

COMMISSION OF INQUIRY INTO STATE CAPTURE

HELD AT

PARKTOWN, JOHANNESBURG

10

15 JANUARY 2020

DAY 199

20

PROCEEDINGS RESUME ON 15 JANUARY 2020

CHAIRPERSON: Good morning Ms Wentzel, good morning everybody.

ADV SUSAN WENTZEL: Good morning Chair.

CHAIRPERSON: Are you ready?

ADV SUSAN WENTZEL: Yes I am ready Chair.

CHAIRPERSON: Please give me an outline of what this witness will testify about. I have had a look at the affidavit and then let us take it from there.

ADV SUSAN WENTZEL: Yes. Chair the next witness is Colonel Van
10 Loggerenberg and he is going to testify about his role in the investigation of the Panday matter and he is also going to testify as to how that investigation was stopped and the blocks put in their way as to continue with this investigation.

CHAIRPERSON: And the Amigos matter?

ADV SUSAN WENTZEL: He is not going to testify with regard to the Amigos matter another witness will...

CHAIRPERSON: Oh is that with some – another witness?

ADV SUSAN WENTZEL: Yes. He will testify...

CHAIRPERSON: Oh it is only the Panday matter?

20 **ADV SUSAN WENTZEL:** Only the Panday matter yes.

CHAIRPERSON: Oh I think it is another – the other witness who refers to both.

ADV SUSAN WENTZEL: Yes.

CHAIRPERSON: The Panday matter and the Amigos matter.

ADV SUSAN WENTZEL: Yes.

CHAIRPERSON: Ja.

ADV SUSAN WENTZEL: A Mr Trevor White is a forensic investigator.

CHAIRPERSON: Ja.

ADV SUSAN WENTZEL: And he will testify about both matters.

CHAIRPERSON: Is he – is he the next witness?

ADV SUSAN WENTZEL: No he – he...

CHAIRPERSON: Who is the next witness after this witness?

ADV SUSAN WENTZEL: The next witness is General Lebeya.

CHAIRPERSON: Ja.

10 **ADV SUSAN WENTZEL:** And...

CHAIRPERSON: Huh-uh. My – my – my recollection when I read the statement suggesting – oh my impression was that we might not take more than three hours with this witness. Is that too optimistic?

ADV SUSAN WENTZEL: I think that that is too optimistic Chair.

CHAIRPERSON: Yes.

ADV SUSAN WENTZEL: I think it will take a little bit longer. I – I expected to be most of today with this witness.

CHAIRPERSON: Ja. Well what I want. A lot of things will not be controversial I think that he will be testifying about.

20 **ADV SUSAN WENTZEL:** Yes.

CHAIRPERSON: I want us to move fast on issues that are not controversial.

ADV SUSAN WENTZEL: Yes.

CHAIRPERSON: I do not know whether it is this witness or another witness where I realised that out of everything said in the affidavit

there could only be one that could possibly be controversial. The rest could not be disputed by anybody because they are very much about correspondence and about things for which there seems to be documented proof or just procedural issues on investigations. So – the bottom line is that we must do justice to every witness where this is evidence but we do need to try and move with speed.

ADV SUSAN WENTZEL: Yes.

CHAIRPERSON: We do not have all the time. So – so do your best in regard to making sure we move with speed. Things that are unlikely to
10 be undisputed you must not stay too long on them.

ADV SUSAN WENTZEL: Yes.

CHAIRPERSON: But nevertheless let us do justice to the evidence.

ADV SUSAN WENTZEL: Yes.

CHAIRPERSON: Okay alright. Are you ready that the witness be sworn in?

ADV SUSAN WENTZEL: Thank you.

CHAIRPERSON: Ja okay. Please administer the oath or affirmation?

REGISTRAR: Please state your full names for the record?

COLONEL VAN LOGGERENBERG: Johannes Van Loggerenberg.

20 **REGISTRAR:** Do you have any objections to taking the prescribed oath?

COLONEL VAN LOGGERENBERG: No.

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

COLONEL VAN LOGGERENBERG: That is right.

CHAIRPERSON: 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.

COLONEL VAN LOGGERENBERG: So help me God.

CHAIRPERSON: Thank you. Ms Wentzel.

ADV SUSAN WENTZEL: Thank you Chair.

CHAIRPERSON: You may proceed. Yes.

ADV SUSAN WENTZEL: Colonel Van Loggerenberg have you deposed to an affidavit which you have submitted to the commission?

10 **COLONEL VAN LOGGERENBERG:** That is correct Chair.

ADV SUSAN WENTZEL: And the affidavit in front of you is that your affidavit and if you look at page 18?

CHAIRPERSON: Should we not admit this exhibit first?

ADV SUSAN WENTZEL: Yes.

CHAIRPERSON: Because I do not think it has been admitted before?

ADV SUSAN WENTZEL: No I was going to do afterwards but you are correct I should do it before.

CHAIRPERSON: The...

20 **ADV SUSAN WENTZEL:** If I might place this exhibit into evidence Chair? It has been marked subject to your approval Exhibit RR1.

CHAIRPERSON: Yes the affidavit of Mr Johannes Van Loggerenberg together with the annexures to his affidavit contained in the lever arch file will be marked Exhibit RR1. Ja.

ADV SUSAN WENTZEL: Thank you.

CHAIRPERSON: Okay.

ADV SUSAN WENTZEL: Colonel Van Loggerenberg the affidavit in front of you, is that your affidavit and on page 18 is that your signature?

COLONEL VAN LOGGERENBERG: That is correct Chair.

ADV SUSAN WENTZEL: And are you satisfied that the contents of the affidavit are true and correct?

COLONEL VAN LOGGERENBERG: That is correct Chair.

ADV SUSAN WENTZEL: Colonel Van Loggerenberg could you please tell the Chair about your history in the South African Police Services?

10 **COLONEL VAN LOGGERENBERG:** Chair I joined the South African Police Services in 1975. I left again in 1977 and I re-joined in 1982. Up until the late'80's when I was at the Commercial Branch during that period I was the [inaudible] staff. I was at the Commercial Branch and then after that I went to the Heath Commission. Judge Heath and I worked there for eighteen months and then I came back to Department of Justice. It was the Directorate of Serious Economic Offences which opened in KwaZulu Natal. And then I started there and then it became the Scorpions and then up until the Scorpions were closing pushed back to the Police Force. And I retired in 19 – 2015 sorry and about 30
20 – 35 years' experience in commercial investigation.

CHAIRPERSON: Okay. Thank you. You – you might wish to raise your voice a little bit when you speak so I can hear you clearly.

COLONEL VAN LOGGERENBERG: Okay I will try to.

CHAIRPERSON: Thank you.

ADV SUSAN WENTZEL: Thank you Chair. Colonel Van Loggerenberg

how did you come to be involved in the criminal case involving Mr Thoshan Panday?

COLONEL VAN LOGGERENBERG: Chair Brigadier Kemp who was the Provincial Financial Head of KwaZulu Natal came across irregularities. His guard of accommodation and he submitted an interim report to ...

CHAIRPERSON: I am sorry just repeat who – who was the financial head?

COLONEL VAN LOGGERENBERG: It is a Brigadier Kemp.

CHAIRPERSON: Brigadier Kemp.

10 **COLONEL VAN LOGGERENBERG:** Brigadier Lawrence Kemp.

CHAIRPERSON: Yes. Okay yes Lawrence Charles Kemp.

COLONEL VAN LOGGERENBERG: Kemp that is right.

CHAIRPERSON: Yes okay he was the financial head.

COLONEL VAN LOGGERENBERG: Of Provincial of KwaZulu Natal.

CHAIRPERSON: Yes okay alright.

COLONEL VAN LOGGERENBERG: And then he put all his findings in a report and he handed his report to the Provincial Commissioner at the time it was Lieutenant General Mkubeni who gave it to General Booyesen. There were other generals who – he also gave it to. And
20 then he asked General Booyesen to look into the matter. Then General Booyesen handed the report over to Brigadier Lategan which in turn handed the report over to Colonel Soobramoney Wasserman who was the first in this [inaudible] ops in this matter. It was an inquiry at first and then two or three months after he started the inquiry...

CHAIRPERSON: I am sorry when you say it was an inquiry first.

COLONEL VAN LOGGERENBERG: We did not open a CAS number immediately.

CHAIRPERSON: You just talked to find out certain information.

COLONEL VAN LOGGERENBERG: To find out more evidence what – you know what is alleged to get more evidence.

CHAIRPERSON: Yes okay.

COLONEL VAN LOGGERENBERG: And then after that two or three months the – we heard Colonel Wasserman and Soobramoney resigned. Then I took over the matter.

10 **CHAIRPERSON:** So before Colonel Soobramoney resigned was it the two of you, you and Colonel Soobramoney who were tasked with doing the inquiry that you talk about.

COLONEL VAN LOGGERENBERG: That is correct Chair.

CHAIRPERSON: Yes. Okay.

COLONEL VAN LOGGERENBERG: Yes.

CHAIRPERSON: So he resigned and then you took over?

COLONEL VAN LOGGERENBERG: I took over Chair and then also I got onto the team Colonel S Y Govender and Colonel Phillip Herbst. The initial investigators on the investigation. We started investigating
20 the matter and the allegations made by Brigadier Kemp in his report and to our knowledge it was a cut and clear case of corruption and fraud. After we attained some evidence from financial office. We then opened up a case that is [inaudible] CAS 781. And then we started issuing bank subpoena's for banks alluded first a ground the investigation and then...

CHAIRPERSON: Maybe just to help everyone understand. At that stage this appeared to be a case of corruption relating to what and involving whom at that stage?

COLONEL VAN LOGGERENBERG: Chair it appeared that the corruption was that police members at Supply Chain Management Colonel Navin Madhoe and Captain Naran Vissan were used by businessman Toshan Panday to acquire tenders in respect of accommodating police members and also for the 2010 soccer world cup. We did some preliminary inquiries at hotels and bed and breakfast
10 places.

CHAIRPERSON: Hm.

COLONEL VAN LOGGERENBERG: And then we noticed that the prices charged by Toshan Panday's companies and the price of the B&B actually charged Toshan Panday's companies is 200 to 400% more than what the police actually paid for the stuff. And then from that we started investigating – a full investigation onto this matter.

CHAIRPERSON: At this stage you said it was now yourself and who?

COLONEL VAN LOGGERENBERG: Myself, Colonel S Y Govender.

CHAIRPERSON: Yes.

20 **COLONEL VAN LOGGERENBERG:** And Colonel Phillip Herbst.

CHAIRPERSON: Yes. The three of you?

COLONEL VAN LOGGERENBERG: The three of us.

CHAIRPERSON: Is doing the investigation?

COLONEL VAN LOGGERENBERG: Yes.

CHAIRPERSON: Okay. And to whom were you reporting at that stage

in terms of the investigation?

COLONEL VAN LOGGERENBERG: At this stage Chair we were reporting to General Booysen.

CHAIRPERSON: Okay.

COLONEL VAN LOGGERENBERG: But I must also inform you Chair that we – we at that stage were at the anti-corruption task team ACTT.

CHAIRPERSON: Yes.

COLONEL VAN LOGGERENBERG: And the head of the – well our local head of the Provincial – ah from the ACTT was Colonel Jones.

10 **CHAIRPERSON:** Okay you can – you may continue.

ADV SUSAN WENTZEL: Thank you. Colonel Van Loggerenberg you have said that all cases were registered which were linked to this investigation. Could you give the Chair an outline of each of the cases and explain your involvement. So if we could start with Durban Central case 781. Who was the investigator in that case?

COLONEL VAN LOGGERENBERG: Chair I was the main investigator, the project manager in this case. And this case when we fully started to investigating the matter we saw that Colonel Navin – Colonel Madhoe was responsible to attain accommodation for members of the
20 police force in respect of the 2010 soccer world cup. Then we started digging into that and what we discovered that Province had meetings for different sections which was required for the 2010 soccer world cup. And there was a meeting it was known as the Section 4 meeting. That was for the acquisition of the goods and accommodation for the soccer world cup. And the chair of that commission Section 4 was Brigadier

Govender from Province Head Office. What we found in the minutes of every meeting is that Colonel Madhoe was responsible to acquire accommodation for the members. But these meetings started twelve – fifteen months before the 2010 soccer world cup. They were preparing now for the soccer world cup. And at the end of the day as their meetings progressed and progressed and it came to number 99 at every meeting Colonel Madhoe had an excuse that he could not get any joy from head office to assist him obtaining this accommodation. But as far we could gather that each province was responsible and they could
10 approve the accommodation for the police members in their province. And then we discovered that at number 99 Colonel Madhoe used Regulation 16 – Chair I am not sure if it is 16A4 or 1614 from the Treasury [inaudible] that he can nominate supplies without proper tenders and things like that. What he then did is he supplied a memo to head office stating that he has got these companies Gold Coast Trading and he mentioned other few companies that can supply accommodation for the police members that is required for the soccer world cup which is going to start in a couple of days. And they actually said okay fine you can go ahead. But if you look at what Supply Chain
20 did – Colonel Madhoe did now with Colonel Madhoe there was another Captain Narain Prasad working with Colonel Madhoe. They in advance issued tenders to B&B's and hotels in KZN for the accommodation of the members for the 2010 soccer world cup. There was a hotel that the police always use in KZN it is Coastlands. It is called the Coastlands Hotel and we approached them and we approached all the others and

they said yes they did get tender documents. They did tender. They sent the tenders back but nothing happened when they sent these tenders back to Supply Chain Management to Captain Narain Prasad. And at the end of the day it was discovered that although they received these tenders they just kept them under the carpet. And they did not mention anything to the committee or to anybody we have received tenders but you must push through this emergency application for the accommodation to be approved by Supply Chain Management.

ADV SUSAN WENTZEL: And [indistinct].

- 10 **CHAIRPERSON:** So was your – I am sorry. So did you form the view that there was an illegitimate reason for not telling anybody about these so that ultimately they would say this was an emergency so we were justified in not going out to tender?

- COLONEL VAN LOGGERENBERG:** Chair during our investigation at the end of the day we could prove that Colonel Madhoe and Captain Narain Prasad deliberately kept that information from the police. Because if you can see Toshan Panday purchased them some goods and sent them on holidays and he wined and dined them and they got something for their favours that they did for Toshan Panday. And you
20 could see that in the Minutes of the Meetings. I mean I can also say that during our investigation at Head Office Supply Chain we came across a letter where Toshan Panday faxed to our Supply Chain department in Pretoria where at the time Madhoe wrote that letter requesting this [indistinct] point at number 99 in terms of this regulation Toshan Panday in a fax quoted to our head office that he has

20 hotels block booked for members at that point in time. But when we actually physically did an investigation we never had one room from any hotel or any B&B for any member. So that was a blatant lie. And once that was approved by head office then we heard from the B&B's and the hotels that we approached that no Toshan Panday came around and okay it was you know they were cut out of the deal but they got to make the best of it and eventually they gave us some business and that is the – how it ended up that Toshan Panday got the contract for accommodation.

10 **ADV SUSAN WENTZEL:** Colonel could you tell the Chair did this Coastland Hotel that you referred to, did they respond to the tender?

COLONEL VAN LOGGERENBERG: Yes Chair I personally went and saw them.

ADV SUSAN WENTZEL: And...

COLONEL VAN LOGGERENBERG: I saw the Director. They showed me the tenders that they received. They showed me the tenders that they forwarded to Supply Chain Management and yes they did respond to the tenders they received and actually in fact sent it back to Colonel Naranka to Captain Naranka Sir.

20 **ADV SUSAN WENTZEL:** And were they ultimately used to provide accommodation?

COLONEL VAN LOGGERENBERG: Yes Toshan Panday actually used them to provide accommodation for the police.

ADV SUSAN WENTZEL: And what was the difference between the tender – I mean the invoices he charged the police for accommodation

at this hotel and the tender that had been provided?

COLONEL VAN LOGGERENBERG: You see what Toshan Panday did is he – if the hotel or the B&B asks him – I quote take an example. R1000.00 a room for two members. He would charge the police R2000.00 a room. And that is what he did with all the accommodation. Sometimes more than double. Sometimes 400% more than the actual price of the room. He charged the police. And those invoices were signed off by Supply Chain Management Narain Prasad and Madhoe and he got paid for them. I mean during our searches in [inaudible] we
10 also applied for searches and seizures, warrants. All the premises of Toshan Panday. The premises of our Supply Chain Management at Province, finance at Province, the members who were involved, their personal homes. Supplied – we got search warrants, search and seizure warrants. Toshan Panday offices. We did all the searches and seizures and in Toshan Panday's one office we came across an A5 hard cover black book. He has got a – his company names and it is all with columns this tender he would know okay Ballitones got the tender. Then he would say there okay Gold Coast did not get the tender. Then you got the actual price and then he says okay this is Ballitones price.
20 If you can see the price you [inaudible]. He kept actually – kept a record of that in his possession and [indistinct] all handed over to Price Waterhouse Coopers who did the financial investigations into this. And then Chair we also discovered that – I actually took an affidavit from a company in Pinetown who supplied what do you call it? Generators.

CHAIRPERSON: Ja you can look at your statement to refresh your

memory if you need to do that.

COLONEL VAN LOGGERENBERG: Ja. Chair I approached the company where Toshan Panday bought generators for the soccer 2010 world cup but it is small generators, it is not big generators.

CHAIRPERSON: Hm.

COLONEL VAN LOGGERENBERG: And the price he paid for each generator was R4,900.00. I took the affidavit of that company. And then I checked up and followed up on what did he charge the police for the generator, that same generator. And he charged the police between
10 R92,000.00 and R97,000.00 for one generator. And that was signed off by Supply Chain Management and Toshan Panday got paid for it.

CHAIRPERSON: So he – he would have paid about how much to – for the generator?

COLONEL VAN LOGGERENBERG: R5,000.00 per generator.

CHAIRPERSON: But then he charged SAPS about R92,000.00.

COLONEL VAN LOGGERENBERG: That is correct.

CHAIRPERSON: For?

COLONEL VAN LOGGERENBERG: For one and the police paid them. It is ridiculous.

20 **CHAIRPERSON:** Hm to say the least. Shoo. Yes.

ADV SUSAN WENTZEL: And...

CHAIRPERSON: One second Ms Wentzel. Yes you may continue.

ADV SUSAN WENTZEL: Could you explain to the Chair how Mr Panday used his various companies to carry out cover quoting to make sure that whichever of – would you just explain it in your own words?

COLONEL VAN LOGGERENBERG: Okay Chair in the beginning what...

CHAIRPERSON: Ja it is better that you let him just explain. Do not lead him.

COLONEL VAN LOGGERENBERG: Chair in the beginning Toshan Panday approached Supply Chain Management with I think it was five or six companies. It was Gold Coast Trading, Unite Mzantsi Trading, Valotone, Bavosat then there is one – if I can just refresh my memory here. Kaseev Traders. Now Gold Coast Trading was the only CC – he was the only member of Gold Coast Trading. The Valotone and all the
10 others were in his wife's name or his sister's name and his brother-in-law's name. Those documentation from CIPS he gave them to the police. And once these companies were registered on the police data base what he did he changed the founding affidavit of the CC's with CPIS and he made that he was the only director. He changed it so that he is the only director of all those companies which he had given to the police. So the police at head office never got that information from Panday that this was changed or even our Provincial. But our Provincial with the policemen there they knew it was Toshan Panday's companies. But – so he controlled each and every company at the end
20 of the day. How it can be [indistinct] by Trevor White from Price Waterhouse Cooper as well. He controlled all the finances.

ADV SUSAN WENTZEL: And did these companies purport to compete for tenders?

COLONEL VAN LOGGERENBERG: Yes Chair they did and at the end of the day he actually kept note which companies competed for a

specific tender and he also made note of which company won the tender. And the next tender he would use another company and that is how he would play the one off against the other. But he would get all the tenders at the end of the day.

CHAIRPERSON: Oh he recorded all of this?

COLONEL VAN LOGGERENBERG: Yes.

CHAIRPERSON: Ja.

ADV SUSAN WENTZEL: Was that in the black book that was discussed?

10 **COLONEL VAN LOGGERENBERG**: That is correct Chair. That is in the book we seized.

ADV SUSAN WENTZEL: And could you...

CHAIRPERSON: Were these – I am sorry. These various entities that he was using did they maybe use one of his – shed of his – were they – were the addresses given for them, was it one address? [Indistinct].

COLONEL VAN LOGGERENBERG: Chair it is – all his one address and that is Toshan Panday's business address in Umhlanga Rocks.

CHAIRPERSON: They used one address?

COLONEL VAN LOGGERENBERG: They had used one address ja.

20 **CHAIRPERSON**: Ja okay.

ADV SUSAN WENTZEL: And could you explain to the Chair how Colonel Madhoe...

CHAIRPERSON: So – I am sorry. That – that should suggest that anyone who considered their bids should have found that suspicious, is it not?

COLONEL VAN LOGGERENBERG: Yes Chair but the thing is...

CHAIRPERSON: If – if the ...

COLONEL VAN LOGGERENBERG: In the proper sense.

CHAIRPERSON: If companies that are competing for a bid are sharing the same address.

COLONEL VAN LOGGERENBERG: Yes but you see they did not know that. That did not know that. But the policemen knew.

CHAIRPERSON: But would not the tender documents – would they not reflect the address of the company that is bidding for the work?

10 **COLONEL VAN LOGGERENBERG:** Sure Chair that was all dealt with by Colonel Madhoe and Captain Narain Prasad.

CHAIRPERSON: So the ones who were – who would have seen this were people who were working with him?

COLONEL VAN LOGGERENBERG: Yes that is correct Chair.

CHAIRPERSON: Okay.

COLONEL VAN LOGGERENBERG: That is correct Chair.

CHAIRPERSON: Okay. But – but talking generally nobody who had to make those decision could not have picked it up if they did their job properly?

20 **COLONEL VAN LOGGERENBERG:** That is correct Chair.

CHAIRPERSON: Ja okay.

COLONEL VAN LOGGERENBERG: That is correct Chair.

CHAIRPERSON: Okay.

ADV SUSAN WENTZEL: Thank you. And could you just explain to the Chair how Colonel Madhoe helped Mr Panday get his companies

registered on the data base for the police Supply Chain Management?

COLONEL VAN LOGGERENBERG: Chair what we discovered is that once Toshan Panday...

CHAIRPERSON: Maybe the way to ask that question Ms Wentzel is whether Colonel Madhoe had any role that he played in – did you say registration?

ADV SUSAN WENTZEL: Yes.

CHAIRPERSON: Yes. And then how he helped?

ADV SUSAN WENTZEL: Thank you Chair.

- 10 **COLONEL VAN LOGGERENBERG:** Chair what happened there is that Colonel Madhoe supplied him with the applications for the registration on the Supply Chain Management data basis. Once Colonel Madhoe received those documentations from those companies from Toshan Panday he gave it to a member who drove up to Pretoria by vehicle – not putting it through the normal channels – drove up by vehicle to Pretoria Supply Chain Management and arranged for it be put on the data base asap, like the next day. So it never went through the proper channels to put on the data base in Pretoria.

CHAIRPERSON: And what would have been the proper channels?

- 20 **COLONEL VAN LOGGERENBERG:** So you normally send it by post. The receiving memo's I do not know what the internal provincial and national Supply Chain – how actually they operate but I – I presume nobody will drive up every day with applications to Pretoria and say put this on the data base immediately. I mean I do not think it works that way.

CHAIRPERSON: Yes. Well maybe he thought the provincial people are too slow.

COLONEL VAN LOGGERENBERG: Maybe they were too slow.

CHAIRPERSON: Yes okay.

ADV SUSAN WENTZEL: Chair I have been approached to ask for a technical adjournment. Apparently there is a problem with the transcription.

CHAIRPERSON: Oh is that so?

ADV SUSAN WENTZEL: Recording.

10 **CHAIRPERSON:** Okay let us take a – hopefully a five minutes adjournment to allow the technicians to attend to the problem. We adjourn.

ADV SUSAN WENTZEL: Thank you.

REGISTRAR: All rise.

INQUIRY ADJOURNS

INQUIRY RESUMES

CHAIRPERSON: Okay. Let us continue.

ADV SUSAN WENTZEL: Thank you Chair. Colonel Van Loggerenberg, did you involved forensic investigators in the investigation?

20 **COLONEL VAN LOGGERENBERG:** Chair, what we did from the outset and we saw the (inaudible) of documentation and work that has got to be done in this investigation. I am talking about 781 itself. We approached the Head Office and requested for a forensic audit to assist the investigation. I have submitted the mandate to our Head Office that was put out on tender and a forensic auditing company was appointed

which I did not know then. From somewhere in KZN. They came and visited us and it was sure that they could not do the job.

Then we wrote the letter back to our Head Office put it on tender again and that is when PricewaterhouseCoopers was awarded the tender and then we met up with them and the mandate was given to them - explained what we wanted. During the search and seizures all the stuff that was searched - all the - all the evidence that we got was handed over to them. Everything was given to them.

We served 205s on numerous bank accounts - numerous
10 credit card accounts. It was all given to them. At the end of the day
781 - the forensic report is 372 pages. The dockets have got over 220
affidavits and the exhibit files for the forensic report is 20 lever arch
files. So it is a big - it is a big case and the evidence is over -
overwhelming. It is overwhelming. I just want to mention that to you
Chair.

ADV SUSAN WENTZEL: Thank you. Could you tell the Chair what benefits you found people involved in this matter received from Mr Panday?

CHAIRPERSON: Let us ask that differently. Was there anything that
20 was received that motivated some of the people in the SAPS to
cooperate with - with Panday - Mr Panday?

COLONEL VAN LOGGERENBERG: Yes Chair. At the end of the day we discovered that - we start by the Provincial Commissioner. She arranged a surprise birthday party for her husband.

CHAIRPERSON: Hm.

COLONEL VAN LOGGERENBERG: At the Dish Restaurant in Umhlanga Rocks. Her husband was a Brigadier also in the police force at that time. During our investigations we discovered that the Dish was paid for - a deposit was paid of R10 000,00 by Thoshan Panday. The balance of the birthday party - that is everything inclusive a DJ.

We discovered that that was paid by Thoshan on - on Thoshan Panday's credit card and I went to the Dish Restaurant and I then have a letter from Mr Freddy Singh. State in his affidavit as I told you now Chair and furthermore the birthday party - if I can recall it -
10 was on 29 May, but Thoshan Panday came afterwards to the Manager at the desk and asked him to ...

CHAIRPERSON: That is 29 May what year?

COLONEL VAN LOGGERENBERG: Chair that was - it was 20 ...

CHAIRPERSON: 2010? The World Cup was in 2010.

COLONEL VAN LOGGERENBERG: It was after that Chair. Let me just ...

CHAIRPERSON: Oh.

COLONEL VAN LOGGERENBERG: I will get to the date Chair.

CHAIRPERSON: Okay.

20 **COLONEL VAN LOGGERENBERG:** But what Thoshan Panday also did. He - after the birthday party he went back to the Dish Restaurant and spoke to the Manager and he asked the Manager to give him a new invoice in the name of the PC. It is ... (intervenes).

CHAIRPERSON: That was now ...

COLONEL VAN LOGGERENBERG: Ngobeni.

CHAIRPERSON: The name of the Provincial Commissioner?

COLONEL VAN LOGGERENBERG: That is correct.

CHAIRPERSON: Yes.

COLONEL VAN LOGGERENBERG: And he must also put his name by the - what do you call it? As a - by the reference number on the invoice. In other words what - what I could gather what it would show is that Thoshan Panday could use this as a benefit for tax purposes or it could show that the PC actually appointed him to arrange this birthday party to cover for that, but with PricewaterhouseCoopers
10 investigation no money could be traced Paid from the PC or her husband to any of Thoshan Panday's accounts and then Colonel Madhoe went on holiday in Cape Town with his family and we discovered that Thoshan Panday ...

CHAIRPERSON: And - and around when would that holiday have been? Ms Wentzel you can guide him in terms of ...

ADV SUSAN WENTZEL: Yes.

CHAIRPERSON: Where he might find certain information.

ADV SUSAN WENTZEL: If you have a look at page 4 your statement.

COLONEL VAN LOGGERENBERG: Yes.

20 **ADV SUSAN WENTZEL:** Just firstly just for clarity in paragraphs 5.7 and 5.8 you deal with this party and the date is 29 May 2010 ...

COLONEL VAN LOGGERENBERG: That is correct Chair.

ADV SUSAN WENTZEL: But now you are dealing with 5.12 - Colonel Madhoe. You can have a look at that to refresh your memory on page 4.

COLONEL VAN LOGGERENBERG: Chair that is correct.

Colonel Madhoe went to Cape Town with his family on holiday which Thoshan Panday paid for. That was - that is also in the forensic report and then what Thoshan Panday also did. He bought a vehicle for Colonel Madhoe. We also got affidavits to that effect in the forensic report and Captain Narainpersad was bought a treadmill which was delivered at his house.

We got that evidence in the forensic report and also Captain Narainpersad's son was studying at the college in Durban and
10 we discovered that Thoshan Panday paid for the college fees for Narainpersad's son and then also further on when we looked at Colonel (inaudible) ...

CHAIRPERSON: Do - do - do you remember what he paid in terms of college fees or ...

COLONEL VAN LOGGERENBERG: Hm.

CHAIRPERSON: Do - do you not have that at hand?

COLONEL VAN LOGGERENBERG: Sir, I think the college fees was in the region of R29 000,00.

CHAIRPERSON: Yes and do you remember how much the holiday
20 would have cost that Colonel Madhoe ...

COLONEL VAN LOGGERENBERG: That was ...

CHAIRPERSON: Took to - to Cape Town?

COLONEL VAN LOGGERENBERG: Chair, I do not have the exact figure with me.

CHAIRPERSON: But you have got it somewhere in the documents that

...

COLONEL VAN LOGGERENBERG: Yes. I do. It will be in the forensic report.

CHAIRPERSON: Okay. If we do not have it here. If that can be obtained so that one gets a picture of how much was spent on ...

COLONEL VAN LOGGERENBERG: Chair - Chair I believe the Forensic Auditor - Trevor White ...

CHAIRPERSON: Will deal with those things?

COLONEL VAN LOGGERENBERG: He is still coming to testify ...

10 **CHAIRPERSON:** *Ja*. He is coming. *Ja*.

COLONEL VAN LOGGERENBERG: And he is the author of that report. So he will have ...

CHAIRPERSON: Oh. So he has got all of that there.

COLONEL VAN LOGGERENBERG: He will all - have all of that on there.

CHAIRPERSON: Okay. Thank you. Okay. Thank you.

ADV SUSAN WENTZEL: Yes. That is correct Chair. Colonel could you now please tell the Chair about case number 386. What did that relate to?

20 **COLONEL VAN LOGGERENBERG:** Chair ...

CHAIRPERSON: We are now at page 5?

ADV SUSAN WENTZEL: We are at page 5.

CHAIRPERSON: Yes. Okay.

COLONEL VAN LOGGERENBERG: Chair, it was decided that we take the evidence of the surprise party. The main docket - 781 - and

register a separate case just for that.

CHAIRPERSON: Now the - the surprise party again is the ...

COLONEL VAN LOGGERENBERG: Birthday party ...

CHAIRPERSON: Birthday party of the Provincial Commissioner's husband?

COLONEL VAN LOGGERENBERG: That is correct Chair.

CHAIRPERSON: Okay. Hm.

COLONEL VAN LOGGERENBERG: So a docket was registered just for that. The investigating officer appointed to do that was
10 Colonel Phillip Herbst. So he was actually the one dealing with that matter as I was concentrating on 781 and from 781 different cases came about, but I kept on 781.

The other investigators kept on the other cases, but what I know - the knowledge that I know of 386 is that the docket was opened. That evidence was presented to - it was Advocate Mzinyathi at the time when he was still here at the province in KZN and then it was - he agreed that there is enough evidence to prosecute this matter and then ...

CHAIRPERSON: Did you say the evidence of Advocate Mzinyathi?

20 **COLONEL VAN LOGGERENBERG**: Yes.

CHAIRPERSON: Oh.

COLONEL VAN LOGGERENBERG: The evidence was given - Colonel Herbst approached Advocate Mzinyathi ...

CHAIRPERSON: Okay. Alright.

COLONEL VAN LOGGERENBERG: And his view was that there is

prima facie - there is enough evidence to prosecute the ... (intervenes).

CHAIRPERSON: Yes. Okay.

COLONEL VAN LOGGERENBERG: But he resigned - or he no longer left - he left the office and then Advocate Noko took over - took over the office of KZN and then this docket was handed to Advocate Wendy Greef and at the end of the day she felt that there is not sufficient evidence to continue with this matter.

We were obviously not sharing the same views as she was sharing, but there was nothing that we could do at that point in time.

10 **ADV SUSAN WENTZEL**: Now ...

CHAIRPERSON: And in terms of the reasons would that be the reasons that were given to say there was not enough evidence there?

COLONEL VAN LOGGERENBERG: She ...

CHAIRPERSON: Would that be covered by Mr White?

COLONEL VAN LOGGERENBERG: Yes. That would - yes. That is another report Chair. She - she felt that there is insufficient evidence.

CHAIRPERSON: Sorry.

COLONEL VAN LOGGERENBERG: She felt that there is not enough evidence ... (intervenes).

20 **CHAIRPERSON**: Yes. Yes. So there is a report that ...

COLONEL VAN LOGGERENBERG: *Ja*. It is in the docket.

CHAIRPERSON: Somebody else will ... (intervenes).

COLONEL VAN LOGGERENBERG: Yes. It is in the docket Chair.

CHAIRPERSON: Yes. Okay. Alright, but tell me your own understanding of what the reasons were that were given for that

conclusion. If you are able to.

COLONEL VAN LOGGERENBERG: Chair, my view is ...

CHAIRPERSON: In other words when you were told what the reasons were why she said there was not enough evidence.

COLONEL VAN LOGGERENBERG: *Ja.*

CHAIRPERSON: I just want to understand what your own thinking was when you were told that.

COLONEL VAN LOGGERENBERG: Chair ...

CHAIRPERSON: Whether you in agreement you are not in agreement
10 or what were the main features of her reasons.

COLONEL VAN LOGGERENBERG: Chair my view is that I think all the dockets should stay one docket and we should make it a racketeering case. If you take individual cases away the circumstances surrounding that individual case and what is going around in the racketeering docket is not there. You understand what I am saying? In the ...

CHAIRPERSON: You - you lose ...

COLONEL VAN LOGGERENBERG: That ...

CHAIRPERSON: You - you lose the chain?

COLONEL VAN LOGGERENBERG: That is right.

20 **CHAIRPERSON:** *Ja. Ja.* If you separate them, but if you look at them together ...

COLONEL VAN LOGGERENBERG: If you look at them together ...

CHAIRPERSON: *Ja.* You will get the proper picture.

COLONEL VAN LOGGERENBERG: You will get a proper picture of actually what was going on. *Ja.*

CHAIRPERSON: Yes.

COLONEL VAN LOGGERENBERG: That was my feeling about this case in the first place.

CHAIRPERSON: Hm. So did - did you think that that may have been the reason why she might not have seen that there was enough evidence?

COLONEL VAN LOGGERENBERG: Yes. I have - I have - I would say that. Yes Chair. That she could have thought about that and I would not hold it against her.

10 **CHAIRPERSON:** Yes. She would have known that the cases were separated. Is it not?

COLONEL VAN LOGGERENBERG: Yes. Yes. She knew about the cases Chair.

CHAIRPERSON: And if she was experienced enough would she not have known that looking at one and not looking at all of them could disadvantage her and therefore should not he - could she not have said look I want to see everything?

COLONEL VAN LOGGERENBERG: She - she - Chair she could have, but I cannot answer for her.

20 **CHAIRPERSON:** No, no, no, but you - you see you have been around.

COLONEL VAN LOGGERENBERG: *Ja.*

CHAIRPERSON: You have been in - in the police service for a long time ...

COLONEL VAN LOGGERENBERG: Yes. *Ja.*

CHAIRPERSON: And you have dealt with many prosecutors. I have no

doubt.

COLONEL VAN LOGGERENBERG: Yes.

CHAIRPERSON: You know and you have a - you know a reasonable sense of when there is a case and when there is not a case.

COLONEL VAN LOGGERENBERG: Yes. Yes.

CHAIRPERSON: For most of the cases I am sure that you have dealt with.

COLONEL VAN LOGGERENBERG: Yes. Correct Chair.

CHAIRPERSON: Now what I am asking is whether when somebody in
10 her position looks at a case in isolation when with your own knowledge
you know that if somebody looks at that case alone. They will not get a
proper picture. They will need to look at that other one as well.

COLONEL VAN LOGGERENBERG: Yes.

CHAIRPERSON: Somebody in her position who decides not to look at
the other case ...

COLONEL VAN LOGGERENBERG: *Ja.*

CHAIRPERSON: Would that not say to you, but how could she confine
herself to this case, because with her experience in that position she
should know you cannot get a full picture by looking at one case.

20 **COLONEL VAN LOGGERENBERG:** Yes. No. I agree with you Chair.
She - she should have or she could have gone and looked at the whole
picture.

CHAIRPERSON: Hm.

COLONEL VAN LOGGERENBERG: Instead of just making a decision
on this ...

CHAIRPERSON: Yes.

COLONEL VAN LOGGERENBERG: One - one case alone.

CHAIRPERSON: Yes. Okay.

ADV SUSAN WENTZEL: And Colonel Van Loggerenberg just to give the Chair a bigger picture we will deal with it in more detail in due course. What was the Provincial Commissioner's involvement in this investigation?

COLONEL VAN LOGGERENBERG: She was the suspect in this investigation.

10 **ADV SUSAN WENTZEL:** But why was she a suspect?

COLONEL VAN LOGGERENBERG: Because it was discovered that Thoshan Panday paid for all these expenses and there is no way that she appointed him as an agent to pay for these expenses and it can only boil down to she is the Provincial Commander. He got all the tenders.

I mean she knew what was going on, because there is evidence that she actually tried to stop this investigation and yes. She was the suspect in the matter.

CHAIRPERSON: So that - that is case number 386?

20 **COLONEL VAN LOGGERENBERG:** That is right Chair.

CHAIRPERSON: So was she only the suspect or was Mr Panday also another suspect?

COLONEL VAN LOGGERENBERG: She and Mr Panday.

CHAIRPERSON: They were the suspects in the matter?

COLONEL VAN LOGGERENBERG: Yes. Yes. That is correct Chair.

CHAIRPERSON: Okay. Alright and 781 was it only Mr Panday who was a - a suspect?

COLONEL VAN LOGGERENBERG: No. Chair 781 was the PC.

CHAIRPERSON: *Ja*.

COLONEL VAN LOGGERENBERG: It was Major General - I will get to his name now. Colonel Madhoe. Captain Narainpersad. Thoshan Panday's wife. Thoshan Panday's sister. Thoshan Panday's brother-in-law. All the companies mentioned. They were all listed as the suspects in the forensic report.

10 **CHAIRPERSON**: That - that one - that case - case 781 related to the procurement issues?

COLONEL VAN LOGGERENBERG: Yes.

CHAIRPERSON: Supply chain management issues ...

COLONEL VAN LOGGERENBERG: Yes.

CHAIRPERSON: And this one related to the birthday party and stopping of the investigation?

COLONEL VAN LOGGERENBERG: But Chair, I - I just want to tell you. 328 - the evidence from 328 was actually extracted from the forensic report in 781 to register a separate case.

20 **CHAIRPERSON**: Yes. You are talking about 328 now. You mean 386?

COLONEL VAN LOGGERENBERG: Three - which is the party docket?

CHAIRPERSON: I - I asked you about 386. I just want to make sure ...

ADV SUSAN WENTZEL: Page 5.

CHAIRPERSON: We are on the same page.

COLONEL VAN LOGGERENBERG: It is page 5?

CHAIRPERSON: 386 is page 5.

COLONEL VAN LOGGERENBERG: The birthday party. Yes. The birthday party - 386.

CHAIRPERSON: Yes. So when you said 328 you meant 386?

COLONEL VAN LOGGERENBERG: Yes. That is correct Chair.

CHAIRPERSON: *Ja*. Okay.

COLONEL VAN LOGGERENBERG: This evidence was taken from the forensic report ...

CHAIRPERSON: *Ja* of Mr White.

10 **COLONEL VAN LOGGERENBERG:** From the affidavits we obtained in 781.

CHAIRPERSON: Okay. Okay.

COLONEL VAN LOGGERENBERG: Then it is ... (intervenes).

CHAIRPERSON: So it was like an offshoot of ...?

COLONEL VAN LOGGERENBERG: That is it.

CHAIRPERSON: *Ja*. Okay.

COLONEL VAN LOGGERENBERG: That is correct.

CHAIRPERSON: Okay.

COLONEL VAN LOGGERENBERG: That is correct Chair.

20 **CHAIRPERSON:** Okay.

ADV SUSAN WENTZEL: And then Colonel Van Loggerenberg just to clarify if you have regard to paragraph 6.12 of your statement. Mention there is made of Advocate Mlotshwa. What was his involvement?

COLONEL VAN LOGGERENBERG: He was then the - the Acting DDP at KwaZulu-Natal at that time and that is when Colonel Herbst went and

saw him.

ADV SUSAN WENTZEL: And what was his view of the case?

COLONEL VAN LOGGERENBERG: His view that there was *prima facie* evidence and there was enough evidence to continue in this matter.

CHAIRPERSON: Now when earlier on you told me that the evidence was presented to Advocate Mzinyathi who said there was enough case. Did that relate to case 781?

COLONEL VAN LOGGERENBERG: No sir. That - no Chair. Sorry. That relates to 386.

10 **CHAIRPERSON:** So under - in regard to three - case 386 you therefore have like two NPA officials who said there is enough case - Advocate Mzinyathi and Advocate Mlotshwa. They both said there is enough evidence. Is that correct?

COLONEL VAN LOGGERENBERG: Yes, but those people left. Yes Chair. That is correct, but then at the end of the day it ended up with Wendy Greef - with Advocate Wendy Greef.

CHAIRPERSON: Yes, but what I - what I am saying is am I correct in understanding that in regard to this case namely 386 two officials - two prosecutors from the NPA - Advocate Mzinyathi at one stage
20 Advocate Mlotshwa at another stage - both separately said there was enough evidence to prosecute?

COLONEL VAN LOGGERENBERG: That is correct Chair.

CHAIRPERSON: Okay. Alright. Thank you.

ADV SUSAN WENTZEL: And what was the involvement of Advocate Noko?

COLONEL VAN LOGGERENBERG: Advocate Noko actually became the Deputy Director Public Prosecutions in KZN and Mlotshwa was no longer there and also Mzinyathi - I think - resigned and he went to the private bar, but he was also not around at the time, Chair.

ADV SUSAN WENTZEL: And was Advocate Noko prepared to prosecute the case?

COLONEL VAN LOGGERENBERG: Chair, I - I cannot say if the docket was given to a person to review the matter by Colonel Herbst, but I know there is a report which Advocate Noko submitted at the end of this
10 whole saga. Replying on all the dockets and saying that - including this 386 - that there is no evidence whatsoever against anybody in any of these dockets including the PC.

CHAIRPERSON: I see that it looks like you say Advocate Wendy Greef also said - also declined to prosecute in this matter and she is expressed - according to your affidavit - the opinion that the investigation was flawed. I am not sure or the opinion of the SAPS was flawed. So you had two prosecutors saying there is enough evidence and it looks like you had two prosecutors - Advocate Greef and Advocate Noko - saying there is not enough evidence.

20 **COLONEL VAN LOGGERENBERG:** That is correct Chair.

CHAIRPERSON: Okay.

ADV SUSAN WENTZEL: Thank you.

COLONEL VAN LOGGERENBERG: Chair and when - when that docket was declined to prosecute. I am talking about 386. The PC's husband was - as I mentioned - he is also in the police force. He is a Brigadier

at - he was a Brigadier at that time. I believe he is promoted to a General today, but if I am not mistaken he was at Phoenix Cluster where Durban North resides under - Phoenix Cluster.

Immediately when the docket was declined to prosecute. He forwarded a letter to us requesting the docket and I refused point blank. I said you are not getting the docket and eventually he just left it, but we never gave the docket. He requested the docket. I said no. You are not having the docket. What do you want the docket for?

10 He just said no and we kept the docket, because I could not see why - why should he ask for the docket. For what? What does he want to do with the docket?

CHAIRPERSON: Yes. Thank you.

ADV SUSAN WENTZEL: And Colonel Van Loggerenberg could you tell the Chair about case number 466. You deal with it on page 5 paragraph 7.

COLONEL VAN LOGGERENBERG: Chair, this case started with - when Colonel Soobramoney was still busy with the inquiry of this matter. He sent a report to General Booyen - confidential report, but he did not date the report and somehow ...

20 **CHAIRPERSON:** So now we are dealing with case number 466?

COLONEL VAN LOGGERENBERG: 466.

CHAIRPERSON: Yes.

COLONEL VAN LOGGERENBERG: Yes Chair; and somehow this report ended up - as we discovered later - with Thoshan Panday and Colonel Madhoe. As far as I can recall Chair Colonel Madhoe then in

turn approached General Booyesen with this report which he received earlier from Colonel Soobramoney. (Intervenues).

CHAIRPERSON: That report related to the inquiry that the two of you had done?

COLONEL VAN LOGGERENBERG: Yes. That is - that is correct Chair.

CHAIRPERSON: Okay.

COLONEL VAN LOGGERENBERG: Yes. The progress report. That is what it was. Colonel Madhoe then requested General Booyesen to date this report, but he must date it in such a way that it looks that when we
10 issued or when we applied for Section 205s that that was done illegally. So in other words backdate the stuff before the case was registered even.

CHAIRPERSON: Please remind me about Section 305. Is that ...?

COLONEL VAN LOGGERENBERG: No Section 205.

CHAIRPERSON: 205. Yes.

COLONEL VAN LOGGERENBERG: So we use Section 205 of the Criminal Procedure Act ...

CHAIRPERSON: *Ja*.

COLONEL VAN LOGGERENBERG: To append bank documentation.

20 **CHAIRPERSON**: Oh. For bank statements. Okay.

COLONEL VAN LOGGERENBERG: Yes sir, but he wanted General Booyesen to date this report before the case was even registered in the case number. Before CAS 781. So that would show that we illegally subpoenaed the banks to obtain the bank information.

CHAIRPERSON: Oh. So the report included - showed that you had

obtained financial information from their bank accounts?

COLONEL VAN LOGGERENBERG: That is right. *Ja*.

CHAIRPERSON: And if ...

COLONEL VAN LOGGERENBERG: (Inaudible).

CHAIRPERSON: Two - Section 205 had not been complied with then you would have acted illegally?

COLONEL VAN LOGGERENBERG: That is correct Chair. Yes.

CHAIRPERSON: Yes, but what reason did he give to General Booyen for asking ...

10 **COLONEL VAN LOGGERENBERG:** They want to ...

CHAIRPERSON: Him to do that?

COLONEL VAN LOGGERENBERG: Chair, they want to attack us civilly with regarding to the Section 205s we applied for in terms of the Criminal Procedure Act.

CHAIRPERSON: But why would he think General Booyen would have agreed to that?

COLONEL VAN LOGGERENBERG: I do not know what ...

CHAIRPERSON: To even backdating it. Apart from the fact that it was not his report.

20 **COLONEL VAN LOGGERENBERG:** *Ja*. No. I know, but Thoshan Panday would use that in a civil matter ...

CHAIRPERSON: Hm.

COLONEL VAN LOGGERENBERG: To challenge our Section 205s in the Civil Court ...

CHAIRPERSON: Hm.

COLONEL VAN LOGGERENBERG: To say that that is unlawful ...

CHAIRPERSON: Hm.

COLONEL VAN LOGGERENBERG: And that is why he wanted the date backdated.

CHAIRPERSON: Yes.

COLONEL VAN LOGGERENBERG: But then ...

CHAIRPERSON: Was - was it - was the request made in such a way that General Booyesen could have been misled into thinking that it was just a genuine and innocuous request to put a certain date and not
10 know that there was - there was some ...

COLONEL VAN LOGGERENBERG: Chair, General Booyesen ...

CHAIRPERSON: Intentions?

COLONEL VAN LOGGERENBERG: Told us about it and we worked it out. It was for the Section 205s we applied to at the courts. That was the reason why they wanted that and then General Booyesen told him, but if I do it that way there is not - nothing for nothing. You must give me for something. That is where the money came into the story and then General Booyesen testified and the - they continued negotiating.

I was not involved in that. The investigating officer involved
20 in that matter originally was Colonel Len Sherriff, but sadly sir he is deceased today, but Colonel Peter Poi took the matter over and at the end of the day what happened is that the state applied for Section 252A in terms of the Criminal Procedure Act - to have a sting operation.

That was arranged that Madhoe will pay the money over to General Booyesen, but then Colonel Len Sherriff - as far as my

knowledge goes - he arranged the operation. He got the approval of the 252A from the - Advocate Gert Nel from Maritzburg. Everything was in place. General Madhoe came into the parking garage of the Provincial Office in KwaZulu-Natal.

That is where he handed over - took the money out of his boot. Placed it in General Booysen's boot. I was not present. I was not there and as far as I know the ...

CHAIRPERSON: *Ja.* General Booysen gave evidence about ...

COLONEL VAN LOGGERENBERG: Yes. *Ja.* That is ...

10 **CHAIRPERSON:** That piece of - *ja.*

COLONEL VAN LOGGERENBERG: That is the - the charges case came about Chair.

CHAIRPERSON: *Ja.* Okay.

ADV SUSAN WENTZEL: Now with regard to that case.

CHAIRPERSON: So - I am - I am sorry Ms Wentzel. The suspects in this one. Case number 466 bribery/corruption were - were they Colonel or was it Colonel Madhoe?

COLONEL VAN LOGGERENBERG: And - Colonel Madhoe and Thoshan Panday Chair.

20 **CHAIRPERSON:** The two of them?

COLONEL VAN LOGGERENBERG: Yes Chair.

CHAIRPERSON: Okay. Alright and it related to that - to - to the money in the boot incident?

COLONEL VAN LOGGERENBERG: Yes. They - they were arrested on that ...

CHAIRPERSON: *Ja.*

COLONEL VAN LOGGERENBERG: Chair.

CHAIRPERSON: Okay.

COLONEL VAN LOGGERENBERG: Yes.

CHAIRPERSON: Alright.

ADV SUSAN WENTZEL: Now who was the advocate assigned to that case?

COLONEL VAN LOGGERENBERG: It was Bheki Mnyathi. That is right. (Inaudible). It was Bheki Mnyathi who was assigned to that matter.

10 **ADV SUSAN WENTZEL:** And what was ...

CHAIRPERSON: Is that - is that Advocate Mzinyathi?

COLONEL VAN LOGGERENBERG: *Ja.* Bheki Mnyathi.

CHAIRPERSON: Is that the same person?

COLONEL VAN LOGGERENBERG: *Ja.*

CHAIRPERSON: Okay. Alright.

ADV SUSAN WENTZEL: And what was his view about the matter?

20 **COLONEL VAN LOGGERENBERG:** His view that there was sufficient evidence. I mean there is footage of it. The 252A was legal. The money was handed over. There were witnesses and there is - he said there is no problem.

ADV SUSAN WENTZEL: And you say in your statement that:

“Advocate Wendy Greef subsequently replaced
Advocate Mnyathi.”

What then happened to the matter?

CHAIRPERSON: Well let us start with is - is that true that

Advocate Greef replaced ...?

COLONEL VAN LOGGERENBERG: That is correct Chair.

CHAIRPERSON: Or maybe the way to put it. It was - was Advocate Mzinyathi ...

COLONEL VAN LOGGERENBERG: Yes. He resigned.

CHAIRPERSON: Removed from the case?

COLONEL VAN LOGGERENBERG: Yes. He resigned the Chair and then Advocate ...

CHAIRPERSON: Oh. He resigned?

10 **COLONEL VAN LOGGERENBERG:** Yes. That is right Chair.

CHAIRPERSON: And then Advocate Greef was assigned the matter?

COLONEL VAN LOGGERENBERG: That is correct Chair.

CHAIRPERSON: Okay. Hm.

COLONEL VAN LOGGERENBERG: *Ja* and then - and I can recall the morning there were - they appeared in the Regional Court to apply for a date to get the case transferred to the High Court. That same morning without anyone of us knowing or investigating that matter knowing or even Advocate Wendy Greef knew. That is when Advocate Noko instructed her to provisionally withdraw the matter.

20 Stating that there were representations made and it concerned some investigations. She mentioned there is a prima facie case in this matter - Advocate Noko and she also said it must be - as I mentioned - provisionally withdrawn and that - and that was it.

ADV SUSAN WENTZEL: So if you have regard to the internal memorandum on page 20.

COLONEL VAN LOGGERENBERG: Yes.

ADV SUSAN WENTZEL: You will see this is an internal memorandum to Advocate Govender from Advocate Noko and it says:

10 “Dear Advocate Govender, I have perused the files and the case docket in this matter where an accused persons are charged with one count of corruption, alleged to have offered and/or given a gratification to an officer. I have been presented with representations in this matter which raise some concerns regarding justice. Time is needed to investigate to follow up on these concerns. There is a *prima facie* case against the accused persons in this matter. However in the interest of justice I have decided to provisionally withdraw the matter. It will be dealt with at a later stage after the raised issues have been attended to. This case must thus be provisionally withdrawn on 11 February 2013 when it appears again in court for reasons as I have advanced *supra*. Kindly also inform the SAPS

20 investigating officer accordingly.”

Is this what you referring to?

COLONEL VAN LOGGERENBERG: That is correct Chair. That is the letter what Advocate Noko that morning ...

ADV SUSAN WENTZEL: Were you aware of any representations that had been made?

COLONEL VAN LOGGERENBERG: No Chair. Not at all. Nothing whatsoever.

CHAIRPERSON: Advocate Govender that is a member of SAPS that was or that was a member of the - a prosecutor in the NPA?

COLONEL VAN LOGGERENBERG: That is correct Chair.

CHAIRPERSON: Advocate K D Govender.

COLONEL VAN LOGGERENBERG: Yes Chair.

CHAIRPERSON: Was he a prosecutor of - she a prosecutor?

COLONEL VAN LOGGERENBERG: No. *Ja*. She is in the NPA, but she
10 is a - the ...

CHAIRPERSON: At the court?

COLONEL VAN LOGGERENBERG: No. She is sitting at the - not at court itself.

CHAIRPERSON: *Ja*.

COLONEL VAN LOGGERENBERG: She is like a Section Head.

CHAIRPERSON: Sorry.

COLONEL VAN LOGGERENBERG: Organised Crime Prosecutors. *Ja*.

CHAIRPERSON: But she is a prosecutor?

COLONEL VAN LOGGERENBERG: *Ja*. She is a prosecutor. Yes
20 Chair.

CHAIRPERSON: Okay. Alright. Continue.

ADV SUSAN WENTZEL: Thank you. Could you then tell the Chair about case number 122?

COLONEL VAN LOGGERENBERG: 122.

CHAIRPERSON: Before we get there. This was withdrawn and what

happened? This particular one.

COLONEL VAN LOGGERENBERG: Chair ...

CHAIRPERSON: This was many years ago. We are now in 2020.

COLONEL VAN LOGGERENBERG: Chair, as far as I can recall that ...

CHAIRPERSON: Was it ever reinstated?

COLONEL VAN LOGGERENBERG: Yes. As far as I know now it has been reinstated and Advocate Wendy Greef from the KZN Commercial Crime Court. She is dealing with the matter - with this specific matter.

CHAIRPERSON: But the trial has not - has not started. As far as you
10 know.

COLONEL VAN LOGGERENBERG: No. Not yet. No Chair.

CHAIRPERSON: *Ja.*

COLONEL VAN LOGGERENBERG: She is still busy. She is still busy with it.

CHAIRPERSON: *Ja.* So it looks like many years have lapsed ...

COLONEL VAN LOGGERENBERG: Yes.

CHAIRPERSON: Since it was provisionally withdrawn.

COLONEL VAN LOGGERENBERG: That is correct Chair, because it was only looked at again after Advocate Shaun Abrahams gave the
20 instructions ...

CHAIRPERSON: *Ja.*

COLONEL VAN LOGGERENBERG: The prosecution must continue in these matters.

CHAIRPERSON: Okay.

COLONEL VAN LOGGERENBERG: Only then something happened

again with these matters.

CHAIRPERSON: Yes. I see that the memorandum from Advocate Noko to Advocate Govender where she gave instructions that the matter be provisionally - be provisionally withdrawn is dated 7 February 2013.

COLONEL VAN LOGGERENBERG: That is correct Chair.

CHAIRPERSON: So seven years later the trial ...

COLONEL VAN LOGGERENBERG: Yes.

CHAIRPERSON: Has not happened.

COLONEL VAN LOGGERENBERG: That is correct Chair.

10 **CHAIRPERSON**: *Ja*.

ADV SUSAN WENTZEL: Yes and Chair perhaps just it - it is quarter past 11. I do not know if you want to adjourn or ...

CHAIRPERSON: *Ja*. Let us take the tea adjournment.

ADV SUSAN WENTZEL: Thank you.

CHAIRPERSON: On my watch it is about 18 minutes past. We will resume at 25 to 12. We adjourn.

ADV SUSAN WENTZEL: Thank you Chair.

REGISTRAR: All rise.

INQUIRY ADJOURNS

20 **INQUIRY RESUMES**

CHAIRPERSON: Yes Ms Wentzel, are you ready?

ADV SUSAN WENTZEL: Thank you Chair. Colonel van Loggerenberg I am now referring to page 6 of your affidavit, paragraph 8, could you give the Chair an idea what Durban Central case 112 was about?

CHAIRPERSON: 112 or 122?

ADV SUSAN WENTZEL: 122 I beg your pardon Chair.

CHAIRPERSON: Ja, 122.

COLONEL VAN LOGGERENBERG: Just a correction before the tea time I said Advocate Wendy Greeff was doing 466, it's Advocate Wendy O'Brian that is prosecuting 466.

CHAIRPERSON: Oh, that is 7.13 of your affidavit.

COLONEL VAN LOGGERENBERG: Ja, it is Advocate Wendy O'Brian that is busy with the prosecution.

CHAIRPERSON: She is the one who replaced Advocate, Ms Nyati?

10 **COLONEL VAN LOGGERENBERG:** No, no she is the one busy with this matter, Durban Central 466 at this point in time, she is the prosecutor appointed to do that matter.

CHAIRPERSON: 386?

COLONEL VAN LOGGERENBERG: No, 446.

CHAIRPERSON: Oh, okay, I am sorry, there are so many of these case numbers. 466?

COLONEL VAN LOGGERENBERG: That's right.

CHAIRPERSON: Ja, okay.

20 **COLONEL VAN LOGGERENBERG:** It's Advocate Wendy O'Brian, not Advocate Wendy Greeff.

CHAIRPERSON: I thought you said 466, she was involved?

COLONEL VAN LOGGERENBERG: That's right, Advocate Wendy O'Brian is the prosecutor involved there.

CHAIRPERSON: Okay and Advocate Greeff, Wendy Greeff related to another matter.

COLONEL VAN LOGGERENBERG: That is correct Chair.

ADV SUSAN WENTZEL: Chair Wendy O'Brian is the currently today the prosecutor.

CHAIRPERSON: In the matter?

ADV SUSAN WENTZEL: Yes in the matter.

CHAIRPERSON: Yes, okay, thank you.

ADV SUSAN WENTZEL: If you could now just tell the Chair what you know about Durban Central case 122.

COLONEL VAN LOGGERENBERG: Chair this matter ...[intervenes]

10 **CHAIRPERSON:** Well we refer to 122 but the actual case seems to be 122/04/2012.

COLONEL VAN LOGGERENBERG: That is correct Chair.

CHAIRPERSON: Ja, but we say 122, and the – and 466 the one we refer to as 466 is actually 466/09/2011 and the one we refer to as 386 is 386/09/2011.

COLONEL VAN LOGGERENBERG: That's correct Chair.

CHAIRPERSON: And then earlier on than that yes there was case number 781 when we referred to 781 we were referring to case number 781/06/2010.

20 **COLONEL VAN LOGGERENBERG:** That is correct Chair.

ADV SUSAN WENTZEL: Yes Chair.

CHAIRPERSON: So the record will capture the correct case numbers.

ADV SUSAN WENTZEL: Thank you Chair, thank you.

CHAIRPERSON: Okay.

COLONEL VAN LOGGERENBERG: Sir in this case Durban Central

CAZ 122/04/2012 I can recall is that General Booyesen has placed a stop with financial department to pay further monies to Thoshan Panday. Thoshan Panday then launched this civil application to sue this outstanding amount from the police, but what he needed ...[intervenes]

CHAIRPERSON: To sue the police SAPS for not paying him?

COLONEL VAN LOGGERENBERG: Yes, that's correct Chair.

CHAIRPERSON: Okay.

COLONEL VAN LOGGERENBERG: What happened there is Thoshan
10 Panday and Captain Narainpershad approached another member,
Captain Stevens. They requested Captain Stevens to – let me just go a
step back so with the searches and seizures seized documentation from
different departments from our provincial office and some of those
documents were invoices and call up instructions issued by Brigadier
Hunter for the members to assemble for the ...[indistinct] or wherever
needed.

They approached Captain Stevens to reprint some of these
invoices which they didn't have in their possession at that point in time
and also to falsify call-up instructions and Captain Stevens would have
20 to falsify Brigadier Hunter's signature on the documents, endorse to
say yes it's been approved, services has been rendered.

CHAIRPERSON: That is payment for payment purposes?

COLONEL VAN LOGGERENBERG: That is to show in the civil matter
that services has been rendered and it has been authorised.

CHAIRPERSON: Oh so that Mr Panday, his claim would succeed.

COLONEL VAN LOGGERENBERG: That's right, that's right Chair.

And that is where this case occurred of, and also there if I can recall correctly is that approval was obtained and Captain Stevens negotiated with these people, the recording made, there were visual reports made and this matter was given to Advocate Dorian Pather from the Pietermaritzburg DDP's office, but the audio recordings between Captain Stevens and Panday and Narainpershad is actually in an Indian street language, so a person that does not know that slang or whatever, to put it that way, wouldn't know or understand exactly what they mean
10 and what they say, so there's a bit of a problem with the audio of that thing and is trying to rectify that at this point in time, so that they can continue with that matter.

CHAIRPERSON: What was Captain Stevens supposed to do, what was his role? I see you refer to him in paragraph 8.10.

COLONEL VAN LOGGERENBERG: Yes Captain Stevens was in the section at Brigadier Hunter's division where they – he worked for Brigadier Hunter in his section. Brigadier Hunter was responsible for if they needed 20 policemen say at point A Brigadier Hunter will authorise a call-up instruction, the members names, authorise it and then it will
20 go – Captain Stevens will see to those documentations, send it to Supply Chain and see that people get there and everything is arranged for them. That's where Captain Stevens fit in because they needed those documents, those call up instructions and some of them they did have it, some of them they did not have, and that's why they approached him to fill in the gaps where they didn't have them.

CHAIRPERSON: So he was cooperating with Mr Panday and the group?

COLONEL VAN LOGGERENBERG: Yes, he first approached General Booyesen regarding this matter and then General Booyesen approved them then it ran from there.

CHAIRPERSON: Yes okay, do you know what was in it for him?

COLONEL VAN LOGGERENBERG: Did he?

CHAIRPERSON: Do you know what was in it for him, why was he helping Mr Panday?

10 **COLONEL VAN LOGGERENBERG:** They promised him a million Rand Chair if he can do that for them.

CHAIRPERSON: If he assisted them?

COLONEL VAN LOGGERENBERG: Yes Chair, they bribed him with a million Rand.

CHAIRPERSON: And is that what you found out as the investigation was happening?

COLONEL VAN LOGGERENBERG: Chair this happened actually after 781.

CHAIRPERSON: Oh, okay.

20 **COLONEL VAN LOGGERENBERG:** Because this was now for Panday for his civil matter, not for the criminal matter, he tried to use this information for his civil matter, to get the police to try and get the money released.

CHAIRPERSON: Okay and what happened to the civil matter?

COLONEL VAN LOGGERENBERG: Chair we don't know – but I know

it is still pending.

CHAIRPERSON: Was payment made to facilitate it?

COLONEL VAN LOGGERENBERG: No Chair, never.

CHAIRPERSON: It was not paid?

COLONEL VAN LOGGERENBERG: No Chair.

CHAIRPERSON: Was that because of the decisions taken by General Booyesen?

COLONEL VAN LOGGERENBERG: That is correct.

CHAIRPERSON: That there should be no payment?

10 **COLONEL VAN LOGGERENBERG:** That's correct Chair.

CHAIRPERSON: Okay so in terms of what ultimately happened with the civil action you don't know.

COLONEL VAN LOGGERENBERG: That is correct Chair.

CHAIRPERSON: It has not been finalised as far as you know?

COLONEL VAN LOGGERENBERG: That's correct Chair.

CHAIRPERSON: And if it had been finalised you would have known?

COLONEL VAN LOGGERENBERG: Yes Chair we would have known, yes Chair.

CHAIRPERSON: Okay, thank you.

20 **ADV SUSAN WENTZEL:** Thank you Chair.

CHAIRPERSON: So it must have been pending for many years is that right?

COLONEL VAN LOGGERENBERG: Ja, no that's – it's a lot of years ago yes.

CHAIRPERSON: Okay, alright, thank you.

ADV SUSAN WENTZEL: Thank you Chair. Now we are again dealing on page 7 of your statement and now in particular to what is now colloquially called case number 781, could you tell the Chair about the interference you say in your affidavit you experienced with your investigation?

COLONEL VAN LOGGERENBERG: Chair we were informed by General Booyesen on many occasions, I would say three or four, to stop the investigation in Durban Central CAZ 781/06/2010.

CHAIRPERSON: Yes, tell us first what that investigation was about.

10 **COLONEL VAN LOGGERENBERG:** Excuse me Chair?

CHAIRPERSON: Tell me first what that investigation was about under case 781 ...[intervenes]

COLONEL VAN LOGGERENBERG: 781 was the corruption charges, we had all those people involved, the PC, Colonel ...[intervenes]

CHAIRPERSON: Oh that's the one we started with from the beginning.

COLONEL VAN LOGGERENBERG: Yes, that's our accommodation one and all that.

CHAIRPERSON: Yes, now I remember, that's the one we started with early in your affidavit.

20 **COLONEL VAN LOGGERENBERG:** Correct Chair.

CHAIRPERSON: Okay, you say General Booyesen gave you an instruction to?

COLONEL VAN LOGGERENBERG: Stop the investigation.

CHAIRPERSON: Yes.

COLONEL VAN LOGGERENBERG: He got the instruction from the PC,

that's now General Ngubene.

CHAIRPERSON: Yes.

COLONEL VAN LOGGERENBERG: The PC, Lt General ...[intervenes]

CHAIRPERSON: I'm sorry I just to make sure I hear what the last bit is that you were saying, did you say he got instructions from General Ngubene?

COLONEL VAN LOGGERENBERG: From now Lt General Ngubene the Provincial Commissioner.

CHAIRPERSON: Ja.

10 **COLONEL VAN LOGGERENBERG:** To stop the investigation.

CHAIRPERSON: Okay yes.

COLONEL VAN LOGGERENBERG: 781.

CHAIRPERSON: Yes, and did he then pass that instruction over to you?

COLONEL VAN LOGGERENBERG: That is correct Chair.

CHAIRPERSON: Ja, okay.

COLONEL VAN LOGGERENBERG: We did not stop.

CHAIRPERSON: You did not stop?

COLONEL VAN LOGGERENBERG: No.

20 **CHAIRPERSON:** Yes.

COLONEL VAN LOGGERENBERG: The documents that we had we made copies of it and gave him the file back.

CHAIRPERSON: Yes.

COLONEL VAN LOGGERENBERG: But we did not stop.

CHAIRPERSON: Okay.

COLONEL VAN LOGGERENBERG: We carried on.

CHAIRPERSON: So as you understand the position the Provincial Commissioner instructed General Booyesen that the investigation must be stopped, General Booyesen passed that instruction over to you.

COLONEL VAN LOGGERENBERG: That is correct Chair.

CHAIRPERSON: You handed back the file to General Booyesen, kind of pretending that you have stopped.

COLONEL VAN LOGGERENBERG: That is correct Chair.

CHAIRPERSON: But you actually had not stopped.

10 **COLONEL VAN LOGGERENBERG:** That is correct Chair.

CHAIRPERSON: And you kept some documents.

COLONEL VAN LOGGERENBERG: That's correct Chair.

CHAIRPERSON: And then you continued with the investigation.

COLONEL VAN LOGGERENBERG: That is correct Chair.

CHAIRPERSON: Okay, thank you.

ADV SUSAN WENTZEL: Thank you. Brigadier, I mean Colonel Van Loggerenberg can you please have regard to an affidavit of Laurence King on page 22.

COLONEL VAN LOGGERENBERG: Sorry, 22?

20 **ADV SUSAN WENTZEL:** Yes.

COLONEL VAN LOGGERENBERG: I'm there.

ADV SUSAN WENTZEL: What is your knowledge of this affidavit?

COLONEL VAN LOGGERENBERG: Chair my knowledge of this affidavit is that we used this affidavit as an A1 to firstly open up a case. He was the complainant in 781, and his affidavit covers

everything he discovered, and also that the PC phoned him and his second in charge, Colonel Moodley, was also present when the Provincial Commissioner instructed him to tell General Booysen to stop the investigation.

ADV SUSAN WENTZEL: And who requested this affidavit from him?

COLONEL VAN LOGGERENBERG: Chair I approached him for an affidavit after I have gone through his initial internal memorandum, he refused to give me an affidavit, and I knew why he refused to give me an affidavit because he wanted something to cover himself that nobody
10 can put the blame on him that he gave an affidavit freely and voluntarily so at the end of the day what I did, I obtained a Section 205 of the Criminal Procedure Act, I served it on him and then he gave me the affidavit.

CHAIRPERSON: So that he could say I was obliged to give it to him?

COLONEL VAN LOGGERENBERG: That is correct Chair.

CHAIRPERSON: Ja, yes, to cover himself.

COLONEL VAN LOGGERENBERG: That's correct Chair.

CHAIRPERSON: Yes, and this affidavit was it included in the file that you handed back to General Booysen?

20 **COLONEL VAN LOGGERENBERG:** No, not this one Chair.

CHAIRPERSON: But you already had it with you when you handed that file but you didn't include it in the file?

COLONEL VAN LOGGERENBERG: I don't think so Chair because this affidavit took a while, it was the enquiry file that we actually gave back to – to ...[intervenes]

CHAIRPERSON: General Booyesen.

COLONEL VAN LOGGERENBERG: General Booyesen ja.

CHAIRPERSON: So you got the affidavit later.

COLONEL VAN LOGGERENBERG: Later yes, this took a while to take this affidavit ja.

CHAIRPERSON: Yes, as part of the investigation that you were doing without the Provincial Commissioner knowing.

COLONEL VAN LOGGERENBERG: That's correct Chair.

CHAIRPERSON: Okay yes.

10 **COLONEL VAN LOGGERENBERG:** But at this point in time when we were told how many times to stop Colonel Subramoney phoned Colonel Drahmatt ...[intervenes]

CHAIRPERSON: I'm sorry, were you ever told why the Provincial Commissioner was saying this investigation must be stopped, and do you know whether anybody ever asked her why must this investigation be stopped and if so what did she say?

COLONEL VAN LOGGERENBERG: Chair I don't think anybody asked her why this investigation must be stopped but everybody knew why she gave the instruction, because she is implicated.

20 **CHAIRPERSON:** Yes.

COLONEL VAN LOGGERENBERG: That, but I didn't ask her personally, I don't know if General Booyesen asked her personally but I don't think anybody asked her, she just said stop this investigation.

CHAIRPERSON: I would have been interested to know what reason she would have given.

COLONEL VAN LOGGERENBERG: Ja.

CHAIRPERSON: Okay, alright. Thank you, I interrupted, you may continue.

ADV SUSAN WENTZEL: Thank you.

COLONEL VAN LOGGERENBERG: Chair I was at where Colonel Vassan Subramoney phoned General Drahtmat. He was the National Head of the Hawks at that time, and then he told us to have a meeting with him in Pretoria, so Colonel Subramoney and myself drove up to him, we had a meeting with him.

10 **CHAIRPERSON:** This is now you said General Drahtmat, who was the head of the Hawks at the time, yes.

COLONEL VAN LOGGERENBERG: Yes, that's correct Chair. We showed him all the evidence that we've got and also that we've got evidence against the PC, we've got evidence against General R S Pillay, against Captain ...[indistinct] the whole story and at the end of the day he said first of all General Ngobeni hasn't got the authority to stop this investigation and he told us to continue with the investigation, we don't stop, we continue and then it was arranged, he said well the best would be that the office of serious economic offences in Pretoria would deal
20 with the matter and we had a discussion with the office of serious economic offences but at the end of the day they agreed that we must just carry on with the investigation and we must report directly to General Drahtmat and that's how we continued with the investigation.

ADV SUSAN WENTZEL: Dealing with this affidavit if you could go to paragraph 18 on page 28.

COLONEL VAN LOGGERENBERG: Yes.

ADV SUSAN WENTZEL: And this is what Colonel Kemp says, on Wednesday the 5th of May 2010 at about 15:25 while myself and Colonel Moodley was at Jacobs Garage attending to work related matters I received a phone call from the Provincial Commissioner, Lieutenant General Ngobeni. The Provincial Commissioner informed me that the investigation pertaining to the procurement procedures of the detachment duties must stop and I must inform Deputy Provincial Commissioners Ntanya and Booyesen. I first phoned General Booyesen,
10 however the General's phone was on voicemail and I left a message informing the General of the Provincial Commissioner's instruction. I then contacted General Ntanya and informed the General of the Provincial Commissioner's instruction, his response was that I am telling him that while it is raining and the roof is leaking we must not repair the roof. As I wasn't directly involved in the investigation I considered that I have complied with the Provincial Commissioner's instruction. Can you comment on that? Is this what was told to you by Colonel Kemp?

COLONEL VAN LOGGERENBERG: Yes that is right ja. That he did
20 receive the phone call from the Commissioner, General Ngobeni, to stop the investigation.

CHAIRPERSON: But that's what he told you?

COLONEL VAN LOGGERENBERG: Yes Chair.

CHAIRPERSON: You were not there yourself.

COLONEL VAN LOGGERENBERG: No, no I was not there, no Chair,

that's what he told me, this is what I recorded what he told me in the statement.

ADV SUSAN WENTZEL: And did you record this statement?

COLONEL VAN LOGGERENBERG: Yes I did Chair.

ADV SUSAN WENTZEL: Yes. He then says in paragraph 19 on page 29:

10 “On Saturday the 8th of May 2010 at about five o'clock I received a phone call on my cell phone from the Provincial Commissioner. The Provincial Commissioner enquired about the detachment expenditure and the procurement processes thereof. I highlighted and raised my concern about the high expenditure of detachment duties and indicated that if the current expenditure for detachments continued it will have a very negative impact on the Provincial budget. I also raised my concern about the expenditure of certain detachments that was exorbitant. I gave the example of expenses of obtaining accommodation of 850 per night per person for detachment at Escourt, which I was of the opinion, was far too expensive. This call lasted some time and the Provincial Commissioner also asked me about procurement procedures but I refrained to give an opinion and focused on my responsibility pertaining to the budget and the high expenditure for detachment duties. The call was concluded when the Provincial Commissioner indicated that the matter would be discussed in her office on Monday the 10th of May 2010.”

20

COLONEL VAN LOGGERENBERG: That is correct yes, that is what he told her.

ADV SUSAN WENTZEL: And then paragraph 20.

10 “On Monday the 10th of May 2010 at about 8.30 I was informed to go to the Provincial Commissioner’s office. On my arrival at the Provincial Commissioner’s boardroom the Provincial Commissioner, the three Deputy Provincial Commissioners, Masemole, Njanyana and Booyesen as well as Colonel Maddock of Provincial Supply Chain Management was present. The Provincial Commissioner indicated the purpose of the meeting was to look at the expenses of the detachments. Colonel Mdu was asked to explain the procurement process but hardly started when the Provincial Commissioner asked me to highlight the details of my information note. I told the meeting about the expenditure for detachment duties and the high expenditure as well as raised my concerns of the high expenditure incurred pertaining to certain detachments. I again referred to the example of high costs for accommodation at Escourt. While I was giving my
20 concerns the Provincial Commissioner interrupted on a few occasions and some of the deputies like General Njanjana was given an opportunity to comment. At one stage in the meeting a letter received from ...[intervenes]

CHAIRPERSON: I’m sorry Ms Wentzel, it doesn’t look like this witness attended that meeting, why are you reading this minute?

ADV SUSAN WENTZEL: Just to confirm that this is what was told to him by this witness.

CHAIRPERSON: He was subsequently told after the meeting?

ADV SUSAN WENTZEL: Yes, he was told this when he took the statement, this witness took the statement from that witness.

CHAIRPERSON: Oh, oh, from Mr Kemp?

ADV SUSAN WENTZEL: Yes.

CHAIRPERSON: Mr Kemp oh okay, alright.

ADV SUSAN WENTZEL: In the middle of page 30 it says:

10 “At one stage of the meeting a letter received from Head
Office which was forwarded to the Provincial Commissioner
and myself and the Provincial Head, Finance, and requested
the Province to supply information was discussed. I
indicated that I am in the process of compiling the feedback.
This upset the Provincial Commissioner who indicated that
these direct lines we have with Head Office must stop. The
Provincial Commissioner was very angry with me. This
became the main issue and not the issue of the high
expenditure for the detachment duties. I was given to
20 understand that I must know what I must do and use the
correct communication channels. I felt and got the
impression that I was at the wrong and must not have
compiled the information notice. The Provincial
Commissioner was very upset with me. At that meeting, as
the meeting was becoming unpleasant Major General

Booyesen requested whether myself and Colonel Mdu cannot be excused as core management discussed the matter further. The two of us were then excused.”

Is that in line with what you were told?

COLONEL VAN LOGGERENBERG: That is correct Chair.

CHAIRPERSON: Yes, but why is it not enough for – is there anybody who is going to dispute that this statement was made by Mr Kemp, why is it necessary to get this witness to confirm that what is written here was told to him?

10 **ADV SUSAN WENTZEL:** Chair because it I believe will give ...[intervenes]

CHAIRPERSON: But is it prior to the statement being done? Well he took the statement from Mr Kemp, is that right?

ADV SUSAN WENTZEL: Yes.

CHAIRPERSON: And this is what the statement says.

ADV SUSAN WENTZEL: Yes.

CHAIRPERSON: So why does he need to confirm anything that is said here?

20 **ADV SUSAN WENTZEL:** Chair in a sense to give the picture as to the further documentation that will be shown to you ...[intervenes]

CHAIRPERSON: It should be enough to say did you take this, draft this statement or take a statement from Mr Kemp?

ADV SUSAN WENTZEL: Yes.

CHAIRPERSON: That should be enough.

ADV SUSAN WENTZEL: Yes.

CHAIRPERSON: Ja.

ADV SUSAN WENTZEL: Chair ...[intervenes]

CHAIRPERSON: Have we confirmed that?

ADV SUSAN WENTZEL: It's fine, we don't need to do that.

CHAIRPERSON: Yes.

ADV SUSAN WENTZEL: We have confirmed that and we can deal with that ...[intervenes]

CHAIRPERSON: Because obviously if he drafted the statement he was told what is in the statement.

10 **ADV SUSAN WENTZEL:** Yes, it is also Chair just to avoid having to call every single person involved to confirm these facts but it is confirmed and the confirmation is there and it is on record.

CHAIRPERSON: There's that part, it is an important part. I think General Booyesen testified about the same meeting.

ADV SUSAN WENTZEL: Yes.

CHAIRPERSON: But it doesn't help to say this witness who took the statement must confirm that what is in the statement is what he was told by the person who signed the statement.

ADV SUSAN WENTZEL: Yes, thank you. If we can then just refer to
20 Colonel Melanie Moodley's statement, you will find it at page 72 or the statement itself is at page 73, who took this statement?

COLONEL VAN LOGGERENBERG: Chair the statement was obtained by Colonel S Y Govender.

CHAIRPERSON: Is that the statement at page 73?

ADV SUSAN WENTZEL: It is the statement – it is Annexure JVL3.

CHAIRPERSON: Is it at page 73?

ADV SUSAN WENTZEL: At page 73 yes.

CHAIRPERSON: Yes. You see even there you know unless there is going to be, unless you know that there is going to be a dispute whether that statement, the signature there is so and so's signature, the person who gave the statement, unless you know that there is going to be an issue about that, there is not much point I think in asking to confirm that he took the statement, but if there is going to be an issue about maybe that the statement doesn't reflect what the person who
10 signed the statement says happened then it might become necessary then to say okay who took the statement, and what was that person told, did that person correctly put in the statement what they were told, but if there is going to be no issue about that we can move on.

ADV SUSAN WENTZEL: And – yes the two aspects I only wish to draw to your attention in the statements Chair which may prove to be controversial and are also important because they explain why some surveillance and monitoring was conducted later in this matter. If I can just refer you to page – sorry it's page 76, I hope that you can see that clearer than mine because the writing seems to go over the page
20 number.

CHAIRPERSON: I've got what looks like 76, does it start with the words "from SCM"?

ADV SUSAN WENTZEL: Yes it does Chair.

CHAIRPERSON: Yes. Is that a statement by somebody?

ADV SUSAN WENTZEL: This is the statement by ...[intervenes]

CHAIRPERSON: Moodley?

ADV SUSAN WENTZEL: Moodley.

CHAIRPERSON: Yes?

ADV SUSAN WENTZEL: It was taken by Mr Govender.

COLONEL VAN LOGGERENBERG: That is correct Chair.

ADV SUSAN WENTZEL: I am just going to read the second paragraph on that page. It says:

“The next day 6th May 2010 ...” ...[intervenes]

CHAIRPERSON: Why are you reading it?

10 **ADV SUSAN WENTZEL:** Only because it confirms this handing back of documents and the closing of the case on instruction of the PC.

CHAIRPERSON: Yes.

ADV SUSAN WENTZEL: So it is just that paragraph Chair, and there’s that and one further paragraph, that’s all that’s needed.

CHAIRPERSON: So you say, well you can, even if you don’t read you can just tell me that this is what this witness, the person who signed this statement says and then he or she will be called later on if she will be called.

ADV SUSAN WENTZEL: Yes ...[intervenes]

20 **CHAIRPERSON:** If that is necessary to connect, to make us understand this witness’s evidence better.

ADV SUSAN WENTZEL: Yes.

CHAIRPERSON: But if it is not for that purpose we can deal with it when that witness comes.

ADV SUSAN WENTZEL: Chair I think you might be able to understand

this witness better if it can just be pointed out that what is stated in the statement is that Brigadier Lategan stated that he'd received the instruction from the PC that he must hand back all the documents and that the case was closed, and as far as he was concerned that was the end but ...[intervenes]

CHAIRPERSON: How does she know that's what – I take – ja how does she know that that's what Lategan was told?

ADV SUSAN WENTZEL: Because she says that Lategan told her this.

CHAIRPERSON: Ja, that's hearsay.

10 **ADV SUSAN WENTZEL:** Yes, and ...[intervenes]

CHAIRPERSON: So why do we read hearsay from somebody when we are hearing the evidence of another witness.

ADV SUSAN WENTZEL: Yes Chair we do not need to have the – to deal with that further except to say that as is stated in the affidavit what you say in paragraph 9.12 is that Colonel Moodley said ...

CHAIRPERSON: Ask him to give the evidence. Ask the witness to give the evidence.

ADV SUSAN WENTZEL: Yes. Could you please tell the Chair what is stated in paragraph 9.12?

20 **CHAIRPERSON:** Hang on let us put that differently. Who is the he referred to in paragraph 9.11.2 Ms Wentzel? The he there refers to whom?

ADV SUSAN WENTZEL: It is Brigadier Kemp.

CHAIRPERSON: Hm.

ADV SUSAN WENTZEL: It is Brigadier Kemp.

COLONEL VAN LOGGERENBERG: Brigadier Kemp Chair ja.

CHAIRPERSON: Yes. And you will be calling him is it?

ADV SUSAN WENTZEL: We have not as yet said that we would call him but we certainly can make attempts to consult with him and call him.

CHAIRPERSON: Well why would he not be called if he is one of the people who got a call from the Provincial Commissioner saying the investigation must be stopped? The only reason I can think of is if there are enough witnesses who have corroborated that.

10 **ADV SUSAN WENTZEL:** I think there may be enough witnesses but I will make sure that he is contacted and perhaps his evidence can be led as well.

CHAIRPERSON: Okay just continue and tell – and tell me more about case number 7881 what happened? You were instructed to close the investigation, stop the investigation. You handed the file back to General Booyesen and – but you continued with the investigation. Just continue there?

COLONEL VAN LOGGERENBERG: Chair ja we continued with the investigation and after it became known by the PC KwaZulu Natal that
20 General Dramat gave the instructions for us to continue.

CHAIRPERSON: Hm.

COLONEL VAN LOGGERENBERG: She did not attempt to – or interfere with the investigation thereafter to...

CHAIRPERSON: There were no further attempts by her to stop the investigation?

COLONEL VAN LOGGERENBERG: That is correct Chair.

CHAIRPERSON: Do you know how she came to know that General Dramat had given instructions that the investigations should continue?

COLONEL VAN LOGGERENBERG: Chair I do not know. I think the – she may have received the information from General Booysen.

CHAIRPERSON: Yes okay.

COLONEL VAN LOGGERENBERG: Because she must have approached him to say but the investigations continuing and I told you to stop.

10 **CHAIRPERSON:** Yes.

COLONEL VAN LOGGERENBERG: And I am just – you know he could have just told her but no it is the instructions from General Dramat.

CHAIRPERSON: Yes. Okay continue and tell me everything that you might not have told me yet about that investigation relating to 781?

COLONEL VAN LOGGERENBERG: Chair from the outset the case was assigned to an Advocate Bromley Ganks in Durban to deal with 781. But she resigned and then the matter was handed over to Advocate Abby Letsholo from the Commercial Crime Courts. And he was also appointed in this Amigos matter as you are aware of.

20 **CHAIRPERSON:** Yes.

COLONEL VAN LOGGERENBERG: During this investigation from the outset Advocate Letsholo knew that there was an Act 70 on the matter. On the matter pertaining to the threat of our lives.

ADV SUSAN WENTZEL: So let us just...

CHAIRPERSON: I am sorry just repeat that?

ADV SUSAN WENTZEL: Can we...

COLONEL VAN LOGGERENBERG: Chair during our investigation we as I said we got threats on our lives.

CHAIRPERSON: That is during your investigation.

COLONEL VAN LOGGERENBERG: Yes.

CHAIRPERSON: In case number 781?

COLONEL VAN LOGGERENBERG: That is right.

CHAIRPERSON: There were threats made on your lives?

COLONEL VAN LOGGERENBERG: Yes.

10 **CHAIRPERSON:** Yes that is now yourself and?

COLONEL VAN LOGGERENBERG: Colonel Phillip Herbst and Colonel S Y Govender.

CHAIRPERSON: Yes okay. And the threats coming from whom or anonymous?

COLONEL VAN LOGGERENBERG: Chair I received a phone call from a lady informed me that she is working for Toshan Panday and she overheard him in a conversation to somebody else that they want to take me out and my team. She was concerned and she phoned me and I make there a note there of in my diary, official diary and I left it at
20 that. And then a month or two thereafter I received another call from her. She said she is getting worried now. She heard the – overheard a conversation from Toshan Panday to another person again threatening us. And then I thought okay what I will do. I also recorded that conversation with my diary. She did not want to give me her name or tell me where she is phoning from or what – she phoned me on my

landline so I could not actually see where she was phoning from. So I submitted a reported to Brigadier Lategan.

CHAIRPERSON: And can I just confirm that the – the pages of your diary where you recorded these – what she said is that part of what is here or is that not here?

COLONEL VAN LOGGERENBERG: Chair that is with IPID.

CHAIRPERSON: That is with IPID?

COLONEL VAN LOGGERENBERG: That is with IPID yes.

CHAIRPERSON: Okay. Okay. Yes continue.

10 **COLONEL VAN LOGGERENBERG:** I then made a report to Brigadier Lategan who was the Provincial Commander for the Commercial Crime Courts. He then wrote the request to General Moodley from Crime Intelligence and asked him to – for one of his members to look into the threats, into the investigation to see what they can see and [indistinct] the investigation and see what they can find out about the threats against our members. Colonel Padayachee from Crime Intelligence was appointed to do this investigation and he applied for an Act 70.

ADV SUSAN WENTZEL: What is an Act 70?

COLONEL VAN LOGGERENBERG: Act 70 is – put it in plain words
20 Chair is to tap the lines.

CHAIRPERSON: Just repeat that?

COLONEL VAN LOGGERENBERG: It is – the Act 70 is to monitor people's telephone lines.

CHAIRPERSON: Oh okay.

COLONEL VAN LOGGERENBERG: Ja.

CHAIRPERSON: Okay.

COLONEL VAN LOGGERENBERG: And he did an application and...

CHAIRPERSON: That is the one where you apply to a judge?

COLONEL VAN LOGGERENBERG: Yes that is correct Chair.

CHAIRPERSON: For permission to do that.

COLONEL VAN LOGGERENBERG: That is correct Chair.

CHAIRPERSON: Okay.

COLONEL VAN LOGGERENBERG: He did that and the Judge approved it and then he was doing that side of the investigation. Against the
10 threat of our members and myself. That Act 70 had nothing to do with
781. This – I am talking about the investigation nothing at all.
Advocate Abby Letsholo was aware of this.

CHAIRPERSON: This was now – this was you said Colonel Padayachee who was conducting this exercise of listening to – monitoring.

COLONEL VAN LOGGERENBERG: Yes that is correct Chair.

CHAIRPERSON: These telephone conversations.

COLONEL VAN LOGGERENBERG: Yes that is correct Chair.

CHAIRPERSON: Okay.

20 **COLONEL VAN LOGGERENBERG:** And when Advocate Letsholo was appointed – was given this matter we told him he was aware of it and Advocate Willie Miller he was also there, also from the Commercial Crime Courts and then the Advocate Vannie Govender she was aware of it. And what...

ADV SUSAN WENTZEL: Who was Vardie – Advocate Vannie Govender

where was she from?

COLONEL VAN LOGGERENBERG: She is also from the – actually the head of the Organised Crime Prosecutors at Provincial of KwaZulu Natal.

ADV SUSAN WENTZEL: Yes.

COLONEL VAN LOGGERENBERG: And there were meetings between us to discuss 781 and 466 but everybody knew from the outset and I told them I do not need an Act 70 because what do I [indistinct] the Act 70 for. I have documentation and that is all I want. And everybody was
10 happy and eventually at the end of the day Colonel Brian Padayachee actually picked up some conversations which relates to CAS 466 the corruption matter of General Booyesen. And I know that was used for that specific case only.

CHAIRPERSON: When you say the corruption matter of General Booyesen you are referring to the money in the boot case?

COLONEL VAN LOGGERENBERG: To the – that is correct Chair.

CHAIRPERSON: Ja okay.

ADV SUSAN WENTZEL: That is case 466.

COLONEL VAN LOGGERENBERG: That is correct Chair. Ja that is
20 correct. And we carried on the investigation and we submitted all the evidence that we received from seizures and searches and banks and what not we gave that to Trevor White – Trevor White from Price Waterhouse Coopers and he was busy with the forensic report. He drafted the forensic report. We carried on the investigation and we had come to a point we had a draft forensic report in respect of 781. And

we had a meeting in I think it was in January with Advocate Letsholo and myself, Advocate Vannie Govender, Colonel S Y Govender where we went through the draft report and we spoke about the evidence against each person that is mentioned in the draft report. From the PC to Madhoe, Nairan Prasad, Toshan Panday his wife, his sisters, his brother-in-law, the companies and we all agreed and they all agreed this is overwhelming evidence. As I said there is 370 pages of forensic report that corroborates that. There are affidavits that corroborates that. But when it came to the PC Advocate Letsholo told me I have got
10 my reservations. I was – I was shocked I just looked at him. And Advocate [indistinct] also got my reservations. And I looked at him I said well what reservations have you got? They could not answer me. I said but the evidence against the others is 200% according to you, according to the forensic report, according to affidavits. There is evidence against the PC. It has got carbon copies exactly the same. You have got the forensic report corroborating that. We got the evidence corroborating that. We have got the evidence from the [indistinct]. We have got evidence – bank statements. Toshan Panday's card has been used. No there is not enough evidence against
20 the PC.

CHAIRPERSON: Now with regard to the PC the conduct for which she was sought to be charged or prosecuted was it the fact that she gave instructions to stop the investigation or was it that – or was it anything about her role in Mr Panday paying for her birth – her husband's birthday party?

COLONEL VAN LOGGERENBERG: That is – you right Chair that is her gratuity that she received from Toshan Panday the businessman he paid for her [indistinct].

CHAIRPERSON: Oh it was also the receipt of money.

COLONEL VAN LOGGERENBERG: Yes.

CHAIRPERSON: From.

COLONEL VAN LOGGERENBERG: Yes.

CHAIRPERSON: From Mr Panday.

COLONEL VAN LOGGERENBERG: That is correct Chair. Ja.

10 **CHAIRPERSON:** Ja so it was the receipt of that money and the argument must have been that it was corrupt.

COLONEL VAN LOGGERENBERG: Yes.

CHAIRPERSON: Corruption.

COLONEL VAN LOGGERENBERG: There is a corrupt relationship.

CHAIRPERSON: Bribery.

COLONEL VAN LOGGERENBERG: Yes.

CHAIRPERSON: And then was the instruction to stop the investigation also part of the conduct that was...

COLONEL VAN LOGGERENBERG: Yes it is obvious.

20 **CHAIRPERSON:** Yes.

COLONEL VAN LOGGERENBERG: Why did she instruct then to stop the investigation?

CHAIRPERSON: Yes, yes.

COLONEL VAN LOGGERENBERG: She knew...

CHAIRPERSON: Because she got the money.

COLONEL VAN LOGGERENBERG: She knew she was going to be exposed at some stage.

CHAIRPERSON: Yes, yes. Okay.

COLONEL VAN LOGGERENBERG: And...

CHAIRPERSON: So Advocate Letsholo was saying he had reservations but you asked him to tell you what the reservations were and he could – he did not tell you.

COLONEL VAN LOGGERENBERG: He could not tell me, neither of them.

10 **CHAIRPERSON:** Hm.

COLONEL VAN LOGGERENBERG: So out of frustration.

CHAIRPERSON: Hm.

COLONEL VAN LOGGERENBERG: I told them, look if you do not want to charge the PC why do you want to charge rest?

CHAIRPERSON: Hm. And what was the answer?

COLONEL VAN LOGGERENBERG: It was quiet Chair. Because I was really – I was close.

20 **CHAIRPERSON:** On the analysis of what was before them Advocate Letsholo and whoever and on the basis of the discussion did you form any view as to whether the decision or his view that he had reservations about whether the Provincial Commissioner should be charged whether that was based on good faith grounds that you might not agree with? Or did you think there was something untoward about it?

COLONEL VAN LOGGERENBERG: Chair my gut when I left that

meeting, my gut told me this is a political – this is a political decision. Everybody knows what – well we the investigators knew that Toshan Panday had a business relationship with the ex President Zuma's son Edward. And then for Advocate – Advocate Lethsolo the asking me well why is the Act 70 in case number 781? I said the Act 70 has got nothing to do with 781. But then he told me but re you seen that one to compile this docket – the 7 – the case 781 – I said there is no evidence from the 781 was used for this docket. And we did not use anything because I did not need it. As I say we searched, we seized, we got the
10 bank information. We searched the Province, we searched premises. The forensic report is there. Corroborate what we have got in the affidavits. Everything is in front of you. Ja I knew it my gut was – it was a political decision and then when he told me afterwards that well the Act 70 is the reason I just said well you can do what you want. You show me in 781 or in the forensic report any piece of evidence coming from the Act 70 I will agree with you. I got Trevor White from Price Waterhouse and Coopers he wrote a memo confirming all the evidence in the forensic report and in the docket 781 – Act 70 had nothing to do with that investigation. We never used anything from – we do not even
20 know what was going on in the Act 70.

CHAIRPERSON: Now when you told Advocate Letsholo this and whoever he was with that we never used anything from what you call Act 70 for this investigation what was his response? Did he have – did he say no but I can see you used it look at this?

COLONEL VAN LOGGERENBERG: Chair he could not get that far. He

told me that in previous cases he had before where the police told him the Act 70 was involved he never had Act 70. His – I can still remember his words, he got egg on his face and but he never actually could have told me or could have shown me anywhere in 781. He just kept on saying and I knew it now he used it as only an excuse not to prosecute the matter and also obviously the political decision as far as I am concerned.

CHAIRPERSON: And are you able to say if he was basing his decision on what you had put before him then there really was nothing that
10 connected this investigation and Act 70?

COLONEL VAN LOGGERENBERG: That is correct Chair. Nothing connected it, nothing.

CHAIRPERSON: If there was any – if he was – if there was anything he must have been – he must have learnt it from somewhere else but not on what was before him?

COLONEL VAN LOGGERENBERG: Nothing Chair nothing whatsoever.

CHAIRPERSON: Yes.

COLONEL VAN LOGGERENBERG: 200%. There was nothing.

CHAIRPERSON: Yes.

20 **COLONEL VAN LOGGERENBERG:** And all the other IO's in this 781 can testify Price Waterhouse Coopers I believe is going to come. Nothing, nothing was used. But he just, he was blunt in using the Act 70 as an excuse.

CHAIRPERSON: Hm.

COLONEL VAN LOGGERENBERG: Because – your – apparently

representations were made to him from Toshan Panday in respect of 781 not to prosecute.

CHAIRPERSON: Did you ever see those representations?

COLONEL VAN LOGGERENBERG: No Chair, no we never saw that. We were not even aware of that.

CHAIRPERSON: At the time that you were having this discussion with him.

COLONEL VAN LOGGERENBERG: Yes.

CHAIRPERSON: Did he at that stage tell you that there were
10 representations received from Mr Panday or is that something you heard later?

COLONEL VAN LOGGERENBERG: No – no Sir that was something we heard later. Because after this meeting we just left and then my wife got sick and during March that same year he held another meeting with Colonel Govender and with – and at that meeting was Advocate Letsholo as I can recall, Colonel Jones and Colonel S Y Govender. And then he said well look he has made up his mind he is not going to prosecute. He said presentations were made and in the presentations that is what is conveyed now to me by Colonel Govender because I was
20 sick at home. He phoned me during the meeting.

CHAIRPERSON: But was the practice – would the practice not be that if the prosecutors receive representations from a suspect or from an accused person that they should not be prosecuted would the practice not be that before the prosecutors make any decision on those representations they would consult the investigating officer and say,

this is what is being said, what do you have – what do you have to say on this?

COLONEL VAN LOGGERENBERG: Chair that is the normal practice and I agree with you, that is what happened. Without the cases which we had. But not with this one. We never knew about this representation.

CHAIRPERSON: Yes.

COLONEL VAN LOGGERENBERG: And during that meeting with Colonel S Y Govender I was not present where Colonel Jones showed
10 up the first time. During the whole course of this investigation we never reported to him. We never told him the nitty gritty of anything in any of these cases. We sidestepped him for reasons but we reported to General Booyesen and General Dramat. All of a sudden Colonel Jones is sitting here next to Advocate Letsholo. Advocate Letsholo informed him Colonel Govender no representations were made and apparently it was heard from the lines that we can work out his defence and this and that and whatever the case may be but at that point in time there was not even a draft charge sheet. There was nothing. Thoshan Panday could have known at that point in time or at the point I am going to
20 arrest him what the defence can be because we did not have a charge sheet. So that it is baseless information that he is trying to sell to S Y Govender. Then we have been told that the representations were given to Colonel Jones. Whether investigator that Colonel Jones investigated or not I do not know. But we knew that it was given to Colonel Jones. Colonel Govender requested a copy of that. They did not – they

refused to give it to him and that was his decision. Not the report he said that is it.

CHAIRPERSON: Now you said that Advocate Letsholo as I – if I understood you correctly was of the opinion that in regard to the other people there was sufficient evidence but not against the Provincial Commissioner, did I understand you correctly? In regard to the same case 781?

COLONEL VAN LOGGERENBERG: Yes Chair.

CHAIRPERSON: Did – is – was that the opinion he expressed that in
10 regard to the other people, other suspects in the same case there was enough case?

COLONEL VAN LOGGERENBERG: Yes Chair.

CHAIRPERSON: But against the Provincial Commissioner?

COLONEL VAN LOGGERENBERG: That is correct Chair.

CHAIRPERSON: Now was not one of the other people Mr Panday?

COLONEL VAN LOGGERENBERG: Yes Mr Panday, Colonel Madhoe, Captain Naran Pasad.

CHAIRPERSON: Yes.

COLONEL VAN LOGGERENBERG: The whole bunch ja.

20 **CHAIRPERSON:** So – so in regard to Mr Panday – Mr Panday was one of those suspects in respect of whom he said there was enough evidence?

COLONEL VAN LOGGERENBERG: That is correct Chair.

CHAIRPERSON: But when you then invoked to what you refer to as Act 70 was he invoking it to say I am not going to charge anybody even

those against whom I think there is enough evidence because of this Act 70 or he was saying, I am invoking Act 70 to say I will not charge – I will not prosecute the Provincial Commissioner but I will prosecute the rest of the people including Mr Panday?

COLONEL VAN LOGGERENBERG: No Chair he used the Act 70 as an excuse not to charge anybody in 781.

CHAIRPERSON: Oh okay.

COLONEL VAN LOGGERENBERG: Nobody.

CHAIRPERSON: Okay. Okay.

10 **COLONEL VAN LOGGERENBERG:** He used the Act 70 for all of them.

CHAIRPERSON: Yes.

COLONEL VAN LOGGERENBERG: And then he...

CHAIRPERSON: But in regard to the Provincial Commissioner he was saying there is not enough evidence in any event? That was his opinion.

COLONEL VAN LOGGERENBERG: Well he did not say that because he – the only thing he told me is that well I have got my reservations.

CHAIRPERSON: Oh yes.

20 **COLONEL VAN LOGGERENBERG:** And he could not answer me when I asked him.

CHAIRPERSON: Yes, okay, okay. Thank you. You may proceed Ms Wentzel.

ADV SUSAN WENTZEL: If – you can now turn to page 99.

CHAIRPERSON: Maybe to – okay – maybe that is where you are going. Are you completing as to the formal decision that was made or not –

not really?

ADV SUSAN WENTZEL: Yes.

CHAIRPERSON: Okay.

ADV SUSAN WENTZEL: This is an internal memorandum Chair dated the 25 March 2015 from Advocate Letsholo to Advocate Bimbane to explain why he believed that the Act 70 and these representations meant that he should not persecute?

CHAIRPERSON: Yes no that is fine. Let us – let us go there.

ADV SUSAN WENTZEL: So it is the 25 March 2014 and I am just going
10 to ask you Colonel Van Loggerenberg did you then comment on this memorandum?

COLONEL VAN LOGGERENBERG: Chair we did comment on this memorandum.

CHAIRPERSON: I am sorry the memorandum was addressed to Advocate Bulelwa Bimbane by Advocate T A Letsholo. How did it get to you?

COLONEL VAN LOGGERENBERG: Sir when I got back to work after sick leave.

CHAIRPERSON: Ja.

20 **COLONEL VAN LOGGERENBERG:** A copy was given to Colonel Govender.

CHAIRPERSON: Yes.

COLONEL VAN LOGGERENBERG: And then...

CHAIRPERSON: And then that is how you got it.

COLONEL VAN LOGGERENBERG: Because this must filed in the

docket you see.

CHAIRPERSON: Oh okay alright. So you got to see it?

COLONEL VAN LOGGERENBERG: I got – ja I got to see this one ja.

CHAIRPERSON: Ja okay continue Ms Wentzel.

ADV SUSAN WENTZEL: And Chair with your leave I propose going through what was said and then Chair if you then have regard to the document on page 106 the complete document Chair you will find – you will see that that document if you look at page 114 it is not complete. But a complete copy was obtained from the docket – I am afraid it was
10 only attained this morning Chair and I asked that it be included in the bundle. You will find it at page 308.

CHAIRPERSON: First you said let us go to page 99. Are you saying that the other documents are attachments to the memorandum at page 99?

ADV SUSAN WENTZEL: Yes. So there is the memorandum at page 99 and then there is a response which you will see as directed and if you look at page 106 and then inquiries Colonel Van Loggerenberg's name is there. And it is addressed to the Directorate for Priority Crime Investigation. It was directed to General Dramat. And it is the
20 response to what was said by Advocate Letsholo as to the reasons why he was going to withdraw the charges against everybody.

CHAIRPERSON: Yes I think what we need to do is – you read this memorandum from Advocate Letsholo at the time, is that right?

COLONEL VAN LOGGERENBERG: That is correct Chair.

CHAIRPERSON: And you have had a chance to refresh your memory

on it recently, is that right?

COLONEL VAN LOGGERENBERG: That is right Chair.

CHAIRPERSON: Do you recall what the main reasons he gave for his view that he should not charge the suspects in case number 781? So in other words I do not want us necessarily to read this. If you are able to say as I recall the main reasons were the following a, b, c d.

COLONEL VAN LOGGERENBERG: Chair the [indistinct] was that the Act 70 was used. Information from the Act 70 was used. He listed some cases here in the past where when Act 70 was used in a case and
10 it was not known to the defence or whatever the case may be you know that is what he told me – egg on his face. And he tried to make out that I was personally going for the Provincial Commissioner which is not true because – in his report it said that the only reason why he said that is because what I told me in my meeting when I had with Ms [indistinct] if you do not want to charge the PC well why do you want to charge the others. Out of frustration I said that. So he was trying to use that to make out that I am persisting to just charge the PC.

CHAIRPERSON: Just on that one. At your meeting where he expressed his reservations about charging or prosecuting the Provincial
20 Commissioner did he at some stage talk to you on the basis that there may be reason to charge the others but not the Provincial Commissioner?

COLONEL VAN LOGGERENBERG: No Chair we went through the evidence of all the others first.

CHAIRPERSON: Yes and he said there was a case?

COLONEL VAN LOGGERENBERG: That there was a case but we – and then I said, well we done everything and then I told him well we have not spoken about the TC.

CHAIRPERSON: Yes.

COLONEL VAN LOGGERENBERG: The PC. And then he said, well that is when he told me he got the reservations.

CHAIRPERSON: About reservations. Okay alright. So he was now using that in the memorandum to say you were going for the PC for some illegitimate reason?

10 **COLONEL VAN LOGGERENBERG:** Ja personally ja.

CHAIRPERSON: Therefore personal reasons.

COLONEL VAN LOGGERENBERG: Ja.

CHAIRPERSON: Okay. Alright. Were those the main reasons as far as you can recall?

COLONEL VAN LOGGERENBERG: Yes Chair and also other things about the presentations that we made but I cannot comment on what he wrote about the representations because I have never seen them.

CHAIRPERSON: Yes. Yes. Okay.

20 **COLONEL VAN LOGGERENBERG:** You know for me it could be what he – I do not know.

CHAIRPERSON: Yes.

COLONEL VAN LOGGERENBERG: I cannot comment on that Chair.

CHAIRPERSON: Yes. No that is fine. Ms Wentzel you can highlight some of the reasons that the witness might not have mentioned which are in the memorandum.

ADV SUSAN WENTZEL: Yes.

CHAIRPERSON: Without reading too much.

ADV SUSAN WENTZEL: Yes thank you Chair. Firstly can we have a look what is said in paragraph 3.2 on page 100? It says:

10 “It is important to note that at no stage whatsoever was I informed by the investigating officers in this case that there are tape recordings available in this matter. The first time I became aware of this specific issue was as a result of their representations made on behalf of Toshan Panday. Furthermore there is nothing in the docket to suggest or indicate that there was an application made for the authority to permit the police to monitor certain telephone conversations ...nature of the investigations of this matter is straightforward and there was no need for an application of this nature to be made.”

Now firstly you said it was not true that he did not know. Is that correct?

20 **COLONEL VAN LOGGERENBERG:** Chair that is a lie. He knew about it.

CHAIRPERSON: That - that he - he knew that an application had been made for authority to monitor certain telephone conversations.

COLONEL VAN LOGGERENBERG: Yes.

CHAIRPERSON: He knew that he and he - did he also know that that related to threats to your lives?

COLONEL VAN LOGGERENBERG: That is correct Chair and also that some of the recordings there were used in 466.

CHAIRPERSON: Yes.

COLONEL VAN LOGGERENBERG: He also knew that.

CHAIRPERSON: Yes.

COLONEL VAN LOGGERENBERG: He knew that because we just told him from the outset when he joined ...

CHAIRPERSON: Yes.

COLONEL VAN LOGGERENBERG: And now to say this. He never
10 knew that.

CHAIRPERSON: Yes.

COLONEL VAN LOGGERENBERG: It is - it is an absolute lie.

CHAIRPERSON: Well when he says he was not told that there was an application for the authority to permit the police to monitor telephone conversations or when he says the investigators in this case did not tell him that there - there were tape recordings and that he became aware of this specific issue was as a result of representations made on behalf of Mr Thoshan Panday.

As I understand it and you must tell me if my understanding
20 is correct. My understanding is that you as the investigators or nobody applied to a Judge to obtain permission to monitor these telephone conversations for purposes of pursuing your investigations under 781.

COLONEL VAN LOGGERENBERG: That is correct Chair.

CHAIRPERSON: That never happened?

COLONEL VAN LOGGERENBERG: That never happened.

CHAIRPERSON: The application to a Judge for authority to monitor conversations related to the threats to the lives of the investigators?

COLONEL VAN LOGGERENBERG: That is correct Chair.

CHAIRPERSON: Yes. Okay.

ADV SUSAN WENTZEL: And that being said Colonel Van Loggerenberg was there any reason for the 781 - I mean. For the monitoring application to be in the docket in case ...

COLONEL VAN LOGGERENBERG: No.

ADV SUSAN WENTZEL: In case number 781?

10 **COLONEL VAN LOGGERENBERG:** No Chair. No. From the outset it was known that I am not going to use Act 70 for 781, because it is not necessary. It is not a murder case. It is a - it is a paper trail. It is a commercial case. It is easy. You - Forensic Auditor corroborates information. Why would I use Act 70? For what purposes?

CHAIRPERSON: Yes. Okay.

ADV SUSAN WENTZEL: Then it is also said in paragraph 3:

“On 14 February 2014, I was provided with a copy of representations made on behalf of Thoshan Panday.”

20 **COLONEL VAN LOGGERENBERG:** Sorry. Which page is that/

ADV SUSAN WENTZEL: Sorry. It is page 100.

COLONEL VAN LOGGERENBERG: Paragraph?

ADV SUSAN WENTZEL: Three.

COLONEL VAN LOGGERENBERG: Three?

ADV SUSAN WENTZEL: Yes.

COLONEL VAN LOGGERENBERG: Okay.

CHAIRPERSON: 3.3, is it?

ADV SUSAN WENTZEL: It is three and I am actually going back up to three and 3.1 and it says:

“On 14 February, I was provided with a copy of the representations made on behalf of Thoshan Panday.”

CHAIRPERSON: Oh. Yes.

ADV SUSAN WENTZEL: “In those representations mention is
10 made of the recordings which were played to Thoshan Panday during a meeting held on 18 September 2011 at KwaZulu-Natal SAPS Provincial Headquarters in General Dina Moodley’s office and in the presence of General Dina Moodley upon his instructions. The recordings consisted of recorded telephone conversations Thoshan Panday had with various people including amongst others the KwaZulu-Natal Provincial Commissioner and Thoshan Panday’s attorney.”

20 Now you mentioned earlier that it is later and I - I will take you to it. Aver Chair, but this is one of the reasons it is another ground that was given by the advocate for not pursuing with - pursuing the matter and proceeding with the prosecutions was that there was this breach of attorney and client privilege and Thoshan Panday had been told that they knew what his defence was.

COLONEL VAN LOGGERENBERG: Chair, first of all we did not see the representations. So the correctness of what is written here I am not aware of it. My comment on what is written here is that Thoshan Panday at that stage could not have known what the charges is going to be against him. There is no draft charge sheet.

How can he at this point in time or Thoshan Panday allege that everybody knew - according to the recordings which the presentation was made to him now that he can say that now we know what your defence is? That is nonsense. Nobody knows even what the charge is going to be at the end of the day. How are we going to know what your defence is?

CHAIRPERSON: Well is the position not that if he knew what was being investigated namely that he paid money to the Provincial Commissioner. He paid for the birthday party of the Provincial Commissioner's husband. He may have been able to have an idea what the possible charge could be even if it had not been draft - formally drafted. That it would be ... (intervenes) ...

COLONEL VAN LOGGERENBERG: I agree Chair that ...

CHAIRPERSON: Corruption.

20 **COLONEL VAN LOGGERENBERG:** I agree Chair that the person would have an idea what he is going to be charged with, but it is just an idea. I mean to work out an idea is - and he has not received or he has not been served the - the charge sheet - the indictment. Then surely only when you receive the indictment then you are actually aware exactly how to work your defence out and how you are going to handle this

case in the first place, but trying to say that the ideas - I know what you are going to charge me for and so the idea of - I - I cannot - cannot get that together.

That we know what his defence can be at that point in time, because there was no indictment at that time.

CHAIRPERSON: Well if he - if he knew that whatever the charge is. It - it revolved around either bribery or corruption. Maybe - *ja* - corruption arising out of the fact that he gave money to the Provincial Commissioner. He could think of what explanation he would give for
10 why he gave that money and that explanation that he could think of could be a defence to say there was nothing wrong with that money.

You know. She - she owed me a certain amount. I can prove it or I owed her a certain amount. I can prove it. I was just refunding her. So from that con - perspective ...

COLONEL VAN LOGGERENBERG: *Ja*. I agree ...

CHAIRPERSON: It may have been possible.

COLONEL VAN LOGGERENBERG: I agree with you it is possible Chair from that perspective. Yes, but that is - that is just the way I - I ...

CHAIRPERSON: That is how you saw it. *Ja*.

20 **COLONEL VAN LOGGERENBERG:** That is - that is how I saw it.

CHAIRPERSON: Okay.

COLONEL VAN LOGGERENBERG: Yes.

CHAIRPERSON: Alright.

ADV SUSAN WENTZEL: Thank you. Now if we can go back to your affidavit.

CHAIRPERSON: Well I thought you were going to refer to another document where I believed you were saying this witness responded to the points made ...

ADV SUSAN WENTZEL: Yes. Yes. I ...

CHAIRPERSON: *Ja.*

ADV SUSAN WENTZEL: I did Chair. So if you just bear with me. I am going to get there.

CHAIRPERSON: Well let us - let us cover that before you move ...

ADV SUSAN WENTZEL: I will ...

10 **CHAIRPERSON:** Go back to the affidavit.

ADV SUSAN WENTZEL: I will do that. Yes. Sorry Chair. If you will just bear with me. I just need to find my place and just my reference.

CHAIRPERSON: There is a document at page 106 and then I think you had referred to page 1-1-4 ...

ADV SUSAN WENTZEL: Yes.

CHAIRPERSON: At some stage. I do not know whether that is the end of that ...

ADV SUSAN WENTZEL: Yes.

CHAIRPERSON: Document.

20 **ADV SUSAN WENTZEL:** That is what I was trying to explain to you Chair before we went back. Is the - is this document which is annexed to the affidavit as Annexure JVL6 and it is which the witness has said was the response to the averments that were made by Advocate Letsholo.

CHAIRPERSON: Yes, but what I am saying is ...

ADV SUSAN WENTZEL: Now this is incomplete ...

CHAIRPERSON: Huh-uh.

ADV SUSAN WENTZEL: And you can see that it - it does not need. So I ask that we obtain a complete copy ...

CHAIRPERSON: Hm.

ADV SUSAN WENTZEL: And that was obtained this morning Chair from the actual docket and you find that document as an additional document which has been placed into your bundle Chair and it is ...

CHAIRPERSON: Let us talk about ...

10 **ADV SUSAN WENTZEL:** At page 3-0-8.

CHAIRPERSON: Hang on. Hang on. Hang on. Let us talk about what needs to be done. Then we can ...

ADV SUSAN WENTZEL: Yes.

CHAIRPERSON: Look for the documents in the bundle.

ADV SUSAN WENTZEL: Yes.

CHAIRPERSON: If the witness prepared a document that was in effect a response to Advocate Letsholo's memorandum that we have just dealt with.

ADV SUSAN WENTZEL: Hm.

20 **CHAIRPERSON:** We need to deal with that document.

ADV SUSAN WENTZEL: Yes.

CHAIRPERSON: The witness needs to confirm that ...

ADV SUSAN WENTZEL: Yes.

CHAIRPERSON: That is his document and then he needs to - or you need to take him to the main points he makes in the ...

ADV SUSAN WENTZEL: Yes.

CHAIRPERSON: Document. Even - even if you ...

ADV SUSAN WENTZEL: Yes. I intend to do that.

CHAIRPERSON: Do not go through everything ...

ADV SUSAN WENTZEL: Yes.

CHAIRPERSON: Everything.

ADV SUSAN WENTZEL: Yes. I - I intend to do that.

CHAIRPERSON: *Ja.*

ADV SUSAN WENTZEL: Could you have a look at the document on
10 page 3-0-8?

COLONEL VAN LOGGERENBERG: Yes Chair.

CHAIRPERSON: I think I have - in the past asked that the legal team should tell the people who paginate bundles not to write on top of the red page numbers. You see now on some of the pages you look and you cannot see what the red number is ...

ADV SUSAN WENTZEL: Hm.

CHAIRPERSON: Because they have written something else on top of it.

ADV SUSAN WENTZEL: Yes Chair. I think to be fair to them that what
20 has happened is that these documents have been taken out of the docket and they paginated in - in the docket or in - in matters before court. They are paginated. They are scanned.

CHAIRPERSON: But the red pagination is ours. Is it not?

ADV SUSAN WENTZEL: The red is our and that then ends up going on top, but one cannot see it.

CHAIRPERSON: No. Oh. Is it the red that is on top of ...

ADV SUSAN WENTZEL: I - I ...

CHAIRPERSON: Of the black?

ADV SUSAN WENTZEL: I believe so.

CHAIRPERSON: But then whoever it is - is it not the same people. They must just make sure then the - the ones who put the red numbers should just make sure that they are not put together with something else because then we cannot see what the page number is. I think I had asked that they do that in the past. So ...

10 **ADV SUSAN WENTZEL**: Yes and I - I under ...

CHAIRPERSON: Somebody can repeat that to them.

ADV SUSAN WENTZEL: Yes Chair. I will and I am having exactly the same difficulty as you. I often have to look at the following page to see ...

CHAIRPERSON: *Ja*.

ADV SUSAN WENTZEL: What this page number is.

CHAIRPERSON: It is - it is ...

ADV SUSAN WENTZEL: It does make it very difficult.

CHAIRPERSON: It is - it is common sense.

20 **ADV SUSAN WENTZEL**: Yes and we will - I will take it up with them.

CHAIRPERSON: *Ja*. Okay.

ADV SUSAN WENTZEL: Could you have a look at page 3-1-6?

COLONEL VAN LOGGERENBERG: 3-1-6?

ADV SUSAN WENTZEL: Yes.

COLONEL VAN LOGGERENBERG: Yes Chair.

ADV SUSAN WENTZEL: Is that your signature?

COLONEL VAN LOGGERENBERG: That is correct Chair.

ADV SUSAN WENTZEL: And this a response that you compiled to the reasons provided by Advocate Letsholo why he was not going to pursue 781?

COLONEL VAN LOGGERENBERG: Yes Chair. I was the author, but it was done with Colonel Govender and Colonel Phillip Herbst. We all sat together and ... (intervenes).

CHAIRPERSON: Yes. Okay. Tell us what the main points are that you
10 put in this memorandum to express your views about Advocate Letsholo's memorandum.

COLONEL VAN LOGGERENBERG: Chair, if I can recall is that I think we - we mentioned that there was no ...

CHAIRPERSON: (Intervenes).

COLONEL VAN LOGGERENBERG: No representations were given to us in the first place and also that ...

CHAIRPERSON: If you say - if you say the points that you already told me earlier on why you were disagreeing with Advocate Letsholo are also included here. You can just confirm that. If there are there others
20 that you did not mention earlier which are in the memorandum just tell me those.

COLONEL VAN LOGGERENBERG: Sir - Chair, what I mentioned earlier is in the memorandum here about the meetings. Let me just go through here. About the representations. About the Act 70.

CHAIRPERSON: Well Ms Wentzel ...

COLONEL VAN LOGGERENBERG: (Intervenes).

CHAIRPERSON: You - you can assist him ...

ADV SUSAN WENTZEL: Yes. I will assist.

CHAIRPERSON: If it is something in the memorandum, because ...

ADV SUSAN WENTZEL: Yes. I - I will assist.

CHAIRPERSON: It is not like you are telling him something ...

ADV SUSAN WENTZEL: Yes.

CHAIRPERSON: That he is not in the document.

ADV SUSAN WENTZEL: Yes.

10 **CHAIRPERSON:** This is his document.

ADV SUSAN WENTZEL: Yes. It is.

CHAIRPERSON: You can highlight.

ADV SUSAN WENTZEL: Hm.

CHAIRPERSON: Get him to confirm the main points.

ADV SUSAN WENTZEL: Well if one has first you deal with what is - he says in paragraph 2 on page 99. You can - so just keep your finger there. Yes at the other one and then look at page - paragraph 2 on page 99.

CHAIRPERSON: You say page 99? Did you say page 99?

20 **ADV SUSAN WENTZEL:** Yes. Page 99.

CHAIRPERSON: Why are we going to page 99 now?

ADV SUSAN WENTZEL: Because I just want to show you - Chair. I will tell you why we are going to page 99. Is the - the difficult that - that I have now and perhaps I can resolve this over the lunch break is that because we only obtained the complete copy of this document later

- early this morning. I worked on the incomplete document that is at page 99.

So all my notes are there. I then said to you we have obtained the signed copy which we now know is at page 3-0-8, but for me it might be of assistance if we could still work on the document at page 99, because ...

CHAIRPERSON: *Ja.* No that ...

ADV SUSAN WENTZEL: That is where I have my notes.

CHAIRPERSON: That will be confusing. Okay.

10 **ADV SUSAN WENTZEL:** If it is okay ...

CHAIRPERSON: You - you ...

ADV SUSAN WENTZEL: Perhaps in the lunch break what I will do ...

CHAIRPERSON: *Ja.* Use the lunch break so that you use the correct document.

ADV SUSAN WENTZEL: Yes.

CHAIRPERSON: Okay. Maybe we should adjourn now, because ...

ADV SUSAN WENTZEL: Perhaps we could adjourn and that can assist me.

20 **CHAIRPERSON:** So that we do not - you do not skip to another issue before we deal with this one.

ADV SUSAN WENTZEL: Yes. I would appreciate that.

CHAIRPERSON: Okay. We are going to take the lunch adjournment and we will resume at 2 o' clock. We adjourn.

ADV SUSAN WENTZEL: Thank you.

REGISTRAR: All rise.

INQUIRY ADJOURNS

INQUIRY RESUMES

CHAIRPERSON: Yes Ms Wentzel, are you ready?

ADV SUSAN WENTZEL: Thank you Chair. Chair before we continue with the evidence of Colonel van Loggerenberg, if you don't mind an issue has been brought to my attention and I feel that I should address it. What has transpired is that at 11 o'clock today a letter was discovered by members at the Secretariat of the Commission, it is dated yesterday and apparently was sent, I thin, late yesterday
10 afternoon but there's an enormous amount of correspondence as I understand, coming into the Commission and it was only picked up at 11 o'clock today. What the letter - it's a letter from Mr Panday's attorney, Kershnie Govender and what the complaint is, is that the Rule 33 notice which was timeously served on the 19th of December contained the incorrect Annexures.

So what happened is the Annexures that should have gone to Mr Panday went to his mother and the Annexure that should have gone to his mother went to Mr Panday. He did – his attorney did write a letter to the Commission on the 19th of December asking for the correct
20 Annexures, however, as a comedy of errors might have it, what transpired at the Commission is that there was a lady at the Secretariat who was dealing with the emails that were coming in. That person worked until the 20th of December, resigned and a new person commenced dealing with the emails from the 20th of December and it appears that, that email of the 19th of December wasn't picked up, it

wasn't responded to and it fell through the cracks.

What then transpired is because the Rule 33...[intervenes].

CHAIRPERSON: When the acting secretary came back she would have been expected to say to the people, bring me all the emails that came in while I was away and then that is when that email of 19 December should have been picked up.

ADV SUSAN WENTZEL: Yes.

CHAIRPERSON: By the right person.

ADV SUSAN WENTZEL: I can give no defence with regard to that
10 whatsoever I – it may well be that, that bit – the facts are that it wasn't
picked up but Chair, what then occurred is on the 9th, because the Rule
33 notices at that stage it wasn't clear on what date the persons in
respect of whom Rule 3 notices were served were going to testify. On
the 9th of January a notice was sent out saying that Colonel van
Loggerenberg would be testifying and it was a notice sent to Mr Panday
in respect of Mr van Loggerenberg and also in respect of Mr White.
There has been correspondence with the attorney and the secretariat in
respect of the notice of Mr White and at no stage, at that point was it
asked, but you haven't responded and we're still waiting for something
20 in respect of Mr van Loggerenberg and with respect, Chair, it although I
believe...[intervenes].

CHAIRPERSON: What is the conclusion of the letter of yesterday?

ADV SUSAN WENTZEL: The conclusion of the letter...[intervenes].

CHAIRPERSON: What do they suggest should be done?

ADV SUSAN WENTZEL: The letter says you must draw,

“I am prejudiced by the fact that I have got the wrong Annexures, you must draw this to the attention of the Chair before the proceedings commence and I demand that you put this letter before the Chair before the proceedings commence”,

This wasn't done, as I said because this letter was only picked up by the Commission at 11 o'clock. And then enquiries have then, for the last few hours, have been carried on as to actually what transpired and obviously now I am drawing it to your attention as it has been
10 drawn to mine.

CHAIRPERSON: So Mr Panday got the Rule 33 notice in regard to this witness statement and got this witness statement or relevant pages thereof but just didn't get Annexures, is that right or got – didn't get the right Annexures?

ADV SUSAN WENTZEL: Unfortunately he got the Rule 3.3 notice but the Annexures also, I understand, include the passages from the affidavit...[intervenes].

CHAIRPERSON: Did he get some of the correct Annexures and didn't get others or did he get all the wrong Annexures?

20 **ADV SUSAN WENTZEL:** I'm instructed he got all the wrong Annexures, so he got his mother's Annexures...[intervenes].

CHAIRPERSON: How did that happen, do you know?

ADV SUSAN WENTZEL: The only explanation that I can think of is that the – there was a mistake made because the surnames were the same and when looking for the email addresses which would be

provided to the secretariat to send Rule 33 notices that, that is how that error could – so instead of sending the ones to the mother that should have gone to the mother, the ones that went to Mr – Mr Panday got his mother and he got his mother's, his mother got his.

CHAIRPERSON: Well I've previously said that the putting together of Annexures and the bundles – Annexures to a statement to ensure the correct sequence and to ensure that the correct Annexures are all attached that should be attached is the responsibility of the evidence leader or the member of the legal team who is responsible for that
10 matter even if, later on he or she might not be the one to lead the evidence. At any particular time, there's supposed to be a member of the legal team who is responsible for the matter...[intervenes].

ADV SUSAN WENTZEL: Yes Chair, and...[intervenes].

CHAIRPERSON: And I've said that if a member of the legal team takes the statement of the witness or determines the relevant portions of that statement that should be sent to an implicated person and identifies all the Annexures that should be attached, attaches those and then hands over to the rest of the staff. In circumstances where nobody can – will meet at the admin office or the secretariat will need
20 to make up their minds what Annexures go with what, they must just know when it's received, this statement is with these Annexures. Then if this has been happening or if this happened here then this wouldn't have happened I would imagine.

ADV SUSAN WENTZEL: Yes Chair and Chair I must say that I didn't prepare the Rule 33 notices in respect of this witness it was done by

another evidence leader but at the same time I – there is whole process that seems to take place in order for – they call them extractions, which means taking the relevant paragraphs out of statements and extracting the correct Annexures and the legal team is required to identify precisely which Annexures go to which witness in preparing the Rule 33 notice, that is correct but it would appear that the wrong Annexures did in fact go.

CHAIRPERSON: Ja and I think – well maybe what should be done is to make sure that before Rule 33 notices is sent off the relevant
10 member of the legal team sees for the last time whether everything is in order before it's sent off because then they can pick up if there's a problem.

ADV SUSAN WENTZEL: Yes.

CHAIRPERSON: Even though they may have put in the correct Annexures, if something in the meantime has happened.

ADV SUSAN WENTZEL: Yes Chair I think a final check will probably be very advantageous.

CHAIRPERSON: Ja, well you'll need to be involved in assisting with the response to the letter.

20 **ADV SUSAN WENTZEL:** Yes I will.

CHAIRPERSON: And making sure that the correct Annexures are sent to him, without delay.

ADV SUSAN WENTZEL: Apparently I'm told it has now been done.

CHAIRPERSON: Ja just check.

ADV SUSAN WENTZEL: And I will check.

CHAIRPERSON: Whether what has been sent is the right thing.

ADV SUSAN WENTZEL: I'll double check.

CHAIRPERSON: And then you were saying something about the date – him being told about the date when this witness would give evidence, is there an issue there or is there no issue?

ADV SUSAN WENTZEL: No the... [intervenes

CHAIRPERSON: There's no issue there.

ADV SUSAN WENTZEL: There isn't an issue with regard to that date, the issue – what was raised Chair was that, you've sent me a notice on
10 this day but didn't respond to what I asked you on the 19th.

CHAIRPERSON: Ja okay.

ADV SUSAN WENTZEL: That was the issue about the date.

CHAIRPERSON: No okay, that's fine get involved in the preparation of the response...[intervenes].

ADV SUSAN WENTZEL: I will.

CHAIRPERSON: To that okay alright.

ADV SUSAN WENTZEL: I will Chair.

CHAIRPERSON: Let's continue then.

ADV SUSAN WENTZEL: Chair before the lunch adjournment we were
20 dealing with the response sent by the witness to Advocate Letsholo's reasons provided for...[intervenes].

CHAIRPERSON: I'm sorry do you know why this Bundle is now opened on a page that has got a judgement, page 275, that's not the page I had opened when I left here, did anybody touch here?

ADV SUSAN WENTZEL: No.

CHAIRPERSON: You wouldn't know I guess.

ADV SUSAN WENTZEL: I certainly didn't.

CHAIRPERSON: Okay, well that's fine, the security people will tell me, okay alright let's continue.

ADV SUSAN WENTZEL: Thank you, we were dealing with the responses and during the course of the lunch adjournment I read through those responses and I don't think I need to canvas anything particular in detail with you because a large part of it has now been dealt with by the witness.

10 **CHAIRPERSON:** Okay that's fine.

ADV SUSAN WENTZEL: There is one aspect that I thought, perhaps, I should deal with and that is this. It is the submission made at the end by Advocate Letsholo, it appears on page 103 and its paragraph seven.

CHAIRPERSON: Paragraph – page?

ADV SUSAN WENTZEL: 103 paragraph seven.

CHAIRPERSON: Yes.

ADV SUSAN WENTZEL: And there it is said,

20 “It is submitted with respect that the issue surrounding the tapping of the phones is inextricably linked to the manner in which the evidence was obtained in this matter, that the evidence as it stands at this point is irredeemable stained. To take this case to Court under these circumstances would mean, that I, as the prosecutor will have to turn a blind eye to the manner in which the evidence had been obtained and subject the judicial process in moral defilement, something

I'm not prepared to do",

And he then refers to the cases and in paragraph 7.4 concludes,

"I am not prepared, as a representative of the State to go to Court with dirty hands, I do not want to be seen to be condoning improper investigative techniques by the police".

Chair if I might then just go to the witnesses' response to this and that appears from page 314 Chair and if I might read it to you and ask you to comment Colonel van Loggerenberg. In paragraph 4.12 this
10 is what you say,

"Once again the evidence has been collected in a professional manner in terms of the Criminal Procedure Act, there is absolutely no evidence to even suggest that the bill of rights and the constitution has been violated. We are of the opinion that Advocate Letsholo's finding is based on information that is not at his disposal and which was not contained in the docket. The investigation team take exception to the fact that advocate Letsholo is making serious allegations against the integrity of the investigation
20 team, in that they have obtained evidence improper, illegally which is a violation of a constitution. The investigation team denies this accusation strongly, the National Head of the Directorate of Priority Crime Investigation, SAPS take these allegations against its members in a very serious light. When its members are accused of obtaining evidence in an

improper or illegal manner which violates the Act, bill of rights or the constitution”.

And then in paragraph 4.13,

“There is absolutely no link surrounding the tapping of the phones and the evidence produced to Advocate Letsholo. According to the investigation team he is not even concerned about the facts put before him but he would rather direct the attention to other so-called factors which he claims are influencing the case of which he has no sight, insight or knowledge of. The impression is created by Advocate Letsholo that the Act 70 and the evidence produced is linked. Based on the evidence before Advocate Letsholo and still suggest that the evidence is irredeemably tainted is an irresponsible statement based on no facts at all”.

10

COLONEL VAN LOGGERENBERG: That is correct Chair.

CHAIRPERSON: And you confirm that, that remains your position?

ADV SUSAN WENTZEL: That is correct Chair.

CHAIRPERSON: Ja and as far as you know, did he ever become aware of your response to his memo?

20 **COLONEL VAN LOGGERENBERG:** I don't know Chair it might be via our head office and the National Prosecuting head office, I don't know.

CHAIRPERSON: Yes but was – since then has he ever, as far as you know, said what facts or what evidence emanated from the monitoring of the telephone conversations of Mr Panday could be found in the evidence of the case that you presented before me?

COLONEL VAN LOGGERENBERG: Chair not up until this day.

CHAIRPERSON: Yes.

ADV SUSAN WENTZEL: He's mentioned anything that can prove or show that evidence from the Act 70 was used in [indistinct].

CHAIRPERSON: Ja okay.

ADV SUSAN WENTZEL: And then on page 316 paragraph 4.16 in response to the last paragraph it is said,

10 “The contents are noted, in light of all the explanations in the paragraph above, the investigation team has spent many an hour and expenses to date to gather evidence and to produce that to a prosecutor for positive decision. The investigation team is till of the opinion that there is a prima facie case and as informed by the prosecutor personally, that the evidence produced was good. The investigation team disagrees to the prosecutor's decision as he has based his decision on representations received from the defence and which we are of the opinion was never properly investigated and the investigation team was never consulted or shown the representation to give a comment”.

20 You agree with that?

COLONEL VAN LOGGERENBERG: I agree with that Chair and I can just further state that everything in 781 is done according of the law, every single thing. To corroborate what I'm saying is that, after the docket has been handed over to IPID their advocates came and interviewed us and saw us with Mr McBride. At no stage, whatsoever

did they point to us, this is incorrect or this was obtained illegally or anything like that. Even after that, Advocate Gerrie Nel, the case was given to him at some stage, he came and interviewed us in Durban and he agreed with us 200%, there is no evidence that something was used in [indistinct] in 781 and he still maintained that it was a good case and he was going to take it further. At the end of the day it was taken away from him.

CHAIRPERSON: Prior to this case, 781, had you been involved in any investigations where you took the docket to – or the docket was taken
10 to this prosecutor?

ADV SUSAN WENTZEL: No Chair this was the first time I dealt with him.

CHAIRPERSON: this was the first time?

COLONEL VAN LOGGERENBERG: Yes Chair, this is the first time I dealt with him.

CHAIRPERSON: Okay alright.

ADV SUSAN WENTZEL: Then if we can go back to your statement, page 13 and I'm dealing now with paragraph 11 and we have dealt with the fact that you reported the withdrawal of the case to Dramat and the
20 memorandum we've been dealing with was prepared by you, was that on the instructions of Mr Dramat, to respond to the allegations of Advocate Letsholo?

COLONEL VAN LOGGERENBERG: That is correct Chair.

ADV SUSAN WENTZEL: Now could you tell the Chair, how did Brigadier van Graan become involved, you refer to it in paragraph

11.11?

COLONEL VAN LOGGERENBERG: Sir when we – when General Dramat received our responses to Advocate Letsholo's letter he then appointed Brigadier van Graan who's in our legal section head office to come down and to come and look at the investigation and the docket that we've got. Brigadier van Graan did come down, I met him and he went through the docket and he went through the evidence that we presented to him and he was happy with everything that he saw. He agreed that, you know, there's a case here.

10 **CHAIRPERSON:** I'm sorry I may have missed where you are Ms Wentzel.

ADV SUSAN WENTZEL: Chair its page 13 paragraph 11.1.

CHAIRPERSON: Paragraph 11 point?

ADV SUSAN WENTZEL: 11.

CHAIRPERSON: 11.11?

ADV SUSAN WENTZEL: Yes.

CHAIRPERSON: Is that still under the case 781?

ADV SUSAN WENTZEL: Yes.

CHAIRPERSON: Oh okay, alright thank you.

20 **ADV SUSAN WENTZEL:** Now what did General Dramat do after that?

COLONEL VAN LOGGERENBERG: Chair General Dramat then wrote to Advocate Vimbani and then he disagreed with the decision of Advocate Letsholo and he asked Advocate Vimbane she agrees with Advocate Letsholo's findings on the docket.

ADV SUSAN WENTZEL: Just stop, so for completeness if we have a

look at the document on page 116 is this the response sent by General Dramat to Advocate Vimbani?

COLONEL VAN LOGGERENBERG: That is correct Chair, this is the document.

CHAIRPERSON: What page is that Ms Wentzel, again?

ADV SUSAN WENTZEL: It's page 116 to 117.

CHAIRPERSON: 116?

ADV SUSAN WENTZEL: Yes.

CHAIRPERSON: Is that the document we were on a little earlier?

10 **ADV SUSAN WENTZEL:** No.

CHAIRPERSON: Oh that's a different one, yes okay.

ADV SUSAN WENTZEL: So as I understand it, what has transpired is that Advocate Letsholo provides reasons for his decision not to prosecute there is – Dramat asks the investigators to respond, they do respond, he then goes to a legal person in the police and says please have a look at what's happening, he's told there is a good case and he then writes to Advocate Vimbani, and you'll remember this is the other Advocate who was involved who – and says,

20 "are you also in agreement that this matter shouldn't continue",

And do you confirm that, at paragraphs 116 to 117 the reasons provided are in line with what you had said in your representations?

COLONEL VAN LOGGERENBERG: That is correct Chair.

CHAIRPERSON: Ja mention two or three important ones and then we can move on, in this document from Mr Dramat.

ADV SUSAN WENTZEL: In – I don't know what he essentially says is that, in paragraph three that,

10 "I wish to place on record that the above allegations are categorically denied, none of the evidence in the investigation pertaining to Durban Case 781 was obtained by means of interception and there's no such evidence contained in the docket. The evidence in Durban Central Case 781 comprises straightforward documentary evidence seized during lawful search and seizure operations. Affidavits of witnesses and a comprehensive forensic report compiled by Price Waterhouse Coopers. Since this was an ordinary commercial crime investigation of the Directorate there was no need for the Directorate to rely on interception as provided for in the regulation of interception and provision of communication related information Act.

I'll pause there, that itself is a correct – was what was said.

COLONEL VAN LOGGERENBERG: From the outset.

ADV SUSAN WENTZEL: But that was also said by Advocate Letsholo.

COLONEL VAN LOGGERENBERG: That is correct.

20 **CHAIRPERSON:** Yes and I see that in the – that letter Mr Dramat also points out what, I believe, you will say is the correct position, namely that interception related to the death threats and really was not in respect of the investigation in 781.

COLONEL VAN LOGGERENBERG: That is correct Chair.

CHAIRPERSON: That's pointed out.

COLONEL VAN LOGGERENBERG: That is correct Chair.

CHAIRPERSON: Ja I think that's enough we can move on ja.

ADV SUSAN WENTZEL: Thank you. Did Advocate Vimbani respond to this letter from...[intervenes]?

COLONEL VAN LOGGERENBERG: Chair as far as I know she did not respond to this letter. What she did, she actually forwarded this letter on to Advocate Lawrence Mrwebi, he was the...[intervenes].

CHAIRPERSON: Advocate?

COLONEL VAN LOGGERENBERG: Lawrence Mrwebi.

10 **CHAIRPERSON:** Ja okay.

COLONEL VAN LOGGERENBERG: He was, at that point in time, I think the National Head of this...[intervenes].

CHAIRPERSON: Of Special Crime Commercial Courts ja.

COLONEL VAN LOGGERENBERG: Yes and we were told that there's only one-line reply from him and his reply was that there's nothing to state at this stage, that's all nothing else.

CHAIRPERSON: There is nothing?

COLONEL VAN LOGGERENBERG: He had nothing to state at this stage.

20 **CHAIRPERSON:** Oh but we don't have that email or document here?

COLONEL VAN LOGGERENBERG: No that will be – we don't have that but that will be on their files in head office Chair.

CHAIRPERSON: Yes so he said there's nothing to state?

COLONEL VAN LOGGERENBERG: At his stage yes.

CHAIRPERSON: Oh.

COLONEL VAN LOGGERENBERG: That's all.

CHAIRPERSON: Ja and you saw that?

COLONEL VAN LOGGERENBERG: Yes we saw that.

CHAIRPERSON: Ja, so he did not respond to this substantive argument put forward by Mr Dramat, to say this decision not to prosecute, has no proper grounds?

COLONEL VAN LOGGERENBERG: That's correct Chair.

CHAIRPERSON: Okay.

ADV SUSAN WENTZEL: Then if I might refer you to the document on
10 page 119 and it's a memorandum prepared by Advocate Noko dated the
21st of October 2014 to the South African Police Investigating Officers,
have you seen this memorandum?

COLONEL VAN LOGGERENBERG: Yes Chair I have seen this memorandum.

ADV SUSAN WENTZEL: And what is important is that it is stated in the opening paragraph that and we will recall your – the evidence that you gave and remember the letter where you – which you said was provided to Advocate – the Advocate at court for the hearing of one of the cases which said:

20 "I believe in the interest of justice."

COLONEL VAN LOGGERENBERG: Yes, yes.

ADV SUSAN WENTZEL:

"Something has come to my attention and in the interest of justice the matter must be provisionally withdrawn."

COLONEL VAN LOGGERENBERG: Yes that I...

ADV SUSAN WENTZEL: Do you recall that?

COLONEL VAN LOGGERENBERG: Yes I recall that Chair.

ADV SUSAN WENTZEL: So he is now referring to that in the first paragraph and he said:

“I had previously provisionally withdrawn this matter on the basis that there were considerations of justice that I had to look into in order to arrive at a proper decision that is in the interest of justice. These have been so looked into and my decision is indicated hereunder with
10 substantiation.”

Now what is he referring to? Is it the represent – were the representations made prior to the matter being withdrawn or not?

COLONEL VAN LOGGERENBERG: Chair we would – I would not know that because we received no representations as far as I know.

CHAIRPERSON: Yes now by the way the case where she had said should be withdrawn – the case that she said should be withdrawn because there was something that she still needed to look into. Was that 466? Was that case 466?

COLONEL VAN LOGGERENBERG: That is correct Chair.

20 **CHAIRPERSON:** Oh okay, alright. Yes.

ADV SUSAN WENTZEL: And...

CHAIRPERSON: You have looked at this letter?

COLONEL VAN LOGGERENBERG: Yes Chair I looked at...

CHAIRPERSON: Ja what – what was she saying in this letter?

COLONEL VAN LOGGERENBERG: Chair she goes...

CHAIRPERSON: Or memorandum.

COLONEL VAN LOGGERENBERG: She goes through all the cases and trying to convince us.

CHAIRPERSON: And maybe just to go back 466 is the cash in the boot case?

COLONEL VAN LOGGERENBERG: That is it. That is it, right Chair the corruption matter.

CHAIRPERSON: Ja that relates to Colonel Madhoe.

COLONEL VAN LOGGERENBERG: Yes and then there was CAS 328
10 that is a party docket from...

CHAIRPERSON: Yes.

COLONEL VAN LOGGERENBERG: The party docket.

CHAIRPERSON: Okay. So – so she writes this letter to indicate what she has found in looking into the issues that she was going to look into and to say what she – what the way forward would be?

COLONEL VAN LOGGERENBERG: In all these dockets yes Chair.

CHAIRPERSON: Yes what did she say the way forward would be? What was the conclusion into those issues that she had wanted to look into?

20 **COLONEL VAN LOGGERENBERG:** Chair to be honest with you I did not put much weight in what she said in this letter.

CHAIRPERSON: Yes okay.

COLONEL VAN LOGGERENBERG: The reason being is that before we received the signed memorandum.

CHAIRPERSON: Hm.

COLONEL VAN LOGGERENBERG: This one – specifically this one. We were at our office and Colonel Jones came to the office and he called myself and Colonel Govender and Colonel Herbst and he asked us to come to his office or into some office there. But we met with him and then he had a draft of this report unsigned – unsigned and trying to convince use to go through this and see if we agree with this and to see if all the CAS numbers are correct.

ADV SUSAN WENTZEL: Did you say to see if all the case numbers are correct?

10 **COLONEL VAN LOGGERENBERG:** Yes that and also if we agree with this stuff – the content of the – I just – and then furthermore he placed his phone in the centre of the table and it is not his common way of doing things. But I just asked [indistinct] where did you get this letter from? And he says well do not worry about that just read it.

ADV SUSAN WENTZEL: So...

CHAIRPERSON: I see that in the conclusion she says she declines to prosecute both Colonel Madhoe and Mr Panday for corruption on – or any offence in the 466 case. She says this is due to lack of reasonable prospects of a successful prosecution as explained and substantiated
20 above. She says there appears to be agendas among the parties and scores to be settled. Unfortunately we appear to be used to assist whoever to settle those scores and push those agendas. We are expected to act impartially and ethically in the execution of our duties as officials of the NPA thus my indication – indication that we are being used in a manner that flies in the face of our values at the [indistinct]

code of conduct must be avoided and not be entertained at all. That is your correction of what – is that your recollection of what the memorandum is saying?

COLONEL VAN LOGGERENBERG: Chair I was just busy to tell you that Colonel Jones came with a draft of this letter to our office.

CHAIRPERSON: Before it was signed?

COLONEL VAN LOGGERENBERG: Yes.

CHAIRPERSON: Ja.

COLONEL VAN LOGGERENBERG: And I just wondered how did
10 Colonel Jones get this draft in the first place.

CHAIRPERSON: Yes.

COLONEL VAN LOGGERENBERG: It is not natural to give a draft report from the NPA to the Head of the Unit to say approach these people.

CHAIRPERSON: Yes.

COLONEL VAN LOGGERENBERG: And go through them and see if they agree with that and if the case numbers are right have been – it is the first time in the history in my police career that this ever happened.

CHAIRPERSON: Yes. And again Colonel Jones what was his position
20 again?

COLONEL VAN LOGGERENBERG: He was the head of the ACTT Durban.

CHAIRPERSON: Oh in Durban?

COLONEL VAN LOGGERENBERG: Yes.

CHAIRPERSON: Yes.

COLONEL VAN LOGGERENBERG: Yes.

CHAIRPERSON: Yes okay.

COLONEL VAN LOGGERENBERG: And just took us aback. That is why.

CHAIRPERSON: Yes.

COLONEL VAN LOGGERENBERG: We had a – I asked him why have you got this thing – he says do not worry about how I got hold of it just go through it and – I actually refused, I did not go through it. We just left the meeting.

10 **ADV SUSAN WENTZEL:** And why did you leave the meeting? If you can just explain that?

COLONEL VAN LOGGERENBERG: Because it is – first of all it is improper. I mean – and...

ADV SUSAN WENTZEL: But you just – you said earlier that you say he put his phone in the middle of the table and that was unusual.

COLONEL VAN LOGGERENBERG: Yes he put his phone in the middle of the table trying to record us. But when we noticed that and he told us what the purpose of his visit as in the meeting you know I just said, look I actually got annoyed and I got cross.

20 **CHAIRPERSON:** Yes.

COLONEL VAN LOGGERENBERG: I said I am not interested. I am not interested in reading it.

CHAIRPERSON: Ja.

COLONEL VAN LOGGERENBERG: All of us and we just left.

CHAIRPERSON: Yes.

COLONEL VAN LOGGERENBERG: Then afterwards it came, signed and he said ja but this – no but – questions are asked how did – how did Jones get this letter?

CHAIRPERSON: Yes.

COLONEL VAN LOGGERENBERG: Why – who instructed him to come to us?

CHAIRPERSON: Hm.

COLONEL VAN LOGGERENBERG: It is unheard of.

CHAIRPERSON: Hm. Yes.

10 **ADV SUSAN WENTZEL:** You said earlier in your evidence that you did not involve Jones in this investigation. Why was that?

COLONEL VAN LOGGERENBERG: Chair I was not – I did not trust him to put it bluntly. That is why we never reported that matter – reported the cases to him.

CHAIRPERSON: Yes.

ADV SUSAN WENTZEL: Now if I can just show you what is said – there are just one or two things I would like you to – to comment on and if we can look at page 120- paragraph 2.3 please?

COLONEL VAN LOGGERENBERG: 2.2?

20 **ADV SUSAN WENTZEL:** Yes. 2.3 and that deals with case 781 in respect of which you were the lead investigator.

“Case 781 was dealt with by the Specialised Commercial Crime Unit SCCU in Durban and disposed of recently with a decision not to prosecute anyone as there was no evidence to prosecute any

person with any offence. It has been revealed by the SCCU that the SAPS members who were charged with the investigation of the 781 case was gunning for the prosecution of a specific person Lieutenant General Mgubeni and Mr Panday and Colonel Madhoe were being pressurised to falsely implicate her in the commission of criminal offences with the promise that they will be exonerated in 781. When the SAPS investigators realised that the PC cannot be charged in this case 781 simply because there is no evidence against her one investigating officer reportedly said that the SCCU Prosecutor may as well just close the 781 case. It appears Mr Panday and Colonel Madhoe featured nowhere in the 781 then as the focus was on the PC. One then may ask a question, why was Colonel Madhoe arrested in the 466 case? Was this a lawfully justified arrest or was it a way to pressurise him to implicate the PC as he Colonel Madhoe even mentions in his representation that he was being regularly interviewed by the IO's so he falsely implicate the PC which is flat – which he flatly refused.”

Can you comment on that?

COLONEL VAN LOGGERENBERG: Chair I did not have words to describe when I read this paragraph to be honest with you. She had

access to the dockets, all of the dockets. And if she had access to all of the dockets and she looked at all of the dockets in – how could she even say that there is no evidence against Panday and Madhoe in 781? The affidavits are there. The forensic report is there. Everything is there so to make this allegation I cannot add up here how she came to this conclusion. And the PC as well. I mean the evidence is there – everything is there. The reports are there. The affidavits are there. But what we later discovered is that the PC's contract was running out and the Commissioner at the time was Ria Beetge and it is obvious that

10 she was aware of this investigation and all the other investigations. She needed something from [indistinct] to exonerate the PC and anybody else to renew the PC's contract for another five years. And that was the purpose of this letter. Why else would it be? It is not normal that every provincial DPP writes to the police in respect of seven or eight case or – you know to our police headquarters – head office and specifically mentioning all these cases, mentioning the PC. There is no cases against anybody. That this was purely done requested from the National Commissioner so that she could have something in her file to say, allegations have been made. I have got

20 this Advocate Noko she is satisfied there is no alle – there is no basis of any allegations in any of these cases against any of these men so I am going to extend her contract for another five years with the police force.

ADV SUSAN WENTZEL: And was the contract renewed for the PC?

COLONEL VAN LOGGERENBERG: Yes it was Chair it was renewed.

ADV SUSAN WENTZEL: And then if we may continue on paragraph 2.4. It says...

COLONEL VAN LOGGERENBERG: I am sorry what page is that?

ADV SUSAN WENTZEL: Oh sorry page 120 the same page we were on.

10 “The SCCU revealed the scheming and intercepting of phone calls of inter alia Mr Panday with a motive and agenda to falsely implicate certain people. They allegedly even went further to even boast to Mr Panday telling him that they know what his defence in 781 will be as they heard his discussions with his legal representative through the interceptive calls.”

Which is what we have said we have seen here. And then it said in 2.5.

20 “Mr Panday was even promised by SAPS members in the 781 case that if he falsely implicates the PC they would get rid of the 466 case. It was further explained to Mr Panday that the benefit of this sought incrimination of the PC for them will be that the PC will be forced to resign and then Major General Booyesen will become the next KwaZulu Natal PC. Further Major General Dina Moodley would remain in control of the Secret Fund.”

Can you comment on that?

COLONEL VAN LOGGERENBERG: Chair this is absolutely nonsense, rubbish to put it that way in a stronger manner. There is no way that

[indistinct] anyone of us to allegedly state what she wrote in this paragraph here. And there is no way that General Booyesen wanted to become the PC. There is no way that General Booyesen could get access to the funds, to the secret funds. It is only Crime Intelligence. They have got a secret fund. They are a different division from us. They are not within the Hawks. They are in a different – in a completely different division. So he could not put his hands – get his hands on the secret fund. So I do not know where – how she got this? What was put in front of her to come to a conclusion like this or is it thumb sucking?

10 This is the only way I can see it.

CHAIRPERSON: I would have thought that the appointment of Ms – Ngobeni the Provincial Commissioner as Provincial Commissioner of SAPS in KZN would have been seen as very good step in terms of transformation, gender transformation in the whole country and within SAPS as a whole. Do you know whether that is how it was seen when the appointment was made or is that something you would not have noticed

COLONEL VAN LOGGERENBERG: Chair I have – I am honest with you I do not have any knowledge of that.

20 **CHAIRPERSON:** Yes.

COLONEL VAN LOGGERENBERG: I cannot actually comment on anything on that.

CHAIRPERSON: Yes I am just wondering do you know whether at that time there were any other female Provincial Commissioners in the whole country under SAPS?

COLONEL VAN LOGGERENBERG: Chair I could not – I could not answer you on that I have got no.

CHAIRPERSON: You would not know?

COLONEL VAN LOGGERENBERG: I would not know Chair.

CHAIRPERSON: Ja I am just wondering to what extent it would have been – it would have been an easy thing in the context of gender transformation which the whole public service subscribes to that having found a female to put in a position such as Provincial Commissioner that if she goes you know there would – would go and take a white male
10 and put him in that position. I am just not sure what the chances are. Obviously cannot mean that it was – it could not be done because if there were no people then there would be no people but I wonder what the chances are that such a thing could have happened.

COLONEL VAN LOGGERENBERG: Chair I hear what you are saying. But unfortunately these decisions are made in head office alone.

CHAIRPERSON: Yes, yes.

COLONEL VAN LOGGERENBERG: And us at ground level would not know.

CHAIRPERSON: Yes.

20 **COLONEL VAN LOGGERENBERG:** The reasons for appointing that person to that position or that person to the position.

CHAIRPERSON: You cannot comment ja.

COLONEL VAN LOGGERENBERG: Ja.

CHAIRPERSON: No that is fine.

ADV SUSAN WENTZEL: Thank you. Then it was also said in – or

suggested in paragraph 2.3 on page 120 that Colonel Madhoe was in a sense offered a deal if he would implicate the PC. Was – did any of the investigators ever offer a deal to Mr Panday or to Mr Madhoe to implicate the PC?

COLONEL VAN LOGGERENBERG: Chair no deals were offered to anybody. The evidence is overwhelming. The documentation is there. The forensic report is there. Everything is there. Why do you want to make a deal with the person? Okay it happens in some other smaller matters that you know if you need some evidence you – you short of
10 evidence you try – one to testify against the other. But in this matter, in this case 781 you never promised anybody or requested or approached anyone to come with a deal to testify against anybody else.

CHAIRPERSON: But did you ever get shown any statement signed by anybody to back up this allegation of a promise to him to say the investigators promised him something? Was there an affidavit, a statement on which this allegation is based to say here is the source from which we get this information that the investigators promised Colonel Madhoe something?

COLONEL VAN LOGGERENBERG: Nothing Chair, nothing whatsoever.
20 Nothing.

CHAIRPERSON: Nothing was ever shown to you?

COLONEL VAN LOGGERENBERG: Nothing ever was shown to us, nothing.

CHAIRPERSON: And – and nothing that was within the docket contained that?

COLONEL VAN LOGGERENBERG: That is right. That is correct Chair.
Nothing.

CHAIRPERSON: And the decision whether to prosecute or not to prosecute has to be made on the basis of the information in the docket and not outside the docket?

COLONEL VAN LOGGERENBERG: That is correct Chair. 200% correct Chair.

CHAIRPERSON: If there was any evidence that the investigators had made such a promise to Colonel Madhoe then there should have been
10 an affidavit or statement signed by somebody who was present when that promise was made and that should have been in the docket?

COLONEL VAN LOGGERENBERG: Yes Chair. That – that is the correct procedure.

CHAIRPERSON: Ja okay.

ADV SUSAN WENTZEL: Then if I might draw your attention and ask your comment to the further statements made by Advocate Noko. If we can go back to page 121 and paragraph 2.6.

“The 781 matter which forms the basis and reason for the alleged corruption of Major General Booyesen by Colonel Madhoe was found to
20 be non-existent by the SCCU.”

COLONEL VAN LOGGERENBERG: No this is incorrect Chair.

ADV SUSAN WENTZEL: And the reference to the case number is – should be obviously 466?

COLONEL VAN LOGGERENBERG: Yes.

ADV SUSAN WENTZEL: Because 781 is...

COLONEL VAN LOGGERENBERG: 781 was the 2010...

CHAIRPERSON: Procurement.

COLONEL VAN LOGGERENBERG: The procurement and 466 was the corruption case with Colonel Madhoe and General Booyesen.

ADV SUSAN WENTZEL: So now I am going to just read to you why it is suggested that there is also no case in 466 and ask for your comment. It says:

10 “Major General Booyesen is the complainant and the only witness in the 466 case against Mr Panday and Colonel Madhoe. The very Mr Panday and Colonel Madhoe who allegedly refused to pave the way for him to become the next KwaZulu Natal PC by refusing to falsely implicate the current Provincial Commissioner General Ngobeni.”

Was Major General Booyesen the complainant?

COLONEL VAN LOGGERENBERG: He was a witness in this matter
Chair.

ADV SUSAN WENTZEL: It is then said in paragraph 2.8.

20 **CHAIRPERSON:** Sorry. Going back to paragraph 2.7. It says:
 “The very Mr Panday and Colonel Madhoe who allegedly refused to pave the way for him to become the next KZN SAPS Provincial Commissioner by refusing to falsely implicate the current Provincial General Ngobeni.”

Now the suggestion here is that Mr Panday and Colonel Madhoe had

been asked to implicate the Provincial Commissioner and they refused. And I take it that maybe they think the suggestion is that General Booyesen asked them to do that or somebody asked them on behalf of ...

COLONEL VAN LOGGERENBERG: General Booyesen.

CHAIRPERSON: General Booyesen.

COLONEL VAN LOGGERENBERG: No – Chair it is hard to believe really it is very hard to believe.

CHAIRPERSON: Yes. Certainly you are saying that you did not do that.

10 **COLONEL VAN LOGGERENBERG:** No definitely not Chair.

CHAIRPERSON: And as far as you know whoever was involved in the investigation with you did not do that?

COLONEL VAN LOGGERENBERG: That is correct Chair yes.

CHAIRPERSON: But my question then is in regard to this allegation did you ever get given any statement or affidavit made by anybody saying who it was that was said to have made this promise to or request to these two people?

COLONEL VAN LOGGERENBERG: No Chair.

20 **CHAIRPERSON:** Did you ever get given a statement, an affidavit where somebody says, I was present when so and so asked Panday, Mr Panday or Colonel Madhoe to implicate the Provincial Commissioner. Or a statement by them or anyone of them saying, I was approached by so and so who asked me to implicate the PC. Did you ever get given anything like that?

COLONEL VAN LOGGERENBERG: Nothing Chair nothing whatsoever.

Nothing whatsoever.

CHAIRPERSON: And did you ever see in the docket any document like that signed by anybody?

COLONEL VAN LOGGERENBERG: No Chair. Nothing Chair. Nothing whatsoever.

CHAIRPERSON: Yes. And what you never saw were maybe this might have been said was the representations that came from Mr Panday.

COLONEL VAN LOGGERENBERG: It could be possibly yes Chair.

CHAIRPERSON: yes.

10 **COLONEL VAN LOGGERENBERG**: It could be I would not know.

CHAIRPERSON: The – it may be that in those reservations that kind of allegation was made but it should have been placed – put before you so that you could refute it if you – if that was your position?

COLONEL VAN LOGGERENBERG: That is correct Chair and it was never done.

CHAIRPERSON: Do you know of any reason why it was not done?

COLONEL VAN LOGGERENBERG: No Chair I could not think of any reason. It is just as I said at the end of the day my gut was it was a political decision. The less we knew the less we close this matter, the
20 better for everybody.

CHAIRPERSON: Now by that time or even before you retired you had been involved in investigations of numerous cases over the years?

COLONEL VAN LOGGERENBERG: That is correct Chair.

CHAIRPERSON: And there must have been a number of cases where prosecutors received representations from accused persons or suspects

about requesting them to withdraw or not to prosecute, is that right?

COLONEL VAN LOGGERENBERG: That is correct Chair.

CHAIRPERSON: And over the years are you able to say to me almost invariably the prosecutors would give you as an investigating officer copies of such representations so that you could comment or are you not able to say that?

COLONEL VAN LOGGERENBERG: Yes Chair every case in the past that I have deal with where we receive the representations.

CHAIRPERSON: Hm.

10 **COLONEL VAN LOGGERENBERG:** Or the prosecutor receives the representations. The first thing that he will phone me, he says come to my office, look what we have got here. We have got representations. Let us work through them. Then we work through them and if need be we need to get evidence or obtain affidavits or what – that is how the way it is dealt with. The prosecutor and the investigator they work through the report. That is – it has always happened in the past, always, always, always.

CHAIRPERSON: And you might not with regard to Advocate – oh this was Advocate Noko hey? That was declining to prosecute?

20 **COLONEL VAN LOGGERENBERG:** Letsholo.

CHAIRPERSON: Letsholo?

COLONEL VAN LOGGERENBERG: Ja Letsholo.

CHAIRPERSON: Ja you said you were dealing with him for the first time?

COLONEL VAN LOGGERENBERG: That is correct Chair.

CHAIRPERSON: Now in respect of other prosecutors in that office, in KZN that you had dealt with did they also follow the process that you have just described.

COLONEL VAN LOGGERENBERG: Yes.

CHAIRPERSON: Namely if there were representations from an accused person or a suspect they would call in the investigator and say, look what we have got let us deal with it?

COLONEL VAN LOGGERENBERG: Chair as far as I know all of them do that yes.

10 **CHAIRPERSON**: Yes.

COLONEL VAN LOGGERENBERG: Ja.

CHAIRPERSON: And do you know how long Advocate Letsholo had been a prosecutor as at that time? Was it somebody new who had just joined?

COLONEL VAN LOGGERENBERG: No Chair no he was not new. I recall that Colonel Piet who I believe is going to come to the commission next...

ADV SUSAN WENTZEL: Du Plooy.

COLONEL VAN LOGGERENBERG: Du Plooy.

20 **CHAIRPERSON**: Yes but he was not new?

COLONEL VAN LOGGERENBERG: He was not new. No he was not new.

CHAIRPERSON: And would you have any doubt in your mind that he would know that this is the procedure based on his experience as you understood it?

COLONEL VAN LOGGERENBERG: Yes, definitely Chair yes.

CHAIRPERSON: Yes okay.

COLONEL VAN LOGGERENBERG: Definitely.

CHAIRPERSON: Thank you.

ADV SUSAN WENTZEL: Thank you. If one has regard to paragraph 2.8 page 121 which I just read to you. Is it correct that Mr – is it Colonel – that General Booyesen responded to these allegations and that document is found at page 128.

COLONEL VAN LOGGERENBERG: Sorry. Can you just repeat ...
10 (intervenes)?

CHAIRPERSON: I am sorry⁷. I am sorry you said paragraph 2.8 and then?

ADV SUSAN WENTZEL: So 2.8. All these allegations is it correct that General Booyesen responded to what he calls a missive from Advocate Noko and that document is found at page 128.

CHAIRPERSON: Hang on. Hang on. Let us finish with 2.8 first.

ADV SUSAN WENTZEL: Yes. I - I ...

CHAIRPERSON: Before you move on.

ADV SUSAN WENTZEL: I want to put to him what - what
20 General Booyesen's response to this was.

CHAIRPERSON: Okay. Before you do that. Look at 2. - paragraph 2.8.

COLONEL VAN LOGGERENBERG: On page 121?

CHAIRPERSON: 121. Yes.

COLONEL VAN LOGGERENBERG: Yes.

CHAIRPERSON: It says:

“The 466 case is investigated by the members of the police who fall under the command of Major General Booyesen who is the complainant in the 466 case. Their objectivity dealing with this case becomes questionable especially with the Cato Manor case cloud hanging over their heads. This I believe would shake their credibility and the court would view all these in favour of the two -
10 Mr Panday and Colonel Madhoe.”

COLONEL VAN LOGGERENBERG: Chair ...

CHAIRPERSON: How does that - you - did you - do you understand how the Cato Manor case becomes relevant for - for this purpose here?

COLONEL VAN LOGGERENBERG: Chair ...

CHAIRPERSON: In terms of your investigation. How would that affect ...

COLONEL VAN LOGGERENBERG: No. I have got no idea Chair.

CHAIRPERSON: Your credibility. Do you understand? I just want to make sure that ...

20 **COLONEL VAN LOGGERENBERG:** No. I do not understand Chair, but the only thing I know is that it is common knowledge that General Booyesen was the Provisional Head of the Hawks.

CHAIRPERSON: Yes.

COLONEL VAN LOGGERENBERG: So automatically he is our Provincial Commander ...

CHAIRPERSON: Yes.

COLONEL VAN LOGGERENBERG: But the other comment about the Cato Manor case. I had nothing to do with that case or that investigation whatsoever and the people in my team was not connected to the Cato Manor case.

CHAIRPERSON: Yes. Yes.

COLONEL VAN LOGGERENBERG: It is Colonel Govender. Colonel Phillip Herbst and myself.

CHAIRPERSON: Yes.

10 **COLONEL VAN LOGGERENBERG:** We never worked at Cato Manor.

CHAIRPERSON: Yes.

COLONEL VAN LOGGERENBERG: We were never charged in the Cato Manor. We were never ... (intervenes).

CHAIRPERSON: And you were not suspects in the Cato Manor case?

COLONEL VAN LOGGERENBERG: Never ever.

CHAIRPERSON: You see I am trying to understand how that case - the existence of that case is said to have been something that the court would take into account against you in terms of your credibility. So I am trying to see the rationality of these reasons given here.

20 **COLONEL VAN LOGGERENBERG:** Chair, I cannot ...

CHAIRPERSON: So you say you were not suspects in the Cato Manor case?

COLONEL VAN LOGGERENBERG: No.

CHAIRPERSON: You had nothing to do with - with it. The only thing is that you were members of the Hawks in KZN and

Major General Booyesen was the Head.

COLONEL VAN LOGGERENBERG: That is correct.

CHAIRPERSON: That is - that is your only connection?

COLONEL VAN LOGGERENBERG: That is correct Chair.

CHAIRPERSON: Yes. Thank you.

ADV SUSAN WENTZEL: And Chair before I - I go on, because I - I would just like to deal with it.

CHAIRPERSON: You may go on. I wanted to get ...

ADV SUSAN WENTZEL: Yes.

10 **CHAIRPERSON:** Clarity on that. You may go on in terms of ...

ADV SUSAN WENTZEL: Hm.

CHAIRPERSON: What you were planning.

ADV SUSAN WENTZEL: If I can just point out what General Booyesen's response to these averments we have just read and then I will go back to the further ones.

CHAIRPERSON: And what page is that?

ADV SUSAN WENTZEL: It is page 131.

CHAIRPERSON: 1-3-1?

ADV SUSAN WENTZEL: Yes.

20 **CHAIRPERSON:** Yes.

ADV SUSAN WENTZEL: At paragraph 2.7 he says:

"I am not the complainant in the matter of Durban case 466. This is a disingenuous proposition by Advocate Noko so as to build a legend for her imputations contained in paragraphs 2.8 and 2.9

infra. For one the state is the complainant in the corruption matter. I am merely one of many witnesses. Advocate Noko clearly does not understand my role in this investigation. She also chooses to ignore the fact that the Durban Central case 781 investigation was initiated by none other than the Financial Head of the Province - Brigadier Lawrence Kemp. It is inconceivable that Brigadier Kemp knew about my aspirations as
10 alleged by Advocate Noko. Unless he obviously colluded with me to discredit the Provincial Commissioner. Had Advocate Noko however bothered to examine Brigadier Kemp's statement in Durban case 781, she would have established the origin and source of this entire investigation."

COLONEL VAN LOGGERENBERG: That is correct Chair.

ADV SUSAN WENTZEL: And that statement is the statement that we were dealing with earlier in evidence of Advocate - of ...

COLONEL VAN LOGGERENBERG: Brigadier Lawrence Kemp.

20 **ADV SUSAN WENTZEL:** Brigadier Kemp.

COLONEL VAN LOGGERENBERG: That is correct - that is correct Chair.

ADV SUSAN WENTZEL: And then as you quite correctly had pointed out as he says also in - at paragraph 2.8 on page 1-3-1.

"Advocate Noko is mendacious in stating that the

investigators officers' objectivity are questionable especially as the Cato Manor case cloud hanging over their heads. The investigating officers in these matters are as follows: case 781 - Colonel Van Loggerenberg. Case 466 - Colonel Du Plooy. Case 122 - Colonel Herbst. None of these investigating officers' were ever attached to the Cato Manor Unit. They are not implicated in the Cato Manor issue at all. Hence
10 their credibility cannot be questioned as implied by Advocate Noko."

Which is what you have said.

COLONEL VAN LOGGERENBERG: That is correct Chair.

ADV SUSAN WENTZEL: And now let us see what is said ...

CHAIRPERSON: Sorry. In 781 were you the only investigator?

COLONEL VAN LOGGERENBERG: Chair ...

CHAIRPERSON: Or you had a team under you?

COLONEL VAN LOGGERENBERG: No. I had a team under me.

CHAIRPERSON: Okay. Okay.

20 **COLONEL VAN LOGGERENBERG:** Yes Chair.

CHAIRPERSON: No. That is fine.

ADV SUSAN WENTZEL: Now in - back to page 121 at paragraph 2.9.

This is said:

"Major General Booyesen being the complainant in the 466 case interfered with and exercised control

in this case even going to an extent of determining and deciding on who visits Colonel Madhoe when he was detained in Durban Central Prison Cells in the 466 case. This is exhibited by the letter that was issued on his direct instruction to the Durban Central Police Station Command Brigadier Stokes. This letter dated 16 September 2011 addressed to all Relief Commanders and Cell Commander titled Visitation Durban Central - Madhoe. Provides that

10 on the direct instruction from Major General Booyesen only the following persons will be allowed to visit him. Major General Booyesen two, Major General Moodley. What is amazing with this is that Major General Booyesen issues an instruction regarding who must visit a suspect in a case that he is the complainant himself. Further he also has a visitation right in this as it appears in the letter him being mentioned as number one among those who are allowed to visit

20 Colonel Madhoe. By the way what would a complainant want to visit a suspect in their own case for? This is unheard of and smacks of an agenda.”

Can you comment on that?

COLONEL VAN LOGGERENBERG: I only became aware of this letter

at a later stage Chair. That is the only comment I can make on this.

ADV SUSAN WENTZEL: I will - if I can show - tell you to go to page 1-3-2 what Colonel Booysen's response was and perhaps you can comment on that. At paragraph 2.9.

10 “Advocate Noko is seriously misguided to suggest that I interfered with the exercise control in Durban Central case 466. Had she complied with the NPA Policy Guidelines she was at liberty to consult with me to establish the facts which I shall detail below.

 As the Provincial Head Hawks it is incumbent upon me to exercise control over all investigations conducted by the Hawks in KwaZulu-Natal. The National Directorate Head Hawks were kept abreast of all developments in the investigation. To suggest that I interfered with the investigation is akin to suggest that Advocate Noko herself is interfering with the functions of her subordinates. There is nothing mysterious regarding my instruction with regard to visits to Madhoe. Initial investigations

20 revealed complicity by officers within SAPS. This entry into the occurrence book was made to obviate attempts by officers with *mala fides* intentions. I have dealt with the matter regarding being the complainant above. Again the tenor and tone of Advocate Noko's contentions appears to be that of

a defence counsel rather than that of a prosecutor.
The fact that I had not visited Colonel Madhoe at all subsequent to his arrest or that I had not personally communicated with him directly or indirectly demonstrates that Advocate Noko's assertion that it smacks of an agenda is misguided and I reject it with contempt."

Can you comment?

COLONOL VAN LOGGERENBERG: Yes. I agree with what the -
10 General Booyesen is saying Chair.

ADV SUSAN WENTZEL: And now ...

CHAIRPERSON: Well you are asking the witness to comment on just argument really.

ADV SUSAN WENTZEL: Yes.

CHAIRPERSON: I do not think we should spend time on - on this with this witness. General Booyesen if he did not cover this when he gave evidence last year ...

ADV SUSAN WENTZEL: Hm.

CHAIRPERSON: Would need to come in or at least do an affidavit
20 confirming ...

ADV SUSAN WENTZEL: Yes.

CHAIRPERSON: That this was his memorandum and confirming the correctness of ...

ADV SUSAN WENTZEL: Yes.

CHAIRPERSON: Of this.

ADV SUSAN WENTZEL: Yes.

CHAIRPERSON: Otherwise ask this witness questions that led to matters where he can really add ...

ADV SUSAN WENTZEL: Yes.

CHAIRPERSON: Value.

ADV SUSAN WENTZEL: There is only one final aspect that I would like you to comment on with regard to this document. If you could go to page 122 and it is paragraph 2.10 and I would like your comment on this.

10 “The allegation that the accused in 466 Mr Panday
and Colonel Madhoe wanted Major General Booyesen
to predate a report in the 781 case in order to have
the Section 205 subpoena set aside - subpoenas for
access to the bank account records and
consequently bribed Major General Booyesen to do
that. Does not really hold water, because the fact
is that if there has been any corruption, bribing of
Major General Booyesen that took place would not
make the corruption and its successful prosecution
20 impossible as Sections 3(B) and 4(1)(B) of the
Prevention of Combatting of Corrupt Activities Act
12 of 2004 state. The alleged report in the 781
case that it was alleged was to be predated to
validate the Section 205 subpoenas did not suffice
to prove fraud or any offence against anyone

especially ...”

CHAIRPERSON: Ms Wentzel that is all argument by General Booyesen.

It is not facts or a lot of it at least.

ADV SUSAN WENTZEL: Yes. It is.

CHAIRPERSON: Yes.

ADV SUSAN WENTZEL: But ...

CHAIRPERSON: But this witness what do you want this witness to do about it?

ADV SUSAN WENTZEL: What I want him to comment is - is this a
10 reason, because what is stated is - it is - it is almost as a circuitous
reasoning. Is that how is it possible that because there was this
bribing that it can have any effect on the subpoenas and therefore you
cannot prosecute section - case 446 - 466.

CHAIRPERSON: That is argument.

ADV SUSAN WENTZEL: Okay.

CHAIRPERSON: That is argument.

ADV SUSAN WENTZEL: I will take the point. If we may then go back
to your statement.

CHAIRPERSON: What page?

20 **ADV SUSAN WENTZEL**: Page - I think we have dealt with paragraph
13. We have dealt I think mainly with what is said with regard to - oh.
This is - is actually quite important, because there is a further
document that was located this morning which I would like to deal with.
If we can go to paragraph 13 on page 16. Now ...

CHAIRPERSON: Yes.

ADV SUSAN WENTZEL: You said what transpired with this draft memorandum with Colonel Jones. You have indicated that the draft memorandum which was ultimately prepared by Advocate Noko was in Colonel Jones' possession.

COLONEL VAN LOGGERENBERG: That is correct Chair.

ADV SUSAN WENTZEL: Now was the case then withdrawn?

COLONEL VAN LOGGERENBERG: That is correct Chair.

ADV SUSAN WENTZEL: And what then did Colonel Jones do?

COLONEL VAN LOGGERENBERG: Chair, what Colonel Jones then did
10 is he actually wrote a letter to the Provincial Commissioner -
Lieutenant-General Ngobeni not the finance - not the finance earlier
indicated in this affidavit. It is a correction. He actually wrote a letter
to the Provincial Commissioner - Lieutenant-General Ngobeni.

Stating that the case has been withdrawn and he heard from
his attorney and that the money that was being held must be paid out to
Thoshan Panday - held by the police. Must be paid out to
Thoshan Panday and as far as we could gather she actually - none of
us knew about this letter.

I mean I do not know why, because General Booyesen stopped
20 this paying out and Colonel Jones writing a letter to the suspect in 781
requesting authorisation to release the funds to pay out another
suspect. I mean it does not make sense.

CHAIRPERSON: Hm. That would not normally be his business.

COLONEL VAN LOGGERENBERG: That is correct Chair.

CHAIRPERSON: Yes.

COLONEL VAN LOGGERENBERG: So ...

CHAIRPERSON: The - the suspect or his attorneys would be the ones who would be expected to write and say now that the case is withdrawn we believe our client should be paid.

COLONEL VAN LOGGERENBERG: That is correct Chair.

CHAIRPERSON: Yes.

COLONEL VAN LOGGERENBERG: *Ja.*

CHAIRPERSON: Okay.

ADV SUSAN WENTZEL: You say in paragraph 13.12 that this annexure
10 - this letter was still to be located. Chair the Commission investigators were able to obtain a copy of this from the National Prosecuting Authority from the docket.

CHAIRPERSON: The letter?

ADV SUSAN WENTZEL: Yes. It is ...

CHAIRPERSON: Yes.

ADV SUSAN WENTZEL: At the end of the bundle at page 3-9-9.

CHAIRPERSON: I do not seem to have 3-9-9.

ADV SUSAN WENTZEL: Three ...

COLONEL VAN LOGGERENBERG: 3-9-9.

20 **CHAIRPERSON:** My last page seems to be ...

ADV SUSAN WENTZEL: Oh. It is the same difficulty that you had Chair. I am now reading the black as opposed to - I am trying to see what it is. It is page 3-0-3.

CHAIRPERSON: Yes.

ADV SUSAN WENTZEL: Now this letter is addressed to the Provincial

Commissioner and I am trying to - the date is 26 March 2014 and it says:

10 “Herewith attached memorandum dated 25 March 2014 from the prosecutor Advocate Letsholo. A decision has been made by Advocate Letsholo to decline prosecution. The suspects defence attorneys and the investigators in the matter have been made aware of this decision as indicated in the memorandum. The investigators have since released all the exhibits that were seized in their lawful owners. It was brought to my attention by the defence that the state also needs to release funds that had been held back due to the pending investigation that has since been declined against the suspects involved. To avoid any civil action against the state it is therefore recommended that the matter is finalised as soon as possible.”

Can you comment on that?

20 **COLONEL VAN LOGGERENBERG:** Chair, this is inappropriate. I mean this should never have been done. He has got no authority to do so at all. It is all I can comment on that, because I do not know what his interest was in this matter, but there were surely signs that he had some interest in this matter.

CHAIRPERSON: Yes.

ADV SUSAN WENTZEL: And is it correct that what is said in paragraph 4 that the investigators have since released all the exhibits that were seized to their lawful owners?

COLONEL VAN LOGGERENBERG: No Chair. That is not correct.

ADV SUSAN WENTZEL: And then if you can have regard to a document on page 300. It is an email sent from Colonel Govender dated 5 August 2014 to Brigadier Van Graan and the - it deals with the previous correspondences regarding the actions of Colonel Jones and you will see that you were copied on that email.

10 **COLONEL VAN LOGGERENBERG:** Yes Chair.

ADV SUSAN WENTZEL: Do you remember this email?

COLONEL VAN LOGGERENBERG: Colonel Jones informed me about this email to him.

ADV SUSAN WENTZEL: And if we can just refer to it. It says that:

20 “Yesterday 4 August 2014 I had a meeting - an appointment with Major General (indistinct) the Head of Legal Services to obtain her affidavit with regards to investigation of Durban case 781. During the meeting she raised the fact of receiving a letter from Colonel Jones stating that the matter which is Durban case 781 has been brought to her attention. That it has been declined to prosecute and Colonel Jones had stated in the letter to prevent any civil claim against the state that she may attend to the matter of the civil claim. This

letter was addressed to the Provincial
Commissioner. Attached letter sent by
Colonel Jones for your information. Also
Colonel Jones has attached the decision from the
prosecutor to his letter which you have in
possession. I then informed the General that the
investigation team was unaware of this letter and
there was no communication by Colonel Jones with
the team. This was reported to your office has
unbecoming ... (intervenes).”

10

CHAIRPERSON: Ms Wentzel you are not going to read that whole
email please.

ADV SUSAN WENTZEL: Oh. I will not.

CHAIRPERSON: What - what is the point?

ADV SUSAN WENTZEL: Do you agree with the contents of what is
stated in this ...?

COLONEL VAN LOGGERENBERG: I do Chair.

ADV SUSAN WENTZEL: Yes and there is then an email dated
31 July 2014 appearing at page 3-0-1 to 3-0-2 from you to
Brigadier Van Graan with regard to this.

20

COLONEL VAN LOGGERENBERG: That is correct Chair.

ADV SUSAN WENTZEL: Do you confirm the contents of this email and
do you recall what it was about? If you can just ...

COLONEL VAN LOGGERENBERG: It is the conduct ...

ADV SUSAN WENTZEL: Generally inform the Chair.

COLONEL VAN LOGGERENBERG: It is the conduct of Colonel Jones during the investigations and what happened and I confirm that this is my email Chair.

CHAIRPERSON: Just the main points in the email was it responding to a particular email from somebody on what and what did he say in terms of - just the gist?

ADV SUSAN WENTZEL: It - it deals with this conduct of Colonel Jones which occurred on 30 July ...

CHAIRPERSON: Yes.

10 **ADV SUSAN WENTZEL:** And his view in ...

CHAIRPERSON: What did you say in the email about the conduct of Colonel Jones?

COLONEL VAN LOGGERENBERG: Chair just the information which was received from - I just - the second last paragraph. I said:

“The action of Officer Colonel Jones is highly questionable as he has now affected two witnesses of the Durban Central case 781.”

Because he approached Colonel Moodley that was working in the Finance Office with Brigadier Kemp.

20 **CHAIRPERSON:** Yes. Okay.

ADV SUSAN WENTZEL: Now after the memorandum of Advocate Noko you said the case was withdrawn.

COLONEL VAN LOGGERENBERG: Yes. It was Chair.

ADV SUSAN WENTZEL: And then what happened after that? Did you continue with the investigations? What did you as investigators do?

COLONEL VAN LOGGERENBERG: Chair, we - first of all we wanted to keep the docket away.

CHAIRPERSON: You wanted to ...?

COLONEL VAN LOGGERENBERG: Keep the docket away from the rest of the police force.

CHAIRPERSON: Yes. Okay. To hide it from them.

COLONEL VAN LOGGERENBERG: to hide it from them. So the only legal way we could do that ...

CHAIRPERSON: Yes. Why did you want to hide it from them? What
10 did you think ...

COLONEL VAN LOGGERENBERG: We ...

CHAIRPERSON: They were going to do?

COLONEL VAN LOGGERENBERG: Chair with all the things that were going on during the investigation and the allegations and the ...

CHAIRPERSON: You thought it could get lost?

COLONEL VAN LOGGERENBERG: Yes.

CHAIRPERSON: Okay.

COLONEL VAN LOGGERENBERG: And everything about ...

CHAIRPERSON: Yes.

20 **COLONEL VAN LOGGERENBERG:** Letsholo's letter and Noko's letter. We decided then to - we discussed the matter with Major - ag - Major General - what is her surname? Maharaj. She was Head of IPID KZN at that point in time and it is clear from the dockets - from 781 - the docket 781 that police corruption is involved and it was their mandate to investigate that.

On the CAS system you can physically book out cases to IPID - on the system and what I did. I made sure that we booked out 781 to IPID on the CAS system. What we then did is we took the docket and we gave it over to General Maharaj was the IPID Provincial Head.

CHAIRPERSON: Yes. Thank you.

COLONEL VAN LOGGERENBERG: Then after that we had a meeting with - with the National Head of IPID and with his advocates and they agreed there is a case and they will see if they can take it further.

CHAIRPERSON: Yes.

10 **ADV SUSAN WENTZEL:** Who was at that meeting?

COLONEL VAN LOGGERENBERG: It was myself. It was General Maharaj. It was Trevor White. It was Peter Pau. It was S Y Govender and the Head of IPID at that stage was McBride - Mr McBride. He was the Head of IPID at that stage. They were present.

ADV SUSAN WENTZEL: And after your presentation of the docket to them what was Mr - General McBride - Mr McBride's attitude?

COLONEL VAN LOGGERENBERG: He was - he agreed with us that there was a case in 781 against the people mentioned and also we had
20 interviewed him with this advocates after they looked at the docket at IPID and they agreed as well and then after that that is when we were called by Advocate Gerrie Nel.

CHAIRPERSON: You were?

COLONEL VAN LOGGERENBERG: We were called by Advocate Gerrie Nel.

CHAIRPERSON: Yes. Okay.

COLONEL VAN LOGGERENBERG: He was then in possession of the docket. So he must have had dealings with IPID.

CHAIRPERSON: Yes.

COLONEL VAN LOGGERENBERG: *Ja.*

CHAIRPERSON: *Ja.*

COLONEL VAN LOGGERENBERG: But then at a later stage I heard that it was taken away from him.

CHAIRPERSON: He - he called you to come to see him in Pretoria?

10 **COLONEL VAN LOGGERENBERG:** He - he came to interview us in Durban - Advocate Gerrie Nel.

CHAIRPERSON: Yes. Yes.

COLONEL VAN LOGGERENBERG: With the docket and we went through the docket and he agreed yes there is definitely a *prima facie* case.

CHAIRPERSON: Yes.

COLONEL VAN LOGGERENBERG: There is enough evidence ...

CHAIRPERSON: Okay. Yes.

20 **COLONEL VAN LOGGERENBERG:** And after that it just went dead until we heard that Advocate Shaun Abrahams gave instruction to reinstitute the charges.

ADV SUSAN WENTZEL: And ...

CHAIRPERSON: So in terms of - sorry. In terms of the view that Advocate Gerrie Nel took of the matter the - the matter should have been reinstated?

COLONEL VAN LOGGERENBERG: Yes. Yes Chair.

CHAIRPERSON: But nothing happened for a number of years?

COLONEL VAN LOGGERENBERG: Yes Chair and he - he had the views we had.

CHAIRPERSON: Yes and ...

COLONEL VAN LOGGERENBERG: And as I say at the end of the day his view did not count or it did not matter, because it was taken away from him.

CHAIRPERSON: It was taken away from him?

10 **COLONEL VAN LOGGERENBERG:** Yes.

CHAIRPERSON: Oh. How do you know that?

COLONEL VAN LOGGERENBERG: Because we wondered what happened with the matter.

CHAIRPERSON: Yes.

COLONEL VAN LOGGERENBERG: And then (indistinct) the matter was taken away from him.

CHAIRPERSON: Did - did you ask somebody? Who told you that in the NPA?

COLONEL VAN LOGGERENBERG: *Ja.* We - we asked around.

20 Everybody said no. It was taken from him.

CHAIRPERSON: Yes and who was it given to? Were you told?

COLONEL VAN LOGGERENBERG: I - I do not know Chair. I do not know.

CHAIRPERSON: Yes.

COLONEL VAN LOGGERENBERG: I do not.

CHAIRPERSON: But for many years ...

COLONEL VAN LOGGERENBERG: *Ja.*

CHAIRPERSON: After that

COLONEL VAN LOGGERENBERG: *Ja.*

CHAIRPERSON: Nothing was happening about it?

COLONEL VAN LOGGERENBERG: That is correct Chair.

CHAIRPERSON: Until Advocate Shaun Abrahams said it should be pursued?

COLONEL VAN LOGGERENBERG: That is correct Chair and then after
10 that Thoshan Panday filed papers for the permanent stay of prosecution.

CHAIRPERSON: Yes.

COLONEL VAN LOGGERENBERG: The state then had to appoint a Silk from the Johannesburg Bar ...

CHAIRPERSON: *Ja.*

COLONEL VAN LOGGERENBERG: And two other advocates - Advocate Hilton Epstein ...

CHAIRPERSON: Hm.

COLONEL VAN LOGGERENBERG: And two other advocates who are
20 dealing with the civil matter and it is costing the state hundreds and hundreds of thousands of Rands now to get this thing back on the roll ...

CHAIRPERSON: Hm.

COLONEL VAN LOGGERENBERG: And to fight this thing.

CHAIRPERSON: Hm. Now when - when was it - if you are able to

remember - when Advocate Abrahams said the matter should be reinstated? Which year?

COLONEL VAN LOGGERENBERG: Chair this was - if I can recall correctly. What we are in 20 - I think it was 2017 or 2018. If I am not ...

CHAIRPERSON: Okay. Yes. Okay. Somewhere around those years.

COLONEL VAN LOGGERENBERG: Somewhere around those years
Chair.

CHAIRPERSON: Okay. That - that is fine. Ms Wentzel.

10 **ADV SUSAN WENTZEL:** Now did you consult with the Silk? Who was that Silk? Do you remember who was the ...?

COLONEL VAN LOGGERENBERG: It was Advocate Hilton Epstein.

ADV SUSAN WENTZEL: Did you consult with him?

COLONEL VAN LOGGERENBERG: Yes Chair. He came down. He consulted with us. Us being myself and Colonel Govender and eventually he obtained an affidavit from the NDPP at that time - Advocate Silas Ramaite and I read through the affidavit with Advocate Silas Ramaite and I further confirmed with an affidavit that what was in Advocate Silas Ramaite's affidavit is true and correct and
20 that matter is still ongoing.

CHAIRPERSON: Well I see - I see that you say in paragraph 14.12 that:

“After the then NDPP Mr Nxasana had appointed Advocate Gerrie Nel and Andrew - Mr Andrew Lisk to deal with the case and that after they had

interviewed you shortly thereafter Mr Nxasana and Advocate Gerrie Nel were removed.”

So this would have been around 2015 I would imagine, because I think ...

COLONEL VAN LOGGERENBERG: Chair you are ... (intervenes).

CHAIRPERSON: Mr Nxasana was removed ...

COLONEL VAN LOGGERENBERG: Yes Chair.

CHAIRPERSON: Either in 2015 or 2016.

COLONEL VAN LOGGERENBERG: *Ja. Ja.* 2015.

10 **CHAIRPERSON:** *Ja.*

COLONEL VAN LOGGERENBERG: *Ja.*

CHAIRPERSON: Would this not have been the time when Advocate Gerrie Nel left the NPA?

COLONEL VAN LOGGERENBERG: No Chair. I was ...

CHAIRPERSON: So could it be that he was not removed from the case as such ...

COLONEL VAN LOGGERENBERG: No Chair. I ...

CHAIRPERSON: But he left and then it had to be given to somebody else.

20 **COLONEL VAN LOGGERENBERG:** No Chair. I was in - I finished in 2015 and he came and saw us before that - long before that.

CHAIRPERSON: Oh. Okay.

COLONEL VAN LOGGERENBERG: So that is before August 2015 when I went on pension.

CHAIRPERSON: Oh. Okay.

COLONEL VAN LOGGERENBERG: It was long before that. He ...

CHAIRPERSON: Oh. Okay. Well in - in that event probably your statement in 15 - in paragraph 14.12 that shortly after Advocate Gerrie Nel had interviewed you he and Mr Nxasana were removed. Probably that is not accurate then, because I guess nobody could remove - I mean the removal of Mr Nxasana that you are talking to - talking about must be his departure from the NPA as NDPP.

COLONEL VAN LOGGERENBERG: No he was not ...

CHAIRPERSON: You are not talking about him being removed from the
10 case?

COLONEL VAN LOGGERENBERG: No. He was removed from the case. He was not - he did not resign as far as I can recall at that moment.

CHAIRPERSON: But - but nobody could remove him from the case. He was the big boss there.

COLONEL VAN LOGGERENBERG: No, no. He was - he ...

CHAIRPERSON: He was the NDPP ...

COLONEL VAN LOGGERENBERG: No, no.

CHAIRPERSON: Nationally.

20 **COLONEL VAN LOGGERENBERG:** Yes, but I know when Advocate Shaun Abrahams came in after that that ... (intervenes).

CHAIRPERSON: Mr Abrahams came here - came after Mr Nxasana had left.

COLONEL VAN LOGGERENBERG: Yes. Yes.

CHAIRPERSON: And Mr Nxasana left either in 2015 or 2016. I cannot

remember, but it is one of those years.

COLONEL VAN LOGGERENBERG: *Ja.*

CHAIRPERSON: So, but what I am saying ...

COLONEL VAN LOGGERENBERG: As far as I can recall Chair is that when Advocate Shaun Abrahams was appointed that is when it was taken away from him - from Advocate Gerrie Nel.

CHAIRPERSON: Oh. Okay. Alright. Okay. So that - that means it would then have been certainly not earlier than 2015, because Mr Nxasana - Mr Abrahams only came after Mr Nxasana had left the
10 NPA and Mr Nxasana only left the NPA either in 2015 or 2016.

COLONEL VAN LOGGERENBERG: That is correct Chair.

CHAIRPERSON: *Ja.* Okay. So - so the - the timing might - you might not be accurate about the timing, but I understand what your evidence is. You may continue Ms Wentzel.

ADV SUSAN WENTZEL: Thank you. Were you told why an external counsel was appointed to deal with Mr Panday's application for a permanent stay of execution?

COLONEL VAN LOGGERENBERG: Sorry. I could not ...

ADV SUSAN WENTZEL: Were you told why an external counsel
20 instead of an employee at the NPA was appointed ...

COLONEL VAN LOGGERENBERG: By the - by the state?

ADV SUSAN WENTZEL: By the state.

COLONEL VAN LOGGERENBERG: Yes. I do not actually recall the specific reasons why private counsel was appointed to do this, but I know because Advocate Epstein made contact with me and he told me

he was appointed to take this matter up in the High - up in the High Court and defend it and it is still pending.

CHAIRPERSON: But of course the appointment of external counsel should not be anything remarkable. Is it not? That happens quite often.

ADV SUSAN WENTZEL: Yes Chair. It does - it does happen often. The witness had said something to me earlier, but I - I cannot take it further. Then just for completeness you say that Advocate Epstein drafted an affidavit which was signed by Mr Ramaite. That appears at
10 page 153 which you confirmed in the proceedings.

COLONEL VAN LOGGERENBERG: That is correct Chair.

ADV SUSAN WENTZEL: Is that the affidavit that you confirmed?

COLONEL VAN LOGGERENBERG: That is correct Chair.

ADV SUSAN WENTZEL: Are you aware what the current status is of the Panday investigations?

COLONEL VAN LOGGERENBERG: You are talking about this application?

ADV SUSAN WENTZEL: Just what is happening in the investigations ... (intervenes).

20 **COLONEL VAN LOGGERENBERG:** No Chair. The only thing that I know is it is at a standstill and they are waiting for this civil matter to be finalised before they can actually move further on with that thing and I am aware that 466 is presently being dealt with by Advocate Wendy O'Brien from the Commercial Crime Courts in KwaZulu-Natal.

ADV SUSAN WENTZEL: Chair from my side that concludes ...

CHAIRPERSON: Hm.

ADV SUSAN WENTZEL: The witness' evidence.

CHAIRPERSON: Okay. Thank you. Thank you very, very much Mr Van Loggerenberg for coming to give evidence.

COLONEL VAN LOGGERENBERG: Thank you Chair. It is a pleasure.

CHAIRPERSON: If we need you to come back we will ask you to come back, but for now you are excused.

COLONEL VAN LOGGERENBERG: Thank you Chair.

10 **CHAIRPERSON:** Thank you.

COLONEL VAN LOGGERENBERG: Thank you very much.

CHAIRPERSON: Tomorrow did you say that the witness will be ...

ADV SUSAN WENTZEL: General Lebeya.

CHAIRPERSON: Lebeya?

ADV SUSAN WENTZEL: Yes.

CHAIRPERSON: Okay and that - and then his evidence - I have seen his affidavit. It is not short at all.

ADV SUSAN WENTZEL: It is not short at all.

CHAIRPERSON: *Ja.*

20 **ADV SUSAN WENTZEL:** I suspect it might be the affidavit that you feel that there is a lot of issues that are not contentious and need not be dealt with in - in great detail.

CHAIRPERSON: No. The one that I was talking about is shorter - is much shorter.

ADV SUSAN WENTZEL: Oh.

CHAIRPERSON: It may be that his one also has got those features, but the one I had in mind is much shorter than his.

ADV SUSAN WENTZEL: Oh.

CHAIRPERSON: We will have to start at half past 10 tomorrow. Yesterday I said we would start at half past 10 today, but I discovered that my commitment was going to happen. So we will start at half past 10 tomorrow.

ADV SUSAN WENTZEL: Yes Chair.

CHAIRPERSON: We adjourn.

10 **REGISTRAR:** All rise.

INQUEST ADJOURNS TO 16 JANUARY 2020