is correct.

ADV SELLO SC: So they informed you of this person, of
20 receiving information of a person dealing with, in stones,
and they informed you. And in your supplementary
statement, you suggest it was a joint operation based on a
request by Deputy Chief Maseko, and in response to which
you tasked them. So why do you say that they informed
you? Why do you not, you indicate that I deployed them on

this particular day for that particular operation.

COMMISSIONER MKHWANAZI: When Mr Magagula said, can you specifically inform me or report to me on what Stols have said, that they have communicated with some officers, because we even engaged that I also communicate, he said, no, no, now I just need the statement that specifically talk to, like the other one, he say that talk to these three. We will discuss about those when I am investigating, you see. That is why I have said that.

10 Then in the second one said, since you visited, then I want you to mention the statement that what you visited, how did you get this information, and who did you communicate, because they have said you were driving with the other senior personnel that is not, that does not belong to EMPD.

Then that is when I wrote a statement and tell them that no, no, no, even this one informed me, but the members have already had that information. But I confirmed it with the Deputy Director.

20 **ADV SELLO SC:** When did you confirm it with the Deputy, who is the Deputy Director?

COMMISSIONER MKHWANAZI: Oh, Deputy Director Maseko, the one that we are talking about.

ADV SELLO SC: When did you confirm that with him, because Mr Magagula only established late 2025 that you

were present at the scene when he received a statement from, a second statement from McKenzie.

COMMISSIONER MKHWANAZI: No, he wanted it 2025. And he told McKenzie that, remember, we discussed with Mkhwanazi, we discussed with you that Mkhwanazi visited. Can you formalize it and make it formal? I will also ask the same thing from him. And that is what he told me, that I have also asked it, it has been formalized, then I want those two to be formalized. That is what I did.

10 **ADV SELLO SC:** I am not sure I understand. So, but what you are saying is in May 2023, you were prepared only to tell him that Stols and McKenzie had informed you of the operation.

COMMISSIONER MKHWANAZI: Commissioners, I have said it before that when Magagula comes to you, he is specific that I want about these three for now. He does not go left and right and I want it summary, I do not want to write a long story and be specific about those that are participating, not even only in this one of Kersha and
20 others. In other different operations that have been taking place, you must be specific and mention those. Then he will come back again because he is saying it is part of his investigations. And it frustrated us because he keeps on doing these things like that, you see. That is why he came back again and say, I have engaged with McKenzie and

there is a statement, now I want to submit your statement and on your level, and your part, and what you were doing there, you see, because I know that you visited. I did know from the first day that you visited there.

ADV SELLO SC: So, is it your testimony that your statement to IPID of 2023 about this incident is this far at the direction of Magagula? Magagula directed you to state things in the manner that he did?

COMMISSIONER MKHWANAZI: Yes, he is specific. I am
10 saying it here in the Commission. He is very specific in one statement. He does not want you to write many things and say, no, no, no, for now, I want this. I will come back with this. I will come back for this. That is how he does his investigation. When you check, you can go and check my statements for other cases, that is how he wants it.

ADV SELLO SC: Yes.

ADV BALOYI SC: In this case, what did he ask you? What was the, what did he say to you that resulted in the production of the statement?

20 **COMMISSIONER MKHWANAZI:** It was four or five cases, or, four or five cases. He said, can you write me statements mentioning that these two they were part of this, these two they were part of this, these two they were part of this. In fact, he wanted to confirm that they were on duty when they were doing that or when they were participating

in that operation. It is not only this one. It is not only these three. There are others, but I do not know why he decided to ...[indistinct].

ADV BALOYI SC: So you say what did he say about this one? Let us talk about this one.

COMMISSIONER MKHWANAZI: He specified about these officers that they were on duty.

ADV BALOYI SC: What did he say? When you say specify, what did he ask you?

10 **COMMISSIONER MKHWANAZI:** He mentioned it in Zulu. [Vernacular]... no, they were many. I remember it was not him. As I have said, there were five, you see. Now I just talk about others ...[indistinct] spoke about this and it was the other one. As I have said, it was different cases. I do not remember them. He said can you specify ...[indistinct] about these two members that when they responded to stones, a complaint of stones that happened on this date, you see, because I did not have it in mind, you see, he ...[indistinct] all the details, that they were on duty and they
20 were at work, you see.

ADV BALOYI SC: Yes, was ...[intervenes].

COMMISSIONER MKHWANAZI: They were specifically identified ...[intervenes].

ADV BALOYI SC: Yes.

COMMISSIONER MKHWANAZI: And said, yes, these two

they were on duty at work.

ADV BALOYI SC: Well, you see, in the second paragraph, you confirm that they were on duty. And then in the next paragraph, you say something else, which is not confirmation of on duty.

COMMISSIONER MKHWANAZI: Are you saying ...[intervenes].

ADV BALOYI SC: You already said in paragraph ...[intervenes].

10 **COMMISSIONER MKHWANAZI:** In the third, sorry, Commissioner.

ADV BALOYI SC: I say you have already said in paragraph 2 that you confirm they were on duty. So that is what he asked you, according to you. And then you go on to say something else in your third paragraph.

COMMISSIONER MKHWANAZI: When you say something else ...[intervenes].

ADV BALOYI SC: Ja, you say something ...[intervenes].

20 **COMMISSIONER MKHWANAZI:** [Indistinct]... [cross-talking] it contradicts.

ADV BALOYI SC: It is, no, I am not talking contradict. You say:

“They informed me as their supervisor when they received information of a person who is dealing with illegal

goods and stones.”

So that is not confirmation that they were on duty. It is additional information that you are providing. Do you accept this is additional information in that paragraph?

COMMISSIONER MKHWANAZI: You have corrected me many times, Commissioner. I accept.

ADV BALOYI SC: You accept this is additional information?

COMMISSIONER MKHWANAZI: Yes, yes, yes.

10 **ADV BALOYI SC:** Okay. So why did you not provide further additional information, which is very important, which is that they went there because of a request from JMPD to do a joint operation? Why is that not, that very relevant information is not in there?

COMMISSIONER MKHWANAZI: Oh, he already had statements. Start with the statement of the members and ...[indistinct] members they have confirmed.

ADV BALOYI SC: Had you seen the statements of the members when you prepared your statement?

20 **COMMISSIONER MKHWANAZI:** No, no, no.

ADV BALOYI SC: So how ...[intervenes].

COMMISSIONER MKHWANAZI: It was with Mr Magagula.

ADV BALOYI SC: How did you, ja, how did you know?

COMMISSIONER MKHWANAZI: No, he has already confirmed that members have confirmed that they were told.

No, he is open to members have confirmed that they were told they communicated with somebody and you see.

ADV BALOYI SC: So Mr Maseko, Deputy Director Maseko, communicated with them directly when he wanted assistance?

COMMISSIONER MKHWANAZI: No, no, then they communicated with other members who are operational. Remember, as the teams they work, they know each other as officers, you see. They work and communicate.

10 **ADV BALOYI SC:** So you were not asked by Deputy Director Maseko to do a joint operation?

COMMISSIONER MKHWANAZI: No, no, I was also asked by him. I was asked by him.

ADV BALOYI SC: You were asked by him?

COMMISSIONER MKHWANAZI: At my level, I communicated with him.

ADV BALOYI SC: So why is that not in your statement?

20 **COMMISSIONER MKHWANAZI:** No, remember, here he said I must specifically communicate about these two that they were on duty. It was the statement of, you are correct when you say this is additional. This is a statement of confirmation that they were on duty.

ADV BALOYI SC: Yes, but how ...[intervenes].

COMMISSIONER MKHWANAZI: It is supposed to ...[intervenes].

ADV BALOYI SC: But how they came to be on duty is because you have been asked to do a joint operation by Deputy Director Maseko. So the complete information is, yes, I confirm they were on duty. They told me, gave me information. They were on that duty because they were on a joint operation where I was asked by Maseko to do a joint operation, because that is part of confirming their presence and why they were there. Why is that not in this statement, and it appears for the first time in your further statements?

10 **COMMISSIONER MKHWANAZI:** Yes. As I have said, Commissioner, he already had the statements from the members and the members confirmed. That is what is even specified to me.

ADV BALOYI SC: No, I am asking you. I am not asking you about those other members, what they said to him. They have their own explanations of what he said he asked them to do. I am asking you, you say to us that your statement is this short and it does not say anything about a joint operation because Deputy Director Maseko, sorry, Mr
20 Magagula said to you, he wants you to confirm that they were on duty that day. And I have said to you, yes, in paragraph 2 of your statement, you do confirm they were on duty that day. So you have answered that question.

COMMISSIONER MKHWANAZI: Yes.

ADV BALOYI SC: But in paragraph 3, you provide further

information ...[intervenes].

COMMISSIONER MKHWANAZI: Yes.

ADV BALOYI SC: Which does not come from his question, but you offer further information. You say they informed me as their supervisor that they received information, right? And what I am asking you is where you say, yes, I confirm they are on duty, they were on duty. Why do you not add that they were on duty there because they were in a joint operation, which was requested from me by Maseko?

10 **COMMISSIONER MKHWANAZI:** Commissioner, I submitted it like this, no, I do not have an answer, and he said, no, it is fine, I want it like this, I accept it like this.

ADV BALOYI SC: All right, you do not have an answer. That is fine.

COMMISSIONER MKHWANAZI: Yes.

ADV BALOYI SC: Okay, thank you. Ms Sello.

ADV SELLO SC: If I understand then your responses to Commissioner Baloyi, you are suggesting that Mr Magagula prescribed how your statement should read. He told you
20 what you must say.

COMMISSIONER MKHWANAZI: All the time.

ADV SELLO SC: It is impossible, Commissioner Mkhwanazi. He is an investigator. He is investigating the matter, and then you come here and you suggest that the investigator prescribes to you what you must say in your

statement in an investigation.

COMMISSIONER MKHWANAZI: I submit ...[intervenes].

ADV SELLO SC: As a senior member of the police force, surely you know that is highly improbable.

COMMISSIONER MKHWANAZI: I have said that is my frustration when I was, oh, sorry, Commissioner, I am making a dialogue now. I have said that is my frustration when I submitted that one, you see, he said no ...[intervenes].

10 **ADV SELLO SC:** The third?

COMMISSIONER MKHWANAZI: No, no, not the third, the second statement.

ADV SELLO SC: Ja.

COMMISSIONER MKHWANAZI: On the first, you said it is the first quarter. Yes, when I submitted the statement, he said, because they were, he said this, I repeated there, there twice, you see. He said, no, I do not, I said Magagula, it is a mistake, but can you take it like that and forward it like that and receive it like that. It is a mistake
20 that I can explain, you see. He prescribed and wants you to write in a certain manner, you see.

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

COMMISSIONER MKHWANAZI: And I am very cautious on that because my fear is that we will end up going down on ...[indistinct] you see, trying to please him, you see.

ADV KHUMALO SC: Sorry, Advocate Sello. Did he say to you, you must not mention the joint operation?

COMMISSIONER MKHWANAZI: No, no, no.

ADV KHUMALO SC: That is, that is Commissioner Baloyi's question.

COMMISSIONER MKHWANAZI: Oh, no, no.

ADV KHUMALO SC: Because you are talking about the report of the people who are dealing with illegal stones, why did you not mention that on that day Stols and McKenzie
10 attended to a joint operation with the Traffic Police and JMPD?

COMMISSIONER MKHWANAZI: The officers have already mentioned the other.

ADV KHUMALO SC: No, but you did not know that because you did not see their statements.

COMMISSIONER MKHWANAZI: But Magagula mentioned it to me. In all the statements, he mentioned, he is so open to me, honest and say, I got this and this and this, mentioned this and this. He is so specific in this and this.

20 **ADV KHUMALO SC:** And you did not see a need to confirm that, yes, there was such an operation?

COMMISSIONER MKHWANAZI: He already know that.

ADV KHUMALO SC: No, no, you.

COMMISSIONER MKHWANAZI: No, no, no. I assumed that because he already ...[indistinct].

ADV SELLO SC: Then on that basis, you must accept if that is how IPID operates and investigators prescribe what evidence people should give, that this is a serious matter that the Commission must report, because as a police officer, would you accept if your investigators file a report and it turns out that they prescribed to the witnesses what to say? Would you find that acceptable?

COMMISSIONER MKHWANAZI: No.

ADV SELLO SC: Did you find it acceptable in this
10 instance, when you suggest Mr Magagula was prescribing to you?

COMMISSIONER MKHWANAZI: I always had a problem, that is what I am ...[intervenes].

ADV SELLO SC: Why did you comply with it then?

COMMISSIONER MKHWANAZI: No, I did not comply.

ADV SELLO SC: Oh, so you did not comply?

COMMISSIONER MKHWANAZI: Like now, no, now, he wanted me to change, I said no, I will not.

ADV SELLO SC: Yes, okay. No, then I can live with that.
20 Then we are still in 2023 and he had prescribed and you did not comply. And in refusing to comply, you say they informed me as their superiors, they received information of a person who is dealing with illegal goods. So you told him that because you refused to comply with his prescription.

COMMISSIONER MKHWANAZI: No, no, I am talking about

this one that is specified. This one he was so specific. He informed me and say, no, no, no, I am not going to accept. I want, I said no, no, no, Magagula, you see. Now I must talk to my lawyers now, you see. I even said that, you see, now I must talk to my lawyers. That is what I told him, now I must talk to my lawyers, because I have been complying, communicating with him you see. I have said, no, now I must talk to my lawyers.

ADV SELLO SC: So then our take out from your first
10 statement is that the fact that you claim they informed you as their superior, that they had received information of a person who is dealing with illegal goods, that in truth are not your honest words. These are words that Magagula prescribed that you utter. Would that be a fair conclusion?

COMMISSIONER MKHWANAZI: No, the writing by me.

ADV SELLO SC: Ja, no, no, but then Magagula instructed you to say that.

COMMISSIONER MKHWANAZI: The third one, the third paragraph.

20 **ADV SELLO SC:** The third paragraph, yes.

COMMISSIONER MKHWANAZI: No, no, no. He said I must confirm that members were on duty.

ADV SELLO SC: Yes.

COMMISSIONER MKHWANAZI: But members have already confirmed that they worked. That is why I included and they

were informed. That is why I included it here.

ADV SELLO SC: Hence, I am saying he required you to include the fact that they said the way they informed you.

COMMISSIONER MKHWANAZI: No, he did not say I must write in these words. These words are written by me, Commissioner.

ADV SELLO SC: Okay. I do not think we will get anywhere. You have the Magagula statement file next to you. It is a small file. And this would, as well, I am
10 addressing this particular issue because, and if you could turn to page 16. Now, I want us to look ...[intervenes].

COMMISSIONER MKHWANAZI: Sorry, sorry, sorry, Commissioner.

ADV SELLO SC: I want us to have regard to paragraph 65, 66. If you flip back to page 14, starting at paragraph 56, that is where Mr Magagula deals with this case of precious stones. I am just trying to orientate you. It starts at page
14 of that statement, paragraph 56. You see where he starts? You do see, Mr Mukwanazi? It is not
20 ...[intervenes].

COMMISSIONER MKHWANAZI: Oh, yes, yes, yes.

ADV SELLO SC: [Indistinct]...

COMMISSIONER MKHWANAZI: Oh, yes.

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

COMMISSIONER MKHWANAZI: [Indistinct]... [cross-

talking].

ADV SELLO SC: It is about the precious stones.

COMMISSIONER MKHWANAZI: Yes.

ADV SELLO SC: The one, the paragraphs I want to refer you to are at page 16, because he is talking about the current status of the case.

COMMISSIONER MKHWANAZI: Page 16, yes.

ADV SELLO SC: Okay. So, at paragraph 65, he says:

“Constable McKenzie ...”

10 That is one of your Constables, correct?

COMMISSIONER MKHWANAZI: Yes, yes, yes.

ADV SELLO SC: -:

“One of the implicated police filed a further statement on 15 January 2026 confirming the presence of Brigadier Mkhwanazi at the scene. This statement is part of the docket.”

You see that? So, that happens on the 15th of January 2026. At paragraph 66, he notes:

20 “What is outstanding is to obtain a warning statement from Brigadier Mkhwanazi. When I contacted him telephonically, he stated that he wanted to consult with his lawyers first, this after Brigadier Mukwanazi had

submitted a statement on 5th February 2026, which I rejected because it was not a warning statement as it does not comply with the requirements of a warning statement.”

Then he concludes:

“I will attempt to obtain this statement soonest after which I will submit the docket to DPP for decision to prosecute.”

10

See that?

COMMISSIONER MKHWANAZI: When he says, when he talks about the warning statement, I have never drafted a warning statement. He is the one that comes and say, with the docket and say, this is the warning. Like the, there is some of the dockets, we never submit something and say, this is a warning statement. I cannot say, I am the one who is warning myself, I am submitting that statement. I do not think it is correct.

20 **ADV BALOYI SC:** Mr Magagula explained to us that you have prepared your own statement.

COMMISSIONER MKHWANAZI: Yes.

ADV BALOYI SC: That he rejected because it does not conform with the requirements of a warning statement that he must take. He must sit down with you and warn you of

your rights, and warn you of your rights and then ask you specific questions. And that is, and when you have answered, you will sign that document.

COMMISSIONER MKHWANAZI: Yes.

ADV BALOYI SC: He signs it. It shows that you have been warned. You have been given, you have been informed about your rights and all the formalities. And you have answered questions that were posed to you. You sign, he signs, and that becomes the warning statement. That is
10 the one that he says you have declined to do. You have prepared your own document, which he says he is not interested in. So, you do not get to prepare a warning statement. He sits down with you.

COMMISSIONER MKHWANAZI: Yes.

ADV BALOYI SC: In fact, he said we do it in the presence of a colleague. He sits with somebody else from his office because he cannot do it alone. There has to be present somebody else who sees what is happening and then they sit down with you. That is what the warning statement is
20 about, not what you prepared and sent to him.

COMMISSIONER MKHWANAZI: Yes. Yes, you are correct, Commissioner.

ADV BALOYI SC: Yes.

COMMISSIONER MKHWANAZI: That is how it is done. But I do not think he is talking, he is honest to this

Commission. As you are saying that, he called me, then he said, I will need this statement. Then I have submitted that statement. Then he did not come back and say, now we must sit down. I took the statement. He rejected the statement that, no, he did not reject as he said, no, it must change. I said, Magagula, no, no, no, I am going to communicate with my lawyer.

On a statement, on a warning, we never had engagement on a warning statement. And it was a day
10 before or two days before the Commission, and that is what was surprising you see, all along, Magagula, you were relaxing with all these years. You did not do anything. Now, within a space of a week, you said you spoke to the officer. Now you want me to jump to everything and I will submit a statement because I was under pressure. I even typed it and say, let me deal with Magagula.

He said, no, no, no, sign there, I want it, I want it, I am going to the, he even mentioned that I am going to the Commission. And I complied. I said, you know what, let me
20 comply because I have been communicating, I was complying all along. Then I submitted.

And I was so shocked when, what you are mentioning here, it is what he has mentioned, I was watching it. That is what, you are correct, Commissioners. That is what he mentioned, you see.

ADV BALOYI SC: And he also say you told him you want to consult with your lawyer ...[intervenes].

COMMISSIONER MKHWANAZI: Yes ...[intervenes].

ADV BALOYI SC: But that is exactly what he says in the statement. He says, you told him when he said to you, he wants to come and take a warning statement, you said, I want to speak to my lawyer.

COMMISSIONER MKHWANAZI: He talk ...[intervenes].

ADV BALOYI SC: Where is the lie there?

10 **COMMISSIONER MKHWANAZI:** Yes, it was not about the warning statement. It was a statement that he mentioned that I must specify and give it to him. That is what ...[indistinct].

ADV BALOYI SC: And you wanted to speak to your lawyer before you do that.

COMMISSIONER MKHWANAZI: Yes, I have said on that. Yes, not on a warning statement. It was on that, you see. And I have already, but I will talk to that when we are continuing. I have already identified something, but I will
20 talk to that, Commissioners. But now, let me stick to this.

ADV BALOYI SC: Thank you.

ADV SELLO SC: Thank you, Commissioner Baloyi. Is it safe to depart from the premise that you know what a warning statement is, and under what circumstances it is required?

COMMISSIONER MKHWANAZI: We sat with Magagula ...[intervenes].

ADV SELLO SC: No, I am, it is a general question.

COMMISSIONER MKHWANAZI: Yes.

ADV SELLO SC: And my question is, is it safe for me to assume you know, you are very familiar with what a warning statement is, and under what circumstances one is required? Are you familiar with that or not?

COMMISSIONER MKHWANAZI: I think I am familiar.

10 **ADV SELLO SC:** Okay. And you have provided that statement in the Mbense case that we have dealt with.

COMMISSIONER MKHWANAZI: That is what I wanted ...[intervenes].

ADV SELLO SC: Yes.

COMMISSIONER MKHWANAZI: That is what I wanted to raise, you see, because in the Mbense case, when we sat with all of them, when you check my statement, it says a Brakpan case, you see. When he wrote, there was nothing inside, and there was no case number. There was nothing.
20 When I read the documents that the Commission sent to me, it talks about Duduza case, and ...[indistinct] discuss about murder, and they are mentioning two offences there, or two crimes, defeating the ends of justice. I said, no, no, no. If that is what, if that is how you operates, no, no, no. And it is not for the first time raising those issues to him that you

are an investigator, you must be honest, you cannot come up with tricks.

ADV SELLO SC: I am still on the warning statement only.

COMMISSIONER MKHWANAZI: No, I am talking about the warning statement.

ADV SELLO SC: Oh, in, only ...[intervenes].

COMMISSIONER MKHWANAZI: He spoke ...[intervenes].

ADV SELLO SC: Mine is general ...[intervenes].

COMMISSIONER MKHWANAZI: He spoke about Mbense
10 case.

ADV SELLO SC: You know what a warning statement is. You have given one before. And you know, you appreciate the circumstances under which one is required to, you know, prepare a warning statement. You said, yes, you have an understanding of that.

COMMISSIONER MKHWANAZI: Oh, yes, yes, Commissioner.

ADV SELLO SC: Yes. No, so, you know that by this time, McKenzie and Stols, there had been a criminal complaint by
20 the owners of the precious stones, specifically against McKenzie and Stols. You are aware of that?

COMMISSIONER MKHWANAZI: No, no, no, I am not aware.

ADV SELLO SC: Oh, okay. So, looking at Magagula's statement at 65, paragraph 65, when he said he received a

further statement from McKenzie, confirming your presence at the scene of the precious stones when they were “stolen” by these two, that makes you a suspect in the matter, generally. Would you accept that?

COMMISSIONER MKHWANAZI: No, I do not want to discuss the scene, you see. When you discuss the scene, it means that you were inside. There must be a footage and everything that shows you that you were part of there, you see. And coming and talking to a person outside, then
10 going and say, no, no, no ...[indistinct] we are there, they ...[indistinct]. As I mentioned yesterday, we are, some are busy inside, then we are busy with that thing, and going. It does not say you were part of the scene. And there is a footage that shows that I was not part of that. I was not even inside of that.

ADV SELLO SC: Okay.

COMMISSIONER MKHWANAZI: I even, I was watching, I was looking at the evidence and the photos and everything, you see, and it talks to what I wrote in my statement. I
20 think that is when he is not comfortable with that. That is what I think.

ADV SELLO SC: The only point is, if the two are charged, and one of them says you were at the scene of the crime, that is when a warning statement is required. That is all. Now, I do not want the fact about whether or not in truth

you were there or not.

COMMISSIONER MKHWANAZI: No, it is ...[incomplete].

ADV SELLO SC: But that is when a warning statement would be required, because then one of the persons accused is suggesting that you too were on the scene. You can deny it in your statement or confirm it.

COMMISSIONER MKHWANAZI: The statement does not say what Magagula is saying.

ADV SELLO SC: Say that?

10 **COMMISSIONER MKHWANAZI:** The statement does not say what Magagula is saying.

ADV SELLO SC: Okay. So, I am saying, I am talking about the circumstances under which it is required. It is open to you in the warning statement to then take up those issues to say, no, I was not on the scene. Yes, I see what you claim McKenzie said, but it is wrong because what you say, I was not inside the flat. So therefore, I was not at the scene. So that is what you would write in your statement.

20 **COMMISSIONER MKHWANAZI:** I get you. I get you, Commissioner.

ADV SELLO SC: So it is a warning statement.

COMMISSIONER MKHWANAZI: [Indistinct]...

ADV SELLO SC: In fact, the one that Mr Magagula says he rejected on the 5th of February has been availed to us, and I am going to ask that it be projected. And you can confirm,

if you could just look at the screen. Maybe it is easier if you look at the one to your left. I do not know if you can see that far.

COMMISSIONER MKHWANAZI: No, no, it is my signature.

ADV SELLO SC: Is that the, that is the statement.

COMMISSIONER MKHWANAZI: Do you have a hard copy?

ADV SELLO SC: Say that again?

COMMISSIONER MKHWANAZI: Do you have a hard copy?

ADV SELLO SC: No, unfortunately, we just got it on

10 ...[intervenes].

COMMISSIONER MKHWANAZI: I cannot, I cannot, I cannot. But I can see JT Mkhwanazi. I can see the signature, but I am unable to read.

ADV SELLO SC: Okay, I think we are going to ...[intervenes].

CHAIRPERSON: Is there not a laptop that we can ...[incomplete].

ADV SELLO SC: If you have it on your laptop, please share it with ...[intervenes].

20 **COMMISSIONER MKHWANAZI:** The laptop will assist.

ADV SELLO SC: With Commissioner Mkhwanazi while we prepare hard copies.

CHAIRPERSON: Do you have it on your laptop? You do not. Let us adjourn for a few minutes.

ADV SELLO SC: Okay, I will do so. Thank you.

INQUIRY ADJOURNS

INQUIRY RESUMES

ADV SELLO SC: Thank you, Commissioners. Commissioners, you should have before you a one-pager with the heading I, JD Mkhwanazi, 50, employed by the City of Ekurhuleni. That is the document we projected that was not visible, I think, to Mr Mkhwanazi and we propose that we mark it CJC168. So it will be part of the exhibit file. Mr Mkhwanazi, what we now have on the screen is what you
10 have before you in hard copy, correct?

COMMISSIONER MKHWANAZI: Yes, yes, yes.

ADV SELLO SC: This is what you call the second statement that you filed in this matter and this is dated the 5th of February 2026.

COMMISSIONER MKHWANAZI: You are correct.

ADV SELLO SC: Okay. Now, reading this statement, oh, let me ask, how did this statement come about?

COMMISSIONER MKHWANAZI: After I communicated with Mr Magagula.

20 **ADV SELLO SC:** When?

COMMISSIONER MKHWANAZI: I do not have a specific date, but during the course of the week, of the week of the 5th.

ADV SELLO SC: Of the statement?

COMMISSIONER MKHWANAZI: Yes, yes.

ADV SELLO SC: Okay.

COMMISSIONER MKHWANAZI: It was, I think, it was a day or two days before I wrote.

ADV SELLO SC: Okay. So after, you say after you communicated with Mr Magagula.

COMMISSIONER MKHWANAZI: Yes.

ADV SELLO SC: Did he ask you to file a statement?

COMMISSIONER MKHWANAZI: Yes.

ADV SELLO SC: What kind of statement did he request of
10 you? What did he say the statement was for? You had
already filed one before ...[intervenes].

COMMISSIONER MKHWANAZI: Yes.

ADV SELLO SC: In 2023.

COMMISSIONER MKHWANAZI: Yes.

ADV SELLO SC: So how did he explain the need for the
second statement?

COMMISSIONER MKHWANAZI: After we communicated,
and he communicated with Officer McKenzie.

ADV SELLO SC: Yes.

20 **COMMISSIONER MKHWANAZI:** Then he said to me, you
know that I have said I am going to come to you, you see.
During your time you did not specify.

ADV SELLO SC: Okay.

COMMISSIONER MKHWANAZI: Now I wanted to confirm
that were you there, what were you doing there, and who

were you working with since McKenzie has confirmed that you were with a senior person who was wearing a different uniform, you see. Then I had to craft this and send this. It is a statement that confirms that I did visit, you see.

ADV SELLO SC: Yes.

COMMISSIONER MKHWANAZI: I did, well, I did go there.

ADV SELLO SC: Yes. So, as you suggested with the first statement, did Investigator Magagula dictate to you what you must say in there?

10 **COMMISSIONER MKHWANAZI:** I am repeating it for the fourth or the fifth time.

ADV SELLO SC: Okay, help me.

COMMISSIONER MKHWANAZI: Yes, I am repeating it for the fifth time. As I have said now, before you asked me, I was saying it again.

ADV SELLO SC: Yes.

COMMISSIONER MKHWANAZI: I am saying it again that he got the statement from, who is this, Inspector, Officer McKenzie.

20 **ADV SELLO SC:** Ja.

COMMISSIONER MKHWANAZI: After Officer McKenzie, and he said to me, remember that I have said I am going to come to you after doing investigations, you see. Then he came, now before it was time for this, or before he came to Commission, I think two days ...[indistinct] can you do that

statement as soon as possible, you see, and mentioning, since you once told me that it was a joint operation, McKenzie has specified and you visited the area. Then I wrote the statement, as I have wrote it.

ADV SELLO SC: So he is the one who came up with the idea that you must say it was a joint operation?

COMMISSIONER MKHWANAZI: No, it was, not him. It was a joint operation, yes.

ADV SELLO SC: Oh, okay. I keep misunderstanding you
10 this afternoon, I do not know why. My apologies. Then let us look at CJC168, and you started your paragraph 1 with the right date. And you state:

20 “I did task the team to Edenvale and Johannesburg for the joint operation with the Province and JMPD. After the complaint from Deputy Chief Inspector Guguzu Gerald Masako, attended the complaint of suspects who are selling fake stones on social media, I guess defrauding people. I gave him two members. They also tasked their members. During the day, he asked me to visit the area because some of our member are in Johannesburg. They did not find anyone at Edenvale.”

Now, then your next paragraph deals with what you did.

“We drove and found members who were still busy interrogating.”

This statement now no longer speaks of Kersha-Leigh Stols and McKenzie informing you as their supervisor that they received information of a person who is dealing with illegal goods. This statement instead suggests that you are the one who tasked them to deal with the matter
10 that the information about these stones came from you after you obtained such information from Deputy Chief Inspector Maseko. Am I reading it correctly?

COMMISSIONER MKHWANAZI: You are correct.

ADV SELLO SC: Why the change in how this, the information came about and how these two members got to operate in Johannesburg? Why is the difference?

COMMISSIONER MKHWANAZI: Remember, he has already received the first one that talks to the members and the members have already confirmed to him. That one he
20 has already heard it, you see. Now, he must specifically and specify and concentrate on me and how did I get the information. As I have said ...[intervenes].

ADV BALOYI SC: What have the members confirmed to him? What do you say the members have already confirmed to him?

COMMISSIONER MKHWANAZI: That they were working and they worked with members.

ADV BALOYI SC: Ja.

COMMISSIONER MKHWANAZI: Yes.

ADV BALOYI SC: But the members do not say to him that they were tasked by you. I think that is what is being put to you.

COMMISSIONER MKHWANAZI: But out of our engagement he already know that I have tasked them.

10 **ADV BALOYI SC:** No, you are saying he has already been told by the members.

COMMISSIONER MKHWANAZI: No, I am saying in terms of the statement, they have already written that they were there, they worked. Mine it was to confirm that it is me and I have tasked them, Commissioner.

ADV BALOYI SC: Your statement, the second statement says you tasked them to go and be part of the joint operation after you were approached by Maseko. That is what your second statement says.

20 **COMMISSIONER MKHWANAZI:** You are correct.

ADV BALOYI SC: The first statement, you say they went there after they told you that they have received information ...[intervenes].

COMMISSIONER MKHWANAZI: Yes.

ADV BALOYI SC: That the stolen goods in Johannesburg.

So they went there because they received information to go and do it and that is how they end up in Rosebank. You here say, in the second statement you say they went because you sent them there after Maseko spoke to you. So they did not get information and then just chose to go. You tasked them according to your second statement, which is different from what you are saying in the first statement. That is what is being put to you.

COMMISSIONER MKHWANAZI: No, you are quite
10 ...[intervenes].

ADV BALOYI SC: But you say two different things. One, in the first statement, you say they went there after they received information. That is what they told you, according to you. They received information and then they went after they told you. In this second statement, you say you got a call from Maseko and then you tasked them to go.

They cannot both be correct, those two statements. One of them is correct, is a correct reflection, I do not even want to say it is a correct reflection. It is one or the other.
20 They may well both be lies, but it is one or the other.

COMMISSIONER MKHWANAZI: Commissioner, if members are coming to me, are informing me and have already communicated, I must task them and say yes, continue or you do not continue the operation. And I have tasked them to continue the operation. That is what I am confirming

here.

ADV BALOYI SC: No, no. You see, in your first statement, you very clearly say they informed you as their supervisor when they received information about a person dealing with illegal goods and you confirm that they were on duty that day. That is what your statement does, the first one.

COMMISSIONER MKHWANAZI: Yes.

ADV BALOYI SC: It does no more than that.

10 **COMMISSIONER MKHWANAZI:** Yes.

ADV BALOYI SC: They came to you with the information, right, that we are pursuing this because we have received information. That is what your first statement says.

COMMISSIONER MKHWANAZI: Yes.

ADV BALOYI SC: The second one is different. It says you got information from Maseko and then you tasked them.

COMMISSIONER MKHWANAZI: Yes, if I ...[intervenes].

ADV BALOYI SC: They are not one and the same thing, however you read it.

20 **COMMISSIONER MKHWANAZI:** If they inform, if I have got information, I must ask them to go and work, Commissioner.

ADV BALOYI SC: Yes. Commissioner, we are not discussing theoretically, if you have got information, you must task them. We know they do go to operations without you tasking them. That is what happened with Mr Mbense

who died.

COMMISSIONER MKHWANAZI: Yes, yes.

ADV BALOYI SC: They went to that operation according to you ...[intervenes].

COMMISSIONER MKHWANAZI: Yes.

ADV BALOYI SC: Without you calling them to the scene. So, and when you have got information from Jaco, according to you, when he called you, you did not call them. So we know that you do not do that, right?

10 **COMMISSIONER MKHWANAZI:** Yes.

ADV BALOYI SC: You do not get information and then task them. They go on to do their own thing. That is exactly what you say in the first statement. They found out information and then they went to the operation. That is what your first statement says and that is consistent with what has happened in the Mbense matter. They get information, they just go out there.

COMMISSIONER MKHWANAZI: Not in all the cases, Commissioner.

20 **ADV BALOYI SC:** No, I am talking about this one in Mbense. I am not talking about all cases. Do not stretch me to other matters.

COMMISSIONER MKHWANAZI: No, you said that is what always happens.

ADV BALOYI SC: That is what happened here and that is

what happened in the Mr Emmanuel Mbense case, right.

COMMISSIONER MKHWANAZI: Oh, yes.

ADV BALOYI SC: They got information in the Mbense matter from Jaco. They then went to the scene. You got information from Jaco, you went to the scene. You did not call them. So do not say to us, well, when I get information, I task them. It did not happen in Emmanuel Mbense's case.

In this case, you say two different things. The one is they told you that there is information of a person dealing
10 in illegal goods and that is what you say in the first statement. They told you that.

COMMISSIONER MKHWANAZI: Yes, yes.

ADV BALOYI SC: And then they went to the operation and that is why I was having the discussion with you about why did you not say in the statement that I got the information from Maseko. You did not say that. You say it in the second statement and in the second statement for the first time in 2026, you say I tasked them.

The two statements cannot stand together. You
20 choose one of them as what happened, how they end up in that operation. You either tasked them or they did what you say in the first statement or you give us a third version. They cannot both be true.

COMMISSIONER MKHWANAZI: Commissioner, remember ...[intervenes].

ADV BALOYI SC: Yes.

COMMISSIONER MKHWANAZI: If I got information or if someone communicates with me, I cannot go into that operation as a director. I must task officers or I must task a certain unit.

ADV BALOYI SC: Did not task. My point is you did not task them when it was the case of Mr Emmanuel Mbense. On your own version you got information and you went, which is a curiosity and surprising that if you get
10 information that there is an operation from Jaco, you do not call your people. You went on your own. You did not task anybody.

COMMISSIONER MKHWANAZI: But this is a different scenario. This is a different operation. This is a different ...[indistinct] with a different person. These are two different things, according to me, Commissioner. I am not saying according to, yes.

ADV BALOYI SC: Maybe they are different, but what I am saying to you is in your first statement, you tell us how they
20 ended up in Rosebank. Your first statement.

COMMISSIONER MKHWANAZI: Yes.

ADV BALOYI SC: They came to you and told you that we have received information. Remember that third paragraph where I said, but that is extra information.

COMMISSIONER MKHWANAZI: Yes.

ADV BALOYI SC: You say they came to me and told me that they have this information. That is completely different from you saying Maseko called me and told me there is this problem, there is this person who is dealing with stolen goods because that is what your second statement - your second statement does not say I was told by my officers and Maseko confirmed it or Maseko repeated it.

Your second statement does not say that. So if I read your second statement on its own without seeing the
10 first one, it tells me that your only source of, your source, rather, your source of dealing in stolen goods is Maseko, according to your second statement. But the first statement says your source is your officers.

COMMISSIONER MKHWANAZI: I get you now.

ADV BALOYI SC: Yes.

COMMISSIONER MKHWANAZI: That I was supposed to say, then include – no, I get you now.

ADV BALOYI SC: I am not telling you what you were supposed to say. I am saying to you, these two things, they
20 do not speak to each other. You have different sources of information about dealing with stolen goods. That is all I am saying.

COMMISSIONER MKHWANAZI: Okay, I get you now.

ADV BALOYI SC: Thank you.

ADV SELLO SC: Thank you, Commissioner Baloyi. In

fact, I would suggest that your first statement is consistent with what Stols and McKenzie claimed, no joint operation, and that the information came from them. For that purpose, I would like you to go to exhibit file CJC159. That is a statement of Constable Stols preceded by the standard form, and the actual statement starts at 145.

Now, in this statement, again, we can skip the first paragraph. And this statement, perhaps first things first, if we go previous page 144 in that form, it is dated 2nd May
10 2023. You see that? And signed by Constable Stols. Same file, same file that they opened ...[intervenes].

COMMISSIONER MKHWANAZI: Oh, it is the same file.

ADV SELLO SC: Yes.

COMMISSIONER MKHWANAZI: No, I just wanted to see something ...[indistinct] correct.

ADV SELLO SC: Okay. Just go a page back, page 144.

COMMISSIONER MKHWANAZI: Yes.

ADV SELLO SC: That is the form to which the statement is attached, and that is signed by Constable Stols on the 2nd
20 of May 2023. You accept that?

COMMISSIONER MKHWANAZI: Yes, yes, I see.

ADV SELLO SC: Okay. So, in May 2023, three months after the event, Constable Stols note, states in her statement at paragraph 2, the first paragraph dealing with introducing herself, and she says:

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

Do you see what I am reading?

COMMISSIONER MKHWANAZI: Yes.

10 **ADV SELLO SC:** Then it goes further, paragraph 3:

“We went to Rosebank SAPS and informed them that we would be working in their area. We then went to the address of the person who was illegally dealing in lithium. We were taken to the person's flat by the security guard of the flat.”

20 So, according to Ms Stols, she personally received a call from a certain JMPD member called Motso. There is nothing about being tasked by you. You accept that?

COMMISSIONER MKHWANAZI: Let us continue. I ...[indistinct] had an opportunity to read this.

ADV SELLO SC: Sorry, please say that again, I ...[intervenes].

COMMISSIONER MKHWANAZI: I am saying let us

continue because you are touching this paragraph. I have not had the opportunity to read the whole statement.

ADV SELLO SC: We could, but I can tell you that the rest of the statement tells the reader what then happened. I stopped at the third paragraph because that paragraph already places them inside the flat. You cannot have informed them when they were inside the premises already searching. That would have happened before they go, right?

10 **COMMISSIONER MKHWANAZI:** Yes, you are correct.

ADV SELLO SC: Yes, so I am saying up to this point, until they got into the flat, there is nothing about being tasked and deployed by you.

COMMISSIONER MKHWANAZI: How did I know that they are there?

ADV SELLO SC: Search me. How would, that is the whole problem, Mr Mkhwanazi ...[intervenes].

COMMISSIONER MKHWANAZI: Yes.

ADV SELLO SC: Which is ...[intervenes].

20 **COMMISSIONER MKHWANAZI:** Yes, and I also communicated ...[intervenes].

ADV SELLO SC: Your original ...[intervenes].

COMMISSIONER MKHWANAZI: Communicated ...[intervenes].

ADV SELLO SC: Let me finish. Let me finish. Your

original statement is that they informed you of this activity out in Rosebank, and I am saying that is actually confirmed by Constable Stols in her statement, she claiming that she got the information from a JMPD member, one Motso, and that it was Motso who requested assistance in the recovery of the stones. She then proceeds to say, we went to Rosebank. So it is she and somebody else, one or two. They went to Rosebank SAPS and informed them that we would be working in the area.

10 “We then went to the address of the person who was illegally dealing in lithium. We were taken to the person's flat by the security guard of the flat.”

COMMISSIONER MKHWANAZI: Yes.

ADV SELLO SC: Let us continue.

20 “We knocked at the door and a white male opened the door. We informed him who we were and he invited us inside the residence. We explained why we were there, that we had received information that he was possibly dealing in the sale of lithium rocks illegally and asked if we could search. The male granted us to search.”

So we can stop there.

COMMISSIONER MKHWANAZI: No, let us ...[indistinct]
[reading softly].

ADV SELLO SC: The next paragraph then deals in the presence of the male, searched his bedroom, so the search then gets underway.

COMMISSIONER MKHWANAZI: Oh, sorry, sorry, I am trying to ...[intervenes].

ADV SELLO SC: No, no, no. Okay, satisfy yourself and
10 read the statement. Perhaps you, the idea being, to locate where Stols says she was tasked by you.

[Commissioner Mkhwanazi reading the statement softly.]

COMMISSIONER MKHWANAZI: I think it is not complete, Commissioners.

COMMISSIONER MKHWANAZI: I do not know what the complete facts are. I only go by a statement prepared by the person who says I took part in this operation.

COMMISSIONER MKHWANAZI: Yes.

ADV SELLO SC: I cannot confirm or deny that it is
20 complete. The only point I make is on this version ...[intervenes].

COMMISSIONER MKHWANAZI: Yes.

ADV SELLO SC: You did not task them. They operated on the basis of information she received directly from one member of JMPD she calls Motso.

CHAIRPERSON: But Commissioner, when you say it is not complete, it is not as if Constable Kersha-Leigh Stols has not addressed the question of how they came to go there. It is not as if she has not addressed the question. So I would understand your point about the statement not being complete if she had not addressed the question. In so many words, in paragraph 2, she does explain how and why they went there, and that does not mention you.

COMMISSIONER MKHWANAZI: And I communicated
10 ...[intervenes].

CHAIRPERSON: She says:

“In February 2023, I was on duty and in full uniform when I received a call from Motso, a JMPD member who requested assistance.”

And it was as a result of that request that they then went to the premises. So that has nothing to do with you whatsoever. So I do not understand your point that, this is, the statement is not complete.

20 **COMMISSIONER MKHWANAZI:** Yes.

CHAIRPERSON: Because it would, according to you, only have been complete if it had mentioned you giving instructions to them to go there.

COMMISSIONER MKHWANAZI: And I did that, Commissioner. I did that.

CHAIRPERSON: No, no, no, all I am addressing now, I am not asking you whether you did or you did not. What I am addressing is your statement that this statement is incomplete. I am saying it cannot possibly be incomplete because it does address the question, the relevant question to what Ms Sello is asking you, which is how Ms Kersha-Leigh Stols happened to go there. It does address the subject. So I do not understand how you can say that the statement is incomplete in this regard.

10 **COMMISSIONER MKHWANAZI**: I get you, Commissioner.

CHAIRPERSON: Yes, yes.

ADV SELLO SC: Thank you, Chair. And we know that the two EMPD members who were involved in this are Kersha-Leigh Stols and Constable McKenzie, Adrian McKenzie, correct?

COMMISSIONER MKHWANAZI: You are correct. You are correct.

ADV SELLO SC: Okay. Now, perhaps for completeness, let us then turn to Magagula TLM3, Magagula file TLM3, and
20 I want to get to page 273.

ADV KHUMALO SC: I was hoping that before you get there, he can, while we are on this bundle, identify them on page 168.

ADV SELLO SC: Them?

ADV KHUMALO SC: The two officers, EMPD officers.

ADV SELLO SC: I was going to get that to a later time.

ADV KHUMALO SC: All right, thanks.

ADV SELLO SC: All the persons in the room, in fact, yes.

Page 273.

CHAIRPERSON: You said TLM?

ADV SELLO SC: 3.

CHAIRPERSON: 3, page 27.

ADV SELLO SC: Yes, Chair.

CHAIRPERSON: Thank you, thank you.

10 **ADV SELLO SC:** And you will see that that is the statement of Adrian McKenzie. Is that what you have?

COMMISSIONER MKHWANAZI: 73.

ADV SELLO SC: His actual statement, written, handwritten statement starts at 277. Do you have that?

COMMISSIONER MKHWANAZI: Yes, yes, yes, Commissioner.

ADV SELLO SC: If you go further to 280, you will see this statement was signed on the 2nd of May, 2023 by the ...[intervenues].

20 **COMMISSIONER MKHWANAZI:** Sorry, 280, né?

ADV SELLO SC: 280, yes. That is just the confirmation that this is Constable McKenzie's statement, which he signed on the 2nd of May, 2023. You do not have a challenge with that page, right? He signed it.

COMMISSIONER MKHWANAZI: Oh, yes, yes, yes, I do

not.

ADV SELLO SC: Okay. So then let us go back to 277, which is the actual statement that he made. At 277, again, I propose we skip the first paragraph. We go to the second paragraph. Mr McKenzie, now this is from Mr McKenzie's perspective, same event.

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

Paragraph 3:

 “We went to SAPS in Rosebank to
 make a OB entry that we will work in
 the area, and we went to the suspect
 area in Rosebank.”

Then again, for completeness, go to 4.

20 “K Stols, an ATN, and myself knocked
 on the door of the suspect. A white
 male opened the door. We introduced
 ourselves and explained who we are
 and reason for being there.”

5:

 “The white male invited us in, and we

went in. We told him that we were here regarding stones that is supposed to be in his possession and that he denied having such.”

You can cast your eye on the rest of the statement. And once again, there is nothing about you tasking them. So on the, on Stols and McKenzie's version, they went there on the information furnished to them by a member of the JMPD, and Stols tells us that her name, this member's
10 name, is Motso. Once again, nothing about a joint operation. Once again, nothing about you tasking them to undertake this exercise. You confirm?

COMMISSIONER MKHWANAZI: No, for joint, when there is another team, JMPD, it is a joint, but here they do not mention me talking to them and telling them. I agree. On that one, I confirm.

ADV SELLO SC: Okay. So, I say, therefore, that Stols' version read with McKenzie's version is consistent with your 2023 version that they went to Rosebank on the basis of
20 information they had received, which information they shared with you. Do you have a comment to that?

COMMISSIONER MKHWANAZI: Where is mine? Sorry, there is something I want to check.

ADV SELLO SC: Yours what?

COMMISSIONER MKHWANAZI: Yes, my statement.

ADV SELLO SC: Your supplementary?

COMMISSIONER MKHWANAZI: Yes. No, no, my first one.

ADV SELLO SC: Sorry, your first statement?

COMMISSIONER MKHWANAZI: Yes.

ADV SELLO SC: If you are ...[intervenes].

CHAIRPERSON: The 2023 statement that Ms Sello has just referred to?

COMMISSIONER MKHWANAZI: Oh yes, yes, Commissioner.

ADV KHUMALO SC: It is in the exhibit file ...[indistinct]
10 [microphone off].

ADV SELLO SC: Yes.

COMMISSIONER MKHWANAZI: Is it the same file?

ADV SELLO SC: Yes.

ADV KHUMALO SC: Exhibit file 132.

ADV SELLO SC: 132.

COMMISSIONER MKHWANAZI: Just open it. No, no, I saw it, thank you.

ADV SELLO SC: Are you happy with what ...[intervenes].

COMMISSIONER MKHWANAZI: Yes, yes, yes.

20 **ADV SELLO SC:** Okay. So I said, do you confirm then that what you have at 132 in your statement is consistent with the versions given by Stols and McKenzie?

COMMISSIONER MKHWANAZI: On the first one, yes.

ADV SELLO SC: Yes, on the first one.

COMMISSIONER MKHWANAZI: Yes.

ADV SELLO SC: All right. And so far, we have not come across any reference of a joint operation with JMPD or Gauteng Traffic.

COMMISSIONER MKHWANAZI: No, it has come.

ADV SELLO SC: Where?

COMMISSIONER MKHWANAZI: Both of them ...[intervenes].

ADV SELLO SC: Up until this point of their statements ...[intervenes].

10 **COMMISSIONER MKHWANAZI:** Yes, in their statement.

ADV SELLO SC: There is nothing.

COMMISSIONER MKHWANAZI: No, in their statement, they have mentioned ...[intervenes].

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

COMMISSIONER MKHWANAZI: When they mentioned Constable Kgomotso, it is JMPD.

ADV SELLO SC: Since Constable Motso requested, I received a call from Motso, a JMPD, who requested assistance in the recovery of lithium.

20 **COMMISSIONER MKHWANAZI:** Yes, then ...[intervenes].

ADV SELLO SC: Ja, hold it, please hold it. You say, in your supplementary statement, you had a joint operation with Province and JMPD.

“I tasked the hijack members as per request of Inspector Maseko.”

Those are two different things.

COMMISSIONER MKHWANAZI: In terms of joint operation, there is EMPD, there is JMPD here, you see. The only one that they do not mention that is making me now to be ...[indistinct] it is that they do not mention that they get it from me and the other team that we ...[indistinct] and Constable McKenzie, in his supplementary, I will call it supplementary, he also mentioned that we were there with the other senior officer, who is not wearing, I am not sure, I
10 did not read it, but the way Magagula mentioned it, that he mentioned the other senior person who is not wearing the same uniform, but wearing the other uniform with senior ranks.

ADV BALOYI SC: [Indistinct]... [microphone off] in the vehicle?

COMMISSIONER MKHWANAZI: Yes, yes, yes.

ADV BALOYI SC: So you were in the operation then ...[intervenes].

COMMISSIONER MKHWANAZI: No, no.

20 **ADV BALOYI SC:** Because that seem ...[intervenes].

COMMISSIONER MKHWANAZI: We ...[intervenes].

ADV BALOYI SC: No, hold on.

COMMISSIONER MKHWANAZI: No, we came and ...[intervenes].

ADV BALOYI SC: Yes, so ...[intervenes].

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

ADV BALOYI SC: You are saying, you say it was a joint operation. Constable McKenzie mentions, is it McKenzie?

COMMISSIONER MKHWANAZI: Yes, can I see the statement? It is just that I did not see the statement.

ADV BALOYI SC: No, but just hear me out first ...[intervenes].

COMMISSIONER MKHWANAZI: Oh, yes.

10 **ADV BALOYI SC:** Because you are the one that has referred to the statement. You say that Constable McKenzie mentions that there was another senior officer who was wearing, as you described it.

COMMISSIONER MKHWANAZI: Yes.

ADV BALOYI SC: So, you say that is evidence of a joint operation. And I am asking you the simple question, that if that is so, if the presence of that senior officer is indicative of a joint operation, then it means you were also in the operation, because that senior officer was with you. So if
20 we accept that that senior officer was in an operation, and therefore lends to a joint operation, it must mean you in the car with him were also in that operation.

COMMISSIONER MKHWANAZI: Yes, we went to the scene.

ADV BALOYI SC: So you accept that you were part of the

operation?

COMMISSIONER MKHWANAZI: Yes, we went to the scene.

ADV BALOYI SC: No, that is not my question. We know as a fact that you were at the scene, so that is not a question I am asking you, because that we know.

COMMISSIONER MKHWANAZI: Oh.

ADV BALOYI SC: On your own version.

COMMISSIONER MKHWANAZI: Yes, yes.

10 **ADV BALOYI SC:** I am asking a different question.

COMMISSIONER MKHWANAZI: Yes.

ADV BALOYI SC: Do you accept, as I suggest you must, that if the other officer in the car with you, who was wearing, you said he was in uniform, I think, if you say he was, he is evidence of a joint operation, or he is proof of a joint operation, it must mean, therefore, that you were then also part of that operation by being there with him.

COMMISSIONER MKHWANAZI: Okay, if you say so I will agree.

20 **ADV BALOYI SC:** No, it is not if I say so. It means that. That is what it means. Otherwise, he was not in the operation. So here are your options. That officer that you have just referred to, if he was not in the operation, then there was no joint operation, if he was not in the operation. But you say, no, it was a joint operation, proof is McKenzie

tells us in his statement that there was this other officer. And I am saying, well, ja, okay, then it is a joint operation, but it also then must mean that you were also part of that operation there.

COMMISSIONER MKHWANAZI: You are correct.

ADV BALOYI SC: You understand the logic?

COMMISSIONER MKHWANAZI: Yes, I understand.

ADV BALOYI SC: All right, thank you.

ADV KHUMALO SC: I want to just deal with one paragraph
10 here, because I know Advocate Sello is going to the other
issue. Look at paragraph 3 on 277. It is McKenzie's
statement.

COMMISSIONER MKHWANAZI: 277, né?

ADV KHUMALO SC: Yes.

COMMISSIONER MKHWANAZI: Yes, yes, yes.

ADV KHUMALO SC: I know you have it next to you. So he
says:

“We went to SAPS in Rosebank to
make an OB entry.”

20 And then in 4, he says:

“K Stols and Etienne and myself
knocked on the door of the suspect. A
white male opened the door. We
introduced ourselves, explained who
we are, and the reason for being

there.”

Do you see that?

COMMISSIONER MKHWANAZI: I agree.

ADV KHUMALO SC: So, according to McKenzie, this operation was conducted by the three of them only. He does not mention in his statement that there was Gauteng Traffic Department or JMPD. Do you see that?

COMMISSIONER MKHWANAZI: Yes, Commissioner.

ADV KHUMALO SC: So it cannot be a joint operation if the
10 people who are there are EMPD only.

COMMISSIONER MKHWANAZI: Commissioner, I cannot tell you how did they divide themselves because they were operational, you see, and say that they met this in the morning, then afternoon they met, or during the day.

ADV KHUMALO SC: No, but you say you arrived at the scene.

COMMISSIONER MKHWANAZI: Yes.

ADV KHUMALO SC: So what you observed at the scene, was it a joint operation or only EMPD people?

20 **COMMISSIONER MKHWANAZI:** No, there were people that were inside. We only communicated, I only called, I communicated with McKenzie, then we moved.

ADV KHUMALO SC: So you do not know that it was a joint operation if the only people you saw are EMPD people.

COMMISSIONER MKHWANAZI: But they confirmed that.

ADV KHUMALO SC: Who confirmed?

COMMISSIONER MKHWANAZI: Kgomotso was there.

ADV KHUMALO SC: Who confirmed?

COMMISSIONER MKHWANAZI: McKenzie and
...[intervenes].

ADV KHUMALO SC: No, because on the next page, McKenzie says, look at paragraph 9. So there is a phone call where Stols calls the JMPD officer. The JMPD officer was not there.

10 **COMMISSIONER MKHWANAZI:** That is what I am saying that, Commissioner, that we cannot tell or we cannot confirm where they were, but they were part of – remember, when I got it first, they said it is going to be in between the two. Now they arrived at the police station, and it is this team of EMPD, they arrive at the police station, and when they are there, they also mentioned that we got this from, and again, when they were there, after the operation, it is either they met somewhere, after they got what they want, and handed over and did whatever as per their statement
20 and as I was saying.

ADV KHUMALO SC: But at the house ...[intervenes].

COMMISSIONER MKHWANAZI: So that it was not only
...[incomplete].

ADV KHUMALO SC: At the house where they found the stones ...[intervenes].

COMMISSIONER MKHWANAZI: There, I agree with you.

ADV KHUMALO SC: According to McKenzie, it was just him, Etienne, and Stols.

COMMISSIONER MKHWANAZI: There, I agree.

ADV KHUMALO SC: Now that is not a joint operation. It is an EMPD operation. That is my point. If JMPD is not there, and Gauteng Traffic is not there, then all you have is EMPD.

COMMISSIONER MKHWANAZI: Can we check the
10 statement of Kgomotso if it is here.

ADV KHUMALO SC: No, it is not here. And you never engaged with Kgomotso, so I do not understand why you would think Kgomotso would have made the statement.

COMMISSIONER MKHWANAZI: [Indistinct]... No, I am the senior, I cannot engage.

ADV KHUMALO SC: Do you even know who Kgomotso is?

COMMISSIONER MKHWANAZI: No, no, no.

ADV KHUMALO SC: Exactly.

COMMISSIONER MKHWANAZI: No, no, no.

20 **ADV BALOYI SC:** But the statement of Stols says, we went to Rosebank SAPS and told them we are going to be working in the area.

COMMISSIONER MKHWANAZI: Yes, you are correct.

ADV BALOYI SC: And then we left.

COMMISSIONER MKHWANAZI: You are correct.

ADV BALOYI SC: So that is no joint, there is no joint operation with JMPD. You do not arrive in somebody's house and say, I am going to be in your area and then you leave, and just because you have told them, in fact, she does say that it was to make an OB entry. That is what they say. We went there and made an OB entry, informing them that we are going to be working in the area.

COMMISSIONER MKHWANAZI: May I ask something, Commissioner? How do we exclude the first paragraph and
10 the last paragraph?

ADV BALOYI SC: What is the first paragraph? I do not want to exclude anything. You can go to the first paragraph and tell me how it helps you.

COMMISSIONER MKHWANAZI: No, it is the second one on the question, I was on duty, full name, and Ekurhuleni Constable Stols told me she got a call from JMPD member who needed assistance with recovery of stones.

ADV BALOYI SC: Yes, that is what Stols says. Stols says, I got a call from Motso who said they needed
20 assistance.

COMMISSIONER MKHWANAZI: My argument, Commissioner, I cannot argue with you. My point, let me say so, my point is that she needed assistance as per their, it means that she was part, she needed them to assist her.

ADV BALOYI SC: No, Stols does not say Motso was in the

operation, you see. You have the statement in front of you.

COMMISSIONER MKHWANAZI: Yes, the McKenzie ...[intervenes].

ADV BALOYI SC: You were not on the scene, so, and I was not on the scene, so I can only, you and I can only work on what the people who were on the scene tell us, who went there and what they tell us. Firstly, they got a call to come and assist, and you have conceded that nowhere in the statements do they say they were tasked by you, right?

10 They provide an explanation how they end up in Rosebank. Both of them say there was a call, and then they proceeded to Rosebank. Both of them say we went to SAPS Rosebank, filled in the OB, and told them. They told them we are going to be working in the area.

 They do not say we reported for a joint operation. They say we went there and told them we are going to be working in the area, and then we proceeded to the house. So, and it is those three people, and I know you know that there are pictures that will show them in the house, and
20 there is just the three of them, Etienne, McKenzie, and so we know it is three of them. So nowhere do they introduce anyone else from JMPD until that telephone call ...[intervenes].

COMMISSIONER MKHWANAZI: Yes.

ADV BALOYI SC: Where the owner of the stones is

explaining something or questioning about permits, and then a call is made, given to him to speak to a JMPD person, but on the scene, there is no JMPD person, otherwise they would have called that JMPD person instead of phoning Rosebank. They would simply, or phoning JMPD, they would have simply said, here is a JMPD person, speak to them.

So on the documents before us, there is no evidence that there was anyone from the JMPD on that day,
10 and you have told us Maseko is Gauteng Department of Transport ...[intervenes].

COMMISSIONER MKHWANAZI: Yes.

ADV BALOYI SC: So we know he is not JMPD. So with the statements we have, there is no one from JMPD on the scene, where you are part of the operation, Maseko is part of the operation.

COMMISSIONER MKHWANAZI: And then on the statement I concede to that.

ADV BALOYI SC: Okay, thank you.

20 **ADV SELLO SC**: Thank you, Commissioner. Chair, I note it is 16:03, however, I will request that I touch on a last document, a very brief one, just to close on this particular point, so that tomorrow we start on a different point. Thank you.

CHAIRPERSON: Thank you.

ADV SELLO SC: So, Mr Mkhwanazi, again, I still have your supplementary statement before me, where you say, I tasked members of the truck hijacking team to join the other teams. I take it that the other teams are the Gauteng Traffic Department, JMPD and the Province, is those other teams.

COMMISSIONER MKHWANAZI: Yes.

ADV SELLO SC: So, on that basis, then if my understanding is correct, that would mean the operation is
10 there, your members join this operation to provide services, correct? So they become part of the bigger joint operation.

COMMISSIONER MKHWANAZI: They become part, not to say they join.

ADV SELLO SC: They become part of ...[intervenes].

COMMISSIONER MKHWANAZI: Yes, they are part of it.

ADV SELLO SC: Okay.

COMMISSIONER MKHWANAZI: Yes.

ADV SELLO SC: So then they would not need to go register their presence in any police station, because they
20 are part of this joint operation that is legitimately operating in Gauteng. Would you agree with that?

COMMISSIONER MKHWANAZI: No, they do.

ADV SELLO SC: Why?

COMMISSIONER MKHWANAZI: They do. They do go to the police station.

ADV SELLO SC: Why?

COMMISSIONER MKHWANAZI: It is required, even in sometimes in our operations.

ADV SELLO SC: Sorry, if I may ask, required in terms of what?

COMMISSIONER MKHWANAZI: Yes, to go and report that ...[intervenes].

ADV SELLO SC: Ja, what requires that reporting?

COMMISSIONER MKHWANAZI: That you are operating in
10 this area, so that the local police station can know.

ADV SELLO SC: Is it a law ...[intervenes].

COMMISSIONER MKHWANAZI: No, especially Commanders are ...[intervenes].

ADV SELLO SC: Sorry, I apologize, I apologize. And I want us to be very precise.

COMMISSIONER MKHWANAZI: Oh, oh.

ADV SELLO SC: You say it is required. Who requires them to, what requires them to? Is it a piece of legislation? Is it policy? Is it you? Is it Gauteng? Who requires them
20 to do that?

COMMISSIONER MKHWANAZI: No, it is not a piece of legislation.

ADV SELLO SC: What is it?

COMMISSIONER MKHWANAZI: You know, the Station Commanders and the Prison Commanders, they are very

strict when we are operating in their area without communicating and informing them. Even in our own EMPD whilst they are operating in Ekurhuleni, the directors of the region, the Prison Commanders will say, please inform us, so that if there is a problem, there is something that has happened, we are able to say it is this person and that person. It always happens.

ADV SELLO SC: Yes.

COMMISSIONER MKHWANAZI: Sometimes even if they do
10 not record it, but they inform that we will be operating in this operation.

ADV SELLO SC: And I would suggest to you that that happens when such members are operating without the support of the locals. So when you go into an area that is outside your jurisdiction on your own, that is when you go register and report yourself.

COMMISSIONER MKHWANAZI: You are correct.

ADV SELLO SC: Yes.

COMMISSIONER MKHWANAZI: As I have said that the
20 prison and the police station ...[intervenes].

ADV SELLO SC: Yes.

COMMISSIONER MKHWANAZI: If you are not part, you must inform them.

ADV SELLO SC: Indeed. So when you become, you are tasked to join a team established by the Deputy Chief

Inspector Masako of the Gauteng Traffic Department, and you become part of that joint operation, you do not need to go report.

COMMISSIONER MKHWANAZI: No, we do. And many times I worked with Deputy Director, it is just that I do not see you, Commissioners, but please forgive me, the lights, yes. I was not disciplined in terms of ...[indistinct]. We worked with Deputy Director Maseko in many operation, especially on operations of infrastructure or cable theft in
10 all these operations.

We will go to a local police station and communicate that we are operating in this, and sometimes in this operation, you also have SAPS. SAPS has a unit that deals with the same infrastructure as much as we are having a unit that was dealing with that, and there is another unit in the province. We do that.

ADV SELLO SC: Okay.

COMMISSIONER MKHWANAZI: We do inform.

ADV SELLO SC: So, and tomorrow ...[intervenes].

20 **COMMISSIONER MKHWANAZI:** And it assists to track and trace, you see. It assists a lot.

ADV SELLO SC: Yes.

COMMISSIONER MKHWANAZI: You see, because at least now they know that there is this person, there is who to communicate, who to contact with.

ADV SELLO SC: Remember, with your supplementary statement, you provided us ...[intervenes].

COMMISSIONER MKHWANAZI: Yes.

ADV BALOYI SC: Agreements and memoranda of understanding on joint operations ...[intervenes].

COMMISSIONER MKHWANAZI: Yes, yes.

ADV SELLO SC: And we are going to deal with those issues tomorrow.

COMMISSIONER MKHWANAZI: Okay.

10 **ADV SELLO SC:** But perhaps for now, just a minor question. When you are part of a joint operation, and you go, or your members go, by you, I do not mean you, Commissioner Mkhwanazi, but generally, right. Do those members go together with their JMPD to go register at a specific police station?

COMMISSIONER MKHWANAZI: I think it depends per information. It depends per operation.

ADV SELLO SC: Well, tell me about the nature of the information ...[intervenes].

20 **COMMISSIONER MKHWANAZI:** Because sometimes I will not be there. I do not know which approach or what agreement they are reaching when they are doing those operations. You see, I cannot confirm that every time they do that, you see.

ADV SELLO SC: How must it happen? As far as you

know, how must it be done?

COMMISSIONER MKHWANAZI: In terms of reporting to a police station?

ADV SELLO SC: Yes. Must they go with the joint members from JMPD to go report? Is that what is required? Or are they at liberty to decide how they do it?

COMMISSIONER MKHWANAZI: No, I will say it depends on the discipline of those members. Why I am saying that ...[intervenes].

10 **ADV SELLO SC:** Okay. So they choose, they get to decide how they do it?

COMMISSIONER MKHWANAZI: Yes, yes, yes.

ADV SELLO SC: Okay. Now let us go to, perhaps before we break, page 145 of the exhibit bundle. That is CJC116. And that would be the handwritten statement if we, of ...[intervenes].

CHAIRPERSON: 116 or 160?

ADV BALOYI SC: 145.

CHAIRPERSON: Oh, page 145. Thank you.

20 **ADV SELLO SC:** No, it is CJC ...[intervenes].

ADV KHUMALO SC: 149.

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

ADV KHUMALO SC: CJC161.

ADV SELLO SC: 160.

ADV KHUMALO SC: Oh, 160.

ADV SELLO SC: Right. And it is page 147.

ADV KHUMALO SC: Yes.

CHAIRPERSON: Thank you.

ADV SELLO SC: Have you located it, Commissioner Mkhwanazi?

COMMISSIONER MKHWANAZI: Yes, yes, yes.

ADV SELLO SC: And that is the statement of, I think, did he say he is a warrant officer, but Mulaudzi, a warrant officer Mulaudzi. He gives his rank at paragraph 1. Do you
10 see that?

COMMISSIONER MKHWANAZI: Yes, yes, yes, Commissioner.

ADV SELLO SC: Now if we go to paragraph 2, he states that it was a Saturday, 11 February 23 at about 5:45 when he reported for duty. From the third sentence of paragraph
2:

20 “Members of EMPD came to CSC and report on duty. They were wearing full uniform. It was a female and a male members. Their names are Constable Stols and Constable McKenzie. They spoke with Sergeant Mohale at CSC and he did inform me and I also saw them.”

You see that?

COMMISSIONER MKHWANAZI: Yes, yes, Commissioner.

ADV SELLO SC: Okay, at paragraph 3 it states:

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

You see that?

COMMISSIONER MKHWANAZI: Yes, yes, yes.

10 **ADV SELLO SC:** Okay. Then beyond that says, they will be using two vehicles, describes them, and the time was 8:50 in the morning. Please ignore the last three lines because that speaks to booking off or signing off for the day. We will come back to that part of the statement, okay.

COMMISSIONER MKHWANAZI: It is the same page, né?

ADV SELLO SC: Same page, bottom of 147, the last three lines.

COMMISSIONER MKHWANAZI: Ignore the last three.

ADV SELLO SC: They did book duty off telephonically. So
20 I say we do not have to read that. That is after the operation when they booked out or booked off. We will come back to that.

COMMISSIONER MKHWANAZI: Okay.

ADV SELLO SC: Overleaf at 145, then it is a confirmation.

“I know and understand the contents of

this statement. I have no objection to taking the prescribed oath.”

So, basically we understand from Warrant Officer Malaudzi that only two people, a female and a male member of EMPD, being Stols and McKenzie respectively, went to sign in. Do you confirm that?

COMMISSIONER MKHWANAZI: Yes, as per the statement.

ADV SELLO SC: As per the statement.

COMMISSIONER MKHWANAZI: Yes.

10 **ADV SELLO SC:** So there was no JMPD member with them, just two people walked in.

COMMISSIONER MKHWANAZI: Yes, as per the statement, yes.

ADV SELLO SC: Okay. Now, if you go further on and look at CJC161 at page 145.

COMMISSIONER MKHWANAZI: Is it the same document, né?

ADV SELLO SC: Sorry, 149, 149, my apologies. 149, that is the photocopy of the entry, the OB entry made and you
20 see it stamped by SAPS on the 11th of February 2023, CSC Rosebank, okay.

COMMISSIONER MKHWANAZI: Yes, yes.

ADV SELLO SC: So it is just the two of them.

COMMISSIONER MKHWANAZI: Yes.

ADV SELLO SC: Now, let us go back to 147.

COMMISSIONER MKHWANAZI: This is the copy of an OB?

ADV SELLO SC: Yes. Now, if we go back to 147, you, at 147, at paragraph 3, they say, they are reporting on duty for tracing suspect of business robbery that took place in Nigel and that they will be doing investigation around Rosebank area, correct?

COMMISSIONER MKHWANAZI: Yes, yes, yes.

ADV SELLO SC: You indicated in your supplementary statement, paragraph 5 at page 5, at the bottom that what
10 you were informed and what the operation was about, as advised by Chief Inspector Maseko, was that there were problems in the area in Johannesburg in that there were persons selling fake stones on social media platforms, public, and public members are being defrauded.

COMMISSIONER MKHWANAZI: You are correct.

ADV SELLO SC: So these are two different things. In Rosebank, they say that they are tracing suspects who were involved in a business robbery that took place in Nigel.

COMMISSIONER MKHWANAZI: It is not even different
20 things. It is worse than different things.

ADV SELLO SC: Oh, okay. What is it? What name would you give it?

COMMISSIONER MKHWANAZI: I cannot even mention it. What is written here, and what their statement, and my statement, and what is here, it is Afghanistan in America.

ADV SELLO SC: Chair, I suggest we can leave it at Afghanistan in America. We will conclude tomorrow. Thank you, Chair.

CHAIRPERSON: Just one very small matter that I want to understand, Commissioner. Ordinarily, when Ekurhuleni asks JMPD for assistance, would you not expect JMPD to meet up with Ekurhuleni, that is, officers from the two sides, for the two sides to then work together, or whatever it is that Ekurhuleni would be seeking assistance on?

10 **COMMISSIONER MKHWANAZI:** Yes.

CHAIRPERSON: Is that ...[intervenes].

COMMISSIONER MKHWANAZI: You are 100% correct, Commissioner.

CHAIRPERSON: Yes.

COMMISSIONER MKHWANAZI: That is why I am so shocked then.

CHAIRPERSON: Now, here is my difficulty. Constable Kersha-Leigh Stols says that she was called by Motso of the JMPD.

20 **COMMISSIONER MKHWANAZI:** Yes.

CHAIRPERSON: But what then unfolds or transpires is that it is just Ekurhuleni people who go to the apartment in question in Rosebank.

COMMISSIONER MKHWANAZI: Yes.

CHAIRPERSON: There is not a single JMPD person, and

yet, supposedly, it is JMPD that asks for assistance from Ekurhuleni.

COMMISSIONER MKHWANAZI: Yes.

CHAIRPERSON: So, do you see that what happened here, according to Kersha-Leigh Stols, in fact, everybody concerned, it is actually what happened, and we just must accept that that is what happened in terms of how the operation then unfolded. It did not involve a single JMPD person. Let us leave aside the issue of you rocking up later
10 with a JMPD person. Let us leave that aside. But as everything unfolded, it was Ekurhuleni people only. You accept that?

COMMISSIONER MKHWANAZI: I accept it.

CHAIRPERSON: Yes.

COMMISSIONER MKHWANAZI: And earlier on when I was trying ...[intervenes].

CHAIRPERSON: Now, let us stop there, you accept this. Now, here is my difficulty. My first question to you was that, ordinarily, is it not so that those seeking assistance
20 would then be met or be joined by those that are to assist, and you said that is exactly what happens ordinarily.

COMMISSIONER MKHWANAZI: Yes, Commissioner.

CHAIRPERSON: Are you able to explain why it did not happen in that manner here? JMPD asks for assistance, Motso ask for assistance, and Motso is nowhere around

when the operation unfolds or takes place. Can you explain that?

COMMISSIONER MKHWANAZI: No, Commissioner, I do not have word. I cannot. That is why I was emphasising ...[intervenes].

CHAIRPERSON: You cannot explain it?

COMMISSIONER MKHWANAZI: Yes, because that is why I was emphasising, it is a joint, it is a joint, but when you read the statements and look at ...[intervenes].

10 **CHAIRPERSON:** Is it joint? Is it joint? It is not. It is definitely not joint, correct?

COMMISSIONER MKHWANAZI: Rather correct.

CHAIRPERSON: Let me suggest to you ...[intervenes].

COMMISSIONER MKHWANAZI: [Indistinct]... correct.

CHAIRPERSON: Let me suggest to you, the EMPD police officers were on a frolic of their own that had nothing to do with proper, regular and lawful policing. It had nothing to do with it. What is your comment?

20 **COMMISSIONER MKHWANAZI:** The statements, especially this one of SAPS ...[intervenes].

CHAIRPERSON: You accept what I say?

COMMISSIONER MKHWANAZI: It confirms what you are saying.

CHAIRPERSON: Sorry?

COMMISSIONER MKHWANAZI: I accept what you are

saying.

CHAIRPERSON: You accept what I am saying?

COMMISSIONER MKHWANAZI: Yes, yes, Commissioner.

CHAIRPERSON: Thank you.

ADV SELLO SC: And Chair, then if I may follow up on that before we rise. And to Commissioner Mkhwanazi, you were aware that they were on a frolic of their own on the day. You were aware that the two members were on a frolic of their own.

10 **COMMISSIONER MKHWANAZI:** No, no, no. I was aware that they are going to work, it is a joint operation. Then what happened operationally and what happened to the statement of an officer who was, that they reported, you see, it changes the whole thing to me now.

CHAIRPERSON: Thank you. Let us resume at 9:30 tomorrow. Let us adjourn.

CHAIRPERSON: Thank you, Chair.

INQUIRY POSTPONED TO 16 APRIL 2026

INQUIRY ADJOURNS

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