

**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**

13 FEBRUARY 2026

DAY 25



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

PROCEEDINGS ON 13 FEBRUARY 2026

CHAIRPERSON: A very good morning, everyone. I can see my family over there with your masks, you are taking precautions. That is a good thing. Good morning, *Nthati Chauke*. *Nthati Maema*, good morning. I sound better today. Maybe someone gave me a muti this morning. Remember you are still under oath. We are going to work until 1 o'clock today so that *Nthati Chauke* can travel. He has a bereavement. We will work until 1 o'clock and I plead with
10 you, *Nthati Maema*, that please just answer the questions. I know you know so much of this matter and I understand the enthusiasm that you have to assist, but just stick to the questions and answer the questions. If Counsel would like you to elaborate, he will ask you to elaborate.

ADV MAEMA: I will do so, Chair.

CHAIRPERSON: We are definitely chasing time. You must have heard about us pleading again and again that we should work to finality. So please allow your counsel, Advocate Ngcukaitobi, to lead you and only answer those questions
20 that he asks. Remember, you are still under oath.

ADV MAEMA: I do, Chairperson, thank you.

CHAIRPERSON: Advocate Ngcukaitobi, you may proceed. Before you do, let me welcome – *Nthati Mohlamonyane* is not here.

ADV MTSWENI: No, Madam Chair.

CHAIRPERSON: [Indistinct]... that he is here.

ADV MTSWENI: I am holding the fort.

CHAIRPERSON: You are holding the fort?

ADV MTSWENI: Yes, Madam Chair.

CHAIRPERSON: Yes, thank you.

ADV MTSWENI: But you can welcome me. You can welcome me, Madam Chair.

CHAIRPERSON: I beg your pardon.

ADV MTSWENI: You can welcome me as well.

10 **CHAIRPERSON:** Advocate Mtsweni, you would like us to start the day with a great laughter. What do you say?

ADV MTSWENI: I thought Madam Chair wanted to welcome Advocate Mohlamonyane. So, since I am holding the fort, Madam Chair can welcome me.

CHAIRPERSON: Okay. I welcome you, Advocate Mtsweni, as you hold the fort. I see you now have your adopted son next to you again. I welcome you on that seat. You may proceed, Advocate Ngcukaitobi.

GLADSTONE SELLO MAEMA: (still under oath)

20 **EXAMINATION BY ADV NGCUKAITOBI SC (CONTINUES):**

Thank you Madam Chair. Can you go to – good morning, Advocate Maema.

ADV MAEMA: Good morning, Chairperson.

ADV NGCUKAITOBI SC: Can you go to the start of ...[intervenes].

CHAIRPERSON: I beg your pardon, they forgot to bring my bench book, but you may proceed. It will come. Proceed, Counsel.

ADV NGCUKAITOBI SC: Thank you, thank you, Madam Chair. Can you go back to GSM29, which is at page 1A-352?

ADV MAEMA: File 2?

ADV NGCUKAITOBI SC: I wish I could help you, but yes, I am told. GSM29. Yes, 1A-352. Madam Chair, I am told that the three screens in front of you should be able to show these
10 images, which would make it easier to follow, but I may be wrong.

CHAIRPERSON: I think so.

ADV NGCUKAITOBI SC: Okay, thank you.

CHAIRPERSON: We will let you know if they do not, otherwise you will just look at our right side.

ADV NGCUKAITOBI SC: Yes.

CHAIRPERSON: Or our left side.

ADV NGCUKAITOBI SC: Yes, thank you, Madam Chair. You would recall that we went through some of these images
20 yesterday and the image that approximates what is published in the Sunday Times is the image at 1A-359, and the image at 1A-361. Correct?

ADV MAEMA: That is correct, Chairperson.

ADV NGCUKAITOBI SC: Yes, but let us just go to the first of these images.

ADV BALOYI-MERE SC: I think it would help if you were to say File 1 or File 2, File 3, because we keep on paging.

ADV NGCUKAITOBI SC: Yes, thank you, thank you. It is File 2. To be honest, it is because I do not know which file it is, and that is why I am not mentioning it because I am working off the computer, but my colleague is here.

ADV BALOYI-MERE SC: Maybe the index can be amended to show where File 1 stops and File 2 starts and File 3, so that when we go through our index, we see which file that
10 page is on which file. Thank you.

ADV NGCUKAITOBI SC: Thank you. We will have to attend to that. Yes, thank you. Has the Panel now found the page?

CHAIRPERSON: Yes, we have found the page.

ADV NGCUKAITOBI SC: Yes, thank you. You will recall that you had mentioned in relation to your statement when we were looking at that picture at, I think it is 146. No, you do not have to go back to it now. It is okay to stick to this. This is the Melmoth case, correct?

ADV MAEMA: That is correct, Chairperson.

20 **ADV NGCUKAITOBI SC:** Where the two brothers were murdered.

ADV MAEMA: The two Biyela brothers.

ADV NGCUKAITOBI SC: Where the two Biyela brothers were murdered. Now, what I did not ask, but it is striking, is why is these brothers naked on a bunch of rocks?

ADV MAEMA: Chairperson, it is quite a while ago, more than 10 years ago. But my memory of the facts says most of the raids happened early morning when most of the victims were asleep. And as they were asleep, it is a condition in which they were sleeping.

ADV NGCUKAITOBI SC: Yes.

ADV MAEMA: But in this particular instance, if I remember the statement that we read yesterday, the information was that he went out and that was the condition in which he went
10 out.

ADV NGCUKAITOBI SC: Yes.

ADV MAEMA: So how he landed on the rocks, it could be maybe because he was in the vicinity of the rocks when the shots were fired and then fell there.

ADV NGCUKAITOBI SC: Yes. No, the crucial part is that he went out naked, went out of the house naked.

ADV MAEMA: That is correct, Counsel.

ADV NGCUKAITOBI SC: Thank you. I am sure other witnesses will explain why he would go out naked. Do you
20 know?

ADV MAEMA: I do not know.

ADV NGCUKAITOBI SC: Yes. Now, then I want to go to, there is another picture I assume is the second Biyela brother, which is at 1A-355 and 1A-356.

ADV MAEMA: That is correct.

CHAIRPERSON: That is photograph 4 and photograph 5.

ADV NGCUKAITOBI SC: Yes, photo 4 and photo 5. Yes.

Were these found in the same vicinity?

ADV MAEMA: That was at the same vicinity of the homestead.

ADV NGCUKAITOBI SC: Yes, in the same home?

ADV MAEMA: Yes.

ADV NGCUKAITOBI SC: Yes. Now, did you establish how old these gentlemen were?

10 **ADV MAEMA:** The age was in the post-mortem report.

ADV NGCUKAITOBI SC: Yes.

ADV MAEMA: If I remember well.

ADV NGCUKAITOBI SC: Yes, because I read somewhere that one of them was 17 years old.

ADV MAEMA: Yes, one of them was fairly young. That is what I remember.

ADV NGCUKAITOBI SC: Yes. And did you establish why they were executed like this?

20 **ADV MAEMA:** Chairperson, the information at the disposal of the police was that, or the information at the disposal of our investigating team was that the Cato Manor police had they were looking for somebody called Bha.

ADV NGCUKAITOBI SC: Yes.

ADV MAEMA: Yes. And they proceeded there with the information that Bha was at the homestead. That and even

when – ja, so the, the information was that Bha was there and that is why they went.

ADV NGCUKAITOBI SC: Yes. Was any of them Bha?

ADV MAEMA: No, none of them was.

ADV NGCUKAITOBI SC: Yes, neither of them.

CHAIRPERSON: Bha, B-h-a?

ADV NGCUKAITOBI SC: B-h-a.

ADV MAEMA: B-h-a, Chairperson, yes.

CHAIRPERSON: Okay.

10 **ADV NGCUKAITOBI SC:** And then there is also another picture that requires comment, which is 1A-357, photo 6. So if you look at that, there is a weapon that appears to be placed on top of a massive blood splatter next to the hand of the deceased. Can you comment about that?

ADV MAEMA: That is correct, Chairperson, next to the right hand.

ADV NGCUKAITOBI SC: Yes.

ADV MAEMA: Chairperson, when you lift the firearm from the blood splatter, the firearm did not have any blood
20 underneath and it was clear that the firearm was placed on the blood splatter after the blood splatter was in the process of drying, which then indicated to us that it was placed after.

ADV NGCUKAITOBI SC: Yes.

ADV MAEMA: If I can comment further?

ADV NGCUKAITOBI SC: Yes, carry on.

ADV MAEMA: Chairperson, the firearm being a heavier object, if the firearm would have been there prior to the blood, the blood would have flown around it and it would have left a mark showing the firearm, but when you lift it and there is blood underneath, it showed us that it was placed after the blood had dried up.

ADV NGCUKAITOBI SC: Yes. Now, you would recall that yesterday the Chair had asked what is the connection between the pictures we have just gone through and the
10 pictures that started 1A-359.

MS RAMAGAGA: Maybe before he answers that question, I would like to have this completed. You are saying that there is no blood underneath the firearm. When you pick it up, it is just dry.

ADV MAEMA: Just clean.

MS RAMAGAGA: Just clean, thank you. Now, is this your personal knowledge or did you get this information elsewhere about the state of the firearm?

ADV MAEMA: It is the information that was reported to us
20 by the experts that went to the scene.

MS RAMAGAGA: Okay, thank you.

ADV MAEMA: Thank you, Chairperson.

ADV NGCUKAITOBI SC: Yes. Thank you, Madam Ramagaga. Can you go to 1A-359? Now, just recall the point that was raised by the Chair yesterday. How do those relate

to the pictures we have just seen? In other words, the pictures of the two executed men. If you look at photo 8, 1A-359, and the photo 9, 1A-360, photo 10, 1A-361.

ADV MAEMA: Well, it is clear that the wife of the deceased was sobbing.

ADV NGCUKAITOBI SC: Yes, I understand. I will ask you later about the wife. I am just asking about what is the relationship between these photos?

ADV MAEMA: Just the photos?

10 **ADV NGCUKAITOBI SC:** Yes.

ADV MAEMA: The photos were taken immediately after, shortly after the shooting.

ADV NGCUKAITOBI SC: Yes.

ADV MAEMA: Yes.

ADV NGCUKAITOBI SC: But, I mean, how do you know that, or what evidence did you have that these photos come from the same scene? In other words, they did not go and take photos from Durban North and say these are photos from Melmoth. I think that is what the Chair was asking yesterday.

20 **ADV MAEMA:** Okay. The vehicle went, this police vehicle, the white car went to the scene.

ADV NGCUKAITOBI SC: Yes.

ADV MAEMA: On the day of the shooting.

ADV NGCUKAITOBI SC: Yes.

ADV MAEMA: And the information that was conveyed to us

was that all the photos from in the photo album were taken at the scene shortly after the shooting.

ADV NGCUKAITOBI SC: Yes. Now, you wanted to mention yesterday, if you go to 1A-359, you wanted to say something about the numbers four, six, and seven, that are placed on the heads of those gentlemen.

CHAIRPERSON: If I may, before you go to the numbers? My recollection, Advocate Maema, is that when I asked the same question yesterday, or the question to this effect, when
10 we looked at the other depictions showing rondavels, I think it is 353, photo 2 at 1A-353, comparing it with those photos, especially the photos where there are police officers and the lady. I think it is photograph 8, 1A-359, and photograph 9. I beg your pardon, photograph 10 at 1A-361. The question was whether this body that is lying on the rocks at photo 2 is at the same place as the scenery at photo 10 and photo 8.

Your answer was that what we see at photo 8, photo 9, photo 8, is the part of the homestead on the other side. And I asked you a question, how you know that, and you
20 answered that because you had been there at Melmoth. Do you still repeat your answer?

ADV MAEMA: That is correct, Chairperson. We visited the scene and we saw the big homestead.

CHAIRPERSON: Yes, the point being the depiction of the photographs showing a motor vehicle, the officers and the

lady in a distressed position is depicted in the same yard, but on the other side of the rondavels.

ADV MAEMA: That is correct, Chairperson.

CHAIRPERSON: Thank you, Counsel.

ADV NGCUKAITOBI SC: Thank you, Madam Chair. Now, so we can then go back to where you were, which is 1A-359, and then just looking at those numbers, four, six, and seven. You remember that you tried to give the answer yesterday and I stopped you.

10 **ADV BALOYI-MERE SC**: My apologies, I am sorry to do this to you. Just for my clarification, I see that the bodies have been moved, especially where we see the person wearing gloves pointing. Photo 4 at 1A-355, I assume is the same body at photo 5, at 1A-356, but it seems as if the position has been – the position of the body has been turned because at photo 4, we see the wound, I am not sure, on the right-hand side, while at photo 5 the body has both arms next to, or it is like it is a sleeping position with both arms serving as a pillow.

20 Can maybe the witness explain the process and also who could have moved the bodies if they were moved? I might be wrong that the bodies have been moved. But if the bodies have been moved, who could have moved the bodies and was it in the legitimate or lawful process of investigation or was it a scene-tampering issue?

ADV NGCUKAITOBI SC: Yes, thank you, Advocate Baloyi-Mere. So I suppose what you should probably do to answer the question, if you start at 1A-356, can you see there that this is what Advocate Baloyi-Mere is referring to? That the arms of that gentleman are positioned in a sleeping position?

ADV MAEMA: That is correct, Chairperson.

ADV NGCUKAITOBI SC: And the weapon, the gun, is approximating his chest. Can you see that?

ADV MAEMA: I can see that, Chair.

10 **ADV NGCUKAITOBI SC:** If you turn to the following page, which was photo 6 at 1A-357, it is the same gentleman, but he is lying on his back and the arm is now next to his head. And it is obvious there that something has happened, the body has been moved.

ADV BALOYI-MERE SC: And also the gun, sorry.

ADV NGCUKAITOBI SC: And the gun as well, yes, thank you. The position of the gun also has changed. So it seems obvious that the body has been moved either before or after or during. But the question really is, how did this happen?

20 What did you find in your investigation?

ADV MAEMA: Chairperson, he body was moved in the course of the photographer taking pictures. This was clear in our consultation that that is when the photographer wanted to depict the wounds that were on the deceased. Particularly if one sees on photo A1-357, photo 6, the bullet entry wound

that the finger is showing.

ADV NGCUKAITOBI SC: Could you just explain that? I mean, I suppose the question of lawfulness really boils down to this. If there is a shooting, a policeman shoots an alleged suspect, kills them, then someone comes to investigate. Are they allowed to move the position of the deceased or should they just take the pictures as they find them?

ADV MAEMA: What they ordinarily do, Chairperson, is on arrival they will take the photos as they find the scene.

10 **ADV NGCUKAITOBI SC:** Yes.

ADV MAEMA: And then as they continue with the investigation, then they would move so that you have a position as the scene was found. And if they want to show the injuries that are perhaps hidden or latent as a result of the position of the body, then they would turn it to show that specific injury. It is perfectly lawful to turn around to show the injuries that the body sustained.

ADV NGCUKAITOBI SC: But how would you know what position the body was at the time it was shot? And because
20 there is also the difficulty here that even the weapon has been moved.

ADV MAEMA: Yes. Well, what happens is the first officer that arrives at the scene would cordon it off and prevent any person from interfering with the scene. And then the photographer on arrival would then take pictures of the scene

as he finds it.

ADV NGCUKAITOBI SC: I understand. I mean, I want to see how many gunshot wounds, so I have to turn the head around.

ADV MAEMA: Yes.

ADV NGCUKAITOBI SC: I am asking about the weapon, the movement of the weapon from its original position.

ADV MAEMA: The weapon, our evidence was that the weapon was not there. So the weapon was placed there
10 subsequent to the deceased being killed.

ADV NGCUKAITOBI SC: Yes. But I mean, is it lawful to remove the weapon? I do not understand. They have moved the weapon to two different places.

ADV MAEMA: Indeed.

ADV NGCUKAITOBI SC: That is what is being asked.

ADV MAEMA: No, no, no. The planting of the weapon, moving it, it is interference with the scene.

ADV NGCUKAITOBI SC: Yes.

ADV MAEMA: It is doctoring the scene, what we used in the
20 indictment.

ADV NGCUKAITOBI SC: Yes, all right.

CHAIRPERSON: If I may, Counsel, did you take the statement of the photographer?

ADV MAEMA: Yes, we did.

CHAIRPERSON: Is it in this bundle?

ADV MAEMA: It is in the docket. It is in the, what do you call it? The photos of the scene have a statement inside that accompanies the scene, that accompanies the photos that were taken.

CHAIRPERSON: What was the name of the photographer?

ADV NGCUKAITOBI SC: Well, we would have to get back to the full docket because we did not extract it for the purposes. What we have got is a full statement of Captain Mangena, but my learned junior will find that statement.

10 **CHAIRPERSON:** Yes, I ask the question because as much as hearsay may be admissible under the POCA provisions, but it is still important for us to ascertain these facts because you do not have personal knowledge as a witness about these allegations that you are making.

ADV MAEMA: Indeed, Chair.

CHAIRPERSON: And it is important to understand what you say, particularly when you look at those photographs showing that there has been a movement of the body and the location of the firearm seem to be in different positions.

20 **ADV MAEMA:** That is correct, Chairperson.

CHAIRPERSON: The only person who can give testimony, personal knowledge of this setup, will be the photographer. That is why I am asking whether you took the statement from him and whether he will be testifying.

ADV MAEMA: Yes, the photograph, the set of photographs

was accompanied by a statement of the photographer.

CHAIRPERSON: Yes.

ADV MAEMA: Yes.

CHAIRPERSON: And as you testify, it would be helpful not to speak as if you have original personal information of facts. You can tell us without us probing you as to how you know that, because this is not your personal knowledge. You may proceed. I suppose in the course of time, that statement will probably be filed.

10 **ADV NGCUKAITOBI SC:** Indeed, Madam Chair, if it is in the docket.

MS RAMAGAGA: May I just follow up? May I just follow up? Thank you. Advocate Maema, I am now asking you this question in your capacity as the experienced prosecutor. And the question still relates to the scene. You have spoken about the scene that would be cordoned off until the photographer arrives.

ADV MAEMA: That is correct.

20 **MS RAMAGAGA:** Now, at the time when now it becomes necessary, either for the photographer or for whoever is watching, for the body to be, I will talk about the body because now this case concerns the body, for the body to be moved in order to obtain more evidence. Would the fact that the body is being moved in order to obtain more evidence feature in the statement of the person that would be doing

that or not?

In your experience, I think you have had lots of statements that you have seen where there would be pictures of the scene and there would be some movement, not because it is tampering, but in order to get more information.

ADV MAEMA: Indeed, Chairperson.

MS RAMAGAGA: Yes. Now, in your experience, does that feature on the statement of whomsoever moved something at the scene?

10 **ADV MAEMA**: That would feature, Chairperson. The statement would indicate that, would indicate either in the plan or in the sketch the various positions and the various stages at which that piece of information was obtained and how the scene was moved with a view to obtain or to get much more clarity on that specific injury.

MS RAMAGAGA: Thank you.

ADV BALOYI-MERE SC: One last follow-up. I promise it is the last.

20 **ADV NGCUKAITOBI SC**: No, Advocate Baloyi-Mere. Ask the Chair. For me, I am in your hands, so I will never complain.

ADV BALOYI-MERE SC: Photo 3 at A1-354 and photo 4 at 1A-355, one can see that it is the same scene, it is on the rocks. Because at photo 4, one can see a big rock next to the head, meaning it might be, it is similar to the scene at

photo 3. This body was next to the rocks.

My question, then, is at photo 5, I see, somebody help me, I see a Legogo in Setswana. I do not know if ...[intervenes].

ADV NGCUKAITOBI SC: It is *Lekoko*.

ADV BALOYI-MERE SC: Yes. What do you call it in English? Is it a sleeping, or you can call it a sleeping mat?

ADV NGCUKAITOBI SC: It is a traditional sleeping mat.

ADV BALOYI-MERE SC: Yes. Now, my question is to the
10 witness, would you say this scene is inside a house as compared to the scene in the past two photos that are in the rocks? And further to that question, I would then ask, was this person, as we see this body, as we see it at photo 5, in a sleeping position, can one rightfully assume that this person was sleeping? I know my question is twofold. Is it inside, and can we assume that this person was sleeping?

ADV MAEMA: That is correct, Chairperson. The information at our disposal from the docket was that the person was sleeping in the rondavel.

20 **ADV NGCUKAITOBI SC:** Yes, but that is one person, but that is the person at photo 5. I mean, I think there is another person at photo 3.

ADV MAEMA: The one at photo 3 had, the information at our disposal was that the person had moved from the rondavel to the outside, to the outside of the rondavel within

the homestead.

ADV NGCUKAITOBI SC: Well, can you just explained that it is two different people.

ADV MAEMA: Yes, it is two different people.

ADV NGCUKAITOBI SC: Just the explanation that is required. The one went out, and he was shot, and the other was inside, and he was shot inside.

ADV MAEMA: That is correct, Chairperson.

CHAIRPERSON: And the one depicted at photo 5 looks like
10 a young Mr Biyela. Am I correct?

ADV MAEMA: That is correct, Chairperson.

ADV NGCUKAITOBI SC: And that is the same at photo 6 and photo 7. I am in your hands, Madam Chair, when the Panel is ready.

CHAIRPERSON: Yes, when we interrupted you, you were looking at the depictions at photographs 8, 1A-359, with the people next to the van with numbers on their heads.

ADV NGCUKAITOBI SC: Yes, yes, that is correct. I think that is where we are, if I am not mistaken.

20 **CHAIRPERSON:** Yes, that is when we interrupted you.

ADV NGCUKAITOBI SC: Yes, I do not feel interrupted. I am happy for the clarification questions. Yes, thank you. Yes. All right, at 1A-359, I needed you to just explain those numbers because you wanted to explain them yesterday. I said, hang on, we will deal with it tomorrow. So this is your

chance.

ADV MAEMA: Thank you, Chairperson. The numbers on the heads of the males that are sitting next to the van are the numbers of the accused persons in the indictment.

ADV NGCUKAITOBI SC: Yes.

ADV MAEMA: And these numbers were placed there by the photographer to ease the consultation, to show who is who on the photo, or to make it easier for us to follow his evidence.

10 **ADV NGCUKAITOBI SC**: Yes, so they were superimposed afterwards, during the course of your consultations.

ADV MAEMA: That is correct, Chairperson.

ADV NGCUKAITOBI SC: In other words, they did not come with the photo.

ADV MAEMA: Yes, yes, they did not.

ADV NGCUKAITOBI SC: Yes. All right, we will come back to the identification of those accused because we have got the indictment. Maybe you can do that now, actually, bearing in mind the contents of your – so who is accused 4, who is
20 accused 6, who is accused 7?

ADV MAEMA: Should I look at the indictment?

ADV NGCUKAITOBI SC: Yes, you have the indictment there in front of you.

CHAIRPERSON: I also have a list at paragraph 79 of your statement.

ADV NGCUKAITOBI SC: Yes, that might be better, Madam Chair. So, there is 71 is there, and then 79.

CHAIRPERSON: 79.4 reads accused 4, Mostert Paul Jonathan, and that gentleman on the extreme right marked four. Is he Mr Mostert?

ADV NGCUKAITOBI SC: That is correct, Chairperson. That is accused number 4.

CHAIRPERSON: Accused number 4.

ADV NGCUKAITOBI SC: Accused number 6, 79.6.

10 **ADV MAEMA:** Whose name is Neville Eva.

ADV NGCUKAITOBI SC: He is deceased.

ADV MAEMA: That is correct, Chairperson. As at the time that we were drafting the indictment, he had passed on.

ADV NGCUKAITOBI SC: Yes, and then there is accused 7, Adith Singh Ganesh [?].

ADV MAEMA: That is correct, Chairperson. That is accused 7.

ADV NGCUKAITOBI SC: Yes, so that is what that picture is about, and then there is the lady there that is apparently
20 distraught, apparently distressed, apparently crying, apparently weeping. We spoke about that yesterday.

ADV MAEMA: That is correct, Chairperson.

ADV NGCUKAITOBI SC: Yes. Now, then you see other gentlemen at photo 9. There is now a gentleman wearing a blue t-shirt facing towards the side of the van, and another

gentleman wearing a black t-shirt looking at the gentleman with the blue t-shirt. Can you see that?

ADV MAEMA: I can see that, Chairperson.

ADV NGCUKAITOBI SC: And then there is someone else who appears through the window of the vehicle with a green and white shirt. Can you see that?

ADV MAEMA: Yes, I can see that, Chairperson.

ADV NGCUKAITOBI SC: Who are these people? Not necessarily their names, but where do they come from? Who
10 are they?

ADV MAEMA: They are part of the accused person, part of the Cato Manor Unit.

ADV NGCUKAITOBI SC: The Cato Manor Unit?

ADV MAEMA: That is correct. That was the information that was relayed to us by the photographer.

ADV NGCUKAITOBI SC: Yes. No, I understand that. I think the Chair made that clear that you are talking as a prosecutor.

ADV MAEMA: That is correct.

ADV NGCUKAITOBI SC: And the prosecutor always comes
20 last.

ADV MAEMA: That is correct.

ADV NGCUKAITOBI SC: Yes. And then there is also the picture at 1A-361.

ADV BALOYI-MERE SC: Advocate Ngcukaitobi, sorry. Maybe it would help if you were to confirm that, because now

we have quite a number of people here, some of them were not in that other picture. If you can confirm that it is still at the scene, or they were the participants or part of the accused, the three accused that were named before.

ADV NGCUKAITOBI SC: Yes, thank you, Madam Chair. Could you please confirm the people at 1A-360, whether or not they were part of the accused, or some of them were part of the accused, or whether they were part of the Cato Manor?

ADV MAEMA: All of them were part of the accused and part
10 of Cato Manor team.

ADV NGCUKAITOBI SC: Yes. And are they related to the pictures we have just looked at, at 359 with the numbers superimposed on the heads of the gentlemen there?

ADV MAEMA: That is correct.

ADV NGCUKAITOBI SC: How are they related?

ADV MAEMA: These photos were taken in a sequence, so they were all at the scene of the shooting immediately after the shooting.

ADV NGCUKAITOBI SC: Yes, thank you. Then there is the
20 picture at 1A-361. Now, I think that is the picture in the Sunday Times. I want to compare them now. If you look at that picture at File 1, go to File 1 at 1A-143.

ADV MAEMA: I am there, Chairperson.

ADV NGCUKAITOBI SC: Thank you. Madam Chair, I am told that the information from the photographer has become

available, but I have not read it yet, so I will not take the witness there until I have seen it. But that is the instruction I am getting now from Mr Ramogale.

CHAIRPERSON: Yes. What might be helpful, as Advocate Manganye, one of our researchers, has drawn to our attention, you might have a look at the Cato Manor docket Melmoth. It is Bundle MM Bundle 1 of 1, this document. The pictures that you have referred us are included in this document, but they are in black, and there is a key to photo
10 plan, which may also be helpful. As you look at it, at MM0104, it might assist us. I just thought that I must draw that to your attention, and we are indebted to you, Advocate Manganye.

ADV NGCUKAITOBI SC: Thank you, Madam Chair. We will deal with it perhaps, maybe, let us say, during the weekend.

CHAIRPERSON: Yes.

ADV NGCUKAITOBI SC: Yes. Do you confirm that the picture at 1A-361 is the same as the picture at 1A-143? In other words, it is the Sunday Times picture.

20 **ADV MAEMA:** Yes. Yes, it is.

ADV NGCUKAITOBI SC: Yes. Okay, thank you. Now, yesterday, there was a discussion among the Panellists and yourself trying to get clarity about what appears to be bizarre, that there are people celebrating, but there is somebody who is distraught next to them, and that person is a family

member, and why would this happen? You were not sure, but you recalled that some of the witnesses that you spoke to told you that is what happened, but obviously, you could not explain the apparent depravity of celebrating while someone is in distress.

ADV MAEMA: That is correct.

ADV NGCUKAITOBI SC: Now, we also could not make headway around this, but what we found, and I want your comment on this, is an extract from a book written by Mr
10 General Johan Booyesen. Can we just circulate this, which we have marked as GSM91? Can you confirm what is the cover page there?

ADV MAEMA: The cover page is a picture of the book, the outside picture of the book that is attributed to having been written by General Johan Booyesen.

ADV NGCUKAITOBI SC: Just confirm that this is the title, these are the authors?

ADV MAEMA: Yes, the title, Blood on Their Hands, the authors, Jessica Pitchford, as one can see on the top, as well
20 as General Johan Booyesen, as one can see at the bottom.

ADV NGCUKAITOBI SC: Now, if you turn to page 97 of that book ...[intervenes].

CHAIRPERSON: What is written will be a yellow highlight? Did you not read that yet?

ADV NGCUKAITOBI SC: Yes, thank you. Thank you, Madam

Chair.

ADV MAEMA: Chairperson, what is written in a yellow highlight appears to be a quote:

“A must read for all South Africans,
especially leaders and opinion makers.
Now, no one can say we did not know.
Robert McBride.”

ADV BALOYI-MERE SC: Advocate Ngcukaitobi, I am not sure, maybe you have seen the book itself, but I am asking
10 myself, is Jessica Pitchford not the author and the name of the book being Blood on Their Hands, General Johan Booyesen?

ADV NGCUKAITOBI SC: Yes, well, it looks like it has got two authors. The first author is Jessica Pitchford, the second author is General Johan Booyesen. But, Madam, let me not stick my answer on this. I am happy to find the book and search for it.

ADV BALOYI-MERE SC: Yes, that would be better because if one just read what is here, it seems like – no, if you look
20 at Booyesen is referred to as in the third person, says Johan recognised some of the photographs, meaning he is not the author.

ADV NGCUKAITOBI SC: Yes, no, indeed. Thank you. We will do the exercise, Madam Chair. Now, if you go to page 97.

ADV MAEMA: I am there, Chairperson.

ADV NGCUKAITOBI SC: It starts with:

“Some of the dead suspects listed were connected to Choncho's murder, others were alleged robbers, murderers and ATM bombers.”

So you skip that passage. But then after that, it talks about at page 5, and if you go to page 1A-143, what is the page of the article, the actual Sunday Times page?

10 **ADV MAEMA:** It is actually page 5, as one can see on the top of 1A-143.

ADV NGCUKAITOBI SC: Yes, all right. Can you just read what comes thereafter, that paragraph?

ADV MAEMA:

“On page 5 there was a picture of two Cato Manor Unit policemen in plain clothes, Bruce McGinnis and the late RC Maharaj, arms raised in celebration...”

...[intervenes].

20 **ADV NGCUKAITOBI SC:** Just stop there.

CHAIRPERSON: Where are you reading from?

ADV MAEMA: Chairperson, on page 97 of GSM91.

ADV NGCUKAITOBI SC: Can you just start from the beginning and then stop after celebration?

ADV MAEMA: That is correct:

“On page 5, there was a picture of two Cato Manor unit policemen in plain clothes, Bruce McGinnis and the late RC Maharaj, arms raised in celebration.”

ADV NGCUKAITOBI SC: Just stop there. If you then go back to 1A-143, can you see the two gentlemen whose arms are raised?

ADV MAEMA: That is correct, Chairperson.

ADV NGCUKAITOBI SC: Now, the book explains that they
10 were celebrating.

ADV MAEMA: That is correct.

ADV NGCUKAITOBI SC: Yes, and then it says hyphen. Just read what follows after the hyphen.

ADV MAEMA:

“Or perhaps just fooling around for the camera.”

ADV NGCUKAITOBI SC: So the book says they were either celebrating or fooling around.

ADV MAEMA: That is correct.

ADV NGCUKAITOBI SC: On both instances, they were in a
20 joyous mood.

ADV MAEMA: That is correct, Chairperson.

ADV NGCUKAITOBI SC: Yes, and then it continues. Read that.

ADV MAEMA:

“To the left of them was Warrant Officer Asogran Pillay, smiling, his feet up and arms folded.”

ADV NGCUKAITOBI SC: So if you just go back to that page 1A-143, do you see a gentleman there whose arms are folded and his feet are up?

ADV MAEMA: Yes, I can see that.

ADV NGCUKAITOBI SC: Yes, and then the next line.

ADV MAEMA:

10 “Next to him, a woman has her shirt to her nose and mouth.”

ADV NGCUKAITOBI SC: Just stop there. Do you see a woman there with a shirt to her nose and mouth?

ADV MAEMA: I can see that, Chairperson.

ADV NGCUKAITOBI SC: And then look at how that is explained in the following sentence.

ADV MAEMA: Yes:

“She could be crying, or she could be sneezing, she could be wiping her nose.”

20 **ADV NGCUKAITOBI SC:** Yes, and so according to a book written by Jessica Pitchford about General Booyson, the explanation for that woman is that she could also be sneezing or wiping her nose or crying. What do you say to that?

ADV MAEMA: It is shameful because you can see that she is clearly sobbing and sad because of just what happened.

She could not just be wiping her nose because the nose is dripping. So it is just despicable.

ADV NGCUKAITOBI SC: And then it continues. Carry on.

ADV MAEMA:

10 “The Sunday Times went with an image
headline. The death squad who kill with a
grin and captioned with it, ghoulish glee.
Members of the Cato Manor Organised
Crime Unit in a good mood after shooting
two suspects at a homestead in KwaZulu-
Natal in 2008, while someone who appears
to be a family member of the deceased
weeps.”

ADV NGCUKAITOBI SC: Yes, and now if you look at that
page 1A-143, you look at the explanation of that photograph
just under it, are those the same words taken there directly?
It starts with ghoulish glee.

ADV MAEMA: That is correct, Chairperson.

ADV NGCUKAITOBI SC: Yes.

20 **CHAIRPERSON:** Which photograph? The one at 1A-143?

ADV NGCUKAITOBI SC: 1A-143, Madam Chair. Just the
explanation of the photograph appears immediately below the
photograph, and that is the direct quote. Then it continues.
Please carry on, Mr Maema.

CHAIRPERSON: Can somebody please read that, Mr

Maema?

ADV NGCUKAITOBI SC: Could you read what is in the Sunday Times?

CHAIRPERSON: Yes.

ADV NGCUKAITOBI SC: Yes. Thank you. Could you read that, Mr Maema?

ADV MAEMA: I can see that. I can read it.

ADV NGCUKAITOBI SC: Yes.

ADV MAEMA:

10 “Ghoulish glee – members of the Cato Manor organised crime unit in a good mood after the shooting of two suspects at a homestead in KwaZulu-Natal in 2008, while someone who appears to be a family member of the deceased weeps. Experts shown images of the dead suspect said their death warranted investigation.”

ADV NGCUKAITOBI SC: Thank you. Now, in the following paragraph, they explain why that description that these
20 gentlemen are celebrating while someone is distraught. Just read what they say. It starts with what the Sunday Times.

ADV MAEMA: Yes. The next paragraph on page 97 of GSM91:

“What the Sunday Times did not tell their readers was that the photograph was

taken at 06:22 AM, three hours after the shooting of the two suspects near Melmoth, 200 kilometres north of Durban. The policemen in the photograph had been on duty for almost 24 hours and were waiting for a SAPS duty officer to arrive to process the scene.”

ADV NGCUKAITOBI SC: Yes. Now, that seems to be the explanation, certainly, if not given by General Booysen,
10 endorsed by him.

ADV MAEMA: That is correct, Chair.

ADV NGCUKAITOBI SC: Yes. There are just three things I would like your comment on. I mean, the first one is the fact that he believes that this woman could be sneezing or wiping her nose. The second one is where they say this gentleman had conducted this operation at probably about 04:00 AM and that they were still there at 06:22 AM. And then the third one is where it is clear that they say this gentleman was celebrating or fooling around in the context of what had just
20 happened. What is your comment?

ADV MAEMA: Chairperson, it creates an impression of police officers who have been there doing their work and dedicated for protected hours and still committed to getting the job finished as they would be waiting for the photographer to be there. But it does not display the absolute disdain that

they are showing in the presence of the family member of the deceased.

ADV NGCUKAITOBI SC: Yes. I mean, the other thing I could not personally understand is how after having murdered the husband or after having killed, because they would deny that it is murder, after having killed the husband of this lady, they would then place her to take a photograph when she is weeping.

ADV MTSWENI: Madam Chair, can we just ask, without
10 being seen to be protecting, there seems to be conclusions drawn. We have not been told that the woman in the picture is the wife of the husband who was killed. We do not know who she is. Perhaps if Mr Ngcukaitobi has got evidence that she is Ms Biyela, can she point the witness to that?

CHAIRPERSON: I thought that that was dealt with yesterday.

ADV MTSWENI: No, he read the statement by Ms Biyela, but we are not shown in the picture that this is Ms Biyela, in fact, Ms Biyela. He read the statement by Ms Biyela, but we
20 do not know whether if this is Ms Biyela. But perhaps the witness can clarify because he says he went there.

CHAIRPERSON: Yes. Advocate Maema, the lady who appears in several pictures that you have been looking at, is she known to you or have you been in contact with her at any stage?

ADV MAEMA: It is a witness that we consulted, it is the wife of the deceased, the wife of Mr Biyela.

CHAIRPERSON: And you state that as a fact?

ADV MAEMA: I state that as a fact because I consulted her.

CHAIRPERSON: Are you satisfied?

ADV MTSWENI: Thank you, Madam Chair.

CHAIRPERSON: Thank you.

ADV NGCUKAITOBI SC: Yes, thank you, Madam Chair. I really do not want to waste time on this. This evidence was
10 given yesterday. I do not understand if my learned friend was not listening to it or what happened. So if he is going to make objections, he needs to be carefully paying attention to the evidence.

CHAIRPERSON: Do you remember, Advocate Mtsweni, we dealt with this aspect yesterday? My recollection is that Advocate Maema confirmed when we were talking about the lady who appeared to be distressed, as Advocate Ngcukaitobi asked the questions, he then mentioned, if my recollection is correct, that that was Ms Biyela.

20 **ADV MTSWENI**: In fact, Madam Chair, I looked at the transcript and it said it is a family member, not that it is Ms Biyela, but I verified it from the transcript. That is what I could remember, he said a family member.

CHAIRPERSON: Be that as it may, it has just now been confirmed that the lady showing in those pictures is the wife

of one of the deceased. Are you satisfied?

ADV MTSWENI: Thank you, Madam Chair.

ADV NGCUKAITOBI SC: Thank you, Madam Chair. Could you then explain, I mean, the thing that struck me is how if you kill a husband of a person, then you put that person next to you to take a photograph with when they are clearly in distress.

ADV BALOYI-MERE SC: Sorry, Advocate, you had asked three questions and I noted them down, but I seem to have
10 captured just one answer. The first question was, Johan Booyesen believes that the woman is sneezing. I am not sure if you wanted the witness to comment. And the second one was, this gentleman conducted this operation, they wanted to create the impression that they conducted the operation from 04:00 and that is what the witness answered, to say it creates the impression that they are hard-working police officers.

And then the third one you said, why would they be celebrating what they seem to be celebrating? But I did not hear the witness comment on the first one where Johan
20 Booyesen believes the woman to be sneezing, or whoever wrote the article, that the book believed the woman to be sneezing. And the second one, why would they be celebrating?

ADV NGCUKAITOBI SC: Thank you, Madam Baloyi-Mere. Can you please comment on that? I was pushing you to give

a more explicit answer when I was saying, if they have just killed your husband and they put you next to them and they celebrate at the same time. Do you have any comment on that?

ADV MAEMA: Chairperson, it appears to me very cynical to place the wife of the deceased in that position, just immediately after, or shortly after the husband would have been shot or killed in that manner. It is inappropriate, very inappropriate.

10 **ADV NGCUKAITOBI SC**: And then the fact that they say, well, she could well be sneezing.

ADV MAEMA: That even makes it worse, because then you are conveying, you are portraying something that is not what it really is.

ADV NGCUKAITOBI SC: Yes.

CHAIRPERSON: Look at that part. That seems to be a quoted passage from the Sunday Times. Is Sunday Times speaking there? Referring to:

20 “While someone who appears to be a family member of the deceased...”

I beg your pardon, that that part is a quoted passage from the Sunday Times.

ADV MAEMA: That is correct, Chairperson.

ADV NGCUKAITOBI SC: Yes, it starts with a ghoulish glee.

CHAIRPERSON: Yes, and the upper part, the one that starts

with, on page 5, and the last sentence reads:

“Next to him a woman has her shirt to her nose and mouth. She could be crying, she could be sneezing, she could be wiping her nose.”

It is the author writing there.

ADV MAEMA: That is so, Chairperson.

CHAIRPERSON: She is making an observation of what she sees in the depictions.

10 **ADV MAEMA**: That is correct, Chairperson.

CHAIRPERSON: Yes. And your testimony was that the observations by the author is partly incorrect because she could not have been sneezing or just wiping her nose.

ADV MAEMA: That is correct, Chairperson.

CHAIRPERSON: In circumstances where her husband has just been killed.

ADV MAEMA: That is correct, Chairperson.

CHAIRPERSON: And that proposition is endorsed or confirmed by the Sunday Times' description that this family
20 member was weeping.

ADV MAEMA: Yes.

CHAIRPERSON: So when you read this together, it still confirms your statement.

ADV MAEMA: That is correct.

CHAIRPERSON: That the woman was in distress.

ADV MAEMA: In distress, yes.

ADV NGCUKAITOBI SC: Thank you, Madam Chair. I suppose, Mr Maema, that is what they were trying to do. They were trying to disagree with the Sunday Times, to say the Sunday Times is wrong, she is not weeping, she is just possibly sneezing or wiping her nose. Thank you for your answer. Thank you. You can put aside the book. We will make a copy available, Advocate Baloyi-Mere SC, to understand precisely whether General Booyesen endorses the
10 book or rejects its contents.

CHAIRPERSON: But just for interest's sake, maybe one can get it before you get it. When was the publication of this book?

ADV NGCUKAITOBI SC: It is at 1 September 2016. In fact, what GSM91 does not show is that the full title is General Johan Booyesen Reveals His Truth. So it is a book that purports to speak the truth on behalf of General Booyesen. And hence ...[intervenes].

CHAIRPERSON: Where does this GSM921 come from, if it
20 is not the same?

ADV NGCUKAITOBI SC: Yes, it is the same. It is just cut off in the name. I suppose it was just a problem with the printing.

CHAIRPERSON: At the bottom?

ADV NGCUKAITOBI SC: At the bottom, yes.

CHAIRPERSON: Yes, thank you. Advocate Ngcukaitobi, it is appropriate to take a tea break.

ADV NGCUKAITOBI SC: Yes, indeed.

CHAIRPERSON: Until...

ADV NGCUKAITOBI SC: We have 30 minutes on a Friday, Chair. Sorry, I apologise.

CHAIRPERSON: Are you tired?

ADV NGCUKAITOBI SC: No, no, no, I am happy to proceed.

CHAIRPERSON: Let me hear from my sisters. I am guided
10 by my sisters that you will adjourn for 15 minutes because we are going to break early today at 1 o'clock. So let us use the remaining 15 minutes. I know that we had indicated that we will do tea for 30 minutes. 15 minutes now, let us stretch our legs and come back at quarter to. We adjourn. Remember, you are still under oath.

ADV MAEMA: I do, Chairperson.

ENQUIRY ADJOURNS

ENQUIRY RESUMES

CHAIRPERSON: Good day. Advocate Maema, you are
20 proceeding under oath.

ADV MAEMA: That is correct, Chairperson, thank you.

CHAIRPERSON: Thank you. Advocate Ngcukaitobi?

ADV NGCUKAITOBI SC: Thank you, Madam Chair. Could we then move from the book by Jessica Pitchford. We will sort out the connection of Major General Booyesen to that book

in a second, but I want to take us back to your statement to continue the sequence of events. If you would recall, by the time we adjourned yesterday, we had finished paragraph 71 and 72 and we were just about to start 73.

ADV MAEMA: That is correct, Chairperson.

ADV NGCUKAITOBI SC: Now, that paragraph is trying to connect Major General Booyesen to the Cato Manor activities and it does so by reference to the monetary awards letter and you had gone through to the letter at page GSM6, page
10 1A/154. You recall that?

ADV MAEMA: I do, Chairperson.

ADV NGCUKAITOBI SC: And you were about to start the attachment at 1A/155.

ADV MAEMA: That is so, Chairperson.

ADV NGCUKAITOBI SC: Yes and I had asked you, I think before we adjourned, what was the significance of these judgments for the purposes of the prosecution? Can you just recap on your answer?

ADV MAEMA: Chairperson, the significance of the monetary
20 awards is one gets a significance of the role that General Johan Booyesen played from his own perspective, as he is the author, in my view, of the request for monetary and non-monetary awards.

ADV NGCUKAITOBI SC: Yes, but that is not your view. It is the letter itself is signed by him, the letter at page 1A/154.

ADV MAEMA: Well, that letter is signed by him at the 1A/155 to A159.

CHAIRPERSON: Do not go ahead of Counsel, please, Nthathi Maema. Do not go ahead of Counsel, please.

ADV MAEMA: Oh.

ADV NGCUKAITOBI SC: So I am saying that it is not your view that he is the author. The document itself, ex facia, shows that he is the author because he signed it.

ADV MAEMA: That is correct, Counsel.

10 **ADV NGCUKAITOBI SC**: If you then turn to page 1A/155, which is the letter sent to him, which he then used to motivate for the awards, can you see that?

ADV MAEMA: 1A?

ADV NGCUKAITOBI SC: 1A/155.

ADV MAEMA: Oh, yes.

ADV NGCUKAITOBI SC: And you see that it says, 'Attention, Director Booysen'.

ADV MAEMA: That is correct, Chairperson.

20 **ADV NGCUKAITOBI SC**: Now, we know that he endorsed that letter because of what we have looked at 1A/154, correct?

ADV MAEMA: That is correct, Chairperson.

ADV NGCUKAITOBI SC: Yes. Now, I want to do then the analysis of that letter. The heading is 'Monetary and Non-Monetary Awards'. Did you find out in the course of your

investigation what are the circumstances in which these awards are given?

ADV MAEMA: What was relayed to us by members of the DPCI who were part of the investigating team, was that a commander who holds the view that he has a member who has done some outstanding work, ordinarily would compile a motivation and request the committee at provincial level to consider that member for either a certificate or monetary award.

10 **ADV NGCUKAITOBI SC**: Yes. So, it is compensation for outstanding service.

ADV MAEMA: That is correct.

ADV NGCUKAITOBI SC: Yes. Now, if you then look below the words monetary and non-monetary awards, it says Mapumulo CAS 99/08/2008, murder and attempted murder on SAPS members, Superintendent Chonco and Inspector M Kanyile. Now, what is this referring to?

ADV MAEMA: It is referring to the docket that relates to the killing of Superintendent Chonco.

20 **ADV NGCUKAITOBI SC**: Yes. But there is also another person there, Inspector Kanyile.

ADV MAEMA: Inspector Kanyile was also injured in that incident.

ADV NGCUKAITOBI SC: Yes and so, that seems to have, they have opened an attempted murder docket in relation to

his case.

ADV MAEMA: That is correct.

ADV NGCUKAITOBI SC: Yes. Now, I do not know if you were aware that we have asked the NPA for this docket and it has been said that the docket cannot be found. But in your own investigation, did you find the docket of Superintendent Chonco?

ADV MAEMA: We could also not find it.

ADV NGCUKAITOBI SC: Yes. Now, the reason why this is
10 a bit of a challenge is that in the De Kock report, and I will not take you there unless there is another objection, there is a purported analysis of the contents of this docket.

ADV MAEMA: That is correct, Counsel.

ADV NGCUKAITOBI SC: You remember that?

ADV MAEMA: I remember that.

ADV NGCUKAITOBI SC: And it is clear that the docket is somewhere, but it is not being disclosed.

ADV MAEMA: From the analysis of the report, I agree, Counsel.

20 **ADV NGCUKAITOBI SC**: Yes. Now, if we then move to paragraph one, under details of candidates, what is that talking about?

ADV MAEMA: It talks the members in respect of whom there is a recommendation for some award to be considered.

ADV NGCUKAITOBI SC: So these are people that are

recommended to receive awards. Well, to receive money, really. I mean, it talks about awards, but this is really money.

ADV MAEMA: That is correct, Chairperson.

ADV NGCUKAITOBI SC: And just look at those names there and tell us if you recognise them.

ADV MAEMA: I recognise the names, Chairperson.

ADV NGCUKAITOBI SC: Can you compare them with the indictment? Are they part of the accused or are they not part of the accused?

10 **ADV MAEMA**: They are part of the accused named in the indictment.

ADV NGCUKAITOBI SC: And what are the names?

ADV MAEMA: Director Booysen, who is named firstly. Superintendent Olivier, Captain SJ Smith, Captain Neville Eva, Captain Lokem, Captain JJE van Tonder, Inspector People Mostert, Inspector Makhanya, Inspector Tabete, Inspector Tango, Inspector Magwaza, Inspector E Nel, Inspector Mdlalose, Inspector A Stoltz, Inspector M Panday, Inspector PW George, Inspector Zondi, Inspector RC

20 Maharaj, Sergeant Mkhwanazi, Constable Naidoo, as well as Captain V Obach.

ADV NGCUKAITOBI SC: Yes, and that says 21 at the bottom. That is presumably 21 names. Now in that same way we are reading there is a circle there and it is handwritten 21.

ADV MAEMA: That is correct, Chairperson.

ADV NGCUKAITOBI SC: Yes. Now there is just a reference there to Captain V. Obach and it says Brighton Beach SAPS. What does that mean?

ADV MAEMA: Our understanding of what it was, when it was conveyed to us, was that he is based at Brighton Beach SAPS.

ADV NGCUKAITOBI SC: Does that mean he is outside of Cato Manor?

ADV MAEMA: That is correct.

10 **ADV NGCUKAITOBI SC:** Yes, and so I mean what does that mean for the list? Does that include people from outside of Cato Manor?

ADV MAEMA: That is correct, Chairperson.

ADV NGCUKAITOBI SC: Okay, I see. And then there is a description of why those names are there. What is that which is immediately below the circle where 21 appears?

ADV MAEMA:

20 “Each of the above candidates played a role in the successful apprehension of the suspects. Some of the candidates played a role in the apprehension of the suspects whilst others assisted at the scene.”

ADV NGCUKAITOBI SC: Yes. Now just from your investigation this document speaks about apprehension of suspects relating to the murder of Superintendent Chonco

and the attempted murder of Inspector Kanyile. What do you say about that idea of apprehension?

ADV MAEMA: Not a single suspect was apprehended. They were all killed.

ADV BALOYI-MERE SC: Advocate Ngcukaitobi, the witness, you asked the witness if he recognises all this or some of the names or the names here and he did, he read them into the record. What I did not get is, are all these 21 names suspects in different dockets or he just recognised them as members
10 of the Cato Manor or people who took police part in the so-called apprehension? Can it be clarified?

ADV NGCUKAITOBI SC: Yes, I think what perhaps you could do is to look back at your indictment and see whether the names that are in this document appear in the indictment or not.

ADV MAEMA: There is only one name that I would check as I am not sure of it, that of Constable Naidoo, but the rest of them are in the indictment.

CHAIRPERSON: Is Inspector B Zondi in the indictment?

20 **ADV MAEMA**: Is Zondi here?

ADV NGCUKAITOBI SC: Just confirm all of the names because once you say I know one name is not there, there may be three names.

CHAIRPERSON: Or if he is not there, is he deceased?

ADV MAEMA: Chairperson..

CHAIRPERSON: We may just do a quick list check. I think the names of the accused appear at 79, paragraph 79. Maybe, counsel, we can go through that and then we can tick.

ADV NGCUKAITOBI SC: Yes, so let us do this then. Do you have all of the names of the accused in front of you? Go to paragraph 79 of your statement.

ADV MAEMA: I am going there, Counsel. I am there.

ADV NGCUKAITOBI SC: Let us do this then. Director JW Booyesen, is he there?

10 **ADV MAEMA**: He is there.

ADV NGCUKAITOBI SC: Superintendent Olivier, is he there?

ADV MAEMA: He is on page 226, 79.9.

CHAIRPERSON: Accused number 9?

ADV NGCUKAITOBI SC: Yes.

ADV MAEMA: Accused number 9, yes.

ADV NGCUKAITOBI SC: Captain SJ Smith.

ADV MAEMA: He is not there.

ADV BALOYI-MERE SC: Accused number... Who is 25?

20 **ADV MAEMA**: 25 is Charles John.

ADV BALOYI-MERE SC: It is another Smith.

ADV MAEMA: Yes.

ADV NGCUKAITOBI SC: If you look at... Yes, okay, so Mr Smith is not there, correct?

ADV MAEMA: That is correct.

ADV NGCUKAITOBI SC: Captain Eva.

ADV MAEMA: He is there. He is accused 6. He has passed.

ADV NGCUKAITOBI SC: Captain Lokem.

ADV MAEMA: He is there. Accused 15.

ADV NGCUKAITOBI SC: Captain JJE van Tonder.

ADV MAEMA: He is 16.

ADV NGCUKAITOBI SC: Inspector P Mostert.

ADV MAEMA: Mostert is... He is accused number 4.

ADV NGCUKAITOBI SC: Yes. How many. do you remember
10 how many murder charges were against him?

ADV MAEMA: Quite a number of them. I cannot...

ADV NGCUKAITOBI SC: With the number 13.

ADV MAEMA: I agree, Counsel.

ADV NGCUKAITOBI SC: Yes and the total number of
charges against him, would the number 79 ring a bell?

ADV MAEMA: Yes, that is correct.

ADV BALOYI-MERE SC: For Mostert?

ADV NGCUKAITOBI SC: For Inspector Mostert.

ADV MAEMA: Yes.

20 **ADV NGCUKAITOBI SC:** Was everything just whitewashed,
withdrawn?

ADV MAEMA: That is correct, counsel.

ADV NGCUKAITOBI SC: Inspector Makhanya.

ADV MAEMA: Inspector Makhanya is accused ...[intervenes]

ADV BALOYI-MERE SC: Number 8.

ADV MAEMA: ...number 8.

ADV NGCUKAITOBI SC: Thank you. Inspector Tabete.

CHAIRPERSON: The spelling may be wrong there. Number 8, number 79. It is Makhanya.

ADV MAEMA: Yes, it is the same, same, same...

CHAIRPERSON: It is the same error.

ADV MAEMA: It is a spelling error.

ADV NGCUKAITOBI SC: Yes, it is Phumelele Makhanya. Inspector Tabete.

10 **ADV MAEMA**: Tabete is accused number 24.

ADV NGCUKAITOBI SC: Inspector Tango.

ADV MAEMA: He is not there.

ADV NGCUKAITOBI SC: Okay, not. Inspector Magwaza.

ADV BALOYI-MERE SC: Inspector Tango is not there.

ADV NGCUKAITOBI SC: That is correct, yes.

ADV NGCUKAITOBI SC: According to the witness, yes. Inspector Magwaza.

ADV MAEMA: Magwaza is not there.

ADV NGCUKAITOBI SC: Yes. Inspector Nel.

20 **ADV MAEMA**: He is there.

ADV NGCUKAITOBI SC: He is accused?

ADV MAEMA: Accused. Let me just look for him. Accused number 5.

ADV NGCUKAITOBI SC: Inspector Mdlalose.

ADV MAEMA: Mdlalose is... Inspector Mdlalose is there.

Accused number 11.

ADV NGCUKAITOBI SC: Yes, Inspector Stoltz.

ADV MAEMA: He is there. I must just look for his...

ADV BALOYI-MERE SC: Accused number 3.

ADV MAEMA: It is number 3.

ADV NGCUKAITOBI SC: Yes, thank you and Inspector Panday.

ADV MAEMA: Panday is... He is not there.

ADV NGCUKAITOBI SC: You know... All right, we will come
10 back to this fact. Let us just finish the exercise. Inspector
PW George.

ADV MAEMA: Inspector George is there. Accused number
23.

ADV NGCUKAITOBI SC: Inspector B Zondi. Is that the one
you said is not there?

ADV MAEMA: Yes.

ADV NGCUKAITOBI SC: Inspector RC Maharaj.

ADV MAEMA: Maharaj is not there. I think Inspector Maharaj
had passed.

20 **ADV NGCUKAITOBI SC**: Yes, because he is the one referred
to in the book by General Booysen and Jessica Pitchford.

ADV MAEMA: That is correct.

ADV NGCUKAITOBI SC: Celebrating at [indistinct]

ADV MAEMA: That is correct.

ADV NGCUKAITOBI SC: Yes. Sergeant Mkhwanazi.

ADV MAEMA: Sergeant Mkhwanazi is... From memory, not there. He is not there.

CHAIRPERSON: Is he not accused number 10? Or is it a different one?

ADV MAEMA: Mkhwanazi. Oh, yes. Let me see?

ADV NGCUKAITOBI SC: Yes. *Thembinkosi Bhekeseni Mkhwanazi.*

ADV MAEMA: That is correct.

ADV NGCUKAITOBI SC: Yes.

10 **ADV MAEMA**: My mistake.

ADV NGCUKAITOBI SC: So he is there.

ADV MAEMA: I am sorry, Chairperson.

ADV NGCUKAITOBI SC: Captain S Naidoo. I suppose not to be confused with...

ADV MAEMA: Ruben Reddy.

ADV NGCUKAITOBI SC: ...Ruben Reddy.

ADV MAEMA: Yes. S Naidoo is not there.

ADV NGCUKAITOBI SC: And then Obach. Obach is there.

ADV MAEMA: Is there, yes.

20 **ADV NGCUKAITOBI SC**: I saw his name.

ADV MAEMA: He is accused 22.

ADV NGCUKAITOBI SC: Yes, then there is another.

CHAIRPERSON: Who is 22?

ADV MAEMA: 22.

CHAIRPERSON: 22 is Vincent Obach.

of the recipients of the money. You will see that name, Inspector Panday, is the fourth from the bottom.

ADV MAEMA: That is correct, Chairperson.

ADV NGCUKAITOBI SC: So actually, there are only two names that do not appear as suspects or accused.

ADV MAEMA: That is correct.

ADV NGCUKAITOBI SC: Yes. Thank you very much. And so, is this what you meant when you said the majority of these people are all Cato Manor accused?

10 **ADV MAEMA**: That is correct. Yes, Chairperson.

ADV NGCUKAITOBI SC: Now, can we then come back to the...

CHAIRPERSON: Then might I add, if you look at 412.30 of 1-114, it is written that these accused in the proposed indictment, are not charged with racketeering and did not commit more than one predicate offence. Could it be that those who do not appear in the list were not considered to have achieved the mandate, if I may use the word?

[Laughter] It is not for you, Counsel. I think it is for the
20 witness to clarify this. Did you follow what I am saying? Look at paragraph 412-430.

ADV MAEMA: Yes, Chairperson.

CHAIRPERSON: At page 1-114.

ADV MAEMA: Yes, Chairperson, I am there.

CHAIRPERSON: Accused 12, 17, 18, 20, 21, 22, 23, 24, 28,

29, 30. Now, we know that accused 28 and 30 do not appear in the list of those who were awarded.

ADV MAEMA: That is correct, Chairperson.

CHAIRPERSON: Now, the writing there.

“These accused, including 28 and 30, in the proposed indictment are not charged with racketeering and did not commit more than one predicate offence.”

Now, I am saying to you, could it be that they were not
10 awarded because they are said not to have committed racketeering offences? As they say, maybe achieved the mandate.

ADV MAEMA: Chairperson, what we are meaning was that they did not commit, they are not charged with racketeering as it requires that you must commit two or more offences.

CHAIRPERSON: Yes. So, I am saying to you, they were not awarded. That is why they do not appear in the list.

ADV MAEMA: Oh, yes, yes.

CHAIRPERSON: Or do they appear in the list?

20 **ADV MAEMA**: No, they do not.

ADV NGCUKAITOBI SC: No, they do not. They did not get the money. That is really the point.

CHAIRPERSON: That did not get the money.

ADV NGCUKAITOBI SC: That is correct.

CHAIRPERSON: They did not do serious, commit serious

offences. If I may put it in simple language.

DV MAEMA: That is correct, Chairperson.

ADV NGCUKAITOBI SC: Yes. Thank you, Madam Chair. Now, that takes us back to 1A/156, which is the explanation at the bottom, why are these people getting money.

ADV MAEMA: Yes.

ADV NGCUKAITOBI SC: What is that explanation? It is just one paragraph just before the heading 'Summary of Events'.

ADV MAEMA:

10 "Each of the above candidates played a role in the successful apprehension of the suspects. Some of the candidates played a role in the apprehension of the suspects, whilst others assisted at the scene."

ADV NGCUKAITOBI SC: Now, remember that is where we were, this concept of apprehension.

ADV MAEMA: Yes.

ADV NGCUKAITOBI SC: Yes. Is that misleading or is that accurate?

20 **ADV MAEMA**: That is misleading and inaccurate.

ADV NGCUKAITOBI SC: Yes, okay. But it is clear that everyone who is there, according to the SAPS itself, played a role.

ADV MAEMA: Yes.

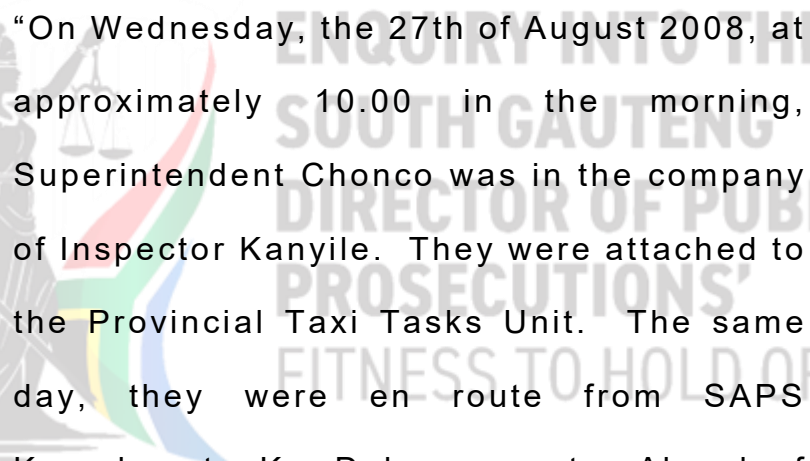
ADV NGCUKAITOBI SC: Yes. Including the one who denies

it today, Major General Booyesen.

ADV MAEMA: That is correct, Chairperson.

ADV NGCUKAITOBI SC: Now, there is, under paragraph 2, an explanation of what happened. Now, you had begun to testify about this yesterday and I just want you to look at that first paragraph and the second paragraph. Which is a purported explanation about the killing of Superintendent Chonco and the attempted killing of Inspector Kanyile. Just those two paragraphs. Maybe you can read them.

10 **ADV MAEMA**: That is correct, Chairperson.



“On Wednesday, the 27th of August 2008, at approximately 10.00 in the morning, Superintendent Chonco was in the company of Inspector Kanyile. They were attached to the Provincial Taxi Tasks Unit. The same day, they were en route from SAPS Kranskop to KwaDukuza court. Ahead of them was a marked police vehicle with two accused also en route to take the two

20 accused persons to KwaDukuza Court.”

Second paragraph:

“Whilst Superintendent Chonco travelled along the R74, approximately 20 kilometres before KwaDukuza, on a detour along the R74, he was led into an ambush and was

accosted by armed males armed with AK-47 and R4 or R5 rifles. He was fatally shot and killed behind the steering of a police vehicle. Whilst Inspector Kanyile, who was in his company, also sustained gunshot wounds, but miraculously managed to fight off the suspects, shooting the one above six metres from him. Inspector Kanyile was later removed and taken to Umhlanga Hospital by helicopter.”

10

ADV NGCUKAITOBI SC: Yes, thank you. I just want to ask you a couple of questions about this description. Now, what I have seen fairly regularly in these dockets, is that the use of an R4 and R5 is that of the police. What did you discover here?

ADV MAEMA: We, the R4 and R5 being, how do you call them? Assault rifles.

ADV NGCUKAITOBI SC: It is automatic assault rifles, yes.

ADV MAEMA: They cause...

20 **ADV NGCUKAITOBI SC:** No, but I am asking in relation to, is it an official gun with the police? Because we know an AK-47 is not official, but what about the R4 and R5?

ADV MAEMA: R4 and R5 are official firearms.

ADV NGCUKAITOBI SC: For who?

ADV MAEMA: For the police.

ADV NGCUKAITOBI SC: Yes. Now, so often what I have seen in these documents is that when the police shoot someone, they use R4s and R5s.

ADV MAEMA: That is correct, Chief Inspector.

ADV NGCUKAITOBI SC: Yes. Now, I found it striking that Superintendent Chonco was killed with an R4 and R5.

ADV MAEMA: That is correct.

ADV NGCUKAITOBI SC: Yes. Now, they also mentioned an AK-47, which would be an illegal weapon.

10 **ADV MAEMA:** That is correct.

ADV NGCUKAITOBI SC: And what I have noticed in these dockets, you can tell me if your own observations were incorrect, is that AK-47s were available with the police because they used to plant them, according to the case of the prosecution.

ADV MAEMA: That is correct.

ADV NGCUKAITOBI SC: Yes. Now, did you have a chance to – I mean, you have testified earlier that even you yourselves were not given access to this docket of
20 Superintendent Chonco.

ADV MAEMA: Yes.

ADV NGCUKAITOBI SC: Yes. But what about Inspector Kanyile? He was still alive.

ADV MAEMA: We did not access his dockets, nor were we able to consult with him. The explanation given at the time

was he was hospitalised.

ADV NGCUKAITOBI SC: Yes. But, I mean, you could have still – you had a long time, you know, between March and June when you were investigating the matter before you drew up the indictment. The fact that he is hospitalised, you could still have sent someone to the hospital and taken a statement.

ADV MAEMA: That is correct. The police could have obtained a statement from him, even when he was in hospital, if his condition had improved. But his statement was never
10 obtained whilst we were there.

ADV NGCUKAITOBI SC: Yes. Okay.

CHAIRPERSON: I beg your pardon. I beg your pardon, Counsel.

ADV NGCUKAITOBI SC: Yes.

CHAIRPERSON: But the prosecution team that was assigned to deal with these matters, you being the leader of the team, did not you find it appropriate to follow up?

ADV MAEMA: Chairperson, we...

CHAIRPERSON: On the statement of this witness who was
20 injured?

ADV MAEMA: We followed up with queries and I followed up with the commanders, both Mr Ayers and General Mabula. But with the constraints of the time when we were there, it never materialised that the statement was obtained.

CHAIRPERSON: Did you follow up in writing or

telephonically with the police?

ADV MAEMA: Chairperson, we followed up both by instructing them in our presence, in our meetings, and also in writing.

CHAIRPERSON: And the communication, that written communication, do you have it?

ADV MAEMA: Chairperson, I will have to check. I have not seen it. It is a long time, Chairperson. But there was written communication.

10 **CHAIRPERSON:** Yes, I ask these questions because the killings relating to the Cato Manor unit, revolves around the killing of Superintendent Chonco.

ADV MAEMA: That is correct, Chairperson.

CHAIRPERSON: The eyewitness could have been Mr Kanyile. He was alive.

ADV MAEMA: Crucial eyewitness, Chairperson.

CHAIRPERSON: Crucial eyewitness. Remember, the subsequent killing after Superintendent Chonco, was based on the fact that these suspects or the targeted people, including civilians, were suspected of having killed this officer.

ADV MAEMA: That is correct, Chairperson.

CHAIRPERSON: And it was, therefore, crucial that at least one person who survived the killing could have assisted in identifying the people, now the accused on the list, who

perpetrated the killings.

ADV MAEMA: That is correct.

CHAIRPERSON: He could have said, no, Chonco was actually killed by X. You remember there is the allegations that, in fact, the police know who killed Superintendent Chonco.

ADV MAEMA: That is correct, Chairperson.

CHAIRPERSON: But they allegedly, it is said, went on a rampage and killed varied people, including civilians, whom
10 they suspected.

ADV MAEMA: That is correct, Chairperson.

CHAIRPERSON: And yet they knew who killed Superintendent Chonco.

ADV MAEMA: That is correct, Chairperson.

CHAIRPERSON: And Kanyile could have been one of these witnesses who could have said, actually, it is X policeman or X Mr So-and-so who actually killed Mr Chonco.

ADV MAEMA: That is correct, Chairperson.

CHAIRPERSON: So why is it that it became so difficult to
20 find a statement of this witness?

ADV MAEMA: Chairperson, what happened at the beginning, you know when somebody loses his life in your presence and when you get injured, we sort of felt some compassion and said, let us rather give him time to recuperate and then when we have a report that his condition has improved to a level

where he could compose himself and make a statement, then we would do so. But in the weeks that we were there, it never materialised until we were removed from the case. Chairperson, what I am trying to explain is that investigation is ongoing and we did not expect that it would be interrupted with our removal from the case. So we just compassionately thought, let us give him time to recuperate. When he is stronger and more composed, then we will speak to him.

CHAIRPERSON: If you can remind me, this incident
10 happened when? That is the killing of Superintendent Chonco?

ADV MAEMA: 27 August 2008.

CHAIRPERSON: And you were placed in the leading position of the prosecutorial team when?

ADV MAEMA: 9th of March 2012.

CHAIRPERSON: And you were removed when? Approximately, if you do not remember the date. Which year?

ADV MAEMA: It is 2019? I think it is 2019.

CHAIRPERSON: The year Advocate Batohi took office?

20 **ADV MAEMA:** That is correct.

CHAIRPERSON: Advocate Ngcukaitobi.

ADV NGCUKAITOBI SC: Thank you, Madam Chair.

MS RAMAGAGA: I would like to follow up. Advocate, just a minute. Advocate Maema?

ADV MAEMA: Chairperson?

MS RAMAGAGA: When you say you were brought onto the team - actually, it is now common cause that you became the team leader in 2012.

ADV MAEMA: That is correct.

MS RAMAGAGA: Now, the killing of Superintendent Chonco took place in 2008?

ADV MAEMA: That is correct, Chairperson.

MS RAMAGAGA: And the same date is the date on which also Inspector Kanyile was shot and injured?

10 **ADV MAEMA**: That is correct.

MS RAMAGAGA: Now, when you came onto the picture in 2012 as the leading prosecutor, was Inspector Kanyile still in hospital?

ADV MAEMA: The first week when I was in Durban, he was still in hospital.

MS RAMAGAGA: Which question are you answering now?

ADV MAEMA: Was Inspector Kanyile in hospital when you took over as the team leader?

MS RAMAGAGA: And your answer is?

20 **ADV MAEMA**: Yes, he was hospitalised.

MS RAMAGAGA: He was still in hospital in 2012?

ADV MAEMA: Yes.

MS RAMAGAGA: He had been in hospital for about four years?

ADV MAEMA: I am not sure whether it is a continuous period

of four years or whether he would be discharged and then at some instance go in. But as at... when was that... as at May when we were in Durban, he was in hospital. It was reported to us by the investigating team that he is in hospital. And then the communication to them was, as soon as he feels better, we want to consult him and that was the task of the DPCI and not of the IPID because he was a member of the SAPS.

MS RAMAGAGA: So the team, the prosecution team, did not
10 find it necessary to check on the state of health of Inspector Kanyile, just to check as to whether he was in a position to can depose to a statement or not?

ADV MAEMA: Chairperson, we relied on the information that was given to us by the police and we had no reason to doubt it and we then focused on the task at hand that we could deal with. Whilst I kept on enquiring from General Mabula as well as Mr Angus [?], I kept on reminding them to keep on checking and update us about his condition so that we can follow up with either taking a statement or getting just an
20 input from him, from his perspective as to how the shooting happened.

MS RAMAGAGA: Would you say that the person that can tell us about the state in which Inspector Kanyile was in, in or around 2012, would be either...

ADV MAEMA: Mr Angus or General Mabula?

MS RAMAGAGA: Mr Angus or General Mabula.

ADV MAEMA: Yes, that is correct.

MS RAMAGAGA: Okay. Now, let us talk about formalities of the prosecutor. It is correct that the prosecution or the prosecutors actually guide the investigating officers about where to go to, whose statement they should obtain in order to get the matter ripe.

ADV MAEMA: Dealt with accordingly and ripened for trial, yes.

10 **MS RAMAGAGA**: That is right. Now, it is correct that that guidance would reflect on the dockets, because you would write on the docket that do 1, 2, 3, 4 and when the dockets come back from the police, the police would inform you in response in the docket to say, these are the steps that we have taken and this is the state of affairs. Is that correct?

ADV MAEMA: That is correct, Chairperson.

MS RAMAGAGA: So, in actual fact, in accordance with that practise and rule and law, you were, as the head of the prosecution team, making sure that the dockets are properly
20 managed, and let me talk about this docket in particular.

ADV MAEMA: Yes, Chair.

MS RAMAGAGA: That the requests are recorded in the dockets. The requests from the NPA. Now, I am talking about, let us just be clear, I am focussing on from the time when you were the head of the prosecution team.

ADV MAEMA: That is correct, Chairperson.

MS RAMAGAGA: So, you did that?

ADV MAEMA: Yes, Chairperson.

MS RAMAGAGA: Thank you.

ADV NGCUKAITOBI SC: Thank you, Madam Chair.

ADV BALOYI-MERE SC: Sorry, the last answer, Advocate Maema, that you did that. But from your evidence, if you were being referred to Superintendent Chonco and Inspector Kanyile's dockets, your earlier evidence was that you have
10 never seen those dockets. So, you could not have given that guidance on the dockets. Am I correct?

ADV MAEMA: You are correct, Chairperson. What I am saying, we did not give guidance on those dockets themselves because we had not seen them. They have not been delivered to us. But the entire investigation in general, we would say, bring us this docket, bring us this witness, so that we can follow up on some of the issues that were outstanding.

MS RAMAGAGA: Maybe just to understand this, because I
20 think my questions were clear about what we were talking about. The main focus was on the witness, Inspector Kanyile and your answers, were they in response to my enquiry about Inspector Kanyile?

ADV MAEMA: That is correct, Chairperson.

MS RAMAGAGA: Yes and you have said that you would seek

for information about Inspector Kanyile orally and in writing.

ADV MAEMA: That is correct.

MS RAMAGAGA: Right, thank you.

ADV MAEMA: Thank you, Chairperson.

ADV NGCUKAITOBI SC: Yes, thank you, Madam Chair.

CHAIRPERSON: Sorry, I just wanted to tie up this point. At paragraph 60, let me just consult my notes. Paragraph 60 of your affidavit, at page 1-17, that paragraph speaks of the investigation or the investigative team.

10 **ADV MAEMA**: Chairperson, 7-0.

CHAIRPERSON: Paragraph 60. 6-0.

ADV MAEMA: 6-0.

CHAIRPERSON: Of the statement.

ADV MAEMA: I am there, Chairperson.

CHAIRPERSON: Yes. I am asking this in the context of the earlier point you made that you communicated with the police officers to provide the statement of Mr Kanyile. You kept on reminding them about this outstanding statement.

ADV MAEMA: Yes, Chairperson.

20 **CHAIRPERSON**: And these police officers, I assume, would have been the investigators.

ADV MAEMA: That is correct.

CHAIRPERSON: Within DPC... Sorry, IPID or DPCI.

ADV MAEMA: That is correct.

CHAIRPERSON: As you also state in paragraph 69.2. 69.2,

where you say:

“Following the Sunday Times article, IPID and DPCI were tasked with investigating allegations that members of the Cato Manor Unit were unlawfully killing suspects and, in some instances, unarmed civilians.”

Now, as you communicated with these investigators, do you remember who was tasked with this investigation?

ADV MAEMA: I do. It was...

10 **CHAIRPERSON**: That is the officer to whom you addressed letters, reminding them or him of the outstanding statement as regards Mr Kanyile.

ADV MAEMA: Chairperson, the instruction will be addressed to the two leaders, but there is one specific captain who was dealing with this issue.

CHAIRPERSON: Yes, that is what I want to know. Who is the specific officer?

ADV MAEMA: I am trying to get... He is based in Krugersdorp.

20 **CHAIRPERSON**: If you remember in due course...

ADV MAEMA: Yes, I will.

CHAIRPERSON: ...you will communicate to Advocate Ngcukaitobi, and you can let us know. Because I find it strange that such crucial information is left outstanding and does not form part of the dockets or the indictment.

ADV MAEMA: Chairperson, it is crucial and it would have been ground-breaking because it would have taken us to the shortest route available. But because of the condition, we thought let us... We are told him being hospitalised, we felt let us follow other avenues. And then when he is in a better condition, then we would revert back, but it did not happen like that.

CHAIRPERSON: Yes, and it may well be that after you were removed from the matter, these officials, the IPID and DPCI,
10 the investigators proceeded and procured the statement. It may well be so.

ADV MAEMA: It could be, it could be, yes.

CHAIRPERSON: That is why it is of interest to me to know who these investigators were who were allocated this matter.

ADV MAEMA: I follow.

CHAIRPERSON: Yes, thank you.

ADV NGCUKAITOBI SC: Thank you, Chair. Yes, perhaps let us just close up this part of the enquiry. I think the first possibility is that you were being frustrated in getting access
20 to Superintendent Kanyile, Inspector Kanyile.

ADV MAEMA: That is correct.

ADV NGCUKAITOBI SC: There was a deliberate stonewalling. So that is one possibility. I am not saying it is true. The other is that the people that were reporting to you, General Mabula and them, were just incompetent because

they failed to get a crucial witness. The other is that genuinely Superintendent Kanyile was indisposed and simply unable to play any role. It is a bit of an oddity because if he was indisposed from the injury, that was an injury of four years earlier.

So this is why I think these questions are rising. It is clear that the justification for the murder of six people is Superintendent Chonco. There is a potential eyewitness. The docket has gone missing. The eyewitness also cannot
10 be made available to you. So this is the thing you need to just sum up for us about what efforts you made and what conclusions you reached as the person who was running the show.

ADV MAEMA: Chairperson, it was very frustrating, I must say. But we felt instead of focussing on the negative and we felt if there are other ways of going through it, even if it means the long way around, we would rather do that rather than just say, well, we cannot get hold of the eyewitness. We cannot get hold of the docket of Superintendent Chonco. So
20 we felt let us explore other avenues. Although that avenue would have been ground-breaking, would give us proper clues.

ADV NGCUKAITOBI SC: Testify. Well, General Mabula is still around.

ADV MAEMA: Yes.

ADV NGCUKAITOBI SC: So he is a person who can testify to this panel.

ADV MAEMA: That is correct.

ADV NGCUKAITOBI SC: Yes. Thank you very much. Now, the murder of Superintendent Chonco, was it actually ever resolved to your knowledge? I know that you said what they did, they justified the killing of the six on the basis of that killing.

ADV MAEMA: Yes.

10 **ADV NGCUKAITOBI SC:** But there is still the question, who has been arrested for the murder of Superintendent Chonco?

ADV MAEMA: It has not been resolved satisfactorily.

ADV NGCUKAITOBI SC: Yes and...

CHAIRPERSON: I beg your pardon?

ADV MAEMA: It has not been resolved satisfactorily.

CHAIRPERSON: What do you mean? Has it been resolved?

ADV MAEMA: It has not been resolved. The families still do not know. I still do not know who killed Superintendent Chonco.

20 **ADV NGCUKAITOBI SC:** Yes. I mean, was anyone arrested? Because we know that Mr Magojela Ndimande was arrested and released on the same day on the basis that he could not be linked to the murder.

ADV MAEMA: That is correct.

ADV NGCUKAITOBI SC: And then a week later executed.

ADV MAEMA: Yes.

ADV NGCUKAITOBI SC: So anyone was arrested?

ADV MAEMA: There was no one arrested and taken to court to be confronted with any evidence relating to the killing of Superintendent Chonco.

ADV NGCUKAITOBI SC: Can you just explain? I mean, is it normal that a docket goes missing? You know, this docket was once in the NPA. It has gone missing. It cannot be found even for this Commission we are dealing with. Is this a
10 normal thing? Regular occurrence?

ADV MAEMA: It is not a normal occurrence. It should be traced and located and brought here.

ADV NGCUKAITOBI SC: Yes.

MS RAMAGAGA: Counsel, let me just come in there. In the event that a docket disappears and I will deliberately say an important docket, I will label it as an important docket because it involves the life of a policeman.

ADV MAEMA: That is correct.

MS RAMAGAGA: Not that other dockets are not important,
20 but in the context of this enquiry, it is an important docket.

ADV MAEMA: That is correct, Chairperson.

MS RAMAGAGA: Now, in the event of a docket, an important docket for that matter disappears, what is the process that is undertaken?

ADV MAEMA: The process is...

MS RAMAGAGA: To fill that gap.

ADV MAEMA: The process, Chairperson, a duplicate docket must be opened as soon as it is realised that the docket has gone missing.

MS RAMAGAGA: Well, now, for a while, I will not take into consideration what is in the De Kock's report about, which suggests that there was a docket that existed about Chonco, the late Chonco or Superintendent Chonco, I beg your pardon. Do you know for a fact as to whether a docket was
10 opened for the passing of Superintendent Chonco or you do not know?

ADV MAEMA: Chairperson, for the fact of a CAS number having been given to us, then we said we want to see, please give us this CAS number. So, a CAS, a docket was opened on the CAS system and it was allocated a CAS number.

MS RAMAGAGA: So, a CAS number does exist?

ADV MAEMA: That is correct, Chairperson.

MS RAMAGAGA: It has been registered into the register as CAS number whatever.

20 **ADV MAEMA**: Yes, CAS number...

MS RAMAGAGA: But are you able to vouch that in fact the docket exists or all what you can vouch for is that a CAS number has been allocated in the name of the deceased Superintendent Chonco?

ADV MAEMA: I accepted that a CAS docket has been opened

because we were given a CAS number.

MS RAMAGAGA: Thank you.

ADV NGCUKAITOBI SC: Thank you. I suppose just to follow up on this point of this missing docket of the murder of Superintendent Chonco. The NPA says that this docket was once in the possession of the NPA. I mean, you have been in the NPA system for what, 31 years?

ADV MAEMA: That is correct, Chairperson.

ADV MAEMA: I mean, when you get a docket, do not you
10 copy it for yourselves?

ADV MAEMA: Well, when you get it – the NPA works on a system of files.

ADV NGCUKAITOBI SC: Yes.

ADV MAEMA: So, every matter that you deal with has a file.

ADV NGCUKAITOBI SC: Yes.

ADV MAEMA: So, you expect that when the prosecutor gets it, whether it is at the national office or at the DPP office, a file is opened.

ADV NGCUKAITOBI SC: I am asking if you get a docket, do
20 you copy it and keep a copy for yourselves?

ADV MAEMA: Yes, you do copy it and keep it in the file.

ADV NGCUKAITOBI SC: Now, this is where, for me, the oddity of this thing is. Mr Anton du Plessis, the Deputy National Director, says the docket was once here, but we have given it back to the DPCI, but does not explain what

happened to the copy of the NPA. Can you just explain and shed light to us on that?

ADV MAEMA: Well, ordinarily, as a NPA employee, former employee, when you get a docket, you will make a copy. In fact, what you do is you make a copy and keep a working copy whilst the docket investigation continues. The original goes back.

ADV NGCUKAITOBI SC: Yes. So, do you find it strange that the NPA itself, forget about the police, the NPA itself says
10 that they do not have this docket.

ADV MAEMA: I do find it very strange.

ADV NGCUKAITOBI SC: Yes. Now, I want to then move from, I think we were still at 1A/156 and we had dealt with a summary of events described at the first and the second paragraph around the murder of Superintendent Chonco and the attempted killing of Inspector Kanyile and the travails of trying to get his statement from your side.

And I think where we left that conversation is that you will find your notes and any correspondence, but on our
20 side, we will try and get hold of General Mabula and try and persuade him to come and give evidence here before this Panel. Now, the third paragraph there talks about who attended the scene of the murder, alleged murder of Superintendent Chonco.

ADV MAEMA: That is correct

ADV NGCUKAITOBI SC: And we see in the second sentence that actually Cato Manor came to that scene. I mean, would you know why, you know, that does not appear to even geographically be connected to them?

CHAIRPERSON: Please repeat the question.

ADV NGCUKAITOBI SC: Would you know why the members of the Cato Manor unit went to the scene of the killing of Superintendent Chonco that does not appear to be geographically linked to them?

10 **ADV MAEMA:** I would not know why they would be there. It is actually very far, far from Durban.

ADV NGCUKAITOBI SC: Yes, because it seems that there would have been other police officers closer to the scene who would have been called. I mean, why would they call Cato Manor?

ADV MAEMA: Exactly, Chairperson. It is very far. There are closer units that can deal with that scene than Cato Manor. They are very far.

ADV NGCUKAITOBI SC: Yes and then what is also stated is
20 that not only were they called, they took over the scene.

ADV MAEMA: That is correct, Chairperson.

ADV NGCUKAITOBI SC: Yes. Do you have any comment on that? Because someone has gone who is from Kranskop. Is Kranskop closer to the place where the incident occurred?

ADV MAEMA: That is correct, Chairperson. Kranskop SAPS.

ADV NGCUKAITOBI SC: Yes. Now, this is the thing I do not understand with this. There is someone from a station that is closer and would ordinarily be expected to attend to it. Then there is someone from a station that is so far from the event, but that person comes in and takes over the scene.

ADV MAEMA: More so, the person close by is a senior member, he is a superintendent of, the station commissioner, Superintendent Minnaar of Kranskop SAPS. So it is very strange that Cato Manor would go there.

10 **ADV NGCUKAITOBI SC:** Yes.

CHAIRPERSON: Was he at the scene, Mr Minnaar?

ADV MAEMA: It says the scene was attended by Superintendent Minnaar, the station commissioner of Kranskop SAPS.

CHAIRPERSON: He attended?

ADV MAEMA: Yes.

CHAIRPERSON: And was joined by the Cato Manor Unit?

ADV MAEMA: Cato Manor then came later whilst he was at the scene.

20 **CHAIRPERSON:** They found him there?

ADV MAEMA: Ja. Chairperson, it is there in paragraph 3 of the...

CHAIRPERSON: No, you can answer.

ADV MAEMA: Oh, yes, yes.

ADV NGCUKAITOBI SC: Well, just read what the answer is.

I mean, we all know that it is there, but we cannot read it.
The witness must read for us.

ADV MAEMA: My apologies, Chairperson.

ADV NGCUKAITOBI SC: Yes. Just answer the question,
then, please.

ADV MAEMA: My apologies, Chairperson. The scene was
attended by Superintendent Minnaar, the station
commissioner of Kranskop police station.

ADV NGCUKAITOBI SC: The question was, did they find him
10 there?

ADV MAEMA: My understanding was he was found there,
and when they found him there, they then took the scene
over.

ADV NGCUKAITOBI SC: Yes. Thank you very much. Now,
thereafter, they say that they thoroughly secured the scene,
and then they took statements from members of the local
community and other persons nearby.

ADV MAEMA: That is correct, Chairperson.

ADV NGCUKAITOBI SC: Yes, all right. And the issue of the
20 docket comes up again because statements were taken, and
there would have been people then who would have kept
those statements in the docket.

ADV MAEMA: That is correct, Chairperson.

ADV NGCUKAITOBI SC: So it is not just Inspector Kanyile,
but there were also other people around the scene.

ADV MAEMA: That is correct.

CHAIRPERSON: Counsel, we are five to one. Are you exhausting this point?

ADV NGCUKAITOBI SC: You know, Chair, to be honest, I simply will not be able. It is a long point.

CHAIRPERSON: It is a long point.

ADV NGCUKAITOBI SC: There is a two-minute point I can quickly dispose of in the remaining time.

CHAIRPERSON: Yes.

10 **ADV NGCUKAITOBI SC**: Could I, remember when we spoke to the extract from the book by Jessica Pitchford? You recall that?

ADV MAEMA: I recall that, Chairperson.

ADV NGCUKAITOBI SC: Yes. And there was a question from Madam Baloyi-Mere SC, which is, what is the connection between Mr Johan Booysen and this book? Because it is written by someone else, and he is referred to in the third person. Recall that?

ADV MAEMA: That is correct, yes.

20 **ADV NGCUKAITOBI SC**: Now, there are two documents I just want to give to you to read into the record, to confirm what General Booysen himself said about this book. The first one is GSM92, which is an extract from the Zondo Commission of the evidence given by Major General Booysen on the 18th of April 2019. Do you have that?

ADV MAEMA: I have that, Chairperson.

ADV NGCUKAITOBI SC: If you turn over the page under the line 10, Chairperson ...[intervenes]

ADV MTSWENI: Excuse me, Madam Chair. May we be provided with the document that Advocate Ngcukaitobi is reading? We have only been provided with GSM93, not with the other one.

CHAIRPERSON: Yes, please. A copy of the extract.

ADV NGCUKAITOBI SC: We apologise. So, if you turn to...

10 **CHAIRPERSON**: Advocate Hulley, do you have it?

ADV HULLEY SC: I have just been given a document.

CHAIRPERSON: Do you have another copy of the extract?

ADV NGCUKAITOBI SC: So, we have got an extra one. Thank you.

ADV HULLEY SC: Thank you.

CHAIRPERSON: Thank you.

ADV NGCUKAITOBI SC: Ja, apologies to the NPA team. So, if you go to GSM92, and you turn over the page to line 10, can you see that?

20 **ADV MAEMA**: I am there, Chairperson.

ADV NGCUKAITOBI SC: And then there is Major General Johan Wessel Booysen. Can you see that?

ADV MAEMA: I can see that.

ADV NGCUKAITOBI SC: Can you read to the record what he says?

ADV MAEMA: I... No, it says:

“...and in conjunction with journalist, had written a book about what happened to me, and the book had appeared online I think the Monday, and I think that was the Thursday.”

ADV NGCUKAITOBI SC: The Chairperson...

CHAIRPERSON: Maybe you can read it from the paragraph on top. You see it is continuing there? Is it not relevant, Counsel, where he says, Chair, I do speak to that a bit later
10 in my statement. What happened is about two years ago, and...

ADV NGCUKAITOBI SC: Oh, yes.

CHAIRPERSON: And then he continues.

ADV NGCUKAITOBI SC: No, no, no, yes, no, no, you are right, because actually it starts with Chairperson on top, because he is explaining the charges against him. Yes, all right.

CHAIRPERSON: Yes.

ADV NGCUKAITOBI SC: Start with where it says
20 ‘Chairperson’. I presume that would have been Judge Zondo.

CHAIRPERSON: Yes.

ADV MAEMA:

“Okay, Ms September, will you direct
...[intervenes]”

ADV NGCUKAITOBI SC: Start by saying who is talking.

ADV MAEMA: Oh, it is the Chairperson talking.

ADV NGCUKAITOBI SC: Yes.

“Okay, Ms September will direct you to that part of your statement if, when he wants to do that, because it would be good to know and did they say withdrawn? They have never been reinstated, those charges.”

ADV NGCUKAITOBI SC: Yes.

ADV MAEMA: And Major General Johan Wessel Booysen
10 responds:

“Chair, I do speak to that a bit later on in my statement. What happened is about two years ago.”

Chairperson then comments:

“Mmm.”

And Major General Johan Booysen then continues:

“And in conjunction with a journalist, had written a book about what happened to me, and the book had appeared online I think the
20 Monday, and I think that was the Thursday.”

The Chairperson then says:

“Yes?”

And Major General Booysen then continues:

“We were on our way to Cape Town to attend the launch of the book.”

ADV NGCUKAITOBI SC: Yes, continue, because the name of the journalist does appear later.

ADV MAEMA: Chairperson then responds:

“Mmm.”

Major General Booyesen then continues:

“And then she told me, that was now Jessica Pitchford, we were both going to Cape Town for the release of the book, and she just watched on the phone the news. It was then announced by Advocate Sean Abrams that Panday and Madhu would be prosecuted.”

10

ADV NGCUKAITOBI SC: Yes, you can end there. So it seems according to this that he himself says the book was written in conjunction with Jessica Pitchford.

ADV MAEMA: That is correct, Chairperson.

ADV NGCUKAITOBI SC: If you then turn to GSM93, which is a postscript to the book itself. In the first paragraph, which is updated postscript October 2022, and this is a text written by, if you turn, I think it is one, two, three, four, seven pages, you will see who wrote that postscript. Can you see that?

20

ADV MAEMA: I can see that, Chairperson.

ADV NGCUKAITOBI SC: Who wrote the postscript?

ADV MAEMA: Johan Booyesen, at Cape Town 2022.

ADV NGCUKAITOBI SC: Yes, and then if you go back then to the beginning, what does he say in the first paragraph?

ADV MAEMA: Chairperson, he says:

“Working on this book with Jessica was quite an adventure, even for a hardened career cop like me, we spent almost 18 months at it, meeting wherever it was convenient, be it at the coffee shop in Jo'burg or Durban or somewhere in between. She met my family, my friends and my colleagues in an attempt to inject personality and emotion into my often over-factual cops-do-not-cry-account of what I had experienced at the receiving end of crooked police, politicians and prosecutors and their useful implementing idiots.”

ADV NGCUKAITOBI SC: Yes, it seems here he says he actually worked on the book with Ms Jessica Pitchford.

ADV MAEMA: That is correct. If you then go to two pages towards the end under the heading ‘Acknowledgements’, it is two from the end. Yes, yes, yes. From the end, yes.

ADV MAEMA: Oh, yes, I am there.

ADV NGCUKAITOBI SC: Under Acknowledgements. So the first acknowledgement is given by Jessica Pitchford to Johannesburg, July 2016, correct?

ADV MAEMA: That is correct, Chair.

ADV NGCUKAITOBI SC: And then the second

acknowledgement, who gives that acknowledgement?

ADV MAEMA: It is given by Johan Wessel Booyesen, Durban, July 2016.

ADV NGCUKAITOBI SC: And then at the end of that acknowledgement, what does he say there? This is the last line.

ADV MAEMA:

“This is my story. This is my truth.”

ADV NGCUKAITOBI SC: Yes, so it seems that he cannot
10 escape the fact that the book contains his own version of what happened.

ADV MAEMA: That is correct, yes.

ADV NGCUKAITOBI SC: Thank you, Madam Chair. I will be happy to adjourn at this stage.

CHAIRPERSON: Are you still making an undertaking, Advocate Ngcukaitobi, that you will provide us with the book?

ADV NGCUKAITOBI SC: Yes, my junior thought we could cut through it, but we will see.

CHAIRPERSON: It will cause no harm if you can provide a
20 book to the three of us.

ADV NGCUKAITOBI SC: Indeed, we will make sure over the weekend we get copies.

ADV MTSWENI: And the evidence leaders, Madam Chair, since this book is part of the evidence.

CHAIRPERSON: Advocate Hulley is raising his hand. You

can bring that roaming mic.

ADV HULLEY SC: Thank you, Madam Chair. Just insofar as the Chonco file is concerned or the docket is concerned, the communication that had gone out to the Chauke team, I think as far back as...

CHAIRPERSON: Maybe just place yourself on record that you are for the NPA.

ADV HULLEY SC: Sorry, Madam Chair, I appear on behalf of the NPA. There was a communication towards the
10 November of last year that the docket would have been returned to the DPCI and that a request should be made by the Chauke team to the DPCI to uplift the docket or to obtain copies of the docket. What I did indicate to my learned friend yesterday is that we would also make an effort ourselves to do so.

So I am conveying that to the Chairperson as well, that we have given an undertaking that we will look into the matter and try to uplift it ourselves. But there was no response, as far as I am aware, that, at that stage, that they
20 would not conduct the attempt to uplift the docket themselves. But now that we know where we stand, we will make an effort on our side. Thank you, Madam Chair.

CHAIRPERSON: Yes, yes, yes, yes, counsel. I think it is a concerted effort by all of us to bring all the evidential material before us. I think we owe it to the nation, as we are trying to

find the truth in relation to this complex matters, so that when we recommend to the President, we would be recommending on the basis of the correct information provided to us. And the NPA is duty-bound to assist us in that regard. But thank you, Advocate Hulley, for that undertaking and to assist not only Advocate Chauke's team, but to assist the Panel itself. Thank you very much. Yes, we interrupted you with the time, but you will proceed on that issue that you were busy on before you went back to the book.

10 **ADV NGCUKAITOBI SC:** Yes.

CHAIRPERSON: You will take it from there when you proceed on Monday.

ADV NGCUKAITOBI SC: Yes, Madam Chair.

CHAIRPERSON: The normal time to commence on Monday will be nine o'clock. Please be here on time. We, instead of starting late, we will adjourn slightly early for what I should be doing Monday morning for my medical attention. So this

is an appropriate time to adjourn. Advocate Chauke, we hear that you have a bereavement. May your family be comforted
20 as you go through this difficult time of bereavement. I hear you are travelling to Thohoyandou.

ADV CHAUKE: Giyani, yes.

CHAIRPERSON: To Giyani. It is far away. The weather is not really favourable, but do travel safely. May it go well with your family. We will adjourn until Monday morning, nine

o'clock. Advocate Maema, thank you very much for being here. I know you are continuing on Monday and hopefully we are not even halfway with your statement, hopefully, we will proceed faster, Advocate Ngcukaitobi, I had anticipated that we will be with this witness at least for three days as we did with Advocate Noko.

Maybe because Advocate Noko was the witness for the Panel. [Laughter] And the Panel made sure that this witness was not going to belabour points and she was quite
10 fast and for that, we are grateful. And Advocate Maema, we are not suggesting that you must go swiftly. We will afford you all the necessary time. But as you proceed on Monday, please let us try to keep to the time. In that event, all of you have a pleasant weekend. Let us meet again on Monday at nine o'clock.

ADV BALOYI-MERE SC: He is still under oath.

CHAIRPERSON: Yes. We adjourn and I am reminded that I must remind you that you are still under oath. You know when you deal with lawyers, sometimes they forget very basic
20 principles. So we have to keep on reminding you.

ADV MAEMA: That is correct, Chairperson.

CHAIRPERSON: You are not going to consult with anybody. You continue on Monday uninterrupted.

ADV MAEMA: That is correct, Chair.

CHAIRPERSON: Thank you. We adjourn.

ENQUIRY ADJOURNS UNTIL 16 FEBRUARY 2026



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