

**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 William Mokhare (SC) (for Adv Nomcgobo Jiba)
Adv Bridgette Nthambeleni (for Adv Nomcgobo Jiba)
Adv Vivian Rikhotso (for Adv Menzi Simelane)
Adv KD Moroka (SC) – DoJ representative
Adv Tlotlego Tsagae (DoJ representative)
Adv Motlalepule Rantho (for SAPS)
Adv Varney (SC) – The Calata Group
Adv D Pillay – The Calata Group
Ms A Thakor – The Calata Group
Mr Siphon Tlhaole – The Calata Group
Adv Nwabisa Ntshizana (for Adv Macadam & Ngcuka)
Adv Gwala (SC) – NPA representative
Adv Yanela Ntloko-NPA representatives

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PROCEEDINGS ON 1 APRIL 2026

CHAIRPERSON: Mr Semenya?

ADV SEMENYA: Chair and Commissioners, good morning. Today we have Advocate Jiba to give us her evidence and that will be done through my learned colleague, who might want to place himself on record.

CHAIRPERSON: Yes, thank you. Good morning, sir.

ADV MOKHARE: Good morning, Chairperson.

CHAIRPERSON: Yes, please place your name on record.

10 ADV MOKHARE: William Mokhare.

CHAIRPERSON: Makari?

ADV MOKHARE: Mokhare spelled somewhat strangely and wrongly, but it remains the official one, Mokhare. That is the official one.

CHAIRPERSON: Okay. Yes, Mr Mokhare, are you ready to lead your witness?

ADV MOKHARE: I am ready, I am ready, Chairperson.

CHAIRPERSON: Yes. Good morning, Ms Jiba. How are you?

ADV MOKHARE: Jiba.

CHAIRPERSON: Jiba.

20 ADV MOKHARE: J-I-B-A.

CHAIRPERSON: Good morning, Ms Jiba. How are you?

ADV JIBA: Good morning, Chair. I am well, thank you very much.

CHAIRPERSON: Yes. Are you going to take an oath or affirmation, madam?

ADV JIBA: I will take an oath.

CHAIRPERSON: You swear that the evidence you will give will be the truth, the whole truth, and nothing but the truth. If so, raise your right hand and say, so help me God.

ADV JIBA: So help me God.

CHAIRPERSON: Thank you. Mr Mokhare, your witness.

ADV MOKHARE: Thank you, Chairperson. Good morning, Ms Jiba.

ADV JIBA: Good morning, yes, sir.

ADV MOKHARE: Before I start, Chairperson, we prepared a bundle of the documents that the witness will speak to when necessary, and
10 we emailed the bundle to the Secretary of the Commission. I do not know if copies were made for the panel, but we have ensured that it is indexed and paginated in order to allow an easy flow of the evidence of Ms Jiba.

CHAIRPERSON: Yes, we have the bundle.

ADV MOKHARE: Thank you very much. Ms Jiba, do you also have the same bundle in front of you?

ADV JIBA: Yes.

ADV MOKHARE: If you go to page 8 of that bundle, you will see that there is a statement that you have made under oath. Is that correct?

20 CHAIRPERSON: Yes, Chair.

ADV MOKHARE: And when you look at the last page of it, at page 15, not page 15, but page 13?

ADV JIBA: Yes?

ADV MOKHARE: It has your signature there at the bottom, am I correct?

ADV JIBA: Yes, Chair.

ADV MOKHARE: And you, before coming here, refreshed yourself by reading the statement again, am I correct?

ADV JIBA: Yes, I did.

ADV MOKHARE: And you confirm that it is indeed your statement?

ADV JIBA: Yes, it is. And you confirm the correctness of it, thereof?

ADV JIBA: I do.

ADV MOKHARE: Thank you. I will be leading you in relation to the statement, but not necessarily for you to read out the statement,
10 because it is already before the Commission. What I would like you to do is to expand for the benefit of the Commission where it is necessary.

ADV JIBA: I will do so.

ADV MOKHARE: But let us start from the beginning. If you can tell us briefly your history in terms of where were you born, when, and where you went to school.

ADV JIBA: Okay. Thank you, Chair. I was born in the Eastern Cape, from a province that is now known as Gqeberha, Port Elizabeth. I studied though in the former Transkei, and matriculated at a school
20 that was called Bankingville Secondary School, or Andamase Secondary School, in 1984. Then I did my B.Juris and LLB at the University of Transkei, that is what it was called then, but now It is called Walter Sesulu University. Then in 1996 I obtained my Master's in Commercial Law at the University of Cape Town. That is my schooling.

ADV MOKHARE: Yes, thank you very much. In paragraph 3 of your statement, page 8, you dwell on your employment history. Do you want to elaborate on it?

ADV JIBA: My career in prosecution started in 1988 from the Magistrates' Court in the former Transkei and former Ciskei. I was stationed at Pedi in the early years and then East London, Dansane,. Then I moved to Tsolo and then Mthatha. Thereafter, in 1998 and 1999, I went and served articles at Gunda Zabenza Attorneys, that was in Cape Town. Then I was appointed as a Senior State
10 Advocate in 1999/000 in the Office for Serious Economic Offences. Then in 2001 I was promoted as a Deputy Director of Public Prosecutions in what was called the Investigative Directorate Serious Economic Offences, which then later merged with what was called IDOC, Investigative Directorate Organised Crime Unit, and that then established the Scorpions.

Then I was thereafter promoted in 2010 as a Deputy National Director of Public Prosecutions. Then in 2011, when Advocate Simelane was placed on special leave, I was appointed by the former President Zuma to act as the National Director of Public Prosecutions.
20 I acted in that position up until sometime in August 2013, when Mr Nxasana was appointed permanently as the National Director of Public Prosecutions.

ADV MOKHARE: Thank you. You have been invited by this Commission in terms of its rules, specifically 3.3, to come and provide assistance to it in respect of matters that fall within your knowledge

and which fall within its mandate to investigate. You confirm that you did receive that invitation, am I correct?

ADV JIBA: Yes Chair, I did.

ADV MOKHARE: What did you understand from the invitation of what you have been required?

ADV JIBA: The role, the notice in terms of 3.3 essentially advised me that I have been implicated in so far as the Cradock 4 docket is concerned. And that emanates from the review application that was filed by Mr Calata and other families in the High Court. And so there
10 was a statement which was then attached in that application that was made by the High Court in the review application. And the statement was filed by one of my colleagues, former colleagues, Advocate Chris Macadam.

ADV MOKHARE: Yes, so rule 3.3, of course, it becomes relevant when one or more persons, or maybe from the documents, your name appears as a person who may have been implicated.

ADV JIBA: Yes.

ADV MOKHARE: So in this case, you say that the affidavit that was deposed to you in the High Court in the review application by
20 Mr Adam flagged you in that regard.

ADV JIBA: Yes.

ADV MOKHARE: Can you look at that affidavit? It is in the bundle at page 20.

ADV JIBA: I am there.

ADV MOKHARE: Did you have an opportunity to read this affidavit?

ADV JIBA: Yes, I did.

ADV MOKHARE: In what way did you understand in this affidavit Mr Adams to be implicating you?

ADV JIBA: You see, Chair, Mr Macadam does not really say that I requested the docket, but it is just that he makes a relationship between my having sought clarity through the memorandum or a letter that was written by Ms Lephinka, who was the executive manager support, in that time in the office of the NDPP. So he puts then, on a reading of the affidavit, he makes a relationship in the
10 sense that he says, I do not know if you can allow me to read the paragraph where he speaks about the memorandum itself, but in a nutshell he is saying that after some time or at a certain stage.

COMMISSIONER KGOMO: Yes, Mr Mokhare, Ms Jiba, it would be helpful if you can just zoom in on a paragraph or paragraphs so that we should be with you.

ADV MOKHARE: Yes, so if you can just, because my question was in what way or in what respect has Mr Adams in the affidavit that was filed in the High Court, implicate you? And if you can then maybe refer the Commission specifically to that paragraph, It is quite a short
20 affidavit, and you will see that it deals with the aspect about the disappearance of the docket of the Cradock 4 in paragraph 2, and proceed to elaborate on in paragraph 3, if you can maybe read paragraph 2, 3 and 4, and then you make a comment of your understanding of that which you say constituted an implication.

ADV JIBA: Thank you, Chair. In paragraph 2, he says that, I quote:

“I have been requested to make a statement regarding the disappearance of the CRADOCK 4 police docket, which is a Truth and Reconciliation Commission case, from the offices of the National Prosecuting Authority.

In 2013, I was a Deputy-Director in the PCLU, Advocate Abrahams was then Acting as the Head of the unit. Adv Jiba was Acting as the NDPP, Ms J Lepinka was acting as the ANDPPs manager.

10 On 28 April 2013, Ms Lepinka wrote to Adv Abrahams, asking for information relating to the case. On 22 May 2013, Adv Abrahams replied to her.”

Then you should to to paragraph 5, it says:

“There was no reply from the ANDPP in response to Adv Abrahams. At a certain stage, however, I was requested to hand over the docket as it had been called for by the Office of the ANDPP. I complied with the request. At this moment in time,
20 I cannot recall who made the request.”

So to answer your question Chair.

ADV MOKHARE: Yes.

ADV JIBA: If you read there in paragraph 4 and, from paragraph 3 up to paragraph 5, then you can see that the affidavit what Chris Macadam, Adv Chris Macadam does, he is linking that I had

requested certain information to the docket that apparently went missing, you see. So he is drawing, he is making an innuendo that the docket was lost because I had requested it. Because he says: The office of the Acting National Director or Public Prosecutions. So though he does not say, he does not call me by my name, specifically, so that is how I think he then implicates me.

ADV MOKHARE: So if you look at the paragraph that you read, one, he does not mention you by name. Two, he does not say who came to collect the docket.

10 ADV JIBA: He does not say that.

ADV MOKHARE: So then your conclusion is based on inference that he may have been referring to your office because you were the acting NDPP at the time.

ADV JIBA: I was the acting NDPP at the time, but I do recall that Dr Ramaite at some stage also acted as NDPP at that time. But I was also the acting NDPP at the time.

ADV MOKHARE: Yes. So now you have an opportunity to be in this Commission to assist it and clarify matters in respect of this particular issue. Am I correct?

20 ADV JIBA: Yes, Chair.

ADV MOKHARE: Now I would like you to enlighten this Commission because these paragraphs you have read from Macadam's statement is focused mostly at the time when you were the acting NDPP. Do you also understand it that way?

ADV JIBA: Yes, Chair.

ADV MOKHARE: Now I would like you to focus on the time when you were appointed as acting NDPP to enlighten the Commission first in respect of what precisely are the duties of an NDPP, because you did have the benefit of that office in order for the Commission to understand the scope of the responsibilities of that office.

ADV JIBA: Thank you, Chair. The NDPP is the head of the NPA and he has overall responsibilities in the functioning and performance of the NPA to provide its strategic direction and to ensure that the NPA delivers in its mandate. That is of course contained in Section 179 of
10 the Constitution, to institute prosecutions in any matters that are incidental to the institution of prosecutions. But the NPA is a huge institution. The NDPP cannot do these functions on his own or her own.

To assist the NDPP in delivering and performing these functions, we had a structure in the NPA that had four Deputy National Directors of Public Prosecutions. I am going to speak about my time because the structure changes depending on the functions of the Deputy National Directors change. So in my time, when I took over, I had four Deputy National Directors of Public Prosecutions.

20 COMMISSIONER KGOMO: And your time, if we look at Paragraph 3, is from 20 of December 2011 until 30 August 2013. Would that be correct?

ADV JIBA: It would be correct, Chair, but I am not so sure in August. That is why I said that I just recalled that I acted for a period of 20 months. I am not so sure when Mr Nxasana took over, but it is

definitely in August.

COMMISSIONER KGOMO: Around that time, yes.

ADV MOKHARE: But if I take it in terms of years, it would be 2011 to 2013.

ADV JIBA: Yes.

ADV MOKHARE: Yes..

COMMISSIONER KGOMO: Thank you.

ADV JIBA: So in my time, I had four Deputy National Directors of Public Prosecutions. So there was Mr Willie Hofmeyer. Willie was in charge of the Asset Forfeiture Unit. And then we had Dr Silas Ramaite. Dr Silas Ramaite was in charge of the PCLU, which is the Priority Crime Verification Unit. And then was also in charge of the Sexual Offences Unit. And then was also in charge of the Special Commercial Crimes Unit.

10

Then there was also Advocate Mokgatla. Advocate Mokgatla was in charge of our Civil Litigation Unit. We called it Legal Affairs Division. And then, because I was acting as a National Director of Public Prosecutions, there had to be someone who was also acting in my position as a Deputy National Director of Public Prosecutions.

20

And that was Advocate Thoko MaJokweni. Then she was in charge of all the DPPs in the provinces where the prosecutions are actually instituted.

So the NDPP then does and performs its functions through these four National Directors, Deputy National Directors, who then are actually responsible for the operations of the various business units,

as I have indicated, né?

ADV MOKHARE: Yes.

ADV JIBA: So, the practise that I had was then to have what I termed as EXCO meetings. EXCO meetings is where I would sit in with the Deputy National Directors and then the CEO. Although the NPA Act does not make provisions for a CEO, but then the DG has delegated those functions to Advocate Karen van Rensburg. So I would have the meetings twice a month, just so that one can be kept abreast of what is actually happening in all the business units.

10 Now, to come to the point, insofar as PCLU matters were concerned, Dr Ramaite as the person who is then in charge of the PCLU, would be the one who is providing us with whatever reports we require in terms of what is happening in the units. But further than that, PCLU, when I got in there, there was a file, I think there was a file that contained memorandums, that would then come from PCLU that would then give an indication of the status of the TRC matters. So I do recall that, with regard to this particular one, to the Cradock 4 and others, of Nokuthula Simelane and many others.

20 So you would get a memo that will tell you that in this particular one, this is what is happening, in this particular one, this is what is happening, and all of that. So what then happened, what I do recall about this, what then happened is that I must have received one of those memorandums. And then I wrote, I instructed Ms Lepinka to write to the PCLU and seek certain clarity issues that were not probably clear from the memorandum.

Unfortunately, I have requested that memorandum from the NPA, I have gone to the NPA to seek the memorandum, I was told that it cannot be found. Because it would enable the Commission to see why did I actually just write, instruct Ms Lepinka to write the letter to the PCLU. If I can direct, through you Chair, the letter that Ms Lepinka wrote.

ADV MOKHARE: Is the one on page 14?

ADV JIBA: Page 14, let me just check.

ADV MOKHARE: And whilst you are going to that letter, so that we
10 are on the same page in terms of the units that you have mentioned, which unit was responsible for the processing of TRC matters?

ADV JIBA: That was the Priority Crimes Litigation Unit.

ADV MOKHARE: Is the one that is abbreviated as PCLU?

ADV JIBA: Yes, Chair.

ADV MOKHARE: The one that was headed by Dr Ramaite?

ADV JIBA: Yes, from the perspective of a Deputy National Director of Prosecutions, but the unit itself, the actual head, the immediate head was at that time Advocate Sean Adams.

ADV MOKHARE: Oh, I see.

20 ADV JIBA: At that time, yes.

ADV MOKHARE: And what was the role of Mr Macadam? Was he in the PCLU or somewhere else?

ADV JIBA: He was in the PCLU as well, yes. He was in the PCLU, yes. He was in the PCLU.

ADV MOKHARE: Okay, alright. That is fine. It is clarified.

ADV MOKHARE: So are you at page 14?

ADV JIBA: Yes, Chair, I am at page 14.

ADV MOKHARE: Yes, is that the letter you are referring to?

ADV JIBA: That is the letter I am referring to, yes.

ADV MOKHARE: Yes, so what is the context of this letter, so that we can understand?

ADV JIBA: The letter merely requested clarity issues from, I think it must have been referring to the memo that was written by PCLU to Advocate Mahlathi.

10 ADV MOKHARE: Yes.

COMMISSIONER KGOMO: Sorry, sorry. I think, let us do this. This is a letter by Ms J Lepinka, Manager, Executive Support to the NDPP to Advocate S Abrahams, Acting Special Director, PCLU. And it is dated the 26th of April 2013. The subject is Cradock 4 matter. Would that be correct?

ADV JIBA: Yes, Chair, that is correct.

COMMISSIONER KGOMO: Yes. Okay, you can proceed from there.

ADV MOKHARE: Thank you, Chair.

20 ADV JIBA: I was still saying, Chair, the letter, it can be seen in paragraph 1. It refers to a memo. It then says:

“In your memo that you wrote to Advocate Mahlathi, in paragraph 9, you state that after accused received amnesty for the death of Goniwe, then the question says - who are those accused persons - please specify their names.”

So, what I am trying to show is that this was in response to a memo that must have been submitted to the office of the NDPP, to my office at the time. And I must have been seeking some clarity on the basis of the memo. I do not know if the Commission would want me to read the memo into the record, I mean the letter into the record.

ADV MOKHARE: Well, the memo that you say that this letter may or must have emanated or triggered by, it is the one that you say you requested from the NPA. But you were never provided with it?

ADV JIBA: Yes, Chair. I requested many memorandums from the
10 NPA, not just that one, because I am certain that there are many memos that were submitted to me. It would not have been only one memorandum.

ADV MOKHARE: And what was the response of the NPA to your request?

ADV JIBA: They could not find them.

ADV MOKHARE: But what were they saying? They could not find them because they do not exist, or they could not find them because they are lost, they could not find them because they are destroyed. What exactly were they saying?

20 ADV JIBA: The gentleman I spoke with, Mr Muzeka, she finally said she cannot find any memorandums, and I asked her, but where are they? And she said she does not know.

ADV MOKHARE: Okay, no, thank you. So you wanted them to read the letter, the remaining paragraphs, and you will then comment on that. You can proceed.

ADV JIBA: Okay.

“2. Para 11, who are the six former members of the Port Elizabeth Security Branch who applied for amnesty?

3. Who of those implicated in the murder of the deceased still alive?

4 a. With regard to the affidavit made by the polygraph expert in crime intelligence, did the investigation establish why he made the allegation that he made against General Hankel?

10

4 b. Who is the polygraph expert? Can his affidavit be attached to your memorandum?

In light of the above, you are requested to submit a memo addressing all aspects as contained herein above.”

ADV MOKHARE: Yes, and as you say, this letter was addressed to the head of the unit at the time, which was Advocate Sean Abrahams. Was there a response to this request?

ADV JIBA: Yes, Chief, there was a response.

20 ADV MOKHARE: Yes, if you turn to page 16, there is a letter there dated 22 May 2013. The subject still is Cradock 4 matter. And it is addressed to yourself in your capacity as acting National Director of Public Prosecutions. And Dr Ramaite is copied, as well as Mr Advocate Macadam is also copied. And it is from Advocate Sean Abrahams.

ADV JIBA: Yes, Chair.

ADV MOKHARE: So was this a response to that previous letter you have read?

ADV JIBA: Yes, it was the response.

ADV MOKHARE: Yes, and the context of the response, then if you want to just look at, it is a bit of a detailed response. But in substance, then, what did Advocate Sean Abrahams communicate to you in response thereto?

ADV JIBA: In essence chair, the memorandum addressed the issues
10 that I needed clarity on. For example, if you go to paragraph 2.2, it deals with the identities of the persons who received amnesty for the deaths of Mr Goniwe. And that is what I had asked. That is one of the issues that I had also asked.

In paragraph 2.3, it deals with the details of the former security branch members who applied for amnesty in respect of the matter of Mr Goniwe and his associates. So the memorandum, the response actually did address the issues that I have raised. And that is where I left it, because as an NDPP, I was not there to direct what should be done by the acting special director. Dr Silas Ramaite was
20 there to do so. So that is where I left it, because then I was satisfied with the responses that I would received from Advocate Sean Abrahams.

ADV MOKHARE: Yes. But when you look at page 19.1, in 2018, there was some communication. If you can put context to that communication, or whether it was also in relation to TRC matters. But

at that time, as I understand, you are no longer the acting National Director of Public Prosecutions.

ADV JIBA: Yes, I was no longer the acting National Director at that time.

ADV MOKHARE: Then can you bring context to the communication that we see at page 19.1, because it is dated 22 October 2018?

ADV JIBA: Okay. I think Mr Nxasana had already left also at that time, in 2018. And Advocate Sean Abrahams was now the NDPP. I think so, if I am not mistaken. Yes. I think Sean had already, I mean,
10 Mr Nxasana had already left at that time. So then I went back to my position as a Deputy National Director of Public Prosecutions.

COMMISSIONER KGOMO: Yes. Can I just enquire from you, if you can help? The author of this letter is Fanani Malova. Who is he or she? And what is the PG? If you can go back to 19.1.

ADV MOKHARE: In order to put context so that then we know first the author of the email, to whom, and then from there you can deal with it, the date of it, you know, for the benefit of the record as well. Whilst then we who are sitting here, are having the benefit of reading actually the letter itself, but other people do not have it.

20 ADV JIBA: Ms Fanani Malova was my personal assistant.

COMMISSIONER KGOMO: Oh, okay.

ADV JIBA: She worked directly under me. Yes.

CHAIRPERSON: She was your personal assistant?

ADV JIBA: Yes, Chair.

CHAIRPERSON: As the letter indicates.

ADV JIBA: Yes, Chair, she was my personal assistant.

ADV MOKHARE: Yes. So she is addressing this email of 22 October 2018 to Torie Pretorius and then tell us who at the time was Torie Pretorius and what was his position, so that we can understand why he deserved to receive a communication of this type.

ADV JIBA: Advocate Torie Pretorius was now the Acting Special Director for the PCLU at that time. With the appointment of Advocate Sean Abrahams as an NDPP, then Tory became the Acting Special Director for PCLU.

10 ADV MOKHARE: Yes, and you are copied in it. Yes. Was there any particular reason why you are copied in it?

ADV JIBA: Usually when they write to senior members, so that it can be clear that it is something that comes from me, then I had to be copied on the correspondences.

ADV MOKHARE: Yes, and Trish Matzke is also copied, and who was Trish Matzke?

ADV JIBA: Trish Matzke was a Senior Deputy Director of Public Prosecutions in the National Prosecuting Service. That was in my office.

20 ADV MOKHARE: Yes, and then Jackie Lepinka also copied, and I think in 20, between 2011 and 2013, Jackie then was the manager in your office.

ADV JIBA: She was an executive manager support in the office.

ADV MOKHARE: Yes. So now then it is addressed to Dr Pretorius and can you read the content because it is very brief, and then from

there then you give us your comment.

ADV JIBA: Okay.

10 “By directions of Advocate Jiba, following the National Operations Management Meeting last week, which you unfortunately could not attend, understandably so, a decision was taken that you should forward a list of cases/matters together with the cases themselves emanating from the TRC to my office in order to see and evaluate which matters referred to the DPP offices”.

I think this thing is cut, so I do not know if I can get it.

CHAIRPERSON: That is fine.

ADV JIBA: Okay.

“Should be referred to the DPP offices.

The delay in dealing with these matters was highlighted as something which is unacceptable, seeing that the, there is an s.”

ADV MOKHARE: That is S, then continue.

20 ADV JIBA: “Are getting old, witnesses also getting old, which might result in victims not getting justice at all.

The target date for the evaluation of these matters is 14 November 2018. Advocate Jiba have already requested Advocate, I think Trish Matzke, and her team to run with the process.

It is therefore requested that this be submitted by Wednesday 24 October 2018 latest. You can delegate any of your, I think, prosecutors to collate the dockets.”

ADV MOKHARE: Yes. So I want to assist the Commission with the context and the import of this email.

ADV JIBA: Okay. During this time, as I was saying, I was now back as a Deputy National Director of Public Prosecutions. I was therefore in charge of the directors of public prosecutions in the divisions. So
10 what we then used to do, we used to have operational meetings. I referred to them at paragraph 16. In order to manage and monitor prosecutions, that is now at page 12. In order to manage and monitor prosecutions, I would have bimonthly operational meetings with the directors of public prosecutions from all the divisions to discuss performance challenges and agree on strategies that should be put in place in order to address bottlenecks which hamper performance and successful prosecution of cases where there is a need to.

We call these meetings the National Operational Management Meetings, abbreviated as NOM. Now because of the
20 depth in which a performance was discussed because it drew down to the lowest court in the land that you can find and because of the successes attributable to NOM, the NDPP at the time, Advocate Sean Abrahams, decided that PCLU and the Special Commercial Crimes Unit must also fall under the NPS so that we can be able to assist where we can, and be able to address any bottlenecks and also be

able to, just to interrogate the way in which they were dealing with the matters.

So in one of the, I mean I made a mistake, I said NES MEETING, it should read NOM, not NES meeting.

ADV MOKHARE: Yes.

ADV JIBA: So in one of the NOM meetings, that is after the inclusion of the PCLU, I think a presentation was... (intervenes)

CHAIRPERSON: What does NOM mean, Ms Jiba? NOM?

ADV JIBA: NOM means National Operational Management Meetings.

10 ADV MOKHARE: Yes, I think it is in full, in paragraph 16, it is written in full, yes.

CHAIRPERSON: Yes, thank you.

ADV MOKHARE: Yes, we will see it.

ADV JIBA: So I am saying that in one of the NOM meetings after the PCLU and the SSCU now fell under my supervision, like the DPPs, so after the presentation was made, we were all of the view that there is no progress in these TRC matters. And on an interrogation of why there was no progress, and I think there were many things that we were told, I cannot remember whether Chris Macadam was in one of
20 those meetings, because I do not have the minutes with me now.

But what I do recall is that as a result of the presentation that they have made, and because of lack of progress, we then took a decision with the DPPs that were in the meeting that the best thing is that let us have an audit of all the TRC cases. And as such, I then directed my PA, which is now Ms Malova, to write to Dr Torie

Pretorius and request the list of all of these cases, and also a summary of evidence contained in the dockets and the dockets themselves. So that was the first time where I requested the dockets.

So if I wanted to request the dockets even then I could have said the memorandum must include the dockets. So here I said that they must also submit the dockets. And all of that information was to be submitted to Advocate Trish Matzke, who was then the Senior Deputy Director of Public Prosecutions in my office at that time.

10 So here's the context in which that email was then sent to Dr Pretorius. And every time we have a NOM meeting, we would then go and brief the NDPP. And so Advocate Abrahams was also appraised of this.

ADV MOKHARE: Yes. And you have dealt with that in paragraph 18 of your statement.

ADV JIBA: Yes.

20 ADV MOKHARE: Now, let us go back to the allegation that was made by Mr Macadam, although of course he did not mention you and did not enlighten us, not us at the stage, I mean in the court at the time, because the affidavit was filed in the High Court in the reapplication as to who came to ask for the docket, and also does not enlighten us, that affidavit, as to when that happened. But because you are here to assist the Commission, are you able to tell this Commission the procedure that was in place at the time when you were there acting NDPP? And then of course we will use the example of this Cradock 4 docket. If such a request was made or

were to be made, what procedure was supposed to have been followed so that one is able to track, even if you are no longer there yourself, is a new person and wants to see the Cradock 4 docket, and how is that person going to know that this docket is no longer in Office A, it is now in Office F, for example.

Can you just enlighten the Commission about it? Because the affidavit of Macadam does not really help anybody on that aspect.

COMMISSIONER KGOMO: Yes, just the affidavit of Macadam, I do not think we have spoken about the date when it was deposed to. I
10 think it seems to be the 26th of May 2021, would that be correct?

ADV MOKHARE: Are you at page 20?

COMMISSIONER KGOMO: I am at page 21, that is where I see the date, yes.

ADV MOKHARE: No, no, that is the deposition of the affidavit. You are talking about the period in time that Macadam would have been referring to, but for now it is the question in relation to having to tell us what procedure would be followed. The affidavit he deposed to it himself in May 2021 because he was deposing to it in a different context, which was a review application at the time.

20 COMMISSIONER KGOMO: Okay.

ADV MOKHARE: Can you answer the question?

ADV JIBA: Yes, I can. We had a very structured approach in how we dealt with the correspondence from office to office in the NPA. We gave colours to our books, we had notebooks. So the other one would have a red notebook and the other one it would be a yellow

notebook, it would be a blue notebook, whatever colour you liked.

So if, for example, I am receiving documents from the CEO's office, the PA from the CEO's office would come with her book, whether it was a red book or what, but mine was a yellow book. So she would come with her own book where she would have written documents that she is coming to bring to the office of the acting NDPP or to the office of the head of the NPS, whoever is bringing documents, so they will all be listed there. And then the PA in your office, that is now in my office, would then also take those and copy
10 them to her own book, so both books will be signed.

So that we know that on this particular day, this is what, these are the memorandums or documents that were received from the CEO's office or these are documents that were received from Willie Hoffmeyer's office or Silas or anybody else who's bringing documents there. So if, for example, coming back to, that was the method that we used, we used the essay.

So if, for example, there was someone who would take a docket, you know, dockets are very important. You do not just give a docket and you do not know who you are giving the docket to. Even
20 in the police station, even the police, if you go in there, you go to the, I once worked for DSO, for example, everything has got to be documented, in particular dockets, because dockets get lost, like this one that was unfortunately got misplaced. I do not know how it got lost.

So if Chris Macadam had given anybody or anyone a docket,

he would never just give a docket like this, like a blank thing and say, here's the docket, because the docket must be signed for. So that is why, Chair, I am saying in my statement, and I am saying angrily so, that I hate the fact that Chris Macadam comes here and attests and makes me a scapegoat. I was very sensitive to these particular cases, and I saw Varney today. I was very, very sensitive to these cases.

ADV MOKHARE: Yes, well, correction, of course, to what you have said, in respect of Mr Macadam, he did not come here and said that
10 you have taken the docket. So it is just a correction from the record. But we will come there, because I only referred you to the affidavit that was deposed in 2021, not the affidavit before this commission. So just that correction. So now for the avoidance of doubt, did you send anybody to collect the Cradock 4 docket from the office of Mr Macadam?

ADV JIBA: No, and I tell you why I say so. If I wanted the docket as an acting NDPP, if I want something, I have a right to ask for it. I would have included that request in the letter that was written by Ms Lepinka. The last paragraph, they would have said, please attach the
20 docket thereto. But you can see the last paragraph does not even request the docket. It is just clarification from the issues that I wanted clarity on.

ADV MOKHARE: Yes.

ADV JIBA: So I have never asked for a docket.

ADV MOKHARE: Yes, and of course, you have said that in your

statement, you responded quite upset to that allegation, and the paragraph of it is there.

ADV JIBA: Yes.

ADV MOKHARE: And so then you are aware that that part of the affidavit of Mr Macadam, of course, did not go unnoticed because the one member of the Cradock 4 family deposed to an affidavit before this commission, which refers to the affidavit of Mr Macadam. We have only taken only the relevant excerpts of it, which is at page 129, page 22 of the pagination, if you can go there.

10 But for the sake of completeness, then the affidavit is affidavit by Mr Lukhanyo Bruce Matthews Calata.

ADV JIBA: Yes.

ADV MOKHARE: Dated 17 January 2025. So the excerpt of it, of course, it appears at page 22, and it has a heading there, The missing Cradock 4 docket. Do you see that?

ADV JIBA: Yes, Chair.

ADV MOKHARE: So can you read into the record paragraph 328 and 329 of his affidavit?

ADV JIBA: Paragraph 328:

20 “Macadam filed an affidavit dated 24 May 2021 as part of the NPA's Rule 53 record in the matter of Calata and others versus NDPP and others. Case number 35447 /2021, Gauteng Division, a copy of which is annexed hereto marked FA-47 (Macadam's Rule 53 affidavit). In this affidavit, he

indicated that during April 2013, while he was deputy director of the PCLU and Abrahams was the acting head, they received a request for information about the Cradock 4 case from Ms Lepinka, who was the personal assistant to acting NDPP, Advocate Nomgcobo Jiba. Abrahams responded to the request. Shortly thereafter, Macadam was asked to hand over the investigation docket Swartskop CR 13/07/1985 to the office of the acting NDPP, which he did.

10

Paragraph 329:

“Macadam then avers that at a certain stage, without disclosing a date, that Advocate TP Pretorius SC, then acting head of the PCLU, asked him for the Cradock 4 docket and he advised Pretorius that, “It had been uplifted from our office” and was missing. Macadam did not disclose why Pretorius was seeking the docket. This exchange must have happened between 2016 when Macadam returned to his normal duties after working on foreign bribery cases and April 2019 when he assumed the position of acting head of PCLU.”

20

ADV MOKHARE: Yes, so this is the affidavit which was filed with this Commission referring to the affidavit of Macadam which was filed in

the High Court that your office asked for the Cradock 4 docket, which you have already testified that that was not so, am I correct?

ADV JIBA: Yes.

ADV MOKHARE: Now, Mr Macadam was given the opportunity as well to appear before this Commission, and you since come to know about that fact, am I correct?

ADV JIBA: Yes, Chair.

ADV MOKHARE: And you also, you are favoured with his affidavit, am I right?

10 ADV JIBA: Yes, Chair, I was.

ADV MOKHARE: So if you go to, still on the bundle, we did put his affidavit. It was, you will find it at page 24.

ADV JIBA: Yes, I am there.

ADV MOKHARE: It is quite a lengthy affidavit but in order not to waste the Commission's time, is it correct that you did have an opportunity to read his affidavit, this statement that he submitted to this Commission?

ADV JIBA: I did, Chair, I did.

20 ADV MOKHARE: Did he, in this statement, repeat the same allegation that he made in the 2021 affidavit in the review application, that your office collected the docket from him?

ADV JIBA: No, he did not.

ADV MOKHARE: He did not. And it also came to, or you also came to know that Mr Macadam was, in addition to him having made this statement under oath before this Commission, had an opportunity to

come and testify before this Commission. You became aware of that fact, am I right?

ADV JIBA: Yes, Chair, I did.

ADV MOKHARE: And you also had the benefit of receiving the transcript of his evidence, the *viva voce* evidence here, am I correct?

ADV JIBA: Yes, I did.

ADV MOKHARE: And that transcript you will find it at page 57.

ADV JIBA: Yes, I am there.

ADV MOKHARE: And of course, without having to waste the
10 Commissioner's time, having to take you to say look at each page of this transcript, can you confirm that you did, at your time, read this transcript of his evidence?

ADV JIBA: I did, Chair, because I was very interested in it. I read it.

ADV MOKHARE: And did he repeat that allegation that your office collected the Cradock 4 docket from his office?

ADV JIBA: No, he did not.

ADV MOKHARE: Yes.

CHAIRPERSON: Mr Mokhare, at a convenient time, you will indicate when we have got to adjourn for tea.

20 ADV MOKHARE: May we adjourn now?

CHAIRPERSON: Yes, we will adjourn and reconvene at 11.20.

ADV MOKHARE: Thank you very much.

INQUIRY ADJOURNSINQUIRY RESUMES

CHAIRPERSON: Yes, Mr Mokhare?

ADV MOKHARE: Thank you, Chairperson. Ms Jiba, you can continue just to wrap up.

ADV JIBA: Yes, Chair.

ADV MOKHARE: When your acting stint as the NDPP ended in 2013, you reverted back to your position as Deputy NDPP. Am I correct?

10 ADV JIBA: Yes, Chair.

ADV MOKHARE: And you continued with your normal duties?

ADV JIBA: Yes, I continued with my normal duties as a deputy national director.

ADV MOKHARE: During that time, because it is not like you left the NPA. You were still within the leadership of the NPA. Did anybody ever come to you and said: 'Ms Jiba, we are missing the Cradock Four docket. Where is it, because we hear that it was in your office?'

ADV JIBA: No, and I was in the NPA. We were attending meetings together, for example, with Dr Pretorius who was then the acting
20 head at the time. So no one ever came to me and said that there is a docket that is missing.

ADV MOKHARE: And you remained an employee of the NPA until when?

ADV JIBA: I remained an employee of the NPA. There was a stage whereby I was placed on special leave by the president pending the

enquiry into my fitness. Now I cannot remember when was that, but there was a stage where I was placed on special leave.

ADV MOKHARE: Yes, but I want to know when you exited the NPA completely, no longer an employee of the NPA.

ADV JIBA: That was in 2019, 2019.

ADV MOKHARE: 2019.

ADV JIBA: Yes.

ADV MOKHARE: So after you left the NPA, did anybody from the NPA ever approached you about the missing Cradock Four docket?

10 ADV JIBA: No, no one ever approached me about any missing docket from the NPA.

ADV MOKHARE: When did you become aware that there is some talk that the Cradock Four docket was given, was taken from Mr Macadam by your office?

ADV JIBA: When I got this thing, this notice, the notice ...[intervenes]

CHAIRPERSON: The Rule 33 notice.

ADV JIBA: The Rule 33 notice, yes.

20 ADV MOKHARE: So that is now from the commission, from this commission.

ADV JIBA: From the commission, yes, that there is a docket that went missing from my office during my tenure, yes.

ADV MOKHARE: So the affidavit of 2021 deposed to by Mr Macadam was never brought to your attention that time in 2021 when it was deposed to in the review application.

ADV JIBA: No, it was never brought to my attention at that time, except that at a certain point in time... what was happening? Adv Ngalwana had received a brief from the NPA and then suddenly I was then removed from the brief, because he wanted to do the matter for me. He just told me that there was a conflict of interest. I never knew what was the conflict of interest about. I am just stating, because I do not know whether it was because of this docket or anything, but he was just informed that there was a conflict of interest, yes.

10 ADV MOKHARE: So you can only speculate on that one.

ADV JIBA: Yes.

ADV MOKHARE: Okay, no, that is fine. No, that is fine. Now, when you were; and this time is because you have really, most of your time you were occupying leadership position at the NPA.

ADV JIBA: Yes.

ADV MOKHARE: Whether as a Deputy NDPP and for about 20 months as Acting NDPP.

ADV JIBA: Yes.

20 ADV MOKHARE: Now I want you to talk about political interference, because it is one of the terms of reference of the commission, whether anybody or some people within the NPA or elsewhere received political pressure not to prosecute TRC matters. So now, I want you to now tell the commission from your own personal knowledge, both at the time when you had the benefit of occupying this prestigious position of acting as NDPP and as Deputy NDPP.

Can you enlighten us on that? Were there any political interference and political pressure that was exerted on you in respect of the prosecution or the processing of the TRC matters, so that they may one day be finalised and families get closure on them?

ADV JIBA: Well, during my time as the Acting NDPP, you will recall that I had said that I would have EXCO meetings with the Deputy National Directors of Public Prosecutions to just get a briefing on what is happening in the operations of the business units that they were in charge of. At no stage did Dr Ramaite ever give me any
10 report that they were having challenges of political interference from anywhere. Our minister at the time was very supportive. It was Minister Jeff Radebe. So at no stage did Dr Ramaite say that they were having challenges with political interference; that they must not do these cases in the manner in which I have now read from Mr Calata's affidavit, yes.

ADV MOKHARE: Were you yourself ever approached by anybody in power or influence to say that: no, not the TRC matters. Then put them aside or whatever; or some kind of discouraging you as the head of the NPA not to ensure that those cases are receiving priority?

20 ADV JIBA: At no stage that ever happened. Let me tell you this, SC. Even if they had tried to me, they would fail dismally.

ADV MOKHARE: Why?

ADV JIBA: We take an oath to conduct prosecutions without fear, favour and prejudice, even if you are attacked by the media from all points, even if any boss says anything. If you know that the decision

you are making, you have to die with your decision, just like I died with my decisions to prosecute the Cato Manor prosecutions. They would not have succeeded at all.

ADV MOKHARE: Yes. Now that you are here and having the opportunity to assist the commission and of course you know that the families from the TRC cases are really, really on this. You once had the opportunity to occupy this prestigious position. What do you have to say to them?

ADV JIBA: You know, I feel very sad for them, because all of these
10 families, all that they are seeking is closure to know what actually happened to their loved ones; and I think that, you know, they are owed that particular respect.

I saw someone today, but I think I remember meeting in one of the meetings that I had. I do not know if I am going to be pronouncing his name correctly; Mr Varney, yes. I met Mr Varney once in the NPA, once or twice in the NPA.

At that time they were dealing with the case of one of Ms Nokuthula Simelane. There was a recommendation that I had come across that said that there must be a formal inquest into the death of
20 Ms Nokuthula Simelane. And I disagreed with that, because when I read the memorandums and the dockets, I could not understand – why must there be a formal inquest, because your formal inquest you hold it when you want to establish whether there can be someone who can be held responsible for the death of this particular person.

And on my reading of the docket and the statements and

because witnesses were still alive and the suspects could still be identified, I then made a recommendation to Adv Shaun Abrahams; that there is no way that we must recommend an inquest, a formal inquest. It was going to be a waste of time. The prosecution must ensue and this person must be looked at. And you know, I do know for certain that, though I am not so sure at what stage is the case now, but the case was then enrolled before Court and prosecutors were appointed to deal with those cases.

ADV MOKHARE: I see. Finally, is there any other thing that you
10 would like to say to the commission which I may not have asked you about?

ADV JIBA: Yes, just to go back to the email which is the email that was sent by Ms Malova.

ADV MOKHARE: That is page 22, page 18.

ADV JIBA: It is page 19.1.

ADV MOKHARE: 19.1, yes. I beg your pardon.

ADV JIBA: Yes. After having written this email to Trish, as stated in my affidavit at paragraphs; I am just looking for my affidavit.

ADV MOKHARE: Paragraph 18.

20 ADV JIBA: Paragraph 18. Okay, thank you so much. I was not able to see to the investigations and prosecutions of the cases. I know that the report that I had requested from this email was submitted to Adv Trish Matzke. And that report might be very, very helpful to the commission to see exactly at what stage were those particular dockets, when they were received at the time. Suffice to say that

when I scrolled down on my WhatsApp, I saw a message that was written to me by Adv Trish Matzke.

ADV MOKHARE: When was it?

ADV JIBA: It was in 2018 in October, 25 October. She says to me:

“Dear Adv Jiba,

Thinking coffee, you will let us know when we can take you for coffee, if it is allowed. I wanted to brief you re the TRC matters. I have started with a schedule. I am very concerned that the NPA
10 has failed dismally.

Trish”

So that is the last I had anything to do with these particular cases.

ADV MOKHARE: Thank you, Chair. That will conclude the evidence-in-chief of Ms Jiba.

CHAIRPERSON: Thank you, Mr Mokhare. Mr Gwala, any clarificatory questions?

ADV GWALA: No, no, Chairperson. We do not have.

CHAIRPERSON: Thank you. Yes, any clarificatory questions?

20 ADV RIKHOTSO: Thank you, Chair. I have no clarification questions.

CHAIRPERSON: Thank you, madam. Ms Rantho, any clarificatory questions?

ADV RANTHO: Nothing from the SAPS, thank you, Commissioners.

CHAIRPERSON: Mr Varney, any clarificatory questions?

ADV VARNEY: Yes, we do have a few, Chair. Adv Jiba, firstly,

thank you for your cooperation with this commission and especially in making the effort to go to the NPA and to try find the documentation that you have put up, which is very helpful for this inquiry. Can I first check with you? Your role in the NPA prior to becoming the Deputy NDPP in 2010, I think it was 22 December 2010; you mentioned that you had been with various units looking at serious economic cases. Am I right saying that prior to becoming a Deputy NDPP and subsequently Acting NDPP, you played no role on the TRC cases?

10 ADV JIBA: Yes, I had nothing to do with the TRC cases before then, yes.

ADV VARNEY: Okay, because that period up until 2010 is a very key period. I just wanted to clear that up with you.

ADV JIBA: Okay.

20 ADV VARNEY: If we could then turn to page 3 of your statement, paginated page 10. In paragraph 10 you indicate that as Acting NDPP you would receive reports from the PCLU through Dr Ramaite who was in control of the PCLU. Now you have made reference to a memo that you responded to in April of 2013. Apart from that memo, do you recall receiving any written reports from Dr Ramaite or anyone else from the PCLU on the TRC cases, either while you were Acting NDPP or subsequently when you were Head of the National Prosecution Service?

ADV JIBA: Yes, there were reports. This was not the only memo. Usually, as I said, when I started acting as NDPP, you start from somewhere, you know. There would have been reports or

memorandums which have been compiled for Adv Simelane and then there would be memorandums that were compiled for me. So, there were reports. This was not the only memo that was compiled. I just cannot remember now, you know, specifically what they dealt with, but the one that I remember of when I spoke about now of the late Nokuthula Simelane, yes.

ADV VARNEY: Yes. But when you went to the NPA and you looked for reports that might have been addressed to you, these were the only ones you were able to find, the ones you have attached to your
10 statement.

ADV JIBA: Yes, I was told that Mr Mzikayifane said to me that he cannot find any of the response and I directed him to a file that, you know, there used to be a file that had these memorandums and he said he cannot find it, so.

ADV VARNEY: Because there is correspondence from Dr Ramaite addressed to Thembi Nkadimeng, as she was known at that time, the sister of the late Nokuthula Simelane, which is actually before this commission; during 2013 in fact in which he makes reference to the moratorium that had been placed on the investigation of prosecution
20 of the TRC cases from around 2004. Were you ever aware of that correspondence?

ADV JIBA: No, I was not.

ADV VARNEY: And did you ever get to hear of the moratorium or suspension on the investigation of the TRC cases in those days?

ADV JIBA: Not in my time, Mr Varney; not in my time.

ADV VARNEY: Then if we can turn to page 6 of your statement, paginated page 12. So you have mentioned the Nokuthula Simelane case. You indicated that you did take a look at it, because it is correct; and as you correctly pointed out to the commission, we did meet in those days and there was correspondence and I can confirm that the attorneys for the Simelane family did request either a prosecution or an inquest and you have indicated that you instructed that prosecution be pursued. But do you recall that in 2015 the Simelane Family went to court, to the high court to seek an order to
10 compel the NPA to make a decision in that case either to prosecute or to refer to an inquest?

ADV JIBA: I do not have personal recollection of that. All I remember is that at a certain stage there was this memorandum which was submitted to me, proposing and recommending that there should be a formal inquest, which is what I then disagreed with. So I am not familiar. I do not have a recollection about the family going to court and all of that, yes.

ADV VARNEY: And do you recall approximately the year in which you considered that memorandum?

20 ADV JIBA: I was in the legal affairs division then. It was before... I think it is when Shaun was an NDPP. It is that stage when Shaun was a NDPP though.

ADV VARNEY: Okay. Right, and I think he became NDPP; we are just checking, but I believe it was around 2014 or thereabout. We will confirm that shortly.

ADV JIBA: I think it was Mr Nxasana in 2014.

ADV VARNEY: In 2014.

ADV JIBA: It was Mr Nxasana.

ADV VARNEY: So Mr Abrahams probably 2015.

ADV JIBA: Maybe took over after Mr Nxasana, yes.

ADV VARNEY: Yes. So it is the assertion of the families that the only reason why a decision was ultimately made in the Nokuthula Simelane case was because they went to court. They filed papers seeking a decision; and it was then settled on the basis that the NPA
10 would make a decision and ultimately that decision was to prosecute certain former members of the Security Branch; and then that case was settled on that basis. Do you accept that?

ADV JIBA: I cannot deny that.

ADV VARNEY: And actually in that case Thembi Nkadimeng, now Thembi Simelane, she attached affidavits from former NDPP Vusi Pikoli and former Head of the PCLU, Anton Ackermann; and in those affidavits they alleged interference in the TRC cases. Do you have a recollection of that?

ADV JIBA: No, I do not. All I am saying is that in my, during my
20 acting stint I was never informed about political interference. If there was any political interference, probably it was then before my stint or if it was there during my term, but nobody informed me about it that they were having challenges with regard to political interference.

ADV VARNEY: So as I understand, what you are saying; you are saying there was no political interference while you were Acting

NDPP.

ADV JIBA: Yes.

ADV VARNEY: And do I understand you correctly; are you saying that prior to you becoming Acting NDPP, you would have no knowledge of that?

ADV JIBA: No, I would not know, because I was not then involved with the TRC matters before my acting stint. The only time that I got exposure was when I was an Acting National Director of Public Prosecutions through the memorandums that would then come to my
10 office.

ADV VARNEY: But did you ever subsequently get to hear or read the affidavits that were attached to the Simelane application by Pikoli and Ackermann?

ADV JIBA: I only read them this time. Otherwise I have never read them before. I only read them when the commission started. Otherwise I have never read their affidavits.

ADV VARNEY: I see.

ADV JIBA: Yes.

ADV VARNEY: And do you have any reason to dispute what they
20 are saying about interference in those affidavits?

ADV JIBA: No, not at all. I do not dispute what they say. All I am saying is that during my stint there was no political interference. At no stage did the minister or anybody at all tell me not to prosecute the TRC matters. So I cannot deny that before my period that there was such political interference. I cannot deny that.

ADV VARNEY: And to be clear; we are not suggesting or alleging that you were told not to. That is not what we understand.

ADV JIBA: Okay, thank you.

ADV VARNEY: If we can turn to your paragraph 18; that is on the same page, at the bottom of the page and that is where you refer to the NOMM or N-O-M meetings; and you then mention at the top of the next page that a resolution was taken because of a lack of progress and that is when you ask for the list in relation to each case and a summary of the evidence. So that letter is dated 22 October
10 2018. So would I be right in saying that the meetings you are referring to are probably earlier in October or perhaps September 2018?

ADV JIBA: It must have been... we had monthly meetings. So it could have been September. We had monthly meetings.

ADV VARNEY: And you mentioned that because of the lack of progress; are you able to elaborate on that lack of progress? So for example, were any reasons put up for the lack of progress on the TRC cases?

ADV JIBA: Yes, some of the reasons were that they are unable to
20 trace witnesses, if I can remember, and others were that they are short-staffed. That PCLU was short-staffed and ja, and all of those kind of reasons, which is why we then resolved that okay, if you are having all of these challenges and the cases are not going anywhere and we are unable to reach the witnesses; the witnesses are actually also getting old. So let us ask the directors of Public Prosecutions to

then assist with the prosecution and investigation of those cases that fall within their jurisdictions, yes.

ADV VARNEY: Now, if I can ask you; for the period 2010 to 2018, so in 2010 you became the Deputy NDPP, in 2011 the Acting NDPP and then subsequently you were the Head of the Legal Assistance division and the National Prosecution Service. Do you recall; during those years were there any TRC-related case, aside from the Simelane case which we have dealt with, was ever put before you for a decision to prosecute?

10 ADV JIBA: As an NDPP, as an Acting NDPP?

ADV VARNEY: Either as deputy or acting or subsequently at the NPS.

ADV JIBA: Okay, in my time as an Acting NDPP, there was no case that was placed before me for decision. When I was in the legal affairs division, no case would be brought to me for decision, because that was not my portfolio. When I was then the Deputy National Director of Public Prosecutions for the NPS before the PCLU was put under my supervision, equally no cases would be brought for me for decision. So at the time when the PCLU was then put under my
20 control; that is the time when I then said that we need to do something, because witnesses are getting old. So this is how these cases should be dealt with, but up until I then left the NPA, there are no cases brought to me for decision.

ADV VARNEY: Thank you. You also make reference to a document. Indeed the one that you ask, you ask for a report to be

prepared. That was in your letter dated 22 October 2018. Unfortunately not long thereafter; in fact, it looks like only three days later, you were then placed on precautionary suspension. But you do mention in paragraph 20 that you tried to find this report and you requested it from the NPA, but you were informed that the report could not be found. So this is yet another report that would be very helpful, but seems to be missing. So you asked the NPA directly for that report and they said they could not find it.

ADV JIBA: Yes, I compiled a list of all the documents that I requested and I think at the time I was also assisted by Thembekile. 10 Actually Thembekile was very helpful, because she could see that I am struggling to get the information that I require from the NPA. She then took it upon herself to make arrangements with the NPA that I actually go there and try and get the documents.

And I think she arranged with Mr Mzikayifane and then I met Mzikayifane. We sat there and she went through some documents that had nothing to do really with the TRC, but eventually she then said to me that she cannot find the memorandums that I have requested. She also cannot find the report. But later, I think after two 20 days or three days, then she sent me this email that is marked 19.1 as the only thing that they could find, but not the report itself.

ADV VARNEY: Have you asked the commission, perhaps the secretary if they can make a formal request for those documents?

ADV JIBA: I thought that Thembekile was then asked by the commission to assist, which is why I did not ask, because she was

there to assist and I believe that she did assist on behalf of the commission.

ADV VARNEY: Okay. Thanks, I have been advised that Thembekile is in fact an investigator with this commission.

ADV JIBA: Okay, thanks.

CHAIRPERSON: She is a researcher.

ADV VARNEY: A researcher. Thank you, Chair. Can we now turn to your first Annexure NJ1 at page 14?

ADV JIBA: Page 14.

10 ADV VARNEY: And if I can direct your attention to the top right-hand side of page... can you see this handwriting?

ADV JIBA: I see that.

ADV VARNEY: And we can decipher some of that handwriting. So for example, it seems to be saying "received 29/4" and then there is a signature. Then I think it says, it might say 29/7 or 1. Do you know whose signature that is?

ADV JIBA: I am not so sure about. I cannot say whose signature that is.

ADV VARNEY: And do you recognise the handwriting?

20 ADV JIBA: The handwriting seems to be that of Shaun Abrahams.

ADV VARNEY: Shaun Abrahams, okay. And I am going to read to you what I think it says; and perhaps you can correct me if I get it wrong. "Contact I/O". That is probably 'investigating officer'.

ADV JIBA: Yes.

ADV VARNEY:

“Re: polygraph affidavit. He is in Nelspruit, will try...”

And I think it says “the docket in next week”.

ADV JIBA: Yes.

ADV VARNEY: So do you know what is being said here, in particular in relation to the docket?

ADV JIBA: I cannot really say what is being said about the docket. I do not know, but what I could see is that they are talking about the polygraph affidavit. Probably the polygraph affidavit is in the docket,
10 something to that effect. I do not know.

ADV VARNEY: Then just looking at the letter that your personal assistant sent to Adv Abrahams, so there you seek information in relation to those who had received amnesty for the death of Mr Goniwe.

ADV JIBA: Yes.

ADV VARNEY: And you make reference to the memo; that unfortunately we cannot find. So, if we can just pause there and look at the response from Adv Abrahams and NJ2 – that is page 16 and page 17, because he then says “the identities persons who received
20 amnesty for the death of Mr Goniwe”. He then writes:

“As indicated in paragraph 8 of Adv Macadam’s letter, the amnesty hearing did not relate to the death of Mr Goniwe and his associates. The amnesty hearing was in relation to the murder of three Security Branch members, namely Glen

Mgoduka, Desmond Mapipa and Amos Faku as well as a police informer, namely Charles Jack.”

Am I right in saying that that matter actually relates to the Motherwell bombing just outside Port Elizabeth?

ADV JIBA: If you say so, I cannot deny that. I cannot.

ADV VARNEY: Well, I do recognise, because I have just come from Gqeberha when I was doing the Cradock Four Inquest.

ADV JIBA: Okay.

ADV VARNEY: So I am familiar with those names and they are the
10 deceased in the Motherwell bombing; and as you will see from the
next paragraph:

“Gideon Nieuwoudt, a PE Security Branch member, was convicted for those murders and refused amnesty. In delivering judgment, the Court found that the three Security Branch members and the police informer had been murdered as they had key information in relation to the deaths of Mr Goniwe and his associates.”

And so, we know that three of those deceased were part of the Hit
20 Squad that murdered the Cradock Four. Does that help to pull those
strings together?

ADV JIBA: Yes, I think so.

ADV VARNEY: Okay, then let us stay with this letter and then the next paragraph dealing with your request for information in relation to those who had received amnesty or being denied amnesty for the

murders of the Cradock Four and which ones were still alive. And you will note at 234 to 236 Adv Abrahams mentions the ones that are still alive. So, it is Eric Taylor of the PE Security Branch. He was alive at that time. We know that he died in November 2016. Then Gerhard Lotz, he died in March 2016. And then Herman du Plessis, he died, I believe, in April 2023. So there were a few suspects in the Cradock Four case who in 2013 were still alive and could have been potentially investigated further and prosecuted. Do you know why they were not?

10 ADV JIBA: I would not know why they were not prosecuted. I would not know.

ADV VARNEY: You said in your evidence-in-chief, and I think you said you left in the hands of Dr Ramaite to take forward, but I assume that you made the enquiry on the Cradock Four matter potentially to see whether there was any prospect of resolving that case and bringing to justice suspects who might still be alive. Would that be correct?

ADV JIBA: Probably there would have been many reasons why I was making the, was seeking clarification questions, clarity on the
20 memorandum that was written. You know usually you request a clarity when you want something clarified. And of course once something is clarified, obviously as an NDPP I am not there to direct what they should do, otherwise I am going to be usurping the functions of the deputy national director concerned.

So, to answer your question; essentially, you know, I might

have requested the information what I sought from them there, because maybe on the memorandum; unfortunately we speak about the memorandum that was not before us. Maybe on the memorandum things were not so clear essentially. And once things were cleared, I was satisfied.

ADV VARNEY: But as ...[intervenes]

ADV JIBA: I will give you an example. Sorry to interrupt.

ADV VARNEY: Sure.

ADV JIBA: I will give you an example, for example. Sometimes you
10 are able to seek clarity. I will talk about Asset Forfeiture Unit for a bit which was led by Mr Hofmeyr. Sometimes you seek clarity on something and because you have sought clarity on that thing, then the deputy national director in charge of that unit then attends to it.

And with regard to PCLU matters, I do recall that Shaun got a little bit irritated, because they were reporting directly to him and he did not have an opportunity as an NDPP at the time to interrogate what is actually happening, now placing them under the control of a NDPP who must then get involved in the actual nitty-gritties.

20 So when I then briefed Shaun, then Shaun would be satisfied that something is then being attended to. So as the head of the institution, sometimes you just seek clarity, but then it is for the NDPP or even the special director of that particular unit to ensure that those things that you have now brought to his or her attention, he then goes and attends to.

ADV VARNEY: So you made the assumption that those at the

PCLU, seeing that there were certain suspects still alive, that they would then take it forward.

ADV JIBA: They had to take it forward, because they knew. Remember they had all the cases in their hands, you know. Nobody else had those cases. They had all those cases in their hands. So they had to follow up on whatever needed to be followed up on their own, yes. There is no NDPP, Mr Varney that really directs what you should do with the case. If you do that, you tread, you are walking on a thin line, because remember an NDPP has got powers of review,
10 reviewing the decisions that are made by the special directors and the DPPs. Now if you start directing an investigation, assuming, I would have said okay, I see your memo, but go and do this. Go and do this. Go and do this. I cannot do that. That is operational.

ADV VARNEY: Okay, so you did not want to step on their toes. They had the authority to take this forward.

ADV JIBA: Yes.

ADV VARNEY: But then there seems to be a haze of about five-odd years, because... and I am now referring to your letter of 22 October 2018 at page 19.1. You have already put this into the record. It is a
20 letter that your personal assistant addressed to Dr Pretorius at the PCLU. You point out that the delay in these matters is unacceptable. Suspects are getting old. Witnesses are getting old. Victims might not be getting justice at all. So here one gets the impression that you are swinging into action and demanding that something be done. You give a deadline when this report has to be submitted. Do you

have a sense of what took place in the preceding five years?

ADV JIBA: Unfortunately I cannot, because then I left the NPA.

ADV VARNEY: No, I am talking about the preceding five years.

ADV JIBA: Before 2018?

ADV VARNEY: Yes, so between 2013 and 2018.

ADV JIBA: Do I have a sense of what?

ADV VARNEY: Of what happened on the TRC cases in the intervening five years?

ADV JIBA: I cannot really say what really happened, except that
10 really the only case that I remember is the one that I have referred to
of Nokuthula.

ADV VARNEY: Nokuthula Simelane.

ADV JIBA: Yes.

ADV VARNEY: Okay. If we can go back to the letter that Abrahams
sent to you on 22 May 2013 in relation to the Cradock Four matter; it
is at paragraph 2.4. It is titled "Issues relating to the polygraph
expert". And it appears that you are being given advice by Adv
Abrahams not to pursue that investigation further, the investigation
into the false accusations made against General Hankel. And if I can
20 draw your attention to the second last paragraph:

"Such an investigation would not only unduly
delay the decision in the Goniwe matter, but may
potentially place all the unsatisfactory issues
relating to crime intelligence into the public
domain."

What were those unsatisfactory issues?

ADV JIBA: If I had the memo that they submitted before, I would be able to answer you. Sitting here is difficult to me what were the unsatisfactory issues that were contained in the memorandum that we had. That is precisely why I wanted to get the memorandum, because if you are able to read memorandum, the response from Adv Abrahams and the memorandum, then one would be able to give an answer. So I cannot, sitting here, remember what were those unsatisfactory issues point by point, yes.

10 ADV VARNEY: Thank you. So on 22 October 2018, as mentioned in your letter that your PA wrote to Torie Pretorius and you raised concern about the delay. Given that the Truth Commission had wound up its work in the late 1990s and the Amnesty Committee finished up in 2022 and the final report was then handed over to the president; not 2022, sorry, 2002, in 2003. Do you have a sense as to why there had been such a long delay that ultimately causes you to send this instruction to the PCLU, because we are now talking of a delay that was nearly 20 years?

20 ADV JIBA: Look, my report, the resolution that... sorry, the resolution that we took a norm, really it came from the fact that we were all concerned that we are not getting progress with regard to these cases, whatever the reasons that we are given are; be it the shortage of prosecutors and the PCLU investigators. But what was of concern to us at that time is that we are now sitting in 2018. We cannot report on any successful prosecution that we have made.

That was a serious concern for us.

ADV VARNEY: And then lastly, Adv Jiba, you mentioned that you had taken a look at your WhatsApp from 25 October 2018 and there was a message from former Special Director Adv Trish Matzke in which she indicated that in respect of the TRC cases, the NPA has failed dismally. Did you explain why the NPA had so failed? Were you ever able to have that coffee with her to hear from her?

ADV JIBA: No, we could not have coffee. Then I was busy with the inquiry at the time. So we never got to get a chance, but I am
10 assuming; I am now speculating that she said it is because of the reports that I had requested that they must be handed, they must be submitted to her. He probably have read the reports and then she made her own decisions based on the information that she read from the report, and hence she came to this conclusion. As I say, I never got the opportunity to read the reports.

ADV VARNEY: Thank you. Commissioners, it certainly might be an idea for the commission staff to approach Special Director Trish Matzke. We would make that request. Adv Jiba, thanks again for your time and your willingness to support this commission.

20 ADV JIBA: Thank you.

ADV VARNEY: No further questions.

CHAIRPERSON: Mr Semenya?

ADV SEMENYA: Thank you, Chair; and we take note of the request, we will follow it up, by Mr Varney. Madam Jiba, is it afternoon now? Yes, good afternoon.

ADV JIBA: Good afternoon, SC.

ADV SEMENYA: The standard operating procedures, and might I restrict myself to say exchange of dockets by one office to the other? As I understand you, there would be notebooks with different colours for each office. I understood you correctly, right?

ADV JIBA: Not necessarily for handling dockets. It was just a practise in relation to formal documents. That would then include dockets in this case. If a docket is going to be sent to any office, then there has to be something that is signed at least to acknowledge the receipt of that.

ADV SEMENYA: And everybody understood that is how matters work in the NPA. Am I right?

ADV JIBA: I thought so, yes.

ADV SEMENYA: And if the protocol was observed, it would mean that at least at two points there will be entries and signatures showing the requestor and somebody who then receives. Am I right?

ADV JIBA: That should be correct.

ADV SEMENYA: So in the event of a missing docket, one would expect at least one of the documents would have entries in relation to the status of that document or docket.

ADV JIBA: Yes, I assume.

ADV SEMENYA: If you gave us direction, how would we have to do to get our hands on those coloured files or documents?

ADV JIBA: Notebooks.

ADV SEMENYA: Notebooks.

ADV JIBA: You would have to find them in the NPA. I know for a fact that I left mine there and I was informed that they actually did a thorough search from my former office and they could not find the docket.

ADV SEMENYA: And if you were to take or make an opinion, what can explain something like that?

ADV JIBA: I do not know, as I sit here, what can, how you can explain something like that. I really do not know. It is similar to the memorandums that we can no longer find now that we are looking for.

10 ADV SEMENYA: I am trying to understand that even on your description 'that is odd', it is inconsistent with your experience when you were still at the office.

ADV JIBA: Can you repeat that? I am not following.

ADV SEMENYA: I am saying even using a language like 'odd', these missing documents ...[intervenes]

ADV JIBA: Docket.

ADV SEMENYA: Missing dockets does not accord with your experience whilst you were at the NPA.

ADV JIBA: It does not at all.

20 ADV SEMENYA: Now, let me ask another thing. I just heard you say you do not have your own notebook, right?

ADV JIBA: Mm-mm.

ADV SEMENYA: Because officially you would have had to leave it with the NPA, right?

ADV JIBA: I left it with the NPA. It is not like I would have had to

leave it with the NPA. I left it with the NPA.

ADV SEMENYA: Well, I am trying to understand whether by discretion or by standard operating systems.

ADV JIBA: It is not by discretion. You have to leave documents belonging to the NPA. They belong to the NPA. You got them in your official capacity. So they remain the property of the institution.

ADV SEMENYA: So it will be out of kilt for somebody like Adv Macadam to be having official documents of the NPA. Correct?

ADV JIBA: Out of what?

10 ADV SEMENYA: Out of kilt. It would be improper for him to have documents that are official, that are NPA documents with himself as a retiree.

ADV JIBA: You would have documents, for example, in your email, you know, because documents sometimes were sent by email. I would not say it would be out of kilt. Some people leave with things, but as far as I know, the point is that property of the NPA belongs to the NPA.

ADV SEMENYA: Because in one of the consultations with the evidence leaders, he had a box full of documents belonging to the
20 NPA. That would be strange, right?

ADV JIBA: It is for me, because I have none.

ADV SEMENYA: And he refuses to hand over those documents. Let us not go to what powers the commission has to subpoena those, but it would be odd for him to be still having them as a retiree. Am I right?

ADV JIBA: Yes, it sounds odd. It does sound odd for me.

ADV SEMENYA: Okay. Now, from 2003 to now [indistinct] the progress on what priority crimes this TRC is, the progress made is poor. Would you accord yourself with my assessment?

ADV JIBA: I agree.

ADV SEMENYA: And there does not seem to be any rational explanation why the progress on these priority crimes were never followed with vigour or do you have an explanation for that?

ADV JIBA: I do not have an explanation for that really, except what I
10 have read, Adv Semenya in the Calata affidavit. But as I say, I hear what is being said in the Calata and I am not denying that, but all I know is that we as NPA officials – I count myself as they at the time; we take an oath to prosecute without fear, favour and prejudice. That is the oath that we take and it has consequences. One of the consequences; that you might just lose your job. So probably at that stage people could not leave by that oath because of fearing to lose their job.

ADV SEMENYA: Well, there seems, according to the evidence, there have been another noise in the background; i.e. one group of
20 freedom fighters seeking a particular process and one group of security forces belonging to the apartheid past who wanted something different. Were you aware of those noises?

ADV JIBA: No, I was not.

ADV SEMENYA: Did you know or get to be speaking to a Mr Wagenaar who was an attorney apparently?

ADV JIBA: Mr Wagenaar?

ADV SEMENYA: No?

ADV JIBA: No, I do not remember Mr Wagenaar.

ADV SEMENYA: Okay. And what is your best advice about us getting this missing list?

ADV JIBA: Of what? Which missing list, Counsel, Senior Counsel?

ADV SEMENYA: To one which the report was to include. Remember we have no report that was requested from the PCLU.

10 ADV JIBA: The one that was requested by my PA, you mean that one?

ADV SEMENYA: Correct, yes.

ADV JIBA: I suppose maybe you can try Adv Trish Matzke, although she has retired from the NPA. I assume you can still try her.

ADV SEMENYA: Okay. Chair, that will be all we have for the witness.

CHAIRPERSON: Thank you. Ms Jiba, we thank you for having... oh, sorry, before I do that. Mr Mokhare, any re-examination in the light of the clarifications that were posed to Ms Jiba?

ADV MOKHARE: No, thank you, Chair. There is none.

20 CHAIRPERSON: Thank you. Ms Jiba, we thank you for having availed yourself to give evidence before this commission. At this stage you are excused as a witness. You may be recalled to be cross-examined in the event an application for your cross-examination is made, but you are for now excused as a witness.

ADV JIBA: Thank you, Chair for the opportunity. Thank you.

ADV SEMENYA: Chair, that is all we have for the formal hearings for the day.

CHAIRPERSON: Adv Semenya, we are reconvening on the 7th.

ADV SEMENYA: Of the 7th, yes, Chair.

CHAIRPERSON: These proceedings are adjourned until 7 April 2026 at 10h00. We are adjourned.

INQUIRY ADJOURNS UNTIL 7 APRIL 2026

CERTIFICATE OF VERACITY

We, the undersigned, hereby certify that **as far as it is audible**, the foregoing is a true and correct transcript of the digitally recorded proceedings in the matter of:

JUDICIAL COMMISSION OF INQUIRY INTO TRC

FORUM OF ORIGIN : Inquiry
CASE NUMBER : N/A
TRANSCRIBERS : W Kruger, M Brits
DATE COMPLETED : 2026-04-01
NUMBER OF PAGES : 61 (Including front page)

W Kruger: Page 1-29
M Brits: Page 30-59

TRANSCRIBERS :  

TRANSCRIBER'S NOTE:

- *Where no information provided, names transcribed phonetically.*
- *Grammar errors types verbatim.*



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