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10

19 SEPTEMBER 2019

DAY 167

20

PROCEEDINGS RESUME ON 19 SEPTEMBER 2019

CHAIRPERSON: Good morning Ms September, good morning everybody.

ADV VERUSCHKA SEPTEMBER: Good morning Chair.

CHAIRPERSON: Are we ready?

ADV VERUSCHKA SEPTEMBER: Yes we are.

CHAIRPERSON: Okay. Let us continue.

ADV VERUSCHKA SEPTEMBER: Chair if I may there is one point that I would like to place on record and that is that the investigators have
10 had success in locating Major General Chris Ncobo.

CHAIRPERSON: Oh okay.

ADV VERUSCHKA SEPTEMBER: And that his Rule 3.3 Notice was in fact delivered to him.

CHAIRPERSON: Okay alright thank you.

ADV VERUSCHKA SEPTEMBER: Colonel Roelofse before we resume where we stopped yesterday there was one query that the – the Judge has requested you to obtain clarity on and that is in relation to the name which is reflected on page 42 of your affidavit in bundle KK2.1. And in particular paragraph 140.2. The name which – is reflected there
20 is Ranjeni Munusami which for the record is spelt R-a-n-j-e-n-i and the surname is M-u-n-u-s-a-m-i. We informed the Chair yesterday that we received a response to a 3.3 Notice that was purportedly sent to this individual however the response that we received was from an attorney more than one attorney actually representing a person whose name is spelt N-a-v-a-r-a-n-j-e-n-i surname M-u-n-u-s-a-m-y which is

Navaranjeni Munusamy. Have you been able to establish any clarity overnight on the evidence that you have given relative to paragraph 140.2 in relation to the Ranjeni Munusami which is recorded in that paragraph and the other name which we have placed on record?

MR KOBUS DEMEYER ROELOFSE: Chair I did. I actually made a mistake in terms of the surname that I have recorded in my – in my affidavit. It should read Y. I again went back to the documentation that I have. The vehicle in question is registered in N Munusamy with a y at the end of the surname registered to an address which was used by the
10 same person at the time which is also indicated on the – on the bank statement from Wesbank. So the two – the person that I am talking about is in fact Navarenjeni Munusamy. I used the name Ranjeni that is because that is how she is known. And secondly Chair what I also then – I also remembered that in 2014 I did in fact contact Ms Ranjeni Munusamy and – and I informed her of what I have found and asked her for a version and explanation. I spoke about three times I think to her. She then said that she will speak to her legal representative. I have never received any communication from her after that in respect of any explanation as to what had happened.

20 **CHAIRPERSON:** Hm.

MR KOBUS DEMEYER ROELOFSE: At this point in time all I can state is that the account held by Nissan – Nissan Atlantis or Atlantis Motors paid an amount into an account held by Navarenjeni Munusamy at Wesbank relating to the vehicle that she owned or that person owned.

CHAIRPERSON: So are you saying that in terms of what is written in

your affidavit there was just some spelling errors in terms of y?

MR KOBUS DEMEYER ROELOFSE: That is correct Chair.

CHAIRPERSON: But you say it is the same person.

MR KOBUS DEMEYER ROELOFSE: It is the same person according to me yes. Yes Chair.

CHAIRPERSON: Yes. Okay.

ADV VERUSCHKA SEPTEMBER: Thank you Chair. In any event with the assistance of this witness we will obtain the – any identification details and communicate it or rather compare it to a request for identity
10 details from the attorneys we have received correspondence from.

CHAIRPERSON: Now the – the name as written in your affidavit and the name as written in the letter of attorneys that Ms September read in terms of what you found when you were investigating which name appeared? Was it the one as written here except for the spelling error that you have mentioned or the one as indicated in the letter that Ms September has read out?

MR KOBUS DEMEYER ROELOFSE: Chairperson in respect of – in the documentation and I am talking about the registration docu – the [indistinct] documents relating to the vehicle as well as the bank
20 account details. It is N Munusamy.

CHAIRPERSON: N?

MR KOBUS DEMEYER ROELOFSE: N.

CHAIRPERSON: Yes.

MR KOBUS DEMEYER ROELOFSE: Navaranjeni Munusamy. I knew her as Ranjeni because that is the name that I am – that I am familiar

with so I presume what has happened is I used the name Ranjeni and did not put in the first part of Navarenjeni Munusamy.

CHAIRPERSON: So the documentation that you came across in your investigation reflected initial N for Nelly?

MR KOBUS DEMEYER ROELOFSE: That is correct Chair.

CHAIRPERSON: Munusamy?

MR KOBUS DEMEYER ROELOFSE: That is correct Chair.

CHAIRPERSON: And then a certain address was given?

MR KOBUS DEMEYER ROELOFSE: That is correct Chair.

10 **CHAIRPERSON:** And then you made further investigations?

MR KOBUS DEMEYER ROELOFSE: Yes which confirm it is the same address.

CHAIRPERSON: And then you confirmed that it was the same person?

MR KOBUS DEMEYER ROELOFSE: That is correct Chair.

CHAIRPERSON: Okay. Thank you. I just wanted that clarification.

ADV VERUSCHKA SEPTEMBER: Chair – Chair if I may just to add to that. The Rule 3.3 Notice that was in fact sent out was addressed to a Ms Ravaranjeni [Ranjani].

CHAIRPERSON: You want to spell the ...

20 **ADV VERUSCHKA SEPTEMBER:** I think that is best Chair.

CHAIRPERSON: Ja just so that we...

ADV VERUSCHKA SEPTEMBER: It is addressed to a Ms and the first name is N-a-v-a-r-a-n-j-e-n-l in brackets is written Ranjeni which is spelt R-a-n-j-e-n-l and the surname if actually spelt M-u-n-u-s-a-m-i contrary to the spelling of this name in the affidavit itself. When we

received a response to the Rule 3.3 we have since received two responses through two different attorneys. The first attorney has responded to inform that it is – it is Willem De Klerk attorney who ...

CHAIRPERSON: Willem?

ADV VERUSCHKA SEPTEMBER: Willem De Klerk Attorneys.

CHAIRPERSON: Willem De Klerk Attorneys ja.

ADV VERUSCHKA SEPTEMBER: Who wrote a letter to us on the 13th – dated the 13th September 2019 informing that he represented Ms Ravaranjeni Munusami in addition to another.

10 **CHAIRPERSON:** Hm.

ADV VERUSCHKA SEPTEMBER: Following a response that we sent to them we did not receive any further communications from this attorney. On the 17th September which was the first date of evidence of this witness we then received a correspondence from Webber Wentzel Attorneys.

CHAIRPERSON: Webber Wentzel?

ADV VERUSCHKA SEPTEMBER: Yes Chair.

CHAIRPERSON: Yes. Hm.

20 **ADV VERUSCHKA SEPTEMBER:** Who informed that they are representing Ms Ravaranjeni Ranjeni Munusamy.

CHAIRPERSON: Okay. Okay. Did they indicate if they were going to file an affidavit or anything? Any of the two firms of attorneys or both?

ADV VERUSCHKA SEPTEMBER: Chair the first attorneys Willem De Klerk informed that they actually wanted a full copy of the entire affidavit.

CHAIRPERSON: Hm.

ADV VERUSCHKA SEPTEMBER: And in response – and in addition to that they also informed that they represented the editor of the Sunday Times.

CHAIRPERSON: Hm.

ADV VERUSCHKA SEPTEMBER: The response to that not only called for an undertaking insofar as Rule Regulation 11.3 was not breached in any way in that they now appear to represent two clients.

CHAIRPERSON: Yes but...

10 **ADV VERUSCHKA SEPTEMBER:** Only one of whom is...

CHAIRPERSON: But the – aha.

ADV VERUSCHKA SEPTEMBER: Referred...

CHAIRPERSON: But the affidavit had not mentioned the editor had it?

ADV VERUSCHKA SEPTEMBER: No Chair.

CHAIRPERSON: Ja Hm.

ADV VERUSCHKA SEPTEMBER: That was the first element of response.

CHAIRPERSON: Hm.

20 **ADV VERUSCHKA SEPTEMBER:** First leg of the response. And the second response was to inform that all the relevant paragraphs which related to this particular transaction had in fact been provided and that included at least from paragraphs 133 up and until 140.2. Also giving clarity to what the acronym of NWM means in 140.1. We never received as I said a response to our letter from Willem De Klerk but the response that we did receive from Webber Wentzel is that the client

requested an extension to submit her applications in response to the Rule 3.3 Notice and that if I may read at paragraph 3:

“We request spending our client’s response to evidence pertaining to her. Any witness testimony not deal with evidence relating to our client. It would be prejudicial to our client if such evidence is made public without our client having provided the commission with her events – her version of events and all their rights are reserved. We did not however
10 receive any substantive application of any sort.”

CHAIRPERSON: Okay.

ADV VERUSCHKA SEPTEMBER: And if we could then just give clarity to this particular part of your evidence which you started yesterday but appeared not to have completed. On page 42 at paragraph 140.2 you inform that it was on the 9th May 2008 that the amount of R143 621.78 was paid to a Wesbank vehicle finance account to settle a vehicle registered in the name of Ranjeni Munusamy. However what you also inform is that this amount reflected as received on the same date in that particular account but the amount was debited against the Atlantis
20 Motors Barut account on the 30th July 2008. That is near – that is a lapse of time in nearly three months. What did your investigations reveal insofar as this difference in time?

MR KOBUS DEMEYER ROELOFSE: Chair in respect of that I spoke to the dealer principle at Nissan – Atlantis Motors. The explanation was the payment was made on behalf of Colonel Barnard on his instruction

and the payment was made from the funds of Atlantis Motors. Now there had to be a – there was no funds coming from somewhere else to repay the R143 000.00 so Mr Venter was given an instruction to – to – what is the word I am looking for? To place that money over from – to do a journal entry from the Barut account to the Nissan Atlantis – Atlantis Motors account to cancel the payment that was made on the 9th May. In other words it was just – it was a book entry cancelling the payment to balance the books of Atlantis Motors. So the – the money came from the Barut account whose – and that settled the amount
10 which came from the Nissan Atlantis Motors – Atlantis Motors account.

CHAIRPERSON: Okay let us just get that clear. You – when you were conducting your investigation it transpired that a certain amount just under R150 000.00 if I recall correctly.

MR KOBUS DEMEYER ROELOFSE: That is correct Chair.

CHAIRPERSON: Had been paid to a bank in settlement of an account relating to the particular individual that you have talked about?

MR KOBUS DEMEYER ROELOFSE: That is correct Chair. The account related to a vehicle that was registered in this individual's name.

20 **CHAIRPERSON:** And it was Wes – was it Wesbank?

MR KOBUS DEMEYER ROELOFSE: That is correct Chair.

CHAIRPERSON: Yes. Now at that time were you able to establish whose money that was that was used. Did you see at that time that it was Atlantis Motors money or could you tell already that it was money coming from somewhere and simply going through Atlantis Motors or

did you discover that later?

MR KOBUS DEMEYER ROELOFSE: Chair this transaction took place long before I – I got involved into the – with the investigation. So at the time when I interviewed Mr Venter he – he showed me the – the transaction. He explained to me what happened. He then indicated to me that the amount came from Atlantis Motors on the 9th May and to cover the cost of that amount an amount – the same amount was then – there was a journal entry to cover the cost from the Atlantis Motors account so that the balance sheet at the end of the day could balance
10 with respect to that transaction that took place. So the money came from the Barut account within the Atlantis Motors and it was if for a lack of better word it was then transferred to the Atlantis Motors account to balance the two transactions out.

CHAIRPERSON: Yes. So – so the effect of the entire transaction was that – was the effect of the entire transaction that the payment was made by Atlantis Motors on behalf of or on the instructions of effectively Crime Intelligence?

MR KOBUS DEMEYER ROELOFSE: That is correct Chair.

CHAIRPERSON: Yes. Okay.

20 **MR KOBUS DEMEYER ROELOFSE:** Regardless of the dates the money that was utilised for this came from the Barut account ultimately.

CHAIRPERSON: Which was the Crime Intelligence account?

MR KOBUS DEMEYER ROELOFSE: Which was an account within the books of Atlantis Motors yes Chair.

CHAIRPERSON: Yes. Thank you.

ADV VERUSCHKA SEPTEMBER: Colonel Roelofse did your investigation establish any reasons for why Ms Munusamy received the monies in settlement of the vehicle?

MR KOBUS DEMEYER ROELOFSE: Chair no. As I stated earlier I did ask her. I phoned her on more than one occasion I think it is at least three occasions requesting an explanation. She said she will revert to her legal representative. Whether she did or not I do not know I have not – I have not received any correspondence or explanation from her after – after that and after my – and after me following up on my
10 request. So I do not know – apart from the fact that I can state that the money came from the Barut account into her account I do not know – I do not have any information relating to the context of that payment.

ADV VERUSCHKA SEPTEMBER: And who holds the documents which underpin this transaction?

MR KOBUS DEMEYER ROELOFSE: It – the set of documents are held by Atlantis Motors as well as Wesbank.

ADV VERUSCHKA SEPTEMBER: Thank you. If we can then resume where we left off yesterday and that is on page 47 of your affidavit. Chair I am informed that there is some technical problem and they need
20 ten minutes to resolve.

CHAIRPERSON: Let us see whether they are able to sort it out without an adjournment. Do we need an adjournment? Yes okay. We will take an adjournment and resume when they are ready for us. We adjourn.

REGISTRAR: All rise.

INQUIRY ADJOURNS

INQUIRY RESUMES

CHAIRPERSON: Yes. Let us proceed.

ADV VERUSCHKA SEPTEMBER: Thank you Chair. If you can then resume on - with the evidence where you stopped off yesterday and this was the start of the evidence that you give in relation to the interference and difficulties and challenges that you faced through the investigations you led and were involved in. Is that right?

MR KOBUS DEMEYER ROELOFSE: That is correct Chair.

ADV VERUSCHKA SEPTEMBER: And the investigation that you started
10 with begins at page 45 and it deals with the investigation into the abuse of the - the SSA which resulted in fraud and corruption charges being levelled against General Mdluli and Colonel Barnard. Is that right?

MR KOBUS DEMEYER ROELOFSE: That is correct Chair.

ADV VERUSCHKA SEPTEMBER: Bearing in mind that the decision that was taken to withdraw the charges against these individuals have been tested through our courts. It is to be understood then that - we ask rather that the evidence that you give in relation to this investigation talks specifically to what you did and the steps you took in relation to
20 this investigation.

MR KOBUS DEMEYER ROELOFSE: That is correct Chair.

ADV VERUSCHKA SEPTEMBER: Yesterday you did mention that it was on 5 December 2012 and not 4 December 2012 as reflected in the consultation note when Advocate Mrwebi decided to withdraw these charges immediately against General Mdluli and Colonel Barnard?

MR KOBUS DEMEYER ROELOFSE: That is correct Chair. I mention - I am mentioning the 5th as that was his testimony regarding that. I do not have - I only have the document which states the 4th but I was privy to his testimony which says he - he corrected it and said he only draw - he drew up the - the note on the 5th.

ADV VERUSCHKA SEPTEMBER: And through you Chair the - the courts have certainly tested the factual evidence in relation to the difference in dates and they were more inclined to accept that it was in fact the 5th as opposed to the 4th?

10 **CHAIRPERSON:** Yes. What you can do with regard to matters where there is a - a judgment that has not been challenged is you can just tell me the important factual findings. If there are any legal findings that are relevant. You can just mention them that this is what was found and then the witness can give evidence only really to put context if it is necessary or to fill in gaps that might not have been dealt with in the judgment because they might not have been relevant.

So that we do not need to go through the whole thing but for purposes of making sure that those who are listening understand what is going on you can in advance just identify the findings of the court
20 that will be - that he will mention to say these are the findings that were made.

That there - there is no pending appeal and then the witness can fill in terms of context and issues that were not dealt with.

ADV VERUSCHKA SEPTEMBER: No problem Chair. In - I have prepared but it is really just a note from me which highlights certain

paragraph - key paragraph references on the findings in both the High Court and the Supreme Court of Appeal in relation to the - these judgments.

CHAIRPERSON: *Ja*. That is - that is fine.

ADV VERUSCHKA SEPTEMBER: With your leave can I hand it up?

CHAIRPERSON: That is fine, *ja*.

ADV VERUSCHKA SEPTEMBER: Thank you.

MR KOBUS DEMEYER ROELOFSE:

CHAIRPERSON: Thank you.

10 **ADV VERUSCHKA SEPTEMBER:** It has not been paginated or any of the sort but it is just a ...

CHAIRPERSON: No that is fine, *ja*.

ADV VERUSCHKA SEPTEMBER: Reference note. If I can then ask you to turn to - in fact yesterday when we ended you spoke about the memorandum that you become privy to when that was referred to as the Breytenbach/Ferreira memorandum dated 13 April 2012. Is that right?

MR KOBUS DEMEYER ROELOFSE: That is correct Chair.

ADV VERUSCHKA SEPTEMBER: What steps did you then take after receiving this memorandum?

20 **MR KOBUS DEMEYER ROELOFSE:** Chair after receiving that memorandum ...

CHAIRPERSON: I am - I am just sorry. Let us connect properly with where we left off yesterday. Which memorandum? What page is it again?

ADV VERUSCHKA SEPTEMBER: The memorandum is KDR12 which is

at - starts at page 1-6-5 and it is referenced in paragraph 1-5-8 on page 47 on the - in the affidavit itself.

CHAIRPERSON: And in the affidavit what page/paragraph?

ADV VERUSCHKA SEPTEMBER: Sorry. Sorry Chair.

CHAIRPERSON: Paragraph in the - in the - I am sorry. What paragraph in the affidavit?

ADV VERUSCHKA SEPTEMBER: It is at page 47 ...

CHAIRPERSON: Huh-uh.

ADV VERUSCHKA SEPTEMBER: 1-5-8.

10 **CHAIRPERSON:** Okay, alright. Yes, okay.

ADV VERUSCHKA SEPTEMBER: And is it correct Mr ...

CHAIRPERSON: I think he was still answering what did you do after getting this memorandum at page 1-6-5.

ADV VERUSCHKA SEPTEMBER: Yes Chair.

MR KOBUS DEMEYER ROELOFSE: Chair when - when I received the memorandum and it also coupled with the - with the letter received from Advocate Mrwebi which dated 30 March 2012. I - I requested General Dramat from my office to write again to Advocate Jiba because the response that we received was not from Advocate Jiba as requested

20 and therefore he then he - he did - he did write that request ...

CHAIRPERSON: And - and I am sorry. The letter from or memorandum from Mr Mrwebi also did not say that he was writing at the request of or on behalf of Ms Jiba?

MR KOBUS DEMEYER ROELOFSE: That ...

CHAIRPERSON: He just wrote, *ja*.

MR KOBUS DEMEYER ROELOFSE: That is correct Chair.

CHAIRPERSON: Hm.

MR KOBUS DEMEYER ROELOFSE: Did not say any ...

CHAIRPERSON: Ja.

MR KOBUS DEMEYER ROELOFSE: It was not addressed to the - to -
to Advocate Jiba either.

ADV VERUSCHKA SEPTEMBER: And that particular - that particular
letter of response of Advocate Mrwebi as the Chair has alluded
certainly did not indicate any form of response from Advocate Jiba. Is
10 that right?

MR KOBUS DEMEYER ROELOFSE: That is correct Chair.

ADV VERUSCHKA SEPTEMBER: Then what happened during
May 2012?

CHAIRPERSON: I do not know whether May 2012 takes him to where
he was before one of us interrupted him. You had asked him to - I think
he was talking about asking General Dramat to write to Ms Jiba again

MR KOBUS DEMEYER ROELOFSE: That is correct Chair.

CHAIRPERSON: Ja. Do you want to just complete that answer?

MR KOBUS DEMEYER ROELOFSE: Chair that was on 23 April 2012.
20 That is after receiving the - the response from - from Advocate Mrwebi.
I requested General Dramat to write to Advocate Jiba so that we can
get a response from her because the - the request was to reconsider
the - the decision that was taken by Advocate Mrwebi as he was not in
a position to review his own decision.

ADV VERUSCHKA SEPTEMBER: And did Advocate Jiba respond?

MR KOBUS DEMEYER ROELOFSE: Chair she did not respond.

CHAIRPERSON: Well I am sorry. Where is the letter that General Dramat wrote to Ms Jiba? Let us identify that letter first.

ADV VERUSCHKA SEPTEMBER: It is ...

CHAIRPERSON: And what it said in

ADV VERUSCHKA SEPTEMBER: It is annexure ...

CHAIRPERSON: The thrust of the letter even if you do not read the letter.

ADV VERUSCHKA SEPTEMBER: No problem Chair. Can we go to
10 page 1-8-9? Is this the letter that you refer to?

MR KOBUS DEMEYER ROELOFSE: That is correct Chair.

ADV VERUSCHKA SEPTEMBER: And this letter is dated 23 April 2012 written by signature of Lieutenant-General Dramat addressed to Advocate Jiba?

MR KOBUS DEMEYER ROELOFSE: That is correct Chair.

ADV VERUSCHKA SEPTEMBER: And if we look at - in the second paragraph can you please read that into the record?

MR KOBUS DEMEYER ROELOFSE: Chair it states the following:

20 "There after I received a response again from Advocate Mrwebi that the matter is finalised and that he abide by - by his decision. In the - in the circumstances I will appreciate a decision on the matter by you as the ultimate authority in respect of the consideration of the - of a prosecution."

CHAIRPERSON: Yes. You can continue.

ADV VERUSCHKA SEPTEMBER: Thank you Chair.

CHAIRPERSON: Did Ms Jiba respond to this letter from General Dramat?

MR KOBUS DEMEYER ROELOFSE: No Chair. She did - she did not respond. Her Office Manager responded.

CHAIRPERSON: Her Office Manager?

MR KOBUS DEMEYER ROELOFSE: That is correct Chair.

CHAIRPERSON: And where is that response?

ADV VERUSCHKA SEPTEMBER: If I could take you to page - it is
10 Annexure 17 at page 200.

CHAIRPERSON: What was the effect of the response Mr Roelofse?

MR KOBUS DEMEYER ROELOFSE: Chair if I may read. It is
addressed to General Dramat.

“Dear Lieutenant-General Dramat, the above matter
refers to your correspondence dated 23 April 2012.
Please be advised the matter was attended by
Advocate Mrwebi in his capacity as the Head of
Specialised Commercial Crime Unit as the subject
matter falls within his area of jurisdiction. I trust
20 that the above is in order.”

CHAIRPERSON: And that was from J Lepinka?

MR KOBUS DEMEYER ROELOFSE: That is correct Chair who is
according to this letter the Manager Executive Support to the National
Director of Public Prosecutions.

CHAIRPERSON: So once again Ms Jiba did not respond herself?

MR KOBUS DEMEYER ROELOFSE: That is correct Chair.

CHAIRPERSON: And this letter does not say that Ms Lepinka is writing at the request of Ms Jiba or on behalf of Ms Jiba?

MR KOBUS DEMEYER ROELOFSE: That is correct Chair.

CHAIRPERSON: She just responds to a letter that was not address to her?

MR KOBUS DEMEYER ROELOFSE: That is correct Chair.

CHAIRPERSON: Yes.

ADV VERUSCHKA SEPTEMBER: Did anyone respond to the initial
10 request of 23 April 2012 which was written by the Office of General Dramat to Advocate Jiba outside of Ms Lepinka?

MR KOBUS DEMEYER ROELOFSE: No Chair. Nobody responded. The - the only responses came after the application of - after the application by FUL in the High Court in Gauteng North.

ADV VERUSCHKA SEPTEMBER: And what response was that?

MR KOBUS DEMEYER ROELOFSE: That was a response - Chair I have to just go - go there. It will be later in that same year.

ADV VERUSCHKA SEPTEMBER: Do you perhaps refer to a meeting that was had between General Dramat and Advocate Jiba?

20 **MR KOBUS DEMEYER ROELOFSE:** That is correct Chair.

ADV VERUSCHKA SEPTEMBER: And so to that end can - and this was also following additional correspondence that was sent in the interim calling on Advocate Jiba to respond. Is that right?

MR KOBUS DEMEYER ROELOFSE: That is correct Chair.

CHAIRPERSON: I am not following that now. Let us do it according to

sequence.

ADV VERUSCHKA SEPTEMBER: Okay.

CHAIRPERSON: When - when General Dramat received or rather did General Dramat become aware of the letter from J Lepinka?

MR KOBUS DEMEYER ROELOFSE: That is correct Chair. I received a copy of that letter from General Dramat.

CHAIRPERSON: Yes. Did he address any further correspondence to Ms Jiba or to anyone at the NPA?

MR KOBUS DEMEYER ROELOFSE: Chair he did after there was a
10 couple of months that went - that went by. In that timeframe other things happened. So it - it follows a bit later.

CHAIRPERSON: Yes, okay. Who was this addressed to this further correspondence?

MR KOBUS DEMEYER ROELOFSE: It was again addressed to Advocate Jiba.

CHAIRPERSON: Okay. Where do we find that in the bundle?

ADV VERUSCHKA SEPTEMBER: Yes. If I can take you to - to paragraph 1-6-3 on page 48. You refer to a letter that was sent by General Dramat on 7 June 2012. Is that the letter that you refer to?

20 **MR KOBUS DEMEYER ROELOFSE:** That is correct Chair.

ADV VERUSCHKA SEPTEMBER: And so to can I then ...?

CHAIRPERSON: Hang on, hang on, hang on. Did you say we should go to page 1-6-3?

ADV VERUSCHKA SEPTEMBER: At paragraph 1-6-3 of his affidavit.

CHAIRPERSON: And where is that annexure?

ADV VERUSCHKA SEPTEMBER: At page 2-0-2.

CHAIRPERSON: That is the letter from General Dramat to Ms Jiba again?

ADV VERUSCHKA SEPTEMBER: Yes Chair.

CHAIRPERSON: Okay. What was the thrust of that letter from General Dramat to Ms Jiba Mr Roelofse?

MR KOBUS DEMEYER ROELOFSE: Chair it reiterate the previous correspondence and again requested that to review the decision ...

CHAIRPERSON: Yes.

10 **MR KOBUS DEMEYER ROELOFSE:** And it also - it also - it went a little bit further in the sense that he explained to her what the mandate is of the DPCI together with the mandate of the IGI as to what the outcome of that ...

CHAIRPERSON: Hm.

MR KOBUS DEMEYER ROELOFSE: Situation was and he - he again asked her for her assistance ...

CHAIRPERSON: Yes.

MR KOBUS DEMEYER ROELOFSE: To review the decision.

CHAIRPERSON: Yes. Okay. Continue.

20 **ADV VERUSCHKA SEPTEMBER:** If we can then just finalise the communications between the office and Advocate Jiba in particular before we talk to any responses by Advocate Mrwebi. We are now on page 48 paragraph 1-6-4 of your affidavit.

MR KOBUS DEMEYER ROELOFSE: Yes Chair.

ADV VERUSCHKA SEPTEMBER: What happened on 2 August 2012

which is at the bottom of page 48?

CHAIRPERSON: Well maybe let us start with did General Dramat receive a response from Ms Jiba this time in - after the letter of 7 June 2012 from General Dramat?

MR KOBUS DEMEYER ROELOFSE: Chair I do not know whether there was a response - a written response. I do know there was a - there was a meeting between the two and then General Dramat responded in respect of the meeting that took place.

CHAIRPERSON: Okay. When - what - on what date did the meeting
10 take place if you remember?

MR KOBUS DEMEYER ROELOFSE: It was on 1 August 2012.

CHAIRPERSON: It was on 1 August?

MR KOBUS DEMEYER ROELOFSE: That is correct Chair.

CHAIRPERSON: Okay and then on 2 August General Dramat wrote another letter to Advocate Jiba?

MR KOBUS DEMEYER ROELOFSE: That is correct Chair. Thanking her for the - for the meeting and - and stating that the matter was sufficiently resolved.

CHAIRPERSON: Yes. How was the matter resolved?

20 **MR KOBUS DEMEYER ROELOFSE:** Chair if I may refer to that letter which is KDR19.

ADV VERUSCHKA SEPTEMBER: It is at page 2-0-5.

CHAIRPERSON: Yes. That is a letter from General Dramat to Ms Jiba?

MR KOBUS DEMEYER ROELOFSE: That is correct Chair.

CHAIRPERSON: Okay. It refers to his letter of 7 June 2012 and thanking Ms Jiba for a meeting that was held on 1 August 2012 and then in the second paragraph it says:

“The meeting sufficiently resolved all the concerns raised in my letter. I have taken note of shortcomings identified during our meeting and have instructed the investigating officer to obtain instructions/guidance from the prosecutor. I would like to thank you for your response to the issues raised and the manner in which they have been addressed.”

So that was the response?

MR KOBUS DEMEYER ROELOFSE: That was the response to the meeting. Yes Chair.

CHAIRPERSON: Obviously General Dramat would have given you - would have briefed you on the discussions between herself (sic) and Ms Jiba if you did not attend the meeting yourself?

MR KOBUS DEMEYER ROELOFSE: Chair I did not attend the meeting but he did brief me, yes Chair.

20 **CHAIRPERSON:** Yes. Please talk to me more about how the issue was resolved.

MR KOBUS DEMEYER ROELOFSE: Chair if I had to put this into context and I need to go back to the - up until the end of April 2012 all the communication that we received from the NPA came from Advocate Mrwebi and in that communication he made it quite clear that

- that he regarded the investigation as closed. To me there is no other meaning than the investigation is stopped. That is how he saw it ...

CHAIRPERSON: *Ja.*

MR KOBUS DEMEYER ROELOFSE: And then with the application that FUL brought before the High Court in - in Gauteng North ...

CHAIRPERSON: Did the meeting - did the - did that application - was that application launched after the meeting between General Dramat and Ms Jiba?

MR KOBUS DEMEYER ROELOFSE: No. It was before that Chair.

10 **CHAIRPERSON:** Oh. I just want - oh, you want to give the context ...

MR KOBUS DEMEYER ROELOFSE: *Ja.*

CHAIRPERSON: Because I want to understand what the basis was for the resolution but if you need to give the context it is fine.

MR KOBUS DEMEYER ROELOFSE: Chair as I said the full application was launched I think in May 20- 2012. In the application it was stated that

CHAIRPERSON: Oh. So when the meeting was held the - the full application had been launched?

MR KOBUS DEMEYER ROELOFSE: Had already been launched Chair.

20 **CHAIRPERSON:** But had not been decided?

MR KOBUS DEMEYER ROELOFSE: Yes Chair. Had not been decided.

CHAIRPERSON: Okay.

MR KOBUS DEMEYER ROELOFSE: It was in that timeframe where answering affidavits had to be filed by the NPA. Shortly after those papers were filed and the questions were asked as to why the matter

has or what had happened, why was the matter withdrawn the position of Mr Mrwebi changed and he then stated I did not say that the matter is closed.

I said there were shortcoming in the investigation that needs to be finalised. So that is where ...

CHAIRPERSON: Oh.

MR KOBUS DEMEYER ROELOFSE: That is where he then changed after the application was - was launched ...

CHAIRPERSON: Yes.

10 **MR KOBUS DEMEYER ROELOFSE:** And he also mentioned that in his affidavit - his answering affidavit to the - in terms of the FUL application. I was requested to supply an answering not an answering affidavit - confirmatory affidavit ...

CHAIRPERSON: Hm.

MR KOBUS DEMEYER ROELOFSE: Relating to his affidavit and in that regard he sent me or the State Attorney sent me a draft affidavit from Advocate Mrwebi. In the draft affidavit there were various inaccuracies which I did not agree with. So I sent something back to them and said please provide me with the actual signed affidavit so that I can have a
20 look at it and that was never provided to me but in terms of those inaccuracies I - I sent an email to Advocate Mrwebi stating to him I do not agree and this is not true and - but nevertheless he continued with his affidavit.

I did not file the confirmatory affidavit. In fact I was - I was informed afterwards that my confirmatory affidavit was attached but it

was not signed.

CHAIRPERSON: I am sorry. Just repeat that.

MR KOBUS DEMEYER ROELOFSE: My confirmatory affidavit that they wanted - Advocate Mrwebi - was attached to Advocate Mrwebi's response but it was not signed.

CHAIRPERSON: Had you sent an unsigned affidavit?

MR KOBUS DEMEYER ROELOFSE: No. I did not sign any affidavit. I refused to sign an affidavit because I was not - I was not given a final affidavit from Advocate Mrwebi and in terms of what he sent in his draft
10 affidavit I did not agree what he said.

CHAIRPERSON: So is the position that the State Attorney had prepared an affidavit that you were - that you were asked to look at with a view to signing but you looked at it and you did not agree with it and - but ultimately that unsigned affidavit was placed before the court?

MR KOBUS DEMEYER ROELOFSE: The answering affidavit of Advocate Mrwebi was placed before court and attached to that was my confirmatory affidavit which I refused to sign.

CHAIRPERSON: An unsigned affidavit by you?

20 **ADV VERUSCHKA SEPTEMBER:**

MR KOBUS DEMEYER ROELOFSE: And unsigned affidavit my ...

CHAIRPERSON: Yes.

MR KOBUS DEMEYER ROELOFSE: From my side and ...

CHAIRPERSON: Yes, but ...

MR KOBUS DEMEYER ROELOFSE: My ...

CHAIRPERSON: The - the unsigned affidavit was not in accordance with the facts as you knew them?

MR KOBUS DEMEYER ROELOFSE: That is correct Chair because that is ...

CHAIRPERSON: Yes and it had not been prepared at your request?

MR KOBUS DEMEYER ROELOFSE: No Chair. It had not been - I was just - I was just emailed the - the answering affidavit together with my confirmatory affidavit and the contents thereof and I said I do not agree.

10 **CHAIRPERSON:** Yes. Would - would it have been the State Attorney who emailed it to - the Office of the State Attorney?

MR KOBUS DEMEYER ROELOFSE: That is correct Chair.

CHAIRPERSON: And did you understand - did you ever get to know from them what - where they got the information from on the basis of which they prepared that affidavit?

MR KOBUS DEMEYER ROELOFSE: Chair my confirmatory affidavit only stated that I confirm certain paragraphs ...

CHAIRPERSON: What was said?

MR KOBUS DEMEYER ROELOFSE: Yes.

20 **CHAIRPERSON:** Oh.

MR KOBUS DEMEYER ROELOFSE: Certain paragraphs in the affidavit of - of Advocate Mrwebi.

CHAIRPERSON: Oh, okay. Okay. So - so they may have expected that ...

ADV VERUSCHKA SEPTEMBER: Chair ...

CHAIRPERSON: Your version and Mr Mrwebi's version would be the same?

MR KOBUS DEMEYER ROELOFSE: That is correct Chair.

CHAIRPERSON: Okay.

ADV VERUSCHKA SEPTEMBER: Chair humble apologies for the interruption ...

CHAIRPERSON: Hm.

ADV VERUSCHKA SEPTEMBER: But I understand that there is no audio whatsoever ...

10 **CHAIRPERSON:** Oh.

ADV VERUSCHKA SEPTEMBER: And I am not sure for how long either.

CHAIRPERSON: Alright. We will adjourn again. Hopefully it is going to be sorted out once and for all. We adjourn.

REGISTRAR: All rise.

INQUIRY ADJOURNS

INQUIRY RESUMES

CHAIRPERSON: Okay let's proceed.

20 **ADV VERUSCHKA SEPTEMBER:** Chair did you have any further questions following...[intervenes].

CHAIRPERSON: Well do we know how much was covered and how much wasn't covered, I think that we must go back just a little bit to make sure that everything that he said was covered.

ADV VERUSCHKA SEPTEMBER: No problem Chair.

CHAIRPERSON: I think where we were is that I had I had asked you,

Mr Roelofse to tell me what the basis was on which your concerns and those of Mr Dramat – General Dramat were resolved by the meeting that took place between General Dramat and Miss Jiba and you were telling the story and you said that Freedom Under Law had launched an application to the High Court in the meantime and I think it was an application to have the decision to withdraw charges against General Mdluli, withdrawn they wanted to have that decision set aside, is that correct?

MR KOBUS DEMEYER ROELOFSE: That is correct Chair.

- 10 **CHAIRPERSON:** Now you said that the office of the State Attorney which I take it would have represented the NPA had forwarded, to you, Advocate Magwebe's affidavit that was to be filed in Court in regard to his role on the withdrawal of the charges against General Mdluli and they had prepared a confirmatory affidavit which they wanted you to consider signing which, if you had signed it would have confirmed that the version our Advocate Magwebe in relation to the withdrawal of the charges was factually correct and you looked at the affidavit of Mr Magwebe and you concluded that you were not in a position to confirm that version because it was inaccurate in certain respects and you
- 20 informed the office of the State Attorney accordingly, is that correct?

MR KOBUS DEMEYER ROELOFSE: That is correct Chair, I not only informed them I also informed Advocate Magwebe.

CHAIRPERSON: Did you inform them by way of an email, a memorandum or how did you inform them?

MR KOBUS DEMEYER ROELOFSE: An email Chair.

CHAIRPERSON: Yes same was email was sent to the office of the State Attorney as well as Mr Magwebe?

MR KOBUS DEMEYER ROELOFSE: That is correct chair.

CHAIRPERSON: And did that email point out in what respects you thought Mr Magwebe's version was not correct?

MR KOBUS DEMEYER ROELOFSE: That's correct Chair.

CHAIRPERSON: Yes do we have that email here?

MR KOBUS DEMEYER ROELOFSE: Unfortunately Chair I don't have it here it was presented to the Mokgoro Commission and I – because we
10 only dealt with this issue regarding this National Prosecuting Authority not in detail, I didn't attach it to this affidavit.

CHAIRPERSON: Okay but it is – you can find it if necessary?

MR KOBUS DEMEYER ROELOFSE: It is available.

CHAIRPERSON: Yes I would like to see it, if you can make arrangements to make it available to the legal team.

MR KOBUS DEMEYER ROELOFSE: I will do so Chair.

CHAIRPERSON: So – but you say that – you said that neither the State Attorney's office nor Advocate Magwebe reverted to you after receiving your email?

20 **MR KOBUS DEMEYER ROELOFSE:** Chair Advocate Magwebe did revert back to me.

CHAIRPERSON: Ja what did he say?

MR KOBUS DEMEYER ROELOFSE: He was telling me I must not put inaccurate information in the public domain.

CHAIRPERSON: Just repeat that?

MR KOBUS DEMEYER ROELOFSE: He said in his email that I – he doesn't know what I'm talking about and I should be careful not to put inaccurate information in the public domain. Now what exactly he meant by that I don't know, he did not deal with the issues that I had, he just made a broad statement.

CHAIRPERSON: Yes and the office of the State Attorney did not come – revert to you?

MR KOBUS DEMEYER ROELOFSE: No Chair nobody reverted back to me after that.

10 **CHAIRPERSON:** So – but from what you are saying it would seem therefore that the office of the State Attorney was aware or became aware through your email that the – you were not in agreement with the version put up by Mr Magwebe?

MR KOBUS DEMEYER ROELOFSE: That's correct Chair, they must have been because it was addressed to the attorney dealing with the matter.

CHAIRPERSON: Yes but they never prepared an affidavit that would reflect what you said that you were going to sign?

MR KOBUS DEMEYER ROELOFSE: No Chair they never – they never
20 did that, I never received an affidavit in terms of what I had to say.

CHAIRPERSON: Yes, okay thank you, and then of course when you get that email that you sent to the office of the State Attorney and Advocate Magwebe, if you can also get his response to your email if that's – if it's possible to get it.

MR KOBUS DEMEYER ROELOFSE: I will do so Chair.

CHAIRPERSON: Thank you.

ADV VERUSCHKA SEPTEMBER: Just to cover some of the ground that you have not addressed as yet, if you can go back to page...[intervenes].

CHAIRPERSON: I'm sorry Miss September I don't think that we have got to the answer to my question and that's probably because I've been asking you a lot of questions, namely what was the basis on which the issues or your concerns and those of General Dramat resolved at the between General Dramat and Miss Jiba?

- 10 **MR KOBUS DEMEYER ROELOFSE:** Chair I – this is now what I deduced as to what happened because at the time with the full application I think there was a realisation that Advocate Magwebe had a problem in terms of his response – his previous responses about the case not being – that the investigation needs to be stopped. So in the affidavits that were prepared for the full application by the NPA it stated that the investigations were never stopped but certain deficiencies had to be addressed and once that is done the case will be placed back on the roll – the Court roll. That is, in short what answering affidavits of Mr Magwebe stated which is in contrast to what
- 20 he has written to General Dramat. So there was a – I think after they saw the affidavit, the founding affidavit they decided to – or he decided to change his version and the version then went, I did not withdraw, the matter wasn't stopped, the matter is still continuing there is certain investigation outstanding and that's why it's not being placed back on the Court roll. Based on that there was then a meeting with Advocate

Jiba which then was resolved on the premise that there is now – there is still investigation to be dealt with.

CHAIRPERSON: Okay let me try and understand that because you see the letter from General Dramat of the 2nd of August 2012 which was sent to Miss Jiba following the meeting that the two of them had on the 1st of August seems to reflect satisfaction on the part of General Dramat that the issues that he had been raising, to which Miss Jiba was not responding – had not been responding until then were satisfactorily resolved. Now as far as I recall, what the concern was from you and
10 General Dramat – the concern was, this decision by Advocate Magwebe, to withdraw the charges is unacceptable. You as the final authority at the NPA, we are asking you to review this decision that is what the concern was, am I right?

MR KOBUS DEMEYER ROELOFSE: That is correct Chair.

CHAIRPERSON: So my question is, did Miss Jiba, at that meeting confirm that Advocate Magwebe had withdrawn the decision – the charges but she had now decided to review it and the matter will be placed on the roll once certain issues had been sorted out by way of investigation or did she say, look, it seems there has been a
20 misunderstanding here, there's been no withdrawal of charges the investigation must cover certain issues. Once they are covered the matter will be placed on the roll again, what exactly did she say?

MR KOBUS DEMEYER ROELOFSE: Chair as I stated I wasn't at the meeting, from what I understood General Dramat to say as to what had happened is that there was never an intention to stop the investigation

as per our request to review this decision of Mr Magwebe. So the position has changed to the view there was never a decision to stop so that is on that premise that she spoke to General Dramat as if there were no decision that the investigation had to stop. That is why I am saying that when Advocate Magwebe changed his version of events after the full application where suddenly the investigation wasn't stopped it was now – there was certain investigations outstanding and based on that we said, fine we will continue and I think that's where the satisfaction came from General Dramat that we now can continue and

10 there will be a Prosecutor that will deal with the matter.

CHAIRPERSON: Well I will want us to go back to the correspondence from Mr Magwebe just to check how, what he wrote there matches up with you understood was the position that was taken by him in regard to the full application as well as what Miss Jiba may have said to General Dramat but at the time that Advocate Magwebe made the decision to withdraw the charges, had General Mdluli pleaded to the charges in Court or not as far as you recall?

MR KOBUS DEMEYER ROELOFSE: Chair they have not...[intervenes].

CHAIRPERSON: They have not pleaded yet?

20 **MR KOBUS DEMEYER ROELOFSE:** No Chair they haven't.

CHAIRPERSON: Because if the Prosecutor withdraws charges before the accused has pleaded, you as the police can't be prevented by anybody can you, from doing further investigation and if the Prosecutor thought that all the information available at the time there was not a proper case, you can't be prevented from pursuing the investigation

and then later on submitting the same matter to the NPA for a new decision?

MR KOBUS DEMEYER ROELOFSE: Chair I agree with you because that is the situation. In this regard because of the letters that Advocate Magwebe wrote and it – and I'm referring specifically to two letters, in which one he states that the IGI had the mandate to investigate and we cannot investigate, it falls within our mandate and he went as far as saying the investigation is illegal and in the second letter which he then – on answering the IGI letter, he then said that the mandate falls within
10 the scope of the Attorney General or the Accounting General to investigate the matter and that we were also outside our mandate in that it's with them as well as the Parliamentary Committee or the Intelligence Committee at Parliament, it is within their mandate. So his reason for stopping the investigation then changed from the IGI to the AG and then based on that there's no other conclusion from my side other than he stopped the investigation but you're quite right I did not stop the investigation, I continued with the investigation because in the light of what Mr – Colonel Naidoo has told us but we didn't have any recourse as to go back to Court if the NPA is not going to look at the
20 docket itself.

CHAIRPERSON: Yes, let's go to those letters again from Advocate Magwebe, I just want to have a look at them.

ADV VERUSCHKA SEPTEMBER: No problem Chair Mr Roelofse you mentioned that there was a letter as such which sought to rely on the IGI and that was a letter by Advocate Magwebe, is that right because

we understand it to be the representations that were in fact made in support of the withdrawal of the charges against General Mdluli and Colonel Barnard.

MR KOBUS DEMEYER ROELOFSE: Yes Chair that is what I'm actually referring to, it's the memo of which the date is not know whether it's the 4th or the 5th.

ADV VERUSCHKA SEPTEMBER: Indeed so can I ask you to turn to page 140 please.

MR KOBUS DEMEYER ROELOFSE: Yes.

10 **ADV VERUSCHKA SEPTEMBER:** Is that the memorandum that you were referring to?

MR KOBUS DEMEYER ROELOFSE: That is correct Chair.

ADV VERUSCHKA SEPTEMBER: And it's in this particular memorandum that reference is made that the IGI is the authority that ought to be considering it?

MR KOBUS DEMEYER ROELOFSE: That is correct Chair.

ADV VERUSCHKA SEPTEMBER: And if I can ask you to turn to page 146...[intervenes].

CHAIRPERSON: Just hang on please, so in that memorandum
20 Advocate Magwebe among other things says, that is the memorandum dated 4 December 2011 addressed to Advocate S Mziyati and a copy being sent to Advocate Glynnis Breytenbach, one it says that he had consulted with Advocate Mziyati with the purpose of conveying his views on the matter and then he says that the matter fell squarely within the mandate of the Inspector General in terms of the Intelligence

Services Oversight Act and number 40 of 1994 and then he says,

“I noted that it is only the Inspector General who, by law is authorised to have full access to the Crime Intelligence documents and information and thus who could give a complete view of the matter as the investigations can never be complete without access to such documents and information. In my view the process followed in this matter is possibly illegal as being in contravention to the said provisions of the Intelligence Services Oversight Act”,

10 And then he refers to representations received from the attorneys representing Mr Mdluli and he says that,

“The representations seek a withdrawal of the criminal case against General Mdluli on the grounds that the Institution of the investigation prosecution against him is an abuse of the Criminal Justice System and then he says, the purpose of this document, therefore, is to deal with and record a decision on the matter. It is the further aim that the documents shall serve as a consultative document with the Director of Public Prosecutions [indistinct] required by Section 24 (3) of the NPA Act”.

20

We did look at this memo yesterday but I just want to check certain things in the context of what we are dealing with now.

ADV VERUSCHKA SEPTEMBER: The assertions made, if I may with regard to the IGI is if Chair turns to page 146 in context it reads from paragraph 17 and continues...[intervenes].

CHAIRPERSON: I'm sorry page 146?

ADV VERUSCHKA SEPTEMBER: 146 Chair paragraph 17 sets it into context where he says that,

"Whether there was evidence in the matter or not is my view not important for my decision in the matter and then he goes on to speak about" ...[intervenes]

CHAIRPERSON: I'm sorry, I'm sorry paragraph 17, it's paragraph 16 he says,

10 "The evidence in the docket as well as the report of the prosecutor do not seem to help in the matter either, this state of affairs leaves one with a number of questions about how both the investigator and the prosecution handled the matter. As matters stand there was clearly no reasonable and probable ground for any prosecution in the matter particularly against Mdluli".

So there he is saying the prosecution was pursued without any reasonable and probable grounds, so in fact he's saying the prosecution shouldn't have – should not have been initiated, then in 17 he says,

20 "However because of the view I hold of the matter I do not propose to traverse the merits of the case and the other questions any further whether there was evidence in the matter or not is, in my view not important for my decision in the matter. The proposition which I allude to below should, alone and without any further ado be dispositive of the matter".

So that seems to suggest that he is saying, irrespective of what evidence there may be on the merits the point I'm going to come up with means this should be the end, that's how I understand that paragraph.

ADV VERUSCHKA SEPTEMBER: Yes Chair and he goes further, in paragraph 18 and 19 he talks specifically to the Inspector General...[intervenes].

CHAIRPERSON: Yes...[intervenes].

ADV VERUSCHKA SEPTEMBER: It concludes in paragraph 20 on
10 page 147.

CHAIRPERSON: Hang on paragraph 18,

“Mdluli and Barnard are members of the Crime Intelligence Division of the South African Police Service which is part of the Intelligence Structures of the country and as such their conduct and activities are subject to the laws, regulations, policies and procedures governing the Intelligence community. of importance for the present purposes the Intelligence Oversight Act 40 of 1994, the Act in Section 7 thereof establish the office of the Inspector General and defines it's functions
20 and then 19, in terms of Section 77 C(A) of the Act the Inspector General in relation to services has a function to receive and investigate complaints from members of the public and members of the services on alleged maladministration, abuse of power, transgressions of the constitutional laws and policies referred in paragraph A, the commission of an offence

referred to in part 1 to 4 then refers to Sections. It will be noted that the offences for which Mdluli is charged falls squarely within the mandate of the Inspector General as quoted above”,

Yes, you want to continue?

ADV VERUSCHKA SEPTEMBER: And so Chair that is one of the reasons that he relies on in order to make the decision that he does and if I can direct your attention to another sentence which talks to your query Chair, on page 148 paragraph 22, six lines into that
10 paragraph the sentence begins,

“With any investigation of the kind in the present case would be futile without the involvement of the Inspector General as the transactions which Mdluli is charged with can only be explained in terms of the internal applicable procedures, policies, processes and systems which the ordinary investigator has no access to”.

And his final conclusions is recorded in paragraph 26,27 and 28 of this letter on page 149.

CHAIRPERSON: “I’m afraid that on the face of it, it appears that the
20 manner the investigators went about dealing with this matter assists [indistinct] by the members of the National Prosecuting Authority may possibly be in breach of the Security Regulation, however, as it appears that everybody concerned in this matter must have committed a bone fide error of law in this regard, it is not too late to remedy the situation but by referring the

matter to the Inspector General in terms of Section 7 accordingly and based on the above prosecution of the matter cannot continue. The investigator must advise these certain members of the Crime Intelligence to refer their complaint to the Inspector General for consideration and any subsequent steps will be guided by what the Inspector General advises. The Prosecutor is accordingly instructed to withdraw the charges against both General Mdluli and Colonel Barnard immediately”,

10 So there's no doubt that he gave an instruction that the charges be withdrawn.

MR KOBUS DEMEYER ROELOFSE: That is correct Chair.

CHAIRPERSON: There's no doubt that the reason he advanced was that, to say the least 1) on what was in the docket there was no reasonable and probable cause to initiate the prosecution against the two but 2) he was saying, no investigation relating to this matter would be complete without involving the office of the Inspector General, is that right?

MR KOBUS DEMEYER ROELOFSE: That is correct Chair.

20 **CHAIRPERSON:** Well what doesn't seem to come across clearly, at least as I read this and you might be able to assist is whether what he means is, the – Inspector General must play her role depending on what emerges after she has played role the matter might still be pursued. It doesn't come out whether he was saying anything about that, so in other words it doesn't seem to be clear whether he was

saying, withdraw the charges for now, if later on we receive something from the Inspector General that changes the picture then we may reinstate the charges, is that right?

MR KOBUS DEMEYER ROELOFSE: Chair I think your – I think it is correct, unfortunately I had the – I also had sight of the other documents so maybe my mind is a little bit poisoned in terms of what I'm reading here...[intervenes].

CHAIRPERSON: Yes but what you are free to say is, yes that's the picture that emerges from this document but when one has regard to
10 other correspondence or other documents the picture changes and then you can tell me about those others.

MR KOBUS DEMEYER ROELOFSE: I will do so Chair what came out of this document for me is the fact that he wanted the investigation out of the South African Police and within the mandate IGI.

CHAIRPERSON: Okay thank you.

ADV VERUSCHKA SEPTEMBER: The letter that appears on page 157 of the bundle which is a letter from the IGI to Lieutenant General Nkwanazi, is however, dispositive of the mandate of the IGI and in particular affirms that the mandate of criminal investigations rests
20 solely with the police.

MR KOBUS DEMEYER ROELOFSE: That is correct Chair.

ADV VERUSCHKA SEPTEMBER: And it was also the recommendation of the IGI office that the matter be referred back to the NPA for the institution of the criminal charges.

MR KOBUS DEMEYER ROELOFSE: That is correct Chair.

ADV VERUSCHKA SEPTEMBER: So on the 19th of March 2012 there could not have been any doubt as to what the mandate was of the IGI relative to this matter?

MR KOBUS DEMEYER ROELOFSE: That is correct Chair.

ADV VERUSCHKA SEPTEMBER: That was the first issue that was raised insofar as the office of the IGI is concerned.

MR KOBUS DEMEYER ROELOFSE: That is correct.

ADV VERUSCHKA SEPTEMBER: The other issue that you mentioned earlier was that which related to the Attorney General's office.

10 **MR KOBUS DEMEYER ROELOFSE:** That is correct Chair.

ADV VERUSCHKA SEPTEMBER: If I can ask you to go to page 47...[intervenes].

MR KOBUS DEMEYER ROELOFSE: Chair if I may.

CHAIRPERSON: Yes.

MR KOBUS DEMEYER ROELOFSE: Page 160 follows after the letter from the IGI where it was now reverted back to the NPA for prosecution as per the letter from the IGI.

CHAIRPERSON: Yes.

20 **MR KOBUS DEMEYER ROELOFSE:** And then I want to refer to the next Annexure, page 162.

CHAIRPERSON:

MR KOBUS DEMEYER ROELOFSE: Yes, paragraph 2, 3 and 4.

CHAIRPERSON: Ja it's a letter from Advocate Magwebe again to General Dramat.

MR KOBUS DEMEYER ROELOFSE: That is correct Chair.

CHAIRPERSON: Paragraph 2 you say?

MR KOBUS DEMEYER ROELOFSE: 2, 3 and 4.

CHAIRPERSON: Do you want to read them?

MR KOBUS DEMEYER ROELOFSE:

10 "I wish to advise that the office of the Inspector General of Intelligence has no oversight function and power of review with regard to prosecutorial decisions. I also wish to remind that the NPA is an independent institution and prosecutorial decisions are its sole prerogative. The view of the IG following your solicitation of her opinion on the NPA decision on the matter based on the document which the police or anybody else were not even legally entitled to possess is for your consumption and does not affect the decision taken on the matter. The NPA took a principled and considerate decision on this matter without fear or favour as is required to do in terms of the law, that decision stands and the matter is closed.

CHAIRPERSON: Yes, so there is that, the matter is closed that you talked about earlier?

20 **MR KOBUS DEMEYER ROELOFSE:** That is correct Chair and it also deals with the consultative note that he has now – that he has given on the 4th of December.

CHAIRPERSON: Yes. So – so your point is when you – when one reads the memorandum to which I referred earlier on one may be getting the impression that it does not necessarily say what would

happen after the IGI office had done played its role?

MR KOBUS DEMEYER ROELOFSE: That is correct Chair.

CHAIRPERSON: But you – what you are saying is when you read the other correspondence including this correspondence and take all the correspondence and the notes or memorandums together the conclusion can only be that Advocate Mrwebi saw this as the end of the matter as his decision as the end of the matter. Am I right?

MR KOBUS DEMEYER ROELOFSE: That is correct Chair.

CHAIRPERSON: yes.

10 **MR KOBUS DEMEYER ROELOFSE:** Even – even with the referral of the IG saying that the mandate falls within the SAPS and the NPA must prosecute the matter.

CHAIRPERSON: Because first he says the matter falls within the mandate of the IG office.

MR KOBUS DEMEYER ROELOFSE: That is correct Chair.

CHAIRPERSON: And it must be referred there. They write back and say no, no, no, it is within SAPS and then when they say that which should then open the way for the matter to be pursued further he writes back and says:

20 “IG you have no oversight powers over our decision.
My decision stands and the matter is closed.”

MR KOBUS DEMEYER ROELOFSE: That is correct Chair.

CHAIRPERSON: Ja thank you.

ADV VERUSCHKA SEPTEMBER: And then it...

CHAIRPERSON: So it is quite clear you say from this letter that he

does not contemplate the matter being pursued further?

MR KOBUS DEMEYER ROELOFSE: That is correct Chair you will see they will follow their – after this there is two other letters that follows on this.

CHAIRPERSON: Yes.

MR KOBUS DEMEYER ROELOFSE: Which just reiterates what I have just said.

CHAIRPERSON: That same attitude. Ja okay.

ADV VERUSCHKA SEPTEMBER: And then following the memorandum
10 which was authored by Advocates Breytenbach and Advocate Ferreira there was the request made at your instance through the office of Dramat to Advocate Jiba to which Advocate Mrwebi responded.

MR KOBUS DEMEYER ROELOFSE: That is correct Chair. That is the letter that I just read into the record.

ADV VERUSCHKA SEPTEMBER: And at page – paragraph 160 on page 47 you talk specifically to a letter dated 26 April 2012, is that correct?

MR KOBUS DEMEYER ROELOFSE: That is correct Chair and as far as I know that is the letter from the IGI which was attached to this
20 letter when it was forwarded to the – to Advocate Jiba.

ADV VERUSCHKA SEPTEMBER: Can I ask you to turn to page 196 please? Is this the letter that you refer to?

MR KOBUS DEMEYER ROELOFSE: Chair no the response to the letter that I referred to was the one – it was the one on page 160. In other words the response – the letter in terms of – from Advocate – I

mean from General Dramat to Advocate Jiba follows on the letter of the IGI.

ADV VERUSCHKA SEPTEMBER: Yes which you have addressed already.

MR KOBUS DEMEYER ROELOFSE: Which I have just addressed now.

ADV VERUSCHKA SEPTEMBER: Yes.

MR KOBUS DEMEYER ROELOFSE: So that is that letter.

ADV VERUSCHKA SEPTEMBER: Correct.

MR KOBUS DEMEYER ROELOFSE: Then the answer to that letter
10 follows on page 162.

ADV VERUSCHKA SEPTEMBER: Okay let us just...

CHAIRPERSON: Yes the one at 162 is one that we have just looked at.

ADV VERUSCHKA SEPTEMBER: Yes. We have.

CHAIRPERSON: Yes continue.

MR KOBUS DEMEYER ROELOFSE: Then if I may page 189.

CHAIRPERSON: Yes.

MR KOBUS DEMEYER ROELOFSE: General Dramat now again refers the decision back or asks the – the – Advocate Jiba to review Advocate Mrwebi's decision based on the letter that I just dealt with.

20 **ADV VERUSCHKA SEPTEMBER:** Correct which you have also addressed already.

MR KOBUS DEMEYER ROELOFSE: That is correct. And then based on this – on this letter that I have just looked at now we go to the page that you have mentioned earlier.

ADV VERUSCHKA SEPTEMBER: Correct which is page 196.

MR KOBUS DEMEYER ROELOFSE: That is correct Chair. This is now the response on the second letter of General Dramat.

ADV VERUSCHKA SEPTEMBER: Are we on the same page now?

MR KOBUS DEMEYER ROELOFSE: 196 yes.

ADV VERUSCHKA SEPTEMBER: Okay. And this is then the letter that was authored by Advocate Mrwebi addressed to Advocate Breytenbach, Advocate Ferreira, Advocate Mzinyathi.

MR KOBUS DEMEYER ROELOFSE: That is...

ADV VERUSCHKA SEPTEMBER: Dated 26 April 2012, is that right?

10 **MR KOBUS DEMEYER ROELOFSE:** That is correct Chair.

ADV VERUSCHKA SEPTEMBER: Can I ask you to turn to page – or rather what is the essence of this letter?

MR KOBUS DEMEYER ROELOFSE: Chair the essence of this letter is that it is now the AG that is supposed to look at – that has the mandate to investigate these matters and if I may read into the record paragraph – the second paragraph on page 198?

ADV VERUSCHKA SEPTEMBER: Correct. Can you read the second paragraph and also the first two sentences of the next paragraph?

MR KOBUS DEMEYER ROELOFSE:

20 “It is a known fact that the Auditor General examined the information containing the alleged criminal transactions by Mdluli and Barnard and based on rules governing the Secret Services Account found nothing untoward with the transaction. The necessary report in this regard was given to the joint

standing committee on intelligence and as such to Parliament. Are the police and the prosecutors now questioning the integrity of these institutions? I do not think we have the authority and in any event we want to go – even if we want to go that route we have to do it in a legal and proper manner. It is my considered view that it will therefore not be in the interest of justice for the [indistinct] to be further involved in this matter.”

- 10 **ADV VERUSCHKA SEPTEMBER:** And so once the issues relating to the mandate of the IGI were dispositive through the letter of the 19th March 2012 through this letter another issue was raised and that was in relation to the Attorney General’s office, is that right?

MR KOBUS DEMEYER ROELOFSE: That is correct Chair. And I – actually I made a mistake. This was an internal memorandum within the NPA.

ADV VERUSCHKA SEPTEMBER: Yes.

MR KOBUS DEMEYER ROELOFSE: Between Advocate Breytenbach, Ferreira, Mzinyathi and Advocate Mrwebi.

- 20 **ADV VERUSCHKA SEPTEMBER:** Correct. Did you take any steps in order to get clarity from the office of the Attorney General of South Africa in relation to these assertions?

CHAIRPERSON: You are going to confuse him now. You talking about the Attorney General. We do not have an Attorney General.

ADV VERUSCHKA SEPTEMBER: The Auditor General.

CHAIRPERSON: We do not have an Attorney General in South Africa anymore.

ADV VERUSCHKA SEPTEMBER: Sorry. My mistake.

CHAIRPERSON: Yes.

ADV VERUSCHKA SEPTEMBER: The Auditor General. Humble apologies. At paragraph 160.1 on page 47 you talk to specifics.

MR KOBUS DEMEYER ROELOFSE: 160.1.

ADV VERUSCHKA SEPTEMBER: Steps that you took or rather my question to you is did you take any steps to get clarity on the AGSA
10 point?

MR KOBUS DEMEYER ROELOFSE: Can you just repeat the page?

ADV VERUSCHKA SEPTEMBER: We are on page 47 of your affidavit.

MR KOBUS DEMEYER ROELOFSE: Oh 47 of the affidavit.

ADV VERUSCHKA SEPTEMBER: Paragraph 160.1.

MR KOBUS DEMEYER ROELOFSE: Yes Chair I did. I had a meeting with Ms Alice Miller from the IGI.

CHAIRPERSON: So that reference to AGSA must be wrong because that would be Auditor General of South Africa is it not? He must have meant IGI or not?

20 **ADV VERUSCHKA SEPTEMBER:** No Chair.

CHAIRPERSON: Hm.

MR KOBUS DEMEYER ROELOFSE: It is the Auditor General of South Africa Chair.

CHAIRPERSON: Did he mean the Auditor General he did not...

MR KOBUS DEMEYER ROELOFSE: Yes.

CHAIRPERSON: Get confused?

MR KOBUS DEMEYER ROELOFSE: No, no I did not get confused.

CHAIRPERSON: Oh okay alright. Okay.

MR KOBUS DEMEYER ROELOFSE: Chair...

CHAIRPERSON: But where would the Auditor General get in in terms of criminal investigation?

MR KOBUS DEMEYER ROELOFSE: Chair the Auditor General does audits and they would point out inefficiencies, maladministration or irregularities and then they would refer it to the Department for the
10 decision as to what to do with it and to take further action. Whether it is for criminal action or disciplinary action that is what the – that is the function of ...

CHAIRPERSON: Ja not that I understand but was it not – is the position not that you were all dealing with at this stage was the decision by Advocate Mrwebi to withdraw the charges...

MR KOBUS DEMEYER ROELOFSE: That is...

CHAIRPERSON: And – and his – what appears like a refusal to change that decision which was criminal prosecution. Now at one stage he said the investigation should be done by the Inspector General's office.
20 Now that part I understand but I am – I do not understand the reference to the office of the Auditor General except if it is for purposes of simply obtaining certain reports or getting somebody from the Auditor General's office who would depose to a certain affidavit about matters that are covered by the AG's office.

MR KOBUS DEMEYER ROELOFSE: Chair maybe I must get – give a

little bit of ...

CHAIRPERSON: Yes.

MR KOBUS DEMEYER ROELOFSE: Of background in terms of this. What had happened is the following. The avenue that Advocate Mrwebi tried to take in terms of the IGI was blocked so he did not have that avenue anymore. And then what happened is according to him and I am referring to his own testimony now. He had meetings from high level police individuals who came to speak to him and explain to him exactly how the Crime Intelligence works and why the mandate of this
10 investigation does not fall within SAPS. And based on that he now writes an internal memorandum and – to Advocate Breytenbach, Mzinyathi to explain to them that this matter that we are investigating the Mdluli/Barnard matter has already been investigated and he goes further he says and I am quoting from paragraph 160. He says:

“It is a known fact that the Auditor General examined the information contained – containing the alleged criminal transaction by General Mdluli and Colonel Barnard.”

This is now the vehicle transaction and the vehicle that was – what is
20 the word I am looking for?

CHAIRPERSON: That was traded in.

MR KOBUS DEMEYER ROELOFSE: The traded in vehicle that is correct Chair.

“The criminal transaction by General Mdluli and Colonel Barnard and based on the rules governing

the Secret Services Account found nothing untoward with the transaction.”

He goes further to state:

“That the necessary report in this regard was given to the Joint Standing Committee in Intelligence and as such to Parliament.”

That is what he states as a fact in this memorandum to Advocate Ferreira, Breytenbach and Mzinyati. Based on that I had a meeting with Ms Alice Miller who is corporate executive and others from the
10 office of the AG and I enquired about this statement – this memorandum that Advocate Mrwebi wrote. I gave them a copy and I gave them access to the memorandum and I asked them whether is this actually did this happen? Which is important to me if it happened and they said there was nothing wrong then obviously that – that is the end of it. And they denied that such a report was ever tabled at Parliament and that an investigation was ever done by them in respect of this specific transaction. So to me that was clear that that was the memorandum in terms of Advocate Mrwebi where he states as a fact – a known fact that that was not true; that was untrue.

20 **CHAIRPERSON:** So you got to know that situation at the time? In other words at the time when these things were happening you carried out this investigation to find out and then you were told there was no such memorandum and there was no such investigation?

MR KOBUS DEMEYER ROELOFSE: That is correct Chair. So based on the memorandum that Advocate Mrwebi wrote.

CHAIRPERSON: Yes.

MR KOBUS DEMEYER ROELOFSE: I went to the Auditor General and I asked him.

CHAIRPERSON: Yes.

MR KOBUS DEMEYER ROELOFSE: Did this in fact happen?

CHAIRPERSON: Yes.

MR KOBUS DEMEYER ROELOFSE: And they said it did not happen like that. They never investigated that specific issue.

CHAIRPERSON: Did you then either yourself or through General
10 Dramat go back to the NPA to say this is not correct.

MR KOBUS DEMEYER ROELOFSE: Chair I – we are jumping a little bit but I think there is a...

CHAIRPERSON: Oh.

MR KOBUS DEMEYER ROELOFSE: There is a letter after that.

CHAIRPERSON: You will get to it.

MR KOBUS DEMEYER ROELOFSE: Again – ja by General Dramat.

CHAIRPERSON: Okay.

MR KOBUS DEMEYER ROELOFSE: Referring the matter back.

CHAIRPERSON: Okay let us – let us follow the right sequence.

20 **ADV VERUSCHKA SEPTEMBER:** Being very alert to the time if I can just close off this point Chair. Can I ask you to turn to page 194 please?

CHAIRPERSON: I see we have gone past the...

ADV VERUSCHKA SEPTEMBER: Past tea break.

CHAIRPERSON: Tea break but maybe let us take the tea break at half

past – let us just finish what you have.

ADV VERUSCHKA SEPTEMBER: I [indistinct] Chair.

CHAIRPERSON: Page 19?

ADV VERUSCHKA SEPTEMBER: 194. Is this the letter from the AG – Auditor General of South Africa’s office that asserted clarity to the query that you raised to them?

MR KOBUS DEMEYER ROELOFSE: That is correct Chair and if I may?

ADV VERUSCHKA SEPTEMBER: Please.

10 **MR KOBUS DEMEYER ROELOFSE:**

“The purpose of this communication is to inform you that the Auditor General of South Africa not [indistinct] did not examine the alleged criminal transaction nor reach the relevant conclusion as set out in your letter dated to us the 11th July 2012.

Yours sincerely Alice Miller Corporate Executive.”

ADV VERUSCHKA SEPTEMBER: And then if we turn to page 48 of your affidavit. Having already addressed the response by Ms Jackie Lapinka is it correct that there was a ministerial task team that was set
20 up to investigate allegations against General Mdluli?

CHAIRPERSON: I am sorry. Just before that let us – let us just tie this. You – you said that you understand that certain high ranking officials of the police service had a meeting with Advocate Mrwebi where they explained to him how certain things at Intelligence work – I cannot remember what you said. Do you want to repeat that and then

confirm whether that is true and who those are if you know?

MR KOBUS DEMEYER ROELOFSE: Chair I was informed and this is where it gets a little bit confusing to me. I was informed that Advocate – that General Lazarus and Colonel Barnard went to see Advocate Mrwebi.

CHAIRPERSON: Yes.

MR KOBUS DEMEYER ROELOFSE: And they explained to him this is what happened.

CHAIRPERSON: Yes.

10 **MR KOBUS DEMEYER ROELOFSE:** I – well I am under the impression there is more than this – those two – there were other individuals as well.

CHAIRPERSON: Yes.

MR KOBUS DEMEYER ROELOFSE: At the hearing and I want to take this a little bit further. Advocate – at the Mokgoro hearing. He took it further – I mean he then – he did not in his memorandum address the names. I got to through my information I got to know who it was and then he at the hearing itself he said that General Dramat gave him that feedback regarding the Auditor General.

20 **CHAIRPERSON:** Hm.

MR KOBUS DEMEYER ROELOFSE: And that he said to him that the matter was investigated and finalised.

CHAIRPERSON: Hm.

MR KOBUS DEMEYER ROELOFSE: General Dramat has subsequently testified at the Mokgoro Inquiry that that did not happen. He never had

that information. He would never have given that to – to Advocate Mrwebi.

CHAIRPERSON: Hm. Hm. Okay. Thank you.

ADV VERUSCHKA SEPTEMBER: You were about to inform the Chair about your knowledge on the ministerial task team that was appointed to investigate allegations – General Mdluli's allegations. Can you please do so?

MR KOBUS DEMEYER ROELOFSE: Chair I do not know much about the – I know the task team was constituted by Minister Mthethwa on the
10 11th May 2012 and the Chief Law Chief State Law Advisor Mr Enver Daniels was to investigate the claims by General Mdluli that there was a so called plot against him. The only feedback I ever received in respect of this task team was the media release by SAPS on the 5th July 2012 stated that there is no substance to General Mdluli's claims of conspiracy. The task team apart from clearing the alleged conspirators also found that the source who gave General Mdluli's information could not be corroborated – could not corroborate it. The so called source is FM09 stationed at Crime Intelligence and is a close confidant and friend or confidant of General Lazarus and General
20 Mdluli. My opinion of this is I am of the opinion that this plot was fabricated to use as part of General Mdluli's representations made to Advocate Mrwebi and to the SAPS. I did not have sight of this task team report.

ADV VERUSCHKA SEPTEMBER: So – but this particular ministerial task team focussed on the cons – the alleged conspiracy theory of

General Mdluli, is that right?

MR KOBUS DEMEYER ROELOFSE: That is correct Chair and I am – if I can remember correctly the focus of the investigation was General Dramat, General Lebeya, General Petros. I think there were one or two others as well which I cannot remember off hand now.

ADV VERUSCHKA SEPTEMBER: Having given evidence...

CHAIRPERSON: I am sorry. Who was General Petros

MR KOBUS DEMEYER ROELOFSE: General Petros was the Provincial Commissioner of Gauteng at the time.

10 **CHAIRPERSON:** Yes. And when you say the focus of the investigation was on those three were – you mean were they the people who were suspected of having – of conspiring against General Mdluli?

MR KOBUS DEMEYER ROELOFSE: That is correct Chair they were according to General Mdluli they were masterminding this plot. You will remember that when I mentioned General Petros' name was with the first meeting on the 20 – I think it was the 21st or the 23rd March 2011 in Cape Town.

CHAIRPERSON: Yes I thought there was some interference with the recording but I think it has stopped. So – so – yes – so that – those
20 were the people who were suspected of conspiring against him?

MR KOBUS DEMEYER ROELOFSE: That is correct Chair.

CHAIRPERSON: Yes.

MR KOBUS DEMEYER ROELOFSE: As I said there might be more but I cannot remember off hand the other...

CHAIRPERSON: Yes.

MR KOBUS DEMEYER ROELOFSE: the other individuals' names.

CHAIRPERSON: Do you know who were others of the task team other than Mr Enver Daniels?

MR KOBUS DEMEYER ROELOFSE: No Chair I do not – I do not know who he was.

CHAIRPERSON: You do not know?

MR KOBUS DEMEYER ROELOFSE: No.

CHAIRPERSON: Okay. Do you know whether this particular task team was announced publicly by the then Minister of Police?

10 **MR KOBUS DEMEYER ROELOFSE:** Chair as far as I know it was announced publicly hence I think that is why there was a media release after the hearings but there was no report that was released as far as I know.

CHAIRPERSON: Yes. Now you said that the – you referred to a conclusion that there was no basis for that allegation of conspiracy. What were you referring to in terms of that?

MR KOBUS DEMEYER ROELOFSE: I was referring to the conspiracy against General Mdluli by these three officers and others.

20 **CHAIRPERSON:** Yes but what I mean is who had reached that conclusion?

MR KOBUS DEMEYER ROELOFSE: It was – it was Mr Enver Daniels from the – from that task team.

CHAIRPERSON: Oh how did you get to know that because I understand you said that the – the – their report was not made public?

MR KOBUS DEMEYER ROELOFSE: Chair I am referring to paragraph

162.1 there was a media release on the 5th July 2012 by SAPS media centre stating there is no substance to the General Mdluli's claims of conspiracy. The task team apart from cleaning the alleged conspirators also found that the source who gave General Mdluli's information could not corroborate it.

CHAIRPERSON: Oh the report was not made public but there was a media statement issued?

MR KOBUS DEMEYER ROELOFSE: That is correct Chair.

CHAIRPERSON: Which told the public what the outcome of the
10 investigation by that task team was.

MR KOBUS DEMEYER ROELOFSE: That is – that is correct Chair.

CHAIRPERSON: Okay alright.

ADV VERUSCHKA SEPTEMBER: Chair I see the clock has ticked just past half past.

CHAIRPERSON: Okay.

ADV VERUSCHKA SEPTEMBER: Is this a convenient time?

CHAIRPERSON: We will take the tea adjournment. It is now half past we will resume at quarter to twelve. We adjourn.

ADV VERUSCHKA SEPTEMBER: As it pleases.

20 **REGISTRAR:** All rise.

INQUIRY ADJOURNS

INQUIRY RESUMES

CHAIRPERSON: Okay. Let us proceed.

ADV VERUSCHKA SEPTEMBER: Thank you Chair. We are on page 48 of your affidavit in particular we have just completed paragraph 162.

Much of what you say here after you have already testified to. So just for the record in terms of time and context is it correct that on 7 June 2012 General Dramat appealed again to Advocate Jiba to urgently review the decision of Advocate Mrwebi?

CHAIRPERSON: Remember we did cover that ...

ADV VERUSCHKA SEPTEMBER: Correct Chair.

CHAIRPERSON: And the following paragraph.

ADV VERUSCHKA SEPTEMBER: And it is therefore also correct that on the 2nd ...

10 **CHAIRPERSON:** No do not repeat it. We did cover it. Continue.

ADV VERUSCHKA SEPTEMBER: As it please ...

CHAIRPERSON: Remember we covered that.

ADV VERUSCHKA SEPTEMBER: As it pleases Chair. After then receiving information from General Dramat on the meeting that was had that all matters were sufficiently resolved. Did you take any steps to progress the investigation or rather the criminal matter?

MR KOBUS DEMEYER ROELOFSE: That is correct Chair. I wrote to Advocate Ferreira from the Serious Commercial Crime Unit to inform him of the meeting between General Dramat and Advocate Jiba that
20 took place on 1 August 2012 and to seek clarity on the current position.

ADV VERUSCHKA SEPTEMBER: Can I ask you to turn to page 2-0-7 please?

CHAIRPERSON: I am sorry. You say you went to him to brief him on the meeting between General Dramat and Ms Jiba and to seek - I think you said and to seek something. I did not hear what you said.

MR KOBUS DEMEYER ROELOFSE: To seek clarify on the current situation. Practical issues that needs to be - that needs to be dealt with ...

CHAIRPERSON: Yes, okay and what did he say?

MR KOBUS DEMEYER ROELOFSE: Hm.

CHAIRPERSON: Or is she referring you to something that will help you?

MR KOBUS DEMEYER ROELOFSE: I - I think so. I think so Chair.

CHAIRPERSON: Okay, alright. Go - go ahead.

10 **ADV VERUSCHKA SEPTEMBER:** On page 2-0-7 appears a letter and this is a letter that was authored by yourself addressed to Advocate J Ferreira dated 10 August 2012. Is that right?

MR KOBUS DEMEYER ROELOFSE: That is correct Chair.

ADV VERUSCHKA SEPTEMBER: What is the basis of this letter?

CHAIRPERSON: Hang on one second please.

ADV VERUSCHKA SEPTEMBER: Sorry Chair. Page 2-0-7.

CHAIRPERSON: The way to deal with this is first for - for him to tell us what transpired at the meeting between him and Mr Ferreira. If what transpired at that meeting was subsequently recorded in a letter then
20 you - you can get to that but let us finish with what transpired at that meeting which might be what you deal with in a letter then but then you can say that was subsequently recorded in a letter dated blah, blah, blah.

MR KOBUS DEMEYER ROELOFSE: Chair I - I might have made a - I did not have a meeting. I wrote a letter.

CHAIRPERSON: Oh, you wrote a letter?

MR KOBUS DEMEYER ROELOFSE: I wrote a letter to Advocate ...

CHAIRPERSON: Oh, I thought - I thought you said you went to him.
So I must have misunderstood you then.

MR KOBUS DEMEYER ROELOFSE: Sorry Chair. I probably went to
him afterwards but in terms of this I wrote him a letter to ...

CHAIRPERSON: Oh.

MR KOBUS DEMEYER ROELOFSE: To tell him what happened at the
meeting with the ...

10 **CHAIRPERSON:** Okay. No then - then we deal with the letter.

MR KOBUS DEMEYER ROELOFSE: Okay Chair.

ADV VERUSCHKA SEPTEMBER: And what is the crux of this letter
Mr Roelofse?

MR KOBUS DEMEYER ROELOFSE: Basically Chair all that I did in
terms of this letter I informed him about a meeting with - with - between
Advocate Dramat and Advocate - sorry General Dramat and
Advocate Jiba and I recorded the view of Advocate Jiba as relayed to
me by General Dramat. That the - (clearing throat) excuse me - and I
will read from the letter. Paragraph 2.

20 **ADV VERUSCHKA SEPTEMBER:** Thank you.

MR KOBUS DEMEYER ROELOFSE: "Advocate Jiba is of the
view that the matter against General Mdluli and
Colonel Barnard accused in the matter was only
provisionally withdrawn on 14 December 2011 due
to the fact that some investigations had not been

finalised. I was further informed that I had to provide the case docket to the relevant prosecutor with the view of finalising the investigation. Thereafter the matter must be placed back on the court roll.”

ADV VERUSCHKA SEPTEMBER: The next paragraph could you read that into the record as well please?

CHAIRPERSON: Is the - is the ...?

ADV VERUSCHKA SEPTEMBER: On the same page.

10 **CHAIRPERSON:** Is the next paragraph in the statement now or in the letter?

ADV VERUSCHKA SEPTEMBER: On - still on page 2-0-7 Chair.

CHAIRPERSON: 2-0-7. Yes continue.

MR KOBUS DEMEYER ROELOFSE: “I was further informed that I had to provide the case docket to the relevant prosecutor with the view of finalising the investigation. Thereafter the matter must be placed back on the court roll.”

ADV VERUSCHKA SEPTEMBER: Thank you and was ...

20 **CHAIRPERSON:** Did you make him read that a second time? I thought he did read that before.

ADV VERUSCHKA SEPTEMBER: I may ...

CHAIRPERSON: Mr Roelofse am I right?

MR KOBUS DEMEYER ROELOFSE: Chair I am not getting involved in ...

ADV VERUSCHKA SEPTEMBER: Apologies to that Chair. I thought he just read the first paragraph. Humble apologies. What - what - is it correct then that the matter proceeded accordingly and the matter was in fact placed on the court roll and this is the very investigation that you have already given evidence about?

MR KOBUS DEMEYER ROELOFSE: Chair the matter was not placed back on the court roll soon after this letter. It was only placed back after the FUL application on the court roll where the decision was taken not that the - that the previous decision was - was wrong. So what had
10 happened ...

CHAIRPERSON: Was set aside?

MR KOBUS DEMEYER ROELOFSE: Yes was set aside. That is correct Chair. So what had happened here is prosecutors were allocated and we - we took it from there but the matter was not placed back on the court roll. By this time - and I think it is important to put this into context now - by this time the information that was given to me by Colonel Naidoo has been added to this investigation.

So in terms of that there were still investigations that were outstanding that we had to finalise. So the initial investigation was
20 dealt with. The one with Barnard and the - and the vehicle and General Mdluli but in terms of - in light of the additional investigations we added it to this investigation and to complete - and to complete it as a whole in - to place it back on the court roll.

ADV VERUSCHKA SEPTEMBER: And so just for the record Chair the High Court judgment handed down by Justice Murphy is dated

23 September 2013 which was eventually taken on appeal and that judgment through Justice Brand who was Acting at the time was handed down on 17 April 2014 and it was then pursuant to the Supreme Court of Appeal decision that further steps were taken. Is that right?

MR KOBUS DEMEYER ROELOFSE: That is correct Chair.

ADV VERUSCHKA SEPTEMBER: Now how exactly would you describe your ...

CHAIRPERSON: I am sorry. Are those judgments here? Tell - tell me where they are.

10 **ADV VERUSCHKA SEPTEMBER:** Sure Chair. They are in bundle or rather EXHIBIT 2.4 - KK2.4.

CHAIRPERSON: Yes.

ADV VERUSCHKA SEPTEMBER: The first ...

CHAIRPERSON: What page?

ADV VERUSCHKA SEPTEMBER: Judgment which is the High Court judgment is under Tab 8 which starts at page 2-8-2 and Chair with reference to the - the hand - the typed note that I passed up earlier this morning ...

CHAIRPERSON: Yes.

20 **ADV VERUSCHKA SEPTEMBER:** The relevant paragraphs are mentioned in there as it pertains to this particular investigation and in particular the decision to withdraw these charges by Advocate Mrwebi. The SCA judgment ...

CHAIRPERSON: Yes. You see what I wanted you to do - I mean I - I will read the - each one of the judgments. I will - those that I might not

have recently - I will read them as a whole. What I was saying earlier on was at the hearing if certain issues are already covered by a judgment that is not being appealed that is the final judgment in regard to a particular matter.

You can just announce those findings that are important or relevant for our purposes. That these were the findings. These were the - this was the order that was made and then the witness can give evidence only for purposes of context or where there were gaps that were not dealt with in - in the judgment. So - but you - you just say
10 there was this judgment.

It is not being appealed against or it is not - no appeal is pending and this was the issue. This is what was found. Then we can move on.

ADV VERUSCHKA SEPTEMBER: As it pleases Chair.

CHAIRPERSON: *Ja.*

ADV VERUSCHKA SEPTEMBER: Would you like me to would you like me to address this now or ...?

CHAIRPERSON: So - but you - you might not have ...

ADV VERUSCHKA SEPTEMBER: Can I - should I do this after the long
20 adjournment?

CHAIRPERSON: *Ja.* You might not have prepared to do - to do that. We - we can do that later or if you want to draw his attention to particular parts of the judgment you may do so but where there is a - a judgment which has made certain findings we do not have to go through that. You can just say these were the findings that were made.

There was no further appeal and then the witness will simply give evidence in terms of context if there is anything on context that needs to be given or fill up gaps that may not have been dealt with in the judgment.

ADV VERUSCHKA SEPTEMBER: No problem Chair. I am happy to do so later ...

CHAIRPERSON: That is fine.

ADV VERUSCHKA SEPTEMBER: And we can address it then.

CHAIRPERSON: *Ja.*

10 **ADV VERUSCHKA SEPTEMBER:** In closing this particular part of your evidence Colonel - Mr Roelofse how would you - how would you describe your experience as the investigator in this matter on the engagements you have had through the Office of the National Prosecuting Authority?

MR KOBUS DEMEYER ROELOFSE: Chair I will - it was strange. I had - I had - I was fortunate enough to be part of the Scorpions - the DSO but I closely worked with prosecutors and I have never encountered something like this before and to me that is why I felt at the time when the decision was taken and the reasons that were advanced for this -
20 for those decisions it just - just does not make sense and normally when you a policeman you do not necessarily taken on the NPA regarding decisions but this was so clearly wrong for me that I - that I had to take it on and - and hence the reason why I asked General Dramat to ask them to review the decision because the - it just did not make sense to me.

ADV VERUSCHKA SEPTEMBER: And sir is it then your evidence that you encountered resistance in progressing this particular criminal investigation through the - through the Justice System?

MR KOBUS DEMEYER ROELOFSE: Chair I think I would go further than that. It is not just resistance. It was - this was a - a deliberate attempt not to continue with the investigation and the - and I think it was thought that if and that is normally what happens that if the NPA say to the South African Police Service the matter is closed the matter will not be dealt with - would not be investigated further.

10 Although that is not necessarily the case. You can - you can always investigate the matter further until you find the evidence that would have the NPA reconsider the decision but in this regard to me it was deliberate to stop the investigation and I base that on the letters that was written and our request that we - that we made at the time.

ADV VERUSCHKA SEPTEMBER: And then - then in your experience who was this - were there any key individuals who was the source of those deliberate attempts to stop the investigation?

MR KOBUS DEMEYER ROELOFSE: Chair as far as I am concerned from the NPA side I can speculate in terms of Advocate Jiba. So I do
20 not know whether she actually saw the documents or not. So I rather not venture into - in- in respect of her but in terms of Advocate Mrwebi he knew exactly what happened.

 He was briefed by policemen involved in the alleged criminality. He should have known that it is not the way to deal with that matter. He did not consult with either myself or the prosecutor in

the matter and - and therefore under those circumstances I felt that this was done deliberately with the view of stopping the investigation.

ADV VERUSCHKA SEPTEMBER: Is it correct that you gave evidence at the Mokgoro Commission in relation to Advocate Mrwebi and Advocate Jiba?

MR KOBUS DEMEYER ROELOFSE: That is correct Chair.

ADV VERUSCHKA SEPTEMBER: Chair for the record the relevant paragraphs to that particular report does appear as Annexure 21 to his affidavit which starts at two - 2-11 - page 2-11.

10 **CHAIRPERSON:** Page 2-11?

ADV VERUSCHKA SEPTEMBER: Yes Chair. It is not the entire unabridged report but really only that sections which relates to the evidence of this witness.

CHAIRPERSON: Yes. Okay.

ADV VERUSCHKA SEPTEMBER: This - the full unabridged report has already been placed before this Commission.

CHAIRPERSON: Huh-uh.

ADV VERUSCHKA SEPTEMBER: If we can then turn to page 50 of your affidavit please.

20 **MR KOBUS DEMEYER ROELOFSE:** Chair if - if I may just before we turn to page 50 ...

CHAIRPERSON: Hm.

MR KOBUS DEMEYER ROELOFSE: Which I actually should have mentioned earlier. In fact I felt so strong about the decision that was taken and the interference - interference that we experienced that at

the time I opened a criminal docket - a case docket.

CHAIRPERSON: Yes.

MR KOBUS DEMEYER ROELOFSE: In 2013 for investigation and my complaint was firstly perjury in terms of Advocate Mrwebi during the disciplinary of Advocate Breytenbach ...

CHAIRPERSON: Hm.

MR KOBUS DEMEYER ROELOFSE: And then also against - and interfering with the investigation itself.

CHAIRPERSON: Hm.

- 10 **MR KOBUS DEMEYER ROELOFSE:** Defeating the ends of justice in terms of Advocate Mrwebi as well as General Mdluli and the reasons why I opened the docket against General or why I supplied an affidavit against General Mdluli which included him is after his reinstated being - after he was reinstated he did certain actions which I will deal with later in the - in my affidavit.

- CHAIRPERSON:** Hm, hm. Okay. No that is fine but I have just remembered something and I would like some clarification. You said at some stage earlier that you understood that the so called higher ranking police officers who went to see Advocate Mrwebi to explain how
20 certain things work under the intelligence. You said you understood those to have included Lazarus and Barnard?

MR KOBUS DEMEYER ROELOFSE: That is - that is correct Chair.

CHAIRPERSON: Ja. You - you - but you said there probably were others that you do not know?

MR KOBUS DEMEYER ROELOFSE: That is correct Chair, yes.

CHAIRPERSON: Now do - do you know how it had come about that they went to see him? At whose initiative?

MR KOBUS DEMEYER ROELOFSE: Chair I - I - that I cannot answer. I would - I would presume it would have been on the initiative on General Lazarus ...

CHAIRPERSON: Yes.

MR KOBUS DEMEYER ROELOFSE: Or his - his legal representative ...

CHAIRPERSON: Yes.

MR KOBUS DEMEYER ROELOFSE: Because as - the meeting took
10 place at the NPA. So I ...

CHAIRPERSON: Yes.

MR KOBUS DEMEYER ROELOFSE: Based on that I would presume it was done by - by Lazarus.

CHAIRPERSON: Okay. Thank you or maybe before I - we proceed. We have passed the stage where we were dealing with matters that are dealt with in Judge Murphy's judgment and Judge Brand's judgment. In Judge Murphy's judgment there is reference to a letter that Mr Mdluli is said to have written to the former President in 2011 where he said something like if I come back I will help you or assist you.

20 Do we have a complete - copy of a complete - that complete letter in the bundle or do we not have it?

ADV VERUSCHKA SEPTEMBER: No we do not Chair. In fact it is one of the letters that I have queried.

CHAIRPERSON: Hm.

ADV VERUSCHKA SEPTEMBER: In the Mokgoro Commission they

refer to the letter per se in the time chronology but they only do so with reference to the judgment itself. We have been encountering difficulties in finding that particular letter. This particular witness does however talk to a letter in the same month and same year. With your leave I could take you to it ...

CHAIRPERSON: Okay. Yes, but ...

ADV VERUSCHKA SEPTEMBER: But the date of the letter appears to be different and it certainly does not present to be the same letter.

CHAIRPERSON: Has somebody checked the court papers in the - in
10 the full application because I - I assume that in referring to it and
quoting a sentence from it Judge Murphy would have seen the letter.
Unless the letter was not attached but somebody had quoted the letter
and nobody had disputed that that - there was such a letter and that it
said what was quoted.

Has somebody checked the - the court application in the full
matter?

ADV VERUSCHKA SEPTEMBER: I am not sure Chair.

CHAIRPERSON: That is the first place to check. Will you arrange for
somebody to check?

20 **ADV VERUSCHKA SEPTEMBER:** Will do Chair.

CHAIRPERSON: *Ja* and actually if we do not already have we should
have the full papers in the full matter.

ADV VERUSCHKA SEPTEMBER: Will - will attend to it Chair.

CHAIRPERSON: Okay, alright.

ADV VERUSCHKA SEPTEMBER: On page 50 of your affidavit you now

deal ...

CHAIRPERSON: I am sorry again Ms September.

ADV VERUSCHKA SEPTEMBER: No problem Chair.

CHAIRPERSON: I think it will be important when you look at Judge Murphy's judgment for purposes of just mentioning the important conclusions or findings. It will be important to check whether he made any finding that the decision by Advocate Mrwebi to withdraw the charges that the charges being withdrawn. Whether it was meant to be a permanent decision or not - final decision or not.

10 I am - I am imagining that if the withdrawal of the charges was provisional it would be difficult to - to see why the court would set that decision aside - a provisional decision. Unless the court came to the conclusion that even if it was provisional it was so bad that it should be set aside because normally if it is - if it is a provisional withdrawal of charges it means the charges can be brought back once whatever evidence was thought to be outstanding has been found as being collected.

So I thought I would just alert you that I am interested in that part as well.

20 **ADV VERUSCHKA SEPTEMBER:** As it pleases Chair.

CHAIRPERSON: Hm.

ADV VERUSCHKA SEPTEMBER: There was a question about whether or not the court did in fact have reviewability powers in relation to a provisional decision as compared to a final decision ...

CHAIRPERSON: Hm.

ADV VERUSCHKA SEPTEMBER: And although the High Court did not agree with the judgment of Justice Navsa - I cannot remember the particular case right now - which said that there is really no difference between a provisional as opposed to final decision on the withdrawal of charges. The Supreme Court of Appeal found that - in fact followed the - the SCA decision and the judgment of Navsa but I will look into the particularity of it and revert Chair.

CHAIRPERSON: Okay.

ADV VERUSCHKA SEPTEMBER: Page 50 of your affidavit. How would
10 you describe the cooperation of Mdluli in the investigations?

MR KOBUS DEMEYER ROELOFSE: Describe - describe the cooperation of General Mdluli?

ADV VERUSCHKA SEPTEMBER: The cooperation of General Mdluli in the investigations.

MR KOBUS DEMEYER ROELOFSE: Well I did not get any cooperation from General Mdluli in the investigation. He did his best to frustrate the investigation.

ADV VERUSCHKA SEPTEMBER: And how did he ...

CHAIRPERSON: Well I guess - I guess maybe there may be some
20 unfairness in talking about cooperation in relation to him when the investigation is against him and he is a suspect because what obligation would there be or a suspect to assist the police to get him prosecuted. That is meant for you.

ADV VERUSCHKA SEPTEMBER: For me?

CHAIRPERSON: Ja.

ADV VERUSCHKA SEPTEMBER: Chair my understanding is that ...

CHAIRPERSON: Because you used the word cooperation.

ADV VERUSCHKA SEPTEMBER: Yes I did indeed and my understanding is that where charges have in fact been laid against any particular individual it would be expected that any particular - that particular individual would assist the police as far as possible without impeding or prejudicing their own rights to do so and it is in that context that I ask a question Chair.

CHAIRPERSON: In what way. He has a right to remain silent.

10 **ADV VERUSCHKA SEPTEMBER:** Indeed Chair.

CHAIRPERSON: So in what way can he assist?

ADV VERUSCHKA SEPTEMBER: And it leads then to the - to the answer that this witness has given. Insofar as ...

CHAIRPERSON: Ja, but it gives ...

ADV VERUSCHKA SEPTEMBER: It frustrated the ...

CHAIRPERSON: It gives an impression - it may unfairly give a negative impression to Mr Mdluli's position because it suggests there was an obligation on him to cooperate and if by cooperating it is meant that he must assist the police in their investigation that might be
20 problematic.

ADV VERUSCHKA SEPTEMBER: My choice of word was certainly not to suggest ...

CHAIRPERSON: Hm.

ADV VERUSCHKA SEPTEMBER: That he was to do so in any prejudice to his own rights ...

CHAIRPERSON: Hm.

ADV VERUSCHKA SEPTEMBER: And so I will rephrase.

CHAIRPERSON: Hm. Well maybe you might want to put it in a way that would reflect what you have in mind.

ADV VERUSCHKA SEPTEMBER: How did General Mdluli involve himself in the investigation if at all?

MR KOBUS DEMEYER ROELOFSE: Chair General Mdluli did - did not assist in the investigation as is - as is his right but he did frustrate the investigation by certain actions which he took during a specific
10 timeframe.

CHAIRPERSON: Yes. I think that - that is the part that maybe relevant insofar as if the evidence is he sought to frustrate the investigation. That is - that is different. Yes. In what way did he - what did he do that you regard it as frustrating the investigation?

MR KOBUS DEMEYER ROELOFSE: Chair what happened is that he was - his suspension was lifted. General Mdluli's suspension was lifted on 31 March 2012 and he then continued with his duties as the Divisional Commissioner Crime Intelligence. During that period that he was - that he - that he went back to work I was informed by Crime
20 Intelligence members - various of them quite a few of them - that General Mdluli set in motion a drive to identify those CI members who assisted me in the investigation - the Crime Intelligence investigation.

The result thereof is that more than 20 members of Crime Intelligence were transferred within days after his reappointment. People which he thought of or suspected of assisting me. On

4 April 2012 General ...

CHAIRPERSON: I mean - I am sorry. You say people that he thought were assisting you in your investigation were transferred?

MR KOBUS DEMEYER ROELOFSE: That is correct Chair. On 4 April 2012 General Mdluli released a circular to all Crime Intelligence members for signature warning them not to disclose classified information to the media and other persons or bodies not authorised to receive such - such information.

10 This circular together with a transfer of members led to a situation where members of Crime Intelligence were no longer willing to assist me even to - to assist me - even to assist in supplying affidavits relating to the chain of evidence testimony. General Mdluli's actions are not only tantamount to intimidation but also obstructing a lawful criminal investigation. A copy of the circular is attached as per KDR22.

MR KOBUS DEMEYER ROELOFSE: And then can I ask you to turn to page 2-6-3 please? Chair we apologise for the - the bold print - bold copy of this document but it appears to still be legible.

CHAIRPERSON: Let me get there first. Yoh, this is bad. You must try and get somebody who can read this to type it - retype it.

20 **ADV VERUSCHKA SEPTEMBER:** Will do so Chair.

CHAIRPERSON: Huh-uh.

ADV VERUSCHKA SEPTEMBER: Is this the circular that was - that you referred to Mr Roelofse?

MR KOBUS DEMEYER ROELOFSE: That is correct Chair.

ADV VERUSCHKA SEPTEMBER: And is it correct that this circular is

dated 04/04/2012?

MR KOBUS DEMEYER ROELOFSE: That is correct Chair. Merely four days after being reinstated.

ADV VERUSCHKA SEPTEMBER: And it is titled “Disclosure of Classified Information Crime Intelligence”?

MR KOBUS DEMEYER ROELOFSE: That is correct Chair.

ADV VERUSCHKA SEPTEMBER: Would you like to ...?

CHAIRPERSON: You - you - in paragraph 170 which you have read - read - which you have read out you - you seem to be critical of that - of
10 that circular but from what you have quoted in paragraph 70 - 170 it seems that General - General Mdluli said nothing more than what the law requires of people. Namely they should not divulge classified information to people not authorised to have that information.

MR KOBUS DEMEYER ROELOFSE: Chair that is - that is correct ...

CHAIRPERSON: Hm.

MR KOBUS DEMEYER ROELOFSE: But I – the reason why I placed this document here is the fact that it needs to be understood in the timeframe when this happened it was the timeframe where we were getting or I was getting a lot of resistance in assistance from SAPS in
20 general and it's also the timeframe where members were transferred and the other persons and bodies, not authorised to receive such information, for me it's a clear indication that he was referring to the DPCI or the Hawks not to receive further information. That is how I read it and how I understood it. There's a further letter which reflects on me as a person which will probably inform the Chair why I would

read this in this manner.

CHAIRPERSON: The transfer of certain people, do you want to talk more in terms of whether you're talking about a situation where people were being transferred to faraway places where maybe, further communication with you would be difficult?

MR KOBUS DEMEYER ROELOFSE: Chair I'm not referring to that kind of transfers, it would be a transfer from - you would work in an Intelligence Gathering Unit doing your normal day-to-day function and then you get transferred to a SAP13 store or a store where goods are
10 being protected. In other words your relevance becomes then null and void.

CHAIRPERSON: So you are moved from your normal job?

MR KOBUS DEMEYER ROELOFSE: That's correct Chair.

CHAIRPERSON: To another section or unit and because you are now in another unit whatever information that person would have been able to give to you, while he remained where he was, he can't give it to you now because he's somewhere else?

MR KOBUS DEMEYER ROELOFSE: That is correct Chair but to put it into context when those individuals were removed they weren't put into
20 in – if you talk about levels they were put into, in their minds, and I agree with them into a lower level, in other words a responsibility that they had was basically taken away from them and they were placed in a position where there is actually no responsibility, also no access to documentation in other words they would not be able to assist me in any event, that is the second part of what was achieved through that.

CHAIRPERSON: So he is, part of what you are saying that those people who were transferred who had been assisting you were victimised?

MR KOBUS DEMEYER ROELOFSE: That is correct Chair.

CHAIRPERSON: But apart from being victimised you say once they had been moved from the positions where they had been helping you, they could no longer help you?

MR KOBUS DEMEYER ROELOFSE: That is correct Chair.

CHAIRPERSON: Because in order to help you they needed to have
10 been in the same positions where they were?

MR KOBUS DEMEYER ROELOFSE: Correct Chair, they need to have access to the relevant information and documentation.

CHAIRPERSON: Were other people then put in the positions from which they had been removed or is that something that you don't know?

MR KOBUS DEMEYER ROELOFSE: Chair I would assume so, I don't know.

CHAIRPERSON: Okay, alright.

ADV VERUSCHKA SEPTEMBER: Mr Roelofse would an example of exactly what you are referring to be when Colonel Nelson was
20 appointed to replace General Hankel?

MR KOBUS DEMEYER ROELOFSE: That is correct Chair.

ADV VERUSCHKA SEPTEMBER: Can you please take the Chair through what happened in this instance?

MR KOBUS DEMEYER ROELOFSE: Chair, after the removal of General Hankel, there was a Colonel Nelson appointed to assist me

with the – from Crime Intelligence side with the investigation. Nothing came from that situation because he was never in a position to assist me, he was never allowed to assist me. After the reinstatement of General Mdluli I contacted Colonel Nelson, it was on the 4th of May 2012 to get access to documentation which I needed in the criminal investigation. I also informed him at the time that discuss my request with General Mdluli as the head of Crime Intelligence at the time. I informed him that – I informed General Colonel Nelson that if General Mdluli refused the information, General Mdluli must indicate the reasons for refusal in writing. On the 6th of May General Nelson informed me that General Mdluli wanted a letter from me, confirming I was continuing with the investigation. I referred his request to General Dramat and the decision was taken not to respond to the request from General Mdluli and again I found myself in the position where I have to request documentation from a suspect in a specific matter. On the 7th of May General Mdluli addressed a letter to General Mkhwanazi who was till the acting National Commissioner at the time and General Dramat under the heading, soliciting of information from Crime Intelligence, Colonel Roelofse in which he accuses me of unethical conduct, unethical and unfounded behaviour and bad intentions. The document attached is Annexure 23 and on that same day Nelson was transferred to another division in which he has no experience within CI.

ADV VERUSCHKA SEPTEMBER: Can I ask you Mr Roelofse to turn to page 267 please, is that the letter that you refer to?

MR KOBUS DEMEYER ROELOFSE: That is correct Chair.

ADV VERUSCHKA SEPTEMBER: Can you please inform what the gist of the letter is and that paragraph which really talks to it?

MR KOBUS DEMEYER ROELOFSE: Chair basically the – it's a very short letter and the whole letter talks to what had happened there. So I would start with paragraph two,

10 "It is reported that he, and that is now referring to me, approached the previously appointed liaison to obtain further classified information from divisions record explicitly stating that the case is re-opened. This unethical and unfounded
behaviour is indicative of the bad intentions associated with the member concerned. I think it's common knowledge that the relevant bodies, namely the Inspector General of Intelligence and the Auditor General have been tasked with the investigation surrounding the issues of Crime Intelligence. Therefore, the behaviour of the member is sufficient proof of his devious intentions. We are all aware of the leakage of classified information to the media and this type of behaviour has a compounding effect to the current situation. It would be much appreciated if you could kindly inform the persons
20 involved to refrain from this unprofessional and intimidating tactics being displaced. To this end I have instructed all personnel within Crime Intelligence not to provide any information so solicited and that any such attempts be immediately reported".

CHAIRPERSON: But it would be correct, would it not be that to the

extent that he was talking about classified information there would be nothing wrong in him saying to the National Commissioner, please talk to Mr Roelofse or everyone concerned to say they mustn't approach people and ask them to give them classified information because as I understand it, that could be interpreted to mean he was saying, if you want classified information follow the procedure that must be followed to get it declassified and then you can get the information but don't get people to act in breach of their classification instruments or laws?

MR KOBUS DEMEYER ROELOFSE: Chair it could be interpreted like
10 that but unfortunately in this specific instance this is exactly why Colonel Nelson was appointed for that procedure to take place. I followed the procedure and that is his response on the procedure that I wanted to follow.

CHAIRPERSON: So this is where you come in with the complaint that he was frustrating the investigation?

MR KOBUS DEMEYER ROELOFSE: That is correct Chair.

CHAIRPERSON: Yes okay.

ADV VERUSCHKA SEPTEMBER: And specific to the first sentence in paragraph four where he says,

20 "I think that it is common knowledge that the relevant bodies, namely the Inspector General of Intelligence and the Auditor General have been tasked with the investigations surrounding the issue of Crime Intelligence".

In fairness to this letter, bearing in mind that this letter is in fact dated the 7th of May 2012, it would be correct that the mandate of

the IGI was clarified on the 19th of March 2012 which preceded the date of this letter?

MR KOBUS DEMEYER ROELOFSE: Correct Chair.

ADV VERUSCHKA SEPTEMBER: Whereas the letter from the Auditor General of South Africa, which is dated the 25th of July 2012 succeeds this letter?

MR KOBUS DEMEYER ROELOFSE: That is correct Chair.

CHAIRPERSON: Is there anything – he says in that first sentence of paragraph four of his letter which seems to be the same
10 thing[indistinct] whether he has said or where he has said either before or after.

MR KOBUS DEMEYER ROELOFSE: Sorry Chair I missed the first part.

CHAIRPERSON: If you read that first sentence in paragraph four of his letter about the Auditor General and the Inspector General, is here anything he says in that first sentence that seems to be the same as what – I don't know where he said either before or after in trying to justify his decision to withdraw the charges?

MR KOBUS DEMEYER ROELOFSE: Chair the reasons used in
20 paragraph four is exactly the same reason that was advanced by Advocate Magwebe, in fact, or the Inspector General has already clarified but Advocate Magwebe at this point in time has not conceded yet to the fact that either the IGI nor the Auditor General had not conceded that it's their responsibility. So he would follow that he would then say this if he has been either in contact or he knows what the

decision is of Advocate Magwebe.

CHAIRPERSON: Yes that was what I was wondering, why there was – they may have been saying the same thing.

MR KOBUS DEMEYER ROELOFSE: Chair if I can revert you back to the representations that was made right in the beginning there were contract between Advocate Magwebe and General Mdluli right from the start, that is not – I strongly believe that.

CHAIRPERSON: Now you mean at the time when both of the knew that he was a suspect and there was an investigation going on?

10 **MR KOBUS DEMEYER ROELOFSE:** That is correct Chair otherwise he would not have known all the information that he states in paragraph four.

CHAIRPERSON: And that should not have happened, should it – should it have happened?

MR KOBUS DEMEYER ROELOFSE: No Chair it should not have happened.

CHAIRPERSON: Yes if a suspect, is the position that if a suspect wants to make representations to the NPA for the withdrawal of charges then they make those representations in writing and you would get a
20 copy so that you can counter if you want to counter or is that something you're not familiar with?

MR KOBUS DEMEYER ROELOFSE: Chair in the cases that I've worked and the Prosecutors I've worked with that is the way it was dealt with, if there was a representation.

CHAIRPERSON: There is transparency normally?

MR KOBUS DEMEYER ROELOFSE: There is transparency, it's not for me to say what needs to be done but it's for me to ask my opinion in terms of – and he can either accept my opinion or he doesn't have to accept it. So that is normally what happens in the cases that I am involved in. In this matter we haven't – I've seen the document relating to the representation, I only saw afterwards so I wasn't privy to them at the time and we were not requested to give an input.

CHAIRPERSON: Yes, okay thank you.

ADV VERUSCHKA SEPTEMBER: Mr Roelofse your evidence now
10 turns to further experiences that you've had of non-cooperation with police management, we're on page 51 of your affidavit.

MR KOBUS DEMEYER ROELOFSE: That's correct Chair.

ADV VERUSCHKA SEPTEMBER: Since when have you been unable to obtain documents from Crime Intelligence?

MR KOBUS DEMEYER ROELOFSE: Chair I have not been able to retrieve any documentation since 19 March 2012 after the finding of the IGI and I believe this is a direct result of General Mdluli's actions. You will recall that I testified that there was a period that we did not continue with investigations while it was in the hands of the IGI to
20 make a decision. So after this date, the 19th, we have not received any cooperation from Crime Intelligence in respect of documentation that was requested from them.

CHAIRPERSON: Isn't the position that he either resigned or retired a few months ago or something?

MR KOBUS DEMEYER ROELOFSE: Chair if I'm not mistaken he has

retired, it was last year, he was on suspension after his re-suspension in, I think June 2012 so he was on suspension for six years.

CHAIRPERSON: After he had retired did you make any attempt to get documents that you couldn't get while he was there?

MR KOBUS DEMEYER ROELOFSE: Chair I made various attempts but not necessarily regarding new documents I made various attempts to get documents declassified. At the time I gave up in getting additional documentation from Crime Intelligence I just wanted the ones that I do have to be declassified.

10 **CHAIRPERSON:** I'm wondering whether his absence now will make any difference in terms of you getting cooperation to have documents declassified, whether that has been tested or not?

MR KOBUS DEMEYER ROELOFSE: Chair it didn't make any difference.

CHAIRPERSON: It did not make any difference?

MR KOBUS DEMEYER ROELOFSE: No Chair.

CHAIRPERSON: So the problem as you see it was more than him?

MR KOBUS DEMEYER ROELOFSE: That is correct Chair.

CHAIRPERSON: Yes, okay.

20 **ADV VERUSCHKA SEPTEMBER:** Who did you approach – rather, firstly it is correct that on the 28th of May 2012 General Mdluli was re-suspended after submitting representations as to why he should not be suspended?

MR KOBUS DEMEYER ROELOFSE: That is correct Chair.

ADV VERUSCHKA SEPTEMBER: And who did you approach during

July of 2012 for assistance within the police to obtain documents that you needed?

MR KOBUS DEMEYER ROELOFSE: Chair the acting Divisional Commissioner of Crime Intelligence was Major General Chris Ngcobo and on the 5th of July I tried to – I tried to reschedule the meeting that I arranged for the 4th of July 2012 and it was cancelled without providing the reasons. I sent a follow up written request on the 10th of July 2012 calling for a meeting after trying several times to secure a meeting through his staff.

10 **ADV VERUSCHKA SEPTEMBER:** So was it that at least as early as the 5th of July 2012 that you had approached Major General Ngcobo for assistance?

MR KOBUS DEMEYER ROELOFSE: Chair I probably approached him just before the 4th of July because the meeting was set down for the 4th which was cancelled.

ADV VERUSCHKA SEPTEMBER: What happened towards the end of July that same year, 2012?

MR KOBUS DEMEYER ROELOFSE: Chair I was provided with an email, media enquiry, dated 11th July sent by Sam Sole a reporter from
20 the Mail & Guardian which was addressed to Mrs Swele Mnisi, the spokesperson of the Minister of police at the time and Major General Nonkululeka Bata who was the head of communications at SAPS. The enquiry indicated to me that the SAPS management was aware of the allegations and I'm talking management now in the broader sense against members of CI. They were also aware that I and 12 others are

accused of placing the entire police service at risk to date. I have not been approached by anyone to verify the allegations made in the email.

ADV VERUSCHKA SEPTEMBER: Can I then ask you to turn to page 270, is the media query on email that you referred to?

MR KOBUS DEMEYER ROELOFSE: That is correct Chair.

ADV VERUSCHKA SEPTEMBER: And what is the purpose of highlighting this particular email to the Commission in the context of your evidence?

MR KOBUS DEMEYER ROELOFSE: Chair I do not know where Mr
10 Sam Sole received his information from but there were certain allegations made against myself as well as other people that was involved in the investigation, he must have received it from somewhere and the allegations that were made, and I would like to just point out a few of them,

“Senior police managers are being targeted through various means including unhappy offices, media as well as the NGO’s”,

He based his document or his questions on the document titled, extensive intelligence report, security threat to the State. It’s not dated but appears to have been drafted June 2012. I do not have
20 access to that specific report, I didn’t see the report and according to Mr Sam Sole is our understanding is that the document was used for the verbal briefing to the Minister and possibly the IGI. They state further that,

“Nkhwanazi and Hankel want to intensify the campaign about the alleged love relationship between the Minister and the KZN

Provincial Commissioner. Nkhwanazi and Hankel are also investigating the purchase of a new vehicle driven by Buthelezi who was alleged to have a romantic relationship with the Minister.

ADV VERUSCHKA SEPTEMBER: For the record that is Philisiwe Buthelezi, is that right?

MR KOBUS DEMEYER ROELOFSE: That is correct Chair.

CHAIRPERSON: You must just spell some of these names so that the transcriber will know what to write otherwise when you read the record it just says something very strange.

10 **ADV VERUSCHKA SEPTEMBER:** As it pleases Philisiwe Buthelezi (name spelt). Please proceed Mr Roelofse.

MR KOBUS DEMEYER ROELOFSE: And then instructions were given to investigate General Ngcobo of VI Protection and General Dlala of the Presidential Protection Unit to give general Nkhwanazi and General Masimole control over those units, both men are being surveilled including by means of General Hankel's grabber. Other specific tasks in this regard were given to General Mathiba, Brigadier Mamosella and Brigadier Odendal and then it also reports to two meetings held by General Nkhwanazi with Crime Intelligence Management. Chair I want
20 to – there's quite a few allegations here but I want to go to point number 20.

CHAIRPERSON: Point number 20?

MR KOBUS DEMEYER ROELOFSE: Point number 20.

CHAIRPERSON: Yes.

MR KOBUS DEMEYER ROELOFSE: The document states that,

“13 people have been identified as involved in placing the entire police service at risk and then it states the following names, it’s Nkhwanazi, General Lebeya, General Dramat, General Masemolo, General Mathiba, General Hankel, General Sibeya, Brigadier Madonsella, Brigadier Odendal, Brigadier Khumalo, Colonel Roelofse, Lieutenant Colonel Viljoen and Warrant Office Maclean”.

And then also I’ve been accused, the document accuses Colonel Roelofse of leaking documents to organisations outside the police and then in paragraph 23,

10 “The document alleges that Gerrie Nel is receiving State documents from the abovementioned members and supplying them to Adrian Basson of City Press”,

Chair these are very serious allegations that were made by Mr Sam Sole, this was never investigated, I was never approached in respect of these allegations, I do not know what the police’s response was on these allegations, if this – if there was any basis for these allegations I assume it would have been investigated and consequences would have followed. So from where I stand in terms of my experience that I had with Crime Intelligence and the way things
20 were done, the document was drafted in order to implicate individuals to put pressure on those individuals for them to – they want to make sure that those individuals cannot continue with their – with whatever they need to do because the individuals mentioned here that is part of this [indistinct] are all people initially involved with the investigation in terms of the Crime Intelligence Secret Services Account.

ADV VERUSCHKA SEPTEMBER: Is it then correct that this document at least as far as the recipients are concerned marks a date of awareness of allegations within the context of the Crime Intelligence Division?

MR KOBUS DEMEYER ROELOFSE: At the very least Chair.

ADV VERUSCHKA SEPTEMBER: On the 14th of May 2013 you received a request to compile a report from the office of General Dramat, we are back on page 52 of your affidavit.

MR KOBUS DEMEYER ROELOFSE: That's correct Chair I was – I
10 received an email from General Dramat's office asking assistance to compile a report as requested in the [indistinct] email authored by General Nkhwanazi on 14 May 2013. At this point in time General Nkhwanazi was not the acting National Commissioner, the then National Commissioner General Riah Phiyega required the compilation of a consolidated report in respect of the various topics addressed in the email. I state further that it is clear to me that SAPS senior management had knowledge of, and the clear understanding of the seriousness of various allegations including the murder investigation, irregular appointment within Crime Intelligence and allegations against
20 senior officials from Crime Intelligence. A copy of the email trail is attached as Annexure KDI25. I did not – I did respond this request, I do not know if General Dramat submitted the report, I have not seen the report General Nkhwanazi had to compile.

ADV VERUSCHKA SEPTEMBER: Before we turn to this particular Annexure it would be a fair statement to say that the SAPS senior

management that you refer to who found knowledge in this communication are those who are then reflected in the email itself?

MR KOBUS DEMEYER ROELOFSE: That is correct Chair.

ADV VERUSCHKA SEPTEMBER: Can I ask you to turn to page 273 please, because it is a trailing email the first email or rather the main email appears at the bottom of page 273 sent from Lieutenant General Nkhwanazi on the 14th of May 2013.

CHAIRPERSON: It looks like I went to a wrong page. I went to 373 – you said 273?

10 **ADV VERUSCHKA SEPTEMBER:** 273 Chair.

CHAIRPERSON: Hm. Yes.

ADV VERUSCHKA SEPTEMBER: The main email is as a trailing email – as part of this trailing email appears at the bottom of this page which is sent by Lieutenant General N S Mkhwanazi spelt M-k-h-w-a-n-a-z-i and it is sent on the 14th May 2013 at 12.30 pm – sorry – and it is sent to Lieutenant General Lebeya the DPCI head Mazibuko Nkrumah if I am correct – pronouncing that correctly, Lieutenant General Molefe Julius, Lieutenant General D N C Operational Services, Mazimola S F Lieutenant General and the subject title is Investigation at the Division
20 Crime Intelligence.

MR KOBUS DEMEYER ROELOFSE: That is correct Chair.

ADV VERUSCHKA SEPTEMBER: And it is addressed to all of these generals?

MR KOBUS DEMEYER ROELOFSE: That is correct Chair.

ADV VERUSCHKA SEPTEMBER: It is quite a long email but what is

the essence of this email that is sent to the generals?

MR KOBUS DEMEYER ROELOFSE: Chair I will just – in short just I will not be able to summarise it but I will take bullet points from the – from the email itself in terms of what the report needs to cover.

It needs to cover background information regarding Lieutenant General Mdluli's murder and corruption cases.

Information on other corruption cases i.e or e.g the case against Major General Lazarus.

Background information about the appointment of investigation –
10 investigators for all criminal investigations.

Background information against the registration of each disciplinary case or departmental enquiry.

Background information regarding the alleged illegal appointments that were made at CI which were mentioned in the news.

Background information which necessitated the appointment of the commission by the Minister which involved Lieutenant Dramat and Lieutenant General Lebeya, Lieutenant General Petros and anything relevant to shed some light on the CI cases.

ADV VERUSCHKA SEPTEMBER: And if I could just interrupt you
20 there. It is quite a comprehensive email. But the information that you referred to now includes then matters happening within Crime Intelligence, is that right?

MR KOBUS DEMEYER ROELOFSE: That is correct Chair.

ADV VERUSCHKA SEPTEMBER: The rest of the email by and large addresses specific requests.

MR KOBUS DEMEYER ROELOFSE: That is correct Chair.

ADV VERUSCHKA SEPTEMBER: To individual generals/

MR KOBUS DEMEYER ROELOFSE: That is correct Chair.

ADV VERUSCHKA SEPTEMBER: The first general being Lieutenant General Lebeya.

MR KOBUS DEMEYER ROELOFSE: That is correct Chair.

ADV VERUSCHKA SEPTEMBER: The next general being Lieutenant General Dramat.

MR KOBUS DEMEYER ROELOFSE: That is correct Chair.

10 **ADV VERUSCHKA SEPTEMBER:** Followed by Lieutenant General Mazibuko, Lieutenant General Molefe and Lieutenant General Masimola.

MR KOBUS DEMEYER ROELOFSE: That is correct Chair.

ADV VERUSCHKA SEPTEMBER: And this particular – if you go back to 2 – page 273 this email is an email that was sent to you by Lieutenant General Dramat, is that right?

MR KOBUS DEMEYER ROELOFSE: That is correct Chair.

ADV VERUSCHKA SEPTEMBER: And you were called upon to assist in the compilation of this report?

20 **MR KOBUS DEMEYER ROELOFSE:** That is correct Chair.

ADV VERUSCHKA SEPTEMBER: And it is then to be understood that your assistance was relative to your involvement as an investigator in these – in some if not most of these matters.

MR KOBUS DEMEYER ROELOFSE: That is correct Chair.

ADV VERUSCHKA SEPTEMBER: And accordingly just as with the

previous communication is it to be accepted that at least at the date of this email which is the 14th May 2013 these generals became aware of allegations within Crime Intelligence

MR KOBUS DEMEYER ROELOFSE: That is correct Chair.

ADV VERUSCHKA SEPTEMBER: We back on page 52. Is it correct that you continued communications with the Auditor General's office?

MR KOBUS DEMEYER ROELOFSE: That is correct Chair I did continue. I kept in contact with Ms Miller from the office of the Auditor General and on the 2nd February 2015 I was provided with the SSA
10 audit reports for the financial years 2004 to 2012 as part of the CI criminal investigation. In paragraph 1.6 – 176.1 the SAPS CI management responses to the audit queries raised by the Auditor General in 2012 are that they stated that they cannot comment as the matters are being investigated by the DPCI and as such sub-judice. The responses are in my view are disingenuous as management knew that an investigation into the transactions in question could not continue due to the lack of the cooperation that – that we faced and from the very management – and from the very management hiding behind the DPCI investigation. A copy of that report 2012 is attached
20 as KDR26.

ADV VERUSCHKA SEPTEMBER: Chair a copy of this report which has been declassified appears at page 277. I need to alert Chair to the fact that there are certain aspects in this report which have been redacted because it does not specifically relate to the evidence of this witness. And that the purpose of this evidence is really to talk to the knowledge

of the – of this particular report. We now turn to your efforts to declassify documents. Through your investigations did you establish any pattern of interference?

MR KOBUS DEMEYER ROELOFSE: That is correct Chair.

ADV VERUSCHKA SEPTEMBER: And how would you describe that pattern?

MR KOBUS DEMEYER ROELOFSE: Chair from my experience in this specific investigation I am talking about the criminal – this Crime Intelligence investigation there has been a pattern of interference by
10 General Mdluli and Advocate Mrwebi. The allegations of criminal – of alleged criminality within Crime Intelligence that have been investigated thus far do not include information regarding any project detail which could jeopardise said projects. It deals mainly with the fraudulent procurement of assets via the SSA and the appointment of family and – or family members as agents without them having the required skills to be appointed in the first place. This investigation is limited to a few individuals who form part of the procurement process and the management within Crime Intelligence. On numerous occasions – numerous occasions I have asked General Dramat to
20 secure the CI management – to secure CI managements cooperation first in – firstly making CI members available to assist with the investigation and secondly to ensure that declassification of the required documents.

ADV VERUSCHKA SEPTEMBER: If you can pause there then. There were two types of cooperation that you required.

1. Was the cooperation that you required from Crime Intelligence members to assist you in the investigation and
2. It was actual documents that you needed for purposes of the – the investigation as well.

MR KOBUS DEMEYER ROELOFSE: That is – that is true Chair.

ADV VERUSCHKA SEPTEMBER: And such documents is to tell to the evidence you presented yesterday was not only documents that you were provided by General Hankel but also documents that you had requested from the police in a declassified format.

- 10 **MR KOBUS DEMEYER ROELOFSE:** Ja it is also documents that I also requested from Crime Intelligence in a declassified format. In other words documents that I identified that is needed in respect of the other allegations which I was also investigating and – and I asked for them in the declassified fashion.

ADV VERUSCHKA SEPTEMBER: So when you asked General Dramat to assist you let us go through the efforts that you made in trying to declassify these documents. When you asked General Dramat to assist you what happened on the 7th March 2013?

- MR KOBUS DEMEYER ROELOFSE:** Chair on the 7th March of 2013
- 20 General Dramat forwarded a request for assistance to the previous acting – previous acting divisional commissioner of Crime Intelligence General Ngcobo. Even though this request did not deal with the declassification of classified documents it requested the assistance of members. In support I attach a copy of General Dramat's letter as Annexure KDR27.

ADV VERUSCHKA SEPTEMBER: Can I ask you to turn to page 325 please?

CHAIRPERSON: What page?

ADV VERUSCHKA SEPTEMBER: 325 Chair. Is that the letter that you refer to?

MR KOBUS DEMEYER ROELOFSE: That is correct Chair.

ADV VERUSCHKA SEPTEMBER: And is it correct that in this paragraph 2 of this letter you inform – it is recorded that:

10 “We are making a request for the granting of
 permission to interview members within the Crime
 Intelligence division with the view of obtaining
 affidavits from them.”

MR KOBUS DEMEYER ROELOFSE: That is correct Chair.

ADV VERUSCHKA SEPTEMBER: What subsequently happened?

MR KOBUS DEMEYER ROELOFSE: Nothing Chair.

CHAIRPERSON: Was there no response to the letter?

20 **MR KOBUS DEMEYER ROELOFSE:** Chair there might have been a
 response – I am sure there is response – I think it is just a little bit
 further but General Ngcobo did respond to the letter where he sets out
 what his problems are.

ADV VERUSCHKA SEPTEMBER: But before that happened there was an additional letter also sent in March 2013. If you can go back to page 53 of your affidavit.

MR KOBUS DEMEYER ROELOFSE: That is correct Chair.

ADV VERUSCHKA SEPTEMBER: Who prepared the letter that was

sent out in March – also in March of 2013? Mr Roelofse?

MR KOBUS DEMEYER ROELOFSE: Chair I am looking at the document it was prepared by General Dramat.

ADV VERUSCHKA SEPTEMBER: Is that the document then that appears at page 328 of your bundle?

MR KOBUS DEMEYER ROELOFSE: Chair yes but I am actually referring to the previous – the previous letter which is the request for assistance. The second letter would be the – a setting out of the documents that I needed for declassification purposes.

10 **ADV VERUSCHKA SEPTEMBER:** I am not following you Mr Roelofse. You sent a letter or rather a letter was sent on the 7th March 2013 through the office of General Dramat which is the letter that you referred to earlier at page 325, is that right?

MR KOBUS DEMEYER ROELOFSE: That is correct.

ADV VERUSCHKA SEPTEMBER: And that particular letter requested the assistance of CI members?

MR KOBUS DEMEYER ROELOFSE: That is correct Chair.

ADV VERUSCHKA SEPTEMBER: Yes.

MR KOBUS DEMEYER ROELOFSE: But if I go to paragraph 178.2 I –
20 in my March 2013 I prepared –

“I prepared a draft letter to Brigadier Moodley the then acting National Head of the Anti-Corruption which would be my – which would be my direct boss or my direct head in terms of which office I worked regarding the declassification of classified

documents. I cannot recall the exact date of the letter which I am informed as – of the letter which I am informed was sent by General – Brigadier Moodley to General Dramat. A copy of my draft letter is attached as KRD28 which I now refer to”

ADV VERUSCHKA SEPTEMBER: And so if we go to page 328.

CHAIRPERSON: What page?

ADV VERUSCHKA SEPTEMBER: 328. Is this the letter that you prepared Mr Roelofse?

10 **MR KOBUS DEMEYER ROELOFSE:** That is the letter that I prepared, that is correct Chair.

ADV VERUSCHKA SEPTEMBER: And this was the letter that you prepared for your senior Brigadier Moodley?

MR KOBUS DEMEYER ROELOFSE: That is correct Chair.

ADV VERUSCHKA SEPTEMBER: And it is the same letter that was sent onto the office of General Dramat as you were informed?

MR KOBUS DEMEYER ROELOFSE: That is correct Chair.

ADV VERUSCHKA SEPTEMBER: And paragraph 3 of this letter reads:

20 “It is requested that the National Commissioner declassify the following documents listed below in order to facilitate the use of these documents in open court in the matter of State versus R N Mdluli and H J Barnard in respect of the – in respect of Silverton case 155/07/2011.”

Paragraph 4.

“The documents in question were allegedly created to facilitate the committing of an offence/offences and presented facts to internal auditors and the Auditor General which were not entirely accurate. Had they knew the true nature of the expenditure they would have been able to identify the offences.”

If one turns the page paragraph 6 informs:

10 “That the authors cannot be approached since some are implicated in this matter. And as far as could be established the authority to classify or declassify documents has not been delegated to another official below the National Commissioner.”

And it ends off at paragraph 8 which informs that:

“It is also recommended that these documents be declassified in light thereof that the accused who were employees of Crime Intelligence do not use the grounds of classified information as a line of defence in open court.”

MR KOBUS DEMEYER ROELOFSE: That is correct Chair.

20 **ADV VERUSCHKA SEPTEMBER:** As we will dis- as your evidence unfolds was the declassification of documents or rather the absence of declassification used as a line of defence in courts?

MR KOBUS DEMEYER ROELOFSE: That is correct Chair.

ADV VERUSCHKA SEPTEMBER: Chair I know...

CHAIRPERSON: Tell me the National Commissioner of Police would he

not have the final authority within CPS to override anybody's decision relating to a refusal to declassify documents including documents held by Crime Intelligence?

MR KOBUS DEMEYER ROELOFSE: Chair he has that authority. In fact the authority lies with him.

CHAIRPERSON: The authority lies with him?

MR KOBUS DEMEYER ROELOFSE: That is correct Chair.

CHAIRPERSON: So must I understand your evidence when you say you have received no cooperation with regard to the declassification of
10 certain documents to include that even he has not cooperated?

MR KOBUS DEMEYER ROELOFSE: That is correct Chair. In this regard I think it was she.

CHAIRPERSON: Oh at that time it was she?

MR KOBUS DEMEYER ROELOFSE: Yes that is correct Chair.

CHAIRPERSON: Yes that is – General Phiyega.

MR KOBUS DEMEYER ROELOFSE: As far as I can remember Chair I might be wrong with the date.

CHAIRPERSON: Yes.

MR KOBUS DEMEYER ROELOFSE: But as far as I can remember yes.

20 **CHAIRPERSON:** Yes. But with regard to the current National Commissioner have attempts been made and have they been successful to get him to override any previous refusal to declassify information – documents?

MR KOBUS DEMEYER ROELOFSE: Chair attempts have been made no declassification has taken place.

CHAIRPERSON: Has taken place. Yes. Has there been responses to correspondence in this regard or there simply has been no response to requests resent there?

MR KOBUS DEMEYER ROELOFSE: It is just no response Chair.

CHAIRPERSON: No response?

MR KOBUS DEMEYER ROELOFSE: No response.

CHAIRPERSON: Okay thank you.

ADV VERUSCHKA SEPTEMBER: Chair I note the time.

CHAIRPERSON: Yes.

- 10 **ADV VERUSCHKA SEPTEMBER:** And ask if it is a convenient time to have a long adjournment?

CHAIRPERSON: Ja. We are going to adjourn. How is it looking in terms of our time? In terms of finishing – there is still a supplementary affidavit to be dealt with as well or not?

ADV VERUSCHKA SEPTEMBER: No Chair.

CHAIRPERSON: It is just this one?

ADV VERUSCHKA SEPTEMBER: We currently on page 53 of a 72 page affidavit.

CHAIRPERSON: So we left with about 17 pages – or about 20 pages.

- 20 **ADV VERUSCHKA SEPTEMBER:** Yes Chair.

CHAIRPERSON: Okay do you...

ADV VERUSCHKA SEPTEMBER: 19.

CHAIRPERSON: Do you have an idea how long since we started we might be taking to do 20 pages?

ADV VERUSCHKA SEPTEMBER: It is hard to estimate at this stage.

CHAIRPERSON: Ja. Depends on the questions.

ADV VERUSCHKA SEPTEMBER: Yes Chair.

CHAIRPERSON: Ja. Okay no I just thought you might be able to say whether you think we might be able to finish by four o'clock or not but it is okay we will come back and we will continue and see how far we go.

ADV VERUSCHKA SEPTEMBER: We would really appreciate to finish with this witness today bearing in the schedule tomorrow.

CHAIRPERSON: Ja let us do what we can and we will see what we can – what is possibly at four as you may have gathered I am not too well

10 so we will see how – how things go.

ADV VERUSCHKA SEPTEMBER: As it pleases Chair.

CHAIRPERSON: We will take the lunch adjournment and we will resume at five past two. We adjourn.

INQUIRY ADJOURNS

INQUIRY RESUMES

CHAIRPERSON: Okay. Let us proceed.

ADV VERUSCHKA SEPTEMBER: Through you Chair would you like me to address you on the queries you raised earlier on the judgments or should I do so later?

20 **CHAIRPERSON:** You can do it now or later. Which one suits you?

ADV VERUSCHKA SEPTEMBER: We could address it now.

CHAIRPERSON: That is fine.

ADV VERUSCHKA SEPTEMBER: Chair I must admit that this may not be an exhaustive list of all the findings but I did what I could in the adjournment to identify the findings within the High Court judgment as

with the SCA to the extent that this particular witness can talk to it - talk to it.

CHAIRPERSON: It will not help if there may be a chance there are others that you might discover later are important. So the idea is that we should be able to see where the gaps are where the witness can come in.

ADV VERUSCHKA SEPTEMBER: Chair there are certain plea findings and certain points that I have been able to highlight which has been relevant to the evidence that has been led so far certainly so.

10 **CHAIRPERSON:** Yes. *Ja* that - that is - that is all that we need namely findings in the judgment that are relevant to what we are looking at ...

ADV VERUSCHKA SEPTEMBER: Yes.

CHAIRPERSON: And then so that he can give some context if there is a need for context or fill in gaps that ...

ADV VERUSCHKA SEPTEMBER: Indeed Chair.

CHAIRPERSON: The litigation might not have dealt with.

ADV VERUSCHKA SEPTEMBER: What we - what I ...

MR KOBUS DEMEYER ROELOFSE:

20 **CHAIRPERSON:** So in other words the difficulty would be if you have not had time to go through the whole judgment and you might discover later that there are other findings that are relevant and he is gone by then and then we might need him later. So that is - that is the idea but if you are satisfied that the findings that you have identified are all those that are relevant for purposes of what we are looking at. It is fine.

ADV VERUSCHKA SEPTEMBER: Certainly Chair. As a way forward could I suggest subject to your direction of course.

CHAIRPERSON: Hm.

ADV VERUSCHKA SEPTEMBER: That we address such findings which have been identified as quite key as to the evidence ...

CHAIRPERSON: Hm.

ADV VERUSCHKA SEPTEMBER: To this particular witness' evidence ...

CHAIRPERSON: Hm.

- 10 **ADV VERUSCHKA SEPTEMBER:** And to the extent that I - that any additional findings are sought to which a response is sought from him if he could then provide us with an affidavit - a supplementary affidavit to that effect?

CHAIRPERSON: Ja. I think what we can do is do what you can and then later on let me know whether there are others that you had not picked up which you would have since picked up and then we will see whether the best thing would be for him to come back or to just provide an affidavit ...

ADV VERUSCHKA SEPTEMBER: As it pleases ...

- 20 **CHAIRPERSON:** But I think going forward and do share it with other members of the legal team. Whenever in regard to any witness there is a judgment that is there that is available - that is relevant. The best way is that there be an identification of findings or conclusions in the judgment that are relevant and those can be identified and read out without any reference really to the witness.

Except where there is a finding where the witness is asked to give context or where there are certain gaps namely matters that were not dealt with in the judgment which the witness can fill by way of evidence. So that we do not need to go through the witness with the whole judgment or findings that were made.

ADV VERUSCHKA SEPTEMBER: As it pleases Chair.

CHAIRPERSON: Okay.

ADV VERUSCHKA SEPTEMBER: Chair, Chair will recall that the High Court judgment which was handed down by Justice Murphy in **Freedom**
10 **Under Law vs the NDPP** on 23 September 2013 was a judgment that concerned the review application in relation to four decisions. The four decisions first - the first decision of those four is the decision taken by Advocate Mrwebi on 5 December 2011 to withdraw the fraud and corruption charges against General Mdluli.

The second decision was that of Advocate Chauke of the NDPP's Office on 1 February 2012 to withdraw the murder and related charges somewhat in the region of 17 charges against General Mdluli and the third decision or rather the third and fourth decisions were both taken by the Acting Commissioner at the time who was
20 General Mkhwanazi.

The first decision being taken on 29 February 2012 to withdraw the disciplinary proceedings against General Mdluli and the second decision of General Mkhwanazi was on the 27th or 28 March 2012 to reinstate General Mdluli as the Head of Crime Intelligence within SAPS.

CHAIRPERSON: To reinstate?

ADV VERUSCHKA SEPTEMBER: To reinstate ...

CHAIRPERSON: Okay.

ADV VERUSCHKA SEPTEMBER: General Mdluli as the Head of Crime Intelligence within SAPS. In addition to that there were additional orders that was sought but - and those particular orders were sought to direct the reinstitution of the criminal and disciplinary proceedings without any further delay.

10 Having said that those particular orders were overturned by the SCA and so will not necessarily be addressed and these orders were sought in addition to ancillary orders of costs and the like sought. Mr Roelofse you are aware of these judgments. Is that right?

MR KOBUS DEMEYER ROELOFSE: That is correct Chair.

ADV VERUSCHKA SEPTEMBER: And of those four decisions that I have alluded to which of those four decisions do you have personal experience about - personal experience of? Sorry.

MR KOBUS DEMEYER ROELOFSE: Chair, I ...

CHAIRPERSON: You mean which - which ones he has personal knowledge of?

20 **ADV VERUSCHKA SEPTEMBER:** Yes.

MR KOBUS DEMEYER ROELOFSE: Chair, I have personal knowledge regarding both the Vosloorus matter which is the Mdluli matter - murder matter as well as the Mdluli/Barnard matter which is the criminal - (clearing of throat) sorry - which is the criminal proceedings. I do not have any direct - I did not have any direct - direct knowledge regarding

the - the disciplinary matters. I was not involved in that.

ADV VERUSCHKA SEPTEMBER: And in that regard you are referring to the two decisions of General Mkhwanazi. The one being to withdraw the disciplinary proceedings. The other to reinstate General Mdluli.

MR KOBUS DEMEYER ROELOFSE: That is correct Chair.

ADV VERUSCHKA SEPTEMBER: Okay. Before we deal with the first decision and that is of Advocate - Advocate Mrwebi I would just like to alert Judge to one point and that was a concession that was made on the papers by General Mdluli.

10 **CHAIRPERSON:** Well before you do that I thought what you said you were going to do was to tell me what the findings were.

ADV VERUSCHKA SEPTEMBER: Okay.

CHAIRPERSON: Or did I misunderstand?

ADV VERUSCHKA SEPTEMBER: I think I may have misunderstood. Chair if I could - you could just bear with me then. One concession that I think is important to bring your attention to Chair is that at paragraph 67 of the judgment it is mentioned that:

20 “General - Advocate Mrwebi had provided an affidavit on the - the day before the matter was enrolled and as part of - of his supplementary affidavit he was prepared to share with the court the fact that the National Prosecuting Authority has been experience - has experienced challenges in relation to the declassification of documents.”

I bring that specifically to Judge’s attention in view of the

evidence relating to declassification. The findings then are such that the court found:

“Advocate Mrwebi took the decision to withdraw the charges against General Mdluli without the concurrence of Advocate Mzinyathi and decided to discontinue the prosecution. In the result the court found that the decision failed to be set aside irrespective of its categorisation as - as administrative or not. This decision was found to be legal for not complying with the duty to consult the DPP.”

The Supreme Court of Appeal in fact confirmed this in paragraphs 41 to 42 of the judgment where with your leave ...

CHAIRPERSON: I think it is much cleaner if you start with Judge Murphy’s judgment and say here are the findings or conclusions that I have identified as relevant one, two, three, four and then you go to the Supreme Court of Appeal judgment and say here are the findings or conclusions that I have identified as relevant one, two, three, four and then you can highlight where maybe the Supreme Court of Appeal did not agree with the High Court but it is clean - it is much cleaner that way.

ADV VERUSCHKA SEPTEMBER: Indeed Chair. The - the next finding then is at paragraph 70 of the judgment where the court found that:

“The fraud and corruption charges were formally and provisionally withdrawn in the Specialised

Commercial Crimes Court on 14 December 2011.

The court went so far as to say that Freedom Under Law submits that a provisional withdrawal which has endured for two years may be considered to be a permanent withdrawal. The characterisation of the withdrawal as provisional ...”

As I explain later.

“...would not normally deflect from any proven illegality or irrationality of the decision.”

- 10 **CHAIRPERSON:** Did it make - did it make findings or conclusion - reach any conclusions about Advocate Mrwebi’s basis for his decision?

ADV VERUSCHKA SEPTEMBER: Hm.

CHAIRPERSON: Remember he said in correspondence that the investigation had to be conducted by Inspector-General and he said somewhere that on the merits there was - there were no reasonable and probable - there was no reasonable and probable cause for prosecution.

- ADV VERUSCHKA SEPTEMBER:** Certainly Chair to the extent that I was able to establish during the lunch break the one point in relation to
20 the IGI is at paragraph 1-7-3 of the judgment which informed that:

“The purported referral to the IGI was equally misdirected. The IGI’s oversight role over the Intelligence and Counter Intelligence Services is restricted to monitoring the compliance of the constitution and other laws and to receive

complaints of misconduct. As mentioned by the IGI in a letter of 19 March 2012 to the Acting Commissioner the IGI's mandate does not extend to criminal investigations."

And so goes further to inform that:

"Mrwebi's decision to withdraw the fraud and corruption charges because he apparently believed them to fall within the exclusive purview of the IGI was accordingly based on a material error of law. Yet despite being aware of the IGI's views as appears from his reasons for - for decision dated 12 July 2012 he irrationally adhered to his position."

The - the court goes further to talk to the specific reasons which were advanced by Advocate Mrwebi when he decided to withdraw the charges and in so doing at paragraph 174 it informs that:

"His decision was thus evidently based on errors of law and fact. He took account of irrelevant considerations and ignored relevant considerations."

At paragraph 175 in the middle of the paragraph it informs that:

"The withdrawal of the charges he said was merely provisional to allow for further investigation to take place and this version was at odds with the contemporaneous reasons Mrwebi gave for his

decision and the evidence of Breytenbach and Mzinyathi in the disciplinary proceedings. Even if the charges were supposedly provincially withdrawn in court Mrwebi's pronouncements at the time evinced an unequivocal intention to stop proceedings all together. He considered the referral to the IGI ..."

CHAIRPERSON: Now that is - that is ...

ADV VERUSCHKA SEPTEMBER: (Intervenues).

10 **CHAIRPERSON:** That is an important one. Yes.

ADV VERUSCHKA SEPTEMBER: He - if I could start at the beginning of that sentence. It says ...

CHAIRPERSON: Yes, but I - I am not so interest on the reasons. I am just interested on the findings. The reasons one can read later. Just for purposes of seeing where the evidence of this witness will still be necessary.

ADV VERUSCHKA SEPTEMBER: As it pleases Chair. Apologies for the indulgence. Those were the extent of the - oh and just finally Chair at page - at paragraph 176 it was found that:

20 "The decision and instruction of Mrwebi to withdraw the fraud and corruption charges must be set aside. It was illegal, irrational based on irrelevant considerations and material errors of law and ultimately so unreasonable that no reasonable prosecutor could have taken it."

That was the extent of the findings that I could find in respect of that decision.

CHAIRPERSON: Okay. No that is fine.

ADV VERUSCHKA SEPTEMBER: Do you wish me to do the same in respect of the Vosloorus decision as well?

CHAIRPERSON: If there is something different that they found if you say they went along with the judgment of the High Court except in regard to A, B, C, D. That should be enough.

ADV VERUSCHKA SEPTEMBER: Chair in fact the SCA confirmed ...

10 **CHAIRPERSON:** Hm.

ADV VERUSCHKA SEPTEMBER: The basis and rational for the decisions - for - for the setting aside of the decision of Advocate Mrwebi but it did not specifically agree to setting aside the decision to withdraw the criminal charges but it did that off the back of an undertaking by the NDPP ...

CHAIRPERSON: Ja.

ADV VERUSCHKA SEPTEMBER: To reinstitute the proceedings.

CHAIRPERSON: Okay. No that is fine.

20 **ADV VERUSCHKA SEPTEMBER:** This particular witness has informed that he is not in a position to comment in relation to the disciplinary - the withdrawal of disciplinary proceedings ...

CHAIRPERSON: Yes.

ADV VERUSCHKA SEPTEMBER: Against Richard Mdluli. Unless there is anything further that you wish me to address you on this I would like to ask ...

CHAIRPERSON: No, no (intervenes).

ADV VERUSCHKA SEPTEMBER: This witness if ...

CHAIRPERSON: No, you can ask the witness. I just wanted you to appreciate that I do not think it is necessary to take the witness through the judgment. All that is important is that there is an identification of which findings or conclusions were made that are relevant and then the witness can fill in if there are gaps or give context. That is all.

ADV VERUSCHKA SEPTEMBER: As it pleases Chair.

10 **CHAIRPERSON:** So - so you - you can decide if there is anything you want to ask him in relation to the judgments or otherwise you can move on.

ADV VERUSCHKA SEPTEMBER: Specifically in relation to the Vosloorus case which is the decision by Advocate Chauke to withdraw those criminal charges. Is there anything that you wish to add to the context of the withdrawal of those charges against General Mdluli Mr Roelofse?

MR KOBUS DEMEYER ROELOFSE: Chair I was in - I was privy to the first charge sheet the indictment that was handed to the - the accused -
20 (clearing of throat) excuse me - before the matter was placed on the High Court roll. It was a substantive charge sheet relating to all the charges.

Therefore the decision at the time in the High Court to withdraw the matter was not something that I was - I was informed prior to that and I think that Advocate Van Zyl - Zaais Van Zyl who was - who

was the prosecutor in the matter he was only - he was only also informed of that - that decision.

I do not exactly know when but the second decision after the SCA judgment was sent back to the DPP's Office to - for them to decide which charges they are going to place back on the roll or which - to my knowledge and in terms of what Advocate Van Zyl told me the charge sheet contained exactly the same charges as the first charge sheet which included the murder charge as well as the attempt - attempted murder charge.

10 Ultimately the DPP - Advocate Chauke decided not to continue with the prosecution of the murder charge as well as the attempted murder charge. That is as far as I can take it in terms of what I know about those two prosecutions.

CHAIRPERSON: Is that after the SCA judgment when he decided not to continue?

MR KOBUS DEMEYER ROELOFSE: That is correct Chair. In terms of those two - the first two charges relating to murder and attempted murder ...

CHAIRPERSON: Yes.

20 **MR KOBUS DEMEYER ROELOFSE:** Although it was in the indictment or the charge sheet that Advocate Van Zyl prepared.

CHAIRPERSON: You said those were charges where you - which you had been involved in investigating?

MR KOBUS DEMEYER ROELOFSE: That is correct Chair. I was involved in - in the Vosloorus murder case investigation.

CHAIRPERSON: Yes, but did not Mr Chauke or somebody in his office consult you before they made the decision to - not to continue?

MR KOBUS DEMEYER ROELOFSE: Chair I was consulted by Advocate Van Zyl who drew up the charge sheet and the - the final charge sheet did include the murder and attempted murder charges but when it was sent to Advocate Chauke for his final decision. He withdrew the - he - he took the murder charge as well as the attempted murder charge from the charge sheet.

That is why they were only charged with the other charges
10 and not the murder and the attempted murder charge.

CHAIRPERSON: Did you ever ask anybody in that office why - why the other charges were not pursued in the charge sheet?

MR KOBUS DEMEYER ROELOFSE: From what I have been informed Chair the charges were not pursued as Advocate Chauke thought there was not enough evidence to continue with those charges.

CHAIRPERSON: But these were charges where the High Court had thought that there was enough evidence and had made an order that they - they should be pursued. Is it not? It is just the Supreme Court of Appeal for whatever reasons it might have given did not want to deal
20 with that.

MR KOBUS DEMEYER ROELOFSE: As far as I - as far as I know Chair the - the Supreme Court of Appeal did not want to be prescriptive - prescriptive in terms of the charges ...

CHAIRPERSON: Yes.

MR KOBUS DEMEYER ROELOFSE: That needs to be reinstituted.

That is why it was sent back but in terms of that when Advocate Van Zyl dealt with the charge sheet the second time round. He - the charge sheet read exactly the same because the facts were exactly the same and based on that that was given to Advocate Chauke and then a decision was made to with - to - to not include those two charges.

CHAIRPERSON: From your side as the investigator you - you were satisfied that there was enough evidence to cover (intervenes) those?

MR KOBUS DEMEYER ROELOFSE: Chair as the - as the investigator I was - I was satisfied because the whole - the incident took - it is a - it is a - it is various incidents that took place over a period of time. A
10 period of six months to a year. So they all followed into each other. So it is circumstantial evidence that follow into each other ...

CHAIRPERSON: Hm.

MR KOBUS DEMEYER ROELOFSE: And as I said the facts did not change from the first indictment to the second indictment and - and I am not talking about myself now. As - if Advocate Van Zyl was an SC in - in his own right ...

CHAIRPERSON: Hm.

MR KOBUS DEMEYER ROELOFSE: I think there is enough charges
20 after going through the - the criminal case docket. Then to me that is rather illuminating.

CHAIRPERSON: Ja. That is - I mean of course different people could have different views about whether there is enough evidence in particular case and the DPP has the - you know - the power to decide what charges to include or not to include but from what I have been

told it appears that the High Court had concluded that those charges should be pursued.

It is just that the Supreme Court of Appeal thought that as I understand it because of separation of powers it should not go that far and leave it to the - to the DPP. So if you have a situation where you say Advocate Van Zyl is - is senior counsel and so he thought there was enough and the High Court Judge thought there was enough and you thought there was enough and you thought it - there was enough as an investigator as well. That - that is the - the background. That is the
10 context.

MR KOBUS DEMEYER ROELOFSE: That is the context in terms of what I am saying ...

CHAIRPERSON: Yes.

MR KOBUS DEMEYER ROELOFSE: Chair.

CHAIRPERSON: Yes.

MR KOBUS DEMEYER ROELOFSE: I do agree it is the prerogative of the DPP ...

CHAIRPERSON: *Ja.*

MR KOBUS DEMEYER ROELOFSE: To make the decision as to what ...

20 **CHAIRPERSON:** Yes.

MR KOBUS DEMEYER ROELOFSE: Needs to be charged and so on, yes.

CHAIRPERSON: Yes. Yes, okay. Thank you.

ADV VERUSCHKA SEPTEMBER: And then one question there was the - the meeting that was had between Advocate Nomgcobo Jiba and - and

now I am taking you a little back now - but the meeting that was held between Advocate Nomgcobo Jiba and General Dramat at which the matters were “sufficiently resolved”.

Outside of the letter that you sent to Advocate Ferreira following your knowledge of that meeting which then called to get clarity on the way forward have you had sight of any letter, document or correspondence by Advocate Jiba on her position in relation to the withdrawal of charges against Advocate - against General Mdluli?

MR KOBUS DEMEYER ROELOFSE: Chair during this investigation I
10 have not seen any document signed by Advocate Jiba relating to the specific issues.

ADV VERUSCHKA SEPTEMBER: Okay. Thank you. We are now on page 53 of your affidavit where you are giving evidence to the Chair about your attempts to declassify documents that were important for your investigations and at the bottom of that page you were informed that on 12 March 2013 General Ngcobo wrote to General Dramat in response to a communication he received.

Can we take you to Annexure 29 and in part - which is found at page 3-3-6? You will recall that this was in response to a letter by
20 General Dramat requesting assistance from General Ngcobo in relation to the declassification of documents which was sent on 7 March 2013?

MR KOBUS DEMEYER ROELOFSE: That is correct Chair.

ADV VERUSCHKA SEPTEMBER: What is the essence of the response of General - Major General Ngcobo in this letter?

MR KOBUS DEMEYER ROELOFSE: Chair it - it relates to a letter

dated 7 March - of March 2013 by General Dramat and paragraph 2 states the following:

“Since the commencement of the investigation in this division by various task teams and the Directorate of Priority Crime Investigation. This division has experienced a number of leakages of classified information to the media which has resulted in the exposure of intelligence - intelligence assets and operational methodology of the - of the division. Therefore the office is currently consulting the Office of the National Commissioner on - on the request.”

ADV VERUSCHKA SEPTEMBER: Were you aware of any media leakages of classified information?

MR KOBUS DEMEYER ROELOFSE: Chair there were various documentation that were in the - in the media or within the media at the time. Although my - my team with we - with whom I worked we went - we underwent at least two/three polygraph tests in respect of these leakages and we passed all of those polygraph tests.

20 So that is - we - when I saw this I actually felt quite - I thought it was quite unfair because I saw this as - again as a tactic not to - not to declassify the documentation because the leakages did not come from us.

ADV VERUSCHKA SEPTEMBER: And what did you then do?

MR KOBUS DEMEYER ROELOFSE: Chair, I - I have to go back to my

statement to see.

ADV VERUSCHKA SEPTEMBER: In fact while you are there you might - might as well go to the next annexure which is Annexure KDR30. It starts on page 3-3-9.

MR KOBUS DEMEYER ROELOFSE: That is correct Chair. This is - this is now on the respond of the - on the response of the letter by General Ngcobo.

ADV VERUSCHKA SEPTEMBER: Who write - what is this document?

MR KOBUS DEMEYER ROELOFSE: Chair I am writing this document
10 to General - General Dramat in response to the letter of General Ngcobo indicating that he cannot assist and that he needs to consult the Office of the National Commissioner.

ADV VERUSCHKA SEPTEMBER: And this letter is dated the 22nd of March 2013, is that correct?

MR KOBUS DEMEYER ROELOFSE: That is correct Chair.

ADV VERUSCHKA SEPTEMBER: And if we look to, rather what are the important features that you've highlighted – that you can highlight from this document, it's quite a lengthy document?

MR KOBUS DEMEYER ROELOFSE: Chair I would like to share
20 paragraph three which states the following,

“Coupled with this request a further request was forwarded to the office of the National Commissioner to declassify certain documentation which is needed in the abovementioned criminal matters. Having perused the letter from acting Divisional Commissioner Crime Intelligence and Protection Services

Major Ngcobo I'm not certain exactly what he is alleging in respect of this investigation and then I go further in paragraph six, the documents received from Crime Intelligence are stored in an environment to which access is limited. The only other persons allowed access to the classified documents were members from the office of the Auditor General and the office of the Inspector General of Intelligence and then I also state the following, it is however, important to note that one must keep in mind that when dealing with a criminal matter certain information will become public knowledge due to the nature of our criminal justice system.

10

Once the matter is before Court it is in the public domain and the media have access. With this regard I was thinking I was referring specifically to the affidavits I have filed in obtaining certain seizure warrants. Those documents can be uplifted from a Magistrate by an individual if so required, it becomes a public document and what is contained in there is normally a factual background as to why you want access to that specific premises and then in paragraph ten I state, the problem with such vague allegations as stated by Major General Ngcobo's letter is that it could be used to conceal the fact that certain members of Crime Intelligence do not want to assist due to their own agendas.

20

Paragraph 13, I've stated on numerous occasions that we would like to conduct our investigation with the assistance of

Crime Intelligence, I've submitted several written requests for documents that I need in the criminal matter. I have yet to receive said documents, I have not made an issue out of this but it would seem that the cooperation that I seek to establish came to nothing. Chair then in paragraph 14, what is of further concern is that this specific issue, cooperation of witnesses within Crime Intelligence was given as one of the reasons as to why Advocate Magwebe stopped the investigation into Silverton CAS155/7/11 this was done after
10 consultation with Major General Lazarus at the beginning of 2012. It is important to note that the majority of members I require worked with him under the relevant period under investigation so they would become witnesses in the matter.

ADV VERUSCHKA SEPTEMBER: And at paragraph 16?

MR KOBUS DEMEYER ROELOFSE: Paragraph 16 says,

"I want to reiterate that we need the assistance of Crime Intelligence in this matter, I have always been in favour of keeping Crime Intelligence abreast of the situation, this would include their participation in the investigation to limit the
20 exposure of methods and methodology. Without their assistance in this regard it is very difficult to ensure that assets and methodology are not compromised, they have been given the opportunity to be part of the investigation but have yet to participate".

ADV VERUSCHKA SEPTEMBER: And this was done [indistinct]

information that you prepared to General Dramat?

MR KOBUS DEMEYER ROELOFSE: That is correct Chair.

ADV VERUSCHKA SEPTEMBER: Do you know what General Dramat did with this information note?

MR KOBUS DEMEYER ROELOFSE: Chair I'm not sure whether this specific information that was forwarded to the National Commissioners office but I do know that General Dramat, on various occasions told me he had meetings with General Phiyega and in respect of those meetings he said that she refused to assist and she was not going to assist him,
10 at some stage it became – he was not even considering asking anymore because he was – I don't think he would admit it but he was intimidated and victimised by General Phiyega at the time that is when he told me...[intervenes].

UNIDENTIFIED MALE SPEAKER: Sorry Judge may I?

COMMISSIONER: Please come through.

UNIDENTIFIED MALE SPEAKER: Thank you Judge for the opportunity, I want to lodge an objection in manner in which the witness is testifying about General Phiyega, he's basing it on...[intervenes].

CHAIRPERSON: Objection...(intervenes).

20 **UNIDENTIFIED MALE SPEAKER:** He is basing it on hearsay evidence.

CHAIRPERSON: Ja what's wrong with hearsay evidence?

UNIDENTIFIED MALE SPEAKER: Well to the extent that we do not have any evidence from General Dramat in this respect.

COMMISSIONER: The Commission is allowed to hear, hearsay

evidence, that is not to say it's got licence to take all kinds of hearsay evidence but there is a leeway compared to a Court of law for it to take...[intervenes].

UNIDENTIFIED MALE SPEAKER: That is correct Judge I agree.

CHAIRPERSON: Now I had not even heard him what he was saying then you objected, I don't know what it is that you had heard which I had not heard yet?

UNIDENTIFIED MALE SPEAKER: Judge he's ...[intervenes].

CHAIRPERSON: What did he say that is objectionable?

10 **UNIDENTIFIED MALE SPEAKER:** Judge he's mentioning alleged reports that he claims that he has received from General Drama, we have not seen any of that.

CHAIRPERSON: Well I haven't heard what he says.

UNIDENTIFIED MALE SPEAKER: Okay Judge I'll reserve it...[intervenes].

CHAIRPERSON: You may reserve your right and as I say I think he was halfway through a sentence and - I can't assess unless I know exactly what he was going to say.

UNIDENTIFIED MALE SPEAKER: Judge maybe we'll just complete it
20 and then I will – I will reserve my right to.

CHAIRPERSON: Yes okay, thank you, yes were giving an answer and I had not heard the full answer.

MR KOBUS DEMEYER ROELOFSE: Chair basically my answer is the following I requested in writing as well as verbally General Dramat to assist in facilitating this process of getting documents declassified. He

did that by having meetings with General Phiyega. He came back to me and he report back to me and he said – not that he had to report back to me but he is a gentleman he will always tell you what is going on to the best of his ability, he told me that in his meetings with General Phiyega it is evident and clear to him that she was not going to assist him in getting the documentation that we required to be declassified, declassified and that is the extent I can take it – I can only take that far.

CHAIRPERSON: Yes did he indicate what basis General Phiyega
10 provided for being unwilling to provide the declassification?

MR KOBUS DEMEYER ROELOFSE: Chair he didn't share her reasons with me but he was very despondent and I could see that he felt...[intervenes].

CHAIRPERSON: He felt intimidated.

MR KOBUS DEMEYER ROELOFSE: Yes and he would not be – and he thought this was not going to happen.

CHAIRPERSON: Okay, alright.

ADV VERUSCHKA SEPTEMBER: Did you approach any senior State Advocate to also assist in the declassification of documents?

20 **MR KOBUS DEMEYER ROELOFSE:** Yes Chair I also approached the – well I didn't approach this, he was appointed as part of the prosecution to now deal with the criminal matter and on the 6th of August 2013 the Senior State Advocate Rita Viljoen who was a prosecutor in the criminal matter that included all the allegations...[intervenes].

CHAIRPERSON: I'm sorry are you back to the statement?

ADV VERUSCHKA SEPTEMBER: Yes Chair but you know, with your leave we could perhaps just go to the actual document itself.

CHAIRPERSON: Yes what page is that?

ADV VERUSCHKA SEPTEMBER: On page 344.

CHAIRPERSON: Okay.

ADV VERUSCHKA SEPTEMBER: Is that the document you referred to?

MR KOBUS DEMEYER ROELOFSE: That is correct Chair.

ADV VERUSCHKA SEPTEMBER: What's the purpose of this
10 document?

MR KOBUS DEMEYER ROELOFSE: Chair the purpose of this document was to get documents declassified and to get Viljoen who wrote this letter under the letterhead of the Special Commercial Crimes Unit of which she is part, it is dated 6th of August 2013 and it hand delivered to Major General Ngcobo office. You'll see that we ask for the following members to assist us and we clarify or she clarifies that the members need not stress as they were regarded not as suspects or possible suspects, they were regarded as witnesses and then declassification of documents. then there's a list on the next page, she
20 states the following regarding them,

"The documents mentioned below will be relied upon as evidence in this matter. It is therefore essential that said documents be declassified for the use thereof in a Court of law",

And then she lists various documents that needs to be

declassified.

ADV VERUSCHKA SEPTEMBER: Is it therefore correct that from this document in itself it becomes very apparent as to which members you need to consult and what the list of documents are that you – what the list of documents is that you require?

MR KOBUS DEMEYER ROELOFSE: That is correct Chair this is not an exhaustive list there were additions to this and this was also forwarded at a later stage to various people in authority.

ADV VERUSCHKA SEPTEMBER: Is it correct that following that, you
10 wrote another information note, dated the 17th of October 2013?

MR KOBUS DEMEYER ROELOFSE: That is correct Chair.

ADV VERUSCHKA SEPTEMBER: Can I ask you to look at Annexure
32 which starts at page 347.

MR KOBUS DEMEYER ROELOFSE: That's correct Chair.

ADV VERUSCHKA SEPTEMBER: Is this the document that you
authored?

MR KOBUS DEMEYER ROELOFSE: That is correct Chair.

ADV VERUSCHKA SEPTEMBER: If I can ask you to turn to page
348...[intervenes].

20 **CHAIRPERSON:** Hang on that document is at 347?

ADV VERUSCHKA SEPTEMBER: It's 347 Chair.

CHAIRPERSON: Some of the pages are not marked here, was there a
response to the letter from Viljoen?

MR KOBUS DEMEYER ROELOFSE: Chair I cannot – there wasn't a
response Chair.

CHAIRPERSON: There was no response?

MR KOBUS DEMEYER ROELOFSE: Not from General Ngcobo, no Chair.

CHAIRPERSON: Yes that letter from Advocate Viljoen, that's letter from the NPA isn't it?

MR KOBUS DEMEYER ROELOFSE: That is correct Chair.

CHAIRPERSON: So – and if there had been a response you expected to have been copied or to have been told about it?

MR KOBUS DEMEYER ROELOFSE: Yes Chair I would have expected
10 to, I have not received any document, Advocate Viljoen has not given me any document relating to a response.

CHAIRPERSON: Yes, okay right you may proceed.

ADV VERUSCHKA SEPTEMBER: The document that then appears – that starts on page 347 which is Annexure 32 to your affidavit and dated 17 October 2013, can I ask you to turn to page 348 of this bundle and please read into the record paragraphs, 4, 5, 6 and 7.

CHAIRPERSON: Let's identify the document first, it's a letter from whom to whom dealing with what subject and then we can look at a particular paragraph.

20 **ADV VERUSCHKA SEPTEMBER:** As it pleases Chair, this is a document which has been authored by Colonel Roelofse and it's been addressed to the head of the Anti Corruption Task Team, Brigadier K Moodley and also to Deputy National Commissioner Lieutenant General Dramat dated 17 October 2013 under subject title, investigations Lyttelton CAS no 432/11/2011 fraud and/or theft and/or corruption and

Silverton CAS no 155/07/2011 fraud and/or theft and/or corruption Divisional Commissioner Mdluli and others and this is then a note that you draft, if I can ask you to turn your attention to paragraph 4 of your note please?

MR KOBUS DEMEYER ROELOFSE: Yes Chair I just need to mention that this note is in the back of a meeting that happened on the 17th, on the same day with General Dramat and based on that I drafted this note, paragraph 4,

10 “I approached Major General Ngcobo just after his appointment as acting head of Criminal and Crime Intelligence with the view to secure his cooperation in this investigation. My first correspondence was via email dated 2012/07/05 I did not receive any response to this email and subsequently request to meet with Major General Ngcobo were also unsuccessful. I then forwarded a SMS to him in late September 2012 which then resulted in a meeting dated 2012/10/02. During the meeting that took place, he assured me that he will assist and appointed Brigadier Nxosana as a liaison officer. I was asked to put my request in writing and assured prompt cooperation. I

20 duly complied and forwarded various requests to Brigadier Nxosana. These requests pre-dated the appointment of Major General Ngcobo and were merely repeated this has also been ignored. On 2013/02/13 I again tried to secure his cooperation, the cooperation of Crime Intelligence by means of a letter in which I requested the assistance and making

available members in an attempt to obtain witness statements from them. Paragraph 6, this request was ignored and this has led me to request your assistance in this matter. In this regard I requested your office to facilitate a written request addressed to Major Ngcobo. This was done on 2013/03/07”.

ADV VERUSCHKA SEPTEMBER: Please continue.

MR KOBUS DEMEYER ROELOFSE: “The response from Major General Ngcobo dated 2013/03/12 indicated that he will not make members available, he indicated that he has escalated the request to the office of the National Commissioner and that he is currently in consultation with said office”.

ADV VERUSCHKA SEPTEMBER: And then paragraph 9, is it correct that you had then requested General Dramat to facilitate a meeting between yourself and Major General Ngcobo?

MR KOBUS DEMEYER ROELOFSE: That is correct Chair.

ADV VERUSCHKA SEPTEMBER: And this meeting took place on the 24th of July 2013 at your office?

MR KOBUS DEMEYER ROELOFSE: That is correct Chair.

ADV VERUSCHKA SEPTEMBER: What happened at this meeting?

MR KOBUS DEMEYER ROELOFSE: “I then requested that you facilitate the meeting, in this regard I’m talking about General Dramat now between Major General Ngcobo, you and I, this meeting took place on 24 July 2013 at your office. During this meeting General Ngcobo indicated that he is finding it difficult to fulfil his mandate as he received requests from this office to

assist with the investigation and then receives communication from Lieutenant General Mdluli and Major General Lazarus urging him not to investigate in the investigation. Major General Ngcobo was informed by me that I cannot secure his cooperation - that if I cannot secure his cooperation I have but two option open to me to pursue. This would entail approaching Judge Musha in terms of his appointment to investigate matters relating to DPCI investigations and/or seek a subpoena via the Courts to secure cooperation from members".

ADV VERUSCHKA SEPTEMBER: And at paragraph 12 lastly.

MR KOBUS DEMEYER ROELOFSE: "At this point I can categorically state that I have not received any cooperation from Crime Intelligence since the re-employment of Major General Henkel late in 2011".

CHAIRPERSON: In paragraph 9 you say that Major General Ngcobo told you and General Dramat in the meeting that he was finding it difficult to fulfil his mandate because of requests that he was receiving from the Hawks to assist with the investigation and then said – you say he said he received communications from Lieutenant General Mdluli and Major General Lazarus urging him not to assist with the investigation. Did Major General Ngcobo say what the basis was for General Mdluli and General Lazarus to say to him he should not assist, did he indicate what the basis was for them to ask him not to assist?

MR KOBUS DEMEYER ROELOFSE: Chair he did not directly indicate what the basis were he actually didn't give any reason he just stated

that and he left it at that. So I do not know exactly what happened between him and General Lazarus and General Mdluli as to why he would say something like that.

CHAIRPERSON: But they had no authority over him, did they?

MR KOBUS DEMEYER ROELOFSE: No Chair they didn't have any authority over him.

CHAIRPERSON: So he had no obligation to obey whatever they may have requested him to do or not to do?

MR KOBUS DEMEYER ROELOFSE: No Chair he didn't have any
10 obligation to obey.

CHAIRPERSON: Yes okay.

ADV VERUSCHKA SEPTEMBER: When General – or rather General Zulu, as I understand it replaced General Ngcobo when he was suspended is that right?

MR KOBUS DEMEYER ROELOFSE: That is correct Chair.

ADV VERUSCHKA SEPTEMBER: Back to page 54 of your affidavit.

CHAIRPERSON: Do you have any knowledge of whether Major General Ngcobo's suspension had anything to do with how he was handling the investigations there where he was asked to assist?

20 **MR KOBUS DEMEYER ROELOFSE:** Chair I do not know, I do not know.

CHAIRPERSON: Okay.

ADV VERUSCHKA SEPTEMBER: At paragraph 178.7, following the...[intervenes].

CHAIRPERSON: Are you back to the statement?

ADV VERUSCHKA SEPTEMBER: Yes Chair.

CHAIRPERSON: You must announce so otherwise we don't know which – we don't know that you are back to the statement, paragraph.

ADV VERUSCHKA SEPTEMBER: Page 54 paragraph 178.7.

CHAIRPERSON: Alright.

ADV VERUSCHKA SEPTEMBER: When General Zulu came into office were any steps taken to approach General Zulu...[intervenes].

CHAIRPERSON: Remember just to let the witness give evidence, don't lead him on some of these things, let the evidence come from
10 him.

ADV VERUSCHKA SEPTEMBER: As it pleases Chair. Did Dramat take any additional steps during February or March 2015 after General Ngcobo left office?

MR KOBUS DEMEYER ROELOFSE: Chair during February and March 2014 General Dramat requested, in writing a meeting with Lieutenant General Bongi Zulu...[intervenes].

CHAIRPERSON: Before you go further, you haven't told me how the meeting between yourself, General Dramat and Major General Ngcobo ended, what was the outcome of that meeting. You have said that he
20 said he was finding it difficult to fulfil his mandate but tell me how the meeting ended.

MR KOBUS DEMEYER ROELOFSE: Chair the meeting ended without a decision being taken, General Ngcobo didn't agree to assist us with the investigation or myself with the investigation.

CHAIRPERSON: Well are you able to share with me more in terms of

the content of that discussion at that meeting other than just what is in the statement. I would have thought that the discussion would have been quite detailed because this was a very important of declassification you had experienced lots of resistance or lack of cooperation and at least, ultimately, you had a meeting with somebody now and that I would imagine that he wouldn't just get away with saying because of you people making lots of request to me I find it difficult to do my job. I mean what kind of response is that, I would imagine you wouldn't allow that to go unchallenged?

10 **MR KOBUS DEMEYER ROELOFSE:** Chair I wasn't – I tried to keep the emotion out of the documents so yes...[intervenes].

CHAIRPERSON: No, no keep the emotions out but reason with the man, he's telling you, you people are making too many requests and he says, that's the reason why he's no cooperating so what kind of response is that you people – I would have expected you to say, hang on if we need your assistance, we need your assistance, you must assist us where must we go, you have the information, if you don't have proper reasons not declassify, classify. If you've got reasons why tell us why?

20 **MR KOBUS DEMEYER ROELOFSE:** Chair you're quite correct, the meeting wasn't just ten minutes it was quite a lengthy meeting and a lot of things was discussed during the meeting. A lot of the things were said to us in confidence by General Ngcobo that he felt that he could not assist us he did not only get pressure from General Mdluli and General Lazarus, he also referred to senior management, his own

management that does not want to assist him or doesn't want to allow him to assist us. He was, during the meeting he was very apologetic in terms of the position that he is in but he still said under the circumstances he would not be able to assist us. So we tried to impress on him the seriousness and why we need it and I remember specifically the first time I met him I gave him a full briefing as stated in this affidavit regarding the allegations and he agreed that it was very serious allegations and there was an agreement that he would assist initially but just nothing happened after that and I think during that
10 meeting it came to light that he was getting pressure but not only for – he was only willing to name the name of General Mdluli and General Lazarus but he referred to management that is not assisting him. So that, in essence, it took a long time to have the discussion but that, in essence is what happened.

CHAIRPERSON: Did you come out of the meeting with a very clear view that were it not for pressure from other people he would be giving you the documents or were you not sure?

MR KOBUS DEMEYER ROELOFSE: Chair I formed that view when I initially informed him of the allegations, I had the view then but
20 because of the time lapse and what had happened up to then and his non-assistance up to that point I was not convinced that he would be able, even if he wanted to I don't think he would have helped us in any event. So therefore I regarded that meeting as rather futile, the outcome of the meeting in any event.

CHAIRPERSON: So your view, based on the discussion at the meeting

and what had gone on before that, your view was well there may be pressure but even if there was no pressure he would not give us the documents?

MR KOBUS DEMEYER ROELOFSE: Chair I think without any pressure from anyone, and he was allowed to do his job he would have – we would have been able to accommodate each other because as I said during our meetings I always maintained the position that I didn't want to place any agent, any project in jeopardy and if we are going to declassify documents it would be with – it would be with agreement
 10 between the different parties, the NPA, the investigators as well as Crime Intelligence. So that was always my standpoint and how I approached this. That's why I say when I first walked out of the meeting after I briefed him and he understood the seriousness of the allegation I was under the impression we will be able to get somewhere but when he didn't correspond to us, when he didn't come back to us, even with the person that he appointed as a liaison officer, to whom I gave various documents requesting further documents and requesting documents to be declassified and nothing – and we were not contacted again. So at that point in time I was quite certain it is not going to
 20 happen, he is not going to assist us.

CHAIRPERSON: Now from what you have said it would appear that he may have told you at the meeting or some of the things that he may have told you in confidence may if revealed show that there were certain people who may have put pressure on him when there were no legitimate grounds for saying documents should not be disclosed to

you.

MR KOBUS DEMEYER ROELOFSE: Chair that is the sense that I got.

CHAIRPERSON: Yes.

MR KOBUS DEMEYER ROELOFSE: He was not - he was not giving ...

CHAIRPERSON: He was not giving too much information?

MR KOBUS DEMEYER ROELOFSE: *Ja*. He did not take us into his confidence as to who these individuals were ...

CHAIRPERSON: Yes.

MR KOBUS DEMEYER ROELOFSE: But he did allude to that.

10 **CHAIRPERSON:** Yes.

MR KOBUS DEMEYER ROELOFSE: It was - it reminded me of General Mkhwanazi in Parliament saying there is powers from above that tells me what to do.

CHAIRPERSON: I am sorry. Just repeat that.

MR KOBUS DEMEYER ROELOFSE: General Mkhwanazi when he was the Acting Commissioner of Police he gave that response in Parliament saying that he receives orders from above.

CHAIRPERSON: Yes, yes.

20 **MR KOBUS DEMEYER ROELOFSE:** So that is the sense that I got when I walked out of that meeting.

CHAIRPERSON: Yes.

MR KOBUS DEMEYER ROELOFSE: So he is not acting as his own man in terms ...

CHAIRPERSON: Yes.

MR KOBUS DEMEYER ROELOFSE: Of the position that he is holding.

CHAIRPERSON: Yes. I know that Ms September did announce that the investigators have been - have been able to be in touch with Major-General Ngcobo now and probably he would come and give evidence about among other things why he did not give cooperation and hopefully will be able to tell me if there were people above him who put pressure on him not to do what he felt was - needed to be done in terms of the work.

In other words if there are people who without any legitimate reason said he must not declassify documents that should have been
10 declassified for purposes of your investigation so - so - but I think he - I think he will come at some stage and he - he can then give me information. Okay.

MR KOBUS DEMEYER ROELOFSE: Thank you Chair.

CHAIRPERSON: Thank you.

ADV VERUSCHKA SEPTEMBER: Thank you Chair. Going back to any further steps that General Dramat took when General Ngcobo left office. Are you aware of any further steps taken during February/March 2014?

MR KOBUS DEMEYER ROELOFSE: Yes Chair. I am aware. I again on
20 request from myself General Dramat in writing requested a meeting with General Bongi Zulu. She (intervenes).

CHAIRPERSON: General Zulu replaced General - Major-General Ngcobo during the latter's suspension?

MR KOBUS DEMEYER ROELOFSE: That is correct Chair. As far as I know ...

CHAIRPERSON: Yes.

MR KOBUS DEMEYER ROELOFSE: He - she replaced him.

CHAIRPERSON: Yes.

MR KOBUS DEMEYER ROELOFSE: And the letter was in an effort to resolve the declassification of documentation that we had in our possession as well as the non-cooperation of Crime Intelligence members. I - I do see that I state that General Zulu replaced General Ngcobo when he was suspended.

I do not know whether this meeting took place with
10 General Dramat but on 9 March 2014 General Dramat sent the following to General Zulu via two separate emails.

ADV VERUSCHKA SEPTEMBER: Can I then take you to those documents that you are about to refer to? The first document is Annexure KDR33 and it begins at page 3-5-1.

MR KOBUS DEMEYER ROELOFSE: Yes Chair.

ADV VERUSCHKA SEPTEMBER: This appears to be an email sent from DPCI Head on 9 March 2014 03:16 pm and it is sent to the Divisional Commissioner of Crime Intelligence CC Zulu, Bongiwe Major-General subject being request for declassification of documents
20 and assistance with witness statements. Silverton CAS 155/07/2011.

MR KOBUS DEMEYER ROELOFSE: That is correct Chair.

ADV VERUSCHKA SEPTEMBER: The email which is really just a covering email attaches a request for assistance?

MR KOBUS DEMEYER ROELOFSE: That is correct Chair.

ADV VERUSCHKA SEPTEMBER: And could you then turn the page to

page 3-5-2.

MR KOBUS DEMEYER ROELOFSE: Yes Chair.

ADV VERUSCHKA SEPTEMBER: That appears to be the letter that was in fact authored by or signed rather by General Dramat?

MR KOBUS DEMEYER ROELOFSE: That is correct Chair.

ADV VERUSCHKA SEPTEMBER: Once again this is another enclosing letter to the document which follows at page 3-5-3. Is that right?

MR KOBUS DEMEYER ROELOFSE: That is correct Chair.

ADV VERUSCHKA SEPTEMBER: And this is the very same document
10 that you read into the record earlier which was dated 6 August 2013 calling for consultation with specific individuals and providing a list of the declassification of documents?

MR KOBUS DEMEYER ROELOFSE: That is correct Chair. It is again the same request from Advocate Viljoen.

ADV VERUSCHKA SEPTEMBER: If we could then go to the next annexure - KDR 34 and that starts on page 3-5-5 with the same sender to the same recipient and the same subject title. What is the date of this email Mr Roelofse?

MR KOBUS DEMEYER ROELOFSE: 9 March 2014 03:18 pm addressed
20 - and it is from the DPCI Head which is General Dramat addressed to Major-General Bongi - Bongiwe Zulu.

ADV VERUSCHKA SEPTEMBER: And if one actually looks to the two annexures the one - the two emails - enclosing emails on page 3-5-1 and 3-5-5. So keep the - the page open at 3-5-5 please ...

MR KOBUS DEMEYER ROELOFSE: Yes Chair.

ADV VERUSCHKA SEPTEMBER: And turn to page 3-5-1.

MR KOBUS DEMEYER ROELOFSE: Yes Chair.

ADV VERUSCHKA SEPTEMBER: It appears that the only difference in these two emails is the time?

MR KOBUS DEMEYER ROELOFSE: That is correct Chair and the attachment.

ADV VERUSCHKA SEPTEMBER: And that appears to be two minutes apart?

MR KOBUS DEMEYER ROELOFSE: That is correct Chair.

10 **ADV VERUSCHKA SEPTEMBER:** Okay. So it was the same email that was sent two minutes apart?

MR KOBUS DEMEYER ROELOFSE: That is correct Chair. They only different attachments.

ADV VERUSCHKA SEPTEMBER: Did - excuse me?

MR KOBUS DEMEYER ROELOFSE: It had different attachments.

ADV VERUSCHKA SEPTEMBER: How so were the attachments different?

MR KOBUS DEMEYER ROELOFSE: Chair if I am not mistaken the first - the first email dealt with the letter from Advocate Viljoen ...

20 **ADV VERUSCHKA SEPTEMBER:** Yes.

MR KOBUS DEMEYER ROELOFSE: And the second email dealt with additional witnesses that need to be interviewed.

ADV VERUSCHKA SEPTEMBER: Okay and that is then reflected on page 3-5-6. Is that right?

MR KOBUS DEMEYER ROELOFSE: That is correct Chair.

ADV VERUSCHKA SEPTEMBER: Did General Zulu respond to these communications/

MR KOBUS DEMEYER ROELOFSE: No Chair she did not.

ADV VERUSCHKA SEPTEMBER: Did you take any steps after receiving no response from Crime Intelligence to this date?

MR KOBUS DEMEYER ROELOFSE: Chair I again asked General Dramat to assist and to resend ...

ADV VERUSCHKA SEPTEMBER: We are on page 3-55.

MR KOBUS DEMEYER ROELOFSE: And to resend the same request.

10 In September 2014 after receiving no response - this is now five months more than five months - I consulted with General Dramat. Informing him that I have completed a draft affidavit in which I sought to obtain a subpoena in terms of Section 205 of the Criminal Procedure Act in order to ensure the cooperation of Crime Intelligence.

General Dramat provided me with the above correspondence which his office has forwarded to Crime Intelligence in an attempt to secure their assistance. He requested me to allow him one last chance to secure the cooperation of the various role players and then on 23 September 2014 General Dramat again forwarded his letter dated
20 7 March 2014 to General Zulu.

ADV VERUSCHKA SEPTEMBER: Can I then take you to page 3-5-9 please? Is this the email that you were referring to?

MR KOBUS DEMEYER ROELOFSE: That is correct Chair.

ADV VERUSCHKA SEPTEMBER: For the record this email is sent from DPCI Head sent on 23 September 2014 at 04:12 pm addressed to Zulu,

Bongiwe Major-General and CC Divisional Commissioner Crime Intelligence. The subject is to request for assistance in securing availability of members and the request to declassify of documents and assistance with witness statements and it appears from at least this covering email that certain attachments were attached although there does not appear to be more than one page attached to this. Is that right?

MR KOBUS DEMEYER ROELOFSE: That is correct Chair.

ADV VERUSCHKA SEPTEMBER: If I could ask you then to read the
10 second and the third paragraphs into the record please?

MR KOBUS DEMEYER ROELOFSE: Page 360?

ADV VERUSCHKA SEPTEMBER: 359.

MR KOBUS DEMEYER ROELOFSE: 359. Sorry. I just want to ...

“The investigation into the allegations regarding the applicable documents has being completed. However the aspect - the aspect of obtaining - obtaining of affidavits relating to the chain evidence by members is delaying the finalisation of the investigation. Due to new evidence and additional
20 charges in the case - in the cases herewith a list of requested documents to be declassified.”

ADV VERUSCHKA SEPTEMBER: And when one turns the page there is an image of a letter?

MR KOBUS DEMEYER ROELOFSE: Yes Chair.

ADV VERUSCHKA SEPTEMBER: Can you please clarify what this

particular document is relative to the enclosing email?

MR KOBUS DEMEYER ROELOFSE: Chair it is exactly the same letter that was sent - that was sent on 3 March - 2 March 2014 enclosing Advocate Viljoen's letter.

ADV VERUSCHKA SEPTEMBER: Thank you. So that then happened on 23 September 2014?

MR KOBUS DEMEYER ROELOFSE: That is correct Chair.

ADV VERUSCHKA SEPTEMBER: What happened subsequent to that and we are back now on page 55 of your affidavit?

- 10 **MR KOBUS DEMEYER ROELOFSE:** "In the - (clearing of throat) - in the middle of October 2014 I contained Brigadier Van Graan. He is attached or he is - he is the - he is requesting assistance as a legal advisor to both the DPCI and Crime Intelligence. At that point I still not received any feedback. I explained to him that the seriousness of the situation and I provided him a copy of my draft affidavit as mentioned above. He indicated that he would try and facilitate the process as to avoid
- 20 embarrassment to all parties concerned. On 30 October I was informed through the Office of General Dramat that General Zulu had indicated in writing that - that DPCI does not need to request permission to conduct a criminal investigation. She did not address the request about the

declassification of documentation.”

See Annexure 36.

ADV VERUSCHKA SEPTEMBER: And to that end can I take you to page 3-6-2 which is Annexure 36?

MR KOBUS DEMEYER ROELOFSE: That is correct Chair.

ADV VERUSCHKA SEPTEMBER: This letter appears to be dated 30 October 2014?

MR KOBUS DEMEYER ROELOFSE: That is correct Chair.

ADV VERUSCHKA SEPTEMBER: And it is a letter that has been
10 authored by Major-General Zulu to the attention of the Head - the
National Head Directorate for Priority Crime Investigation
Brigadier Moodley. Please read the second paragraph into the record.

MR KOBUS DEMEYER ROELOFSE: Chair it states the following:

“Please take note that it is not necessary for you to
request permission to this office to conduct your
criminal investigation in these matters.”

ADV VERUSCHKA SEPTEMBER: And paragraph 3.

MR KOBUS DEMEYER ROELOFSE: “During your
investigation you must however guard against the
20 unauthorised disclosure of classified information.”

ADV VERUSCHKA SEPTEMBER: And how did this particular letter
impact on the level of cooperation you then received?

MR KOBUS DEMEYER ROELOFSE: Chair I had to provide this letter to
the members of CI which I had to interview because they were not
willing to discuss anything with me without specific authorisation by the

Head of Crime Intelligence or the Acting Head at - at that time. It is stating the obvious in terms of paragraph 2 that I do not need - that I do not - it is not necessary for me to request permission.

That is true. However in respect of Crime Intelligence the members were not willing to assist because of the previous victimisation that they experienced and they wanted in writing confirmation that they can talk to me and that is the basis of this letter. However this letter does not address the - the question of the declassification.

10 **ADV VERUSCHKA SEPTEMBER:** But it certainly opened up the door to your consulting and engaging with the members?

MR KOBUS DEMEYER ROELOFSE: That is correct Chair. In terms of the members that I requested to speak to it did.

ADV VERUSCHKA SEPTEMBER: We go back to page 55 of your affidavit. At paragraph 185 you talk about further engagements that you have during January 2015.

MR KOBUS DEMEYER ROELOFSE: That is correct Chair.

ADV VERUSCHKA SEPTEMBER: Please elaborate.

MR KOBUS DEMEYER ROELOFSE: Chair since receiving the letter in
20 October from - from General Zulu. In January 2015 I again contacted Brigadier Van Graan requesting his assistance. He informed me that he no longer acted as a legal advisor to the DPCI at that stage and CI but still - but was still willing to facilitate the - the declassification of the documentation that I needed.

He then set up a meeting with - on 23 January 2015 with

Brigadier Adolph - Magezi Adolph Ntuli from Crime Intelligence and Brigadier Van Graan in Pretoria. At that point in time the Supreme Court of Appeal judgment delivered on 17 April 2014 confirmed the setting aside of Advocate Mrwebi's decision not to withdraw - to withdraw the matter and - and the fraud and corruption charges.

I explained to Brigadier Ntuli that I need the documentation to be declassified as the matter has to be re-enrolled and I gave Brigadier Ntuli a copy of my letter dated the 20th - 23 January 2015 explaining the reason for the declassification request and for additional
10 documents to be declassified.

ADV VERUSCHKA SEPTEMBER: Can we then turn to page - to Annexure KDR37 which starts on page 3-6-4? Is the letter that you authored to Brigadier Ntuli dated 23 January 2015?

MR KOBUS DEMEYER ROELOFSE: That is correct Chair.

ADV VERUSCHKA SEPTEMBER: And this is the document that you referred to now briefly in your evidence?

MR KOBUS DEMEYER ROELOFSE: That is correct Chair.

ADV VERUSCHKA SEPTEMBER: Can I ask you to turn to page 3-6-5 please?

20 **CHAIRPERSON:** I am sorry. What was the Brigadier Ntuli's position?

MR KOBUS DEMEYER ROELOFSE: Brigadier Ntuli was - I think he was the Head of Counter Intelligence within Crime Intelligence. In other words a unit within Crime Intelligence.

ADV VERUSCHKA SEPTEMBER: At page 3-6-5 at paragraph 6 you outline the assistance that is required. Can you please read paragraph

6 into the record?

MR KOBUS DEMEYER ROELOFSE: “However prior to such an application this office would appreciate your assistance in determining - determining the impact - the declassification of said document would have if any. The documentation in question relates to the acquisition of two vehicles in 2010 and the subsequent claim that accompanied those vehicles. The second set of documents relates to travel
10 claims submitted to the Secret Service Account by certain members from Crime Intelligence.”

ADV VERUSCHKA SEPTEMBER: And then at paragraph 8 you mention an - the additional type of assistance required.

MR KOBUS DEMEYER ROELOFSE: That is - that is true Chair.
“Secondly in terms of access to witnesses within Crime Intelligence this office would like to interview the following members namely Brigadier Steyn, Lieutenant-Colonel M Nel and L Prinsloo.”

ADV VERUSCHKA SEPTEMBER: And from - at paragraph 9 you talk -
20 you basically put the request into context of the criminal charges that were looming?

MR KOBUS DEMEYER ROELOFSE: That is correct Chair.

ADV VERUSCHKA SEPTEMBER: And at paragraph 11 you once again inform of what access is required?

MR KOBUS DEMEYER ROELOFSE: That is correct Chair.

ADV VERUSCHKA SEPTEMBER: In particular you list at paragraph 11 applications to CI in terms of which the individuals were appointed if any - job application. Interviews prior to appointment held with the individuals that were appointed if any. Appointment letters - any other information relating to the appointment of the above mentioned individuals not mentioned.

Some of those names being redacted Chair. Is it correct that this information or rather to which investigation would this information relate?

- 10 **MR KOBUS DEMEYER ROELOFSE:** Chair if I can take you back to the - if I can make it easy if I can refer to diagram two I think. It would be the ones that relate to be placed back on the roll. (Intervenes).

ADV VERUSCHKA SEPTEMBER: Can - maybe to assist you then can we look at KK2.3 the diagrams bundle and it maybe that you are looking for diagram five?

MR KOBUS DEMEYER ROELOFSE: It maybe Chair. I am confused at this point in time.

CHAIRPERSON: But you say it related to the charges that had been withdrawn?

- 20 **MR KOBUS DEMEYER ROELOFSE:** That is correct Chair.

CHAIRPERSON: Ja.

MR KOBUS DEMEYER ROELOFSE: In other words the (intervenes).

CHAIRPERSON: The murder - the Vosloorus?

MR KOBUS DEMEYER ROELOFSE: Ja.

CHAIRPERSON: The Vosloorus ...

MR KOBUS DEMEYER ROELOFSE: *Ja.*

CHAIRPERSON: Matter.

MR KOBUS DEMEYER ROELOFSE: No it does not - does not relate to the Vosloorus matter.

CHAIRPERSON: Oh, okay.

MR KOBUS DEMEYER ROELOFSE: It relates now to the - the looting of the ...

CHAIRPERSON: The car and the ...

MR KOBUS DEMEYER ROELOFSE: The account.

10 **CHAIRPERSON:** The car and the trip?

MR KOBUS DEMEYER ROELOFSE: That - that is correct Chair.

CHAIRPERSON: *Ja.* Okay.

ADV VERUSCHKA SEPTEMBER: Okay. If we go back then to page 56 of your affidavit. What happened during early February 2015?

MR KOBUS DEMEYER ROELOFSE: Chair I was informed and I cannot remember whether it was General - General Dramat or Brigadier Van Graan that my request will not be attended to. Crime Intelligence wanted to know how and why I gained access to the classified documentation.

20 This response from Crime Intelligence was not expected because during September 2011 DPCI and - and CI agreed on the handing over of documents required for the CI criminal investigation.

ADV VERUSCHKA SEPTEMBER: What did you then do?

MR KOBUS DEMEYER ROELOFSE: I then contacted Brigadier Ntuli ...

CHAIRPERSON: Before that. The request that they were saying would

not be attended to was that the request for declassification of certain documents?

MR KOBUS DEMEYER ROELOFSE: That is correct Chair.

CHAIRPERSON: And what was the reason given to you for the decision that the request would not be attended to?

MR KOBUS DEMEYER ROELOFSE: Chair there was not a - no reason was given to me other than a question which I consider as the shifting of the goal post. A question was - was asked to me or asked of me as to how I got - how I got into possession of these documents.

10 **CHAIRPERSON:** So that relates to the documents which you had ...

MR KOBUS DEMEYER ROELOFSE: That is correct Chair.

CHAIRPERSON: But needed to be declassified?

MR KOBUS DEMEYER ROELOFSE: That is correct Chair.

CHAIRPERSON: Yes, but did you ask them what is the reason?

MR KOBUS DEMEYER ROELOFSE: Chair I did not ask the reason ...

CHAIRPERSON: Oh, you had reached a point where asking was not - you realised asking was not going to really give you any ...?

MR KOBUS DEMEYER ROELOFSE: It was not going to assist me Chair ...

20 **CHAIRPERSON:** *Ja.*

MR KOBUS DEMEYER ROELOFSE: Because at this point in time I am now being questioned as to why I have the documentation in my possession.

CHAIRPERSON: Now this is now in 2015 - February 2015. You had started trying to get documents declassified - declassified from when?

MR KOBUS DEMEYER ROELOFSE: 2012 Chair.

CHAIRPERSON: From 2012. So something like more or less three years had lapsed?

MR KOBUS DEMEYER ROELOFSE: That is correct Chair.

CHAIRPERSON: And you are not getting assistance. You are still where you were in 2012?

MR KOBUS DEMEYER ROELOFSE: That is correct Chair.

CHAIRPERSON: In terms of these documents.

MR KOBUS DEMEYER ROELOFSE: But now I am being - now I am
10 being asked as how I - how I got hold of the document ...

CHAIRPERSON: Yes.

MR KOBUS DEMEYER ROELOFSE: And I mean this is still the institution Crime Intelligence. There must be record. They must know ...

CHAIRPERSON: Huh-uh.

MR KOBUS DEMEYER ROELOFSE: How I got hold of the documentation because that was all dealt with in 2011 already.

CHAIRPERSON: Hm, hm. So the - the reference to a meeting - an agreement in 2011 to which you refer in paragraph 1-8-7 of your
20 statement did that relate to - did that also relate to classified documents?

MR KOBUS DEMEYER ROELOFSE: Yes Chair.

CHAIRPERSON: So there had been an agreement before?

MR KOBUS DEMEYER ROELOFSE: That is correct Chair by the heads of those departments.

CHAIRPERSON: Yes and at that time who was the Head of Crime Intelligence? Was it (indistinct)?

MR KOBUS DEMEYER ROELOFSE: No Chair. The - the Acting Head was General Muchachi (?).

CHAIRPERSON: At that time?

MR KOBUS DEMEYER ROELOFSE: At that time and his - and his ...

CHAIRPERSON: Deputy?

MR KOBUS DEMEYER ROELOFSE: Direct superior was General Lebeya.

10 **CHAIRPERSON:** Yes.

MR KOBUS DEMEYER ROELOFSE: As Head of Detectives. My ...

CHAIRPERSON: And they had agreed?

MR KOBUS DEMEYER ROELOFSE: My head was General Dramat.

CHAIRPERSON: Yes. Those had agreed?

MR KOBUS DEMEYER ROELOFSE: Those had agreed. They were the - they were in charge of those institutions.

CHAIRPERSON: Yes. So the failure to comply or honour that undertaking happened when there were other people occupying those positions?

20 **MR KOBUS DEMEYER ROELOFSE:** Yes Chair.

CHAIRPERSON: Yes. In regard to the Head of Crime Intelligence the - the - whilst the Head was General Mdluli?

MR KOBUS DEMEYER ROELOFSE: He was suspended at the time.

CHAIRPERSON: He was suspended at the time?

MR KOBUS DEMEYER ROELOFSE: Yes. He was already suspended

at the time.

CHAIRPERSON: But whoever was put in to ...

MR KOBUS DEMEYER ROELOFSE: That is correct Chair.

CHAIRPERSON: To replace him temporarily during his suspension also did not agree to have the documents handed over?

MR KOBUS DEMEYER ROELOFSE: That is correct Chair. You will remember that General Ngcobo used the - or stated that documents were leaked so he cannot assist us. He was going to approach the Office of the - of the National Commissioner to get clarity. He also said
10 that then Mdluli - General Mdluli and General Lazarus interfered and he also said that he cannot assist us because of - he is not in a position to fulfil his mandate as there are people telling him what to do and what not to do.

That was the - that is what was raised by General Ngcobo. Now this is a new one. This is now why do I have the documentation in my possession.

CHAIRPERSON: Now the one who was saying this to you, you said was Brigadier Zulu? Who was saying your request will not be attended to? Who was that? Who said that?

20 **MR KOBUS DEMEYER ROELOFSE:** Chair I - if I am not mistaken I - I cannot specifically remember but it would have been either General Dramat or Brigadier Van Graan if I can remember correctly but it would have been a remark made to me. It would not have been in - in writing or anything like that.

CHAIRPERSON: Oh and you were getting a report from somebody else

not that somebody from Crime Intelligence was saying this to you?

MR KOBUS DEMEYER ROELOFSE: That is correct Chair.

CHAIRPERSON: Yes, okay but throughout this time three years you have been trying to get these documents declassified. Is the position that every one of those people from Crime Intelligence who - would could have given the approval could have approved that you be given the documents. Every one of them knew that you wanted the documents as part of an investigation relating to General Mdluli?

MR KOBUS DEMEYER ROELOFSE: Yes Chair. All of them knew and

10 ...

CHAIRPERSON: Yes.

MR KOBUS DEMEYER ROELOFSE: I - and I specifically briefed General Ngcobo. So he knew the extent.

CHAIRPERSON: Yes.

MR KOBUS DEMEYER ROELOFSE: I did not specifically brief General Zulu regarding the extent.

CHAIRPERSON: Yes.

MR KOBUS DEMEYER ROELOFSE: I had a meeting with her but I did not specifically brief her.

20 **CHAIRPERSON:** Yes.

MR KOBUS DEMEYER ROELOFSE: Because I was under the impression she would at that point and time when I spoke to her that she would know the seriousness of the allegations.

CHAIRPERSON: Yes.

MR KOBUS DEMEYER ROELOFSE: So, I did not receive any

documentation and the reason why I was approaching crime intelligence for this was not necessarily; was to get the documents declassified but with their assistance. Because ultimately the decision to declassify lies with the national Commissioner.

CHAIRPERSON: Oh okay. So, the approach to crime intelligence was not to get declassification because declassification can only be obtained from the national Commissioner?

MR KOBUS DEMEYER ROELOFSE: Or yes, Chair or if she delegates someone to do it.

10 **CHAIRPERSON**: Yes, but what you wanted from crime intelligence was for them to hand the documents over to you?

MR KOBUS DEMEYER ROELOFSE: No, Chair I had the documents already.

CHAIRPERSON: Yes, but remember you said I think there are some that you had which needed to be declassified but there were some that you did not have which you need it as well.

MR KOBUS DEMEYER ROELOFSE: Yes, Chair it is twofold. It is the ones that I had I need assistance in declassification and the ones I don't have a need declassified format.

20 **CHAIRPERSON**: Yes, but I just want to make sure I understand. You have made a remark which I understood to mean because only the national Commissioner could declassify or somebody delegated by him to do so. Your approach to crime intelligence wasn't aimed at getting the documents declassified but it was aimed at getting them to agree to hand over the documents to you. Is my understanding correct?

MR KOBUS DEMEYER ROELOFSE: No, Chair it is not completely correct.

CHAIRPERSON: Yes, what is the correct position?

MR KOBUS DEMEYER ROELOFSE: The position is the following. I approach them to get additional documentation. And in respect of the declassification I approach them because I wanted their assistance so that we can because I knew when the documentation would go to the national Commissioner, he or she would say that because that would be the prudent way to deal with this matter. That the National Prosecuting
10 Authority, the Prosecutor, crime intelligence as well as the investigator get together and decide on the documentation as to what can be classified, no it cannot be classified. And that is to mitigate the risk of exposing projects or agents. So, I had... That is the reason why I opposed them to do exactly what I expected the national Commissioner will do to get the documents declassified. In that sense, I did not get any joy from them. I was not assisted in that.

CHAIRPERSON: Okay let me try again. Did you want crime intelligence officials to in effect facilitate the declassification of the documents by the national Commissioner?

20 **MR KOBUS DEMEYER ROELOFSE:** Yes, Chair.

CHAIRPERSON: You wanted their cooperation to achieve that object?

MR KOBUS DEMEYER ROELOFSE: That is correct, Chair.

CHAIRPERSON: Yes, what were they to do that would give you that cooperation?

MR KOBUS DEMEYER ROELOFSE: Chair, they would have... I

requested from them that we sit together with the documentation in question to make sure that when we declassify the documents that that specific document would not have an impact on an agent or the project. In other words, would not negatively affect those projects or the agent.

CHAIRPERSON: Yes.

MR KOBUS DEMEYER ROELOFSE: And if there is risk involved then we can see how we can mitigate that specific risk. For instance, if it is an agent this document is very important then it will allow crime intelligence to withdraw the agent from whatever he is doing. And allow
10 us then to use the documents after he was withdrawn. At least that kind of thing that I was looking at when speaking to crime intelligence because they are the only ones that can assist me with that situation.

CHAIRPERSON: But would they have from what you are saying it seems to me that you wanted to see the classified documents before they are declassified. Is it right? That's what would happen if you sat down with them. They would need to bring the documents. You would all look at them and try and agree certain things. Is that right?

MR KOBUS DEMEYER ROELOFSE: Chair, once again it's twofold. I had certain documentation which I received from General Hankel.

20 **CHAIRPERSON**: Yes.

MR KOBUS DEMEYER ROELOFSE: So, I was talking about the ones in my possession and I was also talking, referring to the ones that they had in their possession.

CHAIRPERSON: Yes, yes.

MR KOBUS DEMEYER ROELOFSE: In other words, when the ones that

they had in their possession if there is an agreement then they would release them to me already declassified.

CHAIRPERSON: Oh okay. So, as far as those documents that they had which you didn't have whatever cooperation you needed from them did not entail you seeing the documents before they were declassified?

MR KOBUS DEMEYER ROELOFSE: Chair, it would have entailed that.

CHAIRPERSON: It would have entailed that.

MR KOBUS DEMEYER ROELOFSE: Because it might be that the document does not have any.

10 **CHAIRPERSON**: Relevance.

MR KOBUS DEMEYER ROELOFSE: Relevance. So, it would have entailed that yes.

CHAIRPERSON: Okay now, how does this work in terms of classified documents? Would somebody in your position as part of the Hawks part of the SAPS, would they be entitled to see those documents before they were declassified?

MR KOBUS DEMEYER ROELOFSE: Yes, Chair. If you have the requisite clearance you are allowed to see them yes, Chair.

CHAIRPERSON: Yes, which you did have?

20 **MR KOBUS DEMEYER ROELOFSE**: Yes, Chair.

CHAIRPERSON: And they knew that?

MR KOBUS DEMEYER ROELOFSE: That is correct, Chair.

CHAIRPERSON: Yes okay.

MR KOBUS DEMEYER ROELOFSE: They issued the clearance certificate for me.

CHAIRPERSON: They issued the clearance.

MR KOBUS DEMEYER ROELOFSE: Yes, signed by General Mdluli.

CHAIRPERSON: Yes, so before the national Commissioner would be approached to declassify, you wanted to sit down with crime intelligence, look at the documents and identify the ones that would be relevant or important for investigation. And then jointly see whether there would be any problem if they were declassified. And if there was agreement that they can be declassified then the national Commissioner would be approached on the understanding that crime
10 intelligence has no problem with declassification of those documents.

MR KOBUS DEMEYER ROELOFSE: That is correct, Chair. If I can just mention. That is the approach that General Phahlane took when he was requested by the NPA. So, that's why I knew that was going to be the approach. That's why I approached crime intelligence for exactly that purpose.

CHAIRPERSON: Yes. And throughout this period from 2012 to 2015 February when you were told that your request would not be attended to. Had nobody from crime intelligence ever advanced any reason why these documents should not be made available to you or why they
20 should not be declassified or what the justification was for classifying them in the first place?

MR KOBUS DEMEYER ROELOFSE: Chair, I have never in writing received any communication as to why the documents cannot be declassified apart from explaining numerous occasions why I did not steal the documentation. Because that is the only thing that they were

interested in. How did I get hold of the documents and I was... And this thing was kept over my head for a long time and still is. That they will open up a criminal case against me because I stole the documents. Although, I don't give much credence to that but we've got strange times so things can happen but it is something that was canvassed at that stage. Already it was canvassed in the Supreme Court of Appeal. It was... Everybody knew the situation.

CHAIRPERSON: Yes.

MR KOBUS DEMEYER ROELOFSE: So, it was very strange to me that
10 that would still be an issue at that time.

CHAIRPERSON: Having gone through the situation for over, for about three years or so 2012 to February 2015 and seen the lack of cooperation/resistance to you being given these documents or to the declassification of the documents. Were you able to reach some conclusion as to why it was there was no cooperation for you to get these documents or get them declassified?

MR KOBUS DEMEYER ROELOFSE: Chair, as I said from the investigations that I have done as together with the information provided by Colonel Naidoo, it became clear to me that it is not. The
20 investigation did not only include General Mdluli and General Lazarus but it went much wider than that and it included very senior people not necessarily also inside the police but outside the police. And I think that is what, I cannot say it is a fact but that is what I suspect as to what happened and that is why this has happened in this manner. There is, I cannot see that General Mdluli is or that people will just risk their

careers just for General Mdluli except if he has something on them that we don't know about.

CHAIRPERSON: Yes, but your conclusion was that this kind of resistance or lack of cooperation must be connected with the possibility that this investigation would affect probably other people other than General Mdluli. And some of those people being people outside of crime intelligence.

MR KOBUS DEMEYER ROELOFSE: That is correct, Chair. I previously already testified regarding Mr Cecil Burdges who is a member of
10 Parliament. There was a direct interference by him. These are the kind of things that will come out during this investigation and I don't think that would have been... That is one of the reasons why this. I'm not referring to that specifically now but it is examples like that as to what this investigation were not allowed to continue.

CHAIRPERSON: Yes, okay. Thank you.

ADV VERUSCHKA SEPTEMBER: Just in clarity on the one point relating to the crime intelligence input. To what extent is the input of crime intelligence a requirement in order for the documents, classified documents to be declassified?

20 **MR KOBUS DEMEYER ROELOFSE:** Chair, it's a difficult question to answer. I do not think that it is a requirement but I think it will also be very reckless if the national Commissioner does not take, does not get advice from them in terms of what can or what cannot be declassified. Because of the fact that they can impact on projects and agents.

ADV VERUSCHKA SEPTEMBER: Thank you. So... [intervenes].

CHAIRPERSON: Now, oh okay.

ADV VERUSCHKA SEPTEMBER: Sorry, no, no.

CHAIRPERSON: Let me just. The documents that you had with you in respect of which you also needed declassification, you had looked at them. They had been in your position for quite some time. Was there anything in them in terms of the contents that you thought could affect State security?

MR KOBUS DEMEYER ROELOFSE: In my view, no Chair. It related to the acquisition of assets. It is a supply-chain management issue.

10 **CHAIRPERSON**: Yes, yes.

MR KOBUS DEMEYER ROELOFSE: So, it did not relate to a specific project or a specific agent. The only agents or so-called agent that was affected by is this where the family and friends of those, of the three individuals that were appointed.

CHAIRPERSON: Yes.

MR KOBUS DEMEYER ROELOFSE: Which I investigated. So, in terms of the rest deal with them. I kept away from that specifically

CHAIRPERSON: Yes. So, did you form any view based on the contents of the documents that you had with you which still needed
20 declassification? Did you form any view as to whether there would have been any proper grounds for them to have been classified in the first place?

MR KOBUS DEMEYER ROELOFSE: Chair, that is where I think the over classification took place which is unnecessary. When it relates to payment of an agent or something in terms of a project then

declassification is normally secret or top-secret. But these claims did not specifically relate to an individual or a project. It was generic, the applications. The vehicle for, if I can remember correctly the motivation for the vehicle for a General Mdluli it just states it is a vehicle that is need for his office. There is nothing sensitive about it apart from the fact that you don't want the vehicle registration number, you don't want it to be known.

CHAIRPERSON: Yes.

MR KOBUS DEMEYER ROELOFSE: But General Mdluli is a public
10 figure. So, he would have been in respect of that he would have been his own worst enemy.

CHAIRPERSON: Yes.

MR KOBUS DEMEYER ROELOFSE: Because he would drive with a crime intelligence vehicle who might or might not be registered in his name or in a company's name which would then lead to that in itself is already a security risk.

CHAIRPERSON: So, based on what you know namely in terms of the contents of the documents that you have required classification, are you able to say whether the refusal to cooperate has no legitimate
20 grounds?

MR KOBUS DEMEYER ROELOFSE: I'm saying that, Chair.

CHAIRPERSON: You are saying that?

MR KOBUS DEMEYER ROELOFSE: That is correct, Chair.

CHAIRPERSON: Is this an abuse of power?

MR KOBUS DEMEYER ROELOFSE: That is correct, Chair. It is abuse

of power.

CHAIRPERSON: Yes. Thank you.

ADV VERUSCHKA SEPTEMBER: When you received information during February 2015, the crime intelligence that you request will not be attended to, what do you do about it? Did it stop you or did you proceed to take further steps?

MR KOBUS DEMEYER ROELOFSE: No, Chair it didn't stop me. I tried again. As I said, I contacted Brigadier Chili. He was the legal officer of CI for assistance.

10 **ADV VERUSCHKA SEPTEMBER**: Sorry, just for the record it's Brigadier Dennis Chili.

MR KOBUS DEMEYER ROELOFSE: That is correct, Chair.

CHAIRPERSON: I think that would be Chili.

ADV VERUSCHKA SEPTEMBER: Chili.

CHAIRPERSON: I think the correct pronunciation would be Chili.

ADV VERUSCHKA SEPTEMBER: Apologies for that to Chili.

CHAIRPERSON: Chili.

MR KOBUS DEMEYER ROELOFSE: It looks like a Chili.

CHAIRPERSON: You are able to say Cele. Isn't it?

20 **MR KOBUS DEMEYER ROELOFSE**: Yes, I'm able to say that.

CHAIRPERSON: Ja, if you are able to say Cele there's a good chance you can say Chili as well.

MR KOBUS DEMEYER ROELOFSE: Chili.

CHAIRPERSON: Chili. If you practice it a few times you will get it right.

MR KOBUS DEMEYER ROELOFSE: I will get that.

CHAIRPERSON: Okay, right. Yes, continue.

ADV VERUSCHKA SEPTEMBER: Please continue.

MR KOBUS DEMEYER ROELOFSE: Chair, he indicates to me that he didn't foresee any problem and but I had to transmit my request by the office of the acting national head of DPCI where at that time was General Mathandazo Benny Nhlemeza. So, in following up on that in early February 2015... (intervenes).

CHAIRPERSON: I'm sorry. Now I hear, I see there is a reference to
10 General Nhlemeza. Had he become head of DPCI in the meantime?

MR KOBUS DEMEYER ROELOFSE: Yes, Chair he did. Unfortunately, at that specific part of the where we deal with that is a little bit later in the affidavit. But he did become the head in more or less the end of December 2014.

CHAIRPERSON: Oh okay.

MR KOBUS DEMEYER ROELOFSE: He replaced General Dramat was suspended and he replaced General Dramat.

ADV VERUSCHKA SEPTEMBER: I can take.

CHAIRPERSON: Oh, I think that paragraph, it's just that it comes
20 immediately after a paragraph that refers to February 2015 or did you say he came, he became head end of 2014? Maybe that paragraph is.

MR KOBUS DEMEYER ROELOFSE: At the end of 2014. That is correct, Chair.

CHAIRPERSON: Oh, so that paragraph is just a wrongly located?

MR KOBUS DEMEYER ROELOFSE: It is correctly located but in the

context of what I am discussing here.

CHAIRPERSON: Yes, okay. Yes?

ADV VERUSCHKA SEPTEMBER: Please proceed.

CHAIRPERSON: So, Brigadier Chili said he didn't see any problem in the declassification of the documents. Is that right?

MR KOBUS DEMEYER ROELOFSE: That is correct, Chair. I must just follow the procedure through the office of the national head of the DPCI.

CHAIRPERSON: Yes, did you then do that?

10 **MR KOBUS DEMEYER ROELOFSE**: I then prompt a meeting with General Zulu and General Nhlemeza in Pretoria. I told them about numerous written request for declassification.

CHAIRPERSON: You say the meeting now was, it was your soft, General Zulu and who?

MR KOBUS DEMEYER ROELOFSE: General Nhlemeza.

CHAIRPERSON: The three of you?

MR KOBUS DEMEYER ROELOFSE: That is correct, Chair.

CHAIRPERSON: Okay.

20 **MR KOBUS DEMEYER ROELOFSE**: General Zulu acknowledged receipt of the request but indicated that such a request should come from the office of General Nhlemeza. General Nhlemeza informed General Zulu that he would facilitate such a request through his office. General Zulu... (intervention).

CHAIRPERSON: And that meeting would have been around February 2015

MR KOBUS DEMEYER ROELOFSE: It is.

CHAIRPERSON: Oh, it is 16 February okay?

MR KOBUS DEMEYER ROELOFSE: It is on the 16th of February 2015.

That's correct, Chair.

CHAIRPERSON: Yes, continue.

MR KOBUS DEMEYER ROELOFSE: General Zulu informed me that it was only the national Commissioner who could declassify the documents. I informed General Zulu that I know the process that needs to be followed and the request in the declassification. But I had stated
10 as much in my request and that I had stated as much in my request to Brigadier Ntuli on the 23rd of January 2015. I also explained to her that I had approached her office not to immediately declassify the documents but to start a process in which a risk assessment can be done in order to assist her to apply her mind. Meaning her mind, I'm referring now to the national Commissioner. I left the meeting under the impression that the reason for the declassification request had been clarified and the request will be dealt with.

CHAIRPERSON: Yes. Well, I'm not sure, why did you think that? Why did you think that the reason for or you say it's the reason, it's your
20 reason for the request that you say you thought had been clarified? In which case, you would have been the person who provided clarification?

MR KOBUS DEMEYER ROELOFSE: Yes, yes Chair.

CHAIRPERSON: Oh okay, alright. Yes, but the reason that had been given there, no reason had been given there to justify why after that

point you had not been given cooperation. Is that right?

MR KOBUS DEMEYER ROELOFSE: No, Chair. Nothing was said to me.

ADV VERUSCHKA SEPTEMBER: You were just told that the request must come through General Nhlemeza's office?

MR KOBUS DEMEYER ROELOFSE: That is correct, Chair.

CHAIRPERSON: And you had never been told that before all those two and a half or more years?

MR KOBUS DEMEYER ROELOFSE: No, Chair. All the other requests came through the various offices.

10 **CHAIRPERSON**: Yes, and there was no objection to.

MR KOBUS DEMEYER ROELOFSE: And there was no objection to it. In this specific instance when I spoke to Brigadier Ntuli, it was arranged by Brigadier Van Graan. I was under the impression it had, he also spoke to General Zulu prior to me meeting him. I do not know if he had prior meetings with General Zulu before I spoke to him. He must have given that request to General Zulu because he was aware of the request. And she then said, that I must just, I must refer the request to her via General Nhlemeza's office.

CHAIRPERSON: But pre... I mean General Mdluli was, General
20 Nhlemeza was taking the place of General Dramat. Previous request that had come through to General Zulu had come through from General Dramat's office.

MR KOBUS DEMEYER ROELOFSE: That is correct, Chair.

CHAIRPERSON: And she had not cooperated.

MR KOBUS DEMEYER ROELOFSE: That is correct, Chair.

CHAIRPERSON: So, the fact that this request had not come through the office of the head of DPCI not have been the reason why there had been no cooperation.

MR KOBUS DEMEYER ROELOFSE: That is correct, Chair.

CHAIRPERSON: Yes.

MR KOBUS DEMEYER ROELOFSE: But I had to jump the hoops. So, I thought I will jump through this hoop as well.

CHAIRPERSON: Yes, you wanted to see if there will be a change of attitude now.

10 **MR KOBUS DEMEYER ROELOFSE**: That is correct, Chair.

CHAIRPERSON: Okay.

ADV VERUSCHKA SEPTEMBER: What then transpired?

MR KOBUS DEMEYER ROELOFSE: Chair, on the 10th of March 2015, the NDPP informed General Mdluli and Colonel Barnard that they will appear in the SCC Chair's commercial crimes court on the 1st of April 2015.

ADV VERUSCHKA SEPTEMBER: And what happened also but also in March 2015?

MR KOBUS DEMEYER ROELOFSE: In March 2015... (intervention).

20 **CHAIRPERSON**: Well, hang on. Before we get there, we have got to follow up on this meeting. At the end of this meeting which involved yourself, General Zulu and General Nhlemeza. The meeting ended on the basis that the request had to be made through General Nhlemeza. I would imagine that after that meeting, you would have pursued that through that office. Did you and if you did what happened?

MR KOBUS DEMEYER ROELOFSE: Chair, I did. I did not receive anything back.

CHAIRPERSON: And did General Nhlemeza send a request too?

MR KOBUS DEMEYER ROELOFSE: Chair, I don't know.

CHAIRPERSON: Yes.

MR KOBUS DEMEYER ROELOFSE: What I do know is I received from General Moodley in March 2015 where he requested me to provide a report explaining who had given me the mandate and authority to investigate crime intelligence; the crime intelligence criminal
10 investigation.

CHAIRPERSON: Okay before we get there, let's just finish the one part. So, after the meeting that you had had the three of you yourself, General Mdluli and General Zulu you were supposed to pursue through General Nhlemeza's office the request. You say you did do that?

MR KOBUS DEMEYER ROELOFSE: That is correct, Chair.

CHAIRPERSON: Ja, did you do that by way of a letter, email or whatever that you sent to General Nhlemeza?

MR KOBUS DEMEYER ROELOFSE: Chair, I cannot remember because I cannot find the document.

20 **CHAIRPERSON:** Yes.

MR KOBUS DEMEYER ROELOFSE: Relating to that but what I've done is I have sent the same request through to General Nhlemeza that I have already given to Mdluli and Ntuli.

CHAIRPERSON: Yes. And did he ever report back to you to say he had sent a letter or passed it on to General Zulu?

MR KOBUS DEMEYER ROELOFSE: No, Chair. I did not receive any letter. The first letter I received was in or request that I received was in March 2015.

CHAIRPERSON: That is now the one from Brigadier Moodley?

MR KOBUS DEMEYER ROELOFSE: That is correct, Chair.

CHAIRPERSON: Now around about, when was it when this meeting was held there of the three of you? Are you able to remember? February 2015, March 2015?

MR KOBUS DEMEYER ROELOFSE: It was on the 16th of February
10 2015, Chair.

CHAIRPERSON: Yes, 16 February.

MR KOBUS DEMEYER ROELOFSE: That's correct, Chair. Paragraph
190.

CHAIRPERSON: Oh okay. So, you and Brigadier Moodley, what was his position again? Where does he fit in? Again, just remind me?

MR KOBUS DEMEYER ROELOFSE: Chair, he was my, he was the head of ACTT at the time anticorruption task team that fell. He was the direct head. So, he was my direct head. He was the national head of the anticorruption task team based in Pretoria.

20 **CHAIRPERSON**: You were under his section or unit?

MR KOBUS DEMEYER ROELOFSE: That is correct, Chair.

CHAIRPERSON: So, he would be the person you reported to?

MR KOBUS DEMEYER ROELOFSE: Yes, Chair. I report... Normally in the time of General Dramat I would report to both of them.

CHAIRPERSON: Yes, okay.

MR KOBUS DEMEYER ROELOFSE: They would give me a call and I would report to both of them.

CHAIRPERSON: Yes, okay.

MR KOBUS DEMEYER ROELOFSE: But ultimately, I reported to General Dramat. With General Nhlemeza I was reporting to Brigadier Moodley.

CHAIRPERSON: Only?

MR KOBUS DEMEYER ROELOFSE: Only. Yes, Chair.

CHAIRPERSON: Okay. Now so, by the time you got this request from
10 Brigadier Moodley in March, you say General Nhlemeza had not come back to you to tell you whether he had passed on the request, your request to General Zulu?

MR KOBUS DEMEYER ROELOFSE: No, Chair. He hadn't come back to me at that time, no.

CHAIRPERSON: Yes, okay and then you got this request from Brigadier Moodley. Okay just talk about it.

MR KOBUS DEMEYER ROELOFSE: Chair, the request that I received from Brigadier Moodley is I have to provide them with a report as to who had given me the mandate, authority to investigate crime
20 intelligence criminal investigations. Brigadier Moodley informed me that General Nhlemeza requested the information. I was not provided with the reason for the request.

CHAIRPERSON: Was this strange to you that you should get this instruction to provide such a report or explanation?

MR KOBUS DEMEYER ROELOFSE: Chair, what I can state regarding

Brigadier Moodley, he also did not know the reason for the report.

CHAIRPERSON: Sorry?

MR KOBUS DEMEYER ROELOFSE: What I can state regarding Brigadier Moodley, he also did not know the reason for the report but it was strange to me. But following from the previous discussion that I had... (intervention).

CHAIRPERSON: I'm sorry, I'm sorry, I need to follow that, you say he did not know what?

MR KOBUS DEMEYER ROELOFSE: No what I am saying is that when
10 Brigadier Moodley asked me for this report, as requested by General Nhlemeza he also didn't have any reasons – no reasons was provided to him as to why he needs to ask me for this report.

CHAIRPERSON: Oh, this didn't come from him as such, he was just – he was a conduit.

MR KOBUS DEMEYER ROELOFSE: He was a conduit.

CHAIRPERSON: The person who wanted this report was General Nhlemeza?

MR KOBUS DEMEYER ROELOFSE: That is correct Chair.

CHAIRPERSON: And that is what he told you?

20 **MR KOBUS DEMEYER ROELOFSE**: And that is what he told me and based on that I provided Brigadier Moodley with the report.

CHAIRPERSON: Yes, but General Nhlemeza had been with you at the meeting with General Zulu, I would have imagined that before that meeting he would have had a meeting with you where you would have briefed him what this was all about, did that happen?

MR KOBUS DEMEYER ROELOFSE: No Chair and ...[intervenes]

CHAIRPERSON: You didn't get a chance to give him a briefing before that meeting?

MR KOBUS DEMEYER ROELOFSE: Chair I did brief General Nhlemeza I am not sure if I speak about this later in my affidavit, but I did give him a briefing, a full briefing, explaining exactly what was the allegations, and the investigation. He got very perturbed with me, very angry and ...[intervenes]

CHAIRPERSON: But that is after the meeting?

10 **MR KOBUS DEMEYER ROELOFSE:** That was ...[intervenes]

CHAIRPERSON: Or you can't remember?

MR KOBUS DEMEYER ROELOFSE: That was – that I can't remember, I think it was just after the meeting.

CHAIRPERSON: Oh, okay, okay.

MR KOBUS DEMEYER ROELOFSE: But I will have to go back to my affidavit and listen and I will see exactly what date did I put down there.

CHAIRPERSON: Yes, okay so you prepared a report in accordance with the request that Brigadier Moodley had told you about?

20 **MR KOBUS DEMEYER ROELOFSE:** That is correct Chair.

CHAIRPERSON: Yes, okay do you want to take from there Ms September?

ADV VERUSCHKA SEPTEMBER: Yes Chair. I do not ...[intervenes]

CHAIRPERSON: I see we are at five past, I think from side I can try to go up to five, Mr Roelofse is that fine with you?

MR KOBUS DEMEYER ROELOFSE: It's fine with me Chair.

CHAIRPERSON: It's with you, is it fine?

ADV VERUSCHKA SEPTEMBER: Absolutely fine Chair.

CHAIRPERSON: Okay let's try and continue, yes okay.

ADV VERUSCHKA SEPTEMBER: If I can then take you to Annexure KDR38 which is – starts at paragraph – page 371.

MR KOBUS DEMEYER ROELOFSE: Yes Chair.

ADV VERUSCHKA SEPTEMBER: This appears to be an email that is authored by yourself sent on 19th March 2015 at 15:39, sent to K
10 Moodley, Brigadier and there are two individuals who are cc'd with one attachment. It appears that this particular communication not only attaches the document which you prepared, but can I ask you to read paragraph into the record please.

MR KOBUS DEMEYER ROELOFSE: I will do so Chair, paragraph 3:

“I would also ...”

That is the paragraph that you're referring to?

ADV VERUSCHKA SEPTEMBER: Yes.

MR KOBUS DEMEYER ROELOFSE:

20 “I would also like to make a formal request to brief General Nhlemeza regarding this matter. He needs to understand the essence of the matter and that it is purely related on – further related purely related to alleged criminal activities. One cannot continuously rehash the same issues over and over again.”

ADV VERUSCHKA SEPTEMBER: If I can then ask you to turn to the

next Annexure, which is Annexure 39, beginning on page 373.

MR KOBUS DEMEYER ROELOFSE: That's correct Chair.

ADV VERUSCHKA SEPTEMBER: This appears again to be a document that is authored by yourself dated 3 February 2014 addressed to the head of division Crime Intelligence, is that right?

MR KOBUS DEMEYER ROELOFSE: That is correct Chair, this is a draft report that I drew up and provided to General – to Brigadier Moodley for his signature before it went to General Nhlemeza.

ADV VERUSCHKA SEPTEMBER: Do you know whether or not your
10 communication was in fact sent to the office of General Nhlemeza through the office of Brigadier Moodley?

MR KOBUS DEMEYER ROELOFSE: Chair I cannot at this point
...[intervenes]

CHAIRPERSON: Well maybe you should ...[intervenes]

MR KOBUS DEMEYER ROELOFSE: He would have sent it through, I cannot remember whether I received any confirmation of the document, because later on he does speak to this.

ADV VERUSCHKA SEPTEMBER: So let me take you then to paragraph 194 of your affidavit.

20 **CHAIRPERSON:** Hang on, before that, I saw that you said you prepared the document as if it was his, that is Brigadier Moodley, so did I see that the document appears to have your name, have I lost you or ...

MR KOBUS DEMEYER ROELOFSE: No, no you are quite correct Chair.

CHAIRPERSON: Yes, yes, so I thought if you had prepared it as if it was coming from his office you would have his name.

MR KOBUS DEMEYER ROELOFSE: I prepared it as if from Brigadier Moodley's office but I would be the person that would be on the left side top as the person to be contacted if there is an enquiry.

CHAIRPERSON: But unless we – unless I am confusing the documents, the one that we just looked at I think has your name at the bottom, where I would have expected you to put Brigadier Moodley's name if the idea was that you were just drafting it for him.

10 **ADV VERUSCHKA SEPTEMBER:** Chair do you refer to page ...[intervenes]

CHAIRPERSON: What page were we on?

ADV VERUSCHKA SEPTEMBER: 375.

CHAIRPERSON: The one we have just looked at?

ADV VERUSCHKA SEPTEMBER: Yes Chair, that's the end of that particular document, signed off by Mr Roelofse.

MR KOBUS DEMEYER ROELOFSE: Chair I think what happened is I used one of the old documents that I had, one of the drafts, so this was being corrected by Brigadier Moodley before he sent it off General
20 Nhlemeza.

CHAIRPERSON: Okay, alright, so you – what you expected was that he would convert the document that you provided to be on his letterheads and then he will put his name at the end.

MR KOBUS DEMEYER ROELOFSE: That is correct Chair, he would have given it to his assistant.

CHAIRPERSON: Ja.

MR KOBUS DEMEYER ROELOFSE: To do that – to do those changes
yes Chair.

CHAIRPERSON: Yes, but you don't know whether he did that and
passed that and sent that to General Nhlemeza or do you know?

MR KOBUS DEMEYER ROELOFSE: Chair he did say to me that he did
it.

CHAIRPERSON: He did so yes.

MR KOBUS DEMEYER ROELOFSE: I did not see a confirmation but
10 he did inform me that he did send it on to General Nhlemeza.

CHAIRPERSON: Yes, okay, okay.

ADV VERUSCHKA SEPTEMBER: And so going back to page 57 of
your affidavit did you follow up with Brigadier Moodley in regard to this
communication?

MR KOBUS DEMEYER ROELOFSE: Yes Chair on the 30th of March I
sent an email to Brigadier Moodley requesting feedback. Brigadier
Moodley informed me that he was also awaiting feedback in respect of
the document that I provided, or the document that he provided as was
requested. At the time I had to attend to two matters that were due in
20 court on the 1st of April 2015 and the 2nd of April 2015 respectively.
The one matter related to the pending prosecution of Colonel Barnard
and General Lazarus, which was already before Court, and the other
matter related to the re-enrolment of the General Mdluli matter on the
1st of 2015.

CHAIRPERSON: Let's go back to your report that was requested by

General Nhlemeza through Brigadier Moodley, as I understand your evidence ...[indistinct] wanted to know where you got the authority from to investigate Crime Intelligence people, is my understanding correct?

MR KOBUS DEMEYER ROELOFSE: That is correct Chair.

CHAIRPERSON: Now was that something – is that the normal kind of thing that the Head of the Hawks would ask any member of the Hawks who was doing an investigation?

MR KOBUS DEMEYER ROELOFSE: Chair I think at this point in time within the SAPS there is a misconception as to what – the
10 misconception as to management's role in investigations.

CHAIRPERSON: Yes.

MR KOBUS DEMEYER ROELOFSE: The investigation or a criminal investigation is conducted in terms of the Criminal Procedure Act, the Constitution and the South African Police Act.

CHAIRPERSON: Yes.

MR KOBUS DEMEYER ROELOFSE: Now there is a growing concern in me regarding that in that senior management thinks sometimes that they are the individuals that will tell you what to and when to investigate something, not taking into account the various Acts that
20 does exist and that does deal with this. So I do not know whether that was his standpoint for asking this, but he was welcome to ask the question and I would have explained to him because there was nothing untoward in terms of the investigation itself.

CHAIRPERSON: Yes, well I understand that question to have been based on an understanding that you might not have had authority to

investigate and that you might have needed somebody to authorise you to investigate, is that how you understood it as well, that question?

MR KOBUS DEMEYER ROELOFSE: That is so Chair, that is how I understood it. If there's a – if a crime has been committed the authorisation to investigate that follows from the Acts does not follow from a member from SAPS saying now you can investigate that or now you can't, it falls within the mandate of the DPCI, I was requested by General Dramat to do the investigation, so to me there was not even – it was a non-issue.

10 **CHAIRPERSON:** Mmm, now how did you respond to this question in the document that you prepared, without reading, it's just the gist?

MR KOBUS DEMEYER ROELOFSE: Chair what I've done is in that report I would have explained to him again the background as to this investigation in other words as from August 2011, how the investigation came about, how we were approached by members of Crime Intelligence and what we subsequently found after speaking to them and our further investigation, that would have been the background of my letter, together with the agreement with SAPS the two different departments, Crime Intelligence and the Hawks, as happened in I think
20 it was September 2011. That would have been the basis for, or the background as to my report to him that – because that would have covered the mandate as well as why are we investigating this specific matter.

CHAIRPERSON: Yes, okay thank you.

ADV VERUSCHKA SEPTEMBER: And then Mr Roelofse with these

pending prosecutions against both Colonel Barnard and General Lazarus and also with the re-enrolment of the matter against General Mdluli is it to be understood that an urgency was being – was created due to these looming prosecutions?

MR KOBUS DEMEYER ROELOFSE: Yes Chair this matter that was being, we were instructed to re-enrol the matter and it was based on the Supreme Court of Appeal decision, so it becomes very important that we adhered to what the Supreme Court has decided.

CHAIRPERSON: Yes.

- 10 **MR KOBUS DEMEYER ROELOFSE:** And so it became very critical that the documentation at this point in time had to be declassified because we have to continue with the prosecution.

CHAIRPERSON: Yes.

- MR KOBUS DEMEYER ROELOFSE:** So because of that I then asked Brigadier Moodley to resubmit the – my 23 January 2015 letter which was given to Brigadier Mdluli to General Nhlemeza to ensure that his office would forward the request for assistance to Crime Intelligence. Brigadier Moodley told me that he did send it through to the office of General Nhlemeza. I do not know whether General Nhlemeza
20 forwarded that request to Crime Intelligence, I have not received any information that it was or was not forwarded.

On the 28th of April I requested a meeting with the National Prosecuting Authority, General Nhlemeza and myself to discuss the re-enrolment of the ...[indistinct] matter, the Mdluli Barnard criminal matter.

CHAIRPERSON: But by this time had it already been re-enrolled or not yet?

MR KOBUS DEMEYER ROELOFSE: It had been re-enrolled Chair ...[intervenes]

CHAIRPERSON: For 1 April?

MR KOBUS DEMEYER ROELOFSE: It was already on the roll for a month at that point in time.

CHAIRPERSON: Yes.

MR KOBUS DEMEYER ROELOFSE: I also did not receive any
10 feedback, the proposed meeting never took place.

ADV VERUSCHKA SEPTEMBER: What then happened during May 2015?

MR KOBUS DEMEYER ROELOFSE: In May 2015 Brigadier van Graan contacted me and informed me that his legal office had received correspondence from General Zulu regarding my request to declassify the documents which had – which he then forwarded to me on the 14th of May 2015. A copy of the correspondence is attached as per Annexure KD40. It appears from that correspondence that – and in terms of paragraph 197.1 that General Flip Jacobs, PC Jacobs, Head
20 Operational Legal Support at the Division Legal Services and Policy Services, were informed that officials investigating the matter decided to approach his office and ignored the request from CI. General Zulu informed General Nhlemeza that if I wanted to request documentation from Crime Intelligence I need to do so through his office and that I need to explain how I came into possession of the documents to be

classified.

CHAIRPERSON: So this issue comes back that you must explain how you got the documents you had?

MR KOBUS DEMEYER ROELOFSE: That is correct Chair.

CHAIRPERSON: Mmm, okay.

ADV VERUSCHKA SEPTEMBER: Then on the 15th of May 2015 what transpired?

MR KOBUS DEMEYER ROELOFSE: Chair Advocate Rossouw ...[intervenes]

10 **CHAIRPERSON:** I'm sorry, let's make sure Ms September we tie these things together, on the 28th of April the witness requested a meeting, what happened to that request?

MR KOBUS DEMEYER ROELOFSE: I received no feedback in terms of my request Chair, and the meeting never took place.

CHAIRPERSON: Okay and you had directed the request to the NPA General Nhlemeza and to General Themeza?

MR KOBUS DEMEYER ROELOFSE: That is correct Chair.

CHAIRPERSON: Yes, none of them responded?

MR KOBUS DEMEYER ROELOFSE: As far as I can remember
20 Advocate Rossouw did respond but I can't specifically remember Chair.

CHAIRPERSON: Okay.

MR KOBUS DEMEYER ROELOFSE: But I think the importance of it is that that proposed meeting never took place.

CHAIRPERSON: Yes, okay.

ADV VERUSCHKA SEPTEMBER: Did the office of the NDPP at the

time get involved in the request for declassification of documents?

MR KOBUS DEMEYER ROELOFSE: Yes Chair, on the 15th of May Advocate Rossouw he was one of the prosecutors that was now appointed to assist in the investigation, to prosecute the matter. He informed me that the NDPP Mr Nkolisi, this is now my pronunciation, Mr Nxesana, had written a letter to the National Commissioner of the SAPS at the time General Riah Phiyega. Mr Ntana requested General Phiyega assistance to declassify the documents, that had to be provided to the accused defence counsel by no later than 20 May 2015,
10 the next court appearance date, see Annexure KDR41.

ADV VERUSCHKA SEPTEMBER: Can I then take you to page, to that Annexure 41 which starts at page 390. Is this the document that you are aware of which was authored by the NDPP's office Mr Xolisi Nxesana dated 14 May 2015 and addressed to the National Commissioner of Police who at the time was General Phiyega?

MR KOBUS DEMEYER ROELOFSE: That is correct Chair.

ADV VERUSCHKA SEPTEMBER: And whilst this document really gives an extensive account can you identify the important features of this document please, as you understand it to be.

20 **MR KOBUS DEMEYER ROELOFSE:** Chair it sets out again the background.

CHAIRPERSON: Yes, I am sorry, will it say anything that he hasn't dealt with? I imagine the background and the reasons must be the same as the reasons he has told us about?

ADV VERUSCHKA SEPTEMBER: Indeed.

CHAIRPERSON: Unless there is something new that hadn't been there before otherwise I don't want us to go back and say something, deal with something that he has already told me.

ADV VERUSCHKA SEPTEMBER: No problem Chair. If I can then ask you to turn to page 396.

MR KOBUS DEMEYER ROELOFSE: Chair if I may I would also just like to refer to paragraph 10 on 393, where the NDPP is saying ...[intervenes]

MR KOBUS DEMEYER ROELOFSE: No I am referring to paragraph
10 10, 393.

CHAIRPERSON: 393? Okay let's get there first, yes?

MR KOBUS DEMEYER ROELOFSE: This is the NDPP saying it is my understanding that there is no reasonable risk that the declassification and disclosure for official purposes might constitute a breach of State Security methods or police investigation and the identity of informers.

ADV VERUSCHKA SEPTEMBER: Is it correct that at paragraph 13 on the next page of 394 Mr Nxasana informs about, or rather confirms your communication with Brigadier Mdluli dated the 23rd of January 2015?

MR KOBUS DEMEYER ROELOFSE: That is correct Chair.

20 **ADV VERUSCHKA SEPTEMBER:** And then can I take you to page 396 at paragraph 20, the document then puts a date deadline which is relative to the next court appearance and requests as follows:

“Kindly take note that a copy of the classified documents would need to be provided to the defence by no later than the next court appearance namely 20 May 2015.”

And in paragraph 22 it informs that:

“the investigating officer Colonel Roelofse can provide access to the relevant official delegated to declassify the documents as per Annexure A a copy of which appears to be attached from pages 398 to page 401.”

Is that correct?

MR KOBUS DEMEYER ROELOFSE: That is correct Chair.

ADV VERUSCHKA SEPTEMBER: Do you have any comments to the date on which the documents ought to have been provided and also the
10 assertion that you could assist in this regard?

MR KOBUS DEMEYER ROELOFSE: Chair I have not – I haven’t received any feedback regarding this request, no documents were declassified and on the 20th of May and subsequent after that.

CHAIRPERSON: The document from Mr Nxasana to the National Commissioner is quite comprehensive.

MR KOBUS DEMEYER ROELOFSE: That is correct Chair.

CHAIRPERSON: How many pages is it Ms September?

ADV VERUSCHKA SEPTEMBER: It appears to be 8 pages Chair, with a signature on the eight page.

20 **CHAIRPERSON:** Ja, it’s quite a, it’s ...[indistinct] and it’s subject is – includes requests for the declassification of documents and it is addressed to Ms Phiyega that was the National Commissioner of Police at the time. What is it dated? The date must be at the ...[intervenes]

ADV VERUSCHKA SEPTEMBER: The date of it appears on page 397 as 14 May 2015.

CHAIRPERSON: Yes, as far as you know was there ever a response from Ms Phiyega to Mr Nxasana?

MR KOBUS DEMEYER ROELOFSE: Chair I am not aware of a response to the NDPP, I was also not given a response from the NDPP, what I can say is that nothing happened.

CHAIRPERSON: Yes.

MR KOBUS DEMEYER ROELOFSE: This did not – the request was not honoured.

CHAIRPERSON: What was that date of this document again?

10 **ADV VERUSCHKA SEPTEMBER:** 14 May 2015, of Mr Nxasana's document?

CHAIRPERSON: Yes.

ADV VERUSCHKA SEPTEMBER: Yes, 14th May 2015.

CHAIRPERSON: Okay he then left the NPA in I think August 2015 if I'm not mistaken, he has given evidence here, and there's a judgment in the Constitutional Court about his departure from the NPA so this was May 2015.

ADV VERUSCHKA SEPTEMBER: 14 May 2015.

20 **CHAIRPERSON:** 14 May 2015, so he might or might not have had time to share with you whatever response might have arrived if it did arrive, we don't k now.

MR KOBUS DEMEYER ROELOFSE: Chair that is so but I would have expected that the prosecutors in the matter would have shared the correspondence with me.

CHAIRPERSON: Yes, if there was a response.

MR KOBUS DEMEYER ROELOFSE: And if there was a response either way, whether it was now yes we can declassify or no we cannot declassify I would have been informed of that.

CHAIRPERSON: Yes, ja, ja. Yes, continue.

ADV VERUSCHKA SEPTEMBER: Mr Roelofse what happened then three days later on the 18th of May 2015?

MR KOBUS DEMEYER ROELOFSE: Sorry.

CHAIRPERSON: What is the date you are talking about now?

ADV VERUSCHKA SEPTEMBER: 18 May 2015, which is actually four
10 days after the date of Mr Nxasana's letter, we are on page 58 of the affidavit, paragraph 199.

MR KOBUS DEMEYER ROELOFSE: Chair on the 18th of May Brigadier Moodley informed me that he had to attend a meeting with General Phiyega regarding the request from the NDPP. Brigadier Moodley asked me to compile a report setting out first how the documents came into my possession and secondly provide General Phiyega with copies of the classified documents in order for her to apply her mind to the request. The original documents would then be supplied once she has made a decision. On the 8th of June I provided Brigadier Moodley with
20 my report and copies of the classified documents as requested. My report was presented to General Phiyega under cover of enclosing letters, I attached these documents as Annexure KDR42.

ADV VERUSCHKA SEPTEMBER: And KDR42 we can find starting at page 403.

MR KOBUS DEMEYER ROELOFSE: That is correct Chair.

ADV VERUSCHKA SEPTEMBER: The document that appears at 403 is signed by Major General – or not signed but it is marked for signature by Major General Nhlemeza, it is dated the 9th of June 2015 and it is addressed to the National Commissioner of Police by subject title declassification of classified documents.

MR KOBUS DEMEYER ROELOFSE: That is correct Chair.

ADV VERUSCHKA SEPTEMBER: And the document that is in enclosed with this document please identify it.

MR KOBUS DEMEYER ROELOFSE: Chair it is on page 404 it is a
10 cover letter from Brigadier Moodley which indicate please see attached report from Colonel Roelofse and then again then there is this my document classified, declassification of classified documents, Silverton CAS 155/7/2011 for theft and/or corruption and Lyttleton CAS 432/11/2001 for theft and/or corruption. The document is dated the 8th of June 2015 and once again I explain how it came about that we did the investigation, where we received the documents from and I gave a background as to the allegations that were made.

ADV VERUSCHKA SEPTEMBER: If one then turns to the next annexure, which is Annexure 43 at page 424, this is a communication
20 that has been sent to Major General P R Vuma dated 10 June 2015, what is the purpose of this document for purposes of your evidence?

MR KOBUS DEMEYER ROELOFSE: Chair this is not – it was not a document that was sent, this was a document prepared by Captain McLean who was a warrant officer at the time, I requested him to take per hand the documentation requested and otherwise the copies of the

documents that needs to be declassified together with the report to the office of the National Commissioner.

ADV VERUSCHKA SEPTEMBER: And who was the National Commissioner at the time?

MR KOBUS DEMEYER ROELOFSE: It was General Phiyega.

ADV VERUSCHKA SEPTEMBER: And what happened when General Vuma attended the office to deliver the documents?

MR KOBUS DEMEYER ROELOFSE: She received the documents and she signed for the documents on the 10th of June 2015.

10 **ADV VERUSCHKA SEPTEMBER:** What then transpired on the 19th of June 2015? If you go back to page 59 of your affidavit.

MR KOBUS DEMEYER ROELOFSE: On the 19th of June 2015, I had to arrange for the collection of the documents from the office of the national Commissioner because there was an issue with the authority of the person who delivered the documents which General Vuma received.

ADV VERUSCHKA SEPTEMBER: So, it was not accurate when you said that, on the 10th of June 2015 all was good and well for receipt of the documents by the office of the national Commissioner?

20 **MR KOBUS DEMEYER ROELOFSE:** Chair, it was received by the office of the national Commissioner via General Vuma on the 19th of June 2015. In the meantime, I have been reprimanded by General Nhlemeza for sending Warrant Officer McLean at the time to the office of the national Commissioner to deliver the documents because I still do not know exactly the reason why. I don't know whether Warrant Officer McLean wasn't fit and proper to go and deliver the documents, whether

his rank was not high enough. It just didn't make sense to me and in terms of that I was then given an instruction to get the documentation back from the office of the national Commissioner on the 19th June 2015. During which those documents were then collected again and came back to my office.

CHAIRPERSON: So, you had caused the relevant documents to be taken to the office of the national Commissioner and General Vuma was the person in the office of the national Commissioner who had received the documents. Is that right?

10 **MR KOBUS DEMEYER ROELOFSE**: That is correct, Chair.

CHAIRPERSON: But after that you were reprimanded by General Nhlemeza for sending whoever you sent there to take the documents there. Is that correct?

MR KOBUS DEMEYER ROELOFSE: That is correct, Chair.

CHAIRPERSON: And what was the basis for reprimanding you?

MR KOBUS DEMEYER ROELOFSE: I'm still trying to find out, Chair.

CHAIRPERSON: But when he spoke to you, what was the objection? Was it that those documents had been taken there or was his objection to the identity of the person that you sent to take the documents there?

20 Or was it that you sent those documents there without going through his office?

MR KOBUS DEMEYER ROELOFSE: Chair, the documents were sent through his office. The cover letter was prepared by his office. We merely facilitated taking the documents to the national Commissioner's office. The letter that was drawn up as an acknowledgment of receipt

for the documentation that we are providing to the office of the national Commissioner, Warrant Officer McLean drew up that letter. It's not a formal letter. It could have been a piece of paper so that we can have record that the documentation were actually delivered and received. Now I still cannot understand whether that was his objection that that letter of receipt didn't go through his office or whether it was the fact that Captain McLean or Warrant Officer McLean took the documents to the office of the national Commissioner. It was just, it's just didn't make sense to me. The reasoning didn't make sense. It is something that
10 should not have happened. The documents were delivered properly through his office.

CHAIRPERSON: Well, I was about to say you may have skipped something that you had mentioned in passing earlier. You in answer to a question I put to you, you said that you did get a chance to explain to General Nhlemeza after the meeting that you had with him and General Zulu. You did get a chance to explain to him what the investigation was about.

MR KOBUS DEMEYER ROELOFSE: That is correct.

CHAIRPERSON: The declassification. But you, I think you said that his
20 reaction was not good. Do you want to cover that because I think we may have passed that now?

MR KOBUS DEMEYER ROELOFSE: Okay. Chair, what happened there is the fact that when I sat there and Brigadier Moodley was with me, he attended the meeting with me. General Nhlemeza said to me the following and this is not verbatim. I'm just, this is how I remember this.

CHAIRPERSON: Yes.

MR KOBUS DEMEYER ROELOFSE: He said to me that, why are we investigating this he previous crime intelligence still and he referred to one individual that was locked up from the previous... (indistinct). He referred to Eugene De Cock and you allowed him to do this. It is now our time to do it. And I was, I really I was taken aback. I thought to myself, what are you talking about.

CHAIRPERSON: Please just repeat again. I know that you said you are not quoting him but just repeat the substance of what he said.

10 **MR KOBUS DEMEYER ROELOFSE**: Chair, the substance basically boils down to it happened with the previous, in the previous government. People stole and why am I investigating what is happening now. It is now, something to the effect, it is now my time or our time to eat and I was totally. I just sat there and I thought this is not happening. I'm not hearing correctly. I left the office together with Brigadier Moodley and... (intervention).

CHAIRPERSON: What was Brigadier Moodley's reaction to what you heard? Did he hear it?

MR KOBUS DEMEYER ROELOFSE: It was the same, Chair.

20 **CHAIRPERSON**: But what did you or Brigadier Moodley say in response to this?

MR KOBUS DEMEYER ROELOFSE: Chair, what do I say in response to that? I mean it is a nonsensical remark. It is not going to take me forward. All that is going to happen is that we will get into some other altercation.

CHAIRPERSON: Argument.

MR KOBUS DEMEYER ROELOFSE: An argument. So, I wasn't prepared to go into that kind of thing. So, we shortly after that we left.

CHAIRPERSON: So basically, he didn't want the investigation to continue? He wanted it to be stopped.

MR KOBUS DEMEYER ROELOFSE: That is correct, Chair. He wanted it to be stopped.

CHAIRPERSON: Because based on what he said to you.

MR KOBUS DEMEYER ROELOFSE: That is correct, Chair.

10 **CHAIRPERSON**: Ja.

MR KOBUS DEMEYER ROELOFSE: I didn't mention this earlier. It is mentioned later in the affidavit. He was a friend of General Mdluli.

CHAIRPERSON: He was a friend?

MR KOBUS DEMEYER ROELOFSE: A friend of General Mdluli and if you and if further my testimony you will see I deal with his assistance with the Vosloorus matter as requested by General Mdluli. So, in that when that sense I wasn't surprised that he didn't want us to continue. I was surprised by the words that he used or the reason that he used.

20 **CHAIRPERSON**: Yes. And after that remark that was the end of the meeting?

MR KOBUS DEMEYER ROELOFSE: That was the end, Chair. There was no, there is no point in meeting any further

CHAIRPERSON: Yes.

MR KOBUS DEMEYER ROELOFSE: But prior to that... (intervention).

CHAIRPERSON: And he meant it in all seriousness?

MR KOBUS DEMEYER ROELOFSE: Chair, I remember him vividly standing up and grabbing his jacket and coming sitting back down again and he said, that I can only work with people that I can trust.

CHAIRPERSON: That is what he said?

MR KOBUS DEMEYER ROELOFSE: That is what he said. So, it is to me it was not the kind of reaction I expected. It was not the kind of treatment and reaction that I received from General Dramat. I wasn't used to that kind of thing.

CHAIRPERSON: So, effectively his remark was, allow us to eat. It's
10 our turn.

MR KOBUS DEMEYER ROELOFSE: That is correct, Chair.

CHAIRPERSON: As you left the office and left that meeting, did you reflect on whether this investigation that you had been working on for so long had any chance of continuing? Or did you think that you would handle, you would continue with investigation as far as you could as long as it didn't stand in your way? Or what was the effect as you reflected on this remark and the fact that you had an investigation that you wanted to pursue?

MR KOBUS DEMEYER ROELOFSE: Chair, I was, it was a difficult
20 meeting to attend.

CHAIRPERSON: Okay. Yes, continue.

ADV VERUSCHKA SEPTEMBER: Sorry, Mr Roelofse when the documents were then collected from the office of General Phiyega, was it resubmitted at a later stage?

MR KOBUS DEMEYER ROELOFSE: Yes Chair, it was resubmitted.

ADV VERUSCHKA SEPTEMBER: Can I ask you to go to Annexure 44 at page 426 please?

CHAIRPERSON: What page?

ADV VERUSCHKA SEPTEMBER: 426.

CHAIRPERSON: Okay.

ADV VERUSCHKA SEPTEMBER: This document appears to be a document dated the 1st of July 2015, signed by Major General Nhlemeza and addressed to the national Commissioner under a heading of declassification of classified documents Silverton case 155/07/2011
10 with further detail that follows. What is this document, Colonel Roelofse?

MR KOBUS DEMEYER ROELOFSE: Chair, this document is again a cover letter for the same documents that I have to provide to the office of the national Commissioner. This document, the difference between this document and the previous one, the previous one was generic in saying that enclosed please find the following documents. This document prepared by General Major and signed by him. If I may read into the record it says the following;

20 Please find the attached report of the investigator, Colonel K Roelofse regarding above-mentioned declassification of classified documents. However, this office is concerned as to the circumstances that prevailed in the manner in which the possessor... (indistinct) officer could have been allowed given access to the classified information.

Albeit the fact that he never had a valid security clearance at the moment and at this current juncture.

Currently acknowledge receipt of duplicate hereof.

CHAIRPERSON: So, this is a letter from General Nhlemeza going to the national Commissioner of police?

MR KOBUS DEMEYER ROELOFSE: That is correct, Chair.

CHAIRPERSON: General Phiyega, is the head of your organization?

MR KOBUS DEMEYER ROELOFSE: That is correct, Chair.

CHAIRPERSON: And you seek these documents but he doesn't seem
10 to be in support of the pursuit of these documents, the declassification or is that not the understanding you have from this?

MR KOBUS DEMEYER ROELOFSE: Chair, they are just putting it mildly this. That's exactly the understanding that I have and not only that. The second part of this letter apart from the fact that he is accusing me that I'm not supposed to have the document. The classified information albeit the fact that he never had a valid security clearance at the moment and at that current juncture which is not true. I had a security, top security clearance.

CHAIRPERSON: Yes.

20 **MR KOBUS DEMEYER ROELOFSE**: At the time.

CHAIRPERSON: Yes.

MR KOBUS DEMEYER ROELOFSE: There was no, there's no basis for him to say this.

CHAIRPERSON: And he didn't... Did he ever raise the issue of clearance with you?

MR KOBUS DEMEYER ROELOFSE: No, Chair. He has never raised that with me.

CHAIRPERSON: Ja, but if you wanted to he could have and you would have told him and if he wanted to check without you knowing, he could have, he would have found that you did have?

MR KOBUS DEMEYER ROELOFSE: That is correct, Chair. He had, if you didn't want to ask me he had access to the database which would tell him I had clearance or I didn't have clearance.

CHAIRPERSON: Yes, but also if he had concerns that you might not
10 have clearance one would have expected him to talk to you before writing to somebody outside of the organization and raising that issue. One would have expected that he would have raised it with you first.

MR KOBUS DEMEYER ROELOFSE: One would have expected that, Chair. I think this was done deliberately and was malice.

CHAIRPERSON: Yes, and you say he knew that it was not true or he must have known it was untrue.

MR KOBUS DEMEYER ROELOFSE: He must have known before he has written this.

CHAIRPERSON: Yes

20 **MR KOBUS DEMEYER ROELOFSE**: Because it wasn't true. I would have expected at least from a man in his position that he would have made sure that if he made a statement like that that it is actually true.

CHAIRPERSON: Yes. Let me go back to when you sent the report that he requested through Brigadier Moodley. After he had received that report of which dealt with where you got the authority from to conduct

this investigation. Did he ever come back to you and say anything like, no but this is not you know your explanation is not acceptable? This doesn't give you authority and say anything? Did you ever get any reaction from him in writing or did he talk to you about it?

MR KOBUS DEMEYER ROELOFSE: No, Chair. I never received anything in writing with regards to my explanation.

CHAIRPERSON: Yes.

MR KOBUS DEMEYER ROELOFSE: As to why we were busy with this investigation.

10 **CHAIRPERSON**: Yes.

MR KOBUS DEMEYER ROELOFSE: It was always the request and the accusation but there was never a response after it was, after I responded to that.

CHAIRPERSON: And you mentioned something and we didn't deal with it earlier on when you talked about the meeting that you had with him together with Brigadier Moodley when you told you about that being their turn to eat. I think you said something like he said, he could only work with people that he trusted. Did I understand you correctly?

MR KOBUS DEMEYER ROELOFSE: That is correct, Chair.

20 **CHAIRPERSON**: What was the context of that remark?

MR KOBUS DEMEYER ROELOFSE: The context is that if he tells me to and this is how I understood it on. The context is if he tells me not to do something even if it's illegal then I need to listen to him and if I don't then he cannot work with me because he cannot trust me. And I'm not, I won't adhere to that kind of request.

CHAIRPERSON: But are you able to throw more light in the discussion how it came in? How did it come in? Was it because he expected you not to proceed with the investigation? Was he suggesting that if you proceeded with the investigation after that meeting, it would mean that he could not trust you? Therefore, he could not work with you.

MR KOBUS DEMEYER ROELOFSE: Chair, the comments came after I gave him feedback in terms of what we are investigating. In other words, I explained to him as I did to this Commission. Obviously not two long day explanation but I explained to him as to the investigation
10 that we dealt with. He became very angry when I explained as to what we have uncovered and that triggered the reaction where he asked me but to give us the authority or and why are we investigating. This is not... You didn't do this when with Eugene De Cooks. So, why are you doing this in our time to eat? And also, in that same within that same let's call it timeframe that is when he stood up and he, and I could see he was very angry with me. And he said that but I can't trust you. He didn't there say to me that I cannot investigate the matter.

CHAIRPERSON: Yes, he didn't put it expressly.

MR KOBUS DEMEYER ROELOFSE: He didn't expressly put it there to
20 me that I cannot investigate the matter. I knew... (intervention).

CHAIRPERSON: But was it clear to you that he did not want to you to continue the investigation?

MR KOBUS DEMEYER ROELOFSE: It was clear to me that he did not want me to continue with the investigation, yes Chair. But in the absence of him giving me a direct.

CHAIRPERSON: Instruction.

MR KOBUS DEMEYER ROELOFSE: Instruction, I was going to continue with the investigation.

CHAIRPERSON: Okay, okay. Thank you.

ADV VERUSCHKA SEPTEMBER: Mr Roelofse, you will recall that the letter Mr Xolisi Xosana dated the 14th of May 2015 requested that the classified documents would need to be provided to the defence by no later than the next Court appearance on the 20th of May 2015. Are you aware as to whether or not that was complied with?

10 **MR KOBUS DEMEYER ROELOFSE:** Chair, it was not complied with. My... the last... My last knowledge of the... The last thing that I was involved in was the resubmission of the documentation, copies of the documentation that needs to be reclassified or declassified. I have not received any formal communication verbally nor written regarding the decision of the national Commissioner. All I know it didn't happen because when we attended the Court appearance on the 6th of July, the documentation has not been, wasn't declassified.

ADV VERUSCHKA SEPTEMBER: And that is the 6th of July 2015.

MR KOBUS DEMEYER ROELOFSE: That is correct, Chair.

20 **CHAIRPERSON:** Am I correct to understand the position to be that after the meeting that you have told me about between yourself, Brigadier Moodley and General Nhlemeza where he made the remark that we have discussed. He, that is General Nhlemeza did have a role in regard to attempts to declassify the documents. He did write to you to General Phiyega. There was that letter that we talked about earlier

where he was raising the question of how you came to be in possession of documents. So, am I correct to say he did play the role of writing to her?

MR KOBUS DEMEYER ROELOFSE: Chair, I would more call it he did, I think it was, I think it was for appearance sake trying to lure me into a situation where I think he will be assisting.

CHAIRPERSON: Yes.

MR KOBUS DEMEYER ROELOFSE: But as I said, it is my view of the matter. I do not know exactly what was going on as yet.

10 **CHAIRPERSON**: Yes.

MR KOBUS DEMEYER ROELOFSE: At the time.

CHAIRPERSON: But your perspective is that he was doing this because maybe it would be difficult to open. They say this investigation must stop.

MR KOBUS DEMEYER ROELOFSE: That is correct, Chair. If you look at the trend of what happened in terms of my testimony, there was always something. There was never a no. There was always just something you know, go and fetch the documents. It wasn't delivered properly. Go do this or go do that. There is always something else but
20 not the actual reason.

CHAIRPERSON: Ja, yes okay.

ADV VERUSCHKA SEPTEMBER: And Mr Roelofse, what was your understanding of the reason for the matter being struck from the roll, the Mdluli/Barnard matter as you have referred to it in your affidavit? Being struck from the roll on the 6th of July 2015.

MR KOBUS DEMEYER ROELOFSE: Chair, the reason was quite simple. It was the documentation that we had to, the documentation that needed to be provided to the defence in a declassified format was not available to provide to the defence.

ADV VERUSCHKA SEPTEMBER: And were there any additional accused's who were added to the matter at the stage by this time rather?

MR KOBUS DEMEYER ROELOFSE: Yes, Chair. At the earlier appearance, General Lazarus was also added in respect of the specific
10 case.

ADV VERUSCHKA SEPTEMBER: And to what extent were the charges relating to the secret services account of the police? We accept, we understand the charges as against, the fraud and corruption charges against General Mdluli and Colonel Barnard. What were the charges against General Lazarus?

MR KOBUS DEMEYER ROELOFSE: It was similar charges because we now were looking at, it was fraud corruption. There were additional charges as well. There was a comprehensive charge sheet that was drawn up and it now know included the other matters as I explained
20 earlier in respect of the China trip and the Singapore trip and appointment of family members. So, it included that as well.

ADV VERUSCHKA SEPTEMBER: Can I then ask you to turn to page 428 which is Annexure 45 to your affidavit? Do you recognize this document?

MR KOBUS DEMEYER ROELOFSE: Yes, Chair. It is an email that I

wrote to and I addressed it to Brigadier Moodley.

ADV VERUSCHKA SEPTEMBER: And so, it is dated the 6th of July 2015 at 14h41 sent by yourself to Brigadier Moodley. And what triggered you sending this email?

MR KOBUS DEMEYER ROELOFSE: The withdrawal of the matter and the reason for the withdrawal for the matter.

CHAIRPERSON: It might be an important email. Maybe he could read the whole of it.

ADV VERUSCHKA SEPTEMBER: Yes, Chair. Please read this email
10 into the record.

MR KOBUS DEMEYER ROELOFSE:

“Dear Brigadier Moodley, I have carefully considered my email before forwarding it to you. I also wish to reiterate that I appreciate the difficult situation you found yourself in. I further wish to state ...” ...[intervenes]

CHAIRPERSON: Would you like an adjournment? Would you like me to take five minutes? Okay let’s, maybe let’s take more than five minutes. Maybe let’s take 10 minutes. Oh, we are about to be 5 o’clock. Let’s take 10 minutes and then when we come back, we can talk further as to
20 what is to happen. Mr Roelofse, I just want you to know that I am interested in getting a full picture of how people like you might have been feeling when they were going through certain situations. So, I just want you to know that I do want to understand the full picture. So, we will take an adjournment and come back at 10 past. We adjourn.

ADV VERUSCHKA SEPTEMBER: As it pleases the Chair

REGISTRAR: All rise.

INQUIRY ADJOURNS

INQUIRY RESUMES

CHAIRPERSON: Mr Roelofse, how are you feeling?

MR KOBUS DEMEYER ROELOFSE: I'm fine thank you.

CHAIRPERSON: You are fine? Okay thank you. I think... (intervention).

ADV VERUSCHKA SEPTEMBER: Can you switch the mic on please?

MR KOBUS DEMEYER ROELOFSE: I'm sorry.

CHAIRPERSON: I think read that email. After you have read it, we will
10 talk about the way forward in terms of finishing your evidence.

MR KOBUS DEMEYER ROELOFSE: No, it's fine Chair.

CHAIRPERSON: Yes, thank you. This is the email that is at page 428?

ADV VERUSCHKA SEPTEMBER: Yes, Chair.

CHAIRPERSON: Okay. You can read.

MR KOBUS DEMEYER ROELOFSE: Thank you, Chair. The email is
addressed to Brigadier Moodley.

20 I have carefully considered my email below before
forwarding it to you. I also wish to reiterate that I appreciate
the difficult position or situation that you find yourself in. I
further wish to state that whatever I allude to in my email does
not include you. As far as I'm concerned, you will have tried
your utmost to help and receive and resolve the situation. The
above-mentioned matter has been struck of the Court roll
today. The defence in this matter has successfully argued that
the accused cannot prepare their case without access to all

the documents. In this regard, the defence referred to the classified documents not yet handed to the accused. The magistrate in his judgment said that the case can only be placed back on the Court roll once the classified documentation or documents are declassified. In this regard, I would like to refer you to the numerous attempts since 2012 made for myself and the NPA to get same declassified. I would further would like to refer you to a memorandum I compiled for Major General Nhlemeza at his request in which I sent out all

10 the attempts made to get the above-mentioned documents declassified. I have not received feedback with respect to this. On 15 May 2015, the then NDPP intervened and requested that the national Commissioner to declassify the documents mentioned above as it is needed as an Exhibit or as Exhibits before Court. On 6 June 2015, I submitted a comprehensive report to yourself regarding the request for declassification. I understood this was required after attending a meeting with the national Commissioner. This meeting was in response to the request of the NDPP. This report was handed to the office

20 of the national Commissioner on 10 June 2015. In this regard, I need to point out that the report to the national Commissioner went under my signature. I was informed that you were instructed to just provide the cover letter in respect of my request. I further would like to point out that the national heads for the DPC are attached and an unsigned cover letter

to the application in question. I do not mind signing the request for declassification but I cannot help to think that I do not have the support of the acting national head of the DPCI. On 19 June 2015, I was requested to fetch the application in question. I was then informed that neither the request of the NDPP nor the covering letter of the national head of the DPCI was signed. In light thereof, I was informed that the national Commissioner indicated she would not attend to the request. In light thereof, I resubmitted my application to the national Commissioner via the office of the head of the DPCI on 1 July 10 2015. I received my application back from the office of the national Commissioner of the DPCI, national head of the DPCI on the same date. Attached to it was a signed cover letter signed by Major General Nhlemeza. Major General Nhlemeza states the following in paragraph two of his covering letter. However, this office is concerned as the circumstances that resulted in the manner in which the possessor i.e. the investigating officer could have been allowed, given access to the classified information. Albeit the fact that he never had a 20 valid security clearance at the moment and at this current juncture. He does state in his cover letter that I am illegally in possession of said documents and I do not have clearance. This information is blatantly wrong and it is clear that the intention is to cast doubt not only on myself but also the process followed during the investigation. I was never

requested to supply the State with my security clearance. This cover letter would have placed me in a very precarious position if it had indeed went through to the national Commissioner. I still have a valid security clearance. This kind of mistake could also have an impact on the actual matter before Court. If Major General Nhlemeza did read my various reports as requested by him, he would have knowledge as to how I came into possession of said documents. This is now to be rectified and I'm still waiting a covering letter from the
10 office of the national head of the DPCI. I pointed out on numerous occasions that the effect of the none declassification of said documents leads to the case being struck off the Court roll or to an application against the SAPS to force them to declassify same. We have now the embarrassing situation where the case was indeed struck off the Court roll. Under the circumstances, I'm in the cross as to what I need to do next.

CHAIRPERSON: So, that was the email that you sent to Brigadier Moodley?

MR KOBUS DEMEYER ROELOFSE: That is correct, Chair.

20 **CHAIRPERSON**: Yes. Maybe before we go further, we are at nearly 17h20. Maybe if everybody is still able to maybe, maybe we can go up to six. I'm not sure but I'm inclined to think that if Mr Roelofse is available tomorrow morning that we continue tomorrow morning before I hear the evidence of the witness who is scheduled for tomorrow. So that we try and finish his evidence. But obviously it would be better to

take as little time tomorrow as possible but at the same time I can't continue for too long. How is your situation tomorrow? How is your availability tomorrow morning?

MR KOBUS DEMEYER ROELOFSE: I will make myself available, Chair.

CHAIRPERSON: You will make yourself available. Maybe let's go up to 17h30 and then I'll see whether I say 6 o'clock but then if we go to 6 o'clock then we definitely stop. I think I'll need to go and just sleep otherwise this flu is not going to go away.

ADV VERUSCHKA SEPTEMBER: No problem, Chair.

10 **CHAIRPERSON**: So, okay let's continue. Did you get a response from Brigadier Moodley to your email either by way of another email or discussion?

MR KOBUS DEMEYER ROELOFSE: Chair, we probably discussed something but I didn't expect an email back from him with regards to the email that I sent.

CHAIRPERSON: Yes. I thought you said something. Did you say there is something that happened?

MR KOBUS DEMEYER ROELOFSE: No, Chair. Sorry, what I said is, I didn't expect an email back from him.

20 **CHAIRPERSON**: Yes.

MR KOBUS DEMEYER ROELOFSE: But I presume we did discuss it afterwards.

CHAIRPERSON: Yes, okay. Okay you were just sharing with him your frustration.

MR KOBUS DEMEYER ROELOFSE: That is correct, Chair.

CHAIRPERSON: And you didn't expect that there was going to be much else he could do himself.

MR KOBUS DEMEYER ROELOFSE: That is correct, Chair. He was facing the same situation as I did.

CHAIRPERSON: Yes, yes. Is Brigadier Moodley still within DPCI?

MR KOBUS DEMEYER ROELOFSE: He is, Chair. He is now the provincial head I think in the Free State of the DPCI.

CHAIRPERSON: Okay, okay continue.

ADV VERUSCHKA SEPTEMBER: At page 59 of your affidavit, you were
10 informed that there was an new national head of corruption who was appointed within DPCI.

CHAIRPERSON: And what page are you now?

ADV VERUSCHKA SEPTEMBER: Page 59.

CHAIRPERSON: Okay.

ADV VERUSCHKA SEPTEMBER: At the bottom paragraph 204.

MR KOBUS DEMEYER ROELOFSE: That is correct, Chair.

ADV VERUSCHKA SEPTEMBER: Please elucidate on your engagements with this new individual, official sorry.

MR KOBUS DEMEYER ROELOFSE: Chair this, sorry. Major General
20 Zinhle Mononope was appointed as a DPCI national head corruption. Brigadier Moodley and I briefed her shortly after her appointment regarding the investigation into the alleged criminal conduct of CI members. I could see from her reaction that she was shocked and expressing eagerness to assist in the investigation where she could. She was appointed in the vacant post in which Brigadier Moodley was

acting. On the 12th of July 2015, I received an email with a letter dated 10 July attached from Advocate... (indistinct). The letter was authored by the new NDPP Advocate Sean Abrahams and addressed to General Nhlemeza requesting a meeting on 13 July 2015 at 14h00 to discuss the declassification of the documents which were in my possession. A copy of Abrahams letter is attached as per KDR46.

ADV VERUSCHKA SEPTEMBER: I don't think that there is any need to address that particular Annexure because it certainly confirms what the evidence that you've just given. What then... (intervention).

10 **CHAIRPERSON:** I said early on that I thought Mr Nxasana left to the office of the NDPP around August but I see that according to your affidavit already on 12 July 2015, you were receiving a letter from Advocate Sean Abrahams who I take it had been appointed as NDPP. So, I hope you have got the dates right.

ADV VERUSCHKA SEPTEMBER: Chair, if I may? I have actually been able to trace the affidavit of Mr Mxolisi Nxasana that was presented before the Commission. And the dates in paragraph three of his affidavit informs that his term of office was from 1 October 2013 to 31 May 2015. Following which Advocate Sean Abrahams was appointed on
20 the 18th of June 2015 to the 13th of August.

CHAIRPERSON: So, he left end of May?

ADV VERUSCHKA SEPTEMBER: Yes, Chair which was about two weeks after he sent that letter.

CHAIRPERSON: After he had written that letter?

ADV VERUSCHKA SEPTEMBER: Yes, Chair.

CHAIRPERSON: Okay, alright. Thank you.

ADV VERUSCHKA SEPTEMBER: So, this particular letter is then an invite calling you to a meeting. Is that right?

MR KOBUS DEMEYER ROELOFSE: That is correct, Chair.

ADV VERUSCHKA SEPTEMBER: What happened then on the 13th of July 2015?

MR KOBUS DEMEYER ROELOFSE: Chair, I was again summoned to attend a meeting at 11 o'clock convened by General Nhlemeza at a DPCI head office in Silverton. The meeting was attended by General
10 Nhlemeza, General Mononopi, Brigadier Moodley and a person unknown to me at the time. Before the meeting started, I was handed a document that I had to sign which stated that I may not divulge any classified information. This is sometimes done when a group discussion takes place in respect of the merits of an investigation. It is done to safeguard the integrity of the investigation. I realized after conclusion of the meeting that there was no reason for me to sign the document like that which I did.

ADV VERUSCHKA SEPTEMBER: If you can just pause there for a second. You are called to a meeting on the same date at 2 o'clock with
20 Advocate Sean Abrahams. Is that correct?

MR KOBUS DEMEYER ROELOFSE: That is correct, Chair. This meeting is just not happening just before that.

ADV VERUSCHKA SEPTEMBER: At 11 o'clock?

MR KOBUS DEMEYER ROELOFSE: At 11 o'clock.

ADV VERUSCHKA SEPTEMBER: On the 13th of July?

MR KOBUS DEMEYER ROELOFSE: That is correct, Chair.

ADV VERUSCHKA SEPTEMBER: Please... (intervention).

CHAIRPERSON: Did General Nhlemeza know about the letter that you had received asking for a meeting or had he been sent his own copy?

MR KOBUS DEMEYER ROELOFSE: Chair, I presume he would have received his own copy of the letter I received was via Advocate Riso was the prosecutor in the matter.

CHAIRPERSON: Okay and the letter itself, did mention that General Nhlemeza was meant to attend as well?

10 **ADV VERUSCHKA SEPTEMBER**: Chair, it may assist if I could take you to the letter to the evidence of Mr Roelofse.

CHAIRPERSON: No, no actually I think the answer is at paragraph 205. It says the letter was also addressed to General Nhlemeza. So, he would have known from the letter. He got his own, I think.

MR KOBUS DEMEYER ROELOFSE: That is correct, Chair.

CHAIRPERSON: Ja, continue.

ADV VERUSCHKA SEPTEMBER: What transpired at this meeting with General Nhlemeza on this 13th of July 2015?

MR KOBUS DEMEYER ROELOFSE: Chair, in short... (intervention).

20 **CHAIRPERSON**: Just confirm first. Who was at the meeting?

MR KOBUS DEMEYER ROELOFSE: It was General Nhlemeza, General Mononopi, Brigadier Moodley, myself and then I think it was the staff officer of General Nhlemeza but I'm not sure. I didn't know him at the time.

CHAIRPERSON: Yes, and what happened at the meeting?

MR KOBUS DEMEYER ROELOFSE: General Nhlemeza instructed me not to investigate the matter any further and because the matter was struck off the roll of the Court roll. I understood the matter to mean the CI criminal investigations which included the original Mdluli/Barnard criminal matter. General Nhlemeza instructed me not to engage with the NPA on the matter. General Nhlemeza appointed Brigadier Moodley as the chief investigating officer for the matter. I am instructed to stop the investigation. General Nhlemeza informed me that he will attend the meeting at 14h00 later that day alone and General Nhlemeza tried to
10 intimidate me by asking, by raising a lunch that I supposedly had with General Jacobs that needed to be investigated.

CHAIRPERSON: What was the context of that intimidation you talk about?

MR KOBUS DEMEYER ROELOFSE: Chair, he was not speaking directly to me. He was speaking to General Mononopi addressing her butt speaking about me.

CHAIRPERSON: He wanted you to hear but talking to her?

MR KOBUS DEMEYER ROELOFSE: He wanted me to hear.

CHAIRPERSON: Ja.

20 **MR KOBUS DEMEYER ROELOFSE:** So, he was asking her how far is that investigation with regards to myself and General Jacobs.

CHAIRPERSON: Ja.

MR KOBUS DEMEYER ROELOFSE: And from the gist of what he is trying to ask from her, what he's asking her is that we apparently had lunch together and.

CHAIRPERSON: Why would it be a problem to have lunch with General Jacobs or Jacobs?

MR KOBUS DEMEYER ROELOFSE: Chairperson, welcome to the twilight zone. I really do not know. That's what I asked as well. I said I did not have lunch but if I had what would have been the, where is the wrongdoing in that? What did I do wrong? I never got an answer. I do not know whether investigation was done or not but I think that was said for my benefit. So, that the context of that comment.

CHAIRPERSON: Well, so now for the first time you are getting a clear
10 instruction from him that you should stop this investigation. You should not continue with this investigation.

MR KOBUS DEMEYER ROELOFSE: That is correct, Chair.

CHAIRPERSON: And but on the basis of what he said at the meeting is not as if he was saying the investigation must not be continued. He just wanted somebody else to conduct the investigation and not you.

MR KOBUS DEMEYER ROELOFSE: Chair, again that was for appearance sake because later on I deal with that. But again, Brigadier Moodley was transferred probably a month after that and no one else was given the authority or was asked to continue with the investigation.

20 **CHAIRPERSON**: Yes, so but you say as at that meeting you had the suspicion that putting Brigadier Moodley into the investigation wasn't meant in any serious way for purpose that he should pursue the investigation.

MR KOBUS DEMEYER ROELOFSE: No, Chair.

CHAIRPERSON: It was just for appearance.

MR KOBUS DEMEYER ROELOFSE: That is what I.

CHAIRPERSON: That is how you viewed it.

MR KOBUS DEMEYER ROELOFSE: That is how I viewed it. Chair, Brigadier Moodley was not, he knew about the facts of the case. He was not involved in the investigation. It was a massive investigation. You don't just give that from one person to another without proper handover and explanation. I would have been probably busy with the case for the next six months just to handed over to Brigadier Moodley. That's why I knew it was not.

10 **CHAIRPERSON**: It was not meant in a serious way.

MR KOBUS DEMEYER ROELOFSE: It was not meant in a serious way. I did not expect that he would transfer Brigadier Moodley but that indeed happened.

CHAIRPERSON: Did he say at this meeting why he was, he didn't want you to be the one continuing with investigation?

MR KOBUS DEMEYER ROELOFSE: No, Chair. He didn't give me any reason.

CHAIRPERSON: Did you ask him?

MR KOBUS DEMEYER ROELOFSE: Chair, what would have been the
20 point?

CHAIRPERSON: Yes.

MR KOBUS DEMEYER ROELOFSE: He wouldn't have given me even if he had given me an answer, I wouldn't know whether that's an honest answer or not.

CHAIRPERSON: Yes. Apart from what you have put here as what

transpired, was there any other, were there any other things that were discussed at this meeting or was the meeting just for purposes of him telling you this?

MR KOBUS DEMEYER ROELOFSE: Chair, that is what I suspect. There was not much discussed after this but what actually, what was very, what was very worrying to me is the fact that General Mononopi whom we briefed and who expressed an opinion regarding this that she didn't do anything to intervene. I understand Brigadier Moodley's position because he was in the same situation as I am. He was also set
10 aside and not listened to. So, I was actually, I was very, I was perturbed by her, by the fact that she did not even mention the fact that this is wrong you can't do this. She didn't say a word.

CHAIRPERSON: Oh, was Brigadier Moodley a lady, a woman?

MR KOBUS DEMEYER ROELOFSE: No, Brigadier Moodley was also a man.

CHAIRPERSON: Oh.

MR KOBUS DEMEYER ROELOFSE: I'm talking about Major General Mononopi.

CHAIRPERSON: Oh Mononopi because she was the head of your unit
20 now?

MR KOBUS DEMEYER ROELOFSE: That is correct, yes.

CHAIRPERSON: Okay and at the first meeting that you had had with her where you briefed her about this investigation, she had appeared to be interested in assisting.

MR KOBUS DEMEYER ROELOFSE: That is correct, Chair. I had the

impression that she was genuinely shocked when hearing the extent of this and that she wanted to assist.

CHAIRPERSON: Yes. So, nobody else said anything of substance really other than what General Nhlemeza said. Is that right?

MR KOBUS DEMEYER ROELOFSE: Ja, Chair it wasn't a discussion about it was just given this is what I'm saying and this is what you're going to do.

CHAIRPERSON: Yes.

MR KOBUS DEMEYER ROELOFSE: So, there wasn't actually a
10 discussion that took place.

CHAIRPERSON: Yes. So, and he didn't say why he was going to be the only one attending the 2 o'clock meeting with the NPA on the matter when one you were the one who had been investigating the matter. But even if you are not supposed to attend that meeting now because you were off the case. Then Brigadier Moodley who was going to investigate the matter why he was not going to be taken along. He didn't give you an explanation.

MR KOBUS DEMEYER ROELOFSE: He didn't give any reason; he also didn't invite him.

20 **CHAIRPERSON**: Yes, and he knew nothing about the case?

MR KOBUS DEMEYER ROELOFSE: Brigadier Moodley... (intervention).

CHAIRPERSON: Or at least from what in terms of documents that you had.

MR KOBUS DEMEYER ROELOFSE: That's correct, Chair. He would have known from the case in terms of the memos and the feedback that

I gave him.

CHAIRPERSON: That's all he would have known? Unless there was something that he had elsewhere.

MR KOBUS DEMEYER ROELOFSE: That is correct, Chair. He didn't have access to the actual docket. So, he didn't read through the affidavit. He didn't have that kind of access. He could have if he asked but he was the head and he dealt with his own issues as the head of the or the acting head of that unit.

CHAIRPERSON: And of course, as I recall now the letter from the NPA
10 calling for this meeting its purpose was to discuss the issue of declassification of documents. Isn't it?

MR KOBUS DEMEYER ROELOFSE: That is correct, Chair.

CHAIRPERSON: And without those documents being declassified the case could not proceed.

MR KOBUS DEMEYER ROELOFSE: That is correct, Chair.

CHAIRPERSON: And he was against the, was he against the declassification in terms of what he had pronounced leaving out your own analysis of the situation?

MR KOBUS DEMEYER ROELOFSE: Chair, he didn't say anything. He
20 didn't pronounce on the declassification itself. He pronounced on the investigation.

CHAIRPERSON: Yes.

MR KOBUS DEMEYER ROELOFSE: That would include then the declassification.

CHAIRPERSON: Yes.

MR KOBUS DEMEYER ROELOFSE: So, that is how I... That is what transpired.

CHAIRPERSON: Yes.

MR KOBUS DEMEYER ROELOFSE: He stopped the investigation which then as far as I am concerned also stopped the declassification process.

CHAIRPERSON: Yes. Okay yes continue.

ADV VERUSCHKA SEPTEMBER: I note the time but I'm guided by you Chair. I note the time but I'm guided by you.

10 **CHAIRPERSON:** Yes. Maybe let's go to quarter to.

ADV VERUSCHKA SEPTEMBER: Mr Roelofse, if I could ask you to turn to Annexure 47 which starts at page 433 please?

CHAIRPERSON: What's the page?

ADV VERUSCHKA SEPTEMBER: 433. Is it correct that this is an email authored by yourself which you sent to Brigadier Moodley dated the 15th of July 2015 at 17h38?

MR KOBUS DEMEYER ROELOFSE: That is correct, Chair.

ADV VERUSCHKA SEPTEMBER: What is the purpose of the email?

20 **MR KOBUS DEMEYER ROELOFSE:** To show that I am working overtime, Chair. The purpose of the email was to deal with the meeting that transpired on the 13th.

ADV VERUSCHKA SEPTEMBER: And so, this was then a recordal of your understanding as to the outcomes of the meeting that was had with General Nhlemeza and others?

MR KOBUS DEMEYER ROELOFSE: That is correct, Chair.

ADV VERUSCHKA SEPTEMBER: Two days before.

MR KOBUS DEMEYER ROELOFSE: That is correct.

ADV VERUSCHKA SEPTEMBER: In the middle of the page you inform or you record rather that the following instructions were issued regarding the above-mentioned investigations at the meeting with Major General Nhlemeza on 2015-07 at 11 o'clock. And in doing so, you then distinguished between two case numbers, sorry three case numbers. The first two is under one line first being Littleton case 432/011/2011 and Vosloorus case 342/02/199. Which criminal investigations were
10 these?

MR KOBUS DEMEYER ROELOFSE: Chair, the two that I mentioned on top are the ones that was already in court that proceeded in court. I think it is again my opinion regarding this. It would not have been, it would have been very suspicious if he then asked me to step down from these cases as well as it was already in court and we were leading evidence at the time on these specific matters.

ADV VERUSCHKA SEPTEMBER: And so, you record it to be your understanding that you remain to be the investigating officer on these matters. Is that right?

20 **MR KOBUS DEMEYER ROELOFSE:** That is how I recorded it, yes Chair.

ADV VERUSCHKA SEPTEMBER: The next case number that you referenced there is Silverton case 155/07/2011.

MR KOBUS DEMEYER ROELOFSE: That is correct, Chair.

ADV VERUSCHKA SEPTEMBER: Which case is this?

MR KOBUS DEMEYER ROELOFSE: This is now the CI investigation, the one where which started with the BMW and then it included the other investigations that were supposed to be re-enrolled.

ADV VERUSCHKA SEPTEMBER: If you turn the page at page 434 you make a few assertions. In the middle of the page.

CHAIRPERSON: What page?

ADV VERUSCHKA SEPTEMBER: 434 which is the next page.

CHAIRPERSON: Okay.

ADV VERUSCHKA SEPTEMBER: Can you please read the full
10 assertions that you make?

MR KOBUS DEMEYER ROELOFSE: At the top of the page?

CHAIRPERSON: Tell him exactly where.

ADV VERUSCHKA SEPTEMBER: So, it's in the middle of the page.

CHAIRPERSON: Starting with?

ADV VERUSCHKA SEPTEMBER: And it starts with the words, I do not know what the intention is of such a threat. And the following word begins firstly. Following sentence, sorry begins with firstly.

MR KOBUS DEMEYER ROELOFSE: Firstly, I did not have lunch with the individuals as mentioned. I think the last time I saw Major General
20 Jacobs was about two years ago. Secondly, if I did see him and had lunch with him what would be the transgression? Surely, the transgression cannot lie with whom I have lunch. Thirdly, if that is not a transgression, I would like to be advised of what I am accused of. In the same vein, I would expect that Major General Jacobs would be advised of same.

ADV VERUSCHKA SEPTEMBER: And the last point?

MR KOBUS DEMEYER ROELOFSE: I'm giving notice that I intend to take this matter further as it is the third incident I am being falsely accused of in less than four months. In this regard, I refer to the... (indistinct) saga and accusations that they illegally obtained classified information and is by definition illegally in possession thereof due to the fact that I did not have security clearance.

ADV VERUSCHKA SEPTEMBER: Did you in fact take this matter further as you recorded there?

10 **MR KOBUS DEMEYER ROELOFSE:** Chair, I gave it some thought and I thought, I just came to the conclusion it's not going to get anywhere. So, I didn't take it any further.

ADV VERUSCHKA SEPTEMBER: And did you receive any correspondence to suggest that what you recorded in this email as your account of what transpired at the meeting was inaccurate in any way?

MR KOBUS DEMEYER ROELOFSE: No, Chair.

ADV VERUSCHKA SEPTEMBER: We can go back to page 61.

CHAIRPERSON: What was Brigadier Moodley's response if any at the meeting were General Nhlemeza said he was the one who should take
20 over the investigation. Did he just keep quiet? Did he say okay?

MR KOBUS DEMEYER ROELOFSE: Brigadier Moodley I think the circumstances didn't allow him to say, to say much.

CHAIRPERSON: To say anything, ja.

MR KOBUS DEMEYER ROELOFSE: Or to say anything. I cannot even remember if he did say anything.

CHAIRPERSON: Yes.

MR KOBUS DEMEYER ROELOFSE: So, I cannot remember offhand what was said by him if indeed he did say anything.

CHAIRPERSON: Between that date and the date when he was transferred, did he ask for a meeting to discuss the handover of the investigation to him?

MR KOBUS DEMEYER ROELOFSE: No, Chair because I know that he was also, he also knew that he was not investigating officer. He was never intended to be the investigating officer.

10 **CHAIRPERSON:** So, your assessment is that both you and he were of the same view that General Nhlemeza was not serious in saying that you should take over the investigation?

MR KOBUS DEMEYER ROELOFSE: Yes, Chair.

CHAIRPERSON: Okay. Is there anything that Brigadier Moodley said to you which made you think that?

MR KOBUS DEMEYER ROELOFSE: Chair, we would have discussed it afterwards because he would have asked me. He did ask me actually for the classified documents and he said to me that's the only thing that he can do is to hold on the classified, hold onto the classified
20 documents that needs to be declassified. And we put that, we placed that into his safe. So, that was the extent of what he.

CHAIRPERSON: He did.

MR KOBUS DEMEYER ROELOFSE: He did because nothing else is going to, was going to happen with regard to the instruction by General Nhlemeza.

CHAIRPERSON: Okay.

MR KOBUS DEMEYER ROELOFSE: I just like to refer to one point which I actually forgot, Chair.

CHAIRPERSON: Yes.

MR KOBUS DEMEYER ROELOFSE: Which I address in this email. Something that General Nhlemeza said. He stated in, he stated during the meeting Major General and this is now my quote from this. Major General Nhlemeza would meet the NDPP alone on 2015-07-13. Major General Nhlemeza will inform the NDPP to appoint new prosecutors in
10 this matter. So, that was the extent in terms of what he was going to do at the meeting with the NDPP.

CHAIRPERSON: I'm sorry I may have missed that. What did you say he was going to do at the meeting?

MR KOBUS DEMEYER ROELOFSE: He said he is going to say to the, informed the NDPP, not ask, informed the NDPP to appoint new prosecutors in this matter.

CHAIRPERSON: Oh, did he say why he would do that? What was wrong with the prosecutor who was involved and where did he come in on the selection of prosecutors?

20 **MR KOBUS DEMEYER ROELOFSE**: I do not know, Chair. That was his comment and it wasn't just one prosecutor. At that point in time there was two prosecutors.

CHAIRPERSON: Yes

MR KOBUS DEMEYER ROELOFSE: That worked extensively on the matter that has drawn up a comprehensive charge sheet and that knew

the matter.

CHAIRPERSON: So, one he didn't want to you to continue with the investigation yet you had been involved in the investigation for years?

MR KOBUS DEMEYER ROELOFSE: That is correct, Chair.

CHAIRPERSON: And now he didn't want prosecutors on the matter who had been involved in the matter for years?

MR KOBUS DEMEYER ROELOFSE: At point in time probably a year, yes Chair.

CHAIRPERSON: Well, for quite some time.

10 **MR KOBUS DEMEYER ROELOFSE**: That's correct, Chair.

CHAIRPERSON: It might not because the investigation would have preceded the matter going to the prosecutors.

MR KOBUS DEMEYER ROELOFSE: That's correct, Chair.

CHAIRPERSON: Ja, but he didn't want them from what he said?

MR KOBUS DEMEYER ROELOFSE: No, Chair. I do not know why because he hasn't met them before.

CHAIRPERSON: Yes.

MR KOBUS DEMEYER ROELOFSE: So, I would know why he want to make that comment.

20 **CHAIRPERSON**: Yes, okay.

ADV VERUSCHKA SEPTEMBER: Guided by you, Chair.

CHAIRPERSON: We are at quarter to. I think we will stop now. We are left with about, what? 13 pages.

ADV VERUSCHKA SEPTEMBER: Yes, it's about 11 pages.

CHAIRPERSON: About 11 pages?

ADV VERUSCHKA SEPTEMBER: Yes, Chair.

CHAIRPERSON: I think the pace at which we have been going is such that maybe it would be unrealistic to think we can do 10 pages in two or three hours because today we did about 13 pages. We started at 47 is it? Page 47.

ADV VERUSCHKA SEPTEMBER: Yes, Chair. The progression has been different on the different days since we started.

CHAIRPERSON: Yes, but I'm wondering, no I'm not blaming anybody. I'm talking about our pace all of us and probably I should exclude the
10 witness. He has no control on who asked him questions when and how many questions. But I would really prefer us to finish the evidence of this witness rather than break it up. But maybe I think we must continue tomorrow but it would be on the understanding that if at all possible, I hope we can try and finish within two hours. But what I'm thinking is that if you can this evening look very closely to the remaining pages and the Annexures that may need to be referred to. Maybe there might be a way of selecting the important things without doing any injustice to the case, to the evidence. And then let's see whether we can finish within a short time.

20 **ADV VERUSCHKA SEPTEMBER:** No problem, Chair.

CHAIRPERSON: And maybe we could start at 09h30.

ADV VERUSCHKA SEPTEMBER: As it pleases.

CHAIRPERSON: And 10h30. I don't know if there is a chance of finishing at 11 but I'm very poor when it comes to estimating time. So, I don't trust my estimates very much.

ADV VERUSCHKA SEPTEMBER: I'm guided by you, Chair.

CHAIRPERSON: So, I think let's start at 09h30. Hopefully we will finish about 11 or at the very latest 12 or 11h30. Ja, two hours to 11h30. But I think there might be a chance if you look carefully at the remaining pages of the statement and identify really important things otherwise other things one can read later because he has confirmed that what he says in the statement is correct. And the Annexures on the Annexures except those were reading them is quite important because of the importance of the contents. Otherwise he could just give the gist
10 of what each Annexure says without reading it. So, maybe we could try that. Okay we are going to adjourn Mr Roelofse. We will start at 09h30 tomorrow. Hopefully we can finish within two hours or so. Okay we adjourned for the day. We adjourn.

REGISTRAR: All rise

INQUIRY ADJOURNS TO 20 SEPTEMBER 2019: