

COMMISSION OF INQUIRY INTO STATE CAPTURE

HELD AT

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10

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DAY 88

FINAL

20

HEARING RESUMES

CHAIRPERSON: Good morning Ms September, good morning everybody.

ADVOCATE VERUSHKA SEPTEMBER: Good morning Chair.

CHAIRPERSON: Before we start I just have two matters that I want to deal with. The one is what I said yesterday with regard to Colonel Madhoe. Sections of the media may have misunderstood what I said or I may not have articulated what I wanted to say correctly. So I just want to try again to make sure that I am not misunderstood. One, I am

10 hearing evidence in relation to Law Enforcement Agencies in regard to which there is a suggestion that powers were being abused in regard to the arrest and prosecution of officers who were investigating corruption matters and that they were being suspended and there were transfers that appear not to have been motivated by proper reasons but may have been connected with corruption or harassing people who were doing their job. And in regard to Colonel Madhoe I have heard evidence that suggests that he may be guilty of corruption. That he may have been guilty of bribery or attempted bribery. And I have heard that it appears that not much has been done over many years in regard

20 to the allegations against him relating to bribery. And that includes in terms of internal disciplinary matters within SAPS. So if not much has been done over so many years that would be a matter of grave concern but I am not at this stage or I am not the person at this stage to say whether he should or should not be there at work. Somebody within SAPS is supposed to look into the matter and take such decisions as

are dictated by the law and the policies of SAPS.

Whether somebody has already looked into the matter and came to a decision that nothing should be done I do not know but I would like to know whether anything has been done and if so what it is. Therefore I would like these concerns – this issue to be brought to senior authorities within SAPS because it is important to find out whether they know about the matter and they know whether anything has been done and if nothing has been done why nothing has been done, they can look into the matter. But as a Commission we would
10 definitely like to have full information as well because there is a suggestion in the evidence that as part of what was happening during the relevant time is that those officers who were doing their job in terms of investigating corruption cases were being victimised and other people were not being dealt with even when there was a reason for them to be dealt with. So we would like to look into that. So the Legal Team and the Secretary of the Commission should communicate with the senior management of SAPS to establish whether particularly one I think they could go to the National Commissioner because he would be the one that would know who in the hierarchy is supposed to have dealt
20 with the matter and whether he is aware of it and would be able to cause information to be made available as to what has happened. So no judgment has been made as to whether Colonel Madhoe should or should not be at work. I have not heard Colonel Madhoe's side of the story so the idea was certainly not that I have made any decision about whether or not he should be there. What is important is to find out

whether these allegations are known to SAPS? What they have done about them if anything and even if they have not done anything why they have not done anything? And then the matter can be taken from there. All people will be given hear – a fair hearing by the Commission no matter how serious the allegations against them are and their side of the story will be heard and considered properly and fairly and nobody will be presumed to be guilty of anything just because a witness has said he or she did something. Findings will be made at the end of the work of the Commission. So everybody will be given a fair hearing

10 no matter what has been said about them or against them. That is the one thing I wanted to say. The second thing I want to say is this. Major General Booysen from the evidence that he has given has indicated that there are a number of court applications that he had to do. He had to bring to court to deal with various matters. In some of them there are judgments. I would like the Legal Team to secure not only the judgments in regard to those matters but I would like the full set of papers in each application so that we can have a full picture of exactly what happened in regard to each matter and how people against whom certain allegations were made how they responded in affidavits

20 that were placed before the courts. I would also like to see the findings that were made by those courts in regard to each matter and in this regard I would like the Legal Team to prepare for me, for later use, a list of all findings that have been made by the courts in the various applications where there is no appeal pending. Maybe they can make them even if there is an appeal pending but a note can be made that in

regard to that one specific ones there is an appeal pending. Mr McBride also gave evidence and indicated that he had to go to court a few times where he brought applications. I would like the same in regard to him. And in regard to him I think I may have already said this when he was giving evidence it is important to obtain documentation that was before the prosecutor who made the decision to prosecute and the information that was before the prosecutor when the charges were withdrawn – the criminal charges were withdrawn. I want to know all of that. Thank you.

10 ADV PAUL JOSEPH PRETORIUS: Noted Chair.

CHAIRPERSON: Thank you. Okay we may proceed.

ADVOCATE VERUSHKA SEPTEMBER: Chair I am informed that there are legal representatives at this venue who have not placed themselves on record as yet. With your indulgence ...(intervenes).

CHAIRPERSON: Yes let them place themselves on record.

ADVOCATE VERUSHKA SEPTEMBER: Thank you.

CHAIRPERSON: If there are those who wish to do so.

ADV YUSUF PEER: Thank you Chairperson. My name is Yusuf Peer from the Johannesburg Bar. I appear on behalf of Minister Nathi
20 Mthethwa to observe the current witness's evidence. I am instructed by Mabuza Attorneys and the lead counsel is Mr Ndukai Tobe who is not present here but is part of the team. Thank you Chairperson.

CHAIRPERSON: Okay let us proceed.

ADVOCATE VERUSHKA SEPTEMBER: Chair to address – to firstly address some of the queries that you raised yesterday for attention.

CHAIRPERSON: Yes.

ADVOCATE VERUSHKA SEPTEMBER: Would you grant me the indulgence to deal with those now?

CHAIRPERSON: Yes let us deal with them now.

ADVOCATE VERUSHKA SEPTEMBER: Okay. Just one administrative or housekeeping issue. All the exhibits that were handed up yesterday which starts at Exhibit Z(H), (I), (J), (K), (L) have been consolidated into a blue folder.

CHAIRPERSON: Okay.

10 ADVOCATE VERUSHKA SEPTEMBER: There is one additional exhibit that has been added.

CHAIRPERSON: Yes.

ADVOCATE VERUSHKA SEPTEMBER: And it has been marked Z(M) to follow the sequence.

CHAIRPERSON: Yes.

ADVOCATE VERUSHKA SEPTEMBER: And that particular exhibit is the case that Chair requested yesterday.

CHAIRPERSON: Yes.

20 ADVOCATE VERUSHKA SEPTEMBER: In relation to who took the decision.

CHAIRPERSON: Is a judgment?

ADVOCATE VERUSHKA SEPTEMBER: To withdraw. Yes.

CHAIRPERSON: Ja.

ADVOCATE VERUSHKA SEPTEMBER: Yes Chair.

CHAIRPERSON: Okay. Okay so that particular exhibit then will be

marked Exhibit Z(M), M in brackets. Thank you.

ADVOCATE VERUSHKA SEPTEMBER: Thank you Chair. Chair if I could just direct you to the relevant paragraphs of that case.

CHAIRPERSON: H'mm.

ADVOCATE VERUSHKA SEPTEMBER: The first paragraph is paragraph 53 which is on page 50.

CHAIRPERSON: Yes.

ADVOCATE VERUSHKA SEPTEMBER: And to read into the record 53 reads:

10 "This court is of the view that the ground of opposition
premiered on the alleged failure to exhaust internal
remedies is misplaced. Firstly the facts indicate that it
was not Mokgatle and rather Abrahams who took the
decision to withdraw the charges preferred against
Jiba."

CHAIRPERSON: Oh that is the one where Major General Booyesen was
saying three judges made a finding specifically that Mr Abrahams was
the one who had made the decision despite the fact that he had
deposed to an affidavit saying he was not the one who made the
20 decision.

ADVOCATE VERUSHKA SEPTEMBER: Correct Chair.

CHAIRPERSON: Thank you.

ADVOCATE VERUSHKA SEPTEMBER: The next relevant paragraph it
is at page 52 of the same bundle.

CHAIRPERSON: I am sorry do we know whether this is on appeal or

not? You do not know?

ADVOCATE VERUSHKA SEPTEMBER: I am – I do not believe it is.

CHAIRPERSON: So you can check later on?

ADVOCATE VERUSHKA SEPTEMBER: Yes.

CHAIRPERSON: You can check later on. Okay.

ADVOCATE VERUSHKA SEPTEMBER: So the next relevant paragraph which is still part of the majority judgment is at page 52.

CHAIRPERSON: H'mm.

ADVOCATE VERUSHKA SEPTEMBER: And it is paragraph 59.

10 CHAIRPERSON: Yes.

ADVOCATE VERUSHKA SEPTEMBER: It reads:

“Having regard to what is stated above it is the finding of this court that firstly the decision to withdraw charges against Jiba was taken by Abrahams on recommendation by Mogale.”

CHAIRPERSON: Yes.

20 ADVOCATE VERUSHKA SEPTEMBER: “Secondly the reasons advanced for the withdrawal of charges against Jiba are based on the material error of law which falls short of the legality expected in a rational decision.”

CHAIRPERSON: Yes.

ADVOCATE VERUSHKA SEPTEMBER: “And thirdly the defence that Freedom Under Law has not exhausted the internal remedies by seeking a review of the decision to prosecute has no merit.”

CHAIRPERSON: Yes.

ADVOCATE VERUSHKA SEPTEMBER: The last paragraph which is of relevance to is part of the dissenting judgment.

CHAIRPERSON: Yes.

ADVOCATE VERUSHKA SEPTEMBER: Where it is – Chair can find on page 80 at paragraph 43.

CHAIRPERSON: Yes.

ADVOCATE VERUSHKA SEPTEMBER: And with your leave if I may read? It is under the heading “The decision to withdraw against Ms
10 Jiba.”

“Both Mr Abrahams and Mr Mogale say in their affidavits that it was Mr Mogale and not Mr Abrahams who took the decision. Mr Abrahams with the wording of Section 22 (2) C of the NPA Act in mind says that he did not take the decision for the very reason that after Mr Mogale had taken the decision he, Mr Abrahams would be able to review the decision of Mr Mogale. Mr Abrahams does not say what he would have done had Mr Mogale been in favour of continuing the prosecution
20 of Ms Jiba. Mr Abrahams was not bound by the view of Mr Mogale. Mr Abrahams could had he so determined continued with the prosecution. What Mr Mogale had sent to Mr Abrahams was merely a recommendation rather than a decision. Section 22 (2) C does not provide for the review of a recommendation. In my

view the decision was taken by Mr Abrahams. I make no adverse credibility finding against either Mr Abrahams or Mr Mogale. I simply prefer my interpretation of the facts and the law to theirs. This finding makes it unnecessary for me to consider the lack of authority to delegate point.”

CHAIRPERSON: Yes. Do you know whether the majority says anything along the lines that they are not making any credibility finding as well in the majority judgment or is that something you are not sure about?

10 ADVOCATE VERUSHKA SEPTEMBER: I do not specifically recall that but I am happy to double check and revert.

CHAIRPERSON: Yes.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Chair sorry for interruption.

CHAIRPERSON: Yes.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: There are credibility findings.

CHAIRPERSON: You would know this judgment quite well.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Exactly Chair.

20 CHAIRPERSON: Yes.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: And paragraphs 55 to 58.

CHAIRPERSON: Yes.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: They are not credibility findings against both Advocate Shaun Abrahams.

CHAIRPERSON: Yes.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: And Advocate Marshall Mogale.

CHAIRPERSON: Yes that is paragraphs 55 to 58?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: That is correct Chair.

CHAIRPERSON: Thank you very much.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: In the majority judgment Chair.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Thank you that is very
10 helpful.

ADVOCATE VERUSHKA SEPTEMBER: Thank you General Booyesen.

CHAIRPERSON: And do you know whether it is on appeal?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Chair I think there
...(intervenes).

CHAIRPERSON: How long ago was it maybe first?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Chair I will have to
check but what I do recall Chair that there was an appeal by the NPA
and also by I think Advocate Abrahams.

CHAIRPERSON: Yes.

20 MAJOR GENERAL JOHAN WESSEL BOOYSEN: I am not too sure.

CHAIRPERSON: How far that process is.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: One of the parties
withdrew but I think there could be an appeal still pending.

CHAIRPERSON: Oh okay. Okay no thank you very much. Yes thank
you. Well unfortunately I was looking – I was trying to see when

judgment was handed down – when the judgment was handed down. Unfortunately the only date given there is the date when – well there is 30 and 31 October 2017 as the dates when the matter was heard and then at the top of page 32 there is a date for the revision of the judgment being 21 December 2017. So will – so it would have been handed down sometimes towards the end of 2017.

ADVOCATE VERUSHKA SEPTEMBER: Yes Chair.

CHAIRPERSON: Okay.

ADVOCATE VERUSHKA SEPTEMBER: According to my research.

10 CHAIRPERSON: H'mm.

ADVOCATE VERUSHKA SEPTEMBER: This was specifically on the 12th well it referenced the date of the 12th of December 2017.

CHAIRPERSON: Okay.

ADVOCATE VERUSHKA SEPTEMBER: But it is certainly not reflected in here so I stand to be corrected.

CHAIRPERSON: Okay alright. I think maybe the Legal Team should just check whether there is still an appeal pending in regard to the matters.

ADVOCATE VERUSHKA SEPTEMBER: Will do Chair. If that disposes
20 of that query the next query relates to the appointments.

CHAIRPERSON: H'mm.

ADVOCATE VERUSHKA SEPTEMBER: The National Prosecuting – National Prosecuting Authorities Act ...(intervenes).

CHAIRPERSON: That is what appointment – that one?

ADVOCATE VERUSHKA SEPTEMBER: Chair a query was raised

yesterday as to who is authorised ...(intervenes).

CHAIRPERSON: Oh to appoint an acting DPP?

ADVOCATE VERUSHKA SEPTEMBER: Yes Chair.

CHAIRPERSON: Yes, yes, ja.

ADVOCATE VERUSHKA SEPTEMBER: I have a copy of the National Prosecuting Authority Act should you so wish.

CHAIRPERSON: Well if you ...(intervenes).

ADVOCATE VERUSHKA SEPTEMBER: But I am happy to just ...(intervenes).

10 CHAIRPERSON: If you just tell me what it says that is enough.

ADVOCATE VERUSHKA SEPTEMBER: Chapter 3 in particular deals with the appointments of various members within the NDPP – within the Prosecuting Authority.

CHAIRPERSON: H'mm.

ADVOCATE VERUSHKA SEPTEMBER: And in relation to the appointment of Deputy Directors it says that the Minister may apologies it is Section 15 of the Act.

CHAIRPERSON: H'mm.

ADVOCATE VERUSHKA SEPTEMBER: It says that:

20 “The Minister may subject to the laws governing the public service in Section 16(4) and after consultation with the National Director appoint a Deputy Director of Public Prosecutions.”

CHAIRPERSON: Would that not be a national of – person as opposed to a provincial DPP? I am not sure you know these – the structure of

the NPA can be confusing. So we are looking for who has the power to appoint an acting DPP – Provincial DPP and I do not even think it is called Provincial DPP. It is the Provincial representative of the NDPP.

ADVOCATE VERUSHKA SEPTEMBER: Chair if I may there are essentially – this particular Act governs the appointment of three – four positions.

CHAIRPERSON: Yes.

ADVOCATE VERUSHKA SEPTEMBER: The first is the National Director.

10 CHAIRPERSON: Ja.

ADVOCATE VERUSHKA SEPTEMBER: That is under Section 10.

CHAIRPERSON: Yes.

ADVOCATE VERUSHKA SEPTEMBER: The second is the Deputy National Director.

CHAIRPERSON: Yes.

ADVOCATE VERUSHKA SEPTEMBER: Which is Section 11.

CHAIRPERSON: Ja.

ADVOCATE VERUSHKA SEPTEMBER: The third is the appointment of Directors and acting Directors.

20 CHAIRPERSON: Yes.

ADVOCATE VERUSHKA SEPTEMBER: That is Section 13. Section 15 as I have ...(intervenies).

CHAIRPERSON: And who does it say – that is where it says the Minister?

ADVOCATE VERUSHKA SEPTEMBER: For the appointment of

Directors and acting Directors.

CHAIRPERSON: Ja.

ADVOCATE VERUSHKA SEPTEMBER: The President.

CHAIRPERSON: Oh it says the President.

ADVOCATE VERUSHKA SEPTEMBER: After consultation with the Minister.

CHAIRPERSON: Oh okay.

ADVOCATE VERUSHKA SEPTEMBER: And the National Director.

CHAIRPERSON: Yes.

- 10 ADVOCATE VERUSHKA SEPTEMBER: May appoint a Director of Public Prosecutions in respect of the office of prosecuting authority.

CHAIRPERSON: Oh okay. Okay. Alright.

ADVOCATE VERUSHKA SEPTEMBER: And the last deals with the appointment of prosecutors generally at Section 16.

CHAIRPERSON: Okay. No thank you. But is that not a little strange? A provision that you read earlier on said the Minister may appoint and I thought you were talking about what a Deputy Director ...(intervenues).

ADVOCATE VERUSHKA SEPTEMBER: That was the Deputy Director Chair. Whereas the appointment of Directors and acting Directors.

- 20 CHAIRPERSON: Oh is the President.

ADVOCATE VERUSHKA SEPTEMBER: Is the President.

CHAIRPERSON: Oh okay.

ADVOCATE VERUSHKA SEPTEMBER: The last query that we were able to deal with relates to ...(intervenues).

CHAIRPERSON: So Advocate Noko would have therefore have been

appointed by the President in terms of that?

ADVOCATE VERUSHKA SEPTEMBER: My understanding is so.

CHAIRPERSON: Yes. Okay alright and later on you can just check and we can correct whatever we have said if we have misunderstood who appoints who. That is fine.

ADVOCATE VERUSHKA SEPTEMBER: If I could just then summarise. A National Director, a Deputy National Director and Directors and acting Directors are all appointed by the President.

CHAIRPERSON: Yes.

- 10 ADVOCATE VERUSHKA SEPTEMBER: Be it independently or in consultation with ...(intervenes).

CHAIRPERSON: Yes.

ADVOCATE VERUSHKA SEPTEMBER: The Minister.

CHAIRPERSON: Yes.

ADVOCATE VERUSHKA SEPTEMBER: And other Stakeholders.

CHAIRPERSON: Okay.

ADVOCATE VERUSHKA SEPTEMBER: The next query that was raised relates to the interview of Advocate Noko.

CHAIRPERSON: Yes.

- 20 ADVOCATE VERUSHKA SEPTEMBER: Thankfully we were able to extract the relevant excerpt of the interview.

CHAIRPERSON: Yes.

ADVOCATE VERUSHKA SEPTEMBER: Which relates to her responses on the Booyesen matter.

CHAIRPERSON: Yes.

ADVOCATE VERUSHKA SEPTEMBER: It is in fact ready and available to be viewed should you so wish? It is too ...(intervenes).

CHAIRPERSON: Ja or no we do not need to view it as if we have got transcripts that would be enough. You do not have a transcript you just have the ...(intervenes).

ADVOCATE VERUSHKA SEPTEMBER: Just the clip and the relevant clip..

CHAIRPERSON: Ja.

ADVOCATE VERUSHKA SEPTEMBER: Is two minutes.

10 CHAIRPERSON: But if you have watched it you can just confirm whether – what the witness said is actually what happened. But otherwise a transcript can be made later on and made available.

ADVOCATE VERUSHKA SEPTEMBER: Unfortunately a transcript was – is not available at yet.

CHAIRPERSON: No that is fine.

ADVOCATE VERUSHKA SEPTEMBER: But having looked at it ...(intervenes).

CHAIRPERSON: In due course then it is fine.

20 ADVOCATE VERUSHKA SEPTEMBER: Having looked at the video she does mention on at least three occasions.

CHAIRPERSON: H'mm.

ADVOCATE VERUSHKA SEPTEMBER: That Booyesen's matter or other prominent matters, high profile matters in particular, were in fact on the court roll when she was there.

CHAIRPERSON: When she was appointed as acting Director of Public

Prosecutions?

ADVOCATE VERUSHKA SEPTEMBER: Yes Chair.

CHAIRPERSON: Okay alright. Just arrangements must be made for us to just get a transcript of that relevant part. We do not need to have a transcript of the whole interview.

ADVOCATE VERUSHKA SEPTEMBER: Indeed Chair.

CHAIRPERSON: Ja and it need not be now we can get it in due course.

ADVOCATE VERUSHKA SEPTEMBER: As it pleases Chair.

10 CHAIRPERSON: Okay.

ADVOCATE VERUSHKA SEPTEMBER: There are other matters but those are still being attended to. Can I then suggest that we resume where we left yesterday General Booysen? And that is on page 41 of Exhibit Z(A). So yesterday General Booysen you gave evidence about various prosecutors who are – whose names in fact populate slide that – slide 4 which is – forms part of the diagrams bundle. And the last prosecutor that you gave evidence in regard to was Advocate Shaun Abrahams. Is there anything that you wish to add following on the evidence that you gave yesterday in relation to him in view of the
20 judgment that has now been presented to the Chair?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Thank you Chair. Chair not really except that the diagram that was shown yesterday pertains to the Amigo case, the Panday matter, the looting of the Secret Services account and then the Cato Manor matter. I did mention that yesterday but I would just like to reiterate it. These same prosecutors

invariably were also involved in the prosecution of members from SARS and also Colonel Sibiya and Dramat in this so called rendition saga.

ADVOCATE VERUSHKA SEPTEMBER: Okay. Following on from the judgment that has been handed up in your view what ought to have been the consequences in relation to the prosecution of or rather the charges against Advocate Nomgcobo Jiba?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Chair although there is a majority and a minority judgment but in the end all three the judges set aside the withdrawal of charges by Advocate Abrahams. Advocate
10 Jiba had already appeared in court. The withdrawal then was set aside by a full bench of the high court. So my understanding then is they should go back to where they were that the matter should be placed back on the roll. My understanding is that Advocate Abrahams then sent the docket to Advocate Smith from North West. Whether Advocate Smith had the authority or the jurisdiction to review what Advocate Abrahams – Advocate Ferreira and Van Eerden has already decided upon that is an open question. But to me it is almost akin to contempt of court for the court to make a finding and then for Advocate Abrahams not to place it back on the role but to send it to another advocate to
20 review the matter.

CHAIRPERSON: Do you know who – or was it Mr Gerrie Nel who was – who had been appointed to prosecute in the matter originally? Who had been the prosecutor.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: No. No Chair it was Advocate Ferreira.

CHAIRPERSON: Yes.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: And Van Eeden.

CHAIRPERSON: Yes. Yes, they were the prosecutors or they were handling it?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: They were handling it. They were appointed by Advocate Nxasana.

CHAIRPERSON: Yes.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: They were both prosecuting in the matter.

10 CHAIRPERSON: Yes.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Advocate Jiba had already appeared in court.

CHAIRPERSON: Yes.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: They had already prepped me. We had already done our consultations when Advocate Abrahams withdrew the charges.

20 CHAIRPERSON: Yes. So once the court had set aside the decision to withdraw the charges the matter should have been pursued. That is prosecution and one would have expected that the same prosecutors who had been prosecuting the matter would continue unless there was some valid reason to change them.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Indeed Chair what I also read in the judgment is that, and I find it quite strange, that Advocate Abrahams between him and Advocate Mokgatle had reviewed the matter without Advocate Jiba having made representations.

CHAIRPERSON: H'mm.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: So it was an initiative by Advocate Abrahams without representations.

CHAIRPERSON: H'mm.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: I do not know whether she subsequently made representations.

CHAIRPERSON: H'mm.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: And in – and that is the reason why it was sent to Advocate Smit.

10 CHAIRPERSON: H'mm.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: If not then I – well I would then say the case should have been placed back on the court roll.

CHAIRPERSON: Yes.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Without having ...(intervenies).

CHAIRPERSON: Yes.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Without sending it to another almost like second guessing or – it almost like forum shopping

20 Chair.

CHAIRPERSON: Yes.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: To find a prosecutor who will eventually.

CHAIRPERSON: H'mm.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: (Indistinct) the matter.

CHAIRPERSON: H'mm. Well the Legal Team should look into that. All these matters that we – that are coming up we need to know exactly what happened, what are the facts and so on and so on and it is important to get all the facts because with regard to prosecution you may have a case where somebody makes in good faith an error of law and does something that maybe seen as not right but you may have a case where it is not an error of law. It is something serious and therefore it becomes very important to get the facts right. What exactly happened, who did what, what was before him or her before she made
10 that decision. Okay, thank you.

ADV VERUSCHKA SEPTEMBER: If we can now then turn to paragraph 136 which is on page 41 of your affidavit? You now talk about other prosecutors. What do you mean by other prosecutors?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Chair when this whole investigation , if I can say the Cato Manor investigation, started it was amazing how many resources was utilised in that investigation. I think at one stage they had about nine prosecutors camping in Durban in a hotel on the beachfront. I would say for more than a year. Every time we would go to court there was an entourage of prosecutors, five to six
20 sometimes seven prosecutors, but on average at least four prosecutors and there had been 20 remands. 17 or 16 of them in the High Court. The prosecutors knew ...(intervenies).

CHAIRPERSON: Like in one matter or they were there – they were covering a number of matters the same prosecutors or it was a team – a large team of prosecutors in regard to each matter?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: No Chair. In the matter in which myself and Cato Manor were prosecuted. The lead prosecutor, Advocate Maema, knew the matter was not going to proceed and in spite of that they would every time fly down the day before book – check into a hotel a number of prosecutors. I would even go as far to say they could have used a local prosecutor to have the matter remanded because it is – it was like a – all those appearances were like three/four minutes and most of the discussions took place in chambers and we would go into court and the actual proceedings would
10 be two or three minutes.

CHAIRPERSON: Yes.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: And there were a number of advocates involved in this – in the prosecution of Cato Manor and I do mention some of them here like Advocate J J Mlotshwa who incidentally also happens to be involved in other prosecutions of people fighting prosecution. There is Advocate Dawood Adams. Now Chair Advocate Dawood Adams – there had been an investigation against Advocate Dawood Adams by the SSU previously where he was charged with the Witness Protection Program and it emerged that while
20 he was in charge of the program he appropriated funds from the program for his own personal benefit. He had booked, I think it was two apartments in the beach front – the Waterfront area in Cape Town, where his children stayed while they were studying at university and the other one was used by himself and friends. When he was eventually caught out after this investigation, I think the investigation

was done by Mr Willie Hofmeyr, certain recommendations were made for disciplinary steps. As far as I know nothing was done about that for whatever reason – there might have been valid reasons but what concerns me is there you have an advocate from the National Prosecuting Authority stealing money. That is what it is and he does not even get a slap. I know at the time he was suspended for a while, I think, but no criminal charges were pressed against him. Yet Advocate Abrahams uses the same – Advocate Dawood Adams sends him to Greece to go and find evidence against me and that is what I
10 find so abhorrent. That people from a National Prosecuting Authority there is prima facie evidence that they have committed a serious criminal offence. They are being used to investigate people who are investigating corruption. The few prosecutors I have mentioned now
Chair.

CHAIRPERSON: Before you go to those just some clarity. The large team of prosecutors that you talk about that would be brought – would come to Durban for the Cato Manor matter even when everyone knew they would be a postponement – would those be from Head Office? Is that right or would it be a mix of local and Head Office prosecutors?

20 MAJOR GENERAL JOHAN WESSEL BOOYSEN: Chair there were no local prosecutors.

CHAIRPERSON: Ja.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: It is always Advocate Maema, Raymond Mathenjwa, J J Mlotshwa and a few others and as far as I am concerned they were wasting taxpayers' money.

CHAIRPERSON: H'mm.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Flying five to six people down.

CHAIRPERSON: H'mm.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: From Johannesburg to Pretoria.

CHAIRPERSON: H'mm.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Knowing the case was going to be remanded.

10 CHAIRPERSON: Yes.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Check into a hotel on the beach front.

CHAIRPERSON: H'mm.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: And then fly back the following day.

CHAIRPERSON: H'mm.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: H'mm.

CHAIRPERSON: And how often did this happen – if you are able to tell? I mean I know you talked.

20 MAJOR GENERAL JOHAN WESSEL BOOYSEN: Chair.

CHAIRPERSON: About 20 or 19.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Chair in the beginning ... (intervenes).

CHAIRPERSON: Postponements.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: In the beginning in the

High Court appearances it was like a circus at the court. They would have caspers standing outside, snipers on the roof, personal body protection and I think it was here by about the 8th or the 9th appearance at the High Court that I commented in the media that they are wasting taxpayers' money by flying this whole entourage down just to do a remand and after that comment of mine the figures tapered down but in the last couple appearances there would at least be – at least two or three advocates with other personnel from the National Prosecuting Authority. Whether they were protectors or whether they were media liaison officers I do not know, but on average the last couple there were to be about four to five but prior to my complaint there were some times be up to five to six prosecutors who fly down – up and down just to come and do a remand.

ADV VERUSCHKA SEPTEMBER: General Booysen were you involved in the matter that you alluded to in relation to Advocate Dawood Adams as in were you part of the investigation team at all?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: No Chair. I had nothing to do with the investigation against Advocate Dawood. It came to my knowledge and attention whereas he was sent to Greece to find evidence against me obviously having an investigator background then you start to investigate the people who are against you and I established that he himself was a subject of a criminal – well not of a criminal investigation and it is clear from that report by Advocate Willie Hofmeyr that money was appropriated by Advocate Dawood which in my view is – either constitutes fraud or theft

but nothing happens to him.

ADV VERUSCHKA SEPTEMBER: So ...(intervenes).

CHAIRPERSON: Both in terms of criminal charges and internal disciplinary matters nothing happened as far as you know?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Chair as far as I – well what I have heard with regards to the disciplinary matters or the disciplinary matter I think the period during which they had to take steps had lapsed. That is my understanding. So whether it was done on purpose or not I cannot comment on that but theft and fraud
10 prescribes after 20 years not like in a disciplinary matter that it prescribes in 60 days. So I cannot understand why no theft charges or fraud charges were preferred against Advocate Adams.

CHAIRPERSON: Thank you.

ADV VERUSCHKA SEPTEMBER: If we could then turn to page 42 where you deal with prosecutors who resigned due to interference and in particular you mention certain prosecutors who in your view resigned for that reason. Can you please explain to the Chair in that regard?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Chair I will start with Advocate Bheki Mnyathi who personally told me at the High Court in
20 Durban that because of what was happening to him – as Chair would recall he was the prosecutor who was going to prosecute Toshan Panday and Colonel Navin Madhoe for the attempt to bribe me. He is the one who received the letter from Advocate Mogwebe essentially querying the prosecution and he then penned a legal opinion and indicated that he was going to indict Colonel Madhoe in the

High Court for corruption and he told me personally that his stance on the matter had caused him to be overlooked for promotion and he intended resigning which he in the end did. I know that Advocate Simphiwe Mlotshwa because of what had happened to him in KZN he also resigned from the NPA. Both those advocates are now in private practice. Then there is Advocate Gerrie Nel and Advocate Glynnis Breytenbach. Both – in the instances that I have testified about were both involved in a number of those prosecutions. Gerrie Nel was involved with the previous prosecution of Mr Selebi but
10 both also left because of what was happening at the NPA.

CHAIRPERSON: I take it that either the investigators or the Legal Team have been in touch with at least some of those and that either they will be coming forward to testify or at least we know what they have to say. So if it has not been taken care of it should be taken care of. We should at least speak to each one of those people and if they have got information that falls within the term of reference we should have them give evidence in due course. Thank you.

ADV VERUSCHKA SEPTEMBER: Thank you Chair. In that instance can I ask us to look at Bundle – Exhibit Z(D) which is the diagrams
20 bundle and slide 4 which is currently displayed.

CHAIRPERSON: What page?

ADV VERUSCHKA SEPTEMBER: Page 4.

CHAIRPERSON: Thank you. Yes.

ADV VERUSCHKA SEPTEMBER: So General Booyesen you mentioned an Advocate Mzinyathi. Just for the record the periphery circle that

appears on the bottom right hand side is that the same Advocate Mzinyathi that you had just given evidence about?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: No Chair it is not.

CHAIRPERSON: (Not audible).

ADV VERUSCHKA SEPTEMBER: Sorry.

CHAIRPERSON: I do not see his name here. Is he here – is his name here?

ADV VERUSCHKA SEPTEMBER: In the periphery circle at the bottom.

CHAIRPERSON: Oh, okay.

10 ADV VERUSCHKA SEPTEMBER: Right hand side.

CHAIRPERSON: The one at the bottom of page 4.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: No it is not the same Mzinyathi. This is the one from Gauteng.

CHAIRPERSON: Oh.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Chair, which I testified about yesterday.

CHAIRPERSON: Oh, okay. I think it will then be important that we have initials to differentiate which one we are dealing with at any one time.

20 MAJOR GENERAL JOHAN WESSEL BOOYSEN: I think this one is an Ms Mzinyathi and the other one is Nyati Chair if I am not.

CHAIRPERSON: Oh, but the one that you were talking from Durban is Mzinyathi is that right?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: No. He is Mnyathi.

CHAIRPERSON: Nyati not Mzinyathi?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Bheki Nyati.

CHAIRPERSON: Oh, okay.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: And the one from Gauteng is Mzinyathi.

CHAIRPERSON: Oh, okay. I thought you said Mzinyathi earlier on. So that might have confused Ms September as well. Okay. So the one in Durban is Nyati not Mzinyathi, okay.

ADV VERUSCHKA SEPTEMBER: Thank you and then the key at the bottom – on the bottom left hand side talks to common prosecutors
10 involved in more than one case. Is that correct?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: That is correct Chair.

ADV VERUSCHKA SEPTEMBER: And so for the record it is recorded that Advocate Mogwebe was involved in the Panday case and the Amigos case. Advocate Mosing in the Amigos case and the Cato Manor case and Advocate Noko in the Panday case, the Amigos case and the Cato Manor case?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: That is correct Chair.

ADV VERUSCHKA SEPTEMBER: There was evidence led in relation to Advocate Mogwebe's role in the Mdluli looting of the Secret Service
20 Account. Is there any particular reason why he is not recorded to have been included in that one to?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Chair I did not have enough information – personal information although I was subsequently obviously privy to the Justice Mokgoro Report and other newspaper reports. I did not have enough at my disposal to add him there.

CHAIRPERSON: Yes, okay.

ADV VERUSCHKA SEPTEMBER: And so this diagram then represents the evidence in your affidavit at the time that you deposed to it. Is that correct?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Indeed Chair.

CHAIRPERSON: Thank you.

ADV VERUSCHKA SEPTEMBER: General Booyesen do you know of a prosecution.

CHAIRPERSON: But I am sorry. I am not sure that I understand this
10 diagram completely. The key at the bottom has go Cato Manor written in a certain colour and I take it that that colour is not exactly the same as the colour where you have got many prosecutors starting with Advocate Chauke at the top but I take it that that portion of the – of that circle tells us the names of prosecutors who were involved in the Cato Manor case. Would that be right Major General Booyesen?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Chair that would be the circle to the right?

CHAIRPERSON: Ja, to the right yes. In other words where it says Cato Manor at the bottom there. It is more or less the same colour as
20 that portion of the circle where you have got a number of names. So I am taking it that what it does mean is that those prosecutors whose name appear in that portion of the green circle where involved in the Cato Manor case. Is that right?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: They were Chair although there were a number of other prosecutors whose names are.

CHAIRPERSON: Are not included?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Are not included.

There are – I recall there were two female prosecutors as well or lady prosecutors.

CHAIRPERSON: Yes.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Who names I do not have. I did not include them there. So the ones that I have.

CHAIRPERSON: Ja.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Some of them – for
10 instance Advocate Adams I have included him there Chair because he
was sent to Greece according to papers by Advocate Shaun Abrahams.

CHAIRPERSON: Yes.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: To go and establish if
he could find evidence against myself. Him and Advocate Maema.

CHAIRPERSON: Yes.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: That was the sum
total of ...(intervenes).

CHAIRPERSON: Yes.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Of his involvement.

20 CHAIRPERSON: Yes.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Advocate Chauke I
think was more an administrative ...(intervenes).

CHAIRPERSON: Ja.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Role that he played in
signing letters.

CHAIRPERSON: Ja.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Advocates Mathenjwa, Maema and J J Mlotshwa they were active involved in travelling to KZN and doing the prosecutions.

CHAIRPERSON: Yes.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Advocate Pretorius he was in the background.

CHAIRPERSON: H'mm.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: On one occasion he
10 wrote a legal opinion.

CHAIRPERSON: Ja.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Pertaining to Cato Manor investigation.

CHAIRPERSON: Yes. I thought that the purpose of the diagram was to show the cross section of certain prosecutors in regard to different matters. So in regard to the Cato Manor you can see there were a number of prosecutors but then in regard to the others it looks like you only see one name. So I am not sure if I understand the purpose of the diagram correctly because it appears only – it appears that it is only
20 the Cato Manor where you have a number of them and a few of them – I mean for example you have got Advocate Jiba written there acting and DPP but her name is in a colour for which there is no key. At least as far as I understand this. So I am not able to make head or tail of what her presence in that portion means and then you have Advocate Mosing in a portion of a larger circle that is coloured in a certain way but when

I look at the certain key there is no colour like that. So I do not know what it means to have him there. Then you have Advocate Vimbani his or her name – I do not know if it is a female or male – appears in a pink portion of a circle but I do not see a key that tells me what it means for what case that is or okay maybe the key is – part of the key is at the bottom. Part of it is at the top. I see Amigos case. Maybe it means she was – he was involved in the Amigos case. Then the Panday investigation the colour is bluish. So I guess that is – that shows that but I do not see other colours but also if you just see one prosecutor
10 there I am not sure that it is in line with that I thought was the purpose of the diagram. I thought the purpose was go – was to say look at the commonality of the same prosecutors and different cases. That is what I thought the idea was but I might be mistaken.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Chair if I could assist.

If we look at Advocate Jiba at the bottom perhaps.

CHAIRPERSON: Yes.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: This circle intercepts with other circles.

CHAIRPERSON: Yes.

20 MAJOR GENERAL JOHAN WESSEL BOOYSEN: So she – the main circle shares in this – the looting of the Secret Service Account and the role she played there was the withdrawal of charges against Richard Mdluli but her name also intercepts with the Cato Manor investigation.

CHAIRPERSON: I think what – is there a case that has got the colour

where her name is because if the colour of the part where her name is was the same as the colour for the looting of Secret Service Account then it would tell me that she was involved in both Cato Manor and the looting of the Secret Service Account but because it has got its own colour for which I find no key it confuses me or do I misunderstand? Maybe both of you understand this. I am the only one who does not understand it.

ADV VERUSCHKA SEPTEMBER: No, not at all Chair. If I may General Booysen – the prosecutors who are reflected in this diagram is
10 it a comprehensive list of all prosecutors involved in all four matters?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Bar the one or two who – whose names I do not know Chair – who I saw at court but whose names I do not know.

CHAIRPERSON: Yes.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Although their names appear in answering affidavits of Advocate Abrahams.

CHAIRPERSON: Yes.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: But I do not know them.

20 CHAIRPERSON: You do not know ja.

ADV VERUSCHKA SEPTEMBER: And these are certainly the prosecutors that you are aware of were involved in these four matters. Is that correct?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: That is correct Chair but I just want to clarify one aspect there. If you look at and it could

perhaps be slightly misleading. If you look at the top Chair the Panday investigation where you have Advocate.

CHAIRPERSON: Yes.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Dorian Paver.

CHAIRPERSON: Yes.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: He was the prosecutor who provisionally withdraw the charges.

CHAIRPERSON: Yes.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: In a R17 million case.

10 CHAIRPERSON: Yes.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: But the reasons at the time.

CHAIRPERSON: Was it 70 or 60? 60 million or 70 million?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: No Chair. There was a 60 million one.

CHAIRPERSON: Ja.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Then there was a 17 million one.

CHAIRPERSON: Oh, okay.

20 MAJOR GENERAL JOHAN WESSEL BOOYSEN: That was the 15 million that the created invoices for.

CHAIRPERSON: Oh, okay.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Which eventually turned – which eventually came to 17 million.

CHAIRPERSON: Okay.

ADV VERUSCHKA SEPTEMBER: And that is 17?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: 17.

CHAIRPERSON: Oh 17, not 70. Okay.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: So Chair in that matter Advocate Paver was the prosecutor.

CHAIRPERSON: H'mm.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: But because of the recordings that were indistinct.

CHAIRPERSON: H'mm.

10 MAJOR GENERAL JOHAN WESSEL BOOYSEN: He provisionally withdraw the matter and Chair would recall Chair asked me where that docket is now and my response was it is now with IPID.

CHAIRPERSON: Yes.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: So ...(intervenues).

CHAIRPERSON: Yes.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: I do not want this ...(intervenues).

CHAIRPERSON: Yes.

20 MAJOR GENERAL JOHAN WESSEL BOOYSEN: Picture to betray all these prosecutors as people being on the wrong side.

CHAIRPERSON: Yes. Okay, ja because.

ADV VERUSCHKA SEPTEMBER: In.

CHAIRPERSON: That was my understanding that the diagram shows a group of prosecutors who seemed to feature in most of these cases where people who were doing their job were being suspended charged

and all. That was the impression I had but what you are saying is it is not all of them who appear on the ...(indistinct)?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: That is true Chair.

CHAIRPERSON: You are not saying that about all of them?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Yes Chair.

CHAIRPERSON: It is only some.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: That is true Chair.

CHAIRPERSON: Okay, thank you.

ADV VERUSCHKA SEPTEMBER: And who exactly are those some?

10 MAJOR GENERAL JOHAN WESSEL BOOYSEN: Chair - Advocate Paver – I think I have already explained why he had withdrawn those charges.

CHAIRPERSON: Yes.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Then there is Advocate Vimbani.

CHAIRPERSON: H'mm.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Who is the Head of the Commercial Crime Court in KwaZulu-Natal.

CHAIRPERSON: H'mm.

20 MAJOR GENERAL JOHAN WESSEL BOOYSEN: Whom I had not dealt with personally.

CHAIRPERSON: H'mm.

ADV VERUSCHKA SEPTEMBER:

MAJOR GENERAL JOHAN WESSEL BOOYSEN: But she has taken over the investigation as Chair would recall.

CHAIRPERSON: H'mm.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: The Amigos case that was with Advocate Dunywa.

CHAIRPERSON: H'mm.

ADV VERUSCHKA SEPTEMBER:

MAJOR GENERAL JOHAN WESSEL BOOYSEN: When the charges were withdrawn against Mabuyakhulu and Nkonyeni. That docket was then taken away from Dunywa – Advocate Dunywa.

CHAIRPERSON: H'mm.

10 ADV VERUSCHKA SEPTEMBER:

MAJOR GENERAL JOHAN WESSEL BOOYSEN: And given to Advocate Vimbani.

CHAIRPERSON: H'mm.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: I will leave it at that Chair.

CHAIRPERSON: Ja, okay.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: The rest of the prosecutors, Advocate Mogwebe, he has been involved with quite a number of these cases.

20 CHAIRPERSON: H'mm.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Advocate Jiba with a number of these cases.

CHAIRPERSON: H'mm.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Advocate Noko with some of the cases. Advocate Mosing with some of the cases.

Advocate Pretorius with some of the cases. Advocate Mathenjwa with some of the cases. Advocate Maema with a number of these cases
Chair.

ADV VERUSCHKA SEPTEMBER: The common names though that appear in – through your observations – in more than one matter are thus Advocate Mogwebe, Advocate Noko, Advocate Mosing and Advocate Jiba. Is that correct?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: That is correct Chair.

CHAIRPERSON: Thank you.

- 10 ADV VERUSCHKA SEPTEMBER: To move on in your statement we are now at page 43. The next theme of your statement relates to Law Enforcement and in particular the Hawks and the South African Police Services. A similar diagram has accordingly been prepared as with the prosecutors which can be found at page 5 of Exhibit Z(D). Is it correct that the same rationale in the preparation of the one – of the diagram for prosecutions informed the preparation of this slide?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: That is so Chair.

- ADV VERUSCHKA SEPTEMBER: There are two persons in particular outside of others that your statement or rather your affidavit deals with
20 and the first person that you mentioned at page 43 of Exhibit Z(A) paragraph 140 is Major General Berning Ntlemeza.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: That's correct Chair.

ADV VERUSCHKA SEPTEMBER: Major General Ntlemeza was appointed on the 24th of December 2014 as the Acting Head of the Hawks, what were your observations following his appointment?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Chair for lack of a better word when he was appointed all hell broke loose within the DPCI, I cannot describe it in any other way. He was appointed I think on the 25th or 24th of December, the very first thing he did and that's what started to raise some red flags to me, the very first thing he did was I received a call from him six days after his appointment on New Year's Eve in the afternoon.

ADV VERUSCHKA SEPTEMBER: Which year was this?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: 2000 and
10 ...(intervenens).

CHAIRPERSON: 2014.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: 2014 Chair, that's just after General Dramat was suspended.

ADV VERUSCHKA SEPTEMBER: Thank you

MAJOR GENERAL JOHAN WESSEL BOOYSEN: I received a call from him and he said to me that he would like to see me on the 1st of January, Chair normally your operational people work on the 1st of January, it's the first time in my police career of 40 years of which I sat at home for more than three years, that I had been summoned to a
20 meeting in the morning of a New Year's Day.

CHAIRPERSON: On New Year's Day?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: That's correct Chair.

CHAIRPERSON: Were you supposed to fly up to Gauteng?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: No Chair, I am going to get to that Chair.

CHAIRPERSON: Okay.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: So Chair he wanted to see me at the Provincial Headquarters where my offices are situated. Initially he told me he wanted to see me I think it was 10:00. So I went to bed early on New Year's Eve, I didn't celebrate with the family, and I woke up that morning just after seven and it was Ntlemeza – General Ntlemeza.

CHAIRPERSON: At this stage you were not under suspension, one has got to try and just ...(intervention)

10 MAJOR GENERAL JOHAN WESSEL BOOYSEN: I'm back at work Chair.

CHAIRPERSON: You are back at work at that time, okay.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Yes I'm back at work Chair, so I was in my post. I was busy reviewing all these cases against Panday, Madhoe, General Ngobeni etcetera. I woke up just after 07:00, he phoned me he said to me no I need to come through now, he is at the office already. So I said to him okay I'll get dressed, which I did and I drove through to Durban, it took me about half an hour to get there, and on my arrival there I phoned him to ask him where he
20 was, and he said to me no he's on the 17th floor, with the Provincial Commissioner. Normally Chair when the Head of the Hawks comes to KwaZulu-Natal like General Dramat, he phones the Provincial Head like myself, or whoever if it's Shadrack Sibiyi in Gauteng or if it's Matakata in Cape Town to make travel arrangements for him. On this instance he made his own travel arrangements, he was fetched from the airport by a

Colonel and taken to General Ngobeni's office. Now Chair would recall that Ngobeni at the time was the subject of a criminal investigation. I went up to the 17th floor ...(intervenes).

ADV VERUSCHKA SEPTEMBER: Before you go up to the 17th floor who was the colonel that transported Major General Ntlemeza?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Chair it was a Colonel Clarence Jones who was one of my colonels, so normally I would get the call, I will designate someone to go and fetch whoever from the airport. In this instance Colonel Clarence Jones was phoned, I do not
10 know by whom, to fetch General Ntlemeza from the airport, and I mentioned Colonel Jones here specifically because during the Panday investigation I was sitting in a restaurant, and I'm digressing a little bit now because the Advocate wants me to say who Jones is, I was sitting at a restaurant in Durban North at the Bite Your Tongue Restaurant when Advocate Knox Molele, he's from the National Prosecuting Authority, walked by and he saw me and he came and sat down with me and we had a chat and he told me that he's got some concerns that Jones had been making contact with him, at that time Advocate Molele was the Head of Asset of Forfeiture in KZN, and he told me that Jones,
20 who had absolutely nothing to do with the Panday investigation had approached him to write a letter to say that there's no case in terms of assets forfeiture to have the 15 million which I had frozen released.

Simultaneous to that Brigadier Lawrence Kemp, who was the Head of Finances in the Province, phoned me and asked me who Colonel Jones was, so I said to him it's one of the Colonels that report

to me, so he said to me he was snooping around at the Financial offices making queries about the 15 million I had frozen. So I said to Kemp well just ignore him, he's got nothing to do with that investigation, I had frozen the money and I will be the one that will unfreeze it.

I wrote to General Ntlemeza no fewer than three, it could be four, it could even be five times, reporting Jones' conduct to him, he never even bothered to acknowledge receipt of any of my letters, to such an extent that I phoned Brigadier Kubie Moodley, who is now the
10 Head of the Hawks in the Free State, who is in charge of those investigations, those type of investigations, I said to him Kubie what is going on here, and I could sense a feeling of discomfort from Moodley and what I gathered from what he was trying to tell me that he was being frustrated or inhibited by Ntlemeza.

So Chair back to the meeting at National Head – Provincial Head Quarters I went up in the lift and when I arrived on the 17th floor you turn to your left to go to the Provincial Commissioner's office and as I approached her office her secretary was also there, so she jumped up and said to me no, no wait, you must go and sit in another office
20 there in the corner. So I went and sat in a corner in another office. After about 15 minutes Ntlemeza joined me in the office and he asked me about number one what does my equity profile look like. I thought it was strange because my equity profile was available on the system at his office, and then he complained and said to me no, no you've got too many Indians here. So I said well it's none of my doing, I never did –

all these people are from the Scorpions, I cannot just chase them away, I've inherited them.

And then he said to me he needed a report from me, and I couldn't understand what report it is that ...(intervenes).

CHAIRPERSON: What did he say?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: He wanted a report from me.

CHAIRPERSON: About what? About the people who report to you.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Well inter alia about
10 my equity profile and also about investigations that we were busy with, but he was very incoherent Chair, I couldn't make out what he was trying to say.

CHAIRPERSON: Mmm, the equity profile referred to what?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: My racial ...(intervenes).

CHAIRPERSON: Oh, the racial and gender representation of people under you.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Yes, yes.

CHAIRPERSON: Oh okay, alright.

20 MAJOR GENERAL JOHAN WESSEL BOOYSEN: But Chair in my opinion that was just a guise to come to KwaZulu-Natal because what's he doing talking to a suspect in my criminal investigation. General Dramat would never have done that.

CHAIRPERSON: Yes, and just to complete the story, I assume the Provincial Commissioner was present at the office on the day?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: She was there as well
Chair.

CHAIRPERSON: Yes okay, continue.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: And that's what really
concerned me is he spends time with a suspect in a criminal
investigation, then he tries to make me believe he's there to look at my
equity profile on the 1st of January 2015 in the morning, which didn't
make sense and he then asked me, Chair I'm not exaggerating, the way
he communicates you can never figure what he wants or what he
10 doesn't want, so he asked me a for a report ...(intervenes).

CHAIRPERSON: What could have been so urgent about the gender
and racial representation of staff under you on the 1st of the New Year.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Chair that was a ruse.
That was a ruse to do something else. And that ruse was he
immediately, well he – while Dramat was suspended I wrote out an
application to fly to Cape Town, I wanted to go and see Dramat,
because I knew Dramat was under severe strain at that time. And my
intention to go and see Dramat was to tell him to hang in there, that we
need him, the country needs him, we need him there. So I sent – when
20 I sent the itinerary unbeknown, well I didn't realise then until
afterwards what his gripe with Dramat was, so I didn't say I wanted to
go and see Dramat, I wrote there I want to go for investigations, and
the thing came back immediately and he wanted a full report from me
what do I want to go in Cape Town. So I thought no I am not going to
do that so I bought my own plane ticket and I flew there and I went and

I did have the meeting with General Dramat.

So he says to me yes and what were you – what did you want to do in Cape Town and he caught me off guard, so I quickly had to think, I said no I wanted to go and see an investigator, Colonel Kobus Roelofse, but he happens to be on leave in Jeffreys Bay or something, which he was, so he says to me no he wants a report and then he says to me and he wants a report the following morning, no, no late that afternoon. I had to phone Brigadier Maransela, Captain Pelser and Colonel Andre Laats to come into the office and extract all this
10 information from the computers for him.

When I was finished with – I then went home, a few minutes later he phones me he says to me no I must come back to town, he wants the thing now. I got dressed again, all the way back to town, when I arrived there he wasn't at the office, so I phoned him, I said okay we're almost done with the report, he says to me no I must now bring it to the airport. Now I'm starting to get irritated with him, we basically had the same rank, although he was acting as the Head, I said to him why don't you rather come to office, I've asked people to come in on the 1st of January, at least just come and greet them and
20 say thank you for sacrificing the New Year's day, so he says to me no he is busy patrolling on the beachfront now.

CHAIRPERSON: Patrolling?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: He's busy patrolling on the beachfront, I don't know what ...(intervenes).

CHAIRPERSON: Was that his job?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: No Chair.

CHAIRPERSON: Oh.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: That was not his job.

CHAIRPERSON: But what was your understanding of what he was saying, that he was patrolling, I mean it was obviously Festive Season and I come from Durban so I know that sometimes there are a lot of SAPS to make sure that on the beachfront you know people are safe and so on. Was your understanding that's what he meant?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Chair I will give him
10 the benefit of the doubt, maybe he wanted to be hands-on, but I will give him the benefit of the doubt for that.

CHAIRPERSON: Yes okay.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: So Chair so he says to me no, no, no he's coming back now, I must meet him in front of the office, so we hurriedly got the reports together and I took an envelope with the report that he wanted, which I thought he wanted, I went downstairs and Maransela was standing behind me and I think Colonel Laats was also there, and I think Pelsler. So he sat, and that's when I saw Colonel Jones is driving around in the Provincial Commissioner's
20 car, not a private car.

CHAIRPERSON: In the Provincial Commissioner's car?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: One of the State official cars not a private car.

CHAIRPERSON: Yes, yes.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: And I immediately felt

uncomfortable, I mean Colonel Jones had reported to him, he is driving him around, he is driving him around in a police vehicle that's allocated to the Provincial Commissioner, he is meeting with the Provincial Commissioner who is a suspect of mine, but he was sitting in the back of the car. So he pressed the button for the window to go down and I bent over and I gave him the report and the envelope and he looked into the envelope and he says no but it's empty. I said no the report must go inside there. He had a look at the report and said no, no, no, no, Chair that man has got a very – I cannot describe to you how he talks to people, and he started shouting no, no, and then I had had enough of him, I said to him listen here then you need to start communicating properly, and he could see that I was angry so he jumped out of the car and he took me by the arm and he took me around the back and he says no, no, no, no Johan let us not fight. I said to him but you don't – I don't know what it is that you want. Then he said to me the report he actually wanted was why did I want to go to Cape Town. Brigadier Maransela actually came to me and pulled me back and he said to me General just leave it.

Maransela travelled with me in my car because he also, we live in the same suburb, well we used to, and on the way back to Amanzimtoti he phoned me and he was on speaker phone, that's now Ntlemeza now, and he says to me hey Johan we mustn't fight, you know you people in KZN you are the best and he was basically boosting, I mean Maransela still ...(intervenes).

CHAIRPERSON: Kind of apologising indirectly or something like that?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Indirectly Chair, and then Maransela looked at me and he just shook his head and I also just shook my head. So Chair the first thing he did after his appointment was to come and to meet one of my suspects. The second thing he did is I know from there, I haven't got the exact dates, he travelled to Cape Town where the lead investigator in the looting of the Secret Services account was Colonel Kobus Roelofse.

CHAIRPERSON: Are you saying now in Cape Town?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: In Cape Town Chair, it
10 could have been a day after or a day or two later, but he travelled from Durban to Cape Town and there he indirectly intimidated Roelofse, Roelofse told me that himself, and later on he took away the investigation from Roelofse. Chair there was another investigation that we were doing at KZN that I will perhaps talk about later on, it might be irrelevant, which I had to engage with Roelofse and Roelofse expressed his frustrations, he was almost – the impression that I gained, because I wanted to come and see us in KwaZulu-Natal and he said to me he can't, he's been bound, he cannot leave the office, it's almost like he was shackled to stay in the Western Cape.

20 CHAIRPERSON: Now in regard to the investigation that – do you say it's Roelofse, what was the name of the ...(intervenues).

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Colonel Kobus Roelofse Chair.

CHAIRPERSON: Roelofse?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: That's correct.

CHAIRPERSON: I just want to pronounce it correctly.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: That's correct Chair.

CHAIRPERSON: Is there anything significant about the investigation from which he was taken off by General Ntlemeza?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Chair it's highly significant because Kobus Roelofse – Colonel Kobus Roelofse was the lead and main investigator in the looting of the Secret Services account.

CHAIRPERSON: Yes. Now I understood I think yesterday that the
10 looting of the Secret account that we talked about related to KZN, is that the same or it's different provinces?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: No, no Chair so the initial investigation into the looting of the Secret Services account were initiated from a report by General Mark Hanckle which was signed off by Dr de Kock. That was almost, if I can call it the whistle-blowing point.

CHAIRPERSON: Yes, report.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Simultaneous to that I think General Dramat then was overseeing the investigation from Head
20 Office but the actual investigator for the looting of the – we call it the slush fund, was Colonel Kobus Roelofse. At the very same time that Kobus Roelofse got involved with that investigation General Shadrack Sibiyá got – reopened the kidnapping and the murder case of which General Mdluli was a suspect and he was also a suspect in the looting of the slush fund. So at a much later stage when General Mkhwanazi

became the Acting National Commissioner he also directed, because by then there were indications that there was a KwaZulu-Natal leg of the looting of the slush fund by Crime Intelligence.

General Mkhwanazi then appointed Brigadier Simon Madonsela, the one that I know, to investigate that leg. That was a much smaller leg, the investigation that Roelofse did was much more comprehensive, and it was much bigger than the one that Madonsela did in KZN Chair.

CHAIRPERSON: So the one that Colonel Roelofse was conducting may
10 be described as the National Investigation relating to the Secret Account, or not really?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: I would say so Chair, because ...(intervenes).

CHAIRPERSON: Just to differentiate it from the one in KZN, differentiate from the leg, the KZN leg as you call it. So the National leg and the KZN leg would that help to distinguish which investigation?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: I would say the Western Cape leg.

CHAIRPERSON: Oh the Western Cape leg.

20 MAJOR GENERAL JOHAN WESSEL BOOYSEN: Although the investigations that Colonel Roelofse did also included cases that occurred here in Gauteng.

CHAIRPERSON: Yes, but he and Madonsela were doing these investigations independent, it's not like one was helping the other, was under another one.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: They were doing it independently Chair.

CHAIRPERSON: Independently, so it would be in order to talk about them independently.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Yes Chair.

CHAIRPERSON: And maybe the KZN leg and the Western Cape leg, even though maybe the Western Cape from what you say might not be completely accurate, but if we say Western Cape leg then we know which one we're talking about.

10 MAJOR GENERAL JOHAN WESSEL BOOYSEN: That will be the Roelofse one.

CHAIRPERSON: Ja, okay, alright.

ADV VERUSCHKA SEPTEMBER: Chair we are informed that Colonel Kobus Roelofse will be coming to the Commission to give evidence himself.

CHAIRPERSON: Yes, no that's fine, I just wanted to make sure as we talk further I don't get confused because there was the KZN one so if we talk about the KZN leg then I know which one, if we talk about the Western Cape one then I know which one we're talking about.

20 ADV VERUSCHKA SEPTEMBER: And then would now be an appropriate time to take the short adjournment?

CHAIRPERSON: Yes let's take the tea adjournment, it's now 20 past, we will resume at 11:35. We adjourn.

REGISTRAR: All rise.

INQUIRY ADJOURNS

INQUIRY RESUMES

CHAIRPERSON: Okay we may proceed.

ADVOCATE VERUSHKA SEPTEMBER: Thank you Chair. General Booyesen we are now at paragraph 150 of your affidavit which is at page 46. You had already alluded to Ntlemeza – sorry you have already alluded before the tea adjournment to Major General Ntlemeza’s involvement in the matter which has become commonly known as the Renditions Matters which in particular dealt with the rendition of certain Zimbabweans, is that correct?

10 MAJOR GENERAL JOHAN WESSEL BOOYSEN: That is correct Chair.

ADVOCATE VERUSHKA SEPTEMBER: To what extent are you aware of Major General Ntlemeza’s involvement with ...(intervenes).

CHAIRPERSON: I am sorry Ms September. Let me just go back Major General Booyesen to your meeting with General Ntlemeza on the 1st of January 2014. Is my understanding correct that the only – there are only two issues that he raised with you? One was what the gender and racial representation of people under you were and two that he asked for a report from you? There might have been a misunderstanding of a report about what but he asked for a report from you?

20 MAJOR GENERAL JOHAN WESSEL BOOYSEN: That is correct Chair.

CHAIRPERSON: Those are the only things?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Those were the only two things Chair.

CHAIRPERSON: Okay thank you.

ADVOCATE VERUSHKA SEPTEMBER: Thank you Chair. General at

paragraph 150 you talk about an engagement or an interaction rather that you have with a certain Mr Innocent Khuba?

CHAIRPERSON: Maybe I am sorry Ms September again.

ADVOCATE VERUSHKA SEPTEMBER: No problem.

CHAIRPERSON: You gave him the report that you gave him, is that right?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: That is correct Chair.

CHAIRPERSON: And when did you hear from him about that report or I do not necessarily – I am not necessarily looking for a date but I just
10 want to see if this was something that was so urgent that it needed to be dealt with on the 1st of January. How quickly did he deal with it?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Chair my understanding was that he needed a report pertaining to operational matters. That is why I called in those officers. But that evidently was not what he wanted. He wanted something else. And when I – when he told me that is not what he wanted he then indicated to me no he wanted to know why did I want to go to Cape Town?

CHAIRPERSON: Yes. But you did give him a report about Cape Town at some stage?

20 MAJOR GENERAL JOHAN WESSEL BOOYSEN: No. No Chair I did not.

CHAIRPERSON: And he did not ask for it – did not pursue it?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: No he – when he realised – well when I realised that is not what he wanted to know he said to me now I should favour him with the report but I just ignored

him I did not send him one.

CHAIRPERSON: And he never pursued that?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: No Chair.

CHAIRPERSON: So would it be correct to say for all intents and purposes to the extent that he wanted to see you on the 1st of January for asking the report – asking you to give him a report about that issue he asked for a report that when he did not get from you he did not pursue?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: That would be a
10 correct interpretation Chair.

CHAIRPERSON: And the only other reason why he wanted to meet you on the 1st of January was to ask you about the gender and racial representation of people under you?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: That is correct Chair.

CHAIRPERSON: And did you give him an answer on that day in regard to the question of racial and gender representation?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Chair I could not give him a – I told him I could give him an average more or less.

CHAIRPERSON: Yes.

20 MAJOR GENERAL JOHAN WESSEL BOOYSEN: I did not have the stats in front of me.

CHAIRPERSON: Yes.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: The fact is he had those stats available.

CHAIRPERSON: Yes.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: At his own office.

CHAIRPERSON: Yes.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: So that to me was a ruse to come and ask me about equity.

CHAIRPERSON: Yes.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: So I said to him look I have got about so many colonels, so many captains and then he said to me how many Indian colonels have you got? So I said, I guess about 19.

10 CHAIRPERSON: Yes.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: And then he said to me no, no, no you got too many Indians. So I said to him but he must realise with our amalgamation of organised crime, commercial crime and the Scorpions I then became the – I inherited those persons. I could not just now turn them away.

CHAIRPERSON: Did he later on – a week, two weeks, a month, three months, six months revert to you about the issue of the gender and racial representation of the people under you?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: No Chair.

20 CHAIRPERSON: So both of the issues that he raised were issues that he never took further?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: He did not Chair and that is why I interpret his visit on the 1st of January about equity and that – and a trip to Cape Town as a ruse to link up with the Provincial Commissioner.

CHAIRPERSON: H'mm.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: At that particular time the national commissioner was General Riah Phiyega.

CHAIRPERSON: H'mm.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: And later on it became clear to me that there was – because in my disciplinary hearing General Phiyega also testified. And in that hearing I openly accused of protecting General Ngobeni. And she said to me no she is not. And I pointed out to her well you are aware of the fact that there are these
10 allegations of corruptions that – corruption that is being investigated. And she was under oath. And she said no it is not true. Then I said – and I knew that she was going to say that so I brought with me to my hearing my application in the Jiba review matter in which I mentioned her as a respondent. I think she was respondent number 3. So I gave her the document. I said you the respondent in which I detail the nature of the corruption so you cannot say that you did not know about it.

CHAIRPERSON: H'mm.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: So I – what I am
20 trying to say is to me there was appears to have been an alliance between General Ngobeni and General Phiyega.

CHAIRPERSON: H'mm.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: And with Ntlemeza being appointed I think and that is my observation Chair that he – one of his first tasks were to go and take care of that particular

investigation against General Ngobeni and then secondly to go and interfere with the investigation of Colonel Kobus Roelofse.

CHAIRPERSON: Certainly there is nothing that was said at the meeting at your meeting with him that showed why these two issues were so urgent and the fact that later on he never pursued them or followed them up might suggest that – might mean that – there might not have been a proper justification to want to meet on the 1st of January these things could have been dealt with in the normal course? Okay thank you.

- 10 ADVOCATE VERUSHKA SEPTEMBER: Thank you Chair. Before we get to paragraph 150 can you turn to page 45 and at paragraph 146? You make the statement that the real extent of the nefarious alliance between Major General Ntlemeza, Mr Richard Mdluli was laid bare in the affidavit of Mr Innocent Khuba. Can you please explain what is meant by that?

- MAJOR GENERAL JOHAN WESSEL BOOYSEN: Chair Mr Innocent Khuba is from IPID. When Mr McBride and myself met when I returned back to work I met Mr Khuba and he was part of the team appointed by Mr McBride. So they were revisiting the Panday investigation and the
20 investigations that had become dormant in my absence. But at the same time obviously one discusses other issues as well and at that time they were under pressure because of the so called rendition thing. And ... (intervenes).

CHAIRPERSON: But just to clarify when you talk about IPID or Mr Khuba and McBride investigating the Panday matter what you mean is

they were not doing the investigation that you and your team were doing but they were investigating whether there may have been any misconduct or other unacceptable conduct on the part of any member of the police in regard to the conduct of that investigation?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: No Chair what happened is when I returned back to my office Chair would recall I received a telephone call from Mr McBride.

CHAIRPERSON: Yes.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Obviously he had now
10 become aware of what was going on and I do not know in the media or whether someone reported that to him.

CHAIRPERSON: Yes.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: I then gave him a report.

CHAIRPERSON: YES.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: And because IPID had oversight over SAPS ...(intervenes).

CHAIRPERSON: Yes.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: We decided and for
20 tactical reasons as well.

CHAIRPERSON: Ja.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: For IPID to take over these investigations.

CHAIRPERSON: Oh so they effectively were going to do what your team had been doing.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Exactly Chair.

CHAIRPERSON: Okay. But would that fall within their mandate? My understanding has been that theirs is to look at complaints about the conduct of police officers as opposed to investigating the actual crimes committed by people who are not police officers.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Chair their mandate is twofold. One is to investigate certain criminal offences against SAPS members like death in custody. Rape by police officers ...(intervenes).

CHAIRPERSON: Ja.

10 MAJOR GENERAL JOHAN WESSEL BOOYSEN: And corruption.

CHAIRPERSON: Ja.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: And then there is also that nice little ride at the bottom that says any case that the Head of IPID decide to allocate to IPID.

CHAIRPERSON: Oh.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: The second leg of their mandate is if they investigate with the IC – with the previous ICD Act they could make recommendations about disciplinary steps but with the new IPID Act they can actually instruct the police to initiate
20 disciplinary steps.

CHAIRPERSON: Okay.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: But they can do the criminal investigation Chair.

CHAIRPERSON: Okay, okay. No thank you I just wanted to understand that. Thank you.

ADVOCATE VERUSHKA SEPTEMBER: No problem.

CHAIRPERSON: I am sorry I interrupted you.

ADVOCATE VERUSHKA SEPTEMBER: No problem Chair. General Booyesen you attach a copy of an affidavit by Mr Innocent Khuba which is marked JWB19 and that can be found in Exhibit Z(B).

CHAIRPERSON: Is that B for Beatrice? Is that B for Beatrice?

ADVOCATE VERUSHKA SEPTEMBER: Yes.

CHAIRPERSON: Or D for Doris?

ADVOCATE VERUSHKA SEPTEMBER: B for Beatrice.

10 CHAIRPERSON: Oh.

ADVOCATE VERUSHKA SEPTEMBER: It is one of the lever arch files Chair.

CHAIRPERSON: Oh okay.

ADVOCATE VERUSHKA SEPTEMBER: And it is page 291 it is the first annexure in the bundle.

CHAIRPERSON: Yes.

ADVOCATE VERUSHKA SEPTEMBER: We are informed that Mr Innocent Khuba will also be providing evidence before this Commission and so we do not intend to go through the detail of this affidavit but
20 merely just to highlight certain aspects of it. General Booyesen can you in summary inform the importance of this affidavit for purposes of your evidence?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: In summary Chair and as early as 2013 when General Dramat was the Head of the Hawks Chair would recall that there now were investigations against Richard

Mdluli. The initial investigation I did not mention – I do not think – I might have mentioned that in my statement. The initial investigation into the alleged murder case and the kidnapping case at some point in time had also been done by General Ntlemenza before he was – he became the Head of the Hawks. I cannot recall what his position was. He basically white-washed that investigation to say that there is no case. But what ...(intervenes).

CHAIRPERSON: Was that investigation against Mdluli?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Yes.

10 CHAIRPERSON: Okay.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: But that was a wishy washy investigation that he conducted Chair. What emerges from Khuba's statement is that as early as 2013 there seems to have been an unholy alliance between Mdluli and Ntlemenza to get rid of Dramat. Because after the Sunday Times' so called expose on the rendition matter Dramat gets suspended and they are now facing Dramat and Sibiya are now facing the charges of rendition. There was an initial report which Innocent Khuba from IPID wrote that I think went to Parliament in which he indicates that there appears to be a case to
20 answer by General Dramat and Shadrack Sibiya. But the investigation had not been concluded and I still recall asking Mr Khuba Innocent I said to him, Innocent we both investigators something is not right here. Why did you advance a report on the investigation which you know was not complete yet? And his answer to me because I said to him, I am going to cross-examine you I am going to be a lawyer now I am going to

cross-examine you. And that is how I spoke to him. Because it did not make sense. You do not send a report unless your investigation is completed and his answer to me was, there was pressure on him from Advocate Mosing. Now the same Mosing who was involved in my matter and the same Mosing who was involved in setting the stage to have the Amigos case withdrawn. He said there is pressure from Advocate Mosing to provide him with either the report or the docket I cannot recall. But what – but then comes to light is unbeknown to me at the time that I wanted to fly to Cape Town I only established now
10 later on why there is this animosity towards General Dramat from Ntlemeza's side. According to Khuba Ntlemeza put pressure on him to finalise the investigation. And I do not want to quote from the statement but the words to the effect were used that if there might – if he experiences problems Richard Mdluli had told him via Ntlemeza now that he will look after him. At some stage he even phoned Innocent Khuba on his wife's phone and he would come to Khuba's house – Innocent Khuba's house.

ADVOCATE VERUSHKA SEPTEMBER: Before dealing with that particular phone call is the paragraph you referring to at page 296
20 paragraph 5.11 of Exhibit Z(B)?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: 296. Paragraph?

ADVOCATE VERUSHKA SEPTEMBER: 5.11 at the bottom.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Yes Chair.

ADVOCATE VERUSHKA SEPTEMBER: Okay. If you could just then read that particular paragraph into the record?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: “Again in October 2013 this is now the statement by Innocent Khuba Chair, my wife called me while I was watching TV and informed me that Mlegazi referring to General Ntlemeza was at the gate. She then handed me her phone and he requested me to order the security to open for him as he had valuable information to tell me. When he was inside he said that he has urgent information to tell. He said on Friday he was at the airport and he met with Mdluli who requested him to tell me that I must not be afraid when dealing with rendition case because there were people who were looking after me. He said he was asked by Mdluli to deploy people for my safety and that if I see any suspicious car behind me I should call him. I was surprised because I never met or spoke with Mdluli. During my entire investigation with Colonel Mokunkwe he never mentioned Mdluli’s name.”

10

20

ADVOCATE VERUSHKA SEPTEMBER: And that appears to be the excerpt that you were then referring to?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Chair but if I can just conclude my summary of his statement.

ADVOCATE VERUSHKA SEPTEMBER: Please.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: The day that Dramat was suspended I do not know whether they met or whether he had

phoned Khuba but it is reflected in his statement Ntlemeza told him his day had now come to Head the Hawks.

ADVOCATE VERUSHKA SEPTEMBER: And on that point can I take you then to the particular paragraph you may be referring to which is paragraph 5.13 on page 297.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: 5.13?

ADVOCATE VERUSHKA SEPTEMBER: 5.13 just for accuracy on record. Can you in fact if I may with your leave Chair just to place on record 5.13 states:

10 "I only informed one of the IPID employees whom I trusted about what happened when General Ntlemeza visited me. When I sent a report to Advocate Mosing General Ntlemeza stopped asking me about the report. The last time I met with General Ntlemeza was on 6.12.2014 at Wimpy Cycad Centre I think."

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Cycad Centre.

ADVOCATE VERUSHKA SEPTEMBER: Cycad Centre. That is for the record C-y-c-a-d.

20 "He had just called me to tell me the good news. I arrived at approximately 15:00 with my wife but she remained in the car. I found him seated inside. He said that his time to move to the Hawks had arrived and that there was going to be a hit on Dramat. He encouraged me to watch the news on TV in the next coming weeks. What he told me happened exactly as

he said. His last communication with my wife was on 31.01. 2015 where he sent her a message at 16:06.”

Is that the section that you were referring to?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: That is what I am referring to Chair.

CHAIRPERSON: Well Mr McBride also said in his evidence that Mr Khuba had told him that General Ntlemeza had put pressure on him to finalise the report relating to the rendition matter. And that he had also alerted him that something was going to happen to General Dramat on
10 a certain day and it seems that something did happen and that is I think the suspension if I am not mistaken. Yes thank you. So it seems if this – if Mr Khuba’s evidence is correct it seems that General Ntlemeza knew in advance what was going to happen to General Dramat and that he may have known or expected that he would be appointed if and when General Dramat was not there.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Chair that is how I interpret events. Why would Ntlemeza who at the time was outside the Hawks put pressure on Mr Khuba to expedite his investigation? And then from the National Prosecuting Authority side you have Advocate
20 Mosing wanting reports before the investigation is finalised.

CHAIRPERSON: H’mmm.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: So to me it is clear that there was a strategy from the National Prosecuting Authority side and I here I will say from Mosing’s side I do not know at whose behest but from his – from the NPA’s side and from the police’s side Ntlemeza

to get rid of General Dramat. And the reason was simple Chair. General Dramat was the one the driving force put – on a – for a number of investigations.

CHAIRPERSON: H'mm.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Inter alia the Secret Services account, the looting and it was – it had become common cause before I returned to work that General Dramat was supporting me in my investigations. Because he basically took my side when there was this disagreement between myself and General Phiyega.

- 10 CHAIRPERSON: It is – well we will see at the end of the whole commission findings will be made but there certainly are certain features of evidence that I am hearing from you that I heard from Mr McBride. That should be quite concerning if it is true. The Law Enforcement is very important and if Law Enforcement is not doing its job properly then we have no country. So – but I am hoping that more and more people within Law Enforcement who know what was happening will come forward and will not be scared, will come forward and give evidence and tell the nation exactly what has been happening because if the Law Enforcement Agencies are not working then we will
- 20 not have a country. We have got to find out exactly what has been happening so that this Commission can make recommendations as to what should be done to make sure that those things never happen again.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Chair I agree the problem with that is and Mr McBride calls it the Blue Curtain.

CHAIRPERSON: H'mm.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Chair believe me if any person at whatever level becomes a whistle-blower I am talking about SAPS I am not talking about any other department. You are dead in the water. You are ostracised, you are worked out. They – in my instance you get prosecuted, you get suspended and despite of court hearings courts basically agreeing that there is no case against me, being exonerated they will not leave you alone.

CHAIRPERSON: H'mm.

10 MAJOR GENERAL JOHAN WESSEL BOOYSEN: And ...(intervenes).

CHAIRPERSON: And not everybody can stand up to that for a long time.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: That is the one Chair and the other thing is Chair the promotion system in the police in my view should be revised. Because I know a number of officers they will not set a foot wrong or report something because they are scared that they will not be promoted. Chair I have sat on those promotion – how to – in the past how it worked is you had to attain a certain qualification

20 CHAIRPERSON: H'mm.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: You had to write an exam to become a sergeant. You had to write an exam to become a warrant officer. You had to write an exam to become a commissioned officer and then attend a course to become a lieutenant. Then you had to attend every second year for every second rank you had to attend

another course. So currently how it works. The – a post is advertised and whether you have the right attributes or qualifications Chair I sat on those panels at senior level where the – invariably the decisions are taken before any of the candidates appear. It is a farce.

CHAIRPERSON: But who is going to get into that post?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Yes Chair. It is – the promotional system in SAPS is a complete farce. In most of the panels that I sat and one of – I sat on some panels with at – for a very senior post with General Ngobeni and we would sit there and we
10 independently have to mark candidates on various aspects and once the candidate leaves the room she would ask each one of us. Johan then I will say 4. Why do you give him 4? Then I will say well that is – and then – so what I eventually did Chair is if the candidate deserved a 6, I will give him a 6. If he deserved a 3, I will put a 3 there. If she said to me, Johan then I listen what the rest say I will say no they all say a 6, I also say a 6. But then I put my 3 there. Because they
20 decide before the time who is going to be promoted. It is very rare that the candidate and Chair believe me it has got nothing to do with race. I am not talking about whites and blacks here there are many, many black officers, good officers that are being overseen because they do the right thing. They worked with me. I have sat on those panels. I talk of experience.

CHAIRPERSON: H'mm. Well if we are to make recommendations as to what should be done in the future to avoid some of the problems that may be the Law Enforcement Agencies have found themselves in it

would be important to have as much information as possible from people on the ground who know how these things work. So people like you and other people and organisations that may be involved in Law Enforcement Agencies who wish to make recommendations as to what should be looked at in terms of recommendations who wish to make submissions you know in due course will you know will be allowed and they must be ready to make submissions as to what should be done. Of course before you can make recommendations you – about what should be done you need to know what has happened and that is why we need

10 to go through this so that the measures that must be taken must match what the problem was that is sought to be addressed.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Chair and I am saying that in the context of ...(intervenes).

CHAIRPERSON: H'mm.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: People wanting to come forward.

CHAIRPERSON: Yes.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: To expose the rot in the police.

20 CHAIRPERSON: Yes.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: And believe me Chair.

CHAIRPERSON: Yes.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: It is – corruption is rife in the police.

CHAIRPERSON: H'mm.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: I have been out of the police for two years but I still work with Law Enforcement.

CHAIRPERSON: H'mm.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: And I am not saying everyone Chair.

CHAIRPERSON: H'mm.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: I am levelling accusations against prosecutors here.

CHAIRPERSON: H'mm.

10 MAJOR GENERAL JOHAN WESSEL BOOYSEN: And senior police officers but there are a number of prosecutors Chair that I still work with ...(intervenes).

CHAIRPERSON: H'mm.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: That do a ...(intervenes).

CHAIRPERSON: A good job.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: An honest day's job.

CHAIRPERSON: Ja.

20 MAJOR GENERAL JOHAN WESSEL BOOYSEN: And a number of policemen.

CHAIRPERSON: H'mm.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: But unfortunately those people are at the mercy.

CHAIRPERSON: H'mm.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Of people who are

appointed above them who are doing the bidding of the people above them.

CHAIRPERSON: H'mm. No, no thanks. I am also talking exactly from the same point. So it is not just a question of addressing issues at SAPS that people might be concerned about that have got nothing to do with the Commission. It is to the extent that certain – a certain environment maybe providing a fertile ground for corruption within Law Enforcement Agencies. So that needs to be looked at if we want to make sure that such corruption does not continue. Thank you.

- 10 ADV VERUSCHKA SEPTEMBER: Thank you Chair. General Booysen you touched on the issue in relation to Human Resources and the appointment of people within the police. In your affidavit you talk specifically about Major General Ntlemenza's approach to promotions in particular. Can you please explain the detail in relation to that?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Chair historically how the promotions work in provinces. The provinces are – they deal with the promotions in their own province. For instance if a Captain's post was advertised the short – the long listing will be done at provincial level. The short listing will be done. The interviews will – everything
20 will be done at provincial level. Then the recommendations go to national. At national they will either sanction it or if they think that your equity profile might not be right they might take the number two candidate which is not a problem. The problem started when General Ntlemenza became the Head of the Hawks. He hijacked the whole promotion system of the Hawks. All the posts that were

advertised within the Hawks were dealt with from his office. He excluded the Provincial Heads – all of us. At a meeting at Polokwane I took issue with that and I said to him we as Provincial Heads – now I was talking on behalf of all the nine provinces because we discussed it amongst ourselves the Provincial Heads. I said we as Provincial Heads we know the people in the provinces. We know the dynamics of crime in the provinces. In KZN for instance I know about faction fights – political killings. I do not know about gangsterism that occur in Cape Town. So I would know which – the profile of the person who needs to

10 be appointed and then he basically made some excuse saying to me no well he will incorporate us in the processes in the future which he never did but what he did in fact do, which I found very strange. He co-opted a police officer from KwaZulu-Natal Major General Ngembe. Now she was outside the Hawks. She was from the SAPS side and she was at Human Resources in KwaZulu-Natal and he would take her all over the country to do interviews and appointments. I bumped into her one day in the lift at KwaZulu-Natal and she said to me no she is – she has been co-opted by General Ntlemenza to do these appointments and she said to me it is not her field and she does not know anything about

20 investigations. Chair at KwaZulu-Natal for instance, I always say the person who carries the purse calls the shots. So there where your HR is a very important component of a company or a unit. In my instance for instance there was a Captain then she is a Colonel now – Sonnekus. She was the Support Head dealing with finances, dealing with appointments. General Ntlemenza without any cause sent me a

notice of an intention to suspend her for a very trivial matter which she was not even responsible for. So I wrote back to him and I said to him this matter has been disposed of. Discipline is a line management function. I regard the matter as finalised. A week after he suspended me he suspended her. She sat at home for a full year.

CHAIRPERSON: So he disregarded your – what you had to say?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Yes Chair.

CHAIRPERSON: H'mm.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: He suspended her.

10 She sat at home for a full year. She then – he then charged her in terms of the Disciplinary Code. She asked me to come and give evidence which I did. We raised a few points in limine and the matter was remanded and I told the Chairperson because what General Ntlemeza would do is he would get his cohorts from other provinces. General Sibiya calls them the "assassins". He would get them there and your fate is sealed with the type of disciplinaries that he concocted. So I told the Chairperson there and I told the employer representative if they proceed with this matter it will probably be taken on review in the Labour Court and having given them the facts I will
20 make sure that the taxpayer will not pay for that. They will pay the ...(indistinct). They will pay from their own pockets and we never heard from them again. Then a couple of months later she got a letter to go back to work.

CHAIRPERSON: But did the disciplinary hearing proceed or not?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: They abandoned it

Chair and up until today I know she has been writing for a finding on the matter – up until today there has been no finding. What they did is when they saw that they could not take it further they told her to go back to work but then transferred her to another place. I understand she has taken that matter to the SSSBC and as recent as about two or three months ago there was an agreement between the SSSBC – well between her and the police during the arbitration process that she would take up her original post but she had been out of that post for the better part of two years. What I am trying to demonstrate Chair is

10 the same thing happened at national level where there is a Brigadier Vermaak and Brigadier.

CHAIRPERSON: But if – I am sorry. Before you go to national you told – you wrote to General Ntlemeza and said the matter about which you are contemplating suspending this person has been disposed of. He did not respond to you but about five days or so later or a week later the person was suspended. She stayed at home for about a year. There was a hearing – disciplinary hearing. You took part or you indicated that if this matter was taken on review you would make sure that General Ntlemeza – whoever you might have said, paid from his

20 own pocket and then the matter was abandoned. Is that more or less correct?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: More or less Chair. When I wrote to him that.

CHAIRPERSON: H'mm.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Management – line

management function has been disposed of.

CHAIRPERSON: H'mm.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: I did not hear from him again except about three weeks later. I did not mention this. A Colonel arrived in my office from his office.

CHAIRPERSON: H'mm.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: And he said he is here to do an investigation. I said what investigation. He says no the – some files went missing out of another member's car.

10 CHAIRPERSON: H'mm.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: So I said to him who sent you. He said no it is Ntlemeza. Now that related to the thing that they wanted to suspend.

CHAIRPERSON: That person.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: That person for.

CHAIRPERSON: H'mm.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: So I said to but it is finalised.

CHAIRPERSON: H'mm.

20 MAJOR GENERAL JOHAN WESSEL BOOYSEN: So I said how long are you here for. He said to me no for three days. So I still said to him listen here go and sit in your hotel room. Buy yourself a barrel of Kentucky then you can have some Kentucky.

CHAIRPERSON: H'mm.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Then go back and tell

General Ntlemeza he must stop poking his nose into my province.

CHAIRPERSON: Huh-uh.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Because Chair I was getting.

CHAIRPERSON: H'mm.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Tired of his antics.

CHAIRPERSON: H'mm.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: So he left – then he left it.

10 CHAIRPERSON: Yes.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Then he suspended me. Ntlemeza suspended me and about a week.

CHAIRPERSON: For what now?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: That is ...(intervenes).

CHAIRPERSON: Oh that is ...(intervenes).

MAJOR GENERAL JOHAN WESSEL BOOYSEN: For the fraud matter.

CHAIRPERSON: The one that you have discussed before?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Yes Chair.

CHAIRPERSON: Okay.

20 MAJOR GENERAL JOHAN WESSEL BOOYSEN: And about a week after he suspended me he suspended her as well.

CHAIRPERSON: That lady. Was it a lady?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: It was a lady Chair.

CHAIRPERSON: Yes and then the matter that was taken to arbitration related to her transfer. The validity or fairness of her transfer. Is that

what was taken to arbitration?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: That is correct Chair.

CHAIRPERSON: Yes, but do you know whether the reasons for the transfer were in anyway connected with the reason for her suspension or was it something else?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Chair all they want to do is they want to take control of key posts.

CHAIRPERSON: H'mm.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: She was unlawfully
10 suspended.

CHAIRPERSON: H'mm.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: She went back to work.

CHAIRPERSON: H'mm.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: After their hands were basically forced.

CHAIRPERSON: H'mm.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Because there were questions in Parliament of members sitting at home for more than a
20 year.

CHAIRPERSON: H'mm.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: On suspension. So they were under pressure to let her go back to work.

CHAIRPERSON: Ja.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Now she goes back to

work but they do not want her in that position.

CHAIRPERSON: H'mm.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: So they transfer her to another position.

CHAIRPERSON: H'mm.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Away from province.

CHAIRPERSON: H'mm.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: And it is that decision that she took to the SSSBC.

10 CHAIRPERSON: Yes.

ADV VERUSCHKA SEPTEMBER: If I could ...(intervenes).

CHAIRPERSON: Okay.

ADV VERUSCHKA SEPTEMBER: Just for the record what exactly does SSSBC stand for?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Chair that is equivalent to – for ...(intervenes).

CHAIRPERSON: The Bargaining Council?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Yes it is.

CHAIRPERSON: Ja.

20 MAJOR GENERAL JOHAN WESSEL BOOYSEN: Very similar to the CCMA but for Government Officials.

CHAIRPERSON: Ja. It is a Bargaining Council.

ADV VERUSCHKA SEPTEMBER: If I could then take you to paragraph 155 of your statement? You talk about specifically Major General Ntlemeza's replacement of Provincial Heads. Can you give

clarity to that detail please?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Chair when the Hawks were established General Dramat became the Head of the Hawks. They advertised post for the Heads of Hawks in nine provinces. Nine of us were appointed as Head of the Hawks. When Ntlemeza came there – and most of them were I would say the majority if not all of them were capable people to lead the provinces from the Hawks' side but then the Glenister Judgment came out and according to the Glenister Judgment the appointments had to be made by the Head of the Hawks. Prior to
10 the Glenister Judgment appointments had to be made by the National Commissioner. So Ntlemeza used that as an excuse to re-advertise all – all nine of the posts and except for one. I think it was General Ntsika who also on her own accord went to another post later on but out of the nine provinces he appointed eight new people as Head of the Hawks.

CHAIRPERSON: I mean except for one all were – all the others who had been there before him were not retained?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: No Chair.

CHAIRPERSON: H'mm.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: In my case Chair what
20 he did with me while I was suspended.

CHAIRPERSON: H'mm.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: That is when he advertised and I still had my matter pending at the SCA.

CHAIRPERSON: H'mm.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: While that matter was

pending he appointed someone else in my post.

CHAIRPERSON: To act?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: No permanently Chair as part of that advertisement group.

CHAIRPERSON: Huh-uh.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: So technically speaking that post I should – I was in that post until.

CHAIRPERSON: Yes.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: The court case was
10 disposed of.

CHAIRPERSON: Yes.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: So he did not wait for that.

CHAIRPERSON: Yes.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: He advertised the post and filled it with someone else.

CHAIRPERSON: Hm and what happened after that? I assume you did not just take that as that is?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Chair at that stage I
20 had been in and out of court over a period of five or six years and I just thought to myself if I have to – you had to pick your fights.

CHAIRPERSON: You had reached a point where you were quite exhausted in terms of all the fights you had to put up?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: That is so and Chair – I mean Chair every single matter that I took to court. As I have said

and I will mention it later on in terms of the financial implications to the taxpayer. Every single one I won but Chair litigating with the NPA and SAPS they use taxpayers' money.

CHAIRPERSON: H'mm.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Myself and the Cato Manor guys we had to find funds to fight what was happening to us but at that stage besides being exhausted Chair you have to pick your fights.

CHAIRPERSON: H'mm.

10 MAJOR GENERAL JOHAN WESSEL BOOYSEN: Because if you are fighting all over the show.

CHAIRPERSON: Yes.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: And you spread yourself so thin on the ground.

CHAIRPERSON: Yes.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: So some of these things I had to let go. Other more important issues I pursued.

CHAIRPERSON: Yes. This was close to the time that you were going to retire?

20 MAJOR GENERAL JOHAN WESSEL BOOYSEN: Yes Chair.

CHAIRPERSON: So the person who was appointed is it still the same person who is still there now or you do not know?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: He is still there Chair.

CHAIRPERSON: H'mm.

ADV VERUSCHKA SEPTEMBER: Do you have anything to add to this

in relation to a certain Brigadier Ronel Vermaak and Colonel Lynn Deveshan? If I am pronouncing that correctly.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Chair

Brigadier Vermaak was the National Support Head at General Dramat's office and Colonel Lynn Deveshan was one of her subordinates. Chair at any meeting whether you are a woman or – the way he spoke to people. Sometimes I would cringe. He would shout at them. He will make racial remarks. He would belittle people and Vermaak and Deveshan told me personally that they just could not handle it any
10 longer. I mean he would – if – and that was not only with the two of them. If he had found out that anyone had any contact with General Dramat.

CHAIRPERSON: H'mm.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: He would go berserk.

CHAIRPERSON: H'mm.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: I just could not understand why at one stage.

CHAIRPERSON: H'mm.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: And then eventually
20 Brigadier Vermaak took a transfer and so did Colonel Deveshan. Also very key posts because that was Human Resources and when General Lebeya was appointed I actually approached Vermaak and Deveshan and I said to them look we need to assist General Lebeya to get the ship afloat again because I think General Lebeya inherited a sinking ship because of what General Ntlemeza did to the Hawks and

she said to me General there is no ways I can go back to that place. If I see that place I am traumatised. That is how he dealt with people. Chair in my instance when he served my suspension notice on me they arrived – it was a public holiday. I was not at home. I received a call from my neighbour. He said to me the riot police is at your house. So I said what do you mean. He says no they are jumping over the fences with guns and – so I phoned my domestic aid and I said to her Lindie what is going on. She says too many police.

CHAIRPERSON: Was this while you were at work or what?

- 10 MAJOR GENERAL JOHAN WESSEL BOOYSEN: Yes Chair. That is when Ntlemeza suspended me but now he had to give me the notice. So it was a public holiday. Then I get a call from my lawyer Carl Van Der Merwe. He says to me he received a call they are looking for you. I said well I am in Pietermaritzburg now. The next moment he phones me he says no it is a public holiday. He says to me no the security from his office phoned him now. Chair now I actually have video material that – to show how they take the national intervention unit people. They actually – when they approach the lawyer's office they jump out of the vehicles with their guns. They go into the foyer.
- 20 The offices were closed and you can see they talk to the security. They went upstairs came back. That just to serve.

CHAIRPERSON: For what?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Chair that is – that was Ntlemeza at his best. He wanted to prove a point if you go against me this is what is going to happen to you. Even when I was suspended

– eventually suspended he went to my office. My secretary was sitting there and my door was locked and he said to them they must open and by the way Chair she took with her – just to prove the point he took with him General Ngobeni the suspect in my investigation. They went to my office and he threatened my secretary that she should open the door otherwise she will also be suspended. So it was very highhanded. If you dared go against him whether you were right or wrong he – and I think he wanted to prove a point. Booysen went against me. He sends these people to my house in battle gear to come and serve a notice on
10 me.

CHAIRPERSON: But you say these people were – you were told were jumping over the fence or something?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Well I was not there Chair.

CHAIRPERSON: In your house.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: My neighbour phoned me. He said to me the riot police is at your house.

CHAIRPERSON: H'mm.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: So I phoned my
20 domestic aid. I said Lindie what is going on. She says no there are lots of policemen at the house. They are coming from the sides and they have got big guns.

CHAIRPERSON: H'mm.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: And then I get the call from my attorney. They are looking for me. Then they go to my

attorney's office and that I have on – I have a little video clip of that. How they descended upon his office to come and serve a notice on me.

CHAIRPERSON: The ones who were – who had gone to your house did you get to know what the purpose of their visit was?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: They wanted to serve me with the ...(intervenes).

CHAIRPERSON: A notice of your suspension?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Suspension – that is correct Chair.

10 CHAIRPERSON: So some went to your house. Others went to your attorney's office or it was the same group?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: It is the same group Chair. When they could not find me at my house.

CHAIRPERSON: Yes. Then they went ...(intervenes).

MAJOR GENERAL JOHAN WESSEL BOOYSEN: They went to my attorney's office but I do not understand why they went to his office. It was a public holiday.

CHAIRPERSON: Yes.

20 MAJOR GENERAL JOHAN WESSEL BOOYSEN: There was no one there.

CHAIRPERSON: Yes.

ADV VERUSCHKA SEPTEMBER: If I could ask you to turn to Exhibit Z(B) and in particular page 306?

CHAIRPERSON: Tell me Major General Booyesen – I am sorry to interrupt you Ms September. By this time you had been – you know – in

the Law Enforcement Sector for decades. Is that how notice of – notices of suspension are delivered or served on police officers when they need to be suspended?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Definitely not Chair. I have never – I have suspended officers before. I call them to my office. I tell them the reason for the suspension and I will give them the notice. I let them sign for it and I treat them as human beings whether they are right or wrong. I have never ever seen anything like it. Chair can you just imagine what my neighbours must have thought
10 with the riot police descending upon my house. My lawyer phoning me. There are policemen all over the show at this office and as I said I have a video clip that can prove that but no Chair. That is – it is completely irregular to do that. I posed no threat.

ADV VERUSCHKA SEPTEMBER: At page 306 you have an affidavit that has been deposed to by Ronel Vermaak.

CHAIRPERSON: I am sorry which exhibit are you now on?

ADV VERUSCHKA SEPTEMBER: Exhibit Z(B).

CHAIRPERSON: Okay. What page?

ADV VERUSCHKA SEPTEMBER: Page 306. Is it correct that this is an
20 affidavit deposed by Ronel Vermaak and the date of this particular affidavit is dated 8 February 2019 as reflected on page 313?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: That is correct Chair.

ADV VERUSCHKA SEPTEMBER: Have you read through this affidavit?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Chair I have just perused through it.

ADV VERUSCHKA SEPTEMBER: And does it ascribe the – or the same or similar manner of your dealings with Major General Ntlemeza?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Chair...(intervenes).

ADV VERUSCHKA SEPTEMBER: And in particular the relationship between Ronel Vermaak and Major General Ntlemeza?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: It is indeed so Chair. She goes into a bit of more detail here but – and I have picked up something here that I was not even aware of. If I would go to National Head Office she was actually hiding in the offices. She did not want to
10 be seen with me because...(intervenes).

CHAIRPERSON: Who was that?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Brigadier Vermaak.

CHAIRPERSON: Oh. She did not – she would not want to be seen with you?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Ja. So I now realise when I went to Head Office I could never find her there.

CHAIRPERSON: Oh.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Because she was hiding from me because she was scared if Ntlemeza sees her with me
20 all hell with break loose.

CHAIRPERSON: H'mm, ja.

ADV VERUSCHKA SEPTEMBER: We are now on page 48 of your affidavit in particular from paragraph 157 which talks about the appointment of the Head of the Hawks.

CHAIRPERSON: Well did he not cover this last time or is there

something to be covered?

ADV VERUSCHKA SEPTEMBER: No Chair. This is something new.

CHAIRPERSON: Oh. I seem to remember Major General Booysen talking about him and other people going to Cape Town for an interview but General Ntlemeza not being among them and to his – how he was taken to the Gupta residence. Major General Booysen?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: No, I have not testified about that Chair.

CHAIRPERSON: Sorry.

10 MAJOR GENERAL JOHAN WESSEL BOOYSEN: No. I have not testified about that Chair.

CHAIRPERSON: Not the second part?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: No.

CHAIRPERSON: Also the interview?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Not the Gupta interview. I have not testified.

CHAIRPERSON: Yes, but the other one you did about the interview?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Yes Chair.

CHAIRPERSON: You did.

20 MAJOR GENERAL JOHAN WESSEL BOOYSEN: Yes.

CHAIRPERSON: Okay, alright. Okay, thank you or maybe it is just I read and you have not testified, okay.

ADV VERUSCHKA SEPTEMBER: Chair he certainly did allude to certain aspects of his application for the position.

CHAIRPERSON: No that is fine. Continue and cover what you need to

cover.

ADV VERUSCHKA SEPTEMBER: General Booysen do you know Mr Duduzane Zuma?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: I do Chair.

ADV VERUSCHKA SEPTEMBER: How do you know him?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Chair I cannot recall the date. It was when I was back at work. A person – I cannot recall what his name is. I will – maybe if we break I will get his name. Phone me and he wanted to meet me and I met with him and he told me that

10 he was a friend and a partner of Duduzane Zuma and then he said to me that there is a complaint they want to lodge with regards to a criminal investigation against the white guy. I think his surname was Erlang but I can get his surname Chair. The way he explained it to me is that Duduzane did not want to go into business with this white male but he convinced Duduzane to go into business with this white male and it is related to online betting and apparently this white male had then defrauded them with millions and this guy was now sitting in the UK. He then said to me that this white male – the Hawks from Cape Town had mirror imaged this white male's computer in Durban. I said

20 no I do not believe it because I would have been aware of that. So I thought let me just take a chance. So I phoned Colonel Roelofse. I said to him Cobus are you aware. He said no he knows about it. They did mirror image this white male's computer and there is an investigation by the British Police regarding this online betting thing. Be that as it may Chair so the complaint from their side was that we

should investigate – it was a couple of million Rand.

ADV VERUSCHKA SEPTEMBER: And whose side when you say his side do you mean?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Sorry.

ADV VERUSCHKA SEPTEMBER: Who was the complainant in the matter?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: The complainant would have been – Chair I will have to get his name.

10 CHAIRPERSON: Is it the name that you cannot remember at the moment?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: But I will get it now Chair when we get a break.

CHAIRPERSON: Ja.

20 MAJOR GENERAL JOHAN WESSEL BOOYSEN: So he said they want to do – us to do the criminal investigation and Chair I was very weary. I do not want to do criminal investigations from – because we met at a restaurant. So I pointed a Lieutenant Colonel Marthinus. His nickname is Tienie Botha to open up an inquiry and a docket to investigate the matter. So I said okay we will investigate the matter. Subsequent to that he wanted to see me again and we met in a restaurant in Florida Road.

CHAIRPERSON: But let us just go back. What was the actual complaint that had to be investigated about the online business?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Chair it was one of these technical things.

CHAIRPERSON: Oh.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Online betting.

CHAIRPERSON: Okay. Some technical things, ja.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: I am not very au fait with.

CHAIRPERSON: Okay.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: These commercial investigations Chair but the complaint at face value appeared to be legitimate and Colonel Botha also reported back to me that there
10 appears to have been crime committed by this white gentleman who is now in England. At a second meeting this time around I met this gentleman whose name I cannot recall and Duduzane came and there was another tall coloured male with them. The coloured male recognised me but I did not recognise him and – but the way he spoke to me it's like we knew each other and eventually I picked up that he was a person by the name of Lloyd Hill and Lloyd Hill Chair, if I can just digress a little bit there was a allegation against a previous president of that gangsters that were – that they met up with and very foul language were used, now this was the same Lloyd Hill was at that
20 meeting with the president. So this Lloyd Hill – I remembered him when I was a young Lieutenant, he used to work and went – he was involved with narcotics. So then I realised who this guy was because he had got much older and we spoke about the investigation, myself and Duduzane and I told him, look Colonel Botha is dealing with the matter. I don't think they tried to put pressure on me, I think –

nowadays the public has to put pressure on the police to do their work.

Then on an occasion I was in Gauteng and I received a call from a Captain, Captain Dirk Swart, now Captain Dirk Swart happens to be friends with Edward Zuma and Duduzane Zuma and he said to me Duduzane would like to meet me here in Pretoria because they knew that I was here. So I said to him its fine so I drove with my son Eben and we met them in Sandton but when I met them Duduzane was with a youngster, more or less his age, a white guy. So we just spoke in generalities and we were in my son's car so they said, no we should go
10 to their office. So we drove to an office and I think I'll be able to find it in Sandton and we went inside, we saw people there I don't know who they were. Thinking back I suspect it could have been the offices of the Gupta's because the boardroom sat in had a big plastic thing with a piece of pole inside but we just had tea and we spoke to this – my son spoke to this young white laaitjie but they were friends Duduzane and this youngster, they were in the same school and Duduzane spoke about that they were still expanding their business to make armoured vehicles and next time when I'm here they'll take me in the helicopter and we'll go and have a look at the place where they build the
20 armoured vehicles, I still said it would be nice and then we left. Then on a second occasion, I think I've got the date in my statement ...(intervenues).

ADV VERUSCHKA SEPTEMBER: Yes in fact if I could take you to paragraph 158, it's understood that there was in fact a meeting shortly before your interview.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Yes Chair, so I was shortlisted to become the Head of the Hawks Nationally and our interviews, I think, was – well the date on which I saw him – Duduzane was the 16th, I think the interviews were two or three days after ...(intervenes).

ADV VERUSCHKA SEPTEMBER: And that's the 16th of August 2015.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: August 2015.

ADV VERUSCHKA SEPTEMBER: Thank you.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: I once again got a
10 call from Captain Dirk Swart who said to me – he calls him Zane would like to see me again. So I said to him okay where is he, he said no he's in Sandton. So I said to him okay – Chair I just want to interrupt myself there, prior to that, I also got a call from Dirk Swart who said that Zane wanted to see me, I was on my way to hospital a little company of Mary Hospital in Pretoria where my brother's son had a brain operation. So I said well I'm on my way to the hospital, then he said, no he'll meet me at the hospital and I arrived there with my whole family, children, wife and he arrived there, that's now Duduzane in a Mercedes Benz, one of these fancy cars. He's a very likeable person
20 and he spoke to me almost like – and he calls me sir and by then he'd already met Eben my son and they would – and just like a greeting, meet and greet type of thing and then he left with the Mercedes and I went into the hospital. Back to this meeting in August Chair, so I said ...(intervenes).

CHAIRPERSON: Just to make sure I understand, the meeting that you

had with Mr Duduzane Zuma and his friend, you said it was about two or three days before you were to be interviewed for the position of Head of Hawks?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: No, no Chair this one I'm talking now ...(intervenes).

CHAIRPERSON: The one you're about to talk about is that one?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: He was alone then.

CHAIRPERSON: Oh okay, the one where he was with his friend, roundabout – when was that more or less, was that the first one?

10 MAJOR GENERAL JOHAN WESSEL BOOYSEN: That was the first one when I met him with his white friend Chair.

CHAIRPERSON: Yes so that was the first one and it happened – it was in Gauteng.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: In Sandton.

CHAIRPERSON: In Sandton ja.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: the second one was in Pretoria when he came there to the ...(intervenes).

CHAIRPERSON: Oh to the hospital.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Yes Chair.

20 CHAIRPERSON: Yes, the first one – let's finish the first one, what appeared to be the purpose of him wanting to meet with you?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Chair I don't know, like I say he's a very jovial, friendly person, I think maybe he wanted to brag a little bit I don't know, showing me the offices, the nice car.

CHAIRPERSON: Because it – I mean if you phone your friend and say

let's meet, there might not need to be any particular purpose, friends just want to be together for whatever but if it's somebody that you have never met before, one would think that there would be a purpose why you want to see that person.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Chair as I said during that first meeting with him and that white youngster we went to those offices and nothing much was said although he spoke about the investigation that we were busy with but I just said to him look – because they were pressurising – not so much him, it was done by the
10 other chap whose name I've forgotten now. They were putting pressure on myself and the investigating officer, Colonel Botha and I explained to them, we cannot just go and access documents we have to subpoena the documents and then when I met him – but when I met him here in Pretoria, when I met Zane in Pretoria, I don't think the idea was for me – for him – for me to give feedback about the investigation.

CHAIRPERSON: Yes.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Because we discussed it but it wasn't the primary cause of it, it was – the discussion on the case was, we're busy with it, Colonel Botha is dealing with it.

20 CHAIRPERSON: Yes okay thank you, then you're onto the third – and then the second encounter, it seems from what you have said that the purpose was not clear either, you were going to hospital, he came and talked to you and much not much was discussed and then he left.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: And with that discussion just about my whole family that was there, we stood there in

the car park, we spoke about the weather and the nice car and he said he had to go and I also said I also had to go now because we have to go see my brother's son.

CHAIERPERSON: Yes okay and then now you are into the third one and that the one, two or three days before the interview.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: That's correct Chair.

CHAIRPERSON: Okay thank you.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: So Chair I received a call again that he would like to see me, I said where, Sandton again, 10 where in Sandton, I can't recall exactly where so I said once again to my son Eben to accompany me and we drove in his car. Now on the way there we put the phone on speaker phone and then I received a call on the speaker phone which Eben could hear and asked where we were – well he said we are here, I said we are on our way, we should be there in a few minutes and then we terminated the call and then my son said to me who's that now but because Zane speaks very private school English and – but ...(intervenes).

CHAIRPERSON: How is private school English General Booyesen, I'm sure it's not like my English.

20 MAJOR GENERAL JOHAN WESSEL BOOYSEN: And like my English Chair. Then my son said to me, "wie is dit", who is that, so I said to him I think it's his white friend talking because of the way he spoke English and we eventually go the place where we were supposed to meet and then ...(intervenes).

CHAIRPERSON: But why did you say that was it to test whether your

son could distinguish who was speaking based on English or what?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: No Chair I was confused too then because I thought maybe – because the first time we met the white youngster was with so I thought maybe this time again, the white youngster is with because it sounded like a white person speaking, the English he spoke.

CHAIRPERSON: Okay.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: And then when I eventually arrived in Sandton at the spot where we were supposed to
10 meet they weren't there or he wasn't there. I phoned him and we kept on missing each other and eventually I said to him listen I'm hungry now, there's a burger place around the corner by the Gautrain Station. So I said to him, listen let's go have a bite quickly we went and as I ordered he phoned again and I said, no we're just having a bite and this time around he said, meet me at the Gautrain station at a specific place around the corner. We finished the hamburgers and my son parked his vehicle, so I thought let me get out of the vehicle so that they can see me ...(intervenes).

ADV VERUSCHKA SEPTEMBER: Before you continue General
20 Booyesen with there not being any specific purpose for your previous meetings why were you inclined to meet with him again?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Chair as I said in the beginning of my evidence, if you know Duduzane, he's one of those – like he could be your son plus we were doing that investigation in which he was a complainant or a co-complainant with this other gentleman so

I didn't see anything untoward in meeting him at that stage.

ADV VERUSCHKA SEPTEMBER: Please proceed.

CHAIRPERSON: Yes continue.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: So Chair I got out of the vehicle and I stood on the pavement so that if they come they can now see me because we kept on missing each other and the next moment – Eben was still in the car, the next moment I saw a black lady coming from the opposite direction with her child and I saw ...(intervenes).

10 CHAIRPERSON: A black sorry?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: A black lady coming from this side with her small child and then the next moment from this side I saw a Rolls Royce – a black Rolls Royce pulling up behind Eben's car, my son's car. I thought this car is stopping to pick up this lady but this lady kept on walking, so I thought okay and I bent inside the car and I said to my son, look at this car behind us because not every day that you see a Rolls Royce and then when I looked I saw no there's Duduzane sitting in the car and what I forgot to say Chair, when we were still in the car finding each other, he said to me are you going
20 to jump in the car with me, I said, no I'll follow you. Then when I saw it was him I went to him and I greeted him, then I decided no it's better to drive in the Rolls Royce than my son's Corolla.

So I went to my son, I said, no I'm going to drive with him. So I jumped in the Rolls Royce and Eben, my son followed us in the Toyota and we went in the direction where the offices were but then we went

past and I recall during that week there was some comments in the media about the then President again and I said to him, hey your old man is having a hard time and he said yes and we spoke about the hard time the old man is having and we carried on driving and the next moment I saw we were close to the zoo and then right next to the zoo we drove – we pulled up to the gates and I saw these huge gates which I'd seen before in the media and the gates opened. There was a lot of activity of security detail, we drove in, my son drove in with us, I alighted from the vehicle so did Duduzane and my son came up to me
10 and he said to me in Afrikaans, "Dadda is ek waar ek dink ons is, Dad are we where I think we are", I said to him, I think so. We then went to the staircase, Eben was with us, the door was opened, there's a foyer as you enter the door and we were asked for our phones, we handed our phones over and we went into a lounge area where I was introduced to Tony Gupta, well he introduced himself as Tony Gupta. Chair the initial talk were – first they spoke to Eben. What do you do Eben, Eben said, no I'm in the IT industry and they then said to him, well if you have any business proposals don't hesitate to contact us and spoke about the weather and the importance of schooling and he ordered
20 some snacks. The people that served us with the snacks – Chair I'm from KwaZulu-Natal I know Indian accent and I've been to India, I know how the Indians in KZN talk and I know how the Indians in India talk, these people definitely also from India, the people that were bringing the snacks and they gave us some snacks and some stuff to drink and then at some point – and this is where things turned funny he, that's

now Mr Gupta, raised the issue about me being shortlisted to become the Head of the Hawks.

ADV VERUSCHKA SEPTEMBER: And who was all in the room at that particular point in time?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: It was myself, Eben and Duduzane and Tony Gupta.

CHAIRPERSON: And in which part of the house were you when this was raised now?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Chair you walk
10 upstairs and then there's this huge door then there's like an entrance area and then it goes into a – it's a huge lounge a very posh lounge.

CHAIRPERSON: Yes okay so it was a lounge?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: It was a lounge
Chair.

CHAIRPERSON: Okay yes, so he raised this issue.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Yes Chair, so I said
...(intervenes).

CHAIRPERSON: What did he say exactly?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: So he said to me, so
20 I understand you might become the Head of the Hawks. Chair very few people knew that I'd been shortlisted for the post although there was a newspaper article in KwaZulu-Natal, I think it was in the Mercury, that said Booyesen's going for Dramat's job or something – words to that effect but over and above that it was not generally known that I'd been shortlisted for that post and I said to him, ja it's true and he said to me

but if you do get appointed that we should have a supper in KwaZulu-Natal. I did not know what to make of that, if I get appointed we should have supper in KwaZulu-Natal, so I just smiled at him and nodded my head, I didn't respond because I was – it was a bit of an uncomfortable situation.

CHAIRPERSON: Yes because on the face of it, it looks like his interest in having supper with you in KwaZulu-Natal would depend on whether you were appointed as Head of Hawks or not, if he says, if you get appointed let's have supper in KwaZulu-Natal.

10 MAJOR GENERAL JOHAN WESSEL BOOYSEN: Yes Chair.

CHAIRPERSON: One would have thought that he would be interested in having supper with you irrespective of your appointment – the outcome of your interview.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Chair the impression I gained, he said to me, if I'm appointed then we should have supper in KZN.

CHAIRPERSON: Yes that's what I'm saying that it seems strange that he would want to – or anybody outside of the Hawks anybody outside of the Law Enforcement Agency should only seek to have a meeting with
20 you or supper with you, if you are appointed. You know, I mean, if you meet people sometimes you feel like, you know, you like these people maybe you'd like to have tea or coffee or lunch with them some other time, you don't make that to depend on anything you just say, maybe we should have tea or lunch some other time.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Yes Chair.

CHAIRPERSON: So I'm just saying it – on the face of it, it looks quite strange that that was to depend on that.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Yes Chair. Chair not anything else was discussed about myself being appointed or not appointed. Zane did not take part in the conversation whatsoever, it was a short discussion, it continued where I think my son liked the juice that they were making, he had a second cup of the juice and we decided – well not decided it was clear that we had said what had to be said and I then departed but no promises were made, no undertakings
10 were given.

CHAIRPERSON: No pressure of any sort was put on you to do anything or not to do anything?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Nothing, no Chair.

CHAIRPERSON: But again let's go back to – as you left the meeting were you clear as to what the purpose of the meeting was that – of the meeting was, what was the purpose of this meeting?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Chair I suspect that what he was trying to tell me is that should I be appointed – although he did not say that, is that he probably would have had a hand in my
20 appointment and that I might then have been indebted to him, although it was never said those were my conclusions that I made.

CHAIRPERSON: But the person who had asked for the meeting wasn't Tony – it wasn't Mr Tony Gupta it was Mr Duduzane Zuma, isn't it?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: That's correct Chair.

CHAIRPERSON: But am I right in understanding your evidence to be

that he asked for a meeting?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: You're 100% correct
Chair.

CHAIRPERSON: Yes.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: I did not initiate the
meeting, they phoned me.

CHAIRPERSON: Yes, so there were now – you had three meetings so
to speak, some of them might not have lasted, you know, a long time
but each one didn't appear to be clear what the purpose was am I
10 right?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: You're right Chair.

CHAIRPERSON: Yes.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Although the
investigation that they were the complainant in was discussed but that
never seemed to be the ...(intervenes).

CHAIRPERSON: The reason for the meeting.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Yes Chair.

CHAIRPERSON: But in the second meeting even the investigation
wasn't mentioned it was only the first and the third meeting.

20 MAJOR GENERAL JOHAN WESSEL BOOYSEN: Yes the one at the
hospital ...(intervenes).

CHAIRPERSON: Ja it was just greeting and ...(intervenes).

MAJOR GENERAL JOHAN WESSEL BOOYSEN: That's correct Chair.

CHAIRPERSON: Ja okay thank you.

ADV VERUSCHKA SEPTEMBER: Following this encounter did you

have any engagement with Duduzane Zuma again?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: After this engagement?

ADV VERUSCHKA SEPTEMBER: Yes.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Yes I did Chair.

ADV VERUSCHKA SEPTEMBER: Was there any discussion in relation to this meeting that you had at the Gupta residence?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: No Chair.

ADV VERUSCHKA SEPTEMBER: At the time that you had this meeting
10 or any time before, for the sake of clarity, were you involved in any investigations in relation to the Gupta family?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: No Chair.

ADV VERUSCHKA SEPTEMBER: Okay what did you do after having this meeting with Mr Tony Gupta, did you take any steps after you had the meeting – after you had this meeting on the 16th of August 2015?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Chair okay, obviously I went home afterwards with my son Eben. At that point in time it had become abundantly clear to me that Ntlemeza was not someone to be trusted. I had to report to him and I was definitely not going to report
20 such a thing to him. In the meantime what had happened is, the lobby groups had brought in an application to set aside appointment of General Ntlemeza for not being fit and proper, because of a ruling, I think it was Judge Elias Mohtiyane in the Sibiya matter where he said that he had lied under oath and that he lacks integrity. The Court ruled in their favour, it was appealed it went to the SCA where General

Ntlemeza basically lost his case and I think I've written the date somewhere in my statement Chair.

ADV VERUSCHKA SEPTEMBER: That would be page 50 paragraph 1.6.6 where you say on the 13th of June 2017 ...(intervenes).

MAJOR GENERAL JOHAN WESSEL BOOYSEN: That's correct Chair on the 13th of June 2017 at 15:30 the afternoon I prepared a statement about this meeting that I had at the Gupta compound and on that particular day the judgment came out that Ntlemeza was finally to be removed from the Hawks. The acting Head of the Hawks then was
10 General Matakata – Yoli Matakata and I phoned her and I said to her I would like to meet her. I left my office in Centurion and she left Pretoria, she was on her way to the airport ...(intervenes).

CHAIRPERSON: I'm sorry I just want to make sure I follow. Pending his appeal or petition to the Supreme Court of Appeal, General Ntlemeza was he on suspension or was he at work?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: No he was at work Chair.

CHAIRPERSON: He was at work oh, when you talk about somebody acting in his position you mean after he had been removed?

20 MAJOR GENERAL JOHAN WESSEL BOOYSEN: So Chair when the SCA confirmed that he had to be removed, he had no more recourse and so – there were a few developments there where the minister actually had to go and physically boot him out of his office and he left with a car, that was all in the media.

CHAIRPERSON: That was a different Minister ...(intervenes).

MAJOR GENERAL JOHAN WESSEL BOOYSEN: That was Minister Fikile Mbalula.

CHAIRPERSON: Yes.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: So Chair I prepared a statement as to what – about the meeting, I met General Matakata at – what's that place called, at McDonalds ...(intervenes).

CHAIRPERSON: Oh I'm sorry Major General Booyesen, maybe we should adjourn now, then when we come back you can then tell us. I see it is about 13:01, okay we'll take the lunch adjournment and we'll
10 resume at 14:00.

REGISTRAR: All rise.

INQUIRY ADJOURNS

INQUIRY RESUMES

CHAIRPERSON: Thank you let us proceed.

ADVOCATE VERUSHKA SEPTEMBER: Thank you Chair. Before the long adjournment General Booyesen you were talking about the meeting that you had at the Gupta compound and that ...(intervenes).

CHAIRPERSON: I am sorry, I am sorry Ms September. Thank you.

ADVOCATE VERUSHKA SEPTEMBER: Thank you Chair. And then you
20 spoke about that on the 13th of June 2017 you had handed an affidavit to Major General Matakata and that is at paragraph 166 of your affidavit. Is that correct?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: That is correct Chair.

ADVOCATE VERUSHKA SEPTEMBER: Is there anything that you would like to add?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Chair ...(intervenes).

ADVOCATE VERUSHKA SEPTEMBER: In relation to that?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Just on that point. I am not casting any aspersions on General Matakata. I merely handed her the document. I am not aware what transpired afterwards. She may or may have not so I do not want it to be read that I am casting aspersions on her because she is an ex colleague of mine with whom I had had a healthy relationship and I still have a healthy relationship with her. So for purposes of my evidence I just want to clear that up.

10 CHAIRPERSON: But would she have been the one who would act on the – on your complaint as I understand it. Your affidavit was a complaint against General Ntlemeza is that right or not really?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: No not really Chair it was more – I wanted to bring it to – because at that juncture there were these allegations about the Gupta's and State Capture. So ...(intervenes).

CHAIRPERSON: Yes.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: I just thought it would be prudent for me to bring that to her attention that I had met with the
20 Gupta's myself.

CHAIRPERSON: Oh, oh so the affidavit that you handed to Major General Matakata was to bring to her attention as the acting Head of the Hawks that you had met with the Gupta's?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: That is correct Chair.

CHAIRPERSON: And nothing else really?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: And nothing else
Chair.

CHAIRPERSON: Okay no thank you.

ADVOCATE VERUSHKA SEPTEMBER: General Booyesen are you aware
as to whether or not anything happened after handing in the affidavit?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: I am not aware of
anything pursuant to my affidavit Chair but there may or may not have
been steps taken up I am not privy to that.

CHAIRPERSON: But of course if they did not think there was anything
10 wrong with you having met with the Gupta's they would not have to do
anything about it, is that right?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: I agree Chair.

CHAIRPERSON: H'mm.

ADVOCATE VERUSHKA SEPTEMBER: If you could then go back to
Major General Ntlemeza it is on page 53 of your affidavit and paragraph
177 that you make the following statement and that is that he was
undoubtedly handpicked for the position.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Which paragraph is
that?

20 ADVOCATE VERUSHKA SEPTEMBER: Sorry it is paragraph 177.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Yes Chair.

ADVOCATE VERUSHKA SEPTEMBER: Can you please explain that?

CHAIRPERSON: Sorry 13?

ADVOCATE VERUSHKA SEPTEMBER: Apologies Chair it is page 53
paragraph 177.

CHAIRPERSON: Oh. Thank you.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Chair I will substantiate my assertion there. In the period that I worked with General Ntlemeza he did not demonstrate to me that he had remotely the ability to lead an important institution like the Hawks. Secondly the mere fact that a judge in the high court had found him to be dishonest, lacking integrity and in spite of that Minister Nhleko still appoints him. I think the rest of what emerged after his appointment, his interference in a number of investigations clearly indicates to me he was appointed
10 for a specific reason. That is the only unescapable conclusion that I can come to.

ADVOCATE VERUSHKA SEPTEMBER: And what reason was that? You say that he was appointed to that position for a very particular reason? What reason are you alluding to?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Well Chair well to interfere with investigations such as the meeting with General Ngobeni. Such as interfering with Colonel Roelofse in that investigation. The fact that I report – I personally reported corruption to him and he did absolutely nothing about it. To me it is abundantly clear that there
20 were certain matters that he had to deal with.

ADVOCATE VERUSHKA SEPTEMBER: Was he involved in the Panday case at all?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Indirectly Chair because General Ngobeni was part of the Panday investigation. So in meeting her I would suggest that in a way indirectly he interfered with

that investigation.

ADVOCATE VERUSHKA SEPTEMBER: Are you then suggesting and please correct me if I am wrong are you suggesting that he protected any particular interests?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Yes I do Chair.

ADVOCATE VERUSHKA SEPTEMBER: And whose interests might that have been?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Chair if one goes back into the history when General Dramat was the Head of the Hawks he personally – he actively pursued the investigations against Richard Mdluli. He backed me in my investigations. After he was – after he left the service there were rumours in the media that he had approached General Menu for the Nkandla docket. A while later while I was in Cape Town when I launched my book he actually came to the launch and the day after we had coffee and I thought I want to verify that with him personally. And I asked him, did you ask for the Nkandla docket and he said to me yes he did. So my conclusion is that they had to get rid of Dramat because he was looking at the Mdluli's of the day, he was backing Booyesen in the Panday investigation and various other investigations. He placed him with some unpliant like Ntlemenza and all of a sudden all those investigations basically became dormant again.

CHAIRPERSON: H'mm.

ADVOCATE VERUSHKA SEPTEMBER: If we can then move onto the next individual that you mentioned in ...(intervenes).

CHAIRPERSON: Well Ms September before you move on I see that at page 51 there is mention of Zikhali and I wonder whether that is the person that may have been appointed to your position. Can you cover that and I see there is reference to Lieutenant Colonel Sonnekus – Adele Sonnekus and maybe that is the lady that was transferred – suspended and transferred.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: That is correct Chair.

CHAIRPERSON: So let us cover that?

ADVOCATE VERUSHKA SEPTEMBER: Yes. Okay.

10 CHAIRPERSON: Ja.

ADVOCATE VERUSHKA SEPTEMBER: I may have been mistaken I thought that the evidence in relation to Sonnekus was already covered but I am happy to do so again.

CHAIRPERSON: Well we did not have the name if I recall correctly or did I misunderstand?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: No, no Chair we had her name I think the name I had forgotten was the person that introduced me to Duduzane.

CHAIRPERSON: Oh okay.

20 MAJOR GENERAL JOHAN WESSEL BOOYSEN: And as we adjourned as I got up I realised the name it is Winston Innes.

CHAIRPERSON: Oh okay that is the name that we did not have.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: That is correct Chair.

CHAIRPERSON: Oh okay no then I must have – but Zikhali?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Chair that is the

person that Ntlemeza appointed to take over from me.

CHAIRPERSON: Ja that is important to ...(intervenes).

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Yes Chair.

CHAIRPERSON: I did not hear that part.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: So ...(intervenes).

CHAIRPERSON: Yes.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Chair when he appointed Zikhali after – while I was actually still in the post.

CHAIRPERSON: Ja.

- 10 MAJOR GENERAL JOHAN WESSEL BOOYSEN: It became evident to me from reports from KwaZulu-Natal because I still communicate with the Hawks frequently.

CHAIRPERSON: Yes.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: That things that Ntlemeza placed in motion he continued with that. For instance the removal of Colonel Sonnekus from her post. In spite of the fact that they knew that it was unlawful they were steadfast and resolute and not and he was the leader, he was driving the bus at the time and not allowing her to go back to her post.

- 20 CHAIRPERSON: That is now?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Zikhali.

CHAIRPERSON: Zikhali he was leading the attempts to remove Sonnekus?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: By then – when he was appointed Chair she had already been removed.

CHAIRPERSON: Yes.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: But when she came back ...(intervenes).

CHAIRPERSON: Ja.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: She was transferred and he is the one who told her that she is being transferred. So it is clear to me he was still doing the bidding of what Ntlemeza had set in motion.

CHAIRPERSON: Thank you.

10 ADVOCATE VERUSHKA SEPTEMBER: Thank you Chair. Much of the other evidence has already been covered.

CHAIRPERSON: Okay, okay. I will let you know if I pick up something that I do not remember.

ADVOCATE VERUSHKA SEPTEMBER: I welcome your direction Chair. The next individual is reflected on page 55 of your affidavit and that is paragraph 184. The person marked is Riah Phiyega.

CHAIRPERSON: I am sorry I think he must deal with paragraph 171, I know he has dealt with it in a certain way but I think it is quite an important thing and I think some of these that come there I think in that
20 paragraph and the subsequent – and some of the paragraph that come after that he seems to indicate specific appointments and there seems to be significance that he attaches to those appointments and I think it is important that we hear what he has to – the evidence ja.

ADVOCATE VERUSHKA SEPTEMBER: No problem. If I could then take you to paragraph 171 on page 52.

CHAIRPERSON: I am there.

ADVOCATE VERUSHKA SEPTEMBER: And ask you to please explain that to the Chair.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Chair there was – the Hawks when we inherited the Scorpions we also inherited they had chartered accountants working with them. So in KZN we had a Brigadier Vleck who was the chartered accountant which is very necessary in investigating these complicated financial matters. Ntlemeza made Vleck's life a living hell. He basically forced him out he
10 eventually resigned. So as we speak there is no chartered accountant working with the Hawks in KZN as far as I am aware. He had appointed people at provincial level and if you look at the – and the appointments are people that I would regard as incompetent Chair I deal with them and I know some of them. Well incompetent in that particular field. They might be competent in the uniform branch. Some of the senior people that he appointed comes from the uniform branch. They do not have any investigative experience. So it cascaded down to all the levels. So from provincial level to provincial commander level they would then start as posts became available to – and Chair during –
20 while I was still there there was actually a standing joke amongst the Provincial Heads the majority of the people that he appointed either came from the Eastern Cape where he comes from originally or from Limpopo where he had been for the latter part of his career.

CHAIRPERSON: Yes.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Chair and there was

once a technical section there which was basically closed down that dealt with the downloading of cell phones and analysis of cell phones. So in general Chair I can say that a number if not the vast majority of highly skilled detectives are either now back in SAPS with the general detectives. Some resigned and some left through natural attrition.

ADVOCATE VERUSHKA SEPTEMBER: Is it also correct that Major General Ntlemeza replaced Major General Motsepe as the national Head of commercial crime with Major General Alfred Khana?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Chair what happened
10 there is when ...(intervenes).

ADVOCATE VERUSHKA SEPTEMBER: Is that correct?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: That is correct.

ADVOCATE VERUSHKA SEPTEMBER: Thank you. Please proceed.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Chair what happened there is when the previous National Head of Commercial Crime General Hans Meiring went on retirement General Dramat appointed General Motsepe into the position as Head of Commercial Crime. And I know General Motsepe is a very capable competent person who can handle that post. But when Ntlemeza assumed office he transferred Motsepe
20 and created a vacancy and the post was advertised and the person that he then appointed in that post is a person by the name of General Alfred Khana. Now Khana's history Chair he was the Provincial Commander from Commercial Crime in a couple of year previously. And according to General Hans Meiring he had been busy with an investigation against General Khana relating to counterfeit goods. And

it appears that Khana realised the writing was on the wall and he resigned. He then went to another Government Department I cannot recall which one it was but nevertheless he landed up back with the Hawks being the Head of Commercial Crime. And while I am there Chair a couple of months ago I received a call from a Captain in East London I do not know him at all. It is a black gentleman. He met me here on the – next to the road and he handed me a pile of documents and he complained to me that General Khana was interfering with an investigation into multi-million Rand corruption which involves the
10 Minister Dlamini. I took possession of those documents. I phoned Brigadier Basie from the Hawks head office. I met him the following day at the Wimpy in – at Atterbury where I explained to him what had occurred and I handed him those documents. There are also other indications Chair I have been phoned by and I would not like to mention this person because then they might ostracise him. It is a very experienced investigating officer in KwaZulu-Natal. He was dealing with an investigation of appointments or applications for a medical school in KwaZulu-Natal University which also related to certain corrupt activities. And he also complained to me that General Khana had been
20 interfering into that investigation.

CHAIRPERSON: Yes.

ADVOCATE VERUSHKA SEPTEMBER: Unless there is anything else in relation to this.

CHAIRPERSON: No you can continue.

ADVOCATE VERUSHKA SEPTEMBER: Thank you Chair. So the next

individual is Riah Phiyega. Much detail is contained in your affidavit in relation to it but I ask you just – excuse me. General Booyesen to the extent that we have not dealt with any particular paragraph in – under Major General Ntlemeza do you confirm it to be correct?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: I do Chair.

ADVOCATE VERUSHKA SEPTEMBER: Okay. In relation ... (intervenes).

CHAIRPERSON: Well I thought at the beginning he confirmed everything in his affidavit to be correct but we have got to cover
10 important things because evidence relating to Law Enforcement Agencies is very important and if the evidence that Major General Booyesen is giving is true there are really very serious things that have been happening that should not have happened. It is very important that we deal with these issues properly.

ADVOCATE VERUSHKA SEPTEMBER: Thank you Chair.

CHAIRPERSON: Okay. We do not have to deal with every detail but we must cover important things.

ADVOCATE VERUSHKA SEPTEMBER: Thank you Chair. General Booyesen what was the difference in approach or rather let me put it to –
20 ask you it – ask you differently. Was Riah Phiyega involved in both the Cato Manor matter and the Mdluli matter?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: I would not say the Cato Manor matter but definitely the Booyesen matter and the Mdluli matter.

ADVOCATE VERUSHKA SEPTEMBER: And when you mean Booyesen

matter can you just clarify that please?

CHAIRPERSON: It is his matter.

ADVOCATE VERUSHKA SEPTEMBER: Okay then ...(intervenes).

CHAIRPERSON: You want to – you will not find out what role she played, is that what you want?

ADVOCATE VERUSHKA SEPTEMBER: In fact – my question is slightly different and that is can you please explain what is the difference in approach that Riah Phiyega adopted to your matter as compared to the Mdluli matter?

- 10 MAJOR GENERAL JOHAN WESSEL BOOYSEN: Chair the point I want to make here is if you ...(indistinct) deposes her approach re Mdluli and re Booysen they were vastly different. In the Mdluli matter you have a high court Judge Murphy who criticised General Phiyega for almost wanting Mdluli to come back to work in spite of very serious allegations hanging over his head. Excuse me Chair. In my matter in spite of the court having ruled that there is no case against me in a review application in spite of a person that she had appointed Advocate Naseer Cassiem to do a hearing on me who exonerated me she was bent – she was hell bent on getting rid of me. She offered me those
- 20 three options which I testified about later. Chair what I have forgotten to mention is and I – when I went back to work I received and I went back in September and that December I received a notice from her that I should indicate to her why I should not be dismissed from the police. It did not make sense to me.

CHAIRPERSON: Out of the blue?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Out of the blue Chair.

CHAIRPERSON: You had been to court. You had been vindicated. Then you were told about three options but subsequently you got correspondence saying you must say why you should not be dismissed.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: That is true Chair.

CHAIRPERSON: And what reason was offered as to why your dismissal was being contemplated?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Chair she quoted a section in the police regulations which basically were designed if posts
10 became, I am looking for the correct word now.

CHAIRPERSON: Redundant.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Redundant that is right thank you Chair. If a post becomes redundant then you can be relieved of your duties and they will then pay you out for the remainder of your contract.

CHAIRPERSON: But that would be if nobody is going to continue to do the job that you were doing I would assume?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Yes Chair.

CHAIRPERSON: But ...(intervenes).

20 MAJOR GENERAL JOHAN WESSEL BOOYSEN: I think she ...(intervenes).

CHAIRPERSON: Your position was not redundant was it?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: No it was not Chair.

CHAIRPERSON: So the letter you received from her was along those lines?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Along those lines
Chair.

CHAIRPERSON: So it was saying your post has become redundant and
you must say why you should not be discharged or dismissed bla, bla,
bla.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: She did not go into
those details she just mentioned the regulations Chair.

CHAIRPERSON: Yes okay. But the gist of the letter was that it was
asking for your representations as to why

10 MAJOR GENERAL JOHAN WESSEL BOOYSEN: I should not be
dismissed.

CHAIRPERSON: You should not be dismissed.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Now Chair that to me
did not make sense at all. On the one hand you have someone like
Richard Mdluli who has serious charges of fraud, corruption, murder,
kidnapping hanging over his head. The courts have pronounced on that
and she is still actively attempts to get him back to the office by making
an – or deposing to an affidavit in the Mdluli matter in the high court
and the judge actually criticised her for that. And in my matter in spite
20 of being the courts having found in my favour and the disciplinary
officer I refused to take any of the three options, I go back to work and
in that December I think she gave me two weeks to say why I should
not be dismissed from the police and the two weeks expired I think on
the 23rd of December and Chair I know how they operate. I knew what
was going to happen. No matter what I say on the 23rd when the time

expires I would have gotten a letter like General Sibiya had gotten that I am dismissed and the same thing happened to Shadrack Sibiya and it takes you forever and a day by the time I would have won my cases to get back to office I would have retired in any event. So I wrote a letter back to her I gave her two days to withdraw that letter or else I will seek relief from the court. And then I think it was around about the 20th a day or two before the date expired I received a letter from her office not signed by her stating from one of her officers that the general or the Commissioner is not available to articulate her response and then I

10 realised they were leading me into a trap because I knew what was going to happen on the 23rd or 24th. Because by then it is Christmas Eve there is no courts to approach so I immediately set off and went to the high court I cannot remember if it was the high court or the labour court and obtained the interdict against her and that is where the matter ended.

CHAIRPERSON: Did you ever hear what the factual basis was for her to regard your position as redundant?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Chair there was no basis.

20 CHAIRPERSON: And she did not advance any?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: There was absolutely no valid reason or lawful reason that she had to – that she could have dismissed me from my post.

CHAIRPERSON: Because there was always going to be a need for the Head of Hawks in the province?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: That is correct Chair.

CHAIRPERSON: Nobody had ever suggested that the Hawks in the province could be without a head?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: That is correct Chair. I think one other thing she also mentioned if my memory serves me correctly is that the trust relationship between myself and the Provincial Commissioner had broken down.

CHAIRPERSON: That was in her letter?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: That was part of that
10 letter.

CHAIRPERSON: That was part of that letter?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: That is correct Chair.

CHAIRPERSON: And the – did she ever file any affidavit in response to your urgent application either before the interdict was granted or later. I assume it was a temporary interdict you got?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Chair the problem that she had is she had no locus standi because of the Glenister judgment.

CHAIRPERSON: Yes.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: And it is on that basis
20 that I managed to get the interdict.

CHAIRPERSON: The interdict ja.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: That she had no authority over me.

CHAIRPERSON: Part to dismiss you.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: General Dramat had.

And I think she realised that when she saw my papers.

CHAIRPERSON: Yes.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: And that they never opposed it.

ADVOCATE VERUSHKA SEPTEMBER: General Booyesen please explain much mention is made of the ground coverage document which surfaced from crime intelligence. Please explain the purpose of that document in context of the evidence you present today?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Chair the ground
10 coverage document is a document that emanated from crime intelligence in KwaZulu-Natal. When the Cato Manor investigation started and we had this focus on Cato Manor I one day went to Mr Bheki Cele because I could not understand what was going on and I said to him, does – can he perhaps explain to me why is there this urgency to get rid of us? He then explained to me that two things. One is when it came to my appointment he had a ...(intervenes).

CHAIRPERSON: I am sorry who were you asking now Bheki Cele?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Mr Bheki Cele the current Minister of Police.

20 CHAIRPERSON: Yes at that time what position was he holding?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Chair I think – I cannot recall whether he had..

CHAIRPERSON: National Commissioner.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: No I think by then he was also himself suspended and had left.

CHAIRPERSON: Oh.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: I cannot recall exactly when that was Chair.

CHAIRPERSON: Oh okay, okay so you say you asked him why some of you were being pushed out?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: And he – that is correct Chair and he mentioned two things to me. He said my appointment the, then Minister of Police, was not happy with Nathi Mthethwa I do not know why. He preferred someone else from the
10 Eastern Cape. But in the end Mr Cele was the national commissioner at the time it appears that he managed to convince the Minister that I should be appointed. The second thing is he said that he had a visit from while he was the National Commissioner a visit from Richard Mdluli who requested him to stop the investigation against Mdluli and he refused. The next thing a document comes from crime intelligence in KwaZulu-Natal it is commonly known as the ground coverage document. This document Chair is a – it is a very convoluted assembly of information and disinformation and conjecture mixed with facts but some of the important allegations in this document states that Mr Bheki
20 Cele and a number of senior politicians had met I think it was in Grey Town where they discussed how they were going to unseat the then President Mr Jacob Zuma. A lot of the issues I – my name is also in that report in that Mr Bheki Cele owns taxies in the Stanger area and that he gets Booyesen who then gets the Cato Manor people to take out his opponents and this is why I became a general. That story

eventually also appeared in the Sunday Times. I think it was – SAPS disavowed any information pertaining to SAPS in that docket. Senior politicians like, I stand to be corrected, I think it was Mr Tokyo Sexwale at the time made comments about the document and he actually said that the elephant in the room was Mdluli. This document and why I know it comes from a specific individual Chair – I can explain later if it is necessary – but it definitely came from KwaZulu-Natal. It was then given to Richard Mdluli and he was still in office because he declassified it. He then took that document and sent it to the then
10 President Mr Jacob Zuma basically telling – showing him what these people are busy with and I think it is roundabout just after that where he also wrote a letter to the President where he said that should he return to work that he would assist the President.

CHAIRPERSON: So this would – I remember that you said that that letter would have happened in 2011 or thereabout – the letter?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: That is correct Chair.

CHAIRPERSON: The – this document that you have just spoken about when did it circulate or when did it emerge? Was it roundabout the same time?

20 MAJOR GENERAL JOHAN WESSEL BOOYSEN: Chair I think it was roundabout 2010 roundabout there.

CHAIRPERSON: Oh, okay. So it was before the letter?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: It was before the letter Chair.

CHAIRPERSON: Before the letter, yes. Okay, alright thank you.

ADV VERUSCHKA SEPTEMBER: There are certain observations that you have made in relation to sequence of events which takes cognisance of this particular report and you do so at paragraph 191 page 56 of your affidavit. Can I ask you to read these observations into the record please?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Thank you Chair. Paragraph 191 of my statement. I say:

10 “My observations of the sequence of events depicted below are conspicuous. Number one, Mthethwa – he regularly appoints Mdluli as CI Head.”

 And the reason why I say that Chair the then Minister of Police appointed Mdluli as a CI Head and at the time the National Commissioner at the time, Tim Williams, regarded his appointment as irregular. They did not follow procedure and also Dr Johan Burger from the Institute for Security Studies also commented at the time the appointment appears to be a political appointment.

20 “After his appointment Mdluli starts to allegedly loot the Secret Services Account. One of the benefactors of the looting of the Secret Services Account is Mr Mthethwa himself.”

 And I have testified about the building of the fence around his premises Chair.

 “Subsequently Major General Mark Hankel blows the whistle on the looting of this fund. Then an investigation into the looting of the Secret Services

Account commences. Then there is a KZN leg of the investigation which is conducted by Brigadier Simon Madonsela. Madonsela elicits my assistance in the investigation after Crime Intelligence refuse to release documents required to finalise the investigation. Mdluli earlier requested Cele ..."

That is now Minister Bheki Cele.

" ... to stop the investigation initiated by Dramat and Sibiya. Mr Cele refuses. Then the ground coverage document surfaces. Mr Cele is then suspended as the
10 National Commissioner for an unrelated matter."

That was the Roux Shabangu matter Chair which you would recall and then:

"The Sunday Times article pertaining to the Cato Manor issue which contains the same allegations which are in the ground coverage document is established."

Chair if I could perhaps just stop there quickly.

ADV VERUSCHKA SEPTEMBER: Did you mean to say published?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Yes. So – but I would
20 just like to say there Chair this ground coverage document I know it comes from a certain individual within Crime Intelligence. A person by the name of Colonel N H Singh. The reason why I know that is when I took the Sunday Times to the Press Ombudsman we communicated to and fro about my complaints and they would respond and in one of their letters to the Press Ombudsman at the time they mentioned that one of

their sources was Colonel N H Singh who had given them the information but more importantly General Deena Moodley was the Head of Crime Intelligence in KwaZulu-Natal told me personally that N H Singh was responsible for the compilation of that document while he was seconded on duty to work with Richard Mdluli in Gauteng for a period of time. I think it was 18 months and then:

“After the Sunday Times article attempts to suspend me are made I obtained the interdict and then what happened afterwards had it reversed.

10 And then the meeting which I testified about yesterday Chair where Mr Mthethwa meet the prosecutors essentially demanding our arrest.

“That is according to the handwritten minutes of a meeting which Anthony Mosing detailed on the 8th of March 2012 and then flowing from that is the interview Karima Brown had with the Minister which he admitted that he had a meeting with prosecutors although he tried to justify the meeting and then Cato Manor detectives are arrested for racketeering. Two
20 months later I was arrested for managing a so-called criminal enterprise and then Mdluli is ultimately suspended pending the corruption and murder investigations. When he attempts to return to office Freedom Under Law files an application in the High Court to prevent him from doing so.”

And then what I say:

“And in extra ordinary development the National Commissioner, Riyah Phiyega, then files an affidavit assisting him to go back to the office.

ADV VERUSCHKA SEPTEMBER: Chair a copy of that judgment is found in Annexure J(B).

CHAIRPERSON: Ja.

ADV VERUSCHKA SEPTEMBER: Sorry Annexure Z(B) from pages 354 to 441.

10 CHAIRPERSON: Ja. Thank you.

ADV VERUSCHKA SEPTEMBER: If I can now ask you to turn to page 60 please? Can you please – you make certain statements in relation to Riyah Phiyega and Richard Mdluli. Can you please clarify the relationship as you understood it to be or understand it to be between those two individuals?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Chair other than my observations that she was hell bent on getting rid of me in spite of me being exonerated on more than one occasion yet on the other hand someone that faces serious charges she tries to – well – not try to get
20 him back to work but she – like Judge Murphy said she did not want to stand in his way to come back to work. That to me just did not make sense.

ADV VERUSCHKA SEPTEMBER: If one were to look at paragraph 201 you talk specifically to Riyah Phiyega’s relationship with Advocate Nomgcobo Jiba. Is there any additional comments that you

wish to make to that?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Chair what happened there is subsequent to myself having laid a complaint against Advocate Jiba and the matter was being investigated by a Lieutenant Colonel Botha. He had investigated the matter and obtained all the necessary statements I assume and then the next thing I heard on the news that they wanted to serve a subpoena or a summons on Advocate Jiba to appear in court on charges and that she was not available at the office. It was in the media at the time and then
10 eventually the media reported that they had served a summons on Mr Nxasana to give to her because she reported to him and then that same evening I overheard – well I heard a radio statement of Mr Nxasana who took issue with General Phiyega for the role she played because there appears to have been a spat between Phiyega and Nxasana and it was evident from the news reports and from the radio interviews that there was conflict between the NDPP and the National Commissioner of the Police. In my view the National Commissioner of the Police should not have involved her with decisions taken by the NDPP's Office which she clearly did. She was so
20 incensed by the fact that Advocate Jiba eventually received the summons that she summarily terminated the services of Colonel Botha. Colonel Botha had been on an extended contract. He was one of the investigating officers in the Oscar Pistorius matter but she summarily terminated his contract and then General Muno who was then the Divisional Head of the Detectives assigned that document to, I think, it

was a Major General Taiwe.

CHAIRPERSON: I see that in paragraph 196 you say that:

“It emerged in your disciplinary hearing that Mr Mdluli had interfered with the Panday investigation as well.”

And you refer to Major General Lazarus.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: That is correct Chair.

CHAIRPERSON: Yes.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Chair when my disciplinary hearing was ongoing when they closed the case against me
10 it was now my turn to give evidence. I had approached a number of the investigators from the Hawks to come and give evidence on my behalf and most of them undertook to do so but every time I would phone them a day or two before the time they disappeared. I could not get hold of them. My attorney eventually managed to get hold of them and they were given instruction. They said they instruction came from Phiyega that they cannot come and testify in my favour. At that time Soobramoney, Chair would recall, who was one of the investigators in the beginning whom I had to investigate who ...(intervenes).

CHAIRPERSON: On the Panday matter?

20 MAJOR GENERAL JOHAN WESSEL BOOYSEN: That is correct Chair.

CHAIRPERSON: Yes.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: He had told me at the time that he had resigned but I had found out in the meantime that he had not resigned. That he was working at Crime Intelligence in Benoni. I then managed to trace him and I asked him Vassan are you prepared

to come and testify for me and he said yes I will. I did not tell anyone that he was coming. We were – the hearing at that stage was in chambers here in Sandton. So I said to him I will pick him up at the Gautrain Station which I did the morning. I took him in. It was at that stage where they wanted General Ngobeni to come and testify and I knew she would not come and then said no they are going to adjourn now because she did not arrive. I said no I do have a witness here. We can proceed with this witness. Chair I was unaware of what he was going to testify about but I was.

10 CHAIRPERSON: That is Ngobeni?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: No this was Vassan Soobramoney.

CHAIRPERSON: Oh.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Ngobeni never pitched.

CHAIRPERSON: Yes, okay.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: I just wanted him to confirm.

CHAIRPERSON: H'mm.

20 MAJOR GENERAL JOHAN WESSEL BOOYSEN: The issues around the investigation but while he was giving evidence, and that was the first time I heard about it, he said that in the initial stages of the investigation he was approached by Richard Mdluli and Solly Lazarus, also a Major General from the Hawks who has now been dismissed I think, also issues relating to the slash fund. They were approached –

they approached him in Ballito where they told him that they have got information that his life is under threat and they proposed to him it is better if he comes to Gauteng and comes – if he goes – comes to Crime Intelligence

CHAIRPERSON: That is Soobramoney?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Soobramoney Chair.

CHAIRPERSON: Yes.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: And they also indicated to him that there is a possibility that he might be promoted if
10 he comes. I – this was not reported to me. That was now the first time I heard about this. He then said.

CHAIRPERSON: At the disciplinary hearing?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: At the disciplinary hearing Chair.

CHAIRPERSON: Ja.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: He says – that is what Soobramoney told me. He then – because he feared for his life – because he has got a wife and a kid I think – he decided to take up this position with Crime Intelligence and be known and he said to me he sat
20 in the office doing nothing. He told them at the time that he needed to continue with the Panday investigation. He said but he was basically just left there in the office to such an extent he was getting so bored he pleaded with then to give him something to do even if it is some HR work. So the hand of Mdluli is clear into the interference of the investigation of Panday.

CHAIRPERSON: So at the time that Soobramoney was – at the time that he moved from KZN to Benoni was he still involved in the Panday investigation?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Yes Chair.

CHAIRPERSON: And he was supposed to be continuing with it?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Chair he told me he is going to resign.

CHAIRPERSON: Ja, he told you he had resigned?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Ja.

10 CHAIRPERSON: So obviously – and you say but he had not resigned?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: I ...(intervenes).

CHAIRPERSON: He had resigned from the Hawks maybe?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: No Chair but – initially he told me that he had resigned but later on obviously through your contacts in the police I established that he was working at Crime Intelligence in Benoni.

CHAIRPERSON: Yes. Okay. So when he moved from KZN to Benoni he was still involved in the Panday investigation?

20 MAJOR GENERAL JOHAN WESSEL BOOYSEN: Up until the day he left Chair.

CHAIRPERSON: Up until ja.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Yes Chair.

CHAIRPERSON: Ja.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Yes Chair.

CHAIRPERSON: And then when he left once he was in Crime

Intelligence then obviously he was going to be doing something else?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Yes, but then he did nothing Chair.

CHAIRPERSON: Then he say he did nothing and would there have been other people who would have continued with the Panday investigation in his absence? Do you know?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Well Chair there – there were a couple of investigators. Colonel Hans Van Loggenberg.

CHAIRPERSON: Yes.

10 MAJOR GENERAL JOHAN WESSEL BOOYSEN: And there was Colonel Hurst.

CHAIRPERSON: Yes.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Most of them were people from the ex-Scorpions DSO.

CHAIRPERSON: Yes.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Even Soobramoney was also from the DSO.

20 CHAIRPERSON: At the time that Soobramoney gave evidence in your disciplinary hearing how long had he been in Benoni? Do you have some idea? I am just trying to understand to the extent that this may have disturbed the Panday investigation. How long did it?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Chair I would say probably about two years.

CHAIRPERSON: About two years. Did that coincide with the time when you were on suspension or part of the time?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: It coincided with a period of my suspension Chair.

CHAIRPERSON: Yes. Okay and did you get to know for how long he was sitting there doing nothing in Benoni – of the two years?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Well Chair he told me.

CHAIRPERSON: H'mm.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Soobramoney himself told me after he had given evidence that he sat there doing nothing and he actually pleaded with them to give him something to do. He was
10 getting bored.

CHAIRPERSON: H'mm.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: He even said that – he asked them give me some HR work to do.

CHAIRPERSON: H'mm. So was your understanding that he was talking about that entire period since he had left KZN that he was sitting there doing nothing? So if that period was two years that would have been two years of doing nothing.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: That is exactly what he told me Chair.

20 CHAIRPERSON: Yes. Thank you.

ADV VERUSCHKA SEPTEMBER: General Booyesen do you confirm that there are in fact two affidavits that have been attached to your affidavit from Colonel Brian Padayachee?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: I do Chair.

ADV VERUSCHKA SEPTEMBER: And do you also confirm that it was

Colonel Brian Padayachee who managed the intelligence in relation to the Panday investigation?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: I confirm that Chair.

ADV VERUSCHKA SEPTEMBER: Did Riyah Phiyega get involved in the upliftment of communication recordings at all?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: She did Chair. What happened is Padayachee whom – who was in charge of the monitoring of the Act 17 interceptions at one stage also reported to Riyah Phiyega issues relating to the investigation and I think that is perhaps
10 something that he can talk about but for his effort he also got suspended and then a while later he informed me that – Chair how it works is the interceptions are done at a specific place in Pretoria. The investigators would sit in their respective provinces. It is not live listening. So they record and then they will send it to the investigators but the originals are kept in Pretoria. Then at one stage Padayachee informed me that General Phiyega has sent a Brigadier, I cannot recall the name, I think it was a white lady. I stand to be corrected – to uplift the intercepted calls – the actual discs but Chair if it is indeed true and she did not follow due process in my view that is – she committed a
20 criminal offence. She might have followed due process but I am not aware that she had followed proper protocol and process.

ADV VERUSCHKA SEPTEMBER: Chair for the record I failed to mention that the affidavits of Colonel Padayachee is reflected at Exhibit Z(B) which is J(B) 26 page 472 until 498. At paragraph 207 of your affidavit do you confirm that Riyah Phiyega was also the subject of a

criminal investigation when she alerted Lieutenant General Arno Lamoer?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: I confirm that Chair.

ADV VERUSCHKA SEPTEMBER: And that was an alert of a criminal investigation against him?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: That is true Chair.

ADV VERUSCHKA SEPTEMBER: But this – but it did not result in any prosecution steps being taken?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: No Chair, it did not.

10 CHAIRPERSON: I may have missed this. Did you cover that issue about Major General Ntombela at 199 and Hankel?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Chair with regards to General Ntombela.

CHAIRPERSON: Yes.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: While they were having the disciplinary hearing against me he phoned me and we met and he told me that he was the first person that was given the task to investigate me.

CHAIRPERSON: And what was his position, Ntombela?

20 MAJOR GENERAL JOHAN WESSEL BOOYSEN: Chair he was a Provincial Commissioner either in Limpopo or Mpumalanga. I cannot recall.

CHAIRPERSON: Okay.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: I think it was Mpumalanga.

CHAIRPERSON: Yes, okay. So he phoned you and said what?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: So I meet him and he says to me he just wants to tell me he was the first person who was allocated with the investigation against me and that he did not feel comfortable with it and he did some investigations, I do not know what he did, but he reported back to, I think it was at the time General Phiyega and she obviously was not happy with that but the other important thing is Chair – and that is what he told me. Phiyega asked Ntombela to investigate the conduct of General Mark Hankel the
10 whistle-blower. So he did a complete investigation. When he finalised his investigation his conclusions were that Mark Hankel had done nothing wrong. He had done the right thing and he said to me Phiyega was furious with him. She then allocated the investigation to someone else but the important thing Chair at that point the contracts of both General Ntombela and General Ngobeni had come to end. He had a clear record – absolute clear record. He had no complaints.

CHAIRPERSON: That is Ntombela?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Ntombela.

CHAIRPERSON: Yes.

20 MAJOR GENERAL JOHAN WESSEL BOOYSEN: His contract was not renewed whereas General Ngobeni having all these investigations hanging over her head General Phiyega renewed her contract.

CHAIRPERSON: And which year are we talking about at that time more or less – if you are able to ...(intervenes)?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: I would say 2013/2014

Chair.

CHAIRPERSON: Certainly that was a time when the investigation against the Provincial Commissioner in KZN, Ngobeni, had started.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: It was not.

CHAIRPERSON: It had started a year or two before?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Chair it was in an advanced stage. I think it coincides with a letter that Advocate Noko – I alluded to that yesterday and I actually mentioned that.

CHAIRPERSON: H'mm.

10 MAJOR GENERAL JOHAN WESSEL BOOYSEN: In my response to Noko's memorandum.

CHAIRPERSON: H'mm.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: That I find it no coincidence that that report was released at the time that General Ngobeni's.

CHAIRPERSON: H'mm.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Contract had expired.

CHAIRPERSON: H'mm.

20 MAJOR GENERAL JOHAN WESSEL BOOYSEN: I think it was somewhere in 2014 Chair.

CHAIRPERSON: So you say there was a Provincial Commissioner in Mpumalanga or whatever the province that Ntombela was in who as far as you know had a clean record, had no complaints against him and he had been asked to investigate you and he found nothing and reported accordingly to General Phiyega. His contract was not renewed and

then the contract of the Provincial Commissioner in KZN Major General Ngobeni there was an investigation pending against her but hers was renewed. That is what you are saying?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Over and above that the issue that he was instructed to investigate Mark Hankel.

CHAIRPERSON: Yes.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: The whistle-blower.

CHAIRPERSON: Yes.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Which Phiyega was
10 also – well the result of which she was not.

CHAIRPERSON: Yes.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Happy with either.

CHAIRPERSON: Oh Ntombela made – conducted that investigation as well?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: He did Chair.

CHAIRPERSON: Ja.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: He told me.

CHAIRPERSON: And – and found nothing wrong?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Nothing against
20 Mark Hankel.

CHAIRPERSON: Yes and then General Phiyega was very angry about that?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: He said she was very angry.

CHAIRPERSON: Yes. Thank you.

ADV VERUSCHKA SEPTEMBER: Thank you Chair. If we can now turn to page 62 of your report? The next individual who you refer to is Major General Jan Mabula. Your concerns in relation to this particular individual is mentioned in the context of three investigations. The first is one which relates to the former Police Commissioner Jackie Selebi. The other is a several multimillion Rand investigation of exhibit money which was recovered after a heist at O R T International Airport with – which was stolen from the Benoni Police Station and the last is in relation to the investigation of the Cato Manor Death Squad. It is in
10 that context that you place evidence before this Commission.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: It is in that context Chair.

ADV VERUSCHKA SEPTEMBER: Can you please give detail to your evidence relating to Mabula in the context of those investigations?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Chair Major General Jan, I think it is Ntebo, Mabula but we know him as Jan Mabula was my counterpart in the North West Province. When the Cato Manor matter started General Dramat told me that he is appointing Mabula, General Ntsika and General Badie to investigate the allegations in the
20 Sunday Tribune. Ntsika never arrived and Badie never arrived. Mabula arrived with a team from the North West. One of them I recall was Colonel Mano also a very controversial officer who subsequently passed away. It did not strike me at the time but later on I put two and two together. Mabula – General Mabula was in cahoots with Advocate Jiba at the time of the arrest of Advocate Gerrie Nel. What

transpired Chair after my arrest I received a phone call from a senior police officer who wanted me to meet someone. So I happened to be in Pretoria and we met at Centurion at the McDonalds and this person related the following story to me Chair. He said to me what Mabula is doing to you is wrong because he is guilty of something like that himself and he related the following story to me. There was a huge heist at the O R Tambo airport. I think over R100 million was stolen. Whether it was Dollars or Rand I cannot recall Chair and people were arrested for that and the monies was recovered and kept in the safe at,

10 I think, Benoni Organised Crime. Someone broke into the offices and I think R12 million was stolen. Mabula at the time was a Colonel and he was tasked to lead the investigation into the theft of the money. Chair then I started to do some research myself afterwards but let me continue with the story. He says one of the people who they arrested is a guy by the name, I think Solly Ngwenya, a suspect in the matter. He was taken to the Mmakau Police Station and at the Mmakau Police Station they were busy interrogating him. Jan Mabula was in an adjacent office. He was not present. He was in the office next door and he was there with, I think, she was a Captain Makwena. He says

20 and they were busy interrogating this suspect – Solly Ngwenya but they were torturing him. He was part of it. He told me and he says he described me to. They would take a tube and then put it over his head until the person suffocates. A long story short. This person collapsed and they could not revive him. Then they realised this person had died. He says and then he went next door or they went next door, I can't

recall whether it was him or ...(intervenes).

CHAIRPERSON: That's Mabula telling you the story or what?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: No Chair.

CHAIRPERSON: Who was telling you the story?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: It's a gentleman, I do not want to mention his name ...(intervenes).

CHAIRPERSON: Oh you don't want to mention his name okay.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: But if the Chair would want me to I can – but I think for his own safety ...(intervenes).

10 CHAIRPERSON: No that's fine.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Because what happened afterwards Chair, people were being killed left, right and centre. They then went next door to tell Mabula, we've got a problem now this man Ushonile Manje he doesn't want to wake up. Then Mabula was sitting on the chair he fell down, he passed out himself and then one of the captains there, it was a Captain Dube, female captain took her coat and waved him to wake up so when he woke up they realised they had a problem. So they decided they were going to take the body to, I think the Baragwanath Hospital and then they took him to
20 the hospital to say, no this man had a heart attack. When they arrived at the hospital the doctor said no, no this man has been dead for about two hours now he didn't have a heart attack. They went back and reported this to Mabula, Mabula then had some arrangement, he didn't give me those details with a doctor who eventually certified this person dead. The family at the time and the media, I obviously later on started

reading about it, was very unhappy that their family member had died in police custody. Then the people that were present, when this person died, when Solie died, Mabula met them at a lake, I can't recall – I think it was Germiston lake where he told them how to formulate their statements. They had a follow-up meeting in which – and they described to me the one guy said no they're having nightmares, nightmares. I said to him, what do you mean nightmares, he says no they were saying that one of the people that were present when Solie died was that – they were having nightmares at night, this man was
10 spooking by them and then Mabula would say to them, no don't worry we'll sort it out and he told them exactly how to make their statements.

Chair at that point I listened to what he said but I was in the middle of the fight of my life with Jiba and all and sundry I didn't do anything about it at the time. Six months later I get a call from General Shadrack Sibiya, I might mention Chair, the person who introduced me to this other person was General Shadrack Sibiya. He then said to me, Johan did you report this thing to ICD, I said to him Shadrack, I'm too busy fighting my own battles here I haven't got time for that, he says no, no the person who related the story to me and another person who
20 was off sick, they were the only two people that never made statements at the time that Solie Ngwenya died and now all of a sudden ICD is approaching them for statements. I said to him, Shadrack I can give you an undertaking I did not contact ICD I'm too busy. He said to me, can these guys come and see you, I said by all means. Chair that was about 17:00 in the afternoon, 07:00 the following morning I received a

call they're in Durban, so it must have been of some concern to them because they had driven through the night.

I then asked, I think it was Colonel – Captain Pelser from my office if he's got a recording device for me, I took a recording device with me and I met them on the beach front and I had arranged with a person that I know at the Sun Coast Casino that we can go and sit in one of the restaurants and talk. So they enquired from me, they said to me, it's just strange that they were the only two that never made statements in that matter in which Ngwenya died but now the ICD wants
10 to see them and I told them there's no ways it was me that told the ICD and then we tried – I tried to figure out who it could have been and we had some discussion and Chair then ...(intervenes).

CHAIRPERSON: Is the ICD the predecessor to the IPID?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Yes Chair.

CHAIRPERSON: Okay.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: So Chair then I said to them but let's just recoup what happened when Solie died and then they told me the whole story from the beginning to the end exactly like he told me the previous time and I then said to them look my – the only
20 suggestion that I can make to you guys, go to a lawyer, make an affidavit, go to the Prosecuting Authority and lay your cards on the table because there's a whole group of you people it's – the first one that decides to become a 204 witness and I said to them look, what I'll do for you is, I'll take you to my lawyer. I made an arrangement for my lawyer to meet them, he met with them, they related the story to – and

he gave them – the lawyer gave them the same advice. They said they would think about it but it was clear that they were extremely scared. They then left and they said that they would let us know. They never went to a lawyer and deposed an affidavit. I subsequently took the recording and I gave it to Mr McBride. Mr McBride initiated an investigation and not long after that he was suspended himself. When he returned to office he phoned me and he said to me the recording had gone missing, do I have another copy, I said no, I have another copy so I favoured him with another copy. Subsequent to that Mr McBride told
10 me that they had managed to obtain corroborating evidence and the matter had gone to the DPP and those were one of the cases that Mr McBride expressed his frustrations about, that they were not getting any positive feedback from the National Prosecuting Authority, I don't know where the docket is right now Chair.

CHAIRPERSON: Thank you.

ADV VERUSCHKA SEPTEMBER: Thank you Chair.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Chair I might just add if – I managed to obtain a copy of the post-mortem report of Solie Ngwenya and the post-mortem report says he died from asphyxiation.

20 CHAIRPERSON: From?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: From asphyxiation.

CHAIRPERSON: Okay.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: So he's in police custody he dies from – someone must be held accountable for his death it's not – if you die from asphyxiation it's an unnatural death while

you're in police custody and no-one is responsible for that.

CHAIRPERSON: Yes.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Chair which takes us to his investigation with the Cato Manor matter. When he arrived there, I said to him, Jan here's my office, here's my equipment I made everything at his disposal and I think I did testify about this earlier on where people like Mostert would phone me and say to me the investigators have traced their informers and they're putting pressure on the informers to change their versions and that's when I also
10 received a call from Lieutenant Zungu who met me and told me he had been approached by detectives working with Mabula and he told me that Mabula was present in the room at the Blue Waters Hotel where they interrogated him about certain issues relating to the killing of Mkhize and they wanted Zungu to change his statement to implicate me in the killing of Mkhize and he refused.

CHAIRPERSON: To implicate you?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Yes Chair and he refused, Zungu refused and ...(intervenes).

CHAIRPERSON: This was Mabula and who, who were ...(intervenes).

20 MAJOR GENERAL JOHAN WESSEL BOOYSEN: The detectives that worked with Mabula.

CHAIRPERSON: Oh Mabula wasn't there but it was detectives.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Chair he told me Mabula was there and prior to me giving evidence, I just wanted to make sure, I phoned him again, I said to him Zungu, I just want to

confirm, you told me that Mabula was present there and he said yes he was present.

CHAIRPERSON: Okay.

ADV VERUSCHKA SEPTEMBER: Chair on that point a copy of Zibuswe William Zungu's statement is included in the bundle in Exhibit Z(B) and it begins at page 500 with a typed version continuing to page 508. The next individual that you deal with is Colonel Rajen Aiyer and that's on page 64, you have already given much evidence in relation to Colonel Aiyer to the extent that – based on the evidence that you have
10 given there's nothing additional in the affidavit as such. Is there any additional remarks you may wish to make in relation to him?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Chair I think I've testified extensively about Mr Rajen Aiyer. He was subsequently dismissed from the police for dishonesty, there's another case pending against him, of intimidation and – well, no, no sorry Chair he was dismissed for the case still under investigation for intimidation and a few other charges that matter, I understand is with the DPP's office. In another matter in which he fabricated evidence against individuals in a robbery matter, the Magistrate Mr Anand Maharaj ordered an enquiry
20 into his evidence where he lied under oath and fabricated evidence, he got his girlfriend to make statements which were untrue, to implicate people that weren't implicated in the Commission of that offence at all and that disciplinary hearing and the criminal trial is still in the process but subsequent to that he committed another offence which is still under investigation but he was dismissed from the police for that. The

point I'm making Chair is here we have a person with a very dubious character which got an axe to grind with myself whom I had to – charged departmentally, he was found guilty and basically kicked out of the Hawks by General Dramat and that's the type of person – and even if he's – what he says is true in his statement Judge Gorvan held that it relates to nothing other than office politics but that's the type of witness – that's their key witness Chair that advocate Jiba and Shaun Abrahams relies upon to convict me for racketeering.

ADV VERUSCHKA SEPTEMBER: If I can then take you to page 65 at
10 which you deal with the next individual who's named Brigadier Niyameka Xaba. Do you confirm that this particular Brigadier worked under your command?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: I do Chair.

ADV VERUSCHKA SEPTEMBER: And do you also confirm that he was involved in the investigation relating to the complaint from Tom Moyane?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: I do Chair.

ADV VERUSCHKA SEPTEMBER: He was also involved – or rather under Brigadier Xaba's command ...(intervenes).

20 CHAIRPERSON: Well let him testify.

ADV VERUSCHKA SEPTEMBER: No problem Chair. Do you have any comments in relation to his involvement on the matter concerning Mr Flock Simmington?

CHAIRPERSON: Yes now put your questions more neutrally.

ADV VERUSCHKA SEPTEMBER: Thank you Chair.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Chair Brigadier Xaba used to work with me in KwaZulu-Natal, he was a colonel then and eventually he was promoted to head office where he is a brigadier. My understanding that he's – he heads Crimes Against the State and I refer to the PCLU at the National Prosecuting Authority yesterday who are mandated to do serious crimes like human trafficking, foreign military assistance Act. Crimes Against the State, in my view would relate to crimes such as treason, sedition and crimes of that nature. So to start off with, I find it suspicious that a brigadier who is in charge of Crimes

10 Against the State manages to get himself involved with an investigation relating to a complaint by Mr Tom Moyane, I don't regard that complaint as being a crime against the state. During that investigation there was an incident that was televised on television where Mr Xaba and people with him – and that's my observations of watching what I saw on TV, kept in a room against his will, they also took or attempted to take documents from him by force which, in my view could amount to at least common assault. My understanding that a case was opened but under the stewardship of the NPA at the time Mr Shaun Abrahams unsurprisingly that matter was also declined to prosecute. I was also

20 told by Mr McBride that Xaba had involved with the investigation against Misesi Koko and Mr Innocent Khoba but Chair the point I'm making is, a brigadier heading crimes against the state getting involved with these type of matters. What I also found very strange was, in one of the affidavits that advocate Jiba deposed to in a civil litigation that we were involved in, he happens to be the person that commissions her

statement. One could read anything and like that but I just find it a bit suspicious. Mr Xaba might argue that the investigation is lawful, the investigation might have been lawful but I find it a bit conspicuous that he had involved himself in these type of investigations and I just want to go back a bit further Chair, same prosecutors every time, same investigators every time. Brigadier Xaba, and I know him personally, he's got an LLB degree, he should know what is right and what is wrong when it comes to what to do and what not to do. He's not stupid he should have told whoever told him to do what he was doing, he should

10 have told them, I'm not going to involve myself with this or at least have booked off sick or do something but he knew well that he was doing the bidding of someone else when he performed these actions.

ADV VERUSCHKA SEPTEMBER: And then the last individual that you deal with is on page 66 and that is Brigadier Pharasa Ncube. What are your comments in relation to this brigadier?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Chair I've already given evidence how he arrested me, he didn't even know what a founding affidavit was but nevertheless, he was the henchman tasked to arrest me the first time I was arrested and he was also the henchman

20 tasked to arrest me the second time when Shaun Abrahams authorised my prosecution and I recall when they took me to the cells the second time around at Durban Central Police Station, the moment the cell doors close he immediately made a call and he said, General he was arrested. Now the only general that I can think of that he had phoned at the time, and I'm speculating but it must have been General

Ntlemeza. There was no reason, Chair, to once again chuck me in the cells, put me in the back of a police car and then cart me to court and then put me at the bottom of the grill and up the stairs like a common criminal. Chair Ncube also got involved with ...(intervenes).

CHAIRPERSON: So they put you at the back of a police van?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: They wanted to Chair but then there was another officer, I cannot – no, no, no I can, it was a Brigadier Pembe, I think it was, I had done a course with him in Stellenbosch, he heard from his office that I'm in the cells at Durban
10 Central and they were going to put me in the back of the police van to take me to Court. He then came down and he said to them there's now ways he's going to allow – because him and myself were like partners on this course in Stellenbosch and he told them there's no ways he's going to let me drive in the back of a police van he's going to take me in his police car, so I jumped in the car with him, he took me to court.

ADV VERUSCHKA SEPTEMBER: Thank you Chair. In that instance can I ask that we please turn to slide 6 which appears in bundle Z(D) and that's the diagrams bundle. General Booyesen you will recall that at the beginning of your evidence and I shall quote ...(intervenes).

20 MAJOR GENERAL JOHAN WESSEL BOOYSEN: Chair before – can I just make a correction it was General Mpethe, I've just remembered now the guy who said he's not going to allow them to put me in the police van he's going to take me himself.

CHAIRPERSON: Oh what's his name?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Mpethe I can't

remember his first name Chair.

CHAIRPERSON: What's the spelling, have I got it here?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: No it's not on my statement Chair.

CHAIRPERSON: Oh okay have you got the spelling?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Chair I'll spell it M-p-e-t-h-e.

CHAIRPERSON: Okay what was his position?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: That time he was a
10 brigadier Chair, but I understand he's now a general.

CHAIRPERSON: Okay thanks.

ADV VERUSCHKA SEPTEMBER: Okay let's deal with slide 6. Do you confirm that this slide is essentially a consolidation of the two previous slides, the one which deals with individuals in the prosecution cluster and the other being individuals within the law enforcement cluster?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: I do Chair.

ADV VERUSCHKA SEPTEMBER: Chair the key on the top right-hand side informs that the law enforcement individuals are marked in a black background and the prosecution individuals are marked in a white
20 background which for some or other reason does not appear on the slide.

CHAIRPERSON: Just repeat that?

ADV VERUSCHKA SEPTEMBER: It's the next slide.

CHAIRPERSON: Just repeat what you have just said.

ADV VERUSCHKA SEPTEMBER: Yes, Chair the witness has

confirmed that this is a combination of the two slides on the top right-hand side is a little block which has a black backing and that indicates the law enforcement individuals which populate the diagram ...(intervenes).

CHAIRPERSON: What page of that – this Exhibit is that, I thought I've got it but it looks like I haven't got it.

ADV VERUSCHKA SEPTEMBER: It's the last page Chair, page 6.

CHAIRPERSON: Does this diagram not suffer from the challenges that I mentioned earlier in regard to the other one – okay, alright I'm there.

10 ADV VERUSCHKA SEPTEMBER: This diagram the witness has confirmed is a combined diagram of the law enforcement diagram and the prosecutions diagram and in particular the individuals that this witness, Mr General Booyesen has addressed in his evidence. General Booyesen if I could point you to the diagram as such ...(intervenes).

CHAIRPERSON: You said something about how – about those who are in black and those who are in white, the individuals whose names are written on white would be prosecutors of NPA personnel – prosecutors.

ADV VERUSCHKA SEPTEMBER: Yes Chair.

20 CHAIRPERSON: And then you have got names of – that are on black you say those are investigators?

ADV VERUSCHKA SEPTEMBER: That's individuals from the law enforcement team, be it the Hawks or the South African Police Services.

CHAIRPERSON: From SAPS?

ADV VERUSCHKA SEPTEMBER: Yes Chair.

CHAIRPERSON: Ja okay.

ADV VERUSCHKA SEPTEMBER: It's simply a combination of the two previous diagrams. Having said that if I could take you to the diagram itself, there appears to be common role players as you've already given evidence to. When I say common role players I'm specifically talking about individuals who have been involved in more than one of the cases that you've given evidence to, is that correct?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: That's true Chair.

ADV VERUSCHKA SEPTEMBER: If I could then take you down to the
10 key on the bottom left-hand side which then identifies the individuals who have been involved in more than one case as you've given evidence to being the Panday investigation marked in blue, the Amigos case marked in red, the looting of the Secret Service Account marked in yellow and the Cato Manor investigation marked in green. Can I ask you to read into the record the individuals who appear common in more than one matter as indicated in the key on the bottom left-hand side?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: You refer to the cross-cutting persons?

ADV VERUSCHKA SEPTEMBER: Yes please – yes General Booysen.

20 MAJOR GENERAL JOHAN WESSEL BOOYSEN: Chair in the Cato Manor investigation the Secret Services Account investigation, the common denominator there from the advocates are advocate Jiba Ntenjwa. With regards to the Secret Services Account and the Panday case Ntlemeza, the Panday case and the Amigo case, Mogwebe. The Amigo case and the Cato Manor case Mosing, the Panday case and the

Amigo case and the Cato Manor case Noko. Cato Manor case the Secret Services Account case and the Panday case Mdluli and Phiyega.

ADV VERUSCHKA SEPTEMBER: Thank you. Is there any coincidence based on your experience to there being common individuals involved in these matters?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Chair from time to time there will be coincidences where certain individuals will overlap with other individuals but over a period of time invariably the same names from the Prosecuting Authority, the same names from SAPS, the same investigators from SAPS, when these types of investigations – I refer specifically about the Cato Manor investigation, the Panday investigation, the Amigos case investigation, the looting of the slush and fund investigation, the rendition investigation and the SARS so called rouge – Chair I think I have a better chance of winning the lotto but it's impossible that the same people, somehow, just figure to be the prosecutor or the investigator or the manager of these investigators in all those cases Chair over a period of time.

ADV VERUSCHKA SEPTEMBER: If I could then turn your direction to the blocks alongside the circles, so if we start with the red circle which is the Amigos block, alongside it is marked a block, beneficiaries in the Amigos case. In your view, based on the evidence that you've given who were the beneficiaries in the Amigos case?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: In the Amigos case the obvious beneficiaries are Peggy Nkonyeni and Mike Mabuyakhulu.

ADV VERUSCHKA SEPTEMBER: And then in the Panday

investigation, which is the circle marked blue, there's another block which ...(intervenes).

MAJOR GENERAL JOHAN WESSEL BOOYSEN: There the beneficiaries in the Panday matter Chair would be Colonel Navin Madhoe, Captain Narain Persad, Lieutenant General Ngobeni she's now resigned from the police, Toshan Panday, Deebo Mzobe and Edward Zuma.

ADV VERUSCHKA SEPTEMBER: And if one had to do the same to the block alongside the yellow circle which deals with the looting of the
10 Secret Service account, who were the beneficiaries?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Chair although in my view there were a number of beneficiaries but the ones that I directly dealt with and know about is Richard Mdluli and Minister Nathi Mthethwa.

ADV VERUSCHKA SEPTEMBER: If I could then remind you of evidence that you placed before this Commission on your first day of hearing when looking at the overall organogram, dealing with both the police and dealing with the justice clusters it was your evidence that the clusters of police, justice, intelligence, finance, governance,
20 parliament and the Presidency cannot do without each other. They all form very important gears in this big machinery and if any one of those are absent the whole justice system will be compromised and that's the evidence that you have given.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Chair that's my evidence that that's imperative.

ADV VERUSCHKA SEPTEMBER: So what would be the benefit of anyone who would have a beneficial right over the National Prosecuting Justice cluster or rather, apologies over the justice cluster or even the police cluster?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: I would like you to rephrase that question please?

ADVOCATE VERUSHKA SEPTEMBER: It is a good idea.

CHAIRPERSON: One second. Okay.

ADVOCATE VERUSHKA SEPTEMBER: Okay.

10 CHAIRPERSON: Just rephrase the question so the witness will understand it.

ADVOCATE VERUSHKA SEPTEMBER: No problem Chair. You have highlighted beneficiaries relative to each particular investigation. Do you have any comment as to exactly what the benefit would be to anyone who has – who is in a position in decision making positions within these clusters?

20 MAJOR GENERAL JOHAN WESSEL BOOYSEN: Chair if I understand the question it is acousmatic that if you are in charge of a cluster you wield some sort of power. And that power ought to be used with discretion and within the confines of the constitution and within the confines of the law. Unfortunately my evidence I would allege indicates that a number of people in these key positions were there either placed there to benefit certain individuals, politicians and businessmen. I do not believe for one moment that the prosecutors involved, that I have discussed here Chair I do not believe that for one

moment that they acted without fear or favour. In my view they acted wrongfully. I will not – well I have opened criminal cases against some of them. They have acted – they have not acted in the spirit of the constitution. They have not acted according to their own policy guidelines or their own code of conduct. Chair in my view some of them are a disgrace to the national prosecuting authority. With regards to Law Enforcement Chair Berning Ntlemeza Chair is the biggest disaster that has ever hit Law Enforcement in this country. He has eviscerated a vital institution to fight corruption in our country Chair.

10 Chair we see all over the country there is service delivery protests I have always maintained there is money around but unfortunately there are corrupt elements in our society that enrich themselves at the expense of the poor. And then you have a person that is supposed to be exposing these – the corruption but then he becomes part of a group of people that cover up the corruption. And the same applies to the prosecutors that I have mentioned Chair.

ADVOCATE VERUSHKA SEPTEMBER: Thank you. And then the last part of your affidavit deals specifically with the role of intelligence services and the Sunday Times. That can be found on page 66 starting
20 from paragraph 225. General Booyesen do you have any comments in relation to the role of the intelligence services and the Sunday Times?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Chair I have mentioned before that the SARS so called rogue unit, the Cato Manor so called death squad and the so called rendition investigation are all in necessary can be linked. In all of those instances the intelligence

services would leak information to journalists the same two journalists time and time again. Stefan Hofstatter and Mzilikazi wa Afrika. Exposés would follow. Once the exposés are published within a work or two the Johan Von Loggenberg's, the Anwa Dramat's, the Johan Booysen's, the Shadrack Sibiya's and so I can carry on are suspended. Investigations that they are busy with become dormant. It is no coincidence Chair and it is – that has been the modus operandi. Leaking of information and Chair I think it is important that I mention that the current editor of the Sunday Times Mr Siqoko he at least had

10 the courage of his conviction to approach me and extend a hand to me to apologise. The editor of the time Mr Ray Hartley he is missing in action so I do not want to paint the current editor under the – well blame him for the ills of what happened previously. And Chair that is one example how the media could be abused to further nefarious agendas by certain individuals. I have been approached by a professor from one of the universities who is busy writing a book on how the media could be exploited or used to further nefarious goals.

ADVOCATE VERUSHKA SEPTEMBER: Do you confirm General Booysen that in October 2018 the editor of the Sunday Times Mr

20 Bongani Siqoko apologised for getting the Cato Manor publication wrong and that there was in fact an apology that was published which appears as an attachment to your affidavit at page 510?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Chair that is indeed so and Mr Siqoko also gave me an opportunity to write a full page unedited in the Sunday Times which I did. He went as far as to say

that he would write an editorial comment which he would allow me to edit and that says a lot about him. He had shown me his editorial comment and I did not change a thing and my article went in unpublished.

CHAIRPERSON: Unamended?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Unamended Chair.

CHAIRPERSON: Ja okay.

ADVOCATE VERUSHKA SEPTEMBER: Chair I would also just like to point your direction to the affidavit of Colonel Padayachee which at
10 page 475 and paragraph 11 also deals with the involvement of the media and in particular Mr wa Afrika. And then I have just realised General Booyesen that I forgot to ask you to confirm one of your affidavits which is attached to your papers and that is in fact the affidavit that you had prepared which was unsigned and that you intended to hand or rather that you handed to Major General Matakata. Can I ask you to just quickly page to 348 of File Z(B) and confirm that that is in fact the affidavit that you had handed in which dealt with your visit to the Gupta residence?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Which page?

20 ADVOCATE VERUSHKA SEPTEMBER: It is page 348.

CHAIRPERSON: Major General Booyesen are you looking at the correct lever arch file?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Yes, yes I have found it Chair.

CHAIRPERSON: Oh okay.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: I confirm this is the statement Chair.

CHAIRPERSON: Okay.

ADVOCATE VERUSHKA SEPTEMBER: Thank you so much. And then ...(intervenes).

CHAIRPERSON: That is the affidavit that you handed to the acting Head of the Hawks after General Ntlemeza had left?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: That is right. General Matakata.

10 CHAIRPERSON: Yes okay. Thank you.

ADVOCATE VERUSHKA SEPTEMBER: The last annexure that I would like to direct your attention to is annexure 29 which is of the same bundle Exhibit Z(B).

CHAIRPERSON: Did you say 329?

ADVOCATE VERUSHKA SEPTEMBER: It is Exhibit 29 which is at page – starts at 513.

CHAIRPERSON: Exhibit 29?

ADVOCATE VERUSHKA SEPTEMBER: Yes Chair. Oh apologies. Exhibit Z(B).

20 CHAIRPERSON: Ja.

ADVOCATE VERUSHKA SEPTEMBER: Page 513.

CHAIRPERSON: Okay.

ADVOCATE VERUSHKA SEPTEMBER: Do you recognise this article General Booyesen?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: I do Chair.

ADVOCATE VERUSHKA SEPTEMBER: Were you involved in the production of this article?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: I was Chair.

ADVOCATE VERUSHKA SEPTEMBER: And do you have any comments in relation to this particular article?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Chair I refer to the compilation of this document when I was invited to the Nelson Mandela Foundation. That is where this document originated from. It is a combination of universities that did research on and they titled the document Betrayal of the Promise how South Africa is being stolen. It inter alia narrates some of the issues that I dealt with in my investigation and they accurately ...(intervenes).

CHAIRPERSON: Record it.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Reflect what ...(intervenes).

CHAIRPERSON: Ja.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: What my submissions were to the researchers in this document.

CHAIRPERSON: Okay.

20 ADVOCATE VERUSHKA SEPTEMBER: And just for the record Chair this particular excerpt only includes page 3, 19, 50, 51 and 52 of that particular report. And then finally General Booyesen do you have any closing remarks?

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Chair I am not going to talk from my statement.

CHAIRPERSON: Yes.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: The first thing Chair I would like to say I am very – I really appreciate this opportunity after six of – and seven years of attack after attack after attack of people that supposed to be protecting me. Chair I am grateful for this opportunity. It is – and I am also grateful for the two advocates that dealt with me Advocate September and Advocate Pretorius and also the investigators Mr Groenewald for the understanding in the way they dealt with this matter.

10 CHAIRPERSON: H'mm.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Chair I am going to conclude I do not want to make a long speech.

CHAIRPERSON: H'mm.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: But as long as the people that I have mentioned in my statement they can change the Head of the Hawks, they can change the Head of the NPA, they can change the State President but as long as these people remain there Chair and I will be proven right if they so happen to stay there. It happened with Mr Nxasana. Mr Nxasana I did not know him personally
20 I had managed to meet him at a much later stage. Mr Nxasana felt the brunt of a cabal within the NPA. I felt the brunt of a cabal with – when I was member of the Hawks. Unless they get rid of the rotten apples within the NPA and the police and the Hawks Chair we are doomed. Thank you Chair.

CHAIRPERSON: Yes.

ADVOCATE VERUSHKA SEPTEMBER: Chair

CHAIRPERSON: Well maybe ...(intervenes).

ADVOCATE VERUSHKA SEPTEMBER: Chair ...(intervenes).

CHAIRPERSON: Major General Booyesen I must once again thank you for coming forward to help this Commission to give evidence and help this Commission understand some of the things that have happened or were happening in the Law Enforcement sector and some of the things that some of the people in this – in that sector have gone through. I am hoping that more and more people within the sector who have

10 knowledge of things that have been happening will come forward and share with the Commission and the nation exactly what has been happening. Because as I said before lunch if we do not have a proper Law Enforcement Agencies then we do not have a country. So it is vitally critical that if there are things that have not been going well, that have not been done properly in the Law Enforcement sector we should know so that this Commission can make recommendations at to what should really be done to make sure that the country has proper Law Enforcement Agencies that do their job in accordance with the constitution and the law. So thank you very much for coming forward to

20 share what you know. Obviously this is not the last day you give evidence because it is likely that you may be asked to come back and I have no doubt you have no problem with that. So we will still see you I believe but thank you very much and others who have similar information should come forward and share what they know with the Commission and with the nation. Thank you very much.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Thank you Chair.

CHAIRPERSON: Thank you.

ADVOCATE VERUSHKA SEPTEMBER: Nothing further Chair.

CHAIRPERSON: You have nothing further. So for now you are excused Major General Booysen thank you very much.

MAJOR GENERAL JOHAN WESSEL BOOYSEN: Thank you Chair.

CHAIRPERSON: Thank you. We are at the end of today's proceedings. We will adjourn and on Monday start at 10:00. Is that in order?

ADV PAUL JOSEPH PRETORIUS: That is in order Chair.

10 CHAIRPERSON: Is that in order?

ADV PAUL JOSEPH PRETORIUS: We will be dealing with the Transnet tranche of evidence.

CHAIRPERSON: We will start with Transnet?

ADV PAUL JOSEPH PRETORIUS: Yes Chair.

CHAIRPERSON: And then sometime later we will have more witnesses on Law Enforcement Agencies.

ADV PAUL JOSEPH PRETORIUS: Yes. Yes Chair we are by no means complete with the Law Enforcement Agency tranche of evidence.

CHAIRPERSON: Yes.

20 ADV PAUL JOSEPH PRETORIUS: But that will resume.

CHAIRPERSON: Ja.

ADV PAUL JOSEPH PRETORIUS: After a certain law – SOE's have been dealt with.

CHAIRPERSON: Ja. Ja. Okay no thank you.

ADV PAUL JOSEPH PRETORIUS: Thank you Chair.

CHAIRPERSON: We will adjourn then for today and we will resume on Monday at 10:00. We adjourn.

REGISTRAR: All rise.

INQUIRY ADJOURNS TO 6 MAY 2019

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