

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

HELD AT

**SALU BUILDING, 316 THABO SEHUME STREET,
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DEVELOPMENT**

4 MARCH 2026

DAY 37



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

PROCEEDINGS ON 4 MARCH 2026

CHAIRPERSON: A very good morning to you all. Good morning, Advocate Chauke. Good morning, Ms Williams.

MS WILLIAMS: Good morning, Chairperson.

CHAIRPERSON: Are you well today? You good?

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

CHAIRPERSON: Yes, thank you. You continue to be under oath.

MS WILLIAMS: I understand that, Chairperson.

10 **SHAMILA HENRIETTA WILLIAMS** (still under oath)

CHAIRPERSON: Thank you. Before we proceed, we have a new family member. Bring the mic, introduce yourself.

MS MOKGATLE: Thank you. My name is Rethabile Mokgatle. I am a partner at Harris Nupen Molebatsi Attorneys.

CHAIRPERSON: Yes, thank you.

MS MOKGATLE: Thank you.

CHAIRPERSON: You are most welcome. Anybody else? Ntate Sebelemetse, that is not your seat. You know where
20 you belong, or you want to leave this chamber as and when you want? I will be pleased to see you sitting where you are supposed to be sitting next to, not far from Mr, Advocate Mohlamonyane or Advocate Lekgetho at least. Do you prefer to sit there this morning?

MR SEBELEMETSE: [Indistinct]... [microphone off].

CHAIRPERSON: I suspected so. We understand. You are ready to begin, Advocate Ramogale?

ADV RAMOGALE: Yes, Chair, we are.

CHAIRPERSON: Ja, please do.

ADV RAMOGALE: Thank you, Chair. Ms Williams, good morning.

MS WILLIAMS: Good morning.

ADV RAMOGALE: We left off yesterday about to turn to your crime scene report. You will find that in DC000388 and that
10 would be for the purposes of the record and the panel in DC2.
Do you have that, Ms Williams?

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

ADV RAMOGALE: And the last question I had asked you yesterday was to identify the document which is to tell the panel what is this document that we are looking at?

CHAIRPERSON: What is the page?

ADV RAMOGALE: DC000388.

CHAIRPERSON: 3?

ADV RAMOGALE: 88.

20 **CHAIRPERSON:** 88.

ADV RAMOGALE: Yes, apologies, Chair.

CHAIRPERSON: Yes, thank you.

ADV RAMOGALE: So, Ms Williams, could you tell the panel what is this document that we are looking at?

MS WILLIAMS: We are looking at an ICD crime scene report.

ADV RAMOGALE: And do you know who the author is of this ICD crime scene report?

MS WILLIAMS: I, Shamila Williams, was the author of this crime scene report.

ADV RAMOGALE: Ms Williams, you are frozen on our end but I take it you can hear us clearly. Oh, there you are.

MS WILLIAMS: Yes. Ja, yes, I can very clearly.

ADV RAMOGALE: So you are saying you are the author of this particular ICD crime scene report?

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

ADV RAMOGALE: And could you tell us what we see there on the first page which is, it reads there:

“Independent Complaints Directorate
Crime Scene Report (to be completed by
ICD investigator at the scene of ...”

Is that class one case?

MS WILLIAMS: A class one case, yes.

ADV RAMOGALE: What is a class one case?

20 **MS WILLIAMS:** It means death as a result of police action or death in police custody.

ADV RAMOGALE: Right. And then it tells us the ICD office at 1.1. What is the ICD office there?

MS WILLIAMS: KwaZulu-Natal.

ADV RAMOGALE: And the CCN number which we have heard about a few times?

MS WILLIAMS: It is 2009-02-0295.

ADV RAMOGALE: And the SAPS station area?

MS WILLIAMS: Durban.

ADV RAMOGALE: And then we have got a CAS CR number.
What would that be?

MS WILLIAMS: 185/02/2009.

ADV RAMOGALE: And then we see there under ICD
investigator and other ICD personnel. What does this record?

MS WILLIAMS: It says Ntombi Gibson and Shamila Williams.

10 **ADV RAMOGALE:** Yes. And then we can skip over, sorry,
just before we do it, there is an address or locality of the
scene. What does it state here?

MS WILLIAMS: It says Umgeni Road.

ADV RAMOGALE: Now if we skip over to the next page
under 8.1 ...[intervenes].

CHAIRPERSON: Before that, Counsel, sorry to interpose, if
you may recap, this is in relation to the deceased, Mr Bongani
Mkhize.

20 **ADV RAMOGALE:** Yes Judge, that is correct. His name, I
was just about to ask a witness about that, appears right at
the next page.

MS WILLIAMS: Okay.

ADV RAMOGALE: Ms Williams, would you confirm whether
this is in relation to Mr Bongani Mkhize?

MS WILLIAMS: Yes, I confirm that, Chairperson.

ADV RAMOGALE: And then we see it states the apparent cause of death. What would that be?

MS WILLIAMS: Just hold on.

ADV RAMOGALE: It is at DC000389.

MS WILLIAMS: 389?

ADV RAMOGALE: Yes, the next page.

MS WILLIAMS: I have got the wrong file in front of me. 389, oh, I have it here. Apparent cause of death it is gunshot wound.

10 **ADV RAMOGALE:** Right, thank you, Ms Williams. Then we can skip over the blank pages that appear at 390, 390, and then we get to 391.

MS WILLIAMS: Yes, I am there.

ADV RAMOGALE: It sets out what it states there as the particulars of SAPS members involved in death of deceased. Could you just tell the panel what, who are the particulars of SAPS members who have been involved in the death of the deceased?

20 **MS WILLIAMS:** Okay, I will start with 11.1. Service number, it is 0482311-7, and that is, the rank is Inspector. The name of the person is Dlamuka.

ADV RAMOGALE: Yes, and you can skip over his cellphone number. And what does it, what is the station?

MS WILLIAMS: It says NIU.

ADV RAMOGALE: Thank you. And then the next name?

MS WILLIAMS: 11.2, service number it is 7009813-1.

ADV RAMOGALE: Yes.

MS WILLIAMS: His rank is Constable, and his name is Mfene, stationed at ...[intervenes].

ADV RAMOGALE: Yes.

MS WILLIAMS: NIU. NIU.

ADV RAMOGALE: Thank you. And then 11.3?

MS WILLIAMS: 11.3, service number, 7009788-7, Constable Sekulume, NIU.

10 **ADV RAMOGALE**: And then we have a description of the exhibits found on the scene at paragraph 12, which you have taken us through, but could you just read that out?

MS WILLIAMS: Right, 12.1, one black wallet, Camel Active written on top, containing R1,273.90, and two gold credit cards, Voyager, and one garage card. One times FNB cheque book, with one signed cash check, for R21,000.00 dated 2008-09-01, and I have a serial number on there, 220-226, and one blank cheque, signed and not dated. Next item, R1,000.00, and then it says here covered in blood.

20 **ADV RAMOGALE**: Yes.

MS WILLIAMS: It says eight times R100.00 notes, one time R200.00 notes. It also says a Z-88 firearm, serial number filed off.

ADV RAMOGALE: And then we move to 392, and then it sets out the manner of the disposal of the exhibits. Can you

just tell us what that is?

MS WILLIAMS: Okay, this is where I booked it into the SAP13. Can I read for you?

ADV RAMOGALE: Yes, please.

MS WILLIAMS: Booked in exhibits at Durban Central, in their SAP13 number, exhibit register number, 354/2009.

ADV RAMOGALE: Yes, and then it contains a sentence there, just after that.

MS WILLIAMS: Yes, taken by LCRC.

10 **ADV MAEMA**: Advocate Ramogale, sorry to interrupt. When Ms Williams, when you, oh, and good morning, Ms Williams.

MS WILLIAMS: Good morning, ma'am.

ADV BALOYI-MERE SC: When you collect exhibits in a scene of crime where there was a shooting, isn't a gun that fired the fatal shot, or the guns that were fired, are they not part of the exhibits that are supposed to be collected at the scene of crime, or what is the procedure? Thank you.

MS WILLIAMS: Yes, ma'am, and that is why I have said, and I should have been more specific when I was speaking
20 about the firearm, that was taken by LCRC.

ADV BALOYI-MERE SC: I am not only referring to the firearm that was supposedly found in Mr Mkhize's car. The police version is that it was fired towards them. That is fine, it was collected. But what about the firearms that were collected, that were fired by the three officers that are

mentioned here? What is the procedure in relation to those firearms?

MS WILLIAMS: Ma'am, you have a few options available to you. The firearms can be seized at the scene. The members are known in this case, so the members can bring you those firearms and they can hand it over to whoever the investigating officer then will be. So there was no real hard and fast rules regarding this, as long as you received the firearms and that is then sent to the ballistics for testing,
10 everything is in order.

ADV BALOYI-MERE SC: Thank you. And I assume that later on we will hear about the firearms of the three officers having been taken for ballistic testing.

MS WILLIAMS: Yes, ma'am, that is correct.

ADV RAMOGALE: Thank you, Advocate Baloyi-Mere SC. Ms Williams, you will recall, we took you to the affidavit yesterday, we will come back to it again, in which you set out the circumstances in which you received the firearms from those who were involved in the shooting. But if we could
20 continue at paragraph 15, or point 15 of your form, which is at DC000392.

MS WILLIAMS: Okay, would you like me to continue reading?

ADV RAMOGALE: Yes, you set out in DC000392 at paragraph 15, on the form it says, short summary of events

as determined at scene and then there is writing there. Could you just tell us what is written there?

MS WILLIAMS: Okay, it is written:

10 “On Tuesday 09-02-03 at plus minus
13h00, two members from Cato Manor
organised crime were following up on
information regarding the shooting of
Superintendent Choncho and Chief
Zondi in accordance to Durban Central
CAS 185/2/2009. The members
allegedly followed the deceased as he
was driving from his residence at Ridge
Road, and a car chase allegedly
ensued. The deceased was driving a
black Toyota Lexus, and he allegedly
fired shots at the two members. The two
members allegedly called for backup on
the radio, and members from NIU
responded, giving chase, and they
20 allegedly tried to pull the vehicle over.
The deceased allegedly fired shots at
the NIU vehicle, and the members
returned fire, fatally wounding the
deceased.”

ADV RAMOGALE: Now, if we could just go back to what you

set out in the second sentence of that paragraph, which is that the members allegedly followed the deceased as he was driving from his residence at Ridge Road. We have gone through the affidavits of Officer Stolz and all the other members of Cato Manor, and all we see from the affidavits is they say information was received, and then a chase began. How did you come to learn that the members were following Mr Mkhize from his home?

MS WILLIAMS: This is something that I think was relayed
10 to me by the NIU members. Or not, sorry, just correction, I think this is something that was relayed to me because I wrote it there from the duty officer. I would have gotten this from Captain Govender. My apologies.

ADV RAMOGALE: So Captain Govender is the one who relayed to you that the version he received ...[intervenes].

MS WILLIAMS: Yes.

ADV RAMOGALE: From those involved in the scene was that they were following Mr Mkhize from his residence?

MS WILLIAMS: That is correct, Chairperson.

20 **ADV RAMOGALE**: But there is no mention of this in any of the affidavits. What do you say to that? What should the panel make of that?

MS WILLIAMS: Obviously, Captain Govender would have interviewed these members, because remember, we do not interview them. He would have interviewed them, and this is

the story that he would, they would have told Captain Govender. And Captain Govender is then our contact person at the scene, or whoever the duty officer is, and he relates to us the story that he gets from the police officers at the scene.

ADV RAMOGALE: But this is all omitted, am I correct, Ms Williams, from the statements?

MS WILLIAMS: It is all omitted from their statements.

ADV RAMOGALE: And what should we draw from that?

MS WILLIAMS: That the members lied.

10 **ADV RAMOGALE:** But what is, what would be the, what I am trying to understand is what would be the benefit, the incentive behind lying about the details of their chase?

MS WILLIAMS: In my view, they tried to cover up what actually happened. They did not have their story straight. As I said yesterday, when I was mentioning to you that the normal spokesperson that normally controlled and managed the situation was not present. So the way I see this, this

20 that he is supposed to say.

That is, in my view, Chairperson, and my dealings with Cato Manor on previous occasions. So they give this story. The captain does not know how to manage or what he is going to tell ICD, and he is telling us exactly, and they have now forgotten, or I do not know why they did not put that in

the statement, they have now forgotten and they omit this part. But the captain must have heard this because Captain Govender would not give me a story unless he has heard it from the members that he interviewed.

ADV RAMOGALE: And then we come to the second part of your statement there.

ADV BALOYI-MERE SC: Sorry, before you leave that point.

ADV RAMOGALE: I am sorry.

ADV BALOYI-MERE SC: Ms Williams, as a former police
10 officer, what should we make about the fact that the members followed the deceased as he was leaving from his residence? One, it says to us they knew where he lived, and then what follows is if they wanted to arrest him, they could have easily gone to his residence instead of waiting for him to leave, then follow him and chase after him. What should we make of this detail, that especially that they knew his residence?

MS WILLIAMS: Ma'am, I hear what you are saying. They knew where the member was or where the suspect was, and they should have actually gone there. They could have
20 knocked on this man's door, but there was already this interdict. There was this order. If they really wanted to speak to Bongani Mkhize, if they really wanted to arrest him, if he really was a suspect, ma'am, they would have called his attorney, SD Moloi, but what I hear, what I see here and what I found at the scene is that they were not interested, ma'am,

in any arrest. In my view, it is very clear that they had one goal, and that was Bongani Mkhize was not going to make it out alive on that day, if I may be so bold to say that, because this is what I see from what I heard and what I experienced afterwards conducting my investigation.

ADV RAMOGALE: In fact, Ms Williams, we will come to that, but what I will demonstrate to you, and it is part of your statement, is at the date on which this happened, the court order by the Durban High Court had already been issued. Am

10 I correct about that?

MS WILLIAMS: That is correct, yes.

ADV RAMOGALE: And that court order required that if Mr Mkhize was sought after by the police, that he would be handed over through his attorneys.

MS WILLIAMS: That is correct, Chairperson.

CHAIRPERSON: Ms Williams, the preliminary report in the form, the CD72 form, when was this report written?

MS WILLIAMS: Just the reference number again, Chairperson?

20 **CHAIRPERSON**: You see DC000388, your preliminary report in form CD7-2.

MS WILLIAMS: I will give it to you now, ma'am.

CHAIRPERSON: Yesterday, you informed us that as an investigator ...[intervenes].

MS WILLIAMS: Yes, ma'am.

CHAIRPERSON: You will start investigating and completing the form, the preliminary report CD7-2.

MS WILLIAMS: Yes, ma'am.

CHAIRPERSON: Correct?

MS WILLIAMS: Yes, ma'am.

CHAIRPERSON: And this is the form.

MS WILLIAMS: Yes, ma'am, I have got it in front of me.

CHAIRPERSON: The preliminary report as reflected in CD7-2 at DC000388, when was this report written?

10 **MS WILLIAMS:** Yes.

CHAIRPERSON: Was it on the same day?

MS WILLIAMS: On the very same date, ma'am, yes.

CHAIRPERSON: On the very same day.

MS WILLIAMS: Yes, ma'am.

CHAIRPERSON: Which will be the 3rd of February 2009?

MS WILLIAMS: That is correct, yes, ma'am.

CHAIRPERSON: Thank you. Proceed, Counsel.

20 **ADV RAMOGALE:** Thank you, Chair. Ms Williams, you then continue in the statement and state that the deceased was driving a black Toyota Lexus and he allegedly fired shots at the two members. Who are the two members that you are referring to here?

MS WILLIAMS: The two members would have been Adriaan Stolz and Raymond Lee.

ADV RAMOGALE: And then you continue that the two

members allegedly called for backup on the radio and members from NIU responded by giving chase and they allegedly tried to pull the vehicle over. The deceased allegedly fired shots at the NIU vehicle and the members returned fire, fatally wounding the deceased. Is that correct?

MS WILLIAMS: That is correct, Chairperson.

ADV RAMOGALE: And you will recall the Chairperson asked you yesterday, what was conveyed to you when you arrived at the scene. Could you just repeat that answer?

10 **MS WILLIAMS**: Are you talking about the NIU or the duty officer now?

ADV RAMOGALE: No, what is contained here in paragraph 15.

MS WILLIAMS: Okay, do you want me to read out the whole thing again?

ADV RAMOGALE: No, no, no, just again, in your own words, you will recall the Chairperson asked you what was the sequence of the events as it was relayed to you at the scene.

MS WILLIAMS: Okay.

20 **ADV RAMOGALE**: I just want to clarify that now in reference to your ICD form.

MS WILLIAMS: Okay. Oh, pardon me for the confusion. What was related to me by the duty officer at the scene when he approached me and we were discussing the matter, he said to me, Ms Williams, this is what happened. Two

members from Cato Manor said that they were following the gentleman from his home. A car chase ensued. The member then, the deceased tried to shoot at them, or shot at them and they returned fire. They called for backup. Backup arrived in the form of NIU. NIU took over the car chase. The deceased then allegedly fired then at them as well and then they returned fire, fatally wounding the deceased. That is the story that we got from the scene.

ADV RAMOGALE: Thank you, Ms Williams. We then come
10 back after the scene and you set out in paragraphs 94, 95
and 96 what happened then in your statement. Could we go
back to that?

MS WILLIAMS: Yes. You say 94?

ADV RAMOGALE: Paragraphs 94, 95 and 96 of your
statement.

MS WILLIAMS: Okay, may I continue reading?

ADV RAMOGALE: Yes, please.

MS WILLIAMS: -:

20 “On or about 6th of February, I attended
the post-mortem examination of Mr
Mkhize's body. The post-mortem
examination was conducted by the state
pathologist, Dr Christa Hattingh, but
was also attended by Dr Perumal, a
private pathologist appointed by the

KTA's attorneys. A private ballistic expert, Mr Kobus Steyl, was also present at the request of the KTA. The other persons present at the autopsy were described Mrs Cynthia ...[indistinct], Sergeant Padmini Tilakdhary from the SAPS ballistic unit, Sergeant Kirstein from LCRC, Inspector Denver Daniels, the SAPS detective assigned to the case, Ms Gibson from ICD, and myself. At the post-mortem, the two pathologists discussed the cause of death. They agreed that the probable cause of death was a gunshot wound to Mr Mkhize's neck caused by a low-velocity 9mm Parabellum handgun."

ADV RAMOGALE: Now if you could just stop there. We do have both post-mortem reports, but I would like to take you to one of the post-mortem reports. You will find that in your bundle at DC000131. And members of the panel, that would be in DC1.

CHAIRPERSON: 000?

ADV RAMOGALE: 000131.

ADV RAMOGALE: Thank you. Ms Williams, do you have that?

MS WILLIAMS: Yes, I do.

ADV RAMOGALE: Could you just inform the panel what is this document that we are seeing? To assist you, you will see it begins at DC000131, and it goes all the way to DC000143.

MS WILLIAMS: Okay, this is a medico legal post-mortem report.

ADV RAMOGALE: Done by whom?

MS WILLIAMS: It is done by Dr Reggie, Dr G Perumal.

10 **ADV RAMOGALE:** And what is the date of the report?

MS WILLIAMS: It is 3rd February 2009, the date of death, sorry ...[indistinct]. I am just looking for the date of the report. Sorry, Chairperson, Counsel asked for the date of the report. I am just trying to find the date of the report here. What I can see is the date of death and the date of the post-mortem.

ADV RAMOGALE: Yes. And it sets out the place of the post-mortem. Where was that?

20 **MS WILLIAMS:** Place, it is Durban Medico Legal Laboratory, 85 Gale Street in Durban.

ADV RAMOGALE: And then it tells us who the body was identified by and who requested the autopsy, and who would that be?

MS WILLIAMS: Okay, body identified by Dr C Hattingh, and autopsy requested by the attorneys, SD Moloi, attorney for

the deceased family.

ADV RAMOGALE: Yes. We then move on to the next page at DC000132 and it says chief post-mortem findings made by me were, and then could just read out what is set out there from point 1 to 14.

MS WILLIAMS: It says, point 1 says:

“1. Low velocity gunshot wound through the cervical spine and cord and the left common carotid artery.

10

2. Low velocity gunshot wound through the head with lacerated brain.

3. High velocity gunshot wound through the face involving the right eye and nose.

4. High velocity gunshot wound through the face with fractured jaws.

5. High velocity gunshot wound through the head with lacerated brain.

20

6. Low velocity gunshot wound passed from the right back to the anterior chest wall.

7. High velocity gunshot wound to the right buttock.

8. High velocity gunshot wound to the right thigh.

9. Shrapnel injury to the right loin.
10. Shrapnel injury to the right shoulder.
11. Shrapnel injury to the right arm.
12. Shrapnel injury to the left elbow.
13. Tangential gunshot wound to the left upper back.
14. Shrapnel injury to the right chest wall.”

ADV RAMOGALE: So are these all the injuries that Mr
10 Mkhize suffered at the hands of the police?

MS WILLIAMS: Yes, that is according to Dr Reggie Perumal,
yes.

ADV RAMOGALE: And then he tells us what the cause of
death is. Could you read that out?

MS WILLIAMS: Okay, he says:

“As a result of my observations, a
schedule of which follows, I concluded
that the cause of death was low velocity
gunshot wound of the neck which
20 passed through the cervical cord and
left common carotid artery.”

ADV RAMOGALE: So in your own words, what is your
understanding about what the cause of death is?

MS WILLIAMS: In my understanding, it says that a 9mm
Parabellum weapon or whatever, but it is a 9mm, it is

definitely not high velocity, it is not R554, so this tells me that this could possibly not have been an R5, which we were told was supposed to have been the firearm that was used to kill Mr Bongani Mkhize.

ADV RAMOGALE: Now, just in relation to that point you just made about what gun was used, if I could take you to what appears at page DC000134 of that same report.

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

ADV RAMOGALE: Could you read out what is set out in 1A
10 and 1B?

MS WILLIAMS: 1A reads as follows:

“Gunshot entry wound on the right side of the back of the neck, comprised of a 10mm x 9mm defect with a 5mm rim of abrasion. No associated tattooing, blackening or satellite shrapnel injury.

A bullet wound track passed through the cervical spine at the level of C4/C5. Exposure of the cord revealed a
20 lacerated cord. The track then passed through the left common carotid artery with associated haemorrhage into the muscle and the bullet exited via 1B.”

1B reads as follows:

“Gunshot exit wound on the left side of

the neck ...[indistinct] laterally comprised of an 11mm x 5mm laceration. Direction, right to left and forwards. The injury pattern is consistent with being caused by a 9mm Parabellum handgun.”

ADV RAMOGALE: Thank you, Ms Williams. And then the last page I would like you to read from this report is at DC000142.

10 **MS WILLIAMS:** I am at 142, Chairperson.

ADV RAMOGALE: Could you tell the panel what is set out at paragraph 3?

MS WILLIAMS: -:

“The only fatal gunshot wound was number one, low velocity gunshot wound through the cervical cord and the carotid artery. There was significant haemorrhage associated with this shot. This wound is likely to have been caused by a 9mm bullet fired from a 9mm pistol.”

20

ADV RAMOGALE: And 4 and 5?

ADV RAMOGALE: 4 says:

“The low velocity gunshot wound through the head had minimal

associated haemorrhage, indicated that it occurred when Mr Mkhize was dead. The high velocity gunshot wound through the face was not associated with any aspirated blood into the lungs, indicated that he is likely to have been dead when he sustained these wounds.”

ADV RAMOGALE: Yes, and then there is a final conclusion at DC000143 at paragraph 11.

10 **MS WILLIAMS:** -:

“The rest of the wounds were superficial in nature.”

ADV RAMOGALE: Thank you, Ms Williams. We now go back to, based on these findings in the post-mortem report, what do you tell the panel in paragraph 97 of your statement?

MS WILLIAMS: I have 97 in front of me, yes.

ADV RAMOGALE: Yes, what does paragraph ...[intervenes].

MS WILLIAMS: [Indistinct]...

ADV RAMOGALE: Yes.

20 **MS WILLIAMS:** Okay. Should I start with 97?

ADV RAMOGALE: Yes, please.

MS WILLIAMS: -:

“This contradicted the NIU and Cato Manor SBC members' version that the NIU officer shot and killed Mr Mkhize

from a distance and that when Mr Mkhize was killed, the Cato Manor members had fallen behind the NIU vehicle. On the contrary, the post-mortem indicated that he was killed by shots fired by a low velocity firearm at close range.”

ADV RAMOGALE: So if the panel were to ask you to consider the version given to you by the NIU and consider the
10 version given to you by Cato Manor, who would you say was the likely cause of death for Mr Mkhize?

MS WILLIAMS: Sorry, Chairperson. [Witness emotional]
This was not NIU's doing. This was Cato Manor.

ADV RAMOGALE: Ms Williams, do you need a moment?
Chair, with your leave.

CHAIRPERSON: Do you have some water in front of you,
Ms Williams?

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

CHAIRPERSON: We are going to pause for a few minutes
20 and when you are ready, alert Counsel. We do appreciate, Ms Williams, that this matters do test our human spirit. We will therefore afford you whatever time you require to compose yourself and when you are ready, do come back and proceed.

MS WILLIAMS: Thank you, Chairperson.

ADV RAMOGALE: We will take an adjournment. And when Mrs Williams is ready, Advocate Ramogale, send a message through our researcher, Mr Morane. He will let us know, then we will reconvene.

ADV RAMOGALE: Thank you, Chair.

CHAIRPERSON: We will adjourn for a few minutes. You are still under oath, madam.

MS WILLIAMS: Yes, ma'am.

ENQUIRY ADJOURNS

10 **ENQUIRY RESUMES**

CHAIRPERSON: Good day, everyone. Good day, Ntate Chauke. Good day, Ms Williams.

MS WILLIAMS: Good day, Chairperson.

CHAIRPERSON: You are still under oath, madam.

MS WILLIAMS: Yes, Chairperson, I understand that.

SHAMILA HENRIETTA WILLIAMS (still under oath)

CHAIRPERSON: Proceed, Advocate Ramogale.

20 **ADV RAMOGALE:** Thank you, Chair. Ms Williams, the next question I was going to put to you related to this 9mm that we have just read now from the post-mortem report of Dr Perumal. I was going to ask you whether you know who from the members who you learned about at the scene fired the fatal shot.

MS WILLIAMS: I cannot remember offhand, but I think maybe if I just go through my reports again, because that is

actually how I made the connection.

ADV RAMOGALE: Which particular report, Ms Williams?

MS WILLIAMS: I think it was the ballistic report, and then I checked it against the shooting report, ag, against the firearms that I received.

ADV RAMOGALE: Yes, perhaps to assist, I can take you to your affidavit in which you set out the firearms that you received. That would be at DC000228. Members of the panel, that would be in volume DC1.

10 **MS WILLIAMS:** You said 228?

ADV RAMOGALE: 228, yes.

MS WILLIAMS: Are you ready?

ADV RAMOGALE: Do you have that?

MS WILLIAMS: Yes, I do.

ADV RAMOGALE: Could you just inform the panel what it is that you set out in that affidavit? That would be in paragraph 3 of your affidavit.

MS WILLIAMS: In paragraph 3 of the affidavit, do you want me to read or do you want me to give you an account?

20 **ADV RAMOGALE:** No, I just want you to give me an account. I think you have read this already, but you set out here which firearms you received and from whom.

MS WILLIAMS: Yes, in this statement, Chairperson, I named the members, and then next to that, I also named the firearms that was associated with them that they used on the day of

the incident. The firearm that was handed in to me by Constable Lee was a 9mm Beretta, serial number H74632Z. The second one was Inspector Stolz. He handed over a 9mm Z88 with serial number 2BEC020156. And then the additional firearms that was handed in was a 9mm Beretta, serial number H86407Z, belonging to Inspector Padayachee. There is also an R5 that I mentioned there that belonged to Inspector Maharaj, serial number 335672.

ADV RAMOGALE: So we know from your evidence that of
10 the four Cato Manor members involved, three of them had used a 9mm?

MS WILLIAMS: That is correct, yes, Chairperson.

ADV RAMOGALE: Now, this panel has heard evidence from a ballistic expert, Lieutenant Colonel Mangena, who positively identifies the 9mm that fired the fatal shot that killed Mr Mkize, as the one belonging to Constable Lee. Do
20 you have any comment on that?

MS WILLIAMS: Chairperson, Constable Lee, in his account, said that he was the one ...[indistinct] members that was
20 falling behind, yet his firearm is the firearm that is now linked to the killing. So that does not make sense to me, and it tells me that they were lying about who actually shot and killed Mr Mkize, and also about the events that led up to Mr Mkize's demise.

ADV RAMOGALE: Chairperson, for the panel's reference,

that particular evidence can be found in the transcript. The panel does not have to go there now, on day 31, at page 88.

CHAIRPERSON: Yes, and the witness may not be able to give you an analysis.

ADV RAMOGALE: Yes, yes, indeed.

CHAIRPERSON: We have to do that and look at the evidence.

ADV RAMOGALE: Yes, yes. Thank you, Chair. Now, what is also interesting, Ms Williams, is we went through all of the affidavits of the officers involved yesterday. Do you recall whether Constable Lee ever says that he fired a shot?

MS WILLIAMS: No, I do not recall that.

ADV RAMOGALE: So, yes?

MS WILLIAMS: I know that shots were fired, I think it was by Adriaan Stolz, if I remember correctly, at the tyres of the vehicle.

ADV RAMOGALE: Yes. So you have a ballistic report that identifies Constable Lee as a shooter. You have a post-mortem that says a fatal shot was by a 9mm. You have your report that says a 9mm was handed to you by Constable Lee, yet in his account of the shooting, he says nothing about shooting.

MS WILLIAMS: That is correct, Chairperson.

ADV RAMOGALE: Thank you, Ms Williams.

ADV BALOYI-MERE SC: Ms Williams, now that the post-

mortem has now told us that the fatal shot was fired from a 9mm pistol, and that, according to what has already been testified to before, that would be Constable Lee's firearm, where does that put, and that would be my first question, because I am going to ask two, where does that put the so-called confession, the statements by the NIU members, where does that put that?

And secondly, I have something that has been nagging on my mind, that their version is that they heard over
10 the radio that the Cato Manor were pursuing a suspect and they needed help. They came in and overtook the Cato Manor and arrived first or were able to stop the Lexus. I am not sure, but something does not add up, and I am asking myself what type, you said they were driving a Quantum, the one that you tried to investigate. Or if you did not say they were driving a Quantum, I would really love to know what kind of car were they using, where there was a high-speed chase, but they managed to overtake the Cato Manor and stopped the Lexus. So those would be my two questions.

20 **MS WILLIAMS**: Sorry, just the first one again? I know what you are saying about the second one, about the overtaking of the Quantum. And you said the first one is the vehicle that Lee them were using?

ADV BALOYI-MERE SC: No, no, the first one is, given that now we know from the evidence that has already been

tendered that, by the ballistic expert, that it is the 9mm that fired the fatal shot and that 9mm has now been linked to Constable Lee, but the statements that you got at the scene from, was it Inspector Dlamuka and Constable Mfene, was that they overtook the Cato Manor, and then stopped the Lexus, and saw the gun, or did not see the gun, I am not sure, but then they shot at the driver. And I think at the end of their statements, they realized that the driver was deceased. So these two scenarios, where does it put the NIU members, 10 or their statements? What should we make of them?

MS WILLIAMS: Ma'am, it is crystal clear that these members lied under oath, which means they perjured themselves.

ADV BALOYI-MERE SC: Meaning the NIU members?

MS WILLIAMS: I am talking about the NIU members, because they are saying that they overtook the vehicle, and that ...[indistinct] was still alive. That is clearly not possible for them to have done that, because, and they have given a statement, both of them have given statements under oath, and that, as far as I know, is a lie, and which means it comes 20 down to perjury. They lied.

ADV BALOYI-MERE SC: But as a follow-up to that, what would motivate the NIU members to lie, in your opinion?

MS WILLIAMS: Ma'am, it is clear to me that this was a conspiracy to kill Mr Bongani Mkhize, no matter what. They must have decided that NIU was going to be the guys, the fall

guys, in this instance. And unfortunately for them, it did not work, because the post-mortem findings indicated differently, the ballistics indicated differently. So I am actually thinking there is three different versions, when you actually think about it, ma'am. It is the NIU version, it is the version of Lee and Stolz, and there is also the version of the late RC Maharaj and Padayachee, when you actually look at it. This was not thought through, as I have said. It was not thought through. That is all I can say in that regard.

10 **ADV BALOYI-MERE SC:** Thank you. And about the vehicles?

MS WILLIAMS: I know that Constable Lee them were driving a normal sedan, which in my mind would have been a vehicle that is faster than the Quantum. That is just how I am thinking about it, ma'am. And for them to have, because they say that Lee them had actually now driven or fallen behind the Lexus, and then they overtook, I do not know if that is possible. I am not a vehicle expert, but I would not think that it is possible.

20 **MS RAMAGAGA:** A follow-up to the first question by my sister, Baloyi-Mere, Ms Williams. Do you think that the fact that the Cato Manor police officers were interdicted from killing Mr Mkhize, and they were ordered to, if ever they wanted him, to then arrest him, do you think that factor could have played a role in the NIU claiming to have been the

perpetrators of this killing?

MS WILLIAMS: I understand your question, and I think I know what it is that you are asking. I would speculate, ma'am, because it is pure speculation, but I would think yes, because they knew what the interdict had said at that stage. The NIU had to be the fall guys because then obviously NIU was not the ones that was named in the interdict, and I guess it would have been okay if they killed Bongani Mkize. That lets Cato Manor off the hook. That is now my opinion.

10 **MS RAMAGAGA**: Ja, no, no, I quite understand that it is speculation, but that is your opinion, because I have invited the opinion. Thank you.

ADV RAMOGALE: And just on this, Ms Williams, sorry, Chair.

CHAIRPERSON: Before you proceed, if I may just clarify one aspect. The 9mm that was handed over by, or rather to you, that is allegedly the one that was used on the day of the shooting of Mr Mkize, the 9mm Parabellum. Was it ever tested?

20 **MS WILLIAMS**: Yes, ma'am, it has all been sent through to the ballistics.

CHAIRPERSON: What were the results?

MS WILLIAMS: I do not have the ballistics results. If the Counsel can just alert me know which page that would have been.

CHAIRPERSON: Because, I do not know whether you are going to get there, Advocate Ramogale, but when you look at DC000394, there is a statement by a member of the SAPS, Mr Romanius Mkhize regarding what was the bullet that was retrieved from the body of the deceased. You see that?

ADV RAMOGALE: Yes, Chair, I do.

CHAIRPERSON: Madame, do you have DC000394?

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

CHAIRPERSON: Do you want to talk to us about this
10 statement?

MS WILLIAMS: Okay, would you like me to read out the statement in full?

MS WILLIAMS: You can read it and then explain to us from which pistol was this bullet, if you know.

MS WILLIAMS: Okay.

CHAIRPERSON: Or if you are able to tell us. If not, say so.

MS WILLIAMS: Okay. Ma'am, this is a statement from RS Mkhize. That was the person assigned by Durban Central to go and fetch the exhibits from Gale Street mortuary. I see
20 here that it speaks about an exhibit under post-mortem 2003-2009 and it speaks about the bullet which was retrieved from a dead body and with the post-mortem by Dr C Hattingh and he says that he kept the exhibit in government safe SMB00278. I will not be able to give you that because I am not a ballistic expert but I can tell you what I, obviously when

it was received then I would be able to read that report and I should be understanding what that is and I will be able to tell you where that came from, because that will obviously now be linked to a firearm that was used on the scene.

CHAIRPERSON: Your statement at the next page of Mr Mkhize's affidavit at DC000395, the next page, still on ...[intervenes].

MS WILLIAMS: Yes, I see that, yes.

CHAIRPERSON: Do you want to talk to paragraph 2 of that
10 statement?

MS WILLIAMS: Okay.

“On 8th of February 2012, I visited Durban Central SAPS and consulted with Colonel Holby regarding an exhibit that was seized at Gale Street mortuary by Warrant Officer RS Mkhize with the Durban Central CAS 185/2/2009, postmortem 233-2008. Colonel Holby summoned Warrant Officer RS Mkhize to his office and he was asked to provide an explanation as to what transpired after he uplifted the exhibit. Warrant Officer Mkhize went back to his office to check and he returned with the exhibit which was in a closed bottle. The bottle

20

contains a bullet. I then seized the exhibit and placed it in the ICD safe for safekeeping.”

CHAIRPERSON: Advocate Ramogale, I just want to ascertain from the witness and maybe you can also assist us if you have been able to find a document in the record that tells us that the bullet that was found in the head of the deceased is the one that was shot from the 9mm Parabellum that was handed over by Constable Lee.

10 **ADV RAMOGALE:** Yes, Chair, that was the evidence of Captain Mangena, but I will try with my limited ballistic knowledge to try and draw the connection.

CHAIRPERSON: You may not be able to do that. You can just take us to that part of Captain Mangena's report if you remember.

ADV RAMOGALE: Yes, and ...[intervenes].

CHAIRPERSON: Otherwise your colleague can look for that reference and then refer us to it.

ADV RAMOGALE: Yes. Yes, Chair.

20 **CHAIRPERSON:** We want to do a cross-reference.

ADV RAMOGALE: Indeed. Indeed. Chair, if I could start off with the ballistic report and then with document by document then draw the connection if I am allowed to.

CHAIRPERSON: Yes, if you can assist us with that.

ADV RAMOGALE: Yes, Chair. Ms Williams, if we could start

off with the ballistic report that appears at DC00087.

MS WILLIAMS: Give me one second. That would be in bundle?

ADV RAMOGALE: It would be the Durban Central bundle right at the beginning of the bundle. So 87, DC, or A18 as the cops would say.

MS WILLIAMS: Ja, I am almost there.

ADV RAMOGALE: Sure.

MS WILLIAMS: I do have 87 in front of me.

10 **ADV RAMOGALE**: Could you just tell the panel what is this document that we are looking at?

MS WILLIAMS: This is a ballistic report received from Sergeant Tilakdhary.

ADV RAMOGALE: Yes.

MS WILLIAMS: Sorry about that.

ADV RAMOGALE: And who is Sergeant Tilakdhary?

MS WILLIAMS: Sergeant Tilakdhary is a member attached to the ballistics unit in Amanzimtoti in Durban.

CHAIRPERSON: SAPS?

20 **MS WILLIAMS**: That is correct ma'am.

ADV RAMOGALE: We then, thank you Ms Williams. We then see from paragraph 3, which you will see at page DC00088, he sets out, after giving his qualifications he sets out the findings in his report. Could you just read that please?

MS WILLIAMS: You said at 3?

ADV RAMOGALE: Paragraph 3, yes.

MS WILLIAMS: Chairperson, I see here on what I have, there is just a little problem here. I have A18, I have 2.2, 2.7 and then the last one says Inspector Williams and then I am supposed to have 3 but then it goes to 4, so I do not know if perhaps there has been a problem but if you can perhaps put that up on the screen for me, because I do not see it here in our bundle.

10 **ADV RAMOGALE**: Sure, we will put that up just now.

MS WILLIAMS: Thank you. Sorry about this. Okay, I see that. You are talking about, okay, should I read that for you?

ADV RAMOGALE: Yes, please.

MS WILLIAMS: -:

“On 2009-02-06 and 2009-02-09 during the performance of my official duties I was requested by Inspector S Williams of the ICD to ballistically examine the body of Mr BE Mkhize, PM number 233/99 and also to ballistically examine the vehicle the deceased was lying in to determine the direction from which the deceased was shot from.”

20

I have the next one. I do have that.

ADV RAMOGALE: Alright, yes, please continue reading.

MS WILLIAMS: Okay.

“Upon arrival at the Gale Street mortuary the following were observed and noted by me. 4.1 9 possible entry wounds of which the following can be stated.

4.1.1 5 entry wounds which corresponds to 5 exit wounds; two 9mm calibre fired bullets found in the body of the deceased resulting from 2 entry wounds;

4.1.3 1 entry wound on the right buttocks with no exit wound;

4.1.4 1 entry wound on the left elbow with no exit wound.”

ADV RAMOGALE: Sorry, if you could just stop there. So you will see at 4.1.2 it says 2 9mm calibre fired bullets found in the body of the deceased resulting from 2 entry wounds. Is that the 9mm that you are referring us to?

MS WILLIAMS: That is correct, yes.

ADV RAMOGALE: And then if you read on at 4.2.

MS WILLIAMS: 4.2 says the following ...[intervenes].

CHAIRPERSON: How do you know that? I beg your pardon, how do you know that the 9mm is the one that you are referring us to?

MS WILLIAMS: Are you speaking to me, Madam Chair?
Chairperson, are you speaking to me?

CHAIRPERSON: Yes, Madam.

MS WILLIAMS: Okay. It says here ...[intervenes].

CHAIRPERSON: Wait a minute, Officer. Inspector, apparently this is your rank. Yes, you must remind me also if I am not directing a question to you because you are the one to answer questions here. Counsel is referring to paragraph 4.1.2 where it is stated that 2 9mm calibre fired
10 bullets were found in the body of the deceased and then he said is this the 9mm that you referred us to. Now I want to know, the 9mm refers to the Parabellum, is it not?

MS WILLIAMS: That is correct, Chairperson.

CHAIRPERSON: But here the ballistic expert is referring to, is examining or is analysing the calibre that was found in the body of the deceased but not necessarily the pistol itself. Am I correct?

MS WILLIAMS: Yes, it is the bullets that she is examining.

CHAIRPERSON: Yes. Counsel, do you follow what I am
20 trying to ascertain from the witness?

ADV RAMOGALE: Yes, Chair, I do. I do. Chair, the difficulty is you have, one has to read three or four reports together because there is a report that collects the cartridges and the guns and gives each serial number and there is a report that does the direction, I will call it that, and there is

a report that says this direction comes from this particular gun and so I just wanted her to confirm that before we go to the next report.

CHAIRPERSON: Yes, but what you said to the witness was the 9mm, but you did not say the cartridge.

ADV RAMOGALE: Right.

CHAIRPERSON: That is why I interposed.

ADV RAMOGALE: I apologize. Yes, yes.

CHAIRPERSON: Yes, thank you.

10 **ADV BALOYI-MERE SC:** And as a follow-up, remember from Ms Williams' statement we have two pistols. Constable Lee handed a 9mm Beretta and Inspector Stolz handed over a 9mm Z88. So if you say a 9mm in general then it causes confusion because we have got two, we need two to be specific. Thank you.

CHAIRPERSON: And if I may just remind you and the witness, the reason why we are in this exercise is to determine whether it was the firearm, the gun, the pistol that was used by Constable Lee that caused the injury. So we are
20 trying to make a link to that statement because we need to understand that there was a ballistic testing of that firearm that links it to the two cartridges that were found in the head of the deceased. So if you can assist with that when you do your cross references. Thank you.

MS WILLIAMS: Yes, Chair, I will try and assist on that to

the best of my ability on these ballistics. I just wanted to confirm with the witness that what we understand here is about the two 9mm but I understand the direction from the panel. So, Ms Williams, we were still on, we were about to get to paragraph 4.2, if you could just place that on record please.

MS WILLIAMS: Do you want me to start reading?

ADV RAMOGALE: Yes, please.

MS WILLIAMS: Okay.

10 “The direction of the 9 possible injury
wounds are as follows: 4.2.1, 6 were
fired from the right side of the
deceased; 4.2.2, 2 were fired from the
rear of the deceased; 4.2.3, 1 was fired
from middle to left of the deceased; 4.3,
3 possible shrapnel lacerations on the
right side of the deceased with no
corresponding exit wounds; 4.4, 1
possible shrapnel laceration on the right
20 arm with corresponding exit wound on
the right elbow; 1 superficial wound on
the left upper back and left side of the
neck.”

ADV RAMOGALE: And then we can just conclude off on that report by the conclusions reached at paragraph 5.

MS WILLIAMS: Do you want me to continue?

ADV RAMOGALE: Yes, yes please.

MS WILLIAMS: -:

10 “Upon arrival at the Isipingo Police pond
the following were observed and noticed
by me: 1 black Lexus vehicle with
registration number ND148765, driver
side windows and passenger side
windows were shattered; rear
windscreen was shattered; 3 bullet
10 impact marks on front windscreen;
driver side tyres and rear passenger
side tyres were punctured; 5.6, the
presence of lead vaporizing was also
present on various places of the vehicle;
5.7, 32 possible bullet holes on vehicle
which I marked as follows: 5.7.1, D1 till
D9, shots towards driver side of the
vehicle; D10 till D27, shots from the rear
20 towards driver side of the vehicle; 5.7.3,
P1 to P2, shots from the rear towards
the passenger side of the vehicle; 5.7.4,
W1 and W3, shots from the rear towards
the vehicle.”

Should I continue with 6?

ADV RAMOGALE: Yes, please, then we will move on to the next report.

MS WILLIAMS: Okay.

10 “Taking the above points, observations and documentations into consideration, the following can be concluded: 6.1, shots were fired from two different directions, angle ...[indistinct] vehicle was moving; 6.2, the wounds of the
10 deceased as well as the damage to the vehicle is typical of a high velocity bullet, 5.56, as well as a low velocity bullet, 9mm. It can also be stated that all possible shots were fired from the outside towards the vehicle.”

ADV RAMOGALE: Thank you Ms Williams. Now that is the first report I wanted to take you through that from my understanding tries to reconstruct the scene. There is now a second report by the same sergeant which marks the
20 respective guns together with the cartridges. If I could ask you to turn to A11.

CHAIRPERSON: Before you do that, Counsel, let me just take the witness to the statement of Inspector Dlamuka and Inspector, or rather Constable Nene at ...[incomplete].

MS WILLIAMS: Just remind ...[indistinct] I have got Mfene

...[indistinct] remind me again which number is Dlamuka's one, ma'am?

CHAIRPERSON: Let me actually, let me just ...[intervenes].

MS WILLIAMS: Oh, I have got it. It is fine, I have got it.

CHAIRPERSON: Yes, but let me rather take you to the version by the Cato Manor members who gave chase to the motor vehicle of the deceased. I do not have the specific one but I am just going to give you a broad, maybe we can look at the one by Inspector Stolz at DC000019, DC, volume 1,
10 000019, at paragraph 4.

MS WILLIAMS: It reads as follows:

“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
20 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.”

CHAIRPERSON: Just stop there.

MS WILLIAMS: Constable Lee – yes, ma'am?

CHAIRPERSON: Just stop there. Look also at DC000024.

It is the statement of, is it Constable Lee, the same volume.

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

CHAIRPERSON: Look at paragraph 3. You may read from the sentence that starts with "I followed", in the middle, almost in the middle of that paragraph.

MS WILLIAMS: Yes, I see that.

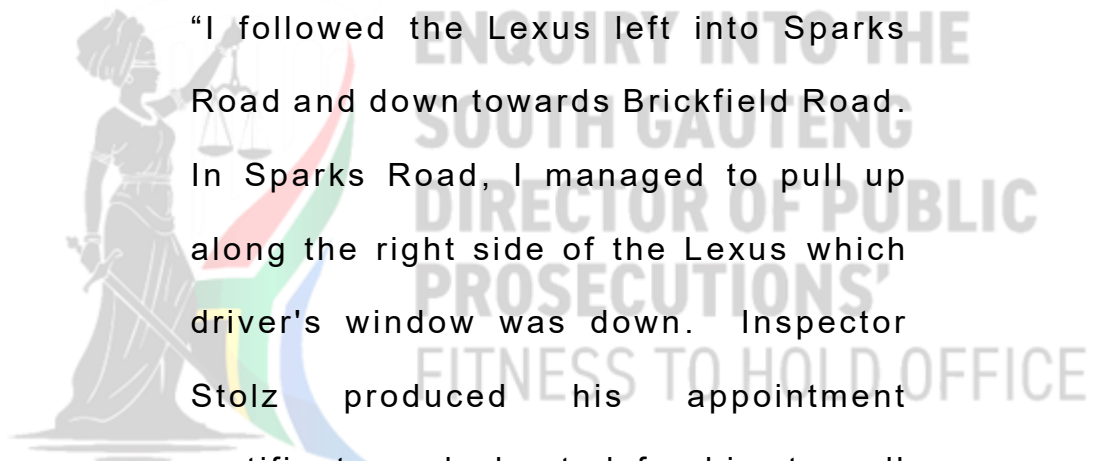
"I followed the Lexus left into Sparks Road."

CHAIRPERSON: Yes.

10 **MS WILLIAMS**: Got it.

"I followed the Lexus left into Sparks Road and down towards Brickfield Road. In Sparks Road, I managed to pull up along the right side of the Lexus which driver's window was down. Inspector Stolz 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 on to the right-hand side of the road, going contraflow through the intersection of

20



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 Rosslyn Road, continuing along Rosslyn Road before turning left in Pastoral Road. The car then turned left ...” [intervenes]

CHAIRPERSON: You may stop there. You may stop there.

10 What is common in this two statements of Mr Stolz and Mr Lee and others that I have now referred you to is that the window of the vehicle that was driven by Mr Mkhize was open. Do you see that?

MS WILLIAMS: Yes, I see that, ma’am.

CHAIRPERSON: Now when you look at the statements that you have just read to us, the report at paragraph 5.2, the report is DC000087. You read that part earlier.

MS WILLIAMS: Okay.

CHAIRPERSON: Paragraph 5.2, just read that.

20 **MS WILLIAMS**: 5.2 says:

“Driver side windows and passenger side windows were shattered.”

CHAIRPERSON: You remember at paragraph 3 of that report by the ballistic expert, he says on the 6th of February 2009 and the 9th of February 2009, during the performance of my

official duties, I was requested by Inspector S Williams, that is yourself.

MS WILLIAMS: Yes.

CHAIRPERSON: Correct?

MS WILLIAMS: Yes, ma'am.

CHAIRPERSON: Of ICD to ballistically examine the body of Mr Mkhize and also to ballistically examine the vehicle the deceased was lying in to determine the direction from which the deceased was shot from.

10 **MS WILLIAMS:** Yes, ma'am.

CHAIRPERSON: Now, 5.2, in line with that task, tells us that the windows, the side window and passenger windows were shattered. What does that tell us?

MS WILLIAMS: It tells us that the windows was closed, Madam Chair.

CHAIRPERSON: And this clearly contradicts the version of Mr Lee and Mr Stolz.

MS WILLIAMS: That is correct, Chairperson.

20 **CHAIRPERSON:** We also know from the testimony of Captain Mangena, who is also a ballistic expert, you may not have read his evidence, but as we remember, he told us that the windows of Mr Mkhize's vehicle were closed because those windows upon examination of the scene were shattered.

MS WILLIAMS: I understand, Chairperson.

CHAIRPERSON: Meaning that the analysis by Captain Mangena and of this aspect are consistent.

MS WILLIAMS: That is correct, Chairperson.

CHAIRPERSON: That being the case, that seems to suggest to me that the two officers, members of the Cato Manor unit, Mr Lee and Mr Stolz, were incorrect. Am I right?

MS WILLIAMS: That is correct, Chairperson.

CHAIRPERSON: Thank you. You may proceed, Counsel.

ADV RAMOGALE: Thank you, Chair. Ms Williams, the
10 second report I wanted to take you to by the same sergeant appears at DC000032.

MS WILLIAMS: Almost there.

CHAIRPERSON: Where are you, Counsel?

ADV RAMOGALE: Madam Chair ...[intervenes].

MS WILLIAMS: A12.

ADV RAMOGALE: DC, it is A12. Yes, it is DC000032.

MS WILLIAMS: [Indistinct]... Chairperson. You want me to start reading?

ADV RAMOGALE: Not yet.

20 **CHAIRPERSON:** 32?

ADV RAMOGALE: 32, Madam Chair.

CHAIRPERSON: You see, we struggle because some of the numbers are kind of defaced.

ADV RAMOGALE: Yes. Yes, that is right, Chair. It is written A12 at the top right corner.

CHAIRPERSON: A12?

ADV RAMOGALE: A12.

CHAIRPERSON: That is helpful.

ADV RAMOGALE: Yes.

CHAIRPERSON: Yes, thank you.

ADV RAMOGALE: Now, Ms Williams, before we get into this report, I would like for you to have to your side the affidavit that you did in which you tell the enquiry about the firearms that you had received. That would be at DC 000228. I mean,
10 ja, 000228.

MS WILLIAMS: 000228. Just one second. Yes, I have that in front of me, Chairperson.

ADV RAMOGALE: Now, could you tell us if we go back to A12, or DC 000, or 000032, what is this document that we are looking at?

MS WILLIAMS: Sorry, if - I am looking at DC000228 and you want me to go back to it?

ADV RAMOGALE: Yes, so what we are going to do is we are going to do a comparative analysis between what was
20 found in the ballistic report and the guns that were handed to you.

MS WILLIAMS: Okay.

ADV RAMOGALE: Right, so I would like for you to have both documents in front of you.

MS WILLIAMS: Yes, I do have.

ADV RAMOGALE: So what I was asking just now is what is this document that we are looking at, at DC000032?

MS WILLIAMS: Okay. This, Chairperson, is a ballistic report that was compiled by Sergeant Dylan Barry, attached to the ballistics unit, Amanzimtoti, in Durban, SAPS member.

ADV RAMOGALE: Right, now, if we go to paragraph 3 of his report, could you tell the panel what it is that he sets out there?

MS WILLIAMS: She says:

10 “On 2009-06-01, during the performance of my official duties, I received sealed exhibit bags with numbers FSG-417173 and FSD-175799 from the case administration of the ballistic section, containing the following exhibits. 3.1, one 5.56 times 45, calibre Vector model R5, fully automatic assault rifle with serial number 335672.

ADV RAMOGALE: Yes.

MS WILLIAMS: 3.2:

 “One 9mm Parabellum calibre Lu model
 Z88 semi-automatic pistol with serial
20 number Q020156.”

ADV RAMOGALE: Now, if you could just stop there and go back to your statement at DC000228 at paragraph 3.

MS WILLIAMS: Okay, would you like me to read out the whole paragraph?

ADV RAMOGALE: No, we are told here in this ballistic report

that the Sergeant received one 9mm Parabellum calibre Lu model automatic semi-pistol with serial number Q020156. On the basis of your report at paragraph 3, who handed you over Q020156?

MS WILLIAMS: That would have been Inspector Stolz.

ADV RAMOGALE: Then we move on to paragraph 3.3. Could you read that?

MS WILLIAMS: -:

10 “One 9mm Parabellum calibre Pietro Beretta model 92FS semi-automatic pistol with serial number H86407Z.”

ADV RAMOGALE: Now, if you stop there, on the basis of your report at DC000228, who handed you over the 9mm with serial number H6407Z?

MS WILLIAMS: Constable Lee handed over a firearm, 9mm Beretta, serial number H74632Z.

20 **CHAIRPERSON:** No, no, Counsel is asking you about 3.3, the serial number H86407Z. We are not yet at that Parabellum that was handed up, or over by Mr Lee. Let us deal first with 3.3.

MS WILLIAMS: 3.3 says:

“A 9mm Parabellum ...” [intervenes]

CHAIRPERSON: It will be helpful if you can take the witness straight there at that paragraph.

ADV RAMOGALE: Yes. So, Ms Williams, you have the

paragraph number 3, right?

MS WILLIAMS: Yes, 3.3.

ADV RAMOGALE: No, the 3 in your statement at 228.

MS WILLIAMS: Yes, I do have that, yes.

ADV RAMOGALE: Yes, and you say the officials handed over four firearms. Three firearms were hand weapons and one was a high calibre rifle. You have that?

MS WILLIAMS: Yes, I do.

ADV RAMOGALE: And then you start to set out who handed
10 over what. You start off by saying Constable Lee handed over a firearm, 9mm Beretta with serial number, and you set it out, used by him on the day of the shooting. Then you say Inspector Stolz handed over a 9mm Z88 with serial number, and we have gone through that one, during the shooting. And then you say the members also handed over two additional firearms, a 9mm Beretta with a serial number belonging to Inspector Padayachee, and then an R5 rifle with a particular serial number belonging to Inspector Maharaj.

MS WILLIAMS: Yes.

20 **ADV RAMOGALE:** You have that?

MS WILLIAMS: Yes, I see that.

ADV RAMOGALE: Right, now ...[intervenes].

MS WILLIAMS: Yes, I do.

ADV RAMOGALE: What we are doing is a comparative analysis between what the ballistic expert received and the

firearms that you also received. Where we were was at 3.3, in which the ballistic expert says they received a one 9mm semi-automatic pistol with a serial number. On the basis of what you have set out in this paragraph three, who does this gun belong to?

MS WILLIAMS: Okay, sorry, sorry, I did not understand ...[indistinct]. I actually am there now. It says the 9mm Beretta serial number H86407Z was belonging to Inspector Padayachee.

10 **ADV RAMOGALE**: Right. And then 3.4?

MS WILLIAMS: 3.4 says one 9mm Parabellum calibre Pietro Beretta model 92FS semi-automatic pistol with serial number H74632Z.

ADV RAMOGALE: And who does that gun belong to?

MS WILLIAMS: That one belongs to Constable Lee.

ADV RAMOGALE: Right, and 3.5?

MS WILLIAMS: 3.5 says one 9mm calibre fired bullet marked by me as 18592-03.

20 **ADV RAMOGALE**: And what would that be? I do not see a correlating number here.

MS WILLIAMS: I also do not see a correlating number here. The best person to explain that would be the ballistic expert.

ADV RAMOGALE: And then paragraph 4. So we have now identified that the gun at 3.1, sorry, yes, the gun at 3.2, Q020156 belongs to Inspector Stolz, yes.

MS WILLIAMS: Indeed.

ADV RAMOGALE: And then the one at 3.3, which is the semi-automatic pistol with serial number H86407Z, that would belong to Inspector Padayachee.

MS WILLIAMS: That is correct, yes.

ADV RAMOGALE: And then 3.4, the one 9mm with serial number H74632Z, that belongs to Constable Lee.

MS WILLIAMS: That is correct, Chairperson.

ADV RAMOGALE: All right. If you could just make a note
10 on your documents there about who the guns belong to so when we do this comparative analysis it would be easier.

MS WILLIAMS: I did that already.

ADV RAMOGALE: All right.

MS WILLIAMS: Yes.

ADV RAMOGALE: Then in paragraph 4, the ballistic expert tells us that on the 1st of June 2009, during the performance of his duties, he found the following. Could you just read that out?

MS WILLIAMS: 4.1?

20 **ADV RAMOGALE:** Yes.

MS WILLIAMS: -:

“9 x 19mm ...”

That is a 9mm Parabellum.

“Calibre fired cartridge cases marked
18592-09 (2), A, B, D, E1 till E3, F, G1

till G7, H, L, N, P and Z2 respectfully.”

ADV RAMOGALE: Respectively.

MS WILLIAMS: Respectively, sorry about that.

ADV RAMOGALE: Yes, yes. Now, there are, you might not be able to answer this but to those of us who have never read ballistic reports, what are these A, B's? What do those symbols mean?

MS WILLIAMS: That would obviously be the markings done by LCRC. It is either on the scene or where the shots and
10 the cartridges and everything was found, Chairperson.

ADV RAMOGALE: And then 4.2?

MS WILLIAMS: It says:

“9 5.56 x 45, calibre fired cartridge cases marked 18592-02 (2).”

And those would have been C, Q, R, S, T, U, W, Y
and Z.

ADV RAMOGALE: Yes, so is your answer the same here about what these symbols mean?

MS WILLIAMS: Yes, that is correct, Chairperson.

20 **ADV RAMOGALE:** And then we get told 4.3, what does the expert say there?

MS WILLIAMS: 4.3 says:

“1 9mm calibre fired bullet marked
18592-09 (2), B, B.”

ADV RAMOGALE: And then 4.4?

MS WILLIAMS: 4.4 says:

“9mm calibre tests marked 592-T1.”

ADV RAMOGALE: Thank you, Ms Williams. Madam Chair, it is almost tea time. This exercise is going to take some time, so I am mindful of that.

CHAIRPERSON: Yes, Counsel. Ms Williams.

MS WILLIAMS: Yes, Chair.

CHAIRPERSON: We are going to pause for a tea break for 30 minutes, say until quarter to 12.

10 **MS WILLIAMS:** Yes, ma'am.

ADV RAMOGALE: You are still under oath. We will proceed when we reconvene. Advocate Ramogale ...[intervenes].

MS WILLIAMS: Thank you.

CHAIRPERSON: We will proceed where you stopped at paragraph 4.

ADV RAMOGALE: Yes, Chair.

CHAIRPERSON: We adjourn.

ENQUIRY ADJOURNS

ENQUIRY RESUMES

20 **CHAIRPERSON:** Good day or good afternoon, everyone.

MS WILLIAMS: Good afternoon, Judge.

CHAIRPERSON: Good day. Good afternoon, Ms Williams.

MS WILLIAMS: Good afternoon, Judge.

CHAIRPERSON: Good day, *Nthati* Chauke. Good day, Counsel. You are trying to hide. I could see you.

ADV RAMOGALE: Yes, I thought of the incognito, but not so much.

CHAIRPERSON: Welcome back.

ADV RAMOGALE: Thank you, Chair.

CHAIRPERSON: Yes, thank you. Me Williams, you continue to be under oath.

MS WILLIAMS: I understand, Chairperson.

CHAIRPERSON: Advocate Ramogale, you may proceed.

ADV RAMOGALE: Thank you, Chair. Just before the tea
10 break, Mrs Williams, we were at DC000034. Do you recall that? That is A12. Sorry the numbering is a bit smudged here.

MS WILLIAMS: Ja. I have that, yes.

ADV RAMOGALE: Yes, and you had just read to us paragraph 4.1 and 4.2. Do you recall that?

MS WILLIAMS: I can recall that, yes.

ADV RAMOGALE: Yes. If you could just make a note, you recall I asked you about what these symbols mean in
20 paragraph 4.1 and your answer was that it correlates with the photos from the LCRC. Is that correct?

MS WILLIAMS: Yes, that is correct, yes.

ADV RAMOGALE: Yes, if you could just make a note of L symbols L, N, and P.

CHAIRPERSON: L?

ADV RAMOGALE: L, N, and P at 4.1, Madam Chair.

MS WILLIAMS: L?

ADV RAMOGALE: L, N, and P.

MS WILLIAMS: Yes, yes.

ADV RAMOGALE: Yes. Now the report ...[intervenes]

CHAIRPERSON: L, N, and P?

ADV RAMOGALE: Yes, at paragraph 4.1.

CHAIRPERSON: Where is P? Oh, yes, just next part.

ADV RAMOGALE: Yes.

CHAIRPERSON: Yes, thank you.

10 **ADV RAMOGALE:** Thank you, Chair. And Ms Williams, you are about to then read the remainder of the report. We can skip over paragraph 5, we can skip over paragraph 6, and then on the next page 7 as well, and then 8, and then if you could read what appears at paragraph 9.

MS WILLIAMS: I read as follows:

“9.1 The ...[intervenes]”

ADV RAMOGALE: No, the preceding sentence, I examined, and then onwards.

MS WILLIAMS: Oh, okay. I am starting at number 9. It
20 says, paragraph 9 says:

“I examined the test and exhibits mentioned in 3.5, 6.2, and 4.1 until 4.4, and compared the individual and class characteristics markings transferred to them by firearm components during the firing process using

a comparison microscope and found...”

ADV RAMOGALE: Yes.

MS WILLIAMS:

“Cartridge cases mentioned in 4.1 marked 18592-09(2)-A, B, D, E1 till E3, F, G1 till G7, and H were fired in the firearm mentioned in 3.3.”

ADV RAMOGALE: Now if you just stop there, where it says the cartridges cases mentioned in 4.1 and with the markings
10 were fired by the firearm mentioned in 3.3, you recall you made a note about who each firearm belongs to. Who does that firearm belong to?

MS WILLIAMS: 3.3 says:

“One 9mm Parabellum calibre Pietro Beretta model F belongs to Padayachee.”

ADV RAMOGALE: Yes, and then in relation to 9.2, if you could read that.

MS WILLIAMS:

20 “The cartridge cases mentioned in 4.1 marked 18592-09(2)-L, N, and P were fired in the firearm mentioned in 3.4.”

ADV RAMOGALE: Now in 3.4, who did you say this firearm belongs to?

MS WILLIAMS: That is Constable Lee.

ADV RAMOGALE: Thank you, Ms Williams. If I could show

you a different document, which would be, just a moment, Ms Williams. I will once again ask you to open up a document and compare. If you go to, the numbering is also a little cut off, I apologise to that for that to the Panel, it is A16 in the docket and it is number D000040. 46, I apologise.

MS WILLIAMS: I have 46, yes. I have it in front of me, Counsel.

ADV RAMOGALE: Yes, what is this document that we are looking at?

10 **MS WILLIAMS**: We are looking at a sketch plan that was drawn up at the scene at Umgeni Road of where this shooting took place.

ADV RAMOGALE: Yes, and who does it say it is drawn by?

MS WILLIAMS: Constable SC Mkhize, LCRC Durban.

ADV RAMOGALE: Thank you Ms Williams.

CHAIRPERSON: Pardon, you said D00040.

ADV RAMOGALE: 4-0. 000040.

CHAIRPERSON: 40.

ADV RAMOGALE: 4-6, sorry, 4-6. Sorry, Chair, the
20 numbering is cut off by the diagram.

CHAIRPERSON: You can refer also to the A numbers.

ADV RAMOGALE: Yes, thank you Chair. So we are at A16 of the docket.

CHAIRPERSON: Yes, thank you.

ADV RAMOGALE: And Ms Williams, if you just page a few

pages back at A15.

MS WILLIAMS: Yes.

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

MS WILLIAMS: This is the report from LCRC by Simphiwe Charles Mkhize.

ADV RAMOGALE: Yes, and what does he say at paragraph 3?

MS WILLIAMS: He says on 2009 ...[intervenes]

10 **ADV RAMOGALE**: Sorry, Ms Williams, a second. Sorry, A15, just two pages back.

CHAIRPERSON: A15, yes.

ADV RAMOGALE: Yes, Madam Chair.

CHAIRPERSON: Is this D000045?

ADV RAMOGALE: 42, Madam Chair.

CHAIRPERSON: 42?

ADV RAMOGALE: Yes, so it is the report that accompanies the sketch plan that we just looked at.

CHAIRPERSON: It starts at 42.

20 **ADV RAMOGALE**: Yes.

CHAIRPERSON: Yes, thank you.

ADV RAMOGALE: Thank you, Chair. Ms Williams, if you could read what appears at Paragraph 3.

MS WILLIAMS: I read as follows:

“On 2009-02-03, at approximately 15h00, I

went to the scene of crime, Umgeni Road, opposite number 1183, near BP Garage, where certain places and points were indicated to me by Detective Captain ST Murrin. On the scene, I photographed the deceased, exhibits and took measurements.”

ADV RAMOGALE: Now, thank you, Ms Williams. Now we then go to the document I started off with, which is A16.

10 **MS WILLIAMS:** Yes.

ADV RAMOGALE: And you have already told the Panel that A16 was drawn up by Constable SC Mkhize.

MS WILLIAMS: That is correct, Chairperson.

ADV RAMOGALE: Now, you recall I asked you to make a note of three symbols from the report. Do you recall what those symbols were?

MS WILLIAMS: L, M, I take it was L, P, and I cannot remember the other one.

CHAIRPERSON: L, N, P.

20 **MS WILLIAMS:** Ja.

ADV RAMOGALE: L, N, P. Is that correct?

MS WILLIAMS: Yes, I have got it here, yes.

ADV RAMOGALE: If you could just make a mark on that sketch plan about where L, N, P is.

MS WILLIAMS: Yes, I have that.

ADV RAMOGALE: Now, what I am going to put up on the screen is the ballistic reconstruction report done by Lieutenant Colonel Mangena, who has already given evidence on this aspect. And then I will ask you, with all of this in mind, to answer the Chairperson's question about how do you know, or at least how do you understand it to be, that the fatal shot came from Constable Lee. Do you see that report on the screen?

MS WILLIAMS: Yes, I can see on the screen, yes.

10 **ADV RAMOGALE:** For the purpose of the Panel, the Mangena report, I think, is available. We are at page 2A-85 of that report. 2A-85.

CHAIRPERSON: 2A-85.

ADV RAMOGALE: 2A, page 85. Yes, Madam Chair.

CHAIRPERSON: Yes, sir.

ADV RAMOGALE: Thank you, Chair. Now, Ms Williams, here is what Captain Mangena says in his report, paragraph 8. Do you see that on the screen?

MS WILLIAMS: Yes, I do.

20 **ADV RAMOGALE:** He writes:

“Both doctors' observations resulted to the conclusions that the cause of death was a low-velocity gunshot wound to the neck, and they are both in agreement that the bullet that perforated the neck was from right to

left and forward. In determining the possible bullet trajectory of the fatal shot, I am of the opinion that this shot was fired through the right rear door window, and it was most probably the bullet that perforated the headrest of the driver's seat. This shot was fired from the right side towards the back of the vehicle.”

And then he sets out there, photo 27, the position of the bullet
10 hole in the headrest. Do you see that?

MS WILLIAMS: Yes, I do.

ADV RAMOGALE: And then in paragraph 9:

“Taking into consideration the position of the bullet hole in the headrest of the driver's seat and the position of the fired cartridge cases on the crime scene, I am of the opinion that the shot was most probably fired from the area circulated on the photo below.”

20 And we are on the next page. Do you see the circle in the photo?

MS WILLIAMS: Yes, I do.

ADV RAMOGALE: At photo 28, and the repeated circle at photo 29?

MS WILLIAMS: Yes, yes, I see that.

ADV RAMOGALE: Now, if you compare the area that is circled in photo 28 and 29 with the sketch plan that we have looked at, what would your answer be to what is the most likely position of the fatal shot?

MS WILLIAMS: And you said the fatal shot was P.

ADV RAMOGALE: No, no, I am asking you.

MS WILLIAMS: Oh. It came from one of these three shots.

ADV RAMOGALE: I am sorry, Ms Williams, would you repeat that?

10 **MS WILLIAMS:** It came from one of the three shots that was included in what Charles Mkhize says, or what Mangena is saying here.

ADV RAMOGALE: Yes.

MS WILLIAMS: Can we just go back there?

ADV RAMOGALE: Yes. Do you have that sketch plan?

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

ADV RAMOGALE: Yes. If you compare A16 to where Captain Mangena says is the position of the fatal shot, where would you say the fatal shot arose from?

20 **MS WILLIAMS:** Can we just go back to the picture again?

ADV RAMOGALE: Sure.

CHAIRPERSON: Do you see where N is located?

MS WILLIAMS: Yes, ma'am. It is just a bit difficult. It looks like P. I am seeing the position of the vehicle, ma'am. I am seeing that.

CHAIRPERSON: Sorry, not on that picture, photo 28. Look at the sketch plan.

MS WILLIAMS: Yes, I am looking at the sketch plan, ma'am, yes. And it looks like when I look at...

CHAIRPERSON: Just mark where N is and P and L.

MS WILLIAMS: Yes, I see that.

CHAIRPERSON: In relation to the Toyota Quantum.

MS WILLIAMS: Yes.

CHAIRPERSON: Proceed, Counsel.

10 **ADV RAMOGALE**: Thank you, Chair. Now that you have marked it, Ms Williams, I will ask again. Based on your understanding of what you see in the photo, together with the sketch plan, what is the most likely position, or who fired the most likely, who was in the position to fire the fatal shot?

MS WILLIAMS: I hear what you are asking. By looking at the sketch plan, it looks to me like when I interpret, it is either N, it looks like N. And that is, I am not a ballistic expert, but it looks like N because I am looking at the direction and I am looking at the photo in front of me.

20 **ADV RAMOGALE**: And on the ballistic report that we looked at, where did number N or symbol N come from and whose firearm?

MS WILLIAMS: It says it is from a firearm marked 18592. Okay, I am just trying to see where I am going to find that information because I am looking here. There is two firearms

here that is marked by ...[intervenes]

CHAIRPERSON: You have already, I beg your pardon, I think you can lead her on that because we have already established on evidence. You will not be coaching her because we have already established through evidence whose firearm it was.

ADV RAMOGALE: Yes. So Ms Williams, would I be then correct that the shot, the fatal shot at P, N, or L came from the gun of Constable Lee?

10 **MS WILLIAMS:** Yes, 3.4, marked by 18592, yes.

ADV RAMOGALE: All right, thank you, Ms Williams. Now we go back then to paragraph 98 of your statement.

CHAIRPERSON: If I may, Counsel, when you look at the sketch plan, where would Mr Mkhize's vehicle be? Ms Williams?

MS WILLIAMS: It appears to be Z, Madam Chair.

ADV RAMOGALE: If I could assist Ms Williams, what is written at the top of Z, which is a bit above that figure?

MS WILLIAMS: Lexus.

20 **CHAIRPERSON:** Yes, thank you, I see now.

ADV RAMOGALE: Thank you Ms Williams.

CHAIRPERSON: Thank you very much.

ADV RAMOGALE: Now we go back to paragraph 98 of your statement.

MS WILLIAMS: Should I read?

ADV RAMOGALE: Yes, please.

MS WILLIAMS:

“On 9 February 2009, I attended the scene reconstruction attended by Dr Perumal, Mr Steyl, Sergeant Tilakdhary, and Inspector Daniels. What struck me once again, was there was no indication that any shots had been fired by Mr Mkhize from the inside of the vehicle.”

10 **ADV RAMOGALE:** Yes, please continue.

MS WILLIAMS:

“On 10 February 2009, Inspector Stoltz and Constable Lee came to my office to hand in the firearms they discharged during the alleged shootout with Mr Mkhize. Inspector Denver Daniels was also present.”

100?

ADV RAMOGALE: Yes.

MS WILLIAMS:

20 “Inspector Stoltz handed in his 9mm Z88 handgun with serial number QB020156 and Constable Lee handed in his 9mm Beretta handgun with serial number H74632Z. In addition, they handed in a further 9mm Beretta belonging to Inspector Padayachee

with serial number H86407Z and a rifle belonging to Inspector Maharaj with serial number 335672.”

ADV RAMOGALE: Yes, please continue.

MS WILLIAMS:

10 “I asked Stoltz and Lee why they had handed in firearms of officers who, as far as I was aware, had not been involved in the shooting and who had not been identified as shooters by Captain Govender. They explained that they had only discovered after the incident that Inspector Padayachee and Inspector Maharaj were involved in the shooting and suggested that the two officers may have left the scene early. This seemed highly improbable. I do not recall any incident I investigated in which a police shootist was not identified by the duty officer, immediately on the scene.”

20 **ADV RAMOGALE:** Yes, I think you have given testimony on this. And then at 102?

MS WILLIAMS: At 102, I further say:

“On 12 February 2009, I received a call from an ICD colleague, Mr Siphon Nene, who informed me of the interdict that Mr Mkhize

had obtained against SAPS, requiring Cato Manor SVC to contact his attorney in the event that they wished to question him.”

ADV RAMOGALE: Yes.

CHAIRPERSON: Before you proceed, sorry to interpose. When you go to 2A-87, paragraph 10, that is, is that Captain Mangena's report?

ADV RAMOGALE: That is correct, Chair.

CHAIRPERSON: Yes, thank you. Paragraph 10.

10 “According to ballistics report compiled by Sergeant P Tilakdhary...”

I do not know how to pronounce that surname;

“...dated 4 June 2009, cartridges cases marked...”

That number;

“...positively linked to pistol with serial number H86407Z and cartridge cases marked L, N and P...”

That counsel asked you about earlier;

20 “...were positively linked to the pistol with serial number H74632Z.”

That we know now is the 9mm Parabellum that was handed over by Constable Lee.

“These cartridge cases places the two shooters at the left back of the Toyota

Quantum, right back of the deceased's vehicle."

Do you see that?

MS WILLIAMS: I see that, yes, ma'am.

CHAIRPERSON: Now go to the sketch plan.

MS WILLIAMS: I have got the sketch plan with me, yes.

CHAIRPERSON: Yes. Now look at the position of the Lexus.

MS WILLIAMS: I see it, yes, Z.

CHAIRPERSON: And the position of the Quantum.

10 **MS WILLIAMS**: Yes, that is on the right hand side.

CHAIRPERSON: And the position of N, P, L.

MS WILLIAMS: Yes, I see that.

CHAIRPERSON: Does that correspond with the observations or analysis by Captain Mangena that I have just read to you?

MS WILLIAMS: Yes, it does, Chairperson.

CHAIRPERSON: In other words, N, P, L shows that the shooters were at the left back of the Toyota Quantum, right back of the deceased vehicle. Is that correct?

MS WILLIAMS: That is correct, yes, Chairperson.

20 **CHAIRPERSON**: Thank you, Ms Williams. You may proceed, Counsel.

ADV RAMOGALE: Thank you, Chair. Ms Williams, we are busy with paragraph 102 of your statement.

MS WILLIAMS: Yes.

ADV RAMOGALE: And you had read to us, or about to read

to us, what is contained in 102.

MS WILLIAMS: Yes. 102 states as follows:

“On 12 February 2009, I received a call from an ICD colleague, Mr Siphon Nene, who informed me of the interdict that Mr Mkhize obtained against SAPS requiring Cato Manor SVC to contact his attorneys in the event that they wish to question him.”

ADV RAMOGALE: Yes, please proceed.

10 **MS WILLIAMS**: May I continue?

ADV RAMOGALE: Yes.

MS WILLIAMS:

“I called Mr Mkhize's attorney and asked for a copy of the court papers. I was only given the court order itself and not the affidavits.”

And then it says Mkhize's order, A19.

ADV RAMOGALE: Yes. If I could just get you to confirm whether what appears at A19, which is at DC000092, is the order that you are referring to at paragraph 103 of your
20 statement?

MS WILLIAMS: One second. That is correct, Chairperson.

ADV RAMOGALE: And if you could just read what that order states at paragraph 1, and just paragraph 1, please.

MS WILLIAMS: Okay. It says, it gives the case number. Do you want me to read?

“That the respondents are interdicted from unlawfully killing, injuring, threatening, harassing, or in any way unlawfully intimidating the applicant.”

ADV RAMOGALE: And could you tell us, on the basis of this order, who are the respondents?

MS WILLIAMS: The respondents would have been the first one, Minister of Safety and Security, South Africa. Second respondent, member of the Executive Counsel, KZN, 10 Community Safety and the Liaison. Third respondent, SAPS Provincial Commissioner, KZN. Fourth respondent, Commissioner J Booysen, Head of the Organised Crime Unit, SAPS, KZN.

ADV RAMOGALE: And what is the date of this order?

MS WILLIAMS: It looks like something, sorry, it is not very clear, but it looks like it is a 2008 date.

ADV RAMOGALE: Yes, if you see the first page of the order, in the High Court of South Africa, Durban and Coastal Local Division.

20 **MS WILLIAMS:** Oh, sorry, sorry. I see that that is the 14th of November 2008.

ADV RAMOGALE: Thank you, Ms Williams. We then go back to then what you state in paragraph 104 of your statement.

MS WILLIAMS: Yes.

“By that stage, I believe the ICD needed to take over the investigation from SAPS and conduct a full investigation.”

ADV RAMOGALE: Now, let us stop there. Would you explain to the Panel why you believed that the ICD should take over from SAPS?

MS WILLIAMS: Chairperson, I have now conducted preliminary investigation into the shooting and the killing of Mr Bongani Mkhize. I now have enough information, enough
10 evidence for ICD to uplift for a full investigation. I have attended the post-mortem, I have been to the reconstruction, and now I have an interdict that I got from Mkhize's attorney that is now in my possession. So we are good to go as far as I am concerned.

ADV RAMOGALE: And what is it about those three pieces of information that you have just outlined now that informed you that the ICD should conduct what you call at 104, a full investigation?

MS WILLIAMS: I can clearly see by now that the shooting
20 is not justified. Therefore, the ICD should take over full investigation.

ADV RAMOGALE: Right. And you then set out that process at 105. Could you tell the Panel about that?

MS WILLIAMS:

“My request for a full investigation was

refused by my manager, Jerome Ncobo, and my immediate supervisor, Mr Chris Voster. I told Mr Ncobo and Mr Voster about the two alleged Cato Manor shooters who had not been identified by the duty officer on the scene and the fact that, contrary to the members' version, Mr Mkhize had been killed by a low-velocity firearm at close range. When I told them about the interdict Mr Mkhize had obtained against SAPS, Mr Ncobo did not mention that he was aware of the Cato Manor's involvement in the spree of KTA killings. They both told me not to pursue the matter.”

10

ADV RAMOGALE: Now, if we stop there, why did they say you should not pursue the matter?

MS WILLIAMS: Chairperson, I cannot give you an answer to that. What I can tell you is they both got it wrong, and I do not know, ma'am. I do not know.

20 **ADV RAMOGALE:** And then you say a second thing, that when you told them about the interdict that Mr Mkhize had obtained, Mr Ncobo did not mention that he was aware of Cato Manor's involvement. What do you mean by that? Can you just explain that?

MS WILLIAMS: Okay. Chairperson, at this stage, I also did

not know. But as time continued, as time passed, I actually became aware that there were other shootings that were also involved in the Cato Manor matter. So this was not the first person that was killed by SVC and I am talking about the KwaMaphumulo taxi buses. Nobody told me that. Nobody informed me about that at this stage. So in my mind, this was a single shooting. It was only this incident.

ADV RAMOGALE: Yes, Ms Williams, but what I am really asking about is what you say about Mr Ncobo. You say that
10 Mr Ncobo did not mention that he was aware of Cato Manor's involvement. And so that is why I am asking, what do you mean that he was aware, and where do you get this from? Can you just explain that to us?

MS WILLIAMS: At the latest stage in my investigation, Mr Ncobo was our manager. Mr Ncobo knows every shooting that comes in. He is part of the allocation panel. Everything that comes in goes through Mr Ncobo. So for me, Mr Ncobo should have told me at this stage that there were other killings also that was linked to killing or to the matter that I
20 was dealing with. And he did not inform me of that.

ADV RAMOGALE: I am still not sure how you knew at the time that he knew about the other shootings.

MS WILLIAMS: I did not know at that stage. Maybe I just did not state myself correctly in this. Because I only became aware of the other shootings at a later stage. At this stage,

I only know that this is one single incident.

ADV RAMOGALE: And is it at a later stage that you then learn about Mr Ncobo's knowledge?

MS WILLIAMS: Yes, I learned about it at a later stage. But at this stage, in my mind, it is only just this one. And maybe the reason I am mentioning this, Chairperson, is because I was thinking ahead. Maybe I went ahead of myself in this. But I think at this stage already, and coming to them with this information, Mr Ncobo should have informed me at this stage
10 already, so that I could know what to do next.

ADV RAMOGALE: So your evidence will be that your bosses knew new about all of this related to the Cato Manor killings?

MS WILLIAMS: That is my evidence, yes, Chairperson.

MS RAMAGAGA: Yes, thank you, Counsel. Ms Williams, is your conclusion that Mr Ncobo knew or ought to have known based solely on the fact that every killing that happened was reported to him? Or is there any other information that assists you in arriving at this conclusion, that he knew or he ought to have known?

20 **MS WILLIAMS:** Yes, ma'am, that is. But I speak to that later in my statement.

MS RAMAGAGA: Thank you.

ADV RAMOGALE: Thank you, Ms Williams. You then reach an end in paragraph 106 and 107 of your statement.

MS WILLIAMS:

“I was very disappointed by this response. If ever there was a case that ICD should have dedicated resources to, it was this case. The SAPS investigation into Mr Mkhize’s killing continued. I followed Detective Daniels’ investigation very closely and insisted that he report every development in the investigation, no matter how trivial.”

10 **ADV RAMOGALE**: Thank you. We then move ...[intervenes]

CHAIRPERSON: I think, Counsel, it is important for the completeness of the record at this stage, as she is now talking about what I consider to be a full investigation, following all these things that she has been talking about. Remember, madam, you spoke to us about the preliminary investigation which would have been shown in your form CD7.2. And here you are now talking about what you consider to have been necessary for the purpose of conducting now a full investigation. Am I correct?

20 **MS WILLIAMS**: You are correct, Chairperson.

CHAIRPERSON: And according to you, this full investigation was stopped by your seniors, Mr Ncobo and Mr Voster.

MS WILLIAMS: That is correct, Chairperson.

CHAIRPERSON: Thank you, Counsel.

ADV RAMOGALE: Thank you, Chair. So at that stage, no

further investigation was being done by the ICD.

MS WILLIAMS: Supposedly not, but I still continued.

ADV RAMOGALE: All right. We then come to the Pinetown matter. I think the Chair has a question.

CHAIRPERSON: Your bosses or your seniors told you not to pursue the investigation. You tell us now in paragraph 107 that the SAPS investigation into Mr Mkhize's killing continued. This is not your investigation, correct?

MS WILLIAMS: No, it is not my investigation, Madam Chair.

10 **CHAIRPERSON**: Did you nonetheless pursue the investigation as an IDC or ICD?

MS WILLIAMS: ICD. Yes, ma'am. I was not supposed to, but I could not let this go. So I still, when I could, still conducted the investigation and kept close tabs on Detective Daniels', Inspector Daniels' investigation.

CHAIRPERSON: What then came of Inspector Daniels' investigation of the SAPS?

MS WILLIAMS: Madam Chair, it was a bit disappointing. According to Inspector Daniels, this was an inquest right from
20 the start. I kept on pushing him. I kept on cautioning him. I kept on guiding him. Even brought witnesses to him. I informed him there is an interdict. The man was not listening to me. My fear at that stage is that this was going to go nowhere. I micromanaged Daniels, or at least I tried to micromanage Daniels and his investigation.

CHAIRPERSON: Was there, if ever, a comprehensive report from the SAPS, Mr Daniels, to the DPP, KZN?

MS WILLIAMS: No, ma'am. There was nothing like that. In respect of investigation, I can safely say this member was not interested in investigating this matter at all. Because he had already made up his mind and we had numerous discussions about this, where I cautioned him and I said to him, conduct a proper investigation. And he kept on telling me, no, ma'am, this is an inquest. I asked him, what is it that is telling him
10 that it is an inquest? Because what I have done, I have taken him, I actually summoned him to the post-mortem. He did not arrive.

On that day, I called Commissioner Pat Brown. I told him, I want your detective at the post-mortem. I took Inspector Daniels with me to the reconstruction, Madam Chair. He was present when all these things were discussed. I do not understand, I do not know why my understanding of what was being said by the pathologist and what was being discussed at the ballistics was not enough to convince this
20 man that something was amiss.

CHAIRPERSON: Did he then refer the matter for an inquest? Do you know?

MS WILLIAMS: No, ma'am, he did not refer the matter to an inquest. I suppose he was still investigating the matter. And suppose I was on his case, ma'am, about this matter.

CHAIRPERSON: What then was the end result of all this investigation?

MS WILLIAMS: Ma'am, at a later stage, you will actually see that I do get permission, but it takes a long time for me to get there. And it takes a lot of fighting and eventually convincing another colleague that we should take over the investigation, but we will get to that point. But eventually, I do get it right to take over the matter for full investigation.

CHAIRPERSON: If you know, was any decision taken by the
10 prosecution, KZN, regarding the prosecution in relation to this case of Mr Mkhize?

MS WILLIAMS: Yes, ma'am, we are jumping the gun, but I will answer your question. When I eventually got permission to uplift the docket for full investigation, I also got permission to open or to reopen the rest of the KTA shootings. And I linked these matters together because I looked at all the information. I conducted investigation into these other matters, also conducted freely now, investigation into the Durban Central CAS 185/2/2009 concerning Bongani Mkhize.

20 At some stage in my investigation, I realised that I needed assistance from the DPP's office.

Because of the previous investigations that I had conducted, I needed to make a decision how I was going to approach this matter with all the information that I had at hand. So what I decided to do is to go to Mr Ncobo, the

investigations manager, and ask him to contact the DPP's office for me and ask if they can allocate a prosecutor that can help me with this investigation and guide me in the investigation, because if ever there was an investigation that I had to get right, Madam Chair, it was this investigation, and especially the Bongani Mkhize investigation.

Not to say that the others did not deserve the same treatment, but because I understood the Bongani Mkhize matter best, and I still needed to catch up and sort of like fix
10 the mistakes that had been made by former colleagues of mine in those other investigations.

CHAIRPERSON: Sorry to rush you, Advocate Ramogale, I might have gone ahead of you. I see the next case would have been Pinetown, but at paragraph 113, you now refer to the opening of ICD investigations into the KTA killings. Is that what you are talking about now?

MS WILLIAMS: Yes, ma'am. We are talking about that now.

CHAIRPERSON: Yes. I might have rushed to go ahead of you, Advocate Ramogale.

20 **ADV RAMOGALE:** Chair, once again, we are in the Panel's hands. We just wanted to follow the evidence in chronological order so it all makes sense at the end.

MS RAMAGAGA: May I just come in here just to understand what happens when certain pronunciations are made. When your seniors tell you not to pursue the matter further, is there

anything that you have to do with the report or the docket?
Do you just file it there or what is the position after you have
been advised not to pursue the matter?

MS WILLIAMS: Ma'am, the only way I can answer that is
you are sort of like forced to finalise the matter. And
fortunately for me, with what I had, I decided to go against
whatever it is that they maybe wished for me to do because I
knew I was on to something good. I did not finalise that
matter. I kept it open. I made sure that I stood on top of
10 things. I was on top of Daniels' investigation where I could,
ma'am, and without permission. I still went around digging
around in the Bongani Mkhize matter. Am I ashamed of doing
that? Not at all. Because it was the right thing to do.

MS RAMAGAGA: Okay, so you did not do what usually
happens, that you close the file.

MS WILLIAMS: I did not close that file.

MS RAMAGAGA: Thank you.

MS WILLIAMS: No, ma'am.

CHAIRPERSON: You say you will not close that file.

20 **MS WILLIAMS**: I did not close that file, ma'am. I kept it
open.

CHAIRPERSON: You did not close it.

MS WILLIAMS: No, ma'am, I did not close it. I still continued
with my investigation.

CHAIRPERSON: Thank you, Counsel.

ADV BALOYI-MERE SC: Sorry, was that not insubordination?

MS WILLIAMS: Yes, ma'am, in a way you can say it was insubordination. But when you look at the facts and you look at what was happening and that ICD should have taken over because the shooting is clearly not justified, ma'am, I hear what you are saying, but where do you draw the line? And I felt that this was wrong. And no matter how much I explained the facts, and I was giving these gentlemen facts, ma'am. I
10 was not coming there with fiction or telling them a story. So they should have looked at facts because I thought in investigation that is what actually should drive an investigation, cold hard facts.

ADV RAMOGALE: Chair, may I proceed?

CHAIRPERSON: Yes. Proceed.

ADV RAMOGALE: Thank you, Chair. Ms Williams, we now move to, we will come back to Bongani Mkhize later ...[intervenes]

CHAIRPERSON: If I may?

20 **ADV RAMOGALE:** Oh, sorry.

CHAIRPERSON: I was actually thinking, what actually drives you to pursue these matters?

MS WILLIAMS: You are talking about these matters in a whole, ma'am, as a whole.

CHAIRPERSON: Let me say that Bongani Mkhize's matter

in particular, when almost everything seems to be against you, the odds seem to be against you, but you nonetheless, you seem to be so driven to pursue this matter. Would you tell us what drives you?

MS WILLIAMS: Yes, yes, Madam Chair. I attend the scene, Madam Chair. I get the opportunity to interview the NIU members and they give me the story. I eventually get onto the scene. I inspect the scene. I look at what I have. I go to the post-mortem. I engage with the pathologist, I listen to
10 what they are saying. Obviously, we have the reconstruction, ballistic reconstruction of the vehicle. In other matters, ma'am, permission would have been given. So why was it different now?

And I know this is not something that you can answer. But why was it different now? Why was the decision for full investigation different than with other matters? Because there were other matters where I had gone, where I had even a little bit less information, where permission was granted. Now, this, I did not understand the decision taken,
20 especially by Mr Ncobo, because he was our manager. I do not know what drove him to say no. But at this stage, because of the preliminary investigation conducted and by what I found, that should have been enough, ma'am.

And he should have actually asked me to really pursue this matter. I do not know why he made that decision.

Jerome is the only one that can explain that.

CHAIRPERSON: When you joined the police force, following your training, et cetera, you took an oath?

MS WILLIAMS: Yes, ma'am, I took an oath.

CHAIRPERSON: Please tell us about the oath.

MS WILLIAMS: The oath says to serve and protect.

CHAIRPERSON: I beg your pardon?

MS WILLIAMS: The oath says to serve and protect.

CHAIRPERSON: Your determination, as you have explained
10 to us, was it driven probably by the oath that you took as a
police officer?

MS WILLIAMS: Yes, ma'am.

CHAIRPERSON: Proceed, Counsel.

ADV RAMOGALE: Thank you, Chair, and thank you, Ms
Williams. I was about to take you to a different matter, as we
will come back to Durban Central, which is the Pinetown
matter. And that begins at your statement in paragraph 108.
Could you just tell the Panel about this matter and your
investigation into it?

20 **MS WILLIAMS:** I am starting at 108, Chairperson.

ADV RAMOGALE: Yes, 108.

MS WILLIAMS: It reads as follows:

“On 23 May 2009, Mr Sibongiseni Ndimande
was shot and killed by members of the Cato
Manor SVC. The lead ICD investigator

assigned to this case was Ms Mpanza. I was assigned to attend the scene with Ms Mpanza, although, as I explained, my participation in the scene inspection was limited. When I arrived at the scene of the incident, the scene had already been processed by SAPS and the LCRC. I discovered that Ms Mpanza had arrived quite some time before I did and had gone ahead with her inspection of the scene without waiting for me and did not give me a full briefing on her inspection. This was unusual, as it was standard practice for two ICD investigators to process the scene jointly, or, if this was not possible, for the investigator who was present to share all information gathered during the inspection.”

ADV RAMOGALE: Thank you, Ms Williams. If we could just stop there. Could I ask you why you, Ms Mpanza, on your version, went ahead to process the scene without you arriving there?

MS WILLIAMS: Chairperson, this will be speculation. I am going to say something very controversial now. Ms Mpanza, in my view, she was a bit shady. I did not trust her. Actually, when I got to see the Pinetown case, the matter, I actually

only connected it now to the KwaMaphumulo Taxi Association shootings. But in my testimony, we will actually discover why. Ma'am, I am just getting a bit emotional.

CHAIRPERSON: Sorry about that. Would you like to pause? May we take a short adjournment so that you can just compose yourself?

MS WILLIAMS: No, ma'am, I will try my best for us to continue, but if I cannot continue, I will let you know.

CHAIRPERSON: Are you sure you are in a position to
10 proceed? We may pause for a few minutes.

MS WILLIAMS: No, ma'am, I think we can continue.

CHAIRPERSON: Yes, thank you.

ADV RAMOGALE: So I take it then, Ms Williams, we will deal with the issue of Ms Mpanza later when we do the reconstruction, or the reinvestigation?

MS WILLIAMS: Yes.

ADV RAMOGALE: Please then continue on at paragraph
111.

MS WILLIAMS:
20 “When I intended to inspect the scene, Ms Mpanza told me there was no point in me doing so because the scene had already been processed and she had attended to it. I trusted that everything was in order and did not force the issue. In hindsight, I regret not

fact-checking with Ms Mpanza what Ms Mpanza told me and not asking for more details. Ms Mpanza did not reveal that the killing was linked to the Cato Manor SVC's investigation into the murder of Nkosi Zondi that was being investigated in Bhekithemba CAS 113/1/2009.”

If I can just make a correction, everybody seems to get the year wrong, Chairperson. It is supposed to be 113/1/2008.

10 **ADV RAMOGALE**: That is the correction at paragraph 112?

MS WILLIAMS: Yes.

ADV RAMOGALE: All right.

CHAIRPERSON: What is that? CAS?

ADV RAMOGALE: Ms Williams, would you just repeat that for the Panel? The Bhekithemba CAS number?

MS WILLIAMS: The Bhekithemba CAS number should read as follows, Chairperson. Bhekithemba CAS 113/1/2008.

CHAIRPERSON: Not 2009.

MS WILLIAMS: Yes, ma'am.

20 **CHAIRPERSON**: Thank you.

ADV RAMOGALE: Thank you, Ms Williams. We now move on to a different topic in your evidence which in your statement here is entitled the reopening of the ICD investigations into other KTA killings. Could you tell the Panel about that? That appears from paragraph 113.

CHAIRPERSON: I think she touched a bit of that earlier on. Maybe you can just ask her to touch those aspects that in relation to the points that I asked her earlier, so that you do not repeat what she placed on record. Should you not take her through the affidavit, Counsel?

ADV RAMOGALE: Yes, Chair. I am happy to take her through the affidavit from paragraph 113. Ms Williams, if you could just read from 113 onwards.

MS WILLIAMS: I am reading as follows:

10 “In or about the middle of 2009, I was contacted by the ICD Head Office's Communication Manorger, Mr Moses Dlamini, who enquired about the status of the investigation into Mr Bongani Mkhize's death. In the course of our conversation, he also made enquiries about a number of other cases involving the killing of the KwaMaphumulo Taxi Association members, KTA.”

20 **ADV RAMOGALE:** Sorry, Ms Williams, if you could just stop there. In paragraph 113, you make mention of a Mr Moses Dlamini. We have seen a Moses Dlamini in these dockets. Is this the same Moses Dlamini?

MS WILLIAMS: No, it is two different people but with the same name.

ADV RAMOGALE: So the one you are referring to at 113 is the Communications Manorger?

MS WILLIAMS: That is correct. The ICD Communication Manorger seated at our Head Office at this stage.

ADV RAMOGALE: Thank you. Sorry, I interrupted you. You were still reading at 114.

MS WILLIAMS: I will start from the beginning:

10 “In the course of our conversation, he also made enquiries about a number of other cases involving the killing of the KTA members, meaning the KwaMaphumulo Taxi Association members. He especially referred to Mandini CAS 76/9/2009, Harvey CAS 106 and 107/9/2009, Umkomaas CAS 235/10/2008, and KwaDukuza CAS 39/9/2009. He did not mention Pinetown case 100/5/2009. I informed Mr Dlamini that these matters had been handled by other ICD investigators and had all been finalised.

20 I told him that the Durban Central CAS 185/2/2009, the investigation was still ongoing.”

CHAIRPERSON: And this is the matter concerning the deceased, Mr Bongani MKhize.

MS WILLIAMS: That is correct, Chairperson.

CHAIRPERSON: That you continued to investigate.

MS WILLIAMS: That is correct, Chairperson.

ADV RAMOGALE: Yes, please go on at 115.

MS WILLIAMS: May I continue?

ADV RAMOGALE: Yes, please.

MS WILLIAMS:

10 “On or about 19 November 2009, I
 approached Len John, who was the Deputy
 Provincial Head of the ICD in KZN. I gave
 Mr John an overview of the Bongani Mkhize
 matter and explained that there had been
 numerous killings of the KwaMaphumulo
 Taxi Association members by Cato Manor
 SVC members, justified on the basis that the
 victims were allegedly implicated in the
 murder of Superintendent Concho on 27
 August 2008, investigated in Maphumulo
 CAS 99/8/2008, and the murder of Nkosi
 Zondi, investigated in Bhekithemba CAS
20 113/1/2008.

 As I have explained, I was unaware of the
 fact that the killing of Mr Ndimande in
 Pinetown CAS on 1000/5/2009 was
 suspected of killing Nkosi Zondi. Had I been
 aware of this, I would have asked Mr John

to authorise a reopening of the investigation into that case. Mr John agreed to have the following cases transferred to the ICD for full investigation by me as lead investigator:

116.1 Mandini CAS 76/9/2009, ICD-CCN number 2008-090467, a case involving the killing of Znameni Ntuli and Nkosinathi Mthembu, both members of the KTA.

10 116.2 Howick CAS 106 and 107/9/2009, with ICD-CCN number 2008-090103, a case involving the killing of Makojela Timsen Ndimande, the Vice Chairperson of the KTA, and Sibusiso Thokozani Tembe, his bodyguard.

116.3 Umkomaas CAS 235/10/2008, ICD-CCN number 2009-020095...”

Ma'am, if I can just make a correction, I think that CCN
20 number is incorrect.

CHAIRPERSON: What is the correct number?

MS WILLIAMS: Ma'am, if I can just quickly get my notebook and see if I can find a few, but this one is actually the Bongani Mkhize case. It is all etched in my brain, so I immediately picked this up. Just give me one minute.

CHAIRPERSON: We do.

MS WILLIAMS: Yes, I just want to make sure I have the right 2B5, yes I do have it in my notebook, ma'am, my personal notebook that I kept. May I read that for you?

CHAIRPERSON: Yes, ma'am.

MS WILLIAMS: It is supposed to be 2008-100379.

CHAIRPERSON: 2008. This is the ICD-CCN.

MS WILLIAMS: Yes, correct, ma'am, the case control number.

10 **CHAIRPERSON:** Yes, 20013.

MS WILLIAMS: And 2008-100379.

CHAIRPERSON: Would you please repeat that? 2-0-0-8?

MS WILLIAMS: 2-0-0-8-1-0-0-3-7-9.

CHAIRPERSON: 7-9. Yes, thank you. And that replaces 2-0-0-8-0-9-0-1-0-3.

MS WILLIAMS: Ma'am, two...

CHAIRPERSON: Is that the Howick one?

MS WILLIAMS: No, we are talking about the Umkomaas matter, ma'am, and the Umkomaas matter...

20 **CHAIRPERSON:** Oh, yes, thank you.

MS WILLIAMS: Ja, 116.3. 235/10/2008.

CHAIRPERSON: Yes, thank you. Thank you, Counsel.

ADV RAMOGALE: Thank you, Ms Williams. Please proceed. You were still reading 116.3, Umkomaas, where you were correcting the ICD number, and then you left it there. If you

could continue on from there.

MS WILLIAMS:

“...a case involving the killing of Nduduzo Mkhize, also a member of the KTA.

116.4 KwaDukuza CAS 39/9/2008, ICD-CCN number 2008-090103, a case involving the killing of Lindelani Buthelezi, a member of the KTA suspected of being involved in the killing of Superintendent Concho.

10

In accordance with the procedure described above, the SAPS dockets were transferred to the ICD, and ICD took over the SAPS investigation.

I had learned from experience that input from prosecutors in investigation can assist the investigator to identify and prioritise the critical evidence and increases the likelihood of a successful prosecution. With this in mind, I asked Jerome Ncobo to reach out to the DPP KZN’s office and ask for a referral to a prosecutor that I could work with on the reopened KTA cases. The then acting DPP, Sheriza Ramouthar,

20

recommended that I work with Advocate Anton Steinberg from the DPP's Durban office.

Due to the sensitivity of the investigation, arising from the prominence of the Cato Manor SVC and their working relationships with prosecutors and potentially the ICD, it was decided that the dockets in the KTA

10 Steinberg and myself. I worked with Advocate Steinberg between approximately December of 2009 and the middle of 2011, shortly before he took up a position at the International Criminal Court at The Hague in, I think, about October...”

I do not know if it is supposed to be 2010 or 2011, ma'am, I suppose it should be 2011.

20 “I had a productive and cordial working relationship with Advocate Steinberg. Over time, however, I grew frustrated with his approach and his reluctance to pursue a case against Cato Manor for the KTA killings. I also thought that it was peculiar that he was unwilling to record our communications in the investigation diary.

When I asked him about this, he explained that he worked closely with the Cato Manor SVC and even suggested that this gave rise to a conflict of interest. I was astonished by this response, as Advocate Steinberg had never raised his personal relationship with Cato Manor SVC.”

ADV RAMOGALE: Now, if we could stop right there. Initially, you have told us already that you had made a
10 recommendation to your superiors, Mr Ncobo, to continue the ICD's investigation and turn that into a full investigation. Would that be correct?

MS WILLIAMS: That is correct, Chairperson.

ADV RAMOGALE: Eventually, you ultimately make a request to Mr John Len, who you have told us... Or is it Mr Len John? I apologise, who was the Deputy Provincial Head of the ICD in KZN. Am I understanding that correctly?

MS WILLIAMS: That is correct, Chairperson.

ADV RAMOGALE: What made Mr Len agree with your
20 recommendation that these matters should be reopened?

CHAIRPERSON: Is that Mr John?

ADV RAMOGALE: Yes, Mr John, sorry.

MS WILLIAMS: If I may? When I set out what I found, the evidence that I found in these matters, when I explained to Mr John what happened and I explained to him the post-

mortem, what happened at the post-mortem, and the ballistics, the reconstruction, Mr Len John agreed with me that these matters should be taken over and that ICD should conduct full investigation because there was enough compelling evidence for us to run a full investigation.

ADV RAMOGALE: So he overruled Mr Ncobo?

MS WILLIAMS: Yes, he is Mr Ncobo's senior, so he had the authority to do so.

ADV RAMOGALE: So you now have received permission
10 from the Deputy Provincial Head of ICD in KZN and you have already told the Panel that you had asked, based on your experience, for a prosecutor to be attached to your investigation so that you could gather crucial evidence. Is my understanding correct?

MS WILLIAMS: That is correct, yes, Chairperson.

ADV RAMOGALE: And you have now told us that the person that was allocated to you was Advocate Anton Steinberg from the DPP's office?

MS WILLIAMS: That is correct, Chairperson.

20 **ADV RAMOGALE:** Could you just tell the Panel a little more about Advocate Anton Steinberg? Who was Advocate Anton Steinberg? What position did they hold in the DPP's office?

MS WILLIAMS: What I know about Advocate Steinberg is that he was attached to the Durban DPP's office. He worked mainly with organised crime, but this I only got to know at

this stage now when I was asking, why is he not making any recordings into my investigation diary? Because this is the document that I knew that would be recording whatever communication there is between myself and the prosecutor. I know that Advocate Steinberg was also the one that prosecuted the matter with the former president, Jacob Zuma, and what is that gentleman? But anyway, the ones that was for that corruption. So Anton Steinberg basically worked with anything organised crime, and I only found that out at that stage, madam. He held a senior position also in the DPP's office.

ADV RAMOGALE: Do you know which senior position?

MS WILLIAMS: I was not aware of the exact position that he held. I never asked.

ADV RAMOGALE: And at this time when Anton Steinberg is allocated to assist you in the course of your investigation, do you know who the DPP of KZN was?

MS WILLIAMS: Not really. The acting DPP was Sheriza Ramouthar from the Durban office.

20 **ADV RAMOGALE:** And you do not recall who was the predecessor when all of these investigations in your evidence were closed? All of these matters when they were closed?

MS WILLIAMS: Before Sheriza, it was Advocate Shamila Batohi.

ADV RAMOGALE: And do you know what happened to

Advocate Shamila Batohi, why Advocate Shamila Batohi left the DPP's office?

MS WILLIAMS: She went to the International Criminal Court.

ADV RAMOGALE: So you are now placed with Advocate Steinberg by the DPP KZN's office to conduct investigations. And in the course of that, you have told us now at paragraph 122, which you have just read, that Advocate Steinberg said that he had a conflict of interest. Could you just explain that a little more?

10 **MS WILLIAMS**: He said to me that he also worked with Cato Manor on their matters.

ADV RAMOGALE: Was this conflict disclosed to you at the onset?

MS WILLIAMS: No, Madam Chair, it was not disclosed to me. It is only when I started asking about him not recording and making entries into my docket or into these dockets because I needed to know why he was doing that. And this is the answer that I got.

ADV RAMOGALE: So you have made a request to the DPP's
20 office to receive assistance from a prosecutor.

MS WILLIAMS: Yes.

ADV RAMOGALE: And the prosecutor attached to you is a person who has a conflict of interest. And none of your investigative steps are being recorded.

MS WILLIAMS: No.

ADV RAMOGALE: What should the Panel make of that?

MS WILLIAMS: Madam, it is speculation, but I have my own train of thought on this. I am going to say that this thing was... It looks to me now in hindsight and where I am sitting that maybe this thing was still being controlled and I just did not know about it.

ADV RAMOGALE: And this Advocate Steinberg from the DPP's office also then happened to go to The Hague, the same Hague that Advocate Batohi went to.

10 **MS WILLIAMS:** Yes, this actually crossed my mind at some stage later.

ADV RAMOGALE: All right.

CHAIRPERSON: Do you know, if you do not know, say so? When ...[intervenes]

MS WILLIAMS: Ma'am, I knew she was there. At first, I did not think much of it. But later, that crossed my mind. But I did not really think much of it because I do not know Advocate Batohi.

20 **CHAIRPERSON:** Ms Williams, you went ahead of me. You went ahead of me.

MS WILLIAMS: Apologies, Madam Chair.

CHAIRPERSON: Yes. Do you know that Advocate Batohi left the office of the DPP KZN and was appointed in The Hague, in the International Criminal Court?

MS WILLIAMS: Yes, ma'am, I was aware of that.

CHAIRPERSON: Do you know when she left?

MS WILLIAMS: I am not too sure when she left. And I will tell you why I knew this. We had Advocate Shireen Lakhi. That was the provincial head at the ICD when I started there in 2007. And one of our investigators, Radwan Hafejee, one day we had a conversation while we, I cannot remember where we went to, and Radwan said to me that Advocate Shireen Lakhi and Advocate Sheriza Ramouthar and Shamila Batohi were friends. I do not know if they studied together.

10 I cannot remember the content of the conversation between myself and Radwan.

And he said that they all knew each other. And I said, okay. And Shireen Lakki left. And then sometimes Radwan would talk to me about these other two ladies. I did not know them. But he knew more. I am not from KZN, ma'am, so I do not really know what went on in KZN. And he would talk to me about these things. And it was just

information passed. It did not really mean anything. And I think also at some stage, Radwan was the one that said,
20 because he spoke about Sheriza, and he said that Advocate Batohi had left for the ICC at The Hague. And then here we are now. And Anton Steinberg also left for The Hague.

CHAIRPERSON: That was after Advocate Batohi's departure. In other words, Advocate Steinberg went later, after Advocate Batohi had left for The Hague.

MS WILLIAMS: Yes, I was aware of that. He went later than she did. She went first, and after a while, he went to the ICC.

CHAIRPERSON: Thank you.

ADV BALOYI-MERE SC: How long? You said Advocate Steinberg disclosed to you that he worked closely with Cato Manor SVC, and he suggested that this gave rise to a conflict of interest. How long a period into which you were working with Advocate Steinberg did he disclose this? Because you said you started working together approximately from
10 December 2009 to maybe the middle of 2011. So when exactly did he disclose this information to you? Was it at the beginning of working together or towards the end of working together?

MS WILLIAMS: I would say it was somewhere towards the end, I am not sure if I remember correctly. This was when I was or we were already deep into the investigations, that this information was related to me. Because I said to him, Advocate Steinberg, I am dealing with this matter, there needs to be a record of what is happening. Instead of doing
20 that, Advocate Steinberg actually gave me a two-page letter, a document with instructions, and I had to work from these instructions, ma'am.

And my mind was telling me, my instincts were telling me that this was not correct. Because everything that happens between a prosecutor and investigator is supposed

to be recorded on an investigation diary. And if I am incorrect about this, if I am wrong about that, I stand to be corrected, but that is not standard practice that I knew about. It is almost like he, I do not know what to say, ma'am. I do not know what to make of that.

ADV RAMOGALE: And you have already told us in paragraph 119 that given the sensitivity of the investigation and its prominence, it was decided that this would be an investigation that would be conducted between yourself and
10 Advocate Steinberg.

MS WILLIAMS: That is correct.

ADV RAMOGALE: Yet none of your steps, none of the information that you were finding the course of your work was recorded. Do you have a comment on that?

MS WILLIAMS: Ma'am, yes, what I have done is, even though Anton Steinberg did not record what he was doing, I still kept a record of what I was doing because that is the way that I was trained, that is the way that I was taught, and I stuck to my end of what I was supposed to do. But Advocate
20 Steinberg did not stick to what I knew he was supposed to be doing.

ADV BALOYI-MERE SC: While you were working with Advocate Steinberg, did you, at any given point, have a sense that he might be sabotaging the investigation, given the relationship that he has with Cato Manor that he later

disclosed to you?

MS WILLIAMS: Yes, ma'am, and I will tell you exactly when that was because this is now when I started becoming very uneasy with Advocate Steinberg. I had located a witness, Madam Chair, and I do not want to speak a lot about the witness, given Cato Manor's history. This witness ...[intervenes]

CHAIRPERSON: I beg your pardon, I beg your pardon, there is a discussion between Advocate Chauke and *Nthathi*... It is
10 coming here. It may be disturbing the recording because I can hear the sounds from your side. I suppose if you would like to excuse yourself for a minute to talk, you may do so. But if you can just allow the recording to go undisturbed. Thank you. I am sorry, madam, I interrupted you. You may proceed to answer my sister's question.

MS WILLIAMS: Yes, Chair. I had found, I had traced a witness, Madam Chair. Actually, there was two witnesses. Now, I did not record any of these witness particulars in the docket, and I had very good reason to do that. First of all, I
20 did not want the witness's information to be known by anybody else except myself and Advocate Steinberg at that stage. And that was for safety reasons for these witnesses because I knew exactly who I was dealing with.

I spoke, I remember I went to Advocate Steinberg's office as was the norm because I spent, during that time, I

spent a lot of time in Advocate Steinberg's office at the NPA building in Durban. I told him, Advocate Steinberg, I have these two witnesses and the one in particular, the other one we were going to park for later. I said to him, this person was an eyewitness and had seen what had happened because this person was standing at a particular point.

He probed me about the witness. I gave him information. He asked me, do you know the name of the witness? Do you know how to contact the witness? I said to
10 him, yes, I do have the witness's telephone number. I have his name. The witness is comfortable with me, Shamila Williams. He is comfortable with sharing information with me. I gave Advocate Steinberg the information. Advocate Steinberg then called the witness, ma'am, in my presence.

We had a conversation with the witness. He asked the witness specific questions in relation to the Durban Central CAS 185/2/2009 relating to Mr Bongani Mkize. When Advocate Steinberg was done with that conversation, he then addressed me. He said to me, Shamila, you are going to have
20 a problem with this witness because there is no money in the witness protection programme. I am sitting there. I am looking at this man that is telling me now there is no money. And he is discouraging this witness.

We are having this conversation, and he is discouraging the fact that this witness must now give a

statement and should actually be made known or should be recorded in this investigation. Now, I found this highly irregular. And he just kept on, there is no money for witness protection. And he is telling me that this man has got a good job, and what happens to his family, and he will now be living lower than the income that he has now and he is wondering if this witness is going to be comfortable with that.

Ma'am, that stunned me. I looked at this man, and I am thinking to myself, but I am bringing you this witness, and
10 this is a witness, and you are telling me about witness protection. And he was very reluctant, very reluctant to use this witness, ma'am.

ADV BALOYI-MERE SC: Thank you.

ADV RAMOGALE: So how would you describe that then, Ms Williams, the impact of that kind of decision on your investigation?

MS WILLIAMS: For me, he was becoming an obstruction now, Madam Chair.

ADV RAMOGALE: And why do you think that is? Why do
20 you think he was becoming an obstruction?

MS WILLIAMS: I did not think much of it at this time, but when I look back in retrospect, I think he was protecting Cato Manor. That is the only conclusion I can draw.

ADV RAMOGALE: Well, you have told us that he had disclosed to you that he had a conflict of interest with Cato

Manor.

MS WILLIAMS: Yes.

ADV RAMOGALE: And so would that conflict have anything to do with his approach to the investigation? One, not recording the steps that you were taking, and two, you have now told us about a crucial witness, which, in your words, he obstructed from the investigation. What should we make of that?

MS WILLIAMS: Yes, maybe he was in conflict, but if I was
10 in his shoes, ma'am, I would have said I withdraw and get somebody else. I do not know how to answer that, ma'am. I am sorry, I am getting a little bit emotional because I am actually realising a few things now.

CHAIRPERSON: Advocate Ramogale, I think this is an appropriate time to pause for lunch. Ms Williams, we are going to pause for lunch for an hour. We will reconvene at half past two. That will give you a chance to reflect on what you want to talk about, if you wish, and compose yourself again, as I repeat that these matters are spirit-draining. We
20 appreciate that. But do take a break, take a deep breath, and come back at half past two.

MS WILLIAMS: Thank you, Madam Chair.

CHAIRPERSON: You are still under oath, remember?

MS WILLIAMS: I understand that, Madam Chair.

CHAIRPERSON: We will pause for lunch. Thank you.

MS WILLIAMS: Thank you.

ENQUIRY ADJOURNS

ENQUIRY RESUMES

CHAIRPERSON: Good afternoon, everyone. Good afternoon, Advocate Chauke. Good afternoon, Ms Williams.

MS WILLIAMS: Good afternoon, Madam Chair.

CHAIRPERSON: You continue to be under oath.

MS WILLIAMS: Yes, Madam Chair.

CHAIRPERSON: You may proceed, Advocate Ramogale.

10 **MS WILLIAMS:** Thank you, Chair. Ms Williams, good afternoon. When we left off before the lunch break, you had said that a lot of things were starting to connect now and make sense. Could you tell the enquiry about that?

MS WILLIAMS: Madam Chair, at that stage, I could not make any connections. But from the position that I am now, I ask myself, why did Advocate Steinberg make all these decisions that I did not understand? And why at some stage did Advocate Steinberg make a decision that the investigation now stop and he asked Advocate Barry Madolo to make a
20 decision, not by himself, he gives it to somebody else and says formal inquest. That is weird.

ADV RAMOGALE: So you have now made mention of Advocate Barry Madolo. Who would that be?

MS WILLIAMS: Advocate Barry Madolo was one of the DPPs assigned to Durban DPP's office. He was a colleague of

Advocate Steinberg.

ADV RAMOGALE: Yes, and what was Advocate Barry Madolo's role in this? I just need clarity on that.

MS WILLIAMS: I am sorry, Madam Chair, it is just that Anton ambushed me on that day. I was summoned to his office and when I got to his office, it was Advocate Steinberg, Advocate Barry Madolo and then myself. Advocate Steinberg started the conversation. He introduced me to Advocate Barry Madolo and said that he is handing over to Barry Madolo.

10 Then he proceeds, speaks to Advocate Madolo and says to him this is the Durban Central case and the KTA matters and he recommends that Barry Madolo make the recommendation for a formal inquest.

At no stage did he ask Barry Madolo to read through any of my dockets. And yet in my presence, he is telling Barry Madolo to do that. Advocate Barry Madolo then said to Advocate Steinberg that it is fine, he will do that. I stood there, ma'am, dumbstruck. I had no idea what was happening. Barry Madolo had not read one statement in any
20 of the KTA dockets. I did not know what to do. I was ambushed. And I have done all this work. I thought that we are going to get somewhere finally for the first time. And here I was.

ADV RAMOGALE: Just clarify for us, Ms Williams, the seniority of Advocate Barry Madolo in relation to Advocate

Anton Steinberg.

MS WILLIAMS: That I will not be able to answer to you. I have no idea.

ADV RAMOGALE: And you being in the room, what was your sense about the information being conveyed by Advocate Steinberg to Advocate Madolo? Was it a request? Was it a decision? Was it an instruction? Just tell us what it was that was being conveyed to him.

MS WILLIAMS: Anton Steinberg had made a decision. And
10 what he ultimately wanted Advocate Barry Madolo to do is to just endorse that decision and do what he said, but not he himself, but it was almost like he was passing this on to Advocate Barry Madolo. Because remember now, there is no entries from him, there is no record whatsoever, and it is not his decision, but it is actually his decision because he is telling Advocate Madolo what to do.

ADV RAMOGALE: And what is your reading of that? I mean, Advocate Madolo is in the room with you. He, as you correctly say, has not read a page from any of these dockets. Yet a
20 recommendation, I will put that in inverted commas, is being made to him. What is it that we are to make of that? How is Advocate Madolo to make sense of that?

MS WILLIAMS: It is the point that actually got to me. He cannot make that decision. He has not seen a statement. He has not consulted with me. He has not asked me one

question, and yet his colleague is telling him what to do, and he actually complied with what the colleague was saying. And, ma'am, to be quite honest, I felt so defeated and disappointed. I did not know what to say even in that meeting.

ADV RAMOGALE: Would it be unfair of me to say that this, what was being conveyed to Advocate Madolo, was a pretence of a recommendation?

MS WILLIAMS: Yes, yes, Chairperson.

10 **ADV RAMOGALE:** So, in a matter in which Advocate Steinberg has not recorded any of the actions and decisions and processes of your investigation, no record from the NPA's end, here is a new advocate who is thrust with a recommendation in inverted commas to take the matter to inquest, and the same advocate has not read a docket, not a page in a single docket. What does that say about the decision-making processes related to this and the NPA?

MS WILLIAMS: The NPA did not make a correct decision in the docket. I do not know what to say, Chairperson.

20 **ADV RAMOGALE:** Was the referral to an inquest the continuation of your investigation? Did you continue running with it, or did it bring it to an end?

MS WILLIAMS: It was supposed to bring it to an end, but I still did a few investigations here and there. I actually went to the Durban Magistrate Court, and I spoke to Lolly

Subramanian [?], who was one of the SPPs at Durban Magistrate Court. I discussed the matter with her.

I asked Lolly [?] what I was supposed to do now. I know that Lolly is in a more junior position than the DPP, but I trusted Ms Subramanian's input, and I trusted the decisions because I had known her very well. And Lolly and I discussed the matter, and she actually said to me to take the docket to the prosecutor at court, and I just cannot remember his name. I think it was Mr Mthembu.

10 I trusted Lolly, but I did not know who this prosecutor was. And now I had another concern. I did not know what was going to happen to my docket. If I give the docket to this prosecutor, is the docket going to get lost? I just did not know, and I did not know if I could take the docket. I was in a very difficult position, Chairperson.

I have done all this investigation, and now I am here at a point where I do not know the road further. I decided not to take the docket. I still continued with a few investigations here and there, even though it was reconsidered, finalised
20 from the DPP's point of view. I also subsequently, I approached Vaneshree Moodley. She is the control prosecutor at Durban Magistrate Court.

I have also built up a good relationship with Vaneshree Moodley. Vaneshree then, with another prosecutor, I just cannot remember his name. They took me

to the chief at Durban Magistrate Court. The chief and I discussed this matter. I cannot recall exactly what it was that he said, but he said to me I am going to have to find a way or something like that. I cannot remember his exact words.

He said to me he understood my position, and I should come back to him at a later stage. I did not get a chance to go back to him because that is now when the Cato Manor thing broke in the newspaper. I do not know what to
10 say to you, ma'am, because I do not understand the decision that was taken that day at the Durban DPP's office.

ADV RAMOGALE: If we take a few steps back, Ms Williams, into that room where you are being told about the decision, what was your understanding about what you ought to do? Was it the understanding that this should bring your investigation to an end, or were you being told continue investigating whilst the matter is being referred to an inquest?

MS WILLIAMS: No, it was to bring my investigation to an
20 end. I was then supposed to prepare an inquest document, and then obviously take it to the prosecutor, and then they would arrange for this formal inquest. But I knew there was sufficient evidence for a successful prosecution, and I was feeling very defeated at that stage.

ADV RAMOGALE: And this is what you explain at paragraph

123 of your statement?

MS WILLIAMS: That is correct, yes.

ADV RAMOGALE: If you could just read that, please?

MS WILLIAMS:

10 “Despite the progress I made in my investigations, they were abruptly terminated by Advocate Steinberg in or about August of 2011, around the time he informed me that he would be taking up a position at the ICC in ...[indistinct].”

ADV RAMOGALE: And in fact, whilst we are on this particular topic because we are here, if I could ask you to go a few pages forward to your statement at paragraph 155?

MS WILLIAMS: I read as follows:

“In or about August...”

Sorry, ma'am, I just see no dates here. We just need to get that sorted out:

20 “...Advocate Steinberg informed me that he would be taking up a position at the ICC...” ...[intervenes].

ADV RAMOGALE: Sorry, Ms Williams, if I could just stop you there. You said there was an issue with the date there. What should the correct date be?

MS WILLIAMS: I am not sure about that. I think it is 2011.

ADV RAMOGALE: Yes, because I think at paragraph 123

you say 2011, and here it is 2010. So which of the two is an error?

MS WILLIAMS: I think, I stand under correction, it is 2011.

ADV RAMOGALE: All right. Yes, please continue.

MS WILLIAMS:

10 “Advocate Steinberg informed me that he would be taking up a position at the ICC and that the DPP had decided that all the KTA matters we had been investigating would be referred to a formal inquest. I felt blindsided by this decision for a number of reasons. I had not completed my investigations and Advocate Steinberg knew this. I had made significant progress and uncovered critical evidence. At no point did Advocate Steinberg say to me that he believed that these cases should not be referred for prosecution.”

20 **ADV RAMOGALE:** Yes, if you could continue on 156 and 157?

MS WILLIAMS:

“I never received an explanation from this ...[indistinct] from Advocate Steinberg or anyone else in the NPA. The referral to a formal inquest would not end up to the

ICD's investigation into the KTA killings. It was only after the publication of the Sunday Times expose that an IPID task team was established to continue my investigations. When I heard or learned of this, I made it clear that I would meet with the investigators and walk them through my investigations. Regrettably, the task team members never took me up
10 on this offer.”

ADV RAMOGALE: So here you are. You have done quite a considerable amount of work on these dockets. You have been met by obstruction at the ICD. You have been met by decisions made by persons conflicted at the NPA. You have been sent from pillar to post with your investigations. What should the Panel make of that?

MS WILLIAMS: Somebody tried to stall this investigation by all costs.

20 **ADV RAMOGALE:** And yet, as you told us on day one of your evidence, the ICD was mandated to look into these very serious allegations in fulfilment of its constitutional obligations.

MS WILLIAMS: That is correct, Madam Chair.

ADV RAMOGALE: Thank you, Ms Williams. You then go on at 124 to begin to describe the investigations that you took

into the seven dockets.

MS WILLIAMS: I continue at 124:

“In what follows, I describe the investigation I conducted into the seven of the dockets that formed the subject of this enquiry, including my further investigation into Durban Central CAS 185/2/2009. I then address the statement I made in the Umlazi CAS 585/1/2011 matter. My

10 further investigation into Durban Central CAS 185/2/2009 from 125, paragraph 125. I commenced a full investigation into Bongani Mkhize’s death in or about November 2009. The evidence I gathered in the course of this investigation led me to conclude that the police’s actions had not been justified and to recommend that the implicated NIU and Cato Manor SVC members be charged with murder. One of

20 the critical developments in my investigation was the identification of two contemporaneous witnesses to the incident. The first witness was ...[indistinct] viewed the entire incident from the first floor of a building along the

Umgeni Road. The witness had a full and unobstructed view and saw how the shooting took place. The witness confirmed that Mr Mkhize had not shot at the police and that the witness did not see Mr Mkhize with a firearm. I did not mention this witness in the ICD docket because I did not want to put them at risk. I did, however, tell Advocate Steinberg and arranged for him to speak and call the witness. After the call, Advocate Steinberg discouraged me from pursuing this evidence further and warned me that there would not be sufficient budget for witness protection...” ...[intervenes].

10

ADV RAMOGALE: Ms Williams ...[intervenes].

MS WILLIAMS:

“The second witness had been on the phone with Bongani Mkhize...”
...[intervenes].

20

ADV RAMOGALE: Ms Williams?

CHAIRPERSON: Ms Williams?

MS WILLIAMS: Yes.

CHAIRPERSON: Just pause there, Ms Williams. Counsel is asking you to stop.

MS WILLIAMS: Yes, Chairperson.

ADV RAMOGALE: Ms Williams, I was going to ask you, when Advocate Baloyi-Mere SC earlier asked you about Mr Steinberg and what you made of this particular conflict of interest, the example you used was of a witness that you mentioned to him. Is this the witness that you are speaking of here at paragraph 127.1 and 127.2?

MS WILLIAMS: That is correct, Chairperson.

ADV RAMOGALE: Yes, sorry, I interrupted you. You were
10 still reading at 127.3.

MS WILLIAMS: Not a problem:

“The second witness had been on the phone with Bongani Mkhize while he was driving to his attorney's office, where the police began chasing Mr Mkhize. He told the witness what was happening and that he feared for his life. I deliberately did not take the statement at that time, again out of concern for the witness's safety. I only
20 told Advocate Steinberg about the witness and intended to file a statement once the DPP's office had decided to prosecute. I do not know if the witness's statement was ever taken.”

ADV RAMOGALE: Now, if we just stop there. So, could you

just tell the Panel what it is that the second witness conveyed to you about what was being told by him, by Mr Mkhize, when all of this was happening?

MS WILLIAMS: This was through Mr Mkhize's attorney, Esther Malloy [?]. This is a female person, a good friend of Bongani Mkhize. I did not personally speak to her. Mr Malloy spoke to her. She said that she received a call from Bongani Mkhize and that he was scared and he was telling her about what happened. My intention was not to draw any attention
10 to this witness.

So, I parked this witness because I was scared information was going to be leaked to Cato Manor. I am going to explain why I am saying that, Madam Chair. The two pages with the instructions that I got from Anton Steinberg, it was in the ICD file. The docket itself stayed at the DPP's office. There was one stage when the file was with Mr Nene in his office. The file was taken from Mr Nene's desk and Mr Nene informed me about it.

I contacted Advocate Steinberg telephonically and I
20 told him what had just happened. Advocate Steinberg advised me to go to Durban Central Police Station and open a case for defeating and obstruction of justice. As I was about to leave the ICD office in Gardiner Street, Mr Nene ran after me again and he told me that the docket had now recklessly reappeared in his office.

I went with him to his office. We looked at my file. The instructions that I was given by Advocate Steinberg was not in there. My original notebook was missing. So, I suppose, ma'am, what I can derive from what happened there, there was a ...[indistinct] in my office. I always suspected it and bearing with what I have just said about the witnesses, that is one of the reasons that I did not want to put anything in my docket. And what I feared had happened, the instructions had now gone. I do not know who took them. I
10 do not know who took my notebook, but those were not in that file anymore.

ADV RAMOGALE: So, just walk us through this slowly. Is your evidence to the enquiry that you had a docket with your ICD documents and information that you were putting in there?

MS WILLIAMS: Yes, that is correct.

ADV RAMOGALE: And is your evidence that that particular docket at some point disappeared from the ICD offices?

MS WILLIAMS: Not the docket. The docket was at the DPP's
20 office. The ICD file is a file for our reference. However, as you go along, you make copies of the docket and you file it in that file. The file and the docket should speak to each other.

ADV RAMOGALE: So, what then went missing that led to you being advised to open a case of defeating the ends of

justice?

MS WILLIAMS: It was the instructions that I received from Advocate Steinberg as well as my notebook.

ADV RAMOGALE: So, there were documents from your office related to this investigation that went missing?

MS WILLIAMS: I would not particularly say documents from our office. It was the two-page instruction from the DPP's office and my own notebook that I kept for this investigation.

ADV RAMOGALE: And you said what happened to those
10 particular documents?

MS WILLIAMS: That went missing.

ADV RAMOGALE: And it went missing where?

MS WILLIAMS: It went missing out of Siphonene's office.

ADV RAMOGALE: And who is Siphonene?

MS WILLIAMS: Siphonene was one of the principal investigators at ICD. Siphonene is also the same person that alerted me to the interdict that Mr Mkhize had.

ADV RAMOGALE: And why were these particular documents in Mr Siphonene's office?

20 **MS WILLIAMS:** Mr Nene was going to go through my file so as to see where I was with my investigation.

ADV RAMOGALE: And it is this file that you said when you went to see Mr Nene it was missing?

MS WILLIAMS: Ja, the file went missing and it miraculously reappeared but without the two-page instruction and without

my notebook.

ADV RAMOGALE: What should the Panel make of that, Ms Williams?

MS WILLIAMS: Somebody in my office was working with Cato Manor. That is the only conclusion I can draw because I was the investigating officer. The person had no business taking my file, removing anything from that file. So something here was just not right.

ADV RAMOGALE: And this file that you speak of, was this
10 the file in which you were recording your investigative steps? You recall you said Mr Steinberg was not recording but you were. Is that that file?

MS WILLIAMS: Yes, I was recording in both the docket and I was also recording in the ICD file.

CHAIRPERSON: Is that document your investigation book? What do you call it?

MS WILLIAMS: It was a notebook that I kept in respect of this investigation, Chairperson.

CHAIRPERSON: Yes, what do you call this book that you
20 keep as police officer as you investigate? Is it an investigation diary?

MS WILLIAMS: Yes, ma'am, it is an investigation diary.

ADV RAMOGALE: So you say after you advised to go open a case, you say suddenly the investigation file or call it diary now re-emerges?

MS WILLIAMS: Yes, that is correct.

ADV RAMOGALE: So, you will recall how we got here. I had asked you about the second witness.

MS WILLIAMS: Yes.

ADV RAMOGALE: And you said that witness you had not spoken to, but that that witness was conveyed to you by SD Moloi Attorneys.

MS WILLIAMS: That is correct.

ADV RAMOGALE: Who are SD Moloi Attorneys?

10 **MS WILLIAMS:** SD Moloi Attorneys was the attorney representing Bongani Mkhize. He was the attorney that the police were instructed in the interdict to contact when they wished to speak to Mr Mkhize.

ADV RAMOGALE: And would you just tell the Panel what it is that SD Moloi attorneys told you?

MS WILLIAMS: Mr Moloi told me that Bongani Mkhize was on his way to his office. He was going to drive there because he wanted Mr Mkhize to take him to hand him over to the police.

20 **CHAIRPERSON:** Was this attorney Moloi part of the Phalane attorneys firm?

MS WILLIAMS: I think so, yes, ma'am. I am not too sure.

ADV RAMOGALE: Hlapane, Madam Chair.

CHAIRPERSON: Hlapane, I beg your pardon. Hlapane Attorneys firm in Durban.

MS WILLIAMS: Ma'am, I think Hlapane was Nathi Shlozi [?] them and SD Moloi and SD Moloi was somebody else if my memory serves me correctly.

CHAIRPERSON: A different firm of attorneys?

MS WILLIAMS: Pardon?

CHAIRPERSON: A different firm of attorneys?

MS WILLIAMS: Yes, ma'am, I believe it was a different firm of attorneys.

CHAIRPERSON: And Mr Shozi was part of the Hlapane
10 Attorneys?

MS WILLIAMS: Hlapane.

CHAIRPERSON: Thank you.

MS WILLIAMS: Yes, ma'am.

ADV RAMOGALE: Yes, you were still telling the enquiry about what Mr Moloi from SD Moloi attorneys was telling you.

MS WILLIAMS: Yes. There was also Mr Mkhize's daughter, Zamango [?], if I remember correctly. Zamango also told me this information afterwards when I was interviewing, or not interviewing, when I met them and I introduced myself to
20 them. It was herself, her mom, her father's sister, and I think the attorney that represented them with the litigation of Evelyn Mkhize, the widow of Mr Mkhize.

ADV RAMOGALE: You mentioned the information. What was the information that was conveyed to you by SD Moloi?

MS WILLIAMS: There was this witness that Bongani had

called when he was being chased by the police. He was telling her on the phone what was happening to him.

CHAIRPERSON: I am sorry. Before you go further because I am left a bit behind. You said SD Moloi attorneys told you that the deceased, Mr Mkhize, was on his way to his attorneys to ask them to take him to the police.

MS WILLIAMS: Yes, ma'am.

ADV BALOYI-MERE SC: Why? What was the reason for him going to the police ...[intervenes].

10 **MS WILLIAMS:** I am speculating ...[intervenes].

ADV BALOYI-MERE SC: If you remember maybe yesterday you testified that the investigating officer in the Nkosi Zondi matter had not identified or had not decided whether he will arrest Mkhize or not. Actually there was no warrant of arrest. So, what could be the reason for Mr Mkhize to want to go to the police, if you know?

MS WILLIAMS: Ma'am, this was also related to me. I cannot remember if it was SD Moloi or Zamango. That is the daughter of Mr Mkhize. She told me that Mr Mkhize actually
20 saw these SVC members. He was at his girlfriend's flat and he noticed that these people were at the bottom. So, Mr Mkhize, I think, was fearing for his life, Madam Chair. I am speculating here. I think what he did, he wanted to get to his attorney's office so he could be handed over for questioning.

ADV BALOYI-MERE SC: Thank you.

ADV RAMOGALE: So, if we are understanding correctly, you are saying the reason Mr Mkhize was making his way to his attorney's office is because he noticed police officers outside of his girlfriend's house?

MS WILLIAMS: Yes.

CHAIRPERSON: Proceed, Counsel.

ADV RAMOGALE: Thank you, Chair. So, Ms Williams, we now move on to paragraph 128 of your statement where you informed the Panel that by August 2011 your investigation
10 was still ongoing, and then you set out how, you set out the remainder of what you said there in 128, and then we will move to the KwaDukuza matter. Could you read that out, please?

MS WILLIAMS: 129 reads as follows ...[intervenes].

ADV RAMOGALE: No, just finish off 128, please.

MS WILLIAMS:

“By August 2011, my investigation was still ongoing. As I explained below, it was around this time that I was informed by
20 Advocate Steinberg that the DPP KZN had decided to refer the matter to a formal inquest.”

May I continue with KwaDukuza?

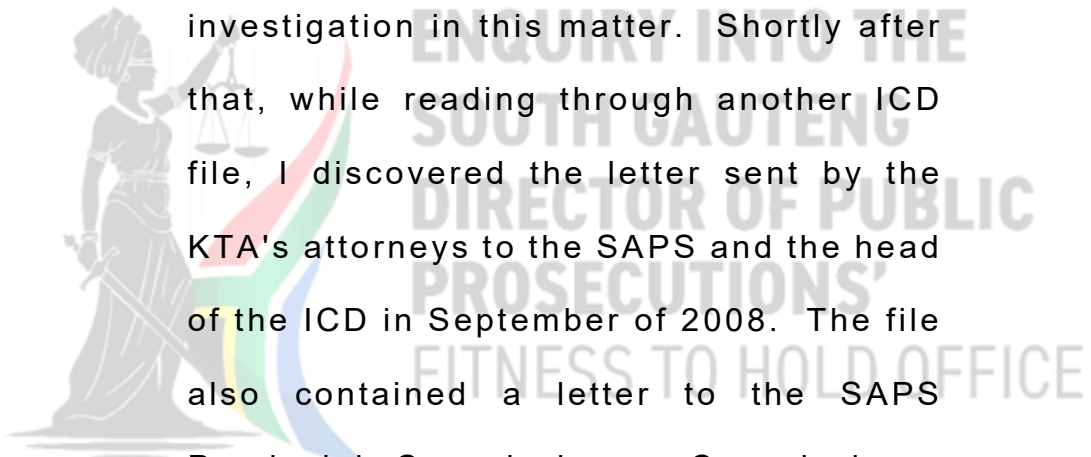
ADV RAMOGALE: Yes, please.

MS WILLIAMS: 129:

“On 3 September 2008, Mr Lindelani Buthelezi was shot and killed by members of the Cato Manor SVC. The ICD investigator assigned to this case was Ms Philele Dlamini. Ms Dlamini completed the scene inspection and crime scene report with the assistance of Ms Gibson. The matter was not referred to a full investigation by the ICD at that time. In January of 2010, I reopened the ICD investigation in this matter. Shortly after that, while reading through another ICD file, I discovered the letter sent by the KTA's attorneys to the SAPS and the head of the ICD in September of 2008. The file also contained a letter to the SAPS Provincial Commissioner, Commissioner Ngidi, that had been dispatched by Jerome Ngcobo and signed by the ICD Provincial Head at that time. In the letter, the ICD requested SAPS to establish a task team to investigate the killings of the KTA. I was shocked by this. Mr Ngcobo had never mentioned this request to me or that he was aware of the connection between

10

20



the KTA killings and the link to the Cato Manor SVC. Further, the ICD's request was a dereliction of duty. It was the ICD's job to investigate these killings.”

ADV RAMOGALE: Now, if we could stop there? Earlier on when we began this, you made mention of Mr Ngcobo. I had asked you why you said he had not disclosed to you he knew about the connection. We have read what you say here at paragraph 133. What is the answer to that question now?

10 **MS WILLIAMS:** Just remind of the question again, sorry.

ADV RAMOGALE: So you will recall in paragraph, I will point you to the paragraph.

MS WILLIAMS: I am listening.

ADV RAMOGALE: Yes, just a second, there it is. Paragraph 105.

MS WILLIAMS: Yes, I have 105 in front of me, Chairperson. May I proceed?

ADV RAMOGALE: Yes. There at 105, you said your request for full investigation was refused by your manager, Mr Jerome
20 Ngcobo, and your immediate supervisor, Mr Chris Vorster.

MS WILLIAMS: Yes.

ADV RAMOGALE:

“I told Mr Ngcobo and Mr Vorster about the two alleged shooters who had not been identified by the duty officer on the scene

and the fact that contrary to the member's version, Mr Mkhize had been killed by a low-velocity firearm at close range. When I told them about the interdict Mr Mkhize had obtained against SAPS...”

And this is what I want to ask you about:

“...Mr Ngcobo did not mention that he was aware of Cato Manor’s involvement in a spree of KTA killings. They both told me not to pursue the matter.”

10

MS WILLIAMS: Yes.

ADV RAMOGALE: And now in paragraph 153, you now state that:

“Shortly in January 2010...”

You begin at 132:

“...I reopened the ICD investigation into this matter. Shortly after that, while reading through another ICD file, I discovered the letter sent by KTA's attorneys to SAPS and the head of the ICD in September 2008. The file contained a letter to SAPS Provincial Commissioner Ngidi that they had been dispatched by Jerome Ngcobo and signed by Provincial ICD Head, Thabisa Ralo. In the letter, the

20

ICD requested SAPS to establish a task team to investigate the KTA killings. I was shocked by this. Mr Ngcobo had never mentioned this request to me or that he was aware of a connection between KTA's killings and their links to Cato Manor SVC."

What I am asking you now is what you state at 103, is that in relation to what is set out here at 133?

10 **MS WILLIAMS**: Yes, that is correct, Chairperson.

ADV RAMOGALE: Because you will recall I asked you about how you knew, about your knowledge, I mean how you knew that Mr Ngcobo had knowledge about the Cato Manor SVC.

MS WILLIAMS: Yes.

ADV RAMOGALE: Now, you state that whilst, when you reopened the investigation in January 2010, you came across a letter from KTA's attorneys to SAPS and the Head of ICD in September 2008.

MS WILLIAMS: Yes.

20 **ADV RAMOGALE**: Can we now turn to that letter? It is in the docket, and I will demonstrate to you where it is.

CHAIRPERSON: Advocate Ramogale, we will deal with that letter when we come back. We will adjourn for 10 minutes. Ms Williams, we are going to adjourn for 10 minutes.

MS WILLIAMS: Yes, Madam.

CHAIRPERSON: You are still under oath. We adjourn.

ENQUIRY ADJOURNS

ENQUIRY RESUMES

CHAIRPERSON: Good afternoon to everyone. Good afternoon, Advocate Chauke. Good afternoon, Ms Williams.

MS WILLIAMS: Good afternoon, Chairperson.

CHAIRPERSON: Advocate Ramogale?

MS WILLIAMS: Yes, Chair.

CHAIRPERSON: You may proceed.

10 **ADV RAMOGALE:** Thank you. Ms Williams, I was about to take you to the letter that you speak of at paragraph 133. If I could ask you to turn in the docket to DC0000841? Members of the Panel, that would be at DC4.

MS WILLIAMS: Just that number again?

ADV RAMOGALE: 841.

MS WILLIAMS: 841?

ADV RAMOGALE: Yes. It would be the A92 to the docket.

CHAIRPERSON: Proceed. Thank you, Counsel.

20 **ADV RAMOGALE:** Thank you, Chair. Ms Williams, do you have that?

MS WILLIAMS: Not yet. You said A?

ADV RAMOGALE: It would be A92 or the pagination would be DC000841.

MS WILLIAMS: I have A92.

ADV RAMOGALE: And what is this document that we are

looking at?

MS WILLIAMS: A92?

ADV RAMOGALE: A92(2). In the top right corner, it should read DC000841.

MS WILLIAMS: Pardon me, Chair. We just need to find the other Durban Central file. I am in the wrong file.

CHAIRPERSON: You can guide the witness and tell her what this document is.

MS WILLIAMS: Yes, Chair.

10 **CHAIRPERSON:** Ms Williams, it is a letter from Hlapane Attorneys.

MS WILLIAMS: Yes, ma'am. I just had the wrong thing in my hand.

CHAIRPERSON: You have got the right volume? Volume 4 of 5?

ADV RAMOGALE: The number again, 8?

CHAIRPERSON: DC000841.

MS WILLIAMS: 000841.

CHAIRPERSON: 000841. DC000841.

20 **MS WILLIAMS:** Yes, I do have it.

CHAIRPERSON: It is written A92(2).

MS WILLIAMS: In brackets 2.

CHAIRPERSON: Yes.

MS WILLIAMS: I have it, ma'am.

CHAIRPERSON: Proceed, Counsel.

ADV RAMOGALE: Thank you, Ms Williams. There is lots of evidence that is been led on this particular letter. It is a letter from Hlapane Attorneys, dated 5 September 2008. In your paragraph 133, where you state that whilst reading through another ICD file, you discovered this letter sent by KTA's attorneys to SAPS and the head of ICD in September 2008. Is this the letter that you are referring to?

MS WILLIAMS: This is the letter I was referring to, yes, Chairperson.

10 **ADV RAMOGALE:** Now, at the top left corner, it states there Provincial Commissioner Brown, National Inspectorate, Director Buys, National Inspectorate. Who are these individuals?

MS WILLIAMS: Provincial Commissioner Brown, that is Commissioner Pat Brown, head of Detectives.

ADV RAMOGALE: Yes, and Director Buys?

MS WILLIAMS: Director Buys, I do not know, but it looks like it is from the National Inspectorate.

ADV RAMOGALE: And then in paragraph, there is no
20 paragraph number here on this page, but it says KwaMaphumulo Taxi Association. And it reads:

“We act for the KwaMaphumulo Taxi Association, which has instructed us to address their concerns to you as a matter of urgency. Following the murder of

Superintendent Choncho on 27 August 2008, there have been repeat unlawful acts perpetrated by the police against members of the KwaMaphumulo Taxi Association, accompanied by disturbing disregard of the rule of law and the constitutional rights of the individuals concerned.”

And then on the next page.

10 **MS WILLIAMS**: I have it, yes?

ADV RAMOGALE: Yes, it says:

“The anger and the emotion which follows the murder of high-ranking police officers is fully understood, especially in the circumstances such as the present, where it appears to have been directly linked to the position he occupied. It has, however, become essential to point out the circumstances of Superintendent Choncho's murder, which appears to have been exacerbated by the more recent murder of Superintendent Bothma, does not justify the abandonment of the rule of law and individual rights in terms of the Constitution. The following events which

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followed Senior Superintendent Choncho's murder on 27 August are of grave concern to our client and require that they be urgently addressed.”

Could you read what is contained at paragraphs 1, 2, 3, and onwards?

MS WILLIAMS: With pleasure:

10 “On 27 August 2008, it was specifically arranged with the controlled prosecutor at the Stanger Magistrate Court that two of our clients who appeared in court that day, Swayo Mkhize and Gedwana Mhlongo, would be detained at Westville Prison until the next court appearance. This arrangement was made following extensive complaints by our clients of abuse by the police while detained in police cells during the investigations. The Magistrate duly ordered that our clients be

20 detained at Westville Prison and signed detention warrants to this effect. Both detention warrants were thereafter unlawfully and intentionally altered by the police by deleting Westville Prison and inserting Cato Manor Police cells as the

place of detention. This was done without the approval of the Magistrate, who is the only person who may amend a detention warrant. Our clients were thereafter unlawfully taken to Cato Manor Police Station by members of the Organised Crime Unit, including Inspector Maharaj, who is the only police officer our clients are able to identify by name. At the offices of the Organised Crime Unit at Cato Manor, our clients were interrogated regarding the murder of Senior Superintendent Choncho earlier that day. It must be noted that our clients have been in custody continuously since 25 August 2008 and were not involved in that murder. During the interrogation...” ...[intervenes].

ADV RAMOGALE: Ms Williams ...[intervenes].

MS WILLIAMS:

20 “...our clients were repeatedly assaulted and demands...” ...[intervenes].

CHAIRPERSON: I beg your pardon, Ms Williams.

MS WILLIAMS: Yes, ma'am.

CHAIRPERSON: Please, remember you are being led by an advocate. Try to listen to him and pay attention to him as

you read. Do find out from him whether you should proceed and he will give you some guidance.

CHAIRPERSON: Apologies, Madam Chair.

CHAIRPERSON: Thank you.

ADV RAMOGALE: Yes, Ms Williams, I just wanted us to take a step back to paragraphs 1 and 2 from this letter. What is Hlapane Attorneys saying about the order that was given by the Magistrate Court?

MS WILLIAMS: Hlapane Attorneys is saying that an order
10 was given. You say 1 and 2?

ADV RAMOGALE: 1 and 2.

MS WILLIAMS:

“That the Magistrate ...[indistinct]
Magistrate Court, that Swayo Mkhize and
Gedwana Mhlongo would be detained at
Westville Prison until their next court
appearance. This arrangement was made
following extensive complaints by their
clients of abuse by the police while
20 detained in police cells during
investigation.”

ADV RAMOGALE: And what do they say was done with this particular order?

MS WILLIAMS:

“This particular order was thereafter

unlawfully and intentionally altered by the police by deleting Westville Prison and inserting Cato Manor Police cells as the place of detention.”

ADV RAMOGALE: Now, what should the Panel make of this? That a Magistrate has decided about where a person should be detained and a police officer comes and deletes that and inserts what they want.

MS WILLIAMS: This was not supposed to happen, but this
10 baffles me.

ADV RAMOGALE: And a police officer in that position deleting what a Magistrate has decided, is that a law-abiding citizen? What would you make of that kind of officer?

MS WILLIAMS: This is not a law-abiding officer because the Magistrate has given this order and he has signed it, which makes it binding. And Cato Manor deleted and inserted Cato Manor. This was not right, Chairperson.

CHAIRPERSON: Anyone who does not comply with the court order acts in contempt of that court order. Correct?

20 **MS WILLIAMS:** That is correct, Madam Chair.

CHAIRPERSON: Proceed. Somebody had lost a debit card and we have located the owner of the debit card.

ADV RAMOGALE: It can also go into the kitty, Madam Chair. Yes, thank you.

CHAIRPERSON: That will be theft. It means that these

police officers acted in contempt of the court order. Is that your understanding?

MS WILLIAMS: Yes, Madam Chair, that is my understanding.

ADV RAMOGALE: Thank you, Ms Williams. Then in paragraph 3 you have read that according to Hlapane Attorneys, their clients, Mr Mhlongo and Mr Mkhize, were taken to the Cato Manor police station. And then you have read that at those particular offices they were interrogated regarding the murder of Senior Superintendent Choncho
10 earlier that day. And then they state that it must be noted that their client had been in custody continuously since the 25th of August and were not involved in the murder.

Now, here is a letter from the attorneys representing both Mr Mkhize and Mhlongo stating that on the day of the incident, the 27th of August 2006, their clients were in custody continuously since the 25th and were not involved in the murder. What is your comment to that?

MS WILLIAMS: Those members could not have been present, if this is what I am reading here, could not have been
20 present when Mr Choncho was shot and killed.

CHAIRPERSON: Perhaps for the reader, you can draw their attention to the date of the murder of Superintendent Choncho on the 27th of August. At that time, correct, Ms Williams? If you look at the contents of the opening paragraph of that letter, we are told by these lawyers that the

murder of Superintendent Choncho was on the 27th of August 2008.

MS WILLIAMS: Yes, ma'am.

CHAIRPERSON: As at that time, Mr Mkhize and others were already in detention with effect from the 25th of August that year.

MS WILLIAMS: Yes, ma'am, I see that.

CHAIRPERSON: Yes, hence the question by counsel that they could not have been involved in the murder of the
10 superintendent, correct?

MS WILLIAMS: That is correct, yes, Madam Chair.

CHAIRPERSON: Counsel?

ADV RAMOGALE: Thank you, Chair. Then you continue on, Ms Williams, there is more in the remainder of the letter at paragraph 4.

MS WILLIAMS:

20 “During the interrogation, our clients were repeatedly assaulted and demands were made of them to provide information regarding Senior Superintendent Choncho's murder. Our clients required legal representation and requested to contact our officers, but were denied the right to legal representation. After being interrogated and assaulted, our clients

were lodged in the Cato Manor Police cells and only managed to contact us that night through members of their family. We consulted with our clients on 28 August 2008 at Cato Manor Police cells and require the assault on them investigated.”

Should I continue?

ADV RAMOGALE: Yes, please.

MS WILLIAMS:

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“Our office forwarded letters to the officer commanding of the Organised Crime Unit and to the senior magistrate and control prosecutor at Stanger Magistrate Court. We annexed our correspondence hereto, together with the relevant replies in order that you obtain a clear picture of the events. We request that this matter be

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fully investigated by SAPS as it is clear that certain members, probably including Inspector Maharaj, took the law into their own hands and committed a serious offence by altering the detention warrant to sue their own ends. We require to be notified of the steps taken in this investigation.”

ADV RAMOGALE: Ms Williams, what should the Panel make of police officers who take their law into their own hands?

MS WILLIAMS: If you take the law into your own hands, it means you are acting as a criminal because you are committing a crime.

ADV RAMOGALE: Thank you, Ms Williams.

CHAIRPERSON: In paragraph 6, through you, Advocate Ramogale, the opening line, the attorney says that the letter is forwarded to the officer commanding of the Organised
10 Crime Unit. Do you know who was the officer commanding of this unit?

MS WILLIAMS: That would have been General Booyesen, but I think at that stage he was still a brigadier.

CHAIRPERSON: Thank you.

ADV RAMOGALE: Thank you, Ms Williams, and then paragraph 7.

MS WILLIAMS:

20 “In a separate incident on 27 August 2008, Moses ...[indistinct] Dlamini, an employee of the Taxi Violence Unit, which provides protection to certain members of the KwaMaphumulo Taxi Association, handed himself over to members of the Organised Crime Unit at Cato Manor at around 22:30. The understanding was that Mr Dlamini

would be questioned as a witness regarding any knowledge he may have of the events surrounding Senior Superintendent Choncho's murder. Soon after surrendering himself, Dlamini was detained as a suspect in the murder and was issued a written notice of detention by Detective Inspector Panday of the Organised Crime Unit. Dlamini was
10 detained overnight in the Sydenham police cells.”

May I continue?

ADV RAMOGALE: Yes, please.

MS WILLIAMS:

“The following day, 28 August 2008, Dlamini was taken by Inspector Panday to the offices of the Organised Crime Unit in Cato Manor, where he was interrogated in connection with Choncho's murder by a
20 group of police officers who he can identify but cannot name. During this interrogation, he was severely assaulted and sustained open wounds to his wrists from his handcuffs and a burst eardrum from being slapped. He has since sought

medical assistance and a full report will be made available.”

9:

“Dlamini was only released at approximately 02:30 after extensive interrogation and abuse. He requires police investigation into his detention, which was patently unlawful as there was no evidence upon which to detain him. He further requires investigation into the assault upon him and will be able to identify his assailants in a line-up. We request that we be advised of the steps taken in this regard.”

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ADV RAMOGALE: If we could just stop there, Ms Williams? What are these attorneys telling us about how Mr Dlamini ended up in the offices of Cato Manor?

MS WILLIAMS: Mr Dlamini had presented himself, he had handed himself over.

20 **ADV RAMOGALE:** And what do they say happened to him when he handed himself over?

MS WILLIAMS: He was detained, he was assaulted.

ADV RAMOGALE: And this is now, there is a request that is now made in paragraph 9 of that statement. What is that request?

MS WILLIAMS: The request is for the investigation into the assault upon him and request that steps be taken in this regard.

ADV RAMOGALE: And do you know whether an investigation was in fact taken?

MS WILLIAMS: I do not know that information.

ADV RAMOGALE: Thank you, Ms Williams. We are now at paragraph 10.

MS WILLIAMS:

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“On 29 August 2008, two other members of the KwaMaphumulo Taxi Association were taken into custody, namely Magogela [?] and Thembe. They were arrested on the North Coast and taken to the Mtunzini Police Station, where they were interrogated and severely assaulted.

20

Their arrest, interrogation, and assault is once again believed to have been committed by members of the Organised Crime Unit. We have not yet taken detailed instructions in this regard and will update you as soon as further information becomes available.”

May I continue?

ADV RAMOGALE: Yes, please.

MS WILLIAMS:

“Following the arrest of Magogela and Thembe, our offices sent an urgent letter to the commander of the Organised Crime Unit, which speaks for itself. A copy of this letter is annexed hereto for your reference. Magogela and Thembe were released on the afternoon of 29 August 2008 without being charged when it became clear that they were not involved in this matter.”

ADV RAMOGALE: Paragraph 12.

MS WILLIAMS:

“It must be said...”

ADV RAMOGALE: Yes?

MS WILLIAMS: Should I continue?

ADV RAMOGALE: Yes, please.

MS WILLIAMS:

“It must be said that all of the abovementioned persons who were detained and assaulted were not involved in the murder and were arrested on mere suspicion or unreliable information. On that flimsy foundation, they were detained, interrogated, and assaulted and

further denied their right to legal representation. It is this conduct which has caused grave concern in the KwaMaphumulo Taxi Association, as it believed that this pattern of conduct is said to continue.”

ADV RAMOGALE: Now, if we just stop there. From the beginning of the letter right until paragraph 12, there are allegations made about assault of members of the
10 KwaMaphumulo Taxi Association. So far, how many have we learnt about?

MS WILLIAMS: It is Magogela and Thembe.

ADV RAMOGALE: Ja, that would be two.

MS WILLIAMS: I will just – but he was from that Taxi Violence Unit. I am just looking for the other two names. Then it was one, Mkhize, and the other one was Mhlongo. So it is five.

ADV RAMOGALE: And we have seen in paragraph 6, which you read out, and again in paragraph 9, that there were
20 requests for investigations into these allegations.

MS WILLIAMS: That is correct, yes.

ADV RAMOGALE: Do you know whether any of these were investigated, these allegations?

MS WILLIAMS: I am not aware of any investigation. I have not come across any investigation in these matters.

ADV RAMOGALE: I had stopped you as you were about to read paragraph 13.

MS WILLIAMS: I continue at paragraph 13 ...[intervenes].

ADV RAMAGAGA: Ms Williams ...[intervenes].

MS WILLIAMS:

“During the early hours of 3 September 2008...” ...[intervenes].

CHAIRPERSON: Ms Williams ...[intervenes].

MS WILLIAMS:

10 “...at approximately 01:30...”
...[intervenes].

CHAIRPERSON: Ms Williams? Hello?

MS WILLIAMS: Yes?

CHAIRPERSON: Ms Williams?

MS WILLIAMS: Yes, ma'am?

CHAIRPERSON: Just take it steadily. Just listen to counsel, and we may want to ask you questions.

MS WILLIAMS: Yes.

ADV RAMAGAGA: Thank you, Chair.

20 **CHAIRPERSON:** Proceed.

ADV RAMAGAGA: Yes, thanks. Ms Williams, I see when one looks at that paragraph, paragraph 6 and the following, they talk about a request for investigation.

MS WILLIAMS: Yes, ma'am.

ADV RAMAGAGA: Of the police for their conduct. Can you

just enlighten us about the powers of the IDC, or ICD. Yes, thanks for correcting me. ICD. The complaint here relates to the conduct of the police. Now, regard being had to the provisions of the ICD, would investigations, if they were to ensue, would they have to be initiated and conducted by the ICD, or would they then be investigated initially from the police office, SAPS, directly? Thanks.

MS WILLIAMS: Yes, ma'am. The request is to the police, but the ICD, in essence, should be the one that is conducting
10 the investigation because they are required to do so by their mandate.

ADV RAMAGAGA: You say you are not aware of any investigations that were conducted by the ICD in this respect?

MS WILLIAMS: Ma'am, if I may fast forward a little bit? There was a request and there was a file opened in respect of Moses Sipho Dlamini, and that is the file that I actually found, and that is the file that actually made me more suspicious because in this file there was this letter written by
20 Mr Jerome Ngcobo, as I indicated in paragraph 133 of my statement.

ADV RAMAGAGA: Yes, my focus is on the letter that was written by Attorney Hlapane requesting for the investigations to be done, and that is the investigation of police officers.

MS WILLIAMS: Yes.

ADV RAMAGAGA: So with that in mind, it is correct that such investigations ought to be undertaken by the ICD. That is correct. I see you are nodding your head.

MS WILLIAMS: Yes.

ADV RAMAGAGA: Yes, and those are the investigations that I am talking about to say the investigations relating to fraud, I mean changing the Magistrate's content of the warrant of detention, acting also in contempt of the court by so doing, and such inappropriate conduct. That is what I am
10 talking about, about the ICD.

MS WILLIAMS: ICD?

ADV RAMAGAGA: Yes.

MS WILLIAMS: Ma'am, to respond to that, if Mr Ngcobo had known about this and had read this letter, yes, obviously there should have been an investigation that should have been initiated by them.

ADV RAMAGAGA: Okay, thank you.

ADV RAMOGALE: Thank you. I am sorry. Thank you. Madam Chair, this is quite a lengthy letter, and I am mindful
20 of the time now. I am not sure if we are going to run until 17:00, or I am in the Panel's hands.

CHAIRPERSON: We planned to adjourn at 4 o'clock. Do you want to wrap it on this letter, or are you going to take a long time?

ADV RAMOGALE: It is going to take some time, Madam

Chair.

CHAIRPERSON: Had you completed paragraph 12?

ADV RAMOGALE: Yes, I was about to go into paragraph 13, which deals with a different case altogether.

CHAIRPERSON: Ms Williams, we are going to pause until tomorrow morning at 9 o'clock.

MS WILLIAMS: Understood, Chairperson.

CHAIRPERSON: You are still available to continue tomorrow, I believe.

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

CHAIRPERSON: Yes, thank you.

MS WILLIAMS: You are welcome, Chairperson.

CHAIRPERSON: You remain to be under oath. Advocate Ramogale, we will adjourn until tomorrow morning at 9 o'clock.

ADV RAMOGALE: Thank you, Chair.

CHAIRPERSON: Thank you. We adjourn.

ENQUIRY POSTPONED TO 5 MARCH 2026

ENQUIRY ADJOURNS

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