COMMISSION OF ENQUIRY INTO ALLEGATIONS OF POLICE INEFFICIENCY IN KHAYELITSHA AND BREAKDOWN IN RELATIONS BETWEEN THE COMMUNITY AND POLICE IN KHAYELITSHA

DATE: 4 FEBRUARY 2014

ON RESUMPTION ON 4 FEBRUARY 2014 (at 09:15)

PATRICK NJOZELA: (Sworn States)

COMMISSIONER: Ms Mayosi?

EXAMINATION BY MS MAYOSI: Thank you madam chair. In the cross-examination questions which the organisations had directed at Mr Patrick Njozela I was advised by my leader, Advocate Hathorn, that he had a discussion with Advocate Osborn last week sometime relating to the questions which we posed about specific complaints. Mr Njozela I am told didn’t have this I could not respond to the specific complaints last week and I am instructed to advise the commission that we reserve our rights to address questions to docs by means of interrogatories in relation to those specific complaints and I will not ask those questions here today.

COMMISSIONER: That’s fine, I will remind you that the extent of your rights is somewhat limited because you have to persuade the Commission that we should pass them on, which you may be able to do, but I’m just reminding you that that’s the system.
MS MAYOSI: Thank you madam Chair. Mr Njozela yesterday you spoke and you do talk about this in your statement, you spoke about the change in relationship between SAPS and DOCS which occurred in 2010, is that right?

MR NJOZELA: That's correct.

MS MAYOSI: And my question to you how has this change in relationship affected DOCS, Province's ability to carry out its oversight and monitoring functions?

MR NJOZELA: That has drastically changed how we will effectively conduct the investigation and monitoring for that matter, and I think without referring to the specific cases that we dealt with yesterday, one does get the sense that the quality in a way is sort of compromised, and if I can also add we do have our service delivery improvement plans where we will say that we want to finish a matter within 90 days but when you refer that goes beyond your control and then if I can just cite one example through Madam Commissioner if you look at our reference numbers without actually going to the specific cases, our reference number will indicate when a matter was registered, so it's going to have the first six numbers, that's your date, that is the month and you get 2012 which is the year in which the matter was once registered. If it's 2011 that shows that the matter was registered in 2011, so if you track it and then you might find out that the current status there are matters that are still pending, whereas they were registered in
2012 and then it's way beyond our service delivery improvement plan, it's way beyond our time frames.

**MS MAYOSI:** Why are those matters still pending, what are the reasons?

**MR NJOZELA:** It is because it is not within our domain, because it is the matter that has been referred to SAPS.

**MS MAYOSI:** Back to SAPS, alright. You told the Commissioner yesterday that you operate like a post box since 2010, do you remember?

**MR NJOZELA:** That's correct.

**MS MAYOSI:** And you said that since you - since the department received the instruction that you no longer, since the department received the instruction in 2010 that you no longer conduct spontaneous visits to police stations for example and you refer complaints about SAPS members back to SAPS, is that right?

**MR NJOZELA:** That's correct, but Dr Lawrence, our HOD, will elaborate on that.

**MS MAYOSI:** Now given that in your statement you say that one of the aims of the PCC is to improve the levels of service delivery in policing agencies, is it fair to say that this new post 2010 arrangement does limit or hamper the PCC's ability to perform that function?

**MR NJOZELA:** It does, that's correct.

**MS MAYOSI:** Why does DOCS accept this arrangement, given
the importance of your monitoring and oversight function?

**MR NJOZELA:** As I have indicated that question will be addressed by our HOD, fair enough to indicate that if we were to deal with these complaints you will be in a way, be in a position to eliminate those few individuals that don't necessarily confirm or who contravene the SAPS regulations, so if you are consistent with that obviously you will enhance service delivery because you will end up getting less complaints, and then getting more disciplined members of the SAPS.

**MS MAYOSI:** The complainant organisations contains that there has been a breakdown in trust between the community of Khayelitsha and the police. If you look at the evidence that has been led thus far community witness after community witness talks to the question it states that they don't trust the police, they're lost confidence in the police. Do you agree that there is evidence of a serious breakdown in trust between the community of Khayelitsha and SAPS?

**MR NJOZELA:** I wouldn't contest that madam but from where I'm sitting I was just asking myself was it really necessary for our own people to resort to reporting to NGO's like SJC and others, without accessing DOCS or accessing the police for that matter, you know. So my question where I'm sitting for how long are we going to be having commission of enquiries?

Should we really have a commission of enquiry in order to
address these issues. You know I'm still battling, I don't have an answer, because you might have the same issues in Manneberg, in Gugs, so does it really mean that we should at all times resort to a commission of enquiries?

5 **MS MAYOSI**: Your answer leads me to my next question, and my question really is in that breakdown, as that breakdown in trust or loss of confidence was happening over time, was Province effective in exercising its oversight and monitoring function?

10 **MR NJOZELA**: As I indicated yesterday prior to 2010 it is my view that we had the necessary powers to independently investigate service deliver complains and then post 2010 those powers were limited so it will be my submission that if we were to go back to prior 2010 there is room for improvement. Obviously in collaboration with SAPS, because what we should also bear in mind madam Commissioner SAPS does have their own internal processes, which I respect, you know so our is complementary, if not supplementary you know.

**MS MAYOSI**: Who did the instruction come from by the way Mr Njozela? The instruction that you are no longer to go to police stations unless by prior arrangement and so on, the instruction that effectively triggered this new post 2010 arrangement, who did it come from?

**MR NJOZELA**: Ja, our HOD is also going to elaborate on that madam Commissioner, but the instruction it was a
communication between the then Provincial Commissioner to our HOD raising two main concerns, if my memory serves me well, that he had noticed that as DOCS were directly sending the complaints to the stations without his knowledge and then secondly there was major concern of the so-called leak because they were our findings – I mean people read about our findings in one of the local newspapers. So those were two main concerns and then if my memory serves me well, if you read that letter of course as I have indicated our HOD is going to elaborate more on that, you know the impression that you get is that we should direct our complaints via the office of the Provincial Commissioner, we shouldn't direct the complaints in an event where we decide to refer. Because we were doing that respecting the rules that the Station Commanders as managers do play so we didn't see anything sinister about referring matters to the respective station commanders. And then subsequent to that our investigators went out to the various stations, I can site one station in Stanford where it was clearly said that the station commanders have received an instruction saying that they shouldn't be cooperating if I can use that term or allowing DOCS officers access to information.

COMMISSIONER: I just want to follow up on the answer that you have given to Ms Mayosi and that is in relation to this issue about leaks. It is not clear to me why a disclosure to the
public in a democracy committed to accountability, responsibility and openness is necessarily a problem. Why should a leak be a problem, why should the fact that the public become aware of the complaint be a problem?

MR NJOZELA: Madam Commissioner I won't have an answer for that, I mean the SAPS might be I mean they are the best to respond on that. This is how I understand the content of the letter.

MS MAYOSI: Mr Njozela one of the aims and the objectives of the PCC is to ensure that effective and efficient services are rendered to communities by policing agencies, is that right?

MR NJOZELA: That is correct.

MS MAYOSI: Now do you accept that if SAPS is not delivering services efficiently and province is not effective in its oversight and monitoring role, do you accept that the real victims then are the communities such as Khayelitsha who should receive those services?

MR NJOZELA: No 100%. I mean it has been my passion that when you deal with service delivery complaints at the end of the day you change someone's life in a very big way though one might say that complaint is not that serious but to me it is serious, the mere fact that you leave your house, you go to a police station to lodge a complaint or you access DOCS something has triggered you to complain and then that complaint should be dealt with. That is my stance all the
years.

**MS MAYOSI:** Do you also accept that one of the reasons that communities such as Khayelitsha may then be pushed to call for an establishment of a commission like this, maybe that the agencies that are there such as province and SAPS are not in fact functioning to help them when they have complaints.

**MR NJOZELA:** I cannot disagree with that but at the same time I cannot speak for the members of the community because they do have the democracy to exercise their right. If they feel like complaining to DOCS that is their legal right. You know as I was listening to Dr Josias the other day you know, all the cases that she cited, it would have been nice if those cases could have been reported to an institution like ours DOCS, or to the police for that matter.

**MS MAYOSI:** I have no further questions madam Chair.

**NO FURTHER QUESTIONS BY MS MAYOSI**

**COMMISSIONER:** Just to clarify on that point you are just making. My understanding is that since 2010 DOCS is only getting a small proportion of complaints, all the ones that are going to the police stations you are not getting and so the range of complaints that you were seeing is very much reduced?

**MR NJOZELA:** That is correct madam Commissioner.

**COMMISSIONER:** Thank you. Mr Masuku?

**CROSS-EXAMINATION BY MR MASUKU:**
Thank you madam Commissioner. Mr Njozela you make a distinction between the pre-2010 arrangement and the post-2010 arrangement, I want to ask you questions in relation to those changes that occurred in 2010. You have described them in your affidavit in paragraph 17 and you say in 2010, subsequent to 2010 the levels of cooperation between DOCS and SAPS changed and from that point onwards consent was required from the office of the Provincial Commissioner before investigations could be conducted, am I correct?

MR NJOZELA: That is correct.

MR MASUKU: So the only change that took place in 2010 was that you were required to give consent, you are required to obtain the consent of the PC in order to conduct an investigation?

MR NJOZELA: That is correct as I have stated in my statement but in practice maybe that would be (indistinct 25.00), the situation are not like that. You will write a letter to the office of the PC but in practice you won't be allowed to actually conduct your independent investigation.

MR MASUKU: Okay let me ask you questions before you pre-empt it. Are you saying that you wrote letters to the PC seeking that consent and that consent was refused?

MR NJOZELA: The way we phrase our letter madam Commissioner is to actually inform the PC that we will be embarking on this investigation, you know, understanding of
course that we do have the right to do so in terms of Section 12(6) so consent or permission or informing obviously it is something different but that is what I meant in my affidavit.

**MR MASUKU:** So is that now i am you saying now that what you were required to do by the PC was that you must inform him?

**MR NJOZELA:** That boils to that there advocate.(indistinct 26:13)

**MR MASUKU:** I mean are you saying that you are not required to obtain his consent?

**MR NJOZELA:** Can you come again?

**MR MASUKU:** Are you saying that you are not required to obtain his consent but to inform him?

**MR NJOZELA:** Let me answer your question this way; as I have indicated and then the HOD will elaborate on that, the letter that was written by the PC to our HOD raised these two main concerns and then the letter went as far as saying that all complaints should be channelled to one point which is the Inspectorate and then it is only SAPS that should investigate service delivery complaints. So if you read the content it is sort of saying you are not legally entitled to conduct service delivery complaints.

**COMMISSIONER:** Sorry can I pause there. Was this recorded in writing, this change in an arrangement? It was a letter was it that came from the Provincial Commissioner or was this a
verbal understanding?

MR NJOZELA: No it was a letter madam Commissioner.

COMMISSIONER: And do we have this letter? Ms Bawa, do we have this letter from the Province of from the Provincial Commissioner which changed the nature of the relationship between DOCS and the Provincial Commissioner in 2010?

MS BAWA: I stand corrected but Mr Osborne could probably pull it out with his fingers right there because I seem to recall having seen it but I am fumbling where it is in the record right now.

COMMISSIONER: Can you assist us Mr Osborne?

MR OSBORNE: Madam Chair we do have the letter, we don't have it immediately to hand.

COMMISSIONER: But is it in the record before the Commission or not?

MR OSBORNE: I am sorry, I can't answer that question right now but we will look into it.

COMMISSIONER: Okay. It would be helpful because I think it might it may clarify precisely what the changed relationship was and so if you could provide it I think it would be helpful.

MS BAWA: May I say that there is some correspondence on the record in which the Provincial Commissioner had indicated that they cannot do inspections of a police station and I also thought that there was an understanding that this is an issue that Dr Lawrence when he gives evidence could be better able
to provide clarity on.

**COMMISSIONER:** Yes Mr Osborne?

**MR OSBORNE:** I am sorry to interrupt. There is a letter I could I suggest that we put it to Dr Lawrence tomorrow and that he speak to its content.

**COMMISSIONER:** Certainly but I am not going to stop Mr Masuku if he wants to pursue this question of the 2010 relationship and particularly in relation to Mr Njozela’s work practises because that is direct but we will get the letter Mr Masuku and then we can or will have clarity. But please proceed with your questions.

**MR MASUKU:** Yes. Thank you madam Chair. Mr Njozela but you have seen this letter and you conducted your investigations after 2010 in accordance with the post-2010 arrangement, am I correct?

**MR NJOZELA:** That is correct.

**MR MASUKU:** Right. From what you have said there are two concerns that the PC expressed in the letter. The first one was that there should be a northern point in which complaints are sent (intervention)

**MR OSBORNE:** I am sorry to interrupt. I have just retrieved the letter, I am really sorry to interrupt.

**COMMISSIONER:** Mr Masuku do you want to proceed at this stage or do you want to see this letter that Mr Osborne has located.
MR MASUKU: I think it is an important letter because it does go into a criticism which is levelled against the SAPS which I think is important to pursue with this with the witness.

COMMISSIONER: I think then in the circumstances Mr Osborne is it in the bundle that has been circulated to parties, do you know?

MR OSBORNE: As of now I can’t say that, I am sorry. This particular document has the legend PN3A, I am not sure if that helps us?

COMMISSIONER: PN3A?

MR OSBORNE: PN3A.

COMMISSIONER: It is not annexed to our affidavit. Could I ask, Ms Dissel could we retrieve this letter from Ms Osborne and make some copies please. Mr Masuku is there anything that you would like to put to Mr Njozela which is not related to the letter while we spend five minutes getting copies made?

MR MASUKU: Yes there are other questions that I wish to put to Mr Njozela.

COMMISSIONER: Okay. Ms Dissel if we could have one also for Mr Njozela so we will need probably seven or eight copies, thank you. Mr Masuku?

MR MASUKU: Yes, thank you madam Chair. Now in your interpretation of the changes in 2010 is that if there was a narrowing of your investigative, your ability to investigate the service delivery complaints relating to the police was narrowed, that is
the evidence that you gave yesterday, do you remember that?

MR NJOZELA: It was extremely reduced, ja.

MR MASUKU: Yes you said it was extremely narrowed. Reduced, that's fine. Now we obviously explore that in light of the once we get the letter but I want your view on who you blame because it appears to me that you say that your ability to conduct your work had been affective prior to 2010 but after 2010 it was narrowed. Can I perhaps ask you the question was it, do you consider the intervention of the PC and the concerns that he raised as being unreasonable in the circumstances?

MR NJOZELA: You know madam Chairperson on my view is that if I had the powers to direct I would have encouraged all of us the stakeholders to really interrogate Section 206 sub-section 1 because to me that goes to whether do you have powers to conduct your investigation, you know. And then I am not trying to blame the game here so the way I read that letter, to me it was really provoking the robust and constructive debate and discussion in order to reach certainty and then ever since I have been in this field there are two schools of thoughts, there are those who are saying we are not entitled to investigate in terms of Section 206 sub-section 3 read with Section 206 sub-section 5 and then there is also another school of thought that is in the opposite. You know, it is my submission that I think we missed the opportunity, that

/...
would have been ē but as I have indicated I am not at liberty to pronounce because my HOD will elaborate on that, that is just my personal view.

MR MASUKU: But the question I asked is a different question.

I asked you whether you thought that the conditions that had been imposed for your investigative work were unreasonable and your answer is there was a debate around 206 ē I donâ under understand the answer, what was the answer. Do you think that there were unreasonable conditions that had been placed on your ability to investigate?

MR NJOZELA: No from where I am sitting advocate Masuku I am reluctant to say unreasonable or reasonable you know because they were not accepted to me, you know, because they were really curtailing my powers to independently conduct an investigation.

MR MASUKU: Letâ go back to how you conduct your investigation. You receive a complaint from a member of the public, what do you do?

MR NJOZELA: After receiving a complaint we do have our internal processes where we will register the complaint and then it will generate a reference number and then our system ē or will generate also an automated response acknowledging receipt of the complaint and then the complaints management committee will sit and decide what is the way forward regarding that particular matter. If the decision is that we
should conduct our independent investigation the matter will be assigned to an investigating officer with clear instructions or what we later called terms of reference that these are the steps that you should follow in order to get to the bottom of things and then the investigator will obviously contact the complainant if he or she needs more clarity and obtain further statements and then the investigation will unfold to its logical conclusion and then thereafter you will compile a report with your finding and that goes with your recommendation. Then in my language I termed that preliminary investigation and then as I have indicated yesterday after you have built a case, in other words if substantiated then that will warrant what I will term post-investigation monitoring because you refer that matter now to SAPS for further investigation. Then SAPS will conduct further investigation and then they will communicate with us the outcome saying the member was subjected to disciplinary proceedings, found guilty and this is the sanction.

MR MASUKU: So if I understand you correctly, you receive a complaint, you register it internally and you then decide you are going to investigate the complaint and you send an investigator to the complainant. The complainant then gives you é (intervention)

COMMISSIONER: Are we talking about before 2010 or after 2010?

MR MASUKU: No I am talking about how they conduct their
investigation whether it is 2010 or i because I am trying to establish that there was not, that this instruction that he says that they got did not fundamentally change how they operated. So the i so what then you do it you send your investigator to go and speak to the complainant, is that correct?

MR NJOZELA: Take further information from the complainant.

MR MASUKU: And then what you do is you go to the police and then you ask the police officer to respond, do you do that?

MR NJOZELA: No i if needs be but I was quite reluctant to deal with cases that are complex in nature where you would have to interview the suspect member, you know, our means of corroboration would be your docket for instance, if it is an alleged no feedback so you will ask for the docket, you need to have access to the docket and then if it is a non-compliance with the implementation of the Domestic Violence Act you will obviously need the necessary registers, access to the necessary registers i that is one way of corroborating the allegations. So you would finalise a matter of no feedback for arguments sake by merely perusing the docket because the docket will tell you whether the IO provided feedback or no feedback.

MR MASUKU: So what pre-2010 the way you conducted an investigation was that you received a complaint, the police are not involved there, you registered the complaint and the police are not involved, you then decided with your committee how to...
carry out the investigation and if you decided to carry out an investigation you decided you would go and interview the suspect further and then you did that and the police too are not involved. The only time that you involve the police is when you want to speak to a member of the SAPS who is implicated in the complaint. Am I right?

MR NJOZELA: I think we are confusing which suspect are you referring to.

MR MASUKU: The person against whom the complaint is directed.

MR NJOZELA: Because our mandate is to deal with complaints against the members of SAPS so our suspect will be SAPS.

MR MASUKU: I have answered that question Mr Njozela.

MR NJOZELA: I have indicated that when the complaints management committee is assessing the complaint if in order to finalise that complaint you will have to interview the SAPS members and then the committee will rather decide to refer that matter, I think I have explained that, because we do have a discretion. But if a matter can be finalised or we can arrive to a finding without necessarily interviewing the suspect member, so those were the kinds of complaints that we will gladly deal with but I am not ruling out the possibility when a matter is that complex where you have to interview the suspect member, that we cannot do.
MR MASUKU: Fair enough but what I am also putting to you is that what happened in 2010 and I am going to refer to this letter now, what happened in 2010 did not change the way you operated?

MR NJOZELA: Ja it wonâ change, that is the normal modus operandi when you conduct and investigation in any investigative institutions that will be the way of doing things.

MR MASUKU: So you would conduct an investigation and if you could resolve it by simply getting a docket you would ask SAPS to give you a docket and they would give you a docket. Correct?

MR NJOZELA: That is correct.

MR MASUKU: And you would be able to go back to the complainant and say to this complainant there is a docket opened and they are investigating, am I right?

MR NJOZELA: No I am not getting you on this question?

MR MASUKU: Your duty to the complainant is that once you have raised a complaint against a member of the SAPS and you have investigated the complaint in the process of doing that investigation it may be necessary for you to interact or to interview a member of SAPS, am I right, against who the complaint is directed?

MR NJOZELA: That is exactly my issue advocate Masuku, I said if the nature of the complaint will compel us to interview the suspect SAPS member then we will rather refer that case
but I am not at the same time ruling out that we did have the discretion. So the complaint management committee will assess the complaint and then if we will think that a matter can be finalised or maybe you can reach a finding without necessarily interviewing the suspect member — maybe I can explain it this way, let me use my experience — I am sorry to take time in addressing this. When I was the investigator with the then ICD when you conduct an investigation you do all the necessary statement taking and collection of evidence and that is how you build a case and then now the information at their disposal is suggesting that Mr Patrick Njozela is the suspect then what you will do you will approach Mr Patrick Njozela as the suspect and then you will put to Mr Njozela that I am having this information at my disposal that you are implicated in committing murder and then I obtain a warning statement. So this is what I am trying to explain to advocate Masuku, if an investigation is going to be complex in such a way that you will have to interview the suspect SAPS member we will use our discretion not to independently deal with that complaint and we will refer it to SAPS.

COMMISSIONER: I understand this line of questioning Mr Masuku but I am a bit confused because my understanding was that prior to 2010 those interviews took place done by a DOCS investigator and post-2010 they were referred back to SAPS for SAPS to do. Am I wrong about that, is that incorrect Mr
Njozela?

**MR NJOZELA:** That is correct madam Commissioner.

**COMMISSIONER:** Then there is a change in the investigation process between 2010 before and after. The first i beforehand the investigations could be done by an investigator within DOCS, now they are referred back to SAPS for them to do and you wait for a report from SAPS?

**MR NJOZELA:** That is correct.

**COMMISSIONER:** Maybe I am misunderstanding your line of questioning but I also keen to know what the difference was before and after 2010.

**MR MASUKU:** Yes, yes. Because I am going back to the issue of the after 2010 he does say that they were reduced to a post box so they would simply channel the investigations i i was trying to, i am trying to establish Chair what the nature of the change in the investigation that they did i because at some point they start interacting with SAPS and that is where the change must be. Before that they do their own investigation and what the investigation entails i am trying to put it to him that it might well entail interacting with a member of SAPS, going to the member of SAPS who is implicated and saying to him there is a complaint that we have received can you tell us what your story is and the member of SAPS gives a version and they take that version to the complainant i some kind of investigation but the way that i seem to understand the
investigation prior to 2010, post 2010 is that that investigation the only change that possibly happened was not in the ability to investigate independently, the still continued independently investigate the complaints and refer i as he puts it they did that before 2010, in their exercise of discretion some of the investigations they did they would agree upon where the say well no worry we are referring this matter to SAPS to deal with, that was pre 2010. Post 2010 they are still doing the same thing.

COMMISSIONER: (Inaudible i microphone off 46:24) Sorry, crisply put, what is the difference in how you run the investigation post-2010, is there any difference and if there is what is it?

MR NJOZELA: I think madam Commissioner my explanation is clear. If a (indistinct 46.41) you don’t conduct investigation; you refer. Then my modus operandi of how one will go about conducting an investigation is the process that I have explained and then there is a huge difference between the pre-2010 modus operandi of conducting and investigation of post-2010. I don’t know whether i am I making sense.

COMMISSIONER: Do you want to follow up Mr Masuku?

MR MASUKU: Yes can I i because Mr Njozela you say your office was reduced to your post box by this letter that we have here. Can I then take you through this letter so that we understand exactly what this letter i whether this letter can be
read reasonably to suggest that you now are a post box and not an investigative arm that can carry out the functions that are set out in paragraph 4 of your affidavit.

This is a letter from the Provincial Commissioner é

(intervention)

**MR NJOZELA**: Sorry madam Commissioner, I am not interrupting the advocate é (intervention)

**MR MASUKU**: You are actually.

**MR NJOZELA**: Didnâ€™t we agree that the HOD is going to elaborate on this or maybe is it fair for me to comment on this?

**COMMISSIONER**: Would you like to read the letter first? You were saying you would like to read the letter?

**MR NJOZELA**: Yes.

**COMMISSIONER**: Yes, go right ahead. Can we pause for a moment Mr Masuku I think, he hasnâ€™t seen the letter, letâ€™s give him an opportunity to refresh his memory on it and then you can ask the question.

**MR MASUKU**: So is he being given opportunity to read the letter?

**COMMISSIONER**: Yes just for a minute or two. The rest of us have been able to quickly flick over it at other times but he has been under a barrage so if we just give him a minute or two to read it then we will continue.

**MR MASUKU**: Fair enough.

**COMMISSIONER**: Right Mr Masuku, I think you may proceed.
MR MASUKU: Yes. The first issue that seems apparent and it may not be the one that answers this question but this letter does not appear to have been addressed to the Department of Community Safety, am I correct?

MR NJOZELA: That is correct.

MR MASUKU: Right. It appears to have been a letter addressed to three - to the police management if you look at the top part just in the middle of the page, it says all Deputy Provincial Commissioners, all Cluster Commanders, all Station Commanders in the Western Cape, is that correct?

MR NJOZELA: That is correct.

MR MASUKU: And it seems to me that this letter was a letter in which the Provincial Commissioner was giving an instruction on how to manage complaints received or referred to SAPS by yourselves or other departments.

MR NJOZELA: That is correct.

MR MASUKU: Right. Now nowhere in this do I see and I don't know if you have but nowhere do I see that this letter deals with your independent investigative responsibilities. It simply says once you have referred a complaint to the SAPS this is how the complaint will be dealt with. It does not say that you are required to not conduct an investigation but simply to act as a post box, am I right?

MR NJOZELA: No, I will disagree with that advocate Masuku.

MR MASUKU: Yes, yes. Express your disagreement?
MR NJOZELA: As I have explained madam Commissioner this letter dated 16 March is a letter after the letter that was addressed to our HOD and then the content is similar but obviously it cannot be 100% similar because the PC was addressing our HOD but the content is more or less then same and then subsequent to that the PC addressed the Deputy Provincial Commissioners, Cluster Commanders and Station Commanders and then when my guys went to the station as I have indicated in Stanford they were referred to this instruction and then it was the understanding of that particular Station Commander and subsequent to that other Station Commanders that they are debunked from cooperating the way that they used to prior 2010. And then if I take advocate Masuku to paragraph 5, 5.1 the department of community safety has been informed that all complaints must be forwarded in writing to the Provincial Head Inspectorate. This is precisely my point because my reading of this paragraph is saying we should become a post office.

MR MASUKU: No, that paragraph says that you must î all complaints must be forwarded in writing to the Provincial Head Inspectorate, it does not say that prior to the time that you refer a matter to the police for further investigation in terms of your recommendations because é (intervention)

COMMISSIONER: Mr Masuku I understand that this is an important letter, I also know that we are going to be getting /...
evidence from Dr Lawrence who in fact is probably the, as the senior civil service in DOCS in a better position to give evidence on how he understood the implications. I think what Mr Njozela is in a position to give evidence on is how it actually affected the working of his unit, whether or not it is a correct interpretation of the letter he can just say on the ground this is what happened and I think we can then have a debate, both with your clients and Dr Lawrence, as to what is the proper interpretation of the letter.

MR MASUKU: I am just trying to put to him that it was an incompetent way of reading the letter and in fact if there was any change in the way they conducted it is their responsibility, it is because of them incompetently interpreting the processes in terms of which they were supposed to follow and that is what I am trying to put to him.

COMMISSIONER: Well Mr Njozela what is your comment on that, that in fact this letter didn’t require you to change your practices at all and the SAPS understanding of it as I understand Mr Masuku’s question didn’t require you to change your practices and he is asserting that to the extent to which you did change your practices was a result of incompetence within DOCS. What is your response to that question?

MR NJOZELA: If that is the case madam Chairperson, our HOD will comment, but we are all incompetent if that is the proposition because even Station Commanders understood the

/...
letter the way I understand it, they were reluctant to provide us access to dockets, to registers and then they were using, they were basing their refusal based on this letter.

**MR MASUKU:** Mr Njozela did Mr Lawrence give you an instruction on how to carry out your investigation following this letter?

**MR NJOZELA:** That is correct.

**MR MASUKU:** Was his instruction that you could still go to the police station and ask for a docket?

**MR NJOZELA:** No after that is why it is very important this post or prior 2010 because subsequent to this correspondence between our HOD and the PC corresponding with SAPS members then the instruction was that we should conduct our business as a post office, I am trying to simplify it, we should just refer matters to the... (intervention)

**MR MASUKU:** Fair enough. So this instruction you got from Mr Lawrence it was in writing I suppose, it must have been in writing.

**MR NJOZELA:** It was in writing.

**MR MASUKU:** It was in writing?

**MR NJOZELA:** Yes.

**MR MASUKU:** It would be very important for us to see the written instruction that you were given to conduct that, to carry out your investigations post 1994.

**COMMISSIONER:** I see Mr Osborne making a note behind you
and I am sure that this is an issue that we will return to tomorrow when Dr Lawrence is here to give evidence.

MR MASUKU: Yes.

COMMISSIONER: Is there anything further Mr Masuku?

MR MASUKU: Yes madam, there is a lot but I am limited with time so I ī I want your aims and objectives of the PCC as you itemise them in paragraph 4 are aimed at enhancing the ability of the SAPS to conduct its work efficiently.

MR NJOZELA: That is correct.

MR MASUKU: Do you believe that you have done that well if your answer as you gave it to my learned friend Mayosi's question ī let me put it to you ī your office has not been able to conduct its work efficiently because it has not been able to enhance the ability of the SAPS to act effectively so that there is no public trust that has broken down. What do you say to that comment?

MR NJOZELA: I think I explained this prior 2010 because I am also making reference to what we called giants and then in my testimony yesterday I explained who comprised the giants, we were all there as stakeholders. From SAPS it was - and then it will be ICD, it will be NPS, it will be NPD and then one of the things that we will do there was to actually look at the root causes of these service delivery complaints, and then we will make necessary interventions because our belief was that we should improve the situation, we should, all of us
collaboratively so transform the South African Police Service
so we made huge strides prior 2010 and then again even cite
one example, which is the product of such engagements.

Today we do have DVA coordinators across the nation, but
before there were no designated DVA coordinators, because
we were grappling with this thing of non-compliance when it
comes to the implementation of DVA's, so we had to analyse
and see what is the root cause and what can be the solution
and then the then PC would have a designated person that
serves in those joint meetings, so like Brigadier Beukes, if I
can mention the name, will come to those meetings
representing the PC, so there was great improvement, prior
2010, but post 2010 there wasn’t such a great improvement.

MR MASUKU: We will disagree with you on your conclusion on
that but I will leave it there, but let me take you to paragraph
19 of your affidavit, you say in paragraph 19 that in my view
this joint approach was the best model in which the relevant
stakeholders got together to deal with complaints in relation to
complaints lodged against members of the SAPS, for examples
if complaints were duplicated to stakeholders, now are you ï
which stakeholders are you talking about?

MR NJOZELA: The ones that I’ve just mentioned now
Advocate Masuku.

MR MASUKU: Sorry?

MR NJOZELA: The one that I have mentioned now, unless you
want me to repeat them?

MR MASUKU: Yes please Mr Njozela repeat them, it's fine.

MR NJOZELA: It's SAPS and then within SAPS it will be your legal department ...(intervention).

MR MASUKU: Of SAPS?

MR NJOZELA: Of SAPS, Visbon, grievance and discipline management and the provincial expectorate and then on top of that will be a person from the office of the PC, Brigadier Beukes, who is currently in Gauteng and then it will be ICD, I see Mr Leolo is there, and then it will be MPS, Metro Police Service, which is disbanded now, and then it will be City of Cape Town Metro Police department, commonly known as Metro. And then obviously us.

MR MASUKU: Because this model that you talk about is they would get together to deals with complaints, in relation to complaints lodged against members of the SAPS, would that only relate to complaints that were lodged directly with the SAPS or complaints lodged with DOCS or with IPed or with ICD all of them coming together and being dealt with in that particular forum?

MR NJOZELA: ICD then was also entitled to deal with service delivery complaints over and above their main mandate of investigating death as a result of police action in custody and what they will term class 3's, that's your assault, rape etcetera, and then class 4's will be ...(intervention).
MR MASUKU: No but Mr Njozela I'm asking a question about what the purpose of this meeting you referred to in paragraph 19, this model you referred to in paragraph 19, you say that the best model is this circle is coming together to deal with complaints in relation to complaints lodged against SAPS members, would that mean complaints lodged directly with the SAPS or complaints lodged with the Department of Community or complaints lodged with the IPed all of them coming into one meeting and deciding how to deal with those complaints?

MR NJOZELA: The answer is to the latter, because I was trying to explain precisely ...(intervention).

MR MASUKU: Just an answer to the question ja.

MR NJOZELA: Because ICD will come with their complaints because they receive them there against SAPS and SAPS will come with their complaints against SAPS, we will also come with our complaints against SAPS, and then MPS will come with their complaints because its law enforcement agent, because that's how we define law enforcement agents, and then that will give us a broader, bigger picture.

MR MASUKU: Okay.

COMMISSIONER: Mr Masuku you are running out of time. Perhaps another five minutes.

MR MASUKU: That set up was it aimed against ensuring that there's no duplication of investigations?

MR NJOZELA: Ja, it eliminated duplication commissioner,
because what we realised in the event that we have referred matters to SAPS you know, when we come to the joints for reporting purposes we will sit with that, there is no duplication, you know same applies with the then ICD, because as they were having the mandate of dealing with service delivery complaints, they also had the discretion of referring some to SAPS, so when we do an analysis you know. I think the thing maybe Mr Masuku is not clear about when we come together as joins itâ€™s not to say we are investigating these complaints, you know we are dealing with these complaints as collective, so in DOCS having so many and then they see the nature, you know and then if I can take you further again, even the nature of complaints it was a collaborative effort to say this is how we should define it this is how we should categorise complaints, in order for us to be on the same page. When we talk poor communication all of us we should be talking poor communication, poor response you know and then the list goes you know. Then when we come to the joins all of us will use the same categories, and then those categories if you do a thorough analysis will tell you where the problem lies. If itâ€™s poor response, lâm just making an example, that will mean its respond members, because they are the ones that are responding to calls, or CSC members, and then if its poor investigation you know the trajectory points to the detectives you know, so thatâ€™s how we used to conduct business.
MR MASUKU: Just one statement which I would like you to respond to, you may have responded to it, but it’s my parting shot to you, if your view is that there is a general distrust of the SAPS by the community of Khayelitsha, because of the incompetence of the police, which is widespread, then the PCC itself has failed in its job. The failure is not just of the PSAPS, it is the failure of the DOC itself in conducting what are quite elaborate aims and objectives in paragraph 4 of your statement, what would you say to that?

MR NJOZELA: I concur with that 100%, because ...(intervention).

MR MASUKU: Thank you, that will be all.

MR NJOZELA: No, let me qualify, in my case, let me qualify madam commissioner, in my situation if you make me refer matters I mean I’ve indicated this yesterday, you know a complainant is going to complain, I register the complaint, and then I take it back to SAPS and then it goes back to that place of origin you know ...(intervention).

MR MASUKU: Madam Chair I am done, but he can continue talking, but I’m done with the questions.

COMMISSIONER: Thank you. I think Mr Njozela in light of the time constraints we will stop here but I will ask Ms Bawa if she has got any questions in re-examination?

MS BAWA: No I think it can survive.

COMMISSIONER: Okay Ms Bawa, Mr Pikoli?
MR PIKOLI: Just a few questions. A lot seems to hang on the directives that were issued in March 2010, now can you tell us the success rate in terms of the complaints that were referred to DOCS before 2010 as well as the success rate after 2010 in terms of resolving the complaints.

MR NJOZELA: I think commissioner I did partially answer this question yesterday where I indicated that if we were to deal with 100 complaints that we received than to refer the rate in which we will substantiate those matters will be higher than to...

MR PIKOLI: Even indication?

MR NJOZELA: Like for instance I made reference to a case that we dealt with if we are...

MR PIKOLI: I'm saying if you had received so many complaints how many did you regard as being successfully finalised?

MR NJOZELA: In terms of percentage?

MR PIKOLI: Ja.

MR NJOZELA: That will be 80%.

MR PIKOLI: Oh, 80%?

MR NJOZELA: Ja.

MR PIKOLI: That's prior to the new directives of 2010?
MR NJOZELA: That’s correct.

MR PIKOLI: Now again on the same issue and in response to a question asked by Advocate Masuku, you referred us to Section 206(1) of the Constitution.

MR NJOZELA: Sub-section 3, not sub-section 1, 206(3).

MR PIKOLI: Okay, and is it then your proposition that that directive was actually inconsistent with the section 263?

MR NJOZELA: That’s my interpretation.

MR PIKOLI: That’s a proposition?

MR NJOZELA: That’s my proposition yes.

MR PIKOLI: Okay, thanks.

COMMISSIONER: Thank you very much indeed Mr Njozela for your patience with the endless postpone of your evidence and for making a report and being available both yesterday and today, we are very grateful to you, and you may now stand down.

WITNESS EXCUSED

COMMISSIONER: Ms Bawa are we going to Ms Igglesden at this stage?

MS BAWA: We are. Advocate Sidaki will be dealing with that. May I be excused because I need to just ...(intervention).

COMMISSIONER: Of course you may be excused yes. Mr Sidaki do we need a Powerpoint presentation or is Ms Igglesden going to be just giving direct evidence? Okay. Ms Igglesden present?
Welcome Ms Igglesden to the hearing of the Khayelitsha Commission. Are you aware that the proceedings of the commission are in public and that your name and the contents of your report may be made public?

**MS IGGLESDEN:** I am yes.

**COMMISSIONER:** And do you have any objection to that?

**MS IGGLESDEN:** I have no objection.

**COMMISSIONER:** I assume given the fact that your report was written in English that you intend to testify in English?

**MS IGGLESDEN:** Yes I do.

**COMMISSIONER:** Good and do you have any objection to taking the oath?

**MS IGGLESDEN:** No I don’t.

**VICKI IGGLESDEN:** (Sworn States)

**COMMISSIONER:** Thank you very much Ms Igglesden, Mr Sidaki your witness.

**EXAMINATION BY MR SIDAKI:** Thank you madam chair. Ma’am you are a social anthropologist and an advocacy worker and researcher in refugee rights, correct?

**MS IGGLESDEN:** That is correct yes.

**MR SIDAKI:** And you have worked in this field for some 12 years, correct?

**MS IGGLESDEN:** That is correct, in the Western Cape yes.

**MR SIDAKI:** You were asked by the Commission to research and compile a report on foreign nationals experience of

/...
policing in Khayelitsha, correct?

**MS IGGLESDEN**: That is correct yes.

**MR SIDAKI**: And you have compiled a report in that regard?

**MS IGGLESDEN**: I have done.

**MR SIDAKI**: Please explain to the commission what you did and what your report says?

**MS IGGLESDEN**: Okay, thank you. I wish to greet everybody, good morning to commissioners, to representatives, to members of the public. Just very briefly apart from I want to give a very quick overview of how I come to be in a position to if you like speak for largely Somali refugees. I am social anthropologist, as already said, I have a master in development and human rights, I have done advocacy and research work in the Western Cape for 12 years and I have done a number of reports relating to protection for refugees including the Octham report on humanitarian assistance when refugees were displaced in the xenophobic violence in 2008, a report for the Human Rights Commission to support an equality case regarding violence in Zwelethemba and claims against police discrimination against foreign nationals and I did a report, a research report with UCT by the European Union, the Refugee Rights Clinic on access to justice for victims of crime in the Cape Town area.

In doing this report I have referred to the legislation that was highlighted in the original complaint, and looked at the
kind of issues that that legislation raised in terms of the rights of refugees, in particular as members of the community of Khayelitsha. In addition there’s also the Refugee Act, which largely stipulates that refugees have the same rights as citizens with a few exceptions, notably they don’t have voting rights.

My focus was to be on the experiences and perceptions, it was a very short project, there was not time to check allegations, but it was how do refugees, particularly Somali refugees, see policing in Khayelitsha. I covered the past five years and I recruited 20 respondents, using leaders that I know from the area.

Each interviewee was informed on the purposes of the research, specifically to point out that they may well have positive responses, if they had positive experiences of refugee policing experience they should also inform us of that. They might also have a mixture of positive and negative experiences. Interviewees were it was stressed they didn’t have to answers, they didn’t have to participate, and that we were allowed keep their identity protected.

Interviews were conducted between the 12th and 16th of December, on the whole most interviews took 20 minutes because we wanted to just get the people’s impressions, not to mine for information where you end up encouraging people to fabricate or exaggerate, so it was just off the cuff, what are...
your experiences, and that was the single question asked, what is your experience of policing in Khayelitsha and at the end of the interview I asked respondents what are your future expectations of policing in Khayelitsha, looking at the issue of what sort of trust, what sort of hope could they have.

The majority — all the interviewees were male, the majority that is bar three was Somali, the majority had refugee status, the majority were spaza shop owners. 50% of respondents were under the age of 30, 50% live and work in Khayelitsha, and half of them admitted to owning one shop. The others either owned more than one or were employees in shops without ownership or no longer owned a shop at all, but services shops.

MR SIDAKI: Sorry the three foreign nationals who were not Somali which nationality are they?

MS IGGLESDEN: There were two Burundians and one Eritrean, they were all shop owners. Okay, the findings I will just quickly go through the findings, many complained about police attendance at the scene of crime, either that they failed to attend after reports, requests were made for assistance, or that attendance was very delayed. In two cases victims of crime reported that police admitted that they were afraid to come to the scene of crime at the time of the commissioning of the crime. They were afraid that they would be attacked by what is often small armed gangs that rob spaza shops.
The second issue was registration of crime, many reported obstacles to registration, obstructions where they were told to go to the police station, go to the police station, go to the police station and the police would not take, would not assist, at the scene of the crime would not take statements, or in another instance where a victim went to the police station repeatedly and each time was told the officer who attended the scene of the crime is not here, come back later.

In a couple of cases there were reports that police refused to open cases on the basis that either the complainant was a foreigner, or that the complainant didn’t have a case. What is noteworthy in the latter is that it was not explained to the complainant why their case was not did not merit being registered.

A third issue was the follow up of registered crime. Many reported they received no follow up at all, no case number, no report of what was happening in the investigation. Some reported receiving a case number but nothing further. The it more broadly speaking I have heard police complain that the complainants are passive in following up crime, in following up the investigation into crime. It is the sense amongst many of the foreign traders that it’s a waste of time to keep going to the police station and asking what’s happening, what’s happening, what’s happening because they just get fobbed off
and still receive nothing.

An important issue for foreign nationals is secondary victimisation. As I state in the report secondary victimisation is often spoken of or more generally spoken of in terms of crimes of violence and crimes of a sexual nature. However I take it in my report that secondary victimisation concerns responsive individuals and institutions to victims of crime that in themselves cause additional trauma. This quite often is reported by foreign nationals who call the police to assist them following crime. One of the issues that is quite often brought up is that the police arrive and rather than investigate the crime they investigate whether the people in the shop, the foreign nationals have papers, or whether there are illegal firearms in the shop and the concern of the victims is that by the time they've finished being searched and producing papers that any chance of following up freshly on the crime situation has passed. Moreover they're already traumatised by the crime, by the experience of the crime, they are then further traumatised by being pushed around by the police and then they no longer have an appetite to deal with the issue any further, they just want the police out, and the whole thing out of their hair.

There are other reports of theft of property, when police come to respond to request for assistance, particularly during searches for firearms, for illegal firearms, this would be theft
of cash and airtime in particular.

In one case there was an exceptional situation where a group of people in a shop suffered secondary victimisation on three levels, they were robbed, there was an armed robbery, they called the police, the police arrived, the first thing the police did was look for illegal firearms, they didn’t find it, one of the shop workers had been shot, the community called an ambulance, when the paramedics arrived the police refused the injured person medical assistance, they refused to allow the paramedics to attend to him, and when the community responded, the community started to protest against police action they then allowed the medical attention to be given to the injured person, and then they took the rest of the people in the shop to the police station to on the issue of illegal firearms. They were convinced or they said they were convinced there was an illegal firearm and they took them away to the police station. That left the shop unattended for 24 hours which is a further stress and anxiety in terms of robbery, looting, etcetera, for the shop.

So that group were very, very traumatised by their experience of asking the police to assist them after an armed robbery.

More generally the foreign nationals I interviewed expressed consternation that when people that they recognised as serial criminals in terms of theft, robbery, were
in the vicinity of their shops they sometimes asked police for assistance to help. They asked for visible policing and they found that they very rarely got assistance in this respect. Furthermore it wasn’t explained to them why assistance would not be provided, they were simply told in one case they were simply told until you’re robbed we can’t come, we can’t do anything until you are robbed. So there’s a very strong request for more visible policing, but at the same time they do report that police don’t arrest individuals that they believe were seen committing crimes or don’t arrest individuals that are pointed out as perpetrators of crime, so there is a sense that the police are either unwilling, or unable to respond to these concerns in which case the issue is around whether the police are resourced, whether they have the motivation to assist, whether they are trained, whether they have the resources and so on.

There were some reports in these interviews of abusive language from police. I didn’t get the impression that there was institutional xenophobia in the police force in Khayelitsha but I didn’t comprehensively say that there isn’t, but I didn’t receive any evidence. There was certainly individuals who made xenophobic comments to foreigners looking for assistance.

And as some of the people who reported this found it very traumatising to be asking for assistance and then to be
told youâ€™re a foreigner, go home, or this is my country, this is not your law, itâ€™s up to me to decide what to do, youâ€™re just a foreigner.

An issue that I think is quite prevalent in the foreign national community, particularly the Somali shop owners, I need to say at this point that increasingly in Khayelitsha shop owners are Ethiopians. As time goes on different nationalities, different groups move into an area, and the Somalis I am told are increasingly selling shops to Ethiopians, so we assume that theyâ€™re all Somalis but quite a lot of them are now Ethiopians which culturally is quite a different, we are talking about a different group of people, we are talking about Christians, weâ€™re talking about people who normally speak English.

COMMISSIONER: Ms Iggelsten can I just stop you here for a second, you did make a suggestion somewhere in your report that the majority of foreigner in Khayelitsha are Somalis and Ethiopian, on what basis do you have that? We have had some demographic evidence put before the Commission which said it is very difficult to determine that thereâ€™s a sense that this is the area where the census is most unreliable, that for a variety of people, people either self-identify as South African or avoid the census altogether, and I just wondered where you got your statistics or your information on the original nationality of non-South Africans in Khayelitsha?

/...
MS IGGLESDEN: I think I say in the report that it's very difficult, there is claims for numbers are hugely inaccurate, hugely contested, so to some extent it is through times of working, through talking with people, through talking to leaders, I have talked to leaders and they have given me estimates, they're very cagey about estimates, for instance the Somalis know I some of the leaders know in their own tribal grouping how many shops are in an area but it is still very I you know I did also say in the report that there would be other nationals like Zimbabweans who are in other economic niches and I didn't address their concerns at all. So it is really about visibility and I think I possibly to some extent make the mistake myself of saying Somalians when to some extent some of them are Ethiopians.

Okay theft of property by police is a major concern amongst foreign nationals particularly in those that are interviewed. I have already spoke about theft of airtime and cash during searches and I need to say that in no instance have I ever heard any of these people say that the searches were done with a warrant. They are usually done when the shop is closed and a police officer comes to the security gate and says open up. They say the people in the shop say why and the police say they want to search, they don't say why they want to search, they say if you don't open up we will break the door down so people feel that they have no option
but to let the police in. There are reports of theft of large amounts of cash by people that are understood to be police in uniform, there was one instance the only person who refused to speak to me claimed that he had been robbed twice in one year of large amounts of cash and he was so distrustful of how police operate that he felt that he should not speak to anybody in case he was an undercover person for the police.

In some instances there is malicious to property during searches. One respondent explained that they police had come several times and they just kicked the food around, knock over the oil, knock over the mielie meal and make a mess, say they are searching and then leave. Extortion is an issue with the foreign shops. There is often requests for cooldrinks or chips, this is particularly around the issue of early closing. Police have tried to put in force that shops should close at 8 o'clock and Somalis find this really restrictive on their business model and sometimes police come around and ask for a cooldrink with the either implicit or explicit suggestion that failure to or let’s put it this way; provision of a cooldrink will save the shop being closed early. One gentleman whose car was stolen, he found the car himself but he needed police assistance to go and collect the car and he was asked for money for braai meat in order to have that assistance and he said he gave the police R150 because he said I needed my car what else could I do, he didn’t complain
he just wanted the job done and disregarded that the cost of getting it done. This was somebody who had had several statements about being a foreigner and not being entitled to police service in respect of other experiences.

5 The one major issue which wasn't explicitly brought out was vulnerability to gangs and this is a difficult one because many of the gangs operate over several areas. There is concern that this lack of police cooperation across precincts to amalgamate case numbers and information about gangs that are operating very effectively and almost with impunity, they either hijack traders as they leave the î on their way to the cash and carry because they know that their bakkies have got cash they tend to attack them from both sides at traffic lights, robots. Or else they hijack bakkies that are loaded with goods and take the vehicle and sell the goods. This has been going on now for probably about five years. There was one well known gang who were particularly successful in doing this. There was only one case on his dockets for Khayelitsha but the investigation was very poor and it wasn't a Khayelitsha investigation but there was no-cooperation across the different police precincts and there are a lot more gangs now. I did receive reports that there has been some assistance with undercover activities, that the police had been working with some of the Somali leaders to try to catch some of the gangs and they have caught some of them. But this is working with
the leaders and you know if is just working with one or two vocal people who as a result would not participate in this research because they were concerned to lose that cooperation, that support they were receiving. It is still the everyday workers in the shop that end up being the victims of the violence.

I would just like to say that in my research I was not able to, I had no evidence regarding treatment of foreign nationals in police custody. I had no evidence in this research of their experience of the criminal justice system as perpetrators of crime. And I had no experience of the conduct of police complaints although there were several instances where people said there was no point in making a police complaint because they would be victimised. I just want to read a quote from an interview that I did 2010 from somebody whose shop was completely looted after the world cup. He said:

What also makes Somalis not to complain is that they open cases again and again and again and nothing happens so they are sick and tired of opening cases so some of them bought illegal firearms to protect themselves when they see nothing is happening through formal protection channels and sometimes they try to protect themselves and when the gunshots are heard the gunshots are heard in the shops and so the police

/...
come and they search the shop and they take the 
shop gun and they arrest the Somali guy.

In other words Somalis are trying to protect themselves 
because they don’t believe police are going to come and the 
police arrive and they respond only to the question of an 
illegal firearm and then when people know there is no gun they 
then are able to rob again.

So in conclusion on my report I would say the 
respondents expressed pervasive lack of trust. They believe 
that police share case information with members of the public. 
They don’t believe that police have either the capacity or the 
will to assist. They believe that false accusations are made in 
order to extort and sometimes to close down businesses and 
that it is dangerous to report police abuse. As a result there is 
a huge under reporting of crime as I have just quoted and 
attempts to provide their own protection in the end leads to the 
basis for further abuse in terms of focus on illegal firearms. 
There are high levels of trauma and distress in relation to 
experiences of policing both to the response of police and the 
repeated non-response.

I did make some recommendations which are not in the 
report and I don’t know if you want me to go ahead with it. 
And I also need to respond to the questions that were raised. 
I believe there is a major tension in legislation that leaves a 
gap for government institutions. Much of the legislation talks
about rights of citizens and rights of South Africans whereas the refugees have those rights also under the Bill of Rights as in the rights of all who live in South Africa and very often legislation, policy documents and all sorts of opinions talk about rights of citizens and rights of South Africans which gives a huge gap for those who ĭ and not thinking about it ĭ to exclude refugees from those rights in the institutional context. So I believe that somehow, it is a bit late I suppose, but somehow this rights of all who live in South Africa has to be a much bigger issue than just rights of citizens or rights of South Africans.

I believe that policing would be hugely improved if SAPS were better understanding the population of foreign nationals. There is a huge number of assumptions about the way the foreign nationals operate, about what they do. It is a bit of dithering as they ĭ, they that, they the other. Their culture and mode of doing business is not well understood and then stereotypes about how they make money are allowed to grow. I have spoken about the trauma. Police need to understand the history of trauma of refugees. They are very often identified in case law as a vulnerable group but I don ī see very much in policing that recognises refugees as a vulnerable group. Sometimes there is lip service to it but it doesn ī really come through in policy and stuff. So they are victims of trauma, they have suffered trauma as victims of war and
disorder and often as serial victims of crime in South Africa. They are vulnerable politically and the fact that they may be, some of them, may be economically strong does not negate the fact that politically they are vulnerable. There are many other dimensions of vulnerability that need to be understood in policing. And I believe also one of the issues – the police management or on the basis that an attitude comes from the head police management need to be seen publicly to be even handed in treatment of foreigners in community relations, they must not allow South Africans to publicly abuse and threaten foreigners. I have been at a number of meetings and I have to say that this is general, it is not specifically Khayelitsha, I am sorry that I cannot specifically relate this to Khayelitsha but it is in the vicinity where senior police officers stand up on the platform and then issue a whole slew of allegations as to what Somalis do in terms of bad behaviour and this is in front of the whole community and these are meetings that are supposedly called to mediate and generate social integration. So do not denigrate foreign communities in public forums and please they need to keep undertakings to foreign national communities, many undertakings are made of we will do a report, we will do a this, we will do a follow up, we will do a workshop and it doesn’t happen and this just further undermines trust.

Stakeholder involvement in Zwelithemba when I did the
report there, there was a satellite police station but they very effectively ran a small inter-cultural business group and they provided space, they encouraged and they helped them do agendas and they helped them understand how to run their meetings and it was quite successful for some time. It took a lot of energy but it was very useful to try to iron out differences between the different business people and to create understanding of the different models.

Community Policing Forums, generally foreign nationals are requested to come to the Community Policing Forums when it is seen that there is a problem with the way that they operate in the community, they are not generally part on the whole of community policing forums often because they don’t have a recognised organisation in the community but they need to be included on community police forums all the time so that they are part of the information and feedback in the community. Street committees also but as other research has shown because street committees relate to property owners none of them ever get to be on street committees, I believe that that, although there are some street committees that allow it, generally speaking it doesn’t happen.

Finally just the last quote from one of the people I interviewed in December. He said:

“The people will come to harm you when the police are not serious about you.”
And this is very much a feeling of the foreign nationals, that the police are not serious about them. It may be feelings in other communities but this is their feeling, they are just foreigners, they don’t have networks in the community that will stand up for them, there is nobody in the police are not accountable for abuse. That is my report. I don’t know about the questions now?

MR SIDAKI: Thank you Ms Igglesden. You will be asked questions by SAPS counsel.

COMMISSIONER: There is one question just before SAPS put its questions to you Ms Igglesden that I would like you just to clarify and that is the question of why the people who gave you this evidence were reluctant to have their names put into the public domain?

MS IGGLESDEN: Because they don’t believe that they can be protected. That is one issue. They believe that the police will be that there will be repercussions. The other issue is frankly that they find the processes are so laborious and with such rare positive outcomes that they just don’t want to be involved.

COMMISSIONER: In fact it is a more broad distrust of sort of state interventions generally just as well as there is a distrust of the police.

MS IGGLESDEN: Criminal justice interventions, they have seen the courts, to their understanding they don’t understand the bail systems, they don’t understand why people come out
all the time and they don't understand why cases are dropped and they don't understand why they waste so much time in court. And they are businessmen, it costs a lot of money to stay in court and then have the case dismissed or deferred and all that sort of stuff. So it is two fold; they are fed up with participation, they see no value in it which is why it was difficult to get this research done, they didn't want to talk i why again what difference will it make. And the other thing is they are very worried about repercussions from the police.

10 COMMISSIONER: Retaliatory action?

MS IGGLESDEN: Yes.

COMMISSIONER: Thank you. Mr Masuku is it you or is it Mr Arendse?

MR HATHORN: Could we be permitted to put a question arising out of the Commission's question?

COMMISSIONER: Yes certainly.

MR HATHORN: Ms Iglesden, our clients the Social Justice Coalition, the Treatment Action Campaign and other NGO's tried very hard to get refugees and in particular the Somali traders to come and present evidence before this Commission and they experienced a very similar response to the responses that you have been describing in your evidence about the reasons for the distrust of the criminal justice system, would or is it likely that the perception of participation in this Commission would be very similar to the perception of
reporting crimes, going to court, would it all be seen as part and parcel of the same process?

**MS IGGLESDEN:** I believe so yes, I believe it would be seen as another talk shop and for what. The other issue is also that in dealing with Somali communities, with all foreign communities, they are here because of conflict in their home countries, they have mostly got more than one grouping from the original conflict here so in order to get people to speak you need to know the tribal dynamics, you need to know leadership politics, you need to get to the right people to understand who is in Khayelitsha and who is the rightly placed leader to get their cooperation to speak.

**MR HATHORN:** Thank you.

**NO FURTHER QUESTIONS BY MR HATHORN**

**COMMISSIONER:** Mr Masuku.

**CROSS-EXAMINATION BY MR MASUKU:** Thank you Ms Iggelsden. Just following up on the question that the Commissioner put to you, you did testify that the leaders of the Somali community who had become quite vocal did not also want to testify because they thought well that might jeopardise the relationships the relationships they've established with the police, and that is a relationship that is beneficial, am I correct to say that?

**MS IGGLESDEN:** Yes, it is beneficial but it relates to very few people, it relates to some of the big businessmen, it doesnâ...
relate to the general foreign population.

MR MASUKU: Yes, and when you say big businessmen what do you mean, in relation to Khayelitsha?

MS IGGLESDEN: I mean people who are community leaders in the Somali community who have maybe more than one shop, they may only have one shop in Khayelitsha but they other shops other places, so they are relatively wealthy people. So they have influence and it’s possibly strategic that the police are working with them in terms of you know they are the voice of the community therefore they are receiving additional assistance.

MR MASUKU: In what form is that assistance?

MS IGGLESDEN: Well in terms of big concern, I mean obviously if they’re business owners their biggest concern is hijacking and theft, in relation to stocking their shops, that’s their biggest concern and if they’re businessmen they’re running up and down daily with bakkies full of either money or goods they are concerned about the gang activity. If the police are assisting these people who are also community are spokespersons for the community it keeps them quiet.

MR MASUKU: Yes because these community leaders they speak publicly isn’t it?

MS IGGLESDEN: What do you mean publicly?

MR MASUKU: They are community leaders, which means they are known people in the community that you’ve described, so
they are people who speak openly about police abuse and they engage with the police to deal with those kind of issues.

**MS IGGLESDEN:** I don’t believe they speak openly, I mean if they are if criticising the police compromises protection of their business transport arrangements they will not speak openly. I mean it was just proved, I had an arrangement to speak to some leaders and in the end they refused because they were worried about protection being withdrawn.

**MR MASUKU:** Right, so in a way the protection you are talking about is that protection being granted outside the normal parameters of how police protection is given?

**MS IGGLESDEN:** I believe so yes.

**MR MASUKU:** So can I be blunt, are they bribing the police in order to get the protection?

**MS IGGLESDEN:** I don’t believe so, they could be but I don’t have any information, I believe that they have made a lot of noise about gangs, the police themselves see that gangs are a problem, and I believe that the leaders suggested a cooperation to get some of these gangsters.

**MR MASUKU:** Yes, so is it possible that these leaders see cooperation as a solution to their problems that they face rather than coming to say the commission and talking about experiences that they have worked very hard to basically presenting evidence that cast the police in a very bad light?

**MS IGGLESDEN:** I believe i I mean strategically it makes
sense if a businessman can get the police to escort him to the
cash and carry so he doesn’t get robbed, he is not going to go
and complain about that policeman.

MR MASUKU: No, but I’m talking about the cooperation
between the police.

MS IGGLESDEN: Well that is cooperation.

MR MASUKU: And the Somali leaders.

MS IGGLESDEN: That is cooperation.

MR MASUKU: Yes. So the reason why they are not speaking
to you is because, it’s not necessarily because they fear the
police, but they have cooperation, they have opened a line of
cooperation with the police that enables them to feel a sense
of security.

MS IGGLESDEN: The message I got from them is they don’t
want to be at risk talking about other issues that are not
addressed by the policy because they might lose this particular
area of assistance that have recently been put in place.

MR MASUKU: Because we see you the attitude of the police
has been that or is that they are they accept that there are
lapses in the way in which policing by some members is
conducted, and the concerns or the complaints that have been
raised by the people you interviewed, they will be legitimate
and that they are now obviously looking to hear what solutions
they can give, and you suggest a number of solutions, but can
I ask you about one solution which I’m not sure whether you

/...
dealt with but the idea that the integration of the Somali community within the communities where they actually live is that i would you consider that to be a solution? That would bring in i in fact it's a clumsily put question, let me put it this way ...(intervention).

COMMISSIONER: Is this your first question on your list of questions?

MR MASUKU: No, no, I actually I deviated a little bit from the questions that I wrote.

COMMISSIONER: Okay.

MR MASUKU: But I do talk about integration in my i sorry i yes I do ask about integration and the question I ask is do you agree that the integration of the Somali refugees can only be achieved through non-policing methods, public education about issues of refugees, rights of refugees and responsibilities of host countries?

MS IGGLESDEN: No, I don't agree that it can only be achieved by non-policing methods, I believe that the police as an institution of government need to be seen to be even handed, need to be seen to be in the terms of that quote I gave ŕsérieous about foreigners ŕ and at the moment they are not.

MR MASUKU: Yes, or in fact you will probably not be surprised to hear that there are community members who are in Khayelitsha who are not Somalis who believe that police are
not serious about policing, it's not just Somali problem.

MS IGGLESDEN: I realise that, but I'm talking about Somalis, I was ...(intervention).

MR MASUKU: Yes, but I am saying the issue is bigger that just a Somali problem.

MS IGGLESDEN: Fine.

MR MASUKU: So there will not be any policing that is specifically designed for Somalis but policing generally that is designed for the community that they ū for the general community.

MS IGGLESDEN: Except that I think I was trying to point out that in order for policing to be effective the police need to understand the particular needs of this group as there are other groups also in Khayelitsha who have particular needs, and the particular needs are not very often taken account of.

MR MASUKU: Alright, so now you in paragraph 5 you say you disagree with that code. You don't believe that public education about issues of refugees, the rights of refugees and the responsibilities of host countries would assist in general acceptance of the fact that the Somali community is part of the community in which they do business.

MS IGGLESDEN: I didn't say that, I said that I don't accept that only non-policing methods are appropriate, all those issues are appropriate and one of issues is in response to one of your earlier questions, is that the political discourse needs
to improve, hugely, national, provincial, local levels, political discourse on foreign nationals has to improve enormously. When there's a problem with attacks on foreign nationals it's all about embarrassment, embarrassment, what will the world believe about South Africans but the issue should be these are people who have human rights, it's nothing to do with embarrassment, it's about upholding human rights.

**MR MASUKU:** Yes, we agree with that, I think maybe I should put it this way, it's not something that the police would want to be known for, abusing the rights of citizens, basically. I don't think that if you walked out and asked the most junior police officer they would to know, they would like the police to be known as an institution that protects rights, so your suggestions and your recommendations that you make are fairly useful for how we reflect on how police officials should deal with that and all I'm suggesting to you is that the part of what you do is not simply improved policing in their capacity to connect arrests and put them through criminal proceedings, but also to integrate society and to realise that there is a duty on society itself to assist with police work, so for example the Somali community would be if they felt protected they would be it would be easy for them to report the crime and the trust, that system rather than go and buy an illegal firearm in order to protect themselves.

**MS IGGLESDEN:** Ja.
MR MASUKU: Because when they buy an illegal firearm and they use it or firstly, when they buy an illegal firearm they commit a crime, and so the police if the police get to know that an illegal firearm has been obtained by anybody including Somali refugees, they will be arrested, there will be no doubt about it, for whatever reason.

MS IGGLESDEN: I would like to ask a question, or just pose a question, why is it, or is it just that foreign nationals are not allowed to get gun licenses. In some areas somehow, and I haven't yet managed to find out how, foreign nationals do get a gun licenses, I believe in PE I heard police representative on the radio speaking about gun licenses, for foreign nationals, but generally speaking they're not allowed gun licenses. I don't know whether this is an issue I appreciate that they're foreigners and there's always concern about the behaviour of foreigners, but on the other hand if they need to protect themselves and citizens are allowed to protect themselves, upstanding citizens, if refugees are proven to be upstanding why shouldn't they also have firearms?

MR MASUKU: I would be, if there was anything I would be an anti-gun person, I don't believe that individuals should be carrying guns around, but I understand what your proposition in. The last ...(intervention).

COMMISSIONER: Mr Masuku it would be helpful, I haven't got the firearms legislation here, but it would helpful for us to just
explore this question, of whether there is an expressed provision in the firearms legislation and if there isn’t just to indicate to discover whether there’s a particular policy adopted that makes foreign citizenship i foreign citizens ineligible for gun licenses, we should just pursue that issue.

Thank you Ms Igglesden.

MR MASUKU: Thank you madam chair. I think I don’t have any other questions.

NO FURTHER QUESTIONS BY MR MASUKU

COMMISSIONER: Good, any further questions Mr Sidaki in re-examination.

MR SIDAKI: I have nothing madam chair.

COMMISSIONER: Mr Pikoli?

MR PIKOLI: Just one question Ms Igglesden, you know given the in the national legal instruments and protocols that seek to protect refugees, and based on your own research in Khayelitsha and the way in which the police treat them, what will be your assessment in terms of our performance? Or the performance of SAPS against those protocols?

MS IGGLESDEN: I believe that the protocols are not fully realised, however I believe that the public discourse and government discourse would assist an improvement in it, it would assist Home Affairs who frequently has quite xenophobic statements. Department of Trade & Industry in some of their proposed legislation they have targeted or spoken of targeting
foreigners, and when we see in the Health Services we know there's quite a lot of exclusion when members of the public see and police are at certain points in their life members of the public, when police as members of the public and as professionals see other professionals not upholding these rights it gives them a carte blanche, irrespective of what their management may be trying to suggest should be the case. So I think I mean there's varying levels, and the difficulty is that there are no community structures to help hold police accountable.

MR PIKOLI: Given the level of distrust that exist between the foreign nationals here in Khayelitsha and the police whom do they see as their protector?

MS IGGLESDEN: Their own tribal grouping, their own tribal grouping so you know if there's a problem they will refer to seniors, elders in the group, maybe, and they get helped out financially obviously with I can speak for the Ethiopians, for the Somalis they work in a traditional Moslem business structure where if one goes down the others in the tribal grouping will help them out, so those basically are their protectors, and the few people in the community who can speak English or a few of them Xhosa, then they also become protectors. And money, paying off is a protector, you know, you get arrested pay somebody get out.

MR PIKOLI: Thank you ma'am.
COMMISSIONER: Ms Igglesden just on a factual question how many different tribal groupings are there of Somalis approximately in the Western Cape or operative in Khayelitsha perhaps?

MS IGGLESDEN: It's a moving thing, but basically also they don't particularly like this being discussed. The Ogaden who originally were Ethiopian were the first group to move into this area, and to move into the townships, then increasingly now in the townships are Abgal, who are from - who are based traditionally for Mogadishu often have suffered a lot more war and are not used to functioning governments.

COMMISSIONER: So you're really saying two large groups, or within the groups where they would prefer their kind of kinship structures?

MS IGGLESDEN: Yes, there are lots of sub-groups, but basically when we are trying to work in groups if we are trying to get full inclusion we have to try to say have we got Ogaden, have we got Abgal as broad family groups.

COMMISSIONER: Thank you very much. I thank you very much indeed for your report, which is very helpful to the Commission on a very important issue which is the experience of non-citizens in relation to policing in Khayelitsha. We will you may now stand down.

WITNESS EXCUSED

COMMISSIONER: We will now take an adjournment until half
past eleven.

**MS IGGLESDEN:** Thank you for the opportunity.

**COMMISSION ADJOURNS:** (at 11:20)

**COMMISSION RESUMES:** (at 11:35)

5 **COMMISSIONER:** Mr Sali?

**MR SALI:** Yes.

**COMMISSIONER:** Welcome to the proceedings before the Commission.

**MR SALI:** Thanks.

10 **COMMISSIONER:** We know that you've come a bit of a distance to be here so we're especially grateful to you, thank you.

**MR SALI:** Okay, it's a pleasure.

**COMMISSIONER:** Mr Sidaki, will you be leading with Mr Sali?

15 **MR SIDAKI:** Mr Sali will be testifying in English, Madame Chair.

**COMMISSIONER:** Right.

**MR SIDAKI:** And he is aware that he's giving public evidence and has no objection to his name being published.

20 **COMMISSIONER:** Yes, it important that we explain to every witness that these proceedings are in public and that the testimony that you give may be made public including through the media and ensure that you have no objection to that.

**MR SALI:** No, no objection.

25 **COMMISSIONER:** Well thank you. And Mr Sidaki has told me
that you're going to be testifying in English.

MR SALI: Okay.

COMMISSIONER: And I would therefore like to put you under oath.

5 CHUMILE SALI: (Sworn states)

EXAMINATION BY MR SIDAKI: Thank you, Madame Chair. Mr Sali, during 2012 when this Commission was established you were working for Eskom as procurement officer at its head office in Megawatt Park in Johannesburg, correct?

10 MR SALI: That's correct, yes.

MR SIDAKI: Now you were at your office one day busying yourself with matters of a procurement officer and you looked at the news for the day and you came across a report that the Commission of Inquiry for Khayelitsha had been established by the Premier of the Western Cape, correct?

15 MR SALI: Yes, that's correct.

MR SIDAKI: When you read this report was it an online report on the computer?

MR SALI: Yes, it was on IOL Independent Newspapers Online.

MR SIDAKI: Independent Online?

MR SALI: Yes.

MR SIDAKI: When you read this report about the establishment of the Commission what went through your mind?
MR SALI: My reaction was that Commission was long overdue because I resided in Khayelitsha for period of two years and also serving the CPF. I can attest that there is a breakdown of relations between the police and the community, so therefore when I saw the notice I said this is long overdue and I thought it will be important for myself also and for people of Khayelitsha to contribute in this Commission.

MR SIDAKI: Yes.

MR SALI: And so what I did, I tried to get contacts of the Premier's spokesperson and then I sent him an email requesting that I'd like to testify in this Commission.

MR SIDAKI: Yes, so you made attempts to get in contact with Commission and eventually you provided a statement to the Commission, correct?

MR SALI: Yes, that's correct.

MR SIDAKI: Now you wanted to participate in the Commission because you had lived in Khayelitsha between January 2010 and January 2012, correct?

MR SALI: That's correct.

MR SIDAKI: And that was following a stint where you had been a student at the University of the Western Cape where you graduated at end of 2010 with an LLB degree, correct?

MR SALI: That's correct.

MR SIDAKI: Okay. And when you then moved to live in Khayelitsha having completed your LLB degree you lived in
Makhaza in Harare, Khayelitsha, correct?

**MR SALI:** Makhaza. It's in Makhaza but it's under the Harare police precinct, yes.

**MR SIDAKI:** And you were renting in Makhaza, correct?

**MR SALI:** Yes, that's correct.

**MR SIDAKI:** Now tell the Commission how it happened that you got involved in the Community Policing Forum?

**MR SALI:** Okay, when I first arrived here one the issues that I observed was the high level of crime within the community. To me, coming from Eastern Cape in Uitenhage to Khayelitsha, to me Makhaza was an abnormal situation, it was not an environment will my children will grow in because of the crime level that I saw in the community.

**MR SIDAKI:** Okay. When you talk of crime level that you say in the community what was happening?

**MR SALI:** No, there were a week will not pass by without hearing a gunshot in the community or hearing stories that a certain person or a person that you know has been stabbed or robbed and house break-ins as well. Ja and my landlord, the person whom I was renting to, at that time he was the PRO of the CPF so we used to communicate regularly about his work and so forth. So I developed interest, I also informed him that I would like to participate in the community activities and also contribute in the fight against crime in the community, so that's where my interest developed to particularly CPF.
MR SIDAKI: And so through your landlord, who was a PRO of the – was it the Harare police station as a CPF?

MR SALI: Yes.

MR SIDAKI: You then got involved in matters to deal with the community and Community Policing, correct?

MR SALI: Yes, because we used to discuss, he used to come to me for advice and so forth so he used to discuss CPF related matters, whilst I was not in CPF, I also used to attend community meetings where crime was the discussion of the day. Ja. So but when I got elected there was an AGM organised by the (indistinct) CPF and SAPS, it was held in Makhaza, so I was the delegate for the Masimatizani(?) which is the youth organisation that is dealing with upliftment of young people in the community so I was a delegate and then I was elected.

MR SIDAKI: And you served as a secretary of the Harare Community Policing Forum, correct?

MR SALI: That’s correct.

MR SIDAKI: And you were secretary of that CPF for some four months?

MR SALI: Yes, for four months, yes.

MR SIDAKI: And it was between what time and what time that you served in the CPF?

MR SALI: September 2011 towards the end of December 2011.
MR SIDAKI: Now you say you attended community meetings, you know, where issues of crime were discussed. What were the issues that came about that were discussed?

MR SALI: It was mostly robbery and that people were unable to move at night because they'd be robbed, murders as well, housebreaking. Ja, those are the issues, and also the conduct of patrollers was all the issues that were discussed more often, ja, than another issues as well.

MR SIDAKI: So how did the patrollers come about?

MR SALI: The patrollers were members of the community who were fed-up about crime in the community. They were of the belief that the police are not doing enough to protect them so they took it up on themselves to organise themselves and patrol at night, so it means that they didn't have batons and other stuff so what they will do is that at night any person who is walking after ten o'clock they will attack them and beat them, women, children and elderly people as well, so there were complaints within the community. The community said okay fine, we appreciate your commitment, you contribution in the community but what we cannot tolerate is your violating our rights because citizens have got a freedom of movement because there are people who working up till late, so when people come back from work they get attacked and others i you women were sleeping over as well. So ja, there were many complaints.
MR SIDAKI: Now why were the community conducting their own patrols, why didn't the police provide service by the police?

MR SALI: No, that was not - a feeling from community members was that the police are not visible and that when they report cases it takes time for police to respond in some instances they don't respond at all so it was important for community members mostly elderly men in the community who are unemployed who will gather around 8 p.m. until the following morning at six. So it was routine, there will be shifts, people on Saturday, the ones who went in on Saturday won't go in on Sunday and so forth.

MR SIDAKI: In fact you on an occasion in 2011 you attended a meeting that had been called in one of the local high schools. Please share with the Commission what happened, why that meeting was called, who called it and what happened at the meeting?

MR SALI: The meeting was in Harry Gwala High School in Makhaza, 39 Section. It as organised by the workers (indistinct) the school principal and the parents. It was mostly on gangsterism in the area because parents were complaining the children, their children, are not going to school because they fear that they might be attacked at school and the principle as well was concerned about the safety of the children and safety of the educators as well because these gangsters
they entered school premises the teachers are also vulnerable or they might be victim of crimes as well. So the meeting was about gangsterism and the gang leaders were also invited to that meeting. They pledged publicly that they will stop their activities because it also affect their academic progress and so on but it did not stop, it continued.

MR SIDAKI: And so you joined the local CPF to assist your community in matters to deal with security. What were your observations of the running of the Harare CPF? In the first instance you said that when you joined the old CPF board had just î was handing over to a new board?

MR SALI: Yes, thatâ€s correct.

MR SIDAKI: Okay.

MR SALI: When I entered there the outgoing CPF was dysfunctional but they managed through the assistance of SAPS to go through an AGM so that there are new structures in place to try to create a link between the police and the community. So when we occupied our office it wasnâ€t our task, I will admit, because there were no structures in place for the CPF. Also there were patrols but they were not organised and CPF didnâ€t have sub-forums and also there are other issues that CPF itself was not supported by SAPS because in Harare at that time, when I was serving, I donâ€t know about now, there was no CPF office, there were no equipments. So as the secretary I used to use my laptop and my printer at home to do
CPF work and that was discouraging, I'll admit. Also the issue of a vehicle, most people who were in CPF where I was serving were unemployed, there were only about one or two people who were employed and others will get casual jobs, becoming a cleaner for two days, three days, and then come back and stay in the township. So it did not ī and Harare police precinct is a very large area so for you to travel from one place ī from point A to B, you need to take a taxi. So for an unemployed person to travel it was a big difficulty so we used to organise transport with SAPS police vans and there were minimal of them, so it means that if you have a meeting, a CPF from 5 to 6 p.m. we will wait up until 9 o'clock for a police van to come and take us to our places of residence and that was discouraging. It also gave us picture as to why was the previous CPF (indistinct) because there was no structures in place to support the CPF.

MR SIDAKI: But you appreciated of course that police need to use police vans for matters to do with policing?

MR SALI: I appreciate that fact and one of the reasons is that, as I indicated in my affidavit, is that there were also minimal ī few police vans that were operational at that section as well. So we used to rely on them because we were unemployed at that time. So we could not walk, it was not safe for us as well.

MR SIDAKI: Now when you joined the CPF did it go through
any induction?

MR SALI: Yes, there was two inductions in fact by the Department of Community and Safety. The other one was in Mitchells Plain police station, the other one was in i l ôm not sure about the area but it was in Mfuleni, it was like a police college, it was in that area, so there was induction.

MR SIDAKI: And what does a CPF induction entail?

MR SALI: It entails the duties and functions of the office bearers and also the duties, the aims and objectives as to why we have CPF. It was more on CPF constitution and also how to maintain relations between the community and the police. Ja, it was more about what was expected out of us and what form of actions we should devise as the CPF.

MR SIDAKI: And certainly the CPF constitution envisages that the station commander of the police station should be involved with the CPF. What was the experience of the station commander at Harare police station at the time?

MR SALI: Okay, during my four month tenure it was a bad experience, I will say, because when we entered there was a district commander who resigned or redeployed, his name was Nel. So when he resigned we had about three acting station commanders in that (indistinct) when I was there. So as the CPF weðl engage them on our programmes and none of them i that was the bad experience about it i none of them will commit SAPS on working together because we were preparing

/...
also for the festive season, because normally we have programmes for the festive season because the festive season is a high level of liquor consumption and crime rates and so forth. So we were preparing, as the CPF. So we never get any commitment, we also tried to engage them that as CPF we cannot operate on our places of residence because we are not staying alone, others are married, they stay with partners, so we cannot CPF documents in our premises, we need an office. So we could not get that commitment and none of them committed and I remember one commissioner, he stated priorily that he's only acting capacity, he doesn't know when he'll redeployed or sent somewhere else so he cannot commit himself, ja well CPF matters.

MR SIDAKI: Now as the CPF you had to have weekly meetings with the police?

MR SALI: Correct.

MR SIDAKI: And you had to have fortnightly meetings as the CPF. Now tell the Commissioner about the weekly meetings with the SAPS.

MR SALI: The weekly was more of a feedback from sector commanders on it was more on statistics as to it for example, in sector 1 there were three murders this week, three house it three break-ins, one rape and so forth. So it was more of painting a picture as to what is happening in different sectors and which areas need more attention and so forth. Ja, so CPF
will also come there and engage with SAPS. I admit that the meetings were open for discussion, we were able to engage as well as CPF to raise our issues in those meetings. So they were more as to highlighting how many crimes were committed from the previous Tuesday to that Tuesday morning.

**MR SIDAKI:** And did you find that there was a meaningful contribution from the acting station commanders in those meetings?

**MR SALI:** Not entirely because most people who were reporting were sector commanders and investigators. It was more of a feedback from sector commanders. Ja, I will say, not necessarily a station commander.

**MR SIDAKI:** And what was the participation of the station commander in those meetings, if at all?

**MR SALI:** There were three different station commanders. Ja, all of them were participating I will say, yes.

**MR SIDAKI:** Yes. Now at these weekly meetings did you raise issues that were raised by the community of lack of response, etcetera, did you raise those issues at these meetings?

**MR SALI:** Yes, the CPF we raised those issues because some of the crimes that were reported by sector commanders, they also came to our knowledge as CPF members. So I will say also as much as we agreed that there were two robberies, also if the CPF if SAPS responded timeously maybe a certain...
incident would have been prevented. So we used to raise our issues as CPF as well.

MR SIDAKI: And what was the feedback from the police? Why couldn’t they respond timeously?

MR SALI: The major issue that they raised was the absence of police vehicles which is your vans. They said that most of their vans are not operational. As a CPF secretary I can also attest to that because some of the police vans, if not most, were parked in Harare police station, so that’s why my affidavit referred it as mini scrap yard because there are police vehicles that are parked there that are not operating, so there were few that were operational. Ja, say if for example there’s an incident in Endlovini at the same time an incident at 36 section it will be difficult for police to attend to the same crime at the same time to a different crime at the same time because of the vehicle.

MR SIDAKI: So although there are problems with vehicles, operational vehicles to attend to calls but you could see vehicles parked in the police garage but why were they parked there?

MR SALI: Because they were not repaired, they were not serviced, so there were there not operating.

MR SIDAKI: Okay. And this issue of acting station commanders, you said you had three in the space of four months?
MR SALI:  Yes.

MR SIDAKI:  What did it do to the leadership of the station, if anything, that you observed?

MR SALI:  In our second month in October, as the CPF, after we were inducted, we developed a programme of action, we called an AGM or a meeting of our affiliates and our POA, programme of action, was endorsed, so we took it to the station commander who was acting then, his name then was ī I think was Mr Abel. Ja, Abel. So we said this is our POA, weâd like to integrate to SAPs programme for the forthcoming twelve months. He could not comment. He said no - the same excuse that I gave earlier on, that he canât commit because heâs there on a temporary basis, he might be moved redeployed somewhere else. So following in my view, if you are in a senior position, a station commissioner, you are employed to take decisions but you are unable to take decisions, it shows a lack of leadership. Even if you are acting or you are permanently employed, you donât decision, you take decision on behalf of the organisation, which is SAPS. So if you die tomorrow, thatâs immaterial, thereâs a relation or an agreement between SAP and the CPF. So to me it was lack of leadership.

MR SIDAKI:  And that indecisiveness, what did it do to the morale on the one hand, the CPF members, and on the other hand the members of the SAPS stationed at Harare?
MR SALI: It did not directly affect a number of CPF members because we were ‹ we knew that you do (indistinct) and we need to engage SAPS. So the issue that was (indistinct) our morale was the issue of the transport and the resources. On the SAPS side as well because we used to engage the sector commanders because we will go to them in public meetings. Like the communities will call meetings and invite CPF and SAPS to raise issues that affecting them. So on our engagement with SAPS or police officials, they will raise that they are also demotivated because there’s lack of leadership and also the issue of the transport because I remember one sector commander in sector 2, that area of Makhaza, he used to come to work with his private vehicle, it was a Venture, if I’m not mistaken, Venture or Condor. He’ll come to work with his vehicle and do SAPS work with his vehicle. So there are police officials who are committed but in my view, I think at Harare police station there’s little support for such members hence the low morale.

MR SIDAKI: In fact where as the CPF you realise there’s challenges in working with at the police station that you assigned, what would it do to the confidence of the CPF members in relation to the police?

MR SALI: I can’t give you a clear answer on that one. As I’ve said that our main concern ‹ so when we occupied office were realised that the previous CPF did not do much work so we
need to set up structures in place, like have a i as a proper structure that is the creation of the constitution, we had to ensure that the CPF has an office space and also a regular transport. If, for example, there's a meeting called by DOCS in Mitchells Plain, I should not wait for two hours to get transport, you see? So our major issues were mostly on our needs as the CPF. So some members at that time were (indistinct) in office for months. I don’t know after I left what transpired.

MR SIDAKI: I ask you this question, Mr Sali, because the commission has evidence before it by Ms Nxapanapa(?) who lives in Harare who when she couldn’t get help from the police contacted the Chairperson of the Harare CPF and the Harare CPF Chair referred her to the Taxi Association to address her problem. Does it sound to you like a proper thing to happen?

MR SALI: If there's evidence it means that I can't contest that statement but ideally that should not happen as a CPF member who have been inducted, you've gone through the processes i especially the Chairperson because you are the face of the organisation so the Chairperson should have taken proper steps because once you take a human being to the taxi rank you might as well give that person to the dogs because you are saying that that person must be killed, that's what you are saying, and as a CPF member you are supposed to uphold human rights because it's also stated in the CPF constitution
that you need to liaise between the police and the community and ensure that the SAPS don't abuse the basic rights of the citizens so that is an unfortunate incident and that Chairperson should be held responsible for that.

5 MR SIDAKI: Did you find when you served in the CPF that there were complaints against CPF members or not?

MR SALI: There were complaints or complaints and perceptions as well because there were perceptions from community members that if there's a dispute between community member and a CPF member the police will take the sides of CPF members and also CPF members will abuse their relations with police in infringing the rights of community members. So there were those instances, we used to get them.

10 MR SIDAKI: I see. In your view having participated and worked in the CPF in Harare, did you think that those perceptions were valid or not?

MR SALI: They were not from one so in my view they were valid and from different people as well, different CPF members, yes.

15 MR SIDAKI: Now you've spoken about the challenges that you faced as a CPF in order to function.

MR SALI: Yes.

MR SIDAKI: I mean was the CPF funded at all? Was it provided with any resources?
MR SALI: There were no resources, none so ever. So and that on its own, it kills the purpose of having CPFs if there are no resources, no offices, no vehicles for the execution of CPF duties because we exist as CPF to create that link or to be the bridge between the police and the community, so if you are not resourced, you are unemployed, you are expected to work from your own pockets and in a private space which is your place of residence. Ja.

MR SIDAKI: It makes your job difficult.

MR SALI: Makes your job difficult, extremely difficult, ja.

Because as secretary I was also unemployed at that time, so what I used to do, I used to go to Ward Councillors to ask for paper and so forth just to print a letter because we are unable to print because we do not have an office.

MR SIDAKI: And did you find the Ward Councillors helpful?

MR SALI: The what?

MR SIDAKI: Did you find the Ward Councillors helpful?

MR SALI: Some were helpful, some were helpful, ja, because they were also still new that side at that time in 2011. So they wanted to prove to the community that they are working as well.

MR SIDAKI: Now you've since left Khayelitsha, you now live in Johannesburg, you flew down especially to give this evidence before the Commission, correct?

MR SALI: That's correct.
MR SIDAKI: Did you make contact recently with the local CPF people to find out what the situation is now?

MR SALI: Yes I did make a contact yesterday with this other lady, she was the coordinator in our CPF, she's also CPF member in the current one, the one that preceded our CPF. So I asked as to I informed her that I am going to testify in this Commission and ask her what are the challenges, it is the exact challenges that are left when I was still the CPF secretary in 2011, so there are no changes.

MR SIDAKI: Was it her feedback to you?

MR SALI: That was her feedback to me, yes.

MR SIDAKI: Now as the CPF what other challenges did you find, you know, did you have a good attendance record of members of the CPF oré?

MR SALI: Yes, we had a good because we never cancelled a meeting because of quorum at that time and must also bear in mind that it was the first four months in office and the interest was still high at that time, we were newly elected in the office. So we used to have good records in our meetings, in our programmes as well.

MR SIDAKI: Now you're spoken about the challenges in policing and people eventually forming themselves to patrol their streets, did you observe any issues relating to vigilantism or not?

MR SALI: I did experience it once but it did not happen
because that was at the period when I was still CPF secretary that time, there was a young man who grabbed a young lady's cell phone and the community members managed to apprehend him, so they were about to î they were starting to beat him so I came in and I said no, I'll call SAPS, we'll deal with this issue legally, people should not take law in their hands. Ja but in the community generally there were many incidences that were reported of vigilantism, people taking law into their hands especially in an area called Enkanini, you'll hear stories that a person was necklaced for stealing a phone or for breaking in and so forth, so it was a general phenomenon around the community because if there's a thief we take the law into our own hands. But what I find most disturbing about vigilantism is that we find that there are children around so the people who are doing that they don't take into consequence that they are killing morale fibre of society because once you start killing regularly people in front of children you are breeding other criminals as well because when they grow up they won't fear that, it will be easy for them to join gangsterism and so forth, so there were many î also even eTV, eNews channel ran a documentary on vigilantism in Khayelitsha, there were many cases that were displayed there on TV.

MR SIDAKI: And in your view what causes people to engage in vigilante activities?

MR SALI: It's the absence of trust between the community
and the police I will say and also the time that the police respond to incidents in the township and also loss of faith or lack of faith in the criminal justice systems as well because we will take a suspect A, the community will hand him over to the police, the following week suspect A will be released because of lack of evidence and so forth and suspect A will continue to commit crime in the community because most people who are victims of vigilantism are known criminals within the community, you see, so community comes to a conclusion that if we don’t deal with suspect A no one will deal because we’ve tried, we’ve taken him to the police, he went to court, he still not arrested, so the best way is to do the injustice to suspect A.

**MR SIDAKI**: In fact, Mr Sali, you have you once received a message on your cellular phone?

**MR SALI**: Yes, correct.

**MR SIDAKI**: Tell the Commission about that message?

**MR SALI**: No, it’s a clip of mostly schoolchildren attacking a naked man suspected of I’m not sure what crime he was suspected of, but a suspected criminal being attacked by schoolchildren and community members.

**MR SIDAKI**: Where did this message come from, do you know?

**MR SALI**: It was through social networking, Whatsapp, Mixit, security around the area.
MR SIDAKI: And was it just being widely é?
MR SALI: Widely circulated, yes.
MR SIDAKI: Circulated?
MR SALI: Mostly by young people.

MR SIDAKI: Madame Commissioner, at this moment I would like to play this video for the Commission but I must state that it is a video that is disturbing and é (intervention)

COMMISSIONER: Has a copy of this video been given to any of the other legal representatives? Are they aware of this?

MR SIDAKI: They are not aware of it, Madame Chair.

COMMISSIONER: Can you give us a quick (a) what's in it and (b) why you think you want to show it so we can see whether there are likely to be objections. I have to say it's news to the Commissioners as well.

MR SIDAKI: It is merely a ė as explained by the witness ė a person who is being attacked following accusations é (intervention)

COMMISSIONER: Is this pasted on social media, it links to the question about social media, does it?

MR SIDAKI: That is correct.

COMMISSIONER: So this was the actual ė a short Youtube clip or something that you received by social media?

MR SALI: I received it via Whatsapp.

COMMISSIONER: Sorry?

MR SALI: Via Whatsapp.
Mr Arendse do you have any difficulty with us seeing this short video clip that was circulated presumably do know how broadly?

Mr Sidaki: 40 seconds.

Mr Arendse: Madame Commissioner, why were we not told about this before the witness testified? There’s no reference to it in the affidavit. Every day I’m sorry, every day there’s something additional that the evidence leaders are leading the witnesses on and we’re here to cooperate and every day, you know, we leave it and as long as we an opportunity of dealing with it. Now I don’t know what this clip is going to be but if it’s what some of the witnesses have already graphically described, I don’t see the purpose of it being shown to the Commission other than for the media that’s here and I ja, I...

There’s other issues about who sent it to him, when was it sent? All that kind of thing. The person or persons who sent it to him on Whatsapp, were they actually present when this incident took place, how was it filmed? There’s issues with its authenticity, all kinds of issues. But, Madame Commissioner, we leave it in your hands.

Commissioner: Mr Hathorn?

Mr Hathorn: Commissioners, we’ve got no objection to it.

Commissioner: I personally would like a little bit more explanation, Mr Sidaki, as to what the purpose of this is.

Mr Sidaki: Madame Chair, it’s a i the video came i the
existence of the video came to my attention shortly before the witness testified. The witness is based in Johannesburg and we only had the first opportunity of consulting with him was this morning just before the proceedings started.

5 COMMISSIONER: Why is it relevant to us to see this, what value is the Commission going to take away from it?

MR SIDAKI: Well, it ties in with his evidence and with evidence of other witnesses of vigilante attacks that happen in the community. It shows quick graphically the way in which these attacks take place in broad daylight in full view of general members of the community and it illustrates the point of what people do in how people vent their anger at suspected criminals.

COMMISSIONER: What is the provenance in the authenticity?

10 MR SIDAKI: As far as I'm concerned, you know, this Commission is not proving any criminal guilt against anyone, the strict rules of evidence é (intervention)

COMMISSIONER: I'm not considering strict rules of all é but how do we know that this was filmed in Khayelitsha that it isn't come mock-up from somewhere else. I mean, I - you know, I want to know why it is that we think we é that this in fact is something that's something to a Khayelitsha Commission é (intervention)

MR SIDAKI: The witness can testify to it, Madame Chair,
testify as to why he believes that that is in fact in Khayelitsha.

COMMISSIONER: When was it received?

MR SIDAKI: He would have received it during the time that he still lived in Khayelitsha.

COMMISSIONER: Is that correct? You received this in 2011?

MR SALI: Yes, that’s correct.

COMMISSIONER: Okay, so we could perhaps have actually had access to it prior to today?

MR SIDAKI: As I say, Lady Chair, it came to my attention only this morning. It’s something that the witness thought he should bring with him to show to the Commission.

MR ARENDSE: Madame Commissioner, just before you confer, excuse me. Ja, apart from the issue of authenticity and this witness now appears to have received it before he made his affidavit, so there’s no explanation why it wasn’t disclosed to whoever drafted the affidavit or took instructions on it. There is the issue of this being shown in public. We don’t even know, this matter, if it was in Khayelitsha, it may even be the subject of an investigation, we don’t know. If it isn’t then the identity of the perpetrator or perpetrators and the people standing around, that now becomes public. I think it’s if this constitutes evidence of a vigilante attack then the proper thing to do is to refer it to the police as a matter that they should take up and show it to them and they must investigate it.
COMMISSIONER: I think we've decided we won't see it now, we will take a view over lunchtime which may involve the Commissioners seeing it and deciding whether we consider it prima facie as valuable to the work of the Commission but we do not think it's appropriate to be shown at this stage.

MR SIDAKI: As the Commission pleases.

COMMISSIONER: This has got nothing to do with you, Mr Sali, this is we're grateful for everything you've done to bring information before the Commission.

MR SALI: Okay.

COMMISSIONER: But the Commission needs to be satisfied. Our general process has been that everything that is going to be evidence that's been given, like your statement, has been made available to the legal representatives here beforehand which allows them to prepare for what information is going to put before the Commission and this obviously would be an exception to that rule and we're not minded to grant it at that stage.

MR SALI: Okay, thanks.

COMMISSIONER: You may continue, Mr Sidaki.

MR SIDAKI: Thank you, Madame Chair. Mr Sali, another aspect that you've identified as problematic in Khayelitsha refers to violence as in delivery protests, what can you share with the Commission about that?

MR SALI: In my view the service delivery protest, firstly they
cripple the capacity of the police because when there's a protest you'll find that police officials from other police stations are also called in to come or to end the protest. So it cripples them, as I've mentioned earlier on that the lack of resources or (indistinct) even within the police, so with the minimal resources that they have they are forced to focus on one area whilst there are other criminal activities happening on the side.

Also, secondly, it also links to the breakdown of relations between the police and the community. One, when there's crime house robbery happening the community, community member A will phone the police, the police will come after two hours or not come at all. But when there are protests, community members are fighting for water, police officials they come promptly, they come with rubber bullets and then (indistinct) delivering the water that are requested by the community. So the possibility is that or the feeling of the community is that when that service delivery protest, with genuine demands from community members, police are quick to respond, assisted by Metro Police. But when there are crimes or when crimes are being committed, police take time to respond or don't respond at all. So to me it also creates that discord between the community members and the police because when community members of toyi-toyiing for water or protesting for water, they are expecting politicians to come and
address them, not police officials, you see?

MR SIDAKI: Now the issues ã these issues relating to crime and policing in Khayelitsha have already been addressed at higher level. The first instance I am going to refer you is one that ã call it a breakfast meeting that was convened by the National Police Commissioner. When was that held and what was it about?

MR SALI: The meeting was held in November 2011, it was at Lukhati, it was a breakfast with the police commissioner Bheki, it was on crime in Khayelitsha and also engagement between various stakeholders, legislatures, educators, CPFs, SAPS and committee members on crime in Khayelitsha and how to tackle and school members were given an opportunity including three years to raise their concern with the police commissioner, and it was in that breakfast where he announced that there will be a second police station, there will be another police station in Makhaza, it was in that session where it was announced.

MR SEDAKI: And another occasion where there was a discussion with senior authorities regarding crime in Khayelitsha was a crime summit that was hosted by the MSC for community safety in the province and the Premier, can you share that with the commission?

MR SALI: Ja, I think it was on the same month, October/November 2011 as well, it was a Khayelitsha crime
summit held at New Way Hall, it was in fact came from the office of the MEC of Community Safety, MEC Plato, it was addressed by him, and the Premier of the Western Cape, Ms Helen Zille, so they made speeches on crime, and committee members who were present there, including CPF's, we were clustered in different groups where we will share our experiences, or also come with inputs on how to tackle crime in our society, so each grouping had a scribe and a chairperson someone who scribed, thereafter there were resolutions that we made in the summit.

MR SIDAKI: And both these meetings were they well attended?
MR SALI: They were well attended.
MR SIDAKI: Did it give you a sense that crime in Khayelitsha is really a problem and that people want something done about it?
MR SALI: Ja, it is a challenge and whenever there's a crime meeting, pertaining to crime the people come in numbers to attend, because they are directly affected by crime. It's either parents, their children engagement in criminal activities or they want to protect themselves in the community.
MR SIDAKI: Now in the beginning of your testimony you likened the experience that you had in Khayelitsha relating to crime and policing to where you came from in Uitenhage, you felt that in Khayelitsha it was the level of crime was
disproportionate, is that correct?

MR SALI: Ja, that's correct.

MR SIDAKI: Yes and if you compare the situation now to where you live, you live in Centurian, what are your perceptions about, how does Khayelitsha compare to where you live now?

MR SALI: In terms of crime Centurian is fairly quiet, and also I think the response comparing Khayelitsha and Centurian, in Centurian the police are quick to respond to crimes, because I remember even myself last weekend the police came into my place with R5 rifles, because the neighbour was complaining about noise, and in Khayelitsha you will never get such a response.

MR SIDAKI: Thank you sir, thank you madam chair I have nothing further.

NO FURTHER QUESTIONS BY MR SIDAKI

COMMISSIONER: Now I'm giving the Legal Resources Centre five minutes to question this witness.

CROSS-EXAMINATION BY MR HATHORN: Mr Sali you state that incidents of vigilantism in Khayelitsha have been on the increase, was the SAPS station, the personnel at the SAPS in Harare were they aware of the increase in vigilantism?

MR SALI: Yes, they're aware, because as I indicated in my previous statement we used to meet with SAPS every Tuesday, so they would report criminal incidents and vigilantism would
also get reported in those meetings.

**MR HATHORN:** What were they doing about it, did they have any plans in place to deal with vigilantism?

**MR SALI:** I am not certain, I don't know.

**MR HATHORN:** So as far as you were aware there were no such plans?

**MR SALI:** No such plans, also when other issue you need to take into consideration when there's vigilantism it's not planned, because people don't plan what tomorrow morning you will go and attack suspect A, it happens that suspect A is apprehended for committing a crime now and people respond now and there. So that's how it normally happens.

**MR HATHORN:** I just want to make sure that I'm understanding you correctly, you say that SAPS knew about it they were aware of the problem but they didn't have any plans, as far as you were aware they didn't have any plans to address it or weren't taking any constructive efforts to deal with it, is that what you are telling us?

**MR SALI:** That's not what I'm telling you, what I said earlier on is the reason why people respond in that manner is because they have lost faith in the police and the justice systems as well, so it's not only SAPS, it's also the justice system as well.

**MR HATHORN:** Ja. Was it regarded as a substantial priority by any of the management at the station?

**MR SALI:** No it was not.

/...
MR HATHORN: You state in your statement that areas like Enkanini and Endlovini the informal settlements were not being serviced by SAPS, what did you mean by that statement?

MR SALI: No, I think you heard me incorrect, I mean the areas themselves are not serviced, they are not developed, meaning that it is hard or difficult for SAPS to respond to a crime scene in Enkanini and Endlovini because every day you go to Enkanini for example Section A when you visit the same area tomorrow there’s a mushroom of shacks so you and also there are no roads, no tars in between, also the houses are not numbered, so that’s where I relayed that statement that the areas are not serviced and in some areas in Enkanini there’s no electricity so at night it’s difficult for anyone to walk in there, in the areas, so SAPS is also affected as well, and it is one of the issues that also SAPS used to highlight in the incidents that we had, because you go to Endlovini today there are five shacks, you come back the following day there are ten shacks, so shack number 1 that was there yesterday is now shack number 10.

MR HATHORN: Did SAPS patrol in these areas, either foot patrols or vehicle patrols?

MR SALI: No, there were no foot patrols, no vehicle patrols because vehicles can’t go inside there.

MR HATHORN: The last issue I want to touch on Mr Sali is the question of the night patrollers, to what extent were the patrols
guided by the SAPS officers, would they meet before and
discuss where the patrols should go or what areas should be
priorities, was there any direction given to the patrols by the
SAPS management?

MR SALI: No there were no guidance from SAPS, that’s why I
even raised it in my affidavit that there are areas that were
raised by patrollers, in the first instance that when they patrol
in their own clothes they don’t wear any reflectors,
differentiating them from community members and there are
some instances they won’t attend because people will think if
they want to apprehend the criminal they will think they are
criminals themselves and they will also be victims of criminals,
secondly they don’t have any batons so people will go there
with their sjamboks and sticks to patrol, there were also no
walkie-talkies, in my view your walkie-talkie communicating
directly with SAPS if there is an incident, you communicate
directly with the sector commander or a person responsible, in
that shift. So there was no coordination. Also, they also had
the challenge of transport as well. If they apprehend the
suspect they will call SAPS and the response won’t be there or
SAPS will come late. So it was one, it was a challenge for
them as well. In essence there was no support at that time, I
don’t know about now, from SAPS to patrol us, so it also
affected them as well, and it made them if in terms of crime,
because if they apprehend suspect A and they take him to the
police station the following week suspect A will come back and attack individually patrollers when they are walking and also the issue of transport again some of the areas are large in terms of geographic, you will find that patroller A stays in section A, patroller B stays in section B, so when they are done with patrolling they have to escort one another, so they spend about two hours going round the area, taking the people, transporting people by foot, so I think SAPS need to at least provide transport for them, because then getting paid is voluntarily they are not expecting stipend from SAPS or community service at least to show or to create that partnership between the community and the police.

MR HATHORN: Thanks very much Mr Sali.

NO FURTHER QUESTIONS BY MR HATHORN

COMMISSIONER: Mr Osborn?

MR OSBORN: We have nothing madam chair.

COMMISSIONER: Okay. Mr Masuku?

CROSS-EXAMINATION BY MR MASUKU: Thank you Chair. Mr Sali would I be correct that if you were to make recommendations to this commission about how policing in Khayelitsha can be approved you would suggest that the CPFs are strengthened right?

MR SALI: That’s correct.

MR MASUKU: You would suggest that they be strengthened by being given resources in order to actually influence how
policing is conducted, right?

MR SALI: That’s correct.

MR MASUKU: Your evidence relating to the patrols you would not recommend that those patrols are stopped, am I correct to say that?

MR SALI: That’s correct, that’s correct.

MR MASUKU: In fact you would recommend that those patrols in fact are strengthened by being given the necessary resources, right?

MR SALI: That’s correct.

MR MASUKU: And the involvement of the police in those patrols would be to give them the necessary support, right?

MR SALI: That’s correct.

MR MASUKU: Now you said in your paragraph 13 that you raised this issue of resources with the MSC Dan Plato, am I correct?

MR SALI: Yes, that’s correct.

MR MASUKU: And you accuse him of having responded arrogantly to your request for a meeting in which you could raise the plight of CPF’s, am I correct?

MR SALI: That’s correct.

MR MASUKU: Now what do you mean he reacted arrogantly?

MR SALI: He in the sense that crime is affecting Khayelitsha so we wrote him a letter on behalf of the CPF inviting him to a meeting, to come and address this issue, I tabled the issues
that needs to be addressed, pertaining to patrollers, the office of the MEC responded saying the MEC is busy with cabinet commitments and it ended there, so to me that is arrogance, one would think that if Khayelitsha is a priority and you even call a summit in Khayelitsha to address crime but when you are called you tell us that you are busy with cabinet commitments, that’s fine, MEC’s are busy, their diaries, they make arrangements, but at least come with an alternative date to show commitment that you want these issues to be addressed in Khayelitsha.

MR MASUKU: I would consider that to be arrogance myself, so I would agree with you, but in your overall statement that you made at the beginning of your evidence you said that there is a breakdown of relations and trust in the community and the police and then you ū the example you cited as evidence of that is the vigilante activities, you said people would take law into their own hands, because they have lost trust in the community, but at the same time you said these incidents of vigilante killings are in fact incidents that occurs spontaneously, right?

MR SALI: That’s correct.

MR MASUKU: So would I be right if I said to you that the reason why they occur spontaneously is because people are angry with the crime, they are angry with the crime that ū I mean they are angry because they want ū they are angry with /...
the crime that is happening within their community?

**MR SALI**: That's incorrect. People are fed up.

**MR MASUKU**: I'm saying exactly what you say.

**MR SALI**: Ja, they are fed up, and we've been reporting these issues, they're not attended to, criminals are coming back, the best way is let us attack.

**MR MASUKU**: Okay.

**MR SALI**: So as much as it is spontaneous but it's the sequence of many previous events that have been happening, that does lead to vigilantism.

**MR MASUKU**: But you've never seen or witnessed or had an incident where a criminal, a crime occurred in the community and then a criminal was apprehended by the community, was handed over to the police and an unsatisfactory outcome happened in that the criminal or the alleged criminal was brought back to the community and then the community acted by killing that person, have you?

**MR SALI**: Not that incident.

**MR MASUKU**: Right, so what I'm saying to you is that the incidents that you refer to as vigilant killings are incidents where something has happened, a cell phone has been taken away and we've heard this evidence from people who has actually experienced that, a cell phone has been taken or robbed a person has been robbed of a cell phone, they call the community, the community comes in, they apprehend the
suspect and their main intention is to recover that cell phone, that property, they never just i their evidence was that they didnâ€™t take the person to the police, not necessarily because they didnâ€™t trust the police but because they wanted the cell phone immediately.

**MR SALI**: Thatâ€™s another incident I wasnâ€™t there, but there are many incidents where community members will apprehend the cell phone and beat the criminal.

**MR MASUKU**: Yes, but Iâ€™m saying to you that your view of vigilante killings your assessment is that vigilante killings are a result of a breakdown in trust so if you are trying to find out whether the community trust the police or not you would start with the vigilante killings, am I correct in that?

**MR SALI**: Can you please ...(intervention).

**MR MASUKU**: So your evidence is that if you really want to know whether the community trust the police you have to go and look at the vigilante killings, right, and the vigilante killings will tell you that the community doesnâ€™t like the police, or donâ€™t trust the police.

**MR SALI**: Itâ€™s one of the i of many issues, it tells you that there are law enforcers which is officials, youâ€™ve got the justice systems, and people instead of taking the suspect to the police station they commit crime themselves, or beat that suspects, it tells that there is a breakdown of relations between community members and the police. They will rather...
correct these incidents themselves than taking the person to the police officials, go to court, based on technicalities the case is withdrawn and the person comes back to the community.

5 MR MASUKU: Yes, yes. No, that's correct, but can I then say to you that if the issue of police trust and the sorry if the issue of police effectiveness can be resolved one of the interventions that will be required is to strengthen the community organisations themselves, empower them in terms of resources, in terms of how particularly the CPF’s and in terms of how they can actually support the policing of the communities, am I correct?

MR SALI: That's correct.

MR MASUKU: But it also means that the police have to carry themselves with sufficient enthusiasm to do their work, right?

MR SALI: Yes, and the police officials as well they need more resources.

MR MASUKU: Yes that's it.

MR SALI: So we need to cover State, the CPF’s and also provide support structures or put things in place for the police officials as well, because I made an example about noise in Centurian, it was attended speedily, it tells me that in an affluent area there are many vehicles, they can even attend to noise, but in Khayelitsha there's a robbery, police can't come in time, so for me it is the police as well, SAPS must provide...
MR MASUKU: Right. Are you aware of any vigilante killing in which the police did not investigate, where the police simply did not investigate the matter?

MR SALI: No I'm not aware of any.

MR MASUKU: Right, you were asked by my learned friend, Mr Hathorn, whether the police had a problem for dealing with vigilante killings, if I say to you the answer that the police would give is that when a murder has happened, whether it's by vigilante killing or whether it has happened by other ways, the way that the police see these issues is by simply investigating a crime that has occurred, so if its murder, then they will investigate murder, they don't have a crime called vigilante killing, am I correct to say that there is no crime called vigilante killing?

MR SALI: Partly yes.

MR MASUKU: There is a crime called murder.

MR SALI: But for example vigilante killing, I make an example about vigilante killing, if it happens in Makhaza in Khayelitsha so you can treat it as a vigilante killing as well. You can just treat it as assault, grievous bodily harm, deal with it, tackle it, it's not only for the police, society as well, the community as well.
MR MASUKU: So the context of vigilante where there's a killing how would you propose a unique approach it be adopted by the police in order to show that they are sensitive to the fact that it is a vigilante killing, what investigation, do you know any investigative methods or any policy approaches that could be taken, I'm just exploring that with you for just in case you have any ideas on it.

MR SALI: No I haven't done a study on that, but I believe that SAPS is capacitated enough, if we were to do a study on that as to how shall we deal ...(intervention).

MR MASUKU: You say SAPS deal with it as a killing? They deal with it as murder. You say that is not good enough?

MR SALI: No, I'm saying, you are asking if I know any mechanisms of what, I'm saying I haven't done this study on how to tackle vigilante killings. I'm saying that SAPS should take it as a priority, have studies, even SAPS I assume that it must have a research institute or a unit to do studies in as how to tackle this or ask the question why is it happening in Khayelitsha and not happening in ...(intervention).

MR MASUKU: I can assure you it's not just Khayelitsha where there are vigilante killings, there are many others, but just two last questions madam chair. The first one really relates to your comment on the you your comment that service delivery cripples the capacity of the police and we agree with that assessment in a way it imposes a lot of pressure on the police, and it /...
places them between the community, exactly the example you gave, where the community says when it's service delivery protests you respond quickly, but when it's a crime where someone has been robbed you respond slowly. We accept that that creates a perception amongst the community that perhaps the police are not responding to community needs as efficiently as they do when they are trying to protect bad service delivery in as far as sanitation for example is concerned. It's your conclusion that intrigues me, which I think is a very i you put it very well, that's what I'm saying in your statement, the conclusion that you actually concluded a statement with and it's a conclusion we agree with, and it's a conclusion hopefully that enables us to conceptualise a very good way in which the police officials can be assisted in doing their work. You say the biggest criminals in Khayelitsha are poverty and under-development and I think its something that we completely agree with, and that's really all that I can put to the witness.

NO FURTHER QUESTIONS BY MR MASUKU

20 COMMISSIONER: Thank you Mr Masuku.

MR OSBORN: Madam chair, I'm sorry, may I interject, Mr Masuku did raise one issue concerning the MEC, could we have the opportunity to ask a couple of questions of this witness in clarification of the way that the MEC allegedly responded to a request for assistance?
COMMISSIONER: I mean this was in the statement Mr Osborn, it’s not as if it’s new information that’s been put before us, it was actually stated in the statement as I recall the MEC acted arrogantly, I don’t know that the questioning has taken it any further than that. I mean what is the question you would want to put?

MR OSBORN: Well whether the alleged default of the MEC for example was raised by the witness at the Khayelitsha Safety Summit about which we have heard. We did put in some questions, we did notify that we had a couple of questions of this witness.

COMMISSIONER: And I did offer you an opportunity and you at that moment said you had no questions.

MR OSBORN: We had hoped not to take up the time of the commission, because this wasn’t raised by the witness in his direct, since it was raised by SAPS in its cross-examination we thought it was appropriate that ...(intervention).

COMMISSIONER: You’re requesting for an opportunity now to put questions 2.1 and 2.2 of your questions, is that what you’re asking for?

MR OSBORN: That’s precisely right madam chair.

COMMISSIONER: Okay well you may put those two questions, 2.1 and 2.2.

MR OSBORN: Advocate Adhikari will do so.

CROSS-EXAMINATION BY MS ADHIKARI: Morning Mr Sali.

/*...*/
Mr Sali did you raise the issues that you raised in the letter with the MEC at the Khayelitsha Safety Summit?

MR SALI: The Khayelitsha Safety Summit was an open forum, it was not a one on one engagement with the MEC, so everyone was there, and as committee members we were clustered in different groups to discuss crime related matters, so I think it will be foolish of me as secretary of CBF to go to that group that I don't know and say that the MEC did not respond to our request.

MS ADHIKARI: No, that's not my question, my question is you had a concern in respect to support being given to patrollers, and that was the issue that you wanted to raise with the MEC?

MR SALI: Yes.

MS ADHIKARI: Was that issue in respect of the need for support to patrollers raised at the Khayelitsha Safety Summit?

MR SALI: Yes it was raised.

MS ADHIKARI: Okay, thank you. Did you raise that?

MR SALI: Yes I raised it, and other members as well. As I said that there was no direct engagement with the MEC. After the premier and the MEC delivered speeches we were clusters as people who were in that ward, in different groups, to discuss crime related matters, so we were raising issues and also the issue of patrollers.

MS ADHIKARI: So then you had an opportunity to raise it at least in the Khayelitsha Safety Summit. Did you then follow
that up with a letter to the MEC?

MR SALI: Come again?

MS ADHIKARI: Did you follow that engagement at the Khayelitsha Safety Summit did you follow that up with a letter to the MEC?

MR SALI: No in my view you cannot – in my view you can't expect it was an open forum, so people were raising issues, so even the MEC when he reached the solutions, he will see the issues that we raised in Khayelitsha, it is there. To me it was more of a political forum, speeches, and it ends there, so we wanted a direct contact with the MEC to say that Harare there are issues in Harare, even when the commissioner he mentioned Harare that there is a lot of crime happening, under the Harare Police Precinct, so as the CBF for Harare was saying the MEC here we are trying to meet you halfway, this is the best way how we will deal with crime.

MS ADHIKARI: Mr Sali my question was slightly different, I understand that you raised it at the summit, and there was an opportunity to raise the issues around patrollers with the summit, my question is slightly different, after the summit was that when you then wrote a letter to the MEC to try and follow up on this specific issue?

MR SALI: No, it was before the Summit.

MS ADHIKARI: Okay, thank you Mr Sali.

NO FURTHER QUESTIONS BY MS ADHIKARI
COMMISSIONER: Mr Masuku.

MR MASUKU: I beg your indulgence madam chair.

COMMISSIONER: To ask what question?

MR MASUKU: It is a question that I should have asked when I had the floor, and it relates to the meetings that the witness testified that the CPF's and the SAPS used to have monthly meetings and the only question I really wanted to ask is whether the issue of vigilante killings was specifically discussed in those meetings and whether they were advised by the police what the proper approach should be.

COMMISSIONER: You may put that question.

MR MASUKU: Thank you madam chair. Mr Sali the question I really wanted to ask you is about your evidence relating to the meetings that you say you held with the SAPS there as the secretary of the CPF — sorry that you held with the SAPS, in those meetings did you discuss this vigilante killings, and if you did could you tells us what discussions, what the attitude of the police was towards that kind of a discussion?

MR SALI: We never discussed them.

MR MASUKU: Thank you, that's really all.

COMMISSIONER: Thanks Mr Masuku. Mr Sidaki any re-examination?

MR SIDAKI: I have nothing madam chair.

COMMISSIONER: We will take the issue of the video under advisement, advocate Pikoli and I will discuss it in the lunch...
adjournment. Advocate Pikoli?

MR PIKOLI: Just a very short one Mr Sali, paragraph 12 of your statement you are lamenting their poor resources, now I would like to find out whether you have raised the question of poor resources with the police and if you have raised it what has been the response?

MR SALI: As I mentioned earlier on is that we did raise the issues with the acting station commissioners, and they could not commit themselves hence I said earlier on that in my view it was a lack of leadership and indecisiveness on that part, we did raise those issues because every time we meet them we tell them that as the community members we would like to assist you but we can’t assist you but we can’t assist you because we are unemployed and you are not resourced. So we did raise those issues with them, so we could not get assistance from SAPS.

COMMISSIONER: I have one question Mr Sali and that is whether you think that the Harare CPF when you were associated with it was broadly representative of the greater Harare community which of course as you know covers all the way over to Makhaza and Endlovini and was it broadly representative the whole community?

MR SALI: Yes it was broadly representative.

COMMISSIONER: And how would you in what i why do you say that, what was it about the way it was constituted that
made it broadly representative, was there somebody from every area that was in it?

MR SALI: In Harare police precinct there are four sectors, so there were representatives from sector 1, sector 2, sector 3 and sector 4, in the CPF, they were there.

COMMISSIONER: And were there a reasonably even proportion of men and women?

MR SALI: 90% was women.

COMMISSIONER: Oh, not that broadly representative then presumably.

MR SALI: Not all represented, fairly represented.

COMMISSIONER: Okay, and in relation to organisations that operate in the broader Harare area, were there representatives from a range of different civic organisations?

MR SALI: Yes that's correct, because as I with the CPF AGM there CPF, the one who organised the AGM, they invite their affiliates, meaning that your church structures, youth organisations, stokvels, silver gloves, political organisations, your NGO's and so forth, so they constitute CPF AGM, so when the elections people are elected, people are on the floor, so each structure will bring two delegates for example, CPF will stipulate.

COMMISSIONER: How many members were there of the CPF all together?

MR SALI: CPF members?
COMMISSIONER: How many?
MR SALI: I'm not sure but ...(intervention).
COMMISSIONER: I mean roughly, you don't have to ...(intervention).
MR SALI: I think around 15.
COMMISSIONER: Around 15.
MR SALI: 13 to 15 ja.
COMMISSIONER: I also need to say that we have called for the meetings of CPF's across Khayelitsha, the three main CPF's who are related to the police station and we do seem to have a distinct lack of minutes for CPF meetings in Harare in particular, there seem to have been relatively few minuteed meetings.
MR SALI: Okay.
COMMISSIONER: Any comment on that? You were only there for four months in this period, but just your thoughts in response to why that might be?
MR SALI: When we came there was nothing from the previous CPF, nothing on records. Nothing at all yes, so we were trying sort of provisionalising CPF that is our mission, but unfortunately I left so I don't know what other members did moving forward.
COMMISSIONER: I would also like your view on the fact that basically station commanders tend to chair the CPF meetings and in fact one of the things we are seeing is that if there is a
problem with the station commander, as you have described, that in fact CPF meetings either don’t happen as easily or there seems to be a problem. In your view is it appropriate for a station commander to chair a CPF meeting?

MR SALI: No, not where I was seated, because in our meetings a CPF chairperson would chair the meetings, not the station commander.

COMMISSIONER: And who convened the meetings?

MR SALI: The chairperson, yes the chairperson will convene the meeting, but we had standing meetings every fortnight, every Monday fortnightly we will meet as the CPF but there will be those adjourned meetings, the secretary will communicate with other members and so forth. But we never there was never a meeting where a station commander was chairing, because that will not give CPF a space to breathe, or to raise issues.

COMMISSIONER: And you have spoken about the resource problem and one of the issues is where you meet, where was the Harare CPF meeting?

MR SALI: At Harare police station.

COMMISSIONER: Did you have a dedicated office at the police station with a filing cabinet and resources in it?

MR SALI: There was none, there was no office, I was operating at my own place in Makhaza.

COMMISSIONER: And did you ask for that?
MR SALI: We asked for that.

COMMISSIONER: Thank you very much.

MR SALI: Yes, my pleasure.

MR PIKOLI: And Mr Sali it would seem that you don’t have the question of having raised these problems, because when you responded to my earlier question actually it was a reference to point 5 of your statement, the question of the low morale, the question of lack of leadership, and the reluctance of the acting station commanders to act.

MR SALI: Yes.

MR PIKOLI: You raised the question of resources twice in paragraph 6 as well as paragraph 12, but there’s no indication that you had raised it with the police officials?

MR SALI: Now my conclusion that there was a lack of leadership it was based on my engagement with the station commissioners, so it was not just looking at them saying there’s no capacity or they are not providing leadership, we engaged them on many occasions, and there was no clear willingness to assist, hence I came to the conclusion that they were lacking in leadership.

COMMISSIONER: There is one further question and that is this issue of patrollers, I understand that you have suggested that they should in the system should continue, but one of the things that does appear both from your own testimony where the issue of complaints against patrollers were something that...
was raised with the CPF, also gels with at least one set of minutes we've received which suggests that community members have threatened to attack patrollers and therefore there have been an agreement that the patrollers would not visit hotspot areas, can you shed any light on that?

**MR SALI:** Come again?

**COMMISSIONER:** One set of minutes, I think it's after your time, but suggested that this conflict between the community and patrollers had rows at the meeting such that the CPF decided that patrollers should not go to hotspot areas without the SAPS present in order to conflict between patrollers and the community.

**MR SALI:** So you mean relations between the community and the patrollers?

**COMMISSIONER:** Ja.

**MR SALI:** Ja, in some instances yes, because some patrollers constitutionally the CPF's that are supposed to coordinate the patrollers, but in other communities where the CPF is not visible enough community members will assemble themselves and form a patrol group, so they will deal with crime in a manner which they deem fit. So that's where there the discord between them and the community starts, in those instances. I also made an example about where I was staying in Makhaza where the patrol group of old men were coming in on shifts, so any person who is walking on the streets from ten pm onwards...
will be attacked, physically. It was not an issue of escort, and remember they also used to go like door to door, if after ten your lights are on they will go inside there and beat you say switch off the lights, we are working here and stuff like that, so that created a friction between the community members and the patrollers, and some members were armed, so they would threaten to shoot patrollers and so forth.

COMMISSIONER: Thank you very much. It is now five past one, we will have to adjourn now for a lunch adjournment and Mr Loonat we will take your evidence immediately after lunch, so we will reconvene at two o'clock.

COMMISSION ADJOURNS: (at 13:05)

ON RESUMPTION: (at 14:00)

COMMISSIONER: Thank you very much. Good afternoon.

There are a couple of administrative things which we will deal with at the end of the day but there is one thing I just wanted to say now which is that in relation to witnesses for next week Dr Gillespie, who the Commission plans to add to the witnesses for next week, her report is in circulation, but we haven’t notified parties of the fact that we will be calling her. She is an expert witness who has given us testimony on vigilante killings and the nature of vigilante killings and then there are two other witnesses, Mr Schooling and Mr Leeny who are down to give evidence on Monday whose circulated statements will be circulated to legal representatives today.

/...
The Commission proposes that given the late circulation of these statements that cross-examination questions come in by Friday close of business and there are in addition an outstanding statement Mr Hathorn from Mr De Kock, who is due to give evidence next week and I understand that he is your witness.

**MR HATHORN:** Commissioners in relation to Dr De Kock’s evidence, part of his statement was envisaged to be an analysis of the SSC reports which we only received - well Dr De Kock only received them yesterday. I think we might have got them the day before that. He is probably not going to be in a position given the volume of those reports to deal with everything that he wanted to deal with the application that we made to lead him as a rebuttal witness, but he can certainly deal with the analysis of the crime situation in Khayelitsha and the distinction between policeable and non-policeable crimes. With regard to the other aspects of his report it might be that he would need to - his is slated to be one of the experts in the second phase hearings and it might be necessary for him to deal with it at that stage.

**COMMISSIONER:** You know what the Commission has done with regard to its witness Ms Redpath who testified yesterday, a large portion of her testimony related to crime statistics and so on which she gave yesterday but there was another portion which really related to documents that have been circulated by
SAPS and which we have provided to everybody but which will be the basis of or may be the basis. We have to still determine this. It may be the basis of questioning for relevant SAPS witnesses and what we did do was tender to Mr Arendse that she would be called in rebuttal if SAPS wanted that to happen. You will remember this arrangement, Ms Redpath’s analysis of the resource allocation evidence.

MR ARENDSE: That is correct Madam Chair.

COMMISSIONER: Yes, so it may be that one might want to do the same with Mr De Kock which would be to separate out his own evidence-in-chief. Perhaps it is on crime stats, I am not sure, but on that sort of thing and then in relation to perhaps his analysis of documents that had been circulated by SAPS provide a memorandum to SAPS as to what that is. It will presumably inform the questions that you will put to the relevant SAPS witnesses and tender if they had available as a witness in rebuttal should SAPS wish to question him.

MR HATHORN: That might be and it sounds as though it will be a very sensible way of dealing with it. We would probably still request that he be an expert in the second phase in any event.

COMMISSIONER: That of course is a different matter altogether. Perhaps you might discuss that with Mr Arendse and also with the evidence leaders so that we can understand where we are going on that. The application for an in camera
hearing we will deal with later after the witnesses today so if you are going to dealing with, Mr Hathorn, are you dealing with that or is it Ms Mayosi?

MR HATHORN: I haven't been dealing with it now but Ms Mayosi is away so I would have to deal with it.

COMMISSIONER: We are not going to deal with it right now because we are conscious that Mr Loonat has a limited amount of time so we are going to be wanting his evidence.

MR ARENDSE: Madam Chair I may have - I think I did miss the opening part about our questions having to be in on Friday. Is that in relation to all the witness statements or only some of them because ... (intervention)

COMMISSIONER: It is only the ones that have been provided to you late. The witness statements would - well in fact you have had Dr Gillespie's statement for a while but we haven't indicated that we were going to call her next week and the evidence leaders have now indicated that they would like to do that. Mr Schooling and Mr Leeny have been on the agenda for giving evidence next week but we haven't provided you with the statement but my understanding is that it would be emailed to you during the course of this afternoon's session and it is those three witnesses that will be an extension of the period for cross-examination to Friday close of business. That would be let's say Friday at five o'clock. Particularly where the questions involve any work by the witness, it is really helpful...
to get it out before the hearing. The only other there is, we were just discussing now with Mr Hathorn, Mr De Kock's statements which we haven't yet had - Oh sorry, Dr De Kock's statement that we haven't yet had and there is a further report in relation to the Mthente Social Survey that was done which we will be providing you as soon as we can. The research is complete but we are still waiting for the finalised report.

**MR ARENDSE:** Madam Chair we were going to ask for an extension in relation to the other witnesses until Thursday morning because especially Ms Vetten, her evidence of course ties in with Prof Artz on domestic violence. We are consulting after we adjourn today with the police in relation to broadly domestic violence issues and what has cropped up and I specifically posed them a number of questions arising from Ms Artz's affidavit and going through Lisa Vetten's affidavit it covers more or less the same ground so we certainly would not - we would ask for more time in relation to her statement and then also because we are probably going to be engaged, we are meeting the station commanders and the detective commanders after hours. We expect to be busy the whole evening.

**COMMISSIONER:** May I just clarify, at this stage the witnesses for next week are Mr Schooling and Mr Leeny who you would have until Friday close of business. There is an application for an *in camera hearing* on Monday afternoon that
we don't need to deal with now. On Tuesday morning it is Ms Vetten and you have asked for an extension till Thursday morning for those questions for cross-examination, am I correct? I am just trying to understand what you are asking for?

MR ARENDSE: It was in relation to those we have received statements for to make it for Thursday morning Madam Commissioner.

COMMISSIONER: For everything ... (intervention)

MR ARENDSE: The Vetten person, Papu, Giles and Beenie, those statements that we have received.

COMMISSIONER: Okay. Alright, we will, having discussed it with my colleague we would be willing to give you until Thursday morning at nine o'clock to put in all the statements next week.

MR ARENDSE: Thank you Madam Commissioner.

COMMISSIONER: And that extension obviously would also apply to you Mr Hathorn in relation to your questions.

MR HATHORN: Commissioners can I just raise the question, there are a couple of SAPS witnesses testifying towards the end of next week. I think it is head of detectives at Harare and Khayelitsha who we haven't received statements from and so we are obviously not in a position to formulate questions for them at this stage.

COMMISSIONER: No we are aware of that. Those - the head
of detectives at the three police stations are coming to give testimony at the request of the Commission. Mr Arendse, are you intending to produce statements in relation to their evidence?

MR ARENDSE: We are hoping to do so and that is why we are meeting them this evening.

COMMISSIONER: You will understand that the Commission will obviously need to afford Mr Hathorn some leeway and potentially other legal representatives as well given the late filing of those statements. Okay, does that cover that administration? Perhaps we could move on to Mr Loonat. That is right. There was one other issue that my colleague has reminded me of. There was a video tendered by Mr Salie in his evidence. The Commission who has not viewed the video has discussed it further with the evidence leader Mr Sidaki and our understanding is that it is the video, a very graphically violent video of the death of a person as a result of vigilante violence filmed sometime in 2011 and circulated through WhatsApp with an attachment we think to YouTube but we are not sure. The Commission's view is that in the light of the evidence we received on the way in which violence is generated in a community it would be inappropriate to show that video which has no particular bearing on any particular set of events before the Commission in a public space, so what the Commission is going to do is admit it into evidence, make...
it available to the legal representatives and accept that it is
evidence of what it purports to be which is the circulation of a
video of a violent attack in a community of a violent vigilante
attack, but the Commission declines the invitation to make a
public showing of this video. Who is going to lead Mr Loonat,
Ms Bawa?

**MS BAWA:** We worked very well dovetailing the two witnesses
yesterday so we are going to give it another shot today. We
have Mr Hanif Loonat and Mr Faisal Abrams is giving
evidence.

**COMMISSIONER:** Good afternoon Mr Loonat, thank you very
much for making yourself available to the Commission and for
your extensive statement. We are grateful to you for it. You
are aware of course that the proceedings of the Commission
are in public and that your name and that the evidence that
you will give may well be made public as a result of the
Commission’s report - both as a result of the Commission’s
report and through the media.

**MR LOONAT:** I am aware.

**COMMISSIONER:** Good. Do you have any objection to that at
all?

**MR LOONAT:** No objections.

**COMMISSIONER:** Thank you very much. I understand that
you will be testifying in English, is that correct?

**MR LOONAT:** Correct.
COMMISSIONER: And do you have any objection to taking the oath?

MR LOONAT: No.

HANIF LOONAT: (Sworn States)

COMMISSIONER: Good. Did you want me to swear in the second witness as well whose statement I am just quickly trying to find here?

MS BAWA: Yes please.

COMMISSIONER: I don't seem to have it. It has got lost between all my papers. Can we hold that over for a minute and you can lead Mr Loonat in the meantime. Thank you.

Thank you Mr Loonat.

EXAMINATION BY MS BAWA:

Mr Loonat you are currently self-employed?

MR LOONAT: That is correct.

MS BAWA: And you had been appointed as the Western Cape Community Police Board Chairperson in 2001.


MS BAWA: 2011 - sorry. Could you briefly explain your appointment and the removal from the board subsequent thereto?

MR LOONAT: I was elected in July 2011 at a specially called meeting. This meeting had been called by the Provincial Commissioner to fill the vacant position; eventually suspended by the Provincial Commissioner in July 2013, reinstated with

/

...
all charges dropped five days after a new board was elected at a special general meeting in September 2013.

**MS BAWA:** Okay. Now could you explain to the Commission what is your involvement and background with CPFs?

**MR LOONAT:** I have been involved in CPFs ever since its instatement, its establishment in 1995 on instruction of the then most honourable late President Nelson Mandela. I sat in Commissions where the working committee had to put policies together out in Pretoria under the then Commissioner Fivas so I have been involved in this position ever since then to the suspension and the removal of my office.

**MS BAWA:** You had held executive positions on the CPFs in Actonville, Alberton and Benoni is that correct?

**MR LOONAT:** That is correct.

**MS BAWA:** And then in 2005 you relocated to Cape Town and you became a member of the Lansdowne CPF?

**MR LOONAT:** That is correct.

**MS BAWA:** You then became the chairperson of the Lansdowne CPF in 2007.

**MR LOONAT:** That is correct.

**MS BAWA:** And you held that position until you were appointed as the Nyanga cluster chairperson in 2009. Is that correct?

**MR LOONAT:** Correct, that is correct.

**MS BAWA:** Now in your statement you describe and I will put
the background to you, how the uniform Constitution of the CPFs came about. Can you briefly explain that process to the Commission?

MR LOONAT: I think the Western Cape was one of the first provinces that had its own independent Constitution. The establishment of this Constitution took place over many - I am sure my colleague would know - over two years. It was well over two years with consultation with both the community based members, the Department of Community Safety and the South African Police Service and that is the product that we have today as the Constitution of the Western Cape.

COMMISSIONER: Thank you Ms Bawa. Thank you Mr Loonat. As you are going to be referring to a colleague for confirmation I think it is appropriate to swear him in at the moment. Good afternoon Mr Abrams and welcome to the proceedings of the Commission.

MR ABRAMS: Good afternoon.

COMMISSIONER: And thank you very much as well for the statement you've made to the Commission ... (intervention)

MR ABRAMS: The pleasure is mine.

COMMISSIONER: You heard me describing to Mr Loonat that the proceedings are in public and that both your evidence and your name may be made public.

MR ABRAMS: Yes.

COMMISSIONER: And you have no objection to that?
MR ABRAMS: Absolutely not.

COMMISSIONER: Thank you and you are going to testify in English when you do testify?

MR ABRAMS: Yes.

COMMISSIONER: Alright, do you have any objection to taking the oath?

MR ABRAMS: No.

FAISAL ABRAMS: (Sworn States)

COMMISSIONER: Thank you very much and in these circumstances I think it will just be helpful for you to just indicate where answers are coming from so that the transcription may be clear, but thank you very much indeed. I will hand back to Ms Bawa.

MS BAWA: Now Mr Loonat whilst you personally have some difficulties with the uniform Constitution you accept that it is a Constitution that is accepted in the Western Cape?

MR LOONAT: I accept it, yes.

MS BAWA: When it comes to the establishment of CPFs ultimately the statute regulates how CPFs is to be established and ìthe statuteî I mean the South African Police Act which we will call the SAPS Act just for short and that contemplates that the responsibility or the duty to establish CPFs lies with the Provincial Commissioner of police subject to the direction of the MEC for Community Safety, alright, and that responsibility in terms of the Constitution is delegated to the
station commanders of the various stations.

MR LOONAT: That is correct.

MS BAWA: Now Mr Loonat tell us a little bit about the experiences of how CPFs get established in practical terms?

MR LOONAT: CPFs have to be established from the bottom up, from a bottom up approach. You will find that street committees are first set up with neighbourhood watches of which a sector forum which is now called the sub-forum has to be formed and the sub-forum in each precinct is cut up into sectors and these sectors then get together. The chairpersons of these sectors then assist in the establishment of the CPFs. The CPF covers the whole policing area for example if you take Lansdowne it is cut up into three sectors and it has then a chairperson that runs the precinct. Those three sector chairpersons then have to report to this particular chairperson. Lansdowne then belongs to a cluster which is called the Nyanga cluster. I will use it if it is fine with you for my explanation purposes. It is then - the Nyanga cluster has nine precincts within it so what happens the nine chairperson - I am sorry, I said nine. Seven chairpersons then meet to elect a cluster chairperson. The cluster chairperson would then be in charge of the seven precincts within the cluster. The Western Cape has 25 clusters. The 25 cluster chairpersons then get together under the instruction of the Provincial Commissioner where a committee, an executive committee is elected to
represent the 25 sectors / clusters, I am sorry, in the province.

**MS BAWA:** Okay but if we go back to the start, when we elect this sector who gets to elect the representative in the sector?

**MR LOONAT:** All organisations within the sector.

**MS BAWA:** And how does it get determined what the organisations in the sector is?

**MR LOONAT:** It is the duty of the sector manager to ensure that all organisations all businesses, any entity that falls in that, including school governing bodies, sporting coaches, that are within that sector gets registered under the South African Police Service and they then get informed of the intention to establish the sector.

**MS BAWA:** Now you raised two things, when you refer to the sector manager are you referring to the SAPS sector manager?

**MR LOONAT:** Yes, that happens to be a SAPS member.

**MS BAWA:** Okay and when you talk about registered under SAPS, what are you referring to?

**MR LOONAT:** They need to register with the precinct of the area.

**MS BAWA:** And how do they get to register with the precinct?

**MR LOONAT:** It is important that the sector manager goes about doing that. Yes, it goes through a profiling process where each business is profiled by the said entity.

**MS BAWA:** So the sector manager compiles a list of organisations and businesses or interest groups in the sector
and through that process a sector representative is then elected from the community?

MR LOONAT: A sector executive is, yes.

MS BAWA: Okay. Now are those the same as what you referred to as community police sub-forums?

MR LOONAT: That is now called the sub-forums, yes.

MS BAWA: It is called sub-forums so your CPF structure starts with your bottom-up community and businesses, your community members, they become your sub-forums. Those sub-forums feed into your CPFs. Your CPFs feed into your cluster and your cluster feed into your board. That is how the structure grows?

MR LOONAT: That is how we do it.

MS BAWA: Alright. Now who can attend CPFs meetings?

MR LOONAT: It is encouraged that the sub-forum chairpersons, the neighbourhood watch coordinator, the victim support coordinator, the councillors of the area, the policing of the said precinct, metro police, the three tiers within metro; that is law enforcement police and the other departments. There are three departments in that so that attends it and any interested parties. It is open to the public. In fact the public is allowed to attend CPFs meetings although they don't have voting rights.

MS BAWA: And how are CPF meetings meant to be made public? How does the ordinary person in the street get to
know about the CPF meeting?

MR LOONAT: There is a standard process that we encourage in the Western Cape where we ask for a definite week and day of the month. In the Western Cape we say the first week must be all sub-forum meetings, the second week all CPF meetings, the third week all cluster meetings and the fourth week is your provincial meeting.

MS BAWA: Okay and how successful has the establishment of CPFs been generally?

MR LOONAT: Good in the Western Cape.

MS BAWA: And in other provinces?

MR LOONAT: There are challenges in some of the provinces but in the Western Cape we have done remarkably well in establishing CPFs.

MS BAWA: And what are the - I mean Section 20, the Constitution contemplates the establishment and then Section 18 of the SAPS Act sets out some of the responsibilities that lie with CPFs but in practical terms now that we have had some of these CPFs up and running or a number of them what are the main tasks that CPFs are meant to do?

MR LOONAT: The two most important tasks is obviously to build a relationship as intended by our honourable late President Nelson Mandela, is to build this relationship between the South African Police Service and the community. That is the main and the most arterial progress that we are to /...
establish in CPFs but in the other end we would have an oversight responsibility over the South African Police Service and other law enforcement entities and there are many other purposes. I mean they need to - over and above the building of relationship between the two entities they need to make sure that communities are regularly being informed of crime trends, crime on a regular basis. They need to come up with projects that would counter and combat these types of crimes in those areas.

**MS BAWA:** Now you have had some experience specifically with Khayelitsha but before we turn to Khayelitsha there is something called an annual safety plan. Could you tell us a little bit more about it?

**MR LOONAT:** It is obliged that every station has a safety plan drawn up for the financial year and what happens is, it is done through a process where the station commanders has to inform certain - in fact the NGOs that I said that has to be registered, the businesses of the area, in conjunction with all these groupings a plan has to be then put together to establish a safety plan that is going to help that particular precinct in the combating of crime for that particular year.

**MS BAWA:** Are you - there is always a legal concept called in consultation with in other words you prepare something in consultation with the parties and then there is something that we do after consultation and that means when it is done deal
and almost a done deal but we are now going to consult with you. What role does CPFs play? How would you categorise given the example I am giving you?

MR LOONAT: No it is very close to my heart. It is something that I have been raising since my chairpersonship in the Western Cape that it is common practice that the South African Police Service does not ensure that the entities that I have just mentioned earlier get invited. So what happens is this product is being put together by the South African Police Service and that the CPFs in most cases - I am not saying in majority, in all of them, but I would say in a majority of the precincts that this is a common practice that the station commander puts together - with her team puts the product together and gets it rubber stamped by the CPF chairperson without giving them an opportunity of making any inputs and that has been something that I have been raising over years of my chairpersonship.

MS BAWA: Do you have any personal knowledge as to how it was done at the three Khayelitsha precincts?

MR LOONAT: I am not too sure if it was done in these three precincts.

MS BAWA: Now Mr Loonat we have been - you have not seen it. I have not shown this to you but we have asked SAPS to provide us with the minutes of the CPF meetings from 1 January 2010 and we have been given roughly the minutes provided for the period 1 January 2010 till roughly August
2012, both in relation to the three police stations as well as in relation to the cluster and I had an opportunity to look at that. Would you be surprised if I said to you that there was very little if any and in some cases no discussion of an annual safety plan?

**MR LOONAT:** I am not surprised at all. In fact it is vindicating on what I have just said.

**MS BAWA:** Now why is it important that the community have participation or have insight into the safety plan?

**MR LOONAT:** In most instances I need to inform the house here that at most times it is the community that knows about the crime trends and the crime that is purportedly taking place in those precincts. SAPS would not have a recordal of every crime that takes place because many of these cases they go unreported for reasons known to all of us. I mean people tend to have this no trust attitude against the South African Police Service so they feel that they do not have to report the crimes that are perpetrated on a daily basis, so the best people to make inputs in the compilation of that product would obviously be the community based members representing the communities at the CPF but it is unfortunate that they arenât being utilised constructively and purposefully.

**MS BAWA:** So if I take that a little bit further the police through the crime statistics may determine where the hotspots are in the area but if they had gotten the input of the CPFs...
those hotspots might take on a completely different dimension because the community might have a different perception of where the hotspot areas are to what the police would have. Is that what you are trying to say?

**MR LOONAT:** Definitely. That is exactly what I am trying to say.

**MS BAWA:** Okay now in relation to these safety plans what is the role of the cluster commander?

**MR LOONAT:** The cluster commander ensures that these safety plans are reached to his office before he goes to the Provincial Commissioner. He studies them and it obviously helps him in the combating of crime in obviously resourcing in many ways human resources vehicles and all other items that are necessary for the station so you would know exactly how to plan his cluster when he gets these documents.

**MS BAWA:** Alright, and would you expect the cluster commander - there is also a cluster CPF forum. Would you expect that the cluster commander would deal with these annual safety plans at the cluster CPF meetings?

**MR LOONAT:** That is what should be happening.

**MS BAWA:** And if you have a cluster commander that hasn't met for months in any given annual year what would the impact of that be?

**MR LOONAT:** That in itself is a great injustice to that community if that has happened. It should not be a practice...
where a month passes without a cluster commander having a meeting with his cluster chairpersons so it is really important that he meets on a regular basis, at least once a month.

**MS BAWA:** We have been provided with an affidavit from a police officer, a captain who has been responsible for the record keeping of minutes with regard to the Khayelitsha cluster community police forum board and this is found in **Bundle 4**, under the ëcluster command documentsë and it is item 10 and I want to read you an extract from this affidavit.

The first meeting of the cluster board took place on 1 April 2010 and the AGM held on 11 April. The first official meeting was held on 13 May 2010. A meeting did not take place during June as a result of too many apologies that were received and a quorum could not be reached. Thereafter meetings were held on a regular basis. It was however during the months of November and December 2010 that Ms Bassier, whom had been our chairperson was re-elected as provincial chairperson and no meetings took place.

So where we go from July we have meetings, August, September, October, we donët have November and December. The chairperson then gets replaced but they donët have meetings during December and January because it is festive season
and I want to come back to that issue. Meetings are then not held in December and January because it is festive season and then meetings are not held in March, April, June and July because the cluster commander was not present to steer the committee. The major general who had been acting at the time then held a meeting in May, so we don't have December, we don't have January, we don't have - we have February, we don't have March, we don't have April. We have May. We don't have June. We don't have July and then we have a newly appointed cluster commander with whom you have experience who comes in during August 2011, but no meetings are held as from September to January 2012. So now we have got nothing for September, October, November, December, January and then certain decisions get taken at the meeting in August where it was decided to hold meetings every second month and the EXCO to meet in between. Meetings were also called but could not be held as a result of other commitments by stations as well as similar dates for meetings which were the same as station CPF meetings. During the meeting held in February 2012 it was found that certain members were not fully cooperating and this
needed to be dealt with by the Major General who tried to revive the CPF by calling a steering committee to life to reach a conclusion regarding the reason for non-meetings. This was done and there is a report attached to which I am going to refer. Thereafter there were no meetings held for the months of March and April 2012. There was a meeting held in May or was scheduled to be held in May but it had been cancelled as a result of non-attendance of the chairperson as well as poor attendance. The Major General fell ill during that time and yet again we had problems in this regard as the Colonel handled all these aspects. No meetings were thereafter held in August and December 2012 as a result of the abovementioned issues and the festive period we did not have a meeting.

We are now into 2013. I think I can count on one hand how much meetings we have had. No meetings were held in January, February, March 2013 as the steering committee met quite a few times and reached a conclusion. A meeting was held in June 2013 but not July as it was the by-month. They were now meeting every two months. Another meeting was then again held in August
2013. Now that is our cluster CPF in Khayelitsha. What are your comments?

MR LOONAT: I am not surprised at all. It is one of the reasons why myself and on behalf of the board we did ask General Ndlovu at the time that we needed to have elections which I am sure you subsequently - I don't know if you've mentioned it, that we had a re-election of new members onto the cluster for the Khayelitsha cluster.

MS BAWA: Now is it common if you have properly functioning CPFs that you have such a dysfunctional cluster CPF?

MR LOONAT: I find it strange that the chairperson could not make it and the meeting has been called off. You obviously have other members within the cluster board that could take over the role of chairpersonship. You've got the deputy chair. In the case of the deputy chair not making it then obviously the secretary can then chair the meeting and obviously if any of those three are not there then you don't have a quorum so in the absence of just one person I find it strange that they could not have a meeting.

MS BAWA: Well that is the factual situation. What is your view on CPFs taking the view, as I understand it we have peak season, the festive season is the peak season for crime and SAPS has told us that repeatedly but we have CPFs who don't function during festive season. Is that the norm in how CPFs operate? Mr Abrams looks like he wants to comment in
relation thereto.

MR ABRAMS: That is definitely not the way CPFs should be functioning whether it is from cluster level or right down to sub-forum level. CPFs the Constitution is very clear within the CPF. We have a cycle of 12 months starting from the financial year to the end of the financial year. So clearly in what you are saying there is a dysfunctionality within that process and strangely in view of the absenteeism of certain chairpersons not availing themselves at cluster meetings they are availing themselves at provincial board meetings so I find that a little bit conflicting in view of the absence of not having any meetings. If there wasn't any meeting I think there is a great dysfunctionality within the Khayelitsha cluster.

MS BAWA: Now I am not going to take you to the minutes of the actual CPF meetings but the same kind of picture emerges if one looks at the actual CPF minutes for the station.

Alright, you mentioned in your affidavit that the members of the forums may upon the invitation of the relevant commander attend management meeting of the service for the duration of discussions relating to community policy issues and you identify those meetings as being the "station crime combating forum meetings." What can you tell me about those?

MR LOONAT: In fact we encourage all our chairpersons to attend those SCCFs. It is I think since my removal it has now
moved to a Tuesday but it used to be every Monday at every station where the station management team sits and then discloses the crime of the week before and a thing then is put together where this management team with the help of the chairperson of the CPF then come up with a plan to combat the crimes that has affected that area for the week so we encourage and in fact insist that our chairpersons attend and sit in all those meetings.

MS BAWA: Well we have been provided with the minutes of the meetings for 2012 for SCCF bodies in Khayelitsha. One of the stations and I stand under correction but I think it is Harare invite local businesses. The other two stations have nobody present but SAPS members. I understand that these meetings are actually regarded as confidential operational meetings?

MR LOONAT: You are correct. I find it strange that business attends these meetings when only CPF chairpersons or his delegate can attend those meetings because you are discussing issues that are extremely confidential.

MS BAWA: Well I must be honest with you Mr Loonat, I looked at the minutes. I have great difficulty in finding extreme confidential issues at these minutes, but that is a debate not to be had with you. So it is contemplated that there is an exchange of information between the CPFs and the station about patterns of crime in the community. Is that correct?
MR LOONAT: Correct.

MS BAWA: And what is the impact of that if there is a breakdown in that communication?

MR LOONAT: In fact it is a great discredit to the community concerned when there is no relationship between both entities. For many reasons and one most importantly is obviously that it is a proven fact that 70% of your crime are resolved with information that comes from the community and the community relay this information through your CPFs then if there is no partnership or there is no relationship you are actually cutting off an integral part of the partnership in the combating of crime in that area.

MS BAWA: Okay. Now you have yourself visited Khayelitsha Police Stations, is that correct?

MR LOONAT: Yes.

MS BAWA: Which police stations in Khayelitsha have you visited?

MR LOONAT: All three of them but most of my visits were Lingelethu-West and obviously Harare.

MS BAWA: Okay and you have also been part of patrols in Khayelitsha?

MR LOONAT: Yes, very often.

MS BAWA: Now you gave evidence of a patrol that occurred in Easter 2012. Can you tell us what happened with that patrol?

MR LOONAT: This was a joint initiative taken with the
Department of Community Safety and the board where we decided that we were going to implement a project: ŒSafe Khayelitsha Easter Weekendœ and it was an extremely successful one having the two entities coming together asking the South African Police Service to allow this project to take place in Khayelitsha and I would like to applaud General Ndlovu in her absence now that she has been transferred for cooperating so extensively and assisting us making it a successful one. The fact that I have mentioned that the year before that we had 23 murders in this area within that same period; that particular weekend we only had a single murder for Khayelitsha in its entirety and this year again where we did not have the project taking place we had 17 murders.

**MS BAWA:** How do these patrols actually work? What needs to be in place for community patrols to work?

**MR LOONAT:** I would like Faisal to answer that.

**MR ABRAMS:** Well in the first place community the CPFs has got neighbourhood watches that belong to the CPF in all the sector so the neighbourhood watches would be coordinated throughout all of the CPFs within Khayelitsha at that weekend. Invitations were also extended to other CPFs to come and assist over that weekend. To mention it was the areas of Delft and the areas of Elsies River. Those members were present at Mitchells Plain over that weekend to assist and that - there were over 250 members including the Khayelitsha community
that assisted with that patrols over that specific Easter weekend.

**MS BAWA**: And was the assistance obtained from SAPS on that weekend?

**MR ABRAMS**: Well the assistance from SAPS was making members available from the precincts that would be a team that would walk with us. Some of them would be reservists. Some would be members that is on shift that would walk with us over that specific weekend.

**MS BAWA**: And what was the participation of SAPS in the actual patrols?

**MR ABRAMS**: Well not throughout the whole Easter weekend did we get the full support of SAPS. The first evening which was on the 5th of April we had a good contingency of SAPS members with the team of volunteers of the neighbourhood watches and that actually started to dwindle as we ended on the 9th of April. In other words the presence of the police started to get lesser.

**MS BAWA**: And what was that attributed to? Why was that so?

**MR ABRAMS**: Well I think it was attributed to members being on leave, members being on sick leave, members not being at work, those were some of the reports we received when we asked where the members are. That was the feedback that was given to us.
MS BAWA: Now both - Mr Abrams while I have got you there, both you and Mr Loonat have visited Khayelitsha police stations and you have had experiences there. Can you tell the Commission a little bit about your experiences? What have you seen about the police stations, the members, the vehicles?

MR ABRAMS: Well in my experience and this is as I have under oath said just the truth, in some areas you would find members - and this is my observation. A lesser ranked member would disrespect a member higher ranked. There just doesn’t seem to be that discipline. When you mention that, you know, it is not really taken seriously. The observation of ...

(intervention)

MS BAWA: Mr Abrams can I stop you for a moment. I know you have had experiences with Khayelitsha, with police stations across the province or across the City. Can we restrict the evidence you give to the experiences you’ve had in Khayelitsha specifically so that it avoids us having to have a battle a bit later ...

(intervention)

MR ABRAMS: I am speaking specifically of Khayelitsha.

MS BAWA: Okay.

MR ABRAMS: I am not mentioning any other precinct in my evidence that I am leading here. It is specifically Khayelitsha where vehicles were parked in the yard. Some vehicles had a puncture and the vehicle was inoperable. When you question that you get a long answer in terms of why that vehicle is there...
and the process and where they have to take the vehicle to have it repaired. In my opinion I mean to change a tyre certainly is not a train smash to have that vehicle back into the community to service the community. Those are some of the observations and some of the comments that was made and brought to the attention of the cluster commander.

**MS BAWA:** Mr Loonat could you?

**MR LOONAT:** Yes, I would like to say that it was shocking to see on an Easter weekend that one sector van had to be used for two sectors. I mean that is unusual especially in a time of Easter where we find people frequenting shebeens in all hours of the night. It was important that we had visibility, police visibility and it was not existent for reasons as mentioned by my colleague due to absenteeism. In fact one of the station officers mentioned to me that many of his members had stayed away unofficially without informing them. It was with undue leave and they didn’t even inform them they are not coming back to work for that weekend.

**MS BAWA:** And what did you do with the information that was relayed to you?

**MR LOONAT:** It was carried over to the cluster commander.

**MS BAWA:** And what happened subsequent to that?

**MR LOONAT:** We did - I did not follow it up. I left it in her good hands.

**MS BAWA:** So Mr Loonat when you are advised of problems,
let's take Khayelitsha for instance and a problem at the police station is raised with you, what do you do with that knowledge?

**MR LOONAT**: I have to raise it; procedurally I have to raise it with my cluster chairperson as a cluster - as the provincial chairperson because I cannot override the cluster chairperson. If the cluster chairperson does nothing about it then I have to then speak to a cluster commander and if the cluster commander does nothing about it then I go to the provincial board and from there it obviously reaches the Provincial Commissioner.

**MS BAWA**: So on Easter weekend when you had communication with the then cluster commander about the information that was relayed to you and you got no - did you get any feedback on it?

**MR LOONAT**: No. No feedback at all.

**MS BAWA**: And what did you do having not received any feedback?

**MR LOONAT**: To date nothing.

**MS BAWA**: Why not?

**MR LOONAT**: I think I am to be blamed, because I did not ask for a feedback on the said. In fact what happened is for that duration there was no cluster chairperson attending meetings, provincial meetings. That is exactly why we had to get a board put together and put in place to replace the board that was not functioning at the time.

/...
MS BAWA: Now you say in your statements that the neighbourhood watches are much stronger and more inclusive than the CPF structures. Why do you say that?

MR LOONAT: That is from my experience that weekend. We found very view of the executive members of the CPF participating in that walkabout. It was all neighbourhood watch members only.

MS BAWA: And I know Mr Abrams has a particular view about that. What kind of training do you require to be given to neighbourhood watches and CPFs and what kind of training have they been getting?

MR ABRAMS: Well first and foremost neighbourhood watches are given the legal framework in terms of their duties. They are given the legal framework in terms of the Constitution of the universal uniform Constitution of the Western Cape. They are also given an induction with regards to themselves taking care of themselves and taking care of each other. There is a number of but most of the induction and the training that is given is more documented than practical.

MS BAWA: Okay and who gives the training?

MR ABRAMS: The Department of Community Safety at one stage gave seven days training which the neighbourhood watches would get training at Chrysalis. That was reduced to two days training. It was reviewed and it was given over a period of two days and therefore I am saying to train
neighbourhood watches within two days it is inadequate in order to really become functional in your duties as a neighbourhood watch patroller. You have got two days and all our people taking into account are not people that has got academic backgrounds or that has got matric certificates. It is people that are from the normal man in the street so two days for that type of training / legal framework, and people go there because they are going to get a certificate and they are there to make sure that that is what they have achieved. Something to say I have been part of the system.

MS BAWA: I understand besides the DOCS the City also does training with neighbourhood watches. Do they still do that?

MR ABRAMS: Yes I am aware that City also gives training and their training lasts over a period of one day which is also just another framework and again it is all the framework of legal jargon. Again in view of the City and the Department of Community Safety saying there used to be and I want to put this in the past tense. In the beginning when the City was busy with their training for neighbourhood watches there was conflict. One had a lime jacket. One had a navy blue or a royal blue jacket and because of being trained and this training in the beginning was arranged by local councillors there was conflict amongst the neighbourhood watches in the sense that it would take a month for the neighbourhood watches of the department to be resourced. It would take a week for the
City's neighbourhood watches to be resourced so that conflict of having resources would be amongst them and then obviously when you come with a lime jacket and you come without the introduction and the playing fields really being levelled there was conflict and it would in certain areas would lead to conflict. Even amongst themselves they would fight with each other because of this agreement just because of a colour, just because you belong to the City and you belong to the DOCS. I want to take the statement further and say we have been able through efforts of the provincial board to bring the two together where we have, an agreement, although not fully participated by the Department of Community Safety and I have got records and emails to that effect where I have tried to facilitate both parties to come to the table so that we can have an understanding. The Mayoral Committee Mr J P Smith was very accommodating and he allowed his facilitator Charl Viljoen to first communicate with CPFs whenever there is training. That eliminated the conflict and today when we have patrols it is not about the yellow, it is not about the blue. It is about the community going out there.

**MS BAWA:** But in your view Mr Abrams what kind of training should you be giving to CPFs and neighbourhood watches? That is what interests us. What with your experience should they be getting?

**MR ABRAMS:** I think training should be ongoing. I think
training should be in order to allow people to understand their roles and their functions which if one looks at the two different trainings you will see that one speaks more, the City's training would speak more to identifying what they call the "broken window." The department would concentrate more on the legal part. I would educate my community in order to have the necessary resources to ensure that we do not just go out on patrols as a group but we allow our communities to become the eyes of our streets within our streets and that is where we will strengthen the community involvement as neighbourhood watches, where we will be able to reduce crime, where we will have access to immediate intervention.

MS BAWA: Now Mr Abrams CPFs manage their own financial affairs. Does any of the training that they have been given to date involve how those financial affairs should be managed?

MR ABRAMS: Well that is part of the training that should be given. I think in view of anyone that deals with money should have a background of at least being able to deal with finances. There are a lot of CPFs, a lot of CPFs that are made up of the normal man in the street. It is not attorneys. It is not accountants. It is the normal women and men in the street that form part of the CPF. These people are untrained and the training to definitely be involving, where it involves money should be concentrated in those areas where there is treasurers elected or project officers or managers. Those
people should have different training than the normal inductions that is being given so that accountability of any funds can be then accounted by them.

MS BAWA: Okay. Now if we come to resources what should they be resourced with?

MR ABRAMS: The resources that is required from all CPFs would be at least an office, at least a telephone or a cell phone; at least a computer so that they can record and collect their own data; have access to the internet, be able to disseminate the normal newsletters within the community so that the community can be informed. The resources that they are also going to need is money. You can't have people working on an empty stomach sitting at meetings from six o'clock until whether it is nine o'clock without at least giving them a cool drink or something to eat. So those are some of the shortcomings of some of the resources. Other resources that would possibly be needed would be your two-way radios; would be your torches, would be your bicycles. Yes, we are being provided with that, but the process of it, it is taking too long. Again a situation that is open for debate.

MS BAWA: Mr Abrams we did an inspection at the Harare, Lingelethu-West and Site B Police Stations. They are bursting at their seams. We have sixteen detectives sharing rooms. We have the police itself being under pressure in having to deal with crime. I mean surely we can understand that it is not
always easy to say that you must give the CPF space at the police station. Do you have any comment? I am raising this specifically in the context of Khayelitsha.

**MR ABRAMS:** I fully understand where there is a situation where detectives are having to share facilities that obviously the first prerogative of the station commander would be to ensure the functionality of the police station. Somewhere if we have to have a small facility, remember that it can be a shared facility because the CPF will only be in there once or twice a week and certainly arrangements can be made to accommodate that. It shouldn't be a train smash.

**MS BAWA:** Now we talked about having access to money. The one lacuna that seems to be amongst this myriad of legislation that is being there to govern from the Constitution down to the SAPS Act is nobody says who is responsible for funding CPFs. It all says that the Provincial Commissioner is responsible for establishing it. The Constitution places an obligation on the province for promoting community relations but nobody says out of whose budget this must come.

**MR ABRAMS:** Well I think if one looks at the Constitution of the country in Section 206(3) it is very clear that who should be responsible for CPFs. Furthermore it becomes the responsibility of the Department of Community Safety to ensure that we are resourced in terms of inductions etcetera, etcetera.

/...
MS BAWA: Well Mr Abrams if the Department of Community Safety says they have assumed that responsibility but legislatively and in law there is nothing which compel them to have that responsibility.

MR ABRAMS: Well then the Constitution - certainly I am not reading the Constitution correct of that Act 206(3).

MS BAWA: Sorry I don't have mine with me.

COMMISSIONER: Section 206(3) says:

Each province is entitled:

10 (a) to monitor police conduct;
(b) to receive the effectiveness and efficiency of the police service including receiving reports of the police service;
(c) to promote good relations between the police and the community;
(d) to assess the effectiveness of visible policing;
(e) to liaise with the cabinet member responsible for policing with respect to crime policing in the province.

So you are saying it is that provision that should be interpreted?

MR LOONAT: Commissioner if you don't mind if I could come in. My colleague is referring to (c) of that what you have just read. How could one then be doing justice to that particular part of that recommendation if they are not being funded? I
mean I am not going to be putting money from my pocket into an organisation that means nothing to my family; so obviously I need to be funded to be successful and to be obviously doing justice to that particular clause.

5 MS BAWA: So if I understand the evidence, if you are going to promote good relationships between the police and the community then and is that your obligation with that Constitutional obligation you must effectively fund to get that obligation and if you are not doing it through CPFs you must do it in other ways to promote that good relations. Is that what I understand you to be saying?

MR LOONAT: Absolutely, absolutely.

MS BAWA: Now if we talk about funding as I understand it the people who take part on the CPF give up their time. It is not a salary job, is that correct?

MR ABRAMS: That is correct.

MS BAWA: So what would we need funding for?

MR ABRAMS: Well currently ... (intervention)

MS BAWA: Besides the resources, we've covered resources.

20 MR ABRAMS: Can you just repeat?

MS BAWA: In Khayelitsha what would you need funding for?

MR ABRAMS: Well I think in terms of the Khayelitsha situation there is a process which the Department of Community Safety has in place currently but I fail to see that that funding module is a successful module under the circumstances. In the past if
you need funding, funding would be if you need to have a workshop, if you need to have a workshop for transformation of understanding the happenings within your community and you need to educate as a CPF certainly you are going to need, not a R 1 000, not R 2 000 but a project proposal. To who do you send that project proposal to in order to make a successful change within your community, so that is the monies that could be used within your community to bring that transformation of change not only change within the criminal system but also the change within the social system.

MS BAWA: Now Mr Abrams the programme you are referring to is the extended partnership programme and both you and Mr Loonat are on record here and in public has not been in favour of the EPP programme. Could you tell us what your difficulties are with the EPP programme and I will put it to you in this way from where I am standing it now seems as through the EPP programme the department has organised a template. They have trained members of the community who are members of the CPF to take that template, to do certain inspections of police stations far more regularly than what the department could do with their resources and to report that back to the department which then becomes part of a further report that goes on to the national inspectorate or the Provincial Commissioner. It seems as if there is method in that madness, to put it that way. What are your difficulties with that project...
and I might be doing it an injustice in that brief summary but that seems to be the way it is operating.

**COMMISSIONER:** Ms Bawa before the witnesses answer that question, could you remind us where that is in the bundles, the EPP?

**MS BAWA:** I am going to ask Ms Dissel to do that.

**COMMISSIONER:** Oh okay.

**MS BAWA:** I am offline at the moment. (talking in background)

**COMMISSIONER:** Mr Osborne to you know? No he doesn’t.

**MR ARENDESE:** No I wouldn’t know. I was simply going to add that Mr Loonat is critical of the EPP in his affidavit and I suppose that is where the - but I personally also did not ...

(intervention)

**COMMISSIONER:** No-no it is just that I thought while the point is being made it would be easier if we are looking at the EPP, which I have looked at before, but I can’t remember where it is.

**MR ARENDESE:** Because it is some kind of a scorecard and it is critical of how ...

(intervention)

**COMMISSIONER:** It is in order to get funding you have to do a range of different things.

**MR LOONAT:** Yes.

**COMMISSIONER:** Is there anybody who has got reference to it in the bundles; that knows about it; otherwise we will just /...
MR LOONAT: I see the department is here Commissioner.

COMMISSIONER: Oh that is right, I am just looking to see if they have.

MS ADHIKARI: If I might there is a copy of a specific memorandum of understanding signed with the Khayelitsha CPF and that is in bundle … (intervention)

COMMISSIONER: Yes we are aware of that. I am actually looking for the EPP itself. I understand the Khayelitsha memorandum - I am understanding from 2013 … (intervention)

MS ADHIKARI: Well that sort of details, it is a concrete example of that and I can look for the actual … (intervention)

COMMISSIONER: Okay thanks Ms Adhikari, if you could find it while the evidence is going that would be most helpful, thank you. Ms Bawa would you like to go ahead?

MS BAWA: Yes.

MR LOONAT: Commissioner, can I just for the record ask to mention another section of the SAPS Act that would assist us, that would assist us in whose responsibility the CPF is lying. It would be Act, the South African Police Service Act 68 of 1995 Section 18, where the service shall in order to achieve the objects contemplated in Section 215 of the Constitution liaise with the community through community police forums.

Obviously I mean you don’t expect the South African Police
Service to expect the community based entity to be financing a project of that nature, so obviously somebody has to finance it.

COMMISSIONER: It will be helpful if that lacuna were filled somewhere and more specifically they wouldn't have - I am sure it would ... (intervention)

MR LOONAT: Exactly!

COMMISSIONER: It would avoid some conflict.

MR LOONAT: That is it.

MS BAWA: So Mr Abrams you were about to tell us what the difficulties are that you find with the EPP programme.

MR ABRAMS: I think the EPP programme ... (intervention)

MS BAWA: Just excuse me Mr Abrams just a minute.

MS ADHIKARI: Ms Bawa my apologies, I have located the conceptual framework if that is the document that you are looking for. It will be found in Bundle 2 File 3, the Department of Community Safety documents. It is under File 11 of those documents I think.

COMMISSIONER: 10.

MS ADHIKARI: File 10, my apologies and it is item number 37.

COMMISSIONER: 37 thank you very much.

MS BAWA: Sorry Mr Abrams.

MR ABRAMS: No problem. The EPP programme in its entirety is - I do not disagree with the programme in its entirety. I think it is a tool that can be useful but not for the purpose that we have as CPFs. It is a tool that can be useful. It is a tool
that can possibly be bringing transformation. The problem that I have with the EPP programme is that it would appear if and this is my understanding, my perception that our CPFs of fieldwork is now with the Department of Community Safety getting a certain amount of money for a certain amount of work done. If that work is not done there is no payment.

**MS BAWA:** But isn't that how life works? You work, you get paid?

**MR ABRAMS:** Well this is an organisation that is voluntary, so while we are subjected to a voluntary organisation that must be paid, yes, I've got no problem, you must work to earn money but here we have got a situation that we have to do a certain amount of reporting to ensure that a certain amount of people is not necessarily employed by the department to do that work which we are now doing as CPFs.

**MS BAWA:** Well Mr Abrams let me understand that, this money that is being paid for this oversight that is part of the EPP programme, who gets the money?

**MR ABRAMS:** The CPF gets the money.

**MS BAWA:** So the member of the CPF who is doing the task is doing a free task in their personal capacity for the interest of the CPF who then gets money from the department?

**MR ABRAMS:** Correct.

**MS BAWA:** That is how it operates?

**MR ABRAMS:** Correct.
MS BAWA: And that money then becomes the CPFs to use for whatsoever purpose the CPF wants to use it?

MR ABRAMS: That is correct.

MS BAWA: And the CPF then doesn’t have to account to DOCS how they use the money because DOCS can justify that they have effectively paid for a product which is the result of the inspections at the police station and the CPF can then do with the money as they see fit for their community. That is how I understand the programme to work.

MR ABRAMS: That is conveniently so yes.

MS BAWA: That is so, and that takes care of DOCS’ difficulties in accounting for auditing purposes what their money gets used for and it takes away the CPFs difficulties in having to provide very complicated accounting requirements for purposes of DOCS. Now where is the difficulty?

MR ABRAMS: Well the difficulty is that when you are looking at in terms of the amount of moneys that CPFs are earning.

MS BAWA: Okay so what do they earn per month?

MR LOONAT: Well it can be anything between R 1 000 to R 3 000 a month. It can be anything between there. It could be nothing either.

MS BAWA: So the nub of the objection is that the money which emanates from the EPP programme isn’t sufficient to sustain the kinds of activities which the CPF should be engaged in?
MR ABRAMS: Absolutely.

MS BAWA: That is the nub of it?

MR ABRAMS: Absolutely.

MS BAWA: Okay now is there anything which stops the CPF from putting in a proposal or a funding proposal into the department for any workshop or project that they wish to run or is that avenue not open?

MR ABRAMS: Well I have not engaged in any of the meetings or I have not - there has been no information that has come forth that such a proposal can be done from CPFs to the department or for specific programmes. However I am aware that there are organisations that can do that. However therefore the EPP programme in the past we had an administration fee contributed to CPFs that was an administrative of which the Department of Community Safety said they had difficulty in having to track the auditing of those monies, therefore they have introduced a EPP programme and as I have said before the EPP programme is not a bad programme but in order for CPFs to function, in order for CPFs to do what they do in terms of civilian oversight in terms of what they have to do within the communities to bring change, to bring partnerships together, you are not going to be able to do that even if you earn yourself the full complement of the R 3 000 a month. You are not going to be able to do that.

First you are going to resource yourself with possibly a...
computer second-hand because you won’t get something for R 3 000. Then you would have to wait for the next month until you can get a printer and so forth and so forth. By the time we would have lost so much within our communities in terms of sharing information; in terms of bringing constructive change to our communities so therefore I am - it is on that basis that I say the programme is not as effective as what it should be.

MS BAWA: Okay, it does seem that it is thus to the prejudice of the poorer communities in terms of trying to establish a CPF because it might be a programme that would work more successfully in a more affluent community that doesn’t require the same kind of resourcing.

MR ABRAMS: Absolutely there are CPFs in affluent areas that doesn’t even want to participate within the EPP programme.

MS BAWA: But what is the solution Mr Abrams because we are interested in finding out how do you go about equipping and resourcing and supporting a well-functioning CPF in an area like Khayelitsha?

MR ABRAMS: Well if it is about accountability in terms of finances then I think a programme of accountability in terms of training those identified persons in terms of proper management within the PFMAs then people should get that resources so that to ensure that whatever monies is then contributed to those communities is accountable. Secondly I would say that if a project proposal for communities is given to
the department or any other whether it is to SAPS or to the department or it is our - seems to be our two homes that we are sometimes divorced from, but be that as it may the changes that we need to bring in our communities is to ensure that there is enough funding that is introduced in areas where there is a need for change where we see there is a crisis to ensure that the CPFs and organisations which is in that communities must take responsibility and accountability for the administration of that funds.

**MS BAWA:** Mr Loonat not that I misrepresent but is being said but you do make the point in your affidavit that when programmes are put in place and money is given over that the appropriate checks and balances be put there. I have one last question before we put it over for cross-examination. When we look at Khayelitsha specifically and then we look at SAPS’s responsibility because we have been talking about 206(3) of the Constitution, but the SAPS Act itself lays the responsibility for the establishment of CPFs at the foot of the Provincial Commissioner. What has SAPS done to fund CPFs?

**MR LOONAT:** In fact I am aware that there are funds, look, distributed from national to all SAPS throughout the country. The nine provinces get a certain amount of budget for programmes and projects in the combating of crime which in the Western Cape it must be noted has never filtered down to the CPFs. Can I delve in the issue of the EPP and it is
important that I say why learned Mr Arendse has just mentioned that I have been critical. I need to say why I am critical about the ... (intervention)

**MS BAWA:** Go ahead Mr Loonat.

**MR LOONAT:** Remember the EPP is an after the fact process. It is after the crime has been committed that the CPF is financed on a project. I mean it is - there I no reason for the CPF to be investigating the South African Police Service if there is no crime. What is the Department of Community Safety doing with the funds they have in their possession to stop crime from happening? What is it that they are doing proactively? So that is my gripe and my criticism of the EPP process. I don't have a problem with the financing of our people. Yes, the question is going to be arising, I know, that I signed off the document. Well I was bullied into signing it for some reason but I will mention that I am sure under cross-examination.

**MS BAWA:** I have no further questions.

**NO FURTHER QUESTIONS BY MS BAWA**

**COMMISSIONER:** Thank you. We will start with the complainant organisations and we have allocated you ten minutes for this witness. Then we'll move on to DOCS and then on to SAPS.

**MR HATHORN:** Thank you Commissioners. Our questions have been covered already.
NO CROSS-EXAMINATION BY MR HATHORN

COMMISSIONER: Mr Osborne will be next, we allocated you twenty minutes Mr Osborne and then SAPS will come next.

MR ARENDSE: Yes, sorry Mr Arendse?

COMMISSIONER: Yes sorry Mr Arendse?

MR ARENDSE: Could we just have a one minute comfort break?

COMMISSIONER: Yes, we could do that indeed. It is twenty past three. Shall we reconvene at just literally two minutes, five minutes, twenty-five past three, okay.

COMMISSION ADJOURS: (at 15:20)

ON RESUMPTION: (at 15:25)

COMMISSIONER: We reconvene again. Mr Osborne you are going to have an opportunity now to put some questions to Mr Loonat.

MR OSBORNE: Thank you Madam Chair. Advocate Adhikari is going to deal with that also.

COMMISSIONER: Thank you, Ms Adhikari.

MS ADHIKARI: Thank you Madam Chair.

MR LOONAT: It is on behalf of?

UNIDENTIFIED SPEAKER: Community Safety.

COMMISSIONER: Just speak into the microphone otherwise it is difficult for people to hear.

MS ADHIKARI: My apologies. Thank you, is that better?

COMMISSIONER: Thank you.
CROSS-EXAMINATION BY MS ADHIKARI:

Mr Loonat and Mr Abrams, either one of you can answer my questions. You raised the issue of training of neighbourhood watches and you indicated that training previously took place on a six or seven day, essentially a residential programme at Chrysalis Academy and you’re critical that the training had now been reduced to two days, but I put it to you that the reason why the Department of Community Safety changed the model of training was firstly that the training which took neighbourhood watch members out of their communities for five days on a residential programme was not appropriate for every neighbourhood watch. Many people were employed and expressed dissatisfaction they could not attend a five day training programme. The training that is now done is done on a modular basis and it is tailored to each neighbourhood watch’s specific needs so a neighbourhood watch in a more resourced area might need training on a specific issue whereas a neighbourhood watch in Khayelitsha for example might need training for a longer period on different modular issues. What is your comment on that?

MR LOONAT: I don’t think we have a problem with the two day training. What we are saying is that there should be an ongoing training session after the two days. We should not be just having the two days and sending the people out into the fields, so we are saying there should be empowering by means
of training further training, maybe not immediately but two or three months later. In doing so you are going to be resourcing and training them in a manner that would be conducive to the areas that they do. We don't have a problem with the two days. We understand in fact Gideon Maurice, chief director and myself had taken this decision sometime ago because we felt that it was a burden on those that were - most of these members aren't self-employed. We find that in the Western Cape the self-employed members of the community don't participate in neighbourhood watches. It is normally the employed members; the downtrodden members of the community that participate so we do understand. The two days is not a problem. We don't expect the five consecutive days training so what we are saying is please have training, repeat training within the first six months at least twice thereafter also on a weekend and we need to then look at the training manual. The training manual tends to be outdated. It doesn't prepare our people for the eventual realities of the field because it does not correlate. What is practically in book form doesn't apply theoretically in the streets of Manenberg, Athlone and the likes of that.

MS ADHIKARI: Thank you Mr Loonat. Now in terms of the EPP programme one of the areas which the EPP programme allows CPFs to identify are their own specific training needs and they are able to feed that through the EPP programme in
respect of both the neighbourhood watch and the CPF. So would you agree that that would then be an answer to your particular concern with regards to ongoing training?

MR LOONAT: I suppose we could use the EPP in doing exactly what I have said. I would agree with you.

MS ADHIKARI: And Mr Loonat still on the issue of training you raised a concern around the need for CPFs to be trained in regard to financial compliance issues. Is that correct?

MR LOONAT: It is yes, it is extremely important that we train people that handled certain departments of the CPF. It is unfortunate that we have secretaries at the moment elected in positions that don’t even know how to take minutes so it is important that the department puts aside a certain amount of funds in empowering those particular people in that department.

MS ADHIKARI: Mr Loonat are you aware that through the EPP programme the department actually provides financial training to new members of CPFs when they become part of the EPP and before they are able to be fully participating members of the EPP they in fact have to go through a certain level of training and they have to demonstrate compliance in respect of the financial reporting requirements as well as the other reporting requirements in the EPP and that is part of their induction training before they become fully functional EPP members?
MR LOONAT: Mr Maurice is aware of my unhappiness with the initial - the initial implementation of the EPP was obviously with 32 stations and what happens in the process that many of the stations that are in need of it are marginalised. That was the second reason why I am unhappy and very critical of the EPP process because it marginalise stations precincts that were in need of it and yet in fact most of the stations that received it were not as much in need of it as those that have been marginalised.

MS ADHIKARI: Mr Loonat are you aware that Lingelethu-West CPF was one of those 32 initial pilot projects with the EPP?

MR LOONAT: Which station would that be?

MS ADHIKARI: Lingelethu-West in Khayelitsha.

MR LOONAT: Yes it was the initial first 32.

MS ADHIKARI: So Mr Loonat youâ€™re raised concerns with regard to the way that the Department of Community Safety deals with its functions and my understanding is what you were saying was that the department is not doing enough in respect of crime prevention but would you not agree with me that the South African Police Services are in fact the entity which is supposed to be at the frontline of crime fighting and crime prevention?

MR LOONAT: Yes, they are.

MS ADHIKARI: Would you also agree that in terms of Section 206 of the Constitution which you referred to the
department or the provinces are responsible for monitoring and oversight in respect of policing services?

**MR LOONAT:** Yes they are.

**MS ADHIKARI:** And so my question then to you is how does that correlate with your criticism of the Department of Community Safety not undertaking what I would consider a crime fighting or crime prevention function when its Constitutional mandate is monitoring and oversight?

**MR LOONAT:** I think it should not be our prime function to be an oversight body because we believe if we proactively invest in our communities in combating crime then we don’t have to be policing police. We are forced to police the police because we are overburdening the police with the crime that we experience on a daily basis so I believe that the money should be invested proactively, not reactively.

**MS ADHIKARI:** But Mr Loonat I am slightly confused here because the CPFs are established in terms of the South African Police Services Act and Section 18 of the South African Police Services Act sets out quite clearly the functions of a Community Policing Forum and as far as I read Section 18 it doesn’t correlate with what you are saying CPFs should in fact be doing. CPFs are meant to do monitoring and oversight broadly and building community relationships between the South African Police Service and the community.

**MR LOONAT:** It is one of the functions that you have just...
mentioned. There are many other functions, if you read that properly. I mean it is obviously to build relationships between the South African Police Services and the community. Now if you are going to find that the members of the CPF are on a continuous basis - the word that the National Commissioner used, as ŋimpimpisò watching over police during their existence it is going to build a strained relationship so we are obviously going to lose the real purpose of its existence when we are going to become a police of the police and that is not exactly the way of building a relationship. A relationship should be built on mutual understanding and that can be only done by means of investing in a partnership that is going to be conducive for that particular station.

MS ADHIKARI: So you agree that CPFs are impimpis?

MR LOONAT: If you are going to insist that the money should be used in us monitoring police on a continuous basis instead of proactively participating as communities.

MS ADHIKARI: Can I take that as a yes Mr Loonat?

MR LOONAT: No, I am not saying it is a yes. I am saying if you are going to invest on a continuous basis and expecting the CPF to be policing the police and making that your prime expectation then obviously we are going to be seen by the South African Police Service as impimpis which I think is not going to build a relationship that is warranted or that is expected of the system.

...
MS ADHIKARI: Mr Loonat if I can take you to the functions of CPFs, are you saying that it is not a legitimate function of CPFs to conduct monitoring and oversight of the police?

MR LOONAT: It is one of the functions, not the prime function.

MS ADHIKARI: The other prime function being the building of relationships with communities.

MR LOONAT: That is exactly the prime function.

MS ADHIKARI: Now Mr Loonat you have been quite critical of the EPP if I read you correctly but if I can perhaps refer you to the memorandum of understanding in respect of the Khayelitsha CPF. Now I would like us to get back to dealing with Khayelitsha’s specific issue. Do you perhaps have a copy of that memorandum of agreement in front of you?

MR LOONAT: No I don’t have one.

MS ADHIKARI: Madam Chair I have an additional copy. Might I hand it to Mr Loonat?

COMMISSIONER: Is this the MOU between the Khayelitsha CPF and the Department of Community Safety?

MS ADHIKARI: It is yes.

COMMISSIONER: Yes, you may hand that to him. It does already form part of the record but don’t ask me precisely which part of the record. We will find it in a minute. Thank you, Ms Adhikari.

Ms Adhikari while that is being handed out could I just ask for the purpose of clarity is it your client’s case that it is
not only a provincial department that is responsible for funding community police forums or is it your client’s attitude that it should not be responsible at all; I mean could I just understand where these questions are coming from?

**MS ADHIKARI:** Madam Chair it is quite clear that there is a lacuna in the legislation as to whose responsibility it is. At the present moment the Department of Community Safety views it as part of its monitoring and oversight functions to fund CPFs as well as broader monitoring and oversight functions, it has chosen to fund CPFs. It doesn’t believe that it is legislatively obligated to do so.

**COMMISSIONER:** Thank you, I am sure this is something Dr Lawrence will be covering tomorrow.

**MS ADHIKARI:** Indeed, thank you. Mr Loonat could you page to page 10 of the memorandum of agreement. That is the Annexure A. It is a business plan for the Khayelitsha CPF.

**MR LOONAT:** I have got it.

**MS ADHIKARI:** Now if you look towards the bottom of that page ... (intervention)

**COMMISSIONER:** Sorry just a minute, I am sorry, just for the record, were these handed out - these memorandums?

**MR LOONAT:** No it is the first time I see that.

**COMMISSIONER:** You’ve got one copy. How many copies did you have Advocate Adhikari?

**MS ADHIKARI:** My apologies. I do have other copies.
COMMISSIONER: Alright, I have been informed it is Bundle 2 3, File 10 Item 27. Thanks Ms Dissel. You may have that.

MS ADHIKARI: So Mr Loonat if you look under the key performance indicators one of the first ones relates to the holding of community meetings; another one maintaining of databases of community organisations which are active in the area. Do you see that?

MR LOONAT: Yes, I know, I do.

MS ADHIKARI: And those activities are directly linked to Section 18(1)(A) of the South African Police Services Act, which talks about maintaining and establishing partnerships. Do you see that?

MR LOONAT: I do.

MS ADHIKARI: If you page over to page 11 still under the same indicator in respect of Section 18(1)(A) it talks about issuing of community newsletters as well as promoting the SAPS brand. Do you see that?

MR LOONAT: Yes, we do.

MS ADHIKARI: Then linked to Section 18(1)(C) it talks about promoting cooperation, one of the items, the key performance areas under that item talks about attending meetings of other stakeholders such as parole boards, NGOs etcetera to encourage cooperation. Do you see that?

MR LOONAT: I do.

MS ADHIKARI: Now there are a number of other similar key
performance areas listed there so Mr Loonat it would seem to me that your assessment that the EPP programme focuses solely on monitoring and oversight is not correct if one has regard to the key performance areas. They are fairly evenly split with regards to monitoring and oversight as well as community relationship building, not so?

MR LOONAT: Yes it is.

MS ADHIKARI: I have no further questions Madam Chair.

NO FURTHER QUESTIONS BY MS ADHIKARI

COMMISSIONER: Thank you very much Ms Adhikari. Mr Arendse or is it Mr Masuku?

MR ARENDSE: Sorry Madam Commissioner is it out turn?

COMMISSIONER: Yes, it is your turn yes.

MR ARENDSE: Thank you.

CROSS-EXAMINATION BY MR ARENDSE:

Messrs Loonat and Abrams ... (intervention)

UNIDENTIFIED SPEAKER: Mrs?

MR ARENDSE: No, I said Messrs like addressing both of them at the same time (laughter). It seems to be pretty clear from your affidavit Mr Loonat that from paragraphs 37 through to 42 that is where you talk about the establishment of provincial community police boards that CPFs are or is a SAPS responsibility. In fact you say in your affidavit that you had - obviously when you were chair of the board you represented the province at national level, each of the nine provinces have
a representative on the national board. The national board is headed by an executive council and the national police Commissioner or her or his representative sits on the board with the nine provincial chairpersons and then later on you say at paragraph 40:

"The Provincial Department of Community Safety and the National Secretariat are represented but they have no voting powers as they only have oversight powers."

So I just want to say and put it on record that it is pretty apparent from Section 18 and from what you say in your own affidavit that the CPF in any area is a SAPS responsibility, not a DOCS responsibility.

MR LOONAT: I will tell you what have we learnt; it is quite a contentious one. As a lay person ... (intervention)

MR ARENDSE: Okay then you and I must leave that for another time.

MR LOONAT: Yes, let’s rather leave it.

MR ARENDSE: Not today. I am representing SAPS here and I am taking responsibility for the community police forums. In fact your evidence and your affidavit states clearly that the station commander or the CPFs are responsible for developing or devising an annual plan for the year and that must done by the station commander in consultation with the CPF?

MR LOONAT: Yes, it is a duty of the station commander to
MR ARENDSE: And I would have thought given the current hopefully to be resolved soon differences between DOCS and the SAPS especially in the Western Cape that DOCS would have welcomed the opportunity to be part of that process to be involved in the development of an annual policing plan for a particular area, but they are not.

MR LOONAT: As far as I am aware I think - I don’t know. I stand for correction, I think the department has one plan of its own that they put together after getting all, after collecting all the information from the CPFs in the 149 - now it will be 150 stations after the Lentegeur Police Station has been opened but up to last year it was 149 stations so I am sure they compiled - I am aware of them compiling their own safety plan.

MR ARENDSE: No I am not talking about their own plan. I am talking about the plan that is devised by the SAPS station commander in consultation with the CPF according to your Constitution. DOCS is not involved in that process.

MR LOONAT: Yes, not that I know of. I don’t think they take part in any of those processes.

MR ARENDSE: Is your complaint about the expanded participation programme or partnership programme is your complaint that that is used by DOCS as some kind of a spying mechanism? I think Ms Adhikari used the word ñmpimpiò

MR LOONAT: Yes that is the word the National Commissioner
used in Parliament.

MR ARENDSE: Now what word do you use?

MR LOONAT: I used the same word. I said that in terms of what the National Commissioner used we must not be seen, it must not be seen that we are impimpis on behalf of the department because it strains the relationship between the CPFs and the police. Naturally we are going to be seen to be the enemy of the police when we do such acts. I mean for us to walk into a police station with the prime purpose of finding out the faults of the police it is obviously going to strain the relationship.

MR ARENDSE: Uh-huh, but the prime purpose of the CPF is to make sure that the police do their work.

MR LOONAT: It is one of the ... (intervention)

MR ARENDSE: Because you represent the community. You want to see that they are combating crime, and that they are catching the criminals.

MR LOONAT: There is a process, when you see something that is done wrong at station level there is a process that you could relate this fact to, is I mean obviously you are going to go to a meeting and raise it at a forum. We have all these forums where we could raise it, which I mentioned earlier, starting from sub-forum right up to the provincial board and which even goes up to the national board which has been contested by the Department of Community Safety but whilst it
is in existence we can go right up to the national board and then national Commissioner to raise our concerns.

**MR ARENDSE:** Yes, so I understand you to say it is not that that is not your role or one of your roles is to play that oversight role that Ms Adhikari referred to and that you must look and observe what they do and what they don't do but you say there is a particular process that must be followed and that process is to raise it in the appropriate forum which is a CPF meeting with the station commander?

**MR LOONAT:** That is exactly the way to do it.

**MR ARENDSE:** But then I don't know who I am acting for here today, but Ms Bawa put it to you that quite a few minutes were given to her by my clients and they don't seem to identify many of the problems that have arisen here in this Commission of Inquiry to date. So what does that say that that particular CPF or those CPFs are failing in their duty?

**MR LOONAT:** Yes, that is one of the reasons, and the other reason is obviously they are untrained to do the expected functions when elected into the position. Remember many of these people attend these AGM's and specially called general meetings, not expecting to be elected. It happens at the meeting that your name gets nominated and then you accept the position so you don't come there with the sole intention of being a fundi or a professional at what you are going to be addressing after being elected but in most instances this is...
exactly what happens. Now this is exactly what happens in the pre-dominantly areas like the Khayelitsha’s, the Bishop Lavisô and the list go on, the Atlantis’s where these people are average people. They are not fundies in doing their functions. They need to be assisted. This is where the department lacks in affording the opportunity to these elected members by means of training after being elected.

MR ARENDSE: Now Mr Loonat you and Mr Abrams I think it is very clear to everybody here so far this afternoon and it comes through in your affidavit you both are very passionate about CPFs and the role that they play. You actually quite rightly say that the whole idea behind CPFs is to transform the police because before 1994 before the SAPS Act of 1995 there was no oversight other than NGOs in the communities but here we have a structure designed to actually work in partnership with the police and to make sure that that oversight happens.

MR LOONAT: Agreed.

MR ARENDSE: Now what with due respect, what training do you need to see that this particular station, because surely that is one of the first things you are going to do as a CPF, you are going to see how many patrol vans have you got, how many members have you got, how many detectives have you got, how many other units have you got. You are going to do all those kinds of things like an audit. That you do at the first meeting like how many bats and balls and pads do you have
before you can play cricket. Now you do all those things so what training do you need now to see: "Ah today or this week there are three vans and I was at the meeting last month and now I see four vans. What is wrong? No, the tyre if flat is flat.

No, we don't have any petrol. No, there are no drivers. Or you have now heard because that is why you sit on the CPF, you heard in the community children are disappearing, people are complaining that there may be a rapist on the loose - all those kinds of things. Now what training do you need DOCS or anybody to give you to raise those issues in a meeting with the station commander?

**MR LOONAT:** It is important, I mean unfortunately that over the years, over the 20 years of participation - in fact, sorry, 19 years of participation that I learnt to build this energy and this knowledge in how to go about assessing police, how to pick up defaults within the policing which I am sure if you speak to many station commanders that have an interaction with me on a continuous basis will tell you how professionally I go about doing the raising of my unhappiness being the provincial chairperson I don't only raise issues where I live. I raise issues at other stations too. I get complaints from people outside my residence, my place of residence. I believe that DOCS can add value by training these particular individuals in how to go about finding faults in the policing. They need to know what the legalities are; what are the expectations of the
police. I don't think many of our CPF members know that sector vans are supposed to be patrolling the areas and not supposed to be sitting at the station. Those that know sector policing will know exactly what I am talking about. The sector vans are not even supposed to be taking down statements. There is a Vispol van that is given that particular role where the minute a sector van is being informed of a crime that takes place in a sector they need to call in the Vispol van to come and take the statement. He does not take the statement, but unfortunately a lot of the CPF chairpersons don't know these things, but I would pick it up immediately if I find a sector van parked off at a residence I would knock on the door and say why.

MR ARENDSE: But Mr Loonat okay, we can understand that, but one of the things members of the CPF would know is there is a lot of burglaries; there is a lot of robberies. There are maybe too many murders. There are a host of crimes being committed in the neighbourhood because you said one of the bodies that sit on the CPFs when you were asked that question would be neighbourhood watch persons. Now surely when you raise that at the meeting and you say to the station commander what are we doing about that and now your commonsense will also tell you but people say they phone but they are taking too long to come out or people say they phone and no-one is answering the phone; a whole host of things that
arise from these complaints which you say process demands must be raised in the CPF meeting. Do these things happen or don't they happen?

MR LOONAT: In most instances it does happen but due to lack of knowledge like I mentioned earlier there are some stations that just fall on the wayside with that where the functions aren't exactly in the manner you have mentioned.

MR ARENDSE: Now let's talk about the period when you the chairperson of the provincial board because we heard in your exchange with Ms Bawa how this thing works from the bottom up and on paper it looks great and at the province you sort of pull everything together and you can perhaps - the whole idea is also to detect where certain crimes are committed, which communities are under pressure and that kind of thing, isn't it.

You discussed these things. Now we have heard the evidence so far here in Khayelitsha the rapes, the murders, serial rapists, the way women and children are being treated, a whole host of horrible crimes. One doesn't see in your affidavit that this has ever been escalated up to that level or any level where this became a priority discussion, whether it is Khayelitsha, whether it is Manenberg, Heideveld, any one of our - Hanover Park, Langa, Nyanga, any one of our poor disadvantaged areas.

MR LOONAT: Advocate Arendse that was one of our shortcomings as the Western Cape community police board I...
need to admit at this forum that in the two years that I was the chairperson of the board there were many shortcomings within the organisation of which one of it was the total neglect of stations and CPFs from stations like Khayelitsha where we could have picked up the unfortunate circumstances that they find themselves in much quicker than the South African Police Service but we did not, because we were too busy engaging in issues that werenâ€™t the prerequisites of the forum itself.

MR ARENDSE: Yes, I mean I would have thought that one of the things that would come to your ears first would be things that happened in the community. You read the newspapers, you listen to the radio. You watch the TV. Now the Social Justice Coalition or one of these other groupings, they have a protest march or you hear they are handing over a memorandum. What is your reaction to that as a CPF member?

MR LOONAT: I am glad you use that example. I will tell you precisely what I did ... (intervention)

MR ARENDSE: I am not particularly glad ... (intervention)

MR LOONAT: No-no it is good we are using that example. I will tell you what I did. The minute it was raised at the board meeting by Malusi who was the chairperson at the time we immediately instituted three members to come to this area and to have a meeting with the complainants. At that time there wasnâ€™t the establishment of the Commission so before the
establishment of the Commission we had already called for the meeting - where was it, at the station, at the cluster commander's offices, of which the four complainants were invited and two only came to the meeting. The other two for some reason or the other ... (intervention)

MR ARENDSE: Is that the meeting that was organised by Colonel Wiese?

MR LOONAT: That is the meeting.

MR ARENDSE: That is the meeting?

MR LOONAT: Yes.

MR ARENDSE: But we also know - I don't know about you Mr Abrams or both of you, you were also opposed to this Commission being established?

MR LOONAT: At the time?

MR ARENDSE: Yes.

MR ABRAMS: I think at the time Advocate the impression that was gauged at that time that it was more politically motivated so on that specifics we were against it. It was not going to be good to tape the way forward for the community of Khayelitsha if we are going to have to resolve these issues by having the political parties fighting amongst themselves for power within Khayelitsha so therefore at that stage because of the information gathered it was more politically driven than transforming the situation with regards to getting to the root of the evil.
MR ARENDSE: Did you see a copy of the complaints?

MR ABRAMS: No.

MR ARENDSE: Why didn’t you ask for a copy of the complaint and accept someone telling you that this is politically motivated?

MR ABRAMS: We raised the question. We requested that. It was never forthcoming. We engaged. We tried to engage meetings with the cluster commander at the time. No meetings were forthcoming. We engaged thereafter with many other, with the CPFs of Khayelitsha to ensure that there isn’t any misperception within the CPFs. We even participated within a VPUU workshop with CPFs to ensure that they have got an understanding of what is happening within the area and therefore a lot of other processes also materialised to ensure functionality of CPFs.

MR ARENDSE: But how do you ensure functionality and processes and all those nice words when you did not even look at the complaint to see what process you must embark upon, how you should go about embarking on it and what to decide with the other CPFs? What were you going to do?

MR ABRAMS: Respectfully sir we called for the meeting. We requested the document. It wasn’t forthcoming.

MR ARENDSE: Now I am not going to go there, but I just want to put it on record Madam Commissioner that Advocate Masuku consulted with both witnesses in advance of the court case...
and obtained affidavits from them and they had sight of the complaints because that is what the court case was about. It was about the SJC complaints and their subsequent supplementary complaints and about vigilantism and obviously they were consulted about their role as CPFs but I suppose it is no longer relevant or germane to ... (intervention)

COMMISSIONER: I think it is only fair to the witnesses.

MR LOONAT: Yes, it is a point of clarity.

COMMISSIONER: To give them the opportunity to respond to that, which is particularly that Advocate Masuku consulted with the two of you in advance of the High Court case, firstly, and secondly that at that stage you were given an opportunity to see the complaints.

MR LOONAT: I just need a point of clarity, Advocate Arendse did you say that I signed an affidavit?

MR ARENDSE: No I did not say that you signed an affidavit, in fact we have an unsigned affidavit of yours here but there were other reasons why we decided not to put in your affidavit.

MR LOONAT: An unsigned affidavit would not necessarily mean it is my affidavit. It wasn't signed by me.

MR ARENDSE: Well the point that I was making - No-no-no there is no signed affidavit ... (intervention)

MR LOONAT: Just remember I had an informal discussion. It was not a formal meeting that I had with Advocate Masuku. It was an informal meeting.
**MS BAWA:** May I come in here and for the sake of transparency also go on record and say that both Mr Loonat and Mr Abrams was approached by the Commission prior to the High Court proceedings and similarly consulted with us. Mr Loonat and Mr Abrams prior to consulting with you had gone to great lengths to facilitate us being able to communicate with relevant people in Khayelitsha on condition that it wasn't going to become a political tool to be wielded against the people of Khayelitsha so they were prepared to informally assist us as evidence leaders if we were acting in the interest of the people of Khayelitsha and I undertook that I would do so on that basis and I think that it is only fair in light of this exchange that I place that on record.

**COMMISSIONER:** I think it might be useful as well at this stage Ms Bawa while we are talking about the relationship between the Commission and the CPFs if you could just account as to what the Commission did in relation to the three Khayelitsha CPFs.

**MS BAWA:** Through Mr Loonat we had met with the cluster commander at the time where we facilitated in doing an *in loco* inspection in Khayelitsha. Mr Loonat arranged for us to meet with all CPF bodies in Khayelitsha and in Lingelethu-West, Harare and the one at Site B. The position adopted by the CPFs was that there was a political instruction that had come down that they were not to cooperate with the Commission. Mr
Loonat had facilitated the meeting and had left it up to the respective CPFs to determine whether they were prepared to give evidence before the Commission. On all three occasions both myself, Mr Sidaki, Advocate Sidaki and I think Ms Dssel was with for one of the meetings, I think, the Lingelethu-West one that got out of hand, yes, with the CPFs, so the role that he - at that stage he was still chairperson of the board. He had gone to great lengths to ensure that the relevant representatives of the various CPFs in Khayelitsha met with us as evidence leaders so that we could explain to them what the mandate of the Commission was. They took a decision that they were not prepared to assist us with our processes or to be part of the Commission on the basis of a political instruction which had been given to them.

COMMISSIONER: Thank you. Do you have any further questions Mr Arendse?

MR ARENDSE: I do madam Chair. I think the point that I was making was that both witnesses had sight of the complaints when Advocate Masuku consulted with them. That was the point of the exercise. The other point I must put on record, we know from the ... (intervention)

COMMISSIONER: Perhaps just before you finish that, let's just put that to the two witnesses, I mean they are entitled ...

(intervention)

MR LOONAT: Yes, can we just on a point of clarity.
COMMISSIONER: Yes.

MR LOONAT: Is Advocate Arendse saying - you see we need to know, is he saying that we had the document?

COMMISSIONER: That you had the ... (intervention)

MR LOONAT: We had knowledge of it. It was read out to us, but we did not have the document so I want to know if he is asking ñdid you have the document itself?ø

COMMISSIONER: Mr Arendse could you pertinently indicate what you are asserting and perhaps give the witnesses an opportunity to admit or deny that.

MR ARENDSE: Well the point is Mr Loonat your first answer was that you did not have sight of the complaints.

MR LOONAT: I did not have sight of the document. I had knowledge of the contents of it.

MR ARENDSE: The contents, so that is a different answer. Yes, so if you said: ñdid not see the document but I am aware of the complaints because it was read out to meø, and your answer was no, you did not see the complaints.

MR LOONAT: I did not see it. I heard it.

MR ARENDSE: I put it to you that Advocate Masuku had consulted with you and that the complaints were raised with you.

MR LOONAT: Yes ... (intervention)

MR ARENDSE: Now I wasnø there when he consulted, whether he now showed it to you, but typically lawyers would
Did you see this document? We read it out to you, and you go through the document.

MR LOONAT: Okay just on the point of clarity Commissioner we would like Advocate Arendse to know that we knew of the contents of the document but did not have sight of it. So maybe that would clear the air. Okay just on the point of clarity Commissioner we would like Advocate Arendse to know that we knew of the contents of the document but did not have sight of it. So maybe that would clear the air.

COMMISSIONER: Thank you very much. So we can record that you knew of the content of the complaints that had led to the establishment of the Commission but you did not have a copy of them and you did not have sight of them. Is that - does that meet your purposes Mr Arendse?

MR ARENDSE: That is fine, that is fine with me, because then it takes me back a few questions, because I asked you, you now knew about these complaints, you knew about the contents of it. What did you do about it?

MR LOONAT: I called up that meeting that you just mentioned by Colonel Wiese; that was the meeting on my recommendation that was called up.

MR ARENDSE: Now you also know if you were aware of the content of the complaint that this was just not a new complaint. It went back. The original eight complaints go back to 2006, 2004, 2008. You are involved in the CPFs. You are involved...
in the structure.

MR LOONAT: Advocate Arendse I was not involved at that time in the Western Cape. I am from Johannesburg originally.


5 MR LOONAT: In 2006.

MR ARENDSE: So even if it is 2006 these complaints go back ...

(intervention)

MR LOONAT: But I don't deal, when you are at Lansdowne you don't deal with issues outside your precinct. Remember when you are on the CPF you only deal with issues that attributes to the area you represent, which was Lansdowne.

MR ARENDSE: When you were elected to the provincial board ...

(intervention)

MR LOONAT: I only came onto the provincial board in 2011.

15 MR ARENDSE: 2011 so okay at 2011 ...

(intervention)

MR LOONAT: And I was a PRO at that time.

COMMISSIONER: Mr Arendse I just want to remind you about the ticking clock here. I am not sure how much more you have gone, but I am anxious. We have yet another witness to deal with this afternoon.

MR ARENDSE: Madam Commissioner we are also sitting with two witnesses; we are also trying to deal with two witnesses. I should not be long, but then subsequently you also became the chairperson of the Nyanga - that is in 2009?

25 MR LOONAT: That's it.


MR ARENDSE: 2009. Are you testifying under oath that in
2009 you were not aware of the vigilante killings even in the
Nyanga area? Nyanga we know is called the murder capital of
South Africa.

MR LOONAT: There could have been one of two that I canâ€™t
recall at this very moment.

MR ARENDSE: So you never discussed anything like vigilante
killings at your CPF meetings or subsequently when you were
the chair of the board in 2011?

MR LOONAT: We treated each murder as a murder and not -
when it came to vigilante killings, mob killings were mob
killings, but if you can look at the period that I was the
chairperson of the Nyanga cluster I cannot recall any of those
murders taking place in that duration and I am sure if you do
your homework you will find that I wasnâ€™t a chairperson during
that period that any of those murders took place in Nyanga.

MR ARENDSE: I have got ... (intervention)

MR LOONAT: So I did not have to deal with it.

MR ARENDSE: But my question is when you were chair of the
board in 2011 and until you parted ways in 2013 was an item
called vigilante murders or killings never discussed with ... 
(intervention)

MR LOONAT: We had an extensive discussion at a board
meeting when General Jafta, Major General Jafta raised it with us and we then assisted the troubled areas. Khayelitsha was one of them. Khayelitsha - there were one or two areas that was; Delft was the other area.

**MR ARENDSE:** So this was raised you say in 2011 maybe you can recall which month or which meeting and maybe we can get the minute of that meeting, but it was actually raised by General Jafta.

**MR LOONAT:** Ja, not this particular; in general, she spoke about vigilantism in general, not Khayelitsha in particular.

**MR ARENDSE:** Yes. No but your answer after that was then you specifically came out here to assist and that was my next question: to assist with what here in Khayelitsha?

**MR LOONAT:** To assist with the raising of the issue by the cluster chairperson at the meeting on the letters that were sent to the cluster by the four complainants. That is when I came, we actively as the board decided to come in to mobilise the said members of the neighbourhood watches and the CPFs.

**MR ARENDSE:** So you were aware certainly of at least four complaints even before your consultation with my colleague? That is what you are saying?

**MR LOONAT:** I will have to go back to that and see the dates.

**MR ARENDSE:** No-no-no that is what you said, you spoke about the four complaints.

**MR LOONAT:** No-no I will have to see your colleague had...
seen me after I was informed or before. I don't recall at this very moment. I don't have diaries here to say when I met your colleague nor do I remember when those meetings took place or when those issues were raised with us.

MR ARENDSE: Well it would be even worse if that meeting took place after the 28th November 2011 complaints were filed by the SJC.

MR LOONAT: None of this happened in 2011. Most of these incidents and these meetings took place in 2012; definitely nothing in 2011. Even the meeting with your colleague was definitely not in 2011. It could have been in the latter part of 2012.

MR ARENDSE: Mr Loonat why was there never any engagement with NGOs like Social Justice Coalition or other NGOs when you were chairperson of the cluster Board?

MR LOONAT: It is the duties and the functions of the cluster to be engaging with the organisations. We only come in in the case of conflict and we are there to assist them and guide them in resolving the issues raised by the organisations or the entities, businesses of the local areas.

MR ARENDSE: But again Mr Loonat you read the newspapers, you listen to the radio, you watch the TV. You see there are protests. There are memorandums. There are marches to the provincial building whether it is the Police Commissioner or to the Premier and people are protesting about crime. Are you
saying that as chairperson of the provincial cluster Board you close your eyes and your ears to that?

MR LOONAT: No it is raised; we actually ask ...

(intervention)

MR ARENDSE: Now it is raised?

MR LOONAT: No-no-no we asked the chairpersons of the area. You see what happens Advocate Arendse is at a board meeting the police give their input. When they give their report at a meeting then we raise the issues. They would say: ÒThese are the issues that happened.Ó If there is child abuse taking place in a certain area, General Jafta at the time would then raise it with us, and we would then instruct the chairperson of that cluster to mobilise the community in awareness campaigns so that is our duty, we guide. We do not go about doing the functions of that, I wouldnâ€™t be acting as a cluster chairperson in a cluster when I do have all faith - in good faith I mean I have respect for the person that runs the cluster.

MR ARENDSE: Mr Loonat your whole approach is now contradictory. You say to Ms Adhikari you need money to DOCS and from the police and everybody so that you can be proactive and not reactive. Now to be proactive is to come into a meeting. When you come into a soccer meeting or a cricket meeting you say: ÒI read about this, I heard about... Ò you donâ€™t go to the Constitution. You discuss it, because it...
concerns you. Why were these things not discussed when you read about it; when you heard about it, when you saw it on TV?

**MR LOONAT:** I don’t understand Advocate Arendse. I have just told you the minute I heard it we called a meeting. Does that not tell you that I have done something about it?

**MR ARENDSE:** But I don’t agree ... (intervention)

**MR LOONAT:** Just remember this is not my paying work. I mean I have got a family to feed. I have got a family to look after. I have to put bread and butter on my table. This is not my only work. This is my passion. It is my contribution to the community and my fellow-citizens in this province.

**MR ARENDSE:** No we are ... (intervention)

**MR LOONAT:** So it is not my prime that I work on this on a daily basis, when I have the opportunity I will deal with the issues that I can.

**MR ARENDSE:** We appreciate what you do, believe me, people who offer their time and their energy selflessly for the community, but at the end of the day when you commit to doing this job it is your statutory duty to do that.

**MR LOONAT:** I think I have done that. That is why I am on the wayside ... (intervention)

**MR ARENDSE:** It is not a favour that you are doing anybody! Thank you.

**NO FURTHER QUESTIONS BY MR ARENDSE**
COMMISSIONER: Thank you Mr Arendse. Any re-examination, Ms Bawa?

MS BAWA: I have one question.

RE-EXAMINATION BY MS BAWA:

Mr Loonat the Commission had been given a report which had been prepared by the cluster commander. The document is headed “Bundu Court”. I did not show it to you but they detail 78 cases of vigilantism which the cluster commander had compiled a report on. Did she ever raise this report with you or has it been raised with the board during the time of your office?

MR LOONAT: In fact you have just now - never ever, but there is something that you have raised that I need to mention for the record. You used the term “bundu court” and that is exactly the term used at the time when we dealt with this matter. Am I right, colleague? We treated it as a bundu killing and not as a vigilante killing.

MS BAWA: My second question to you is during 2012 the National Commissioner requested General Tshabalala to do a report on the three precincts in Khayelitsha dealing with inefficiencies and the breakdown in the community. Are you aware of this report?

MR LOONAT: Was that after his visit to this cluster?

MS BAWA: Yes.

MR LOONAT: We don’t know about the report but we know of
his visit to the cluster.

**MS BAWA:** Was it ever provided to you as chairperson of the provincial board ... (intervention)

**MR LOONAT:** Never, never.

**MS BAWA:** Was it compiled in consultation with you?

**MR LOONAT:** No.

**MS BAWA:** Okay. Thank you.

**NO FURTHER QUESTIONS BY MS BAWA**

**COMMISSIONER:** Thank you.

**MR PIKOLI:** Thank you Mr Loonat and Mr Abrams. I just want to refer you to Section 18 of the SAPS Act, the six outlined objects of the community police forums and the board. I can ask you on anyone of the six, I am going to just choose one, 18(1)(e): *On improving the transparency in the service and accountability between the community*, how have you carried out this function?

**MR ABRAMS:** In order to have transparency and accountability and to build that bridge to get there it is important that the institution the SAPS Act in itself allows the independence of the organisation which is now called a community policing board. The independence of these organisations if we do an investigation needs thorough investigation because there isn’t independence. We are still held, we are not allowed, so there needs to be some form to allow the community to be independent in view of the
participation to make a contribution of transformation within the system which we have now an affordability which we never had to build a relationship between the South African Police Service and the community of South Africa.

5 **MR LOONAT:** Commissioner just adding to what my colleague is saying it is important that we realise that whilst there is an absence of us being independent, what happens is that we cannot serve our communities in the manner expected of us as per the document that you have just mentioned so we need to get our independence. I have in fact requested in my input that I was going to give today that the National Minister needs to take into consideration that we cannot allow the South African Police Service to establish this noble organisation because what happens is in most instances you will find that station commanders would go about performing their duties in establishing CPFs very deviously for one simple reason that they put in office members of the community that they could control and in doing so this is exactly what happens that it makes us ineffective and noncompliant as per the expectations of the Constitution and the act of the Police Act so it is important that we become independent from the day that we get established. Unfortunately at the moment everything that we do is in the hands of the Provincial Commissioner and the National Commissioner and that has to come to an end because then we are as good as being police officers because /...
we are being controlled by those that we are purportedly supposed to be having an oversight over.

**COMMISSIONER:** Thank you very much Mr Loonat. Thank you very much Mr Abrams. We are very grateful to you for the time and for the work that you have performed in relation to community police forums. There is no doubt that the system of community police forums as the SAPS Act contemplates requires participation of members of the community on a voluntary basis which as a form of public service enriches the community more broadly but there is obviously an ongoing challenge to work out precisely what the role is. I think at that stage you may stand down and with our thanks.

**WITNESSES EXCUSED**

**COMMISSIONER:** Ms Bawa what is your proposal for how we go forward?

**MS BAWA:** Well Mr Leholo has been waiting for most of the day. He does have a commitment and he probably needs to leave here by about ten past five. I think we can do it but it depends on Mr Hathorn and Mr Masuku doesnât have ...

(intervention)

**COMMISSIONER:** Mr Arendse would you be available to continue now? Mr Masuku would you be able to continue now? I am afraid this is becoming something of a practice but it does mean that we can keep to our agenda, if we could say that we would hear Mr Leholo and see if we can complete his evidence
before ten past five.

MR MASUKU: Yes, yes, it can be done, I suppose. I am a little grumpy about it, but it is okay.

COMMISSIONER: Mr Hathorn.

MR HATHORN: We are happy to use the time now. I doubt whether we are going to complete him, but ... (intervention)

COMMISSIONER: Okay fair enough. Is it necessary to take an adjournment, we did take a short adjournment a little while ago. Can we just proceed straight on in which case Mr Leholo I can see you, but I know that you are here. Yes, would you like to come forward please?

MR MASUKU: Sorry, sorry Commissioner before you swear in the witness.

COMMISSIONER: Yes.

MR MASUKU: I mean we had scheduled a consultation at five o'clock and I don't know if that is possible if we are going to finish with this witness.

UNIDENTIFIED SPEAKER: Where are you meeting?

MR MASUKU: No we will probably be meeting in one of the police stations here but still, it is at five that we intend doing that.

COMMISSIONER: Well we have a couple of opportune options open to us if we can sit now. Mr Leholo I know that you have been waiting all day and I do apologise for the fact that we haven't got to you as yet. How are you placed tomorrow if we
needed you to shift your testimony till tomorrow?

MR LEHOLÔ: I can do it tomorrow morning Chairperson.

COMMISSIONER: Perhaps we should start at nine o'clock tomorrow morning. Is that - would that be convenient? We have two witnesses tomorrow and I think we should at this stage say that we would be prepared to sit till five if that is possible, if one member of each team could be here that is all that is necessary, but they are both important witnesses, Dr Lawrence and Mr Bosman and I don’t want to prejudice their testimony but we would start with Mr Leholo at nine o'clock sharp and hope that we would manage to get the other two witnesses in as well. Ms Bawa, are you happy with that proposal? He might be an overly - not perhaps the (indistinct) ...

(intervention)

MS BAWA: It is an exaggeration but we will go, we will.

COMMISSIONER: Mr Hathorn.

MR HATHORN: We have got no problem Commissioners.

COMMISSIONER: Alright, Mr Masuku it looks like we have managed to lean on your colleagues to cooperate and Mr Loholo very kindly is going to make himself available in the morning, so could we start then tomorrow morning at nine o'clock?

MR MASUKU: Nine o'clock is okay.

COMMISSIONER: Good. Thank you very much. We will see everybody in the morning at nine o'clock.
MR MASUKU: Thanks.

COMMISSION ADJOURNS: (at 16:25)