

COMMISSION OF INQUIRY INTO STATE CAPTURE

HELD AT

PARKTOWN, JOHANNESBURG

10

19 FEBRUARY 2020

DAY 215

20

PROCEEDINGS RESUME ON 19 FEBRUARY 2020

CHAIRPERSON: Good morning Ms Hofmeyr, good morning everybody.

ADV KATE HOFMEYR: Good morning Chair.

CHAIRPERSON: Yes are we ready?

ADV KATE HOFMEYR: We are indeed. Chair this morning there is first a matter of an application for the first witness to give his evidence in-camera. I use that term loosely again as I did previously this week because there are only specific respects in which the witness seeks not to have his identity disclosed.

10 He is however legally represented and I would like to offer an opportunity for my learned friend to introduce himself and move that application if I may?

CHAIRPERSON: Yes thank you.

ADV DAVID MTSWENI: Morning Chairperson.

CHAIRPERSON: Good morning.

ADV DAVID MTSWENI: My name is Advocate David Mtsweni I practice with the ...

CHAIRPERSON: Just raise your voice

ADV DAVID MTSWENI: My name is Advocate David Mtsweni I practice
20 with the Pretoria Society of Advocates.

CHAIRPERSON: Yes.

ADV DAVID MTSWENI: On brief by the office of the State Attorney on behalf of a witness to be known as Mr Y for the record purposes.

CHAIRPERSON: Yes.

ADV DAVID MTSWENI: Chair – Chairperson in a nutshell the reasons

for why the – Mr Y's evidence ought to be...

CHAIRPERSON: Well before that I have got an – I have got – is this a duplication or what? Oh ja I have got two files that appear to be the same on the outside. Let me see.

ADV DAVID MTSWENI: Chair I am told that the other one has got the – is redacted.

CHAIRPERSON: Oh.

ADV DAVID MTSWENI: The other one is un-redacted – the un-redacted version.

10 **CHAIRPERSON**: Oh.

ADV DAVID MTSWENI: And it should have almost...

CHAIRPERSON: It is just that I have got what I thought would have been a reference being the same SEQ02.2020 for both of them. But the one you are moving is I think this other one the identity of – oh well the person has deposed to the founding affidavit there has got a name.

ADV DAVID MTSWENI: Yes.

CHAIRPERSON: Then there is this one which has got an affidavit with the name and certain particulars blocked out.

20 **ADV DAVID MTSWENI**: Yes that is the un – that is the redacted version.

CHAIRPERSON: Yes.

ADV DAVID MTSWENI: Yes.

CHAIRPERSON: Now – so the application is being brought by the State Security Agency?

ADV DAVID MTSWENI: Yes on...

CHAIRPERSON: Is that correct?

ADV DAVID MTSWENI: That is correct Chairperson. The reasons
Chairperson...

CHAIRPERSON: Well you see – it is tricky because the application is
being brought by the State Security Agency and not by the person
himself or herself. But the founding affidavit is by the person himself.
In the founding affidavit it does not say that the Applicant is the State
Security Agency. It is just that in the heading it says: The State
Security Agency of the Republic of South Africa Applicant.

10 **ADV DAVID MTSWENI:** We – Chairperson we used the agency by
virtue of the agency being his employer but the best person to – can
explain to you Chairperson the reasons why he evidence ought to be –
should be in-camera would be the deponent himself.

CHAIRPERSON: No I am not there yet. I am not on the merits of the
application. I am on the Applicant. I am saying that I need to know
who the Applicant is first. Now the – the one that I dealt with two days
ago – two days ago the Applicant was Mr X. So Mr X brought the
application. Now here the heading suggests that the applicant is the
State Security Agency. Now you cannot just decide that because you
20 are employed by the State Security Agency you are going to bring
proceedings in the name of the State Security Agency. You know.
There has got to be more than that. Are you authorised to bring the
application on behalf of the State Security Agency?

ADV DAVID MTSWENI: He tells you that Chairperson at paragraph 1.3
of the affidavit.

CHAIRPERSON: Well what he says there in 1.3 is also – reads very strangely. I have the necessary locus standi and authority to depose to this affidavit and to launch the present application. Now it does not do what is normally done. I bring this application on behalf of the State Security Agency and I am duly authorised by reason of bla, bla, bla, bla, bla. So when you read part of 1.3 it is like he is bringing it himself because otherwise if the application is being brought by the State Security Agency his – he does not have to talk about his locus standi. No he talks about his locus standi if he is bringing it himself.

- 10 **ADV DAVID MTSWENI:** We do – we do appreciate that Chairperson but we dealt with it – I think one of the things was the time constraints within which we had to bring the application. But at the time when we decided to bring the application in the agency's name was because we thought that it would be best because the agency – it is his employer and he is requested to appear before you Chairperson by virtue of him being employed by the agency not him, himself.

CHAIRPERSON: Yes unfortunately I cannot talk about – we cannot talk about what his position is in the agency because that would reveal ...

ADV DAVID MTSWENI: His identity.

- 20 **CHAIRPERSON:** His identity. So that also makes it tricky because without knowing that it could be some administrative officer or somebody not so high up in the agency who then decides I am bringing the application or rather I am – the – my employer is going to be the applicant. Whereas it is the employer who must decide whether they are going to be the – the applicant in these proceedings and he says he

has the authority. I do not think he says he attaches anything.

ADV DAVID MTSWENI: No we do not do that.

CHAIRPERSON: You know very often people say I am authorised. Sometimes you suspect they do not even know what that means. So I am not suggesting he does not know but I am just saying his is one of those averments that people just put in so easily in affidavits. I am authorised to do this and that and that, you know. So I am – I am just raising these as concerns at this stage. I am not saying that they are necessarily standing in the way but I am concerned about them, you
10 know. I do not know whether the plan is for him to give evidence immediately after we have dealt with the application or he could come later. Because it may be that you might need to just rectify some things in the application. Is the – is the plan that he would be the next witness?

ADV KATE HOFMEYR: Chair that was the original plan.

CHAIRPERSON: Yes.

ADV KATE HOFMEYR: That his evidence would be received first. I will just need to confer with Mr Mbikiwa about whether there is anything lost in a reversal of the order.

20 **CHAIRPERSON:** Yes.

ADV KATE HOFMEYR: Some of the planning of today envisaged his evidence first.

CHAIRPERSON: Yes.

ADV KATE HOFMEYR: And then the move to the second witness.

CHAIRPERSON: Yes, yes.

ADV KATE HOFMEYR: Having said that though there is a further supplementary affidavit that I know my learned friend was going to hand up to you today.

CHAIRPERSON: Yes.

ADV KATE HOFMEYR: Dealing with at least the identification of Mr Y.

CHAIRPERSON: Ja.

ADV KATE HOFMEYR: I do not know – he will make submissions on it. It is not clear to me that it resolves the crisp issue.

CHAIRPERSON: Yes.

10 **ADV KATE HOFMEYR:** That you have raised.

CHAIRPERSON: Yes.

ADV KATE HOFMEYR: But maybe he must address that and we see where we go.

CHAIRPERSON: Yes.

ADV KATE HOFMEYR: If I could just take a moment.

CHAIRPERSON: Ja.

ADV KATE HOFMEYR: To just consider whether there could be a reversion of the order.

CHAIRPERSON: Ja. Okay.

20 **ADV KATE HOFMEYR:** Thank you.

CHAIRPERSON: Okay.

ADV KATE HOFMEYR: Chair.

CHAIRPERSON: Yes.

ADV KATE HOFMEYR: I have chatted to my learned friend. We – we are of the view that we could reverse the order.

CHAIRPERSON: Yes.

ADV KATE HOFMEYR: That it is not essential that we have Mr X before Ms Dlamini – Mr Y – my goodness that is – I am so glad my learned friend is doing Mr Y's evidence because it is less likely that he will make this error.

CHAIRPERSON: Yes.

ADV KATE HOFMEYR: So we could certainly reverse the order.

CHAIRPERSON: Yes. Okay no that is fine. Thank you. Well you see you might have to choose whether you stick to bringing the application
10 – you stick to the State Security Agency being the applicant or whether you decide to change and make the witness the applicant.

ADV DAVID MTSWENI: Chair...

CHAIRPERSON: If you – if you decide to change then you could have Mr Y as the applicant in the heading.

ADV DAVID MTSWENI: Yes.

CHAIRPERSON: Mr Y.

ADV DAVID MTSWENI: Yes.

CHAIRPERSON: And then he brings the application as Mr Y.

ADV DAVID MTSWENI: Yes.

20 **CHAIRPERSON:** And he indicates – might – indicates that Y is not his real name but it is for purposes of these proceedings. It is important that his identity be not disclosed.

ADV DAVID MTSWENI: Yes.

CHAIRPERSON: And he asks for leave that he be referred to in these proceedings as Mr Y.

ADV DAVID MTSWENI: Yes. Now Chairperson I have discussed this with my instructing attorney. We have no objection – we have no problem in substituting Mr Y as the applicant and given now the change in sequence of the witnesses may that – may we then stand down for that purpose so that we can rectify the error in the meantime while Ms Dlamini gives her evidence.

CHAIRPERSON: Yes. Ja no that is fine. We will stand the application down so that you can attend to that and then at a later stage then I can deal with the application.

10 **ADV DAVID MTSWENI:** Thank you Chairperson.

CHAIRPERSON: Okay. So this application will stand down. Okay.

CHAIRPERSON: We do not need to do any – to adjourn ne?

ADV KATE HOFMEYR: Chair I do not think so.

CHAIRPERSON: We do not – ja. Okay.

ADV KATE HOFMEYR: The witness is present with us in the room.

CHAIRPERSON: Yes okay.

ADV KATE HOFMEYR: And provided I just get the right files in front of me we will be ready to go.

CHAIRPERSON: Okay.

20 **ADV KATE HOFMEYR:** Chair if I may call Ms Dlamini to take up her position in the witness area?

CHAIRPERSON: Yes thank you. You can administer the oath or affirmation.

REGISTRAR: Please state your full names for the record?

MS DLAMINI: Nokunqoba Gloria Dlamini.

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

MS DLAMINI: No I do not have any objections.

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

MS DLAMINI: Yes I do.

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

MS DLAMINI: So help me God.

10 **CHAIRPERSON:** Thank you. You may be seated. Yes Ms Hofmeyr.

ADV KATE HOFMEYR: Thank you Chair. Ms Dlamini you have in front of you a soft file and you will see that it is paginated in the top right hand corner with red pagination numbers. Those will be the numbers I will be referring to today in the course of your evidence. Chair for record purposes if we could enter as Exhibit DD24 Ms Dlamini's affidavit and accompanying annexures?

CHAIRPERSON: Ms Nokunqoba Gloria Dlamini's affidavit and annexures to that affidavit will be admitted as Exhibit DD24 and will be marked accordingly.

20 **ADV KATE HOFMEYR:** And Chair just for the transcription purposes.

CHAIRPERSON: Yes.

ADV KATE HOFMEYR: Ms Dlamini's name is spelt as follows: Her first name Nokunqoba is N-o-k-u-n-q-o-b-a. Second name Gloria, G-l-o-r-i-a. And surname Dlamini, D-l-a-m-i-n-i.

CHAIRPERSON: Thank you.

ADV KATE HOFMEYR: Thank you.

ADV KATE HOFMEYR: Ms Dlamini I would like to begin on page 1 of your affidavit if we may. Because you indicate in the first line where you are employed. Where is that?

MS DLAMINI: I am employed by State Security Agency based in Pretoria Head Office.

ADV KATE HOFMEYR: Thank you. Ms Dlamini can I just suggest that you bring the microphone even just a bit closer. It is important that we – we get your testimony as clear as possible for the purposes of the
10 transcription.

CHAIRPERSON: Yes I think your voice is quite soft so...

MS DLAMINI: Yes.

CHAIRPERSON: So do make an effort to raise it.

MS DLAMINI: Raise it okay.

CHAIRPERSON: Okay.

MS DLAMINI: I will do that.

CHAIRPERSON: Hm.

ADV KATE HOFMEYR: And in what position are you employed there?

MS DLAMINI: I am an analyst and evaluator.

20 **ADV KATE HOFMEYR:** And what does that mean in the context of the agency?

MS DLAMINI: It means I interpret and analyse report from the information obtained from the vetting field work.

ADV KATE HOFMEYR: So are your responsibilities particularly directed to vetting exercises conducted by the agency?

MS DLAMINI: Very much thank you.

ADV KATE HOFMEYR: And do you – do you have any other role outside of vetting?

MS DLAMINI: Yes I have been assigned a role of a Project Manager when the vetting of executives of SAA was undertaken.

ADV KATE HOFMEYR: And what does that role require of you, the Project Manager role?

MS DLAMINI: You mean in terms of the skills?

ADV KATE HOFMEYR: Yes.

10 **MS DLAMINI:** Or the [indistinct].

ADV KATE HOFMEYR: Well what – what role you play as Project Manager?

MS DLAMINI: Okay. As the Project Manager I was responsible to outline the project overview, define the objectives of that project, make sure that we are within the scope and then outline the budget for the project. The milestones, make sure the responsibilities of personnel within the project – the project team are clearly defined and also to ensure the communication lines between us and the client are clear and then also make sure there is resources and facilities for the team.

20 **ADV KATE HOFMEYR:** Have you played that role of Project Manager for vetting previously – prior to the SAA vetting or subsequently?

MS DLAMINI: I have been amongst the team who were on projects within the organisation prior to my appointment.

ADV KATE HOFMEYR: And that is the appointment as Project Manager of the specific vetting operation at SAA, is that correct?

MS DLAMINI: Yes. Yes, yes.

ADV KATE HOFMEYR: And since then have you been the Project Manager of any other vetting operations?

MS DLAMINI: This was my first appointment.

ADV KATE HOFMEYR: And subsequent to that have you been in that position since then?

MS DLAMINI: Yes, yes. I was responsible to manage the project of Government Printing Works as well.

ADV KATE HOFMEYR: Thank you. And in terms of your qualifications
10 what qualifications do you hold?

MS DLAMINI: I have got a Master's Degree in Public Administration from the University of Pretoria, Senior Management Program from University of Pretoria. I also hold a Project Management – Practical Project Management course from UNISA Business School. New Managers Program from WITS and Security Advising Course.

ADV KATE HOFMEYR: Thank you. And when did you join the State Security Agency?

MS DLAMINI: I have been with the agency for the past 16 years.

ADV KATE HOFMEYR: And have you always been involved in the
20 vetting operation side?

MS DLAMINI: Yes, yes very much.

ADV KATE HOFMEYR: Thank you. Ms Dlamini you indicate at the outset in the first few pages of your affidavit the request that was received from the commission and you detail the information that you were required to provide. That is in – by way of background and then

you actually commence at page 6 of your affidavit to provide that information. So I would like to move us there if we may? Page 6 of Exhibit DD24.

MS DLAMINI: On the affidavit?

ADV KATE HOFMEYR: Yes.

MS DLAMINI: Page 6, yes.

ADV KATE HOFMEYR: So you will see at the bottom there you have a heading called The Vetting of SAA Executives and Support Staff. Ms Dlamini just before we move into that just to orientate ourselves in the
10 evidence. Chair you will recall that when we had the previous aviation session there was some evidence received about security vetting that had been conducted within SAA. You heard evidence in two respects in relation to that. There was evidence of Ms Nhantsi who towards the end of her testimony indicated that there had been a particular interaction that she had had with Ms Myeni after some of the results of this vetting exercise had been made known to Ms Myeni. I will come to that in the course of Ms Dlamini's evidence. But the other respect in which the commission has already heard about this vetting was in the evidence of Ms Thuli Mpshe. Because she gave evidence about the
20 concerns that had been expressed by management of SAA at the time that this vetting operation took place. And so the investigations of the commission subsequent to that evidence has been to engage the State Security Agency and obtain more information about how that vetting operation came about and was conducted. And so it is my intention to deal with that aspect today with Ms Dlamini. Ms Dlamini you start at

the bottom of page 6 and you explain first of all how it came about that this vetting operation was conducted at SAA. Can you please tell us about that?

MS DLAMINI: Yes there were engagements between the two Ministers, former Minister of Finance, Honourable Nene and our former Minister, Honourable Mahlobo. I was not privy of those conversations or meetings but they are attached correspondence to that as they engage on the need and the decision that the executives of SAA must be vetted.

10 **ADV KATE HOFMEYR:** I would like to go to that correspondence because as you indicate you have attached it to your affidavit and you will find the first letter at page 17, 17 of DD24.

CHAIRPERSON: What page?

ADV KATE HOFMEYR: 17 Chair, 17.

CHAIRPERSON: 17 okay.

ADV KATE HOFMEYR: Do you have that page? 17.

MS DLAMINI: Yes, yes.

ADV KATE HOFMEYR: And what is this document?

20 **MS DLAMINI:** I think this is the letter from the Minister of State Security then Honourable Mahlobo to Mr – to Minister Nene at a time.

ADV KATE HOFMEYR: Thank you. And just for the transcribers Mahlobo is spelt M-a-h-l-o-b-o. That is Mr David Mahlobo who was then the Minister of State Security, is that correct?

MS DLAMINI: Yes that is correct.

ADV KATE HOFMEYR: Now this letter did you see it at the time that it

was prepared?

MS DLAMINI: No, no, no. I did not see it at the time.

ADV KATE HOFMEYR: Did you see it before you commenced the vetting operation?

MS DLAMINI: No I saw the letter that was attached to the list of officials and executives that were to undergo the vetting.

ADV KATE HOFMEYR: Okay we will come to that letter in a moment. Let us just deal with the letter at 18. What is the date of the letter according to the second page?

10 **MS DLAMINI:** Where are you now?

ADV KATE HOFMEYR: I am on page 18 of Exhibit DD24.

MS DLAMINI: Yes.

ADV KATE HOFMEYR: Which is the second page of the letter we are looking at. And I was asking what date is indicated on that page?

MS DLAMINI: 13 October 2015.

ADV KATE HOFMEYR: And you indicated that it was a letter written by Minister Mahlobo – former Minister Mahlobo to former Minister Nene, is that correct?

MS DLAMINI: Yes.

20 **ADV KATE HOFMEYR:** And I understand you to say you did not see this at any stage before you conducted the vetting operation, is that right?

MS DLAMINI: I got to see the letter that was attached to the list.

ADV KATE HOFMEYR: Yes so let us just be clear. This letter did you see it at the time?

MS DLAMINI: No.

ADV KATE HOFMEYR: No.

MS DLAMINI: No.

ADV KATE HOFMEYR: When did you first see this letter?

MS DLAMINI: Yes I got aware of the letter but I cannot have the exact date.

ADV KATE HOFMEYR: But was it at some point during the vetting operation?

MS DLAMINI: Yes. Yes.

10 **ADV KATE HOFMEYR:** Did you read the letter when you came to be aware of it?

MS DLAMINI: Yes, yes, yes.

ADV KATE HOFMEYR: Please could you indicate what is stated in the letter at paragraph 2?

MS DLAMINI:

“It has come to the attention of the State Security Agency that there is an urgent need for vetting and re-vetting of state owned enterprises giving sensitive information received on an ongoing basis.”

20 And I think that is the part that was also indicated on the letter where the list of executives and support staff that I received.

ADV KATE HOFMEYR: We will go to that letter in a moment. And – so that is paragraph 2 of Minister Mahlobo’s letter to Minister Nene. What does Minister Mahlobo record in paragraph 3?

MS DLAMINI: He is indicating the need to vet the officials at SOE

because of the huge impact that the – okay let me start again. He is –

“SOE’s as government entities have a huge impact on the economy of the country and therefore extremely important for state security to conduct vetting as per the mandate of SSA.”

ADV KATE HOFMEYR: Okay let us read what he precisely says that mandate is. If you could read from the third line. As I have it it starts “as per” will you read from “as per section 1”?

MS DLAMINI:

10 “As per Section 1 of the National Strategic Intelligence Act 39 of 1994 as amended by Act 67 of 2002 states that the National Intelligence Agency has the mandate to vet all other National, Provincial and Local Government Departments, Parastatals and their service providers.”

ADV KATE HOFMEYR: Do you know the Provisions of the National Strategic Intelligence Act that deal with vetting?

MS DLAMINI: I am – come again?

ADV KATE HOFMEYR: Do you know the Provisions of the National
20 Strategic Intelligence Act that deal with vetting?

MS DLAMINI: I am aware that in terms of the strategic objectives of counter intelligence it is the main objective is to ensure that corruption in state owned entities is reduced.

CHAIRPERSON: Okay. Are you familiar with the Provisions of this Act?

MS DLAMINI: Yes. Yes. I do.

CHAIRPERSON: You are? Okay.

MS DLAMINI: Yes. It states that vetting should be conducted to persons who are employed by the State or who are to render services to the State and have access to classified information or the National Key Points.

CHAIRPERSON: Okay.

MS DLAMINI: Yes.

ADV KATE HOFMEYR: Does the - does Section 1 of the Act - as
10 Minister Mahlobo records here - say what is in quotations in paragraph 3?

MS DLAMINI: Hm.

CHAIRPERSON: Just repeat the question.

ADV KATE HOFMEYR: Thank you Chair. You will see Ms Dlamini at paragraph 3 Minister Mahlobo indicates that Section 1 ...

MS DLAMINI: Yes.

ADV KATE HOFMEYR: Of the National Strategic Intelligence Act states that: and then there is a quotation. On the face of the paragraph it appears to be a quotation from Section 1 of the National Strategic
20 Intelligence Act. Do you understand the paragraph in the same way as I do?

MS DLAMINI: (No audible reply).

ADV KATE HOFMEYR: Please say yes. The nod is not recorded.

MS DLAMINI: Yes. Yes.

ADV KATE HOFMEYR: Thank you and I am asking you is that what

Section 1 of that Act says?

MS DLAMINI: It - it - on this paragraph ...

ADV KATE HOFMEYR: Yes.

MS DLAMINI: It is not clearly stated that these employees are employed by the State - by - by SOEs.

CHAIRPERSON: Okay. Okay.

MS DLAMINI: Yes.

CHAIRPERSON: Ms Dlamini. Just listen to the question carefully ...

MS DLAMINI: Okay.

10 **CHAIRPERSON:** And answer just the question. The question is does Section 1 of this Act say what Mr Mahlobo quoted here. Do you know? I know that ...

MS DLAMINI: I think ...

CHAIRPERSON: Section 1 used to be the definition section ...

ADV KATE HOFMEYR: Yes.

MS DLAMINI: Yes.

CHAIRPERSON: Of an Act.

ADV KATE HOFMEYR: It still is unfortunately.

CHAIRPERSON: So - but some of the definitions now are at the end of
20 the Act. So do - do - are you able to say whether he has got it right?

MS DLAMINI: No. No.

CHAIRPERSON: He did not get it right?

MS DLAMINI: No.

CHAIRPERSON: Okay. Alright.

ADV KATE HOFMEYR: Did anyone pick that up? That he was quoting

a Section 1 of the Act that does not read like that.

MS DLAMINI: I did not pick it up.

ADV KATE HOFMEYR: Hm.

MS DLAMINI: I have to be honest.

ADV KATE HOFMEYR: And anyone else pick it up?

MS DLAMINI: I am not aware. I am not aware.

ADV KATE HOFMEYR: And can ...?

CHAIRPERSON: Well it would be interesting to know whether there is any section in the Act that says that.

10 **ADV KATE HOFMEYR:** There is not.

CHAIRPERSON: There is not?

ADV KATE HOFMEYR: No. Alas. It is ...

CHAIRPERSON: Oh. That would be very interesting.

ADV KATE HOFMEYR: Yes. It is interesting. It is part of what I intend to probe with Ms Dlamini today.

CHAIRPERSON: Okay.

ADV KATE HOFMEYR: So what is quoted you confirm is not what Section 1 says of the Act and let me ask you. Are you aware of any section of the Act that reads with the words in the quotations referred
20 to in paragraph 3?

MS DLAMINI: No. I am not aware. I am aware that it is Section 2A.

ADV KATE HOFMEYR: Indeed it is. Yes.

MS DLAMINI: It is Section 2A that covers ...

ADV KATE HOFMEYR: Hm.

MS DLAMINI: The mandate ...

ADV KATE HOFMEYR: Hm.

MS DLAMINI: To vet the employees of the State Owned Entities.

CHAIRPERSON: But it does not say what he has quoted here?

MS DLAMINI: No. It does not say.

CHAIRPERSON: Okay.

MS DLAMINI: Ja.

ADV KATE HOFMEYR: You see because what is quoted here I want to suggest to you is far broader than what Section 2A of the Act actually says. What is quoted here is that a section of the National Strategic
10 Intelligence Act states that quote:

“The National Intelligence Agency (“NIA”) - has the mandate to vet all other National/Provincial and Local Government Departments, parastatals or their service providers.”

Do you see that?

MS DLAMINI: Yes. I do. Yes. I see that.

ADV KATE HOFMEYR: And you know what Section 2A provides. Do you not?

MS DLAMINI: Yes. It is - it is quite specific ...

20 **ADV KATE HOFMEYR:** Yes.

MS DLAMINI: To say it is - it is the individuals who are employed by the State or those that are to render service to the State and have access to National Key Points or classified information.

ADV KATE HOFMEYR: Let us go to the section to which you refer. Chair, for that purpose you will need the legislation bundle. I trust

Ms Dlamini has a copy of the legislation bundle. If not could I just request that one be made available to her?

MS DLAMINI: I do have a part on the legislation.

ADV KATE HOFMEYR: That is fine, but I would like us to be on - on the same page in the bundle that I will be referring to. So we will just make available to you the legislation bundle and you will turn up page 3-6-1.

CHAIRPERSON: Well somebody must just go and check ...

ADV KATE HOFMEYR: Oh.

10 **CHAIRPERSON:** Whether it is among the files.

ADV KATE HOFMEYR: It may be next to you there Ms Dlamini.

CHAIRPERSON: Tell her what is ...

MS DLAMINI: Yes.

CHAIRPERSON: What - what is written on the spine.

ADV KATE HOFMEYR: On the side it should say "legislation". Can you just check the spine?

CHAIRPERSON: On the spine.

ADV KATE HOFMEYR: On the spine. Yes.

20 **CHAIRPERSON:** On - on the spine outside. On the spine. Does it say legislation on - on the ...

MS DLAMINI: No. No.

CHAIRPERSON: On the opposite side?

MS DLAMINI: No.

CHAIRPERSON: No, no. At the back. *Ja*.

MS DLAMINI: Yes. Yes.

CHAIRPERSON: Oh. Okay.

MS DLAMINI: Aviation Legislation Reference Bundle.

ADV KATE HOFMEYR: That is precisely what we need to be working with.

CHAIRPERSON: Oh. Okay.

ADV KATE HOFMEYR: Thank you so much and if you will turn up page 3-6-1.

MS DLAMINI: 3-6-1.

ADV KATE HOFMEYR: Do you have that?

10 **MS DLAMINI:** Yes. Yes. I am - I am there.

ADV KATE HOFMEYR: And that is the first page of the National Strategic Intelligence Act 39 of 1994. That is the one we have been talking about. Is that correct Ms Dlamini? You will need to say yes.

MS DLAMINI: Yes. Yes. That is the one.

CHAIRPERSON: *Ja*. Do not nod. You ...

MS DLAMINI: Yes. That is the one.

CHAIRPERSON: You must give the answer ...

MS DLAMINI: Yes.

CHAIRPERSON: So that it can be captured.

20 **MS DLAMINI:** Captured.

CHAIRPERSON: *Ja*.

MS DLAMINI: Okay. Yes. That is the one.

CHAIRPERSON: Well I - I see Ms Hofmeyr that Section 1 is the definition section.

ADV KATE HOFMEYR: It is. Yes. So one is the definition. So that

could not have been a correct reference in paragraph 3, but now we are moving to as Ms Dlamini has pointed out. There is a section of the Act dealing with vetting. It is not Section 1. It is Section 2A and what we are looking at now is that Section 2A does not say what is quoted in Minister Mahlobo's paragraph 3.

So let us go to 2A. You will find that at page 3-6-5. Do you see Section 2A there Ms Dlamini?

MS DLAMINI: Yes. I see Section 2A - capital A Advocate Hofmeyr.

ADV KATE HOFMEYR: Thank you and could you read for us what
10 subsection one of that section provides?

MS DLAMINI: "When performing any function referred to ..."

ADV KATE HOFMEYR: No. I think we are at the wrong. You need to go a bit further down the page

MS DLAMINI: Oh. Yes. Yes. Sorry.

ADV KATE HOFMEYR: To in bold **2A** and then the heading is "Vetting Investigations".

MS DLAMINI: Yes.

ADV KATE HOFMEYR: Could you read the rest of that subsection?

MS DLAMINI: You mean just the A - just the A?

20 **ADV KATE HOFMEYR:** 1A.

MS DLAMINI: Okay.

"The relevant member of the National Intelligence Structure may conduct a vetting investigation in the prescribed manner to determine the security competence of a person if such a person is

employed by or is an applicant to an organ of State
or is rendering a service or has given notice of
intention to render a service to an organ of State
which service may give him or her access to
classified information and intelligence in
possession of the organ of State or give him or her
access to areas designated National Key Points in
terms of the National Key Point Act 1990 Act 102 of
1980.”

- 10 **ADV KATE HOFMEYR:** Thank you. Do you agree that that Section 2A
is different to the words that appear in paragraph 3 of
Minister Mahlobo’s letter?

MS DLAMINI: Yes. Yes.

- ADV KATE HOFMEYR:** We will look at the details of what Section 2A
envisages in a moment, but I would like to just finish with the letter of
Minister Mahlobo - if we may. So if you will go back to DD24 and that
is the exhibit containing your affidavit and turn to page 18, because
that is the second page of Minister Mahlobo’s letter? Can we go to
paragraph 4 there? Could you read into the record what paragraph 4
20 says?

MS DLAMINI: “This should be understood from the
background of challenges affecting most of the
State Owned Entities.”

ADV KATE HOFMEYR: I think it says companies. Is that correct?

MS DLAMINI: Companies. Yes.

ADV KATE HOFMEYR: Thank you and paragraph 6.

MS DLAMINI: “The Chairperson (SAA) will be required to provide a list of all Executive Management and support staff.”

ADV KATE HOFMEYR: Right. Ms Dlamini, can I get your understanding of what this letter was seeking to convey to Minister Nene, because as I understand your evidence it is because of this correspondence between the two Ministers. That you were charged with undertaking the vetting operation. Is that right?

10 **MS DLAMINI:** As I have indicated before I did not see this letter prior to my responsibilities.

ADV KATE HOFMEYR: I thought you had not seen it prior to it starting ...

MS DLAMINI: Yes.

ADV KATE HOFMEYR: But you saw it in the course of the responsibilities.

MS DLAMINI: In the course of the responsibilities.

ADV KATE HOFMEYR: Is that right?

MS DLAMINI: Yes.

20 **ADV KATE HOFMEYR:** But your affidavit before this Commission says the reason why there was going to be vetting undertaking at SAA at all is because Minister Mahlobo engaged with Minister Nene about it. Is that correct?

MS DLAMINI: Yes. Yes.

ADV KATE HOFMEYR: And as evidence of that you have attached this

letter to your evidence. Correct?

MS DLAMINI: Yes. Yes and the letter that I saw first.

ADV KATE HOFMEYR: We will deal with that in a moment ...

MS DLAMINI: Yes.

ADV KATE HOFMEYR: Because this comes first in the chronology. So what was your understanding based on this letter at the time or in terms of briefings that you were given as to why vetting needed to be undertaken at SAA?

MS DLAMINI: My understanding is that the Executives of SAA are
10 employed by a State Owned Entity and in terms of our mandate they have to be vetted.

ADV KATE HOFMEYR: And who - who conveyed that to you or was that your understanding?

MS DLAMINI: I - we - I engaged with my Executive Boss at the time ...
(intervenes).

ADV KATE HOFMEYR: And who was that?

MS DLAMINI: General Dlodlo. Yes.

ADV KATE HOFMEYR: And can I just be clear. What you understood was because these management persons and their support staff were
20 employed at a State Owned Company.

MS DLAMINI: Yes.

ADV KATE HOFMEYR: They were required to be security vetted. Is that correct?

MS DLAMINI: That is correct, because they were working for a State Owned Entity in terms of the law ...

ADV KATE HOFMEYR: Hm.

MS DLAMINI: And in terms of our mandate ... (intervenes).

ADV KATE HOFMEYR: Is that the only requirement that they just needed to be employed there and then they needed to be subjected to security vetting?

MS DLAMINI: In terms of Section 2A that is one of the requirements and if they have - access to classified information or they have access to a National Key Point ...

ADV KATE HOFMEYR: Hm.

10 **MS DLAMINI:** But I would go with the first one where it says: employed by a State Owned Entity.

ADV KATE HOFMEYR: So is - is the fact that they are employed enough to trigger the need for security vetting?

MS DLAMINI: Yes. Very much so. Yes.

ADV KATE HOFMEYR: So it is not necessary that they in addition to being employed have access to classified information?

MS DLAMINI: It - it could be, but ...

ADV KATE HOFMEYR: But it is not required?

20 **MS DLAMINI:** It - it is required, but being employed by a state institution on its own it is enough.

ADV KATE HOFMEYR: Right.

MS DLAMINI: Yes.

ADV KATE HOFMEYR: When Minister Mahlobo motivates for this vetting operation in his letter to Minister Nene. You will see that at paragraph 2 he seems to place some emphasis on the information that

these people who are going to be vetted have access to, because you will see in paragraph 2 he says:

“It has come to the attention of the State Security Agency that there is an urgent need for vetting and revetting of state owned enterprises given sensitive information received on an ongoing basis.”

Do you see that?

MS DLAMINI: Yes. I do see that.

ADV KATE HOFMEYR: Do you differ from him insofar as you regard it
10 only being necessary that the person vetted is employed by the State Owned Entity?

MS DLAMINI: I do not regard it as the only requirement, but I am saying by virtue of being employed you have to be vetted by a - employed in a State Owned Entity. Also if you have got access to classified information. So I do agree with him to a certain extent.

ADV KATE HOFMEYR: But not - so if he were to say, no. You have to have access to classified information to be vetted. I understand you to say you would disagree, because the mere fact of employment is sufficient. Is that right?

20 **MS DLAMINI:** No. That is not right.

ADV KATE HOFMEYR: What is your evidence?

MS DLAMINI: I am saying you have to be employed as per Section 2A as it states that if you are employed by a - an organ of State you have to be vetted.

ADV KATE HOFMEYR: Thank you. You - you ...

MS DLAMINI: That is the first part.

ADV KATE HOFMEYR: Indeed.

MS DLAMINI: Yes and then the second part states that if you have got access to classified information or access to a National Key Point you have to be vetted.

ADV KATE HOFMEYR: Okay. It is quite important that we just get this clear, because I understood you earlier to say the - on its own the fact that you are employed by an organ of State such as a State Owned Company is enough to require you to be security vetted. Is that
10 correct?

MS DLAMINI: It - it could be a combination of the two. You can be employed and not have access to classified information.

ADV KATE HOFMEYR: And you would still need to be vetted?

MS DLAMINI: And you still need to be vetted.

ADV KATE HOFMEYR: Okay.

MS DLAMINI: Yes.

CHAIRPERSON: Let me see if I can assist. Ms Dlamini ...

MS DLAMINI: Yes.

CHAIRPERSON: There is a difference between something that must be
20 done. You say that thing is compulsory and a situation where something does not have to be done, but maybe done. You understand?

MS DLAMINI: Yes. Yes.

CHAIRPERSON: It is compulsory that when you come to the Commission you be dressed ...

MS DLAMINI: Yes.

CHAIRPERSON: But it is not compulsory that you put on your best dress. Okay, but if you like you can put on your best dress. Okay. So now was your understanding that if somebody is employed by a - an organ of State security vetting is compulsory ...

MS DLAMINI: Yes. Yes.

CHAIRPERSON: Or was your understanding that if you are employed by an organ of State. It may be necessary under certain circumstances that you be subjected to security vetting, but it is not compulsory.

10 **CHAIRPERSON:** Which of the two are you saying was ...

MS DLAMINI: I am ...

CHAIRPERSON: Your understanding?

MS DLAMINI: Yes. Chairperson, I am saying if you are employed by an organ of State you should be vetted.

CHAIRPERSON: It is compulsory?

MS DLAMINI: It is compulsory.

CHAIRPERSON: And does that mean all the millions that are employed by Government must all be vetted and they would all have been vetted?

MS DLAMINI: Yes.

20 **CHAIRPERSON:** Irrespective of your position? The cleaning staff in various Government Departments. They also have on your understanding they must be subjected to security vetting.

MS DLAMINI: Yes.

CHAIRPERSON: Is that right?

MS DLAMINI: Yes.

CHAIRPERSON: That has always been your understanding?

MS DLAMINI: Yes.

CHAIRPERSON: Okay. Alright.

ADV KATE HOFMEYR: Thank you Chair. I am indebted. I have highlighted that Minister Mahlobo - and I accept Ms Dlamini it is Minister Mahlobo's letter. It is not your letter ...

MS DLAMINI: Ja.

ADV KATE HOFMEYR: But Minister Mahlobo seems in the letter to pay some emphasis on the fact that these persons who are going to be
10 vetted have access to sensitive information. Do you see that?

MS DLAMINI: Yes. I see that.

ADV KATE HOFMEYR: Now I would just like to probe that a little bit with you. What is the agency's understanding of that link between the employees and sensitive information? Must it be the case that the employees have access to such information to be vetted?

MS DLAMINI: Can you come again please?

ADV KATE HOFMEYR: Is it a requirement that an employee who is going to be vetted must have access to sensitive information or is that not a requirement?

20 **MS DLAMINI:** If we look at the law it - it states that if you are employed by the State you have to be vetted and at least - or if you are rendering a service to a State Organisation and you - you have access to classified information. You have to be vetted.

ADV KATE HOFMEYR: Right.

MS DLAMINI: Yes.

ADV KATE HOFMEYR: So you add the requirement of access to classified information for those who are rendering services. Is that right?

MS DLAMINI: Yes.

ADV KATE HOFMEYR: I understand that distinction. Is your understanding that you describe now commonly the understanding amongst the people in the Vetting Division of the State Security Agency?

MS DLAMINI: Let me not talk for the rest ...

ADV KATE HOFMEYR: Okay.

10 **MS DLAMINI:** Of the people. *Ja*.

ADV KATE HOFMEYR: No. That is fine.

MS DLAMINI: *Ja*.

ADV KATE HOFMEYR: Do - do you have briefings about this? Do you ...?

MS DLAMINI: Yes. Yes. We do. Yes. We do.

ADV KATE HOFMEYR: And I - I fully appreciate that many of you may not be lawyers, but at some point has this understanding that you describe today being discussed amongst colleagues and understood?

MS DLAMINI: Very much. Very much. Yes.

20 **ADV KATE HOFMEYR:** Thank you. I would then like to back - if we may - to your affidavit at page 6 and you can actually turn over the page to page 7, because we are now going to deal with what your affidavit says about the exchanges between Minister Mahlobo and Minister Nene and what followed.

At paragraph 3.2 you deal with what happened after the

exchange of correspondence. Can you tell us what that was?

MS DLAMINI: 3.2?

ADV KATE HOFMEYR: Indeed.

MS DLAMINI: After the exchanges then the list was forwarded to our Ministry at the time - Honourable Mahlobo - and then it had to be directed to the relevant structure ...

ADV KATE HOFMEYR: Hm.

MS DLAMINI: From his office. Yes.

ADV KATE HOFMEYR: Let us just be clear. What was the list a list
10 of?

MS DLAMINI: It was the list - it was as we received it. It said Executive and support staff.

ADV KATE HOFMEYR: And who compiled that list?

MS DLAMINI: I was not there when the list was compiled, but when the
- we received the list it was written Executive and support staff.

ADV KATE HOFMEYR: And who sent the list through?

MS DLAMINI: I received it from my Executive and then it was from our Ministry.

ADV KATE HOFMEYR: Right. Let us go to those letters - if we may.
20 You will find the first one at page 19 of EXHIBIT DD24.

MS DLAMINI: Page?

ADV KATE HOFMEYR: 19 - 1-9.

MS DLAMINI: Yes.

ADV KATE HOFMEYR: So what is this letter?

MS DLAMINI: This is the letter that former Minister Nene wrote to our

former Honourable Mahlobo.

ADV KATE HOFMEYR: And what date is indicated at the bottom of the letter?

MS DLAMINI: I think it is 26 November 2015. Yes.

ADV KATE HOFMEYR: And it appears to be - as you describe - a response to the letter we were just looking at.

MS DLAMINI: Yes.

ADV KATE HOFMEYR: Dated 13 October 2015.

MS DLAMINI: Yes.

10 **ADV KATE HOFMEYR:** Is that correct?

MS DLAMINI: That is correct. Yes.

ADV KATE HOFMEYR: Do you see in the second paragraph that Minister Nene quotes the same Section of the Act that Minister Mahlobo quoted?

MS DLAMINI: The National Strategic Intelligence Act 39 of 1994?

ADV KATE HOFMEYR: Yes.

MS DLAMINI: Yes.

ADV KATE HOFMEYR: He quotes it in the same terms that Minister Mahlobo quoted it. Did he not?

20 **MS DLAMINI:** He quotes it in the terms of saying these Executives have access to sensitive information.

CHAIRPERSON: I wanted to say Ms Hofmeyr maybe they purport to ...

ADV KATE HOFMEYR: Yes.

CHAIRPERSON: Quote it.

ADV KATE HOFMEYR: That is far more accurate Chair. Far more

accurate. Let me use that exact description. In the second sentence of the second paragraph Ms Dlamini. What Minister Nene appears to do there is to purport to quote the Section 1 of the National Strategic Intelligence Act and he purports to quote it in the very same language that Minister Mahlobo quoted it. Does he not?

MS DLAMINI: Yes.

ADV KATE HOFMEYR: And that we have already resolved is not what the Act says. Does it?

MS DLAMINI: That we have resolved. Yes.

10 **ADV KATE HOFMEYR:** Yes and it goes on at paragraph 3 to talk about two separate letters dated the 2nd and 5 November 2015 from the SAA Board Chairperson Ms D Myeni which lists all Executive Management and support staff as per your request. Do you see that?

MS DLAMINI: Yes.

ADV KATE HOFMEYR: So is this the letter that you were talking about to which the lists were attached?

MS DLAMINI: This is the letter that I was talking about where the list was attached. Yes.

ADV KATE HOFMEYR: So let us go to that list, because it is preceded
20 by a letter on the next page which is at page 20 ...

MS DLAMINI: Yes.

ADV KATE HOFMEYR: And what is that document?

MS DLAMINI: This is the list now of the Executives that were to undergo a vetting assessment.

ADV KATE HOFMEYR: Right and this is the list - a letter dated

2 November 2015.

MS DLAMINI: Yes.

ADV KATE HOFMEYR: Is that correct?

MS DLAMINI: Yes. Yes.

ADV KATE HOFMEYR: Now you see in that letter there is a list of Executive Management Members that are going to be vetted. Is that correct?

MS DLAMINI: It is the list of Executive Members that are going to be vetted. That is correct.

10 **ADV KATE HOFMEYR:** And how many names are indicated there?

MS DLAMINI: On the front top part it is 13 names ...

ADV KATE HOFMEYR: Right.

MS DLAMINI: And then you would proceed with the whole list of names.

ADV KATE HOFMEYR: What - why do you say the whole list of names proceed this?

MS DLAMINI: I am saying because it - it starts from this page ...

ADV KATE HOFMEYR: Hm.

20 **MS DLAMINI:** And then there is the list that continues when you look at 22, 23, 24, 25 m...

ADV KATE HOFMEYR: see.

MS DLAMINI: 26, 27, 28, yes. Yes.

ADV KATE HOFMEYR: So just so we understand the document on the same terms. What I understand Ms Myeni to be saying at page 20 - and correct me if your understanding at the time was different. Was

that this letter would include - I am now at paragraph 1. She writes there:

“I refer to the letter from the Minister dated 2 November 2015 requesting for a list of all SAA Executive Management and support staff. The list of support staff will be forwarded to the Minister on Wednesday 4 November 2015.”

She goes on.

10 “The list of Executive Management Members is given below.”

And then we have a list of 13 names. Is that correct?

MS DLAMINI: Yes. That is correct.

ADV KATE HOFMEYR: And then if we go over the page there is a further letter. Who writes that letter?

MS DLAMINI: It is the letter that was written to former Minister Nene from the former Chairperson of SAA - Ms Myeni.

ADV KATE HOFMEYR: And that is dated 5 November 2015. Is that correct?

MS DLAMINI: That is the - yes. It is - it is 5 November 2015. Yes.

20 **ADV KATE HOFMEYR:** And in the second line of that letter she indicates - well first of all she refers to the previous letter on the 2nd and then she says:

“Please find attached a list with details of all Executive Managers and support staff.”

And then if we go over the page is this the list that you were referring

to?

MS DLAMINI: This is the list that I was referring to.

ADV KATE HOFMEYR: Did you take note of whether the 13 names that had been included on the first list of - as Executive Managers who would be vetted ended up being increased in this more lengthy list?

MS DLAMINI: Increased in what sense?

ADV KATE HOFMEYR: More than 13 Managers were now going to be vetted pursuant to the list commencing at page 22.

MS DLAMINI: When I received this it was the entire document. So I
10 would not separate the 13 names to the rest of the names. So I - I did not separate it.

ADV KATE HOFMEYR: So was your understanding that this list that commences at paginated page 22 to paginated page 28 comprised all the people that you needed to conduct ...

MS DLAMINI: Yes.

ADV KATE HOFMEYR: Security vetting on?

MS DLAMINI: Yes. Yes.

ADV KATE HOFMEYR: And did you go through any process of working out who on this list was in Executive Management position and who was
20 in support staff position?

MS DLAMINI: No. Not at the time, but as soon they were submitting the forms that they had filled. We - I was able to - to - to make that distinction.

ADV KATE HOFMEYR: And at that point did you work out whether the Executive Managers were confined to the original list of 13 or not?

MS DLAMINI: What do you mean?

ADV KATE HOFMEYR: The - the original list that Ms Myeni provides on 2 November ...

MS DLAMINI: Yes.

ADV KATE HOFMEYR: Had a list of only 13 Managers ...

MS DLAMINI: Yes.

ADV KATE HOFMEYR: But the list that commences at page 22 ends up with - I think - it is 118 people ...

MS DLAMINI: Yes.

10 **ADV KATE HOFMEYR:** Who are going to be vetted.

MS DLAMINI: That is correct.

ADV KATE HOFMEYR: Did you establish once you had worked out their positions whether the original list of 13 Managers had increased to include other Managers as well?

MS DLAMINI: When I looked at the list I looked at it in total.

ADV KATE HOFMEYR: So I think the answer is no. You did not ...

MS DLAMINI: No. No. *Ja*. I looked ...

ADV KATE HOFMEYR: Take steps ...

MS DLAMINI: At it in total.

20 **ADV KATE HOFMEYR:** Right.

MS DLAMINI: So the first 13 and the rest of the names to me it was just a list of the people - the officials that had to be vetted at the time.

ADV KATE HOFMEYR: And - and whose decision was it to vet Executive Management and support staff?

MS DLAMINI: I was not given reasons and I wasn't there when the two ministers were engaging on that, so I wouldn't know whose decision it was.

ADV KATE HOFMEYR: Alright, did you consider at all the question whether the Board members of SAA should not also be subject to security vetting?

MS DLAMINI: Not at the time no.

ADV KATE HOFMEYR: No.

MS DLAMINI: No.

10 **ADV KATE HOFMEYR:** If I ask you now whether you think if the Executive Management and support staff of SAA are being security vetted the Board members should also be security vetted, what would your answer be?

MS DLAMINI: My answer would yes, the Board would have to be vetted, but remember Advocate Hofmeyr the Board is vetted in terms of their contracts, do their contracts cater for that or if it is a request from the President.

ADV KATE HOFMEYR: Sorry, just explain that to me.

MS DLAMINI: According to the MISS ...[intervenes]

20 **ADV KATE HOFMEYR:** What is MISS?

MS DLAMINI: It is Minimum Information Security Standard, Chapter 5 we vet the Board if there is a request to vet them.

ADV KATE HOFMEYR: But I thought your understanding of the Act was that anyone employed by an Organ of State should be vetted.

MS DLAMINI: Yes.

ADV KATE HOFMEYR: So why aren't ...[intervenes]

MS DLAMINI: Or rendering a service.

ADV KATE HOFMEYR: Or rendering a service, but let's look at the – those who are ...[intervenes]

CHAIRPERSON: Rendering a service if they are going to have access to classified information.

MS DLAMINI: To classified information yes.

CHAIRPERSON: And it seems that if Executives are going to have access to executive – to classified information definitely Board
10 Members would also have access.

MS DLAMINI: Yes.

CHAIRPERSON: So even if you don't say Board Members are employees but they are people who are rendering a service and will have access to classified information if the Executive Managers also have access.

MS DLAMINI: Yes. So they should be vetted on that note.

CHAIRPERSON: Yes.

MS DLAMINI: Yes.

CHAIRPERSON: So irrespective of what the other instrument is that
20 you referred to on the basis of your understanding of the Act, Section 2A.

MS DLAMINI: Yes.

CHAIRPERSON: They should have been vetted if their responsibilities required them to have access to classified information.

MS DLAMINI: Yes and considering the Section 2A.

CHAIRPERSON: *Ja*, okay. Has that helped?

ADV KATE HOFMEYR: Indeed Chair, I am indebted. Did anyone raise this with the respective ministers at the time that you were rolling out your vetting operation in SAA?

MS DLAMINI: No.

ADV KATE HOFMEYR: Do you think that ought to have been raised?

MS DLAMINI: I didn't think about it at the time.

ADV KATE HOFMEYR: And as you sit here now today?

MS DLAMINI: I will have to think about it.

10 **CHAIRPERSON:** No, no I am sorry, what would you have to think as you sit there today?

MS DLAMINI: No she is asking me if the Ministers were engaged in terms of the Board having to be vetted, I am saying no one engaged with those ministers at that time.

CHAIRPERSON: Yes, no I thought she asked you the question whether as you sit there now you would think the Board members should also have been vetted, and I thought you had given an answer which was yes.

MS DLAMINI: Yes.

20 **CHAIRPERSON:** As you sit here, but at that time you didn't think about it.

MS DLAMINI: No at that time I didn't think about it.

CHAIRPERSON: Okay but the answer you gave her was not the same, Ms Hofmeyr did I misunderstand something?

ADV KATE HOFMEYR: No not at all. So we have clarified now as I understand it, just to be clear on your evidence Ms Dlamini is as you sit here today you think the members of the SAA Board should also have been security vetted?

MS DLAMINI: Yes, yes, yes.

ADV KATE HOFMEYR: Thank you. I would like to return to your affidavit at page 7, and at page 7 you pick up at paragraph 3.3 the fact that you were appointed Project Manager ...[intervenes]

CHAIRPERSON: Maybe just for the sake of completeness and I think
10 we have both touched on this, would you know or would you not know whether Executive Managers of SAA would have access to classified information? Is that something you would know or is that something you would not know?

MS DLAMINI: No, I would not know, I would not Chairperson, I wouldn't.

CHAIRPERSON: Yes, but are you able to say well if executive managers of SAA were going to have access to classified information then the Board would also have access to classified information, is that something you are able to say in terms of your ...[intervenes]

20 **MS DLAMINI:** Yes, yes, it would ...[intervenes]

CHAIRPERSON: Yes, it's logical.

MS DLAMINI: It would make sense yes.

CHAIRPERSON: Yes, okay.

ADV KATE HOFMEYR: Thank you Chair. I do actually have a follow up question from that before we go to MISS.

CHAIRPERSON: Yes, yes.

ADV KATE HOFMEYR: In the course of your vetting operation did you at any point assess whether the Executive Managers and Support staff that you were vetting had access to classified information?

MS DLAMINI: No, no, we did not.

ADV KATE HOFMEYR: Let's go to – you mentioned MISS, that's the Minimum Information Security Standards document. It has been included in the legislation bundle that we were just looking at, and you referenced Chapter 5 of that document, you will find that at page 465 of
10 the legislation bundle. Do you have it in front of you?

MS DLAMINI: 465?

ADV KATE HOFMEYR: Yes.

MS DLAMINI: Yes, yes I do.

ADV KATE HOFMEYR: I think you were referring to Clause 1.5 on that page, is that correct?

MS DLAMINI: Yes, yes, yes.

ADV KATE HOFMEYR: So let us see what that clause says. It says:

“Political appointees, Directors, Generals, Ambassadors,
etcetera, will not be vetted unless the President so requests
20 or the relevant contract so provides.”

It then goes on and says:

“From the lowest level up to Deputy Director General all staff members and any other individuals who should have access to classified information must be subjected to security vetting.”

Do you see that?

MS DLAMINI: Yes.

ADV KATE HOFMEYR: So following on from the Chair's questions earlier do you accept that if it was established that the members of the Board of SAA had access to classified information they would be required to be subjected to security vetting?

MS DLAMINI: Absolutely, absolutely.

ADV KATE HOFMEYR: But they are not among the political appointees who won't be vetted unless required by the President or
10 their contract provides, are they?

MS DLAMINI: They are not full members who are employed by SAA.

ADV KATE HOFMEYR: No what I am asking is are they political appointees?

MS DLAMINI: No they are not.

ADV KATE HOFMEYR: No, so that first sentence couldn't apply to them, what does apply to them is the second sentence.

MS DLAMINI: Yes.

ADV KATE HOFMEYR: Which is irrespective of your level if you have access to classified information you must be vetted.

20 **MS DLAMINI:** You must be vetted.

ADV KATE HOFMEYR: Is that correct?

MS DLAMINI: That's correct yes.

ADV KATE HOFMEYR: So the conduct of this vetting operation was not compliant with MISS when it was conducted at SAA was it?

MS DLAMINI: It was because the Executives who were vetted are employees of SAA.

ADV KATE HOFMEYR: No what I am interested in is this paragraph of MISS to which you drew our attention says that irrespective of the level you are at if you are a person who has access to classified information you must be subject to security vetting, do you see that?

MS DLAMINI: I see that.

ADV KATE HOFMEYR: We have already confirmed that the Board members of SAA would have had that access, if anyone had it.

10 **MS DLAMINI:** Yes.

ADV KATE HOFMEYR: Yes, and what I say following on from that is they weren't vetted in your security vetting operation at SAA were they?

MS DLAMINI: No they were not.

ADV KATE HOFMEYR: So that vetting operation did not comply with this paragraph of MISS did it?

MS DLAMINI: No, no it was not on this, it was on Section 2A.

ADV KATE HOFMEYR: Thank you. Ms Dlamini- oh Chair we are at quarter past, I am going to move to a new topic, so it may be convenient to take the break.

20 **CHAIRPERSON:** Yes, no that is fine, we will adjourn for tea and resume at half past. We adjourn.

REGISTRAR: All rise.

INQUIRY ADJOURNS

INQUIRY RESUMES

CHAIRPERSON: Okay, let us continue.

ADV KATE HOFMEYR: Thank you Chair. Miss Dlamini we were before the break at page 7 of your affidavit and I had indicate that at paragraph 3.3 you record there that you were appointed as the project manager of the betting process, you have already given evidence this morning to that effect, is that correct?

MS DLAMINI: Yes, that is correct Advocate Hofmeyr.

ADV KATE HOFMEYR: And you say at paragraph 3.4 that you designed a project plan, is that right?

MS DLAMINI: Yes that is correct.

10 **ADV KATE HOFMEYR:** I would like to go to that project plan because you attach it as an Annexure to your affidavit. Let us just go to the first page to start with, that is at page 30, three zero of Exhibit DD(24).

CHAIRPERSON: Did you say page 20?

ADV KATE HOFMEYR: 30 Chair, three zero.

CHAIRPERSON: Okay.

ADV KATE HOFMEYR: Can you confirm Miss Dlamini that the document that appears at page 30 and runs to page 42 of Exhibit DD(24) is the project plan that you compiled.

20 **MS DLAMINI:** Yes Advocate Hofmeyr, it is the project plan that I designed.

ADV KATE HOFMEYR: I would like to pick it up then at page 34, three four.

MS DLAMINI: Yes.

ADV KATE HOFMEYR: At page 34 you have a heading there against paragraph number 1.3, which reads project goals and objectives, do you

see that?

MS DLAMINI: Yes.

ADV KATE HOFMEYR: Could you please read into the record what you recorded in this project plan, were the project goals and objectives?

MS DLAMINI:

10 “The main goal of the project is for SSA to support
the government of RSA in securing its sovereignty
and protecting its integrity, through conducting
vetting to all executive management and support staff
at SAA, in a prescribed manner as mandated by the
National Intelligence Act as amended by Section 3 of
the General Intelligence Amendment Act 11.”

ADV KATE HOFMEYR: And the next sentence?

MS DLAMINI:

 “The objective is to ensure that all classified and
sensitive documents within SSA are assessed by
personnel with valid security clearances.”

20 **ADV KATE HOFMEYR:** Well can I ask first of all, it seems to me that
that is an error in that sentence to refer to SSA, should that not be a
reference to SAA?

MS DLAMINI: Yes – yes that is an error.

ADV KATE HOFMEYR: Yes, it is an error we have made numerous times
in our investigations because we confuse the A and the S, but is it correct
that what you meant to record here is the objective is all classified and
sensitive documents within SAA are accessed by personnel with valid

security clearances, is that correct?

MS DLAMINI: That is correct.

ADV KATE HOFMEYR: And how were you going to do that if you had not established at all in this vetting operation whether anyone at SAA had actually had access to classified information?

MS DLAMINI: I think in an ideal situation will be conducted prior to employment so that when you have access to classified information you – you have already gone through the background screening.

ADV KATE HOFMEYR: Now I understand that is an ideal, what I am
10 asking is how could it have been an objective of this vetting exercise that was going to be conducted in respect of existing employees to ensure that they only had access to classified and sensitive documents if they had valid security clearances in a situation where no-one had at in any point in this vetting operation actually found out whether anyone at SAA did have access to classified information?

MS DLAMINI: Our role was to identify the risk posed by the executives who are already employed at that entity and then advise the client, the entity accordingly

CHAIRPERSON: Well what Miss Hofmeyr is putting to you or is asking
20 you Miss Dlamini is actually fundamental to this project that you were vetting. This sentence says the objective of this project, of this vetting is to ensure that classified and sensitive documents within SAA are accessed by personnel with valid security clearances. Now she is saying to you the starting point, should the starting point not have been the people that you are required to vet, do they have access to classified and

sensitive information or documents in terms of their jobs because if you do not ask that question first before doing the project, you may be wasting everybody's time and money, vetting people who will not have access to classified information and sensitive documents. You understand the question?

MS DLAMINI: I get the question Chairperson but remember we started by saying officials who are employed by an organ of state need to undergo vetting, as per section 2(A) of the Law. Right? Now those persons if they have access to classified information as part (B) now of
10 Section 2(A), they have to be vetted so if you are employed by an organ of state you have to be vetted.

CHAIRPERSON: But that is not the question. The question relates to the objective of this project. The objective of this project was not to make sure everybody employed at SAA was security vetted, that was, that is not the objective that is stated here. What is stated here is that the reason why you were having this project was to make sure that people who had access to sensitive information would be people who have valid security clearances, and the question is how do you undertake a project which has such an objective if you do not know that the people that you
20 are going to spend time on vetting, are people who do have access to such information.

MS DLAMINI: Yes we did not access the job descriptions of the executives that I can say prior to vetting but the approach was to say at a strategic level as executives they have to be vetted.

CHAIRPERSON: You want to take it from there Miss Hofmeyr?

ADV KATE HOFMEYR: Miss Dlamini your evidence has been clear at the level of fact at no stage in this vetting operation did you or your team establish whether these executives or their support staff had access, is that right?

MS DLAMINI: Yes, that is correct, yes.

ADV KATE HOFMEYR: Miss Dlamini I am going to show you in due course that that is a legal requirement for any lawful vetting to be conducted at any State-Owned Enterprise. I am going to tell you that now and I will take you there later, but I am not concerned with that for the
10 moment. What I am concerned with for the moment is your own project plan and your own project plan says the reason why we are doing this is because we want to establish and find people through a security vetting process who have the requisite clearance to access a type of information that we did not take any steps to establish whether they were accessing at any point.

MS DLAMINI: Okay let me come in there, in that, the reason that I have given to say the person, the officials who are employed by a State Owned Entity needs to undergo a vetting assessment. In this case we are talking about executives that are already employed so we need to minimize the
20 risk now to say this person, these people, this officials are already employed.

ADV KATE HOFMEYR: But you may not need to vet them, that is the other option available to you is it not?

MS DLAMINI: Why?

ADV KATE HOFMEYR: Because if you do not establish whether they

have access to the very information that you say they need security clearance for maybe then you should not vet them at all?

MS DLAMINI: We would vet them because they are employed by a State Entity.

ADV KATE HOFMEYR: We will come to that in due course.

CHAIRPERSON: Yes, you see Miss Dlamini, if the objective of the project was to vet everybody at SAA who was employed there, then it would be open to you to say well we did not have to check whether people, the people we were vetting had access to classified information
10 because we were simply vetting everybody who was employed there, okay? But that is not what the objective says as I understand it. It seems to say we vetting people so that when they have access to classified information, sensitive information they would be having valid security clearances and the whole question that Miss Hofmeyr was asking and I was coming in on, is one would have expected that if that is the, that was the objective one would expect that you would seek first to establish who has in the course of their responsibilities, in the course of their duties, who has access to classified information and sensitive information, sensitive documents, give us those people, those are the
20 ones we are going to - to deal with.

MS DLAMINI: Yes Chairperson if I may elaborate to say flowing from the Section 2(a) of the law, considering that these officials were already employed by a State Owned Entity, that would be a big consideration for them to be vetted.

CHAIRPERSON: No, no no, Miss Dlamini I do not want us to waste time

on this. We have dealt with that and you have agreed that is not the basis on which the, this project was done. The basis on which this project was done is stated in the objective [intervenes].

MS DLAMINI: Yes

CHAIRPERSON: And that does not talk about everybody that is employed it talks about somebody who may have access to classified and sensitive documents. You might be able to answer, you might not be able to answer but one would have expected that if that was the objective you would say to SAA or whoever we do not want to waste time vetting people
10 who's jobs do not require them to have access to sensitive information. We do not want to waste time vetting people who really have nothing to do, who do not come close to sensitive or classified information. Give us the ones 'whose responsibilities put them in a position where they could have access.

MS DLAMINI: Chairperson if we were to refer to the letters between the two Ministers it states that these officials have access to sensitive information. Maybe the question would be, did the two Ministers who engaged or communicated prior to the project being implemented, what was there, what exactly did they do to ensure that these people have
20 access to sensitive information?

CHAIRPERSON: Where does it say that in the letter? Or which letter is it? The first one that was by Minister Mahlobo?

MS DLAMINI: Yes, yes, the first one.

ADV KATE HOFMEYR: I think it is page 17 Chair.

CHAIRPERSON: Yes.

MS DLAMINI: It is page 17. It says, let me just refer, okay if you can go to 19 [intervenes].

CHAIRPERSON: Well let us start with 17. On paragraph 2 I just see where it says given sensitive information received on an ongoing basis. Now I do not know whether you know, I do not know who is supposed to receive that sensitive information that he is talking about, whether he is talking about the State Security Agency receiving sensitive information about SAA? Or whether he is talking about anybody else?

MS DLAMINI: Yes.

10 **CHAIRPERSON:** Do you know? I do not know.

MS DLAMINI: I do not know.

CHAIRPERSON: Okay, alright.

MS DLAMINI: Yes.

CHAIRPERSON: Is there anything else in that letter that you think supports your not checking whether they had access to?

MS DLAMINI: I am just driving Chairperson the point that in the two Ministers who engaged prior to the project being implemented, it is stated on these letters to say these executives have access to sensitive information on an ongoing basis [intervenes].

20 **CHAIRPERSON:** Let us start on the letter dated or on, appearing on page 17, is there anything that you rely on there to say these Ministers said these executives have access to sensitive information?

MS DLAMINI: Let me read paragraph 2.

CHAIRPERSON: Ya.

MS DLAMINI: It has come to the attention of the State Security Agency

that there is an urgent need for vetting and re-vetting of the State Owned Enterprises given sensitive information received on an ongoing basis. Now the question that Advocate Hofmeyr is posing in terms of access to sensitive information, I am saying I was not privy of what the two Ministers communicated on and if there was any reason or information shared relating to that access of sensitive information.

CHAIRPERSON: Yes, you see it is not going to help if we are going to look at these letters if you do not know if the letters help you answer the question. If you – if you know that they contain something that helps you
10 answer the question then it is fine but if you do not know then there is no point in looking at them

MS DLAMINI: Yes

CHAIRPERSON: Do you know whether if they provide an answer for you?

MS DLAMINI: Yes to an extent that the two Ministers might have engaged with SAA to obtain, to have the reasons as to do these executives have access to classified information.

CHAIRPERSON: Ya, but that is speculation, is that right, you are speculating?

20 **MS DLAMINI:** Yes, so it is known from that context, that is what I am trying to explain.

CHAIRPERSON: But – but other than speculation you are not able to point to anything to say it shows that it supports the decision to vet people without checking whether they have access, they had access to sensitive information, is that right?

MS DLAMINI: Yes Chairperson but I would go with paragraph 2 to support.

CHAIRPERSON: Yes but remember paragraph 2 you agreed with me earlier on that where it refers to sensitive information we do not know who they are talking about, the Ministers is talking about, whether he is talking about sensitive information received by State Security Agency about SAA?

MS DLAMINI: About SAA

CHAIRPERSON: Or whether it is, we do not know who received the
10 information that he is talking about, okay?

MS DLAMINI: Yes.

CHAIRPERSON: Alright. If you feel that you have not, if you want to check something before we leave this point you may have a look.

MS DLAMINI: Yes I do.

CHAIRPERSON: But otherwise if there is nothing else Miss Hofmeyr can move on.

MS DLAMINI: Yes I quickly want to check something. Oh yes I think the later dated 2015, November 26 [intervenes].

ADV KATE HOFMEYR: Chair it is page 19.

20 **MS DLAMINI:** Page 19 – page 19.

CHAIRPERSON: Yes?

MS DLAMINI: From former Mr Nene, I think the issue of sensitive information on an ongoing basis comes up again.

CHAIRPERSON: Sorry?

MS DLAMINI: The issue of sensitive information received on an ongoing

basis is coming up again.

CHAIRPERSON: But he, all he is doing is just referring to what Minister Mahlobo said in his letter.

MS DLAMINI: Yes.

CHAIRPERSON: He is not saying anything of his own.

MS DLAMINI: Yes. Yes. Yes.

CHAIRPERSON: Miss Hofmeyr?

ADV KATE HOFMEYR: Thank you Chair, I would like to then go back to your project plan. We were looking at first of all the objectives that you
10 identified, that was at page 34 I would like to go to page 35 if we may?
That is of Exhibit DD (24).

MS DLAMINI: Yes.

ADV KATE HOFMEYR: Now you will see there is a heading there against the, number 1.5, do you see that? Reading “Critical Success Factors.”

MS DLAMINI: Where are you now?

ADV KATE HOFMEYR: We are at page 35.

MS DLAMINI: Oh 35. Yes?

ADV KATE HOFMEYR: And this is still in the project plan that you devised and I was drawing your attention to the heading against item 1.5
20 which reads “Critical Success Factors,” do you see that?

MS DLAMINI: Yes I see that.

ADV KATE HOFMEYR: And you have recorded there:

“The following are critical factors limited to this
project”

And then the first bullet is:

“Management Buy In and Support,”

Do you see that?

MS DLAMINI: Yes I see that.

ADV KATE HOFMEYR: Did you have a sense at the time that you were conducting this vetting exercise, what the level of Management Buy-In and Support was?

MS DLAMINI: Yes.

ADV KATE HOFMEYR: Were you satisfied with it?

MS DLAMINI: Yes – yes –yes.

10 **ADV KATE HOFMEYR:** You did not have a need at some point to go and meet Miss Myeni down in Cape Town to say you were not receiving adequate support?

MS DLAMINI: You mean, can you just elaborate a bit?

ADV KATE HOFMEYR: I asked you whether you were satisfied with the levels of Management Buy-In Support for the vetting exercise and you, I understood your answer to be yes, you were satisfied?

MS DLAMINI: Yes.

ADV KATE HOFMEYR: And then I said, I, well I am relying on what you said in your affidavit, I thought you said there was a point that you had to
20 go meet Miss Myeni down in Cape Town because you were concerned about the level of support and buy-in you were receiving?

MS DLAMINI: Okay let me explain on that, in terms of the buy- in and the support, remember we had briefed the board when we rolled out the project but that did not mean that any issues arising from the time that we briefed them, I cannot raise them, and that did not mean that I do not

have the buy-in.

ADV KATE HOFMEYR: So were you satisfied you did get their buy-in in the course of the vetting operation?

MS DLAMINI: In a sense because they were briefed, everybody was briefed and there were no, I did not get any indication to say they do not support what we have to do.

ADV KATE HOFMEYR: So when the seven executive managers resigned because of the vetting process was that not an indication that you did not have their support?

10 **MS DLAMINI:** No, it was not.

ADV KATE HOFMEYR: What did that indicate?

MS DLAMINI: Remember the executives who resigned would write their letters to their employer not to me. It could be of different reasons but I had to engage on that to say could it be anything relating to the work that we are doing there. So in terms of the support the board, the acting CEO at the time, there was never any indication to say they are not onboard.

ADV KATE HOFMEYR: No, I fully understand the board being onboard because they were not being vetted, what I am concerned about is the 118 managers and support staff whom you vetted in a situation where
20 seven of those executive managers resigned during the course of this vetting operation and we have heard evidence before this Commission previously, that there was great unhappiness amongst the executive managers about the fact that they were being subjected to security vetting in jobs that they had never been forewarned would have this requirement and in circumstances where they had to give deeply personal

information over to the State Security Agency, where those not matters that came to your attention?

MS DLAMINI: Miss, Advocate Hofmeyr, you will recall that I would arrange the meeting so that we engage on any of the issues arising at that particular time and at no stage did any of the board members, any of the executive indicated to me or to the organization I represent to say they are unhappy or they are not going, there are any issues that need to be discussed. I will be the one to engage them to say these are the, this is the situation where we are and provide status reporting in that regard, so in that sense I would say I was of the idea that I still have the buy-in from them.

ADV KATE HOFMEYR: Can I just clarify who was at those meetings that you are talking about? You mention the board, you mentioned some members of the executive, previously you had indicated the Acting CEO, is that correct?

MS DLAMINI: That is correct.

ADV KATE HOFMEYR: Was the interim, I think her position at the time was also Acting CFO in those meetings, Miss Nhantsi? Was she also in these meetings where you were receiving feedback?

20 **MS DLAMINI**: No.

ADV KATE HOFMEYR: No, so are we just talking about the board and the Acting CEO?

MS DLAMINI: Yes, and I have to indicate that I was stationed at Airways Park the whole time so I would engage the CEO at any given point, so Advocate Hofmeyr at no stage did the former Acting CEO indicated to me

or to the organization to say there are issues or disturbing issues pertaining to the vetting of executives.

ADV KATE HOFMEYR: I understand that, but you were reliant on him for the information about what the other executives were feeling, is that correct?

MS DLAMINI: I was prepared to brief them at any given stage.

ADV KATE HOFMEYR: No, I am asking about who you were relying on to tell you whether there were other managers who were uncomfortable, unhappy or dissatisfied about this vetting operation. What I understand
10 you to say is your point of contact was the Acting CEO and it was with him, and that was Mr Zwane at the time. Is that correct?

MS DLAMINI: That was Mr Zwane at the time.

ADV KATE HOFMEYR: Who you were engaging so you relied on him to give you this information correct?

MS DLAMINI: Yes, yes, yes.

ADV KATE HOFMEYR: Thank you, I would then like to go to page 38 of your project plan and pick it up there at item 2.3 on the page which is dealing with major project milestones, do you see that?

MS DLAMINI: Yes I do.

20 **ADV KATE HOFMEYR:** Now the fourth line within that table after the heading indicates that you gave a briefing to the Chairperson of the SAA board and presented the project plan and the date for that is the 13 January 2016, do you see that?

MS DLAMINI: Yes I see that.

ADV KATE HOFMEYR: And then the next line item is that there was a

briefing to the SAA board and presenting the project plan on the 14 January 2016, do you see that?

MS DLAMINI: Yes, yes, I see that.

ADV KATE HOFMEYR: Why was there a need to brief the Chairperson on the day before the briefing of the board?

MS DLAMINI: I had requested the meeting to meet the Chairperson of the board and from my side it was simply to observe protocol. If she was present at the board meeting the next day I would have briefed her together with the board at the same time. The very same project plan
10 that was presented to her on the 13th was the very same project plan that was presented to the board in Midrand Protea Hotel on the 14th. So from my side it was simply to observe protocol.

ADV KATE HOFMEYR: Just help me with that. Where did the meeting on the 13 January 2016 take place with Miss Myeni?

MS DLAMINI: In Durban.

ADV KATE HOFMEYR: In Durban?

MS DLAMINI: Yes.

ADV KATE HOFMEYR: So you travelled to Durban to meet with Miss Myeni to give her the same briefing that would be given the following day
20 to the board, is that correct?

MS DLAMINI: Let me indicate that the board sitting on the 14th, I was not aware that the board is sitting on the 14th. We got that information from the Chairperson herself to say look the board is sitting tomorrow in Midrand it would be easier for you to meet them there because she is in a position to know in terms of the schedule for the board.

ADV KATE HOFMEYR: Sorry, then we were cross-purposes because when you designed the project plan you included that meeting, remember we were at page 38?

MS DLAMINI: Yes.

ADV KATE HOFMEYR: How could you have included this in the project plan if you did not know about the meeting before?

MS DLAMINI: I think the dates- I just added the dates after it had occurred.

10 **ADV KATE HOFMEYR:** So, this was not a plan prepared in advance of the project.

MS DLAMINI: It was but I think that the date- those two dates I just put them as we went along.

ADV KATE HOFMEYR: Oh, so it was revised after its initial.

MS DLAMINI: Yes.

ADV KATE HOFMEYR: Okay. So, let me get that right. You arrange a meeting with Ms Myeni down in Durban.

MS DLAMINI: Yes.

ADV KATE HOFMEYR: Because she is the chairperson of the board, right.

20 **MS DLAMINI:** Yes.

ADV KATE HOFMEYR: Now if we go back to your affidavit at page 8 ... (intervenes)

CHAIRPERSON: Before you do that Ms Hofmeyr.

ADV KATE HOFMEYR: Apologies Chair.

CHAIRPERSON: Ms Dlamini it looks like that date on page 38 the first

date 8 December 2016 is wrong. Should it not be 2015?

ADV KATE HOFMEYR: Yes.

MS DLAMINI: No, it is correct, it is 2016.

CHAIRPERSON: Mm?

MS DLAMINI: It is 2016.

CHAIRPERSON: But then you are talking about- how can you start with 8 December 2016 and come to 11 January 2016?

ADV KATE HOFMEYR: It must be a 2015.

MS DLAMINI: Oh, you mean the second date.

10 **CHAIRPERSON:** No, the first- well, either the first date are wrong or the other dates are wrong.

MS DLAMINI: I think the second date is wrong.

ADV KATE HOFMEYR: Ms Dlamini can I assist?

MS DLAMINI: Yes.

ADV KATE HOFMEYR: I do not think the second date can be the wrong one. That is because you closed the project ... (intervenes)

CHAIRPERSON: Yes.

ADV KATE HOFMEYR: On the 30th of July 2016.

MS DLAMINI: Yes.

20 **CHAIRPERSON:** Yes.

ADV KATE HOFMEYR: So, you could not have had your stakeholder engagement after you have closed the project.

MS DLAMINI: Yes.

CHAIRPERSON: Yes.

ADV KATE HOFMEYR: Is it not the error that it should be 8 December

2015?

MS DLAMINI: Oh 2015, yes.

CHAIRPERSON: Yes.

MS DLAMINI: You are correct, it is 2015.

ADV KATE HOFMEYR: And so, despite the fact that you presented this project plan just following on from the Chair's question, on the 11th of January 2016, your evidence has been this actual document was revised subsequently and that is how we get the insertion of the 14th of January. Is that right?

10 **MS DLAMINI:** Yes.

ADV KATE HOFMEYR: Okay. So, let me just get it right. You were planning then only to meet with Ms Myeni on the 13th of January. Is that right?

MS DLAMINI: Yes.

ADV KATE HOFMEYR: And you met with her in Durban and when you met in Durban, she then indicated; oh, there is a board meeting tomorrow in Midrand.

MS DLAMINI: That is right.

ADV KATE HOFMEYR: So maybe you should attend that. Is that how it
20 unfolded?

MS DLAMINI: Yes, that is how it unfolded.

ADV KATE HOFMEYR: Okay. So, then I would like to go back to what you said in your affidavit was discussed at that meeting with Ms Myeni. You will find that at page 8 of Exhibit DD24.

MS DLAMINI: Page 8. Yes.

ADV KATE HOFMEYR: So, at page 8 paragraph 3.5 you indicate that you had this meeting on the 13th of January and you indicate halfway down that paragraph what the purpose of the meeting was.

MS DLAMINI: Yes.

ADV KATE HOFMEYR: Just tell us what the purpose was.

MS DLAMINI: The purpose of the meeting was to present the project plan and to- and how it is going to be rolled out and also to request her to make available the necessary resources. Such as parking, access card, polygraph suit, nodal point offices and then operational centre.

10 **ADV KATE HOFMEYR:** Is that not something that you would have to get the board or at least the executive members of the board to assist with? How could Ms Myeni facilitate all of this on her own?

MS DLAMINI: I was of the idea that whatever we have discussed with her and the board together they will be able to attend to it and get to us.

ADV KATE HOFMEYR: No indeed.

MS DLAMINI: Yes.

ADV KATE HOFMEYR: If you discuss it with them together.

MS DLAMINI: Yes.

20 **ADV KATE HOFMEYR:** But I understand your evidence to be you had intended only to meet with Ms Myeni on the 13th.

MS DLAMINI: Yes.

ADV KATE HOFMEYR: It was only in the course of that meeting that you were told about the board meeting the next day.

MS DLAMINI: The board sitting.

ADV KATE HOFMEYR: So, you went to her on the 13th to discuss

aspects with her that she could not herself have executed. Is that right?

MS DLAMINI: Yes.

ADV KATE HOFMEYR: Thank you. So, there would of course have been a need notwithstanding that meeting to meet with the board, correct?

MS DLAMINI: Of course, but I was not aware when is the board meeting.

ADV KATE HOFMEYR: Right.

MS DLAMINI: Yes.

ADV KATE HOFMEYR: I understand that.

MS DLAMINI: Yes.

10 **ADV KATE HOFMEYR:** Let us then go to the stages of the vetting process and you pick that up at page 9 of your affidavit. Sorry, just before I go there. I did want to clarify one thing. Was Ms Myeni at the meeting on the 14th?

MS DLAMINI: No.

ADV KATE HOFMEYR: Not.

MS DLAMINI: She was not.

ADV KATE HOFMEYR: Okay.

MS DLAMINI: Ja.

ADV KATE HOFMEYR: So, you saw her on the 13th and the board
20 excluding her you saw on the 14th. Is that right?

MS DLAMINI: We met the board, the board was down in Midrand on the 14th, yes.

ADV KATE HOFMEYR: Right. Okay. So, you describe from paragraph 3.8 that there are various stages of a vetting project or operation. Can you please take us through those three stages?

MS DLAMINI: Okay the ... (intervenes)

ADV KATE HOFMEYR: Four, apologies four. There are four stages?

MS DLAMINI: Yes, there are four stages that we follow in terms of the vetting exercise. That is the administration stage, the vetting fieldwork stage, polygraph examination and the analysis stage which is the last part where the information is interpreted, analysed and a recommendation is done.

Okay, let me start with the administration stage. The administration stage it is where an official will fill in a vetting form Z204
10 form, attach the required documentation and we will load that in our system and verify it, right. Basically, that is it in terms of the administration.

And then the vetting fieldwork stage now the file from the administration unit will move to the vetting unit. That is where now the vetting officer who has been assigned that particular case would make the necessary arrangement to conduct interviews with the references that have been identified from the form and additional ones that she would go on to recruit, if I may use that word. And then at this stage the vetting officer would after making those arrangements would go on the field to
20 conduct the interviews and then he or she will combine a report. And that report will be moved to the polygraph examiner.

Now at that stage it is polygraph examination and let me also indicate that there are standard- there are guiding questions that the vetting officer uses or follows when they conduct those interviews. But he or she can add any questions being guided by the person that he or

she is vetting because each individuals vetting is different from another. So, the information would be different. So, the vetting officer would be- must probe further. So those questions can be changed or there can be additional questions by the vetting officer.

Now the polygraph stage which is the third stage. Now that is where the polygraph examination will take place.

ADV KATE HOFMEYR: Mm-hmm.

MS DLAMINI: Are you following me?

ADV KATE HOFMEYR: I am.

10 **MS DLAMINI:** Yes. It is conducted to ... (intervenes)

ADV KATE HOFMEYR: Can I just say it is most important that the Chair follows, not me so. If I can just ... (intervenes)

MS DLAMINI: Okay. Now at this stage now the polygraph is to determine the reliability of information. So, he or she conducts vetting of that particular official, compile a report. He or she can refer the file back to the vetting officer or the file can move to the next stage, the analysis.

And then the last stage is the analysis part where the information is consolidated, interpreted, analysed from the administration stage to the vetting stage to the polygraph stage. So, this is the analyst
20 now who is consolidating and interpreting all that information to make the final conclusions.

ADV KATE HOFMEYR: Thank you.

MS DLAMINI: Yes.

ADV KATE HOFMEYR: I would like to pick up on a few aspects of each of the stages.

MS DLAMINI: Yes.

ADV KATE HOFMEYR: Now in the first stage there is a form that has to be completed by the person being vetted and there is certain documentary information that has to be provided. Is that correct?

MS DLAMINI: That is correct.

ADV KATE HOFMEYR: That information that has to be provided is quite extensive is it not?

MS DLAMINI: Quite extensive, yes, it is.

ADV KATE HOFMEYR: Yes. We have an affidavit in your file from Ms
10 Olitzki. Ms Olitzki was Chair the person who Ms Nhantsi testified she had had a conversation with Ms Myeni about. The evidence previously was that when Ms Myeni received feedback on Ms Olitzki's security vetting, it was drawn to her attention that she had dual citizenship. And Ms Myeni engaged Ms Nhantsi to take steps to have Ms Olitzki removed and wanted to use according to Ms Nhantsi's evidence the fact of her dual citizenship as a basis for removal.

So, we have obtained an affidavit from Ms Olitzki who despite all of this still is employed by SAA. And she has given us some indications of how much information needs to be provided in order to complete these forms
20 and you will find that at page 70 of Exhibit DD24.

MS DLAMINI: 70?

ADV KATE HOFMEYR: Yes 70. Just for the record, the affidavit commences at page 68 of Exhibit DD24. It is an affidavit by Lindsey Sharon Olitzki. I will spell Olitzki O-L-I-T-Z-K-I. And where I want to pick it up is at page 70 because there at paragraph 12 Ms Olitzki indicates the

type of information, she had to supply in order to complete the form. At paragraph 12 she says there;

12. The form required a significant amount of information re personal particulars, education, health, including questions re psychiatric treatment, alcohol and drug abuse and previous marriage or cohabiting arrangements.

13. In addition, details of family members, relatives was required including details relating to the country of birth and nationality. Names and contact details of person who had known you for 5 to 20 years was
10 also requested. Plus, a full employment history as well as all visits outside the country, SAA member plus spouse for the past 5 years. Also copy of passport pages.

14. Additional information required was a 3 month history of bank accounts, credit card accounts, vehicle and home loans plus a monthly income and expenditure budget and details of property owned and other sources of income.

Ms Dlamini, I did have your evidence earlier to be you accept this is a substantial amount of information that needs to be handed over. Is that correct?

20 **MS DLAMINI:** Yes.

ADV KATE HOFMEYR: And it includes personal and private information of persons, correct?

MS DLAMINI: Financials yes.

ADV KATE HOFMEYR: Personal and private.

MS DLAMINI: Yes.

ADV KATE HOFMEYR: Correct.

MS DLAMINI: Yes.

ADV KATE HOFMEYR: So that is the first stage. They have to hand over all of this information. And then they get to an interview, is that correct, that is the next stage?

MS DLAMINI: That is the next stage, yes.

ADV KATE HOFMEYR: Right. And you have indicated to us that there are some guideline questions that must be covered in that interview. Is that correct?

10 **MS DLAMINI:** That is correct.

ADV KATE HOFMEYR: And you provided us as an Annexure to your affidavit with some of those questions.

MS DLAMINI: Yes.

ADV KATE HOFMEYR: I understand your evidence to be that they are guidelines. They can be departed from. Is that right?

MS DLAMINI: Yes.

ADV KATE HOFMEYR: Or is it fair to say that they provide the base from which questions are asked?

MS DLAMINI: They provide the base from which the questions are asked.

20 **ADV KATE HOFMEYR:** Yes. And then depending on answers you might want to probe further ... (intervenes)

MS DLAMINI: To probe further obviously.

ADV KATE HOFMEYR: Or ask additional questions. Is that right?

MS DLAMINI: Exactly.

ADV KATE HOFMEYR: I would like to go to type of questions that are

asked of people subjected to security vetting. And you will find that from page 43 of your Exhibit DD24. Page 43, do you have that?

MS DLAMINI: Yes. I am on page 43, yes.

ADV KATE HOFMEYR: So, Ms Dlamini, I am just going to highlight some of the questions. This is a fairly detailed document comprising I think seven pages. But what I want to highlight in the course of this and have you comment on afterwards is that not only is all that documentary information required to be provided to the State Security Agency. But when you arrive for your interview you are going to be asked a series of
10 questions that engage deeply private and personal matters. And I would like to highlight the questions for you that I say are of that quality.

Okay. So, on page 43 you get asked a whole lot about your family background and upbringing and amongst the questions midway down that page is whether all the children in the family were treated fairly while growing up. Do you see that?

MS DLAMINI: Yes.

ADV KATE HOFMEYR: It is sort of in the middle of the page. Were all the children treated fairly while growing up?

MS DLAMINI: Oh yes.

20 **ADV KATE HOFMEYR:** Do you see that?

MS DLAMINI: Yes, I see that.

ADV KATE HOFMEYR: Do you accept that that is quite a personal question?

MS DLAMINI: Yes, I do.

ADV KATE HOFMEYR: And further down about two thirds of that way

down you also get asked; were any of your parents or brothers or sisters abusing alcohol, drugs or substances? And if the answer is yes, you have to tell the vetting officer what that was. Do you agree that that is quite personal?

MS DLAMINI: Yes, because the interview is quite personal.

ADV KATE HOFMEYR: Mm?

MS DLAMINI: Yes, it is quite personal.

ADV KATE HOFMEYR: It is.

MS DLAMINI: So, I would say the entire questioning it is quite personal.

10 **ADV KATE HOFMEYR:** Yes.

MS DLAMINI: Yes.

ADV KATE HOFMEYR: Let us look at some of the other items. You get asked the question after that; did any of your immediate family receive counselling or psychotherapy? And if they did, you have to tell this member of the State Security Agency about the psychological treatment that one of the members of your family received. Is that right?

MS DLAMINI: From the questions that you have the questions is like, yes, it is asking that, yes ... (intervenes)

ADV KATE HOFMEYR: You then get asked at the bottom of that page to
20 describe your spouse's personality. Do you see that?

MS DLAMINI: Yes.

ADV KATE HOFMEYR: And that also is a personal matter. Is it not?

MS DLAMINI: Yes.

ADV KATE HOFMEYR: And then over the page at page 44.

MS DLAMINI: Yes.

ADV KATE HOFMEYR: You get asked as the fourth question on this page; if you had your life over again would you marry your spouse?

MS DLAMINI: Yes.

ADV KATE HOFMEYR: Yes. You accept that is a fundamentally personal question? A question the answer to which you probably would not have ever communicated to your spouse.

MS DLAMINI: As I have said I think the entire ... (intervenes)

CHAIRPERSON: Depending on what the answer is.

ADV KATE HOFMEYR: Indeed. Correct. I am anticipating when you do
10 not want to answer the question. So true. Deeply personal.

MS DLAMINI: Yes.

ADV KATE HOFMEYR: Yes.

MS DLAMINI: Advocate Hofmeyr as I have said I think the entire ...
(intervenes)

ADV KATE HOFMEYR: Yes.

MS DLAMINI: Interview is personal.

ADV KATE HOFMEYR: Of course, but this ... (intervenes)

MS DLAMINI: I know you want to pick up certain questions ...
(intervenes)

20 **ADV KATE HOFMEYR:** Indeed, because this was an operation that was
conducted at SAA.

MS DLAMINI: Yes.

ADV KATE HOFMEYR: In which a 118 people were asked these
questions. Right. But further of the way down. What kind of relationship
was there between your parents? Again, that is personal, is it not?

MS DLAMINI: All the questions are personal. I still ... (intervenes)

ADV KATE HOFMEYR: In the middle of the page. What kind of influence do relationships have on the marriage? They are talking there about how you relate to your parents in law. Do you see that?

MS DLAMINI: Yes, I see that.

ADV KATE HOFMEYR: And then you are asked. Do you believe in having more than one partner at a time? And you are asked to explain your answer, correct?

MS DLAMINI: Yes.

10 **ADV KATE HOFMEYR:** Again, deeply personal. And you are even asked; if you have lost your spouse, at the bottom of the page, how your children coped with the death of your spouse? Do you see that?

MS DLAMINI: Yes.

ADV KATE HOFMEYR: Are these people given any counselling before or after they answer these questions in a vetting operation?

MS DLAMINI: No, they are not.

ADV KATE HOFMEYR: No. But they know it is going to be followed by a polygraph test, do they not?

MS DLAMINI: Yes.

20 **ADV KATE HOFMEYR:** So, they dare not answer any of these questions falsely dare they?

MS DLAMINI: I would not say that exactly but you would get the answers the responses depending on what the person have said.

ADV KATE HOFMEYR: Well if they want to succeed and get their security clearance, they better give truthful answers to these questions.

Is that not correct?

MS DLAMINI: I believe so.

ADV KATE HOFMEYR: Yes. Let us go to page 45. You are asked all about your employment behaviour and then two thirds of the way down you are asked about you deal with stress and pressure. Do you see that?

MS DLAMINI: Yes, I see that.

ADV KATE HOFMEYR: That is also personal, is that right?

MS DLAMINI: Yes, advocate Hofmeyr.

ADV KATE HOFMEYR: Thank you.

10 **MS DLAMINI:** That entire interview is personal.

ADV KATE HOFMEYR: Okay. Let me read the final questions because I think your answer is going to be the same. And then I will just record them for the record and you will tell me if you accept that they are all personal. At page 46 you are asked about whether you are social and whether you go to bars and clubs. You are asked when you attend parties or socials what you talk about. You are asked whether you hang out with men or with women. You are asked what you see as luxuries. You are asked whether you are the type of person to make impulsive decisions with regard to buying things.

20 At page 47, you are asked about whether you borrow money on a regular basis from your friends or family and whether you pay it back on a regular basis. You are asked what stores you have accounts with and whether you are involved in any form of gambling. And if so, you must explain how often you do so. You are asked about whether you belong to a church. Whether it guides you in your life. What principles you live by.

You are asked about whether you belong to a religion. You are asked about whether you are a member of a political organisation and whether the organisation is what you believe in. You are asked about whether you think it is wrong to change your beliefs on a regular basis and to give the reasons for that.

At page 48, you are asked about what you feel about the government of the day and whether you are happy with the current situation our land. You are asked what role in political organisations- what your role is in political organisations and how you attend to that role.

10 You are asked how you feel about the existence of radical organisations. And the you are asked about your personality. You are asked about whether you are predictable. What you do when you are angry. How you deal with it. And what you do after an argument.

And on the last page, page 49, you are asked that if you were a- if the person questioning you were you friend. They say, could they trust you with their secrets. You are asked what you think about manipulation. You are asked whether you are bribable. And you are asked what you will do if you are ever bribed or blackmailed.

Ms Dlamini, I have not read all the questions. I have read the
20 ones which when I went through this, I thought highlighted the extremely invasive nature of these questions. And the extend of your personal life that you have to disclose when you are subjected to security vetting. Do you accept that all of these questions are of that nature?

MS DLAMINI: Just like I have said Advocate Hofmeyr, the entire interview, it is a personal interview.

ADV KATE HOFMEYR: Indeed.

MS DLAMINI: Yes.

ADV KATE HOFMEYR: Indeed.

CHAIRPERSON: The answer is yes?

MS DLAMINI: Yes, the answer is yes.

ADV KATE HOFMEYR: Right. Let us then return if we may to the polygraph stage because as I understand it, we are now at stage three. You have been asked all of those questions in the interview stage and now you are going to proceed to the polygraph stage. And that is at page
10 10 of your affidavit in Exhibit DD24.

Now Ms Dlamini what you say here at paragraph 3.8.3 is that and I am just going to read if I may the first two sentences.

During this stage the official will be subjected to a polygraph in order to determine the reliability of the information gathered during the investigation. It is mainly conducted in respective Top-Secret clearances, however in certain instances it may be used in other levels of clearances where the investigations require the determination of the reliability of the information gathered. After the interview the officer writes a report.

Okay. What I am interested in is how did the decision- how was
20 the decision taken in respect of the SAA officials whether to subject them to polygraph test?

MS DLAMINI: Because they were vetted at a Top-Secret level.

ADV KATE HOFMEYR: So how did you decide to vet them at a Top-Secret level?

MS DLAMINI: It is standard practice for senior management to be vetted

at a Top-Secret Level.

ADV KATE HOFMEYR: But do you not have to know whether they are ever going to be in receipt of Top-Secret information?

MS DLAMINI: Because the request stated that they are executives so they are vetted at a Top-Secret level.

ADV KATE HOFMEYR: So, let me just understand that. Just because the people you were vetting were executives of a state-owned company, is there an automatic application then that they must receive Top-Secret clearance?

10 **MS DLAMINI:** Yes.

ADV KATE HOFMEYR: Right. And at no point prior to this does anyone ever find out whether they actually ever going to get Top-Secret information. Is that correct?

MS DLAMINI: That is correct.

ADV KATE HOFMEYR: And they're support staff, why did they get polygraphed?

MS DLAMINI: I noted that from the forms or the submissions that we got it was mainly the executives that submitted.

ADV KATE HOFMEYR: No, I think the question is different. I understand
20 that this operation at SAA involved interviews and then polygraphs of all the people interviewed. Is that correct?

MS DLAMINI: Yes.

ADV KATE HOFMEYR: Yes. Amongst the people interviewed were numerous support staff. Why were they polygraphed?

MS DLAMINI: As I am saying Advocate Hofmeyr from the submissions

that we received it was the executives that submitted back the forms and the supporting documents.

ADV KATE HOFMEYR: Chair I am not sure ... (intervenes)

CHAIRPERSON: No, the question is, did you not subject staff who were not executive managers to a polygraph test?

MS DLAMINI: No.

CHAIRPERSON: You did not?

MS DLAMINI: No.

CHAIRPERSON: Did you sub- was it only the executive managers that
10 you subjected to a polygraph test?

MS DLAMINI: It was only the executive managers, yes.

CHAIRPERSON: Okay.

ADV KATE HOFMEYR: The Commission engaged with the State Security Agency before this evidence about the reports that had been generated.

MS DLAMINI: Yes.

ADV KATE HOFMEYR: And those reports were not provided. But part of what was requested was that in your affidavit you would have had a look at those reports and you would give us an indication in so far as the polygraph questions were concerned what the standard polygraph
20 questions were that emerged from those reports. Do you remember that request?

MS DLAMINI: Yes, I remember that request.

ADV KATE HOFMEYR: I did not find that in your affidavit. Can you help us today with the answer to that question?

MS DLAMINI: What would be the question?

ADV KATE HOFMEYR: What- when you looked at the reports of the polygraphs, right.

MS DLAMINI: Yes.

ADV KATE HOFMEYR: As you were requested to do. The Commission was interested to know what types of questions over and above those standard questions were being asked of those persons subjected to polygraphs?

MS DLAMINI: Oh yes.

ADV KATE HOFMEYR: Are you able to assist us with that?

- 10 **MS DLAMINI:** You are quite correct. I remember in the meeting that we had you did indicate. I was hoping I would have the copy of the questions just like you have gone through the vetting questioning. We were hoping to provide you with those questions and then indicate what were the additional questions. So, I think that can be provided.

ADV KATE HOFMEYR: Okay.

MS DLAMINI: Yes.

ADV KATE HOFMEYR: My understanding was it was going to be covered in the affidavit. Is it the case that you were not able to do so at the time of providing the affidavit?

- 20 **MS DLAMINI:** I think it was just a slip of the mind at the time.

ADV KATE HOFMEYR: I understand.

MS DLAMINI: Yes.

ADV KATE HOFMEYR: And as you sit here today you have not done that exercise?

MS DLAMINI: No, I have not.

ADV KATE HOFMEYR: So, you will need to go back.

MS DLAMINI: Yes, I can do that.

ADV KATE HOFMEYR: I understand. Thank you. So, I had misunderstood that and I am grateful for the clarification. So, it was only executive managers, not they're support staff who were polygraphed. Is that correct?

MS DLAMINI: Yes, that is correct.

ADV KATE HOFMEYR: And I understand your evidence to be the reason for that is because as soon as you are an executive management in a
10 state-owned company you must be cleared for Top-Secret. Is that correct?

MS DLAMINI: Yes.

ADV KATE HOFMEYR: And that is the default position irrespective of whether any particular executive manager is ever actually going to see Top-Secret information. Is that right?

MS DLAMINI: Yes.

ADV KATE HOFMEYR: And does that strike you as odd Ms Dlamini?

MS DLAMINI: Not at all.

ADV KATE HOFMEYR: Oh, explain why?

20 **MS DLAMINI:** Because I know when it comes to the issue of the levels of clearances. The security managers will indicate in terms of the request to state that these particular persons should be vetted at this level, right. But in this case from the request that we received from the entity it was not specified. So, we just took the standard approach to say they will be vetted at a Top-Secret level.

ADV KATE HOFMEYR: You see it is the Top-Secret level that requires the polygraph, right?

MS DLAMINI: Yes.

ADV KATE HOFMEYR: Is Top-Secret the highest level?

MS DLAMINI: Yes.

ADV KATE HOFMEYR: Why would you apply the highest level and not the lowest level if you do not know what information they actually are accessing?

MS DLAMINI: Let me come back to that. Let me come back to that.

10 **ADV KATE HOFMEYR:** I do not –

MS DLAMINI: You saying to me – ja.

CHAIRPERSON: Do you understand the question?

MS DLAMINI: I do not understand the question.

CHAIRPERSON: I think you do. Okay she will repeat it.

MS DLAMINI: Yes can you repeat the question?

ADV KATE HOFMEYR: What I asked is, if you do not know what types of information.

MS DLAMINI: Yes.

20 **ADV KATE HOFMEYR:** The executives have access to why do you decide to clear them for the top security clearance and not the lowest security clearance?

MS DLAMINI: Oh now I get the question and I have said Advocate Hofmeyr at SMS level we vet at the top secret clearance.

ADV KATE HOFMEYR: What is SMS level?

MS DLAMINI: Senior Management. Yes.

ADV KATE HOFMEYR: Because there is some rule somewhere?

MS DLAMINI: There is no rule somewhere. At SMS level when we get the request it is indicated that this person must be vetted at this level. But at this particular time the request that came did not indicate what level should they be vetted at. But because it was stated that they have access to sensitive information we vetted them at the top secret clearance.

ADV KATE HOFMEYR: Well we have already traversed that Ms Dlamini

MS DLAMINI: Yes.

10 **ADV KATE HOFMEYR:** It is not clear that it was ever stated.

CHAIRPERSON: Ja nobody ever said that.

MS DLAMINI: Yes.

CHAIRPERSON: I thought we – you said you considered that.

MS DLAMINI: I am stating from the letters from the two Ministers.

CHAIRPERSON: Yes we dealt with that.

MS DLAMINI: Yes.

CHAIRPERSON: You were not able to point out anything that says that.

MS DLAMINI: Sensitive information.

20 **CHAIRPERSON:** Remember I gave you time to say where does it say there that the executives would receive sensitive information.

MS DLAMINI: On the letter Chairperson it says; “Giving the sensitive information they receive on an ongoing basis.”

CHAIRPERSON: No.

MS DLAMINI: Yes.

CHAIRPERSON: Ms Dlamini you can accept that it does not say that and we looked at it, both – I gave you chance to look and we – I asked you and you conceded. Let us move on.

MS DLAMINI: That is easy.

ADV KATE HOFMEYR: Can I just ask when the managers were briefed were you involved in that briefing that happened in I think it was January 2016?

MS DLAMINI: No I was not present.

ADV KATE HOFMEYR: Who conducted that briefing?

10 **MS DLAMINI:** We have got a structure dedicated to doing that.

ADV KATE HOFMEYR: Were – do you know whether the executives were told that they could refuse the polygraph?

MS DLAMINI: Yes.

ADV KATE HOFMEYR: Yes you know that they were told that they could refuse it?

MS DLAMINI: No I was not present when the – the presentations were conducted.

20 **ADV KATE HOFMEYR:** Did you find out afterwards what was communicated to managers about whether they could refuse the polygraph?

MS DLAMINI: No I did not find out.

ADV KATE HOFMEYR: And did you come to have any sense of whether the managers who were subjected to the polygraph were told that they had to take the polygraph?

MS DLAMINI: No. No [mumbling].

ADV KATE HOFMEYR: Do you accept that they ought to have been told that they are entitled to refuse it?

MS DLAMINI: The – I think the awareness presentations that were presented we will have to establish in terms of the details.

ADV KATE HOFMEYR: Yes.

MS DLAMINI: Yes.

ADV KATE HOFMEYR: That is a question about whether it happened?

MS DLAMINI: Yes.

ADV KATE HOFMEYR: What I am interested in is do you accept that in
10 accordance with the application of the proper vetting procedures they
should have been told that they are entitled to refuse the polygraph?

MS DLAMINI: Yes of course.

ADV KATE HOFMEYR: Yes.

MS DLAMINI: Yes of course.

ADV KATE HOFMEYR: Ms Olitzki's affidavit says that they were told
that they needed to do the polygraph. Do you have any basis to
dispute what she says they were told?

MS DLAMINI: I would not tell.

ADV KATE HOFMEYR: So I think the answer is no?

20 **MS DLAMINI:** I would not tell.

ADV KATE HOFMEYR: Thank you. I would then like to go to the
valuation stage that is – you deal with at page 11.

MS DLAMINI: Yes.

ADV KATE HOFMEYR: You say:

“During this stage”

This is at paragraph 3.8.4.

“All information contained including the reports by the vetting and polygraph officers are studied and interpreted in order to determine risks.”

And then moving on a bit:

“Thereafter the evaluator will make recommendations whether or not clearance ought to be granted or declined.”

Do you see that?

10 **MS DLAMINI:** Yes I see that.

ADV KATE HOFMEYR: Are you aware that the vetting regulations say that an applicant must be notified in writing of the outcome of a vetting operation?

MS DLAMINI: Yes.

ADV KATE HOFMEYR: Did you take steps to ensure all of the people who were vetted at SAA received that feedback in writing?

MS DLAMINI: Yes, yes I did.

ADV KATE HOFMEYR: And what did you establish about that?

MS DLAMINI: The fee – you mean the outcome?

20 **ADV KATE HOFMEYR:** Yes.

MS DLAMINI: Yes. The outcome yes it was received by the acting CEO at the time, Mr Zwane, yes.

ADV KATE HOFMEYR: So – sorry – so what did he say? Did he say to you that the outcomes had been communicated to the rest of the executive management and staff?

MS DLAMINI: I did not get that feedback from him. But from our side it was received by them.

ADV KATE HOFMEYR: Sorry I just need ...

CHAIRPERSON: By the acting CEO?

MS DLAMINI: Yes.

CHAIRPERSON: Or by – you gave it to the acting CEO?

MS DLAMINI: Yes Chairperson that is correct.

CHAIRPERSON: You did not send the information to the individual executive managers?

10 **MS DLAMINI:** No. No.

CHAIRPERSON: Okay so whether or not he passed it on you do not know?

MS DLAMINI: Whether or not he passed it on I do not know.

CHAIRPERSON: Oh would he – would he be meant to pass it on?

MS DLAMINI: He would be meant to pass it on.

CHAIRPERSON: And do you know whether the correspondence that was addressed to him with that – with the outcome asked him to convey the outcome to the managers or not?

MS DLAMINI: Yes.

20 **CHAIRPERSON:** It did ask him?

MS DLAMINI: Yes.

CHAIRPERSON: Okay.

ADV KATE HOFMEYR: Could you provide that correspondence to us after today?

MS DLAMINI: No it was not in writing.

ADV KATE HOFMEYR: So this was a verbal communication?

MS DLAMINI: This was a verbal communication.

ADV KATE HOFMEYR: Because the regulations require the agency to ensure that this information is given to the person who has been vetted, is that not correct?

MS DLAMINI: That is correct.

ADV KATE HOFMEYR: So am I to understand you that in performance of that duty you tasked the acting CEO, Mr Zwane with the responsibility for communicating it?

10 **MS DLAMINI:** Yes.

ADV KATE HOFMEYR: Would you be surprised to learn that at least two of the current SAA managers who were subjected to that vetting were not ever told that outcome?

MS DLAMINI: Yes I would be surprised.

ADV KATE HOFMEYR: And would you be concerned as well as surprised?

MS DLAMINI: I would be surprised because there was never indication from our side to say or to approach us in terms of those outcomes. So I was of the idea that the applicants did receive the feedback.

20 **CHAIRPERSON:** Were you the one who – who asked Mr Zwane verbally to inform the other executive managers of the outcome?

MS DLAMINI: Yes. Yes I am the one.

CHAIRPERSON: Did he undertake to do so?

MS DLAMINI: Yes. Yes.

CHAIRPERSON: Okay.

ADV KATE HOFMEYR: Thank you. And then I would like to go to page 12 of your affidavit if we may? At that paragraph, this is actually the point I was referring to earlier Ms Dlamini about your meeting with Ms Myeni. Because you say at page 12 paragraph 3.10:

10 “During the process we experienced challenges ranging from resignations by some executives, various enquiries by the officials from Mango Airlines on whether the scope of vetting had been extended to the executives of Mange and the executives not being co-operative. All these challenges had the potential of tainting the integrity and prolonging the process.”

So it was there that I had picked up that I had at least thought that during this vetting operation it had been communicated to you that there were executives who were not happy about complying with the requirement of vetting. Did I misunderstand what you had said here?

MS DLAMINI: Remember we had received the list so I was able to track in terms of who has submitted and who has not submitted. So judging from that I would tell how many numbers are still outstanding.

20 **ADV KATE HOFMEYR:** And did you take steps to find out the reasons why in respect of those who were outstanding they had not been submitted?

MS DLAMINI: No. No.

ADV KATE HOFMEYR: But then you arrange an urgent meeting with Ms Myeni, is that correct?

MS DLAMINI: That is correct.

ADV KATE HOFMEYR: And why did you schedule that meeting?

MS DLAMINI: To address the challenges that I have highlighted in 3.10. Because as stated they had a potential of tainting the integrity and prolonging the process.

ADV KATE HOFMEYR: And just tell me how would they taint the integrity of the process if they did not want to subject themselves to security vetting?

MS DLAMINI: Because then it will mean the officials that were on the
10 list if they are not complying it means we were not going to be able to reach our targets and we are not going to complete the work that we were supposed to do.

ADV KATE HOFMEYR: And what were those targets?

MS DLAMINI: To ensure that the executives as they refer to them, the top 100 are vetted.

ADV KATE HOFMEYR: The top 100 included support staff, is that right?

MS DLAMINI: They call themselves the top 100.

ADV KATE HOFMEYR: Yes, yes.

20 **MS DLAMINI:** So I used that term.

ADV KATE HOFMEYR: But they would necessarily have to include support staff. I do not understand there to be 100 managers at SAA or am I wrong?

MS DLAMINI: You – I am just referring to the term that they would use, yes.

ADV KATE HOFMEYR: Yes. Thank you.

CHAIRPERSON: But you – you understand that term to include support staff, did you not?

MS DLAMINI: Yes I did. Yes I did.

ADV KATE HOFMEYR: And what was Ms Myeni's response when you raised these challenges with her?

MS DLAMINI: On the issue of – let me just go back. Remember amongst the challenges – yes her indication would be they would try to assist any way – in any way possible.

10 **ADV KATE HOFMEYR:** And do you know what steps were taken to assist?

MS DLAMINI: No. No.

ADV KATE HOFMEYR: But you do say later in your affidavit there was a great improvement after that point?

MS DLAMINI: Yes judging from the – the submissions. Yes but in terms of the actual steps, no I was not.

ADV KATE HOFMEYR: You do not know?

MS DLAMINI: No I do not know.

20 **ADV KATE HOFMEYR:** I understand that. There was just the point about the questions that were asked Ms Dlamini at the polygraph. I understand you say you have not done the exercise to consider.

MS DLAMINI: Yes.

ADV KATE HOFMEYR: Those reports. But as you sit here today would you have any basis for disputing what Ms Olitzki has indicated were the type of questions she was asked?

MS DLAMINI: I would prefer not to engage on that particular case because I have not had time to look at it. I do not know what happened on that particular date. So...

ADV KATE HOFMEYR: But at the time you compiled your presentation at the end of this vetting exercise.

MS DLAMINI: Yes.

ADV KATE HOFMEYR: Had you at that stage looked and seen the evaluation of the various reports that had been received from your vetting officers?

10 **MS DLAMINI:** Look it is – we are talking of more than 100 names that had to be vetted. So I think Advocate Hofmeyr to ask me on a particular case now...

ADV KATE HOFMEYR: No I am actually not interested in a particular case. What I am interested in is we only had access to Ms Olitzki and a Mr Moonsamy whose affidavit will be referred to later today. And they told us the type of questions they were asked and Ms Olitzki said she checked with two other of the managers who had been subjected to security vetting. It would have been much better for us of course if we had got it from the agency. But what I am saying to you is her evidence
20 and that of her colleagues was that they were only asked four or five questions in the polygraph test. Is that customary to ask such a few number of questions?

MS DLAMINI: Let me just say – can – maybe I pay attention to that because I am not a professional polygrapher so I think one would have to look what happened there. I think that is what I can say for now.

CHAIRPERSON: Maybe let us put the question like this. Do you conduct polygraph tests as part of your duties or have you done that in the past?

MS DLAMINI: No. No.

CHAIRPERSON: You do not?

MS DLAMINI: No I do not.

CHAIRPERSON: Do you know whether there is – there are standard questions that are asked at – at a polygraph test?

MS DLAMINI: Of course yes Chairperson.

10 **CHAIRPERSON:** Ja.

MS DLAMINI: There are standard questions.

CHAIRPERSON: Yes.

MS DLAMINI: That are asked at a polygraph examination. Yes there are.

CHAIRPERSON: Do – do you have an idea how many the standard questions are more or less? 10, 20, 50, 200?

MS DLAMINI: Let us look at about 7/8.

CHAIRPERSON: Sorry?

MS DLAMINI: Let us look at about 7/8.

20 **CHAIRPERSON:** About 7/8?

MS DLAMINI: Yes.

CHAIRPERSON: 7 or 8?

MS DLAMINI: Ja.

CHAIRPERSON: Those would be the standard questions.

MS DLAMINI: Those would be the standard – yes.

CHAIRPERSON: But the person conducting the test could ask additional questions?

MS DLAMINI: Exactly yes.

CHAIRPERSON: Would you know whether in terms of asking additional questions those conducting the tests normally ask not more than a certain number of additional questions or is that something you would not know?

MS DLAMINI: No I would not know. I would not know.

CHAIRPERSON: You would not know.

10 **MS DLAMINI:** But all I can say is each case is treated on merit.

CHAIRPERSON: On its own?

MS DLAMINI: On its own yes.

CHAIRPERSON: Yes but the standard questions about 7 or 8?

MS DLAMINI: The standards questions are there Chairperson.

CHAIRPERSON: Yes.

MS DLAMINI: As guiding.

CHAIRPERSON: Ja.

MS DLAMINI: As the questions from vetting.

CHAIRPERSON: Ja.

20 **MS DLAMINI:** So the polygraph examiner concerned would treat that case on merit.

CHAIRPERSON: Okay alright.

MS DLAMINI: Yes.

ADV KATE HOFMEYR: Thank you Chair I am indebted. Ms Dlamini after today it would be useful for the commission also to be provided

with those standard polygraph questions.

MS DLAMINI: Questions yes.

ADV KATE HOFMEYR: Because as I understand it the ones you have given us are the guideline questions for the initial interview, correct?

MS DLAMINI: I think those are the questions that we gave to you. Those are the questions I am referring to.

ADV KATE HOFMEYR: Oh because those are about more than 100 questions. So – and I understand your evidence to be at the polygraph stage there are only 7 or 8, is that right?

10 **MS DLAMINI:** Standard ones.

ADV KATE HOFMEYR: Yes.

MS DLAMINI: Yes.

CHAIRPERSON: Ja standard ones.

MS DLAMINI: Standard ones.

CHAIRPERSON: ja.

MS DLAMINI: Yes.

CHAIRPERSON: But the person conducting the test is allowed...

MS DLAMINI: Can go further.

MS DLAMINI: To ask more?

20 **MS DLAMINI:** Yes.

CHAIRPERSON: And – but you do not know whether there is a limit as to how many?

MS DLAMINI: No I – there is no limit.

CHAIRPERSON: Ja okay.

MS DLAMINI: There is no limit.

ADV KATE HOFMEYR: I did not find in those guideline questions any question related to whether the person had leaked confidential information – SAA information to other parties. Are you aware of that being a standard question?

MS DLAMINI: I am not aware.

ADV KATE HOFMEYR: I should have asked the question differently. Is that a standard question?

MS DLAMINI: I do not know.

ADV KATE HOFMEYR: You do not know?

10 **MS DLAMINI:** I do not know.

ADV KATE HOFMEYR: I want to suggest to you it could not be because it is specific to SAA confidential information. So it could not be a standard question for polygraphs, could it?

MS DLAMINI: Look I am trying to – to recall the questions now as you asking me. So I do not want to say.

CHAIRPERSON: Oh ja.

ADV KATE HOFMEYR: No that is...

MS DLAMINI: That is standard that is not.

CHAIRPERSON: Ja.

20 **ADV KATE HOFMEYR:** Well...

MS DLAMINI: Because then you going to say, I said it is standard.

ADV KATE HOFMEYR: No, no, no.

MS DLAMINI: And it does not come up you see.

ADV KATE HOFMEYR: Ms Dlamini might I make the suggestion. We very close to the lunch break.

MS DLAMINI: Yes.

ADV KATE HOFMEYR: Maybe I could ask if you would during the lunch break just go over those guideline questions again.

MS DLAMINI: Do we have them here?

ADV KATE HOFMEYR: You do indeed. They are the ones that we – I understand you said were those that were attached from page 43, is that correct?

MS DLAMINI: Page 43. Are you talking about the vetting questions?

ADV KATE HOFMEYR: Yes.

10 **MS DLAMINI:** Oh not the polygraph questions?

ADV KATE HOFMEYR: No I thought that is what we just resolved. I understood these not to be the polygraph questions, is that right?

MS DLAMINI: No these are not polygraph questions.

ADV KATE HOFMEYR: Yes so that is why I said could you please provide those to us after today.

MS DLAMINI: Oh yes I thought you said the polygraph questions are here because I was going to go through it.

ADV KATE HOFMEYR: No we were at cross purposes. Thank you so much.

20 **MS DLAMINI:** Yes. Ja.

ADV KATE HOFMEYR: No but then just over the lunch break if you can reflect on it and whether the question of leaking SAA confidential information is a standard polygraph question. We would be indebted if you could assist us after the lunch break with that.

MS DLAMINI: How? Could you give me more time?

ADV KATE HOFMEYR: No I understand if you cannot do it.

MS DLAMINI: Alright ja.

CHAIRPERSON: Ja it ...

MS DLAMINI: No I cannot do it now.

ADV KATE HOFMEYR: If you cannot do it I thought I would ask.

CHAIRPERSON: Ja if you say you would not be able to ...

MS DLAMINI: Yes.

CHAIRPERSON: Get the answer within an hour – within the lunch break that is fine.

10 **MS DLAMINI:** No Advocate Hofmeyr I will...

CHAIRPERSON: She does not know what – what you have access to and what you do not have access to.

MS DLAMINI: Advocate Hofmeyr I would – I am not in the position.

ADV KATE HOFMEYR: Understood.

MS DLAMINI: To obtain that information now.

ADV KATE HOFMEYR: No I understand.

CHAIRPERSON: Yes. But you can provide it later?

MS DLAMINI: I can provide it later.

ADV KATE HOFMEYR: Just to explain my urgency in relation to this.

20 It was the matter that we asked be traversed in the affidavit today and we do not have a great deal of time in this commission. And I understand your evidence to be it was overlooked and I fully understand that. But if after today you could provide us with that information we would be grateful.

MS DLAMINI: Okay.

CHAIRPERSON: Is it the kind of information you might be able to provide tomorrow?

MS DLAMINI: Yes.

CHAIRPERSON: In one way or another?

MS DLAMINI: Yes. Yes, yes.

CHAIRPERSON: Okay. Thank you.

ADV KATE HOFMEYR: Chair I indicated – we almost at the lunch break.

CHAIRPERSON: Yes.

10 **ADV KATE HOFMEYR:** But we have a lot of logistics for the next witness. Can I say in respect of Ms Dlamini we would need to return a bit after lunch but not for very long I am really in the concluding sections of the questioning.

CHAIRPERSON: Ja.

ADV KATE HOFMEYR: And we fairly confident that we would complete the second witness still today.

CHAIRPERSON: Hm.

ADV KATE HOFMEYR: But there is the application for the second witness' evidence to be given in-camera. My proposal was that we deal
20 with it before the lunch adjournment so that logistics related to him could be dealt with over lunch. I am just slightly concerned from a message I have given that we may not have the affidavit at this point.

CHAIRPERSON: Ja if they are ready I can deal with it now?

ADV KATE HOFMEYR: Oh we seem to have a version that has not yet been redacted. It is quite a process to redact. But for the purposes

now – do we have a copy that – Chair we have an un-redacted copy which if all we do is hand it up to you and it is moved un-redacted may not be a problem in order to facilitate it now. But if we do require the redacted copies I – I just understand logistically that has not happened.

CHAIRPERSON: Well was there not going to be one that would refer to him as Mr Y?

ADV KATE HOFMEYR: I – I am going to have to hand over to my learned friend.

CHAIRPERSON: Yes.

10 **ADV KATE HOFMEYR**: Because it is their application.

CHAIRPERSON: Ja let me ...

ADV KATE HOFMEYR: Thank you.

CHAIRPERSON: Hear what he has to say. Ms Dlamini you may leave the witness stand for now. You will come back after lunch.

MS DLAMINI: For now?

CHAIRPERSON: Yes for now. Okay.

MS DLAMINI: Thank you Chairperson.

CHAIRPERSON: Yes.

ADV DAVID MTSWENI: Chair

20 **CHAIRPERSON**: Yes.

ADV DAVID MTSWENI: What we had done was to prepare the application in Mr Y's name.

CHAIRPERSON: Yes.

ADV DAVID MTSWENI: His real name.

CHAIRPERSON: Yes.

ADV DAVID MTSWENI: But what we had sought in the Notice of Motion was that he be referred to as Y.

CHAIRPERSON: Hm.

ADV DAVID MTSWENI: So the application is in Mr X's full name.

CHAIRPERSON: Mr Y's.

ADV DAVID MTSWENI: Mr Y's full name as Chairperson indicated earlier that it should be brought in his name. But the court – the order that we proposed to hand up refers to him as Mr Y.

CHAIRPERSON: Oh no what I meant was I did not want an application
10 without any name but I did not mean that you have got to put in the application his real name. I – when I said Mr Y I meant that in the heading it could say Mr Y – Applicant. And then in the affidavit what I was saying he could say, I, the undersigned Mr Y bla, bla, bla and then immediately explain that Mr Y is not my true name.

ADV DAVID MTSWENI: Chairperson.

CHAIRPERSON: But for purposes of these proceedings I ask for leave that I be referred to as Mr Y bla, bla, bla. That is the kind of thing I was talking about.

ADV DAVID MTSWENI: Can I propose given the logistical issues?

20 **CHAIRPERSON:** Yes. Ja.

ADV DAVID MTSWENI: We have of course in the Notion of Motion sought that he be referred to as Mr Y.

CHAIRPERSON: Yes.

ADV DAVID MTSWENI: And I believe that Chairperson's concerns can be dealt with by way of the redacted version as it was the intention

much earlier.

CHAIRPERSON: Yes. Yes.

ADV DAVID MTSWENI: But the affidavit in the sense is in his full name.

CHAIRPERSON: Ja.

ADV DAVID MTSWENI: That is the application – that is the affidavit that will not be made available to the public.

CHAIRPERSON: Yes.

ADV DAVID MTSWENI: But for the purposes of the – of the order
10 dealing with his application – with his – with how his evidence would be
deal with we have referred to him as Mr Y the Applicant.

CHAIRPERSON: Yes.

ADV DAVID MTSWENI: So the concern where you – Chairperson says
it should refer as Mr Y we can simply just deal with that by way of the
redacted version.

CHAIRPERSON: Well what – what I can do – but the information in the
affidavit that you have just handed up is it the same as the information
in the affidavit that you handed up in the morning?

ADV DAVID MTSWENI: Yes. Yes but what we had done because we
20 had prepared a supplementary affidavit dealing amongst others the fact
that Mr Y understands that although his identity and details will be
protected that protection does not cover the version that is explained in
his statement on which he will be led. We just simply dealt with that
and we also added a request that he should just be referred to as Mr Y
for record purposes although Mr Y is not his full name.

CHAIRPERSON: Yes. Yes.

ADV DAVID MTSWENI: Yes.

CHAIRPERSON: Now you would know that I dealt with an application which might be along the same lines two days ago. The order that you had put up in the morning seemed to be wider than the order that I granted two days ago. But I understand that you have been given a copy of the order that I made two days ago.

ADV DAVID MTSWENI: Yes Chair.

CHAIRPERSON: And has the draft order that you have put up now ..

10 **ADV DAVID MTSWENI:** That is that...

CHAIRPERSON: Is it – is it exactly the same as the other one or not?

ADV DAVID MTSWENI: No is as we received it from the evidence leaders which is in line with Mr X's – with the one that Chairperson made in relation to Mr X.

CHAIRPERSON: Yes.

ADV DAVID MTSWENI: We have no objection to that being made.

CHAIRPERSON: Yes. So you – you essentially seek the same kind of order?

ADV DAVID MTSWENI: Yes Mr Chairperson.

20 **CHAIRPERSON:** Yes.

ADV DAVID MTSWENI: That would facilitate the resolution of this.

CHAIRPERSON: Okay.

ADV DAVID MTSWENI: It covers all our concerns Chairperson.

CHAIRPERSON: Okay. Just to be – maybe I think – I think maybe I – if the affidavit that you have put up is essentially the same as the one

that you had given me in the morning – if they are the same I am quite happy not to use the one that has got his name and use the one that does not have his name on the basis that it will be amended appropriately after I have – I have dealt with the application.

ADV DAVID MTSWENI: That can be done Chairperson.

CHAIRPERSON: That can be done?

ADV DAVID MTSWENI: We will just simply just ...

CHAIRPERSON: Yes.

ADV DAVID MTSWENI: Correct it later on and take out.

- 10 **CHAIRPERSON:** Take this back then to – to him. So basically you will ensure that the application – the applicant is Mr Y is reflected as Mr Y.

ADV DAVID MTSWENI: We will do so Chairperson.

CHAIRPERSON: But certainly now the application can be taken to be brought by Mr Y.

ADV DAVID MTSWENI: Yes Chairperson.

CHAIRPERSON: Okay alright.

ADV DAVID MTSWENI: And we would – if you are so inclined would – we would move for the order as has been proposed by the evidence leaders.

- 20 **CHAIRPERSON:** Yes. Yes.

ADV DAVID MTSWENI: It does cover all the...

CHAIRPERSON: Let me see – what the basis simply that – was the basis for this kind of order arising from Mr Y's employment?

ADV DAVID MTSWENI: Yes Chairperson and given is nature or the nature of his – of his work within the agency.

CHAIRPERSON: Yes. Yes.

ADV DAVID MTSWENI: Yes.

CHAIRPERSON: Yes.

ADV DAVID MTSWENI: I think that is covered at paragraph 3
Chairperson of that.

CHAIRPERSON: Yes.

ADV DAVID MTSWENI: We have just handed up to you.

CHAIRPERSON: Yes, no, no I remember. I think that the – the issue
of Notice is it dealt with in the affidavit notice to implicated persons?

10 How is it dealt with?

ADV DAVID MTSWENI: Chair we had left that to the evidence leaders
seeing that they would be the one to notify as the rules require that
they would notify anyone implicated. We do not address the issue of
implicated persons but we believe that should there be a need for the
implicated persons to – would like to cross-examine Mr Y they would
follow the procedure outlined in the rules and that logistical issues can
be dealt with between them and the evidence leaders but for the
purposes of that I think that could also be addressed by the – by the Y
application.

20 **CHAIRPERSON:** Yes. Hm.

ADV DAVID MTSWENI: Yes.

CHAIRPERSON: Okay alright. Let me just check who will address the
issue of notice with me?

ADV KATE HOFMEYR: Certainly Chair.

CHAIRPERSON: Yes.

ADV KATE HOFMEYR: And may I just before I do that raise one point because my learned friend does not know the precise terms.

CHAIRPERSON: Yes.

ADV KATE HOFMEYR: Of the order we gave in respect of Mr X.

CHAIRPERSON: Yes.

ADV KATE HOFMEYR: The one addition if I could just be – pass a copy. Chair if you just look at the draft order that has been handed to you.

CHAIRPERSON: Handed up. Yes.

- 10 **ADV KATE HOFMEYR:** The – the paragraph 2 on Mr X's order only requested that his name not be disclosed.

CHAIRPERSON: Yes.

ADV KATE HOFMEYR: Right but the request of this witness is that his name and other identifying features also not be disclosed. So I just wanted to draw to your attention.

CHAIRPERSON: My – the two I have on this draft order reads:

“The witness name shall not be disclosed or
published in any manner.”

That is the one.

- 20 **ADV KATE HOFMEYR:** Oh.

CHAIRPERSON: That is number 2.

ADV KATE HOFMEYR: You and I have the wrong version then Chair.

CHAIRPERSON: Oh.

ADV KATE HOFMEYR: Because...

CHAIRPERSON: That is the one that was just handed up now.

ADV KATE HOFMEYR: Let me – let me just clarify.

CHAIRPERSON: It is written Mr Y.

ADV KATE HOFMEYR: Yes.

CHAIRPERSON: As applicant.

ADV KATE HOFMEYR: I think the numerous versions today.

CHAIRPERSON: Oh.

ADV KATE HOFMEYR: Suggests you and I have got the wrong one.

CHAIRPERSON: Yes.

ADV KATE HOFMEYR: Could I just read into the record we will make
10 sure that there are copies sufficient.

CHAIRPERSON: Yes. Is there not another copy from the...

ADV KATE HOFMEYR: Chair.

CHAIRPERSON: Ja.

ADV KATE HOFMEYR: There is another copy.

CHAIRPERSON: Oh okay.

ADV KATE HOFMEYR: But it refers to the State Security Agency as
the applicant.

CHAIRPERSON: Oh.

ADV KATE HOFMEYR: But we have resolved that.

20 **CHAIRPERSON:** Ja.

ADV KATE HOFMEYR: As I understand it. If I can simply hand you up
the correct wording for paragraph 2? But we will after this Chair
ensure that it correctly reflects the applicant as Mr Y.

CHAIRPERSON: Yes.

ADV KATE HOFMEYR: Chair this was the draft order that was handed

to my learned friend this morning from the evidence leaders.

CHAIRPERSON: Yes.

ADV KATE HOFMEYR: Prior to your engagement.

CHAIRPERSON: Yes.

ADV KATE HOFMEYR: About Mr Y needing to be the applicant.

CHAIRPERSON: Yes.

ADV KATE HOFMEYR: And so all I would like to draw your attention to is that paragraph 2 is broader than it was for Mr X.

CHAIRPERSON: Yes.

- 10 **ADV KATE HOFMEYR:** You will see there it is – the witness' name, his position within the agency and the nature of his duties should not be disclosed in his evidence.

CHAIRPERSON: Yes.

ADV KATE HOFMEYR: So I needed to draw your attention to – just to that discrepancy so that there was no misunderstanding as to its being a replica of Mr X's order. But then on the question of notice.

CHAIRPERSON: Yes.

ADV KATE HOFMEYR: Chair the – the...

CHAIRPERSON: So other than that part...

- 20 **ADV KATE HOFMEYR:** It is the same.

CHAIRPERSON: They are the same.

ADV KATE HOFMEYR: Indeed Chair.

CHAIRPERSON: Okay alright.

ADV KATE HOFMEYR: Then on the question of Notice to implicated persons. The steps that were taken by the legal team on receipt of Mr

Y's main affidavit plus this application was to send Rule 3.3 Notices to all persons implicated in the main affidavit.

CHAIRPERSON: Yes.

ADV KATE HOFMEYR: And all that we did in the Notice was we continued to maintain the confidentiality about the witness' identity. And so rather than referring to him by name we indicated in the Notice that a witness who will make application to have his identity not disclosed will implicate you in the following respects. So that process has taken its course and it was done timeously.

10 **CHAIRPERSON:** Okay alright.

ADV KATE HOFMEYR: And I can tell you that we have received no responses.

CHAIRPERSON: Okay. Okay no that is fine.

ADV KATE HOFMEYR: Thank you.

CHAIRPERSON: Then unless counsel for Mr Y has anything else I am quite happy to make an – make the order here?

ADV DAVID MTSWENI: Chairperson we would happy as well.

CHAIRPERSON: Yes.

ADV DAVID MTSWENI: Yes.

20 **CHAIRPERSON:** Okay. In respect of the application brought by Mr Y I grant the following order.

1. The witness is to be referred to during his evidence to the commission and after his evidence insofar as the commission is concerned as Mr Y.
2. The witness' name, his position within the State Security Agency

and the nature of his duties shall not be disclosed or published in any manner.

3. No person may take or publish any photograph, image or appearance of the witness nor have his photograph or image or appearance published in any way nor broadcast any video of the witness.
4. The witness need not present – need not be present at the commission’s hearing venue when giving evidence – his evidence and may give his evidence from a secret location.
- 10 5. No person other than the Chairperson, members of the commission’s legal team, the commission’s safety and security advisor, those necessary to assist the witness when he gives evidence or another person specifically designated by the Chairperson will be permitted to enter the secret location without the prior written permission of the Chairperson.
6. An audio link from the secret location will be provided so that the witness’ evidence can be heard in the hearing room when he gives it.
7. This order may be amended or supplemented by the Chairperson
20 at any time if in his opinion that is necessary to ensure the non-disclosure of the witness’ name and appearance or to ensure fairness to any implicated person.

That is the order.

ADV DAVID MTSWENI: Thank you Chairperson.

CHAIRPERSON: Okay. So you will make the necessary amendments

on page 1 in terms of the – of who the applicant is?

ADV DAVID MTSWENI: Will do so Chairperson.

CHAIRPERSON: Okay alright.

ADV DAVID MTSWENI: Thank you.

CHAIRPERSON: Thank you. We are going to adjourn. I am tempted to say maybe we should resume at quarter past two.

ADV KATE HOFMEYR: I think that will be helpful Chair.

CHAIRPERSON: Because of...

ADV KATE HOFMEYR: Logistics.

10 **CHAIRPERSON:** Logistics.

ADV KATE HOFMEYR: Indeed.

CHAIRPERSON: Yes. We will adjourn now and we are going to resume at quarter past two.

ADV KATE HOFMEYR: Thank you Chair.

CHAIRPERSON: We adjourn.

REGISTRAR: All rise.

INQUIRY ADJOURNS

INQUIRY RESUMES

CHAIRPERSON: Are you ready?

20 **ADV KATE HOFMEYR:** We are indeed, Chair.

CHAIRPERSON: Yes.

ADV KATE HOFMEYR: Thank you. Ms Dlamini, before we broke for the lunch adjournment we were on page 13 of your affidavit - EXHIBIT DD24. Do you have that in front of you?

MS DLAMINI: Yes. Yes. I do.

ADV KATE HOFMEYR: And what we had been dealing with was your follow up with Ms Myeni when you were concerned about impacts on the integrity and progress of the process and then you indicated that there had been quite an improvement after that. Is that correct?

MS DLAMINI: Yes. Yes.

ADV KATE HOFMEYR: And you indicate on page 13 - towards the bottom at paragraph 3.15. That final a report was prepared. I assume that is in relation to the vetting. Is that correct?

MS DLAMINI: That is correct Advocate Meyr - Hofmeyr.

10 **ADV KATE HOFMEYR:** And it was - and it was presented to Minister Mahlobo in January 2017. Is that right?

MS DLAMINI: That is right.

ADV KATE HOFMEYR: Now that was attached to your affidavit. So I would like to just take you to that presentation and it commences at page 50 - 5-0.

MS DLAMINI: Yes.

ADV KATE HOFMEYR: Is this a presentation you prepared?

MS DLAMINI: Yes. This is the presentation I prepared.

ADV KATE HOFMEYR: And it says on the first page - page 50 there
20 that:

“It was presented by Project Leader ...”

And I take that to be a reference to yourself. Is that correct?

MS DLAMINI: Yes.

ADV KATE HOFMEYR: “...on 17 January 2017.”

Is that correct?

MS DLAMINI: Yes.

ADV KATE HOFMEYR: Did you present this presentation?

MS DLAMINI: I - it was forwarded to the office of our Ministry by myself. Yes.

ADV KATE HOFMEYR: So did you - did you ever actually present it at any meeting at SAA or otherwise?

MS DLAMINI: At S - at ...

ADV KATE HOFMEYR: SAA.

MS DLAMINI: SAA? No. No.

10 **ADV KATE HOFMEYR:** No. So what was this prepared for?

MS DLAMINI: The Board.

ADV KATE HOFMEYR: The Board?

MS DLAMINI: The Board.

ADV KATE HOFMEYR: And despite it saying "presented by" ...

MS DLAMINI: Yes.

ADV KATE HOFMEYR: You did not actually present it. Is that correct?

MS DLAMINI: No. I did not actually present it.

ADV KATE HOFMEYR: Do you know whether it was presented?

MS DLAMINI: No. I do not know.

20 **ADV KATE HOFMEYR:** Okay, but this was your final ...

CHAIRPERSON: I am sorry. Would it be correct to say presented by was meant to be prepared by?

MS DLAMINI: Yes.

ADV KATE HOFMEYR: Hm.

CHAIRPERSON: Okay.

ADV KATE HOFMEYR: That is helpful. Thank you Chair.

MS DLAMINI: That is helpful. Thank you.

ADV KATE HOFMEYR: So it was prepared by you ...

MS DLAMINI: Yes.

ADV KATE HOFMEYR: And this is at the conclusion of the vetting exercise. Is that correct?

MS DLAMINI: Absolutely. Yes.

ADV KATE HOFMEYR: So I would like to just take you to a few items within this. Ms Dlamini, we have already traversed the respect in which
10 your project plan had identified the objective of the vetting exercise. I do not suggest that we go over that again.

MS DLAMINI: Okay.

ADV KATE HOFMEYR: You have had a lot of questions, but I do just want to note for the purposes of the record that the same objective is recorded when you came to finalise this report on the vetting exercise and you will find that at page 53. Do you see there the second paragraph reads in the same terms that your project plan read? Sorry. You might - page 53 - 5-3.

MS DLAMINI: 5-3, oh. Yes.

20 **ADV KATE HOFMEYR:** Do you have that?

MS DLAMINI: Yes. I have that.

ADV KATE HOFMEYR: So the second paragraph there read - I think in exactly the same words.

“The objective is to ensure that all classified and sensitive documents within ...

“I think it is again supposed to be ...

“...SAA are accessed by personal with valid security clearances.”

Do you see that?

MS DLAMINI: I see that.

ADV KATE HOFMEYR: So both at the inception and at the conclusion of the vetting process you describe its objective in these terms. Is that correct?

MS DLAMINI: Yes.

10 **ADV KATE HOFMEYR:** And then I would like to go to page 60 - 6-0.

MS DLAMINI: I am with you. I am with you.

ADV KATE HOFMEYR: Thank you.

MS DLAMINI: Yes.

ADV KATE HOFMEYR: So at the top of that page you talk about the project's success and you record there:

20 “The project's success contributes immensely to the agency meeting its objectives. In essence 70 percent of Executive Management and support staff have been vetted. Currently there are 85 cases of which clearance have been concluded. The cases that are not concluded are still under further investigations. There were no strikes or serious disturbances reported since the project started.”

Do you see that?

MS DLAMINI: Yes. I see that.

ADV KATE HOFMEYR: Are strikes and serious disturbances things that sometimes do occur when vetting operations are carried out?

MS DLAMINI: It has never occurred Advocate Hofmeyr, but I was quite cautious, because with the SAA anything could have happened. There are unions involved. There might have been a - Executives that would approach the unions to state whatever reasons. So that is why I had to indicate it there.

ADV KATE HOFMEYR: Were - were you alerted to the fact that there was dissatisfaction or concern amongst the Executives that might have
10 led them to raise these issues with the unions?

MS DLAMINI: No.

ADV KATE HOFMEYR: No?

MS DLAMINI: Hm.

ADV KATE HOFMEYR: But you still thought it necessary to record that?

MS DLAMINI: Of course, because in terms of the work that we were doing there it would be important not to put the entity under any undue stress.

ADV KATE HOFMEYR: Hm. Hm.

20 **MS DLAMINI:** So it - it comes from that thinking ...

ADV KATE HOFMEYR: Hm.

MS DLAMINI: Chairperson.

ADV KATE HOFMEYR: And in the penultimate bullet on that page ...

CHAIRPERSON: Well before you move away from that issue Ms Hofmeyr. I - I do not understand Ms Dlamini what the relevance is

of that sentence in the context of your report. There were no strikes or serious disturbances reported. You say since the project started. So you are looking at during the time - during the life of the project.**MS DLAMINI:** Yes.

CHAIRPERSON: You are now at the end. You are preparing your report.

MS DLAMINI: Yes.

CHAIRPERSON: Please help me understand why strikes and disturbances would be relevant to put in ...

10 **MS DLAMINI:** Hm.

CHAIRPERSON: This kind of report?

MS DLAMINI: We invited the Member of Parliament in 2015 and we experienced the - the union who cited that they were not happy with certain issues. So that did have an impact in delaying the work. So it was important for me to state that in this instance.

CHAIRPERSON: You see if your - if you had said something along the lines that you are not aware of anybody who was unhappy about the project. That - that I would understand. Your - your reference to what happened in Parliament I would understand it, but in Parliament you are
20 not saying there were strikes and disturbances or at least you are not saying there were strikes. It seems that some unhappiness was there ...

MS DLAMINI: Yes.

CHAIRPERSON: But strikes.

MS DLAMINI: Anything possible might have happened.

CHAIRPERSON: Hm. Okay.

MS DLAMINI: That - that is the thinking that I had ...

CHAIRPERSON: Ja.

MS DLAMINI: Because if employees - any other person employed in a State organ who is not happy. The first contact would be the unions and what happens after that the complaints, the - the strikes ...

CHAIRPERSON: Ja.

MS DLAMINI: That is ... (intervenes).

CHAIRPERSON: Ja. Well I do not know about strikes.

10 **MS DLAMINI:** Yes. Yes.

CHAIRPERSON: I think let us move on.

MS DLAMINI: Ja.

ADV KATE HOFMEYR: Thank you Chair. Ms Dlamini, the second last bullet on that page.

MS DLAMINI: Yes.

ADV KATE HOFMEYR: You record that:

“SAA reported an improvement on their revenue
(about two billion turnover) as a result of the
vetting project.”

20 Where did you obtain that information from?

MS DLAMINI: As I indicated before I had continuous engagement with the Acting CEO at the time and I did ask him to say since the inception of the project what has been the developments. Are there any improvement or any other issue that must be - that we must take note of. So it comes from - from that.

ADV KATE HOFMEYR: Did you make that request to him verbally?

MS DLAMINI: Yes.

ADV KATE HOFMEYR: And did he communicate this information to you verbally?

MS DLAMINI: Yes. Yes.

ADV KATE HOFMEYR: And he specifically said that there was a R2 billion turnover that SAA had achieved as a result of this vetting project?

MS DLAMINI: He did not say “as a result”, but he said they have seen
10 some shift - a positive shift in terms of the revenue ... (intervenes).

ADV KATE HOFMEYR: So did - were you the one who then when you described it here related it to the vetting project?

MS DLAMINI: Yes. Yes.

ADV KATE HOFMEYR: Ms Dlamini, on what possible basis could a movement in the turnover of SAA be causally linked back to the vetting project?

MS DLAMINI: I must say that I did not have access to the financials at that time ...

ADV KATE HOFMEYR: Hm.

20 **MS DLAMINI:** But I know that it is individuals that manipulates the system. It is individuals that are engaged in mismanagement of funds. So any positive shift during that period I would say ...

CHAIRPERSON: No Ms Dlamini please. No. No. Please. Please. Are you going to persist in saying that because of this vetting process suddenly SAA got it a R2 billion ...

MS DLAMINI: Hm.

CHAIRPERSON: Turnover?

MS DLAMINI: Chairperson, can I explain please?

CHAIRPERSON: Hm.

MS DLAMINI: Can I explain?

CHAIRPERSON: But is that what you are going to say?

MS DLAMINI: No.

CHAIRPERSON: That as a result of ...

MS DLAMINI: No.

10 **CHAIRPERSON:** This project?

MS DLAMINI: No. I am just saying there was a positive shift. Maybe it should have been stated that way.

CHAIRPERSON: What positive shift?

MS DLAMINI: To say there was ...

CHAIRPERSON: What happened as a result of this project?

MS DLAMINI: There was some revenue generation.

CHAIRPERSON: Revenue generation?

MS DLAMINI: Yes.

CHAIRPERSON: That is your thinking?

20 **MS DLAMINI:** Yes.

CHAIRPERSON: Okay Ms Hofmeyr.

ADV KATE HOFMEYR: Over the page you list some of the other impacts of the project. The first of those at page 61 is the resignation of seven Executives Managers. Do you see that?

MS DLAMINI: Page?

ADV KATE HOFMEYR: 61.

MS DLAMINI: Yes. Yes.

ADV KATE HOFMEYR: So seven Executive Managers resigned. Is that correct?

MS DLAMINI: Yes. Yes.

ADV KATE HOFMEYR: And then on the third bullet on that page you record:

10 “The great success of the SAA Vetting Project has
 resulted in the project being extended to other
 entities within SAA.”

MS DLAMINI: Yes.

ADV KATE HOFMEYR: Do you see that?

MS DLAMINI: Yes.

ADV KATE HOFMEYR: Which were those other entities?

MS DLAMINI: We never got to vet any other Executives within the N -
NDT, but my thinking was that remember there was an indication from
the former Chairperson that we must vet the pilots. So my thinking was
in terms of the work that we did there it was of high standard to an
extent that there - there was a need for us to also vet the other group.

20 **ADV KATE HOFMEYR:** Well let us unpack that a bit.

MS DLAMINI: Huh-uh.

ADV KATE HOFMEYR: You say the great success of the SAA Vetting
Project. What - what was the great success about it?

MS DLAMINI: The fact that we were able to advice in terms of the
risks.

ADV KATE HOFMEYR: What were you able to advice?

MS DLAMINI: On - in terms of the risks.

ADV KATE HOFMEYR: What risks? What advice were you able to give?

MS DLAMINI: I think it is tabled on this report in terms of our findings and recommendations.

ADV KATE HOFMEYR: Okay. Take me to those if you will.

MS DLAMINI: It is on page - just give me a second. Just - just give me a second.

10 **ADV KATE HOFMEYR:** Sure.

MS DLAMINI: Because I swear that is where their findings and recommendations. That is where I am trying to get to.

ADV KATE HOFMEYR: Hm.

CHAIRPERSON: Findings of the project?

MS DLAMINI: Yes.

CHAIRPERSON: Do you know where it is Ms Hofmeyr?

ADV KATE HOFMEYR: I - I must say I do not.

CHAIRPERSON: Yes.

ADV KATE HOFMEYR: So that is actually why ...

20 **CHAIRPERSON:** Yes.

ADV KATE HOFMEYR: I have asked for Ms Dlamini's assistance.

CHAIRPERSON: Is there an index?

ADV KATE HOFMEYR: No.

MS DLAMINI: Ja. I think - ja. I think maybe there is a ...

ADV KATE HOFMEYR: There is a - there is a ...

MS DLAMINI: There is slide. Yes. Yes.

ADV KATE HOFMEYR: Sort of contents page, but it does not give a reference point.

CHAIRPERSON: To - to - yes.

MS DLAMINI: *Ja. Ja.* I think there - there is a list inside.

CHAIRPERSON: Well if - if the content page does not have findings as an item. I do not think you will find findings - any heading saying "Findings" in the report, because findings would have been quite important ...

10 **MS DLAMINI:** *Ja.*

CHAIRPERSON: And they would have been included in the content I would imagine.

S DLAMINI: Hm. Hm. No. I think I must acknowledge the mistake from my part ...

ADV KATE HOFMEYR: Hm.

MS DLAMINI: Because they - they should have been there. Yes
Chairperson ...

CHAIRPERSON: Yes.

MS DLAMINI: Because that is what I was referring to.

20 **CHAIRPERSON:** Yes.

MS DLAMINI: Yes. I think it is the mistake from the attachments.

CHAIRPERSON: Hm.

MS DLAMINI: That was supposed to be in. Yes.

ADV KATE HOFMEYR: So just help me again. What then was the great success of the project?

MS DLAMINI: There were - there - there is a slide where we advise the client in terms of the risks identified.

ADV KATE HOFMEYR: Oh. Sorry. No. That I do know where that is. That is at page 62.

MS DLAMINI: Is it page 62?

ADV KATE HOFMEYR: Sorry. I had also thought we were looking for findings, but this is - I - is this page where their risks identified?

MS DLAMINI: No. No. It is not ... (intervenes).

ADV KATE HOFMEYR: But the heading says "Risks Identified".

10 **MS DLAMINI:** No. During the - the course of the project.

ADV KATE HOFMEYR: Yes.

MS DLAMINI: Yes. These were the risks ...

ADV KATE HOFMEYR: Oh.

MS DLAMINI: But the final ...

ADV KATE HOFMEYR: Oh.

MS DLAMINI: Yes.

ADV KATE HOFMEYR: No. I have not seen that.

MS DLAMINI: Ja. It is not here.

ADV KATE HOFMEYR: Okay. So ...

20 **MS DLAMINI:** Yes.

ADV KATE HOFMEYR: There was supposed to be in this presentation some recordal of the risks that you had ...

MS DLAMINI: Yes.

ADV KATE HOFMEYR: Identified.

MS DLAMINI: Yes.

ADV KATE HOFMEYR: That is correct?

MS DLAMINI: Yes.

ADV KATE HOFMEYR: Okay. Tell us now what were those risks?

MS DLAMINI: Let me think now. They were indications of Executives who had - let me think. Can I provide those please? Can - can I get a chance to provide those? I am thinking out of my head. Yes.

ADV KATE HOFMEYR: Yes.

MS DLAMINI: Yes.

ADV KATE HOFMEYR: It - it would have been helpful for them to be
10 provided today ...

MS DLAMINI: Ja.

ADV KATE HOFMEYR: But let us just get the evidence as at today.

MS DLAMINI: Huh-uh.

ADV KATE HOFMEYR: You cannot recall what the great success was
...

MS DLAMINI: Hm.

ADV KATE HOFMEYR: Of the SAA Vetting Exercise?

MS DLAMINI: I want to be more accurate ...

ADV KATE HOFMEYR: Hm.

20 **MS DLAMINI:** In terms of what I had ...

ADV KATE HOFMEYR: Yes.

MS DLAMINI: Tabled down.

ADV KATE HOFMEYR: Yes.

MS DLAMINI: Rather than talking from my head.

ADV KATE HOFMEYR: Yes. Yes.

MS DLAMINI: Yes. I think it is - it is better that way.

ADV KATE HOFMEYR: Okay and you say at that same bullet:

“The great success of the SAA Vetting Project has resulted to the project being extended to other entities within SAA.”

That when I read it suggests to me it - it is something that has happened. It has resulted in that extension. Do you understand that in the same way as me?

MS DLAMINI: No.

10 **ADV KATE HOFMEYR:** Oh.

MS DLAMINI: I understand it in a sense that I received a - an indication to say we are going to request that you vet the other - for instance the pilots.

ADV KATE HOFMEYR: Hm.

MS DLAMINI: Yes. So it comes from that.

ADV KATE HOFMEYR: I see.

MS DLAMINI: Yes.

ADV KATE HOFMEYR: So it was anticipating a request that would then be acted upon.

20 **MS DLAMINI:** Yes.

ADV KATE HOFMEYR: Is that right?

MS DLAMINI: Yes.

ADV KATE HOFMEYR: And you thought that that would be a positive result out of this process.

MS DLAMINI: Very much.

ADV KATE HOFMEYR: Is that correct?

MS DLAMINI: Very much.

ADV KATE HOFMEYR: Right.

MS DLAMINI: Ja.

ADV KATE HOFMEYR: Why would that be? Why would you want to vet pilots?

MS DLAMINI: Not specifically pilots ... (intervenes).

ADV KATE HOFMEYR: That was the request. Was it not?

MS DLAMINI: Yes. That was the request, but I am saying my thinking
10 is because the team was above board in terms of our processes. In
terms of the work that we supposed to do there. Judging by the fact
that there were no issues that were raised with the organisation or
myself during the period that we were there and then if now we get an
indication to say can we extend ...

ADV KATE HOFMEYR: Hm. Hm.

MS DLAMINI: To vet this. So from my part it would say: job well
done.

ADV KATE HOFMEYR: Hm. Hm.

MS DLAMINI: That was my thinking.

20 **ADV KATE HOFMEYR:** Who was that request from to vet the pilots?

MS DLAMINI: It came from the former Chairperson of SAA.

ADV KATE HOFMEYR: Ms Myeni?

MS DLAMINI: Yes.

ADV KATE HOFMEYR: Did you intend at any point to determine
whether you could lawfully vet the pilots or would her request have

been enough?

MS DLAMINI: No. We never got to deliberate on that ...

ADV KATE HOFMEYR: Hm.

MS DLAMINI: Particular issue, because my focus was mainly on - on the work at hand.

ADV KATE HOFMEYR: Hm.

MS DLAMINI: Yes.

ADV KATE HOFMEYR: And then if we go to page 65.

CHAIRPERSON: Just going back to the - to page 61.

10 “The great success of the SAA Vetting Project has resulted to the project being extended to other entities within SAA.”

Are you saying that you are not able to tell us what the great success was of the project? You want to go and have a look at it - at some document?

MS DLAMINI: I am saying Chairperson in terms of the findings and recommendation they were supposed to be attached to this report. They are not here today.

CHAIRPERSON: Ja. No. Leave out the findings ...

20 **MS DLAMINI:** Yes.

CHAIRPERSON: And recommendations. Here you say the great success of the SAA Vetting Project has resulted blah, blah, blah. So the question that Ms Hofmeyr asked earlier on was what is that success that you are talking about here and I understood you to say you want to have a look at some document. So I am wondering whether you were

the leader of this project ...

MS DLAMINI: Yes.

CHAIRPERSON: You cannot tell us this was the - the great success ...

MS DLAMINI: There ...

CHAIRPERSON: Of the project.

MS DLAMINI: I am saying as I know them, but it would be better to read from the - the document that ...

CHAIRPERSON: Okay.

MS DLAMINI: Contains that.

10 **CHAIRPERSON:** Tell me the great success as you know it even if it is not going to be exactly as documented somewhere.

MS DLAMINI: Huh-uh.

CHAIRPERSON: This was a - this was a big project ...

MS DLAMINI: Yes.

CHAIRPERSON: And an important project. Is it not?

MS DLAMINI: Yes. Of course.

CHAIRPERSON: *Ja*. You cannot remember what it is great success was if it had a great success.

20 **MS DLAMINI:** For example Chairperson we would advise SAA to revisit their recruitment strategy, because you would find that the Executives that are already in the system there was no clause in the contract to say they - they will have to undergo vetting. Secondly, in terms of the measures such as taking an oath, declaration of - of secrecy such as - let me think. Those were not undertaken when the people entered the system.

CHAIRPERSON: So that is the ...

MS DLAMINI: Yes.

CHAIRPERSON: Great success?

MS DLAMINI: That is the great success.

CHAIRPERSON: Okay.

MS DLAMINI: It means - by that I mean we have been able to influence policy.

CHAIRPERSON: Okay.

MS DLAMINI: Yes.

10 **CHAIRPERSON:** Thank you.

ADV KATE HOFMEYR: Could you not have given those two recommendations without conducting the vetting?

MS DLAMINI: No. No.

ADV KATE HOFMEYR: Well let us take each of them. I want to suggest to you that all you needed to do was go to SAA. Have a meeting with the Board and Management. Ask them whether in the terms of the contracts of employment of the existing Executives they had a clause that required them to be subjected to vetting and if the answer in that meeting was, no. There are not. Then you could have
20 given that advice on that day. Correct?

MS DLAMINI: I believe Advocate Hofmeyr you are taking an approach that would be sort of *ad hoc*.

ADV KATE HOFMEYR: Hm.

MS DLAMINI: In this case there was a project in place ...

ADV KATE HOFMEYR: Hm.

MS DLAMINI: And we had to do an investigative systematic approach to the individuals that are already at the strategic level. So in that sense you are saying there was no need ...

ADV KATE HOFMEYR: Yes.

MS DLAMINI: To the vet the officials.

ADV KATE HOFMEYR: Hm.

MS DLAMINI: I would have walked in there. Check one, two, three ...

ADV KATE HOFMEYR: Hm.

MS DLAMINI: And make findings which - I - I do not think ...

10 (intervenes).

ADV KATE HOFMEYR: No. What I am probing Ms Dlamini.

MS DLAMINI: Yes.

ADV KATE HOFMEYR: Is whether you have to subject 118 Managers and support staff at SAA to invasive security vetting procedures if you tell us that the two great success of this project were things you could have done without vetting a single person and let me just be clear about it.

The first one you gave us was that you were able to advise SAA about revisiting their recruitment.

20 **MS DLAMINI:** Yes.

ADV KATE HOFMEYR: So that they could include in their contracts ...

MS DLAMINI: Yes.

ADV KATE HOFMEYR: With employees that they must subject themselves to vetting.

MS DLAMINI: Yes.

ADV KATE HOFMEYR: I want to put it to you. You could have given that advice after one engagement with Management and the Board of SAA. Establish that it is not in the contracts and advise them to put it in. What is your response to that?

MS DLAMINI: I do not agree with you, because now we are talking about the project that had to be undertaken. So ...

CHAIRPERSON: No Ms Dlamini. What Ms Hofmeyr has put to you is she is questioning the need for this project of vetting to have happened and particularly maybe at the size at which it happened. So she is
10 drawing your attention to say here is another way in which you could have achieved what you call a great success without this vetting project that subjected people to a very invasive process.

That is what she is saying. She is questioning the need for the vetting project to have been embarked upon ...

MS DLAMINI: Let me just indicate ...

CHAIRPERSON: And she is inviting you to say whether you agree that you did not need to do the vetting exercise in order to establish whether the contracts ...

MS DLAMINI: Yes.

20 **CHAIRPERSON:** Of employment of the Executives had a clause saying they should undertake that. You obviously did not need the - the vetting process to establish what is in the contract.

MS DLAMINI: Chairperson that is why I said it would have been better to refer to the findings and recommendations here and ... (intervenes).

CHAIRPERSON: No. Why refer to that? We are not talking about that.

MS DLAMINI: Yes.

CHAIRPERSON: Cast your mind back to before the project started. If you want to - if one of the things you wanted to check is whether the Executives contracts of employment had a certain clause. You did not need the betting process for that - to establish that. You needed to check with management or say let me see the contracts.

MS DLAMINI: Yes Chairperson.

CHAIRPERSON: Do you - do you agree?

MS DLAMINI: Yes. I agree.

10 **CHAIRPERSON:** And then you would - if you were given the contracts you would know whether they have got ...

MS DLAMINI: That ...

CHAIRPERSON: The clauses that you are looking for.

MS DLAMINI: Yes Chairperson.

CHAIRPERSON: Okay.

MS DLAMINI: You are correct, but that is the - not the only focus or the outcome ... (intervenes).

CHAIRPERSON: No. No. That is fine.

MS DLAMINI: Yes.

20 **CHAIRPERSON:** She is taking the three points which you - you gave us great success one by one.

MS DLAMINI: I see.

CHAIRPERSON: That is what she is doing.

MS DLAMINI: And let me also highlight that in terms of the strategic goals of vetting. It is to ensure that corruption is reduced in a State

Owned Entity.

CHAIRPERSON: Yes. Ms Hofmeyr.

MS DLAMINI: Yes.

ADV KATE HOFMEYR: Thank you. We will actually come to the point about corruption ...

MS DLAMINI: Yes.

ADV KATE HOFMEYR: But you gave a second great success and that was the recommendations you made regarding the requirement that there be a declaration of secrecy undertaken by Executives. Did I have
10 that correct?

MS DLAMINI: Yes. Yes.

ADV KATE HOFMEYR: Yes.

MS DLAMINI: Yes.

ADV KATE HOFMEYR: So again I want to suggest to you that that was a recommendation that could have been made without the need to conduct any part of the vetting exercise.

MS DLAMINI: I think Advocate Hofmeyr what is happening now you are saying you are going through what I am saying and you are trying to say there was no need for vetting.

20 **ADV KATE HOFMEYR:** That is precisely what I am ... (intervenes).

CHAIRPERSON: Yes. She - she has told you that is what she - she is challenging.

MS DLAMINI: And I do not agree with her.

CHAIRPERSON: Yes, but she is giving you a chance to - to say why ...

MS DLAMINI: Okay.

CHAIRPERSON: You do not agree.

MS DLAMINI: I was explaining that in terms of the goal we had to make sure that corruption is reduced there.

ADV KATE HOFMEYR: Hm. Hm.

MS DLAMINI: In order for us to reach that goal we would highlight any other issue. It can be small or big. It can be small or big, but the main goal is to ensure that corruption is reduced there.

ADV KATE HOFMEYR: Just specifically on ...

CHAIRPERSON: So I guess Ms Dlamini going back to the discussion
10 we had earlier on that all the millions of State employees we have in South Africa are supposed to be security vetted, if they have all been vetted and despite that we have the high levels of corruption that we are having then this security vetting doesn't help reduce corruption.

MS DLAMINI: We have not vetted all of them Chairperson.

CHAIRPERSON: Mmm?

MS DLAMINI: We have not vetted all of them Chairperson.

CHAIRPERSON: Why not?

MS DLAMINI: The magnitude of the work is too much.

CHAIRPERSON: (laughing) Ms Hofmeyr”?

20 **ADV KATE HOFMEYR:** Ms Dlamini you do refer to corruption combating at page 65 of your reports.

MS DLAMINI: Yes.

ADV KATE HOFMEYR: Could you go there?

MS DLAMINI: Yes.

ADV KATE HOFMEYR: In the penultimate bullet on page 65 you

record SAA has expressed satisfaction regarding the significant role the Agency continues to play in combating corruption, do you see that?

MS DLAMINI: Yes.

ADV KATE HOFMEYR: How did your vetting operation assist in combating corruption at SAA?

MS DLAMINI: Personal security vetting is the first point of ensuring that the people, the Executives that are there are men and women of integrity.

ADV KATE HOFMEYR: Ms Dlamini I am going to come back to
10 whether that is the first step, but I want to for the present set of questions accept what you've said that the first step towards combating corruption is to do security vetting and ensure that the people who are employed in these State owned companies are persons of integrity, have I captured that correctly?

MS DLAMINI: You have captured that correctly.

ADV KATE HOFMEYR: Okay when people who were vetted didn't get security clearance why were they allowed to retain their jobs?

MS DLAMINI: Because legally we are not covered in terms of that.

ADV KATE HOFMEYR: What does that mean?

20 **MS DLAMINI:** It means it is unclear as to say do you dismiss the person, do you still keep the person in the entity.

ADV KATE HOFMEYR: But Ms Dlamini that means your security vetting exercise can have no impact on curbing corruption. Let me explain to you why. If security vetting is a necessary step towards securing against corruption in an entity then it has to be effective, you

have to be able to do your security vetting, determine that somebody shouldn't be given clearance and then be able to get rid of them. If your evidence today is you can't take that step then the entire exercise has no purpose.

MS DLAMINI: I don't think that is correct Advocate Hofmeyr, because as I have indicated before any risk that can be reduced at that particular time and in terms of advising on the measures that needs to be addressed by that particular institution it does make a difference. Yes you cannot fire a person on the spot to say they must leave that particular organisation, but you would – we would have advised the
10 entity to say one, two, three needs to be taken caution of.

CHAIRPERSON: Would your advice have included whether they should dismiss people who didn't receive security clearance?

MS DLAMINI: At this point because the law does not cover that part we have not indicated that there should be a dismissal.

CHAIRPERSON: So the short answer is you would not advise an entity to dismiss people who fail to get a security clearance?

MS DLAMINI: Especially Chairperson because there are Labour Relations issues relating to that.

20 **CHAIRPERSON:** And somebody thinks that it would not be a good ground to dismiss somebody who is not able to get security clearance in an entity that emphasizes on fighting corruption?

MS DLAMINI: Yes.

CHAIRPERSON: So if you did security vetting in an entity and you did subject 100 people to the security vetting and 50 of them did not get

clearance you would still not be able to advise the entity to get rid of the 50?

MS DLAMINI: No we wouldn't say they must dismiss them.

CHAIRPERSON: *Ja*, so they would stay with the problem that half of its staff have failed to get security clearance?

MS DLAMINI: For instance we would advise on programs that need to be undertaken to deal with the issue.

CHAIRPERSON: But did I misunderstand your evidence when I thought it was to the effect that you need to have your staff security
10 cleared in order to reduce corruption or potential for corruption, did I understand your evidence correctly?

MS DLAMINI: Yes, yes Chairperson.

CHAIRPERSON: Yes, but you agree that in the example I am giving then the entity would remain with quite a serious risk as far as State Security Agency is concerned?

MS DLAMINI: It would mean for instance you would have to give access to that particular individual to information that is not of high sensitivity.

CHAIRPERSON: Ms Hofmeyr?

20 **ADV KATE HOFMEYR:** Thank you Chair. Ms Dlamini I promised earlier in the evidence I would take you to the law, because I suggested that the understanding that you describe of when security vetting can take place in State Owned Enterprises is not correct. I want to be clear about why I am doing this, I am not suggesting that you are lawyer, what I am – what is relevant for this proceeding is what your

understanding of the law is, and what the understanding of your colleagues are who conduct vetting exercises.

You have made it clear in your evidence today that your understanding, and I have your evidence to be it is an understanding shared in the vetting department of the State Security Agency, is that you can vet all employees of State Owned Companies, is that correct?

MS DLAMINI: Employed yes.

ADV KATE HOFMEYR: Yes, yes.

MS DLAMINI: According to Section 2 ...[intervenes]

10 **CHAIRPERSON:** Not you can Ms Hofmeyr, you must.

ADV KATE HOFMEYR: Oh you must, apologies, it's a must.

MS DLAMINI: Yes.

ADV KATE HOFMEYR: And you have also confirmed that you don't need to check before you do that whether they have access to classified information or not, correct?

MS DLAMINI: I am moving in terms of Section 2A.

ADV KATE HOFMEYR: Yes, no but the answer, I have ...[intervenes]

CHAIRPERSON: She is asking whether she understood your evidence earlier correctly?

20 **MS DLAMINI:** Yes, yes.

ADV KATE HOFMEYR: Okay, let's go to Section 2A if we may, it is in the legislation bundle at page 365.

MS DLAMINI: Which one?

ADV KATE HOFMEYR: The legislation bundle, yes, it is the big one in front of you and it is page 365.

MS D DLAMINI: Yes.

ADV KATE HOFMEYR: So I just would like to read for the record and for your benefit what sub-section 1 of Section 2A says. It says:

“The relevant members of the National Intelligence Structures may conduct a vetting investigation in the prescribed manner to determine the security competence of a person if such person is employed by or is an applicant to an Organ of State.”

Do you see that?

10 **MS D DLAMINI:** Yes.

ADV KATE HOFMEYR: Now as I understand it, it is that section on which you rely for the evidence today that is your understanding that you can – you must vet everyone who is employed at an Organ of State, is that correct?

MS D DLAMINI: Yes, yes.

ADV KATE HOFMEYR: Ms Dlamini I would agree with that understanding ...[intervenes]

CHAIRPERSON: Well Ms Hofmeyr I don't know whether I'm hearing things that you are not saying, but I think it is the second time I hear
20 you as if you say Ms Myeni.

ADV KATE HOFMEYR: Oh my goodness, it is entirely possible.

CHAIRPERSON: Did anybody hear something like that. No?

ADV KATE HOFMEYR: Chair it happens at around three o'clock in the afternoon.

CHAIRPERSON: Okay, no a lot of people say – a lot of people say you didn't say that, so maybe it is just me. Ms Dlamini you didn't hear anything like that?

MS D DLAMINI: No.

ADV KATE HOFMEYR: That I called you Ms Myeni?

MS D DLAMINI: I think, I think, I think ...[intervenes]

ADV KATE HOFMEYR: Oh goodness, maybe I did.

CHAIRPERSON: You think?

ADV KATE HOFMEYR: You see this side of the room are my
10 supporters, I don't think they are necessarily ...[intervenes]

CHAIRPERSON: Well I can tell you this side too you have supporters.
Okay, alright, maybe I just ...[intervenes]

ADV KATE HOFMEYR: No and can I just say for the transcript purposes if I did make that error please it is Ms Dlamini who is giving evidence today.

CHAIRPERSON: No, it is just the past two days we heard a lot of Ms Myeni and Mr Myeni.

ADV KATE HOFMEYR: Yes, and Mr Myeni and there was that confusion.

20 **CHAIRPERSON:** *Ja.*

ADV KATE HOFMEYR: Ms Dlamini we were looking at Section 2A.

MS D DLAMINI: Yes.

ADV KATE HOFMEYR: And you were explaining that that's where your understanding is derived from. Now what I am about to say if that section read as follows and said the relevant members of the National

Intelligence Structures may conduct a vetting investigation ... and then it left out the words that follow ... and continued ... if such a person is employed by or an applicant to an Organ of State, then I could see it having the meaning that you attribute to it. Do you see that?

MS D DLAMINI: Thank you very much for that.

ADV KATE HOFMEYR: Yes, but the problem Ms Dlamini is that those words do appear there, the words “in the prescribed manner to determine the security competence of a person” is there, and what that means is we have to go in the Act to the definition of security
10 competence, to know when it is that vetting investigations can be conducted by members of the National Intelligence Structures, and you will find the definition of security competence at page 363.

MS D DLAMINI: 363. Yes I am with you.

ADV KATE HOFMEYR: Thank you. So you will see a definition of security competence there, just below halfway down the page, the definition reads as follows:

“Security competence means a person’s ability to act in such
a manner that he or she does not cause classified information
or material to fall into unauthorised hands thereby harming or
20 endangering the security or interests of the State.”

And then it goes on to describe how you measure that. You measure it against three things; the person’s susceptibility to extortion or blackmail, the person’s amenability to bribes and susceptibility to being compromised due to his or her behaviour and the person’s loyalty to the State and the relevant institution.

Ms Dlamini the important part of that definition is that it is concerned with a person's ability to cause classified information or material to fall into unauthorised hands. Do you agree that that's an important part of that definition?

MS D DLAMINI: Yes I agree that security competency is mainly to ensure that information does not land into unauthorised hands.

ADV KATE HOFMEYR: Yes, so when you read Section 2A with that definition I want to tell you the meaning I give it and then I would like you to tell me whether you have a different understanding of it. You
10 see 2A is an empowering provision, it says members of the National Intelligence Structures may conduct an investigation in the prescribed manner to determine the security competence of a person, and in order to know what may lawfully be included in a security vetting operation you have to know what security competence is, and security competence is a person's ability to divulge confidential information. Do you accept that that's the meaning of security competence?

MS D DLAMINI: Yes.

ADV KATE HOFMEYR: I want to put it to you, and you can tell me if your understanding is different, that what is required for lawful vetting
20 of investigations to be conducted at Organs of State is that you have to determine first whether there is a person who has an ability to cause confidential information or material to fall into unauthorised hands, and once you have identified that there are persons who have that ability then you can conduct vetting investigations.

MS D DLAMINI: No Advocate Hofmeyr, I am not of the same thinking as you.

ADV KATE HOFMEYR: But you accept your understanding requires certain words in Section 2A to be deleted?

MS D DLAMINI: I would want to stick to Section ...[intervenes]

CHAIRPERSON: Well that might require to be a lawyer.

MS DLAMINI: Yes.

ADV KATE HOFMEYR: On a pure understanding of the language I think we accepted that those words could be removed in order for your
10 meaning to apply, is that correct?

MS D DLAMINI: Let me just stick to my meaning.

ADV KATE HOFMEYR: Yes.

CHAIRPERSON: *Ja.*

MS D DLAMINI: I think it is safe for me to say.

CHAIRPERSON: Okay, let me ask you this question, if you accept that the purpose of conducting a vetting investigation in terms of Section 2A is to determine the security competence of a person, if you accept that that's the purpose.

MS D DLAMINI: I'm with you yes.

20 **CHAIRPERSON:** And you accept that the security competence of a person relates to the ability of that person to cause confidential information to land in unauthorised hands. If you accept that isn't the position therefore this, that there are a lot of people that can be excluded from the need for a vetting investigation because by virtue of

the type of job they do, they are far away from being able to access confidential information.

MS DLAMINI: Yes.

CHAIRPERSON: Because if they can't access it they can't cause it to land in unauthorised hands, do you accept that?

MS DLAMINI: Absolutely.

CHAIRPERSON: Okay.

MS DLAMINI: Absolutely, absolutely.

CHAIRPERSON: Okay.

10 **ADV KATE HOFMEYR:** Chair I am indebted. Ms Dlamini there is one point and I made the error and I got a furious note from my colleagues when I made it, when we look at the definition of security competence I don't want us to not use the language that is recorded there, it is not actually – it does not actually say access to confidential information, it talks about access to classified information, which has a very particular meaning in a security setting.

MS D DLAMINI: Yes.

ADV KATE HOFMEYR: So what I would like to emphasize is that on the description that the Chair has just given you, it is not simply – the
20 relevant question is not simply whether a person has access to confidential information.

CHAIRPERSON: Yes.

ADV KATE HOFMEYR: Because there might be reams of confidential information.

CHAIRPERSON: It's classified.

ADV KATE HOFMEYR: It is actually classified information, do you accept that? That that's what security competence is concerned with?

MS D DLAMINI: Yes.

ADV KATE HOFMEYR: Right, and then if I tell you that no manager at SAA has ever accessed classified information, would you have any basis on which to dispute that?

MS D DLAMINI: I'm sure you would provide me with a – the information that informs what you say.

ADV KATE HOFMEYR: Indeed, but you never checked whether they
10 did have access to classified information or not?

MS D DLAMINI: No, no, no.

ADV KATE HOFMEYR: Because Miss Olitski[?] in her affidavit makes it clear she has been at SAA at the time of deposing to her affidavit for eight years, so that means she started in 2012 and in those eight years she has never, she is the head – let me just get this right, because I got this wrong the other day when I referred to someone as the Head, but she is at page 68 the Head of Department for Financial Accounting at South African Airways.

In her affidavit she says the following about classified
20 information; you don't necessarily have to go there, you can just ask me to give you the reference for where I make this claim. It is at page 72 in EXHIBIT DD24, feel free to go there if you wish, but I will read it in. Ms Olitski says:

"I did not think it was a requirement for a finance manager in an airline to have such clearance anyway. In the years I had

worked at SAA I had never seen a document that could be deemed classified, as secret or top secret. The Commission's investigators have indicated to me that classified information would usually be identified by way a classified secret or top secret stamp or marking."

And she confirms that that is not something she ever came across in her eight years.

If that was so and given what you have accepted about the purpose and the structure of this Act would you accept that it was not
10 lawful for the State Security Agency to conduct this vetting without establishing whether the people that was vetting ...[intervenes]

CHAIRPERSON: ...[Indistinct]

ADV KATE HOFMEYR: Do you accept or let me ask differently ...[intervenes]

CHAIRPERSON: Maybe another way of asking it would be this without requiring you to have legal knowledge.

MS D DLAMINI: Yes.

CHAIRPERSON: If we accept, and I understand you to accept, that the purpose of security vetting is to determine the security competence
20 would you not agree that therefore security vetting where the person or persons who are being vetted don't have access to classified information doesn't serve the purpose that is – that security vetting is supposed to achieve?

MS D DLAMINI: With all due respect Chair I don't agree.

CHAIRPERSON: Yes, why do you not agree?

MS D DLAMINI: On a note that as per the Section 2A if you are employed you have to be vetted.

CHAIRPERSON: No, no, no you must listen to my question carefully.

MS DLAMINI: Yes.

CHAIRPERSON: Let's go back and you must tell me if I misunderstood you.

MS DLAMINI: Yes.

CHAIRPERSON: Earlier on I thought you agreed with me that if you look at Section 2A the purpose of conducting a vetting investigation is
10 to determine the security competence of a person. I understood you correctly, you agree with that part?

MS DLAMINI: Yes, fully, fully.

CHAIRPERSON: Yes okay. Then Ms Hofmeyr took you to the definition of security competence, you remember?

MS D DLAMINI: Competence yes sir.

CHAIRPERSON: And I think we are all agreed that what it – what the Act says it is, is that it refers to the ability of a person or access to classified information by a person and the ability to allow classified information to land on unauthorised hands, are we agreed or we are not
20 agreed? Let's go to 8, what was the Section Ms Hofmeyr?

ADV KATE HOFMEYR: Security Competence is at page 363.

CHAIRPERSON: Okay, let's go to 363, I just want to, if you say you don't agree I want to make sure I understand why you don't agree, okay?

MS D DLAMINI: Yes.

CHAIRPERSON: Security competence means a person's ability to act in such a manner that he or she does not cause classified information or material to fall into unauthorised hands, thereby harming or endangering the security of interest of the State. Okay, it is the ability of a person to act in a manner that he or she does not cause classified information or material to fall into unauthorised hands.

So that person, as I read this, must be somebody who has access to classified information or who can have access to classified information by virtue of the duties or responsibilities or work that he or she is doing, are we agreed on that or are we not?

MS DLAMINI: We agree on that Chairperson but I want to push you further to say ...[intervenes]

CHAIRPERSON: Well let me first put this, so we agree on that.

MS D DLAMINI: Yes.

CHAIRPERSON: Now as I understand the position, and you should know better, classified information is not information you are going to get all over, classified information is stored and kept somewhere, am I right?

MS D DLAMINI: Not all the time.

20 **CHAIRPERSON:** Not all the time?

MS D DLAMINI: Not all the time yes.

CHAIRPERSON: But when it is not where it is supposed to be is it not because somebody has done something, has allowed it to land in unauthorised hands?

MS D DLAMINI: It could be.

CHAIRPERSON: But most of the time would it not, in an organisation isn't the position that only very few people would have access to classified information?

MS D DLAMINI: I think then the debate will go on to say Chairperson if you say it is information that must be stored somewhere, because that is the sense I am having ...[intervenes]

CHAIRPERSON: I am simply saying, and I don't know, I am saying you might know better, I am under the impression that when information is classified, when a document is classified where it is kept is
10 something quite important, you don't want it lie around. That is my understanding, and only a few people in an organisation would have access to classified information.

I may be wrong but that's the picture that I have, because you don't want, you want only a few people to know about that information, authorised people. Isn't it?

MS D DLAMINI: I think Chairperson it means one would have to have a discussion or deliberate to say is this classified, is this not, because that on its own if one would say this document is classified the question is what informs you to say it is classified?

20 **CHAIRPERSON:** Well I thought that to have a document classified means somebody makes a decision ...[intervenes]

MS D DLAMINI: To make it classified.

CHAIRPERSON: That it is classified.

MS D DLAMINI: Yes.

CHAIRPERSON: It doesn't generally speaking become classified on its own. Somebody needs to have – to know what it contains and should take a view that this is something that should be classified, so if that is correct I would imagine that in any organisation there must be very few people who have access to classified information, because that's information you don't want everyone to know.

MS D DLAMINI: But then Chairperson in order to ensure that one might argue to say we lock it away but ...[intervenes]

CHAIRPERSON: Yes, yes.

10 **MS D DLAMINI:** Yes, but what happens is what happens if you are working on classified information and somebody walks in.

CHAIRPERSON: Ja, but you are there, so you know this is classified and you don't want the person to see it.

MS D DLAMINI: Yes but it will depend on the behaviour ...[intervenes]

CHAIRPERSON: And you are not going to leave classified information unattended, if there are people who can come in.

MS D DLAMINI: But does it happen like that? That's another question to say do people do that.

20 **CHAIRPERSON:** Well I would think that those people who are responsible for classified information takes steps and measures to make sure only people who have the relevant clearance or who are authorised can see the information on the documents, not anybody can see it, but are you saying you are not sure whether it is like that?

MS D DLAMINI: I am saying Chairperson if I were to state to you that it is not always the case.

CHAIRPERSON: But is it supposed to be the case?

MS D DLAMINI: Yes, yes, it is supposed to be the case.

CHAIRPERSON: Ja, you see that's important because if that is how it is supposed to be but maybe there are breaches of security.

MS D DLAMINI: Mmm.

CHAIRPERSON: That is now another issue because that might be because of other things, but if you accept that the information once classified is supposed to be kept somewhere and only a few people have access to it in an organisation that has got more than 1 000
10 employees I wouldn't see why you would need to vet 500 employees who have no chance of having access to this information, do you understand what I mean.

MS D DLAMINI: Yes Chairperson but ...[intervenes]

CHAIRPERSON: But those who may be close because of their positions then I would understand.

MS D DLAMINI: Ja, but it is not always the case that the people that works with that classified information safeguard it and make sure that it is where it is supposed to be.

CHAIRPERSON: Okay, Ms Hofmeyr?

20 **ADV KATE HOFMEYR:** Thank you Chair. Ms ...[intervenes]

CHAIRPERSON: I am sorry Ms Hofmeyr, I needed to take a break at three, I know I would have liked us to finish with Ms Dlamini before we – I take the break but I think I must take it because we are at quarter past.

ADV KATE HOFMEYR: Certainly.

CHAIRPERSON: Let's take a ten minutes break, I just have some urgent document that I must sign.

ADV KATE HOFMEYR: Of course.

CHAIRPERSON: We are going to take a ten minutes break. We adjourn.

ADV KATE HOFMEYR: Thank you Chair.

REGISTRAR: All rise.

INQUIRY ADJOURNS

INQUIRY RESUMES

10 **CHAIRPERSON:** Okay let us continue.

ADV KATE HOFMEYR: Thank you Chair just before we continue I have been asked to get some indication of the planning for the reminder of the afternoon, just because it does have an impact on arrangements that are being made for the second witness.

CHAIRPERSON: I do not think we can go beyond 17H00 but we can go beyond 16H00, maybe to 16H30 maybe up to 16H45, or even 17H00. How is the situation for tomorrow looking?

ADV KATE HOFMEYR: Tomorrow we have a new scheduled witness to commence but I have been discussing the situation with Mr Mbikiwa who
20 will be presenting the evidence of the second witness today, our sense is that even if we do go to 16H30 or 17H00 we will not quite complete his evidence so we would need the second witness of today to continue tomorrow and there will be a bit of a knock on effect for tomorrows witness and possibly the witness on Friday but we may be able to work that in, yes.

CHAIRPERSON: Ja, oh okay, okay.

ADV KATE HOFMEYR: So can I take it that we will likely sit beyond 16H00 to a point. Our great intention is for us to complete Miss Dlamini and at least start the second witness which will be helpful.

CHAIRPERSON: Ja okay.

ADV KATE HOFMEYR: Thank you. Miss Dlamini just in in conclusion on this point about security competence and what role it plays in vetting investigations, I would like to ask you the following question, If no one at SAA at any point had access to classified information do you accept that
10 the security vetting that you conducted was then not designed to assess their security competence? If you will just turn on your microphone.

CHAIRPERSON: Ya.

MS DLAMINI: Can you repeat please?

ADV KATE HOFMEYR: If the facts are that no-one at SAA had access to classified information, then the vetting exercise that you and your team conducted, could not have assessed their security competence?

MS DLAMINI: Advocate Hofmeyr if I may say that, as per our mandate we vet an applicant, we vet a person who is to enter the system. Now, on your point, you saying, you stating that it means that person who is an
20 applicant to be an official in a State Owned Entity, should not be vetted. I think that is the sense I am getting to you unless they have classified [intervenes].

CHAIRPERSON: No, no, no do not worry about this sense you are getting. Do not worry about the sense you are getting, just answer the question. Let me, I believe you have answered the question previously

but I am going to put again and see whether you are deviating from that answer. Okay. The purpose of conducting a vetting investigation in terms of Section 2(A) is to determine the security competence of a person, you agree?

MS DLAMINI: Yes.

CHAIRPERSON: *Ja*. Now, when you go to, or let me put it this way, if you conduct a vetting investigation, a security vetting process, which does not determine the security competence of that person, then you are not conducting a vetting process that can achieve the purposes stated in
10 the Act, is that correct?

MS DLAMINI: My response Chairperson, Advocate Hofmeyr, would be, I would be vetting a person that is an applicant according to Section 2(A) who has not had a access to classified information as yet.

CHAIRPERSON: Yes.

MS DLAMINI: You agree with me Chairperson?

CHAIRPERSON: Well, I do not have to agree with you now, but you are answering a question that you want to answer, you are not answering the question that I am putting to you.

MS DLAMINI: Yes.

20 **CHAIRPERSON:** Okay let us go again.

MS DLAMINI: Let us go again.

CHAIRPERSON: The purpose of a vetting, security vetting exercise in terms of Section 2(A) is to determine the security competence of a person.

MS DLAMINI: Yes.

CHAIRPERSON: Okay, do you agree with me that if you conduct a vetting, security vetting process which cannot or is not going to determine the security competence of that person, then you are conducting a security vetting process that will not achieve the purpose stated in the law?

MS DLAMINI: My response Chairperson would be, conducting vetting on itself is to determine the security competence, so my answer is, you rather not conduct vetting at all because once you embark on conducting vetting you want to determine security competence.

10 **CHAIRPERSON:** Well, well you are right. If you are not going to determine, if you are not using a vetting process for the purpose stated in the law, then you should not conduct it at all. You agree?

MS DLAMINI: Exactly. I agree Chairperson, yes.

CHAIRPERSON: Okay, Miss Hofmeyr do you want to take it from here?

ADV KATE HOFMEYR: No I am not touching that topic again, let me move on if I may. Miss Dlamini I would like to put certain conclusions that I draw from the evidence today and I would like to give you an opportunity to comment on them. I am going to look at both, what happened in the course of the vetting operation as well as its results
20 afterwards.

MS DLAMINI: Okay.

ADV KATE HOFMEYR: Okay. Miss Dlamini do you accept that the security vetting of SAA executives and support staff took place in a situation at which no point did anyone from SSA investigate whether the persons they were vetting in fact had access to classified information?

MS DLAMINI: I would not state that myself because I was not privy to what occurred or transpired between the two Ministers.

ADV KATE HOFMEYR: As far as your conduct of the operation was concerned, you at no point established whether the people who were being vetted had access to classified information. Correct?

MS DLAMINI: We never obtained their job description, their daily duties, yes, I never obtained that.

ADV KATE HOFMEYR: Thank you, and you had no basis to dispute the evidence of Miss Olitski which was to the effect that they were not told
10 that they had an option to not take the polygraph test, do I have your testimony correct?

MS DLAMINI: I said I am not in a position to respond to that particular case because I do not know what happened there.

ADV KATE HOFMEYR: Indeed.

MS DLAMINI: Yes.

ADV KATE HOFMEYR: And Miss Dlamini as a result of the vetting that was conducted, seven executive managers resigned, is that correct?

MS DLAMINI: Yes, during the vetting?

ADV KATE HOFMEYR: Yes, and as a consequence SAA lost those skills
20 of those seven executive managers, correct?

MS DLAMINI: Look, any executive would resign, particularly from SAA South African Airways.

ADV KATE HOFMEYR: Yes.

MS DLAMINI: They never forwarded their resignation letters to State Security, so I am not in a position to say what was stated on those

letters, so one would have to have a look at those letters and see what was their reasons to resign.

ADV KATE HOFMEYR: Do you accept that if there were people in positions before the vetting operation and those peoples resigned during it, SAA lost the skills that those people brought to their positions.

MS DLAMINI: I would not say that Advocate Hofmeyr because I do not have the reasons why they resigned. A person can resign today whether I am there or not, so yes it happened during the time that we were conducting vetting at an entity but them resigning, I never go to
10 understand or see their resignation letters.

ADV KATE HOFMEYR: No, I fully understand that. You do not, you were not privy to their reasons.

MS DLAMINI: Yes.

ADV KATE HOFMEYR: I am asking a different question. I am saying when people resign from State Owned Enterprises, do you accept that those State-Owned Enterprises lose the skills of those people?

MS DLAMINI: It depends in terms of the areas where they are employed, what skills do they possess? Were they an asset to that particular organisation? So it could be a number of things so I cannot really say.

20 **ADV KATE HOFMEYR**: In the course of the vetting operation, personal and private information of about a 118 employees of SAA were divulged to the Intelligence Services of South-Africa, do you accept that?

MS DLAMINI: During the course of the vetting assessment exercise as per [intervenes].

CHAIRPERSON: I guess the short answer is yes, can only be yes.

MS DLAMINI: Yes.

ADV KATE HOFMEYR: And whether or not a person passed or failed the vetting exercise, in fact had no impact at all on their jobs, did it?

MS DLAMINI: We never got to discuss what would be the way forward in terms of that?

ADV KATE HOFMEYR: So it did not?

MS DLAMINI: Yes.

ADV KATE HOFMEYR: Miss Dlamini I would like to put it to you as a consequence of that answer that there was no legitimate purpose that
10 was then served by the security vetting, because if it had been legitimate and if it had sought to achieve the objective you identified, then any person who did not receive clearance ought not to have been permitted to remain in their jobs.

MS DLAMINI: Advocate Hofmeyr let me start by congratulating you for complying with the vetting process. I think you are the evidence leader today because you have complied with the process and thank you very much for that. In terms of what you just said now [intervenes].

CHAIRPERSON: Well you just need to answer the question Miss Dlamini we do not need any other thing.

20 **MS DLAMINI:** Yes, we were, I was always available and the organisation is always open to engage with the leadership of SAA in terms of the work that has been done there, what needs to be done moving forward and at this stage we have never received any indication from their side to say this is the work that has been done there, can we meet and deliberate on that? So I think it will be very much unethical to say an organisation that

is mandated to execute those responsibilities and state security had invested a lot of resources on this particular project because we had to execute it according to our mandate, I think it will be really unfair to state that.

ADV KATE HOFMEYR: And should projects achieve the purposes that they are designed to achieve?

MS DLAMINI: Yes.

ADV KATE HOFMEYR: Do you accept that this project did not?

MS DLAMINI: I do not accept it.

10 **ADV KATE HOFMEYR:** Let us talk about what did happen after the vetting, because you said State Security would have been available to engage with management and the Board on further processes and I want to know whether you are aware of this, these facts and if not I will ask you certain follow up questions.

MS DLAMINI: Yes.

ADV KATE HOFMEYR: We heard in evidence in this Commission that Miss Myeni the former Chairperson of the Board of SAA wanted to use the fact that Miss Olitski could not get clearance because she had dual citizenship to remove her from the finance role she occupied because she
20 was not doing what Miss Myeni wanted her to do. Were you aware of those facts?

MS DLAMINI: I am not aware of those facts.

ADV KATE HOFMEYR: And if you are now aware of them would it cause you concern that the outcome of the vetting exercise was being used for an improper purpose?

MS DLAMINI: I think I am hearing it for the first time Advocate Hofmeyr and one would have to really think about that, ya.

ADV KATE HOFMEYR: Let us look at what happened to Miss Thuli Mshe, you see, Miss Mshe indicated that she was not willing to provide the required information to the State Security Agencies, and on the, Agency, and on the 19th January she received a suspension letter and one of the charges she faced was her refusal to provide the required information to SSA. Would you be concerned that that was an improper use of the vetting exercise conducted at SAA?

10 **MS DLAMINI:** I am not aware of any of the instances that you outlining today, so I am not in a position really to comment on that.

ADV KATE HOFMEYR: Let me just give you the facts now. Somebody who was in the Acting CEO position at SAA at a point in time, refused to provide the information required by the State Security Agency and the consequence of that is that one of the charges she faced when she was sought to be disciplined, was that she had not provided that information to the State Security Agency. As you sit here today do you think that is an improper use of this vetting exercise?

20 **MS DLAMINI:** Advocate Hofmeyr look, now you are drawing me to the issues of SAA between the Chairperson of SAA and the other executives which I think really is not fair to me because I am hearing what you are saying for the first time. My job and my duties was to ensure that we execute the mandate of the organisation and I have done that to the best of my ability to represent state security. What I can say, we were above board in terms of our processes, in terms of the work, in terms of the

team that was deployed at SAA at that time. We had highly skilled individuals on the project. The polygraph examiners, we had three polygraph examiners.

CHAIRPERSON: No, no, no Miss Dlamini, Miss Hofmeyr has not asked you about any of those things. It is a simple question and I thought you – you had previously given an answer maybe indirectly, you said earlier on, you will not advise an entity to dismiss people who failed security vetting, did I understand you correctly?

MS DLAMINI: Yes – yes.

10 **CHAIRPERSON:** Yes, and you said, you know, I think you said something along the lines that you know there are labour laws.

MS DLAMINI: In terms of that yes.

CHAIRPERSON: Which gave me the impression that you were saying as far as you are concerned somebody should not be dismissed because they have failed security vetting, is my understanding of your evidence correct?

MS DLAMINI: You are correct, but what I am trying to explain is to say [intervenes].

CHAIRPERSON: Ya, no, hang on.

20 **MS DLAMINI:** Yes.

CHAIRPERSON: What Miss Hofmeyr is now saying to you, is against that background, the background of that evidence that you gave, here is somebody who refused to take part or disclose information for vetting purposes and she was being charged with misconduct for – for that. Do you regard the charging of somebody because they refuse to give

information to the Security Agency for vetting purposes as acceptable or as improper? That is what she is asking, and I think she is asking against the background that you had previously given advice that, you know, there are labour laws and you will not advice that somebody should be dismissed. Are you able to say whether you would regard it as proper or improper, acceptable or unacceptable for somebody to be charged with misconduct for refusing to give information to State Security Agency for vetting purposes?

MS DLAMINI: Thank you very much Chairperson for clarifying that, I
10 think I understand what you saying now. Yes.

CHAIRPERSON: Okay.

MS DLAMINI: I think, my apologies because I thought at first
[intervenes].

ADV KATE HOFMEYR: Not at all.

MS DLAMINI: I think it would be very improper to do that, ya.

ADV KATE HOFMEYR: Thank you, and do you Miss Dlamini accept that
the people who conducted this vetting operation at SAA, had not been
properly informed about the requirements of the legislation, in so far as
security competence is a requirement for the purpose of vetting to be
20 achieved?

MS DLAMINI: No I do not accept that.

ADV KATE HOFMEYR: Chair, I just have one or two concluding aspects
but really to address to you about a summary at the end of the evidence.

CHAIRPERSON: Ya, that is fine.

ADV KATE HOFMEYR: May I proceed to that and then Miss Dlamini I am

sure will be happy to be excused.

CHAIRPERSON: Yes.

ADV KATE HOFMEYR: Chair, we will make submissions in due course to this Commission that the type of security vetting that was conducted at SAA and contrary to the views, it appears of both former Ministers, and indeed possibly those who executed the vetting operation, that that type of security vetting may not lawfully be undertaken unless it is first established that those who are to be vetted have access to classified information in a manner in which they may be able to divulge it to
10 unauthorized persons. Chair we will also likely in our submissions recommend that this clarification of the legal position find its way somewhere into any report prepared by this Commission because it has grave implications in all State Owned Enterprises if what is being conducted by the State Security Agency is vetting which does not comply in terms of the law. Chair in closure I would just like to emphasize why in our submission the evidence today is in fact relevant to the mandate of the Commission, and we make two points in that regard. Chair the Commission is tasked not only with establishing whether State Capture, Corruption and Fraud occurred within the Public Service Sector. It is also
20 required to explore how, if it did happen, it happened and what recommendations to make in due course in order to prevent its recurrence. Chair it will be our submission that using the Intelligence Services of this country to conduct unlawful vetting operations at State Owned Enterprises and where that vetting operation is then employed for ulterior purposes, may well be shown to be one of the ways in which State

Capture, Corruption and Fraud is allowed to take place in entities such as SAA.

CHAIRPERSON: Ya, no I think that particularly the question of why was it used, will be very important.

ADV KATE HOFMEYR: Indeed Chair.

CHAIRPERSON: Because the, it has been said that certain institutions, state institutions, may have been used or were used to advance State Capture and to advance corruption. So – so it becomes important, I mean the loss of seven executives, it will be important also to see whether it is
10 connected with the vetting, the objection to the vetting, but also whether the vetting process may have been used in order to push certain people out of SAA, so all of those things will need to be explored.

ADV KATE HOFMEYR: Indeed Chair. Thank you.

CHAIRPERSON: Miss Dlamini thank you very much for coming to give evidence we appreciate it. If we need you we will ask you to come back again.

MS DLAMINI: I hope not.

CHAIRPERSON: You hope not? Thank you very much Miss Dlamini and you are excused.

20 **MS DLAMINI:** Thank you very much Chairperson.

CHAIRPERSON: Thank you.

MS DLAMINI: Thank you Advocate Hofmeyr.

ADV KATE HOFMEYR: Thank you Miss Dlamini. If I may hand over to my learned friend Mr Mbikiwa.

CHAIRPERSON: Yes, okay.

ADV MICHAEL MBIKIWA: Good afternoon Chair.

CHAIRPERSON: Good afternoon. Do feel free to rise and leave Miss Dlamini.

MS DLAMINI: Okay.

CHAIRPERSON: Thank you. Yes Mr Mbikiwa. At long last.

ADV MICHAEL MBIKIWA: At long last.

CHAIRPERSON: Yes.

ADV MICHAEL MBIKIWA: Chair can I begin by asking that the file containing Mr Y's [intervenes].

10 **CHAIRPERSON:** Well we are now going to deal, hear the evidence of Mr Y.

ADV MICHAEL MBIKIWA: Indeed Chair.

CHAIRPERSON: Yes. You would like that his affidavit and annexures that to be admitted and they be marked Exhibit DD(23)?

ADV MICHAEL MBIKIWA: That is correct Chair, thank you.

CHAIRPERSON: It is so ordered.

ADV MICHAEL MBIKIWA: Thank you Chair. Can we just start with a sound check Chair? Mr Y are you able to hear me?

MR Y: Yes I am.

20 **CHAIRPERSON:** For the record I just want to state, Mr Y has taken the prescribed oath as he has been sworn in, do you confirm that Mr Y?

MR Y: I confirm that Chair.

CHAIRPERSON: Thank you.

ADV MICHAEL MBIKIWA: Mr Y in front of you there should be a file marked DD(23), do you have that?

MR Y: I do have it.

ADV MICHAEL MBIKIWA: Can I ask you to open that file and go to page 1? If you look at the red numbers in the top right-hand corner those are the page numbers that I will refer you to during the course of your evidence.

MR Y: Yes I am there.

ADV MICHAEL MBIKIWA: Do you recognise that document?

MR Y: I do, it is a affidavit deposed to by myself.

ADV MICHAEL MBIKIWA: And that affidavit runs to page 22, sorry it
10 runs to page 14.

MR Y: Correct.

ADV MICHAEL MBIKIWA: Can you confirm that the contents of the affidavit are true and correct?

MR Y: I do confirm.

ADV MICHAEL MBIKIWA: Thank you. Mr Y can you tell us where you are employed?

MR Y: I am employed at the State Security Agency.

ADV MICHAEL MBIKIWA: And I am, I am, I am cautious not to ask you questions that will require you to reveal your identity but you will testify
20 today about a range of facts that relate to a Special Operations Unit.

MR Y: That is correct.

ADV MICHAEL MBIKIWA: Can you tell us how you know about that unit?

MR Y: Well within the State Security Agency the knowledge about the Special Operations Unit [intervenes].

CHAIRPERSON: One - one second.

MR Y: Okay Chair.

CHAIRPERSON: I know Mr Y that of all of us, that you would be the one person who would be very careful not to say anything that might indirectly reveal your identity.

MR Y: Correct Chair.

CHAIRPERSON: But I do just want to mention that if you mention your responsibilities, your duties, it may well be, that that could reveal your identity, so as you give evidence just keep an eye on that.

MR Y: Thank you Chair I will.

10 **CHAIRPERSON:** Alright.

MR Y: The knowledge about the specific unit I am speaking about, would be knowledge that the Board membership would be aware of.

CHAIRPERSON: Okay.

MR Y: In a high-level review-panel report, mention is also made about the necessity of such a unit. So that information would also be publicly available in the redacted version.

CHAIRPERSON: Okay.

MR Y: And generally a unit like that would deal with strategic projects which are normally very sensitive and would involve the utilization of
20 undercover members of the State Security Agency.

CHAIRPERSON: Yes.

MR Y: That was the position until 2012 when the mandate of the structure was changed and it became more of an account intelligence, combination of VIP protection and support to the former President. I do not know if I should go further and indicate who was appointed in charge

at that stage?

CHAIRPERSON: Mr Mbikiwa will ask you questions but you have just made a reference to the former President. We have quite a few former Presidents in the country who are still alive, which one are you talking about?

MR Y: Former President Zuma.

CHAIRPERSON: Okay alright. Mr Mbikiwa.

ADV MICHAEL MBIKIWA: Thank you Mr Y. Before we get there, I would just like to understand before this change of mandate that you have
10 described, tell us about what Special Operations was prior to that diversion. And the kind of things that it did?

MR Y: Right, as I alluded to you the High-Level Review Panel Report a structure like that will deal with very sensitive operations in which the links between the State Security Agency or government would need to be hidden and plausible deniability be provided. So classically you would look at counter terrorism operations or transnational organised crime.
If I had to quantify the focus given within the intelligence community, we speak about between 80% to 90% of information being available through open source. That would leave between 10% and 20% which would need
20 convert means and of that 10% to 20% an even smaller portion would relate to a structure like Special Operations. Using undercover members as it is expensive depending where you are operating you have to make sure you comply with all the rules and regulations relating to business entities and so on. That was the situation up until 2012.

CHAIRPERSON: One second. Thank you. Yes.

ADV MICHAEL MBIKIWA: Thank you Chair. Mr Y, you have referred on a few occasions to the High-Level Report. I just want to flag that that is something we are going to come to in due course.

MR Y: Alright.

ADV MICHAEL MBIKIWA: But can you tell us who the members of a unit like this would have been? And I do not mean the identity of the members. I just mean the level of specialisation and training that members of a unit like this would receive.

MR Y: Well, they would be full members of the State Security Agency
10 however they're identities would be protected. So, they would not declare to people- to the public that they are members of the State Security Agency. However, they would share the same benefits in terms of salary, medical aid, pension benefits.

Maybe I must just draw distinction between what we refer to as undercover members and the difference within a crime intelligence environment. We refer to agents that are not members of the State Security Agency and are normally recruited to provide us with information. Whereas within the crime intelligence and Police undercover operations, a gent there refers to a member. So, with regards to State Security
20 Agency you would have full member being part of such a unit and in the course of their work they would interact with agents who are not members.

ADV MICHAEL MBIKIWA: Thank you. If we can pick it up at your affidavit at page 9. That is in DD23.

MR Y: Okay.

ADV MICHAEL MBIKIWA: And particularly from paragraph 3.4 you begin to talk about the diversion in the mandate of the Special Operations unit.

MR Y: Correct.

ADV MICHAEL MBIKIWA: Can you tell us how this- the unit's mandate was changed?

MR Y: Well the immediate impact would have been that the undercover members who were part of that structure would have now been exposed to the protection detail of the former President Mr Zuma. They would start doing parallel duties with structures like the Presidential Protection unit
10 who are responsible for the protection of the President. So already the fact that they are now being exposed to other members of the security cluster means that they can no longer go function in an undercover capacity.

The second approach would have been that they would no longer be working on medium to long-term operations. But would be dealing with immediate tactical situations where they would deploy to work around the security of the President. So, you looking at timeframes of between a month to three months versus investing in people that need to be in position for anything between three to 15 years for argument sake.

20 **ADV MICHAEL MBIKIWA:** And how practically was this change in the mandate of a Special Operations unit carried out?

MR Y: It happened with the appointment of Mr Thulani Dlomo as mentioned in paragraph 4.1 of my affidavit and all the members of the structure were informed that they were no longer going to be working on identified focus areas for instance transnational organised crime or

counter terrorism. But they would now be doing more risk assessment and security directly related to the President, Mr Zuma at the time.

ADV MICHAEL MBIKIWA: And what position did Mr Dlomo hold?

MR Y: He was appointed the General Manager of the new Special Operations unit in 2012.

ADV MICHAEL MBIKIWA: And who would he have reported to in that position?

MR Y: Part of the change was the shifting of the Special Ops unit from one Deputy Director General responsible for domestic operations to a
10 Deputy Director General responsible for counter intelligence operations.

ADV MICHAEL MBIKIWA: And can you give us a sense of the size of this unit?

MR Y: It would be difficult because part of the challenge we faced with at the moment is that obviously although the structure was not undercover, they still- their operations were on a need-to-know basis. So, the knowledge I have has also been required through certain investigations. The structure ended up with approximately 30 members but altogether they would have deployed in excess of a 100. So, you would have had 30 members and then the rest would have been agents deployed to do the
20 same work.

ADV MICHAEL MBIKIWA: And how would these members and agents have been recruited?

MR Y: They were recruited directly by the Special Operations structure. Not the normal HR process that anyone else applying to State Security Agency. They were identified and then the names were given through and

indications were that, please appoint these members within the structure.

ADV MICHAEL MBIKIWA: And were they formerly members of the State Security Agency?

MR Y: No, there was a handful of members- I would not like to give a specific number but it would be anything between five and 10 that were formerly members of the previous structure who were resurfaces and then were utilised to continue with their new activities. And then the rest were new recruits that was sourced by Mr Dlomo himself.

ADV MICHAEL MBIKIWA: And if you go to paragraph- sorry, to page 10
10 of your affidavit you deal with some of the functions that this unit performed.

MR Y: Yes.

ADV MICHAEL MBIKIWA: Can you talk us through those functions?

MR Y: Alright. You will see that in paragraph 4.4 I use the word parallel. I think it is a trend that you will see because the structure actually duplicated functions that were either part of other units within State Security Agency or other stakeholder departments that we would work together with.

So, for instance you would have the TSCM which is Technical
20 Surveillance Counter Measures which were brought together under the command of Mr Dlomo although the function actually resorted under another SSA structure. They were dedicated to doing this function directly for the President.

ADV MICHAEL MBIKIWA: Mr Y, I am sorry to do this but can I interrupt you there. Chair I am informed that there is a technical issue with the

sound feed and to ask if we could adjourn for 5 minutes.

CHAIRPERSON: Okay. Let us adjourn then for 5 minutes. We adjourn.

REGISTRAR: All rise.

INQUIRY ADJOURNS

INQUIRY RESUMES

CHAIRPERSON: I take it the problem has been solved.

ADV MICHAEL MBIKIWA: It seems to have been solved.

CHAIRPERSON: Technical problem.

ADV MICHAEL MBIKIWA: Thank you Chair.

10 **CHAIRPERSON**: Yes. Mr Y, are you still there?

MR Y: I am here Chair.

CHAIRPERSON: Thank you. Let us proceed.

ADV MICHAEL MBIKIWA: Mr Y we left off with you explaining to us the functions that the Special Operations unit performed after the diversion of its mandate. And you were telling us what parallel technical surveillance counter measures were, I believe.

MR Y: Yes.

ADV MICHAEL MBIKIWA: If I could ask you to start at the beginning of where you were just in case it was not recorded?

20 **MR Y**: Alright. So, the TSCM function which is the Technical Surveillance Counter Measure function was duplicated. So, what you would have is we have a structure responsible for that which would provide services to government departments to make sure that meeting venues are clean in terms of interceptions. But you then had the capacity created within Special Operations that only serviced the

President wherever he would travel.

If you look further into the affidavit the unit took over functions related to other government departments. One would be the South African Military Health Services who are responsible for toxicology. The Police Service who are the only department with a mandate to do the physical protection but the special operation members were trained as VIP protectors. If you look at the Defence Force and specifically the Air Force, Special Operations members were designated to guard the former President's aeroplane. So, all of these are functions that were
10 either duplicated from within SSA or on behalf of other departments.

ADV MICHAEL MBIKIWA: And the- what you described earlier as VIP protection services, are those services that the State Security Agency would ordinarily perform?

MR Y: No, the mandate for that lies with the South African Police Services. However, maybe just a caveat we would utilise VIP protectors to protect people within the State Security Agency, visitors from foreign intelligence services. We would also allocate them one of our protectors. But that would be on an agreement basis with the South African Police Service. No members of Parliament, Ministers, all
20 of their protection falls under specific units within the Police Service.

ADV MICHAEL MBIKIWA: Thank you. I would like to then turn to your evidence in respect of the provision of protection services to Ms Myeni. And we pick that up- sorry Chair, I see you reaching for the microphone.

CHAIRPERSON: Yes, I- before we had the break, I thought I would ask

Mr Y. Mr Y, at some stage you were giving evidence about the numbers of the people in this unit. And you were mentioning a much lower number than the number that I see at 4.3. Is there any significance to the discrepancy?

MR Y: Chairperson ... (intervenes)

CHAIRPERSON: In 4.3 you say ... (intervenes)

MR Y: Yes 200.

CHAIRPERSON: Ja you say you understand that it was about 200 agents.

10 **MR Y:** Yes.

CHAIRPERSON: But I think earlier you talked about 20 or something like that.

MR Y: The lower number the 20 to 30 would be full members of the SSA. The 200 I am referring to here are not members of the State Security Agency.

CHAIRPERSON: Oh, so it is two different categories.

MR Y: Yes. In Police terms these would be classified as informers for lack of a better word.

CHAIRPERSON: Oh, for the 200?

20 **MR Y:** Yes Chair.

CHAIRPERSON: Oh okay. Has he covered that part? Or you plan to deal with it later

ADV MICHAEL MBIKIWA: Chair he did deal with the issue of recruitment and with the issue of the members from within SSA. I asked him whether there were members within SSA.

CHAIRPERSON: Yes.

ADV MICHAEL MBIKIWA: I am grateful to you for the clarification of the 200.

CHAIRPERSON: Yes. And the question of where they seem to have been recruited mainly from as well, he dealt with that?

ADV MICHAEL MBIKIWA: He did not give the place.

CHAIRPERSON: Yes.

ADV MICHAEL MBIKIWA: You indicate in your affidavit where the agents were recruited from Mr Y. Could you explain that?

10 **MR Y:** Yes. Most of the recruits were recruited from KwaZulu Natal.

CHAIRPERSON: Yes.

MR Y: I cannot give you factual reason for that Chair.

CHAIRPERSON: Yes.

MR Y: Other than to make certain assumptions and deductions given the support base of the people involved.

CHAIRPERSON: And they were given- were they given any training?

MR Y: Yes, Chairperson they were actually provided training which is normally only reserved for members of the State Security Agency.

CHAIRPERSON: Yes.

20 **MR Y:** So, they were provided training in foreign countries and those countries would not know that these people are not full members of the State Security Agency. And obviously there is sensitivity in terms of that aspect. So, what you had was people who were not members of the Agency but however were highly trained as counter intelligence officers both in VIP protection, the gathering of intelligence and

aspects like that.

CHAIRPERSON: Okay. Thank you.

ADV MICHAEL MBIKIWA: Thank you Chair. Mr Y, if we can then turn to page 11 of your affidavit.

MR Y: Okay.

ADV MICHAEL MBIKIWA: Where you deal with the provision of security protection services to Ms Myeni.

MR Y: Yes.

ADV MICHAEL MBIKIWA: Can you tell us how it came about that this
10 unit provided such services to Ms Myeni?

MR Y: Well Chair, I must honest we have found no paperwork that would indicate either a request or an instruction from within the Agency. And the first indications that we got that this occurred was from the High-Level Review Panel Report where it mentions not only Ms Myeni but certain other political leaders.

Obviously as we have been involved in the investigations, we are aware that these agents, the group of the 200, were allocated to specific people who could be seen as being supporters of the- of former President Zuma who may have been facing certain difficulties. And
20 would not be eligible for official protection from the SAPS.

ADV MICHAEL MBIKIWA: Thank you. You have referred again to the High-Level Review Panel and I think it is appropriate now that we go to that. If I can ask you to turn to page 168 of your bundle.

MR Y: Okay Chair, I am there.

ADV MICHAEL MBIKIWA: You are there quicker than I am. You will

see there that on the cover page it says High-Level Review Panel Report on the State Security Agency December 2018. And if you look in the footer it says, Report of the High-Level Review Panel on the SSA.

MR Y: Correct.

ADV MICHAEL MBIKIWA: And that document you will see runs to page 273 in the bundle.

MR Y: Yes.

ADV MICHAEL MBIKIWA: If you turn to page 173. I just want to read
10 these two paragraphs into the record Chair to give some context to what this Panel was.

CHAIRPERSON: Yes.

ADV MICHAEL MBIKIWA: It says;

The High-Level Review Panel into the State Security Agency SSA or Agency was established by President Cyril Ramaphosa in June 2018 began its work in July 2018 and was given 6 months to submit its report.

The key objective for the establishment of the Panel was to enable the reconstruction of a Professional National Intelligence Capability for
20 South Africa that will respect and uphold the Constitution and the relevant legislative prescripts.

The Panel was chaired by Dr Sydney Mufamadi and included 9 other members with a wide range of senior level experience and expertise in law, security study, civil society, academia, the intelligence and security community and other arms of government.

The Panel was supported by a secretariat provided by the Agency.

Mr Y, can I then ask you to turn to page 236 because that is the portion of this report that deals with Special Operations?

MR Y: Alright.

ADV MICHAEL MBIKIWA: And you will see there at 9- paragraph 9.3.5 the heading is Special Operations.

MR Y: Correct.

ADV MICHAEL MBIKIWA: It says;

According to information provided to the Panel a SO unit (Special
10 Operations Unit) was first setup in the then NIA in or around 1997.
Was subsequently shutdown date not known and reopened again in or
around 2002 and apparently carried over into the SSA.

Does that accord with your understanding of the origins of this Special Operations Unit?

MR Y: Yes correct. This paragraph would refer to the, if I can say the legitimate mandate of the structure. And it is true what is mentioned here.

ADV MICHAEL MBIKIWA: Indeed. This is- in your evidence earlier what you described as the position prior to 2012.

20 **MR Y:** Correct.

ADV MICHAEL MBIKIWA: In the second paragraph it says;

The notion of the Special Operations unit in Intelligence, Military and Police services is not at all unusual. Normally it entails units who works under deeper cover of the service and who work on particularly sensitive operations against particularly serious targets or issues and

usually at a National level. Members of such units are supposed to be highly trained and particularly competent.

In the case of NIA and SSA such a unit would be based at Head Office and work on National projects of particular seriousness that cannot be assigned to a provincial or other structure.

MR Y: Correct.

ADV MICHAEL MBIKIWA: Again, is that part of what you have described as the legitimate mandate of a Special Operations Unit.

MR Y: Yes, correct Chair.

- 10 **ADV MICHAEL MBIKIWA:** Can I then ask you to read the third paragraph?

MR Y: Right.

The Panel probed relatively deeply and widely into the issue of SO. Towards the end of its deliberations it received a briefing from the Office of the Inspector General of Intelligence on an investigation it is currently conducting into SO that it hopes to conclude by the end of the current financial year.

- The Panel will make recommendations regarding this below. For the purposes of this chapter of our report we highlight key elements of what
20 was presented to the Panel on SO particularly in relation to the naked politicisation of intelligence in recent years.

ADV MICHAEL MBIKIWA: Thank you. Are you able to shed any light on that investigation referred to by the Office of the Inspector General of Intelligence?

MR Y: I am Chair, it was based on certain complaints that came from

some of the agents that- their complaint was their salaries was stopped. What they called salaries and they opened up complaints with the Office of the Inspector General. In the course of interviewing those agents obviously the Inspector General's office then became aware of the certain operations that were running that would have been unlawful. As far as I know the report has not been finalised yet and it is running parallel with an investigation that is taking place into the same issues but from within SSA itself.

ADV MICHAEL MBIKIWA: And if you turn over the page to page 237.

10 It says;

The Panel was able to identify the key player in the politicisation of SO and the SSA in general. The member is currently serving government in a senior capacity. According to reports he was deployed to SSA by the then President via the Minister at the time to head up the Special Operations Chief Directorate.

Are you able to shed any light on who is being referred to there?

MR Y: That is Mr Thulani Dlomo.

ADV MICHAEL MBIKIWA: Right. Your- in terms of your evidence
20 earlier was responsible for the diversion of the mandate of the unit.

MR Y: Correct.

ADV MICHAEL MBIKIWA: I would like then to go to the paragraph starting with, it is clear.

MR Y: Right, yes.

ADV MICHAEL MBIKIWA: It is clear to the Panel that the SSA SO unit

especially under the watch of the member mentioned above was a law onto itself and directly served the political interest of the Executive. It also undertook intelligence operations which were clearly unconstitutional and illegal.

Information made available to the Panel indicated that these operations included inter alia the training of undercover agents in VIP protection and assigning some of these to provide protection to the then President as well as to others who were not entitled to such protection such as the former chairperson of the South African Airways Board.

10 Does that accord with your understanding of the- what you described as the diversion of the mandate of the Special Operations Unit?

MR Y: Correct. I would just want to clarify the training of undercover agents. The undercover there should not be seen as implying that these agents were members of the State Security Agency.

ADV MICHAEL MBIKIWA: Indeed. Can I then ask you to turn over to page 238 and just the last paragraph above Executive involvement in operations?

MR Y: Yes.

20 **ADV MICHAEL MBIKIWA:** It says there;

It is clear from the above information and other information available to the Panel that Special Operations had largely become a parallel intelligence structure serving a faction of the ruling party and in particular the personal political interest of the sitting President of the party and country.

I will pause there. Do you have any comment on that?

MR Y: I would agree with that.

ADV MICHAEL MBIKIWA: It then says;

This is in direct breach of the Constitution, the white paper, the relevant legislation and plain good government intelligence functioning.

I will not ask for your opinion as to whether it breaches the law but would you agree that it is in breach of plain good government intelligence functioning?

MR Y: Definitely.

- 10 **ADV MICHAEL MBIKIWA:** I then Mr Y would like to address with you the question of the protection services that were provided to Ms Myeni. And for that purpose, I would like to go back to your affidavit and pick it up at page 12.

MR Y: Okay.

ADV MICHAEL MBIKIWA: Sorry, in fact page 11 at paragraph 5.2.

MR Y: Alright.

ADV MICHAEL MBIKIWA: Can you tell us if Ms Myeni wanted security protection? What would have been the proper process to have followed?

- 20 **MR Y:** The normal process would have been we have a function within the Agency called Security Advising. You would have a security advisor allocated to a government department or state-owned entity and any request highlighting for instance that Ms Myeni thought her life was in danger could have been channelled via the advisor and the South African Police Services.

The SSAs mandate is in the area of counter intelligence so obviously one would have internally done an assessment to say for argument sake if there were certain criminal syndicates that were being targeted for neutralisation by the chairperson and they were unhappy with us. And we picked up information like that we would compile and assessment provide it to the South African Police Service who would combine it with their mandate to determine is the threat of such a nature that she would need to have VIP protection.

ADV MICHAEL MBIKIWA: And as far as you are aware was any such
10 process undertaken?

MR Y: No, it was not.

ADV MICHAEL MBIKIWA: Chair, I intend to move on to a slightly different topic and to deal with the affidavit of Mr Muntsami who was involved in security at South African Airways itself. It might be an appropriate time to adjourn for the day and pick that up in the morning.

CHAIRPERSON: Yes. No, that is fine. Are there- is there any request that we start earlier or we should be fine, we are starting normal time?

ADV MICHAEL MBIKIWA: Chair, I think we should be fine starting normal time.

20 **CHAIRPERSON:** Normal time.

ADV MICHAEL MBIKIWA: I do not anticipate that Mr Y's evidence will too much longer.

CHAIRPERSON: Okay. No, that is fine. This is the last week of the aviation weeks? That looked very far at some stage.

ADV KATE HOFMEYR: We are waiting for it with great anticipation

Chair.

CHAIRPERSON: Okay. We are going to adjourn for the day and tomorrow we will start normal time. We adjourn.

REGISTRAR: All rise.

INQUIRY ADJOURNS TO 20 FEBRUARY 2020