

COMMISSION OF INQUIRY INTO STATE CAPTURE

HELD AT

PARKTOWN, JOHANNESBURG

10

25 SEPTEMBER 2019

DAY 170

20

PROCEEDINGS RESUME ON 25 SEPTEMBER 2019

CHAIRPERSON: Good morning Ms Wentzel, good morning everybody.
Are you ready?

ADV SUSAN WENTZEL: I am ready –

CHAIRPERSON: Yes put on your microphone. Switch on your
microphone.

ADV SUSAN WENTZEL: Thank you.

CHAIRPERSON: Yes.

ADV SUSAN WENTZEL: Morning Chair.

10 **CHAIRPERSON:** Morning.

ADV SUSAN WENTZEL: We are going to lead the evidence of Mr
Sesoko.

CHAIRPERSON: Yes.

ADV SUSAN WENTZEL: From IPID today. There is – a lot of the
evidence is corroboration of what Mr McBride has testified to. We will
not spend too much time and go into too much detail and try and find –
provide confirmation where we can.

CHAIRPERSON: Yes okay. No that is fine.

ADV SUSAN WENTZEL: Thank you.

20 **CHAIRPERSON:** That is fine. Please administer the oath or
affirmation?

REGISTRAR: Please state your full names for the record?

MR MATTHEWS SESOKO: My name is Matthews Sesoko.

REGISTRAR: Do you have any objection to taking the prescribed oath?

MR MATTHEWS SESOKO: No.

REGISTRAR: Do you consider the oath to be binding on your conscience?

MR MATTHEWS SESOKO: Yes.

REGISTRAR: Do you swear that the evidence you will give will be the truth; the whole truth and nothing but the truth, if so please raise your right hand and say, so help me God.

MR MATTHEWS SESOKO: So help me God.

ADV SUSAN WENTZEL: Mr Sesoko.

CHAIRPERSON: Sorry Ms Susan.

10 **ADV SUSAN WENTZEL:** Yes.

CHAIRPERSON: Ms Wentzel. Before we start Mr Sesoko I am aware and you would be aware also that when Mr McBride was going to give evidence or when he gave evidence the commission became aware that in his evidence he was going to say something about a disciplinary hearing involving you I think which was chaired by my younger brother Advocate Mxolisi Zondo and that once the commission was aware of that it sought views from those who were – who had something to say about that including you whether they had any objection to me hearing that evidence. Now my recollection is that you were among those who
20 said you had no problem with that and if that is so I just would like to have that confirmed. Is that so?

MR MATTHEWS SESOKO: I can confirm Chairperson I did indicate that I do not have an objection.

CHAIRPERSON: Yes.

MR MATTHEWS SESOKO: That the Chair hearing that evidence.

CHAIRPERSON: Yes. What we – what we did in regard to that issue was to say to the extent – was to say that I would not hear the – that evidence insofar as there are allegations made against him that is my younger brother until I had initiated a process in terms of which I would get submissions as to how I should handle that. But it – I think everyone that is yourself, Mr McBride, Mr Khuba I think General Sibiya as well if I am not mistaken I think everybody said they had no problem with that. But we – we decided that we should not necessarily decide it simply on the basis that those affected had no problem it might need
10 more thought. So that process that was envisaged has not happened yet but I did see when I read your statement that unlike in the case of McBride's statement where there seemed to be some suggestion of – some suggestion of some kind that Mr Mxolisi Zondo may have been used or may have been part of a scheme to get rid of certain people that – at least that is how I understood part of his statement , that is Mr McBride's statement your statement seemed not to make any such suggestion but it seemed to simply state the facts that he was the Chairperson of the disciplinary inquiry and when the inquiry was supposed to happen you were – you did attend – you were in hospital
20 or there was a doctor's certificate to say you were – you were not well. Your counsel asked for a postponement and he refused it and you went ahead and made – and decided the matter and as I understand your statement it leave everything at that. Is my understanding correct?

MR MATTHEWS SESOKO: Chairperson that is correct. I did not take the issue further than that.

CHAIRPERSON: I am sorry. I am sorry. Yes, yes.

MR MATTHEWS SESOKO: It is correct Chairperson I did not take the issue further than that except to show that in my view the way he acted showed bias.

CHAIRPERSON: Yes, yes.

MR MATTHEWS SESOKO: Something that will not be expected from an impartial...

CHAIRPERSON: Yes.

MR MATTHEWS SESOKO: Chairperson in a disciplinary inquiry.

10 **CHAIRPERSON:** Yes, yes. That is as far as you – that is as far as you – you go?

MR MATTHEWS SESOKO: Yes.

CHAIRPERSON: Yes. Okay no thank you. Thank you.

ADV SUSAN WENTZEL: Thank you Chair. Mr Sesoko it is correct that you have provided a statement to the commission?

MR MATTHEWS SESOKO: That is correct.

ADV SUSAN WENTZEL: And the statement that appears in the bundle ahead of you – in front of you from pages 1 to 20 is that your statement?

20 **MR MATTHEWS SESOKO:** That is correct.

ADV SUSAN WENTZEL: Chair I beg to admit this Exhibit Y3 into evidence?

CHAIRPERSON: The lever arch file containing the statement or affidavit or by Mr Matthews Sesoko will be marked Exhibit Y3.

ADV SUSAN WENTZEL: Thank you.

CHAIRPERSON: You will see Mr Sesoko when you open the file in front of you that it has got page numbers written in red at the top. When Ms Wentzel refers to pages you will see that it says MS01, 02 – she will just say page 1, page 2.

MR MATTHEWS SESOKO: Yes.

CHAIRPERSON: And leave out MS and 0 so you...

MR MATTHEWS SESOKO: I have seen that yes.

CHAIRPERSON: Ja okay.

ADV SUSAN WENTZEL: Thank you. Mr Sesoko how long have you
10 been employed at IPID? It originally was the Independent Complaints Directorate if you could just explain that to the Chair?

MR MATTHEWS SESOKO: I have been employed by IPID formally ICD since the institution was established on the 1st April 1997. I held positions from junior management, senior management – junior management, middle management, senior management up to executive management where I am currently.

ADV SUSAN WENTZEL: And at the time that you were approached to investigate the Rendition Matter which we will deal with in – in due course what position did you hold?

20 **MR MATTHEWS SESOKO:** Initially when the matter came to our attention I was the Acting National Head of Investigations at IPID and I eventually got appointed to the position – in a permanent position as the National Head of Investigations at IPID.

ADV SUSAN WENTZEL: Thank you.

CHAIRPERSON: Maybe just – I am – maybe just to refresh my memory

on the structure of IPID. You have got the director, executive director or IPID at the top.

MR MATTHEWS SESOKO: That is correct Chair.

CHAIRPERSON: And then you have got Head – National Head of Investigations?

MR MATTHEWS SESOKO: That is correct.

CHAIRPERSON: And then – why – what else have you got in terms of the structure?

MR MATTHEWS SESOKO: Then you have other program managers
10 like...

CHAIRPERSON: On the same level as National Head of Investigations?

MR MATTHEWS SESOKO: That is correct.

CHAIRPERSON: Okay.

MR MATTHEWS SESOKO: And then you have – like you have the other program managers, different programs. Currently we have four programs in the organisations and including the CFO is also part of the Executive Management.

CHAIRPERSON: Okay.

20 **MR MATTHEWS SESOKO:** And then you have the Provincial Heads.

CHAIRPERSON: Yes.

MR MATTHEWS SESOKO: That report to me as the National Head of Investigations.

CHAIRPERSON: Okay. So would the Head of each program have Provincial people – a provincial person who reports to them?

MR MATTHEWS SESOKO: No, no.

CHAIRPERSON: Or only the National...

MR MATTHEWS SESOKO: Only...

CHAIRPERSON: The National Head of Investigations?

MR MATTHEWS SESOKO: All the – yes all the Provincial Heads reports to the National Head of Investigations.

CHAIRPERSON: Oh okay, okay. So – so would the National Head of Investigations be like the second in command or one of those who are immediately below the Executive Director?

10 **MR MATTHEWS SESOKO:** I am one of those who are immediately below the Executive.

CHAIRPERSON: Below the – okay.

MR MATTHEWS SESOKO: Director report directly to the Executive Director.

CHAIRPERSON: Yes okay thank you.

ADV SUSAN WENTZEL: Thank you. Is it correct that in the circumstances we are going to deal with in your evidence you were dismissed on the 16th August 2016 and then ultimately reinstated on the 23rd November 2016?

20 **MR MATTHEWS SESOKO:** That is correct.

ADV SUSAN WENTZEL: Mr Sesoko could you please tell the Chair when you first approached to deal with the Rendition Matter to investigate the Rendition of the Zimbabwe Nationals by means of the South African Police Force back to Zimbabwe.

MR MATTHEWS SESOKO: The matter was first brought to my attention

by the then Executive Director of IPID Mr Beukman who had informed me that he was approached by the Minister of Police then Minister Nathi Mthethwa that IDIP must investigate this matter. As – at the time I was the Acting National Head of Investigation requested me to put up a team that would investigate this matter. And I then appointed Mr Innocent Khuba to lead the team that investigated this – this matter. Mr Beukman further advised me that we are supposed to meet with the Minister and the then Secretary of Police Ms Jenny Qhobosheane to discuss this issue and so that they can hand over the investigation to
10 us. And indeed we – we went to a meeting where such an investigation was supposed to be handed over to us by the Minister and the Secretary of Police. However when we arrived at the meeting we only found the Secretary of Police who then informed us that the Minister had said we should hold off and that when he is ready to hand over the investigation to us the investigation will be handed over to us. It was myself, Mr Beukman and Mr Khuba who had attended that meeting. And that was the last time we heard about this matter.

ADV SUSAN WENTZEL: Can you ...

CHAIRPERSON: Was it – sorry – was it normal for the Minister to
20 request IPID to investigate certain matters?

MR MATTHEWS SESOKO: Yes it is normal Chair.

CHAIRPERSON: It is normal?

MR MATTHEWS SESOKO: Even though our Act.

CHAIRPERSON: Yes.

MR MATTHEWS SESOKO: Makes provision for the fact that ...

CHAIRPERSON: Yes.

MR MATTHEWS SESOKO: The Minister may refer investigations.

CHAIRPERSON: Okay.

MR MATTHEWS SESOKO: To IPID.

CHAIRPERSON: Okay, okay thank you.

ADV SUSAN WENTZEL: Then Mr Sesoko just so we can get a – a time line is it correct that this occurred during October 2011?

MR MATTHEWS SESOKO: That is correct.

ADV SUSAN WENTZEL: So when did you next hear about the
10 investigation?

MR MATTHEWS SESOKO: It was about a year later. I think it should have been October – around October 2012.

ADV SUSAN WENTZEL: Yes.

MR MATTHEWS SESOKO: When Colonel Moukangwe from Crime Intelligence came to my office with a docket and indicated to me that he had been requested by the Minister to hand over this docket to IPID so that it can be investigated. By virtue of the fact that the instruction came to – from the Minister from what Mr – Colonel Moukangwe had informed me I then took the docket to the then Acting Executive
20 Director Ms Koekie Mbeki and informed her about the approach by Colonel Moukangwe and handed over the docket to her. I further informed her about the engagement earlier – a year earlier between myself and the former Executive Director Mr Beukman and the fact that at that point we were told to hold off by the Minister and that I had in fact appointed Mr Khuba to lead that investigation. After I had handed

over the docket to Ms Koekie Mbeki about a week later Ms Mbeki came back to me with the docket and indicated that I must hand over the docket to Mr Khuba to investigate.

CHAIRPERSON: What – what was your understanding at that stage of what IPID was required to investigate? What was this rendition? What – what – did you understand what exactly was being required?

MR MATTHEWS SESOKO: Yes. The issue of the rendition was already in the media around that period.

CHAIRPERSON: Yes.

10 **MR MATTHEWS SESOKO:** And I think there was also some Parliamentary discussion about it or Parliamentary question that was asked of me that had to be responded to. So we understood that the investigation was supposed to be around how the Zimbabwean Nationals were renditioned to Zimbabwe unlawful and were later allegedly killed in Zimbabwe.

CHAIRPERSON: Hm. Okay.

ADV SUSAN WENTZEL: Is it usual for Crime Intelligence to conduct an investigation?

MR MATTHEWS SESOKO: No it is not usual. Crime Intelligence by
20 nature of their work they do not conduct investigation. They gather intelligence and hand over the product of their intelligence to investigators who then conduct the investigations.

ADV SUSAN WENTZEL: And Mr Sesoko you have suggested in your statement that people at Crime Intelligence may have had a conflict of interest. Could you explain that to the Chair?

MR MATTHEWS SESOKO: Well the – the members of Crime Intelligence themselves were involved in the rendition or the allegations of rendition. So that is why we are saying that the – they may have been conflicted themselves in investigating this matter.

ADV SUSAN WENTZEL: Then Mr Sesoko you say in your statement that you were told by Mr Khuba that Ms Mbeki had instructed you to keep the – to keep this matter away from you and to deal only with Colonel Moukangwe and to keep his involvement secret. Can you just explain that?

10 **MR MATTHEWS SESOKO:** That is correct Chair. What had happened was that as per usual as the National Head of Investigation in an investigation of this nature which is a national investigation I am ordinarily involved in guiding that investigation and all investigators report to me on such investigations.

And when I spoke to Mr Khuba about this issue trying to find out where – or how far he is on the investigation after the matter was allocated to him that is when he made me aware that he had received a specific instruction that I should not be involved in the investigation and that he should report directly to Ms Mbeki on the – on the
20 investigation.

And then – which was very strange to me because that is very unusual because I am always involved in such investigation. However because it was an instruction from my superior I advised Mr Khuba that he must comply with that instruction.

I did not understand why it had to be that way and particularly

because I – I had always believed that I enjoyed a good working relationship with Ms Mbeki. I did not understand why such an instruction was given to Mr Khuba.

ADV SUSAN WENTZEL: Mr Sesoko did you ever meet the people who were involved in the investigation who Mr Khuba was working with?

MR MATTHEWS SESOKO: That is correct. There was an occasion when Mr Khuba approached me and indicated that he is uncomfortable about the fact that he is the only person who deals with people involved in the investigation including the prosecutors from the NPA. So he
10 wanted me to know who these people were.

As a result of that he then arranged that I meet with them and then we met with them at a Petro Port Garage on the N1 and then I was able to meet then Advocate Musina and Advocate Moletse and Colonel Moukangwe was also a part of that meeting. And basically there is not much that we – we discussed at that meeting except for them to indicate that they were happy in the way in which Mr Khuba was investigating the – this matter and that since his involvement in the investigation there has been a lot of progress in the investigation.

ADV SUSAN WENTZEL: Thank you. What was your next involvement
20 with the investigation?

MR MATTHEWS SESOKO: My next involvement with the investigation was after Mr McBride was appointed as the Executive Director to IPID. Upon his appointment Mr McBride asked that we brief him on all high profile investigations that we were conducting.

So I briefed him on the investigation for instance that I was

conducting against the then National Commissioner of Police Ms Riah Phiyega a – General Phiyega and Khuba briefed him on the rendition and the other investigators briefed him on the Cato Manor investigation and so forth. And after that brief we then had another meeting where Mr Mc Bride had indicated what Mr Khuba had informed him about what happened with the investigation and the difficulties he has had when he was investigating this matter.

And he then hence forth instructed that I should be involved in the investigation as I should have been in the first place and that is
10 when I got involved again with the investigation.

ADV SUSAN WENTZEL: And...

CHAIRPERSON: Let us – I am sorry – Let us just get the time lines again? It was around October or something in 2011 when you heard from Mr Beukman that there was an investigation that the Minister wanted to be done. Is that right?

MR MATTHEWS SESOKO: That is correct Chair.

CHAIRPERSON: Yes. And then more or less a year lapses without anything happening?

MR MATTHEWS SESOKO: That is correct Chair.

20 **CHAIRPERSON:** So that would take us to around towards the end of 2012?

MR MATTHEWS SESOKO: 2012 that is correct.

CHAIRPERSON: Yes. And Mr McBride was appointed around about – when was it? 2012 or 2013 or you might not be able to...?

ADV SUSAN WENTZEL: It said the 4th March 2014.

MR MATTHEWS SESOKO: March 2014.

CHAIRPERSON: Oh.

MR MATTHEWS SESOKO: That was the appointment of Mr McBride.

CHAIRPERSON: Yes. Okay. Now before – when Mr McBride was appointed Mr Khuba was already busy with the investigation, is that right?

MR MATTHEWS SESOKO: That is correct Chair.

CHAIRPERSON: Mr Khuba has begun the investigation around about when if you are able to remember?

10 **MR MATTHEWS SESOKO:** As I have indicated...

CHAIRPERSON: About – it was end of 2012?

MR MATTHEWS SESOKO: Around late 2012.

CHAIRPERSON: Late 2012.

MR MATTHEWS SESOKO: Yes.

CHAIRPERSON: Okay no that is fine. I just wanted to get the time lines. So – so late 2012 Mr – you – Mr Khuba gets assigned to this investigation and when Mr McBride is appointed in 2014 there is a meeting when all of you brief him on high profile matters?

MR MATTHEWS SESOKO: That is correct Chair.

20 **CHAIRPERSON:** Yes. Okay. You may continue.

ADV SUSAN WENTZEL: Thank you. If we can just go a little bit back in the time line just before McBride was appointed were you involved in taking warning statements from Generals Dramat, Sibiya and Lebeya?

MR MATTHEWS SESOKO: I did not take the statements. What had happened was that Chair Mr Khuba had approached me to say that he

needed to approach the Generals Dramat, Sibiya and I think also General Lebeya to interview them and obtain their statements. But he felt uncomfortable doing it on his own because of their seniority so he wanted me to facilitate that. I informed him that because of the instruction he had he needed to go to the Acting Executive Director and get approval if he wanted my assistance in that regard. Which Mr Khuba and he accordingly got approval in writing from the former Acting Executive Director Ms Koekie Mbeki that I can assist in facilitating that which I accordingly did. I facilitated the meeting with General Dramat,
 10 General Sibiya and General Lebeya and even accompanied him to a meeting with General Dramat and General Lebeya where he had indicated to them that he needed their statements and so forth and which they – they subsequently provided to him.

ADV SUSAN WENTZEL: Thank you. Now once Mr McBride had instructed you to become involved in this investigation did you work with Mr Khuba to prepare a report?

MR MATTHEWS SESOKO: That is correct.

ADV SUSAN WENTZEL: And could you explain ...

MR MATTHEWS SESOKO: What had happened...

20 **ADV SUSAN WENTZEL:** What happened yes?

MR MATTHEWS SESOKO: What had happened is that upon Mr McBride indicating that I must get involved with the completion of the investigation because Mr Khuba had already indicated to us that he had received further evidence which he needed to include to the – in the docket and the docket at that point was already with the NPA and he

had written to Advocate Mosing requesting the docket so that he can add the further investi – evidence that he had obtained.

And then McBride then said we can – Mr Khuba can proceed and do what he had intended to do even before he was appointed. And Mr Khuba proceeded to get the docket from the NPA and then after he received the – the docket we had met in my office to discuss the evidence that he had obtained – further evidence that he obtained including the evidence that was already there in the docket. And we looked at the evidence – the totality of the evidence and what could be
10 sustained for criminal prosecution and what could not be sustained.
And on the basis...

CHAIRPERSON: Just – I am sorry – let me interrupt you. At that stage there was no report as such or was there a report that was – had already been put – given to the NPA?

MR MATTHEWS SESOKO: As far as...

CHAIRPERSON: As far as you remember?

MR MATTHEWS SESOKO: Chair when I – I engaged with Mr Khuba at that point I was not aware that there was a report that ...

CHAIRPERSON: Had already been submitted?

20 **MR MATTHEWS SESOKO:** That had already been submitted to the NPA.

CHAIRPERSON: Yes.

MR MATTHEWS SESOKO: I only became aware later.

CHAIRPERSON: Oh, but ...

MR MATTHEWS SESOKO: I am aware that Mr Khuba had all - always

done ...

CHAIRPERSON: Various reports?

MR MATTHEWS SESOKO: Various progress reports ...

CHAIRPERSON: Yes.

MR MATTHEWS SESOKO: Which reports would go to also the Minister of Police.

CHAIRPERSON: Yes.

MR MATTHEWS SESOKO: In fact at some point he would email me a report. I remember a specific report that he emailed me requesting that

10 I transmit it to the Secretary of Police.

CHAIRPERSON: Yes.

MR MATTHEWS SESOKO: For onward transmission to the Minister of Police.

CHAIRPERSON: Yes and you - you certainly are speaking about those interim reports - progress reports being made prior to Mr McBride asking you to be involved?

MR MATTHEWS SESOKO: Yes.

CHAIRPERSON: Okay, alright. So - so there had been a number of interim reports - progress reports?

20 **MR MATTHEWS SESOKO**: That is correct.

CHAIRPERSON: Which had been sent to the NPA and had been forwarded to the Secretary of the Police to pass on to the Minister?

MR MATTHEWS SESOKO: That is correct.

CHAIRPERSON: Okay, alright. Then you - you may proceed. I interrupted you when you were I think dealing with the question of the

two of you that is yourself and Mr Khuba looking at the docket ...

MR MATTHEWS SESOKO: *Ja.*

CHAIRPERSON: Because Mr Khuba said he had obtained other evidence. I think you can proceed from there.

MR MATTHEWS SESOKO: Yes. So we - we looked at then the - the totality of the evidence that was there. Mr Khuba would sit on my - on my desk and type in the report that we were working on and then after we have analysed the evidence then we - we concluded the report and based on our analysis of the available evidence at the time we came to
10 the conclusion that there was not enough evidence to come to the conclusion that there was any misconduct or any criminality that can be proven on the part of General Sibiya and General Dramat and that is exactly what our report recommended.

We did however recommend criminal prosecution and disciplinary action against one Colonel Maluleke who was the active player in the whole rendition saga.

CHAIRPERSON: And where did he belong to in terms of structures? Did he - did he belong to Crime Intelligence? Did he belong to - is there a unit to which he belonged?

20 **MR MATTHEWS SESOKO:** Hm.

CHAIRPERSON: The one against whom you made ...

MR MATTHEWS SESOKO: Colonel Maluleke was ...

CHAIRPERSON: *Ja.*

MR MATTHEWS SESOKO: He was a member of the DPCI. The Hawks.

CHAIRPERSON: Oh he was a member of the Hawks?

MR MATTHEWS SESOKO: Yes.

CHAIRPERSON: Yes, okay. Thank you.

ADV SUSAN WENTZEL: Hm.

CHAIRPERSON: Of which General Dramat was the Head at the time?

MR MATTHEWS SESOKO: Of which General Dramat was the Head and General Sibiya was the Provincial Head.

CHAIRPERSON: In Gauteng?

MR MATTHEWS SESOKO: In Gauteng.

CHAIRPERSON: Okay. Thank you.

10 **ADV SUSAN WENTZEL:** And did General Maluleke have a nickname that you know of?

MR MATTHEWS SESOKO: Colonel Maluleke was called Cowboy. He was popular known as Cowboy.

CHAIRPERSON: Cowboy?

MR MATTHEWS SESOKO: Cowboy yes.

CHAIRPERSON: Oh, okay.

ADV SUSAN WENTZEL: Just before we move on.

CHAIRPERSON: I am sorry. Otherwise what was his name - his ...?

MR MATTHEWS SESOKO: Colonel Maluleke.

20 **CHAIRPERSON:** *Ja*, did he have a name. That is the surname.

MR MATTHEWS SESOKO: Hm.

CHAIRPERSON: Or you do not know the surname?

MR MATTHEWS SESOKO: Sorry, Chair I do not - I do not know his - his ...

CHAIRPERSON: Okay.

MR MATTHEWS SESOKO: I do not remember his name.

CHAIRPERSON: You just knew the ...

MR MATTHEWS SESOKO: Everyone called him Cowboy.

CHAIRPERSON: Okay, alright.

MR MATTHEWS SESOKO: Because he used - he wears a cowboy hat.

CHAIRPERSON: Oh.

MR MATTHEWS SESOKO: So - so that is how everyone identified him.

CHAIRPERSON: Oh, okay. Alright.

ADV SUSAN WENTZEL: In paragraph 17 if you can just go back to that
10 for a - a moment. You say on 23 January 2014 you received an interim
report by Mr Khuba for onward transmission to the Secretariat of the
Police. Could you just explain that?

MR MATTHEWS SESOKO: That is correct. As I have indicated earlier
Chair that that will be one of those progress reports that Mr Khuba
used to send to the NPA and as well as the - the Secretariat. So on
this occasion he had emailed this report to - to me with a request that I
must ensure that the report is submitted to the Secretary of Police for
onward transmission to the Minister.

ADV SUSAN WENTZEL: And did you consider the report at that time?

20 **MR MATTHEWS SESOKO:** No. I did not consider the report.
Particularly because of the fact that I was not supposed to be involved
in the investigation. So when I - I received the email I had the - I - I
printed out the report and had it sent to - to the Secretary of Police.

ADV SUSAN WENTZEL: Now in paragraph 22 you say on
18 March 2014 you and Mr Khuba finalised your report. Is that correct?

MR MATTHEWS SESOKO: That is correct.

ADV SUSAN WENTZEL: And then was that submitted to Mr McBride for his approval?

MR MATTHEWS SESOKO: That is correct. This is in line with our own standard of vetting procedures as well as our regulation. So once we - we had concluded the - the report as the - the Supervisor to Mr Khuba I had to quality check the report and sign off on the report and the Executive Director will then approve the report for submission to the NPA.

10 **ADV SUSAN WENTZEL:** And who at the NPA was the report sent to?

MR MATTHEWS SESOKO: The report was sent to the former NDPP Mr Nxasana. We had in fact had a meeting prior to that with the NDPP. Myself and the Executive Director Mr McBride and some of the discussions in that meeting was surrounding this issue of the rendition and we assured him that once we had concluded on it then we will forward the report to him which we did.

CHAIRPERSON: Can I take you back to paragraph 17 of your affidavit? You say:

20 “On 23 January 2014 I received an interim report from Mr Khuba via email for onward transmission to the Secretariat of Police. Because of my exclusion from the investigation I did not consider the report. However I have subsequently learnt that the report sent to me was an amended version of the report which had - which had initially been sent to

Advocate Mosing recommending that both
Generals Sibiya and Dramat be charged. However
after sending this - this report to Advocate Mosing I
am informed that Mr Khuba obtained cellular phone
evidence which excluded General Sibiya and he
accordingly deleted his recommendation that
General Sibiya be charged.”

There you talk about two reports. One you get - you talk
about the interim report that you got - received from Mr Khuba on
10 23 January but you say that report - if I understand you correctly - was
an amended version of an earlier report that Mr Khuba had sent to
Advocate Mosing. Is my understanding correct so far?

MR MATTHEWS SESOKO: That is correct Chair.

CHAIRPERSON: Yes.

MR MATTHEWS SESOKO: I became aware of the - the report that
Mr Khuba had sent to Advocate Mosing only in January 2015.

CHAIRPERSON: Yes.

MR MATTHEWS SESOKO: After the Minister had suspended
General Dramat and after the - the Minister had at the time when he -
20 he suspended General Dramat had indicated that it was on the basis of
the - the IPID Report and - and in January or the - the Minister had
said that it was on the basis of the IPID Report which the Executive
Director Mr McBride had disputed which was factually correct because
we had not recommended any criminal charge or disciplinary charge
against General Dramat and then in January there was then a media

inquiry by a - a journalist Mzilikazi Wa Afrika to our national spokesperson and he then forwarded to him the last page of the report which showed the recommendation that Generals Dramat and Sibiya must be - must be prosecuted and - and that report was signed by Mr Khuba and that was the first time that I became aware of - of such report which I subsequently called Mr Khuba to account about the - the report.

CHAIRPERSON: So - so - but you say that was in January 2015?

MR MATTHEWS SESOKO: January 2015 yes.

10 **CHAIRPERSON:** And here in 27 - in - in paragraph 17 you refer to what happened in January 2014 when you received that interim report from Mr Khuba. You sure that is - there is no mistake? There was a year after you received that interim report before you became aware of that other ...

MR MATTHEWS SESOKO: Yes. Hence I say ...

CHAIRPERSON: Report.

MR MATTHEWS SESOKO: I - I say in the - in the statement that I later became aware.

CHAIRPERSON: Yes, yes. No I understand that. I am just wondering
20 why - why you were not made aware for such a long period of - of it but there may be an explanation. I thought that because here in paragraph 17 as I understand what you are saying is on 23 January you received a report - an interim report from Mr Khuba ...

MR MATTHEWS SESOKO: Yes.

CHAIRPERSON: And when you received that interim report you say

you subsequently learnt that this report that you were receiving in January 2014 was an amended version ...

MR MATTHEWS SESOKO: Huh-uh.

CHAIRPERSON: Of a report that had been sent already to Advocate Mosing recommending that Generals Sibiya and Dramat be charged. When you say subsequently are you referring to January 2015?

MR MATTHEWS SESOKO: Yes. I am referring to January 2015.

CHAIRPERSON: Oh, okay.

10 **MR MATTHEWS SESOKO:** When I first became aware ...

CHAIRPERSON: Oh.

MR MATTHEWS SESOKO: That there was now this report.

CHAIRPERSON: Yes.

MR MATTHEWS SESOKO: So ...

CHAIRPERSON: So all this time you were not aware?

MR MATTHEWS SESOKO: All this time both myself and Mr McBride were not aware.

CHAIRPERSON: But you - you were aware that Mr Khuba had sent some ...

20 **MR MATTHEWS SESOKO:** Some progress reports.

CHAIRPERSON: Reports?

MR MATTHEWS SESOKO: Yes.

CHAIRPERSON: But you were not aware of what the - the content of those reports at that time?

MR MATTHEWS SESOKO: Yes. We were not aware that there was a

report ...

CHAIRPERSON: Yes.

MR MATTHEWS SESOKO: That recommended

CHAIRPERSON: Yes.

MR MATTHEWS SESOKO: That General Dramat and General Sibiya must be ...

CHAIRPERSON: Be charged?

MR MATTHEWS SESOKO: Must be charged.

CHAIRPERSON: Now this interim report that you were receiving from
10 Mr Khuba you received from Mr Khuba in January 2014.

MR MATTHEWS SESOKO: Huh-uh.

CHAIRPERSON: I understand from paragraph 17 that it was - it was saying that General Sibiya should not be charged. Is that correct?

MR MATTHEWS SESOKO: That is correct.

CHAIRPERSON: But you do not at that stage say anything about what it may have said about General Dramat. Did ...?

MR MATTHEWS SESOKO: The - the report ...

CHAIRPERSON: That report.

MR MATTHEWS SESOKO: Yes.

20 **CHAIRPERSON:** *Ja.*

MR MATTHEWS SESOKO: That report as I said subsequently we have learnt that report the - the interim report ...

CHAIRPERSON: Yes.

MR MATTHEWS SESOKO: Did recommend that General Dramat be charged ...

CHAIRPERSON: Oh, okay. So this ...

MR MATTHEWS SESOKO: But it excluded ...

CHAIRPERSON: General Sibiya?

MR MATTHEWS SESOKO: That is the interim report it excluded General Sibiya.

CHAIRPERSON: Yes, okay. So - so as far as you were concerned in January 2014 after receiving this interim report the understanding was the report says General Sibiya should not be charged but as far as General Dramat was concerned it was saying he should be charged?

10 **MR MATTHEWS SESOKO:** That was what the report was saying Chair.

CHAIRPERSON: That is what the report was saying?

MR MATTHEWS SESOKO: Yes.

CHAIRPERSON: Okay, but what you are saying is later in January 2015 you discovered that there had been another report which you are saying both of them should be charged?

MR MATTHEWS SESOKO: That is correct Chair.

CHAIRPERSON: Yes. Okay. No thank you. I understand now.

ADV SUSAN WENTZEL: Thank you and just to clarify what the Chair has put to you when you received the report of January -
20 23 January 2014 you did not read that report?

MR MATTHEWS SESOKO: That - that is right. I did not engage with the report.

ADV SUSAN WENTZEL: Yes.

MR MATTHEWS SESOKO: So it was just for me to - to pass it over. So all these facts be - became clearer to me when in January these

issues started being raised. Then we - we started engaging with all these issues. Then realised that actually there are these reports that are - are contradicting ...

CHAIRPERSON: Yes, yes.

MR MATTHEWS SESOKO: (Intervenes).

CHAIRPERSON: Yes. Okay, alright.

ADV SUSAN WENTZEL: Mr Sesoko if we can just deal with the events that happened before January 2015 when you found out about this other report signed by Mr Khuba. Could you explain what the reference
10 group was that you refer to in paragraph 24 and what dealings you had with this group?

CHAIRPERSON: I am sorry Ms Wentzel. You might have dealt with this but I am not sure. Oh I think you did but I - I think I was focusing on something else. You did refer to paragraph 22. Paragraph 22 Mr Sesoko says that:

20 “On 18 March 2014 you and Mr Khuba finalised a report which said that - which recommended that no charges be brought against General Dramat or General Sibiya as there was no credible evidence to support any charges against them which was sent to Mr McBride and Mr McBride made some grammatical changes and after he had corrected it Mr Khuba and I signed the report and then resubmitted it to Mr McBride for his approval.”

My question is as you were working on this report together now.

MR MATTHEWS SESOKO: Yes.

CHAIRPERSON: That is yourself and Mr Khuba and making this recommendation that Generals Sibiya and Dramat should not be charged because there is no credible evidence. Did Mr Khuba not mention to you that you know earlier on I had sent a report which said both of them must be charged? Now - now I am convinced that they should not be charged. Did he not mention that?

MR MATTHEWS SESOKO: No, no, no. He did not mention that there was such a report that was sent to ...

10 **CHAIRPERSON:** The NPA?

MR MATTHEWS SESOKO: To Advocate Mosing.

CHAIRPERSON: Yes.

MR MATTHEWS SESOKO: However we did discuss the - the issue of whether there is evidence that can sustain the charging of these Generals. That was part of the - of the discussions I had with Mr Khuba when we were evaluating the evidence and at the end we came to the conclusion that there was not such.

For instance some of the issues we discussed was the issue of the charging of - of General Dramat and his initial view that
20 General Dramat must be charged and what the basis thereof was which in our discussion became clear that it was a basis of a witness statement which after he himself had engaged an expert to do an analysis of the statement.

The report came with the conclusion that that statement was deceptive because the - the witness had - had already passed on at the

time. So these are the discussions that we had and based on that we said but given the evidence that we have and other witness statement which are not sustained the charge against General Sibiya. I mean - I mean General Dramat ...

CHAIRPERSON: Yes.

MR MATTHEWS SESOKO: Which conclusion we - we put in our report ...

CHAIRPERSON: Hm.

MR MATTHEWS SESOKO: That we both signed.

10 **CHAIRPERSON:** Hm. Later on - later on - a year later or so when you heard about this earlier recommendation that - about the report that had said both of them must be charged.

MR MATTHEWS SESOKO: Hm.

CHAIRPERSON: Did it surprise you that Mr Khuba had not mentioned this to you when you were working on the final report and saying these two should not be charged? That he did not say you know by the way I had made an earlier report where I had been convinced that they should be charged and I had recommended that they - they should be charged but now I think that there is further evidence and they should
20 not be charged.

MR MATTHEWS SESOKO: Chair indeed I was surprised.

CHAIRPERSON: Hm.

MR MATTHEWS SESOKO: I - when - when we get - we got that media inquiry we even suspected that the - the signature of Mr Khuba ...

CHAIRPERSON: Had been forged?

MR MATTHEWS SESOKO: Had been forged.

CHAIRPERSON: Yes. You did not believe it?

MR MATTHEWS SESOKO: Yes.

CHAIRPERSON: Yes.

MR MATTHEWS SESOKO: So I immediately called Mr Khuba and said we have just received this thing from ...

CHAIRPERSON: The media?

MR MATTHEWS SESOKO: The media - Sunday Times and journalist (indistinct). There is a report that is signed by you saying this and
10 Mr Khuba could not immediately remember that but when I - what I said to him was that you - you need to come to - to Head Office so that we discuss this because it is different from what we - we ...

CHAIRPERSON: What we recommended?

MR MATTHEWS SESOKO: We have - we have recommended and I asked him go back to your records ...

CHAIRPERSON: (Intervenes).

MR MATTHEWS SESOKO: And check ...

CHAIRPERSON: Hm.

MR MATTHEWS SESOKO: What - what happened in this regard and
20 then indeed he came to - to Head Office and when he came he had already gone to his records and then - then he remembered what had happened and the circumstances surrounding the sending of that report to Advocate Mosing and then he explained to - to myself and - and McBride the circumstances surrounding this report.

CHAIRPERSON: Well I - I do not know but it does not seem to me like

something you should forget having - having done. I know that you might not be able to comment and Mr Khuba will give evidence later. I am just thinking that it will be something that you could easily remember that yes I - I did send an earlier report where I recommended that they be charged but that was the only basis of the evidence that was available then and so on.

MR MATTHEWS SESOKO: Chair from my recollection in terms of my discussion with Mr Khuba because he has - he has been sending a lot of reports to both the - the NPA and the Secretariat his progress report
10 what he did not recall was that the - there was a report which he signed where he made specifically those recommendations that both Sibiya and Dramat should be charged.

So that is the - the explanation he - he gave to - to us. In relation to the issue of General Dramat I mean as I said that in our discussion that came up and the - the issue of the recommendation that he be charged and which we discussed based on the further evidence that he has obtained and whether he can sustain a - a criminal charge against General Sibiya which he came to the conclusion that he could not.

20 So - so as to how at the time he could not remember the signed report to - to General - to Advocate Mosing. I think Mr Khuba would be able to explain.

CHAIRPERSON: Yes. No, no. I - I understand. Yes Ms Wentzel.

ADV SUSAN WENTZEL: Mr Sesoko if we can go to paragraph 24 on page 6 of the bundle?

MR MATTHEWS SESOKO: *Ja.*

ADV SUSAN WENTZEL: Could you just explain the reference group and the dealings that you had with this reference group?

MR MATTHEWS SESOKO: Chair what had happened was around November 2014 Mr McBride called us into a meeting to say the people from the Ministry - reference group that was appointed to the Ministry that wanted to have a meeting with us. In the meeting it was myself, Mr Khuba and Mr McBride and the members of the reference group.

One of whom is Advocate Mathenjwa of the NPA. There are
10 other - there were other two or three members. I cannot remember their names. There was a White lady. I cannot remember her name and then in the meeting they indicated to us that they were appointed by the Minister of - of Police Minister Nathi Nhleko at the time.

Nathi Nhleko at the time to look at issues within the SAPS and the discussion surrounded also or mainly the - the rendition investigation that we conducted and then we briefed them about the rendition investigation and how we came to the conclusion that we - we came to and then after that meeting I think it was a day or so later Mr Khuba informed me that he was called by Advocate Mathenjwa
20 requesting the rendition docket to which Mr Khuba referred him to the Executive Director Mr McBride that he must request the docket from Mr McBride and from what I learnt from Mr Khuba then Mr Mathenjwa said no I will find it by other ways and a few days later we then received a letter from the Minister of Police Mr Nathi Nhleko requesting the - the rendition docket.

The letter was received by the Executive Director of course. Then he called me into a meeting with him and informed me that he just received this letter from the Minister and asked for my advice. I read the letter and I indicated to Mr McBride that it is not appropriate for the Minister to ask for a - for a docket of our investigation but however at the time we did not know the intentions.

So I advised Mr McBride that maybe the Minister wants to do the right thing in relation to this issue. So diplomatically let us write to him indicating that in fact he is not supposed to have this but we
10 believe you will do the right thing with this docket and the recommendations. So I packaged the - the copies of docket and the report that we had already sent to the NPA and the letter.

I advised on the letter with the - the Executive Director and we sent the letter with the - the docket to the Minister.

CHAIRPERSON: This was now around what time?

MR MATTHEWS SESOKO: That was around November 2014.

CHAIRPERSON: Long after the report that you and Mr Khuba prepared together had been sent to the Minister - to - to ...

MR MATTHEWS SESOKO: To NPA.

20 **CHAIRPERSON:** NPA?

MR MATTHEWS SESOKO: That is correct.

CHAIRPERSON: Yes.

MR MATTHEWS SESOKO: That is correct.

CHAIRPERSON: And - and would it also have been sent to the Police Secretariat or only to the NPA?

MR MATTHEWS SESOKO: No we only sent to the NPA.

CHAIRPERSON: Okay, okay and - and he - he did not want a report or a progress report or anything? He wanted the entire docket?

MR MATTHEWS SESOKO: He wanted the entire docket.

CHAIRPERSON: Yes.

MR MATTHEWS SESOKO: He wanted the entire docket.

CHAIRPERSON: Yes.

MR MATTHEWS SESOKO: The letter was very clear that he wanted the entire docket. In fact if my recollection serves me well they even
10 miswrote the - the docket reference number there but we were aware that they - they were referring specifically to ...

CHAIRPERSON: To the rendition file?

MR MATTHEWS SESOKO: To this docket. We - I think it was just a - an error ...

CHAIRPERSON: Oh.

MR MATTHEWS SESOKO: When they made reference to - to ...

CHAIRPERSON: Yes.

MR MATTHEWS SESOKO: To the docket.

CHAIRPERSON: Okay.

20 **ADV SUSAN WENTZEL:** Mr Sesoko can you explain - you make reference to it in paragraph 27 what happened a month later in December 2014?

MR MATTHEWS SESOKO: So Chair in December 2014 General Dramat was suspended by the Minister. I actually saw that on the news and to - to our surprise the Minister has indicated that the suspension of

General Dramat was on the basis of the investigation and report by IPID. It took us by surprise because our recommendation did not recommend any action against General Dramat.

Now when the Executive Director was approached by the media to respond to this issue then he indicated that the IPID report did not recommend any action against General Dramat and I think that's when now the conflict between the Executive Director and the Minister started because that's now when in January we were then confronted with this other report which Mr Kuwe had signed, which report was sent
10 to Advocate Musi from what Mr Khuba told us, so as far as we were concerned the only report that went to the minister is the report where we exonerated General Dramat and General Sibiya.

So we don't know how the Minister would have got this report from Mr Khuba except of course if he had interacted with Advocate Musi.

ADV SUSAN WENTZEL: Mr Sesoko when – do you remember when McBride was then suspended is it correct its March 2015?

MR MATTHEWS SESOKO: That is correct r McBride was suspended in March 2015.

20 **ADV SUSAN WENTZEL:** And who was appointed to act in his place...[intervenes].

CHAIRPERSON: I'm sorry Ms Wentzel, so General Dramat was suspended in December 2014?

MR MATTHEWS SESOKO: That's correct.

CHAIRPERSON: And the following month, namely January 2015 Mr

McBride was also suspended?

MR MATTHEWS SESOKO: No in March.

CHAIRPERSON: In March oh okay thank you, yes.

MR MATTHEWS SESOKO: And upon the McBride suspension by the Minister, Mr Kgamanyane who was the Provincial Head for Free State and was reporting to me, was appointed to act ad the Executive Director of IPID.

CHAIRPERSON: So, I think you said earlier on that immediately below the position of Executive Director of IPID, there are a number of
10 positions occupied by various people including yourself?

MR MATTHEWS SESOKO: That's correct.

CHAIRPERSON: Those would be the people, immediately below the Executive Director?

MR MATTHEWS SESOKO: That is correct. In our structure we call them Programme Managers.

CHAIRPERSON: Programme Managers?

MR MATTHEWS SESOKO: Yes.

CHAIRPERSON: Would that apply to you as well, the...[intervenes].

MR MATTHEWS SESOKO: Yes I'm part of the...[intervenes].

20 **CHAIRPERSON:** Oh you are part of that yes, and that's about how many people?

MR MATTHEWS SESOKO: It is four people.

CHAIRPERSON: Four people?

MR MATTHEWS SESOKO: Yes.

CHAIRPERSON: Yes so none of these people...[intervenes].

MR MATTHEWS SESOKO: No actually – sorry Chair it's five people including the CFO.

CHAIRPERSON: Five people including the CFO?

MR MATTHEWS SESOKO: Yes.

CHAIRPERSON: So out of these five people immediately below the Executive Director none of them was appointed to act in the position of Executive Director?

MR MATTHEWS SESOKO: That is correct Chair.

CHAIRPERSON: And the person who was appointed to act in the
10 position of Director was he on the next level, below the level of Programme Managers?

MR MATTHEWS SESOKO: That is correct, in terms of levels in the Public Service we are all on the same level as Chief Directors.

CHAIRPERSON: Yes.

MR MATTHEWS SESOKO: However, in terms of the structure of the organisation we are Executive Management as Programme Managers and then you then have the Provincial Heads that run the provinces and the delegation to me by the Executive Director was that I must supervise all the Provincial Heads.

20 **CHAIRPERSON:** Yes, does what you have just said mean that a Provincial Head is also at the level of Chief Director?

MR MATTHEWS SESOKO: Yes.

CHAIRPERSON: Okay so in terms of Public Service you might all be on the same level, but in terms of the structure of IPID, you are not on the same level as a Provincial Head?

MR MATTHEWS SESOKO: No we are higher.

CHAIRPERSON: Ja you are higher and Provincial Heads report to you?

MR MATTHEWS SESOKO: Yes.

CHAIRPERSON: So you – from that point of view, those who are on Programme Managers are superiors to those who are Provincial Heads?

MR MATTHEWS SESOKO: That is correct.

CHAIRPERSON: Yes, so the person who was appointed to act was at Provincial Head level?

10 **MR MATTHEWS SESOKO:** That is correct Chair.

CHAIRPERSON: So about five people who could have been...[intervenes].

MR MATTHEWS SESOKO: Potentially been...[intervenes].

CHAIRPERSON: Ja potentially been – were ignored?

MR MATTHEWS SESOKO: That's correct.

CHAIRPERSON: Yes okay thank you.

ADV SUSAN WENTZEL: Thank you Chair. After Mr Kgamanyane was appointed, what then happened?

20 **MR MATTHEWS SESOKO:** Immediately upon his appointment as the Executive – acting Executive Director, Mr Kgamanyane then instructed myself and Mr Khuba to attend to an interview with Werksmans Attorneys which the Minister had appointed to investigate in our standing – in our understanding the issues surrounding the two reports. What – it's now known as the so-called first and second report.

CHAIRPERSON: Yes of course the second report being the final one?

MR MATTHEWS SESOKO: That is correct.

CHAIRPERSON: You and Mr Khuba put together?

MR MATTHEWS SESOKO: That is correct.

CHAIRPERSON: And the so-called first report being the one where Mr – which Mr Khuba did by himself where he recommended that both General Dramat and General Sibiya be charged?

MR MATTHEWS SESOKO: That is correct.

CHAIRPERSON: Yes, okay.

ADV SUSAN WENTZEL: And did you attend an interview at
10 Werksmans Attorneys?

MR MATTHEWS SESOKO: Yes Chair I did, because it was an instruction from my superior and upon attending that interview which was led by an attorney from Werksmans Mr Sandile July I specifically enquired before we even started the interview what the purpose of the interview is and whether, am I being investigated for any wrongdoing, whether it be criminal or misconduct to which Mr July and his team indicated that it was not the purpose of the interview, the purpose was simply for the Minister to understand the circumstances surrounding these two reports. I then agreed to participate in that interview on
20 those basis.

CHAIRPERSON: Well before you proceed Mr Sesoko, please clarify this for me. The Minister had two reports, the one where we call for convenience, the first report, the other one being the second or final report and of course the one that we call the first report based on what you have told me, might not really have been the first report because

there were a number of reports but it's the one where Mr Khuba recommended that General Dramat and General Sibiya be charged.

MR MATTHEWS SESOKO: That's correct.

CHAIRPERSON: Had the Minister sent – asked you through whatever channels, through the Executive Director or through whoever, before asking a Law Firm to investigate, ask you to explain what he did not understand, did he ask you to explain what he did not understand which seems to have been one report saying General Dramat and General Sibiya should be charged and another one saying they should not be charged?

10

MR MATTHEWS SESOKO: Chair you see exactly while you are saying that's what's surprising to us because we would have expected that the Minister would have approached the Executive Director as a person reporting directly to him to report – to explain the circumstances surrounding this report. In our view, there was no need to even appoint a Law Firm to investigate this issue. This was a simple operational issue that could have been explained properly to the Minister.

CHAIRPERSON: Yes.

MR MATTHEWS SESOKO: That is why later because of the events that happened it became clear to us what the intention was.

20

CHAIRPERSON: Because I - I mean I grappled with this quite a lot when Mr McBride was giving evidence and of course he was the first witness to deal with it other than what one has read in the media in the past. I would have thought the first thing you do if people under you or under a structure that's under you, if they have done something that

you don't understand is first thing is ask them to explain to you and if their explanation is not satisfactory then maybe you can take – can make certain decisions.

MR MATTHEWS SESOKO: That is correct Chair and ...[intervenes].

CHAIRPERSON: And I don't understand why it was not done.

MR MATTHEWS SESOKO: Exactly that is why we were puzzled how this issue was handled even the fact that the appointment of Werksmans and that us, as employees of IPID must ...[intervenes].

CHAIRPERSON: Must got to a Law Firm.

- 10 **MR MATTHEWS SESOKO:** Go to a Law Firm and discuss this thing, I mean, Mr Khuba will testify about this that he was approached directly by, first the lawyer from the Law Firm without engaging the Department internally to say, we've been appointed we want you to come before us. Normally when Mr Khuba refused to cooperate with them and informed them I am his supervisor and McBride is the head of the institution they must consult those people, that's when we received an email from this attorney, Sandile July, to say, he wants to interview Mr Khuba and in the email Mr McBride's email address was wrongly spelt on the email so Mr McBride did not receive the email, but I received the email and I
- 20 responded to the attorney to say, look this can only be sanctioned by Mr McBride and you have – the email that you put there is wrong, here's the correct email address. So Mr Khuba was continuously being pestered to get him to go and talk to these lawyers and I suspect that , because of the frustration that Mr Khuba is refusing to do so and said it must go through a proper process, departmentally and I – my view is

that the Minister saw it fit that he suspend Mr McBride so that it's easy then to gain access to us.

CHAIRPERSON: Ja but also, I guess we'll get to the report but it seems to be accepted by all concerned that the so-called first report was only signed by one person, Mr Khuba.

MR MATTHEWS SESOKO: That is correct Chair.

CHAIRPERSON: You did not sign it?

MR MATTHEWS SESOKO: I did not sign it.

CHAIRPERSON: Mr McBride did not sign it, so if the two of you only
10 signed the final – the second report I mean the three of you and therefore if anybody – if there was supposed to be an explanation from anybody it must have been Khuba – Mr Khuba who had signed both but not people who signed one?

MR MATTHEWS SESOKO: That is correct Chair, from our standpoint and after engagement with Mr Khuba we understood the circumstances. Remember that I've already indicated that I was not supposed to be involved but once Mr Khuba started explaining the events surrounding this investigation and the kind of pressures that he was put through, I mean, Chair every little thing, Mr Khuba received some evidence that
20 seemed to suggest some wrongdoing against General Dramat and sharing that evidence with Moukangwe and the team that he was working with, it will immediately be leaked to the media. You know, so it was clear that there was an orchestrated effort to put General Dramat in a bad light. I would want to venture to say Chair that, had our report found wrongdoing or if we had succumbed and manipulated the

evidence and the facts and made a conclusion that General Dramat must be charged for any wrongdoing we wouldn't have found ourselves in the situation that we find ourselves.

CHAIRPERSON: Yes okay I think we should take the tea break at this stage, we are at twenty past we will take the tea break and then we'll resume at twenty-five to twelve, but before we do that, Miss Wentzel I'm not sure but I think there was some litigation involving Mr Sesoko. Was there some litigation following your dismissal, was there some litigation, Court case?

10 **MR MATTHEWS SESOKO:** Yes there were a number of litigations Chair.

CHAIRPERSON: There are?

MR MATTHEWS SESOKO: Yes.

CHAIRPERSON: I understand that your re-instatement was a result of a settlement is that right?

MR MATTHEWS SESOKO: Yes through a bargaining council.

CHAIRPERSON: Yes so there was no arbitration award or judgment that was given...[intervenes].

MR MATTHEWS SESOKO: It was an arbitration award.

20 **CHAIRPERSON:** There was an arbitration award?

MR MATTHEWS SESOKO: Yes.

CHAIRPERSON: Have you got it Miss Wentzel?

ADV SUSAN WENTZEL: Yes.

CHAIRPERSON: Is it here?

ADV SUSAN WENTZEL: Yes it is.

CHAIRPERSON: Oh because I said, I think last week, an I'm just going to say it again, please share this information with all members of the legal team, in regard to any witness where there has been a judgement there has been litigation that may be related to what we are talking about we must have that, and I must be advised in advance so that I can read that judgement but also it's important to look at judgments because there may be findings that have already been made and conclusions that have been made which are not being challenged further by other parties which might be important that we understand as

10 the particular witness is being led because those findings might be standing so that we are all alive to it. So I think if we get that arbitration award to be part of the bundle that will be important, as soon as possible.

ADV SUSAN WENTZEL: Yes I think that arbitration award is part of the bundle, I'll take it to you in due course.

CHAIRPERSON: Okay alright. Okay we'll adjourn now for the tea break and I move that we will return at twenty to twelve. We adjourn.

REGISTRAR: All rise.

INQUIRY ADJOURNS

20 **INQUIRY RESUMES**

CHAIRPERSON: Let us proceed.

ADV SUSAN WENTZEL: Chair before the tea adjournment you were asking me about the judgment and the disciplinary proceedings. I have misinformed you because I got confused between the disciplinary proceedings and the arbitration proceedings. We have got the

judgment in the disciplinary proceedings not the arbitration proceedings but we are getting it and I am sure by lunchtime we will be able to provide it to you.

CHAIRPERSON: Yes that is fine but also see if there are any other judgments relating to him.

ADV SUSAN WENTZEL: Yes

CHAIRPERSON: About whether it is a suspension or a dismissal or whatever that may be relevant.

ADV SUSAN WENTZEL: Yes.

10 **CHAIRPERSON:** To what we are looking into. Let us get all of them.

ADV SUSAN WENTZEL: Yes we will.

CHAIRPERSON: Same thing with other witnesses in regard to this sector and in regard to others so that we – we have a full picture.

ADV SUSAN WENTZEL: Yes.

CHAIRPERSON: Okay.

ADV SUSAN WENTZEL: We will do that. Before the adjournment we were dealing with the interviews that you attended with Werkmans. Is it correct that recorded that interview?

20 **MR MATTHEWS SESOKO:** That is correct Chair I recorded the interview.

ADV SUSAN WENTZEL: And if you have a look at Annexure MS1 on page 22 is that the transcript of the recording?

MR MATTHEWS SESOKO: That is correct Chair.

ADV SUSAN WENTZEL: And did Werkmans also record this interview?

MR MATTHEWS SESOKO: That is correct Chair Werkmans also

recorded it. What had happened was that when before we started they put a recording on the table to say they are recording the interview. I said it is fine but I also want to record the interview.

CHAIRPERSON: Yes.

MR MATTHEWS SESOKO: And I also put my recorder.

CHAIRPERSON: Yes.

MR MATTHEWS SESOKO: To record the interview.

CHAIRPERSON: Hm.

ADV SUSAN WENTZEL: Now if you have a look at the bottom of page

10 23 you will see it is reflected there:

“Mr Sesoko: Ja I think first of all what I want to raise is I want to know the status of the inquiry and
Mr Thom: Okay.

Mr Sesoko: Whether I am here as a suspect in a criminal investigation or a disciplinary investigation because when I went through the terms of reference the Minister says you must investigate whether there was a misconduct or crime committed so I need to establish what my status is. And

20 Mr Thom: Yes yours stated Mr Sesoko you are not a suspect in criminal proceedings or proceedings to be conducted to be either conducted by the Minister or IPID for that matter. This investigation is to understand as to what:

Why do we have these two reports which have

conflicting information and a way which have recommendations that are different?

Mr Sesoko: Okay.

Mr Thom: You know so our mandate is to establish those facts you know.

Mr Sesoko: Alright.

Mr Thom: As to why do we have the different – two different investigation reports.

Mr Sesoko: Okay.

10 Mr Thom: Yes.

Mr Sesoko: No it is fine.

Mr Thom: Okay Mr Sesoko like I said before you you posed a question on the status and the purpose of the investigation. We had consulted with Mr Innocent Khuba.”

Is that a true reflection?

MR MATTHEWS SESOKO: That is correct because in – I asked specifically this because I needed to understand what is it that they were looking at? And – so that if it is an investigation that has to look
20 at issues of misconduct against me any criminal inquiry against me then I can have proper legal representation to engage in that process. But because of the assurance that they gave me that it is not about that but only to understand the – how the reports came about then that was the only basis I participated in that process. That is why I was taking aback when the report now comes and recommend that I be charged.

ADV SUSAN WENTZEL: When you did you first learn about the Werkman's Report? You can go back to paragraph 35 of your statement – page 9?

MR MATTHEWS SESOKO: The report...

CHAIRPERSON: Well I am sorry Ms Wentzel are you deliberately jumping to the report before finalising the discussion at the meeting that he had with the Werkmans team?

ADV SUSAN WENTZEL: Yes. We can – I will go back thank you Chair.
What – what did you tell the Werkmans team after that about the two
10 reports?

MR MATTHEWS SESOKO: Chair I explained to them as my earlier testimony said about how the two reports.

CHAIRPERSON: Came about.

MR MATTHEWS SESOKO: Came about.

CHAIRPERSON: Hm.

MR MATTHEWS SESOKO: As I had earlier explained that my engagement with Mr Khuba.

CHAIRPERSON: Hm.

MR MATTHEWS SESOKO: And the fact that there was further evidence
20 that was obtained by Mr Khuba.

CHAIRPERSON: Hm.

MR MATTHEWS SESOKO: And that was the basis on which we analysed the evidence with Mr Khuba and came to the conclusions as we did.

CHAIRPERSON: Hm.

MR MATTHEWS SESOKO: And the fact that I was not aware and if you go through the transcript and even their report you will realise that they even say in their report I refused to engage them on the – the so called first report that was signed by Khuba.

CHAIRPERSON: Hm.

MR MATTHEWS SESOKO: Because I always maintained that I did not know about that report.

CHAIRPERSON: Hm.

MR MATTHEWS SESOKO: And therefore I cannot say anything in
10 relation to that report.
Hm.

MR MATTHEWS SESOKO: I can only talk about the report that I had signed.

CHAIRPERSON: Hm

MR MATTHEWS SESOKO: And that was submitted to the NPA.

CHAIRPERSON: Hm

MR MATTHEWS SESOKO: And that is the report I was involved with.

CHAIRPERSON: Hm.

MR MATTHEWS SESOKO: The other report I know nothing about it and
20 I cannot engage on it.

CHAIRPERSON: Hm. When you said – explained all of this to them at the meeting what else did they want to find out from you? One would have thought it became clear you knew nothing about the first report therefore they should not ask you anything about that and then if they could not ask you anything about the first report I do not see why they

would be able to ask you anything about the second report because the second report had recommendations.

MR MATTHEWS SESOKO: Yes.

CHAIRPERSON: What problem would they have with the recommendations in the first – the second report?

MR MATTHEWS SESOKO: Exactly Chair and I – the interview did not go any further because I got a sense that they were frustrated by the fact that I did not want to engage them on the first report which I did not know anything about. And because they kept on harping on the
10 issue of altering the report and I said to them but I cannot alter something I do know. Something that I have never even seen you know. So because of my responses to them they just stopped the interview.

CHAIRPERSON: When Mr McBride gave evidence I did try to you know deal with – to try and get clarification on this concept of altering in the report because it seemed to be central to the whole thing.

MR MATTHEWS SESOKO: Yes.

ADV SUSAN WENTZEL: But as I understand the position now and you must just tell me if that is your understanding too? There was a so
20 called – there was this so called first report.

MR MATTHEWS SESOKO: That is correct.

CHAIRPERSON: Which recommended that General Dramat and General Sibiya be charged.

MR MATTHEWS SESOKO: That is correct.

CHAIRPERSON: Then there was the second and final report which

recommended that they should not be charged.

MR MATTHEWS SESOKO: That is correct.

CHAIRPERSON: These two were separate reports.

MR MATTHEWS SESOKO: That is correct.

CHAIRPERSON: Separate documents.

MR MATTHEWS SESOKO: That is correct.

CHAIRPERSON: The one standing on its own, the other standing on its own. Each one having its own status. The first one having – having a certain status and the final one having the status of a final report. Am I

10 – am I - is my understanding correct so far?

MR MATTHEWS SESOKO: That is correct Chair and I am surprised that you have such an easy understanding of this thing because that is exactly what we have been trying to explain.

CHAIRPERSON: Yes.

MR MATTHEWS SESOKO: And unfortunately when people have their own agendas ...

CHAIRPERSON: Yes.

MR MATTHEWS SESOKO: That kind of explanation never flies with them. And that is why the nub of the charges against us including the

20 criminal charges.

CHAIRPERSON: Hm.

MR MATTHEWS SESOKO: Was that we have changed the report. We have altered the report.

CHAIRPERSON: Yes I mean it is – it is – it is what I – I could not understand because if you talk about altering a report, changing a

report for me you are talking about having this document and then changing on the – physically on that document.

MR MATTHEWS SESOKO: Exactly.

CHAIRPERSON: If you have one document which says one thing you have another document which says one thing you cannot be said to have changed that one.

MR MATTHEWS SESOKO: Exactly.

CHAIRPERSON: You may be said – you may be have – you may be said to have made a recommendation that is different from the one
10 made in the first report. So that is fine. And so what.

MR MATTHEWS SESOKO: And Chair in our craft as investigators it is not unusual that you would have a – a change of opinion in your investigation based on the evidence you have at that point in time.

CHAIRPERSON: Yes.

MR MATTHEWS SESOKO: At a particular point I might have a particular set of evidence which when looked on its own may want me to come to a particular conclusion. But at some point I can have further evidence which at that point may make me conclude differently. There is nothing wrong with that. And we as investigators we make
20 recommendations Chair. I am a former prosecutor and as a prosecutor you look at the evidence that is contained in the docket and that is the basis on which you make a decision whether to prosecute or not. You can look at a memorandum or a recommendation or whatever you want to call it from an investigator but that does not inform your decision as a prosecutor. Because your decision must be based on what evidence

is contained in the docket? Even if we were to say there were two separate reports with two separate recommendations those cannot in any way influence the decision of the NPA because the NPA must make their decision based on the evidence that is contained in the docket. There is no allegation that we removed evidence from the evidence. The allegation is that we altered a report. Now I cannot alter a report that I have not seen in the first place. But also importantly in the – in the discovering our criminal – in the criminal investigation that they did against us one of the senior advocates in the NPA actually depose a
10 statement to say that he does not even remember seeing the report – that so called first report in the docket. But even if he had it means nothing to him because he does not make his decision based on such a report. He makes a decision based on what is contained in the docket. However the NPA charged us for fraud that we tried to misrepresent to the prejudice of the NPA. How is that possible?

CHAIRPERSON: Ja you see I mean everybody should know that an investigator you know might have different views at different stages of investigations about whether somebody was involved in a crime or not and whether they should be charged and so on and so on. But that is
20 nothing – that is not something that is confined to investigators.

MR MATTHEWS SESOKO: Exactly.

CHAIRPERSON: I mean a lawyer who is consulted by a client will have a certain view at a certain time about how good that client's case is.

MR MATTHEWS SESOKO: Exactly.

CHAIRPERSON: But if – but later on he or she can change that view

depending – he or she can change that view if there additional evidence.

MR MATTHEWS SESOKO: Exactly.

CHAIRPERSON: But he or she can change that view even if there is no additional evidence.

MR MATTHEWS SESOKO: Exactly.

CHAIRPERSON: By simply reflecting further.

MR MATTHEWS SESOKO: Exactly.

CHAIRPERSON: On the same evidence.

10 **MR MATTHEWS SESOKO**: Exactly.

CHAIRPERSON: Judges do the same thing. I mean you and Mr McBride have told me certain things about this issue. On my mind prima facie I have certain views and they might be apparent from were some of my questions.

MR MATTHEWS SESOKO: Yes.

CHAIRPERSON: But I have not made a final decision and when those people come here and give evidence who knows maybe they can change my mind and show me that actually you people did something terrible.

20 **MR MATTHEWS SESOKO**: Exactly.

CHAIRPERSON: You know but as things stand I cannot understand what the whole issue was about. And – so even if there were two views one saying General Sibiya and General Dramat must be charged and the later one saying they must not be charged it is two views and I would thought that it would have been apparent from a proper reading

of the second report that there was something additional to what had been there when the first report was made

MR MATTHEWS SESOKO: Exactly.

CHAIRPERSON: And that that on its own should have told anybody that that must be the reason why the recommendation is different and then what – why there was a need to investigate – to appoint a law firm to investigate that before IPID was asked to explain this is something that I hope somebody will explain to me in due course. Yes you may proceed Ms Wentzel.

10 **MR MATTHEWS SESOKO:** Chair it gets worse.

CHAIRPERSON: Hm.

MR MATTHEWS SESOKO: The – we made recommendations that Colonel Maluleke “Cowboy” be charged criminally.

CHAIRPERSON: Yes.

MR MATTHEWS SESOKO: The NPA on its wisdom at the time of former NDPP Shaun Abrahams and other prosecutors that were dealing with this decided to – to prosecute General Dramat and General Sibiya the same way they decided to prosecute us. The case against us were withdrawn. The cases against General Dramat and Sibiya were also
20 withdrawn. It is only Colonel Maluleke “Cowboy” who is still facing criminal charges in line with our recommendations.

CHAIRPERSON: Hm.

MR MATTHEWS SESOKO: Now there is an acknowledgment by NPA that actually what is recommended it is a correct position because there is not evidence that can sustain criminal charges against General

Dramat and General Sibiya.

CHAIRPERSON: But in the meantime you were put through a certain process.

MR MATTHEWS SESOKO: That is correct Chair.

CHAIRPERSON: Yes. Thank you.

ADV SUSAN WENTZEL: Thank you. Mr Sesoko when did you first learn about the Werkmans Report?

MR MATTHEWS SESOKO: Chair I think it was around April when the – the report was – was released. It was on a Sunday I was on – I was in
10 church so when I am in church my phone is always off. And when I got out of church I opened my phone and for the first time my phone was so busy because it was just messages and messages and missed calls. And when I checked I find it was family members, friends, people who know me who were saying there is a report in the Sunday Times. I think it was on the first page alleging wrongdoing against me, McBride and Mr Khuba. And upon seeing these messages I then sent my son to go and get me the newspaper and for the first time I then realised that Werkmans has released a report. Now as people who are implicated in the report no-one dared to contact us about this. The journalists that
20 were writing the story MZilikazi Wa Afrika from the Sunday Times as well as Mr Hofstadter never bothered to contact us about this report which was making adverse findings against us. These are the very same journalists Chair who made reports on the SARS rogue unit. Also on the General Booyesen's issues with Cato Manor. The same journalists. So to me it looks like they were working with particular

people within the – the cluster to put – to push a particular agenda and to deal with us because we are not compliant to the agendas that they needed to achieve.

CHAIRPERSON: Yes.

ADV SUSAN WENTZEL: Mr Sesoko is it the same journalists that you refer to in paragraph 29 of your statement when you said that you were alerted to a media enquiry that the journalists had a copy of the so called first report of Mr Khuba?

MR MATTHEWS SESOKO: That is correct Chair. Because also what
10 we must ask ourselves is how did the journalists come – come into possession of that report which Mr Khuba had only shared with Advocate Mosing? As I have indicated that as IPID we never shared such a report at least from what Mr Khuba he only shared that report with Advocate Mosing. The only report that we gave to the Minister is the report that was signed by all of us in the NPA that was sent also to the NPA.

ADV SUSAN WENTZEL: Now the official date of release of the Werksmans Report so after it was leaked is the 24th April 2015. The report is Annexure MS2 at page 62. Could you just confirm that?

20 **MR MATTHEWS SESOKO:** That is correct.

ADV SUSAN WENTZEL: What then happened after the release of this report?

MR MATTHEWS SESOKO: After –

CHAIRPERSON: Well before – before we get to – to what happened after what was – what was the finding of this report in relation to your

role insofar as you were concerned? What did it find in regard to yourself?

MR MATTHEWS SESOKO: Chair the report made a finding that I am guilty of defeating the ends of justice.

CHAIRPERSON: Yes.

MR MATTHEWS SESOKO: And extortion I think.

CHAIRPERSON: Yes.

MR MATTHEWS SESOKO: By altering the report.

CHAIRPERSON: Yes.

10 **MR MATTHEWS SESOKO:** Despite the fact that ...

CHAIRPERSON: Yes.

MR MATTHEWS SESOKO: Even from the interviews – I mean when you read the report Chair you cannot find even a connection. I tried to find a connection – how do they come to that conclusion?

CHAIRPERSON: Hm.

MR MATTHEWS SESOKO: Based on what was presented on them. I cannot find it. But the report concludes.

CHAIRPERSON: Yes.

MR MATTHEWS SESOKO: In that fashion.

20 **CHAIRPERSON:** Well I think the – I think the relevant people from Werksmans will have to come and explain some of the findings that they made – make me understand their findings. It is just difficult to understand how you can say somebody who was party to the preparation and production of one report and was not involved in any way on the production of another report can be said to have altered the

first report. It is just something I have immense difficult understanding. But again maybe when they come they will be able to explain it to and maybe I will understand it.

MR MATTHEWS SESOKO: Yes.

CHAIRPERSON: But that is the finding they made against you?

MR MATTHEWS SESOKO: Ja. I hope they do Chair because also what I take umbrage with the – the – the attorney who dealt with this report Ms Sandile July the least I would have expected was that the fact that they assured me that my basis of participation in that interview with
10 them.

CHAIRPERSON: Hm.

MR MATTHEWS SESOKO: It is not about making such findings. At least at the time when they were doing their report and they think that they want to make such finding to have an audacity to come to me and say based on the evidence that we have we think we are going to make findings against you, do you have anything – any representation or anything you want to say?

CHAIRPERSON: Yes.

MR MATTHEWS SESOKO: In relation to that.

20 **CHAIRPERSON:** Yes.

MR MATTHEWS SESOKO: That never happens.

CHAIRPERSON: Effectively what you are saying is after you had met with them and you had told them that you had nothing to do with the first report and therefore could not say anything about it you had something to do with the second report. If after that they had met with

witnesses and obtained statements from witnesses who said you were involved in that way or in any other way.

MR MATTHEWS SESOKO: Yes.

CHAIRPERSON: On the basis of which they could recommend criminal charges or disciplinary steps the least they could have done is to come back to you and say since our last meeting we have obtained the following.

MR MATTHEWS SESOKO: Yes.

CHAIRPERSON: Or we have reflected on what you said and we have
10 this to put to you, what do you say about this because we might make findings that could be – go against you. That is what you are saying and you say they did not do that?

MR MATTHEWS SESOKO: They did not do that Chair. And that – I mean that is a basic tenant of...

CHAIRPERSON: Yes.

MR MATTHEWS SESOKO: Of – of our law.

CHAIRPERSON: Yes. Yes continue – continue.

ADV SUSAN WENTZEL: Thank you. Could you have regard to paragraph ...

20 **MR MATTHEWS SESOKO:** Sorry Chair I – I think I need to also indicate this.

CHAIRPERSON: Yes.

MR MATTHEWS SESOKO: That at the criminal proceedings against us on the day that because we have been insisting that this matter must go on trial and the NPA was dilly dallying did not want to go on trial.

We ultimately were able to force them to agree to a trial date. On the day that the matter was supposed to be tried the prosecutor from the NPA Advocate Maema then tells the Magistrate that the witnesses are not there and that one of their witnesses Mr Sandile July who authored this report is refusing to testify and he has threatened the NPA that if they can force him to testify he will take them to court. Now we found ourselves in the situation that we were on the basis of this report but the author of the report says I am not going to testify and even threatens the NPA to take them to court if they try to force him to
 10 testify. Now you ask yourself why then? Why make such a report but you cannot stand by it?

CHAIRPERSON: Well I have instructed the legal team and the investigation team to secure the relevant files and dockets relating to the criminal proceedings relating to you and Mr McBride and Mr Khuba was also charged.

MR MATTHEWS SESOKO: Yes.

CHAIRPERSON: Is it not? Yes. I have said that I want to see exactly what documents the person who made the decision that you be charged had before him or her.

20 I will want that person to come and give evidence. Maybe they will be able to show that there were proper grounds for the decision to charge and if that is so it is important that their side of the story be heard. But if there we no proper grounds it would be to say the least most regrettable that people were put through this process without such grounds.

So – so that process is happening to obtain those dockets and files and the relevant people will be asked to come and give evidence so that I can understand properly. Because there certainly is an allegation that sometimes the police were used, sometimes the NPA were used, sometimes all of them were used improperly in order to deal with certain individuals who may not have been prepared to do certain things and that is a serious allegation against these very important institutions, the police and the NPA and it should not be made unless it has proper grounds.

10 And if it is made it must be investigated properly because if it is found to be well-founded then something quite serious should be done. Because we cannot afford to have these institutions being manipulated or used for improper motives and agendas. So that is the part of the reason why I want to see all of those things.

ADV SUSAN WENTZEL: Yes and we will make sure...

CHAIRPERSON: Yes.

ADV SUSAN WENTZEL: That we get all those things to you Chair.

CHAIRPERSON: Yes please. Ja.

20 **ADV SUSAN WENTZEL:** Can we go back to paragraph 36? Could you tell the Chair what happened on 11 May 2015? So this is just a few weeks after 24 April 2015 which is the date of the Werksmans Report.

MR MATTHEWS SESOKO: On 11 May Chair I was called by the Acting Executive Director Mr Kgamanyane and in that meeting - which I recorded Chair - he had indicated that he is intending to suspend me. In fact he gave me a letter of his intention to suspend me. Now I think

it is important Chair that I indicate to you that prior to this incident myself and Mr Kgamanyane enjoyed quite a cordial relationship as colleagues.

In fact in my prior role as the Provincial Head for - for North West I would even assist him in - after he was appointed the Provincial Head for Free State setting up his office. Assisting him with personnel from my office so that he can assist him to be able to manage the office properly. So I regarded him as one of those close colleagues and when I sat with him on this day and - and he was saying that he intends to
10 suspend me I was taken aback especially coming from him and him knowing the kind of person I am and - and I even asked him but you, you are doing this to me and he said to me Chair in vernacular that you know when you - you join the police and they tell you to go and arrest - they tell you to go and arrest your father you must do it.

So in the context of our conversation it was clear to me that he was saying that he has been instructed by the Minister to suspend me and I accepted that it is - it is going to happen and what was interesting also in our conversation is that he specifically asked me about two specific high profile investigations that we were busy with.
20 The Panday matter which General Booysen has testified to ...

CHAIRPERSON: Yes.

MR MATTHEWS SESOKO: In this Commission about.

CHAIRPERSON: Yes.

MR MATTHEWS SESOKO: Now that matter Chair was initially investigated by the Hawks in KZN but because of the interference with

the investigation in that matter the matter was then reported to us by Parliament. Then that is how we got involved in that investigation. We requested the dockets from the - the Hawks and they provided us with all these dockets and upon perusing that it was clear that there was large scale corruption by members of the SAPS and a service provider there Mr Panday worth millions of - of Rands but there was also a - a memorandum there authorised by one of the prosecutors where there were basically declining to prosecute some of these cases.

We wrote to the NDPP that that decision must be reviewed.

- 10 We also conducted some of the investigations that were outstanding in collaboration with the members of the Hawks and then we forwarded these matters to the NPA. Mr Nxasana then appointed a - a prosecutor to - to look at this matter. It was clear that this is one of the politically charged investigations.

The initial prosecutor who was involved actually begged down on the matter and we - we had a meeting with the ...

CHAIRPERSON: You mean the - when you say initial prosecutor you mean the one who declined to prosecute ...

MR MATTHEWS SESOKO: No, no. The one that was ...

- 20 **CHAIRPERSON:** Or the one that was appointed by (intervenes)?

MR MATTHEWS SESOKO: The one that was appointed by ...

CHAIRPERSON: Mr Nxasana?

MR MATTHEWS SESOKO: Mr Nxasana.

CHAIRPERSON: Oh. He or she begged (intervenes)?

MR MATTHEWS SESOKO: Ja. She - she begged down on the matter

...

CHAIRPERSON: Yes.

MR MATTHEWS SESOKO: And then we - we had a discussion with Mr Nxasana and then we - we then said you must look at a - a prosecutor who has the zeal and who is not afraid ...

CHAIRPERSON: Hm.

MR MATTHEWS SESOKO: To deal with such matters ...

CHAIRPERSON: Hm.

MR MATTHEWS SESOKO: And then the name of Advocate Gerrie Nel
10 came up and Advocate Nxasana then in terms of their own processes appointed him with the necessary delegations to deal with ...

CHAIRPERSON: Yes.

MR MATTHEWS SESOKO: With this matter.

CHAIRPERSON: Hm.

MR MATTHEWS SESOKO: So at the time when I had these engagements with Mr Kgamanyane ...

CHAIRPERSON: Hm.

MR MATTHEWS SESOKO: And realising how things were panning out

...

20 **CHAIRPERSON:** Hm.

MR MATTHEWS SESOKO: We had already taken these - all these dockets ...

CHAIRPERSON: Hm.

MR MATTHEWS SESOKO: To Advocate Gerrie Nel ...

CHAIRPERSON: Hm.

MR MATTHEWS SESOKO: To be able to make a decision. In fact he had already consulted with some of the witnesses and he was ready to - to proceed ...

CHAIRPERSON: Hm.

MR MATTHEWS SESOKO: With one of the - the dockets. I think it is Durban Central 4-4-6 ...

CHAIRPERSON: Hm.

MR MATTHEWS SESOKO: Of bribery by murder to - to General Booysen ...

10 **CHAIRPERSON:** Hm.

MR MATTHEWS SESOKO: And - so when - when I was asked by Mr Kgamanyane about specifically these cases and the other one was in relation to General Mabula and his team and - and allegations - there were allegations of torture and - and murder and we had at that time recently received an audio recording as well as a transcribe - a transcription of that audio from General Booysen by one of the members of - who was involved with that team who basically was telling how people were - were tortured and one of the suspects killed.

20 So when I was asked about these cases I thought that maybe the Acting Executive Director wanted to - to prioritise maybe these investigations. To my surprise when we came back nothing had happened on these investigations.

CHAIRPERSON: So are you saying that on the day that you had a meeting with Mr Kgamanyane when he gave you the notice of intention to suspend you that is the day he - that is the occasion when he asked

you about ...

MR MATTHEWS SESOKO: Yes.

CHAIRPERSON: This investigations?

MR MATTHEWS SESOKO: Specifically about these matters.

CHAIRPERSON: The - the way in which he asked you did it - did it make you to think that he was trying to plan what would happen in case you were suspended or ...?

MR MATTHEWS SESOKO: Yes.

CHAIRPERSON: Yes, okay.

10 **MR MATTHEWS SESOKO**: To me that was the - the clear intention because why specifically these - these cases you know. I mean there were a number of cases that we were dealing with. Why specifically these ones? So it - it was clear that he - he had an interest specifically on these ones and the question is why he had interest in these specific cases.

CHAIRPERSON: The - the one theory could be that now that you were going to be - you were likely going to be suspended he had to make arrangements for somebody to handle these matters. Obviously he had - he had to make sure that all the matters that you were handling - you
20 were handling should be handled by somebody. Things should not be at a standstill while you were on suspension.

That is - that is one theory but depending on the facts one may also have - one could have had the situation where maybe they were affecting what was happening but that that - that does not seem to - to have been what was in your mind. What is your mind - was in your

mind was that he specifically - specifically wanted to make arrangements for after you had gone.

MR MATTHEWS SESOKO: If you want to be generous Chair is that - that theory that he wanted to make sure that these ...

CHAIRPERSON: Hm.

MR MATTHEWS SESOKO: These matters were - were dealt with ...

CHAIRPERSON: Hm.

MR MATTHEWS SESOKO: So that in my absence ...

CHAIRPERSON: Hm.

10 **MR MATTHEWS SESOKO**: Someone deals with these - with these matters ...

CHAIRPERSON: Hm.

MR MATTHEWS SESOKO: But the fact of the matter is 18 months later after we came back ...

CHAIRPERSON: Hm.

MR MATTHEWS SESOKO: No such thing happened.

CHAIRPERSON: Hm, hm.

MR MATTHEWS SESOKO: So if there was that kind of concern ...

CHAIRPERSON: Hm.

20 **MR MATTHEWS SESOKO**: Why is it that they were not prioritised and dealt with ...

CHAIRPERSON: Hm, hm.

MR MATTHEWS SESOKO: Accordingly ...

CHAIRPERSON: Hm.

MR MATTHEWS SESOKO: And I had to start when I came back ...

CHAIRPERSON: Hm.

MR MATTHEWS SESOKO: To make sure that these matters ...

CHAIRPERSON: Yes.

MR MATTHEWS SESOKO: Are pursued ...

CHAIRPERSON: Okay.

MR MATTHEWS SESOKO: Till they reach conclusion.

CHAIRPERSON: Hm, okay.

ADV SUSAN WENTZEL: And just to clarify this meeting took place on
11 May 2015 and when you were ultimately reinstated it was - as you
10 say 18 months later - 23 November 2016?

MR MATTHEWS SESOKO: That is correct.

ADV SUSAN WENTZEL: Now ...

CHAIRPERSON: Well I am sorry. There in that paragraph 36 apart
from the Panday matter. You referred to the other matter as the
General Jan Mabula team matter. Is that correct?

MR MATTHEWS SESOKO: That is correct Chair. That is the one I am
referring to as the - the torture and ...

CHAIRPERSON: Yes.

MR MATTHEWS SESOKO: Murder case.

20 **CHAIRPERSON:** Case, yes.

MR MATTHEWS SESOKO: Incidentally we have received recently a
decision to prosecute these ...

CHAIRPERSON: Yes.

MR MATTHEWS SESOKO: These police officers - General Mabula and
his team on these ...

CHAIRPERSON: Yes.

MR MATTHEWS SESOKO: On those torture matters ...

CHAIRPERSON: Yes.

MR MATTHEWS SESOKO: And on the murder case the NPA is considering centralising this murder and torture case ...

CHAIRPERSON: Hm.

MR MATTHEWS SESOKO: Because they are related to each other ...

CHAIRPERSON: Hm.

MR MATTHEWS SESOKO: And to prosecute them as well.

10 **CHAIRPERSON:** You - you have said that in regard to the Panday matter the matter was - had political connections. Is that right?

MR MATTHEWS SESOKO: That is correct.

CHAIRPERSON: Yes. The other one did it also have political connections or not really?

MR MATTHEWS SESOKO: Not - not really Chair ...

CHAIRPERSON: Hm.

MR MATTHEWS SESOKO: But this Mabula team as it will become apparent in my further testimony here is that this is the team that has been used ...

20 **CHAIRPERSON:** Hm.

MR MATTHEWS SESOKO: To disrupt people like us who is trying to fight ...

CHAIRPERSON: Hm.

MR MATTHEWS SESOKO: Deal with issues of ...

CHAIRPERSON: Hm.

MR MATTHEWS SESOKO: Corruption and so forth.

CHAIRPERSON: Yes.

MR MATTHEWS SESOKO: It is the very same team ...

CHAIRPERSON: Yes.

MR MATTHEWS SESOKO: When we are investigating ...

CHAIRPERSON: Hm.

MR MATTHEWS SESOKO: Allegations of corruption against General ...

CHAIRPERSON: Hm.

MR MATTHEWS SESOKO: Former National Commissioner

10 General Phahlane ...

CHAIRPERSON: Hm.

MR MATTHEWS SESOKO: That they were brought in ...

CHAIRPERSON: Hm, hm.

MR MATTHEWS SESOKO: To interfere ...

CHAIRPERSON: Hm.

MR MATTHEWS SESOKO: With our investigation.

CHAIRPERSON: Hm.

MR MATTHEWS SESOKO: In fact we had to go to court ...

CHAIRPERSON: Yes.

20 **MR MATTHEWS SESOKO:** To interdict them from doing so ...

CHAIRPERSON: Yes.

MR MATTHEWS SESOKO: Which court case we won with costs ...

CHAIRPERSON: Hm.

MR MATTHEWS SESOKO: Against them and the police.

CHAIRPERSON: Yes. I think Mr McBride did give evidence about -

about that team ...

MR MATTHEWS SESOKO: Yes.

CHAIRPERSON: As well, yes. Just on your meeting with Mr Kgamanyane you said that he said to you that you know that when you join the police when you are told to go and arrest you go and arrest and then you made a certain inference from that and you said you - it became clear to you that he was - he had been instructed by the Minister.

Do you want to talk more about that? Why the Minister? Why
10 would you particularly bring the Minister into that?

MR MATTHEWS SESOKO: Chair ...

CHAIRPERSON: If he did not mention the Minister.

MR MATTHEWS SESOKO: Earlier we spoke about the - the appointment to that acting position and you rightly pointed out that at Executive Management no one was appointed but him. Just prior to that we have in IPID what you call MANCO. That is the - the management ...

CHAIRPERSON: Committee?

MR MATTHEWS SESOKO: Committee meeting ...

20 **CHAIRPERSON:** Hm.

MR MATTHEWS SESOKO: Where all the Executive Management and the Provincial Head sits and discusses issues relating to departmental operations and so forth and in that meeting the Executive Director had asked us to - to discuss this issue of the rendition case and what we - we realised when we were engaging with colleagues in terms of this

matter was that Mr Kgamanyane who is normally very talkative in - in that kind of setup was completely quiet in that meeting and then a few - few months or so later when after McBride is - is suspended he is appointed to - to Act.

Now you must understand that the - there has been always a - a - contact with Khuba and Khuba will testify to this by not only Mr Sandile July but also the Minister himself that he must go and - and talk to the - the Werksmans people. So when you - when you connect all these dots and also when Khuba was served with the - the suspension letters the - the Head of Corporate Services Ms Siyanda (?) 10 was instructed to go and serve him and he made it clear to Mr Khuba that the instruction that came was that the Minister wanted him to be served on that particular day.

So it was clear that these instructions were not Kgamanyane's doing *per se* but he - he was receiving instruction and I surmise that that was the only reason he was appointed. So that he can execute a particular agendas that were wanted by the then Minister.

WCHAIRPERSON: In any event is the position that if - is the position 20 that the Minister - the person that the Minister needs to talk to in regard private matters would be the Executive Director?

MR MATTHEWS SESOKO: It will be the Executive Director. That is correct.

CHAIRPERSON: So if - if the Minister had to say anything it would have - he would have had to speak to Mr Kgamanyane ...

MR MATTHEWS SESOKO: That is correct.

CHAIRPERSON: As the Acting Executive Director?

MR MATTHEWS SESOKO: That is correct Chair.

CHAIRPERSON: Okay.

ADV SUSAN WENTZEL: Thank you. For completeness the minute of this discussion that you had on 11 May 2015 is Annexure MS3 and you will find it page 137.

MR MATTHEWS SESOKO: That is correct.

ADV SUSAN WENTZEL: And if you have a look at page 139 is the
10 statement at around line 10 what you were referring to about which gave you the impression that the instructions came from above?

MR MATTHEWS SESOKO: That is correct.

CHAIRPERSON: There is a reference there in that line 10 to “Chief”. Do you know who that reference relates to? Who was Mr Kgamanyane referring to as “Chief” there?

MR MATTHEWS SESOKO: Kgamanyane said “Chief” he was referring to me sir.

CHAIRPERSON: Oh, okay.

MR MATTHEWS SESOKO: That is how he used ...

20 **CHAIRPERSON**: To call each other?

MR MATTHEWS SESOKO: to call me.

CHAIRPERSON: Okay. No that is fine.

ADV SUSAN WENTZEL: And he also - you will see he said that at the - probably line about 14/15. It says at the end:

“So it is a difficult one. A very, very difficult one.”

MR MATTHEWS SESOKO: That is correct because you see hence I am saying in the context of our - our ...

CHAIRPERSON: Relationship?

MR MATTHEWS SESOKO: Engagement and - and our relationship it was clear to - to me that he also had difficulty ...

CHAIRPERSON: Yes.

MR MATTHEWS SESOKO: Doing this.

CHAIRPERSON: Doing this, *ja*.

MR MATTHEWS SESOKO: You know but because he - he had an
10 instruction ...

CHAIRPERSON: Hm.

MR MATTHEWS SESOKO: To do it.

CHAIRPERSON: Hm.

MR MATTHEWS SESOKO: He had to do it because ...

CHAIRPERSON: Yes.

MR MATTHEWS SESOKO: That is the reason he - he is occupying that
- that position at that point in time.

CHAIRPERSON: Hm, hm. Okay.

ADV SUSAN WENTZEL: And you - you also say earlier on in the page
20 at 139 to him you say:

“I understand your position because probably
obviously you are being instructed to give us this
notice of suspension and I do not expect to get a
different outcome after that no matter what
representation.”

MR MATTHEWS SESOKO: Yes because it was clear to me Chair that you know it is - it is a foregone conclusion ...

CHAIRPERSON: Hm.

MR MATTHEWS SESOKO: Where this is going. So - and I was very frank with him because it was someone as I said I was - I was close to and I was very frank with him and it was clear. I mean he - he never disputed what I was saying to him. In fact even after I received that and I engaged my - my legal team and we wrote to him reasons why I should not be suspended and they were very compelling reasons but we
10 knew that it is not going to give us a different outcome ...

CHAIRPERSON: It was just an exercise. Hm.

MR MATTHEWS SESOKO: You know and in terms of the SMS Handbook which was used to - to do this - this process. It is very clear under what circumstances do you suspend a person you know. In this instance for instance SMS Handbook will say if for instance there is a suspicion that we will interfere with investigation and so forth then that is when you can be or you interfere with an investigation that is when you will be suspended.

In this instance there was already a Werksmans Report. So
20 the investigation basically was done. So there was really no basis to suspend us and these are the issues that we - we made representations on but of course we knew that you know - I mean I think the response was a day after we - we made that. So it was clear there was no application of mind also to what we have said you know and we - we were in fact suspended.

ADV SUSAN WENTZEL: So if you have regard to paragraph 37 it is correct that you were then suspended on 21 May 2015?

MR MATTHEWS SESOKO: That is correct.

ADV SUSAN WENTZEL: And then on 7 July 2015 you were served with a notice to attend a disciplinary inquiry. That is annexure ...

CHAIRPERSON: I am - I am sorry Ms Wentzel. I think I would like Mr Sesoko to - to read to us that part starting from line nine which relates to how he says Mr Kgamanyane explained his position. I think - I think it is - it is important including the - the Setswana version or part
10 of it is Setswana at page 1-3-9.

MR MATTHEWS SESOKO: Yes Chair.

CHAIRPERSON: *Ja.*

“This thing is finally ...”

MR MATTHEWS SESOKO: *Ja.*

CHAIRPERSON: *Ja.*

MR MATTHEWS SESOKO: So Mr Kgamanyane says here:

“This thing is finally it is like as and when
(Setswana). That is when you are to be confirmed.
You are a police officer and they say that before
20 (Setswana). Before we can confirm you as a police
officer go and arrest your father. So it is difficult
one. A very difficult one.”

CHAIRPERSON: Yes.

MR MATTHEWS SESOKO: So ...

CHAIRPERSON: Yes.

MR MATTHEWS SESOKO: So - and this is in the context of the - the previous ...

CHAIRPERSON: Hm.

MR MATTHEWS SESOKO: Paragraph where I say to him ...

CHAIRPERSON: Hm.

MR MATTHEWS SESOKO: “I understand your position and probably obviously you are being instructed ...”

CHAIRPERSON: Hm.

10 **MR MATTHEWS SESOKO:** “...to give us this notice of suspension and I do not expect a different outcome after that no matter what representation.”

CHAIRPERSON: Yes.

MR MATTHEWS SESOKO: And that is when he intervenes in this (intervenes).

CHAIRPERSON: Yes, yes.

MR MATTHEWS SESOKO: So he basically confirms ...

CHAIRPERSON: Yes what you were thinking.

MR MATTHEWS SESOKO: That, yes.

CHAIRPERSON: Yes.

20 **MR MATTHEWS SESOKO:** That he is being instructed ...

CHAIRPERSON: Yes.

MR MATTHEWS SESOKO: To - to suspend us.

CHAIRPERSON: Yes. So effectively saying when you joined the police if they - before they confirm you. If they say go and arrest your father.

MR MATTHEWS SESOKO: Yes.

CHAIRPERSON: You have to go and arrest your father.

MR MATTHEWS SESOKO: Yes.

CHAIRPERSON: *Ja*.

MR MATTHEWS SESOKO: And who are they. They are your superiors ...

CHAIRPERSON: *Ja*. Your superiors.

MR MATTHEWS SESOKO: And in this instance who is Kgamanyane's superior ...

CHAIRPERSON: Yes.

10 **MR MATTHEWS SESOKO:** As Acting Executive Director.

CHAIRPERSON: Yes.

MR MATTHEWS SESOKO: The Minister.

CHAIRPERSON: It is the Minister. Yes.

ADV SUSAN WENTZEL: Thank you Chair.

CHAIRPERSON: Thank you.

ADV SUSAN WENTZEL: So on 7 July 2015 you were served with a notice to attend a disciplinary inquiry. It is Annexure MS4 on page 159. Is that correct?

MR MATTHEWS SESOKO: That is correct.

20 **ADV SUSAN WENTZEL:** And then you also then received a charge sheet which is MS5 on page 162?

MR MATTHEWS SESOKO: That is correct.

ADV SUSAN WENTZEL: And what were those charges?

MR MATTHEWS SESOKO: Chair should I read the charges?

ADV SUSAN WENTZEL: Yes.

CHAIRPERSON: Yes. Unless they are too long then you can just mention the essential allegations.

ADV SUSAN WENTZEL: Yes. You can just summarise.

CHAIRPERSON: Ja. Maybe the essential allegations without necessarily reading ...

ADV SUSAN WENTZEL: Yes.

CHAIRPERSON: All of them to say charge 1 was that - the allegation was that it was fraud and that this is what I had done according to them or something to that effect. If it is going to be easy. If it is going to be
10 difficult for you maybe you can read - read it.

MR MATTHEWS SESOKO: Chair I think as I - I said earlier the nub of the - the charges and maybe I should - I should read them Chair.

CHAIRPERSON: Yes. That is fine.

ADV SUSAN WENTZEL: There is also a quote on page 11 of your affidavit if that is of assistance to you from the charge sheet.

MR MATTHEWS SESOKO: Yes. I think Chair when you look at annexure - 162 those are the criminal charges.

ADV SUSAN WENTZEL: Yes.

CHAIRPERSON: Yes.

20 **MR MATTHEWS SESOKO:** And then the - on - on - my statement on - on 38 it is more about the - the disciplinary.

ADV SUSAN WENTZEL: Yes.

MR MATTHEWS SESOKO: So when you look at 38 or the disciplinary charge and in fact at 39 the disciplinary charge you will see it says:

“You Sesoko and McBride altered the report which

had - which had been handed over to the NPA and deleted information incriminating Lieutenant-General Anwar Dramat the former National Head of DPCI and/or Sibiya the Provincial Head of DPCI - DPCI Gauteng from the report in order to reach a conclusion that Dramat and Sibiya have been exonerated by IPID when you knew or ought to have known that the final IPID Report of January 2014 recommended that Dramat and Sibiya be criminally charged. By altering the report of January you and Sesoko have made yourself guilty of dishonesty and defeating the ends of justice.”

So that was the - the nub of the - the disciplinary charge against us.

CHAIRPERSON: So the - the allegation that you had altered the first report was a pillar of the charges?

MR MATTHEWS SESOKO: That was the pillar of the charges Chair.

CHAIRPERSON: *Ja.*

MR MATTHEWS SESOKO: No matter how much we tried to explain ...

20 **CHAIRPERSON:** Hm.

MR MATTHEWS SESOKO: These issues even at the - at the disciplinary ...

CHAIRPERSON: Hm.

MR MATTHEWS SESOKO: It was clear that the intention has already made or

CHAIRPERSON: Hm.

MR MATTHEWS SESOKO: The decision has already been made that we must be removed ...

CHAIRPERSON: Hm.

MR MATTHEWS SESOKO: Because no one was willing to listen ...

CHAIRPERSON: Hm.

MR MATTHEWS SESOKO: To that despite what the Act - IPID Act says in relation to how we do our work. Despite what the IPID Regulation says in relation how we do our work. Despite what our internal
10 standard operating procedure says how we do our work. No one was willing ...

CHAIRPERSON: Hm.

MR MATTHEWS SESOKO: To look at that.

CHAIRPERSON: And I see that in the charge sheet they said you were guilty of defeating the ends of justice.

MR MATTHEWS SESOKO: Yes.

CHAIRPERSON: The charge - you were charged with defeating the ends of justice by recommending in the second report that General Dramat and General Sibiya should not be charged.

20 **MR MATTHEWS SESOKO:** Yes.

CHAIRPERSON: But actually your position was that you were actually ensuring that there was justice?

MR MATTHEWS SESOKO: Exactly.

CHAIRPERSON: Because if they were charged that would be an injustice?

MR MATTHEWS SESOKO: Exactly Chair.

CHAIRPERSON: And ultimately the NPA itself which was charging you with this charge dropped charges against the two of them.

MR MATTHEWS SESOKO: Exactly Chair.

CHAIRPERSON: Therefore confirming that you were seeking to ensure that there was justice because they wouldn't have withdrawn those charges if they thought that would not accord with charges?

MR MATTHEWS SESOKO: That is correct Chair.

CHAIRPERSON: Yes.

10 **ADV SUSAN WENTZEL:** Mr Sesoko the charge sheet in the disciplinary hearing is at page 198 if you could just confirm that?

MR MATTHEWS SESOKO: Page?

ADV SUSAN WENTZEL: 198 it's Annexure...[intervenes].

MR MATTHEWS SESOKO: Yes that is correct.

ADV SUSAN WENTZEL: Now what was the ultimate result of your disciplinary hearing?

20 **MR MATTHEWS SESOKO:** Chair, I was dismissed on the 16th of August when I was in hospital, I was hospitalised for depression because what had happened is that the disciplinary inquiry was set down for about a week and the days prior to the 16th it as clear to me that no matter what defence we are putting, no matter what evidence we are trying to show there was no interest in that. Now when I left the disciplinary hearing on the 15th I was not well. I actually did not even realise that I was depressed and when I got home my wife said, no you're not fine, I must take you to a doctor. Went to a doctor and then

the doctor said, you are not well at all you are depressed and then he gave me some medication to be able to sleep – with instruction that first thing in the morning I must go to a psychiatrist, he wrote the referral letter and I went to consult psychiatrist, who then immediately had me admitted in hospital for depression, I spent two weeks in hospital on depression. While that happens the disciplinary on the other side continues, my legal team informs me that. It was clear to them that no matter what happens that disciplinary was supposed to end on that day. No matter how much they tried to put forth that I am

10 not well and I'm in hospital that was not taken into account. In fact they say to me that they even suggested that the matter be temporarily adjourned so that they can try and get hold of me wherever I was to bring me so that the Chairperson could see my condition and that was also refused. So I never got to testify because I was in hospital, I never got to mitigate because my legal team informed me Chair, that we need to take instruction on mitigation, that never happened and as a result of that I was dismissed in my absence. It was really a traumatic event for me and my family.

CHAIRPERSON: And then there was an arbitration?

20 **MR MATTHEWS SESOKO:** There was an arbitration subsequent to that and then my legal team and my employer reached a settlement agreement that I be re-instated. I must hasten to say Chair, that I was convicted on the basis of a testimony of one witness, Advocate Musi. Now the charge against me, as you would have realised Chair is that I altered a report. Advocate Musi never gave any testimony that I

altered report, in fact, when my legal team challenged him on this issue to say, does he know whether I altered the report, he said, no I don't know if he altered the report except what I heard from Mr Khuba, that was his response. So from a simple legal logic, you can't charge me for altering a report and there is no evidence that is placed before a disciplinary inquiry that says, I've altered a report. At best you have a hearsay of Musi who says he would have heard that from Mr Khuba and Mr Khuba is not even called to confirm that he would have said that to Advocate Musi and his employer closes its case on the basis of that
 10 evidence and I'm found guilty of these charges. That's how upset this whole disciplinary process was.

CHAIRPERSON: As I said earlier on there was – I indicated, I think in April that the question of whether or not I can hear that evidence and make any finding is something to be subjected to a certain process, so I've heard it but I won't do anything about it until that process has happened. As I indicated earlier on, from the statement it appeared that there was nothing more being said than simply that a hearing took place in my absence, this is what I was charged with, I asked for a postponement it was refused and I was found guilty and dismissed in
 20 my absence without going beyond that but I think that we'll subject all of this to that process whether in the end I – it should be heard by somebody else and if so, how in terms of law is something that must still be looked at and submissions be made but yes, okay lets continue.

ADV SUSAN WENTZEL: What happened with the disciplinary proceedings against Mr Khuba?

MR MATTHEWS SESOKO: Chair, around September when the disciplinary was set to continue...[intervenes].

CHAIRPERSON: Well maybe I must ask you, since Mr Khuba is going to come and give evidence, don't you want him to talk about his one or is there some connection that...[intervenes].

ADV SUSAN WENTZEL: There is a connection.

CHAIRPERSON: There is a connection okay?

ADV SUSAN WENTZEL: Yes.

MR MATTHEWS SESOKO: Around September, Chair...[intervenes].

10 **CHAIRPERSON:** Which year, 2015?

MR MATTHEWS SESOKO: 2015.

CHAIRPERSON: Yes.

MR MATTHEWS SESOKO: The disciplinary was supposed to continue, it was now with a different Chairperson before Advocate Zondo was appointed Chair and – because at that point I was also hospitalised, I had an accident with my foot and I had to go for an operation. So, because I was not there, then they separated our trials, which is perfectly fine but then Mr Khuba reached a plea bargain with the employer. Now Mr Khuba will talk to that I wouldn't want to talk to how
20 that happened but Mr Khuba did engage me on the fact that there is this proposal that is put on the table and we had a very lengthy discussion about it and my advice to him was that it was a bad idea and even though his lawyer had indicated to him that it's so that he can get his job back and it's not like he's admitting to any wrongdoing *per se* and what I said, and I remember vividly, I said to him, you know in the

work that we do our reputation and integrity is our currency and once that is being questioned then it affects your career but be that as it may he entered into that agreement and then he was given a written warning and then we were alerted to the fact that – by our National spokesperson that [indistinct] Africa has made contact with him to say that he will be running a front page article to the effect that it's confirmed that McBride lied, or something to that effect and I then contacted Khuba and said are you aware this is what is happening and Mr Khuba was flabbergasted to say the least to say but this people it
 10 means this things they were doing it in bad faith and he said, you know, they even made it clear to me that I can even continue to be a witness to you in your disciplinary so I don't understand how this comes about.

As a result of that Mr Khuba deposed an affidavit confirming what he was saying to me with regard to the circumstances surrounding the plea bargain that he did with the employer and our role in the whole thing and immediately upon Mr Kgamanyane becoming aware of that affidavit, Mr Khuba was summarily dismissed without a hearing.

Remember that process had ended and he was given a written warning and then he's now summarily dismissed...[intervenes].

20 **CHAIRPERSON:** And his suspension was uplifted?

MR MATTHEWS SESOKO: Was uplifted he is now back at work but because he had deposed that affidavit then he is summarily dismissed. Now it became clear to us that, because of that affidavit the story that Mr Africa was saying he was going to run...[intervenes]

CHAIRPERSON: Could no longer be run.

MR MATTHEWS SESOKO: Never came to fruition as he had hoped it would. There was a story that it was run but it was no longer as it would have been if this affidavit did not come through. So – and I think that the powers that be were very upset about this and hence, Mr Khuba was dismissed summarily without following any process.

CHAIRPERSON: Whereas with regard to other situations when there were allegations of misconduct there would be a suspension first before there would be a disciplinary hearing. On this occasion there was no suspension, there was no disciplinary hearing, he was just fired.

10 **MR MATTHEWS SESOKO:** He was just fired Chair, nothing whatsoever I mean, you would have expected that they would then issue him with a notice of the intention to take disciplinary action against him and make allegations, what the allegations, if the allegation is that he has deposed an affidavit then let him say so, but nothing of that nature happened.

CHAIRPERSON: Yes.

ADV SUSAN WENTZEL: Chair is it a convenient time to take the lunch adjournment?

20 **CHAIRPERSON:** Yes where are we on the statement now, how far are we?

ADV SUSAN WENTZEL: We're going to now proceed on page 13 from about paragraph 49.

CHAIRPERSON: Okay no that's fine we'll continue, if it looks like we might not be as fast as we were hoping to be, I think that the evidence is important and it justifies it, but we'll see after lunch how it goes. In

the end we must make sure that justice is done to his evidence.

ADV SUSAN WENTZEL: Yes thank you Chair.

CHAIRPERSON: We'll take the lunch adjournment now and well resume at 2 o'clock. We adjourn.

REGISTRAR: All rise.

INQUIRY ADJOURNS

INQUIRY RESUMES

CHAIRPERSON: Ms Wentzel I think Mr Sesoko's statement is also to the effect that if I am not mistaken maybe it is not his statement but
10 some document in the bundle I think is to the effect that there is a judgment or order of the Labour Court that may have been made in regard to some interdict or review. Check that and if there is get copies. Okay? Alright let us continue. Maybe before we continue Mr Sesoko in the second report I am trying to think back now – in the second report you obviously would have given reasons why you thought that General Dramat and General Sibiya should not be charged with misconduct or any crime, is that right?

MR MATTHEWS SESOKO: That is correct.

CHAIRPERSON: Did anybody whether it is the Minister or somebody
20 from the NPA or anybody ever engage with your reasons to say but these reasons you have given for this recommendation in the second report are just nonsense? You – or even are just wrong?

MR MATTHEWS SESOKO: None whatsoever Chairperson. You see as I was saying that it only transpired later that there were agendas into the whole issue. Because what had happened was that at some point

and I am sure if Mr Khuba will testify also about that. At some point Mr Khuba and Mr Maoka who was our director legal services engaged with prosecutors at the NPA and Advocate Baloyi if I am not mistaken. And in their discussion Advocate Baloyi was of the view that our investigative conclusion in what we were recommending it in our report was actually sustainable. And when – at the later time again when they engaged with him then he allegedly informed them that after engaging with his superiors I think the word they used that he must just bite the bullet. You know. Mr Khuba and Mr Maoka deposed statements to that effect which the Executive Director referred to the NPA to say they must look into this issue. Of course nothing came of it.

CHAIRPERSON: So – but you say earlier on he said he conceded that – did he concede that the reasons given for that recommendation that there should be charges for General Sibiya and General Dramat – did he accept that...

MR MATTHEWS SESOKO: Yes.

CHAIRPERSON: Those were good reasons?

MR MATTHEWS SESOKO: Yes, yes. Yes.

CHAIRPERSON: Ja is that that?

20 **MR MATTHEWS SESOKO:** Yes.

CHAIRPERSON: But later on...

MR MATTHEWS SESOKO: So at the time – at the time – excuse me – at the time they were engaging even...

CHAIRPERSON: Hm.

MR MATTHEWS SESOKO: Before the actual decision was taken.

CHAIRPERSON: Yes.

MR MATTHEWS SESOKO: And to their surprise at a later day I think it could have been days later then he said no they must bite the bullet after consulting with their ...

CHAIRPERSON: Superiors.

MR MATTHEWS SESOKO: Superiors.

CHAIRPERSON: Yes.

MR MATTHEWS SESOKO: So it was clear that even though he held an opinion at the time that ...

10 **CHAIRPERSON:** That you – are – they were good grounds.

MR MATTHEWS SESOKO: They are good grounds.

CHAIRPERSON: Yes.

MR MATTHEWS SESOKO: For saying ...

CHAIRPERSON: There should be no charges against you.

MR MATTHEWS SESOKO: There should be no charges but obviously someone higher up was saying no, no, no you should...

CHAIRPERSON: They must be charged?

MR MATTHEWS SESOKO: They must be charged and hence ultimately the decision that was taken was that they must be charged.

20 **CHAIRPERSON:** Yes.

MR MATTHEWS SESOKO: Which was later changed and they were...

CHAIRPERSON: Yes.

MR MATTHEWS SESOKO: The charges were now dropped against them.

CHAIRPERSON: Yes. So you know of nobody who ever said well there

is something wrong with the basis for your recommendation that General Sibiya and General Dramat should not be charged.

MR MATTHEWS SESOKO: No. No-one had said that Chair. Even when you read the – the – the Werksmans Report nowhere in the report are they alleging that our investigative conclusion and our recommendation as per the report it is not sound in law? None of that is alleged. All what they are saying is that we altered the – the so called first report.

CHAIRPERSON: Yes.

10 **MR MATTHEWS SESOKO:** So no-one comes to us and say but hang on you have got it wrong here and here and here you know.

CHAIRPERSON: Hm.

MR MATTHEWS SESOKO: But you see to us what is also surprising is that in the work we do it happens every time. We make recommendations to the NPA that says prosecute and then the NPA will say no we are not going to prosecute. We accept that because it is within their domain to make those – they are an independent body that can make that decision despite our recommendation. And sometimes you say prosecute and sometimes you say do not prosecute. We do not
20 think there is evidence and they will say, no actually we think there is evidence to prosecute. So it is something that is normal in our environment. So now to come and try and make a huge thing and we ended up being charged even criminally and departmentally about have an opinion about your investigation it is completely absurd.

CHAIRPERSON: I mean in regard to Mr Khuba the best it seems that

could be said against him is that he changed his opinion not the report.

MR MATTHEWS SESOKO: Yes.

CHAIRPERSON: He changed his opinion from one that said General Dramat and General Sibiya should be charged to one that says they should not be charged.

MR MATTHEWS SESOKO: Yes.

CHAIRPERSON: That is the worst that what – that is the best that one can put it for the prosecutors.

MR MATTHEWS SESOKO: Yes.

10 **CHAIRPERSON:** But in regard to you and Mr McBride it can only amount to saying why did you reach the opinion that the conclusion that these two should not be charged?

MR MATTHEWS SESOKO: Yes. I agree with you Chairperson completely.

CHAIRPERSON: Hm.

MR MATTHEWS SESOKO: In fact also as regards Mr Khuba he – in the – McBride constitutional matter he deposed a comprehensive affidavit and I am sure he will testify about it.

CHAIRPERSON: Yes.

20 **MR MATTHEWS SESOKO:** Showing what were the differences.

CHAIRPERSON: Hm.

MR MATTHEWS SESOKO: And what in his opinion.

CHAIRPERSON: Hm.

MR MATTHEWS SESOKO: Changed his views.

CHAIRPERSON: Hm. Hm.

MR MATTHEWS SESOKO: You know.

CHAIRPERSON: Hm.

MR MATTHEWS SESOKO: So I mean there is a good reason.

CHAIRPERSON: Hm.

MR MATTHEWS SESOKO: Why we – he came to the conclusion that he did. There is a good reason why I was of the view when I engaged with him that there was no evidence to sustain a criminal prosecution or I mean even misconduct against General Dramat and General Sibiya.

CHAIRPERSON: And even if they did not agree with your conclusion
10 that on its own should be no grounds to ...

MR MATTHEWS SESOKO: Exactly.

CHAIRPERSON: To charge you.

MR MATTHEWS SESOKO: Exactly. Exactly. It is like – it is like just a simplistic example Chair. It is like charging a Supreme Court or High Court Judge for having arrived at a particular decision.

CHAIRPERSON: Hm.

MR MATTHEWS SESOKO: Which is different from maybe a Supreme Court to that.

CHAIRPERSON: Hm. Hm.

20 **MR MATTHEWS SESOKO:** It does not make sense.

CHAIRPERSON: Hm. Yes Ms Wentzel.

ADV SUSAN WENTZEL: Thank you Chair. Mr Sesoko you were arrested on the 16th March 2016 – I am reading from paragraph 49 on page 13 of your affidavit. Could you...

MR MATTHEWS SESOKO: That is correct.

ADV SUSAN WENTZEL: Pardon? It is paragraph 39.

MR MATTHEWS SESOKO: Yes I am saying that is correct.

ADV SUSAN WENTZEL: Yes.

MR MATTHEWS SESOKO: Yes.

ADV SUSAN WENTZEL: Sorry. Could you explain to the Chair the circumstances of your arrest?

MR MATTHEWS SESOKO: Chair what had happened was that we were first approached by these investigators from the DPCI unit called CATS. It is the Crimes Against The State.

10 Now as we understand this units mandate in the DPCI it is actually to investigate serious crimes against the state like your cases of treason, terrorism and so forth. So it was actually interesting that they are now investigating a case of fraud and defeating the ends of justice.

 Incidentally the same unit is the very same unit that was investigating Minister Gordhan and the so called SARS rogue unit. In fact when they called us to their offices for a warning statement the – it was our files and then their – their rouge unit file was there as if it was – they were trying to show us that they are also doing that – that
20 investigation.

 But we submitted comprehensive statements as warning statements explaining this whole issue. My warning statement was about a file. If my memory serves me well I think Mr Khuba's could have been two files, arch lever files. Mr McBride was possible five/six arch lever files.

I think we submitted our statement on a Thursday or on a Friday but on Sunday we got messages that we must come to their offices a decision has been made that we must be charged criminally.

We presented ourselves to their offices and they processed us they took our fingerprints and so forth. Low and behold for the first time we realised that actually they had warrants for our arrest. Now we are senior government officials and not flight risk to anyone. And also given the nature of the allegations against us in my humble view they did not warrant a J50 Warrant of Arrest.

10 But be that as it may we were taken to police cells where we were kept for some few hours until we appeared in court and then granted R1 500.00 bail.

It was the most humiliating moment of my life. Because I never imagined that I will get arrested in that fashion purely for doing my job.

CHAIRPERSON: Well...

ADV SUSAN WENTZEL: And was this aired on television – your arrest?

20 **MR MATTHEWS SESOKO:** Yes. It was a very big spectacle because there was media all over. It was on radio, on television. As we were walking we were being followed by journalists and so forth.

CHAIRPERSON: Well I said earlier this morning that I have given instructions that all dockets or files that will show me what information the relevant prosecutors or people and the police relevant police officers had before them before they made certain decisions should be

gathered.

I want to take this opportunity now that you have said how much information you placed before them yourself, Mr McBride and Mr Khuba. I would like you to assist the commission to get as much of that documentation as possible.

I have been told that there have been challenges in getting these documents. I think it has been months that I asked that they be found. Whether it is court papers in regard to those of you who went to court on matters which may be related to what we are dealing with in regard to you. Whether it is court papers, court judgments. Whether it is police – I mean the prosecutors files, everything in terms of being charged on matters that relate to this. I want to see all of that. Because I want to see whether on – on what was before various people – various offices there could be a basis for anybody to make the decisions that were made and – so please if you could speak to also Mr McBride and Mr Khuba if you could all assist the relevant person within the commission is Ms Lerato Buthelezi. There are investigators who have been working on it as well but she – if you – if you are in touch with her she will know who – what to do. I want to see all of that.

20 **MR MATTHEWS SESOKO:** Chair we will definitely do so.

CHAIRPERSON: Yes.

MR MATTHEWS SESOKO: All the information we have.

CHAIRPERSON: Yes.

MR MATTHEWS SESOKO: We will submit to the commission.

CHAIRPERSON: Yes thank you.

ADV SUSAN WENTZEL: Thank you very much. You have already dealt with the fact that on the 1st November 2016 the case against you was withdrawn apparently because there were not any witnesses and the fact that Mr July refused to testify.

MR MATTHEWS SESOKO: That is correct Chair.

ADV SUSAN WENTZEL: Now is it correct that hereafter pursuant to a further – sorry I just – I have forgotten the name of what it was. As a result of the appearance before the bargaining council an agreement and an arrangement was made that you would be reinstated?

10 **MR MATTHEWS SESOKO:** That is correct.

ADV SUSAN WENTZEL: And that occurred on the 23rd November 2016?

MR MATTHEWS SESOKO: The – arbitration sat on the 22nd.

ADV SUSAN WENTZEL: Yes.

MR MATTHEWS SESOKO: And the – the agreement was that I will go back to work on the 23rd of November.

ADV SUSAN WENTZEL: Yes. So it was the next day?

MR MATTHEWS SESOKO: Yes.

20 **ADV SUSAN WENTZEL:** Chair we will get the judgment and the arbitration or copies of the proceedings.

MR MATTHEWS SESOKO: Yes.

CHAIRPERSON: Ja.

ADV SUSAN WENTZEL: You touched on a little bit earlier what the state of play was when you returned to your work at – at IPID and the investigations that you had left a good year – eighteen months

previously and where they were at – at this stage. Could you deal in some detail now with those investigations and what happened and has been happening since you have been back in your job?

MR MATTHEWS SESOKO: Chairperson when I – I returned to work obviously I resumed my duties as the National Head of Investigation and the first thing I – I was confronted with was that Mr McBride in my absence because he came back earlier than me in October. He had appointed a team which is in my unit.

We call it ANSIT A National Specialised Investigative Team to
10 investigate allegations of corruption against former Acting National Commissioner General Phahlane.

The complaint had come from Mr Paulo Solomon and when I started engaging with the team I was able to establish that Mr Paulo Solomon had approached IPID in March already whilst we were on suspension about these allegations. And that IPID had done nothing to investigate these allegations.

CHAIRPERSON: And this was now in November?

MR MATTHEWS SESOKO: That was in November now 2016.

CHAIRPERSON: Hm. Hm.

20 **MR MATTHEWS SESOKO:** And upon getting a complaint of this nature – upon receiving complaint from Mr Solomon Mr McBride then established this team. So when I came back I had to manage this team.

CHAIRPERSON: But do you recall around when Mr McBride had come back from his own suspension?

MR MATTHEWS SESOKO: Mr McBride came – went back to the office in October.

CHAIRPERSON: Oh so he had come back...

MR MATTHEWS SESOKO: Of 2016.

CHAIRPERSON: Just the previous month?

MR MATTHEWS SESOKO: Yes the previous month.

CHAIRPERSON: Okay. Hm.

MR MATTHEWS SESOKO: So the team had already started investigating this matter and had also went to the residential premises
10 – an estate...

CHAIRPERSON: Just before that. So prior to Mr McBride coming back in October all along the Acting Executive Head was Mr ...

MR MATTHEWS SESOKO: Kgamanyane.

CHAIRPERSON: Kgamanyane.

MR MATTHEWS SESOKO: Yes.

CHAIRPERSON: Okay. Okay.

MR MATTHEWS SESOKO: And he did nothing to – to investigate this matter. In fact as part of the investigation we were able to establish that he had made a contact with General Phahlane to make him aware
20 of these allegations. And he appointed Mr Gomo who was acting in my position to – to the designated investigator in this matter. However the team when they – they received this dockets after appointment by Mr McBride they found that no investigation was done on this – on this matter. So ...

CHAIRPERSON: So I guess it might not therefore be accurate to say

nothing had been done completely in the sense that at least from the point of view of Mr Kgamanyane he had appointed somebody to be the investigator but then that person had done nothing.

MR MATTHEWS SESOKO: Ja no investigation was done.

CHAIRPERSON: Yes. Okay.

MR MATTHEWS SESOKO: You see the issue is and the events that followed shows a – a pattern that there was never an intention to – to investigate that.

CHAIRPERSON: Hm.

10 **MR MATTHEWS SESOKO:** Because the very same person who was supposedly supposed to do this investigation upon our return then requested a transfer back to the police to the CI because he was in CI. So he got transferred back to the CI environment.

CHAIRPERSON: Oh he was from Crime Intelligence?

MR MATTHEWS SESOKO: Yes

CHAIRPERSON: Okay

MR MATTHEWS SESOKO: So he got a transfer to the police to the Crime Intelligence.

CHAIRPERSON: But was he not supposed to go back anyway upon
20 your return because he was acting and had come from there.

MR MATTHEWS SESOKO: No, no, no he was appointed in IPID. Mr Kgamanyane had appointed him.

CHAIRPERSON: Ja.

MR MATTHEWS SESOKO: As a Director.

CHAIRPERSON: Oh.

MR MATTHEWS SESOKO: ANSIT.

CHAIRPERSON: Oh but then he got him to act.

MR MATTHEWS SESOKO: So he was a permanent employee of IPID.

CHAIRPERSON: Of IPID yes.

MR MATTHEWS SESOKO: But because – so this shows us that there was some shenanigans that were happening because immediately upon our return.

CHAIRPERSON: Hm.

MR MATTHEWS SESOKO: Mr Kgamanyane got a transfer initiated by
10 the Minister and General Ntlemenza to the DPCI.

CHAIRPERSON: And without now...

MR MATTHEWS SESOKO: Without the consent of the Executive Director.

CHAIRPERSON: And the Minister now was still Mr Nathi Nhleko?

MR MATTHEWS SESOKO: Yes.

CHAIRPERSON: Yes.

MR MATTHEWS SESOKO: Yes. And then Mr Gomo also requested transfer back to the SAPS and he was transferred back to the CI.

CHAIRPERSON: So they – they both elected to get out of IPID?

20 **MR MATTHEWS SESOKO:** Yes.

CHAIRPERSON: Upon your return.

MR MATTHEWS SESOKO: Yes.

CHAIRPERSON: And Mr McBride's return.

MR MATTHEWS SESOKO: Yes.

CHAIRPERSON: Whereas prior to that they had been part of the staff

of IPID?

MR MATTHEWS SESOKO: That is correct Chairperson.

CHAIRPERSON: Yes okay.

MR MATTHEWS SESOKO: And the very same Mr Gomo when we were now fighting and there was all this interference with our investigation and we – we were called by the Portfolio Committee on Police he came on tour with General Phahlane to support General Phahlane against us on these allegations against General Phahlane as they were being ventilated at the Portfolio Committee of Police. So it was clear to us
10 that there was never going to be any investigation against General Phahlane by this group anyway.

CHAIRPERSON: Well you might or might not have skipped to get to that point.

MR MATTHEWS SESOKO: Yes.

CHAIRPERSON: But now that you are at that point why would he go to the Portfolio Committee because he was no longer in IPID he was back in Crime Intelligence – Mr Gomo?

MR MATTHEWS SESOKO: What – remember he was now in – he got transferred to work for the SAPS in CI, Crime Intelligence in SAPS.

20 **CHAIRPERSON:** Yes, yes.

MR MATTHEWS SESOKO: The Portfolio Committee then invited IPID and SAPS and General Phahlane was still the Acting National Commission because these investigations we were conducting against him was over the media and I think the Portfolio Committee at the time in their wisdom they thought if they call us...;

CHAIRPERSON: Or if they called everybody.

MR MATTHEWS SESOKO: Yes.

CHAIRPERSON: Who might have had something to do with this.

MR MATTHEWS SESOKO: Yes.

CHAIRPERSON: Ja okay.

MR MATTHEWS SESOKO: You know to brief them what is happening on this issue.

CHAIRPERSON: Yes okay.

MR MATTHEWS SESOKO: Then he also came as part of the delegation
10 of General Phahlane.

CHAIRPERSON: Okay.

MR MATTHEWS SESOKO: Yes.

CHAIRPERSON: Okay.

MR MATTHEWS SESOKO: So when – when – the investigation started in earnest. General Phahlane then...

CHAIRPERSON: And you were leading those investigations?

MR MATTHEWS SESOKO: Yes I was not leading the investigations.

CHAIRPERSON: Yes, yes. I guess that must be 2017 then?

MR MATTHEWS SESOKO: No 2016.

20 **CHAIRPERSON:** Still 2016?

MR MATTHEWS SESOKO: Still 2016 in November.

CHAIRPERSON: Yes.

MR MATTHEWS SESOKO: Yes. So first the – there were threats to one of our investigators Mr Mandla Mahlangu – death threats to his life via sms messages. He received two sms messages and in those

messages they also made threats to the Executive Director Mr McBride as well as Mr Paulo Solomon. And then as a result of those threats then we procured the services of Ms Theresa Botha to assist in tracking where these messages were coming from. From Fidelita a security company. But also what had happened was that General Phahlane then instructed an investigation that there was – or under the pretext that there was a security breach to his residence. In fact we have statements from Crime Intelligence officials who attended to – to that complaint of General Phahlane and they depose a statement to us that
 10 upon attending to that complaint they have actually established that there was no security breach. In fact it was a legitimate IPID investigation.

CHAIRPERSON: Hm.

MR MATTHEWS SESOKO: But General Phahlane not only did that – he called the Mabula team from North West to start an investigation on the pretext of the security breach. But this was in fact their way of interfering with our investigation. And they actually even approached the witnesses that had already deposed statements to our investigators on these allegations of corruption against General Phahlane. And this
 20 Ma – General Mabula and his team approached the very same witnesses. As a result of that we laid criminal charges of defeating the ends of justice against both General Phahlane and the Mabula team and we investigated those matters and referred them to the NPA and the NPA declined to prosecute these matters.

Saying that they will reconsider the prosecution with the

corruption investigations that we were still busy conducting. Now we were of the view that there was enough evidence to - to prosecute. So we are not happy with the decision. We took up these issues with the NPA and the former National Director of Public Prosecution Advocate Shaun Abrahams.

Raising our concern in relation to this matter. Now this was not the only matter that we raised concern with. It was also in relation to the investigation that we also conducted against Mr Kgamanyane himself on allegations of corruption and contravention of the PFMA.

10 Now we - we had a lot of correspondences with the NPA in relation to this issue and raising our concern how decisions were taken in relation to our matters and to our surprise the only - the- the response that we are getting from the NDPP was that he agrees with the decisions without giving us detail reason why in their view that these cases were not prosecutable.

In my view if I make a representation that I am not happy with the decision that was taken by a particular prosecutor and then I - I would like you to review. What I expect is that even if you agree with the decision that was taken but at least take an effort to explain what is

20 the legal basis that decision but to say that there are no prospects of a successful prosecution is not good enough because it is as good as saying I decline to prosecute in any event. So those are the ...

CHAIRPERSON: It is just the conclusion without ...

MR MATTHEWS SESOKO: Hm.

CHAIRPERSON: The reasons?

MR MATTHEWS SESOKO: Exactly.

CHAIRPERSON: Hm.

MR MATTHEWS SESOKO: You know. So those were - were the issues that we - we were raising. I mean in one of the correspondences Chair I - I remember well General Phahlane has always been making allegations that we are being used by Paul O'Sullivan. He even went to an extent when we were at the Portfolio Committee of calling us or our organisation OPID.

O'Sullivan - you know O for O'Sullivan. So he was calling
10 OPID. So he was making allegations that we - we have outsourced our investigation to ...

CHAIRPERSON: Hm.

MR MATTHEWS SESOKO: To - to Paul O'Sullivan.

CHAIRPERSON: Hm.

MR MATTHEWS SESOKO: One of the correspondences that came from Advocate Shaun Abrahams was pushing the very same narrative. To say no he has declined to prosecute. He agrees with them. Giving the circumstances that we had out - outsourced our investigation to - to Paul O'Sullivan or to a private individual. Something to that effect. I
20 cannot remember the exact words.

Something that we could not understand. We say how do you come to that conclusion before you engage with us. We even had a - a meeting with him. Myself and the Executive Director trying to raise these issues and our concern that you know how these decisions are taken and the - the inertia in - in taking this Phahlane investigation

forward including the fact that the (“AFU”) Asset Forfeiture Unit was not acting on - on these matters.

It was a very funny meeting because the - the management of the NPA sitting there were actually even excluded from talking. It came to a serious confrontation between Mr McBride and Mr Shaun Abrahams to an extent that I have to - I had to calm down Mr McBride to say at the end we need to get this meeting through and try to get some solution to this problem because he was willing to leave at that time the way the - the meeting was charged.

10 So the - the - these decisions did not make sense to us. We continued to engage the NPA even after he was removed as the NDPP. We engaged Dr Ramaite who was appointed to act as the NDPP and raise the same issues with him and Dr Ramaite undertook to appoint Advocate McAdams to look at all these cases and be able to deal with it and we started some work with him to start dealing with these issues.

 Unfortunately he was not officially appointed by Dr Ramaite so he could not take the matters further until recently Advocate Batohi was appointed to that position and then we engaged further with her and it is only now that we see these matters being taken seriously and
20 being reviewed by - by the NPA.

CHAIRPERSON: These matters that you are talking about are they matters where you hold the view or have the perception that the refusal to prosecute was not based on or decisions not to prosecute were not based on legitimate legal grounds?

MR MATTHEWS SESOKO: That is correct Chairperson and in our

correspondence ...

CHAIRPERSON: Hm.

MR MATTHEWS SESOKO: We sharply raised that. We - we raised the issue that we believe that the NPA is biased in taking some of these decisions. Just to make an example Chair. In one of the matters where Mr O'Sullivan is the complainant. The two senior advocates in the NPA took a decision that the - the officials from the Mabula team must be prosecuted and they did a memorandum to Advocate Maloy (?) to that effect.

10 To our surprise when the decision - they - they informed us about this and - and we even got hold of - of that memorandum. To our surprise when the decision came the decision came as decline to prosecute. When we questioned why decline to prosecute the response we get is no I agree with the DPP without giving us reasons what is the legal reason for not prosecuting.

 Especially in the face of senior advocates in that office saying there is a case to be answered here. They even warned in their memorandum that the NPA could even suffer civil suits if these matters are not prosecuted. So it shows and there is a pattern in - in other
20 matters also that shows that there was that kind of bias and - and unwillingness on the part of the NPA during that time to take our matters seriously and prosecute them.

 In fact the Panday matter nothing happened with it and even when we pursued it. We were told that no there is a - a challenge by one of the complainants and so but nothing was happening but what is

strange is that just before the - the judgment on the removal of Mr Shaun - Advocate Shaun Abrahams then the decision was made to prosecute. So you only have to ...

CHAIRPERSON: Without anything new having happened?

MR MATTHEWS SESOKO: Exactly. You know you ask yourself but why does it happen now.

CHAIRPERSON: Hm.

MR MATTHEWS SESOKO: You know all of a sudden there is this decision now.

10 **CHAIRPERSON:** Hm.

MR MATTHEWS SESOKO: You know when all of the time we have been asking and nothing was happening. So in our view ...

CHAIRPERSON: Hm.

MR MATTHEWS SESOKO: There was never an intention to - to deal with these matters.

CHAIRPERSON: Hm.

MR MATTHEWS SESOKO: Only when in my view there was probably a - a realisation that he may be removed that he thought ...

CHAIRPERSON: Hm.

20 **MR MATTHEWS SESOKO:** Maybe he must then make the right decision ...

CHAIRPERSON: Hm.

MR MATTHEWS SESOKO: On - on this matter ...

CHAIRPERSON: Hm.

MR MATTHEWS SESOKO: But these other matters nothing had

happened. Only now with the new NDPP that there - there is actions ...

CHAIRPERSON: Hm.

MR MATTHEWS SESOKO: On these matters. The Mabula matter for instance ...

CHAIRPERSON: Hm.

MR MATTHEWS SESOKO: As I have indicated earlier on torture there is a decision already to prosecute on it.

CHAIRPERSON: Now these matters where there have been refusals - decisions to refuse to prosecute that you are talking about. Are you
10 able to group them in one way or another under a particular category maybe such as it is cases that have got political connections? It is cases that relates to corruption that involves people who may have been in high places within Government or people who are close to people in high office in Government or anything like that or is it difficult to group them together? They are just different cases.

MR MATTHEWS SESOKO: Chair they can be grouped in that way.

CHAIRPERSON: Hm.

MR MATTHEWS SESOKO: The Panday matter for instance got political ...

20 **CHAIRPERSON:** Hm.

MR MATTHEWS SESOKO: Connections.

CHAIRPERSON: Hm.

MR MATTHEWS SESOKO: The - the other matters it is high ranking police officers.

CHAIRPERSON: Hm.

MR MATTHEWS SESOKO: We are talking Generals ...

CHAIRPERSON: Hm, hm.

MR MATTHEWS SESOKO: That are involved.

CHAIRPERSON: Hm.

MR MATTHEWS SESOKO: Later on in my statement I will talk about the matters relating to CI ...

CHAIRPERSON: Hm.

MR MATTHEWS SESOKO: Crime Intelligence ...

CHAIRPERSON: Hm.

10 **MR MATTHEWS SESOKO:** Which involved also senior police officers.

CHAIRPERSON: Hm, hm.

MR MATTHEWS SESOKO: Where we stuck. We cannot move forward ...

CHAIRPERSON: HM.

MR MATTHEWS SESOKO: With those investigations ...

CHAIRPERSON: Hm, hm.

MR MATTHEWS SESOKO: Because of refusal to declassify documents.

CHAIRPERSON: Hm, hm.

20 **MR MATTHEWS SESOKO:** So it is - it is - you know when - when we - we investigate low ranking officers ...

CHAIRPERSON: Hm.

MR MATTHEWS SESOKO: We never get an interference ...

CHAIRPERSON: Hm, hm.

MR MATTHEWS SESOKO: But you start investigating Generals ...

CHAIRPERSON: Hm.

MR MATTHEWS SESOKO: Then you get this kind of interference.

CHAIRPERSON: Hm, hm.

MR MATTHEWS SESOKO: Hence I said that we even had to go to court ...

CHAIRPERSON: Hm.

MR MATTHEWS SESOKO: To get an order ...

CHAIRPERSON: Hm, hm.

MR MATTHEWS SESOKO: To stop the Mabula team ...

CHAIRPERSON: Hm.

10 **MR MATTHEWS SESOKO**: From interfering with our investigations.

CHAIRPERSON: Hm. Well this Commission is supposed to also look at how the NPA may have also played a role in advancing State Capture or out of corruption protected certain people and it may well be that a lot of the cases you are talking about are cases that could show what you are talking about.

Either part of State Capture or decisions not to prosecute being based on corruption and such like others - such like considerations and I would like you and your colleagues in - in IPID to - to consider looking at all those cases and looking at the terms of
20 reference of the Commission and seeing whether you are able to select all those that you think fall under our terms of reference.

Where there is a reluctance or refusals to prosecute when actually there should have been prosecutions but not cases where it might say you know - you know somebody there could be different views and so on ...

MR MATTHEWS SESOKO: *Ja.*

CHAIRPERSON: But where you say look it really does look like there was some really illegitimate reasons for not prosecuting and if you are able to put those together do so and be in touch with the legal team so that ultimately maybe the Commission can look at all of them.

MR MATTHEWS SESOKO: We will - we will certainly do so
Chairperson ...

CHAIRPERSON: Hm, hm.

MR MATTHEWS SESOKO: Because it is part of the submissions that
10 we have made to the NDPP ...

CHAIRPERSON: Yes.

MR MATTHEWS SESOKO: Advocate Batohi.

CHAIRPERSON: Yes.

MR MATTHEWS SESOKO: To say all these cases ...

CHAIRPERSON: Yes.

MR MATTHEWS SESOKO: These are the issues we have with them ...

CHAIRPERSON: Yes.

MR MATTHEWS SESOKO: And we feel that you know ...

CHAIRPERSON: Yes.

20 **MR MATTHEWS SESOKO:** Justice was not done ...

CHAIRPERSON: Yes.

MR MATTHEWS SESOKO: In these matters.

CHAIRPERSON: No please do that together with whatever correspondence you might have exchanged with the NPA where you were questioning why certain decisions were being taken or why

prosecutions were not following. So arrange to do that and it may well be that whether officially IPID does that or just individuals who are involved within IPID you know.

Also come and assist the Commission with evidence that - that could be looked at.

MR MATTHEWS SESOKO: We will certainly do that Chairperson. I think also as part of the attachment to my statement I have attached some of the correspondences ...

CHAIRPERSON: Yes.

10 **MR MATTHEWS SESOKO**: That we - we exchanged with the - the NPA and raising ...

CHAIRPERSON: Yes.

MR MATTHEWS SESOKO: A specific concern ...

CHAIRPERSON: Yes.

MR MATTHEWS SESOKO: With regard to these matters. I mean we - my honest view is that some of the Generals were being protected or some of the officers that were being used to put a particular - to push a particular agenda were being protected from prosecution. Whereas others were being prosecuted. I mean just to illustrate this
20 Chairperson.

As part of the interference with our investigation and to counter our investigation the Mabula team arrested Mr Paul O'Sullivan when there was a court order that says they must not arrest him. They further charged two of our investigators Mr Mahlangu and Mr Binang. In the indictment part of the charge is that they pretended to be IPID

investigators but they are IPID investigators.

Now I cannot fathom how a prosecutor draws up a charge sheet like that that says I am charging you for being - for pretending to be an IPID investigator when in fact you are an IPID investigator. In any event in matters of this nature like where a person pretends to be a - a police officer one of the important statements that you must obtain is from IPID or from the SAPS to say whether this person is in fact a member of the police or a member of IPID.

CHAIRPERSON: Yes.

10 **MR MATTHEWS SESOKO:** No such thing happened.

CHAIRPERSON: Hm.

MR MATTHEWS SESOKO: No one came to us to say ...

CHAIRPERSON: Hm.

MR MATTHEWS SESOKO: Are these people your investigators or not ...

CHAIRPERSON: Hm.

MR MATTHEWS SESOKO: But they are being charged for.

CHAIRPERSON: Ja. I - I want to - I want all of those cases because we - we cannot hope to clean up corruption in this country if there is a
20 lot of corruption within law enforcement agencies. We - we cannot. You know and it is not good for the country for people to know that if you are a low ranking official you will be arrested. You will be charged.

You will be brought to court but if you are high ranking you will be protected from prosecution. You can do whatever corruption and do crime. You will be protected. It cannot be and if we cannot sort that

out then we just have no chance of sorting out corruption in this country. So everybody needs to know that when our Constitution says everyone is equal before the law that is what everybody will implement.

That is what courts will - will ensure is implemented. That is what police will implement. That is what everybody - everybody will do. You know the law is the only place where we are all supposed to be equal and - and if you have a situation where the general public thinks that the law - people are not equal before the law. You bring the law into disrepute and the consequences for law and order in the country would be far reaching.

ADV SUSAN WENTZEL: Thank you Chair.

CHAIRPERSON: Yes Ms Wentzel.

ADV SUSAN WENTZEL: Mr Sesoko could you also please tell the Chair about the interference that you had from Brigadier Ncube and the Mabula team approaching your investigators and offering bribes that you refer to in paragraph 65?

MR MATTHEWS SESOKO: That is correct Chair. Chair as I have already indicated that we had to go to court to interdict General Mabula's team from interfering with our investigation and counter investigating us ...

CHAIRPERSON: And - and really ...

MR MATTHEWS SESOKO: And ...

CHAIRPERSON: For - for one law enforcement agency to have to go to court to get an interdict against other law people to say do not interfere with our; to reach that stage things must be very bad.

MR MATTHEWS SESOKO: Chair it was bad. You see from our side we tried everything and understanding that we were within the same Ministry. We tried our best to get this thing resolved internally. So we approached the National - of course we could not approach General Phahlane because he is the one who brought them in ...

CHAIRPERSON: Yes.

MR MATTHEWS SESOKO: To counter our investigation but after he was suspended by Minister Mbalula then we approached the then Acting National Commissioner General Mothiba to say we need to resolve this
10 issue. It cannot be that people that we are investigating as IPID start investigating us. Police has got almost 200 police officers.

Surely you cannot tell me that you cannot find a police officer that will - is not subject of our investigation to investigate us if they believe there is some wrongdoing on the part of our investigators. We are not immune to investigation and we - we welcome an investigation if there is any wrongdoing but you cannot ask the very people who are investigating to investigate us.

Surely there will not be any objectivity in that investigation and that is exactly what Judge Tuchten found that these officers were
20 conflicted and in fact in his judgment said that the police must go back and look at their Act so that there is no conflict of interest in how the police conduct the investigation.

We have a similar provision in our Act that our investigators cannot in a matter where they have got a conflict of interest. So we - we tried in - in that kind of engagement and General ...

CHAIRPERSON: So that had to go to court for a Judge to ...

MR MATTHEWS SESOKO: Yes.

CHAIRPERSON: To make a decision?

MR MATTHEWS SESOKO: Yes.

CHAIRPERSON: Nobody within SAPS high up could say this is nonsense?

MR MATTHEWS SESOKO: Yes.

CHAIRPERSON: This should be sorted out. Let us get other people to investigate?

10 **MR MATTHEWS SESOKO:** Exactly Chair. To General Mothiba's credit he instructed his legal team to sit with our legal team and try and resolve this - this matter. We held a meeting with them and an advocate from the Office of the State Attorney. When the representative from General Mothiba's office came and say my instruction from General Mothiba is that we must resolve this issue they refused. They refused.

CHAIRPERSON: But how could they refuse?

MR MATTHEWS SESOKO: Chair it is - it is a funny thing. Even when we went to court the people who were opposing our application it was
20 General Mabula and his team. The National Commissioner was not opposing.

CHAIRPERSON: And yet they are under the National ...

MR MATTHEWS SESOKO: Commissioner.

CHAIRPERSON: Commissioner?

MR MATTHEWS SESOKO: Yes Chair. That is what happened. The

Judge read out a barrage of correspondences that we have been sending to the police management to try and get this thing resolved ...

CHAIRPERSON: Hm, hm.

MR MATTHEWS SESOKO: And made it clear IPID tried to get this thing resolved ...

CHAIRPERSON: Hm.

MR MATTHEWS SESOKO: And there is no commitment on the police to get this thing resolved.

CHAIRPERSON: Hm.

10 **MR MATTHEWS SESOKO:** It is the same thing that is happening with the issue of declassification.

CHAIRPERSON: Hm, hm.

MR MATTHEWS SESOKO: We are now in court. We - we - there is litigation pending on this issue ...

CHAIRPERSON: Hm.

MR MATTHEWS SESOKO: Because they are refusing to declassify documents that we need for our investigation.

CHAIRPERSON: Well if we do not have Judge Tuchten's judgment here ...

20 **ADV SUSAN WENTZEL:** We have got it.

CHAIRPERSON: Please get a copy. Have we got it?

ADV SUSAN WENTZEL: Yes. We have got it.

CHAIRPERSON: Yes. Well now that you have touched on the issue of declassification. You may or may not be aware that last week I heard evidence from Colonel Roelofse in regard to the challenges he met with

trying to get the national - various National Police Commissioners to declassify various document that he needed for his own investigations and I - I have indicated that I will want to - I will want the National Commissioner to be approached so that he can give - he can say whether he is prepared to declassify those documents insofar as they are relevant for the Commission's investigation or not and if he is not what the reasons are but I asked him whether there was not litigation because I thought I had read somewhere about there being litigation relating to declassification and relating to classification being for
10 illegitimate reasons and so on.

So maybe that is - that is what I was thinking about. If - if there is litigation that IPID is involved in.

MR MATTHEWS SESOKO: That is correct Chair. What had happened was that after we had had an MOU with the Inspector-General of Intelligence we started getting involved in investigations that are happening in the Crime Intelligence particularly the Secret Service Account. There is widespread corruption happening in that environment.

Now the - the first investigation actually we - we got involved
20 is the same investigation that Colonel Roelofse was investigating against General Mdluli. Now the reason we got involved is also that it was also referred to us through Parliament because of the frustrations that Colonel Roelofse was experiencing and we wrote to the police about declassifying specifically those matters.

That - it was in fact our first correspondence with them in

relation to classification. We started with General Phahlane, General Mothiba, General Sithole. None of them declassified these documents. We followed up with a further request in relation to our investigations on I-View. We call them I-View 1, two, three.

Several millions of corruptions - tens of millions of corruption involved. So we also asked declassification in those matters and there was no positive response. In fact at some point we were called to SCOPA in Parliament.

CHAIRPERSON: To SCOPA, yes.

10 **MR MATTHEWS SESOKO:** SCOPA, yes.

CHAIRPERSON: Yes.

MR MATTHEWS SESOKO: And we lamented the same thing that the police are refusing to declassify documents and the National Commissioner General Sithole made an undertaking in that meeting that within 14 days he will declassify the documents. However that never happened.

Because of these frustrations Chair we then resorted to Section 205 in terms of the Criminal Procedure Act and we subpoenaed General Sithole, General Vuma, General Zumani and the former
20 Minister Mbalula's advisor, Mr Bindwane. When they were supposed to hand over documents and come from interviews, because part of what we wanted to interview in relation to these investigations, then they went and challenged our 205 subpoena, and that is when then we opposed their challenge and did a counter application to force them to declassify these documents and hand them over to us, and we currently

waiting for the Judge President to allocate a date for the matter to be heard.

Now this is despite the fact that IPID Act Section 29 thereof, provides that the SAPS must assist us in terms of handing over documents that we need for the purpose of investigation or giving us statements and so forth and they refuse to do so. Section 42 of the IPID Act provides that any State institution must cooperate with us to ensure that we are able to achieve our mandate, despite those legal imperatives they still refuse. In fact when we receive their papers they
 10 are saying to us that it is only the Standing Committee on Intelligence that can declassify documents, which is absurd. We have got a policy document which is minimum information security standard, which provides how issues of classification must be dealt with and who can classify and who can declassify. It is very clear that it is the person who classifies the document or the Head of the Institution which in this instance may be the National Commissioner or the Divisional Commissioner of Crime Intelligence, not the Standing Committee, but that is what they are saying in their papers, which we find
 ...[intervenes]

20 **CHAIRPERSON:** Do they refer to any legislation to support that as far as you recall?

MR MATTHEWS SESOKO: I think they do, but it is in our view a misinterpretation of that legislation, because the legislation does not say that in an event the issue of declassification it is clear on the
 ...[indistinct] how it must be handled and it was even dealt with in the

Constitutional judgment of Masetla and former President Thabo Mbeki.

CHAIRPERSON: Yes, in the Constitutional Court.

MR MATTHEWS SESOKO: Yes.

CHAIRPERSON: But if they had – if they are – if on their knowledge only that committee could deal with it why didn't they all these seven/eight years that Mr Roelofse, Colonel Roelofse has been asking for these documents why did they say you are coming to the wrong people, go to Parliament?

MR MATTHEWS SESOKO: Chair that is obfuscation, there is nothing
10 like that.

CHAIRPERSON: Assuming that you are correct.

MR MATTHEWS SESOKO: In my humble opinion. Yes and you right, assuming they are correct, that is what they should have done and if they were committed to doing it they should have written to the committee and say I did request these matters to be declassified to enable them to conduct investigation, can you please declassify them, and that has never happened.

CHAIRPERSON: And that is difficult to understand also because Parliament is a different arm of the State, they are a different arm of
20 the State.

MR MATTHEWS SESOKO: Exactly. And they are not involved in the operational issues of the SAPS, so you cannot expect Parliament to be dealing with classification or declassification of documents of the SAP. This is also Chair despite the advice from the Inspector General of Intelligence that the information that IPID is requesting has nothing to

do with the security of the State, it is all about procurement matters.

CHAIRPERSON: The Inspector General has actually advised
...[intervenes]

MR MATTHEWS SESOKO: Has written and advised.

CHAIRPERSON: And they know about that.

MR MATTHEWS SESOKO: They know about that.

CHAIRPERSON: And how long ago was that if you are able to remember?

MR MATTHEWS SESOKO: I think it was – it could be early this year
10 or late last year.

CHAIRPERSON: Yes.

MR MATTHEWS SESOKO: When we received those advice from the
Inspector General.

CHAIRPERSON: And their challenge when you subpoenaed them and
your counter-application when did they – when were they launched, how
far back?

MR MATTHEWS SESOKO: Chair I am speaking under correction, it
could be early this year.

CHAIRPERSON: It could be early this year?

20 **MR MATTHEWS SESOKO:** Yes, or late last year.

CHAIRPERSON: Okay, so at this stage as far as you know all papers
have been filed in court and all that remains is a date for hearing to be
allocated?

MR MATTHEWS SESOKO: Yes, yes, yes, as far as I know.

CHAIRPERSON: Now the documents that you have been asking for, in

other words which will be affected by the decision of the Court in that matter, would they cover almost all the document that Colonel Roelofse was looking for?

MR MATTHEWS SESOKO: Yes it also includes those documents and other investigations

CHAIRPERSON: And other investigations.

MR MATTHEWS SESOKO: That we are busy with.

CHAIRPERSON: Yes okay so it may well be that – it may well be that relevant parties should make an approach to the Judge President to ask
10 that the date be given as soon as possible because this is holding up lots of investigations for years.

MR MATTHEWS SESOKO: That is correct Chair, the advice I got from my head of legal is that that is the position now, we are waiting for a court date to be allocated.

CHAIRPERSON: Yes and that may be if at all possible the date should not be too far away, of course the Judge President you know looks at everything in his own court and so on but he probably if he – if representations are made to him and he is made to understand the impact of the delay in this investigation because of the non-
20 declassification he would make his decision from an informed position, but part of what is concerning me, despite the fact that you say you are now waiting for a date for a hearing is that the date for hearing and the handing down of the judgment might not mean the end of the problem because if for argument sake the National Commissioner is successful or rather is unsuccessful and IPID succeeds they might seek to appear

and then we could see another three years, if not more of a delay in regard to finalising these matters and by that time these documents that Colonel Roelofse started looking for in 2012 or 2011 I mean those cases would have been more than ten years old, and it is really an untenable situation.

MR MATTHEWS SESOKO: Chair unfortunately in our environment these are kind of problems we are dealing with, unfortunately we do not investigate ordinary citizens, we investigate law enforcement officers who understand the criminal justice system and how it works and they
10 can be able to manipulate it.

CHAIRPERSON: Yes, yes.

MR MATTHEWS SESOKO: I mean this Pahlani investigation we conducted a search on one of the service providers, FDA and they challenged our search, we opposed, we went to court, the High Court found in our favour.

CHAIRPERSON: Mmm.

MR MATTHEWS SESOKO: They petitioned the Supreme Court of Appeal, they failed twice there and now they're saying they are taking it to the Constitutional Court.

20 **CHAIRPERSON:** Mmm.

MR MATTHEWS SESOKO: And they are – their arguments haven't changed, so it is clear to us that it is to delay this as far as possible because what we have seized we cannot touch until these processes are ...[intervenes]

CHAIRPERSON: The litigation is finalised.

MR MATTHEWS SESOKO: Are finalised.

CHAIRPERSON: Yes.

MR MATTHEWS SESOKO: And that perhaps on our ability to conclude these investigations, it is a similar thing with the classification, until such time that we get the documents we cannot finalise our investigation in these matters.

CHAIRPERSON: Well I think that if the executive wants to be seen to be meaning business about fighting corruption then they must be clear there must be clarity on when will they refuse to declassify and why
10 would they refuse declassifying when it is said that the documents that are being sought are being sought for purposes of investigation and the investigation relates to corruption among other things and with lots of money that has been lost through all of that, it is really a pity that this has been allowed to go on for so long. There is a need for decisive action, there is a need for decisive action on the part of the executive, because in the end I mean courts get asked to deal with – some of the matters that courts get asked to deal with are matters that can be resolved by the leadership of the Executive, to say this is wrong, this is what must happen and it must happen, and those who don't want to
20 comply with lawful instructions must be dealt with.

MR MATTHEWS SESOKO: You know what is funny chair is that our Act as I have indicated Section 29 says it gives – it places an obligation on the police to cooperate with us in terms of giving us whatever information we need, for investigative purposes whether it be documents whether it be statements, whatever. It does not make

exception that only if it is not a classified document. Our Act specifically provides that we must be vetted. I hold a top secret clearance, there is a reason for that, so that I can have access to top secret information.

Now even if they have classified if we all working in good faith they should make the documents available to me because I have top secret clearance, and then be able to raise whatever concerns they want to raise with me in relation to the information contained there, as to which information can go to court, which information they believe
10 should not go to court because it can affect State security and I am sure we will amenable to listen to that.

CHAIRPERSON: Yes so in other words when they know that IPID people have got, such as you, have got top secret clearance, security clearance, there is no reason why they cannot say okay come let us sit here, let us look at these documents. We are concerned that these might be a problem if they get to be known publicly.

MR MATTHEWS SESOKO: Exactly.

CHAIRPERSON: And then you can discuss and then you can look at those that might be no problem, you might be able to agree that these I
20 agree, these I do not agree.

MR MATTHEWS SESOKO: Exactly, exactly.

CHAIRPERSON: But even that does not take place?

MR MATTHEWS SESOKO: That does not take place.

CHAIRPERSON: *Ja.*

MR MATTHEWS SESOKO: We had an opportunity Chair to go to the

UK to a similar institution like ours, IPCC, and to understand how they do their work and this issue also came up to say how do they deal with these issues. They said no they get access to any document in possession of their Police Service, it does not matter whether it is classified or not classified, and they will make a determination which information can be exposed or not exposed based on those security considerations

CHAIRPERSON: Mmm, mmm.

MR MATTHEWS SESOKO: So I am sure this is something that we
10 could have done ourselves with the SAPS, and this document is very clear that they cannot use classification to hide criminality in the SAPS.

CHAIRPERSON: Well that is what Colonel Roelofse also emphasised last week.

MR MATTHEWS SESOKO: Yes.

CHAIRPERSON: Yes.

MR MATTHEWS SESOKO: You know and we have thought that our work is trying to assist them to deal with issues of corruption in their environment. Now denying us access to this and ability to be able to deal with this corruption it does not assist them either.

20 **CHAIRPERSON:** Mmm, mmm.

MR MATTHEWS SESOKO: So then you have to ask yourself why they are refusing to give us this document. Is it because senior members are suspects in these investigations.

CHAIRPERSON: Yes. Ms Wentzel?

ADV SUSAN WENTZEL: Thank you. On that topic further could you

tell the Chair what happened pursuant to your Crime Intelligence Investigations when you raided the offices of a service provider and seized computers and documents?

MR MATTHEWS SESOKO: We – one of our investigations we went to a service provider's premises and we seized documents and from after we seized the documents we analysed the information contained there and it was clear that there were meetings that were held between the service provider and senior officers in the SAPS. In fact part of our Section 205 subpoenas was to try and get the senior police officers to
10 be interviewed so that we can understand what their involvement was in relation to the procurement that they wanted to do, and whether it was legitimate or not. Now because of the fact that they challenged that we could not take these matters any further, so it is very concerning to us that there is this refusal to engage with us on these matters, and I am not in any way suggesting that they are guilty of anything, but for us to be able to come to a conclusion on investigation we need to get all the facts, and my expectation is that any senior officer who knows that he has done nothing wrong he should not have a problem engaging with us and telling us what were the circumstances surrounding the actions that
20 he have taken at that point in time.

CHAIRPERSON: Well those who refuse to declassify you might not be accusing them of being guilty of anything but if they or some of them have been refusing to have – to declassify documents that are said to have nothing to do with the security of the State, that really relate to allegations of corruption and they have not been putting up any reason

as to why these documents cannot be said to have been involved in allegations of corruption, it raises serious questions as to their motives for not declassifying and there may well have to be investigation as to whether such motives as they may have are not of a criminal nature.

MR MATTHEWS SESOKO: That is correct Chair.

CHAIRPERSON: *Ja.*

ADV SUSAN WENTZEL: Thank you Chair. Mr Sesoko you said that you had to get an interdict to stop the Mbula team interfering with our investigations, and if you just have regard to paragraph 65 I would just
10 like you to tell the Chair what happened notwithstanding the fact that you had an interdict against the Mbula team after that.

MR MATTHEWS SESOKO: Chair after we go to the interdict and the Judge was very clear also that the SAPS management must make an undertaking that they will remove this team from the investigating house which undertaking they made, but subsequent to that it must have been a month or so later, if not two months later I was approached by one of my investigators, Mr Mhlango, and he came to me with a recording on his cell phone from the very same Brigadier Gomo, who was in the IPID and Brigadier Gomo was essentially telling Mr Mhlango
20 that he must implicate us, the management and the N City team in wrongdoing in exchange for that then he will get a brigadier position in the SAPS.

Now if that is not gratification I do not know what gratification is.

Now after I got this information Mr Mhlango also said that in

fact Brigadier Gomo had said to him they must meet with General Mbula, which they did in Potchefstroom and Mr Mhlango also recorded that meeting where the discussion was exactly around this issue, that they must implicate us. In fact they also discussed about a prosecutor who will then prepare a statement for Mr Mhlango which can be used against us.

Now this is despite the fact that there is an order that says they must not get involved, they must not interfere, that is how brazen these officers were.

10 Now subsequent to us learning about this we called a meeting with the entire team, because now we are aware that there are these approaches and in that meeting ...[intervenes]

CHAIRPERSON: The entire team being your team?

MR MATTHEWS SESOKO: The ...[indistinct] team, my team yes.

CHAIRPERSON: Yes okay.

MR MATTHEWS SESOKO: In that team we then asked them to disclose if they have been approached in the similar way as we have learnt about Mr Mhlango and only Mr Mhlango indicated that he has been approached, the rest of the team said they were never
20 approached. However in the recording Mr Gomo is heard saying that one of our investigators, Mr Ngabinde has already agreed to work with them against us, and in the meeting Mr Ngabinde does not say anything. After we adjourned the meeting, it could have been the following day I wrote to Mr Ngabinde and informed him that I am removing him from the team because we cannot trust him anymore. He

is originally from the KwaZulu Natal office and I said he must go back to the office of KwaZulu Natal.

He wrote to the Executive Director and said that he should not appoint either myself or Mr Khuba to investigate these allegations of approached alleging impropriety on our part. Mr McBride wrote back to him and said if you have evidence that Sesoko and Khuba have conducted themselves in an unlawful manner provide me with that evidence then I will deal with it. None of that came forth.

We registered a criminal investigation of corruption against the
10 Mbula team including our own Mr Ngabinde for investigation. We also started with disciplinary processes against him, in fact we suspended him and then subsequently we held a disciplinary hearing, or we were supposed to hold a disciplinary hearing, it never materialised because he offered through his attorneys that he will resign and offered that we make a settlement with him, which we did.

He also made complaints against us with the Public Protector.

CHAIRPERSON: With the?

MR MATTHEWS SESOKO: Public Protector.

CHAIRPERSON: Yes.

20 **MR MATTHEWS SESOKO:** Alleging wrongdoing against us in relation to appointments and procurement issues. Now these allegations were not coming for the first time, because these allegations before then were sent to the Public Service Commission, and the Public Service Commission investigated those allegations and found them to be unsubstantiated, but they were now rehashed with the office of the

Public Protector.

In my view the Public Protector's office was now being weaponised against us. Now this is what we have been experiencing all along, that there is this fight back campaign against us so that it derails all these investigations that we were conducting.

Now recently there is a report that was issued by the Public Protector which makes findings against us, myself, Mr McBride, Mr Khuba, Mr Nomkosi, Siyanda, head of our corporate services, Ms Motlale and Ms Moroasui, head of legal, it is almost the entire
10 management if IPID.

Now it is a separate matter, we are going to deal with it, we are clear that we do not agree with those findings, we are going to take on review and interdict them, but that is the kind of situation that we find ourselves in, there must always be something.

I have been subjected to investigation and I mean people in the police tell me that you know they want to get something on you, you know I talked to my banker that time, my banker says what have you done, the police are looking for your financial information, what have you done. So that is the kind of situation we find ourselves in. In my
20 view it is a push-back because we dared to investigate those that are supposed to be investigated.

So that is the situation we find ourselves in Chair.

CHAIRPERSON: It must be a very difficult environment to work in.

MR MATTHEWS SESOKO: It certainly is, it certainly is, it is continuous push-back.

CHAIRPERSON: Mmm, and this is happening even in 2019?

MR MATTHEWS SESOKO: Even now as I have indicated in my view I believe that the Office of the Public Protector has weaponised against us.

CHAIRPERSON: Mmm, mmm. Yes, thank you.

ADV SUSAN WENTZEL: Could you just give the Chair an idea when that Public Protector's report came out?

MR MATTHEWS SESOKO: The Public Protector's report was actually leaked. I first became aware of it from our investigators, because it
10 was doing the rounds on Whatsapp, it was leaked also to the media, but us as people who was ...[intervenes]

CHAIRPERSON: That is before it was officially released?

MR MATTHEWS SESOKO: Yes, people who are implicated we have not received it officially.

CHAIRPERSON: Mmm.

MR MATTHEWS SESOKO: Actually it was only received by our lawyers on the 19th I think.

CHAIRPERSON: Last week?

MR MATTHEWS SESOKO: Ja, no, no, no, today is – on Monday.

20 **CHAIRPERSON:** On Monday?

MR MATTHEWS SESOKO: On Monday, and it was already making rounds from the 18th, and ...[intervenes]

CHAIRPERSON: It was now in the social media?

MR MATTHEWS SESOKO: We understand from our lawyers that they have already been receiving media enquiries about it.

CHAIRPERSON: Yes.

ADV SUSAN WENTZEL: And Mr Sesoko did the Public Protector interview you?

MR MATTHEWS SESOKO: Yes I was interviewed by the Public Protector.

ADV SUSAN WENTZEL: Chair I have no further questions, that concludes the evidence of Mr Sesoko, unless you have further questions.

CHAIRPERSON: I think I do not have any further questions also but
10 you will remember some of the things that I have asked you to – some homework, and assistance that I have asked you to give to the investigators and the Legal Team, that is yourself, Mr McBride and Mr Khuba. Please do that but other than that I must thank you for coming forward to give evidence. I will continue to hear evidence and I will hear evidence from also those against whom evidence has been given relating to unlawful conduct or inappropriate conduct or misconduct but if indeed in the end what you have told me about the struggles that you have said you have had for standing for the right things, to make sure the right things are done, which really would be very unfortunately but
20 we have to establish what the true position is so that the Commission at the end can say this is what happens, can make findings and then say, make recommendations as to what measures should be put in place to make sure that these things do not happen again, to make sure that with regard to IPID where IPID personnel are investigating, making investigations, they are not hindered instead they are assisted to do

their job in accordance with the requirements of the law and where any other officials within the law enforcement agencies believe that they should not give assistance they state that upfront and give reasons so that those can be evaluated and if need be even more senior people within the Executive must be approached to try and resolve it and the courts are really approached when there is no other way.

But sometimes you just need proper leadership that will stand firm on what is right and what is wrong and get things sorted out and things can be sorted out without going to court, it is just an
10 unacceptable situation where within effectively the same organisation things cannot be sorted out, but of course those situations can arise and when they arise you might have no option but to go to Court and try and get assistance because sometimes the Courts are the only places of refuge and places where the right decisions will be made to make sure that things are done in accordance with the law.

But thank you very much for having come to give evidence, and probably you may be asked to come back on other matters that you have touched on but thank you very much for coming.

MR MATTHEWS SESOKO: Thank you Chair, and I pledge that we will
20 assist the Commission in any way we can to make sure that it discharge its mandate.

CHAIRPERSON: Yes.

MR MATTHEWS SESOKO: But also we hope that the work of the Commission will assist us as public servants so that when you do your work with integrity and stand firm for the truth it is not ...[indistinct].

CHAIRPERSON: Yes, yes, yes, no thank you we certainly, I certainly hope that recommendations that we will make in the end must be able to show that as a country we appreciate the work of those who stand for what is right and who wants to do their job in the right way and who do not want to do wrong things, so we hope that the recommendations we will make will facilitate that, but thank you very much, you are excused.

MR MATTHEWS SESOKO: Thank you.

CHAIRPERSON: Yes Ms Wentzel, are you ready with Mr Khuba?

10 **ADV SUSAN WENTZEL:** I am ready, if I could just have a fifteen minute or five minute break just to regroup and get my files together.

CHAIRPERSON: No that is fine, we might not have a lot of time but I think we must use whatever time we have.

ADV SUSAN WENTZEL: Yes.

CHAIRPERSON: So shall I give you what, ten minutes, five minutes?

ADV SUSAN WENTZEL: Yes it is fine.

CHAIRPERSON: Ten or five?

ADV SUSAN WENTZEL: Ten please.

20 **CHAIRPERSON:** Ten, okay, we will adjourn and we will resume at ten to four.

ADV SUSAN WENTZEL: Thank you.

CHAIRPERSON: We adjourn.

REGISTRAR: All rise.

INQUIRY ADJOURNS

INQUIRY RESUMES

CHAIRPERSON: Yes.

ADV SUSAN WENTZEL: The next witness is a witness...

CHAIRPERSON: Switch on your microphone.

ADV SUSAN WENTZEL: Sorry.

CHAIRPERSON: Your next witness is Mr Innocent Khuba.

ADV SUSAN WENTZEL: Yes that is right.

CHAIRPERSON: Okay. Please administer the oath or affirmation?

REGISTRAR: Please state your full names for the record?

MR HUMBULANI INNOCENT KHUBA: My name is Humbulani Innocent

10 Khuba.

REGISTRAR: Do you have any objection to taking the prescribed oath?

MR HUMBULANI INNOCENT KHUBA: No.

REGISTRAR: Do you consider the oath to be binding on your conscience?

MR HUMBULANI INNOCENT KHUBA: Yes.

REGISTRAR: Do you swear that the evidence you will give will be the truth; the whole truth and nothing but the truth if so please raise your right hand and say, so help me God.

MR HUMBULANI INNOCENT KHUBA: So help me God.

20 **CHAIRPERSON:** Thank you. Before you start Ms Wentzel.

ADV SUSAN WENTZEL: Yes.

CHAIRPERSON: We took longer than we hoped we would with Mr Sesoko and tomorrow we will not be able to start at half past nine with regard to the – with regard to the application for an order that Colonel Naidoo's evidence be heard in camera.

ADV SUSAN WENTZEL: Yes.

CHAIRPERSON: Because another urgent meeting has arisen that I must attend to relating to commission work.

ADV SUSAN WENTZEL: Yes.

CHAIRPERSON: In the morning and that would mean we are not able – also able to start at ten to continue with Mr Khuba's evidence because we will not finish today. So I think that if it is fine with you and with Mr Khuba we should continue beyond four o'clock up to five to try and make sure that whatever is left for tomorrow at least we have covered
10 some – some ground. Is that fine with you?

ADV SUSAN WENTZEL: Yes – Yes Chair that is perfectly suitable.

CHAIRPERSON: Yes. Mr Khuba would that be fine with you?

MR HUMBULANI INNOCENT KHUBA: It is fine with me.

CHAIRPERSON: It is fine with you. Okay. Thank you. Let us continue.

ADV SUSAN WENTZEL: Mr Khuba you have provided an affidavit to the commission, is that correct?

MR HUMBULANI INNOCENT KHUBA: That is correct.

ADV SUSAN WENTZEL: If you have a look at the bundle in front you is
20 that your affidavit marked pages 2 to 36? Can you see it actually says HIK2 – 002.

MR HUMBULANI INNOCENT KHUBA: That is my affidavit.

ADV SUSAN WENTZEL: Chair if I might submit that into evidence marked Y4.1?

CHAIRPERSON: Well the affidavit I have you said his affidavit goes up

to page 35 but ...

ADV SUSAN WENTZEL: Page 36.

CHAIRPERSON: But it goes up – the one I have goes up to 27.

ADV SUSAN WENTZEL: To 27?

CHAIRPERSON: 27 of his affidavit and 28 of the paginated papers.

ADV SUSAN WENTZEL: Chair mine goes up to 36. Perhaps if we could just stand down for two minutes so I can see what is – what has gone wrong here?

CHAIRPERSON: Do you not have somebody who might have the extra
10 pages then we do not have to stand down you can just give me the extra pages?

ADV SUSAN WENTZEL: Yes.

CHAIRPERSON: So the pages that I do not have start at page 29 if you look at the paginated pages otherwise page 28 of the affidavit itself.

ADV SUSAN WENTZEL: I apologise Chair I am not sure how that happened.

CHAIRPERSON: Yes before we do that let us complete that. Mr Khuba
pages 2 of the bundle that is now if you look at the red numbers on the
20 top right hand it is page 2 which is page 1 of your affidavit. Most of the time when she refers to page numbers she will be referring to the red numbers and she will not mention the letters and 00 she will just say page 1, page 2, page 3 and so on. Okay. Now from page 2 up to page 35 of the red numbers, the paginated pages or rather 36 that is where the commissioner's signature is. Is that your affidavit?

MR HUMBULANI INNOCENT KHUBA: Yes it is my affidavit.

CHAIRPERSON: Okay and are the contents of that affidavit true and correct to the best your knowledge and belief?

MR HUMBULANI INNOCENT KHUBA: Yes.

CHAIRPERSON: Okay thank you. The lever arch file containing Mr Khuba's affidavit and annexures will be marked Exhibit Y4. Yes you can start then.

ADV SUSAN WENTZEL: Chair if it could be marked Y4.1 because there was an annexure that was omitted and a supplementary affidavit
10 is being prepared and I would like to put that document in as Exhibit marked Y4.2. So the main affidavit will be Y4.1 and the supplementary will be Y4.2 if that is convenient to you Chair/

CHAIRPERSON: Well let us do that now. So this lever arch file containing Mr Khuba's affidavit will be marked Exhibit Y4.1. Just arrange for a market to be used later on to...

ADV SUSAN WENTZEL: Yes I will.

CHAIRPERSON: Mark it. Okay thank you.

ADV SUSAN WENTZEL: Mr Khuba if you have a look right at end of the bundle at page 376 up until 379 is that the supplementary affidavit
20 that you deposed to?

CHAIRPERSON: That is after the divider marked B.

MR HUMBULANI INNOCENT KHUBA: Okay. That is correct it is mine.

ADV SUSAN WENTZEL: Thank you and you confirm that is true and correct?

MR HUMBULANI INNOCENT KHUBA: Yes.

ADV SUSAN WENTZEL: Thank you. Mr Khuba ...

CHAIRPERSON: Ms – Ms Wentzel you know Mr Sesoko referred to in his evidence to Mr Mhlongo I think he said Mhlongo who he said had a recording of Brigadier Gomo asking him or them to implicate Mr Sesoko I think and Mr McBride in some wrongdoing. I think when Mr McBride gave his evidence earlier this year he did mention that. What I cannot remember is whether that recording was made available to the commission and whether I have listened to it or not. Just check that so that if it has not been made available or it has been made available but
10 it has not been played in the open hearing then that should – so that that can be done in due course. But also I wanted to find out whether there were plans in place to call Mr Mhlongo who had had that discussion with Brigadier Gomo?

ADV SUSAN WENTZEL: No not as yet. But I will make arrangements to consult.

CHAIRPERSON: Well those plans should have been made – that should have been part of the plan even before you came on board.

ADV SUSAN WENTZEL: Yes.

CHAIRPERSON: Because that evidence was given in I think it was
20 April or March and there should by now have been a statement from Mr Mhlongo.

ADV SUSAN WENTZEL: Yes.

CHAIRPERSON: But also there must be an identification of certain people in the evidence of Mr McBride, Mr Sesoko, Mr Khuba in relation to various events and incidents. There must be an identification of

certain people who must be issued with a Regulation 10 – Regulation 10.6 Directives calling upon them to file affidavits dealing with allegations that have been made against them. But also there should be a plan to make sure those people can be called to give evidence that includes Mr Kgamanyane who was acting Executive Director when Mr...

ADV SUSAN WENTZEL: Yes.

CHAIRPERSON: Mr McBride was on suspension but also this – this team from North West that Mr Sesoko talked about that ...

10 **ADV SUSAN WENTZEL:** The Mabula team.

CHAIRPERSON: He alleged was interfering with their investigations you know those people must be given a chance to respond to the allegations and must be able to be called to give evidence. And also the various National Commissioners of Police who have refused to declassify documents, Acting Commissioners and whoever Regulation 10.6 Directives have to be issued for them to respond to the allegations and ultimately to come and give evidence. So share that with the legal team.

ADV SUSAN WENTZEL: Yes.

20 **CHAIRPERSON:** So that steps can be taken.

ADV SUSAN WENTZEL: Yes I will attend to that Chair.

CHAIRPERSON: Okay.

ADV SUSAN WENTZEL: Mr Khuba could you tell the Chair the history of your employment at IPID?

CHAIRPERSON: Well maybe before just the history of employment at

IPID you could just take a few seconds to talk about yourself? What is your back – what was your background before you came to IPID and so on?

MR HUMBULANI INNOCENT KHUBA: Thank you. I joined the IPID in 1999 if I remember very well it was 1st January and before that I was with Anglo American where I was conducting investigation in gold theft. So...

CHAIRPERSON: In what theft?

MR HUMBULANI INNOCENT KHUBA: Theft of gold.

10 **CHAIRPERSON:** Gold?

MR HUMBULANI INNOCENT KHUBA: Ja I used to work closely with the gold and diamond branch.

CHAIRPERSON: Hm.

MR HUMBULANI INNOCENT KHUBA: In Springs Johannesburg.

CHAIRPERSON: Ham. Is that branch of the police?

MR HUMBULANI INNOCENT KHUBA: Yes.

CHAIRPERSON: Okay. Okay.

20 **MR HUMBULANI INNOCENT KHUBA:** I joined the ICD on a rank of an Assistant Director where I was responsible investigation and supervising investigators. In the year 2000 I was then requested to extend my services to Free State which by then was not having a Provincial office established. So I was given two members of SAPS to supervise while I was still responsible for Northern Cape. Then towards the end of 2000 that is when I was appointed Acting Head of the Province Northern Cape. Because the person who was my direct

supervisor was a Provincial Head had been moved to Free State to establish the office there because statistically it was generating more cases than Northern Cape. So I remained responsible for Northern Cape and 2001 I was appointed as now a Provincial Head but not for Northern Cape but for Limpopo Province.

CHAIRPERSON: This was now before IPID was established?

MR HUMBULANI INNOCENT KHUBA: Before IPID it was still ICD.

CHAIRPERSON: You were with the predecessor of IPID the organisation what it was called before?

10 **MR HUMBULANI INNOCENT KHUBA:** It was called ICD.

CHAIRPERSON: Yes I am saying you were with that organisation at the time?

MR HUMBULANI INNOCENT KHUBA: That is correct.

CHAIRPERSON: Yes okay.

MR HUMBULANI INNOCENT KHUBA: So 2003 while I was the Provincial Head for Limpopo they requested me to go and manage Mpumalanga office. By that time it was established but the Provincial Head there seemingly left and I was the one responsible supervising two provinces. So I used to do it on a weekly basis.

20 **CHAIRPERSON:** This is what year now?

MR HUMBULANI INNOCENT KHUBA: 2003.

CHAIRPERSON: Okay still under ICD?

MR HUMBULANI INNOCENT KHUBA: Still under ICD.

CHAIRPERSON: What did ICD mean – stand for again or you have got it here Independent Complaints Directorate.

MR HUMBULANI INNOCENT KHUBA: Independent Complaints

CHAIRPERSON: Directorate.

MR HUMBULANI INNOCENT KHUBA: Directorate.

CHAIRPERSON: Okay.

MR HUMBULANI INNOCENT KHUBA: That is correct. Then ...

CHAIRPERSON: So it was Limpopo and Northern Cape? Or which Provinces were you responsible for now?

MR HUMBULANI INNOCENT KHUBA: I was responsible for Limpopo and Mpumalanga.

10 **CHAIRPERSON:** Okay.

MR HUMBULANI INNOCENT KHUBA: During – when I was he Provincial Head I was on a Deputy Director level. Then on the 1st July 2007 that is when I was promoted to a director level but still having the same responsibilities as Provincial Head. In 2011 I was transferred to KZN for six months where I was requested to set up the office. Because by that time the office was battling to meet strategic objectives of the department. So I was requesting – requested to go and set up systems and also try to assist the office to achieve strategic objectives. Then at the beginning of 2012 after I had already returned
20 to Limpopo I was requested to head the task team called the Cato Manor Task Team where we were investigating the so called the Death Squad. I was given members from various provinces but it was predominantly investigators from North West. Then after that I was threatened and when I was threatened I still remember they did threaten [indistinct] they sent people of the SSA by that time it used to

be called NIA – National Intelligent Agency. They came and they did assessment and they told me because they visited me at the hotel at night and they told me that you have to leave. The following day I think I got the earliest flight and I left. I still remember I left the car there. Now when I came back...

CHAIRPERSON: I am sorry. You say as soon as you left? You left the first flight the following morning.

MR HUMBULANI INNOCENT KHUBA: I think it was the first flight I had to...

10 **CHAIRPERSON:** After they had notified you the previous night?

MR HUMBULANI INNOCENT KHUBA: Yes.

CHAIRPERSON: To say you have to leave?

MR HUMBULANI INNOCENT KHUBA: Yes.

CHAIRPERSON: Because the ...

MR HUMBULANI INNOCENT KHUBA: The threats were real.

CHAIRPERSON: The threats were real.

MR HUMBULANI INNOCENT KHUBA: Ja.

CHAIRPERSON: That is to kill you?

MR HUMBULANI INNOCENT KHUBA: Yes.

20 **CHAIRPERSON:** Okay Hm.

MR HUMBULANI INNOCENT KHUBA: Then I left went back to...

CHAIRPERSON: Did they indicate where the threats came from?

MR HUMBULANI INNOCENT KHUBA: The – there was an indication that there was – they got information from a guy who was belonging to a taxi association who was requested to shoot me but he had some

reservations and he informed them.

CHAIRPERSON: Okay. Hm And was that connected with your work?

MR HUMBULANI INNOCENT KHUBA: It was connected with my work.

CHAIRPERSON: Okay.

MR HUMBULANI INNOCENT KHUBA: I then left and then when I was back in Limpopo then that is when I was told that I am going to be dealing with a rendition. That was 2012 I was appointed to investigate rendition. But before that rendition I was requested to investigate allegations which raised by a parliamentary member against General
10 Sibiya. Then I assembled a very small team and then I investigated the allegation. I provided a report and the matter were concluded. And then shortly after that that is when I was appointed to investigate illegal rendition.

CHAIRPERSON: The – the allegations against General Sibiya that you investigated after you made your report – your report would have gone to who? Who did you submit it to?

MR HUMBULANI INNOCENT KHUBA: I sent a report to the DPP Gauteng because those cases it was not only a one case – it were a number of cases.

20 **CHAIRPERSON:** Against him?

MR HUMBULANI INNOCENT KHUBA: Against him.

CHAIRPERSON: Hm.

MR HUMBULANI INNOCENT KHUBA: Including assault I think the majority was assault.

CHAIRPERSON: Hm.

MR HUMBULANI INNOCENT KHUBA: Then one of the case which I remember very well which was Boksburg case. It was already investigated by our Gauteng office and the report had already been produced and sent to DPP and the DPP declined to prosecute.

CHAIRPERSON: So the report was saying prosecute?

MR HUMBULANI INNOCENT KHUBA: No it was saying...

CHAIRPERSON: Oh it did not ja.

MR HUMBULANI INNOCENT KHUBA: It was not recommending prosecution.

10 **CHAIRPERSON:** Oh okay.

MR HUMBULANI INNOCENT KHUBA: But I took over the investigation and identified a number of discrepancies in that investigation.

CHAIRPERSON: Hm.

MR HUMBULANI INNOCENT KHUBA: I found that there witnesses who were not contactable.

CHAIRPERSON: Interviewed?

MR HUMBULANI INNOCENT KHUBA: Ja were not interviewed. Some of the people were treated as witnesses whereas they were suspects.

CHAIRPERSON: Yes.

20 **MR HUMBULANI INNOCENT KHUBA:** I did an investigation and after that a report was done which could have meant that it was a second report for the department but it was the first report from me. Now when I sent that report I still remember I had consultation with Advocate – the Head of the DPP as well as the prosecutor who was assigned to deal with the case. And they said okay you can do us a favour. We

saw your report. We look at the additional evidence that you got. Give us the chance to consult with all the witnesses. I made that arrangement. They consult with the witnesses and finally they wrote back to me. They say despite having acquired additional evidence we are still of the view as NPA – as NPA that there is no prospects of successful prosecution. Then I got that information I related the information to the complainant and also because I had a discussion with him and I said because the complainant was a person who was just keep on calling me now and then also indicate to him what would be the
10 avenue if you decided not to prosecute. And they wrote there to say to him you can pursue private prosecution. I then wrote a letter to the complainant and I wrote a letter to General Sibiya to say that I investigated a case against you please be informed that the DPP declined to prosecute. And that is when it was concluded.

CHAIRPERSON: Hm. Yes.

ADV SUSAN WENTZEL: Could you explain to the Chair how it was that you came to be involved in the Rendition investigation?

MR HUMBULANI INNOCENT KHUBA: The Rendition investigation I was informed earlier that I would investigate the case but at the time I
20 did not have facts – enough facts in terms of what really happened. Because I remember there was a meeting where we met with the Secretary of Police Jenni Qhobosheane had a discussion and in the meeting that is where she indicated that the Minister would want you to investigate it but for now he wants you to hold off. That particular day we did not get any documents or any docket for investigation.

CHAIRPERSON: And this would have been around 2011?

MR HUMBULANI INNOCENT KHUBA: In my – my statement – because I checked my records and there has been a little bit conflicting in my records because normally I would not rely on memory I will check – I remember there was a trip that I took around July 2012 where I indicated specifically purpose of the meeting. But that is a meeting that I took as if the meeting where we met with Qhobosheane about the – the event.

CHAIRPERSON: So your – is your position that you think it must have
10 been around mid-2012 when you met with Ms Qhobosheane?

MR HUMBULANI INNOCENT KHUBA: That is the record that I took from the travel claims that I did.

CHAIRPERSON: Yes.

MR HUMBULANI INNOCENT KHUBA: Yes.

CHAIRPERSON: Yes. Because Mr Sesoko if I recall correctly thought that you were – the first time that he became aware that the Minister wanted some investigation to be done in relation to the so called Rendition but said that – or they were told that they had to hold on until further notice from the Minister. He thought that must have been
20 around – towards the end of 2011. You are not sure?

MR HUMBULANI INNOCENT KHUBA: I never relied on my recollection when I put the information.

CHAIRPERSON: Yes.

MR HUMBULANI INNOCENT KHUBA: I relied on the information that I wrote with my travel [indistinct].

CHAIRPERSON: Yes, yes.

MR HUMBULANI INNOCENT KHUBA: So I know that I had numerous meetings.

CHAIRPERSON: Yes.

MR HUMBULANI INNOCENT KHUBA: With also Qhobosheane because there was a time when I went there. I think she also wanted me to just speak to her about how the investigation was going. But this one in the trip authority that I did it was kind of really revolving around. And I was aware of the information that it could have been 20 – but the
10 point of the matter is that I need to put what I can beg one eye can see.\

CHAIRPERSON: Yes okay.

MR HUMBULANI INNOCENT KHUBA: That is correct.

CHAIRPERSON: So you would be more inclined to think it was around mid-year 2012?

MR HUMBULANI INNOCENT KHUBA: That is correct.

CHAIRPERSON: Okay alright.

ADV SUSAN WENTZEL: And what the happened according to your statement on the 23rd October 2012? If you have regard to paragraph
20 13 on page 4.

MR HUMBULANI INNOCENT KHUBA: That is when Mr Sesoko informed me that he had received instruction from the Executive Director that now that case needs to be investigated. By that time the former Executive Director that is Francois Beukman had already left the department and the person who was acting in his place was Ms Koekie

Mbeki. So he appoint – handed to me an appointment letter and the docket which after that I perused. The case number was Diepsloot 390/7/2012. And upon my perusal of the docket because I wanted to check the work which was done I realised that there were almost thirteen statements. Most of these statements were from Crime Intelligent members and members of the family of the alleged deported individual. So I was also requested to assemble the team and because I was well acquainted with my staff I had to source the capacity from my office. Then I chose Mr Maphetho, Mr Mulaudzi, Mr Mashaphu and
 10 Mr Ratshitali to assist me.

ADV SUSAN WENTZEL: Before we move on. You will see that the case number of the docket was Diepsloot. Was there something written on the outside of that docket which was of interest to you?

MR HUMBULANI INNOCENT KHUBA: That is correct. The case number was Diepsloot but on top there was a case number Itwatwa. So I had an engagement with Colonel Moukangwe after my perusal. We had our meeting at Emperors Place and I wanted to find out why I need
 ...

CHAIRPERSON: Emperors Place here in Gauteng?

20 **MR HUMBULANI INNOCENT KHUBA:** That is correct.

CHAIRPERSON: Hm.

MR HUMBULANI INNOCENT KHUBA: I wanted to find out why there are two case numbers and different stations and that is when he told me that they had to register it at Itwatwa on the basis that they were afraid that if they could register it at Diepsloot before any investigation

is done it will raise some red flags and probably those people who are investigated would be able to interfere with witnesses or try to interfere with the investigation. So it was just done for concealment.

CHAIRPERSON: And is Itwatwa a police station in Limpopo - one of the police stations in Limpopo?

MR HUMBULANI INNOCENT KHUBA: (No audible reply).

CHAIRPERSON: But what is Itwatwa? Does it refer to any police station?

MR HUMBULANI INNOCENT KHUBA: What I was made to understand
10 is that Itwatwa is the police station around Gauteng not in Limpopo.

CHAIRPERSON: Oh not in Limpopo?

MR HUMBULANI INNOCENT KHUBA: That is correct.

CHAIRPERSON: But you have no idea where that - where that police station is?

MR HUMBULANI INNOCENT KHUBA: No.

CHAIRPERSON: Do you know if it actually exists or not?

MR HUMBULANI INNOCENT KHUBA: I did not even check.

CHAIRPERSON: Okay.

ADV SUSAN WENTZEL: Could you explain to the Chair who you were
20 requested to deal with in this investigation and who you were requested to exclude from the investigation?

MR HUMBULANI INNOCENT KHUBA: Then when I commenced with my - my work the then Acting Executive Director Ms Koekie Mbeki gave me an instruction verbally to say that I need to work with Moukangwe whom I understood was the initial investigator on the basis number of

statements had been commissioned I think by him or he was part of that investigation but in that instruction to work with him it came with a lead to say keep his involvement secret and I had some concerns about that.

On the basis that my perusal of the docket was not merely to check number of statement *per se*. It involved reading the content of each and every statement and I still remember I had a paper where I was scribbling every - to check what was going on per statement what type of leads I was going to find. Then I realised that a number of people who were involved in this rendition process were also CI
10 members.

So I thought that there was some level of conflict there because they were involved in this rendition or deportation.

CHAIRPERSON: That is now CI being Crime Intelligence?

MR HUMBULANI INNOCENT KHUBA: That is correct.

CHAIRPERSON: And Colonel Moukangwe was a member of the Crime Intelligence?

MR HUMBULANI INNOCENT KHUBA: That is correct.

CHAIRPERSON: Yes. Okay; and if there were 13 statements already in the file when you - when it was handed over to you that seems to
20 suggest to me that substantial work had been done?

MR HUMBULANI INNOCENT KHUBA: One could say that.

CHAIRPERSON: Hm.

MR HUMBULANI INNOCENT KHUBA: Unless if one goes to the content of the statements.

CHAIRPERSON: Okay, hm.

MR HUMBULANI INNOCENT KHUBA: The family member statements obviously would talk to the issue of when the police came and arrested ...

CHAIRPERSON: Hm.

MR HUMBULANI INNOCENT KHUBA: Or when did they lastly saw their loved ones ...

CHAIRPERSON: Hm.

MR HUMBULANI INNOCENT KHUBA: But the members of the police statements talk to the - when they arrested these people that
10 General Sibiya was there to an extent that even two of the Zimbabwean Nationals who were at the time when I took over the investigation were under witness protection. In their statements they were alleging that General Sibiya was there.

He was wearing a suit. Some of the members of CI they were saying we saw a figure seated in a BMW ...

CHAIRPERSON: Hm.

MR HUMBULANI INNOCENT KHUBA: And I was that was General Sibiya. So the investigation was - it spoke also about the issue of the money which was stolen but it could not really have - it did
20 not corroboration much but it was just - it was more of an allegation.

ADV SUSAN WENTZEL: Did you later try and involve your boss essentially Mr Sesoko in this investigation?

MR HUMBULANI INNOCENT KHUBA: When I was told that I should keep Colonel Moukangwe's involvement a secret I indicated to Ms Koekie Mbeki that I will be involving Mr Sesoko in this investigation

because my experience has always told me that normally when I do an investigation I do not report to the head of the department. I report to the direct supervisor who then reports to the Executive Director depending on the level.

Now when you say that she categorically indicated to me that Mr Sesoko shall not be involved and because Mr Sesoko was not merely a National Head of Investigation. He was my Supervisor. I then went to him and informed him about these people and I did so because I wanted his view and he said to me she is the Head of the Department.

10 If she says you must not involve me do not involve me.

CHAIRPERSON: Ms Wentzel I take it that both Mr Sesoko's statement or relevant portions thereof and Mr Khuba's statement at least the relevant portions thereof that affect Ms Koekie Mbeki - Ms Koekie Mbeki were sent to her ...

ADV SUSAN WENTZEL: Yes.

CHAIRPERSON: And I take it that there has been no response?

ADV SUSAN WENTZEL: Yes.

CHAIRPERSON: Is that something you know? Is there something you do not know?

20 **ADV SUSAN WENTZEL:** There have been one or two responses that - and I have received one late last night and I want to check who it came from because I think it might be her attorneys.

CHAIRPERSON: Hm.

ADV SUSAN WENTZEL: Apparently the one I am referring to was not from her attorneys but the - the Rule 3.3 was sent to her timeously.

CHAIRPERSON: Yes. I think plans must be put in place for Regulation 10.6 directive in regard to her as well.

ADV SUSAN WENTZEL: Yes.

CHAIRPERSON: So that she can be directed to file an affidavit dealing with these allegations.

ADV SUSAN WENTZEL: Yes.

CHAIRPERSON: Okay.

ADV SUSAN WENTZEL: I will attend to that as well. Now you say in your statement after having had this conversation with Mr Sesoko you
10 continued to investigate the case without Mr Sesoko's involvement and you kept Colonel Moukangwe apprised of the situation. Can you just tell the Chair about your dealings with Colonel Moukangwe? Where you would meet? Which email addresses you were asked to use?

MR HUMBULANI INNOCENT KHUBA: Colonel Moukangwe's involvement in my investigation there were times when he was part of the interviews that I did. He was part of meetings that I had with the prosecutors who were guiding the case. We were sharing every part of the docket but that was after I requested the then Acting Executive Director whether I should be able to give him - if he requests -
20 documents and I was told that he is a member of the team.

You can share him with anything. The only thing that I have to do was to keep his involvement secret. So there were times that I would give him a call and tell him that I got certain information and he had been very instrumental because with his experience in the SAPS. Sometimes when I would have some challenges I would tell him to say I

have a problem I cannot get one, two, three individuals and with no time he will just come back to me and say use this channel you will be able to get hold of them.

Now when I gave him progress sometimes he would request me to email things. The first mail - email that he gave me was botsotsomoukangwe@gmail.com. So I used to - to send any document any statement to - to him but when I started to be able to get serious information. I am saying serious on the basis that it implicated senior people. He gave me a new email address.

10 It was june16@gmail.com but it gave me suspicion because the botsotosmoukangwe@gmail.com email I would email from my laptop because I had 3G. At anywhere I could open my emails and attach it or email something or information. Even though sometimes I would have to go to the office to scan the document into my email.

Now when he gave me that email he categorically indicated that I should not use the official email and he advised me to use an email or the facility at Southern Sun where I used to stay while I was investigating the case.

CHAIRPERSON: It is that southern - Southern Sun Hotel?

20 **MR HUMBULANI INNOCENT KHUBA:** Yes. In Pretoria.

CHAIRPERSON: In Pretoria?

MR HUMBULANI INNOCENT KHUBA: That is correct.

CHAIRPERSON: The email address that you had used before he gave you the one which you said was june16@gmail.com or whatever.

MR HUMBULANI INNOCENT KHUBA: Hm.

CHAIRPERSON: Was that his official address - the first one that you were using?

MR HUMBULANI INNOCENT KHUBA: No. I am not really sure but what I was aware of is that the Crime Intelligence people normally they use - mostly they do not use official emails. It is - it is Gmail or Yahoo or it is - but not - I - I have never experienced someone who would say send me; so the one he gave it is Botsotso I was more comfortable because I used to call him - he told me that his name Botsotso Moukangwe.

10 So it - the first name I was somehow given assurance by the mere glance at the email to say it is his.

CHAIRPERSON: That it was his?

MR HUMBULANI INNOCENT KHUBA: *Ja.*

CHAIRPERSON: Okay. You became concerned when he gave you the june16@gmail.com one and said do not use the other one or do not use his official email?

MR HUMBULANI INNOCENT KHUBA: That is correct.

CHAIRPERSON: Hm.

20 **MR HUMBULANI INNOCENT KHUBA:** More especially when June, the 16th is a ...

CHAIRPERSON: Hm.

MR HUMBULANI INNOCENT KHUBA: It has some political connection.

CHAIRPERSON: Yes, yes.

ADV SUSAN WENTZEL: Now after you met Colonel Moukangwe you say in paragraph 20 of your statement he instructed you to work with

two advocates from the National Prosecuting Authority. Advocates Mosing and Moletsi. What reason was given to you for that?

MR HUMBULANI INNOCENT KHUBA: He told me that these are people who had been guiding this investigation. Which means while he was investigating the case he was consulting with them.

ADV SUSAN WENTZEL: And you say in paragraph 26 on page 7 that:

“Advocate Mosing was for some reason extremely keen to finalise the rendition investigation and put pressure on you to prioritise the investigation.”

10 Could you just expand on that?

MR HUMBULANI INNOCENT KHUBA: The - when I was doing this investigation I was on dual roles. I was still responsible for Limpopo and on the other hand I had to investigate the case. So I would (intervenes).

CHAIRPERSON: Had - had you ceased to be also responsible for Mpumalanga?

MR HUMBULANI INNOCENT KHUBA: By that time ...

CHAIRPERSON: Or were you ...?

20 **MR HUMBULANI INNOCENT KHUBA:** I had already ceased long time ago.

CHAIRPERSON: Oh, okay. Okay.

MR HUMBULANI INNOCENT KHUBA: So I had a challenge because when I went back to the office I had to check the work done. Making sure that the office is performing well. There was one time I still remember I got an email where he was saying that when are we going

to finalise this thing and I told him that I - there is an unrest at (indistinct) around Tzaneen.

So I cannot leave the situation like this because the Provincial Commissioner wanted me to go there and assist in calming down the situation. He was really keen to get these things submitted or finalised.

ADV SUSAN WENTZEL: You were based in Limpopo. Did you frequently come and consult with him in Pretoria?

MR HUMBULANI INNOCENT KHUBA: We - I consulted with him so
10 manier times that I cannot remember how many and it will be very rare to come and do investigation and not end up visiting him at the office.

ADV SUSAN WENTZEL: And what happened on one occasion when you were consulting with him and Ms Mbeki saw you there?

MR HUMBULANI INNOCENT KHUBA: There was a time when I was busy trying to draft the 205 applications and I went to our Head Office. I received a call from the Personal Assistant of Ms Mbeki who said to me that the Acting Executive Director had seen you around here and she gave me a message to tell you that you are here on your own. I will not pay for your accommodation.

20 I will not pay for your travel cost. You need to see how you cover those expenses because you did not tell me that you are coming for investigation in Pretoria. I had a challenge with that because the previous week on Friday I had already sent the weekly work plan which spell out my activities for the following week and as usual she would not comment on weekly work plan and every Provincial Head knew that

when you send your weekly work plan and you do not get feedback it means it is alright you can continue.

So I was surprised when I was queried on that. Then I decided that I need to formalise this because it was communicated to me telephonically and then I send an email to her which I am going to just read because I - I paraphrased it here. I sent it on 5 July 2013. I said ...

ADV SUSAN WENTZEL: I think you mean paragraph 27.

MR HUMBULANI INNOCENT KHUBA: Oh paragraph 27. Sorry. Ja.

- 10 So in that email I indicated that please give me an opportunity to be able to do this work I do not have a problem in covering my cost for accommodation and even if you do not pay me for travel costs. I am still fine. I then arranged with my uncle - because I felt that on the other side I am getting pressure that I finalise this. On the other pressure I am being told you cannot really come here.

You were supposed to talk to me but I had already sent the weekly work plan. So I then phoned my uncle and I said can I get accommodation for tonight. Then he said it was okay. I drove. Then I arranged private accommodation and after that I continued.

- 20 **ADV SUSAN WENTZEL:** Then what happened when Mr Mosing wanted you to come again?

MR HUMBULANI INNOCENT KHUBA: Then after that incident Advocate Mosing requested me to come to Pretoria. Then I told him I said no I cannot come. You need to talk to my boss first because the last time I came there she had some issues with it and then I requested

him to send an email where he cc'd me. The email was sent on 5 July 2013. That is where he said:

10 “Dear Ms Mbeki, I confirm that I met with Mr Khuba this week where we discussed progress of this matter. I am instructed by my principal to draw up charge sheets. I am in the progress to do so. There are however certain investigations discussed with Mr Khuba that requires speedy attention. The plan is to wrap up this investigation without delay and we agreed that he devotes the whole next week for this purpose. If not possible to complete the charge sheet when there are issues out - sorry. It is not possible to complete the charge sheet when there are issues outstanding. I trust that you will give him the necessary permission/support to finalise this especially now that very important new statements were obtain this week. I trust that you will find this in order, kind regard Advocate Mosing.”

20 **ADV SUSAN WENTZEL:** Chair you will find that letter - it is Annexure HIK2 at page 44. Now what did you notice about the contents of this email? Was it cc'd to you - this email?

MR HUMBULANI INNOCENT KHUBA: That is correct.

ADV SUSAN WENTZEL: What did you notice about it?

MR HUMBULANI INNOCENT KHUBA: The one thing that stand - stand

out from this email for me is that it shows that I was not the only person who was getting pressure from - it shows that the pressure I was getting was as a result of the pressure he was getting. So - because he says I am getting pressure from my seniors.

So which mean the pressure which I was getting was as a result of the pressure which he was getting. The other thing is that he made mention of the charge sheet and for me it is something that raises eyebrows. When you have outstanding investigation yet you want to do the - the charge sheet.

10 Unless if that such outstanding investigation or whatever evidentiary material you need it is one sided. It is only to support your version. It cannot contradict but in the investigation I have learnt that you can be surprised when something that you thought it is in a particular way but you get something that contradicts that.

CHAIRPERSON: So is your point that it was strange that he had already made up his mind that there would be a charge sheet? So in other words they would charge somebody and yet the investigation was not complete.

MR HUMBULANI INNOCENT KHUBA: That is correct.

20 **CHAIRPERSON:** Hm, okay.

ADV SUSAN WENTZEL: Now Mr Khuba what were the important new statements that had been obtained that week that were referred to?

MR HUMBULANI INNOCENT KHUBA: The new statements which he referred to were the statements which were obtained from members of Crime Intelligence and these are the statements which people who were

involved in the arrest of these Zimbabwean Nationals deposed and indicated that when they arrest one of the wanted person they took him to Silverton where the Hawks Offices are and when they were there that is when they saw General Dramat and General - General Dramat and the spokesperson of the Hawks by then who was McIntosh Polela.

Now by that time I had obtained a number of statements which point to - there were three members of Crime Intelligence but when they did their operation they were assisted by TRT members. So they took this person together with TRT members to Silverton but of
10 these statements that I obtained it was only the - the Crime Intelligence members who said when they were with the person there General Dramat came and he came with the spokesperson and he thanked them for the work well done and he was coming from house number three to house number one.

Now that information seems to be very crucial but when I went to the other part of - the people were there because they did a braai there. They eat - they were there. When I went to the other part all TRT members none of them remembered this. They say no there was no such. Now that created a problem for me to say ...

20 **CHAIRPERSON:** They were saying General Dramat had not been involved?

MR HUMBULANI INNOCENT KHUBA: Ja. They said they - they said they did not see General - it was only CI members.

CHAIRPERSON: Who said they saw him?

MR HUMBULANI INNOCENT KHUBA: They saw him.

CHAIRPERSON: Or were told he was there?

MR HUMBULANI INNOCENT KHUBA: Ja. They say he came with the spokesperson ...

CHAIRPERSON: Yes.

MR HUMBULANI INNOCENT KHUBA: And they said he thanked them ...

CHAIRPERSON: Hm.

MR HUMBULANI INNOCENT KHUBA: And he looked at this guy who was arrested about to be deported - illegal ...

10 **CHAIRPERSON:** Hm, hm.

MR HUMBULANI INNOCENT KHUBA: And after that he left but when I interviewed the TRT member which the number of the TRT number was greater than the number ...

CHAIRPERSON: Of the Crime Intelligence people?

MR HUMBULANI INNOCENT KHUBA: Of the Crime Intelligence I - none of them ...

CHAIRPERSON: Hm.

MR HUMBULANI INNOCENT KHUBA: Could ever mention - they mentioned everything ...

20 **CHAIRPERSON:** Hm.

MR HUMBULANI INNOCENT KHUBA: Except the issue of Dramat going there.

CHAIRPERSON: Yes.

MR HUMBULANI INNOCENT KHUBA: Now I felt okay it is fine. I went and ...

CHAIRPERSON: Well tell me a little bit about the numbers. You say the one group was - their number was greater than the other. What - what numbers are we talking about?

MR HUMBULANI INNOCENT KHUBA: I cannot remember out of my head but it was around five to - five to seven. Somewhere there ...

CHAIRPERSON: Yes, okay. Okay.

MR HUMBULANI INNOCENT KHUBA: And the CI were only three.

CHAIRPERSON: But all the CI ones said he came?

MR HUMBULANI INNOCENT KHUBA: *Ja.*

10 **CHAIRPERSON:** All the other ones said we never saw him?

MR HUMBULANI INNOCENT KHUBA: That is correct.

CHAIRPERSON: Okay.

MR HUMBULANI INNOCENT KHUBA: Now I then took the investigation a little further to say I have to speak with the spokesperson because these CI members are saying that they saw him together with General Dramat but when I approached him I obtained a statement from him. He said he never - that never happened and I am talking about a person whom at the time when I interviewed him he was fired from the Hawks.

20 **CHAIRPERSON:** Hm.

MR HUMBULANI INNOCENT KHUBA: He was no longer working. It was almost a month or three months or four months after he was dismissed. So I was expecting a person who would spill the beans and he said no. He gave me information pertaining to the meetings that had happened between General Dramat and the Zimbabweans but that

information never related to the meeting which - the questionable meeting which took place on 5 November because he himself joined the Hawks in December not in November.

So it means that it was another meeting not the questionable one which I was investigating.

CHAIRPERSON: And the November and December that you are referring to are for which year?

MR HUMBULANI INNOCENT KHUBA: Hm I cannot remember, I just need to check but if it is not 2010 it is 2011 somewhere there.

10 **CHAIRPERSON:** Okay.

MR HUMBULANI INNOCENT KHUBA: Ja.

ADV SUSAN WENTZEL: Now you say that a key witness in the investigation was Colonel Madilonga, can you just explain why he was a key witness and what happened with his statement?

MR HUMBULANI INNOCENT KHUBA: The key witness Mr – Colonel Madilonga unfortunately he is late now, he deposed a statement and in that statement he was the first person before the CI members to implicate General Dramat. He said he received a call from Maluleke, he laid the whole background in terms of where it started, but he said
20 one day while he was working at the border he saw the – some vehicle that seemed to be vehicles of diplomats and then he went there and he was told these are Zimbabwean police and they are looking to enter the country in order to see General Dramat, so in his statement he said he called General Dramat but firstly before he called General Dramat he spoke with his superiors to get permission and the superiors told him

that they did not know of anything that he needs to all General Dramat himself.

So he called General Dramat, Dramat allowed him to allow them in.

Now when I interviewed him when I was obtaining this, his statement, I had a file that I requested from General Dramat, the file was for internal investigation because when this issue of irregularity came out it seems as if he appointed someone to conduct investigation, so in that file there was a statement of Colonel
10 Madilonga, Colonel Madilonga in his statement never made mention of Dramat, never made mention of the call that he made and never made mention that he assisted Captain Maluleke to let the Zimbabwean Police pass together with the people who were arrested, who were deported illegally.

Now I questioned him, but unfortunately that statement was signed by him but was not commissioned. He agreed that it is his own statement, but he said that statement was not commissioned so I cannot really charge him for perjury and I asked him why did you put this information, he said he was forced to put information.

20 Now what made me not to believe what he was saying was that if then I force somebody to make a statement and he makes a statement the first thing that I do is to run to the police station and get the statement commissioned. If then in any how they really wanted him to lie why did they not commission the statement, because they have bound him forever.

ADV SUSAN WENTZEL: So which statement was commissioned?

MR HUMBULANI INNOCENT KHUBA: The statement which was commissioned was the one that I took with him. Then there were a lot of things that really happened, like the leakage of information and I started to worry, I started to have a problem with the credibility of Madilonga as a witness. I then took his statement for analysis, that was I think it was on the 4th of October if I am not mistaken, 2013, and I requested, there was another person who spoke to me and said I know how to analyse statement, I studied in the USA or overseas, then I
10 indicated to this person I said can you do it for me for free, you know I think you are just really a hand from God, I want to get this information right.

Then she took that statement, she analysed it and gave me the report, sorry she gave me outcome, the report was not there, I saw she indicated how she analysed the statement and she says here and there and there and there Colonel Madilonga was lying.

CHAIRPERSON: As at that stage what was your understanding of what it was that General Sibiya and General Dramat were suspected of having done that was illegal?

20 **MR HUMBULANI INNOCENT KHUBA:** They – I heard so many a times even with my consultation with Advocate Mosing, that they gave that operation a blessing.

CHAIRPERSON: Was your understanding that the thing General Dramat and General Sibiya were alleged to have done that was illegal, was to give the operation a blessing? Because I am trying to

understand exactly what it is, what unlawful conduct or criminal conduct was alleged against them, in this so-called rendition, because everybody was saying rendition, rendition, rendition, what exactly was it that they were said to have done which was said to have been unlawful or illegal or criminal.

MR HUMBULANI INNOCENT KHUBA: I think that has a little bit of a very short explanation. First on the basis that the person who assisted the Zimbabwean Police, Captain Maluleke, was residing within the DPCI.

10 **CHAIRPERSON:** That is the Hawks?

MR HUMBULANI INNOCENT KHUBA: The Hawks. General Dramat was the Head.

CHAIRPERSON: Was the Head, yes.

MR HUMBULANI INNOCENT KHUBA: And the operation took place in Gauteng where Sibiya was responsible as the Provincial Head of the Hawks.

CHAIRPERSON: But what was the illegal act as you understood it, you were the person who was asked to investigate I take it something illegal that they had allegedly done.

20 **MR HUMBULANI INNOCENT KHUBA:** There was nothing we could really say this is illegal and we had discussions, a lot of discussions with Colonel Makangwe and Advocate Mosing and what I was told quite often is that Mr Khuba you do not expect a person of Dramat's rank of Sibiya's rank to be involved in that level that you expect. They could only tie them because they said how could this happen while they were

there. That is why when I got the statement of Madilonga which indicated that he made a call to General Dramat to request the permission whether he could allow the Zimbabwean Police to enter. When I sent that statement to Advocate Mosing and to Colonel Makangwe it was like a Christmas, they were very happy, because now you have the name that it is linked, but it is not linked to the rendition, it is linked to the police.

CHAIRPERSON: Yes, that is what I am trying to understand, was it alleged that they were complicit in the murder of some of those
 10 Zimbabweans, was it alleged that they were complicit in getting the Zimbabweans handed over to the Zimbabwean Police and that handing over was illegal, was it alleged that they were complicit in permission being granted to the Zimbabwean Police to enter the South African borders, and that entry by the South African – Zimbabwean Police was illegal. What exactly was said to be illegal that they had done, or was said to be a crime?

MR HUMBULANI INNOCENT KHUBA: They said they were complicit in allowing or in allowing or assisting Zimbabwean National to get the people they wanted and leave the country without following the
 20 extradition process. Then there is an issue of – and this arises from a number of issues; number one, there were success reports, these success reports were written by Maluleke and they were supposed to be signed by a person who was Maluleke's superior, Verster, I think she was a full colonel because Maluleke was a Lt Colonel or a Captain, because after that I think he became a Lt Colonel and he left as a Lt

Colonel.

Now those success reports which I got from the Hawks offices indicated that we managed to arrest the Zimbabwean Nationals who were wanted in connection with something that took place in Zimbabwe, arising from the meeting that they had with General Dramat on this particular day. I think that is where they were.

CHAIRPERSON: So as you understood, as you understood it the conduct on the part of General Dramat and General Sibiya that was alleged to have been unlawful or illegal or criminal was that they had
10 been party to arrangements for these Zimbabweans to be handed over, to leave the country without following extradition procedures.

MR HUMBULANI INNOCENT KHUBA: That is correct.

CHAIRPERSON: Okay, and as you understood it if that – if there was evidence for that, that would be a crime?

MR HUMBULANI INNOCENT KHUBA: That is not what I understood from the beginning.

CHAIRPERSON: Yes.

MR HUMBULANI INNOCENT KHUBA: That is what I was made to understand.

20 **CHAIRPERSON:** Yes.

MR HUMBULANI INNOCENT KHUBA: On the basis that there were times when I would raise these issues, when we were discussing this case, but for me as an investigator when there is a prosecutor guiding the case you kind of really, I looked at a case from the investigation point of view and the prosecutor looked at the case from the

prosecution point of view, so I thought that it was probably because he was the one, I thought he was the one who was going to prosecute the case, he said it means that he is going to put it out.

CHAIRPERSON: Who are you referring to now when you say ...[intervenes]

MR HUMBULANI INNOCENT KHUBA: Advocate Mosing.

CHAIRPERSON: Yes, but of course when you were asked to investigate a crime whether somebody has been involved in a crime, surely you have to understand what crime is being alleged isn't it?

10 **MR HUMBULANI INNOCENT KHUBA:** That's correct.

CHAIRPERSON: Because otherwise you could be expected to investigate the crime of murder and yet you are investigating the crime of theft.

MR HUMBULANI INNOCENT KHUBA: That is correct.

CHAIRPERSON: Yes, so it is important that the investigator understands what the crime is that he is investigating.

MR HUMBULANI INNOCENT KHUBA: That is correct.

CHAIRPERSON: But you say at the beginning your understanding wasn't that what the two were alleged to have done that was alleged to
20 be illegal or criminal, it was not your understanding that it was that they had assisted in handing over the Zimbabweans and to assist the Zimbabwean police to get them and go away with them, that wasn't your understanding initially, is that right or am I confusing you?

MR HUMBULANI INNOCENT KHUBA: Let me clarify.

CHAIRPERSON: Yes.

MR HUMBULANI INNOCENT KHUBA: I think we need to differentiate different stages of acquiring evidence. Now from the beginning there was not even a mention of General Dramat, it came up from Madilonga's statements, then you came to the issue, then you come to the issue of the success reports, then you come to the statement of CI members.

Now at a time when I acquired this evidence number one the statement of Madilonga I felt that it was not sufficient to put his name there, and to say that he is – he really participated, but we had a
10 discussion to say that if then we are charging Manuleka for kidnapping and there is this other evidence that shows that when these people were arrested and then he went there from house number three to house number one, congratulated the people and says you did a good job.

My main concern is that if he was running that operation he was the one overseeing that operation, he would have checked the process that they are able to follow from that onwards, and there is an issue of when we talk about the role that General Sibiya played, with General Sibiya there were witnesses who were saying that they saw
20 him at the scene and he also kicked one of the victims, so on that when we had a discussion I knew what is needed in order to prove the case, in terms of saying that Dramat probably can be prosecuted for this but is there any discretion that we had. When I was told that these people are General Dramat, General Sibiya they have been an accomplice to this thing, because you see the meeting which was held, you see the

call which was made and also the statements of CI members saying that he came from number one and congratulated them for well done.

CHAIRPERSON: But going back to my earlier question was your understanding at the beginning when you were asked to investigate this matter, was your understanding that you were investigating the possible commission of the crime of kidnapping or what time did you understand that you were being asked to investigate, from the beginning?

MR HUMBULANI INNOCENT KHUBA: From the beginning I was told that we – I was supposed to investigate kidnapping, I was told to
10 investigate there was theft, I was told to investigate assault and possible defeating the ends of justice,

CHAIRPERSON: Okay, so it was a number of crimes?

MR HUMBULANI INNOCENT KHUBA: It was a number of crimes yes.

CHAIRPERSON: Okay, alright, okay, but based on that it seems that there was nothing – there was no crime that you were supposed to investigate which would – which was said to arise from a breach of any extradition procedures, it was assaulting, it was kidnapping, it was whatever else but from what you said it looks like there was nothing about so and so did this in breach of the law relating to extradition
20 procedures.

MR HUMBULANI INNOCENT KHUBA: That is correct.

CHAIRPERSON: Yes. And then, but did you say later on you were either told or you formed the view that part of what you were supposed to be investigating or part of what you should investigate is whether General Dramat and General Sibiya were complicit in assisting the

departure from South Africa of the Zimbabweans in breach of extradition procedures?

MR HUMBULANI INNOCENT KHUBA: That is correct.

CHAIRPERSON: Okay and about how long after you had started was that when you got to understand that that is part of what you are supposed to look at?

MR HUMBULANI INNOCENT KHUBA: It was when I started to – after I got the statement of Madilonga and acquiring of success reports from DPCI.

10 **CHAIRPERSON:** Yes and that are you able to locate that in terms of timelines, timeframes?

MR HUMBULANI INNOCENT KHUBA: I can say 2013.

CHAIRPERSON: Oh, 2013?

MR HUMBULANI INNOCENT KHUBA: Yes.

CHAIRPERSON: Okay thank you. Oh I did not realise we have gone past five o'clock, we will have to stop now for today. We are going to continue tomorrow, but we will not start at ten o'clock, we will not start at half past nine, what will happen is that at eleven o'clock I will start with an application that was adjourned which should not take long at
20 all, maybe it might take 30 minutes and as soon as we are done with that we will then continue with you. So you must please come back tomorrow.

MR HUMBULANI INNOCENT KHUBA: Thank you.

CHAIRPERSON: Okay, Ms Wentzel you heard what I said about the application?

ADV SUSAN WENTZEL: Yes.

CHAIRPERSON: I earlier on asked that Mr Petersen be asked to inform all concerned about the change in terms of time, and I understand he got that message.

ADV SUSAN WENTZEL: Okay.

CHAIRPERSON: Yes, we will adjourn for the day and then tomorrow we will start at eleven o'clock. We adjourn.

REGISTRAR: All rise.

INQUIRY ADJOURNS TO 26 SEPTEMBER 2019