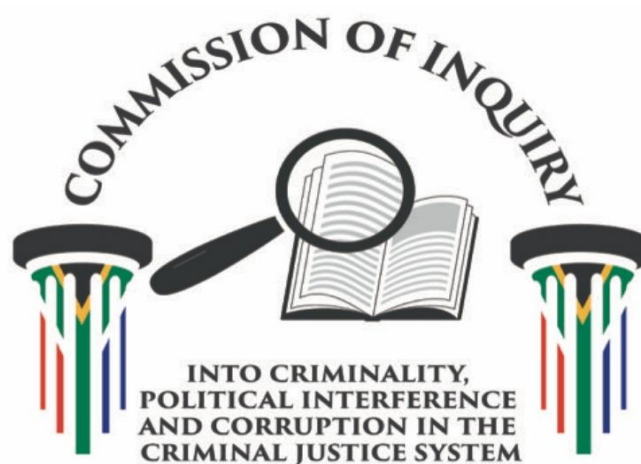


**JUDICIAL COMMISSION OF ENQUIRY INTO CRIMINALITY,
POLITICAL INTERFERENCE AND CORRUPTION IN THE
CRIMINAL JUSTICE SYSTEM**

HELD AT
BRIGITTE MABANDLA JUSTICE COLLEGE

22 APRIL 2026

DAY 95



PROCEEDINGS ON 22 APRIL 2026

CHAIRPERSON: I was not given names, so I will not do a proper good morning. Good morning, Ms Pooe. Please place yourselves on record.

ADV PETLANE: Chair, my name is Mosotho Petlane.

CHAIRPERSON: Petlane.

ADV PETLANE: P-E-T-L-A-N-E.

CHAIRPERSON: Petlane.

ADV PETLANE: Petlane. I am with Ms Khosi Pama
10 Sihunu, both Counsels. Our instructing attorney is seated somewhere. Oh, there she is.

CHAIRPERSON: Yes.

ADV PETLANE: That is Ms Palesa Nhlapo from Nhlapo Palesa Attorneys.

CHAIRPERSON: Thank you.

ADV PETLANE: Thank you.

CHAIRPERSON: Good morning to both of you. I am happy that I will not have to say that surname.

ADV PETLANE: Thank you, Chair.

20 **CHAIRPERSON:** Thank you. Ms Pooe, will the witness be swearing or affirming?

ADV POOE: Chair, I have not asked.

CHAIRPERSON: Let me ask directly then. Good morning, Mr Nkhwashu.

BRIGADIER NKHWASHU: Good morning, Commissioner.

CHAIRPERSON: Please remind me what your rank is.

BRIGADIER NKHWASHU: Commissioner, my rank is Brigadier.

CHAIRPERSON: Brigadier. Good morning, Brigadier. Will you be swearing or affirming?

BRIGADIER NKHWASHU: I will be swearing, Commissioner.

CHAIRPERSON: Do you swear that the evidence you are going to give is the truth, the whole truth, nothing but the
10 truth. If so, please raise your right hand and say, “So help me God”.

BRIGADIER NKHWASHU: So help me God.

CHAIRPERSON: Thank you, Brigadier.

ADV KHUMALO SC: Brigadier, can you just do me one favour so that we do not get it wrong. Can you say your name the way you want it to be said? Does it have an H or is it just Nkhwashu?

BRIGADIER NKHWASHU: Commissioner, my name or my surname?

20 **ADV KHUMALO SC**: Surname.

BRIGADIER NKHWASHU: My surname has got an H. It is not Nkhwashu, it is Nkhwashu. I hope Commissioner Baloyi will be knowing that, Nkhwashu.

ADV KHUMALO SC: I suspected that, that is why I wanted you to clarify.

BRIGADIER NKHWASHU: Yes. Thanks, Commissioner.

CHAIRPERSON: I think it gets more confusing, especially when you say Commissioner Baloyi will know. The reference to ingxotha and all those things confuse me, because I had not expected the surname to be one that would have anything to do with ingxotha. Anyway.

BRIGADIER NKHWASHU: No, Commissioner, Chair, I am just referring it to Commissioner Baloyi, because I am Shangaan and ...[intervenes].

10 **CHAIRPERSON**: That is exactly where I am. Anyway, anyway, thanks. Thanks, Brigadier.

BRIGADIER NKHWASHU: Thank you, Chair.

CHAIRPERSON: Thank you. But please state your full name for the record.

BRIGADIER NKHWASHU: My full name, Commissioner, Chair, I am Mbangwa Abraham Nkhwashu.

MBANGWA ABRAHAM NKHWASHU (duly sworn states)

CHAIRPERSON: Thank you, thank you. Yes, yes, Ms Pooe.

20 **ADV POOE**: Brigadier, Commissioners, just to take you through some housekeeping. There should be one file before you, so I am sure you are happy. So it is divided into four sections. The first section is the main affidavit or statement of Brigadier Nkhwashu. The second is a supplementary statement. The third tab, it is reference

material. So this is all evidence and statements that are already before the Commission. We have just extracted parts that we want to use for purposes of the Brigadier's evidence. The last tab is exhibits, and those consist of material that are not before the Commission yet, but we do intend to use it. These are materials sourced from enquiries and the Commission's own investigative processes. So you will see there that we seek to introduce CJC184 to 192. Brigadier, do you have one file in front of
10 you?

BRIGADIER NKHWASHU: Yes, I see.

ADV POOE: If we can then move to confirming your statement. In tab one, please confirm that this is the statement that you have prepared for purposes of giving testimony before the Commission.

BRIGADIER NKHWASHU: I do confirm, SC.

ADV POOE: And if you can proceed to page 17, can you confirm that that is your signature?

BRIGADIER NKHWASHU: Quite correct, SC, it is my
20 signature.

ADV POOE: Thank you, Brigadier. And under tab two, can you confirm that that is your supplementary statement? It starts at page 18 and runs to page 33.

BRIGADIER NKHWASHU: Confirm, SC.

ADV POOE: And can you confirm that that is your

signature at page 32 of that statement?

BRIGADIER NKHWASHU: Quite correct, SC.

ADV POOE: And can you confirm that both statements, the contents of both statements are true and correct?

BRIGADIER NKHWASHU: I confirm that, SC.

ADV POOE: Thank you, Brigadier. Brigadier, just to make sure, what did you call me? Sorry, my apologies.

BRIGADIER NKHWASHU: Senior counsel, SC.

ADV POOE: Oh, I am not, far from it.

10 **CHAIRPERSON**: Better things to come, Ms Pooe.

ADV POOE: Thank you, Brigadier. If we can then go to your statement. Brigadier, just for the purposes of this first section, I will take you through your statement relatively uninterrupted, except if I have any clarity-seeking questions. Similarly, the Commissioners may have clarity-seeking questions. But otherwise, this is an opportunity for you to put your evidence on record and your version of events as you see them.

20 And in the morning, I had enquired from you whether you have a preference for me to just take you through the sections, or if you prefer to read, and you indicated that you would prefer to read your statement. Is that still the case?

BRIGADIER NKHWASHU: Correct, Advocate.

ADV POOE: And then, Brigadier, when you read through

the statement, we will take it section by section, so that if there are clarity questions, we can then deal with them in each section.

BRIGADIER NKHWASHU: Thank you, Advocate.

ADV POOE: Then, Brigadier, let us proceed with your first statement. You need not go through the first paragraph, because that is just information related to who you are. But can we start at paragraph 2. And I noted in neither of your statements do you explain your trajectory in the SAPS. So
10 it may also be an opportune time when you deal with paragraph 2 to also talk about your rise within the ranks and the positions you have held. If you can please do that.

BRIGADIER NKHWASHU: Thank you, Advocate. Paragraph 2 reads as thus. I joined the SAPS 39 years ago and have served diligently to date. In June 2022, I was posted to City Bank District as Deputy District Commissioner. I have been appointed to act as District Commissioner whenever the substantive District Commissioner is absent, absent whether on leave, retired,
20 or otherwise unavailable. My trajectory in the South African Police Service.

Commissioners, I will try to shorten it because it is long. You can imagine for 39 years. I joined the Police in 1986 when I was applying to get into the Police. It was the South African Police by then. Then in 1987 I was taken in

to do what we call recruiting at the Police Station, which was in Soweto, Moroka, and that was in June, I mean July 1987. And then in December I went to college and as a student, Police, and then I left the college when we passed out after 6 months. That was now in 1988, June, the 30th and I become, I was promoted to a fully fletched Constable.

Then I was deployed to Soweto Public Order Policing, commonly known as POPS Unit, and I worked there in Soweto. That was in 19, from 1988 up until 1989
10 where I moved with the rank to the then Vehicle Theft Unit, which was, which is known now as the Vehicle Crime Investigation Unit, specialising in stolen cars and the likes. Then in 1990 I was promoted to be a Lance Sergeant. It was a rank called the Lance Sergeant.

And then in 1991, I was promoted to a rank of a full Sergeant and I was still working at the very same Vehicle Crime Investigation Unit. And in 1993 I was transferred to Vehicle Crime Investigation Unit in Brixton, Johannesburg and I worked there up until 1998. No, I worked there up
20 until 1997 if I am not mistaken.

Then I was promoted to be a Warrant Officer by then. Then I was taken to, I was one of the members that were taken to open the first Organized Crime Unit in Gauteng. That was situated in Roodepoort. Then I worked there at Organized Crime unit until 1998, somewhere there,

when I was moved back to Brixton where I worked up until the year 2000 when I was promoted, ja, 2002 when I was promoted to be a Captain. And from 2002 I was promoted to a Captain and I was working in Krugersdorp Vehicle Crime Investigation Unit.

Then from 2002 to 2005 I was then promoted to be, in 2005, to be a Superintendent and then I worked from 2005 to 2007. Then I was again promoted to Senior Superintendent. And then I was moved to Vereeniging
10 Vehicle Crime Investigation Unit as a Commander. In all those areas where I was promoted to before, I was promoted as a Commander of the investigation, since the rank of a Sergeant.

Then in 2007 up until 2010, I think at the end of 2010, I think it was somewhere around after the World Cup, I was moved to, transferred to the Provincial Headquarters in Johannesburg, which is in Parktown, where I worked as a Detective Coordinator. Then the, 2012, I was then moved to Westonaria, where I was working as a Detective Head
20 and as, with the rank of Colonel. Then 2012 to 2014, December, I was moved to, I was transferred to Burgersdal SAPS, where I was appointed as a Station Commander.

And from 2012 to 2018, I was then promoted to the rank of the Brigadier, and I was a Station Commander at Atteridgeville SAPS and I worked at the Atteridgeville SAPS

between 2018 and 2022, where in between I was appointed, in the absence of the District Commissioner, I was appointed to be District Commissioner a few occasions. From 2022, I was then transferred to Vereeniging, back to Vereeniging in the Sedibeng district, and appointed as a Deputy District Commissioner and, which is where I am currently serving. Thank you, Advocate.

ADV POOE: Thank you, Brigadier. You can then move on to dealing with the next section of your affidavit or
10 statement.

BRIGADIER NKHWASHU: Thank you, Advocate. The next paragraph will be talking to the purpose of this affidavit, which is, I make this affidavit voluntarily in response to the summons/subpoena to appear as a witness issued by the Judicial Commission of Inquiry into Criminality, Political interference and Corruption in the Criminal Justice System, the Commission, on 9 April 2026, directing me to appear on the 21st of April in relation to my attempts to interfere in the bail proceedings of Michael Pule Tau. The second one was
20 my demand for the Armand Swart murder docket, and my relationship or connection with Katiso Molefe, being the third one.

The fourth paragraph talks to the purpose of this affidavit, which is to state my position regarding the allegations that I attempted to interfere in the bail

proceedings of Mr Tau, and the second one to state my position regarding the allegations that I demanded the Armand Swart murder docket. The third one being stating my position regarding my relationship or connection with Mr Katiso Molefe.

Before addressing the specific allegations contained in the summons, I consider it important to set out the logical order of this affidavit to ensure coherence and a proper understanding of the facts. I will then first explain
10 my first relationship with Fundiswa Nyangule, the customary wife of Katiso Molefe, including the Mpondo custom of ingxotha and how I became obliged to treat Fundiswa as my baby sister.

This foundation is necessary because all my subsequent interactions with Katiso, including the events that gave rise to the allegation of bail interference, flow directly from that family bond that I had with Fundiswa. Secondly, I will deal with the allegation that I improperly interfered in the bail proceedings of Mr Tau. And thirdly
20 and finally, I will address the allegation that I demanded the Armand Swart docket, and show that my actions were pursuant to lawful instruction from the Provincial Commissioner.

I respectfully submit that this order makes the affidavit easier to follow, and demonstrate that there was no

improper conduct on my part. I record that this statement was prepared under significant time constraints in the context of the Commission's directives. While I have endeavoured to deal with the material issues raised in this summons, the circumstances under which the statement was prepared may mean that not every detail has to be exhausted, or was exhausted.

The statement is however true and correct to the best of my knowledge and recollection of the facts at this stage. I accordingly reserve the right to supplement, clarify, or amplify this statement should it become necessary in order to assist the Commission. My family ...[intervenes].

CHAIRPERSON: Before you continue, you referred to Ms Nyangule as Mr Katiso Molefe's customary wife. Some people usually use that term, customary wife or customary husband, to refer to what I would loosely call [vernacular] or, ja, people who are cohabiting with no formal marriage bond, which is different from a customary marriage, and then spouses in a customary marriage, which is not the same thing as people ...[vernacular] people that are cohabiting. So I know that you do refer to a customary marriage between the two, but I just want to understand your use of customary wife.

BRIGADIER NKHWASHU: Thank you, Commissioner. To

my understanding and knowledge of the marriage status of Fundiswa to Katiso Molefe, Katiso Molefe ...[intervenes].

CHAIRPERSON: At this stage Brigadier, I do not think I want a lengthy explanation. By saying customary wife, do you mean they are married by customary rights, or in accordance with customary law, or do you mean [vernacular] they are merely cohabiting, just that difference.

BRIGADIER NKHWASHU: So I apologize, Commissioner, for not understanding your question. However, they were
10 married in accordance to customary law.

CHAIRPERSON: Thank you.

ADV POOE: Brigadier, when dealing with this next part of your statement, can you take us through your relationship with Fundiswa, the customs, the traditional customs you speak of, until you reach why this matters, so all the way until you deal with the meeting that you have with Katiso, because that then is the background about your relationship with Fundiswa and Katiso, and why that is important.

BRIGADIER NKHWASHU: Thank you, Advocate. I will
20 take you through my relationship with Fundiswa, starting from paragraph 9, just explaining how Fundiswa became part of my family. My wife had a younger brother named Sazi, who is now late. Before he found employment, Sazi lived with my wife and myself in our home in Kagiso for a considerable period. During that time, he met Fundiswa,

and I did not know Fundiswa by then. They developed a romantic relationship.

Eventually, Sazi found work at the Police also, and he managed to buy his own house, and thereafter, because he is now working, he paid lobola for Fundiswa. They lived in a house close to ours, and spent much time with our family over the years. Fundiswa became like a baby sister to me. I grew to love and care for her as my own sibling.

ADV POOE: Brigadier, my apologies. Just before you
10 move on, do you have a time period for this. The first two paragraphs are couched in very general terms. Do you know round about when this was?

BRIGADIER NKHWASHU: Yes, Advocate. Although I may not remember ...[intervenes].

ADV POOE: A rough estimation is fine.

BRIGADIER NKHWASHU: Specifically, ja. Sazi came to Johannesburg in the late, in the early 90's, ja, in the early 90's. Early 90's, ja, in the early 90's. And in 1999, we paid lobola for Fundiswa. So, and that, that one I remember,
20 because I was part of that lobola, and we paid lobola for her. And then I think a year down the line, they bought their own house, and they stayed in their own house.

ADV POOE: Thank you, Brigadier. You can proceed.

CHAIRPERSON: Just to understand this part fully. Besides your family, there is you and your wife, Sazi's

sister. Was there any other family involved, or was it just that family, that family unit, in the lobola negotiations?

BRIGADIER NKHWASHU: Oh, yes, Commissioner Chair. In my family of my wife ...[intervenes].

CHAIRPERSON: Yes.

BRIGADIER NKHWASHU: There is an uncle who is not staying with us.

CHAIRPERSON: You may cut it then. So there were others ...[intervenes].

10 **BRIGADIER NKHWASHU**: There were.

CHAIRPERSON: Outside of just this family unit. Thank you, thank you.

BRIGADIER NKHWASHU: Yes.

CHAIRPERSON: Thank you.

BRIGADIER NKHWASHU: Can I continue?

ADV POOE: Yes, you can, Brigadier.

BRIGADIER NKHWASHU: All right. On or about, Commissioner, I would like to apologize. I think that there was a printing error that I did not see earlier on, on
20 paragraph 11. It reads, on or about 14 May 2002, Sazi passed away. In actual fact, he passed away on 14 May 2000. Tragically, he got shot and two days later, after he got shot, Fundiswa's mother also died.

At the time of this death, Sazi and Fundiswa had just finalized their lobola negotiations, and we were

preparing for a civil union. It was on the very same Saturday that we buried Sazi, we were going to have a party. In the Mpondo or Xhosa tradition, the ingxotha ceremony, which means the sending off of the married girl, had already taken place. Ingxotha is the pivotal ritual where the bride-to-be is officially released from her birth family to join her new family. During the ingxotha, the elders informed the bride that there is no longer a place for her in her biological home.

10 Her ancestral protection and daily life now belong to her husband's lineage. A goat is slaughtered to inform the ancestors that the daughter is leaving. The groom is also warned that he must provide a permanent home because the bride has closed the door behind her. Because of ingxotha ...[intervenes].

CHAIRPERSON: Perhaps I should state that I am hearing of this for the first time, and yet I also belong to the larger group of AmaXhosa. So perhaps it is Mpondo-specific. I am just mentioning this because of the bracket at Xhosa
20 after Mpondo in paragraph 12.

BRIGADIER NKHWASHU: No, thank you, Commissioner Chair. At least you learned something from me also.

CHAIRPERSON: Thank you for the education.

BRIGADIER NKHWASHU: Should I continue, Advocate?

ADV POOE: Yes, you may.

BRIGADIER NKHWASHU: Because of ingxotha, the bride's integration into the husband's family is complete and irreversible. As the elder of my family, I become obliged to treat Fundiswa as my baby sister and to continue the relationship even after Sazi's death. Custom demanded that I protect and support her as if she were my own blood sister.

Why the ingxotha custom binds me. The ingxotha ceremony is not merely a cultural formality under the
10 Mpondo customary law. It creates irreversible obligations for the husband's family because the ritual had already taken place when Sazi died. Fundiswa had already been sent off from her birth family. Her ancestral and social protection transferred to my family. As the surviving elder in my family, I became Sazi's older brother-in-law through my wife. I became *de facto* head of that family unit.

ADV BALOYI SC: Sorry, Brigadier, does it mean that Sazi did not have an older brother if you became the head?

BRIGADIER NKHWASHU: No, Sazi had an elder brother
20 who was staying in KZN and me, actually, I would say I was a breadwinner.

ADV BALOYI SC: Okay.

BRIGADIER NKHWASHU: Ja, and his biological older brother was a person who was not working, he is not having a job. You know in our tradition, when you are a

breadwinner and the sister, I mean Sazi's sister, is elder to Sazi.

ADV BALOYI SC: Okay, thank you.

BRIGADIER NKHWASHU: I became the *de facto* head of that family unit. Customary law therefore required me to treat Fundiswa as my own blood sister. I had to protect and support her, including facilitating her remarriage if she chose to. Continue that relationship even after Sazi's death because ingxotha is not dissolved by death. The bride
10 remains part of the husband's lineage.

This is not a matter of personal choice. To disregard ingxotha will be to abandon Fundiswa, which will bring shame upon my family and in terms of Mpondo-custom it could even be believed to invite ancestral displeasure. I acted not out of favouritism toward Katiso but out of a binding customary duty toward my sister. Any assistance I gave to her or her husband must be understood in that light. Further to this, Fundiswa's entire family passed on. leaving us with her as the only survivor in that family.

20 Fundiswa's right to remarry. After about a year of Sazi's passing, the family we gathered because Fundiswa was still young and we decided that we inform her that because it was now after mourning we can release her since she was still young to move on with her own life. She was free then to enter into any other relationship and remarry

again if she wished to. Then she chose to do that and years later Fundiswa came to tell us that she met a guy whom she want to, or whom he wants to marry her. They entered into a customary marriage. I accepted him as my sister's husband just as I would accept any brother-in-law.

ADV POOE: Brigadier, just before you move on, you just say years later, so we are now in 2001. Do you have an approximation of when this years later, how many years later or at least when they entered into a customary
10 marriage?

BRIGADIER NKHWASHU: Ja, Fundiswa came to tell us in 2005 that this guy whom she met wanted to marry her and then in 2021 the guy paid lobola and married her.

ADV POOE: My apologies Brigadier, did you say years later, so five years later, about four years later, 2025 is when she expressed an interest and when did they marry?

BRIGADIER NKHWASHU: 2021.

ADV POOE: 2021.

BRIGADIER NKHWASHU: Ja.

20 **ADV POOE**: And did you play any role in that? I recall earlier you said that part of your responsibilities as a *de facto* head would have been to, including to facilitate her marriage if she chose.

BRIGADIER NKHWASHU: Ja, Advocate, I will apologize for not including this in my affidavit. Fundiswa came and

told us and, but unfortunately I was not part of that particular marriage and I will tell you why. The, when she came and told us, she seated us like the elders and she told us, then I asked her who is this guy and what is his status, like you will ask your children [vernacular] and all those things, and she told us that, ja, this guy [vernacular] but what made me not be part of that marriage is because I was angry at her because she told us that this guy is a married guy. So I decided I was not happy to hear that he is a
10 married guy and I said to her, you cannot marry a married guy. Then I left the meeting at that and she decided to continue on her own.

ADV POOE: So does this mean that, noting that you have just said she cannot marry a married guy, does this mean it was a polygamous marriage, or you have no idea?

BRIGADIER NKHWASHU: No, I had no idea but all I heard is that the guy who is intending to marry her is a married guy. Then I said I do not recommend you marrying a married guy, you are still young, so I left it at that.

20 **ADV POOE**: Alright, thank you Brigadier.

BRIGADIER NKHWASHU: Should I continue?

ADV POOE: Yes you can.

BRIGADIER NKHWASHU: I think it is necessary to explain certain matter ...[intervenes].

CHAIRPERSON: I am very sorry, Brigadier, but you state

categorically that they did enter into a marriage, a customary marriage. Are you saying this because there were lobola negotiations, lobola was paid and the usual rituals that go with a customary marriage were engaged in? Is that why you call it a customary marriage?

BRIGADIER NKHWASHU: Thank you Commissioner. I called it like that because I learned afterwards that that event took place.

CHAIRPERSON: Those events. It is more than
10 ...[intervenes].

BRIGADIER NKHWASHU: Yes, those events took place.

CHAIRPERSON: All right, all right. Thank you.

BRIGADIER NKHWASHU: I thought it will be important to explain why this matters in paragraph 20 - my relationship with Fundiswa is not based on any improper association. It is a traditional family bond related to Mpondo custom and in the ordinary human ties of care for a woman who become my sister through marriage. I reiterate to state that any assistance I gave to Fundiswa, including lending her a
20 vehicle, helping her deliver clothes to her husband in prison or meeting with Katiso must be understood in that context.

ADV POOE: Thank you Brigadier. Just to take you back to paragraph 19, you say there that you accepted him as your, as my sister's husband just as I would any brother-in-law. Does this mean after the wedding proceeded, you then

accepted him?

BRIGADIER NKHWASHU: Yes, Advocate, because I realized that I could not change the situation. I had no option but to accept it.

CHAIRPERSON: But based on what you say later, that was not immediate, it was after some time. I am not sure whether it was a bit of time.

BRIGADIER NKHWASHU: Correct, Chair.

CHAIRPERSON: All right, thank you.

10 **BRIGADIER NKHWASHU**: It was later.

ADV POOE: Brigadier, you can then move on to dealing with your meetings with Katiso.

BRIGADIER NKHWASHU: Thank you, Commissioners. My meetings with Katiso started towards the end of June 2024. I think it was somewhere around 27, 28, somewhere there. Fundiswa gave me a call and requested a meeting with me and we made arrangements to meet and we finally met in Alberton in a restaurant.

20 A day later I met with Fundiswa in the presence of my nephew who is 17 years old, who was 17 years old by then. She informed me that amongst others, the reason she needed to see me was because she needed to conclude her family's estate as I alluded earlier on that all her family died ...[intervenes].

CHAIRPERSON: Oh, okay, okay. Oh, now I understand

the reference to family ...[intervenes].

BRIGADIER NKHWASHU: Yes.

CHAIRPERSON: Because I thought this was perhaps a reference to her deceased husband's estate, that is a Sazi. But no, no, no, now I understand. With the explanation you have just given, I understand the reference to family.

BRIGADIER NKHWASHU: Thanks, Commissioner Chair. I gave her guidance on how to deal with the estate with my little knowledge that she must visit the Master of High Court
10 and where she is experiencing challenges, she must just get the services of a lawyer who will assist her further. And after that conversation, Fundiswa stated that she is not happy that I had never met her husband Katiso as she has a relationship with me and she would like me to meet her husband and I had my personal reasons, amongst others being my loyalty to Sazi, and the earlier reasons that I stated that I was angry for her to go marry a married man.

ADV POOE: Brigadier, just to clarify, so you had not met him at all between 2021 and 2024?

20 **BRIGADIER NKHWASHU**: I have never met him before.

ADV POOE: Thank you.

BRIGADIER NKHWASHU: Thanks. Indeed, a meeting was arranged between Katiso and myself. We met at a restaurant also in Alberton. When I met Katiso ...[intervenes].

ADV BALOYI SC: When was this?

BRIGADIER NKHWASHU: That was that end of June 2024.

ADV BALOYI SC: Thank you.

BRIGADIER NKHWASHU: Thanks, Commissioner. When I met Katiso, we conversed generally about our respective personal circumstances after he was introduced to me by my sister-in-law who was still in the company of the 17 year old nephew of mine. He mentioned that he was involved in various business interests, including the security sector.

10 As part of a general discussion about future plans I indicated that I was approaching retirement from the SAPS.

The discussion remained informal and exploratory in nature to an extent that he told me that he has got this big tender in Machabeng and he will want security forces to come and work there, so should I be interested when I retire I can just go in to work with him in that space with my experience as a police officer. Then I accepted and then I said no, I will be interested, but we will talk, because there are processes to undergo.

20 Then that was it with regard to our conversations and amongst others, I am just specifically talking to this because I know that later we will come to dwell into it, but we spoke at length and amongst many things just catching up to know him.

ADV POOE: And, Brigadier, just for clarity, you say that

your, both your nephew and sister were there. Was that just the four of you or were there other people at the meeting?

BRIGADIER NKHWASHU: Thank you, Advocate. In that meeting it was the only four of us and Fundiswa came with my nephew and then she introduced us and then after introducing us she left us, she left the two of us to talk man to man.

ADV POOE: Alright and what about your wife?

10 **BRIGADIER NKHWASHU**: Pardon?

ADV POOE: What about your, I am assuming because you have Fundiswa who was married to your wife's younger brother and she has coming to introduce her husband, it was just you two. It was just to facilitate a meeting between just the two of you, not the entire family.

BRIGADIER NKHWASHU: Ja, my wife was not there. It was only two of us and perhaps I should tell you that I never, or rather we parted ways with my wife.

ADV POOE: Oh, at this point?

20 **BRIGADIER NKHWASHU**: Ja, at that point.

ADV POOE: Sorry, can, not to dig any deeper but just in the timeline, when did you part with your wife?

BRIGADIER NKHWASHU: I think it was in 2014.

ADV POOE: In 2014?

BRIGADIER NKHWASHU: Yes.

ADV POOE: But then Fundiswa remained a part of your family?

BRIGADIER NKHWASHU: Yes.

ADV POOE: Even though you had separated from your wife?

BRIGADIER NKHWASHU: Yes.

ADV POOE: And by parting you mean?

BRIGADIER NKHWASHU: We ...[intervenes].

ADV POOE: Separation or divorced.

10 **BRIGADIER NKHWASHU:** Separated, ja.

ADV POOE: Oh, just separation.

BRIGADIER NKHWASHU: Ja.

ADV POOE: Thank you, Brigadier.

ADV BALOYI SC: Brigadier, just maybe before you go too far, just to clarify, at paragraph 23, and I just need you to clarify it, because I understood things differently until this discussion you are having now with Ms Pooe, at 23 you say you had a meeting with Fundiswa and with her son, your nephew and this is where he said, where she said she
20 would like you to meet Mr Molefe.

And then in paragraph 25 you say indeed a meeting was arranged and then we met at a restaurant in Alberton at the end of June 2024. I had understood that in fact the meeting of the 23rd is just you and Fundiswa and the son and then there is another meeting in paragraph 25 which is

you and Mr Molefe, so two different meetings but the second meeting with Mr Molefe, as I understand it in paragraph 25, Fundiswa was not there.

But in your discussion with Ms Pooe you are saying there is a meeting where you are all present with Mr Molefe and then Fundiswa leaves you with the son. Can you just explain that. It may be my misunderstanding of your explanation.

BRIGADIER NKHWASHU: Thank you very much
10 Commissioner Baloyi. Commissioner Baloyi, it is true in paragraph 23 I met with Fundiswa and my nephew and the following day, if you can look at paragraph 23, I said a day or two later I met with Fundiswa in the presence of her son, with my nephew. She informed me about this and this, then we dealt with that one. Then in paragraph 25 indeed a meeting was arranged between Katiso and myself.

It was arranged by Fundiswa, because she has the one who requested me to meet the husband and telling me that the husband wanted to meet me also. Fundiswa was
20 there to introduce the husband, because I never knew him, I never saw him physically before and she brought him along and she was still going with the 17 year old nephew. Then after introducing us, because she introduced the husband to me, she introduced me to the husband. She left. She left the two of us and then she ...[intervenes].

ADV BALOYI SC: Thank you, Brigadier. So it was on a different date?

BRIGADIER NKHWASHU: Ja, it was the following day.

ADV BALOYI SC: Okay, thank you.

BRIGADIER NKHWASHU: Should I continue, Advocate?

ADV POOE: Yes, Brigadier, you are now dealing with, you had touched on most of what happens in the meeting. You are yet to deal with paragraph 27.

BRIGADIER NKHWASHU: Thank you, Advocate. As we
10 were concluding the meeting, Katiso whom I am now knowing as my brother-in-law, now calling him Boet K, he told me that a friend of his had been arrested and he needed to know if the state will oppose bail as he wanted to pay the bail money for his friend. And I told him right away, in actual fact I just stopped him and say “Swaer, me I do not talk work related cases with anyone, not even my wife, that I will be talking to her, and if you wanted us to have a sound relationship, my work is off limits, we do not talk about it, my cases. After that ...[intervenes].

20 **ADV POOE:** My apologies. And when this happens, the only thing he was able to get out was that he had a friend and he just wanted to know if bail would be opposed and that he would be willing to pay the bail, that is all he said? That is as far as he could get before he stopped him.

BRIGADIER NKHWASHU: Yes, Advocate, remember he

earlier on expanciated on how he grew up with friends, you know how he grew up in school and what, what, what. When I do recollection now, I think when he was telling me his upbringing, he was trying to, he told me that he had friends and what, what, what. So when he came to this it crossed my mind that oh, maybe the friend's stories was about to tell me this, then I said no, no, no, “swear”, I do not talk cases that I am involved with, with any other person except, I mean not even my wife, except at my workplace.

10 We do not talk about my work. So he did not come to mention the name of the friend yet, but back in my mind, it was that when he is about to talk about cases that I am involved in, then it will be, it will not be right for me to talk about it with him, and I do not know him, it is the first time I meet him.

ADV POOE: I guess, Brigadier, what I am trying to get a sense of is, was it as vague as you recall, the discussion about the arrested friend?

BRIGADIER NKHWASHU: It was not. It was not that
20 vague, because I was not thinking of anything big, but I was just thinking that ai, “swear”, if you are coming to talk about the case that I am involved, where your friend was arrested, and was arrested by me and you need some bail, I do not talk about that.

ADV POOE: And just on your answer, so you understood

him to be raising it because this is a case you are involved in?

BRIGADIER NKHWASHU: Yes, yes, yes.

ADV POOE: All right, thank you Brigadier.

BRIGADIER NKHWASHU: Thanks, Advocate. Should I continue on paragraph 28?

ADV POOE: Yes.

BRIGADIER NKHWASHU: After that meeting, Fundiswa contacted me to enquire how the meeting had gone. I
10 informed her in general terms that the meeting was cordial and that we had discussed various personal matters, including my approaching to the retirement.

A few days later, I attended a social gathering, which we call it a stokvel with my colleagues in the SAPS. The gathering was attended mainly by the police officers that we normally come together, including Sergeant Lebogang Tshukudu. Tshukudu and I have been friends since around 2017. We often discussed both professional and personal matters, and we attend social gatherings
20 together.

During the stock fair, Sergeant Tshukudu and the colleagues mentioned that they were around my area of work, which is in the Sedibeng district, escorting suspects to and from court, and they caught the suspect. Amongst the suspects that they were escorting, there was a police

officer suspect, that police officer suspect whom we got to know that is Michael Pule Tau. As the conversation went on, it triggered my mind that they are talking about the case that my brother-in-law, Katiso, was intending to lure me to assist him in the bail of this particular person.

CHAIRPERSON: Sorry, sorry, can you please explain how you made the connection?

BRIGADIER NKHWASHU: Commissioner Chair, these colleagues of mine they are saying Brigadier, we were
10 around your vicinity. Now, we were escorting suspects of that case of Michael Pule Tau, that police officer, whom we normally discuss about those things when we are together. Then, they said this Pule Tau was going for bail application. Now, the word bail application, it triggered my mind to say Katiso spoke about bail application of a case that I have arrested his friend. So, I put the puzzle together to say, oh, this is where Katiso was coming to.

CHAIRPERSON: I am not beginning to probe at this stage. That will come at a much later stage, but I must say this,
20 that I do not quite see any dots to connect there. I mean, as a police officer, I would imagine that there are lots and lots of cases that involve bail that you would have been involved in. So, that is why I say I just do not see the dots that you would have been able to connect.

BRIGADIER NKHWASHU: I acknowledge, Commissioner.

However ...[intervenes].

CHAIRPERSON: So, if you acknowledge that how then did you come to relate this to what Mr Molefe had raised with you?

BRIGADIER NKHWASHU: Commissioner, obviously when now I am alone after parting ways with Katiso, I ask myself, which case was this guy wanting to talk about and I could only imagine of a case that happened recently is of that Michael Pule Tau.

10 **CHAIRPERSON**: Thank you.

BRIGADIER NKHWASHU: Thanks, Chair. Should I continue, Advocate?

ADV POOE: Yes. So you just recalled your earlier conversation with Katiso when he asked you about a bail and an unnamed friend, so, line 4 of paragraph 30.

BRIGADIER NKHWASHU: Oh, okay.

ADV POOE: I then said to Tshukudu.

BRIGADIER NKHWASHU: I then said to Tshukudu and them, because we were all with those other friends, without
20 instruction or request [vernacular] né, there is a brother-in-law of mine who recently spoke about the, requested me to assist him with a bail. He did not mention who is this friend of him that I have arrested that is looking to get assistance with bail, and then I stopped him and then I told him that I do not discuss work.

I said this in just a general comment while we were drinking, sitting and drinking there, and just to align this case, because I said, oh man, this case actually is the one that [vernacular] I mean, this guy is looking for a bail. So I dismissed him and said, hey, I do not talk work with this.

And then they said, this guy you say is your brother-in-law [vernacular]. So during the discussion, there were those things that Tshukudu will say or some others will say, but why did you dismiss him before he told you? I
10 said, no, that is not what I do with people that I do not know. The person that I have just met now then is talking about cases, and that is unethical for me, then I dismissed him.

He said, but he has your relative *mos*. I said, ja, but still I cannot, and they say ah, but we think if you were able to, you should help him. I said, hey, you can help him, mina, I do not, I do not go that route. I cannot help him. I cannot. Even if he has a family, I cannot help him.

ADV POOE: Sorry, Brigadier, just to clarify a few things
20 there. So at the top of the paragraph, when you say my office, you want us to consider that your work vicinity?

BRIGADIER NKHWASHU: Yes.

ADV POOE: Not necessarily your office.

BRIGADIER NKHWASHU: Yes.

ADV POOE: And then if you look at where you say, I then

said to Tshukudu, you want us to then say, I said to the broader group, not just to Sergeant Tshukudu.

BRIGADIER NKHWASHU: Ja, because we were a team of people.

ADV POOE: All together.

BRIGADIER NKHWASHU: Yes.

ADV POOE: And then where you say you said to them, someone asked me recently, you want us to change that someone to my brother-in-law.

10 **BRIGADIER NKHWASHU**: Yes, yes, yes, yes.

ADV POOE: And so you clarified to this group that the person who asked you was your brother-in-law.

BRIGADIER NKHWASHU: Exactly, Advocate.

ADV POOE: And then you just said in passing that if they want to help them, you can, but you will not. Can you just clarify what you meant there?

20 **BRIGADIER NKHWASHU**: No, Advocate, they were, when we were discussing, you know, in a social gathering, when you have casual talk, now one would, the other one would say, you are not fair, brother [vernacular], you know, just a general comment. Like, we will be in a social gathering, if I may make an example, Advocate, we will be gathering and as boys, boys will always be boys, and then we will be sitting there, and then this one will be saying, hey man [vernacular] to me is not, to me is not my liking. If

...[indistinct] is your liking, you can go for it, you understand.

ADV POOE: All right.

BRIGADIER NKHWASHU: So it is in that text.

ADV POOE: Okay, understood. You can ...[intervenes].

CHAIRPERSON: So, in, or rather colloquially you would be shooting crap colloquially.

BRIGADIER NKHWASHU: Much as I am not sure ...[intervenes].

10 **CHAIRPERSON**: What this means.

BRIGADIER NKHWASHU: But I think it sounds like, it is like that.

ADV POOE: Thank you, Brigadier. You can then move on to paragraph 31.

BRIGADIER NKHWASHU: In paragraph 31, Advocate, I was later surprised to learn that Tshukudu had approached Witness B about Tau's case. I never asked him to do so. I never asked him to convey any message to Witness B, whether about opposing bail or about thanking her, as I
20 have alluded in the above paragraph, how it happened.

If Tshukudu told Witness B or anyone else that I sent him, he did so with his own accord. It was not with my knowledge, nor my permission that he is going to consult with Witness B. I deny that I attempted to interfere improperly in the bail proceedings of Tau. I specifically

deny that I instructed or requested or authorized Sergeant Tshukudu to contact Witness B or any other person regarding Tau's bail. I did not ask Tshukudu to find out whether the state will oppose bail. I did not ask him to plead for bail. I did not ask him to pass any thank you message to Witness B after Tau was granted bail.

I acknowledge that I mentioned my conversation with Katiso to Tshukudu in a social gathering and I must say, Commissioners, like I have presented my trajectory in
10 the Police, I have had 26 years as a Detective Investigating Officer and a Commander, not to know how bail is granted. I would not have sent a Sergeant to go and talk to a Sergeant to request for bail or ask anything about a case or a bail.

In my 26 years as a Detective, I can tell that I am very much experienced and I know what is the process and the procedure of granting bail. This I can say vividly in terms of section 60, I think subsection (11), that talks to the prerogative that falls within the ambit of the Presiding
20 Officer to issue bail. It is not the decision of the Investigating Officer, nor any other person or the Prosecutor, but the Presiding Officer on the day.

Even if the State does not oppose bail, it is still the prerogative of the Presiding Officer to grant bail. And I have known this for years, so I find it very sinister that I will

send, at my level, a Sergeant to go and talk to another Sergeant looking for a bail. I know of, you know, Prosecutors and I know of Magistrates in my work environment, I know of the Commanders of this organized crime, I work with them, they are my colleagues, if I wanted to do something like that, perhaps I could have just gone to those relevant people to try and discuss this with them. I never did that. My mistake perhaps is to talk to my stokvel members about this case.

10 **ADV KHUMALO SC:** Brigadier Nkhwashu, because you have started mentioning Officer Tau, did you know him before the issue of the bail? Did you know Officer Tau?

BRIGADIER NKHWASHU: Commissioner Khumalo, thanks. I never knew Officer Tau, and I do not know Officer Tau. I have never seen him until this media flagged his photos during these proceedings.

ADV KHUMALO SC: And then, Sergeant Tshukudu, did he know Mr Katiso Molefe before this discussion you had with him?

20 **BRIGADIER NKHWASHU:** Commissioner Khumalo, I would not know. I would not know, but I really do not know.

ADV KHUMALO SC: Did he give you that impression in the stokvel as you were discussing that your brother-in-law had mentioned a case to you? Did you get the impression from Sergeant Tshukudu that he knew who you were talking

about?

BRIGADIER NKHWASHU: No.

ADV KHUMALO SC: Okay, thank you.

CHAIRPERSON: Let me take you back to paragraph 30 on a very minor matter. The very last sentence there ...[intervenes].

BRIGADIER NKHWASHU: I beg your pardon?

CHAIRPERSON: Paragraph 30.

BRIGADIER NKHWASHU: 30.

10 **ADV POOE**: Page ...[intervenes].

BRIGADIER NKHWASHU: Thank you, Commissioner.

CHAIRPERSON: Ja, the last sentence there. I find your use of “any” in the sentence confusing. You say:

“I was surprised later to learn he ...”

The “he” I understand to be Tshukudu.

“Took any action.”

Did you want to say he took some action?

BRIGADIER NKHWASHU: Correct, Chair. I wanted to say ...[intervenes].

20 **CHAIRPERSON**: And of course, you then go on to state what the action was immediately thereafter, so he took some action, ja. The “any” is confusing, as I say.

BRIGADIER NKHWASHU: I agree, Commissioner Chair, perhaps even to add that some action on my behalf.

CHAIRPERSON: Thank you, thank you.

BRIGADIER NKHWASHU: Thanks, Chair.

ADV POOE: Brigadier, before you move from that paragraph, paragraph 30, in your interaction with Commissioner Khumalo, he asked you whether Sergeant Tshukudu knew Mr Molefe. You will see there, I think it is towards the end of the third line from the bottom, you say there:

“I did not mention Katiso's name.”

BRIGADIER NKHWASHU: Correct, Advocate.

10 **ADV POOE**: So when you were having this conversation with the other Police Officers, you never mentioned Mr Molefe's name?

BRIGADIER NKHWASHU: I never mentioned, I just said [vernacular] I never mentioned the name. He wanted to talk about this thing and then I stopped him. So I never mentioned the name of [vernacular] when they intercepted.

ADV POOE: All right, thank you. We can then go back to, you have dealt in some part with paragraph 36, where you were relaying to the Commissioners that based on your
20 experience you would not have taken that action. If I can just ask you to read from line 6 of paragraph 36.

BRIGADIER NKHWASHU: Okay, Commissioner, I am with you. It starts with:

“As an experienced investigating officer of 26 years, I know that

interfering in such a bail application or even attempting to obtain confidential information about whether the State will oppose, is a serious offence.”

Should I continue?

ADV POOE: Yes, please.

BRIGADIER NKHWASHU: -:

10 “I would never put my 39-year career and my freedom at risk for a man I just met, I mean just yesterday, who was married to my sister-in-law.”

Can I expunge it?

ADV POOE: Yes, you can finish that section.

BRIGADIER NKHWASHU: Ja, thanks, Advocate.

20 “Furthermore, the fact that the State opposed bail and the Court nevertheless granted bail shows that the Court made an independent decision. I had no role in that decision. I did not speak to the Prosecutor, nor the Magistrate, or the Investigating Officer. I do not even know the Investigating Officer until this date. I did not write any letter or make any call in support of this bail.”

So, I was just emphasizing that I cannot do that, risking my hard-worked service.

ADV POOE: And then, just to clarify, Brigadier, you say that you, it is not in your statement, but you just said it in amplification, you did not know the investigating officer. You said you did not know until when?

BRIGADIER NKHWASHU: Up to date.

ADV POOE: To date, you do not know the investigating officer?

10 **BRIGADIER NKHWASHU**: I do not know the investigating officer. I have never met her. I have never seen her.

ADV POOE: So, even then, you would not have known who that investigating officer was?

BRIGADIER NKHWASHU: I would not.

ADV POOE: Thank you. And do you want to read paragraph 38 into the record?

BRIGADIER NKHWASHU: Thank you, Advocate.

20 "I have at all times acted lawfully in accordance with the SAPS policies and the Criminal Procedure Act."

Should I continue?

ADV POOE: Thank you. You can then deal with the next section that deals with your response to the allegation that you demanded the Armand Swart murder docket.

BRIGADIER NKHWASHU: Thank you, Commissioners. On

paragraph 39, I mentioned that:

“I never demanded the Armand Swart murder docket for any personal interest or improper purpose. At the relevant time, I was acting on instruction from the Provincial Commissioner to collect all case dockets that had J50 warrants of arrest and to submit them to the Deputy Provincial Commissioner of Detective Services, Major General Mbuso Khumao.”

ADV POOE: Brigadier, just before you move off of that, who is the Provincial Commissioner you are talking about there?

BRIGADIER NKHWASHU: The Provincial Commissioner of Gauteng is none other than Lieutenant General Mthombeni.

ADV POOE: Thank you.

BRIGADIER NKHWASHU: -:

“Major General Khumalo was to oversee those investigations as directed by the Premier of Gauteng, Mr Panyaza Lesufi. The instructions was not limited to the Katiso case. It applied to many dockets from all five districts within the Gauteng Province. After receiving the

instructions, I sent out to the Detective Commanders concerned, calling for the dockets as per instructions. I received all the dockets but two. I thereafter enquired about the dockets. Immediately thereafter, I received a call from Witness B, enquiring that she is advised by Colonel Grundling that I was looking for two dockets. I confirmed that indeed I was looking for the dockets and that the dockets are being requested by the Provincial Commissioner and I needed to deliver all of them to him. She responded by stating that unfortunately she was not able to provide me with one of the dockets as she did not have the docket with her as that docket was taken by the DPP.”

20 The DPP meaning the Director of Public Prosecution.

“I responded by stating that that was not a problem. If the docket was with the DPP, I then requested that she send me a report via email stating what

she is telling me so that I can attach it to the report that I will be sending to the Provincial Office. As soon as ...”
[intervenes].

ADV BALOYI SC: Sorry, Brigadier, how would you have known that there were two dockets missing?

BRIGADIER NKHWASHU: Commissioner, I was having a list of these dockets. The entire list of Sedibeng was having 23 dockets and then 11 dockets were submitted at
10 some stage. Then the outstanding 12 dockets, that is when the Provincial Commissioner instructed the District Commissioners to get the outstanding dockets to be submitted as per instruction, and that instruction was given that it must be obtained within seven days.

Then I have given this instruction to my Detective Branch Commanders who are the Commanders of all the stations where the dockets are assigned to or being investigated from. So those Detective Commanders, they were keeping me posted as to which docket is outstanding
20 and it came to my attention that this particular docket which Witness B was talking about or was investigating was not submitted because she was not having it, and another docket which was investigated by someone else in another station, because they were from different stations within the district.

ADV BALOYI SC: So you had a list and ...[intervenes].

BRIGADIER NKHWASHU: I had a list.

ADV BALOYI SC: And from that list you could see that you did not receive all the dockets?

BRIGADIER NKHWASHU: Yes.

ADV BALOYI SC: Okay, thank you.

BRIGADIER NKHWASHU: Should I continue, Advocate?

ADV POOE: Yes, please.

BRIGADIER NKHWASHU: -:

10 “I responded by stating that that was
not a problem if the docket was with
the DPP. I then requested that she
send me a report via email to that
effect so that I can attach it and send it
to the Provincial Office. As soon as I
put the call down, I became curious as
to who the docket belonged to. I
looked at the case number and
remembered that it was for the arrest
20 that happened in April. I immediately
called Witness B, informed her I
actually do not want that docket as
ngiyi suspect into that particular
matter.”

It is important at this juncture, Commissioners, to

pause and explain to the honourable Commissioners why I stated that “ngiyi suspect”. I said “ngiyi suspect” not because I believed I had done anything wrong, but because I was informed previously that my name was being mentioned in connection with the Tau matter and I was under investigation. I wanted to avoid any appearance or any conflict of interest. I therefore stepped away from handling that specific docket and I informed Witness B accordingly that even when that docket came back from the
10 DPP, she must just take it direct to the Provincial Commissioner's office and not me. I simply recused myself from handling that docket, because I knew I was under investigation.

“Furthermore, after the arrest of the three suspects in the Armand Swart murder, the docket, the very same docket we were talking about, was transferred to the Organized Crime Unit at the Provincial Headquarters where
20 Witness B is working. If I had any personal interest in that docket, I would have kept it in my district where I had command and control of this particular docket. I did not do so because I never had any interest in

that particular docket, so, for me, that fact alone shows that I had no improper motive to call that particular docket and the instruction was not coming from me. I had nothing to do with the case in question.”

ADV KHUMALO SC: This instruction, was it in writing, the instruction to you by your superior? You said it is Colonel Grundling, I think.

10 **BRIGADIER NKHWASHU:** Yes, Commissioner Khumalo, what happened here is that the instruction, I will say, yes, it was in writing, but it originally was given at the top management meeting of the province where the District Commissioners are attending every Monday and during that meeting, the District Commissioners were given this instruction and while the District Commissioners were given that instruction, we usually distribute this instruction to our subordinate Commanders to activate or to implement.

And it as followed by an email to all the districts.
20 Those emails, when it arrive at the District Commissioner, it becomes an instruction in writing. That is why I am saying it was in writing because we managed to forward it to the relevant Commanders to implement.

ADV KHUMALO SC: Just to correct myself, I said Colonel Grundling. The instruction I am referring to is in paragraph

40 of your statement. So, because you are saying there at the relevant time I was acting on the instructions from the provincial Commissioner to collect all case dockets. Do you see that one?

BRIGADIER NKHWASHU: Yes, Commissioner.

ADV KHUMALO SC: Was that instruction given to you in writing?

BRIGADIER NKHWASHU: No, Commissioner, it was not given to me in writing. It was given to all the District
10 Commissioners via email and also verbally from the top management meeting.

ADV POOE: Commissioner Khumalo, just to be of assistance on this point, Brigadier had indicated in the course of preparations that he was unable to obtain his emails and so we did write to the Provincial Commissioner's office. At CJC192 is the response and you will see there that the email that the Brigadier is talking about to the various districts is page 29. It is under tab A. It is one of the annexures to the letter that the Provincial Commissioner
20 provided us.

ADV KHUMALO SC: 39?

ADV POOE: Yes, page 39. And then just to make sure, Brigadier Nkhwashu, if you can go to page 39, so under tab 4.

BRIGADIER NKHWASHU: Under tab 4?

ADV POOE: Yes.

BRIGADIER NKHWASHU: I am there, Commissioner.

ADV POOE: Ja, you will see that on page 39, it is all the emails that that email was sent to and Sedibeng District Commissioner is one of the recipients. And on the following page is the actual email.

BRIGADIER NKHWASHU: Yes, Commissioner.

ADV POOE: And the attachment is page 41 and the list of dockets is tab B from page 43. You will see there is various
10 ...[intervenes].

BRIGADIER NKHWASHU: Correct, Advocate.

ADV POOE: Is this now the instruction you are talking about? Is this the correspondence you are referring to?

BRIGADIER NKHWASHU: Exactly, Advocate. You will see it is also talking to that seven days I was alluding to.

ADV POOE: All right, thank you.

ADV KHUMALO SC: And I am assuming then number 23 for District Sedibeng is that 2.4 on page 41?

BRIGADIER NKHWASHU: Correct.

20 **ADV KHUMALO SC:** So when you were saying there were 23 Sedibeng ...[intervenes].

BRIGADIER NKHWASHU: In total, yes.

ADV KHUMALO SC: Okay, thank you.

ADV POOE: Commissioner Baloyi.

ADV BALOYI SC: The decision to have this docket

transferred to Organized Crime, who made that decision and why is that decision made?

BRIGADIER NKHWASHU: Thank you, Commissioner Baloyi. During that period when this incident happened, I was the Acting District Commissioner, and the decision to transfer this docket was solely on my shoulders, so I authorized the transfer of this particular docket to the Provincial Head Office.

ADV BALOYI SC: Thank you for that. Can you just
10 explain how it works, Brigadier? This incident happened in your jurisdiction, your geographic jurisdiction, the killing of Mr Armand Swart, as I understand it.

BRIGADIER NKHWASHU: Correct.

ADV BALOYI SC: And then people get arrested at different places. There is someone, I think, is arrested not too far from where the incident happened, and then other people outside of jurisdiction. That the docket belongs to your jurisdiction, what informs that?

BRIGADIER NKHWASHU: Thank you, Commissioner.
20 What inform the custody of a case docket is the area where the incident took place, the original or the initial incident that led to that crime took place, and in this instance, it took place within my jurisdiction, which is Vereeniging.

ADV BALOYI SC: And the investigator would necessarily come from your jurisdiction?

BRIGADIER NKHWASHU: 100%, Commissioner. All the cases that were generated within my jurisdiction, it will be investigated within my jurisdiction, not unless there is a mandate that is given to external units. External units, I am talking to units such as the Independent Police Investigative Directorate and also this Organized Crime and other units, similar units, depending on their mandate. Some, for example, the Serious and Violent Unit at the Provincial Head Office, will be having a mandate to investigate cases
10 where more than one murder has taken place.

Or perhaps I should make a very common example, like the PKTT. They will be having that mandate to take this docket from my district and they go investigate it by virtue of the mandate that they have. But, still, having made an example of the PKTT, you will recall that Lieutenant General Mkhwanazi said the dockets that were taken from his province, he did not know about it, if I am correct. So, in this instance, I knew about the transfer of this particular docket. I authorized it. Thank you,
20 Commissioner.

ADV BALOYI SC: Maybe just lastly, again, it is just to try and understand how it works. If the docket would have originally been yours, within your jurisdiction, from what you are explaining, because the incident occurred in your jurisdiction. In your explanation, you have said that you

never knew who the investigator was in this, the investigating officer was. Now, if the docket is within your jurisdiction, can you just explain how it works, that explains that you would not have known who the investigator is.

BRIGADIER NKHWASHU: Thank you, Commissioner. The docket flow, from the time it is reported at the police station, is that it will obviously get a serial number, which we will get to know it as a case number. Then, when it has got the case number, then it will be registered in the system
10 and be assigned to the detective component.

Remember, it is registered at the CSC. The CSC stands for Community Service Centre. After that, registering those dockets, the custody of, or rather the mandate, of investigating any case registered, it falls with the Detectives. Then, the CSC is at the Uniform, or the Visible Policing environment.

Then, it will be transferred from the Visible Policing environment to the Detective environment, and the Commander of that particular Detective unit will sign for
20 that particular docket and that Commander will be mostly the most senior position, who are Commanders at that level. They are Colonels. That is one rank below me, and, or even Lieutenant Colonels, in the absence of Colonels.

Then, the Colonel will then assign that particular docket for investigation to an Investigating Officer, who

mostly are non-commissioned officers. Non-commissioned officers, Commissioner, I am referring to the lower ranks, which is a Warrant Officer and below. Now, when the Investigating Officer receives that particular docket, he signs for that particular docket, and after signing for that particular docket in the system, which we call it CAS control system, the Investigating Officer is now responsible for that particular docket. He or she is the sole responsible person for that particular investigation and the accountability on that particular docket it will now be with the Commander of the Investigating Officer. Now, this is how the dockets are moved from the inception to the latter.

ADV BALOYI SC: All right, thank you.

BRIGADIER NKHWASHU: Thanks, Commissioner.

ADV POOE: Brigadier, just to follow up on that, né, you spoke about an authorization for the transfer. Is this done in writing, or is this just a verbal authorization for the transfer of the docket to Gauteng Organized Crime?

BRIGADIER NKHWASHU: The docket, I mean the transfer could not necessarily be done in writing, but when the docket is registered in the system, say it is registered in my name in Sedibeng district, and it has to be transferred to Johannesburg Organized Crime, remember, it is in the system of Sedibeng, now, when we transfer it, we transfer it in the system. Then, it will be, it must be received in the

system that will indicate overall on the national system that this docket has now been moved to Sedibeng, even if it is not done in writing, because some are done in writing, some are not done in writing.

After the inception, if it is their mandate, these units that I am talking about, you will see them arrive in the Community Service Centre, and they say, we are from Organized Crime, we are coming to collect this docket, or from Serious and Violent Crime Unit, we are coming to
10 collect this docket by virtue of us having the mandate to investigate it, not you at the local station.

ADV POOE: And so for this docket in particular, what happened is that you authorized the transfer. It is not that Organized Crime came in and took the docket because it fell within their mandate. It was a specific transfer.

BRIGADIER NKHWASHU: They requested it.

ADV POOE: So they requested it?

BRIGADIER NKHWASHU: Ja, they requested it.

ADV POOE: From the Community Service Station?

20 **BRIGADIER NKHWASHU:** Yes.

ADV POOE: And when does the authorization then happen? When are you notified of that transfer?

BRIGADIER NKHWASHU: On the very same day that they requested it. I think it was the Commissioner Chair who asked me the question of, if my memory serves me well, of

when the jurisdiction is not your jurisdiction. By virtue of them having arrested these suspects ...[intervenes].

CHAIRPERSON: I will not take credit. It was Commissioner Baloyi.

BRIGADIER NKHWASHU: Oh, I am sorry. I am sorry, Commissioner Baloyi. Thank you, Commissioner Chair. Pardon. I have ...[intervenes].

CHAIRPERSON: I am sorry. I am very sorry for distracting you.

10 **BRIGADIER NKHWASHU:** No, Commissioner, it is fine.

CHAIRPERSON: Please take your time and think.

BRIGADIER NKHWASHU: Ja, I was saying, when the suspects were arrested, they were arrested outside my jurisdiction.

ADV POOE: Yes.

BRIGADIER NKHWASHU: And they were arrested somewhere in Johannesburg jurisdiction, in Bramley to be specific. And the Investigating Officer who were dealing with the crime scene there, they phoned in and they say
20 they want to request that they sign for the docket because they have established from the crime scene that this falls within their mandate by virtue of them getting the weapons that were used to kill the deceased and they are linking the weapons with other crimes that are falling outside my jurisdiction.

So, them having explained this to the Colonel who was in charge of the crime scene at Vereeniging where Armand Swart was killed, because this thing happens on the very same day.

ADV POOE: Yes.

BRIGADIER NKHWASHU: Ja. And the Colonel phoned me because in any way they could not have authorized to move the docket without my authority. Then they phoned me and they explained me the story. Then I said to the Colonel, let
10 them take the docket, it is fine, as long as they are going to do the normal procedure, which is to register it in the system at Vereeniging so that it can reflect that it is initially a Vereeniging case. Then, thereafter, they sign for it in the system so that we can know where the docket is.

ADV POOE: All right. And thereafter, they then become the custodian of that docket?

BRIGADIER NKHWASHU: Ja, they become the custodian of that particular docket, yes.

ADV POOE: Thank you, Brigadier. Chair ...[intervenes].

20 **ADV BALOYI SC:** Before you, let me ask a question for clarification. You say in that paragraph 46 that if you had a personal interest in the docket, you would have kept it. In this discussion with Ms Pooe, you say that the docket was requested. Again, it is a question about me trying to understand how it works. Could you, in the way that things

work within the SAPS, do you have the capacity or the standing to refuse to hand over a docket? Could you have said, no, I am not giving up this docket? When I say could you have, I am asking a systemic question rather than your personal interest in it.

BRIGADIER NKHWASHU: Thank you, Commissioner.

True. As the District Commissioner, you got the prerogative to deny the docket being transferred to any unit, provided you can justify your denial. It happens that we refuse to let

10 the docket go to any other unit and, but it must be with justification.

ADV BALOYI SC: Thank you.

CHAIRPERSON: Let us adjourn and resume at 20 to 12.

Let us adjourn.

INQUIRY ADJOURNS

INQUIRY RESUMES

CHAIRPERSON: Yes, Ms Pooe.

ADV POOE: Thank you, Chair. Brigadier, just before we

20 move to the next topic in your statement, sorry, I wanted to ask you in terms of the issue we are dealing with regarding docket registration at a particular station. So let us take this case for example. On the date of the murder, there would have been a Vereeniging team assigned to go to the scene, correct?

BRIGADIER NKHWASHU: Correct, Advocate.

ADV POOE: And are those the people that will then come back to the community service station to register the docket or a docket?

BRIGADIER NKHWASHU: Correct, Advocate.

ADV POOE: And once it is on that system, are those that go to the scene and register the docket immediately assigned or there is a follow-up process to then assign an investigating officer?

BRIGADIER NKHWASHU: There is a follow-up process,
10 Advocate.

ADV POOE: So, in this instance, was there a team assigned - an IO assigned to the docket?

BRIGADIER NKHWASHU: Not ...[intervenes]

ADV POOE: I mean at the point of registration, post-registration, before the Gauteng organised team comes to play and requests the docket?

BRIGADIER NKHWASHU: Perhaps I should ask you to repeat that one. I think I missed it a little bit.

ADV POOE: No worries. So, you have explained to us
20 now that a team would have gone on to the scene, they would have come back and registered a docket at the community service station. Then you say after that, there would be a process of assigning an investigating officer. My question is, was an investigating officer assigned at that point before the Gauteng organised crime team comes to

request the docket?

BRIGADIER NKHWASHU: No, thanks Advocate. Now I am content with your question. No, it was not yet assigned.

ADV POOE: All right, and is that then the reason why you would not have known an investigating officer for that case because one had not been assigned yet?

BRIGADIER NKHWASHU: Exactly.

ADV POOE: All right, thank you.

CHAIRPERSON: No, please continue Ms Pooe.

10 **ADV POOE**: Yes, I will do so. Then I am going to move to the next topic if there are not any questions. This is now section F where you are dealing with your sister's request and attempt to deliver clothes to the prison.

BRIGADIER NKHWASHU: Okay, Advocate:

20 “On 6 December 2024, I learned from Fundiswa that Katiso had been arrested. I was shocked and asked what the charge was. She said she did not know. On 9 December 2024, Katiso appeared in Vereeniging Magistrate Court. I was at work and did not attend to that court session. Fundiswa attended the court proceedings. After court, I think between 13H00 and 14H00, she came to my office and told me that the case had been

postponed for a bail application and that Katiso had been sent to a government prison, which is Groenpunt. She said she was unable to give him clothes and food, and she asked me to assist in doing that. I immediately contacted the area commissioner who was known to me at that point as Mr Mkhalihi. His name is Obed Mkhalihi. To enquire whether Mr Molefe had been admitted at that facility so that basic personal clothing could be delivered to him. Mr Mkhalihi initially indicated that Groenpunt does not ordinarily house awaiting trial prisoners or detainees and that there was no inmate recorded under that name in that facility. I informed him that I have just been informed that the court has adjourned and they sent Katiso there. It could be that you have not seen it yet because it is not a thing that happened long. Mr Mkhalihi undertook to verify my request and my information that I was giving him. Thereafter, he came back to me within a short while to confirm that Mr

Molefe is indeed in the facility registered. I then explained that Mr Molefe is my brother-in-law and that his family wished to deliver clean clothing and food for him. Mr Mkhaliphi advised that I could come to the facility subject to the applicable admission and security procedures. I was unable to attend immediately as I was on duty. After completing my official duties in my office, I proceeded to Groenpunt Correctional Services where upon arrival I identified myself to the prison warden at the gate and I explained to him the purpose of my visit. Namely, to deliver clothing to Mr Molefe and the food. I was informed that the area Commissioner, Mr Mkhaliphi, has just left the facility. I missed him with a few minutes. Thereafter, I contacted Mr Mkhaliphi telephonically and he referred me to an official whom he named Mr Nhlapo for further assistance after speaking to the correctional service warden that was assisting me at the main gate. The gentleman took me to Mr

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Nhlapo at the Maximum C section and when we arrived at Mr Nhlapo's office, Mr Nhlapo was not available, and I waited for a short period before he attended to me. During the waiting, the officials that were escorting me took me to another official whom I did not get the name, but she was having the rank structures on her shoulder. That person asked me what I was there for and I explained to her. Then she took me to the office of Mr Nhlapo. As she was taking me back to Mr Nhlapo's office, we met Mr Nhlapo on the passage and Mr Nhlapo then asked me what I was there for and I explained to him. Then he told me that it is late after hours and that he could not accept my food delivery to Katiso and he will not allow me to see Katiso but he will take the clothing and hand it over to Katiso. I complied fully with the instructions and did not seek any deviation from the applicable rules. I thereafter handed over the clothing and I left the facility. I denied that I attempted to interfere in any

manner. My conduct was limited to assisting my sister by facilitating the delivery of the clothing to her husband while he was in custody. This was a personal and humanitarian act. I did not discuss the merits of the case with any official nor did I request or expect any preferential treatment or deviation from established procedures in favour of Mr Molefe.”

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ADV POOE: Thank you Brigadier. Then you can deal with the allegations related to the number plate.

BRIGADIER NKHWASHU: Thank you Advocate:

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“With the allegation of removing number plate Commissioners, it has been alleged that I removed the number plate of the car I was driving to conceal my identity when I went to Groenpunt Prison. I deny these allegations because it did not happen. I could not conceal my identity after having spoken to the area commissioner and identified myself. When I arrived at the gate to the officials there, I also identified myself. I signed the access register using my full names

and as they appear in my identity card and my visit was recorded. It would be absurd to remove registration plates after openly identifying myself to both the officials. The truth is that my car was new at the time and had not yet been issued with a formal registration plate. It was fitted with a temporary permit which is in accordance with the Road Traffic Ordinance Act. This permit was issued from the dealership where I bought this particular vehicle, which is Omars Motors, Meyerton, Vereeniging. I do not personally affix or remove number plates in my cars but the dealership is responsible for that.”

ADV POOE: Brigadier, just before you move on, do you recall when this new car was purchased?

BRIGADIER NKHWASHU: Yes, Advocate. I purchased this vehicle during October.

ADV POOE: Thank you. You can then deal with the ...[intervenens]

CHAIRPERSON: October of what? The previous year? Which October?

BRIGADIER NKHWASHU: Commissioner Chair, I think it

was in October 2024.

ADV POOE: So, this would have been just two months before his arrest. Because this is now, we are dealing with December when this visit happens.

BRIGADIER NKHWASHU: Correct, Advocate.

ADV POOE: Right, 2024. Now you can move to general denial of misconduct and suspension grounds.

BRIGADIER NKHWASHU: Thank you, Commissioners:

10 “I have been informed that the interim
report of this Commission dated the 17th
of December, accepted by the President
on the 29th of January 2026, allegedly
lists my name as a member whose
conduct justifies immediate investigation.
Specifically, I deny that I have aided or
abetted any criminal activity or failed to
act on credible intelligence or internal
warnings or benefited financially or
politically from any criminal syndicate. I
20 did not. I have dedicated my career to
the South African Police Service, and I
have acted with integrity. I am being
prejudiced by allegations that are vague
and not yet tested.”

ADV POOE: You can proceed to deal with your conclusion.

BRIGADIER NKHWASHU: As I conclude on this matter,

Advocate:

10 “I deny any wrongdoing whatsoever in this regard. I am willing to cooperate with the Commission's legitimate enquiries to the extent that such cooperation does not infringe upon my right to a fair process and my right against self-incrimination. I request that the Commission make a finding that there is no basis for the allegations made against me and that the SAPS immediately withdraw my suspension proceedings against me because I am not the criminal that the media suggests.”

ADV POOE: Thank you, Brigadier. Brigadier, we are going to move to your supplementary statement. Commissioners, during the tea adjournment, we agreed that there is quite a bit of repetition in the supplementary. So, what we are
20 going to try to do is I am going to direct Brigadier to the relevant paragraphs that are new for him to deal with those, and to the extent that there may have been a paragraph that I skipped that he wishes to place on record, he can do so.

And then just to place it on record that during the process of preparing for his testimony, we did agree that a

supplementary affidavit be filed. So that is the first part of the supplementary statement. So, Brigadier, I propose that we start at Section B. And just to say that in sum, you have noted in the statement that you wish to deal with four points.

That is the second visit to Mr Molefe that happened in February 2025. You want to deal with the White House. You want to deal with the proper procedure for handling dockets within SAPS and the instruction received from the
10 Provincial Commissioner, as well as the Ford Raptor that was driven by your sister, Ms Nyangule. So 12.3, being handling of dockets, will only deal with specific parts of it because you have covered most of it in your main statement. So, if you can start with paragraph 14 at page 21 of your supplementary statement.

BRIGADIER NKHWASHU: Thank you, Commissioners. Advocate, you said page 31?

ADV POOE: No, page 21.

BRIGADIER NKHWASHU: 21.

20 **ADV POOE:** Where you deal with your second visit to Groenpunt Prison.

BRIGADIER NKHWASHU: Thank you, Commissioners:

“I deal with each of these issues in detail below. My second visit to Groenpunt Prison, which took place during February.

My main statement recorded my first visit to Groenpunt Correctional Centre on 9 December 2024. I failed to mention a second visit that took place in or about February 2025. I acknowledge that this was an omission. I wish to explain why it occurred, although I have explained it in my introductory paragraphs at the beginning. The pressure that I was subjected to. The summons and the evidence presented to the Commission focused exclusively on the visit during December.”

ADV POOE: My apologies, Brigadier. Paragraph 15, unless you want to read it into the record, just explains why you had not mentioned the second visit. The Commissioners have read that. Unless you want to place it on record, I would suggest that you start at paragraph 17, where you deal with the actual visit.

20 **BRIGADIER NKHWASHU**: Thank you very much, Advocate. I have got no problem. On paragraph 17: “I took annual leave during December 2024 and travelled for a holiday. I returned home in the second week of January 2025. After my return, I was on

sick leave for a period due to physical pains and stress that I was enduring. In February 2025, while I was still on leave, my sister, Fundiswa Nyangule, who I explained as the wife of Mr Katiso Molefe in the main statement, contacted me. She informed me that she was coming to Gauteng to visit her husband in prison. She told me that her own vehicle had mechanical problems and it was not available. She asked if I could fetch her from the airport because she was coming from Durban, where she is residing. I agreed and I went to the airport and picked her up. We drove together to Groenpunt Prison. On arrival, we followed the normal procedures of identifying ourselves at the gate. We produced our identity card, which is our ID card. The prison officials gave us a register to sign, and we were permitted to get in and see Katiso.”

ADV POOE: Brigadier, just before you move too far from this. At paragraph 20 you mentioned that Ms Nyangule was coming to Gauteng. Do you have a sense of when did she

move to Durban because in the amir – in your first statement, you talked about how she was first residing with you and your wife and then she moved in with your wife's brother at the time. But there is not an indication then when she moved.

BRIGADIER NKHWASHU: I do not have that information as to when she moved to Durban with her husband.

ADV POOE: Thank you. You can continue.

BRIGADIER NKHWASHU: Okay, thank you very much.

10 **ADV POOE**: You are at paragraph 23.

BRIGADIER NKHWASHU: Thank you very much,
Advocate:

20 “I was not given any preferential treatment. I waited my turn. I complied with the security checks. I wish to state clearly and unequivocally that I followed the procedures like any other person. I did not visit Katiso to interfere with any investigation. I did not use my rank to gain improper access. I was there primarily to drive my sister, who was a local visitor. Once I was told that I could see Katiso, I did so as a family member, not as a police officer.”

Should I continue?

ADV POOE: Yes, you can.

BRIGADIER NKHWASHU: The next paragraph will be talking to the White House, its nature and complete denial of a corrupt association:

10 “I have become aware through the media reports and through the evidence presented to this Commission that a place called the White House, located in Northcliff, which has been described as a hub for corrupt activities involving senior SAPS officials, politicians and organised crime figures. I wish to inform the Commission that I have been to the White House on several occasions. I am not denying that. The White House is a private property that was used from time to time for social gatherings by colleagues from the SAPS...”

I beg your pardon, Commissioners.

20 **ADV POOE**: Brigadier, just for the record, the White House, is that the Northcliff Hotel?

BRIGADIER NKHWASHU: Correct, Advocate.

ADV POOE: Thank you.

BRIGADIER NKHWASHU:

“The gatherings at the White House were

ordinarily arranged by our colleagues or our colleague, Maj-Gen Richard Shibiri, who appeared before this Commission.”

Commissioners, to the best of my knowledge, the purpose of these social gatherings was to - was very innocent and was very lawful according to me. It was ordinarily to bring camaraderie, which is a friendship and a close relationship, to foster those working relationships and to de-stress after work with officers from different units and who are within
10 the organisation. Of course, we will from time to time be having some of the civilians, in the likes of the owner of the Boutique Hotel, after being introduced to us as the owner. That is to the best of my knowledge, and the gatherings were not secret at all.

ADV POOE: Sorry Brigadier, so are you saying that generally the only civilian would have been the owner, in your knowledge?

BRIGADIER NKHWASHU: Yes, it would be, Advocate, the owner and the partner to the owner who was preparing us
20 drinks and food and perhaps the other guys working in that particular institution, but we were not sitting with them where we were sitting.

ADV POOE: So, for the purpose of the socialisation and socialising and the talking, it was mainly police officers?

BRIGADIER NKHWASHU: Correct, Advocate.

ADV POOE: And you say they were arranged by General Shibiri. Was it him who was doing the general inviting or any one of you could invite any police officer you wanted?

BRIGADIER NKHWASHU: Can I ask Advocate to repeat that question?

ADV POOE: At paragraph 25.3 you indicated that the gatherings were ordinarily arranged by your colleague General Shibiri. And then in the next paragraph you talk about how it was used to build camaraderie and foster
10 closer working relationships. So, my question was related to invitees, how police officers would get invited. Was it General Shibiri who would be doing the inviting or any and all the police officers there could invite anyone as they pleased? Well, any police officer.

BRIGADIER NKHWASHU: Thanks Advocate. I will not know who are doing the invites to the attendees, but all I know is that General Shibiri was the one who was inviting me and General Mthombeni. Because in all times when I have to go there, I will have to speak to General Shibiri to
20 say we can come because he was the one who was arranging and he is the one who introduced us to the owner. So as for the others, I have never known how they got invited and by whom.

ADV POOE: Thank you Brigadier. You were dealing with paragraph 25.5.

BRIGADIER NKHWASHU: Thank you Advocate:

10 “The gatherings were not secret as I
 have alluded. Many officers attended
 and we held general discussions. There
 was no discussion of ongoing criminal
 investigation in a manner that could
 compromise the administration of justice.
 At least not in my presence, if there were
 any. I am aware that the White House
 suggested to be a place where corruption
 occurs. I am also aware that the
 investigating officer, Witness B, may
 have attended some of these social
 gatherings because I started getting to
 know it from this Commission when
 General Shibiri was testifying and when
 the Witness B was also testifying. I have
 served as an investigating officer,
 Commissioners, like I have alluded
20 earlier in my testimony, for 26 years...”

ADV POOE: My apologies Brigadier, this one is my fault.
So, for this section, paragraphs 27 and 28, you have
already dealt with unless there is something there that you
want to emphasise. What is new is at paragraph 28.4 where
you deal with system changes because of a complaint.

BRIGADIER NKHWASHU: Thank you Advocate. In paragraph 28.4:

10 “I was explaining that the investigating officer signed for the docket, as I have alluded earlier on in the system, confirming physical receipt of that particular docket. From that moment, the IO becomes the sole custodian and possessor of that particular docket, meaning he or she is in full control of that particular docket. The docket is under the IO's exclusive control and responsibility and if it happens that the complainant is unhappy with the progress of the investigation, they may lodge a complaint. The complaint will then be registered with the commander at the CSC and then the complaint file will then be booked to a commission officer to

20 investigate the complaint against the police. The commander may call the IO to account and may escalate the matter to a higher level if necessary. Complaints can be escalated to the District Commissioners, the Provincial

Commissioners, even to the Minister of the Police, notwithstanding any other person who is in a commanding position, such as the premiers and associates. If a complaint comes from a higher level, such as the Premier or the Minister, the Provincial Commissioner may issue a lawful instruction to District Commissioners to take certain steps including requesting those dockets for review or reassignment. The Government of Gauteng raised concerns about certain criminal investigations, including the Armand Swart murder case. A complaint was lodged with the South African Police Service Provincial Commissioner, General Mthombeni. General Mthombeni decided to instruct District Commissioners, including me as acting District Commissioner for Sedibeng, to collect all dockets that had J50 warrants of arrest and to deliver them to the Deputy Provincial Commissioner of detective service, which is Maj-Gen Mbuso Khumalo, for oversight

and review.”

ADV POOE: Brigadier, thank you. In this section, you have already taken the Commission through the fact that the instruction was not limited and who you approached in executing the instruction. So, unless there is something in paragraphs 28.7 until 28.11 that you want to emphasise, I propose for us to move to Section E of your statement.

BRIGADIER NKHWASHU: Thank you very much, Advocate.

10 **ADV BALOYI SC**: Brigadier, can I just understand the sequence? So, the incident happens and, on the day, as I have understood your discussion with Ms Pooe, what happens is the officers that had attended from your jurisdiction that had attended the scene would have been the one that went to the CS ...[intervenes]

BRIGADIER NKHWASHU: CSC.

ADV BALOYI SC: To the CSC that had gone there and a docket gets created. At which point after that, and when I say point, I mean in terms of dates so that I understand the
20 sequence, at which point does that docket get transferred to organised crime?

BRIGADIER NKHWASHU: Commissioner, there is no stipulated period. However, when the scene is processed ...[intervenes]

ADV BALOYI SC: No, sorry, maybe let me explain my

question. I am asking specifically in this case. So, we know the incident happens on a date in April 17th and then so CSC would have a docket. Someone goes to CSC and a docket gets opened on that day. But on the facts of this case, we know that at some point the docket is transferred to organised crime. So, I am asking for a date when that happened.

BRIGADIER NKHWASHU: Thank you, Commissioner. It happened the same day.

10 **ADV BALOYI SC:** It was transferred to organised crime the same day.

BRIGADIER NKHWASHU: Yes. Actually, Commissioner, perhaps I should answer you like this. I authorised it on the very same day. But I cannot confirm whether the capturing on the system was done the same day. It could have been done the following day or time after. But the authority that the docket could be transferred to the provincial office organised crime was given the same day.

20 **ADV BALOYI SC:** So, when the docket is transferred to organised crime, it is the physical docket. It means that physical docket is now with somebody else and that somebody else is organised crime. Is that what it means?

BRIGADIER NKHWASHU: Definitely, Commissioner.

ADV BALOYI SC: Okay, so, if that is so, when the Provincial Commissioner gives an instruction that causes

you to have to get all the dockets, does it mean you now get the docket back from organised crime for purposes of complying with this instruction?

BRIGADIER NKHWASHU: Perfectly so, Commissioner. Wherever the docket is, because of the fact that you remain actually accountable for the movement of the docket. Now, me being the, allow me to call it the custodian.

ADV BALOYI SC: The owner of the docket.

BRIGADIER NKHWASHU: The owner of the docket.

10 **ADV BALOYI SC:** Yes.

BRIGADIER NKHWASHU: The Provisional Commissioner will not know that this docket is at the organised crime. What he sees is in the system that it is registered under Vereeniging, which is in Sedibeng district. Now, this docket registered in Sedibeng, he will give orders to the Sedibeng District Commissioner to get him the docket.

ADV BALOYI SC: Okay.

BRIGADIER NKHWASHU: That is why I was saying earlier on, Commissioner, when I was speaking to Witness B, that
20 if the docket is at the DPP, it is not a problem. As long as you can give a report in writing that the docket is at the DPP and the report we are going to send it with other dockets to the Provisional Commissioner.

ADV BALOYI SC: Okay.

BRIGADIER NKHWASHU: That the docket is not readily

available. So, we will be accounting as to where the docket is, if it answers your question, Commissioner.

ADV BALOYI SC: So, it remained a Sedibeng docket even though it is with organised crime? Is that ...[intervenes]

BRIGADIER NKHWASHU: A hundred percent, Commissioner. By virtue of it having the serial number that I spoke about, which is called a CAS number, it will not change that it was registered in Vereeniging. That is why it remained in Sedibeng.

10 **ADV BALOYI SC:** Thank you.

ADV KHUMALO SC: The language we have heard very often in this Commission, Brigadier, is the station of origin. So, where the docket was originally opened, that remains throughout the life of the docket. And the station of origin in this case was Vereeniging.

BRIGADIER NKHWASHU: Thank you, Commissioner. I think you are my assistant in that regard. Thanks.

ADV POOE: Thanks, Brigadier. If you can then go to paragraph 29.

20 **BRIGADIER NKHWASHU:** Thank you, Advocate. Paragraph 29 talks to the Ford Raptor vehicle registered in my name:

“The evidence before the Commission includes an allegation that a Ford Raptor vehicle registered in my name was driven

by Katiso's girlfriend, Fundiswa, outside the Vereeniging Magistrate Court on the 5th of March 2025. I confirm that this allegation is true. The Ford Raptor vehicle was indeed my private vehicle that was driven by Fundiswa on that day. And I purchased this particular vehicle lawfully from my eldest daughter, who was paying for it through me, since I am the registered owner of this particular vehicle. I was not driving the vehicle on the 5th of March. I was not present at the court either in Vereeniging on that day. I borrowed this particular vehicle to Fundiswa, who is my sister. As I have explained in detail in my main statement and in this supplementary statement, I confirm that I treat Fundiswa like my baby sister, so I will always assist her when she needs assistance. I allowed Fundiswa to use this vehicle. She came to Gauteng to visit her husband in prison. She explained to me that she suspected people following her and she was afraid to use her car because it is known. I

decided to give her the Ford Raptor vehicle because, in any way, it has been sitting in the garage for quite some time without it being utilised.”

Should I continue, Advocate?

ADV POOE: Just to make sure, so in February when she came, you accompanied her because then she had problems with her car. And then in March when she was going for this visit, her reason for approaching you for assistance
10 was because she was being followed.

BRIGADIER NKHWASHU: Hundred percent, Advocate.

ADV POOE: Thank you Brigadier. Then the last section is the allegations that Mr Molefe denied knowing you.

BRIGADIER NKHWASHU: Thank you, Advocate. On
paragraph 30:

“I alluded to the fact that the Commission has evidence from the prison head, Mr Nkoli, that on 10 December 2024, the day after my first visit in Groenpunt, he
20 interviewed Mr Molefe and asked him whether he was related to me or not. According to Mr Nkoli, Mr Molefe said he was not my brother-in-law and did not know me as a relative.”

I beg your pardon. Commissioners, I cannot explain why Mr

Molefe would say he did not know me. I was not there when he was communicating with Mr Nkoli. And I was not present. I do not know how they spoke. And I will not really testify saying that Mr Molefe denied knowing me. I disclosed openly to the prison officials on the 9th of December who am I.

And I disclosed it in my main statement. And Commissioners, I had clothes that had to be given to Katiso and the food. And the prison officials went to give Katiso
10 the clothes and he accepted it. And if he did not know me, according to my own perspective, why would he accept clothes coming from a person that you do not know? So, I would not know why he said he did not know me.

ADV POOE: Thank you, Brigadier. Brigadier, that completes your two statements. Is there anything else that you want to place on record?

BRIGADIER NKHWASHU: Not much, Commissioners, except to say that I feel very embarrassed to be associated with criminals. But not as a fault of anyone else but myself.
20 And I am putting it to the community that I am accountable for in accordance with the constitution of this country that I am not a criminal. I do not associate with cartels and the so-called cartels. I do not. And I am a police officer who served in the South African Police Service for 39 years almost. And I want to retain and leave the service

ceremonially so in the next few months to come. I am a proud police officer up until this stage. Thank you very much.

ADV POOE: Thank you, Brigadier.

ADV KHUMALO SC: Let me just complete that part. Sorry to do this, Brigadier. You say in the next few months. When is your retirement date?

BRIGADIER NKHWASHU: Commissioner, at the end of July I will be on pension.

10 **ADV KHUMALO SC**: End of July this year?

BRIGADIER NKHWASHU: Yes.

ADV KHUMALO SC: So, two months, three months?

BRIGADIER NKHWASHU: Yes, Commissioner.

ADV KHUMALO SC: You will be turning 62? Why?

BRIGADIER NKHWASHU: I will be reaching the retirement age, Commissioner.

ADV KHUMALO SC: You are not a lady, Brigadier. You do not have to worry about those things. Unless this goes back to that boys' discussion. You do not want them to
20 know how old you are. I will leave it at that.

BRIGADIER NKHWASHU: Okay, Commissioner.

ADV POOE: Brigadier, if we can go back to your first statement.

CHAIRPERSON: Is this the beginning of the probing?

ADV POOE: Yes, Chair.

CHAIRPERSON: Just to alert the Brigadier. Thank you.

ADV POOE: Yes, Chair. I learned from Chief Evidence Leader that we disclose when people must be wary of the questions. Although I do not think the Brigadier needs to be wary of me. Brigadier, if we can go to your relationship with Ms Nyangule. I have a few questions to better understand how close you were. Now, earlier you testified that she was married to your wife's late brother. And that in the year 2000, you referred to him as Sazi. His surname
10 is?

BRIGADIER NKHWASHU: Khuboni.

ADV POOE: Khuboni.

BRIGADIER NKHWASHU: Yes, Advocate.

ADV POOE: So, Mr Khuboni passes away in the year 2000. And you then say that two days later, Ms Nyangule's mother also passes away. Is this at this point where Ms Nyangule's family had all unfortunately passed away? Or were there other family members around this time?

BRIGADIER NKHWASHU: During the passing of Sazi and
20 the mother of Fundiswa, there were still siblings of Fundiswa to my recollection. I think there were two who were still alive. Two or three, I cannot remember.

ADV POOE: And do you recall when those siblings passed away?

BRIGADIER NKHWASHU: No.

ADV POOE: All right, and then on your wife's side, your, should I say estranged wife's side, because you indicated that it was a separation.

BRIGADIER NKHWASHU: Yes.

ADV POOE: You indicated that your wife had an older brother. Were there other siblings?

BRIGADIER NKHWASHU: Yes, there were other siblings who were the younger brother. Actually, yes, there is a younger sister of my wife and a younger brother of my wife
10 who was younger than Sazi.

ADV POOE: And then in terms of the timeline that we have gone through, you say then that in 2001, the mourning period came to an end, and by 2005, Ms Nyangule had started to see or had met Mr Molefe.

BRIGADIER NKHWASHU: I apologise, Advocate, to ask you to repeat that statement.

ADV POOE: No worries. I am trying to build a timeline of events. So, you indicated that a year after your brother-in-law's passing, you, after the one year, so that would have
20 been in 2001, that is when the mourning period came to an end. Thereafter, you said that in 2005, Ms Nyangule then meets Mr Molefe.

BRIGADIER NKHWASHU: Advocate, I would not know when Fundiswa met this Katiso. But what I know is that during 2005, Fundiswa came to us to come and tell us that I

was still with my wife, I remember. That she met a guy, this guy wanted to marry her. And we sat down and interviewed her. That was in 2005. But as to when did they meet, I do not know.

ADV POOE: All right, and when you say you interviewed her trying to understand who she was going to marry, what information did you ascertain from that process?

BRIGADIER NKHWASHU: Commissioners, what I could remember, amongst others, is that we came to a question of
10 having to tell her the background of this particular guy that she has met. Do you know this particular person enough? She said yes. And it came to a time where she told us that this guy is a married man. Then that is when I get to differ with her on her intentions to marry this guy because of his marriage status.

ADV POOE: And so, your disapproval was registered much earlier than when the customary marriage happens, which is in 2022?

BRIGADIER NKHWASHU: Correct, Advocate.

20 **ADV POOE**: Okay, so then in 2022 you noted that the customary marriage happens. Now, how is your relationship between Fundiswa and yourself affected by the split with your wife, which you say happens in 2014?

BRIGADIER NKHWASHU: Our relationship with Fundiswa, it was, let me say in the absence of perhaps a suitable

word, it was dented. In that we did not finish the meeting with me on that day because I abandoned the meeting on the basis that we were not agreeing in terms. And I abandoned the meeting with the sole intention of convincing my wife, who was trying to say, be reasonable man. And what I said, no, I do not go with that, not unless I am convinced otherwise. But let me leave you with that and then we will talk.

CHAIRPERSON: Are you referring to 2005 now?

10 **BRIGADIER NKHWASHU**: Yes, yes, Commissioner.

CHAIRPERSON: I think, Ms Pooe are you not asking about 2014 onwards?

ADV POOE: Yes.

CHAIRPERSON: Yes.

BRIGADIER NKHWASHU: I apologise, perhaps I missed the point.

ADV POOE: Yes, so what I am trying to understand, okay, so in 2005 you have this meeting, you leave on a bad note because you are of the view that it is not a good idea to
20 marry somebody who is married. During that, between 2005 and 2021, in 2014, you separate from your wife.

BRIGADIER NKHWASHU: Yes.

ADV POOE: So, I am asking, given that the last time, at least that you mentioned there was this meeting, it ended on a bad note, what happens in the intervening period is

that you separate from your wife. What happens of your relationship with Ms Nyangule at that stage?

BRIGADIER NKHWASHU: Yes, we are no longer having a solid relationship. However, the relationship was still there, because we were talking over the phones and she would call and check and the wife would tell me that Fundiswa called or Fundiswa visited. Sometimes I will come home, and I will find that Fundiswa is there visiting and she is sitting there and when I come home, we see one another
10 and it is like, but it was never like before.

ADV POOE: Perhaps I am not clear, so are you now describing your relationship post-2025 but pre-2014, that you used to come around, and you would find her talking to your wife, your wife would also tell you Fundiswa was here, so it was strained but there was still a relationship.

BRIGADIER NKHWASHU: Yes, pre-2014, post-2005, but post-2014 we were just talking over the phone with Fundiswa. I never actually met her.

ADV POOE: Do you recall what the frequency of those
20 calls were?

BRIGADIER NKHWASHU: It was not - I can tell that it was not many, it was maybe not even four times, but I cannot recall exactly, but I do not remember me talking to her perhaps more than three times over the phone.

CHAIRPERSON: Three or four times over that entire

period?

BRIGADIER NKHWASHU: Over that entire period, Commissioner.

CHAIRPERSON: Thank you, thank you.

ADV POOE: So, this is until 2021?

BRIGADIER NKHWASHU: Until 2021, yes.

ADV POOE: Yes, and then in 2021 you were told about the customary marriage?

BRIGADIER NKHWASHU: Yes.

10 **ADV POOE:** And at this time had you warmed up to the idea of the marriage?

BRIGADIER NKHWASHU: No.

ADV POOE: And so, you testified that you were part of the negotiations though?

BRIGADIER NKHWASHU: Yes.

ADV POOE: So now how does that come about?

CHAIRPERSON: From the negotiations that I think the Brigadier said he participated in, Mr Pooe, was Sazi's.

ADV POOE: My apologies.

20 **CHAIRPERSON:** These he had washed his hands and was quite mad about what was happening.

ADV POOE: My apologies. All right, so, then let us extend that period. So, between 2021 and 2024, when Ms Nyangule then calls you to ask for a meeting, would the number of calls still be about three or four?

BRIGADIER NKHWASHU: No, obviously it is adding to those calls, yes.

ADV POOE: So, you have already told us that in that seven-year period you had three or four calls. In the additional three years, can you give a guesstimate?

BRIGADIER NKHWASHU: I really cannot remember, Advocate.

ADV POOE: But you would not say it was a lot? It sounds like ...[intervenes]

10 **CHAIRPERSON:** Or there could not have been any at all.

ADV POOE: Yes.

BRIGADIER NKHWASHU: Between 2021 to 2024, I do not remember. I do not remember any.

ADV POOE: You do not remember any?

BRIGADIER NKHWASHU: Yes.

CHAIRPERSON: So, what you remember is that from 2014 to 2020 – no, no, I want to go beyond. To 2024, yes. All that you remember is three to four calls. That is all you remember.

20 **BRIGADIER NKHWASHU:** That is what I think it could have been.

ADV KHUMALO SC: Can we be more specific? Since what you say was the customary marriage between Mr Molefe and Ms Fundiswa Nyangule. So, from the date of the customary marriage until this meeting in Alberton in

2024, had you spoken to her at all? So just cover the date from the customary marriage until when she wanted you to meet in June 2024. During that period, did you speak to her at all?

BRIGADIER NKHWASHU: I am trying to jog my memory, Commissioner.

ADV KHUMALO SC: Maybe I will tell you why I am asking this. Because I had understood you to be saying you were angry, you were upset that she was marrying somebody who
10 was already married. And you wanted nothing to do with that. So, I am assuming because of that, I will call it disappointment, I will not say anger. That disappointment, there was no communication between you and her after that.

BRIGADIER NKHWASHU: Correct, Commissioner. But as I am trying to jog back my memory, I think, because I remember knowing that I remember having been told that Fundiswa is married to that guy that you were talking about. And she is staying in Durban. So that could mean that,
20 although I do not have a good recollection, but that could mean that I might have spoken to her, but I did not hear, what I could remember is that I did not hear from her that she was married to that guy.

ADV POOE: And so, it would be fair to describe your relationship then as strained. It does not sound like you

had much of a relationship after 2005. Or at least from 2014 till 2024 when she asked for a meeting.

BRIGADIER NKHWASHU: Advocate, I would say it is not. Between 2014 and 2024, much as I do not remember how many calls we had, I remember that there was a moment when she was being chased around when she was in Gauteng. Which is what I thought, that is what prompted her to move to Durban. Because there were people chasing her around for what we did not know. Because at some
10 stage she was - there was a house robbery and I was called and she moved from Meadowlands to Roodepoort sometime and then she moved from Roodepoort to Fourways and during that time I was on the case of trying to assist in protecting her, so, but it was after 2005.

ADV POOE: Yes.

BRIGADIER NKHWASHU: Yes, so.

ADV POOE: Brigadier, maybe just to ...[intervenes]

CHAIRPERSON: Just before that, who called you? You said you were called. Who called you?

20 **BRIGADIER NKHWASHU**: Yes, there are a family member who is very, very close to Fundiswa. It is also the sister to my wife. So, she would call and say, Fundiswa had this and this and this, because they knew we were very, very close with Fundiswa.

CHAIRPERSON: All right, no, no, no, I just wanted to

know who called you.

BRIGADIER NKHWASHU: Yes, no, it is the family member, the sister to my wife.

CHAIRPERSON: Thank you.

ADV POOE: Brigadier, I accept that between 2025 and 2014 you had a relationship and this incident you are describing happens in that window, correct?

ADV KHUMALO SC: Ms Pooe, you keep saying 2025. I think you meant 2005. That is why you keep getting
10 confused.

ADV POOE: My apologies, 2005, my apologies Brigadier, and 2014 I accept that. My interest in finding a way to describe a relationship is more between 2014 and 2024, because you have testified that you only recall about three or four calls. How would you then describe that kind of relationship?

BRIGADIER NKHWASHU: Yes, Advocate like I was saying, I am trying to jog back my memory. I am not sure of the calls that we made, but as I am saying also, I am
20 remembering as we were talking that there was also this case, and I remember it was between that 2014 and 2005 that she went to Roodepoort Police Station also to report a case, and when she was there, she phoned me to tell me what is happening, and then I went there. So, most probably it will be more than those calls, numbers that I

have mentioned.

ADV POOE: Okay, thank you Brigadier. And then, with that, those few calls that happened in between 2014 and 2024, you then get a call saying she is requesting to meet, correct?

BRIGADIER NKHWASHU: Correct.

ADV POOE: And for this meeting she comes from Durban.

BRIGADIER NKHWASHU: Correct, Advocate.

ADV POOE: At that stage she had moved to Durban.

10 **BRIGADIER NKHWASHU**: Correct, Advocate.

BRIGADIER NKHWASHU: And her coming to Joburg is specifically to meet you.

BRIGADIER NKHWASHU: Correct, Advocate.

ADV POOE: And then, during this, she asks you about assistance in relation to her family estate, her deceased family estate. So, at this point, does that include now her siblings, or was this in relation to her mother?

BRIGADIER NKHWASHU: Also including the siblings, because she said, I remember when we were talking about
20 not being wanting to narrate too much and disclose certain hidden things, talk about the estate of the brother.

ADV POOE: Okay.

BRIGADIER NKHWASHU: Yes.

ADV POOE: And then, you say that in this meeting she then had a conversation with you about meeting Mr Molefe.

BRIGADIER NKHWASHU: Correct, Advocate.

ADV POOE: Now, when this happens, you had not met Mr Molefe at all. And, in fact, on your version, you had only heard about him in 2005. What did you think about this request to meet him?

BRIGADIER NKHWASHU: I asked her, why does your husband want to meet me? She says, it is not good that you guys do not know one another. Yet, me, I communicate with you now and then. And now, my husband is more than
10 willing to meet you. And I want, me as Fundiswa, I want you to meet my husband.

ADV POOE: Brigadier, just to make sure, in your earlier statement you said that, was it her husband that wanted to meet you?

BRIGADIER NKHWASHU: Yes.

ADV POOE: Right, and then she, of course, had her own independent desire for you to meet him.

BRIGADIER NKHWASHU: Yes. So, both of them, they wanted to meet me according to my understanding.
20 Because she said, it is not right for you not knowing my husband. Now, my husband proposed to meet you. And I also want you to meet my husband.

ADV POOE: Now, did you find it at all strange that this request was coming in 2024 when they got married in 2021 and you started knowing of him and his intention to marry in

2005?

BRIGADIER NKHWASHU: Of course, Advocate, I find it strange.

ADV POOE: And did you convey those feelings of finding it strange?

BRIGADIER NKHWASHU: To her?

ADV POOE: Yes.

BRIGADIER NKHWASHU: Yes, of course. As we were discussing, I asked politely that, ...[speaking in vernacular]
10 why ...[speaking in vernacular] and, ...[speaking in vernacular] and you know that he is a married man. Is he no longer married? No, no, no, he is divorcing with his wife. So, he will come and confirm it to you. So, he is no longer a married man. So, I said, oh, okay. It is fine.

ADV POOE: Okay, so, because he was no longer married, is that what made you be willing to meet, or you were willing to meet irrespective?

BRIGADIER NKHWASHU: It loosened my feeling about the man.

20 **ADV POOE:** Okay, now, at this stage, outside of what you know of him, which is he is a businessman and he was married, did you know anything else about Mr Molefe?

BRIGADIER NKHWASHU: No.

ADV POOE: And had you checked on Mr Molefe, who he is?

BRIGADIER NKHWASHU: No.

ADV POOE: Or asked anyone about him?

BRIGADIER NKHWASHU: No, not at that stage.

ADV POOE: Okay, and so, you then proceed to the meeting with Mr Molefe, and you have already testified that Ms Nyangule and your nephew did not stay long.

BRIGADIER NKHWASHU: On the meeting with Katiso?

ADV POOE: On the meeting with Katiso.

BRIGADIER NKHWASHU: Yes, Advocate.

10 **ADV POOE**: All right, so, the two of you, you say, talked on very general terms, you say?

BRIGADIER NKHWASHU: Correct.

ADV POOE: Including that he told you about his various business interests and the security sector.

BRIGADIER NKHWASHU: Correct, Advocate.

ADV POOE: And then you say you told him about your approaching retirement. Was this a frank discussion about you potentially joining him?

20 **BRIGADIER NKHWASHU**: Perhaps. Can you narrate on the frank discussion?

ADV POOE: Was it an offer? You are saying, I am retiring. He says, I have interest in security. And in fact, you said, which is beyond your statement, that he had a tender. I think you said Machabeng.

BRIGADIER NKHWASHU: Correct, Advocate.

ADV POOE: And that tender needed security.

BRIGADIER NKHWASHU: Correct, Advocate.

ADV POOE: And so, he was offering, or at least requesting, that when you retire, you would come and work with him.

BRIGADIER NKHWASHU: Correct, Advocate. Let me tell you that as we were discussing, after all the discussions, when he came to this point, I finally thought, oh, this is why he wanted to come and see me. Because he told me about
10 this tender there, and it is a multi-billion tender, and I am needing three security companies to be in this particular area. And as you say, you are nearing retirement. I think it can assist you in your retirement, if you choose to. Then I said, no, you are coming up with something good I am interested in, and we can start working on the issues on my period of nearing retirement.

ADV POOE: Okay, so, you are saying that that then felt like this was the crux of why he wanted to meet you.

BRIGADIER NKHWASHU: Exactly. Because all this time, I
20 was still so casual.

ADV POOE: Cagey?

BRIGADIER NKHWASHU: Yes, cagey.

ADV POOE: Because when you say casual, but you are ...[intervenes]

BRIGADIER NKHWASHU: I am sorry. You know

...[speaking in vernacular].

ADV POOE: So, you were still apprehensive and cagey.

BRIGADIER NKHWASHU: Exactly. I was still cagey as to exactly why did he want to come and meet me. Because he was just telling me, introducing himself, telling me his upbringings, going to school, and he is a businessman, and so forth. He grew up playing this and that. You know, telling me, like, he is giving me his CV.

ADV POOE: Okay.

10 **BRIGADIER NKHWASHU**: You understand.

ADV POOE: Yes.

BRIGADIER NKHWASHU: But still, I was not convinced, but a little bit convinced to think that maybe he is trying to qualify that he is a good man for my sister. Because he even told me that he is in the process of a divorce. Without me asking him, then I thought, oh, okay, Fundiswa told him that this is what I said. So, in a way, I was starting to be convinced that I was starting to give him a benefit of doubt.

ADV POOE: Okay, all right, and so, he tells you about this
20 opportunity. You agree that, okay, that is something that is good and something to consider. And then he, I guess you are concluding, you say, he then asks you a question about this bail application. How does it come about? Does it come about as abrupt as you describe it?

BRIGADIER NKHWASHU: Correct, Advocate. We were

sitting now, finishing our meal and drinks, and it was now some time that we have been talking, talking, talking. So, after concluding this issue of the security business and the likes, and I am now open, now. Now, I am starting to like the man.

ADV POOE: Okay.

BRIGADIER NKHWASHU: Yes, I must be honest. I am starting to like the man and open up now. Ah, this is a good idea to know our plans well, you know. I got an
10 experience where I can run security and I will start registering security company. And I think I will be pensioning towards the right direction. Because I had my plans, but this one, I think it supersedes my plans.

ADV POOE: Okay, so it was not just a casual, you were in it with what you were saying and about the security.

BRIGADIER NKHWASHU: Yes, about the business.

ADV POOE: Yes.

BRIGADIER NKHWASHU: We talked in depth. We talked in depth.

20 **ADV POOE**: So, this in-depth conversation about the opportunity starts to die down as you are finishing your meals. How does this then come up about the friend who is been arrested?

BRIGADIER NKHWASHU: Yes, as we were about to finish, and I am saying, hey, thanks very much, man, but time is

running out. He even said, no, no, no, do not worry, we will ask for a bill and then I will foot the bill and then we will go. Then, as the waiter came and then he told him that, I know, prepare for us the bill. Now, this latter topic now comes.

ADV POOE: Yes.

BRIGADIER NKHWASHU: Yes, yes, yes, yes, Suar. One of the three things I wanted to ask you about, *swaer*, ...[speaking in vernacular] and he started explaining ...[intervenes]

10 **CHAIRPERSON**: Sorry, Brigadier, you speak English well. Can you please say all of that in English for the record?

BRIGADIER NKHWASHU: I apologise, Commissioner.

CHAIRPERSON: No, no, no, no need to apologise at all. It is our languages, but this is purely for the record.

BRIGADIER NKHWASHU: Thank you very much, Commissioner. So, he started telling me that one of the friends that he grew up with, that he was telling me about has ...[intervenes]

20 **ADV POOE**: Sorry, Brigadier. So, just to note what you had said, you started with, he asked you for help and said, eish brother-in-law, there is a problem that I have.

BRIGADIER NKHWASHU: Yes.

ADV POOE: Is that correct?

BRIGADIER NKHWASHU: Yes.

CHAIRPERSON: [Speaking in vernacular]... there is a

problem that I have.

BRIGADIER NKHWASHU: Yes. One of those friends that I was talking about earlier on is arrested and I hear he is arrested by you. And he is seeking bail and I said oh, *swaer*, wait, wait, wait, my brother. That is when I started - I stopped him on his tracks to tell me the details. Before he even tells me who this friend is, then I started changing to say, I do not discuss work cases. And I not even discuss work with my wife.

10 **ADV POOE**: Yes.

BRIGADIER NKHWASHU: Yes.

ADV POOE: Now, when he says one of the friends ...[intervenes]

CHAIRPERSON: The latter part is difficult to believe. We always hear about pillow talk and I would assume that most people do engage in pillow talk. So, involving even matters of work. So, I am surprised to hear that you did not discuss your work with your wife in what I refer to as pillow talk. But anyway, that is beside the point, and it is not important.

20 **BRIGADIER NKHWASHU**: Thank you, Commissioner.

ADV POOE: Brigadier, so when he says one of the friends, I was talking about, given that you described the conversation about his upbringing and friends in general terms, did you know what friend he was talking about?

BRIGADIER NKHWASHU: No, I did not.

ADV POOE: Did he say the friend who was a police officer or were there any identifying adjectives or descriptions that he was giving? Or he just said a friend that I spoke about?

BRIGADIER NKHWASHU: He just said a friend, my friend. And then I started saying, oh, as long as – the thing that prompted me to stop him is when he says, this particular friend of mine was arrested by you in Vereeniging. Then I said, I do not discuss my cases, not even with my wife. So, if you want me and you to have a sound relationship, *swaer*,
10 let us not talk about my work because if we start talking about my work now, I am doing something that I will lose my work. I do not talk about my work. Let us respect one another for that.

ADV POOE: And when he said ...[intervenes]

ADV BALOYI SC: Sorry, Ms Pooe.

ADV POOE: My apologies.

ADV BALOYI SC: Brigadier, earlier on you said a few sentences back, you said he said that the friend that I was talking about earlier, you remember saying that?

20 **BRIGADIER NKHWASHU**: Yes, Commissioner, maybe if I may clarify. Maybe I put it out of context. He earlier on told me that his upbringing with friends. So, amongst those friends, there is a friend of him who was arrested in my area by me.

ADV BALOYI SC: I see. Thank you.

BRIGADIER NKHWASHU: Thanks, Commissioner.

ADV POOE: And then when he says arrested by you, did you think he meant that physically, literally, or figuratively as an arrested in your area?

BRIGADIER NKHWASHU: I did not analyse that at that moment. I just decided to stop him on his tracks.

ADV POOE: Okay, and what was his response to you saying, I do not talk about work issues, or let us not go there, let us respect each other, you said?

10 **BRIGADIER NKHWASHU**: Yes, he said, *swaer*, I am sorry if I am stepping on the wrong footing, but I did not mean to risk your job. And I said, no, *swaer*, there is no problem. There is no breaking of any relationship. I am just telling you my policy.

ADV POOE: All right, thank you, Brigadier.

ADV KHUMALO SC: Are you leaving this part?

ADV POOE: Not quite. And now, when he says to you, when you say to him, no work-related cases, why does he say he did not mean to put your job at risk? Is that
20 something you said in response to him?

BRIGADIER NKHWASHU: Yes.

ADV POOE: What exactly did you say, sorry? Or what do you recall saying?

BRIGADIER NKHWASHU: In response?

ADV POOE: Yes, because you say that when he

apologised, he says, I did not mean to put your job at risk.

BRIGADIER NKHWASHU: I said, *swaer*, there is no breaking of a relationship by saying that. I did not mean to say, when I cannot help you, breaking of a relationship. Like, I am sorry, Commissioner, I have to interpret this in vernacular, because we were speaking in vernacular, if I may. I said, *swaer*, this thing, ...[speaking in vernacular], please it is off limits. Let us not go there, *swaer*. So, meaning, it does not break any relationship for me to tell
10 him that my work is off-limits. So, and we can continue with any other thing, but not my work.

ADV POOE: And in relation to this topic, did you get a sense that this was also part of the reason why he wanted to talk to you?

BRIGADIER NKHWASHU: Exactly, Advocate. As I moved on, after we have parted ways, you know you will be doing the recollections. It came across my mind that, no, I think even this thing of the business, he was just trying to entice me so that when we come to the issue of the friendship, he
20 is offering me, and I will perhaps also do him a favour. That crossed my mind.

ADV POOE: So now, when this crossed your mind, this is now after the fact?

BRIGADIER NKHWASHU: Yes.

ADV POOE: All right.

ADV BALOYI SC: Brigadier, it would seem, in the way that you describe how things escalated to this discussion now, you started by saying, in fact what happened first, there was a general discussion, and you happened to mention in that general discussion about your approaching retirement. So that part, you have just met and you are trying to know each other, it sounds like in that part.

Then now you discuss the serious matter of him raising the issue about his friend. It seems from this
10 account that in fact that was the purpose of him meeting with you, considering also that you have not had much dealings with Fundiswa since she got married to him, or after your divorce. You have not had any dealings. You are meeting this man for the very first time.

On the face of it, it looks like Fundiswa called you out of the blue to say I would like you to meet my husband. And the main thing, or the most serious discussion out of it, is about his friend. On the face of it, it looks like that was really the purpose of Fundiswa asking you to meet with him.
20 At least that is what it looks like to me.

BRIGADIER NKHWASHU: Should I comment, Commissioner?

ADV BALOYI SC: Okay, you may.

BRIGADIER NKHWASHU: I agree.

ADV BALOYI SC: Thank you.

CHAIRPERSON: And at that point, let us adjourn and resume at 5 past 2.

INQUIRY ADJOURNS

INQUIRY RESUMES

BRIGADIER NKHWASHU: Yes, Ms Pooe.

ADV POOE: Thank you, Chair. Brigadier, just to orientate us, we had just concluded dealing with the meeting that you had with Mr Molefe and you have also testified earlier that after the meeting you conveyed to Ms Nyangule that the
10 meeting went well and you had a general discussion. And did you convey any of the discomfort that you experienced in the meeting?

BRIGADIER NKHWASHU: No. I did not at that time, Advocate, but at a later stage.

ADV POOE: All right. And at a later stage, you mean when?

BRIGADIER NKHWASHU: It was after we had the stokvel meeting and it transpired that allegedly I sent this Sergeant to go to the investigating office.

20 **ADV POOE:** All right. Commissioners, I am going to move to the stokvel issue. And for purposes of that, if we can pull out CJC184. Brigadier, so that is in Tab 4. It is the very first document, and that is the statement of Sergeant Tshukudu. Just so that you can be able to look at it alongside your own statement, I am just going to ask that

you take it out of the file. It will make it easier to navigate between the two documents.

ADV KHUMALO SC: Advocate Pooe, I hope the names that need to be redacted are redacted so that they are not mentioned.

ADV POOE: Yes, in the morning we undertook that exercise with the Brigadier. Brigadier, maybe let me just make sure at CJC184, please, wherever you see the name of Witness B, just mark it if you have not already crossed
10 that out.

BRIGADIER NKHWASHU: Thank you ...[intervenes].

CHAIRPERSON: Are you saying there was an exercise to actually write B and so on instead of the actual names?

ADV POOE: We did that for the statements at the start of the day. I am just trying to ascertain that we have also done it for the statement. Alternatively, if you can just use ...[intervenes].

CHAIRPERSON: Let us just take a two or so minute adjournment just to make sure, sure, sure.

20 **ADV POOE**: No, I was going to suggest, because we have given him two bundles, one where it is redacted. So, I am just going to ask him to have regard to the redacted bundle. Brigadier, can you confirm that you have the redacted statement?

BRIGADIER NKHWASHU: I confirm that, Advocate.

ADV POOE: Thank you. So, you say a few days after your meeting with Mr Molefe, you then attend a stokvel where you had other police officers. Is it a police stokvel or is it just a social with other civilians?

BRIGADIER NKHWASHU: It is not a police stokvel, Commissioners. However, the members of that stokvel is mainly police officers. And, of course, there will be two or three other civilians. But, in majority, we will be sitting in places where, or should I say, me, myself, I will be sitting
10 surrounded by the police members.

ADV POOE: All right. And at paragraph 29, you just deal briefly with your relationship with Sergeant Tshukudu and you say that you have been good friends since 2017. Would you have met around the time that you were stationed in Atteridgeville?

BRIGADIER NKHWASHU: Before Atteridgeville, Commissioners, because I went in Atteridgeville in 2018.

ADV POOE: Okay. And at the time, were you his supervisor or anything, or it was just a casual meeting when
20 you meet him?

BRIGADIER NKHWASHU: It was just a casual.

ADV POOE: And has he ever worked under you?

BRIGADIER NKHWASHU: No, Commissioners.

ADV POOE: So you have only ever known him as an officer in a different unit?

BRIGADIER NKHWASHU: Correct, Commissioners.

ADV POOE: But in terms of rank structure, you are more senior?

BRIGADIER NKHWASHU: Correct, Advocate.

ADV POOE: And then you say that you discuss both professional and personal matters. In the professional sense, is it just as you would to vent your frustration if you have a friend in the force, or does this mean even investigative work?

- 10 **BRIGADIER NKHWASHU**: Commissioners, we will at times engage on professional work, where I remember I made mention that in 1996 to 1997, I worked in the Organised Crime and Sergeant Tshukudu and other colleagues are working in that environment. And from time to time, they will be talking about projects, and project is in the form of tracing wanted suspects.

Then when they are looking for suspects within my vicinity, they will always come and consult with me, and then we will assist one another and apprehend those
20 suspects. So we will engage on professional level.

ADV POOE: In the example you just gave, it is one where Sergeant Tshukudu is working as a suspect in your area. Does it ever happen that you would require some assistance from him?

BRIGADIER NKHWASHU: Yes, of course. I will require

assistance from him.

ADV POOE: Can you give an example of in what sense?

BRIGADIER NKHWASHU: We will be engaging from time to time to say, look, in my station, like I was in Atteridgeville, we were at some times looking for these Organised Crime syndicates, and those were taxi-related. Now, I will check with them to say, do you not have leads towards these people that we are looking for? And we will share information if they have and if they do not have.

10 **ADV POOE**: And in your relationship, do you ask him for favours?

BRIGADIER NKHWASHU: No.

ADV POOE: Okay.

BRIGADIER NKHWASHU: But perhaps, I am sorry, Advocate, maybe if you can, or perhaps with my understanding, because if I am asking him to check information on the suspect that we are looking for, or I send them there is this suspect in this particular place, now you are working in and around those areas, please see if you
20 can arrest this particular suspect. I should think those are favours.

ADV POOE: So you would term that as a favour?

BRIGADIER NKHWASHU: Yes.

ADV POOE: And in that instance, is that a request or is that a command coming from a senior officer?

BRIGADIER NKHWASHU: It all depends on what circumstances are we talking. For an example, if I will be phoning from my work office and request that kind of favour that I have elaborated on, it will be a request because he is not serving under my direct supervision and they can only take instructions from the direct lineage command.

And if I have to give an instruction, which I am privy to that, I will do it in writing and communicating with his or their commanders. But if I talk to him personally or
10 talk to other colleagues personally, verbally or telephonically, it will be an informal one, which is then a request.

ADV POOE: Okay. And you have, as you have said, asked for informal requests from him?

BRIGADIER NKHWASHU: Yes, Advocate.

ADV POOE: And then let us get back to the stokvel. You mentioned in your statement that it was Sergeant Tshukudu and the others. Do you remember who the others are? The other members?

20 **BRIGADIER NKHWASHU**: Yes, Advocate.

ADV POOE: And do you have a problem giving us the names of those others?

BRIGADIER NKHWASHU: I do not have a problem myself. However, you know, when you start mentioning Madlanga Commission, no one will want his name to be mentioned

because people have a fear of being implicated.

ADV POOE: I think, Brigadier, it depends on the context within which you mention them. In this instance, they are just parties to a conversation, but I am happy for you to provide us with the names offline if that would assist.

BRIGADIER NKHWASHU: Advocate, although I am not comfortable mentioning their name, really, I had a situation with one of my commanders for just mentioning it. Like in this similar situation to say this colleague of mine told me
10 this, and it was not something bad. It was work-related. And then up to this today, Advocate, we are not in talking terms by virtue of me mentioning just his name to say this particular matter was dealt with by him, but I do not have a problem to mention the names in *camera*.

CHAIRPERSON: What we have done in the past, Brigadier, is to have witnesses. In fact, it would be the witnesses who offer. We have never asked for it. The witnesses would offer to write the names down and the names would be viewed by the Evidence Leaders and their legal
20 representatives and they would then be brought to us, and we would keep those names. But that is something Commissioner Baloyi wants to raise.

ADV BALOYI SC: I just wanted clarification from Ms Pooe. Where you speak about the others, is it the others at the stokvel or the others who came to Commissioner

Nkhwashu's jurisdiction to escort suspects?

ADV POOE: It is the others that were party to this conversation because Brigadier Nkhwashu mentioned in his testimony earlier that when he was mentioning this suspect that was escorted, this conversation was had in the presence of Sergeant Tshukudu and others. Unless I misunderstood you, Brigadier.

BRIGADIER NKHWASHU: No, you are quite correct, Advocate.

10 **ADV BALOYI SC**: Well, I was going to suggest that to the extent that the others include people who had come to your jurisdiction to escort suspects, I do not see why that should be problematic to disclose, which is a different others from those that were party to a discussion. I do not know if you understand the distinction that I am drawing.

ADV POOE: Yes, I had assumed and perhaps the wrong impression that both the others are the same people. They had been party to the conversation, and some of them had been part of the escorting.

20 **BRIGADIER NKHWASHU**: Correct, Advocate.

ADV BALOYI SC: Ja. Brigadier, I would not understand why you would have a difficulty with saying who came with Sergeant Tshukudu to your jurisdiction escorting suspects. I would not understand why you cannot disclose their names.

BRIGADIER NKHWASHU: Okay. Commissioner Baloyi, is everything, I hope they are listening where they are. They will understand that I do not mean bad to mention their names since we are colleagues and friends. Among them, I remember there is Warrant Officer Rikhotso, and there is Lt-Col Khalo. Ja.

ADV POOE: My apologies, Khalo?

BRIGADIER NKHWASHU: Ja.

ADV POOE: K-h-a-l-o?

10 **BRIGADIER NKHWASHU**: Yes.

ADV BALOYI SC: These are the ones that came, would have come with Tshukudu to your jurisdiction escorting suspects?

BRIGADIER NKHWASHU: No, Commissioner. Those were the people that we often meet in the stokvel, and they were there in that stokvel.

ADV BALOYI SC: Okay, thank you.

ADV KHUMALO SC: Go to paragraph 29 and 30 of your statement, the main statement on page 9. You will see in
20 paragraph 29 you say:

“A few days later I attended a social gathering, the stokvel with colleagues.”

But I think where you specifically mention people is the second sentence of paragraph 30, because you then amended it. Originally it reads as follows:

“I recall my earlier conversation with Katiso in which he had asked about bail to an unnamed friend. I then said to Tshukudu, without instruction...”

And then it continues. But when Ms Pooe asked you was it only to Tshukudu, then you said it was to Tshukudu and the broader group. So in the context of this question, she wants to know who is this broader group that overheard this conversation. Do I have that correctly, Ms Pooe?

10 **ADV POOE**: Yes.

ADV KHUMALO SC: Okay. So this specific conversation in paragraph 30, you mentioned it to Tshukudu and who else? Because you amended your statement to read Tshukudu and the broader group. That is according to my notes.

BRIGADIER NKHWASHU: Thanks, Commissioner. As I have understood you, it was Warrant Officer Vhelaphi that I can recall off heart, but I can check who are the other names ...[intervenes].

20 **ADV KHUMALO SC**: Vhelaphi is Rikhotso.

BRIGADIER NKHWASHU: Pardon, Commissioner?

ADV KHUMALO SC: You say Vhelaphi, but earlier you had said Rikhotso and Khalo.

BRIGADIER NKHWASHU: Excuse, Commissioner. Vhelaphi is his first name. It is Warrant Officer Vhelaphi

Rikhotso.

ADV POOE: Okay.

ADV KHUMALO SC: Advocate, I think the second person you said was Colonel Khalo.

BRIGADIER NKHWASHU: Not in this ...[intervenes].

ADV KHUMALO SC: Not in this conversation?

BRIGADIER NKHWASHU: Yes.

ADV KHUMALO SC: So in this conversation, who was there and who overheard the conversation?

10 **BRIGADIER NKHWASHU**: Ja. I am saying, Commissioner, it is Warrant Officer Vhelaphi that I remember and then those others, I cannot recall their name out of my head, but I see their pictures, but I can find out quickly and submit them.

ADV POOE: And so are we then to understand that Lt-Col Khalo there is one of the people that was escorting suspects?

20 **BRIGADIER NKHWASHU**: No, Advocate. Khalo is the one we normally meet. He was there during the conversations at the stokvel.

ADV POOE: He was there at the conversations at the stokvel?

BRIGADIER NKHWASHU: Yes.

ADV POOE: Okay. So it was Warrant Officer Rikhotso and Lt-Col Khalo as well as Sergeant Tshukudu.

BRIGADIER NKHWASHU: At the stokvel, yes.

ADV POOE: Those that you can remember.

BRIGADIER NKHWASHU: Yes.

ADV POOE: All right. And then it was them that raised this issue of transporting or escorting a suspect in your jurisdiction.

BRIGADIER NKHWASHU: Yes.

ADV POOE: And then you then say you recalled your earlier conversation with Mr Molefe in which he was asking
10 you about bail of an unnamed friend. I am just trying to understand what triggered your recollection. And maybe to just explain that I am asking it in the context when I asked you what about the friend. Remember when you were in the meeting with Mr Molefe, he said a friend he had mentioned earlier, right?

Now, and you then said that he had mentioned his upbringing and friends that he had, but when he broached the subject at the end of your conversation, he had just started with a friend who had been, I have a problem with a
20 friend who had been arrested by you and I needed to know if the state would oppose bail.

Now, it was in those terms. Now, you say when they say that Officer Tshukudu and others that they had escorted a suspect, you then recall your conversation with Mr Molefe. What triggers your recollection?

BRIGADIER NKHWASHU: Thanks, Commissioners. What triggered my recollection about that is when they said we were escorting this suspect where specifically this police officer, Michael Tau, is involved and is one of the suspects. And they were escorting him and the others to the court for bail application.

ADV POOE: Okay. Now, earlier when I asked you about the friend, I even asked specifically if Mr Molefe had identified the friend as a former police officer. You had
10 indicated not. So, and you said that he said a friend. He did not give you the name of the friend. So, what about them mentioning the transporting of a Michael Tau led you to believe that it was the same person that Mr Molefe was talking about? And I accept that you say it was in your jurisdiction, but I imagine they are suspects being transported in and out of your jurisdiction.

BRIGADIER NKHWASHU: Thank you very much, Advocate. As I recall, when they started talking about the bail and Katiso spoke about the bail in your jurisdiction where you
20 have arrested my friend, obviously, I am not arresting many. I am not involved in many arrest incidents.

So, I could only think of that one because you will recall, Advocate, that during the arrest of Pule Tau, I was acting as a District Commissioner. And hence, I coordinated the arrest of this particular Tau and company.

So, I do not normally arrest or coordinate the arrest of those what you call on a day-to-day basis.

ADV POOE: Maybe, Brigadier, this is something that I did not capture. I understood your involvement in the process to have been that once there was an arrest and a case was registered, how the Organised Crime came before the case was actually assigned to an investigating officer and requested it and a colonel called you and you gave the authorisation. So, are you saying that your involvement
10 extended beyond that authorisation? Your involvement started earlier with the coordination of the actual arrest?

BRIGADIER NKHWASHU: Thank you, Advocate. That is 100%. When the shooting of Armand Swart took place, the members, including the colonel that I spoke about, attended the crime scene. And as an Acting District Commissioner, they had to report to me that incident because it is a serious incident.

Then when they report to me, I am duty-bound, meaning I am compelled to coordinate where I can on the
20 possible arrest of the suspects concerned. So, I was actively involved in guiding them what to do, meaning to mobilise aid. Mobilising aid just simply means that the experts that will be called to come and assist with the processing of the crime scene. So, I was actively involved. I was guiding them what to do up until the arrest of this

Michael Pule Tau.

And therefore, when Katiso said you arrested this friend of mine, and then these ones, they talk about Michael Pule Tau, it is me who arrested him, in a way. So, and they talk about the bail. Obviously, it triggered my mind to say, this is the only case that they can, and this is of a serious nature, and it is a police officer. You cannot forget that.

ADV POOE: Maybe just to take a step back, just so that we can understand it in the broader timeline. Evidence that
10 has been presented before this Commission is that the murder happens in Vereeniging. Just one second. There are three other crime scenes that are related to the Vereeniging case, which is Bramley, where I think Michael Pule Tau was arrested there. And those arrests, in part, were done by Gauteng Organised Crime.

So, was it a joint coordination, or they take over from you at some point? I am asking because this is the first time we are hearing of Vereeniging police officers' involvement in the arrest process.

20 **BRIGADIER NKHWASHU**: Thanks, Advocate. Indeed, it was a joint operation. They joined along the way. They were called in after the incident.

ADV POOE: Called in after the incident?

BRIGADIER NKHWASHU: After the incident, yes, Advocate.

ADV POOE: Okay. And so your role was to – called in by whom? My apologies.

BRIGADIER NKHWASHU: Pardon?

ADV POOE: You say they were called in after the incident. Called in by who?

BRIGADIER NKHWASHU: By the members at the crime scene, including the colonel that I was communicating with.

ADV POOE: So, was it your instruction that they call them in, or the colonel was acting of his own regard?

10 **BRIGADIER NKHWASHU**: No, it was my instruction.

ADV POOE: It was your instruction?

BRIGADIER NKHWASHU: Yes.

ADV POOE: Okay. So, you coordinated – after the incident, you coordinated the arrest of the suspect. It was a joint operation, and you issued the instruction for Gauteng Organised Crime to be called in.

BRIGADIER NKHWASHU: Exactly, Advocate.

ADV POOE: Okay. And so, at that time, you then knew that it was, one of the suspects was a police officer. From
20 inception you have always known that.

BRIGADIER NKHWASHU: No, I have known that after his arrest.

ADV POOE: Yes.

BRIGADIER NKHWASHU: Yes.

ADV POOE: Sorry, my apologies. When I say from

inception, I mean when the matter starts, which would have been the day of the arrest.

BRIGADIER NKHWASHU: Yes, after his arrest, yes.

ADV POOE: Now So, the only way you link what Mr Molefe says with what Sergeant Tshukudu and others were describing is because he says arrest by you in your jurisdiction, and they say, oh, and bail. And then they are talking about escorting a suspect in your jurisdiction and bail.

10 **BRIGADIER NKHWASHU**: A 100%, Advocate.

ADV POOE: All right. Now, you then say to them, my brother-in-law asked me whether the state is going to oppose bail, right? Is that correct?

BRIGADIER NKHWASHU: I am sorry, I am sorry, Advocate.

ADV POOE: Are you okay?

BRIGADIER NKHWASHU: I am okay, I am okay, I am okay.

ADV POOE: You remember at paragraph 30, you said we should change the someone to my brother-in-law, that you
20 were specific that it is your brother-in-law who recently asked you whether the state is going to oppose bail. Remember that?

BRIGADIER NKHWASHU: Yes.

ADV POOE: So you tell them that, and you told them that you would discuss these issues. Now, in the conversation

you were having before the break, you confirmed to Commissioner Baloyi that ultimately you thought this was the nub of Mr Molefe's meeting with you. This is what he really wanted to discuss and the discussion related to the job opportunities was really to entice that this was the call. Then you also explained that having thought about it, you were also uncomfortable with this.

And then you get to the stokvel. They are talking about this. You then say to them that your brother-in-law
10 was asking about this. Why did you feel it necessary to raise this, given your discomfort that you expressed about Mr Molefe even approaching this subject with you?

BRIGADIER NKHWASHU: Why do I feel comfortable to raise it? You mean here in the Commission?

ADV POOE: No, no, no. In that conversation, you raised the issue that, oh, my brother-in-law was asking about bail, and I did not want to discuss it.

BRIGADIER NKHWASHU: Yes.

ADV POOE: But recall that before we took the lunch
20 adjournment, you had already said to us that you felt uncomfortable, you thought this is why Mr Molefe wanted to see you because he wanted assistance in this matter. You shut that conversation down quickly. Now you are at the stokvel, where you are dealing with officers who are transporting the same suspects, and then you raise to them

this discussion. Why?

BRIGADIER NKHWASHU: It just came to my mind during that time. And on a passive note, you know, we usually talk about such things. You know, when you are talking about this, my brother-in-law came in and was talking about this. So I thought, it just quickly got to my mind at that particular moment in time. I did not think twice about it, as to whether I should talk about it or not, but I just quickly touched on it.

ADV BALOYI SC: Can I ask, Brigadier, it seems from your
10 account that something is missing, that your discussion with Mr Molefe, for this later part of your account at paragraph 30 to be complete and to make sense, it has to be that when Mr Molefe met with you, he did mention who the person was, what the case was about, because he was not asking you in general terms.

If all he was doing was saying your people have arrested a friend of mine, your people are arresting friends of his, or arresting people all the time. Not you, but in your jurisdiction, people are getting arrested. So if all Mr Molefe
20 said to you was you have arrested, meaning your people, have arrested somebody, it could be any case, right?

So he has to have been very specific with you what case it is or who that person is for you to be able to make that link at paragraph 30, that when Tshukudu says we were here escorting suspects and then telling you who that

suspect is, Michael Tau, you do not get triggered in a vacuum of that conversation with Molefe.

You get triggered if that is how it happened, because Mr Molefe did mention who it was that he was talking about. Otherwise, this account has got holes in it between your meeting with Molefe, who just asked about will the state oppose bail without saying what the case is about, without saying who is involved, only saying in a case that your people arrested my friend, will the state be
10 opposing bail, that conversation does not make sense in itself.

It has no context whatsoever, and you could never give him an intelligent answer. But it gets worse because in paragraph 30 somebody else starts a conversation. This time they mention a name, and they probably mention even what the incident is about, but just from the name you say you know what that case was about from what they say, and it triggers the whole conversation. It does not add up. There is something that is missing in your account,
20 especially of the discussion with Mr Molefe.

BRIGADIER NKHWASHU: Thank you, Commissioner Baloyi. Commissioner, let me put it this way. Commissioner, if I were sitting where you are sitting right now, I would be obviously and really thinking like you are thinking. I would be suspecting that there is a missing

puzzle here, but I thought about it also. How did this matter happen to be the Tau who is a friend of Molefe at the end of the day? Was it by coincidence?

How did it – but it exactly happened the way I put it, that I stopped Katiso on his tracks after he told me his friend that he grew up with, but he did not – perhaps he was going to mention the name, Commissioner, have I not stopped him before because he was still narrating, but I stopped him.

10 But when the Tshukudu, when Rikhotso started talking about this, about the bail, the word bail, Commissioner, and that this person was arrested by me, it put the name into me. But this friend of mine, I have not mentioned the name yet, but it happened to be Michael Pule Tau.

 And later it happened to be the very same Pule Tau who is arrested with Katiso. So I really agree with you the way you perceive it, but really, that is what happened. I would not know how it happened that it is the same person
20 that Katiso wanted to talk about.

ADV BALOYI SC: Ja, I think what I am struggling with is that all that Tshukudu says to you is that I was in your jurisdiction escorting suspects, at least according to your statement. He says, we were in your jurisdiction to escort suspects. And then he mentions that Michael Tau is

involved, or involving a police officer, if he does not mention a connection to Molefe, who is your brother-in-law, if he does not say that suspect is connected to Molefe, if he does not say that, one.

Two, if he does not say that it has to do with the Armand Swart case, but Molefe needs to have said to you it relates to the Armand Swart case for you to say, well, you know, actually my brother-in-law was asking me about bail. There is just missing information that makes your account
10 incomplete.

It may well be that in the realm of possibilities it happened the way you say it happened, that Mr Molefe, all he said was a friend of mine that I remember I mentioned, a childhood friend, he has been arrested. Rather, I want to know about whether the state will oppose bail, and you shut it down. And then paragraph 30 happened.

In the realm of possibilities, maybe it happened that way. But to me, something is missing in that account, how you get to connect the two. The Tshukudu
20 conversation, how you get to connect it with the Molefe conversation. If Molefe did not say to you it relates to the Armand Swart case, or that friend happens to be a police officer, it is someone that I grew up with. I am struggling with that account.

ADV POOE: Perhaps Brigadier, if we then look at Sergeant

Tshukudu's statement, it will shed some light on why it is difficult to accept that more was not said on either occasion, whether it was the meeting with Mr Molefe or the stokvel interaction. So if we start at paragraph 3 of Sergeant Tshukudu's statement.

ADV KHUMALO SC: Please remind him where he is because he had gone back to the original statement.

ADV POOE: It is the one that we removed from...

BRIGADIER NKHWASHU: I took it back.

10 **ADV POOE**: You took it back. It is the first document under Tab 4.

BRIGADIER NKHWASHU: Under?

BRIGADIER NKHWASHU: Tab 4.

CHAIRPERSON: Was the unredacted file taken away? A mistake just might happen, and we do not want that.

BRIGADIER NKHWASHU: It is A7.

CHAIRPERSON: And please make sure that the one you remove is the unredacted version.

20 **BRIGADIER NKHWASHU**: Thank you, Advocate. I am on Tshukudu's statement.

ADV POOE: All right. Now let us look at paragraph 3 of his statement.

BRIGADIER NKHWASHU: Okay.

ADV POOE: He says there:

“In 2024, though I cannot recall an exact

date and time, Brigadier Nkhwashu and I were sitting, and I could not remember where, but I was on leave. Brigadier Nkhwashu mentioned of a murder case that happened in Vereeniging, and the case is with our unit. I told him that I know of the case because in one of our SAPS WhatsApp groups there was an article in regard to the case and that a
10 police officer was arrested in that case. He...”

Meaning you:

“...further told him that the investigating officer of the case is Witness B, and he asked me if I knew her. I informed Brigadier Nkhwashu that I know Witness B and I work with her.”

I am just going to continue to paragraph 4 as well:

20 “Brigadier Nkhwashu then informed me that his brother-in-law, though he did not mention his name, says he knows the arrested person, and the brother-in-law wanted to know if the state would oppose bail. I then told Brigadier Nkhwashu that when I see Witness B, I will ask her if the

state will oppose bail. On my return to work, I met Witness B and I told her that I saw an article in a Vereeniging murder case and that she is the investigating officer. Witness B answered me that indeed she is the investigating officer and that the case is very sensitive and would not discuss the merits thereof. I then informed Witness B that I was with Brigadier Nkhwashu over the weekend who indicated that his brother-in-law wanted to know if the state is opposing bail or if the bail is to be fixed, how much will be the bail be. Furthermore, I informed her that Brigadier Nkhwashu's brother-in-law was willing to pay the bail for the accused person, Pule Tau. Witness B informed me that she was opposing bail. I then returned and informed Brigadier Nkhwashu that the state is opposing bail.”

Now, Brigadier, if you have regard to those two paragraphs where he discusses what you told him, there is a number of marked differences between the version that you have put down in your statement and his description of what

happens. Correct?

BRIGADIER NKHWASHU: Correct, Advocate.

ADV POOE: And you will see there on his account there is also information that came out of the meeting between you and Mr Molefe that you do not say you have ever mentioned to anyone. One such example is that Mr Molefe was willing to pay the bail of the accused.

That is something that you mentioned happened in the meeting, but in your recollection of what you said, you
10 said your brother-in-law asked you whether the state was going to oppose bail and you told him that you do not discuss work. So it is a fact that he knew only because you would have told him. Do you accept that?

BRIGADIER NKHWASHU: I will partially not accept that, Advocate. I will tell you why.

ADV POOE: Why? Yes.

BRIGADIER NKHWASHU: From the paragraphs that you read, you realise that my version is saying that I have not mentioned the name of my brother-in-law. And he went on.
20 I told him that I know of the case. In one of our SAPS WhatsApp groups, there was an article regarding that case. Now, and that a police officer was arrested.

ADV POOE: Yes.

BRIGADIER NKHWASHU: Now, he further told the investigating officer of the case, which is Witness B, and he

asked me if I knew him. Meaning I asked him if he knew Witness B.

ADV POOE: Yes.

BRIGADIER NKHWASHU: I never asked him. And he already knew about this case from their WhatsApp group. And he went on to say I told him that the investigating officer is Sergeant Mbele. And earlier on I testified before the Commissioners that the docket when it was taken to the Organised Crime, it was not having an investigating officer
10 yet. The investigating officer was assigned from the Organised Crime Commander as I related the processes.

ADV PETLANE: Could you indulge us and give us a five-minute break, please? There is something we would like to discuss with the Evidence Leader.

CHAIRPERSON: Let us adjourn.

INQUIRY ADJOURNS

INQUIRY RESUMES

CHAIRPERSON: Yes, Ms Pooe?

ADV POOE: Yes. Brigadier, perhaps let us do this, let us
20 take it one step at a time and go through the key differences between your version and that of Sergeant Tshukudu. So, the first significant difference is that Sergeant Tshukudu says you are the one that raised the issue related to the Vereeniging murder investigation. Can you see that?

BRIGADIER NKHWASHU: Yes, Advocate.

ADV POOE: And that you deny that you were the first one.

BRIGADIER NKHWASHU: I deny.

ADV POOE: All right. He then says that the case is, you said to him that the case was in their unit, i.e., Provincial Organised Crime.

BRIGADIER NKHWASHU: Correct.

ADV POOE: And do you deny this as well?

BRIGADIER NKHWASHU: That the case is in their
10 ...[intervenes].

ADV POOE: That you said that.

BRIGADIER NKHWASHU: No, no, I did not say that.

ADV POOE: But at this time you did know that the case is indeed in their unit.

BRIGADIER NKHWASHU: Yes, I knew.

ADV POOE: And you knew this because?

BRIGADIER NKHWASHU: I knew this because when the scene was finalised, they requested this office, which is Organised Crime, requested the docket. And you remember
20 I said, Advocate, that I authorised the transfer of the docket to the same unit.

ADV POOE: So, on the day of the murder and the arrest, you knew that it was in his unit?

BRIGADIER NKHWASHU: Correct, Advocate.

ADV POOE: Now, he says that he then says to you in

response he knows about this case because it was reported in one of the SAPS WhatsApp groups. Do you recall him saying this to you?

BRIGADIER NKHWASHU: No, I do not recall him saying that.

ADV POOE: Do you deny that he said this to you?

BRIGADIER NKHWASHU: Ja, I deny it flatly.

ADV BALOYI SC: Brigadier, I would expect that if Sergeant Tshukudu was involved in escorting suspects to
10 your jurisdiction, in the statement he would say so. In this statement, he does not say anything about knowing about this case because he had escorted people to your jurisdiction or, in fact, in addition to seeing it in a WhatsApp group that he has escorted the suspects to the jurisdiction, he does not say anything like that.

And I would expect him, in his statement, to mention that because it is an important fact that connects him to this case, that tells us how he knows or that he knows something about this case. But, curiously, he does
20 not say that. And yet, you say that is, in fact, how your conversation with him started. It is him saying we came to your jurisdiction escorting suspects.

BRIGADIER NKHWASHU: Thank you very much, Commissioner Baloyi. Commissioner Baloyi, you will recall that this conversation was not of a formal nature and we

were sitting at the drinking place. And we were not really discussing it on an official base where we will have to apply our minds and so forth and so on.

I have learned also that Sergeant Tshukudu was not part of the escorting team, but Warrant Officer Rikhotso and them, they were part, but they were utilising the vehicle of Sergeant Tshukudu. Now, when this conversation was started, we were in the middle of things.

And I am not disputing that Sergeant Tshukudu
10 might not have been part of the escorting team, but his team or his colleagues were definitely part and they are the ones who started this conversation, if I recall very well. And I will be accepting the blame if I mistakenly mentioned something that was not said by him by virtue of us being in a place where it is easy for us to forget such things because of our status of the day.

ADV BALOYI SC: Being in a stokvel?

BRIGADIER NKHWASHU: Yes, Commissioner.

ADV BALOYI SC: Okay. Can I, in the light of your
20 explanation now, can we then discount Sergeant Tshukudu as one of the people that said to you or to the group with which you were that they had come to your jurisdiction? Can we discount him?

BRIGADIER NKHWASHU: Thank you. I agree, Commissioner.

ADV BALOYI SC: Thank you.

ADV KHUMALO SC: Can I just deal with this? To me, a major difference, and this is a material difference between Sergeant Tshukudu's statement and your statement, is that in paragraph 3 of Sergeant Tshukudu's statement, this conversation happened before Tau was escorted to his bail hearing. Because you will see that when the conversation continues, it talks about whether the state will be opposing bail and how much that bail will be. So what Sergeant
10 Tshukudu is talking about in paragraph 3 is a period before Tau is even escorted to this issue of the bail.

Now that is a major difference because your statement suggests that you had this conversation after Tau had been escorted by Sergeant Tshukudu's team. That to me is a major and material difference that you need to explain.

BRIGADIER NKHWASHU: Thank you, Commissioner Khumalo. Commissioner Khumalo, to explain on that one, I am also ...[intervenes].

20 **ADV KHUMALO SC:** Before you explain, do you accept that paragraph 3 deals with the period before Tau is escorted to his bail hearing?

BRIGADIER NKHWASHU: Reading this paragraph 3, I agree, Commissioner. I agree.

ADV KHUMALO SC: You agree that there is that material

difference, then you can explain what you wanted to explain.

BRIGADIER NKHWASHU: Thank you, Commissioner Khumalo. I wanted to, having highlighted the difference between my version and Sergeant Tshukudu's version in paragraph 3, having alluded to him saying he further told the investigating officer of the case and he asked me if I knew her, meaning I asked him if he knows her.

Commissioner, for me it does not make sense that
10 the docket left my district without an investigating officer. How had I known that this docket is assigned to this investigating officer? And why would I ask him or why would I tell him that the investigating officer is so-and-so? And in paragraph 4, he went on to say he learned about this case. Perhaps let me go to that paragraph, Commissioner. He says ...[intervenes].

ADV BALOYI SC: You are looking for paragraph 3 where he says he learned about it on their WhatsApp group.

BRIGADIER NKHWASHU: Yes, Commissioner, but when
20 we move on to paragraph 4, it starts with:

“Brigadier Nkhwashu informed me that his brother-in-law, though he did not mention his name...”

Which is corroborating what I said in this one:

“...says he knows the arrested person

and the brother-in-law wanted to know if the state will oppose bail. I then told Brigadier Nkhwashu that when I see Witness B, I will ask her if the state will oppose bail”

Let us pause a little bit there, Commissioners. I then told Brigadier Nkhwashu that when I see, I will ask her if the state will oppose bail. He does not say I sent him because I did not send him.

10 So on my return to work, I met Witness B and I told her that I saw an article in Vereeniging murder case, meaning I confirm what Commissioner Khumalo is saying that he already knew about this case because on his return to work and during their conversation on WhatsApp. So it simply means that when he got back to work, he already knew about this case.

ADV KHUMALO SC: I think you are misunderstanding me because you have moved ahead of us and you are dealing with issues that Advocate Pooe is going to be dealing with
20 and I do not want to deal with those issues. The focus of my question is this conversation between you and Brigadier Tshukudu, sorry, not Brigadier, Sergeant Tshukudu.

 According to him, it is taking place before Tau is escorted for his bail. So the trigger for this conversation could not have been you hearing that somebody was

escorted for bail and then you are linking it with the conversation with Katiso Molefe. Because at this stage, according to Sergeant Tshukudu, nobody has been escorted for bail. That is still to happen in the future.

At this stage, you are initiating a conversation before anybody has mentioned that somebody was escorted for bail. That is really my focus and this is a major difference to me between the two statements because on your version, the only reason you mentioned Katiso Molefe
10 is because somebody tells you that Tau was escorted for bail and then that triggers your memory as far as the discussion you had with Katiso Molefe is concerned.

Now, this Sergeant here says before Tau was escorted because the escorting you will see comes much later in paragraph 4 and Advocate Pooe is going to be dealing with that. So to me, this is a major difference and one of you is not telling the truth. Either Sergeant Tshukudu is not telling the truth or you are not telling the truth.

20 **BRIGADIER NKHWASHU**: Thank you, Commissioner Khumalo. I am telling the truth. For a fact, I am telling the truth, Commissioner Khumalo. And to support my statement, I got to know, Commissioner Khumalo, that this escort which was made that we were talking to was not for the first time.

I got to know that the bail application or the court hearing for the bail application was not done on one day. So that meaning the escort, the escort started from the time when they were arrested and they were escorted to my area and then they were also escorted to court and they did not go on one day for the bail application.

So there could be some contradiction in there because really, Commissioner Khumalo, we were talking in the drinking area. But all I remember, I might not remember
10 the facts 100%, but all I remember, Commissioner Khumalo, is that the escort was not held once.

And the day we met, definitely I want to say that this conversation was not started by me. And they talked about having come to visit, to check me in my office, only to find that I was unavailable and I would not have. And during the conversation, he acknowledged Sergeant Tshukudu, that, yes, they were using my state vehicle. But me, during that time when they came there, I was on leave.

ADV KHUMALO SC: Yes, I think you, now for the first
20 time, you are mentioning the two escorts, but even your statement the focus was on one escort. Now, let me ask you one question and then hand over to my co-Commissioners.

Between the date of your first meeting with Katiso Molefe in June 2024 and this discussion with Sergeant

Tshukuduu, how many escorts of Officer Tau had taken place? Because if it is an escort that happened before you met Katiso Molefe, it is irrelevant to this discussion. So between June 2024 and this stokvel, or this meeting that you had with Sergeant Tshukuduu, how many times had Tau been escorted to Vereeniging and back?

BRIGADIER NKHWASHU: I really do not have the number of times recorded somewhere, Commissioner Khumalo. However, I can safely say that it was more than two escorts
10 because I was the one who was arranging the TRT, the Technical Response Team, to accompany them to escort those Tau and them suspects to prison, to court, and it happened more than two times. That I can confirm.

ADV KHUMALO SC: Can I ask you to do this? It is going to be very important as we continue. When you are asked a question, only answer that question that is being asked.

BRIGADIER NKHWASHU: Okay.

ADV KHUMALO SC: Otherwise, you will end up talking about paragraph 5 and paragraph 6, and we are not there
20 yet. So try to limit your answer to the question that is asked.

BRIGADIER NKHWASHU: Yes.

ADV KHUMALO SC: If you need to clarify or explain, you can ask the Chair for permission to clarify. But for the purposes of our discussion, try to limit your answer to the

question.

BRIGADIER NKHWASHU: Thank you, Commissioner.

ADV KHUMALO SC: All right, thank you.

ADV POOE: Commissioner Khumalo, just to say that this was Tau's second bite at the bail. So there was an initial bail that was denied, and then he sought to bring a second based on new circumstances. And in Sergeant Mbele's, in one of the witnesses' testimonies it was explained that the interaction or the attempts to intervene happened as it
10 related to the second bail application, for what it is worth.

ADV KHUMALO SC: It still does not help me, because if the first bail application was before June 2024, then that is before the Katiso Molefe discussion, and it cannot be what is being referred to in the statement. That was really my point.

ADV POOE: I accept. All I can do is point out, if you go to page 36 of Tab 3, at paragraph 75 you will see the explanation that it is not even explained properly, but that there were several appearances before it was eventually
20 heard. So just to say that there may have been appearances, there were appearances before it was eventually heard.

ADV KHUMALO SC: Because it looks like the new-facts one was brought on the 1st of August 2024.

ADV POOE: No, no, no. It was eventually heard on that

day, but there was a couple of appearances before that.

ADV KHUMALO SC: All right.

ADV POOE: Brigadier, we are going through the differences, and in the course of your engagement with Commissioner Khumalo, I think you tried to deal with this one where the second last sentence, where Sergeant Tshukudu says that you told him that Witness B was investigating the case and asked if he knew her. So that, right? And you say that is not possible, correct? Because
10 you did not know who the investigating officer was.

BRIGADIER NKHWASHU: Correct.

ADV POOE: And then can I ask, remember when you explained the registration of the docket and movement? That system where you can check the movement of the docket is accessible to you?

BRIGADIER NKHWASHU: Yes, it is accessible to me.

ADV POOE: So if you open it, you would be able to see who the investigating officer is?

BRIGADIER NKHWASHU: Yes, Advocate.

20 **ADV POOE**: So are you saying that since the docket was placed with Gauteng Organised Crime, you have never checked the system?

BRIGADIER NKHWASHU: No, I never checked the system, Advocate.

ADV POOE: So you did not know?

BRIGADIER NKHWASHU: I did not know, and I had no reason. And, Advocate, if what I am submitting to the Commission is perceived to be wrong, you can be able to get to the system and check. Once you log into the system, the record will be there that in 2024 June, you logged into the system.

ADV POOE: So you are saying that every time anyone logs into the system to check, there is a recordal of that?

BRIGADIER NKHWASHU: Yes.

10 **ADV POOE**: And so you would be able to check?

BRIGADIER NKHWASHU: Pardon?

ADV POOE: And so we would be able to see if you have logged on between a particular period?

BRIGADIER NKHWASHU: Yes.

ADV POOE: All right, but you do not deny that if you were to look, you would have known who the investigating officer was?

BRIGADIER NKHWASHU: No, I do not deny it, Advocate.

ADV POOE: All right.

20 **ADV BALOYI SC**: Can I? Are you continuing on this statement?

BRIGADIER NKHWASHU: Yes.

ADV BALOYI SC: Carry on then.

ADV POOE: And so you are also denying that you asked him?

BRIGADIER NKHWASHU: I deny it, Advocate.

ADV POOE: All right. And then he then says he informed you that he knows Witness B and works with her. So this part of the conversation also did not occur where he says I know her, I work with her.

BRIGADIER NKHWASHU: No.

ADV POOE: And then if you move on to paragraph 4 ...[intervenes].

ADV BALOYI SC: Maybe before you do that, let me ask
10 the question. Brigadier, remember the earlier conversation about the docket, even though it has been transferred to Organised Crime, it remains your docket. What, in fact, does it mean that it remains your docket? And specifically, what I want to, what I am trying to find out is to keep track of that docket as your docket, what, in fact, does it mean practically? What can you do? What can you not do? What can you – can you phone and ask what is the status? What is the latest update? Because it is your docket, can you not ask for information relating to that docket?

20 **BRIGADIER NKHWASHU**: Thank you, Commissioner. Indeed, the docket, as I alluded earlier on, remain the station of origin. You remember Commissioner Khumalo assisted us that the previous witnesses said that when the docket has been registered at station A, and this one was in station Vereeniging, for example, it remained the

accountability of the commanders in Vereeniging.

So, however, when it is assigned in the system to investigating officer A or B, and when I want to transact to log into the system and update the system of what is happening in the investigation, I will not be able to do that because the system recognises the person who is responsible for that particular docket as the investigating officer, who has got an access to the contents of the docket, and you will not be able to access anything in the
10 docket. But you can be able to get into the system to check who is this docket assigned to, and you can only end up there.

ADV BALOYI SC: That is one part of it. It is part of the answer that I am looking for. But more specifically, can you, now that the docket is transferred to this Organised Crime Unit Provincial, can you phone up somebody and ask what is the status? What is happening in that matter?

What I am asking, or where I am coming from, is the Swart family, they want to know, let us say, from you,
20 because it is your docket. The matter is reported at your station. They have no dealings with Organised Crime. They come to you and they want to know. There is no movement in this matter, right? We want to know what is going on. What are you able to do to get information about what is happening in this docket as the owner of the docket,

and the only person that they can approach to get answers from?

BRIGADIER NKHWASHU: Okay, thank you, Commissioner. I will answer that in two approaches. First one, systematically, as the owner of that particular docket initially, you are able to log into the system. When you log into the system, you put the case number. You will be able to see the status update.

The status update talks to what is the latest
10 investigation done in the case. You will be able to see that. For an example, a case has appeared in court yesterday, and the matter has been postponed to December next year. You will be able to see that. But the real contents of the investigation, you will never be able to access. You will not be able to see what the statements attached to the docket are saying.

And then on the second approach, Commissioner Baloyi, yes, when you receive a complaint as the owner of the docket and you need to update the complainant or the
20 victim, and meanwhile the docket is investigated outside of your station, you open a file. When you open a file, we call it a complaint against the police, and then you assign an investigating officer and then you say to the investigating officer of the complaint now.

That is why it is a file, it is not a docket. Then the

investigating officer of that particular file, which we assigned to commissioned officers, will go to the investigating officer concerned and ask that particular investigating officer concerned as to why are you not giving progress to the complainant.

ADV BALOYI SC: Right. I guess maybe it is my fault I did not quite explain properly what I wanted to find out. There is the way of getting into the system. You say you could log in, and it will tell us who logged in when. And through that
10 system, you will be able to find out who is the investigating officer if you went into the system. And I accept when you say, but you cannot get any more than certain basic information.

The question that I was asking was, the fact that the docket has moved to Organised Crime, does it prevent you, Brigadier Nkhwashu, does it prevent you calling somebody, whether an Organised Crime or somebody else, and asking who is the investigating officer in this matter? For whatever reason. Maybe because you want to know
20 why is the matter not progressing. For whatever reason.

But the focus of my question is, the fact that the docket is no longer with you, does it mean you are precluded in the way things work? Are you precluded from asking who is the investigating officer in this matter And asking whoever is the right person to ask?

BRIGADIER NKHWASHU: No, not precluded.

ADV BALOYI SC: So it is information you could get, if you wanted to get?

BRIGADIER NKHWASHU: Yes, Commissioner.

ADV BALOYI SC: All right, thank you.

ADV POOE: And then, Brigadier, let us move to paragraph 4. And in there, paragraph 4, this is where your two statements match, and that is you informed Sergeant Tshukudu that your brother-in-law, and did not mention a
10 name, knows the arrested person and wants to know if the state would oppose bail. So that you confirm.

BRIGADIER NKHWASHU: Correct, Advocate.

ADV POOE: Now, Sergeant Tshukudu goes on to say that he informed you that when he sees Witness B, he will ask her if the state will oppose bail.

BRIGADIER NKHWASHU: He never informed me.

ADV POOE: He never informed you?

BRIGADIER NKHWASHU: No.

ADV POOE: And he then goes on to explain that on his
20 return to work, he did have a conversation with Witness B and told her about an article that he has seen. He then says that Witness B declined to talk about the matter, and said it was very sensitive.

He then informed Witness B that you, over the weekend, had indicated that your brother-in-law wanted to

know if the state is opposing bail or if the bail is to be fixed, and how much would it be and further, that your brother-in-law was willing to pay the bail of the accused. So you deny all of that?

BRIGADIER NKHWASHU: I deny, Advocate. And just to remind you that what I earlier said in my initial evidence, that I know what is the process of granting bail. So I would not have gone to the Sergeant to ask will the state oppose bail, or how much would be the bail. It is not the Sergeant
10 or the investigating officer that is allocating bail.

CHAIRPERSON: But, Brigadier, surely you know that the Presiding Officer would not have much to work on if they do not have information from the investigating officer, or whoever else may assist. And you know that what is usually placed before the investigating officer are either affidavits or testimony in the witness stand. And then that assists the Presiding Officer to decide whether to grant or refuse bail.

Now if, for example, an investigating officer, whether on their own or as a result of influence by others,
20 decide not to oppose bail, that may go a long way towards influencing the decision to be one that actually grants bail when it ought not to have been.

I am not saying that that will happen automatically, but I am saying it may well have that effect. So I do not think it assists for you to say, ah, it is the Presiding Officer

that grants bail. That does not say much.

BRIGADIER NKHWASHU: Thank you, Commissioner Chair. I agree with what you are saying. However, Commissioner, it will be very much, I do not know how can I put it. I will be out of my mind in the absence of the relevant term that I can use to suggest that the investigating officer will know, even if she could have an influence, Commissioner, towards the granting of the bail.

But to an extent that I go and say go and ask how
10 much will be the bail is really unforeseen of a person at my level, Commissioner. I really cannot say that. It does not suit my profile.

ADV BALOYI SC: I think what the Chairperson is engaging you on is your answer suggests that the police and specifically the investigating officer is completely irrelevant to the question of bail. And the Chair is saying, but that is not in reality, that is not how it works. The investigating officer gets to express a view on bail.

They do not make the decision, but they do get to
20 express a view. And the way you have been dealing with this question since you started testifying is you are creating the impression that the police and investigating officers in particular are irrelevant to the question. That is a matter for the court to deal with, for the Presiding Officer, and nobody else matters.

And that is an incorrect description of what happens when bail applications are brought. And I wanted to suggest much earlier that when Mr Molefe speaks to you, he is speaking to you as a police officer, to ask about the police attitude towards bail. There will be the prosecutor's attitude towards bail, and eventually the Magistrate will make a decision, but it is not an accurate reflection of what happens when you say we have nothing to do with it, it is the Magistrate and that is it, or the court and that is it.

10 **BRIGADIER NKHWASHU**: Thank you, Commissioner Baloyi. Well, Commissioner, I hear what you are saying and my response to that is back to what I said earlier on, really. Because I know, I am accepting that, yes, the investigating officer can have an influence, can have a way to be assisting in the granting of the bail and so forth.

However, Commissioner, I would have known if I intended to assist my brother-in-law with this bail. I would have told him from the onset that even if bail is not going to be opposed, we will not be in a position to know when the
20 bail is granted, how much will it be.

Secondly, this is a schedule 6 offence, Commissioner. You cannot start having to, I mean, ask an investigating officer not to oppose bail because it is a schedule 6 offence. It is a very serious offence. This incident, it happened in aggravating circumstances

...[intervenes].

CHAIRPERSON: But a corrupt police official could do that. I am not saying that you are. I am not saying that you are, but you appear to be proceeding from the premise that there are no corrupt police officers out there who could do something like that. I know, of course, you are testifying with regard to yourself, but the reality is that there are corrupt officers and corrupt officers could act in that manner. That is in a manner where they would not oppose
10 bail when they ought to.

So, basically, your answer is, I am not one of those and I would never ever do that. Is that your answer? You have already accepted what Commissioner Baloyi and I posited to you. You have accepted that. So, basically, what you are doing now is to say, I am not a corrupt police officer and I would never do that. Am I summarising what you are saying correctly?

BRIGADIER NKHWASHU: 100%, Commissioner Chair. I am not a corrupt officer and I would never do that. And
20 Commissioner, if I wanted to do that, I would have rather approached the Magistrate handling that case. I am in a position where I am working with the Magistrate in that area and perhaps I would have even gone to a prosecutor.

CHAIRPERSON: Approach a Magistrate in open court or?

BRIGADIER NKHWASHU: No, if I was corrupt.

CHAIRPERSON: With a brown envelope.

BRIGADIER NKHWASHU: Yes, yes, I would do it anyhow, but not straightforward.

CHAIRPERSON: All right, all right.

BRIGADIER NKHWASHU: Thanks, Commissioner.

ADV POOE: Brigadier, but you do accept that there are various points of entry when you are trying to influence the process. And in your statement you did list that it is the prosecutor, the Magistrate and the investigating officer.

10 **BRIGADIER NKHWASHU:** Yes, Advocate, I do accept there are corrupt police officers who will use any means and ways to get it their way, but not an experienced cop like me, doing it that way. That was too low for me.

ADV POOE: All right. Brigadier, and then Sergeant Tshukudu then also said something about your brother-in-law being willing to pay for the bail of the accused. So you denied all of that, but how would he know this part?

BRIGADIER NKHWASHU: I also want to know, how did he know that my brother-in-law is willing to pay that bail
20 equally to how much is going to be affixed? I also want to know, Commissioners.

ADV POOE: But you accept that it is odd that he would know this particular detail, given that that is something that only Mr Molefe told you?

BRIGADIER NKHWASHU: Yes, it is odd, Commissioner.

ADV POOE: And then ...[intervenes].

ADV BALOYI SC: I think the right word is the coincidence, not odd. It would be a strange coincidence that Mr Molefe said to you he is prepared to pay bail and Sergeant Tshukudu repeats that if he did not hear it from you. And I am not – it is not clear to me why, considering that Mr Molefe said it to you that he is prepared to pay bail, why you would deny when you are admitting that you did say your brother-in-law asked about whether the state would
10 oppose bail.

I do not see the harm in you admitting that I did complete that conversation with Mr Molefe to Tshukudu by saying my brother-in-law said he is prepared to pay bail. It would make sense to me that you would have conveyed all of that line of communication. And you are denying that you mentioned that. Then the coincidence in the versions that you say, I never told him that Molefe is prepared to pay bail or my brother-in-law is prepared to pay bail, and yet Mr Molefe told you that, it is a strange coincidence that he
20 would know that.

BRIGADIER NKHWASHU: Thanks, Commissioner Baloyi. Let me take the Commissioners back to my earlier submission that, Commissioners, I am not perfect. I am not a saint either. And we were discussing this passively in the drinking place, and I do not – I am accepting that I may not

remember vividly everything that we discussed there, but I do not remember me saying all those things to the Sergeant.

I did not send him. I did not remember me sending him and talking about those. Perhaps if I touch base, I could ...[vernacular] Commissioner.

ADV BALOYI SC: What Brigadier has said is if he did touch base, he did not hear himself saying it. I am actually making a different point. I am not talking about you sending
10 him. We are not there yet. I was just addressing that Mr Molefe says to you, he asks whether the state would oppose bail. You say that happened, and Sergeant Tshukudu said you mentioned that. So there is no dispute there.

But we also know from you that Mr Molefe said to you that he is prepared to pay bail, the bail money for his friend. And then Sergeant Tshukudu says in the statement that you mentioned that, that your brother-in-law is prepared to pay bail. And what I am saying is I do not see harm.

20 In fact, I think it is probable that is how it happened. You did explain the context. You are in a stokvel. You are having this casual conversation, you say to us. And in that casual conversation that you are having, it is more likely than not that when you mentioned that your brother-in-law asked whether the state would oppose bail, it

is likely that you would have said, and he said he would be prepared to pay bail, even if that is all you say.

You know, and that would explain why Sergeant Tshukudu knows that part, that your brother-in-law said he is prepared to pay bail. It would explain it, that it came from you and it came in the context that you are explaining to us.

BRIGADIER NKHWASHU: Thanks, Commissioner Baloyi. I accept it.

10 **ADV POOE:** Brigadier, then Sergeant Tshukudu comes back and says Witness B informed him that she was opposing bail, and then he returns this information to you. He relays this information to you. Do you deny that happened?

BRIGADIER NKHWASHU: Yes, I deny it happened.

ADV POOE: Thank you. Before dealing with the second time that Sergeant Tshukudu goes back to Witness B, my question is, it is quite an elaborate scheme, if it is one, that Sergeant Tshukudu has put here. It is a detailed
20 conversation that has elements that match with yours. But if this never happened, i.e., you never sent him, why would he concoct this sort of story?

BRIGADIER NKHWASHU: That is what I also want to find out. Why did he concoct this story? But as I was sleeping and waking up with this matter, many things come to my

mind. As I said, Tshukudu is my long-time friend, and with others, we go to stokvel together and do many things together. And obviously, he is senior by far. And earlier on, I accepted that he is doing me favours, I am doing him favours, be it official or otherwise.

Perhaps, I am not saying this is how it happened, but I am just thinking on my own. Perhaps he thought he is doing a friend a favour. I do not know why he wanted to do me a favour, because all that I recall is when he said, but
10 Brigadier, you say this is your brother-in-law. Then I said, yes, he is my brother-in-law, but I stopped him in his tracks.

So I am just deducting as to why would he go thus far and I come up amongst other thinking that perhaps he was just trying to do a friend a favour.

ADV POOE: Brigadier, why would he want to do you that favour when you made it clear to them that you do not discuss work with other people? And in fact, you said to them you would not act on it. Like you said, he is your long-time friend, and you have made it clear to them that
20 you told them you do not discuss work and you do not do this. And you even said in that conversation, in that exchange, someone said, Brigadier, why do you not? And you, at that moment, even shut it down and you said, me? No, I do not do that. So why would that be a favour for a friend who has expressed that they do not want to engage

in that?

BRIGADIER NKHWASHU: Yes, Commissioners, all I am saying is not a fact. I am not saying that is what was in his mind. I am just, you know, scrambling around to think this could be the possibility that crossed my mind, but I am not saying that was the fact.

ADV POOE: Is there a possibility that you were not as assertive about your reluctance to intervene and this is why he felt that he could help you in this manner?

10 **BRIGADIER NKHWASHU**: There were many possibilities. I would say yes ...[intervenes].

CHAIRPERSON: Or worse, is the possibility not that you actually did ask for the favour?

BRIGADIER NKHWASHU: I am sorry, Commissioner?

CHAIRPERSON: I am saying, or worse still, is the other possibility that you actually did us for the favour from Sergeant Tshukudu, which is why you are not able to explain what happened or what he did or what he says he did?

20 **BRIGADIER NKHWASHU**: Commissioner, I am sorry, I am not really understanding that statement.

CHAIRPERSON: Yes, yes. You disagree? No, you are free. Feel free. Do not be hesitant in your response. Tell me to my face that you disagree.

BRIGADIER NKHWASHU: No, it is not a matter of

disagreeing. I just really ...[intervenes].

CHAIRPERSON: Oh, you do not follow what I am saying?

BRIGADIER NKHWASHU: Yes.

CHAIRPERSON: Yes. Ms Pooe suggested a possibility to you as to what may have happened. And if I remember well, I think Ms Pooe said you may not have been assertive enough in indicating that you would not be willing to engage in what is being alleged. And in fact, that you had said to Mr Molefe I do not talk about work. And you repeat that
10 when you are talking to the people you are with at the stokvel.

So Ms Pooe, if I understood her correctly, says when you said that perhaps you were not, the possibility is that you were not assertive enough, which is why, despite you having repeated this to those you are with at the stokvel, Sergeant Tshukudu would still have gone ahead and made this enquiry from Witness B. And once he got a response, have then come back to you and given you that response.

20 So that is the possibility that Ms Pooe is suggesting to you. I am saying, worse still, another possibility is that you may actually have made the request to Sergeant Tshukudu. Sergeant Tshukudu, please go to Witness B and make these enquiries on my behalf with regard to the question of bail. So that is the other possibility I am

suggesting to you. Which is harsher than what Ms Pooe suggested. Do you follow me now?

BRIGADIER NKHWASHU: Now I follow you, Commissioner. Thanks very much.

CHAIRPERSON: Yes.

BRIGADIER NKHWASHU: Ja. Commissioner, I could have not been assertive enough. And in simple English, I would say ...[intervenes].

CHAIRPERSON: We are past that. That is the possibility
10 that was suggested by Ms Pooe, and I think you responded. Now I am putting to you, or I am suggesting to you, another possibility. So please respond to the second possibility that I am suggesting to you.

BRIGADIER NKHWASHU: I do not think, Commissioner, it could have gone to that extent after having told them that I do not, I told my brother-in-law that I do not discuss my cases with the civilian and my work is off limits. I would have gone to tell, even if I am so cut high, I do not remember me having done a mistake of that nature to say I
20 instruct you to go and do this and this and this, Commissioner.

And another thing, Commissioner, I believe that you will know that we are talking about the Sergeant here, and the Sergeant is not an entry-level rank in the police. I believe that he is more than 20 years of service. And as a

Sergeant, he should have known ...[intervenes].

CHAIRPERSON: It is a friend doing a friend a favour.

BRIGADIER NKHWASHU: That one I take, Commissioner.

CHAIRPERSON: Yes, yes.

BRIGADIER NKHWASHU: That one I take, but I could not have given him that instruction like that, Commissioner, I am sorry. And even if it slumbered during the conversation, which was, you know, during the enjoying ourselves, I do not think I could have gone to that far, Commissioner. And I
10 can take only that one that he could have done that by thinking that he is doing me a favour. And of course, he knows I will always look after him if he is looking after me.

CHAIRPERSON: I must say at this stage, there are lots of probabilities that point in the opposite direction I hope Ms Pooe will take us through those, and we too will probably come in. There are lots of probabilities that point in the opposite direction.

BRIGADIER NKHWASHU: Okay, Commissioner.

CHAIRPERSON: Thank you. Yes, Ms Pooe.

20 **ADV POOE**: Brigadier, on this very point, this time I do not want to suggest it to you, but I want to put it to you that it is more probable that the conversation, if you look at the scheme of your version and Sergeant Tshukudu's version, it is more probable that you discussed far more with Mr Molefe about this matter than you care to tell us.

And whether it was an instruction or simply a suggestion between friends, that it is more likely that you told or asked or hinted to Sergeant Tshukudu to get information about the bail proceedings from Witness B. And that it would make sense for him to be the one who does it because the two of them are in the same unit. You would have always had access to who the investigating officer is by virtue of your system. That system, you can even ask a subordinate to check for you.

10 So it is not always true that we would only attain that information by checking your record. And that it is after this that Sergeant Tshukudu approaches Witness B. What would be your comment to that?

BRIGADIER NKHWASHU: I do not have a comment, Advocate, since you said you are putting it to me.

ADV POOE: It is your opportunity to deny?

BRIGADIER NKHWASHU: Like I said earlier to the Commission that we were in a drinking space and enjoying ourselves. I do not deny 100% that I could have said more
20 to what is captured, but I really do not remember and I do not think of me having to lose it to that extent and tell Sergeant Tshukudu to do that, I really do not think I can go as far.

ADV BALOYI SC: In his statement, and maybe in fairness to you, Sergeant Tshukudu does not say you instructed him.

He does not say that. What he says is you informed him that your brother-in-law says he knows the arrested person and the brother-in-law wanted to know if the state will oppose bail, right? That is what he says. You mentioned that.

And all of that which I have read now is exactly your conversation, what you say was your conversation with Mr Molefe. So he says then that, and then he says, and this is where you seem to be disputing, he says, I then told
10 Brigadier Nkhwashu that when I see Witness B, I will ask if the state will oppose bail.

That is as far as he goes. Now it seems to me that if you did say to him your brother-in-law asked if the state would oppose bail, and in addition to that, whether or not in addition to that you said he would be prepared to pay bail, and that is all you said, it is not improbable that Sergeant Tshukudu would then say I will ask, I will ask Witness B what the attitude is.

And then he went, without you saying, go ask
20 Witness B if you did not say that, but just how you conversed, he may well have read it to mean you are not sending him, but he would like to come back to you with an answer, but you said it for a reason, you know, you wanted, you were expressing what your brother-in-law had said, and it may or may not be that you were signalling to him who is

in the same unit as Witness B to check what is the position, what is the attitude of the state. It is not improbable that it happened that way.

BRIGADIER NKHWASHU: I agree, Commissioner.

ADV POOE: Then, Brigadier, let us then move on to what he says in paragraph 5.

ADV KHUMALO SC: There is something in the last sentence of paragraph 4 which I think we are missing. Can we please deal with that?

10 **ADV POOE:** Yes. Brigadier, you will see in the last sentence Sergeant Tshukudu then says:

“I informed Brigadier Nkhwashu that the state is opposing bail”

Do you recall Sergeant Tshukudu ever coming to you to tell you this?

BRIGADIER NKHWASHU: No.

ADV POOE: And maybe just for completeness, do you deny that it happened, because there is a difference between whether you remember, or whether you say it did
20 not happen at all?

BRIGADIER NKHWASHU: I do not remember, Advocate.

ADV POOE: So you do not remember, not that it did not happen?

BRIGADIER NKHWASHU: No, I do not remember.

ADV POOE: And then given the significance of this issue

and what you had gone through, I mean, you had a meeting with your brother-in-law. If he did come back, you would not remember? If he did come back to you, you would not remember?

BRIGADIER NKHWASHU: If he came back to give me that answer?

ADV POOE: Yes.

BRIGADIER NKHWASHU: I think I was going to remember. Not unless, again, you were meeting in a stokvel and you
10 talk about it. But if he came back to me to give me an answer, I think I would remember, Commissioner.

ADV POOE: Okay. And then, I cannot recall if I read paragraph 5, but at paragraph 5, he deals with what happens later on. He says:

20 “After some few days, Brigadier Nkhwashu informed me that his brother-in-law told him Warrant Officer Tau was granted bail and that the family says I should say thank you to Witness B for granting him bail. Following that, when I met Witness B, I told her that Brigadier asked me to pass the message to say the brother-in-law and the family say thank you for granting Warrant Officer Tau bail. And her response was that it was not her

who granted Warrant Officer Tau bail, but
the court. Furthermore, Witness B had
informed me that this case is very
sensitive and that I should not talk to
anyone about it. I do not recall that the
last time I interacted with Witness B was
the time she asked me to assist her for
another matter, which she was handling
in Witpoortjie, though I do not know the
merits of that case.”

10

You see that?

BRIGADIER NKHWASHU: Yes, Advocate.

ADV POOE: Now, let us take it step by step. Did you
inform Sergeant Tshukudu that Warrant Officer Tau had
been granted bail?

BRIGADIER NKHWASHU: No.

ADV POOE: You dispute it, not that you do not recall if
you did.

BRIGADIER NKHWASHU: Pardon?

20 **ADV POOE**: Do you dispute it, or do you not recall?

BRIGADIER NKHWASHU: I dispute it.

ADV POOE: So even in a social context, you have never
mentioned this to him?

BRIGADIER NKHWASHU: No.

ADV POOE: He then says that you conveyed to him that

he should thank Witness B for granting him bail. Did that occur?

BRIGADIER NKHWASHU: Commissioners, let us for one second take it a little bit back. Sergeant Tshukudu says he informed me that Witness B said she was opposing bail.

ADV POOE: Yes.

BRIGADIER NKHWASHU: And she is not the one who assisted Warrant Officer Tau to get the bail. Now, why would I then send Sergeant Tshukudu to go say thank you
10 after him giving me a feedback that she is not able to assist us or she is opposing bail and therefore she is not assisting us or budging to if I send him to go and look for the possibility of her influencing the Presiding Officer? Why would then I send Sergeant Tshukudu to say thank you? Thank you for what?

ADV KHUMALO SC: Brigadier, but you are talking about three different conversations and that is what I wanted to put to you. If you look at where paragraph 4 starts, it is related to 3. So this is the first conversation before the bail
20 hearing because this is where, according to Sergeant Tshukudu, you are having the discussion about what your brother-in-law says.

He then says he went to speak to Witness B and the feedback he received from Witness B is that the state will be opposing bail. So that is the feedback. But then the

matter goes to court and Tau is granted bail. After Tau is granted bail, this is now the third occasion you are having the conversation with Tshukudu.

That is when you then say, Tshukudu, the family is grateful. So this is not a single incident or two incidents. It is three different incidents. So you cannot relate two to three because they are completely different. They are not the same event on the same day.

Before the bail hearing, Witness B told Tshukudu
10 that the state is opposing bail. Bail is then granted the following week, at which point you then convey to Tshukudu that the family is grateful, so the message must be sent to Witness B.

That is why the dates were important to me because you had the meeting with Katiso Molefe at the end of June 2024. This meeting you have with Tshukudu is on Saturday, 27 July 2024. Tshukudu then approaches Witness B on Tuesday, the 30th of July 2024. And as I understand, the bail hearing happens in the first week of August.

20 So there is that sequence which you must take into account. You cannot say these things all happened at the same time. So your logic that you could not have thanked or you could not have conveyed the family's gratitude, it does not add up when you consider that these were separate incidents.

It is not as if Witness B had said, I will be opposing bail, I do not grant bail. That is the feedback she gives Tshukudu after Tshukudu had conveyed to her that the family is grateful. So do you understand?

BRIGADIER NKHWASHU: Commissioner, not really. What I am understanding is that there is a sequence of events. However, during those sequence of events, Tshukudu is alleging that he came and updated me. And now, the first update was that, according to Tshukudu, Witness B said she
10 is not able to assist me or my brother-in-law in not opposing bail.

ADV KHUMALO SC: No, this is exactly what I am saying you are getting wrong. The first update is the last sentence of paragraph 4, where Tshukudu comes back and says the state is opposing bail. So that is what you are told that the state is opposing bail. That is not the feedback where Witness B says I cannot help you.

That is the Magistrate. They are not before the Magistrate yet, so Witness B cannot say that during that
20 update. Witness B reacts to the gratitude being extended to her, that thank you for ensuring that Tau got bail. Witness B then says I had nothing to do with it. That was the decision of the Magistrate.

And that is where I think you are getting confused, because you are assuming that she said that before the

hearing. Because if she had said that before the hearing, it would make sense that you would have nothing to thank her for, or the family would have nothing to thank her for. So I think that is the part you are missing, and I wanted to clarify.

BRIGADIER NKHWASHU: Okay, Commissioner. I hear what you say, although I am not sure if I am with you, I am understanding wholly what you say. But if I am understanding you well, on the first response which talks to
10 the last sentence of paragraph 4, which reads that:

“I then returned and informed Brigadier Nkhwashu that the state is opposing bail.”

I find it sinister that I knew that the state is opposing bail.

ADV KHUMALO SC: But you do not know that on the date of the hearing it was opposed. That is my point. The feedback is that the state will be opposing. It may be that when it goes to the hearing, the position is different. Because when you see bail being granted, you are thankful
20 that, oh, maybe it was granted because they did not resist the application, and that is what you are grateful for. So there is no contradiction there, and that is the point I think you are missing. Because you are assuming here that the opposition has already happened when you get the first feedback, and that is not the case.

BRIGADIER NKHWASHU: Commissioner Khumalo, if I am understanding you well, my understanding was that this was not the first court appearance. So in the first appearance, obviously it is a schedule 6 offence. The bail was opposed. The bail should be opposed and it was opposed, and definitely I know that.

Now, the conversation between me and Tshukudu, it is an allegation that I sent him to go test waters if she is not going to be difficult to oppose bail. But I already know that
10 the bail has been opposed in the first appearance. Now, why would I send Tshukudu to go and try and soften this investigating officer?

Me, by saying that please you must not oppose bail, already the bail has been opposed and I know ...[intervenes].

ADV KHUMALO SC: Brigadier, you could make the same argument for Katiso Molefe to say when they went for bail in April, he knew that the state was opposing. So why would he, at the end of June, be asking if the state would be
20 opposing? It is the same point. This was a new bail application on new facts.

And if I remember correctly, it had to do with Mr Tau's diabetic condition, and those were the new facts that were going to be placed before the court to say, these are now new exceptional circumstances. And those would have

required new opposition if necessary. So that is the context of the discussion.

It has nothing to do with whether in April, when he was first arrested, there was opposition to his bail application. That is why I said the dates are important. And you must focus on, after the discussion with Tau, what really happened between those four weeks because it is merely a four-week period between the end of June and the end of July.

10 **BRIGADIER NKHWASHU**: Thanks, Commissioner. I did not know that information. I was not aware. But having explained to me now, it is clear what you are saying. Thanks, Commissioner. I did not know. I did not know that there were new facts.

CHAIRPERSON: Let us adjourn and resume at half-past. And may we just quickly, quickly see counsel outside, please?

INQUIRY ADJOURNS

INQUIRY RESUMES

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

ADV POOE: Brigadier, I want to put to you a different possibility to what Commissioner Khumalo put to you. So, your response to Sergeant Tshukudu having gone to convey a message of gratitude to Witness B that it would be said somewhat nonsensical for that to happen because she had

previously indicated that the bail would be opposed. You recall that?

BRIGADIER NKHWASHU: Yes, I do.

ADV POOE: Now, we specifically, during Witness B's testimony, asked the question why would a message of gratitude come to you when it was clear that bail would be opposed. And her answer was that she perceived it as a thinly veiled threat and just a message of saying, we are watching. Bearing in mind that the gratitude is coming from you, a senior officer at the rank of a brigadier, to a junior officer at the rank of a sergeant. What is your comment to that?

BRIGADIER NKHWASHU: I would not do that. I did not send Tshukudu to send a message of thank you.

ADV POOE: And even though you say you did not, you understand why if such a message were to be delivered it would come across as a threat.

BRIGADIER NKHWASHU: Yes.

ADV POOE: And then, Brigadier, just to go back to something that you said. It is not in your statement, but when you were dealing with paragraph 30 of your statement and you were talking about the general response when you told the group that included Sergeant Tshukudu that you did not, you told your brother-in-law that you do not discuss work issues.

You mentioned specifically in your explanation that you even went to a point of saying, as though questioning why, why ...[vernacular]? Sorry, I was making a remark about my poor Zulu. You indicated that you even, in fact, said to them in broad terms, no, you do not want to get involved in that, but if they wanted to, they can do so. You recall that?

BRIGADIER NKHWASHU: Yes, Advocate.

ADV POOE: So, if you recall saying that and giving your
10 friendship with Sergeant Tshukudu, would you fault him then for taking that plight forward, given that you did say if they wanted to, they could?

BRIGADIER NKHWASHU: Yes, Advocate, I would fault him on the basis of, I will go back to the two faults, on the basis of him having to carry out a request or instruction from a social gathering and on the other fault, I will not blame him for thinking that he is helping a friend.

ADV POOE: So you do accept that you would not fault him because he would be helping a friend?

20 **BRIGADIER NKHWASHU**: Yes.

ADV POOE: All right, thank you. Commissioners, I want to move ...[intervenes].

ADV BALOYI SC: In fact, I would go on to say, I would put it higher than not faulting a friend. I would say that you put to him certain information, which is your brother-in-law

wants to know whether the state will oppose bail and your brother-in-law is prepared to make payment. You put that information to him and then you then also say I am not going to help because I do not do business with family or work with family, but if any one of you wants to help, you can do so.

I think with that, it is consistent. In fact, what he says in his statement that he then said to you I will ask Witness B, is very much consistent with that last statement
10 from you that says if any one of you wants to help, you can do so. It is more probable than not that he responded to you to say I will ask her, because it makes sense in the sequence of what you say and him saying I responded and said I will ask her. Do you accept that is a fair way of summarising what probably happened here?

BRIGADIER NKHWASHU: On balance of probability, I accept that.

ADV BALOYI SC: Thank you.

ADV KHUMALO SC: I want to put another probability to
20 you, Brigadier, another probability is that the reason why you even told Captain Tshukudu about your conversation with your brother-in-law was because you wanted him to convey that message to Witness B. Otherwise, it would have been a pointless conversation to have with Captain Tshukudu, with Sergeant Tshukudu.

The only reason you had that conversation with him was you wanted to convey to him so that he can convey to Witness B what your brother had conveyed to you. Do you want to comment?

BRIGADIER NKHWASHU: Yes, Commissioner Khumalo, I deny. I never had that intention.

ADV KHUMALO SC: Because I cannot think of any reason why what your brother discussed with you would be of any interest to Sergeant Tshukudu. It is a family discussion.

10 You are getting acquainted with your brother-in-law, who you did not know for years or had not seen for years. And you were upset about how the conversation went, and you wanted it to end there. But the fact that you went and you repeated it to Captain Tshukudu suggests to me that you wanted him to convey that to Witness B.

BRIGADIER NKHWASHU: I cannot blame you for thinking that way, Commissioner.

ADV KHUMALO SC: I am not suggesting that that is in fact the position, so that you understand.

20 **BRIGADIER NKHWASHU**: I agree.

ADV KHUMALO SC: It is a probability.

BRIGADIER NKHWASHU: Yes.

ADV KHUMALO SC: I put it no higher than that. And amongst many probabilities.

BRIGADIER NKHWASHU: Yes, I agree, Commissioner.

ADV BALOYI SC: Lastly, Brigadier, on this topic. The statement from Sergeant Tshukudu is in January 2025. You will see that at page 3. It is the 14th of January 2025. You have described him as a good friend of yours, and he also does explain that you have a close relationship, a good relationship.

Do you have a reason why he would make up this elaborate story about how the conversation about your brother-in-law came about? What was said in that
10 conversation by you to him? And lastly, what you find in paragraph 5, which is that you later called him and told him that the family thanks, your brother-in-law's family thank him for Mr Tau's bail, do you have a suggestion why he would make up this elaborate story, if it is not true, considering that he is a good friend of yours?

BRIGADIER NKHWASHU: I am struggling to make anything out of that, Commissioner. I would not really think of the reason why he would be doing that, except what I said earlier on that the probability could be that he was
20 doing a friend a favour.

ADV BALOYI SC: Thank you, Brigadier. Thank you, Ms Poee.

BRIGADIER NKHWASHU: Thank you, Commissioner.

ADV POOE: And then just to complete this topic, I want to bring to your attention, Brigadier, the statement of the

Provincial Component Head of Organised Crime. If we go to page 61 of Tab 3, that would be Annexure B7. Have you found it?

BRIGADIER NKHWASHU: That is in page 61?

ADV POOE: Yes, the red 61.

BRIGADIER NKHWASHU: I got it, Commissioner.

ADV POOE: You will see there that it is a statement from – I am trying to look if she is – but she says she is the Provincial Head of Organised Crime, or she is at least in
10 that unit. And we know her to be the supervisor of the investigators in the case, as well as Sergeant Tshukudu. Are you familiar with Ms Gopane?

BRIGADIER NKHWASHU: Yes, Commissioners. On top of that statement is written that Cynthia Pulane Gopane. So I am familiar with her. I know her.

ADV POOE: Do you know her rank?

BRIGADIER NKHWASHU: Yes.

ADV POOE: It is?

BRIGADIER NKHWASHU: She is a Brigadier.

20 **ADV POOE**: Brigadier, okay. Thank you for assisting me. And you will see there that in the second paragraph she recounts similar to what Witness B had testified and what Sergeant Tshukudu has said, that the detectives were approached by Sergeant Tshukudu on your instruction to enquire about Mr Tau's bail and that they were surprised

because they do not know you. And she informed the members that this was a sensitive case and they were not to talk about it to anyone except for herself and the Deputy Provincial Commissioner, Maj-Gen Khumalo. You see that?

BRIGADIER NKHWASHU: Yes.

ADV POOE: And then says that during that period, the members were busy with a formal bail application on the same mentioned suspect. The said suspect was granted bail. They further reported that the very same member,
10 being Sergeant Tshukudu, called them to say Brigadier Nkhwashu says thank you so much. The same suspect was rearrested on the 20th of September.

Brigadier Gopane says she called Sergeant Tshukudu to reprimand him. The member agreed and said he did not know and was just sent by the Brigadier. He did not know how serious the case is. He further apologised and he said he would stop this behaviour. So here I was just trying to show you that this version that he has of you, he then reports this when reprimanded to his supervisor.
20 Can you see?

BRIGADIER NKHWASHU: I see, Advocate.

ADV POOE: And I think it is similar to the question that Commissioner Baloyi asked. It is improbable for him to construct such a scheme and to go as far as even reporting this to his superiors if it was untrue. Do you accept that?

BRIGADIER NKHWASHU: I do not accept it, Advocate, in the context that you put it, because it is not Sergeant Tshukudu who reported it to the Brigadier. It is ...[intervenes].

ADV POOE: No, my apologies, Brigadier. I am not suggesting that he reported it. I am saying when reprimanded, he still insisted that it was you who sent him.

BRIGADIER NKHWASHU: Yes, I see that, yes.

ADV POOE: All right. Commissioners, I am going to move
10 off of this topic to head to the next one. And that relates, if we go sequentially through your statement, Brigadier, we are going to Section E, and that is the demand for the Armand Swart murder docket.

BRIGADIER NKHWASHU: Section E.

ADV KHUMALO SC: Page 11, Brigadier.

BRIGADIER NKHWASHU: Page 11? Thanks,
Commissioner.

ADV POOE: For purposes of this section, I guess I will direct when we get there. So, Brigadier, you mentioned
20 there that you never made a demand for the docket. Instead, at the time, you were acting on instruction from the Provincial Commissioner to collect all dockets that had J51s of arrest and submit them to the Deputy Provincial Commissioner, Crime Detection, Maj-Gen Mbuso Khumalo. Is that correct?

BRIGADIER NKHWASHU: Correct, Advocate.

ADV POOE: And that was because there was a direction from the Premier of Gauteng for Maj-Gen Khumalo to oversee those dockets.

BRIGADIER NKHWASHU: Correct, Advocate.

ADV POOE: Now, let us start here. Commissioners, if we can go ...[intervenes].

CHAIRPERSON: Sorry, sorry, sorry. This may be a matter of detail, but I am interested to just get an idea on what
10 authority, if any, did the Premier have to give such a direction. Do you know?

BRIGADIER NKHWASHU: I do not know, Commissioner.

CHAIRPERSON: You may proceed, Ms Pooe.

ADV POOE: All right. Now, to begin with, in order to understand this instruction, I am going to ask Brigadier that we go to CJC187. It would be the red page 27.

BRIGADIER NKHWASHU: 187, you said. Is it in page 22?

ADV POOE: 27.

BRIGADIER NKHWASHU: 27, I am sorry.

20 **ADV POOE**: So CJC187 and then page 27.

BRIGADIER NKHWASHU: I have got it. Thanks, Advocate.

ADV POOE: Yes. Just to contextualise this, when we received your statement, we then, of course, wrote to various offices asking for correspondence in relation to the request for dockets and what the project was about.

BRIGADIER NKHWASHU: Yes, Advocate.

ADV POOE: So one of the things that was provided to us is this email that went out to all of the districts explaining what was necessary. So if you have regards to the bottom of page 27, you will see there all of the district people that were contacted. Can you see that? It goes on to the following page.

BRIGADIER NKHWASHU: Yes.

ADV POOE: And you will see on page 28 that you are one
10 of the recipients. Can you see that?

BRIGADIER NKHWASHU: Correct, Advocate.

ADV POOE: And then if you have regards to the body of the email, it says request for copies of J50 warrants of arrest, Premier's Wanted Persons Project. Do you have ...[intervenes].

BRIGADIER NKHWASHU: Suspect.

ADV POOE: Premier's Wanted Persons Project?

BRIGADIER NKHWASHU: I am just correcting you. Sorry,
Advocate. That is Premier's Wanted Suspects that I am
20 seeing here in my bundle.

ADV POOE: Are we at the same page?

BRIGADIER NKHWASHU: Yes, page 28.

ADV KHUMALO SC: Advocate Pooe, the subject of the email.

ADV POOE: Yes. My apologies. So if we look at the body

of the email, see:

“Good morning. Attention, District Commissioners, District Coordination, and then Coordinators, request for copies of J50 warrants of arrest, Premier's Wanted Persons Project.”

BRIGADIER NKHWASHU: Correct, Advocate. I am sorry.

ADV POOE: We are both correct in this regard. And you will see there it says:

10 “By directives of DPC Crime Detection, all provincial commanders and section commanders must submit copies of the J50 warrants of arrest to that room...”

That room, and it gives them the total and the breakdown per district. Can you see that?

BRIGADIER NKHWASHU: Correct, Advocate.

ADV POOE: Right. Do you recall receiving this email?

BRIGADIER NKHWASHU: Correct, Advocate.

20 **ADV POOE**: And then just for completeness, if you look at the following page, you will see there that it is the same project, and there was an attachment of the list of copies of the J50 warrants of arrest needed. Can you see that?

BRIGADIER NKHWASHU: At page 30?

ADV POOE: Sorry, at page 29, that email.

BRIGADIER NKHWASHU: There is no attachment.

ADV POOE: The attachment is at page 30.

BRIGADIER NKHWASHU: Yes.

ADV POOE: And what we did just for transparency is we only inserted the annexure that related to the Sedibeng District. So we did not attach all of the others related to other districts. So this was then the email that was sent to you and the list of documents or warrants that were sought.

BRIGADIER NKHWASHU: Correct, Advocate.

ADV POOE: And you will see on page, the following page
10 after, with what should be page 30, ja, page 30, can you confirm that the last case at the bottom is the docket in question?

BRIGADIER NKHWASHU: Correct, Advocate.

ADV POOE: Now, if you look at the instruction that was sent to you and what was sought, what was sought was copies of the warrants of arrest from these dockets. So my question is why were you requesting the docket in its entirety?

BRIGADIER NKHWASHU: Thank you, Advocate. When an
20 instruction of this nature is issued, we all know that the warrant of arrest, which is a J50, is attached to a docket, so meaning it is a document that is within the docket. And if you are to deal with the J50, meaning you have to account as to why is the suspect not being arrested.

Now, in the docket there will be a page that

contains the contents of the activities done by the investigating officers, such as suspect trace was not found or suspect was never tried for a particular period. So if you request the warrant of arrest only, you will not be privy to that information.

ADV POOE: I suppose my question is if you look at page 28, the instruction there seems quite clear. I can understand and appreciate your explanation that you would want more than the J50 to understand what is happening,
10 but it seems there that the directive is for submission of copies of the J50 and they in brackets warrants of arrest.

BRIGADIER NKHWASHU: Thank you, Advocate. In my experience, when a J50 warrant of arrest is requested, you cannot remove it from the main docket. You keep it in the docket and then you submit the docket so that it can give you more details as I have alluded earlier on.

ADV POOE: But you see here that they requested copies, not the actual warrants.

BRIGADIER NKHWASHU: Advocate, I am not disputing the
20 fact that they requested copies, but we normally do it that way, as I have explained. Even when a warrant is needed. For an example, Advocate, when the suspect is arrested, say in KwaZulu-Natal, and then they will send a similar kind of request to say we have arrested a wanted suspect in this environment.

So the system shows that there is a warrant of arrest issued to him, to this particular person. So when you go look for a copy of the J50, you will get it in the docket. And that particular suspect, if you take only the copy, you send it to the particular station requesting the J50 warrant, the court will not prosecute the wanted, this arrested suspect without the docket ...[intervenes].

CHAIRPERSON: You mean the NPA, the court does not prosecute?

10 **BRIGADIER NKHWASHU**: The NPA, thanks, Commissioner.

ADV POOE: Maybe let me understand this. What did you understand the previous wanted person's project to be?

BRIGADIER NKHWASHU: The previous wanted project?

ADV POOE: This project, what did you understand it to be?

BRIGADIER NKHWASHU: Yes, thanks, Advocate.

ADV POOE: Ja.

20 **BRIGADIER NKHWASHU**: This project, I understood it to be for all those cases where warrants of arrest were issued for particular suspects who are wanted and are not arrested as yet. Now, when you send the docket to the Deputy Provincial Commissioner, they will need to peruse the docket and acquaint themselves with what is happening in the investigation of the case.

Why, for an example, why is this suspect not being arrested? And hence I am saying you send the copy of the warrant of arrest within that particular docket for perusal by their requester.

ADV POOE: All right. Now, if you then look at CJC188, it starts at page 31.

CHAIRPERSON: Just some questions on the annexure we are dealing with and the paragraph this relates to. So the oversight function by Maj-Gen Khumalo that you referred to
10 in paragraph 40 was to follow up on the investigation as you explained.

BRIGADIER NKHWASHU: Commissioner, let me apologise.

CHAIRPERSON: You say the dockets were to be looked at and questions like why has this and that not happened, why has this person not been arrested. So that is the oversight function which you say was to be conducted by Maj-Gen Khumalo. Look at paragraph 40 if you do not follow what I am asking.

20 **BRIGADIER NKHWASHU**: Paragraph 40?

CHAIRPERSON: 4-0 of your statement.

BRIGADIER NKHWASHU: Of my statement?

CHAIRPERSON: Yes.

BRIGADIER NKHWASHU: I am on paragraph 40.

CHAIRPERSON: Yes. Do you see that towards the end of

the paragraph you referred to some oversight function that was going to be performed by Maj-Gen Khumalo in relation to or with regard to these dockets?

BRIGADIER NKHWASHU: I think I am at the wrong page.

CHAIRPERSON: I was just about to ask what is so difficult.

BRIGADIER NKHWASHU: My apologies, Commissioner. I am at the relevant page now. I see what you are referring me to, Commissioner Chair.

10 **CHAIRPERSON**: Yes. Now, do you have any idea how long this oversight would have taken?

BRIGADIER NKHWASHU: No, Commissioner.

CHAIRPERSON: But surely if General Khumalo was to go through all these dockets, look at them, they are listed at page 28. And if I am reading this correctly, there were 421 of them. Is that correct?

BRIGADIER NKHWASHU: Correct, Commissioner.

CHAIRPERSON: So I would imagine this would have taken quite some time. Not so? If the General was to go through
20 all 421 of them. Correct?

BRIGADIER NKHWASHU: Correct, Commissioner. Although I know for a fact that if it is a project, the General will have a team that will be assisting him to go through the dockets.

CHAIRPERSON: But you have already said, correct, it

would take quite some time, even if it was a team. Correct?

BRIGADIER NKHWASHU: Correct, Commissioner.

CHAIRPERSON: Yes. Now, during that time, if all dockets have physically been taken to the General, that means the investigators involved, or rather investigating those dockets, would have no access to them and would not be able to conduct investigations on them.

BRIGADIER NKHWASHU: Commissioner, I will base my answer on experience of a project of this nature.

10 **CHAIRPERSON**: Yes.

BRIGADIER NKHWASHU: Usually when a task team is formed to give attention to these cases, they have a number of investigating officers whom they are going to assign these dockets to for that time period. On the other foot, they will peruse the docket and if they are satisfied that the current investigating officer is doing well in the investigation, they may return the docket with instructions to that particular original investigator.

20 So, hence I am saying it could take time if the General was going to sit with these dockets with a few investigating officers. However, if it is done in the way that I am saying, Commissioner Chair, it does not take time on other matters.

CHAIRPERSON: All right, perhaps let me leave that there. Look at the subject line of the email at page 28. This is

something that Ms Pooe has touched on. Also, the subject of the email itself, I am no longer referring to the subject line, but in the email, the body of the email itself, Pooe referred to “copies of J58”, or the one says J58 warrants, warrant of arrests, should have said warrants of arrests. Then that is the subject line of the email, and then the body of the email, the subject at the top before the content of the email also says, request for copies of J50 (warrants of arrests). And then again, the body of the email says:

10 “By directives of the DPC, Crime
 Detection, all provincial commanders and
 section commanders must submit “copies
 of the J50” (warrant of arrests).”

The language could not have been clearer. All that this is asking for are warrants of arrests. I do not understand your explanation that, no, no, no, no, no, this is actually not asking for warrants of arrests, it is asking for full dockets. It does not say so. Not once.

20 I have referred you to three parts. All three parts
refer to warrants of arrests. It does not matter, in my view, what your experience is. This says nothing about the full dockets. What is your comment to that?

BRIGADIER NKHWASHU: Commissioner, my comment would be that the manner in which this email was crafted, I agree with you on perceiving it to be needing only

...[intervenes].

CHAIRPERSON: Not perceiving, I am reading what is on the – Brigadier, it is not a matter of perception. That is what is in black and white in front of you and me. It is asking for J50 warrants of arrests. In so many words, at three places, as I emphasised. So it is not a perception. Please go ahead with your explanation. Or rather, with your comment.

BRIGADIER NKHWASHU: I apologise, Commissioner, for
10 that.

CHAIRPERSON: No need. No, no, no, no, no. I am just correcting you. No need for an apology.

BRIGADIER NKHWASHU: Thanks, Commissioner.

CHAIRPERSON: Yes.

BRIGADIER NKHWASHU: Like I was saying, Commissioner, we always send dockets, even though the subject matter would be saying copies of the J50 warrant of arrest. And to support my submission, Commissioner, at no stage did we send these dockets when the copies were
20 requested and the dockets were returned and they said they only needed the copies.

CHAIRPERSON: Now, when you take the whole docket to General Khumalo, it would be having inside it the original warrant of arrest, correct?

BRIGADIER NKHWASHU: Correct, Commissioner.

CHAIRPERSON: Yes, that exactly makes my point. In so many words, this docket, or rather this document, the email, three times refers to copies. So it is copies, copies, copies, three times. Let us leave aside the reference to warrants now and focus on copies, copies, copies. Surely that could not have been calling for a full docket if it is asking for copies and it is specified what those copies are. Copies of what? That is specified. Copies in so many words, Brigadier. So how can you say what was required was a full
10 docket with original, underlined original warrants of arrest inside it?

BRIGADIER NKHWASHU: Commissioner Chair, I understand what you are saying and let me agree with you that the email was talking to the copies of the warrant of arrest. However, my initial submission still stands that we normally send the dockets with the warrant of arrest, Commissioner.

And remember, Commissioner Chair, I said in some instances, when a task team is established, when they read
20 the investigation on the docket, on the ...[indistinct] copies, they reassign the docket to the task team members and to continue with the investigation while they are having the initial case docket, not only the copy of the warrant of arrest.

CHAIRPERSON: I will stop there for now.

ADV KHUMALO SC: Can I come to your rescue, Brigadier?

BRIGADIER NKHWASHU: Thank you very much, Commissioner.

ADV KHUMALO SC: Page 29, the following email. Can I come to your rescue?

BRIGADIER NKHWASHU: Thank you.

ADV KHUMALO SC: Paragraph 3 of the email, which relates to the same instruction, says facilitate the collection of dockets from districts and stations. So clearly there was
10 some confusion and one can see how, even if the original instruction was warrants only, the other email clearly refers to dockets.

So I am coming to your rescue there, but I have got a question for you. By this time, you know that Tau has been arrested in relation to one of these cases because you know it is a murder case. Remember, we are in 2025 now. You also know that Katiso Molefe has been arrested in relation to a Vereeniging murder case and you know that other suspects are at large in relation to that case.

20 You have visited Katiso Molefe twice already by this time. You had been to Groenpunt twice by this time. Why do you still involve yourself in the process, knowing very well that the suspect in this case is your brother-in-law and his friends?

Because this is now March 2025. Remember when

you went to Groenpunt in December it was 2024, and you went again in February 2025. You are now in March 2025.

Why are you still involving yourself in the request for this docket when you know that it relates to a case against your brother-in-law and his friend? And as we see here, your brother-in-law's son or nephew.

BRIGADIER NKHWASHU: Thank you very much, Commissioner Khumalo, for also rescuing me.

CHAIRPERSON: For the lifeline.

10 **BRIGADIER NKHWASHU**: For the lifeline, Commissioner. Thanks. Commissioner, the warrant or the docket which you are saying why would I still involve myself knowing that my brother-in-law is a suspect into it. At that stage, Commissioner, my brother-in-law was not a suspect into that case. And the J50 warrant of arrest was for, I think, when we looked at it, it was for his nephew.

ADV KHUMALO SC: No, I am not talking about the warrant. I am talking about the docket itself. The docket is the Armand Swart murder docket. And you have already, I
20 rescued you and said your understanding was that this refers to dockets, not to the individual warrant because there would be multiple warrants in the docket because there are multiple suspects.

BRIGADIER NKHWASHU: Correct.

ADV KHUMALO SC: Now, you already know that Katiso

Molefe is arrested in relation to this and you already know that his friend that he spoke to you about in June of 2024 is arrested in relation to this case. Why do you involve yourself in the request for the very same docket where your brother-in-law is involved, where his friend is involved? And as we see in the warrant itself, his nephew is involved. That is really my question. So do not focus on the warrant because you are saying you are asking for the docket.

BRIGADIER NKHWASHU: Thank you, Commissioner
10 Khumalo, once more. At the time of me complying with this instruction from the province, I was not aware, Commissioner, that this docket is the docket pertaining to Katiso Molefe.

ADV KHUMALO SC: No, but you know that the Sedibeng murder dockets, one of them relates to Katiso. You have already seen him in prison. He has already appeared in court. You know he spoke to you about Tau and you know that Tau was arrested in your district or the case is in your district for murder. You already know that. So how can you
20 say you did not know that one of the murder dockets would be this docket?

BRIGADIER NKHWASHU: Commissioner, I did not know the case number by heart. And when this list of dockets were sent, I just saw a list of dockets and I started distributing instructions to the immediate commanders of

the section on those cases. I did not, at that stage, I was not aware at that stage that these dockets of Vereeniging because it was not the only one in Vereeniging, Commissioner, that was needed.

Commissioner, you will remember, after the conversation between me and Witness B, after when the docket was not delivered, after the first conversation, I realised thereafter that, no, no, no, this case is talking to the Molefe. Then that is when I started to realise, then I
10 recused myself. So had I realised earlier on that this docket is amongst the other dockets that were requested, Commissioner, I would have done the same at that time.

ADV KHUMALO SC: No, Brigadier, I find that difficult to believe because you knew in 2024 already that a murder docket from Sedibeng had been transferred to Organised Crime and that some of the suspects had not been arrested. So when there is a request for a collection of dockets relating to murders and wanted suspects, I mean, surely you should know that amongst them would be this one. And
20 you would have known that before you even called one of the investigating officers.

Because even when you made the call, you must have known what docket you are looking for because you already have some of the dockets, two are missing, but then you know who to call, so you are not looking around. The

moment you made the first phone call, you must have known which docket you were looking for.

BRIGADIER NKHWASHU: Commissioner, honestly ...[intervenes].

ADV KHUMALO SC: No, I just find it difficult to believe. I am sorry ...[intervenes].

BRIGADIER NKHWASHU: I was not ...[intervenes].

ADV KHUMALO SC: I find it difficult to believe, but I will leave it there.

10 **BRIGADIER NKHWASHU**: Thank you, Commissioner.

ADV POOE: Brigadier, we want to come back here, but before we stray too far ahead, just on the point of copies, I just want to draw your attention to CJC188. You will see there, it is page 31.

BRIGADIER NKHWASHU: I am there. I am there, Advocate.

ADV POOE: Thank you. I was just checking with the Commissioners. You will see there that it is page 31 and 32 are two screenshots. It is a conversation between Warrant
20 Officer Mills and Witness B. I will say the black with the slight shading, that is the text from Warrant Officer Mills, who we have been told is in Maj-Gen Mbuso Khumalo's office.

He then reached out to Witness B to obtain a copy or a picture of the J50. This was done on the 8th of April. If

you look at the following page, there is a clear picture that was sent of the warrant in question. The shading is terrible, but you will see after that is sent, Warrant Officer Mills responds with a bowing picture. Can you see that?

BRIGADIER NKHWASHU: Advocate, ...[indistinct]?

ADV POOE: A picture of a person tipping their hat and bowing.

BRIGADIER NKHWASHU: In page 32?

ADV POOE: Yes, after the picture is sent.

10 **CHAIRPERSON**: You see right ...[intervenes].

ADV POOE: It is not very clear. It is right at the bottom.

BRIGADIER NKHWASHU: At the bottom? Oh, yes. It is not very clear.

CHAIRPERSON: Ja, it is black on black.

BRIGADIER NKHWASHU: Yes, Commissioner.

ADV POOE: Black on black. So there you see is Witness B complying with the request for a copy. And this was done by the 8th of April 2025.

BRIGADIER NKHWASHU: Okay, Commissioner.

20 **ADV POOE**: Now, this will then take us to the calls that then happen between yourself and Witness B.

ADV BALOYI SC: Can I just ask one question?

ADV POOE: Yes.

ADV BALOYI SC: That documented page 29, Brigadier, the one that you referred to by Commissioner Khumalo, the

writer at the foot of that document, it says it has a name there with a cell phone number. You see where I am looking? And it is addressed to – at the bottom it says, Attention, Lt-Col Prowse. And then at the bottom, it is a Colonel Bezuidenhout. Do you see where I am reading?

BRIGADIER NKHWASHU: Yes, I see it, Commissioner.

ADV BALOYI SC: Now, this is on a blank page. It does not indicate, and when you look at the email addresses, they seem to be private emails, except the copy to
10 Bezuidenhout, which is the SAPS. Who is Colonel Bezuidenhout? Because this is the only document of the documents that are in front of us which specifies dockets to be collected. Who is Bezuidenhout?

BRIGADIER NKHWASHU: I do not know him, Commissioner. I can only presume that he is working at the Provincial Head Office.

ADV BALOYI SC: Yes, and Prowse is in the office of Maj-Gen Mbuso.

BRIGADIER NKHWASHU: Exactly, Commissioner. That is
20 what I can say. Colonel Bezuidenhout is senior to Lt-Col Prowse. So it could be that they are working together, but Prowse reporting to Colonel Bezuidenhout.

ADV BALOYI SC: All right, thank you. Thanks, Ms Pooe.

ADV POOE: Brigadier, just to point out that, so Witness B complied with the request for a copy, albeit a picture of the

J50 on the 8th, right? And you then give, you reach out to, was it Colonel Grundling? Colonel Grundling on the 16th of April. So that is after the submission. Maybe just to help you with the dates, if you go to page 4 of that last tab, so CJC185.

BRIGADIER NKHWASHU: 185?

ADV POOE: Yes, so page 4. You will see there it is the statement of Colonel Grundling.

BRIGADIER NKHWASHU: Correct, Advocate.

10 **ADV POOE:** And he notes there that he received a request from you on the 16th of April 2025. That is at paragraph 2.

BRIGADIER NKHWASHU: Correct, Advocate.

ADV POOE: I just want to point out that at the time that you are making this request, the copy of the J50 as instructed was already sent.

BRIGADIER NKHWASHU: Okay. I see that, Advocate.

ADV POOE: All right, and just to add further complications, in your interaction with Chair, you noted that the instruction was to submit to Maj-Gen Mbuso Khumalo,
20 who would do a review and oversee the investigations. Do you recall that?

BRIGADIER NKHWASHU: Yes, Advocate.

ADV POOE: Now I want to take you to page, so this is now Tab 3, page 41. You will see there it is Witness B's statement.

BRIGADIER NKHWASHU: Page 41?

ADV POOE: 41.

BRIGADIER NKHWASHU: Page 41 of Tab 3, it is not the statement of Witness B.

ADV POOE: I will show you. The statement itself starts at page 10, and for purpose of this we included her entire statement.

BRIGADIER NKHWASHU: Okay. All right. I see it, ja.

ADV POOE: So that is a continuation. So if you have
10 regard to two paragraphs in particular, if you look at paragraph 83, she detailed there that – maybe to contextualise, after Mr Tau was granted bail, the detective sought assistance from Maj-Gen Mbuso Khumalo, and at paragraph 83, she details how she then had a call with General Khumalo and summarised the issues, and then Maj-Gen Khumalo indicated a need for them to meet.

Then if you turn over to the next page at paragraph 88, you will see there she details how they then met with Maj-Gen Khumalo, who provided him with a detailed account
20 of the investigation. He started to give them guidance, emphasising their safety, and help them, the safety of the team and the docket, and arranging for ongoing oversight.

So from around the, at least around the 20th of August, Maj-Gen Khumalo was already providing oversight over this docket.

BRIGADIER NKHWASHU: I see that, Advocate.

ADV POOE: Yes. So if you take into account the request for copies, and perhaps there is a confusion because the prior email talked about dockets, the fact that Witness B had already provided the copy, moreover, the docket was already being overseen at the provincial office. It still begs the question, why were you still trying to get the docket on the 16th of April in 2025?

ADV BALOYI SC: To understand the proposition that you
10 are making and that you are seeking comment on, are you proposing that there was no instruction from the Provincial Commissioner to comply with?

ADV POOE: No, certainly not.

ADV BALOYI SC: And so he need not have asked for the docket. Ja, I am trying to follow the proposition you are making to the witness so I can understand his answer.

ADV POOE: My proposition to the Witness is that what
20 was requested from the various districts was submission of warrants, copies of warrants of arrest, and that was complied with on the 8th. Now, over and above that, the Brigadier in his statement says the reason for submitting the entire docket is for oversight by Maj-Gen Mbuso Khumalo.

And it is just to point out that this docket in particular was already overseen by Maj-Gen Mbuso

Khumalo. So at the point at which he writes a WhatsApp to Lt-Col Grundling, not only was the copy submitted, but the docket itself was under supervision of Maj-Gen Khumalo. And so it begs the question, why was he still seeking the docket at that stage?

ADV BALOYI SC: Is maybe an earlier question that should be asked not whether you became aware that Witness B had provided the J50 on the 8th of April as per that WhatsApp messages?

10 **BRIGADIER NKHWASHU:** Should I respond to that?

ADV BALOYI SC: Yes, you may.

BRIGADIER NKHWASHU: Thanks, Commissioner Baloyi. Yes, I was not aware at that stage that the IO has already submitted this warrant of arrest, which is why I was saying to Commissioner Khumalo that I only started becoming aware by the time I was speaking to the IO. And it was after the warrant of arrest was submitted by them. Little did I know that it has been submitted.

20 And on the 14th of April 2025, the Provincial Commissioner made a follow-up on those dockets and the list that I received on the 14th, it has got that docket in that list. So I think it will also assist the Commissioner Chair in saying that because they have sent, not that they have sent the warrant of arrest to the province, not the docket.

But still, they send an email requesting the docket

from CDB. So, it answers, I think, all the Commissioners in that surely they were looking for the docket.

Number two, I did not know that the copy of the warrant of arrest has been already submitted on the 8th. And I had no interest in the docket, per se. Hence, when I identified that this docket is of Molefe, Commissioner Khumalo, I recused myself.

ADV BALOYI SC: Let me ask a related question. The email that requires, the one from Bezuidenhout, it is the
10 body of the email itself. Let me get my facts right. Yes, the email at page 28 from Lt-Col-Prowse. It gives a deadline for submitting these copies of warrants of arrest. It says the 28th of March 2025.

And yet, your request or your WhatsApp to Grundling is on the 16th of April. So, it is past the deadline. Can you just explain, does it mean you never complied with that deadline? If you did comply, why do you still ask for these specific dockets, including the 275 docket on the 16th of April?

20 **BRIGADIER NKHWASHU:** Thank you, Commissioner Baloyi. It is just that we had a long day. I cannot remember the pages which I should refer you to, but we dealt with it earlier on. But I think it is on the section where there are the annexures from the Commission. We received, or let me say initial, the docket that we requested.

It was 23 of Sedibeng. I hope the Commissioner remembers that. It was 23 in total.

And the instruction that we received on the 14th of April was requesting or was having an attachment of only 12 dockets, suggesting that already 11 has been submitted to the province. Now, I believe in those ...[intervenes].

ADV KHUMALO SC: Look at 37 as you answer. I think that is what you are looking for. Page 37.

BRIGADIER NKHWASHU: Page 37.

10 **ADV KHUMALO SC:** The same one where the email is. It is CJC192. Although it is a 2026 letter, paragraph 2, that is where I saw the reference to the 14th of April. There was a spreadsheet of outstanding dockets.

BRIGADIER NKHWASHU: Correct once more, Commissioner Khumalo, and thanks for assisting once more. The instruction that we received was dated the 14th of April. Now, the annexure attached to the email of the 14th of April of Sedibeng only was now having 12 dockets. No longer 23, suggesting that 11 has already been
20 submitted. Now, the Provincial Commissioner was saying in this email, in paragraph 1:

“Kindly note that Deputy Provincial Commissioner of Crime Detection, Maj-Gen Khumalo, issued an internal correspondence to the five District

Commissioners within the Gauteng Province, namely...”

All of them were named:

“...requesting for the list of wanted suspects to be purified. Whether they are still on the run, arrested, or other cases or deceased, see attached correspondence marked Annexure A dated the 19th of April for ease of reference.”

Okay, it just goes on to mention that the District Commissioners were handed over a spreadsheet, and this is the spreadsheet that I am talking that we were having 12 outstanding dockets. Wherein that spreadsheet, the case in question was amongst them, although they have already submitted the J50 warrant of arrest to the province.

ADV BALOYI SC: Thank you.

CHAIRPERSON: And can you explain why they submitted only a J50 or a warrant of arrest? Of course, I know you did not submit it. Do you have an idea?

BRIGADIER NKHWASHU: I do ...[intervenes].

CHAIRPERSON: Because it seems they too read this or understood this exactly the way you understood it.

BRIGADIER NKHWASHU: Exactly, Commissioner Chair, I agree with you.

CHAIRPERSON: Yes, Ms Pooe.

ADV POOE: Thank you, Commissioners. Now, in response to a conversation or engagement with Commissioner Khumalo you indicated that – sorry, I want to move on to the two calls that then happened between yourself and Witness B.

BRIGADIER NKHWASHU: Okay.

ADV POOE: Yes. It is on record that Colonel Grundling informed Witness B that you were looking for the dockets,
10 and Witness B undertook to call you, so she initiates the first call to you. Do you recall that?

BRIGADIER NKHWASHU: I am sorry, Advocate, you say, I recall that Colonel Grundling?

ADV POOE: I am saying that it is on record that Colonel Grundling informed Witness B that you were looking for the docket.

BRIGADIER NKHWASHU: Correct, correct.

ADV POOE: And it is Witness B that then calls you to explain where the docket is.

20 **BRIGADIER NKHWASHU:** Correct.

ADV POOE: You recall that?

BRIGADIER NKHWASHU: Yes.

ADV POOE: Now, if we go to your paragraph 42 on page 12 of your statement.

BRIGADIER NKHWASHU: Sorry, I am not there yet.

Advocate is in bundle?

ADV POOE: It is in the first section.

BRIGADIER NKHWASHU: First section.

ADV POOE: Page 12.

BRIGADIER NKHWASHU: Page 85?

ADV POOE: No, page 12.

BRIGADIER NKHWASHU: 12. I am there, Advocate.

ADV POOE: You recall earlier you confirmed that she called and explained where the docket was, and you
10 responded by asking that she send an email. That is correct?

BRIGADIER NKHWASHU: Correct, Advocate.

ADV POOE: And then you said in your engagement with Commissioner Khumalo that after that call, it dawned on you that that docket related to Mr Molefe.

BRIGADIER NKHWASHU: Correct, Advocate.

ADV POOE: And prompting you to then call Witness B back and say, do not send it to me. You recall that?

BRIGADIER NKHWASHU: Yes.

20 **ADV POOE**: What exactly dawned on you? What is it that triggered your memory that this docket related to Mr Molefe?

BRIGADIER NKHWASHU: I was already told that there is an investigation, right, that is ongoing on the case of Katiso Molefe that is investigated by the Organised Crime. Now,

by now I remember the incident happened in April. And when it happened in April, when Michael Pule Tau was arrested, that is the docket that we have moved to the province, and now at Organised Crime.

Now, Witness B phones me and says I heard that Colonel Grundling says you are looking for the docket. I said, who am I speaking to? She said, she mentioned, and then Witness B further explained to me, and that jogged back my mind to say, oh, okay, this is the docket.

10 **ADV POOE**: I am sorry, just to understand, what is it about her explanation? Is it just where she is stationed that jogged your memory?

BRIGADIER NKHWASHU: Yes, Organised Crime, and it is in April.

ADV POOE: When you say it is in April, what do you mean? What is in April? Because remember, Mr Tau is arrested in April of 2024. We are now in April of 2025, this interaction happens.

20 **BRIGADIER NKHWASHU**: Yes, Advocate, I mean the case is of April 2024.

ADV POOE: So, that is because, is it that she informs you that the case is of April 2024?

BRIGADIER NKHWASHU: Yes, not necessarily that she informed me it is of April. As I am speaking to him, she is saying that the docket is at the DPP, and this case, when I

look at the list now, having been reminded that the investigating officer is from Organised Crime after the identification at the beginning of the call, obviously, my mind ran to that particular case.

ADV POOE: Brigadier, my difficulty is, if you look at the transcript of your call with Witness B, which is in Tab 3 at page 64.

BRIGADIER NKHWASHU: Yes, Advocate.

ADV POOE: You will see there that the only thing she
10 mentioned is that she was in Organised Crime. Apart from that, there are no other details about the case. There is nothing about April in your conversation.

BRIGADIER NKHWASHU: Yes, you are quite right, Advocate. As I am speaking to her, she is telling me who she is from Organised Crime, and I went back to the list of the dockets. And when I look at the case, it happened in April, and already the case of April, where Pule Tau was arrested, it was all over. It was now the talk of the town. By now, I know that Witness B is the investigating officer of
20 this case.

ADV POOE: When you say by now, you mean from that call?

BRIGADIER NKHWASHU: Yes.

ADV POOE: Now, that the docket was sitting with Organised Crime, you have known all along, right?

BRIGADIER NKHWASHU: Yes.

ADV POOE: And when you are then told by – perhaps I should start here, did Colonel Grundling tell you where the docket was, the dockets that you were looking for?

BRIGADIER NKHWASHU: No, he never told me where the docket was.

ADV POOE: And at that stage, you were looking for three dockets. Did it dawn on you to look at the system where those dockets were, the three dockets?

10 **BRIGADIER NKHWASHU**: Yes. There were three dockets from Vereeniging.

ADV POOE: Yes, and did it dawn on you to look at where those dockets were?

BRIGADIER NKHWASHU: No, no, no, no, no. Remember, Advocate, me, I am just giving instruction, overseeing that the instruction is complied with.

ADV POOE: Yes.

BRIGADIER NKHWASHU: Yes. I am not doing the investigation myself.

20 **ADV POOE**: Yes, I suppose, Brigadier, I just find ...[intervenes].

CHAIRPERSON: Sorry, Ms Pooe, let us just take a five-minute adjournment, and may Counsel come outside again, please. Five, only.

INQUIRY ADJOURNS

INQUIRY RESUMES

MALE SPEAKER: All right, it seems we are ready to resume. Thank you.

CHAIRPERSON: Yes, Ms Pooe.

ADV POOE: Yes, Brigadier, let us then move on to the second call. In particular, I am interested in when you call back to Witness B and you say to her, Gee[?] suspect. Your explanation earlier was that you had learned that, or you say an informer had previously told you that your name
10 had been mentioned in connection with Tau matter and that you were under investigation. Were you told by somebody within the SAPS?

BRIGADIER NKHWASHU: No.

ADV POOE: And when you are told this, they say who is it that mentioned your name in relation to the Tau matter?

BRIGADIER NKHWASHU: Can you repeat that, Advocate?

ADV POOE: Who is it that was mentioning your name around the Tau matter?

BRIGADIER NKHWASHU: Who was informing me?

20 **ADV POOE:** No, no, I trust that you will not tell me your informer. I am more interested in who your informer was saying mentioned your name in connection with the Tau matter.

BRIGADIER NKHWASHU: I am struggling to understand that question, Advocate.

ADV POOE: Okay, perhaps let us then take it step by step. You say that you were informed that your name was being mentioned in connection with the Tau matter.

BRIGADIER NKHWASHU: Yes.

ADV POOE: Were you informed who was mentioning your name?

BRIGADIER NKHWASHU: By my informer?

ADV POOE: Yes.

BRIGADIER NKHWASHU: Yes.

10 **ADV POOE**: So who was mentioning your name?

BRIGADIER NKHWASHU: I cannot reveal that, Advocate.

ADV BALOYI SC: There may be a misunderstanding. You are not being asked to reveal the name of the informer.

BRIGADIER NKHWASHU: Yes.

ADV BALOYI SC: That is not the question.

BRIGADIER NKHWASHU: Yes.

20 **ADV BALOYI SC**: The question is, when the informer told you that your name is being mentioned, did the informer tell you who has mentioned your name relating to the Tau matter? Who has said anything about you relating to the Tau matter?

BRIGADIER NKHWASHU: No. My informer happened to be an informer of crime intelligence that I know for a fact. Now, when he told me, he said, I overheard those people at the crime intelligence saying that you are under

investigation on the Katiso matter.

ADV BALOYI SC: Did he give you any names of the people at crime intelligence that he overheard?

BRIGADIER NKHWASHU: No, he did not give me the names, Commissioner.

ADV BALOYI SC: Thank you.

ADV POOE: And this investigation that he was referring to, did you do any follow-up to check if there is an investigation of this nature going on?

10 **BRIGADIER NKHWASHU:** No, I did not.

ADV POOE: So, did you just take him on face value that this may be true?

BRIGADIER NKHWASHU: Yes, Advocate.

ADV POOE: And why did you believe that it could be true?

BRIGADIER NKHWASHU: My informer has never lied to me.

ADV POOE: Oh, so it is on the back of your informer being reliable?

BRIGADIER NKHWASHU: Yes.

20 **ADV POOE:** And then what did you do with this information?

BRIGADIER NKHWASHU: No, I waited for this day to come because I knew that when the investigation is taking place, there will be time that I will be informed that I am being investigated.

ADV POOE: And then when does your informer tell you this? When exactly or whereabouts?

BRIGADIER NKHWASHU: It was, I think it was after my visit to the prison.

ADV POOE: So sometime in December?

BRIGADIER NKHWASHU: No, I think it ...[intervenes]

ADV POOE: Oh, you mean the second visit?

BRIGADIER NKHWASHU: Yes, the second visit.

ADV POOE: So sometime after February you were told?

10 **BRIGADIER NKHWASHU:** Yes.

ADV POOE: And now having been told and I guess you had a realisation that you wanted to stay away from this matter to avoid any appearance of conflict of interest, you did not then, I do not know, like learn the case number so that in case it comes up you know to avoid it?

BRIGADIER NKHWASHU: No, I did not investigate the matter myself. I said, let me just wait, it will come.

ADV POOE: Not necessarily investigate, I am asking that you say you wanted to avoid any appearance of a conflict of
20 interest.

BRIGADIER NKHWASHU: Yes.

ADV POOE: So, I am asking you, did you learn at the very least the case number to know that when this docket comes up you need to stay away from it?

BRIGADIER NKHWASHU: Yes, I knew the case number by

then.

ADV POOE: So that you would have known the case number in, you say February then?

BRIGADIER NKHWASHU: Yes, by February. After that, going to March and April, the case number I knew.

ADV POOE: Okay, then when in March these instructions come for the dockets which list the case number, why did you not recuse yourself earlier? It is to Commissioner Khumalo's point, why did you not recuse yourself earlier?

10 **BRIGADIER NKHWASHU**: Commissioners, when I saw that list in the spreadsheet, I did not go case by case to check the case numbers. What was of essence to me was the stations listed and then I then forwarded those lists to the detective commanders as I have alluded earlier on. So, I did not go deeper to read one by one because I never thought this case could be in the J50 project.

ADV POOE: All right, thank you Brigadier. Commissioners, I am going to move from this topic.

20 **CHAIRPERSON**: Just before that. Brigadier, are you an unforgiving person by nature, to family in particular?

BRIGADIER NKHWASHU: No, Commissioner, I forgive.

CHAIRPERSON: You forgive?

BRIGADIER NKHWASHU: Yes, I forgive.

CHAIRPERSON: Even for what you may consider to be the worst conduct, you consider yourself to be a forgiving

person?

BRIGADIER NKHWASHU: Commissioner, there are quite a few instances where we had differences with my immediate family members. And in the meeting, I would chip out or I would tell them I am sorry for my words, where to get off. And it would be a question of we are no longer talking to one another. And after some time, I sit down and think back and reconcile.

CHAIRPERSON: And this would happen, I would imagine,
10 within a relatively short time?

BRIGADIER NKHWASHU: No.

CHAIRPERSON: You?

BRIGADIER NKHWASHU: No.

CHAIRPERSON: How long would it take, perhaps?

BRIGADIER NKHWASHU: Commissioner, it would take me some time. I can tell you that it is a pity. Even my wife can tell you.

CHAIRPERSON: Just an indication of how long it would take, or the longest it has taken you?

20 **BRIGADIER NKHWASHU**: Yes, I would not really be having a period because each and every incident differs in its nature. But on this one that I am thinking of, we spent, I think, in that year, almost a year not talking to one another.

CHAIRPERSON: So that was the longest?

BRIGADIER NKHWASHU: Yes.

CHAIRPERSON: All right, let me take you to paragraph 10 of your affidavit at page 4, the original statement. In the last two sentences, you say:

“Over the years, Fundiswa became like a baby sister to me. I grew to love and care for her as my own sibling [my sister].”

And that is not the only place where you refer to her as family. I think somewhere you even say, after she had lost
10 her own biological family, you became the only family she had. Now, I want to understand, if you are a forgiving person, that the longest you have not forgiven a family member was a year. Now, someone that you considered to be family, you had a misunderstanding with her in 2005. And that was basically the end of the relationship.

Yes, you do say that there are three to four calls that you remember to have had with her between 2005 until, what, I think even beyond 2021 when she actually got married. So, even beyond that. But you do add that you
20 think there may have been two or so more calls. So, over that period, it must have been, what, something like six calls at the most. It seems to me you never forgave her. Would you agree?

BRIGADIER NKHWASHU: I would partly agree, Commissioner. Like I have alluded earlier on, I took time to

forgive.

CHAIRPERSON: But with her it was worse because you said the longest with your family members was just a year. Now, we are talking years and years and years here.

BRIGADIER NKHWASHU: Yes, Commissioner. Remember, as we grow, we mature. And in the case of Fundiswa, Commissioner, you will know that I have explained earlier on that I am the elder in my family. And as I grow and mature, I realise that keeping grudges for that
10 long is not really assisting me, even myself. And, however, Commissioner, you will know that there is no dustbin for people. And you do not choose to be in the family or in a family relationship. And I cannot dispose, even if I might not have forgiven, but I cannot wish her away. I cannot dispose of a person. Persons are not disposable.

CHAIRPERSON: Okay, yes. My take-home is that you have said in so many ways that you partly agree with me when I say you never forgave her. Okay, I will move on. What I want to suggest to you is that it is quite some
20 coincidence that you revive physical contact, that is, sharing the same space with her, around the time Mr Molefe is going to make the request that you referred to. So, to 2005, silent between you, no physical contact. And the first-time physical contact happens is a day before Mr Molefe makes the request for you to assist with regard to Mr

Tau's bail. Quite a coincidence. And the day before she makes the request that you should meet Mr Molefe. Quite a coincidence. Your comment?

BRIGADIER NKHWASHU: Thanks, Commissioner Chair. Yes, since 2005, I have submitted that I have not spoken to Fundiswa many times. However, Commissioner, I have also submitted that I just do not have the dates with me.

CHAIRPERSON: Oh no, yes, I think I remember when you say it was not even her that called you when she had some
10 problems or difficulties, but was it one of her sisters?

BRIGADIER NKHWASHU: Yes.

CHAIRPERSON: Yes, yes. But I think we can discount that because it just related to someone wanting you to assist her. That did not necessarily revive the relationship. So, with that sort of exception, my point stands. So, throughout, the relationship is basically non-existent. And coincidentally, she suddenly asks to meet you. And after the discussion that the two of you had, she also then, quite coincidentally, says, please meet my husband and please
20 meet him tomorrow. And you then meet and he makes this request. So, I am saying quite a coincidence. Your comment?

BRIGADIER NKHWASHU: Commissioner, yes, I agree with you. It is quite coincidental. However, I still stick to my submission, Commissioner, that by then it has been some

years. And when she calls, I, you know, think my choice is that what I am actually doing is inhuman. And considering that Fundiswa is no longer having a family, actually, I thought I made a U-turn after I thought about it. The actual U-turn was made during the time I was made aware that she is having incidents of crime. So, Commissioner, I will say, yes, it has taken a long time, but yes, I forgive.

CHAIRPERSON: Thank you.

BRIGADIER NKHWASHU: Thanks, Commissioner.

10 **ADV POOE:** Brigadier, let us move to, I will call it the last topic, but there is a smaller topic afterwards. The second last topic, or the last major topic. You testified that you had never met Mr Molefe prior to your meeting in June 2024. Is that correct?

BRIGADIER NKHWASHU: Correct, Advocate.

ADV POOE: And then you meet Mr Molefe in June of 2024, and after that meeting you were uncomfortable. Is that correct?

BRIGADIER NKHWASHU: Correct, Advocate.

20 **ADV POOE:** And in fact, you say you had the sense that the meeting was orchestrated specifically for him to talk about that request that he made at the end.

BRIGADIER NKHWASHU: Correct, Advocate.

ADV POOE: And in particular that he was using the work opportunities, potential work opportunities, as a way of

enticing you, you said.

BRIGADIER NKHWASHU: Correct, Advocate.

ADV POOE: And then you testified that when asked, did you convey this to Ms Nyangule, you said that you did express it, but you expressed it after the stokvel.

BRIGADIER NKHWASHU: Correct, Advocate.

ADV POOE: And the stokvel would have been in July 2024.

BRIGADIER NKHWASHU: Correct, Advocate.

10 **ADV POOE**: Now, at this stage, in December, you testified that you then learned from Ms Nyangule that Mr Molefe has been arrested.

BRIGADIER NKHWASHU: Correct, Advocate.

ADV POOE: And she then approaches you for assistance with delivering the clothes.

BRIGADIER NKHWASHU: Correct, Advocate.

20 **ADV POOE**: Now, if you take into account your interaction with Chair regarding the nature of your relationship, or the estranged nature of your relationship, and the sparse communication, and you consider it alongside the fact that you had only ever met Mr Molefe once, why did you feel it necessary to assist Ms Nyangule in getting clothes to Mr Molefe and food. In fact, the entire visit.

BRIGADIER NKHWASHU: Commissioners, let me correct one version of the Advocate's remarks. I have not met

Katiso once, I must admit.

ADV POOE: Correct.

BRIGADIER NKHWASHU: After that meeting where we parted ways, after I said I do not discuss work cases, I believe we have met with Katiso before his arrest. And that could not be correct that I met him once.

ADV POOE: So, you met him, do you recall when, before his arrest, and under what circumstances?

BRIGADIER NKHWASHU: Yes, I recall that we met at their
10 house in Fourways, which is Fundiswa's house. And also in that weekend, Fundiswa visited with his nephew, and then we met, we sit and dine, and then that is where I asked Fundiswa separately ...[speaking in vernacular]. By the way, Commissioner ...[intervenes]

CHAIRPERSON: No, I agree that you are free to do that, as long as you translate. Because sometimes you are able to convey what you want to convey in one of our languages.

BRIGADIER NKHWASHU: Thank you very much,
Commissioner. I will, for the sake of time, try to shorten it
20 and convey it in English. And I asked Fundiswa, I felt like in that meeting which you arranged for me, when you were selling me out, and then she asked me why, and I told her, and she said, no, no, no, no, that cannot be the case. I would not have wanted you to meet my husband, and at the same time, set you under the bus, me and you having

missed each other for so long.

You are the uncle of my children, and I do not know whether I told you that the eldest son of my sister Fundiswa was born while she was in Kagiso, at my place. So, we reunited with the nephews, and it was okay. And in my mind, there was still this thing of, because as she was frequently coming to Gauteng, she was busy working on the issue of the estate.

And she would now and then call me and tell me
10 the progress. And then we met with Katiso there, and then she told me that, no, it is not possible that I can put you under the bus. Believe you me. Believe you me. And I do not believe, I did not know what you say you discussed with Katiso, and he did not tell me. But I will try and find out.

But she came back to say, no, no, no, I do not believe Katiso can do that to you. Meena, I have missed you for quite so long. To an extent, *boetie*, to an extent that of late, I am still taking care of her needs when she needs me. And even when there is a turn of events after
20 this incident of Katiso being arrested, we were still together.

ADV BALOYI SC: Brigadier, until now, we were under the impression, or I was under the impression from your statement and your evidence up to now, that you met Mr Molefe once, and the next time you had anything to do with

him is when he is now in custody. How many times, after that first meeting in June 2024, how many times have you had interactions with Mr Molefe before he was arrested? Were there meetings, maybe, actually, include meetings and telephone conversations, if you have had telephone conversations with him?

BRIGADIER NKHWASHU: What I can recall, Commissioner, is that I met him, I think, perhaps I can recall of three times that I have met him.

10 **ADV BALOYI SC:** That is before he was arrested?

BRIGADIER NKHWASHU: Before he was arrested.

ADV BALOYI SC: And in that period, that interim period, did you have any telephone communications with him?

BRIGADIER NKHWASHU: No.

ADV BALOYI SC: Thank you.

ADV POOE: And just for my own clarity, the three times, does it include or exclude your June meeting?

BRIGADIER NKHWASHU: No, no, after it excludes.

ADV POOE: So, you met him three more times?

20 **BRIGADIER NKHWASHU:** Yes.

ADV POOE: And what was the nature of your engagements then?

BRIGADIER NKHWASHU: Yes, you remember we spoke about the issue of the security?

ADV POOE: Okay.

BRIGADIER NKHWASHU: He made sure that he kept his promise because he was the one who was saying, I am still on that matter of the security. And I said, yes, why not? And I said, I am still on. He was keeping me abreast, and he even went further in our meeting to give me the name of the person who was dealing with the security issues in his Machabeng tender, which was a white lady. I have forgotten her name, but I can give you that white lady. We even communicated telephonically with that lady. So, it was
10 a question of moving on with the notion of taking the job at the end of my career. So, yes, that is it.

ADV POOE: All right.

ADV BALOYI SC: Brigadier, it does not make sense, or at least maybe explain how it is, that at this point you know that his friend, he has tried to talk to you about a friend who is a police officer who is accused of, who is now charged in fact, of a very serious crime. And so now you know that. And you testified earlier that after the meeting in June with him, when you drove away, you actually thought, Fundiswa
20 actually set up that meeting to talk about this issue, about the bail, the Michael Tau bail.

You did not know it was Tau at the time, but you actually thought this is what it was about. So, you know he is that close to Mr Tau, at least that he is prepared to pay bail for him. How is it that you, with the position that you

hold, are still discussing? In fact, another fact that you said, you conceded, that when he mentioned the security job for you, you thought maybe it is actually his way of reeling you in so that you can also intend to do something for him.

How is it with all of that, you are still discussing with him this security job? Fine, you do not choose who your sister gets into a relationship with. That you do not choose. But you choose your associates and your friends.

10 And here is a man who is linked, even if it is just by friendship, is linked to someone who is accused of serious crime. And you have your suspicions about his attempt to, his discussion with you about a security job. But you are still discussing the security job with him. Can you explain and make me understand how to read that conduct of yours?

BRIGADIER NKHASHU: Thank you very much, Commissioner Baloyi. Indeed, I went on to communicate with Katiso about these security issues. And after I asked
20 my sister in her house on the day that we met, my sister made sure that she even told me that I do not think that could be the case. And as you say, he promised you a job. I will make sure that that happened.

I will make sure that that happened. And Katiso himself, when he asked me, but are we still going on with

this thing. I think now, after his arrest, I thought, no man. By him wanting to pursue me to carry on with the deal of the security, he was trying to be a good man and trying to close. But I never suspected that this is a luring, although it crossed my mind.

And when I asked Fundiswa, she guaranteed me that, no, that cannot be like that. And remember, I am also over clouded. Maybe it could be an oversight. But I am also over clouded with the fact that when I retire, I am at
10 least going to be able to make bread on the table. So, I could have made, actually, not I could have. When I thought about it, Commissioners, now, especially after February, I realised that, indeed, what I was suspecting is the truth.

But by then, I gave Katiso the benefit of the doubt, because I was suspecting. I was not sure, and I was assured by Fundiswa that, no, there is no such. And he himself kept on promising me that, no, no, no, the deal will be on. And he even gave me to this lady to go on with the
20 planning of the retirement or the post-work work.

ADV BALOYI SC: Thank you, Brigadier.

BRIGADIER NKHWASHU: Thanks, Commissioner.

ADV POOE: Brigadier, now, let us depart from the point that you have had several meetings with Mr Molefe, but you still had suspicions, although some of them were allayed by

Ms Nyangule. You then learn of his arrest, and you confirm that you were shocked, correct?

BRIGADIER NKHWASHU: Correct.

ADV POOE: And in that instance, though, you did not know what he was charged with, or at least she did not tell you what he was charged with?

BRIGADIER NKHWASHU: When she was telling me that Katiso is arrested.

ADV POOE: Yes.

10 **BRIGADIER NKHWASHU**: Yes, I did not know what he was charged with. I even asked her, what is he arrested for?

ADV POOE: Yes, and she conveyed to you that she did not know.

BRIGADIER NKHWASHU: Yes, she said, I do not know.

ADV POOE: Now, on the 9th, which is the day of your visit, Mr Molefe had had his first appearance at the Vereeniging Magistrate Court, that is correct?

BRIGADIER NKHWASHU: Correct, Advocate.

20 **ADV POOE**: And Ms Nyangule attended the proceedings and then came to see you thereafter?

BRIGADIER NKHWASHU: Correct, Advocate.

ADV POOE: And in that sitting, she did not inform you of the charges against him?

BRIGADIER NKHWASHU: She informed me. Actually, she informed me on the, I think it was on, he was arrested on

the 6th, which was on a Friday, and the following day, she left Durban and she came here, and then she went to visit him, and when she visited him, I asked, I told her actually to find out, what is he arrested for? And she went there and then she phoned me while she was in Pretoria Central, where he was detained. And then she told me that your brother-in-law was arrested, he is being charged for conspiracy to murder. Then I said, which murder? Then she said, this one of Pule Tau.

10 **ADV POOE**: Yes. Now, on the 9th, she then comes to you to request assistance with this visitation to Mr Molefe, correct?

BRIGADIER NKHWASHU: Correct, Advocate.

ADV POOE: Now, at this point, you know, you have had suspicions of Mr Molefe's intention, you have now been told that he is charged in the same matter he wanted you to intervene in.

BRIGADIER NKHWASHU: Correct.

20 **ADV POOE**: Why did you still see it prudent to involve yourself in this visitation?

BRIGADIER NKHWASHU: Correct, Advocate. Remember I told you that, really, I did not understand, that after I asked Katiso, you know, when he was in Pretoria Central, and he said, I am not involved in this matter, it is just a false allegation, do not worry, I will overcome this. I really did

not do what they are charging me for. Because I asked him, what are you charged for, what are you arrested for?

ADV POOE: Perhaps I do not understand, you asked him when?

BRIGADIER NKHWASHU: On the phone.

ADV POOE: Oh, you spoke to him on the phone before the 9th?

BRIGADIER NKHWASHU: Yes.

ADV POOE: And ...[intervenes]

10 **BRIGADIER NKHWASHU**: No, no, no, yes, before the 9th.

ADV POOE: Then he tells you that he is not involved in this and you believed him?

BRIGADIER NKHWASHU: No, I never believed him. I will not be believing him anymore this time.

ADV POOE: Remember Brigadier, I am trying to understand, this makes it worse, you do not believe him, you know he is charged with conspiracy to commit murder, in the murder investigation he tried to get your involvement in, so why did you still get involved in going to see him?

20 **BRIGADIER NKHWASHU**: Good. Advocate, I wanted Katiso himself to tell me in my eyes, what is he arrested for. And I even went on the second visit to meet him, and I said, are you aware that you are putting my job on the line? Now, for me, I have been meeting you without any doubt, only to find that when you did this, he still denied. He still

denied. Then I, from the 9th - I mean February, after now, I was satisfied now that I went to look, I wanted to go look at him in the eyes, and he told me, because what Fundiswa is telling me, what he is telling me over the phone, I did not believe, and I was now hearing from the investigation side and from the media that he is being charged for this murder, I mean accused of this murder, accused of this murder, I said, really? And I realised that now my job is on the line. Then I went to him to tell me on the face of it, you really put
10 me in the, what you call, and they still deny it? Since then, Advocate, I have never involved myself in any of Katiso, because I am still angry with him.

ADV POOE: But, Brigadier, does the fact, did you not aggravate those assumptions about you by going on the two visits, particularly taking into account that he has told you himself what he was being charged with?

BRIGADIER NKHWASHU: Advocate, I might have overlooked that, but my mind at that time was on the issue that, I have been with this man, I trusted him, and
20 Fundiswa, do you see where you put me in? Now, she was saying the same thing that, you know what, I want him to tell you, because he also denied to me. So, I was overclouded with anger, to say, I want him to tell me in my eyes that, did you really do this Katiso? And he told me that I did not. He denied it up until the last visit that I went to see

him in prison, and that was the last.

ADV POOE: Brigadier, are you suggesting that he would have ever admitted that he was involved in the murder of people? I am trying to figure out, in this instance where you know what he is being charged with, you have had suspicions, why you would still go, knowing that criminal or people who are accused of heinous crimes generally do not admit, even when they look at their loved ones in their eyes.

10 **BRIGADIER NKHWASHU**: Advocate, I hear what you say, but some, when they realise that they are now in real trouble, reality hit home, they confess and tell you that, I have done this, I am sorry, can you help me?

ADV POOE: So, you were hoping to get a confession?

BRIGADIER NKHWASHU: I was hoping to get at least a confession to say, perhaps I have conspired with these people.

ADV POOE: From someone who had denied it to their partner and to you? I mean, you had said that Ms Nyangule
20 said he has denied it even to her. Why would he be honest with you when you barely had a relationship?

BRIGADIER NKHWASHU: Advocate, I never thought it that way. And I remember I was angry. All that was clouding my mind was to go see him and ask him in his face, tell me, did you really do this?

ADV BALOYI SC: Brigadier, you are angry, but here you are taking food and a change of clothes. That is not the conduct of an angry man who is going there to get answers that you say you were seeking. That is a relative, a friend or someone who cares to make sure that that person has the food that his wife wants him to get and a change of clothes.

That is the first problem I have about the first visit that you made. This conduct does not reflect anger, one.
10 Two, he is already told you on the phone, on your account, that he did not do what he is accused of before you go there on the 9th. You say, he has already told you that on the phone. So, you are visiting him so that you can look at him in his face and have him tell you.

But you already know that his answer, typically actually of people who are accused of such serious crimes, typically they will say, I did not do it, as Ms Pooe says to you. But he is told you on the phone. So, you are going there to get the same answer again. Three, you have no
20 explanation to us why Fundiswa could not give him the clothes and the food.

It is a weekday and there is the 10th still that is coming. Why it is that you had to step in and do this task after hours. In fact, because of your position, you actually phone the area commissioner. So, by virtue of your

position, you have access to someone that is that senior and you get told you can come. And indeed, you do arrive there, but you have made arrangements because you use your position to contact somebody.

So, there are these things that are problematic about that first visit that you make. For someone who has said in your evidence that at some point you suspected his motives, Fundiswa's and his motives, why they are talking to you. You say that, but then that visit is problematic. The
10 same with the second visit. The way you explain it in your statement is Fundiswa called you and said, I am coming up, I do not have a car, I am going to see Katiso, so please pick me up and go with me.

That is how you explain how you end up in this visit, in February. That is the explanation in the statement. And now to say it is because you wanted to confront him in February. The story is all over the place, that he is accused of very heinous crimes. And here you are thinking, or you want us to accept that you are thinking if you look at
20 him in his face, at his face in February, right in his face in February, he will suddenly confess.

But you have given us an explanation why you went there. And it is not that you are angry still in February and you are going to confront him. Your explanation in a supplementary statement is that you are basically

accompanying Fundiswa who does not have a car and who has asked you to assist her.

In fact, before you gave this explanation, my question about that second visit was going to be why did you not remain in the car if all you were doing was to, now that you know the story about Mr Molefe that he is accused of this serious, he has been charged actually, of this murderous crime, when you do pick up Fundiswa in February, why did you not remain in the car and let her go?

10 You are a senior police officer. What are you doing associating with someone accused of such serious crimes? So, your explanation for visiting the prison on both occasions is simply not satisfactory. You may comment if you want to.

BRIGADIER NKHWASHU: Commissioner, I hear what you are saying. And indeed, by then, I am not thinking rationally because I am saying I am angry. Indeed, I was angry. And I was not only angry for Katiso, but also with my sister. And then prior to me going for the second visit, I
20 stayed, I am sure you can see the time frame in between, Commissioner. It took me some time for me to accompany Fundiswa because I was also blaming her and she was keeping on telling me that this thing I also did not know.

I also did not know this thing. I also want him to tell me in my face. Maybe when we are together, you can

hear that I am also worried as to what kind of man was, I married to if indeed he did this. So, I accept, Commissioner, the way you saw this. I mean, any other person will see it that way. But it is not that way. I was really, really wanting to hear from him did you really put me into this situation. Then from that day, I even told Fundiswa, you know what, for the sake of our children and everything, of course we are not going to terminate the relationship, but you must know that me and Katiso will
10 never sit, because he already put me under the bus.

ADV BALOYI SC: Thank you, Brigadier.

ADV KHUMALO SC: Brigadier, there was more reason for you not to want to associate yourself with that visit of the 9th of December 2024. Because according to your statement, when Fundiswa comes to you, it is between 1 and 2 and you are still at work, so you cannot go to Groenpunt Prison at that time. But something even more serious, this murder takes place in your district during the time when you are the head of that district, as you said.

20 And it is a heinous crime because Mr Swart was killed using an AK-47, an assault rifle. And now you hear that the person you are going to give clothes and food is accused of having conspired to kill Mr Swart in your district using AK-47s and using hitmen. That, I would suggest to you, should have said until I know that he has nothing to do

with this, I do not want to associate myself with him. Do you have a comment?

BRIGADIER NKHWASHU: Yes, Commissioner, thanks. I wanted to hear from him that did you really do or you did not do? I wanted him to tell me in my face. And that was the last time. But I accept, Commissioner, that sitting where you are sitting, you will see it in the way you see it. And I agree that is an oversight in that regard.

ADV KHUMALO SC: I am sure as a police officer you take
10 pride in murders not taking place in your district.

BRIGADIER NKHWASHU: Hundred percent.

ADV KHUMALO SC: And you are angry when people come to your district and commit murder and increase murder statistics in your district.

BRIGADIER NKHWASHU: Correct, Commissioner.

ADV KHUMALO SC: And when somebody gets accused of having come to your district and used or conspired with other people to use an AK-47 to murder somebody in your district. I mean, that is something that should make you
20 think twice, not so.

BRIGADIER NKHWASHU: Correct, Commissioner.

ADV KHUMALO SC: Thank you.

ADV POOE: Brigadier, so in this instance, just taking into account your responses, would you then agree with me that when you said earlier, you testified earlier that your visits

or your conduct was limited to just assisting your sister to facilitate delivery of clothing, and this was a personal and humanitarian act, that was not altogether truthful. In fact, the purpose of your visit, as you say, was to confront Mr Molefe.

BRIGADIER NKHWASHU: Commissioners, it was obviously to go and give him the clothes. And obviously which I was asked by Fundiswa. Also, the fact that should I have an opportunity to see him, I will ask him, had I been
10 able to see him on that night, I was not going to go back on the second visit.

ADV POOE: Yes, Brigadier. I am saying to you that the way you represented your reasons in your statements was not altogether truthful and there was more to these visits than what you have stated. And it must be so because this is what you say you wanted to do.

BRIGADIER NKHWASHU: Yes, Advocate, I want to say that because there were two reasons for me to go see him, let me say I accept what you are saying because there were
20 two reasons, but not only one reason.

ADV POOE: And then when you explain in your second visit you say that you did not use your rank to gain improper access and I can accept that for your second visit, but in relation to the first visit you did use your rank to call connections that only you could have had. Fundiswa alone

would not have been able to call an Area Commissioner to then be referred to Mr Nhlapo to then go to the facility after hours. And all of that, that is because of your position. Do you accept that?

BRIGADIER NKHWASHU: Partially, yes, Advocate.

However, I was using the privilege that the Commissioner, I know the Commissioner, not the rank. It was just that I know the Commissioner and I wanted him to tell me the procedures because if I was using or misusing my position,
10 I would have gone to that particular institution and then when they say you cannot see, the policy does not allow you to see Katiso at this time, I would have said no, but you know me Brigadier, you can allow me. So, I did not do that. I listened to what they are advising me. Then I took it without seeing him.

ADV POOE: Brigadier, I am not suggesting that you went and said I am a brigadier, therefore you must. I am saying that because of your rank and your position, you have connections and you use those connections by calling an
20 Area Commissioner. Joe on the street cannot be able to do that. He is not going to call an Area Commissioner and ask that. Do you accept that?

BRIGADIER NKHWASHU: Yes, I accept that, Advocate.

ADV POOE: Now let us go to your conversation with Mr Mkhaliphi. I just want to ask about one aspect of it.

Hopefully we will not spend too much time. If we can go to page 105 of tab 3.

BRIGADIER NKHWASHU: 1.

ADV POOE: 05, 105.

BRIGADIER NKHWASHU: 105, thank you.

ADV POOE: You see, that is the statement of Mr Mkhaliphi?

BRIGADIER NKHWASHU: Correct, Advocate.

ADV POOE: Now, I want to refer you to paragraph 4,
10 where he says that:

“On the 9th of December, he received a call from you at about 13:24 to ask for permission to bring clothes to his brother-in-law, who was arrested at an airport the same day, the 9th of December 2024, and appeared at the Vereeniging Court and was remanded to Groenpoint Prison.”

Do you see that?

20 **BRIGADIER NKHWASHU**: Yes, Commissioner.

ADV POOE: Now, on your version, you said that you called him to understand the procedure, but his recollection of this incident was that you were calling to ask for permission to bring clothes because Mr Molefe was arrested the same day at an airport. And that was not true, because we know that

Mr Molefe was arrested on the 6th at his residence.

BRIGADIER NKHWASHU: Commissioners, when a person is arrested, it is a common knowledge that a person will not be taken straight to the prison. The person will be taken to the police station and will be detained in the police cells. And the process of charging that particular person will take place within the 48 hours, which is given in accordance with the law.

Then the person will then have to go to court before
10 he can be transferred to a prison. So, I could not have called and told the Area Commissioner that this brother-in-law of mine is arrested in the airport. And I knew that he was arrested on the 6th. Remember I said I was called and told that he was arrested on a Friday. And the procedure of processing the first accused person before he appeared in court, I know it very well.

ADV POOE: Perhaps Brigadier, so is your simple straightforward answer that that is not what you said?

BRIGADIER NKHWASHU: No, that is not what I said.

20 **ADV POOE**: And that Mr Mkhaliphi is lying in this instance?

BRIGADIER NKHWASHU: Yes, that is not what I said. Commissioners, what I said is that he was remanded to his prison after the appearance in Vereeniging Court on the 9th.

ADV POOE: And why would Mr Mkhaliphi lie about this?

BRIGADIER NKHWASHU: Maybe he misunderstood me, I do not know.

ADV POOE: Misunderstood you, maybe.

BRIGADIER NKHWASHU: I do not know actually why would he say that.

ADV POOE: Because you will accept that this is very specific to say arrested at an airport, did not have any clothes. I am saying you can accept that this is a very specific scenario he is painting.

10 **BRIGADIER NKHWASHU:** I do not know why it is specific.

ADV POOE: No, he is describing that you had informed him your brother-in-law has been arrested at the airport on the same day and was appearing in Vereeniging Court. So, I am saying it is very specific.

BRIGADIER NKHWASHU: I am denying it, I do not know.

ADV POOE: You deny that it is specific.

BRIGADIER NKHWASHU: I am denying it.

ADV POOE: All right, Brigadier, I will not take it.

20 **ADV BALOYI SC:** Do you accept that you told Mr Mkhaliphi that Mr Molefe had appeared at Vereeniging Court that day and was remanded, that is the important part, remanded to Groenpunt Prison, you said that?

BRIGADIER NKHWASHU: Correct, Commissioner.

ADV BALOYI SC: Okay, then why do you say in your statement, at paragraph 49, you enquired whether he had

been admitted to that facility? If you knew, as you must have known, I accept that he has appeared already, so you knew in the same way that Fundiswa knew that he is going to Groenpunt, why in paragraph 49 do you say you made an enquiry about something that you know already?

BRIGADIER NKHWASHU: Commissioner, perhaps I should get to my statement.

ADV BALOYI SC: Okay, it is your main statement at page 13 in paragraph 49.

10 **BRIGADIER NKHWASHU**: Yes, I got it there, Commissioner.

ADV BALOYI SC: Yes, and you see there, you say, I immediately contacted the Area Commissioner to enquire whether Mr Molefe had been admitted at that facility so that you can deliver basic personal clothing. Now, that is different, completely different from you, from what Mr Mkhaliphi says, you said, in which you admit that you actually did say to him that man is in Groenpunt. And my question is, why do you give us the impression in paragraph
20 49, the incorrect impression that you did not know at that point when you spoke to Mr Mkhaliphi that this man is in fact in Groenpunt? Because that is the impression you have created in so many words.

BRIGADIER NKHWASHU: Thanks, Commissioner Baloyi. The standard procedure that I know of, Commissioner, when

a suspect is arrested and they appear before the jurisdiction, which is now in Vereeniging in this case, they send the awaiting trial prisoners to Leeuhof which is within the jurisdiction of Vereeniging. Now, this one, it was different and we were all surprised why he was detained or incarcerated in Groenpunt.

Now, I even, Commissioner, told Mr Mkhaliphi that, please, you might not be aware of this because he has just been, the court has just been concluded, and he might not
10 have arrived yet in your prison. And that is when he said, okay, hang on, let me go and verify. And he came back to me with the verification to say, no, he is there. But he earlier said that he is not housing awaiting trial prison.

ADV BALOYI SC: Yes, the simple point I am making, or I am raising with you, and this is my last attempt at it. The simple point I am making is in paragraph 49 of your statement, which is a recent statement, you - which is, it is an April statement. You say that you enquired whether Mr Molefe was at that facility, that facility being Groenpunt.
20 Stop, let us stop there.

You say, I enquired whether he is there. So, you did not know, you asked Mr Mkhaliphi, do you have this person in your prison? You asked that question. But you tell us, or you accept in your oral evidence that Mr Mkhaliphi is correct when he says, you in fact told him that

Mr Molefe is in Groenpunt Prison. So, you knew where he was incarcerated. He has appeared in court.

You knew that he is been remanded to Groenpunt. That is not controversial. Mr Mkhalihi tells us that. You have now admitted it in your oral evidence. The issue I am taking with you is your statement at paragraph 49 is in fact misleading. And we would not have known if we did not have Mr Mkhalihi's statement. We would not have known that, but what you tell us in 49 is not correct.

10 You already knew in the same way that Fundiswa knew where he was and could have taken the food and the clothes to him. Because he had been remanded in prison to, I mean, to Groenpunt after, at court. So, she knew where to find him. Your involvement was not because she does not know where to find him. She knew where he is. You knew where he is. There is no reason, you have not provided a reason why she did not go there. To deliver these things. You may comment if you have a comment, but I am just making the point to you that your 49 is misleading,
20 and I think deliberately so.

BRIGADIER NKHWASHU: Thank you, Commissioner. Most definitely it was not deliberately done to mislead you, Commissioners. I really do not - I did not do that for that. All I was enquiring about, Commissioner, is that, as I have alluded to earlier on, I knew that when first appearance

suspect appears in court in Vereeniging, they will be remanded if they are remanded in prison, in Leeuhof Prison. Now, I had to enquire because in this one, I am being told by Fundiswa. Yes, Fundiswa I knew, because she was coming from court, which I never attended. And she came and tell me that the magistrate remanded the case to Groenpunt. They remanded him to Groenpunt. So, I had to enquire, because it was not standard.

ADV BALOYI SC: Thank you. Thanks, Brigadier.

10 **ADV KHUMALO SC:** Can I point out Brigadier. Are you aware just looking at that affidavit on page 105, and also Captain Tshukudu's, and also Witness B, and all the other affidavits you were referred to, if you look at the dates when they were deposed to, it is in January 2025. Do you see that? Just look at page 107.

BRIGADIER NKHWASHU: In which?

ADV KHUMALO SC: In the same bundle. Remember, we were looking at the representative from Groenpunt?

BRIGADIER NKHWASHU: Oh, 105.

20 **ADV KHUMALO SC:** Yes.

BRIGADIER NKHWASHU: Okay, Commissioner.

ADV KHUMALO SC: If you go 107, that is where the date of the affidavit is.

BRIGADIER NKHWASHU: Yes, I am here.

ADV KHUMALO SC: Do you see that it is the 21st of

January 2025?

BRIGADIER NKHWASHU: Correct.

ADV KHUMALO SC: And Captain Tshukudu's affidavit was also January 2025. The other witnesses, it was all January 2025. The point I want to make is this, that to the extent that there are inconsistencies between all these affidavits and your statement, would you accept that, because their affidavits were done four weeks after these events. Their recollection of these events would be more accurate than
10 yours, because you are coming to the Commission a year and a half later to testify about these events, whereas when they gave these statements on affidavit, it was immediately after the events. So, if you think about your visit on the 9th of December 2024, a month later they deposed to this affidavit. So, is it not more likely that their account of events is more accurate than yours?

BRIGADIER NKHWASHU: Commissioner, I hear your point. It could be that this incident was still fresh in their mind ...[intervenes]

20 **ADV KHUMALO SC**: Exactly.

BRIGADIER NKHWASHU: But I maintain, Commissioner, that I remember vividly when I was talking to Mr Mkhaliphi that I told him that he was arrested on the 6th, because I knew, because I was sitting with Fundiswa in my office and I knew exactly that he was arrested on Friday and he

appeared on Monday.

ADV KHUMALO SC: I do not want you to repeat those facts. The simple point I was making, because it is a lot of affidavits, even the Brigadier who is in charge of Witness B, I think, and the other witness, you saw her affidavit where she says it was reported to her and she had to reprimand Tshukudu for his behaviour. You saw that affidavit?

BRIGADIER NKHWASHU: Yes, Commissioner.

ADV KHUMALO SC: And I am saying because of the time
10 when those affidavits were done, should we not accept that the events were still fresh in their minds and therefore their account of those events would be more accurate than yours? It could be you do not remember or your account is no longer accurate because it has been some time since these events happened and therefore your recollection is not as, you know, what it would have been had you deposed to the same affidavit in January of 2025.

BRIGADIER NKHWASHU: Let me agree, Commissioner.

ADV KHUMALO SC: Not that you are misleading us or you
20 are lying, it could just be that it is been a year and a half, so your account may not be as accurate as people who did the affidavits four weeks after the event.

BRIGADIER NKHWASHU: Commissioner Khumalo, I can accept that I could have forgotten some facts because it was long, but the fact that Katiso was arrested on that date

...[intervenes]

ADV KHUMALO SC: No, that we do not take issue. We know he was arrested on the 6th, so you do not have to worry about that. And we know that he went to Groenpoint on the 9th, so you do not need to repeat those facts. We are only concerned with what these people say happened when they encountered you or when they spoke to you.

BRIGADIER NKHWASHU: Okay.

ADV KHUMALO SC: Can I leave it there that at least you
10 are prepared to accept that?

BRIGADIER NKHWASHU: Yes, Commissioner.

ADV KHUMALO SC: Thank you, Ms Pooe.

ADV POOE: Commissioner, to move to the last point, I am so sorry, and it is, Brigadier, it is in relation to the Ford Raptor, so in your statement, your supplementary statement
...[intervenes]

ADV BALOYI SC: Sorry, before you do that, before you leave that topic, this is the prison visit. Commissioner, sorry, Brigadier, and I think we should put this to you for
20 your comment. Mr Molefe seems to have denied that you are his brother-in-law. He has allegations that are made. You said he was, according to Mkhaliphi, he was arrested at the airport.

You need to come and see him and give him a change of clothes. He was arrested that day. That is what

Mkhaliphi says. And then Mkhaliphi, supported by the statement and affidavit of Nkoli, I think it is Nkoli, they say that after you had attempted to see, unsuccessfully attempted to see Mr Molefe on the 9th, on the 10th, Nkoli spoke to Mr Molefe, and Mr Molefe said, you are not his relative.

You are not his brother-in-law. Explain that. Explain why he would deny you, especially when, on your different accounts, you have interacted with him quite
10 closely, about three, four times. You visited family, he is married to your sister. Why would Mr Molefe want to create a distance between you and him?

BRIGADIER NKHWASHU: Commissioner, I would not know. I would not know what was in his mind to say that. And I do not even know whether they are telling the truth in saying it. I do not know.

ADV BALOYI SC: Well, they are on affidavit, so until we hear, otherwise we have to accept their statements that they did speak to, and this is statements under oath, that
20 they did speak to Mr Molefe, and he said what he said. There is no, unless you say you do not know why they would say this, that he denied it, do you have any reason to disbelieve them that that is what Mr Molefe said to them, that he does not know you?

BRIGADIER NKHWASHU: At this stage, Commissioner, Mr

Molefe is, according to me, a liar. He cannot tell the truth. And he lied to me in my eyes. So, I would rather believe what the officials are saying than what Molefe is saying.

ADV BALOYI SC: Is it not perhaps possible that whatever relationship with him you had, he never considered you to have a familial relationship with him? It is a business relationship. The first time he meets you, he talks about bail, according to you, trying to get bail, to see if there will be bail for Tau, and he talks about you coming to work for
10 his security company.

That conversation carries on further, you tell us, in other discussions. And maybe after all, he had no interest and he never considered you or perceived you as his family and brother-in-law, but in fact, as a person that would be useful to him for purposes that we have seen, that he wanted you to help out with the bail issue, whatever he intended with security, but he did not see you as a family member. And you may have been hoodwinked into thinking this is a familial relationship, either by him, but certainly by
20 Fundiswa.

BRIGADIER NKHWASHU: Thanks, Commissioner. In short, I really do not know what was in his mind. I would not know what he was thinking to say that. But with regard to the relationship, he has got no choice.

ADV BALOYI SC: He has no choice but to be your family.

BRIGADIER NKHWASHU: Yes, I mean, by virtue of me being a family of Fundiswa, he is my family.

ADV BALOYI SC: Okay, thank you.

BRIGADIER NKHWASHU: Thanks, Commissioner.

ADV POOE: Brigadier, in your statement, let us start with the supplementary statement. You deal with the Ford Raptor that Ms Nyangule used to go to court on the 5th of March. Do you recall that?

BRIGADIER NKHWASHU: Yes, Advocate.

10 **ADV POOE:** And the allegation, of course, there was that the vehicle belonged to you. And in your statement, you confirmed that.

BRIGADIER NKHWASHU: Correct, Advocate.

ADV POOE: So, in an effort to just track the vehicle, we saw that the vehicle has now been sold.

BRIGADIER NKHWASHU: Correct, Advocate.

ADV POOE: And it was sold to Omars Motor.

BRIGADIER NKHWASHU: Correct, Advocate.

20 **ADV POOE:** Which is the same dealership that also you bought your BMW from.

BRIGADIER NKHWASHU: Correct, Advocate.

ADV POOE: Now, what is your relationship with this dealership?

BRIGADIER NKHWASHU: Business relationship, client and customer relationship.

ADV POOE: Oh, so when you say business, you mean you are a customer of theirs?

BRIGADIER NKHWASHU: Yes.

ADV POOE: And you have no interest beyond being a customer?

BRIGADIER NKHWASHU: Nothing, Advocate.

ADV POOE: Brigadier, if we can go to CJC190.

BRIGADIER NKHWASHU: I am on it, Advocate.

ADV POOE: You will see there that when we ran an
10 analysis of your bank accounts, we noticed there that particularly in 2025, Omars Motor makes monthly payments to you. Can you see those? Every month, there is about two payments. A payment would be of 13 and then it is followed by 32 000. Can you see that?

BRIGADIER NKHWASHU: I see that, Advocate.

ADV POOE: And maybe that is just in 2025. If you start at 2024, at the top of the page, you will see that there is a number of payments, some of which are bulk payments, and they are referenced as trade-in value. And they even
20 mention which vehicle those payments related to.

BRIGADIER NKHWASHU: Correct, Advocate.

ADV POOE: But later on, the payments do not have the same reference. And in particular, from late 2024, they are consistently, they are regularised and it is the same amount. So, if you go to, oh, goodness. You know where it

starts with, after there was a payment of 159 350, 305, that is ...[intervenes]

BRIGADIER NKHWASHU: The font is very ...[intervenes]

ADV POOE: Oh, the font is very small.

BRIGADIER NKHWASHU: Yes, Advocate, and ...[intervenes]

ADV POOE: So, you cannot see it.

BRIGADIER NKHWASHU: I really struggle to see.

ADV POOE: Maybe my point really is this, that particularly
10 in 2025, we see consistent payments twice a month. First
of 13 000, followed by 32 000 every month. Is there a
reason for this?

BRIGADIER NKHWASHU: Correct, Advocate. As you have
read the said spreadsheet, I have, as you rightfully said, I
have sold my X5 vehicle to buy another X5 in that
dealership. And on the other amount that you see, actually
I bought in totality three vehicles in that dealership.

ADV POOE: Yes.

BRIGADIER NKHWASHU: Yes, so, these monies that you
20 see is for the vehicles that I have sold them, which is, you
say, is captured as trade-ins. So, the money for the trade-
ins is being paid to my account every month.

ADV POOE: Is there a reason why these monthly
payments, as opposed to lump sum payments, like it usually
is?

BRIGADIER NKHWASHU: Yes, my understanding is that if you pay on a monthly basis to the account, you are not, when you pay the lump sum to the finance, you are not, you are losing because they are charging you interest. So, when you get a monthly payment from the dealership, you are also benefiting because you are charging them also the interest.

ADV POOE: I am not sure I follow. So, you agree to a monthly repayment because it would benefit you?

10 **BRIGADIER NKHWASHU**: Yes.

ADV POOE: And if these numbers were checked against the value of the cars, we would find that you were paid exactly what the car was traded in for.

BRIGADIER NKHWASHU: Exactly. That is how we calculated it.

ADV POOE: All right, I will say that we have begun investigations on this. And one thing that we can note is in discussions with the dealership, it was mentioned that this was your agreement. You insisted on monthly payments.

20 This is not something that they regularly do. Do you have a comment on that?

BRIGADIER NKHWASHU: No comment, Advocate.

ADV POOE: But do you accept that it was your agreement?

BRIGADIER NKHWASHU: I agree, yes.

ADV POOE: And just lastly, if we are to check the values that are being paid for these cars as against the values that you have also declared to SAPS, it would be the same?

BRIGADIER NKHWASHU: It would be the same, Advocate.

ADV POOE: Thank you, Brigadier.

BRIGADIER NKHWASHU: Thank you.

CHAIRPERSON: Thank you. Mr Petlane, do you have any re-examination?

ADV PETLANE: Just one question, if you permit,
10 Chairperson.

CHAIRPERSON: Yes, please go ahead.

RE-EXAMINATION BY ADV PETLANE: Brigadier Nkhwashu, now that you know about your meeting with Mr Molefe of late June 2024, you know the facts. Now that you know what the Commissioners have raised with you about your conduct, your ethics, your morality, what do you have to say?

BRIGADIER NKHWASHU: Thank you, Advocate. I would like to apologise, especially to the family of Armand Swart,
20 whose life has been lost at the hands of this brother-in-law of mine. And say, at least I have tried to do justice, and I will continue to ensure that justice is achieved. If indeed he was involved in the matter of Armand Swart, he needs to pay for his deeds. And with regard to my conduct ...[intervenes]

CHAIRPERSON: Perhaps before you go further, you stated it as a fact that Mr Molefe committed the murder. At this stage, it is alleged. Please continue. No, I just wanted to correct you stating it as a fact. You may continue to the next point you wanted to make.

BRIGADIER NKHWASHU: Thank you very much, Commissioner Chair. I would like to apologise to the entire community that is watching this embarrassment that is caused by my conduct, by colluding with this Katiso, 10 although I did not know he is this type of a person. And I really feel betrayed and I am definitely, definitely not going to continue having any engagement with this particular guy. And I wish justice would prevail.

ADV PETLANE: Thank you, Brigadier Nkhwashu. To Chairperson and Commissioners, thank you very much.

CHAIRPERSON: Thank you, Ms Pooe, thank you, Mr Petlane. Thank you very much to you to you too Brigadier. You are excused. Let us adjourn and resume at 09:30 tomorrow.

20 **INQUIRY POSTPONED TO 23 APRIL 2026**

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