

**ENQUIRY INTO THE SOUTH GAUTENG DIRECTOR OF  
PUBLIC PROSECUTIONS' FITNESS TO HOLD OFFICE**

**HELD AT**

**SALU BUILDING, 316 THABO SEHUME STREET,  
DEPARTMENT OF JUSTICE AND CONSTITUTIONAL  
DEVELOPMENT**

**4 FEBRUARY 2026**

**DAY 20**



**ENQUIRY INTO THE  
SOUTH GAUTENG  
DIRECTOR OF PUBLIC  
PROSECUTIONS'  
FITNESS TO HOLD OFFICE**

**PROCEEDINGS ON 4 FEBRUARY 2026**

**CHAIRPERSON:** Good morning, everyone. Good morning. Good morning, Ntate Chauke. Good morning, Advocate Noko. Good morning, ma'am. Before we begin, let me just find out rather whether everything is in place before she takes the oath.

**ADV KHOOE:** Good morning, panel members, Chair.

**CHAIRPERSON:** Please speak up.

**ADV KHOOE:** Good morning, Chair, panel members,  
10 colleagues, media, and everybody else in attendance. Chair, Advocate Noko just arrived not too long ago, and I had not had a chance to physically go through the file with her so that, to just to double check that the annexures are as they should be. I would appreciate a moment with her.

**CHAIRPERSON:** You request us to stand down for a short while so that you can talk to her before she begins?

**ADV KHOOE:** Correct, Chair.

**CHAIRPERSON:** Yes, I suppose, Advocate Ngcukaitobi, you will not have a problem with that. We just need to sort out  
20 this housekeeping issues before we begin.

**ADV NGCUKAITOBI SC:** No, Madam Chair.

**CHAIRPERSON:** Yes, thank you. I think that will be in order, given the fact that papers were filed yesterday. We also just appreciate that you were able to consult and prepare the papers within a very short period of time. We will give

you some indulgence, and when you are ready, do send a message. Thank you. We will adjourn until further notice.

**ADV KHOOE**: Thank you, Chair.

**ENQUIRY ADJOURNS**

**ENQUIRY RESUMES**

**CHAIRPERSON**: Once again, good morning, everyone. Advocate Khooe, are you ready now?

**ADV KHOOE**: Chair, I am ready, and thank you for the indulgence.

10 **CHAIRPERSON**: Yes, thank you. Advocate Noko, good morning, madam.

**ADV NOKO**: Good morning.

**CHAIRPERSON**: Please let me know if you elect to take the oath or affirmation.

**ADV NOKO**: The oath.

**CHAIRPERSON**: The oath. Do you swear that the evidence you are about to give will be the truth, nothing else but the truth. If so, raise up your right hand and say, "So help me God".

20 **ADV NOKO**: So help me God.

**MOIPONE NOKO** (d.s.s.)

**CHAIRPERSON**: Yes, thank you. Perhaps before you begin, on behalf of my sisters, the panel, allow me to thank you for having made yourself available to come and testify, having been given a very short notice. You will appreciate, and I am

sure it has been explained to you, that you are here at the instance of the panel for reasons that are known to you now. Once again, thank you.

**ADV NOKO**: Thank you, Chair.

**CHAIRPERSON**: You may proceed, madam.

**ADV KHOOE**: Thank you, Chair. I think I also need to just thank her, because she did most of the heavy lifting, preparing her own affidavit. I did minimal, so I just wanted to also thank her for that.

10 **CHAIRPERSON**: Thank you, Counsel.

**EXAMINATION IN CHIEF BY ADV KHOOE**: Advocate Noko, in front of you is a file and in that file, on the top, you should have a document titled affidavit. Do you have that in front of you?

**ADV NOKO**: Yes.

**ADV KHOOE**: It starts at page 1.

**ADV NOKO**: Yes, I do.

**ADV KHOOE**: Can you confirm that those are your names and at the ...[intervenes].

20 **CHAIRPERSON**: Would you please, madam, maybe because we, including myself, from time to time I forget to switch on the mic. Maybe if it is convenient for the subscribers, just keep it on so that you do not forget. Thank you.

**ADV NOKO**: Yes, Chair.

**ADV KHOOE**: Do you confirm you have that document in

front of you?

**ADV NOKO**: I do.

**ADV KHOOE**: And at the bottom page of page 1 of that document, should be initials. Are those your initials?

**ADV NOKO**: They are.

**ADV KHOOE**: Right. And if you turn to the very last page, which should be page 20, rather page 19 rather, page 19, just above the line that is written deponent, can you confirm that is your signature?

10 **ADV NOKO**: That is my signature, yes.

**ADV KHOOE**: All right. On page 1 of the document, you have described yourself and it is paragraph 1 and 2.

**ADV NOKO**: Yes.

**ADV KHOOE**: Can you, for the record, just state your names and introduce yourself, your credentials? Can you do that, please.

**ADV NOKO**: Okay, I am Moipone Noko. I have a B.luris degree. I have an LLB degree postgraduate. I have a Master of Laws LLM. I have a certificate in advanced labour law from  
20 various universities, University of Limpopo, University of Pretoria, Vista University, and University of South Africa. I have been a Prosecutor since 1997 in various ranks from District Court Prosecutor, Regional Court, State Advocate, Senior State Advocate, Senior Deputy Director of Public Prosecutions, and Director of Public Prosecutions for two

provinces, being KwaZulu-Natal and the North West, until February, March 2021, when I had to leave the service of the National Prosecution Authority.

**ADV KHOOE**: Thank you. And then paragraph ...[intervenes].

**CHAIRPERSON**: This, I beg your pardon, ma'am. These credentials appear somewhere in your affidavit when I read it online. Which paragraph is that?

**ADV NOKO**: Yes, they do.

10 **CHAIRPERSON**: Paragraph 9?

**ADV NOKO**: Yes, on page 3, yes.

**CHAIRPERSON**: Yes, on page 3. Yes, ma'am.

**ADV KHOOE**: Thank you. And just after your description, you have a topic there that says "purpose". Can you just take us through the purpose?

**ADV NOKO**: As per my understanding, the purpose of me being here as a witness is to testify at the instance of the enquiry and I can assure the enquiry that I will be as brutally honest as possible to the best of my ability.

20 **ADV KHOOE**: And you said you understand that you are here to give testimony as a witness in the enquiry. That was in paragraph 3.

**ADV NOKO**: Yes, for the enquiry, yes.

**ADV KHOOE**: Okay.

**CHAIRPERSON**: If I may, you do understand that this

enquiry is mandated to enquire into these issues that are raised in the terms of reference. I suppose that the terms of reference have been made available to you.

**ADV NOKO**: Yes.

**CHAIRPERSON**: Or at least you have a broad understanding of the terms of reference.

**ADV NOKO**: Yes, I do have a broad understanding.

**CHAIRPERSON**: And our task as a panel that has now called you to testify is to search for the truth.

10 **ADV NOKO**: Yes, Chair.

**CHAIRPERSON**: To be able to make a recommendation to the President ...[intervenes].

**ADV NOKO**: Yes, Chair.

**CHAIRPERSON**: About whether Advocate Chauke is fit to hold office.

**ADV NOKO**: Yes, Chair.

**CHAIRPERSON**: Thank you. Proceed, Counsel.

**ADV KHOOE**: Thank you, Chair. Before we move on to the relevant events, is there any other thing that you want to put  
20 before the panel?

**ADV NOKO**: No.

**CHAIRPERSON**: Adv Khooe, as an advocate, you know in court we speak loud.

**ADV KHOOE**: My apologies, Chair.

**CHAIRPERSON**: Please speak up so that everyone can hear

what you are saying and settle down. Just relax. The chair is too high. You are short. Just relax and make yourself comfortable and assist us.

**ADV KHOOE**: My apologies, Chair. I will do my best. Let us get to the relevant events of why you are here. You have already explained that you have 23 years of experience as a Prosecutor.

**ADV NOKO**: Yes.

**ADV KHOOE**: Okay. And you said until 2021.

10 **ADV NOKO**: Yes.

**ADV KHOOE**: Right. Can you explain how your duties where you were the first time when you were, which was in, you said in 2012, was it?

**ADV NOKO**: Yes.

**ADV KHOOE**: Can you just outline that?

**ADV NOKO**: My duties as an Acting Director of Public Prosecutions and a Director of Public Prosecution subsequent to that was to direct criminal prosecutions and all methods incidental thereto in the province of KwaZulu-Natal  
20 and then in the province of the North West when I moved to the North West, basically overseeing all criminal prosecutions and any other methods that are incidental thereto as per the duties of a DPP. I think it is in section 20?

**ADV KHOOE**: Yes, section 20 of?

**ADV NOKO**: The NPA Act, 32 of 1998.

**ADV KHOOE**: Thank you. Now, when were you appointed as a DPP of KZN?

**ADV NOKO**: Acting or permanent?

**ADV KHOOE**: Acting.

**ADV NOKO**: Around July 2012.

**ADV KHOOE**: Okay. And you acted until when?

**ADV NOKO**: The following year in September 2013, that is when I was appointed permanently into the position.

**ADV KHOOE**: Okay. And you said your duties were to  
10 oversee all the criminal cases in the KZN province at the time.

**ADV NOKO**: Yes, that is the general description of a duty of any DPP.

**ADV KHOOE**: Okay. Now let us get to you personally.

**ADV NOKO**: Okay.

**CHAIRPERSON**: [Indistinct]... just raise a point that might explain and you place it on record as to why the enquiry called you instead of the evidence leading team. Paragraph  
5 you state that before you give evidence you would like to explain. You can go to that paragraph 5 and set out very  
20 briefly what you wish to state, because there is a reason why you are no longer called by the evidence leading team.

**ADV NOKO**: Yes, Chair.

**CHAIRPERSON**: That, or rather the advocates that you had initially consulted with.

**ADV NOKO**: Yes, Chair.

**CHAIRPERSON:** And subsequent to certain developments, you now had to be called at the instance of the panel.

**ADV NOKO:** Yes, Chair.

**CHAIRPERSON:** Do you wish to go through that briefly from paragraph 5 and just explain it using your own language very briefly and place it on record?

**ADV NOKO:** Okay, Chair. My explanation is just, is twofold, but very short and straight to the point, the first one being that we had a misunderstanding with the evidence leader as far as me, which side of the parties am I going to testify for. I said I can testify for the Commission or for Advocate Chauke, but I cannot be testifying, being led by the evidence leader putting out the position that supports the NPA's position as far as the Cato Manor case is concerned due to the fact that I was part of this case and I supported the prosecution of this case at some stage. After advocate Chauke, I became the one who was instructed to oversee the case and I did not believe that I should be on the side that supports, or that is against the prosecution of the case.

20 And the second part of my explanation that I can give was that my position was not clearly enumerated to the panel, to the enquiry. An impression was created that I was refusing to come to testify, I changed colours, I dropped them, whereas that is not the position and I felt it was unfair to me and really not good to my name to be labelled like that,

whereas the background and the context of how it came about of me saying I cannot be testifying on the other side had been given and it is known. And besides, I was not even scheduled to come testify on the 26<sup>th</sup> of January 2026, for me to be labelled as having caused, or being part of the reasons that had caused the collapse of the enquiry's schedule on the 26<sup>th</sup> of January.

So I felt it was unfair, and that is what I just needed to clarify. And I am happy to be here as a witness for the  
10 Commission of the, or for Advocate Chauke, but now I am a witness for the Enquiry, and that is what I have been saying from the onset.

**CHAIRPERSON:** I suppose you now understand that the evidence-leading team ...[intervenes].

**ADV NOKO:** Yes, Chair.

**CHAIRPERSON:** Is not acting for anyone. They are appointed to present all evidence, be it favourable to Advocate Chauke, or favourable to NPA. They have to maintain that neutrality. And there seems to have been a  
20 misunderstanding that you wish to testify in favour of Advocate Chauke's team. So it was still appropriate, even if they called you to testify, because their task is to gather evidence, be it favourable to Advocate Chauke or not. But their task is to bring all evidence before us, all relevant evidence.

**ADV NOKO:** Okay, Chair.

**CHAIRPERSON:** So I just wanted to also clarify it to you.

**ADV NOKO:** Okay, thank you.

**CHAIRPERSON:** But we still appreciate that you nonetheless came.

**ADV NOKO:** Yes, thank you, Chair. Thank you.

**CHAIRPERSON:** Thank you, Advocate Khooe. I think that aspect of the process has now been explained and you may just get to the crux of the matter, if you wish.

10 **ADV KHOOE:** Thank you, Chair. And I just need to apologize to the Chauke team. I forgot to give you a physical file of annexures.

**CHAIRPERSON:** Ja, please speak to the mic.

**ADV KHOOE:** Sorry. I was saying I just forgot to give the Chauke team their bundle of annexures. I wanted to apologize for that.

**CHAIRPERSON:** Yes, thank you.

20 **ADV KHOOE:** Thank you, Chair. Advocate Noko, you just explained that you had been dealing with the Cato Manor matter.

**ADV NOKO:** Yes.

**ADV KHOOE:** How did you come to learn of the Cato Manor matter?

**ADV NOKO:** During March or April, around there, 2014, I was invited to a meeting in head office with the prosecution

team in the Cato Manor matter. The NDPP was Advocate, Mr Mxolisi Nxasana. So they invited me to head office, and we attended that meeting. It was Advocate Chauke, the prosecution team, and myself. I did not know why I was invited, but then I got to understand that the reason why I was invited to that meeting was for Mr Nxasana to, like to instruct me to start taking over from Advocate Chauke. And then his reason was that because the matter resorted within my jurisdiction of KwaZulu-Natal. So that is when I started  
10 now actively being in the case as somebody, the DPP who was overseeing the case.

**ADV KHOOE:** Was that the first time you encountered the Cato Manor matter in 2014?

**ADV NOKO:** No, it was not for the first time, but I was not overseeing it then. For example, when you look at the beginning, I think it is MN1, it will tell you that already I was informed about the case out of courtesy and also out of other reasons that were necessary. For example, in MN1, it indicates that Advocate Chauke needed to request a judge  
20 from outside of KwaZulu-Natal to preside over the Cato Manor matter. As a result, he came to me as the DPP in that province to go see the Judge President to put up that request to him. So already I had an idea, and he had given me his report there. So I had an overview of what is happening in that case.

**ADV KHOOE**: Ja, I think for purposes of chronology ...[intervenes].

**ADV NOKO**: Ja.

**ADV KHOOE**: Let us start where you first encountered this matter.

**ADV NOKO**: Okay.

**ADV KHOOE**: And you said, can you just outline that, how did it come chronologically ...[intervenes].

**ADV NOKO**: Yes.

10 **ADV KHOOE**: Instead of going to 2014 and then going back, let us do it like that.

**ADV NOKO**: Okay.

**ADV KHOOE**: You started acting in 2012, you said?

**ADV NOKO**: Ja, around July. Then the following month, it was August 2012, that is when then I was approached by my colleague, Advocate Chauke, to say he needs to come to KZN. Then we agreed. Then he came to my office in Durban. I was in the Durban office then. There was two offices, Pietermaritzburg and Durban. So he came to my Durban  
20 office. I think it was on the 9<sup>th</sup> of August 2012 and then he briefed me to say there is this case called Cato Manor, this is what is happening.

The police officers are accused of killing people and committing other offenses and all of that. The Prosecutors, there is a team of Prosecutors that has been formed,

established, that are dealing with this case, and all the Prosecutors are from outside of KZN. The investigation team from the police and the IPID, Independent Police Investigative Directorate, were also from outside of KZN. And the reason being that why now a presiding officer is sought, the one that would come from outside of KZN was because the judges in the presiding officers in KZN had already dealt professionally, obviously, along with the prosecutors with the accused persons. And even some

10 credibility findings had been made in respect of some or most of the accused persons, so he wanted me to accompany him. So on the following day, on the 10<sup>th</sup> of August, then we went to see the Judge President of KwaZulu-Natal in his chambers in Durban. So when we got there, Advocate, ja ...[intervenes].

**ADV KHOOE**: Sorry, before you get there.

**ADV NOKO**: Ja.

**ADV KHOOE**: You said something about Annexure MN1 as you were speaking.

20 **ADV NOKO**: Yes.

**ADV KHOOE**: Can we quickly go to Annexure MN1 that you were speaking about?

**ADV NOKO**: Okay, I have it.

**ADV KHOOE**: Have it.

**ADV NOKO**: Chair, during the printing of the annexures, the

MN1 that is in the file does not have certain pages and the top part is cut off. So we prepared clearer copies of MN1. I beg leave to hand them up as they have been handed up. And they would be page, we will start at page 1 of the annexure bundle.

**CHAIRPERSON:** Yes, we do have these documents already copied for us for the purpose of reading. As you hand them up, I do not know whether you prefer that we mark them as exhibits because we have a list of exhibits. Alternatively,  
10 your ...[indistinct] will assist you to compile these documents as we did initially with regard to Advocate Batohi. You can then compile all these exhibits from the Annexures that you are marking so that we know that we are continuing with the list of exhibits. I think the NPA team, I see Counsel is nodding, thank you very much. You can assist to continue from where we ended with the exhibits. You can hand it up now as you have done as MN-1 and then later you can now put them together as exhibits so that we can be consistent with the way we are marking this documents. I suppose  
20 Advocate Ngcukaitobi will not be opposed to that.

**ADV NGCUKAITOBI SC:** No, madam Chair.

**CHAIRPERSON:** Yes, thank you, sir.

**ADV NGCUKAITOBI SC:** Appreciate it.

**CHAIRPERSON:** Thank you, ma'am.

**ADV KHOOE:** Thank you, Chair.

**CHAIRPERSON**: Sorry, sorry, I interrupted you. You had just referred to the document and handed it up. You may proceed.

**ADV KHOOE**: During your testimony, you explained that you received an internal memo outlining the case. Is MN1 the document you were testifying about?

**ADV NOKO**: Yes.

**CHAIRPERSON**: In our documents, you can refer to the red, bolded documents and then give it that name as it is in  
10 quotation marks, MN100001. This is why we have been proceeding with the paginated documents.

**ADV KHOOE**: Yes.

**CHAIRPERSON**: It is nicely paginated by the way.

**ADV KHOOE**: Yes. Yes, thank you.

**CHAIRPERSON**: Thank you very much.

**ADV KHOOE**: Thank you, Chair. And you further explained that the document was the one that gave you insight into the Cato Manor matter.

**ADV NOKO**: Yes, this is the document. However, there are  
20 attachments.

**ADV KHOOE**: Okay.

**ADV NOKO**: It had attachments as well also that gave further insight. And I think even a prosecution memo was attached. I do not know. But ja, it gave me insight into the case.

**ADV KHOOE:** All right. Before I interrupted you about that annexure, you were explaining that you were accompanying Advocate Chauke to a meeting. Can you continue from there?

**ADV NOKO:** Yes, on the following day, it was the 10<sup>th</sup> of August 2012, I think it was a Friday, then we went, myself and Advocate Chauke, we went to the Durban chambers of the high court and then we met the Judge President of KZN. And there, Advocate Chauke explained the reason for our meeting, our visit, which was to request him specifically to  
10 assist in the allocation of a judge from outside of KZN and explaining you know, the reasons behind that and then the Judge President said he wanted this request to be covered by my cover memo or cover letter as the DPP in KZN.

So that was the resolution and also that that cover letter of mine must attach this MN1, this memo from Advocate Chauke, and I must send it to the Judge President the following Monday, which would have been the 13<sup>th</sup>. I am sorry, Chair, my throat is a bit irritated. Change of weather. I was not home in Gauteng. I only arrived yesterday from  
20 another province. So the aircons at the airport were terrible, so ...[incomplete].

**CHAIRPERSON:** We understand. We understand, take your time.

**ADV NOKO:** Ja, it is just my throat. I am not nervous or anything. I am just relaxed. Yes, I am not at all.

**ADV KHOOE**: Okay, so ...[intervenes].

**CHAIRPERSON**: I am pleased to hear that you are not nervous.

**ADV NOKO**: I am not.

**CHAIRPERSON**: And you have our backing to protect you ...[intervenes].

**ADV NOKO**: Thank you.

**CHAIRPERSON**: As the witness of the enquiry.

**ADV NOKO**: Thank you, I appreciate that.

10 **CHAIRPERSON**: And you have already told us that you are here to speak the truth.

**ADV NOKO**: Yes, I am.

**CHAIRPERSON**: And I believe you.

**ADV NOKO**: Yes, thank you, Chair.

**CHAIRPERSON**: Yes, thank you.

**ADV NOKO**: Okay, so the resolution in that meeting was that I must prepare a cover letter, obviously with DPP KZN letterhead. I sign it and I attach Advocate Chauke's request for an outside Judge. This memo from Advocate Chauke does  
20 not only talk about outside Judge, it gives a little bit of background and all of that on the case. So the JP would have also been appraised of the case.

**ADV KHOOE**: Okay.

**ADV NOKO**: But it was also verbally communicated to him in the meeting. So the resolution was that I prepare that

memo and send it to the JP's office the following Monday, being the 13<sup>th</sup> of August, and I did that. And my cover memo is as per MN2, which says, can I read it? It is just a ...[intervenes].

**ADV KHOOE**: Sorry, hold on before you read it.

**ADV NOKO**: Okay.

**ADV KHOOE**: Chair, MN1, I mean, sorry, MN2 appears on paginated MN00004.

**CHAIRPERSON**: Yes.

10 **ADV KHOOE**: Does it appear like that in your papers as well?

**ADV NOKO**: Yes, it does. However, it is also marked underneath MN2 with a marker.

**ADV KHOOE**: And is it ...[intervenes].

**CHAIRPERSON**: Just for convenience and consistency, you can refer to the paginated numbers in bold red and then the bold black.

**ADV NOKO**: Yes, Chair, I will do that.

**CHAIRPERSON**: In the quotation marks.

20 **ADV NOKO**: Yes, Chair.

**CHAIRPERSON**: It is just for the purpose of the record.

**ADV NOKO**: Yes, Chair, I will do that.

**ADV KHOOE**: And at the time that Advocate Chauke was, you were accompanying him to the Judge President ...[intervenes].

**ADV NOKO:** Yes.

**ADV KHOOE:** What was his position, what was he doing?

**ADV NOKO:** He was the Director of Public Prosecutions, as he still is.

**ADV KHOOE:** Where?

**ADV NOKO:** Director of Public Prosecutions for South Gauteng, Division, Johannesburg.

**ADV KHOOE:** And why was he the one doing that one in KZN?

10 **ADV NOKO:** My understanding was that the then NDPP had allocated the case to him to oversee, and then he established a team of Prosecutors comprising of three Deputy DPP's and three Senior State Advocates. Ja, so he was overseeing the case then.

**CHAIRPERSON:** And who told you that?

**ADV NOKO:** He told me that.

**CHAIRPERSON:** The said NDPP then was who?

**ADV NOKO:** It was the Acting NDPP, Advocate Nomgcobo Jiba then.

20 **ADV KHOOE:** And why was it allocated to him?

**ADV NOKO:** I do not know, really.

**ADV KHOOE:** And you did not find it untoward, bizarre?

**ADV NOKO:** It was how it was. I really did not, ja, I do not know.

**ADV KHOOE:** Thank you.

**ADV BALOYI-MERE SC:** Before you proceed, if I may follow up on that.

**ADV NOKO:** Yes.

**ADV BALOYI-MERE SC:** Is it allowed that a DPP of another division oversee or lead a prosecution team in another jurisdiction?

**ADV NOKO:** My understanding is that there is nothing weird about it, because, for example, let me start with Prosecutors from below the DPP, which is Deputy DPP's, and below. They  
10 can be delegated to go prosecute in another province. For example, in the very same Cato Manor case, the former Acting DPP, Advocate, Simphiwe Mlotshwa, had issued delegations for this very team of Prosecutors in the Cato Manor case. And as far as the DPP's are concerned, as much as the act appoints them for a particular division, my understanding is that as the head of the organization, the NPA as a whole, the NDPP may, you know, delegate or give *ad hoc* duties to any DPP to go do matters wherever in the country. That was my understanding. That is why I did not  
20 find it odd. And I am not aware of any legislation that says one cannot do that, honestly. That is why I really did not find it off.

**ADV BALOYI-MERE SC:** Thank you, Chair.

**CHAIRPERSON:** Thank you. Did I hear you saying earlier that some of the Judges in KZN have made certain credibility

findings in respect of those matters involving the Cato Manor cases?

**ADV NOKO**: No, credibility findings in respect of other cases, because they were investigators in KZN, so they would go and testify in courts in various cases. So, meaning ...[speaking vernacular] yoh, I am using Setswana. I am sorry, Chair.

**CHAIRPERSON**: No, no, no, by all means, by all means, we have 11 languages in this country.

10 **ADV NOKO**: Okay.

**CHAIRPERSON**: If it is convenient for you to even express yourself in Setswana, because I know you speak Setswana, feel free to do that. Sometimes, certain English concepts escape us.

**ADV NOKO**: Ja.

**CHAIRPERSON**: So, it is okay to say ...[vernacular]. Most of us understand.

**ADV NOKO**: Okay.

20 **CHAIRPERSON**: And if you get a word alludes you, you can say it in Setswana, and then you will remember as you go along.

**ADV NOKO**: Yes, thank you.

**CHAIRPERSON**: So, feel free to say it the way it is convenient for you.

**ADV NOKO**: Thank you. Yes, thank you.

**CHAIRPERSON:** Okay.

**ADV NOKO:** Thank you. Sorry, where was I?

**CHAIRPERSON:** [Indistinct]... [microphone off].

**ADV NOKO:** Thank you, Chair.

**ADV KHOOE:** The question was whether you had said earlier that certain members had, certain Judges had ...[intervenes].

**ADV NOKO:** Oh, yes, thank you. Thank you, I remember. I remember.

**ADV KHOOE:** Credibility findings.

10 **ADV NOKO:** Yes, I remember. No, Chair, the credibility findings was about them dealing with the accused persons in various cases, different cases in the province. As we know, investigators would go and testify in courts on matters, and the Presiding Officers would make credibility findings, whether they were good or bad witnesses, things like those. So, meaning that the Presiding Officers and the Prosecutors, as well, had professionally dealt with the accused persons already for them not to be in a position to be dealing with this case. And that was the request from IPID and the police, as  
20 I was made to understand then, not in the Cato Manor case, Chair.

**CHAIRPERSON:** And these accused persons you are referring to ...[intervenes].

**ADV NOKO:** Yes.

**CHAIRPERSON:** Included some of those in relation to the

Cato Manor dockets or cases?

**ADV NOKO**: Yes, we are talking about them, the accused in the Cato Manor cases.

**CHAIRPERSON**: Yes, thank you.

**ADV NOKO**: Yes.

**CHAIRPERSON**: You may proceed, Madam.

**MS RAMAGAGA**: May I, Chair? Thank you. Advocate Noko ...[intervenes].

**ADV NOKO**: Yes, ma'am.

10 **MS RAMAGAGA**: Can you just advise and actually indicate as to whether, according to your knowledge, there is a difference between exercising prosecutorial authority and doing oversight work over a team at the instance of the NDPP?

**ADV NOKO**: Okay, thank you, ma'am. My understanding is that they overlap. The line is very thin, basically. However, I would describe the prosecutorial authority one to mean you are getting more involved into the case, like making decisions to say, I am charging this person or I am not charging this  
20 person with whatever charge, like getting insight, being hands-in, whereas the oversight one, I would describe it as being hands-on. You oversee, you get reported to and updated and all of that, so because that is what had happened to me when I was overseeing. So my understanding was that the overseeing before myself, like before I came into the

case, was the same, and that is my understanding. With me, the oversight was they would update me, okay, this is what is happening, and not always. Sometimes I would find out later, and then they will update me later, but ja, and they will tell me what is happening in the case, and whenever there are things to be signed by myself, then they will bring to me, explain to me, and then I would sign them. Yes, that is how I understand them.

**MS RAMAGAGA**: Thank you. A follow-up. What you have  
10 just described here it is a description in general terms.

**ADV NOKO**: Yes.

**MS RAMAGAGA**: In terms of what is oversight, what you understand a prosecutorial authority to mean.

**ADV NOKO**: Yes.

**MS RAMAGAGA**: Now, I think we need to then bring those concepts into the context, into the context of this enquiry that we are holding.

**ADV NOKO**: Yes.

**MS RAMAGAGA**: Looking at the information that is at your  
20 disposal regarding this matter in particular ...[intervenes].

**ADV NOKO**: Yes.

**MS RAMAGAGA**: Would you say that Advocate Chauke was exercising the oversight at his own authority, or at the instance of the NDPP?

**ADV NOKO**: Thank you. My understanding was that it was

at the instance of the NDPP, because I would not think he will on his own, like move from his own jurisdiction and go to another to deal with the matter, so it must have been an instruction to him to say, deal with this case, oversee it, and that is what he explained to me.

**MS RAMAGAGA**: Now, is your assumption that it must have been at the instance of the NDPP, is it based on any documents that you have come across as you were dealing with this matter, or is it based purely on what you were told?

10 **ADV NOKO**: It is based on purely on what I was told. I have never seen a document to that effect from the NDPP.

**MS RAMAGAGA**: Thank you. Thank you, ma'am.

**ADV NOKO**: Thank you, ma'am.

**ADV KHOOE**: I think while you are still there, I think for clarification, when you were giving your testimony, you said a DPP can be delegated and you just said that in this one, you never saw any document. How are they normally delegated?

**ADV NOKO**: I have no knowledge, honestly, of any DPP  
20 having been delegated to go to do some work in another province. However, I have seen written delegations of prosecutors from the level of Deputy DPP downwards, having been delegated to go deal with matters in other jurisdictions. So with this one, really, I have not, but that was my understanding because I never heard anything from the NDPP

side querying it or anything like that. So that was my understanding. And he also explained to me that he was like tasked to do that.

**CHAIRPERSON:** Paragraph 13 of your affidavit.

**ADV NOKO:** Yes.

**CHAIRPERSON:** It is the last line, the last sentence after a semi-colon, you refer to the consent letter by Advocate Johan Smith.

**ADV NOKO:** Yes, Chair.

10 **CHAIRPERSON:** Was it a letter of delegation or what was that letter?

**ADV NOKO:** It was a consent letter in terms of section 111 of the Criminal Procedure Act, 51 of 1977, to the effect that as the DPP of the North West Province, then he is consenting to have this one case where the Cato Manor members or accused persons are also accused to be, to have committed offenses in. Basically, one of the allegations is that they committed offenses in the North West, in Rustenburg, which fell under his jurisdiction as the DPP.

20 So in terms of section 311 of the Criminal Procedure Act, that DPP must give consent in writing to say, I agree to give you this case to go deal with it in your area, and usually the criteria would be because most of the witnesses are in that area where that case is being moved to, the accused are there, the family members of the witnesses, of the accused,

it is in the interest of justice in general, and it is just one case from North West in this instance to many others that were alleged to have been committed in the KwaZulu-Natal. So it would not have been okay, or even in the interest of justice, and it would have been prejudicial to the accused as well, even financially, to have to move any witnesses as well.

So in that instance, a DPP is then requested to say, can you give us this case, we will deal with it where it is most convenient and most in the interest of justice to do. Then he  
10 consented to have that case from Rustenburg dealt with in KZN, along with the others.

**CHAIRPERSON:** And you are aware that a team of Prosecutors was put together, and that team included Advocate Maema, who was at that time ...[intervenes].

**ADV NOKO:** Yes.

**CHAIRPERSON:** Working with Advocate Johan Smith.

**ADV NOKO:** Yes, Chair, Advocate Maema was the Deputy to Advocate Johan Smith as a Deputy DPP, but he was now allocated to the Cato Manor case as a lead Prosecutor. He  
20 was one of the three Deputies that were in the case.

**CHAIRPERSON:** It then follows, if my understanding is correct, that it is possible to have Advocates from one division, province, authorized to perform prosecutorial functions in another province.

**ADV NOKO:** Yes, it is possible to have a Prosecutor from

one province going to KZN or any other division to deal with matters, yes. The same applied to the other Deputies. One was from the Free State, Advocate Jabulani Mlotshwa. Advocate Mathenjwa was from Advocate Chauke's office in Johannesburg. And the three State Advocates were from Johannesburg, Advocate Chauke's office. I do not know if I answered fully.

**CHAIRPERSON:** Do Advocate Mlotshwa, was he from, you said?

10 **ADV NOKO:** The Free State division.

**CHAIRPERSON:** The Free State.

**ADV NOKO:** Yes.

**CHAIRPERSON:** And Advocate Mathenjwa was from the office of the DPP, South Gauteng?

**ADV NOKO:** Yes, Chair.

**CHAIRPERSON:** Ms Khooe.

**ADV KHOOE:** Thank you, Chair.

**MS RAMAGAGA:** Thank you, Chair. Advocate Noko.

**ADV NOKO:** Yes, ma'am.

20 **MS RAMAGAGA:** There is a difference between delegation of authority and consenting to a Prosecutor going to do tutorial functions elsewhere. Is that correct?

**ADV NOKO:** Yes, I can say so.

**MS RAMAGAGA:** Now, here, what we are talking about, or what your affidavit is talking about in paragraph 13, it is about

just a formality that Advocate Johan Smith would be consenting to State Prosecutors to go and discharge prosecutorial work in another province.

**ADV NOKO**: No, in paragraph 13 ...[intervenes].

**MS RAMAGAGA**: Yes.

**ADV NOKO**: The consent that Advocate Smith had given, issued, it is not about Prosecutors, it is about a case, one case, that involves the Cato Manor accused people that he is consenting to say it can be taken from his jurisdiction and be  
10 combined with all the Cato Manor cases and be dealt with in KZN. It is not about Prosecutors, it is about the case.

**MS RAMAGAGA**: Okay, thank you. Like, it would appear in this case, it was more about convenience, convenience in terms of finances, family, and everyone, that this consent was given, and also maybe for the consolidation of the matters.

**ADV NOKO**: Yes, and it happens in other cases as well.

**MS RAMAGAGA**: Yes, okay.

**ADV NOKO**: That is why there is this provision in the Criminal Procedure Act. So, we have done a lot of this.

20 **MS RAMAGAGA**: Now, maybe back to the issue of delegation.

**ADV NOKO**: Yes.

**MS RAMAGAGA**: Delegation of powers.

**ADV NOKO**: Yes.

**MS RAMAGAGA**: Are you saying that it is correct that

delegations can be done, maybe by the Directors of Public Prosecution, in respect of the Prosecutors below their rank? Maybe to make it simpler, to say, the Director of Public Prosecutions, it would be an anomaly to see him or her going to discharge prosecutorial functions, like prosecuting in another province. Is that correct?

**ADV NOKO**: I would say it is an anomaly because that is not what we were used. Only for those below the DPP's, yes.

**MS RAMAGAGA**: Ja, those below the DPP's can be allowed  
10 to go and prosecute in other provinces. Now, bearing that in mind ...[intervenes].

**ADV NOKO**: Yes.

**MS RAMAGAGA**: You know the status of members of the team that was constituted in order to go and do work that relates to the Cato Manor.

**ADV NOKO**: Yes.

**MS RAMAGAGA**: Now, the status of all those Prosecutors,  
is it such that they fall below the prohibited or they are not  
allowed or not prescribed for functions of doing prosecutions  
20 in other provinces?

**ADV NOKO**: First of all, to be clear, I am not sure if DPP's are prohibited. I just know that we were appointed for a particular division, but there is no provision that says you are prohibited to go to another division. Honestly, I am not aware of that. So I cannot really use the word prohibited, but I can

use, I can say, I know I am aware and it has happened in a lot of cases where those that are of the rank below the DPP and downwards, yes, are sent all over the country as and when it is necessary for whatever reasons that may be present. But for the DPP, yes, it was the first one I came across.

**MS RAMAGAGA:** Yes, the question is about the team. Remember that there is a team that is doing particular work.

**ADV NOKO:** Yes.

10 **MS RAMAGAGA:** And there is someone who has been appointed to do oversight over the team.

**ADV NOKO:** Yes.

**MS RAMAGAGA:** Now, this question that I am asking, it concerns the team in particular.

**ADV NOKO:** Yes.

**MS RAMAGAGA:** And I am talking about the qualification of the team.

**ADV NOKO:** Yes.

20 **MS RAMAGAGA:** Not the person that has been appointed to do oversight.

**ADV NOKO:** Yes.

**MS RAMAGAGA:** And the question is, that crop of people, that team ...[intervenes].

**ADV NOKO:** Yes.

**MS RAMAGAGA:** Is it the team that falls below the Directors

of Public Prosecution?

**ADV NOKO**: Oh. Yes, it is the team that falls below the rank of DPP's, deputies and downwards, yes.

**MS RAMAGAGA**: Okay, thank you, ma'am.

**ADV NOKO**: Thank you.

**CHAIRPERSON**: Pardon, we interrupted you when you had just introduced NM2.

**ADV NOKO**: Yes.

**CHAIRPERSON**: Which was your covering letter as per the  
10 request of the Judge President.

**ADV NOKO**: Yes, Chair. I was asking if I can read it. It is just two and a half lines, so that it is clear.

**CHAIRPERSON**: Yes, and actually, it is appropriate.

**ADV NOKO**: Oh, yes.

**CHAIRPERSON**: Where you consider it relevant and you want to say it correctly.

**ADV NOKO**: Yes.

**CHAIRPERSON**: You can read certain portions of your statement into the record, guided by your, the Advocate,  
20 Advocate Khooe.

**ADV NOKO**: Yes.

**CHAIRPERSON**: Because you may not explain everything without reading the affidavit.

**ADV NOKO**: Clear, yes. Yes, thank you, Chair.

**CHAIRPERSON**: So where you consider relevant to give a

detail, you can read the paragraphs into the record.

**ADV NOKO**: Yes. Okay, thank you, Chair. So MN2, MN 0004 underneath MN2 is the cover letter that I prepared. Well, I realized when printing, they cut off the letterheads. Even MN1 does not have letterheads, but they did have. So it is addressed to the Judge President of KwaZulu-Natal. It is from myself, and the subject is Cato Manor prosecution. It says:

10                    “As discussed in our meeting of 10  
                         August 2012, kindly find the attached  
                         memorandum in respect of this case  
                         from the Director of Public Prosecution  
                         SGP ...”  
                         Meaning South Gauteng Province.  
                         “Johannesburg, for your consideration.  
                         And then I signed it. Then my office, my PA sent  
it to the Judge President's PA attaching Advocate Chauke's  
memo, the MN1.

**CHAIRPERSON**: Yes. Yes, thank you. Thank you, Madam.

20 **ADV KHOOE**: And then you explained, sorry, then you explained that you had learned that this Cato Manor matter comprised of several dockets. Can you just explain what this Cato Manor matter comprised of when you found out or what you learned?

**ADV NOKO**: Okay, this explanation is in MN1. I do not know

how to answer that. Should I read this explaining, or I think ...[intervenes].

**CHAIRPERSON:** You can go to paragraph, I beg your pardon, you can go to paragraph 17.

**ADV NOKO:** Yes.

**CHAIRPERSON:** It flows from what then transpired after the Judge President had asked you to prepare a covering letter under your letterhead.

**ADV NOKO:** Yes.

10 **CHAIRPERSON:** As I read it, paragraph 17 then flows from then what you found out.

**ADV NOKO:** Yes.

**CHAIRPERSON:** You can deal with that. I am sorry, Madam.

**ADV KHOOE:** Yes.

**ADV NOKO:** Thank you. Thank you, Chair.

**CHAIRPERSON:** Is that where you are going now?

**ADV KHOOE:** That is where I was going to.

**CHAIRPERSON:** You can go paragraph by paragraph, it is fine.

20 **ADV NOKO:** Okay, I am saying here around this time, I learned that the Cato Manor case is comprised of several case dockets, 23, with several charges, including several counts of murder, 28, and that the accused persons were members of the South African Police Service, SAPS, attached to the Serious Violent Crime Unit based in the Cato Manor in

KZN.

And further, that the case was allocated to your prosecution team comprising of Prosecutors from outside KZN, namely Advocate Selo Maema, Deputy from the DPP North West, Advocate Raymond Mathenjwa,, Deputy from DPP South Gauteng, Advocate Jabulani Mlotshwa, Deputy from DPP Free State, Advocate Mahlubi Ntlakaza, Senior State Advocate from South Gauteng, DPP South Gauteng, Advocate Phumeza Futshane, Senior State Advocate from  
10 DPP South Gauteng, and Advocate Patience Moleko, Senior State Advocate from DPP South Gauteng.

Yes, and then that the team, and that Advocate Simphiwe Mlotshwa had issued the three Senior State Advocates in this prosecution team with the necessary delegations to prosecute in this case, in KZN, as he was then the Acting DPP of KZN. Thank you.

**CHAIRPERSON:** Do you have a sight of those delegations by Advocate Mlotshwa, if any?

**ADV NOKO:** Yes, I did. I just do not have them anymore,  
20 but I did see them.

**ADV KHOOE:** You can continue.

**CHAIRPERSON:** Counsel, you can take the witness through paragraph and paragraph, if you want to make some progress.

**ADV KHOOE:** Ja.

**CHAIRPERSON:** You can go to paragraph 19 ...[intervenes].

**ADV KHOOE:** Paragraph 19.

**CHAIRPERSON:** As to what then transpired in 2014.

**ADV NOKO:** Yes, okay. Thank you, Chair. Sometime during the first quarter of 2014, I was invited to and attended a meeting at the National Prosecuting Authority NPA head office in Pretoria with the NDPP, Mr Mxolisi Nxasana, the Deputy NDPP, Dr Silas Ramaite, Advocate Chauke, and the Cato Manor prosecution team. I can go on.

10 **CHAIRPERSON:** It is clear from that paragraph, from the reading of that paragraph, that at that time, the Acting NDPP, Advocate Nomgcobo Jiba was no longer in that position.

**ADV NOKO:** Yes, Chair, that is so.

**CHAIRPERSON:** Advocate Mxolisi Nxasana was now the NDPP.

**ADV NOKO:** Yes, Mr ...[intervenes].

**CHAIRPERSON:** Yes, in 2014.

**ADV NOKO:** Yes, Chair.

**ADV KHOOE:** And then what happened?

20 **ADV NOKO:** Okay, and then I was informed that the purpose of the meeting was for the prosecution team to brief the NDPP and the Deputy NDPP on the case. At that meeting, Mr Nxasana instructed that I be the DPP that was to oversee the case from then onwards and not Advocate Chauke anymore as this case fell within my jurisdiction, KZN jurisdiction. And

then given the fact ...[intervenes].

**ADV KHOOE**: Sorry ...[intervenes].

**ADV NOKO**: Oh, sorry.

**ADV KHOOE**: Before you proceed, you say as this fell within my KZN jurisdiction, before that, did it not fall within your jurisdiction?

**ADV NOKO**: No, I am not saying as it then fell. I am saying as this case fell.

**ADV KHOOE**: Within your jurisdiction.

10 **ADV NOKO**: Yes, it fell since the beginning.

**ADV KHOOE**: Since the beginning?

**ADV NOKO**: Yes.

**ADV KHOOE**: And you are saying that Mr Nxasana instructed that you be the DPP that was to oversee the case from then onwards and not Advocate Chauke anymore as this fell within my KZN jurisdiction. Can you just explain that, clarify that?

**ADV NOKO**: Maybe I did not put it correctly as I was typing the affidavit. What I mean by that, that is the reason he said  
20 I must be the one now to start overseeing it. He said, since this case is in your jurisdiction, you are the one who is supposed to oversee it and not Advocate Chauke. So from now onwards, Advocate Chauke must not oversee it anymore and I must take over. So it is in that context.

**ADV KHOOE**: And when this was said to you, what was the

impression of, what impression did you get, because earlier on when Advocate Jiba was still the Acting NDPP at the time, there were no issues with Advocate Chauke overseeing it even though it was not within his jurisdiction. And when Mr Nxasana came in, then it has to go to you because it is within your jurisdiction.

**ADV NOKO**: I do not know what the issue was, but as we know, we have different ways of doing things.

**ADV KHOOE**: Ja.

10 **ADV NOKO**: Even management and leadership styles, we do it differently. So one can do something in this way. The very same thing is changed by someone who comes, you know, the successor thereof changes from how the predecessor was doing things. So my understanding was that that is how he wanted the case to be conducted.

**ADV KHOOE**: All right. You can continue to paragraph 21.

**ADV NOKO**: Thank you. Given the fact that I was instructed to oversee that case, I was invited to attend a meeting in July, 2015, that is the following year, at the NPA head office. The  
20 NDPP had changed now. It was now Advocate Sean Abrahams. The meeting was for the prosecution team to brief Advocate Abrahams on the case and the briefing included a slide presentation as well by the prosecution team.

**ADV KHOOE**: Okay.

**ADV NOKO**: And then following that meeting, the

prosecution team, through Advocate Maema as the lead Prosecutor, presented me with a prosecution memorandum, the indictment and other documents illustrating the case against the accused persons and the need for racketeering authorization certificates to be recommended against some of the accused persons. And then I signed and forwarded to the NDPP these documents under my covering letter as required by protocol and practice that a DPP is the one to sign and forward any correspondence to the NDPP.

10           Then the following year in February 2016, Advocate Abrahams issued the racketeering certificate, authorization certificates. I was informed that the prosecution team was regularly briefing and updating Advocate Abrahams on the case and the development as some of them, being Advocates Maema, Mathenjwa and Mlotshwa were then based at head office in the Priority Crimes Litigation Unit, the PCLU.

                  And the case dockets and all other case materials remained in the possession of the prosecution team and were, according to them, stored at the PCLU offices at head  
20 office. And then verbally and in their prosecution memorandum and other documents and statements, the prosecution team presented to me that a proper case had been made out of the prosecution of the charged people and stated in the prosecution memorandum, I quoted what they mentioned there, that the prosecution in this case is based

on the activities of such section of the Durban Organized Crime based in Cato Manor. These activities, as depicted in the indictment, were committed by the accused acting unlawfully and under the veil of their employment as members of the SAPS during the periods May 2008 and September 2011.

The accused killed the deceased under the pretext that they were investigating criminal offenses against them. Their common *modus operandi* in all the crime scenes was  
10 that the accused would kill a person and thereafter place a firearm next to the body of the deceased to create the impression that the deceased was posing some danger to their lives to make the shooting justifiable in terms of section 49(2) of the Criminal Procedure Act, 51 of 1977. And reportedly 28 people were killed by the accused persons and about 23 case dockets were opened in various districts within KwaZulu-Natal.

The prosecution team unpacked and presented these various case dockets against the accused persons and  
20 presented that the State has evidence linking the entire members of the enterprise, including accused 1 up to missing others in between and 28. The said accused were members of the Durban Organized Crime SVC section under the command and management of Major General Boosen, participated in more than one incident as indicated in the

indictment when executing the illegal activities of the enterprise.

**ADV NGCUKAITOBI SC:** Sorry, Chair, this is too fast.

**ADV NOKO:** Oh, sorry.

**ADV NGCUKAITOBI SC:** I am not sure what we are losing, whether it is the impact or, but we are trying to take notes.

**CHAIRPERSON:** Yes, I thought it is helpful because unless we stop her, she is reading the affidavit. She was at paragraph 26, but do take it slow.

10 **ADV NOKO:** Oh, yes, I will, Chair.

**CHAIRPERSON:** So that we can all understand your evidence, but I have been following you, you are reading from the affidavit.

**ADV NOKO:** Yes, Chair.

**CHAIRPERSON:** I thought it will help Advocate Ngcukaitobi just for completeness so that we do not miss anything in this evidence. All should go into the record to the extent it is relevant. So she had just finished paragraph 25. She is on paragraph 26. And as we go along, questions might arise. It  
20 will help that you also just go slow.

**ADV NOKO:** Yes.

**CHAIRPERSON:** Take your time. You were reading paragraph 26.

**ADV NOKO:** Yes, Chair.

**CHAIRPERSON:** Yes.

**ADV NOKO**: Okay, thank you. I will ...[intervenes].

**CHAIRPERSON**: Some of the things, if you do not consider relevant, you may jump, but we will guide you.

**ADV NOKO**: Yes, Chair.

**CHAIRPERSON**: We will guide you.

**ADV NOKO**: Thank you, Chair. Okay, paragraph 27.

**MS RAMAGAGA**: Through you, Chair, just to add just one thing through you, Chair, that the leader should also try to pace the witness, where there is a need for emphasis, where  
10 there is no need to really deal with the full detail. Thank you, Chair.

**CHAIRPERSON**: Yes, thank you. Thank you, Madam. You were reading the second line or sentence of paragraph 26. Yes, you were there when we interrupted you. You can go back to that sentence. The prosecution team packed and presented these various case dockets.

**ADV NOKO**: Okay, thank you, Chair.

**CHAIRPERSON**: You were there.

**ADV NOKO**: Yes, the prosecution team unpacked and  
20 presented these various case dockets against the accused persons and presented that, “the State has evidence linking the entire members of the enterprise, including accused 1, 2, 3, 4, 5, 7, 8, 9, 10, 11, 13, 14, 15, 16, 25, 26, 27, and 28. The said accused were members of Durban Organized Crimes SVC section under the command and management of Major

General Booyesen, participated in more than one incident, as indicated in the indictment, when executing the illegal activities of the enterprise. The prosecution memorandum ...[intervenes].

**CHAIRPERSON:** Before you proceed, and this is after the issuance of the racketeering authorization certificate by Advocate Nxasana, or rather, Advocate Sean Abrahams.

**ADV NOKO:** This was in support.

**CHAIRPERSON:** In support.

10 **ADV NOKO:** Yes, of the application or recommendation for him to do so, to issue the authorizations.

**CHAIRPERSON:** Yes, thank you, thank you.

**ADV NOKO:** Thank you, Chair.

**CHAIRPERSON:** And as the DPP, who was then requested to oversee the matters by Advocate Nxasana you said.

**ADV NOKO:** Yes.

**CHAIRPERSON:** You familiarized yourself with those dockets, I suppose?

20 **ADV NOKO:** I was given the prosecution memo, memorandum. I was given the indictment. I was given some of the witness statements that the prosecution team felt are enough for me to understand. So those are the things I read, among others, and the slide presentation, but not the entire, entire case docket. It was with them in Pretoria. I was in Durban, so they only gave me this as being sufficient for then.

**CHAIRPERSON:** When you say it was with them in Pretoria, are you referring to the NPP's at the head office?

**ADV NOKO:** Yes, at the PCLU. That is where they said the dockets and all materials were stored there.

**CHAIRPERSON:** Yes, thank you.

**ADV NOKO:** Yes, thank you, Chair. I am on paragraph 27. The prosecution memorandum illustrated an ongoing and continuous pattern of unlawful activities by members of the Cato Manor unit by shooting and killing 28 people who were  
10 allegedly sought without warrants of arrest and search warrants for suspicions of having committed some criminal acts. Further, that in this murder scenes firearms were found ...[intervenes].

**CHAIRPERSON:** Take your time, do not rush.

**ADV NOKO:** I am sorry, I will go slower, Chair.

**CHAIRPERSON:** The point made there in paragraph 27 ...[intervenes].

**ADV NOKO:** Yes.

**CHAIRPERSON:** That there were no warrants of arrest, what  
20 should we make of that?

**ADV NOKO:** My understanding was that these people were just sought, kicking doors, barging in whilst people were sleeping without warrant of arrest and apprehending them without warrants of arrest to show that these people are legally sought for some criminal, on suspicion of criminal

offenses they may have committed. That was my understanding.

**CHAIRPERSON:** As a Prosecutor of 23 years of experience, does it happen that such acts can happen without any warrants of arrest by a Magistrate?

**ADV NOKO:** They should not, Chair. But then in this case, I am told they happened as part of the illegal activities that were being committed by the accused.

**CHAIRPERSON:** Yes, thank you. You may proceed.

10 **MS RAMAGAGA:** Thanks, Chair, just one thing. Advocate Noko ...[intervenes].

**ADV NOKO:** Yes, ma'am.

**MS RAMAGAGA:** Are there exceptional circumstances where police could get into people's residences and arrest without the warrant of arrest, and also without search warrants? It is actually two questions in one because they are disjointed.

**ADV NOKO:** Yes.

20 **MS RAMAGAGA:** I am not saying "and", but then it is in respect of the search warrants and on the other hand, in respect of warrants of arrest.

**ADV NOKO:** Yes, thank you, ma'am. It does happen that a person is arrested without a warrant of arrest. For example, in instances where a crime is committed in front of a police officer, he or she witnesses an offense, they cannot go and

go obtain a warrant of arrest. They just arrest there and then. Or sometimes the community has apprehended someone who is suspected of having committed a crime and is taken to the police station. There is no warrant of arrest and the police can process it from there. That is as far as the warrant of arrest is concerned.

And as far as the search warrant is concerned, it also depends whether the interests of justice dictate. But the issue here in this case is, in all these cases, there is no  
10 warrant of arrest, I mean, the such warrants. There are no such warrants. In all these cases, it is an issue of kick and ...[indistinct] doors are bust open and people are apprehended and all of that. So that was the complaint and, or the issue.

**MS RAMAGAGA**: Thank you.

**ADV NOKO**: Thank you, ma'am. Should I proceed?

**CHAIRPERSON**: You were at paragraph 28.

**ADV NOKO**: Yes, thank you, Chair. I still need to read 28?

**CHAIRPERSON**: When we interrupted you, you were just  
20 about to deal with paragraph 28.

**ADV NOKO**: 28.

**CHAIRPERSON**: You may paraphrase it if it is convenient for you.

**ADV NOKO**: Okay.

**CHAIRPERSON**: Just very briefly.

**ADV NOKO**: Yes, the issue here was that the police created an impression at every scene of murder that the deceased people were posing some danger at them and they are alleged to have planted firearms, which according to ballistic reports, most of them were not functional or did not match the cartridges that were found on the scene, things like that. So that is basically what it says.

And then in paragraph 29, it says, however, none of the police officers got shot at. As per paragraph 28, it says,  
10 the deceased were posing danger to the police. But then in all those instances, none of them got any scratch from any bullet. Even their vehicles, none of them got shot at to show that indeed the deceased were shooting at them. So that also created an impression that it was not true what the police were saying, that they were being shot at or their lives were in danger from the deceased. And furthermore  
...[intervenes].

**CHAIRPERSON**: To such an extent that it could be said that the police were acting in self-defence?

20 **ADV NOKO**: If it was self-defence, self-defence has bounds, Chair. If you exceed the bounds of self-defence, you become an aggressor yourself. So I would say personally, they became aggressors, if indeed they were, but we think they were not in danger because it has not been proven. All indications point to the fact that firearms were placed there,

the deceased were shot in a supine position, lying down, sitting down, handcuffed, and all of that. So, ja.

**CHAIRPERSON:** [Indistinct]... what you say dispels any notion that the police could have been attacked.

**ADV NOKO:** Yes, Chair, meaning that it is not justified killings under section 49(2) of the Criminal Procedure Act. It is not justified because they can only kill under those circumstances is justified, they were in danger. But even then, they must act reasonably in moderation, like moderate  
10 force must be applied. But 28 people that have been reported cannot all be killed under the same, should I call it *modus operandi*. There is a firearm there, but the deceased was handcuffed, the deceased was lying down. So that in itself shows there is something wrong here.

**CHAIRPERSON:** Yes.

**ADV NOKO:** Thank you, Chair. Furthermore, the ballistic experts in most of these murder cases indicated, for instance, where the accused persons created an impression that the deceased shot at them from inside the car, that the car's  
20 windows were closed, and no indication that shots were fired through the closed windows from the inside. For example, in one case where Mr Bongani Elvis Mkhize, who was the Chairman of the Kwa Maphumulo Taxi Association was killed. He was driving, I think a Lexus, black Lexus car or something like that, but he was driving along Umgeni Road, and then he

was apprehended by the police, not apprehended *per se*, but he was shot at in a rain of bullets. The police placed the firearm allegedly in his car, and the ballistic proved that there was no shot that came from inside the car. So that is one of the examples, and that is the one referred to in the first example. So the ballistic report dispelled that myth, and that the car's windows were closed and no indication that shots were fired through the closed windows from the inside.

10 In other cases, some deceased were shot from the back whilst lying down or in a sleeping position. Some were shot at while in a sitting position, and the shooter in a standing position. All this is established by, so it also supports the prosecution's view that these people were just killed in cold murder. They were not posing danger to the police.

20 And in some cases, the firearms next to the deceased were found to be defective and incapable of firing shots. And some indicate that they were lying or on their back or falling when shot at. And also the blood spatter pattern indicated that the firearm alleged to be that of the deceased was not there at the time of firing, thus confirming the subsequent planting of the firearm.

In other instances, that indirect gunshots entered the dustbin. This is in respect of one of the cases in Durban North where the deceased had run away because he was

being chased by the police, and he hid himself inside the dustbin and allegedly he was shot while inside the dustbin several times. So ballistic also proved that there was no shots that were fired from inside the dustbin, but all the shots were fired from outside into the dustbin. So how could that type of an incident pose any danger to the police? That is just one of the instances.

**CHAIRPERSON**: Yes, all these, the scenarios, and please correct me if I am wrong, seems to point to one direction  
10 ...[intervenes].

**ADV NOKO**: Yes.

**CHAIRPERSON**: That there existed at the very least a *prima facie* case for prosecution of those members.

**ADV NOKO**: Yes, Chair.

**CHAIRPERSON**: Correct?

**ADV NOKO**: Correct, Chair ...[intervenes].

**CHAIRPERSON**: And whether – oh yes, you may proceed.

**ADV NOKO**: Oh, no, sorry to interrupt you, Chair. I was saying, yes, indeed, there existed a *prima facie* case, and  
20 Chair, you will hear also from the witnesses' statements what they are saying. And then tallied with the ballistic reports how the whole incidents took place, you will see a clear *prima facie* case that these people should have been prosecuted, and them not being prosecuted, I do not see it as justice at all to the deceased and their families. Also, so the prospect

of a successful prosecution exist in this case.

**CHAIRPERSON:** Am I also correct that all these instances that we have explained ...[intervenes].

**ADV NOKO:** Yes.

**CHAIRPERSON:** Supported the issuance of racketeering authorization certificates?

**ADV NOKO:** Yes, Chair.

**CHAIRPERSON:** It is at that time by Advocate Sean Abrahams.

10 **ADV NOKO:** Yes, because that is the time where I really got in. It did support the issuing of the authorization, so Advocate Abrahams was correct to issue the racketeering, because there appeared to be a pattern of illegal activities. I mean, 28 people killed in different, not at once, in different incidents, so there is this pattern. And firearms are there, the police are saying their lives were in danger, so there was that *modus operandi*. You can see a pattern being happening. That is why then the prosecution team opted to use the racketeering, the POCA, Prevention of Organized  
20 Crime Act provisions, and charge them with racketeering because they could establish a structure there which has management, there was a system of authority there, there was continuity, and there was a pattern of illegal activities with a common purpose, because it is one and the same thing, you can see the *modus operandi* there.

**CHAIRPERSON:** Yes, thank you.

**ADV NOKO:** Thank you, Chair. Okay ...[intervenes].

**CHAIRPERSON:** You had just finished explaining to us how somebody or one of the victims was shot at whilst he or she sought refuge in the dustbin.

**ADV NOKO:** Yes, it is a he.

**CHAIRPERSON:** Paragraph 31.

**ADV NOKO:** Yes, it is a he, Chair. He had hid himself in the dustbin, but he was killed whilst hiding in the dustbin,  
10 whilst he should have just been apprehended. Paragraph 32, based on the prosecution ...[intervenes].

**CHAIRPERSON:** Before you proceed.

**ADV NOKO:** Okay.

**CHAIRPERSON:** I know you are going to go into Annexure MN3.

**ADV NOKO:** Yes.

**CHAIRPERSON:** Which might necessitate a closer reading.

**ADV NOKO:** Yes.

**CHAIRPERSON:** Remember, we only obtained these  
20 documents yesterday.

**ADV NOKO:** Yes, yes.

**CHAIRPERSON:** Perhaps, as my sister, Advocate Baloyi, is reminding me, we should pause for 15 minutes for tea.

**ADV NOKO:** Okay.

**CHAIRPERSON:** Advocate Khooe and your team, Advocate

Ngcukaitobi, we think that we can pause for a tea break. We will resume at 25 to 12.

**ADV NOKO**: Okay, Chair.

**CHAIRPERSON**: Will 15 minutes suffice? Might I propose that we adjourn for 30 minutes? That will enable us to quickly peruse the annexures. We received them very late. So 30 minutes. You will also just maybe reflect on your evidence ...[intervenes].

**ADV NOKO**: Yes, Chair.

10 **CHAIRPERSON**: And it should take us through your affidavit.

**ADV NOKO**: Yes, Chair.

**CHAIRPERSON**: Advocate Khooe, Advocate Ngcukaitobi, we will adjourn until quarter to 12. Thank you.

**ENQUIRY ADJOURNS**

**ENQUIRY RESUMES**

**CHAIRPERSON**: Good afternoon, not yet, Advocate Khooe. Advocate Noko, I forgot when we adjourned to remind you that you are still under oath. You know why a witness would  
20 ordinarily be warned, but as a seasoned lawyer you know you cannot discuss with anybody.

**ADV NOKO**: Yes, Chair.

**CHAIRPERSON**: Let me remind you that you are still under oath, madam.

**ADV NOKO**: Yes, Chair, I am.

**CHAIRPERSON**: Thank you.

**ADV NOKO**: Thank you.

**CHAIRPERSON**: You may proceed, Advocate Khooe. Maybe let me take you to the paragraph where you were when we adjourned, in this paragraph 32. You were just going to deal with that paragraph when you adjourned and references made to Annexure MN3, page 10. Would you like to deal with the contents of that paragraph 32?

**ADV NOKO**: Oh, it is for me, Chair. Oh, thank you, Chair.  
10 MN3, Chair, is a report that I had written in response to Advocate Shamila Batohi in 2020. The one I am referring to here, that I sent to her, is dated 15 September 2020. But I see they attached SMN3, a different one. The contents are the same really, it is just the addressee are different. So it will still serve the purpose as far as the contents are concerned.

**CHAIRPERSON**: Let us get that correct.

**ADV NOKO**: Okay, Chair.

**CHAIRPERSON**: This report that you filed summarises  
20 seven dockets, correct?

**ADV NOKO**: Yes, Chair.

**CHAIRPERSON**: In relation to the Cato Manor case.

**ADV NOKO**: Yes, all the dockets, actually.

**CHAIRPERSON**: All the dockets.

**ADV NOKO**: Yes, Chair.

**CHAIRPERSON:** And this MN3 appears as bolded red, MN00005, marked MN3.

**ADV NOKO:** Yes, Chair.

**CHAIRPERSON:** In quotation marks.

**ADV NOKO:** Yes.

**CHAIRPERSON:** Advocate Khooe, we are not taking over.

**ADV KHOOE:** No, I understand, Chair. I think with the fact that I came in quite late and under pressure, I think there were certain aspects that I also had to go and look at again.

10 So I understand that you are not taking over. You might need clarification.

**CHAIRPERSON:** You will assist us as we go along. We are just trying to make sure that her testimony, comprehensive as it appears on paper, should be placed on record to the extent that we can. Otherwise, we have annexures, but the transcript should reflect the essence of her testimony. And as she is our witness, we will keep on interrupting. Bear with us so that we clarify certain aspects. Now, this MN00005 is dated 27 October 2020.

20 **ADV NOKO:** Yes, Chair.

**CHAIRPERSON:** It appears to me that this very document, you may not be aware of that, was also a document that was filed of record at the Zondo Commission. I am looking at that very document. If you look at MN00005, on top there is written ZC02532.

**ADV NOKO:** Oh, yes.

**CHAIRPERSON:** That signifies Zondo Commission document.

**ADV NOKO:** Yes.

**CHAIRPERSON:** Do you have an idea as to how it landed at the Zondo Commission, this report of yours?

**ADV NOKO:** I was not even aware, actually. I did not even understand what the ZC and the number is. I do not know, Chair.

10 **CHAIRPERSON:** Yes, I was just saying, madam, this document also formed part of the Zondo Commission bundles. Hence, we have this same document at bundle 11 of the 12, pages 002507 to 02764. Now, this document, your MN3, is replicated in this bundle. I wanted to know from you whether you know why this document landed at the Zondo Commission. You have just answered you do not know.

**ADV NOKO:** I do not know, Chair. Although, the one that I was referring to was a different one. Similar contents, but my response to Advocate Batohi of the 15th September 2020.

20 But it is almost the same thing, so I am fine with this one.

**CHAIRPERSON:** Okay, the one that we say is the correct one is the one which was sent to us online?

**ADV NOKO:** Yes, that is the one, Chair.

**CHAIRPERSON:** What is the date of that?

**ADV NOKO:** 15th September 2020.

**CHAIRPERSON**: Advocate Khooe, where is that document? I read it, but I thought that the contents are the same. But maybe if you can just tell us, do you have it somewhere? Or we will check in our documents in chambers.

**ADV KHOOE**: Thank you, Chair.

**ADV NOKO**: I am sorry, Chair. Maybe if I can clarify, the purpose of these mostly these two reports is to summarise each case. So they both serve that purpose equally, as far as those cases are concerned. Unless they are different here  
10 and there with regards to other issues and cases that are not the one before the Commission, before the Enquiry. So I do not know if that helps.

**CHAIRPERSON**: Yes, the one that you filed of record earlier is dated 15th?

**ADV NOKO**: September 2020.

**CHAIRPERSON**: 2020?

**ADV NOKO**: Yes.

**CHAIRPERSON**: 2020.

**ADV NOKO**: Yes.

20 **CHAIRPERSON**: My researcher is helping us, and he is right. It is in the correspondence file. These annexures, let me refer to the one dated 27th October 2020.

**ADV NOKO**: Yes, Chair.

**CHAIRPERSON**: It is not an affidavit, just a statement or a record of what we wanted to place before somebody.

**ADV NOKO**: Yes, Chair.

**CHAIRPERSON**: This one, dated 27th October 2020, was addressed to all prosecutors.

**ADV NOKO**: Yes, Chair.

**CHAIRPERSON**: And it came after the one that was addressed directly to Advocate Batohi on the 15th of September 2020.

**ADV NOKO**: Yes, Chair.

**CHAIRPERSON**: The essence, as you have just said, of  
10 these documents are almost the same.

**ADV NOKO**: Yes, Chair.

**CHAIRPERSON**: Is it not convenient? Maybe you can start with the one that you addressed to Advocate Batohi because you said that she had asked you to explain certain things or directed a letter to you.

**ADV NOKO**: Yes, Chair.

**CHAIRPERSON**: What did she ask you to do?

**ADV NOKO**: I think it was the previous one. In August 2020, she was asking me to respond to allegations that are there  
20 regarding those cases, including the Cato Manor. So my 15th September 2020 report was in response thereto. But I do not have a copy. It is not part of the bundle.

**CHAIRPERSON**: Yes, we do have that document, Advocate Khooe. I remember reading that document last week. We can proceed. I have asked my researcher to go and get

copies of that document, which arose after the witness was asked by Advocate Batohi to explain certain things. When it comes, we will go back to it.

**ADV NOKO**: Yes, Chair.

**CHAIRPERSON**: But this document of 27 October 2020, why did you write to all advocates, all your colleagues?

**ADV NOKO**: Chair, I was emotionally tired of being falsely accused of protecting certain people in certain cases, of doing things in cases that I did not do. The media was  
10 running the show about me on that one and my colleagues in the NPA, some of them were feeding the media those lies. So I was tired. It had been many years. Me trying to explain, to say, this is what has happened in this case. This is what has happened in this case. Then I felt maybe my colleagues need to know. Not to get their approval or support or anything like that. Just for them to hear from me.

As a senior member of the NPA, being the DPP, and then I am portrayed in that light, I was even associated with state capture and all of that, just simply by doing my job.  
20 Deciding, as I did in certain cases. Cases which most of them, it is only one. All of them had prosecution teams, like the Cato Manor. But everything that they deemed wrong was imputed on me. Like, I was emotionally tired. That is why I resigned and I felt I was pushed to resign. That is the hardship, the emotional hardship that I went through in the

NPA.

So I felt my colleagues maybe deserve to know. Because they read the false stories in the media. I did this. I did that. I did not do that. And I have never gone out to the media to say that, because I was respecting the processes within the NPA. I have never spoken to the media trying to clarify that. And then I felt, let me tell my own colleagues, so that they know what is happening in those cases and that is when I penned this document. It was from  
10 there.

**CHAIRPERSON:** Paragraph, the introductory paragraphs of MN0005 and MN3. If you can read that into the record. Paragraph 1 and 2 before you get to those cases.

**ADV NOKO:** Okay. It says:

“It is almost 10 years now that I am being insulted, labelled and called names because of some of the cases that I dealt with when I was DPP in KZM. This vilification continues to this day with the concomitant  
20 silence from my own employer, despite that, I have sent and sent my explanations.

Even now, since the vilification against me has continued this year, I have responded and explained all these cases, my role and how I dealt with them to my employer. Now

I cannot continue to stay silent while I am traumatised and made to feel like I am parading naked in public due to this unfair and unjust treatment for simply doing my job.

Below is my response to how I dealt with all five cases that I am being constantly crucified for my role and decisions in. I have not attached the documents referred to herein as annexures due to their big volume

10

though. They are available on request if necessary. However, all these annexures have been sent to my employer along with my explanatory report to these cases.

I need to state my version to you as I feel that as my colleagues, you deserve to know my side of the story. Not to convince you or to seek your approval because I am certain and confident with my story.”

20 **CHAIRPERSON:** The next part you are referring to those cases 1 to 5.

**ADV NOKO:** Yes, Chair.

**CHAIRPERSON:** The first case, the Durban Central 5466/01/2011 concerns a certain Mr Thoshan Panday and Colonel Madhoe. Is that Madhoe?

**ADV NOKO**: Madhoe.

**CHAIRPERSON**: Madhoe. Yes, thank you. And you elaborate on this case at the next page.

**ADV NOKO**: Yes, Chair.

**CHAIRPERSON**: Page MN00006.

**ADV NOKO**: Yes, Chair.

**CHAIRPERSON**: Paragraphs 1, 2, 3. Would you place that on record?

**ADV NOKO**: Oh, okay. Yes, Chair, I will do that  
10 ...[intervenes]

**CHAIRPERSON**: Maybe before that, it may not be relevant probably, but you have to indicate the relevance of that part that I said you must read into the record if it is relevant. This aspect, the Thoshan Panday case, is one of those Cato Manor cases or rather cases that relates to some of the members of the Cato Manor, especially Major General Booyesen.

**ADV NOKO**: No, it is not.

**CHAIRPERSON**: It is not.

**ADV NOKO**: The reason why I mentioned it is because Major  
20 General Booyesen has been saying he is being prosecuted in the Cato Manor case because we were trying to protect Thoshan Panday, Mr Thoshan Panday, in this case, meaning that my decision in the Thoshan Panday case is wrong. According to him, it is wrong. It was just to protect him so that he is prosecuted in the Cato Manor. That is the theory

that is there. So I am mentioning it to say this is how I dealt with this case and these are my reasons, not because General Booysen has been targeted in the Cato Manor.

**CHAIRPERSON:** [Indistinct – 0:19:30]

**ADV NOKO:** He is the complainant in this case. Yes, with the allegation that these two, Mr Thoshan Panday and Colonel Nevin Madhoe, bribed him in respect of CAS 781/10/2010, the soccer FIFA World Cup. That is the next case after this one.

10 **CHAIRPERSON:** The third paragraph of that page speaks of the conduct of Major General Booysen.

**ADV NOKO:** Yes, Chair.

**CHAIRPERSON:** Having victimised the victims or the accused himself at the prison or at the cells.

**ADV NOKO:** At the police cells.

**CHAIRPERSON:** At the police cells.

**ADV NOKO:** Yes.

**CHAIRPERSON:** Is that conduct appropriate insofar as complainants are concerned?

20 **ADV NOKO:** It is very inappropriate, Chair. Complainants do not visit accused persons in their own cases. And there is a document to that effect that he issued an instruction to the station commissioner, Brigadier VR Stokes, to say these are the people, that only these people are allowed to visit Mr Madhoe when he was in prison, in the police cells. And he is

number one in that list. That is why I am saying it is inappropriate. And this confirms the police meddling in this case that is being alleged in the representations by these two accused people. And there are other allegations as well regarding police meddling.

**CHAIRPERSON:** I take note of some of the contents of this report. I am not sure whether anything else could be of relevance here as regards the conduct of Major General Booyesen. I am looking at the allegations in relation to section  
10 252A of the CPA.

**ADV NOKO:** Yes.

**CHAIRPERSON:** If it is not relevant, do let us know. Because we are more concerned with the conduct of the Cato Manor members more than just the broader issues. So anything else that may be of relevance in this document as regards the Cato Manor members?

**ADV NOKO:** No, it is only that one. His interference in terms of visiting the accused in his own case. And just me explaining where I came from with the decision. No  
20 protection of anyone here. This is what is happening in this case. So yes, there is nothing else, Chair.

**CHAIRPERSON:** And very broadly, as I read this document, it seems to me, and correct me if my reading is incorrect, that you seem to have been expected to make certain decisions which were contrary to your prosecutorial discretionary

power. Am I right?

**ADV NOKO**: Yes, Chair, because I am seen as wrong in deciding the way I did, despite the reasons that I gave.

**CHAIRPERSON**: But who said that you were wrong in doing so?

**ADV NOKO**: Because Advocate Batohi was establishing a Commission, the same way as she has done with Advocate Chauke, against me. That is when I felt I do not have the emotional strength for all of this, and I resigned. That is why  
10 I am saying I was pushed to resign. Because I did not understand how else must I explain this. Now I felt I must be humiliated for this. Like I could not take it anymore, Chair. I did not want to resign, but I had to resign. I was pushed out. Not because I am corrupt or I stole someone's money or anything, simply for doing my job the way I see fit.

I tried to explain to say my understanding is that you  
decide on what is before you, and if somebody does not agree with you, section 179 of the Constitution, for example, gives  
the NDPP powers to review your decision. But do not punish  
20 the prosecutor for deciding as they did, despite the reasons that they give you to say, this is where I am coming from. We have appeals in our legal system. A decision of a Magistrate, for example, gets appealed in the High Court. The Magistrate must not be punished for their decision. They have their own reasons in law why they decided on that.

If they had evidence that there is some underhanded things happening for me to decide like this. But nothing like that. I explained to her for many years, like I was tired. So I feel I was pushed out. I did not have a choice. I had to resign.

**CHAIRPERSON:** And when did you resign?

**ADV NOKO:** In February 2021, Chair. Chair? Chair? May I request a short pause?

**CHAIRPERSON:** Yes. I am sorry. I was not watching.

10 **ADV NOKO:** I am so sorry, Chair. I apologise for this.

**CHAIRPERSON:** We can take a few minutes adjournment for you to just compose yourself. Take a deep breath. We know these are difficult matters.

**ADV NOKO:** Yes, Chair.

**CHAIRPERSON:** Unfortunately, we have to deal with them. Because they are opening the old wounds.

**ADV NOKO:** They do, Chair.

**CHAIRPERSON:** Let us take just a few minutes for you to compose yourself.

20 **ADV NOKO:** Yes, thank you, Chair.

**CHAIRPERSON:** Adjourn for a few minutes.

**ENQUIRY ADJOURNS**

**ENQUIRY RESUMES**

**CHAIRPERSON:** Good afternoon everyone, Advocate Khooe and the evidence leaders, and Advocate Ngcukaitobi, it is

closer to quarter to one, closer to one o'clock. We planned to adjourn early, and we have been discussing a few matters. As you could see, Advocate Khooe coming back and forth from the witness. We got concerned about her and other matters, and would like to clarify them. We plan to adjourn. I think we can pause her testimony now, but would like to verify a few matters with her. Advocate Noko.

**ADV NOKO:** Yes, Chair.

**CHAIRPERSON:** You are still under oath, and whatever you  
10 are going to say, if you do not want to say it, do not say it.

**ADV NOKO:** Yes, Chair.

**CHAIRPERSON:** But you got concerned, having read your papers, that they are raising very serious allegations against certain people. We are told that you flew to Johannesburg, and you are staying in Sandton. Correct?

**ADV NOKO:** Yes, Chair.

**CHAIRPERSON:** Is that your residential home?

**ADV NOKO:** Yes, Chair.

**CHAIRPERSON:** You were to be here until Friday.

20 **ADV NOKO:** Yes, Chair.

**CHAIRPERSON:** The plan is to return to where you were, to continue with the work you are doing there.

**ADV NOKO:** Yes, Chair.

**CHAIRPERSON:** Is there any reason why you could not come and stay closer to the seat of the enquiry? Or let me

put it differently, would you have preferred to be accommodated as the witness of the enquiry, to be closer to the seat of the enquiry, rather than travel from Johannesburg to Pretoria every morning?

**ADV NOKO**: I would prefer to be accommodated closer to the enquiry, but my issues were security concerns. Not that the where I am in Sandton is safe, but I thought at least it is not a place that I am booked in by somebody, for security reasons, Chair.

10 **CHAIRPERSON**: For security reasons?

**ADV NOKO**: Yes, Chair.

**CHAIRPERSON**: It is a matter that we discussed during the adjournment, purely because of what we have read in this document.

**ADV NOKO**: Yes, Chair.

**CHAIRPERSON**: And that is why we are raising it with you.

**ADV NOKO**: Okay.

**CHAIRPERSON**: One would have imagined that it would have been easier for you to drive from wherever around the  
20 seat to come here, or to be collected from where you would be in Pretoria to be brought to the seat.

**ADV NOKO**: Yes, Chair.

**CHAIRPERSON**: Like this morning you arrived late, because the transport that has been secured for you by the department seemingly delayed.

**ADV NOKO**: Yes, Chair.

**CHAIRPERSON**: We will arrange that you have a discussion with the coordinator of the enquiries.

**ADV NOKO**: Okay, Chair.

**CHAIRPERSON**: And communicate to them what you think will make your life easier, a lot easier, rather than travel from Johannesburg for the next two days.

**ADV NOKO**: Yes, Chair.

**CHAIRPERSON**: Because we have to continue with your  
10 testimony tomorrow.

**ADV NOKO**: Yes, I appreciate it, Chair.

**CHAIRPERSON**: If it is convenient, when we adjourn, do advise, Advocate Khooe and the evidence leaders accordingly.

**ADV NOKO**: Yes.

**CHAIRPERSON**: We will then communicate with the coordinator to come over and have a discussion with you.

**ADV NOKO**: Okay, yes, Chair.

**CHAIRPERSON**: You will let her know what you prefer. You  
20 know Pretoria, is it not?

**ADV NOKO**: Yes, it is my home.

**CHAIRPERSON**: Yes, so you will know a hotel or accommodation that is closer to the seat.

**ADV NOKO**: Yes.

**CHAIRPERSON**: Instead of paying for the transportation

from Johannesburg, then they can just accommodate you closer.

**ADV NOKO**: Yes, Chair.

**CHAIRPERSON**: And you will probably feel safer in that way.

**ADV NOKO**: Yes, thank you, Chair. I appreciate it a lot.

**CHAIRPERSON**: Yes.

**ADV NOKO**: Thank you.

**CHAIRPERSON**: And if a need arises that you have to be moved today to your new accommodation away from  
10 Johannesburg, let them know.

**ADV NOKO**: Yes, Chair.

**CHAIRPERSON**: So that you can arrive on time tomorrow. We normally start meeting council quarter to nine and nine o'clock we resume.

**ADV NOKO**: Yes, Chair.

**CHAIRPERSON**: So today we waited for you.

**ADV NOKO**: I apologise for that.

**CHAIRPERSON**: Advocate Khooe and team, Advocate Ngcukaitobi and team, we think that this is an appropriate  
20 moment to pause, to go and attend to some personal matters as we indicated. But that will give our witness a chance to deal with those issues that we have spoken about.

**ADV NOKO**: Yes, Chair.

**CHAIRPERSON**: Thank you very much. Advocate Khooe, you will come to chambers. I will phone the coordinator to

come over and we will take it from there.

**ADV KHOOE:** We will do that, Chair.

**CHAIRPERSON:** Thank you, everyone. We will adjourn until tomorrow, nine o'clock.

**ENQUIRY ADJOURNS UNTIL 5 FEBRUARY 2026**

-----



**ENQUIRY INTO THE  
SOUTH GAUTENG  
DIRECTOR OF PUBLIC  
PROSECUTIONS'  
FITNESS TO HOLD OFFICE**

## TRANSCRIBER'S CERTIFICATE

I, the undersigned, hereby certify that **so far as it is audible to me**, the foregoing is a true and correct transcript of the proceedings recorded by means of a digital recorder in the matter between:

### CHAUKE COMMISSION OF ENQUIRY

CASE NUMBER : N/A  
RECORDED AT : PRETORIA  
DATE HELD : 4 FEBRUARY 2026  
NUMBER OF PAGES : 72

#### PROBLEMS EXPERIENCED WITH RECORDING

1. Verbatim transcript, no syntax or grammar alterations effected.
2. Unknown names spelled phonetically.
3. Microphones not always activated.
4. Parties speaking simultaneously.

**NB: Transcriber can only transcribe what is recorded and clearly audible.**

DATE COMPLETED: 04/02/2026

TRANSCRIBERS: *R Smit*  
Riëtte Smit

: *Anna-Mart Nel*  
Anna-Mart Nel

