

**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**

3 MARCH 2026

DAY 36



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

PROCEEDINGS ON 3 MARCH 2026

CHAIRPERSON: A very good morning to you all. Good morning, Advocate Chauke. Advocate Ramogale, is the witness available?

ADV RAMOGALE: Good morning, Chair. Last I checked, we were still checking, she is at the offices. I just do not know whether she is now logged on. She has? I am informed that she has, Chair.

CHAIRPERSON: Will you please bring her in? Good morning, Ms Williams. A very good morning to you, Ms Williams.

ADV RAMOGALE: Chair, it appears we are having some sound difficulties.

CHAIRPERSON: Mr Mohlokwanye[?], what is going on?

MR MOHLOKWANYE: It is not moving, it is not moving, Chair.

CHAIRPERSON: You are an expert. Lady journalist, are you not supposed to be there in front of us?

FEMALE SPEAKER: I am just doing some touch-ups.

CHAIRPERSON: Are you winning, are you winning, Mr Mohlokwanye?

ADV RAMOGALE: Chair, could I ask just for a five-minute recess while we sort out these technical issues?

CHAIRPERSON: Yes. Okay, we will pause just for a few minutes and call us back when you have the screen sorted

out and the sound. We will come back.

ADV RAMOGALE: Thank you, Chair.

ENQUIRY ADJOURNS

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CHAIRPERSON: We hear you have sorted out the sound.

ADV RAMOGALE: Yes, Judge, I understand that the sound has now been sorted.

CHAIRPERSON: You can bring her on the screen. Is it you who is controlling the screen? All right. I thought that it is
10 Mr Mohlokwane in front of me. Thank you very much for that. Ms Williams, good morning.

MS WILLIAMS: Good morning, Chairperson.

CHAIRPERSON: Hope you are good this morning.

MS WILLIAMS: Yes, ma'am, I am good indeed, and I hope you are too.

CHAIRPERSON: We are well, thank you. You are still under oath, Madam.

MS WILLIAMS: Yes, Chairperson.

CHAIRPERSON: Thank you. You may proceed, sir.

20 **SHAMILA HENRIETTA WILLIAMS:** (still under oath)

EXAMINATION BY ADV RAMOGALE (CONTINUES): Thank you, Chair. Ms Williams, good morning.

MS WILLIAMS: Good morning.

ADV RAMOGALE: We left off your statement at paragraph 70. Could you kick us off there by reading what you have

stated there at paragraph 70?

MS WILLIAMS: Yes:

“The police's version of events in the alleged self-defence did not seem plausible. Mr Msimango lay face down on the pavement, having fallen from a fourth floor flat above. He could not plausible have posed a threat to the police, but he was shot two times while lying down. The position of the firearm near his body was improbable if he had brandished it when he landed while falling.”

ADV RAMOGALE: Just on that, it seems we know from the previous paragraphs in your statement that you had attended to the scene on the day, but already in paragraph 70 you say that the police's version of events did not seem probable. Why is that?

MS WILLIAMS: It was when I looked at the scene, when I looked at where the body was, and I think the firearm was lying about one metre, plus-minus one metre from where the deceased was lying. So, in my mind, if he was moving, it might be because he was injured, but the firearm was not anywhere near him or near his body. So, why was he a threat to the police at that stage?

ADV RAMOGALE: And upon attending to the scene, did you

ever make it into the apartment in which Mr Msimango was in?

MS WILLIAMS: Yes, Chairperson, I went to the scene because this is where this whole incident started. I went into the scene. I noticed that the door was indeed broken in. And then I went, you know, did an inspection of the flat. I went into the bedroom. I noticed the place where the deceased had actually jumped through the window. And I looked down, and the distance, in my mind, it just told me that if that man
10 had landed on the ground, he would have been – you know, he would have sustained serious injuries, in my view.

ADV RAMOGALE: And then as you say in paragraph 70 of your statement, you state that he could not plausibly, I think, have posed a threat to the police. Why is it that you say so?

MS WILLIAMS: He was lying face down on the ground and the firearm was not anywhere near his body. So, what threat could there have been there at that stage? And the man should have been, in my mind, should have been injured.

ADV RAMOGALE: And then in paragraph 70 you tell us
20 about something that happened after processing the scene. Could you tell the enquiry about that?

MS WILLIAMS: Are you talking about paragraph 71?

ADV RAMOGALE: Apologies, sorry, paragraph 71. I am mistaken.

ADV BALOYI-MERE SC: Sorry, before you leave paragraph

70, can the witness refresh our mind which case are we talking about? Is it the Berea? Because at paragraph 69 there was a mention of Malvern, and we are still expecting that we will be given the two different cases so that we can identify and differentiate between them. But now we are talking about Mr Msimango, and I suspect it is the Berea case. Maybe for the record to be...

MS WILLIAMS: Yes, ma'am, we are speaking about the Berea matter in this case.

10 **CHAIRPERSON**: There seemed to be sound from our right side. Do you have your cell phones on? It is a laptop.

ADV BALOYI-MERE SC: I wanted that to be clarified so that the record is clear. Thank you.

MS WILLIAMS: You are welcome, Chairperson.

ADV RAMOGALE: Advocate Baloyi-Mere, my apologies. Ms Williams, you will recall we spoke about the Malvern case yesterday and you had clarified to the enquiry that actually there should not be confusion. There are two Malvern cases. There is one in which I spoke about in the Danikas statement,
20 and you say this is a different Malvern case, that it is likely that they were the same, but you said there should not be any confusion. Chair, what we have decided is that we will clarify that when Mr Danikas gives evidence about whether there are, in fact, two different Malvern cases or if this is, in fact, one case, given that the witness has already said that she

does not know much about this particular Malvern case.

CHAIRPERSON: Subject to correction, Ms Williams, I think the issue of Malvern case referred to in paragraph 69 arose when you sought to emphasise the point, as I understood your evidence, to say as they forced the door open with a crowbar, the point you make at paragraph 68, they forced their entry also in relation to the Malvern case. This is how the Malvern issue arose.

MS WILLIAMS: Yes, Chairperson.

10 **CHAIRPERSON:** Am I correct?

MS WILLIAMS: You are correct, Chairperson.

CHAIRPERSON: And you cautioned us to say we must not confuse the two Malverns. One relates to this matter in which you were involved, and another is the Malvern that Mr Danikas spoke about.

MS WILLIAMS: That is correct, Chairperson.

CHAIRPERSON: But as I understood you, you raised it to cross-refer to what the police did when they forced the door open in relation to the Berea matter.

20 **MS WILLIAMS:** Correct, Chairperson.

CHAIRPERSON: Thank you.

ADV RAMOGALE: Thank you, Ms Williams. Just to answer the – if you could just answer the question from Advocate Baloyi-Mere SC, the observations you are making at paragraph 70 and 71 relate to which case?

MS WILLIAMS: This is relating to the Berea case, 288/5/2008.

ADV RAMOGALE: Thank you, Ms Williams. So, yes, I was asking you about paragraph 71. You inform us there that after the scene was processed, something happened. Could you tell the enquiry about that?

MS WILLIAMS: After the scene, Chairperson, was processed, a heated verbal argument took place between Ms Mpanza and Captain Neville Eva. My impression, based on
10 the manner of his speech and behaviour, was that Captain Eva was intoxicated. Inspector Vishnu pulled me and the LCRC constable aside and advised us to stay out of it. I do not know what the argument was about or how it started. It struck me as unusual and inappropriate for an ICD investigator to engage in a heated argument with a SAPS member while on duty.

ADV RAMOGALE: Thank you, Ms Williams. I would just like us to pause there. Now, this is not the first time this enquiry is hearing about the alleged toxication of the Cato Manor
20 members at a scene. You might not have this docket, but we will put it up on the screen. If I could ask the Panel to turn to the Melmoth case, the Melmoth docket, at page MM0217? Ms Williams, we will put it up on the screen for you now.

MS WILLIAMS: Thank you, Chairperson. I see that on the screen, Chairperson.

ADV RAMOGALE: You will not be able to see it on your screen, and we have deliberately blocked it out because it contains somebody's ID number. But I will read what is not appearing on your screen, which is paragraph 1 of that statement. And it reads:

“Sipho Saki Xulu states under oath in English that he is an adult male...”

With a certain ID number:

“...20 years of age, residing...”

10 And he sets out the address there, and employed at, and he sets out the address with his cell phone number. Could you just read for the enquiry what appears from paragraph 2?

MS WILLIAMS: Yes:

“Sometime late 2008, my late father was still alive, and he was selling at an abovementioned store.”

I do not know. I came to – I cannot see where that is:

20 “My father, who passed on 2011 October, told me that he was at the store. Police officers, white male, came to the store. It was three police officers. Those police officers told my late father that they killed Bongani Biyela, and further said that he even assaulted them.”

If you can just – thank you, slow down. Thank you:

“Assaulted the brother of Bongani, who steal cattles [sic]. My late father told me that police officers were looking for beers. My late father told me that the police officer...”

I cannot see what that word is:

“...beers they wanted.”

ADV RAMOGALE: Chose.

MS WILLIAMS:

10 “Chose beers they wanted. And I am not or cannot remember whether my late father mentioned of any payment to the beers. Police officers entered and helped themselves.”

ADV RAMOGALE: Yes, please go on.

MS WILLIAMS: I am just having difficulty:

20 “Always, if there was any incident or any bad news at the surrounding area of the store, he would tell us. I cannot say now who they were because they did not identify themselves. My late father told me that police officers came at about 09:00 in the morning. That was on the 22nd of November 2008. I know and understand the contents of the statement.

I have no objection in the taking of the prescribed oath. I consider the prescribed oath to be binding on my conscience.”

ADV RAMOGALE: Thank you, Ms Williams. Now, in relation to that Melmoth matter, there is a second statement that does not appear in the numbered and indexed dockets provided to the Panel, but which was initially provided by the NPA at the commencement of this matter. We will put that up on the screen. And, Madam Chair, with your leave, if we could hand
10 up copies of that to the Panel.

CHAIRPERSON: Yes, you may. SM1?

ADV RAMOGALE: Yes, Chair.

CHAIRPERSON: I will keep on reminding you that you must not forget, all of you, to prepare a list of exhibits so that we can have a comprehensive and complete record that we are going to hand to the President. Thank you.

ADV RAMOGALE: Thank you, Chair. Ms Williams, we have put up the statement that I have just handed up now to the Panel. You will not be able to see the beginning of the
20 statement because it contains personal information. But I will tell you what it states here, which we have now marked as SM1:

“Kehleseni [?] Richard Biyela states under oath in Zulu and translated to English by Ntombi Gibson.”

He states at paragraph 1:

“I am an adult male, 50 years of age...”

With a certain ID number, residing a certain address, employed at a certain company with a certain cell phone number. Then he states at paragraph 2 that:

“I am an adult male with the abovementioned particulars and I am a witness in this case.”

Could you read what he states from paragraph 3, please?

10 **MS WILLIAMS:**



“During the year 2008, Bongani Biyela was arrested by the police officers and he appeared at Flagstaff Court. On one occasion when I went to Flagstaff to visit Bongani at court, I saw Shane Naidoo from Cato Manor Organised Crime Unit who came in connection with Bongani's case.

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After some time, Bongani went to Durban Court where he also appeared. On one occasion, before Bongani was released on bail and I received a call on my cell phone but not the same number that I am using now, the caller introduced himself as Police Officer Mostert from Cato Manor Organised Crime Unit. Police Officer

Mostert informed me to hang on the cell phone, then somebody else spoke to me. The second person who spoke to me was my brother, Bongani. Bongani requested me to come to the offices of the Cato Manor Organised Crime Unit. I then asked Bongani why I should come to the Cato Manor Organised Crime offices. Bongani informed me that he was taken there for questioning and there were some issues that the police wanted to clarify with me...”

10 ...[intervenes].

CHAIRPERSON: Yes.

MS WILLIAMS: Yes, ma'am?

CHAIRPERSON: Just pause there. There is some noise coming from – please tell us what it is. Take the mic and just explain to us what it is.

MALE SPEAKER: It is on her side.

CHAIRPERSON: I beg your pardon?

20 **MALE SPEAKER:** It is on her side. She must check the battery if she is connected to the charger.

CHAIRPERSON: Speak louder.

MALE SPEAKER: She must check on her side.

MS WILLIAMS: Yes ma'am, I am just going to ask the IT person to come and check what the problem is.

CHAIRPERSON: Yes, there seems to be noise emanating from your side. Are you able to get assisted?

MS WILLIAMS: Yes ma'am, I will speak to the IT person if I may ask to be granted that permission so that I can just quickly go out and then speak to the IT person to just attend to whatever the problem is here.

CHAIRPERSON: Yes, thank you. Just put a mark where you stopped reading and we will excuse you for a few minutes. Let the IT person to help you and when it is done, do alert
10 us. Do you hear me?

MS WILLIAMS: Repeat yourself again, ma'am, I could not hear what you were saying.

CHAIRPERSON: I am saying, yes, indeed, you can ask the IT person to assist you and when that is done, come back and alert us. Let us pause for a few minutes.

ADV RAMOGALE: Thank you Chair, thank you for the indulgence and apologies for these technical issues.

CHAIRPERSON: Yes, it is understandable. We did not have these problems yesterday. Just ascertaining with her as to
20 what the problem could be so that it can be attended fully to avoid the on and off. Thank you, we will pause for a few minutes.

ENQUIRY ADJOURNS

ENQUIRY RESUMES

CHAIRPERSON: Are we now sorted?

MS WILLIAMS: Yes, Chairperson, we are sorted.

CHAIRPERSON: Thank you very much, Ms Williams. You may proceed from where you stopped.

MS WILLIAMS:

10 “I did ask Bongani why I should come to the Cato Manor Organised Crime offices. Bongani informed me that he was taken there for questioning and now there were some issues that the police wanted to clarify with me. I then went to Cato Manor Organised Crime offices. I cannot recall the dates, but on the same day, I was called at Cato Manor. I went to the offices as requested. On my arrival at Cato Manor Organised Crime Unit offices, I indeed met Police Officer Mostert, Shane Naidoo, and Bongani was also there. In the presence of Police Officer Shane Naidoo and Bongani, Mostert asked me as to where do I originally come from. Mostert further wanted my residential address, and I gave him my physical address. Mostert also asked me what belongings I have. I informed Mostert that I owned a herd of cattle and a car. Mostert

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also asked where exactly was my home and whether my home is next to a school or anything distinctive. I explained to Mostert that my home was next to Bonomunye Primary School in Melmoth. Mostert did not explain to me as to why he wanted my residential address. Mostert also wanted to know if I reside with Bongani in the same premises at Melmoth, and I confirmed it. Mostert wanted to find out as well if I stay with Bongani at KwaMashu Hostel, since Bongani rented a room there for convenience relating to his work. I informed Mostert that I do not reside at KwaMashu at all. I then left for home. During the day when Bongani appeared in Durban Court for bail application, I saw Police Officer Shane Naidoo and Police Officer Smith as I waited for court proceedings to commence, and I greeted them. Police Officer Smith and Police Officer Shane Naidoo acknowledged my greeting. Then Police Officer Smith asked in Fanakalo language saying whether I am Bongani's

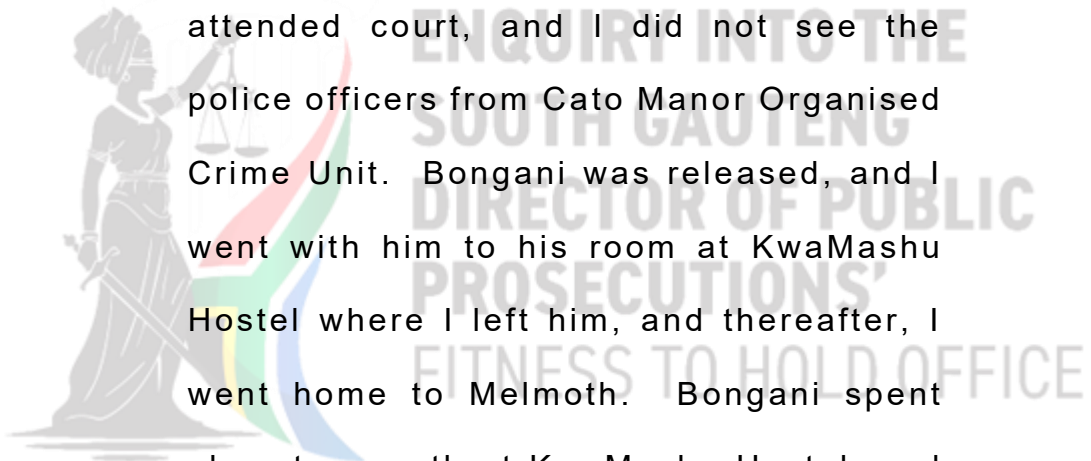
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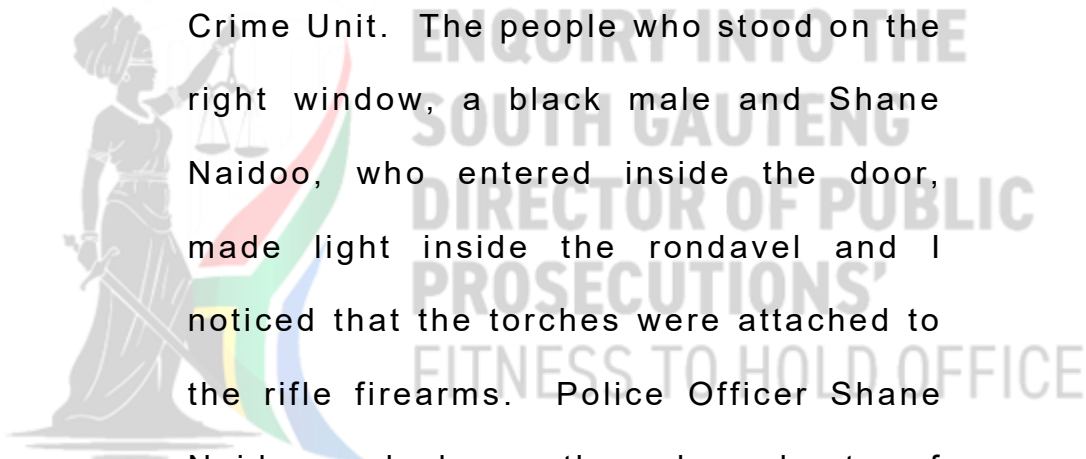
brother, and I confirmed. Police Officer Smith and Shane Naidoo kept on talking, and I overheard Police Officer Smith talking Fanakalo language saying that if Bongani is released from court, the police will kill him, Bongani. On that day, Bongani was not released from court, and I went home when the court processes were over. During the next court date for Bongani, and this time around, I again attended court, and I did not see the police officers from Cato Manor Organised Crime Unit. Bongani was released, and I went with him to his room at KwaMashu Hostel where I left him, and thereafter, I went home to Melmoth. Bongani spent almost a month at KwaMashu Hostel, and he later came home to Melmoth. I recall that Bongani spent almost a week at home in Melmoth. On 22 November 2008, I was asleep at home in my rondavel with my wife, Zilaile [?], and Bongani was sleeping at his rondavel with his wife. My home is a big home comprising of different rondavel and flats. I would like to state



that about 02:30, people kicked my door down without knocking. At no stage did the person knock at the door, and I refused to open. These people lit the torches inside the rondavel. Other people stood on the right window with torches pointed inside the rondavel. I stood up after the door was broken down, and I could see a black male and Police Officer

10 Shane Naidoo of Cato Manor Organised Crime Unit. The people who stood on the right window, a black male and Shane Naidoo, who entered inside the door, made light inside the rondavel and I noticed that the torches were attached to the rifle firearms. Police Officer Shane

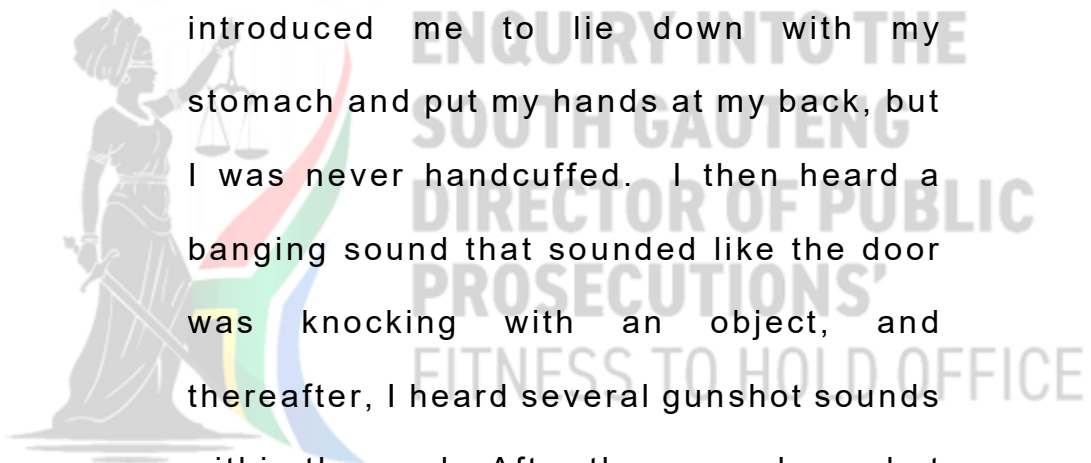
20 Naidoo asked me the whereabouts of Bongani, and I told him that I think Bongani might be in his room. My wife also woke up, and the police officer said that she must sleep, of which she did. I immediately requested Police Officer Shane Naidoo that they should not shoot at me. I surrendered when I spoke to Police Officer Shane Naidoo. I called him



by his name so that he must realise that I know him. Police Officer Shane Naidoo said some words in English addressing his companions so that his companions stopped pointing him with firearms. Police Officer Shane Naidoo and his companions went outside the house, and I was instructed to exit the house, and when I exited the house, one of the police officers, Shane Naidoo's colleagues, introduced me to lie down with my stomach and put my hands at my back, but I was never handcuffed. I then heard a banging sound that sounded like the door was knocking with an object, and thereafter, I heard several gunshot sounds within the yard. After the several gunshot sounds, I again heard the same banging sound that I heard before the gunshots sounds, and several gunshot sounds followed again. The gunshot sound stopped, and I again heard banging sounds. The banging sound stopped, and I was instructed to stand up, of which I did. The police officer then instructed me to go

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forward, and there is a steep in the yard,
and I was approaching that steep. I met
Mostert to ask me to the whereabouts of
Bongani. I then told Police Officer Mostert
that Bongani might be in his room. Police
Officer Mostert assaulted me with a
clenched fist three times on my face.
Police Officer Mostert then asked me as to
where are the firearms, and I told Police
Officer Mostert that I do not have firearms.

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I do not have firearms. I have a firearm.
Police Officer Mostert further asked me as
to where was my firearm, and I told him
that it was underneath my pillow. The
group of police officers started to kick me,
and I fell on the ground and they continued
kicking me while I was on the ground. In
that process, I rolled over on the steep
and Police Officer Mostert insulted me
with my mother's private parts by saying,
you fucking *golo*.”

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You can scroll up:

“Police Officer Mostert went to my
rondavel room and I was taken to
Bongani's rondavel whereby I found

Bongani's wife being guarded by a group of police officers. I then wanted to wear clothes because I was getting cold because I was wearing my underwear only, and I was told by the police to go to my room. I went to my room and found Police Officer Mostert, Smith, and others sitting in front of the door, and Police Officer Smith asked me to where was

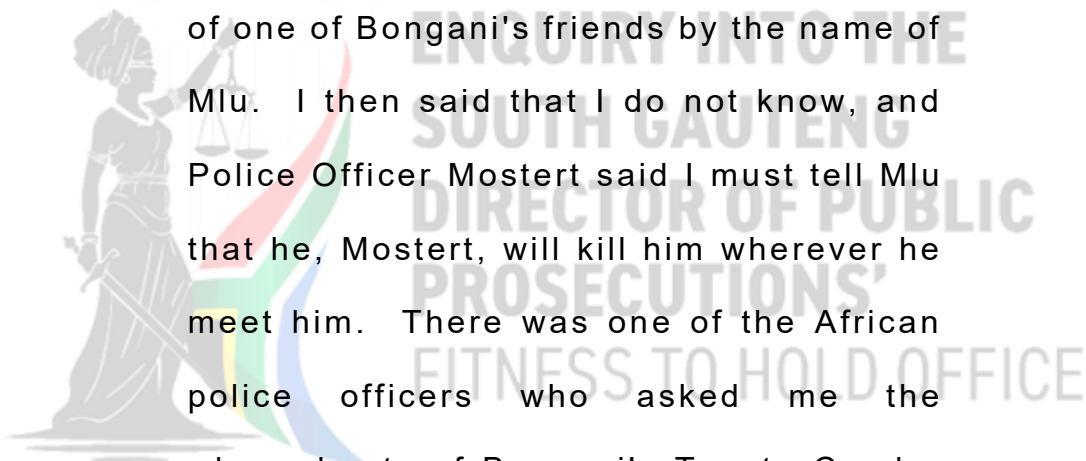
10 Bongani. I then told Police Officer Smith that I do not know the whereabouts of Bongani. Police Officer Smith then told me to go and kiss Bongani behind their father's rondavel. Police Officer Smith further told me that Bongani is dead. At that time, it was already in the morning, and I did not go and see Bongani. Instead, I sat next to them. Police Officer Mostert then asked me as to whether I know Bheki

20 Cele, and I asked Mostert as to who is Bheki Cele. Police Officer Mostert clarified to me that Bheki Cele is the Commissioner of the Police. Police Officer Mostert then took out a card from his shirt and showed me that card, and he,

Mostert, said that card was a permit from Bheki Cele to kill people. Police Officer Smith then grabbed me with my hair and pulled my hair out, and I saw Police Officer Smith's hand was full of my hair. Police Officer Mostert told me that I must tell people at KwaMashu that he, Mostert, will kill all Bongani's friends and all the criminals at KwaMashu. Police Officer Mostert further asked me the whereabouts of one of Bongani's friends by the name of Mlu. I then said that I do not know, and Police Officer Mostert said I must tell Mlu that he, Mostert, will kill him wherever he meet him. There was one of the African police officers who asked me the whereabouts of Bongani's Toyota Condor vehicle, and I told him that it is at Durban. The said African police officer went around the rondavel and came back with a stick and assaulted me with that stick several times all over my body. Police Officer Mostert then reprimanded the said African male from assaulting me with a stick. The same officer who was

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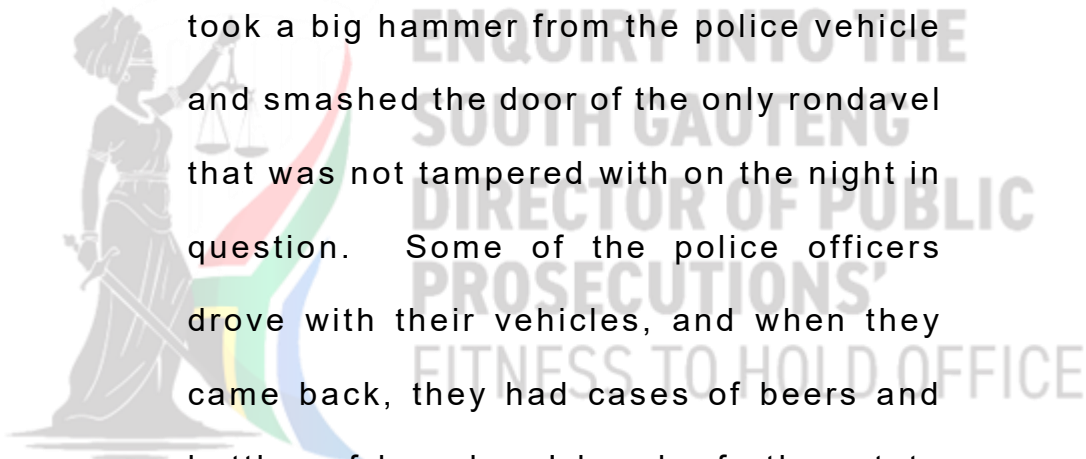
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assaulting me with a stick said he want a bolt-cutter, big plier, to cut my testicles. The said same officer brought the bolt cutter from the police vehicle and approached me with it. He then wanted to forcefully open my legs, and he struggled because I did not want to open them. The same police officer asked the other police to assist him to open my legs, and no one

10 assisted him. Then he gave up. Mostert took a big hammer from the police vehicle and smashed the door of the only rondavel that was not tampered with on the night in question. Some of the police officers drove with their vehicles, and when they came back, they had cases of beers and bottles of brandy. I hereby further state that I saw Police Officer Smith offloading beers from the van. They then sat next to

20 my rondavel and started to drink beers and celebrated. I then heard Police Officer Smith saying that they had a very good day since they eventually killed Bongani, and at Ntombela's home they mourned Mana, whom they killed, and he was going



to be buried the same day of Bongani's death. There was only one marked police vehicle which marked and the rest of the police vehicles who were at the scene were not marked. There were also police officers with dogs at the scene. The police..." ...[intervenes].

ADV RAMOGALE: Ms Williams, I am sorry to interrupt you.

MS WILLIAMS: Yes.

10 **ADV RAMOGALE:** Sorry, if I could ask you to stop there? Now, this is a jarring read from a witness who was there on the scene, but what he states there in paragraph 11, that some of the police officers drove off with their vehicles and when they came back, they had cases of beer and bottles of brandy. I hereby state that I saw fellow Police Officer Smith offloading beers from the van, and then they sat next to my rondavel and started to drink beers and celebrated.

Earlier on in your evidence, you make mention of a Sunday Times article. I would like to put that up on the
20 screen, please. Thank you. Chair, for the Panel's purposes, this is the article that we have seen quite a few times, the Sunday Times article. It appears in the record, if you could just scroll down slightly. That is an attachment to Mr Maema's statement. It is at 1A-143.

Ms Williams, you make mention of this particular

statement, and you will see there is a photograph there. Evidence has been led that this particular photograph was taken at Melmoth, the very same statement that you have just now read. In paragraph 71 of your statement, you speak about how your impression was that Captain Eva was intoxicated. In view of this particular statement, what is your comment? What should the Panel make of this?

MS WILLIAMS: What I have just read, Chairperson, and what I saw at the scene, it seems to me that after whoever
10 was supposed to be shot and killed and after the job was done, that police officers often might have had a celebration because Captain Eva, after the Berea shooting, I saw and I could hear from his slurred speech while he was arguing with Ms Mpanza, that he was clearly intoxicated. And I look at that and it seems to me like this was just a trend.

ADV RAMOGALE: What should the Panel make of the fact that on your evidence, in the Berea shooting, it appears at least one of the officers was intoxicated and we have yet
20 another witness here in Melmoth who says that they had bought beers and celebrated after the killing of the two Biyela brothers.

MS WILLIAMS: I think what the Panel can, the conclusion the Panel can draw here is that there was a celebration, hence the police officers were then having beers and was intoxicated after the incidents that transpired.

ADV RAMOGALE: And in your experience, we know that you have been a police officer for some years and that you were a senior investigator at IPID or ICD for eight years. Was it normal in the course of your experience and the investigations that you did for police officers to have beers and celebrate at the scene of the shooting?

MS WILLIAMS: No, Chairperson, that was unheard of because even after the shooting or incident transpired, you are still considered to be on duty.

10 **CHAIRPERSON:** Ms Williams, you were present at the scene where the celebration took place after the job was done?

MS WILLIAMS: Are you referring to the Melmoth scene, Chairperson?

CHAIRPERSON: Yes.

MS WILLIAMS: No, ma'am, I did not attend that scene. It was outside of the area that I was in.

CHAIRPERSON: Now, in relation to paragraph 71 of your affidavit, you make an impression there. On what basis are you making that impression?

20 **MS WILLIAMS:** It was based on the speech and behaviour of Captain Eva. When I looked at him and when I heard him, his speech was slurred, ma'am, and he clearly looked intoxicated. I know Captain Eva. I have met with him on several occasions. He always used to be the duty officer or the spokesperson for Cato Manor, and this was the first time

that I saw Captain Eva in that state.

CHAIRPERSON: You see, the reason why I am asking you whether you were at the scene is because in the third line of paragraph 71, you state:

10 “Inspector Vishnu pulled me and the LCRC constable aside and advised us to stay out of it. I do not know what the argument was about or how it started. It struck me as unusual and inappropriate for an ICD investigator to engage in a heated argument with a SAPS member whilst on duty.”

Where were you in relation to where these officers were sitting? As we have observed in the article of the Sunday Times, where were you seated or where were you?

MS WILLIAMS: I hear you, Chairperson, just to clarify that these are two different scenes. The scene that I was referring to in paragraph 71 is the one at Berea. The one at Melmoth is a different incident.

20 **CHAIRPERSON:** Counsel, I am getting confused. Were we at paragraph 71 of the statement?

ADV RAMOGALE: Yes, Chair, we are.

CHAIRPERSON: And how did we land on the Melmoth CAS 142/11/2008?

ADV RAMOGALE: Chair, we landed there because I wanted

to demonstrate to Ms Williams. In fact, on our version, or at least on our reading of the dockets, this is the third incident in which the Cato Manor unit was observed as being intoxicated on the scene.

You will recall, we have not led that evidence yet, so I do not want to speak about what Mr Danikas will say, but there is something to that effect. The second now is that in Melmoth, witnesses are saying beers were being bought and there was a celebration. We have seen that photo from the
10 Sunday Times. This is now the third incident from Ms Williams in which she says she was at a scene, in a different incident, at a scene in which the Cato Manor unit or officers were intoxicated. What I am trying to establish is whether this was a once-off incident or whether, from the dockets that we have seen, this is a repeated conduct.

CHAIRPERSON: Yes, I think I missed that part. Do make it clearer because I got confused.

ADV RAMOGALE: Apologies, Chair. Chair, if I could proceed? I am just waiting for an indication.

20 **CHAIRPERSON:** Yes, you can proceed.

ADV RAMOGALE: Thank you. Ms Williams, we now move on to paragraph 72 of your statement, and you tell us about attending a reconstruction two days after the incident. Could you tell the Panel what it is that you noticed there?

MS WILLIAMS: Yes, indeed, Chairperson:

“When I attended the scene reconstruction two days after the incident, I noticed that a flat-screen television that had been mounted against the wall in the apartment had been removed. When I entered the bedroom where the deceased had been shot, there was a spent cartridge on the floor in full view. Its placement seemed strange. The scene had been fully processed by LCRC on the night of the incident and all exhibits had been secured. At the conclusion of my...”
10 ...[intervenes].

ADV RAMOGALE: Apologies, Ms Williams. Is that normal, that, you know, from what you have told us, that you found a spent cartridge on the floor in full view? Is that normal after a scene?

MS WILLIAMS: No, Chairperson. At the scene, when the scene gets processed, ICD personnel, and that would have
20 been either myself or Ms Mpanza, would have gone through that scene with the LCRC person, as well as the officer from Berea, and that would have been the issue. And we would have made sure that that scene was properly processed and all evidence and exhibits were collected at that scene.

The person from LCRC, or the LCRC people, in my

opinion, in Durban, were quite competent in that regard, whereas I, as an ICD member, trusted them to do their job properly. But what surprised me is that when we arrived there, there was all of a sudden there was the spent cartridge. Just to inform the Chairperson that the flat had been broken in after the scene was processed and there was now this television that was missing, and all of a sudden there was a spent cartridge that had magically appeared.

ADV RAMOGALE: And what should the enquiry make of
10 that?

MS WILLIAMS: Ma'am, the only thing that came to mind that time, and it is still coming to mind right now, is that evidence was planted afterwards, ma'am. And the reason I can state that is that flat was definitely broken into, the television was removed. I found that very peculiar. The LCRC officer, Shade, it is actually Peter George's wife, Peter George is one of the people that was indicted in the 2012 indictment. She was at the scene, and I actually instructed Shade to go to the Berea Police Station and open the case of housebreaking
20 because I found that very weird that that stuff would be removed and all of a sudden a spent cartridge appear after the scene had been processed. So in my mind, it was planted.

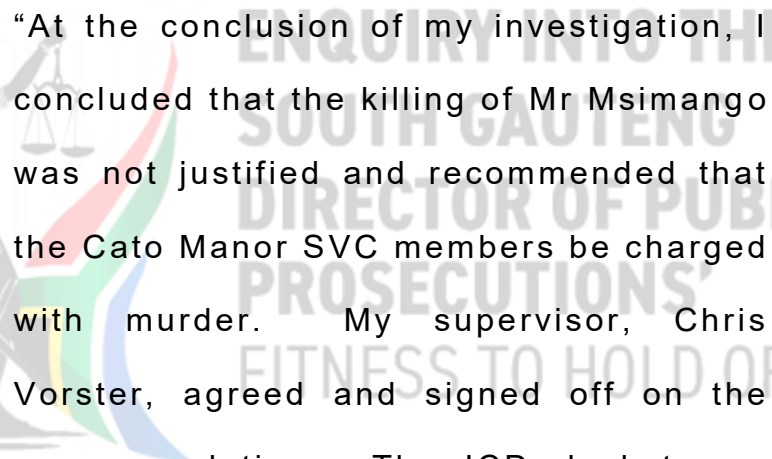
ADV RAMOGALE: They would be planting a spent cartridge after the scene has been processed, to what end? How does

that assist?

MS WILLIAMS: I have no idea how that was going to assist them. I do not know if they maybe wanted to prove to us, or I do not know if the shooting was justified, or maybe they just forgot to put the spent cartridge there. I have no idea, because clearly to me that there was some tampering at that scene, Chairperson.

ADV RAMOGALE: And then you reach a conclusion then in paragraph 73 of your statement.

10 **MS WILLIAMS**:



“At the conclusion of my investigation, I concluded that the killing of Mr Msimango was not justified and recommended that the Cato Manor SVC members be charged with murder. My supervisor, Chris Vorster, agreed and signed off on the recommendation. The ICD docket was forwarded to the DPP's office, together with a memorandum. The DPP in KZN declined to prosecute.”

20

ADV RAMOGALE: Now, just on that paragraph 73, could I ask you, do you recall – there is no date here, do you recall when you made this particular recommendation?

MS WILLIAMS: I do not remember which date I made that recommendation, but that could be easily checked with the

registers in KZN.

ADV RAMOGALE: The reason I asked that, Ms Williams, is if you were going to go to the Berea docket now, if I could have the – if I could ask the Panel, rather, to have that. Ms Williams, if I could ask you to turn to – you remember the way we did the numbering and the indexing yesterday? At the top right corner, BR0290.

CHAIRPERSON: BR?

ADV RAMOGALE: 0290.

10 **MS WILLIAMS:** Yes, I do have it with me. I do have BR0290 with me.

ADV RAMOGALE: Thank you, Ms Williams. If you could just give the Panel a moment, please?

CHAIRPERSON: Yes, proceed, Counsel.

ADV RAMOGALE: Thank you, Chair. Ms Williams, could you tell the Panel what it is that we are seeing here on page BR0290?

MS WILLIAMS: It looks as if this is the inquest, covering letter for an inquest that was prepared.

20 **ADV RAMOGALE:** And it states there at paragraph 1. Sorry, before we get there, and then on the next page it sets out a name. Could you just tell the Panel what it is that we see at BR0291?

MS WILLIAMS: There is a name here from the captain. It looks like the captain is Berea RS Savage.

ADV RAMOGALE: And then if we go back to the previous page, what is the SAPS CAS number that appears there?

MS WILLIAMS: It is Berea CAS 288/5/2008.

ADV RAMOGALE: And the name of the deceased?

MS WILLIAMS: Thabo Sunshine Msimango.

ADV RAMOGALE: Could you just read out to the Panel the list that appears from paragraph 1.1 to 1.25?

MS WILLIAMS: I can do that. 1.1 is the statement of Rajesh Vishnu. 1.2 is the statement of Gunter Markhart. 1.3 is the
10 statement of Pieter De Beer. 1.4 is the statement of Shannon Brown. 1.5 is the statement of Simphiwe Charles Mkhize. 1.6 is the statement of Siyabonga Romanus Mtshali. 1.7 is the statement of Warrant Officer Paul Mostert. 1.8 statement of Phumelela Makhanya. 1.9, statement of Rakesh Chandaban Maharaj. 1.10 is the statement of Neville Eva. 1.11 statement of Rubendren Naidoo. 1.12 is the statement of Eric Alfred Nel. 1.13 is the statement of Rekha Pillay. 1.14 is the statement of Lieutenant Colonel G Swanepoel. 1.15 is statement of
20 HA Steyn. 1.17 is the affidavit of Captain R van der Sandt. 1.18 is the affidavit of Captain R van der Sandt. 1.19 is the affidavit of Captain Yvette Claassen. 1.20 is the affidavit of Captain Yvette Claassen. 1.21 is the statement of Warrant Officer SN Khoza. 1.22 is the post-mortem report number 1005/2008. 1.23 is the removal statement. 1.24 is the

identification of the body. 1.25 is the scribe statement in terms of section 212 of 7 of Act 51 of 1977.

ADV RAMOGALE: Thank you, Ms Williams. Now, could I ask you, are there any documents that were provided in the inquest request from the ICD?

MS WILLIAMS: Yes, Chairperson, if I can clarify that. When the docket was received back from the DPP's office, then often an inquest is then prepared. And then what the agreement was, or what the practice was rather, is that you
10 take the docket then because now it was declined to prosecute. We take the docket back to the station, and then the person, like in this case, it would have been Vishnu, would then prepare the docket for an inquest, and then it will then be seen by a prosecutor who will then make a decision.

ADV RAMOGALE: Yes, but in this list that we have before us, are there any ICD documents?

MS WILLIAMS: Not that I see.

ADV RAMOGALE: So, no ICD documents appear from this list?

20 **MS WILLIAMS:** No, there seems to be no ICD documents.

ADV RAMOGALE: Now, if you turn back a few pages back on page BR287.

CHAIRPERSON: Ms Williams?

MS WILLIAMS: Yes, Chairperson?

CHAIRPERSON: The inquest document, BR0290.

MS WILLIAMS: Yes, Chairperson?

CHAIRPERSON: It said below the blocked information, in capital letters bolded, the Inquest Clerk Magistrate Court, Durban. Correct?

MS WILLIAMS: That is correct, Chairperson.

CHAIRPERSON: And this document was seemingly from the Commander SAPS Berea Detective Service, RS Savage.

MS WILLIAMS: Correct, Chairperson.

CHAIRPERSON: The Commander was directing this
10 document to the Clerk of the Court, who was going to deal with the inquest, or it was directed to the Magistrate via the Clerk of the Court, the inquest clerk.

MS WILLIAMS: Correct, Chairperson.

CHAIRPERSON: I felt that you must clarify why we are now dealing with this document the way it is. It was not very clear to me for what purpose it was, it appears the way it appears.

ADV RAMOGALE: Thank you, Chair.

CHAIRPERSON: And there is no indication of CCN in this document. It is the case number that would have been
20 allocated by ICD as you investigated the matter. Correct?

MS WILLIAMS: That is correct, ma'am.

CHAIRPERSON: That confirms the answer that you have just given to Advocate Ramogale that none of the documents from ICD appears in this inquest request.

MS WILLIAMS: That is correct, Chairperson.

CHAIRPERSON: Yes, thank you.

ADV RAMOGALE: Ms Williams, just as a follow-up to that, was it normal for an inquest request that comes from SAPS to the Mag Court inquest clerk to not include the CCD docket from the ICD and any documents that come from the ICD?

MS WILLIAMS: In my opinion, there should have been information or documents from the ICD that would have been included in there. The reason I say that is because the murder was investigated by myself.

10 However, they do not need to use the CCN number because obviously that is a case control number, a reference number that is used only by the IPID or the ICD at that time and now the IPID. So that was not necessary. But any other documentation pertaining to this case that I would have investigated, all of that should have been included in the inquest. However, I cannot speak for Berea. I do not know what their practise was.

ADV RAMOGALE: Now, when a request such as this is being made to the Mag Court, what is the Mag Court being asked to
20 do?

MS WILLIAMS: The Magistrate Court is then being asked to read through the documentation and then to see if the matter is indeed an inquest. And if they were not really sure about what they were reading, they could then ask for a formal inquest. I do not know. I have not checked what the outcome

of this was. I just have to go through the documentation as we proceed.

ADV RAMOGALE: And when the request is received by the Mag Court and I assumed the documents are read, what is the process leading to? Is there an outcome that is meant to come out of that?

MS WILLIAMS: Yes, there is an outcome that is meant to come out of that. It is either the shooting would then be justified, if I can use that word, or like I say, if the prosecutor and the Magistrate is not satisfied, then a formal inquest will then be held where questions would be asked. And depending on the outcome of that, the matter will then be laid to rest or something else. Maybe a murder charge would be reinstated again, but that depends on whatever the Magistrate finds that is bothering him or compelling evidence that is there.

ADV RAMOGALE: Now, assisting enquiry with this, how was a Magistrate expected to make a decision about whether, as you say in your words, the killing was justified or not, if they do not have the ICD docket and the investigations that were done by the ICD?

MS WILLIAMS: That should be prepared. All of that information should have been in the inquest, because when you prepare the inquest, all the relevant documentation must be accompanied.

ADV RAMOGALE: Now, you have just said now that you are not sure what the outcome of that is, of this particular inquest request. If I could ask you to turn a few pages back to BR0287.

MS WILLIAMS: I have it in front of me, yes.

ADV RAMOGALE: Could you just tell the Panel what is this document that we are looking at here?

MS WILLIAMS: That is the inquest, the result of the inquest, Act 58 of 1959 for Berea CAS 288/5/2008, post-mortem
10 number 1005/08. And it is a J56.

ADV RAMOGALE: Sorry, I am not sure, you just read a number out, Ms Williams. I just cannot make out where that is. The post-mortem number, you said.

MS WILLIAMS: The post-mortem number, it is right at the top. You will see Berea CAS 288/5/2008. And right next to it, there will be a PM number, 1005/08.

ADV RAMOGALE: And then there is another number that appears on the right-hand side.

MS WILLIAMS: Yes, it appears to be the J56 number. It is
20 number 556/10.

ADV RAMOGALE: And what is a J56?

MS WILLIAMS: For the life of me, I cannot remember, but I think this is the outcome, if I remember correctly, of the inquest that would have been read and a decision would have then been made by a Magistrate.

ADV RAMOGALE: Right. Now at the top left corner, could you just tell the Panel what it is that we see there? It says held at, and then it continues on.

MS WILLIAMS: Yes, it was held at Durban, and then by R Germishuys, who seems to be a Magistrate for the said district in Durban. And then there is a date on which it appears to have been held, it was on the 17th of August 2010.

ADV RAMOGALE: And then it reads there just after that, after August 2010?

10 **MS WILLIAMS:** It says findings in terms of section 16 of the Act, and then in respect of identity of the deceased, it says again, Thabo Sunshine Msimango. He is a male ...[indistinct] years old. And then the date of his death, that would have been the 24th of May 2008.

ADV RAMOGALE: And then it says at C, cause or likely cause of death. What is that?

MS WILLIAMS: Of death, yes. Gunshot wounds to the head and abdomen involving the chest and blunt force head and chest injury. And then at D, it says whether the death was
20 brought against by any act or omission involving or amounting to a *prima facie* offence of the part of any person, and then it says no.

ADV RAMOGALE: So let us just stop there. So in terms of this, which is the findings in terms of section 16 of the Act, in answer to the question whether the death was brought

about by any act or omission involving or amounting to a *prima facie* offence on the part of any person, the finding there appears to be no by the Magistrate. Is our reading correct of that?

MS WILLIAMS: That is correct, Chairperson.

ADV RAMOGALE: What does that mean?

MS WILLIAMS: It means that the Court is finding that, in my own words, that the shooting was justified.

10 **MS WILLIAMS**: Is the Court finding that no one is accountable for that?

MS WILLIAMS: No one is accountable for the death of the person involved, Thabo Sunshine Msimango.

ADV RAMOGALE: And what is the date of that finding?

MS WILLIAMS: The date would be on the 17th of August 2010.

ADV RAMOGALE: Now, we have now seen from the request from the South African Police Service at BR0290 the documents that were put before the inquest clerk at the Magistrate Court. And you have told us that it does not
20 include the ICD documents, which we now know would have been drafted by yourself as a lead investigator in this matter. What should the enquiry make of this particular outcome?

MS WILLIAMS: That not all evidence was then provided to the Magistrate or even to the inquest clerk pertaining to this case. And therefore, the only conclusion I can draw is that

there was not an informed decision made in this regard.

ADV RAMOGALE: Thank you, Ms Williams.

ADV RAMAGAGA: Ms Williams, I would like to ask you about the inquest. You have mentioned that in certain circumstances a formal inquest would be held, and in different circumstances the case would just be closed or the matter would be settled on papers. Now, the first question that I would like to ask you is about the inquest that is settled on papers. Who takes charge of that? Who considers the material and makes a decision on the outcome of the inquest?

MS WILLIAMS: I would think, Chairperson, that it would be the Magistrate to whom the documents is then presented.

ADV RAMAGAGA: Once that inquest is settled on papers, do you know as to whether the members of the bereaved family would be informed of the outcome of the inquest?

MS WILLIAMS: Ma'am, that I would not know because that would now have been at station level. So only the detectives will then be able to give a response and an answer to that.

ADV RAMAGAGA: Then that dispenses with my need to ask the next question. That is fine, thank you.

MS WILLIAMS: You are welcome, Chairperson.

ADV BALOYI-MERE SC: Before you proceed, Ms Williams, may I take you back to paragraph 73, the very last sentence where you said – okay, before that, you said, you concluded that the killing of Mr Msimango was not justified, and you

recommended that the Cato Manor SVC members be charged with murder and your supervisor signed off on the recommendation. But then you go on to say, once you forwarded the docket to the DPP's office, together with a memorandum, the DPP KZN had then declined to prosecute.

MS WILLIAMS: That is correct, Chairperson.

ADV BALOYI-MERE SC: That is your testimony. And you were asked if you know when was this. I want to help you jog your memory from the document at DR0287, we now see that
10 the date of birth, of death, sorry, is the 24th of May 2008.

MS WILLIAMS: Yes, Chairperson.

ADV BALOYI-MERE SC: And earlier on, at paragraph 272, you said you attended the reconstruction two days after the incidents.

MS WILLIAMS: Yes, Chairperson.

ADV BALOYI-MERE SC: Which means it was around maybe the 26th, 27th of May 2008.

MS WILLIAMS: Around there, yes, Chairperson.

ADV BALOYI-MERE SC: Now my question to you is, do you
20 know who was the DPP KZN at the time in 2008? And if you know, can you give us the name?

MS WILLIAMS: Unfortunately, ma'am, I cannot recall who the DPP was at that stage. So I am just trying to remember. No, ma'am, I will have to check with my office. I cannot remember that.

ADV BALOYI-MERE SC: No, no, it is okay. Thank you.

ADV RAMOGALE: In fact, Ms Williams, before we move on from Berea, we searched through the entirety of this docket and we found absolutely no documents from the ICD. Is that normal?

MS WILLIAMS: No, that would not be normal. I would have thought that SAPS would, because we include their documentation, that they would also include our documentation. If they do not have that, at least make a
10 request for us to make that available to them.

ADV RAMOGALE: And can you confirm to this Panel that you actually did provide documents, there were reports related to this particular matter?

MS WILLIAMS: Yes, that was so, and it was also given to the DPPs on a memo. There was a DPP memo that was going with this particular docket.

ADV BALOYI-MERE SC: Advocate Ramogale, may I correct myself. Apparently I said 2007 instead of 2008.

ADV RAMOGALE: I certainly heard 2008, but maybe I am
20 mistaken as well.

ADV BALOYI-MERE SC: Okay.

ADV RAMOGALE: Thank you, Ms Williams. If we now could turn to the ...[intervenes].

CHAIRPERSON: Do you...

ADV RAMOGALE: I am sorry, Chair.

CHAIRPERSON: Do you remember yourself, Counsel, with your team who was the DPP Durban KZN in 2008?

ADV RAMOGALE: Yes, Chair, we do. From our understanding, Ms Shamila Batohi was the DPP at the time. In fact, we have been able to nail down a date from a public document that we found from the NPA. It appears that she remained the DPP until October 2008. Sorry, 2009, I am mistaken, October 2009.

CHAIRPERSON: Do you recollect that information?

10 **MS WILLIAMS:** Yes, ma'am, I actually just remembered now. Just to be clear on that, my understanding was that she was the acting DPP or the DPP for the Durban office. I am not sure how they made a distinction, ma'am. I do not want to confuse the Panel, but I think the Durban district operated on a different level, or they had a different DPP, almost like a district person that was overseeing the office. But the overall DPP, in my memory, would have been in Pietermaritzburg, but she was responsible for the Durban office.

CHAIRPERSON: The DPPs are responsible for the province,
20 this entire province.

MS WILLIAMS: Yes, ma'am, but then there was also this subsection that I knew of where I will, just to fast forward a little bit, and I am trying not to cause confusion here. When I was working in the Durban Central case, Jerome had actually called the DPP in Pietermaritzburg and they referred

him to Sheriza Ramouther, who was the acting DPP, I think, at that moment. I cannot remember if she was acting or she was the DPP for the Durban district. So there was some sort of a delegation of powers to the Durban office. I hope I make myself clear in that regard.

CHAIRPERSON: Yes, we just wanted to ascertain who the DPP KZN was and counsel just reminded us that at that time in 2008, it was Advocate Batohi.

MS WILLIAMS: Yes, for the Durban district.

10 **CHAIRPERSON:** For KZN.

MS WILLIAMS: Ma'am, I am ...[intervenes].

CHAIRPERSON: It may be complicated for you to follow, but we will leave it there, Ms Williams.

MS WILLIAMS: Okay.

CHAIRPERSON: You see in paragraph 73, the last sentence, you record the DPP, KZN declined to prosecute.

MS WILLIAMS: Yes, ma'am.

CHAIRPERSON: And we wanted to know who the DPP then was.

20 **MS WILLIAMS:** Yes, I understand what the question was, yes, ma'am.

CHAIRPERSON: Yes. Thank you, Counsel.

ADV RAMOGALE: Thank you, Chair. Well, Ms ...[intervenes].

ADV RAMAGAGA: Just...

ADV RAMOGALE: I am sorry.

ADV RAMAGAGA: Just maybe to clear this thing up once and for all. It would assist if you were to finish a copy of the document that you rely on. Thank you. Will you do that?

ADV RAMOGALE: We will, we will do so today.

ADV RAMAGAGA: Thank you.

ADV RAMOGALE: Ms Williams, just to close off on Berea, we see in any event, whether she was DPP Durban or DPP KZN, at 287, BR287, it says as this particular inquest was
10 held at Durban, in the District of Durban.

MS WILLIAMS: That is correct, Chairperson.

ADV RAMOGALE: And so if she was the DPP of KZN or DPP of Durban, it seems to not matter much.

MS WILLIAMS: I understand that, Chairperson.

ADV RAMOGALE: Thank you, Ms Williams. If we could now move to the Durban Central matter?

ADV BALOYI-MERE SC: Before we move, just to satisfy my curiosity, did you ever become aware before today that your recommendations were not accepted by the – okay, you knew
20 that your recommendations were not accepted by the DPP, but did you ever become aware that part of your investigation was not part of the documents that were submitted to the Magistrate who conducted the inquest?

MS WILLIAMS: No, ma'am, this is actually the first time that I hear of that. I was not aware of that at all.

ADV BALOYI-MERE SC: Thank you.

ADV RAMOGALE: Ms Williams, we are now about to turn to, I assume you are taking your Durban Central documents. I will just give you a moment.

MS WILLIAMS: Yes, I do have the Durban Central documents in front of me.

ADV RAMOGALE: Thank you. You begin at paragraph 74 by stating that Mr Bongani Mkhize was killed on the 3rd of February 2009. Could you just tell the Panel about this particular matter and your involvement in it?

MS WILLIAMS: I was the lead investigator in this case. I attended the scene:

“On the 3rd of February, 2009, ICD received a report of a shooting involving members of the National Intervention Unit at Umgeni Road in Durban. I was on official duty that day at the ICD's office in Durban. Initially, it was reported that the civilian shot by NIU members was still alive. Notwithstanding the fact that ICD's jurisdiction is triggered by a death cause by police action by SAPS, my manager, Jerome Ngcobo, instructed me to attend the scene and report back to him. I arrived at the scene at Umgeni Road at

approximately 10 past three. I was accompanied by another investigator, Ms Ntombi Gibson. When I arrived at the scene, SAPS members had already started processing the scene. Ms Gibson and I spoke to the duty officer on the scene and were introduced as members of the ICD to Superintendent Jackie Bristow. Superintendent Bristow was immediately hostile to our presence. She refused to allow us to interview anyone at the scene and prevented us from inspecting the scene itself. At one point, Superintendent Bristow accused Ms Gibson and I of being reporters, notwithstanding the fact that we had been introduced to her by another SAPS members as ICD investigators. My impression was that Superintendent Bristow had made up her mind before we arrived that she would not permit anyone from ICD to access the scene.”

ADV RAMOGALE: Now, Ms Williams, let us just stop there. There is reference in your statement to affidavits in the docket. Could I ask you to begin first with your affidavit? You will see that at DC000191 to 192.

MS WILLIAMS: I am just finding it.

ADV RAMOGALE: For the purpose of the record, that DC that we are referring to is DC1.

CHAIRPERSON: Give us the number.

ADV RAMOGALE: 191, DC000191.

MS WILLIAMS: Almost there. I do have it, Chairperson.

ADV RAMOGALE: Thank you, Ms Williams. Just a moment, please. Could you inform the Panel of what is this document that we are looking at?

10 **MS WILLIAMS:** That is a statement that was provided by me.

ADV RAMOGALE: And at DC000192, we see SH Williams with what appears to be an inscription there. What is that?

MS WILLIAMS: That is my signature.

ADV RAMOGALE: And on what date was this statement made?

MS WILLIAMS: On the 9th of December 2009.

ADV RAMOGALE: Now, if we go back to DC000191, could you just tell us in which matter did you make the statement?

20 **MS WILLIAMS:** This matter was made in relation to Durban Central Case 185/2/2009. It was the matter in which Bongani Mkhize was shot and killed by SVC members.

ADV RAMOGALE: Could you just read to the Panel what you state there in paragraph 2?

MS WILLIAMS:

“On 2009-02-03, I attended a crime scene at Umgeni Road, Durban, with Ms Gibson from this office. On our arrival at the scene at approximately 10 past three, we were met by Superintendent Bristow who was processing the scene and she requested Ms Gibson and I wait until the police was done with the scene. The same Superintendent Bristow then refused to allow us...” ...[intervenes].

ADV RAMOGALE: Sorry, Ms Williams, I am sorry, just a little slower. You are going way too fast.

MS WILLIAMS: Apologies, Chairperson:

“The same Superintendent Bristow then refused to allow us to interview anybody on the scene. Ms Gibson and I discreetly made enquiries at the scene since we did not know what transpired. We only knew that the deceased was an alleged suspect in another high-profile matter...” ...[intervenes].

ADV RAMOGALE: Ms Williams, sorry, again, slower, please. Slower, please.

MS WILLIAMS: I am so sorry, it is just something that I always do. I apologise for that.

ADV RAMOGALE: All right.

MS WILLIAMS:

“Ms Gibson and I waited until the police was done with the scene. The same Superintendent Bristow then refused to allow us to interview anybody on the scene. Ms Gibson and I discreetly made enquiries at the scene since we did not know what transpired and only knew that

10 the deceased was an alleged suspect in another high-profile matter. Three members from NIU Mariannhill and Inspector Dlamuka, Constable Mfene and Constable Sekulume spoke to Ms Gibson and me and told us that they assisted Cato Manor Organised Crime because they

heard them call for backup on the radio. They also described to us that they witnessed how the deceased was shooting

20 at members from Cato Manor Organised Crime and they responded by cutting off the vehicle and fired shots at them and they returned fire. Whilst the LCRC officer was busy processing the scene, he allowed Ms Gibson and I to view the

scene. The scene was not contaminated by our presence. I saw the deceased was slumped in the driver's seat and he had a huge gap on the right side of his face and a part of his tongue was lying on the dashboard. The black Lexus that the deceased was travelling in was riddled with bullets at predominantly the right-hand side.”

10 **ADV RAMOGALE:** Now, if I could just ask you to stop there? You state there that when you arrived at the scene at approximately 10 past three, you were met by Superintendent Bristow who was processing the scene and she requested that you wait until the police was done.

MS WILLIAMS: Yes.

ADV RAMOGALE: The same Superintendent Bristow, my apologies, then refused to allow you to interview anybody on the scene. And then you and Ms Gibson discreetly made enquiries at the scene since you were, you did not know what
20 transpired but all you knew was that the deceased was, rather that the deceased was an alleged suspect in another high-profile matter. Now, if I could ask you, just keeping that page in mind, to also turn to Ms Gibson's statement, which appears at DC000254. That would be in volume in DC2, Madam Chair.
DC2.

CHAIRPERSON: DC2?

ADV RAMOGALE: Yes, at page DC000254.

MS WILLIAMS: It is in part two.

ADV RAMOGALE: Yes, yes, it is quite a bulky docket.

MS WILLIAMS: 000?

ADV RAMOGALE: 254.

MS WILLIAMS: I have that, I have that, Chairperson.

ADV RAMOGALE: Thank you, Ms Williams. If you could inform the Chairperson and the Panel, what is this document
10 that we are looking at?

MS WILLIAMS: It is a statement furnished by Ntombi Gibson from a former ICD colleague of mine that was with me at the scene.

ADV RAMOGALE: And in which matter is this?

MS WILLIAMS: This would be in the same matter, Durban Central Case 185/2/2009.

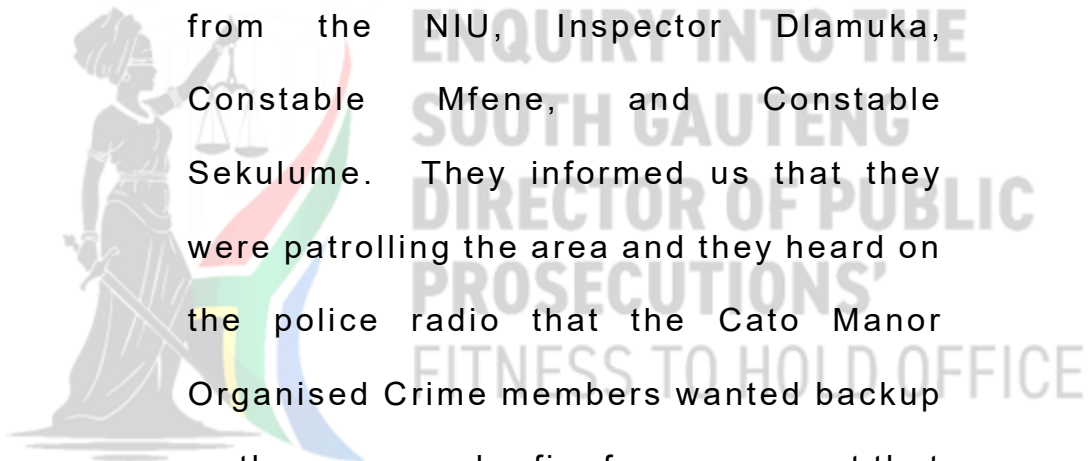
ADV RAMOGALE: Yes, and if you could read what she says in paragraph 2?

MS WILLIAMS:
20 “On 2009-02-03, I attended a crime scene in the Umgeni Road, Durban, with Ms Williams from this office. On our arrival at the scene in approximately 15:10, we were met by a white female, Superintendent Bristow, who was processing the scene,

and she requested that we should wait until the police were done with the scene. The same superintendent then refused to allow us to interview anybody on the scene. She said our members were much traumatised and were not in a position to answer any questions for anyone. Ms Williams and I discreetly made enquiries at the scene since we did not know what

10 transpired. I interviewed three members from the NIU, Inspector Dlamuka, Constable Mfene, and Constable Sekulume. They informed us that they were patrolling the area and they heard on the police radio that the Cato Manor Organised Crime members wanted backup as they were under fire from a suspect that was involved in the killing of Sup Choncho and Nkosi Zondi. They further informed

20 us that they rushed to Umgeni Road and they spotted the suspect who was driving a black Lexus. They alleged that the suspect shot at them as they were travelling with a white Quantum. They alleged that they drove alongside him on



the suspect's right-hand side. They alleged that the suspect continued firing shots at them, and the three of them returned fire using their R5 rifles. I enquired as to who were the other members who fired shots beside them, and Inspector Dlamuka informed us that it was only them, the NIU members, who fired shots. I asked them as to where the...”

10 I suppose it is:

“...who the Quantum belonged to. Inspector Dlamuka informed us that it was a Quantum from NIU. They confirmed that they were not injured from the shooting. While the LCRC officer was busy processing the scene, he allowed Ms Williams and I to view the scene. The scene was not contaminated by our presence. I saw that the deceased was slumped in the driver's seat and he had a huge hole on the right side of his face, and a part of his tongue was lying on the dashboard. The black Lexus that the deceased was driving in was riddled with bullets and predominantly on the right-

20

hand side. There was a black Z88 firearm inside the Lexus on the front passenger side on the floor. It was alleged by the superintendent that that was the firearm that was used by the suspect to shoot at the police. It had no serial number.”

ADV RAMOGALE: Now, if I could ask you to stop there and go to, again, bearing that particular statement in mind, DC000414. Members of the Panel, DC000414 is in DC2, the
10 very same documents that you have before you.

CHAIRPERSON: You are referring us to a lot of documents without telling us why.

ADV RAMOGALE: I am getting to that point, Madam Chair. My apologies.

CHAIRPERSON: Because you might want to ask questions in relation to some of the documents.

ADV RAMOGALE: Indeed.

CHAIRPERSON: But we will keep them together in front of us so that we do not lose track.

20 **ADV RAMOGALE**: Yes, yes.

CHAIRPERSON: What is the last one?

ADV RAMOGALE: The last one on this particular point is DC000414.

MS WILLIAMS: Do you want me to proceed?

ADV RAMOGALE: Just a moment, please.

MS WILLIAMS: May I continue?

ADV RAMOGALE: Just a sec, Ms Williams. We will be with you just now.

CHAIRPERSON: Yes, sir.

ADV RAMOGALE: Thank you, Chair. Ms Williams, could you tell the Panel what is this document we are looking at?

MS WILLIAMS: This also seems to be a statement made by Ntombi Gibson.

ADV RAMOGALE: And on what date was the statement
10 made? If you turn to page 416.

MS WILLIAMS: It seems to have been made on the 22nd of March in 2012.

ADV RAMOGALE: Yes. Now, if you could read what appears in Ms Gibson's affidavit in paragraph 2 on page 000414?

MS WILLIAMS: It says:

“I would like to make my further statement
that on 2009-02-03, at about 15:10, I
attended a shooting scene at the Umgeni
Road with Ms Williams. Upon our arrival,
20 myself and Ms Williams asked for a duty
officer. We were shown a white lady who
was inside the tape that cordoned off the
scene. I and Ms Williams both went closer
to the tape and we called the white lady.
We introduced ourselves. We gave our

names and surnames and that we were from ICD. We were informed that the white lady was a superintendent. The lady chased us away from the scene. She said, ICD, move away, this is my scene. We both moved away as she instructed us. The superintendent was not cooperative at the scene at all. She was well aware that we were from ICD. After we were chased, we went to the side of the road and we found Warrant Officer Dlamuka, Constable Mfene and Constable Sekulume from NIU. I then spoke to Warrant Officer Dlamuka and interviewed him as to what happened and who was the man that was killed. Warrant Officer Dlamuka informed me that they were in town when they heard on the police radio that a dangerous suspect was driving at Umgeni Road and that police were looking for backup. Warrant Officer Dlamuka informed me that he and other NIU members rushed to Umgeni Road to look for that dangerous suspect. The description of the vehicle was given a black Lexus. Warrant Officer Dlamuka

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informed me that when they reached Umgeni Road, they spotted the black Lexus and they drove with their Quantum behind it. Warrant Officer Dlamuka alleges that when NIU Quantum drove next to the black Lexus, the driver of the Lexus fired shots at them and they returned fire using their R5 rifles. The man was then subsequently killed.”

10 **ADV RAMOGALE**: Thank you, Ms Williams. If I could ask you to stop there? There are now three statements that we have looked at from the docket and we go back to what you stated in paragraph 80 of your statement, which is that when you arrived at the scene, Superintendent Bristow refused to allow you to interview anyone at the scene and prevented you from inspecting the scene yourself.

MS WILLIAMS: Yes.

ADV RAMOGALE: Was this normal?

MS WILLIAMS: That was not normal, Chairperson.

20 **ADV RAMOGALE**: And why is that so? You are the ICD, you arrive at the scene, and then what?

MS WILLIAMS: We are ICD, Chairperson, we arrive at the scene that automatically becomes an ICD scene. That was, in actual fact, that was my scene. I should have been given permission and I was the one that was calling, that should

have instructed or led the way as to what was going to happen.

ADV RAMOGALE: But what should the Panel make of that, that you arrive at the scene and you are told by Superintendent Bristow that you cannot access the scene?

MS WILLIAMS: That was a clear obstruction of ICD duties.

ADV RAMOGALE: And why is that?

MS WILLIAMS: The only conclusion I can draw is there was something at that scene that Colonel Bristow, I do not know
10 why, but there was something at that scene that she did not want ICD members to see.

ADV RAMAGAGA: Ja, thank you, thank you, Counsel. Ms Williams, you have just said that as soon as we arrive at the scene, it becomes an IDC scene. Now, can you just educate us a little bit about that? I mean, you will find a police, maybe the police officers, already SAPS at the scene, and then when you come, does it mean that immediately you arrive, then you are supposed to be seized with the scene? Do you displace them or would that be a parallel process?

20 **MS WILLIAMS**: No, ma'am, that is not supposed to be a parallel process. The minute an ICD member arrive at the scene, we take control of that scene. We are now in control of whatever happens at that scene. And that was known by every member in the KZN, or anywhere in the Republic of South Africa, that when ICD arrives there, the scene becomes

ours. If there is a natural handing over, there is no fight regarding that, there is no negotiation regarding that. But in this case, the woman was hostile towards us. She at some stage even called us reporters, and yet there were members at that scene that knew that we were ICD personnel and she had made up her mind, there was no way that she was allowing us on that scene.

ADV RAMAGAGA: Does it then mean that ordinarily, if they were following process, they were supposed now to back off
10 and you would be the sole power in charge of the scene?

MS WILLIAMS: Yes, ma'am. And then what also happens there, I was supposed to be in charge of that scene. LCRC would do the processing as per normal. The person that was on standby for that particular area would have been Durban Central and that could have either have been, I think it was a Captain Govender. Captain Govender would then have been the one that would have a part of the processing of that scene. That is what normally happened. But in the Durban Central matter, ma'am, there was a lot of hostility and the
20 police wanted to do everything and the ICD was only allowed after the scene was processed, and the LCRC person then took us through everything again.

ADV RAMAGAGA: Now, you say the approach is actually known maybe across the country.

MS WILLIAMS: Yes.

ADV RAMAGAGA: Do you know of any document that issues this type of instruction or is it something that comes from the legislation? Is it statutory as far as you know? Are you able to assist us with it?

MS WILLIAMS: Ma'am, I am not sure, but I think it was statutory. I just do not have that with me now, but I think it was, speaking under correction, but I think it was a statutory rule that was there. So we were allowed to be on that scene.

ADV RAMAGAGA: Thank you, Ms Williams.

10 **ADV RAMOGALE:** Sorry, Ms Williams, I think the question is whether you know of any instrument or statute that says that when the ICD arrives at a scene, the ICD must take over and control the scene.

MS WILLIAMS: There is one, I just do not know it offhand, off the top of my head.

ADV RAMAGAGA: And you say it is statutory?

MS WILLIAMS: Yes. I believe so, yes.

CHAIRPERSON: Let us go back to your statement, DC000191. Do you have it?

20 **MS WILLIAMS:** I am almost there. Yes, I do have it now, Chairperson.

CHAIRPERSON: In paragraph 2, you make mention there of the Mariannahill NIU police officers who had been radioed for backup by the Cato Manor unit.

MS WILLIAMS: That is correct, Chairperson.

CHAIRPERSON: Inspector Dlamuka, Constable Mfene, Constable Sekulume.

MS WILLIAMS: That is correct, Chairperson.

CHAIRPERSON: In the next sentence, you mentioned that they also described to us that they witnessed how the deceased was shooting at the members of the Cato Manor Organised Crime.

MS WILLIAMS: Correct, Chairperson.

CHAIRPERSON: And they responded by cutting off the
10 vehicle and fired shot at them, and they returned fire.

MS WILLIAMS: Correct, Chairperson.

CHAIRPERSON: The they that you are referring to there are the Mariannahill NIU unit, correct?

MS WILLIAMS: That is correct, Chairperson. The NIU unit from Mariannahill.

CHAIRPERSON: What they reported to you sounds like they were eyewitnesses. They witnessed the shooting by the suspects.

MS WILLIAMS: That is correct, Chairperson.

20 **CHAIRPERSON:** Did you or Superintendent Bristow take statements from these three officers?

MS WILLIAMS: No, ma'am, I requested statements from them afterwards. I am not aware that Superintendent Bristow took statements from them.

CHAIRPERSON: You requested statements from them?

MS WILLIAMS: Yes, ma'am, I did.

CHAIRPERSON: Did you make or write their statements?

MS WILLIAMS: I did not write their statements. They wrote their statements by themselves, and it was handed to, I cannot remember if it was handed to myself or to one of the officers, Warrant Officer Daniels at that stage, but it was received.

CHAIRPERSON: Where are those statements?

MS WILLIAMS: They are contained in the docket,
10 Chairperson.

CHAIRPERSON: The Durban Central CAS?

MS WILLIAMS: Durban Central CAS 185/2/2009.

CHAIRPERSON: Advocate Ramogale, do we have those statements?

ADV RAMOGALE: Yes, Chair, we do.

CHAIRPERSON: Are they contained in this DC000?

ADV RAMOGALE: Indeed they are, Chair.

CHAIRPERSON: Would you draw my attention to the pages?

ADV RAMOGALE: Yes, the statement by Inspector Dlamuka
20 is at DC00040.

CHAIRPERSON: Please give me a second.

MS WILLIAMS: 0004?

ADV RAMOGALE: 40.

CHAIRPERSON: 0004?

ADV RAMOGALE: 40, Madam Chair.

CHAIRPERSON: 40?

ADV RAMOGALE: Yes. If it assists, it is in DC1.

CHAIRPERSON: DC1.

ADV RAMOGALE: DC1, yes.

MS WILLIAMS: I do have it in front of me, Chairperson.

CHAIRPERSON: DC000 or 00?

ADV RAMOGALE: 00040, page 40, essentially. Sorry, not 000, 00040.

CHAIRPERSON: 0000. Yes, yes, 000040.

10 **CHAIRPERSON:** It got me confused.

ADV RAMOGALE: Apologies, Chair.

CHAIRPERSON: Does Mr Dlamuka confirm what you state in your statement at paragraph 73? Not your affidavit, the statement that we read earlier on in the same document?

MS WILLIAMS: Are you talking about my – the statement that I made in respect of Durban Central?

CHAIRPERSON: Yes, let me get that statement now, because there is so many statements that we are looking at. By the way, Counsel, remind me where the statement of the
20 witnesses, the one that we are reading.

ADV RAMOGALE: It is at DC000191.

CHAIRPERSON: DC000191.

ADV RAMOGALE: 191, that would be DC1, Madam Chair.

CHAIRPERSON: There is another one at 000228. Yes, 191.

ADV RAMOGALE: Yes.

CHAIRPERSON: Does Inspector Dlamuka confirm what you state at paragraph 2 of your statement, what they witnessed?

MS WILLIAMS: Correct, Chairperson.

CHAIRPERSON: You can quickly read his statement that appears at page 40, 0000, DC000040.

MS WILLIAMS: Not 00040? I am sorry, Chairperson, I just have the wrong page here.

CHAIRPERSON: Please help the witness, Counsel.

ADV RAMOGALE: Yes, indeed, Chair. Ms Williams, in the
10 very first, in the beginning of the first few pages of the Durban
Central docket. It is DC000040. So page 40, essentially.

MS WILLIAMS: I am almost there. I am sorry, I heard
incorrectly. I have got Dlamuka's statement in front of me. I
am just making a note for myself. Would you like me to read
the statement?

ADV RAMOGALE: Yes, the Chair has asked that you read
the statement and compare that with the statement that you
have given at DC000191, the first statement we read, to
confirm whether the version that you were told is consistent
20 or not.

CHAIRPERSON: You may begin at paragraph 4 of Inspector
Dlamuka's statement.

MS WILLIAMS: Thank you, ma'am:

“Myself and Constable Mfene caught up
with the suspect on Umgeni Road, just

past Connaught Road Bridge, where we overtook the members of Organised Crime. And upon approaching the said vehicle, close to the BP Garage, the suspect produced a firearm and fired shots in our direction and Constable Mfene returned fire immediately in the direction of the suspect. We then alighted from our vehicle and approached suspect's vehicle. I observed a pistol, black of colour, lying next to the deceased. The scene was then secured and taken ...[indistinct] necessary role players.”

CHAIRPERSON: What we note on this statement by Inspector Dlamuka refers to the suspect having fired at them, that is the Mariannhill Unit. But there is no mention of them, say, or him, Inspector, saying he witnessed how the deceased was shooting at the members of the Cato Manor.

20 **MS WILLIAMS:** I understand what you are saying, ma'am. When I go back to paragraph 4, ma'am, he says, just past the Connaught Road Bridge, where we overtook the members of Organised Crime. And upon approaching the said vehicle, close to the BP Garage, the suspect produced a firearm. He only speaks about a firearm being produced at this stage and

fired shots in our direction. Myself and Constable Mfene returned fire immediately in the direction of the suspect.

CHAIRPERSON: Should we read this as suggesting that the suspect was firing at the Cato Manor unit because you had just overtook them?

MS WILLIAMS: Ma'am, the way I read and the way I understand is he says, he does not say that they were shooting, that the suspect was shooting at the Organised Crime members because he says the suspect produced, close
10 to the BP garage, the suspect produced a firearm. So that could not have been the same time when Cato Manor members were still in the vicinity.

CHAIRPERSON: I do not understand. Do you understand?

ADV RAMOGALE: Yes, Chair, I understand the point the witness is trying to make. If I could refer to more documents, I am trying to assist. Ms Williams, in the same file, if you could page to DC000019? Apologies, in fact, it is the next
page, DC000020.

MS WILLIAMS: Yes, I have that in front of me, Chairperson.

20 **CHAIRPERSON:** But maybe before you do that, we should finish the statements of those Mariannahill officers because maybe some of those statements will confirm the point that she makes in her statement.

ADV RAMOGALE: Yes, Chair. Chair, the point, I do not want to make it for the witnesses, is that when one compares

all of these versions, different scenes play out depending on the officer that you are speaking to.

CHAIRPERSON: Yes.

ADV RAMOGALE: And so, to the Chair's question to the witness about in which direction was the shots being fired at, was it the NIU or was it Cato Manor, what is actually the version?

CHAIRPERSON: Yes.

ADV RAMOGALE: And the Chair will recall that we have
10 gone through the statements of the Cato Manor unit. And on their version, they say they were shot at. But according to the NIU, the NIU says we were being shot at. So, ja.

CHAIRPERSON: The reason why I focus on the statements of these independent witnesses, not the Cato Manor member statements, is because it suggests that they were eyewitness. They were neither the Cato Manor police officers or members, nor were they members of Ms Williams' team. As I understand it, they were independent eyewitnesses. That is why I would like us to focus on the statements.

20 **ADV RAMOGALE:** Chair, we will certainly comply with that. If I could assist the witness then by referring to the second statement?

CHAIRPERSON: Yes.

ADV RAMOGALE: By, I am not sure if it is constable, but I will call him Officer Mfene. His statement, Ms Williams,

appears in the same file, or the same volume that you are dealing with, at page 000085.

MS WILLIAMS: I do have it in front of me, Chairperson.

CHAIRPERSON: It is DC?

ADV RAMOGALE: DC, quadruple zero, page 85.

CHAIRPERSON: One, DC1, quadruple zero, 85?

ADV RAMOGALE: Yes, Chair.

CHAIRPERSON: Yes, sir.

ADV RAMOGALE: Ms Williams, do you have that?

10 **MS WILLIAMS**: I have that in front of me, Chairperson.

ADV RAMOGALE: Thank you. Could you tell the Panel what it is that we are looking at?

MS WILLIAMS: We are looking at the statement provided by Stanley Sandile Mfene, from NIU.

ADV RAMOGALE: And could you read from paragraph 2, please, of his statement?

MS WILLIAMS:

20 “On Tuesday, 2009-02-03, I was on duty in full uniform and in the company of Inspector Dlamuka. We were requested to assist members from Organised Crime Durban, searching for suspects involved in ...[indistinct] CAS 112/1/2009.”

It should have been 2008:

“On the same day, at about 13:15,

members of Organised Crime spotted the vehicle with suspect, a black Lexus with registration number 148765, and began following it. We caught up with the suspect on Umgeni Road, just past the Connaught Road Bridge, where we overtook the members of Organised Crime. And upon approaching the said vehicle close to the BP Garage, the suspect produced a firearm and fired 10 shots in our direction. I, with Inspector Dlamuka, returned fire immediately in the direction of the suspect. We alighted from our vehicle.”

That is illegible. I cannot see what that is. The suspect's vehicle, looks like approaching the suspect's vehicle:

“I observed a pistol, black in colour, lying next to the deceased. The scene was then secured and then taken over by the necessary role players.” 20

CHAIRPERSON: The next statement of Constable Sekulume.

ADV RAMOGALE: That Chair, we do not have in the docket. So we only have the two statements from Constable Mfene and Dlamuka.

CHAIRPERSON: Verify with the witness.

ADV RAMOGALE: Ms Williams, if I could ask you to go to page, at the very beginning of that bundle there is an index.

MS WILLIAMS: I have it in front of me, Chairperson.

ADV RAMOGALE: Could you assist the Panel to identify, if any, a statement made by Constable Sekulume?

MS WILLIAMS: I am going through the page, Chairperson.

CHAIRPERSON: There appears to be no statement.

MS WILLIAMS: There is no such statement.

10 **CHAIRPERSON**: There appears to be no statement by this officer, Mr Sekulume.

MS WILLIAMS: May I interject in that respect?

ADV BALOYI-MERE SC: Ms Williams, in the two statements, that is Dlamuka's statement, sorry, Inspector Dlamuka and Constable Mfene, they do not mention the third officer. They do not mention Constable Sekulume. And what do you make of that? Because in your statement, you say you and, is it Ms Gibson?

MS WILLIAMS: Correct, Chairperson.

20 **ADV BALOYI-MERE SC**: You say you spoke to the three officers from NIU and you include Constable Sekulume, but in their statements, they only talk about the two of them. Inspector Dlamuka talks about Constable Mfene and Constable Mfene only refers to Inspector Dlamuka. What should we make of it?

MS WILLIAMS: Madam, that is also one of the problems I have because I do not know why that member was left out. I had requested at that stage, I spoke to Colonel ...[indistinct] I also spoke to the member personally. I asked for him to furnish ...[indistinct] just looked at me, he did not respond to me. Colonel Chetty said that I should not be bothering his members, but according to the three, when they were talking to us, he was there. He was even mentioned by the duty officer as one of the people that was the shooters from NIU.

10 Yet this gentleman refused to give a statement to me at that stage. And I see he has never even furnished anybody else after me with a statement, but he was there, we saw him, we engaged ...[indistinct] and as far as I know, he was part of the three NIU members that was shooting.

CHAIRPERSON: The reason we went through this exercise is to ascertain whether these officers who made statements, Inspector Dlamuka and Constable Mfene, confirm what you state in your affidavit or your statement under oath at paragraph 2 that the suspect, they, these officers, said that
20 – they described to you that the deceased was shooting at the members from Cato Manor.

Now, their statement, the two statements that we have just read of eyewitness Inspector Dlamuka and Constable Mfene state that they overtook the Cato Manor Unit members and as they were driving towards the garage, the

witness fired at their direction, the direction of the two officers, Inspector Dlamuka and Constable Mfene. You state that they told you that the deceased was shooting at Cato Manor.

Now my question was, should we understand their statement to suggest that as they were firing at their direction, their direction, Inspector Dlamuka and Constable Mfene, the deceased was actually shooting towards the Cato Manor Unit because you had just overtaken them, because
10 they had just overtaken them? I am trying to correlate the three statements. Was the deceased shooting at the two officers or was he shooting or firing at the Cato Manor Unit?

MS WILLIAMS: The way I read it, the deceased was shooting at the NIU members, that is when I read their statements, what they say in their statements.

CHAIRPERSON: Yes, that is what you say the officers told you. If you read your paragraph 2, that middle sentence.

MS WILLIAMS:

20 “Three members from NIU ...[indistinct]
and Inspector Dlamuka, Constable Mfene
and Constable Sekulume spoke to Ms
Gibson and me and told us that they
assisted Cato Manor Crime because they
heard them call for backup on the radio.
They also described to us that they

witnessed how the deceased was shooting at members from Cato Manor Organised Crime, and they responded by cutting off the vehicle and fired shots at them and they returned fire.”

Yet, ma'am, in their statements that they now furnish, the written statements that they provide, it is not the same as what they related to us at the scene. In their own statements, they do not say that the members actually – that the deceased
10 shot at the Cato Manor Organised Crime. They actually say that they cut them off and then the firearm was only produced afterwards when they were near the BP Garage, which is a little bit further from the Connaught Bridge. So they actually contradicted themselves. What they told us when we interviewed them and what they put on paper, ma'am, is two different statements.

CHAIRPERSON: Thank you, Ms Williams.

ADV RAMOGALE: Thank you, Chair. It is almost quarter past 11.

20 **CHAIRPERSON:** It is teatime.

ADV RAMOGALE: Yes.

CHAIRPERSON: Thank you, Advocate Ramogale. Ms Williams, we are going to pause for 30 minutes for tea. You are under oath and we will reconvene at quarter to 12.

MS WILLIAMS: Yes, Chairperson.

CHAIRPERSON: We adjourn.

ENQUIRY ADJOURNS

ENQUIRY RESUMES

CHAIRPERSON: Good day, everyone. Good day, Me Williams.

MS WILLIAMS: Good after, ma'am.

CHAIRPERSON: Good afternoon, Me Williams.

MS WILLIAMS: Good afternoon, Chairperson.

CHAIRPERSON: Good afternoon. Advocate Ramogale?

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

CHAIRPERSON: I might have interrupted your train of thought.

ADV RAMOGALE: No, no worries. We are here to assist the Panel.

CHAIRPERSON: Yes, I just wanted to connect these things before I forget what I wanted to clarify.

ADV RAMOGALE: Yes, Chair.

CHAIRPERSON: But you may proceed.

20 **ADV RAMOGALE:** Chair, we have tried in the tea break to try and assist the Chairperson with clarifying that particular sequence. Ms Williams, if I could assist by directing you, we have not gotten there yet. But since we are on this topic, let us get it out of the way. In paragraph 83 of your statement, I think that is an attempt to answer the Chairperson's question.

CHAIRPERSON: Yes, I suggest that you do not interrupt yourself.

ADV RAMOGALE: All right.

CHAIRPERSON: That is why I am raising this point, that I might have ran ahead of you.

ADV RAMOGALE: Okay, I am happy to deal with it now, Chair, because we can get it out of the way and move on, because I do want to make separate points related to those statements.

10 **CHAIRPERSON:** As it is convenient to you.

ADV RAMOGALE: Yes, thank you, Chair. So, Ms Williams, we are at, do you have paragraph 83?

MS WILLIAMS: Just one second. I just need to put my dockets aside and find it. Paragraph 83?

ADV RAMOGALE: Yes.

MS WILLIAMS: Yes, I do have it now.

ADV RAMOGALE: Could you just read that out to the Panel, please?

MS WILLIAMS:

20 “The NIU members told me that they were conducting a patrol when they received a request for backup from the Cato Manor Unit on the police radio. They gave the following account of what happened next. When they arrived near the scene at Umgeni Road, they

witnessed the deceased, Mr Mkhize, shooting at the members of Cato Manor SVC. The NIU members joined in the pursuit of Mr Mkhize's vehicle.

At some point, the Cato Manor Unit's vehicle fell behind and the NIU's vehicle took the lead. The NIU vehicle cut off Mr Mkhize's vehicle, at which point Mr Mkhize fired shots at the NIU members, who returned fire. Mr

10 Mkhize was subdued and ultimately killed by shots fired by the NIU members. The only Cato Manor members identified as taking part in the death shootout were Inspector Adriaan Stoltz and Constable Raymond Lee.”

ADV RAMOGALE: Now, if we could just stop there and go back to the statement that the Chairperson was pointing to you, which is at DC000191.

MS WILLIAMS: That is my statement, correct?

20 **ADV RAMOGALE:** Indeed.

MS WILLIAMS: Yes.

ADV RAMOGALE: At paragraph 2, the Chair was pointing you to what you state there. You say:

“Three members from NIU, Marianhill and Inspector Dlamuka, Constable Mfene and

Constable Sekulume, spoke to Ms Gibson and me and told us that they assisted Cato Manor Organised Crime because they heard a call from backup on the radio. They also described to us that they witnessed how the deceased was shooting at members from Cato Manor Organised Crime and they responded by cutting off the vehicle and fired shots at them and they returned fire.”

10 Now, you keep referring to ‘they’ there. You say, ‘they also described to us that they witnessed how the deceased’, who is the ‘they’ that you are referring to there?

MS WILLIAMS: The ‘they’ I was referring to would be Inspector Dlamuka, Constable Mfene and Constable Sekulume.

ADV RAMOGALE: Right. And then you continue that:

“...they witnessed how the deceased was shooting at members of Cato Manor.”

And you also then say:

20 “...and they responded by cutting off the vehicle and fired shots at them.”

Who is the ‘they’ that you are referring to there?

MS WILLIAMS: The ‘they’ I am referring to is the same members from the NIU. And that would be the same members, Inspector Dlamuka, Constable Mfene and

Constable Sekulume.

ADV RAMOGALE: And then you continue after stating that they responded by cutting off the vehicle and fired shots at them ‘and they returned fire’. Once again, just to be clear, when you say ‘they returned fire’, who returned fire?

MS WILLIAMS: The ‘they’ that I am referring to here would be the same three members, Inspector Dlamuka, Constable Mfene and Constable Sekulume.

ADV RAMOGALE: Now, if we could turn to the statement
10 that the Chair directed you to from Inspector Dlamuka, which is at page 000040.

MS WILLIAMS: I have it in front of me, Chairperson.

ADV RAMOGALE: Thank you, Ms Williams. In paragraph 2, Constable Dlamuka says that on the 3rd of February 2009, he was on duty in full uniform and in the company of Constable Mfene. He says:

“We were requested to assist members from
Organised Crime Durban with the searching
for a suspect involved in Bheki Themba CAS
20 113/01/2009.”

And then could you just read what he says at paragraph 2 and, I mean, paragraph 3 and 4.

MS WILLIAMS: Paragraph 3 reads as follows:

“On the same day, at about 13.15, members
of Organised Crime spotted and began

following the suspect in his motor vehicle, a black Lexus with registration number ND148765. Myself and Constable Mfene caught up with the suspect on Umgeni Road, just past the Connaught Road Bridge, where we overtook the members of Organised Crime and upon approaching the said vehicles close to the BP garage, the suspect produced a firearm and fired shots in our direction. Myself and Constable Mfene returned fire immediately in the direction of the suspect.”

10

ADV RAMOGALE: Right, and then the last statement, apologies. And then the last statement we will look at is that of Officer Mfene, which is, we looked at it at 000085.

MS WILLIAMS: I have that, I actually made good marks for myself. I have it in front of me.

ADV RAMOGALE: Yes, could you inform the Panel what is it that he states? At paragraph 2, 3, and 4.

20 **MS WILLIAMS:** He states as follows:

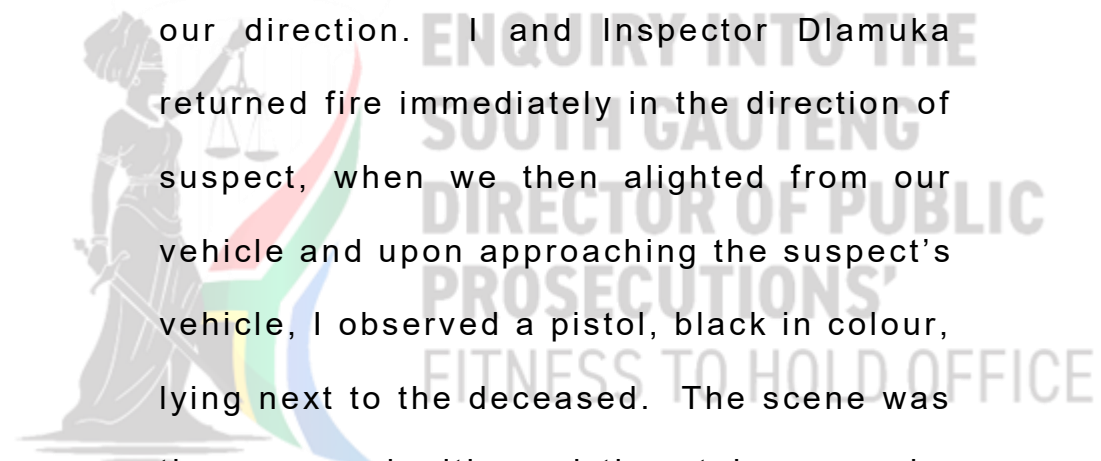
“On Tuesday 2009-02-03, I was on duty in full uniform and in the company of Inspector Dlamuka. We were requested to assist members from Organised Crime Durban searching for suspect involved in Bheki

Themba CAS 113/1/2009. On the same day, about 13.15, members of Organised Crime spotted the vehicle with suspect, a black Lexus ND148765, and began following it.

We caught up with the suspect on Umgeni Road, just past the Connaught Road Bridge, where we overtook the members of Organised Crime and upon approaching the same vehicle close to the BP garage, the suspect produced a firearm and fire shots in

10

our direction. I and Inspector Dlamuka returned fire immediately in the direction of suspect, when we then alighted from our vehicle and upon approaching the suspect's vehicle, I observed a pistol, black in colour, lying next to the deceased. The scene was then secured with, and then taken over by the necessary role players."



ADV RAMOGALE: Right, now, if I could ask you, when you consider the date of the statement from Officer Mfene and the date of the statement from Inspector Dlamuka, you will find the date from the affidavit of Officer Mfene at the very next page of what you are reading now, at DC000086.

MS WILLIAMS: I have it, yes.

ADV RAMOGALE: What is the date that we see there?

MS WILLIAMS: It is the 2nd of November 2009.

ADV RAMOGALE: Right, and if you go back to the statement by Inspector Dlamuka at DC000040, what is the date that we see there?

MS WILLIAMS: It is the 16th of September 2009.

ADV RAMOGALE: And then we go back to your statement, which is at DC000192. What is the date on which you give your statement?

MS WILLIAMS: Just give me one second, I just need to get
10 there. The date of my statement is on the 9th of December 2009.

ADV RAMOGALE: So of these statements, the three that we have just looked at, which statement came first?

MS WILLIAMS: Just going to make a note of that. Mine is 9th of December, seems to be the last one.

CHAIRPERSON: It is that of Inspector Dlamuka?

ADV RAMOGALE: Yes, Chair, Inspector Dlamuka and Officer Mfene.

CHAIRPERSON: Officer, I beg your pardon, Ms Williams?

20 **MS WILLIAMS**: Yes, Chair?

CHAIRPERSON: The sequence of date, the first statement would have been that of Inspector Dlamuka followed by that of Constable Mfene in November and then yours in December.

MS WILLIAMS: That is correct, ma'am.

CHAIRPERSON: Correct.

MS WILLIAMS: If I may? Inspector Dlamuka, his statement was commissioned on the 16th of September 2009. Constable Mfene, his one was on the 2nd of November 2009. And my one was made on the 2nd of December 2009.

ADV RAMOGALE: Is that yours, is that the 2nd or the 9th of December?

MS WILLIAMS: The 9th of December 2009. 2nd of November would have been the one for Mfene.

ADV RAMOGALE: Yes. Now, the Chairperson's question to you earlier was, what you stated in paragraph 2, is that consistent with what you were told? I mean, is that consistent with what we now see in the affidavits of Constable Mfene and Inspector Dlamuka?

MS WILLIAMS: No.

ADV RAMOGALE: What is the inconsistency?

MS WILLIAMS: In what they related to us at the scene, they described to us how they witnessed how the deceased was shooting at members from Cato Manor Organised Crime, and how they responded by cutting off the vehicles. Yet in their statements, they do not say anything about Cato Manor with our members being fired at. They only speak about a firearm being produced after that, and that would be a distance further away from where this would have occurred, ma'am, and that would have been at the BP garage. I know that area well, so I have an idea how far it is. It is not a very big

distance away, but it is quite a distance away from there. So it was not at this stage, as they described to us at the scene, that members were shot at, because when I look at what they say in their statement, what they say here is two different things, ma'am.

ADV RAMOGALE: And from the statements that we have read, do they give an account about why they started shooting at Mr Mkhize?

MS WILLIAMS: Are you talking about in my statement now?

10 **ADV RAMOGALE:** No, no, no. In the statement of Constable Mfene and Inspector Dlamuka, do they give an explanation about why they began shooting at Mr Mkhize?

MS WILLIAMS: According to what I can read from their statements, they say that the reason they began shooting at Mr Mkhize is because Mr Mkhize is now pointing a firearm at them and shooting at them. That is what I understand from reading their statements.

ADV RAMOGALE: Right. Now, if we could take that and compare it to the statements that were given by the members
20 of Cato Manor, you will find the first statement, I had pointed it to you earlier, it is at DC0000 page 22.

MS WILLIAMS: Is it 22 or 20?

ADV RAMOGALE: 20, my apologies 20.

MS WILLIAMS: I do have that in front of me.

CHAIRPERSON: Whose statement is that, counsel? Whose

statement is that?

ADV RAMOGALE: Ms Williams, if you could answer the Chair's question, whose statement is that?

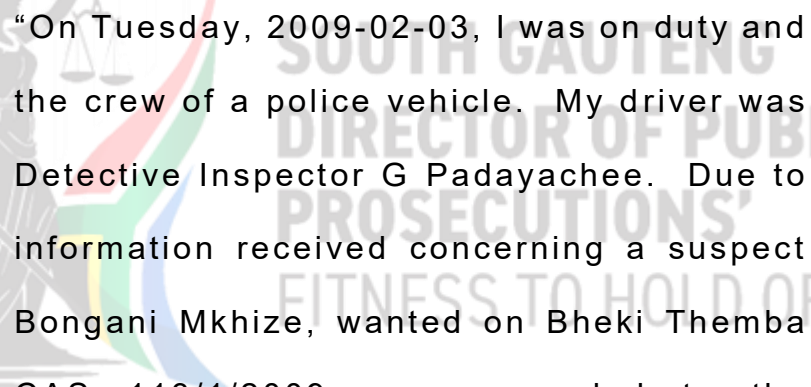
MS WILLIAMS: This statement would be for Rakesh Chandran Maharaj.

ADV RAMOGALE: And who is Mr Rakesh Maharaj?

MS WILLIAMS: He was a member of the Cato Manor, of SVC.

ADV RAMOGALE: Now, could you read what Mr Maharaj
10 states from paragraph 2 of his statement?

MS WILLIAMS: Paragraph 2 states as follows:



“On Tuesday, 2009-02-03, I was on duty and the crew of a police vehicle. My driver was Detective Inspector G Padayachee. Due to information received concerning a suspect Bongani Mkhize, wanted on Bheki Themba
CAS 113/1/2009, we proceeded to the Overport area. The above suspect was also believed to be driving a blackish Toyota
20 Lexus with registration number ND148765.
t approximately 13.15, whilst in the area, we were called via police radio by Inspector Stoltz, requesting assistance to pull off the above mentioned Lexus.

My driver immediately responded by going in

the direction of Umgeni Road, where I spotted the Lexus in front of me and thereafter joined in the high-speed car chase. The above vehicle eventually came to a halt opposite the BP garage on Umgeni Road, and my driver simultaneously stopped the police vehicle. At this stage, I noticed the driver firing shots in our direction. I immediately returned fire with my R5 rifle in the suspect's direction. That is all I wish to state.”

10

ADV RAMOGALE: Now, could you tell the Panel what it is that Mr Maharaj is saying about the shooting? Who does he say was shot at?

MS WILLIAMS: According to what I am reading, from what Mr Maharaj is saying, he says that the suspect is now shooting at himself and Inspector Maharaj, agh Padayachee.

20

ADV RAMOGALE: Yes. Now, if you move on to the next page, DC000022, could you inform the Panel what it is that we are looking at here?

MS WILLIAMS: We are looking at a statement from Warrant Officer Padayachee.

ADV RAMOGALE: Could you state his full names?

MS WILLIAMS: Gonasagren Padayachee.

ADV RAMOGALE: And who is Mr Gonasagren Padayachee?

MS WILLIAMS: He is a member that was attached to the Durban SVC, Cato Manor SVC, ma'am.

ADV RAMOGALE: And what does he state in paragraph 2, 3, and 4?

MS WILLIAMS: He states as follows:

10 “On 2009-02-03, I was on duty and the driver of a police vehicle. My crew was Detective Inspector RC Maharaj. Information was received regarding a suspect named Bongani Mkhize, who was wanted for murder of Bheki Themba CAS 113/01/2009. We were on the lookout for the suspect's vehicle, which was a dark-coloured Toyota Lexus bearing the registration number ND148765, we then proceeded to the Overport area as we believed the suspect was in the vicinity of Overport.

20 At approximately 13.15, we were summoned via the police radio by Inspector Stoltz requesting assistance, as we had spotted the suspect's vehicle, namely the black Lexus. Inspector Stoltz gave us his location and we immediately headed in that direction. I spotted the Lexus in Umgeni Road and a high-speed chase continued in pursuit of the

suspect's vehicle. We continued east on Umgeni Road until passing under Connaught Bridge, when shots were fired at the tyres of the Lexus by Inspector Stoltz.

The Lexus came to a stop on Umgeni Road opposite the BP garage. I stopped my vehicle on the right side of the Lexus and I noticed the driver firing shots at us. I returned fire with my 9mm Beretta pistol.”

10 **ADV RAMOGALE**: Now, according to Officer Padayachee, in which direction were the shots fired at?

MS WILLIAMS: The shots were fired... I am going to read from his statement.

“I stopped my vehicle on the right side of the Lexus and I noticed the driver firing shots at us.”

Which means the ‘us’ must have been himself and Inspector Maharaj, as he is describing here.

ADV RAMOGALE: Now, could I ask you this? We have now
20 looked at two statements, one from Officer Maharaj, the other from Officer Padayachee. Is there any mention in either of their statements of the NIU?

MS WILLIAMS: No, there is no mention of NIU members, Chairperson.

ADV RAMOGALE: What should the Panel make of that?

MS WILLIAMS: It does not appear that the NIU members were involved in the shooting.

ADV RAMOGALE: We will come to that later, but you have got two statements here, one by Mr Maharaj, the other by Mr Padayachee, who describe the shooting, and as you have said, there is no mention of the NIU. If the Panel were to ask you what conclusions they should draw from that, what would you say?

MS WILLIAMS: The shootout here, according to what I am
10 reading, ma'am, the shootout would have been between Inspector Maharaj, Inspector Padayachee, and then the deceased, Bongani Mkhize.

ADV RAMOGALE: Now, if we go to the last statement from one of the Cato Manor members, which is a few pages back at DC000019.

MS WILLIAMS: I do have that, yes.

ADV RAMOGALE: What is this document that we are looking at?

MS WILLIAMS: We are looking at the statement provided by
20 Warrant Officer Stoltz, Adriaan Stoltz. He is also attached at Cato Manor, SVC.

ADV RAMOGALE: Could you tell the Panel who, oh, you have already told us that he is from Cato Manor, but could you tell us, could you tell the Panel what he reads there, or what he states there, rather, at paragraphs 2, 3, 4, and 5?

MS WILLIAMS: He states as follows:

“On Tuesday, 2009/02/03, I was on official duty with Constable R Lee...”

That would be Raymond Lee;

“...number 7009776-3. Information was received regarding a suspect, Bongani Mkhize, wanted on Bheki Themba CAS 113/1/2009, whom was seen driving a dark-coloured Lexus, registration number ND148765 in the Overport area. I decided to conduct surveillance duties alongside Ridge Road. At about 13.10, a black Lexus, registration number 148765, was observed driving in a southern direction towards Overport City. Constable Lee and I followed the said vehicle along Ridge Road. Over the intersection of Ridge and Sparks Road, the suspect vehicle turned right into McCaw Drive and accelerated.

Constable Lee continued to follow the vehicle, and I informed the other members via radio what the situation is, and the location of the suspect’s vehicle. The vehicle turned into Highview Road towards Sparks Road, left into Sparks Road towards

Brickfield Road. Constable Lee managed to pull up along the side of the Lexus. I produced my police appointment certificate and instructed the driver of the Lexus to stop. The driver of the Lexus ignored my instructions and kept on driving. The suspect then produced a firearm through his open window. Constable Lee applied brakes and pulled in behind the Lexus.

10 The Lexus again accelerated, and I informed

the other members that the suspect is armed. The suspect vehicle continued to drive at high speed towards Brickfield Road, right into Brickfield Road, left into Roslyn Road, left into Pastoral Road, left into Clayton Road, back towards Brickfield Road.

The suspect then turned left into Brickfield Road towards Umgeni Road, right into Umgeni Road towards the Connaught Road Bridge. When the suspect vehicle had passed underneath the Connaught Road Bridge, the traffic cleared and I decided to stop the Lexus by shooting out the tyres.

20

I sat on the passenger door and fired several shots at the left and right rear tyres of the

Lexus. The vehicle slowed down and stopped opposite the BP Garage in Umgeni Road, where shots were fired between the suspects and other SAPS members. I alighted from my vehicle and approached the suspect vehicle when the exchange of gunfire ceased.”

Should I continue with paragraph 6?

ADV RAMOGALE: No, what I was going to ask you is
10 whether Officer Stoltz makes any mention of the NIU in his statement.

MS WILLIAMS: There is no specific mention to the NIU members in the statement.

ADV RAMOGALE: And does he give an explanation about who fired the first shot?

MS WILLIAMS: Let me just read through again. The explanation he talks about here about who fired the first shot, if I am reading correctly, is that he sat on the passenger door and fired several shots at the left and right rear tyres of the
20 Lexus.

ADV RAMOGALE: Does he say whether Mr Mkhize fired shots at them?

MS WILLIAMS: There is no such indication on this page in his statement.

ADV RAMOGALE: Now, there is mention in his statement of

Constable Lee. You will find Constable Lee's statement, again, in the same vicinity of those documents, at DC000024.

CHAIRPERSON: Just wait a minute, your last question. The last but one sentence of paragraph 4, DC000019.

“The suspect then produced the firearm through his open window.”

No mention of him shooting at them here by Inspector Stoltz?

MS WILLIAMS: No mention of him shooting at Inspector Stoltz. You are correct, Chairperson.

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

ADV RAMOGALE: Thank you, Chair. And we are now at the statement of Constable Lee. Could you read for the Panel what appears in paragraphs 2 and 3 and 4 of his statement? Oh, I am sorry, it is DC000024, volume DC1. Ms Williams, do you have that?

MS WILLIAMS: Yes, I do have that, may I proceed?

ADV RAMOGALE: Just a moment, please. Please proceed.

MS WILLIAMS: I read as follows:

20 “On Tuesday 2009-02-03, I was on duty and in the company of Inspector A Stoltz. Information was received that the suspect, Bongani Mkhize, could be in the vicinity of the Overport area and possibly driving a dark-coloured Lexus with registration number ND148765. Members were deployed

accordingly in the area to hold observation for the suspect and his vehicle. At 13.10, a black Lexus with registration number ND148765 was noticed driving towards Overport City along Ridge Road. Inspector Stoltz and I immediately began following the black Lexus along Ridge Road over the intersection of Ridge and Sparks Road towards the N3.

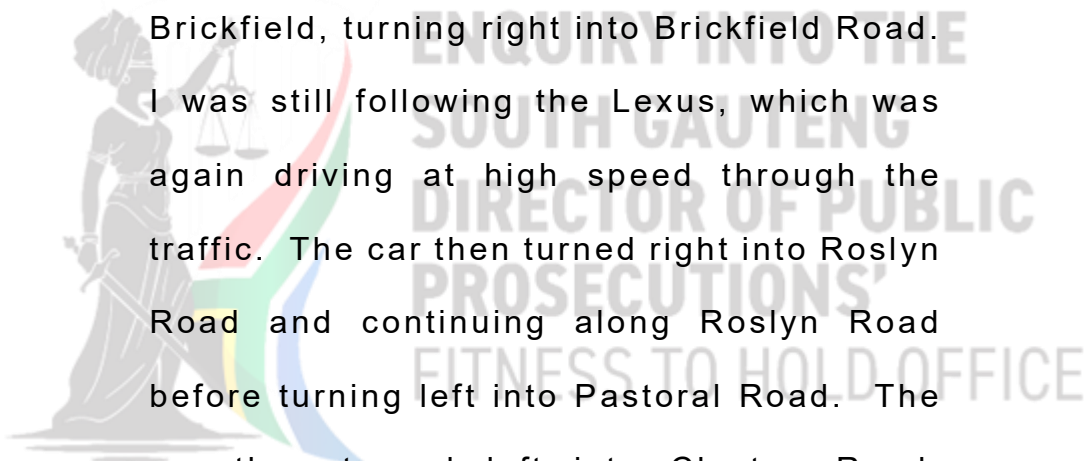
10 The vehicle's movements were conveyed to the other members via radio. The Lexus then turned right into McCaw Drive and began to accelerate to a high speed. I continued to follow the vehicle as it continued at high speed along McCaw Drive and right into Highview Road back towards Sparks Road. The Lexus continued to drive at high speed and went onto the right-hand side of the road at the intersection of Highview and Sparks Road to get around several cars waiting at the intersection. I followed the Lexus left into Sparks Road and down towards Brickfield Road.

20 In Sparks Road, I managed to pull up along the right side of the Lexus, whose driver's

window was down. Inspector Stoltz produced his appointment certificate and shouted for him to pull over as we are the police. The driver, who was now identified as Bongani Mkhize, proceeded to produce a pistol and point it at us. I immediately hit the brakes and pulled in behind the Lexus. The Lexus again accelerated, going onto the right-hand side of the road, going contraflow through the intersection of Sparks and Brickfield, turning right into Brickfield Road. I was still following the Lexus, which was again driving at high speed through the traffic. The car then turned right into Roslyn Road and continuing along Roslyn Road before turning left into Pastoral Road. The car then turned left into Clayton Road, heading past Clayton Road School and down towards Brickfield Road. During all this, the suspect did not slow down. The chase then continued left into Brickfield Road where the driver ignored red robots and climbed pavements to get away from us. The suspect then turned right into Umgeni Road, continuing to ignore the red robots,

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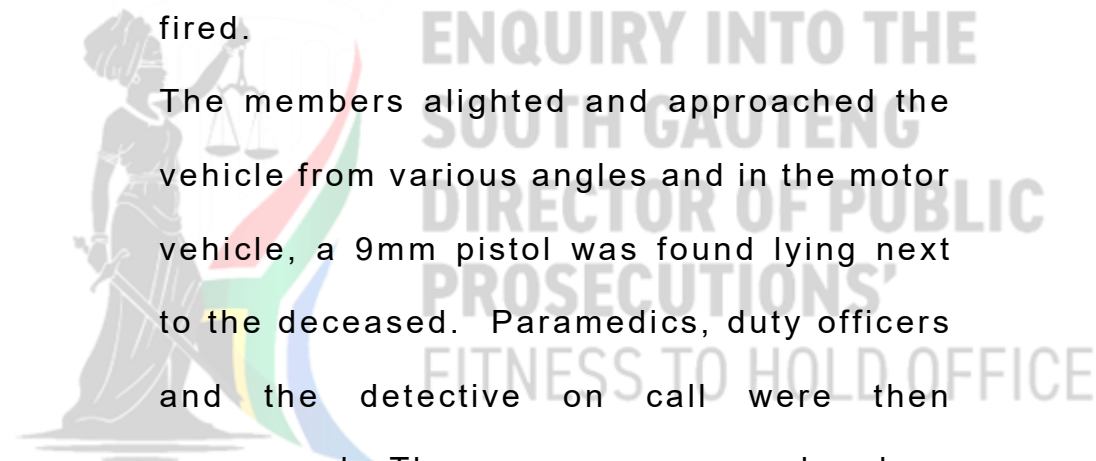
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headed towards town weaving through traffic. Along Umgeni Road and under the Connaught Road Bridge, the traffic cleared and it was decided to stop the Lexus by shooting at the tyres. Shots were then fired towards the vehicle. The car then slowed down in Umgeni Road close to the BP garage and the vehicle containing Tactical Intervention Unit members pulled up alongside the Lexus and more shots were fired.

10

The members alighted and approached the vehicle from various angles and in the motor vehicle, a 9mm pistol was found lying next to the deceased. Paramedics, duty officers and the detective on call were then summoned. The scene was secured and we remained at the scene.”



ADV RAMOGALE: You have just now read the statement of Constable Lee. Does Constable Lee say that Mr Mkhize fired a shot at them?

MS WILLIAMS: I do not see that in the statement.

ADV RAMOGALE: What does he say, particularly in paragraph 4?

MS WILLIAMS:

“Along Umgeni Road and under the Connaught Road Bridge, the traffic cleared and it was decided to stop the Lexus by shooting at the tyres. Shots were then fired towards the vehicle. The car then slowed down in Umgeni Road close to the BP garage and the vehicle containing Tactical Intervention Unit members...”

That would be the NIU members, Chairperson;

10 “...pulled up along the Lexus and more shots were fired.”

ADV RAMOGALE: Now, he says here in paragraph 4, that it was decided to stop the Lexus by shooting at the tyres. Shots were then fired towards the vehicle. Does he explain who fired the shots towards the vehicle?

MS WILLIAMS: He only says, he speaks about Tactical Intervention Unit members pulled up along the Lexus and more shots were fired. So when I am reading this, my understanding is that he is now saying that shots were now
20 fired from the NIU Tactical Intervention Unit members.

ADV RAMOGALE: No, let us just go a sentence back. He says, along Umgeni Road, et cetera, the traffic cleared and it was decided to stop the Lexus by shooting at the tyres. Shots were then fired towards the vehicle. Do you see that?

MS WILLIAMS: I see that, yes.

ADV RAMOGALE: Does he explain who fired the shots towards the vehicle?

MS WILLIAMS: He does not say who really fired the shots towards the vehicle, but there is nothing saying that there were shots fired to them from this vehicle. So in my understanding, when I read, if I have to interpret this, it says that the police members who decided to stop the Lexus by shooting at the tyres, then fired towards the vehicle.

ADV RAMOGALE: Now, we have seen your statement at
10 DC000191, in which you state that you were informed by the NIU that shots were fired at Cato Manor and then they took over and fired shots at Mr Mkhize. Is my understanding correct?

MS WILLIAMS: That is correct, Chairperson.

ADV RAMOGALE: And then we have now seen the statement of the NIU, Inspector Dlamuka, as well as Constable Mfene, who says that they took over, they received radio help from Cato Manor, took over the scene, and then the suspect or Mr Mkhize fired shots at them and they returned fire. Is that
20 correct?

MS WILLIAMS: That is correct, Chairperson.

ADV RAMOGALE: And now we have read the statements from the Cato Manor Unit, from Officer Stoltz, Padayachee, Lee, and Maharaj, in which Maharaj and, officers rather, Maharaj and Officer Padayachee say that the deceased Mr

Mkhize fired shots at them and they returned fire.

MS WILLIAMS: That is correct, yes.

ADV RAMOGALE: And now we have just read both the versions of Officer Stoltz as well as Officer Lee that says that it was decided to stop the vehicle by firing shots at it. Is that correct?

MS WILLIAMS: That is correct, Chairperson.

ADV RAMOGALE: What should the Panel now make of these different versions from the police, as well as from what was
10 conveyed to you?

MS WILLIAMS: Chairperson, there is a clear contradiction in the statements of what actually transpired at that scene. If I may speak my mind, it is clear here that somebody is lying about what actually transpired and how it came that Mr Bongani Mkhize met his demise.

ADV RAMOGALE: Now, what does the NIU tell us in their statements? Was the reason why they were chasing after Mr Mkhize?

MS WILLIAMS: According to the NIU statements that I have
20 just read, they say that they were assisting. They were called on to assist. They were called for backup and they interceded and the Cato Manor members fell behind, they took over the high-speed car chase, that is what they call it, and then the member that produced, the deceased produced a firearm, aimed it at them and they shot at him.

ADV RAMOGALE: Now, in fairness to them, let us go to their statement to see what they say in their own words. If you could begin with the statement of Inspector Dlamuka, which is at DC000040.

MS WILLIAMS: I have Dlamuka's statement, yes.

ADV RAMOGALE: Could you just read paragraph 2?

MS WILLIAMS:

10 “On Tuesday, 2009-02-03, I was on duty in full uniform and in the company of Constable Mfene. We were requested to assist members from Organised Crime Unit Durban with the searching for a suspect involved in Bheki Themba CAS 113/1/2009.”

ADV RAMOGALE: Now, if we could stop there, what is it that Inspector Dlamuka says is the reason why they were on the scene?

MS WILLIAMS: Are we speaking to paragraph 2 now, Counsel?

ADV RAMOGALE: Yes, yes.

20 **MS WILLIAMS:** Okay, he says they were requested to assist members from Organised Crime Unit Durban with the searching for a suspect involved in Bheki Themba CAS 113/1/2009.

ADV RAMOGALE: Now, if you go to the second statement which we have looked at of Constable Mfene, you will find

that at DC0000 page 89.

MS WILLIAMS: Did you say 89?

ADV RAMOGALE: 85, my apologies, 85, not 89.

MS WILLIAMS: I have his statement here. Which paragraph do you want me to read, Chairperson?

ADV RAMOGALE: Just paragraph 2, please, Ms Williams.

MS WILLIAMS: It reads as follows:

10 “On Tuesday 2009-02-03, I was on duty in full uniform and in the company of Inspector Dlamuka. We were requested to assist members from Organised Crime Durban searching for suspect involved in Bheki Themba CAS 113/1/2009.”

ADV RAMOGALE: Now, we have looked at both statements. What is the reason they say they were on the scene?

MS WILLIAMS: They both say that they were requested by Organised Crime Durban in searching for a suspect involved in the Bheki Themba CAS 113/1/2009.

20 **ADV RAMOGALE**: Thank you, Ms Williams. Now, if I could ask you ...[intervenes]

CHAIRPERSON: Do you realise that the dates are different?

MS WILLIAMS: Yes, Chairperson, if I can... Are you talking about the dates that they made the statement?

CHAIRPERSON: Yes. Constable Mfene says it was on Tuesday, the 31st of February 2009. And Inspector Dlamuka

says it was on the 3rd of February 2009.

MS WILLIAMS: Yes, I noticed that, ma'am. I do not know, maybe he just made an error. Maybe he just meant to say that it was on the 3rd, but I do not know why we put 31 because it was on the 3rd. And February does not have 31 days.

ADV RAMOGALE: Thank you, Chair. Ms Williams, I wanted to take you to another document on this particular aspect of their evidence. It is in the same bundle, members of the
10 Panel. The first document, which the Panel has already seen but, Ms Williams, you might not have seen it yet, is at DC000252. That would be at the beginning of volume 2, DC2, Madam Chair.

MS WILLIAMS: DC?

ADV RAMOGALE: 000252.

MS WILLIAMS: Is that the statement from Sibusiso William Zungu?

ADV RAMOGALE: Yes, but let us just give the Panel a moment to get there, please.

20 **CHAIRPERSON**: At the beginning of volume 2, you referred to DC2?

ADV RAMOGALE: Yes, Madam Chair, it is at the beginning of volume 2, at 000252. Ms Williams, do you have that?

MS WILLIAMS: I do have that, Chairperson.

ADV RAMOGALE: Could you inform the Panel what is this

document that we are looking at?

MS WILLIAMS: This would be a statement provided by Sibusiso William Zungu, attached to South African Police Services stationed at Durban Organised Crime, detached at the Political Violence Task Team.

ADV RAMOGALE: Yes, could you read what he states at paragraph 2 and onwards?

MS WILLIAMS: In paragraph 2 he states:

10 “I am the investigating officer of Bheki
Themba CAS 113/1/2009, the murder of
Wellington Mbongeleni Zondi, who was shot
and killed at Z section, Umlazi Township,
Durban. During the course of my
investigation, information became available
through an informant network, indicating
various names of suspects that were
involved in the planning regarding the killing
of Nkosi Zondi. The Chairman of the
KwaMaphumulo Taxi Association, Mr
20 Bongani Mkhize, was amongst those who
conspired to kill Nkosi Zondi.

The information further indicated that one of the suspects amongst those who carried out the killing was at Stanger taxi rank. I proceeded to Stanger taxi rank with

assistance of members from National Intervention Unit, and the suspect was arrested. On the following day, the information was provided to me regarding the second suspect who allegedly partook in the killing of Nkosi Zondi, and it was indicated that he was at the Stanger taxi rank. This operation was also conducted with the assistance of National Intervention Unit, and the suspect was arrested at Stanger taxi rank. Both operations were conducted by myself with the assistance of members from National Intervention Unit as they were deployed at Stanger and surrounding areas. It was my intention to, at some stage in the future, to question Mr Bongani Mkhize with regards to the information on hand, including certain information provided to me by various sources of information.

10

20

In the interim, my focus was the extensive search for other suspects that were identified to me as the ones who carried out the killing. While I was busy conducting the second operation at Stanger, I heard on the

radio that Mr Bongani Mkhize was shot and killed at Umgeni by the police. On my arrival back from Stanger, I was informed by somebody of the killing of Bongani Mkhize, but I cannot recall who that was. I did not attend the scene where Bongani Mkhize was fatally wounded. I was not aware of any operation regarding the tracing of Bongani Mkhize, nor did I request anybody to trace Bongani Mkhize. I did not request any of the shooters to trace Bongani Mkhize.”

ADV RAMOGALE: Thank you, Ms Williams. What does, you have told us that this is a statement from Sibusiso William Zungu, who is the detective or investigating officer in Bheki Themba 113-01-2009. What does Mr Zungu or Officer Zungu tell us about the circumstances related to Mr Mkhize and whether or not he was sought after by the police?

MS WILLIAMS: Do you want me to refer to a specific paragraph?

20 **ADV RAMOGALE:** No, just in your own words, from having read it, what does he say? Was Mr Mkhize a suspect or not?

MS WILLIAMS: He says in the beginning that the Chairman of the KwaMaphumulo Association, Mr Bongani Mkhize was amongst those who conspired to kill Nkosi Zondi. And then towards the end, that is in the beginning, but towards the end,

he says something different. He says he was conducting a second operation at Stanger because he was not looking for the suspects. He heard on the radio that Bongani Mkhize was shot and killed at Umgeni Road by the police. He says on his arrival from Stanger, he was informed by somebody of the killing of Bongani Mkhize. He does not attend Bongani Mkhize, the scene where he was shot. He was not aware of any operation regarding the tracing of Bongani Mkhize, nor did he request anybody to trace Bongani Mkhize. He says
10 again, he did not request any of the shooters that was involved in the shooting now at Umgeni Road to trace Bongani Mkhize.

ADV RAMOGALE: We have now seen ...[intervenes]

CHAIRPERSON: Wait a minute, Counsel. Just to answer your question, I think Ms Williams, if you look at paragraph 5, read with paragraph 7, 8 and 9, Mr Zungu is saying allegations were made that Mr Mkhize was alleged to have taken a part in the killing of Nkosi Zondi.

MS WILLIAMS: Yes, ma'am.

20 **CHAIRPERSON:** Subsequent thereto, in paragraph 7, as he state, it was his intention at one stage or at some stage in the future to question Mr Mkhize with regard to the information on hand.

MS WILLIAMS: Correct, ma'am.

CHAIRPERSON: Including certain information provided to

him by various sources?

MS WILLIAMS: Yes, that is what he says. And he says in the interim, his focus was the extensive search for other suspects that were identified to him as the ones who carried out the killing.

CHAIRPERSON: Yes, and before the interview or the intended questioning, he then heard on radio that Mr Mkhize had been killed.

MS WILLIAMS: That is correct, Chairperson.

10 **CHAIRPERSON**: Now, counsel asked you the question. I thought that the point that counsel was trying to ascertain with you, and he will correct me, is whether this witness has suggested that Mr Mkhize was involved in any killings of Mr Zondi. Did I understand it correctly?

ADV RAMOGALE: Yes, Chair, that was the first part of my question.

MS WILLIAMS: Yes, because the point is that he was investigating, and after the allegations, he planned to interview the deceased Mr Mkhize, but before he could
20 interview him or question him, Mr Mkhize was killed.

MS WILLIAMS: That is correct, Chairperson, that is also my understanding.

CHAIRPERSON: And then he says he never, he never requested anybody to trace Mr Mkhize, or anybody to shoot at him. That is what Mr Zungu is saying.

MS WILLIAMS: Yes, ma'am.

CHAIRPERSON: Is there any way that we should attach to this statement, Mr Ramogale? Or are you taking us there?

ADV RAMOGALE: Yes, Chair, I was going to ask the witness. Now that we have gone through the statement of Mr Zungu, and you compare that to the version given by the NIU officers about why they were seeking him, what should we make of this?

MS WILLIAMS: This does not make sense at all, because
10 the investigating officer in this matter is saying that at a later stage, he was intending to go and speak to the suspect. And he also makes it very clear, in his statement, Chairperson, that he has not asked anybody, he has not made a request to anybody that would be the SVC, Cato Manor SVC, or anybody else to go and trace the suspect, because his intention was that he was going to do it himself when he finds time at a later stage in the future.

ADV RAMOGALE: And is my understanding correct from the
20 NIU affidavits that they say the request to assist came from Cato Manor?

MS WILLIAMS: That is correct, Chairperson.

ADV RAMOGALE: And that Mr Mkhize was a suspect in Bheki Themba 113-01-2009?

MS WILLIAMS: Yes, Chairperson, and if I can just, maybe this is unnecessary, but the actual case that Nkosi Zondi was

killed in was Bongani Mkhize CAS 113-01-2008, not even 2009. That is a completely different matter.

ADV RAMOGALE: Now, let us just, there is a second statement I want to point you to from Mr Zungu. You will find that at DC000385.

MS RAMAGAGA: May I just ask, are you going to go back to the statement that you are busy with now?

ADV RAMOGALE: No.

MS RAMAGAGA: Or are you progressing?

10 **ADV RAMOGALE:** I am progressing to our next statement, I will wait.

MS RAMAGAGA: Okay, may I just ask a question about it. Mrs Williams, we notice from paragraph 2 of the statement of Sibusiso, Detective Inspector, that he says he is the investigating officer in the murder of Wellington Mbongeni Zondi. Now, what is the position about this Wellington Mbongeni Zondi? Is it the, is it King, Chief?

ADV RAMOGALE: Nkosi.

MS RAMAGAGA: Nkosi.

20 **MS WILLIAMS:** Yes, yes, it is the Chief, yes.

MS RAMAGAGA: Okay. Now, the detective says that he did not authorise or he did not request anyone to assist with the tracing.

MS WILLIAMS: That is correct, ma'am.

MS RAMAGAGA: In your capacity as a former police person,

who would be in charge of the tracing of a suspect once a docket has been allocated? In this case, it would appear the docket was allocated to him.

MS WILLIAMS: If I may answer that, ma'am, the person that would now be making the request and doing everything pertaining to this docket would have been Sibusiso William Zungu. He is the one that should have made the request. He is the one that should have gone out, traced the suspect, arrested the suspect, take him in for questioning, whatever it
10 is he wanted to do. As far as I am concerned, Cato Manor had no business dealing with the suspect at this stage because he was not the suspect. He was the suspect of Sibusiso William Zungu in Bheki Themba CAS 113/1/2008.

MS RAMAGAGA: Right, let us talk about a scenario where a case has been allocated to a particular investigating officer. And some other policemen or police persons become aware of the investigation, right?

MS WILLIAMS: Yes, ma'am?

MS RAMAGAGA: And while travelling around, they come
20 across a suspect to the case that is being investigated, that they are aware of. In such a case, what is expected of the police to do who spot the suspect? What are they supposed to do?

MS WILLIAMS: Okay, ma'am, there is actually an example that I may use if I am allowed to do so. And if I am out of

line, if you can just alert me to that. There was also another incident where we will later talk about this, in this matter. And I am going to read to you from a memorandum if I will be allowed to do so.

MS RAMAGAGA: Yes, for completeness and understanding at the moment, you may go ahead. Thank you.

MS WILLIAMS: Thank you, Chairperson. This is a memorandum drawn up by Mr Albie John, our Acting Provincial Head. And this was an actual scenario that took
10 place. And I read:

“On 2010-01-11, at about 10.00, Inspector Ndlovu was interviewed by Mr Konyana.”

Ma'am, I think I am going to leave out the first part and the second part, because I think it is the second part that is actually relevant to what we actually want to be saying here and the point that I am trying to make.

“Inspector Ndlovu is stationed at the Empangeni Dog Unit and he indicated that he remembered sometime in 2008, he was
20 informed by a taxi owner that certain suspects involved in the shooting of Sup Concho was travelling in a taxi towards Empangeni. He enquired the actual whereabouts of the alleged suspects and was informed that they were near

Empangeni. At that stage, Inspector Ndlovu was working in Mandini for the Taxi Violence Project. Inspector Ndlovu then requested assistance from the Empangeni Crime Prevention Unit to assist in arresting the occupants of the taxi.

He was later informed that the two suspects were arrested and kept at Empangeni police station. Inspector Ndlovu arrived at the

10

station and he saw the two suspects lying on

the ground and he identified one of the suspects as being known by the surname of Ndimande. He also noticed firearms recovered and placed on the ground.

Inspector Ndlovu made a video recording of the firearms on his cell phone. He contacted the Organised Crime Unit and he spoke to

one of the members who was known as Inspector Zondi. He can recognise

20

Inspector Zondi.

He was informed by Inspector Zondi to meet at SAPS Crime Prevention to SAPS Mtunzini with the suspects. [No audio – 0:57:25 to 0:57:31] Crime Prevention to SAPS Mtunzini. to After an hour, the two members

from Organised Crime Unit in Durban, Inspector Zondi and another white police officer, arrived at SAPS Mtunzini. He heard Inspector Zondi speaking to one of the suspects, calling him by name as though they knew each other. Inspector Zondi then indicated to Inspector Ndlovu that the alleged suspects are not involved in the shooting of Concho and Inspector Zondi requested that the alleged suspects be released.”

Ma'am, for me, this is the same thing. You see a suspect, you know that the person is a suspect, you take that person under arrest, you take him to a police station or any other office that is available. You question the suspect, you call the investigating officer, you verify the fact. If it is a suspect, the person is arrested and taken into custody and in this case, it was said that these gentlemen were not suspects and they were released.

MS RAMAGAGA: Ja, that I understand, that you can arraign them and bring them to the police station for the attention of the relevant investigating officer.

MS WILLIAMS: Correct, ma'am.

MS RAMAGAGA: In the event that there is resistance to arrest, what should happen? Or rather, let me put it this way.

It would appear from your answer that the police officer would be entitled to arrest such persons and bring them to the attention of the investigating officer. Is that correct?

MS WILLIAMS: [No audible answer]

CHAIRPERSON: Ms Williams, I suspect that you did not hear my question.

MS WILLIAMS: No, ma'am, the sound went away.

MS RAMAGAGA: Okay, no, no, that is fine. You know, listening to the answer that you have given by way of placing
10 some example on the record, is it correct that the import of that answer or illustration is to indicate that the police officers that come across a suspect have the right to arrest the suspect and bring the suspect to the attention of the relevant investigating officer?

MS WILLIAMS: That is what I am saying, Chairperson.

MS RAMAGAGA: Okay, thank you.

CHAIRPERSON: Advocate Ramogale, I am going back to my initial question that gave rise to us looking at statements. And I will not repeat that whole exercise. Madam Williams,
20 you remember your paragraph 73?

MS WILLIAMS: Yes, ma'am? You want me to go to paragraph 73?

CHAIRPERSON: Yes, paragraph 73 of your affidavit. Is that paragraph 73, rather? I think it is the paragraph in which we were to contrast what you said with what Inspector, I have

forgotten the names, Mfene, Constable Mfene and Inspector Dlamuka said. And at the end, regarding that inconsistency, you said that according to you, these two officers changed the version which they narrated to you whilst at the scene when they prepared their statement. Is that correct?

MS WILLIAMS: That is correct, yes, Chairperson.

CHAIRPERSON: Now, following that, we have gone through the statements of the members of the Cato Manor Unit regarding that aspect. Correct?

10 **MS WILLIAMS**: Correct, yes, Chairperson.

CHAIRPERSON: In the statements that council referred us to, first of Mr Maharaj, second of Inspector Stoltz, third of Constable Lee, and then finally of Mr Zungu, I do not know whether he is Investigating Officer Zungu. Now, when you have regard to the statements of the members of the Cato Manor Unit regarding what transpired at the scene, as was narrated to you by the two officers from the NIU, is it not apparent that the statement of the members of the Cato Manor Unit differs from the statement of the NIU members?

20 **MS WILLIAMS**: Yes, ma'am, it is very apparent that the statements differ.

CHAIRPERSON: On material aspects.

MS WILLIAMS: Correct, Chairperson.

CHAIRPERSON: Regarding whether the suspect fired a shot at the Cato Manor Unit.

MS WILLIAMS: That is correct, Chairperson.

CHAIRPERSON: What we see from the statements of members of the Cato Manor Unit is mere mention that the windows of the Lexus was down or was half open. Correct? You remember? You may not remember.

MS WILLIAMS: I am sorry, ma'am, the sound went away again, that seems to be some technical issue here.

CHAIRPERSON: If you remember, I do remember because we have gone through these statements again and again in
10 the past few days. Allegations were made that the window, the windows of the Lexus, the right window was down or was open.

MS WILLIAMS: Correct, Chairperson.

CHAIRPERSON: No mention whatsoever is mentioned in any of the statements of this Cato Manor officers, Mr Stoltz, Mr Lee, Mr Maharaj...

MS WILLIAMS: Padayachee.

CHAIRPERSON: Yes, and Mr Padayachee, that the suspect, Mr Mkhize, fired a shot at them, at least from my reading of
20 these statements. Correct?

MS WILLIAMS: That is correct, Chairperson.

CHAIRPERSON: Does there then not appear to be manifest contradictions between the statement of the NIU, two members from Marianhill and those of this Cato Manor members that I have mentioned?

MS WILLIAMS: You are quite correct in that assessment, Chairperson.

CHAIRPERSON: Yes, thank you. Let me just close it logically to the end. Does it not then follow, and correct me if I am wrong, that either the Marianhill NIU or the Cato Manor members that we have referred to, lied?

MS WILLIAMS: Ma'am, it is crystal clear that it is either SVC is not telling the truth or NIU is not telling the truth, but they are contradicting each other, and it is crystal clear, and they
10 cannot even argue with that because it is on paper and it is under oath.

CHAIRPERSON: You said SVC.

MS WILLIAMS: Yes, a Serious and Violent Crimes Unit, that is what they were actually known at, also known as Organised Crime Unit, Cato Manor.

CHAIRPERSON: Yes, let us refer to them as Cato Manor because we will confuse the readers.

MS WILLIAMS: Noted, Chairperson.

CHAIRPERSON: So do you agree that there is a manifest
20 contradictions between the statements of the Marianhill NIU, two members, and those of the Cato Manor Unit members that we mentioned, Mr Lee, Mr Stoltz, Mr Maharaj, Mr Padayachee?

MS WILLIAMS: Yes, ma'am, I agree.

CHAIRPERSON: Yes, thank you.

ADV RAMOGALE: Thank you, Ms Williams. I was going to ...[intervenes]

CHAIRPERSON: I am sorry.

ADV RAMOGALE: I am sorry.

CHAIRPERSON: That is where I started with my question. I wanted to hear what the witness is saying about this, after going through this whole exercise.

ADV RAMOGALE: Thank you, Chair. We are entirely in the Panel's hands. Ms Williams, just on Madam Ramagaga's
10 questions to you, I wanted to direct you to another document on this question about whether Mr Mkhize was a suspect or not, but before we do that, can you just explain to the Panel, in your experience as a police officer and a senior investigator from ICD, how a person becomes a suspect?

MS WILLIAMS: A person becomes a suspect once he is linked to a particular crime. There should be something. There should be tangible evidence that is actually linking that suspect to that crime.

ADV RAMOGALE: And at what stage in the course of an
20 investigation does a person become a suspect?

MS WILLIAMS: I would say it is when a person is linked, is positively linked to that crime. Then you can for sure say, because prior to that, he would be an alleged suspect. But once you have all the information, once you have evidence, evidence that is linking him to that crime, he is now a suspect

in that matter.

ADV RAMOGALE: And in reaching that particular, you say the person must be linked to the offence.

MS WILLIAMS: That is correct.

ADV RAMOGALE: In reaching that assessment as a police officer, would you conduct an interview with that individual?

MS WILLIAMS: Yes, you would conduct an interview with that individual. You will take a warning statement, if you so wish, or you can arrest that person. He will not be treated as
10 a normal witness, because he is now a suspect and then obviously has constitutional rights now. So that also needs to be taken into consideration.

ADV RAMOGALE: And do you know, once you have sufficiently linked the person to an offence, are the police able or at liberty to simply apprehend the person? Or is there a particular process they must follow in order to secure that person?

MS WILLIAMS: If they feel they want to arrest that person, because remember, the purpose of arrest is for the person to
20 appear in court. If they feel that the person is going to flee, then obviously you are going to arrest. There are different ways of securing the presence of that person in court, it does not necessarily have to be an arrest.

ADV RAMOGALE: Yes, and in the process of doing so, is other police simply able to take someone that they suspect of

committing an offence? Or is there a need for a decision first to be made on whether that individual will be charged or not?

MS WILLIAMS: If there is compelling evidence, yes, you can arrest. But if there is none, then there is no need to do that, because in my opinion, if you are going to investigate, if you have sufficient evidence, then you can arrest. If you do not have, you first, you can take the suspect in for questioning, and then gather information. And if you are then satisfied that he is a suspect, then you can effect arrest.

10 **ADV RAMOGALE**: Yes, but as you have said, the police only arrest a person to bring them before a court to be tried. Is that correct?

MS WILLIAMS: Yes, that is correct, Chairperson.

ADV RAMOGALE: What I am asking about is, when a decision has not been made on whether to arraign the person and charge them, how can the police hold on to an individual? How can they detain them?

MS WILLIAMS: That would be, if he is a suspect, they can arrest him, and they can detain him at a police station, and
20 then subsequently he will appear in court, and then the Court will then either remind him in custody, in a correctional facility, or in the police facility.

ADV RAMOGALE: And then a sister's here, Ms Williams, at what point does the police seek a warrant of arrest?

MS WILLIAMS: That is when they are looking for a suspect,

maybe the suspect is whereabouts is not known, maybe he did not appear at court, there are different reasons for that. But also when you are wanting... [No audio – 1:11:47 to 1:11:50] ...is that you have sufficient evidence linking that person, because I do not think that a Magistrate would actually ground that person without sufficient evidence.

ADV RAMOGALE: Yes, we had lost you for a bit there, would you please repeat that?

MS WILLIAMS: What I am saying is, that when an
10 investigating officer has sufficient evidence, he will then approach the Courts, through a prosecutor, make that request, the prosecutor will then take that information to a Magistrate that signs off on that. But prior to signing off, he will also familiarise himself with the contents and see that everything is above board, and then permission will be granted. But there should be compelling evidence linking that person to the crime, and then a warrant of arrest will be authorised.

ADV RAMOGALE: Right, now with that in mind, could I ask
20 you to turn to DC000 ...[intervenes]

ADV BALOYI-MERE SC: Sorry Advocate, before you step off this, I would like Ms Williams to share her opinion, or her observations with us. In the statements that we have seen, we have heard two NIU members claiming to have shot and killed Mr Mkhize. And then we have members of the Cato

Manor, claiming to have shot and killed Mr Mkhize. And please correct me if I read it wrongly, but I think, Maharaj, okay, ja, I think Inspector Maharaj says, I immediately returned fire with my R5 rifle in the suspect's direction. And then, Officer Padayachee, Detective Inspector Padayachee says:

10 “I stopped my vehicle on the right side of the Lexus, and I noticed the driver firing shots at us. I returned fire with my 9mm Beretta pistol.”

So we have got members of Cato Manor on one hand saying they fired at Mkhize. And we have got members of the NIU on the other hand saying, they saw him pointing a pistol at them and they fired at him. What does it say to you, if you can share with us your insight and your opinion, and from a lay person's point of view, I would think maybe it was a competition on who killed Mr Mkhize, but what does it say and what does it mean in the police sense that we have these two contrasting statements being directed to the death of a
20 civilian? Thank you.

MS WILLIAMS: Ma'am, I am going to sound sarcastic, but it seems like the police have not really made up the mind who was going to take responsibility for the killing of Mr Mkhize. In my opinion, they did not think this thing through. They did not have their story straight. Obviously someone is lying

here, because at which stage did Mr Mkhize now die? And that is why I am saying I am a bit sarcastic now. And during my course of my investigation, I think I was really sarcastic because I wanted to know now who was actually responsible because when I read what Padayachee and what Maharaj says, is Mkhize is already dead, and then Dlamuka and the other member comes in, Mfene comes in, and Mr Bongani Mkhize seems to be alive again. So he has been risen from the dead, and then he wants to shoot them, and then they

10 shoot him. So I do not know, ma'am, that is just very peculiar, very weird. It seems like it is happening here.

ADV BALOYI-MERE SC: I hope, Counsel, I am not going ahead of myself by asking that during the witness investigation, what did she find? Did she find that it is Cato Manor or NIU? If I am jumping ahead, then I will wait.

ADV RAMOGALE: Madam Baloyi-Mere, we do in fact deal with that later. I think it is in about paragraph 100 of her statement we deal with that aspect. Ms Williams, we will come back to that, that particular aspect about these

20 inconsistent versions about who the shooter was. But there is another question, so I will wait.

MS RAMAGAGA: No, no, that is immaterial. Go ahead.

ADV RAMOGALE: I was going to put another statement to you. We had gone through this whole process about arrests and warrants, et cetera. And I was asking you to please turn

to the document at DC000385, which is for the Panel in DC2.

MS WILLIAMS: Yes, that is a statement from Sibusiso William Zungu, on the Durban Central CAS 185 ...[intervenes]

ADV RAMOGALE: Yes, Ms Williams, just a second for the Panel to find it, please.

MS WILLIAMS: Pardon me. My apologies, Chairperson.

ADV RAMOGALE: That would be DC000385. The number is a bit smudged here. It should say A47 at the top right corner.

10 **CHAIRPERSON**: 285?

ADV RAMOGALE: 385, Madam Chair, yes.

CHAIRPERSON: Yes. thank you.

ADV RAMOGALE: Ms Williams, do you have that document?

MS WILLIAMS: I have it in front of me, yes, Chairperson.

ADV RAMOGALE: Could you inform the Panel what is this document that we are looking at?

MS WILLIAMS: We are looking at a statement by Sibusiso William Zungu in respect of Durban Central CAS 185/2/2009.

20 **ADV RAMOGALE**: Now, there is, under signature of deponent there, we see an inscription there. What is that?

MS WILLIAMS: That is the signature and also stating his rank of Warrant Officer Sibusiso William Zungu, yes, yes..

ADV RAMOGALE: And then on the next page, at DC000386, we see that there is a Commissioner of Oaths. Who is the Commissioner of Oaths?

MS WILLIAMS: That is me. I am the Commissioner of Oath, Shamila Williams.

ADV RAMOGALE: Now, would you tell the Panel what it is that Mr Zungu says at paragraph 2 of his statement?

MS WILLIAMS: He says:

10 “I am the Investigating Officer of Bheki Themba CAS 113/1/2009. I wish to add to my previous statement submitted regarding Bongani Mkhize, that there was no warrant of arrest for Bongani Mkhize in Bheki Themba CAS 113/1/2009, the murder of Wellington Bongeleni Zondi, who was shot and killed at Z Section in Umlazi. That is all I wish to state.”

ADV RAMOGALE: Now, am I correct that you are the one who he swore the statement before?

MS WILLIAMS: That is correct, Chairperson.

20 **ADV RAMOGALE**: And from what we have now seen, from what the NIU has told us, and what he previously said in his statement, that there was no warrant of arrest for Mr Mkhize, what should the Panel make of that?

MS WILLIAMS: Ma'am, if I may be so bold as to say that Bongani Mkhize was not a suspect and it looks like he was shot and killed, he was murdered by members of either NIU or Cato Manor. But according to what I am reading, and I am

going to elaborate on this, I called Sibusiso Zungu to my office because I wanted to be specific. I wanted him to explain to me again, because he did not put this in his first statement. I wanted to be absolutely clear whether Bongani Mkhize was a suspect, whether there was a warrant of arrest for him, because I wanted to reconcile this from the investigating officer with what these other members were saying. And it was irreconcilable for me when I saw this, because I called him to my office and I said to him, he must
10 explain, because at this stage, I needed to know what was going on. Was this man a suspect or not? Because somebody was dead and there needed to be some accountability for it.

ADV RAMOGALE: And we know, and we deal with this, that Mr Mkhize had brought an application to the High Court.

MS WILLIAMS: Yes, Chairperson.

ADV RAMOGALE: Chair, I have gone above the lunchtime. Before my jacket is yanked and pulled, I need a direction from the Panel. [Laughter]

20 **MS WILLIAMS:** You are a good timekeeper when it comes to... [Laughter]

ADV RAMOGALE: Maybe Mr Ngcukaitobi can learn a thing or two, but ja. [Laughter]

MS WILLIAMS: Give us just a second. Okay, Advocate Ramogale, thank you. We normally adjourn at half past one.

ADV RAMOGALE: So maybe I am a terrible timekeeper after all, Chair.

MS WILLIAMS: But I will hear from your other colleagues whether you would like us to adjourn, now more to the witness. Ms Williams?

MS WILLIAMS: Yes, Chairperson?

CHAIRPERSON: I think we should check with you first. Normally we adjourn at half past one, but we have 15 minutes to go. Would you like us to pause now so that you can stretch
10 your legs, have lunch and come back?

MS WILLIAMS: Yes, that would be good, Chairperson.

CHAIRPERSON: That would be good for you.

MS WILLIAMS: Yes, Chair.

CHAIRPERSON: You must thank your counsel. Thank you, Advocate Ramogale and my colleagues. We will take a lunch break and reconvene at half past two.

MS WILLIAMS: Noted, Chairperson.

CHAIRPERSON: You are still on the oath, madam.

MS WILLIAMS: Yes, I understand that, Chairperson.

20 **CHAIRPERSON:** Yes, thank you. We adjourn for lunch.

ENQUIRY ADJOURNS

ENQUIRY RESUMES

CHAIRPERSON: Good afternoon, everyone. Good afternoon Madam Williams.

MS WILLIAMS: Good afternoon, Chairperson.

CHAIRPERSON: Good afternoon, Advocate Chauke. Ms Williams you are still under oath.

MS WILLIAMS: I am aware of that, Chairperson.

SHAMILA HENRIETTA WILLIAMS (still under oath)

CHAIRPERSON: May we see her on the screen, please? Yes, good afternoon Madam. Thank you. You may proceed Advocate Ramogale.

ADV RAMOGALE: Thank you Chair.

CHAIRPERSON: Before you proceed, might I mention to all
10 and sundry that we will adjourn at 4 o'clock. You may proceed Counsel.

MS WILLIAMS: Thank you Chair. Ms Williams, before we go off the statements that we have looked at, being the statements from Officer Stolz, the statement from Officer Maharaj, the statement from Officer Lee and the statement from Officer Padayachee, there is a line in their statements that I would like to draw your attention to and then I will ask you a question about that. If you just want to refresh your memory, the statement by Officer Stolz is at DC00019.

20 **MS WILLIAMS:** I have it in front of me, Chairperson.

ADV RAMOGALE: Yes, and you will see in paragraph 2, Officer Stolz says:

“Information was received regarding
suspect Bongani Mkhize.”

Do you see that?

MS WILLIAMS: I see that, Chairperson.

ADV RAMOGALE: And then you go to the next statement, literally on the next page by Officer Maharaj.

MS WILLIAMS: I have that in front of me, yes, Chairperson.

ADV RAMOGALE: In paragraph 2, Officer Maharaj says:

“Due to information received concerning
a suspect, Bongani Mkhize ...”

Do you see that?

MS WILLIAMS: I see that, yes, Chairperson.

10 **ADV RAMOGALE**: And then we move to the next statement, the statement by Officer Padayachee at DC000, page 22.

MS WILLIAMS: I have that in front of me, yes, Chairperson.

ADV RAMOGALE: In paragraph 2, Officer Padayachee says:

“Information was received regarding a
suspect named Bongani Mkhize and he
was wanted for the murder ...”

Etcetera.

MS WILLIAMS: [Indistinct]...

20 **ADV RAMOGALE**: Then the last statement of the Cato Manor officers is at DC00024.

MS WILLIAMS: I have that statement in front of me, yes.

ADV RAMOGALE: In paragraph 2, again, Officer Lee says:

“Information was received that the
suspect Bongani Mkhize could be in the
vicinity ...”

Etcetera.

MS WILLIAMS: Yes, I see that. Do you see in the four statements they all say information was received, information was received, etcetera.

MS WILLIAMS: I see that, yes, Chairperson.

ADV RAMOGALE: And just before the break we went to the statement of the Investigating Officer Zungu, who says that he was the IO and that he had not made any request to Cato Manor or any other officer. So where would this information
10 have been received from?

MS WILLIAMS: I will not be able to give you a correct response for that because it is only supposed to come from the Investigating Officer. In this case that would have been Zungu. So I do not know where they got that information from.

ADV RAMOGALE: Thank you Ms Williams. Now before we moved on to these dockets, you were still busy with paragraph 80 of your statement.

MS WILLIAMS: Yes, I have it in front of me.

20 **ADV RAMOGALE**: Yes, and we had stopped you just after you read:

“My impression was that Superintendent Bristow had made up her mind before we arrived that she would not permit anyone from ICD to access the scene.”

And that is where we stopped, and then you were about to go on to paragraph 81. Could you do so please?

MS WILLIAMS: Paragraph 81 reads as follows:

10 “Ms Gibson and I moved away from the scene and began making enquiries about the deceased and the circumstances in which he had been killed. All we learned at this stage was that the deceased's name was Bongani Mkhize and that he was an alleged suspect in a high profile matter. Ms Gibson and I were approached by three NIU members who had been involved in the shooting, namely Constable Mfene, Inspector Dlamuka and Constable Sekulume. We interviewed all three members together, but I recall that Inspector Dlamuka did most of the talking. This departed from the established practice that ICD investigators ...[indistinct] members. It was unusual to have a member to volunteer their version in this way. The NIU members ...” [intervenes]

20

ADV RAMOGALE: Yes, and we have already placed

paragraph 83 on the record, so we could perhaps skip that and go to 84.

MS WILLIAMS: 84 reads as follows:

“In his statement, Inspector Dlamuka states that he observed a pistol, black in colour, lying next to the deceased. I do not recall any of the NIU members mentioning seeing a black pistol next to Mr Mkhize.”

10 **ADV RAMOGALE:** Now let us just stop there. What do you mean by that, that you do not recall any of the NIU members mentioning seeing a black pistol?

MS WILLIAMS: When they were relating the story to us, they were telling us how the shooting was transpiring and what happened, but at no stage do I recall them mentioning anything about a black pistol lying next to Mr Mkhize in the vehicle. That I did not hear.

ADV RAMOGALE: Yes, so what should the panel make of that? We have gone through Inspector Dlamuka's statement,
20 and he clearly states there that he had seen a black pistol. Your evidence now before the enquiry is that when you took their statements and they, or rather when they volunteered the information to you, you do not recall this being mentioned. What should the panel make of that?

MS WILLIAMS: Madam Chair, all I can say is this has been

something that might have been decided later on in order for them to justify the shooting, that the black pistol was now going to be lying next to Mr Mkhize, because according to what I remember, my memory recall is quite good when it comes to this matter, because it triggered my interest right from the start, at no stage did I hear this, unless I was not paying attention at that stage, but I never heard any of the three members, and mostly the two members were speaking, Mr, Constable Sekulume was very quiet, only here and there
10 he chipped in. But the bulk of the information came from Inspector Dlamuka, and Mfene would now and then he would affirm what the man was saying. But not one of the three mentioned anything about a firearm at that stage that I can recall.

ADV RAMOGALE: And do you know, Ms Williams, whether Inspector Dlamuka and any of the NIU members were eventually charged by the NPA?

MS WILLIAMS: I know about the 2012 indictment, that I do know about, but I do not know anything else after that.

20 **ADV RAMOGALE:** So you know about the 2012 indictment. It is unclear to me, do you know whether they were actually charged in that 2012 indictment?

MS WILLIAMS: I am not too sure, I did not follow up on that.

ADV RAMOGALE: Right, we will put it to you, Ms Williams, that in fact they were, but I will demonstrate the document to

you in a short while. If we could continue on from paragraph 85, please.

MS WILLIAMS: It reads as follows:

10 “Ms Gibson and I were finally allowed to access the scene by a member of the LCRC. I approached Mr Mkhize's black Lexus vehicle and observed Mr Mkhize slumped over in the driver seat. The amount of blood made it difficult to assess his injuries by sight, but I recall seeing a gaping hole in Mr Mkhize's face and a piece of his tongue lying on the dashboard. Mr Mkhize's vehicle was ridden with bullet holes on its right side. There appeared to be no evidence that shots had been fired from inside Mr Mkhize's vehicle, in other words, shots were being fired from outside Mr Mkhize's vehicle only. This directly contradicted the version of the NIU officers who told me that they shot and killed Mr Mkhize while Mr Mkhize was shooting at them.”

20 **ADV RAMOGALE:** Now, if we could just stop there. You say in 86 there appeared to be no evidence that shots had been

fired from the inside of Mr Mkhize's vehicle. How did you know that?

MS WILLIAMS: I was inspecting the vehicle from the inside because they said that Mr Mkhize was shooting at them. So I checked on the inside of the vehicle and there was no indication of that from the inside of the vehicle.

ADV RAMOGALE: What is it about the inside of the vehicle that gave you that indication?

MS WILLIAMS: When I looked at the windows, specifically
10 the windows, it looked as if the window was up because of how the window was breaking. And I looked at the top part of the window and it appeared as if this window was closed, so I do not know. At that stage, I decided for myself that I was going to check at a later stage, which I did, but we are not there yet. But my suspicion was at that stage that the version that the NIU members were giving me at that stage was highly unlikely.

ADV RAMOGALE: And then the second point, and we will show you later on when we deal with this, some of the
20 findings made in the ballistic assessment made by Captain Mangena, but there is a second point you make in that paragraph, which is that:

“This directly contradicted the version of the NIU officers who told me that they had shot and killed Mr Mkhize while Mr

Mkhize was shooting at them.”

Could I ask this. At this point, the only people you have spoken to, according to your statement, is the NIU. Did you know whether any other officers, including Cato Manor, were in fact involved in the shooting at this stage?

MS WILLIAMS: At this stage, no. At this stage, what I knew is what the members have told me, because I have not yet engaged the duty officer at this stage. So in my mind, the only people that was involved in the shooting, according to
10 what they related to me, was the three NIU members and that the Cato Manor members were at the back, and they had overtaken them in order to provide backup. So they were the only ones actively involved in the shooting in my mind at that stage.

ADV RAMOGALE: Right, if we could then continue on to paragraph 87.

MS WILLIAMS: -:

20 “I was approached by a Captain Govender who informed me that he was the detective responsible for the crime scene. He explained that the members of the Cato Manor SBC had been following up on information regarding the suspect in the murders of Superintendent Choncho and Nkosi

Zondi. According to Captain Govender, the Cato Manor members followed Mr Mkhize's vehicle, which led to Mr Mkhize firing shots at them. Inspector Stolz and Constable Lee returned fire, at which point the NIU members attempted to cut off Mr Mkhize's vehicle. The NIU members were shot at by Mr Mkhize and returned fire, killing Mr Mkhize.”

- 10 **ADV RAMOGALE:** Now if we could just stop there as well. The chairperson had put to you just before the lunch break, that in none of the statements from the Cato Manor unit, do they indicate that Mr Mkhize shot at them. But we do have the statements of Inspector Dlamuka and Constable Mfene that say the NIU was shot at, or the NIU was shot at and they returned fire. What you have now stated in paragraph 87 is according to Captain Govender, the Cato Manor members followed Mr Mkhize's vehicle, which led to Mr Mkhize firing shots at them. If we just stop there, who is Captain
20 Govender?

MS WILLIAMS: Captain Govender ...[intervenes].

CHAIRPERSON: I beg your pardon. Before that, as it was drawn to our attention by my sister, Advocate Baloyi-Mere SC, in the statement of Mr Maharaj and Padayachee, they do mention that the suspect shot at them, but the other officers,

Mr Stolz, Mr Lee, I cannot remember who else, made no mention of that.

ADV RAMOGALE: Yes, Chair, that is correct. Ms Williams, could you just tell us who Captain Govender is?

MS WILLIAMS: Captain Govender is attached to the Durban Central Detective Branch. He was the duty officer on that same day, on the 3rd of February 2009.

ADV RAMOGALE: So Captain Govender is the duty officer that you spoke to on the day?

10 **MS WILLIAMS:** That is correct, Chairperson.

ADV RAMOGALE: And you say according to what he had relayed to you, the Cato Manor members followed Mr Mkhize's vehicle, which led to Mr Mkhize firing shots at them and then Inspector Stolz and Constable Lee returned fire, at which point the NIU members attempted to cut off Mr Mkhize's vehicle. The NIU members were shot at by Mr Mkhize and returned fire, killing Mr Mkhize.

MS WILLIAMS: That is correct, Chairperson.

20 **ADV RAMOGALE:** Now, again, what is confusing is the version of the NIU. How does that then fit in here, can you just clarify that to us?

MS WILLIAMS: I hear what you are asking. They are the only ones that is really in a position to clarify that. But when I read this and I hear your question, there is no way that NIU, and given the information that we have followed thus far, that

the NIU members could have been responsible for the actual shooting, because in my understanding, from where we come from now, with all the statements that was read, Mr Mkhize was supposed to have already been dead. The member says they cut off Mr Mkhize's vehicle.

And if I may elaborate, at that stage, according to Stolz and Lee, they had shot at the vehicle's, at the tyres of the vehicle and the vehicle came to a halt. So I do not really understand what it is that they are trying to tell us here. Just
10 thinking about everything that they have read and going through it in my mind, this is impossible for the version that they have given me to be true, Chairperson.

ADV BALOYI-MERE SC: Before you proceed, you say Captain Govender is the, he was the duty officer. But if you go back to 3-25, at paragraph 79, you told us that the duty officer on the scene was Superintendent Jackie Bristow.

MS WILLIAMS: Yes, ma'am.

ADV BALOYI-MERE SC: Can, do you care to explain.

MS WILLIAMS: Yes, ma'am, I will elaborate on that. This
20 was a very confusing scene, ma'am, and I do not want to confuse anyone. At the scene when we got there, we were introduced to Jackie Bristow, as I said, and then she did not want us at the scene. When we came, when we were allowed on the scene, Jackie Bristow had left and she had said that she is handing over the scene to Captain Govender. There

was actually nothing wrong in her doing that, as long as there was somebody from Durban Central and from the detectives that was on the scene that was going to carry on handing over, there is nothing wrong with doing a handing over at that stage.

But I would have expected her, with how she treated us and with everything that was going on, and she being a senior member, I would have expected her to be actually the one that would have been taking us through the scene, giving
10 us the information. But as soon as she was left with whatever it is that she was doing at that scene, she handed over to Captain Govender and she was out of there.

ADV BALOYI-MERE SC: Thank you, ma'am.

MS WILLIAMS: You are welcome.

ADV RAMOGALE: Ms Williams, just on that particular point, do you perhaps want to clarify what you stated earlier, which Advocate Baloyi-Mere SC is pointing you to, at paragraph 79, where you state:

20 “When we arrived, SAPS members had already started processing the scene. Ms Gibson and I spoke to the duty officer on the scene and were introduced as members of the ICD to Superintendent Jackie Bristow.”

Now, it is unclear to me whether, when at 79 where

you say Ms Gibson and I spoke to the duty officer, whether the duty officer is Superintendent Jackie Bristow or whether the duty officer is somebody else.

MS WILLIAMS: No, the duty officer at this stage is Jackie Bristow.

ADV RAMOGALE: I see. We were then, if we go back, we go forward to paragraph 88, where you say, based on the information, if you could just continue there.

MS WILLIAMS: -:

10

“Based on the information I received from the NIU members and Captain Govender, my understanding was that five shooters were involved in the incident, comprising the three NIU members and two Cato Manor SBC members, Inspector Stolz and Constable Lee.”

ADV RAMOGALE: Yes, please go on.

MS WILLIAMS: -:

20

“My inspection of the scene was interrupted by Ms Gibson, who informed me that Inspector Stolz had removed money and documentation from the scene without completing an inventory. I immediately spoke to Inspector Stolz

and requested that he hand over the envelope of money and documents belonging to the deceased that was in his possession. He complied with this request. The envelope contained R1,260.05, an FNB cheque book with one signed cash cheque for R21,000.00 and a blank cheque that was signed but not dated. More money amounting to the amount of R1,000.00 was recovered from the scene.”

10

ADV RAMOGALE: Yes, please go on.

MS WILLIAMS: -:

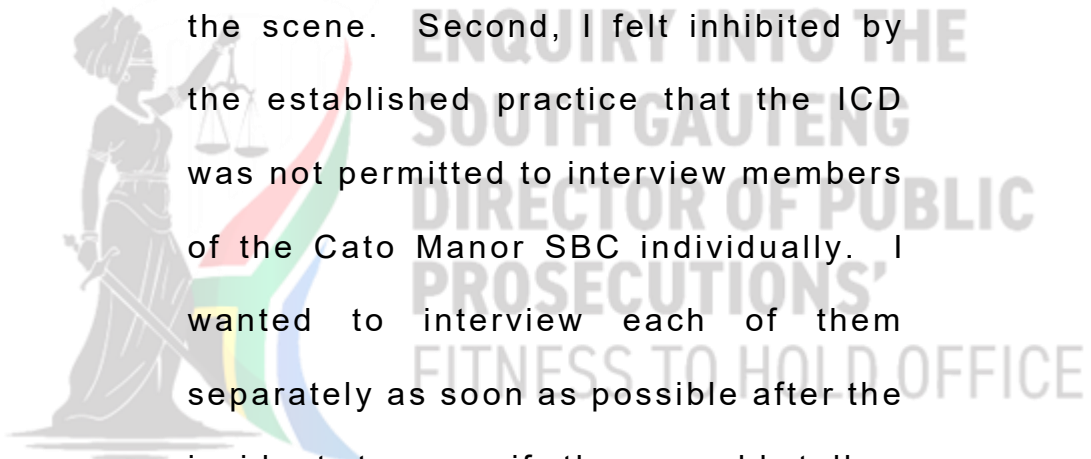
“Ms Gibson and I took possession of the money and documents, which were booked in at the Durban Central Police Station to the exhibit register. Mr Mikiza's cellphone was taken by SAPS members to the facility at which SAPS analyses cellphone data. After I completed my inspection of the scene, I provided my manager, Jerome Ngcobo, with a report back on the matter. The matter was allocated to me by Mr Ngcobo and I proceeded to monitor the

20

investigation as the lead ICD investigator in the matter. My inspection of the scene on Umgeni Road was unusual and disconcerting in a number of respects. First, Superintendent Bristow's conduct was highly irregular and improper. ICD investigators should receive the immediate cooperation from the duty officer and any other SAPS member on the scene. Second, I felt inhibited by the established practice that the ICD was not permitted to interview members of the Cato Manor SBC individually. I wanted to interview each of them separately as soon as possible after the incident to see if they would tell a consistent story. As noted, the practice was that the SAPS duty officer on the scene would interview any police officers involved in the incident. Where the Cato Manor SBC was involved, ICD investigators would speak to a single member of the unit, usually Captain Neville Eva, who I regarded as the unit's

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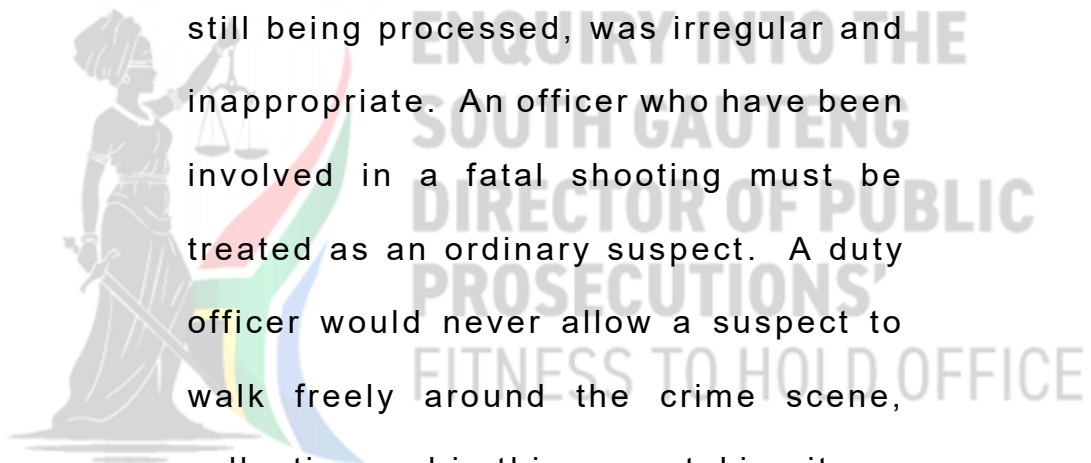
20



unofficial spokesperson. In this case, however, neither Captain Eva or Captain Lockem were on the scene and I was unable to speak to any of the members involved in the incident, save for my interaction with Inspector Stolz and Constable Lee regarding the missing cheques and money. Third, the presence of Inspector Stolz and

10 Constable Lee on the scene while it was still being processed, was irregular and inappropriate. An officer who have been involved in a fatal shooting must be treated as an ordinary suspect. A duty officer would never allow a suspect to walk freely around the crime scene, collecting and in this case, taking items found on the deceased. Fourth, I have been frustrated and perplexed that my

20 inspection had been interrupted by Ms Gibson's request that I assist her in dealing with the missing cheques and money. This was something I felt that Ms Gibson was capable of handling alone. It seemed to me, however, that



Ms Gibson was reluctant to confront Inspector Stolz and Constable Lee alone. This would be one of many incidents over the course of my involvement in the Cato Manor cases which revealed the fear that Cato Manor SBC's reputation instilled in members of SAPS, ICD and the general public.”

ADV RAMOGALE: Thank you Ms Williams. Now, I want to
10 ask you a few things about those paragraphs. Let us start
with the 92.1. I think you have given evidence on that already
about how from your version as well as Ms Gibson's, you were
not allowed access onto the scene. But what I want to ask
you about is what you say at 92.3, which is that the presence
of Inspector Stolz and Constable Lee on the scene while it
was being processed was irregular and inappropriate.

20 “An officer who has been involved in a
facial shooting must be treated as an
ordinary suspect. A duty officer would
never allow a suspect to walk freely
around the scene, collecting and in this
case taking items found on the
deceased.”

In the time that you have been the senior investigator
at ICD, had you seen this happening at any other incident?

MS WILLIAMS: No, Chairperson. A person involved in a shooting regarded as a suspect at that stage is always removed from that scene. The scene is being processed, which means he has to be away from that so that inspection can take place, collection of evidence, clues can be found. So he is not at any stage allowed to be on the scene, present at the scene. So I do not know why they were on that scene.

ADV RAMOGALE: And when you consider what you had said prior to that, that when you arrived at the scene,
10 Superintendent Bristow, Jackie Bristow denied you access to the scene and thought you were the media. We know from Ms Gibson's statement, she said go away, I do not want the ICD here. And now you see this at 92.3 where the officers involved in the shooting are on the scene. What should one make of that?

MS WILLIAMS: I have to think about how to put this, Chairperson. I do not know what they were doing at that scene. I do not know if they were planting evidence. What I do know from my encounter with them is they were actually
20 stealing from the boot of Mr Mkhize's vehicle and that should never have been there. They were actually committing a further crime by stealing personal items that belonged to the deceased, Bongani Mkhize. But the point is they should never have been allowed on that scene. So whoever was controlling the scene at that stage should have said to the

members go to the one side and that should have been Superintendent, either Superintendent Bristow and the person who she has now handed over to, Captain Govender.

ADV RAMOGALE: You have just said now that they were stealing from the scene. What do you mean by that?

MS WILLIAMS: They had already taken possession of those items and that is why Ms Gibson actually called me because she witnessed that.

ADV RAMOGALE: But any person watching from home
10 surely is asking themselves well they have just held on to the items. How did you know that they were trying to steal it?

MS WILLIAMS: Because Ms Gibson told me that. She said they took the items and they were going to leave with the items. So Ms Gibson actually stopped them and she called me. She did not address them personally. She asked me to come and speak to them and ask them to hand over those items to me.

ADV RAMOGALE: And in your experience is it normal for a suspect in a shooting, police officer or not, to then hold onto
20 the money that was held by the person that they shot at and walk away with it?

MS WILLIAMS: No, that is unheard of. And if you are going to take money, an inventory should actually be taken. And I actually at that stage I did not have the proper documentation with me, so I had a makeshift inventory that I drew up and I

drew that up in the presence of Colonel Murin because I needed an independent person other than Ntombi Gibson to be able to see that and witness that.

MS RAMAGAGA: Mrs Williams, do police officers know that anyone who may be, or rather, know that the people that are supposed to maybe take anything from the crime scene would be the authorized police officers only? In this case it would be either the duty officer or the IDC people.

MS WILLIAMS: It is also ...[intervenes].

10 **MS RAMAGAGA**: Is it something that is, ja, is it something that is common knowledge to the police?

MS WILLIAMS: Yes, ma'am, that is common knowledge to the police and in most cases it would be LCRC that would bag these items and secure these items to make sure that the credibility of the evidence stays intact.

MS RAMAGAGA: Which means the two police officers ought to have known that they were not supposed to take those possessions of Mr Mkhize.

20 **MS WILLIAMS**: Yes, that is correct, Chairperson, and this was not the first time that they have done that. So they were experienced members in my view, so they knew what they were supposed to be doing and they were doing something contrary to what was the norm.

MS RAMAGAGA: Now, when you approached them, would you say that they were leaving the scene or what is it that

you saw them doing? They had the assets in their possession and, ja, can you just give us some picture of what they were doing or they appeared to be doing?

MS WILLIAMS: Yes, ma'am. On what it appeared to be is as if they were going to leave the scene with these items in their possession. As I said, I confronted them. I seized the items from them because the items belong to the deceased, Bongani Mkhize. They argued their case regarding the cellphone, ma'am, that the cellphone needed to go to the
10 room where it was going to be analysed. On that point, I conceded because I knew that that was standard protocol and that is how it was supposed to be. So the only item that I allowed them to have was the cellphone of Mr Bongani Mkhize so that it can be analysed. But the rest of the items I seized and at a later stage, I booked it in, into the exhibit register at Durban Central Police Station.

MS RAMAGAGA: Why did you allow them to keep the cellphone if at that time you had already formed a view based on information available that they were possible suspects to
20 the killing?

MS WILLIAMS: Ma'am, because it was said that this man, Bongani Mkhize, was a suspect and I knew according to how I viewed the situation, he was the suspect of SBC. Remember, at that stage, we were not really sure who was investigating the matter. So if somebody says to you that

they were investigating or they were investigating officers of a matter, obviously they would take the cellphone and they would send it for analysis. If it was IPID, if it was an IPID case, then I would have seized that cellphone and I would have taken it to the relevant analysing room at Durban Central myself. But in this case, there was actually not a problem for them to do so because in my mind, they were going to make sure that it gets to the appropriate office where this would have been done.

10 **MS RAMAGAGA**: Thank you, Ms Williams.

MS WILLIAMS: You are welcome.

ADV RAMOGALE: In fact, Ms Williams, to assist you with that account, in that Berea docket, sorry not Berea docket, Durban Central, at page DC000417, members of the panel, that would be in DC2.

MS WILLIAMS: Just the last three numbers, Chairperson?

ADV RAMOGALE: 417, 417.

MS WILLIAMS: It is a statement by myself, Chairperson.

ADV RAMOGALE: Just a moment, Ms Williams.

20 **CHAIRPERSON**: Proceed, sir.

ADV RAMOGALE: Thank you, Chair. Ms Williams, could you tell the panel what it is that we are looking at?

MS WILLIAMS: We are looking at a statement that was made by me.

ADV RAMOGALE: And on what date did you give that

statement?

MS WILLIAMS: The statement was given on the 22nd day of March in 2012.

ADV RAMOGALE: And could you read what is contained in paragraph 3?

MS WILLIAMS: -:

10 “I noticed Inspector Stolz taking two cellphones from the deceased vehicle. I then approached him and asked him why he was taking the cellphones and he told me that it was for investigative purposes. I asked him for what matter it was needed and he explained that it was in respect of Superintendent Choncho’s and Nkosi Zondo’s killing. Therefore, I did not insist on taking the cellphones. Inspector Stolz informed me that the cellphones were going to be taken to the war room. I cannot exactly recall what the cellphones looked like, but I know that one of them was a Nokia, because a colleague of mine has the same phone. The other cellphone I am unable to describe, but I recall it was also a big cellphone.”

20

ADV RAMOGALE: So in answer to the panel's question about why you allowed them to take the cellphone, what would your answer be?

MS WILLIAMS: Just one second. That the answer would be that it would be taken for investigative purposes.

ADV RAMOGALE: Yes.

MS WILLIAMS: And that it was going to be taken to the war room. That is what we actually call the analysing room. It is called a war room.

10 **ADV RAMOGALE:** Right, thank you, Ms Williams. We are now at, we have dealt with 92.3 of your statement, and 92.4. And then you, at 93 of your statement, you give what you call your assessment of the scene. Could you tell us about that?

MS WILLIAMS: -:

20 "I was sceptical of the NIU members' account that they had been conducting a patrol when the Cato Manor SBC members requested backup. In my experience, the NIU did not conduct patrols like ordinary SAPS members would. The NIU is a special operations tactical unit. Its function is to provide specialized operational support to the SAPS, focusing on targeted deployments to address dangerous

situations that the ordinary SAPS members are not equipped to handle. It also seemed strange to me that the Cato Manor SBC's members would call for backup from the NIU members when in pursuit of a suspect."

ADV RAMOGALE: Just, if you could just stop there. You were informed, you tell us, that the NIU was conducting a patrol. That is what is stated at 93.1.

10 **MS WILLIAMS:** Yes.

ADV RAMOGALE: Could you just tell the panel why it is that you say that you were sceptical, that is the word you use here at 93.1, of the NIU members' account?

MS WILLIAMS: Chairperson, I have never heard of NIU up until that stage doing patrols. If anyone was going to do patrols, it would have been public order policing, and then your normal patrol vehicle at police station. Specialized units like the NIU, I know them to be a tactical unit, that when there is problems, they are normally the ones that are contacted, because they are the ones that would, for the lack of a better word, neutralize the situation, any dangerous situation. They were trained to do that. So for me, for them to do this was a bit strange.

20

ADV RAMOGALE: So are we to understand your testimony to be that the specialized operations unit was conducting

traffic control on the day? Am I understanding you correctly?

MS WILLIAMS: Not exactly, traffic control, Chairperson, but they were patrolling the streets of Durban to ensure that the crime was under control and everything was peaceful. That is the only way I can describe what a patrol vehicle does. A patrol vehicle does, goes out, see if there is any crimes or anything that is committed, goes to complaints, attend complaints, interview witnesses, arrest people. As far as I know, that is not the job for the National Intervention Unit.

10 They are a tactical unit, according to what I know, unless there is something that I do not know about, or maybe I do not understand.

ADV RAMOGALE: And then you give a further explanation at 93.2 about what you found in the course of your investigation. Could you just tell us about that.

MS WILLIAMS: -:

20 “I later asked the commanding officer of the NIU in Durban, Colonel Chetty, whether it was normal for an NIU unit to conduct patrols, and why the NIU members were using a Quantum that was not registered and did not belong to SAPS. Colonel Chetty became defensive. He accused me of being on a witch hunt and told me that I should

not continue with my enquiries. As noted above, I was also sceptical of the NIU and Cato Manor SBC members' story that Mr Mkhize had been shooting at them from inside his vehicle and that they shot at him in self-defence. While I would await the ballistic report, my assessment on the scene was that it did not appear that shots had been fired from inside the vehicle.”

ADV RAMOGALE: Now if I could just ask you to stop there. In 93.2, you state that you asked Colonel Chetty whether it was normal for the NIU to conduct patrols, and why NIU members were using a Quantum that was not registered and did not belong to SAPS. Colonel Chetty became defensive. He accused me of being on a witch hunt and told me I should not continue my enquiries. Did you actually ever get an answer from Colonel Chetty?

MS WILLIAMS: Yes, he did supply a statement for the patrols. There was apparently some operation that maybe we were not aware of. He did give that. But in respect of the Quantum, there was never any explanation given, and up until today, I do not know who that vehicle belongs to.

ADV RAMOGALE: So is it your testimony before the enquiry that there was some operation related to this, but also there

was no explanation about why an unregistered vehicle was being used by the National Intervention Unit?

MS WILLIAMS: That is correct, Chairperson. And if I may elaborate, I checked with AVL. I cannot remember the name of the colonel at the PC's office in Durban. I approached him. I checked every vehicle. I checked all the NIU vehicles. I asked for whatever vehicles was on their strength. I checked with every organized crime unit's members. I checked all the vehicles from Colonel Lotz to Newcastle, right down to Port
10 Shepstone, the Durban units, Cato Manor, and there was no such vehicle registered at SAPS for that Quantum.

ADV RAMOGALE: For those of us, Ms Williams, who are not in the police, what is the AVL?

MS WILLIAMS: Okay, the only way, it is a vehicle fleet unit. AVL, you get the vehicle records. You get the tracker records. You get all the vehicle information. So it would be like fleet control or fleet management, if I can put it that way.

ADV RAMOGALE: And in your experience, was it normal for a police unit to go on an operation with a vehicle that does
20 not belong to SAPS?

MS WILLIAMS: Not that I know of. So that was unheard, unless maybe it is crime intelligence or somebody else that was doing some operation. But NIU, I have never heard of that. Anybody else, I have never heard of that.

MS RAMAGAGA: But do you know the tools of trade that get

availed to the NIU? Are you aware of what is availed to them with specific reference to the fleet of vehicles, or what is the position?

MS WILLIAMS: Ma'am, in this instance, when you ask about the vehicles, they actually provide you with that information. And what we normally say is that what is on your vehicle strength, what is on your unit strength, and what we mean by that is what was issued to you, which vehicles were issued to you. It goes in respect of equipment, firearms, all of that.

10 There should be an account of that, a record of that, and I was unable to find a record for this Quantum.

MS RAMAGAGA: In the list of the fleet that is availed to the NIU, you went through that and you could not find this Quantum?

MS WILLIAMS: Yes, that is correct, Chairperson.

MS RAMAGAGA: Thank you.

ADV RAMOGALE: And then you state at 93.3 that whilst you would await the ballistic report, my assessment on the scene was that it did not appear that the shots had been fired from
20 inside the vehicle. Now, this is probably the opportune time to take you to the ballistic assessment that was, in fact, done, and this is an answer to the earlier question that was asked by Advocate Baloyi-Mere SC about the lack of clarity, I will call it that, about who actually fired and what actually became of that. Ms Williams, you do not have this file, but the panel

does and in a moment, I will show it to you on the screen. Chairperson, apologies, just a moment to locate it. Chair, I am just waiting for the indication from the panel.

CHAIRPERSON: Oh, we are waiting for you.

ADV RAMOGALE: Oh, I am sorry. I am very sorry. Ms Williams, what I am going to put up now on the screen is a document that we have that begins at 2A-68 in our records. But what I wanted to show to you is pages 2A-87. Evidence has already been led on this by the author of the report,
10 Lieutenant Colonel Mangena. In paragraph 10 of the report, do you see that?

MS WILLIAMS: Yes, I see that, Chairperson.

ADV RAMOGALE: Lieutenant Colonel Mangena tells us that:
“According to ballistic reports compiled by Sergeant Tila Dagari[?] on dated 4 June 2009, cartridge cases marked E1 to E3, F, G1 to G7, and H, visible on the photos above, were positively linked to the pistol with serial number HH6407, and cartridge cases marked L, N, and P were positively linked to the pistol with serial number H74637Z. These cartridge cases placed the two shooters at the left back of the Toyota Quantum, right backside of the deceased vehicle.”
20

And then Lieutenant Colonel Mangena, then Captain Mangena says in paragraph 11:

10 “According to statements by police officers, Inspector Felukwathe Thomas Dlamuka, Constable Stanley Sandile Mfene, Detective Inspector Padayachee, Inspector Rakesh Maharaj, and Inspector JF Scoltz, the deceased fired shots in the direction of the police, and they returned fire, fatally wounding the deceased. According to the ballistic report compiled by the Sergeant dated the 4th of June, all cartridge cases collected from the scene, including the two found in the vehicle, were not linked to the firearm found in the deceased vehicle.”

And then similarly he says:

20 “According to the report compiled by the same Sergeant on the 4th of June, all possible shots were fired from outside the vehicle of the deceased.”

Now I will stop there, and then direct you to an earlier report or statement that you had given. It is in the file that you have there, the Durban Central docket, at page

DC000228.

MS WILLIAMS: 000228?

ADV RAMOGALE: 228, yes. That would be DC2.

MS WILLIAMS: You said 228?

ADV RAMOGALE: Indeed.

MS WILLIAMS: I am just trying to find it quickly. I found it, 228, yes.

ADV RAMOGALE: Thank you Ms Williams. Could you tell the panel what is this document that we are looking at?

10 **MS WILLIAMS:** We are looking at a statement that was provided by me, Shamila Williams.

ADV RAMOGALE: And what date is that statement?

MS WILLIAMS: This statement is dated on the 18th of February 2010 it looks. Yes, 2010.

ADV RAMOGALE: Is that February or January?

MS WILLIAMS: Let me see. The handwriting is bad, Chairperson. It looks like January. I thought it was February.

ADV RAMOGALE: I hope that is not your handwriting Ms Williams, that is bad.

20 **MS WILLIAMS:** No, it is not my handwriting.

ADV RAMOGALE: Could we then go back a previous page to paragraph 2 and could you read paragraphs 2 and 3 to us please?

MS WILLIAMS: Yes.

“On 2009-02-10, I was on official duty at

the ICD offices. At approximately 9:30am, Constable Lee and Inspector Stolz from Cato Manor Organised Crime arrived at my office, bringing their firearms as requested by me and Inspector Daniels. Inspector Daniels was also present when these officials arrived.”

CHAIRPERSON: I beg your pardon, is the statement similar
10 to the typed statement at DC000228?

ADV RAMOGALE: Yes, Chair.

CHAIRPERSON: By the witness?

ADV RAMOGALE: Yes, yes.

CHAIRPERSON: And the one that she is reading is the
handwritten one?

ADV RAMOGALE: No, Chair, I think the witness is reading
- Ms Williams, could you just confirm from which page are you
reading?

MS WILLIAMS: I am reading from DC000228. It is a
20 statement made by me and it is A31. It would have been A31
in the docket.

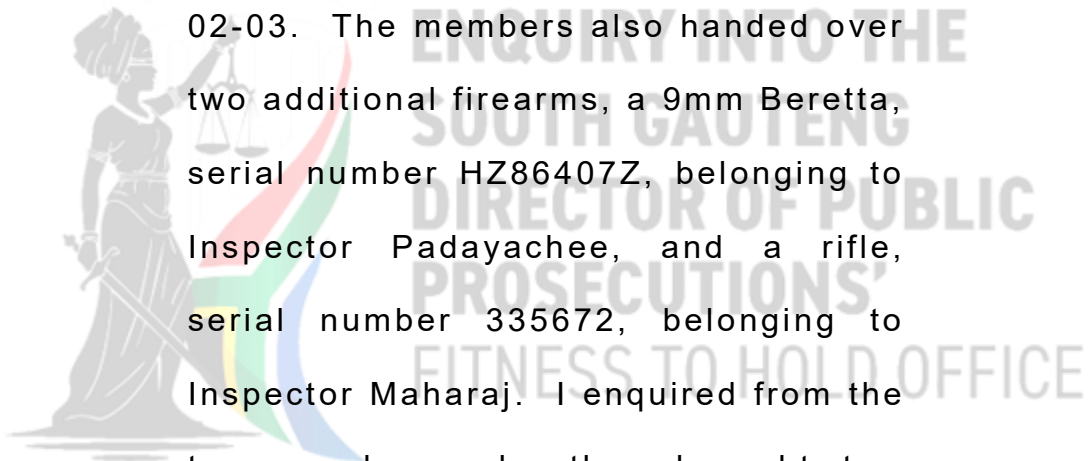
ADV RAMOGALE: Yes, thank you.

CHAIRPERSON: Yes, thank you.

ADV RAMOGALE: Yes, please continue.

MS WILLIAMS: Paragraph 3.

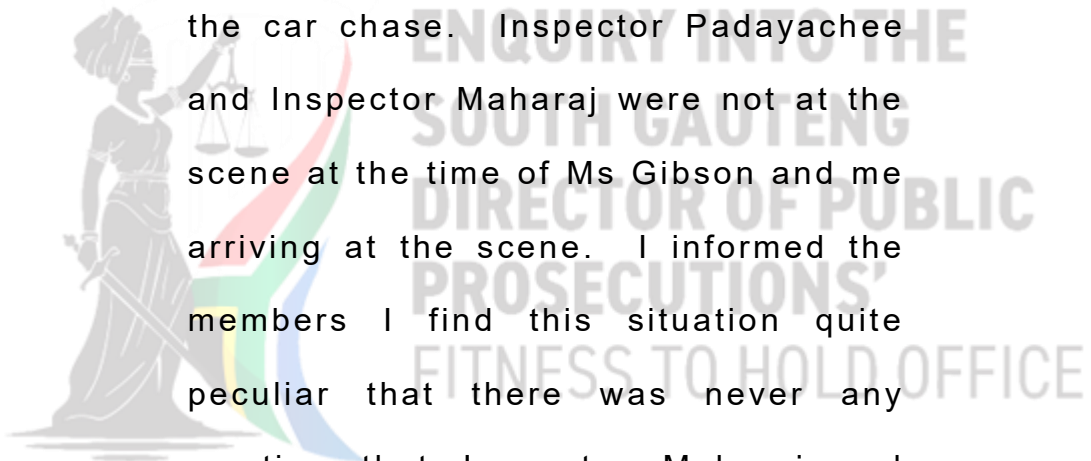
“The two officials handed over four firearms. Three firearms were hand weapons and one was a high calibre rifle. Constable Lee handed over a firearm 9mm Beretta, serial number HZ4632Z, used by him on the day of the shooting, 2009-02-03. Inspector Stolz handed over a 9mm Z88 with serial number Q020156 that was used by him during the shooting on the date 2009-02-03. The members also handed over two additional firearms, a 9mm Beretta, serial number HZ86407Z, belonging to Inspector Padayachee, and a rifle, serial number 335672, belonging to Inspector Maharaj. I enquired from the two members why they brought two firearms that had nothing to do with the shooting incident of 2009-02-03. Inspector Stolz and Constable Lee told me that they only heard afterwards from the members that they were also shooting at the Mkhize incident at Umgeni Road. I asked the two members how that was possible because they



should have noticed that there were other members involved in the car chase and subsequent shooting of the deceased. I also enquired from the two members why the duty officer did not give this information to me or Ms Gibson on the scene because we attended the incident and their response to me was that they were not aware that Inspectors Padayachee and Maharaj was part of the car chase. Inspector Padayachee and Inspector Maharaj were not at the scene at the time of Ms Gibson and me arriving at the scene. I informed the members I find this situation quite peculiar that there was never any mention that Inspector Maharaj and Padayachee were part of the car chase of the black Lexus or the subsequent shooting of the deceased. I only became aware that the members were also involved in the car chase and shooting on the 10th of February 2009 when Inspector Stolz and Constable Lee brought the members' firearms.

10

20



Inspector Daniels then seized the firearms and left with it after the two members left my office.”

ADV RAMOGALE: Now if we could just stop there, we will come to paragraph 4 now. Advocate Baloyi-Mere SC asked you earlier who the actual shooter was and the second part of the question was there are differing versions about who shot at what. Based on what you have just read to us now in paragraph 3, what is your answer to that question?

10 **MS WILLIAMS:** Okay, this is what happened at the scene. At the scene we were told the members that was involved or the members that was responsible for the shooting and the killing of the deceased at that stage was the NIU members. The NIU members comprised of these three, Inspector Dlamuka, Constable Mfene and Constable Sekulume. The other two members, that is the members from Durban, Cato Manor, Durban, those members were said to have been at the back of the car chase and that these other members were now involved in the direct shootout. That is what was related to

20 us. At no stage was any mention made of Maharaj or Padayachee being at the scene or part of it when we were informed by the duty officer. The members from NIU did not mention this to myself or to Ms Gibson. So these members rocking up here did not make sense. These members were not at the scene, Madam Chair, as far as I was concerned

and they were not even visible at the scene. Nobody made mention. I do not know where they appeared from because out of the blue, they were also present. And the strange thing is that as we can look at the ballistic report, some of these firearms were actually, were linked, some of the cartridges and then the firearm itself was linked at the scene. I do not know what happened here, ma'am. Only they can explain, but something inexplicable happened here.

ADV RAMOGALE: So is it your evidence before the enquiry
10 that at first at the scene you were told about the two NIU members and the two members of Cato Manor, and then later, two more appear from the scene who were part and parcel of the shooting. Am I understanding you correctly?

MS WILLIAMS: Yes, you are understanding correctly. And if I may take the liberty to explain something else, if we ever get to my shooting report, you would see the members responsible for the shooting of the deceased person is only listed as three members because those were the members whose names were put on there. And then the other two
20 members that were at the back that was not involved in the actual shooting and killing, their names were not mentioned. But we were aware of those two members because we were told about those two members. But these other two additional members, I do not know where they came from.

ADV RAMOGALE: I will take you to your crime scene report

related to this matter in which, what you have testified to now is in fact recorded there. But for now, could we just wrap up on this particular document with what you say there in paragraph 4.

MS WILLIAMS: -:

10 "There was never any indication from the duty officer, Senior Superintendent Roma, Senior Superintendent Bristow or Captain Govender that Inspector Padayachee or Maharaj was at the scene at Umgeni Road on 2009-02-03.

There was also no indication that they fired shots at the scene on 2009-02-03. I completed an ICD-7 shooting report at the scene where I noted down all the relevant details of the shooters, etcetera. I was informed at the scene

20 that the three NIU members shot the deceased after he fired shots at them. According to the report given by Captain Govender, there were only two members from Cato Manor Organized Crime following the deceased on 2009-02-03. Captain Govender informed me that the deceased were shooting at the two

Organized Crime members and that the NIU members intervened and cut off the deceased's vehicle. According to Captain Govender, the deceased fired at the NIU members who then returned fire, subsequently killing the deceased. Captain Govender also informed me that the members from Cato Manor shot at the deceased from a distance.”

10 **ADV RAMOGALE:** Now, there is mention there in paragraph 4 of your statement that you have just read of an ICD-7. I will take you to that document shortly, but what I would like to ask you is, you know, what should the panel make of this? You were at the scene, you were told about a certain number of shooters, and now after the fact, more emerge. What should the takeaway be from that?

MS WILLIAMS: Ma'am, these members lied. It is clear, crystal clear that they lied and they did not think the story through before speaking to the duty officer. Or maybe the
20 duty officer did not engage them properly. I do not know how to answer that, but they did not have their story straight. The duty officer was not properly briefed as to what they were saying. And what I can say is that the normal person, the normal spokesperson, unofficial spokesperson, was not there to relate their story. So I think that is actually where all these

discrepancies actually starts creeping in, because there is nobody that is controlling the situation. There is nobody that is controlling the story at this stage, because Neville Eva is not there. There is no Smith, Captain Smith. There is no Lockem at the scene. So without those people, the story is not properly managed and this is actually, in my view, what is happening here.

ADV RAMOGALE: Thank you, Ms Williams. We will now move away from that document, but I had promised that I will
10 show you where your ICD-7 is. You will see that in the same document, or bundle rather, at DC000388. Members of the panel, DC000388 is in DC2.

MS WILLIAMS: I see that, Chairperson.

ADV RAMOGALE: Just a moment, Ms Williams. Ms Williams, could you tell us what is this document that we are looking at?

MS WILLIAMS: This is an ICD crime scene report.

ADV RAMOGALE: And could you tell us what appears right at the top there of that document? Ms Williams, can you hear
20 me?

MS WILLIAMS: Yes, I can hear you.

ADV RAMOGALE: Yes, could you just tell us what it is that appears there? It is handwritten, and then there is additional stuff written at the very top of the page. What is that?

MS WILLIAMS: Can you just give us one second,

Chairperson, if I may just be excused for one minute? We seem to have some technical difficulty again.

CHAIRPERSON: Is your IT person nearby?

MS WILLIAMS: No. Just one second, ma'am.

CHAIRPERSON: Ms Williams? It appears that Ms Williams has stepped out.

ADV RAMOGALE: Chair, what I can peep from my screen is even her camera is off. So I do not know if she is still attending to the IT issues. It seems like that is the case.

10 **CHAIRPERSON**: Yes. I see on top of the screen, leave. Has she left?

ADV RAMOGALE: No, Chair, I think ...[intervenes].

CHAIRPERSON: Mr Motlwakwane decided also to leave.

ADV RAMOGALE: It seems that IT technical people are failing us today. The MA that we were seeing there is actually Ms Williams. I think the name is the name of her attorney.

CHAIRPERSON: Yes.

ADV RAMOGALE: Yes.

20 **CHAIRPERSON**: Let us just wait for a few minutes and see if she is going to return. Which paragraph were you at?

ADV RAMOGALE: Chair, we were at, in relation to the statement that Ms Williams read, it was a paragraph, it was the last paragraph that refers to the ICD form. I am just trying to find it here. But in the statement, we were still dealing with the involvement of the NIU and that would be from

paragraphs 93 to 93.3.

CHAIRPERSON: Before she attended the postmortem.

ADV RAMOGALE: That is correct, Chair. She was about, she says in her statement that she just read, which is at DC000228 about how the police officers who attended were different to what was recorded in her ICD form, which is a crime scene report.

CHAIRPERSON: Perhaps we should pause and use this moment to stretch our legs. In the meantime, you can verify
10 with Ms Williams what the position is with this IT challenge. Then you will send a note to us to come back. We would have to come back although we intend to adjourn at 4 o'clock. But we have to come back and alert her that we will commence then tomorrow and warn her of the fact that she is under oath.

ADV RAMOGALE: Yes, Chair.

CHAIRPERSON: Let us pause for a few minutes and call us back when you are ready.

ENQUIRY ADJOURNS

ENQUIRY RESUMES

20 **CHAIRPERSON:** Good afternoon to you all. Good afternoon, Advocate Chauke. Good afternoon, Ms Williams.

MS WILLIAMS: Good afternoon, Chairperson.

CHAIRPERSON: You disappeared from us.

MS WILLIAMS: Ma'am, I do not know what happened.

CHAIRPERSON: We were sitting waiting looking for you.

Did you solve your problem that side, the IT problem?

MS WILLIAMS: Yes, ma'am, we have solved it. I hope it stays like that.

CHAIRPERSON: Yes, but we are going to pause now and adjourn this proceedings until tomorrow morning 9 o'clock.

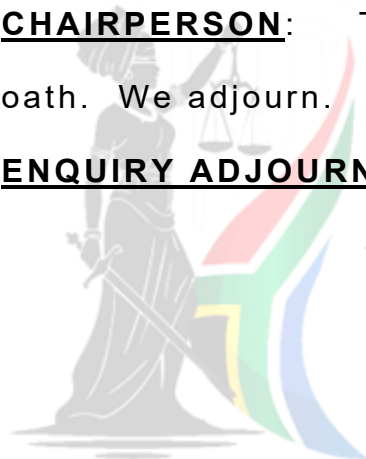
MS WILLIAMS: Noted, Chairperson.

CHAIRPERSON: We came back also to remind you that you are still under oath. You will proceed from where you ended with Counsel tomorrow morning.

10 **MS WILLIAMS**: Noted, Chairperson. Thank you.

CHAIRPERSON: Thank you, madam, you are still under oath. We adjourn.

ENQUIRY ADJOURNS UNTIL 4 MARCH 2026



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