

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

HELD AT

BRIGITTE MABANDLA JUSTICE COLLEGE

12 MAY 2026

DAY 106



PROCEEDINGS ON 12 MAY 2026

CHAIRPERSON: Good morning, Mr Mosikili.

ADV MOSIKILI: Good morning, Chair. Good morning, Commissioners. Chair, today we have Warrant Officer Magane.

CHAIRPERSON: Magane?

ADV MOSIKILI: Magane, yes.

CHAIRPERSON: Thank you. Good morning, Warrant Officer Magane.

10 **WARRANT OFFICER MAGANE:** Good morning, Commissioners.

CHAIRPERSON: Thank you.

ADV MOSIKILI: Chair, if you can swear the witness in. He has ...[intervenes].

CHAIRPERSON: I am told your mic was off, ja.

WARRANT OFFICER MAGANE: Okay, thank you for that, Commissioner. Good morning, Commissioners.

CHAIRPERSON: Thank you. Thank you.

ADV MOSIKILI: Yes, Chair, the witness will take an oath.

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

WARRANT OFFICER MAGANE: So help me God.

MARUMO JOSEPH MAGANE (duly sworn states)

CHAIRPERSON: Thank you, Warrant Officer.

ADV MOSIKILI: Yes, Chair, today we are continuing on the stream ...[intervenes].

CHAIRPERSON: Oh, just a minute, Mr Mosikili. Please switch on both mics and pull them as close to you as possible.

WARRANT OFFICER MAGANE: Thank you, Commissioner.

CHAIRPERSON: Thank you. Thank you.

ADV MOSIKILI: Thank you, Chair. Chair, today we are
10 continuing on a stream of drug busts in Aeroton. Yesterday
we had a witness, Colonel Steyn, giving an overview of
what transpired at that drug bust. Evidently, Chair, you
would have heard that Colonel Steyn arrived at 1 o'clock,
which was towards the tail end of that drug bust. So what
we, who we have today, Chair, it is Warrant Officer Magane,
who was right at the beginning when the tip-off was given to
attend the drug bust. Is that correct, Warrant?

WARRANT OFFICER MAGANE: That is correct,
Commissioners.

20 **ADV MOSIKILI:** Thank you. Then a bit of housekeeping,
Warrant. You should have with you three white files. Can
you confirm that?

WARRANT OFFICER MAGANE: No, I only have two.

ADV MOSIKILI: Okay, then the third one will be provided
to you. For now, focus on the smaller of the two files you

have. It should say ...[intervenes].

WARRANT OFFICER MAGANE: I think you are talking about this one.

ADV MOSIKILI: That is the one with your name, yes.

WARRANT OFFICER MAGANE: Thank you.

ADV MOSIKILI: If you open the first page, you will see that it says statement of Warrant Officer Marumo Joseph Magane. Do you see that?

WARRANT OFFICER MAGANE: That is correct.

10 **ADV MOSIKILI:** And it says that your statement is 13 pages. And if you go to the last page of that document, you will see that there is a signature under, can you confirm that that is your signature?

WARRANT OFFICER MAGANE: On page 12, I can confirm that this is my signature.

ADV MOSIKILI: Okay, use the number on top. It will say 12 at the bottom, but use the number on top. That will say 13.

WARRANT OFFICER MAGANE: Okay, Commissioner.

20 **ADV MOSIKILI:** Do you see that?

WARRANT OFFICER MAGANE: I can see it, Commissioners.

ADV MOSIKILI: Yes, thank you so much. And you have at least considered and read the contents of your statements?

WARRANT OFFICER MAGANE: That is correct,

Commissioners.

ADV MOSIKILI: And you stand by it?

WARRANT OFFICER MAGANE: That is correct,
Commissioners.

ADV MOSIKILI: Thank you, then. Warrant, I want you to go through your statement. Take your time. Firstly, I would want you to assist the Commission in a number of documents, and probably in some of the presentations. Your name has come across with different spelling and
10 pronunciations, from Mogana to Mogano to Magana, and here it is written Magane. Can you just clarify so that we know we are speaking of one and the same person in these proceedings?

WARRANT OFFICER MAGANE: Thank you,
Commissioners. When I first applied for my identity document, it was back then in 1991. My surname was wrong spelled as Mogana. So I recently rectified my surname to Magane, as it appears here. So when the incident took place in 2021, I was, my surname was still
20 written as Mogana. So that is why you will see now it appears as Magane, which is the correct one.

ADV MOSIKILI: But for all intents and purposes, at least we are talking about one and the same person.

WARRANT OFFICER MAGANE: Magane.

ADV MOSIKILI: Yes, thank you.

CHAIRPERSON: Marumo Joseph Magane.

WARRANT OFFICER MAGANE: That is correct, Commissioners.

ADV MOSIKILI: Yes. Warrant, can we then go through your statement. You will be provided with a third file when it is an opportune time to do so, but for now, let us focus on the file in front of you. Can we start with, probably for the record again, put your name on the record, and then you can take it from paragraph 1 on your statement.

10 **WARRANT OFFICER MAGANE:** Okay, thank you, Commissioners.

20 “I, Marumo Joseph Magane, state under oath in English. I am an adult male, age 56 years, born on the 2nd of February 1970. I am employed as a police officer stationed at Zonkizizwe SAPS and currently attached to CIMAC office since the 1st January 2005. I then joined the South African Police Services on the 5th October 1988 as a Student Constable. I attended my basic training in Pretoria West Police Academy and completed my basic training on the 12th November 1999. I then worked at Alberton Visible

Policing, which is also known as Vispol, until the 30th June 2003. I then took a transfer to Alberton Detectives from the 1st August 2003 until the 30th December 2004. I got promoted to the rank of a Senior Constable at Zonkizizwe Crime Prevention. I was then transferred to CIO, which stands for Crime Information Office, currently known as CIMAC, which also means Crime Information Management Analysis Centre, from the 1st of September 2005 until current.”

CHAIRPERSON: Ja, please explain what exactly does that entity within SAPS do?

WARRANT OFFICER MAGANE: Commissioners, this is an entity that is responsible for our crime stats. The stats that are released quarterly, they are our custodians.

CHAIRPERSON: Okay.

20 **WARRANT OFFICER MAGANE:** We are responsible for that. So we compile them, then escalate them to the cluster level. Then from the cluster, they will be consolidated and sent to province ...[intervenes].

CHAIRPERSON: Oh, okay.

WARRANT OFFICER MAGANE: That until it reaches the

national office and we ...[intervenes].

CHAIRPERSON: So you do not do any investigative work?

WARRANT OFFICER MAGANE: No, I do not do any investigative work.

CHAIRPERSON: Searches and seizures?

WARRANT OFFICER MAGANE: I do.

CHAIRPERSON: Okay.

WARRANT OFFICER MAGANE: I am also operational.

CHAIRPERSON: All right, please continue.

10 **WARRANT OFFICER MAGANE**: Thank you, Commissioner.

ADV BALOYI SC: Sorry, before you continue. You say CIO stands for what?

WARRANT OFFICER MAGANE: Ja, it was then, back then it was named CIO.

ADV BALOYI SC: Which is what? What is the full name?

WARRANT OFFICER MAGANE: Crime Information Office, but it is the same entity.

ADV BALOYI SC: All right, thank you.

WARRANT OFFICER MAGANE: -:

20 "I got promoted to the rank of a Sergeant on the 1st April 2007. I was again promoted to the rank of Warrant Officer on the 1st March 2019, which is the rank that I am currently holding. I am currently a Commander of CIMAC

office and my duties are as follows:

- To supervise members and monitor data integrity at the station.
- To disseminate analysis products, information to the ..." [intervenes].

CHAIRPERSON: Sorry, sorry, under 3.1, is this all members or members attached to CIMAC?

WARRANT OFFICER MAGANE: The members that only, that falls under my component.

10 **CHAIRPERSON:** All right, all right.

WARRANT OFFICER MAGANE: Yes. But let me just add, I am only alone, but we are actually supposed to be three. So I am supervising myself.

- “• To disseminate analysis product information to the relevant role players.
- To conduct environmental scannings at hotspots.
- Take photographs of relevant features identified as factors contributing to crime.”

20

ADV BALOYI SC: What does it mean or what do you do to conduct environmental scanning at hotspots?

WARRANT OFFICER MAGANE: Commissioners, this talks to visiting spots that are highly hit by crime, where prevalent crimes are happening. So I must visit those

spots, ascertain what are the causative factors and so that when I advise the Operational Manager as to where to focus and maybe give more information as to what are the causative factors.

“• Interview complainants, witnesses, victims of a crime that has been reported.”

CHAIRPERSON: Can you please explain how that fits in within what I understand CIMAC to be?

10 **WARRANT OFFICER MAGANE:** I beg yours, Commissioner?

CHAIRPERSON: As I understand it, mainly, mainly this is about statistics. Fine, there is a bit that you have explained to Commissioner Baloyi just now, but you say interview complainants, witnesses, victims of a crime reported. I do not quite understand how that fits in within the broader scheme of your functions, especially, for example, you said you do not investigate. So I am just trying to understand what the context would be for you to interview
20 complainants, witnesses, victims.

WARRANT OFFICER MAGANE: Is it not, Commissioners, when a complainant reports a case, there are some of the information that maybe they might lose when the statement is taken. So that also boils back to me so that I can get a full information, because in any event, I will need to go

maybe visit the crime scene and stuff like that.

CHAIRPERSON: I am still not sure that I understand. There will be an investigator, will there not be? And how do you fit in?

WARRANT OFFICER MAGANE: Commissioners, when ...[intervenes].

CHAIRPERSON: And I would imagine some statements will have been taken by officers at the CSC when a complainant comes to report a crime, and then an investigator is
10 appointed. The investigator will take more statements. So I am trying to understand where you fit in.

WARRANT OFFICER MAGANE: That is correct.

CHAIRPERSON: How do you also get to take statements?

WARRANT OFFICER MAGANE: Commissioners, like I will give an example in the case of the hijacking. The complainant will come to the CSC. Then, after reporting the case, the same complainant will be referred to my office so that I can get more information, because some complainants, they tend to lie.

20 So our office is asked to ascertain whether the crime that has been committed it is the one that is going to be captured or the crime it must be captured on the system to make sure that the statement, the A1 statement, which is made by the complainant and my interview are the same. Because sometimes you get a complainant saying that he

was hijacked at a certain spot, but when you drill deep into that information, you find that that person was never hijacked. Instead, maybe he handed over the car to someone else. So that is the duties that I do.

CHAIRPERSON: Oh, please continue. Thank you.

ADV MOSIKILI: Can I just ask, Warrant, in performing any of these tasks, do you get to be involved in attending an active crime scene, to perform any of these tasks that you are referring to or some of them?

10 **WARRANT OFFICER MAGANE:** Yes, I do. I am operational. I am also getting a danger allowance, which is only paid to operational members. If you are office bound, you do not get such an allowance.

CHAIRPERSON: You are using this term of being operational for the second time now. What exactly do you mean by that? Thus far, the idea that one has is that you are responsible for statistics. How do you get to be out there? How do you get to be exposed to danger, to even get this danger allowance and how do you come to call
20 yourself operational?

WARRANT OFFICER MAGANE: Because ...[intervenes].

CHAIRPERSON: What operations outside of looking after the stats?

WARRANT OFFICER MAGANE: Suppose when I am doing observation, observation are done outside. Maybe I am

there and I see something that maybe a crime is being committed, so I must act. In that sense, I am operational and I am, besides, I am not confined. These duties that I am doing, they do not limit me for being involved in other operations.

CHAIRPERSON: So it would be incidental. It is not something that you do every day.

WARRANT OFFICER MAGANE: No.

CHAIRPERSON: It would be incidental. You happen to be
10 out there. For example, you told us that you will visit hotspots to establish what the causes of crime are and so on, and then something comes up and you say ...[intervenes].

WARRANT OFFICER MAGANE: That is correct.

CHAIRPERSON: Criminal activity manifests.

WARRANT OFFICER MAGANE: Yes.

CHAIRPERSON: Then you say you will attend to that.

WARRANT OFFICER MAGANE: That is correct.

CHAIRPERSON: So it is in that context that I say for you
20 this is purely incidental. It is not that it is something that you do on a day-to-day basis.

WARRANT OFFICER MAGANE: But in environmental scanning, I am required to do that on a daily basis.

CHAIRPERSON: Yes, I get that. I get that, but then something happens. Some crime is committed, you become

aware of it and then you get involved. That is what I am saying is incidental.

WARRANT OFFICER MAGANE: That is correct.

CHAIRPERSON: It is not your day-to-day work.

WARRANT OFFICER MAGANE: No, no, no, I am not every day outside and ...[intervenes].

CHAIRPERSON: Ja.

WARRANT OFFICER MAGANE: Doing crime prevention duties.

10 **CHAIRPERSON**: Ja.

WARRANT OFFICER MAGANE: No.

CHAIRPERSON: And being at crime scenes generally, that too would be incidental. It is not your day-to-day work.

WARRANT OFFICER MAGANE: It is part of my daily duties.

CHAIRPERSON: How so?

WARRANT OFFICER MAGANE: Because this is required that I give feedback. I give feedback to the Station Commander. Even if there is no crime that is prevalent at a
20 certain spot, but I must drive around and see if there are no new features that might end up maybe giving opportunity to criminals.

ADV MOSIKILI: Thank you, Chair. And perhaps lastly on that score, Warrant Officer, specifically when coming to this case, do you have any experience where you have

encountered or you had to work with what you call drug busts prior to the incident that we want to talk about today?

WARRANT OFFICER MAGANE: No, prior to that, the only thing that I did information was about Dagga, not specifically drugs.

ADV MOSIKILI: All right.

ADV BALOYI SC: [Indistinct]... you say the only thing that you did was what, to gather information? You said something about information?

10 **WARRANT OFFICER MAGANE:** I am saying I was involved in a, or like a Dagga bust.

ADV BALOYI SC: Oh, I see. Okay, so you were part of the team that carried out the bust?

WARRANT OFFICER MAGANE: Yes, the Dagga ...[intervenes].

ADV BALOYI SC: The dagga bust.

WARRANT OFFICER MAGANE: Not drugs.

ADV BALOYI SC: Okay, thank you.

20 **ADV MOSIKILI:** Okay, Warrant, let us pick it up at paragraph 4. Have you gone through, no, wait, just go back. You have not listed all your responsibilities. I am ahead of myself.

WARRANT OFFICER MAGANE: -:

“• Interview suspect arrested for serious crimes for more information.

- Compile profiles of suspect arrested for serious crimes.
 - Compile monthly, quarterly, semester, and annual crime statistics reports in comparison with the same report for the previous year.
 - To conduct briefing and debriefing of shift members.
 - To compile reasons for the crime and the shift displacement of crime document.
 - To compile linkages, association analysis based on the metrics, profiles, and other information.”
- 10

CHAIRPERSON: Just for the transcript, the word there was displacement. All right, please continue.

WARRANT OFFICER MAGANE: Thank you. Thank you, Commissioner.

20 **ADV MOSIKILI:** Then you can go to paragraph 4 on page 3.

ADV KHUMALO SC: Please, Warrant Officer, you do not have to read the cell number in paragraph 4. So you can just mention who contacted you.

WARRANT OFFICER MAGANE: Thank you, Commissioner.

ADV KHUMALO SC: You do not have to read the cell

number.

WARRANT OFFICER MAGANE: -:

10 “It was on Friday, the 9th of July 2021
at approximately 06:25 a.m. when I
received a call from Chief Samuel
Mashaba. Chief Samuel Mashaba
works at Gauteng Traffic Police and
holds the rank of a Deputy Chief
Director. Chief Mashaba called me
regarding information about a truck
which was allegedly carrying or
transporting drugs.

He was asking me for assistance or
manpower and so to say in order to
follow that information. According to
his information, the alleged truck was
somewhere around Roodekop, next to
Leondale area, which falls under
Alberton SAPS. I told Chief Mashaba
20 that I was still busy at my station, at
Zonkizizwe, so I was not able to assist
him immediately, but I promised him
that I would try some members that I
know from Dog Unit.

In this regard, I called Sergeant Maja

from Ekurhuleni Metropolitan Department Dog Unit, which is EMPD K9. But he unfortunately told me that he was sleeping as he worked a night shift the previous night. I then called Chief Mashaba back to give feedback from Sergeant Maja.”

Commissioner, please can I take one step back?

ADV MOSIKILI: Yes.

10 **WARRANT OFFICER MAGANE:** I just want to rectify this. Sergeant Maja is not from Ekurhuleni Metropolitan K9. He is from SAPS, SAPS Ekurhuleni K9.

ADV MOSIKILI: K9.

WARRANT OFFICER MAGANE: Ja.

ADV MOSIKILI: Okay ...[indistinct] okay.

WARRANT OFFICER MAGANE: Ja, not Metro, Ekurhuleni Metro Police.

ADV MOSIKILI: Can you then, just before you proceed, can you maybe explain to the Commission your relationship
20 with Chief Mashaba? Did you know him prior to this incident?

WARRANT OFFICER MAGANE: Yes, I met Chief Mashaba through a colleague of mine. I would simply say Mashaba it is an acquaintance person. We were not friends, but we used or, but we used to meet maybe when there is a party

or, but I met him through a former colleague. That is how I knew him.

ADV MOSIKILI: Have you worked together with him?

WARRANT OFFICER MAGANE: Prior?

ADV MOSIKILI: Prior to the incident of the 9th?

WARRANT OFFICER MAGANE: No, we did not. I then ...[intervenes].

ADV MOSIKILI: Just before you proceed, just going back to, just to understand the context of the call that you
10 received on paragraph 4. You say that he called you informing you about a truck transporting or carrying drugs and asking you for assistance/manpower in order to follow up that information. What did you understand by manpower, Warrant Officer?

WARRANT OFFICER MAGANE: Manpower, he actually wanted other members to come and assist him. He requested other police officers to come and assist him and because he was alone.

ADV MOSIKILI: Given that it is drug related and we have
20 explored your experience, did it not occur to you perhaps to say to him, you cannot assist but you will seek someone who might assist?

WARRANT OFFICER MAGANE: Like I said, I called Sergeant Maja, who is working with drugs. He is actually on the Drug Unit.

ADV MOSIKILI: Yes, apart from Maja who did you call?

ADV BALOYI SC: [Indistinct]... [microphone off].

ADV MOSIKILI: Apart from Maja who was not available, did, maybe let us go back. Did you understand him to be asking you to come or for you to seek or to source manpower, or was it both?

WARRANT OFFICER MAGANE: No, he was also asking me to come and assist if I am available.

ADV BALOYI SC: Warrant Officer, let me first understand.

10 You said Maja is SAPS Ekurhuleni. I thought SAPS was per station as in SAPS Booyens, SAPS Zonkizizwe, Vosloorus. What do you mean?

WARRANT OFFICER MAGANE: Ekurhuleni cluster.

ADV BALOYI SC: He does not belong to a station?

WARRANT OFFICER MAGANE: No, he belongs to K9 at Ekurhuleni.

ADV BALOYI SC: Okay, and then you say he was also Drug Unit.

WARRANT OFFICER MAGANE: Yes.

20 **ADV BALOYI SC:** And he was K9. Can you just explain how he is Dog Unit and K9?

WARRANT OFFICER MAGANE: No, the dog that he is handling specializes on drugs. These drugs, these dogs differs. You get dogs for DNA.

ADV BALOYI SC: Yes.

WARRANT OFFICER MAGANE: That, and then you get dogs for tracing, then you get dogs for drugs.

ADV BALOYI SC: So within K9 there is a Drug Unit, there is a DNA unit, or they are just K9 and with different dogs of different specialties, which one is it?

WARRANT OFFICER MAGANE: My understanding will be that this is K9, but you get someone who is specializing with, who is handling a dog that is specializing in DNA's, then with tracking of suspect, tracking off firearms and

10 ...[intervenes].

ADV BALOYI SC: Yes, so that person is Dog Unit.

WARRANT OFFICER MAGANE: He falls ...[intervenes].

ADV BALOYI SC: [Indistinct]... [cross-talking] Unit.

WARRANT OFFICER MAGANE: Dog Unit.

ADV BALOYI SC: They are not in the Drug Unit, they are in the Dog Unit.

WARRANT OFFICER MAGANE: No, no, no ...[intervenes].

ADV BALOYI SC: K9.

WARRANT OFFICER MAGANE: It is K9.

20 **ADV BALOYI SC:** Yes, thank you. And then maybe lastly, when Chief Mashaba calls you, I just want to clarify at this point, it is really clarification questions, when he calls you for assistance with manpower, you say, that is what you say.

WARRANT OFFICER MAGANE: That is correct,

Commissioners.

ADV BALOYI SC: That kind of request to you, where does it fall in the list of your functions in paragraph 3? Where do we locate it?

WARRANT OFFICER MAGANE: Like I am saying, if Commissioners, there is a need for me to work outside, I do that.

ADV BALOYI SC: You have listed from 3.1 to 3.10 what your job entails.

10 **WARRANT OFFICER MAGANE:** That is correct, Commissioner.

ADV BALOYI SC: And you have also explained that if you happen to be, say for example, you are doing environmental scanning ...[intervenes].

WARRANT OFFICER MAGANE: That is correct.

ADV BALOYI SC: And a crime happens, then you can deal with it.

WARRANT OFFICER MAGANE: That is correct.

20 **ADV BALOYI SC:** And I understood you to also be saying to the Chairperson that when you are at a scene, you may talk to a witness or to a victim. So I understand those functions in 3.1. All I am asking is, the kind of request that came to you from Chief Mashaba, that he needs assistance from you with a drug bust, where in paragraph 3 would it fall? If it does not, you can say it is not one of those.

WARRANT OFFICER MAGANE: It does not.

ADV BALOYI SC: Okay.

WARRANT OFFICER MAGANE: It does not fall under paragraph 3.

ADV BALOYI SC: Okay, thank you.

ADV MOSIKILI: And, Warrant, just lastly, on that one, that is on your call with Chief Mashaba, when you received the call, where were you?

WARRANT OFFICER MAGANE: When I received the call, I
10 was at the station, visiting the station as a duty officer. I was visiting the on-and-off parade, like when the night shift changes where, as a duty officer, you are sometimes expected to inspect whether everything is in line with the operations.

ADV MOSIKILI: Okay, thank you. I suppose the question then, if you are already at the station and you have this request, was there no one else at your station that you could ask to attend to this query by Mashaba?

WARRANT OFFICER MAGANE: No, no, no. It was early
20 in the morning, and the CSC members are only allowed to work within our, the jurisdiction or the prison of Zonkizizwe. So when Mashaba was asking this assistance, he was at Londi, Londi which falls under Alberton.

ADV MOSIKILI: Okay, let us proceed to paragraph 6.

WARRANT OFFICER MAGANE: -:

“I told Chief Mashaba that I would call him in 30 minutes just to check if he still needs assistance. And indeed, I called him again and he told me he was already at Londi with his informant observing that place and requested me to come through and he sent me his location via WhatsApp.

10 Upon my arrival at the said location, I met Chief Mashaba driving a grey VW Golf 7 and another gentleman unknown to me driving a charcoal BMW 7 series. Both cars were parked next to each other. Chief Mashaba introduced me to that gentleman and he also introduced that gentleman to me.

20 This man came to be known to me as Mr Tumelo Nku. Chief Mashaba further requested Mr Tumelo Nku to further explain the information in detail. After a detail explanation of the information by Mr Nku, Chief Mashaba further requested Mr Nku to further explain the information to me in detail. After a detailed explanation of the information,

Mr Nku, Chief Mashaba and I decided
to go inside ...”

No, no, no. Commissioners, I think here the
statement, it is only me and Chief Mashaba who went to
that truck stop, not Mr Nku. Mr Nku was left behind.

CHAIRPERSON: That is what ...[intervenes].

WARRANT OFFICER MAGANE: It says ...[intervenes].

CHAIRPERSON: It says exactly that.

ADV MOSIKILI: It does accord, ja.

10 **WARRANT OFFICER MAGANE:** -:

“After a detailed explanation of then Mr
Nku, Chief Mashaba ...” [intervenes].

CHAIRPERSON: By Mr Nku. Then Chief Mashaba and you
decided to go inside.

WARRANT OFFICER MAGANE: Okay.

CHAIRPERSON: Just the two of you.

WARRANT OFFICER MAGANE: Okay. Thank you,
Commissioners.

20 “Chief Mashaba and I decided to go
inside the place where the truck was
parked, which was not far from where
our cars were parked. The name of
that place where the truck was parked
was Yellow Jersey Company.”

ADV KHUMALO SC: Warrant Officer, just stop there. The

grey VW that Chief Mashaba was driving, was it a police vehicle or was it his private vehicle?

WARRANT OFFICER MAGANE: No, it was a police vehicle.

ADV KHUMALO SC: It was a police vehicle.

WARRANT OFFICER MAGANE: Yes.

ADV KHUMALO SC: And then let us just get the place right. You say it is in Roodekop?

WARRANT OFFICER MAGANE: Roodekop.

10 **ADV KHUMALO SC:** And Roodekop is this industrial area near Spruitview.

WARRANT OFFICER MAGANE: That is correct, Commissioner.

ADV KHUMALO SC: So it falls under Alberton.

WARRANT OFFICER MAGANE: It falls under Alberton area.

ADV KHUMALO SC: All right, thank you.

ADV MOSIKILI: Before you continue, Warrant, can you just provide us with details as to what exactly you mean.

20 You will see there when you say, after a detailed explanation of the information. What information, what exact information did Nku and Mashaba give you?

WARRANT OFFICER MAGANE: Thank you, Commissioners. Mr Nku explained to me that he have received information about a truck which was, which arrived

the night before, which was on Thursday the 8th, and according to the information ...[intervenes].

CHAIRPERSON: Arrived where?

WARRANT OFFICER MAGANE: Arrived at Roodekop at ...[indistinct]. This truck was allegedly carrying drugs or transporting drugs. He also showed me the registration number and the number of that alleged container on his cell phone, show me the picture of that container and the truck.

CHAIRPERSON: And was he the informant? You said
10 when Mr Mashaba called you, he was with his informant.

WARRANT OFFICER MAGANE: Informant, yes.

CHAIRPERSON: Informant.

WARRANT OFFICER MAGANE: Correct.

CHAIRPERSON: So was this informant Mr ...[intervenes].

WARRANT OFFICER MAGANE: Mr Nku, that is correct there, Commissioners.

ADV MOSIKILI: And did you ask where he received that information that you saw on the SMS?

WARRANT OFFICER MAGANE: No, I did not ask that
20 because it was going to be awkward. He is the informant of Mashaba, so the only relevant person which I can ask that it was Mr Mashaba.

ADV MOSIKILI: Did you then ask Mashaba?

WARRANT OFFICER MAGANE: Yes, I did.

ADV MOSIKILI: Where did he say the source of that

information?

WARRANT OFFICER MAGANE: Mr Mashaba explained that Mr Nku used to work at Transnet, so he still have information, or, ja, information about Transnet matters. That is what Mr Mashaba told me.

ADV MOSIKILI: What did you understand by that, because he did not mention Transnet. My understanding is that the Yellow Jersey Company, that is the logistics company transporting the cargo. What is the relevance of, did you
10 follow up, what is the relevance, what was the relevance of mentioning that he used to work for Transnet?

WARRANT OFFICER MAGANE: Transnet, I mean the containers that comes, Yellow Jersey was contracted to transport containers from the harbour to various places. So that is Transnet Harbour.

ADV BALOYI SC: Did Mr Nku or Mr Mashaba say, and I am asking Mr Nku because in your statement you do say that Mr Nku, you say further requested, you say Mr Mashaba further requested Mr Nku to further explain the
20 information to me in detail. So Mr Nku did explain to you.

WARRANT OFFICER MAGANE: He did explain.

ADV BALOYI SC: Did he say to you he got this information from Transnet?

WARRANT OFFICER MAGANE: No, no, no.

ADV BALOYI SC: I am trying to understand where

...[intervenes].

WARRANT OFFICER MAGANE: No, no, he ...[intervenes].

ADV BALOYI SC: What his experience or his past employment with Transnet and still knowing things about Transnet, what that has to do with the kind of information that he is giving you.

WARRANT OFFICER MAGANE: Commissioners, I did not go deep into getting more information from Mr Nku as to how is he getting this information, because he was no longer working at Transnet.

ADV BALOYI SC: Did he say to you how he got the registration number, whether him or Chief Mashaba, how Mr Nku got the, how and where he got the registration number of the truck that you say he showed you?

WARRANT OFFICER MAGANE: Commissioners, I will be honest, I did not go deep, I did not interrogate that information further. But all what, according to the information that was given to me, I then assumed that he got it maybe through his source or in whatever way.

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

ADV MOSIKILI: All right, let us proceed to paragraph 8, Warrant Officer.

WARRANT OFFICER MAGANE: -:

“We proceeded to the Yellow Jersey Company using Mashaba's vehicle and

stopped at the security gate. I introduced ourselves and the reason for our visit at the premises. The security guards then referred us to ...”
[intervenes].

CHAIRPERSON: Mr, just before that, please explain the introduction. How did you introduce yourselves, by name, by work position or what?

WARRANT OFFICER MAGANE: We introduced ourselves
10 by showing them our appointment cards and we also told them that we are from the police.

CHAIRPERSON: So both of you showed your cards?

WARRANT OFFICER MAGANE: No, it is only me who produced.

CHAIRPERSON: You did?

WARRANT OFFICER MAGANE: Yes.

CHAIRPERSON: And then about Mr Mashaba?

WARRANT OFFICER MAGANE: Mashaba did not
...[intervenes].

20 **CHAIRPERSON:** No, you said you did the introductions. What did you say about Mr Mashaba?

WARRANT OFFICER MAGANE: No, I said I introduced myself as a member of SAPS.

CHAIRPERSON: Yes.

WARRANT OFFICER MAGANE: Yes. Then Mashaba also

is from Traffic.

CHAIRPERSON: He introduced himself?

WARRANT OFFICER MAGANE: Yes.

CHAIRPERSON: Oh, all right, okay.

ADV BALOYI SC: And at this point, when you get there and you do these introductions, who is in charge? Who is the owner of this thing that you and Mashaba are doing now? Who is in charge?

WARRANT OFFICER MAGANE: Mr Mashaba, he was the
10 senior.

ADV BALOYI SC: So he is in charge?

WARRANT OFFICER MAGANE: Yes, that is correct, Commissioners.

ADV BALOYI SC: Okay, thank you.

ADV MOSIKILI: Before you proceed, just to understand your answer to the Chair. You say you both introduced yourselves, but only you showed your appointment card. Is that correct?

WARRANT OFFICER MAGANE: I cannot remember very
20 well, but Mashaba also, I think Mashaba also, I am not too sure, but that is protocol.

ADV MOSIKILI: But what you are sure that you did.

WARRANT OFFICER MAGANE: Yes, I did.

ADV MOSIKILI: But with Mashaba, you cannot confirm.

WARRANT OFFICER MAGANE: I cannot confirm.

ADV MOSIKILI: Okay, no, proceed.

CHAIRPERSON: The security guards?

WARRANT OFFICER MAGANE: Commissioners?

CHAIRPERSON: Continue, the security guards then referred.

WARRANT OFFICER MAGANE: -:

10 “The security guards then referred us to their manager inside the offices. We found a male person by the name of Hardug, who confirmed that he was the manager of that place. We then introduced ourselves to him as protocol and explained the reason for our presence at the premises.”

CHAIRPERSON: What did you mean by protocol? When you said you were protocol, what did you mean by that?

WARRANT OFFICER MAGANE: As required, when you enter a premises, you must introduce yourself if you, as a police, or, and the reason for your visit.

20 **CHAIRPERSON:** I understand you saying that we are police, I am from SAPS and he is from ...[intervenes].

WARRANT OFFICER MAGANE: Traffic.

CHAIRPERSON: From the, ja, traffic police, I understand that. But here that is not what you said, you said you were protocol. What did you mean when you said you were

protocol?

WARRANT OFFICER MAGANE: I mean, as protocol, as a requirement, maybe if I may put it that way.

CHAIRPERSON: Oh, do you mean we introduced ourselves as is required by protocol?

WARRANT OFFICER MAGANE: That is correct, that is ...[intervenes].

CHAIRPERSON: That is not, ja, that is not what it says. It says you introduced yourselves as protocol, so I read it to
10 mean that you were saying you are protocol.

WARRANT OFFICER MAGANE: We introduced ourselves to him as protocol, maybe ...[incomplete].

CHAIRPERSON: No, I understand, I understand, let us ...[incomplete].

WARRANT OFFICER MAGANE: -:

20 “And explained the reason for our presence at the premises. We explained to him that we were following information about one of their trucks which was carrying a container from Durban and that according to the information at our disposal, the container was carrying drugs, but we are not sure about the quantity of those drugs. Mr Hardug explained that he

does not know the contents of the container, and we requested him to open the container, but he pleaded with us to at least follow or escort the truck to the customer, so that we can open it in front of the owner of the merchandise inside the container.”

CHAIRPERSON: So when you made the request that the truck should be opened, or the container should be opened,
10 was your intention to then search the container?

WARRANT OFFICER MAGANE: Yes, if he gave consent we would ...[intervenes].

CHAIRPERSON: And if you indeed found drugs, would you then have seized the drugs? Was that your intention?

WARRANT OFFICER MAGANE: No, no, no, we were going to phone all the relevant role players to come and process the scene.

ADV BALOYI SC: Who are the relevant role players that you would have called?

20 **WARRANT OFFICER MAGANE:** We were going to source assistance from DPCI, the national office, because there are people, anyone who was relevant and available.

ADV BALOYI SC: No, I would like you to be more specific. You say all the relevant role players, so you must have had either units or people in mind. So you have started by

saying DPCI. When you say national office, you mean head office of the SAPS, or of the Traffic, because it is ...[intervenes].

WARRANT OFFICER MAGANE: No, no, of SAPS.

ADV BALOYI SC: Chief Mashaba's operation. Remember I asked you earlier, you said he was in charge.

WARRANT OFFICER MAGANE: He was, yes.

ADV BALOYI SC: Okay, so you would have called national SAPS.

10 **WARRANT OFFICER MAGANE**: National SAPS, that is correct, and DPCI.

ADV BALOYI SC: Those two, that is what you mean when you say all the role players.

WARRANT OFFICER MAGANE: That is correct.

ADV BALOYI SC: Okay, thank you.

CHAIRPERSON: Just explain to me more fully, if the container had been opened there and then, what exactly would you have done? Would you have ...[intervenes].

20 **WARRANT OFFICER MAGANE**: We were going to cordon the scene.

CHAIRPERSON: Sorry?

WARRANT OFFICER MAGANE: We were going to cordon the scene, to cordon off ...[intervenes].

CHAIRPERSON: No, no, now the container is open. What do you do with the open container?

WARRANT OFFICER MAGANE: If that exhibit, or if those drugs were found, we were going to call.

CHAIRPERSON: And how exactly would you establish that there were drugs inside?

WARRANT OFFICER MAGANE: Commissioners, because ...[intervenes].

CHAIRPERSON: Assuming that everything was wrapped up, and you do not open and you immediately see drugs, everything is nicely wrapped up in wrapping that is not even
10 transparent, what would you have done?

WARRANT OFFICER MAGANE: We would have called K9 or other people who have experience in this field.

CHAIRPERSON: So are you saying you would have opened for no reason at all then?

WARRANT OFFICER MAGANE: Commissioner?

CHAIRPERSON: Are you saying you would have opened for no reason at all if you would have just opened and then called for K9, without doing anything further?

WARRANT OFFICER MAGANE: No, we were going to wait
20 for them to come in.

CHAIRPERSON: But why open then?

WARRANT OFFICER MAGANE: To verify the information.

CHAIRPERSON: Verify how? You say, I have just said to you, now you have an open container, and you have a lot of material in there, but all nicely wrapped up and you cannot

see what is inside, then what do you do. You say what you are going to do is to call K9.

WARRANT OFFICER MAGANE: To come and ...[intervenes].

CHAIRPERSON: Yes, my question then is why open in the first place, if all you are going to do is to then call K9 and do nothing whatsoever? Why open in the first place?

WARRANT OFFICER MAGANE: Commissioner, after opening the container, we were going to source relevant K9
10 people to come in.

CHAIRPERSON: So you yourself would do nothing. The container would be opened, you would just stand there, look, and then call K9.

WARRANT OFFICER MAGANE: Commissioners, if those people, those people who, I mean, they will say, this one belong to us, this one we do not know, or the K9 people will come in, verify.

CHAIRPERSON: All right, continue, continue.

WARRANT OFFICER MAGANE: -:
20 "We explained to him that we were following information about one of their trucks which was carrying a container from Durban, and that according to the information at our disposal, the container was carrying drugs, but we

are not sure about the quantity of those drugs. Mr Hardug explained that he does not know the contents of the container and we requested him to open the container, but he pleaded with us to at least follow or escort the truck to the customer so that we can open it in front of the owner of the merchandise. This seemed like a reasonable request, and we agreed to the suggestion. I also suggested that Mr Hardug can also send their security personnel to accompany us to make sure the truck reaches its destination safely, and he agreed.”

10

ADV BALOYI SC: Your informant, you obviously believed him, that is why you go to all these lengths about there being drugs in that container.

WARRANT OFFICER MAGANE: That is correct,

20 Commissioner.

ADV BALOYI SC: Why do you allow this truck to get on the road when you are possessed with information that says there is illicit drugs in that truck? Why do you remove the truck from where it is parked and it has drugs in it? How did you think about it?

WARRANT OFFICER MAGANE: Because, you see, the owner of the premises actually was not giving us a consent to open the container as he was not the owner. So we fell into that trap that, no, let us follow this container to its destiny, destination, so that upon our, upon its destination, then we, the owner then he can give us permission to search, because we were not having a search warrant.

ADV BALOYI SC: Okay. All right.

ADV MOSIKILI: Can I ask you, Warrant, as Commissioner
10 Baloyi indicated, you had at least reasonable belief that there is suspicious material contained in that cargo. What I am trying to understand, first of all, when you say we agreed to the suggestion that this truck be escorted, when you say we, did you agree personally to that idea?

WARRANT OFFICER MAGANE: That is correct, I did agree with ...[incomplete].

ADV MOSIKILI: And then my question is, what was stopping you from saying, call the intended customer, we are cordoning off this area, let him or her or them come
20 here because this is a crime scene, because of your reasonable suspicion? Was it not something that you could have at least reasonably done?

WARRANT OFFICER MAGANE: You see, information only become positive when you have verified. Sometimes information can be false, so we were trying to minimize a

situation whereby we will find ourselves having opened the container and find nothing.

ADV MOSIKILI: But if you found nothing, that would have been the end of the matter, is it not?

WARRANT OFFICER MAGANE: I beg yours, Commissioner?

ADV MOSIKILI: If you opened and you found nothing, that would have been the end of the matter.

WARRANT OFFICER MAGANE: But ...[intervenes].

10 **ADV MOSIKILI:** And there was nothing inside.

WARRANT OFFICER MAGANE: Some people will take you on. You will get civil claims and, because we were not having a search warrant. So section 22 give a provision that if you have got a reasonable suspicion and you want to search the premises, if the owner of the premises is not giving consent, then you are going to sit with a problem.

ADV BALOYI SC: What do you do normally if the owner of the premises does not give you permission to search?

20 **WARRANT OFFICER MAGANE:** We then apply for a search warrant, if that is an option.

ADV BALOYI SC: And why was that not done here, because the truck is parked, you have your eyes on it, it is not going anywhere. Why did not you consider applying for a warrant then now that Mr Hardug is not giving you permission to open?

WARRANT OFFICER MAGANE: No, Commissioners, I think it was an oversight from us because he is suggesting for us to follow the truck up until its end destination. We felt that at least we were getting cooperation from him, that is why we decided to follow the truck up until to the destination.

ADV BALOYI SC: Thank you.

ADV MOSIKILI: My difficulty, Warrant Officer, is that you have a reasonable suspicion to enter the premises and the
10 information you have about the truck number, the registration, it checks out because you find the container, you find the truck. But what seems to be happening is that you are moving from one potential crime scene and you are letting it move to another. In this case, it has to be another jurisdiction even. Do you understand that difficulty?

WARRANT OFFICER MAGANE: I understand and I follow.

ADV MOSIKILI: Yes. For example, I mean were there any other trucks at Yellow Jersey parked in that yard?

WARRANT OFFICER MAGANE: That is correct, there were
20 other trucks that were parked there.

ADV MOSIKILI: So you see, my difficulty is that if you moved that truck as you did and you followed it to its destination, but you do not even know what other trucks could have contained because had you brought in the entire team, including the sniffer dogs and whatever, they could

have searched the entire premises. Do you follow that?

WARRANT OFFICER MAGANE: I follow and I take that as an oversight from us.

ADV MOSIKILI: And then when Mr Hardug said to you, let us go to the customer, did he mention who the customer is to you guys?

WARRANT OFFICER MAGANE: Yes, he said this truck was destined for Aeroton, at Scania in Aeroton.

ADV MOSIKILI: And you knew where Aeroton was?

10 **WARRANT OFFICER MAGANE:** Yes, I knew where Aeroton was, but I did not know the place where this, the place where Scania is located.

ADV MOSIKILI: So did you know at least the distance that you will be traveling, escorting this truck?

WARRANT OFFICER MAGANE: Yes, I was, I knew the distance was between 20 and 25 kilometres.

ADV MOSIKILI: Yes. But do you also appreciate that in fact you might have put yourself and your colleague in danger by allowing a truck to go to another destination
20 where they could call and say, we have company and when you get in there, you are met with other things. Did you accept that, that there was this ...[intervenes].

WARRANT OFFICER MAGANE: I accept that and I take this as, I do not take this, I take this as serious and definitely if something might have happened, but God forbid

it never happened. But there were possibilities.

ADV BALOYI SC: And that possibility arises because you have already now told Mr Hardug that there are drugs in this truck. That possibility that in fact you could potentially have ended up with these illicit drugs being taken by somebody else, because now you have shared the information that this truck is carrying drugs.

WARRANT OFFICER MAGANE: I agree with you, Commissioners.

10 **ADV BALOYI SC:** You did not consider that risk, that by moving this truck onto the road when you have now revealed to someone outside your circle that there are drugs in this truck, that you actually have created a risk that someone else might just take those drugs from you on the road.

WARRANT OFFICER MAGANE: Commissioners, I will be honest with you, that we did not think of. But possibilities, I do not rule out the possibilities of that happening.

20 **ADV BALOYI SC:** Ja. No, no, I, it is a possibility. It did not happen. We are more concerned about your own conduct and thought processes, how you thought and why you would have thought this is appropriate having disclosed already to the security at the gate that there is a truck that has drugs on it, you have now disclosed to Mr Hardug in there and then you deem it appropriate. You, and at this

stage I am not concerned about Chief Mashaba, I am talking about you, SAPS, that you think it is appropriate. You did not consider at all the risk of driving with those drugs in that truck.

WARRANT OFFICER MAGANE: At that time, Commissioner, I would say we did not consider this a risk.

ADV BALOYI SC: All right, thank you.

ADV MOSIKILI: I suppose on that score, Warrant Officer, is it something that you will consider to be an oversight, or
10 it is something that you just did not have appreciation of the magnitude or situation that you were dealing with?

WARRANT OFFICER MAGANE: Commissioner, we, it was, I will consider it as an oversight. And for the fact that at least Mr Hardug gave us his, his option, another option of maybe searching the truck. But I do not know if I am answering you.

ADV MOSIKILI: I accept that. We can move on to paragraph 10.

WARRANT OFFICER MAGANE: -:
20 “We left the premises and followed the truck as agreed. I used my unmarked NP ...[indistinct] bakkie, black bakkie. Chief Mashaba and Mr Nku followed in their respective cars. I also noticed that the yellow bakkie from Yellow

Jersey also followed us from a distance.”

Can I just make a correction? Before we left the premises, the Yellow Jersey premises, I left my numbers with Mr Hardug and he also, he actually gave me his numbers, then I gave him a missed call so that he can have my numbers.

ADV BALOYI SC: Did Chief Mashaba do the same?

WARRANT OFFICER MAGANE: No, no, no, only me did
10 that.

ADV BALOYI SC: Why you? It is not your operation. Why are you the one that is giving Mr Hardug your number and not Chief Mashaba? It is not a SAPS operation, you have told us.

WARRANT OFFICER MAGANE: Yes.

ADV BALOYI SC: It is a Traffic Department operation.

WARRANT OFFICER MAGANE: But for a mere fact that I was also part of that, I felt that I can just leave my numbers because we are a team, we are together.

20 **ADV BALOYI SC:** Okay. All right.

ADV MOSIKILI: Just on that score, before you proceed with paragraph 11, is there any reason why you allowed the informant, Mr Nku, to follow you?

WARRANT OFFICER MAGANE: You know, before we left, we went to our different cars, so we drove together. In my

understanding, I thought maybe Mr Nku, along the way, will take another, because we were now following the truck to another destination. That was not discussed whether Mr Nku will be part of us or will follow us.

ADV MOSIKILI: And you will accept, at least for a moment, that it is not ideal for an informant, especially having given you the necessary information, to be part of your contingent to a potential second crime scene?

WARRANT OFFICER MAGANE: I would explain this in this
10 way. You know, sometimes informants give information to the police and some policemen, even if the information was positive, they will say it was not positive. And in this instance, also, when we arrived at Scania, I questioned this, I asked Mr Mashaba, because Mr Nku was now parked in the premises, he alluded to me that Nku had a previous experience whereby he gave information to the police, and they, even if the information was positive, but they said it was negative.

ADV MOSIKILI: But in your understanding that he should
20 not, he had no business of being there.

WARRANT OFFICER MAGANE: Because he was not taking part. He was always sitting in his car. And sometimes when we follow information, we will drive with the informant as long as the identity of the informant will be concealed.

ADV MOSIKILI: But there is no concealment here. You go into a potential dangerous situation, which could be actually dangerous for him, who is a civilian, and you have obtained all the necessary information. Or was there any other information you required from him?

WARRANT OFFICER MAGANE: No, according to his explanation, that was only that.

ADV MOSIKILI: So when I say he had no business in being there, what is your comment?

10 **WARRANT OFFICER MAGANE:** I will not fully agree with you, Commissioners, because, like I am saying, it was because of his previous experience. Even though, I would say, it was at least dangerous for him, but as long as he is not partaking, that, for me, it was not going to be a problem.

ADV MOSIKILI: No, but you did not know that. You did not know his past experience, and I am not sure how is that relevant.

20 **WARRANT OFFICER MAGANE:** But this is the explanation that I got from his handler, Chief Mashaba and I would not dictate for Mashaba to how he must handle his informant.

ADV MOSIKILI: So you defend Mr Mashaba then.

WARRANT OFFICER MAGANE: Commissioners.

ADV MOSIKILI: Are you relying on Mashaba then to say, because he said, because of his previous experience, that

Mr Nku wants to be there, to make sure that this operation is a success, you will say it is because of Mr Mashaba?

WARRANT OFFICER MAGANE: That is correct. Ja, I would not have powers to say, Mr Mashaba, tell your informant, because I suggested, I mean, we spoke about it. If he had problems, or if he shared the same sentiment with me, he would have said, maybe advise Mr Nku not to be part of the operation, or not to be nearer to the place.

ADV MOSIKILI: I suppose the question is, if you were in
10 charge and of making the final decision, would you have had Mr Nku there?

WARRANT OFFICER MAGANE: It is a very difficult question, but I think if the informant, if I was a handler and the informant was having such a concern, as long as he is safe and his identity is concealed, I was not going to have any difficulty.

ADV MOSIKILI: No, no, I am not saying put propositions, I am saying in the situation that you were in, you are not his handler, you are not aware of his previous discomforts.
20 You know, it is a simple question to say, if you were in charge, would you have had him there, in your position, no other propositions or possibilities.

WARRANT OFFICER MAGANE: I would have done the same.

ADV MOSIKILI: Have him there?

WARRANT OFFICER MAGANE: As long as his identity is concealed.

ADV MOSIKILI: Okay. Let us go to paragraph 11 then.

WARRANT OFFICER MAGANE: -:

10 “While in transit I then started calling other members from different units for assistance, backup, including the following. I called Warrant Officer Chidie from Crime Intelligence Unit in Germiston, but he told me that he is unable to make it as he was attending a funeral in Limpopo.

I then called Brigadier Lewele from DPCI in Germiston. Unfortunately, his phone was off. I then called Warrant Officer Phokungwane from Alberton CIS.”

Maybe I must explain this. CIS stands for Crime Investigation Services, which is the detectives.

20 “He also could not assist because he said he was not feeling well after taking a COVID-19 vaccine and therefore indisposed. He also indicated he is the one who gave Mr Mashaba my contacts, as Chief

Mashaba called him before calling me for assistance.”

So, maybe to explain this, before Chief Mashaba called me, this is the person that he called first, Warrant Officer Phokungwane of Alberton. That is how, because I did not even have Mashaba's number or Mashaba did not even have my numbers, so he got my numbers from Warrant Officer Phokungwane.

10 “I then called Warrant Officer Phakula from National Investigation Unit, which is called NINU. Fortunately, he said he was available to assist, but he was still at home preparing himself for work. He requested me to call him again when this information is positive, and we agreed on that.

20 I then called my Station Commander, Lieutenant Colonel Risenga Albert Chauke, to report that I am following information with a member from Gauteng Traffic Police about a truck which is alleged to be carrying or transporting drugs to Aeroton. He did not express any difficulty with what I was reporting, and he requested me to

update or provide him with a feedback
at an opportune time.”

ADV BALOYI SC: Warrant Officer, none of these people that you have listed, and starting with Maja, when you got the call the first time, and here in paragraph 11, none of them is from your Zonkizizwe Police Station. You have called people outside.

WARRANT OFFICER MAGANE: That is correct.

ADV BALOYI SC: I assume you are not the only member
10 of Zonkizizwe. There are other capable SAPS members there.

WARRANT OFFICER MAGANE: To be honest with you, Commissioners, Zonkizizwe at that time, because I left Zonkizizwe at, I think, before 7 ...[intervenes].

ADV BALOYI SC: Yes.

WARRANT OFFICER MAGANE: Other office members were not available. It is only a sector vehicle, and we are operating with only one vehicle for the complaints and CAC duties.

20 **ADV BALOYI SC:** So, my question was going to be, why did you not call anyone from Zonkizizwe when you were making these calls? How come there is no one from your police station that you called and have them tell you, I am unavailable, I do not have a car, or they are not answering their phones? You have gone to everybody except anyone

from your Police Station.

WARRANT OFFICER MAGANE: It is that, because like I am, since I am explaining that we only have one vehicle from Zonki which is doing sectors.

ADV BALOYI SC: Yes.

WARRANT OFFICER MAGANE: So that, I knew that even if I can call them they would not go with me, because they will focus on doing CAC duties and attending to complaints around.

10 **ADV BALOYI SC:** So, at Zonkizizwe, no one goes outside? Are you saying to us all the police at Zonkizizwe Police Station, they work only inside?

WARRANT OFFICER MAGANE: No. Detectives can ...[incomplete].

ADV BALOYI SC: Yes, so, why did you not call one of them, or three, four, five, whatever number you have, instead of calling people who say, I am in a funeral in Limpopo. You called that person. How you choose them, you call DPCI and when they, and then you call
20 Phokungwane, who says, I am not well, and when all of them are unavailable to you, you do not say, let me try one of, or two or three of my people in Zonkizizwe. You are in a police car, so you could have given them a lift. You could have gone back to fetch them.

WARRANT OFFICER MAGANE: Yes.

ADV BALOYI SC: Because Chief Mashaba has the situation under control. Why did you not call your people?

WARRANT OFFICER MAGANE: That did not cross my mind, Commissioners.

ADV BALOYI SC: Okay, thank you.

CHAIRPERSON: Were you focusing on any specialities, or were you just calling people at random?

WARRANT OFFICER MAGANE: I was calling people that I know that they will have a mandate, or they can work
10 outside and ...[incomplete].

CHAIRPERSON: Were you calling people who have, or were specializing in certain fields, or were you calling people at random?

WARRANT OFFICER MAGANE: I was calling people who, some of them are doing, are specializing, like Warrant Officer Chidie is from Crime Intelligence, so he can follow information. Then Brigadier Lewele, DPCI, he is the Head of DPCI in Germiston. So Warrant Officer Phokungwane is from Alberton. And I was calling people that I know they
20 are always available, or that I have worked with them before.

CHAIRPERSON: So it was more a question of availability, according to your understanding, and not so much what they specialized in.

WARRANT OFFICER MAGANE: That is correct,

Commissioners.

CHAIRPERSON: All right, thank you.

ADV MOSIKILI: Warrant Officer Magane, just on that score, because you seem to be struggling to get hold of, from Chidie to even Phakula himself, he was not immediately available. Surely you could have just called 10111 to get manpower. Did you try that?

WARRANT OFFICER MAGANE: No, I did not. To be honest with you, I never thought of calling 10111.

10 **ADV MOSIKILI:** All right, let us proceed. S

ADV BALOYI SC: You knew or you know about, we have heard there is a SANEB in DPCI, you know anything about it?

WARRANT OFFICER MAGANE: I know, that is why I called Brigadier Lewele.

ADV BALOYI SC: Is he in SANEB?

WARRANT OFFICER MAGANE: No, no, he is at Serious Anti-Corruption.

ADV BALOYI SC: Yes.

20 **WARRANT OFFICER MAGANE:** But because I did not have numbers of a SANEB member at DPCI, so I was going to ask him to organize a SANEB. That was the whole idea of calling Brigadier Lewele.

ADV BALOYI SC: Is he the only DPCI person that you know?

WARRANT OFFICER MAGANE: That I had his number.

“I called Warrant Officer Phakula from National. Fortunately, he said he was available to assist, but he was still at home preparing himself for work. He requested me to call him again when this information is positive, and we agreed. We then followed the track until we reached Aeroton, Omnia Industrial Park, where the container was supposed to be delivered at Scania Warehouse.”

ADV KHUMALO SC: Warrant Officer, just stop there. You are now in Johannesburg.

WARRANT OFFICER MAGANE: Right inside Johannesburg.

ADV KHUMALO SC: Yes, because Aeroton is that industrial area next to the FNB stadium.

WARRANT OFFICER MAGANE: That is correct, Commissioner.

20 **ADV KHUMALO SC:** About two kilometres from the FNB stadium. Now you are in Johannesburg jurisdiction. You have got Booyens Police Station nearby. You have got Diepkloof. You have got Ormonde, you have got Mondeor. You have got Central Johannesburg, possibly, even Lenasia. Lenasia is a bit off. Did you call any of those

stations to say we are people from Ekurhuleni, we are now going to be conducting a search operation in your area of jurisdiction, please give us permission and support.

I will tell you why I am asking this. We have heard from other witnesses in a different stream who said because they were from Ekurhuleni, specifically EMPD, when they needed to come and conduct an operation within the Johannesburg area, they reported at the nearest police station to the Station Commander that we will be conducting
10 an operation in your area and they signed a book in that station and that is how they were able to continue to conduct an operation.

Now in this case, you are now in Johannesburg. You are there to search and look for drugs. And you did not contact the police stations that are actually responsible for that area. Let me try and understand whether you contacted them, and if you did not, why you did not contact them.

WARRANT OFFICER MAGANE: No, I did not contact
20 them.

ADV KHUMALO SC: Why did you not contact them?

WARRANT OFFICER MAGANE: Because already Warrant Officer Phakula, who also has a mandate to handle cases of drugs-related and other high-profile cases, agreed to say no, he is willing to come and assist.

ADV KHUMALO SC: But you say he was only willing to come and assist if the information was positive.

WARRANT OFFICER MAGANE: That is correct.

ADV KHUMALO SC: Meaning you would have had to open the container and establish that the information is positive before you called him.

WARRANT OFFICER MAGANE: That is correct, Commissioners.

ADV KHUMALO SC: Now how were you going to open that
10 container and, as the Chair asked you earlier, verify that there are indeed drugs in that container, because that is the only way you can verify that the information is positive and then call Phakula. But my main concern is the mere fact of you opening the container, it means you are conducting a search operation in the Johannesburg jurisdiction, and you are doing so without notifying the police stations that are responsible for that area.

WARRANT OFFICER MAGANE: True, Commissioners.

ADV KHUMALO SC: And you did not even ask for backup.
20 What if there was a shootout or something even more serious?

WARRANT OFFICER MAGANE: No, Commissioners, you know if you follow information that is not violence-related, sometimes we take things very easy. You know, when you do calls, you tend to even forget that the so-called death.

You just tell yourself that whatever happened, because we were not, if this thing was like a robbery or whatever, we would have called for a backup.

ADV KHUMALO SC: But you are following a container that comes from a foreign country and landed at a port in Durban and according to the information you have, it is carrying drugs. You do not consider that situation to be dangerous?

WARRANT OFFICER MAGANE: No.

10 **ADV KHUMALO SC:** Do you not think the owners of those drugs, assuming there were drugs in the container, would want to get hold of their drugs, and they would do anything to stop you from getting hold of them?

WARRANT OFFICER MAGANE: That was possible, ja.

ADV KHUMALO SC: You did not apply your mind to that at all?

WARRANT OFFICER MAGANE: No, I will be honest with you, that never come to, I did not, it never come to that extent that ...[intervenes].

20 **ADV KHUMALO SC:** And this Nissan van you were driving in, I am sorry to say, does not seem like a fast vehicle. It looks like one of those slow, tortoise-type vehicles that would take you forever to get anywhere.

WARRANT OFFICER MAGANE: Commissioners, you know, like I was alluding that when duty calls, sometimes you tend

to forget about the dangers that you might face.

ADV KHUMALO SC: I would expect a trained policeman to be alert to those things.

WARRANT OFFICER MAGANE: That is correct. That is why we need a refresher course, because I was at the college in 1998. The other basic things, we tend to forget them, and we do not apply them anymore. I agree. It is a very important remark that the Commissioner is making.

CHAIRPERSON: Also, it was not your area of function.
10 You are a statistics person. It is simply not your area of function.

WARRANT OFFICER MAGANE: Commissioners, I would like to explain this. The CIMAC, or my duties as an analyst, does not confine me from doing other duties out of that scope. I only get rated for those that are my primary duties, but I can still do other things which are out of that.

CHAIRPERSON: But from the answers you have given in response to my colleagues, Commissioners Baloyi and Khumalo, it is quite plain that you were at sea. You were
20 lost as to what needed to be done. It is not your area, as I say.

WARRANT OFFICER MAGANE: I would agree.

CHAIRPERSON: And also, you said you go out of the office when you do the environmental assessments and that you would then attend to whatever may arise incidentally,

whilst you happen to be out there doing your assigned duties. Do you remember that?

WARRANT OFFICER MAGANE: That is correct, Commissioners.

CHAIRPERSON: Now, do you agree that what you were doing here was not incidental? You left your office upon being called, and you went to involve yourself in this operation. It is unlike what you told us earlier, which is being involved if something happens incidentally. This was
10 totally different. Do you agree?

WARRANT OFFICER MAGANE: That, sorry to interject. Sorry.

CHAIRPERSON: Do you agree?

WARRANT OFFICER MAGANE: I agree, but to explain this further, Commissioner ...[intervenes].

CHAIRPERSON: I am happy with the agreement, but you may continue.

WARRANT OFFICER MAGANE: Okay, thank you, Commissioner. My primary duties does not confine me from
20 doing other duties which are operational.

CHAIRPERSON: You see, we gave you an opportunity. We gave you latitude to explain what more you may do outside of the office, and you explained and that had nothing to do with something like this. And you have just agreed that this had nothing to do with what you would

ordinarily do outside of the office. You have already said so. So you cannot now try to bring this within the fold of what you can do outside of the office. Do you understand me?

WARRANT OFFICER MAGANE: I understand you, Commissioner.

CHAIRPERSON: Do you agree with me?

WARRANT OFFICER MAGANE: I agree.

CHAIRPERSON: Thank you.

10 **ADV BALOYI SC:** Well, I was going to add that, in fact, your Commander, in his statement, says your duties are office-bound. That is how he describes your duties. That is Chauke that you have referred to.

WARRANT OFFICER MAGANE: No, that is incorrect.

ADV BALOYI SC: So your Station Commander does not understand your duties when he says, and I quote:

20 "As a Commander, I was not aware of the operation, since the member's duties are office-bound, doing crime information, management, coordination for the station."

That is what he says about your duties.

WARRANT OFFICER MAGANE: Like I am saying, my Station Commander, I know he would not give a positive statement about me. If I called him, if he was not happy

about this, he was supposed to stop me and say, you are not allowed to do that. Like I can, I have got ...[intervenes].

ADV BALOYI SC: Forget what he was supposed to do. We are not talking about your Station Commander, what he did do or did not do. I am following up on your discussion with the Chairperson to say what you have agreed with the Chairperson, in fact, finds further confirmation from your Station Commander, who says your duties are office-bound. That is all I was saying.

10 **WARRANT OFFICER MAGANE:** Can I say something, Commissioner? Like I say, I fully disagree with my Station Commander.

ADV BALOYI SC: All right, thank you. Mr Mosikili.

ADV MOSIKILI: Thank you. Warrant Officer Magane, let us proceed. I think we are about to enter the premises of Aeroton. You are at paragraph 12.

WARRANT OFFICER MAGANE: Yes, Commissioner.

ADV KHUMALO SC: He just read 12. Next one is 13.

WARRANT OFFICER MAGANE: Paragraph 12.

20 **ADV MOSIKILI:** Move to 13.

WARRANT OFFICER MAGANE: -:

“At Scania, we found a person who introduced himself as Ms Jolene Wentzel, and that she was working at Scania as a Warehouse Supervisor,

and she also confirmed that the container was carrying their stuff from Brazil. Equally so, we ...”
[intervenes].

ADV BALOYI SC: Sorry, can I just understand something. The truck, who did it belong to? Was it a Scania truck? Was it a Yellow Jersey truck?

WARRANT OFFICER MAGANE: No, the truck, the container was a load for Scania.

10 **ADV BALOYI SC:** Yes, I know that.

WARRANT OFFICER MAGANE: Then the truck belongs to Yellow Jersey.

ADV BALOYI SC: I see. Thank you.

ADV MOSIKILI: Perhaps to assist there. So, Commissioner, Scania would have two components. They will have the truck department and the logistics where they transport. But in this case, they are the end user, in that the truck by Yellow Jersey was carrying their so-called body parts. They call it the caps. Perhaps, Warrant Officer
20 Magane, let us go to ...[intervenes].

ADV BALOYI SC: Sorry, let me just finish my point, and then you can clarify. I think what I was seeking to clarify is so the driver of the truck is in fact employed by Yellow Jersey, not by Scania?

WARRANT OFFICER MAGANE: That is correct, ja.

ADV BALOYI SC: Thank you. I think that is all I needed to clarify. Yes, you can continue to clarify what you wanted to clarify.

ADV MOSIKILI: Yes, perhaps go to paragraph 14, and we will come back to the point that I wanted to assist you with, in terms of the cargo.

WARRANT OFFICER MAGANE: -:

10 “Equally so, we introduced ourselves to her and explain the reason for our presence at the premises. We requested Ms Wentzel and her colleagues to open the container so that we can verify the information. The container was opened.”

CHAIRPERSON: At that point, it is still Mr Mashaba and you only. I understand the presence of Mr Nku, but I am referring to police.

WARRANT OFFICER MAGANE: It was still me and ...[intervenes].

20 **CHAIRPERSON:** It was just the two of you.

WARRANT OFFICER MAGANE: That is correct.

CHAIRPERSON: All right.

WARRANT OFFICER MAGANE: -:

“The container was opened ...”
[intervenes].

ADV BALOYI SC: And except for Mr Phakula, you have not called for anybody else at this point, who is on their way?

WARRANT OFFICER MAGANE: Yes, during my conversation with Mr Phakula, he said, even though it is not on my statement, he said he will try to source other members from his unit.

ADV BALOYI SC: Okay. And Mr Phakula is based in Pretoria?

WARRANT OFFICER MAGANE: Yes, at head office.

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

WARRANT OFFICER MAGANE: -:

“The container was opened by one of their staff members, and to our surprise, as soon as the doors were opened, some black bags started falling from the container, and others were trapped at the back of the container. I also found a seal which was inside a white plastic.

20 The said seal had the same serial numbers as the seal that a Scania employee has just broken when opening the container. I then inquired from Ms Wentzel if this is how they received their stuff, but she said this

was very strange and unusual.”

CHAIRPERSON: What did you mean by that when you say, when you ask if this is how they received their stuff? What did you mean by that?

WARRANT OFFICER MAGANE: I meant that there is a seal that matches the one that was used to lock the container. I was trying to ascertain if this, does it comes with a ...[indistinct] that is inside the container.

CHAIRPERSON: So your, the focus of your question was
10 about the seals, not so much about what was contained in the container?

WARRANT OFFICER MAGANE: No, no, no, no, it was also on the drugs also, because I also asked her if this is what they were expecting, the load, the bags that fell down.

ADV KHUMALO SC: Do you want to maybe go to page 35 and then answer Chair's question with reference to the photo. So in the annexures after your statement, there is page 35 and 36.

CHAIRPERSON: Please look at that over the tea break
20 and let us resume at 11:25.

WARRANT OFFICER MAGANE: Page 35?

CHAIRPERSON: Yes. I am saying look at that during the tea break. We will resume at 11:25.

WARRANT OFFICER MAGANE: Okay.

ADV MOSIKILI: He is asking for the page.

CHAIRPERSON: Page 35, three five.

WARRANT OFFICER MAGANE: Okay, thank you, Commissioner.

INQUIRY ADJOURNS

INQUIRY RESUMES

CHAIRPERSON: Warrant Officer, did you have a look at the page to which Commissioner Khumalo referred you to?

WARRANT OFFICER MAGANE: It is page 25.

CHAIRPERSON: Yes.

10 **ADV MOSIKILI:** Before you can answer with your permission, Chair, Warrant Officer Magane, you did testify and can you confirm that when you went to Aeroton, you went there driving a black Nissan bakkie? I think it is MPV 300.

WARRANT OFFICER MAGANE: That is correct.

ADV MOSIKILI: Can we then, I have asked for the photos to be flighted out, can you just flight the photos? It is on page 35.

WARRANT OFFICER MAGANE: Yes, Commissioners.

20 **ADV MOSIKILI:** Yes, can you explain to the Commissioners what is there?

WARRANT OFFICER MAGANE: Commissioners, this photo here depicts, actually it shows the black bags that were stashed at the back of the container and with the white, this white thing like a door, it is actually an incomplete

assembled body part of a truck and these bags, as you can see, they are just next to the wall, I mean next to the doors of the container.

ADV KHUMALO SC: Warrant Officer, let us maybe do this, Scania is a trucking company.

WARRANT OFFICER MAGANE: That is correct.

ADV KHUMALO SC: They are trucks, so this is a door panel, it is a part of a truck, it is a door panel of a truck.

WARRANT OFFICER MAGANE: No, it is not, you see you
10 get this truck cap, the complete structure.

ADV KHUMALO SC: Yes.

WARRANT OFFICER MAGANE: So, it is a complete structure but without wheels and engine, but the doors are there, it is only the windscreen and the axle, it still needs to be assembled.

ADV KHUMALO SC: So, it is the front part of the truck?

WARRANT OFFICER MAGANE: Yes, it is the front part, that is correct, Commissioners.

ADV KHUMALO SC: And what we are looking at there,
20 maybe if we go back to page 9.

ADV BALOYI SC: Is this a container? I see the lights there seem to be lights. Is that inside the container?

WARRANT OFFICER MAGANE: Yes, it is inside the container.

ADV KHUMALO SC: So, I think page 9 is the one that

shows clearly what Commissioner Baloyi is asking. Are we able to fly page 9?

WARRANT OFFICER MAGANE: That is correct, Commissioner.

ADV KHUMALO SC: So, the container is still in the back of the truck, it has not been offloaded from the truck?

WARRANT OFFICER MAGANE: No, the container is still attached to the truck.

ADV KHUMALO SC: Yes, so, what we are looking at there
10 on page 9 is the bottom part of the truck with the container on top of it.

WARRANT OFFICER MAGANE: That is correct, Commissioner.

ADV KHUMALO SC: But the container is already open.

WARRANT OFFICER MAGANE: It is opened.

ADV KHUMALO SC: Yes.

ADV MOSIKILI: And Warrant Officer Magane, just on that score, who took these particular pictures?

WARRANT OFFICER MAGANE: These pictures were taken
20 by myself.

ADV MOSIKILI: By yourself, okay.

WARRANT OFFICER MAGANE: Yes.

ADV MOSIKILI: And it is at this stage when you say, when you opened the doors to the trailer, to the truck, that is when the bags fell off?

WARRANT OFFICER MAGANE: That is when the bags fell off.

ADV MOSIKILI: Yes, I think it is page 9 and 10.

WARRANT OFFICER MAGANE: That is correct.

ADV MOSIKILI: Yes. And then can you then pick it up, because we are on paragraph 15, and the question that I wanted to ask you, it is about the emphasis on the way you say that the said seal had the same serial numbers as the seal the Scania employees had just broken when opening
10 the container. What is the relevance of that, Warrant Officer?

WARRANT OFFICER MAGANE: I am still ...[intervenes]

ADV MOSIKILI: Page 6 ...[intervenes]

WARRANT OFFICER MAGANE: Page 6, paragraph 15.

ADV MOSIKILI: Yes, so, now we are back to your statement.

WARRANT OFFICER MAGANE:

20 “The container was opened by one of the staff members, and to our surprise, as soon as the doors were opened, some black bags started falling from the container, and the others were trapped at the back of the container. I also found a seal which was inside the white plastic. The said seal had the same serial

numbers as the Scania employees had just broken when opening. I then enquired from Ms Wentzel if this is how they received their stuff, but he said this was very strange and unusual.”

ADV MOSIKILI: Yes. Can you tell us the relevance of this seal that you mentioned that it had the same serial number to the one that was cut off to open the doors? What is the relevance of that?

10 **WARRANT OFFICER MAGANE:** Because, you know, this was making a - actually, I was asking myself if this seal will be inside, and the other one is locked. So that is why I asked Ms Wentzel, when their stuff is delivered, do they also get a space seal? I do not know if I am answering you correctly.

CHAIRPERSON: So, you yourself had no idea what this was about? You yourself had no idea what this was about?

WARRANT OFFICER MAGANE: The seal, I had no idea.

CHAIRPERSON: All right, all right.

20 **ADV MOSIKILI:** It just happened to catch your attention as it were?

WARRANT OFFICER MAGANE: That is correct.

ADV MOSIKILI: Okay, we will come back to the seal.

ADV BALOYI SC: And is it because you did not know what it was about, and that must be because you have never

done a drug bust before?

WARRANT OFFICER MAGANE: That also added to my confusion.

ADV BALOYI SC: Okay, I think we will have a later discussion with you, and you will realise that is the only explanation why you did not know the significance of this seal. It is because you have never done a drug bust.

WARRANT OFFICER MAGANE: That is correct, Commissioners.

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

ADV MOSIKILI: Chair, just for completeness, what an officer go to – so, there is a file that you should have three files now. There is one that says file 1. It will say exhibit file. So, it is one of the thicker files.

WARRANT OFFICER MAGANE: This one?

ADV MOSIKILI: Yes. If you turn it on the spine, it should say Exhibit 1. Can you go to page 101?

ADV BALOYI SC: Before you do that, while they are still trying to get you to page 101, since this operation, have you
20 learned anything about the significance of another seal that is in the container which has exactly the same number as the one that you say was in the door? Have you enquired and learned anything about it?

WARRANT OFFICER MAGANE: No, Commissioner, you say since after this operation.

ADV BALOYI SC: Yes, we know that at the time of the operation, you did not know anything about the significance of there being another seal in the cargo or in the container. You did not know anything about it. That is why you asked, Ms Wentzel.

WARRANT OFFICER MAGANE: That is correct.

ADV BALOYI SC: So, I am asking you, since after this operation, after this operation, have you learned anything about the significance or the meaning of there being a seal,
10 another seal in the container which has the same number as the seal at the door?

WARRANT OFFICER MAGANE: That is correct, Commissioner. As I am always following this Commission, and there were witnesses that were called before this Commission, and when they testified, I was listening and following it. This spare seal, it is meant to - it is actually supposed to be used when criminals or whoever intercept the drugs along the way. So that when they broke it open, they can seal, they can use the spare seal so that the end
20 user cannot suspect that this, there was some, the original seal was cut open along the way before it reaches.

ADV BALOYI SC: Okay, so you have learned that through the process of this Commission.

WARRANT OFFICER MAGANE: I only learned from this Commission.

ADV BALOYI SC: Thank you.

ADV MOSIKILI: Thank you then. Warrant Officer, then go to page 101. Are you there?

WARRANT OFFICER MAGANE: It is triple 1 here. I do not know if I am right there. Maybe if you can just help me. Yes, I am there.

ADV MOSIKILI: Yes, can you assist the Commission? What is depicted on that picture?

WARRANT OFFICER MAGANE: The top picture depicts
10 the seal that was cut open, and the other one is the one that was found inside the container.

CHAIRPERSON: Other one being?

WARRANT OFFICER MAGANE: I would say the spare seal.

CHAIRPERSON: Yes, there is photo 153 and there is photo 154.

WARRANT OFFICER MAGANE: Commissioner, I am referring to 153, the top one.

CHAIRPERSON: Both 153?

20 **WARRANT OFFICER MAGANE:** Yes, 153 and because I think ...[intervenes]

CHAIRPERSON: Or rather both seals are on 153.

WARRANT OFFICER MAGANE: Yes, yes, Commissioner.

CHAIRPERSON: Okay.

ADV MOSIKILI: You were explaining, Warrant Officer?

WARRANT OFFICER MAGANE: I am saying this seal, the top one, is the one that was cut upon, it was cut before the container was opened. The down one, the one beneath is the one that was found inside the container, the unused one.

ADV MOSIKILI: Okay, and then you saw this seal as you described in paragraph 15. What did you do with it?

WARRANT OFFICER MAGANE: Firstly, I called Joleen, the warehouse manager, and showed her this seal. I was
10 explaining that I asked her if this is how, and I was also including the black bags, that this is how you receive your stuff. Then she was also confused as to where this thing was coming from. She did not have any idea about the spare seal that was found inside the container.

ADV MOSIKILI: Okay, we will come back again to the seal. Can we then proceed with your conversation with Ms Wentzel? So, you go back to the first file. You have just asked Ms Wentzel if this is how they receive their stuff, but she said this was very strange and unusual.

20 **WARRANT OFFICER MAGANE:** That is correct.

ADV MOSIKILI: Can you pick it up from there then?

WARRANT OFFICER MAGANE: We are at paragraph 16?

CHAIRPERSON: I took out my phone. I took out my phone ...[intervenes]

WARRANT OFFICER MAGANE:

“I took out my phone and took photos and also sent to my Station Commander, Colonel Chauke, informing him that the operation was a success. We had to use...”

ADV BALOYI SC: Sorry, before this and before you opened the truck, when you got there and the container is closed and sealed, did you take any pictures so that you have evidence that shows that you found the truck locked
10 with the seal? Did you take any pictures?

WARRANT OFFICER MAGANE: No, I did not do that.

ADV BALOYI SC: Why did you not do that as an experienced police officer who understands the chain of evidence?

WARRANT OFFICER MAGANE: No, actually, I was interested or I was more concerned in what is inside the container.

ADV BALOYI SC: Yes, we understand that.

WARRANT OFFICER MAGANE: Yes.

20 **ADV BALOYI SC:** But quite obviously, you were more interested in what was inside.

WARRANT OFFICER MAGANE: That is correct.

ADV BALOYI SC: But you arrived there. You want to see what is inside, but it is locked. Why did you not take a picture so that you have evidence that shows that when you

got there, you found this container locked with a serial number and here is evidence of it before we open it? Why did you not do that?

WARRANT OFFICER MAGANE: I would say, Commissioner, that was an oversight from me.

ADV BALOYI SC: Okay, thank you.

ADV KHUMALO SC: Let me ask you this, Warrant Officer. Are you familiar with the National Instruction on Crime Scene Management, Instruction 1 of 2015?

10 **WARRANT OFFICER MAGANE:** That is correct.

ADV KHUMALO SC: Were you familiar with it at the time when you went to Aeroton?

WARRANT OFFICER MAGANE: I was, even though some of the aspects, I could not remember everything. But all that I know is that a crime scene must be preserved and all the exhibits must be kept safe.

20 **ADV KHUMALO SC:** It follows up on Commissioner Baloyi's question that you have now contaminated the crime scene by instructing people to open the truck and things fall out and you are looking at the seals and things have then been taken out. But in all of that, you do not follow what the National Instruction requires that a person must do. And I think it is a function of you simply not being familiar with what happens at crime scenes when you come across a scene like that.

What are you supposed to do? It is not just a simple matter of cordoning it off. It is also preserving the scene so that if it has to be used as evidence in future criminal proceedings, people need to know what did the truck look like before? What did the container look like before it was opened? Who opened it? What happened after it was opened? What did you do after it was opened? And all of that evidently was not followed in this case.

WARRANT OFFICER MAGANE: Commissioners, I am not
10 disputing that, but I took a few photos. I took a few photos to have the originality of the scene, the original scene, so to say, how it looked like. The only omission that I think I made is not by taking a photo of the original scene.

ADV KHUMALO SC: Yes, and that is Commissioner Baloyi's point.

WARRANT OFFICER MAGANE: I agree with that.

ADV KHUMALO SC: That the scene is contaminated simply by doing that. It means there is a problem.

WARRANT OFFICER MAGANE: I fully agree.

20 **ADV KHUMALO SC:** Thank you.

ADV BALOYI SC: And, in fact, the more serious proposition I am making to you is that happened because you have absolutely no experience in drug busts and you are, in fact, ignorant of the National Instruction on handling crime scenes. It happened because of that. Otherwise, if

that is not the reason, then you were being deliberate in compromising the crime scene.

So I am giving you propositions that, one, you were either deliberately compromising the crime scene by contaminating it from the get-go, or you were ignorant about handling a crime scene such as this because you have absolutely no experience in drug busts, it is not part of your job, and you are ignorant of the National Instruction on how to handle a crime scene. Which one is it?

10 **WARRANT OFFICER MAGANE:** I will take the second one, that maybe I would not be comfortable to say ignorant, but all what happened, it was not through intention of contaminating the scene. I am trying to preserve the scene at the best of my ability.

ADV BALOYI SC: Thank you.

ADV MOSIKILI: Warrant Officer, then, can you ...[intervenes]

ADV BALOYI SC: Let me ask another question. Now that the truck is open, I mean, the container is open, and these
20 things fall out, why did you not wait for the other components that are relevant to this? You did not wait for K-9 to come and check before you do anything. You did not wait for, you say, DPCI, you did not wait for anybody, it is just the two of you, one SAPS member and one traffic officer. Why did you not wait for the relevant components,

as you referred to them, to come to the scene before you do anything else?

WARRANT OFFICER MAGANE: Commissioner, my explanation will be that we further wanted, because there were other bags that were stuck inside, so we thought it would be relevant to take all the drugs, I mean the bags, sorry to say the drugs, to take all the bags and keep them at one place.

ADV BALOYI SC: Yes, my question is why did you think
10 that? Why did you not wait for the other components before you do that? Yes, that was going to have to happen eventually, but why just the two of you, one SAPS member, who it is not his everyday job to do this, we can see already you have compromised the scene, but you admit it is not your everyday job. You have one traffic officer, you have now opened the container, bags have fallen out, you think there might be something else to look at. Why did you not wait for the other components? There was nothing urgent at that point.

20 **WARRANT OFFICER MAGANE:** I agree, Commissioner.

ADV BALOYI SC: Okay.

ADV KHUMALO SC: Do you know who LCRC is?

WARRANT OFFICER MAGANE: That is correct, I know LCRC.

ADV KHUMALO SC: Please indulge me.

WARRANT OFFICER MAGANE: It is a Local Criminal Records Centre.

ADV KHUMALO SC: Yes, and we have heard evidence that whenever there are scenes like this, it is their responsibility to come to the scene and take photographs.

WARRANT OFFICER MAGANE: That is correct, Commissioner.

ADV KHUMALO SC: So why did you not call them to come and take photographs before you started removing these
10 bags from the container?

WARRANT OFFICER MAGANE: Commissioner, I did call them, but it was after all the bags were taken from the container.

ADV KHUMALO SC: So, after you and your team had put your fingerprints all over?

WARRANT OFFICER MAGANE: That is correct.

ADV BALOYI SC: And the Scania employees had put their fingerprints all over the stuff?

WARRANT OFFICER MAGANE: We also requested them
20 to help us to load the bags.

ADV KHUMALO SC: And I noticed that throughout that process, the 7 Series BMW without number plates is right there on the scene.

WARRANT OFFICER MAGANE: That 7 Series BMW
...[intervenes]

ADV KHUMALO SC: Without number plates. Can you just confirm that it did not have number plates?

ADV KHUMALO SC: It did not have number plates, but it had a valid ...[intervenes]

ADV KHUMALO SC: A permit.

WARRANT OFFICER MAGANE: A permit.

ADV KHUMALO SC: Yes.

WARRANT OFFICER MAGANE: Yes, it had a valid permit.

ADV KHUMALO SC: Yes, but as we all know, the permit is
10 in the back window of the vehicle. And if the windows are tinted, you would have to be really smart to read the handwritten registration numbers in that permit, would you not?

WARRANT OFFICER MAGANE: That is correct, Commissioner.

ADV KHUMALO SC: And you allowed that vehicle to be near the scene of a drug bust. And as a policeman, you did not have difficulty with that?

WARRANT OFFICER MAGANE: Because I knew who the
20 vehicle belongs to, Commissioner, to be quite honest with you. And the occupant of that BMW was not even taking part.

ADV KHUMALO SC: You had just met the person that morning. You did not know who it was. If I asked you what is his address, you would not be able to tell me.

WARRANT OFFICER MAGANE: That is correct.

ADV KHUMALO SC: Because you had just met him that very morning. And you said it was Mashaba's informant.

WARRANT OFFICER MAGANE: That is correct, Commissioner.

ADV KHUMALO SC: Now you go to a crime scene, a drug bust, a major drug bust, with somebody who is driving a BMW 7 Series, and it has no number plates. And it parks right next to the very container that is being searched. And
10 things are being pulled out of the container. Is that not problematic?

WARRANT OFFICER MAGANE: Commissioner, I am not trying to be defensive, but the car that the Commissioner is referring to, it was parked inside, but it was not closer to the scene of crime. It was about 300 metres from the scene.

ADV KHUMALO SC: No, but it is inside the Scania. I happen to know where the Scania premises in Aeroton are. It is right inside. Can we just look at page 28 or 30 of the
20 exhibit is bundle?

WARRANT OFFICER MAGANE: Page?

ADV KHUMALO SC: 28. Can we just fly to that photo of the exhibit? It is Exhibit File, Booyens.

ADV MOSIKILI: Perhaps – perhaps - are you there?

WARRANT OFFICER MAGANE: I have got it there,

Commissioner.

ADV KHUMALO SC: This is the 7 Series vehicle that accompanied you. And if you look, it is inside the premises.

WARRANT OFFICER MAGANE: That is correct, Commissioner.

ADV KHUMALO SC: And it is near the scene of this major drug bust. And for all that the Scania people know, this vehicle is there with you because it is accompanying you and Mashaba. Now, in terms of crime scene management, 10 is that not in itself a problem? Because in your response to Commissioner Baloyi, you said one of your duties was to cordon off the scene. But if you are allowing this vehicle to be so close to the place of the drug bust, I mean, that in itself is a problem. Because bags can easily be taken and be put in the back of this vehicle. Do you see that?

WARRANT OFFICER MAGANE: Can I respond, Commissioner?

ADV KHUMALO SC: Yes.

WARRANT OFFICER MAGANE: Commissioner, like I have 20 alluded, this car, this BMW, was about 300 metres. I agree it was in the same vicinity. But there was no intention of, and it was not going to be possible for any bag or whatsoever to be taken from the scene and be put inside that BMW.

ADV KHUMALO SC: Warrant Officer, 300 metres is the

size of two soccer pitches. This is not 300 metres away. From where I am sitting to the end of this auditorium, that is not even 100 metres. And this BMW does not seem, looking at these photos, to be further than this distance.

WARRANT OFFICER MAGANE: No, I can honestly say, Commissioner, I was at the scene. It was the space or the distance that was between the scene and the BMW. I am not trying to shy away from the truth. Whatever happens, if I must say the truth, I will do that. It was not even closer.

10 And to be honest, Commissioner, there was no way that one would have carried a bag, take it to that, in the presence of all the people who were there, the security guards and everyone.

ADV KHUMALO SC: Fine. Can we go to 22 quickly then? I will leave it there, just to identify the Golf. Maybe page 20 gives us a better picture, but we can also get it on page 22. Can we go to 20 instead? Sorry about that, Advocate Pooe.

WARRANT OFFICER MAGANE: I am there, Commissioner.

ADV KHUMALO SC: Yes. So, the Golf that you say
20 Mashaba, Chief Mashaba, was driving, is the one that we see in photo 4?

WARRANT OFFICER MAGANE: That is correct.

ADV KHUMALO SC: That is the silver GTI, and then right next to it is the BMW X5.

WARRANT OFFICER MAGANE: 7 series.

ADV KHUMALO SC: Sorry, 7 series.

WARRANT OFFICER MAGANE: 7 series.

ADV KHUMALO SC: 7 series, I apologise. And then if you look at photo 3, I think you said the Volvo truck that you escorted from Roodekop to Aero-ton was yellow in colour, so it can be that one that we see in photo 3.

WARRANT OFFICER MAGANE: No, no, the one that we escorted was already parked next to Scania loading bay. These are two different companies.

10 **ADV KHUMALO SC:** Is it the one on page 37? Can we just identify it quickly?

ADV MOSIKILI: Commissioner, before you go there, perhaps just scroll up to 19, to photo 19. Page 19.

ADV KHUMALO SC: Yes, thank you.

WARRANT OFFICER MAGANE: I am there, Commissioner.

ADV MOSIKILI: No, no, I was trying to assist with the proximity of the yellow truck on your question.

ADV KHUMALO SC: Can you see the yellow truck in photo 19?

20 **WARRANT OFFICER MAGANE:** That is correct, I can see it, Commissioner.

ADV KHUMALO SC: Now, do you still insist that the distance from the BMW to the yellow truck is 300 metres?

WARRANT OFFICER MAGANE: Commissioner, I am not sure, but it was not closer to the yellow. It was far away.

ADV KHUMALO SC: Warrant Officer you seemed sure earlier. Why are you suddenly not sure?

WARRANT OFFICER MAGANE: No, I am sure, Commissioner, even though I am saying maybe I might not be right with the metres, but it was not like this wall, this auditorium. No, this one is small.

ADV KHUMALO SC: Yes, that is because it is not even 100 metres, this one. I am saying looking at these photos, that cannot be 300 metres.

10 **WARRANT OFFICER MAGANE:** Can you maybe suggest 150 metres, if not 300, Commissioner?

ADV KHUMALO SC: So, you give me half like Sergeant Nkosi, and you take that?

WARRANT OFFICER MAGANE: No, no, no, Commissioner, it is me and Nkosi. Please. Please.

CHAIRPERSON: Warrant Officer, I am sorry. I just want to get an idea of what you and Mashaba thought you were doing. He is a traffic officer. I do not expect him to be skilled in handling drug busts. Your functions are mainly
20 office bound. Yes, you do say from time to time you do go out, but doing anything regarding crime scenes is incidental. So, both of you know nothing at all with handling drug busts. What on earth did you think you were doing when you started searching that truck, removing whatever it is you removed, and loaded it onto your bakkie?

What did you think you were doing?

WARRANT OFFICER MAGANE: With all honesty, Commissioners, the sole intention was to verify the information, have a success operation, even though both of us were not having any experience in handling the drug busts. But relevant functionaries were sourced to come and assist.

CHAIRPERSON: Is this verify information whether there were indeed drugs in the container? Is that what you are referring to when you say the purpose was to verify the information?

WARRANT OFFICER MAGANE: If it is positive, exactly.

CHAIRPERSON: Is that all that a crime scene is about?

WARRANT OFFICER MAGANE: No, like Commissioners, like I alluded earlier, that I tried my level best to preserve and make sure that the scene is not contaminated until a warrant officer and other members arrive.

CHAIRPERSON: That is a serious problem. That is a serious problem because Commissioner Baloyi said by opening that container, you are already tampering with the scene, and you agreed.

WARRANT OFFICER MAGANE: For that, I take a punch.

CHAIRPERSON: Yes, and then again, I am not sure whether it was Commissioner Khumalo, you got everybody to handle what was inside, or at least what you were

interested in. The bags that fell to the ground and others that remained stuck, wherever it is they were stuck. You got a whole lot of people, including yourselves, to handle those. So that is a second stage of tampering with the crime scene. So, I do not understand your statement when you say that you tried to preserve the crime scene. What are you talking about?

WARRANT OFFICER MAGANE: Commissioner, I am talking about the exhibit. That because they were not even
10 tampered with, they were still in its original shape.

CHAIRPERSON: They are tampered with if a whole lot of people handle them with their bare hands. A number of people, you, the traffic officer, Mashaba, Scania employees, all of you handle all of those bags with your bare hands. That is serious tampering.

WARRANT OFFICER MAGANE: I agree to that, Commissioner.

CHAIRPERSON: So, what are you talking about when you say you preserved and add to that the very initial stage of
20 opening, breaking the scene. That is the first stage of tampering. What are you talking about when you say you preserved the scene? I will repeat the question.

WARRANT OFFICER MAGANE: Commissioner, maybe I am talking about making sure that the exhibits are not stolen.

CHAIRPERSON: You were clueless, and you knew that you were clueless.

WARRANT OFFICER MAGANE: That is correct, Commissioner.

CHAIRPERSON: Mashaba was clueless, and you must have known that he too was clueless. Correct?

WARRANT OFFICER MAGANE: Correct, Commissioner.

CHAIRPERSON: What on earth were you doing handling any of the objects there, the container and the contents?

10 What on earth were you doing?

WARRANT OFFICER MAGANE: Commissioner, we were innocently trying to process the scene.

CHAIRPERSON: Now, having tampered with the scene in the manner in which you did, what did you expect? You say you called the LCRC later when the bags were already in your van, I assume, your bakkie.

WARRANT OFFICER MAGANE: That is correct, Commissioner.

20 **CHAIRPERSON**: What did you still expect the LCRC to do after tampering with the scene in the manner in which you did? Let us just go to, is it page 14?

ADV KHUMALO SC: It is in file 1, in the annexures.

CHAIRPERSON: Page 14.

ADV KHUMALO SC: The statement file.

WARRANT OFFICER MAGANE: My page it is

...[incomplete].

ADV KHUMALO SC: At numbered tab item 4.

CHAIRPERSON: You may look at the screen. So, when you called the LCRC, they were already like that.

WARRANT OFFICER MAGANE: That is correct, Commissioner.

CHAIRPERSON: Heaped like that onto the back of your bakkie, having been handled by many people with bare hands.

10 **WARRANT OFFICER MAGANE:** That is correct, Commissioner. I can confirm.

CHAIRPERSON: So, my question is, what did you expect the LCRC to still do after all this serious tampering?

WARRANT OFFICER MAGANE: Actually, we called the LCRC to come and take photos when we count because that is the procedure.

CHAIRPERSON: So, all they would have been involved in was in counting and not doing what they ought to have done right at the beginning before your tampering?

20 **WARRANT OFFICER MAGANE:** We did not anticipate that, Commissioner.

CHAIRPERSON: Because you were clueless.

WARRANT OFFICER MAGANE: I will take the punch.

CHAIRPERSON: Now, at paragraph 16 of your statement, page 6, you say that:

“I took out my phone and took photos and also sent to my Station Commander, Lieutenant Colonel Albert Chauke, informing him that the operation was a success.”

You have read that already. You want to see it? Have you found it?

WARRANT OFFICER MAGANE: No, no. I was trying to search for page 16. I was trying to search for this.

10 **CHAIRPERSON:** 6, 6, not 16. Paragraph one six.

WARRANT OFFICER MAGANE: Yes, I am there, Commissioner.

CHAIRPERSON: You remember reading this. But there is that part, and that is my interest. You say you informed your commander that the operation was a success. What did you mean by that?

WARRANT OFFICER MAGANE: I was referring to the information that we were following about those drugs, the drugs we found inside the container.

20 **CHAIRPERSON:** Have you seen any drugs?

WARRANT OFFICER MAGANE: No, the bags. I assumed that these bags contained the drugs.

CHAIRPERSON: But you have not actually seen any drugs?

WARRANT OFFICER MAGANE: No. Even when I called

him, I informed him that we were following information about drugs.

CHAIRPERSON: I am asking, but you had not seen any drugs when you said the operation was a success?

WARRANT OFFICER MAGANE: Yes, I was referring to the black bags.

CHAIRPERSON: All right, all right. Of course we know that. Oh, let me leave it there. Thank you very much, Warrant Officer.

10 **WARRANT OFFICER MAGANE**: Thank you.

ADV MOSIKILI: Warrant Officer, just to maybe wrap up the point at paragraph 16, what the Chair referred you to, please go to page 13, one three, of the same file.

ADV BALOYI SC: In the statement.

ADV MOSIKILI: In the same statement file.

WARRANT OFFICER MAGANE: Page 13.

ADV MOSIKILI: 13, yes.

ADV BALOYI SC: Of what? Of the exhibits or of the statement? There is a 13 in the statement.

20 **ADV MOSIKILI**: Of the exhibits of the statements.

WARRANT OFFICER MAGANE: I am there, Commissioners.

ADV MOSIKILI: Yes, so this is, perhaps you explain in your own words what is depicted there on that page.

WARRANT OFFICER MAGANE: The picture on this page

depicts the black bakkie that I was driving with black bags.

ADV MOSIKILI: Okay, let us start here. Is this the screenshot that you took from your phone demonstrating a WhatsApp message between you and your Commander Chauke?

ADV MOSIKILI: That is correct, Commissioners.

ADV MOSIKILI: Yes, and then on that WhatsApp screen, you see a bakkie, and then can you continue what is written there?

10 **WARRANT OFFICER MAGANE:**

“It is too much. How much is it? How much is too much? How much is the estimated value? We are still waiting for the people from the drug unit. They will advise us.”

ADV MOSIKILI: So, what is happening there, you see it is, you send him this message, and you say, according to your statement, this is a success, and then he asks you, what is the estimated value?

20 **WARRANT OFFICER MAGANE:** That is correct.

ADV MOSIKILI: And you say to him, you are still waiting for people from the drug unit, they will advise you. What is the relevance of you discussing the value of whatever it is there? Because we do not even know for a fact at that time.

WARRANT OFFICER MAGANE: This question was coming from the Station Commander. I think out of curiosity or interest, so to say, he is the one who was asking. Hence, my answer to that was, we are still waiting for the people from the drug unit to advise us.

ADV MOSIKILI: Would you say that is a relevant question at that stage?

WARRANT OFFICER MAGANE: From the Station Commander.

10 **ADV MOSIKILI:** Well, the sender of the message, the Station Commander Chauke, yes.

WARRANT OFFICER MAGANE: I think I would not answer for him, but for me, there was nothing sinister.

ADV MOSIKILI: Okay, all right, let us go to paragraph 17 then of your statement. It is on page 6.

ADV BALOYI SC: Maybe before you do paragraph 17, just to confirm a small detail, can we confirm that when, still to do with your removing of the drugs onto the van, that when all of you that carried those bags did not have any gloves
20 on?

WARRANT OFFICER MAGANE: Definitely, yes, Commissioner.

ADV BALOYI SC: None of you had gloves on?

WARRANT OFFICER MAGANE: None of us.

ADV BALOYI SC: Okay, so, you would have left your DNA

onto the plastic bags?

WARRANT OFFICER MAGANE: Most possibly.

ADV BALOYI SC: And fingerprints onto the bags?

WARRANT OFFICER MAGANE: DNA, fingerprints.

ADV BALOYI SC: And you accept that in the process you would have destroyed any, or in fact – what do you call it? Reduced the quality of any DNA and fingerprints that may have been on those plastic bags originally?

WARRANT OFFICER MAGANE: That is correct.

10 **ADV BALOYI SC:** And so made it difficult for LCRC later on to conduct a proper job of lifting fingerprints and DNA from those bags, because now it is contaminated with yours. Do you accept that?

WARRANT OFFICER MAGANE: I accept that, but can I also say something?

ADV BALOYI SC: Yes, you can.

WARRANT OFFICER MAGANE: Commissioners, you know, according to my information that I have got, one cannot lift fingerprints from plastic. You can easily lift a fingerprint
20 from metal.

ADV BALOYI SC: Do you know, as a matter of fact, that we have heard from evidence here, that the LCRC attends these scenes and one of their functions is to lift, to try and lift fingerprints and DNA from these coverings and from the bags. Do you know that?

WARRANT OFFICER MAGANE: No, I do not know.

ADV BALOYI SC: Okay, that is where the evidence has been, from people who are involved with drug busts. Now you know.

WARRANT OFFICER MAGANE: I know, Commissioner.

ADV BALOYI SC: All right.

WARRANT OFFICER MAGANE: Maybe, Commissioner, if I come across such a scene, I will be able to do my best.

ADV BALOYI SC: I am hoping that when you come across
10 such a scene or information, you will know to call the right people. You will not get involved with it.

WARRANT OFFICER MAGANE: Definitely,
Commissioners, that is a learning curve.

ADV BALOYI SC: Thank you.

ADV MOSIKILI: Warrant Officer, let us continue on paragraph 17 of your statement. Okay, perhaps while you are looking for it, can you fly ...[intervenes]

WARRANT OFFICER MAGANE: Yes, I am there.

ADV MOSIKILI: Yes. Can you fly it for us from the exhibit
20 bundle? That would be the Steyn bundle that was used yesterday page 4. Page 4, Steyn's bundle. So, it was the one, Commissioner, that was used by Steyn yesterday. Are you there?

WARRANT OFFICER MAGANE: I am there,
Commissioners.

ADV MOSIKILI: Yes, just to wrap up the point of the discussion we are having with Commissioner Baloyi. I think the person there up here is Colonel Wood, but that is what I want to direct you to. There is a person there wearing a red jacket. Can you see the person?

WARRANT OFFICER MAGANE: Yes, I can see, Commissioners.

ADV MOSIKILI: And you can see the person is wearing the gloves?

10 **WARRANT OFFICER MAGANE:** That is correct, Commissioners.

ADV MOSIKILI: And you can see the bags that we are discussing in front of her?

WARRANT OFFICER MAGANE: That is correct, Commissioners, I can confirm.

ADV MOSIKILI: Then I put it to you that your proposition that there was no need for you to wear gloves is unsustainable, because the very same expert, as you can see there, is wearing gloves for a purpose. Do you accept
20 that?

WARRANT OFFICER MAGANE: I accept that.

ADV MOSIKILI: Okay, let us then go back to ...[intervenes]

CHAIRPERSON: I am sorry, did you get the witness to identify who the person is? I am sorry, I may have missed that.

ADV MOSIKILI: No, no, no, the person, the face is cut half.

CHAIRPERSON: Oh, okay.

ADV MOSIKILI: It is Colonel Wood, but the witness would not know.

CHAIRPERSON: Oh, okay.

ADV MOSIKILI: But the point was to deal with the issue of the gloves.

CHAIRPERSON: Okay.

10 **ADV MOSIKILI:** That was being discussed with Commissioner Baloyi. Warrant Officer, let us go to, we have been stuck at paragraph 17, page 6.

WARRANT OFFICER MAGANE: Off my statement.

ADV MOSIKILI: So go back to your statement.

WARRANT OFFICER MAGANE: Yes.

ADV MOSIKILI: Your statement file. Yes, put that one away.

WARRANT OFFICER MAGANE: Paragraph 17.

ADV MOSIKILI: One seven. We had to use a forklift.

20 **WARRANT OFFICER MAGANE:**

“We had to use a forklift to take out the truck caps, which were also loaded inside the container. Chief Mashaba and I realised that it was going to be impossible for the forklift to unload the

truck on the loading bay. While there were bags already on the ground, stuck near the wheels of the trailer. As a result, we instructed Scania staff to load the bags at the back of my service bakkie. While we were waiting for other members, and so that the truck can reverse close to the loading bay.”

ADV BALOYI SC: At this point, you are just waiting for
10 Phakula, right? Because that is who you have spoken to.

WARRANT OFFICER MAGANE: Yes, and he confirmed.

ADV BALOYI SC: I know you say he said he will tell other people.

WARRANT OFFICER MAGANE: That is correct.

ADV BALOYI SC: You have not called anyone else at this point.

WARRANT OFFICER MAGANE: No, no, it was ...[intervenes]

ADV BALOYI SC: You are waiting for Phakula.

20 **WARRANT OFFICER MAGANE:** That is correct.

ADV BALOYI SC: Who works in Pretoria.

WARRANT OFFICER MAGANE: National Office Nino.

ADV BALOYI SC: Yes.

WARRANT OFFICER MAGANE: That is correct:

“Ms Wentzel confirmed that they were

expecting a truck cap from Brazil, but denied any knowledge of the black bags, which were suspected to be carrying drugs. We also interviewed the driver, Mr Brightman Vusi Mthembu, and he also denied any knowledge about those bags. It was 23 large bags of suspected Cocaine. We then placed the driver of the truck, the Warehouse Supervisor, Ms
10 Wentzel, and the Warehouse Receiver, Mr Cornelius, under arrest for dealing in drugs possession...”

ADV KHUMALO SC: At this stage, you did not even know that it was drugs. For all you knew, it could have been blankets in those bags. Why did you place him under arrest for dealing with drugs or being in possession of drugs? You do not even say suspected. You say we placed the driver of the truck under arrest for dealing in drugs/possession of drugs. But you did not know that it was drugs in those bags
20 at that stage. Unless you were sure that it was drugs.

WARRANT OFFICER MAGANE: Commissioner, can I take you back to the same paragraph where it says it was 23 large bags of suspected Cocaine.

ADV KHUMALO SC: I get that part.

WARRANT OFFICER MAGANE: Okay.

ADV KHUMALO SC: Now, you have got bags and you suspect that they are Cocaine, but you take it a step further. You say you arrest him for dealing in drugs, not even possession. You arrest him for dealing in drugs/possession of drugs.

WARRANT OFFICER MAGANE: It is an alternative charge, possession of drugs.

ADV KHUMALO SC: Yes, but I am saying at this stage you do not even know that it is drugs in there. You still have a
10 suspicion, but you do not even know. But you are already arresting people for being in possession of something you do not know.

WARRANT OFFICER MAGANE: At this stage I would say based on our suspicion, which were later confirmed.

ADV KHUMALO SC: No, forget about what was confirmed later. You are already effecting an arrest. You are saying here you placed the people under arrest for being in possession of drugs and for dealing in drugs. I mean for you to arrest somebody for being in possession of drugs,
20 you must know that they are drugs.

WARRANT OFFICER MAGANE: I agree, Commissioner.

ADV KHUMALO SC: And here you say the bags had not even been opened, so for all you know it could have been blankets in those bags.

ADV BALOYI SC: Or some other powder. May have been

any powder or even a brick in there. So, you have not opened the bags. All you have is the informer, who is not even your informer. He is Mr Mashaba's informer. But you SAPS, not Mr Mashaba. You are the one that effects an arrest based on suspicion of matter that you have not even had a look at. All you have is black bags. Explain how that makes sense and how that fits in with proper police procedures.

WARRANT OFFICER MAGANE: Commissioners, I would
10 not say this was premature. But to bring more sense in this, I would say, because according to the information that was given by the informer, everything is confirmed.

ADV BALOYI SC: No, not everything is confirmed. It is black bags. They mean nothing to me. Even as you are sitting there saying to me, there are drugs in there. I will ask you, did you open and look? Which you did not ask your informer. You have not told us that you asked your informer, the informer to, did you see what is inside? You tell us you did not open the bags. So, we know as you sit
20 there, that all you have in front of you is bags.

WARRANT OFFICER MAGANE: That is correct, Commissioners.

ADV BALOYI SC: And your informer has said, there will be drugs in that truck. So, the question that Commissioner Khumalo is asking you is, how do you, are you a seasoned

policeman how do you arrest people on the basis of what you have not seen and confirmed for yourself that this is indeed drugs. That is what you have been asked. How do you do that?

WARRANT OFFICER MAGANE: My answer to that, Commissioner, I would say it was premature.

ADV KHUMALO SC: Unless you already knew that there were drugs in this container. And that was your reason for going there.

10 **WARRANT OFFICER MAGANE:** Commissioner, I do not want to come defensive. I take that other punch.

ADV KHUMALO SC: The premature one?

WARRANT OFFICER MAGANE: I take this one, that maybe the arrest was premature.

ADV KHUMALO SC: Not that you knew that in the container and in the bags, it was Cocaine. And you knew that in advance.

WARRANT OFFICER MAGANE: Yes, it was just drugs.

20 **ADV KHUMALO SC:** Okay, let me test this. Why did you not open one bag and satisfy yourself that, yes, the information from the whistleblower or the source is correct? I have opened this. I have opened one of the bags. I can actually see that it is white powder. I have not tested it. But based on what I know, it might be drugs. Why did you not at least open to check? And I am not suggesting that

you should have opened it. I am just testing.

WARRANT OFFICER MAGANE: At that stage, Commissioner, I think it was still too early. And I personally would think that we would be tampering with the evidence. And moreover, we do not have any experience.

ADV KHUMALO SC: And just to remind us last time, you may have said it already, so I apologise for asking again. What was your reason for loading these bags in your van, which does not have a canopy? And the reason I am asking
10 you this is you saw later on when the LCRC people arrived, the bags were put on the ground in the pavement. And photos were taken of the bags. I am trying to understand why you did not pack these bags on the pavement so that you wait for LCRC or other people to arrive and attend to them. Why did you see the need to load them in the back of your van?

WARRANT OFFICER MAGANE: Commissioner, I think at this stage, when the bags were loaded at the back of the bakkie, it was only me and Mashaba at the scene.

20 **ADV KHUMALO SC:** Yes, what was the reason for doing that and not laying them on the ground?

WARRANT OFFICER MAGANE: And I am trying to get the Commissioner. Being that the case, the scene, it was now getting more chaotic. So, for us to safeguard, because if the bags were loaded at the back, we could easily see if

someone would go in, maybe try and grab one. That was the main idea.

ADV KHUMALO SC: Did you keep a record as you were loading them in the back of your bakkie?

WARRANT OFFICER MAGANE: That is correct, Commissioners.

ADV KHUMALO SC: Did you keep a record as you were loading them at the back of your bakkie?

WARRANT OFFICER MAGANE: Yes, Commissioner. You
10 know, on that day in question, I had my diary with me because I just visited the station. So, what happened is that I was even taking notes of everything that was happening there, like the registration of the cars and everything. This was also even the serial number of the seal. So, when we were arrested, what happened is my diary was inside the car, and it was inside the car. So, after our arrest, the bakkie was taken to Booyens Station for safekeeping. So, late after two weeks when we were released, when we got bail, the diary was nowhere to be
20 found.

ADV KHUMALO SC: So, the diary is missing?

WARRANT OFFICER MAGANE: It was missing. I thought maybe it would be in the SAP13, but it was not there.

ADV KHUMALO SC: Okay, thank you.

WARRANT OFFICER MAGANE: This is a fair answer,

Commissioner.

ADV KHUMALO SC: Thank you.

ADV BALOYI SC: We established earlier that the truck belongs to Scania, and the driver is employed by Scania. You have removed the truck, no, by Yellow Jersey, the truck and the driver. You have removed the truck from Yellow Jersey. Why are you arresting the driver now? Remember, he came with a container which has a seal to it. It is not an open container. It has a seal. Why are you arresting him?

10 **WARRANT OFFICER MAGANE:** Commissioner, the trucks were transported from Durban to Aeroton or Yellow Jersey by the driver.

ADV BALOYI SC: Do you know anything about the sealing of the container from its original source, where it came from, Brazil? How that works up that it gets to the harbour and from the harbour to the depot, from the depot it is now on its way to Gauteng. That seal there, do you know whether it was broken by the driver along the way or that it was actually as it came from Brazil? Did you know anything
20 about it? Did you ask any questions?

WARRANT OFFICER MAGANE: No, I will be lying.

ADV BALOYI SC: So, you arrested the driver even though the container has an original seal, presumably from the original point of departure in Brazil. You arrested the driver even though he did not put in these drugs in the truck.

WARRANT OFFICER MAGANE: By the virtue of him being the driver from Durban, we arrested him based on that.

ADV BALOYI SC: You arrested him for driving the drugs.

WARRANT OFFICER MAGANE: For transporting the drugs.

ADV BALOYI SC: Yes, driving the drugs.

WARRANT OFFICER MAGANE: That is correct, Commissioner.

ADV BALOYI SC: Okay.

10 **ADV MOSIKILI:** Warrant Officer Magane, you came here to testify and assist the Commission to the best of your at least recollection of what transpired. What I really need is for you to be very pointed on some of the issues. More often you refer to the Royal We and you are here to testify for yourself. There comes a point where you did it or Chief Mashaba did it. So, it cannot be both. You cannot be singing in unison at all times.

WARRANT OFFICER MAGANE: I hear you, Commissioner.

20 **ADV MOSIKILI:** Now, let us start at paragraph 18. When you say, so on page 7, paragraph 18, you say we also interviewed the driver. Is it you or is it Chief Mashaba?

WARRANT OFFICER MAGANE: Both of us.

ADV MOSIKILI: That cannot be. How is that possible?

WARRANT OFFICER MAGANE: I mean, if you are asking a question, I am also here. So, it would be you asking a

question, when I answer, then I also pose my question.

ADV MOSIKILI: Then the very next sentence, you say, we placed the driver of the truck.

WARRANT OFFICER MAGANE: No, this one, it was, the arrest part was done by Chief Mashaba.

ADV MOSIKILI: Mashaba.

WARRANT OFFICER MAGANE: Yes.

ADV MOSIKILI: Please, the next time we see the word 'we' and where it is possible, let us try to identify whether it
10 is you or Mashaba. As we move on, please. No, that is fine. For now, I will take that. Let us move on to paragraph 19. I am just saying, keep in mind when you see the word, 'we' try to identify who said what, who did what.

WARRANT OFFICER MAGANE: Point taken, Commissioner.

ADV MOSIKILI: Thank you so much. Let us go then to paragraph 18, while busy at the scene.

WARRANT OFFICER MAGANE:

20 "While busy at the scene and waiting for other SAPS members to arrive, two members from Booyens VISPOL, Sergeant Ndou and Constable Makwambiri arrived in a marked police bakkie and told us that they have received a call from 10111 about people

who were impersonating to be police officers.”

ADV BALOYI SC: Just to be clear, while waiting for other SAPS members, you are still referring to Phakula?

WARRANT OFFICER MAGANE: That is correct, yes.

ADV BALOYI SC: And whoever you are hoping he has called?

WARRANT OFFICER MAGANE: Yes.

ADV BALOYI SC: Because you have not called anyone
10 else.

WARRANT OFFICER MAGANE: No, it was still Phakula.

ADV BALOYI SC: Thank you.

WARRANT OFFICER MAGANE:

“We then identified ourselves and explained the reason for our presence at that premises and even showed them the bags that were recovered. We also showed them the arrested suspect, and they understood and even gave feedback
20 to 10111 via radio control. Though immediately after, we had a bit of an argument with them, because without even asking how they can assist, they asked us where we are going to book the suspect and the exhibit. I told them that

we were likely to go book the suspect and exhibit in Alberton area, because the scene started in that area. But we were still waiting for relevant role players to come and decide.”

ADV BALOYI SC: What do you mean the scene started in that area?

WARRANT OFFICER MAGANE: I was referring to the fact that where we first went in Roodekop, before we came to
10 Aeroton.

ADV BALOYI SC: So, you are being in Roodekop, you are saying that is what determines the scene started, your physical presence? Is that what it means that the scene started there?

WARRANT OFFICER MAGANE: I would say that, but not technically so, Commissioners. It brought some discomfort to us that members will come from nowhere. We understand they got a complaint from 10111. Upon arrival, they are now asking about the place where the exhibit will
20 be booked and the suspect. I did not mean that those things, I was just pulling their legs.

ADV BALOYI SC: So, you were lying to them?

WARRANT OFFICER MAGANE: Not lying necessarily, I was testing their ...[intervenes]

ADV BALOYI SC: It is. You were being untruthful to them

if now you say you were just pulling their leg, you were not telling them the truth when you said to them, we are going to book this in Alberton. You have just said, it was not the truth as you said it.

WARRANT OFFICER MAGANE: Not in the context of telling lies.

ADV BALOYI SC: It was not the truth?

WARRANT OFFICER MAGANE: I would say so, but Commissioner ...[intervenes]

10 **ADV BALOYI SC:** So, what was the plan with these drugs? Where were you going to take them? Now we have established that it was not true that you were planning to take it to Alberton. Where were you planning to take these drugs?

WARRANT OFFICER MAGANE: These drugs were going to be booked at Booyens. And the suspect was going to be booked at Booyens.

ADV BALOYI SC: So, when you say that we are still waiting for relevant role players to come and decide, what
20 were you conveying? Because this is your statement.

WARRANT OFFICER MAGANE: This is my statement, I agree.

ADV BALOYI SC: So, what were you conveying when you said, we are still waiting for the role players to come and decide if you have already decided they will go to

Booyens.

WARRANT OFFICER MAGANE: No, no, no, this was just additional to do. But the fact of the matter is, was that, and even - I mean, even procedurally dictates that because the drugs were found in Aeroton. That is where the suspect and the exhibit must be put.

ADV BALOYI SC: So, these police officers would have known that. So, you were not pulling their legs in any meaningful way. Because you say procedurally, that is how
10 it is supposed to happen. So, these police officers, you would not have any reason to argue with them. Because you say, we started arguing after they asked that. And I am saying, well, they knew, you say, they knew.

Because procedurally, that is what happens. So, they would not have asked the question if they knew that these would have to be booked in Booyens. In fact, they would have told you, these must go to Booyens. Which makes me ask the question. When you answered the way you did, when you took these drugs and put them on the
20 van, because they are on your van, and there is just you and Mashaba there, what was the blame?

Booyens is not yet there, these police officers. They arrive, they ask questions, you say, well, the crime scene started there. And I asked you, why Alberton? You said, because that is where, that is the original crime

scene, that is where it started. That is why Alberton. So, I accept that explanation on face value. That is where the scene started. So, yes, on your own reasoning, you would have gone to Alberton.

WARRANT OFFICER MAGANE: But rightfully, it was the drugs, including the suspect, we were not going to book them in Alberton. And because, another thing, Commissioner, it was very strange. Sergeant Ndou is a sergeant. Why was he asking?

10 **ADV BALOYI SC:** No, forget Ndou and why he is asking. Let us talk about you.

WARRANT OFFICER MAGANE: That is correct.

ADV BALOYI SC: You did not report yourselves to Booyens Police Station. Commissioner Khumalo asked you the question earlier, that we have heard other evidence where people who are operating outside of their jurisdiction, they go and report. We were told that is what you do. You did not do that. Booyens does not know you are around. Booyens does not know that you have got this amount of
20 drugs. You have not called Booyens to ask them, do you have space for this? But you say to us, well, they are on your truck. You had already decided they will go to Booyens. Make that make sense.

WARRANT OFFICER MAGANE: Commissioner, the answer that I am giving to the Commissioners is exactly what was

going to happen. The drugs and the exhibit were going to be booked at Booyens. Commissioner, just to take one step back, I am trying to answer to the question, the previous question that was raised, why I did not source, I did not phone 10111. You know, as chaotic as the scene unfolded, it was because of this thing was sent to radio control. That is why more police started flocking in.

ADV BALOYI SC: The question asked about 10111 was long before the chaos happened. You were asked the
10 question, you have an informer, according to Mashaba, who says there are drugs there. You go there. You go to Yellow Jersey, just the two of you and your informer. And then you proceed from there. You go to Scania, and it is you, Mashaba, and your informer, and the security from Scania.

And the employee, I mean, from Yellow Jersey, the security man. And then you have got Scania people, Wentzel and somebody and somebody. So, there is no chaos at that point. The question was asked in that context, that when you arrived there, why did you, as you
20 are calling all of these other people on your way, and when you arrive there, you are calling all of these people to come and help you, and many of them are not available, why did you not call 10111? The answer cannot be because of chaos, because at that point there is no chaos. Nothing has happened yet.

WARRANT OFFICER MAGANE: I agree, Commissioners.

ADV BALOYI SC: You have not even opened the container. The drugs have not yet fallen out. There is nobody else. So, it is a different conversation altogether.

WARRANT OFFICER MAGANE: I agree, Commissioners.

ADV BALOYI SC: So, it has nothing to do with this.

WARRANT OFFICER MAGANE: I agree.

ADV BALOYI SC: Yes, thank you.

ADV KHUMALO SC: Can I just understand this? Was it
10 your intention to transport these bags, either to Booyens Police Station or Alberton, in this bakkie of yours without a canopy uncovered? How did you plan to move those bags from Aeroton to wherever you are going to book them?

WARRANT OFFICER MAGANE: Commissioner, I definitely would not have risked to transport these drugs without proper escort and without, like, in an open bakkie like this.

ADV KHUMALO SC: But you had not called any escort?

WARRANT OFFICER MAGANE: No, no.

ADV KHUMALO SC: You had only called Phakula, and if
20 he had not arrived, what would you have done?

WARRANT OFFICER MAGANE: No, Commissioner, the scene was still far from over. We were not going to leave until the scene was properly handled and everything processed at the scene. It was still very early.

ADV KHUMALO SC: But you had taken no steps to call the

people who were supposed to process the scene. You had only called Phakula, who said he was busy. And once you verified that there are drugs there, then he might make a turn. But at this point, as we had already agreed, all you knew was that you found bags in the container and you loaded them on your bakkie and you had arrested people. That is where you were.

WARRANT OFFICER MAGANE: Commissioner, yes, maybe because there are no timelines. It was not even an
10 hour that we were at the scene. It was between, because if I must be approximate, we arrived at the scene between 8 and 10 past. The Booyens guys arrived maybe 20 minutes late. While the scene was still, while the scene was not even processed as yet. So, it was still very early to say no this is how we are going to transport. The intention of loading these bags at the back of the bakkie was solely to secure them. Nothing else. There was no other ulterior motive.

ADV KHUMALO SC: There is one thing I need to test with
20 you before you deal with your interacting with other officers and even your arrest. I think it is in the Steyn exhibits. If you go to page 116, I am not sure if the witness has, 115 of the Steyn exhibits. Maybe to be fair to you, Warrant Officer, for the purposes of the record, it is CJC217. And then it starts on page 109. Just go back to 109.

WARRANT OFFICER MAGANE: I am there, Commissioner.

ADV KHUMALO SC: I think we have already established that that is your bakkie.

WARRANT OFFICER MAGANE: I agree, Commissioner.

ADV KHUMALO SC: Thank you so much. That is your bakkie after the bags were loaded onto it.

WARRANT OFFICER MAGANE: That is correct.

ADV KHUMALO SC: And the police vehicle that arrived is that one that is parked right in front of the bakkie.

10 **WARRANT OFFICER MAGANE:** That is correct.

ADV KHUMALO SC: In that photo that is on page 109. And then you will see that this is a News24 or Media24 newspaper article from the 22nd of February 2025. Do you see that? On top of page 109, top left, where there is a headline, Update Crime Intelligence Battle.

WARRANT OFFICER MAGANE: I see that.

ADV KHUMALO SC: Just on top of that, there is a date, 22 February 2025. Do you see that?

20 **WARRANT OFFICER MAGANE:** It is last year on the 22nd of February.

ADV KHUMALO SC: And what they do here, they deal with the disciplinary proceedings relating to General Khan. But if you go to 115, and this is what caused the confusion. Remember, I was confused about the 5 series, 7 series. If you go to the top of the page, you will see that the

newspaper article 115 ...[intervenes]

WARRANT OFFICER MAGANE: 115?

ADV KHUMALO SC: Yes.

WARRANT OFFICER MAGANE: Yes, I see it,
Commissioner.

ADV KHUMALO SC: 115, the newspaper article had
identified the vehicle as a 5 series and not a 7 series.

WARRANT OFFICER MAGANE: It is a 7 series?

ADV KHUMALO SC: And I am embarrassed to have fallen
10 for it, I should know better. It is a 7 series.

WARRANT OFFICER MAGANE: It is a human error,
Commissioner.

ADV KHUMALO SC: Yes, but I am embarrassed. And then
halfway down that page, you will see that there is
something that appears to be a WhatsApp chat between two
people. Still on page 115.

WARRANT OFFICER MAGANE: I see that, Commissioner.

ADV KHUMALO SC: Yes, and we do not know who the
source is, because this is in a newspaper article. But I
20 think it is only fair that I ask you, because you are here. I
do not want there to be insinuations that it is you, if it is not
you. So, to be fair to you, I want you to respond to this and
tell us whether it is you who is participating in those
WhatsApp chats.

Because what is clearly happening here is that

these people know that there was Cocaine and it belonged to somebody. And they had located where it was and they were reporting back to the owner of this Cocaine that it is at this place and this is what is happening with it. So, I just want you to tell us if it is you who is participating in these chats. If it is not you, whether you know who is this person who is participating in these chats.

WARRANT OFFICER MAGANE: I will be honest with you, Commissioners. Yesterday, as I was following this, I was
10 also, I do not have knowledge as to where is this thing coming from. And who are the people who were involved, who were chatting on this. I saw it for the first time yesterday, while General Colonel Steyn was testifying.

ADV KHUMALO SC: And I hope you did not fashion your evidence based on what you were watching yesterday.

WARRANT OFFICER MAGANE: No, some of you, I like myself.

ADV KHUMALO SC: No, you must tell the truth. There is no need for you ...[intervenes]

20 **WARRANT OFFICER MAGANE:** No, I am telling the truth. That is why I am so comfortable.

ADV KHUMALO SC: But you can clearly see, looking at that chat, that it refers to the containers and that the containers are still there. And whoever the other person is, if you look at the blue bars, they say:

“Then send the pigs with the seal. So, I can show the people, I am getting heavy threats, give me till 7, boss, I am pressing all these guys.”

Do you see that?

WARRANT OFFICER MAGANE: Commissioner, maybe, because I do not follow, I see this 2021, but this article was for last year February. Am I correct?

ADV KHUMALO SC: No, no, but remember the point is, 10 this chat was taking place while the scene was still live on the 9th of July 2021. That is the point of it.

WARRANT OFFICER MAGANE: What time was this chat made?

ADV KHUMALO SC: Warrant Officer, let us not concern ourselves with the time. Remember my simple question was, are you participating in this chat?

WARRANT OFFICER MAGANE: Not at all.

ADV KHUMALO SC: If the answer is no, do you know who was participating?

20 **WARRANT OFFICER MAGANE**: Not at all.

ADV KHUMALO SC: And if you do not know, you do not know.

WARRANT OFFICER MAGANE: I do not know.

ADV KHUMALO SC: So, do not try to analyse this.

WARRANT OFFICER MAGANE: No, no, I am sorry.

ADV KHUMALO SC: Because as I said, we do not know what the source is. And I was only being fair to you by referring you to them so that we do not leave it unattended, and people assume that it was you who was reporting back to the owners of this drug.

WARRANT OFFICER MAGANE: Like I am saying on this day in question, on the 9th, I was the first one to be arrested. And so, my phone was taken away at around 12 o'clock. And this chat, I would like to distance myself from
10 this chat.

ADV KHUMALO SC: And if we manage to access your phone, we will not find the chat that put you in trouble.

WARRANT OFFICER MAGANE: Not at all. This is the phone that I was using during my arrest. Even today, I am still using the same one.

ADV KHUMALO SC: You know we can retrieve.

WARRANT OFFICER MAGANE: The one from you?

ADV KHUMALO SC: Yes.

WARRANT OFFICER MAGANE: Yes, I saw ...[intervenes]

20 **ADV KHUMALO SC:** Let us leave it there.

ADV MOSIKILI: Warrant Officer Magane, just on the issue of Alberton, you had testified earlier on that you requested Warrant Officer Phakula to come and assist you. Is that correct?

WARRANT OFFICER MAGANE: That is correct,

Commissioner.

ADV MOSIKILI: And you further stated that he said he will bring some people to assist him.

WARRANT OFFICER MAGANE: That is correct, Commissioner.

ADV MOSIKILI: Now, when Commissioner Baloyi asked you earlier on about Alberton, you said no, you were in fact misleading the two police officials from Booyens. It was not your intention to go to Alberton. Did you say that?

10 **WARRANT OFFICER MAGANE:** In all fairness.

ADV MOSIKILI: Yes, but I put it to you that in fact when you spoke to Warrant Officer Phakula, you in fact told him to meet you at Alberton. What is your comment to that?

WARRANT OFFICER MAGANE: No, that was not the arrangement.

ADV MOSIKILI: He is lying. If he was to be found saying that, he would be lying.

WARRANT OFFICER MAGANE: No, that was not the arrangement. That was never – the only thing that I said to
20 him, also in my statement, was that upon confirmation of the information, then I will revert to him.

ADV MOSIKILI: Then let us go to page 235. I want you to refer you to a warning statement. So, we are on the exhibit bundle. No, no, 235. Now, that is a handwritten statement by Sergeant Phakula. And I want you to look at paragraph

2 of that statement. Perhaps can you try and read that into the record? What is said in paragraph 2? It is right at the bottom.

WARRANT OFFICER MAGANE: Paragraph 2.

ADV MOSIKILI: Yes.

WARRANT OFFICER MAGANE:

10 “I do not know whether I contacted my immediate Commander Captain Modupi informing him that I was – I was contacted by Warrant Officer Magane to assist him in a possible drug and that he should join me in Alberton. I proceeded to Alberton SAPS. I waited for him. I called Magane to ask if he will come and I should wait for him.”

ADV MOSIKILI: I think it says – let me assist you there, Warrant Officer. It says:

“I called Mogane to ask for how long I should wait for him.”

20 **WARRANT OFFICER MAGANE:** For him?

ADV MOSIKILI: Yes.

WARRANT OFFICER MAGANE:

“He requested that I should come to Aeroton, Omnia Park.”

ADV MOSIKILI: Yes.

WARRANT OFFICER MAGANE:

“I arrived at Aeroton...”

ADV MOSIKILI: No, no, that is fine. What I wanted to put to you, and perhaps if you go further, to page, in the same bundle, 385. There - are you there?

WARRANT OFFICER MAGANE: Yes, I am there, Commissioner.

ADV MOSIKILI: Now, that is a written statement by – and this is under Booyens 252/10/2021. It is a statement by
10 Ramila William Modupi and we have established that William Modupi is a Captain and that he was called by Warrant Officer Phakula. Now, at paragraph 3, I will read that into the record for you. It says:

“On Friday, 2021, 07:09 in the morning, I was at home as we were working rotation when I received a call from Warrant Officer Phakula informing me that they are following up on a certain information and I must join them in Alberton. I then
20 proceeded to Alberton to join them and only to find that they have left. I called them and they informed me that we are now in Aeroton.”

So, the proposition I am putting to you that the option of going to Alberton was a reality and only it was disturbed by

the presence or arrival of the Booyens VISPOL Police.

What is your take?

WARRANT OFFICER MAGANE: No, that is incorrect.

ADV BALOYI SC: Why would Warrant Officer Phakula say exactly the same thing that you said to the Booyens Police Officers? They are in completely different environments. Warrant Officer Phakula refers to your conversation with him, including that he started from his original place, he was on his way to Alberton SAPS, because you had said to
10 him, and I read at page 376, this typed statement, that:

“I then proceeded to Alberton SAPS as I was informed that they might be bringing the truck and the driver to Alberton for detention. It is a place where the crime scene started initially.”

It is exactly what you say in your statement you told the Booyens policemen.

WARRANT OFFICER MAGANE: But the arrangement that we will meet with Warrant Officer Phakula at Alberton, it
20 was not going to come, because from Yellow Jersey, the arrangement was that we follow the truck up until it reaches Aeroton. And upon verification of the information, then I will call Warrant Officer Phakula to come through.

ADV BALOYI SC: That was the arrangement. You say that was the arrangement. With whom did you make that

arrangement?

WARRANT OFFICER MAGANE: With Warrant Officer Phakula.

ADV BALOYI SC: So, Warrant Officer Phakula is being untruthful in his statement when he says that:

10 “After he contacted his superior, Commander Sephungu, and informed him, I received and gave permission to proceed and assist Warrant Officer Magane.”

That is what he says:

“I then proceeded to Alberton SAPS as I was informed that they might be bringing the truck and the driver to Alberton for detention. It is a place where the crime scene started initially.”

That is exactly what you say in your statement that you said to the Booyens Police Officers. And you are not denying you said that to the Booyens.

20 **WARRANT OFFICER MAGANE:** Exactly.

ADV BALOYI SC: What is the probability that Warrant Officer Phakula would say you told him exactly the same thing? Someone is being untruthful. Are you saying Warrant Officer Phakula is untruthful to quote you as saying to him exactly what you tell us you said to the Booyens

people?

WARRANT OFFICER MAGANE: I would say so. Because this was not part of our discussion.

ADV BALOYI SC: I want to put to you that it is improbable. You have not given a reason why he would either be mistaken to repeat exactly what you said to the Booyens people that you said it to him why he would be mistaken. You have not given us a reason why he would be mistaken. You are not giving us a reason why he would be
10 untruthful in his statement that was made in October 2021 when this happened in July.

You have not provided an explanation why he is mistaken and why he would be untruthful about it. And I want to suggest to you that it indicates all the probabilities that you are the one that is being untruthful about what you said to Phakula, one. Two, and the real intention about what was going to happen with those trucks and in fact the real intention was they were not going to Booyens.

You were taking them elsewhere. You and
20 Mashaba. And that is why it was your operation, just the two of you. That is why you, it is not your everyday job to do this. You go out of the office to go and assist with a drug bust about which you are completely inexperienced, know nothing about. You do not tell anyone of your colleagues at the station to say, come, let us go help.

You leave alone. You call everybody else that has nothing to do with it. And then you go and you mess up the scene as badly as you did. You put these bags in an open bakkie that is going to transport them, and it is just the two of you. You have not called LCRC. You have not called TRT to come and escort you. You have done nothing. That is about ensuring that these drugs are properly processed.

What it indicates, I want to suggest to you, what it indicates is there was no good intentions on your part to get
10 these drugs to be properly dealt with as prescribed by the law. In fact, you had ulterior motives about putting them in that van and you were going to take them away. They would not be accounted for. What do you say to that?

WARRANT OFFICER MAGANE: Commissioners, with all fairness, I do not agree to the suggestion of the Commissioner. Commissioners, if I had an intention of doing the wrong thing, I would not have left my cell phone with Mr Arthur. My cell phone that is RICA on my name. Number 2, Omnia Park is a modern industrial area which I
20 think it has cameras all over.

And so, I would not be so dumb to go steal in front of everybody. Meanwhile, I know that my identity was not concealed. And another thing, I was going to be easily traced. The bakkie that I was using, it is a state car. And at Yellow Jersey, there is also cameras. That suggests,

even if I left with that consignment, I was still going to be easily traced. If Commissioners, me and Mashaba, we had an ulterior motive, I think this was going to need a proper thorough planning.

ADV BALOYI SC: It was badly planned. That is why it was such a mess. That is why you are handling bags of exhibits the way that you are doing. It is because you poorly planned this thing. Firstly, you did not know that there are cameras at Scania. You did not know that. You go there
10 for the first time. That they happen to be there, well, it is poor planning.

You had not scoped that place first. So, that does not count. It is irrelevant for purposes of what I am suggesting to you. That there were cameras. It is an after effect. This was a badly planned thing. You know nothing about drug operations. We have seen that. You know nothing. We have seen from your evidence and from what your Commander says.

You had no business to be there. To leave your
20 office job and go there to assist someone that you say, well, I have met him before. I do not have a relationship with him. So, you know nothing about him. He could well have been corrupt. On your evidence, you know nothing about him. You say, I went there to help. So, and now Commissioner Khumalo has referred us to those WhatsApp

messages that actually indicate that this consignment of drugs, there were people who had an interest in it.

You so happened to be in the middle of it. You and Mashaba happened to be in the middle of it. But we know from those WhatsApp messages that that was somebody's consignment, and someone was being threatened and someone was under pressure to get it out and delivered to them. We know all of that. It happens to be a consignment that you, Magane, who has nothing to do with drug
10 operations, are involved in.

In a scene where you have not called a single role player who is involved with drug enforcement. You have not. There is no LCRC. There is nothing. You say we are in Booyens. You do not call Booyens. They surprise you, in fact, I want to say to you because someone has called 10111, one of the Scania people. They surprise you by arriving there.

You even argue with them, and you lie to them to say, well, you do not say, you know what, you have nothing
20 to worry about. These are going to your station. You lie to them. You say they are going to Alberton. That is your first answer. Phakula says that is exactly what you told him. And these drugs had no business to go to Alberton. But you are being untruthful about this.

So, what I am suggesting to you or what I am

putting to you is that this whole operation, it was never, otherwise you would have played things by the book. You would have done everything by the book as a seasoned police officer. There was never an intention for this loot to be properly, at least not all of it, to be properly accounted for.

And in fact, I want to suggest to you, had you left before the Booyens people arrived, you and Mashaba, had you left, you may well have accounted for some but not all
10 of it at your police station. That is what I am suggesting to you. There were no good intentions about it. You can comment if you want to.

WARRANT OFFICER MAGANE: Commissioner, maybe I do not know how to put this. Even from the bottom of my heart, I had no intention of driving away from the scene before the scene was properly processed. That is why and I will stand by the truth. If I had intention, I am still repeating this. If I had intention of stealing the drugs, maybe I would have used and like I am saying, I only
20 received the call from Mashaba that particular morning.

And from there, I was briefed. And honestly, I contacted the train of calls that I made were from different people. Unfortunately, like Warrant Officer Tshidi Warrant Officer Tshidi is from Crime Intelligence and Warrant Officer Phokungwane is from Alberton. So, I am trying to

demonstrate my fairness of saying I had no intention of stealing the drugs or taking them elsewhere.

Hence, I am saying I am not lying to the Commission. I am not part of this conversation between whoever is here. That is my innocence. I am trying to demonstrate that I had no intention of taking the drugs from where they were recovered and to another destination. That is, with people that I – Nku, Nku I am only knowing Nku that morning.

10 So why would I risk with my career with someone that I do not even know? It was for the first time that I met Nku. And to further demonstrate my innocence in this involvement of a drug bust. I had not even a clue as to how much is the consignment. If I have known that this is such a big what-what with the little knowledge that I have I mean the approach would have been different. And I called Warrant Officer Phakula because he was involved in other investigations that were drug related. That is with all fairness and innocence.

20 **ADV BALOYI SC:** Let me ask you a last question perhaps. When you say you had no intention of leaving the scene with those drugs in your bakkie before the scene was properly processed, we know that by that time, even before Phakula arrived you had already put the bags onto your bakkie. You say so in paragraph 20 of your statement. And

then earlier on you also say you had already arrested the three people, remember?

WARRANT OFFICER MAGANE: That is correct.

ADV BALOYI SC: Okay, according to you what was still left to be done at the scene once you have loaded the bags onto your bakkie and you have arrested the three people?

WARRANT OFFICER MAGANE: A K-9 unit were waiting for K-9.

ADV BALOYI SC: To do what?

10 **WARRANT OFFICER MAGANE:** To come and further confirm to come and further confirm that this are real drugs. And they were coming and they did arrive.

ADV BALOYI SC: So, you called so K-9 was going to do that and not FSL. You know there is a forensic science laboratory, right?

WARRANT OFFICER MAGANE: No, K-9 the dog unit which also came. They came from Pretoria. They were also at the scene. Lieutenant Colonel Maluleke ...[intervenes]

20 **ADV BALOYI SC:** So, when they arrived you would have taken the bags back onto the - on the ground. What was the kind of elaborate thought at one time?

WARRANT OFFICER MAGANE: Like normally how it was supposed to be done before. Because earlier on they elaborated that the scene I take a punch that the scene was not properly managed.

ADV BALOYI SC: So, you were waiting for K-9?

WARRANT OFFICER MAGANE: K-9, Lieutenant Maluleke from Pretoria DPCI office was called by the younger brother of Phakula. He also came. He arrived at the scene.

ADV BALOYI SC: Yes, but you did not know he is coming. Remember we are discussing you saying I was not going to leave with that consignment until the scene was properly processed. So, I am asking you what had you done? What steps did you take in order to complete that process to
10 make sure that the scene was going to be properly processed before you leave? What are the steps that you took?

WARRANT OFFICER MAGANE: Before leaving?

ADV BALOYI SC: That you took that would happen before you left with the consignment to properly process the scene?

WARRANT OFFICER MAGANE: The counting was going to be done in the presence of a photographer because I personally called the photographer through the phone of
20 Booyens guys. And the call taker requested me to give she was a lady, to give me to give my particulars like service number, contact number, and give a brief of the background of the operation as to how it started and everything. So, Commissioners, with all fairness, would I do not know if I was still going to leave the scene with that

bakkie open bakkie which cannot even drive 60.

ADV BALOYI SC: Yes, well you were going to leave with it. You were. You were blocked by the Booyens SAPS motor vehicle as we see in the picture and other statements say you were in a hurry to leave. So, the plan you did not put them on the floor you could have left these things on the floor, then it would be believable that you were waiting for other people to arrive. No, you do not.

You put them onto, you back up your van to the
10 trailer, to the container, you back it up so that these things
are put in there and all of them on your own account, you
had counted them, there are 23 bags. You had even taken
a picture to send to your superior. So, you have now
loaded them, and you are going to take them somewhere.
You are going to take them to Alberton in fact. If Booyens
had not arrived, you would have taken them to Alberton.
That is what you told Phakula.

WARRANT OFFICER MAGANE: Commissioners really, I
need to emphasise this so that everybody can be in the
20 same picture or we are on the same page. At no stage at
no stage Commissioners that I intended to leave the scene.
Actually, I want to clarify something. There is a narrative
that was being pushed that I was blocked by Booyens
bakkie.

If Booyens bakkie, when they arrived, I was not

even in the car. We were standing outside. When they come, I am the one who approached them. Another thing, if Booyens officers were the one who blocked me I think there was going to be a statement that says we were trying to run away. So, they blocked us. None of these people are saying that.

And if maybe Booyens people were scared of us after 3 minutes after they arrived or between 10 minutes. Flying Squad also arrived and there were also security guys
10 who were at the scene. They would have asked for assistance. Again, Booyens are the one who actually helped me to cordon off the scene. So, we were working together. They were assisting.

ADV BALOYI SC: All right, I have heard you. You have heard my views about what I say.

WARRANT OFFICER MAGANE: I do not dispute the Commissioner's views but this is all my honest remarks or answer to that.

CHAIRPERSON: Let us adjourn and resume at 20 past 2.

20 **INQUIRY ADJOURNS**

INQUIRY RESUMES

CHAIRPERSON: Good afternoon, Mr Mosikili.

ADV MOSIKILI: Good afternoon, Chair. Good afternoon, Commissioners.

CHAIRPERSON: Thank you. Perhaps if the Warrant

Officer could just go through the statement and then let the probing come afterwards?

ADV MOSIKILI: Indeed, Chair.

CHAIRPERSON: We are sure we will try to do our part in that regard.

ADV MOSIKILI: Thank you, Chair.

CHAIRPERSON: Thank you, thank you.

ADV MOSIKILI: Warrant Officer Magane, we were about to talk about the arrival of Warrant Officer Phakula. That will
10 take us to page 8 of your statement, and then we can resume at paragraph 21, when it says upon Warrant Officer Phakula's arrival. Can you pick it up from there, please?

WARRANT OFFICER MAGANE: Yes. Thank you, Commissioners:

20 “Upon Warrant Officer Phakula's arrival, we then briefed him about the scene and, as protocol, we handed the scene over to him for further investigation and processing. Warrant Officer Phakula requested me to cordon off the scene and also instructed me to call LCRC. Sergeant Ndou assisted me with the tape to cordon the area off and he also called LCRC office. While busy at the scene, more police officers from different units

started arriving at the scene. Amongst them, I can mention the following. Warrant Officer Rikhotso from Crime Intelligence, he arrived and started asking if we have any authority or any enquiry file registered that gave us any permission to effect the arrest. He was causing some obstruction and distraction, distracting us from doing our work freely.

10 He specifically said that Major General Feroz Khan from Crime Intelligence was coming to the scene. I am not sure what he wanted us to do with that information. So we ignored him and proceeded with our duties, but there was a lot of police members, security officers and civilian members at the scene, which made it difficult for us to work. Colonel Moloi from Crime Intelligence also arrived at

20 the scene and she was more than happy about the arrest and even complimented of the good work that we have done. Lieutenant Colonel Maluleke from DPCI National Office arrived together with Warrant Officer Masuma also from DPCI

as they were summoned by Warrant Officer Phakula to come and assist us with the scene. Sergeant Phakula and Sergeant Sape came together from Provincial K9 Unit as part of our team. Major General Khan arrived immediately after Warrant Officer Phakula and...”

I think, Commissioners, there I was supposed to say after Sergeant Phakula and Sergeant Sape.

10 **ADV MOSIKILI**: Ja, it sounds right, ja.

WARRANT OFFICER MAGANE: Ja:

20 “And the situation got out of hand. Upon his arrival, Major General Khan went straight to the warehouse and met with the Scania management and after that he came back to us and ordered us to stop with our operation. He asked who was the driver of the bakkie which was loaded with the black bags, and I answered it was me. He then instructed me to go inside the bakkie. Then a big argument ensued between Major General Khan and Chief Mashaba, whereby Major General Khan ended up disarming Chief Mashaba of his service firearm and stopped the

guys from docking it from searching the warehouse. I was made to sit in the car while I was photographed as if I am a suspect. Members of DPCI from Germiston and Johannesburg arrived at the scene with Major General Kadwa, the Provincial Head of DPCI. There seems to have been a briefing between Major General Khan, Brigadier Sekgobela, Lieutenant Colonel Mabaso and Captain 10 Sebola. Right after that, Warrant Officer Phakula, Chief Mashaba, Mr Nku and myself were arrested and put at the back of a Booyens SAPS bakkie which was driven by Sergeant Ndou and Constable Makwambiri. We were kept at the back of the bakkie for some time. At some stage, we were then taken from the back of the bakkie to observe the counting of the 20 drugs. To our surprise, we find that already 10 bags were already opened. Brigadier Sekgobela, Captain Dale, Captain Sebola, the arresting officer, are the ones who were in charge of the counting, in counting the drugs. Each

bag had 35 small bricks and a total of 350 small bricks were counted from the 10 bags. We were then taken back to the back of the bakkie and driven to Booyens Station for detention before the counting was completed.”

ADV MOSIKILI: Before you move to your arrest, you had deposed to another statement and that statement would appear on page 373 of the Exhibit Bundle. Your statement
10 starts at page 370, but I just want you to look at 373. Now, on that statement, I want you to focus only on paragraph 23, 24, 25 where you speak of your encounter with General Khan. Can you just read that into the record?

WARRANT OFFICER MAGANE:

“As a result of General Khan's unprofessional behaviour and obstruction, the driver...” ...[intervenes].

ADV MOSIKILI: No, sorry, just that paragraph.

WARRANT OFFICER MAGANE: Which one?

20 **ADV MOSIKILI:** Paragraph 23.

WARRANT OFFICER MAGANE:

“While busy at the scene, a certain Indian male who was later known to me as General Khan of Crime Intelligence arrived with his crew and all hell broke

loose. As he started giving instructions, he asked who was the driver of the black Nissan bakkie and I told him I was the driver. He then ordered me to go sit in the bakkie. I did as instructed and he, General Khan, started calling us *Tsotsi* police and said he was going to teach us a lesson. I was not even allowed to move and talk to my colleagues, not even to go to the toilet. I was escorted. Different police officers among Colonel Mabaso came to interview me and explain to him how I got information and came to the scene. I was also interviewed by Brigadier Sekgobela and later a certain gentleman who introduced himself as Captain Sebola placed me under arrest. Photos were taken of me while sitting in the car. As a result of General Khan's unprofessional behaviour and obstruction, the driver Brightman Mthembu, who was already placed under arrest, was released. The lady called Jolene and Cornelius were no longer cooperative. Information on who the

receiver was, was no longer pursued as we were now considered a suspect.”

ADV MOSIKILI: All right. When you say General Khan told you to sit inside the car, how long did you have to sit inside the car, a rough estimate?

WARRANT OFFICER MAGANE: I was made to sit in the car from, I am not too sure as to what time did the General arrive, but I was made to sit inside the car for almost two hours.

10 **ADV MOSIKILI:** And how was it in the car? How was the situation?

WARRANT OFFICER MAGANE: The situation was uncomfortable. I was sitting there, the sun, it was hot and everything.

ADV MOSIKILI: And you also mentioned in that paragraph that you had to be escorted. What does that mean?

WARRANT OFFICER MAGANE: At some stage, Commissioners, I wanted to go to the toilet, to the loo. So one gentleman who arrived with General Khan escorted me
20 to the loo, back to the bakkie.

ADV MOSIKILI: Did you feel that you could not live at your own volitional accord?

WARRANT OFFICER MAGANE: Beg yours, Commissioners?

ADV MOSIKILI: Did you have a sense that you could not

just leave unattended?

WARRANT OFFICER MAGANE: That is correct, Commissioners, because that is correct.

ADV MOSIKILI: All right, let us then go back to your statement. I want us to go to paragraph 23. So, we are on page 10, so you go back to your statement file and then you talk about our arrest and detention. That is the topic there.

WARRANT OFFICER MAGANE: So must I start at paragraph 23?

10 **ADV MOSIKILI:** Yes, start with we were detained.

WARRANT OFFICER MAGANE:

“We were detained at Booyens Station for a weekend until Monday the 12 July 2021 when we appeared at court. While at Booyens Station holding cell, we were told allegedly by General Khan's instruction, Kadwa, that we were not allowed to have visitors, water and food.”

I am referring to the food that were coming from outside.

20 **ADV MOSIKILI:** Not the prison food, but from the visitors?

WARRANT OFFICER MAGANE: Yes, from the visitors.

ADV MOSIKILI: Are you allowed to have food while you are in prison from the outside?

WARRANT OFFICER MAGANE: No. No, no, no.

ADV MOSIKILI: Okay.

WARRANT OFFICER MAGANE:

“We were told that on Monday at court the Control Prosecutor was refusing to place the matter on the roll until General Kadwa came to the court and insisted that the matter be placed on roll. The case was postponed for Tuesday, the 13th of July 2021. We were transferred to Johannesburg Correctional Services, which is called Sun City Prison. We were then remanded in custody for another seven days for a formal bail application. During the bail trial, Captain Sebola testified that we were arrested for allegedly stealing 700 kilograms of Cocaine. The Presiding Magistrate asked him if the exhibits were weighed and what method of weighing was used, of which Captain Sebola could not answer. The Magistrate also suggested to him that Captain Sebola and his team rushed to arrest us prematurely. Again, he could not answer. We were ultimately granted bail on the 21st of July, having spent almost two weeks or 13 days in custody.

I was then suspended in terms of section 43(2) of the SAPS Act 68 of 1995 from the 9th of July until the 21st. This type of suspension is applied when a member is arrested and incarcerated. It is a suspension without salary or allowances. My suspension was then uplifted after I was granted bail and I resumed my duties on the 22nd of July 2021. I was then suspended again for a period of six days in terms of Regulation 10(3) of the SAPS Disciplinary Regulation of 2016 from the 30th of September until the 20th of November. I was charged with the following three charges departmentally.

10

- 3.1. Regulation 5(4)(f), corruption.
- 3.2. Regulation 5(4)(g), dealing in drugs.
- 3.3. Regulation 5(4), defending the ends of justice.

20

The Chairperson of the disciplinary hearing, Brigadier Nevhuhuli found me not guilty on all charges on the 7th of February 2022.”

Can I proceed?

ADV MOSIKILI: Do you want to go to that ruling or do you

want to proceed?

WARRANT OFFICER MAGANE: I do not know. You direct me.

ADV MOSIKILI: Okay, let us proceed. If you want to come back to it, we can. Let us proceed to the next paragraph. That will be 31, under the topic Booyens CAS 252/10/2021.

WARRANT OFFICER MAGANE:

10 “Booyens CAS 252/10/2021, defeating
the ends of justice and obstruction of
police officers from executing their lawful
duties. This case emanates from our
arrest and detention at Aeroton as
overseen by General Khan, Major
General Kadwa, Brigadier Sekgobela and
Captain Sebola. After a thorough and
proper consultation with our legal
representative, we then decided to open
a case of defeating the ends of justice
against all members mentioned above.
20 The case was transferred to IPID
National Office for investigation. After a
lengthy, slow investigation by IPID, the
matter was taken to the Deputy Public
Prosecutor's Office in South Gauteng for
decision. Advocate Chauke's office

decided not to prosecute the suspect in this matter and amongst given were that this matter was just a misunderstanding between different law enforcers, which was contrary to the reason or motivation given by the same Office of Advocate Chauke when we presented our representation for our case to be withdrawn. IPID then recommended that

10 all members who were involved in our arrest must be charged departmentally. General Khan was charged separately and members of DPCI were not charged. The departmental hearing of Major General Khan was presided by Lieutenant General Nhlanhla Mkhwanazi, the KwaZulu-Natal Provincial Officer. I testified during those proceedings dealing with the event aforementioned.

20 Major General Khan was found not guilty for defeating the ends of justice and other charges. What I found concerning is that while the Commissioner was still deciding on the verdict of Major General Khan's matter, DPCI issued a report that

cleared all their members. At the same time, there were media reports that...”

ADV MOSIKILI: I think when you go to paragraph 34, it is a repeat. So what you can do is that if you go to at the same time, you see on that paragraph, then you can pick it up from there.

ADV KHUMALO SC: Perhaps what we should do, Advocate Mosikili, we must just scratch out the first paragraph 34 on page 12, and he reads the complete paragraph 34 on page 10 13.

ADV MOSIKILI: That seems to be practical. Thank you, Commissioner Khumalo.

ADV KHUMALO SC: So, Warrant Officer, just go to page 13 and read that paragraph in its entirety.

WARRANT OFFICER MAGANE: From the beginning?

ADV MOSIKILI: Yes, 34 years.

WARRANT OFFICER MAGANE:

20 “IPID then recommended that all members who were involved in our arrest must be charged departmentally. General Khan was charged separately and members of DPCI were not charged. The departmental hearing of Major General Khan was presided by Lieutenant General Nhlanhla Mkhwanazi, Kwazulu-

Natal Provincial Commissioner. I testified during those proceedings dealing with the events aforementioned. Major General Khan was found not guilty for defeating the ends of justice and other charges. What I found concerning is that while the Commissioner was still deciding on the verdict of Major General Khan's matter, DPCI issued a report that cleared all their members. At the same time, there were media reports that witnesses of Major General Khan's hearing, which is us, were facing an imminent re-enrolment of their case. Our case was provisionally withdrawn on 12 November 2022. I know and understand the contents of this statement. I regard the contents of this statement to be binding on my conscience. I have no objection in taking the prescribed oath.”

That is the end of my statement.

ADV MOSIKILI: Thank you, Warrant Officer Magane. Can I just ask you, when you spoke about your arrest and detention, what are the charges that are proffered against you? I think you read the charges that were proffered

against you departmentally, in terms of the criminal proceedings.

WARRANT OFFICER MAGANE: If I remember very well, dealing in drugs was one of the charges. I cannot remember very well.

ADV KHUMALO SC: Warrant Officer, you do not have to guess. Please go to page 19 of the annexures, Item 6 after your statement. The charges are there.

WARRANT OFFICER MAGANE: These are the
10 departmental, it is a departmental outcome. Outcome of expeditious process against number. That is my service number. Must I also read the service number in?

ADV MOSIKILI: No, no, do not read that. We have those charges.

WARRANT OFFICER MAGANE: Okay.

ADV MOSIKILI: I was asking about the criminal charges. Perhaps for complete sake, go to page 276 of the Exhibit Bundle.

WARRANT OFFICER MAGANE: Ja:
20 “Notice of Rights in terms of the Constitution, section 35 of Act number 108 of 1996. You are being detained for the following reason, dealing in drugs.”

ADV MOSIKILI: Yes, I wanted to find out were there any other charges added to that subsequently?

WARRANT OFFICER MAGANE: No, it was only this one.

ADV MOSIKILI: Okay. And then you mentioned that at paragraph 24 of your statement, that someone informed you that General Kadwa had issued instructions that you are not allowed to have visitors, water, and food. That is your statement there.

WARRANT OFFICER MAGANE: Paragraph 24?

ADV MOSIKILI: 24, yes.

WARRANT OFFICER MAGANE: Yes:

10 “While at Booyens Station holding cell, we were told allegedly, as per by General Khan's instruction, Kadwa, that we were not allowed to have visitors, water and food.”

ADV MOSIKILI: Yes. What I am asking you is that, is there a reason to believe why would General Kadwa issue such instructions?

WARRANT OFFICER MAGANE: Because obviously we were treated or presumed to be high-profile suspects, and
20 that is why no visitors were allowed in the ward.

ADV MOSIKILI: And also you gave, you read in on the record that you – and when you say we, because you say we opened a case against General Kadwa, and then can you explain exactly who the we is?

WARRANT OFFICER MAGANE: We is the four of us that

were arrested. That would be myself, Chief Mashaba, Warrant Officer Phakula, and Mr Tumelo Nku.

ADV MOSIKILI: And the complaint was against who? Can you remember all of them?

WARRANT OFFICER MAGANE: The complaint was against General Kadwa, Major General Kadwa, Major General Khan, Brigadier Sekgobela, and Captain Sebola.

ADV MOSIKILI: Why would you specifically open a case against, is it General Sekgobela?

10 **WARRANT OFFICER MAGANE:** General Sekgobela, yes.

ADV MOSIKILI: Yes. Why would you specifically open against General Sekgobela?

WARRANT OFFICER MAGANE: Because she was also active in that scene.

ADV MOSIKILI: But being active does not necessarily warrant a criminal case being opened. There has to be more than just being active.

WARRANT OFFICER MAGANE: And this was based on her seniority, because she was a senior to Captain Sebola. So
20 by so saying, we assumed that maybe the instruction might have come to her.

ADV MOSIKILI: And I think for the record, it is Brigadier?

WARRANT OFFICER MAGANE: Brigadier Sekgobela.

ADV MOSIKILI: Brigadier Sekgobela, yes. I think we have to keep that correct. It is Brigadier.

WARRANT OFFICER MAGANE: Brigadier Sekgobela.

ADV MOSIKILI: Yes.

WARRANT OFFICER MAGANE: Yes, I am talking about her.

ADV MOSIKILI: Yes. All right. And then you say that the charges were withdrawn against you in November 2022. What is the current position of those charges as we speak?

WARRANT OFFICER MAGANE: The current situation in regard to those charges, the case was finally – we made
10 representation to the NDPP's office through our lawyers and advocate...

ADV MOSIKILI: Chauke?

WARRANT OFFICER MAGANE: No, the one who passed on, he was working at NDPP's office.

ADV MOSIKILI: Is it De Kock?

WARRANT OFFICER MAGANE: Advocate De Kock. May his soul rest in peace. He is the one who decided on our matter. So the charges were finally withdrawn.

ADV MOSIKILI: And that was in 2022?

20 **WARRANT OFFICER MAGANE:** That is correct.

ADV MOSIKILI: Now, if you go to, on the very same file, the statement file on page 33. So the statement file you have with you.

WARRANT OFFICER MAGANE: Yes, I got it there.

ADV MOSIKILI: You see that there is a letter from the

Director of Public Prosecutions?

WARRANT OFFICER MAGANE: I see it, Commissioners.

ADV MOSIKILI: And the letter is directed to Major General EA Kadwa.

WARRANT OFFICER MAGANE: That is correct, I see it.

ADV MOSIKILI: Yes, and this matter, it relates to the request for a re-enrolment of the docket, Booyens' case number 9807/2021. And that is the matter of the State v Magane and 3 Others.

10 **WARRANT OFFICER MAGANE:** That is correct, Commissioners.

ADV MOSIKILI: And you see that the last paragraph on that letter, it says this:

“The office has decided to prosecute the suspect in this matter. This matter will be enrolled as soon as practically possible once the pending investigations have been finalised.”

And then it says on the next page:

20 “The investigation officer must please consult the advocate dealing with this matter as soon as possible.”

And then the letter is signed by JM Serapo. What is your understanding of that letter, Warrant officer?

WARRANT OFFICER MAGANE: My understanding is that

this matter, the case that was finally decided or it was finally withdrawn by the NDPP's office, there was, I do not know, where is this letter coming from, that the matter must be re-enrolled.

ADV MOSIKILI: Have you been contacted since the letter in February 2025 about the possible re-enrolment?

WARRANT OFFICER MAGANE: No, not at all, Commissioners.

10 **ADV MOSIKILI:** And this letter before today, were you aware of it?

WARRANT OFFICER MAGANE: Yes, I was aware of this letter.

ADV MOSIKILI: How did you become aware of that letter?

WARRANT OFFICER MAGANE: I cannot really remember whether it was from our legal representative that is dealing with our litigation.

ADV BALOYI SC: Can I just clarify? You say Advocate De Kock withdrew the charges in 2022?

20 **WARRANT OFFICER MAGANE:** That is correct, Commissioner.

ADV BALOYI SC: There is a letter which talks about provisional withdrawal. The provisional withdrawal was in October 2022.

ADV MOSIKILI: No, no, can I just clarify that? Commissioners, the provisionally withdrawn one, this one

was pending the representations. Because we first made a representation to the DPP's office at Gauteng, but the representations were declined. So we then escalated our representation to the NDPP's office. Then while we were waiting for the representation, our case kept on being remanded.

Then the Judge said she was no longer happy about the unnecessary postponement. So as a result, the matter was provisionally withdrawn pending the outcome of
10 the representation from the NDPP's office. However, the date for the trial was set. It was arranged. But before the trial could even start, then we got good news that our case has been finally withdrawn from the NDPP's office. That is how this matter was buried.

ADV BALOYI SC: Mr Mosikili, do we have a letter that confirms that final withdrawal?

ADV MOSIKILI: No, Commissioner. What we have is an order of provisional withdrawal, nothing else. Perhaps to Warrant Magane's benefit, there is a letter that was sent by
20 his attorneys to follow up on this alleged re-enrolment. But that letter was never responded to. But that letter, it was sent in 2025 in May.

ADV KHUMALO SC: Is it the one on 29?

ADV MOSIKILI: And it is the one from BDK on page 29 of the statement file.

ADV BALOYI SC: But that letter from the attorneys speaks of a provisional withdrawal while awaiting the decision of the National Prosecuting Service. And then it speaks in paragraph 3 of correspondence in 2024. So it does not mention a final withdrawal in 2022.

ADV MOSIKILI: Yes, that is as far as we can take it, Commissioner. We are not aware of anything other than that.

ADV BALOYI SC: Thank you.

10 **WARRANT OFFICER MAGANE:** Commissioners, sorry, can I just clarify something? I think I have shared this with the findings by Advocate De Kock with the Evidence Leader. So I do not know, maybe he might have missed it, but here is the ruling from the Office of the NDP.

ADV MOSIKILI: Just wait, I will try and direct you to that. That should be the outcome of the representations and providing reasons why the State is not prosecuting. Is that what you are referring to?

WARRANT OFFICER MAGANE: Yes.

20 **CHAIRPERSON:** Does that not have a red pagination in the top right-hand corner?

WARRANT OFFICER MAGANE: I beg yours, Commissioner?

CHAIRPERSON: Does it not have a page number?

WARRANT OFFICER MAGANE: No, no, no, this one I just

said.

CHAIRPERSON: You took it from elsewhere?

WARRANT OFFICER MAGANE: Yes, but I shared it with the Evidence Leader.

CHAIRPERSON: All right, all right.

ADV KHUMALO SC: Look at the date on the last page of that letter. We will tell you if it is in the bundle or not. Is it 21 June 2024?

ADV MOSIKILI: It is in here.

10 **WARRANT OFFICER MAGANE:** Yes.

ADV KHUMALO SC: Yes, then it is on page 23 of your annexures, after Item 8.

WARRANT OFFICER MAGANE: Sorry, Commissioners, I have got it.

ADV KHUMALO SC: It is the same letter.

WARRANT OFFICER MAGANE: This is the same letter I am talking about.

ADV KHUMALO SC: Yes, it is in the bundle.

20 **WARRANT OFFICER MAGANE:** My apologies, Commissioners.

ADV KHUMALO SC: No, no problem. It is fine.

ADV MOSIKILI: The question is, is there anything you want to say about that letter? Is there anything you wanted to highlight to the Commission?

WARRANT OFFICER MAGANE: Commissioners, I would

like to take the Commissioners to paragraph 6.6. This talks to the reasons as to why Advocate De Kock decided to withdraw the matter:

“Captain Sebola allegedly alleged that Sergeant Ndou's marked police vehicle was parked in such a way to block the way for Magane's vehicle, that is, a black Nissan bakkie, not to leave the scene.”

8.18:

10 “During the consultation with Mr Britz, it became known that photographs were taken by Skynet personnel when the container was open. The said photographs were sent to Mr Britz, who made them available to the State during consultation among request by the prosecutor. It is clear from the photographs that there was no vehicle blocking the way for Magane's vehicle
20 not to leave the scene.”

CHAIRPERSON: Upon request, not among.

WARRANT OFFICER MAGANE: Commissioner?

CHAIRPERSON: Please continue. Please continue.

WARRANT OFFICER MAGANE:

“Further, the photographs show the

moment before the containers were opened until the contents were removed, clearly indicating that Skynet personnel were not prevented from the accused from taking photos, and suggesting that nothing untoward was taking place at the scene. Ms Wentzel also confirmed that there was no interference from the accused when they were taking photos.

10 It would have been impossible for the accused to deny the existence of the drugs in question at a later stage, and to deny the allegations made against them. Sergeant Sape stated that the photo album was incomplete as their vehicle was also photographed during the incident, which was done on the instruction of Warrant Officer Rikhotso. Warrant Officer Wood was confronted

20 with this allegation, and she stated that upon her arrival at the scene, which was already at 11:45, there was such confusion and utter chaos. As a result of the size of the parking area, Warrant Officer Wood could proceed to take

photos to the scene, as she would normally do. When they finally allowed her to start, the entire scene was a stuff-up, and there was no control whatsoever. She was informed that only the vehicle was involved, but later it was said that two more vehicles were involved. She stated that initially it was everybody was involved, then nobody, then somebody.

10 The scene was a joke. She also indicated that she only left the scene at 02:00 the next morning. Further, Warrant Officer Wood denied that she took photographs of Sergeant Sape's vehicle. The scenes that were photographed in the accused's possession..."

...[intervenes].

CHAIRPERSON: May I just find out, Warrant Officer, whether you are going to read all the way to paragraph 10

20 at page 26, or you want to select certain parts?

WARRANT OFFICER MAGANE: Commissioner, I am being guided by the Evidence Leader. I do not know if I must proceed, or...

CHAIRPERSON: You are the one who said I have a document that I have shared with the Evidence Leader. And

so ...[intervenes].

WARRANT OFFICER MAGANE: That is correct.

CHAIRPERSON: I thought there were certain salient points that you wanted to draw our attention to in that document. Now I see you are reading this entire document.

WARRANT OFFICER MAGANE: Actually, I wanted to read 6.6. No, because I thought the Evidence Leader would stop me. So thanks for that, I was going to read right through.

CHAIRPERSON: Thank you, thank you.

10 **ADV KHUMALO SC**: Can I ask you about 6.8, where they say Officer Wood says the entire scene was a stuff-up. Do you agree with her assessment that the scene was a stuff-up?

WARRANT OFFICER MAGANE: As I have already alluded to, the scene was not properly managed.

ADV KHUMALO SC: And who stuffed it up?

WARRANT OFFICER MAGANE: Initially it was myself and Chief Mashaba. Because now at this time, the scene was already under the control of DPCI members.

20 **ADV KHUMALO SC**: But you had not secured it, that is why it was a stuff-up.

WARRANT OFFICER MAGANE: I agree with you, Commissioner.

ADV KHUMALO SC: Yes, I want to go back to the 7 Series BMW.

ADV BALOYI SC: Warrant Officer, this letter, it is the letter that you say contained or advised a final withdrawal of the charges.

WARRANT OFFICER MAGANE: That is correct, yes.

ADV BALOYI SC: Now, you had said 2022. If you look at page 26, it is in 2024, June 2024, that is the last page. And then if you go back to page 23, so it is in 2024. And then if you go back to page 23, you can see the subject line. The letter is addressed to Major General Kadwa and then the
10 subject line is request for reasons by yourself, meaning Kadwa, in the matter of State v Magane and 3 Others. So you see that Advocate De Kock is actually responding to General Kadwa.

WARRANT OFFICER MAGANE: That is correct.

ADV BALOYI SC: And then lastly, and perhaps importantly to what this letter is conveying, at paragraph 10, go back to paragraph 26. So before that, all the many paragraphs, they summarise what is in the statements and what those statements say. But in paragraph 10, this is what he tells
20 Kadwa. Not your attorneys, not you. De Kock says:

“After careful consideration of all available evidence and factors, I am of the view that there are no reasonable prospects of a successful prosecution.”

That is the last thing he says. You see that?

WARRANT OFFICER MAGANE: I see that, Commissioners.

ADV BALOYI SC: So this letter, on its face, does not convey that charges have been withdrawn provisionally. Do you accept that?

WARRANT OFFICER MAGANE: Maybe.

ADV BALOYI SC: It does not say that.

WARRANT OFFICER MAGANE: It does not say that.

ADV BALOYI SC: All right, that is all that I was clarifying.

10 **WARRANT OFFICER MAGANE:** Okay, because maybe is that the ...[intervenes].

ADV BALOYI SC: Because then the next thing that happened in 2025, in February 2025, is when Deputy Director of Public Prosecutions informs General Kadwa of the intention to reinstate. You see that?

WARRANT OFFICER MAGANE: I see that.

ADV BALOYI SC: And that you find at page 27.

WARRANT OFFICER MAGANE: I see that, Commissioners.

20 **ADV BALOYI SC:** Yes. Okay, I was just clarifying.

WARRANT OFFICER MAGANE: No, no, now it is clarity. So, meaning the matter is still ...[intervenes].

ADV BALOYI SC: Alive. Sorry. Sorry. It is still alive.

ADV KHUMALO SC: I think to be fair to you, Warrant Officer, on page 32 the NPA wrote a letter in which they say

they agree with the recommendations not to pursue the prosecutions herein, and they say they are aware that the matter was struck from the roll. So it may be that this is what you are referring to when you say there was a provisional withdrawal. Because you said there was a date and the matter went to court, they kept asking for postponements until the Judge or Magistrate got upset with them.

WARRANT OFFICER MAGANE: That was in 2022.

10 **ADV KHUMALO SC:** 2022?

WARRANT OFFICER MAGANE: Yes.

ADV KHUMALO SC: Okay.

ADV BALOYI SC: And then at 24 is the letter that Commissioner Khumalo is referring to, where they say we agree with the recommendations not to pursue the prosecution. That is in January 24. You see that?

WARRANT OFFICER MAGANE: I see that and I follow, yes.

20 **ADV BALOYI SC:** Then in 25, you have the prosecution, the Deputy Director saying they will reinstate. At page 28. It ends at ...[intervenes].

WARRANT OFFICER MAGANE: I see it is page 33. Is it the one that Commissioner is talking about?

ADV BALOYI SC: Ja, it is the same letter actually. Yes, it is exactly the same letter that is at page 27. So yes, that is

in 2025.

WARRANT OFFICER MAGANE: I see that, Commissioners.

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

ADV KHUMALO SC: Warrant Officer, I wanted to go back to the BMW 7 Series. It is not clear to me what happened to that vehicle and the occupant of that vehicle once the other police officers arrived at the scene and you were asked to sit in your car by General Khan and at some point
10 you were then detained and taken to Booyens Police Station.

WARRANT OFFICER MAGANE: That is correct.

ADV KHUMALO SC: What happened to the BMW 7 Series and the occupant of that vehicle? Was he also arrested?

WARRANT OFFICER MAGANE: They ...[indistinct] Nku.

ADV KHUMALO SC: He was arrested with you and taken to?

WARRANT OFFICER MAGANE: To Booyens.

ADV KHUMALO SC: To Booyens?

20 **WARRANT OFFICER MAGANE:** Yes.

ADV KHUMALO SC: And do you know what happened to the charges against him?

WARRANT OFFICER MAGANE: No, we were all charged with the same charges.

ADV KHUMALO SC: You were all charged ...[intervenes].

WARRANT OFFICER MAGANE: He was accused number 4 in our case.

ADV KHUMALO SC: Yes. And throughout the process as you were instructing the Scania people to assist you to load the bags onto your van, what was the owner of this vehicle doing? Because we know he was there at the scene, we saw the vehicle. What was he doing as the bags were being loaded onto your bakkie?

WARRANT OFFICER MAGANE: He was sitting in his car.

10 **ADV KHUMALO SC:** Sitting in his car?

WARRANT OFFICER MAGANE: The whole time.

ADV KHUMALO SC: Just observing?

WARRANT OFFICER MAGANE: Yes, that is correct, Commissioners.

ADV KHUMALO SC: And why did you not ask him to leave? Because you had now established that there were bags in the truck that were not supposed to be there. You have taken custody of them. They are now in the back of your Nissan bakkie. What was he still doing there?

20 **WARRANT OFFICER MAGANE:** Commissioners, as I have indicated earlier that according to Mr Nku's handler, which is Chief Mashaba, he explained that Nku had previously given information to other police. So the outcome turns that the information was positive, but Nku was told that they did not find anything.

ADV KHUMALO SC: Yes. Now we are at the stage where his information has checked out. You have now established that there are these bags in the container. You have asked that the truck be moved forward so that you can remove the bags from the container. The bags are being removed. You even said you effected arrest of three people, the driver and two other people.

My question is, the information has checked out, what is the occupant of the BMW still doing there? Because
10 now you know that he has given you the information with Mashaba. The information has checked out. Why do you not excuse him? Why does he remain at the scene together with these bags while all of you are there? Was the plan that you were going to leave together with him and go book these drugs in his presence?

WARRANT OFFICER MAGANE: No, no, no, no.

ADV KHUMALO SC: So what was he still doing there?

WARRANT OFFICER MAGANE: I definitely cannot answer to that one.

20 **ADV KHUMALO SC:** Because you now had custody of the drugs. They are in your van, they are not in Mashaba's car.

WARRANT OFFICER MAGANE: That is correct, Commissioner.

ADV KHUMALO SC: And you cannot explain why he remained at the crime scene.

WARRANT OFFICER MAGANE: I would say so.

ADV KHUMALO SC: But you are a police officer, Warrant Officer.

WARRANT OFFICER MAGANE: No, I agree.

ADV KHUMALO SC: Were you not putting him in danger? You have recovered, we now know, 715 kilograms of Cocaine. And you know who the informer is who assisted the police in that regard. Are you not exposing the informer to danger? Because if those drugs belonged to the people
10 at Scania, then surely they would know who the informer was because he is in plain sight, parked his car next to Mashaba's vehicle. Was that not a concern for you?

WARRANT OFFICER MAGANE: No, it did not cross my mind.

ADV KHUMALO SC: I have a worry that the presence of that person there was to look at those drugs and to see what was to happen to them. And I put it no higher than that, that it is a worry and a suspicion. I am not stating it as a fact and I am doing it only to test your thought on this
20 issue. I want to hear what your comment is.

WARRANT OFFICER MAGANE: Maybe I will not have an honest answer to that. I would also say, in fact, it was worrying. But since, Commissioners, this guy was not taking any part and he was always in his car.

ADV KHUMALO SC: Ja, because informers usually do not

want to be found out. They do not expose themselves and show whoever the perpetrator is that I am part of this operation. That is not consistent with the behaviour of an informer. An informer gives information and they have nothing to do with the operation. But this one that follows the police and goes to the scene of the raid and remains until he is arrested later in the day, I find that really troubling.

WARRANT OFFICER MAGANE: I do not have any
10 comment for that, Commissioner.

ADV KHUMALO SC: Thank you.

ADV BALOYI SC: We also heard from evidence here that, in fact, police officers refuse to tell other police officers who their informers are because they do not want to place their sources at risk. And here you are in full plain sight of everybody. The police, the Scania people, who are members of the public really. But as Commissioner Khumalo says, the person who has disclosed, made a disclosure about the drugs, you, the one SAPS member who
20 was early on the scene, do not see the risk or problem of exposing someone who has been said to be an informer. So I share that concern. Do you know anything about handling informers?

WARRANT OFFICER MAGANE: That is correct. I know. I have attended a handling informer course.

ADV BALOYI SC: And you had no problem here. You did not see the problem that you have got an informer who not only is exposed, but in fact ends up being arrested, actually.

WARRANT OFFICER MAGANE: I would refer to this question, Commissioners. Actually, it depends on the handler. It depends on the handler. Because sometimes I have worked operations with other members where I will find that there is an informer inside the handler's car. That
10 one I can attest to that. So like I am saying, it solely depends on the handler. Because as a handler, you are the principal of your informer.

ADV BALOYI SC: Can you imagine a reason or think of a reason why a traffic officer or a traffic official would have an informer?

WARRANT OFFICER MAGANE: No, no. It helps. It helps a lot. Because other cases, you need an informer to solve them.

ADV BALOYI SC: Like what? To issue tickets?

20 **WARRANT OFFICER MAGANE:** No, no. Commissioners ...[intervenes].

ADV BALOYI SC: To put up a speed trap. Just explain what role you see for an informer or for a traffic officer. You know the functions of a traffic officer, right? What role or what need you see would be served by a traffic officer

having an informer? I ask genuinely because I cannot think of any reason.

WARRANT OFFICER MAGANE: To be honest with the Commissioners, Gauteng Traffic Police, the only thing that they do not do, of which I can put my neck on the block, they do not do investigation. They have got units like the Crime Intelligence within them. They have got a saturation unit that deals with hijackings and other crimes. And I understand from Mr Mashaba, Mashaba is currently a
10 Provincial Head of a unit called SLEU. It is for Special Law Enforcement Unit. They do almost everything. That is why they even have an ...[indistinct]. When there are CITs, they also respond.

ADV BALOYI SC: Thank you.

ADV MOSIKILI: Warrant Officer Magane, can you on the Exhibit File, go to page 31? That is the bigger file. That is the inside of a BMW. Do you accept that? On that picture?

WARRANT OFFICER MAGANE: I see it, Commissioners.

ADV MOSIKILI: You accept that, that it is the inside of a
20 BMW?

WARRANT OFFICER MAGANE: I see this picture.

ADV MOSIKILI: Do you see what is on the steering there? What emblem is there?

WARRANT OFFICER MAGANE: Next to the steering, there is water.

ADV MOSIKILI: On the steering, the emblem is there.

WARRANT OFFICER MAGANE: It is a BMW.

ADV MOSIKILI: Thank you. And then if you go to the next page, you will see that on photo 23 and 24, it is the same inside of a BMW. But in particular on photo 24, you will see that in orange there is what looks like an amount of money.

WARRANT OFFICER MAGANE: I see that, Commissioners.

ADV MOSIKILI: And then if you go on page 33, the top
10 picture, it is quite clear there that there is an amount of money there. Do you know anything about that money?

WARRANT OFFICER MAGANE: Not at all. I do not have any idea.

ADV MOSIKILI: Okay. What we are told is that that is Mr Nku's car and he had with him that amount was a total of R60 000.

WARRANT OFFICER MAGANE: I heard about that.

ADV MOSIKILI: Yes. And what I wanted to ask you and get your comment is that the theory is that that money was
20 possibly going to be used to pay either you or Mr Mashaba, or both of you, as a reward for recovering the drugs. What is your comment?

WARRANT OFFICER MAGANE: I totally disagree with that comment, because, I mean, even if they say I am very cheap, I would not change drugs worth R200 000 000 for

R60,000. That is my take.

ADV KHUMALO SC: You did not know how much the drugs were worth at the time. So you cannot say I would not change drugs worth R200 000 000 for R60000. You had not seen the drugs, so you do not know how much they were worth.

WARRANT OFFICER MAGANE: No, no, I am answering because I know that those drugs were worth R250 000 000.

ADV KHUMALO SC: You only know now. On the day you
10 did not know.

WARRANT OFFICER MAGANE: But to be quite honest with you, Commissioners, I would not do that.

ADV KHUMALO SC: Is it not unusual for an informer to walk around with R60 000 in cash?

WARRANT OFFICER MAGANE: Commissioners, to be honest with you, Mr Nku, when he was introduced to me, because I wanted to have a background, but even though we did not engage much because of time and everything, I was told he is a businessman who was in the distribution
20 sector. He had some distribution companies in Limpopo.

ADV KHUMALO SC: Distribution of what?

WARRANT OFFICER MAGANE: Coke and ...[intervenes].

ADV KHUMALO SC: Cocaine?

WARRANT OFFICER MAGANE: No, no, no, no, no. Coca-Cola. Not Coke as in Cocaine.

ADV KHUMALO SC: No, no, I am just clarifying.

WARRANT OFFICER MAGANE: No, no, no, not that one.

And because it was for the first time, I mean, he looked presentable and smart and everything.

ADV KHUMALO SC: And driving a new 7 Series BMW.

WARRANT OFFICER MAGANE: That is correct.

ADV BALOYI SC: I thought you said you were told he is an informer.

WARRANT OFFICER MAGANE: No, no, he is an informer.

10 Besides being an informer, he was running his business. Not that he was living as an informer. No.

ADV MOSIKILI: Let us go to page 396, Warrant Officer Magane.

ADV KHUMALO SC: Can you just page 35 and 36? That is still the same BMW, and I could be wrong. Can you just clarify why is that money now in police bags? Is it after it was recovered by the police?

WARRANT OFFICER MAGANE: Even though I am not privy to what is happening, but I will assume that it was now
20 inside an evidence bag.

ADV KHUMALO SC: So he did not have police exhibit bags? I think that is the point I am driving at.

WARRANT OFFICER MAGANE: No, no, I think this was subsequent to his arrest.

ADV KHUMALO SC: After it was recovered in his car?

WARRANT OFFICER MAGANE: That is correct.

ADV KHUMALO SC: Thank you.

ADV MOSIKILI: Thank you, Commissioner Baloyi. Can we go to page 396? We are on the same bundle.

WARRANT OFFICER MAGANE: Yes.

ADV MOSIKILI: Now, during your exchange with Commissioner Baloyi, you were quite adamant that while your black bakkie was loaded, you were nowhere in position or of intention to leave the premises.

10 **WARRANT OFFICER MAGANE:** That is correct, Commissioners.

ADV MOSIKILI: Can you then please, for the record, read in what is stated there at paragraph 6? Just to assist you in terms of, this is a statement by one Jolene Wentzel, or Koekemoer, as it seems to be made in ...[indistinct] of Scania.

WARRANT OFFICER MAGANE:

20 “As we opened the container, black bags fell out of the container, and the police officer said it was drugs. The police then instructed us to load them inside the Nissan bakkie, and after loading them, the tall officer came with cable ties and said he is arresting us. He was arresting me for receiving the goods. The driver

was transporting the goods from Durban to Cornelius because the goods belonged to him. He said they will be taking us to the nearest police station. And I called my director, informing him about the arrest and that we must meet at the police station.”

ADV MOSIKILI: And then go to paragraph 7.

WARRANT OFFICER MAGANE:

10 “I told them that I will not go with them, but I will drive my car. I then came to my office to collect my belongings and went back. When I got back to the container, police from Booyens arrived. After some time, the police officer who was in the red vehicle also arrived and obtained my statement. While we were still busy writing my statement, police from Flying Squad and the Hawks also arrived. They

20 dealt with the situation. At about 17:00, the police officers who arrived first in the warehouse were arrested by the police officers who alleged they were from Hawks.”

ADV MOSIKILI: No, that is fine. You can leave it there.

What I wanted to demonstrate to you is that even this evidence by Jolene, it accords with what you had informed your colleagues, that you were going to leave the premises. And as Commissioner Baloyi in fact suggested to you, that it is the presence or the arrival of the Booyens that stopped your move. As it is quite clear here that Ms Jolene was informed that she will be taken to the police station. And the only thing she asked is that I told them that I will not go with them, but I will drive my car. And then he went
10 to the office to collect belongings and went back. What is your comment?

WARRANT OFFICER MAGANE: I differ with this statement from Jolene. I differ completely so.

ADV MOSIKILI: You differ in respect of what?

WARRANT OFFICER MAGANE: That we were intending to leave before the scene was processed. I still stand by my words.

ADV MOSIKILI: So, then your testimony is that she is incorrect to say that. And then Warrant Officer Phakula has
20 to be also incorrect and also because the same information was relayed to Captain Medupi. That is also incorrect. So you have three people, according to you, that are lying about your intentions to leave. And the only person who is saying the truth is you. That you never intended to leave, despite your bakkie being in a position to go.

WARRANT OFFICER MAGANE: I am the one who was at the scene. Like I am saying, it was still early for us to leave the scene. The scene was still going to be processed. I still maintain that if we had intention to leave, we would have left even before the Booyens arrived, because they came 30 minutes later.

ADV MOSIKILI: We will come back to that. Because what we know is that at least you were distracted by the falling of the bag. One of the bags was stuck. That is why you could
10 not leave as quickly as you wanted to. What do you say to that?

WARRANT OFFICER MAGANE: I also say that is not correct. Like, now we are talking about the intention to leave and there are allegations or hearsays that my bakkie was blocked while leaving the scene. And I can challenge this Commission that if that is the case, if a footage can be brought that will suggest that my car was leaving, then I must go straight to jail.

ADV MOSIKILI: No, no, the evidence is quite clear. And
20 we have seen from the photos that your bakkie was loaded. You yourself testified that you told the officers from Booyens that you were going to take those. So you were leaving. You were going to take those bags with you to Alberton. The same message is contained in more than two statements. Two statements by Warrant Officer Phakula

and one statement by Captain Medupi. And also the fourth person now, that is the fourth statement by Jolene Koekemoer says the same thing of your intention to leave.

WARRANT OFFICER MAGANE: Like I am saying, I will not agree to this. And I do not even agree to that our intention was to leave the scene. That is incorrect.

ADV MOSIKILI: I will not take it higher than that, except to say to you, your version, given what I have told you, and these are versions that were given under oath as well, it is
10 highly improbable given the overwhelming evidence in front of the Commission that you had every intention to leave.

WARRANT OFFICER MAGANE: I would say if that is the opinion, I am blatantly saying no. That is not correct. And I will stand by my words.

ADV MOSIKILI: Yes, I understand to be your final answer, despite the overwhelming evidence. And you say that the only time you lied is that you lied to the Booyens officials about your intention to leave and take those to Alberton.

WARRANT OFFICER MAGANE: Can I answer to that?

20 **ADV MOSIKILI:** Yes, you can answer.

WARRANT OFFICER MAGANE: Commissioners, in our conversation, there is nowhere in our conversation between myself, Chief Mashaba, and the Booyens, there was nowhere I said or we said we are leaving. The only thing that we said, it was, we were talking about the detention of

the suspect and the booking of the exhibit.

ADV MOSIKILI: I will not belabour the point. Let us go to, there is a file, it should say on the spine, it should say Francois Steyn file.

WARRANT OFFICER MAGANE: Yes.

ADV MOSIKILI: Yes, they will assist you to get to that file. And I want you to get to page 137 of that file.

WARRANT OFFICER MAGANE: Ja, I am there.

ADV MOSIKILI: Yes. This is a National Instruction 1 of
10 2025, and it provides different phases that must be followed when handling exhibits in situations like this. But I want us to focus on, you will see if you go to page 136, just the page before, this phase is called the reporting phase. And then I want you to go to the next page on 137 and read into the record where it says they are under 4.

WARRANT OFFICER MAGANE: I am lost. Where must I go to?

ADV MOSIKILI: 137.

WARRANT OFFICER MAGANE: 137.

20 **ADV MOSIKILI:** Then there is a, let us go four up.

WARRANT OFFICER MAGANE: Record of all action on the computerised system ...[intervenes].

ADV MOSIKILI: No, no, no. Top of the page, any member.

WARRANT OFFICER MAGANE: Okay:

“Any member who arrives at the scene of

crime first must take the responsibility of the first responder as set out in this National Instruction until an appropriate member from the division, Visible Policing, or Detective Service takes over this responsibility.”

ADV MOSIKILI: And at Aeroton, at least you will accept that you would be the first responder to the situation.

WARRANT OFFICER MAGANE: That is correct.

10 **ADV MOSIKILI:** Now, please go to the bottom of the page at 10, says responding phase.

ADV KHUMALO SC: Sorry, can you read B also? He read only A before he goes to the responding phase.

ADV MOSIKILI: Please read B on 4. It is 24A, then 24B.

WARRANT OFFICER MAGANE:

“Report his or her arrival at the crime scene to the appropriate dispatcher at the Community Service Centre, or 10111 Centre.”

20 **ADV KHUMALO SC:** Did you do that?

WARRANT OFFICER MAGANE: No, no, I did not.

ADV MOSIKILI: Then let us go to 10, responding phase. Then read 1.

WARRANT OFFICER MAGANE:

“The first responder must approach the

crime scene with due consideration to his or her own safety, the safety of others, and the preservation and integrity of the crime scene.”

ADV MOSIKILI: And according to your good self, did you do any of those?

WARRANT OFFICER MAGANE: The preservation and integrity of the crime scene, that one I tried my level best.

ADV MOSIKILI: And the safety of others?

10 **CHAIRPERSON**: No, no, no, no, no. You cannot even begin to say that, Warrant Officer. You accepted earlier when basically all three of us engaged you that ...[intervenes].

WARRANT OFFICER MAGANE: Commissioners, I will say it was an oversight.

CHAIRPERSON: The container was opened. The seal was broken, in fact, and the container was opened. No pictures were taken before any of that was done. And then a number of people handled the bags with their bare hands and
20 lumped them onto the back of your bakkie. Everything was a stuff-up, as one of the people who prepared these reports said, and you accepted that it was a stuff-up. So, you cannot even begin to say that you did your best to preserve the scene. You cannot.

WARRANT OFFICER MAGANE: I agree, Commissioners.

CHAIRPERSON: Thank you.

ADV MOSIKILI: Please try to remember your testimony so that you do not appear to be at least committing perjury or at least providing contradictory versions. Now, when you go to 1A and we talk about your own safety, you were asked earlier on by Commissioner Khumalo as well to say you did not consider or at least ensure that your own safety was intact, more so that you chose to drive to a position or to a situation where there could potentially or there is a risk that
10 there could be even an ambush because you are escorting a truck full with at least suspected drugs and without any protection. You accepted that?

WARRANT OFFICER MAGANE: I accepted that.

ADV MOSIKILI: Yes, and the same would apply when I asked you specifically to say to you, do you find it appropriate and safe for Mr Nku himself to be there in the situations where he had provided you with all the necessary information? Do you remember that?

WARRANT OFFICER MAGANE: I remember that,
20 Commissioners.

ADV MOSIKILI: And I say to you, safety as well was not taken into account. You accept that?

WARRANT OFFICER MAGANE: I accept that.

ADV MOSIKILI: Yes, then let us go to the next page, 138.

WARRANT OFFICER MAGANE: Page?

ADV MOSIKILI: 138, 1-3-8.

WARRANT OFFICER MAGANE: 138?

ADV MOSIKILI: Yes, go on top of those three. The first responder must.

WARRANT OFFICER MAGANE:

10 “The first responder must access the situation with regard to initial observation, arrest the suspect as per the prescribed, maintain the first responder report, Annexure D2, and ensure that all unauthorised persons are removed from the crime scene and they remain outside the outer corner.”

ADV MOSIKILI: And at least on this score, you accept that you did not, especially on the last one, you did not ensure that all unauthorised persons are removed from the scene and they remain outside the outer corner. In fact, you did the opposite because you allowed the civilians to handle the exhibit. You accept that?

20 **WARRANT OFFICER MAGANE:** I accept that.

ADV BALOYI SC: What is the first responder report, Annexure D2? What goes into that?

WARRANT OFFICER MAGANE: The first responder report, I am not too sure about this.

ADV BALOYI SC: Okay, so you did not complete it. That

is what it means. I mean, you are not sure what it is, we must take it you did not complete it.

WARRANT OFFICER MAGANE: No, I did not complete it.

ADV BALOYI SC: Okay.

WARRANT OFFICER MAGANE: I think in this case, Commissioners, they are talking about, let us say, a murder scene whereby maybe this was dispatched from 1011 that ...[intervenes].

ADV BALOYI SC: Why do you say that? You do not know
10 what the report is, the D2 Annexure, so you cannot speak to when does it apply. I am happy with your answer, or to leave it at you saying you are not sure what is this D2.

WARRANT OFFICER MAGANE: I will take that.

ADV BALOYI SC: You can leave it at that.

WARRANT OFFICER MAGANE: I am not sure about that one.

ADV BALOYI SC: Okay.

CHAIRPERSON: This is broadly about crime scene management. That is what it is. So, it is not about murder
20 or any specific or particular crime scene management.

ADV BALOYI SC: Okay, you accept that?

WARRANT OFFICER MAGANE: I accept that.

ADV BALOYI SC: It does not apply to just murder. Okay. And you have accepted to the Evidence Leader that you were the first responder in this scene?

WARRANT OFFICER MAGANE: That is correct.

ADV BALOYI SC: Okay. Now, I am a bit confused because much earlier you said this was Mr Mashaba's scene. You said it was Chief Mashaba's scene. Now we know there is a National Instruction that instructs every SAPS member that if you are the first one at the scene, here is what you get to do. You did not do that. You let Chief Mashaba be the owner of the scene. Can you just explain it, just to make sure that I do not misunderstand?

10 **WARRANT OFFICER MAGANE:** By the virtue of Chief Mashaba being the custodian of the information and a commissioned officer, he was also responsible for, or it was also appropriate ...[intervenes].

ADV BALOYI SC: Are you saying what you read earlier does not apply to you? I mean, you were the first SAPS member on the scene acting on information from a traffic officer and an informer. You are the SAPS member on the scene, and you have accepted that you are a first responder, and you accept, I thought, that what you read
20 earlier in the reporting phase, that you accept that it applied to you on the day. Did I misunderstand you in this discussion?

WARRANT OFFICER MAGANE: No, no, no. Help me correct, ja.

ADV BALOYI SC: Okay. So another thing that we see is

you go there with an informer and someone who gave you the information, which is why Chief Mashaba is here. You get there, and you let him be in charge of the scene, notwithstanding that which you read, 84A and B. You did not comply with that.

WARRANT OFFICER MAGANE: I take that, Commissioners.

ADV BALOYI SC: Okay. You accept that?

WARRANT OFFICER MAGANE: Yes, Commissioner.

10 **ADV BALOYI SC:** All right. Thanks, Mr Mosikili.

ADV KHUMALO SC: Are you aware, Warrant Officer, that there is another National Instruction? Is that one of 2017 that General Msigidi referred to in relation to the Port Shepstone bust? Are you aware that there is another National Instruction that deals specifically with handling of drug busts and drug scenes? Are you aware of that?

WARRANT OFFICER MAGANE: I am not aware of that, Commissioner.

20 **ADV KHUMALO SC:** I assume that you do not know what it says.

WARRANT OFFICER MAGANE: No.

ADV KHUMALO SC: Do you see why it was inappropriate for you to be at a drug bust to begin with? You are simply not qualified to be there. I think that point was made earlier.

WARRANT OFFICER MAGANE: I agree, Commissioners.

ADV KHUMALO SC: And even if we were relying only on this National Instruction that deals with crime scenes, we looked at 8, even 9. If you go to page 137, Item 10, paragraph 10, remember we dealt with Item 8 and I asked you to read B. And B deals with the reporting phase. But even the responding phase, if you look at sub 2, bottom of the page on 137:

10 “On arrival at the crime scene, the first responder must confirm his or her arrival at the crime scene to the dispatcher.”

So, you must still call 10111 and say I am at a crime scene, I need support, this is what the complaint is about, I need people who are qualified to handle this scene. You had no business going there telling people to open the container and to take out bags from the container. That is simply not your job and you had no business doing that. Do you want to comment?

WARRANT OFFICER MAGANE: No comment.

20 **ADV KHUMALO SC:** This does not just apply, I hope it is a lesson, not just to you, but other officers who are in your position because they may never get the opportunity to sit where you are sitting, but they must also know that there are prescripts that are applicable to how police perform their functions and they must familiarise themselves with

those prescripts so that they do not get into trouble. Do you accept that?

WARRANT OFFICER MAGANE: I accept that. I do not take it lightly. It is noted.

ADV MOSIKILI: Okay, then let us deal with the last section I want to refer to, which is the controlling phase. Can you read that into the record? So in 11.1, the first responder must execute.

WARRANT OFFICER MAGANE:

10 “The first responder must execute all the
 duties of the crime scene commander
 until the handover to the crime scene
 commander has been completed. Taking
 control and evaluation of the crime
 scene, the first responder upon arrival at
 the scene must, after taking all the
 necessary steps to prevent the
 contamination and disturbance of the
 crime scene, assume control of the crime
20 scene from the relevant party by
 accepting the handover of the crime
 scene from such party, identify the nature
 of the incident, give C-trap [?] to the
 dispatcher, arrange for the suspect to be
 removed from the crime scene as soon as

possible if an arrest has been made. With due consideration of the integrity of physical evidence, assist the injured person if the member is competent and certified or contact the relevant authorities as the matter of priority. Document the place where the injured person was found and make notes accordingly.”

- 10 **ADV MOSIKILI**: I think it is fine. The rest they talk about where there is injuries or possible fatalities, which we heard there. You can go to B.

WARRANT OFFICER MAGANE:

- 20 “After taking control of the crime scene, the first responder must evaluate the safety status of the crime scene and request assistance of a safety official as identified and in accordance with the contingency plan if required. The first responder must direct the emergency services and other official role players at the scene to prevent evidence from being disturbed or contaminated.”

ADV MOSIKILI: Let us go to 3. I just want you to read the record 3B.

WARRANT OFFICER MAGANE:

10 “The first responder must secure and protect the crime scene by establishing an inner cordon around the perimeter of the crime scene as well as an outer cordon around the inner cordon to enable members to perform their tasks within the inner cordon, protecting obvious and evident exhibits from contamination and elements of destruction. Completing the exhibit log if the exhibits have to be moved at the crime scene. This information needs to be given to the crime scene examiner upon his or her arrival to indicate the original position of the exhibit as found at the crime scene and to capture it on the drawing plan. Dealing with...” ...[intervenes].

ADV MOSIKILI: That is fine.

20 **ADV BALOYI SC:** 3A says you must establish an inner cordon around the perimeter of the crime scene. That was not done here. You did not create, as the first responder, you did not create a cordon of the crime scene, did you?

WARRANT OFFICER MAGANE: With the assistance of the Booyens.

ADV BALOYI SC: Yes, before they arrived. We know you started doing things before the Booyens people arrived. And I am asking you about before the Booyens people arrived.

WARRANT OFFICER MAGANE: No, that was not done.

ADV BALOYI SC: You had not created any cordon at all.

WARRANT OFFICER MAGANE: That was not done.

ADV BALOYI SC: Yes, thank you.

ADV KHUMALO SC: Did you complete Annexure D5, the
10 exhibits log? Because this had to be completed before you moved them from the container to your vehicle.

WARRANT OFFICER MAGANE: Commissioners, I do not know, but this is what it is. Because, actually, I would say nothing was done because we were waiting for other role players to arrive.

ADV KHUMALO SC: But you already removed the exhibits from the primary scene, which is the container, and you have put them in the back of your bakkie. And it says here in C, you must complete the exhibit log if the exhibits have
20 to be moved at the crime scene. Do you see that it says that in C?

WARRANT OFFICER MAGANE: The exhibit was not yet moved.

ADV KHUMALO SC: No, but you moved them from the container to your vehicle.

WARRANT OFFICER MAGANE: To a bakkie.

ADV KHUMALO SC: Yes.

WARRANT OFFICER MAGANE: But we were still at the scene.

ADV KHUMALO SC: So what then is the primary scene, according to you? So the scene is the Scania complex. It is not the container. According to you, as long as they are in the Scania campus for lack of a better word, they are still on the scene. They were not moved from the primary
10 scene.

WARRANT OFFICER MAGANE: I would say I would agree.

ADV KHUMALO SC: So, even if they were in the back of the 7 Series BMW, according to you, that would still be at the scene?

WARRANT OFFICER MAGANE: There was no way that they would be.

ADV KHUMALO SC: No, I qualified it with an if. I did not suggest that they were there. I said if they were taken out of the container and put in the back of the 7 Series BMW,
20 they would still not have moved from the primary scene according to you?

WARRANT OFFICER MAGANE: I am having a problem with the 7 Series because it is not a State bakkie.

ADV KHUMALO SC: I have a problem that it was there in the first place. So, what I am putting to you is a

proposition. Because you are saying the scene is the entire Scania campus. Now since the BMW was in the campus, within the campus, on your logic, even if these exhibits were put inside the BMW, they still would not have been moved from the primary scene because that whole place is the scene.

WARRANT OFFICER MAGANE: Commissioner, you know, I do not want to associate or take the exhibit into the BMW because it is not a state vehicle.

10 **ADV KHUMALO SC:** I will leave it there.

ADV BALOYI SC: Okay. Let me try and help complete this. 3C says:

“The information needs to be given to the crime scene examiner upon his arrival to indicate...”

And underline this:

“...the original position of the exhibits as found at the crime scene and to capture it on the drawing plan.”

20 So, the original position of these exhibits would have been the container and where you say they fell when you opened the door, and they fell before you took any of them onto your bakkie. According to 3C, that is the original place or position of the exhibits when you found them. It is in the container and on the ground where you say they fell.

WARRANT OFFICER MAGANE: Commissioner, I am asking for a comfort break.

ADV MOSIKILI: Chair, it is almost 4 o'clock. I think we can end it here, Chair, unless there are further questions.

CHAIRPERSON: Let us take a quick break. We will come back just now.

ADV MOSIKILI: Thank you, Chair.

CHAIRPERSON: Let us adjourn.

INQUIRY ADJOURNS

10 **INQUIRY RESUMES**

ADV MOSIKILI: Thank you, Chair. Warrant Officer Magane, is it fair to say to you that in this whole incident at Aeroton you did not fully appreciate the magnitude and probably seriousness of the situation that you were dealing with at the end of the day? That is why you committed so many errors or oversights, as you call them.

WARRANT OFFICER MAGANE: My answer to that will be that really, if I anticipated that the situation will turn out like that, I would have done better. Taking into consideration
20 that by the time we arrived there, it was the only two of us, Mr Mashaba and me. Should I, should we maybe have got the information like before and have a full knowledge as to how big or the gravity or the magnitude of that consignment, we would have done better.

ADV MOSIKILI: I specifically requested you, when we

were busy with your testimony, to say that you are here to testify for yourself, and I would appreciate your answers. And for the record, to confine that applies to you, especially if you are going to say, with the benefit of hindsight, you have to speak to yourself or at least to your own actions and decisions, not ...[intervenes].

WARRANT OFFICER MAGANE: No, I understand that.

ADV MOSIKILI: Thank you.

WARRANT OFFICER MAGANE: If I had an opportunity of
10 having a full information about the drugs and that kind of consignment, I think I would have done better than I did.

ADV MOSIKILI: In fact, when the Chair asked you in the morning to say when you first arrived at Yellow Jersey Logistics and had you opened the container and you saw the drugs, and he asked you what you would have done, you said you would have then stopped and called the necessary people to attend to the crime scene. Do you remember that, giving that answer?

WARRANT OFFICER MAGANE: I would say yes.

20 **ADV MOSIKILI:** Yes, and ...[intervenes].

CHAIRPERSON: Is that because you do not remember?

WARRANT OFFICER MAGANE: Ja, because if you can remember.

CHAIRPERSON: I also remember. Yes, yes.

ADV MOSIKILI: The simple proposition is that you should

have done exactly that when you arrived, at the very least, if one was to be to be fair to you, at least as soon as you say in your own testimony, as soon as you saw the black bags falling off, what you should have done is to simply say do not touch, we do not know what is in here, cordon off and call the right people. Did you accept that?

WARRANT OFFICER MAGANE: I accept that.

ADV MOSIKILI: Yes. Chair, those will be our questions.

CHAIRPERSON: Thank you. Just something very quick,
10 Warrant Officer. Truth be told, I think we were humouring you to even take you through several paragraphs of this National Instruction on crime scene management. I am saying we were humouring you because we all know that everything that could have gone wrong actually did go wrong.

The function of that was as you admitted this morning when I engaged you, both of you were clueless as to how to manage a crime scene. That is why we have the mess that you ended up with. I am just summing up the
20 entire scene. Do you accept that?

WARRANT OFFICER MAGANE: I accept that with both hands and I am not taking this very lightly. If given another opportunity, I think I would handle this kind of situation very differently if I may come across such a situation.

CHAIRPERSON: Yes, I am saying we are humouring you,

taking you through these prescripts because you simply do not know them and therefore there is not a snowball's chance in hell that you could have complied with them because you knew nothing about them. Do you accept that?

WARRANT OFFICER MAGANE: I accept that, Commissioner.

CHAIRPERSON: Thank you.

ADV MOSIKILI: Chair, can I put a last question just to piggyback on your last exchange with Warrant Officer
10 Magane? And the opposite of it, Warrant Officer, is that it is either that you do not appreciate the fullness of the situation you are dealing with, but at worst for you, is that you are complicit to the process of intercepting these drugs to at least assist the intended recipient to recover them. What is your comment to that?

WARRANT OFFICER MAGANE: That one, I am totally, I still maintain that beside me not handling the situation in the correct manner, but for the version that I was intending to take those drugs to the recipient, I totally defaulted
20 taking into account – I mean, if you can go through, I mean, our phones were taken to check if there was any link between us prior to that. I had no conversation with – it was just a coincidence that the information came through me.

ADV MOSIKILI: Okay. Lastly, throughout this, Warrant

Officer, have you ever asked Chief Mashaba as to why he did not call his own colleagues in the Traffic Department and instead called people from at least your direction being and you ultimately, have you ever asked him why he never called his own people?

WARRANT OFFICER MAGANE: Yes. And the reason was that because this thing, the information was about Roodekop, which happened to be in Alberton. That is when he thought about Warrant Officer Pokongwane [?] and that
10 Warrant Officer Pokongwane referred him to me.

ADV MOSIKILI: And you were the right person in terms of the jurisdiction?

WARRANT OFFICER MAGANE: No, no, no. When Mr Mashaba phoned me, he said can you please assist with getting someone? He said, can you please assist me? I have got information. It was just an open invitation. Not that I had something or I was special in something.

ADV MOSIKILI: But he needed someone.

WARRANT OFFICER MAGANE: Yes. Like I said, after he
20 called me, I called some Sergeant from a Dog Unit as I was busy. So there was no intention that specifically he want me to handle the situation.

ADV MOSIKILI: In all of this, do you think or do you believe or it come across your mind to think that perhaps you were used in all of this while you were not being

aware?

WARRANT OFFICER MAGANE: Definitely, I will not say that, I will not have an answer because I was just doing this innocently. Innocently. Not thinking of something behind.

ADV MOSIKILI: Yes, hence I am saying you were used. Remember we have the drugs. They are high-value drugs. Someone has to retrieve them. And they need someone who is a police to assist that process.

WARRANT OFFICER MAGANE: I would say for me it was
10 just an unfortunate position. If I may say that I fell into that trap, but I had no intention or I had no clue that something behind might be happening. Much as I say I innocently went there, not even having an idea who the informer is and how was this information gathered. That maybe if I can say I might have fell into a trap, if there is a better way of saying that.

But innocently, I attended the scene. And out of the little knowledge that I had, I thought I was doing the right thing. But to this Commission I can safely say I had
20 no intention of taking the drugs or of running away from that. That one, I will still repeat it. If there is something that maybe the Commission will think that I was involved in another way. God knows that I am innocent.

ADV MOSIKILI: Now you accept that being used does not require you to have the intention. Because you, as you

correctly put that, you might be innocently thinking that you are doing your job, but ultimately you were deceived into assisting someone to intercept.

WARRANT OFFICER MAGANE: Like I am saying, and I will still repeat this over and over to prove that indeed I knew nothing about the interception of these drugs. Like you are saying, I can say I was in a blind spot. I was in the blind spot. I was just doing this, offering an assistance to another man.

10 **ADV MOSIKILI:** Were you blind spotted by Mr Mashaba? Yes or no?

WARRANT OFFICER MAGANE: No, to be part of this operation.

ADV MOSIKILI: Chair, I cannot take it further than that. Thank you.

ADV BALOYI SC: Warrant Officer Magane, lastly from me. Earlier in your testimony you said that you informed your superior, your Station Commander, that you are going into this operation.

20 **WARRANT OFFICER MAGANE:** That is correct.

ADV BALOYI SC: What was the reason for that? Why did you find it necessary to inform your Station Commander?

WARRANT OFFICER MAGANE: Because when you – it is just for a control purposes.

ADV BALOYI SC: Yes.

WARRANT OFFICER MAGANE: So that it cannot later emerge that he does not know about your whereabouts.

ADV BALOYI SC: Okay.

WARRANT OFFICER MAGANE: And it is always fair and safe to inform your superior, unless you have got some ulterior motives.

ADV BALOYI SC: Okay. Do you know or did you come to know that Chief Mashaba did not inform his superior about this operation?

10 **WARRANT OFFICER MAGANE:** Unfortunately, Commissioner, I would not be in a better position to say he informed his supervisor. But fair enough.

ADV BALOYI SC: Yes.

WARRANT OFFICER MAGANE: For me, I did the right thing.

ADV BALOYI SC: Yes. His supervisor, Dumisani Pompi filed a statement at the time and said that, and I will just pick parts of it that make the point, he says:

20 “Chief Mashaba, in all his work engagements, he keeps communicating with me as his supervisor with regards to his duties.”

Right? That is the one thing he says. And then he says that morning he called Mashaba for a meeting and Mashaba said he is busy. And then at about 11:26 he heard from

Deputy Director that Chief Mashaba has been arrested by the Hawks. He heard that.

And then he then told me and then he called him and then he told me he could not tell me that they had an undercover operation of drugs. This is Mashaba now. He finds him on the phone. After now he is arrested. That the operation was successful but they are just having a misunderstanding with other members of Crime Intelligence.

The indication from him was that they are fine and
10 they will handle the situation. This is Mashaba to his superior. And then this is what the superior says in the statement:

“for me this denoted that the responsible person for SAPS that approved this operation will discuss the misunderstanding with the General from Intelligence.”

This was a reference to General Khan, a telephone call from General Khan. So, the person responsible for the operation
20 would have been you, according to his superior. There has to be a SAPS person responsible for the operation. But you have told us that in fact Mashaba was responsible. And then lastly, this is what the part where his boss says:

“I can confirm that I did not place Mashaba...”

He calls him Acting Deputy Provincial Inspector Mashaba:

“...on duty of the activity he was performing at the time of his arrest and he did not even inform me about it.”

So, that is what his superior says. So, Mashaba went and did his own thing without his boss knowing. And you have said, you have explained why you would inform your superior.

WARRANT OFFICER MAGANE: I did that.

10 **ADV BALOYI SC:** And quite notably for me you say you would inform unless there was an ulterior motive for not telling your superior.

WARRANT OFFICER MAGANE: That is correct, Commissioner.

ADV BALOYI SC: Okay, all right. That is what I wanted to point to you. But then I want to put certain facts that have come out of the evidence or indicators that I wanted to understand why there is concern about your role in this and the kind of conclusions that I shared with you earlier to say
20 it looks like you were part of a scheme to intercept these drugs.

One, and I list them just try and remember them, but it all comes from the evidence. And one is you are an office-bound person by your job. On that day, and your Commander says that, and on that day you left the office to

do, to be involved with the drug bust because Mashaba who is not your friend, he is not someone you work with every day and do operations with, calls you out of the blue and says, come and help me.

So we have established that. You leave your desk job to go and assist him in a drug bust where you have absolutely no experience. You do not know the protocols that apply, you have never done a drug bust, but you go and assist and join him when you have no relevant experience.

10 That is one.

Two, from the evidence, you did not call any relevant role players to come to the scene. You did not call LCRC, you did not call SANEB, you did not call Dog Unit. The one person you called who said I am unavailable, you did not say put me through to somebody else or to your Commander or something. You let it be Maja, I think that was Maja. When Maja says I am unavailable, who is Dog Unit, that was the end of it.

You never called Dog Unit. You did not try to call
20 the Forensic Lab. You did not call VISPOL, you did not call Booyens, you did not call anyone that is relevant. You went to an operation with – you did not call LCRC. You went to an operation with someone who has come to you with information to say, SAPS, here is information, and you go there. That is two.

Three, you let Mashaba run this operation. On your own evidence you told us that he was in charge from the get-go. He was in charge of this in spite of National Instruction that says you are the first responder, which you accept, and therefore you should take responsibility for that operation.

You allow yourself to be run by a traffic officer on a scene where the National Instruction says you must take responsibility. Having done that, you completely participate
10 in contamination of the exhibits and the scene. You do that. We have established it is because you do not know anything about the protocols and procedures, but you undermine completely any chance of successful investigation where these things come from, who touched them, because you touch them and you get other people to touch them. I think that is four for me.

Five, we now have these WhatsApp messages where now we know someone was interested in the interception. You say you know nothing about it, but we
20 know that is in the mix, right? Now we know that it was in the mix.

WARRANT OFFICER MAGANE: Yes.

ADV BALOYI SC: Someone was exchanging WhatsApp messages about the very drugs that you are part of, the operation of which you are part of and you are supposed to

be in charge, but you are not in charge. Mashaba did not inform his superior, and you say if you do not inform your superior and I accept that, if you do not inform your superior, there must be an ulterior motive why you do so.

And then lastly, in my list, lastly, there is the issue, the concerning issue of, one, you have someone who is supposed to be an informer being inexplicably part of your operation, even if you say he just sat there and watched. Inexplicably. You have got someone who is watching,
10 seeing, going with you to track where the drugs are going. He is going with you from Yellow Jersey to Scania.

If you had left that place, Scania, before Boosens arrived, he would have been going with you. So, you have got someone whose presence is not satisfactorily explained and you, first responder, are allowing all of this. He sees what is happening.

But here is another worrying issue that Commissioner Khumalo has raised with you. This person has money. There is a stash of money in their car. This
20 unexplained person, in fact this person whose presence is unexplained, supposed to be an informer, but his presence is uninformed, he is found to have a lot of money on him. That does not look good on these facts when you look at all of these facts.

And what I want to put to you on all of those facts

is that I hope you do understand how that reasonably creates a basis for suspicion about your own involvement in this. At best, you may have been innocent and been used by Mr Mashaba. You came in innocently, thinking you are here to assist someone who wants assistance. But the full set of facts here shows that this operation was not a legitimate police operation.

And the suspicion that these drugs were not intended, at least not all of them, but according to the
10 WhatsApp messages, all of them, in fact, are supposed to be delivered elsewhere other than police stations. It does not look good on you. It makes you appear to have been knowingly a part of this illicit operation that you were brought in just to create the cover of SAPS, because that is what you did, knowingly or unknowingly.

You created cover for Mashaba that when you went to Yellow Jersey you were able to say, I am SAPS, here is my card. You did that. You got to Scania, you said, here, I am SAPS. When other police officers arrived, you said,
20 here, I am SAPS. So, you provided cover to someone who in fact, this was his consignment, it was not yours. He got the information. It was not your consignment. You did not find it.

So, I hope you understand how it looks and how it creates suspicion about your own involvement and your own

knowledge of what, in fact, was happening in this scene, or was supposed to happen. You understand what I am putting to you? And you can comment if you want.

WARRANT OFFICER MAGANE: Commissioners, with all fairness, I will not dispute your remark. In all honesty, I still maintain my innocence. I do not know how best can I explain this. I do not know how best can I explain this. That maybe I was just in a firing line, but that is all I can say.

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

WARRANT OFFICER MAGANE: Thank you, Commissioners.

ADV KHUMALO SC: Can I just say one thing and then clarify? It is a remarkable coincidence that the one police officer they called had a bakkie which was large enough to fit all these bags and they could sit comfortably in that back. It is a worrying coincidence.

20 But my question is really clarification more than anything else. Did I understand you correctly in the morning that you had just finished your shift? You were in a night shift and you had just finished when you were called.

WARRANT OFFICER MAGANE: No, no, no.

ADV KHUMALO SC: Was it the case that you were not on duty at all on the day?

WARRANT OFFICER MAGANE: No, no, no. I was on duty.

ADV KHUMALO SC: You were on duty?

WARRANT OFFICER MAGANE: Actually, I reported early as a duty officer.

ADV KHUMALO SC: At 6 o'clock.

WARRANT OFFICER MAGANE: I visited the station as a duty officer.

ADV KHUMALO SC: Yes.

WARRANT OFFICER MAGANE: Coincidentally, while I was busy with my visit, is when I received this call.

10 **ADV KHUMALO SC:** All right. So you were on duty that day?

WARRANT OFFICER MAGANE: I was officially on duty.

ADV KHUMALO SC: All right, that is all I wanted to clarify.

ADV MOSIKILI: Thank you, Chair. No further questions.

CHAIRPERSON: Thank you very much, Warrant Officer. You are excused. Let us adjourn and resume at 09:30 tomorrow.

INQUIRY ADJOURNS

INQUIRY POSTPONED TO 13 MAY 2026

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