

**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 KD Moroka (SC) – DoJ representative
Adv Tlotlego Tsagae (DoJ representative)
Adv Motlalepule Rantho (for SAPS)
Adv Ebenezer Propy (for SAPS)
Adv Nwabisa Ntshizana (for Adv M Mpshe)
Adv Bridgette Nthambeleni (for Adv Jiba)
Adv T Masuku (SC) – (for Adv Menzi Simelane)
Adv Vivian Rikhotso (for Adv Menzi Simelane)
Adv Varney (SC) – The Calata Group
Adv D Pillay – The Calata Group
Ms A Thakor – The Calata Group
Adv Gwala (SC) – NPA representative
Adv Yanela Ntloko- NPA representative
Adv Irene de Vos for President Cyril Ramaphosa

14 APRIL 2026

DAY 31

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PROCEEDINGS ON 14 APRIL 2026

CHAIRPERSON: Mr Semenya?

ADV SEMENYA: Chairperson and Commissioners, we welcome the return of Mr Varney and still ... (intervenes)

CHAIRPERSON: Oh, Mr Varney.

ADV SEMENYA: Recovery, yes.

CHAIRPERSON: Yes.

ADV VARNEY: Commissioners, it is good to be back. I thank the Commissioners the indulgence of excusing me last week. I did follow
10 proceedings online. I also wish to apologise for not wearing a tie today. I have not yet managed the art of doing a tie with one hand, but I will work on that.

CHAIRPERSON: Yes. No, we understand. Are you much better now, Mr Varney?

ADV VARNEY: I am, Commissioners. I do have a broken shoulder and it will take a few weeks to repair, but I am (indistinct).

CHAIRPERSON: Thank you. We wish you a speedy recovery.

ADV VARNEY: Thank you, Chairperson.

CHAIRPERSON: Thank you.

20 ADV SEMENYA: And Chair, Commissioners, we have for today Mr Jacobs. Once we have sworn in Mr Varney, I mean Mr Soni will take him through.

CHAIRPERSON: Thank you. Mr Jacobs, are you going to take an oath or affirmation?

MR JACOBS: I will take the oath, Chair.

CHAIRPERSON: Thank you. Do 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.

MR JACOBS: So help me, God.

CHAIRPERSON: Thank you. Mr Soni?

ADV SONI: As you please, Chairperson. Chairperson, it is Doctor Jacobs, so that is how I will refer to him.

CHAIRPERSON: Yes.

10 ADV SONI: Doctor Jacobs, you have made, you have a bundle in front of you, am I correct?

MR JACOBS: That is correct.

ADV SONI: All right, now in that bundle are contained two affidavits made by yourself, the first one is dated the 26th of February 2026 and the second one the 25th of March 2026, is that correct?

MR JACOBS: That is correct.

ADV SONI: It has a number of annexures to it.

MR JACOBS: That is correct.

ADV SONI: Firstly I would just like you to confirm the correctness of what is contained in that affidavit.

20 MR JACOBS: I confirm.

ADV SONI: Now these affidavits, were they drawn up by yourself or were you assisted by members of the Commission or somebody else?

MR JACOBS: I have drawn up the affidavit myself and of course with the assistance of legal personnel, with counsel, and but basically I

drafted it.

ADV SONI: Counsel from the Commission or from outside?

MR JACOBS: From outside, yes.

ADV SONI: Now I am going to deal with each of the affidavits and the annexures thereto in turn. In the first affidavit, and if I can just summarise what the main issues are, the first issue is the, the main issue is what happened at the meetings of the Interdepartmental Task Team or what is also called the TRC Committee, am I correct?

MR JACOBS: That is correct.

10 ADV SONI: You also in that affidavit respond to certain allegations made about what happened at the task team meetings, allegations made in the Calata affidavits.

MR JACOBS: That is correct, Chair.

ADV SONI: And then the third major issue is the allegation made that a memorandum drawn up by Advocate Ackerman, the date on that memorandum had been changed and it appeared to be a forgery.

MR JACOBS: That is the allegation, yes.

20 ADV SONI: Yes. So let us then go back to your first affidavit. I am going to make frequent reference to the affidavits and tell you where the matters are, but I would like you to concentrate on what I will call the original documents, in other words for example in respect of the minutes I will refer you to, the Commissioners to the actual minutes and what you considered to be significant in them, that is the approach I want to take. Are you okay with that?

MR JACOBS: I am happy with that, yes.

ADV SONI: Let us now deal with your certain matters relating to you.

What are your professional qualifications?

MR JACOBS: Chairperson, I obtained a B.luris degree in 1978 from the University of the Free State, thereafter the other LLB Degree in 1984 and a diploma in advanced public administration in 1998 and there from the University of South Africa, and then from the Pretoria University the LLB Degree in Public Law in 1990 and the D.Phil Degree International Relations in 2010, also from the University of Pretoria.

10 ADV SONI: All those matters you set out in paragraph 7 of your affidavit, am I correct?

MR JACOBS: That is correct.

ADV SONI: Then you also in paragraph 8 indicate to the Commission some of the training courses that you have been on. Will you briefly tell the Commissioner what those courses were?

MR JACOBS: Ja Chairperson, I attended a course at the university, at the George Washington University in 1995 in Public Legal Aspects of Terrorism that was presented by Professor Yona Alexander, also the Leadership Development Program presented by the School of
20 Public Management at the University of Stellenbosch in 1996, 1997, and then a course on the Investigation of War Crimes, Genocide and Crimes against Humanity presented by Interpol in Lyon in January 2009. This was preceded by a conference that was held on the same topic in June 2005.

ADV SONI: So one of your areas of interests, as I understand it, is

the topic if your PHD or Doctorate of Laws, this issue of terrorism in, just prior to the institution of our new democracy in 1994.

MR JACOBS: Ja Chairperson, it related to the review of security legislation, to bring it in line with the United Nation's requirements as well as some documents of the International Law Association.

ADV SONI: And you then deal with your career and that you deal with from paragraphs 9 to 15 in your affidavit. It is set out in some detail there. Will you summarise for the Commissioners your career path?

10 MR JACOBS: Thank you, Chair. I started in the Department of Justice on the 5th of December 1975, thereafter I studied fulltime whilst in the Department and then I did my compulsory military service for two years. So on the first, on January 1981 I started as a public prosecutor in the Department of Justice and then I completed the prosecutor's course with Justice College in Pretoria and I prosecuted in the Magistrate Court and on some occasions in the Regional Court. Then I was transferred to the South African Police ... (intervenes)

20 ADV SONI: Doctor, I do not want you, if you could summarise rather than read what is in this.

MR JACOBS: Ja. So Chair, on the 26th of June 1995 I was transferred from the Department of Justice to the South African Police Service on the level of Chief Director and then in I dealt mostly with this legislation, in 1996 I promoted the Safety Matters Rationalisation Act, which repealed all the security laws in South Africa and the

former TBVC states and then on the 30th of September I retired from the South African Police Service and thereafter I was appointed on contract, three one year contracts and one six month contract with the Civilian Secretariat for Police where I dealt mostly with the review of the Protection Of Constitutional Democracy Against Terrorist and Related Activities Act, as well as the review of the South African Police Service Act. In total, therefore, I have 44 years of service in the Department of Justice, the Civilian Secretariat for Police and the Police Service in total.

10 ADV SONI: Now in relation to the, to your giving evidence today, in what capacity do you give evidence?

MR JACOBS: I give it in my capacity as a retired member of the SAPS and having been involved in some of the meetings that related to these issues.

ADV SONI: Yes. Can I refer you to paragraph 3 and 4 of your affidavit? That is where you say that you were issued with Rule 3.3 Notice by the evidence leaders and it is in response to that notice that your first affidavit was prepared.

MR JACOBS: That is correct, Chair.

20 ADV SONI: Okay. Now I want to come back to that, to the matters you set out in paragraph 3 and 4 in some detail in a few, in a little while. First, though, I want to deal with the issues relating to your appointment to the Interdepartmental Task Team and what your observations were at the meetings that you attended. So will you in paragraph 17, you point out how it came about that you were

appointed to the Interdepartmental Task Team. Is it okay if I just call the Task Team?

MR JACOBS: That is correct, Chair.

ADV SONI: All right. Could you tell the Commission how that came about?

MR JACOBS: No, the National Commissioner, Commissioner Selebi received a letter on the 10th of October 2006 which was dated the 6th of October and ... (intervenes)

ADV SONI: Is that letter in the bundle?

10 MR JACOBS: The letter is marked as PCJ1 in the bundle, Chair.

ADV SONI: And what page of the bundle is it?

MR JACOBS: It is page 1717.

ADV SONI: Yes all right, and what does that letter say?

MR JACOBS: It basically confirms that the Prosecuting Policy regarding conflicts of the past came into effect on the 1st of December 2005 and in terms of the guidelines all prosecutions will be conducted by the Priority Crimes Litigation Unit. The person who will head that process, Doctor Silas Ramaite and then in terms of the guidelines the PCLU shall be assisted in the execution of its duties by a senior
20 designated official from the SAPS and you are therefore kindly requested to nominate officials and following that the National Commissioner nominated myself as well as Major General Lekalakala to serve on that Interdepartmental Committee.

ADV SONI: Okay, before we get to your nomination, there is a reference to paragraph B6 of the policy, you deal with that in

paragraph 20 of your affidavit. Could you indicate to the Commissioners what the contents of paragraph B6 are?

MR JACOBS: That is correct, Chair. The PCLU shall be assisted in the execution of its duties by a senior designated official from the following state departments or other components of the NPA. The National Intelligence Agency, the Detective Division of the South African Police Service, the Department of Justice and Constitutional Development, and the Directorate of Special Operations, which of course was the Scorpions.

10 ADV SONI: Now as I understand it, though it does not appear expressly from your affidavit, the other departments mentioned in paragraph 20 appear to have nominated persons as well in addition to the SAPS having nominated persons.

MR JACOBS: That is correct, Chair.

ADV SONI: Is there a list of persons who were nominated?

MR JACOBS: Yes Chair, on page 1718 it is marked as PCJ2 and the names there is Advocate Ackerman from the NPA.

ADV SONI: Let us just deal with one thing at a time. Is that the list of persons who were nominated by the different stakeholders mentioned
20 in paragraph 20?

MR JACOBS: That is correct, Chair.

ADV SONI: Right. Now you will see on top of PCJ2 it is referred to as the TRC Committee members.

MR JACOBS: Yes.

ADV SONI: The same as the Interdepartmental Task Team.

MR JACOBS: That is correct, Chair.

ADV SONI: All right, and could you just indicate who were the persons that were nominated and from which department they came?

MR JACOBS: Okay Chair, Advocate Ackerman from the NPA, PCLU, Mr Mthunzi Mhaga also of the PCLU, the NPA. Doctor Silas Ramaite from the NPA, Marlyn Raswiswi from the Department of Justice, Yvonne Mabula from NIA, myself and Josh Lekalakala from SAPS and then Brian Koopedi also from NIA and AT Mngwengwe from the NPA DSO and Mr Mgidi also from the NPA DSO.

10 ADV SONI: Now if one looks at PCJ2, from which department is the majority of persons?

MR JACOBS: The majority of persons were from the NPA, Chair.

ADV SONI: Now in paragraph 23 of your affidavit you then say that you indicate the dates on which the meetings of the Task Team were held.

MR JACOBS: That is correct.

ADV SONI: Are you there?

MR JACOBS: Yes.

20 ADV SONI: How many meetings of the Task Team are set out in paragraph 23?

MR JACOBS: Chairperson, there six meetings in total, starting ... (intervenes)

ADV SONI: We will deal with the detail. I just want to get to, you say there are, and are those minutes annexed to your affidavit?

MR JACOBS: That is correct, Chair.

ADV SONI: Now did you attend all the meetings?

MR JACOBS: I have attended all of the meetings, Chair.

ADV SONI: And were these the only meetings of the Task Team, to the best of your knowledge?

MR JACOBS: That is correct, Chair.

ADV SONI: And you would have been invited to all the meetings of the Task Team.

MR JACOBS: That is correct.

ADV SONI: All right. Now in paragraphs 24 to 28 you deal with what
10 happened at the first meeting. Now rather than going to your affidavit I would rather you looked at the minutes themselves, where do those minutes appear?

MR JACOBS: The minutes appear from page 1719, Chair, that is marked as PCJ3.

ADV SONI: And it extends to 1720.

MR JACOBS: That is correct, Chair.

ADV SONI: All right. Can you indicate to the Commission what, from the minutes, well firstly before we go into the minutes can I just ask you, you have read all these minutes? No, it does not help to shake
20 your head down.

MR JACOBS: Yes, Chair.

ADV SONI: Yes. Now you attended these meetings.

MR JACOBS: That is correct.

ADV SONI: Do these minutes fairly reflect what happened at the meetings?

MR JACOBS: Yes, they do.

ADV SONI: At different times you will take us to that, certain matters were raised during the course of the meeting, but an outsider like us who were not present at these meetings, would they have a fair idea of what happened at the meetings by looking at the minutes?

MR JACOBS: Yes.

ADV SONI: Then can we just go through what appears at page, on the first page of PCJ3?

MR JACOBS: Yes, thank you Chair.

10 ADV SONI: Before you, and I apologise, can you indicate who was present at this meeting?

MR JACOBS: Thank you, Chair. Yes, at this first meeting Advocate Vusi Pikoli attended from the NPA.

COMMISSIONER KGOMO: I think refer to the date first.

MR JACOBS: It was on the 12th of October, Commissioner.

COMMISSIONER KGOMO: 12 October 2006.

MR JACOBS: 2006, Correct sir.

COMMISSIONER KGOMO: Thank you.

20 MR JACOBS: Advocate Vusi Pikoli attended together with Kaliane Pillay.

ADV SONI: Mr Pikoli was, what was his position at that time?

MR JACOBS: He was the National Director of Public Prosecutions.

ADV SONI: He is the one who sent the invitations to ask for nominations.

MR JACOBS: That is correct, Chair.

ADV SONI: Yes?

MR JACOBS: Then Advocate Kaliane Pillay who was working with Mr Pikoli. Mr Manzini, he was the Director General of the NIA. Mr Loyiso Jafta from the Presidency, Mr Simelane the DG of Justice, Doctor Ramaite, the NPA, and he was also the convener. Advocate Ackerman ... (intervenes)

ADV SONI: Sorry, before we, that was in terms of the original letter written by the NDPP.

MR JACOBS: That is correct, yes.

10 ADV SONI: Yes?

MR JACOBS: Then Advocate Ackerman NPA, myself, Mr Brian Koopedi from the NIA, Mr Ngidi from the DSO, Mr Mngwengwe from DSO, Yvonne Mabule from NIA, Marlyn Raswiswi from Justice and Mr Josh Lekalakala from SAPS as well as Advocate Mthunzi Mhaga also from the NPA.

ADV SONI: All right. Can I just ask in respect of the persons number 10 and 11, the DSO, will that be considered to be part of the NPA?

20 MR JACOBS: Either they were established in terms of separate legislation or legislation within the NPA Act, they did fall under the NPA broadly speaking.

ADV SONI: And they would be involved in prosecution.

MR JACOBS: Well, you will recall that the DSO worked on the basis where the prosecutors and the investigators worked together, so if they worked ... (intervenes)

ADV SONI: Is the answer yes or no?

MR JACOBS: The answer is they work mainly on investigations, the decisions for prosecutions are taken by the prosecutors.

ADV SONI: So they came in as investigators, not as prosecutors.

MR JACOBS: That is correct, Chair.

ADV SONI: But representing the DSO.

MR JACOBS: Ja.

ADV SONI: Okay. All right, then who drew up the minutes of these meetings?

10 MR JACOBS: The minutes were drafted by Advocate Mthunzi Mhaga.

ADV SONI: All the minutes?

MR JACOBS: All the minutes, yes.

ADV SONI: And he is from?

MR JACOBS: He is from the NPA.

ADV SONI: All right.

MR JACOBS: The PCLU.

ADV SONI: Let us now get to the main aspects of the minutes as what you regard as the main aspects of the minutes, if you can tell
20 the Commissioner as to what those are.

MR JACOBS: Yes. Advocate Pikoli opened the meeting and indicated that the establishment of the Committee is derived from those policy guidelines and the cases in possession of the PCLU and SAPS have to be identified and an update on their status is also required. SAPS has to provide investigating officers for all cases

identified for prosecution and the NDPP emphasised the fact that he will decide on each prosecution, and not the Committee. The role of the Committee will be to make recommendations to the NDPP on each case.

ADV SONI: Just if you could just, now if you say the NDPP, are you saying that he is the person at the meeting who emphasised this?

MR JACOBS: That is correct, Chair.

ADV SONI: And the Committee he is talking about the Task Team or the TRC Committee.

10 MR JACOBS: That is correct.

ADV SONI: Yes?

MR JACOBS: Then Mr Manzini from the NIA indicated that these cases need to be prioritised and the process needs to be fast-tracked.

ADV SONI: Can I just ask you, when you are talking about 'these cases', what cases?

MR JACOBS: It is the cases that emanated from the TRC process that had been directed to the NPA to deal with.

ADV SONI: Yes.

20 COMMISSIONER GABRIEL: Sorry Mr Soni, can I just confirm something? In the first paragraph it says the SAPS has to provide investigating officers for all cases identified for prosecution, does that concur with your Regulation?

MR JACOBS: That is correct, that is what is in the minutes. Of course the DSO are also members here, so they would have shared

that responsibility.

COMMISSINER GABRIEL: Thank you.

ADV SONI: Yes, Doctor Jacobs?

MR JACOBS: Then Doctor Ramaite indicated that there is a need for a task team of investigators to work on these cases and the NDPP further indicated that Mr Ramaite is the convener and the PCLU will report directly to Mr Ramaite.

ADV SONI: Doctor Ramaite.

MR JACOBS: That is correct. Chairperson, if I...

10 ADV SONI: Sorry. Now that is what is reflected on page, the first page of PCJ3. Now did the main persons from the NPA remain (indistinct)?

MR JACOBS: Chairperson, after the opening remarks the Committee was, the members of the, who have been nominated by departments were asked to stay behind to have a separate meeting and at that meeting, which was very short, Mr Ramaite requested the PCLU and SAPS to compile an audit report of all the cases in their possession and that the investigations will be assisted by the SAPS. Mr Mgidi indicated that the Committee members will not be rubber-stamps to
20 decisions already made by the PCLU and he was supported by Mr Koopedi who said that they are prepared to go through volumes of records. Just for clarification, Mr Mgidi was from the DSO.

ADV SONI: Can I just ask at the top of page 120 there is a reference to principles?

MR JACOBS: Yes.

ADV SONI: Can I ask you to turn to page 171(A) at PCJ2?

MR JACOBS: That is correct, Chair. The principles are referred to as Advocate Vusi Pikoli, the NDPP, Ms Kaliane Pillay from the NPA, Mr Loyiso Jafta from the Presidency, Mr Simelane, Advocate Simelane from the DG of Justice, as well as (indistinct) the DG of NIA.

ADV SONI: Yes. Now one name that is missing from here is Commissioner Selebi.

MR JACOBS: That is correct, Chair.

10 ADV SONI: Was he, he obviously was not present.

MR JACOBS: Chair, he was not present, but I tendered an apology for his absence, yes.

ADV SONI: Yes, and this was at the meeting.

MR JACOBS: That is correct, Chair.

ADV SONI: It is not reflected in the minutes.

MR JACOBS: No, it is not reflected.

ADV SONI: All right, now that in your view fairly sums up what happened at the first meeting of the TRC Committee.

MR JACOBS: That is correct.

20 ADV SONI: All right. Can we then, and then in your paragraph 29 to 31 you described what happened at the second meeting. Now when did the second meeting take place?

MR JACOBS: Chairperson, the second meeting in the minutes is on page 7201 and that is PCJ4, it took place on the 25th of October 2006.

ADV SONI: All right. Now if I can just make the point, it looks like there was a smaller attendance of this meeting, there were nine people at this meeting.

MR JACOBS: That is correct, Chair.

ADV SONI: All right, who were the nine people at this meeting?

MR JACOBS: Doctor Ramaite, I think it is Advocate Ackerman, Mr Jacobs, Brian Koopedi, Yvonne Mabule, Marilyn Raswiswi, Nhlanhla Ngidi, Josias Lekalakala and Mthunzi Mhaga.

10 ADV SONI: All right, can I then ask you to then, the minutes are, appear to be convened in the, divided into three paragraphs. Do you see that?

MR JACOBS: That is correct.

ADV SONI: All right, and the first paragraph there is recorded that Advocate Ackerman presented an audit report of all the cases in the possession of the PCLU.

MR JACOBS: That is correct.

ADV SONI: And then there is a commentary on what that audit report indicates. Doctor Jacobs, I am just asking you, is that correct?

MR JACOBS: Yes.

20 ADV SONI: Because I want to deal with this matter in a slightly different way.

MR JACOBS: That is correct.

ADV SONI: All right, the second paragraph deals with a report you make. Now can I just ask, the report that Advocate Ackerman made, is that annexed to your minutes?

MR JACOBS: That is correct, Chair, it is the ... (intervenes)

ADV SONI: No, no, just answer the questions, please Mr Jacobs. It is going to take all day. Is it reflected, is it annexed to your affidavit?

MR JACOBS: Yes, sir.

ADV SONI: All right, I am going to come back to it, that is why I want to, I would rather control the process. Now in regard to paragraph 2, that is the audit report you present, did you present a report?

MR JACOBS: Yes Chair, I did, not in writing.

ADV SONI: So it was not in writing.

10 MR JACOBS: No.

ADV SONI: Okay, and so obviously there is no report.

MR JACOBS: That is correct.

ADV SONI: Okay. Now what is said about the report that you presented in the minutes?

MR JACOBS: Well, it is said that I indicated that I was not hands on in these TRC cases and that one Hennie Brits, who has since retired from the SAPS, has better knowledge, as he dealt with these cases and I also indicated that I will seek the services of Mr Brits to compile a detailed report and Doctor Ramaite then remarked that the
20 prosecutorial decision of all these matters rests with the ... (intervenes)

ADV SONI: Let us finish paragraph 2 first.

MR JACOBS: Yes.

ADV SONI: He was given until the 6th of November, who is 'he'? It must be a reference to yourself.

MR JACOBS: Myself, that is correct, yes.

ADV SONI: That is why I want you to read, to listen to my questions so that... Doctor Jacobs, can I just make a point? There are minutes here, you were at the meeting, the Commissioners and the rest of the people here were not at the meeting, so it is for you to try and explain to everybody what happened at the meeting and it is only you who can do that, so that is why I am taking it painstakingly. All right, so you were to provide a Committee with this report.

MR JACOBS: That is correct.

10 ADV SONI: Then what does the third paragraph deal with?

MR JACOBS: The third paragraph reads that Mr Ramaite remarked that the prosecutorial decisions in all these matters rest with the NDPP, assisted by other agencies and that the PCLU has to guide the Committee on all these cases. It was then agreed that the Committee will meet on 6 November and the venue will be announced.

ADV SONI: Now with regard to Doctor Ramaite's observation that the prosecutorial decisions rest with the NDPP, as I understand it he was echoing what Advocate Pikoli had said in the first meeting.

20 MR JACOBS: That is correct, Chair.

ADV SONI: Now let us go to the document that you referred to, that is PCJ5.

MR JACOBS: That is correct, Chair, that is the ... (intervenes)

ADV SONI: It is the audit report presented by Advocate Ackerman.

MR JACOBS: That is correct, Chair.

ADV SONI: Now in the commentary under the first line it is said that the report consisted of three categories of cases, but when one looks at the report you will see, and that report appears at page, starts at page 1723.

MR JACOBS: Correct.

ADV SONI: You would see though it starts with the historical background relating to the TRC cases.

MR JACOBS: That is correct.

ADV SONI: Now is that the background that Advocate Ackerman
10 talks to at the meeting?

MR JACOBS: That is correct, Chair.

ADV SONI: I would just like you to look at paragraphs 1.14 on page 1724 and then go on to page, paragraph 1.19. You tell the Commissioners what is said in that report.

MR JACOBS: Chairperson, it was decided that Advocate Ackerman would take over the cases dealt by Fick and MacAdam would take over the DSO cases and then the PCLU conducted an audit of all the cases in both offices.

ADV SONI: Sorry can I, are you familiar with what these two offices
20 are?

MR JACOBS: Yes Chair, the offices are referred to on the previous page where it is said in paragraph 1.2:

"The team was divided into two groups, one focusing on offences committed by Security Force members, and the other group on offences committed by the Liberation

Movements and the Right Wing.”

ADV SONI: Okay, so the group that the, the matters that Mr Ackerman or Advocate Ackerman was dealing with fell into which group?

MR JACOBS: Well, as I understand under the second group, the Liberation Movements.

ADV SONI: Okay, and Mr MacAdam?

MR JACOBS: Then of course the other group, that relates to the Security Force members.

10 ADV SONI: Yes, okay. Now it was said that the PCLU conducted an audit of all the cases, then in paragraph 1.15 reference is made to the number of dockets, so can you place that on record?

MR JACOBS: Yes Chair, the auditing process was in respect of the police, it was done by the police officer at Fick's office at the DPP and it was 395 police dockets.

ADV SONI: Okay, and these relate to the Liberation Movements.

MR JACOBS: That is correct, Chair.

ADV SONI: Okay, and then 1.16?

20 MR JACOBS: During 2003 and 2004 Advocate Ackerman declined to prosecute in plus minus 80 of the abovementioned cases.

ADV SONI: Right, and 1.17?

MR JACOBS: Plus minus 50 cases from the DSO were finalised by MacAdam and Ackerman.

ADV SONI: Now can I just ask, were any details of these cases given or were just those numbers given?

MR JACOBS: Basically the numbers were given, Chair.

ADV SONI: Then paragraph 1.18 on the following page?

MR JACOBS: The audit process further identified a small number of cases warranting prosecution, which are dealt with hereunder.

ADV SONI: And that is in the rest of the report, I take it hereunder would be the rest of the report.

MR JACOBS: That is correct, Chair.

ADV SONI: Okay, and 1.19?

MR JACOBS:

10 "The 395 police dockets which were in the possession of Nel and Brits, those were the two SAPS members assisting in the process, were returned to SAPS and the NDPP informed Commissioner Tim Williams that these dockets were police property and that the NPA has no interest in them, except if such desired prosecutions, in which case they could be resubmitted for these purposes.

20 The then Director General of Justice, Mr Pikoli and other high ranking officials were present during this discussion between the NDPP and Williams took place. As of the date of this no such dockets have been resubmitted or have been submitted to the NPA for decision."

ADV SONI: Okay, so this is now Advocate Ackerman indicating what had happened to those 295 dockets.

MR JACOBS: That is correct, Chair. They were handed over in 2004 to the SAPS.

ADV SONI: Were you present at that handing over?

MR JACOBS: No, I was not present.

ADV SONI: Okay, all right. Then if you look at page 1725 under paragraph 2 there is a heading called, which sets out the cases that were finalised in court and four cases are referred to.

MR JACOBS: That is correct.

ADV SONI: Right, so this is again Advocate Ackerman's report
10 saying these were the matters that were dealt with, that had been finalised.

MR JACOBS: That is correct.

ADV SONI: Then in paragraph 3 if you look towards the end of that page he deals with the matters that were closed by the PCLU and you will see it goes from 3.1 to 3.26, I think it is, on 3.25 on page 1729.

MR JACOBS: That is correct.

ADV SONI: And those cases indicate the persons whose cases it was, like for example the Timol matter is the first one.

20 MR JACOBS: That is correct.

ADV SONI: Then at 3.26, what does the report say? It is at page 1729.

MR JACOBS: Plus minus 80 cases against members of the Liberation Movements, Ackerman, all these cases were investigated by SAPS and were all closed.

ADV SONI: So that is a further report he is making. I take it, it is in regard to the 395 cases.

MR JACOBS: That is correct, Chair.

ADV SONI: I want to come back to this where we deal with the next annexure, because as I understand it at this meeting it was said that Advocate Ackerman must provide more details in regard to these cases.

MR JACOBS: That is correct, Chair.

10 ADV SONI: And they are being replicated with more details in the next report that he presents.

MR JACOBS: That is right.

ADV SONI: Would I be correct?

MR JACOBS: That is correct.

ADV SONI: And then in paragraph 4 after that Advocate Ackerman refers to potential prosecutions that were identified by the PCLU and he identified the total of 22 cases, if you look at 4.1 to 4.22.

MR JACOBS: That is correct, Chair.

ADV SONI: Right. Now again I ask, were any details about these matters given?

20 MR JACOBS: No, Chair, it was not a detailed rundown.

ADV SONI: Now let us get back to the PCJ4, paragraph 1 and if you could just read what is said about what is contained in annexure PCJ5, 1731.

MR JACOBS: So it says Advocate Ackerman presented an audit report of all cases in possession of the PCLU.

ADV SONI: Would you indicate what is said in the minutes in regard to PCJ5?

MR JACOBS: Is it the second paragraph that you are referring to?

ADV SONI: The first paragraph.

MR JACOBS: The first one.

ADV SONI: These were ... (intervenes)

MR JACOBS: The three categories?

ADV SONI: Yes.

MR JACOBS:

10 "There were three categories of cases dealt with by the PCLU; cases that were finalised in court, matters closed by the PCLU in the form of representations from relatives of victims and victims themselves, as well as matters pending which have been identified by PCLU for prosecution."

ADV SONI: If you could just hold on for a moment, is this what Mr Ackerman says during the course of the ... (intervenes)

COMMISSIONER GABRIEL: What page?

ADV SONI: 1721.

20 COMMISSIONER GABRIEL: 1721?

ADV SONI: That is correct.

CHAIRPERSON: 1721?

ADV SONI: 1721, PCJ4.

CHAIRPERSON: Page 1721?

ADV SONI: Yes. I am just asking in relation to these matters about

the representations being made by relatives of victims and victims themselves, was this what Advocate Ackerman presented at that meeting?

MR JACOBS: That is correct, Chairperson.

ADV SONI: Because it does not appear in the report itself.

MR JACOBS: No, there is no mention in the report about the ... (intervenes)

ADV SONI: So but if the meetings correctly reflected what happened this is what Mr Ackerman would have said in that meeting.

10 MR JACOBS: Correct.

ADV SONI: All right, and then carry on then.

MR JACOBS: In some cases members requested full reports on how the matters was disposed of, for example Ms Mabule requested the PCLU must show consistency in their report by giving a detailed report on all cases. It was agreed that matters that have been finalised in court cannot be entertained in the Committee.

ADV SONI: All right, so it is as a result of that issue that members wanted more details relating to, as I understand it, the cases that were closed that Mr Ackerman presented the second audit report.

20 MR JACOBS: That is correct, Chair.

ADV SONI: All right, we will come to that in a moment. And that he did at the next meeting of the TRC Committee, is that correct?

MR JACOBS: That is correct, Chair.

ADV SONI: Now that next meeting takes place on which day?

MR JACOBS: The meeting took place on the 6th of November 2026.

ADV SONI: Right and are there minutes of that meeting?

MR JACOBS: The minutes is on page 1735, PCJ6.

ADV SONI: It is annexure PCJ6.

MR JACOBS: Correct.

ADV SONI: And do the minutes reflect who was present at this meeting?

MR JACOBS: Present were Advocate Ackerman, Commissioner Jacobs, Brian Koopedi, Yvonne Mabule, Marlyn Raswiswi Nhlanhla Ngidi, Josias Lekalakala and Mthunzi Mhaga.

10 ADV SONI: Yes. Now in the second paragraph of the minutes the point is made that Mr Ackerman deals with the revised audit report.

MR JACOBS: That is correct.

ADV SONI: Is the audit report annexed to your affidavit?

MR JACOBS: That is correct, Chair, page 1737, PCJ7.

ADV SONI: Okay. Can we deal with that quite quickly, the audit report?

MR JACOBS: Yes.

20 ADV SONI: Now remember, and this is just so that persons not familiar with this matter would understand what the relation between this report is and the report that was presented at the previous meeting.

MR JACOBS: Chair, a lot of the information are the same, although there is more information given.

ADV SONI: We will get to that in a moment.

MR JACOBS: Yes.

ADV SONI: But I am just saying is it correct that part of what was contained in the earlier report is repeated in this, but in more detail?

MR JACOBS: That is correct, Chair.

ADV SONI: Now you will recall that in the meeting or in PCJ5, according to the minutes and according to that there were three categories of cases that Advocate Ackerman had dealt with.

MR JACOBS: That is correct.

ADV SONI: Those cases had been finalised in court, those cases that had been closed and those cases that were still going to be
10 taken to court, those three categories.

MR JACOBS: Correct, Chair.

ADV SONI: Now PCJ7 addresses which category of cases? So if you look at PCJ7 at page 1737 you will see there under paragraph 2 TRC cases closed.

MR JACOBS: That is correct, Chair.

ADV SONI: It addresses the cases that were closed.

MR JACOBS: Correct, Chair.

ADV SONI: Can I ask you to go back then to PCJ5? You will see that at page 1725 at paragraph 3, which you have already been
20 through, there is a heading matters closed by the PCLU.

MR JACOBS: That is correct.

ADV SONI: And you will remember I said to you there were about 25 cases.

MR JACOBS: That is correct.

ADV SONI: In that category.

MR JACOBS: Yes.

ADV SONI: Can I then ask you to go back? Oh sorry, can I also just ask you which is the first case on page 1725 in relation to cases that are closed?

MR JACOBS: Chairperson, the first one is paragraph 3.1, the death and detention of Ahmed Timol.

ADV SONI: Okay, and how many subparagraphs does that have?

MR JACOBS: It has three subparagraphs, Chair.

ADV SONI: Okay. Can I ask you, and I am sorry to do this to you,
10 can you go to PCJ7? Under paragraph 2 you will see that it is, the first case is again the death and detention of Mr Timol, and how many subparagraphs?

MR JACOBS: There is an additional, it is four subparagraphs.

ADV SONI: The one that is more interesting though at the moment is if you look at the next case in paragraph, on page 126, which appears on 126, that is 3.2 in PCJ5 and that deals with the death and detention of Steve Biko.

MR JACOBS: There is no subparagraphs there, Chair.

ADV SONI: It is just one sentence, am I correct?

20 MR JACOBS: That is correct, Chair.

ADV SONI: Now if you look at page 1738, paragraph 2.2, that 2 deals with the death and detention of Steve Biko.

MR JACOBS: Correct.

ADV SONI: How many subparagraphs does this have?

MR JACOBS: Seven subparagraphs.

ADV SONI: So effectively when the members complained the previous meeting about lack of details, Mr Ackerman remedied that by providing the further details. Is that a fair summary?

MR JACOBS: Yes.

ADV SONI: And that appears in respect of each of the matters that is there.

MR JACOBS: Correct, Chair.

ADV SONI: You have looked at the matters that are dealt with under matters closed in PCJ5 and you have looked at what is contained in
10 PCJ6. Are all the matters contained in PCJ5 also repeated in PCJ6?

MR JACOBS: That is correct, Chair.

COMMISSIONER GABRIEL: You mean in PCJ7.

ADV SONI: I am sorry, PCJ7. Thank you, Commissioner. Now there is just one other matter that I would like to refer to, it is the case at PCJ7 marked 2.27 which appears at page 1742(C). Commissioners, those were added last night, we did not have it until consultation with Doctor Jacobs yesterday. They have now been added to you through your file and that is why it has a C being added after 1742 of the original document. Now this refers to the case of Mr Blani. How did
20 that come about?

CHAIRPERSON: On what page are you?

ADV SONI: Oh sorry Chairperson, page 1742(C). If I said 1743 I am mistaken.

CHAIRPERSON: Yes.

ADV SONI: It is 1742, sorry Chairperson.

CHAIRPERSON: It is 1742.

ADV SONI: 42 (C).

CHAIRPERSON: And it is on the number reflecting on that page 9.

ADV SONI: That is so, Chairperson. I apologise.

CHAIRPERSON: Yes?

MR JACOBS: Chairperson, Mr Blani was out of the country when other persons involved in this crime was prosecuted and eventually when he returned there was a decision to prosecute on the Eastern Cape.

10 ADV SONI: All right, and that was added to this list.

MR JACOBS: That is correct.

ADV SONI: Right. Then can I also then ask you if you went back to PCJ7 you will see that ... (intervenes)

CHAIRPERSON: Give us page numbers, it is easier for us.

ADV SONI: Yes, 1742(B), Chairperson. It is the page just before that. That page, case number 2.23, do you have that, Mr Jacobs?

MR JACOBS: Yes, Chair.

ADV SONI: What case is referred to there?

20 MR JACOBS: Chairperson, the leadership of the ANC, 37 applied for amnesty and this amnesty was refused and the TRC found that the ... (intervenes)

ADV SONI: Just read what is contained in Mr Ackerman's affidavit. I mean, the report.

MR JACOBS:

"The TRC refused amnesty into the President and plus

minus 37 other high ranking ANC members, certain of whom held ministerial positions or other key positions in government. The TRC found that they have not disclosed that they had committed specified offences.

There was no evidence implicating them in criminal offences and the trial was closed. The NDPP (indistinct) made a media statement to this effect, as the DA was making an issue of the matter.”

ADV SONI: So we now know that this issue was addressed by
10 Mr Ackerman in this report.

MR JACOBS: That is correct, Chair.

ADV SONI: Can I ask you then to turn to page 1729? And that is the first audit report of Mr Ackerman, the one which was said to not have the details. If you look at page, if you look at the case referred to in 3.2.3, what does that say in regard to the amnesty application made by the ANC?

MR JACOBS: No evidence that specific crimes had been committed which attracted personal criminal liability could be found, consequently the case was closed.

20 ADV SONI: Okay, so the details now contained in the second report also indicates that the public had been informed about this.

MR JACOBS: That is correct.

ADV SONI: Chairperson, I see it is 11:00. I wonder whether you want to take the adjournment.

CHAIRPERSON: Yes, let us take a tea adjournment and reconvene

at 11:15.

ADV SONI: As you please, Chairperson.

INQUIRY ADJOURNS

INQUIRY RESUMES

COMMISSIONER KGOMO: Mr Soni, we know that you are skipping dates of the meetings. Dates are important.

ADV SONI: I entirely agree and I apologise.

COMMISSIONER KGOMO: Okay.

10 ADV SONI: Dr Jacobs can I go back to PCJ6. Now, this is the minutes of the meeting, the third meeting held on the 6 November 2006.

COMMISSIONER GABRIEL: Page 1735.

ADV SONI: 1735. Now, we have dealt with, in the second paragraph of the minutes, it says, "Advocate Ackerman dealt with the revised audit reports". We have been through most of his report. But you will see here, after it says the report, it says, "Which incorporated certain things". Can you just read that into the record?

MR JACOBS: Is this on here?

ADV SONI: Okay. Have you got 1735?

20 MR JACOBS: Yes, that is right.

ADV SONI: The first few words says, "Advocate Ackerman dealt with the revised audit report".

MR JACOBS: Ja.

ADV SONI: Then it goes on to say, "Which incorporated" something. What did it incorporate according to these minutes?

MR JACOBS: Yes, sir. Chairperson it incorporated complaints or concerns that Advocate Ackerman had regarding the appointment to obtain the services of Senior Superintendent Brits.

ADV SONI: Yes. Okay. Now, he dealt with that in his report, am I correct?

MR JACOBS: That is correct, Chair.

ADV SONI: And where would we find it in his report?

MR JACOBS: The concerns Chairperson is on page 1742D.

ADV SONI: Right, and that is page 10 of the report.

10 MR JACOBS: That is right.

ADV SONI: Of the audit report.

MR JACOBS: That is correct.

ADV SONI: Right. Now, in essence, what were Advocate Ackerman's concerns about Superintendent Brits ?

MR JACOBS: Chairperson, the concern was:

20 "That he was a former member of the security branch of the SAP. And prior to the PCLU being involved with the TRC cases, he assisted the DPP Pretoria with cases involving the liberation movement. Former Police Commissioner van der Merwe had formed an organisation entitled the Foundation for Equality Before the Law, which was intended to ensure no further prosecutions of security branch members would take place."

And Advocate Ackerman stated:

"When I and my staff were appointed to take over the TRC cases in the DPP office, we gained the firm impression that Brits was not only very sympathetic towards this organisation, but had regular contact with General van der Merwe. In particular, Brits tried to persuade me and my deputy on numerous occasions that there was a provable case of terrorism against President Mbeki. This was raised in the context that there were security branch members to be prosecuted, the President would also have to be charged. It was clear that he was against prosecutions of security branch members. Despite his claims, he could never produce a docket implicating the President. At one stage, he informed me that the docket was with General van der Merwe and his legal advisor. This raises a serious question as how an official police docket could be retained by General van der Merwe, who was not entitled to possess police material after his retirement from SAPS."

20 ADV SONI: Okay. And on the next page, he elaborates on his concerns.

MR JACOBS: That is correct Chair.

ADV SONI: Right. Now, we will come back to it because this issue about the complaints and the way they were dealt with is raised in the next meeting as well.

MR JACOBS: That is correct, Chair.

ADV SONI: We will come back to it at that point. But we know as a fact that in this report, Advocate Ackerman had complained about the appointment of Mr Brits. And you did respond to it. We will deal with that fully in a little while. Can I then ask you is that that you two at this meeting, this is the meeting of the 6 November, you also presented a report?

MR JACOBS: That is correct, Chair.

10 ADV SONI: Now, you remember at the previous meeting, you had presented a report and you said, as you understood it, it was an oral report.

MR JACOBS: That is correct, Chair.

ADV SONI: Now, on this occasion, was it an oral or written report?

MR JACOBS: It was a written report, Chair.

ADV SONI: And is that report annexed to your affidavit?

MR JACOBS: Yes, Chair. Page 1743, Annexure PCJ8.

ADV SONI: Now, that report is said to be a report on ordered document of South African Police Service TRC-related matters.

MR JACOBS: That is correct.

20 ADV SONI: Did you compile this report?

MR JACOBS: That is correct, Chair.

ADV SONI: Right. Now, I do not want to go through the whole report, but the first, sorry, you make the point that this has been produced as a result of this request from the committee.

MR JACOBS: That is correct, Chair.

ADV SONI: And then in 2.1, you deal with a particular case and that comes up again in relation to the change of date in the document that Mr Ackerman had drawn.

MR JACOBS: That is correct, Chair.

ADV SONI: Let us just deal with that case. That is Messina CR57-11-85 MZ Ncube and two others.

MR JACOBS: That is correct, Chair.

ADV SONI: Now, where did you get that?

MR JACOBS: Chairperson, I was given a copy of the decisions that
10 Advocate Ackerman has made. A copy of all the documents that was in a bundle referring to the decisions on the particular cases that he dealt with.

ADV SONI: You were given a bundle of documents?

MR JACOBS: That is correct.

ADV SONI: By whom?

MR JACOBS: By Senior Superintendent Louis Bester, who was in custody of those documents.

ADV SONI: In whose custody the documents were?

MR JACOBS: That is correct.

20 ADV SONI: Yes. And when were you given this bundle?

MR JACOBS: It was just after the opening meeting that we had when I started to work on this process.

ADV SONI: Okay.

MR JACOBS: I interacted with Senior Superintendent Louis Bester about the way forward on how we will do an audit of the police cases.

ADV SONI: So, can I just ask in relation to that, were you given the dockets themselves?

MR JACOBS: No, Chairperson. I was given the decisions that were made.

ADV SONI: So, these are the decisions made by Mr Ackerman.

MR JACOBS: That is correct.

ADV SONI: In relation to each of these cases?

MR JACOBS: That is correct.

10 ADV SONI: Right. And about how many cases were dealt with in that bundle?

MR JACOBS: The bundle contained 73 decisions that were made.

ADV SONI: By Mr Ackerman?

MR JACOBS: That is correct.

ADV SONI: And you dealt with what is to happen in respect to each of those matters?

MR JACOBS: That is correct.

ADV SONI: Right. Now, in this report, you deal with, if you look at, it starts at 2.1 and you go down and it comes to 2.7 at page 1747. Am I right?

20 MR JACOBS: That is correct.

ADV SONI: So, you have chosen, of those 73, you have chosen seven cases?

MR JACOBS: That is correct.

ADV SONI: All right. Let us just deal with the first one because that is the more important one. And can you just say what is contained in

your report? Because it has importance not only for what is contained in your report, but for what happens in regard to the document where the date was changed.

MR JACOBS: Correct.

ADV SONI: Okay would you read that into the report, please?

MR JACOBS: Chairperson the case related to landmine explosions which took place in Messina and in the [indistinct] area. And the death of two police officials. In his report on the matter Advocate Ackerman indicated that:

10 "The ANC had approved the use of landmines and orders in this regard were given by the command structure of Mkhonto we Sizwe to members. (Amnesty judgements of those involved. According to the evidence, those mentioned were under the command of Manchek, who gave orders and who had to report to MK commanders. All the other ANC members, foot soldiers, who were involved in these crimes are deceased.

20 Advocate Ackerman made the following decision in respect of the so-called foot soldiers, no further investigation is necessary. In respect of the ANC leadership who gave orders for the landmines campaign and who have not received amnesty, a decision need to be taken at an opportune time after consulting with all relevant parties. This is a difficult

decision."

ADV SONI: Sorry, can I just stop you there? You start off right at the beginning and those words are quotes.

MR JACOBS: That is correct.

ADV SONI: Is that correct?

MR JACOBS: That is correct.

ADV SONI: Then you close quotes.

MR JACOBS: That is correct.

ADV SONI: And then what comes after the quotes are closed?

10 MR JACOBS: Chairperson, the date of the document, which was 26 June 2006:

"Ten the PCLU has indicated that the NPA has already decided that no prosecution of cases against ANC NEC members will be instituted. The decision is required on how outstanding inquests of deceased in these matters should be disposed of."

ADV SONI: I just want to ask you, the part that is in quotes, that part is in English.

MR JACOBS: That is correct, Chair.

20 ADV SONI: Was Mr Ackerman's document in English?

MR JACOBS: Chairperson, we were dealing in English with the matters in the ITT and I had only, all the decisions that were made, the 73, were in Afrikaans. So for purposes of the meeting, I translated it.

ADV SONI: Okay, so this is your translation of what Mr Ackerman's

decision was in relation to this particular matter.

MR JACOBS: That is correct, yes.

ADV SONI: Now, you then say right at the end, in the last sentence:

"A decision is required on how outstanding inquests of
deceased in these matters should be disposed of."

Now, of the 73 matters, you include seven matters in your
report. Is that correct?

MR JACOBS: That is correct.

ADV SONI: Why those seven matters?

10 MR JACOBS: Chairperson, in the decisions by Advocate Ackerman,
in most of them there were indications that attention should be given
to the inquests in those matters. And I mean that the NPA is stating,
as we discussed previously, that the documents were returned, that
the SAPS were returned by the NPA because they are finished with
it. But we thought that these inquests need to be dealt with,
especially relating to the families which are involved.

ADV SONI: So the purpose of your including it in your report was to
get some guidance on the inquests that were to be held.

MR JACOBS: That is correct.

20 ADV SONI: Or whether they should be held.

MR JACOBS: That is correct.

ADV SONI: So that is the case of Ncube and in respect of each of
the matters, you will see if you look at the second case, that is the
Rapolo case, you say at the end of your commentary on the case:

"Advocate Ackerman indicated on 11 August 2003 that

an inquest must be held. According to our information,
the inquest is still outstanding."

MR JACOBS: That is correct.

ADV SONI: If you look at 2.3 and at the end of that is a similar observation made in your report that a recommendation is made that an inquest be held.

MR JACOBS: That is correct. And the specific names that appear there comes from the report of Advocate Ackerman.

ADV SONI: Okay. And that is in relation to most of these matters.

10 The one that appears to be different is the one marked 2.7 on page 1747. This is the case of [indistinct].

MR JACOBS: That is correct.

ADV SONI: Now there, as I understand it, nobody was killed.

MR JACOBS: Yes.

ADV SONI: So what I want to know is why was this included in your report?

MR JACOBS: Chairperson, I am not sure but at the end of that paragraph as well we said that"

20 "We assume that this is covered by the decision of the NPA on the ANC leadership."

ADV SONI: I see. Okay. And then in paragraph three you deal with the issue that Advocate Ackerman had raised about having Mr Brits as part of the team.

MR JACOBS: Ja.

ADV SONI: Am I correct? And what did you say about that?

MR JACOBS: I just pointed out that:

10 "In respect of the objections of Advocate Ackerman, in respect of Mr Brits, it was said at the meeting that we needed to contact him in order to explain the list as he was the person who dealt with the cases. It was never said or implied that he would be appointed as an investigator. He worked closely with Advocate Ackerman who requested the SAPS from time to time to reappoint him. He also compiled lists of the cases and drafted the key to the huge volume of the documentation."

ADV SONI: Yes. Now, before we go on to paragraph four, this is the apology in regard to you. You were saying earlier that after the first meeting, sorry, at the first meeting you had apologised for Commissioner Selebi's absence and this is now recorded in this meeting.

MR JACOBS: That is correct in the report yes.

ADV SONI: I am sorry, in your report.

MR JACOBS: That is correct.

20 ADV SONI: But I just want to get back to paragraph three where you say in the second line, "It was said at the meeting". Are you talking about the previous meeting of the TRC Committee?

MR JACOBS: That is correct.

ADV SONI: So that is the meeting you are referring to.

MR JACOBS: That is correct.

ADV SONI: Now, let us go on with regard to, sorry, is there anything else in your minutes that you would like to bring to the, I mean your report that you would like to bring to the attention of the Commissioners?

MR JACOBS: Chairperson, I can just point out that in respect of each one of these cases where the ANC leadership was involved, we referenced the decision that has already been taken by the NPA regarding the prosecution of those ANC 37 members.

10 ADV SONI: Is that also referred to in Advocate Ackerman's recommendation?

MR JACOBS: That is right. Of course, Advocate Ackerman's recommendation did not contain the decision that was made in 2004.

ADV SONI: By the PCLU or by the NDPP then?

MR JACOBS: That is correct.

ADV SONI: Advocate Ncube.

MR JACOBS: That is correct.

ADV SONI: Okay. Now, let us go back to PCJ6 and it is then said that:

20 "Brian suggested that Advocate Ackerman should proceed in the identified matters reflected in the PCLU's first report."

What was that a reference to?

MR JACOBS: That was a reference to the cases that has been identified to be followed up.

ADV SONI: These are the 22 cases.

MR JACOBS: Ja.

ADV SONI: That need to be prosecuted.

MR JACOBS: That is correct, yes.

ADV SONI: And then it says:

"During his presentation."

Whose presentation is that?

MR JACOBS: I take it that it is Advocate Ackerman's presentation?

ADV SONI: Yes, and what was, I am trying to understand. We were not there and I am trying to ask you to explain to the Commissioners
10 what is meant by that. What happened at that meeting?

MR JACOBS:

"During his presentation, several recommendations were made, except for a few matters which were held in abeyance, pending further information. I must mention, however, that for purposes of these minutes, I deem it fit not to give such detailed recommendations as a full progress report is still to be compiled on all these matters."

ADV SONI: Now, that comment is from whom or would appear to be
20 from whom?

MR JACOBS: It appeared to be from Advocate Ackerman. Or it might even be the person who kept the minutes in terms of what must be minute by minuted.

CHAIRPERSON: Yes, is it not Advocate Ackerman?

MR JACOBS: Excuse me?

CHAIRPERSON: Is that comment not from the person who prepared the minutes, that is Advocate Mhaga?

MR JACOBS: That is correct. I think you are correct, yes. Thank you.

ADV SONI: And then in the last paragraph on that page, what is said there?

MR JACOBS:

10 "It is, however, worth mentioning that when Advocate Ackerman informed the meeting that the decision to prosecute has already been made by the NDPP on the Reverend Chikane case, Josias."

That is Major General Lekalakala:

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

ADV SONI: Yes, and then go on.

20 MR JACOBS:

"According to Advocate Ackerman, the complainant, Reverend, 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 a feedback on his attitude."

ADV SONI: The Chikane matter appears to have been discussed.

COMMISSIONER KGOMO: Just before you, there is something in handwritten. What is it and whose handwriting is that?

MR JACOBS: Commissioner, that is my handwriting and I wrote there:

"Ackerman also informed that the NPA discussed the matter with Reverend Chikane."

COMMISSIONER KGOMO: Okay, thank you.

10 MR JACOBS: So I think the decision then is that he should again be approached.

COMMISSIONER KGOMO: Yes. Thank you Mr Soni.

ADV SONI: Thank you, Commissioner. Now, the Chikane matter, it is a pity it is called the Chikane matter because he was a victim.

MR JACOBS: That is correct.

ADV SONI: It should actually be either the Van der Merwe matter because he was the one who was prosecuted or the Otto matter, he was the one who was first charged.

MR JACOBS: Correct.

ADV SONI: But this matter comes up at the meeting quite often.

20 MR JACOBS: That is correct.

ADV SONI: Now, there is then a next meeting of the task team and this takes place on the 16 November.

MR JACOBS: That is correct. On page 1750, PCJ 9.

ADV SONI: Right. Now, who attended this meeting?

MR JACOBS: This meeting was attended by Dr Ramaite, Advocate

Ackerman, Advocate Chris Macadam, myself, Yvonne Mabule, Marlyn Rasiswe, Nhlanhla Ngidi and Mthunzi Mhaga.

ADV SONI: Okay. Now, there seem to have been certain formal matches that were discussed. I would like you to go to paragraph four, beginning with, "Advocate Ackerman raised a concern".

MR JACOBS: Okay.

10 "Advocate Ackerman raised a concern over the impression created by the revised audit report from SAPS that he had indicate his intentions of exploring the possibility of prosecuting the President and 37 ANC leaders. He contends that it was SAPS through Brits who had persuaded [indistinct] the PCLU to prosecute the President as there was enough evidence on the case. He said that SAPS was the driving force behind such prosecution and Advocate Macadam produced a letter he wrote to Brits, Superintendent Brits in which he indicated that no sufficient evidence exists to institute such prosecution. He asked Commissioner Jacobs if he agrees with the contention."

20 ADV SONI: Yes. Now, the next paragraph records Dr Ramaite's approach to Advocate Ackerman's raising this. What does Dr Ramaite say?

MR JACOBS:

"Doctor Ramaite inquired from Advocate Ackerman on the relevance of the complaint but also said he

understood his frustration. He however called upon any agency intending to have an input on the matter to come forward with such."

ADV SONI: Yes. Now, let us just get back. Oh, sorry. And then you should just go to the next one. It answers the question that I wanted to ask.

MR JACOBS:

10 "Advocate Ackerman wanted to know from Commissioner Jacobs who compiled the report and why was it necessary to include cases that had been finalised and request inquest on such matters."

ADV SONI: All right. Now, what was your response to that?

MR JACOBS: I indicated that, I compiled the report and requested guidance from the meeting and how to deal with outstanding inquests. He said, as myself said:

"That we had six inquests. Some had been finalised and others not at all, and that all were TRC matters."

ADV SONI: Okay. And then Advocate Ackerman?

MR JACOBS:

20 "Macadam Ackerman clarified the position relating to the case against the President and the 37 ANC leaders."

ADV SONI: And did he, when he clarified, what was he doing?

MR JACOBS: He was pointing out again the decision that was made. And as I have said, that decision has been reflected in all the

matters that we have raised in terms of inquests as well.

ADV SONI: Now, Advocate Ackerman then.

MR JACOBS:

"Indicated that he was really not happy with the SAPS report. And Dr Ramaite asked if a reconciled report of SAPS and PCLU had been compiled to consolidate all TRC cases for investigation."

ADV SONI: Before you go on with that, it is quite clear that your report had irked Advocate Ackerman. What is your response to his
10 being unhappy about the contents of your report?

MR JACOBS: Well, Chair, I think the fact is that this matter has actually been addressed in our report. It is made very clear that we understand the position that that decision had been made.

ADV SONI: So let us not talk about that decision. We are dealing with a sensitive matter. What decision is that?

MR JACOBS: It is a decision about the ANC 37 that was taken in 2004 by the NDPP, not to prosecute them.

ADV SONI: And you say that you have included it in your report.

MR JACOBS: That is correct.

20 ADV SONI: And so what is your response now in regard to Advocate Ackerman's complaint?

MR JACOBS: Well, I think there are two things. One is the complaint about the decision that is reflected there. And otherwise also maybe the Brits' involvement in it. But regarding Brits, I can just say that we did not make use of his services as a result of the

objection made by Advocate Ackerman.

ADV SONI: As regards Brits, as I understood what you said previously, the idea was not to get him involved in investigations, but just to compile that list.

MR JACOBS: That is correct, Chair, because Louis Bester was placed in custody of these documents. But he did not have first-hand knowledge about the investigations and things with which Brits had been busy for a very long time.

ADV SONI: And Brits had been busy with whom?

10 MR JACOBS: He first worked with Advocate Fick and later with Advocate Ackerman as well.

ADV SONI: Okay. What was your reason for then approaching Brits?

MR JACOBS: My reason was that there is a lot of dockets, there is a lot of these documents, and there needed to be some explanation. Because if you look at the bundle of decisions that we have already referred to, A one to A 73. You will see that there are cases which sort of overlap and you know, you need someone to explain some of the matters in the document.

20 ADV SONI: And that is what you wanted?

MR JACOBS: That is correct.

ADV SONI: That is the purpose Brits would serve, according to you?

MR JACOBS: That is correct.

ADV SONI: And did you explain that at the meeting?

MR JACOBS: Well, as I have said there that I did not want to have

him appointed as an investigator, but only to assist us in dealing with the matters.

ADV SONI: Let us get back to page 1751. This is still the meeting of the 11th or the 16th of November. We, at the top of page 1751, Dr Ramaite asks about the reconciled report. What was going to be contained in that report?

MR JACOBS: It seems to be that it was a report that we agree with between the two parts, between the NPA and the SAPS.

ADV SONI: But what was going to be contained in it?

10 MR JACOBS: A list of cases that need to be addressed.

ADV SONI: But it was not in regard to closed cases or cases that had already been disposed of?

MR JACOBS: No, because it said here, "For investigation".

ADV SONI: So these are the 22 and any other cases that have been referred to in Advocates Ackerman's first report?

MR JACOBS: That is correct.

ADV SONI: And then, what agreement was reached in regard to that revised report?

20 MR JACOBS: We agreed that there will be a meeting between myself and Advocate Mhaga, which meeting took place on the 22nd of November 2006.

ADV SONI: Okay. Now, was a report produced?

MR JACOBS: Yes, there was not in the form of a report, but in terms of a list of cases that Advocate Mhaga brought to me and that we discussed.

ADV SONI: Okay. So that issue was addressed and that list is included somewhere in the annexes?

MR JACOBS: Yes, Chair. I have written a report to General De Beer, who was the head of detective service in charge of detectives countrywide. And in that... (intervenes)

ADV SONI: We will come to that.

MR JACOBS: Okay.

ADV SONI: So, in regard to that issue that was raised, a list was compiled by yourself and Mr Mhaga.

10 MR JACOBS: That is correct, Chair.

ADV SONI: Now, Dr Ramaite is obviously concerned and set a time frame for this in the next paragraph.

MR JACOBS: Ja.

ADV SONI: If you look at the third paragraph on page 1751.

MR JACOBS:

"Dr Ramaite asked the task team to agree on the time frame for final recommendations, as we only had interim recommendations pertaining to some cases."

20 ADV SONI: Right. And then, a concern was raised about security matters. What was that?

MR JACOBS: That was Yvonne Mabule she was from NIA.

"Raised a concern on identifying matters to utilise NIA on security aspects, but agreed that on completion of investigations and receipt of representations from perpetrators, such could be dealt with depending on the

circumstances of the cases."

ADV SONI: And then, in response, it seems Advocate Ackermann said something.

MR JACOBS: Ja.

ADV SONI: What did he say?

MR JACOBS:

"Advocate Ackermann suggested that NIA provides the PCLU with any information they might have on these cases from a security point of view."

10 ADV SONI: Yes.

MR JACOBS: And then, Mr Mthunzi was requested... (intervenes)

ADV SONI: Who was Mthunzi?

MR JACOBS: Mthunzi Mhaga from the PCLU, who was the drafter of the minutes:

"Was requested to compile a draft progress report on the task team to be submitted to the NDPP and other principals. Advocate Macadam was then excused."

ADV SONI: Ja.

20 MR JACOBS: And I think, Chair, what was important as well is that the paragraph that says:

"That it was agreed that the task team has indeed made progress as there were already cases identified for investigations and interim recommendations made on some cases."

ADV SONI: And when you say it was agreed, was that the general

consensus?

MR JACOBS: Consensus, yes, Chair.

ADV SONI: Now, can we then deal with the next meeting? And that is the meeting that is held on the 4th of December 2006, although the minutes are reflected in PCJ 10, am I correct?

MR JACOBS: That is correct, Chair, on page 1752.

ADV SONI: All right. Now, it says here that the meeting was held on the 4th of December 2007 and it is corrected in hand to reflect 2006.

10 MR JACOBS: Yes, Chair, I made that correction because it was clearly wrong.

ADV SONI: Okay, but it was held in 2006.

MR JACOBS: That is correct, yes, 2006.

ADV SONI: And who was present at this meeting?

MR JACOBS: Dr Ramaite, Advocate Ackerman, Jacobs, Josias Josias Lekalakala, Irene Freeman, standing in for Mr Ngidi of the DSO, Marilyn Rasiswe, Mthunzi Mhaga, and then there is some apologies that have been noted.

ADV SONI: Now, in regard to this meeting, can you tell the Commissioners what matters you regard as having been significant?

20 MR JACOBS: I think that there is paragraph 4.5:

"Commissioner Jacobs informed members that he has sent a letter to Commissioner De Beer and that the list of all investigators will be ready soon."

ADV SONI: Sorry, now that list is the list you were talking about a little while ago where Dr Ramaite had said, "That there must be a list

of cases".

MR JACOBS: That is correct, and those were the list of cases that I received and that we discussed between myself and Mr Mhaga.

ADV SONI: All right okay, and that list we will deal with when you deal with the matter or the document you sent to Commissioner De Beer.

MR JACOBS: That is correct.

ADV SONI: Then... (intervenes)

MR JACOBS:

10 "Chris Macadam indicated that we need to adopt a wait and see approach as all perpetrators will probably make representations in anticipation of prosecution upon completion of the investigations."

ADV SONI: Now, what was understood by that, this wait and see approach?

MR JACOBS: Chairperson, I think that there is two consultations that could take place with the victims, but it seemed to me that from the NPA side they also foreseen that they will also have to look at the representations made by the perpetrators. Which of course, I think if
20 one look at the Chikane matter, there was also a representation, I think, that was made by General van der Merwe and [indistinct]. O, sometimes there are some representations that need to be made.

ADV SONI: Now, those representations would have been made in terms of the new policy.

MR JACOBS: That is correct.

ADV SONI: All right. Can we then go to the next meeting, and that is the fifth meeting. When does that take place, Commissioner ag... (intervenes)

MR JACOBS: The fifth meeting was on the 29th of January 2007, page 1753, PCJ 11.

ADV SONI: Okay. And who was present at this meeting?

MR JACOBS: Present were Advocate Ackermann, Mthunzi Mhaga, Nhlanhla Ngidi, Jacobs, Brian Koopedi, Yvonne Mabule, Marilyn Rasiswe and Josias Lekalakala.

10 ADV SONI: Yes. Now, one of the matters that arose in the previous meeting was Reverend Chikane's attitude towards the prosecution of the perpetrators.

MR JACOBS: That is correct.

ADV SONI: Now, he addresses that, or what he says is addressed in paragraph three of the minutes. Can you reflect, okay, can you place that on record?

MR JACOBS:

"Commissioner Jacobs indicated that he was made to understand..." (intervenes)

20 ADV SONI: No, from the start. Paragraph three.

MR JACOBS:

"Advocate Ackermann requested members for their inputs with a view to finalise the draft report to be 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 this case. Therefore, he needs to be consulted and the matter needs to be discussed with their principals before making recommendations."

ADV SONI: May I just ask you, you say here you were given to understand, you were made to understand that Reverend Chikane was not... Who communicated that to you?

MR JACOBS: The National Commissioner.

10 ADV SONI: Okay. And then, what happens, what is Advocate Ackermann's response?

MR JACOBS:

"Advocate Ackermann reminded the meeting that the National Director has made his decision on the matter. Yvonne."

That is Yvonne Mabule:

"From NIA concurred with Commissioner Jacobs on the Reverend Chikane matter. Mr Ngidi however, had no objection to the National Director's decision on the
20 Reverend Chikane matter."

ADV SONI: And Mr Ngidi is from where?

MR JACOBS: From the DSO, Chair.

ADV SONI: And then, you deal with the Highgate hotel attack matter. What do you say about it?

MR JACOBS: Chair, there was a request for the docket in this

regard and the docket was obtained. I read through the docket and the docket was then handed over to Advocate Mthunzi Mhaga, which is a separate docket.

ADV SONI: Well, let us deal with the minutes first.

MR JACOBS: Ja.

ADV SONI: What is said in the minutes?

MR JACOBS:

10 "Commissioner Jacobs informed the meeting that he has gone through the docket on the Highgate hotel attack and is of the view that no further investigations are necessary. It was agreed that PCLU would have to look at the docket."

ADV SONI: Right. Now, we will come to that docket in a moment, but what is the relevance of the Highgate hotel matter in regard to TRC matters?

MR JACOBS: In the Highgate hotel attack, it was suspected that the attack was carried out by one of the movements and then there were allegations.

ADV SONI: One of the movements, what is that?

20 MR JACOBS: Ja, that is the PAC, APLA.

ADV SONI: So you mean Liberation Movement?

MR JACOBS: That is right.

ADV SONI: Yes.

MR JACOBS: So the allegations were that it was APLA which performed the attack, but there were also then information in the

docket that alleges that it was security force members which actually performed the act. And this specific inquest was finalised last year in December. Was not only finalised.

ADV SONI: Okay. Now, you were talking about your request to General De Beer to provide investigators.

MR JACOBS: That is correct.

ADV SONI: And you then report on that issue to the meeting. What was your report?

MR JACOBS: I informed the meeting that I am waiting for feedback
10 from provincial commissioners on the appointment of investigators. Some had responded and provided me with a list of the investigators and they also requested a list of the SAPS dockets in possession of the PCLU.

ADV SONI: So that is you. You asked the PCLU to return the SAPS dockets.

MR JACOBS: No, not to return, but to give us a list. Because if I can mention, for example, the Highgate matter, they asked for the docket and we obtained the docket. But it would also be good for us to have a copy of all the dockets which are in possession of the
20 PCLU if not to go into a search of dockets that might be with them.

ADV SONI: I see. So this was just saying we too would like a copy of the documents we sent you.

MR JACOBS: That is correct.

ADV SONI: Okay. Now, can I then look at the next meeting of the TRC committee? And that is reflected at page 1753. PCJ11. That is

the minutes of the meeting.

MR JACOBS: That is correct.

ADV SONI: And when was that meeting held?

MR JACOBS: 29 January 2007.

ADV SONI: All right. Now, what of relevance happened at this meeting?

MR JACOBS: Chair, I think I have referred to all these matters already.

ADV SONI: Oh, sorry.

10 COMMISSIONER KGOMO: Mr Soni, you have gone back.

ADV SONI: I am sorry.

COMMISSIONER KGOMO: I thought we must progress.

ADV SONI: Yes, no, we must Commissioner. Now, you will recall that earlier this morning you indicated that you had made your affidavit in response to allegations made in the Calata affidavit.

MR JACOBS: That is correct.

ADV SONI: Can I ask you to please go back to paragraph four of your affidavit? And if I can ask you to look at page 1699 in which you set out paragraphs 229 to 232 and then on the following page, 233 to

20 235 of Mr Calata's affidavit.

MR JACOBS: That is correct.

ADV SONI: And I want to deal with all of those matters. Can I ask you to please look at the matters raised at paragraph 229? In particular, the paragraph or the sentence that starts, "According to Macadam".

MR JACOBS: Yes.

ADV SONI: You see that?

MR JACOBS:

"Macadam noted in his affidavit that..."... (intervenes)

ADV SONI: No, no, no, just read what is there. According to, what does Mr Calata say?

CHAIRPERSON: It is the fourth line.

MR JACOBS: Thank you.

CHAIRPERSON: The fourth line.

10 MR JACOBS:

"According to Macadam, the NBA representatives on the ITT were Ackermann and Ramaite. Macadam noted in his affidavit that on occasions when he stood in for Ackermann at meetings of the ITT that the task team was predominantly comprised of members of the intelligence community who were more intent on cross-examining me as to why matters should be investigated rather than addressing the issue of all outstanding cases."

20 ADV SONI: All right. Can I ask you, you have been through the minutes and you have indicated on several occasions who was present. On how many occasions was Mr Macadam present?

MR JACOBS: Mr Macadam was present on two occasions. In the one set of minutes, his name is not mentioned under the persons who attended, but from the minutes itself you can see that he did

attend the meeting.

ADV SONI: Okay, which meetings did he attend?

MR JACOBS: He attended the one, the minutes was filed as PCJ-9. That was on the 16th of November and PCJ-10 on the 4th of December. And as I have said, we have read out who were present and who not. And so he actually was only involved in two of those meetings. And if one would look at the representatives, you will see that in one meeting there was one member of the intelligence... (intervenes)

10 ADV SONI: Which meeting was that?

MR JACOBS: The, Chair, I will have to check. But it was only, in one meeting it was only one person from SAPS that was mentioned and the other one it was only Yvonne Mabule who was present.

ADV SONI: This is from the intelligence services?

MR JACOBS: That is right.

ADV SONI: All right. So what did you say about that allegation that Mr Calata [indistinct]... (intervenes)

MR JACOBS: The allegation is certainly inconsistent with the minutes, Chair, as it is clear, that in none of the meetings, even the
20 ones that were not attended by Advocate Macadam, was the majority or the predominantly comprised of members of the intelligence community.

ADV SONI: All right. Now the other matter that I would like to take you to in relation to Mr Calata's affidavit is the matter at paragraph 234 of his affidavit which is at page 1700. Now, could you read the

allegation as set out in the Calata affidavit at page 234?

MR JACOBS:

"According to Ackerman, on 6 December 2006, the PCLU received a letter from the head of SAPS Legal Support Section, Major General Jacobs, representing the view of the National Commissioner, which bluntly stated that before any prosecutorial decision could be made in respect of the TRC cases, the task team must submit a final recommendation to a committee of directors general in respect of each case, which in turn must advise the NDPP who to prosecute or not."

ADV SONI: Now, was there any communication between you and a member of the PCLU or the PCLU itself during December 2006?

MR JACOBS: That is correct, Chair. Regarding this allegation, I can refer to a series of e-mails attached as PCJ12. Only one is relevant.

ADV SONI: Well, let us just get to page PCL12.

COMMISSIONER GABRIEL: Page?

ADV SONI: Page 1754.

COMMISSIONER GABRIEL: Thank you.

20 ADV SONI: Now, PCJ12 and, sorry, page 1754 and 1755 reflect that there were e-mail exchanges between you and Mr Mahapa.

MR JACOBS: That is correct.

ADV SONI: That is correct. When does it start, if you look at page 1755?

MR JACOBS: Chairperson, it starts on the 6th of December 2006 at

11... (intervenes)

ADV SONI: If you look at page 1755, there is an e-mail on the 1st of December.

MR JACOBS: Yes, that is right, Chair. That was the draft progress report that was sent by Advocate Mhaga.

ADV SONI: Right. And then the next one is on the 6th of December.

MR JACOBS: That is correct.

ADV SONI: All right. And what time is that e-mail?

MR JACOBS: That is at 11:33, Chair.

10 ADV SONI: All right. Now, there is another e-mail from you to Mr Mhaga which is at 4:44pm. That is in the middle of the page, is that correct?

MR JACOBS: That is correct.

ADV SONI: Does that have anything to do with what is reflected in the Calata affidavit?

MR JACOBS: Chair, no.

ADV SONI: All right. So, let us look at the one then at 11:33. Do you read that, please?

MR JACOBS:

20 "As I have said, I am waiting to brief the National Commissioner on the draft report. I will revert to you once I have spoken to him. Provisionally, I wish to indicate that from such side we are still not happy with how the Chikane matter is reflected. There was a definite decision that the Reverend Chikane must be

consulted again, that his wishes need to be reflected, that the issue be reported to our principals, and they must make a recommendation to the NDPP on the matter. Kindly rectify this in your report. Regarding the high-debt docket, we will obtain the docket from the Director McLaren and let you know when it is available."

ADV SONI: So, that is what you say in regard to the prosecution in the Chikane matter?

10 MR JACOBS: That is correct.

ADV SONI: And your e-mail refers only to the Chikane matter?

MR JACOBS: That is correct.

ADV SONI: Now, if you look at the allegation in the Calata's affidavit, it says that, "The allegation is that you talked about TRC cases in general". Now, can I ask you just in general to respond to the correctness or otherwise of the allegation in 234?

MR JACOBS: No, the e-mail correspondence refers specifically to the Chikane matter.

20 ADV SONI: And in regard to the allegation that before any prosecutorial decision could be made, the task team must submit a final recommendation to a committee of directors. Is that contained in your e-mail?

MR JACOBS: The specific wording is that:

"Reverend Chikane must be consulted again that his wishes need to be reflected, that the issue to be

reported to our principals and that they must make a recommendation to the NDPP on the matter."

ADV SONI: So, is that allegation in regard to yourself correct?

MR JACOBS: No, that is not correct in the sense of that referring to all cases.

ADV SONI: And it says, "Before any prosecutorial decision is taken".

MR JACOBS: That is correct.

ADV SONI: Then can I ask you to go to annexures PCJ 13, 14 and 15?

10 CHAIRPERSON: Let us pick 1756.

ADV SONI: As you please.

MR JACOBS: Correct.

ADV SONI: Now, these are letters that Commissioner Selebi wrote firstly to the NDPP, then to the Director General of Justice and then to the Director General of the NIA.

MR JACOBS: That is correct.

ADV SONI: And the letters are exactly, the wording of the letters are exactly the same.

MR JACOBS: Basically the same.

20 ADV SONI: Yes. Now, I just want to reflect what the attitude of the National Commissioner of Police was in respect of prosecutions in relation to TRC cases. Can I ask you to read the contents of paragraph PC 13 into the record? You can start off by saying whom the letter is from and to whom it is addressed.

COMMISSIONER KGOMO: I see the date. It is, it is 1757.

ADV SONI: Yes.

MR JACOBS: Commissioner, the date of the letter was on the 6th of February 2007. And it was a letter from the National Commissioner Selebi addressed to Advocate Pikoli, National Director of Public Prosecutions. And then the National Commissioner is stating:

"I have been briefed on the last meeting."

ADV SONI: What is the heading to the letter?

MR JACOBS: Outstanding TRC cases.

10 "I have been briefed on the last meeting of the task
team set up in terms of the Cabinet guidelines on
outstanding Truth and Reconciliation Commission
matters. It was brought to my attention that in S versus
Otto, complainant, Reverend F Chikane, a decision on
prosecution was taken without consultation with the
respective departments. 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 a decision on
prosecution is taken. I am also under the impression
20 that there is no common understanding on the process
to be followed. My understanding was that the officials
designated on the task team by the Directors General
will provide recommendations to the Directors General
and will as a collective advise the National Prosecuting
Authority as the decision maker on the process.

ADV SONI: [Indistinct] prosecution.

MR JACOBS: Sorry.

10 "In my view, a comprehensive report such as the one directed to the NPA dated 24 November 2006 and revised on 29 November 2006 should be discussed by the Directors General. Although I do not insist on a meeting of the DGs after each meeting of our officials, I deem it necessary that the substantive reports and recommendations of the officials should be discussed by the Directors General before a decision is made. I am of the opinion that the Directors General should meet as soon as possible to provide guidance on the procedures to be followed by the officials in the task team. I am also of the opinion that the Chikane matters should be discussed both in terms of the procedures followed and the way forward. You are requested to convene it as soon as possible a meeting with the Directors General in order to discuss the above matters."

20 ADV SONI: Now, do you know if the NDPP, and we know some of the letters were sent to the DGs of NIA and Justice, do you know if the NDPP responded to this?

MR JACOBS: Mr Chairperson, the NDPP responded on the same date as the date of this letter, and that is, a copy of that is on page 1762, PCJ 16.

ADV SONI: Okay. And what is that?

MR JACOBS: The response is that:

"I advise that..."?

ADV SONI: Sorry, sorry, to whom? Is that a letter?

MR JACOBS: That is a letter addressed to the National Commissioner Selebi, "Outstanding TRC cases" is the topic.

10 "Dear Commissioner Selebi, I advise that it is clear that our understanding of the mandate of the task team, as well as the guidelines that Cabinet approved, are not the same. In the circumstances this matter, as well as other issues that have emerged in the course of the NPA dealing with the TRC cases, are currently being taken up with the Minister of Justice and Constitutional Development."

ADV SONI: And do you know what happened in respect of those matters then?

MR JACOBS: Well, after this there was no further meeting call of the ITT. Actually, the meetings came to a standstill.

20 ADV SONI: Okay. So, you might recall you referred to various lists and investigators, and that was in the meeting of the 4th of December, if you recall.

MR JACOBS: That is correct.

ADV SONI: Now, in response to that, what steps did you take? As I understand it, you first wrote to General De Beer.

MR JACOBS: That is correct. I wrote an information note to

Commissioner De Beer. Unfortunately, it is not dated and it is not signed.

ADV SONI: Let us just deal with where we find it first of all.

MR JACOBS: It is on page 1763, PCJ 17J.

ADV SONI: So, it is PCJ 17 to your affidavit.

MR JACOBS: That is correct, yes.

ADV SONI: What do you say in that?

MR JACOBS: The hearing is:

10 "Request to make investigators available to National
Prosecuting Authority outstanding TRC cases. At the
last meeting of the subcommittee appointed to deal
with the outstanding TRC matters in accordance with
Cabinet's approved guidelines, it was recommended
that a number of cases need to be brought to finality in
terms of investigations. The purpose of the
investigation is to enable the relevant committee to
make a recommendation regarding possible
prosecution to the NDPP, in accordance with the said
guidelines. The discussion was held with Advocate
20 Mthunzi Mhaga of the Priority Crimes Litigation Unit,
who is also on the committee, in order to obtain
guidance on where investigators are needed."

And the relevant cases are, and then they are mentioned.

ADV SONI: Can I just ask you now, you then list a number of cases
in paragraph four.

MR JACOBS: That is correct.

ADV SONI: Where did you get that list?

MR JACOBS: That was the list that I got from Advocate Mhaga.

ADV SONI: So, this is the list that Dr Ramaite had asked be compiled.

MR JACOBS: That is correct.

ADV SONI: Now, can you just indicate what is it that is said in regard to the eight cases that are referred to? You can see it is 4.1 to 4.8.

10 MR JACOBS: Yes.

ADV SONI: Now, what details were you given to General De Beers?

MR JACOBS: Well, there is only reference to the cases themselves, and then where investigators are needed. For example, the Cradock four case. The police official from Port Elizabeth, Fanie Els, be appointed, as he is already afraid of the cases.

ADV SONI: Can we just hold on? You referred in 4.1 and 4.2 to the Pepco three and the Cradock four case.

MR JACOBS: Cradock four case.

ADV SONI: You say in both these cases.

20 MR JACOBS: From the Eastern Cape.

ADV SONI: Right. So, you asked for, now where did that request come from?

MR JACOBS: That ... (intervenes)

ADV SONI: That must be from the Eastern Cape.

MR JACOBS: It was also from the list that I received from Mr

Mhaga.

ADV SONI: So, you were communicating the PCLU's request to General De Beers, and he would then take up that request with the relevant persons.

MR JACOBS: That is correct, Chair.

ADV SONI: And in respect of all eight matters that were given to you. So, as I understand it then, when Dr Ramaite says compile a list of matters to be taken forward, you and Mr Mhaga compiled a list of eight cases.

10 MR JACOBS: Ja.

ADV SONI: Those were the cases that were to be taken forward.

MR JACOBS: Ja.

ADV SONI: And then in paragraph five, you indicate to General De Beers what you would want.

MR JACOBS:

20 "It is recommended that detectives in the respective areas be identified, and that the contact particulars be given to Advocate Mhaga in order to make the necessary arrangements for the investigations to proceed."

ADV SONI: Now, if you look at the next page, page 176 file, this is not dated and it is not signed. Why is that?

MR JACOBS: This is from an electronic copy of the document. I do not have the original anymore.

ADV SONI: The question I want to ask then is, did you send the

original?

MR JACOBS: Yes, I did.

ADV SONI: And signed it?

MR JACOBS: Definitely, and it was also reported in the meeting of the, I think the 4th of December, that I have done this.

ADV SONI: Yes okay. Then, let us look at PCJ 18, and it is a document dated the 6th of December 2006, and it comes from you, and it is addressed to the Provincial Commissioners in five different provinces.

10 MR JACOBS: That is correct.

ADV SONI: Now, what was the purpose of this document?

MR JACOBS: Chairperson, although Commissioner De Beers was in charge of the detective service as such nationally, the specific investigators fall under the command of the Provincial Commissioners, so it would just be a courtesy to request those Provincial Commissioners to make investigators available.

ADV SONI: Was he supposed to then send this letter under his signature to each of these Provincial Commissioners?

MR JACOBS: That is correct.

20 ADV SONI: And you then set out the details as requested by the PCLU in this letter as well?

MR JACOBS: That is correct.

ADV SONI: Do you know if Commissioner De Beers had sent this letter?

MR JACOBS: No, this letter was definitely sent, Chair, and it is also

referenced in the last meeting, the 29th January meeting. I informed them that some of the provinces have already responded.

ADV SONI: Now, finally, you referred to an annexure PCJ19, which appears at page 1768.

MR JACOBS: That is correct.

ADV SONI: Now, this relates to the Highgate matter.

MR JACOBS: That is correct, Chair.

ADV SONI: Now, what is the purpose of this letter?

ADV SONI: The purpose of this letter is actually as evidence that
10 the docket has indeed been handed over to the PCLU. So, the contents of the docket is sent out in the document, and we made space for the person who received the document to sign, to acknowledge receipt of the document.

ADV SONI: The letter is written by yourself?

MR JACOBS: That is correct.

ADV SONI: And it is addressed to Dr Ramaite?

MR JACOBS: That is correct.

ADV SONI: And you then say that the Highgate docket is being sent to the PCLU, and you set out what is contained in the docket?

20 MR JACOBS: Yes, Chair. You will see that the date on which it was signed was on the 29th of January 2007. It was the same date as the meeting that we had.

ADV SONI: That you and Mr Mhaga?

MR JACOBS: That the ITT had.

ADV SONI: Oh, sorry.

MR JACOBS: On the 29th of January.

ADV SONI: Yes, yes. So, you handed it to him at the meeting?

MR JACOBS: That is correct, because the docket was also discussed in previous meetings.

ADV SONI: Now, earlier you said that this... Sorry, just two aspects about this. The investigations, as I understand it, had all been done.

MR JACOBS: Chair, according to the docket that I read, as is contained in this letter, or referred to, the allegations that members of, or rogue members of the SAPS had been involved, or security
10 branch, was contained already in the docket. But of course, I cannot say, you know, it might be possible that other investigations should happen. And I think that is the reason why they also asked that the PCLU must look at the docket themselves as well.

ADV SONI: Was any feedback given to you about this docket?

MR JACOBS: No.

ADV SONI: Now, to the best of your knowledge, this inquest was finalised when?

MR JACOBS: It was finalised, according to media reports, in December last year.

20 ADV SONI: That is 2025.

MR JACOBS: Correct.

ADV SONI: Now, in your affidavit, at paragraph 64, in explaining how you conducted yourself, you point out that when you attended the meetings of the TRC Committee, or the Inter-Departmental Task Team, you were doing so in your capacity as a representative of the

Commission.

MR JACOBS: That is correct.

ADV SONI: And is that what you want to place on record? That that is the role you were required to play?

MR JACOBS: Yes, Chairperson. The role was that, also to facilitate the request from the TRC Committee, or the ITT, to the relevant person, which is General De Beer. Because I was not in command of any of the investigators or so. So any request made for investigators to be made available must go through General De Beer.

10 So I was in no decision-making position there. And, of course, I was also subject to instructions of the National Commissioner regarding the attendance of the meetings.

ADV SONI: And did he give you any instructions that you can recall relating to the meeting?

MR JACOBS: No, from time to time we addressed the National Commissioner on these issues. And the issue that really came forward was the issue about the Chikane case that I specific got specific instructions on.

20 ADV SONI: When the minutes of the meetings were given to you, would you share them with the National Commissioner?

MR JACOBS: No, we did not share every minute with the National Commissioner. Many of those were just sort of building up to a position where investigators are needed and need to be appointed.

ADV SONI: And regarding the need for investigators and the requests that were made for you, did you comply with all the requests

that were made to you?

MR JACOBS: Yes, I did.

ADV SONI: All right. Now, you might remember, right at the outset, Dr [indistinct] I indicated that there were three matters that I dealt with, three main matters that I dealt with in your affidavit. We have dealt with two of them now. Firstly, what happened at the TRC Committee meetings. Then your response to the matters raised in the Calata affidavit.

MR JACOBS: That is correct.

10 ADV SONI: And then the third one was the document that contained what was alleged to be a changed date. Do you recall that?

MR JACOBS: It is correct.

ADV SONI: Now, one of the matters that we dealt with when we dealt with your report, remember when you dealt with the Messina matter?

MR JACOBS: That is correct.

ADV SONI: Do you recall that?

MR JACOBS: Ja.

20 ADV SONI: And I asked you at that time, where did you get all those reports from? You said you received a bundle of documents which contained 73 reports or decisions or recommendations made in respect of those cases.

MR JACOBS: That is correct, yes.

ADV SONI: Commissioners in your file, the end of the file, you find a bundle of documents that starts on the top right-hand side at A1, and

the last document in that file is A73. It is, you might remember, the evidence of Advocate Ackerman on the alleged forgery of the date. These are his recommendations to the two, some of them are addressed to Dr Ramaite, and some of them are just past as memorandum.

CHAIRPERSON: Where are at a lost Advocate Soni.

COMMISSIONER GABRIEL: It is A1 at page 1785. Or where are we?

COMMISSIONER GABRIEL: Assuming that is not A1 then it is A4
10 and so forth. Where are we?

ADV SONI: I was assured that... (intervenes)

CHAIRPERSON: Is it... (intervenes)

ADV SONI: In your... (intervenes)

CHAIRPERSON: It is, sorry to interpose, is it written special litigation [indistinct].

ADV SONI: That is the set of documents.

CHAIRPERSON: Are these marked A1 to A74?

ADV SONI: So they are not marked, and we did not want to interfere with the documents, because you will recall when Advocate
20 Ackerman gave evidence, he said he marked each of these A1 to whatever.

CHAIRPERSON: All right.

ADV SONI: We have just put them in the same order as indicated by the numbers, A1 to A74.

CHAIRPERSON: Yes.

COMMISSIONER GABRIEL: Oh, that little A on the top right-hand side.

ADV SONI: On the top right hand.

COMMISSIONER GABRIEL: Okay.

ADV SONI: Now, I just want to introduce this document [indistinct]. Where did you get this document? I know you said it before, but just because we are dealing with it now.

MR JACOBS: Ja.

ADV SONI: Where did you get the set of documents?

10 MR JACOBS: I received a copy of that from Senior Superintendent Louis Bester.

ADV SONI: And as I understood it, you say you received it about or soon after the first meeting of the TRC Committee.

MR JACOBS: That is correct.

ADV SONI: And what was the reason for your acquiring possession of this document?

MR JACOBS: Well, it facilitates the process in terms of to know what is on the table in terms of the dockets that are with the police, and to take the matter further.

20 ADV SONI: So, if I could just look at this set of documents. Each one is titled "Memorandum". Am I correct?

MR JACOBS: That is correct, yes.

ADV SONI: And each one at the end of it contains Advocate Ackerman's name and his signature.

MR JACOBS: That is correct.

ADV SONI: And if you look from around page A17 onwards, the documents are not addressed to Dr Ramaite anymore. They just are described as Memorandum.

MR JACOBS: That is correct.

ADV SONI: So, up to page A16, they are all addressed to Dr Ramaite.

MR JACOBS: Correct.

ADV SONI: Now... (intervenes)

10 ADV VARNEY: Chair, I do not wish to interrupt, but we are struggling to find these documents. We have at the end of the bundle documents beginning with A2. We do not have A1. We do need to follow this evidence. We have not been able to find it. My colleagues have been able to find it. It does not seem that our colleagues have it either.

ADV SONI: May I just make this point? I am not saying that the complaint is invalid. This set of documents was obtained about a month ago, and it was put on the Commission's website. And to the best of my knowledge, certainly a lot of attorneys were informed about the existence of this bundle of documents, and in fact they
20 wrote back asking where we had obtained the documents from.

CHAIRPERSON: Yes.

ADV SONI: Now I can say this with some confidence, that the whole set was made available to them. Whether it is part of this bundle or not might be a different question.

CHAIRPERSON: Yes.

ADV SONI: May I ask, Chairperson, because I do not want there to be a dispute about it. It ought not to take long, because it is a minuted matter. Can I ask for the five minutes stand down so I can just ask my [indistinct] what the position is in regard to these documents?

CHAIRPERSON: Yes. We will stand down for five minutes.

ADV SONI: I apologise for the confusion.

INQUIRY ADJOURNS

INQUIRY RESUMES

10 CHAIRPERSON: Mr Soni?

ADV SONI: Chairperson, it appears that the issue has been resolved.

CHAIRPERSON: Yes.

ADV SONI: All the parties have access to the documents in question. Dr Jacobs, I was just asking you about the documents, and as I said to you that they are all titled memoranda.

MR JACOBS: Correct.

ADV SONI: And they all signed at the end by Advocate Ackerman. Now, I just want to say to you that it is already been raised in the
20 Commission that Advocate Ackerman is of the view that or alleges that the date on a document that formed part of this bundle was changed, and it was not he who made the change. Now, are you aware that that was the allegation that was made?

MR JACOBS: I am aware of that, yes.

ADV SONI: How did you become aware of that?

MR JACOBS: On the 20th of December ag August 2007, Advocate Ackerman phoned me, and he referred to a newspaper report in the Rapport newspaper.

ADV SONI: That is done that Sunday.

MR JACOBS: On the Sunday that appeared on the 19th, and he asked for a copy of the document that was involved. Now, if you look at the Rapport newspaper report it, it talks about this landmine explosions and things. So I had the copies of the documents that I received from Senior Superintendent Bester. And I sourced the
10 document that he was looking for.

ADV SONI: Just give me one second, please. The Rapport article, is it annexed to your documents?

MR JACOBS: It is annexed, Chair. It is also annexed elsewhere in the Commission's documents, but it is on page 1769, PCJ 20.

ADV SONI: Now, what does that article say?

MR JACOBS: The article basically says:

"That the police has done nothing about obtaining evidence for the possible prosecution of the 37 leaders of the ANC, to whom amnesty has not been granted."

20 And then it says that, if I can skip two paragraphs there:

"The dockets relating to these cases were previously removed from safekeeping in the offices of the Director of Public Prosecutions in Pretoria, where Paul Fick, head of the prosecution team of the Boeremag members, was also head of a team that had to further

investigate cases with a view of possible prosecution.

And the National Prosecuting Authority, years back, took the matters away from Fick, and Fick did not react on the newspaper report. Rapport then established that the dockets were given to a team by the National Prosecuting Authority, but nothing much has happened to the investigations. After this, Advocate Ackermann was appointed in June 2003 as head of the unit which will investigate inter alia crimes against the state.

10 Ackermann was also the prosecutor in the Flock van der Merwe trial. Ex-Commissioner Johan van der Merwe on Friday said there is more than enough evidence that the ANC leadership were involved with the landmine explosion in 1995, where a number of members of the Van Eke and De Necker family died.

In June 2004, Sipho Ngwenya said that not one of the ANC leaders under President Mbeki, Mr Jacob Zuma, Commissioner Selebi, Mr Linden [indistinct] previous Commissioner of Correctional Service, and Minister
20 Essop Pahad can be prosecuted because there is not enough evidence to put together a charge sheet. Ngwenya also said that the National Prosecuting Authority do not know who did what and who gave the instructions."

Then it is quite [indistinct].

"If the National Prosecuting Authority did this with the evidence at its disposal, it is just as well that Minister, ex-Minister, President PW Botha or ex-President FW de Klerk must stand trial as a result of occurrences in the apartheid years for whom nobody else has taken responsibility. Mr Van Eke had indicated that he is ready to lay a charge against the ANC leaders who did not receive amnesty for this attack which caused the death of basically the half of his family.

10 The political problems about the prosecutions from the past will be extended if the National Prosecuting Authority will institute proceedings against General Basie Smit, the previous head of the police's detective and security branches. One of the clauses in Flock and van der Merwe's plea agreement forced them to testify in a possible trial of Smit against Smit.

Rapport then understood that Ackermann previously gave written instruction that the police must get more evidence in the investigations into the ANC leaders with the view of a possible prosecution. But the past week
20 the police did not want to say if this has been done or how far it has been processed."

That is basically the context.

ADV SONI: Can I ask you, when Mr Ackermann talked to you, did he refer to a particular document?

MR JACOBS: No, as a matter of fact, in the newspaper report itself, it is just that statement that is made of what Ackermann would have said. There is no reference to a specific document or a specific date on the document.

ADV SONI: No, I am saying, Mr Ackermann phoned you.

MR JACOBS: Ja.

ADV SONI: He wanted a document from you. Did he tell you what document he wanted?

MR JACOBS: I cannot remember whether he said A15 or whatever,
10 but it was clear to me it was this document that he was looking for.

ADV SONI: All right. Then did you send it to him?

MR JACOBS: Yes, I took a copy that I have and I sent it by fax to him. And that... (intervenes)

ADV SONI: Before you go on. Where did you get that document?

MR JACOBS: It was in the bundle that... (intervenes)

ADV SONI: In that bundle.

MR JACOBS: Ja, that I received from the... (intervenes)

ADV SONI: The same bundle that we had.

MR JACOBS: That is correct.

20 ADV SONI: Which document in the bundle is the document that you sent to him?

MR JACOBS: It is A-15 Chair.

ADV SONI: It is about a quarter of the way into that bundle. If you look at A-15 on the top of the document.

MR JACOBS: That is correct.

ADV SONI: That is the one you sent to him.

MR JACOBS: That is correct.

ADV SONI: And you understood that that is the document that he wanted.

MR JACOBS: That is correct.

ADV SONI: You sent it to him.

MR JACOBS: Yes.

ADV SONI: Did he come back and say that it is not the document?

10 MR JACOBS: No, he phoned me and he said, "That the date is not correct on the document".

ADV SONI: Okay. So let us look at the document A-15. How many pages is this?

MR JACOBS: Chairperson, the copy that I have only has two pages. It is the first and the last page. You will see that the last page is number three and the other page is number one. So it is not... There is not a page two in the document.

ADV SONI: That you sent to him.

MR JACOBS: That is correct.

ADV SONI: Now I am asking you in the bundle that you now have.

20 MR JACOBS: Ja. All three pages are in the bundle.

ADV SONI: Yes.

MR JACOBS: I can just speculate that possibly with the faxing of the document, that it was on both pages. I do not know what happened.

ADV SONI: But you faxed the document to him.

MR JACOBS: That is correct.

ADV SONI: Now he says. "He received two-page" that... (intervenes)

MR JACOBS: Well, I think if I remember this evidence, he said that, "He only now found out that there were only two pages".

ADV SONI: Yes.

MR JACOBS: But at that stage there was no complaint that the document is incomplete.

ADV SONI: I am more interested in the original document now.

MR JACOBS: The original document has three pages, yes.

10 ADV SONI: Okay. So is that reflected as A-15 page one, two and three?

MR JACOBS: That is correct.

ADV SONI: Now you will see that this document on the top has a date. What is the date of that document?

MR JACOBS: It is 26th June 2006.

ADV SONI: Right. And what is the document headed?

MR JACOBS: The document is headed.

"Die stap teen Buthelezi [indistinct]."... (intervenes)

ADV SONI: No, no, no. Right at the top.

MR JACOBS: Special Litigation Unit.

20 ADV SONI: Ja.

MR JACOBS: *Spesiale litigasie.*

ADV SONI: Under that is what?

MR JACOBS: Is the date, 26th June 2006.

ADV SONI: And under that?

MR JACOBS: Memorandum.

ADV SONI: Yes. And to whom is it addressed?

MR JACOBS: It is addressed to Dr Silas Ramaite from Advocate Ackerman.

ADV SONI: Right. And it is the State of Ncube, I mean the case of State versus Ncube.

MR JACOBS: That is correct.

ADV SONI: Now you will recall that when you did your report, this is the very case that you referred to.

MR JACOBS: That is correct.

10 ADV SONI: Your audit report.

MR JACOBS: That is correct.

ADV SONI: You remember that. Now can I ask you to look at page three of this document and you recall when you gave evidence on the, in respect of your audit report, you had translated what had been contained in the original document.

MR JACOBS: That is correct.

ADV SONI: Is this the same document that you gave?

MR JACOBS: It is the same document as well.

20 ADV SONI: Now this document, in addition to having the date on the top of the document, has a handwritten date. And what is the date written there?

MR JACOBS: The handwritten date is 26th June 2006.

ADV SONI: Okay. Now, this reflects, as you said previously, that no decision yet had been taken on the leaders, though the foot soldiers had been granted amnesty.

MR JACOBS: That is right.

ADV SONI: And then you pointed out in your audit report that the PCLU had said that there would not be the prosecution of the ANC leadership.

MR JACOBS: That is correct.

ADV SONI: Right. Now that, this, that is not reflected in this document.

MR JACOBS: That is correct because, ja.

ADV SONI: Right. Now, after Dr, after Advocate Ackermann raised
10 this issue of this document, what happened next?

MR JACOBS: He sent a letter asking for the original document to be, to be sent to him.

ADV SONI: And was it sent to him?

MR JACOBS: No, it was not sent. I reported to General De Beer, and you will see on page 1771, ECJ 21, on the fax cover, I wrote:

"Commissioner De Beer, I just received this from
Anton. The files is in Louis Bester's care."

ADV SONI: Yes.

MR JACOBS: And the letter is then attached also that I received
20 from Advocate Ackermann, demanding the original document.

ADV SONI: Let us look at your affidavit. I do not need the details on this. I just want to know what happened next. You deal in paragraph 65 with the fact that Mr. Ackermann phoned you.

MR JACOBS: Ja.

ADV SONI: Then you deal with the fact that you communicated with

Mr Bester.

MR JACOBS: Ja.

ADV SONI: And in paragraph 67 you say you told Commissioner De Beer about this.

MR JACOBS: Yes.

ADV SONI: Now what is the long, what is the short version of what happened next?

MR JACOBS: What happened next is that the next day, the 21st, there was a media release by the MPA to say that the document that
10 the police have faxed to Advocate Ackermann is regarded as a forgery, and it will be investigated. So then we, myself, General De Beer, went to brief the National Commissioner about the issue, and Commissioner De Beer then phoned Louis Bester, asking to bring the file with these documents, all the documents, to his office. And then General De Beer instructed Senior Superintendent Bester to take an affidavit from Brits, because Brits was the person who received these documents from Advocate Ackermann and filed it. So... (intervenes)

ADV SONI: Is Brits' affidavit in an annexure to your document?

20 MR JACOBS: It is also in annexure to the document, yes.

ADV SONI: Where is it?

MR JACOBS: Let me just see. It is on page 1784, ECJ 25.

ADV SONI: In essence, what does it say? You do not have to read the whole thing?

MR JACOBS: No, it basically states that Advocate Ackermann read

through the respective dockets, he made his decision, and he had the decisions typed in his office, and then Brits received these documents to file.

ADV SONI: From Advocate Ackermann?

MR JACOBS: From Advocate Ackermann, yes.

ADV SONI: And they were filed as part of this bundle?

MR JACOBS: That is correct.

ADV SONI: Okay. Now, after you made these inquiries, were there any forensic analyses done?

10 MR JACOBS: Yes, Senior Superintendent Louis Bester took the documents, the instruction of General De Beer to the Forensic Science Laboratory and it was analysed, and a report was made on it and that report is on page 1777, PCJ 24.

ADV SONI: All right. And then if you look at page 1779, at paragraph five, the summary of the report is given.

MR JACOBS: That is correct.

ADV SONI: What does that summary say?

MR JACOBS: Chair, if I can just correct myself, the PCJ 24 on the first page is actually the request for the investigation to be done.

20 ADV SONI: Yes.

MR JACOBS: And of course from the next page is the affidavit, and paragraph 5.1 states:

"That the signature is not a forgery, there are no signs of ink tampering or amendments, the ink that was used to sign the signature and the date was also used for the

correction at the word [indistinct] park."

ADV SONI: In addition to this analysis, sorry by whom was the analysis done?

MR JACOBS: It was done by du Toit, I think it is Superintendent du Toit, Martinus Theunis du Toit, from the Forensic Lab, Senior Superintendent.

ADV SONI: And you say the Forensic Lab is the DPS?

MR JACOBS: Yes, it is the Forensic Services Laboratory of the South African Police Services.

10 ADV SONI: All right. Was this communicated to Mr Ackerman?

MR JACOBS: No, it was not communicated at the time.

ADV SONI: At any time?

MR JACOBS: Not to him. At the later stage, Commissioner De Beer informed Mr Leonard McCarthy of the DSO.

ADV SONI: And in addition to the report relating to, by Mr du Toit, was there another analysis done?

MR JACOBS: Yes, Commissioner De Beer also asked Superintendent Bester to submit the documents to an independent forensic investigator.

20 ADV SONI: Who was that?

MR JACOBS: That is Mr Hattingh, ex-Brigadier Hattingh, he worked for many years at the Forensic Science Laboratory, very well experienced. He then also examined it, but in this case, that whole file with all the signatures were given to him.

ADV SONI: These are the 77 documents?

MR JACOBS: Actually, 72 documents.

ADV SONI!: 72... (intervenes)

MR JACOBS: Ja 72 documents plus then the disputed one, which adds up to 73.

ADV SONI!: All right. And he compiled a report, and that appears at page 1786. Sorry, the report was 1788. If you look at page 1788, that is his affidavit.

MR JACOBS: That is correct.

ADV SONI!: And what does he conclude? His conclusion is at page
10 1789. Can you briefly set out what he says in his conclusion?

MR JACOBS: It is paragraph 4.12.

"The signature on the disputed document was signed
by the person who signed the specimen signatures.
[Indistinct]"... (intervenes)

ADV SONI!: We do not need to go into that, you can go to 4.2.

MR JACOBS: 4.2 [indistinct].

20 "No difference could be detected in the three sheets of
paper by non-destructive examination methods. They
used microscopy, ultraviolet and infrared. The three
pages were stapled a total of six times, and the staple
holes correspond on all three pages, with no additional
or missing holes, which indicates that no pages were
substituted or inserted. The note stapled to page three
was stapled two times, and the staple holes
correspond. Two punch holes occur on each page,

which corresponds on the three pages. On page four on paragraph four on page three, a correction was made where the letter R was added in pen. No other amendments, additions, erasures, or other form of tampering exists on the document. The date reads 26 June 2006, with no alteration to the last figure six. No differences could be found between the links of the inks on the signature. The date and the correction in paragraph four on page three by means of infrared and ultraviolet examination. The note attached to page three did not form part of the original document, as the note is printed by means of an inkjet printer, while the document was printed on a laser printer."

10

ADV SONI: So it would appear that both of these reports say that there was no forgery on the document.

MR JACOBS: That is correct.

ADV SONI: Was there any further issue relating to this allegation of forgery?

ADV SONI: It was just the reporting that we did later on to Mr Leonard McCarthy, because the investigation was a DSO investigation, and Mr McCarthy was the head of the DSO.

20

ADV SONI: When you say it was a DSO investigation, what do you mean?

MR JACOBS: The DSO did the investigation, I think it was mentioned in previous evidence as well that they referred to it as

Project [indistinct].

ADV SONI: Yes.

MR JACOBS: And Louis Bester was asked to produce the original document. General De Beer indicated that he will deal with the matter himself. And then these forensic analysis was done, and at the later stage, General De Beer reported back to Advocate McCarthy on the matter.

ADV SONI: So, did Advocate McCarthy accept the correctness of these reports?

10 MR JACOBS: I cannot really say. I assume he did not query it and he did not ask for another investigation to be done or another analysis to be done.

ADV SONI: And if that had been done, would it have been done through the SAPS?

MR JACOBS: Well, if it was another one, I think it would have been done by someone that the DSO might have preferred to nominate.

ADV SONI: You are not aware of any investigation which suggested that the two reports were incorrect?

MR JACOBS: No.

20 ADV SONI: Now, just in relation to this pile, one of the issues that Mr Ackerman raised when he gave evidence was that he had never written to Dr Ramaite in English. In what language are all these reports?

MR JACOBS: I think you mean Afrikaans.

ADV SONI: In Afrikaans, sorry.

MR JACOBS: These notes are all in Afrikaans, all 73.

ADV SONI: All of the ones?

MR JACOBS: Ja.

ADV SONI: In regard to the document at A15, the one we were dealing with, the one that was sent for analysis. You will see there that that is a document that has a date handwritten.

MR JACOBS: That is correct.

ADV SONI: You have looked at all the other documents. Is there any other document in which the date is handwritten?

10 MR JACOBS: There is another, if I am not incorrect, 19 documents which also bear the date of 26 June 2006, but in all of them... (intervenes)

ADV SONI: No, no, no. Please listen to my question. Is there any other document in this pile where the date is handwritten?

MR JACOBS: No, Chair. Only that one.

ADV SONI: Ja. Now, the document on this, the impugned document or the suspected document, whatever one wants to call it, is dated 26 June. Can I ask you, after that document, if you went one document thereafter, you will see that is also A15. You see that?

20 MR JACOBS: That is correct.

ADV SONI: And what is the date on that document?

MR JACOBS: The date is also 26 June 2006.

ADV SONI: If you entered document thereafter, that is A16, what is the date on that document?

MR JACOBS: 26 June 2006.

ADV SONI: And then the next one is also 26 June 2016.

MR JACOBS: That is correct.

ADV SONI: Now, all the documents from the one at the top, that is A1 to A16, the second A16, what is the date on those documents?

MR JACOBS: Prior to those, or after that?

ADV SONI: No, before.

MR JACOBS: Before.

ADV SONI: Did you not look at them?

MR JACOBS: No, I just need to check Chairperson.

10 ADV SONI: Okay, I am just going to suggest to you, in an effort to save time, that all these documents are dated the 26th of June.

MR JACOBS: Ja, that is correct. I have seen it on the first one, ja.

ADV SONI: Okay. And if you look at A17, you will see the next, the date on that document is the 11th of July.

MR JACOBS: That is correct.

ADV SONI: And then several documents thereafter bear that date. But if you went lower down in that pile, you will see there is a set of documents that is dated the 17th of July, and then documents dated August and September 2003.

20 MR JACOBS: Yes.

ADV SONI: [Indistinct] there are no other documents except the first 16 documents here that have the 2006 dates. Am I correct?

MR JACOBS: That is correct.

ADV SONI: Now, can I get back to your affidavit, because I want to finalise this affidavit and then go on to your supplementary affidavit.

Commissioner, the supplementary affidavit is likely to take about 10 minutes. Is it okay if we continue, or do you want to break for lunch?

CHAIRPERSON: We will continue.

ADV SONI: Excuse me, sorry.

CHAIRPERSON: We will continue.

ADV SONI: Okay. Now, in paragraph 74, in relation to the allegations of playing a role in the stopping of TLC investigations, obviously that is where the police would be involved. You set out your position in regard to that allegation against yourself and the
10 police. What do you say?

MR JACOBS: Well:

"It was never within my capability to instruct anybody to stop any investigation and/or prosecution of any cases related to the TLC or otherwise. I also never had the intention whatsoever to deny any person their rights to access justice as portrayed by the Calata group."

ADV SONI: Now, you indicated much earlier that you had also filed a supplementary affidavit.

MR JACOBS: Correct.

20 ADV SONI: That affidavit, as you indicated, is dated the 25th of March, 2026.

MR JACOBS: That is correct.

ADV SONI: And you have confirmed already what the contents are correct to the best of your knowledge.

MR JACOBS: That is correct.

ADV SONI: Now, how is it that this affidavit came about?

MR JACOBS: The Commission sent a letter with a list of additional documents and evidence that is required and these were the issues that I felt I could assist with. So, there is reference in that letter from the Commission of a letter that was sent by Acting National Commissioner Williams to Mr. Ramaite. The date referred to by the document we received from the Commission refers to a letter that was sent in 2009. However, I was able to locate one letter which is dated a year before that, 2008. So, I am not aware of a letter that
10 was 2009, but I could locate this one of 2008.

ADV SONI: You were able to?

MR JACOBS: That is correct.

ADV SONI: All right. And is that attached to your affidavit?

MR JACOBS: That is correct, Chair.

ADV SONI: It is 1808.

MR JACOBS: It is SA1-1808. It is a letter to Advocate Moswe from Acting National Commissioner Williams.

ADV SONI: What is the date of the letter? If you look at the next page, you will see it.

20 MR JACOBS: The date of the letter is 2008 03 - 07, 7 March 2008.

ADV SONI: All right. What does it say?

MR JACOBS: The topic is:

"Inter-departmental task team dealing with post-DRC matters. The representative of the SAPS received an invitation for a meeting of the above-mentioned task

team scheduled for 13 March 2008. As you know, there have been correspondence."

ADV SONI: Before you go on, you will recall that when we finished with the minutes of the last meeting that we were talking about, that was in January 2007.

MR JACOBS: That is correct.

ADV SONI: Now, this meeting is scheduled for the 13th of March 2008, more than a year late.

MR JACOBS: That is correct, Chair.

10 ADV SONI: In between, the task team has not met. According to this meeting.

MR JACOBS: That is correct.

ADV SONI: All right. Yes.

MR JACOBS:

20 "The representative of the SAPSs received an invitation for a meeting of the task team for 13 March 2008. As you know, there have been correspondence between the National Commissioner and the National Director of Public Prosecutions about the interpretation of the role and functions of the task team, vis-à-vis the Director General of the departments represented in it. Advocate Pikoli agreed that there is a difference of opinion on the matter and undertook to take the matter up with the Minister of Justice and Constitutional Development. A copy of the letter is attached for your convenience, to

date, no feedback has been received and the matter remains unresolved. Until such time that the matter has been cleared up, I am of the view that the committee cannot function meaningfully. Please inform me as soon as possible of how you see the role of the Directors General of the departments involved in the task team and until such time that the matter is resolved, I have instructed the representatives of the South African Police Service not to attend meetings of the task team."

10

ADV SONI: All right. Now, that is the instruction given to you. Can I ask, to the best of your knowledge, and I know you are now part of the task team because it seems the SAPS has withdrawn from the task team. But I take it you would still communicate with different role players. To your knowledge, did any further meetings take place?

MR JACOBS: I am not aware of any further meetings.

ADV SONI: All right. Then, at paragraph 10 of your affidavit, you refer to an information note that was prepared. That is SA2 to your supplementary affidavit.

20

MR JACOBS: That is right.

ADV SONI: Who prepared that note?

MR JACOBS: I prepared that information note.

ADV SONI: In what circumstances?

MR JACOBS: Page number is 1811 SA2. It is an information note to

the Minister of Safety and Security and it followed a renewed interaction between Advocate Macadam and the NPA about going further with these matters and also to inform the Minister and all involved of the outcome of the case that was about the constitutionality of the prosecution guidelines. That case, the judgment was given in 2008, early 2008.

ADV SONI: 2008.

MR JACOBS: Ja.

ADV SONI: Yes.

10 MR JACOBS: But then Advocate Macadam approached us and you will see in the information note I also referred to the fact that Mr Pete Hitcher from NIA indicated that they will assist with these matters. I specifically pointed out what the court found and the court found that:

20 "Crimes are not investigated by victims. It is the responsibility of the police and prosecution authority to ensure that cases are properly investigated and prosecuted. Victims of crimes rely only on these institutions for investigation and prosecution. The essence of the complaints is that the policy amendments allow the first respondent not to prosecute even in circumstances where there is a prima facie case."

So that was basically the gist and there was no indication in the information note that the SAPS would not assist with this. It was just to inform the Minister of the developments and the approach

from the NPA side. And the information note was prepared by myself and for signature of Divisional Commissioner Lalla who at that stage was the Divisional Commissioner for Detective Service and then also for the Acting National Commissioner.

ADV SONI: Yes. Now in regard to the task team at paragraph three you say that during the [indistinct] Commission a statement had been reached.

MR JACOBS: That is correct.

10 ADV SONI: And as I understand it, it is never been sort of unravelled the [indistinct].

MR JACOBS: That is correct and I think it is also supported by the letter from Commissioner Williams to Advocate Moshe that we have dealt with just now.

ADV SONI: Okay. Now, you retired in 2017.

MR JACOBS: That is correct, yes.

ADV SONI: Between the time of these letters and your retirement, did you play any further role in TRC matters?

MR JACOBS: Not [indistinct].

ADV SONI: That is the evidence we wish to lead through Jacobs.

20 CHAIRPERSON: Thank you, Mr Soni, for that evidence. Ms Moroka any clarificatory questions?

ADV MOROKA: No clarifications Chair.

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

ADV GWALA: We do not have clarification questions.

CHAIRPERSON: Mr Masuku, any clarificatory questions?

ADV MASUKU: Chair and Commissioners, no clarification questions.

CHAIRPERSON: Yes. Ms Rantho?

ADV RANTHO: Thank you, Commissioners, no clarification from our side.

CHAIRPERSON: Mr Varney.

ADV VARNEY: Chair, we will make application to cross-examine Dr Jacobs.

CHAIRPERSON: Yes. Thank you.

10 ADV MOROKA: Chair, I am sorry. some of us are old, but instructed by juniors what to ask and what not to ask.

CHAIRPERSON: Yes.

ADV MOROKA: I have been asked to ask one question.

COMMISSIONER KGOMO: Not instructed, advised.

ADV MOROKA: I beg your pardon?

COMMISSIONER KGOMO: Not instructed by your junior, advised.

ADV MOROKA: Sometimes we do not agree with the Commissioner.

CHAIRPERSON: Yes, what are the instructions, Ms. Moroka?

20 ADV MOROKA: Thank you, Chair. The instruction is, can I find out from you, Doctor, what was your understanding, notwithstanding the difficulties and the differences that may have existed between the parties, what was your understanding of the role of the IT team or the task team vis-à-vis the role of the prosecutors in the NPA?

MR JACOBS: Yes. Chair, firstly, regarding the NPA, I think the view has been expressed everywhere that the National Director of Public

Prosecutions is the final decision-maker on prosecutions. The role of the people involved there, myself included, was to facilitate the process of investigations. And that is why Major General Lekalakala from Crime Intelligence was also involved, and from my side, who lies in with the detective service.

So, once matters are being identified for further investigation and/or prosecution, that interaction had to take place. But I think what Mr. Pikoli has well said is that you can be advised by the committee. Of course, I do not think that means that they can
10 overtake his powers as the National Director. But in short, that is how I see the role. And when it comes to the NIA, of course, there might be some security concerns, where, like I said, Ackerman invited them to raise some of those issues if it is necessary.

ADV MOROKA: So, the terms of reference indicate that it is an inquiry in respect of alleged interference by whosoever. Are you of the view or do you understand the role of the task team to be interference? With the powers of the NPA?

MR JACOBS: No, not at all. And if I can add, if you look at the issue of the dispute between the National Commissioner and Advocate
20 Pikoli, I did point out in my affidavit as well that there were some previous meetings before I started being involved with this process. It is in paragraphs 221 to 228 of the Calata, of the documents from the Commission side. And I did not attend any one of those, so there might be from the DG side, there might have been expectations on how they would proceed with this process that I might not have been

aware of.

ADV MOROKA: Thank you, Chair.

CHAIRPERSON: Thank you, Ms. Moroka. Ms De Vos, she was here. I see she is no longer here. Mr Soni or Ms Rikhotso.

ADV RIKHOTSO: Thank you, Chair, but my SC has already indicated.

CHAIRPERSON: Oh, thank you. Thank you, Mr. Masuku. Mr Soni.

ADV SONI: There is no re-examination.

CHAIRPERSON: Thank you. Dr Jacobs, we wish to thank you for
10 having upheld yourself to give evidence before this Commission.
You may be recalled to be cross-examined in respect of the aspect
you have given in your evidence-in-Chief. But for now, you are
excused as a witness.

MR JACOBS: Thank you chair.

CHAIRPERSON: These proceedings are adjourned until tomorrow
at 10:00.

INQUIRY ADJOURNS UNTIL 15 APRIL 2026

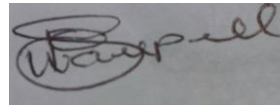
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TRANSCRIBER'S NOTE:

- *Where no information provided, names transcribed phonetically.*
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