

**THE JUDICIAL COMMISSION OF INQUIRY INTO ALLEGATIONS
REGARDING EFFORTS OR ATTEMPTS TO STOP THE INVESTIGATION OR
PROSECUTION OF TRUTH AND RECONCILIATION COMMISSION CASES
(TRC CASES INQUIRY)**

HELD AT:

Sci-Bono Discovery Centre, Corner of Miriam Makeba & Helen Joseph Street
Newtown, Johannesburg

BEFORE:

COMMISSIONERS:

The Honourable Ms Justice Sisi Khampepe (Judge Ret.) – Chairperson
The Honourable Mr Justice Frans Diale Kgomo (Judge President Ret.)
Adv Andrea Gabriel (SC)

EVIDENCE LEADERS:

Adv Ishmael Semanya (SC)
Adv Vas Soni (SC)
Adv Fana Nalane (SC)
Adv Nompumelelo Seme
Ms Baitseng Rangata

REPRESENTATIVES

Adv Gwala (SC) – NPA representative
Adv Yanela Ntloko- NPA representative
Adv Motlalepule Rantho (for SAPS)
Adv Ebenezer Propy (for SAPS)
Adv KD Moroka (SC) – DoJ representative
Adv Tlotlego Tsagae (DoJ representative)
Adv Varney (SC) – The Calata Group
Adv D Pillay – The Calata Group
Mr Sipho Tlhaole – The Calata Group
Ms A Thakor – The Calata Group
Adv Bridgette Nthambeleni (for Adv Jiba)

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PROCEEDINGS ON 23 APRIL 2026

CHAIRPERSON: Good morning.

ADV SEMENYA: Morning, Chair.

CHAIRPERSON: Yes, Mr Semenya.

ADV SEMENYA: Morning, Chair and Commissioners. We have set down today to have cross-examination of Mr Ackermann, which will happen virtually.

CHAIRPERSON: Yes, thank you. Ms Rantho?

ADV RANTHO: Thank you, Commissioners and good morning.

10 Commissioners, before we start, we were just advised by the secretariat that the bundles that we are going to be dealing with are found in your bundles. There is a yellow bundle. Behind the yellow bundle, there is an application for cross-examination by SAPS and then just after that one is SAPS' index cross-examination of Ackermann. It is the first one and then followed by another bundle that we titled "SAPS bundle 1, General Jacobs' affidavit" and the rest will be based on the Calata bundle.

CHAIRPERSON: Okay.

ADV RANTHO: Thank you, Chair. Good morning, Mr Ackermann.

20 ADV ACKERMANN: Good morning.

ANTON ROSSOUW ACKERMANN: still under oath

CROSS-EXAMINATION BY ADV RANTHO: Firstly, to avoid wasting a lot of the Commissioners' time, we would like to start with the issue of the period of political interference on the part of the SAPS. I am sure you are aware that what you are being going to be questioned

on is on the basis of your evidence against the SAPS. So I represent the SAPS. You are aware of that?

ADV ACKERMANN: That is correct.

ADV RANTHO: Thank you, Adv Ackermann; perhaps if you may just clarify the issue of political interference by the SAPS in particular. When did it start exactly, in your view, or what event incident?

ADV ACKERMANN: Well, in my investigation of the TRC cases, all the meetings I had with Commissioner de Beer when he informed me that he unfortunately cannot investigate the TRC matters after
10 discussions with the commissioner, the national commissioner. I had many meetings with her in connection with matters that he investigated, but it is only in relation to the TRC cases that he said he could not assist me.

ADV RANTHO: So the political interference started when Commissioner de Beer said that he could not assist you.

ADV ACKERMANN: That is correct.

ADV RANTHO: If I may refer you to Commissioner de Beer's letter.

ADV ACKERMANN: [Indistinct].

ADV RANTHO: It is bundle 1. My apologies; that is included in
20 bundle 1. Anyway, let us proceed, Mr Ackermann. The next, okay, you say it started during General de Beer's interaction with you.

ADV ACKERMANN: That is correct.

ADV RANTHO: Yes. The allegations before the commission are that, pursuant to your discussions with General or Commissioner de Beer, there was a request by Commissioner de Beer stating that the

national commissioner had indicated that the NDPP should be approached, so that he could ask the president to make pronouncement; in other words, to change the proclamation to make it in such a way that the SAPS would be the one responsible for that. Do you remember the correspondence between you and ...[intervenes]

ADV ACKERMANN: I know that correspondence. I am not aware that it happened.

ADV RANTHO: Okay, yes. That, to be specific; Calata bundle is
10 page 296 of, I think it is bundle 1, but it is the commissioner's bundle. The letter is found on page 296 to 297 for the convenience of the commissioners. In that letter, your evidence before the commission is that you expected the then NDPP, Adv Bulelani Ngcuka, to approach the president, as suggested by Commissioner de Beer. Is not it?

ADV ACKERMANN: Well, Mr Ngcuka was in possession of that letter and he gave evidence to the effect that he did not approach the president.

ADV RANTHO: Yes, the question is: your view was that he ought to
20 have approached the president. Is not it?

ADV ACKERMANN: No, why?

ADV RANTHO: In terms of what is alleged as political or part of political interference in your very own affidavit; that is paragraph, the 2015 affidavit, political interference; apologies, Commissioners. What you indicated as part of political interference was Mr Bulelani

Ngcuka's refusal to approach the president, so that clarity could be sought. You remember that?

ADV ACKERMANN: Ja, but that is not political interference. I asked the police to assist me in the investigation; and in terms of the Police Act, it is their duty to investigate crime, like murder and torture. It is in the act. Now why do I need the president?

ADV RANTHO: So, Mr Ngcuka's failure to approach the president did not constitute political interference, in your view?

ADV ACKERMANN: No. I asked the police.

10 ADV RANTHO: Okay, and then the issue of the letter sent by General Jacobs on 6 December 2006, as alleged in your affidavit, you remember that? More specifically, if I may refer you to the 2015 affidavit that you deposed to in support of the Nkadimeng application; it is paragraph 331 of that affidavit, 2015 affidavit.

ADV ACKERMANN: I will have a look, but in the subsequent affidavit, I refer to that document. Have you seen that?

ADV RANTHO: Maybe just to assist you, Mr Ackermann; in your 2015 affidavit that is on page 14 of the Calata bundle, paragraph 30 you deal with political interference. Do you see that?

20 ADV ACKERMANN: Yes.

ADV RANTHO: And you start by saying:

“The first act of political interference which effectively stopped the work of the PCLU was the suspension of such cases during 2004.”

Do you see that one?

ADV ACKERMANN: Paragraph what is that?

ADV RANTHO: 32, three-two of your 2015 affidavit.

ADV ACKERMANN: [Indistinct] Yes, I see that.

ADV RANTHO: And you said it was as a result of the suspension of such cases during 2004, pending the issuing of new prosecution guidelines. You saw that one?

ADV ACKERMANN: Yes, but you asked me, you asked me first what do I regard as the first and I said that it is the non-investigation of cases. That occurred in end of 2003, September 2003. [Indistinct]
10 they stated that they are not going to investigate. The national commissioner has decided. That is political interference too. I might have missed that one.

ADV RANTHO: But that is what I am trying to follow from the chronology that you gave; that you started off with the first act. You are very specific that the first act was the moratorium or suspension of investigations; and that is why I wanted to understand, so that we are all on the same as to when did it exactly start.

ADV ACKERMANN: Okay, make that the second interference.

ADV RANTHO: I beg your pardon?

20 ADV ACKERMANN: The one you are reading in paragraph 32, let us make that the second political interference.

ADV RANTHO: We cannot. We cannot.

ADV ACKERMANN: We can.

ADV RANTHO: How do you do that Mr Ackermann? Your testimony in terms of what you put under oath, in terms of your statement, you

made it clear that it was 2004. Today you are changing your version to be now the first act of political intervention, I mean sorry, interference to have occurred during your interaction with, I do not know who, but it had to do with investigation. So what do we make of that; that today you are changing ...[intervenes]

ADV ACKERMANN: Exactly what I said.

ADV RANTHO: So you are changing the first act?

ADV ACKERMANN: You remind, you reminded me of another interference.

10 COMMISSIONER KGOMO: Ms Rantho, maybe the Chair and Commissioner Gabriel are following. I do not. You see, if you are going to compare the two; you refer us to the first and then to the second, so that also in fairness to the witness, so that if he wants to go to the place that you are pointing out, he should do so, if need be. So I am a bit lost. Can you just remind us and maybe refer us, if possible, what the witness would have said in the first place and what he would have said in the second place?

ADV RANTHO: Okay, my apologies for that confusion, Commissioners. Specifically what I am trying to find out from Mr
20 Ackermann is exactly as to when, in his version, the police started interfering politically with the investigation of TRC cases.

COMMISSIONER KGOMO: Yes, I follow that. That is the De Beer issue, is it?

ADV RANTHO: No, no, no. I was following... the reason why I asked, I am referring him to his affidavit that was filed in the

Nkadimeng matter.

COMMISSIONER KGOMO: Okay, thank you.

ADV RANTHO: Because he ...[intervenes]

COMMISSIONER KGOMO: Let us go to his affidavit.

ADV RANTHO: Yes, yes, Commissioners.

COMMISSIONER KGOMO: What paragraph?

ADV RANTHO: My apologies. If I may refer the Commissioners; that is found in Ackermann's bundle 3, the statement of the affidavit that was filed by Mr Ackermann in support of the 2015 Nkadimeng
10 matter. In paragraph 30, my apologies, 32, there is a heading or a title, "political interference".

CHAIRPERSON: Yes.

ADV RANTHO: And then Mr Ackermann gives an account of what was the first act and second and so on. So, specifically paragraph 32, I just referred to him where, in his own affidavit, the first act occurred when there was a moratorium or suspension of the investigation of TRC cases. What we are trying to establish from Mr Ackermann is that we are all lumped into this political interference pot and we are trying to understand, insofar as the Police Service is
20 concerned, where do we start drawing the line, or where did it all begin; so...

COMMISSIONER KGOMO: Yes, you do not have to explain further.

ADV RANTHO: Thank you.

COMMISSIONER KGOMO: You can carry on.

ADV RANTHO: Thank you very much, Commissioners.

COMMISSIONER KGOMO: Thank you.

ADV RANTHO: My apologies for an inconvenience. Mr Ackermann, you did indicate that I just ...[intervenes]

ADV ACKERMANN: Yes, yes.

ADV RANTHO: Ja. So now, this morning you indicated that my question actually reminded you that the first act was not the one that you stated in paragraph 32. Is that not so?

ADV ACKERMANN: Yes, that is correct. You referred me to another interference.

10 ADV RANTHO: And that became another one that you just came up with this morning when I asked you that question. That is the first one.

ADV ACKERMANN: No, you referred me to that one. It is obvious that documents are before the Court. I do not know what you call it, political interference or interference. It does not matter. You referred me to that one and I said it is interference. They are not investigating the matters.

ADV RANTHO: The reason why ...[intervenes]

ADV ACKERMANN: It is all ...[intervenes]

20 ADV RANTHO: Sorry, Mr Ackermann, proceed.

ADV ACKERMANN: I said there are documents to that effect. Everybody can read it. It is dated 26 September 2003. They wrote to me and said they are not going to investigate.

ADV RANTHO: Okay. And then, let us now move to the next act of political interference that you are dealing with; and that is found in

paragraph 33.1 where you refer to a letter by General Jacobs. That is also in your paragraph, Ackermann's bundle 3. It is page 15, paginated page 15, paragraph 33.1.

ADV ACKERMANN: Yes.

ADV RANTHO: You recall talking about the letter that General Jacobs sent on 6 December 2006 to the PCLU?

ADV ACKERMANN: Yes, correct.

ADV RANTHO: And subsequent to that, you deposed to another affidavit in 2025. That was in October, specifically paragraph 6.1.

10 ADV ACKERMANN: Can you read it to me, please?

ADV RANTHO: Your October 2025 affidavit. There is paragraph 6.1.

ADV ACKERMANN: Yes, I have it.

ADV RANTHO: You are giving an explanation. So it reads thus:

“In respect of paragraph 33.1 of my aforesaid affidavit and paragraph 234 of the Calata affidavit, I point out that the letter from the SAPS Legal Support, Major General Jacobs was probably addressed to the NDPP, not the Priority
20 Crimes Litigation Unit.”

You saw that paragraph.

ADV ACKERMANN: That is correct.

ADV RANTHO: Now, the question is: what led you to change that version from a definite position that you put in terms of your 2015 affidavit to a [indistinct] affidavit as contained in the October 2025

affidavit?

ADV ACKERMANN: I will tell you why. I was asked in last year, must be October or wherever it was, to confirm the Calata affidavit. It is a thousand pages, all the documents. I read through it and then I come along this letter that was sent to... I did not see the letter. When I drafted my affidavit, it came up that such a letter was received by the PCLU, and I accepted it under PCLU and I therefore received it.

10 But then when I read through the documents in October, not the documents of Chris Macadam in... it was at November last year; it is for the first time that I read about secret task teams, ministers' forums, ministerial committees. Then I realised I did not know anything about that. And that is when I changed [indistinct] and said it must have been received by the PCLU, and I did not read it; and that is why I changed it.

20 But, if I recall correctly, Commissioner Jacobs state in one of his affidavits that that letter was not sent to me, it was an email to Mthunzi Mhaga. And that email is in the document. It was not referred to the PCLU. I think it was to Mthunzi Mhaga. Is it not? That is my recollection.

ADV RANTHO: Would I be correct that at the time when you deposed to the 2015 affidavit, you did not have a sight of the letter that you referred to in that affidavit?

ADV ACKERMANN: No, I was informed that there was such a letter.

ADV RANTHO: You were informed that there was such a letter and

then you gave testimony that it existed?

ADV ACKERMANN: I was under the impression it existed. I was shown a number of, if I say a large, at least 30 to 50 pages of documents that I have submitted to different people. And when it was even stated that there was such a letter, I said, yes, I was under the impression, yes, I did receive such a letter. I have no independent memory of such a letter. And for that matter, there are a number of documents that I have given evidence to that I wrote that I cannot even recall. I have no independent memory of all those letters.

10 ADV RANTHO: So what you stated in paragraph 33.1 of that affidavit is untrue, because you did not see that letter?

ADV ACKERMANN: No, no, it is not untrue.

ADV RANTHO: But you said, you stated that without any evidence, because you did not see the letter.

ADV ACKERMANN: You know, maybe I have stated that in 2015. That is correct. I have no independent memory of such a letter, but it was put to me that it was sent to the PCLU. There were quite a few letters that were shown that I have written and I received that I had no independent memory of; and this was one of them.

20 But what triggered me was when there was mention about, I do not know if it is in that letter about the Director General's Committee. I did not know anything about the Director General's Committee. I only for the first time heard about that that it registered was when I read the documents submitted by Chris Macadam that he found in the safe; secret documents.

ADV RANTHO: Now with the benefit of what General Jacobs said about the non-existence of the letter, because in his affidavit, which you just referred to, he explained that it was actually communication, an email communication between him and Adv Mhaga. What have you got to say when you then take into consideration what you said in paragraph 33.1?

ADV ACKERMANN: What happened was; he then read my affidavit and saw that I stated that I have not received the letter. And then he gave me the affidavit saying it was not a letter, it was an email that he
10 sent to Mhaga.

ADV RANTHO: Who gave you the information about the letter being sent to the PCLU in the first place? You said you were informed. Who did? Who informed you about that letter?

ADV ACKERMANN: It was Mr Varney. He had the documents with him.

ADV RANTHO: So this statement, Mr Varney; when you say Mr Varney, you are referring to Mr Varney, your counsel?

ADV ACKERMANN: That is correct.

ADV RANTHO: So when you deposed to the affidavit, you did not
20 see a letter. You relied on what Mr Varney told you about the letter from General Jacobs?

ADV ACKERMANN: Yes.

ADV RANTHO: But you can accept today that no such letter is in existence, is not it, Mr Ackermann?

ADV ACKERMANN: No, there is an email in existence.

ADV RANTHO: Yes, it is an email communication.

ADV ACKERMANN: And that is probably what Mr Varney also [indistinct].

ADV RANTHO: We will deal with the contents of the email later. Perhaps if we may then go to the issue of lack of investigators that you said SAPS refused to give or to assign investigators to assist in the TRC cases. Remember your complaint?

ADV ACKERMANN: Yes, that is correct. Not a complaint, it was just I wrote to them and asked for their assistance to investigate.

10 ADV RANTHO: The formation of the ITT, Inter-Departmental Task Team; am I correct that you were part of that?

ADV ACKERMANN: That is correct.

ADV RANTHO: Am I also correct that you presented an audit report before the task team?

ADV ACKERMANN: That is correct.

ADV RANTHO: And that also included a task that was given to General Jacobs to also do some audit coming from the police side, is not it?

20 ADV ACKERMANN: Yes, that is correct. He had to get all the documents, all the cases that must be investigated by the police are guided; all outstanding investigations. That was the question at the ITT. I just call it the task team. There are so many task teams, but that is the task team, the legitimate one.

ADV RANTHO: And you served in the same task team with General Jacobs. Is not it?

ADV ACKERMANN: That is correct.

ADV RANTHO: And during his testimony, General Jacobs, before the commission, he explained that you have or you had a cordial relationship. You have worked in other matters before that. Is that correct?

ADV ACKERMANN: That is correct. That is correct. I had lots of dealings with them beforehand, as you can look at the mandate of the matters that I was mandated to prosecute. There are I think at least 10 categories that they investigated.

10 COMMISSIONER KGOMO: Mr Ackermann, if you have agreed, you do not have to explain further. Keep it as short as you possibly can, please.

ADV ACKERMANN: I will do my best.

ADV RANTHO: Just based on your interaction with General Jacobs; do you have any reason to believe that he had an intention to interfere politically with the investigation or investigations of the TRC cases?

ADV ACKERMANN: That is a difficult question. We can discuss it later, the documents. You ask my opinion?

20 ADV RANTHO: Mm.

ADV ACKERMANN: Well, I am of the view that he was not the person who forged the documents; that he did not form part of this enterprise to stop TRC prosecutions. But at some stage, he became aware of the fact that the documents were forged and something was off, but he just... perhaps, you know, you ask me to speculate. The

commissioner told him what to do and he did that, but he knew that that document was forged.

ADV RANTHO: Before we get to the document, we will get to the document. I just wanted to understand, because his letter of the 6th, by now we know it was an email of 6 December 2006. You pointed that or you pointed out that it was also part of what you fingered as political interference. And that is why I wanted to understand from your interaction with General Jacobs, what is the basis for you to have concluded that General Jacobs would have politically interfered
10 with the TRC cases.

ADV ACKERMANN: Well, how did he interfere? I am not clear. What do you state? How did he interfere? I stated that he sent me [indistinct] email in connection with the director general must give their views on the matter. Is that what you are referring to?

ADV RANTHO: Ja, I wanted to know; is he a person that, in your view, would have a reason to interfere or to sabotage the investigation of the TRC cases? And that I was asking based on your interaction with him.

ADV ACKERMANN: He has got no motive to do it, but he did
20 interfere because of probably orders he received from the national commissioner. So you ask me whether interfered. Yes, he did.

ADV RANTHO: Thank you, Mr Ackermann. Let us go to the next one where you deal with what you term 'direct acts of political interference'; and then I may refer you to paragraph 32 of your affidavit. That is bundle 3, Ackermann's bundle 3, paragraph 32,

page 14, paginated page 14.

ADV ACKERMANN: There are so many documents here. Mr Venter will give me the document. Yes, I have got political interference, page 14. Which paragraph are you referring?

ADV RANTHO: We now deal with the same paragraph 32 that we dealt with. Sorry about that, Mr Ackermann. We are going back to that.

ADV ACKERMANN: [Indistinct].

ADV RANTHO: Ja, where you dealt with the first act of political
10 interference about the suspension of investigation that occurred in
2004. Remember that?

ADV ACKERMANN: Yes.

ADV RANTHO: And your evidence is that ...[intervenes]

ADV ACKERMANN: [Indistinct].

ADV RANTHO: Ja, your evidence is that that was because of the moratorium, pending amendment to the prosecution policy. Is not it?

ADV ACKERMANN: Yes, that was the 11th of... when was that? It was the day that I wanted to arrest the three perpetrators in the Chikane matter.

20 ADV RANTHO: We will get to the Chikane matter. I want to understand. There was a moratorium that was placed.

ADV ACKERMANN: Yes.

ADV RANTHO: Yes, pending the prosecution or the amendment to the prosecution policy. Is not it?

ADV ACKERMANN: Yes.

ADV RANTHO: Yes, and I want us just to get a common understanding that obviously SAPS had nothing to do with that process. Is not it? Can we agree?

ADV ACKERMANN: No, [indistinct]. They were not involved.

ADV RANTHO: Thank you. Then we can proceed ...[intervenes]

ADV ACKERMANN: And we were in any event not investigating at that stage.

ADV RANTHO: So they were not investigating at that stage.

ADV ACKERMANN: Ja, so it did not affect them. They are not
10 investigated.

ADV RANTHO: Let us go to the Chikane matter. You deal with the Chikane matter in paragraph 30, actually from 29, paragraph 29 of your 2015 affidavit.

ADV ACKERMANN: Ja, what page is it?

ADV RANTHO: Page 13, bundle 3. That is Ackermann bundle 3.

ADV ACKERMANN: Yes, I am here, paragraph 29?

ADV RANTHO: 29, yes. That is when the Chikane matter has been dealt with.

ADV ACKERMANN: I must apologise. They did not have much ink
20 in this printer, so it is very unclear here.

ADV RANTHO: But I think you have said a lot in terms of the Chikane matter. I am not going to get into the details of that, but specifically...

ADV ACKERMANN: Okay.

ADV RANTHO: Yes, specifically in the Chikane matter. Your

evidence before the commission is that the Chikane matter was a direct act of political interference. I remember your testimony to say that in fact that is what led to the collapse of the ITT. Is that not so; the decision on whether or not to prosecute Reverend Chikane.

ADV ACKERMANN: But I did decide to prosecute Reverend Chikane, the perpetrators.

ADV RANTHO: Yes.

ADV ACKERMANN: And the minister stopped me.

ADV RANTHO: The minister stopped you.

10 ADV ACKERMANN: Not [indistinct].

ADV RANTHO: When was the decision taken to prosecute Chikane?

ADV ACKERMANN: Well, I took that decision after the prosecution of Dr Wouter Basson and the matter was investigated. I had most of the evidence and it must be 2003 that I took the decision and had drafted the indictments. So if you ask me, when I say 2003, I decided.

ADV RANTHO: And when did the minister interfere?

ADV ACKERMANN: The specific date will be in 2004. I am not sure. I think it is November 2004. Is it not so?

20 ADV RANTHO: The decision, yes. Your ...[intervenes]

ADV ACKERMANN: Not the decision.

ADV RANTHO: Decision is November 2004. My question is ...[intervenes]

ADV ACKERMANN: It is the day that they appeared in court.

ADV RANTHO: What I am trying to ...[intervenes]

ADV ACKERMANN: The [indistinct].

ADV RANTHO: Yes, what I am trying to find out from you are two things, Mr Ackermann. First, I wanted to find out: when did you take the decision to prosecute?

ADV ACKERMANN: 2003.

ADV RANTHO: 2003. When did the minister interfere?

ADV ACKERMANN: End of 2004.

ADV RANTHO: And which minister was that?

ADV ACKERMANN: I am not sure about that date. I am just
10 thinking, because when was the date that they were supposed to appear in court? Do you have the date?

ADV RANTHO: Okay, let us ...[intervenes]

ADV ACKERMANN: Can I enquire from my...?

COMMISSIONER KGOMO: In the meantime, you may respond to who was the minister.

ADV ACKERMANN: It was Minister Mabandla.

ADV RANTHO: Minister Mabandla. And then the decision to prosecute in your statement; well, we can look for it, but I know that you mentioned November. It was November 2004, on your version.
20 You remember that?

ADV ACKERMANN: To do what? I did not take the decision then.

ADV RANTHO: The decision to prosecute.

ADV ACKERMANN: [Indistinct].

ADV RANTHO: Sorry, Mr Ackermann, when did you take the decision to prosecute Mr Chikane?

ADV ACKERMANN: 2003.

ADV RANTHO: When in 2003?

ADV ACKERMANN: During 2003.

ADV RANTHO: During 2003; and the minister interfered end of 2004?

ADV ACKERMANN: Ja, if that is the date they appeared or supposed to appear in court, which stopped the prosecution and the appearance of the accused in court.

ADV RANTHO: Okay. Now I would like to refer you to the report
10 that you prepared for Dr Ramaite. That is the audit report. It is dated
24 October 2006; and that is the report that you presented to the ITT
meeting of 25 October 2006. Now that report, Commissioners, is
found in the ITT minutes. It is page, the report is; the ITT minutes
are... the report is found in bundle, what we termed 'cross-
examination of Ackermann'. The bundle, that would be pages 2 to 13
of that bundle, Commissioners; page 22, page 18.

ADV ACKERMANN: Well, it is a document. I have not got it in front
of me. We will have to look for it. You refer [indistinct] number in the
bundle or...?

20 ADV RANTHO: SAPS bundle, bundle for cross-examination of
Ackermann. Can someone assist Mr Ackermann with the bundle;
page 2 of that bundle.

ADV ACKERMANN: Okay, I will find it here. You must give them
the page number.

ADV RANTHO: It is page 2 of that bundle. The bundle that we see,

it is SAPS index.

ADV ACKERMANN: I have it now. It is page 2. Yes, I have it.

ADV RANTHO: You confirm that was the report that you prepared for Dr Ramaite? Is not it, Mr...?

ADV ACKERMANN: No, it is for the task team.

ADV RANTHO: It is addressed to Dr Ramaite.

ADV ACKERMANN: Yes, he was the chairman of the task team.

ADV RANTHO: And you compiled this report or the ...[intervenes]

ADV ACKERMANN: In fact, I did not compile this report.

10 ADV RANTHO: You presented it to the ITT.

ADV ACKERMANN: I think Mr Mhaga compiled this report.

ADV RANTHO: It was Mr Mhaga who compiled it, but you presented it to the ITT.

ADV ACKERMANN: That is correct.

ADV RANTHO: And then I would like to refer you to paragraph 4.1.5 of that report. It is on page 8; page 8.

ADV ACKERMANN: Page 8, ja. Ja, I have got paragraph 4.

ADV RANTHO: 4.1.5.

ADV ACKERMANN: 4.1.5, yes.

20 ADV RANTHO: And then it reads like:

“Beginning of October 2006 it was decided to put prosecution on hold, pending obtaining of a legal opinion on whether the accused have received indemnity or not in terms of the Indemnity Act.”

Do you see that paragraph?

ADV ACKERMANN: Yes. I know the facts to that.

ADV RANTHO: If maybe you can just go to 4.1 there. Do you see 4.1?

ADV ACKERMANN: Ja.

ADV RANTHO: Yes. What is stated there, you agree that was in relation to the case of *S v Otto and Others*?

ADV ACKERMANN: Yes, it says:

“Indictment already drafted in 2004. Prosecution was put on hold pending approval of guidelines.”

10 ADV RANTHO: Yes. So, when it was, when you indicated in the report that indictment was drafted in 2004, what would that mean or what did that mean in relation to ...[intervenues]

ADV ACKERMANN: It means to prosecute them.

ADV RANTHO: It means the decision to prosecute?

ADV ACKERMANN: Ja.

ADV RANTHO: So, when was the decision taken exactly if the incitement was ...[intervenues]

ADV ACKERMANN: It says:

“Indictment already drafted in 2004.”

20 ADV RANTHO: And then it further reads, it says:

“Prosecution was put on hold, pending approval of guidelines.”

ADV ACKERMANN: Guidelines, that is correct.

ADV RANTHO: Yes. So, meaning the prosecution in the *S v Otto and Others* was pended whilst there was a legal opinion that was

being obtained, is that not so, according to what is written there?

ADV ACKERMANN: Ja, but are you now back to this opinion that was written? Is that what you wanted to know about this opinion?

ADV RANTHO: No, we are going to what you said created a problem insofar as the Chikane decision was concerned. So, we are trying to establish as to exactly when the Chikane matter became a problem or when the actual interference occurred in the Chikane matter.

ADV ACKERMANN: The actual interference in the Chikane matter
10 was when they were supposed to appear in court in November 2004.

ADV RANTHO: Okay. The delay in making sure that they appear in court, what was the cause for the delay?

ADV ACKERMANN: Was the Minister stopping the prosecution.

ADV RANTHO: How?

ADV ACKERMANN: She picked up; the evidence I have already given it, but I got a call from the day of the appearance of the three accused that I must put... the minister said I must stop the prosecution now. They do not; they must not appear in court because of the drafting of guidelines. I said to him I do not take any
20 instructions from the minister. Only the NDPP can give me instructions.

ADV RANTHO: And when was that Mr Ackermann?

ADV ACKERMANN: That must be 11 November 2004; if that was the date they appeared in court, supposed to appear in court.

ADV RANTHO: I am going to take you back to what is contained in

the report that you presented before the ITT.

ADV ACKERMANN: Yes.

ADV RANTHO: 4.1.1 of the same report, it is indicated that:

“Indictment already drafted in 2004. Prosecution
was put on hold pending approval of guidelines.”

Not pending minister's approval or any other reason.

ADV ACKERMANN: No. I said the minister ...[intervenes]

ADV RANTHO: The prosecution was put on hold. It says the
prosecution was put on hold, pending approval of guidelines.

10 ADV ACKERMANN: That is correct.

ADV RANTHO: So, we can accept that as far back as 2004 or 3 that
you said you took decision to prosecute in the Chikane matter, the
reason why it was not taken to court on time was because you were
waiting for the approval of guidelines. Is that not so?

ADV ACKERMANN: No, that is not so.

ADV RANTHO: But this is what is contained in the report that you
presented to the ITT.

ADV ACKERMANN: There should have been a paragraph before
that stating on 11 November 2004, the minister phoned the NDPP
20 and said that they should not proceed with the prosecution.

ADV RANTHO: That paragraph was not there. Why did not you
point it out to the ITT that you omitted to include that paragraph in the
report that you presented?

ADV ACKERMANN: I omitted many things in this report.

ADV RANTHO: If you omitted many things in this report, how can

we accept that everything that you say here is a complete set of facts or a true reflection of what happened?

ADV ACKERMANN: Because I did not have time to write a 200-page report.

ADV RANTHO: And then you omitted to include certain things.

ADV ACKERMANN: But what is the important thing that I omitted?

ADV RANTHO: No, I was just asking that you omitted to include a lot of things, because you did not want to write a long report, as you put it.

10 ADV ACKERMANN: That is correct. That is correct.

ADV RANTHO: And then taking you back to what you said in 4.1.5, you referred to a specific period there to say:

“Beginning of October 2006, it was decided to put prosecution on hold.”

So who decided that the prosecution must be put on hold?

ADV ACKERMANN: You see, what happened was; in 1990 was an act or promulgation [indistinct] to the effect that all political prisoners will receive amnesty. That was now 1990. And they endeavoured, that is now the three accused, to ask for amnesty under the provisions of that act. Mr... who was the NDPP was, ja, Mr Pikoli
20 then obtained a legal opinion from senior counsel who said: no, they do not receive amnesty under that act. And that is the opinion I referred to.

ADV RANTHO: Okay, so there was a delay that was occasioned by you waiting for a legal opinion in the prosecution of the Reverend

Chikane matter.

ADV ACKERMANN: Yes, but during that same time, you must understand, there was a committee of the NPA who decided on the plea of the three accused, whether they should be whatever. Whether we should accept the plea, whether there should be a plea bargaining. That also delayed the matter a long time, because I was against such a procedure.

ADV RANTHO: Before we get to the plea bargain; we can accept that between 2003 and 2006, the reason behind lack of prosecution
10 of the Reverend Chikane matter had nothing to do with political interference. Can you accept that?

ADV ACKERMANN: No.

ADV RANTHO: But this I am basing it on what you presented; that because of, firstly, the amendment to the prosecution policy, you had to stay the prosecution, pending.

ADV ACKERMANN: That is correct.

ADV RANTHO: That is number one. And then secondly, you had to obtain some legal opinion before you could proceed. Is that not so?

ADV ACKERMANN: That is correct.

20 ADV RANTHO: So that could not have been political interference.

ADV ACKERMANN: Well, the political interference was relating to all my cases, not only the Chikane matter. There were at least five cases that had to be investigated by the police.

ADV RANTHO: But what we are saying here, you cannot say the police interfered with your prosecution during that period or the

investigation for that matter, because on your own reasoning, you had to suspend the prosecution based on the new amendment or the amendments that were coming in terms of the prosecution policy. And then subsequently, that had to do with the issue of the legal opinion that you had to obtain.

ADV ACKERMANN: Yes, but not me. I wanted to proceed, but they took that point.

ADV RANTHO: Legal opinion; who requested legal opinion?

ADV ACKERMANN: Beg your pardon?

10 ADV RANTHO: Who requested a legal opinion in the matter?

ADV ACKERMANN: Mr Pikoli.

ADV RANTHO: And that was your direct supervisor at the time?

ADV ACKERMANN: That is correct.

ADV RANTHO: There are also allegations that the Reverend Chikane matter dominated the discussions in the ITT.

ADV ACKERMANN: Yes, that is very important.

ADV RANTHO: Is it your version that he dominated the ITT discussions?

ADV ACKERMANN: That is correct.

20 ADV RANTHO: If I may refer you to ITT meeting of 6 November 2006.

ADV ACKERMANN: Okay, [indistinct].

ADV RANTHO: And that is page 18 of bundle, same bundle that we referred the commissioners to, the same one of SAPS index relating to Ackermann's cross-examination.

ADV ACKERMANN: That is correct.

ADV RANTHO: The ITT meeting of 6 November. You have it in front of you?

ADV ACKERMANN: I have it in front of me.

ADV RANTHO: If I may point you to the last paragraph. Unfortunately, the minutes are not numbered.

ADV ACKERMANN: Yes, no, it is the last paragraph. I know where the Reverend Chikane ...[intervenes]

ADV RANTHO: On page 18.

10 ADV ACKERMANN: Ja.

ADV RANTHO: Ja. Can you read out where it starts? "It is however."

ADV ACKERMANN: Ja, very important paragraph.

"It is, however, worth mentioning that when Adv Ackermann informed the meeting that the decision to prosecute has already been made by the NDPP on the Reverend Chikane case, Josiah, that is a policeman, indicated..."

And that is important;

20 "...that the recommendations of the task team are necessary, because the national commissioner is of the view that Reverend Chikane is not interested in the prosecution of the matter. He suggested that contact has to be made with Reverend Chikane to ascertain his attitude."

ADV RANTHO: And then “according to Adv Ackermann”. Proceed.

COMMISSIONER KGOMO: Sorry, Ms Rantho. Mr Ackermann, do you have before you the handwritten?

ADV ACKERMANN: Yes, I have it. There is handwritten, the following underneath it and that is in... I know that handwriting, it is Commissioner Jacobs’ handwriting where he says:

“Ackermann also informed that NPA discussed the matter with Reverend Chikane.”

COMMISSIONER KGOMO: Yes.

10 ADV RANTHO: Yes, and this was on 6 November 20...

ADV ACKERMANN: That is correct.

ADV RANTHO: Sorry, 2006, yes. Is it correct that you had discussed the matter with Reverend Chikane?

ADV ACKERMANN: Let me see what is that date. No, what happened, it must have been 2003, I had a long telephonic discussion with Reverend Chikane, a very friendly conversation, telling him that I am going to prosecute in his matter and he was very happy that this is going to happen at least and he thanked me for my work; and that was in 2003. I discussed it with him. But
20 subsequently, you ask me whether I have discussed it with him at this stage or...

ADV RANTHO: No, no, no, it is fine. You just explained that previously you had discussed it with Reverend Chikane.

ADV ACKERMANN: Ja, ja.

ADV RANTHO: Perhaps if you can just read the very same

paragraph, the next one, "according to Adv Ackermann".

ADV ACKERMANN:

"According to Adv Ackermann, the complainant indicated that he leaves the matter in the hands of the NPA. It was then decided that the latter's attitude be ascertained and the matter was therefore closed pending feedback on his attitude."

ADV RANTHO: So from the minutes it is stated that that matter was
10 discussed on that day and it was closed, pending feedback from those that would meet Reverend Chikane, is not it, that would consult Reverend Chikane?

ADV ACKERMANN: No, the matter was not closed. What was...?

ADV RANTHO: It was not closed from the ITT side. Remember we are talking about the ...[intervenes]

ADV ACKERMANN: No, it was not closed. It features a lot. There are many times that I was told and Pikoli was told that I must have a consultation with Reverend Chikane, because in terms of the guidelines, the amended guidelines, I have to have a consultation
20 with him.

ADV RANTHO: I am saying that, because you said the matter dominated the ITT and I was saying to you ...[intervenes]

ADV ACKERMANN: That is correct.

ADV RANTHO: Now, the first time the matter was discussed was 6 November 2006. Would you agree? That is now by the ITT.

ADV ACKERMANN: Let us have a look. May I have a look?

ADV RANTHO: Yes.

ADV ACKERMANN: May I have a look? Well, that was the second meeting of the ITT. The first meeting nothing happened actually, except to say we must present audit reports. Ja. 25 October was the first meeting... Let me see. It must have been... Well, there was a meeting and at that meeting we were told to present audit reports. I had the PCLU and the police and I presented the report, and this is now the third meeting about Chikane.

10 ADV RANTHO: Now, that was the third meeting of the ITT.

ADV ACKERMANN: Yes.

ADV RANTHO: But I said or I asked you if you agree that the matter of Chikane was first discussed on 6 November 2006; meaning, it never dominated the discussions on the first meeting of ITT on the 12th and then the one that said also on 25 October 2006.

ADV ACKERMANN: I think there was another one, but certainly that was discussed.

ADV RANTHO: Alright, let us go. If I may assist you; the second discussion ...[intervenes]

20 ADV ACKERMANN: Now I think, you know, on 29 January 2007 there was another discussion. It says the following; do you have it? It is on page 24.

ADV RANTHO: Okay, so...

ADV ACKERMANN: Do you have page 24?

ADV RANTHO: I do have it, yes.

ADV ACKERMANN: Okay.

ADV RANTHO: I am with you.

ADV ACKERMANN: Now, let me read to you out what happened on 29 January 2004. That same paragraph ...[intervenes]

COMMISSIONER KGOMO: 29 Jan... Wait now.

ADV RANTHO: 2007.

COMMISSIONER KGOMO: 29 January 2007.

ADV RANTHO: That would be on page 24.

ADV ACKERMANN: [Indistinct].

10 ADV RANTHO: Commissioners, it is on ...[intervenes]

CHAIRPERSON: Adv Ackermann said 2004.

ADV RANTHO: Oh, okay. It is 29 January 2007, Commissioners.

ADV ACKERMANN: Is this the correct...? Ja, that is correct. Now, the third paragraph reads as follows:

20 “Adv Ackermann requested members for their input with a view to finalise the draft report submitted to the national director. Commissioner Jacobs indicated that he was made to understand that Reverend Chikane was not interested in the prosecution of the accused in his case. Therefore, he needs to be consulted and the matter needs to be discussed with their principals before making a recommendation. Adv Ackermann reminded the meeting that the national director has made his decision on this

matter. Yvonne concurred with Commissioner Jacobs on Reverend Chikane matter. Ngidi, however, had no objection to the national director's decision on the Reverend Chikane matter.”

That is about three pages of a five, I mean three paragraphs or five, about six-paragraph meeting. That is why I am saying it played a very important role.

ADV RANTHO: Yes, but not in all meetings.

10 ADV ACKERMANN: [Indistinct]. He told me that.

ADV RANTHO: Not all meetings. It was not in all meetings. It did not dominate all meetings, is not it Mr Ackermann?

ADV ACKERMANN: There were five meetings.

ADV RANTHO: Yes, but of the five meetings, you only referred to two meetings where the Chikane matter was discussed. Out of five ...[intervenes]

ADV ACKERMANN: Yes, it dominated.

ADV RANTHO: So it could not have dominated all the meetings. Do you agree with me?

20 ADV ACKERMANN: Ja, it dominated two meetings.

ADV RANTHO: Okay, thank you. And then there is a meeting with Reverend Chikane that you and Adv Mhaga attended.

ADV ACKERMANN: That is correct.

ADV RANTHO: You testified to that. Adv Mhaga also testified to that; and that meeting took place on 22 January 2007, according to

you.

ADV ACKERMANN: That is correct. Yes, that is correct. I recall it.

ADV RANTHO: And that would have been some few days before the sitting of the meeting of the ITT on 29 January 2007. Do you agree?

ADV ACKERMANN: That is correct.

ADV RANTHO: Did you then disclose during the ITT meeting on 29 January 2007 that you had a meeting with Reverend Chikane a few days before that meeting sat?

ADV ACKERMANN: No, [indistinct].

10 ADV RANTHO: Any specific reason why you did not disclose that?

ADV ACKERMANN: I cannot think of a reason now, but probably I did not want to tell them what Chikane told me and what happened then.

ADV RANTHO: The question is whether you told them ...[intervenes]

ADV ACKERMANN: Ja, I did not.

ADV RANTHO: You did not tell them; and that meeting, if you look at the minutes of 29 January, the one that you referred us to, 29 January 2007.

ADV ACKERMANN: You know what, is that date correct?

20 ADV RANTHO: Yes, it is 29 January 2007.

ADV ACKERMANN: Ja, I am listening.

ADV RANTHO: If I take you to, I think it is paragraph 1, 2, 3 of the same minutes of the 29th.

ADV ACKERMANN: Ja.

ADV RANTHO: You see where it starts with:

“Adv Ackermann SC requested members for their inputs with a view to finalise that report, submit it to the national director.”

ADV ACKERMANN: Ja.

ADV RANTHO: And then it reads:

“Commissioner Jacobs indicated that he was made to understand that Reverend Chikane was not interested in the prosecution of the accused in his case. Therefore, he needs to be consulted and the matter needs to be discussed with their principals before making recommendations.”

You see that?

ADV ACKERMANN: That is correct.

ADV RANTHO: And the next paragraph reads:

“Adv Ackermann SC reminded the meeting that the national director has made his decision on the matter.”

You see that?

ADV ACKERMANN: That is correct.

20 ADV RANTHO: Now, question: when General Jacobs or Commissioner Jacobs said that, he was made to understand that Reverend Chikane was not consulted or not interested; and that there needed to be consultation. Why did you not see the need to point out that you had a meeting with Reverend Chikane a few days before the meeting sat?

ADV ACKERMANN: I do not know, but perhaps [indistinct] have to explain what happened there.

ADV RANTHO: What happened in that meeting with Reverend Chikane?

ADV ACKERMANN: Well, as I stated in my affidavit, I cannot recall everything that happened there, but the bottom line was; he did not say 'I want the prosecution' and he did not say 'I am against the prosecution'. He said he is in the middle, in a battle between the government, I think, and the NPA. Now, I know what that battle is.

10 The government wanted him to say he is not interested in a prosecution, whilst in fact, I think he wanted the prosecution; and that is why he did not want to say anything. And I am also of the view that the commissioner went to see him quite a few times. In any event, there are many other things that happened that I do not want to disclose now, except if you ask me.

ADV RANTHO: Well, of course, I would want to disclose what happened in that meeting.

ADV ACKERMANN: You can ask [indistinct]. I said I cannot recall everything. I think what happened at some stage where he said he is
20 not interested in the prosecution, I said something, well, you know, in terms of you will be subpoenaed in terms of section 179. And, you know, I could see he was not happy about that. I said I am going to subpoena him and that is the reality. I explained to him the Criminal Procedure Act, the procedures; and he was not happy about that. I see in his affidavit or statement somewhere he stated I warned him in

terms of section 204. Section 204 is not relevant.

ADV RANTHO: So, your reason for not disclosing it to the ITT, what was the exact reason for not disclosing your...? You did not have to tell them what happened, but just to inform the ITT that you had with Reverend Chikane.

ADV ACKERMANN: I tell you what, because then they will go back to the directors and tell them yes, Reverend Chikane says he is not that interested, but he does not object. Well, I do not know. I tell them, I do not know what they are going to tell the puppet masters.

10 ADV RANTHO: You were a participant in the ITT.

ADV ACKERMANN: [Indistinct].

ADV RANTHO: You were one of the participants in the ITT.

ADV ACKERMANN: Yes, that is correct. That is correct.

ADV RANTHO: In your official capacity.

ADV ACKERMANN: That is correct.

ADV RANTHO: Did you participate in good faith during that period?

ADV ACKERMANN: Is the question whether I agreed with the amended policy guidelines? Is that the question?

20 ADV RANTHO: My question is; was your participation in good faith to the ITT?

ADV ACKERMANN: Yes, the act as it stands. I had to do a job. I was there. I was not happy about it.

ADV RANTHO: If it was so much in good faith, what was difficult just to inform them without interfering with your independence, just to disclose that; based on that which was requested previously that

there needed to be consultation with Reverend Chikane, you had a meeting with him. That was not disclosed, and I wanted to understand what was the specific reason for you not to take the meeting into confidence that you had a meeting with Reverend Chikane a few days before the meeting sat.

ADV ACKERMANN: I was of the view that it will cause too much interaction with them.

COMMISSIONER KGOMO: Yes, before you carry on, on this aspect, what I would want to understand is that; now with reference to
10 the meeting of 29 January 2007; and counsel asked why did you not disclose the interactions two or a few days before that occurred between you and Reverend Chikane. Now, what I want to find out is that; I see at page 24 there is this list of people who attended this meeting. Now, what I want to find out is that; is there anyone of them, Mr Ackermann, who also attended the meeting that is in question that you have referred to?

ADV ACKERMANN: Yes, I see Mr Mthunzi Mhaga.

COMMISSIONER KGOMO: Okay, Mr Mthunzi Mhaga attended that
20 meeting. As far as you can recall, is he the only one who attended the meeting?

ADV ACKERMANN: Ja, only the two of us.

COMMISSIONER KGOMO: Yes, but let me ask it this way. Did Mr Mthunzi Mhaga disclose what happened on that meeting before 29 January 2007? You did not disclose. Did Mr Mthunzi disclose at the meeting of 29 January 2007 what happened?

ADV ACKERMANN: Well, he did not disclose it. I may add that, thinking back now, we were not sure of the date we went to see Reverend Chikane. I do not know, I specifically said to him Mthunzi Mhaga must establish that date; and he said it was 22 January, but looking at it now, there is a possibility that it might have been after the 29th, because if it was before the 29th, I do not know what my reasons were for not disclosing it, except if it was not before 22 January. Maybe it was after 22 January. I am not sure. I did not disclose it and Mhaga also did not disclose it.

10 COMMISSIONER KGOMO: Yes, just on another aspect; if you look at page 23, you had asked whether the date of 29 January 2009 is a correct date. I do not know whether you are confused by the date of 4 December 2007, because that date has been corrected to 4 December 2006.

ADV ACKERMANN: I see that.

COMMISSIONER KGOMO: Are you aware of that?

ADV ACKERMANN: I see that, ja, that is right.

COMMISSIONER KGOMO: Yes, okay.

ADV ACKERMANN: But as I said, I do not know if 22 January was
20 in fact the date. I did not have a date.

COMMISSIONER KGOMO: Yes. Ms Rantho, you continue. Thank you.

ADV RANTHO: Thank you, Commissioners. So, thank you, Mr Ackermann. Ja, we can accept that both you and Mr Mhaga did not disclose on the 29th that there was a meeting with Reverend Chikane

before. I think we can step off at that point.

CHAIRPERSON: Yes, please, Ms Rantho. It is quite clear that there was no disclosure.

ADV RANTHO: Noted. Thank you, Chairperson. And then we can move to a fabricated note that Mr Ackermann alleged that it was forged by the police to put him in bad light. The fabricated note, remember the memorandum of 2003, but dated 2006, the forged note or fabricated note. Do you remember the issue around ...[intervenes]

ADV ACKERMANN: Yes, I know the facts.

10 ADV RANTHO: Okay, you know the facts. We do not have to repeat what was said there. Now, if I may refer you to... Oh, sorry, Chair, I do not know. Apparently, Mr Ackermann has asked as to when...

ADV ACKERMANN: No, I am fine. I can carry on.

ADV RANTHO: Okay, it is fine.

CHAIRPERSON: Are you fine, Adv Ackermann ...[intervenes]

ADV ACKERMANN: I am fine [indistinct].

CHAIRPERSON: If we carry on until 11 o'clock.

ADV ACKERMANN: That is fine. I will carry on. I want to get rid of this.

20 CHAIRPERSON: Thank you.

ADV RANTHO: Thank you, Mr Ackermann. Your issue or your version about the note, as you say, we know the facts. It is dealt with specifically in paragraph 35 of your affidavit filed in the Nkadimeng matter. That is on page 16, if you need to refresh your memory, but we know that the version that you put before the commission is that

that was not your note, or that note that was said to have been compiled by you was not compiled by you. Is that not so?

ADV ACKERMANN: No, the date was [indistinct]. It was not my note.

ADV RANTHO: Now, the view that you expressed in paragraph 13, I am sorry, 35 that I referred you to; that is your affidavit of 2015, the one you filed in the Nkadimeng matter. So that is on page 16 of your bundle. You state that:

10 “I believe it was aimed at discrediting me and ultimately stopping the investigations of the TRC. And then I am firmly of the view that the National Commissioner, the late Mr J Selebi, played a conspicuous role in claiming that I was pursuing the said leaders.”

ADV ACKERMANN: Yes.

ADV RANTHO: Yes. I want to understand what informed you that it was the late Commissioner Selebi that was behind the allegations that you fabricated the note. What informed your view?

20 ADV ACKERMANN: He was the... Okay, I cannot talk. It is an echo all the time.

CHAIRPERSON: Yes, we will attend to it, Mr Ackermann, when we adjourn at 11 o'clock, but can you hear what the question was?

ADV ACKERMANN: National Commissioner Selebi had an obsession stating to everybody and every politician he saw that I am, that Ackermann is investigating the ANC 37 leaders. We have written

to the minister, to everybody. There was a press release to the effect that we are not investigating the president. But Mr Commissioner Selebi carried on about this matter.

And if you remember Mr Simelane's evidence, how they said they must get rid of me; that letter was produced. I am of the view that there is a memorandum by Commissioner Jacobs setting out that I am still investigating that matter. And when Mr Selebi said that he has a letter in my own handwriting with him, he was, I am speculating, showing that document to the Ministerial Committee. So
10 that is why I am of the view that he... but it was somebody from the police. There is no doubt about that.

ADV RANTHO: My question was, Mr Ackermann: what informed the view that that very same someone was the National Commissioner, the late Commissioner Selebi?

ADV ACKERMANN: I told you now why I think. He was in need of a document to prove that I was still investigating the ANC 37 in 2006.

ADV RANTHO: What evidence did you have that it was him that was responsible for that?

ADV ACKERMANN: Okay, perhaps I should rephrase it there. It
20 was the police. It was Commissioner Selebi. It was Mr Bester, Colonel Bester or that it is Commissioner Jacobs or Brits that forged that letter, because the persons had technical knowledge. They hacked my computer and put that same letter on my computer; that forged letter. So it was the police. You can make your choice who you think it will be.

ADV RANTHO: So I must make my choice? You are unsure as to who exactly was responsible for that.

ADV ACKERMANN: You ask me to speculate. I think it is Commissioner Selebi, because he was the person interested in that forged letter. He needed it to prove I was still investigating them.

ADV RANTHO: Can we accept that there was no evidence that you put before the Court to support that allegation? Even today there is no evidence to support that Commissioner Selebi was behind what you alleged was behind your orchestration.

10 CHAIRPERSON: Ms Rantho ...[intervenes]

ADV ACKERMANN: Do you want me to start from ...[intervenes]

CHAIRPERSON: Ms Rantho, I do not want to interfere with your line of cross-examination, but is not that quite clear that there is no evidence? You said it is his opinion.

ADV RANTHO: Perhaps, Chair, what I was trying to establish; I may have overstretched it, but I wanted to understand what informed his opinion, because it is before the commission and it is before the Court.

CHAIRPERSON: Yes.

20 ADV RANTHO: So I needed to understand, but I suppose the witness cannot tell as to what informed his speculating. I cannot accept that. Thank you, Chair.

CHAIRPERSON: Thank you.

ADV RANTHO: Okay, we may proceed on that issue of Commissioner Selebi, but we are still dealing with the forged note, Mr

Ackermann. Now if I may refer you to; it is Ackermann's bundle, additional bundle 3 of Ackermann, page 108.

ADV ACKERMANN: [Indistinct].

ADV RANTHO: Ja, that document; perhaps if you may start on page before page... Commissioners, this document is just titled "Commissioner Jacobs' affidavit". It looks like it is some notes that were prepared in response to Commissioner Jacobs' affidavit that was before the Ginwala Commission. Now, I would like to refer the witness to page 108 of that document that is titled "Commissioner
10 Jacobs' affidavit". It starts on page 105.

ADV ACKERMANN: Which bundle?

ADV RANTHO: Additional bundle 3. I think it is called "Additional bundle 3 of Ackermann".

ADV ACKERMANN: Yes, I have it with me.

ADV RANTHO: If you can just read it out, just paragraph 18.

ADV ACKERMANN: 18?

ADV RANTHO: 18, one-eight.

ADV ACKERMANN: Okay, [indistinct].

20 "On 17 September 2007 SAPS informed Adv McCarthy that the office note had in fact been created in 2003. It is now common cause between SAPS and the NPA that my office note was written on 26 June 2003 and not 26 June 2006."

ADV RANTHO: But perhaps if you may first confirm that this

document was prepared by or was prepared in response to Commissioner Jacobs' affidavit that was before the Ginwala Commission. Is that not so? In other words, Mr Ackermann ...[intervenes]

ADV ACKERMANN: Yes, yes. Yes, it looks like it. No, no. I think it was Mr Pikoli who asked me, but no. I do not know. I just want to read. Ja, that is his affidavit before the Ginwala Commission.

ADV RANTHO: Yes. And before this commission a question was asked based on the version that you put before Ginwala Commission
10 in relation to the forged note; and what you stated in the Ginwala Commission, what you said was that:

“It is now common cause between SAPS and the
NPA that my office note was written on 26 June
2003 and not 26 June 2006.”

ADV ACKERMANN: Yes.

ADV RANTHO: And when the question was asked before this commission as to why you said that before Ginwala Commission, your answer was that you could not explain why you said that before the Ginwala Commission. Remember that?

20 ADV ACKERMANN: Yes, I... This echoing is affecting me. I cannot talk. I will tell you why ...[intervenes]

CHAIRPERSON: This echoing is affecting you. Adv Ackermann, would it be a convenient time to adjourn now so that the echo can be attended to?

ADV ACKERMANN: I will appreciate that.

CHAIRPERSON: Yes. We will take a 15-minute adjournment, in which case we will reconvene at five to 11.

ADV RANTHO: Thank you, Commissioners.

CHAIRPERSON: Could somebody please attend to the echo?

INQUIRY ADJOURNS

INQUIRY RESUMES

CHAIRPERSON: Ms Rantho, just some housekeeping rules. How long are you going to be in the cross-examination of the Advocate Ackermann?

10 ADV RANTHO: 30 minutes would be too much, Chairperson.

CHAIRPERSON: Thank you.

ADV RANTHO: Thank you, Commissioners. If I may proceed from where we left off with Mr Ackermann about the statement he made during the Ginwala Commission about the first note, do you remember, Mr Ackermann?

ADV ACKERMANN: Yes. First of all, I did not give evidence at the..., It's echoing again. I will try and speak, so, listen carefully. I did not give evidence at the Ginwala Commission. This letter or this document from 105 to 109 is a document that the NDPP asked me to
20 comment on. It was the affidavit of Commissioner Jacobs at the Ginwala Commission, and he asked me to comment on what the Commissioner said. So, at the bottom there, at page 108, paragraph 18, I said,

On 17 September 2007, SAPS informed Advocate McCarthy, he did not inform me, that the office note had in fact been created in

2003. So, when I wrote this document, empowers document, it must have been now some time after the 17th.

What is however relevant is page 145 of a document that I wrote to Leonard McCarthy. Do you have it? Page 145. But I saw it somewhere else too. It's also page 119, same document.

Have you got it?

ADV RANTHO: Yes, I have it. Thank you.

ADV ACKERMANN: I cannot hear you.

ADV RANTHO: I have the document, Mr Ackermann, I'm trying to
10 understand.

ADV RANTHO: That document was written on the 27th of September 2007. Why I wrote to McCarthy was, I was going to present him with the reasons why I should not be prosecuted for perjury. So I wrote this to him, and that's now the 27th of September 2007.

But, when I wrote the document on page 107, it must have been after the 27th of September, obviously. I then found out that on 17th September, SAPS informed Advocate McCarthy that the office note had in fact been created in 2003. So he must understand, I'm now very cross that I must advance the reasons on the 27th of
20 September 2007.

ADV RANTHO: Just convert.

ADV ACKERMANN: So, when I probably read this or stated it at some stage about the 17th of September, it also did not make sense to me, and I think I said it does not make sense to me. Now it makes sense to me, it was not stated to me, the SAPS informed McCarthy

and I established it after 27 September. Does that make sense?

ADV RANTHO: Not at all, Mr Ackermann. I think with what you said, what I was trying to establish from you, was why when you prepared this document, and thank you for clarifying as to what the status of this document is, but what you said then, as you stated earlier that you were preparing this for Advocate Pikoli, you said that it is now common cause between SAPS and the NPA that my office note was written on 26 June 2003 and not June 2006.

10 So it's common cause that the one that you say it was common cause with the SAPS, that your document was written on 26 June 2003 and not June 2006. Now the question is when you prepared this, why did you not advance that accusation that it was not the same document? In terms of what you are now informing the Commission, is that, that document, you disowned that document in actual fact. If I may take you to your testimony to say that, at that time you established that your computer was hacked because that very same document with the same date was found in your computer And what you informed this Commission is that you believe that your computer was hacked. The police made sure that that document is
20 somehow installed or put in your computer in your office. Remember saying that?

Because your evidence is that this document was found in your computer. Is that not so?

ADV ACKERMANN: Was it made (indistinct)

ADV RANTHO: The point I'm trying to find out is that when you

compiled this document, you said it is now common cause between SAPS and NPA that my office note was written on 26 June 2003, right? And not 26 June 2006. That we know that it is a dispute. You say the document that the police had cannot be yours because yours was drafted in 2003. We agree on that one, is it not?

ADV ACKERMANN: And that is common cause that that document was written on 2003. You agree that document has been forged?

ADV RANTHO: I do not. We will get to the forgery part of it. The issue was your status in relation to whether or not that document was
10 indeed prepared by you or authored by you. Because before this Commission, you denied that you were the author of that document in the first place.

ADV ACKERMANN: Are you talking about the 2003 document or the 2006 one?

ADV RANTHO: The one that was found in your computer. What date was that?

ADV ACKERMANN: 2006.

ADV RANTHO: That is the one that was found in your computer?

ADV ACKERMANN: That is correct?

20 ADV RANTHO: Yes. That is the one that you say here, common cause that it was written on 26 June 2003 and not 26 June 2006. So that means it is the same document. The issue could be the date. No, the issue, according to what we are stating here, if I understand you well, in the document that you prepared for Advocate Pikoli in preparation for the Ginwala Commission, as you said that it was to

assist in responding to General Jacobs. Maybe let us go back. Remember, we are going back to paragraph 18 of the notes or whatever that document you named it.

The one that you prepared for Advocate Pikoli in response to Commissioner Jacobs' affidavit that served before Ginwala Commission. You remember that document on page 108?

ADV ACKERMANN: Just ask me if there are so many questions.

ADV RANTHO: Okay. I will go, yeah. I apologise for that. Let us go back to page 108. The problem, Mr Ackermann, you do not give too many answers because we are going to be confused. You are going to lose me, I am going to lose you as well. Let us go back to page 108. 108 of Additional Bundle.

ADV ACKERMANN: Yeah.

ADV RANTHO: Remember, you just corrected that, in actual fact, that was not in reference to the affidavit that, or in actual fact, the evidence you gave to Ginwala, but rather you said this document is what you prepared for Advocate Pikoli when he was going to appear before Ginwala Commission. This document.

ADV ACKERMANN: It is to give you some background on the forgery.

ADV RANTHO: Yes, yes, correct. Now, in you giving him background on the forgery, right, on page 108, paragraph 18, paragraph 18, the one that you read out, you informed Advocate Pikoli that it is now common cause between SAPS and NPA that my office note was written on 26 June 2003 and not 26 June 2006.

Right?

ADV ACKERMANN: Yes, but that is what McCarthy informed me.

Read that.

ADV RANTHO: So this is what McCarthy informed you?

ADV ACKERMANN: Yeah. That it is now common cause. And can you understand how cross I am that on 27 September I must advance to (indistinct) to prosecute, to charge you with purgery?

ADV RANTHO: Okay. All right. General Jacobs gave evidence before the Commission. I am sure you must have gone through his
10 affidavit, but I think most importantly, and Annexed to the supplementary affidavit, sorry, the main affidavit was the expert report regarding the forged note. Remember? There was forensic analysis of the forged or alleged forged document. Remember that?

ADV ACKERMANN: Yes.

ADV RANTHO: Yeah.

ADV ACKERMANN: Yes.

ADV RANTHO: And your testimony is that you do not agree with the outcome of the expert report. Is that not so?

ADV ACKERMANN: Definitely.

20 ADV RANTHO: Were you trained in handwriting expert or do you have any expertise in handwriting?

ADV ACKERMANN: Without that, if you look at the cases, any person is entitled to make a filing on handwriting.

ADV RANTHO: Okay. Now, as a prosecutor, seasoned for many years as a prosecutor, you have made use of expert evidence, is it

not, in your career, during your career?

ADV ACKERMANN: Many a time.

ADV RANTHO: And then what would you use to counter any expert evidence that is put before the court or any forum?

ADV ACKERMANN: Obviously. Did you want me to say that I go to a handwriting expert?

ADV RANTHO: No. What I want to understand, for you to dispute the evidence of an expert, as a career prosecutor, what would you do to dispute that which is placed before the court as expert evidence?

10 ADV ACKERMANN: Can we just have a look at the photo of the six?

ADV RANTHO: Just answer my question first. Before we go there, you have said you are not an expert in handwriting, is it not? You are not a handwriting expert. We can accept that, okay?

ADV ACKERMANN: Yes.

ADV RANTHO: Now, the second question that I asked you was whether, during your career as a prosecutor, you ever made use of expert evidence, and your answer was a yes, right?

ADV ACKERMANN: Yes.

20 ADV RANTHO: A simple question that I wanted to, I mean, an answer I wanted to elicit from you was what kind of, or how do you deal, or how do you dispute expert evidence that is before the court? In other words, what do you put before the court to convince the court that that expert report cannot be right?

ADV ACKERMANN: Well, the expert report we have before us, does not state that the six has been forged or not. Nothing is stated about

the six.

ADV RANTHO: But you accept that this is an expert report? This is, the person who conducted analysis was an expert.

ADV ACKERMANN: I will say this under oath, that they must call that expert and give evidence, and he must be cross-examined on his report.

ADV RANTHO: I will accept that, but you now, you are faced with that expert report, and I am saying to you, you are not in position to dispute, because you are not a handwriting expert. Is that correct or
10 not?

ADV ACKERMANN: I know that the handwriting is not mine, because the person who typed that document was not even there...

ADV RANTHO: That you know, but you are not in position, or you are not capacitated to dispute what an expert says in his report. Is that yes or no?

ADV ACKERMANN: I dispute what that expert say.

ADV RANTHO: In this case, you dispute?

ADV ACKERMANN: Yes.

ADV RANTHO: Based on your own opinion?

20 DEFENCE: No, common sense.

ADV RANTHO: Common sense. Thank you. But you cannot dispute it in line with what... (intervenes)

ADV ACKERMANN: I dispute it.

ADV RANTHO: No, but remember I took you back to your days of prosecution, when I asked you a simple question, how do you deal

with expert evidence, and you have not succeeded in answering.

As a prosecutor, for a moment forget about this particular first note, because it is too personal. You, during your time or times as a prosecutor, what would you do to counter evidence that is put before the court by an expert?

ADV ACKERMANN: I would cross-examine him. I have cross-examined many an expert and prove that they are not capable, that they have not got the expertise, and that they have the motive to give a false report. That is why I say that Du Toit must come and give
10 evidence at this Commission, so that he can be cross-examined on his expertise and his findings. Because, you must understand, he is also a policeman, he is doing a report for the police.

ADV RANTHO: What do we make of your version that that same document dated 2006 was found in your computer?

ADV ACKERMANN: It proves that there was some person that had the technical abilities to not only change that document, but put that document on my computer, but he made a grave mistake in that he did not note that Tina Pienaar was not, I do not think she was even alive in 2006.

20 ADV RANTHO: Thank you. We will argue in closing, or at the end of this Commission, that your version in relation to the forgery is far from the truth, Mr Ackermann. But... (intervenes) We are just commenting, we will argue that with the facts that put before to counter that which the experts have put forward. We are saying your version cannot be probable. It is far from reality.

CHAIRPERSON: Mr Ackermann, it is a comment, it does not require your response.

ADV RANTHO: Then the last thing that we deal with is just the issue of the presence of intelligence structures in the ITT. There are allegations that one of the pointers to political interference was the presence of intelligence structures within the ITT, in other words the officials that came from ordinarily would be, as explained by General Jacobs, is crime intelligence, national intelligence agency at the time, and defence and military intelligence.

10 ADV ACKERMANN: Did I give that evidence?

ADV RANTHO: I beg your pardon?

ADV ACKERMANN: Did I object to their presence?

COMMISSIONER KGOMO: Mr Ackermann, just wait until the question is asked and then respond.

ADV RANTHO: Thank you, Commissioner Kgomo. The allegations before this Commission, Mr Ackermann, are that one of the things that pointed to political interference insofar as the prosecution of the TRC cases was concerned, was the presence of members from the intelligence community, if I may put it that way. And I know there is a
20 specific reference in the Calata Affidavit, you also supported them, that Mr Jafta, who was at the presidency at that time, I think to name but a few, he is one of the people that we figured that he was there as a person from the intelligence community.

And now I want to deal with the presence of...

CHAIRPERSON: If I may just get clarity, Ms Rantho, without

interfering with your line of cross-examination. Mr Jafta was he present as a member of the intelligence committee or as a person from the presidency.

ADV RANTHO: Thank you, Chair. Yes, he is in intelligence structures. The allegations in the Calata Founding Affidavit supported by Advocate Ackermann are that they were members of the intelligence structures.

CHAIRPERSON: Yes.

10 ADV RANTHO: And Mr Jafta also is fingered, even though he was in the presidency. And that is why I think in General Jacob's Affidavit it is explained that Mr Jafta at that time was actually in the presidency.

CHAIRPERSON: Yes.

ADV RANTHO: Yes. But more specifically, just to confine it to those ones that we know that they were there in their capacity as members from intelligence structures.

CHAIRPERSON: Yes.

ADV RANTHO: I think Mr Ackermann would recall that you had a number of them, the Kalakala, Mabule, you named them. Remember that, Mr Ackermann, that they were part of the... (intervenues)

20 ADV ACKERMANN: Yes, yes, I know.

ADV RANTHO: Yes. Now, I want your response in light with what is contained in the ITT minutes of 16 November 2006.

ADV ACKERMANN: Which page?

ADV RANTHO: That would be page 21 to 22 of what we titled SAPS index relating to cross-examination of Advocate Ackermann. So that

would be page... it starts from page 21 to page 22. Those are the minutes of the ITT of 16 November 2006.

ADV ACKERMANN: Yes, I have it.

ADV RANTHO: Maybe before I take you through to those minutes. Do you agree that there was nothing wrong with the intelligence officials being present in the ITT meetings?

ADV ACKERMANN: No, in fact, it is in the guidelines that I must assist them.

ADV RANTHO: So anyone who says that pointed to political
10 interference would be incorrect, right?

ADV ACKERMANN: If they interfered, I do not know if they interfered. In fact, I, at one-on-one meeting with the officer, the person representing National Intelligence, I think it was Yvonne, I sat with her and explained to her what I need from her, and I gave her my views on what the only case, of all the cases that I had, might be of importance. I think it was the Powell case. And I said to her she must not get too involved in the investigations, she must leave that to the police.

COMMISSIONER KGOMO: And by Yvonne, you refer to Yvonne
20 Mabule?

ADV ACKERMANN: Yvonne Mabule, yes.

ADV RANTHO: Thank you for that. And then the last thing is the letter of Commissioner De Beer. Remember your interaction with Commissioner De Beer about the assignment of investigators?

ADV ACKERMANN: Yes. Which date is that, is that the one of

September/August the 26th?

ADV RANTHO: 26th? Yes, 26 September.

ADV ACKERMANN: I do not that (indistinct)

ADV RANTHO: That would be, the September one is page 296 of the Calata Bundle. 296.

ADV ACKERMANN: No, there is no (indistinct).

ADV RANTHO: It is dated 26th September 2003.

ADV ACKERMANN: Yes, not 2006.

ADV RANTHO: Yes, yes. And remember, you agree that this letter
10 was addressed to you by Commissioner De Beer?

ADV ACKERMANN: Yes.

ADV RANTHO: And in this letter, it is clearly stated that the police were of the view that the President had to clarify the mandate insofar as the Chelsea cases were concerned, isn't it?

ADV ACKERMANN: That is correct.

ADV RANTHO: And then the allegations made in the Calata bundle are that that letter of De Beer pointed to a refusal / interference of some sort. So it is part of the chain. Although it is not specified, but it seems to form part of the chain of the political interference. Now,
20 insofar as you are concerned in your affidavit of 2025, I want to refer you to a specific paragraph in relation to this letter of De Beer. Okay?

ADV ACKERMANN: (indistinct).

ADV RANTHO: Affidavit, that would be bundle 3. That is your other one. That would be on page number 4, paragraph 17.

ADV ACKERMANN: Yes, you say paragraph 17?

ADV RANTHO: Yes. What you are dealing with in terms of, sorry, your state, your paragraph 17, you'll see preceding paragraphs there. You are referring to certain paragraphs 1 and 5 to 6, failure to create mechanism and to approach the President. Do you see that?

ADV ACKERMANN: Yes.

ADV RANTHO: Now, paragraph 17, going back to paragraph 17, in your affidavit you say, I agree that government failed to take steps to investigate the TRC cases.

ADV ACKERMANN: I also agree?

10 ADV RANTHO: Yes. And you say I also agree that the President should have been approached. You see that statement?

ADV ACKERMANN: Yes.

ADV RANTHO: 18, as I was not the NDPP, it was not within my prerogative or power to contact the President. Right?

ADV ACKERMANN: Yes.

ADV RANTHO: And that is your statement.

ADV ACKERMANN: That is correct.

ADV RANTHO: Am I then correct to say that you did agree with Commissioner De Beer that there was a need to consult the President
20 to clarify the mandate in terms of the proclamation as to the SAPS now being the one to take over?

ADV ACKERMANN: That is not on my schedule to approach Presidents. I just wanted to investigate the agency and we have two investigative agencies. I am not one of them, I want to do investigating.

ADV RANTHO: So you agree there was a need for the President to clarify that? Yes or no? Did you agree with De Beer that there was a need of the President to be approached?

ADV ACKERMANN: My boss, the national director of prosecution did not think it was necessary.

ADV RANTHO: Did you agree that the President had to be approached?

ADV ACKERMANN: I would have.

ADV RANTHO: So if you were in the shoes of the NDPP, you would
10 have approached the President?

ADV ACKERMANN: It was not in my powers to approach the President and say please assist me with TRC, it was illusions

ADV RANTHO: Thank you.

CHAIRPERSON: Thank you, Ms Rantho.

ADV RANTHO: May I just have a few minutes?

CHAIRPERSON: Yes.

ADV RANTHO: I may have missed something. Oh, yes. Sorry. A very last one, Chair. This one is important. The testimony by Mr Ackermann that while presidential authorisation was sought, the
20 SAPS had no objection to continue with the APLA and MK investigation, which showed cooperation by SAPS. And that is found in the transcript of the 4th of March, that is on page 43, from lines 19 to 44. And then that is included in the SAPS bundle page, that is now 78, of the SAPS bundle that we prepared. Page 78.

Here, Chairperson, we simply wanted to confirm what was

said by Mr Ackermann to say that, yes, it is on page 79 of the bundle that is before the Chair, where just before, it is line number 44, just on top there. And this was Mr Ackermann who said, SAPS would not investigate unless the President authorised it to do so. There was, however, no objection to SAPS continue with the APLA and MK investigations. Relevant correspondence is attached. That was the testimony of Mr Ackermann, saying that in actual fact, there was no objection by the SAPS to continue with APPLA and MK investigation. Remember that, Mr Ackermann?

10 ADV ACKERMANN: Can you refer me to paragraph 10? I said, Mr Varney says, if we can just pause for a second, just a question for clarification. So in that paragraph 10, you seem to say, can I have that paragraph 10, please?

ADV RANTHO: Yes, I have it. You can read it out. Where is it?

ADV RANTHO: It is in paragraph 10, page 79.

ADV ACKERMANN: Okay, there was no objection. Can I just add that paragraph 10 in the letter, I do not know where the letter was. It is just in the letter so that I can see the context.

20 ADV RANTHO: But nonetheless, I do not think it is changing the fact that you are saying you would have approached the President nonetheless. And maybe just to sum it up, from the letter of Commissioner De Beer, you would agree that in the same letter, he does indicate the willingness to assist, albeit with clarity being sought from the President. Is that not so, Mr Ackermann?

ADV ACKERMANN: You know, what I read here is the following, and

that is on page 78. After I put in my request, he rightly advised me that SAPS would not investigate unless the President authorised it to do so. There was however no objection to such continuing with the APLA and MK investigations, whenever correspondence is attached hereto.

ADV RANTHO: Meaning, on your own version, there was no objection in the meantime, whilst clarity was being sought, that the SAPS... (intervenes)

ADV ACKERMANN: I get the impression that he stated to me, I do
10 not know where is the letter, can I...

ADV RANTHO: What you stated here is that, in essence, notwithstanding the issue of the clarity that had to be sought from the President, that the SAPS continued with investigations against, or involving APLA and MK. So there was some progress being made.

CHAIRPERSON: Ms Rantho, I am sure you can safely take that in argument.

ADV RANTHO: Okay, thank you, Chair.

CHAIRPERSON: Yes.

ADV RANTHO: That brings an end to our cross-examination,
20 Chairperson.

CHAIRPERSON: Thank you. Mr Gwala.

ADV VARNEY: Chairperson, sorry to interrupt. Can I just check whether we can do re-examination after each party has cross-examined?

CHAIRPERSON: Yes, I think you should do it now. It is convenient.

ADV VARNEY: Yes, thank you, Chair.

CHAIRPERSON: I think it will be convenient, Mr Varney, to do it now and not wait for a host of cross-examination to be conducted by the parties.

RE-EXAMINATION BY ADV VARNEY: Yes, agreed, Chair, and thank you for the indulgence. I will try to be as short as possible.

Mr Ackermann, you were referred to an audit document that you prepared for the task team. It was addressed to, I believe, Dr Ramaite. It is dated 24 October 2006, and it is on page 8 of the
10 SAPS bundle. Do you have it? Perhaps Mr Venter can help with the SAPS bundle, page 8.

ADV ACKERMANN: Yes, page 8.

ADV VARNEY: And you were referred to paragraph 4. It is titled, Potential Prosecutions Identified by the PCLU. Am I correct in saying that this audit document did not purport to be full reports on each case, just the highlights?

ADV ACKERMANN: Well yeah, audit report.

ADV VARNEY: And just to remind ourselves, this was an October
20 2006 document, so some two years after the incidents in relation to your attempt to carry out the arrests in the Chikane matter.

ADV ACKERMANN: Yes.

ADV VARNEY: Now, you were referred to paragraph 4.1.1, which reads, 'Indictment already drafted in 2004. Prosecution was put on hold pending approval of guidelines.' Now, it was suggested to you by my learned friend for the SAPS that because you had not indicated

that the minister had intervened in the matter, that perhaps that did not take place. Do you recall?

ADV ACKERMANN: Can you just repeat that, please. I thank you in advance.

ADV VARNEY: The criticism was made in cross-examination that if the Minister had intervened, then it should have been included in 4.1.1?

ADV RANTHO: Sorry, Chair.

CHAIRPERSON: Sorry, Mr Varney.

10 ADV RANTHO: Chair, there was never such, we never cross-examined along those lines. Failure to disclose that we put to Mr Ackermann had to do with his meeting with the reverend Chikane. The only question that was ever posed in relation to the Chikane matter, it related to the period of the prosecution when I was trying to establish when was the decision to prosecute taken. And he said, and he even further then said, then the minister intervened. The only question was then, when was that intervention? That is all. But it had nothing to do with the issue of the meeting with the reverend Chikane. So, I simply wanted to just to correct that.

20 CHAIRPERSON: Mr Varney.

ADV VARNEY: Yes. Well, thanks for that helpful intervention. If my learned friend is not disputing the Minister's intervention, then I will move on.

CHAIRPERSON: Yes.

ADV VARNEY: Then if we can move to your paragraph 33, and there

was a suggestion by my learned friend for the SAPS that you might have been mistaken in relation to a letter from Commissioner Jacobs in relation to the task team submitting a final recommendation to the Committee of Directors General, who must in turn advise the NDPP before he makes a decision. Do you recall that exchange?

ADV ACKERMANN: Yes, yes.

ADV VARNEY: Yes. Now, you then made reference to email exchanges between a Commissioner, Assistant Commissioner Jacobs and Mthunzi Mhaga. But I wish to refer you to a letter that
10 was prepared by Assistant Commissioner Jacobs in the name of National Commissioner Selebi. It is dated 6 February 2007. Commissioners, this letter is in a few bundles. The one I am looking at is bundle 2 of the Calata Group. That is bundle 2 of the Pikoli papers at page 172. I believe it is also in the Jacobs bundle as well. Do you have a copy of that letter?

ADV ACKERMANN: I have it here in front of me now.

ADV VARNEY: Can you read into the record for those who do not have it before them? The third paragraph, but just before you do that. This is a letter from National Commissioner Selebi to Advocate VP
20 Pikoli in NDPP. It is dated 6 February 2007. If you look at the bottom of the page, there's a reference which begins PCJ. Would PCJ indicate that that was written by Assistant Commissioner Philip Jacobs?

ADV ACKERMANN: That is correct.

ADV VARNEY: Just for the record to clear up this confusion around

the letter, can you read into the record the third paragraph?

ADV ACKERMANN:

“I have insisted that the complainant be consulted in terms of the guidelines on the basis that the Directors General will have an opportunity to provide input before the decision on prosecution is taken.”

ADV VARNEY: Then can you read the fifth paragraph, the last one on that page?

10 ADV ACKERMANN:

“My understanding was that the officials designated on the task team by the Directors General will provide recommendations to the Directors General who will, as a collective, advise the National Prosecuting Authority as the decision-maker on prosecution.”

ADV VARNEY: And finally, can you read the second paragraph on the next page?

ADV ACKERMANN:

20 “Although I do not insist on the meeting of the Directors General after each meeting of our officials, I deem it necessarily that a substantive report and recommendations of the officials should be discussed by the Directors General before the decision is made.”

ADV VARNEY: So is it likely that this is the letter you were referring to?

ADV ACKERMANN: Most likely it must have been in this letter because I know at some stage I was informed that I received the email.

ADV VARNEY: And then if I can refer you to a question that was put to you in relation to what was taking place between the years 2003 and 2006, and I believe it was suggested to you that what was happening in relation to the Chikane matter and others had nothing to do with political interference in those years, at least in relation to the role of the SAPS. Am I correct in saying that it is your evidence that the police were not investigating the Chikane matter or other matters during that period?

ADV ACKERMANN: They did not investigate any matter during that period, not at all.

ADV VARNEY: And then if we can turn to the task team meeting of 29 January 2007, there were some exchanges around the question of consulting with Frank Chikane, the Reverend Frank Chikane, in relation to the prosecution in his case. You indicated in that meeting that the NDPP had already taken a decision to prosecute in that matter. Just for the sake of absolute clarity, what is the role of a victim or a complainant in a decision to prosecute?

ADV ACKERMANN: Are you now talking about TRC matters?

ADV VARNEY: No, any matter.

ADV ACKERMANN: The prosecutor did not consult with the victim,

but it is advisable that it is done, that he consults with the victim. But I already knew that Mr Reverend Chikane was going to say that he's not interested in a consultation. What happened was in the... (intervenes)

ADV VARNEY: Let me not interrupt you. Sorry to interrupt you. I just want to save some time, Advocate Ackermann. Let me put this to you. If the victim says he or she does not want a prosecution, is the prosecutor obliged to follow that request?

ADV ACKERMANN: No.

10 ADV VARNEY: Thank you. Let us move on. Various questions were put to you in relation to the forged document. Now, as I understand your evidence in relation to the various file notes that were put up, I believe in the General Jacobs volume, and there are one or two in the SAPS bundle as well. Is it your evidence that those file notes or memos, file memos, that the name of the typist is the typist who was working with the PCLU during 2003, but who had left the organisation by 2006?

ADV ACKERMANN: No, no. She left the organisation in 2003. In 2003, beginning 2004.

20 ADV VARNEY: Yes, so she was not around to be typing in 2006?

ADV ACKERMANN: Definitely not.

ADV VARNEY: And the phone number that is depicted on those file memos, that phone number, is that from your office in 2003?

ADV ACKERMANN: You are asking now a question. I know there was... I do not know if that is perhaps Chris Macadam's number. I

am not sure, you know. It is a long time ago.

ADV ACKERMANN: Well, I understand in your evidence-in-chief, and my colleagues will have to find it, that that number was operational in 2003, but not in 2006.

ADV ACKERMANN: That is correct. That must then be Macadam's number.

ADV VARNEY: And then just turning to the deliberations around Assistant Commissioner De Beer, head of detective services, there was many exchanges around whether the President should be
10 approached, as suggested in his letter. In your second statement, you said that you believed the President should have been approached. Am I right in saying that you indicated this was not because you agreed with De Beer, but you simply wanted to get the investigations off the ground?

ADV ACKERMANN: Of course, yes.

ADV VARNEY: Thank you. No further questions, Chairperson?

CHAIRPERSON: Thank you, Mr Varney.

COMMISSIONER KGOMO: Mr Varney, just there, I am not so sure whether I am even confusing myself, but is there historically, the
20 document of June 2003, does that document exist, and has it changed hands with that date? Is it 26 June 2003? Is there such a document? Because I want to try and understand the appearance of the document of 26 June 2006. So historically, does that document exist? The document of 26 June 2003. And if it existed, can we locate it, or what is the position? Can the witness help?

ADV VARNEY: Yes, Chairperson, my understanding of the evidence of Mr Ackermann is that that file note did exist in 2003. I am not aware, we can ask Mr Ackermann whether it exists in hardcopy, but it certainly existed on his computer. And Mr Ackermann alleges that his computer was hacked, and then adjustments were made on it for the purposes he suggested.

COMMISSIONER KGOMO: Yeah, Mr Ackermann, I only want to fasten on the document of 26 June 2003. Is that document in existence somewhere? And has it changed hands?

10 ADV ACKERMANN: Commissioner, when I received the document from Commissioner Jacobs, I saw that the date was that I then immediately said to my secretary, get me the document on my computer. And when she went to the computer, the document has been amended on the computer to 2026. And suddenly, all the other documents from A1 to A17 were all reflected as 26 June 2006.

And of course, that is the only document that I have signed. I've noticed that no other document has a date. It was only that one. And on the computer, it was also only that document that was signed and a date with it. So it does not exist to answer your question. I do
20 not have it.

COMMISSIONER KGOMO: Yes, okay, thank you.

ADV VARNEY: As the Commissioner pleases.

CHAIRPERSON: Thank you, Mr Varney. Mr Gwala?

CROSS-EXAMINATION BY ADV GWALA: Chairperson, I advise that we need to rearrange our seating arrangement there.

CHAIRPERSON: Yes, you may do so once we are seated.

Ms Rantho will let you move from her seat to allow you to sit where she is seated.

ADV GWALA: Mr Ackermann, can you assist me here and give me the timelines? When was the decision to charge, to prosecute in the matter of Reverend Chikane taken? Just a month ago?

ADV ACKERMANN: No, I can't give you a month. It must have been 2003 or 2004, if you ask me. Already after the COP trial, I had it in mind as a case. If you ask me whether it was approached, because
10 the TRC maxim must be proved by the NDPP or acting NDPP. So I cannot give you a precise date, but yes, that is my answer.

ADV GWALA: You cannot say it was 2003, the first half or the second half of 2003, or the first half or second half of 2004.

ADV ACKERMANN: Look, it wasn't one of the first cases that I did when I was there. I am just thinking now, the PEBCO 3 matter was March 2003. You know, it was during that period. I do not know whether it was the first half or second half. You know, I have quite a few cases that I decided were good cases to proceed with the prosecution.

20 ADV GWALA: So the final answer is that you do not know when the decision to prosecute was taken. Is that how I must understand your answer?

ADV ACKERMANN: No, it was in 2003.

ADV GWALA: All right. You cannot tell us whether it was beginning or towards the end of 2003.

COMMISSIONER KGOMO: He said so.

ADV ACKERMANN: You know, it was 23 years ago.

ADV GWALA: All right. But what we know is that the indictment was prepared in 2004. Would you accept that?

ADV ACKERMANN: I would accept that, yes

ADV GWALA: And... (intervenes)

ADV ACKERMANN: It might be even earlier.

ADV GWALA: Come again?

ADV ACKERMANN: It might be even earlier.

10 ADV GWALA: But we do know from your evidence that it was in November 2004 when the minister said, pending these cases, pending the issuance of the policy guideline on prosecution.

ADV ACKERMANN: That is correct.

ADV GWALA: All right. Now, my concern is this. If the decision was taken in 2003, be it at the beginning or towards the end, and then the indictment was to be served on the accused in November, what would explain that delay? At least you can take it from January 2004, since you do not know when the decision was taken. What would explain the delay between January 2004 and November 2004? Why were
20 these individuals not charged and taken to court during that period?

ADV ACKERMANN: You know, sitting here, I can't accurately say what the reason was, but there were some other investigations that had to be done. That I know.

ADV GWALA: It is the same matter.

ADV ACKERMANN: Yes, the Chikane matter.

ADV GWALA: All right. Can we... Yes, continue?

ADV ACKERMANN: Because I went to Madison to obtain certain documents and toxicology reports, that is why I say I know there was..., I needed some evidence still.

ADV GWALA: So a decision was taken whilst the investigation was going on?

ADV ACKERMANN: Yes.

ADV GWALA: Can we deal with something else quickly? And for this, I want to take you to your... can I be advised if I am not audible.

10 This thing is disturbing me. Thank you. 57.57.4

Can I take you to your statement in the Ackermann bundle?

It is an affidavit, actually. The affidavit you deposed to in the High Court matter. It is...

ADV ACKERMANN: In 2015?

ADV GWALA: 2015 yes, Mr Ackermann. And I want us to deal in a moment, or in a short while, with what you characterise as political interference. Tell me when you've found the page.

ADV ACKERMANN: Yes, I have it.

ADV GWALA: You deal with this in paragraph 32. So you start with...

20 (intervenes)

ADV ACKERMANN: Yes.

ADV GWALA: You say:

“The first act of political interference which effectively stopped the work of the PLCU into the TRC cases, was the suspension of such cases

during 2004, pending the issuing of the new prosecution guidelines. This introduced the effective moratorium I referred to above.”

The high watermark of your case, Mr Ackermann, is not just that there was interference, it is that there was political interference. Do I understand you correctly?

ADV ACKERMANN: It is not just political interference, but after reading the terms of reference aloud. You do not need political interference. It is simply interference.

10 ADV GWALA: Let us deal with that still. You say it is that interference that effectively stopped the work.

ADV ACKERMANN: And so, the pressure on, but as far as I know, I drafted this, this affidavit was clearly corrective, it was (indistinct).

ADV GWALA: Yes, it would be.

ADV ACKERMANN: So, you know, I want to be that this country get rid of, whether it was political or not.

ADV GWALA: Yes, alright, let us deal with that still. You say it is that interference that effectively stopped the work, if I read that paragraph correctly, you refer to interference and the effective stoppage of the
20 work in the TRC matter.

ADV ACKERMANN: What is the question?

ADV GWALA: Let me put it again. There are two things I am picking up from that paragraph. It is that you say there was an interference, that is number one, and that interference effectively stopped the work on the TRC cases.

CHAIRPERSON: Do you agree with that statement or not?

ADV ACKERMANN: I agree.

ADV GWALA: As I understood your evidence-in-chief, or at least when we sought clarities, you agreed that that was a temporal measure to allow the process of developing the policy guideline. It was not a total ban to the prosecution of the TRC cases.

ADV ACKERMANN: Yes, it was a two-year delay that I was hindered and obstructed to execute my mandate.

ADV GWALA: What stuns me in that, though, is that we heard
10 evidence, and it was demonstrated in court by Mr Mhaga, that in 2005 he was engaged in a trial that had to do with a conflict of the past.

ADV ACKERMANN: Which case was that?

ADV GWALA: One is the case of Chani in the Eastern Cape.

ADV ACKERMANN: I was not even aware of that case. It was not in my office.

ADV GWALA: What I am saying is, what I understand the position to be is that you say because the Minister issued a directive, if I call it that way, that the TRC cases must be put on hold pending the issuance of the policy guideline. But in this, perhaps, let us go on, the
20 guideline was issued or became effective towards the end of 2005.

Is that your understanding as well?

ADV ACKERMANN: That is correct. The last part of your statement is correct.

ADV GWALA: But before, in fact it was December 2005, before December 2005 and within 2005, Mr Mhaga tells this commission that

he was prosecuting a matter that was connected to the conflict of the past, the TRC cases. How is it then that you would say the directive by the Minister, as you put it, effectively stopped the prosecution of the TRC cases?

ADV ACKERMANN: When did this case of Mr Mhaga's (indistinct).

ADV GWALA: Can you open it? We will open it for you.

COMMISSIONER KGOMO: I wonder what Mr Mhaga seems to have said. He was not even aware.

ADV GWALA: The point is that these are all TRC cases. If the
10 directive by the Minister stopped the prosecution, then it would apply to all the TRC cases. And to take it further than that, the justice...

COMMISSIONER KGOMO: No, the only point that I want to make is that, unless I am mistaken, Mr Mhaga was not even aware of what the Minister was accused of, rightly or wrongly. So he proceeded...
(intervenes)

ADV GWALA: In ignorance.

COMMISSIONER KGOMO: Yeah.

ADV GWALA: No, let us take it further than that, Justice Kgomo.

COMMISSIONER KGOMO: Yeah, maybe you can... (intervenes)

20 CHAIRPERSON: No, I think just the JP is not stopping you from asking the question, was merely pointing you out to the evidence of Advocate Mhaga in this regard.

ADV GWALA: Yes. Thank you, thank you, thank you, Chairperson, for that. But as I go on with this... (intervenes)

COMMISSIONER KGOMO: Do not try to justify it, the Chair says

continue with your line of questioning.

ADV GWALA: How is it then that it was not communicated, for instance, to other prosecutors that they would not continue with the TRC cases?

ADV ACKERMANN: If you ask me, I did not send a letter to each and every division saying they must stop all the prosecutions. What happened, as I said in some of my reports, there were some cases in the divisions, the nine divisions, that those prosecutions and trials went on. I was not involved in them. And I think that the case that
10 Mhaga is referring to is a case that started long before 2004. I do not know even when it started, that is why I asked.

ADV GWALA: Yes, but... (intervenes)

ADV ACKERMANN: Bottom line is, I did not inform him.

ADV GWALA: So you can't then say what Minister said effectively stopped the prosecution in the TRC cases?

ADV ACKERMANN: I was aware that it effectively stopped all my investigations and prosecutions.

ADV GWALA: Alright. Can we deal with something else as well that you mentioned this morning? My colleague for the police asked you
20 what was the first act, what do you regard as the first act of political interference? And you said it was when Commissioner De Beer said he would not investigate the TRC cases, do you recall that?

ADV ACKERMANN: Yes.

ADV GWALA: Do you regard that as interference or as someone who just does not want to perform their function?

ADV ACKERMANN: Both.

ADV GWALA: How is it an interference then, if it is both?

ADV ACKERMANN: Well, interference is not assisting me with investigations, and in terms of the police act, he must assist me. He must investigate.

ADV GWALA: And interference in prosecution would be a crime, isn't it?

ADV ACKERMANN: Yes, very much so.

ADV GWALA: Did you regard his conduct at the time when he said
10 he would not investigate them, as interference in the prosecution?

ADV ACKERMANN: Can you just repeat that question?

ADV GWALA: Did you at the time, when he said he would not investigate the TRC cases, regard that as an interference?

ADV ACKERMANN: Yes.

ADV GWALA: What did you do about that?

ADV ACKERMANN: Nothing. I went back to the drama of whether he would be prepared to investigate them. I went to Dr Ramaite, informing him that both the investigating agencies refused to assist me in the investigation of these important cases.

20 ADV GWALA: To the extent that Commissioner De Beer was interfering in the prosecution, as I understand you to be asserting, you did not do anything about that?

ADV ACKERMANN: What do you expect me to do, so that I can reply to that?

ADV GWALA: We've just agreed that that was a criminal offence for

him to interfere.

ADV ACKERMANN: I did not lay a criminal charge.

ADV GWALA: Why not?

ADV ACKERMANN: Under the circumstances, you have to discuss this with the... I did not. I do not have to explain why I did not. There are lots of crimes committed by Ministers that I did not go and lay a charge. For instance, the Minister of Justice informing, stopping the prosecution, finding Dr. Ramaite I did not go and lay a charge at Silverton Police Station.

10 ADV GWALA: Yes, I was going to come to that one too, but you say you were aware that a person at the level of a Commissioner, was committing a crime, and you've decided to do nothing about it?

ADV ACKERMANN: I did not say that. I did not lay a charge, that is what I am saying.

ADV GWALA: Is that not because at the time you did not regard that as an interference?

ADV ACKERMANN: No, it interfered. It interfered with my mandate, the execution of my mandate.

20 ADV GWALA: Let us accept that for a moment, but my question is, is it not because, you did not take an action, granted, but is that not because at the time you did not regard his conduct as an interference?

ADV ACKERMANN: I did regard it as an interference.

ADV GWALA: Okay. And as a prosecutor who would have taken an oath to prosecute without fear of favour, you ought to have taken

some action against Mr De Beer.

ADV ACKERMANN: There was that decision to make.

ADV GWALA: Do you agree or do not agree?

ADV ACKERMANN: Well I did not charge.

ADV GWALA: I am asking a different question now. Do you agree with that statement or not?

ADV ACKERMANN: I do not agree with that.

ADV GWALA: You do not agree with this? That would be your answer even with regard to the Minister when you say she interfered
10 when she told the NPA to stop the prosecution.

ADV ACKERMANN: Who should lay the charge?

ADV GWALA: The prosecutor who knows that a crime has been committed, so that it is investigated.

ADV ACKERMANN: Well, that is Dr Ramaite.

ADV GWALA: Did you discuss it with him that he should lay a charge?

ADV ACKERMANN: No.

ADV GWALA: You wouldn't because you had also allowed a situation where a Commissioner had said she would not investigate and you
20 did not lay a charge.

ADV ACKERMANN: Listen, I have, bring the disciplinary action taken on against me for being, what's the word?

COMMISSIONER KGOMO: Insubordinate

ADV ACKERMANN: Insubordinate, a senior. You know I had enough charges against me. If the charge was to be laid, it was

Ramaite. I had a long argument with him stating that the Minister cannot give that order. And he told me that I must stop the prosecution and stop all prosecutions and investigations. This echo is putting me off.

ADV GWALA: You know, I'm asking this questions, to be frank with you, Mr Ackermann, because I am trying to establish if is it not, are we not just dealing with a case of some individuals who chose not to do their work, and now they jump into the work of interference.

ADV ACKERMANN: Would you refer it to Commissioner De Beer?

10 ADV GWALA: Including yourself.

ADV ACKERMANN: Are you stating that I was not interested in prosecuting TRC cases?

ADV GWALA: I have not yet said that. I am saying I just want to be frank with you, so that you understand my theory. Just trying to establish if we, are we not necessarily dealing with a case whereby individuals simply sat back and did not their work? You do not have to answer that question.

ADV ACKERMANN: I will.

ADV GWALA: Okay, you can if you want.

20 ADV ACKERMANN: You can go and have a look at all the persons working at the PCLU. Some of them work 18 hours a day. I am referring to Sean Abrahams. We were doing our best to prosecute TRC cases. Go through the documents and you will see it.

ADV GWALA: Okay. I am happy to hear that. Can we deal with something else quickly again? We listened to the evidence of

Advocate Ledwaba yesterday. I will summarise what he says. He says between May 2003 and November 2003, you had approached him to source assistance from his directorate, the DSO, if they could give you investigators to assist you in the TRC cases. That is just the summary. He says in May he told you that he cannot, you would rather approach the NDPP. You came back in July with the same request and he said so. He repeated himself. And only in November did you approach the NDPP. Now, there is a period that lapsed between May and November when you did not have investigators, notwithstanding the advice that you had been given. That, to me, appears to be someone who is just sitting and not taking action in the work that they are supposed to do.

ADV ACKERMANN: I will deny that.

ADV GWALA: You deny that. All right. I will take you now to your transcript of 4 March 2026. That is your evidence. I am taking you...

Do you have a Term 7?

ADV ACKERMANN: No, we have not.

ADV GWALA: Do you have the transcript of 4 March 2026 when you were giving evidence?

20 ADV ACKERMANN: No, not. Sorry, I have been given a bundle with my (indistinct).

ADV GWALA: All right. I want to take you to page 10 of the transcript.

ADV ACKERMANN: All right.

ADV GWALA: And I want us to start at line 5.

ADV ACKERMANN: Yes.. I am there.

ADV GWALA: Yes. Just give me a moment, Mr Ackermann. I think I am giving you a wrong page.

CHAIRPERSON: I think so.

ADV GWALA: Wait a minute. Mr Ackermann, I am going to... okay, I have found it. I am going to summarise what is your discussion. I do not think my page numbering is correct. I made an error when I was taking a note, and I will not find it now. But the thing is that you were discussing with Mr Wagenaar. Mr Wagenaar told you that there are a
10 number of meetings between the ANC leaders and the General of Police and Security Forces. And they are all in search of a political intervention to prevent prostitution of security forces. Do you recall that part of your evidence?

ADV ACKERMANN: Yes, but what he told me was not the discussion.

ADV GWALA: Yeah. Oh, yes. Commissioners, it is indeed page 10, and the line is indeed line 5. I think I just got my spectacles not working. I understand you were not part of these meetings. I accept that.

20 ADV ACKERMANN: Which meetings?

ADV GWALA: Let us read it then. You are talking to Mr Wagenaar. Mr Wagenaar tells you that there were meetings that were held between the ANC and the police generals. Do you recall that?

ADV ACKERMANN: Yes.

ADV GWALA: I am saying, I accept that you were not part of these

meetings. But do you know if there were minutes that were taken?

ADV ACKERMANN: Are you asking me a question?

ADV GWALA: Yes.

ADV ACKERMANN: No, I was not there. I do not know what he was talking about.

ADV GWALA: Was there a directive that you know of that came out of that meeting, instructing you, the prosecutor and the other prosecutors, not to prosecute these cases?

ADV ACKERMANN: You know, talking about meetings that took
10 place in the 90s, I think.

ADV GWALA: Was there a direction given from that meeting to the prosecutors, including yourself, that there should be no prosecution?

ADV ACKERMANN: Not to me.

ADV GWALA: To anybody else?

ADV ACKERMANN: I would not know.

ADV GWALA: Alright. Again, did you regard what Mr Wagenaar was telling you about these meetings, an attempt to find a political solution not to prosecute the TRC cases, did you regard that too as an interference in the work of the prosecution? At the time when you
20 were talking to him.

ADV ACKERMANN: He did not interfere with my work. He told me it was going to be futile, but I said yes, yes, yes. I just started prosecuting, investigating. I took no notice of it. It did not affect me at all.

ADV GWALA: You were right in doing that, and I applaud you for

that. But my question is, did you regard what he told you as an interference in the prosecution work?

ADV ACKERMANN: You know, if I listened to him, it would have been interference. But the fact is, it was like water off my back.

ADV GWALA: Were you not concerned that it was a criminal offence that was being committed?

ADV ACKERMANN: No, but even if it was, I wouldn't have gone to the Silverton Police Station.

10 ADV GWALA: You would not have reported it to the police station so that it is investigated?

ADV ACKERMANN: No, but what I did tell him at one stage is when he threatened me every time with this prosecution against the ANC 37, if he once again threatened me, I will go to Silverton Police Station and report him. That is the only time I said to him, we must now stop with these threats.

20 ADV GWALA: But at this level, I am interested in what he was telling you about the ANC and the Generals who were interfering in a way with the prosecution by preventing the prosecution. Would you not have thought that this is a matter that should be investigated and be dealt with?

ADV ACKERMANN: What must be investigated?

ADV GWALA: The fact that there are people who are intent on preventing the prosecution.

CHAIRPERSON: Intent on preventing? Sorry, Advocate Ackermann, before you respond, Mr Gwala, intent on preventing the prosecution

or the discussion?

ADV GWALA: Who were involved in the discussions to prevent the prosecution?

ADV ACKERMANN: There were two parties, the ANC leaders on the one side and the Generals on the other side. What do you expect me to do? I did not have any evidence even to that effect, just what Wagenaar told me.

ADV GWALA: No, no, I am concerned with what your reaction, did you not see it fit that it was something that had to be reported to law
10 enforcement so that it could be investigated?

ADV ACKERMANN: No.

ADV GWALA: On the same, Mr Wagenaar did not say that the meetings had resolved that the NPA would be influenced or pressured to stop the prosecution. Did he?

ADV ACKERMANN: What is your question?

ADV GWALA: Your discussion, what he told you, was not that the meetings had resolved that the NPA would be influenced or pressured to not prosecute the TRC cases.

ADV ACKERMANN: He did not use those words.

20 ADV GWALA: Hence you were at liberty to continue with your work.

ADV ACKERMANN: I continued with my work, I told you just now.

ADV GWALA: Can I, you recall your evidence about the task team, the interdepartmental task team.

ADV ACKERMANN: Yes, I do.

ADV GWALA: And if I understand your affidavit in the 2015 matter,

you regard what happened there as part of interference with the prosecution.

ADV ACKERMANN: That is correct.

ADV GWALA: Perhaps let us look at what you say in your affidavit, I referred you to that affidavit. It is Ackermann bundle and you deal with this in page 15 of that bundle and from paragraph 33.

ADV ACKERMANN: Page?

ADV GWALA: Page 15, paragraph 33.. Sorry, my apologies.

ADV ACKERMANN: No problem.

10 ADV GWALA: You say, once the guidelines have been issued and the multi-departmental working committee was established in 2006, it became clear that the SAPS and NIA representatives believed they were part of the prosecutorial decision making process.

ADV ACKERMANN: Yes.

ADV GWALA: And then in paragraph 34, you say the NDPP objected to this approach on the basis that it would constitute an unwarranted interference in the work of the NPA. So when they came to the meetings, or one of the meetings, they had the attitude that they could participate in the process, in the decision making process.

20 ADV ACKERMANN: I do not think the NDPP was referring to the task team. It was referring to that letter that SAPS wrote, that Jacobs wrote. If you look at paragraph 33.1.

ADV GWALA: Yes. 33,1 and 33.2, but those would have been the culminations of what happened in the ITT meetings.

ADV ACKERMANN: No, he, as a result of that, the Directors

Generals wanted to know what was going on. They were the puppet masters, as I said. The task team was just puppets.

ADV GWALA: Yes. At the task team level, they believed that they could be part, they were part of the prosecution decisions.

ADV ACKERMANN: That is correct.

ADV GWALA: And there was a letter that was received by the PCLU on 6 December from Major General PC Jacobs, which indicated that before the prosecutorial decision was made, in respect of the TRC cases, the task team would have been the multi-disciplinary, the multi-departmental task team, as I understand what you are saying. They must submit a final recommendation to a committee of Directors General in respect of each case, which in turn must advise the NDPP in respect of who to prosecute and who not to prosecute. So I understand this letter was a culmination of what would have happened at the task team meetings.

ADV ACKERMANN: What's the question?

ADV GWALA: Is my understanding correct?

ADV ACKERMANN: If you want my view on the matter, it was all unconstitutional, was interference, they had been no decision-making authority.

ADV GWALA: I accept that 100% they had not, but when they were in the meeting, they thought they had that authority.

ADV ACKERMANN: That is correct.

ADV GWALA: But then the NDPP objected to this and stated that no, the decision to prosecute is mine and mine only.

ADV ACKERMANN: Go ahead.

ADV GWALA: Did the task team continue holding the view that they were part of the decision-making after the NDPP would have objected to that?

ADV ACKERMANN: The last meeting was in January 2007 or is it now 2006. In 2007, there were five meetings. I do not know when he objected.

ADV GWALA: I did not hear the last part.

ADV ACKERMANN: I said before. When did he object? Was that
10 not 15 July? No, that was February 2007. If I am not mistaken. 15
February.

ADV GWALA: Yeah. What I am interested to know is, after that, whether it is July 2007, after he had objected, did that view by the members of the task team continue?

ADV ACKERMANN: I do not think that existed at that stage. The last meeting was January.

ADV GWALA: Okay, can we settle it this way then? The NDPP asserted his position that no, the decision to prosecute is mine, and did not take instructions from, or advice, sorry, advice from the task
20 team or even the Director-General's forum.

ADV ACKERMANN: It was a long question?

ADV GWALA: Can we accept that, notwithstanding the view that the task team held, that they had a role to play in the prostitution, the NDPP stood his ground and said no, the decision to prosecute is mine and mine only, and that was the end of it.

ADV ACKERMANN: It has two questions. I do not know if it was the end of it, but he said it is, I am the person who is going to prosecute.

ADV GWALA: Did they continue to make recommendations on who to prosecute and not to prosecute after he had said so?

ADV ACKERMANN: No, because it did not exist. There were no meetings.

ADV GWALA: All the same, neither the task team, you cannot tell the Commission today that either the task team or the DGs forum took a decision that there would be no prosecution of the TRC cases, can
10 you?

ADV ACKERMANN: Well, they did not put the prosecution on Chikane. The perpetrators in the Chikane matter.

ADV GWALA: Can you repeat that?

ADV ACKERMANN: They were against the prosecution of the perpetrators in the Chikane matter.

ADV GWALA: But the question is, did they instruct members or a member of the NPA, not to prosecute in the matter of Reverend Chikane?

ADV ACKERMANN: Who can they talk to? They must get rid of the
20 prosecutor. This echo is bothering me.

ADV GWALA: Sorry, I am sorry about that. I will be slow. Must I take it that you are telling us that neither the task team, nor the DGs forum, took a decision to instruct the NPA not to prosecute in the matter of Reverend Chikane. They were just against it, but they did not give an instruction that there should be no prosecution.

ADV ACKERMANN: What I have heard from Mr Simelane, that meetings where the Commissars and Commanders stated that he should immediately stop the prosecution. And we stayed in the mid-section, you or Ackermann. I have just given you what happened that his inter-ministerial meetings.

ADV GWALA: Was that not a question seeking explanation as to is taking that decision, which is different from my question because my question is, are you telling us that they did take a decision to instruct the NPA not to prosecute.

10 ADV ACKERMANN: (indistinct).

ADV GWALA: Was there a stage, other than what you tell us about the suspension of the prosecution when you were still waiting for the guidelines, was there a stage where you were told not to prosecute on the TRC cases?

ADV ACKERMANN: Yes.

ADV GWALA: By who?

ADV ACKERMANN: Dr Ramaite told me not to prosecute or investigate any TRC prosecutions till the approval of new guidelines.

20 ADV GWALA: Is that the only instance where you were told not to prosecute the TRC cases?

ADV ACKERMANN: None that I can think of. I do not know who else can inform me.

ADV GWALA: No, no, no. I do not know either. What I want to know is, other than what you are telling us about Dr Ramaite, is there another instance where you were told not to prosecute the TRC

cases?

COMMISSIONER KGOMO: Yes or no?

ADV ACKERMANN: Not that I know.

ADV GWALA: Because I understand that even in Dr Ramaite, he was saying, wait for the promulgation of the policy. Not that there should be no prosecution at all.

ADV ACKERMANN: That is correct.

ADV GWALA: So we now know that other than you being instructed to wait for the promulgation of the policy guidelines, you were never
10 instructed not to prosecute the TRC cases?

ADV ACKERMANN: No, I am thinking else. Not at this stage. But if you can refresh my memory and ask me this first, how did you stop?
I can comment on that.

ADV GWALA: I was not there, Mr Ackermann. I can't refresh my memory. I want to know from you.

COMMISSIONER KGOMO: During the moratorium, until the witness is told by those who communicated to him that there is this moratorium, and he was informed by his senior, Dr Ramaite, until the moratorium is lifted, what could he do? What could the witness do?

20 ADV GWALA: I do not understand that question.

COMMISSIONER KGOMO: No, you are asking him a question that apart from the interregnum, the moratorium, was there any other instance? Now I am saying, you know, well, let me ask you. Mr Ackermann, was the moratorium lifted? And if it was lifted, when was it lifted?

ADV ACKERMANN: It must be the end of December 2005.

COMMISSIONER KGOMO: Yes, you may proceed. You may proceed on your own line, not on my line. Any line that you want to take.

ADV GWALA: Thank you, thank you, thank you, Justice Kgomo. There are two instances. There is an instance where you were told that there is now a moratorium, and that you would not prosecute. Let us accept that that is what your evidence says. But what I wanted to know is, is that the only instance where you were told not to
10 prosecute? That is all I wanted to... (intervenes)

ADV ACKERMANN: As far as I recall, yes.

ADV GWALA: Can I just consult, madam Chair?

CHAIRPERSON: Yes, you may.

ADV GWALA: Why did you recruit Mr Mhaga in 2005 when there was still a moratorium for him to come and work on the TRC cases?

ADV ACKERMANN: We had too much work.

ADV GWALA: Come again?

ADV ACKERMANN: We had too much work. You know, you are just talking about TRC matters. I have given evidence that TRC matters
20 about 20-25% of my work. There's another 75% of my work to carry on.

ADV GWALA: Oh, he was not going to work on the TRC cases only. That is what you are saying.

ADV ACKERMANN: No.

CHAIRPERSON: Mr Gwala, I just want to draw attention to the time.

ADV GWALA: I am almost done.

CHAIRPERSON: Yes.

ADV GWALA: I am almost done. Not yet. Can we deal with your removal from the TRC cases? And we will deal with this very quickly. Sorry, just before that, let us finish on the ITT. It is just one question. As I understand it, the ITT thought they could make recommendations to the NDPP as to who to prosecute and not to prosecute. And those would be the recommendations that the NDPP or the prosecutor would consider in making a decision. Those would not be the
10 instructions on him not to prosecute.

ADV ACKERMANN: You know, though you give me a simple question, I do not know what you are asking me.

ADV GWALA: Recommendations of the ITT would not be binding on the NDPP?

ADV ACKERMANN: No, it would not.

ADV GWALA: It would not. All right.

ADV ACKERMANN: They were of the view that it must be binding, if you look through all the minutes, you'll see Josias once said at the meeting that decisions that I have made not to prosecute, he will not
20 accept that, and they have to decide, make a decision on that.

ADV GWALA: Neither you, nor the NDPP, nor any of the prosecutors succumbed to that thinking of the ITT members.

COMMISSIONER KGOMO: If you say Josias, you refer to Josias Lekalakala?

ADV ACKERMANN: What is the question?

COMMISSIONER KGOMO: You say, you refer to Josias, now I say, by referring to Josias, are you referring to Josias Lekalakala

ADV ACKERMANN: Correct.

COMMISSIONER KGOMO: Yes, okay.

ADV GWALA: The question I was asking was, neither yourself, nor any of the prosecutors, including the DPP at the time, succumbed to the thinking of the ITT that they could participate in the decision-making of the prosecution decision?

ADV ACKERMANN: I can only speak for myself. I wanted to get
10 investigators and I wanted to prosecute TRC matters. I had to play along with whatever they said, but I was of the view that they had no decision-making authority.

ADV GWALA: Just on that, you could not prosecute because you did not have investigators?

ADV ACKERMANN: That is correct.

ADV GWALA: Alright. Now, you were removed from the TRC cases. I am taking you to the transcript of 5 March 2026 at page 33. Whilst we are paging, after you were relieved of the TRC cases, you remained as a head in the PCLU, is that correct?

20 ADV ACKERMANN: That is correct.

ADV GWALA: And your subordinates would continue to report to you and give you the reports as the Head?

ADV ACKERMANN: The bulk of them yes, (indistinct), we had discussions, (indistinct), and Macadam.

ADV GWALA: And those reports would include reports on TRC

cases?

ADV ACKERMANN: That is correct.

ADV GWALA: So you were not completely removed from the TRC cases. You still remained in your position and you were fed information with regard to the TRC cases?

ADV ACKERMANN: I was managing them. I did no operational work relating to TRC matters. You understand what I am saying? I did not investigate or prosecute.

ADV GWALA: Yes. And you say, you said in your evidence, after
10 you were removed, it became the responsibility of Dr Ramaite and Advocate Mhaga to work on the TRC cases?

ADV ACKERMANN: No, how do you (indistinct) like that.

ADV GWALA: Let us find it. On page 34.

ADV ACKERMANN: Yes.

ADV GWALA: At line 8, of the transcript that I referred you to is transcript of the trial in March 2006. Advocate Ackermann Amna, suspension of Mr Pikoli. This is why my trial is of great importance. Because it would be affected in my case when he is removed. And it says, I have decided that all future TRC investigations and
20 prosecutions will be managed by Dr Ramaite and Advocate Mhaga and the TRC Justice Chamber.

ADV ACKERMANN: No, no, I did not say that.

ADV GWALA: This is not your evidence.

ADV ACKERMANN: It appears to be there, but what happened is that Mr Mpshe wrote that he appointed Mhaga and Ramaite to do the

work. Now we can go this way, but I mean, that is not the position. I did not appoint them. In fact, the first time I heard about this was when I read the letter of Mr Mpshe to Reverend Chikane. That is the first time, because I never knew that the three of them were doing the TRC matters. I recommend that Chris Macadam must be in charge of the TRC matters.

ADV GWALA: But these people are reporting to you, you do not know, you did not know that they were working on TRC matters.

ADV ACKERMANN: I beg your pardon? I cannot hear you.

10 ADV GWALA: They were reporting to you when they.

CHAIRPERSON: What is the question? Sorry, Advocate Ackermann, what is pointed question now, Mr Gwala?

ADV GWALA: How is it that he does not know that these people are working on the TRC cases.

CHAIRPERSON: I think ask the question first. Was he aware that Adv Mhaga and Mr Ramaite were working on TCR cases.

ADV GWALA: Can you answer that, thank you Commissioner.

ADV ACKERMANN: I did not know that, and they did not inform me.

20 ADV GWALA: All right, but in that part of the transcript, this is the part that we left at again, that sentence, the portion that I am interested in. You are saying, well, at least now we know who did not work on the TRC matters.

ADV ACKERMANN: Now it makes sense to me. If you read that paragraph 10, it says, I say, and it says, now I am referring to the letter of Mpshe to Reverend Chikane. He says, I have decided that

all future post-TRC investigations and prosecutions be managed by Dr Ramaite and Pukar Mhaga and the TRC task team. I did not say that. If you go to the letter of Mpshe, you will see that he is the one who stated that. You know, it is always difficult reading a transcript when I can understand why you thought I said that.

CHAIRPERSON: Yeah. Mr Gwala, because I know you are making an honest mistake, I would like to draw attention to the fact that the discussion relates to the letter that was written by Advocate Mpshe.

ADV GWALA: Yes.

10 CHAIRPERSON: As you will see when you look at page 33.

ADV GWALA: Yes.

CHAIRPERSON: Yes.

ADV GWALA: Okay, thank you, Chairperson. I am corrected. But the last sentence there, in that flash, Advocate Ackermann says, well, can you say it? Well, at least now we know who did not work on the Calata matter.

ADV ACKERMANN: Is that? It is a way... (intervenes)

COMMISSIONER KGOMO: Wait, Mr Ackermann. Wait, Mr Ackermann.

20 ADV GWALA: Is that your statement, or is that what was written in the letter that you referred to?

ADV ACKERMANN: No, that was a very unfortunate statement by me. ADV GWALA: So that is your statement?

ADV ACKERMANN: I think. That is my statement. Because it came as a surprise to me that Mhaga and the task team and Ramaite is

now in charge. The task team did not even exist at that time. Mhaga never came to me and said to me, I am now in charge of TRC matters, nor did Ramaite inform me.

ADV GWALA: Yeah, so you were wrong to say we now know who did not work on the TRC matters. Is that what you put in there? You are prepared to retract that statement?

ADV ACKERMANN: Yeah.

CHAIRPERSON: Mr Gwala, I must draw your attention to your watch.

10 ADV GWALA: I just want to hear what my junior says. She might just say I must stop.

CHAIRPERSON: Yes. Ms Ntloko?

ADV GWALA: That is the real final question. Mr Ackermann. When the minister made the call to the acting NDP saying suspend the prosecution, ending the development of the prosecution, do you know that the minister does play a role in the promulgation of the prosecution policies in terms of the NDP?

ADV ACKERMANN: No. She has no operational duties.

ADV GWALA: I am talking about developing in the promulgation of the policy.

20 ADV ACKERMANN: No. What happened here, these policies were created and formulated by the Directors General and not by the task team.

ADV GWALA: The Constitution and the NPA that gives the Minister the role in the operation of the policy. That is the Law, it is not necessarily the evidence. I will leave it at that.

ADV ACKERMANN: Now, you know what? The Act says, Section 1795, it is a constitution that states that the NPA must formulate the policies and the Minister must concur with it. What happened here was the policies were formulated by the directors... (intervenes)

COMMISSIONER KGOMO: Yeah, but Mr Ackermann, that is not the point. The point is the Minister legally has a part to play in the formulation of the policy. You cannot gainsay that because it is the law. The Minister's powers are not excluded in that regard.

ADV ACKERMANN: She must, I do not agree. Commissioner see,
10 the concurrence means the agreement. We formulate, the NPA formulate the guidelines and she must concur. Not she formulate the guidelines and the NPA must concur.

CHAIRPERSON: Thank you, Mr Gwala. Mr Varney, I think we have approached the time where we agreed we would allow Advocate Ackermann an opportunity to be excused for today's proceedings.

ADV VARNEY: That is correct, Chairperson.

CHAIRPERSON: Yes, and I do not think you will be five minutes with your re-examination of your witness.

ADV VARNEY: I might be a bit longer.

20 CHAIRPERSON: Yes, in that case we'll adjourn these proceedings until 09:00 tomorrow morning.

ADV VARNEY: As the Commission pleases.

CHAIRPERSON: We will commence with your re-examination.

ADV VARNEY: Thank you, Chairperson.

INQUIRY ADJOURNS UNTIL 24 APRIL 2026

CERTIFICATE OF VERACITY

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