

COMMISSION OF INQUIRY INTO STATE CAPTURE
HELD AT
CITY OF JOHANNESBURG OLD COUNCIL CHAMBER
158 CIVIC BOULEVARD, BRAAMFONTEIN

29 JANUARY 2021

DAY 334



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Recording & Transcriptions

22 Woodlands Drive
Irene Woods, Centurion
TEL: 012 941 0587 FAX: 086 742 7088
MOBILE: 066 513 1757
info@gautengtranscribers.co.za

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TRANSCRIBERS:

Y KLIEM; V FAASEN; D STANIFORTH



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PROCEEDINGS RESUME ON 29 JANUARY 2021

CHAIRPERSON: Good morning Mr Pretorius. Good morning everybody.

ADV PRETORIUS SC: Good morning Chair.

CHAIRPERSON: Yes. They like giving me your opening address.

ADV PRETORIUS SC: [microphone muted]

CHAIRPERSON: [laughs] I do not need it. These are for Monday. Okay. Yes. Are you ready?

10 **ADV PRETORIUS SC:** Yes, I am Chair. Ms K, can you hear us. Good morning.

CHAIRPERSON: Good morning, Ms K.

ADV PRETORIUS SC: Good morning, Ms K.

CHAIRPERSON: The oath that you took the other day ...[intervenes]

MS K: Good morning.

CHAIRPERSON: The took that you took the other day continues to apply, okay.

MS K: Yes, Chair I understand.

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

MS K: (s.u.o.)

EXAMINATION BY ADV PRETORIUS SC (CONTINUES): Ms K, when we adjourned yesterday, we were dealing with the Project Wave and we were at paragraph 6.5.7 of your statement.

MS K: Yes.

ADV PRETORIUS SC: You confirmed your knowledge of the second – the contents of the second sentence in paragraph 6.5.7 to the effect that Frank had explained in his interview with the Investigation Team that the initial plan, Project Wave, holds not resembles to the activities later carried out under Project Wave which related to the media. Do you confirm that?

MS K: Yes. Yes, I do.

10 **ADV PRETORIUS SC:** Then the next sentence reads:

“While the spending of funds started soon after the establishment of the project, it was only a year later that a group of co-workers were recruited and trained.

Frank contents that this recruitment was ad-hoc and admitted that he included his daughter in response to Ambassador Mahlobo’s invitation to “bring people”.”

20 Are you able to confirm that information as having been given to the investigation?

MS K: Yes, I am able to confirm that.

ADV PRETORIUS SC: It appears ...[intervenes]

CHAIRPERSON: I am sorry Mr Pretorius. Just so that people who are listening will understand. Would it be accurate if we say whenever in relation to Ms K’s evidence

and Mr Y's affidavit, reference is made to a name without surname. Everyone must understand that is a secret name.

ADV PRETORIUS SC: Yes. It has been our practise thus far Chair to state explicitly when a name is given and I will continue this practise. I did not in this case but we did yesterday.

CHAIRPERSON: Yes. Okay. When it comes up for the first time, you mean that.

10 **ADV PRETORIUS SC:** Yes, but I will do it anytime. No problem Chair.

CHAIRPERSON: Okay, that is fine. Okay alright.

ADV PRETORIUS SC: Ms K in relation to the second sentence in that paragraph. Does that mean – and I am just asking you to clarify what is said there – that the documents which would have established the project and the motivation for the release of funds would not accurately would have reflected what was ultimately done under the rubric of Project Wave?

20 **MS K:** Could you please repeat the question sir?

ADV PRETORIUS SC: The initial plan referred to in the second sentence.

MS K: Yes, sir.

ADV PRETORIUS SC: You said here to have borne no resembles to the activities later carried out under Project

Wave which related to the media. In other words, the original plan which would have been included in documentation motivating the establishment of the project and motivating the release of funds for the project bore no resemblance to what was actually conducted under the rubric of the project. Is that what that sentence means?

MS K: Yes. Yes, that is what it means.

ADV PRETORIUS SC: Thank you. Paragraph 6.5.8 reads:

10 “A progress report dated 26 November 2016 provides further insight into other operational activities of Project Wave.”

That progress report is any documentation but there is a quote here from that document:

“Under achievements: It is reported that Project Wave has been able to confirm many of the allegations levelled against the involved of foreign intelligence agencies in the planned destabilization of the democratic rule in South Africa.”

20 We have heard that evidence from another source but that will be dealt with later Chair in evidence before you from the former President. But it has also been confirmed and I am continuing the quote:

“Through the said investigation, the involvement of senior cabinet members and various senior

leaders in the ruling African National Congress who are colluding in a conspiracy to effect regime change in South Africa.”

Now it is very clear what that says. Is that contained in the report received by the Investigation Team?

MS K: This is not a report that was received by the Investigation Team. The report was among documents that was found by the Investigation Team.

ADV PRETORIUS SC: It is a ...[intervenes]

10 **MS K:** So I just need to...[intervenes]

ADV PRETORIUS SC: Yes, perhaps received – a report in the possession of the Investigation Team.

MS K: Yes.

ADV PRETORIUS SC: Right.

MS K: That sounds better.

ADV PRETORIUS SC: Was that found in the safe that you spoke of earlier?

MS K: Yes. Yes, Chair.

20 **ADV PRETORIUS SC:** Right. Now the implication, of course, of that statement, and correct me if I am wrong, is the intelligence agencies of the SASS, was dealing with senior cabinet members and various senior leaders in the ruling African National Congress on the basis that they were colluding and in a conspiracy to effect regime change in South Africa.

Does that imply that the object of the project, at least there, would have been to protect the existing regime against change?

MS K: I confirm that. Yes, I could – one could actually draw that conclusion.

ADV PRETORIUS SC: Yes, I think it is fairly obvious but thank you for that. Under challenges it is reported inter-alia that – and again I quote:

10 “One area of interests (media house) has proved to be one of the most difficult to penetrate for two reasons.

Either the remuneration demands were higher than what the operatives could offer or the targeted media house was equal on a security alert.

Hence immune to approach or to be recruited.”

Again to clarify. Is that in the report that was discovered by the Investigation Team?

20 **MS K**: I cannot really recall but it is referred to here. So is it okay if I just take some time to open that annexure?

ADV PRETORIUS SC: Yes, of course.

MS K: Okay.

ADV PRETORIUS SC: It is Annexure W9 and it is at page 656.

CHAIRPERSON: Yes.

MS K: Yes.

ADV PRETORIUS SC: Of annexure - of Bundle SSA-1.

MS K: [No audible reply]

ADV PRETORIUS SC: And if you would go to page 658 after looking at the cover page, you will see in paragraph 4.2.

MS K: Yes.

ADV PRETORIUS SC: Sub-paragraph A.

MS K: Yes, I found it.

10 **ADV PRETORIUS SC:** Have you found it?

MS K: Yes, I have.

ADV PRETORIUS SC: And in sub-paragraph B what is quoted in the statement of Mr Y appears in the report, the written report at paragraph 4.2(a) and (b). Do you see that?

MS K: Yes, I see that. I can confirm that that is what is reflected in the report.

ADV PRETORIUS SC: Yes. One of the observations one can make from that extract from the report is that possible
20 sources within the media were in some cases at least too expensive for the operatives that were recruited. And the other is that media houses or certain media houses refused to cooperative. Is that how you understand those allegations or those statements?

MS K: Yes, that is what I – my interpretation is as well.

ADV PRETORIUS SC: Right. Paragraph 6.5.9 reads:

“R24 million was allocated to Project Wave in the 2015/2016 Financial Year and the same amount again in the 2016/2017 Financial Year.

One of the largest payments under Project Wave was for the amount of R24 million in respect of an invoice raised by Apricot purportedly for services rendered.”

That has been rendered unnecessary by the earlier
10 evidence. Consider the evidence of the acting Director-General who determined that that name could be declassified.

And we know that it is the African News Agency and they have already issued a public statement in regard to that which is an interesting public statement which will be referred to later in evidence Chair.

So that evidence has been responded by the African News Agency. Are you aware of that Ms K.

MS K: Yes, I am aware Chair.

20 **ADV PRETORIUS SC:** Alright. And those records are also contained in the SSA bundle. They include two invoices for R 10 million, each raised by Apricot or African News Agencies and proof of payment via EFT on 25 January 2017.

MS K: Yes.

ADV PRETORIUS SC: Are you able to confirm the invoices and the payment as having coming to the ...[intervenens]

MS K: Yes, I can – I can confirm. I do not know if I am allowed to point out some aspects of the invoice or I should just reserve that for my own ...[intervenens]

[Parties intervening each other – unclear]

ADV PRETORIUS SC: ...look at the invoice because they referred to here and annexed. So if you have any comment
10 to make on the invoice which is part of Mr Y's statement as an annexure, you are free to comment on that.

MS K: Okay. My comment would be that there are two separate invoices of R10 million each. And they are dated March 2016 and during 2016, respectively but the invoices were actually for the attention of Mr Thulani Dlomo but the invoices are actually only paid in January 2017. So what I know Chair is the signature. I am not know if I am supposed to mention whose signature it is?

ADV PRETORIUS SC: If it is the signature of
20 ...[intervenens]

MS K: It says authorised payment.

ADV PRETORIUS SC: Yes, if it is a signature of an operative, please do not mention it. If it is a signature of an official, you may mention it because it is before the Chair.

MS K: No, it is not an operative. It is a signature of Mr Arthur Fraser.

ADV PRETORIUS SC: Alright.

MS K: So on the invoices. It says give authorised payment dated 19/01/2017 and that was then accompanied by a TA that is taken off in parcels AMA which is also approved by Mr Fraser. It is on page 624.

ADV PRETORIUS SC: 624. Yes. The documentation you are referring to is at page 621 and following.

10 **MS K:** Yes.

ADV PRETORIUS SC: Yes. That evidence has largely been given but thank you for confirming those details.

MS K: Pleasure.

ADV PRETORIUS SC: Paragraph... I am sorry if there is anything you wish to add?

MS K: Nothing Chair.

ADV PRETORIUS SC: Okay. Paragraph 6.6.0 reads:

20 “Based on the temporary advances, TA has located during our investigations, the total of R48 million was paid under Project Wave which includes this R20 million payment to Africa or African News Agency.

It should be noted that numerous payments and documents are missing from the financial records available.”

Are you aware of that last statement that you were not able to obtain full documentation and the full financial records of Project Wave?

MS K: I would partially agree with that statement but there is further information that was attached to some of these TA's which actually gave a list of the individuals employed by AMA that were paid by us. So that is has been submitted I think to the Commission.

ADV PRETORIUS SC: Alright. That, I am not sure
10 whether in respect of that information it has been declassified for our purposes.

MS K: Ja.

ADV PRETORIUS SC: And we would not have issued notices, at least to my knowledge. So we cannot go there for the moment but we may put that information in your supplementary statement if we may.

MS K: We do not necessarily have to but I think it is a point that needed to be made that it does show where the money ended up, you know, paid rendered remuneration because
20 when you were reading the extract on page – on paragraph 6.5.8 where we said operatives could offer – that last part where you said:

“...the remuneration demands were higher than what the operatives could offer or the targeted media house was equal on a security alert.

Hence the media approach ought to be recruited.”

For me, if we ended up having a list of people that are there in terms of their salaries and their names, it would mean then that I would infer that means we were trying to make sure it is affordable or we can match whatever the demands were.

That is just my conclusion. It is not necessarily facts.

10 **ADV PRETORIUS SC:** Alright. I understand what you are saying to be that even though the demands made by personnel and the media might have been high, you know that attempts were made, successfully in some cases to meet those demands. Is that what you are saying?

MS K: Yes.

ADV PRETORIUS SC: Right.

MS K: Yes.

ADV PRETORIUS SC: It is fair to point to one document that does not mention any names or implicate any
20 individual either generically or individually but there is evidence in the bundle that individuals within the media received money as part of Project Wave.

MS K: Yes.

ADV PRETORIUS SC: That evidence in its detail I would prefer to consider and place before the Chair at a later

stage once we considered its import and what we need to do to follow the rules. If that is in order Chair? We have a number of positions that received monies in the media but we just have to consider whether giving that money would identify the person. And if it identifies the person, we need to issue notices.

CHAIRPERSON: Ja, that is alright.

ADV PRETORIUS SC: Thank you for that input Ms K. It seems that despite the volume of evidence given by you
10 and other witnesses, the Commission at least and it appears that the Investigation Team at least has not yet established the full scope and detail of the CDSO Project in the period under review. Would that be a fair comment?

MS K: Yes, I agree that would be a fair comment.

ADV PRETORIUS SC: So for example. The investigators have information of at least nine other projects. And I say at least nine other projects, Project Speed, Project Beetle, Project Amex, Project Armani, Project Fruit, Project Denaido(?), Project Iso Toxil(?), Project Worcester(?),
20 Project Skyline. [00:21:15] Of which we have no information at present. Do you know of the existence of other projects in respect of which we do not have information?

MS K: That is a list of projects that we ourselves had been trying to actually confirm whether their existence and many

documentation that proves that those projects existed and what the project establishment documents would be, saying outlining, you know, the objectives of those projects.

We have not through the information management systems of SSA and could not trace those. The only place where these projects appear is in one of the implicated individuals TA's and even in the cash journal, that is all.

ADV PRETORIUS SC: Alright. So there appears to be monies paid out, including monies in the form of cash, in
10 respect of these projects but you have no further information? Is that what I understand the position to be?

MS K: Yes, but I have to point out that those projects seem or can only be linked to the year from 2017 onwards. So it is not projects where – we did not see any – find any TA's, yes. In as far as I remember that pertaining to these projects predating the period of CDSO's existence.

ADV PRETORIUS SC: Thank you. Well, we now get to another category of projects and that is operations within the office of the Director-General. If we can move to that
20 section, please?

MS K: Yes, I am there.

ADV PRETORIUS SC: Paragraph 7.1 reads:

“In August 2013, Ambassador Sonto Kudjoe was appointed as the new DG for SSA following the National Election in May 2014.

Mr David Mahlobo was appointed as the Minister of State Security.”

There can be no dispute about those facts. I will follow on.

“In the period that followed, the office of the DG became involved in covert operations purported to be the President’s Project allegedly pursuant to a directive from Minister Mahlobo.”

Can you confirm that?

10 **MS K**: Yes, that information we have.

ADV PRETORIUS SC: Alright. The paragraph continues. This is reflected in the notable increase in operational expenditure in the office of the DG which was mainly attributed to these covert projects. Are you able to confirm that?

MS K: Yes, I can. It is based on official budget information, budget and expenditure information from the SSA.

ADV PRETORIUS SC: Yes, and we will come back to that topic in a moment. Paragraph 7.2 reads:

20 “During his ten years as the Minister of State Security, Mr Mahlobo became directly involved in operational matters.

He instructed and approved the utilisation of retained earnings to fund the CDSO Projects including project he was personally involved in.

His involvement even extended to the handling of cash used in these operations with deliveries of large cash amounts in the region of R 4.5 million per month being made by various CDSO officials to the minister's office and/or residence.”

Did you receive evidence in that regard in the investigation?

MS K: Yes, I think that has already been covered earlier
10 on, in Mr Y's statement.

ADV PRETORIUS SC: Yes.

MS K: But I think what I need to comment on here is to make things clear is that it means that as we had gone through the over, I do not know, expenditure in overspending of CDSO in that period that was overlaid, it happened at the same time as expenditure on covert ops in the DG's office. So that is why the impact in terms of the financing should be seen in that vein. You know, in terms of that context.

20 **ADV PRETORIUS SC:** Okay. Paragraph 7.3 reads:

“pseudonym Helen who was appointed as the Office Manager in the DG's office..”

And I am going to exclude the date:

“...withdrew temporary advances for operational expenses related to these President's projects.”

And I am not going to talk anymore about the position later held by Helen or what her office was but there is evidence that was received by you and was that evidence received from Helen, pseudonym Helen?

MS K: With the information and the evidence was received from our Internal Security Division because these are documents that were seized.

ADV PRETORIUS SC: Alright. Let us continue in paragraph 7.4:

10 “Mr Fraser formally closed down the CDSO shortly after assuming office.

However, SSA financial systems, documents and witness accounts indicate that the office of the DG continued to run many of the operations and projects which had been found to be irregular.”

Is that a correct reflection of the position and what information became available to the investigation?

MS K: It is correct Chair.

ADV PRETORIUS SC: The paragraph, that is paragraph
20 7.4 continues ...[intervenes]

MS K: [sneezing] Excuse me.

ADV PRETORIUS SC: Bless you.

“...by way of example a temporary advance for R2 million was requested by Helen under Project Mayibuye and approved by Mr Fraser as latest

September 2017.”

That document is also contained in the records.

MS K: Yes.

ADV PRETORIUS SC: For the record, it appears at page 549 of SSA-1. If you need to go there, we can. But do you know of that fact or alleged fact?

MS K: I can.

ADV PRETORIUS SC: You know that?

MS K: Yes, I do know that Chair.

10 **ADV PRETORIUS SC:** Alright.

“Helen pseudonym TA’s record reflect that approximately R 242 million was taken or paid by her in the period from February 2014 to March 2018 allegedly for operations that were run from the office of the DG. The electronic TA records reflecting the aforementioned withdrawals are contained in a schedule and filed in two of the SSA bundle and is marked Annexure RH-1.”

That is at page 859 of the SSA Bundle.

20 **MS K:** Okay.

ADV PRETORIUS SC: If you need to go there. Otherwise, do you confirm that those records and that session there set out?

MS K: Yes, I do confirm that.

ADV PRETORIUS SC: Would these withdrawals have

been cash withdrawals?

MS K: Pardon?

ADV PRETORIUS SC: Would these withdrawals or payments have been cash withdrawals?

MS K: Yes, they were cash withdrawals.

ADV PRETORIUS SC: R242 million cash?

MS K: Not at the same time, over a period.

ADV PRETORIUS SC: Yes alright, but – I will not comment. Paragraph 7.5 reads:

10 “It is also significant that no attempt was made to investigate and charge Ambassador Dlomo for the irregular and unlawful operations undertaken by the CDSO under his leadership.”

Do you confirm that?

MS K: Yes, I can confirm that. There is no record, if there was, there is no record that we could get our hands on.

ADV PRETORIUS SC: Right. The paragraph continues:

20 “Moreover, our preliminary investigations indicate that the operations run from the office of the DG extended well beyond merely the continuation of some CDSO projects. As DG Mr Fraser brought back into the SSA individuals who had been implicated in the PAN investigation...”

That is the investigation of the earlier period that we have

referred to.

“...including...”

Pseudonyms

“Pelane and Garth. Some of these individuals proceeded to play key roles in the new operational activities run out of the DG’s office under Mr Fraser’s management.”

Do you have any comment in regard to those allegations in paragraph 7.5?

10 **MS K**: I just want to confirm that paragraph as correct.

ADV PRETORIUS SC: Alright, thank you. Then we go to paragraph 7.6 which reads:

“The expansion of operational activities run from the office of the DG is reflected in the budgetary allocations. During Mr Fraser’s tenure the budget for the office of the DG increased from approximately R42 million in the 2016/2017 financial year to approximately R303 million in the 2017/2018 financial year.”

20 Are you able to confirm that from documentation received?

MS K: I would like to confirm with the proviso that there is an amendment because it is not the budget that increased from 42 million, it is the expenditure, it is the operational expenditure that increased from 42 million to 303 million.

ADV PRETORIUS SC: Thank you. Subject to that clarification and correction the information I take it you confirm is correct?

MS K: Yes, I can confirm that.

ADV PRETORIUS SC: If you will just bear with me a moment please? Chair, if you would just bear with me for a moment, I need to follow something up.

CHAIRPERSON: Okay, alright. Ms K, you say that it is the expenditure that grew from R42 million in the
10 2016/2017 financial year to approximately R303 million in the 2017/2018 financial year. So your only correction is that it is not the budget, it is the expenditure but in terms of figures and the years, everything that is there, you agree with it.

MS K: Yes, I do, Chair.

CHAIRPERSON: Okay.

ADV PRETORIUS SC: The paragraph continues, it reads:

“It is striking that roughly 74% amounting to R225 million of the total expenditure in the 2017
20 ...[intervenes]

MS K: Excuse me, Chair?

ADV PRETORIUS SC: Yes, I am, sorry.

MS K: Excuse me, Chair.

CHAIRPERSON: Yes, yes? Yes, Ms K?

MS K: For a moment there was a technical glitch so I

think ...[intervenes]3

CHAIRPERSON: You did not hear the whole question?

MS K: I am not sure what happened in between, so I could not – yes, I could not hear anything but now we are back.

ADV PRETORIUS SC: Yes, we were silent for a while.

CHAIRPERSON: Oh, okay, not that is fine. Okay.

ADV PRETORIUS SC: The paragraph continues:

10 “It is striking that roughly 74% amounting to R225 million of the total expenditure in the 2017/2018 financial year was used for covert operational expenditure while 15% was spent on contract expenditure and the remaining 5% on travel and subsistence.”

Are you able to confirm that?

MS K: Yes. There is also a typo. The contract there, it is supposed to say contract, contact expenditure. But otherwise I agree with the sentence.

20 **ADV PRETORIUS SC:** So that is a typographical error, contract expenditure, it is contacts expenditure, is that correct?.

MS K: Yes.

ADV PRETORIUS SC: Right, thank you for that, yes.

MS K: Yes.

CHAIRPERSON: Now I am sorry, I thought she was

saying the opposite. Let me have a look. Is that 7.6?
What paragraph?

ADV PRETORIUS SC: Paragraph 7.6.

MS K: Yes, Chair.

ADV PRETORIUS SC: Third sentence.

CHAIRPERSON: Third sentence?

ADV PRETORIUS SC: Third sentence, yes. The word –
am I correct in understanding – well, perhaps you should
say what correction should be made.

10 **CHAIRPERSON:** Yes, just state, Ms K, what that word
should read.

MS K: It should say contact.

CHAIRPERSON: Oh.

MS K: Contact expenditure.

CHAIRPERSON: Okay, is that something you can explain
without any harm to State Security Agency, contact
expenditure or explaining it might not be appropriate?

MS K: Chair ...[intervenes]

20 **CHAIRPERSON:** If you are not sure, you must just
...[intervenes]

MS K: Chair, it is just – okay, may I continue?

CHAIRPERSON: Yes, I am saying if you are not sure
explaining it would be appropriate or not then do not
explain it but if you are sure that there is no problem then
you could explain to me what it means, contact

expenditure.

MS K: Let me not explain it because it is not actually anything that is complicated or top secret but because it comes from the ODs which we said yesterday have not been declassified.

CHAIRPERSON: Okay, alright.

MS K: Maybe it would be best that I do not.

CHAIRPERSON: Okay, but it is meant to be contact expenditure and not contract expenditure.

10 **MS K:** Yes, Chair.

CHAIRPERSON: Okay.

ADV PRETORIUS SC: The paragraph continues:

“This concentration of SSA funds in the office of the DG during the 2017/2018 financial year came at the expense of legitimate operational structures and SSA provincial offices in particular.”

Is that a correct statement?

MS K: Yes, it is, Chair.

ADV PRETORIUS SC: Paragraph 7.7 reads:

20 “The documents relating to these projects run out of the office of the DG were not put onto the SSA document management system, EMS. Similarly, the purported intelligence products were not channelled into intelligence management which is the repository of all information of the SSA.”

Are those correct statements?

MS K: Yes, they are correct, Chair.

ADV PRETORIUS SC: Oh, was that information referred to there accessible to the investigation team, the Veza investigation team?

MS K: I did not quite understand the question?

ADV PRETORIUS SC: The documents relating to the projects run out of the office of the DG, were those available to your investigation or were they otherwise
10 accessible to your investigation?

MS K: These are the same products we were talking – when you listed the number of projects that we have limited information on, so this is referring to that. So I already explained that we could not trace those, so we do not have any information on whether – either the establishment of those projects or an operational plan or maybe some kind of a report or product that came from those nine to ten projects.

ADV PRETORIUS SC: Right.

20 **MS K:** So I think it should be seen together, them together, in these statements.

ADV PRETORIUS SC: The last sentence ...[intervenes]

CHAIRPERSON: Sorry, Mr Pretorius. Ms K, I do not know if I missed this when you gave evidence earlier but because of your correction of the second sentence of Mr

Y's paragraph 7.6 it looks like there ought to be – you should be wanting a correction also in regard to the first sentence. It says:

“The expansion of operational activities run from the office of the DG is reflected in the budgetary allocations.”

You have made the point that it is not the budget that grew from R42 million to 303 million, it is the expenses ...[intervenes]

10 **MS K**: Sorry, Chair, you are ...[intervenes]

CHAIRPERSON: You cannot hear me?

MS K: Chair is – ja, inaudible, Chair.

CHAIRPERSON: Okay, alright, I think I am looking down. So I am saying you said that Mr Y's second sentence of paragraph 7.6 is incorrect insofar as it says it was the budget for the office of the DG that increased from approximately R42 million in the 2016/2017 financial year to approximately R303 million in the 2017/2018 financial year. Do you remember saying that?

20 **MS K**: Yes.

CHAIRPERSON: You said it was the expenditure that grew.

MS K: Yes.

CHAIRPERSON: Not the budget.

MS K: Yes, Chair.

CHAIRPERSON: So the sentence that precedes that sentence says:

“The expansion of operational activities run from the office of the DG is reflected in the budgetary allocation.”

I am saying I wonder whether you would not want to correct that as well because it seems that it might not be – it might be inconsistent with your evidence, that is the expenditure that grew from that amount to that amount, but I may be
10 misunderstanding something in your evidence.

MS K: Thank you for bringing that to my attention, Chair. I would not replace the word budget there with expenditure, I would rather say budget and expenditure.

CHAIRPERSON: In the second sentence?

MS K: Yes, where the Chair was reading.

CHAIRPERSON: You see, the first sentence does not have the word budget but it has budgetary allocations.

MS K: Yes.

CHAIRPERSON: The second sentence which you
20 corrected earlier on has got budget.

MS K: Yes.

CHAIRPERSON: As I understand it, what Mr Y was saying is when you look at the operational activities run from the office of the DG, you could see an expansion and that expansion was reflected in the budgetary allocations. That

suggests that he is saying if you went to the budget you would find that larger amounts were allocated for various operations. In the next sentence he then says:

“The budget for the office of the DG increased from approximately R42 million in the 2016/2017 financial year to approximately R303 million in the 2017/2018 financial year.”

The two sentences seem to me to be connected, so I was wondering whether you were alive to that or not.

10 **MS K:** I understand what the Chair is saying. So the amendment that I would make in the first – I agree with the first sentence but would need to expand, after budgetary allocations, would need to say “and expenditure.”

CHAIRPERSON: Okay. I think then just to ...[intervenes]

MS K: So the budget – sorry.

CHAIRPERSON: Ja, just hang on, I think just to absolutely sure that you know what you mean, I think you need to say what – how the first sentence should read, as far as you are concerned, and the how the second
20 sentence should read and then we are done with that point.

MS K: Okay, Chair.

“The expansion of operational activities run from the office of the DG is reflected in the budgetary allocations and expenditure. During Mr Fraser’s tenure the budget for the office of the DG

increased from approximately R42...”

I mean...

“...the expenditure for the office of the DG increased from approximately R42 million in the 2016/2017 financial year to approximately R303 million in the 2017/2018 financial year.”

CHAIRPERSON: Okay, thank you. Thank you, Mr Pretorius?

ADV PRETORIUS SC: Thank you, Chair. The paragraph
10 continues, Ms K, in the last sentence to read:

“This concentration of SSA funds in the office of the DG during 2017/2018 financial year came at the expense of legitimate operational structures and SSA provincial offices in particular.”

Are you able to confirm that observation?

MS K: Yes, the information that we have is that during that time the budgets for the provinces were cut by 50% and that is where we have to have the boots on the ground and that is where we are actually most operational. So –
20 but that was cut and that is why we made this statement. Mr Y and the team, made this statement, drew this conclusion.

ADV PRETORIUS SC: Thank you. Paragraph 7.7 reads:

“The documents relating to these projects run out of the office of the DG were not put onto the SSA

document management system.”

We have dealt with that, is there anything in that sentence that you need to deal with further?

MS K: No.

ADV PRETORIUS SC: Right.

“It is a gross dereliction of duty...”

The paragraph continues.

10 “...for the DG to completely disregard the very policies, prescripts and directives that he is responsible for enforcing as the accounting officer and head of department.”

Do you confirm that and there is one question I have in relation to that statement before you confirm it and that is, the lodging of documents and the channelling of purported intelligence products as you have described or as Mr Y described in the first sentence and as confirmed by you, are those contained in the regulatory prescripts governing the SSA?

20 **MS K:** There are regulatory prescripts within the SSA but we are also, especially when it comes to the finances, all of those devolve from Treasury regulations. So it is not different *per se* so we do not necessarily have to deviate from what Treasury has prescribed.

So I think I agree with this conclusion. However, I would probably use a softer kind of wording and say – I do

not want to announce – like confirm it as it is a gross and no authoritatively say it is gross what, what what, I would rather say it would appear, something like that. I do not know whether it makes any difference because the challenge is, this is based on our assessment, not necessarily that we have got to engage with that office to get the explanation.

ADV PRETORIUS SC: So I understand you to qualify it by saying according to the information at your disposal, that
10 is at least a preliminary conclusion that you draw.

MS K: Yes.

ADV PRETORIUS SC: Then paragraph 7.8 reads:

“In the absence of details on the operational activities undertaken in respect of these projects, the deliberate circumventing of SSA systems by the office of the DG suggests these projects were either in breach of the SSA’s mandate and/or the Constitution or were special purpose vehicles created to facilitate the looting of state coffers.”

20 Do you have any comment in relation to that statement?

MS K: Yes. I agree with the statement based on the information that we have.

ADV PRETORIUS SC: Right.

MS K: And also – and also – ja, I think it will become clearer as we go along, as we progress this affidavit.

ADV PRETORIUS SC: Right, particularly with the next paragraph, we will get there soon. The last sentence reads:

“There can be no justifiable reason for the office of the DG to run operations and especially operations of the deep cover type.”

That statement pertains particularly to whether such operations should be run from the office of the DG or whether they should be run in the normal course by people reporting to the DG.

There has been evidence in respect of that from Acting Director General Jafta but do you have any comment on that?

MS K: I agree with this statement that there cannot be any justifiable reason for that, there are structures set up to do exactly that.

ADV PRETORIUS SC: Alright. Paragraph 7.9, which follows, reads – and we will deal with that now and after the short adjournment.

20 “Notwithstanding the general lack of documentary records during this period, some of these ongoing operational activities are reflected in a performance review dated 24 February 2017 which was submitted to Mr Fraser by one of the CDSO co-worker deployment team.”

That is the [indistinct] 23.32 report which is dealt with both in the high level review panel report presented and in the evidence of Mr Jafta and we can go to it in a moment or after the short adjournment, but did the investigation team receive that or have access to that report?

MS K: No, Chair, I – we have never seen this report.

ADV PRETORIUS SC: You cannot obviously speak for Mr Y, can you? Do you know whether her received it?

MS K: Yes, I cannot speak on his behalf on that one.

10 **ADV PRETORIUS SC:** Right.

MS K: Maybe he does have a copy.

ADV PRETORIUS SC: Yes.

MS K: But....

ADV PRETORIUS SC: Yes. Because that report is already a matter of record, I would like to place it before the Chair but can we do that after the short adjournment?

CHAIRPERSON: Ja. We will take the tea adjournment until half past. We adjourn.

INQUIRY ADJOURNS

20 **INQUIRY RESUMES:**

CHAIRPERSON: Let us proceed. If you may proceed Mr Pretorius.

ADV PRETORIUS SC: Yes, Ms K the Annexure Q referred to in page A10.9.

MS K: Excuse me, sorry sir.

CHAIRPERSON: I do not know what that is.

ADV PRETORIUS SC: It is a sneeze as I understand.

MS K: A cough.

ADV PRETORIUS SC: A cough.

CHAIRPERSON: Okay alright, proceed.

ADV PRETORIUS SC: The Annexure Q referred to in paragraph 7.9 is in the bundle of documents provided to the Commission, it has been referred to in the evidence by Dr Mufamadi, the contents have been referred to and it has
10 been referred to in the evidence of Mr Jafta. I understand it did not come directly before the investigation team but for the sake of completeness because we wrapping up the evidence this week at least for the moment, I would like to place it on record and see if you have any comment in relation there to. There are also a number of parties who although not implicated may be affected who would be concerned by the contents of the whole report there.

MS K: I request that I do not comment on this at all.

ADV PRETORIUS SC: No, I am just placing it on the
20 record, you do not have to comment.

MS K: Okay, thank you.

ADV PRETORIUS SC: At page 241 their Bundle SSA01 there is an operational and performance review section of the whole performance review dated 24 February 2017. Now I am going to read from the right hand column, there

of that.

The first...[intervene]

CHAIRPERSON: Yes, I have got it.

ADV PRETORIUS SC: ...item reads:

10 “Initiated three countering operations to impede the distribution of CR17 regalia and key transportation system of dissident groups from GP - that is Gauteng Province, and ensure the cancellation of the President's visit to Americana after an incorrect assessment threat was provided by local and SAPS collection agents. The assessment done by the CDSO/CW team provided, “alternative facts”, in terms of the threat on the ground. This information resulted in the Minister of State Security visiting the site and endorsing the threat assessment - done by CDSO - and thereby cancelling the President's visit, due to the risks involved.”

The next item reads under State of Nation Address Western Cape February 2016:

20 “The co-workers were able to infiltrate and penetrate the leadership of the structure of the ZMF movement.”

I interject Chair this evidence has been given.

“The initial ZMF – that is the Zuma Must Fall, indicated that more than 5000 people would embark

upon parliament, but with efficient and effective countering actions, and the dissemination of, “disinformation”, to supporters of ZMF that Zuma Must Fall, only approximately 50 ZMF supporters attended the March. This success was directly attributed to the efforts of the co-workers of CDSO. The collection efforts of the CDSO also provided, “alternative information”, regarding the Sesikhona movement. The CDSO team was directly tasked by
10 the Minister of State Security to activate the Sesikhona Agents to ensure a presence within the City of Cape Town during the State of Nation Address, this was done to great success.”

The third item relates to the ANC manifesto launched in Port Elizabeth, March 2016 to April 2016. It reads:

“Members were responsible to identify specific names and venues of dissident groups planning to disrupt the manifesto launch. The scattered deployment of co-workers to high risk areas and the
20 internal negotiations with people of interest resulted in dissident groups not being transported to the event, thereby ensuring no disruptions. The co-workers also initiated a media campaign to provide positive media feedback to the placement of views of various ethnic groups in photographic vision of

media personnel, thereby promoting social cohesion. These images became a massive social trend and resulted in positive reporting.”

Then the next item is the AIDS conference in Durban, June to July 2016.

“Provided information to SAPS in Durban Metro relating to transport issues that ensure possible direct disruptions were negated. Information collected by co-workers were also used to ensure
10 the indication of safe parameters surrounding venue and identification of criminal and modus operandi in the area.”

Then the next issue is the occupy Luthuli House, Gauteng September 2016.

“The initial reports submitted by co-workers indicate the exact strength and modus operandi of the occupy Luthuli House grouping. The reports also provided the key role players of the movement and although these initial reports were discarded as
20 incorrect on the day of the event, every report submitted by the co-workers including the numbers and leaders were prepared, proven to be correct.”

Then again, under State of Nation Address, February 2017.

“Student movements infiltrated all Western Cape Universities and student activist groups on social

networks.”

Under the head, political environment little way down:

“The group infiltrated and penetrated various political groups affiliated to active and passive opposition groups that threaten to disrupt the key events through disruptive actions. The assessment of information gathered on the ground indicated that the populist rhetoric used by politicians were not evident on the ground and anticipated very limited
10 disruptions on the ground.”

I am not going to go further with that.

“Trade unions through penetration and infiltration operations. The reports provided clearly indicated that the anticipated “Section 77”, notice to march on parliament during the budget speech, the “New Federation”, NUMSA power and other smaller affiliates will not materialise due to minimal support via the identification of trade unions using the promise of jobs if they attended the march was
20 neutralised by disseminating countering information to the affected youth. This resulted in minimal support to these marches.”

NGOs, active monitoring of the South Africa first right to know SaveSa, Save SA.

“Casac and Greenpeace was done due to the

penetration ability of the group. The team was penetrated and became activist for these NGO's through these actions reporting plays on supporter strength, main actions, ideologies, support structures, and agendas.”

That is the post report which we just needed to place on record, Chair.

CHAIRPERSON: Yes, Counsel.

ADV PRETORIUS SC: If we may proceed then
10 to...[intervene]

CHAIRPERSON: I am sorry. Looks like Counsel has got something to say.

UNKNOWN COUNSEL: Thanks, Chair. Can we comfortably sit down and avoided interrupting Mr Pretorius because we do not want to be accused of being rude and being told to sit. But there it is that this whole portion of the report that has been read into evidence now or interact with, the witness before this Commission has indicated on at least two occasions that she is not willing to comment
20 on the report.

And well, perhaps she also indicated that she does not know this. So it serves no purpose for the purpose of this witness, for this to be read into the record. Now, the reality is that this witness is here to confirm the affidavit or the statement of Mr Y. So to the extent that she is not

confirming that statement, it is improper for it, then for this reports to be read into record, at least now.

Perhaps there are people that will talk to this, we have no objection to it and if there are people that ought to have spoken to it, if they have not spoken to it, then they can be recalled there is nothing that stops them from being recorded. But it is for the purpose of this witness, it is improper for what she is not going to confirm, to be read into the record, nevertheless.

10 **CHAIRPERSON:** Mr Pretorius?

ADV PRETORIUS SC: Chair, this is a Commission of inquiry it may receive evidence at all levels of proof. Perhaps my learned friend did not understand, I am not asking this witness to comment on the report at all. She has made her position clear, I asked for leave to place it on the record.

CHAIRPERSON: Yes.

ADV PRETORIUS SC: The reason for placing it on record this week is so that interested parties can examine the
20 evidence and deal with it. The evidence has been placed before you Chair by at least two witnesses. Dr Mufamadi, high level review panel and Mr Jafta.

CHAIRPERSON: Yes.

ADV PRETORIUS SC: So my learned friend perhaps...[intervene]

CHAIRPERSON: Well I certainly remember that Mufamadi dealt with some of the matters that are being dealt with.

ADV PRETORIUS SC: Yes, as did Mr Jafta.

CHAIRPERSON: Ja.

ADV PRETORIUS SC: So the affidavit has been placed on the record.

CHAIRPERSON: Ja.

ADV PRETORIUS SC: I am not leading it through the witness, I am interrupting the witness's evidence to place it
10 on record from the bar and from the documentation given which is perfectly legitimate. This Commission, as you gave leave to do is entitled to receive evidence of this nature in this form and I asked leave of you to do it before. So that deals with that issue Chair if we may continue.

Paragraph 7.9.1...[intervene]

CHAIRPERSON: Mr Pretorius I am just confirming that he understands.

UNKNOWN COUNSEL: Chair, we are not taking this matter any further, we do not necessarily agree but we will
20 not be taking it further.

CHAIRPERSON: Yes, okay thank you. Yes, you may proceed, Mr Pretorius.

ADV PRETORIUS SC: Paragraph 7.9.1, then through to paragraph 7.9.4, deal with extracts from that report, which we need not deal with and we can go then to paragraph

7.11, Ms K.

CHAIRPERSON: Yes, Chair.

ADV PRETORIUS SC: Before I ask you any questions, can you have a look at paragraph 7.11 and tell me whether you can comment in relation to those allegations?

MS K: Yes, but I want to maybe comment on is that it would not be peculiar or irregular for SSA, I mean the legitimate structures to have a presence at an ANC elective conference. However, in this regard as I have
10 indicated...[intervene]

ADV PRETORIUS SC: Well, sorry to interrupt you, Ms K. If you are going to comment on 7.11 then let us put it on record and then you can comment, if we may.

MS K: Okay.

ADV PRETORIUS SC: 7.11 reads:

“There are indications that operational activities run from the office of the DG may have related to the ANC National Elective Conference held at Nasrec in December 2017. Witness reports placed SSA
20 members in the vicinity of the Nasrec Conference including former CDSO co-workers and members of the newly configured Cover Support Unit and other operational structures. During this period, the office manager in the office of the DG pseudonym Helen withdrew R19million from the SSA on 15

December 2017, as reflected in the Annexure RH3 in file two. This matter is the subject of ongoing investigation by the Project Veza team.”

So your comment, please?

MS K: My comment is that I accept the paragraph and confirm the paragraph. Say for, I just still want to place it on record that it would not be peculiar, in general to have SSA members at you know, because we do have special events and this should be an event that would be managed
10 to a certain extent, by SSA in a supporting role. But what stands out for me when we looked at this is that CDSO had been closed purportedly closed in 2016 or early 2017 and most of the members of CDSO especially the co-workers, and even SSA members who were working at CDSO actually had to go home and they remained unplaced. I think they are still unplaced even today.

Yet when it was time for Nasrec, according to witness accounts of people that were part of this, they were called from home to partake in whatever this
20 operation was, for them to be present at Nasrec. That is all I want to just add there.

ADV PRETORIUS SC: Thank you, Ms K. What follows from...[intervene]

CHAIRPERSON: I am sorry, Mr Pretorius. Did you say Ms K, that SSA operative or maybe I should not say

operative, SSA...[intervene]

MS K: Chair.

CHAIRPERSON: Oh you cannot hear me, again.

MS K: Yes, I cannot hear you.

CHAIRPERSON: Can you hear me?

MS K: Yes, now it is better Chair.

CHAIRPERSON: Yes, I do not know why it seems to give
problems. Did you say that as far as you know it would be
legitimate for SSA people, I am saying people you might be
10 able to categorise them, to be...[intervene]

MS K: Chair?

CHAIRPERSON: You cannot hear me.

MS K: I lost you again there.

CHAIRPERSON: I think the technicians must attend to
this because we have had video links, witnesses giving
evidence via video links and it would not happen that the
Chairperson is the only one that the witness struggles to
hear.

ADV PRETORIUS SC: Yes, Chair it may be important
20 because what follows are the conclusions of the general
nature in relation to which you may wish to ask questions
to the witness.

CHAIRPERSON: Yes. Let me try again, Ms K and there
you must tell me if you cannot hear.

MS K: Will do Chair.

CHAIRPERSON: Did you say it would be legitimate or there would be nothing wrong with let us say, SSA operatives maybe you can put another category of SSA people in the place of operatives, or in addition to operatives, to be for example at the conference of a political party, or to be in the vicinity of the conference of a political party where there are presence there is connected with the political conference of that political party?

MS K: Yes, Chair. I am drawing that and I stand to be
10 corrected, but I am drawing that from my experience where if maybe the ANC or political party would have an event and they would ask the assistance of the Net Joints. So not just SSA, and SSA is the co-chair of the Net Joints.

So it is co-chaired between the Police and the SSA. So that event is SSA in there who in that instance would be represented by special events and they would work together with the other stakeholders in the JCPS cluster, to secure an event, each of them playing their roles. That is what I am trying to say that it would not be illegitimate for
20 SSA in general to be there.

CHAIRPERSON: So there could be a legitimate role to play. But whether or not on a particular occasion, they played a legitimate role, obviously would depend on what they were doing and so on. But you say, you are saying there could be a legitimate role for them to play.

MS K: Yes, that is what I am saying, Chair.

CHAIRPERSON: Do you know, from your experience whether something like that happens with the conferences of other political parties, the DA, the UDM, the EFF?

MS K: I do not know Chair if it happens, because I am not in the special events environment. I am not placed in a well-placed, you know to answer that, but I am guessing that the Net Joint should be in support of ANC security, but they would not be necessarily to taking a lead and also
10 because there would be dignitaries there, the cabinet Ministers so it does justify that. So I am not sure if, within DA there is a member of the executive, I do not know. So I am not sure.

CHAIRPERSON: Well within the DA there could be a Premier.

MS K: Yes, but all I am saying is I do not have any experience in that and I do not think I am well placed to respond to that question because I do not know, I do not have a point of reference for that.

20 **CHAIRPERSON:** No, no that is fine. If you do not know, part of the reason why I am asking is, as you know is that I am hearing evidence and I heard evidence to the effect that the CDSO all or SSA, or certain units of it were interfering or seemed to have had interest in factions within the ANC. So when you hear that when the ANC

conference at Nasrec Base SSA people were in the vicinity, you wonder whether they were there for a legitimate reason and if they went there, not because it was an ANC conference, but simply because it was an event.

Then the question arises, do they show the same interest when it is a DA conference, a UDM conference and EFF conference. So you have heard about them doing this in relation to an ANC conference, but you have not heard about them doing this in regard to another political, other
10 political parties, but you do not say that it did not happen with other political parties. You simply say, you have no knowledge. Is that correct?

MS K: Yes, Chair that is correct.

CHAIRPERSON: Okay, alright Mr Pretorius.

ADV PRETORIUS SC: Thank you. In paragraph 7.11, Ms K the statement is made that during this period that is December 2017 and I presume it refers to the time the conference was being held.

20 “The office manager in the office of the DG, Helen withdrew R19million from the SSA on 15 December 2017.”

And the document is referred to there:

“This matter is the subject of investigation by the Project Veza team.”

There is documentation showing that R19million was

withdrawn and I presume that was withdrawn in cash.

MS K: Yes, that was, it was taken in cash.

ADV PRETORIUS SC: Right and that R19million is referred to again in a handwritten document contained in SSA01 at page 887, it is the last page in the document. Do go there, please.

MS K: Okay I will go there, yes, I am there Chair.

ADV PRETORIUS SC: On it - the handwriting on that document was this doc – well firstly, was this document
10 placed before the investigation?

MS K: This is one of the documents that were confiscated from Helen.

ADV PRETORIUS SC: Alright, by the investigation or, and placed before the investigation?

MS K: Yes, it was.

ADV PRETORIUS SC: The heading of the notes there is 15/12/2017. Underneath that, it reads:

“Collected R19million.”

And you say that that was collected in cash, and then
20 underneath that, there is a dash it says:

“R5million Rand [Kingmaker].”

Next line dash, what appears to be:

“7.9 or R1.9million [BRAJ].”

Next line”

“- 900 K, presumably 900,000, [BELE].”

And the next line:

“R360,00 - I read [fly sofa].”

Or words to that effect in brackets. Do those notes relate to that R19million?

MS K: I would assume so because I just have to point out that this handwritten list of how the monies expended is not, it does not, it is not sufficient to justify and confirm how the money was expended. So me just making a handwritten note of how I disseminated the money cannot
10 in any environment, in my view, fly as sufficient.

ADV PRETORIUS SC: Yes, you say you are investigating the matter, I presume also on the basis of that document.

MS K: Chair I – we are investigating the info but it is not just this one received. As we indicated earlier, we are investigating all of the TA's from 2014 to 2018, which amounted to R224million, approximately taken by the same person for covert operations, while their main function responsibility is basically admin and admin. So this is just one of the reasons.

20 **ADV PRETORIUS SC:** Alright and obviously you would know more about the import of that document. You have qualified it; it says in the bundle it was given to the Commission. You have explained as much as you can but as said in the last sentence of paragraph 7.11 the matter is the subject of ongoing investigation by the Project Veza

team. Is that correct?

MS K: Well, are we saying the matter of the ANC elective conference issue or the matter of the TA?

ADV PRETORIUS SC: No, I am saying the matters referred to in relation to the R19million at the time of the elective conference in December 2017. Is that matter the subject of ongoing investigation?

MS K: Yes, it is Chair.

ADV PRETORIUS SC: Thank you. Alright. Let us then
10 move on to more general topics. Paragraphs 8.1 to 8.3 are general conclusions drawn in Mr Y's affidavit from the evidence related to him by earlier and appears to be certain conclusions drawn by the Project Veza Investigation. I am going to read those three paragraphs to you and you could follow those paragraphs and I am going to ask you in general terms if you have any comment if I may.

MS K: Yes, Chair.

ADV PRETORIUS SC: Paragraph 8.1 reads:

20 "An important focus of the Project Veza Investigation has been a non-compliance of SSA members with legislation policy prescripts and operational and financial directives that govern the agency.

In the creation and operation of a parallel

intelligence structure the secrecy surrounding deep cover operations was used as a pretext for accessing funds.

However, the SSA like other government departments find financial prescripts that governs its expenditure.”

Do you have any comment on 8.1?

MS K: No chair I agree with the paragraph.

ADV PRETORIUS SC: 8.2 reads:

10 “Preliminary analysis indicates that there has been gross noncompliance with operational and financial directors especially in the establishment and management of covert projects and the creation special purpose vehicles to siphon funds.

 These financial irregularities resulted in approximately R 1.5 billion been taken from state coffers and expended both domestically and abroad during the period
20 2012 to 2018 under the disguise of covert operations.

 the funds taken under disguise of covert operations emanated from the Treasury allocated budget as well as retained funds as regulated in terms of the secret services

act 56 of 1978.”

Do you have any comment?

MS K: I have read the paragraph but I want to on the amount but otherwise generally I do agree.

ADV PRETORIUS SC: Alright. Do you want to say anything about the amount?

MS K: I do not know. We had not really quantify it, whatever was expended and whatever was stipend, what was legal and what was illegal? So because it is an
10 ongoing investigation we have not done that as yet. We have not been able to. Ja.

ADV PRETORIUS SC: Alright. So that approximation we can leave in the hands of Mr Y?

MS K: Yes, please.

ADV PRETORIUS SC: Alright. 8.3 reads:

“These sustained patterns of financial irregularities and corrupt practises were exacerbated by inadequate and ineffective consequence management.

20 The financial directorate in particular failed to cheque abuses of power and state resources both political heads and executive managers.

the failure of internal controls contributed to the erosion off the organisational culture of

the SSA and the weakening of governing structures during the period 2012 to 2018.”

Do you have any comment in regard to that?

There has been some evidence but your comment if any.

MS K: No comment except that I agree with this paragraph.

ADV PRETORIUS SC: Then paragraphs 8.4 to 8.9 deals with the principle outsourcing of the SSA’s counterintelligence mandate and give some examples.

10 The examples are a matter record and because we are pressed for time I am not going to go into detail in respect of the particular examples because without knowledge of what is behind these allegations they are not really informative.

But the examples do show or do you contain statements relating to what appears to be the outsourcing of counterintelligence mandate.

In other words, records of payments to various entities within and out South Africa in substantial amounts.

20 But let us deal with the principle.

Paragraph 8.4 reads:

“The SSA prescripts do not permit the use of external entities to perform functions of the SSA in covert operations.

In any event, all expenditure to operatives

should be fully accounted for in terms of prescript.

In both cases and in relation what is set out below the prescripts were not followed.”

What comment do you have in relation to those general principles That governs that governs the SSA?

MS K: The first one - the first sentence there I am not sure of because I am not an expert in covert operations and prescripts but the rest I can attest to, yes.

10 **ADV PRETORIUS SC:** So if there is expenditure in relation to an entity, you say that the prescript requires that should be fully accounted for?

MS K: Yes, I do.

ADV PRETORIUS SC: Are you able to say that those prescripts at least were not followed?

MS K: Yes, I am able to confirm that.

ADV PRETORIUS SC: Alright. 8.5 reads:

20 “In December 2014 Ambassador Dlomo illegally signed contracts on behalf of the SSA with SSA with Several companies.

These companies were integral to facilitating the illicit financial closing of CDSO Projects and operations.”

Are you able to comment on that statement?

MS K: Yes, this is a hundred percent correct.

ADV PRETORIUS SC: Alright. and what appears in Page – well, in paragraph 8.6 to 8.9 are examples of such payments. The entities to which payments well mate had all been redacted and very little information therefore emerges from these paragraphs but if you would have a brief look at these paragraphs and if you agree with me - we need not go into that detail but you are free to comment In relation to the details contained here.

MS K: These paragraphs we're actually compiled by Mr Y
10 in conjunction with the team. So and there is a separate document that deals with this. so I do agree and confirm those paragraphs. Paragraph 8.6, 8.7, 8.8, 8.9. Yes, I confirm.

ADV PRETORIUS SC: So to inform the Chair it is therefore his record and for him to read but in general terms these paragraphs referred to investigations and documentation which record a number of payments to a number of identities both locally and abroad whose names have been redacted. Is that a fair summary?

20 **MS K:** Yes. May I just add something?

ADV PRETORIUS SC: Of course.

MS K: Just for purposes of timeline because we did a timeline analysis of all of these events.

ADV PRETORIUS SC: Alright. And if you ...[intervenes]

MS K: In December 2014, these contracts with these four

- these are the ones that we could trace - with these four entities was signed by Ambassador Dlomo as a representative of SSA.

However, those contracts are not valid and they are not legal. There is many – there is an assessment on legal opinion on those – the state of those contracts.

I must also indicate that in certain instances the - what we have picked up is that – okay in respect to every contract that is referred to herein the section, the
10 domicilium address for SSA is reflected - it reflects the other party's address.

Secondly, the function or duties of those companies that are supposed to provide the services outlined actually fully or partially the entire counterintelligence mandate of SSA.

So I think for the record because we are not going to go into detail. I would maybe appreciate it if one of these contracts would be read in terms of just the duties.

ADV PRETORIUS SC: Alright. Let us do that.

20 **MS K:** ...[Indistinct – audio break] so that - because we are talking about outsourcing of the counterintelligence mandate. So to put it into context, it is - I think it ought to be important to read that duty.

And another additional thing that I can say here is that, when these contracts expired a junior member within

the CDSO decided to explain his contract illegally without authorization.

And secondly, two of these service providers happened to be owned by friends of the project manager for some of the Project Construção and all of these other projects.

So these contracts in terms of timelines were signed in December 2014 and Projects Construção, Wave and I think Mayibuye were approved in January 2015.

10 And by February 2015, there was already – there were already those withdrawals of 10 million, 15 million from those projects but and they were based on invoices issued by these service providers.

So I just thought I should put that in the context so that you understand the flow of how things happened.

ADV PRETORIUS SC: Yes, well let us just attempt to summarise the main points in your evidence and you can assist me here Ms K. Firstly, as a matter of principle in terms of the governing prescripts, the activities of the SSA
20 are at least alleged by Mr Y not to be lawfully capable of outsourcing. You have commented on that, right?

MS K: Yes.

ADV PRETORIUS SC: The second point is that a number of contracts were entered into by the SSA represented by Ambassador Dlomo around or during and around

December 2014 before the projects relevant to those contracts were approved and established. Is that correct?

MS K: Yes, a month before.

ADV PRETORIUS SC: A month before.

MS K: Yes.

ADV PRETORIUS SC: Thirdly, the proper procedures were not followed and in some cases there were not proper authorisation for the conclusion of these contracts or their later extension.

10 **MS K**: Yes.

ADV PRETORIUS SC: The total of the amounts involved, at least I paragraphs 8.7, 8.8 and 8.9. I have just done a quick calculation. Approximate to R 125 million. Is that fair? If you look at the totals in 8.7, 8.8. It is a rough ...[intervenes]

MS K: [Indistinct] ...[intervenes]

[Parties intervening each other – unclear]

ADV PRETORIUS SC: You do not have to rely on my math but...

20 **MS K**: Ja, I am too old now to calculate. My brain is not as sharp as it used to be.

ADV PRETORIUS SC: Well, then you have pity on me Ms K.

MS K: [laughs]

ADV PRETORIUS SC: It is well over R 100 million.

MS K: Ja, safe to say that.

ADV PRETORIUS SC: Right. And the – you say the form of the contracts and the contracts themselves do not, in your view, comply with the regulatory prescripts. Is that correct?

MS K: Yes.

ADV PRETORIUS SC: Okay.

MS K: Yes, sir.

ADV PRETORIUS SC: If you could look at paragraphs
10 8.7, 8.8 and 8.9 and suggest to me what we can put before the Chair by way of an example unless you think it is useful to go through all of them.

MS K: No, only one. Maybe Napa?

ADV PRETORIUS SC: That is Christian name or pseudonym Napa.

MS K: [Indistinct]

[Parties intervening each other – unclear]

ADV PRETORIUS SC: ...para 8.8. Is that the paragraph you are referring to?

20 **MS K:** Yes.

ADV PRETORIUS SC: Alright. Let us look at that.

MS K: Yes, Chair.

ADV PRETORIUS SC: If you to go page SSA-01, page 56.

MS K: Okay.

CHAIRPERSON: Did you say page 56?

ADV PRETORIUS SC: Yes, Chair. The contract starts at page 57. The cover page is at page 56, black numbers, SSA-01.

MS K: It is page 56?

ADV PRETORIUS SC: 56. Five, six.

MS K: Sorry. Ja, okay thanks.

ADV PRETORIUS SC: [No audible reply]

MS K: Yes, I am there now.

ADV PRETORIUS SC: You see there the contract exists?

10 **MS K:** Yes, there is the contract. It does not say who is representing Napa. It does not say who is representing SSA. That is on the first page. And then if we go to the scope of work in paragraph 2, on page 059. 2.1 reads:

“The SSA hereby appoints ...[intervenes]

ADV PRETORIUS SC: Do not mention ...[intervenes]

MS K: ...this company. Pardon?

ADV PRETORIUS SC: Please do not mention the name of the company. That should have been redacted.

MS K: I will not. I will not.

20 **ADV PRETORIUS SC:** Thank you.

MS K: So the company is appointed to manage for this project.

CHAIRPERSON: Hang on one second Ms K. Mr Pretorius, just tell her if there are other names that she should not mention in the document.

ADV PRETORIUS SC: Yes. Chair, I am comforted by the fact that this bundle as it is with its redaction has been cleared by the legal representatives of the SSA and therefore by the SSA itself. So we cannot get into any difficulty with the SSA but I am conscience ...[intervenes]

CHAIRPERSON: But you have been [laughs] overriding them, is it not?

ADV PRETORIUS SC: Well, I have been going further than they have gone.

10 **CHAIRPERSON:** Yes.

ADV PRETORIUS SC: In that sense, I have override them. And just as a matter of precaution.

CHAIRPERSON: Ja.

ADV PRETORIUS SC: It may be that this redaction is not complete because only some of the names have been redacted if you look at the document ...[intervenes]

CHAIRPERSON: So ...[intervenes]

ADV PRETORIUS SC: ...for example the new commissioner of contractor.

20 **CHAIRPERSON:** You want to say she must not mention any names of a person or name of entity or company.

ADV PRETORIUS SC: Yes, please.

CHAIRPERSON: Obviously, she can mention CDSO, I guess.

ADV PRETORIUS SC: Yes, sure.

CHAIRPERSON: Ja.

ADV PRETORIUS SC: And I will then take further instructions.

CHAIRPERSON: Ja.

ADV PRETORIUS SC: I am not certain at the moment but it just appears that there may be a problem with the extent of the redaction.

CHAIRPERSON: Yes, okay. So I guess what that means Ms K is that you do not mention the name of the company
10 appearing on the first line of Clause 2.1 as well as the name of the company that appears on the second part of Clause 2.1.

ADV PRETORIUS SC: Yes, I must stress Chair. Perhaps not in relation to this company but certainly in relation to some companies. They – the Investigation Team attempted to trace them and have been unable to confirm their existence.

CHAIRPERSON: Yes.

ADV PRETORIUS SC: So that raises a whole range of
20 other possibilities.

CHAIRPERSON: Ja.

ADV PRETORIUS SC: That these were simply methods used to siphon funds and that ...[intervenes]

CHAIRPERSON: Yes.

ADV PRETORIUS SC: ...the evidence has already been

given.

CHAIRPERSON: Yes.

ADV PRETORIUS SC: By the acting DDG. But for the moment, I think it is just safer to ...[intervenes]

CHAIRPERSON: Ja, until you know what the position is. As I understand it, you say that she should not mention – well, in that page there seems to be – those two seems to be the only names of companies.

ADV PRETORIUS SC: Yes, Chair.

10 **CHAIRPERSON:** If she moves to another page of the same document, I guess what you have just said would apply as well, namely she should avoid mentioning the names of companies that are there.

ADV PRETORIUS SC: Thank you, Chair.

CHAIRPERSON: Okay. Ms K, you were saying something about Clause 2.1 when we interrupted you.

MS K: Yes, Chair. On paragraph 2, it is saying:

20 “The company and – the company has appointed a manager of covert projects with the following scope of work which would cover the following main areas.

1.The project management function would be part(?) of senior so as delegated by SSA executives.

2....[intervenes]

CHAIRPERSON: I am sorry. You are reading from where?

I thought you were at 2.1?

MS K: 2.1.1.

CHAIRPERSON: Oh, okay alright.

MS K: It is a subject - I think it is sub...[intervenes]

CHAIRPERSON: Ja, I can see it now where you are.

MS K: Section, yes.

CHAIRPERSON: Ja.

MS K: So 2.1.1.1. it reads:

10

“Project management includes this:

- Development of the project management charter.

- Investigate the security risks and threats in the implementation of the project, both domestic and foreign in the form of research.

- Conduct political, economic, social security risks and threats, research so as to position the project implementation within the intelligence domain, objectives and ultimate outcomes.

20

- Develop a surveillance spread work for the security risk assessment in support to the work visits by the Presidency into foreign domain.

- Identify, spot, recruit, train and manage assets which are to be positioned provide

intelligence relating to security threats to our state, government and the independence of the Republic of South Africa or Africa. (Okay it says the Republic of Africa) posed by a hostile person, governments or even foreign intelligence ...[indistinct] [00:22:43]

- An education recruitment and handling of potential forces would be at the discretion and agreement of both parties.”

10 2.1.5.6

Monitoring and evaluation of security risks and threats against the State both domestic and foreign.

2.1.7:

“Development of counterintelligence programmes and action plans that are to assist in dealing with identified security risks and threats by the state and the state security agency timeously on appropriate interventions.

20

The scope of work shall endure for a period of 12-months, commencing on the 1st of January 2015.”

So that is what I wanted to highlight – to be highlighted and to be placed on record in terms of the scope because according to our legal practitioner who

looked at these contracts, and when we looked at the legislation, that is the mandate of the SSA which was being outsourced to this company.

The other contracts reads almost copy and paste of these tasks. And what is astounding is that these contracts are assigned in the same months, most of them to do the same work and later on start drawing funds.

Invoices coming from these companies are then utilised to access the funds for the various projects that we
10 have covered yesterday. Yes, Chair.

ADV PRETORIUS SC: There is an interesting clause that appears on page 62 which appears to be entirely contradictory to what you just read and then we will comment on all of them in due course. Under the head: Independence, paragraph 10:

“The company acts as independent contractor (which is rather alarming) and not as an agent of State Security Agency and has no authority to act on behalf or bind the State Security
20 Agency unless expressly agreed so in writing.”

It is difficult to understand how that clause sits with what you have just read as the authority given under the scope of work but ...[intervenes]

MS K: Yes.

ADV PRETORIUS SC: ...I will invite you to comment in a

moment. It seems that the matters listed in the clause spoke of work on page 59, are precisely what the SSA is obliged by legislation to do and carefully constructed legislation, regulations and internal provisions. Is that a fair observation?

MS K: Yes, I agree. That is exactly what the issue is.

ADV PRETORIUS SC: And you say several contracts were signed in these terms paying entities substantial amounts of money, well over R 100 million to do the work of the
10 SSA.

MS K: Yes, Chair. Hence we came to the conclusion of, there was parallel intelligence machinery that was set up during that period.

ADV PRETORIUS SC: So the result is, as you point out, that private entities paid for by taxpayers' money are operating outside the strict controls of the legislation and regulations to conduct intelligence operations. Is that a fair summary of the position?

MS K: Can you please repeat that summary?

20 **ADV PRETORIUS SC**: The result of this outsourcing was to pay outside private entities to do intelligence work uncontrolled by the legislative prescripts governing the SSA.

MS K: Yes, that is the issue. Which means that the legitimate SSA structure almost became absolute or even if

they were working they would not have the benefit of getting whatever information namely monies redirected and rerouted to these entities.

And it would mean then that there would not be – they would actually be paralysed. SSA in its true nature would be brought to a state of paralyses because then they would get this maybe criticism that oh you are focusing on open source or you want – but you will find that people did not actually have the resources or they were not fully
10 engaged. That is just my view.

ADV PRETORIUS SC: Right.

CHAIRPERSON: So I guess Ms K, there are a number of points that arise from this evidence. It is one of them that private companies were paid money from SSA to do SSA work that SSA had personnel who were supposed to do that work? Is that one of the points that you are making?

MS K: Yes. Yes, Chair. It is exactly it.

CHAIRPERSON: So you – SSA has got personnel who are supposed to do this work. They are paid so that they can do
20 this work but money is taken out to pay private companies to do that work. So there is duplication quite apart from the question whether or not it was legal to do that.

MS K: Yes and furthermore, Chair, we should also look at this in the context of the many co-workers that were also “appointed” to work within and with CODS. So how do they

fit in if the company – there are various companies that are required to do that, pay for that, and then there is also co-workers that are capacitating Sigeso(?), so it is not reality for now in my mind or there could also be possibility that those companies never did anything, it was just for invoicing purposes.

CHAIRPERSON: Yes.

ADV PRETORIUS SC: You mean to steal money?

MS K: Yes, that is our assessment.

10 **CHAIRPERSON**: Yes. Okay, thank you. Mr Pretorius?

ADV PRETORIUS SC: If you would bear with me a moment, Chair? Paragraph 7.2 on page 61 deals with communications and says that the company must report or furnish information to the SSA. Are you aware of the person to whom, if this was a legitimate and real arrangement, to whom reports would be made?

MS K: I am not aware.

ADV PRETORIUS SC: Alright. Let us go on then to paragraph 8.10.

20 **MS K**: Yes, sir.

ADV PRETORIUS SC: Which now deals with financial controls. Paragraph 8.10 reads:

“These covert companies were registered in the names of individuals who had full control of these entities with no oversight.”

Is that, please assist, a reference to the companies that we have been talking about now in the previous paragraphs 8.6 to 8.9.

MS K: Yes, it is.

ADV PRETORIUS SC: You say yes, is that correct?

MS K: Yes, yes, Chair.

ADV PRETORIUS SC: It goes on to say:

10 “There was accordingly a high risk of mismanagement of these facilities and the subsequent loss of inability to account for state assets. If proper reconciliations or audits are not undertaken by the Chief Financial Officer, potential for corruption, fraud and theft is high. In addition there is no standard operating procedure for procurement in the covert space and there is no oversight for procurement above R500 000. As a result, the risk of fraud and/or theft of state funds has increased.”

20 Do you have any comment on those observations? Do you agree with them?

MS K: I do not have the facts and the knowledge to be able to agree, I do not know whether there indeed are no SOPs or procurement in the covert space. I am not the expert on covert operations. So I would prefer not to comment on this one.

ADV PRETORIUS SC: Right, in relation to that ...[intervenes]

MS K: I cannot confirm.

ADV PRETORIUS SC: In relation to the risk of theft and fraud, what do you say to that?

MS K: Definitely the weak financial controls and that culture of complicity in those activities and lack of consequence management did heighten the risk of fraud, theft and, you know, money laundering actually.

10 **ADV PRETORIUS SC:** Okay. Paragraph 8.11 reads:

“It therefore cannot be oversized that the covert operational space within the SSA relies on the integrity of people and systems to ensure that the area of greater secrecy is managed with the greatest care.”

Do you have any comment on that observation? Self-evident?

MS K: I agree with that a hundred percent.

20 **ADV PRETORIUS SC:** And that of course would be one of the problems of outsourcing to people who are not vetted and controlled in the same way as internal operatives within SSA. Do you agree with that observation?

MS K: Yes, I do.

ADV PRETORIUS SC: The statement goes on to say in paragraph 8.11:

“The Constitution provides for the refusal to obey a manifestly illegal order.”

We have established that.

“Which includes an unlawful order to act in breach of financial prescripts. There are also practical mechanisms within the Intelligence architecture to address these circumstances.”

Do you have any comment?

MS K: I mean, the Constitution provides for it. However, 10 people do not stand up and report and irregularities or having – I do not know, maybe people are scared to lose their jobs or whatever, so they just obey but – and maybe people are not informed of what PRECCA requires of all of us as people that are in positions of responsibility. If you see anything that is illegal or somebody gives you an illegal order, it is not everybody that is bold enough to refuse, respectfully refuse an illegal order.

However, there are people who are aware that they are doing illegal things, they are part of that network. 20 Sometimes people do not refuse but they – also their non-action also contributes to this thing proliferating.

ADV PRETORIUS SC: The Director General, the Acting Deputy Director General, Mr Jafta, did emphasise the need – and the Chair will obviously consider it, to put in place mechanisms to facilitate the reporting of illegal orders and

you have just referred to the Prevention of Corrupt Activities Act which enjoins the same conduct to report unlawful conduct. That is just by way of clarification.

MS K: Yes.

ADV PRETORIUS SC: Let us go to paragraph 8.12, if we may? The statement of Mr Y continues in general terms, reads:

10 “Rather than mitigating the risks of financial irregularities in the covert space, however, the DG, CFOs and other senior managers in the agency facilitated the funding of unlawful intelligence operations as aforementioned. The CFOs, in particular, have emerged in our investigation as key role players who facilitated gross financial mismanagement and abandoned their fiduciary duties under the Public Finance Management Act by failing to implement internal control measures, they facilitated the escalation of unauthorised irregular fruitless and wasteful expenditure as well as fraud
20 in contravention of Section 38 and 50 of the PFMA.”

Do you have any comment on those conclusions?

MS K: I agree with this paragraph in its entirety.

ADV PRETORIUS SC: Paragraph 8.13 reads:

“There are numerous examples where senior management tried to cover themselves by including

disparaging remarks on requests for the approval of funds but nonetheless recommending the submissions. On several occasions, Raymond...”

Pseudonym.

10 “...recommended that a submission be approved but attempted to abdicate responsibility by writing next to the signature “recommended on strength of compliance with OD.” In other instance, a senior member of management recommended a submission with multi-million implications but wrote “as per the instruction of the Minister.” These comments indicate that the persons involved knowingly approved financial irregularities and attempted to conceal their complicity in a culture of impunity.”

Do you have any comments on that or those statements?

MS K: My only comment is that I had seen the documents, there is numerous of them and I do not know at senior level what would make a person – if you say it is an instruction, it is still an illegal instruction, so it does not necessarily have to be implemented and then you feel like you abdicate your responsibility by writing as per the instruction of the Minister.

ADV PRETORIUS SC: Yes, so ...[intervenes]

MS K: Because there should be mechanisms – ja, there should be mechanisms for senior managers at least to

know where to go to raise those objections.

ADV PRETORIUS SC: I understand. Is it fair to summarise what your comments entailed by saying that it is no excuse for someone approving a recommendation or recommending a submission by referring to the instruction of the Minister because, as we have learnt, cannot do that, is that correct?

MS K: Yes.

ADV PRETORIUS SC: Right.

10 **MS K:** Yes, Chair.

ADV PRETORIUS SC: Point 14, the first sentence needs some explanation but if you could do so without referring to any operational directive, those remain classified.

“Financial controls were also weakened by restricting the access of financial officers to operational directives regulating the financial management of operational work.”

Now the operational directives are restricted, they have not been declassified, so we cannot refer to their content but
20 operational directives we know from evidence already given that they would control the operations of the SSA and its operatives and management in some detail. Did the financial officers have access to these operational directives?

MS K: They should have. I assume they did have

because it is required even for a covert project to be established. That operational plan should be approved by the CFO. So CFOs should have copies of the ODs and I think they do have, especially if you refer to the paragraph above, 8.13, where if the CFO is going to write maybe recommended on the strength of compliance with ODs, that already indicates that they know the ODs.

ADV PRETORIUS SC: Well, that is a matter of interpretation. Of course the person who makes the
10 recommendation may say look, I do not know what the OD says but must be complied with. But I do not want to debate that with you. Then 8.14, I understand you would not entirely agree with the first sentence. You say they did have access to operational directive. So one cannot say that financial controls were also weakened by restricting the access of financial offices to the operational directives, do I understand you ...[intervenes]

MS K: We can. We can say that because it is maybe
20 junior level financial officers did not have access to those directives but at the level of a CFO you would have – they would have access to the ODs.

ADV PRETORIUS SC: I understand. Thank you. The paragraph continues to read:

“This resulted in an inability to monitor compliance with operational directives with regard to the

remuneration of agents or contacts resulting in a higher risk of fraud and/or theft. It is also of concern that financial officers were required to sign nondisclosure forms despite holding top secret security clearances and taking the oath of secrecy required for all intelligence offices. This was a purported control measure taken by Raymond...”

Pseudonym.

“...who prevent information leakages.”

10 Do you have any comment on that?

MS K: Yes, I agree with that paragraph. We actually do have a sworn statement in this regard explaining what happened in this space particularly in the 2017/2018 financial year.

ADV PRETORIUS SC: Then paragraph 8.15 reads:

20 “An insufficient segregation of duties within certain control processes allowed for users with dual roles and transaction codes not in line with their job description to facilitate irregular transactions. This was attributed to a lack of capacity in Chief Directorate Finance which was said to necessitate the unfettered access. Furthermore, the system roles were not linked to standard operating procedures and staff appeared to have inadequate knowledge and compliance with SSA policies.

Despite attempts by some managers within this area to up skill and capacitate the existing staff with the requisite skills, the CFOs did not support these endeavours.”

Is that fair comment? Do you agree? Do you want to qualify?

MS K: I just want to say that last line for me it is –I am only certain of one CFO. So when you say CFOs, I cannot – I do not know, it is a small issue but it is not plural, in my
10 view.

ADV PRETORIUS SC: Alright, that is noted.

MS K: And – yes. And ...[intervenes]

ADV PRETORIUS SC: So a particular CFO ...[intervenes]

MS K: Everything else – ja, everything that has been explained there we actually had – because we have an expert in the team that deals with these things, it was actually tested and there is historical information on this. So I do support and agree with this paragraph.

ADV PRETORIUS SC: Alright, let us move on to the next
20 section which deals with financial irregularities and the use of cash. Paragraph 8.16 reads:

“The investigation found that weaknesses in the internal control environment allowed for state funds to be accessed with impunity. Funds supposedly used for projects were withdrawn irregularly.”

8.16.1:

“In most instances funds were withdrawn without the necessary authorisations or authorisation at the correct level as required by the MPD.”

Do you have any comment on the introductory part of the paragraph and that subparagraph?

MS K: I agree with both, Chair.

ADV PRETORIUS SC: Thank you. 8.16.2 reads:

10 “Built-in financial controls were deliberately deactivated to enable access to funds.”

Do you have a comment?

MS K: Yes, as I explained yesterday, Chair, that CDSO did not have an APP so they could not note the budget so that we can manage, exercise control. So on the system, the finance system, there is a built-in feature which is called a funds availability check. That funds availability check is a tool for the budget controller to be able to see if – when they try to take a TA to see if there is a budget, there are funds available for that.

20 Now in this period of CDSO, the funds availability check function was switched off by the then CFO and that is what enabled CDSO to be able to expend like a 30 million that is meant for a year to use all of that, to exhaust those funds within three months and then allowed them to still keep on taking TAs because the funds

availability check function was deactivated.

And I also agree with this on the basis that there is documentation that proves that when that CFO went on a work trip for four days, other financial staff, staff within that unit, took that gap and applied to whoever was acting those four days, requested that the funds availability check function be reactivated and the person did exactly that.

But when the CFO came back from a work trip he came and deactivated that funds availability check again
10 and that, for me, showed that it was deliberate. So that is what we found as the team, Chair.

CHAIRPERSON: Ja.

ADV PRETORIUS SC: 8.16.3 reads:

“No specificity was provided as to the nature of expenses in breach of financial prescript.”

That is a general statement but can you comment?

MS K: I think I comment in detail yesterday, Chair, on that one, on line functions issues.

CHAIRPERSON: Yes.

20 **MS K:** And so I think...

CHAIRPERSON: Ja, fake documents and so on. That is what you said, hey?

MS K: Yes.

CHAIRPERSON: Ja.

ADV PRETORIUS SC: 8.16.4, you have dealt with the

systematic controls over the expenditure of funds and access to funds being biased. 8.16.4 reads:

“Budget controllers were deliberately excluded in the approval of the disbursement of funds.”

Do you have a comment in that regard?

MS K: It is true. Even in submissions you can see that it did not go via them and if the funds availability check is disabled, obviously this will not – the budget controllers will not be able to exercise their functions.

10 So I suspect that that is why – I do not if it came out anywhere in the affidavit, that is why it is alleged but it is also proven in documents that the CFO then had instructed and directed that CDSO only uses and they channel all of their TAs to one specific financial officer who would process all of these transactions and this went on for years. So this is one individual that was specialising in CDSO whatever, the TAs and settlements and all of that.

ADV PRETORIUS SC: Right. Let us go then to paragraph 8.17, the use of cash in operations is said sometimes to be
20 necessary by previous witnesses but it is a matter that requires strict control, also said by previous witnesses, but 8.17 reads:

“A particular concern arising out of our investigation is the cash-based approach adopted by the SSA coupled with a negligible audit trail which has left

the Agency susceptible to illicit financial flows and possible money laundering.”

We will come to the example in a moment but that general statement, do you have any comment? It would be useful to have the views of the investigation team in that regard.

MS K: These are the views of the investigation team, this is exactly what we found. It is one of the findings so I agree with that sentence.

ADV PRETORIUS SC: The paragraph continues:

10 “By way of example a receipt dated 12 June 2017 indicates that 2 082 682 600 (sic) Euro was signed for without any details of the recipient reflected in the records relating to this cash disbursement. The records pertaining to this withdrawal reflect that the funds were withdrawn by codename Helen which was approved by Mr Arthur Fraser. These “records” are contained in file 2 of the SSA bundle marked as annexure RH2. This matter is still under investigation.”

20 I must stress that putting word records in inverted commas was my gloss, does not appear in the statement.

That document is to be found at page 864 of the bundle, it is another declassified document.

MS K: It is towards the end of the file.

ADV PRETORIUS SC: Yes, it is right at the end, page

864.

CHAIRPERSON: Perhaps repeat the page?

ADV PRETORIUS SC: 864.

CHAIRPERSON: 864.

MS K: Yes, Chair, I am there.

ADV PRETORIUS SC: Alright, let us just attempt to place on record some idea of this document. The document is declassified, it is headed:

“Acknowledgement of receipt.”

10 It reads in typed format:

“I hereby acknowledge that:”

And then there is a complete blank on the dotted line.

“Received...”

Amount in figures, Euros 2 082 600. Then amount in words, as if deference was given to detail here and the amount in words is set out there.

“...on this date 12 June 2017 from...”

And there is a complete blank and then there is a signature of recipient, no name, and then there is signature of
20 provider and there is no signature at all. Perhaps it is stating the obvious but I should put it to – is that a sufficient accounting, for any amount, let alone 2 million Euros? Do you have a comment?

MS K: What is the question?

ADV PRETORIUS SC: Is that a sufficient accounting in

your view to enable control of cash?

MS K: It can never be, Chair.

ADV PRETORIUS SC: Ja, but perhaps stating the obvious.

MS K: Because it does not have a say who is giving the money, what the money is for, who is receiving the money and will never be able to trace and I note that in page 872...

ADV PRETORIUS SC: Yes, please comment?

10 **MS K:** In page 872 that is a certificate confirming that it means that the person did not have records and receipts to account for this money and there is an incomplete voucher form where Helen signed for this 2 million Euros and it was approved by Mr Arthur Fraser. So ...[intervenes]

CHAIRPERSON: Just to say Helen being a pseudo name.

ADV PRETORIUS SC: Helen is pseudonym, yes.

MS K: The pseudonym Helen had signed there as project administrator who was submitting this incomplete voucher for 2 million Euros and it was approved by Mr Arthur Fraser
20 and when you look at the authorisation thereof, the – I just want to check the green form, the temporary advance form.

Okay, where the money is taken, there is always a comment in most of pseudonym Helen's TA, there is always a comment by Raymond that a second TA should be allowed or member can take second TA as allowed by the

DG. So there is that consistency and also these incomplete vouchers.

And what we also need to note about that receipt that you referred us to, 864, Chair, is that there is numerous of these receipts that we found and filed and some of them just have the signature of the recipient and the rest is blank and our conclusion from that is that it is a blank cheque. You can write any amount, the recipient has already signed.

10 **CHAIRPERSON**: Yes.

MS K: So there were a lot of those as well which shows that there was no accountability because it then raises the question that how did the people clear these temporary advances on the system? If you can see that the receipts are not even there and the disbursement of his funds actually even just a piece of paper where he just write people's names or codenames and just write R1 million.

20 So those are the things that we are raising in this – Mr Y and the team are raising in this affidavit, in this section.

CHAIRPERSON: Well, I do not know what the exchange rate was, the Euro and rand or the currency in June 2017 but that particular acknowledge of receipt at page 864 reflects that over 2 million Euros were given to the person who signed there and there is no name on the receipt but

my rough estimate is that of – last time I knew, and that might be a long time, R8 would amount to 1 Euro, so that might be over 16 million.

ADV PRETORIUS SC: In the region of R30 million.

CHAIRPERSON: Oh, you see, it is a long time I last checked.

ADV PRETORIUS SC: Ja, then, yes, at that time. Now it would be R40 million, at the time.

CHAIRPERSON: But R30 million in June 2017.

10 **ADV PRETORIUS SC:** I am told, Chair.

CHAIRPERSON: And now it would be R40 million, about, more or less.

ADV PRETORIUS SC: I am not guaranteeing it is correct.

CHAIRPERSON: Ja.

ADV PRETORIUS SC: I think it is a fair estimate, R30 million.

CHAIRPERSON: Fair estimate.

ADV PRETORIUS SC: But R40 million in today's terms, approximately. Lots of money.

20 **CHAIRPERSON:** Yes, it is a lot of money. Okay.

ADV PRETORIUS SC: Yes and just one further question quickly. Do I understand you to say that the example that we have given now is not an exception but is a common – or was a common occurrence at the time?

MS K: Yes, Chair.

ADV PRETORIUS SC: Chair, would this be a convenient time?

CHAIRPERSON: Yes, let us take the lunch adjournment. It is five past one, we will resume at five past two. We adjourn.

INQUIRY ADJOURNS

INQUIRY RESUMES:

CHAIRPERSON: Okay let us continue.

ADV PRETORIUS SC: Thank you Chair. Ms K are you
10 present?

MS K: Yes I am present Chair.

ADV PRETORIUS SC: Thank you. Paragraph 8.18 page 398 of SSA02 do you have it in front of you?

MS K: Page what, sorry?

ADV PRETORIUS SC: Page 398 of SSA02, paragraph 8.18.

MS K: I have just got to look for that. What is the page number again, I am so sorry?

ADV PRETORIUS SC: 398, paragraph 8.18 of Mr Y's
20 statement.

MS K: Yes.

ADV PRETORIUS SC: It reads:

“The CDSO was reportedly permitted by the CFO to process submissions for withdrawals of cash is not only enabled complicit CDSO members to run a

parallel finance system, but also created opportunities for duplicate payments.”

You have a comment on that statement?

MS K: Yes, based on the information we have, yes, I agree with that statement.

ADV PRETORIUS SC: Paragraph continues:

10 “Furthermore, Lily who was responsible for CDSO finance and assets was provided with an alias - Lily is already another pseudonym, and granted powers to order cash from SBV, where a CDSO member came and withdrew large cash amounts from SSA headquarters.”

What is SBV stand for?

MS K: It is a management, cash management company.

ADV PRETORIUS SC: Okay.

MS K: So I do not know what it stands for.

ADV PRETORIUS SC: Alright, so that was a company that held cash and that cash was provided to the SSA. Do I understand it correctly?

20 **MS K:** The company, as far as I understand, the company does not hold the cash, the cash is in the bank but the company assists in transporting.

ADV PRETORIUS SC: Alright, but you say that Lilly...[intervene]

MS K: Because at that at the time, that is what I

understood.

ADV PRETORIUS SC: Yes, but Lilly could order that that cash be delivered, is that what that statement is saying?

MS K: Yes, this conclusion is based on several documents that we saw where she was placing orders for cash and also, this was corroborated by one of the implicated individuals who said they were responsible for faxing these instructions to the company, to you know, when each time they wanted to order cash.

10 **ADV PRETORIUS SC:** Right, so that statement is correct is it, as I understand what you are saying?

MS K: Yes, yes, it is correct.

ADV PRETORIUS SC: Paragraph 8.19 reads:

“There was a lack of implementation of standard operating procedures, and in some instances a deliberate breaching of standard operating procedures by the CFO’s in order to achieve ends that were irregular.”

20 Similarly, should that be a singular in your view or plural CFO’s?

MS K: In relation to the sentence that follows immediately after that, it actually relates, it is in plural, the plural will stand.

ADV PRETORIUS SC: Okay, good. It read...[intervene]

MS K: I do not know if I am making it clear but if you read

the next sentence, what is described in the next sentence, actually applied to more than one CFO.

ADV PRETORIUS SC: Alright. Well, let us read the set. So the first sentence is correct, it applies to more than one, CFO. And the second sentence reads:

10 “In the banking and cash management area, the CFO would give verbal instructions to order cash and allow for members of the CDSO in the office of the DG who withdraw secondary EA’s despite the members having failed to settle the first, as well as extending standing advances without proper reconciliation.”

We have heard that evidence from the acting director general, is that statement correct?

MS K: Yes, it is Chair.

ADV PRETORIUS SC: In other words, money could be drawn in accordance with the temporary advanced system, even though the prior withdrawal had not been settled.

MS K: Yes.

20 **ADV PRETORIUS SC:** And advances could be made without proper prior reconciliation. Do I understand it correctly?

MS K: Yes, but on the verbal instructions, what we mean there is, it is for cash, for withdrawals of cash in terms of the TA system. The CFO, is the, as far as I understand is

the only person that can approve the disbursement of cash to a member above R50 000,00. So there is an area for the CFO to sign for any amount above R50 000.

So almost all the withdrawals by CDSO members, because they were cash as I said whether it is R19million, whether it is whatever amount, the CFO's as we have it on record from witnesses would call, allegedly called the cashiers to give instructions to say, do you have R19million there because somebody is coming to withdraw it and if
10 they do not they would instruct them to order money from the same cash management company and the money would be delivered and given to the various CDSO members or the office of the DG.

ADV PRETORIUS SC: Paragraph 8.2, I read:

“This conduct resulted in monthly cash flow shortages and the redirection of SSA retained funds for infrastructure development to covert operational work for which no proper accounting was done.”

Is that correct?

20 **MS K:** Yes, that is correct.

ADV PRETORIUS SC: Paragraph continues to read:

“In relation to the CDSO, budgets were approved [and revised to increase] without annual performance plans being present. This was enabled by the deactivation of the funds availability check

that is inbuilt within the system to ensure controls.

This axiomatically meant less funds were available for legitimate SSA project.”

The funds availability check was a system check on the computer systems and budget management system or funds management systems within the SSA. You have given that evidence; am I correct?

MS K: Yes, Chair.

ADV PRETORIUS SC: And are those statements that I
10 have just read, are they correct?

MS K: Yes, they are Chair.

ADV PRETORIUS SC: 8.21 reads:

“In addition, budget management committee meetings were not regularly convened and the decisions of the budget management committees that did take place were not implemented. There was gross non-compliance with the planning, budgeting and reporting cycle. In one instance, permission and approval of additional funding of a
20 R100million for the SSA was given by National Treasury to Raymond and the former DG Mr Fraser without the knowledge of the budget management committee and outside medium term expenditure framework processes. These funds in addition to budgets for the SSA provincial offices were directed

to the office of the DG.”

Are those statements correct?

MS K: The first and second sentences, I am not sure because I am not a finance person and as much as we got that information, I cannot confirm the assertions in the first sentence and the second sentence in terms of the reporting cycles and all that. However, the latter part I can confirm. In fact, the permission was granted to give R100million, but SSA had apparently requested
10 R200million extra over and above what we had. So there are documents to that effect. So I agree with the last part, the latter part of that paragraph.

ADV PRETORIUS SC: You did give evidence previously and I just like to confirm that in the last sentence of paragraph 8.21. You talk of funds being directed to the office of the DG from the SSA provincial offices. Do I understand that correctly, funds that should have been allocated to the provincial offices were in fact redirected to the office of the director general, do I understand it
20 correctly?

MS K: Yes, I think it links to what I said earlier, that the budgets of the provincial offices were allegedly cut by 50% in that period, so it ended up being the money was more concentrated in the office of the DG.

ADV PRETORIUS SC: We know that the Principal Agent

Network Program that existed prior to 2011 was apparently terminated and fully investigated. That evidence has been given, I think by Dr. Mufamadi you recall that?

MS K: Yes, I do recall that.

ADV PRETORIUS SC: So in paragraph 8.22, and this is a new topic. The statement is made:

10 “As part of the 2011 restructuring approved by Minister Thwele the Cover Support Unit had been relocated from the domestic operations to counter intelligence under Ambassador Dlomo’s control.”

Is that correct?

MS K: Yes, we covered that it is correct.

ADV PRETORIUS SC:

“In terms of a further restructuring, effective from 1 April 2017 as part of the strategic development plan vision 2035. The Cover Support Unit was established in the office of the DG.”

We have also dealt with that.

MS K: Yes.

20 **ADV PRETORIUS SC:** 8.23 reads:

“During Mr Fraser's tenure as DG there were irregularities in the management of the Cover Support Unit that suggests an intention to resuscitate the operating model that was used in the implementation of the Pan Program between

2007 and 2010, which had been found irregular and unlawful. In particular, similar irregularities relating to the renting of safe houses that occurred during Pan were uncovered during our recent Project Veza Investigation.”

Are those statements correct?

MS K: I mean it says suggests an intention to resuscitate the operation model and I do not really know the full extent and the detail of that operating model but in as far as it
10 related, it relates to issues of rentals and leases. I did see similarities in that regard. So I can say that where that sentence that starts with in particular similar irregularities relating to the renting of safe houses and that occurred Pan we uncovered during our raid, that sentence I agree with fully. The other part I am not saying it is incorrect all I can say - what I am saying is, I am not 100% certain.

ADV PRETORIUS SC: Alright, 8.24 reads:

“In one instance, approximately seven safe houses were purportedly leased by the Cover Support Unit.
20 However, these properties were leased, without the necessary approvals and leased in a manner that was detrimental to the SSA.”

Do you agree with those contentions?

MS K: Yes, I do.

ADV PRETORIUS SC: I am going to be cautious in the

next part of that paragraph. So if you would be careful not to reveal any names or relationships other than those in red, which are pseudonyms, and I will read it to you as the redacted version will read Chair. This is something that I have prepared on last night to do in addition to the official redactions. It reads now or should read:

10 “Members of the SSA entered into facilitation agreements with a person who was related to another member of the SSA, pseudonym Mary, where that person received a monthly facilitation fee for contracts relating to the lease. Pseudonym Mary was working under the authority of pseudonym Jack and Pseudonym Philani, who entered into the said lease contracts with knowledge of the above mentioned conflict of interest.”

Well, without reference to the names and positions, it is difficult to see where the conflict of interest arises. But can you confirm that there was a conflict of interests and agreements for the lease of safe houses were entered into
20 notwithstanding a conflict of interest within the SSA?

MS K: Yes, I can confirm that the paragraph is correct.

ADV PRETORIUS SC: Ja, thank you. 8.25 reads:

“This practice had been prevalent during the Pan Program and the same persons who were implicated at that time are again implicated in its revival under

Mr Fraser's leadership namely, Phalani pseudonym, and Mary pseudonym. A further example of the irregularities relating to the Cover Support Unit during this period concerns the alleged authorisation by Mr Fraser on 6 September 2017, for the purchase of a minimum 80% shares in seven companies and or the purchase of these companies in their entirety. However, it is alleged that there was no CFO approval for these purchases, and

10 similarly no indication of how much would be budgeted for this venture. This matter is still under investigation."

Can you confirm the correctness of the contents of that paragraph?

MS K: Yes, I can confirm that we do have a copy of this authorisation and as much as it has serious financial implications, the CFO was not included in that but it does however, say the CFO will be later consulted on it, but it was approved. So the matter is still under investigation,

20 because we are not sure if this was ever executed.

ADV PRETORIUS SC: The next section of the – but you have said the matter is still under investigation, I understand.

MS K: Yes.

ADV PRETORIUS SC: The next section deals with

parallel and irregular vetting processes. Now there has been substantial evidence given earlier in the Commission's existence to vetting, Mr Jafta gave that evidence. But the manner in which it is set out here gives some detail and understanding of vetting, why it is necessary to be done properly and how it can be abused. But I would like you to comment on the next section. Are you able to comment on the section?

MS K: Yes, I am able to comment on this section because
10 the Project Veza team had received the documents, retrieved all of those vetting files and we were able to analyse all of those files, including who the individuals vetted were, who the vetting officers involved were and the completeness of the files themselves. So I can confirm paragraph 9.1 in its entirety, 9.2 and 9.3.

ADV PRETORIUS SC: Just stop there in summarise, if we may, I am sorry to interrupt you, you say oh perhaps I should take a step back, 9.3?

MS K: Yes, I agree with that paragraph.

20 **ADV PRETORIUS SC:** Let us just stop there because nine one, two and three are background matters, and I will try and summarise them for the purposes of the record.

MS K: Yes.

ADV PRETORIUS SC: 9.1 talks of:

“The importance of vetting and why proper

systematic vetting and regular vetting is important to the operations of the SSA because it determines the level of access a member or contract employee of the agency may receive with regard to classified information and or restricted premises. It minimises the risk of compromising the integrity of classified information and material protects. It protects the Agency against foreign and hostile intelligence operations, the Bursars Act and the intrusion by criminal elements and determines there that operatives and employees integrity, reliability and loyalty to the Agency and safeguarding its assets, the interests of the Republic of South Africa and its constitution.”

Would you agree with those observations?

MS K: Yes, I do agree.

ADV PRETORIUS SC: 9.2 reads:

“Vetting is a deliberate coordinated effort within the SSA environment governed by a number of statutes highlighted there.”

Is that correct?

MS K: Yes, that is correct, sir.

ADV PRETORIUS SC: 9.3:

“In terms of legislation and regulations, the decision to issue clearance certificates, resides with the

10 director general of the SSA, who may delegate this authority. In the SSA the delegation of authority, or the delegated authority it should be, lies with provincial managers and notably the general manager, internal security and general manager vetting, and security advising. These two general managers are responsible for internal vetting, and external vetting respectively. While the general managers responsible for vetting and security advising are required to report to the deputy director responsible counter intelligence, the onus of delegation lies with the general managers and provincial managers.”

Do you agree with those organisational prescript?

MS K: Yes, that is how we understand them.

ADV PRETORIUS SC: The next section deals with the risks posed by irregular vetting and the statement deals with the abusive vetting structures, which enabled co-workers to be deployed by the CDSO without having been
20 subject to the formal vetting processes of the SSA.

And in order to understand the implications of that the author of this affidavit deemed it necessary to highlight the risks posed by a regular vetting. But do you confirm that co-workers were deployed by the CDSO without having been subject to the formal vetting processes of the SSA?

MS K: Yes, I can confirm that, that was the files that I was referring to that we analysed.

ADV PRETORIUS SC: Right, and it is important to understand the next section in the light of the purposes of the proper vetting regime that we spoke about a minute ago. 9.5 reads:

10 “The issuing of clearance certificates, which is the end product of the vetting function provides an assurance to the recipients, organs of State, that the concerned individual is security competent. The issuing of certificates and in effect, the vetting process is sacrosanct and falls squarely within the mandate of the SSA as a first line measure in delivering on its counter intelligence mandate.”

You agree with that issue?

MS K: Yes, I do.

ADV PRETORIUS SC: Sorry?

MS K: I agree Chair.

ADV PRETORIUS SC: Thank you, 9.6 reads:

20 “As a result of the establishment of a parallel vetting structure, as detailed below the checks and balances built into the SSA system were overridden, allowing for persons who were not security competent to gain access to organs of State sensitive information and positions of power or

influence.”

You agree with that?

MS K: Yes, I do agree Chair.

ADV PRETORIUS SC: 9.7 reads:

“To appreciate the impact of such conduct on the Agency, it is necessary to reflect on some of the conduct that these “cleared”.”

Now I suppose that means persons not properly vetted, individuals were subsequently involved.

10 9.7.1:

“The running of illegal counter intelligence operations that were in contravention of the Constitution, the Intelligence Services Act, and the Agency's operational directives.”

9.7.2:

“Receiving millions of rand in cash from members of the CDSO for a number of years thus perpetuating fraud, theft at SSA funds and resulted in illicit financial flows.”

20 9.7.3:

“Receiving caches of SSA firearms and ammunition, including automatic rifles, which remain unaccounted for, these firearms were signed out of the SSA armoury by CDSO members and handed over to individuals considered cleared by the

parallel vetting outfit.”

And 9.7.4:

“Parallel military training of SSA/CDSO and so called co-workers using SAS firearms. The SSA armoury was provided with neither with proof of these individuals, trainers, nor the trainees firearm competence certificates.”

Do you have any comment on the contents of those four sub- paragraphs?

10 **MS K:** I agree with all of them and with regards to the firearms, we do have several statements that support that. But I have to indicate that we have to maybe in on 9.7,3 on the firearms issue where we say including automatic rifles, and maybe we could add some of which remain unaccounted for. As DG had indicated that some were recovered and we submitted a list of these four ballistics a several of them, I think they were like 34 or so that have been submitted for ballistics testing to the SAPS.

ADV PRETORIUS SC: Yes, we will take account of what
20 the acting director general said in that regard and we do deal with weapons and firearms in particular, later in the statement and we can deal with it in more detail there, thank you Ms K. 9.8 reads:

“While this weekend, the SSA’s first line of defence. It also potentially enables the infiltration of other

departments in the security cluster, including the SAPS Presidential Protection Unit by individuals that were trained and, “vetted” - and I assume that is a reference to not being properly vetted, in this manner and thus in possession of invalid security clearance certificates. In addition, the process undertaken by the parallel vetting structure was in itself flawed and constituted a very weak check on security competence.”

10 Are you able to comment on that statement or those statements?

MS K: Yes, this is correct. It is what the investigation has found out and with regards to the Protection Unit, we were able to actually get names from some of the implicated individuals on who has been deployed within that space.

ADV PRETORIUS SC: Right. In paragraph 9.9 reads:

20 “Apart from the risk posed to counter intelligence measures, this parallel vetting structure poses a risk to the reputation and integrity of the legitimate SSA vetting process. By way of example, the SAA executives who allegedly refused to be vetted may opportunistically point to the lack of integrity of the SSA system as a defence to their refusal and the public activities of the activities of the parallel

vetting structure will be difficult to distinguish from the legitimate SSA process.”

Do you have any comment? Can you confirm the contents of that paragraph?

MS K: Yes, I can confirm. It is just a view but I think the view is accurate. It is important for members of the public and government to understand that we have loyal and patriotic officials within the SSA who are responsible for this process and they do their job as it is supposed to be done.

10 But unfortunately around the time, the period under review, this happened and I hope it has been remedied right now but we – it should not discourage anybody from cooperating with vetting processes that are undertaken by the SSA.

ADV PRETORIUS SC: The danger that is highlighted in paragraph 9.9, as I understand it, is that the existence of an illegitimate and flawed vetting process really undermines the proper process. That is an obvious comment to make.

20 **MS K**: Yes, yes.

ADV PRETORIUS SC: And by undermining in the public eye means there may be an unjustified resistance to the proper vetting process. Is that the point you are making?

MS K: Yes.

ADV PRETORIUS SC: Alright.

MS K: Yes, Chair.

ADV PRETORIUS SC: Thank you. We move now to the statement insofar as it deals with a parallel vetting structure. 9.10 reads:

“The Project Veza Investigations has uncovered evidence of a parallel vetting structure that operated within the office of the Deputy Director-General, Counterintelligence during the period 2013 to 2018.

10 Based on our interviews with witnesses and implicated persons as well as our review of the relevant vetting files, it appears that this parallel structure vetted selected individuals and issued them with purported SSA clearance certificate.

Not only did this practise bypass official SSA vetting channels, but the vetting process that is followed by this parallel structure were irregular and weak.”

20 Can you confirm those findings?

MS K: I can confirm this with the advice that we revised the date there, I do not think the period is accurate, this process, according to my understanding, and that quite early on it did not go up to 2018. Although our – the focus of the team – the scope you know in terms of the clear

dispensation it was in 2018. But it does not necessarily mean that this process, the vetting structure existed in 2018.

I – is that clear Mr Chair?

ADV PRETORIUS SC: Yes, it is clear. Well, he can answer that as it is addressed to him.

CHAIRPERSON: [laughs] Well, I think it is fine.

ADV PRETORIUS SC: What did date would you suggest became more accurate in your view?

MS K: I do not know the date offhand but what I can say is
10 that the personal who was responsible for this project had handed over these files to another unit within SSA. So that date – I do not have that information at hand. So I think that date and that year would be the safest to utilise in this regard.

ADV PRETORIUS SC: But we can check that.

MS K: But we do have records of that.

ADV PRETORIUS SC: Alright. Paragraph 9.11 reads that:

20 “The structure (that is the parallel vetting structure) was set up in October 2013 when vetting officers including polygraph personnel and the valutors were seconded into the office of the DDG Counterintelligence by Ambassador Dlomo.

The correspondence informing these members that they were being seconded into

Ambassador Dlomo's office did not indicate any particular purpose for the formation of this new structure beyond providing assistance to his office and the offices of the Director, Domestic Branch and the Minister of State Security."

Is that a fair summary of the facts within ...[intervenes]

MS K: That is what – yes, that is what we were told by the
10 project manager.

ADV PRETORIUS SC: Right. 9.12 reads:

"The team leader at the centre of this parallel vetting structure was pseudonym Mandy who worked as a Vetting Officer for another company (the name of the company has been deleted) before joining the agency as an Internal Vetting Officer.

Her team consisted of five vetting officers or evaluators and two polygraph examiners.

20 Notwithstanding the fact that pseudonym Mandy is a seasoned Vetting Officer, the processes of her team failed to follow even the basic tenets of vetting."

Can you comment on those statements?

MS K: I agree with the statements.

ADV PRETORIUS SC: 9.13 and perhaps this will need some explanation, reads:

“As the team leader, pseudonym Mandy was responsible for administering the vetting files generated by the structure operating out of this parallel structure.

10 According to the declaration made by the Chief Directorate Vetting and Security Advising, they received these vetting files in about April 2019 although pseudonym Mandy contents that she had handed over these files and in late 2018.

This discrepancy aside, it was clear that pseudonym Mandy had been in possession of these vetting files since 2013 operating outside official CDVA (that is Vetting and Security Advising) panels.”

The import of that paragraph is not entirely true. If you agree with it, perhaps you could clarify.

20 **MS K:** Yes. Yes, and it is also – it is also helping me to withdraw that state – you remember that period where we said from 2013 to 2018 ...[intervenes]

ADV PRETORIUS SC: Yes.

MS K: ...the structure operated. Because I thought she had handed in – instead of the discrepancy in terms of when she handed this hand but it does not necessarily mean that this

was – the structure was operating when she handed in the files because initially they did this work and then the pseudonym Mandy later on became the project manager for some of the CDSO operations and projects that we had already covered yesterday including Tin Roof.

So I think between – once the vetting was done on the individual that we identified, they then – she was then channelled to do other things, other work that are now pseudo related.

10 **ADV PRETORIUS SC:** Alright. So when did pseudonym Mandy conduct vetting for CDSO? Can you establish that from this paragraph?

MS K: According to the report to her, she was not conducting vetting. Okay. She was conducting vetting under the umbrella, under the office of the DDG Counterintelligence.

ADV PRETORIUS SC: Right.

MS K: But it so happened that most of the people that were vetted were co-workers who were then deployed in CDSO.
20 However, there are some other people, senior members, management that was vetted by her structure as well.

ADV PRETORIUS SC: Alright. So ...[intervenes]

MS K: So ...[intervenes]

ADV PRETORIUS SC: It seems to become clear. But are you saying that even before Mandy arrived to conduct the

vetting, there were other vetting processes that had taken place under the jurisdiction of the office of the DG prior to her arrival? Am I correct?

MS K: No, you are not correct Chair. So ...[intervenes]

ADV PRETORIUS SC: Alright. Well, please explain then why ...[intervenes]

MS K: That process started when that team was constituted in 2013.

ADV PRETORIUS SC: Oh, I see.

10 **MS K**: So that is when Mandy started working because she was project leader from the beginning of the process. I am guessing until the end.

ADV PRETORIUS SC: But when happened in 2018 and 2019? I mean, all you say in 9.13 that she was ...[intervenes]

MS K: That ...[intervenes]

ADV PRETORIUS SC: ...she was in possession of vetting files not that she actually conducted the vetting at that stage. Is that what you now say?

20 **MS K**: Now we – she did conduct the vetting. She was leading the team and she admits to it because it was during an interview which is recorded and transcribed.

ADV PRETORIUS SC: Alright. So the statement that it is clear that Mandy had been in possession of vetting files since 2013 should be understood to mean that she had

actually been conducting vettings since 2013 not only in possession of files since 2013? Am I correct?

MS K: Yes, yes. Yes, Chair. Because you see later on, I think in this affidavit, we talk about how these files were not loaded onto our official SVIS System. That is where the vetting files are loaded, you know, in terms of the process. So these files were kept in hard copy and not loaded on the system as is required.

ADV PRETORIUS SC: Right. The following paragraphs
10 indicates that you examined the vetting files that existed in this parallel vetting structure and you have given that evidence and certain observations were made. Those are set out in paragraph 9.1.4. If I can just read through the next six sub-paragraphs.

“Approximately 162 files were submitted to the Chief Directorate and Vetting and Security Advising but this is unlikely to be the complete set as additional files had come to the Investigation Team’s attention through other
20 sources.”

Is that statement correct?

MS K: Yes, it is correct Chair.

ADV PRETORIUS SC: Second sub-paragraph reads:

“53 files were complete, while 109 files contained incomplete documentation.”

Is that statement correct?

MS K: Yes, it is correct Chair.

ADV PRETORIUS SC: The third sub-paragraph reads:

“53 cases indicated no deception on the polygraph while 103 files did not contain any polygraph results.”

Is that statement correct?

MS K: That is correct Chair.

ADV PRETORIUS SC: Fourth sub-paragraph reads:

10 “53 clearance certificates were found of which three had no vetting investigation reports or supporting documents for the issuance of such certificates.

While it should be noted that the absence of clearance certificates in other files does not indicate that these individuals were not cleared.”

Is that ...[intervenes]

MS K: Yes, I agree with that.

20 **ADV PRETORIUS SC:** The fifth sub-paragraph reads:

“Six files had significant responses of which five appeared to have received clearances and 86 files had no vetting evaluator.”

Are those statements correct?

MS K: Six is correct. Five I am not so certain because I –

because I do not work in that space. But I am not sure what is significant responses. So I do not want to misinterpret but I trust the vetting experts in the team that their analyses is correct. So based on that I would just confirm.

ADV PRETORIUS SC: Okay. 9.1.5 reads:

“In addition, several flaws were noted regarding the process of file completion, demonstrating limited or no adherence to vetting standard operating procedures.”

10 Again, there are examples given in sub-paragraphs 1 to 7. I am not sure if it is necessary to go through all of them but all of those examples indicate what appears to be serious lapses in the process of vetting. Would you agree with that?

MS K: Yes, I do agree Chair.

ADV PRETORIUS SC: If you could just have a brief look at 9.15.1 to 9.15.7 and see if you agree with those observations if there were any qualifications, perhaps we should place them on record?

20 **MS K:** I agree with all of those points from 9.15.1 to 9.15.7.

ADV PRETORIUS SC: Alright. And for the purposes of the record. Each of one of those indicates what appeared to be material procedural lapses in the process of vetting. That appears summary.

MS K: Yes, Chair.

ADV PRETORIUS SC: 9.16 deals with certain discrepancies noted in respect of clearance certificates that were issues in terms of the parallel vetting process. I will read three of these discrepancies as they appear in these sub-paragraphs to paragraph 9.16.

9.16.1 reads:

10 “According to official SSA vetting processes, the Chief Directorate Vetting and Security Advising is responsible for vetting external individuals while the Chief Directorate Internal Security is responsible for internal vetting. However the vetting certificates issues by pseudonym Mandy’s team were neither that of the CDIS nor the CDVA but rather appeared to be a combination of both templates.”

20 The import of that one could only really understand with further explanation and looking at the templates, but do you have any comment in relation to the statement in 9.16.1?

MS K: I want to confirm that based on inputs by the directorate sited there. So I agree with that. I confirm 9.16.1.

ADV PRETORIUS SC: What does it matter if both templates were used? We need to understand the

significance of that if possible.

MS K: The distinction is very important in that the – as far as I understand, the template I think in terms of the – whatever the emblem is used and the type of paper and what each – there should be that distinction between the two.

I do not know the detail of it. So I cannot really get technical about it and should be able to get evidence from the people involved maybe you will get more clarity.

But what I can say is that in terms of our security
10 clearance certificates, there is a number allocated because you would find that when a vetting file is open there is a number and it is loaded on the system.

There is a number that is allocated that is going to be the security clearance number. But in this regard, the certificates would – did not bear such a number. They only bore ID numbers of the individuals that they vetted.

ADV PRETORIUS SC: Alright. I understand.

MS K: H'm.

ADV PRETORIUS SC: Perhaps I should go back to 9.15.7
20 where we said that those sub-paragraphs with which you agreed highlighted the clause ...[intervenes]

MS K: Yes.

ADV PRETORIUS SC: ...in the parallel vetting system. 9.15.7. I think you have mentioned it in another context but perhaps we should mention it in this context. The

vetting files produced by the parallel vetting system, were they loaded onto the SSA official vetting record system as prescribed by standard operating procedures?

MS K: No. No, they were not Chair.

ADV PRETORIUS SC: Paragraph 9.16.2 reads:

10 “While the general manager of the Chief Directorate Internal Security and the General Manager of the CDVA (that is the Chief Directorate Vetting and Security Advising) are duly delegated to sign clearance certificates issued by their respective divisions, the clearance certificates issued by the parallel vetting structure was signed by the Deputy Director-General Counterintelligence for whom there is no delegation of authority authorising him to sign vetting certificates.”

20 In other words, the DDG Counterintelligence who signed these parallel vetting certificates was not authorised to do so. Do I understand the position correctly?

MS K: Yes, that is what we understand as the team, yes.

ADV PRETORIUS SC: 9.16.3 reads:

“ Official SSA clearance certificates are printed on security paper and with a SSA logo with a number issued being recorded on the

SSA system but the clearance certificates issued by the parallel structure do not conform to this practise.”

Is that a correct statement?

MS K: Yes, I think that is what I was trying to explain a few minutes ago Chair.

ADV PRETORIUS SC: Yes, but the records of this system are deficient and do not comply with the system in place.

MS K: Yes, Chair.

10 **ADV PRETORIUS SC**: 9.17 reads:

“The vast majority of the individuals who were “vetted” by pseudonym Mandy’s team were the Chief Directorate Special Operations so-called co-workers.

Thus the individuals who formed the basis of the human capacity of the overall parallel intelligence structure established by Ambassador Dlomo were improperly and inadequately vetted outside official SSA channels.

20

These co-workers were given funds, firearms and access to sensitive information and many were promised permanent employment in the SSA.”

Is that statement correct or are those statements

correct?

MS K: Yes, they are Chair.

ADV PRETORIUS SC: 9.18 reads and this is significant because it may illustrate a reason for why this was done in the manner it was done. The statement reads:

10 “It is of concern that the parallel vetting system fell under Ambassador Dlomo’s control when, according to witness reports, he was also responsible for identifying most of the individuals who were recruited into the co-worker system.”

Am I correct in understanding that statement to mean that Ambassador Dlomo would recruit individuals as co-workers within his discretion and then he would control the vetting process? Do I understand ...[intervenes]

MS K: Yes and issue the clearance certificate ...[intervenes]

ADV PRETORIUS SC: Correct.

MS K: ..in the end.

20 **ADV PRETORIUS SC:** So the next sentence reads:

“This signifies a potential conflict of interest as Ambassador Dlomo would have a vested interest in the security clearance of his recruits.”

You have made those observations.

“A further abuse of Ambassador Dlomo’s vetting structure, Ambassador Bheki Langa was granted security clearance through this illegal parallel process.

Thus although Ambassador Langa was appointed as Director of the Domestic Branch, his security clearance was signed off by his subordinate, Ambassador Dlomo in a process that likely compromised his ability to exercise effective oversight over the CDSO.”

10

Do you have any comment in relation to that statement?

MS K: That is correct sir everything that is in that paragraph. I can confirm. I have seen the file and ja.

ADV PRETORIUS SC: Alright. 9.19 reads:

“Moreover, Ambassador Dlomo was himself never vetted by the SSA Chief Directorate Internal Security when he joined the SSA as General Manager of Special Operations.

20

While his appointment without a security clearance was in itself irregular, when attempts were made by the unit to vet him, he indicated that he was already being vetted leading to the Security Internal Processes.

Notwithstanding the absence of the file

amongst the parallel vetting documents, it is suspected that he utilised the unit he controlled to undertake his vetting thus effectively granting himself a top secret security clearance.

It is highly likely that this clearance was accepted when he was posted as an ambassador in Japan.”

Are those statements correct?

10 **MS K**: Yes, that is correct.

ADV PRETORIUS SC: Now there are other statements contained in the witnesses’ statements or affidavits, witnesses who have given evidence this week highlighting Ambassador Dlomo’s curriculum vitae and his past, particularly in KwaZulu-Natal. Are you aware of those?

MS K: No, I am not aware.

ADV PRETORIUS SC: Those can be placed on record at a later stage. It is in a statement Chair. Do you know whether Ambassador Dlomo’s security clearance was ever
20 subsequently withdrawn?

MS K: No, I do not have any information on that Chair.

ADV PRETORIUS SC: That again can be dealt with. The next session deals with the vetting of Mr Arthur Fraser.
9.20 reads:

“During our investigation into the parallel

vetting structure the Project Veza Team discovered the vetting file of Mr Fraser which preceded his appointment as DG in September 2016.

A preliminary perusal revealed striking irregularities which warranted further investigation.

10 While Mr Fraser was not vetted through the parallel vetting structure described above, his vetting also circumvented prescribed channels and followed a flawed process.”

Is that a correct statement?

MS K: That is correct Chair.

ADV PRETORIUS SC: 9.21 reads:

“The mandate of vetting perspective and existing SSA mandate of vetting perspective and existing SSA members liaised with the Chief Director Internal Security.

20 Thus Mr Fraser's vetting should have been conducted by CDIS.

In terms of the internal security directive on vetting the general manager responsible for internal vetting has an onus to ensure...

Chair, may I take a quick instruction?

CHAIRPERSON: [No audible reply]

ADV PRETORIUS SC: Well, Internal prescripts half as a general rule not been declassified and until I am satisfied that this has been declassified but I am not going to quote from the directive Chair.

CHAIRPERSON: [No audible reply]

ADV PRETORIUS SC: So let us move on then two 9.22 if we may. You do not know, I take it, Ms K whether that internal security directive has been declassified?

MS K: I am not aware of it being declassified.

10 **ADV PRETORIUS SC:** Alright. So let us just go on then to 9.22.

“Mr Fraser's entire vetting process was conducted by the chief Directorate Vetting and Security Advising which was primarily mandated to vet external individuals (that is non-SSA members) in other government departments.

20 this irregular use of the external vetting capacity meant that the SSA officials responsible for Mr Fraser's vetting will members who had been involved in The namely pseudonym Philani and pseudonym Wendy.

As the acting General Manager Vetting and Security Advising, pseudonym Philani had

delegated authority to issue clearance certificates for external vetting.

It appears that pseudonym Philani and pseudonym Wendy commanded Mr Fraser's vetting processes from initiation to completion with little or no regard to vetting prescripts.

It should also be noted that both pseudonym Philani and Ambassador Langa who signed the clearance certificate had been vetted by the parallel structure described.”

10

Those statements, can you comment or tell us whether they are correct?

MS K: I just want to look at my list of pseudonyms. I can confirm the paragraph. However, in the last sentence:

“It should be noted that both...”

Pseudonym Philane, I think – I am not certain of that part but I think from my side I would confirm the sentence if it said:

20

“It should also be noted that Ambassador Langa who signed the clearance certificate had been vetted by the [indistinct] structure described earlier.”

ADV PRETORIUS SC: Thank you for that clarification.

MS K: That is needed and – ja.

ADV PRETORIUS SC: Thank you. 923 reads:

“The entire vetting process was completed in less than three days with noncompliance and poor vetting practices being condoned on the purported urgency of Mr Fraser’s vetting. While the expedient...”

Should perhaps read expedited.

10 “...vetting of executives is not in itself irregular, the process and duration of Mr Fraser’s vetting raises concerns. All witness accounts confirm that the file was auctioned by the SSA on 3 September 2016 and completed on 6 September 2016. This is an inexplicably short period given that Mr Fraser was only appointed on 26 September 2016. Indeed the fact that an additional two or three days would have provided an opportunity for proper interviews, investigations, polygraph examination and evaluations case doubt on the purported urgency of Mr Fraser’s vetting. In any event...”

20 Yes, I do not want to go to the internal prescript there but in relation to the statements thus far made in para 9.23, do you have any comment?

MS K: It is accurate, Chair, according to our analysis of the file.

ADV PRETORIUS SC: Right. 9.24 reads:

“More importantly, the integrity of the vetting

process is called into question by the following irregularities any anomalies.

The first subparagraph:

“The vetting form on the legal basis of which vetting proceeds was incomplete and not properly signed under oath by Mr Fraser as it was only certified by a Commissioner of Oaths notably pseudonym Philane on 6 September 2016.”

Is that correct?

10 **MS K**: That is correct, Chair.

ADV PRETORIUS SC: Second subparagraph:

“The vetting fieldwork officer opened and closed the file on one day, 4 September 2016 without having sight of a particular form or time to conduct pre-interview screening or record checks.”

Is that correct?

MS K: That is correct, Chair.

ADV PRETORIUS SC: The third subparagraph reads:

20 “While a minimum of three references are required for secrete and top secret clearances, only two referees were interviewed for Mr Fraser’s vetting one of whom, pseudonym Jonathan, was recruited by the vetting officer as he was aware of the close relationship between Mr Fraser and his first listed referee.”

Is that statement correct?

MS K: Yes, it is correct, Chair.

ADV PRETORIUS SC: The fourth subparagraph reads:

“The file does not contain the actual results of the polygraph test or the polygraph that is produced and the polygraph examiner indicated to the investigation team that she was instructed to leave all documentation with pseudonym Philane.”

Is that correct?

10 **MS K:** It is correct, I am just not sure about the pseudonym there. I cannot currently recall whether it was given to Wendy or Philane but the essence of that is correct, of the paragraph is correct.

ADV PRETORIUS SC: It might be someone else other than Philane?

MS K: It is either Philane or Wendy. It could be Wendy because most the stuff was done by Wendy in terms of loading.

20 **ADV PRETORIUS SC:** Right and Wendy we know is also a pseudonym.

MS K: A pseudonym, yes.

ADV PRETORIUS SC: The fifth subparagraph reads:

“The vetting evaluator was confined to Philane’s office...”

That is a pseudonym.

“...without being permitted access to his regular tools of trade and all documents required for the proper evaluation of the file. He indicated in his interview with the investigation team that with benefit of hindsight he would recommend revetting of the subject.”

Is that a correct statement of what occurred?

MS K: That is correct, Chair.

ADV PRETORIUS SC: The sixth subparagraph reads:

10 “There was a fraudulent criminal record check presented on file with SAPS having subsequently confirmed that record checked on Mr Fraser were only conducted in 2010, 2012 and 2014 and that no check was conducted in 2016.”

Is that a correct statement?

MS K: That is what we understood in our engagements with the relevant people in SAPS.

ADV PRETORIUS SC: Thank you. The next subparagraph reads:

20 “There was no South African Revenue Service clearance certificate.”

Is that correct?

MS K: That is correct, Chair.

ADV PRETORIUS SC: The next subparagraph reads:

“There was no quality control of any vetting work

undertaken.”

Is that correct?

MS K: That is correct, Chair.

ADV PRETORIUS SC: And lastly:

“The clearance certificate issues does not correlate with the electronic record on the SSA security vetting information system which has none of Mr Fraser’s details recorded or supporting documentation uploaded.”

10 Is that correct?

MS K: That is correct, when we checked last year for his details we found that under his name it is just a series of zeros. Under this ID number it is a series of zeros. We only used the – we used the clearance certificate number to search on the system. So that was irregular in itself.

ADV PRETORIUS SC: Thank you. The conclusion is drawn in paragraph 9.25 – and I am going to read it with certain positions redacted. Paragraph 9.25, subject to that qualification reads as follows:

20 “In short, the resort to the external vetting capacity under pseudonym Philane’s control, appears to have served the purpose of expediting and manipulating Mr Fraser’s vetting process to secure a clearance certificate and thereby validate his appointment as DG irrespective of whether he was

security competent or not.”

Is that a fair statement?

MS K: Yes it is, Chair.

ADV PRETORIUS SC: The paragraph continues:

“It is noteworthy that after Mr Fraser’s appointment and his reconfiguration of the SSA under Strategic Development Plan Vision 2035, the individuals that were central to his vetting process received promotions.”

10 Now I am not going to talk about the promotions, positions or the promoted positions but I am simply going to refer to three pseudonyms, Philane, Wendy and Jonathan. Do you know of those facts, alleged facts?

MS K: Yes, yes, I do know.

ADV PRETORIUS SC: Are they correct?

MS K: I can confirm that. Yes, they are, Chair.

ADV PRETORIUS SC: Right. Let us go to the next section which before the conclusions is the last section. It deals with the illegal use of SSA firearms. Some of this
20 evidence has been given in summary form by Acting Director General Jafta. This is a more complete record of these issues. The first section deals with the regulatory regime governing the SSA’s armoury. 10.1 reads:

“South Africa has a comprehensive firearms control regulatory regime located in the Firearms Control

Act of 2000 and the Firearm Control Regulations.”

These bind the SSA, do they?

MS K: Yes, they do, Chair.

ADV PRETORIUS SC: 10.2 reads:

10 “The Firearms Control Act and its associated regulations also impose stringent requirements on dealers to keep records on all firearms and ammunition in stock including firearms stored on behalf of competent licensees. In terms of Section 95 of the Firearms Control Act the SSA is declared as one of the official institutions permitted to store and keep firearms. The SSA thus derives its standard operating procedures relating to the management of firearms for the FCA.”

That’s the Firearms Control Act, is that correct?

MS K: That is correct, Chair.

ADV PRETORIUS SC: 10.3 reads:

20 “This responsibility within the SSA resides with the Chief Directorate Internal Security whose mandate includes ensuring physical security, VIP Protection as well as asset management. The latter encompasses the management of an armoury in compliance with the Firearms Control Act to ensure full implementation of sufficient control measures including registering with the SAPS.”

Is that a correct statement?

MS K: That is correct, Chair.

ADV PRETORIUS SC: The fourth subparagraph of subparagraph 10 reads:

“The SSA through the CDIS in pursuance of ensuring sufficient security and control measures implemented various steps including but not limited to the draft approval of standard operating procedures and firearm training material, the
10 development of face recognition, ID card, firearm permits and other relevant documentation.”

Is that correct?

MS K: That is correct, Chair.

ADV PRETORIUS SC:

“This latter documentation includes official firearm requisition forms, annual firearm inspection and accountability forms for all SSA provincial officers and relevant units as well as firearm an ammunition transport document.”

20 Is that correct?

MS K: That is correct, Chair.

ADV PRETORIUS SC: The fifth subparagraph reads:

“Furthermore, the standard operating procedures set out the guidelines for the application processes, issuing, possession, usage and storage of official

firearms as well as for training in the use of these firearms. As such the standard operating procedures cover the complete spectrum of procedures, tasks and requisite workflow involved in the management of SSA firearms. The SSA has appointed competent armoury officials who are very well-acquainted with the Firearms Control Act and were actively involved in improving the physical security around firearms and in developing the standard operating procedures.”

10

Is that correct?

MS K: That is correct, Chair.

ADV PRETORIUS SC: So it seems by way of summary, Ms K, that the issuing, use and control of firearms is very strictly regulated in terms of legislation and regulations in considerable amount of detail. Is that a fair summary?

MS K: That is a fair summary, Chair.

ADV PRETORIUS SC: 10.6 then reads:

“Despite the existence of these controls SSA firearms were abused by individuals and the Chief Directorate Special Operations for illegal purposes. Our investigations indicate a glaring nexus...”

20

I think that is an incorrect word of nexus but you can comment.

“...between on the one hand the flouting...”

Well, maybe it is correct, perhaps I should ...[intervenes]3

MS K: It is correct, it is correct, Chair.

ADV PRETORIUS SC: Yes, I would have preferred it to say glaring gap but let us say it is:

10 “...a glaring connection between on the one hand the flouting of SSA recruitment processes, the circumvention of vetting processes and the parallel training initiatives and, on the other hand, the illegal access to SSA firearms that this parallel counter intelligence structure obtained.”

Alright, let us try and make sense of that. There is a connection between the flouting of the processes of recruitment into the SSA, the circumvention of the vetting processes, which you have dealt with, and the training initiatives that accompanied it. There is a connection between those things on the one hand and, on the other, illegal access to SSA firearms that the parallel counter intelligence structural involved. Do I have it right?

MS K: Yes, that is correct.

20 **ADV PRETORIUS SC:** Thank you, I am glad you approved.

MS K: Yes, you do have it right, Chair.

ADV PRETORIUS SC: My apologies, Ms K, for confusing you. The next section deals with irregular access to SSA firearms. 10.7 reads:

“In late 2014 and early 2015 the CDSO began requesting firearms from the SSA armoury. In total 39 firearms were issued to the structure represented by specific individuals on the request of Ambassador Dlomo in his capacity as Deputy Director General counter intelligence. The 39 firearms comprised of 11 R4 rifles, 10 pistols, 4 Glock 17 pistols, 18 Glock 19 pistols, one Mossberg 12 gauge shotgun, three BXP submachines and two Uzi submachine guns.”

Is that correct?

MS K: That is correct, Chair.

ADV PRETORIUS SC: I will refrain from comment once more. Paragraph 10.8 reads:

“The request for firearms by Ambassador Dlomo were made directly to the general manager of CDIS, pseudonym Johan, who facilitated the handing over of firearms to CDSO. This was often done without the necessary forms being filled in or assurances been given that the persons receiving the firearms were security competent to receive them. Where submissions with the necessary authority were provided, the documents contained little information on the actual purpose for which the firearms would be used.”

Is that a correct statement?

MS K: That is correct, Chair.

ADV PRETORIUS SC: Do the prescripts require when drawing firearms from the armoury to state what the purpose of the firearm use would be?

MS K: That is what we made to understand by the experts in that area.

ADV PRETORIUS SC: 10.9 reads:

10 “Official firearm training sessions arranged by members of the armoury were not attended by members of the CDSO as scheduled. This was attributed to Ambassador Dlomo indicating that CDSO members were being trained externally by former SAPS members were themselves co-workers. While this constituted a parallel firearm process, SSA firearms were still utilised. Furthermore, the SSA armoury was not provided with proof of these trainers’ and trainees’ fire competence certificates before firearms were issued to be used in this
20 training.”

Is that correct?

MS K: It is correct, Chair.

ADV PRETORIUS SC: 10.10 reads:

“Pseudonym Johan breached legal prescripts by facilitating the handing over of firearms to CDSO

members without the required safeguards and on numerous occasions even personally oversaw the issuing of firearms from the armoury. Witness interviews indicate that this created an environment within the CDIS armoury section where they could not refuse irregular requests from CDSO members within the SSA due to the involvement of Johan.”

MS K: Yes, that is correct, Chair.

10 **ADV PRETORIUS SC:** And again that would emphasise the need for processes to allow the communication or reporting of the legal orders but that is a comment which has been made several times already. 10.11 reads:

20 “Furthermore, Ambassador Dlomo is a member of the SSA executive and not a member of operations, did not have a justifiable reason to make these requests for firearms. To exacerbate matters the CDSO is a covert operational arm of the SSA and as such, generally takes necessary steps to avoid links to the SSA. It is therefore unclear why CDSO if they were indeed conducting legitimate covert operations or training would be comfortable using firearms that were directly traceable to the SSA. As pointed out above, when proper requests were made to the CDIS the motivations used for

accessing of the firearms were often vague, if proffered at all.”

Is that correct statement of the course of events?

MS K: That is correct. That is correct, Chair.

ADV PRETORIUS SC: The next section deals with the lack of controls over the use of SSA firearms, 10.12 reads:

10 “Witness accounts further indicate that these firearms were distributed to non-SSA members termed co-workers who were regularly recruited as agents by the CDSO and deployed to sensitive areas around the President and the Deputy President. These individuals were not vetted and contributed to the establishment of parallel intelligence structures reporting to Ambassador Thulani Dlomo. One such incident related to the issuing of a firearm to the late Thula who posted a picture of the SSA permit on his Facebook page following an apparent fallout with Ambassador Dlomo. Thula was never in the employee of the
20 SSA.”

Is that a correct statement?

MS K: That is correct, Chair.

ADV PRETORIUS SC: 10.13 reads:

“Despite the existence of standard operating procedures for the movement and storage or

firearms, no controls were implemented insofar as CDSO was involved. In one particular case in January 2015 pseudonym Johan authorised a CDSO member who does not have a firearm competency certificate to collect a cache of 15 firearms without taking the necessary precautions for their transportation and safekeeping. In another instance firearms were kept in a hotel room unsecured with five firearms subsequently going missing. While two of these were returned to the SSA by Ambassador Dlomo in November 2019 three remained unaccounted for. The CDSO member who accessed the firearms failed to report these missing firearms to the SAPS.”

Is that a correct statement of fact?

MS K: That is correct, Chair. In fact we opened a case against this member last year because these firearms had been missing 2015. So for four years the member did had a chance to report the SAPS what happened and the armoury people had advised the member to do so, but they did not.

ADV PRETORIUS SC: 10.14 reads:

“There are also indications that in September 2014 armoury officials were instructed by Ambassador Dlomo through Johan, pseudonym, to transport

firearms including four R4 rifles and six pistols to a foreign country...”

The name of the country has been redacted.

“...for unclear reasons. These were reportedly flown in the President aircraft. This coincided with a coup’etat in that country. Though the firearms were reportedly not utilised in that country, CDSO members were seen there in the presence of Ambassador Dlomo. It is concerning that SSA
10 firearms were flown in the President aircraft to a volatile area.”

Is that an observation made by the investigation team?

MS K: Yes it is.

ADV PRETORIUS SC: And is it based on ...[intervenes]

MS K: And it is also confirmed by sworn statements of the – this event, an incident, unfortunate incident is actually concerned, did happen.

ADV PRETORIUS SC: Thank you. 10.15 reads:

“The above incidence demonstrate Johan,
20 pseudonym, gross dereliction of his duty as...”

And I am - he was involved with the CDIS.

“...and a failure to adhere to the policies and directives that he himself hand-compiled. The irregular access to and use of SSA firearms not only exposed the Agency and the Justice Crime

Prevention and Security cluster to infiltration by individuals unaccountable within official SSA structures but also exposed the President and the Deputy President to risks posed by their being protected by individuals who were not security competent.”

Do you have any comment?

MS K: That is correct, Chair.

ADV PRETORIUS SC: That is correct?

10 **MS K**: Yes, that is correct.

ADV PRETORIUS SC: The last section on weapons deals with missing firearms. 10.16 reads:

“The firearms issued to the CDSO remained unaccounted for during this period without the SSA armoury being able to conduct firearm inspections or ensure that permits were renewed contrary to this being a requirement when firearms are issued. Numerous reports were submitted highlighting that CDSO was failing to comply with the firearms control requirement.”

20

Is that correct?

MS K: That is correct, Chair.

ADV PRETORIUS SC: 10.17:

“In December 2016 the CDSO under a new general manager, pseudonym Darryl, was requested to

return all firearms but only 21 firearms were returned. The 17 outstanding firearms including assault rifles, submachine guns and pistols included. In addition, 1 635 rounds of ammunition were issued to the CDSO and to date only 755 rounds have been returned. However, there are discrepancies with some of the ammunition returned as these had never belonged to the SSA.”

Are the allegations or the statements in 10.17 correct?

10 **MS K**: Yes, they are correct.

ADV PRETORIUS SC: So is it fair to say that of those co-workers who were not vetted, who were armed and who have not returned to the SSA may still be out there armed? Is that a possibility?

MS K: May I not respond to that question, Chair?

ADV PRETORIUS SC: Alright. Okay, we have heard that before but I presume it is not because of reason other than security.

20 **CHAIRPERSON**: Well, you did not mean to say you do not know, did you?

MS K: Yes, I do not mean, I do not know. I am asking that I do not answer this particular question, Chair.

CHAIRPERSON: Okay. Ja, that is fine. Okay.

ADV PRETORIUS SC: Well, I understand. 10.18 reads:

“In April 2018 eleven firearms were recovered

sometimes placing members of the SSA armoury in danger. In one case members were instructed to meet unknown individuals who were in possession of SSA firearms at the Durban Airport. These individuals were armed and only released the firearms once they contacted Ambassador Dlomo, who was in Japan at the time, for permission. In November 2019 two more firearms were retrieved from Ambassador Dlomo. As at November 2020
10 four firearms remained unaccounted for. All recovered firearms have been submitted to the SAPS for ballistic testing to negate the possibility. We are still awaiting the results of these tests.”

Are those allegations correct and is it correct in particular that some tests remain outstanding?

MS K: Yes it is correct. The last time that I checked that was still the case, this was last year late.

ADV PRETORIUS SC: 10.19 reads:

20 “The proliferation of illegal firearms is a major contributor to the discernibly high levels of serious violence indicated in organised crime which remain one of the key threats to the wellbeing and safety of South Africans, the authority of the State and national security. The development goals articulated in the National Development Plan, Vision

2013, include ensuring that people living in South Africa feel safe at home, school, work and enjoy community life free of fear. The high levels of serious and violent crime of which illegal firearms form a major part impede Government's ability to ensure stability and security which are pivotal in creating conditions conducive to economic development, prosperity as well as the wellbeing of the people."

10 Those are conclusions drawn or opinions of a general nature, do you share those views?

MS K: Yes I do, I do share those views.

ADV PRETORIUS SC: A remark that could I think validly be made that these sentiments expressed here, and these goals expressed here are precisely the duty of a security agency aimed at the national as opposed to secular interests, is that correct?

MS K: That is correct Chair.

20 **ADV PRETORIUS SC:** And it seems that these very goals were not only not followed but to a degree in this section of the evidence at least undermined.

MS K: That is correct Chair.

ADV PRETORIUS SC: 10.20 reads:

"Apart from the parallel vetting structure posing a risk to counterintelligence measures the issuing of

SSA firearms to persons not competent to handle such poses a risk to the reputation of SSA. It is of concern that non SSA members whose security and firearm competence would be not be ascertained were receiving caches of SSA firearms and ammunition including automatic rifles which remain unaccounted for with the assistance of senior management within the CDIS, CDSO and the office of the Deputy Director of Counterintelligence. This is likely to contribute to a trust deficit between the people of South Africa and its intelligence outfit entrusted with the security of the State.”

In your view is that fair comment?

MS K: Yes it is Chair.

ADV PRETORIUS SC: Finally in paragraph 11 certain conclusions are drawn by the author of this affidavit, Mr Y, I think it is apposite, we have time to place them on record, there are four sub-paragraphs, with your leave Chair?

20 11.1 reads:

“The channelling of SSA funds ...”...[intervenes]

MS K: Sorry Chair?

ADV PRETORIUS SC: Yes, do you have any comment before I go there?

MS K: Excuse me Chair?

CHAIRPERSON: Yes?

MS K: Yes please I would appreciate that opportunity.

CHAIRPERSON: Yes okay.

MS K: Thank you Chair. I just want to indicate that these practices and these – the conditions under which the armoured people had to work under are very concerning and I must indicate that those particular individuals were affected and they are still affected today because they know the SOP's, they know the regulations and having –
10 one of them actually told me and the team that each time there is a media report on whether it is an assassination, whether it is whatever they always get nervous because they are thinking we hope it is not one of our firearms.

So I just want to underline the commitment, the integrity and the – of those officials, that is all Chair.

CHAIRPERSON: Thank you.

ADV PRETORIUS SC: Thank you. The section on conclusions, if I may put each one to you for our comment and confirmation if you wish, or qualification if you wish,
20 the first is in paragraph 11.1, it reads:

“The channelling of SSA funds out of have legitimately established and authentic intelligence structures has led to a weakening of the State Security Agency. “Normal” work in most instances did not continue as morale has lessened owing to

the inadequacy of the tools left, witnesses the blatant disregard for the civilian intelligence structure and more importantly fundamental breaches of the Constitution. The parties and involvement of the security services in the political sphere goes against the values espoused in the intelligence community and reflected in the Constitution.”

Your comment Ms K?

10 **MS K:** The – let me just say I concern and align myself with the entire conclusion, all the paragraphs.

ADV PRETORIUS SC: 11.2 reads:

“It is clear from our investigations thus far that this deliberate weakening of the State’s Protective Security and Risk Management arm was done in order to enable the looting of State funds and to prevent detection and accountability within the Agency. Politically connected individual used their access to State mechanisms in order to advance
20 their own agendas, both financial and political. The deep cover resources of the SSA built up in the first 15 years of our democracy as an integral part of protection national security have been eroding.”

Your comment Ms K?

MS K: I align myself with the paragraph.

ADV PRETORIUS SC: And of course from the Commission's point of view further conclusions can be drawn Chair which will be addressed in due course, to the extent that and on the basis that this evidence is accepted, if it is accepted in due course.

11.3 reads:

10 "The projects undertaken if they are indeed authentic raise serious concerns as to how and to what extent the Constitution was undermined. Yet irrespective of whether these projects were authentic and implemented their very existence and stated aims are incompatible with the Intelligence Mandate of the SSA. The use of covert operational structures to conceal unlawful activity and bypass accountability enabled the greater structure with the least scrutiny."

Do you associate yourselves with those comments, or yourself with those comments?

MS K: Yes I do Chair.

20 **ADV PRETORIUS SC:** And of course we have dealt with the issue of further investigations and what would be required to obtain a complete picture of what was authorised, what was financed and what was finally executed by way of project, and we don't need to repeat that so if we could go to the final conclusion in 11.4, this is

an observation that the investigation team makes that the Chair may or may not take into account, but it is offered I take it in the spirit of what you have come to learn in the course of your investigation. It reads:

“It is imperative that Law Enforcement Agencies pursue the case opened by the SSA in April 2019 and that the recovery of cash and assets belonging the State be prioritised.”

10 There has been evidence, and there will be further evidence Ms K about the compilation of information and its transfer to law enforcement agencies in 2019 already. Do you confirm that?

MS K: Yes I do.

ADV PRETORIUS SC:

“...[Indistinct] oversight of the intelligence the community ...”

the paragraph continues:

20 “...is required through the combined assurance of the Ministry, the Joint Standing Committee on Intelligence, the Office of the Inspector General of Intelligence and the Auditor General of South Africa.”

I think that is self-explanatory, the Inspector General of Intelligence is also expected to give evidence Chair.

And then finally:

“the integrity of the SSA’s mandate must be protected from politicisation so that the pursuit of national security reflects the resolve of all South Africans as individuals and as a nation to live as equals to live and harmony to be free from free and want and to seek a better life.”

All presumably the goals that the SSA should pursue, do you agree with those sentiments?

MS K: I do Chair.

10 **ADV PRETORIUS SC:** Chair that is the evidence.

CHAIRPERSON: Okay, thank you very much Ms K for availing yourself to come and assist the Commission, particularly in the light of the unexpected unavailability of Mr Y, but I understand that you either will or maybe come back to the Commission in regard to other evidence that I will be told once if you will come back, but from what Mr Pretorius said it looks like at least there may be a possibility of you coming back to deal with other matters.

Thank you very much for making yourself available.

20 **MS K:** Chair?

CHAIRPERSON: Yes.

MS K: I could not hear you, I could not hear you yes, I heard that there is a possibility that I may have to come back and that is where it is up to – beyond that I did not hear anything.

CHAIRPERSON: I think somebody is sabotaging the Chair today. No I was saying Ms K from what Mr Pretorius has said I understand that there is a possibility that you may come back to deal with other matters of which you have personal knowledge but whether that will happen or that will not happen I will be told in due course, but thank you very much for making yourself available.

I will now excuse you.

MS K: Thanks so much Chair.

10 **CHAIRPERSON:** Thank you. Mr Pretorius?

ADV PRETORIUS SC: Chair we did have one witness lined up who recently and unexpectedly became available. We had a further witness lined up ...[intervenes]

CHAIRPERSON: I am sorry Mr Pretorius, are you still there Ms K? She has gone, okay.

MS K: I am here. I am here Chair.

CHAIRPERSON: Oh, no I just want to emphasize the Commission's appreciation of your making yourself available in the circumstances in which you made yourself
20 available. We appreciate it very much.

MS K: I appreciate the opportunity Chair, although the circumstances are actually painful to me in relation to Mr Y, but I just want to say to the Commission and to make sure that it is recorded, that the majority of officials that are within the SSA are courteous, are qualified and are

committed and all they want to do is work and serve the constitution, so in no way should I request this evidence should not in any way be used to paint everybody with the same brush, because I do think that – it is just that they have not had the opportunity to express themselves or they are not as – I don't know, maybe stupid like me to just come up and say the things that I have revealed, but I do think that we have to acknowledge that they are committed and we hope that we can rebuild our organisation just for
10 the sake of our country.

Thank you.

CHAIRPERSON: No, thank you very much Ms K, we really appreciate what you have said. Thank you.

ADV PRETORIUS SC: Noted, and thank you Ms K from the Legal Team and the Investigators.

MS K: Thank you Mr Pretorius.

CHAIRPERSON: You were saying something and then I interrupted you Mr Pretorius.

ADV PRETORIUS SC: Yes Chair.

20 **CHAIRPERSON:** I think about another witness.

ADV PRETORIUS SC: The second witness available will give information of a nature that I need to consider carefully before calling him as a witness so I would ask that we adjourn now. The further evidence to be given apart from that of the expected General of Intelligence

should be able to be condensed within reasonable limits. It is largely corroborative although there is some new evidence because it has become apparent that there are gaps that need to be filled from the statement of Mr Y and that will be dealt with in due course.

CHAIRPERSON: Okay no that is fine. So we will try and find space even if we use evening sessions.

ADV PRETORIUS SC: Yes Chair.

CHAIRPERSON: To try and complete or hear the evidence
10 of those who we have not heard as yet. Thank you very much. We are going to adjourn for the day, for the benefit of the public next week the Commission will hear evidence relating to Parliamentary oversights.

We adjourn.

INQUIRY ADJOURNS TO 1 FEBRUARY 2021