

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

HELD AT

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

6 MARCH 2026

DAY 39



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

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

MS WILLIAMS: Good morning, ma'am.

CHAIRPERSON: We apologize to all of you for the delay. Advocate Ramogale, we understand that there were technical challenges because of the electricity.

ADV RAMOGALE: Indeed, Chair.

CHAIRPERSON: Madam Williams, you are still under oath.

MS WILLIAMS: Understood, Chairperson.

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

CHAIRPERSON: Advocate Mohlamonyane.

ADV MOHLAMONYANE SC: Thank you, Madam Chair.

CHAIRPERSON: Are you ready?

ADV MOHLAMONYANE SC: Thank you, Madam Chair. We have a new member who is going to assist us in flighting documents that we will be using in the further cross-examination. Madam Chair, and your sisters ...[intervenes].

CHAIRPERSON: Before you proceed, he is our son, when did you adopt him?

20 **ADV MOHLAMONYANE SC:** This morning Madam Chair.

CHAIRPERSON: Only this morning?

ADV MOHLAMONYANE SC: Yes, only this morning.

CHAIRPERSON: I hope it is temporary.

ADV MOHLAMONYANE SC: It is temporary, I hope, I hope, I hope.

CHAIRPERSON: You just move that mic towards him so that he can tell everybody who he is.

MR MOTLAGENG: Good morning.

CHAIRPERSON: Speak louder.

MR MOTLAGENG: Good morning Madam Chair. My name is Tumelo Motlageng. As Advocate Mohlamonyane said, I am the newly adopted son, but I hope it is temporary too, as you said.

CHAIRPERSON: You are part of the admin staff of the
10 enquiry?

MR MOTLAGENG: Yes ma'am.

CHAIRPERSON: From the department?

MR MOTLAGENG: Yes ma'am.

CHAIRPERSON: Thank you. Thank you for assisting the evidence leading team. Thank you Advocate Mohlamonyane, you may proceed.

ADV MOHLAMONYANE SC: Thank you Madam Chair. Before I do so, for purposes of further cross examination of this witness, we have prepared a bundle. It is not a huge
20 bundle. There are a few documents here which are properly paginated and indexed, and I beg leave to hand them up to the panel, Madam Chair.

CHAIRPERSON: Have you exchanged them with your colleagues?

ADV MOHLAMONYANE SC: Indeed, Madam Chair. I have

handed a copy to my colleagues, Advocate Ramogale in particular, and efforts were made to send them to the witness, but ultimately it was decided by those who are technologically *au fait* to use this technology which Mr Motlageng will assist us with.

CHAIRPERSON: Yes, thank you. You may hand them up. Yes, thank you. I suppose that the preparation of this document will assist us to move faster, Advocate Mohlamonyane, and as we discussed in chambers, we have
10 today to finish with this witness. If we do not finish by end of business, we may have to sit until late at night, but I have to establish first from Ms Williams whether she is likely to be available. Ms Williams?

MS WILLIAMS: No, ma'am, I will not be available. I have another thing, personal thing that I am also dealing with at the moment, so that will not be possible.

CHAIRPERSON: Until what time today will you be available?

MS WILLIAMS: 4 o'clock, Madam Chair.

CHAIRPERSON: 4 o'clock?

20 **MS WILLIAMS:** Yes, Madam Chair.

CHAIRPERSON: I ask you because we have an international witness who should start on Monday morning, virtually, and arrangements have been made with the Department of International Affairs, the ambassador in Greece, and we cannot disrupt those arrangements. If you were to proceed

to early tomorrow morning to finish your evidence, are you likely to be available in the event we do not finish today?

MS WILLIAMS: Yes, ma'am, I will avail myself.

CHAIRPERSON: Yes, thank you. Advocate Mohlamonyane, you hear the witness is only available until 4 o'clock this afternoon, and I request you, to the extent reasonably possible, to get to the crux of the matter, so that we can excuse this witness as soon as possible today. If we fail, we may have to sit tomorrow morning, very early tomorrow
10 morning.

But I trust you, and I trust Advocate Ramogale, in the event the cross-examination finishes, then your re-examination will be brief. By the way, to all of you, we already know why we are here, we have the terms of reference, we know what we have to focus on. Let us not be all over the show, let us just focus on what we need to focus on.

MS WILLIAMS: Yes, Judge.

CHAIRPERSON: Thank you. You may begin, Counsel.

20 **ADV RAMOGALE**: Chair, if I may, I am sorry to interrupt.

CHAIRPERSON: Yes.

ADV RAMOGALE: Chair, indeed, we did receive these documents from Advocate Mohlamonyane this morning. And I have been instructed to raise an objection to these documents. Many of them, I think about one or two of the

documents, are already existing in the bundle that the panel has seen, but the majority of the documents actually come from the Maphumulo docket, which, as the panel knows, we have asked for many, many, many, many times over.

The response we got from the NPA is that they do not have the docket. And now, after three witnesses have given evidence, these documents are now re-emerging, and so we have great difficulty about the prejudice, particularly because three witnesses have now come and gone to give
10 evidence on this, and these documents have now suddenly re-emerged.

CHAIRPERSON: Are these documents, because I have not looked at them, do they include what Advocate Ngcukaitobi referred to the other day, saying that they have not been given the dockets?

ADV RAMOGALE: Yes, Madam Chair. I know the panel has not seen these documents, but you will see, for instance, if you recall when Advocate Maema gave evidence, questions came from the panel about whether the IPID and DPCI task
20 team interviewed Inspector Khanyile, who was injured in the shooting of Superintendent Choncho. That bundle now includes the very statement from Inspector Khanyile that we have been asking about, because it comes from the Maphumulo docket. So, when Mr Ngcukaitobi was talking about that docket, it is that particular Choncho docket, the

Maphumulo one, that we have not seen and the panel certainly has not seen.

CHAIRPERSON: Advocate Mohlamonyane?

ADV MOHLAMONYANE SC: Yes, Madam Chair.

CHAIRPERSON: Let me just maybe make this remark in fairness to you. You were not here most of the time when Advocate Maema testified. Were you here?

ADV MOHLAMONYANE SC: I was in the building, but I was not following. I was busy with other duties.

10 **CHAIRPERSON:** Were you at any stage here when these issues were raised, the issues that Advocate Ramogale is talking about?

ADV MOHLAMONYANE SC: No.

CHAIRPERSON: We did have an exchange with Advocate Hulley and Advocate Lekgetho, the NPA team, about the issues that were raised regarding these documents. And now these documents are apparently surfacing now in cross-examination. So, I am just alerting you to the fact that these issues arose during your absence, so you may not be aware
20 of the developments during that time, and you may not have been made aware as to why there may be, there were challenges raised about the unavailability of these documents. So, I thought I must just let you know before you answer.

ADV MOHLAMONYANE SC: Yes, I am not aware, Madam

Chair, that a docket was, the Maphumulo docket was not part of the proceedings. But I got this document ...[intervenes].

CHAIRPERSON: Advocate Lekgetho was here at least all the time.

ADV MOHLAMONYANE SC: She was here.

CHAIRPERSON: She was here. And it may be worthwhile for us to consider an adjournment so that you can discuss with her. She is aware of that, I believe so. Please bring that roving mic, because we do not want to go back to the transcript. We have the notes. But the issue of the statement of Khanyile was raised, and Advocate Ngcukaitobi repeatedly raised this issue regarding the dockets that has not been made available to them.

I have not looked at this document, and as you handed it to us now, you did not mention even in chambers that there is a document to be handed up. Maybe we would have quickly looked at it. But if this document contains the statement of Mr Khanyile, and the docket that has been spoken about, it may create problems. Advocate Lekgetho, do you remember?

ADV LEKGETHO: Thank you, Madam Chair. Yes, I do recall, and I did actually raise it with Advocate Mohlamonyane, because my instructions from the NPA is that they do not have copies of this docket. They located, they did their best to locate it, but they could not get any information until they

even sent an affidavit by a Station Commander in KZN, confirming that he also looked, he cannot find the docket. I shared the affidavit with Advocate Mohlamonyane. And then when he asked me to prepare the bundle for him ...[intervenes].

CHAIRPERSON: You shared the affidavit with Advocate Mohlamonyane.

ADV LEKGETHO: Yes.

CHAIRPERSON: Whose affidavit?

10 **ADV LEKGETHO:** I will come back on, with the name, but it is the Station Commander of the police station where the docket would have originated and would have been sent back, where they confirmed that they looked, they cannot find the docket as well. And when I was asked to prepare the bundle from Advocate Mohlamonyane, I did raise with him that the Maphumulo docket, the NPA could not find, were you able to get the documents? So my instruction, all the documents in the bundle are not from the NPA. We did not, I did not get it from NPA to provide the evidence leader. It is the evidence
20 leader's bundle.

CHAIRPERSON: But as NPA, you do remember this issue being raised by Advocate Chauke's team?

ADV LEKGETHO: That is correct, yes.

CHAIRPERSON: During the testimony of the previous witnesses, especially Advocate Maema.

ADV LEKGETHO: That is correct, Madam Chair.

CHAIRPERSON: And this issue was raised not once, you were in this chamber.

ADV LEKGETHO: That is correct, Madam Chair.

CHAIRPERSON: And now this document has surfaced. Who prepared it?

ADV LEKGETHO: The bundle, I prepared the bundle for Advocate Mohlamonyane.

CHAIRPERSON: When did you prepare it?

10 **ADV LEKGETHO:** Yesterday.

CHAIRPERSON: As you were preparing the document, did you have a discussion with Advocate Chauke's team?

ADV LEKGETHO: No, no, no, no, I waited for Advocate Mohlamonyane to deal with, because I was also surprised because all the documents were new to me. I had not seen them before. I did not know about them. So I waited for him to deal with the documents the way he wanted to deal with them. But I did raise with him that the Maphumulo docket, the NPA could not find, where did you get the documents.

20 **CHAIRPERSON:** Did you tell Advocate Mohlamonyane, who had not been present for a couple of days, when Advocate Maema was led, that this matters, or at least the Maphumulo docket was mentioned and concerns were raised about the unavailability of this document. Did you tell him?

ADV LEKGETHO: Yes, when I actually sent him the affidavit

from the Station Commander, I did indicate that, in the email even, that this docket had been raised and the NPA had undertaken to look for this docket, but the docket could not be located. And the Station Commander has deposed to an affidavit confirming that they cannot find the docket and the NPA does not have copies. They cannot find copies at the moment of the docket.

CHAIRPERSON: Thank you very much, Advocate Lekgetho.

ADV LEKGETHO: Thank you, Madam Chair.

10 **CHAIRPERSON:** Advocate Mohlamonyane, we are aware that you have not been here during the evidence of the previous witnesses for Advocate Chauke, and the evidence-leading team, the member of that team who was present, was Advocate Mtsweni. Have you had a discussion with your team? I do not know how you operate. I would imagine that you hold discussions as a team so that the left knows what the right is doing. Did Advocate Mtsweni alert you of the issues that were raised during your absence, including this very issue?

20 **ADV MOHLAMONYANE SC:** Not to my knowledge, Madam Chair. I do not remember discussing it with Advocate Mtsweni.

CHAIRPERSON: Do you, as an evidence-leading team, work in silence or do you have discussions with one another?

ADV MOHLAMONYANE SC: We do have discussions

occasionally. We do have discussions. We do discuss.

CHAIRPERSON: Was this issue raised with you as you have now taken the position to cross-examine?

ADV MOHLAMONYANE SC: With Advocate Mtsweni, I do not remember.

CHAIRPERSON: What do you then suggest we do?

ADV MOHLAMONYANE SC: I suggest that I be given, we adjourn for a few minutes, and I will take a decision as to whether these documents should be used or not.

10 **CHAIRPERSON:** And you will make submissions so that you can make a decision?

ADV MOHLAMONYANE SC: Yes, I will, Madam Chair.

ADV BALOYI-MERE SC: Advocate Mohlamonyane, I am a bit taken aback by your statement that you want an adjournment to make a decision whether this document should be used or not when an objection has been raised. I would, I think I would expect you to make submissions so that

the panel decides whether to uphold the objection or to overrule it and allow you to use the document. But for you to
20 take a decision whether the document should be used is a bit confusing because an objection has been raised. Thank you.

ADV MOHLAMONYANE SC: I hear you, Madam Baloyi-Mere. Rather, I concede that they should not be used. The Maphumulo documents should not be used. I will not refer to them in cross-examination.

ADV BALOYI-MERE SC: Advocate Mohlamonyane, can I find out, this documents, you obviously found them from somewhere.

ADV MOHLAMONYANE SC: Yes, from someone who ...[intervenes].

ADV BALOYI-MERE SC: From someone.

ADV MOHLAMONYANE SC: Yes, from someone.

ADV BALOYI-MERE SC: And that someone will obviously come and testify on these documents?

10 **ADV MOHLAMONYANE SC:** Not necessarily.

CHAIRPERSON: How possible is that?

ADV MOHLAMONYANE SC: The one statement is Khanyile's statement and there are no intentions to call Khanyile.

CHAIRPERSON: But how possible is that? How do you bring a statement of a person who is not going to come before the enquiry? What do you seek to establish with that statement in the first place?

ADV MOHLAMONYANE SC: It is on oath, Madam Chair. It is a statement on oath. It is an affidavit of Khanyile who was
20 in company of Choncho when Choncho was killed.

CHAIRPERSON: Remember, this is an inquisitorial process. It is not an adversarial process like in court. We are here to search for the truth, no technicalities whatsoever. And as evidence-leading team, your role is to assist this panel to unravel the truth and not take any technical points. It is just

a fairness thing to all and sundry. I am now surprised that you want to bring a statement and you do not want to call, you say you may not even call that witness. What if we want that statement, that witness, as we enquire, as we search for the truth? Because once we read that statement, we may want to ask the witness or the deponent questions. Is it something that you considered, Counsel, when you prepared this bundle?

ADV MOHLAMONYANE SC: Yes, I did consider. But I
10 thought it may not be necessary to call a witness who has made a statement on oath. It may not necessarily be feasible to call that witness.

ADV BALOYI-MERE SC: Well, we understand these are extracts from a docket.

ADV MOHLAMONYANE SC: Yes.

ADV BALOYI-MERE SC: And we do not have that docket. It
is a different thing if we read documents from a docket. We may not say bring the witness who deposed to A1 statement, A2, because it is contained within a docket. But these are
20 extracts. And when I asked the question, I thought the person who provided you with this, either one, they give us the whole docket, we have the docket in front of us, or they come and talk to all these documents, not necessarily that each and every person who has deposed to an affidavit, but someone who will be able to say this is, maybe the investigating officer

or whoever who was involved in this CAS number would come and talk to this document so that even the other team has a chance to cross-examine.

Remember you are now introducing new documents under cross-examination. The Chauke team has not had a chance to look at them. It is like introducing new information in the replying affidavit when the other party does not have a chance to answer to those allegations. That is basically what is going to happen because the witness will be confronted
10 with new evidence that maybe the witness could have dealt with it in her affidavit had she been aware of it or had the team been aware of it. So it creates a sort of a difficult situation. Thank you.

MS RAMAGAGA: May I?

CHAIRPERSON: Let me just, before that, my sister. Ntate Mohlamonyane, you will remember one of our, the advocate researcher had to track for us instances when these issues were raised and when I reminded the parties so many times, especially the NPA, to provide the documents to Advocate
20 Chauke's team.

Remember from the outset we advised the parties to exchange documents timeously in preparation for leading witnesses and proceeding with the enquiry. The recollection as distilled from the transcript clearly shows us that these matters have been matters of concern to Advocate Chauke

and to the panel itself, hence, I reminded the parties not once but many times to provide the documents, the 20th of November, 21st November, 25th of November, 27th November, the 4th of December, 5th December, 12 February, we reminded the parties, even on the 13th of February, Advocate Hulley for the NPA indicated that the NPA will attempt to get this docket, the Choncho docket from DPCI, the 13th of February.

And today we are given this document from the bar. Advocate Chauke's team is taken by surprise also to be given
10 this document this morning. I am placing this on record because it is all about transparency and fairness to all the parties because once again I say this is not an adversarial process like we are in court. The proceedings will remain inquisitorial to search for the truth and to be able to assist the President when he finally makes a decision and also to assist us to make an appropriate recommendation to the President.

But if we proceed in this fashion, we will not be able to execute our tasks properly. And I request you, Advocate
20 Mohlamonyane, as the evidence leaders and the most senior, I suppose, of them all, to lead your team with a view to assistance and not to frustrate the cause. Thank you. My sister, Ms Ramagaga, would like to speak to you.

MS RAMAGAGA: Advocate Mohlamonyane, I think you should know that as the chief evidence leader, you ought to

make it your business to be aware of all the information, not necessarily each detail, but all the information that is being presented even in your absence. That is why your appointment is that of the chief evidence leader and there will only be one chief in the crawl and that is yourself.

Now, turning to the issue about introducing documents that had not been seen by the Chauke team at all, I think you also know that that is not proper. We are not supposed to be sitting here as a panel now to adjudicate as
10 to whether documents should be allowed or not, unless it is extremely necessary.

As far back as yesterday, I will say at least as far back as yesterday, you already knew that you were going to use these documents and you could have sensitized the other side and you could have even used the opportunity. I think it is on record that we do meet in the mornings in chamber, just to make sure that you know, we find each other and if there are some hiccups, you are able to deal with them neatly outside the view of everyone.

20 And we had the chamber meeting this morning and there is none that, you know, indicated that there would be something that is unexpected before us. Now, this being an inquisitorial process, I have been tempted to quickly just go through the document, especially in respect of the file that you say you will not be using, now that there is an objection,

and I just want to also place it on record that the witness in respect of whom you say you accept you will not use that statement or that material is a very important witness because it is a witness that, according to the documents, was with Superintendent Choncho when he was killed. And so many lives have gone in the name of Choncho. So many.

Now we have an eyewitness that you do not even intend calling. But nevertheless, we cannot force you to call a witness. If important witnesses are not called, the panel
10 will have the right to call that witness. But I must say I find it strange that this concession is made. I do not, maybe let me not say it is strange.

I think you did the concession correctly because you know you may have flouted the rules. But at the same time, if you look at the fact that you, as the evidence leader, you have an obligation to place all the important information before this enquiry, it would be a sad day if Khanyile were not to be called. It would be a very sad, sad, sad moment because all and sundry have just been screaming Choncho's
20 death as the cause of the Cato Manor massacre.

I am sorry to be using this, but it appears like that from the record and the evidence that has been presented thus far. So I want to ask you a question. If you say you will concede that you will not use the material relating to Mr Khanyile, do you have a plan about the evidence of Khanyile?

Do you have a plan, and if you have a plan, what is the plan?

ADV MOHLAMONYANE SC: Madam Ramagaga, I will discuss that with my co-evidence leaders on the way forward about Khanyile. I will discuss it and we will take a decision. We will make a decision as to whether we will call him. Or if we do not call him, maybe the panel can do so. But we will make a decision as to what will happen.

MS RAMAGAGA: I just want to say, fortunately, this is not a court, one can even transgress some things, but I want to
10 say, you know, every day you come to the chamber or you deal with this matter, remember that you were appointed because there is confidence in you that you will deliver all the information that should assist this panel.

And when you make any decision whatsoever, remember that we do not have full capacity to go out there and search for information that would inform us. You are there to do that with your team. And like it was stated right in the beginning that in this matter, in this enquiry, there is no winner, there is no loser. The aspiration is to get to the
20 bottom of the truth. Thank you.

ADV MOHLAMONYANE SC: Thank you, Madam Ramagaga.

CHAIRPERSON: I suppose that now that you have indicated that you will not pursue with the bundle, I suppose you are retracting the handing over of this bundle. That is the right thing to do, am I right?

ADV MOHLAMONYANE SC: You are right, Madam Chair, except that there is one document that I may use.

CHAIRPERSON: Well ...[intervenes].

ADV MOHLAMONYANE SC: Just one document.

CHAIRPERSON: You can have your bundle. You can have the bundle before we make the ruling regarding this objection.

ADV MOHLAMONYANE SC: Yes, I retract.

CHAIRPERSON: If you elect to make any use of a document,
10 you will tell us what that document is. When you decide to use any document which is part of that bundle, and you will in advance tell us what it is, and you will also make it available to Advocate Chauke's team because it appears that they are not objecting to everything in that bundle.

ADV MOHLAMONYANE SC: No, they are not. In any event ...[intervenes].

CHAIRPERSON: Let me finish. Let me finish. When you decide to use any of the documents included in that bundle, confer with your colleagues and let us know if there is an
20 agreement.

ADV MOHLAMONYANE SC: Madam Chair, I have taken a decision, a conscious decision, I will not use any document in this bundle. It has been retracted. The one document that I intended to use it is on page one, but apparently it is also part of, I will refer to it in the bundles.

CHAIRPERSON: Yes, thank you. The objection is sustained, and the bundle of documents that the evidence-leading team sought to use and to hand it up as to form part of the record has now been retracted. Thank you, Counsel. You may then - I beg your pardon.

ADV BALOYI-MERE SC: I know I, ordinarily I would not want to speak after you make a ruling, but I am a bit worried that Advocating Mohlamonyane managed to get the documents that the NPA could not find. Maybe Advocating
10 Mohlamonyane can assist us with the docket, because obviously those documents would be from the docket, maybe for future use in the very near future, where the NPA failed to get the documents. Maybe you could assist the Chair, and I apologize for speaking after your ruling.

ADV MOHLAMONYANE SC: May I respond to that, Madam Chair, to Advocate Baloyi SC's proposition?

ADV BALOYI-MERE SC: Maybe I should leave this to the parties to deal with the issue of the docket, although I was raising this because we are on a fact finding enquiry, so we
20 should not have some of the information being left out or suppressed. But let me leave it. You may not respond to what I have said. You will deal with it inter parties. Thank you.

ADV MOHLAMONYANE SC: Thank you.

CHAIRPERSON: Yes, my sister is correct that the parties

must discuss these matters without our involvement as we have been proceeding. You will alert us in chambers as we meet every morning if there would have been any consensus. If none, the parties will indicate to us why the dockets cannot be made part of the record and what prejudice, if any, will be suffered by any one of you.

But we think that it is prudent that we allow the parties to talk and form a view as to what should happen to this docket because it had been raised by the parties. Do
10 talk. You know the approach of this enquiry, as we enquire, searching for the truth, what we expect all of you to do. Thank you. That said, we should begin. Advocate Mohlamonyane, I have already warned the witness.

ADV MOHLAMONYANE SC: Madam Chair, may I ask for a ten minute adjournment just to recompose myself?

CHAIRPERSON: Yes, I understand. As I understand, I must also caution, Ntate Mohlamonyane, that time is not on our side. I say this very reluctantly because I do not want to belabour the point, we have lost a lot of time last year, not
20 because of our own making, not because the panel did not do its work, neither because Advocate Chauke did not do what they were supposed to do.

We encountered the delay primarily because of the challenges you, the evidence leaders, encountered. And whatever you do, whatever request you make, to stand the

matter down for a postponement, bear that in mind.

ADV MOHLAMONYANE SC: Not a postponement, Madam Chair, just before I start with my ...[intervenes].

CHAIRPERSON: Please let me finish talking. Counsel. I am talking for the future if you seek any postponement. I am just reminding you that as you now seek us to stand the matter down again, we started late because of the technical challenge and also because of your own doing, Advocate Mohlamonyane.

10 When I say your own doing, I am not talking to you personally, but to the evidence leading team, how you do things and causing us delays. We should avoid that. In fairness to you, to compose yourself and get your house in order, we will afford you time to consider how you wish to proceed with your cross-examination. Madam Williams.

MS WILLIAMS: Yes, Madam Chair.

CHAIRPERSON: We apologize to you for keeping you waiting. We are going to take a short adjournment to enable the evidence leading team to organize themselves and we will
20 reconvene after 10 minutes. We will reconvene at 10 to 11. Advocate Mohlamonyane, is it 10 to 11? At 5 to 11. Thank you. We will adjourn.

ENQUIRY ADJOURNS

ENQUIRY RESUMES

CHAIRPERSON: Good morning once again to you all. Ms

Williams, Madam.

MS WILLIAMS: Yes, Madam.

CHAIRPERSON: You continue to be under oath.

MS WILLIAMS: Yes, thank you, Madam Chair.

SHAMILA HENRIETTA WILLIAMS (still under oath)

CHAIRPERSON: Advocate Mohlamonyane.

ADV MOHLAMONYANE SC: Thank you, Madam Chair. Good morning, Ms Williams.

MS WILLIAMS: Good morning.

10 **ADV MOHLAMONYANE SC**: You are aware that in South Africa there are clashes between various taxi associations and in this regard in particular in KZN.

MS WILLIAMS: Yes, I am.

ADV MOHLAMONYANE SC: And there were killings that were committed by members of these associations. In this instance, the Stanger Association and the Maphumulo Taxi Association, which you call KTA. Are you aware of that?

MS WILLIAMS: Yes. Yes, I was aware of some of it, yes.

CHAIRPERSON: You remember you dealt with this aspect
20 yesterday and the witness answered as she does now. I am looking at my notes.

ADV MOHLAMONYANE SC: As it pleases the Chair. Now, Superintendent Choncho was assigned to investigate the killings between the two taxi rivals, rival associations. Are you aware of that?

MS WILLIAMS: No, I was not aware of that. I knew he was the head of the taxi violence unit, yes.

ADV MOHLAMONYANE SC: Now, I want to take you to paragraph 18 of your statement on page 3-5. Are you there?

MS WILLIAMS: Just give me a second, please. Which paragraph are we talking about?

ADV MOHLAMONYANE SC: 18.

MS WILLIAMS: Yes.

ADV MOHLAMONYANE SC: Berea CAS 288/11/2008 was
10 one of those that you investigated.

MS WILLIAMS: That is correct, yes.

ADV MOHLAMONYANE SC: Now, go to paragraph 23.2 on page 3-7 of your affidavit.

MS WILLIAMS: I have got it, yes.

ADV MOHLAMONYANE SC: Are you there?

MS WILLIAMS: Yes, I am there.

ADV MOHLAMONYANE SC: You say in that affidavit, in a nutshell, that you had gathered evidence and it was your view that in the Berea matter you had gathered evidence which
20 would have led to a successful prosecution against the relevant members of the Cato Manor SVC. Do you agree?

MS WILLIAMS: Yes, I do.

ADV MOHLAMONYANE SC: Now, let us take the Berea case and go to the volume BR1. Madam Chair, BR1 page ...[intervenes].

ADV BALOYI-MERE SC: Sorry, before we go to BR1, you referred the witness to page 3-7 and which paragraph specifically?

ADV MOHLAMONYANE SC: Paragraph 23.2, Madam Baloyi-Mere SC, which goes to page 3-8.

ADV BALOYI-MERE SC: Thank you. I found it, thank you.

ADV MOHLAMONYANE SC: You have the bundle in front of you?

MS WILLIAMS: I do, Madam Chair.

10 **ADV MOHLAMONYANE SC:** In the normal course of events, in the course of your investigations ...[intervenes].

CHAIRPERSON: You have just referred us to BR1.

ADV MOHLAMONYANE SC: Yes, Madam Chair.

CHAIRPERSON: Where in BR1?

ADV MOHLAMONYANE SC: 00, go to 0073.

MS WILLIAMS: Chairperson, if Counsel can just repeat the number for me.

ADV MOHLAMONYANE SC: 0073, BR0073. Are you there?

MS WILLIAMS: Yes, I am here.

20 **ADV MOHLAMONYANE SC:** You will see on that page that there is a statement of Paul Mostert, who was a detective inspector attached to Cato Manor.

MS WILLIAMS: Yes, I see that.

ADV MOHLAMONYANE SC: When you were being led in your evidence in chief, you were not referred to this

statement, not so?

MS WILLIAMS: Just repeat yourself.

ADV MOHLAMONYANE SC: I am saying when you were giving evidence in chief, you were not referred to this statement, not so?

MS WILLIAMS: Yes.

ADV MOHLAMONYANE SC: You were not referred to it? Yes, meaning you agree that you are not referred to it?

MS WILLIAMS: No.

10 **ADV MOHLAMONYANE SC:** I do not understand your answer. Okay, I will come back to it. You were referred to ...[intervenes].

CHAIRPERSON: May I just, I am sorry to interpose. Remember the witness is called by Advocate Chauke's team and she is led by that team. Should you not maybe recast your question differently, that as she was led, she did not, she was not led on this document. If you would like to refer to her statement, you can maybe take us to the paragraph relevant and maybe indicate to the witness that in your
20 statement, you did not make any mention of this statement by Mr Mostert. It is one thing to testify about what you are led about and another to be asked questions about what the witness herself has deposed to. I am not sure whether Counsel understand the point that I am trying to make.

ADV MOHLAMONYANE SC: I do, Madam ...[intervenes].

CHAIRPERSON: With a view that you can recast the question differently.

ADV MOHLAMONYANE SC: Thank you, Madam Chair.

MS WILLIAMS: Madam Chair.

CHAIRPERSON: Madam Williams, wait a minute. Let us allow Counsel, Advocate Ramogale, to deal with his questions to you, then you can answer. Yes, Counsel.

ADV MOHLAMONYANE SC: Thank you, Madam Chair. I was just taken aback. Let me recast, Madam Chair. In your
10 evidence in chief, you did not make mention of this statement on this page, BR0073, which is marked 810 in the docket. Is that correct?

MS WILLIAMS: That is correct, yes.

ADV MOHLAMONYANE SC: Now, in 2008, when you were investigating this matter of the Berea CAS 288/5/2008, you did not make a statement, not so?

MS WILLIAMS: I cannot remember if I made a statement or not.

ADV MOHLAMONYANE SC: You never referred to your
20 statement in your evidence in chief, did you?

MS WILLIAMS: No, I did not. I cannot remember. I am just telling you that I cannot even remember if I made a statement. So why would I have mentioned it?

ADV MOHLAMONYANE SC: So should this panel accept that you did not make a statement?

ADV RAMOGALE: I do not recall.

CHAIRPERSON: That is what she is saying, Counsel, please. She says, I do not remember that I made a statement, meaning there is no statement to that effect. Does that not follow?

ADV MOHLAMONYANE SC: Thank you, Madam Chair. You concentrated in your evidence in chief on the statement contained in BR0093, that of Themis Cynthia Nxumalo, is that correct?

10 **MS WILLIAMS:** Can I just go there. You said BR00?

ADV MOHLAMONYANE SC: 93.

MS WILLIAMS: Just give me one second to get there, please.

CHAIRPERSON: Please take us, sorry, Counsel, ja, please take us to that.

ADV MOHLAMONYANE SC: BR1. We are still on the same volume, Madam Chair.

CHAIRPERSON: BR1.

ADV MOHLAMONYANE SC: BR0093.

20 **CHAIRPERSON:** 0093.

ADV MOHLAMONYANE SC: Yes, Madam Chair. This is the statement that you ...[intervenes].

MS WILLIAMS: [Indistinct]...

ADV MOHLAMONYANE SC: That you referred to in your investigations, not so?

MS WILLIAMS: Yes, I used the statement when I was doing my investigations. Obviously, I had to take it into consideration.

CHAIRPERSON: Sorry, Counsel. I am very sorry. The statement of Mr Mostert that you referred us to earlier on, BR10073, I am not aware that, or rather I do not know whether you are aware that this statement has been dealt with previously by, or it has been referred to us by Advocate Chauke's team. It may not have been referred to by this
10 witness, but I, it is clear it is now part of the record. What point would you like to make with regard to this Inspector Mostert's statement?

ADV MOHLAMONYANE SC: I would have reverted to it. I will be reverting to it after I shall have dealt with the other two statements, reverted to Mostert's statement to indicate to her that she did not take all the statements into account in her evidence, rather in her investigation of the Berea matter.

CHAIRPERSON: Yes, you can then proceed to BR10093.

ADV MOHLAMONYANE SC: Thanks, Madam Chair. You are
20 there, you are on BR0093?

MS WILLIAMS: That is correct, yes.

ADV MOHLAMONYANE SC: This witness here, Thembi Cynthia Nxumalo, says in paragraph 2 ...[intervenes].

CHAIRPERSON: Wait a minute, I am paging through to 0093. What is this document?

ADV MOHLAMONYANE SC: This is a statement, Madam Chair, of one Thembi Cynthia Nxumalo, which this witness has referred to in her evidence in chief. It has been one of those that she considered in the course of her investigation.

CHAIRPERSON: Thank you, Counsel. Proceed.

ADV MOHLAMONYANE SC: Thank you, Madam Chair. You placed a lot of emphasis in your evidence in chief on this statement, not so?

MS WILLIAMS: I suppose so, yes. And also the post-mortem
10 reports and the ballistic reports, yes.

ADV MOHLAMONYANE SC: Now, this witness here, Thembi Cynthia Nxumalo, says she was inside the house in paragraph 2 ...[intervenes].

MS WILLIAMS: Inside the flat, yes.

ADV MOHLAMONYANE SC: When she peeped through the bedroom window, her bedroom window. Is that correct?

MS WILLIAMS: That is correct, yes.

ADV MOHLAMONYANE SC: That was when she heard people talking, after she had heard people talking outside.

20 **MS WILLIAMS:** Yes.

ADV MOHLAMONYANE SC: And she saw something falling to the ground. At that stage, she did not ...[intervenes].

MS WILLIAMS: Yes.

ADV MOHLAMONYANE SC: She did not realize it was a human being.

MS WILLIAMS: Yes.

ADV MOHLAMONYANE SC: And when, and in paragraph 5, she says when, paragraph 4, rather, before the person fell, he heard gunshots, not so?

MS WILLIAMS: Yes.

ADV MOHLAMONYANE SC: And that the person, according to her, did not have a firearm in his hands.

MS WILLIAMS: That is what the witness says, yes.

ADV MOHLAMONYANE SC: Now, in your understanding, at
10 what stage did she hear the gunshots, in your understanding?

MS WILLIAMS: She would have heard the gunshots before she saw the person fall, fall from above, because this is what I am reading.

ADV MOHLAMONYANE SC: Furthermore, on your understanding, would she have seen who fired the gunshots?

MS WILLIAMS: No, she would not have seen who fired the gunshots. It is impossible for her to see that.

ADV MOHLAMONYANE SC: Now, let me take you to a statement in the same bundle, BR0011, A4 in the docket.

20 **MS RAMAGAGA:** BR?

ADV MOHLAMONYANE SC: 0011, Madam Ramagaga. It is A4 in the docket.

CHAIRPERSON: Thank you, Counsel.

MS WILLIAMS: I have it, yes, thank you.

ADV MOHLAMONYANE SC: This is a statement of one

Shannon, Shannon Brownie, and I want to read this statement to you, to read it into the record, with your permission, Madam Chair.

CHAIRPERSON: You may.

ADV MOHLAMONYANE SC: Thank you, Madam Chair. She states on oath in English, and she says I am an adult female with ID number that, that. We do not have to cite it on record. And she stayed at that flat, Carlsberg, in Berea. The paragraphs here are not numbered, but I will get to the next
10 one, it says, which I will call 2:

“On 24-5-2008, Saturday ...”

I cannot read that, but it ...:

“Before 11, I heard five gunshots from a close vicinity. I rushed towards my window and saw a person lying on the floor (parking area) on his stomach. I

went and checked my phone from my room. I phoned 10111. I looked out the window and saw a male kicking a firearm
20 out of the person's hand. While still on the phone, I heard noises coming from flat number 32. I heard banging of the door. Entry was gained into that flat. The flat was cordoned off with police tape. I then realized that the males

were police officers. The male from number 32 was unknown to me. During the last two days before this incident, a white Yaris was parked in his parking site. I did not see him drive it.”

And it is signed on the next page and commissioned. Have you taken into account this statement when you did your investigations?

MS WILLIAMS: Yes, I did, ma'am, and obviously, this would
10 have been part of my DPP memo. I would have included this into my DPP memo.

ADV MOHLAMONYANE SC: The DPP memo you are referring to, where is it?

MS WILLIAMS: I do not have that. That would obviously be in ICD, or now IPID, in their possession, and I suppose a copy of it will be with the DPP in Pietermaritzburg.

ADV MOHLAMONYANE SC: In paragraph 67, let me take you to your affidavit. Go to paragraph 67 of your affidavit, on page 3-22.

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

CHAIRPERSON: Paragraph six seven?

ADV MOHLAMONYANE SC: Six seven, Madam Chair. It is at the bottom of the page 3-22.

CHAIRPERSON: Yes, thank you.

ADV MOHLAMONYANE SC: Thank you, Madam Chair.

When, in this paragraph, Ms Williams, you are saying in a nutshell that when you arrived at the scene, you saw the deceased lying on the ground.

MS WILLIAMS: Yes, I do.

ADV MOHLAMONYANE SC: And that he appeared to have been shot several times.

MS WILLIAMS: Yes.

ADV MOHLAMONYANE SC: Now, the next page in paragraph 70.

10 **CHAIRPERSON:** Proceed, Counsel.

ADV MOHLAMONYANE SC: You, in paragraph 70 you say he was shot two times while lying down.

MS WILLIAMS: Yes.

ADV MOHLAMONYANE SC: Are you suggesting, Ms Williams... [MECHANICAL INTERRUPTION]

ENQUIRY ADJOURNS

ENQUIRY RESUMES

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

20 **MS WILLIAMS:** Good afternoon Madam Chair.

CHAIRPERSON: You continue to be under oath, madam.

MS WILLIAMS: I do understand, Chairperson.

CHAIRPERSON: Advocate Mohlamonyane?

ADV MOHLAMONYANE SC: Thank you Madam Chair. Ms Williams, I want to take you back to paragraph 70 and recap.

MS WILLIAMS: Yes, I am on paragraph 70.

ADV MOHLAMONYANE SC: You said you did not see the police shooting at the deceased who was lying down?

MS WILLIAMS: No, I did not see that, I was not there.

ADV MOHLAMONYANE SC: How do you know that he was shot twice while lying down?

MS WILLIAMS: I got that from the information obviously from the duty officer.

ADV MOHLAMONYANE SC: Duty officer?

10 **MS WILLIAMS**: Yes.

ADV MOHLAMONYANE SC: Who was the duty officer?

MS WILLIAMS: I cannot remember the name of the superintendent but he was from Berea SAPS.

ADV MOHLAMONYANE SC: Now the position of the firearm you say is against the body of the deceased was improbable, what makes it improbable?

MS WILLIAMS: Because of the distance that the firearm was from the body.

ADV MOHLAMONYANE SC: May I proceed, Madam Chair?

20 **CHAIRPERSON**: Yes, sir, you may proceed.

ADV MOHLAMONYANE SC: Thank you. The firearm was lying close to the body, you say one metre, plus/minus one metre in paragraph 67, a metre away from the deceased body?

MS WILLIAMS: That is correct yes, plus/minus.

ADV MOHLAMONYANE SC: Would you say if it was lying at that distance that you estimated it was in close proximity?

MS WILLIAMS: Not really.

ADV MOHLAMONYANE SC: It was not in close proximity?

MS WILLIAMS: It was, but it was not near him.

ADV MOHLAMONYANE SC: You say not really?

MS WILLIAMS: It was a metre away, Counsel, plus/minus a metre away.

ADV MOHLAMONYANE SC: Now your testimony about the
10 position of the firearm and its improbability, Ms Williams, can only can only be given by an expert. You are not an expert, you are not a ballistic expert to testify about positioning and distances and brandishing, when he landed or while falling, you are not an expert.

MS WILLIAMS: Correct Chairperson, I am not an expert but I was speaking to the experts and I was getting their view and they were guiding me. Those are the resources I have available to me, so I used the resources.

ADV MOHLAMONYANE SC: But in this paragraph 70, Ms
20 Williams, you are not saying I got information from experts, you are saying it in your own words as if you are the one who is making the proposition, not so?

CHAIRPERSON: Does he not say the police version in paragraph 70, the opening line?

ADV MOHLAMONYANE SC: Yes, she says the police

version of events and the alleged self-defence does not seem plausible, but she does not go to say this is what I got from the police. Ms Williams.

MS WILLIAMS: Yes, Madam Chair, obviously the police have told me that and I am stating in here because where else would I have gotten that from? Obviously I would have spoken to the police because like I have said in my evidence-in-chief, that whenever we get to a scene, the information is then relayed to us by the duty officer and thereafter I speak
10 to the pathologist, I speak to the ballistics and that is what is guiding me.

ADV MOHLAMONYANE SC: So you got this improbability that you are putting here from the police?

MS WILLIAMS: Exactly, from the police, Madam Chair.

CHAIRPERSON: I beg your pardon, you cannot talk about improbability, you are not making an assessment of the probability or otherwise of her statement. Should not you just place evidence before us, Counsel? Because at the end of the day, that is what we seek to do in terms of the terms of
20 reference. Would you?

ADV MOHLAMONYANE SC: Yes, I agree, Madam Chair, with you but she puts a proposition here, she puts a statement here to say it was improbable, the position of the firearm was improbable. Now I want her to explain this improbability, what made the position to be improbable? The position of

the firearm, what makes it to be improbable?

MS WILLIAMS: Ma'am, as I said, I spoke to the ballistics and as I spoke to the ballistics and I also spoke to the pathologist, this is the information that I got from them and they told me that there is no way that this guy, the firearm, the position of the firearm, that he could have brandished the firearm, ma'am, he could have pointed the firearm at the police at that stage and that is obviously what I get from the experts.

10 **ADV MOHLAMONYANE SC**: Which expert are you referring to?

MS WILLIAMS: I cannot remember who the ballistics expert was, I think it was Captain Renier van der Sandt if my memory serves me correctly and then I cannot remember who the pathologist was, I think maybe Dr Chris Taljaard [?] and I also remember that Dr Ayo was there overseeing that post-mortem, that is not if my memory serves me correct, but I think it is these three people, Madam Chair.

ADV MOHLAMONYANE SC: Let me take you back to the
20 statement of Inspector Mostert on page BR0073 to which I referred you earlier.

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

ADV MOHLAMONYANE SC: Paul Mostert says and I wish to put it on record, I wish to put this statement on record:

“I am a detective inspector in the South

African police and attached to the Organised Crime Unit Cato Manor. On Saturday, 24 May 2005, at 21.55, I was contacted by Captain Evaluate, who requested assistance. I immediately proceeded to the office where I met Captain Eva and Constable Naidoo. I was informed by Captain Eva that information was received about a wanted suspect, Thabo Msimango, who was hiding in a flat in the Morningside area. Captain Eva also made arrangements for other members to meet us. The above suspect was arrested on B Beach CAS 343/1/08, armed robbery. He later escaped from members of the unit at the workshop Durban, Durban Central CAS 1641/01/2008 escaping refers.

10

20

The same evening, at 22.25 Captain Eva, Constable Naidoo and I departed to Avondale Road where the other members were met. Captain Eva briefed us from where we departed to flat situated between 5th and 6th Avenues, Grayville. The name of the block of flats is Colesberg. Information was that Thabo could be in the

company of another wanted suspect and that they were both armed. At 22.40 Captain Eva, Inspector Nel, Constable Naidoo and I entered the building. The other members safeguarded the ground area. We proceeded to the third floor to flat number 32. On our arrival I noticed a security gate in front of the door. Due to the fact that the suspect could be armed, the security gate was forced open by means of a crowbar.

10

Once this was done the door was kicked in by Inspector Nel. I immediately entered the flat armed with my pistol, a 9mm Parabellum with serial number Q014304. As I entered I was confronted by the suspect Thabo. He was armed with a pistol pointing it in my direction. I fired three shots in his direction.

At this point he ran towards the enclosed balcony with the window slightly opened. He dived through the window and fell to the ground. I noticed movement and fired a further shot in his direction when I noticed the members on the floor move in and I heard more shots being fired. I went down the stairs to where the suspect lay.

20

Inspector Nel and Constable Naidoo remained in the flat. On my arrival I found Captain Eva and other members by the suspect. At this point Captain Eva took charge of the scene. I noticed the firearm lying in close proximity to the suspect. It appeared that the suspect was dead. The necessary arrangements were made by Captain Eva to have an ambulance summoned to the scene. He also requested for the detective on call as well as a duty officer to attend. Members of the ICD and the LCRC were also summoned to the scene. Whilst the injured was in my presence he did not sustain further injuries. I later departed from the scene to the office. At that stage the detective was still at the scene as well as the deceased.”

And this was signed and sworn to on the 14th day of July 2008 as it appears on the next page. Ms Williams, do you see that?

MS WILLIAMS: Yes, I see that.

ADV MOHLAMONYANE SC: Now after listening to what Inspector Mostert has said you are still of the view that Thabo Msimango did not have a gun with him?

MS WILLIAMS: Obviously I did not see whether he had a gun. The next thing that I am asking myself, LCRC, did they do DNA on that firearm for us to establish whether that firearm was his possession? I am not saying it was not.

ADV MOHLAMONYANE SC: You are not saying it was not in his possession?

MS WILLIAMS: Yes if he had touched it, if it had been under his control.

ADV MOHLAMONYANE SC: Go to page BR0075. Of the
10 same bundle, Madam Chair.

CHAIRPERSON: Do not forget that along the statement of Mr Mostert you had earlier on referred us also to the statement and BR10093 and the statement BR0011. And you said that you are going to deal with those, so they are left hanging. I do not know whether you intend to revert to those statement as you have just done with that of Mr Mostert.

ADV MOHLAMONYANE SC: I intend to in that Madam Chair.

CHAIRPERSON: Please proceed sir.

ADV MOHLAMONYANE SC: Thank you. This is a statement
20 of... I actually refer to a different one. I want to refer you to A12. I beg your pardon. A12.

CHAIRPERSON: Where is A12?

ADV MOHLAMONYANE SC: BR0077, Madam Chair. My apologies. The statement of Rakesh Maharaj.

CHAIRPERSON: Proceed, Counsel.

ADV MOHLAMONYANE SC: Thank you, Madam Chair. For time constraints, due to time constraints, I am not going to read the whole statement to you. I will only refer you to what I regard as important and critical for our purposes. Can you go to paragraph 4 of that statement.

MS WILLIAMS: I am going to paragraph 4 of the statement, yes, Madam Chair.

ADV MOHLAMONYANE SC: He says in paragraph 4 and I quote it:

10 “At plus minus 22.40 we proceeded to
 Colesberg Flats, 6th Avenue, Morningside.
 Inspector Makhanya and I took positions
 directly below that number 32 on foot, whilst
 the rest of the members proceeded upstairs
 to the respective flat. After a few minutes I
 heard a noise, followed by gunshots and the
 next moment noticed a male falling to the
 ground with a firearm in his hand. I
 immediately and instinctively fired two shots
20 in his direction. I thereafter cautiously
 approached the suspect and kicked the
 firearm away from the ground next to his
 hands for safety reasons. Captain Eva then
 took over the entire scene.”

My question is you cannot deny that this deceased Thabo

Msimango had a gun in his possession.

CHAIRPERSON: How can she deny that? She said she was not there. She only arrived when the deceased was lying down on the ground.

ADV MOHLAMONYANE SC: Thank you, Madam Chair. Let me then proceed to refer the witness to BR0011.

MS WILLIAMS: Yes, I am right there, Chairperson.

ADV MOHLAMONYANE SC: This is a statement of Shannon Brownie, an independent witness. It is not a police witness,
10 it is just an ordinary citizen. I do not wish to read the whole, for purposes of saving time, the whole of this statement. But let me refer you again to what I regard here as paragraph 3. One, two, three, which says:

“I rushed towards my window and saw a person lying on the floor, parking area, on his stomach. I went and fetched my phone from my room and phoned 10-111. I looked out of the window and saw a male kicking a firearm out of the person's hand.”

20 Would you agree, therefore, Ms Williams, that this is consistent with what Inspector Maharaj has said in his statement?

MS WILLIAMS: Obviously, it is consistent with what he has said, yes.

ADV MOHLAMONYANE SC: Now, you say the following day,

or two days down the line, you revisited the scene.

MS WILLIAMS: Yes.

ADV MOHLAMONYANE SC: And there was a spent cartridge there.

MS WILLIAMS: That is correct, Madam Chair.

ADV MOHLAMONYANE SC: Were you with the LCRC personnel?

MS WILLIAMS: Yes, LCRC was there, Ballistics was there, Madam Chair.

10 **ADV MOHLAMONYANE SC**: And you say a flat screen television was missing.

MS WILLIAMS: That is correct, Madam Chair.

ADV MOHLAMONYANE SC: Who stole it? Was it stolen?

MS WILLIAMS: Obviously, I do not know that. But the owner of the flat said the TV, after we left, after the scene was processed, Madam Chair, the owner of the flat, I remember it was an Indian guy, he said he locked the flat and everything was in order. The Monday morning when we arrived there, there was no television and all of a sudden, there was a spent
20 cartridge that was also in the flat. So we spoke to the gentleman and he said he had no idea what just happened. But he saw, I think the day before, he saw that the flat was broken into. And he also had no idea what was happening, or who had broken into the flat.

ADV MOHLAMONYANE SC: Thank you. Go to paragraph

73 of your affidavit on page 3-24.

MS WILLIAMS: Yes, I am there.

ADV MOHLAMONYANE SC: You made recommendations.

MS WILLIAMS: Yes, I did. Yes, I did. Yes, I did make recommendations.

ADV MOHLAMONYANE SC: Did you recommend that the police officers involved from Cato Manor should be prosecuted?

MS WILLIAMS: Yes, I did that, Madam Chair.

10 **ADV MOHLAMONYANE SC**: You did that against the statement of an independent witness, who is very crucial, who says this person had, she saw the firearm being kicked from his hand. You did that, you recommended prosecution.

MS WILLIAMS: Are you done?

ADV MOHLAMONYANE SC: I beg yours?

MS WILLIAMS: I am asking are you done with your question, Madam Chair?

ADV MOHLAMONYANE SC: Yes, let me repeat my question.

20 **CHAIRPERSON**: The witness was asking whether you are done with your question, supposedly so that she can answer.

ADV MOHLAMONYANE SC: I am done, yes, Ms Williams.

CHAIRPERSON: You may answer.

MS WILLIAMS: Madam Chair, obviously in my DPP memo I would have included Brown's statement. And then also I would have taken into account ballistics and the post-mortem

report. Because I thought that when you write these DPP memos you have to include everything. Even the statements from these police officers were also included in the DPP memo.

ADV MOHLAMONYANE SC: Let me just repeat my question. In the face of the statement of Shannon Brownie, you recommended prosecution.

MS WILLIAMS: Yes.

ADV MOHLAMONYANE SC: Go to BR0287.

10 **CHAIRPERSON:** BR?

ADV MOHLAMONYANE SC: BR, Madam Chair, 0287.

CHAIRPERSON: 0287.

ADV MOHLAMONYANE SC: It is a J56. The results of the inquest held in the matter of Thabo Msimango. The man who fell from the fourth floor of the flat in Colesberg, Durban.

MS WILLIAMS: I have that in front of me, Madam Chair.

CHAIRPERSON: Thank you, Counsel.

ADV MOHLAMONYANE SC: Thank you, Madam Chair. The document that you are looking at is the result of an inquest
20 held in Durban. Do you see that?

MS WILLIAMS: I see that, yes, Madam Chair.

ADV MOHLAMONYANE SC: Before Germishuys, who was an additional Magistrate for the said district and it was held on the 17th day of August 2010.

MS WILLIAMS: I see the date is stamped that, yes.

CHAIRPERSON: The witness referred to this document, Counsel, yesterday, if you were here yesterday, she referred to it, she dealt with it. So you can go straight to the point. You can accept we have looked at it. You can go to the point you wish to make.

ADV MOHLAMONYANE SC: Thank you, Madam Chair. The result, whether the death was brought about by any act of omission on the part of anybody, under paragraph D, was a no. The Magistrate said no.

10 **MS WILLIAMS:** Yes, I see that.

ADV MOHLAMONYANE SC: The police were not liable for the death of Msimango. What do you find wrong in that?

MS WILLIAMS: What do I find wrong with what, Madam Chair?

ADV MOHLAMONYANE SC: With this finding here.

MS WILLIAMS: Why would I have a problem with the finding by a Magistrate?

ADV MOHLAMONYANE SC: You do not have a problem with his finding?

20 **MS WILLIAMS:** No, this comes from a Magistrate. I have done my investigation. I have sent my document to the DPP. And here a Magistrate writes this and I do not understand what it is that you want me to say now. Because that is his view. That is not my view.

ADV MOHLAMONYANE SC: Is it a wrong view?

MS WILLIAMS: I do not know. I am not that Magistrate. I do not know what the Magistrate was looking at.

ADV MOHLAMONYANE SC: Thank you, Madam Chair. I will leave that aspect and go to the next aspect. I intend to deal with the Durban Central CAS 185/2/2009, in which Bongani Mkhize died. It is on page, it starts on page 3-24 of the witness's affidavit.

CHAIRPERSON: Page, paragraph?

MS WILLIAMS: Is that page 34, Chairperson?

10 **ADV MOHLAMONYANE SC**: Page 3-24.

MS WILLIAMS: Which paragraph are we speaking about, Madam Chair?

ADV MOHLAMONYANE SC: I will come to that, Ms Williams. I am still referring, Madam Chair, the Panel, to the relevant page.

CHAIRPERSON: Do you have page 3-24, Ms Williams?

MS WILLIAMS: No, ma'am, I do not have that. That is why I am asking which paragraph, Madam Chair, he is referring to, so that I can go to the relevant paragraph. Madam Chair,
20 if I may say, I think when the indexing was done, it was not done on what we have here. That is why I am asking if the paragraph can be given, because normally when a paragraph is given, then I find what I need to be looking for.

CHAIRPERSON: Yes, it is your statement, and counsel will tell you which paragraph.

MS WILLIAMS: Thank you.

ADV MOHLAMONYANE SC: It starts on paragraph 74.

MS WILLIAMS: Yes, I am at paragraph 74.

CHAIRPERSON: You may proceed, Counsel.

ADV MOHLAMONYANE SC: Thank you, Madam Chair. Ms Williams, you testified about a publication in the Sunday Times in December 2011 relating to the Cato Manor SVC.

MS WILLIAMS: Correct, Madam Chair.

ADV MOHLAMONYANE SC: This publication led to a
10 multidisciplinary effort involving the DPCI, which is known as the Hawks, ICD, and prosecutors supervised by Advocate Andrew Chauke looking into many of the shootings of the Cato Manor SVC. Correct?

MS WILLIAMS: That is correct, I suppose, yes.

ADV MOHLAMONYANE SC: Now, as I understand it, the ICD became involved in that ...[intervenes]

CHAIRPERSON: I am sorry, including what of Advocate Chauke?

ADV MOHLAMONYANE SC: Supervised by Advocate
20 Andrew Chauke.

CHAIRPERSON: What was supervised by him? I do not understand your question. Sorry, Counsel, you may repeat your question. I did not pick it up.

ADV MOHLAMONYANE SC: There was a multidisciplinary effort involving the DPCI, the ICD, and prosecutors where

Advocate Andrew Chauke was involved in the prosecution team.

ADV BALOYI-MERE SC: I am sorry to interrupt you. Is this from the witness' statement or you are putting a proposition?

ADV MOHLAMONYANE SC: I am putting a proposition.

ADV BALOYI-MERE SC: Thank you.

CHAIRPERSON: Counsel, remember you cannot testify from the bar. You cannot say a factual statement or make a factual proposition from the bar as an advocate, not backed up by
10 evidence by a witness. Otherwise you will be testifying from the bar. I think that is why my sister is asking you this question.

ADV MOHLAMONYANE SC: Let me abandon that question. Thank you, Madam Chair. I withdraw the question.

CHAIRPERSON: Thank you.

ADV MOHLAMONYANE SC: Now, the ICD became involved in this multidisciplinary effort in January 2012. Is that correct?

MS WILLIAMS: That is correct, yes.

20 **ADV MOHLAMONYANE SC:** Now, in your affidavit, you are dealing with a Durban Central CAS 185, as indicated from paragraph 74.

MS WILLIAMS: Correct, Chairperson.

ADV MOHLAMONYANE SC: Now, the information in paragraph 74, 75, 76, 77, up to 83, 83.4 of your affidavit, is

it taken from statements that you made?

MS WILLIAMS: Yes, obviously they have been by statements that I have made into this docket. And maybe now, Madam Chair, maybe not just all statements, maybe also ballistic reports, post-mortem reports, that kind of evidence.

ADV MOHLAMONYANE SC: Ja, let me assist you. The statements I am referring to are contained in bundle DC. DC1. In DC1, 000191 is your statement. 000191, Madam Ramagaga.

10 **MS WILLIAMS:** Triple 0?

ADV MOHLAMONYANE SC: 191.

MS WILLIAMS: Got that, let me find it.

CHAIRPERSON: Proceed, Counsel.

MS WILLIAMS: Yes, I have that, Madam Chair.

ADV MOHLAMONYANE SC: This is your statement that you deposed to on 9 December 2009 as it appears on page 000192, correct?

MS WILLIAMS: Yes, it is.

20 **ADV MOHLAMONYANE SC:** There is another statement that you made, which appears on page 000228, which you deposed to on 8 February 2010.

MS WILLIAMS: 228? Yes, I have it here in front of me, yes.

ADV MOHLAMONYANE SC: It is A31 in the docket.

CHAIRPERSON: You got it, madam?

MS WILLIAMS: Yes, Madam Chair, I have it.

ADV MOHLAMONYANE SC: Another of your statements is in DC00418, the same bundle.

MS WILLIAMS: Which bundle?

ADV MOHLAMONYANE SC: Let me quickly check.

CHAIRPERSON: It must be another bundle.

ADV MOHLAMONYANE SC: Ja, it must be bundle 2.

MS WILLIAMS: Let me just find bundle 2, please?

ADV MOHLAMONYANE SC: It is bundle DC2, Madam Chair.

CHAIRPERSON: It is not 418, it is 417.

10 **ADV MOHLAMONYANE SC:** Yes, 417, Madam Chair. You deposed to this statement on 22 March 2012.

MS WILLIAMS: If I can be given time to find it, please.

CHAIRPERSON: Yes, ma'am. In the docket, it is marked A58. I think so. A58?

MS WILLIAMS: I have the statement, Madam Chair.

ADV MOHLAMONYANE SC: You deposed to the statement on 22 March 2012.

MS WILLIAMS: Yes.

20 **ADV MOHLAMONYANE SC:** Now, Ms Williams, it takes you almost 10 months after the incident of 3 February 2009 to depose to your statement.

MS WILLIAMS: Yes?

ADV MOHLAMONYANE SC: Why should that happen?

MS WILLIAMS: Because, obviously, that must have been the time when I am now allowed to take over the investigation.

Does the time matter, Madam Chair?

ADV MOHLAMONYANE SC: Now, let us look at A24.

MS WILLIAMS: Where are we now, Madam Chair, I am lost?

ADV MOHLAMONYANE SC: I am taking you back to DC000191.

MS WILLIAMS: Yes, I am at DC000191, yes.

CHAIRPERSON: A24, yes.

ADV MOHLAMONYANE SC: In paragraph 3 of that statement, you say you were approached by a Captain
10 Govender who informed you that he was the detective responsible for the crime scene.

MS WILLIAMS: Correct, yes.

ADV MOHLAMONYANE SC: And, according to your evidence, Captain Govender gave you information as the duty officer as to what happened.

MS WILLIAMS: That is correct, yes.

ADV MOHLAMONYANE SC: Not so?

MS WILLIAMS: That is correct, yes.

ADV MOHLAMONYANE SC: Now, go back to your statement
20 of 22 March 2012. 417, DC00417.

MS WILLIAMS: Yes, I have it with me, yes.

CHAIRPERSON: DC?

ADV MOHLAMONYANE SC: 000417, Madam Chair.

CHAIRPERSON: 417?

FEMALE SPEAKER: Yes. And you say you were with your

colleague from ICD, Ms Ntombi Gibson, and you asked for the duty officer and were informed that it was Bristow.

MS WILLIAMS: Yes, correct.

ADV MOHLAMONYANE SC: Who told you that she does not want you at the scene?

MS WILLIAMS: Superintendent Jackie Bristow told us that she did not want us in the scene.

ADV MOHLAMONYANE SC: And that she will call you when she is ready. Not so?

10 **MS WILLIAMS**: No, sorry, maybe that was a mistake, but she did not say that.

ADV MOHLAMONYANE SC: But you are saying so in your statement. Look at your statement in paragraph 2, under F.

MS WILLIAMS: Yes, Madam Chair, I see that. I think maybe that time when I was writing the statement I must have made a mistake because she did not say at any stage that she is going to call us back. Mistake on my part, I apologise.

ADV MOHLAMONYANE SC: And then, did you also make a mistake two lines down the line when you say Bristow ignored
20 myself and Ntombi?

MS WILLIAMS: No, I did not make a mistake. She did ignore us.

ADV MOHLAMONYANE SC: May I confer for half a second with...

CHAIRPERSON: Yes, you may, you may, Counsel.

ADV MOHLAMONYANE SC: ...Advocate Lekgetho. Thank you, Madam Chair.

CHAIRPERSON: My sister on the left is advising that maybe Advocate Lekgetho can come and sit closer to you, if it will be convenient to you.

ADV MOHLAMONYANE SC: It will be, Madam Chair.

CHAIRPERSON: It will be convenient. Advocate Lekgetho, you can take the corner seat on the right of Counsel. Thank you, Madam Ramagaga.

10 **ADV MOHLAMONYANE SC:** May I proceed, Madam Chair?

CHAIRPERSON: Yes, sir.

ADV MOHLAMONYANE SC: Thank you, Madam Chair. Ms Williams, go to page DC000254, where you will find the statement of your colleague Ntombi Gibson.

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

ADV MOHLAMONYANE SC: Your colleague Ntombi Gibson says in paragraph 2 of her statement that you met a white female superintendent who was processing the scene, and she requested that you should wait until the police were done
20 with the scene. Do you see that?

MS WILLIAMS: Yes, Madam Chair, I see that.

ADV MOHLAMONYANE SC: Nowhere in her statement does she mention that Bristow ignored you.

MS WILLIAMS: But she did ignore us, and she did chase us away from the scene. Because I see here, Madam Chair, if I

may, the same superintendent that refused to allow us to interview anybody on the scene. She said members were traumatised. This woman distinctly said to us that we should get off the scene, and she said that we are reporters. I actually remember now when I am reading Ntombi's statement, ma'am, that she said she will deal with the reporters later. But she did not view us at that stage as ICD members. My memory of this, maybe it is a little bit rusty, because I have not been to this docket for a very long time.

10 And also, I did not go through all the statements to familiarise myself with everything, all the content in it.

ADV MOHLAMONYANE SC: Where was JS Govender stationed?

MS WILLIAMS: JS Govender, would that be the duty officer?

ADV MOHLAMONYANE SC: The duty officer, yes.

MS WILLIAMS: He was stationed at Durban Central Detectives.

ADV MOHLAMONYANE SC: Not Cato Manor?

MS WILLIAMS: No, not Cato Manor. Obviously, I am saying
20 he is the duty officer, he would be from Durban Central.

ADV MOHLAMONYANE SC: And it is not your testimony that she was under the command of Major General Booyesen? Or anyone else from Cato Manor? It is not your evidence?

MS WILLIAMS: Who was under whose command?

CHAIRPERSON: Let me understand the question. That,

Counsel? It is not the witness evidence that...?

ADV MOHLAMONYANE SC: JS Govender, I suppose he is an inspector, was not under the command of General Johan Booyesen?

CHAIRPERSON: Yes, thank you. What is the answer, madam?

MS WILLIAMS: Ma'am, I just want to make sure that JS Govender that the gentleman is speaking about, if it is Captain Govender from Detectives.

10 **ADV MOHLAMONYANE SC:** The one who was at the scene?

MS WILLIAMS: Yes, are we talking about the same Captain Govender?

ADV MOHLAMONYANE SC: Yes, we are talking about the same...

MS WILLIAMS: Okay, no. Yes, I can say that that man was from Detectives at Durban Central.

ADV MOHLAMONYANE SC: His statement is on page DC000230. It is A382B in the docket.

MS WILLIAMS: 000?

20 **ADV MOHLAMONYANE SC:** 230, 230.

MS WILLIAMS: Almost there. I do have it in front of me, Madam Chair.

CHAIRPERSON: Thank you, Counsel.

ADV MOHLAMONYANE SC: Thank you, Madam Chair. Now, I want to take you back to your statement. You state in

paragraph 77, which is on page 3-24, that it was initially reported that the civilian shot by NIU members was still alive.

MS WILLIAMS: That is correct, yes. That is the report I got from Jerome Ncobo.

ADV MOHLAMONYANE SC: In your four statements, you made four statements. In your four statements, where do you say that?

MS WILLIAMS: Whether I say it or not, that is what happened. Jerome told me, go and check out the scene. So,
10 I did what he said. And, Madam Chair, if necessary, I can submit a further statement, because I already started with one statement, and in this respect, if the counsel needs a statement, I will give a further statement, because that is what happened.

CHAIRPERSON: You can just confine yourself to what counsel is asking you. You have answered the question.

MS WILLIAMS: Yes, ma'am. I have already answered the counsel. Should I repeat again?

CHAIRPERSON: No, you have answered the question. That
20 is what I was saying.

MS WILLIAMS: Yes, ma'am.

CHAIRPERSON: In other words, just confine yourself to answering the questions asked to you.

MS WILLIAMS: Noted, ma'am.

ADV MOHLAMONYANE SC: Now, in paragraph 79 of your

statement, on page 3-25...

MS WILLIAMS: I am there, yes.

ADV MOHLAMONYANE SC: ...upon arrival at the scene, you say you were with Ms Gibson, you were introduced, you spoke to the duty officer on the scene, and you were introduced as members of the ICD to Superintendent Jackie Bristow.

MS WILLIAMS: Correct, yes.

ADV MOHLAMONYANE SC: The impression I get from this paragraph is that Superintendent Bristow was not the duty
10 officer.

MS WILLIAMS: She was identified to us as the duty officer.

CHAIRPERSON: Mr Mohlamonyane, the witness testified yesterday, from my notes, on this paragraph, is that Mr Bristow left and handed over to Govender. Did you say that yesterday, ma'am?

MS WILLIAMS: Yes, I did, Madam Chair.

CHAIRPERSON: That is the evidence we have in the transcript.

ADV MOHLAMONYANE SC: Ja, I will get to the next point,
20 Madam Chair. You say you were the lead investigator in this investigation.

MS WILLIAMS: Yes, the matter was allocated to me [indistinct] ...[intervenes]

ADV MOHLAMONYANE SC: The Durban Central.

MS WILLIAMS: Yes, the Durban Central matter, yes.

ADV MOHLAMONYANE SC: Was allocated to you by whom?

MS WILLIAMS: By the allocation panel.

ADV MOHLAMONYANE SC: Go to DC388, which is in DC2, bundle DC2, Madam Chair, and your sisters. 388, it is A49 in the docket.

MS WILLIAMS: Yes, I have it here.

ADV MOHLAMONYANE SC: This document here is the Independent Complaints Directorate Crime Scene Report, which you testified about for several days. Do you see it?

10 **MS WILLIAMS:** I see it, yes, Madam Chair.

ADV MOHLAMONYANE SC: And it relates to the Durban Central CAS 185/2/2009, the one we are dealing with now.

MS WILLIAMS: Correct, yes.

ADV MOHLAMONYANE SC: You were taken through this document.

CHAIRPERSON: You said, I am sorry, I beg your pardon, DC2-00348.

ADV MOHLAMONYANE SC: No, no, Madam Chair, DC000388.

20 **CHAIRPERSON:** Oh, I am sorry.

ADV MOHLAMONYANE SC: Yes, 388, which is A49, A49 in the docket.

CHAIRPERSON: DC2000

ADV MOHLAMONYANE SC: 388.

CHAIRPERSON: 388.

ADV MOHLAMONYANE SC: It is an Independent Complaints Directorate Crime Scene Report.

CHAIRPERSON: I went to the wrong page, thank you.

ADV MOHLAMONYANE SC: My apologies.

CHAIRPERSON: 388. Yes, thank you.

ADV MOHLAMONYANE SC: I want you to hasten and go to paragraph 2.2. The others are on record. It is not necessary that we should deal with everything.

MS WILLIAMS: Yes.

10 **ADV MOHLAMONYANE SC:** Do you see paragraph 2.2?

MS WILLIAMS: I see that, yes.

ADV MOHLAMONYANE SC: It says ICD investigator N Gibson.

MS WILLIAMS: Yes.

ADV MOHLAMONYANE SC: Other ICD personnel under 2.3, S Williams.

MS WILLIAMS: Correct, yes.

ADV MOHLAMONYANE SC: S Williams is yourself, not so?

MS WILLIAMS: That is correct, yes.

20 **ADV MOHLAMONYANE SC:** This document says you are not the investigator.

MS WILLIAMS: Obviously, this document is compiled by the ICD person at the scene. This is no indication of who the matter will be allocated to. This is just a pro-forma that we use to write down all our information.

ADV MOHLAMONYANE SC: You insist you were the lead investigator.

MS WILLIAMS: Yes, I was the lead investigator.

ADV MOHLAMONYANE SC: Okay.

MS RAMAGAGA: Taking into consideration that this report is actually completed at the crime scene, would it be fair to say at the time when it was completed, when this report was completed, it was unclear or you did not know, as ICD personnel at the scene, you did not know as to who would be
10 allocated which role as an investigator?

MS WILLIAMS: You are correct when you are saying that, Madam Chair.

MS RAMAGAGA: Thank you.

CHAIRPERSON: I also, just to follow on what my sister is asking you, and correct me if my recollection is wrong, you testified yesterday about this ICD Form 7-2, correct?

MS WILLIAMS: Correct, Madam Chair.

CHAIRPERSON: And according to your testimony, this ICD 7-2 is a form in which preliminary recordals are made?

20 **MS WILLIAMS:** That is correct, Madam Chair.

CHAIRPERSON: And only thereafter, at the later stage, will you then conduct or rather report fully on your investigation?

MS WILLIAMS: That is correct, Madam Chair.

CHAIRPERSON: If my understanding is correct, this is just an initial or preliminary recordal of what you see at the scene

after the reports are made?

MS WILLIAMS: That is correct, Madam Chair.

CHAIRPERSON: And you said it will be followed by a full comprehensive report after investigation?

MS WILLIAMS: Correct, Madam Chair.

CHAIRPERSON: Thank you.

MS RAMAGAGA: Just to complete that, that has been raised with you by the Chairperson. If you look at the sentence under Crime Scene Report, it clearly says to be
10 completed by the ICD investigator at the scene of the case.

MS WILLIAMS: Correct, Madam Chair.

MS RAMAGAGA: Thank you.

CHAIRPERSON: You may proceed, Counsel.

ADV MOHLAMONYANE SC: Thank you, Madam Chair. The same document, Ms Williams, go to page 000392.

MS WILLIAMS: Just give me one second. I have 000392 in front of me, Madam Chair.

ADV MOHLAMONYANE SC: You made a short summary. Was it you who made this short summary?

20 **MS WILLIAMS**: Yes, I made a short summary, yes. That is correct, it was me that made the short summary.

ADV MOHLAMONYANE SC: In this short summary, you are saying the deceased, as he was driving from his residence at Ridge Road. Where did you get this information of that the deceased was driving from his residence?

MS WILLIAMS: I got that, as I already explained yesterday in my evidence, I got it from Captain Govender from Durban Central.

ADV MOHLAMONYANE SC: Go to Captain Govender's statement on page 230, 000236.

MS WILLIAMS: Sorry, I did not hear you.

ADV MOHLAMONYANE SC: I am saying go to the statement of Captain Govender on page, the same bundle, on page DC000230.

10 **CHAIRPERSON**: 000, DC000?

ADV MOHLAMONYANE SC: 230, 230, yes, Madam Chair. It is a statement therein of...

MS WILLIAMS: I am not there yet.

ADV MOHLAMONYANE SC: I beg yours?

MS WILLIAMS: 230.

ADV MOHLAMONYANE SC: 230, yes.

MS WILLIAMS: I have it, yes.

ADV MOHLAMONYANE SC: Ja, it is a handwritten statement there by Jayat Tum Govender, who says:

20 "I am a captain in the South African Police Services with above given particulars, and is attached to the Detective Services as a Group Commander at Durban..."

In Durban, I believe. And he says:

"On Tuesday, 3-2-2009, at about 15h00, I

attended a shooting incident at Umgeni Road, Durban. On my arrival at the scene, I was informed by Colonel...”

I cannot see that;

“...of the National Intervention Unit, that this member were involved in a shooting incident. FT Dlamuka was interviewed, and he stated that while on an operation, they...”

Difficult to read;

10 “...they targeted a suspect...”

They followed a suspect, I beg your pardon;

“...from Overport...”

I believe Overport is the name of a place in Durban.

MS WILLIAMS: That is correct, yes.

ADV MOHLAMONYANE SC:

“...who was driving a black Lexus...”

And the number plate is given there.

20 “The suspect failed to stop on instruction from the police, and shot at the police. The police returned fire, and the suspect died on the scene.”

Now, Ms Williams, nowhere in this statement is Captain Govender saying the deceased was driving from his residence.

MS WILLIAMS: No, Chair.

ADV MOHLAMONYANE SC: And you say you got this information that you give on page 392 in your short summary on the ICD report, that it was Govender who gave you this information. But Govender does not state that in his statement.

CHAIRPERSON: Are you suggesting that the witness is lying? Because Mr Govender may not have told, may not have reflected everything there. Are you going to call Mr Govender?

10 **ADV MOHLAMONYANE SC:** No, no, no, Madam Chair. I am not suggesting that the witness is lying. I am trying to show a contradiction here. She says she got information from Captain Govender, that they were from his residence. But Captain Govender is not saying so.

CHAIRPERSON: Yes, but if she comes, he will probably say, yes, I told her, yes, I did not tell her that. That is why I am saying we do not know whether the statement is reflective of everything.

ADV MOHLAMONYANE SC: Let me abandon it, Madam
20 Chair. I will not pursue it.

CHAIRPERSON: If I may remind you again, Counsel, you may be asking these questions, and I am speculating, to discredit the witness. The fact of the matter is that we have to go back to the terms of reference, this is not a criminal trial, and remind ourselves why we are in this process. I will

remind you again. You may proceed, sir.

ADV MOHLAMONYANE SC: Thank you, Madam Chair. In your fourth statement, Ms Williams, which was the last one, A58 on page...

CHAIRPERSON: Remind me of the page?

ADV MOHLAMONYANE SC: Ja, I have got it here. It is page...

CHAIRPERSON: DC000191?

ADV MOHLAMONYANE SC: DC000191 417, Madam Chair.

10 **CHAIRPERSON:** 417.

ADV MOHLAMONYANE SC: Ja, it is A58 in the docket.

MS WILLIAMS: What is the DC number, Madam Chair?

CHAIRPERSON: DC000417.

ADV MOHLAMONYANE SC: That is correct.

CHAIRPERSON: A58.

ADV MOHLAMONYANE SC: Indeed, Madam Chair.

CHAIRPERSON: Do you see it at page DC000417, A58? Counsel had taken you to that statement earlier on?

20 **MS WILLIAMS:** Sorry, Madam Chair, when you speak, Madam Chair, on our side, it is very soft.

CHAIRPERSON: Oh, I beg your pardon. I must raise my voice. Madam Williams, you must tell us to speak louder as I tell everybody else.

MS WILLIAMS: I attempted that, ma'am, and then you cut me off because you did not know what I wanted to say.

[Laughter]

CHAIRPERSON: Yes, order, I will do that, I will do precisely that. I am sorry.

MS WILLIAMS: You are welcome. It is okay.

CHAIRPERSON: You may proceed then.

MS WILLIAMS: Yes, I have A58 DC000417 in front of me, yes.

ADV MOHLAMONYANE SC: Now, I want you to put your finger on this statement. I will come back to it in a moment.

10 Go to paragraph 82 of your statement.

CHAIRPERSON: Paragraph 80?

ADV MOHLAMONYANE SC: 82, Madam Chair, on 3-25. Page 3-25. Are you there, Ms Williams?

MS WILLIAMS: Yes, I am there.

ADV MOHLAMONYANE SC: You are saying in that statement that we are approached by three NIU members, Inspector Dlamuka, Constables Mfene and Sekulume.

MS WILLIAMS: That is correct, Madam Chair.

20 **ADV MOHLAMONYANE SC:** And you interviewed the three members.

MS WILLIAMS: That is correct, Your Worship.

ADV MOHLAMONYANE SC: Together with Ms Gibson.

MS WILLIAMS: That is correct, yes.

ADV MOHLAMONYANE SC: You make no mention of NIU members in your fourth statement. Can you proffer a reason

for that?

MS WILLIAMS: Are you speaking about the statement in DC000417?

ADV MOHLAMONYANE SC: Yes.

MS WILLIAMS: Madam, this is so long ago, I cannot remember why I did not mention that, but obviously it was part of my investigation. I had this information.

CHAIRPERSON: You have mentioned that in the other statement that you made?

10 **MS WILLIAMS**: I think I would have, ma'am, in a further statement. Because if I, this is now what I see, I made a statement and then I submitted further statements to this effect. But I cannot remember which statement is which because of the bundles.

CHAIRPERSON: If you look at DC000191 at paragraph 2. We dealt with this part yesterday and counsel asked you several questions on it. And also the Panel did ask you some few questions on it. And it is in this paragraph that you mentioned, in the middle of that paragraph, the following:

20 “Three members from NIU, Marianhill and Inspector Dlamuka, Constable Mfene, Constable Sekulume, spoke to Ms Gibson and me and told us that they assisted Cato Manor Organised Crime because they had them call for backup on the radio.”

Do you see that?

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

CHAIRPERSON: Does it have anything to do with the question that counsel is asking you now?

MS WILLIAMS: Yes, ma'am, it has to do with the question from the counsel.

CHAIRPERSON: Advocate Mohlamonyane, you see that statement?

ADV MOHLAMONYANE SC: Indeed, Madam Chair. Let me
10 pause a bit because I want to wrap up and find out from my colleague as to whether I have left out anything.

MS WILLIAMS: I just want to ascertain whether this addresses the point that you sought ...[intervenes]

ADV MOHLAMONYANE SC: It does.

CHAIRPERSON: ...to clarify with the witness.

ADV MOHLAMONYANE SC: It does.

CHAIRPERSON: Thank you. Advocate Mohlamonyane and Advocate Ramogale, it is half past one and perhaps we should take a lunch adjournment. Let me confer with my
20 colleagues. My sisters overruled me. They suggest that we should proceed. I think prudently so that we do not disrupt your line of thought. So we can proceed, Counsel.

ADV MOHLAMONYANE SC: Thank you, Madam Chair. Ms Williams, Ntombi Gibson was your colleague at ICD, not so?

MS WILLIAMS: That is correct, yes.

ADV MOHLAMONYANE SC: Do you have a problem with her?

MS WILLIAMS: No, I did not have a problem with Ntombi Gibson.

ADV MOHLAMONYANE SC: But you call her, you regard her as being shady.

MS WILLIAMS: No, you heard incorrect. That was not Ntombi Gibson.

ADV MOHLAMONYANE SC: Was it not Ntombi Gibson?

10 **MS WILLIAMS:** No, that was not Ntombi Gibson.

ADV MOHLAMONYANE SC: Remind me, who was that?

MS WILLIAMS: I was speaking about Ms Mpanza, not Ms Gibson.

ADV MOHLAMONYANE SC: So you have a problem with Ms Mpanza?

MS WILLIAMS: I did not have a problem with Ms Mpanza personally. But when I was looking at what Ms Mpanza was doing, it was not, some of the things that she was doing. It was not something that I would have done and I have my own
20 morals and principles. Therefore, I did not agree with some of the decisions in how she was operating.

ADV MOHLAMONYANE SC: Why is Ms Mpanza shady, according to you?

MS WILLIAMS: Because of how Ms Mpanza handled certain situations.

ADV MOHLAMONYANE SC: You also have a problem with McBride, who was the head of ICT.

MS WILLIAMS: Yes, I had a problem with Mr McBride. I had a conversation with him. And obviously, my fears about him was confirmed, because I do not know Mr McBride personally, but my uncle knew Mr McBride personally. I heard a lot of stories about Mr McBride, but I do not know him that well. But when I spoke to him, I saw a side of Mr McBride that I did not appreciate.

10 **ADV MOHLAMONYANE SC:** But what was your relationship with your colleagues? It seemed you had a problem with everyone else.

CHAIRPERSON: No, no, no. No, counsel. You cannot put that kind of a proposition to a witness. I think just be specific so that she can answer. She has answered about Ms Mpanza. She has answered about Mr McBride. You can refer to those other people that you think or suggest she had a problem with, and not put a general statement to the witness.

ADV MOHLAMONYANE SC: You had a problem with Ms
20 Gibson?

MS WILLIAMS: No, I did not.

ADV MOHLAMONYANE SC: You had a problem with Advocate Steinberg?

MS WILLIAMS: I would not say I had a problem with him on a personal level, but when it came to his decisions, yes, I

started having a problem with that. The decisions that he made.

ADV MOHLAMONYANE SC: Thank you, Madam Chair. I have no further questions.

CHAIRPERSON: I see Advocate Lekgetho is scribbling something. Perhaps she wants to pass the note to you before you close?

ADV MOHLAMONYANE SC: Ja, maybe I should consider it. I will see what she is scribbling.

10 **CHAIRPERSON:** She can talk to you.

ADV MOHLAMONYANE SC: Thank you, Madam Chair. I am not taking the matter any further. No further questions to this witness.

CHAIRPERSON: Yes, thank you. I am sure this time my sisters will agree with me that we should take a lunch adjournment. [Laughter] Let me confer with them. Yes, I am allowed. We can take a lunch adjournment. Advocate Ramogale, it is say twenty to 2. We can quickly have lunch and reconvene at half past two. Madam Williams?

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

CHAIRPERSON: We are going to pause for a lunch break. We will reconvene at 2.30. And remember, you are under oath.

MS WILLIAMS: Yes, ma'am, I understand that.

CHAIRPERSON: Yes, thank you. We adjourn until 2.30.

ENQUIRY ADJOURNS

ENQUIRY RESUMES

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

MS WILLIAMS: Good afternoon.

CHAIRPERSON: You continue to be under oath, Madam.

MS WILLIAMS: Yes ...[indistinct], Chair.

CHAIRPERSON: Advocate Ramogale?

SHAMILA HENRIETTA WILLIAMS: (still under oath)

10 **EXAMINATION BY ADV RAMOGALE (CONTINUES):** Thank you, Madam Chair. Ms Williams, I will be quite brief. In respect of the Berea docket, if I could ask you to turn to BR0093, please?

MS WILLIAMS: I will just find the docket quickly.

ADV RAMOGALE: Yes, if it assists, it is A19 to the docket.

MS WILLIAMS: I just need to find the file quickly.

ADV RAMOGALE: Sure.

CHAIRPERSON: BR?

20 **ADV RAMOGALE:** BR0094, page 94. So, it begins at 93, but the part that is relevant to that I would like to point Ms Williams to is 94.

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

ADV RAMOGALE: Thank you, Ms Williams. Just a moment for the Panel, please.

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

Proceed.

ADV RAMOGALE: Thank you, Madam Chair. Ms Williams, this is a statement of Thembi Cynthia Nxumalo, which the evidence leader took you through. If I could ask you to go to page BR0094.

MS WILLIAMS: I am there, yes?

ADV RAMOGALE: Yes. I am sorry, actually the preceding page.

CHAIRPERSON: Paragraph?

10 **ADV RAMOGALE:** Paragraph 3, Madam Chair.

CHAIRPERSON: Paragraph?

ADV RAMOGALE: 3.

CHAIRPERSON: 3?

ADV RAMOGALE: Yes.

CHAIRPERSON: You got it, Madam?

MS WILLIAMS: Yes, I do, Madam Chair.

CHAIRPERSON: Proceed, Counsel.

ADV RAMOGALE: Thank you, Chair. Are you able to read what appears in paragraph 3 of the statement, please?

20 **MS WILLIAMS:** I will attempt to do so, Madam Chair:

“That human being fell and he was not carrying anything on his hands. I then went to the main door in front to check as my flat had been once broken into. I did take long after I have checked the door.”

CHAIRPERSON: Where is the witness?

MS WILLIAMS: Sorry, ma'am, it is ...[intervenes].

ADV RAMOGALE: Ms Williams, could you just inform the Chair where you are reading from?

MS WILLIAMS: It is paragraph 3, Madam Chair. I read now the second line.

ADV RAMOGALE: Of which page number there?

MS WILLIAMS: Page number BR0093, Madam Chair.

ADV RAMOGALE: Thank you, Ms Williams.

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

ADV RAMOGALE: Thank you, Chair. Yes, Ms Williams? Yes, please continue.

MS WILLIAMS:

“I did take long after I have checked the door of the burglar, to check if the door of the burglar was not locked.”

Sorry, some of it is ineligible:

20 “And I did not see anything from my door. I quickly returned back to the window and saw that human being lying by his stomach and I recognised that it was a male person. Before that person would fall, I heard gunshot. And when he went down, I also heard gunshot. I did not see who was shooting, but I heard gunshots. That

African male remained on the ground. After a while, I saw many white males around that African male who fell from above. I then went back to my bed and I peeped through the...”

Ma'am, I cannot see what that is. Window. looks like a window:

10 “And next to the deceased, I saw a gun lying next to him. But when he was falling, there was no gun. I do not know at what stage that gun was placed next to the deceased when he fell down.”

ADV RAMOGALE: Thank you, Ms Williams. Actually, you can just finish off that sentence.

MS WILLIAMS:

“There was no firearm on his hands. Amongst those males, there were also an African male, but the others were white male.”

20 **ADV RAMOGALE:** Thank you, Ms Williams. Now, when it was put to you by the evidence leader, the statement of Witness Brown at BR0011, were you invited to comment about this?

MS WILLIAMS: No, I was not invited to comment about this.

ADV RAMOGALE: Thank you, Ms Williams. Now, the last

statement I would like to take you through in this Berea docket is that of Inspector Mostert, and you will find that at BR0073.

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

ADV RAMOGALE: Just a moment, please. BR0073. It is A10 to the docket. Yes, we are still in the BR1, the same Berea docket. Yes, yes, Madam Chair. 0073. Thank you, Chair. This is a statement, and evidence has been led on this by Inspector Mostert. The paragraph I would like to draw
10 your attention to is the fifth paragraph from the top, the one that begins with, a 22:40. Do you see that?

MS WILLIAMS: Yes, I see that.

ADV RAMOGALE: Now, if you could, the statement reads:

“On our arrival, I noticed a security gate in front of the door. Due to the fact that the suspects could be armed, the security gate was forced open by means of a crowbar.”

You have spoken about this crowbar:

20 “Once this was done, the door was kicked in by Inspector Nel. I immediately entered the flat armed with my pistol, a 9 millimetre Parabellum with serial number Q014304. As I entered, I was confronted by the suspect, Thabo. He was armed with

the pistol, pointing it in my direction. I fired three shots in his direction. At this point, he ran towards the enclosed balcony with a window slightly opened. He dived through the window and fell to the ground.”

Now, could I ask you this, Ms Williams, why would it be that a person who is shooting at the police would immediately after that run towards the enclosed balcony and dive through
10 the window?

MS WILLIAMS: In my view, it is because it is time to get away from the police of whoever is firing at him.

ADV RAMOGALE: Now, if you square this up, this version, and just inform the Panel very briefly that when you looked at this document and all the others in the docket, why did you form the view that the killing here was not justified?

MS WILLIAMS: I obviously looked at all the information. I read through the statements. I looked at the post-mortem report. I looked even at the ballistics, even at the
20 reconstruction done. When I looked through the statements, if I can draw your attention to something else here, Mostert says the same thing that I say. I noticed the firearm lying in close proximity to the suspect, and that is exactly what I have said. And based on the ballistics, especially the ballistics, it was impossible. I will not say impossible. That is actually

the thing that actually made me make that recommendation, Madam Chair.

ADV RAMOGALE: Thank you, Ms Williams. Madam Chair, those are all the questions we have for Ms Williams.

CHAIRPERSON: Just bear with us. I just want to ascertain from my sister, Madam Ramagaga, whether she has any question. Ms Williams?

MS WILLIAMS: Yes, Madam Chair?

CHAIRPERSON: We do not have further questions for clarity
10 from you, but we would like to take this opportunity to thank you for having made yourself available to come here and testify.

MS WILLIAMS: You are welcome, Madam Chair.

CHAIRPERSON: And to assist this Panel as we search for the truth.

MS WILLIAMS: You are welcome, Madam Chair.

CHAIRPERSON: We wish you well, and on behalf of not only the Panel, but also on behalf of everybody here, the evidence-leading team and Advocate Chauke's team, we
20 thank you. You are excused.

MS WILLIAMS: Thank you, ma'am.

CHAIRPERSON: Thank you, ma'am.

NO FURTHER QUESTIONS

CHAIRPERSON: Advocate Ramogale, we have just excused the witness, but there is that aspect that will not necessarily

require her to be here. You remember she spoke about the memorandum? And an undertaking was made that you will follow up on that memorandum. If it is found from IPID, you can cause it to be filed off record for the purpose of our work.

ADV RAMOGALE: Yes, Chair. If I may just give an update on that?

CHAIRPERSON: Yes.

ADV RAMOGALE: We reached out to Mr Len John yesterday to find out whether he had access to these memorandums and
10 the dockets, et cetera, and he has informed us this morning that we need to National Office of IPID to get permission from them for him to release the documents. We have written to IPID National and we hope to have those documents sooner rather than later.

CHAIRPERSON: Yes, thank you. If or when the document is made available, share it with your colleagues. Once you file it off record, everybody will have access to it.

ADV RAMOGALE: Yes, Chair, we will do so.

CHAIRPERSON: And what is the position with regard to
20 Monday? Are you ready to proceed with the witness from Greece?

ADV RAMOGALE: Chair, we are ready to proceed with the witness from Greece on Monday. I had promised that during the tea adjournment I would ascertain how far he is with signing off the statement. I understand he has come back

with more changes that he would like to effect on his statement. So I am hoping we can reach finality with that statement today.

CHAIRPERSON: Yes, thank you. And with these witnesses, you remember we already have Mr Danikas' statement. The one in Greek and the one that was translated, and other statements which were not shown in. To the extent possible, Advocate Ramogale, let us stick to time.

ADV RAMOGALE: Chair, we will do so, but I will certainly
10 direct that to Mr Ngcukaitobi. I am sure he is listening right now.

CHAIRPERSON: Yes, thank you. To all of you, thank you, and we wish you a restful weekend. I know that we are all going to be working, but do have a peaceful weekend. We will adjourn until Monday morning at 9 o'clock. We will adjourn.

ENQUIRY POSTPONED TO 9 MARCH 2026

ENQUIRY ADJOURNS

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NUMBER OF PAGES : 83

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